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Gentile Foods: Rabbinic Prohibitions and the Fear of Inter-marriage

David Raab

Touro University Graduate School of Jewish Studies

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**Gentile Foods:
Rabbinic Prohibitions and the Fear of Intermarriage**

**by
David Raab**

**A thesis submitted to
The Graduate School of Jewish Studies
Touro University
in partial fulfillment of requirements for the degree of
Doctor of Philosophy**

Professor Shai Secunda, Mentor
Professor in the History and Theology of Judaism
Bard College

Professor Simcha Fishbane, Adviser
Professor of Jewish Studies
Touro University

Professor Herbert W. Basser, Reader
Professor of Theological Studies
Queen's University

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ABSTRACT

This dissertation is a history of halakhah which looks to evidence from both within and outside of rabbinic literature to explain the provenance of a particular phenomenon. It suggests, contra traditional and academic understanding, that the original rationale behind the rabbinic prohibitions of eating Gentile bread and certain Gentile cooking was concern over the possible admixture of biblically impermissible ingredients, including idolatrous wine. It was only in Babylonia, possibly around the end of the amoraic period, that the rabbis added *mišum ḥatnut*, the fear of intermarriage, as the rationale for the prohibition of eating Gentile bread (but not cooking), thus forbidding such bread even if prepared under the watchful supervision of a rabbinic Jew. The dissertation further suggests that the Babylonian rabbis added this rationale because the frequency of intermarriages may have been a concern in Babylonia, whereas it was not in 'Ereṣ Israel. In support of these hypotheses, the dissertation reviews mentions of the avoidance of Gentile foods in Second Temple and earlier literature, tannaitic literature, and the Yerushalmi and demonstrates that they can be read as being due to concerns about ingredients. Finally, relying on admittedly sparse extant historical, archaeological, and literary data, including rabbinic literature where appropriate, it analyzes the societies of tannaitic and amoraic 'Ereṣ Israel and amoraic Babylonia. These data seem to suggest that the 'Ereṣ Israel societies may not have been predisposed to a significant amount of intermarriage and that intermarriage may not have in fact occurred in them to a significant extent. In contrast, the data indicate that societal factors in Babylonia may have been conducive to intermarriage and that there may have indeed been a concerning phenomenon of intermarriages there.

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Mišum ḥatnut. Two words. The fear of intermarriage, introduced for the first time in rabbinic literature in the Babylonian Talmud as the rationale for a ban on the consumption of certain Gentile-produced food and drink. Never could I have imagined that these two words would lead me on a six-year journey through a COVID epidemic as well as a war against Hamas after their vicious October 7, 2023, massacre and hostage taking, which evoked my own memories.

My puzzlement over the Bavli's unexpected attribution of this rationale to these prohibitions led to the present dissertation. Little did I know that my inquiry would take me through several academic disciplines including sociology and archaeology; through multiple societies and multiple historical time periods encompassing over 800 years in late antiquity; across multiple geographies, including 'Ereṣ Israel and Babylonia; and, across multiple literary corpora: Second Temple and rabbinic, religious and secular, and Jewish, Christian, and pagan.

It took a global academic village to get this done. I wish to first thank Dean Michael Shmidman, who has stuck with me and enabled me to complete my doctorate at Touro despite several challenges that arose over the years, including my move to Israel. Also, this broad undertaking required guidance and advice from many, many scholars to whom I am eternally grateful. These include Isaiah Gafni, Jack Lightstone and Nissan Rubin, who reviewed early drafts of all or portions this dissertation and provided very valuable input. Leib Moscovitz taught me what I know about the Yerushalmi. Zeev Safrai and Robert Brody shared relevant pre-publication manuscripts with me. Christine Hayes encouraged me following publication of my paper focused

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PART I: INTRODUCTION

1. STATEMENT OF THE PROBLEM

BACKGROUND

This study was prompted overall by an interest in the evolution of rabbinic halakhah and the impact of societal conditions on that evolution. When was a rabbinic ordinance or prohibition first pronounced? Where? What specific conditions prompted the rabbis to act? What were the rabbis hoping to accomplish by their pronouncement? How was the ordinance or prohibition received? Were the parameters and bounds of that ordinance or prohibition redefined over time? If so, again, what were the societal conditions that prompted that redefinition? Was the ordinance or prohibition canceled? If so, where and why?

This dissertation specifically analyzes textual sources regarding the provenance and early halakhic evolution of three related rabbinic prohibitions set out in mishnah (m.) *‘Avodah Zarah* 2:6. These prohibitions are against eating Gentile-produced bread (*pittam* or, more colloquially, *pat akum* or *pat nokhri*), olive oil (*šamnam* or *šemen akum*), and seethed vegetables (*šelaqot*).¹ The Babylonian Talmud attached great importance to these edicts, citing R. Yohanan as saying that even if Elijah the prophet and his court would come and wish to annul one of these edicts, they would be ignored.²

Based on Talmud Bavli (b.) *‘Avodah Zarah* 35b, the fear of intermarriage, referred to in rabbinic literature as *mišum ḥatnut*,³ has been attributed throughout the centuries by halakhic

¹ The exact definition of the term *šelaqot* will be dealt with more fully in the analysis of this mishnah in the chapter on tannaitic texts.

² B. *‘Avodah Zarah* 36a. The reason for the stringency relates to the recounted circumstances of their enactment among the Eighteen Edicts enacted in the loft of Hananiah b. Garon, as will be discussed later in this dissertation.

³ This dissertation adopts the vocalization of *ḥatnut* of (Even-Shoshan 1993) and (Zevin n.d., 18:356). Vocalization is similar to that of, *qaṭan*, that state of minority of a *qaṭan*, or youth. Note: this dissertation adopts that second citation system of (The Chicago Manual of Style, Seventeenth Edition 2017).

decisors as the rationale behind these tannaitic edicts,⁴ which restrict certain commensality-related interactions between Jew and Gentile.⁵

Over the centuries, halakhic decisors prohibited additional Gentile-produced foods due to *mišum ḥatnut*. These included Gentile cooking in all forms (*bišul akum*, including roasting, frying, and so forth),⁶ beer,⁷ coffee and tea,⁸ and even hot water under certain circumstances.⁹ Prohibitions also included any drinking or eating even of kosher food in Gentile establishments or homes.¹⁰ R. Yosef Karo (1488–1575), codifier of halakhah in *Šulḥan ‘Arukh*, went so far as to rule that utensils used by Gentiles for cooking are rendered non-kosher even if only kosher ingredients were used and the cooking was observed by a Jew.¹¹

Yet, in marked contrast with the rulings on the basis of *mišum ḥatnut*, one finds non- or sub-adherence to these bans by halakhah-committed Jews in many times and places, with the rabbis’ rulings often following suit. The ban on Gentile oil, for example, was annulled entirely in the second or third century C.E. because the people were not adhering to it.¹² The observance of

⁴ The sages from the late Second Temple period to 200 C.E. are conventionally referred to as *tannaim* (sing: *tanna*, or “reciter”). The sages of the post-200 Yerushalmi and Bavli Talmuds are referred to as *amoraim* (sing: *amora*, or “speaker”).

⁵ M. *‘Avodah Zarah* 2:3 additionally prohibits Gentile-produced wine (*stam yaynam*) even if such wine had not been used for idolatrous purposes, such latter wine being termed *yayn nesekeh*. This prohibition has not been associated with *mišum ḥatnut*.

⁶ See, for instance, the classic Talmudic commentator, Rashi (R. Shlomo b. Yitzhak, 1040–1105), on m. *‘Avodah Zarah* 2:6, s.v. *veha-šelaqot*, explains *šelaqot* as “anything that a Gentile has cooked, even in an uncontaminated vessel.”

⁷ B. *‘Avodah Zarah* 31b.

⁸ R. Abraham Hirsch Eisenstadt (1812–1868), *Pithay Tešuvah* on *Šulḥan ‘Arukh*, *Yoreh De‘ah* 114:1.

⁹ B. *Šabbat* 51a and b. *Mo‘ed* 12b, where the drinker is an “important person.”

¹⁰ See, for example, R. Abraham Danzig (1748–1820), *Ḥokhmat ‘Adam*, *Issur ve-Hetter*, *klal* 67:14, 231–232: “Therefore, anyone who has within him the spirit of the Torah should distance himself from gathering in their homes to drink any sort of drink.” R. Moshe Feinstein (1895–1986), *‘Iggerot Moshe*, *Yoreh De‘ah* 2:117 prohibits eating at parlor meetings in a Gentile’s home, even if the food is kosher and the event is for a *dvar mišvah* (a positive commandment, such as charity).

¹¹ R. Yosef Karo, *Šulḥan ‘Arukh*, *Yoreh De‘ah* 113:16.

¹² M. *‘Avodah Zarah* 2:6. The Talmud (b. *‘Avodah Zarah* 36a) debates whether it was R. Yehudah the Patriarch or his grandson, also known as R. Yehudah the Patriarch, who annulled the prohibition. Hence the uncertainty here regarding the dating.

the ban on Gentile bread was similarly partial, as it did not propagate among the people.¹³ Later, in the eleventh, twelfth, and thirteenth centuries, there are several indications that Jews ate Gentile bread.¹⁴ One decisor, R. Eliezer b. Yoel ha-Levi (Ra'avyah, 1140-1225), opined that “the [prohibition of a] loaf of a Gentile is not so stringent”¹⁵ and testified that most of the people, including some “great men,” did not adhere to the ban.¹⁶ Indeed, he wrote that *mišum ḥatnut* no longer even applied to Gentile bread, oil, and cooking.¹⁷ R. Yitzhak b. Moshe (known as the *Ohr Zarua*, 1180-1250) states explicitly that one may eat Gentile bread even where Jewish bread is available.¹⁸ Some key sixteenth century decisors also permitted eating Gentile bread.¹⁹ Observance of the edicts on Gentile bread and cooking by even the halakhah-observant continued to be uneven.²⁰ In 1721, the world-renowned R. Yaakov Emden (Ya'avetz, 1697-1776) drank coffee in a London Gentile coffeehouse contrary to the later admonishment of R. Abraham Hirsch Eisenstadt (1812-1868) that a caring Jew should not drink Gentile coffee or tea.²¹ Two modern

¹³ See, for example, Yerushalmi (y.) *Pesahim* 2:2 28d 507:7-9; y. *Šabbat* 1:4 40b-41a; and b. *Avodah Zarah* 36a.

¹⁴ Tosafot, *Avodah Zarah* 35b, s.v. *mi-khlal*. Tosafot, *Berakhot* 39b, s.v. *aval*. Nachmanides (R. Moshe b. Nahman or Ramban), *Hidushei ha-Ramban al ha-Shas* (Jerusalem: Makhon ha-Talmud ha-Yisraeli ha-Shalem, 1970, 99) *Avodah Zarah* 35b. R. Yehudah the Hassid, *Sefer Hasidim* #1940 (Jerusalem: Pe'er ha-Mikra, 2018, 493-494).

¹⁵ *Sefer Ra'avyah*, (Bnei Brak: David Deblitzky, 2011), I:67, *Berakhot* 39b, §111.

¹⁶ *Sefer Ra'avyah*, (Bnei Brak: David Deblitzky, 2011), III:206, Responsum #954.

¹⁷ *Sefer Ra'avyah*, (Bnei Brak: David Deblitzky, 2011), IV:32, *Avodah Zarah* 35b, §1066.

¹⁸ *Ohr Zarua*, *Avodah Zarah*, §189, as cited in *Psakim Avodah Zarah*, 293.

¹⁹ R. Yosef Karo refers matter-of-factly in *Šulḥan Arukh, Oraḥ Ḥayyim* 196:3 to those who do not restrict themselves from Gentile bread. See also *Oraḥ Ḥayyim* 448:1. Rema (R. Moshe Isserles) in his gloss on *Šulḥan Arukh, Yoreh De'ah* 112:2, notes that there is an opinion that permits *pat akum* that was baked to be sold and not for the Gentile's family's use, even when Jewish bread is readily available. Since Rema does not cite a dissenting view, this is considered his normative opinion. The *Šulḥan Arukh* itself does cite leniencies for Gentile cooking. *Šulḥan Arukh, Yoreh De'ah* 113:4. Rema *ad loc.* goes even further regarding reliance on the cooking of a Gentile servant: “and even a priori it is the custom to be lenient in the home of a Jew where the maid- and man-servants cook in a Jew's home,” although he bases his opinion on what might be termed a legal fiction: “for it is impossible that one of the members of the household did not stir it a bit.” Also, see for example, Rema, *Šulḥan Arukh, Yoreh De'ah* 114:1, who writes that “it is customary to be lenient in these regions” to drink Gentile beer even in the Gentile's home.

²⁰ See, for example, *Šulḥan Arukh, Yoreh De'ah* 112:2: “There are places that are lenient in the matter and buy bread from a Gentile bakery where there is no Jewish bakery.” Rema *ad loc.* adds, “and there are those who say that even where Jewish bread is available, this is permitted.” Some halakhah-observant communities throughout the centuries did not adhere to the ban on Gentile wine, a more severe prohibition. See, for example, Rema, responsum #124, (H. Soloveitchik, *Religious Law and Change: The Medieval Ahkenazic Example* 1987, 218), and (H. Soloveitchik, *Yaynam* 2003, 107-108).

²¹ See (Liberles 2012, 37) regarding Emden. R. Abraham Hirsch Eisenstadt (1812–1868), *Pithay Teshuva* gloss, *Yoreh De'ah* 114:1.

decisors permitted eating Gentile bread, albeit somewhat begrudgingly.²² Until the recent phenomenon of mass-commercialized kosher supervision services that ensure Jewish participation in preparing all certified foods, many halakhah-observant Jews did not avoid Gentile bread or cooking.²³ In 2011, the Chicago Rabbinical Council issued the *cRc Guide to Starbucks Beverages* that starts with the premise that “most kosher consumers first approached the question with the simple principle of ‘you can buy black coffee anywhere.’” And it is common practice today in the United States that even *halakhah*-observant Jews drink Gentile-produced beer in a Gentile establishment.²⁴

These vicissitudes in decisor rulings on and the notably uneven popular adherence over time to the rabbinic prohibitions based on *mišum ḥatnut* were among the motivators for researching the origin and early evolution of these bans.

FOCUS OF THIS DISSERTATION

There is little doubt that by the Middle Ages *mišum ḥatnut* became a prominent basis for halakhic rulings pertaining to Gentile food prohibitions.²⁵ However, the analysis herein suggests that *mišum ḥatnut* as the underlying rationale for the prohibitions of Gentile food products, contrary to the traditional understanding, is likely not of tannaitic origin. The research also challenges the claims of contemporary scholars that the tannaim sought to legislate separation from the Gentiles through these commensal prohibitions. Nor, as will be discussed, are the prohibitions the result of the ritual

²² R. Abraham Danzig (1748-1820), *Hokhmat Adam* 65:2, while admonishing the pious individual (*ba'al nefeš*) to follow a stricter approach, records the common practice to follow the lenient ruling of Rema. Similarly, R. Yisrael Meir Kagan (1838–1933) in his *Mišnah Berurah* (242:6) writes that it is “proper” that on Shabbat and holidays one should only eat Jewish-baked bread out of respect for the Sabbath and holidays. This implies that Gentile-based bread is permitted even where Jewish bread is available.

²³ Author’s personal observation.

²⁴ Author’s personal observation.

²⁵ See, e.g., Rashi, b. *Beṣah* 16a, s.v. *’ein ba-hem*, who writes: “The Sages forbade Gentile-cooked food *mišum ḥatnut*.”

impurity of Gentile-prepared foods or of the rabbis seeking to enhance their own authority through these prohibitions, as other scholars have suggested.

Rather, it is suggested here that the likely primary concern of the tannaim who prohibited Gentile foods was the possible admixture of biblically impermissible ingredients, including Gentile-produced, potentially idolatrous wine or other elements used in idolatrous practice.²⁶ This proposition will be demonstrated through a methodical reading of the relevant texts in Second Temple and earlier literature, the Mishnah, the Tosefta, and other tannaitic literature. It will be further shown, based on an analysis of Yerushalmi texts, that *mišum ḥatnut* was seemingly not the underlying rationale in amoraic *’Ereš Israel* for a ban on Gentile-prepared food.

It is further argued here that the concept of *mišum ḥatnut* was first introduced in the Bavli only by Babylonian amoraim or by even later, unnamed sages.²⁷ This rationale now precluded eating certain Gentile foods even if prepared under the watchful eye of a rabbinic Jew and known to be constituted of only permissible ingredients. In introducing *mišum ḥatnut* as the rationale for the prohibition of bread, the Bavli retrojects this connection to the tannaitic era. It is claimed here, however, that the Bavli does so only in order to enhance the acceptance of the prohibition and that, based on reading earlier sources afresh *sans* the distorting Bavli lens, *mišum ḥatnut* was not an *’Ereš Israel* tannaitic or amoraic consideration.

Finally, the dissertation hypothesizes why the Bavli might have attached the *mišum ḥatnut* rationale to Gentile bread when *’Ereš Israel* sages did not. An assessment of available, and

²⁶ Today, a concern over the admixture of impermissible ingredients would typically be referred to as a concern of “kashrut.” However, the term “kosher” was not used in early rabbinic literature to mean the absence of impermissible ingredients in food. As Rashi notes in b. *Šabbat* 14b, s.v. *gezeira mišum mašqin*, every use of the term “*hekhšer*” in the Talmud is meant as “rendering [an object] susceptible” to impurity or other statuses. Thus, the terms “kosher” and “kashrut” will not be used here in the sense of absence of impermissible ingredients.

²⁷ B. *’Avodah Zarah* 31a–32b, *ibid.* 35b–38b, and b. *Šabbat* 13b–17b.

admittedly limited, sources regarding the social conditions in the respective timeframes in Roman/early Byzantine 'Ereş Israel and in Babylonia suggests that this innovation may have been introduced in Babylonia because the concern over intermarriage first became significant and thus germane only in Babylonia. This hypothesis should continue to be investigated as additional scholarly data becomes available in the future.

2. PRIOR RESEARCH

As indicated in the prior chapter, the traditional understanding of the prohibitions of eating Gentile-produced bread, oil, and cooking has developed through the Bavli's eyes. That is, that the reason for these prohibitions was *mišum ḥatnut*, i.e., to separate Jew from Gentile due to fear of intermarriage. This has also been the accepted understanding of most scholars who have written on these prohibitions, including Zeev Safrai, Solomon Zeitlin, David Kraemer, Zvi Arie Steinfeld, Jordan Rosenblum, and Israel Ben-Shalom.²⁸ David Freidenreich claims that social separation was not a tannaitic motivator for Gentile cooking, but offers an unnecessarily complex explanation for the evolution of the prohibitions on Gentile bread, oil, and cooking.²⁹ Yet other scholars attribute the prohibitions to a concern over Gentile impurity. The approach taken in this dissertation differs from all of the approaches adopted by these scholars, yielding different conclusions.

The following is a survey of the work and positions of Steinfeld, Rosenblum, Ben-Shalom, and Freidenreich, who have most-extensively addressed the issues on which this dissertation concentrates and who focus on a rabbinical intent of social separation. This is followed by a review of scholarship pertaining to Gentile impurity.

²⁸ (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021). (S. Zeitlin 1916). (Kraemer, *Jewish Eating and Identity Through the Ages* 2007). (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008). (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010) (Ben-Shalom 1993).

²⁹ (Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* 2011) and (Freidenreich, *Contextualizing Bread: An Analysis of Talmudic Discourse in Light of Christian and Islamic Counterparts* 2012).

SOCIAL SEPARATION THEORIES

Zvi Arie Steinfeld

Zvi Arie Steinfeld devoted a significant amount of his scholarship to the rabbinic prohibitions of Gentile foods. He analyzed, in depth, the individual, particularistic rabbinic food prohibitions of Gentile bread, oil, and cooking as presented in m. *Avodah Zarah* 2:6, a key mishnah in this context. Drawing on opinions expressed across rabbinic literature, including tannaitic literature as well as later texts, such as the Yerushalmi, the Bavli, and even Medieval commentaries, Steinfeld articulates a detailed explanation of each prohibition.

Steinfeld asserts that the tannaitic prohibitions of Gentile foods other than bread are driven by concern over the possible admixture by the Gentile of impermissible ingredients. He also asserts that tannaitic texts assume no general prohibition of Gentile-produced food.³⁰ In other words, the fact that a Gentile created a food product, in itself, generally does not forbid a Jew from consuming it.

In contrast, Steinfeld claims that Gentile bread is inherently prohibited by the mishnah solely because a Gentile produced it.³¹ While acknowledging at one point that it might be conceivable to interpret the mishnaic prohibition of bread as being based on a fear of the admixture of impermissible ingredients, he does not adopt this approach.

³⁰ (Z. A. Steinfeld 2008, 149). “In the words of the tannaim there is no mention of a particular prohibition of Gentile cooking.”

³¹ Steinfeld (Z. A. Steinfeld 2008, 27) writes that Gentile bread “was forbidden entirely and absolutely from the very fact that it was an item of the Gentile and there is no way to permit it even if there is no suspicion whatsoever that any forbidden item became intermixed in it.” Steinfeld (28) contrasts the Mishnah’s rationale with the Tosefta’s approach which, he claims, is ingredient based. He does not suggest an explanation for this divergence.

Steinfeld also asserts that there is no clear ban on Gentile-cooked food in the Talmudim.³² Thus one is permitted to buy such foods (other than bread) to eat in one's own home. At the same time, he goes to great lengths to demonstrate that the tannaim instituted a universal prohibition against eating with Gentiles.³³ This prohibition applied even if one brought one's own food to the Gentile's home or even if one invited the Gentile to eat in one's own home. He seeks to prove from this a tannaitic intent to separate the Jews from the Gentiles.

This dissertation differs from Steinfeld's approach and conclusions in several ways. First, Steinfeld treats early rabbinic literature as a harmonious whole, with each corpus complementing the other. He relies on later writings, such as the Talmud, to interpret earlier ones, such as the Mishnah. He uses midrash and aggadah not only as sources of halakhah but as sources for explaining halakhah. The present research takes a more nuanced approach, described in the next chapter, to reading the various corpora and using material from one to explain material in the other. In this way, the approach here offers new insights and conclusions that Steinfeld's approach does not.

Furthermore, Steinfeld focuses exclusively on textual matters. He does not touch on societal factors: neither realia based on historical sources nor even rabbinic perceptions of that reality. In contrast, it is suggested here that there may well have been a connection between halakhah and society in these matters. Societal factors may in fact clarify the rationale behind the

³² (Z. A. Steinfeld 2008, 149ff). "It appears, even from the words of the amoraim debating 'Gentile cooking' or 'Gentile-cooked foods' that one may not conclude from their words that the Sages [amoraim] banned Gentile cooking. As a matter of fact...[some amoraic statements] are inconsistent with the assumption that the amoraim might have prohibited 'all Gentile cooking.'"

³³ (Z. A. Steinfeld 2008, 9-25) and (Z. A. Steinfeld, *Le-Issur Akhila im ha-Goy* 1989). Steinfeld draws on a beraita on b. *Sanhedrin* 104a in the name of R. Shimon b. Elazar, a midrash in *Seder 'Eliyahu Rabba* 9:8, an anecdote in b. *Megillah* 12a describing an interchange between R. Shimon b. Yohai and his students, a midrash in *Šir Ha-Širim Rabbah* 7:8 citing R. Shimon b. Yohai again, a midrash in *Pirqei de'R. 'Eli'ezer* 29, and *Jubilees* 22:16.

rabbinic prohibitions of Gentile foods in the various time periods and geographies and help explain not only *what* the halakhic rulings were, as Steinfeld does, but *why* they evolved as they did.

The research here also challenges Steinfeld's determinations that (a) the mishnaic problem regarding bread is the Gentile baker, (b) there was no general ban in the Talmudim on Gentile cooking, and (c) the rabbis enacted a general prohibition against eating with a Gentile. Further, while Steinfeld's research yields particularistic results for bread, oil, and general cooking, the present research attempts to provide an integrated, encompassing understanding of these prohibitions.

Jordan Rosenblum

Jordan Rosenblum, drawing on anthropological concepts, suggests that “the tannaitic movement” constructed Jewish identity through regulating culinary and commensal practices and that desired social relations drove rabbinic food regulations.³⁴ The tannaim, he believes, were in fact defining a new Jewish identity rather than merely continuing a pattern of separation already established in the Bible. He posits three specific techniques that the tannaim used to commensally separate Jews from non-Jews:³⁵

(1) Defining certain culinary items as metonymic (the “sole” food for Us) that also embodied those who ingested them (the “soul” food of Us);³⁶

³⁴ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 45ff). See also his related publications (Rosenblum, *From Their Bread to Their Bed: Commensality, Intermarriage and Idolatry in Tannaitic Literature* 2010), (Rosenblum, *Kosher Olive Oil in Antiquity Reconsidered* 2009), and (Rosenblum, *The Jewish Dietary Laws in the Ancient World* 2019).

³⁵ (Rosenblum 2010, 11).

³⁶ Rosenblum claims that eating these “metonymic” foods is an act of embodiment, i.e., the creation of “both individual and communal bodies (i.e., identities).” His examples include the limiting laws of kashrut and, on the other hand, the uniquely Jewish eating of manna in the desert and the Passover sacrifice.

(2) Requiring food to be produced only by a Jewish “chef,” while allowing for shared cooking with a non-Jewish sous-chef; and,

(3) Establishing a connection among idolatry, intermarriage, and commensality. That is, it is not just about the food itself, but rather the situation in which the eating occurs as well.

Rosenblum’s discussion relating to the second and third tannaitic techniques are the most relevant to this dissertation. Relating to the second technique, Rosenblum claims that the tannaim equated the status of the food with that of the preparer. “The food that people prepare is an extension of themselves.”³⁷ Thus, the preparer—“the one responsible for the act of cultural transformation” of the food—affects the status of that which is prepared.

Rosenblum cites a mishnaic prohibition of eating meat slaughtered solely by a Gentile.³⁸ Slaughter, he claims, is an obvious and vital moment to insert an identity-based food prohibition because it is when the cooking process begins and thus, according to Claude Levi-Strauss, the “moment when culture begins to exert its influence on nature.”³⁹ That is, an act that turns natural ingredients into a “culturally elaborated” food as opposed to a “naturally elaborated” food. A live animal is an “unelaborated” food; slaughtering it makes it a “culturally elaborated.” Rosenblum extends this argument to non-meats, such as bread and oil, citing m. *‘Avodah Zarah* 2:6.⁴⁰ “Bakers of bread impart not only flavor, but also status,” he asserts. At issue, he writes, “is the identity of the preparer and not the ingredients themselves.”⁴¹

³⁷ (Rosenblum 2010, 75).

³⁸ M. *Hullin* 1:3.

³⁹ Rosenblum himself notes that many anthropologists dispute Levi-Strauss’s theories but concludes that “I find his general observations useful.”

⁴⁰ (Rosenblum 2010, 83).

⁴¹ (Rosenblum 2010, 96). Rosenblum also cites Steinfeld on this mishnah (Z. A. Steinfeld 2008) but does describe or adopt Steinfeld’s thesis that in fact the problem with Gentile food other than bread is ingredients, not the chef.

At the same time, Rosenblum posits that to accommodate economic and social constraints, the tannaim permitted some leniencies. According to him, for example, the tannaim introduced a “chef/sous-chef principle” whereby the tannaim differentiate between the “transformative” work of the chef—and only if the Jew plays this lead role may the food be consumed—and the work of the sous-chef. As proof, he cites t. *Avodah Zarah* 5:5, where the primary role of the Jew over the Gentile appears to be the determining factor:

פֶת שְׂאֵפָאָה יִשְׂרָאֵל עַל פִּי שְׁהַגִּי לְשֵׁה וּגְבִינָה שְׁהַעֲמִידָה יִשְׂרָאֵל עַל פִּי שְׁהַגִּי עֲבָדָה הָרִי זֹו מִתְּרַת

A loaf of bread which an Israelite baked, even though the Gentile kneaded the dough, and cheese which an Israelite curdled even though the Gentile works it—this is permitted.⁴²

The purpose of the tannaitic pronouncement is, therefore, according to Rosenblum, to “subordinate and control actions of non-Jews while still allowing for shared cooking.”⁴³ They did this, Rosenblum rationalizes, in order to establish “a set of practices that affect identity formation, while allowing for economic conditions that might require a shared kitchen.”

He notes, citing m. *Avodah Zarah* 5:5, which discusses eating with a Gentile, that the tannaim did not forbid commensality with the Gentile altogether. This too, he claims, indicates a “rhetoric of accommodation” whereby the tannaim allow for economic and social interaction between Jews and non-Jews.⁴⁴ Similarly, Rosenblum asserts that the tannaim ultimately permitted Gentile oil, which was originally prohibited, in order to “balance the desire for a food deemed to be a dietary staple [which would have been unduly expensive if it had to be sourced only from

⁴² This tosefta will be analyzed in greater depth in the chapter on tannaitic literature.

⁴³ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 83).

⁴⁴ This would seem to contradict Rosenblum’s overall argument that the rabbis were intent on creating an “Us” versus “Them” through such rulings.

Jews] against the desire to construct a distinct identity via food practices.”⁴⁵ This is in contrast with Gentile cheese, which was not a staple and remained prohibited.⁴⁶

Some of Rosenblum’s arguments and sources will be addressed more fully in the chapter on tannaitic literature. But, overall, while presenting an interesting approach, his arguments appear conjectural and not entirely persuasive. For example, the proposed rationale for the permission of Gentile oil and commensality with the Gentile seems arbitrary. Bread, for example, may be considered at least an equally important staple of the Mediterranean diet at the time as oil, representing as much as fifty percent of a person’s caloric intake.⁴⁷ Furthermore, it is difficult to understand how eating some Gentile bread in one’s own home is more harmful to the formation of identity than sharing meals with Gentiles.

Additionally, if Rosenblum’s hypothesis about rabbinic redefinition is correct and was meant by the rabbis as a practical matter, one might expect to be able to discern a notable difference in the pre- and post-tannaitic demarcations of one who is identified as a Jew versus one who is identified as a non-Jew. Yet, no such evidence is presented. Furthermore, some of his interpretations of the literature appear strained, as if trying to force-fit texts into the thesis. Some tannaitic aggadic statements are presented as halakhic rulings when they appear to be only moral admonishments or allegorical interpretations of biblical texts. Finally, it is not demonstrated that the tannaitic halakhic rulings were conscious, primary *drivers* oriented towards an agenda of separation and identity creation, rather than simply refinements of existing proscriptions and requirements.

⁴⁵ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 89).

⁴⁶ M. *Avodah Zarah* 2:5.

⁴⁷ (Broshi 2001, 121-143) as cited in (Weingarten 2007).

Israel Ben-Shalom

Israel Ben-Shalom also attributes a social motivation to the Mishnaic prohibitions of Gentile foods but one unrelated to intermarriage.⁴⁸ Ben-Shalom presents an extensive history of the Roman presence in *'Ereṣ Israel* and the buildup to the violence of 66 C.E. He provides an account of the tension and disagreements between the houses of Hillel and Shammai in relation to dealing with the Roman government in *'Ereṣ Israel*. Ben-Shalom asserts that the prohibitions of Gentile bread, oil, and *šelaqot* were enacted among the Eighteen Edicts, as described in m. *Šabbat* 1:4, in the loft of Hananiah as a means of separating the Jews from the Romans in advance of the impending rebellion.⁴⁹

Ben-Shalom provides a socio-political explanation of the enactments, which he and others date at around 66 C.E., or four years prior to the destruction of the Second Temple.⁵⁰ Ben-Shalom asserts that the resistance movement to Roman rule grew out of the School of Shammai. He draws on rabbinic literature, scholarly works based on this literature, as well as history and arguments based on non-rabbinic sources, such as Josephus, and scholarship in a variety of areas including archaeology and Roman history. Contrary to those, such as Gedalyahu Alon, who viewed the Pharisees as one bloc, Ben-Shalom discerns nuances among the various Pharisee schools in terms of their political stances, their relationship towards the Roman government and the house of Herod,

⁴⁸ (Ben-Shalom 1993). See (Kasher 2005) for a summary of Ben-Shalom.

⁴⁹ Shaye Cohen (S. J. Cohen, *From the Bible to the Talmud: The Prohibition of Intermarriage* 1983, 28) similarly concludes that “A simple antipathy towards Gentiles motivated the revolutionaries of 66–70 C.E. and they too might have tried, through the ‘Eighteen Decrees,’ ascribed by both Talmuds to the Houses of Hillel and Shammai (y. *Šabbat* 1:4 3c–d 371:1–373:19; b. *Šabbat* 17b), to prevent any social or sexual intercourse between Jews and Gentiles.” Solomon Zeitlin (S. Zeitlin 1916) similarly claims that fifteen of the Eighteen Edicts enacted were anti-Roman measures.

⁵⁰ (Ben-Shalom 1993, 235). Per P. Schafer (P. Schafer, *The History of the Jews in the Greco-Roman World: The Jews of Palestine from Alexander the Great to the Arab Conquest* 2nd Edition 2003, 122), Cestius Gallus was governor of Syria who tried to quell the rebellion. Together with his 12th Legion, he was ambushed by the Jews near Beit Horon in October/November 66 C.E. and suffered a crushing defeat. Ben-Shalom argues that since these Eighteen Edicts were passed despite the opposition of Beit Hillel and in a bloody confrontation, it is clear that they were enacted before the victory over Cestius Gallus, after which Beit Hillel joined the rebellion.

and the ramifications of these.⁵¹ Specifically, he describes the realpolitik nationalism of Beit Hillel and their desire to find common ground with the Romans.

In contrast, argues Ben-Shalom, the extreme and uncompromising nationalists of Beit Shammai continued in the zealot tradition whose roots went back to Hasmonean times.⁵² Beit Shammai's uncompromising and idealistic approach brought them to espouse a radical solution for alleviating the treatment under the Roman procurators: to rebel against Rome and separate from the pagan world. They believed that repentance of the majority of the people would pave the way for the coming of the sought-after Messiah.⁵³

Ben-Shalom further shows how the growing extremism among the zealots expressed itself in matters of halakhah as well, culminating with the gathering in the loft of Hananiah.⁵⁴ Ben-Shalom posits that the objective of the Eighteen Edicts enacted there was to separate completely between the Jew and the idolater and to strengthen the hand of the rebels against Rome by, *inter alia*, enhancing purity and holiness among the people.⁵⁵ The Eighteen Edicts were thus “zealous

⁵¹ (G. Alon, *Jews, Judaism, and the Classical World* 1977, 219). On the historical association between the sages (though not specifically Hillel and Shammai) and the Pharisees, see (Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 C.E.* 2012, 45-49).

⁵² Ben-Shalom (Ben-Shalom 1993, xi-xiv) summarizes and disagrees with the analysis of several other schools of thought. Abraham Geiger saw Beit Shammai as the “national-liberal party,” whereas Beit Hillel was the “progressive party” among the Pharisees. He saw the zealots as separate from the Pharisees, and thus unrelated to Beit Shammai. Heinrich Graetz on the other hand saw Beit Shammai as dedicated zealots who stood at the head of the movement that initiated the revolt in Jerusalem in 66 C.E. against the Romans. Emil Schürer saw Beit Shammai as focused on arguments relating to halakhic observance and having no social or political significance. Louis Ginsburg (and his student Louis Finkelstein) saw Beit Shammai and Beit Hillel as representing different socio-economic strata in the Pharisee population, with Beit Shammai focused on the aristocracy and wealthy, and Beit Hillel the lower strata. Beit Shammai were conservative, nationalistic, and narrow-focused, whereas Beit Hillel were intellectuals, progressives, and peace-seekers.

⁵³ As Aryeh Kasher (Kasher 2005, 16) summarizes Ben-Shalom.

⁵⁴ Zeev Safrai (Safrai and Safrai, *Mishnat Eretz Yisrael: Masekhet Shabbat I* 2008, 97) asserts that not only was Hananiah one of the heads of the School of Shammai but was also among the leaders of the Zealot movement in Jerusalem. Heinrich Graetz (Graetz 1893 (1956), 270) attributes the leadership of this event to Elazar b. Ananias (Hananiah?) who, he writes, was the head of the Zealot movement and also “a teacher of the Law.” Graetz combines all of the various rabbinic sources into a single integrated story, which he presents as historical.

⁵⁵ (Ben-Shalom 1993, 154).

actions” that figured not inconsequentially in the evolution of events that led, in the end, to the outbreak of the great revolt.⁵⁶

Ben-Shalom’s arguments can be challenged on several grounds. First, relating to the spiritual argument: the rabbis did not ban all social interaction with the Gentiles. They also did not ban eating with the Gentiles generally—only specific food items—nor did they bar Jews from having Gentiles join them in eating the Jews’ foods. Thus, these edicts did not in fact force separation from the pagan world and would not have been sufficient to achieve Beit Shammai’s purported goals.

Furthermore, the expected sociopolitical impact of the edicts is unclear. If it was to be economic, the edicts do not prohibit trade in the items, rather only eating them. If, on the other hand, the intended impact was purely social separation—to what end? How would this help the rebellion? While relations of the Jews with their Gentile neighbors were quite poor in some areas—even violent—the rebellion was against the Roman government, not the local neighbors.⁵⁷ It is also far from clear how effective, as a practical matter, these edicts could have been expected to be. While our knowledge is limited, most modern scholars, such as Zeev Safrai and Adiel Schremer, maintain that, before the destruction of the Temple, there were a relatively small number

⁵⁶ (Ben-Shalom 1993, 93). Ben-Shalom argues that it is not coincidental that it was R. Eliezer b. Hyrcanus, a Shammaite zealot who, as relayed in y. *Šabbat* 1:4 3c 371:3 and contrary to R. Yehoshua (who represents Beit Hillel), concurred with the Eighteen Edicts. (This is not Saul Lieberman’s understanding of this text (Lieberman, *Ha-Yerushalmi Ki-Feshuto: Shabbat* 2008, 37), nor mine. Gedalyahu Alon (G. Alon, *Jews, Judaism, and the Classical World* 1977, 156) claims that not all of the Eighteen Edicts introduced innovations in the halakhah, but rather, like the ones on Gentile bread and oil, “were intended to decide in respect to certain early laws and to validate them, because they had not at the outset been firmly established and they were disputed, and the strange practices of those who took a lenient or different view served to undermine them.”

⁵⁷ While his estimates may not necessarily be taken at face value, Josephus (Josephus 1927, 2.457) notes that “within one hour more than twenty thousand [Jews] were slaughtered, and Caesarea was completely emptied of Jews.”

of rabbis and they did not exert great authority over the people; they did not rule religious life.⁵⁸ Indeed, the Talmudim report that the edict on Gentile oil was not adopted by the people, nor was the edict on bread fully adopted.⁵⁹ Furthermore, aside from the major cities, the people may have already been in large measure already separated from—even antipathetic to—the Romans.⁶⁰

It is the contention in this dissertation that the rabbinic prohibitions of Gentile bread, oil, and *šelaqot* were not undergirded by a rabbinic desire for general social separation.

David M. Freidenreich

David Freidenreich asserts that there is no basis for attributing a segregative purpose to the dietary laws in their biblical context, and that the dietary laws found in the Torah are exclusively ingredient-based.⁶¹ He notes that although Ezra and Nehemiah sought to establish a firm boundary

⁵⁸ See (Schremer, *Olamam shel ha-Hakhamim ba-Hevrah ha-Yehudit be-Eretz Israel bi-Tekufat ha-Mishnah: Torah, Yokrah, u-Ma'amad Tzibburi*. 2018) for a survey of the scholarship on this topic. See also, for example, (Cohn 2013), (S. J. Cohen, *From the Maccabees to the Mishnah*, Second Edition 2006), (Hezser, *Social Fragmentation, Plurality of Opinion, and Nonobservance of Halakhah: Rabbis and Community in Late Roman Palestine 1993/4*), (Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 C.E.* 2012), (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 132), (J. Neusner, *Rabbinic Judaism: The Theological System* 2002), (J. Neusner, *From Politics to Piety: The Emergence of Pharisaic Judaism*, Second Edition 2003, 10), (S. Schwartz, *Big Men or Chiefs: Against an Institutional History of the Palestinian Patriarchate* 2004), and (Sperber, *Roman Palestine 200-400: The Land* 1978, 160-186). Furthermore, in an even later period, y. *Yevamot* 7:2 8a 861:46–48, t. *Pesaḥim* 4:2 (4:14), y. *Pesaḥim* 6:1 33a 529:26ff, and b. *Pesaḥim* 66a show instances where the sages acquiesced to common practice rather than mandating practice. Y. *Šabbat* 6:1 3d 372:27–30 and y. *Beša* 1:12 61a 688:18–19 show how the sages confined their demands to those items which they knew the public would abide by or simply refrained from deciding. In many cases, the will of the community defied rabbinic decisions. The people of Simonas, for example, refused to accept Levi b. Sisi's appointment (y. *Yevamot* 12:6 13a 889:8ff) as did the Sepphorians regarding R. Hanina (y. *Ta'anit* 4:2 68a 728:15ff). Indeed, consulting members of the community appears to have become so widespread that it was cited by a biographer of the Caesars (Alexander Severus, *Scriptores Historiae Augustae* 45:6) “as a distinct Jewish practice.” Other scholars, such as Gedalyahu Alon (G. Alon 1977, 22), believe that the Pharisees did hold sway, but these scholars are now in the minority and rely heavily on Josephus' account and rabbinic literature.

⁵⁹ Y. *Avodah Zarah* 2:6 41d 1391:13–23; b. *Avodah Zarah* 35b–36a.

⁶⁰ (S. Schwartz, *The Ancient Jews from Alexander to Muhammad* (Key Themes in Ancient History) 2014). Ben-Shalom himself (3) writes: “The enmity and opposing interests between the Hellenist cities (supported by Rome) and the Jewish community in the land on the one hand, and the confrontations between Jews and Gentiles in the mixed cities on the other, represented an important factor in the outbreak of the great revolt against Rome in 66 C.E.” Also, see chapter here on *ʿEreš* Israel society in tannaitic times.

⁶¹ (Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* 2011, 22) and (Freidenreich, *Contextualizing Bread: An Analysis of Talmudic Discourse in Light of Christian and Islamic Counterparts* 2012, 4).

separating Jews from Gentiles, “neither indicates that Jewish food practices ought to function as boundary markers, let alone as walls that segregate Jews from foreigners.”⁶²

Freidenreich asserts that the situation changed during the final pre-Christian centuries in reaction to the influence of Hellenist civilization that was characterized by the notion that identity is malleable, no longer being a matter of descent but of disposition.⁶³ It was during this period, he claims, that concern about food prepared by Gentiles first appears in *’Ereṣ Israel* literature (but not outside Israel) as a means of “preserving Jewish distinctiveness within a Hellenistic culture that rewarded assimilation.”⁶⁴ Though Alexandrian authors valorized Jews who received food from Gentile kings, Judean authors valorized Jews who refused to eat such food.⁶⁵ Gentile bread and cooking were prohibited in *’Ereṣ Israel* in pre-rabbinic times owing to the preparer, regardless of the ingredients.

Freidenreich claims that, later, the nature of these prohibitions changed again. The tannaim were motivated only by a “scholastic process” of plumbing the nuances of traditional norms regarding Gentile foods within the broader context of Rabbinic law.⁶⁶ They were not preoccupied by the desire to segregate Jews from Gentiles and did not employ legislation for that purpose. Indeed, except for Gentile bread and oil, the scholastic approach necessarily led back to “ingredientizing” the prohibition away from a preparer-based prohibition and, in fact, *weakening* the role of foreign food restrictions as a barrier to interaction with Gentiles. “Pursuit of order in

⁶² (Freidenreich 2011, 19).

⁶³ (Freidenreich 2011, 38).

⁶⁴ (Freidenreich 2012, 4).

⁶⁵ (Freidenreich 2011, 45).

⁶⁶ Freidenreich (Freidenreich 2011, 63) adopts José Ignacio Cabezón’s definition of scholasticism: “a strong sense of tradition, an interest in language, a tendency toward expansiveness in both breadth and depth of coverage, a conviction that the received canon overlooks nothing and contains nothing unessential, a belief that everything of importance can be known, a commitment to reasoned argument, a high degree of self-reflexivity, and a drive toward the systematic presentation of knowledge.” (Cabezón 1998, 1-17).

the realm of ideas...comes at the expense of norms that seek to preserve order in the realm of social intercourse.” The tannaim are therefore more concerned “about the foodstuffs of foreigners than about foreigners themselves.”⁶⁷

At the same time, Freidenreich claims that the Mishnah’s redactor “shoe-horns” the traditional preparer-based prohibitions of Gentile bread and olive oil into a list that otherwise consists entirely of foods that might contain problematic ingredients.⁶⁸ In justifying the tannaitic bread and oil preparer-based prohibitions, Freidenreich, like Rosenblum, asserts that such foodstuffs are products of “cultural transformation,” adopting Claude Levi-Straus’s terminology.⁶⁹ It is not a matter of what ingredients were used, but of a process that takes items from their natural state and makes them fit for consumption within the culture in which the food is being prepared. Freidenreich claims that, according to Mishnah, it must be a Jew who is responsible for the act that turns “unelaborated” ingredients into “culturally elaborated” bread or olive oil.⁷⁰ Freidenreich seems to give this as the rationale for certain other Gentile food prohibitions as well, such as roasted eggs (cited in t. *‘Avodah Zarah* 4:11) and cheese.⁷¹

Freidenreich further suggests that Babylonian sages too employed scholastic methods.⁷²

However, in contrast with the tannaim, the Bavli redactors wielded the scholastic process in order

⁶⁷ (Freidenreich 2011, 48).

⁶⁸ (Freidenreich 2011, 55).

⁶⁹ (Levi-Strauss, *The Culinary Triangle* 1966).

⁷⁰ (Freidenreich 2011, 51). Freidenreich does not provide a more precise definition of such “elaboration” or what exactly causes it. At the same time, he adds that the Tosefta includes transformation of foodstuffs, such as cheese or eggs, from a fluid or malleable state into a firm state as acts requiring a Jew to perform in order to be permitted.

⁷¹ R. Abraham b. Isaac of Narbonne (1110-1179) states in *Sefer ha-‘Eshkol* (Abraham b. Isaac of Narbonne 1984, II:143) that the amoraim who differ about a Gentile-roasted egg would agree that a Gentile-boiled egg is not considered Gentile cooking since “one may say that the egg has not absorbed anything since it is whole in its shell.” (Rambam, *Ma’akhalot ‘Asurot* 17:14, *Ṭur*, YD 113:14 and *Šulḥan ‘Arukh* 113:14 disagree.) Yet, a boiled egg is no different from a roasted egg in its also having undergone an obvious transformation from a liquid state. This would seem to undermine Freidenreich’s thesis.

⁷² While addressing the Yerushalmi only in footnotes, Freidenreich concludes that the pertinent Yerushalmi’s passages speaking of “the permissibility of specific Gentile foodstuffs is addressed against the backdrop of a general prohibition of Gentile cooked food.” (Freidenreich 2011, 67n8)

to regulate social relations and strengthen the barriers.⁷³ He adds that the Talmud devotes detailed attention to food restrictions not based on ingredients but rather based on the identity of the chef “in sharp contrast with efforts by the Mishnah’s redactor to avoid discussing this form of foreign food restriction.”⁷⁴ He suggests that the renewed interest of Babylonian sages in limiting food-related interaction with Gentiles “reflects their elevated concern about the danger of assimilation, their desire to remain aloof from the broader society, their particular interest in preserving the purity of their genealogical lineage, or some combination of these or other factors.”⁷⁵

Like Freidenreich, this dissertation sees a late attribution of a social separation motivation to Gentile bread and cooking. However, Freidenreich’s account, while offering explanations for the evolution of the prohibitions of Gentile-produced bread, oil, and cooking generally, is not an integrated one with no overarching explanation of their trajectories. His reasons for the various bans vary by period, geography, and particular food item. Specifically, according to him, in pre-tannaitic times all Gentile-prepared foods were prohibited in *’Ereṣ* Israel (but not outside) due to their preparer. During tannaitic times, Gentile-prepared foods were prohibited only when there was a concern about ingredients, except for bread and oil, which were prohibited merely due to their preparer. Then, in Babylonian amoraic times, all Gentile cooking was banned because of concern over intermarriage.

Several questions can be raised regarding Freidenreich’s solution. For example, why would the tannaim weaken, merely due to an “intellectual exercise,” the protective prohibitions that had previously existed precisely during a time of increasing Roman and even Christian influence? He seeks to justify this reduced concern about the chef by positing that that perhaps the sages felt that

⁷³ (Freidenreich 2011, 14-15 and 76).

⁷⁴ (Freidenreich 2011, 65-67).

⁷⁵ (Freidenreich 2011, 76).

Gentiles posed less of a threat to Jewish identity than heretics.⁷⁶ Moreover, Freidenreich does not explain exactly how the tannaitic “scholastic approach” forced the change to an ingredient concern.

Freidenreich suggests a Babylonian concern over intermarriage but does not offer proof that there was an intermarriage concern to which the sages were responding. He cites only Kalmin’s analysis regarding Babylonian concerns with genealogical purity.⁷⁷ Yet, Kalmin’s prooftexts pertaining to the genealogical preoccupation of the Babylonian sages relate only to concerns over possible lineage flaws resulting from having descended from *mamzerut* (“bastard” offspring) and *’avdut* (slavery), not *ḥatnut* (intermarriage).⁷⁸ Nor does Freidenreich, who focuses on the “intellectual evolution of these prohibitions,” demonstrate whether intermarriage may have in fact been a social reality in amoraic Babylonia. Indeed, he concludes that his hypotheses require testing in light of evidence regarding Jewish social history in Sasanian Babylonia.⁷⁹

Finally, Freidenreich does not demonstrate that intermarriage was *not* the original motivator of either the tannaitic or the *’Ereṣ* Israel amoraic Gentile bread prohibition, a postulate that will be explored in this dissertation.

GENTILE IMPURITY THEORIES

Several scholars attribute pre-tannaitic and/or tannaitic Gentile food avoidance and prohibitions to impurity ascribed to Gentiles. Other scholars rebut this position. Indeed, over the past century and a quarter, scholars have engaged in a vibrant and contentious debate regarding the existence and

⁷⁶ (Freidenreich 2011, 50).

⁷⁷ (R. Kalmin, *The Sage in Jewish Society of Late Antiquity* 1999, 51ff).

⁷⁸ Kalmin (R. Kalmin 1999, 58-59) seems to focus on Persian concerns regarding marriage “outside one’s social estate” but still within one’s own religion. Notably, Kalman does not explicitly mention intermarriage and does not cite prooftexts for such a conclusion.

⁷⁹ (Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* 2011, 76).

meaning of Gentile ritual impurity in pre-tannaitic Jewish practice and subsequent halakhah and practice.

The questions regarding the definition and presence of Gentile impurity practices are multifaceted. Is Gentile impurity a biblical concept? If not, who enacted it and when: The Hasmoneans, Pharisees, or the later rabbis? Why was it enacted? Was the enactment adopted by the people? If so, by whom? If not, why not? Was it possibly an even earlier practice that began with the people and was eventually adopted by the sages? Furthermore, what type/severity of impurity is ascribed to the Gentile? Is such impurity transferrable by the Gentile by touch? And, perhaps most importantly for this dissertation, could a Gentile halakhically impart impurity to a food item merely by touching it and/or was there a common perception, regardless of the halakhah, considering such touch as causing impurity? Finally, as a practical matter, did whatever enactment or perception in fact hinder Jews from buying and/or eating foods touched by Gentiles during the preparation process?

This topic is highly complex, and scholars cite many proofs and counterproofs in addressing the questions above. It is asserted here that, certainly by tannaitic times, Gentile impurity did not constitute a factor affecting food in which a Gentile had a hand in preparing other than perhaps for holy foods that priests were required to eat in purity or for non-holy foods for those non-priests who insisted on eating in a state of purity.

Following is a brief survey of the scholarship in chronological order. Several arguments will be addressed more fully in the chapters on pre-tannaitic and tannaitic literature.

Emil Schürer asserted that a Gentile was unclean since he did not observe the biblical regulations of Levitical purity.⁸⁰ As proofs, he cites Peter's statement to the Roman Centurion Cornelius in *Acts* 10:28 regarding the unlawfulness of a Jew associating with or visiting a Gentile and Beit Hillel's position in m. *Pesahim* 8:8 regarding the immersion requirements for a convert. This defilement, however, did not actually restrict Jews from associating with Gentiles.

David Z. Hoffman distinguished between two types of impurity.⁸¹ The first is spiritual defilement, or defilement of the soul, that contrasts with holiness. This type of defilement comes about, inter alia, by eating impermissible foods. It cannot be eliminated from the defiled person. The second type of impurity is bodily defilement that contrasts with purity. The sources of this type of impurity are dead bodies, fluids emanating from one's body, leprosy, and the like. This type of defilement can be cleansed through acts of purification. Hoffman adds that it is incorrect to suggest that the biblical prohibitions of forbidden foods were meant to distinguish between Israelite and Gentile. Rather, they were commandments once Israelites were already separated by their acceptance of God from Gentiles.⁸² Thus, while not addressing the matter directly, Hoffman's conceptions of impurity do not appear to be applicable biblically to Gentiles.

Adolph Büchler rebutted Schürer's argument and two prooftexts⁸³ and set out to prove that Levitical ("ritual") Gentile impurity was neither biblical nor attributed to Gentiles in earlier Second Temple times.⁸⁴ In fact, Büchler showed that interaction between Jew and Gentile was neither wholly prevented nor even restricted.⁸⁵ It was only the religious authorities of the last

⁸⁰ (Schürer 2021, II:II:320 §31) and (Schürer 2021, II:II:322 n304).

⁸¹ (D. Z. Hoffman 2022, I:467ff).

⁸² (D. Z. Hoffman 2022, I:474).

⁸³ (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926). Regarding m. *Pesahim* 8:8, for example, Büchler notes that the Schürer did not point out that the Hillelite position was not ultimately adopted.

⁸⁴ In a somewhat problematic methodological manner, Büchler uses tannaitic and Talmudic texts to attest to historical events and facts in Temple times.

⁸⁵ (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 20-21 and 24).

century of the Second Temple who gradually extended the impurity of menstruous Jewish women to Gentile women.⁸⁶ Even then, the Gentile male was not regarded as impure per se; rather, his impurity owed only to his contact with his menstruous wife. Furthermore, at most, the Gentile's defiling effect was that of a Jew with the same degree of impurity, affecting no person or thing outside the Temple cult (e.g., only a priest on duty, the Temple itself, a Jew purified for sacrifice, or a sacrificial meal).⁸⁷ Thus, even though the concept of Gentile impurity existed at this point, it was not a day-to-day deterrent. It was only around the year 66 C.E., that the Gentile male was declared by one of the Eighteen Edicts to have "grave" ritual impurity.⁸⁸ Büchler claimed that even this declaration did not deem the Gentile impure per se but was rather a precautionary measure against Roman sodomy, as expressly stated in the Bavli.⁸⁹

Büchler cited several *beraitot* in the Talmudim to the effect that the Gentile's touching/handling Jewish food does not make it impermissible for the Jew. M. *Ṭeharot* 7:6 and t. *Ṭeharot* 6:11, which he cites and which do appear to imply ritual impurity imparted by a Gentile, will be addressed more fully in the chapter on tannaitic literature. Nonetheless, Büchler concluded that the evidence covering the time from 140 to 250 C.E. in Galilee "cogently proves" that the Gentile's grave Levitical defilement "had no force whatever to defile even by direct touch the strictest teacher or his food."⁹⁰ Private associations between Jew and Gentile were in no way restricted, and commercial and other relations were not affected by the ritual purity ascribed to the Gentile.⁹¹

⁸⁶ (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 39ff).

⁸⁷ Büchler suggests that this is why the Jews in *John* 18:28 did not go into the judgment hall "lest they should be defiled but that they might eat the Passover."

⁸⁸ (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 41). The Eighteen Edicts will be discussed more fully in the chapter on tannaitic literature.

⁸⁹ B. *Šabbat* 17b and b. *Avodah Zarah* 36b.

⁹⁰ (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 57).

⁹¹ (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 80).

Gedalyahu Alon countered Büchler.⁹² To Alon, Gentile impurity was an ancient practice based on “religious thinking”⁹³ that was accepted broadly by the people many years before the destruction of the Second Temple. It dated back to Herod, possibly even the Hasmoneans, and possibly even earlier.⁹⁴ To Alon, the perception of Gentiles as impure was entrenched in the tradition ascribing impurity to idols and its appurtenances. Gentile impurity was thus an extension to the idol worshipper of idol impurity itself. Contra Büchler, the Eighteen Edicts were enacted in 66 C.E. merely to strengthen a pre-existing prohibition.

At the same time, Alon noted a change in tannaitic and amoraic law regarding Gentile impurity: there was a general trend to eliminate the original tradition and related restrictions and to give new interpretations to the various prohibitions.⁹⁵ Of direct relevance to the present research, Alon claimed that the prohibitions of Gentile oil, bread, wine, and cooking were originally prohibited due to Gentile impurity but, by the time of the Mishnah, different reasons were attributed to them.

Jonathan Klawans, like Hoffman, observed that the Bible distinguishes between two types of defilement.⁹⁶ The first, what Klawans calls “moral impurity,” (1) is unleashed by certain sinful human actions, (2) has no contact contagion associated with it, (3) leads to a long-lasting, if not permanent, degradation of the sinner, (4) cannot be ameliorated by purification rites, and (5)

⁹² (G. Alon, *Gentile Impurity* 1937).

⁹³ *Maḥašavah datit* (מחשבה דתית).

⁹⁴ (G. Alon, *Gentile Impurity* 1937, 122).

⁹⁵ (G. Alon, *Gentile Impurity* 1937, 142-145). Alon is hard-pressed to explain why perceptions of Gentile impurity may have changed by the time of the Mishnah. He offers three hypotheses: (a) Historical: Jews necessarily had to interact more with the Gentile world, which possibly led to an altered perception of the Gentile’s spiritual essence, (b) Halakhic: Only impurities relating to one’s body remained, while the Gentile’s impurity was more a function of his idol worship rather than a physical deficiency, and (c) Acceptance: Even earlier, these prohibitions seemed not to be completely accepted by the people, and observance just dissipated over time.

⁹⁶ (Klawans, *Impurity and Sin in Ancient Judaism* 2000, viii).

is framed as resulting from “abomination” and “pollution.”⁹⁷ The second type of impurity, “ritual impurity,” is caused by natural and largely unavoidable bodily functions. Klawans claims that ritual impurity has three distinct characteristics: (1) Its sources are generally natural and more or less unavoidable. (2) It is generally not sinful to contract ritual impurities. (3) These impurities convey an impermanent contagion.

Klawans seeks to demonstrate how just about all early literature—Bible, pre-Qumranic literature, New Testament, and tannaitic literature—saw ritual and moral impurity as separate and distinct. However, he asserts, the sectarian literature from Qumran blends them.⁹⁸ “At Qumran, sin was considered to be ritually defiling, and ritual defilement was assumed to come about because of sin.”⁹⁹

As to the Gentile, Klawans claims that the Bible (including Ezra and Nehemiah), pre-Qumranic literature, the New Testament, and the Mishnah do not see the Gentile as ritually impure.¹⁰⁰ He admits that one would also be “hard-pressed to find an unambiguous legal pronouncement” in Qumranic texts to the effect that Gentiles were considered to be ritually impure. Nonetheless, he attempts to infer from several texts that the sectarians of Qumran in fact considered Gentiles to be a source of ritual impurity.¹⁰¹

This is a puzzling conclusion, however. Why would a community to whom ritual impurity was so important not have found a single place in its writings (at least not in what is extant today) to note that Gentiles convey ritual impurity and, instead, leave it to inference?

⁹⁷ (Klawans, *Impurity and Sin in Ancient Judaism* 2000, 26 and 29).

⁹⁸ (Klawans, *Impurity and Sin in Ancient Judaism* 2000, 90).

⁹⁹ (Klawans, *Impurity and Sin in Ancient Judaism* 2000, 88).

¹⁰⁰ (Klawans 2000, 135).

¹⁰¹ (Klawans 2000, 80-81).

Christine Hayes essentially accepts Klawans's two categories of impurity: ritual and moral.¹⁰² Ritual impurity is "contagious" in that it is transmittable, temporary, and can be cleansed by rituals of lustration and sacrifice. Moral impurity is caused by certain practices or offenses, such as murder, incest, and idolatry. Moral impurity is non-contagious and can be expiated only by atonement and mending of ways. One exception is a non-expiable sexually immoral deed, such as adultery, which can in fact create a lasting degradation of status, even affecting marriageability. Acts of moral impurity also imbrue the land of Israel. If they continue unchecked, the land will regurgitate the defiled inhabitants. According to Hayes, moral impurity can be contracted equally by Jews and Gentiles. But she concludes that while many second Temple sources, like the biblical, associate Gentiles with moral impurity, none unambiguously associates Gentiles with ritual impurity.¹⁰³

Hayes proposes a third category of impurity: genealogical impurity. It represents the notion that Gentiles are "less holy" rather than being "impure." Intermarriage with a Gentile, for example, leads only to profanation and is not a true impurity or defilement. According to Ezra, genealogical purity is required of all Israelites to guard against "profanation" of the holy seed. The aliens' exclusion from the Temple is based, both biblically and post-biblically, on the alien's foreign, or profane, lineage and not on a principle of intrinsic and permanent impurity.¹⁰⁴

Hayes finds the evidence "extremely thin" that the Essenes may have considered the Gentiles ritually impure and the Qumranite evidence "ambiguous."¹⁰⁵ Furthermore, she suggests that it was only the rabbis who later imposed a mild form of impurity on Gentiles, as suggested by

¹⁰² (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002).

¹⁰³ (Hayes 2002, 66).

¹⁰⁴ (Hayes 2002, 35, 62).

¹⁰⁵ (Hayes 2002, 64-65).

Büchler above. Finally, with regard to Gentile food prohibitions in the Mishnah, Hayes concludes, as does this dissertation though without citing proof, that “Jews most likely objected to Gentile food on the grounds that it was non-kosher.”¹⁰⁶

Vered Noam traces the evolution of the concept of corpse impurity from the Bible, through Second Temple literature, to the Mishnah. She tracks the theoretical halakhic system, with no consideration of its effect on or applicability to historical reality.¹⁰⁷ She concludes that Gentiles are not ritually impure qua Gentiles. Rather, citing *Midraš Sifre Zuta* 19:10 on *Numbers* 31:19 which appears to require the purification of Gentile war captives, Noam suggests that tannaim in fact dispute whether a Gentile can become corpse-impure and require purification.¹⁰⁸ She further cites *t. Pišha* 7:14, which discusses a dispute between Beit Hillel and Beit Shammai regarding whether a converting Gentile requires purifying sprinkling, and notes, as Lieberman does, that sprinkling is relevant only regarding corpse-impurity. Thus, even according to Beit Hillel, who appears to require sprinkling, a Gentile is not impure qua Gentile but due to corpse-impurity. However, the tosefta’s concluding clause seems to imply that the law goes according to Beit Shammai: that the Gentile is not even considered corpse-impure, and the required immersion is merely ceremonial.

Noam further notes that “from all other tannaitic sources one may surprisingly conclude that a live Gentile is not susceptible to impurity at all.”¹⁰⁹ Noam suggests two possible, though contradictory, rationales.¹¹⁰ One, that the phrase “according to their preciousness, such is their

¹⁰⁶ (Hayes 2002, 49). She states so explicitly in her introduction to her translation of Mishnah *‘Avodah Zarah* (Cohen, Goldenberg and Lapin, The Oxford Annotated Mishnah (3 volumes) 2022, III:679). “Chapter 2 lists foods of a non-Jew that are prohibited because of the possibility of mixture with, absorption of, or defilement by impure or forbidden substances, as well as foods to which no such anxiety attaches.”

¹⁰⁷ (Noam, *Me-Qumran la-Mahapeikhah ha-Tannait: Hebetim bi-Tefisat ha-Tum'ah* 2010).

¹⁰⁸ (Noam 2010, 282).

¹⁰⁹ (Noam, *Me-Qumran la-Mahapeikhah ha-Tannait: Hebetim bi-Tefisat ha-Tum'ah* 2010, 286).

¹¹⁰ (Noam, *Me-Qumran la-Mahapeikhah ha-Tannait: Hebetim bi-Tefisat ha-Tum'ah* 2010, 287-291).

uncleanness” (לפי היבטו היא טומאתו) in m. *Yadayim* 4:6 suggests that the Gentile does not contract impurity since he is in a state closer to nature than the Jew. The second approach sees purification relevant only if one belongs to a community obligated to the commandments, which the Gentile does not.

Hannan Birenboim claims that the perspective that Gentiles are ritually impure qua Gentiles in fact finds expression in later biblical sources and beyond.¹¹¹ However, to his thinking, the concept of Gentile ritual impurity evolved over time. In the earlier period, clear principles regarding the transmission of Gentile impurity and its practical ramifications had not yet gelled. Rather, the germs of the concept developed over time until the point that they crystalized in the halakhic templates of rabbinic literature. Birenboim admits that the sources do not present a uniform picture and that some of the sources imply that Gentiles are not ritually impure. Later chapters in this dissertation cite most of Birenboim’s sources and dispute his inferences.

Birenboim’s conclusion, however, relates directly to this dissertation. He claims, contra Hayes, that it is possible that, in mishnaic times, certain Gentile foods that had a symbolic status or that had an important place in the economic and social relations between Jew and Gentile would be considered impure.¹¹² Although he does not state so explicitly, this would seem to imply that the Gentile-food prohibitions in Mishnah *‘Avodah Zarah* would fall into these categories. Birenboim’s conclusion, however, does not provide a clear guideline of what is in or out of bounds. In addition, as several examples in the chapter on tannaitic literature will show, the Gentile’s physical participation in the cooking process does not make the food impure.

¹¹¹ (Birenboim 2011, 10).

¹¹² (Birenboim 2011, 30).

Mira Balberg sees no reason to believe that the Bible excluded Gentiles from the laws of impurity, though she contends that the Pentateuch is “ambiguous” as to their ritual impurity.¹¹³ She is also not certain whether the Bible’s strong rhetoric of moral impurity condemning the detestable acts of the Canaanites and Egyptians is meant literally or metaphorically or whether the impurity of these peoples is intrinsic or contingent upon their actions and lifestyles.¹¹⁴

According to Balberg, during the Persian and Hellenistic periods the Levitical notion of moral impurity of specific non-Israelite peoples was conflated with the Deuteronomic notion that only the people of Israel are to be considered innately holy.¹¹⁵ This led, ultimately, to the premise that Gentiles are inherently and irrevocably impure because they are not part of the holy seed of Israel.¹¹⁶ Balberg believes that the rabbis likely inherited the basic concept of overarching Gentile impurity and chose to endorse this concept as part of their general attempt to set distinctions between Jews and Gentiles while emphasizing the superiority of the former over the latter.

But the tannaim were confronted with a challenge, for they had constructed their own impurity system in a way that entirely distinguished between moral impurity and physical-ritual impurity. In the rabbinic view, the susceptibility of humans to impurity was determined by their relationship with and commitment to the Jewish law and its commandments. In this framework, there was no rubric into which impurity caused by the Gentiles’ abominations and misdeeds could fit. To nonetheless have the Gentiles be effectively impure, the rabbis decreed that the Gentiles be considered *statutorily* ritually impure even while remaining technically unsusceptible to ritual impurity and thus not *actually* impure. This was an “unprecedented” determination that an object

¹¹³ (Balberg 2014, 128-129).

¹¹⁴ (Balberg 2014, 130).

¹¹⁵ Balberg cites, for example, *Deuteronomy* 4:37, 7:6-7, 10:15, 12:2, 14:21, and 26:19.

¹¹⁶ (Balberg 2014, 130).

(in this case, a person) that cannot become ritually impure itself can nonetheless transmit impurity, decreed only to integrate a pre-existing notion of Gentile impurity into their own system.

Balberg does not specifically address Gentile-prepared food or whether Gentiles cause impurity of foods. Nonetheless, she does make the general statement that, in this state, “they convey impurity to all their surroundings.”¹¹⁷

Yair Furstenberg understands from the narrative in *Nehemiah* 13 that the very presence of Tovia [Tobiah the Ammonite], although not an idol worshipper, defiled the House of God, which thus required cleansing.¹¹⁸ This, Furstenberg claims, is a clear expression at the start of the Second Temple period of the existence of an impurity embodied in the Gentile.¹¹⁹

Furstenberg claims that these verses demonstrate a fundamental shift in the understanding of the essence of impurity from earlier times. Earlier, the understanding was that the accoutrements of idol worship, like other abominations, were deemed *objects* of impurity. They caused the land to become impure and eliminating them, e.g., the idolatrous structures themselves, from the land was the sole objective. It was only from the Persian period onward that the objects, such as idols and Gentiles, became considered *sources* of impurity. Like Birenboim, he suggests that the implications regarding transference of impurity by physical contact with these sources of impurity were not yet defined or uniform.

Furstenberg asserts that Gentile impurity then evolved from one of impurity of actions (as portrayed in *Jubilees* 22:16-20) to bodily impurity (as portrayed in *Acts* 10).¹²⁰ Despite its negative

¹¹⁷ (Balberg 2014, 127).

¹¹⁸ (Y. Furstenberg 2016, 53-55).

¹¹⁹ Not all scholars agree that Tovia was a non-Jew. For example, Lester Grabbe (Grabbe, *Judaism from Cyrus to Hadrian* 1992, 133) writes: “Tobiah was a Jew whose family held territory across the Jordan in the old era of the Ammonites.” This would undermine Furstenberg’s arguments.

¹²⁰ (Y. Furstenberg 2016, 217-221).

attitude towards Gentiles, *Jubilees* does not define them as impure. In contrast, the story of Cornelius and Peter in *Acts* 10 reveals the immanent concept of Gentile impurity “that was accepted among Jews in the first century.”

According to Furstenberg, the Qumranites adopted the latter concept of Gentile impurity and related it to anyone not in their group, including Jewish novitiates.¹²¹ He cites Josephus’s description of the Essene practice that the youth were viewed as so inferior by the Essenes that, if the Essenes touched the youth, the former would be “as if they mixed among the Gentiles.”¹²² Furstenberg admits that it is difficult to determine from Josephus’s writing the Gentile’s level of impurity or the extent of separation from them in the general Jewish society. But it appears that when the members of the sect formulated the modes of distancing themselves from those outside the sect, they based their strictures on the form of the impurity of the Gentile, the ultimate Other.

The Qumranites’ *Rule of the Community* did not just warn against the evil and impure ways of anyone not yet in their covenant.¹²³ It structured its requirement for distancing oneself from such others on the perception that the outsider is considered impure in body and defiles the purity of the holy men. The sect conflated impurity and sin: sin transformed those outside the sect to be impure in their bodies; thus, the act of purification alone did not change their status. Rather, one

¹²¹ If Tuvyah was in fact Jewish, as many scholars believe (see earlier note), then this attribution of impurity to certain Jews might have been extant in Nehemiah’s time and not the Qumranite innovation that Furstenberg suggests.

¹²² (Josephus, *The Jewish War: Books 1-2* (Loeb) 1927, 2:150). Furstenberg understands Josephus to be speaking about youthful novitiates as contrasted to the elder Essenes. This translation is not necessarily correct. Josephus may in fact mean junior in status rather than age. As Steven Mason translates the relevant passage (Mason, *Flavius Josephus, Judean War 2: Translation and Commentary* 2008, II:150, 120): “They are divided into four classes, according to their duration in the training, and the later-joiners are so inferior to the earlier-joiners that if they should touch them, the latter wash themselves off as if they have mingled with a foreigner.”

¹²³ *Rule of the Community* (1QS=*The Serekh ha-Yahad*) 3:3-12.

required repentance and acceptance back into the group before the ritual immersion could effect purification.¹²⁴ But, again, Gentiles are not explicitly referenced.

Furstenberg goes on to further claim that Pharisee halakhah too, as reflected in the set of mishnayot at the end of Chapter 2 of Tractate *Hagigah*, reveals a great closeness to the sectarian laws. (These will be addressed in the chapter on tannaitic literature.) Thus, according to Furstenberg, both the Mishnah and *Rule of Community* see the Gentile as the model of outsider impurity. But Furstenberg also concludes that Jewish observance of purity generally, including Gentile impurity, dissipated over time.¹²⁵

Summary Regarding Gentile Impurity

As can be seen from the foregoing, prominent scholars have taken varying positions on the existence and nature of the concept of ritual impurity in Gentiles prior to the Eighteen Edicts of 66 C.E. and the significance of Gentile impurity afterwards. On one side are Jonathan Klawans and Christine Hayes, who assert and seek to demonstrate that Gentiles were not biblically ritually impure and that there was no attribution of ritual impurity de facto until the issuance of the Eighteen Edicts. Later scholars, take exception to Klawans and Hayes and seek to demonstrate that Gentiles were considered impure from much earlier times.

The chapters in this dissertation on Second Temple and tannaitic literature will demonstrate that it cannot be posited with certainty that Gentiles were considered ritually impure. All admonitions and legislation to separate Jew from Gentile can be attributed to concerns over moral impurity, concerns about eating impermissible foods, or separate concerns unrelated to purity.

¹²⁴ (Y. Furstenberg 2016, 229-234).

¹²⁵ (Y. Furstenberg 2016, 360-389).

Finally, and perhaps most importantly for present purposes, there seems to be little disagreement among scholars regarding whether, by the time that the Mishnah was codified around 200 C.E., Gentile ritual impurity was a factor in the prohibitions of profane foods cited in the Mishnah. Only Birenboim seems to believe that such impurity continued to play a role at this time. Even Furstenberg shows that in subsequent centuries, food impurity was not adhered to, particularly as relating to profane foods.¹²⁶

In sum, there is no compelling reason to attribute any of the Gentile food prohibitions being discussed here to the purity or religious/ethnic status of the preparer. There is no biblical prohibition against a non-priest or non-Nazirite becoming impure. One is not prohibited from acquiring from a Gentile food and non-food items susceptible to impurity. One is even permitted to eat foods susceptible to impurity bought from a Gentile.¹²⁷ Finally, an *am ha- 'areṣ* was also declared by the tannaim to be *ṭame*, and to ritually pollute food, drink, and utensils through touch. Yet the Mishnah does not prohibit eating with an *am ha- 'areṣ* or food items obtained from him.¹²⁸

On the other hand, there are *prima facie* biblical prohibitions of various fish, fowl, and animals. Even permitted items may not be eaten live. Mixing parts or substantive derivatives (such as fats or oils) from such prohibited entities into other food products would surely render them prohibited. A rabbinic concern over the possibility of such an admixture could, in and of itself, lead the rabbis to create a “fence” around the prohibitions and prohibit the consumption of any

¹²⁶ (Y. Furstenberg 2016, 2). Hannah Harrington appears to conclude the same. As she writes (Harrington, *The Impurity Systems of Qumran and the Rabbis: Biblical Foundations* 1993, 37): “Towards the end of the tannaitic era neglect of the practice of purity laws sets in...[Nonetheless,] the sages continue to study the Levitical system as if it were still in effect.”

¹²⁷ See multiple examples in m. *Avodah Zarah* 2:7.

¹²⁸ See, e.g., m. *Demai* 2:2.

Gentile-produced food that might contain such items. This is the understanding adopted in this dissertation.

CONTRIBUTION OF THIS RESEARCH

The research presented in this dissertation builds on earlier scholarship but differs and adds in several ways. This dissertation is a history of halakhah which looks to evidence from both within and outside of rabbinic literature to explain the provenance of a particular phenomenon. First, it presents a streamlined, straightforward, and consistent explanation of the commensal prohibitions of Gentile bread, oil, and *šelaqot* across nearly 1,000 years and multiple geographies. It is based on a comprehensive, diachronic analysis of texts and historical accounts. It starts with earlier texts, reading each in its own context, and advancing chronologically to understand the historical evolution. Thus, the approach adopted here differs from existing research by taking care at each step not to be influenced by understandings developed out of later texts, particularly the Bavli. This methodology of reading and interpreting early rabbinic texts may be useful in exploring the evolution of other rabbinic decrees and pronouncements.

Furthermore, this research undertakes a fairly comprehensive approach to identifying and analyzing all relevant texts, including Scripture, the apocrypha, pseudepigrapha, the Dead Sea Scrolls, the New Testament, the Mishnah, the Tosefta, the Yerushalmi, the Bavli, and other corpora, as needed.

Also, this research not only shows *what* changed regarding Gentile foods by time period and geography but, in contrast with almost all other scholars, offers a suggestion as to *why* it may have changed, pointing to the possible connection to the social conditions in which the Jews found themselves in the varying periods.

In contrast with the conclusions of other scholars, this research concludes that, in *'Ereṣ* Israel until the close of the Yerushalmi, the prohibition of Gentile food was not based solely on the Gentile-ness of the food preparer. The concern, where it existed, related to the potential admixture into the food by the Gentile of impermissible ingredients. Where such concern did not exist, the food was permitted, even when prepared by the Gentile. It was only in Babylonia that sages banned Gentile food based on the Gentile-ness of the preparer alone, even if all the ingredients used were permissible and even if a Jew oversaw the process. This change, it is hypothesized, was due to a concern over intermarriage that did not exist in *'Ereṣ* Israel but may have existed in Babylonia.¹²⁹ That is, intermarriage, though it did occur, was not of sufficient concern in *'Ereṣ* Israel to prompt any “separation legislation” by the tannaim or amoraim of the period, and that all food prohibitions through that time were “ingredient” driven.¹³⁰

The conclusions of this research contrast with accepted scholarship as well as the traditional understandings of the past 1,500 years regarding the rationale behind the early rabbinic prohibitions of Gentile foods. It might also help explain actual differences in halakhic practice between *'Ereṣ* Israel and Babylonia in the early geonic period.¹³¹ Finally, while it is not explored here, the late introduction of *mišum ḥatnut* only in Babylonia may help explain why it was not necessarily accepted everywhere (such as in *'Ereṣ* Israel, at least initially) and the variability in observance of these prohibitions over the centuries.

¹²⁹ The approach taken here is consistent with the approach that Shai Secunda (Secunda, *The Talmud's Red Fence: Menstrual Impurity and Difference in Babylonian Judaism and its Sasanian Context* 2020, ix) appears to take regarding looking at the broader context of looking at the reality in Babylonia: “When critical study determines that a particular development appears only in the Babylonian Talmud, the conditions are ripe for thinking contextually, and considering whether it might be attributed to a feature of the Sasanian world.”

¹³⁰ Included in this definition is a very stringent view of any ingredient having a connection with idolatry, including wine suspected, even weakly, of having been libated or of Gentile wine generally out of the same concern.

¹³¹ See the chapter on the Bavli for a brief survey of these differences.

3. STRUCTURE AND METHODOLOGY

STRUCTURE OF THIS DISSERTATION

The overall hypothesis of this dissertation is that the Gentile food abstentions and prohibitions mentioned in Second Temple literature and, certainly, in tannaitic texts and the Yerushalmi can be explained simply as a concern over the Gentile's possible admixing of biblically- and, later, rabbinically prohibited food items. Further, it is suggested that only in the Bavli was the concern over intermarriage, *mišum ḥatnut*, attributed to the rabbinic prohibition of Gentile-prepared bread. The hypothesis can be supported by a careful reading of the texts. This chapter presents the structure of this dissertation and the overall methodology that is employed for the textual analysis.

Part II of this dissertation presents a reading and analysis of the texts that deal with the avoidance or rabbinic prohibition of Gentile-produced food. Chapter 4 analyzes references to Gentile food in biblical and Second Temple literature, including the Apocrypha, Pseudepigrapha, the Dead Sea Scrolls, and the New Testament. This pre-rabbinic literature sheds light on perceptions pertaining to Gentile foods that closely pre-dated the tannaitic literature. Several scholars have sought to tie the mentions of avoidance of Gentile foods in these works to the objective of social separation from Gentiles. It will be shown that by reading the texts as they are, however, there is no compelling reason to understand them in this way.

Chapter 5 presents an analysis of tannaitic literature. Pericope by pericope, the analysis demonstrates that there is no indication that the tannaitic food prohibitions have to do with anything other than the fear of the possible admixture of impermissible ingredients. The chapter

concludes with a refutation of arguments put forth by other scholars that posit that the rabbinic prohibitions had social-separation motivations. While the bans did have such a side-effect, the texts do not indicate that this was the primary motivator of the tannaim.

Chapter 6 is an analysis of relevant *sugyot* in the Yerushalmi. It is demonstrated there as well that there is no inherent indication, even implicit, that the 'Ereṣ Israel amoraic food prohibitions have to do with anything other than the fear of the possible admixture of impermissible ingredients.

Chapter 7 presents that Bavli *sugyot* in which the notion of *mišum ḥatnut* is introduced, as well as other related *sugyot*. Also shown is how the Bavli sought to attribute the concept of *mišum ḥatnut* to the tannaitic era in the person of Rabbi but that such attribution is not necessarily historically accurate. Further, it will be suggested that the attribution of the fear of *mišum ḥatnut* to Gentile bread may, in fact, have been a late introduction. The chapter concludes with an appendix showing actual differences in practice between post-Bavli 'Ereṣ Israel and Babylonia regarding Gentile-prepared foods that may be attributed to the different rationales for the rabbinic prohibitions, as proposed here.

The overall hypothesis, in terms of *what* halakhah changed and when, can be supported by a critical reading of the texts alone. However, Part III of this dissertation suggests a possible socio-anthropological explanation for *why* the Babylonian rabbis may have felt the need to associate *mišum ḥatnut* with Gentile bread whereas the Palestinian tannaim and amoraim did not. Specifically, it hypothesizes that, during the periods under consideration, the phenomenon of intermarriage may not have been perceived as a formidable issue in 'Ereṣ Israel, in either the tannaitic or amoraic periods, such that it impelled rabbinic action. In contrast, such was in fact the

case in Babylonia and may have been what prompted the Babylonian sages to introduce the concept of *mišum ḥatnut*.

Given the methodological challenges, the dearth of source materials, and the assumptions based on findings from the limited texts and remains that are nearly two millennia old, this hypothesis must be considered with an abundance of caution and may be considered somewhat speculative. Furthermore, as Christine Hayes has argued, one must examine exegetical, hermeneutical, and dialectical content, and strategies of interpretation, argumentation, and rhetoric, of rabbinic texts before turning to socioeconomic, political and other non-textual factors in determining differences between the Yerushalmi and Bavli.¹³²

At the same time, it is contended here that rabbinic literature was not written in a vacuum, divorced from the reality of the environment. On the contrary, it was quite sensitive to it, reflecting it one way or another.¹³³ Thus, it is cautiously suggested that societal factors indeed played an important role in this matter and that the overlay in Babylonia of an additional rationale for the prohibitions of Gentile foods was not just a next step of “conceptualization,” to borrow Leib Moscovitz’s term.¹³⁴ Rather, the Babylonian sages were reacting to different real-world stimuli than were the *’Ereṣ* Israel sages.

Societal analysis is an ambitious undertaking under the best of circumstances. The research here is even more complex, spanning two geographies—*’Ereṣ* Israel and Babylonia—and three time periods and societies—tannaitic *’Ereṣ* Israel (late Second Temple period to 200 C.E.),

¹³² (Hayes 1997).

¹³³ As Shai Secunda (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 14) suggests, “there is simply no such thing as a pure and virginal text produced and transmitted in a self-enclosed sphere.” He sets out to show how the Bavli, for example, was a product of its time and place by locating it among the remains of Sasanian late antiquity.

¹³⁴ (Moscovitz 2002).

amoraic *'Ereṣ* Israel (200 to 380 C.E.), and amoraic Babylonia (200 to 600 C.E.).¹³⁵ Cognizant of the above-mentioned caveats, Part III begins with Chapter 8 offering working definitions for the terms employed, including “Jew” and “intermarriage.” It also suggests a framework for analyzing the different societies and for comparing and contrasting them along dimensions that may be relevant for determining their ripeness for a prevalent phenomenon of intermarriage.

In the first section of each Chapter 9-11, the framework developed in Chapter 8 is applied to the respective society—tannaitic *'Ereṣ* Israel, amoraic *'Ereṣ* Israel, and amoraic Babylonia—in order to attempt an understanding of each society’s likely propensity towards intermarriage. The second section of each chapter then seeks to assess both the reality, if possible, or the apparent perception of the respective sages regarding the prevalence of intermarriage around them in their respective societies.

Each chapter attempts to hypothesize an integrated picture that includes physical, political, social, economic, religious, and material culture aspects of Jewish life in which each rabbinic corpus was compiled. To do so, it considers the limited available contemporaneous histories, religious works, and other non-Jewish sources, material remains, assessments based on archaeological findings, and—when historically accurate information can likely be gleaned—events and stories described in rabbinic literature.¹³⁶ This broad scope was motivated by Catherine Hezser’s admonishment that “the study of ancient Jewish daily life must be an interdisciplinary

¹³⁵ For purposes of this work, there is no need to enter into the scholarly disputes regarding when the Tosefta was closed, its relationship with the Mishnah, and whether the Mishnah was compiled in writing or orally. Most scholarship supposes that the *tannaitic* era came to a close shortly after the compilation of the Mishnah by R. Yehudah the Patriarch c. 200 C.E. Also, it is assumed here that the Yerushalmi was closed by 383 C.E., as most scholars agree. For a bibliography of sources on this topic, see (Moscovitz, *Palestinian Talmud/Yerushalmi* 2021).

¹³⁶ For an excellent analysis of the various scholarly perspectives regarding the historical significance of stories in early rabbinic literature, see (Hezser, *Form, Function, and Historical Significance of the Rabbinic Story in Yerushalmi Neziqin* 1993, 382ff).

undertaking in which archaeological, epigraphic, and literary sources are evaluated together.¹³⁷ Clearly, the extant data are insufficient to elicit definitive conclusions. But it may be possible to speculate with some degree of confidence.

Finally, Part IV/Chapter 12 summarizes the findings and lays out areas for further research regarding the hypotheses here and regarding halakhic decision-making and actual observance in later time periods pertaining to the prohibition of Gentile-prepared foods.

METHODOLOGY REGARDING TEXTS

Reading Early Rabbinic Literature

This dissertation analyzes four corpora of rabbinic literature—Mishnah, Tosefta, Talmud Yerushalmi, and Talmud Bavli. (See the next section for a discussion of Aggadah and Midrash.)

This section focuses on three of the premises of this dissertation: (1) the Bavli should not necessarily be used to interpret the Mishnah, Tosefta, or Yerushalmi, (2) one may detect the evolution of a halakhah over time within the Bavli, and (3) one may carefully extract historical/societal information from rabbinic literature.

Although later rabbinic corpora certainly provided explanatory traditions and supplements to earlier ones, the Mishnah and Tosefta stood on their own merits. It is also questionable whether the Talmudim, especially the Bavli, in all cases understood the *original* meaning of mishnayot and toseftot, given the distance between them in time, language, culture, and geography, among other factors.¹³⁸ Furthermore, often the Talmud reinterprets a mishnah in a far-fetched fashion; at times,

¹³⁷ (Hezser, Introduction 2010, 3).

¹³⁸ See, for example, David Rosenthal (Rosenthal, *Mesorot Eretz Yisraeliot ve-Darkan le-Bavel* 1999) who analyzes transformations of certain statements made in Israel—as recorded in the Mishnah and the Yerushalmi—before they found different forms in the Bavli.

it even alters the text of a mishnah in order to achieve its goals. Additionally, according to most scholars, the Bavli sages did not know the completed Yerushalmi corpus.¹³⁹

Thus, the approach taken here is a tiered one, looking at each corpus independently as having been redacted within its own historical context, perspective, and agenda. Relevant Mishnah and Tosefta texts are read critically in a straightforward fashion on their own merits, seeking simply to determine the *peshat* (פשוט), or straightforward understanding, of the text at the time and place in which it was written and/or compiled. That is, they are not read through the lenses of later texts or interpretations, particularly the Bavli and its commentaries.¹⁴⁰ Similarly, the Yerushalmi is read as standing on its own feet without the Bavli.

The Bavli, like the Yerushalmi, is structured according to the tractates of the Mishnah. Though one of its primary objectives is to explain each mishnah, the Bavli also offers an integrated, coherent, seemingly comprehensive system of halakhah adapted to the Babylonian Jewish society in which it was redacted. Frequently, the Bavli's discussions consist entirely of sources whose connection to the mishnah being focused on is tangential or artificial¹⁴¹ in order to convey moral and other guidance or other halakhic matters.

Modern scholars debate the extent to which the Talmud is a “thickly layered compilation” or the creation of its final editors.¹⁴² The most “prolific proponent” of the latter position, in Richard Kalmin's words, was Jacob Neusner. Neusner's “documentary hypothesis” holds that the editor of each document—the Mishnah, Tosefta, Yerushalmi, Bavli—created a document for his own time

¹³⁹ For a review of existing scholarship, including Alyssa Gray's contrary perspective, see (Gray 2005).

¹⁴⁰ Traditions from Talmudic sources may be cited in this dissertation in either the body or footnotes to support understandings of earlier sources only in order to dispute such sources cited by other scholars in supporting their counterclaims. Additionally, Talmudic sources may be cited in a footnote in order to elucidate or provide added support to arguments in the text but not to prove the arguments.

¹⁴¹ (Kalmin 2008, 841).

¹⁴² (Kalmin 2008, 843),

and agenda.¹⁴³ Other scholars, even those not going as far as Neusner, believe that the Mishnah and/or Bavli had heavy-handed editors/creators.¹⁴⁴ Neusner's approach, and to a lesser extent those of these other scholars, would make it difficult to use the Bavli to track the development of a halakhah. Kalmin, however, argues strenuously against this view of the Bavli's evolution, suggesting that it would have required "an astoundingly industrious, imaginative, and thorough editor, no precedent for whom exists elsewhere in the ancient world."¹⁴⁵

This dissertation adopts the approach that the Bavli evolved over time, with the citations in the text clearly evincing several generations of amoraim, ending in the early sixth century C.E.¹⁴⁶ While the acceptance of the reliability of attributions to specific amoraim cannot be automatic, Kalmin concludes that one may accept many attributions by "looking for general patterns...all the while remaining alert to the possibility that the transmitters and editors of these traditions altered them in subtle and not so subtle ways."¹⁴⁷ The amoraic era was followed by a period of about 100 to 200 years of compilation and editing when, many scholars suggest, most of the pervasive, unattributed/anonymous material in the Bavli was incorporated.¹⁴⁸ Thus, given this chronological layering, one may suggest from the Bavli, as this dissertation does, the placement in time of the evolution of a halakhic concept.

¹⁴³ (J. Neusner, *Are the Talmuds Interchangeable?* 1995, ix-xiii).

¹⁴⁴ See, e.g., Mira Beth Wasserman (*Wasserman 2017*), Moulie Vidas (*Vidas 2014*), Jeffrey Rubenstein (*Rubenstein, The Culture of the Babylonian Talmud 2003*, 6-7), and Ethan Tucker (*Tucker 2006*).

¹⁴⁵ (Kalmin 2008, 852).

¹⁴⁶ (Kalmin 2008, 840).

¹⁴⁷ (Kalmin 2008, 860-861).

¹⁴⁸ (Kalmin 2008, 842). (Halivni 2013, xxix). The sages who made these insertions are sometimes referred to as *stammaim* or *sevoraim*.

Finally, many traditional commentaries held that everything recorded in rabbinic literature is accurate.¹⁴⁹ The contents and speakers of attributed statements are precise, stories told did occur, and chronologies and social situations described are accurate. To this view, historical conclusions and derivative halakhic determinations may be extracted from rabbinic literature.

Scholars, on the other hand, have had a long-running, vibrant debate about whether one may extract sociological conclusions from early rabbinic texts.¹⁵⁰ Several, including *Wissenschaft des Judentums* era scholars and, later, Gedalyahu Alon, subscribed to the legitimacy of extracting historical information from rabbinic literature.¹⁵¹ On the other hand, most modern scholars believe that one must be careful in extracting history from early rabbinic literature, as it was not written to serve as a historical document.¹⁵² That said, several scholars suggest that these works do reflect in some manner the societies in which they evolved or were redacted, and one can carefully extract from them kernels of historical realia. As Isaiah Gafni writes: “The text still has a tale to tell, and it is our job to retrieve it.”¹⁵³

Jack Lightstone argues, for example, that it is possible to extract sociological inferences from Mishnaic evidence along three possible lines of inquiry: (a) to better understand the social and cultural patterns of contemporary and/or immediately antecedent Palestinian Judaism and Jewish society; (b) to reconstruct major aspects of the sociology and culture of the early rabbinic

¹⁴⁹ See e.g., *Hazon Iš, Qoveš Iggerot* I:15, apud (Bleich, *Contemporary Halakhic Problems: Volume VII* 2016, 84-85): “We shudder to hear casting of doubt with regard to the words of *Hazal*, whether in Halakhah or Aggadah, [which is] tantamount to hearing blasphemy, Heaven forbid.”

¹⁵⁰ Seth Schwartz (S. Schwartz, *Historiography on the Jews in the 'Talmudic Period' (70-640 CE)* 2004) provides a broad survey of the various scholarly approaches. See also (I. Gafni, *Rabbinic Historiography and Representations of the Past* 2007) and (I. Gafni, *The Modern Study Of Rabbis And Historical Questions: The Tale Of The Text* 2009) for Gafni’s summary and position.

¹⁵¹ e.g., (G. Alon, *Jews, Judaism, and the Classical World* 1977).

¹⁵² See e.g., (P. Alexander 2010) for a survey of the challenges of using such literature as a historical source. See also Louis Jacobs (Jacobs 1991, 18), who writes that “Mishnah is largely theoretical in thrust,” and that the central feature of Talmud “consists of purely academic investigation into legal theory.”

¹⁵³ (I. Gafni, *The Modern Study Of Rabbis And Historical Questions: The Tale Of The Text* 2009, 61).

movement itself within which Mishnah was produced and seemingly immediately revered and studied as authoritative; and, (c) to understand the sociology and culture of the world defined by and in Mishnah's substance, even if that world does not mirror with precision (or perhaps at all) any contemporary Palestinian Jewish community's world.¹⁵⁴ Indeed, the tannaim dealt with what they understood to be a range of scenarios informed by the reality around them and laid out proper halakhic responses to them.¹⁵⁵ As but one instance, Mishnah's rules dealing with idol worship reflect a concrete knowledge of and reaction to practices around them.¹⁵⁶

The Yerushalmi is unlikely to have had a heavy-handed editor. Some scholars claim that it was not edited at all.¹⁵⁷ Many modern scholars suggest that there was an editorial process of some sort, if only a hasty one due to the external difficulties that beset the 'Ereṣ Israel Jewish community. Leib Moscovitz suggests that it is not unreasonable to assume that the Yerushalmi's final redaction "took essentially the same form as the earlier redactions: the latest chronological stratum of the Palestinian Talmud was added to the earlier strata without significant editorial intervention in the transmission or formulation of the earlier teachings."¹⁵⁸ Even without its having had heavy-handed editing, one must be careful about extracting historical or sociological conclusions from the Yerushalmi as it, too, was not compiled as a history book.

¹⁵⁴ (Lightstone, Introduction: Challenges and Opportunities in the Social Scientific Study of the Evidence of Mishnah. 2020, 21-22).

¹⁵⁵ It is beyond the scope of this dissertation to enter the immense and unresolved scholarly debate regarding the purpose of Mishnah. See Rosen-Zvi's excellent recap of the many positions (Rosen-Zvi, *Mavo La-Mishnah* 2018, 51). Regardless, in one fashion or another, the Mishnah was not compiled in a vacuum and addressed, at least in part, day-to-day situations confronting (or conceivably confronting) Torah-observant Jews.

¹⁵⁶ M. *Sanhedrin* 5:1 requires that witnesses who attest that an individual committed idolatry specify which idol the individual allegedly worshipped and in what manner so that it may be determined whether this was indeed a valid form of worship for that particular idol. This ruling implies that the people and the sages had an understanding of various forms of idol worship.

¹⁵⁷ See, e.g., Isaac Hirsch Weiss (I. H. Weiss 1911).

¹⁵⁸ See, e.g., S. Lieberman (Lieberman, *Talmudah shel Kaisarin* 1931, 20ff), E.Z. Melamed (Melamed, *Pirkei Mavo le-Sifrut ha-Talmud* 1973, 564-567) and Leib Moscovitz (Moscovitz, *The Formation and Character of the Jerusalem Talmud* 2008).

Regarding the Bavli, one must be particularly cautious. Stories about the sages can be especially problematic, as most scholars agree that the purpose of these stories is most often not historical but to teach a lesson or to have another purpose.¹⁵⁹ But several scholars believe that historical information can carefully be drawn.¹⁶⁰ For example, Zeev Safrai believes that one can learn from rabbinic literature about economic conditions, as the rabbis did not insert ideological considerations there.¹⁶¹ Adiel Schremer argues forcefully that one can derive conclusions about social history, as halakhah necessarily deals with regulating behavior within the existing and established. One may learn about reality from the words of the sages precisely because of their objective to mold and shape the reality around them.¹⁶² Daniel Boyarin writes that while we cannot extract historical information about the person cited or the citation, we may be able to learn something about the utterer of the citation and his circumstance.¹⁶³ Galit Hasan-Rokem sees Talmud as a sort of self-ethnography which allows us to apply ethnographic tools on the world that it describes.¹⁶⁴ And, Richard Kalmin supports the claim that the Bavli contains rabbinic responses to stimuli from the non-rabbinic world and is more than merely an internal rabbinic discourse.¹⁶⁵

Generally, this dissertation takes the approach that, as noted above, rabbinic texts were not written in a vacuum. Thus, some understanding of the respective societies is extractable from rabbinic texts. One can also access dating and attribution information in the Talmuds. But, for the

¹⁵⁹ See, e.g., Rubenstein (Rubenstein, *Rabbinic Stories* 2002, 12), Simon-Shoshan (Simon-Shoshan 2012)), Ishai Rosen-Zvi (Rosen-Zvi, *Mavo La-Mishnah* 2018), Naftali Cohn (Cohn 2013), and (Hauptman, *The Stories They Tell: Halakhic Anecdotes in the Babylonian Talmud* 2022).

¹⁶⁰ See, e.g., (E. E. Urbach, *Halakhah and History* 1976, 113).

¹⁶¹ (Z. Safrai 1999).

¹⁶² (Schremer, *Male and Female He Created Them: Jewish Marriage in the Late Second Temple, Mishnah, and Talmud Periods* (Hebrew) 2003, 24). See also (Porton, *Goyim: Gentiles and Israelites in Mishnah-Tosefta* 1988, 236).

¹⁶³ (Boyarin, *Anecdotal Evidence: The Yavneh Conundrum, Birkat Hamminim, and the Problem of Talmudic Historiography* 2006).

¹⁶⁴ (Hasan-Rokem 2003).

¹⁶⁵ (Kalmin 2008, 854).

reasons described above, one must be extraordinarily careful. Perhaps this approach can be characterized as skeptical positivism, to borrow Seth Schwartz's term.¹⁶⁶ In each case, however, one must ask the right questions before knowing what is possible and what is not possible to extract.

Treatment of Aggadah and Midrash in this Work

This section discusses the role that aggadah and midrash may have played in the evolution of the rabbinic prohibitions of Gentile bread and foods as reflected in the Mishnah, Tosefta, Yerushalmi, and Bavli, and whether, even if they did not play a formal role, they nonetheless reflect a prevailing wind that may have underlain rabbinic prohibitions.¹⁶⁷

Rabbinic sources provide no explicit definitions of “aggadah” or “midrash.” Though the Mishnah and the Talmud distinguish between them, the terms are often conflated since both key off biblical verses.¹⁶⁸ Aggadah typically deals with ideological, theological, conceptual, anthropological, ethical, spiritual, and even mystical topics.¹⁶⁹ Aggadah spans a wide range of literary genres: stories that expand on the scriptures, aphorisms, parables, tales of incidents and deeds of the sages, and more. Stylistically, aggadah employs literary techniques, such as hyperbole, wordplay, humor, dramatic tension, and irony that entertain or generate an effect.¹⁷⁰ Aggadah tends not to be overtly legal. The term “midrash” is used in the Bible to mean to “seek” or “delve.”¹⁷¹ The term subsequently evolved to specifically mean “to seek the connotation of a scriptural verse.” It also typically seems to imply an exegetical dimension, extracting something beyond the plain

¹⁶⁶ (S. Schwartz, *Historiography on the Jews in the 'Talmudic Period' (70-640 CE)* 2004, 104).

¹⁶⁷ For a review of the history of the debate regarding the relationship between Aggadah and halakhah, see (Lorberbaum 2015, 61-73).

¹⁶⁸ (Rubenstein, Feintuch and Kanarek, *Halakha and Aggadah in Post-Tannaic Literature* 2022, 545). Hirschman and Kadari (Hirschman and Kadari 2018, 512-517) offer two distinct definitions for the terms.

¹⁶⁹ (Hirschman and Kadari 2018, 512).

¹⁷⁰ (Rubenstein, Feintuch and Kanarek, *Halakha and Aggadah in Post-Tannaic Literature* 2022, 564).

¹⁷¹ (Hirschman and Kadari 2018, 515-516). See, e.g., *Genesis* 25:22.

meaning, *peruš*, of the text.

The relationship between “aggadah” and “halakhah” is also complex. Historically, the terms have been viewed as dichotomous. The Talmud distinguishes between them. Halakhah was traditionally understood as the law, aggadah as lore. Early scholars, including Leopold Zunz, W.Z. Bacher, and Judah Goldin, as well as later scholars, including Ephraim Urbach and Yonah Frenkel, held this view.¹⁷² More recently, Menachem Hirschman and Tamar Kadari also write that, whereas halakhah “deals with establishing the forbidden and the permitted and establishes clear general rules that touch on man’s practical life and the day-to-day behaviors,” aggadah, though often exegeting Scriptural verses, deals with ideological and theological concerns of the sages, with moral and educational objectives.¹⁷³ Aggadah was perceived as something to “draw man’s heart,” something entertaining and pleasing.¹⁷⁴

Some modern scholars have sought to blur the lines between halakhah and aggadah.¹⁷⁵ Yaakov Sussmann for example writes that halakhah and aggadah derive from the same sages and are interwoven in the same literary texts. Thus, to separate between them is artificial and reflects the judgment of the audience or reader, not the inherent characteristics of the traditions themselves.¹⁷⁶ Yair Lorberbaum makes a similar claim and argues that the two genres “originated in the same religious schools” and share common origins and purpose.¹⁷⁷ While admitting that

¹⁷² (Rubenstein, Feintuch and Kanarek, *Halakha and Aggadah in Post-Tannaic Literature* 2022, 545). See citation from Zunz in (H. L. Strack 1931, 202). (Frenkel 1996, 20-21, 53). Ephraim E. Urbach (E. E. Urbach 1986, 108) too notes that, generally, halakhah in its abstract and casuistic formulations is concentrated in the Mishnah and the Tosefta, whereas expositions and interpretations of the Scriptural verses are to be found in the halakhic midrashim. See also (Elon 1994, 94-105).

¹⁷³ (Hirschman and Kadari 2018, esp. 512 and 520-521).

¹⁷⁴ Hirschman and Kadari (Hirschman and Kadari 2018, 515) suggest that the root may be NGD, from Aramaic and meaning to draw out or attract. See also (Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods* 2002, 690).

¹⁷⁵ See the analysis in (Rubenstein, Feintuch and Kanarek, *Halakha and Aggadah in Post-Tannaic Literature* 2022).

¹⁷⁶ (Rubenstein, Feintuch and Kanarek, *Halakha and Aggadah in Post-Tannaic Literature* 2022, 551).

¹⁷⁷ (Rubenstein, Feintuch and Kanarek, *Halakha and Aggadah in Post-Tannaic Literature* 2022, 554-555).

aggadah includes the “obscure” and less “rational” and that it is diverse and includes a great deal that is clearly not halakhah, Lorberbaum asserts that “there is also substantial overlap with halakhah.” He claims that a number of modern scholars, including Israel Knohl, Shlomo Naeh, Aharon Shemesh, and Moshe Halbertal, see halakhah and aggadah as “one literary genre, emphasizing the religious foundation of the halakhot.”¹⁷⁸

The posture adopted here is that, for several reasons, one must be careful to draw conclusions from midrash or aggadah as to the rationales underlying the rabbinic-halakhic prohibitions being analyzed.¹⁷⁹ First, it seems reasonable to conclude that, where the Talmud cites a midrash in its halakhic discussion, the sages of the Talmud found the aggadah well-founded, well-accepted, and relevant to the discussion.¹⁸⁰ However, where the Talmud does not cite an aggadah as part of a halachic discussion, one can plausibly argue there was no aggadah that the Talmudic sages or editors found relevant to the discussion. Even where a seemingly relevant aggadah appears in one of the compilations available today, it is possible that it was a later addition. Or, even if it was an earlier aggadah, perhaps the Talmudic sages or editors knew of it but felt that the exegesis did not carry halakhic weight or just outright disagreed with the exegesis. As it turns

¹⁷⁸ (Lorberbaum 2015, 73). See also Louis Jacob’s discussion of Halakhah and Aggadah in (Jacobs, *A Tree of Life* (Second Edition) 2007, 3-13).

¹⁷⁹ Certainly, traditional commentaries do not see midrashim not cited in Talmud as part of the halakhic development process of the Mishnah, the Tosefta, and the two Talmudim. For example, R. Avraham b. Yitzhak (1110–1179) (*Ra’avad, Ha-’Eshkol*, ed. Shalom Albeck and Hanoah Albeck [Jerusalem: H. Wagschal, 1984], 157–158) cites in the name of R. Sherirah Gaon that “we do not rely on Aggadah.” He also cites R. Hai Gaon that “our principle is that we do not rely on Aggadah but only what is written in the Talmud.” A similar geonic determination can be found in Avraham Eliyahu Harkavi, *Zikhron la-Riṣonim we-Gam la-’Aḥaronim* (Harkavi, *Zikhron la-Riṣonim we-Gam la-’Aḥaronim* 1887, I.4 #9, 4). R. Yehezkel b. Yehuda Landau (1713–1793) writes (Landau 2009, 107 (YD II, #161)): “The primary intent of midrashim and aggadot is ethics, *remazim* (*allegorica lexeases*), and complementary material—all the essence of the religion—but the main intent is not rulings of halakhah, therefore we do not derive from them halakhic rulings at all.” Some later decisors did rely on Midrash Halakhah for their halakhic rulings. For example, Z. H. Chajes (1805–1855), *Darkhei Hora’ah II*, in (Chajes 1958, 250-253) concludes that “where there is no explicit contradiction to it in our Talmud, clearly the halakhah is as written in the midrash and we learn from it the practical halakhah.” But these rulings by later decisors do not prove that these midrashim reflected tannaitic intent.

¹⁸⁰ In (Rubenstein, Feintuch and Kanarek, *Halakha and Aggada in Post-Tannaic Literature* 2022), only Jane Kanarek deals with midrashim that stand on their own. Her focus, however, is on the impact of halakhah on midrashim, not the reverse.

out, the Talmudim do not cite any aggadah in the context of discussions regarding the prohibitions of Gentile foods.

Second, many sugyot—particularly at the ends of chapters or tractates, and even one entire chapter in b. *Sanhedrin*—are entirely aggadic in nature. Aggadic exegesis was not bound by halakhic exegetic rules and dynamics, and the sages saw themselves freer when interpreting the verses in order to construct and convey a moral message. They did not feel obligated to traditional parsing of sentences; they interpreted words or multiple words in non-standard senses; interpreted a word in a way that changed the word or its reading; used a word’s letters as initials for a phrase or for their numerical value (*gematria*); broke words apart into multiple words; or employed the meaning of a homonym in another language.¹⁸¹ Aggadah oftentimes upends the straightforward meaning of the biblical text. Some aggadot on the same verse reach entirely different conclusions.¹⁸² The objective of such aggadot was to teach a moral or educational lesson, not halakhah. Thus, an aggadah cited in the Talmud in a discussion devoid of halakhic content and import cannot be assumed as having had a direct role in determining halakhah. The question remains whether such aggadah, if cited in the Talmud, nonetheless reflects a prevailing sentiment among the Sages which, in some fashion or another, influenced their determination of halakhah. The position taken in this dissertation is that any attempt to find such a connection is speculative. Had the editors of the Talmud seen in the aggadah a halakhic message, they would surely have included it in some halakhic discussion. This argument is even truer regarding aggadot that are not cited anywhere in the Talmud.

Furthermore, a large corpus of compilations of aggadah, such as *Bereišit Rabbah* and *Pirquei de-Rabbi ’Eli ’ezer*, is known as *Midraš ’Aggadah*, or *Midraš ’Amora’im*. *Midraš ’Aggadah*

¹⁸¹ (Hirschman and Kadari 2018, 528).

¹⁸² See (Hirschman and Kadari 2018, 511) who cite y. *Ma’asrot* 3:10 51a 276:38-48.

is believed by scholars to not have been compiled until after the close of the Yerushalmi (as late as fifth century), two or more centuries after the close of the Mishnah and Tosefta.¹⁸³ Compilations, such as *Midraš Panim 'Aherim*, *Midraš 'Abba Gurion*, *Pesiqta Zuṭarta (Leqaḥ Tov)*, and *Pitron Torah*, that do allude to the prohibition of Gentile cooking, were not compiled until the seventh through thirteenth centuries.¹⁸⁴ Thus, their shadow over the earlier Mishnah and Tosefta is highly questionable.

Finally, a second type of corpus of midrash is known as *Midraš Halakhah*, or *Midraš Tanna'im*. It includes such works as *Sifre*, *Sifra*, and *Mekhilta*. Unlike *Midraš 'Aggadah*, they do seek to extract or attach halakhic conclusions. These exegeses are typically guided by a limited and limiting set of exegetic principles. They appear to be based mostly on material generated in the tannaitic era.¹⁸⁵ However, for the reasons below, the extant compilations—and certainly individual midrashim—cannot be taken uncritically to reflect a consensus of rabbinical sentiment. It would thus be speculative to attempt to connect a particular midrash with a halakhah in the Mishnah.

First, the compilers/redactors of these books are unknown, as is their halakhic authority. The purported purpose and audience of each compilation is similarly unknown. The redactors of any of these compilations likely selected from a large reservoir of oral Torah available in their day. Yet, there is no way to know the methods by which the editors chose.¹⁸⁶ It is quite possible that the compiler's agenda and criteria differed from those of the compilers of the Mishnah and Tosefta.

Second, the halakhic authoritativeness of the books themselves is unknown. For example,

¹⁸³ (Kadari 2018, 297).

¹⁸⁴ A search of the Bar Ilan database yielded no other mention of Gentile cooking in Midrash. And, other than a single reference in *Pitron Torah*, which will be mentioned in a footnote in the chapter on tannaitic literature, no reference to Gentile bread was found in Midrash.

¹⁸⁵ (Frenkel 1996, 721).

¹⁸⁶ (Frenkel 1996, 731).

it is not known to what extent the midrashim in these compilations that were not cited in the Talmudim were perceived at the time by either the people or the sages as having halakhic import.

Third, the books of the *Midraš Halakhah* appear to derive from two different schools: those of R. Akiva and of R. Yishmael.¹⁸⁷ Thus, a particular midrash cannot be deemed to necessarily represent a coherent worldview of all tannaim or of the compilers of the Mishnah or Tosefta.

Fourth, the relationship between *Midraš Halakhah* and other tannaitic literature is not clear. Even if one were to suggest that halakhic positions reflected in *Midraš Halakhah* were known at the time of the Mishnah, it is possible that the Mishnah and Tosefta in fact rejected, by exclusion, such statements/positions/exegeses. Thus, one may not automatically presume that a pericope found in *Midraš Halakhah* but not cited in Talmud reflects the intent of a ruling found in the other tannaitic corpora, even if attributions of the speakers are the same.

In addition, it appears that only a fraction of *Midraš Halakhah* has survived until today. Menachem Kahana suggests the possibility that there were three full sets of midrashim for each of *Exodus*, *Leviticus*, *Numbers*, and *Deuteronomy*.¹⁸⁸ If so, none of the extant compilations is complete and none can be said to provide a full picture of the tannaitic positions even within a given corpus. So, while a particular midrash halakhah might imply a certain halakhic position, another pericope reflecting a contrary position may be missing.¹⁸⁹ Kahana warns that one therefore needs to be “careful to draw unequivocal conclusions on the basis of the fragmented data that we have before us, that are like the tip of the iceberg.”¹⁹⁰

Finally, even when cited in a mishnah, the relevance of aggadah to halakhah is unclear.

¹⁸⁷ (M. Kahana 2018, 138ff).

¹⁸⁸ (M. Kahana 2018, 138ff).

¹⁸⁹ Kahana (M. Kahana 2018, 169-170), for example, estimates that fully forty percent of citations of midrash that do appear in the Talmudim do not appear in the currently existing compilations.

¹⁹⁰ (M. Kahana 2018, 139).

Yonah Frenkel cites mishnayot m. *Sukkah* 2:9 and m. *Pe'ah* 8:8-9 in which an aggadah cited in the mishnah itself either diverges from or directly contradicts the halakhah in that mishnah.¹⁹¹

To reiterate, the position taken in this dissertation is that individual midrashic and/or aggadic pericopes, unless specifically included in a Talmudic halakhic discussion, may not be used uncritically as indicators of halakhic intent/motivators as reflected in Mishnah and Tosefta or, for that matter, the Talmudim. The editors of the Babylonian Talmud had ample opportunity and leeway to include in the discussions of the rabbinic commensal prohibitions any midrash they felt relevant. The Talmud itself would surely have drawn a connection between midrash and the prohibitions of Gentile bread and food if such a connection existed. Since it did not do so, it seems reasonable to conclude that the editors did not believe that there was such a relevant midrash.¹⁹² It would thus be speculative to draw direct connections from an arbitrary midrash in one of the corpora available today yet not cited in the Talmudim to the halakhic prohibition of Gentile bread/foods.

For these reasons, this dissertation does not include an exhaustive survey of midrashic or aggadic literature regarding Gentile foods. Nonetheless, on an episodic basis, it does analyze certain midrashim that some scholars have suggested may be relevant to the topic of this dissertation.

Texts and Translations

One challenge facing any analysis of early rabbinic literature is selecting accurate versions of the texts. This dissertation relies on recognized sources but notes key relevant variations from other

¹⁹¹ (Frenkel 1996, 695-697).

¹⁹² Indeed, as will be discussed in the chapter on the Bavli, the Talmud cites a disputed, ambiguous story about R. Yehudah the Patriarch rather than a midrash.

sources. It does not, however, engage in an exhaustive manuscript comparison, analysis, and annotation.

Hebrew Scripture texts are from DICTA's database (dicta.org.il). Translation is based on the Jewish Publication Society's *The Holy Scriptures*, with pronouns updated.¹⁹³ Apocrypha texts in English are from Klawans and Mills (ed.), *The Jewish Annotated Apocrypha: New Revised Standard Version Bible Translation*. These are compared with Feldman et al, *Outside the Bible*, and Pietersma and Wright's *A New English Translation of the Septuagint*; differences are noted.¹⁹⁴ Though often categorized as Pseudepigrapha, *Judith* and *III Maccabees* are based on these sources as well. Additionally, VanderKam's *Jubilees 2: A Commentary on the Book of Jubilees Chapters 22-50* for *Jubilees* and Charlesworth's *The Old Testament Pseudepigrapha* for *III Maccabees* are used.¹⁹⁵ *Joseph and Aseneth* draws from Sparks.¹⁹⁶ The sources of Philo, Josephus, and Dead Sea Scrolls are cited with each reference. New Testament texts come from the *Holy Bible, New Standard Revised Edition*.¹⁹⁷

The primary source for the Mishnah and its vocalization is *The Mishnah According to the Kaufmann Manuscript*.¹⁹⁸ The standard numbering of mishnayot is adopted but alternate numbering in Kaufmann is noted. Where textual differences are meaningful, other witnesses are noted. Translations are essentially from Shaye Cohen et al, *The Oxford Annotated Mishnah*, adapted to correspond to the Kaufmann text.¹⁹⁹ Where the interpretation here differs, either the

¹⁹³ (The Holy Scriptures (Ninth Printing) 1976).

¹⁹⁴ (Klawans and Mills, *The Jewish Annotated Apocrypha: New Revised Standard Version Bible Translation* 2020); (Feldman, Kugel and Schiffman, *Outside the Bible: Ancient Jewish Writing Related to Scripture* 2013); (Pietersma and Wright 2007).

¹⁹⁵ (VanderKam, *Jubilees 2: A Commentary on the Book of Jubilees Chapters 22-50* 2018). (Charlesworth 1983).

¹⁹⁶ (Sparks 1984).

¹⁹⁷ (Holy Bible (New Standard Revised Edition): Reference Edition, with Apocrypha 2017).

¹⁹⁸ (Bar-Asher 2017-2022). The manuscript itself is believed by Bar-Asher to have been written most likely in eleventh century C.E. Italy.

¹⁹⁹ (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022).

word from the text is transliterated without translation and is discussed in the body of the dissertation or the alternate translation is noted.

Tosefta Vienna MS, as published by Lieberman, is adopted as primary for those tractates which he published.²⁰⁰ The Erfurt MS, as published by Zukermandl, is used for the remaining tractates.²⁰¹ Numbering of the toseftot is per the Vienna MS for those tractates which Lieberman published, followed, if different and in parentheses, by that of the Erfurt MS, as published by Zukermandl. Where there is vocalization, it is mine based on DICTA's *Naqdan Miqso* 'i.²⁰² Translations are mine, drawing on Jacob Neusner's *The Tosefta*.²⁰³

Yaakov Sussmann's printed *Talmud Yerushalmi* of the Academy for the Hebrew Language is the starting point for the Yerushalmi text.²⁰⁴ It is based on a transcription of the text of the Leiden manuscript, the earliest known and most complete manuscript. Also used, as needed, is Sussmann's *Ginzei ha-Yerushalmi*²⁰⁵ as well as the digitized version of the *editio princeps*, the Venice Edition, in the Bar Ilan Responsa Project.²⁰⁶ Citations are denoted by y. followed by the tractate name and the folio number in *Talmud Yerushalmi*. The translation is mine.²⁰⁷ Relevant differences from Heinrich Guggenheimer's *The Jerusalem Talmud* are noted.²⁰⁸

As is well known, the Yerushalmi has unique textual challenges. Even the scribe of the Leiden manuscript complained that the manuscript he copied from was full of errors. Over the centuries, additional errors of all types crept into the Yerushalmi text. One must approach text

²⁰⁰ (Lieberman 2001-2007).

²⁰¹ (Zukermandel 2004).

²⁰² Dicta.org.il.

²⁰³ (J. Neusner, *The Tosefta* 2014).

²⁰⁴ (Talmud Yerushalmi 2016). <https://maagarim.hebrew-academy.org.il/Pages/PMain.aspx>.

²⁰⁵ (Sussmann, *Ginzei ha-Yerushalmi* 2020)

²⁰⁶ www.responso.co.il.

²⁰⁷ (J. Neusner, *The Jerusalem Talmud: A Translation and Commentary* 2010) was consulted.

²⁰⁸ (Guggenheimer 2000).

emendation very carefully and base any proposed change not only on the rationale for change but on an assessment of how the original may have changed into the extant form. Saul Lieberman suggests several tools and methods for reconstructing the original text of the Yerushalmi.²⁰⁹ Perhaps the most reliable is comparing the texts with nearly identical parallel sugyot often found in the Yerushalmi, with manuscripts, and with medieval citations. With this in mind, some possible new readings of certain texts are suggested, noting additional sources used in the reconstruction.

The Bavli text is extracted from the DICTA database, which is based on the William Davidson Talmud Edition edited by the Steinsaltz Institute.²¹⁰ As needed, various manuscripts are referenced for substantive differences. The translation is mine, drawing on Isidore Epstein's *Soncino Babylonian Talmud* and Jacob Neusner's *The Babylonian Talmud: A Translation and Commentary*.²¹¹ Citations are denoted by b., tractate name, and folio number per the standard Vilna printing.

The generation of a tanna is denoted by [Tx], where x is his generation number. The generation of 'Eres Israel amoraim is noted as [IAx] and of Babylonian amoraim as [BAx]. The generations of tannaim are based on H. L. Strack and Günter Stemberger's *Introduction to the Talmud and Midrash*. The generations of amoraim are based on Hanokh Albeck's *Mavo la-Talmudim* supplemented where needed by Strack and Stemberger as well as Mordecai Margalio's *Intziklopedia le-Hakhmei ha-Talmud vehe-Geonim*.²¹²

Finally, this dissertation adopts the second citation system of the *Chicago Manual of Style*, Seventeenth Edition.²¹³

²⁰⁹ (Lieberman 1929).

²¹⁰ www.dicta.org.

²¹¹ (I. Epstein 1948) and (J. Neusner, *The Babylonian Talmud: A Translation and Commentary* (Cdr edition) 2007).

²¹² (H. Albeck, *Mavoh la-Talmudim* 1969, 669ff), (Strack and Stemberger, *Introduction to the Talmud and Midrash* 1991), and (M. Margalio, *Intziklopedia le-Hakhmei ha-Talmud vehe-Geonim* 2006).

²¹³ (The Chicago Manual of Style, Seventeenth Edition 2017)

PART II. READING THE TEXTS

4. SECOND TEMPLE LITERATURE AND EARLIER TREATMENT OF GENTILE FOODS

Introduction

As previously noted, this dissertation contends that the prohibitions of Gentile-prepared foods in the rabbinic literature of *'Ereṣ* Israel can be understood as rooted in a concern over the possible admixture of biblically impermissible ingredients. These ingredients would include the flesh, organs, limbs, or derivatives (such as fats, blood, or milk) of biblically proscribed sea-dwellers, fowl, or animals. They would also include Gentile wine that had been used for idol worship.²¹⁴ A corollary of this contention is that it is not necessary, and may in fact be incorrect, to explain the rabbinic concerns in *'Ereṣ* Israel regarding Gentile-food prohibitions, as some scholars have sought to do: as relating to (a) the ritual purity of Gentiles and the foods they produce, (b) the fact that a Gentile preparer/chef “culturally transformed” the food or, (c) a desire to socially separate Jews from Gentiles, whether due to concerns over intermarriage or other objectives.²¹⁵

This chapter seeks to demonstrate that even prior to tannaitic times, there appears not to have been a prevalent practice of abstaining from Gentile food due to any of the three rationales listed above. If there had been such a practice, one might argue that the tannaim adopted the common practice with its rationale into their system of halakhah. However, it will be shown that

²¹⁴ There does not appear to be a general rabbinic concern about the possible inclusion of other foodstuffs used in idol worship.

²¹⁵ See Prior Research chapter for a survey of the various points of view.

abstention from Gentile foods may, in fact, be read, even in this Second Temple and earlier literature, as being due to concern over ingredients alone.

Biblical Sources

Leviticus 11:1-23 and *Deuteronomy* 14:3-20 lay out the characteristics and some specific examples of the animals, fowl, and sea-dwellers that Jews are permitted to eat or prohibited from eating. The Bible terms these foods *tame* (טמא, impure).²¹⁶ Not only was a Jew not permitted to eat these foods, but if one were to touch the carcasses of certain of these species, one would become ritually impure and require immersion for purification.

There is no general biblical prohibition to eat food prepared by a Gentile. To the contrary, *Deuteronomy* 2:6 instructed the post-Sinai Israelites, as they neared *Har Sé'ir*, the hills of Edom, to buy food from the inhabitants. *Deuteronomy* 2:6 reads:

אָכַל תִּשְׁבְּרוּ מֵאֲתָם בְּכֶסֶף וְאַכְלֵתֶם וְגַם מַיִם תִּכְרֹו מֵאֲתָם בְּכֶסֶף וְשָׁתִיתֶם.

You shall purchase food of them for money, that you may eat; and you shall also buy water of them for money, that you may drink.

The straightforward reading of this text not only permits buying foods from Gentiles, but it is also a directive to do so. Additionally, *Deuteronomy* 23:4-5 bans Jews from letting Ammonites and Moabites into the community *precisely* because they did *not* offer bread and water to the wandering Jews as they approached Ammonite and Moabite territories on the way out of Egypt. *Deuteronomy* 23:4-5 read:

(4) לֹא־יָבֹא עִמּוֹנִי וּמוֹאָבִי בְּקִהְלֵךְ ה' אִם דָּוָר עֲשִׂי־י לֹא־יָבֹא לָהֶם בְּקִהְלֵךְ ה' עַד־עוֹלָם:

(5) עַל־דָּבָר אֲשֶׁר לֹא־קִדְּמוּ אֶתְכֶם בְּלָחֶם וּבַמַּיִם בְּדַרְדָּר בְּצִאתְכֶם מִמִּצְרָיִם...

²¹⁶ See Prior Research chapter for a review of scholarly work on the notion of impurity, particularly as it relates to Gentiles.

- (4) An Ammonite or a Moabite shall not enter into the assembly of the Lord; even to the tenth generation shall none of them enter into the assembly of the Lord forever;
- (5) Because they met you not with bread and with water in the way, when you came forth out of Egypt...

One may safely conclude that the Torah did not prohibit the eating of Gentile-prepared food. Jews living in the post-exilic period would have had no biblical premise, therefore, for refraining from buying and consuming Gentile-produced food.

Daniel 1:8

Scholars assign the completed, redacted version of the *Book of Daniel* to the beginning of the Hasmonean revolt (167–164 B.C.E.), other than the first chapter, the focus of this section, which they place in the third century B.C.E.²¹⁷ The *Book of Daniel* is set in the early sixth century B.C.E., shortly after the exile of the Kingdom of Judah by King Nebuchadnezzar. The first chapter at 1:8 includes a description of Daniel’s abstention from food and drink provided by Nebuchadnezzar after he was forcefully conscripted into the king’s service. *Daniel 1:8* reads:

וַיִּשֶׂם דָּנִיֵּאל עַל-לִבּוֹ אֲשֶׁר לֹא יִתְגַּאֲלַל בְּפִתְחֵי הַמֶּלֶךְ וּבְיַיִן מִשְׁתֵּיו וּבִבְשָׁל מִשְׂרַר הַסַּרְיִסִּים אֲשֶׁר לֹא יִתְגַּאֲלַל.

But Daniel purposed in his heart that he would not defile himself (*yitga'el*) with the king’s food (*pat-bag*), nor with the wine which he drank (*mištav*); therefore, he requested of the chief of the officers that he might not defile²¹⁸ himself.

In interpreting this verse, scholars (and traditional commentators) debate exactly which foods and drink Daniel abstained from and why. Though *pat-bag* is understood by some traditional commentators as meaning bread, based on the word-fragment *pat*, which in Hebrew means (loaf of) bread, this is not accurate.²¹⁹ The term is of Persian origin and means, according to most

²¹⁷ (Ginsberg 1973). The rabbis of the Talmudic age and Christian Church Fathers accept the book’s own dating of around 545-535 B.C.E.

²¹⁸ (Pietersma and Wright 2007, 994): contaminate.

²¹⁹ See, for example, Ralbag (R. Levi b. Gershon, 1288–1344, Spain) *ad loc.*

sources, delicate food, or dainties, that came, in this case, from the king’s table.²²⁰ Some translate the term as “meat,”²²¹ while others explain it more generally as “the king’s portion”²²² or the “king’s dinner.”²²³

Mištav is commonly and traditionally understood as the plural possessive of the word *mišteh*, drink. In the verse above, the common understanding is that *mištav* means “of the king’s drinks” and refers to Gentile wine. Some Talmudic sources deduce from the plural form of the word that Daniel refrained from Gentile oil as well.²²⁴

In a subsequent verse, *Daniel* 1:12, Daniel proposes to his minder an alternate diet. He proposes a trial period in order to demonstrate that he and the three other Jews with him would not be worse off with this alternate diet than the others in the program who did eat the king’s portion.

Daniel 1:12 reads:

נסִיגָא אֶת־עֲבָדֶיךָ יְמִים עֲשָׂרָה וַיִּתְּנוּ־לָנוּ מִן־הַזֵּרָעִים וְנֹאכְלָהּ וּמַיִם וְנִשְׁתֶּה.

Try your servants, I beseech you, ten days; and let them give us pulse to eat, and water to drink.

Daniel asked for *zer'onim*, often translated as pulse or seeds, and water. Since it is not clear how one could thrive on seeds and water for ten days, an alternate definition of *zer'onim*—vegetables—may be more accurate in this case.²²⁵

²²⁰ (Gesenius 1844, 884); (Kaddari 2007, 890); (Koehler and Baumgartner 1994, 984) and (Brown, Driver and Briggs 2000, 2016). Rashbam (R. Samuel b. Meir, 1085–1158), too, explains that this is not bread but a delicacy/relish from the king (Tosafot, *Avodah Zarah* 36a, s.v. *asher*).

²²¹ R. H. Charles (Charles, *A Critical Commentary on the Book of Daniel* 1929, 344): king’s meat.

²²² Seufert (Seufert 2019): king’s portion. (Koehler and Baumgartner 1994, 984): “Food, provisions from the king’s table.” (Brown, Driver and Briggs 2000, 2016): “portion for the king, delicacies.”

²²³ (Pietersma and Wright 2007, 994) translates it as either “the king’s dinner” or “the table of the king.”

²²⁴ Y. *Avodah Zarah* 2:6 41d 1391:35; y. *Šabbat* 1:4 3d 372:16; b. *Avodah Zarah* 36a.

²²⁵ (Koehler and Baumgartner 1994, 283) and (Brown, Driver and Briggs 2000).

Scholars debate why Daniel abstained from the *pat-bag* and wine. In a relatively recent essay, Michael Seufert surveys the positions.²²⁶ One view is that Daniel did what he did for ascetic purposes. This approach is akin to Josephus’s explanation that Daniel abstained in order to eat more purely and thus be more fit for hard labor and learning.²²⁷ A second view is that Daniel was expressing solidarity with his countrymen by rejecting festive food for a more basic diet. Neither of these views can be derived from the text itself. Nor do they support a purity, “chef,” or a social-separation motive.

Seufert arrays the other positions along “a spectrum of emphases from ritual to moral defilement.” Scholars at the “ritual” end of the spectrum see Daniel’s concern over defilement as due either to the food itself, the preparation of the food (usually an issue of blood), the use of the food/drink in idolatrous oblation, a Second Temple insistence upon Jew-Gentile separation via food, or some combination of the above.

Seufert posits several arguments to counter various “classical ritual positions” on his spectrum that relate to Daniel’s concern over impermissible ingredients or idolatry. One argument is that ritual impurity “fails to account fully for the broader thematic significance of *Daniel*.”²²⁸ Another sees that such approaches import unwarranted details into the term *pat-bag* and demand more from the text than it offers, including the assumption that the king’s table included sacrificial

²²⁶ (Seufert 2019).

²²⁷ (Josephus, *Jewish Antiquities: Books IX-XI* 1937, Ant. X:190–194, 263–267): “Now Daniel together with his relatives had resolved to live austerely and abstain from the dishes which came from the king’s table and in general from all animal food . . . and requested [Aschanes (the eunuch entrusted with his care) to] give them pulse and dates for nourishment and whatever other kind of non-animal food he chose. . . . Thus, these youths, whose souls were in this way kept pure and fresh for learning and their bodies more vigorous for arduous labor—for they did not oppress and weigh down the former with a variety of food nor did they soften their bodies by the same means—readily mastered all the learning.” Steve Mason notes (Mason, *Flavius Josephus, Life of Josephus: Translation and Commentary* 2001, 18 n76) that “It was a basic goal of philosophical training to make one insensitive to all physical hardship, weakness, and desire.”

²²⁸ (Seufert 2019, 647).

meat of the gods.²²⁹ Last is the perspective that “no specific regulation seems to be at risk of violation and...no account from the Pentateuch can be given for the abstention from wine.”²³⁰

These arguments are not persuasive. There is indeed Pentateuchal support for an ingredient-based concern. It goes without saying that the food prepared in the king’s kitchen would surely have included biblically banned foodstuffs, such as forbidden meats and seafood. Daniel could surely have been expected to be concerned about these *prima facie* biblical food prohibitions. An ingredient-based abstention would in fact seem to be the simplest and most straightforward reading. The burden of proof here, it would seem, should be on perspectives that *ignore* a concern about ingredients and posit some other factor. Seeking to overlay a “thematic significance,” however derived, on this simple verse is itself asking too much of the words.

Regarding wine, indeed there is no explicit “Thou shalt not drink idolatrous wine.” However, two Pentateuchal verses tacitly allude to such a prohibition. *Exodus* 34:15 cautions the Israelites:

פְּרִי־תְכֵלֶת בְּרִית לַיּוֹשֵׁב הָאָרֶץ וְנָנוּ | אֲחֵרֵי אֱלֹהֵיהֶם וְנָבְחֻ לְאֱלֹהֵיהֶם וְקָרָא לָהֶם וְאָכַלְתָּ מִזְבְּחֹהוּ.

Lest you make a covenant with the inhabitants of the land, and they go astray after their gods, and do sacrifice unto their gods, and they call you, and you eat of their sacrifice.

The word “eat” notwithstanding, there would be no apparent reason to exclude wine offered to the deity from this prohibition. Furthermore, *Deuteronomy* 32:38, in warning the Israelites about their future behavior, asks who will save them from among those “who did eat the fat of their sacrifices and drank the wine of their drink offering?” Perhaps *Daniel* 1:8 actually affirms and demonstrates a biblical prohibition that is taken for granted.

²²⁹ (Seufert 2019, 649).

²³⁰ (Seufert 2019, 652).

In addition, there may have been good reason for Daniel to have worried that the foods had been used in idol worship. As Leo Oppenheim notes, during the Seleucid period (312 B.C.E. to 63 B.C.E.), part of the Babylonian cult was to serve the gods two meals daily of two courses each.²³¹ The meals consisted of beverages (including milk, wine, and possibly beer²³²), meat, fruits, bread, and additional foodstuffs. These meals were set in front of the statues accompanied by prayers and auxiliary activities. Then, having been presented to the gods, dishes from the meals were sent to the king for his consumption. Jack Sasson and Govert van Driel seem to suggest that this tradition went back at least a millennium, covering Nebuchadnezzar’s time as well.²³³ In other words, the food or the ingredients being served to Daniel may well have been used in idol worship.²³⁴

Another scholarly perspective cited by Seufert is that Daniel’s fear of defilement from eating Gentile-prepared food, irrespective of the ingredients, was due to a fear of Gentile ritual impurity. Three prophetic texts are cited to support the notion of Gentile impurity affecting food.

The first is *Ezekiel* 4:13:

וַיֹּאמֶר ה' בָּכָה יֵאָכְלוּ בְנֵי־יִשְׂרָאֵל אֶת־לֶחֶמָם טָמֵא בְּגוֹיִם אֲשֶׁר אֲדִיחָם שָׁם.

And the Lord said: ‘Even thus shall *the children of Israel eat their bread unclean*, among the nations whither I will drive them. [emphasis added]

The second is *Hosea* 9:3-4:

לֹא יֵשְׁבוּ בְּאֶרֶץ ה' וְיָשֹׁב אֶפְרַיִם מִצֹּרִים וּבְאֲשׁוּר טָמֵא יֵאָכְלוּ: לֹא־יִסְכּוּ לֵה' | יִינֹן וְלֹא יִשְׁרְבוּ־לֵה' זִבְחֵיהֶם כְּלֶחֶם אוֹזִיִּים לָהֶם כִּלְיָאֲכָלוּ טָמֵא וְכִי־לֶחֶמָם לְגַפְשָׁם לֹא יָבוֹא בֵּית ה'.

²³¹ (Oppenheim 1977, 187-189).

²³² (van der Iest 2017, 16).

²³³ (Sasson 2004, 207). Govert van Driel (van Driel 2002, 55) as cited in (van der Iest 2017, 27) similarly writes that the practice for the Babylonian king to receive food from the sacrifice dated back to the Old Babylonian period. See also (Ermidoro 2015, 249).

²³⁴ Though focusing on a later period, E.P. Sanders (Sanders, *Jewish Law from Jesus to the Mishnah* 2016, 381) referencing (Burkert 1985) also writes that “in ancient cultures people poured libations to their gods whenever they drank wine.”

(3) They shall not dwell in the Lord's land; But Ephraim shall return to Egypt, and *they shall eat unclean food in Assyria.*

(4) They shall not pour out wine-offerings to the Lord, neither shall they be pleasing unto Him; their sacrifices shall be unto them as *the bread of mourners, all that eat thereof shall be polluted*; for their bread shall be for their appetite, it shall not come into the house of the Lord. [emphasis added]

The third is *Amos 7:17*:

לָכֵן כֹּה־אָמַר ה' אֱשֵׁתִי בְעִיר תִּזְנֶה וּבָנָיֶיהָ בְּחָרֵב יִפְּלוּ וְאֲדָמָתָהּ בְּחֶבֶל תִּחְלַק וְאַתָּה עַל־אֲדָמָה טְמֵאָה תִּמְוֹת וְיִשְׂרָאֵל גָּלָה גָּלָה מֵעַל אֲדָמָתוֹ.

Therefore, thus saith the Lord: Thy wife shall be a harlot in the city, and thy sons and thy daughters shall fall by the sword, and thy land shall be divided by line; and *thou thyself shalt die in an unclean land*, and Israel shall surely be led away captive out of his land. [emphasis added]

These prophetic texts, however, in fact do not offer a conclusive indication of ritual defilement through physical contact with a Gentile. They appear, rather, to be speaking to the spiritual defilement of the Jews living outside of 'Ereṣ Israel and among the Gentiles.

Furthermore, it is not biblically prohibited for a non-priest to become ritually impure. It is therefore not clear why becoming ritually impure would have been a concern to Daniel in Babylonia.²³⁵ Finally, and perhaps most poignantly, Daniel requested water and grains or vegetables. But, as noted in *Leviticus 11:38*, grains/vegetables would themselves also have been susceptible to be ritual impurity.²³⁶ Yet Daniel did not avoid these items.

²³⁵ In *Daniel 1:3*, Nebuchadnezzar orders the roundup of Israelite children “of the seed royal, and of the nobles.” There is thus no indication that Daniel, who was one of those taken, was of the priestly class.

²³⁶ *Leviticus 11:38* states: “But if water be put upon the seed, and aught of their carcass fall thereon, it is unclean unto you.” Water itself may have also been viewed by Daniel or the author of *Daniel* as susceptible to ritual impurity. But this matter is a bit more complex than grains. *Damascus Document 10:10-11* can be read to denote that water may become impure: “And as for the water of every rock-pool too shallow to cover a man, if an unclean man touches it, he renders its water as unclean as water contained in a vessel. (Vermes 2012, 141), with similar translations in (Rabin 1954, 50) and (Martinez and Tigchelaar 2000, 569). Stuart Miller (Miller, *At the Intersection of Texts and Material Finds: Stepped Pools, Stone Vessels, and Ritual Purity among the Jews of Roman Galilee* 2015, 82) suggests an

Finally, there is a further issue with approaches that claim that Daniel feared becoming ritually defiled. Joseph Baumgarten analyzes a verse in the *Damascus Document* as well as other biblical sources that use both the terms *ṭame* (טמא) and *yego'alu* (יגאלו), a variant of *yitga'el* (יתגאל).²³⁷ He concludes that *ṭame* is the standard term for ritual impurity, whereas *ga'el* frequently has the concrete connotation of “staining” or “besmirching.”²³⁸ This is a physical sullying of one’s body rather than a ritual defilement. The word also implies a sense of disgust.²³⁹ If this definition is applied to our verse, Daniel is concerned about physically corrupting the composition of his body or feeling disgusted by eating forbidden foodstuffs. This is very different from a purely ritual defilement.

An alternative non-ingredient conclusion is offered by Jordan Rosenblum: “As the book of *Daniel* does not explicitly state that the ingredients per se are an issue, it seems that the fact that the food is presumably prepared by non-Jewish cooks for a non-Jewish king is Daniel’s concern.”²⁴⁰ That is, that the very fact that the food was prepared by a Gentile makes it unacceptable to be eaten, and not due to purity or ingredient concerns. While this is a possible reading of the situation, it is not clear, if so, why Daniel so limited his food options. Why did he not, for example, request fruit or nuts?

alternate reading: that the water does not become impure but rather is insufficient to purify the impure person who comes in contact with it. Certainly, however, the tannaitic rabbis did consider water susceptible to impurity. For example, m. *Makhširin* 6:4, which includes water among the seven liquids that can become impure. T. *Šabbat* 16:11 discusses whether one may purify impure water on the Sabbath or festival. One can only speculate whether the author of *Daniel*—or indeed Daniel himself—believed water susceptible to impurity. But if so, the challenge to the view that Daniel was concerned about food impurity due to Gentile contact would be strengthened.

²³⁷ (J. M. Baumgarten, *The Essene Avoidance of Oil and the Laws of Purity* 1967). The biblical sources include *I Samuel* 1:21, *Isaiah* 59:3, and *Isaiah* 63:3.

²³⁸ Additional definitions for the root גאל not cited by the sources above can include “repulsive and soiled,” as translated in the gloss of Radak (Rabbi David Kimkhi, 1160-1235) *ad loc.* at Malachi 1:7 or “demeaned” *ad loc.* at *Malachi* 1:12.

²³⁹ (Kaddari 2007, 135).

²⁴⁰ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 38). This idea is echoed in (Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* 2011, 35-36).

On the “moral” side of the spectrum, several scholars cited by Seufert suggest that the verse in *Daniel* ought to be interpreted within the broader matrix of theological and social significance surrounding the actions of King Nebuchadnezzar. For example, Seufert suggests that Nebuchadnezzar engaged in a “divine battle against the Judean youths and [instituted] a program to socially and theologically reform them...The provision of food is construed as a statement of royal authority to which a reply of submission is expected.”²⁴¹ Similarly, Joyce Baldwin writes that “it would seem that Daniel rejected this symbol of dependence on the king because he wished to be free to fulfil his primary obligations to the God he served. The defilement he feared was not so much ritual as moral defilement, arising from the subtle flattery of gifts and favors which entailed hidden implications of loyal support.”²⁴² Similarly, David Freidenreich writes that Daniel’s concern stems from the fact that a Gentile has transformed a “raw” natural object into “an embodiment of Gentile culture best not ingested by a Jew who wishes to maintain a distinct cultural identity.”²⁴³ In other words, to these scholars, Daniel’s refusal of commensality also symbolizes a rejection of the forced acculturation and “thorough-going cultural re-formation.”²⁴⁴ Daniel did not want to cross the line in accepting the royal provision of food. His selection of raw food indicates that he looked to God for such provision, clearly rejecting the king’s assertion of absolute authority over him and his three friends.

One challenge with this sort of approach is, as Seufert himself points out, that it does not jibe well with the word *yitga’el* in the text, which indicates that Daniel did not want to defile himself.²⁴⁵ It reads too much into this simple sentence to insist that the term conveys a moral

²⁴¹ (Seufert 2019, 649-650).

²⁴² (Baldwin 1978; repr. 2009, 92).

²⁴³ (Freidenreich, *Foreign Food: Restrictions on the Food of Members of Other Religions in Jewish, Christian, and Islamic Law* (PhD Dissertation) 2006, 69).

²⁴⁴ (Seufert 2019, 652).

²⁴⁵ (Seufert 2019, 647).

emphasis to the exclusion of a ritual emphasis, especially since *yitga'el* does carry a ritual sense. It certainly ignores Baumgarten's interpretation of the word, as described earlier, to mean a physical staining.²⁴⁶

Second, there is no indication that Daniel or his Jewish companions were being singled out in any way. *Daniel* 1:3 notes explicitly that Nebuchadnezzar asked his chief officer, Ashpenaz, to “bring in certain children of Israel, and of the royal seed, and of the nobles” into this program. It does not appear to have been a “reform” program encompassing all sorts of captives of Nebuchadnezzar's wars. Rather, it appears to have been a program to train an elite cadre of youth, drawing upon those from royal and noble households, to fill out Nebuchadnezzar's administrative ranks.

Therefore, an alternate reading of *Daniel* 1:8 is adopted here. It is straightforward based on the text. It also relies on what was likely the common practice at the time, as discussed earlier, for foods and liquids (including wine) that were presented to the gods to be subsequently brought to the king. Thus, in this reading, Daniel did not wish to sully his body with foods from the king's table or wine from his banquet, for they could quite possibly have included foods that were either involved in some manner in idol worship²⁴⁷ or that otherwise contained biblically impermissible ingredients. Daniel thus requested water and vegetables, either raw or that could have been prepared simply without the sully of impermissible ingredients and/or were less likely than prepared dishes to have been part of a sacrifice, also an ingredient issue. This reading is essentially that of R.H. Charles: “[T]he faithful had to abstain from the food of the heathen, *not only because*

²⁴⁶ (J. M. Baumgarten, *The Essene Avoidance of Oil and the Laws of Purity* 1967).

²⁴⁷ The story presented in the apocryphal book *Bel and the Dragon*, where the king caught the priests and their families consuming these foods, would seem to belie the fact that the Babylonian king received the foods presented to Bel. However, the notion that the food was given to others to eat is nonetheless supported.

the Levitical laws as to clean and unclean animals were not observed by the heathen in the selection and preparation of their food, but also because the food so prepared had generally been offered to idols.”²⁴⁸ [emphasis added]

Supporting this reading would be an alternate understanding of the term *mištav* in this verse. Perhaps *mištav* is not the plural possessive of the word *mišteh* in its sense of “drink,” as traditionally interpreted. Rather, it is the plural of the word in its sense of “banquet” or “feast.”²⁴⁹ This is the sense in which *mišteh* is used in the *Book of Esther* several times in referring to the King Ahasuerus’s and Queen Esther’s banquets.²⁵⁰ Indeed, *Esther* 7:2 refers to the meal that Esther prepared for Ahasuerus and Haman as *mišteh ha-yayin*, the wine-banquet. Thus, a reading in *Daniel* of “with the wine of his banquets” would seem to be more accurate than the standard translation of “with the wine of his drinks.” For, the latter does not truly make sense and, if this were the intended meaning, the verse should have read *uve-yaynaw* (ובייניו) or *uve-yaynotaw* (וביינותיו), both meaning “and with his wines.” The word *mištav*, in the standard translation of “of his drinks,” is superfluous and confusing. Thus, this phrase in the verse in *Daniel* can be understood as informing us that Daniel did not wish to drink the wine that possibly derived from the king’s banquets, having gotten there following its use in idol worship.

²⁴⁸ (Charles, *A Critical Commentary on the Book of Daniel* 1929, 19).

²⁴⁹ Indeed, the arrival of Ahasuerus and Haman to the *banquet* prepared by Esther is described in *Esther* 7:1 as, “so the king and Haman came to drink (*li-štot*) with Queen Esther.” (translation mine). The Academy of the Hebrew Language confirmed in an email to me dated 25 January 2022, that, fundamentally, the word can be interpreted as proposed here. The email notes, though, the use of a similar form two sentences later (1:10) and suggest that perhaps the word has a consistent meaning throughout the chapter. I suggest, however, that the later verse (1:10) uses “your foods and drinks” generically and does not refer to the specific words in 1:8.

²⁵⁰ *Esther* 1:3, 1:5, 1:9, 2:18, 5:4, 5:5, 5:8, 6:14, and 7:2.

II Kings 25:29-30 and Jeremiah 52:33-34

II Kings reports that the penultimate Judean king, Jehoiachin, deposed and exiled by Nebuchadnezzar, received and ate a portion from the king every remaining day of his life of captivity. *II Kings 25:29-30* read:

וְשָׂא אֶת בִּגְדֵי כְלָאוֹ וְאָכַל לֶחֶם תְּמִיד לִפְנֵי קְלַיְמֵי טַיִו: וְאַרְחָתוֹ אַרְחָת תְּמִיד נִתְּנָה־לּוֹ מֵאֵת הַמֶּלֶךְ דְּבַר־יָוִם
בְּיוֹמוֹ כֹּל יְמֵי טַיִו.

(29) And he [Jehoiachin] changed his prison garments and did eat bread before him continually all the days of his life.

(30) And for his allowance, there was a continual allowance given him of the king, every day a portion, all the days of his life.²⁵¹

This sad story, however, does not provide insight one way or another on our topic as it refers to a single individual being held prisoner (who did in fact eat Gentile bread and food).

Nehemiah 10:32

The *Book of Nehemiah* shows quite clearly that Jews did indeed buy food products from non-Jews, presumably for consumption. *Nehemiah 10:32* reads:

וְעַמֵּי הָאָרֶץ הַמְּבִיאִים אֶת־הַמִּקְחֹת וְכֹל־שֶׁבֶר בְּיוֹם הַשַּׁבָּת לַמְּכֹר לֹא־נִקַּח מֵהֶם בַּשַּׁבָּת וּבְיוֹם קֹדֶשׁ...

And if the peoples of the land bring ware or any victuals on the sabbath day to sell, that we would not buy of them on the sabbath, or on a holy day...

Nehemiah is reporting that they did not buy the Gentile food on the Sabbath and holidays. This implies quite clearly, though, that they did do so on other days of the week.

Apocrypha

The books of the Apocrypha are typically understood to be Jewish books written in approximately the last two centuries B.C.E. or first century C.E. They were excluded from the Jewish canon but

²⁵¹ *II Kings 25:29-30*. This story is repeated almost verbatim in *Jeremiah 52:33-34*.

preserved in Greek translation in Christian Bibles.²⁵² David Freidenreich asserts that “disdain for food associated with foreigners...is commonplace among the heroes depicted in Hellenistic Judean literature.”²⁵³ This section will analyze several apocryphal texts and seek to understand who disdained such food and why.

Tobit 1:10-11

The book of *Tobit* is thought to have been written in Aramaic in 250-175 B.C.E. or later.²⁵⁴ It is set in the eighth century B.C.E. and relates how the elder Tobit abstained from Gentile food while in captivity following the Assyrian Conquest of 723 B.C.E. *Tobit* 1:10-11 reads:

(10) After I was carried away captive to Assyria and came as a captive to Nineveh, everyone of my kindred and my people ate the food²⁵⁵ of the Gentiles,

(11) but I kept myself from eating the food²⁵⁶ of the Gentiles.²⁵⁷

Tobit offers no reason for not eating the food; it could in fact have been concern over impermissible ingredients. Further, he reports that his fellow Jewish exiles did eat food of the Gentiles. The practice of the other Jews would be understandable even if there were concern about the ingredients considering the dire straits in which they found themselves. This would be particularly true if the word in the original text was “bread,” as translated in the Septuagint, rather than “food” in the translation above. In bread there was even less possible concern regarding impermissible ingredients, and the other exiles may not have seen any ingredient concern in eating the bread. Indeed, Tobit himself seems to imply that he saw that what he did went above and beyond what

²⁵² (Klawans and Wills, *The Jewish Annotated Apocrypha: New Revised Standard Version Bible Translation* 2020, xxvii).

²⁵³ David M. Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* (Berkeley: University of California, 2011), 35–36.

²⁵⁴ See, e.g. (Nickelsburg 2013, 2632).

²⁵⁵ Pietersma and Wright, LXX (459) alternatively: bread.

²⁵⁶ Pietersma and Wright, LXX (459) alternatively: bread.

²⁵⁷ See (A. Kahana 1960, II:314).

was needed, since of all the exiles he alone refrained from eating the Gentile food/bread, and for this he was rewarded. For, he continues:

(12) Because I was mindful of God with all my heart,

(13) the Most High gave me favor and good standing with Shalmaneser...

This may be the very reason that Tobit mentions this curiosity at all. In any case, Tobit's account does not indicate a general practice, and, in fact, might even seem to indicate the opposite.

Judith 10:5 and 12:7-9

The book of Judith is generally dated to the second century B.C.E. but is set, like the book of Daniel, around the time of Nebuchadnezzar, in the sixth century B.C.E. The book was “undoubtedly” written by and intended for Jews, possibly in Hebrew or Greek, but its authorship is unknown. Most contemporary scholars claim that the Book of Judith is fictitious, with an inaccurate historical and geographical background, portraying events and characters that never existed.²⁵⁸ Nonetheless, we must see what we might learn from the *author* of the work, with a second century B.C.E. frame of reference.

Judith is the nominal heroine who goes to meet and, through deceit and seduction, ultimately kills Nebuchadnezzar's chief of staff, Holofernes, who was enroute to destroy Jerusalem and the Temple. *Judith* 10:5 reports that, in preparing to travel to meet Holofernes:

She gave her maid²⁵⁹ a skin of wine and flask of oil, and filled a bag with roasted grain, dried fig cakes, and fine bread²⁶⁰ (Greek: *arton katharon*);²⁶¹ then she wrapped up all her dishes²⁶² and gave them to her to carry.²⁶³

²⁵⁸ See, e.g., (Gera 2020) and (Halpern-Amaru 2013).

²⁵⁹ Septuagint (Pietersma and Wright 2007, 450): favorite slave.

²⁶⁰ Septuagint (Pietersma and Wright 2007, 450): pure bread.

²⁶¹ Other ancient authorities add *and cheese*.

²⁶² Septuagint (Pietersma and Wright 2007, 450): packed all her vessels.

²⁶³ For Hebrew translation, see (Grintz 1986, 147).

Among other scholars, Yehoshua Grintz claims that Judith brought her own bread so that she would not need Gentile foods.²⁶⁴ He cites many of the same sources that are being presented here but does not extract any additional proof from this particular text in Judith.

Pietersma and Wright's translation of the Septuagint uses the phrase "pure bread" rather than "fine bread." This could be taken to imply that Judith was concerned about the ritual purity of the bread. This argument might be bolstered by a later pericope, *Judith* 12:7-9, describing how Judith went out nightly to a nearby spring to purify herself.

(7) ...She [Judith] remained in the camp three days. She went out each night to the valley of Bethulia and bathed at the spring in the camp.

(8) After bathing, she prayed the Lord God of Israel to direct her way for the triumph of his people.

(9) Then she returned purified and stayed in the tent until she ate her food toward evening.

Judith's actions might be understood as her desire to purify herself after coming in contact with the Gentiles.

The depiction of Judith's actions regarding the food, however, can be readily interpreted otherwise: as her merely having brought her own provisions in order to be self-sufficient and not have to rely on the cooking of Holofernes, which would likely have included impermissible food. The term "pure" bread of the Septuagint may simply mean "refined" bread. For, if Judith's sole concern had been who prepared the food, she would presumably not have had to tote toasted grain or dried fig cakes. These foods would not have been prohibited even if provided by Holofernes as they are not cooked, certainly not dried figs. The understanding that she was merely bringing her

²⁶⁴ (Grintz 1986, 147 n. 148).

full provisions out of concern about impermissible ingredients is further supported by the alternate definition of Septuagint's Greek word *arton*: food or nourishment, rather than bread.²⁶⁵

Judith's nightly immersion as well does not need to be understood as related to a desire to purify herself following contact with Gentile impurity, for the book does not describe any such contact. To the contrary, Judith seems to have stayed and eaten alone in her own tent for the first three days and have had no need for a purification immersion. Her bathing could rather be viewed as keeping with a prevalent practice of immersing oneself before prayer.²⁶⁶ While one might argue that this interpretation is not conclusive because perhaps Judith may merely have wished to bathe while it was dark, Verse 8 in fact notes that Judith prayed immediately after bathing, thus associating the bathing with prayer.

1 Maccabees 1:62-63

1 Maccabees was originally written in Hebrew for Jews by an unknown author.²⁶⁷ The book has come down to us, however, only through the Greek Septuagint.²⁶⁸ Daniel Schwartz suggests that it was written to convince its Jewish readers that the Hasmonean family should rule Judea. It is a historical narrative “par excellence,” in his words, describing the persecution of the Jews by Seleucid King Antiochus IV Epiphanes (c. 167 B.C.E.) and the rise of the Maccabees down to John Hyrcanus (c. 134 B.C.E.). The author describes how “many in Israel” did not succumb to the

²⁶⁵ Indeed, in the Septuagint, what is translated here as “pure bread,” is ἄρτων καθαρῶν, *arton katharon*. Fredrick Danker (Danker, *The Concise Greek-English Dictionary of the New Testament* 2009, 56) offers a second definition for *arton*: food or nourishment in general, esp. in context of dining; and defines *katharon* (181) as free from contamination; purified; cleansed. (Danker, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature* (Fourth Edition) 2021, 434) translates the term as used in the later *Epistle of Ignatius to the Romans* 4:3 as pure (wheat) bread, without admixture. Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 273) explains too that “bread” in the verse describing what Judith brought may imply entire meals, not just bread, although Judith's stated concern is the purity of the Gentile food, not necessarily their ingredients.

²⁶⁶ (Gera 2020, 196). Stuart Miller (Miller, *Rethinking the Origins of Ritual Baths* 2022) comes to a similar conclusion: “Judith's immersions were likely preparations for prayer.”

²⁶⁷ (D. R. Schwartz 2020) and (L. H. Schiffman, *1 Maccabees* 2013, 2769).

²⁶⁸ (D. R. Schwartz 2020).

king's edicts forcing them to eat prohibited foods. These foods included swine and other prohibited animals that, as the author informs us in 1:47, Antiochus ordered the Jews to sacrifice. In *I Maccabees* 1:62-63, the author notes that the Jews did not eat the prohibited foods:

(62) But many in Israel stood firm and were resolved in their hearts²⁶⁹ not to eat unclean²⁷⁰ food.

(63) They chose to die rather than to be defiled²⁷¹ by food or to profane the holy covenant; and they did die.

It is clear from the text and context that the foods that the Jews shunned were prohibited, as indicated by the specification in 1:47 of swine and other profane animals. This abstention was unrelated to ritual impurity caused by Gentiles.

A few terminological parallels between this passage and the pericope from Daniel discussed earlier are worth noting. First, both Daniel and the Jews of *I Maccabees* “were resolved” not to defile themselves. Second, in *I Maccabees*, “unclean” food refers specifically to pig or sacrifices and becoming “defiled” results from eating impermissible foods. Perhaps the same is true of Daniel. In any case, the verse in *I Maccabees* is not referring to ritual impurity due to Gentile involvement. This might argue for the same understanding of the verse in *Daniel*.

II Maccabees 5:27 and 6:18-20

II Maccabees is generally thought to have originally been written in Greek in the second century B.C.E.²⁷² Its author is unknown, but the book is an attempt to condense a five-volume history

²⁶⁹ Jonathan Goldstein (Goldstein 1976, 207 and 227) translates this phrase as “strongly and steadfastly.” He suggests that the author may have specifically chosen these words to connote the utmost steadfast courage to deny insinuations at *Daniel* 11:32-35 that only the elite pietists were steadfast Jews. Regardless of the exact translation, both sources indicate a parallel steadfastness not to eat the food.

²⁷⁰ (Pietersma and Wright 2007): “common,” which may be more accurate.

²⁷¹ (Pietersma and Wright 2007): “contaminated.” Also, sullied.

²⁷² (Regev, *2 Maccabees* 2020, 251).

written by Jason of Cyrene (North Africa).²⁷³ It details the events which led up to the Maccabean revolt and the career of Judah, concluding with his death in 160 B.C.E. *II Maccabees* 5:27 relates:

But Judas Maccabeus, with about nine others, got away to the wilderness, and kept himself and his companions alive in the mountains as wild animals do; *they continued to live on what grew wild, so that they might not share in the defilement.* [emphasis added]

Chapter 6 relates a story of one person who refused to eat unlawful flesh, despite Antiochus's persecution. *II Maccabees* 6:18-20 read:

(18) Elazar, one of the scribes in high position, a man now advanced in age and of noble presence, was being forced to open his mouth to eat swine's flesh.

(19) But he, *welcoming death with honor rather than life with pollution*, went up to the rack of his own accord, spitting out the flesh,

(20) as all ought to go *how have the courage to refuse things that it is not right to taste*, even for the natural love of life. [emphasis added]

In Chapter 7, the author retells Antiochus's force-feeding of Jews of unlawful flesh.

These pericopes appear to indicate that the concern was to avoid eating non-permissible flesh and that doing so would have been perceived as contamination or sully of one's body. These were not related to ritual purity or Gentile-related concerns.²⁷⁴

III Maccabees 3:3-7

The *Third Book of Maccabees* is considered by some to be part of the Apocrypha, although it is not included in the canonical books of the Roman Catholic Church, nor in the apocryphal books of the Protestant Bible.²⁷⁵ It was preserved by only one stream of Christianity. It appears to have

²⁷³ (Regev, 2 Maccabees 2020, 251-252).

²⁷⁴ Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 38) notes that the pericopes in *I* and *II Maccabees* cited above appear to be related to the problem of eating sacrifices and pigs, not food or meals prepared by Gentiles.

²⁷⁵ (Hacham 2020, 289).

been written in Egypt, in Greek, by a faithful Jew sometime in the late second or first century B.C.E. It is an unhistorical account of the deliverance of the Jews from physical harm.²⁷⁶ *III*

Maccabees 3:3-7 write of the Jews' separateness from the Gentiles regarding food:

(3) The Jews, however, continued to maintain goodwill and unswerving loyalty toward the dynasty;

(4) but because they worshipped God and conducted themselves by his law, *they kept their separateness with respect to foods*. For this reason, they appeared hateful to some;

(5) but since they adorned their style of life with the good deeds of upright people, they were established in good repute with everyone.

(6) Nevertheless, those of other races paid no heed to their good services to their nation, which was common talk among all;

(7) instead, they gossiped about the differences in worship and foods, alleging that these people were loyal to neither the king nor his authorities, but were hostile and greatly opposed to his government.²⁷⁷ [emphasis added]

The Jews' separation in the matter of food, however, can be fully attributed to the Jews' general requirement to avoid impermissible ingredients, without regard to who prepared the food. It is interesting and relevant to note that the Jews' abstention from Gentile food was perceived as hateful towards the Gentiles and was "gossiped about" as such to the king. This perception of Jewish misanthropy due to their avoidance of eating with Gentiles pervades contemporaneous Greco-Roman literature as well, as will be discussed in Chapter 9.

Pseudepigrapha

The Pseudepigrapha are writings from the Second Temple period, preserved mostly by eastern Christian churches, in such languages as Greek, Slavonic (a medieval Slavic dialect), Ethiopic, and Syriac.

²⁷⁶ (L. H. Schiffman, *From Text to Tradition: A History of Second Temple and Rabbinic Judaism* 1991, 127).

²⁷⁷ See also (A. Kahana 1960, 2:265).

Jubilees 22:16-17

The *Book of Jubilees* is often considered a book of the Pseudepigrapha, rather than part of the Apocrypha, as it was not included in the Septuagint, nor was it maintained in any Christian Bible save one. It may have been composed at the end of the second century B.C.E.²⁷⁸ For many centuries, it was maintained only in the Ge'ez dialect in Ethiopic Bibles. Over the past several decades, however, fifteen manuscripts/fragments of *Jubilees* in Hebrew were discovered among the Dead Sea Scrolls in the Qumran caves.²⁷⁹ James Kugel calls *Jubilees* “arguably the most important and influential of all the books written by Jews in the closing centuries B.C.E.” Lawrence Schiffman calls *Jubilees* “a prime example of the genre of rewritten Bible in which Second Temple authors recast and retold biblical stories in order to teach their own lessons.”²⁸⁰ Some scholars maintain that *Jubilees* is a compilation of texts composed by various authors, while others argue that it was written essentially by one person.²⁸¹

Jubilees expands upon selected parts of *Genesis* 1 to *Exodus* 24, sometimes copying, sometimes changing or clarifying, and sometimes adding entire stories.²⁸² One of the stories, which does not appear in *Genesis* in any form, tells of Abraham’s deathbed blessing of and final testament to his grandson Jacob. Here, Abraham orders Jacob to separate himself from the Gentiles and not to eat with them. *Jubilees* 22:16-17 reads:

²⁷⁸ (VanderKam, *Putting Them in Their Place: Geography as an Evaluative Tool* 1994, 54).

²⁷⁹ (Goff 2020, 1) and (Kugel 2013, 272).

²⁸⁰ (L. H. Schiffman, *From Text to Tradition: A History of Second Temple and Rabbinic Judaism* 1991, 128-129). Malka Simkovich (Simkovich 2018, 221-222) notes that the term “rewritten Bible” is problematic because “it falsely implies that all Second Temple writers shared a common concept of a closed twenty-four-book Bible. Second, the term suggests that all of the authors who wrote texts related to the Bible were seeking to rewrite it. The term Rewritten Bible therefore presumes motivations that Second Temple authors did not necessarily have.” Rather, she suggests the term “parabiblical texts.”

²⁸¹ For the view of multiple authors, see e.g., (Segal, *Sefer ha-Yovlim: Shikhtuv ha-Mikra Arikha, Emunot, ve-De'ot* 2018, 10n33 et passim); for the view of a single author, see (VanderKam, *The Book of Jubilees* 2001, 17-18).

²⁸² (Wills, *Introduction to the Apocrypha: Jewish Books in Christian Bibles* 2021, 192-193).

(16) Now you, my son Jacob, remember my words and observe the commandments of Abraham your father; *separate from the Gentiles. Do not eat with them.* Do not behave as they do. Do not become their colleague because their deeds are impure.²⁸³ All their ways are polluted, depraved, and detestable. [emphasis added]

(17) They offer their sacrifices to the dead. They worship demons. They eat in tombs. Everything they do is in vain and worthless.²⁸⁴

In verse 20, Abraham goes on to admonish Jacob to avoid marrying a Canaanite woman.

(20) Be sure, my son Jacob, not to take a wife from any descendent of the daughters of Canaan, for all his descendants are to be uprooted from earth.

One might wish to explain the prohibition of eating in the context of avoidance of intermarriage that might lead to idolatry. However, nowhere does Abraham say that. Rather, Abraham admonishes Jacob to avoid their behaviors, seemingly even unrelated to idolatry.

One might wish to explain that the instruction to separate from the Gentiles and not eat with them is because contact with them brings impurity.²⁸⁵ This understanding, however, is not necessarily conclusive. Note that the passage does not declare the Gentiles impure; rather it asserts that only their deeds are impure.²⁸⁶ Nor does it prohibit the eating of food prepared by Gentiles or connect eating to intermarrying.

O.S. Wintermute suggests that the concern is one of prohibited ingredients. “The issue became particularly acute in the writer’s own time in light of the fact that the servants of Antiochus

²⁸³ VanderKam (VanderKam, *Jubilees 2: A Commentary on the Book of Jubilees Chapters 22-50* 2018) also uses the word “impure.” Wintermute (Wintermute 1985, 98) translates the last two phrases as: “...because their deeds are defiled, and all their ways are contaminated, and despicable, and abominable.” To my knowledge, no fragment containing these verses has been discovered to date among the Dead Sea Scrolls. Thus, we do not know the original Hebrew word.

²⁸⁴ Translation per (Goff 2020, 49-50). See also (A. Kahana 1960, I:265) and (Goldman 1960) in that volume. The texts in (Kugel 2013, 372) and (VanderKam, *Jubilees 2: A Commentary on the Book of Jubilees Chapters 22-50* 2018, 647-648) vary, but insignificantly.

²⁸⁵ See, e.g., James Kugel gloss on these verses in (Feldman, Kugel and Schiffman, *Outside the Bible: Ancient Jewish Writing Related to Scripture* 2013).

²⁸⁶ Indeed James VanderKam (VanderKam, *Viewed from Another Angle: Purity and Impurity in the Book of Jubilees* 2002) asserts that *Jubilees* appears entirely unconcerned with purity and impurity.

IV tried to force Jews to eat impure food such as pork.”²⁸⁷ Aharon Shemesh too notes that the ban might also be interpreted as a food-only concern.²⁸⁸

Therefore, at most, this admonishment may be a matter of moral impurity, not ritual impurity. *Jubilees* may indeed be implying the need for social separation in order not to learn the evils ways of the Gentiles.²⁸⁹ At the same time, the next verse ties the separation and eating admonitions to the Gentiles’ “abomination” sacrifices, paraphrasing the admonition and prohibition in *Exodus* 34:15.²⁹⁰ Thus, this may be the true connection.²⁹¹

²⁸⁷ (Wintermute 1985, 98 note d)

²⁸⁸ (Shemesh, Ha-Yahid veva-Yahad: Hilkohot ha-Edah va-Haveireha 2011, 246 ff and 248 n23).

²⁸⁹ Interestingly, *Jubilees* 16 elides any mention of the meal that Abraham prepared for the three men who happened upon him in *Genesis* 18:1-8. Indeed, it does not mention the three men at all. While it appears from *Genesis* 18:8 that Abraham may not have eaten with them, he certainly did not separate himself from the Gentiles. To the contrary: as described in 1:2, he “ran to meet them.” Nor does *Jubilees* include the event related, in *Genesis* 26:30, where Isaac made a feast for Avimelekh and his entourage.

²⁹⁰ Jonathan Klawans (Klawans, Impurity and Sin in Ancient Judaism 2000, viii and 48) also concludes that these and similar passages in *Jubilees* refer to moral impurity, not ritual impurity.

²⁹¹ Even were the concern ritual impurity, it cannot be posited with any degree of certainty that this story had any impact on the evolution on rabbinic halakhah, which is the focus of this dissertation. Rather, the concern could very well have been unique to the self-centered, non-rabbinic, Dead Sea sect. Cana Werman (Werman and Shemesh, Mavo: Megillot Qumran 2011, 20 n42) in fact believes that, in its present form, *Jubilees* is a creation of the Essene sect, which many scholars associate with the Dead Sea sect. Michael Segal (Segal, The Commandment Of Circumcision And The Election Of Israel 2007, 1) notes the similarity of *Jubilees* and other writings of the sect. Albert Baumgarten (A. I. Baumgarten, Ancient Jewish Sectarianism 2020, 552) writes that *Jubilees* agrees with many of the legal positions now known from the Dead Sea Scrolls. The fact that fragments of fifteen ancient manuscripts were found at Qumran, indicates a special interest in it in the sect. Furthermore, Cana Werman (Werman, Narrative in the service of Halakha: Abraham, Prince Mastema, and the paschal offering in "Jubilees" 2012) claims that several episodes in *Jubilees* exemplify the major part that halakhah played in the formation of the *Jubilees* narrative. But there does not appear to be any definitive indication that the group’s practices had any outward influence or that either *Jubilees* itself or its adherents had an effect, direct or indirect, on the evolution of the halakhah. To the contrary, *Jubilees* conflicts with halakhah on a number of key matters (e.g., basing the holidays on a solar versus lunar calendar) and contradicts rabbinic midrash as well. O.S. Wintermute (Wintermute 1985, 98 note d), for example, limits the applicability of what we learn from the sect as the views of “one group of Hasidim.” James Kugel (Kugel 2013, 272) claims that rabbinic Judaism rejected *Jubilees*. (While he asserts that many of *Jubilees*’ interpretive traditions are paralleled in rabbinic literature, it would seem that any attempt to draw such a linkage regarding a particular halakhah or another would be highly speculative.) Malka Simkovich (Simkovich 2018, 179-180) points out that the author of *Jubilees* was clearly not in the mainstream Jewish worldview as he advocates for a solar rather than lunar year. Lawrence Schiffman (L. H. Schiffman, Pre-Maccabean Halakhah in the Dead Sea Scrolls and the Biblical Tradition 2006, 353) writes that the rulings of the book of *Jubilees* reflect the Sadducean/Zadokite approach. And, most recently, Menahem Kister writes (Kister 2024, 133) that it is quite clear that *Jubilees* was “written by a stream that very often opposed the halakhic methods of the *Perushim* (the heirs of whom are the Talmudic sages.)”

Jubilees 30:13-15

The following pericope from the chapter in *Jubilees* that recounts the story of the rape of Dinah would appear on the surface to subscribe to the notion of Gentile impurity.²⁹² *Jubilees* 30:13-15 read:

(13) It is a disgrace for those of Israel who give or take a Gentile woman in marriage because it is impure and repulsive to Israel.

(14) *Israel will not be cleansed of this impurity* if there is someone who has a wife who is a Gentile woman or if there is someone who has given one of his daughters to any man who is a Gentile. [emphasis added]

(15) ... If someone does this thing or closes his eyes to those who commit impure acts, defile the sanctuary of the Lord, or profane his holy name, then the entire people will be punished together on account of all this impurity and pollution.²⁹³

The defilement described here, though, appears to be not one of an individual's physical contact with the Gentile, a ritual impurity, but a sort of metaphysical or spiritual defilement of the holiness of the Jewish people as a whole resulting from incorporating a Gentile as part of the fabric of the "family" of Israel. This status would be similar to the state of spiritual impurity described by Jonathan Klawans or Christine Hayes's genealogical impurity, both discussed in the chapter on Prior Research.²⁹⁴

Joseph and Aseneth 7:1

The provenance and texts of *Joseph and Aseneth* are problematic. Scholars dispute its origin, dating, and text itself, as the two major versions in multiple manuscripts have significant differences between them. Marc Philolenko suggests that the book was written by a Christian in

²⁹² See Cana Werman's analysis of the episode and conclusions that might be drawn regarding intermarriage in early Second Temple times. (Werman, "Jubilees 30": Building a Paradigm for the Ban on Intermarriage 1997).

²⁹³ Wintermute (Wintermute 1985, 113) substitutes "defilement" for "impurity" in each of these verses and "profaning" for "pollution" in verse 15.

²⁹⁴ (Klawans, *Impurity and Sin in Ancient Judaism* 2000, 26). (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 35, 62).

the fourth or fifth century C.E., whereas Christoph Burchard claims it was written by a Diasporan Jew in Egypt in the last century B.C.E. or the first century C.E.²⁹⁵ Other scholars have dated it in the first or second centuries C.E. Lester Grabbe concludes that “unfortunately, the difficulties about text, provenance, date, and setting make it difficult to use with confidence” to draw conclusions regarding Jewish beliefs at a particular time.²⁹⁶

That said, the book provides a “backstory” for *Genesis* 41:45, where Pharaoh gives the non-Jewish Aseneth to Joseph as a wife. *Joseph and Aseneth* 7:1 describes the scene where Joseph visited Aseneth’s parents’ home the first time:

...and he [Joseph] placed a table in front of him separately, because he would not eat with the Egyptians, *for this was an abomination to him.*²⁹⁷ [emphasis added]

This seems to indicate that it was an abomination for Jews to eat with Gentiles. However, if the text was written by a Gentile, it indeed conformed to Gentile perceptions during late antiquity of Jewish reluctance to eat with Gentiles when, in fact, the Jewish reluctance was not due to an “abomination” and but to other causes. (This false perception will be discussed more fully in the Chapter Nine.) Second, if written by an Egyptian Jew, he would likely not have written it thus. For, Egyptian Jews in late antiquity did in fact appear to eat freely at the table of Gentiles, as Josephus relates in the story about the High Priest Onias’s nephew Joseph eating (and perhaps even drinking wine) at Ptolemy’s table²⁹⁸ and as will be seen below in the *Letter of Aristeas* and the works of Philo. Most likely, this text is an inversion, inadvertent or otherwise, of the original

²⁹⁵ See H.F.D. Sharp’s Introduction to *Joseph and Aseneth* (Sparks 1984, 465-470).

²⁹⁶ (Grabbe, *A History of the Jews and Judaism in the Second Temple Period; Volume 4, The Jews Under the Roman Shadow* (4 BCE-150 CE) 2021, 73).

²⁹⁷ (Sparks 1984, 7:1, 479). Christoph Burchard (Burchard 2021) also uses the word abomination.

²⁹⁸ (Josephus, *Jewish Antiquities* XII-XIV 1957, XII:160-187 85-97).

Genesis 43:32, which describes the seating arrangements for the meal that Joseph arranged for his brothers upon their second visit to Egypt. *Genesis* 43:32 states:

And they set on for him [Joseph] by himself, and for them [Joseph's brothers] by themselves, and for the Egyptians, that did eat with him, by themselves; because the Egyptians might not eat bread with the Hebrew; *for that is an abomination unto the Egyptians*. [emphasis added]

The Bible explicitly states that Jew and Gentile eating together was an abomination to the Egyptians. But it was not to the Jews, for whom there was no prohibition to eat with Gentiles.

Letter of Aristeas

Most scholars believe that the *Letter of Aristeas* is generally dated to the second century B.C.E. and that it was composed in Greek, probably by an Alexandrian Jew pseudonymously.²⁹⁹ Although this attribution is not certain, it appears that the intended audience was Gentile. While much of the account may not be historically accurate, it may provide a snapshot of realia.³⁰⁰

The *Letter* describes how the Jewish experts, who came from 'Ereṣ Israel to Alexandria to translate the Bible into Greek participated fully in the reception banquets prepared by the king's staff who served the food to an assemblage of Jews and Gentiles.³⁰¹ Since the participants were described as Torah scholars from 'Ereṣ Israel, it seems reasonable to conclude that there was no prohibition even in 'Ereṣ Israel of eating Gentile foods with Gentiles at the latter's establishments.

However, in §139 and §142, the author of the *Letter of Aristeas* relates that the “laws of purification in matters of meat and drink” were meant to place a fence around the Jews.

²⁹⁹ (Thackeray 1917, xiii) and (Wright III 2015, 3ff).

³⁰⁰ (Ophir and Rosen-Zvi 2020, 103-104).

³⁰¹ (Charles, *The Letter of Aristeas* 1913, §§182-186). See also (Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* 2011, 34-40). Most scholars believe that the events described took place in the third century B.C.E., about a century before Aristeas's writings.

(139) Therefore the lawgiver, who was wise, contemplated each matter, being prepared by God for knowledge of all things, and *he fenced us around with unbroken palisades and with iron walls so that we might not intermingle at all with any other nations*, being pure in both body and soul, having been set free from vain opinions, revering the only and powerful God above all of the entire creation.”³⁰² [emphasis added]

(142) Therefore, *so that we might not become perverted, being polluted by nothing or associating with worthless people, he fenced us around on every side by purifications and through food and drink and touch and hearing and sight that depend on laws.*³⁰³ [emphasis added]

Aristeas seems to imply that the biblical food restrictions were meant to separate Jew from Gentile. But Aristeas’s overall point is that Jews are not necessarily being warned away from Gentiles per se but to avoid becoming “polluted” by their actions. A type of moral impurity. Furthermore, Aristeas appears to merely be repeating an explanation that he was given—purportedly by Eliezer the Priest³⁰⁴—very likely to appeal to non-Jews. However, it cannot be taken as a valid biblical exegetical explanation. Indeed, other of the author’s *apologia* do not correspond to actual exegeses. For example, Aristeas mischaracterizes the permission to eat the “winged creatures that we use.”³⁰⁵ These creatures, he claims, are permitted because they can all be characterized as “tame and distinguished by their cleanliness,” whereas this rationale is not alluded to in the Bible. Thus, one cannot conclude from Aristeas an actual biblical prohibition of mingling or eating with Gentiles.

³⁰² (Wright III 2015, 257). Thackeray’s translation (Thackeray 1917, 52) and Charles’s translation (Charles, *The Letter of Aristeas* 1913): are similar.

³⁰³ (Wright III 2015, 267). Thackeray’s translation (Thackeray 1917, 52): “lest we should become perverted by sharing the pollutions of others or consorting with base persons.” Charles’s translation (Charles, *The Letter of Aristeas* 1913): “Therefore lest we should be corrupted by any abomination, or our lives be perverted by evil communications, he hedged us round on all sides by rules of purity, affecting alike what we eat, or drink, or touch, or hear, or see.” See also (A. Kahana 1960, II:47).

³⁰⁴ (Wright III 2015, 147).

³⁰⁵ (Wright III 2015, 271).

Dead Sea Scrolls

Numismatic and other evidence has shown that a group of Jews flourished in a desert complex west of the Dead Sea, known as Qumran, from around 135 B.C.E. to 68 C.E.³⁰⁶ Associated by some scholars with the Essene sect that flourished in 'Ereṣ Israel at approximately the same time, this group created its own code of conduct and its own Jewish law rulings.³⁰⁷ These, it documented in scrolls, which scrolls and fragments thereof as well as others were discovered in the middle of the twentieth century preserved in the caves of Qumran.³⁰⁸

It is believed that, in the second century B.C.E., the Dead Sea sect separated itself from the rest of the Jews in 'Ereṣ Israel, to whom it referred as “the people of iniquity.”³⁰⁹ Its adherents left to lead a more pristine life and maintain their own standards of sanctity and purity.³¹⁰ In addition, they were ascetic, not even using oil.³¹¹ Their mode of determining Jewish law was different than that of the Pharisees or the later rabbis. Berachyahu Lifshitz seeks to demonstrate that the sect did not believe that prophesy had ceased and relied on the priests among them to determine the law through divine guidance rather than through scriptural exegesis.³¹² Their practices appear to have

³⁰⁶ (L. H. Schiffman, *From Text to Tradition: A History of Second Temple and Rabbinic Judaism* 1991, 131).

³⁰⁷ See, e.g., (J. M. Baumgarten, *Tannaitic Halakhah and Qumran--A Re-evaluation* 2006).

³⁰⁸ Since the first discovery by a Bedouin shepherd in fall 1946/winter 1947, 850 scrolls have been uncovered, including scrolls of the Bible. (L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* 1994, 5-6).

³⁰⁹ *Damascus Document* 8:12-16.

³¹⁰ (L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* 1994, 94-95).

³¹¹ (J. M. Baumgarten, *The Essene Avoidance of Oil and the Laws of Purity* 1967).

³¹² (Lifshitz 2019, 83f). While differing somewhat with Lifshitz's position, Steven Fraade (Fraade 2011, 42, 44, 63-64) sees the Teacher of Righteousness as a prophetic interpreter as well. Furthermore, the Qumranites believed that God's will is continually revealed to the community as a whole because of its behavior and study and to “especially inspired priestly and Levitical elite.” There is no evidence among the texts at Qumran of legal exegesis of Scripture like the *midraš halakhah* of the later rabbis. “Even if we were to presume that sectarian laws were once generated by scriptural exegesis, the Qumran community as a whole studied the results and not the processes of such exegesis.” See also (Noam, *Traces of Sectarian Halakhah in the Rabbinic World* 2006, 84).

been much more stringent in many areas than the common practice of Jews at the time, particularly in the area of ritual purity.³¹³

In addition, the sect strove to observe the commandments in accordance with the literal sense of Scripture and sought consistent interpretations of biblical terms. They condemned any tendency to adapt the commandments to the needs of the time period as well as the more fluid and more innovative interpretations that the Pharisees seem to have been promulgating.³¹⁴ Thus, the influence of this group's practices on that of common Jewish practice in 'Ereṣ Israel or on eventual rabbinic halakhah is open to question.³¹⁵ Nonetheless, it is important to see how they addressed issues relevant to this dissertation.

Miqṣat Ma'asei Ha-Torah (4QMMT; 4Q394-9)

Miqṣat Ma'asei Ha-Torah (MMT), also referred to as the “Halakhic Letter,” is a foundational document of the Qumran sect.³¹⁶ It is believed by many scholars to have been written around 150 B.C.E. by the sect's Teacher of Righteousness to the priests in Jerusalem, from whom the sect separated when they went to the desert. The Letter is meant to explain differences the sect had with current Temple practices. MMT differs in its character from the other law texts to be discussed below. It is not a collection of ordinances arranged systematically according to subject, but rather

³¹³ (Regev, *Reconstructing Qumranic and Rabbinic Worldviews: Dynamic Holiness vs. Static Holiness* 2006, 87-88), (Harrington, *Holiness and Law in the Dead Sea Scrolls* 2001, esp. 126), and (Qimron and Strugnell 1994, 132).

³¹⁴ (Qimron and Strugnell 1994, 133).

³¹⁵ Vered Noam (Noam, *Traces of Sectarian Halakhah in the Rabbinic World* 2006, 84) claims that there was, in fact, some resemblance between positions of R. Eliezer b. Hyrcanus and possibly others in the rabbinic community with the positions of the sect. However, as Noam herself points out, R. Eliezer's “entire life was spent in a drawn-out conflict with the establishment, ending with his excommunication and the total rejection of his teachings.” In addition, Noam suggests that a search might reveal the existence of semi-sectarian ideas within rabbinic circles, but that we should look for “fringe opinions and polemical disputes among the early tannaim.” In other words, these positions likely did not eventually become commonly accepted halakhah.

³¹⁶ (L. H. Schiffman, *Non-Jews in the Dead Sea Scrolls* 1997, 164).

a work that lists some, *miqṣat*, (מקצת) special laws, such as the cultic calendar, ritual purity, and marital status, regarding which the sect disputed its opponents.³¹⁷

Section B of MMT,³¹⁸ as reconstructed by scholars, appears to be a criticism of their erstwhile priestly colleagues in Jerusalem for accepting grain offerings (*terumah*) from the produce of non-Jews. In their view, such produce was not to enter the Temple lest it defile the offerings collected from Jews. 4QMMT B 1:3-5 read:

עמוד 1: שורה 3 וטהרת <...>ה<...>ה...<...>ה...<...>ה
 1:4 ו?מגיע?<י?>ם?בה <...>?יה?ם?ומט?מאים <...>
 1:5 ם?דגן <...>?וים? <...> לב?ו?א למק[ד]ש <...>.³¹⁹

Qimron and Strugnell flesh out the text as follows:

1:3 [ועל תרומת דגן ה[גוים שהם... (!)
 1:4 ומגיע[י] ם בה א[ת]יהם ומט[מאים אותה ואין לאכול]
 1:5 מדגן [הג]וים [ואין] לבוא למק³²⁰ש

The table below shows three fairly similar translations.

	Vermes ³²¹	Qimron/Strugnell ³²²	Martinez/Tigchelaar ³²³
1:3	and the purity of ...[And concerning the offering of the wh]eat of the [Gentiles which they ...]	And concerning the sowed gifts of the new wheat grains of the Gentiles that they...	And purity of []... [And concerning the offering of the wh]eat of the [Gentiles which they...]
1:4	and they touch it ... and de[file it ... One should not accept anything]	and let their...touch it and defile it, and no one should eat	And let their [] touch it [] and they de[file it: you shall not eat]

³¹⁷ (Qimron and Strugnell 1994, 131).

³¹⁸ 4QMMT, 1:1-8.

³¹⁹ The Academy of the Hebrew Language, <https://maagarim.hebrew-academy.org.il/Pages/PMain.aspx?misyzira=39394>.

³²⁰ (Qimron and Strugnell 1994, 148). Line numbering is mine based on the preceding Academy text.

³²¹ (Vermes 2012, 223).

³²² (Qimron and Strugnell 1994, 148). Line numbering is mine based on the preceding Academy text.

³²³ (Martinez and Tigchelaar 2000, 791). Line numbering is mine based on the preceding Academy text.

1:5	from the wheat [of the Gen]tiles [and none of it is] to enter the Sanctuary.	any of the new wheat grains of the Gentiles, nor shall the grains be brought into the sanctuary.	Of the wheat of [the Gen]tiles, [and it shall not] be brought into the temple.
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As can be seen above, the Hebrew text is damaged, with several key letters and words missing. Its exact content cannot be known for sure. Thus, Vermes’s reconstruction at 1:4, “and they touch it,” cannot be considered conclusive. The phrase may in fact refer to other impure objects having touched the Gentile’s grain, an interpretation that Qimron and Strugnell’s translation would allow. In other words, this admonishment may not necessarily imply a Gentile ritual impurity. Rather, it may be a concern that the Gentile may not have been meticulous about guarding the ritual purity of the grain.

Damascus Document (CD; 4Q265-73, 5Q12, 6Q15) 11

The *Damascus Document* or Covenant, also known as the *Community Rule* and originally known as the Zadokite Fragments, was a document central to the Qumran sect.³²⁴ It consists of two sections referred to by Chaim Rabin³²⁵ as *Admonition* and *The Laws*.³²⁶ *Admonition*, also known as the Exhortation, is a statement explaining the formation of the sect and includes a collection of scriptural and historical evidence for the sect’s claims. *The Laws* comprises the laws of the sect and its social arrangements. It is not a comprehensive handbook of law, but a series of statements, roughly arranged by subject. Among the laws relating to the Shabbat is the following prohibition in the *Damascus Document* CD-A 11:14-15:

³²⁴ The Zadokite Fragments were discovered first in the Cairo Geniza by Solomon Schechter in 1896, before the scroll discovery at Qumran.

³²⁵ (Rabin 1954, x).

³²⁶ Joseph Baumgarten (J. M. Baumgarten, *Damascus Document* 2000, 167) suggests that the end of Laws is actually a third section, *Communal Rules*.

אל ישבית [ישבות] [א] יש [ב] מקום קרוב לגוים בשבת³²⁷

Let no man rest in a place near Gentiles on the Sabbath.³²⁸

On the surface, this is an edict invoking social separation from the Gentiles. Lawrence Schiffman suggests that “this law is most probably aimed to ensure ritual purity on the Sabbath, a matter important in sectarian circles.”³²⁹ However, the prohibition may not relate to Gentile impurity at all. For, a few verses earlier, at CD-A 11:4, we find a similar prohibition which seems to have no connection with impurity: “No man shall willingly mingle (with others) on the Sabbath,”³³⁰ i.e., seemingly even among members of the community.

In addition, the prohibition of residing near a Gentile on the Sabbath can also be read much more prosaically, especially since the ban is not against mingling with Gentiles but even just living near them. Rather, since the Sabbath is specified, the admonishment relates not so much to avoiding being around the Gentile due to impurity concerns, which would clearly apply on a weekday as well, but rather to ensuring that one’s Sabbath spirit, serenity, and experience would not be impinged upon by the Gentile’s activities prohibited to a Jew, such as pounding a hammer or chisel.

Damascus Document 12

The *Damascus Document* 12:6-11 contains a series of regulations dealing with relations with non-Jews.

6. אל ישלה את ידו לשפוך דם לאיש מן הגוים

³²⁷ Parallel in *4QD^a 5, i, 9*. (Rabin 1954, 57), (Vermes 2012, 142), (Martinez and Tigchelaar 2000, 568-569). I have consolidated the Hebrew text of Rabin and Martinez.

³²⁸ Translation mine.

³²⁹ (L. H. Schiffman, *Non-Jews in the Dead Sea Scrolls* 1997, 158). Cf. *II Maccabees* 12:38: “Then Judas assembled his army and went to the city of Adullam. As the seventh day was coming on, *they purified themselves according to the custom*, and kept the Sabbath there.” [emphasis added]

³³⁰ (Vermes 2012, 142) and (Martinez and Tigchelaar 2000, 568-569). The actual meaning of this prohibition is unclear. Qimron and Strugnell (Qimron and Strugnell 1994, 140) read into it a prohibition against defiling oneself on the Sabbath, especially by intentional sexual contact, due to a heightened level of purity required on the Sabbath.

7. בעבור הון ובצע וגם אל ישא מהונם כל בעבור אשר לא
 8. יגדפו כי אם בעצת חבור ישראל אל ימכר איש בהמה
 9. ועוף טהורים לגוים בעבור אשר לא יזבחום ומגורנו
 10. ומגתו אל ימכר להם בכל מאדו ואת עבדו ואת אמתו אל ימכור
 11. להם אשר באו עמו בברית אברהם³³¹

6. No man shall stretch out his hand to shed the blood of a Gentile
 7. for the sake of riches and gain. Nor shall he carry off anything of theirs, lest
 8. they blaspheme, unless so advised by the company of Israel. No man shall sell
 9. clean beasts or birds to the Gentiles lest they offer them in sacrifice.
 10. He shall refuse, with all his power,³³² to sell them anything from his granary or
 winepress, and he shall not sell
 11. them [his manservant or maidservant inasmuch] as they have been brought by him into
 the Covenant of Abraham.³³³

The ordinance in §10 prohibiting the sale of dietary basics of grain and wine to a Gentile is surprising. A number of scholars suggests two possible understandings: 1. The prohibition is to sell as-yet untithed wine and grain, because the tithe would be lost. 2. The prohibition derives out of concern that the Gentile will use the items for idolatrous purposes.³³⁴

But remarkably, there is no mention in this list of laws pertaining to Jew-Gentile relations of a requirement to keep separate from Gentiles. Nor is there any reference to Gentile impurity.

³³¹ (L. H. Schiffman, *Legislation Concerning Relations with Non-Jews in the Zadokite Fragments and in Tannaitic Literature* 1983). Schiffman notes that “these prescriptions form a *serekh*, or a list of laws compiled even before the editor of the Zadokite Fragments redacted this text from its disparate parts.”

³³² (Martinez and Tigchelaar 2000, 571): “at any price.”

³³³ (Vermees 2012) with slight modification.

³³⁴ (Hempel 2000, 79). Y. *Avodah Zarah* 1:6 39d 1380:10-12 also postulates such prohibitions. On grain, because they would no longer be subject to the commandment of *hallah*. On wine, because a blessing would no longer be made over it. But the Yerushalmi rejects such prohibitions as *reductio ad absurdum* of a rationale posited a few lines earlier in the text for prohibiting sale of sheep or goats to a Gentile because certain priestly portions would thus be precluded in the future.

The Community Rule 1QS, 4Q255-64, 4Q280, 286-7, 4Q502) 5

As noted earlier, *The Community Rule* lays out the basic theology of the sect, its rules of admission and initiation, and its code of punishments.³³⁵ This scroll was found almost intact. Following is an excerpt from one of the oaths that bound sectarians upon entering the group regarding separating from others. *Community Rule* 5:14-18 reads:

14 ...ואשר לוא ייחד עמן בעבודתו ובהו {ש}ר פן ישיאנו
 15 עוון אשמה כיא ירחק ממנו בכול דבר כיא כן כתוב מכול דבר שקר תרחק ואשר לוא ישוב איש מאנשי
 16 היחד על פיהם לכול תורה ומשפט ואשר לוא יוכל מהונם כול ולוא ישתה ולוא יקה מידם כל מאומ {א}ה
 17 אשר לוא במחיר כאשר כתוב חדלו לכם מן האדם אשר נשמה באפו כיא במה נחשב הואה כיא
 18 כול אשר לוא נחשבו בבריתו להבדיל אותם ואת כל אשר להם...³³⁶

These verses are translated as follows, with emphases added:

	Vermes ³³⁷	Martinez/Tigchelaar ³³⁸
5:14	Likewise, no man shall consort with him in regard to his work or property lest he be burdened	...No-one should associate with him in his work or his possessions in order not to encumber him
5:15	with the guilt of his sin. He shall indeed keep away from him in all things: as it is written, Keep away from all that is false (<i>Exodus</i> 23:7). No member	With blameworthy iniquity; rather he should remain at a distance from him in every task, for it is written as follows (<i>Exodus</i> 23:7): "You shall remain at a distance from every lie." None of the men
5:16	of the Community shall follow them in matters of doctrine and justice, <i>or eat or drink anything of theirs</i> , or take anything from them	of the Community should acquiesce to their authority in any law or regulation. <i>No-one should eat of any of their possessions, or drink or accept anything from their hands,</i>

³³⁵ (L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* 1994, 94).

³³⁶ (Martinez and Tigchelaar 2000, 80).

³³⁷ (Vermes 2012, 104). Line numbers of text adjusted to correspond to original and Vermes's translation.

³³⁸ (Martinez and Tigchelaar 2000, 81).

5:17	except for a price; As it is written, Keep away from the man in whose nostrils is breath, for wherein is he counted? (<i>Isaiah 2:22</i>). For	unless at its price, for it is written (<i>Isaiah 2:22</i>): “Shun the man whose breath is in his nostrils, for how much is he worth?” For
5:18	all those not reckoned in His Covenant are to be set apart, together with all that is theirs.	all those not numbered in his Covenant will be segregated, they and all that belongs to them.

On the surface, one might read into §5:16 of this oath a requirement not to eat Gentile foods. Schiffman explains that “the abstention from food and drink was legislated most likely because the sect followed different laws of ritual purity and impurity from those of other Jews.”³³⁹ The prohibition is against eating or drinking anything belonging to someone not of the community without paying for it, as noted in §5:17. Thus, this oath appears to refer to separation from other Jews and does not address Gentiles. There may be an additional theme, which could carry through in some of the examples below as well: the concern may not have been ritual impurity per se but “separateness” as a value in itself so that the sect would not become polluted theologically, socially, morally, etc. Perhaps it is this fixation on separateness that leads to some of the seemingly extreme examples of such separation, even when they are couched in terms of purity.

Temple Scroll (11QT=11Q19-21, 4Q365a, 4Q524) 63

The *Temple Scroll* is about the size of the book of Isaiah and comprises Jewish law exclusively.³⁴⁰ It is essentially a “rewritten Torah” into which the author has inserted his own views on Jewish law. Many scholars believe that it is at least partially composed of sources deriving from the

³³⁹ (L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* 1994, 111).

³⁴⁰ (L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* 1994, 21).

Sadducean tradition.³⁴¹ While it was found in the sect's collection, it is possible that the *Temple Scroll* was not authored by members of the sect but emerged from an earlier or contemporaneous group.³⁴² The *Scroll* says hardly anything about idol-worshipping non-Jews other than that their cultic objects and cult places are to be destroyed.³⁴³

The *Scroll* devotes nearly seven columns (45:7-51:10) to matters of ritual purity. It introduces sources of impurity unknown in earlier literature, such as the notion that blind people are not permitted to enter Jerusalem (45:12-13). However, no mention at all is made of Gentile impurity. One later passage does refer to a Gentile woman and, seemingly, her ritual impurity. The passage is a restatement (and reinterpretation) of *Deuteronomy* 21:10-15. The *Scroll* 63:10-15 reads:

10. כי תצא למלחמה על אויביכה ונתתי אותמה בידכה ושביטה את שביו
 11. וראיתה בשביה אשה יפת תואר וחשקתה בה ולקחתה לכה לאשה
 12. והביאותה אל תוך ביתכה וגלחתה את ראושה ועשיתה את צפורנה והסירותה
 13. את שלמות שביה מעליה וישבה בביתכה ובכתה את אביה ואת אמה חודש
 14. ימים אחר תבוא אליה 'בעלתה והיתה לכה³⁴⁴ ואשה ולוא תגע לכה בטהרה עד
 15. שבע שנים וזבה שלמים לוא תואכל עד יעבורו שבע שנים אחר תואכל³⁴⁴

10. When you go to war against your enemies, and I deliver them into your hands, and you capture some of them,
 11. if you see among the captives a pretty woman and desire her, you may take her to be your wife.
 12. You shall bring her to your house, you shall shave her head, and cut her nails. You shall discard
 13. the clothes of her captivity and she shall dwell in your house and bewail her father and mother for a full month.

³⁴¹ (L. H. Schiffman, *Pre-Maccabean Halakhah in the Dead Sea Scrolls and the Biblical Tradition* 2006, 355).

³⁴² (L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* 1994, 258).

³⁴³ (L. H. Schiffman, *Non-Jews in the Dead Sea Scrolls* 1997, 161).

³⁴⁴ (Martinez and Tigchelaar 2000, 1286).

14. Afterwards you may go to her, consummate the marriage with her and she will be your wife. *But she shall not touch whatever is pure for you*
15. *for seven years*, neither shall she eat of the sacrifice of peace-offering until seven years have elapsed. Afterwards she may eat. [Emphasis added]³⁴⁵

One might argue that the prohibition in §14 is a matter of ritual impurity. However, as suggested above, the very long period of seven years perhaps indicates that this ban is unrelated to impurity. Furthermore, no other impurity prohibitions are specified, such as marital relations. Rather, perhaps it is a message, though framed in terms of ritual impurity, regarding a desire to exclude people, especially Gentiles, from entering the sect. A desire for a sort of “social” purity. We find a similar situation below in Josephus’s description of how a Jewish initiate had to undergo extensive training for three years and was made to take “great oaths” before he was permitted to touch the Essene’s food. This might also not be a matter of ritual purity per se.

4Q266 fragment 5

Other pertinent scroll fragments were discovered in Cave 4 at Qumran. These are believed to be supplementary to the *Damascus Document*. Paleographically, these fragments are dated from the mid-first century B.C.E to the beginning of the first century C.E. The following pericope, found in one of the fragments, lists some of the criteria for disqualifying priests from service and eating. 4Q266 fragment 5, column II, 4-14 reads:

- .4 [איש...] ...
- .5 מבני אהרון אשר ישבה לגואים [...]
- .6 לחללה בטמאתם אל יגש לעבודת [הקודש]³⁴⁶ [...]
- .7 מבית לפרוכת ואל ייכל את קודש ה[קדשים]...
- .8 איש מבני אהרון אשר ינדד לעב[וד]...

³⁴⁵ (Vermes 2012, 218). Translation in (Martinez and Tigchelaar 2000, 1287) does not differ substantively.

³⁴⁶ This word appears in (J. M. Baumgarten, *The Disqualification of Priests in 4Q Fragments of the "Damascus Document": A Specimen of the Recovery of Pre-Rabbinic Halakha* 2022, 184).

9. להורות עמו בישוד עם וגם לבגוד(ד)...[...איש מבני]
 10. אהרון אשר הפיל שמו מן האמ[<]ת ו[...להתהלך]
 11. בשרירות לבו לאכול מן הקודש[...]
 12. מישראל את עצת בני אהרון המ[...]
 13. את האוכל {וחבו} וחב בדם [...]
 14. ביהש {י}ם³⁴⁷

These verses are translated as follows, with emphases added:

Vermes ³⁴⁸	Martinez/Tigchelaar ³⁴⁹
4. [Any man]	[Anyone]
5. from among the <i>sons of Aaron who has been taken prisoner by the nations</i>	of the <i>sons of Aaron who has been a captive among the Gentiles [...]</i>
6. ... <i>to defile him with their uncleanness.</i> He shall not come close to the [holy] worship...	<i>to defile it with their impurity.</i> He should not approach the service of [...]
7. <i>Let him not eat the most holy [things]...</i>	from the house of the veil. <i>And he should not eat of the [most] holy things [...]</i>
8. Any son of Aaron who retreats to ser[ve the nations]...	Whoever of the sons of Aaron emigrates to ser[ve...]
9. to teach his people the constitution of the people and also to betray ... [Any son]	/to teach/ his people in the council of the people, and also to <betray> ... [...And whoever of the sons of]
10. of Aaron whose name has been rejected from the Truth ... [who has walked]	Aaron has allowed his to fall from the <truth> [...walking]
11. in the stubbornness of his heart, eating from the holy ...	in the stubbornness of his heart to eat of the holy [...]
12. from Israel, the Council of the sons of Aaron ...	of Israel the Council of the sons of Aaron ... [...]
13. who eats, he shall become guilty of the blood ...	he who eats shall incur the fault of the blood [...]

³⁴⁷ (Martinez and Tigchelaar 2000, 588).

³⁴⁸ (Vermes 2012, 148).

³⁴⁹ (Martinez and Tigchelaar 2000, 589).

14. in genealogy.

in their genealogy.

On the surface, §§4-7 would seem to prescribe rather straightforwardly that physical contact with Gentiles causes ritual impurity.³⁵⁰ However, later tannaitic literature addresses a parallel case where a woman in similar situation might no longer have been permitted to her husband because she was suspected of having been raped.³⁵¹ Despite the obvious differences, it is not out of the question that rape may be a concern here as well, as Gentiles may have been suspected by the sect for homosexuality.³⁵² Joseph Baumgarten suggests that the concern may have been that the priest had intercourse with a Gentile woman.³⁵³ Furthermore, no duration is given for this impurity; no prescription is provided for removing the impurity. It appears to be permanent. Gentile ritual impurity would have a time limit and prescription for purification. It would not cause a change in one's permanent status, as might sexual improprieties. As noted in the prior section, even the Gentile captive is permitted to eat the pure food after seven years. Thus, one might be able to conclude that this pericope is not referring to Gentile ritual impurity per se, but to some sort of other penalty.

Two concluding thoughts: First, Hannah Harrington notes, “over 80% of the law extant in the Scrolls concerns matters of holiness,”³⁵⁴ and Aharon Shemesh suggests that the sect's view that all those outside the sect were impure was “similar, both conceptually and in terms of its

³⁵⁰ This is the conclusion of Birenboim (Birenboim 2011, 20), who cites Baumgarten in a footnote but does not refute him.

³⁵¹ M. *Ketubot* 2:6 and 9.

³⁵² M. *ʿAvodah Zarah* 2:1 even suspects them of bestiality. See also y. *Šabbat* 1:4 3c 371:28, b. *Šabbat* 17b and b. *ʿAvodah Zarah* 36b.

³⁵³ (J. M. Baumgarten, *The Disqualification of Priests in 4Q Fragments of the "Damascus Document": A Specimen of the Recovery of Pre-Rabbinic Halakha* 2022, 183-189).

³⁵⁴ (Harrington, *Holiness and Law in the Dead Sea Scrolls* 2001, 127).

practical outcome, to the category of ‘impurity of the Gentiles.’”³⁵⁵ Remarkably, however, as one goes through their writings in our hands, there is no explicit mention of Gentile impurity.³⁵⁶

Second: nowhere in the collection of Dead Sea sect documents known today is there mention of, let alone a prohibition against, eating food prepared by a Gentile. It might be argued that this is self-understood, because of concern over purity whereby even a Jew is not permitted to touch the food of the community. However, the sect did interact with the Gentiles and traded with them.³⁵⁷ And, despite the sect’s severity of concern over purity, there is no admonition to avoid physical contact as might have been expected.

Philo

Philo was an Alexandrian Jew who flourished in the first half of the first century C.E. and wrote extensively about Jewish history and law. Philo reported no problem regarding Jewish commensality with Gentiles. To the contrary, he reports, as does the *Letter of Aristeas* above, on the Bible-knowledgeable Jews who came to Alexandria from ‘Ereṣ Israel in order to translate the Bible into Greek—what became known as the Septuagint—at the behest of Ptolemy Philadelphus. He clearly writes in *Moses* II:33 that they ate with the Gentiles.

When they arrived in the king’s court they were hospitably received by the king; and
*while they feasted...*³⁵⁸ [emphasis added]

He further reports in *Moses* II:41–42 that Jews and Gentiles assembled annually at a feast to celebrate the translation of the Torah into Greek:

³⁵⁵ (Shemesh, *The Origins of the Laws of Separatism: Qumran Literature and Rabbinic Halacha* 1997, 233) and (G. Alon, *Studies in Jewish History* [Hebrew], Volume 1 1957, 121-147).

³⁵⁶ See (L. H. Schiffman, *Non-Jews in the Dead Sea Scrolls* 1997).

³⁵⁷ (Vermes 2012, 35).

³⁵⁸ (Yonge 1993, 493).

...even to this very day, there is *every year* a solemn assembly held and *a festival celebrated in the island of Pharos* [where the Septuagint was created], *to which not only the Jews but a great number of persons of other nations* sail across, reverencing the place in which the first light of interpretation shone forth...³⁵⁹ [emphasis added]

Had there been a commonly perceived 'Ereş Israel prohibition of eating Gentile-prepared food, there is no reason to believe that Alexandrians, though situated in Diaspora, would have served Gentile food to their visitors from 'Ereş Israel.

Josephus

Josephus authored several books during the first century C.E. *Jewish War*, now referred to as the *Judean War*, was written at the end of Roman Emperor Vespasian's reign, between 75 and 79 C.E.³⁶⁰ It was meant to document the causes and conduct of the Great Rebellion of 66-70 C.E. *Antiquities of the Jews*, completed in 93 or 94 C.E., portrays a history of the Jews. *Against Apion* was written after *Antiquities* to respond to anti-Jewish slander of Greek writers, including Apion. *Life*, Josephus's autobiography, cannot be dated exactly but is thought to have been written towards the end of his life. It mostly concerns Josephus's career from 66-67 C.E.³⁶¹

In three places, Josephus records that certain Jews refused to use Gentile olive oil. The key questions to be addressed here are: who refrained, when, and why?

In *The Jewish War*, Josephus describes a ploy by John of Gischala at around the time of the Revolt of 66 C.E. to overcharge the Jews for "acceptable" oil. *War* II:591 reads, according to two translations, with emphases added:

³⁵⁹ (Yonge 1993, 494).

³⁶⁰ (D. R. Schwartz, *Reading the First Century: On Reading Josephus and Studying Jewish History of the First Century* 2014, 1) and (Mason, *Flavius Josephus, Judean War 2: Translation and Commentary* 2008).

³⁶¹ See (Schalit 1972).

Thackery³⁶²

He [John of Gischala] next contrived to play a very crafty trick; with the avowed object of protecting all the Jews of Syria from the use of oil not supplied by their own countrymen, he sought and obtained permission to deliver it to them at the frontier.

Mason³⁶³

Then, having concocted a very *slippery charade*,³⁶⁴ according to which all the Judeans of Syria should avoid using olive oil unless it had been dispensed by a compatriot, he [John of Gischala] applied [for the right] to send it to them at the frontier.

Josephus repeats this story in *Life* 74-75, which reads as follows according to two translations, with emphases added:

Thackery³⁶⁵

74. This knavish trick John [of Gischala] followed up with a second. He stated that the Jewish inhabitants of Caesarea Philippi, having, by the king's order, been shut up by Modius, his viceroy, and *having no pure oil for their personal use*,³⁶⁷ had sent a request to him to see that they were supplied with this commodity, lest they should be driven to violate their legal ordinances by resort to Grecian oil.

Mason³⁶⁶

Ioannes [John of Gischala] complemented this with a second bit of mischief. For he claimed that the Judeans living in Philip's Caesarea, who had been confined at the order of the king—by Modius, who was administering the [royal] power—since they had no pure olive oil that they could use, had sent to him [Ioannes] requesting that he make provision by furnishing a solution for them, so that they would not violate the legal standards by having to use the Greek kind [of oil].

³⁶² (Josephus, *The Jewish War: Books 1-2* (Loeb) 1927, II:591, 549-551).

³⁶³ (Mason, *Flavius Josephus, Judean War 2: Translation and Commentary* 2008, 397).

³⁶⁴ Or "bit of staging." (Mason, *Flavius Josephus, Judean War 2: Translation and Commentary* 2008, 397 n3546).

³⁶⁵ (Josephus, *The Life. Against Apion*. (Loeb) 1926, *Life* 74-75, 31).

³⁶⁶ (Mason, *Flavius Josephus, Life of Josephus: Translation and Commentary* 2001, 63-64).

³⁶⁷ (Goodman, *Kosher Olive Oil in Antiquity* 2007, 190) translates this: with which to anoint themselves.

75. John's motive in making this assertion was not piety but profiteering of the most barefaced description; for he knew that at Caesarea two pints were sold for one drachm, whereas at Gischala eighty pints could be had for four drachms. So, he sent off all the oil in the place, having ostensibly obtained my authority to do so.
- Yet Ioannes was not saying these things in the service of piety, but on account of the most blatant, disgusting greed. Knowing that among those in Caesarea [Philippi] one would sell two pitchers for one drachma, whereas in Gischala it was eighty pitchers for four drachmas, he sent for as much oil as was there! He had ostensibly received authority from me.

Finally, in *Antiquities*, Josephus mentions Jews refraining from “foreign oil” in his declaration that Seleucus Nicator granted citizenship to the Jews in Antioch and elsewhere, just like Macedonians and Greeks. *Antiquities* 12:120 reads, with emphasis added:

- I. Seleucus Nicator granted them citizenship in the cities which he founded in Asia and Lower Syria and in his capital, Antioch, itself,
- II. and declared them to have equal privileges with the Macedonians and Greeks who were settled in these cities, so that this citizenship of theirs remains to this very day;
- III. and the proof of this is the fact that he [Seleucus Nicator] gave orders that those Jews who were unwilling to use foreign oil should receive a fixed sum of money from the gymnasiarchs (*gymnasiárchon*) to pay for their own kind of oil.³⁶⁸

These three pericopes, taken together, appear to imply an age-old, widespread practice of not using Gentile olive oil. One might be tempted to argue that the reason for this abstinence was fear of Gentile ritual impurity or a desire for social separation. Upon closer analysis, however, the texts do not yield such unassailable inferences.

First, in *War* above, the concern appears to be not who made the oil but who supplied or dispensed it. Mason writes that Josephus presents it entirely as a ruse on John’s part, his language

³⁶⁸ (Josephus, *Jewish Antiquities* XII-XIV 1957, XII:120, 61). Mason translation not available for *Antiquities* 12.

implying that there was no such need to buy from a compatriot.³⁶⁹ On the other hand, the extract from *Antiquities* would seem to imply a longstanding Jewish practice of not using Gentile oil, as Seleucus Nicator, a Macedonian Greek general and one of the successors of Alexander the Great, ruled from c. 305 to 281 B.C.E. Indeed, Gedalyahu Alon attributes the abstention described by Josephus to this much earlier period.³⁷⁰ But a plausible alternative reading can be suggested. Josephus's narrative seeks to prove that equal Jewish rights of citizenship remain "to this very day." He proves this by pointing to the payment that the Jews *currently* received to buy "Jewish" oil. While he claims that Seleucus Nicator started this payment, this may not be conclusive. Martin Goodman, for example, questions this attribution, because Josephus "liked to claim the earliest possible origin of all Jewish privileges."³⁷¹ Goodman suggests that in fact a later Seleucid monarch was responsible, although he does not definitively identify a particular ruler. So, it is not clear when this practice may have started. Perhaps Josephus is just describing the situation in the late Second Temple period during the war on Vespasian, after an enactment of the rabbinic edict on Gentile oil around 66 C.E., which will be discussed in later chapters, which does not necessarily imply an earlier, common practice.

Regarding the pervasiveness of the practice, *Antiquities* mentions "*those Jews* who were unwilling to use foreign oil." [emphasis added] In other words, it was not all Jews who were unwilling to use the oil. Furthermore, as Steve Mason points out, there is a difference between the story as told in *War* and as told in *Life*.³⁷² In *War*, Josephus notes that John of Gischala claimed that "all the Judeans of Syria" avoided olive oil. In *Life*, it is only those Jews living in Caesarea

³⁶⁹ (Mason, *Flavius Josephus, Judean War 2: Translation and Commentary* 2008, 397 n3547).

³⁷⁰ (G. Alon, *Jews, Judaism, and the Classical World* 1977, 157).

³⁷¹ (Goodman, *Kosher Olive Oil in Antiquity* 2007, 277).

³⁷² (Mason, *Flavius Josephus, Judean War 2: Translation and Commentary* 2008, 397 n3547) and (Mason, *Flavius Josephus, Life of Josephus: Translation and Commentary* 2001, 63 n401).

Philippi, a settlement in the north near the source of the Jordan River. Furthermore, according to Mason's reading, this entire scheme may have been a "slippery charade," where the claim of Judeans not using Gentile oil may have been part of his ruse to obtain a monopoly on oil provision. Thus, while there would likely be some element of veracity regarding Jewish avoidance of Gentile oil in order for the ruse to have been credible, one cannot conclude the extent of such a practice from Josephus. Indeed, the ban was later cancelled entirely, as attested to by the Talmudim, because the people were not abiding by it. While historical statements in the Talmudim cannot always be taken at face value and the timeframes of the Talmudim were redacted well after Josephus's time, the fact that an edict was annulled by the rabbis themselves due to lack of public adherence makes plausible an assessment that adherence to this practice was sparse.³⁷³

Finally, Martin Goodman suggests that the Jews may have avoided using Gentile oil due to a "pervasive religious instinct" that had no biblical exegesis or ruling of a religious authority. He suggests that this food taboo may have been an effort to separate Jew from Gentile.³⁷⁴ However, a "religious instinct" underpinning may not be as straightforward as it appears, since, as discussed above, this was not necessarily a widespread practice. Another explanation for this abstention, suggested by Sidney Hoenig, would be the fear that the oil had been previously used in idol worship.³⁷⁵ Such an interpretation would also support Goodman's alternate translation of Josephus's *Life* 74 as "pure oil with which to anoint themselves" rather than "pure oil for their personal use."³⁷⁶ For, only the severity of the fear of idolatrous use would likely have raised the

³⁷³ M. *Avodah Zarah* 2:6; y. *Šabbat* 1:4 3d 372:16-36 and 373:14-15; y. *Avodah Zarah* 2:9 41d 1391:35-1392:3; and b. *Avodah Zarah* 36a. This will be discussed further in the chapters on Yerushalmi and the Bavli sources.

³⁷⁴ (Goodman, *Kosher Olive Oil in Antiquity* 2007, 199-200).

³⁷⁵ (Hoenig, *Oil and Pagan Defilement* 1970).

³⁷⁶ (Goodman, *Kosher Olive Oil in Antiquity* 2007, 190).

level of avoidance to that of even deriving benefit from it. This interpretation would also make sense in the context offered in *Antiquities* of lubricating oneself in the gymnasium.³⁷⁷

One might wish to make the case, based on the claim in *Life* regarding the unavailability of “pure oil,” that the concern is Gentile impurity. This is a possible interpretation. However, it is also possible that any practice of abstaining from Gentile oil, to the extent that it existed, was due to fear of the admixture of impermissible ingredients in the oil and characterized as a concern over “pure oil.”³⁷⁸

In a different vein, in *Jewish War* II:150 Josephus describes the practices of the Essenes (emphases added):

Thackery³⁷⁹

They are divided, according to the duration of their discipline, into four grades; and so far are the junior members inferior to the seniors, that a senior if but touched by a junior, must take a bath, *as after contact with an alien.*

Mason³⁸⁰

They are divided into four classes, according to their duration in the training, and the later-joiners are so inferior to the earlier-joiners that if they should touch them, the latter wash themselves off *as if they have mingled with a foreigner.*

That is, if a senior member of the Essene sect touched a junior/late-joiner member, who was viewed as inferior, he would have to purify himself through immersion as if he “were in contact with an alien” according to Thackery or “mingled with a foreigner” according to Mason. This expression might seem to imply a ritual impurity caused by contacting or merely mixing with

³⁷⁷ Such a distinction is made in m. *Avodah Zarah* 2:6, which forbids eating of Gentile oil but permits deriving benefit from it. The gymnasium context, however, seems odd: why would a Jew who violated the common opprobrium against attending a Hellenistic gymnasium adhere to a stringency of not only refraining from eating the oil but of not even deriving benefit from it?

³⁷⁸ This hypothesis is articulated further in the discussion on m. *Avodah Zarah* 2:6 in the next chapter.

³⁷⁹ (Josephus, *The Jewish War: Books 1-2* (Loeb) 1927, II:150, 381).

³⁸⁰ (Mason, *Flavius Josephus, Judean War 2: Translation and Commentary* 2008, 120).

Gentiles. However, the expression is ambiguous. First, though “alien” and “foreigner” in the Jewish-Roman/Christian context would likely refer to a “Gentile,” in the context of the sect, this is not necessarily the case but may merely be referring to anyone alien to it, i.e., outside the sect.³⁸¹

The Essenes believed that Jews outside the sect were aliens regarding purity, as can be seen in Josephus’s description of the initiation process into the sect, wherein a Jewish inductee is not permitted for three years to touch the sect’s food. He first must undergo a training process and, even then, according to Josephus, “before he may touch the common food, he is made to swear tremendous oaths.”³⁸²

In *Antiquities*, Josephus writes that Hyrcanus beseeched Dolabella, then Governor of Asia Minor, to release Jews from the obligation of military service. He claimed, as recorded in Dolabella’s letter in *Antiquities* XIV:223-224 announcing this release, that:

his co-religionists cannot undertake military service because they may not bear arms or march on the days of the Sabbath; *nor can they obtain the native foods* to which they are accustomed.³⁸³ [emphasis added]

This pericope does not indicate why Hyrcanus’s co-religionists insisted on native foods. The issue here could simply be one of impermissible ingredients.

³⁸¹ The word translated here appears in Greek as *allophylo*. (Danker, *The Concise Greek-English Dictionary of the New Testament* 2009, 17) translates *allophyton* as “foreign” and adds that as a noun in the New Testament it equals the opposite of Israelites and therefore means “outsider, Gentile.” In (Danker, *A Greek-English Lexicon of the New Testament and Other Early Christian Literature* (Fourth Edition) 2021, 42) it is translated as “alien, foreign, hence from the Judean perspective it equals Gentiles, outsiders.” While these definitions imply a religious connotation in the New Testament, Adi Ophir and Ishay Rosen-Zvi (Ophir and Rosen-Zvi 2020, 132) suggest that in Josephus’s writings the term connotes “any kind of foreignness: geographic, religious, political, and ethnic.” Marcus translates the term in *Antiquities* 12:23 as “countrymen,” and Thackeray translates it in *War* II:64 as “foreigner” to contrast with “compatriot.” Both have political rather than religious overtones. And, though he does attribute a religious connotation to the term in other of Josephus’s writings, Daniel Schwartz, in an email to me October 18, 2023, suggests that, in the present context, it likely refers to “non-Essene.”

³⁸² (Josephus, *The Jewish War: Books 1-2* (Loeb) 1927, II:139, 377).

³⁸³ (Josephus, *Jewish Antiquities* XII-XIV 1957, XIV:223-224, 567). Mason’s translation of *Antiquities* 14 is not available.

In *Life*, Josephus writes that his priestly acquaintances captive in Rome subsisted on only figs and nuts. *Life* 13-14 reads:

- I. Soon after I had completed my twenty-sixth year it fell to my lot to go up to Rome for the reason which I will proceed to relate.
- II. At the time when Felix was procurator of Judaea, certain priests of my acquaintance, very excellent men, were on a slight and trifling charge sent by him in bonds to Rome to render an account to Caesar.
- III. I was anxious to discover some means of delivering these men, more especially as I learnt that, even in affliction,
- IV. they had not forgotten the pious practices of religion and *supported themselves on figs and nuts*.³⁸⁴ [emphasis added]

It can be argued that, had the priests been worried about purity rules even in captivity in Rome far away from their cultic practice, they would not have eaten figs and nuts either, as these too could be deemed susceptible to ritual impurity. Thus, it would appear that here too, these priests may have been worried about the ingredients in the foods they were being served or that their foods may have been previously used in idol worship.

New Testament Sources

The New Testament often provides snapshots of 'Ereṣ Israel in the middle of the first century, approximately the same period in which the rabbinic/tannaitic movement began to arise. However, it is important to note Paula Fredriksen's caveat that these writers were not writing history, certainly not as our modern discipline is conceived. Rather, their specific purpose was to persuade hearers about the messianic identity of their protagonist.³⁸⁵ That said, the writings contain several

³⁸⁴ (Josephus, *The Life. Against Apion*. (Loeb) 1926, *Life*:13-14, 7). Mason's translation (Mason, *Flavius Josephus, Life of Josephus: Translation and Commentary* 2001, 22-23) is substantively the same.

³⁸⁵ (Fredriksen, *When Christians were Jews: The First Generation* 2018, 117).

seeming references to Jesus-believing Jews refraining from eating with Gentiles. A number of these are analyzed below.

Letter to the Galatians

In his *Letter to the Galatians*, c. 49 C.E., Paul chastises Peter/Cephas in Antioch for not eating in Gentile homes. Apparently, Peter had stopped doing so when James (Jesus’s brother who led the movement from Jerusalem in mid-first century C.E.) sent a delegation from Jerusalem to Antioch, and Peter was afraid to be seen eating with the Gentiles. Paul complained to the Galatians regarding Peter’s about-face. *Galatians 2:12* reads:

For until certain people came from James, he used to eat with the Gentiles. But after they came, he drew back and kept himself separate for fear of the circumcision faction.

The assembly led by James in Jerusalem at this time was still insisting on circumcision of Gentiles who converted to Christianity. Hence, Paul’s characterization of them as the “circumcision faction.” Paul was querying whether Peter felt that his mission to the Gentiles could meet only in Jewish homes.³⁸⁶ The verse above could be read that the Jerusalem assembly disapproved of eating with the Gentiles per se. But this is not a necessary reading. The verse can also be read that the concern of the “circumcision faction,” which still adhered to Jewish law, was Peter’s eating with the Gentiles *due to their non-permissible foods*.³⁸⁷

Matthew 9, Mark 2, and Luke 5

Most scholars agree that the *Gospel of Mark* was written either immediately before or just after the Jewish War of 66-70 C.E. and conquest of Jerusalem.³⁸⁸ The *Gospels of Matthew and John*

³⁸⁶ (Fredriksen 2018, 158).

³⁸⁷ As Shaye Cohen notes in his gloss on this verse (S. J. Cohen, *Galatians: Introduction and Annotation* 2011, 336), Paul interprets Peter’s refusal to dine with Gentile Christians as an effort to compel them to observe Torah Law.

³⁸⁸ (Wilson 1995, 36) and (Fredriksen, *When Christians were Jews: The First Generation* 2018, 86).

were perhaps at least two generations removed from Jesus of Nazareth's mission and at least one generation after the Roman destruction of Jerusalem. *Luke* was written perhaps in the early second century. John Gager argues that, in its present form, the *Gospel of Luke* appears to have been written for Gentile Christians to reflect their special concerns.³⁸⁹ The following story about Jesus is recounted in the three synoptic Gospels: *Matthew*, *Mark*, and *Luke*.³⁹⁰

Matthew 9:10-11 read:

(10) And as he sat³⁹¹ at dinner in the house, many tax collectors and sinners came and were sitting³⁹² with him and his disciples.

(11) When the Pharisees saw this, they said to his disciples, "Why does your teacher eat with tax collectors and sinners?"

Mark 2:15-16 read:

(15) And as he sat³⁹³ at dinner in Levi's³⁹⁴ house, many tax collectors and sinners were also sitting³⁹⁵ with Jesus and his disciples—for there were many who followed him.

(16) When the scribes of³⁹⁶ the Pharisees saw that he was eating with sinners and tax collectors, they said to his disciples, "why does he eat³⁹⁷ with tax collectors and with sinners?"

Luke 5:29-30 read:

(29) Then Levi gave a great banquet for him in his house; and there was a large crowd of tax collectors and others sitting at the table³⁹⁸ with them.

(30) The Pharisees and their scribes were complaining to his disciples, saying, "Why do you eat and drink with tax collectors and sinners?"

³⁸⁹ (Gager 1985, 141).

³⁹⁰ With thanks to Jack Lightstone for making me aware of this story.

³⁹¹ Or, reclined.

³⁹² Or, were reclining.

³⁹³ Or, reclined.

³⁹⁴ Or, his.

³⁹⁵ Or, reclining.

³⁹⁶ Other ancient sources have: and.

³⁹⁷ Other ancient sources add: and drink.

³⁹⁸ Or, reclining

In this story, the scribes and Pharisees accuse Jesus of eating with tax collectors and sinners, seemingly impure people. Some might understand this phrase as referring to Gentiles. But these tax collectors (including Levi³⁹⁹) and sinners were Jewish, as Jesus focused his mission on Jews, not Gentiles.⁴⁰⁰ So, the issue is not Gentile uncleanness or separation from the Gentiles, but simply contracting impurity while eating with Jews who were likely ritually impure.

Mark 1 and Matthew 3

The *Gospel of Mark* describes John the Baptist's limited diet when he was in the wilderness, after proclaiming a baptism of repentance for the forgiveness of sins. *Mark* 1:6 reads:

Now John was clothed with camel's hair, with a leather belt around his waist, and he ate locusts and wild honey.⁴⁰¹

In a near, but not exact, parallel, *Matthew* 3:4 reads:

Now John wore clothing of camel's hair with a leather belt around his waist, and his food was locusts and wild honey.

While the verse in *Mark* implies that the Baptist's diet included locusts and wild honey, the verse in *Matthew* implies that John's entire diet consisted of locusts and wild honey. The relevant phrases offer no clue, however, as to why John restricted himself to this diet.

Albert Baumgarten suggests that John the Baptist "alienated" other Jews by not eating their prepared foods.⁴⁰² Similarly, Ernst Lohmeyer seems to imply that John was specifically avoiding

³⁹⁹ *Luke* 5:27.

⁴⁰⁰ Also, as Lawrence Wills notes (Wills, *Mark: Introduction and Annotation* 2011, 64), these tax collectors were low-level functionaries responsible for local duties and tolls. In some cases, they controlled local monopolies, such as the sale of salt. In both rabbinic and Christian texts, tax collectors are depicted as morally questionable, unsavory types. In the Gospels, they serve as foils to the Pharisees, who view them as lax about observance of the law. I.e., they were Jews.

⁴⁰¹ *Mark* 1:6. See parallel in *Matthew* 3:4.

⁴⁰² (A. I. Baumgarten, *Ancient Jewish Sectarianism* 2020, 503).

meats stemming from ritual slaughtering in the Jerusalem Temple.⁴⁰³ Other scholars either see nothing unique about this diet or attribute it to one of several possible motivations, including asceticism, vegetarianism, a desire to eat only “natural” food, a desire to maintain purity, or the influence of the Qumranites.⁴⁰⁴

James Kelhoffer presents convincing arguments against all of these interpretations. Rather, he suggests, based on various earlier and contemporaneous sources, that locusts and wild honey were foods readily available to John in the wilderness. According to Kelhoffer’s reading of *Mark*, these items were only part of John’s diet. *Mark* mentions them to bolster the point the John was indeed in the wilderness, tying his presence there to the prediction in Isaiah 40:3⁴⁰⁵ of a wilderness herald of the Messiah, and thus confirming his credentials to baptize Jesus.⁴⁰⁶ *Matthew*, on the other hand, assumes John’s presence in the wilderness and rather seeks “to bring John’s credentials into line with other renown Judeans who had survived entirely on wilderness provisions. These included Isaiah and other prophets who dwelt “on a mountain in a desert place.” As *Martyrdom and Ascension of Isaiah* 2:11 reads:

And they had nothing to eat except wild herbs (which) they gathered from the mountains and when they had cooked (them), they ate (them) with Isaiah the prophet. And they dwelt on the mountains and on the hills for two years of days.⁴⁰⁷

They also included Judas Maccabeus. As cited earlier, *II Maccabees* 5:27 reads:

⁴⁰³ See (Kelhoffer 2005, 21-24).

⁴⁰⁴ See (Kelhoffer 2005, 12-35) for a survey of scholarship regarding John’s diet.

⁴⁰⁵ “Hark! One calleth: ‘Clear ye in the wilderness the way of the Lord.’”

⁴⁰⁶ (Kelhoffer 2005, 132).

⁴⁰⁷ (Knibb 1983, 158).

But Judas Maccabeus, with about nine others, got away to the wilderness, and kept himself and his companions alive in the mountains as wild animals do; *they continued to live on what grew wild, so that they might not share in the defilement.*⁴⁰⁸ [emphasis added]

And, finally, Josephus, who chose to study closely the practices of the Pharisees, Sadducees, and Essenes describes in *Life* 11-12:

On hearing of one named Bannus, who dwelt in the wilderness, wearing only such clothing as trees provided, feeding on such things as grew of themselves, and using frequent ablutions of cold water, by day and night, for purity's sake, I became his devoted disciple. With him I lived for three years...⁴⁰⁹

Nothing in the foregoing suggests that John ate his diet in order to distance himself from Gentiles. And, if purity were his concern, there were certainly other pure foods that he could have eaten. These could have included fish from the Jordan River, in which he baptized himself regularly.

Acts 10 and 11

Acts is believed to have been written by Luke toward the end of the first or the beginning of the second century.⁴¹⁰ *Acts* 10 describes Peter's visit to the home of the Roman centurion Cornelius in Caesarea. While still in Jaffa before leaving for Caesarea, Peter fell into a trance and had a vision in which a large sheet came down from the heavens. In the sheet were all kinds of four-footed creatures, fowl, and reptiles. He heard a voice saying, "Get up, Peter; kill and eat."⁴¹¹ Peter protested that he could by no means do so, since he had never eaten anything "profane or unclean." The voice said to him, "What God has made clean, you must not call profane."⁴¹² This happened in his dream three times, and the sheet was suddenly withdrawn up to heaven. Most New Testament

⁴⁰⁸ (Regev, 2 Maccabees 2020, 265).

⁴⁰⁹ (Josephus, *The Life. Against Apion.* (Loeb) 1926, 7).

⁴¹⁰ (Fredriksen, *When Christians were Jews: The First Generation* 2018, 23 and 86).

⁴¹¹ *Acts* 10:13.

⁴¹² *Acts* 10:15.

scholars conclude that the vision was to be understood as canceling the biblical dietary law requirements for Christians.

However, when Peter arrives in Caesarea, he seems to apply the permission in the dream differently. As *Acts* 10:28 puts it, Peter says to his host, Cornelius, and the guests who had joined him:

You yourselves know that *it is unlawful for a Jew to associate with or to visit a Gentile*; but God has shown me that I should not call anyone profane or unclean. [emphasis added]

This passage seemingly indicates an accepted practice of Jews not to “associate with or visit” Gentiles. But one must use great caution in extracting conclusions from this passage. The term “unlawful” is ambiguous, certainly if referring to Jewish law, as there was no standardized Jewish law at the time. Furthermore, this single text would be unique regarding prohibiting “visiting” a Gentile.⁴¹³

The actual issue may have been eating, not visiting. Peter after all was speaking to a gathering of elite Roman Gentiles. As is well documented, the Romans during that period misinterpreted Jewish behavior owing to their food restrictions and saw Jews as misanthropes who were not permitted to associate with Gentiles.⁴¹⁴ Peter may merely have been appealing to the perceptions of his audience, even though the facts were otherwise. Since *Acts* was geared toward a Gentile reader, rather than Jewish one, the author may have been explaining the event in terms his readers could relate to. Alternatively, the author of *Acts* may himself not have been familiar with the nuances of why Jews did not eat with Gentiles and put these words in Peter’s mouth.

⁴¹³ Indeed, later rabbinic literature reports how Rabbi Gamliel, who likely lived at around this very time, went to a Roman bath in Acre, where even an image of Aphrodite was present. (m. *Avodah Zarah* 3:4). Elsewhere (m. *Avodah Zarah* 2:1), a Jew is admonished not to remain alone with a Gentile for fear of molestation or murder, but not for impurity reasons.

⁴¹⁴ See Chapter 9 on Perceptions in Tannaitic *’Ereṣ* Israel.

Furthermore, *Acts* 11:2 itself reports that, when Peter returned to Jerusalem after meeting with Cornelius, “the circumcised believers” criticized him, saying, “why did you go to uncircumcised men *and eat with them?*” [emphasis added] The circumcised believers in *Acts* 11 protest Peter’s having *eaten* with the Gentiles in their home, not just visiting with them. Eating, then, was a key concern, rather than the purity of the Gentiles or a general prohibition against associating with them. And the concern about eating may well have been that the Gentiles incorporated prohibited foods in some manner.

A final possible interpretation is that there may in fact have been a *temporal* “political” ban on eating with Romans and their allies rather than “religious” ban on eating with Gentiles. Israel Ben-Shalom has asserted that precisely such a ban was enacted shortly before the Destruction.⁴¹⁵ Cornelius was not a random Roman, but a centurion, a military commander; and he did not live in an anonymous village, but in the very seat of the Roman government—Caesarea. So, Peter’s visit would have carried significant import and may indeed have been a major statement that went against the prevailing public sentiment. Thus, Peter may have been referring to this ban when introducing himself to Cornelius and this may be why he was queried harshly about his actions when he returned to Jerusalem.

Conclusion Regarding Second Temple and Earlier Literature

The foregoing discussion of Second Temple and earlier literature demonstrated that there is no biblical prohibition against eating Gentile food per se, other than food that was used in idolatrous worship or impermissible foods. *Nehemiah* shows clearly that Jews bought Gentile foods, presumably for consumption. Daniel’s abstention from the food provided by Nebuchadnezzar does

⁴¹⁵ See the earlier chapter on Prior Research.

not need to be, and in some senses may not be, explained in terms of avoiding ritual or moral impurity or general social separation. In Apocryphal sources, neither Tobit's nor Judith's avoidance of Gentile food need to be explained as avoidance of Gentile impurity. Food avoidance in *I Maccabees* was clearly of biblically prohibited foods. Judas Maccabeus's diet in *II Maccabees* and the separateness of Jews' eating described in *III Maccabees* may well have also been due to the same concern. In the Pseudepigrapha, *Jubilees*'s description of Abraham's admonishment to Jacob not to eat with Gentiles may have, at most, alluded to concern over moral impurity from socializing with Gentiles, but may have in fact been associated with concern about eating idolatrous foods. Its admonishment regarding intermarriage may be due to concern over genealogical impurity, to use Hayes's terminology, rather than anything else. *The Letter of Aristeas* shows that not only Diaspora Jews, but 'Ereṣ Israel Jews as well, did eat Gentile food, even that prepared by Gentile staff. (Philo later describes similar events.) In the Dead Sea Scrolls in our possession, strikingly, despite the sect's obsession with purity there is no explicit mention of Gentile impurity or of a prohibition against eating Gentile foods. All allusions to "alien" impurity can be ascribed to Jews outside the Dead Sea sect. Not residing near a Gentile is prohibited *only* on the Sabbath, when presumably the Gentile's activities would disturb the peace of the sectarians' sabbath. Josephus's descriptions of a prohibition on Gentile oil can be explained as a not-widely-accepted practice, where the concern may have been its use in idol worship. His assertion that Essenes who came in contact with an "alien" or "foreigner" may in fact be referring to a Jew not in the sect, rather than to a Gentile. Finally, in the New Testament, the story of Jesus eating with impure tax collectors and sinners likely refers to Jews, not Gentiles. John the Baptist's diet in the wilderness does not necessarily point to a desire to distance himself from Gentiles. And, despite the words put in his mouth in *Acts*, Peter's concern when visiting Cornelius and the criticism he

received about it when he returned to Jerusalem seems more likely to have been concern over the ingredients in the food rather than over a mere visit.

This is not to say that there was no aversion to social mixing with Gentiles during this period. Rather, it is to demonstrate, first, that there is *prima facie* evidence of biblical prohibitions of eating certain types of food or anything used in idol worship. And it is to argue that before applying any other rationale for a food prohibition or practice against eating Gentile food or with Gentiles, one must first determine whether a reading of the text may be attributed to a fear of the admixture of biblically prohibited foods. The preceding analysis has indeed shown that all reports of avoidance of Gentile foods or mixing with Gentiles can be attributed to concerns regarding the potential admixture in the food of impermissible ingredients.⁴¹⁶ Even where such other sorts of abstention may have been reported, the practice appears not to have been widespread and cannot be construed as reflecting an accepted practice in late antiquity. Thus, in conclusion, there is no compelling basis upon which to assert that there was accepted practice in pre-tannaitic times to abstain from Gentile-produced foods due to Gentile ritual impurity, the “chef” preparer, or a desire for social separation.

⁴¹⁶ In her own inquiry into these sources, Christine Hayes (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 49) concludes as well, “Jews most likely objected to Gentile food on the grounds that it was non-kosher rather than on the grounds that it was ritually defiled by contact with Gentiles.”

5. TANNAITIC TREATMENT OF GENTILE FOODS

This chapter focuses on the treatment of the prohibitions of Gentile-produced bread, oil, and other foodstuffs in early rabbinic sources.⁴¹⁷ The first part analyzes relevant texts in Mishnah and Tosefta.⁴¹⁸ It demonstrates, as with pre-tannaitic literature, that the rationale for the tannaitic prohibitions of Gentile-produced bread, oil, and other foodstuffs in each of these texts can be understood as being based on the fear of the possible admixture of impermissible ingredients.⁴¹⁹ The second part of this chapter refutes other posited rationales, including the Gentile “chef” preparer, a desire to effect social separation between Jew and Gentile, Gentile ritual impurity, and, more generally, a concern over possible intermarriage (*mišum ḥatnut*).

Primary Mishnaic Sources

Two *mishnayot* are usually associated with the rabbinic prohibitions of Gentile bread (*pittam*), oil (*šamnam*), and cooking (*šelaqot*): m. *ʿAvodah Zarah* 2:6 and m. *Šabbat* 1:4.

⁴¹⁷ An earlier version of this analysis appears in (Raab, *Mishum Hatnut or Not: The Tannaitic Bans on Certain Gentile-Produced Foods* 2020).

⁴¹⁸ A Bar Ilan Responsa database search of variants of חתנות, אכילה, שמן, בישול, חלה עיסה, פת, לחם, חלה עיסה, שמן, בישול, אכילה, חתנות in proximity to variants of עכר"ם (כוכבים), עובד (כוכבים), נכרי, גוי, נכרי, עובד (כוכבים), עכר"ם yielded only a single relevant result in Midrash Halakhah: *Sifre Zuta (Numbers)* 15:20, s.v. *ʿarisoteikhem*. This pericope, however, parallels m. *Hallah* 3:5, which will be discussed below in that context. A few other sources in midrash have also been identified, including in *Pirquei de-Rabbi ʿEli ʿezer* and *Seder ʿEliyahu Rabbah*, which will be addressed here as well.

⁴¹⁹ While tractate *ʿAvodah Zarah* focuses primarily on idolatry, it is not extraordinary for a group of *mishnayot* to address impermissible Gentile foods, even unrelated to idolatry, as is suggested here. Several of the tractate’s *mishnayot* focus on other dos and don’ts of day-to-day coexistence with the Gentiles, enabling one to function within the Gentile world while remaining true to halakhic observance. Examples include m. *ʿAvodah Zarah* 1:7 (ban on selling dangerous animals or on building edifices that could lead to harm to Jews; but permission to build such things as bathhouses); m. *ʿAvodah Zarah* 1:8 (prohibition to sell land to Gentiles); m. *ʿAvodah Zarah* 2:1 (prohibition to be alone with a Gentile and permission to use a Gentile midwife); m. *ʿAvodah Zarah* 2:2 (prohibition to use a Gentile barber); *ʿAvodah Zarah* 4:3 (permission to enjoy Roman gardens and bathhouses, even if associated with idols); m. *ʿAvodah Zarah* 5:5 (implicit permission to eat and drink wine with the Gentile); and m. *ʿAvodah Zarah* 5:12 (how to handle implements acquired from a Gentile).

M. 'Avodah Zarah 2:6 (2:9 in Kaufmann MS)

M. 'Avodah Zarah 2:6 states:

אלו דבריו שלגוים אסורין ואין אסורין אסור הנגיה. תלב שחלבו גוי [ב] ואין ישראל רואהו והפת והשמן שלקו
ו(ה) שלקות רבי ובית דינו התירו בשמן ובכבשין שדרכן לתת בקו יין וחומץ, וטרית טרופה וציר שאין בה דגה
והחילק וקורט של חילתית ומלה סלקונטית הרי אילו אסורין ואין אסורין אסור הנגיה.

- I. The following items of Gentiles are prohibited, but the prohibition does not extend to all benefit:
- II. Milk that was milked by a Gentile without Israelite supervision,
- III. And their [*šelahen*] bread [*pat*] and oil [*šemen*]
- IV. And (the) seethed vegetables⁴²⁰ [*šelaqot*]
- V. (—Rabbi [Yehudah] and his court permitted their oil—)⁴²¹
- VI. and pickled vegetables⁴²² [*kevašin*] into which they customarily put wine or [wine] vinegar,

⁴²⁰ Oxford translates *šelaqot* here as boiled vegetables. It will be suggested later that *šelaqot* was a specific type of boiling process. Thus, “seethed” is used here instead.

⁴²¹ This clause is in parentheses because it is absent in several textual witnesses. In other witnesses, it is elsewhere in the mishnah. The clause and its placement will be discussed later in the context of the discussion of *šelaqot*.

⁴²² Oxford translates *kevašin* as “pressed preserves.” While the root *KVŠ* can indeed connote pressure, this sense does not seem applicable here where the Mishnah refers to wine or vinegar customarily being used. Thus, the translation here is “pickled.”

- VII. and minced⁴²³ *trit*-fish,⁴²⁴ and fish brine⁴²⁵ with no fish (there is no *kilbit*⁴²⁶ floating in it); and *hileq* fish,
- VIII. and drops⁴²⁷ of asafetida⁴²⁸ (*qoret šel hilitit*), and *sal-conditum*.⁴²⁹

⁴²³ Oxford translates *terufa* as “pounded” rather than minced.

⁴²⁴ W.A.L. Elmslie (Elmslie 2004 (1911), 39) writes that *trit* was a species of small fish, possibly a small kind of sardine, perhaps equivalent to Pliny’s Triton. (Pliny, Natural History: Books XXVIII-XXXII 1963, XXXII I:III:144). See also (Krauss 1929, 217), who calls it *thrissa*, a type of sardine.

⁴²⁵ Some context regarding fish sauces and their importance in Roman cuisine may help in understanding the prohibition of the fish brine and *hileq* in this mishnah and *muryas* in m. ‘*Avodah Zarah* 2:4. *Garum*, *allec* and *muria* were (fermented) fish sauces popularized by the Romans and widely consumed for about a millennium. (See also (Faas 1994, 143-146)). They were used as condiments and to preserve fish and meat. *Garum*, *allec*, and *muria* were manufactured along the Western Mediterranean and the Atlantic shores of Spain, Portugal and North Africa and were imported into ‘*Ereš* Israel. *Garum* was made from small fresh, ungutted fish to which fish intestines and gills were sometimes added. These were placed in the sun for one to three months in closed earthenware vessels, mixed with large amounts of salt to suppress bacterial putrefaction. Over the period, the fish flesh liquified. The fluid was removed and sieved to make a salty and spicy liquid for seasoning a large variety of dishes, including vegetables, fruit, meats, and fish. The quality of the product depended on the variety of fish used, on the additives, and on the specific curing process. *Garum* was a flavor enhancer, called for in almost every dish, including many sweets. Since high quality *garum* used only a single kind of fish, it called for either a labor-intensive sorting process or special fishing techniques for schools of small fish. It was sometimes mixed with wine or (wine) vinegar. Low-quality products were made of small leftover fish with no other market value, and other marine organisms, like invertebrates, could also be included in the cheap varieties. *Muria* was a salty liquid like *garum* but of lower quality. It was used for conserving vegetables, fruits, olives or fish rather than as a flavor enhancer for meals. *Allec* was the residue of *garum* after the sieving: a thick semi-liquid mash of macerated meat, scales, bones, etc. First regarded as a cheap spice, it later gained status as an expensive additive to different dishes. Pliny (Pliny, Natural History: Books XXVIII-XXXII 1963, XXXI:44:95 437) emphasized that the smaller size of the fish in the production of the *allec*, the higher quality it was, probably due to the absence of large bones which were hard to swallow. Interestingly, Pliny mentions a kind of *garum* prepared to suit Jewish rites, though he (incorrectly) claims that they were made with fish without scales, rather than with.

⁴²⁶ The Kaufman MS specifies the absence of a fish but not specifically *kilbit*. With this wording, the mishnah may be referring to a fish brine in which no fish can be seen at all. Zeev Safrai (Z. Safrai, Mishnat Eretz Yisrael: *Avodah Zarah* 2021, 288) suggests that later printed editions of the mishnah added the phrase relating to the floating *kilbit* fish. Thus, it is included in the translation here in the parentheses. The fish is understood to be a non-permissible seafood item. Safrai suggests that the correct name is *kilkid* or *kilkid*, a small fish weighing 300 to 360 grams. He further suggests that its name derives from Chalkis, a peninsula north of Athens from which these fish come. Jastrow (Jastrow n.d., 632, s.v. *kilkid*) defines it as a stickleback. Elmslie (Elmslie 2004 (1911), 39) suggests that *kilkid* is a form of herring. See also (Krauss 1929, 217).

⁴²⁷ Or, possibly, small pieces (Rambam, *Peruš ha-Mishnayot*, m. ‘*Avodah Zarah* 2:6).

⁴²⁸ Asafetida is an umbelliferous plant used, as a resin or in leaves, as a spice and for medicinal purposes. Yehuda Feliks (Y. Feliks, *Mar'ot ha-Mishnah*, Seder Zeraim 1967, 51) and (Feliks, *Ha-Tzomeach veHa-Chai u-Klei Haklout ba-Mishnah* 1985, 65) describes it as a plant whose leaves are spicy. B. ‘*Avodah Zarah* 39a explains that it is a type of vegetable or fruit that was typically cut apart with a knife that might have had animal fat residue on it. Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 290) discounts the possibility that the mishnah, in this context, refers to a plant. He understands *hilitit* to be a non-permissible fish that comes from Eilat and *qoret* as a small amount, in which it is not possible to determine the exact nature of the fish. This dispute has no direct relevance to the discussion here, but Feliks’ definition is employed because its contrast with the ensuing mishnah appears a bit more straightforward.

⁴²⁹ (Jastrow n.d., 997) s.v. *salqundrit*, basing his definition on (W. Smith 1849, s.v. *pistor*), suggests that this word is based on *salkundrii*, bakers of wheat flour. Thus, *salqundrit* is “lumpy salt (used by bakers), for which, it was believed, entrails of unclean animals were used as a condiment or to polish its surface.” Elmslie (Elmslie 2004 (1911), 39) believes that the name likely comes from the Latin *sal conditum*, which Apicius (Apicius 2009, XIII) writes was used as a remedy for indigestion and various diseases. Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 291) suggests, based on Pliny that this is salt from Kandia, the Roman name of western Crete. He adds that the reason

IX. These are prohibited, but their prohibition does not extend to all benefit.

This mishnah states that all Gentile-prepared oil, bread, and *šelaqot* are unconditionally forbidden to be eaten by Jews, but that Jews may derive benefit from them. The mishnah is silent as to the reason for these prohibitions. Given Mishnah's overall apodictic style, this is not unusual.⁴³⁰ But to develop an understanding of these and other items mentioned in this mishnah, it is important to see the context provided by the preceding *mishnayot*. These seem to strongly suggest that the concern is other than prohibiting intermingling with Gentiles.⁴³¹

M. *Avodah Zarah* 2:3 states:

אֵילֹו דְּבָרִים שְׁלֵגוּזִים אֲסוּרִין וְאֲסוּרֵן אֲסוּר הַנְּיִיָּה. הַיָּינוּ, וְהַחֹמֶץ שְׁלֵגוּזִים שֶׁהֵיָּה מִתְחִילָתוֹ יָינוּ, וְהָרֶס אֲנֶדְרָאֲנִי,⁴³²
וְעוֹרוֹת לְבוּבִין. רַבֵּן שִׁמְעוֹן בֶּן גַּמְלִיא' אָו', בְּזִמְן שֶׁהִקְרַע שְׁלוֹ עֲגוּל, אֲסוּר. וּמִשׁוּד, מוֹתֵר. וּבִשָּׁר הַנִּכְנָס לְעִבּוּדָה
נָרָה, מוֹתֵר. וְהַיּוֹצֵא, אֲסוּר, מִפְּנֵי שֶׁהוּא זָבְחֵי מֵתִים, דְּבָרֵי ר' עֲקִיבָה. הַהוֹלְכִין לְתַרְפוֹת, אֲסוּר מִלְשָׂאת וּמִלִּיתָן
עֵימָהֶן. וְהַבָּאִין מוֹתֵרִין.

- I. The following items of Gentiles are prohibited, and their prohibition extends to all benefit:
- II. The wine, or the vinegar of Gentiles that was formerly wine;
- III. Adriatic⁴³³ earthenware;

for the prohibition is that this salt may have been used in idol worship, because oil or other impermissible liquid may have been mixed in, or because it represented a cultural symbol for certain upper-class Romans. He says that the concern was not that wine may have been mixed in, for if it was, the mishnah would also prohibited deriving benefit from the salt. However, his dismissal of this possibility cannot be definitive, as the same mishnah permits deriving benefit from other items (e.g., *kevašin*) despite an explicit concern over wine. Perhaps the definition is in fact salt flavored by *conditum*, a family of spiced wines in ancient Roman and Byzantine cuisine, as described by Apicius (Apicius 2009, I:1, 45).

⁴³⁰ As Binyamin De-Vries (De-Vries 1966) as cited in (Moscovitz, *Talmudic Reasoning* 2002, 12) observes, tannaitic literature is essentially casuistic and lacks abstract concepts.

⁴³¹ Zvi Arie Steinfeld's detailed analysis of this mishnah and related rabbinic texts, while not explicitly making this same claim, provides several compelling arguments to support the fact that the prohibitions ascribed to the mishnah are related to concerns over impermissible ingredients. While he does not say so specifically and does not provide historical context to his analyses, he suggests that these prohibitions have nothing to do with *mišum hatnut*. See his (Z. A. Steinfeld, *Concerning the Prohibition Against Gentile Oil* [Hebrew] 1980) and (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 27-31 and 76 n46).

⁴³² Venice, Pissarro, JTS 15, and Paris: הדריני or הדריני. Munich 95: הדריני.

⁴³³ Per Kaufmann, this would be transliterated is Andrianic. However, Elmslie (Elmslie 2004 (1911)) says that the Mishnah refers to earthenware from the Adriatic coast. They were made of unfired clay and filled with wine, which soaked into the clay—hence their prohibition. The vessel's walls or fragments could later be soaked in water, and the wine exuding from the clay made an excellent drink.

- IV. and skins perforated at the heart—
- V. R. Shimon b. Gamliel says: “It is prohibited only when the perforation is circular. But [when it is] oblong, it is permitted.”
- VI. “Meat that is being brought in to an idol is permitted, but that which is being brought out is prohibited, because it is like ‘sacrifices to the dead,’”⁴³⁴ the words of R. Akiva.
- VII. It is prohibited to do business with those on the way to “debauchery,”⁴³⁵
- VIII. But with those returning, it is permitted.

The concern of this mishnah, made clear by §IV and §V, is idol worship, as pulling out the heart of while the animal was alive was known to be an idolatrous practice. Similarly, wine and wine vinegar are prohibited in §II out of fear that they were libated as part of idol worship.⁴³⁶ The additional food and non-food items—wine casks whose walls were designed to also transport wine and meat—and forbidden business transactions are also forbidden out of concern of idol worship. This mishnah’s stipulation of a prohibition of even deriving benefit from them is consistent with the prohibition of deriving benefit from known objects of idol worship noted in m. *‘Avodah Zarah* 5:9 and 5:10.

The next mishnah, m. *‘Avodah Zarah* 2:4 (2:4 to 2:6 in Kaufmann), states:

I. (2:4) נודות הגוים וקינקניהם⁴³⁷ ויין יש' כגוס בקו, אסורין, ואסורן אסור הנגיה, דבר' ר' מאיר. וחקמ' אמ', אין אסורן אסור הנגיה.

⁴³⁴ *Psalms* 106:28 referring to the Israelites’ offerings to *Ba‘al-Pe‘or* (*Numbers* 25:1-2).

⁴³⁵ (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022, 688) notes that debauchery “is understood by the Talmudim to an abusive term for an idolatrous market or festival. The prohibition of transactions with those on their way to such a marketplace may be compared to...the prohibition of enabling or motivating idolatry.”

⁴³⁶ Christine Hayes points out in her gloss on this mishnah (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022, III:687), “Wine is prohibited lest it had been offered as a libation to a foreign deity, and vinegar that was formerly wine in the possession of a non-Jew is prohibited for the same reason,” as it may have been offered while it was yet wine.

⁴³⁷ In the Kaufmann MS, there is a deleted yod (י) between the second qof (ק) and nun (נ).

.II (2:5 in Kaufmann) המורייס והגבינה ותינניקי שלגזים אסורין, ואיסורן איסור הנגיה, דב' ר' מאיר.
ותקמ' אומ', אין איסורן איסור הנגיה.⁴³⁸

.III (2:6 in Kaufmann) התרצנים והזגין⁴³⁹ שלגזים אסורין, ואיסורן אסור הנגיה, דב' ר' מאיר. ותק' אומ',
אין אסורן אסור הנגיה.

- I. (2:4) “Skin bottles and jars of Gentiles, and the wine of an Israelite that has been placed in them—
- II. “Are prohibited, and the prohibition extends to all benefit,” the words of R. Meir.⁴⁴⁰
- III. But the Sages say: “Their prohibition does not extend to all benefit.”
- IV. (2:5 in Kaufmann) “The *muryas*⁴⁴¹ and Bithynian cheese⁴⁴² of Gentiles are prohibited, and their prohibition extends to all benefit,” the words of R. Meir.
- V. But the Sages say, “Their prohibition does not extend to all benefit.”
- VI. (2:6 in Kaufmann) “The grape pits and grape skins of Gentiles are prohibited, and their prohibition extends to all benefit,” the words of R. Meir.
- VII. But the Sages say: “The prohibition of them does not extend to deriving benefit from them.”⁴⁴³

In this mishnah too, the concerns in §I (wineskin flasks and casks) and §VI (grape pits and skins) appear to relate to the prohibition of idolatrous libations. The Sages seemingly disagree with R. Meir as to whether the degree of associated concern is sufficient to warrant extending the

⁴³⁸ §§IV-V appear in the Kaufmann manuscript at the bottom of the column as an editorial insertion and are labeled, as above, mishnah 2:5. §§VI-VII are labeled as mishnah 2:6. The Cambridge MS has the same order and mishnah labeling as Kaufmann. However, it does not mention the Sages’ position in any of the three cases, and attributes the prohibition on benefit to R. Meir only in 2:6. In other textual witnesses, §VI follows §III and all seven clauses above form a single mishnah, labeled 2:4.

⁴³⁹ In the Kaufmann MS, there is a deleted vav (ו) between the zayin (ז) and the gimmel (ג).

⁴⁴⁰ Oxford (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022) does not include the phrase “the words of R. Meir” here.

⁴⁴¹ This is likely *muria* in Latin or *muries*, which is either fish brine used as a table sauce (Dalby 2013, pp 156-157), (Cotton, Lernau and Goren 1996), (Jastrow, *A Dictionary*, 750), and (Berdowski 2008) or a chopped fish food preserved in brine (Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Third Edition) 2017, 323). See footnote above on *hileq* in mishnah 2:6. It too sometimes contains wine or vinegar.

⁴⁴² The text in the Kaufmann and Cambridge manuscripts is, as above, *weha-gevinah we-tinyaqi* (והגבינה ותינניקי), and the cheese and the *tinyaqi*, seemingly two separate food items. Other witnesses have this as *u-gevinat beit unyaki* (והגבינת בית אונניקי), and the cheeses of Beit Unyaki. Oxford translates the phrase as Bythinian cheese. This translation is adopted here. See (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 243-246) for an extended discussion of the geographic origin of this cheese.

⁴⁴³ In her translation of the mishnah, Christine Hayes (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022) adopts an alternate text: “But the Sages say: They are prohibited if moist but permitted if dry.” At the same time, she notes the text as translated here and suggests that it should perhaps be the preferred text. This would appear to be the case, as the words of the Sages are consistent with the words elsewhere in the mishnah.

prohibition to deriving benefit from the item. It would thus appear that in §IV the possibility of the admixture of idolatrous wine is also the concern regarding fish brine, with Bithynian cheese also being prohibited based on idolatry grounds. In short, the concerns in the foregoing mishnayot regarding Gentile food prohibitions relate to either use in idolatrous worship or, in the case of the fish brine and Bithynian cheese, the inclusion of idolatrous ingredients.

Returning now to m. *ʿAvodah Zarah* 2:6 itself, in §II, the fear regarding unwatched milk is that the Gentile may have mixed in milk from a non-permitted animal.⁴⁴⁴ §VI is explicit that the concern is idolatrous wine or wine vinegar. In §VII, the problem with minced fish is that it is hard to tell whether the fish is permitted.⁴⁴⁵ Similarly, without the sign indicated by the mishnah, a floating (*kilbit*) fish, one cannot tell if the brine was made of permitted fish.⁴⁴⁶ In §VIII, a small amount of asafetida appears to be prohibited because it is not possible to be sure if it is permissible.⁴⁴⁷ The concern regarding *sal-conditum* too appears to be one of impermissible ingredients.

It is within the context of the earlier mishnayot and the other prohibitions in m. *ʿAvodah Zarah* 2:6 itself that the prohibitions of Gentile bread, oil, and *šelaqot* should be understood. To wit, their prohibitions may also be attributed to concern over the fear of the admixture of impermissible ingredients, including idolatrous wine.

This notion is further supported by the list of foodstuffs permitted to be eaten by the immediately ensuing mishnah, m. *ʿAvodah Zarah* 2:7. The mishnah seems to permit these Gentile

⁴⁴⁴ As postulated in b. *ʿAvodah Zarah* 35b.

⁴⁴⁵ See, e.g., Rashi, b. *ʿAvodah Zarah* 35a, s.v. *terufah*.

⁴⁴⁶ See, e.g., Rashi, b. *ʿAvodah Zarah* 35b, s.v. *we-šir*, the *kilkit* breeds only in brine made of kosher fish. Its absence signals that the brine is not made of permitted fish.

⁴⁴⁷ Per the understanding that asafetida is a type of vegetable or fruit that was typically cut apart with a knife, the concern here is that the knife might have had animal fat residue on it.

foods because there is no concern over the possible admixture of impermissible ingredients, as made explicit in §V. Mishnah *‘Avodah Zarah 2:7* states:

אלו מותרין באכילה. חלב שקלבו גוי ויש' רואהו הדבש והדמדמנייות⁴⁴⁸ אף עלפי מנטפות,⁴⁴⁹ אין בהן משם הכשר משקה. וכבשין שאין דרכן לטת בהן יין וחומץ וטרית שאינה טרופה וציר שיש בה דגה ועל שלחליתית.⁴⁵⁰ וזית קלוסקה⁴⁵¹ מגולגליו.⁴⁵² ר' יהודה⁴⁵³ או' שלוחין אסורין חגבים מן הסלילה אסורין ומן האפותק מותרין בתרומה:⁴⁵⁴

- I. The following are permitted for eating:
- II. Milk that was milked by a Gentile under Israelite supervision;
- III. And honey [*devaš*] and overripe grapes [*damdamiyyot*]
- IV. Even though they are exuding liquid, since do not come under the rule of food rendered susceptible to impurity by liquids;⁴⁵⁵

⁴⁴⁸ Venice and Pissarro: *weha-davdevaniyot* (והדבבניות).

⁴⁴⁹ Venice and Pissarro: *še-menatfin* (שמנטפין).

⁴⁵⁰ Cambridge, Parma, Venice, and Pissarro: *we-‘aleh šel hiltit* (ועלה של חליתית).

⁴⁵¹ Cambridge: *we-zeitei qelusta* (וזיתי קלוסטא).

⁴⁵² Venice and Pissarro: *glasqa ‘ot ha-megalgelin* (גלסקאות המגלגליו).

⁴⁵³ Venice and Pissarro: Rabbi Yosé (רבי יוסי).

⁴⁵⁴ Venice and Pissarro: *min ha-hepteq, mutarin. we-khen li-terumah* (מן ההפתק, מתרין. וכן לתרומה).

⁴⁵⁵ Clauses §III and §IV are problematic, textually, grammatically, and conceptually. First, Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah 2021, 298-299*) cites alternative definitions for the word *damdamiyyot* (והדמדמנייות). These include honeycomb (Rambam, *Peruš ha-Mishnayot ad loc.*), wasp honey, cherry tree, a cluster of grapes (e.g., Rashi *ad loc.* b. *‘Avodah Zarah 39a*), or red grapes harvested early and made into some sort of juice. He also explains that the spelling of the word in manuscripts with a mem (מ) and those in print with a bet (ב) can be attributed to not uncommon swaps of these two letters. Second, though the word can be defined as honeycomb, it is unclear whether the phrase “they are not capable of imparting susceptibility to impurity as a liquid” applies to *devaš*, honey, as well as *damdamiyyot*. If it does, it conflicts with m. *Makhširin 6:4* that states that honey in fact does impart susceptibility to impurity. It reads “There are seven liquids [that impart susceptibility to impurity]: dew, water, [wine,] oil, blood, milk and bees’ honey. Hornets’ honey does not cause susceptibility to uncleanness and may be eaten.” (The word *weha-yayin* (והיין), and wine, is missing from Kaufmann but is likely a scribal error, as Kaufmann says that seven liquids cause susceptibility to impurity but lists only six.) One might try to posit from §III and §IV that the mishnah is teaching that one need not be concerned with the impurity of honey and a honeycomb but that, conversely, impurity is in fact a concern regarding the foodstuffs listed in mishnah 2:6. However, these clauses do not at all need to be read this way. First, the phrase “they are not capable of imparting susceptibility to impurity as a liquid” may apply only to *weha-damdamiyyot* (והדמדמנייות) since the preceding phrase “even though they are exuding liquid” certainly applies to it and not honey. If so, the mishnah may be ruling that one may eat Gentile honey and not be concerned that the Gentile was not careful to exclude miscellaneous bee body parts from the honey and make it impermissible. Second, *devaš* (דבש) may not be referring to bees’ honey at all but to date honey. Furthermore, *weha-damdamiyyot* (והדמדמנייות), may actually not mean honeycombs but red grapes harvested early and made into some sort of juice, though not wine, as translated by Christine Hayes here and by Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah 2021, 298-299*). If so, the phrase “they are not capable of imparting susceptibility to impurity as a liquid” teaches that, unlike bee honey and wine, both this date honey and this type of grape juice do not impart susceptibility for impurity because they do not meet the criteria of liquids needed for inclusion in m. *Makhširin 6:4*. If this reading is correct, then there is a theoretical concern other than impurity over these food items, which mishnah 2:7 negates. Interestingly, in the Afghan

- V. and pickled vegetables⁴⁵⁶ into which they do not customarily put wine or [wine] vinegar;
- VI. And *trit* that is unminced,⁴⁵⁷ or fish brine that has a fish in it;
- VII. A [whole] leaf of asafetida,⁴⁵⁸ and rolled olive-cakes.
- VIII. R. Yehudah⁴⁵⁹ says: “those [olives] dropping their stones⁴⁶⁰ are forbidden.”
- IX. Locusts that come from a [shopkeeper’s] basket are prohibited; but those from the store⁴⁶¹ are permitted.
- X. The same is true for the *terumah*.

Many foods in this mishnah contrast with their parallels in the previous mishnah, 2:6. These include [with contrasts italicized] pickled vegetables into which it is was *not customary* to add wine or wine vinegar (§V); *non-minced* fish (§VI); fish-brine *with kilbit* floating in it (§VI); and, a *whole leaf* of asafetida (§VII), which are all permitted. Two additional food items, olive cakes (§VII and §VIII) and locusts (§IX), are prohibited from being eaten when it is likely that they were sprayed or doused with idolatrous wine.

Returning now to the bread and oil prohibitions in 2:6, both the bread and oil prohibitions can in fact be understood as owing to concerns about an impermissible ingredient: Gentile wine.⁴⁶²

Geniza manuscript, the second half of the phrase is separated from the first half with the conjunction “and” inserted. It reads: “*devaš* and the *damdamniyyot* though they drip with moisture [are permitted to be eaten]: *and* they are not capable of imparting susceptibility to impurity as a liquid.” With this reading, the non-concern may indeed have been Gentile wine (or bee parts in the honey). According to this interpretation, the inclusion in this mishnah of a rule regarding impurity is admittedly awkward. But it is similarly awkward regardless of the interpretation of *devaš* and *damdamniyyot*, for why is impurity not mentioned regarding any of the other foods? Perhaps, though, it is a parenthetical insertion by the editor who saw an opportunity to teach an additional halakhah that *devaš* and *damdamniyyot* as described above are not like the other, similar, liquids listed in *Makhširin*. Zeev Safrai too sees this phrase as a parenthetical insertion but does not provide the explanation suggested here.

⁴⁵⁶ Oxford Annotated: preserves.

⁴⁵⁷ Oxford Annotated: unpounded.

⁴⁵⁸ Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 300) defines *hilit* (חילית) in this mishnah as a type of plant, not a fish as he defined the term in §VII in the previous mishnah (2:6). He does not explain the disparity, especially given the parallelism among various food items between the two mishnayot.

⁴⁵⁹ Oxford Annotated: R. Yosé.

⁴⁶⁰ I.e., olives which are so sodden that their pits fall out and they are thus suspect of having been soaked in wine.

⁴⁶¹ Or, warehouse.

⁴⁶² Zvi Steinfeld suggests (Z. A. Steinfeld, *Concerning the Prohibition Against Gentile Oil* [Hebrew] 1980) and (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 31–32 and 76 n46), given “great difficulties” with the mishnah’s order and language, that the entire clause “Their bread and their oil” was inserted later, transcribed

Some scholars suggest that wine was used in olive oil production and that this was the concern that underlay the rabbinic prohibition of Gentile oil.⁴⁶³ This does not, however, appear to be the case.⁴⁶⁴ Rather, in antiquity, olives and wine were sometimes trodden in the same vat.⁴⁶⁵ They were also sometimes pressed in the same press, particularly the second pressing of the grapes.⁴⁶⁶ However, and most definitively, olive oil and wine were stored/transported in identical—and oftentimes reused—earthenware amphorae.⁴⁶⁷ Larger containers, known as *pithoi*, were used for long-term storage of both oil and wine.⁴⁶⁸ Thus, it is quite reasonable to assume that rabbis prohibited eating Gentile olive oil (but not deriving benefit from it) because of the possibility (but not

from t. *Ševi'it* 5:9. He argues that the general acceptance that adjacent phrase, “Rabbi and his Court permitted oil,” was a later insertion (b. *Avodah Zarah* 37a and 38b; y. *Avodah Zarah* 2:9 41d; y. *Šabbat* 1:4 3d; y. *Niddah* 3:3 50d) lends credence to the possibility that even “their bread and their oil” was a later insertion as well.

⁴⁶³ Elmslie (Elmslie 2004 (1911), 38) in his gloss *ad loc.* writes that “[wine] vinegar was used in adulterating oil...and this may be in part the cause of the prohibition.” Zvi Steinfeld (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 101-103) also suggests that the concern about olive oil was related to wine, positing (ibid., 310) that wine was often used to soften olives in producing olive oil. Indeed, wine may have been used to soften olives in order to make it easier to remove the pits and/or to flavor them. As t. *Avodah Zarah* 4(5):8 records: “[Wine-]sodden olives which are sold at the doors of bathhouses are prohibited from eating but are permitted so far as deriving benefit.”

⁴⁶⁴ Neither Rafael Frankel (by email, December 17, 2019) nor David Eitam, author of (Eitam 1984) in a phone conversation, December 16, 2019, was aware of a practice of soaking olives in wine as part of oil-making. Eitam asserted, to the contrary, such a process could harm the oil. Steinfeld offers no external sources to support his interpretation. See also (Decker 2015, 79-80). Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 280) offers a different possibility: that the Gentile may have admixed animal fat in the olive oil. However, he provides no evidence that this was a prevalent practice in antiquity.

⁴⁶⁵ Rafael Frankel (Frankel, *Wine and Oil Production in Antiquity in Israel and Other Mediterranean Countries* 1999, 46) writes that there is “much evidence that olives were also crushed by treading.” Also see (Frankel, *Oil and Wine Production* 2016, 553): “Most common were ubiquitous treading installations . . . initially used for both wine and oil.” He specifically refers to *Joel* 2:24: “And the vats shall overflow with wine and oil,” and concludes (Frankel, *Wine and Oil Production*, 46) that “both oil and wine flow into the YQB (*yeqev*), one of the terms used for a winery or wine vat.”

⁴⁶⁶ Rafael Frankel writes (Frankel, *Oil and Wine Production* 2016, 553) that “In most primitive methods . . . wine and oil were often produced using similar equipment, and more sophisticated methods frequently employed identical presses for the second stage” of both wine and oil production. (A great debt of gratitude to Rafi Frankel for sharing his insights and findings with me.) As J. J. Rossiter writes (Rossiter 1981, 345): “Because both [olive oil and wine production] processes principally involve the extraction of liquid from a fruit, they are sufficiently similar that scholars have even sometimes been uncertain whether excavated features should be related to the production of wine or of oil, or indeed of both.” See also (Decker 2015, 79-80), with thanks to Stuart Miller for bringing this source to my attention.

⁴⁶⁷ Rafael Frankel in an email to me, December 17, 2019. Likewise, Andrew Dalby (Dalby 2013) notes that amphorae were regularly reused. *Pace* Goodman who asserts (Goodman, *Kosher Olive Oil in Antiquity* 2007, 199) that this was “surely a rare occurrence” given the bad taste the residue wine would give the oil and the vast quantity of pottery produced throughout the Roman Empire. (In y. *Ševi'it* 5:7 36a 195:6-8, R. Yonah asserts that oil vessels are different from wine vessels. However, he appears to be speaking of smaller vessels, the *kad* (כד), rather than larger storage containers, such as an amphora, *havit* (חבית)).

⁴⁶⁸ (D. Ilan 2022, 253-257),

certainty) that it contained wine residue from the treading vat, the press, and/or the storage amphora or *pithoi*.

Regarding the bread prohibition, the mishnah may be concerned that olive oil as described above may have been used in baking the bread.⁴⁶⁹ This prohibition would thus be based on a double-doubt, *sefeq sefeqa* (ספק ספיקא): 1. perhaps Gentile oil was used in making the bread, and 2. perhaps that oil had been infused with Gentile wine from the press or amphora. Tannaitic rulings generally resolve such double-doubts with lenient rulings, but at times, treat certain situations more stringently.⁴⁷⁰ For example, m. *Ṭeharot* 6:4 seems to go out of its way to state that, contrary to the usual approach, even a double-doubt of impurity in the private domain (as opposed to a public thoroughfare) is deemed impure, a stringent ruling.⁴⁷¹ Thus, it is suggested here that, even though a double-doubt would normally be ruled leniently, the severity of tannaitic concern over idolatrous Gentile wine would in fact overpower the double-doubt and provide a sufficient, if stringent, rationale to prohibit consuming Gentile bread.⁴⁷²

⁴⁶⁹ Oil (and other fats, such as lard), while not a necessary ingredient, keeps bread softer longer. Also, olive oil may be used as a glaze for bread.

⁴⁷⁰ Talmudic literature certainly resolves double-doubts leniently. See, e.g., b. *Ketubot* 8b-9a; b. *Avodah Zarah* 41b and 70a; b. *Niddah* 59b; b. *Pesaḥim* 9a.

⁴⁷¹ A second mishnah, m. *Eduyot* 8:3 deals, according to traditional understanding, with a widow who is known to have been married to a son of a priestly family where one of the sons was possibly an invalidated priest (*ḥallal*), but it is uncertain which son she married. This is a double-doubt. R. Yehoshua and R. Yehudah b. Beteira rule that she is permitted to marry another priest (who is not permitted to marry the former wife of a known invalid priest), a lenient ruling. R. (Simon b.) Gamliel on the other hand, rules that the severity of the laws of the priesthood in this case forbid her from marrying another priest (although if she did, the marriage would not need to be dissolved). This is a stringent ruling for this special case but indicates that generally one would rule leniently in case of a double-doubt. (With thanks to R. Doniel Lander for making me aware of this mishnah.) A third case, though it relies on an interpretation provided by the Talmud, also appears to determine that the resolution of a double-doubt is a lenient one. M. *Niddah* 4:1, as interpreted by b. *Niddah* 33b, due to a seeming contradiction with m. *Ṭeharot* 4:5, rules that the priestly portion, *terumah*, does not need to be burnt if there is a double doubt that it had been made impure. I.e., a lenient resolution.

⁴⁷² Following are two tannaitic and two Talmudic examples of the stringency of *yayn nesekh* over the severity of other rabbinic prohibitions. (1) M. *Avodah Zarah* 8:5 states that *yayn nesekh* invalidates other liquids even if, in contrast with other prohibitions, the other liquids overwhelm the wine by a ratio greater than 60:1. (2) M. *Avodah Zarah* 5:10 indicates that the designation of *yayn nesekh* moves up the flow streaming out of a funnel and makes any wine left in the funnel *yayn nesekh*. This is in sharp contrast with impurity, which, as ruled in m. *Ṭeharot* 8:10, does not move upstream. (3) B. *Avodah Zarah* 62b, discusses how even the wages of someone hired to move barrels of *yayn nesekh*

An even more direct rationale may underlie the prohibition, however. Pliny the Elder (23–79 C.E.) describes how, in the first century, grape-must⁴⁷³ was used in the making of leaven for bread baking.⁴⁷⁴ Thus, the sages feared that a loaf bought from a Gentile may have been made with such leaven.⁴⁷⁵

Or, perhaps even a simpler explanation: Roman breads may have been made or coated with impermissible ingredients, such as Gentile milk of unknown origin, eggs of unknown origin,⁴⁷⁶ or, one can imagine, lard.

Finally, the *šelaqot* mentioned in m. *‘Avodah Zarah* 2:6 has been understood by traditional and scholarly commentators to prohibit Gentile cooking generally. However, if this were the case,

are prohibited. Similarly, (4) b. *‘Avodah Zarah* 58b records that Jewish wine becomes impermissible even if a Gentile merely poured in water in order to dilute it. The Talmud recognizes this latter sanction as excessive, though still valid, as it is meant to distance the Jew from problematic wine.

⁴⁷³ “Must” is the “expressed juice of fruit and especially grapes before and during fermentation, *also*: the pulp and skins of the crushed grapes.” (Merriam-Webster’s Collegiate Dictionary, Eleventh Edition 2014) Yeast is often present on grape skins.

⁴⁷⁴ See (Pliny, *Natural History*: Books XVII–XIX 1961, XVIII:26.102 253–255) Pliny explicitly writes “Millet is specially used for making leaven; if dipped in unfermented wine and kneaded it will keep for a whole year.” Pliny later mentions (Pliny, *Natural History*: Books XVII–XIX 1961, XVIII:27.106 257) bread from Picenum, which was kneaded with raisin juice. (Christopher Grocock and Sally Granger (Grocock and Grainger 2020) understand that the grain for this bread was soaked “probably in grape juice” for nine days before it was kneaded.) While several of Pliny’s scientific pronouncements have been discounted, the use of grape-must for leaven would seem to have been common practice because, if this were not so, his pronouncement would have been easily belied. Rudolf Weinhold (Weinhold 1988, 73–80) identifies a group of apparatuses (wooden troughs) used in antiquity which “by their form and function, constitute an indirect proof of the essential technological unity of certain processes: dough-preparing, brewing, and wine production.” William Rubel (Rubel 2011, 17–18) notes that the yeast for bread, *Saccharomyces cerevisiae*, was first used in wine making. (*Saccharomyces* means sugar fungus; it grows in the wild on the skins of grapes and other fruit.) It was then selected for the task of making beer, and from then until the later nineteenth century was usually obtained by the baker from the brewer. But it is easy to see how, in antiquity, it may have been obtained directly from the winemaker. Interestingly, (Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods* 2002, 469) points to an etymological connection between the Aramaic term for wine, *hamra* (המרָא), and the Aramaic word for leaven, *hamira* (המירָא). This connection could be based on the fermentation relationship. While *hamir* (המיר) or *hamira* (המירָא) in the sense of leaven do not appear in the Mishnah, Tosefta, or Yerushalmi, the first century Onkelos Aramaic translation of the Bible renders *še’or* (שְׂאֹר), leaven, in *Exodus* 12:19 as *hamir* (המיר), thus a philological connection even in tannaitic times between wine and leaven. With thanks to David Katz for initially noting to me the phonetic similarity of the words, and to Moshe Sokolow and Moshe Bernstein for directing me to the etymological connection.

⁴⁷⁵ The notion of a concept of a separate leavening agent, *še’or*, in contrast with leavened bread, *hameš*, is also indicated in t. *Beša* 1:5.

⁴⁷⁶ Pliny also discusses the use of milk and eggs in making bread. (Pliny, *Natural History*: Books XVII–XIX 1961, XVIII:27.105 257).

one would have expected the mishnah to use the term *bišulim*, cooked foods, rather than *šelaqot*.⁴⁷⁷

Indeed, in six out of the eighteen instances where the Mishnah uses the term *šelaqot* and its variants, it is used in clear contrast with cooking generally.⁴⁷⁸ Such contrast is reflected in Tosefta as well.⁴⁷⁹ Furthermore, in five other mishnayot, variants of the root *ŠLQ* appear to refer to a

⁴⁷⁷ The definition of this term is not straightforward and is the subject of the ensuing discussion. (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022), in various mishnayot, translates it alternatively as heated, boiled, stewed, potted, or seethed. (Jastrow n.d., 1588) defines *šeleq* as “seething, overboiled matter” and *šelaqot* in this mishnah as “things preserved by boiling.” (Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Third Edition) 2017, 640) defines the verb *šalaq* as “to boil up” and (Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods* 2002, 1153) defines *šelaqah* as “boiled down vegetables.” (Danby 1933, 439) and (J. Neusner, *The Mishnah: A New Translation* 1988, 664) define the word as stewed. Most traditional commentaries explain it as cooking beyond mere boiling, say, seething or stewing. R. Nathan b. Yehiel (1035–1106), *‘Arukh al Ha-Šas*, ed. Meisels, *Neziqin*, b. *‘Avodah Zarah* 35b, 516, s.v. *šelaq*, for example, defines *šelaqot* as much-boiled vegetables. On the other hand, Ran (R. Nissim b. Reuven of Gerona [Gerondi], d. 1380), b. *Nedarim* 49a, explains it as parboiling.

⁴⁷⁸ M. *Pesaḥim* 2:6(5): And these are the vegetables by which a person fulfills one’s obligation on Passover...One fulfills the obligation with them whether fresh or dried, but not pickled, stewed [*šeluqim*], or boiled. (ואלו ירקות שאדם) (יוצא בהן [יד] חובתו בפסח... יוצאין בהן בין להים בין כמישין. אבל לא כבושין ולא שלוקים ולא מבושלים שפקל הלילות אנו אוכלין בשר צלי,) M. *Pesaḥim* 10:4: “On all other nights we eat meat roasted, cooked [*šaluq*], or boiled, this night is all roasted.” (הנה מבשל את השלמים או שולקן) M. *Nedarim* 6:1: One who vows [to abstain] from the cooked is permitted with respect to the roasted and the potted [*šaluq*]. (הנודר מן המבושיל, מותר בצלי ובשלוק); M. *Nazir* 6:9 (Kaufmann 6:11): As he was cooking or seething [*šolqan*] the offering of well-being...” (הנה מבשל את השלמים או שולקן) M. *Zevahim* 10:7: In regard to all of these [portions of the sacrifices], the priests are allowed to vary the manner in which they eat them. They may eat them roasted, boiled [*šeluqim*], or cooked. (וכולם, הפהנים רשיים לשנות באכילתן. לאכלן צלויים, ושלוקים, ומבושלין.) M. *‘Uqṣin* (*‘Aqišim*) 2:5: If one slices food in preparation for cooking, even if he did not sever [the pieces] completely, they are not [considered] connected. [However, if sliced in preparation for] pickling, or boiling [*li-šeloq*], or to put out on the table, they are [considered] connected. (היבדד לבשל, אף על פי שלא מרק, אינו חיבור. לכבוש ולשלוק ולהגיה על השולחן,) (היבדד).

⁴⁷⁹ E.g., t. *Beṣa* (*Yom Ṭov*) 2:1: On a festival that coincides with the eve of the Sabbath...one may prepare an *‘eruv* with a loaf of bread for the Sabbath and with a cooked dish for the festival. The cooked dish of which they spoke may even be roasted or *šaluq*. (יום טוב שחל להיות ערב שבת... מערבין בפת לשבת ובתבשיל ליום טוב. תבשיל שאמר, אפי צלי, אפי שלוק...) t. *Beṣa* (*Yom Ṭov*) 2:15: What is a “kid roasted whole”? It is wholly roasted, with its head, legs, and innards. [If] one has boiled any part of it whatsoever [or] *šalaq* any part of it whatsoever, this is not roasting a kid whole. (אי זהו גדי?) t. *Makkot* 4(3):1: One who eats of the Passover-offering an olive’s bulk of living flesh, an olive’s bulk of raw flesh, an olive’s bulk of *šaluq* flesh, an olive’s bulk of boiled flesh, is liable. (האכל מן הפסח, פנית חי, פנית נא, פנית שלוק, פנית מבושל, תיב.) t. *Menahot* 9:8: Oil [produced from olives which had been] soaked in water or *šaluq* or boiled...is invalid for the altar. (שמן השריי והשלוק) (שהמבושיל... בעל מום למזבח).

specialized or intensive seething process.⁴⁸⁰ (The exact meaning of the term is indeterminate in the seven remaining mishnayot.⁴⁸¹)

Thus, it is suggested here that *šelaqot* in m. ‘*Avodah Zarah* 2:6 in fact refers to a specific culinary creation of intensely cooked vegetables into which wine was occasionally added, and not to Gentile cooking generally. The permission in this mishnah to derive benefit from *šelaqot* contrasts with the prohibitions of the foods listed in m. ‘*Avodah Zarah* 2:4, such as *muryas*, from which one is precluded from deriving benefit because wine was more likely an ingredient.

This interpretation would be more clearly supported if *šelaqot* were juxtaposed to *kevašin*, where the mishnah is explicit that the concern is the possible admixture of wine. However, this is not the flow of the text in the Kaufmann and several other manuscripts.⁴⁸² The relevant portion of m. ‘*Avodah Zarah* 2:6, cited here again, reads:

והפת והשמן ושלוקו ו(ה)שלקות רבי ובית דינו התירו בשמן וכבשין שדרכן לתת בהן יין וחומץ.

- III. And their [*šelahen*] bread [*pat*] and oil [*šemen*]
- IV. And (the) seethed vegetables [*šelaqot*]
- V. (—Rabbi [Yehudah] and his court permitted their oil—)
- VI. and pickled vegetables [*kevašin*] into which it is their custom to put wine or [wine] vinegar

⁴⁸⁰ M. *Kelim* 5:5 (and its parallel m. ‘*Eduyot* 7:8): So, too, an addition to olive seethers’ [*šolqei zetim*] vats is susceptible to impurity. (ביוצא בו, מוסף היורה שלשולקי זיתים טמא) M. *Kelim* 8:9: [If vermin were found] where the olive seethers [*šolqei zetim*] sit, it is pure. (נימצא [שרץ] מקום ושיבת של שולקי זיתים, טהור) M. *Kelim* 12:8: R. Judah says: An olive branch is insusceptible to impurity unless it has been heated [‘*ad šeti-šaleq*]. (ר' יהודה אומ'. גרופית של זית, טהורה, עד שתישלק). M. *Nega'im* 11:8(9): The warp and the woof become impure by afflictions immediately. R. Yehuda says: the warp—after it is boiled [*mišeyi-šaleq*] and the woof—immediately. (השתי והערב מיטמין בנגעים מיד. ר' יהודה אומ'. השתי, מישישלק, (והערב, מיד).

⁴⁸¹ In m. *Miqva'ot* 7:2, m. ‘*Avodah Zarah* 2:6, m. *Terumot* 10:11, m. *Menahot* 8:3, and m. *Ma'asrot* 4:1, *šelaqot* is paired with *kevašin*. In the following two instances, *šelaqot* is used alone. M. *Berakhot* 6:8: Rabbi Akiva says: even if one ate [only] boiled vegetables [*šaleq*], if that was his meal, he recites the Three Blessings [usually called in English, “the Grace after Meals”] after [eating] them (... מברך עליו שלש ברכות...); m. *Nedarim* 6:3: [One who vows to abstain] “from the boiled [*šelaqim*]”—he is forbidden from only boiled vegetables [*ha-šaleq*]. “That I taste anything boiled [*šaleq*],”—he is forbidden with respect to all boiled foods [*be-khol ha-šeluqim*].” (הגודר) (מן השלקים, אינו אסור אלא מן השלק שלק. שלוק ש[אי]ני טועם, אסור בכל השלוקים).

⁴⁸² E.g., Cambridge MS.

Since §V interrupts between *šelaqot* and *kevašin*, *šelaqot* appears grouped with bread and oil. This flow would seem to equate the rationale of the prohibition of *šelaqot* with that of bread and oil and thus attributable, according to some, to Gentile preparation, unrelated to the fear of impermissible ingredients.

However, while the Kaufmann MS is typically regarded as authoritative, there is reason to believe that the original text of the Mishnah was different and that *šelaqot* was indeed juxtaposed in it to *kevašin*. This would indicate that the same underlying concern—“into which it is their custom to put wine or [wine] vinegar”—underlies the two prohibitions.

David Rosenthal’s detailed analysis of this Mishnah concludes, as do both traditional commentaries⁴⁸³ and scholars,⁴⁸⁴ that §V, “Rabbi and his court permitted their oil” is a later insertion into the text.⁴⁸⁵ First, the title “Rabbi” in “Rabbi and his court permitted their oil”, refers not to the R. Yehudah the Patriarch, the compiler of the Mishnah, but rather to his grandson, the *’Ereš* Israel amora also known as R. Yehudah the Patriarch.⁴⁸⁶ Therefore, the clause “Rabbi and his court permitted their oil” could not have been part of the original mishnah text compiled by the elder R. Yehudah the Patriarch but was inserted into the text only *after* the closing of the Mishnah.

Second, according to Rosenthal’s argument, Rav, an early amora who studied under the elder Rabbi Yehudah the Patriarch and conveyed the Mishnah to Babylonia, conveyed this

⁴⁸³ Rashi, b. *’Avodah Zarah* 35b, s.v. *Rabbi u-veit dino*; t. *’Avodah Zarah* 36a. s.v. *’asher* and 33b, s.v. *ba’a*; Ramban, *Novellae*, b. *’Avodah Zarah* 37a, s.v. *midaka-’amar*; and Rashba (R. Shlomo b. Avraham Aderet, 1235–1301), *Responsa*, I:45.

⁴⁸⁴ See, for example, (J. N. Epstein, *Mavo le-Nusah ha-Mishnah* 1948, 949).

⁴⁸⁵ (Rosenthal, *Mishna Aboda Zara--A Critical Edition with Introduction* (Doctoral Thesis) 1980, 166–174).

⁴⁸⁶ This designation is applied to the amora Rabbi Yehudah elsewhere as well. See, for example, y. *Sanhedrin* 11:3 30a 1329:18–19.

mishnah without this clause.⁴⁸⁷ The clause is also absent in early transcriptions of the mishnah in Babylonian geonic literature.⁴⁸⁸ And, it was absent in early manuscripts and even certain printings of the Bavli.⁴⁸⁹ It is also absent in a fragment in the Afghan Geniza.⁴⁹⁰ It is not clear when the clause was added to Mishnah texts in Babylonia.⁴⁹¹ It does appear to have been added a bit earlier to *'Eres Israel* Mishnah, as the Yerushalmi seems to cite the clause, though not in its discourse on this particular mishnah.⁴⁹²

Furthermore, the placement of the clause is not consistent among various manuscripts—another indication of a later insertion. In fact, in the Kaufmann and other *'Eres Israel*-based witnesses, §V seems out of place. First, notice of Rabbi's annulment of the Gentile oil ban seemingly should have immediately followed “and their oil.” But perhaps more significantly, the text reads: “And bread and the oil of Gentiles (*šelachen*). And (the) *šelaqot*. Rabbi and his court

⁴⁸⁷ Rosenthal (168) argues that in the dispute between Rav and Shmuel, recorded at b. *'Avodah Zarah* 36a, regarding whether the ban on Gentile oil had been lifted, Shmuel cites the testimony of one R. Samlai rather than citing the Mishnah, which would have been a much stronger argument. This would indicate that the phrase was not in the Babylonian version of the Mishnah. Furthermore, in the parallel depiction of this argument in the Yerushalmi (y. *Šabbat* 1:4 3d 372:36), Rav eats Gentile oil after Shmuel's strong prodding. In the Bavli, however, Rav appears to stand firm in his opinion that Gentile oil remained prohibited, not relying on the testimony of R. Samlai [B/IA2] that the ban had been lifted, indicating once again that there was no mishnaic proof of the lifting of the ban.

⁴⁸⁸ E.g., *Še'iltot of R. Ahai Gaon (Deuteronomy 141)* written in the eighth century. It is also absent in the Epistle of Pirkoi ben Boboi (eighth- or ninth-century student in the school of R. Yehudai Gaon, see (Danzig 2008, 8:8), as well as in *Sefer Halakhot Gedolot*, an early halakhic codex.

⁴⁸⁹ E.g., Sephardi New York MS (JTS Rab. 15; completed 1290) and the Pissarro printing 1514.

⁴⁹⁰ Estimated twelfth century. (With thanks to Matthew Morgenstern for sharing the photocopies of the fragments with me and to Alexander Gordon of the Israel National Library for the dating information.)

⁴⁹¹ Rashi's manuscript of the Bavli seems to have included the phrase in the Mishnah, as Rashi (b. *'Avodah Zarah* 35b, s.v. *Rabbi u-veit dino*) instructs that it should be deleted. In any case, this late textual addition in the Bavli raises an interesting question as to whether the absence of the phrase had any practical halakhic implications. When was the phrase in fact added to the mishnah text and by whom? Did the prohibition of Gentile oil somehow “remain on the books” throughout the geonic era in Babylonia? *Sefer Halakhot Gedolot* (Jerusalem: Makhon Yerushalayim, 1992, *Hilkhot Milah*, 152), for example, rules that the oil of a convert who returns to his old ways, “is like his wine” and is forbidden. Glosses *ad loc.* are puzzled by this ruling, but R. Yaakov b. Asher (1270-1343) also cites it (*'Arba'ah Turim, Yoreh De'ah*, end of §268). Rambam seems to be addressing an actual state of affairs when he writes emphatically in *Mišneh Torah, Hilkhot Ma'akhalot 'Asurot* 17:22: “Whoever prohibits it [Gentile oil], behold stands in a great sin because he is rebelling against the court that permitted it.” It is beyond the scope of the present essay, however, to pursue this question further.

⁴⁹² Y. *Neddarim* 3:4 50d 1444:33. On the other hand, y. *Šabbat* 1:4 3d 372:20ff, in discussing the lifting of the prohibition, does not cite the mishnah.

permitted the oil.” (וְהַפֶּת וְהַשֶּׁמֶן שֶׁלֶהוּ וְ(ה)שֶׁלֶקוֹת רַבִּי וּבֵית דִּינּוֹ הִתִּירוּ בְשֶׁמֶן) The modifier *šelahen*, of Gentiles, appears out of place, as it should have come after “And (the) *šelaqot*,” and modified *šelaqot* as well. Furthermore, in the Bavli manuscripts (except Munich 95) it appears in “its natural place”⁴⁹³ immediately following the prohibition of oil in §III.⁴⁹⁴ They read as follows:

- III. And their [*šelahen*] bread [*pat*] and oil [*šemen*]
- V. (—Rabbi [Yehudah] and his court permitted their oil—)
- IV. And (the) seethed vegetables [*šelaqot*]
- VI. and pickled vegetables [*kevašin*] into which it is their custom to put wine or [wine] vinegar

For these reasons, it seems evident that the clause was absent entirely in the Mishnah compiled by the elder R. Yehudah the Patriarch. Thus, the original text was likely as follows:

וְהַפֶּת וְהַשֶּׁמֶן שֶׁלֶהוּ וְשֶׁלֶקוֹת וְכַבְּשִׁין שֶׁדָּרְכוֹ לְתַת בָּהֶן יַיִן וְחֹמֶץ.

- III. And their [*šelahen*] bread [*pat*] and oil [*šemen*]
- IV. and seethed vegetables [*šelaqot*]
- VI. and pickled vegetables [*kevašin*] into which it is their custom to put wine or [wine] vinegar

Here, bread and oil in §III are separated from *šelaqot* and *kevašin* in §IV and §VI by the possessive pronoun *šelahen*, their. This modifier actually groups bread and oil together, while constituting *šelaqot* and *kevašin* as a separate grouping.⁴⁹⁵ The pairing of these two terms seems natural and is consistent with their pairing in six other mishnayot.⁴⁹⁶

⁴⁹³ (Rosenthal, *Mishna Aboda Zara--A Critical Edition with Introduction* (Doctoral Thesis) 1980, 171-172)

⁴⁹⁴ Venice [280–283], Paris 1337, JTS 15, and Oxford Heb d. 63/12.

⁴⁹⁵ Indeed, in the Afghan Genizah fragment of mishnah *‘Avodah Zarah*, a colon precedes the word *u-šelaqot* and another follows the word *kevašin*, clearly grouping the two and making clear that the ensuing phrase “into which it is customary to put wine and [wine] vinegar” applies to both *kevušeihen* and *šelaqot* ([https://www.nli.org.il/he/manuscripts/NNL_ALEPH003923817/NLI#\\$FL36901611](https://www.nli.org.il/he/manuscripts/NNL_ALEPH003923817/NLI#$FL36901611), accessed December 11, 2019). The *Yalqut Šimoni Devarim* 809 citation of this mishnah in fact cites *kevušeihen* before *šelaqot*.

⁴⁹⁶ M. *Terumot* 10:11, m. *Ma‘asrot* 4:1, m. *Pesaḥim* 2:6(5), m. *Menaḥot* 8:3, m. *Miqva‘ot* 7:2, and m. *‘Uqšin* (‘*Aqišim*) 2:5.

With the explanations above, the prohibitions in mishnah 2:6 appear to all relate to concern over impermissible ingredients. Though Mishnah often seeks to define categories rather than providing lists of random items,⁴⁹⁷ the textual challenges of this particular mishnah make it difficult to specify precise, coherent groupings. Nonetheless, one might group the elements as follows: §I focuses on possible inclusion of milk from an impermissible animal; §§II-VI focus on various degrees of concern regarding the possible admixture of idolatrous wine; and §VII and §VIII focus on fish and other impermissible ingredients in different forms: minced fish, fish brine, fish sauce, tiny fish, and, finally, salt during whose production animal fat may have been used.⁴⁹⁸

To complete the discussion of *Avodah Zarah* 2:6 and its surrounding mishnayot, this analysis returns to m. *Avodah Zarah* 2:5 (2:7-2:8 in Kaufmann), which relates to Gentile cheese.

It reads:

I. (2:7) אַמ' ר' יהודה, שָׁאֵל [ר' יִשְׁמַע' אֶת] ⁴⁹⁹ר' יְהוֹשֻׁעַ שֶׁהָיוּ מְהַלְכִים בְּדֶרֶךְ. מִפְּנֵי מָה אָסְרוּ גְבִינַת גּוֹיִם. אַמ' לוֹ, מִפְּנֵי שֶׁמַּעֲמִידִין אֶתְּהָ בְּקִיבַת הַגְּבֻלָּה. אַמ' לוֹ, וְהֵלֵא קִיבַת הָעוֹלָה חֲמוּרָה מְקִיבַת הַגְּבֻלָּה, [וְ]אֶמְרוּ, כֹּהֵן שֶׁדַּעַתּוֹ יָפָה, שׁוֹרְפָה חֵיָה. וְלֹא הוֹדוּ לוֹ חֲכַמ', אֶלָּא אָמְרוּ לֹא נִהְגִּין וְלֹא מוֹעֲלִין. ⁵⁰⁰

II. (2:8) אֶמְרוּ ⁵⁰¹לוֹ, מִפְּנֵי שֶׁמַּעֲמִידִין אֶתְּהָ בְּקִיבַת הַגְּבֻלָּה ⁵⁰²[עגלי-⁵⁰³] עֲבוּדָה זָרָה. אַמ' לוֹ, אִם כֵּן, לָמָּה לֹא אָסְרוּהָ בְּהִנְיָהּ. וְהִשְׂיֵאוּ לְדַבֵּר אַחֵר, אַמ' לוֹ, יִשְׁמַע' אַחֵי, הִיאֵף אֶתְּהָ קוֹרָא "כִּי טוֹבִים דוֹדִיף מִיָּנִין," אוֹ "כִּי טוֹבִים דוֹדִיף." אַמ' לוֹ, "כִּי טוֹבִים דוֹדִיף מִיָּנִין." אַמ' לוֹ, אִין הַדְּבָר כֵּן, שֶׁהָרִי חֲבִירוֹ מְלַמֵּד עָלָיו, "לְרִים שֶׁמְנִיף טוֹבִים."

I. (2:7) R. Yehudah said: “R. Yishmael asked R. Yehoshua, while they were walking on the road: ‘Why did they prohibit the cheese of Gentiles?’”

⁴⁹⁷ See, e.g., Eilberg, (Eilberg-Schwartz 1986) and (E. S. Alexander 2006). With thanks to Simcha Fishbane for raising this issue to me.

⁴⁹⁸ This categorization would not be consistent, however, with the earlier suggestion that *sal-conditum* is salt infused with wine.

⁴⁹⁹ Brackets indicate insertion of copyeditor. (Handwriting is different than the original Kaufmann MS script.)

⁵⁰⁰ In the Kaufmann MS, a yod (י) appears between the ayin (ע) and lamed (ל) but is deleted.

⁵⁰¹ Venice and Pissarro: אַמ', understood by the Talmud to be short for “he said” (אמר) in singular rather than the plural “they said” (אמרו).

⁵⁰² In the Kaufmann MS, this word appears to be deleted by the same punctuating copyeditor as in the following footnote because the ink is lighter and of similar color, it appears, as the punctuation and the next change. It is a different script and color ink than that of the copyeditor who inserted the words above.

⁵⁰³ In the Kaufmann MS, the word appears to be added by the punctuating copyeditor without vocalization.

- II. “He said to him, ‘Because they curdle it with rennet from an animal that has died of natural causes [and has not been properly slaughtered].’
- III. “R. Yishmael replied to him: ‘But isn’t the rennet of a whole burnt offering a more stringent case than the rennet of an animal that has died of natural causes, and yet they said: “A priest with a strong disposition may suck it out raw?”’
- IV. But the Sages did not agree to this; rather they said: “No benefit may be derived from it though the law of sacrilege⁵⁰⁴ does not apply.”?’⁵⁰⁵
- V. (2:8) “[R. Yehoshua] retracted and said: ‘Because they curdle it with the rennet of calves [sacrificed to] idolatry.’
- VI. “He replied: ‘If so, why didn’t they prohibit all benefit from it?’
- VII. “[R. Yehoshua] distracted him with another matter, saying: ‘Yishmael, my brother, how do you recite this verse [*Šir ha-Širim* 1:2]—“For your (masc.) love is better than wine, or your (fem.) love [is better than wine.”?’
- VIII. “He replied to him: ‘Your (fem.) love...’
- IX. “He [R. Yehoshua] said to him: ‘No, it is not so, because the parallel [ensuing verse, 1:3] “Your (masc.) ointments have a goodly fragrance.”—instructs us regarding it.”’

The mishnah begins with a discussion between R. Yehoshua and R. Yishmael regarding the prohibition of Gentile cheese. R. Yishmael seeks to understand why Gentile cheese may not be eaten but benefit may be derived from it. R. Yehoshua twice answers the question, based on the cheese having been curdled using impermissible rennet, either from a carcass (§II) or an idolatrous animal sacrifice (§V). Both times, R. Yishmael provides a valid rebuttal. Then, rather than providing yet another response, R. Yehoshua in §VII diverts the discussion entirely, asking R. Yishmael how to recite a certain verse in Song of Songs (*Šir ha-Širim*). The question regarding the rationale behind the prohibition of Gentile cheese seems to remain unanswered.

⁵⁰⁴ Or, misappropriation of the sacred.

⁵⁰⁵ Christine Hayes (Cohen, Oxford Annotated, 689) writes that this clause relating the Sages’ response, despite its presence in the Kaufmann MS, “is a later editorial addition that disrupts R. Yishmael’s proof. It points out that, contrary to R. Yishmael’s assertion, the rabbis hold that the rennet of a whole burnt offering is prohibited; however, ex post facto a priest who consumes it is not liable for sacrilege. R. Yehoshua, however, accepts R. Yishmael’s objection as it stands.”

Shlomo Naeh suggests that the second half of the mishnah is not a diversion at all but a continuation of the discussion that in effect does answer R. Yishmael's question.⁵⁰⁶ Naeh argues that, since the cited verse mentions both oil and wine, the discussion between the two sages actually alludes to the origin of the prohibition of Gentile oil and non-idolatrous wine. R. Yehoshua is thus teaching R. Yishmael that Gentile cheese is prohibited by rabbinic edict just like Gentile oil and non-idolatrous wine were prohibited, and that there is in fact no specific *halakhic* reason for these prohibitions. Rather, Naeh claims that the prohibitions are due to ancient edicts intended to distance the Jews from the Gentiles.

One problem with Naeh's reading, however, is the assumption that common Gentile wine prohibition was enacted in order to distance Jews from Gentiles. This ignores the context in m. *'Avodah Zarah* 2:3 cited above, which is clearly concerned with products used in idol worship. Second, the oil prohibition is not mentioned until the subsequent mishnah, m. *'Avodah Zarah* 2:6, so a discussion about it in this mishnah would be premature. Furthermore, even if Naeh's creative interpretation of the mishnah is valid, the underlying rationale of the edicts (separation) is not necessarily as he posits. For, it is not clear that all Gentile cheese was in fact prohibited by the tannaim. By its position in the flow of the text, m. *'Avodah Zarah* 2:5 may be a discussion of the prohibition of cheese mentioned in the previous mishnah, m. *'Avodah Zarah* 2:4—which is specifically limited to the cheese of Beit Unyaki and not a general prohibition of Gentile cheese.⁵⁰⁷

⁵⁰⁶ (Naeh 2005, 428).

⁵⁰⁷ Such is clearly the understanding of the Yerushalmi at Y. *'Avodah Zarah* 2:5 41c 1389:35, which explains that the prohibition of these specific cheeses is “because the calves *there* are slaughtered for idolatry.” The Bavli, while (in several witnesses, including Venice, Pissarro, Munich 95, JTS 15, Paris, Oxford) concatenating m. *'Avodah Zarah* 2:5 to its predecessor 2:4, does consider Gentile cheese generally impermissible. But, notably, none of the reasons it offers at b. *'Avodah Zarah* 35a-b for why the cheese is forbidden implies a social rationale. Rather, it offers six alternative concerns; that: (1) a snake deposited its venom in it; (2) in the gaps, the cheese contains droplets of milk from an impermissible animal; (3) it was curdled in the skin of the stomach of a carcass; (4) it was polished with pig fat; (5) it is cured in wine vinegar; (6) it is cured in the sap of trees under four years old (*'orlah*). As can be seen, all six concerns relate to the ingredients in the cheese, not the individual who produced it.

Finally, while t. *ʿAvodah Zarah* 4(5):11 implies a general prohibition of cheese curdled by a Gentile unmonitored by a Jew, t. *ʿAvodah Zarah* 4(5):13 permits taking cheese from an expert Gentile cheesemaker—presumably because either he would not add extraneous ingredients or he would notify a prospective buyer if he had.⁵⁰⁸

Mishnah Šabbat 1:4

Mishnah *Šabbat* 1:4 reads, in its entirety:

אֵילֵי מְהֻלְכוֹת שְׁאֵמְרוּ בְּעֵלְיֵית חֲנִינְיָה⁵⁰⁹ בְּן חֲזַקְיָה בֶן גָּרוֹן⁵¹⁰ שְׁעָלוּ לְבַקְרוֹ. נִימְנּוּ וְרָבוּ בֵּית שְׁמַיׁ עַל בֵּית הֵילֵל.
שְׁמֹנֶה עָשָׂר דְּבָרִים גָּזְרוּ בּו בַּיּוֹם.

- I. And these are among the legal rulings which they said in the upper room of Haninah b. Hizkiah b. Garon
- II. When they went up to visit him.
- III. They were counted, and the House of Shammai outnumbered the House of Hillel;
- IV. And eighteen things did they decree on that very day.⁵¹¹

The Yerushalmi and Bavli in Tractate *Šabbat* associate the prohibitions of bread and oil listed in m. *ʿAvodah Zarah* 2:6 above with the Eighteen Edicts alluded to in m. *Šabbat* 1:4.⁵¹² The main discussion in the Yerushalmi on this mishnah at y. *Šabbat* 1:4 3c begins:⁵¹³

⁵⁰⁸ Similarly, b. *ʿAvodah Zarah* 34b cites R. Yehuda b. Gamliel [T4] permitting taking *hileq* from an expert.

⁵⁰⁹ Variant: Hananiah (חַנְיָה).

⁵¹⁰ Variant: Ben Gurion (בֶּן גִּרְיוֹן).

⁵¹¹ Traditional sources (for example, R. Hananel gloss on b. *Šabbat* 153b, s.v. *tanya*) assert that “that very day,” wherever it appears in the Mishnah, refers to the day that R. Elazar b. Azariah [T3] was appointed temporarily as Patriarch. This occurred ca. 100 C.E. However, Christine Hayes (Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* 1997), Gunter Stemberger, (Stemberger, Hananiah Ben Hezekiah Ben Garon, *The Eighteen Decrees And The Outbreak Of The War Against Rome* 2007), Ben-Shalom (Ben-Shalom 1993), and others date the event around 66 C.E., during—and perhaps integral to—the buildup to war and destruction of the Second Temple. One traditional source, the *Scroll of Fast Days*, Second Version (Luria 1964, 201), which lists over twenty minor fast days, dates the event 9 Adar, stating that the fast was established because many died that day. *Mahzor Vitri* (Jerusalem: Aryeh Goldschmidt, 2009, 629) and *Siddur Rashi* (Bnei Beraq: Yahadut, 1980, 270 (#541)) confirm the fast of 9 Adar. Later sources, including *ʿArba ʿah Turim*, *Orah Hayyim* 580: 2 and *Šulhan ʿArukh* 580:2, also mention this fast day. Also see Shmuel Safrai and Zeev Safrai (Safrai and Safrai, *Mishnat Eretz Yisrael: Masekhet Shabbat I* 2008, 97 nn53 and 54) for other relevant citations.

⁵¹² Interestingly, the discourse starting on b. *ʿAvodah Zarah* 36b on the Gentile bread and oil prohibitions in m. *ʿAvodah Zarah* 2:6 does not ever refer to m. *Šabbat* 1:4. This will be discussed further in the chapter on the Bavli.

⁵¹³ Y. *Šabbat* 1:4 3c 371:10.

תני: שמונה עשרה דבר גזרו, ובשמונה עשרה רבו, ובשמונה עשרה נחלקו. ואילו הן שגזרו: על פיתן של עכו"ם ועל גבינתן ועל שמנן ועל בנותיהן...

We learned [in a beraita]: they decreed [in agreement between Beit Hillel and Beit Shammai] eighteen things, and on eighteen things [Beit Shammai] outnumbered [Beit Hillel and were thus able to enact the edicts], and on eighteen things they disagreed [and were not able to enact any edicts]. And these are what they decreed [in agreement]: on Gentile bread, and on their cheese, and on their oil, and on their daughters...

The Bavli's main discussion of this Mishnah, at b. *Šabbat* 13b, begins:

ושמנה עשר דבר גזרו. מאי נינהו שמנה עשר דבר? דתנו, אלו פוסלין את התרומה:

And they issued eighteen decrees. What are the eighteen matters? [The Gemara answers:] As we learned in a mishnah, these items disqualify *terumah* [if they come into contact with it due to their level of impurity.]

The Bavli then lists ten items that, due to their impurity, disqualify *terumah*. Only on 16b does the Bavli begin an inquiry regarding the remaining eight edicts. At the end of the discussion, on 17b, it lists bread and oil. It is on the basis of these Talmudic passages that traditional commentators and scholars accept that Gentile bread and oil were included among the Eighteen Edicts.⁵¹⁴

The simple reading of this mishnah, however, shows no bearing on the prohibitions of Gentile bread or oil. Indeed, atypically,⁵¹⁵ the mishnah records no specific halakhah at all and seems to be merely providing the historical context for the Shabbat prohibitions. Because the mishnah deviates so far from its typically apodictic style, one might be inclined to conclude that the event described was somehow dramatic and seminal such that the Mishnah's redactor felt

⁵¹⁴ For traditional sources, see, e.g., Rambam, *Peruš Ha-Mišnayot* ad loc. and (Meiri 2006, I:28). For scholarship, see, e.g., (S. Zeitlin 1916, 23), (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 39), and (Stemberger, *Forbidden Gentile Food in Early Rabbinic Writings* 2011, 224).

⁵¹⁵ As Richard Kalmin (R. Kalmin, *Jewish Babylonia between Persia and Roman Palestine* 2006, 36) notes: "The Mishnah and Tosefta concentrate on the rabbinic norm rather than on extraordinary circumstances and extraordinary individuals."

compelled to record it.⁵¹⁶ But its placement implies *prima facie* that the edicts referred to relate either to the preceding or to the ensuing *mishnayot*.⁵¹⁷ These *mishnayot* deal exclusively with Shabbat laws (plus one law of ritual purity). No connection to Gentile bread, oil, or cooking, let alone rules separating Jew from Gentile, can be discerned. As Günter Stemberger also concludes, “the context makes it clear that these rules belonged to the fields of Sabbath and purity laws” and that “the topic of the separation from non-Jews is completely foreign to *m. Šabbat* 1:4.”⁵¹⁸

Lack of Proof from Other Mishnaic Sources

The following three *mishnayot* might be read by some as indicating that the prohibition of Gentile bread is tied to the baker, not the ingredients. But these readings are not necessarily so.

Mishnah *Ševi'it* 8:10

Jordan Rosenblum cites the reputed position of R. Eliezer in *m. Ševi'it* 8:10 as proof that Mishnah “goes so far as to equate foreign bread with pork.”⁵¹⁹ In fact, the mishnah records students of R. Akiva citing R. Eliezer who compares eating Samaritan bread to eating pork, but R. Akiva silences them.⁵²⁰ *M. Ševi'it* 8:10 reads:

⁵¹⁶ See description in *y. Šabbat* 1:4 3c 371:8-10. Ephraim Urbach, (E. E. Urbach, *The Sages* 1979, 596) writes that “it is almost certain that this event had political consequences, for it led the disciples of the School of Hillel to adopt a negative attitude towards the groups of freedom-fighters” and internal dissensions among the Jews to become aggravated.

⁵¹⁷ *B. Šabbat* 13b questions whether the mishnah is referring to the previous or ensuing halakhot. It concludes that it refers to the earlier halakhot. In his commentary on this mishnah, Rambam, *Peruš Ha-Mišnayot ad loc.*, explains that the previous halakhot were agreed to between Beit Shammai and Beit Hillel without dispute. However, Beit Shammai and Beit Hillel did dispute the ensuing eighteen halakhot and it is here that Beit Shammai’s votes exceeded those of Beit Hillel. Similarly, Shmuel and Zeev Safrai (Safrai and Safrai, *Mishnat Eretz Yisrael: Masekhet Shabbat I* 2008, 98), after a careful analysis, conclude that “the eighteen edicts are not enumerated [in the mishnah], nor are the halakhot in which Beit Shammai outnumbered Beit Hillel. Therefore, the only possible interpretation is that some of these [edicts] are in the subsequent *mishnayot*.”

⁵¹⁸ (Stemberger, Hananiah Ben Hezekiah Ben Garon, *The Eighteen Decrees And The Outbreak Of The War Against Rome* 2007, 694 and 696).

⁵¹⁹ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 84).

⁵²⁰ Regarding rabbinic attitudes towards the Samaritans, see, e.g., (L. H. Schiffman, *The Samaritans in Tannaitic Halakhah* 1985), (Z. Safrai, *Ha-Shomronim* 1982, 258), (Lavee, *The Samaritan May be Included: Another Look at*

וְעוֹד אָמְרוּ לְפָנָיו: אוֹ הֲיָה ר' אֱלִיעֶזֶר! הָאוֹכֵל פֶּת פּוֹתִים כְּאוֹכֵל בֶּשֶׂר חֲזִיר. אָמ' לָהֶם שְׁתַּקּוּ, לֹא אוֹמֵר לָכֶם מֵה ר' אֱלִיעֶזֶר אוֹ בּוֹ:

- I. And they further said in front [of R. Akiva],
- II. “R. Eliezer would say, ‘One who eats bread of Samaritans is like one who eats swine flesh.’”
- III. He said to them, “Be silent! I will not tell you what R. Eliezer said about this matter.”

Rosenblum’s conclusion from this mishnah, however, is not well-founded. First, the mishnah in §III quickly and emphatically discredits this comparison, recording R. Akiva’s extraordinary rebuke of his students to “Be silent!” in that, apparently, R. Eliezer’s position was in fact not so stringent.⁵²¹

Second, it cannot at all be concluded that the case here refers to a Gentile-equivalent. In general, tannaitic literature displays a certain ambiguity towards Samaritans,⁵²² alternatively deeming them full and fully trustworthy Jews,⁵²³ somewhat lesser Jews,⁵²⁴ “selective” Jews,⁵²⁵ or, equivalent to non-Jews.⁵²⁶ This mishnah may well be referring to the bread of a lesser Jew.

the Samaritan in Talmudic Literature 2010), and (Angel 2022). For a general history of the Samaritans, see (Mor 2003) and, for a cultural history, see (Fine 2022).

⁵²¹ See, for example, Bertinoro *ad loc.*

⁵²² T. *Terumot* 4:12 and 14 cite disagreements between R. Shimon b. Gamliel and his son, R. Yehudah the Patriarch (Rabbi), whereby R. Shimon states that Samaritan are like Jews pertaining to the commandments of tithing; Rabbi asserts that they are like Gentiles in this matter.

⁵²³ M. *Berakhot* 7:1 permits including a Samaritan in a *zimmin*, a joint blessing after meals that requires at least three participants.

⁵²⁴ In t. *Demai* 4:24 and 4:26, the Samaritan is equated with an ‘*am ha-‘areṣ* and contrasted with a Gentile.

⁵²⁵ As R. Shimon b. Gamliel states (t. *Pesahim* 1:14): “in every commandment by which the Samaritans abided, they were much more meticulous than were the Jews” (כל מצווה שהחזיקו בה כותים הרבה מדקדקים בה יותר מישראל). See also Saul Lieberman (Lieberman, Tosefta Kifshuta: Seder Moed 2002, IV:486–487) for a discussion regarding the reliability of the Samaritans relating to certain commandments.

⁵²⁶ M. *Qidduṣin* 4:3 indicates that marriage to Samaritans is prohibited (though Schiffman argues that this may have been a later addition to the Mishnah). Moshe Lavee (Lavee, The Samaritan May be Included: Another Look at the Samaritan in Talmudic Literature 2010) argues that the perception changed over time. He cites t. *Terumot* 4:12, noting R. Shimon b. Gamliel as still accepting Samaritans as Jews regarding tithing but his son, Rabbi, asserting that they are as Gentiles.

Finally, if the baker were the issue, how can R. Eliezer compare the transgression to eating swine flesh? The latter is a biblical prohibition whereas eating the bread of a Gentile baker would be violating a rabbinic enactment. As a matter of fact, R. Eliezer's response would make more sense if the concern were the possible inclusion of biblically impermissible ingredients. Rather, the concern of the Mishnah may be that the Samaritan did not tithe the flour that went into the bread. Indeed, by a later period, the Samaritans were in fact not trusted regarding tithing.⁵²⁷ And eating bread of untithed flour would in fact be transgressing a biblical prohibition as is swine meat.

Mishnah Ḥallah 3:5

This mishnah discusses a Jew's obligation to set aside a dough offering (*ḥallah*) from a rolled, unbaked loaf given to him as a gift by a Gentile.⁵²⁸ Mishnah *Ḥallah* 3:5 reads:

נוֹכְרִי שֶׁנָּתַן לְיִשְׂרָאֵל לַעֲשׂוֹת לוֹ עֶסֶה, פְּטוּרָה מִן הַחֲלָה. נִתְּנָה לוֹ מִתְּנָה, עַד שֶׁלֹּא גִילְגַּל, חִיֵּיב, מִשְׁגִּילְגַּל, פְּטוּר.
הָעוֹשֶׂה עֶסֶה עִם הַנֹּכְרִי, אִם אֵין בְּשִׁלְיִשְׂרָאֵל בְּשִׁיעוֹר פְּטוּר מִן הַחֲלָה:

- I. If a Gentile gave [flour] to an Israelite to make dough for him,
- II. [the dough] is exempt from the dough offering [*ḥallah*]
- III. If the Gentile gave it to him as a gift—
- IV. before rolling it, he [the Israelite] is liable [for a separate dough offering]
- V. but after rolling it, he is exempt [from separating a dough offering]

The only question addressed by the Mishnah is whether the Israelite is obligated to separate the dough offering. The acceptance, and presumably the subsequent eating, of an unbaked loaf from the Gentile is permitted in §V. Thus, this mishnah might be interpreted as indicating that there is in fact *no* general concern over the possible mixing in by the Gentile of impermissible ingredients into the bread.

⁵²⁷ T. *Demai* 5:24 states that the Samaritans deteriorated, and one should assume that their produce had not been tithed, like that of a Gentile.

⁵²⁸ See parallel in *Sifre Zuta (Numbers)* 15:20, s.v. *'arisoteikhem*.

However, this mishnah seems to be addressing a unique situation, ruling that when a Gentile offers a loaf as a gift, one may assume that the Gentile would not knowingly mix in impermissible ingredients.⁵²⁹ This situation is akin to others where the tannaim indicate that a Gentile can be trusted regarding ingredients. For example, t. *Avodah Zarah* 4:11 (5:5): “A loaf of bread which an Israelite baked, even though the Gentile kneaded the dough...this is permitted,” presumably because they were working together.⁵³⁰

An alternate explanation is that it is easier to discern in an unbaked loaf whether or not impermissible ingredients were used.⁵³¹ This explanation would also address any concern that the Gentile unwittingly included an impermissible ingredient.

Mishnah Makhširin 2:8

The following Mishnah, cited by Rosenblum to support his approach, discusses the permission to eat a loaf of bread found in a city where both Jews and Gentiles reside. Mishnah *Makhširin* 2:8 reads:

...מִצָּא בֶּה פֶת הַלְכִין אֶסֶר רֹב הַנְּחֻתָּוִיִּים. וְאִם הִיָּתָה פֶת עֵיֶשָׁה הַלְכִין אֶסֶר רֹב אוֹכְלֵי פֶת עֵיֶשָׁה. ר' יְהוֹנָדָה אוֹמֵר...
אִם הִיָּתָה פֶת קָבֵר הַלְכִין אֶסֶר רֹב אוֹכְלֵי פֶת קָבֵר.

- I. ...If one found bread in it [a city where both Jews and Gentiles reside],
- II. One goes by [the status of] the majority of the bakers.
- III. If it was bread made of pure flour,
- IV. one goes by the majority of those who eat bread made out of pure flour.

⁵²⁹ Alternatively, one might argue, based on Z.A. Steinfeld (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 31–32 and 76 n46), discussed earlier, that the prohibition of Gentile bread was inserted later into m. *Avodah Zarah* 2:6 and that this mishnah in *Hallah* is indeed not presenting an exception but is consistent with a general rule that Gentile bread is in fact permitted by Mishnah.

⁵³⁰ Similarly, a *beraita* cited in b. *Avodah Zarah* 38a: “An Israelite may set meat upon the coals and let a Gentile then come and turn it over pending his return from the synagogue or house of study, and he need not be concerned; and [an Israelite] woman may set a pot on a stove and let a Gentile woman then come and stir it pending her return from the bathhouse or synagogue, and she need not be concerned.”

⁵³¹ See, e.g., Rashbam, as cited in *Ohr Zaru'a* (*Avodah Zarah*, §191-192, as cited in *Psakim Avodah Zarah*, III:627 (Jerusalem: Makhon Yerushalayim, 2010)) which seems explicit that one need not be concerned with an uncooked food item, as its permissibility is recognizable (שההיתר ניכר).

- V. R. Yehudah says: “If it was bread made of coarse meal, one goes by [the status of] the majority of those who eat [bread made of] coarse meal.”

The mishnah rules that a found loaf’s status depends on the Jew/Gentile status of the majority of the bakers or of the population of eaters of the particular type of bread found. Jordan Rosenblum asserts that “bakers of bread impart not only flavor, but also status...Bread found in these mixed environments follows the presumed identity status of the majority of the people [bakers] likely to have transformed the bread from its raw ingredients into its cooked form...At issue in [this] text is the identity of the preparer and not just the ingredients themselves.”⁵³²

This conclusion is a non sequitur. First, even regarding loaves of “pure” flour (and certainly those of coarse flour),⁵³³ Gentile use of impermissible ingredients (such as oil or grape-based leaven) or utensils with residue from impermissible foods could still be the concern. Furthermore, as Jacob Neusner posits (perhaps on the basis of m. *Makhširin* 2:10 which appears to deal with tithing), this mishnah in §IV is concerned only with the tithing-status of the pure-flour loaves, not whether they may not be eaten because they were produced by a non-Jew.⁵³⁴ Finally, and perhaps most convincingly, the immediately ensuing mishnah, m. *Makhširin* 2:9, starts with a parallel case, that if one finds a piece of raw meat in such a city, the meat’s status equals “the status of the majority of the butchers.” The reference here to uncooked meat indicates that the mishnah’s concern has nothing to do with food preparation or the preparer *per se* and only with the probable “ingredient” permissibility of the found item.

⁵³² (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 85-85).

⁵³³ Danby (Danby 1933) on m. *Makhširin* 2:8 adds the word “[only]” before the *tanna* R. Yehuda’s statement implying that R. Yehuda is not concerned about “pure loaves” at all, only other loaves, where impermissible ingredients may have been inserted.

⁵³⁴ (J. Neusner, *The Mishnah: A New Translation* 1988, 1098).

Toseftan Sources

Like the Mishnah texts above, Tosefta does not connect Gentile cooking to the edicts of Hananiah's loft, to the Gentile preparer per se, or to social distancing.⁵³⁵

Tosefta Šabbat 1:16–19

Like its parallel m. *Šabbat* 1:4, t. *Šabbat* 1:16 mentions only the historical event of Hananiah's loft, with no specification of the edicts enacted and no clear indication that they had to do with the laws of the Sabbath. But nor is there reference to Gentile-prepared foods. Tosefta *Šabbat* 1:16 states:

אלו מן ההלכות שאמרו בעליית חנניה בן חזקיהו בן גרון כשעלו לבקרו, נמנו ורבו בית שמי על בית הלל. שמונה עשר דבר גזרו בו ביום, והיה אותו היום קשה לישראל כיום שנעשה בו העגל.

- I. These are among the laws that they stated in the upper room of Hananiah b. Hizkiyahu b. Garon when they went up to visit him.
- II. They took a vote, and the House of Shammai outnumbered the House of Hillel.
- III. Eighteen things did they decree on that very day
- IV. And that day was as difficult for Israel as the day on which the Golden Calf was made.

⁵³⁵ For purposes of this work, there is no need to enter into the scholarly disputes among Shamma Friedman (Friedman, *Mishnah and Tosefta Parallels* (1): *Shabbat* 16:1 1993, 313–338) and (Friedman, *Tosefta Atikta--Masekhet Pesah Rishon: Makbilut ha-Mishnah vaha-Tosefta, Perush u-Mavo Klali* 2003); J.N. Epstein (J. N. Epstein, *Mavo le-Nusah ha-Mishnah* 1948, 262); Abraham Goldberg (A. Goldberg, *The Tosefta: Companion to the Mishna* 1987, 283–302); Shalom Albeck (S. Albeck, *Introduction to Jewish Law in Talmudic Times* 2013, 107) Judith Hauptman (Hauptman, *Rereading the Mishnah. A New Approach to Ancient Jewish Texts*. 2007); Adiel Schremer (Schremer, *Li-Mesoret Nusah ha-Tosefta: Iyyun Rishoni be-Ikvot Sha'ul Liberman* 2002, 11-43); Robert Brody (R. Brody, *Mishnah and Tosefta Studies* 2014), among several others, regarding (a) whether compilation of Tosefta was completed before or after the Mishnah, (b) whether there were two separate traditions regarding the texts or whether or to what extent the texts in our hands were revised based on the discussions in the Talmudim, and (c) whether Tosefta's purpose was to provide additional texture to the mishnaic texts or whether, as Friedman posits, Tosefta contains earlier *tannaitic* material out of which Rabbi redacted the Mishnah. Nor shall I opine regarding whether Friedman's thesis applies specifically to Tractates *Šabbat* and *Avodah Zarah*. On the other hand, the hypothesis here that the attribution of *mišum ḥatnut* to the commensal prohibitions was a later addition, if correct, would belie the position, such as that of Hanoch Albeck (H. Albeck, *Mavoh la-Talmudim* 1969, 57) that the compilation of Tosefta ended even after the *amoraic* period or was influenced significantly by the Bavli, as Tosefta makes not the slightest allusion to the concern regarding intermarriage, which is explicitly raised in the Bavli.

Two ensuing *toseftot* do specify edicts, one each. Tosefta *Šabbat* 1:18 states:

בו ביום אמרו כל המטלטלין מביאין את הטומאה בעובי המרדע, ונמנו ורבו בית שמיי על בית הלל.

- I. On that very day they ruled:
- II. Whatever is portable brings ritual impurity [by overshadowing] if it is as thick as [i.e., has the circumference of] an ox-man's goad [i.e., cattle prod⁵³⁶]
- III. And they voted and the House of Shammai outnumbered the House of Hillel [thus, this edict was enacted].

Tosefta *Šabbat* 1:19 states:

בו ביום אמרו השוכח כלים בערב שבת עם תשיכה תחת הצינור, ונמנו ורבו בית שמיי על בית הלל.

- I. On that very day they ruled:
- II. He who forgetfully leaves utensils on the eve of Shabbat at dusk under the waterspout [and they drain into a mikveh, or ritual bath]
- III. And they voted and the House of Shammai outnumbered the House of Hillel [so the edict prohibiting the mikveh was enacted].

These edicts relate to ritual purity. Specifically, the edict in t. *Šabbat* 1:18 makes more stringent the rules of ritual impurity by overshadowing.⁵³⁷ T. *Šabbat* 1:19 specifies that if rain water wended its way from rain-collecting pipes into utensils laid but forgotten under the pipes, and from them into the *miqveh*, or ritual bath, the *miqveh* is decertified because the water is deemed drawn rather than free-flowing. In addition, two preceding toseftot, t. *Šabbat* 1:14 and 1:15 also deal with matters of ritual purity. Thus, the context for t. *Šabbat* 1:16 appears to be impurity rather than anything to do with prohibitions of Gentile-produced food.

The intervening tosefta, t. *Šabbat* 1:17, describes a dispute between R. Eliezer [T2] and R. Yehoshua [T2] regarding the excessive nature of the Eighteen Edicts. It appears to be an addendum

⁵³⁶ *Arukh*, ed. Pardes, 215, s.v. *marde'a*, b. *Šabbat* 16b.

⁵³⁷ Biblical law requires that an object have the width of a *tefah*, or handbreadth, in order to cause ritual impurity when it tents over an object. However, the rabbis ruled here that a circumference of a handbreadth is sufficient.

to the final clause in t. *Šabbat* 1:16, §IV, which reads: “And that day was as difficult for Israel as the day on which the Golden Calf was made.” T. *Šabbat* 1:17 states:

ר' אליעזר אומ' בו ביום גדשו סאה, ר' יהושע אומ' בו ביום מקו סאה, שכל זמן שהמדה מלאה נאדם נותן לתוכה לסוף מוציאה ממנה שבתוכה.

- I. R. Eliezer says: “On that day they overflowed the *se'ah*[-sized vessel].⁵³⁸”
- II. R. Yehoshua says: “On that day they reduced⁵³⁹ the *se'ah*[-sized vessel],
- III. for when the measure is full and one puts more into it, in the end it will egest part of what is [already] in it.”

Both R. Eliezer and R. Yehoshua appear to say that these edicts filled the “vessel of halakhah” and it overflowed. R. Eliezer seems to be saying that the vessel was appropriately filled by these edicts to capacity with some overflow. R. Yehoshua appears to be saying that overfilling the vessel causes some of what was already in the vessel to spill out.

This tosefta makes no mention of Gentile-produced food. Rather, it appears that the tosefta is referring to the edicts in the surrounding toseftot related to impurity. One can argue that R. Yehoshua’s concern of overloading the Jews with edicts makes sense if it is read as relating to extending the stringencies of ritual purity, which were already plentiful and important.⁵⁴⁰ His concern is that overloading the people with such additional edicts would cause them to become fed up with the increasing stringency and lead them to abandoning even the pre-existing laws. R. Eliezer’s analogy—of filling out the barrel—also makes sense only when applied to edicts that “fill out” existing prohibitions, such as purity laws.⁵⁴¹ These concerns and analogies make less

⁵³⁸ A *se'ah* is a biblical and rabbinic unit of volume measurement.

⁵³⁹ An alternate translation is “smashed.”

⁵⁴⁰ In fact, in Talmudic enumerations, at least twelve of the eighteen new edicts were more stringent purity laws.

⁵⁴¹ Most commentaries write that R. Eliezer supported the actions (per Beit Shammai) while R. Yehoshua opposed them. See, for example, Rashi, b. Shabbat 153b, s.v. *maḥaqu se'ah*. R. Hananel, b. *Šabbat* 153b, s.v. *we-Rabbi Yehošua*, however, appears to explain R. Yehoshua as supportive of the edicts as well. Among scholars, Yitzhak Gilat (Gilat, R. Eliezer Ben Hyrcanus: A Scholar Outcast 1984, 402–407, 451, and 462–473) and Israel Ben-Shalom (Ben-Shalom 1993, 93) confirm the traditional reputation of R. Eliezer as a “Shammaite.” Gilat adds that R. Eliezer wished

sense in the context of seemingly entirely new edicts, such as Gentile food prohibitions or edicts that would have to do with distancing Jews from Gentiles, for which there were no prior rulings.

Separately, four toseftot near each other in *‘Avodah Zarah* discuss Gentile-produced foods that may not be eaten. These can be explained in terms of concerns over impermissible ingredients, not the preparer *per se*, intermarriage, or general social separation.

Tosefta ‘Avodah Zarah 4(5):8

Tosefta *‘Avodah Zarah 4(5):8* includes items found in m. *‘Avodah Zarah 2:3* and *2:6*. It reads:

הַכְּבָשִׁין וְהַשְּׁלֵקוֹת שֶׁל גּוֹיִם שֶׁדָּרְכָן לְתֵת בָּהֶן יַיִן וְחֹמֶץ וְתָרַס הַדְּרִינִי אִיסוּרָן אִיסוּר הַנְּאֻה זֵיתִים הַשְּׁלֵחִין הַנִּמְכָּרִין
עַל פִּיתְחֵי מְרֻחָצוֹת אֲסוּרִין בְּאֲכִילָהּ וּמִמֶּרְיָן בְּהַנְיֵיהָ וְר' יוֹסֵי אוֹסְרָן בְּהַנְאָה מִפְּנֵי שְׂזוּלְפִין עֲלֵיהֶן חֹמֶץ כְּדֵי שְׂיֵהוּ
חֹלְצִין אֶת גְּרַעֲיֵינֵיהֶן.

- I. Pickled vegetables [*kevašin*] and stewed vegetables [*šelaqot*] of Gentiles into which it is customary to put wine and [wine] vinegar
- II. And Hadrianic⁵⁴² earthenware,
- III. The prohibition affecting them is a prohibition extending to deriving any benefit from them whatsoever.⁵⁴³
- IV. Sodden olives which are sold at the doors of bathhouses are prohibited from eating but permitted in deriving benefit from them.
- V. R. Yosé prohibits deriving benefit from them

to limit cooperation between Jews and Gentiles and, as far as possible, even limit all social contact between them. However, Saul Lieberman (Lieberman, *Ha-Yerushalmi Ki-Feshuto: Shabbat 2008*, 37), Shmuel and Zeev Safrai (Safrai and Safrai, *Mishnat Eretz Israel: Masekhet Shabbat 2009*, 97), and Gunter Stemberger (Stemberger, *Hananiah Ben Hezekiah Ben Garon, The Eighteen Decrees And The Outbreak Of The War Against Rome 2007*, 694) believe that both tannaim opposed the edicts because they over-burdened the people. R. Eliezer believed that the barrel (of prohibitions) needs to be full and flat on top, but that these new edicts caused the barrel to overflow. R. Yehoshua believed that the barrel needs to be less than full, but that in this case the barrel was already full and the new edicts caused it to overflow, causing what was previously in the barrel (that is, more vital prohibitions) to overflow (that is, become lost and less adhered to).

⁵⁴² Vienna MS renders this as Adrianic. See footnote regarding this term in earlier discussion of m. *‘Avodah Zarah 2:3*.

⁵⁴³ Vienna MS adds here: “these are the words of R. Meir. The Sages say that their prohibition is not one of deriving benefit” (דברי ר' מאיר וחכמים או' אין איסורן איסור הנזיה). Thus, according to the Sages, the ruling would be as it is in m. *‘Avodah Zarah 2:6*. However, regarding the Hadrianic casks, their ruling would be more lenient than that of m. *‘Avodah Zarah 2:3*.

- VI. because they [Gentiles] pour [wine] vinegar on them so that they can remove their pits [more easily].

It was noted earlier that in a number of textual witnesses of m. *‘Avodah Zarah 2:6*, it is not clear whether the phrase “into which it is customary to put wine and [wine] vinegar” applied to *šelaqot* and that this was the reason that eating Gentile *šelaqot* was prohibited. In contrast, this Tosefta lists *šelaqot* after *kevašin*, and the concern regarding *šelaqot* is explicitly stated: the possible admixture of Gentile wine.⁵⁴⁴

Tosefta ‘Avodah Zarah 4(5):11 (first section)

Tosefta *‘Avodah Zarah 4(5):11* lists further prohibitions of Gentile foods. The first section reads:

- | | |
|-------|--|
| .I | לוקחין מן הגוים תבואה וקטנית וגרוגרות השוים והבצלים מכל מקום |
| .II | ואין חוששין משום טומאה |
| .III | האוג בכל מקום טמא ⁵⁴⁵ הארוז בכל מקום טהור |
| .IV | נאמן הצייד לומר זה עוף טמא ועוף זה טהור |
| .V | נאמן עם הארץ לומר כבשין אילו כבשתים בטרה ולא ריבצתי עליהן את המלשקין |
| .VI | אבל אין נאמן לומר דגים אילו צדתיים בטרה ולא נייערתי עליהן את המכמרות |
| .VII | הקופרצין ⁵⁴⁶ והקפטאות והמיטליא ותמין וקליות שלקו מותרין |
| .VIII | וביצה צלויה שלקו אסורה |
| .IX | ר' יהודה ובית דינו התירו שמן של גוים במינן |
| .X | פת שאפאה גוי שלא במעמד ישן' וגבינה שהעמידה גוי שלא במעמד ישן' אסורה |
| .XI | פת שאפאה ישן' אף על פי שהגוי לשה וגבינה שהעמידה ישן' אף על פי שהגוי עובדה הרי זו מותרת |
| .XII | ישאל יושב בסוף עדרו והגוי חולב ומביא לו ואינו חושש. |
- I. One may purchase from Gentiles grain, pulse, dried figs, garlic, and onions under all circumstances,
- II. and one need not be concerned regarding ritual impurity.

⁵⁴⁴ Steinfeld (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah 2008*, 28), too, concludes there is no doubt from this tosefta that *šelaqot* are prohibited only due to fear of insertion of Gentile wine or wine vinegar and not due to Gentile cooking. In this Tosefta (at least per the Efrurt MS) the prohibition of such *šelaqot* extends to deriving benefit, whereas m. *‘Avodah Zarah 2:6* the prohibition only relates to eating.

⁵⁴⁵ Vienna MS: טהור (*tahor*).

⁵⁴⁶ Vienna MS: הקפרסין (*ha-qafarsin*).

- III. Red berry of sumac, under all circumstances, is deemed ritually impure;⁵⁴⁷ rice⁵⁴⁸ under all circumstances is deemed ritually pure.
- IV. A [Gentile] hunter is believed to testify “This bird is ritually impure” and “This bird is pure.”
- V. An *‘am ha-‘areṣ* is believed to testify “I pickled these vegetables in a state of ritual purity, and I did not sprinkle liquids upon them [and thus make them susceptible to ritual impurity].”
- VI. But, he is not believed to testify “These fish I caught in a state of ritual purity, and I did not shake the net⁵⁴⁹ over them.”
- VII. Their [Gentile-prepared] caper-fruits, leeks, liverwort, boiled water, and roasted grain are permitted.
- VIII. And their roasted egg is prohibited.
- IX. R. Yehudah and his court permitted oil produced by Gentiles—by a formal vote
- X. A loaf of bread which a Gentile baked not in the presence of an Israelite and cheese which a Gentile curdled not in the presence of an Israelite⁵⁵⁰ are prohibited.
- XI. A loaf of bread which an Israelite baked, even though the Gentile kneaded the dough, and cheese which an Israelite curdled even though the Gentile works it—this is permitted.
- XII. An Israelite may sit at the end of his corral and the Gentile may milk [the cows⁵⁵¹] and bring the milk to him [the Jew], and one [the Jew] does need not be concerned.

The fact that §§I-III and §§V-VI refer to food impurity is admittedly puzzling. As most scholars maintain, by end of the tannaitic era, ritual purity of food was not a concern.⁵⁵² Here the Tosefta seemingly includes an explicit statement of such a concern.⁵⁵³ Notably, however, for the most part these items are deemed pure from any source. In addition, there is no indication that the concern regarding the items’ possible impurity stems from the touch of the Gentile per se. Rather the

⁵⁴⁷ Vienna MS: pure.

⁵⁴⁸ As written here, ארז (*‘erez*) might be read as cedar. Indeed, Jacob Neusner (J. Neusner, *The Tosefta* 2014) translates it so. However, it may also be read as rice (Even-Shoshan 1993). This makes more sense than cedar in the context of this tosefta.

⁵⁴⁹ Vienna MS: Cypriot net.

⁵⁵⁰ The phrase “and cheese which a Gentile curdled not in the presence of an Israelite” is absent in the Vienna MS.

⁵⁵¹ Or perhaps sheep, which might be more relevant in *‘Ereṣ* Israel.

⁵⁵² See chapter on Prior Research.

⁵⁵³ See also t. *Demai* 2:2, which refers to individuals, *ḥaverim*, who avoided impure foods.

concern may be simply that the Gentile was not careful in protecting these items from becoming impure.⁵⁵⁴ In any case, the Tosefta permits these items. None of these clauses appear in the Mishnah, the Yerushalmi, or the Bavli, perhaps indicating their non-enduring applicability.

What is clear, however, is that the remainder of the tosefta does not use the vocabulary of impurity. Rather, it appears concerned with the trustworthiness of the Gentile regarding the permissibility of food items provided by him. §§VII-XII appear to be concerned specifically about the permissibility of the ingredients in the food provided by the Gentile. §X (“A loaf of bread which a Gentile baked not in the presence of an Israelite and cheese which a Gentile curdled not in the presence of an Israelite are prohibited”), in particular, suggests a concern over impermissible ingredients. For, the deficiency articulated by the tosefta is that the preparation was not *in the presence* of a Jew, not that a Jew did not participate in the preparation.

Two additional clauses in this tosefta might be read as suggesting that the underlying concern is unrelated to the admixture of impermissible ingredients. These readings can be refuted. The first is the prohibition in §VIII of eating a Gentile-roasted egg. This may well be an issue of food impermissibility, however. In antiquity, eggs were used in pagan rites, including funerals.⁵⁵⁵

⁵⁵⁴ Two suggestions as to why the Tosefta uses the language of purity here: Perhaps these were early statements—made perhaps even in Second Temple times—that were included for some reason in the Tosefta. Or, perhaps the Tosefta is using the term *ṭahor* in the biblical sense that incorporates impermissible ingredients, as it is used in §IV to distinguish between “pure” and “impure” birds.

⁵⁵⁵ Kristina Killgrove (Killgrove n.d.) writes that by the early Imperial period (first century C.E.), there is an association of eggs with pagan burials, most likely as “a symbol of rebirth, a new life balancing the injustice of a premature end.” Deborah Ferreri (Ferreri 2020) notes that use of eggs in Roman funeral rites continued into the eighth century C.E. See also Peter Garnsey (Garnsey 1999, 8 and 64). To this day, Jewish mourning custom too includes eating an egg on the eve of the fast of *Tiṣ‘ah b‘Av* and upon returning home after burying a family member. (*Šulḥan ‘Arukh*, *‘Orah Ḥayyim*, 552:4.) Interestingly, though not conclusive for our purposes, b. *‘Avodah Zarah* 46a debates a case of someone who bowed in worship to an egg.

For example, Figure 5.1, from the Tomb of the Diver in Paestum, a major ancient Greek city, from about 480 B.C.E., shows a reclining man on the left holding an egg in a ritual gesture.⁵⁵⁶

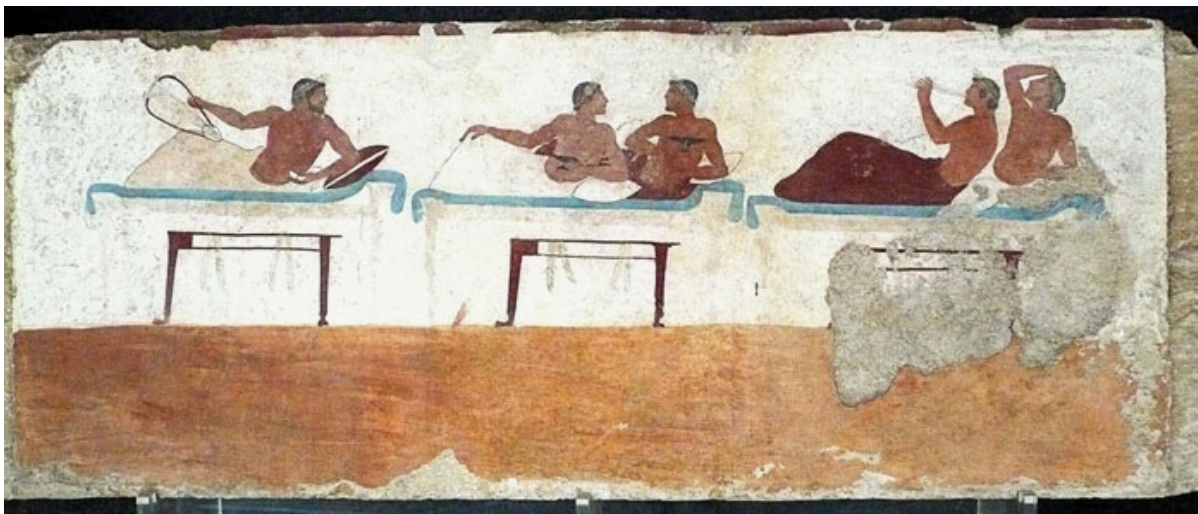


Figure 5.1. Detail of south panel of Tomb of the Diver, Paestum
(https://en.wikipedia.org/wiki/Tomb_of_the_Diver, accessed December 1, 2019.)

Later too, during the Roman Imperial period, eggs continued to be used for ritual purposes. According to first-second century Roman poet, Juvenal, eggs were used in purification rituals associated with the goddess Cybele.⁵⁵⁷ In the Greek Magical Papyri,⁵⁵⁸ a body of papyri from Greco-Roman Egypt from around this period, there is evidence for the burial of bird eggs below floors in workshops to ensure prosperity in business. At Sardis, Turkey, eggs were used in ritual purification offerings or foundation deposits. In 2013, two nearly identical ritual offerings were found buried beneath the floor of a first century C.E. house or workshop. (See Figure 5.2.) Each

⁵⁵⁶ The Tomb of the Diver is an archaeological monument, built ca. 470 B.C.E. It was found by Italian archaeologist Mario Napoli on June 3, 1968 during his excavation of a small necropolis about 1.5 km south of the Greek city of Paestum in Magna Graecia, in what is now southern Italy. The tomb is now displayed in the museum at Paestum. With thanks to Karen Carr for her interest and help.

⁵⁵⁷ Juvenal, *Satires*, 6.518. Edward Courtney (Courtney 2013 (1980), 285) cites several Latin sources describing the use of eggs in purificatory processes. For example, Ovid, *Ars Amatoria* 2.330 (“An old woman should come to purify her bed and room, and to bring sulfur and eggs with trembling hand.”) and Clement of Alexandria, *The Stromata* 7.4.26.3 (“You may see the eggs, taken from those who have been purified, hatched if subjected to the necessary warmth.”). He also cites Apuleius’s *Metamorphoses* 11.16 regarding their use in the rite for launching a ship.

⁵⁵⁸ (PGM XII:96-106 1986).

deposit contained a coin, a bronze needle and pin, an iron stylus point or pin, and a whole egg, one of which was preserved intact and pierced on one side.⁵⁵⁹



Figure 5.2: Ritual Egg Deposits from Sardis, Turkey, dating to the Roman Period (70-80 C.E.)

Thus, one possible concern implicit in the tosefta is that a roasted egg provided by a Gentile may have been used in a pagan rite, either directly or in a chicken being roasted in the rite.⁵⁶⁰ Alternatively, Gentile-roasted eggs are forbidden by the tosefta simply because eggs of certain non-permitted fowl are indistinguishable from the eggs of permitted fowl, particularly once they are roasted.⁵⁶¹

⁵⁵⁹ (Bruce and Raubolt 2015).

⁵⁶⁰ M. *Avodah Zarah* 1:5 plainly portrays the use of chickens in idolatrous rites. The related *sugya* on b. *Avodah Zarah* 14a discusses the permissibility of selling a white chicken to a Gentile given the concern that it might be used for idolatry. B. *Avodah Zarah* 46a discusses the use of eggs in idolatrous rites; it asserts that if a person acted upon the egg in an idolatrous context—certainly such as roasting, although this example is not specifically cited—the egg is prohibited not only in eating but in derivation of benefit. See also Rambam, *Mišneh Torah*, *Avodah Zarah*, 8:3.

⁵⁶¹ This possibility is supported by R. Yosef Karo's determination (*Šulhan 'Arukh*, *Yoreh De'ah* 86:1) that eggs that are broad at one end, pointy at the other, and have albumen surrounding the yolks can come from either a kosher or non-kosher fowl and are thus indistinguishable. In *Yoreh De'ah* 86:2 he nonetheless permits buying eggs from a Gentile, since eggs from non-kosher birds were no longer commonplace in his era. However, in antiquity, this indeed may still have been a concern. With thanks to R. Chaim Loike.

§XI in this tosefta might also be read as suggesting that the underlying concern is not impermissible ingredients. The clause reads: “A loaf that a Jew baked even though the Gentile kneaded the dough . . . this is permitted.” One might ask, why would this loaf be considered permitted if the Gentile kneaded the loaf? Why is it not prohibited since the Gentile had the opportunity to insert non-permissible ingredients? Z. Steinfeld’s position, adopted here, is that “we are not concerned that the Gentile admixed a prohibited ingredient into the foodstuff when he was assisting the Jew in the baking, even if the Jew was not standing over him.”⁵⁶² This position is similar to the one mentioned earlier in the discussion of m. *Hallah* 3:5 where the loaf was given as a gift by the Gentile to the Jew. Thus, while there is a general concern that a Gentile might include impermissible ingredients in certain foods, it is not of concern where the loaf is being gifted to the Jew or where the Gentile and Jew are working together.

Tosefta ‘Avodah Zarah 4(5):11 (cont’d) to 4(5):13

The last section of tosefta *‘Avodah Zarah* 4(5):11 through 4(5):13 list nearly twenty additional food items, most of which are permitted. An analysis of these toseftot shows that the apparent concern regarding all the items listed continues to be impermissible ingredients, not the fact that the items were produced by a Gentile. Indeed, the reason is stated explicitly in several instances. These include apple wine sold over the counter in the market, which is prohibited “because it may be adulterated [with Gentile wine or vinegar].” Also, locusts and pieces of meat that come directly from storage, the storehouse, or the importing ship are permitted, but those sold in baskets in front of a store are prohibited “because they sprinkle them with wine so as to improve their appearance.”

⁵⁶² Steinfeld (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 205) offers proofs from a *beraita* cited in b. *‘Avodah Zarah* 38a: “An Israelite may set meat upon the coals and let a Gentile then come and turn it over pending his return from the synagogue or house of study, and he need not be concerned; and [an Israelite] woman may set a pot on a stove and let a Gentile woman then come and stir it pending her return from the bathhouse or synagogue, and she need not be concerned.”

Furthermore, these toseftot list prepared food items that *may* be acquired from an expert who, presumably, either does not include extraneous (non-permissible) ingredients in his product or will professionally provide accurate information if asked about the ingredients used. These foods include Bithynian cheese, drops of asafetida, wine in Syria, and brine. This permission to buy such foods from experts reinforces the notion that the concern in acquiring such food from non-experts is the possible admixture of impermissible ingredients.

In summary, no connection is made in Tosefta between the Eighteen Edicts and the prohibitions of Gentile-produced bread, oil, and cooking.⁵⁶³ No tie is made between any of the prohibitions of Gentile-produced food and concern over social interaction, intermarriage, or a Gentile chef. Rather, as with Mishnah, the concern of Tosefta appears, with one puzzling exception cited above, to be the possible mixture of impermissible ingredients, not Gentile preparation.⁵⁶⁴

Refutation of Tannaitic Commensal Prohibitions as Social Engineering⁵⁶⁵

Cultural anthropologist Mary Douglas writes that food sends a message “about different degrees of hierarchy, inclusion and exclusion, boundaries and transactions across the boundaries.”⁵⁶⁶

Elsewhere, she writes that dietary practices can establish symbolic separation between intertwined

⁵⁶³ (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 151–156 and 203).

⁵⁶⁴ T. *Hullin* 2:20 states that the bread of *minim* is deemed “the bread of a Samaritan” and is thus forbidden. (The definition of *minim* (s: *min*) is fraught with uncertainty. Generally, it refers to individuals who “deviated from what the Rabbis considered to be the norm,” in the words of Stuart Miller (S. S. Miller, *Further Thoughts on the Minim of Sepphoris* 1994, 8). These have been identified by various sources and scholars alternatively as rebellious or skeptical Jews who did not accept the notion of corporeal resurrection; Jewish Christians; Christians; Jesus; idol worshippers; or Christian Gnostics. For a more comprehensive discussion, see (Miller, *The Minim of Sepphoris Reconsidered* 1993) and (S. S. Miller, *Further Thoughts on the Minim of Sepphoris* 1994)). This tosefta likely means no more than to define it as bread of one who cannot be trusted on commitment to the commandments (i.e., to use only permitted ingredients), as discussed to this point, as the clause adjoins and is thus comparable to several other prohibitions relating to the distrust of the *min*, including untithed fruit and sexual relations. As shown earlier, m. *Ševi’it* 8:10 also indicates that there is no particular severity associated with Samaritan bread.

⁵⁶⁵ It is beyond the scope of the present research to address the applicability to our discussion of a broader hypothesis raised by some scholars that the sages used mishnaic rulings in order to establish their authority. These scholars include Hayim Lapin (Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 C.E.* 2012); Rosen-Zvi (Rosen-Zvi, *Mavo La-Mishnah* 2018) regarding vows; Naftali S. Cohn (Cohn 2013) regarding Temple rituals; Howard Eilberg-Schwartz (Eilberg-Schwartz 1986) regarding intent; and Simcha Fishbane (Fishbane, *The Structure and Implicit Message of Mishnah Tractate Nazir* 2006).

⁵⁶⁶ Mary Douglas (Douglas, *Deciphering a Meal* 1972, 61).

religious populations.⁵⁶⁷ As noted in the Prior Research chapter, several scholars understand the tannaitic prohibitions of Gentile bread, oil, and cooking in this context: namely, the tannaim established these prohibitions mainly out of intent to separate Jews from the Gentiles.⁵⁶⁸ One scholar, Z. Steinfeld,⁵⁶⁹ even sought to prove that, to achieve this end, the tannaim instituted a general prohibition against eating with Gentiles. This prohibition applied even if one brought one's own food to the Gentile's home or was having the Gentile eat in one's own home.

Before addressing the postulates of some of these scholars in greater detail, there are a number of arguments that belie the entire conception that the rabbinic commensal rulings were specifically designed to cause greater social separation of the Jewish public from the Gentiles.⁵⁷⁰

First, as demonstrated earlier, the prohibitions and permissions regarding Gentile bread, oil, *šelaqot*, and other Gentile-produced foods in tannaitic literature can be understood

⁵⁶⁷ Mary Douglas (Douglas, *Natural Symbols* 2003). As cited in Freidenreich (Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* 2011, 6), William Robertson Smith, a late nineteenth century orientalist, wrote that commensality confirms or even constitutes kinship and to reject proffered food is to reject an offer of love or friendship and to express hostility toward the giver. Conversely, as Freidenreich notes, Claude Grignon emphasizes the significant function that excluding outsiders from shared meals plays in defining the limits of one's group and strengthening the bonds that unite insiders.

⁵⁶⁸ See, for example, Zeev Safrai (Z. Safrai, *Mishnat Eretz Yisrael: Avodah Zarah* 2021, 62-64) who, citing the gulf between the biblical prohibition of idolatry and *Avodah Zarah's* prohibitions, sees the use of the idolatry rationale as only "secondary justifications." See also, (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010), (Rosenblum, *From Their Bread to Their Bed: Commensality, Intermarriage and Idolatry in Tannaitic Literature* 2010), (Goodman, *Kosher Olive Oil in Antiquity* 2007, 200), and (Kraemer, *Food, Eating, and Meals* 2010, 7). Ben-Shalom (Ben-Shalom 1993) seeks to put this effort at separation in the context of the runup to the rebellion of 66-70 C.E., as will be discussed shortly. Porton (Porton, *Goyim: Gentiles and Israelites in Mishnah-Tosefta* 1988, 255 and 296) goes even further to suggest that possibly one of the results of, if not one of the reasons for, the editing of the entire Mishnah and Tosefta was to create a rabbinic definition of the Israelite people as an ethnic group.

⁵⁶⁹ (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 9-25).

⁵⁷⁰ Freidenreich (Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* 2011, 60-63) seems to reach a similar conclusion, although from a different angle. He claims that even biblical food restrictions were not meant to distinguish Jew from non-Jew but rather were commandments intended to attach the Jew to God. Furthermore, regarding Mishnah and Tosefta, he claims that the authors took a scholastic, intellectual approach regarding food prepared by foreigners and that the approach yields almost as many permissions as prohibitions. "The permission-strewn Mishnah and Tosefta are not preoccupied by the desire to segregate Jews from Gentiles and do not employ legislation for the purpose of social engineering. Rather, these works are motivated by a scholastically oriented desire to plumb the nuances of traditional norms regarding Gentile foods within the broader context of Rabbinic law." He adds (76) that "the sages responsible for *tannaitic* works employ these [scholastic] tools irrespective of their impact on normative barriers to interaction with Gentiles."

straightforwardly as matters revolving only around ingredients. There is no call to overlay social engineering agendas on these prohibitions.

Second, concern about the possible mixture of idolatrous wine was likely a very serious and ever-present concern of the sages. Violation of the biblical prohibition of idolatry could undoubtedly have been understood by the rabbis as the most repugnant and repulsive biblical offense. The proscription is embodied in the very first two of the Ten Commandments. Various biblical verses are explicit about God's disgust of idolatry and its abominable practices. Furthermore, violation of this ban represents an abnegation of God by His chosen people as well as the abrogation of the contract between them.⁵⁷¹ It is one of the three sins (along with adultery and murder) for which one must give up one's life rather than acceding to its commission.⁵⁷²

The rabbis saw Roman paganism as idolatry and that is what they sought to address. For, one would have expected Mishnah and Tosefta *'Avodah Zarah* to address the biblical prohibitions of the idolatry of the Seven Nations. This would have included parsing and ruling on their practices, referencing their various gods and their respective modes of worship and practices, listing their holidays, etc. But this is not the focus of tannaitic literature, which, rather, is geared towards the paganism of the contemporaneous surrounding culture.⁵⁷³ Its examples and definitions draw from real life surrounding the Jewish population of *'Ereṣ* Israel. The pagan holidays listed

⁵⁷¹ As b. *Sanhedrin* 49b notes, one who worships idols is as one who has "laid his hand [against] the main thing," i.e., the basis of the faith. See also (Halbertal and Margalit, *Idolatry* 1992), which addresses the questions of what idolatry is and why it is viewed as an unspeakable sin in different time periods in Jewish history. The severity of the sin of idolatry carried over into Christianity. It is a theme expounded upon by the early Christian writer, Tertullian, in his screed *On Idolatry* (Tertullianus 2015, 23). Tertullian writes that "the principal crime of the human race, the highest guilt charged upon the world, the whole procuring cause of judgment, is idolatry." Tertullian lived at around the time of the Mishnah's compilation, and Stephanie Binder (Binder 2012, 122-123) suggests that his writing may have been influenced by his knowledge of tannaitic statements on the matter.

⁵⁷² T. *Šabbat* 15:17. Similarly, Tertullian (Chapter I) compares idolatry to homicide, adultery, fornication, and "fraud to God, by refusing to Him, and conferring on others, His honors."

⁵⁷³ The Mishnah, for example, does not even refer to the practices of *Molekh* (מולך) or the ways of the Amorites (דרכי האמורי).

are the Roman holidays, the idols mentioned are the Roman gods—such as Mercury. The items forbidden to be sold are those used in Roman pagan culture, such as bears for the amphitheater. Mention is made of statues erected for the emperor passing by and bowing to it. The Tosefta discusses theater, amphitheater, Roman judicial settings, Roman wine libation practices, and baths associated with goddesses.

In other words, the rabbis were aware of paganism, its draw, and the adoption by the Jews of pagan symbols and activities. The rabbis were concerned about people slipping from Roman pagan culture (some of which was acceptable, to one degree or another) into actual pagan ritual. The rabbis did not seek to address past ancient idolatrous religions but rather how to navigate the Roman pagan world around them.

Their repugnance of and fear of the attraction to idolatrous paganism surely prompted the rabbis to impose extreme stringency regarding the primary symbol of idolatrous ritual: the then-prevalent commensal custom of libating wine to the gods.⁵⁷⁴ They thus established exceptionally strict halakhot associated with Gentile wine in order to reflect the severity of this prohibition and its violation.⁵⁷⁵ Indeed, the Mishnah shows extreme stringency regarding idolatry even in matters entirely unrelated to commensality and social distancing. For example, m. *Avodah Zarah* 3:9 states that if one took (with no Gentile interaction whatsoever) some wood from a tree that had

⁵⁷⁴ See, for example, (Faas 1994, 94). Indeed, idolatrous wine, *yayn nesekh*, (and Gentile wine more generally, even if not used for idolatry) became a taboo, in the words of Haym Soloveitchik (H. Soloveitchik, *Religious Law and Change: The Medieval Ahkenazic Example* 1987, 16), among the Jewish people, not only the rabbis. B. *Avodah Zarah* 69b-70a recounts the following story that reflects Jews' repulsion of *yayn nesekh*: "Rava said, 'In the case of a Gentile whore, with Israelites reclining at table with her—the Jews' wine is permitted for although the sexual desire has overpowered them, the desire to drink libated wine would not be strong in them [and they would stop her from touching the wine].'" This taboo is similar to what became an abhorrence of eating pork among Jews of the time (Kraemer, "Food, Eating, and Meals," 4) though the prohibition of pig is not any more severe than that of other non-permitted animals. The Jews' abhorrence of eating pig can be contrasted their abstention from eating blood (even of a permitted animal), despite its prohibition appearing in the Torah seven times.

⁵⁷⁵ Arguably, it may have nonetheless been the recognition by the Jewish public of the very tenuous relationship between the prohibitions of Gentile bread and oil with idolatrous wine that prompted them to be lax in their adherence to these prohibitions.

been worshipped for idolatry and uses it for a shuttle, the garment woven on that shuttle is prohibited; and, furthermore, if that garment somehow became intermixed with and unrecognizable from other garments, all of the garments are prohibited. Thus, it is quite reasonable to assert that even the fear of the presence of Gentile wine in food would have been sufficient reason for the sages to ban eating it.

Third, as Tacitus pointed out even prior to the Mishnah, Jews kept separate in their eating.⁵⁷⁶ Such avoidance of commensality may very well have been out of concern of impermissible ingredients alone. What would rabbinic commensal edicts on bread, oil, or certainly *šelaqot* have added in terms of distancing one from a Roman meal?⁵⁷⁷ In addition, if the issue was general social separation, why would such items as wine vinegar in fact be prohibited? What possible closer relations would come from having balsamic vinegar on a salad with a Gentile as opposed to one without?

Finally, the tannaitic prohibitions do not in fact create social separation between Jew and Gentile, even in meals. Indeed, m. *Avodah Zarah* 3:4 relates a discussion between R. Gamliel and Proklos in a Roman bath in the Roman city of Akko, indicating that Jews interacted socially with Romans even in their bathhouses. (By the first century C.E., bathhouses were built with one set of baths and it appears from contemporaneous writers that women used them at the same time as the men.⁵⁷⁸) Toseftot *Avodah Zarah* 2:5–7 show that Jews went to stadiums and amphitheaters to see performances and sporting events, which presumably Gentile women attended as well. Rather, the Gentile food prohibitions recorded in the Mishnah and Tosefta are very specific and include only wine, bread, oil, and other items of questionable ingredients. They do not include eating or trading

⁵⁷⁶ Tacitus, *Histories* V.5.1, cited in (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, II:26).

⁵⁷⁷ I have found no evidence, even in Talmudic literature, that these rabbinic ordinances in fact led to greater separation between Jews and Gentiles.

⁵⁷⁸ (Ward 1992).

in all Gentile-produced foodstuffs. And they certainly do not prohibit eating Jewish-produced foods with Gentiles, including a Jew's finest wine. In fact, m. *Avodah Zarah* 5:5 explicitly discusses having a meal with a Gentile, including wine!⁵⁷⁹

Now to the specific contentions raised by some scholars.

Jordan Rosenblum

As summarized in the Prior Research chapter, Jordan Rosenblum suggests that desired social relations drove tannaitic food regulations. He claims that the tannaim were innovating in order to define a new Jewish identity rather than merely continuing a pattern of separation already established in the Bible. One way he claims the tannaim did so was by equating the status of the food with that of the preparer. That is, that they saw food affected by the “the one responsible for the act of cultural transformation.”

Rosenblum bases his premise on the prohibition in m. *Hullin* 1:1 of eating meat that was slaughtered solely by a Gentile. Slaughter, he claims, is an obvious and vital moment to insert an identity-based food prohibition because it is when the cooking process begins and thus, according to Claude Levi-Strauss, the “moment when culture begins to exert its influence on nature.”⁵⁸⁰ Thus, according to Rosenblum, the tannaim introduced the “chef/sous-chef principle” for other foods as well whereby the Jew must play the primary role of the chef. Otherwise, the food may not be consumed.⁵⁸¹

⁵⁷⁹ Indeed, b. *Avodah Zarah* 72b-73a describes how Gentile and Jewish Babylonians—perhaps even the sage Rabba b. R. Huna—would drink wine through straws from the same vessel!

⁵⁸⁰ (L. I. Levine, *Caesaria Under Roman Rule* 1975). Rosenblum himself notes that many anthropologists dispute Levi-Strauss's theories but concludes that “I find his general observations useful.”

⁵⁸¹ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 75ff).

However, if Rosenblum's hypothesis is correct, one should be able to discern a notable difference in the pre- and post-tannaitic definition of "Us." He provides no proof of such a difference. Second, it was already shown above that two of his prooftexts—*Ševi'it* 8:10, which compares eating Samaritan bread to eating pig, and m. *Makhširin* 2:8, which addresses the status of bread found in a town where Jews and non-Jews live—about which he states "at issue in these texts is the identity of the preparer and not the ingredients themselves"⁵⁸²—should be interpreted differently than he suggests and do not in fact support his argument.

But perhaps most importantly, the same mishnah that prohibits Gentile slaughter also prohibits the slaughter of those considered mentally impaired (a deaf person, a dumb person, and a minor). The parallel tosefta, t. *Hullin* 1:1, similarly prohibits accidental slaughter or slaughter by an ape. Yet the tosefta permits the slaughter of a Jewish apostate, someone with whom the rabbis certainly did not want Jews to associate. These examples suggest that the criterion is not the one proposed by Rosenblum. Rather, perhaps this stricture is attributable to a rabbinic requirement that the slaughtering process require a sort of "*halakhic compos mentis*," or a religio-cognitive awareness or understanding of the ritual associated with the activity. This is why the tosefta prohibits the slaughtering by an ape or slaughtering that happens accidentally. Yet, as the mishnah notes, someone with such understanding overseeing the operation can enhance the intent of those with impaired (though not totally absent) intent, such as a minor.⁵⁸³ Also, the tosefta permits the

⁵⁸² (Rosenblum 2010, 86).

⁵⁸³ Howard Eilberg-Schwartz (Eilberg-Schwartz 1986) shows how a person's intent plays a vital role in rabbinic Judaism. He writes regarding the role of intent in tannaitic law, for example (98), that "a person's plan has the power to classify objects...A person's mere formulation of a plan, therefore, can produce significant legal consequences." However, he writes (166-167), "the intentions a Gentile actually formulates produce no legal effects." As an example, he notes that "a Gentile's intentions lack the power to determine the status of an animal." The lack of proper mindset on the part of the Gentile may indeed be the reason that the Gentile cannot be a partner with a Jew on a number of matters. A Jew, on the other hand, perhaps just by being part of the Jewish culture, is capable of the proper intention needed to effectuate the desired end result. At any rate, the Gentile, who is certainly competent to effectuate legal transactions with Jews, does not have the *halakhic compos mentis* for the type of intentions required to effect the

slaughter of an apostate who, while rejecting the framework of halakhah, at least comprehends it. On the other hand, a heretic, in contrast with an apostate, is presumed to be slaughtering the animal for idolatrous purposes; thus, his slaughter is not accepted.

Additionally, Rosenblum argues that the tannaim connected commensality with Gentiles to idolatry and discouraged it on this basis. He cites t. *Avodah Zarah* 4(5):6:

ר' שמעון בן אלעזר אומר ישראל שבחוצה לארץ עובדי עבודת זרה הן. כיצד עובד כוכבים שעשה משתה לבנו והלך וזימן את כל היהודים שבעירו אף על פי שהן אוכלין ושותין משלהן ומשמש שלהן עומד ומשמש עליהן עובדי עבודת זרה הן שנא' (שמות לד) וקרא לך ואכלת מזבחו.

R. Shimon b. Elazar says, Jews who are outside the land [of Israel] are idol worshippers. How so? An idolator who made a banquet for his son and invited all the Jews in his town, even though they eat and drink their own [food and drinks] and their server stands and serves them, they are idol worshippers, as it says, “And he will call you and you will eat of his sacrifice.” (*Exodus* 34:15)

R. Shimon b. Elazar, based on *Exodus* 34:15, prohibits a Jew from attending a Gentile wedding banquet, even if the Jew brings his own food, wine, and waitstaff. Rosenblum claims that it is “part of the emerging tannaitic discourse of table-based identity construction” under which a meal that was once acceptable is now socially problematic, even if “not necessarily legally transgressive” for tannaitic Jews to attend.⁵⁸⁴ “Even if the food is kosher, the banquet itself is non-kosher,” problematizing the Gentile diner instead of just the dinner. R. Shimon b. Elazar is clearly concerned about this scenario. However, Rosenblum goes further to describe a general

acceptable slaughtering of an animal. M. *Hullin* 2:7-8 make clear that one’s intent in slaughtering is important; indeed, in 2:8 R. Eliezer suggests that a Gentile’s intent in slaughtering is always for idolatry. Elsewhere too, the Gentile is unqualified to participate with a Jew in effectuating the halakhic legal construct of an *eruv*, a virtual consolidation of properties before Shabbat to enable the Jew to carry across properties on Shabbat (m. *Eruvin* 6:1). He is also unqualified to effectuate the halakhic legal construct of a Jewish marriage, *qiddušin* (m. *Qiddušin* 3:12). Mira Balberg (Balberg 2014, 88-89) claims that Eilberg-Schwartz’s explanation is limited regarding purity regulations, and that *caring* about something is how humans incorporate objects into the world of impurity. However, Balberg (122ff) offers no analysis of Gentile intent, per se, explaining the inability of a Gentile to make another object impure as a function of the Gentile’s status within the laws of impurity.

⁵⁸⁴ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 93).

“problematization of sharing a table” due to a “slippery slope” that would lead from commensality to “sharing a bed” and intermarriage. He cites two midrashim to support his thesis. The first is *Mekhilta de-Rabbi Šimon b. Yoḥai* on *Exodus 34:17*, which reads:⁵⁸⁵

הא אם אכל מזבחם הוא נושא מבנותם והן מטעין אותו והוא עושה ע"ז.

Thus, if one eats of their sacrifices, he will marry from among their daughters, and they will lead him astray and he will worship idols.

However, this midrash clearly refers to eating idolatrous sacrifices, not general commensality. Furthermore, its tone is one of a moral admonishment,⁵⁸⁶ foretelling what might happen if one eats of their sacrifices. There is no halakhic ruling. While sages may have indeed been concerned with the slippery slope from general commensality with a Gentile to intermarriage, it is not obvious here and there is no indication that this underlay the prohibitions on Gentile foods.

The second midrash Rosenblum cites, *Sifre Numbers 131*, relates to the Israelites’ wanton sexual behavior in Midian, as related in *Numbers 25:1-9*. Rosenblum concludes from this episode that “the sexualized nature of this interaction can be read to suggest that any commensal encounter with a non-Jewish woman might result in an inappropriate...social relationship.”⁵⁸⁷ However, a close analysis of the text challenges Rosenblum’s interpretation and conclusion. The opening clause of *Sifre Numbers 131* sets the overall theme of the midrash:

וַיָּשֶׁב יִשְׂרָאֵל בְּשֵׁטִים—אֵין יְשִׁיבָה בְּכָל מְקוֹם אֲלֵא קִלְקֵלָה,⁵⁸⁸ שֵׁנִי [שְׁמוֹת לִבָּר] וַיָּשֶׁב הָעָם לֶאֱכֹל וְשָׂתוּ וְג',
[בְּרֵאשִׁית לִזְ:כֹּה] וַיָּשֶׁבוּ לֶאֱכֹל לְחֶם וְג'.⁵⁸⁹

I. And Israel sat in Shittim—

⁵⁸⁵ (Epstein and Melamed, *Mekhilta de-Rabbi Shimon b. Yoḥai* n.d., 222:13).

⁵⁸⁶ Christine Hayes (Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* 1997, 160) and David Freidenreich (Freidenreich, *Foreign Food: Restrictions on the Food of Members of Other Religions in Jewish, Christian, and Islamic Law* (PhD Dissertation) 2006, 173-174) argue similarly.

⁵⁸⁷ (Rosenblum, *Food and Identity in Early Rabbinic Judaism* 2010, 96).

⁵⁸⁸ R. Yohanan cited in b. *Sanhedrin* 106a uses the term “grief” or “suffering” (צער) rather than “ruination” (קלקלה).

⁵⁸⁹ (M. Kahana 2015, 427:1-2). *Pirḳei de ’R. ’Eli ’ezer* 47, believed to have been compiled in the eighth century, offers a variant: Rabbi states that wherever the Israelites settled *in the desert*, they made idolatry for themselves.

- II. [The term] “sitting” everywhere means ruination,
- III. For it is stated [*Exodus* 32:6] “and the people sat down to eat and to drink... [and rose up to make merry]
- IV. [*Genesis* 37:25] “And they sat down to eat bread...”

The overarching theme conveyed in this prologue is that whenever Israelites sat, or settled, somewhere, there was ruination. The midrash warns that the sign of such a “sitting” is eating and drinking. The first example cited in the midrash (§III) is *Exodus* 32:6, where the Israelites sat down to eat and drink after having created the Golden Calf. The second (§IV) is *Genesis* 37:25, where Joseph’s brothers sat down to eat after having thrown him into a pit.⁵⁹⁰ Three things are noteworthy. (a) Ruination can mean many things, not necessarily idolatry. The ruination in *Genesis*, for example, had nothing to do with idolatry but with the brothers’ treatment of Joseph. (b) In both instances, the eating *followed* the ruination rather than led to it. One cannot conclude, therefore, that this midrash is implying that the acts of eating or drinking per se lead to downfall; only that such actions can be a sign of the state of smugness, self-satisfaction, and complacency which correlate to bad behavior. (c) Neither instance refers to eating Gentile food or eating with Gentiles, but rather to Israelites eating among themselves. Thus, no connection is made here between eating with Gentiles and a descent into idolatry.

After a side discussion, *Sifre Numbers* 131 goes on to describe what happened when the Jews settled in Shittim. It reads, based on Menachem Kahana’s annotated text:⁵⁹¹

בְּאוֹתָהּ שָׁעָה עָמְדוּ עֲמוּנִים וּמוֹאֲבִי וּבְנוּ לָהֶן קוֹלִין מִבֵּית הַיְשִׁימוֹת וְעַד הַר הַשָּׁלֵג. הוֹשִׁיבוּ שָׁם נָשִׁים מוֹכְרוֹת כָּל מִינֵי בִיסְגִין. וְהָיוּ יִשְׂרָאֵל אוֹכְלִין וּשְׂתוּיִין. בְּאוֹתָהּ שָׁעָה אָדָם יוֹצֵא לְטַיִל בְּשׁוּק וּמִבְּקָשׁ לִיקַח לוֹ חֶפֶץ מִן הַזְּקִינָה וְהִיטָה מוֹכְרֵת לוֹ בְּשָׁנָה. וְקִטְנָה קוֹרָא (!) וְאוֹמְרֵת לוֹ מִבְּפָנַי בֹּא וְקַח לְךָ בְּפָחוֹת. וְהָיָה לוֹקֵחַ מִמֶּנָּה בְּיוֹם רֵאשִׁי וּבְיוֹם שֵׁנִי. וּבְשָׁלִישֵׁי אֲמָרָה לוֹ הֵיכָנֶס לְפָנַי וּבְרֹר לְעֶצְמָךְ, אִי אֲתָה בֶן בֵּית. וְהוּא נִכְנֵס וְהַצְרִצֹר מְלֵא יַיִן אֶצְלָה מִיַּיִן

⁵⁹⁰ *Šemot Rabbah* 41:7 cites a third example: the generation of Babel as described in *Genesis* 11:2-4.

⁵⁹¹ (M. Kahana 2015, 430-432:31-44).

עמוני. ועדיין לא נאסר גיגון שלגזים ליש'. אמרה לו רצונה שתשתה גין. והוא שותה והגין בווער בו. אמר לה הישמעי לי. והיא מוציאה טופוס שלפעור מתחת פסיקיא שלה. א' לו רצונה שאשמע לה השתנה לנה. א' לה וכי לעבודה נרה אני משתנה. א' לו ומה עפבת לה, אינו אלא שתגלה עצמה לו.

- I. At that time, the Ammonites and Moabites stood and built stalls⁵⁹² from *Beit ha-Yešimot* to *Har Šeleg*.
- II. They sat women there selling all sorts of garments.⁵⁹³
- III. And the Israelites ate and drank.
- IV. And when they did so, a man would go walk in the market and wish to buy something from an old woman, who would sell it at its value.
- V. A younger woman would call to him and say to him from inside, “come get it for less.”
- VI. And so he would buy from her the first day and the second.
- VII. On the third day, she said to him “come inside and choose for yourself, are you not like one of the family?”
- VIII. So he goes in and a full jug of Ammonite wine is before her. (And at that time, Gentile wine was not yet prohibited to Israelites.)
- IX. She asked, “would you like to drink wine?”
- X. He would drink the wine which would burn inside him.
- XI. He said to her, “Obey [have intercourse with] me.”
- XII. And she takes out the image of *Pe‘or* from under her undergarment and says to him, “If you want me to obey you, bow down to this.”
- XIII. He responds, “And I should bow down to an idol?”
- XIV. And she responds, “What is deterring you? All you need to do is to bare yourself before it.”

The midrash in §III describes how the Israelites had become settled and were eating and drinking—*their own food*, not Gentile food. It was after they were drunk and contented that they, in §IV, *then*

⁵⁹² Menachem Kahana (M. Kahana 2015, 1094:31-32 n87) suggests that *qolin* (קולין), *qilin*, or *qilon* come from Greek and mean a room or rooms. He also suggests a similar meaning in y. *Sanhedrin* 10:2 28d 1321:24ff (and b. *Sanhedrin* 106a), which has *qanqalin* (קנקלין), which may be translated as latticed barriers, or stalls. See also (Sokoloff, A Dictionary of Jewish Palestinian Aramaic (Third Edition) 2017, 569), s.v. *qanqal*. This is the definition adopted here. Kahana cites other witnesses that read *maqolin* (מקולין) or *maqolia* (מקוליא), which translate as butcher shop or market (שוק).

⁵⁹³ Menachem Kahana (M. Kahana 2015, 1094:31-32) cites J.N. Epstein who claims that *kisanin* (ביסנין) is a scribal error and should be read as *bisanin* (ביסנין). In other words, the Midianite women were not selling bread dipped in oil and honey, as understood by some, but linen garments. This is the understanding as well in b. *Sanhedrin* 106a.

went out into the market. That is when their troubles began. Plus, per Kahana’s text in §II, they were going to buy *garments, not food*. The issue and moral lesson of this entire midrash relates to self-satisfaction, complacency, and over-indulgence. Indeed, in §IX and §X, *Sifre* is concerned about how the Jew was enticed not by food, but by wine. Thus, as presented by Kahana, the midrash is not relating a concern about buying bread from a Gentile nor even eating with Gentiles.⁵⁹⁴

There is no question from these midrashim that the rabbis were concerned about Jews being enticed into idol worship by partaking in idolatrous sacrifices or wine in intimate settings with Gentiles. And this was the moral message of the midrashim. But it does not follow that these concerns undergirded the halakhic legislative process or even the intent of the Mishnah and Tosefta regarding prohibiting the general consumption of Gentile bread and oil.

Zvi Steinfeld

Zvi Steinfeld asserts that the tannaitic prohibitions, other than bread, were driven by concern over the possible admixture by the Gentile of impermissible ingredients. He also asserts that tannaitic

⁵⁹⁴ Daniel Sperber (Sperber, *The City in Roman Palestine* 1998, 15-16) does read this midrash differently. He translates the start of the pericope as “At that hour the Ammonite and the Moabites came and built themselves *maqolin* (מקולין)—*macellum*, a food market, and placed in them women selling all kinds of sweetmeats, *kisnin* (כסנין), and [the children of Israel would eat and drink].” In other words, to his interpretation—which does not take into account Kahana’s textual analysis—the Jews ate the Gentile foods. In addition, one late midrash, *Midraš Pitron Torah* (apud *Torah Šlemah*, 166), attributed by many scholars to R. Hai Gaon (c. 10th century), states that, according to R. Yitzhak, at that moment in Shittim the Israelites committed four sins, including eating the bread of Gentiles. This book of midrashim cites no sources, and this particular midrash may well have been influenced by the prohibition of Gentile bread in the Bavli. An even later midrash on this verse, in *Yalqut Midrešei Teiman* (apud *Torah Šlemah*, 166), traditionally believed to be constituted of both earlier and later portions—the earlier compiled in the thirteenth to fifteenth centuries C.E. and the later between the sixteenth and nineteenth centuries C.E.—asserts that repasts lead to *ḥatnut*, and *ḥatnut* leads to sin. On the other hand, *Midraš Tanḥuma, Numbers 25:1* (Townsend 2003, III:232), believed to have been compiled in *’Ereš Israel* beginning in the fifth century C.E., attributes the *zenut*, profligacy, at Shittim not to the eating, but to a local spring whose waters prompted *zenut*. *Midraš Aggadah, Numbers 25:1* (Buber 1960, II:145) also ties the ruination to the hubris resulting from all the miracles God had bestowed on the Israelites. It does not tie it to eating. *Midraš Tanḥuma on Genesis 9:27* (Townsend 2003, I:54) ascribes wine, not food, to the downfalls of Noah, Joseph’s brothers, the Golden Calf, elsewhere in the Tanakh and, relevant to this discussion, in Shittim, stating that “wherever you find wine, you find a downfall.”

texts assume no general prohibition of Gentile-produced food.⁵⁹⁵ This approach is consistent with the conclusions here. On the other hand, Steinfeld claims that Gentile bread is inherently prohibited by the mishnah solely on the basis that a Gentile produced it.⁵⁹⁶ Earlier discussion here, however, showed how, in fact, the prohibition of Gentile bread too could well have been the result of concern regarding its ingredients.

Steinfeld further claims that the tannaim prohibited all eating with Gentiles.⁵⁹⁷ In support, he notes a *beraita* in b. *Avodah Zarah* 8a-b, that parallels t. *Avodah Zarah* 4(5):6 discussed in the Rosenblum analysis above.⁵⁹⁸ This *beraita* cites the tanna R. Yishmael that one is not permitted to eat at the wedding celebration of a Gentile's son, even if one brings one's own food. The *beraita* implies that such celebration has idol-thanking connotations and thus participating in such a meal equates to participation in idolatry. It bases this ruling on the same specific verse, *Exodus* 34:15, relating to the eating of idolatrous sacrifices. Steinfeld, however, asserts that the wedding celebration was just an example and that the tannaim in fact prohibited all meals, even if unrelated to idolatrous practices. He brings several proofs, key among them are the following three citations:

Citation 1. A *beraita* in b. *Sanhedrin* 104a in the name of R. Shimon b. Elazar [T4] and a related aggadic midrash in *Seder 'Eliyahu Rabbah*⁵⁹⁹ upholding tanna Hizkiyah's [T4] declaration

⁵⁹⁵ Steinfeld (Z. A. Steinfeld 2008, 149) writes: "In the words of the tannaim there is no mention of any particular prohibition of Gentile cooking."

⁵⁹⁶ Steinfeld (Z. A. Steinfeld 2008, 27): "[Bread] is entirely and absolutely prohibited by its very being a 'thing of a Gentile' and there is no aspect to permit it even where there is no fear whatsoever that something impermissible got intermixed into it." Steinfeld (28) contrasts the Mishnah's rationale with Tosefta's approach which, he claims, is ingredient based. However, he does not offer a reason why this may be the case.

⁵⁹⁷ Steinfeld (Z. A. Steinfeld 2008, 9) writes: "Apparently, the *beraita* itself...opines that all eating together with the Gentile is prohibited, and not only in the [wedding] feast for his son."

⁵⁹⁸ (Z. A. Steinfeld 2008, 9-25).

⁵⁹⁹ *Seder 'Eliyahu Rabbah* 9:8. Both (Strack and Stemberger, Introduction to the Talmud and Midrash 1991, 340-341) and (Reizel 2013, 346) note that the dating of *Seder 'Eliyahu Rabbah* is unclear. It could be as early as the end of the tannaitic period according to some scholars but as late as the tenth century according to others. Strack and Stemberger suggest that it was likely composed after the Bavli but before the ninth century. It seems to have been composed (not just edited) by a single individual.

that Israel was exiled to Babylonia because, as recorded in *II Kings* 20, King Hizkiyahu had eaten with visiting Gentiles. B. *Sanhedrin* 104a reads:

תניא אמר רבי שמעון בן אלעזר...בשביל שנכרים אכלו על שולחנו גרם גלות לבניו. מסייע ליה לחזקיה דאמר חזקיה כל המזמן עובד עבודה זרה לתוך ביתו ומשמש עליו גורם גלות לבניו.

- I. We learned in a *beraita*, R. Shimon b. Elazar said...
- II. because Gentiles ate at his [King Hizkiyahu's] table it caused exile to his children.
- III. This supports [the tanna] Hizkiyah, for Hizkiyah said: "anyone who invites an idol worshipper into his home and serves him causes his children to exile."

Citation 2. A dialogue reported in b. *Megillah* 12a plus a related aggadic midrash in *Šir ha-Širim Rabbah*⁶⁰⁰ between tanna R. Shimon [T3] b. Yohai and his students about why the Persian Jews in fact deserved the death penalty at Purim. In the Bavli, the reason given, at least for the Shushan Jews, is that "they partook in the feast of that evil man [Ahasuerus]." In *Šir ha-Širim Rabbah*, it is that "they ate Gentile cooking." B. *Megillah* 12a reads:

שאלו תלמידיו את רבי שמעון בר יוחאי, מפני מה נתחייבו שונאיהן של ישראל שבאותו הדור כליה? אמר להם, אמרו אתם. אמרו לו, מפני שנהגו מסעודתו של אותו רשע. אם כן, שבשושן יהרגו שבכל העולם כולו אל יהרגו. אמרו לו, אמור אתה. אמר להם, מפני שהשתחוו לצלם.

- I. His students asked R. Shimon b. Yohai: "Why did the Jews [literally: the enemies of the Jews] of that generation deserve to die?"
- II. He said to them: "You say."
- III. They said to him: "Because they enjoyed the meal of that evil person [Ahasuerus]" [In *Šir ha-Širim Rabbah*: "Because they ate Gentile cooking."]
- IV. He said to them: "If so, in Shushan [where they ate], they should be liable for death, but they should not be liable throughout the entire world."
- V. They said to him: "You say."
- VI. He said to them: "Because they [the Jews] bowed down to an image."

⁶⁰⁰ *Šir ha-Širim Rabbah* 7:8, s.v. *we-zot*. There is a parallel in *Midraš 'Aggadah va-Yikra* 25:35 (Buber 1960, 65), s.v. *we-khi yamukh aḥikha*.

Citation 3. Midrash Aggadah *Pirquei de-Rabbi 'Eli'ezer* 29 also seems to imply a prohibition of eating with Gentiles. It reads:

כל מי שאוכל עם הערל⁶⁰¹ כאלו אוכל עם הכלב. מה הכלב שלא נמול כך הערל שלא נמול.

- I. Anyone who eats with the uncircumcised [Gentile],
- II. it is as if he is eating with a dog [In another textual witness: “it is as if he ate vermin meat.”]⁶⁰²
- III. Just as a dog is uncircumcised so the Gentile who is uncircumcised.

The use of these citations as the basis for a tannaitic prohibition of eating with a Gentile, however, is unconvincing. First, all three citations are aggadic and cannot not be considered halakhically conclusive. Citation #1 from b. *Sanhedrin* appears only in chapter eleven of that tractate, known for its aggadic rather than halakhic content. It appears nowhere else in Talmud. Citation #2 in *Megillah* specifically maligns eating at the feast sponsored by the evil Ahasuerus. It does not suggest that the issue was eating with Gentiles. The parallel text in *Šir ha-Širim Rabbah*, which does make such a suggestion, was likely compiled after the Bavli,⁶⁰³ and thus its terminology “because they ate Gentile cooking” cannot be accepted uncritically. But even if the *Šir ha-Širim Rabbah* version is correct, the students’ assertion that the Jews of Shushan deserved the death penalty because they ate Gentile food is quite a leap. Indeed, the teacher, R. Shimon b. Yohai in §IV, refutes the students’ suggestion.⁶⁰⁴ Finally, Citation #3 is ensconced in *Pirquei de-Rabbi*

⁶⁰¹ (Pirquei De-Rabbi Eliezer 1973, 94) offers two alternative texts: ‘*eved* (עבד), or slave, and *makhišei ha-šem* (מכחישי השם), deniers of God.

⁶⁰² The accuracy of the text of this passage is problematic. See, e.g., (Pirquei De-Rabbi Eliezer 1973, 94) and (Pirquei de-Rabbi Eliezer: Mahadura Mada’it 1972, 97). Steinfeld (Steinfeld, Am Levadad: Mehkarim be-Misekhet Avodah Zarah 2008, 19) calls the “vermin” version more likely correct.

⁶⁰³ Though it appears to contain earlier material, according to Tamar Kadari (Kadari 2018), *Šir ha-Širim Rabbah* was compiled somewhere between the sixth and early seventh centuries C.E. According to Anat Reizel (Reizel 2013, 155), *Šir ha-Širim Rabbah* dates from seventh century C.E. ‘*Ereš* Israel, although some scholars place it as early as 600 C.E. with one dating it as early as the fifth century. In it, as in all Midrashei Aggadah, it is rare to find a saying dealing with halakhah.

⁶⁰⁴ Zeev Safrai (Z. Safrai, Mishnat Eretz Yisrael: Avodah Zarah 2021, 115) suggests that it is possible in fact that R. Shimon b. Yohai, consistent with his personal opposition to eating any Gentile cooking, felt that Shushan Jews

'Eli'ezer, whose authorship is unknown and whose compilation and editing likely occurred later than the Babylonia amoraic era.⁶⁰⁵ Thus, the usefulness of all three citations in indicating tannaitic halakhic intent is highly questionable.

Second, the language and tone in all three of Steinfeld's citations are those of admonishment or moral suasion, not of halakhic prohibition.⁶⁰⁶ Indeed, a separate *beraita*, using language identical to that of the *beraita* that Steinfeld cites from b. *Sanhedrin* in citation #1 regarding eating with Gentiles, asserts that "one who forgets something from his learning causes the exile of his children."⁶⁰⁷ Yet another *beraita* warns of a similar outcome if a person has a synagogue in his city but does not enter it to pray.⁶⁰⁸ Clearly, the threat of exile is a moral admonishment, not a halakhic pronouncement.

Additionally, the continuation of *Pirquei de-Rabbi 'Eli'ezer* 29 in citation #3 reads:

וכל הנוגע בערל כנוגע במת. וכל הרוחץ עמו כרוחץ עם המצורע.

- IV. And anyone touching an uncircumcised [Gentile] it is as if he is touching a dead person.
- V. And anyone who bathes with him, it is as if he is bathing with a leper.

themselves were in fact liable for death because they ate of Ahasuerus' meal. In y. *'Avodah Zarah* 2:6 41d 1391:23 and a parallel *sugya* in y. *Šabbat* 1:4 3c 371:40, R. Shimon b. Yohai, alone, suggests that eating any Gentile food is biblically prohibited. His view is not recorded in the Mishnah or Tosefta, nor is it seemingly accepted by the Yerushalmi, all of which see the food prohibitions as rabbinic. In any case, a death penalty for eating Gentile food appears excessive.

⁶⁰⁵ See (Strack and Stemberger, Introduction to the Talmud and Midrash 1991, 328-330) and (Reizel 2013, 332). *Pirquei de-Rabbi 'Eli'ezer* is incomplete and fragmented. It refers to sages who lived after the fourth century, alludes repeatedly to Arab rule, and appears to relate to and/or incorporate Arab/Moslem myths. Reizel estimates that it was compiled in the seventh century C.E. Strack and Stemberger estimate the eighth or ninth century.

⁶⁰⁶ Hayes (Hayes, Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate *Avodah Zarah* 1997, 159-163) similarly concludes that the tradition regarding exile is clearly not an authoritative *halakhic* ruling. "It is an *aggadic* tradition that aims at moral suasion: Although no legal violation is involved, one should nevertheless stay clear of the private feasts of idolaters." Freidenreich (Freidenreich, Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law 2011, 74-76) also does not see the statement as *halakhic*. "This rhetoric is not directed against intermarriage or even commensality with Gentiles but rather against emigration from the land of Israel."

⁶⁰⁷ B. *Yoma* 38b.

⁶⁰⁸ B. *Berakhot* 8a.

“Touching an uncircumcised person” and “bathing with him” may have been frowned upon but they were certainly not prohibited.

Third, *prima facie*, the plain language of the *beraita* in b. *‘Avodah Zarah* in the name of R. Yishmael refers specifically to an idolatrous celebration, not a meal in general. No incongruity of meaning necessitates the latter reinterpretation. Furthermore, the other examples in a parallel mishnah clearly refer to events with an aspect of idolatrous celebration.⁶⁰⁹

Finally, as mentioned previously, m. *‘Avodah Zarah* 5:5 explicitly discusses a Jew having a meal with a Gentile. It is puzzling that Steinfeld did not address this mishnah.

Israel Ben-Shalom

Israel Ben-Shalom asserts that, while not alluded to in tannaitic literature, the prohibitions of Gentile bread, oil, and *šelaqot* were enacted in 66 C.E. among the Eighteen Edicts as a means of separating the Jews from the Romans in advance of the impending rebellion.⁶¹⁰ In addition to the more general arguments above, this conclusion has four key weaknesses. First, such an enactment would appear to be geopolitically motivated, not socially motivated *per se*—certainly not for the purpose of preventing intermarriage.

Second, it is not certain how these bans would help the rebellion. As noted above, Tacitus already viewed Jews, in large measure, as separated from—even antipathetic to—the Romans, certainly in the Hellenistic cities. And while relations of the Jews with their Gentile neighbors may

⁶⁰⁹ M. *‘Avodah Zarah* 1:3 refers to other personal idolatrous celebrations of the Gentile including the day that he returned safely from a sea voyage, was released from jail, or, even more poignantly, cut his hair or beard in a religious rite.

⁶¹⁰ (Ben-Shalom 1993). Shaye Cohen (S. J. Cohen, *From the Bible to the Talmud: The Prohibition of Intermarriage* 1983, 28) similarly concludes that “a simple antipathy towards Gentiles motivated the revolutionaries of 66–70 C.E.” and they too might have tried through the Eighteen Decrees to prevent any social or sexual intercourse between Jews and Gentiles. See also (Hengel, *The Zealots: Investigations Into the Jewish Freedom Movement in the Period from Herod 1 until 70 AD* 1989, 183–228).

have been quite poor—even violent⁶¹¹—the rebellion was against the Roman government, not the local neighbors.

Third, the edicts enacted in no way banned all social interaction or even eating with the Gentiles, just Gentile bread, oil, and *šelaqot*.

And fourth, it is far from clear how effective these edicts would have been as a practical measure. As noted earlier, while our knowledge is limited, most modern scholars believe that before the destruction of the Temple, the rabbis did not have great authority over the people and did not rule religious life at this time.⁶¹² Indeed, even the Talmudim admit that the edict on Gentile oil was never adopted by the people, nor was the edict on bread fully adopted.⁶¹³

Refutation of Gentile Impurity as Underlying the Tannaitic Commensal Prohibitions

The Prior Research chapter showed that most scholars agree that Gentile impurity was no longer a factor in the tannaitic bans on Gentile foods by the time of the Mishnah and Tosefta. Several tannaitic statements that could be construed as indicating Gentile impurity concerns were already addressed earlier in this chapter. This section concludes the discussion with a number of other

⁶¹¹ (S. Schwartz, *The Ancient Jews from Alexander to Muhammad* (Key Themes in Ancient History) 2014). Ben-Shalom (Ben-Shalom 1993, 3) writes that the confrontations between Jews and Gentiles in the mixed cities represented an important factor in the outbreak of the great revolt against Rome in 66 C.E.

⁶¹² See, e.g., (Schremer, *Olamam shel ha-Hakhamim ba-Hevrah ha-Yehudit be-Eretz Israel bi-Tekufat ha-Mishnah: Torah, Yokrah, u-Ma'amad Tzibburi*. 2018) for a survey of the scholarship on this. See also, for example, (Cohn 2013), (S. J. Cohen, *From the Maccabees to the Mishnah*, Second Edition 2006), (Hezser, *Social Fragmentation, Plurality of Opinion, and Nonobservance of Halakhah: Rabbis and Community in Late Roman Palestine 193/4*), (Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 C.E.* 2012), (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 132), (J. Neusner, *Rabbinic Judaism: The Theological System* 2002), (J. Neusner, *From Politics to Piety: The Emergence of Pharisaic Judaism*, Second Edition 2003, 10), (S. Schwartz, *Big Men or Chiefs: Against an Institutional History of the Palestinian Patriarchate* 2004), (Sperber, *Roman Palestine 200-400: The Land* 1978, 160-186), (S. Schwartz, *The Ancient Jews from Alexander to Muhammad* (Key Themes in Ancient History) 2014, 103), (Lightstone, *In the Seat of Moses: An Introductory Guide to Early Rabbinic Legal Rhetoric and Literary Conventions*. 2020, 25) and (Miller, *Sages and Commoners in Late Antique 'Erez Israel: A Philological Inquiry into Local Traditions in Talmud Yerushalmi* 2006, 20-24). For a different perspective, see (Alon, *Jews, Judaism*, 22).

⁶¹³ Y. 'Avodah Zarah 2:6 41d 1391:13–23; b. 'Avodah Zarah 35b–36a.

relevant sources. Some would seem to indicate that Gentile impurity was a concern in tannaitic times, some belie the notion of Gentile impurity, and some show a lack of tannaitic concern over Gentile impurity in relation to food in any case.

A single mishnah might be read to imply that Gentile impurity defiled even in the time of the Mishnah. The second part of m. *Teharot* 7:6 reads:

הַגְּבָאִין שְׁנִיכְנְסוּ לְתוֹךְ הַבַּיִת הַבַּיִת טָמֵא. אִם יָשׁ עִמָּהֶן גּוֹי נְאֻמָּנִים לֹא יִכְנְסוּ אֲבָל לֹא יִגְעְנוּ.
הַגְּבָאִים שְׁנִיכְנְסוּ לְתוֹךְ הַבַּיִת אִין טָמֵא אֲלֵא מְקוֹם רִגְלֵי הַגְּבָאִים...אִם יָשׁ עִמָּהֶן גּוֹי אוֹ אִשָּׁה הַכֹּל טָמֵא.

- I. If [Jewish] tax collectors entered a house, the house is impure.
- II. If there was a Gentile with them, they are trusted to say, “we entered but we did not touch anything.”
- III. If thieves entered a house, only the place which of the thieves’ the feet is [deemed] impure...
- IV. ...
- V. If there was a Gentile or a woman with them, all is impure.⁶¹⁴

§V would seem to clearly rule that a Gentile entering the house with the thieves makes everything in the house impure. However, the scenario described in §II is strange and ambiguous. What was the Gentile’s role? Both §II and §V employ the identical term regarding the presence of the Gentile “with them” (עִמָּהֶן). So, if the Gentile entered the house in §II, why is everything in the house not deemed impure, as in §V? On the other hand, if the Gentile stayed outside, why would his presence matter as to the trustworthiness of tax collectors in the house? There are indeed textual and

⁶¹⁴ The translation here is my own based on (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022), but Cohen et al does not adopt the Kaufmann text that is adopted here.

contextual issues here.⁶¹⁵ These would cast a shadow on the reliability of this mishnah as a clear source for Gentile impurity in Mishnah.⁶¹⁶

One tosefta appears to imply a defiling Gentile impurity. T. *Teharot* 6:11 reads:

הַנְּדַחַק בְּרַחֲסִים שֶׁהַעֹבֵד בְּכַבִּים בְּתוֹכָהּ וְשֶׁהַנְּדָה בְּתוֹכָהּ בְּגָדָיו טְמֵאִין מִדָּרְסִים...

- I. He who bumps against a millstone where a Gentile is located
- II. [or] where a menstruating woman is located,
- III. His garments are unclean with *midras* impurity.

This tosefta appears to indicate a transferable Gentile impurity.⁶¹⁷ But this and the previous mishnah are single sources in each corpus and seem not to be consistent with other sources, as shown earlier in the chapter. Also, for example, t. *Ahilot* 1:4 states clearly that a Gentile does not make a utensil impure by touch.

הַגִּי וְהַבְּהֵמָה וְכָן שְׂמֹנֶה וְכָלֵי חֶרֶס, הָאוֹכְלִין וְהַמְשַׁקִּין הַנוֹגְעִין בְּמַת, כְּלִים הַנוֹגְעִין בְּהֵן טְהוֹר.⁶¹⁸

A Gentile, an animal, an infant less than eight days old, a clay pot, foods, and liquids that touch a corpse—utensils that touch them are pure.

⁶¹⁵ The traditional version today is more understandable. §II reads, using (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022): “If there was a Gentile with them, they are trusted to say, ‘We did not enter,’ but they are not trusted to say, ‘We entered but we did not touch.’” (אם יש עמָהָן גִּי נְאָמְנִים לוֹמֵר לֹא נִכְנְסִנוּ אֲבָל אֵין נְאָמְנִים) (.) But even here, the role of the Gentile remains unclear.

⁶¹⁶ Another Mishnah, m. *Kelim* 1:8, which comes amidst a series of mishnayot that lay out the degrees of holiness of various geographies in Israel, specifies that a Gentile may not enter the Rampart in the Temple. This might be understood as being due to Gentile impurity. This is not necessarily the case, however, because the same mishnah later specifies that even a pure Jew may not enter the Priest’s Section and the ensuing mishnah lists other entry prohibitions unrelated to impurity. Rather, as Christine Hayes suggests (*Hayes, Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 213), the prohibition on Gentile entry is likely due to genealogical considerations.

⁶¹⁷ Citing a number of mishnayot and toseftot, Büchler (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 48) argues that it was only the minority opinion of R. Meir, R. Yehudah, and R. Simeon in Galilee who regarded the Gentile as defiling to the same extent as a man who has an issue, inasmuch as his spittle and urine defile.

⁶¹⁸ The text in Zukermandl appears corrupt: “A Gentile, and an animal, and a pot for food, clay, and liquids that touch a corpse—utensils that touch them are pure.” (הַגִּי וְהַבְּהֵמָה וְכָלֵי הָאוֹכְלִין חֶרֶס וְהַמְשַׁקִּין הַנוֹגְעִין בְּהֵן טְהוֹר) The text in the narrative above is amended according to the Vienna manuscript.

Vered Noam notes from this and “from all other tannaitic sources one may surprisingly conclude that a live Gentile is not susceptible to impurity at all.”⁶¹⁹

Additionally, it might conceivably be argued that late Second Temple period stepped pools found near wine and oil presses might have been built in order to prevent an impure person, including Gentile workers, from touching the wine or oil.⁶²⁰ There is no indication, however, that this concern in fact carried over to Gentile workers. Indeed, it is not clear to what extent Gentiles even worked in these areas, certainly near winepresses, as the concern about a Gentile touching the wine and making it deemed idolatrous wine would have been much more severe than a concern that he might make it ritually impure.

In any case, as has been argued above, certainly by later tannaitic times, Gentile impurity, even if still a meaningful concept, no longer was a concern pertaining to food. Adolph Büchler, for example, notes that R. Meir himself, who fastidiously observed the laws of ritual purity, visited the home of the Gentile Oinomaos of Gadara several times. R. Meir also recounts how a Gentile of his town arranged a banquet and invited all its elders—including R. Meir himself—and how sumptuous the meal was. Other sages received Gentiles in their homes. Thus, Büchler concludes that: “neither the ordinary Jew, nor even the scholar who guarded his food from every Levitical defilement, regarded the Gentile’s grave impurity as defiling him personally or his food; that impurity did not prevent the visit of the Jew to the house of the Gentile, nor the acceptance of an invitation to the table of the Gentile, nor the participation of the Gentile in a meal of the Jew.”⁶²¹

⁶¹⁹ (Noam, *Me-Qumran la-Mahapeikhah ha-Tannait: Hebetim bi-Tefisat ha-Tum'ah* 2010, 286).

⁶²⁰ (Miller, *At the Intersection of Texts and Material Finds: Stepped Pools, Stone Vessels, and Ritual Purity among the Jews of Roman Galilee* 2015, 99-101).

⁶²¹ (Büchler, *The Levitical Impurity of the Gentile in Palestine before the Year 70* 1926, 54).

In contrast, Hannan Birenboim claims that it is possible that, in mishnaic times, certain Gentile foods that had a symbolic status or an important place in the economic and social relations between Jew and Gentile would be considered impure.⁶²² This would seem to imply that the Gentile-food prohibitions in m. *‘Avodah Zarah* 2:6 might fall into these categories. Birenboim’s conclusion, however, does not provide a clear guideline of what is in or out of bounds. Furthermore, some food products, such as fish sauces that one is permitted to eat, as listed in m. *‘Avodah Zarah* 2:7, versus those that one may just derive benefit from, as listed in 2:6, differ only in whether their ingredients are identifiable as biblically permitted foodstuffs.⁶²³ However, if Birenboim’s “importance” theory were correct, one would expect both concoctions to be equally susceptible or unsusceptible to Gentile impurity.

Furthermore, if Gentile impurity were the concern, the food items listed in m. *‘Avodah Zarah* 2:7 as permitted to be eaten—for example, milk where a Jew oversaw the milking process—are equally susceptible to Gentile impurity as those not permitted to be eaten in mishnah 2:6. Mishnah 2:7 does not prohibit a non-priest from eating these foods, which, under the premise of Gentile impurity, should be deemed ritually impure. Additionally, were impurity the concern, rather than listing various and sundry food items, mishnah 2:6 could have simply provided a general rule: a food may not be eaten where there is concern over Gentile impurity, but benefit may be derived.

In addition, an *am ha-‘ares* was also declared by the tannaim to be *ṭame*, and to ritually pollute food, drink, and utensils through touch. Yet the Mishnah does not prohibit eating food

⁶²² (Birenboim 2011, 30).

⁶²³ M. *‘Avodah Zarah* 2:6 states that one may only derive benefit from “fish-brine with no *kilbith*-fish floating in it,” whereas m. *‘Avodah Zarah* 2:7 states that one may eat “brine containing fish.”

items from an *am ha-’areš*; indeed, the Mishnah does not prohibit one from dining with an *am ha-’areš* out of concern over impurity.⁶²⁴

Furthermore, the Mishnah does not deem a Gentile’s touching food impure. In a straightforward example, the only concern raised by m. *’Avodah Zarah* 5:5 regarding a Jew’s leaving the table during a meal with a Gentile is whether the wines left on the table or a nearby credenza may have been libated idolatrously. No concern whatsoever is raised that the Gentile may have touched the bread, oil, or any other comestibles (including liquids) on the table and thus made them impure.⁶²⁵

Conclusions Regarding Tannaitic Literature

As shown in the discussion above, the tannaim were not seeking to extend or strengthen the boundaries between Jew and Gentile via commensal laws, which had already existed as a result of the biblical prohibitions. The central and straightforward concern of tannaitic literature that led to the commensal prohibitions enumerated in the Mishnah and Tosefta was the possible admixture of impermissible items, including idolatrously libated wine. Some aggadic sources do convey warnings against certain types of commensal activity with Gentiles that would lead, possibly through intermarriage, to idolatry. But there is no need, certainly no compelling reason, to attribute general social engineering motives to the prohibitions of Gentile bread, oil, and other foods. Indeed, given the foregoing analysis, the burden of proof is actually on the “conventional wisdom”

⁶²⁴ See, e.g., m. *Demai* 2:2.

⁶²⁵ Interestingly, Aharon Aescoly (Aescoly 1943, 50-51) reported that the Falasha (Ethiopian Jews who had lived in isolation for centuries practicing a pre-Talmudic form of Judaism) do not eat the bread and flour of Gentiles. Aescoly believed that the Falasha prohibition of eating such bread and flour arises from fear of impurity caused by the liquids that may have touched the flour or the bread, or because of impurity of the Gentile millstones. In other words, it was not due to Gentile impurity per se, but that their flour, bread, or millstones may have come into contact with something impure.

to prove that concerns about interaction and intermarriage prompted the sages of 'Ereš Israel to use commensal prohibitions to impose social separation.

Furthermore, there is no evidence for a tannaitic-halakhic restriction of eating with Gentiles, nor of a prohibition of Gentile cooking generally. Rather, the tannaitic prohibition of Gentile cooking is limited to specific foods where wine or other non-permissible ingredients may have been mixed in.⁶²⁶

Finally, no connection is made in tannaitic literature between the prohibitions of Gentile-produced food and intermarriage. In particular and in contrast with the Talmudim, neither the Mishnah or Tosefta connect between the prohibitions of Gentile-produced bread, oil, and cooking and the Eighteen Edicts of the loft of Hananiah. Thus, these tannaitic prohibitions did not derive from concern over intermarriage but essentially over ingredients. In other words, *mišum ḥatnut* was not a tannaitic motivator and was surely a later innovation.

⁶²⁶ (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 44, 151–156, 203, and 311) and (Z. A. Steinfeld, *Concerning the Prohibition Against Gentile Oil* [Hebrew] 1980) similarly conclude that Gentile cooking as a specific prohibition is not mentioned in any tannaitic source. It is just post-tannaitic literature that presumed that the prohibition of *šelaqot* includes all Gentile cooking.

6. THE YERUSHALMI'S TREATMENT OF GENTILE FOODS

The prior chapter showed how the tannaitic prohibitions of various Gentile-prepared bread, oil, and cooking can be explained as rooted in a concern over the possible intermixing of forbidden ingredients. It also demonstrated the lack of compelling evidence that the bans were motivated by concerns over intermarriage or a desire to separate Jews from Gentiles. This chapter looks at how the Yerushalmi treats the bans on Gentile-prepared food and similarly attempts to demonstrate that these prohibitions can be attributed to worries over the possible admixture of impermissible ingredients and not to objections regarding Gentile cooking per se. It seeks to analyze all relevant citations in the Yerushalmi. While perhaps it is not entirely necessary to do so, this extensive discussion is important to counter centuries-old perceptions, based primarily on b. *Avodah Zarah* 36b, regarding the underpinnings of the rabbinic commensal prohibitions, as discussed in earlier chapters.

Before embarking on this analysis, it is interesting to note that the Yerushalmi cites *Deuteronomy* 7:3, “neither shall you make marriages with them” (ולא תתחתן בהם), in only six locations. In five of the six instances the discussion revolves around the actual prohibition of intermarriage. In one instance, however, the verse seems to be used to prohibit a separate activity: serving as a bridegroom’s attendant at a Gentile’s wedding.⁶²⁷ Yet, the verse is not applied anywhere in the Yerushalmi to prohibit Gentile bread or cooking.

⁶²⁷ Y. *Avodah Zarah* 1:9 40b 1382:8-13. A “best man” in modern parlance.

According to most scholars, the Yerushalmi was completed late in the fourth century C.E., nearly two centuries after the close of the Mishnah and around the time that the emperor Theodosius made Christianity the official religion of the Roman Empire.⁶²⁸ It is organized according to the tractates of the Mishnah and includes discourses (*sugyot*, s: *sugya*) on the individual mishnayot, often citing other early rabbinic literature, such as the Tosefta and Midrash. Most scholars conclude that nearly all, if not all, of the Yerushalmi was completed in Tiberias, thus primarily reflecting the learning of the Galilee.⁶²⁹

Two of the many idiosyncrasies of the Yerushalmi relevant to this dissertation are its terseness/opaqueness and the difficulty in establishing an accurate text. The Yerushalmi is often telegraphic. Its editorial process was shorter than the Bavli's, and it was not studied and emended as extensively by traditional commentaries over time. Thus, connective tissue is often lacking between statements, and *sugyot* are often difficult to follow. It is often difficult to determine whether a certain phrase is a question, statement/opinion, or response, or why a pericope is included at all. To “unpack” a Yerushalmi text, one often needs many tools, including analyzing parallel *sugyot* elsewhere in the Yerushalmi.⁶³⁰

⁶²⁸ For an analysis of formation and character of the Yerushalmi, see (Moscovitz, *The Formation and Character of the Jerusalem Talmud* 2008). Most modern scholars agree that the closing of the Yerushalmi occurred c.370 C.E. Hillel Newman (Newman 2011) dates it a few years later c.383 C.E. Other scholars, including J.N. Epstein (J. N. Epstein, *Mevo'ot le-Sifrut ha-Amoraim: Bavli vi-Yerushalmi* 1962, 273-276) and M. Assis (Assis, *Talmud Yerushalmi* 2018, 229-230) add time for editing and claim it closed c.425 C.E. In any case, it was completed long before the Bavli (Kalmin, *The Formation and Character of the Babylonian Talmud* 2008).

⁶²⁹ Saul Lieberman (Lieberman, *Talmudah shel Kaisarin* 1931) believes that Tractate *Neziqin* (consisting of *Bava Qamma*, *Bava Mesia*, and *Bava Batra*) was compiled and edited in Caesarea. Moshe Assis (Assis, *More on the Question of the Redaction of Yerushalmi Neziqin* [Hebrew] 2013) argues that it was edited in a study house in Tiberias separate from where the rest of the Yerushalmi was closed.

⁶³⁰ The Yerushalmi contains about a thousand nearly identical *sugyot* repeated in multiple places, encompassing an estimated third of the Yerushalmi. The parallels were typically copied verbatim, with no changes (other than transcription errors of various sorts) and with few segue words to reflect their adoptive environment. For our purposes, parallels are important in that they can help in ascertaining the *sugya*'s correct context, original text, and meaning.

The earliest complete Yerushalmi text available today is in the Leiden Manuscript, written in 1289. One R. Yehiel transcribed it from an earlier manuscript that has not survived but reportedly contained many errors, which R. Yehiel and others sought to amend. Over time a variety of errors have crept into the manuscripts and printings based on Leiden manuscript, some mistakenly by well-intended scribes/editors, others inadvertently.⁶³¹

As a result, many Yerushalmi *sugyot* are difficult to parse and understand. While the Bavli may be carefully used from time to time to shed light on a difficult-to-understand Yerushalmi *sugya*, it cannot be viewed as an extension or automatic explicator of the Yerushalmi, for several reasons: (a) The Yerushalmi was learned and closed in an entirely different social and geographic milieu than the Bavli. (b) The Yerushalmi could not know all of the analyses of Bavli as we know them since it was closed at least two centuries earlier. (c) One cannot be sure that attributions in the Yerushalmi to particular Babylonian amoraim are accurate, as there is a chance that a statement or the name of its speaker was not received, understood, or recorded accurately. (d) It is not at all certain that the Bavli knew the Yerushalmi as a complete text or even most of its *sugyot*. Alyssa Gray, based on a detailed analysis of tractate *‘Avodah Zarah*, concludes that the Babylonian amoraim had the complete Yerushalmi *‘Avodah Zarah* in front of them.⁶³² However, most scholars claim that the Bavli did not know the Yerushalmi.⁶³³ While individual statements or segments of

⁶³¹ For a fuller treatment of this topic, see (Lieberman, *Al ha-Yerushalmi* 1929, 23ff).

⁶³² (Gray 2005). See 8-33 for a summary of prior research on the relationship between the Talmuds and of Gray’s position. Several traditional sages and commentators believed that the Bavli did know the Yerushalmi and thus, as the later of the two, overrode the Yerushalmi when the two disputed a given law. Later commentators such as David Frankel (1707-1762), author of *Qorban ‘Edah*, saw the two Talmudim as complementary and sought mightily to reconcile apparent differences. See, e.g., (J. N. Epstein, *Mevo’ot le-Sifrut ha-Amoraim: Bavli vi-Yerushalmi* 1962, 290-291), (Melamed, *Pirkei Mavo le-Sifrut ha-Talmud* 1973, 528), and (Halivni 2013, 218 n71).

⁶³³ (Z. Fraenkl 1870, 31-45), (J. N. Epstein, *Mevo’ot le-Sifrut ha-Amoraim: Bavli vi-Yerushalmi* 1962, 290-292 and 321-322), (Melamed, *Pirkei Mavo le-Sifrut ha-Talmud* 1973, 597-604). (Assis, *Talmud Yerushalmi* 2018, 245). Richard Kalmin (R. Kalmin, *The Redaction of the Babylonian Talmud: Amoraic or Saboraic?* 1989, 168 n102) writes: “Yerushalmi, completed shortly before the death of Rav Ashi, appears to have exerted virtually no influence on the final generations of amoraim.”

sugyot were brought from 'Ereš Israel to Babylonia by amoraim known as *nehuti* (e.g., R. Dimi and R. Avin), these were anecdotal rather than systematic. (e) Even if the Bavli did know portions of the Yerushalmi, statements attributed to 'Ereš Israel sages often, for varying reasons, found very different form in the Bavli, including adaptation to local circumstances.⁶³⁴ (f) In contrast with the Bavli, the Yerushalmi seems more willing to remain with unreconciled contradictions among tannaitic and amoraic statements, even among a tanna's own statements, and is willing to leave a question unanswered or to end a *sugya* without a halakhic resolution of conflicting viewpoints.

Thus, one must not automatically assume that the Bavli's treatment of a topic can be employed to interpret the Yerushalmi's treatment of that same topic. Hence, as pertains to this dissertation, the Bavli's treatment of Gentile food prohibitions may not automatically be used to interpret the Yerushalmi's treatment of the topic. Rather, the approach taken here is that the Yerushalmi must be studied, first and foremost, within its own framework and within the context of its own idiosyncrasies.

Yerushalmi Sources

Yerushalmi tractates *Šabbat* and *'Avodah Zarah* discuss at length the bans on Gentile-produced food. The Yerushalmi's discourse on m. *Šabbat* 1:4, which refers to the Eighteen Edicts, lists Gentile bread and other food items as having been included among the edicts.⁶³⁵ However, the ensuing discussion of the rationale for the prohibition of each item does not refer to the Eighteen Edicts. Y. *'Avodah Zarah* also discusses the prohibitions of Gentile oil, bread, stewed vegetables, and a number of other food items mentioned in m. *'Avodah Zarah* 2:6.⁶³⁶ However, the discussion in this tractate does not at all connect the prohibitions to the Eighteen Edicts. Thus, contrary to the

⁶³⁴ (Rosenthal, *Mesorot Eretz Yisraeliot ve-Darkan le-Bavel* 1999).

⁶³⁵ Y. *Šabbat* 1:3 3c 371: 10 to 3d 373:19.

⁶³⁶ Y. *'Avodah Zarah* 2:9 41d-42a 1391:1-1392:33.

predominant practice of the Yerushalmi to copy parallel *sugyot* wherever they are relevant,⁶³⁷ y. *‘Avodah Zarah* does not include the *sugya* found in y. *Šabbat* or even mention the Eighteen Edicts. Rather each Gentile-produced food item is discussed on its own merits. These lacunae are quite puzzling, and, though one should be cautious in reading too much into this, it does appear that the Talmud sees these prohibitions as standing on their own.

The following analysis focuses on the discussions regarding individual Gentile food categories or items that appear in the Yerushalmi, including bread, cooking generally, Samaritan cooking, some specific cooked foods, cheese, and oil. The chapter concludes with a discussion of the Eighteen Edicts and their possible relevance to these commensal prohibitions.

Gentile Bread

In discussing m. *‘Avodah Zarah* 2:6.’s prohibition of Gentile bread, y. *‘Avodah Zarah*⁶³⁸ cites R. Yaakov [IA3/4] b. Aha, an *‘Ereš* Israel amora of the third-fourth generation, in the name of R. Yonatan [IA1] who declares that the prohibition of bread is a halakhah of *‘im ‘um*, an “ambiguous” law. The *sugya* then seeks to ascertain the meaning of R. Yonatan’s pronouncement. In order to comprehend the Talmud’s conclusion regarding the nature of the ban on Gentile bread, it is important to parse the *sugya*, given its relative opacity.

This *sugya* appears almost verbatim in three tractates in addition to *‘Avodah Zarah: Šabbat*,⁶³⁹ *Ševi ‘it*,⁶⁴⁰ and *Ma ‘ašer Šeni*.⁶⁴¹ *Ševi ‘it* may in fact be the original location of the *sugya*, as argued below. The *sugya* at y. *Ševi ‘it* 8:4 38a begins:⁶⁴²

⁶³⁷ (Moscovitz, *Sugyot Makbilot u-Mesoret Nusakh ha-Yerushalmi* 1991).

⁶³⁸ Y. *‘Avodah Zarah* 2:9 41d 1391:13.

⁶³⁹ Y. *Šabbat* 1:4 3c 371:29-40.

⁶⁴⁰ Y. *Ševi ‘it* 8:4 38a 206:4-14.

⁶⁴¹ Y. *Ma ‘ašer Šeni* 3:1 54a 293:20-46.

⁶⁴² Y. *Ševi ‘it* 8:4 38a 205:45-206:4.

מה בין האו'. לקט לי. מה בין האו'. לקוט לי בו. ר' אבין בשם ר' יוסי בן חנינה. מהלכות שלעימעום היא. תמן תנינן. "לא יאמר אדם לחבירו. העל את הפירות האלה לירושלים לחלק. אלא אומ' לו. העלם שנאכלם ונשתם בירושלים". מה בין האו'. לחלק. מה בין האו'. העלם שנאכל ונשתה בירושלים. ר' זעירא בשם ר' יונתן. מהלכות שלעימעום הוא. תמן תנינן. "שואל אדם מחבירו כדי יין וכדי שמן. ובלבד שלא יאמר לו. הלויני". מה בין האו' הלויני. מה בין האו'. השאילני. אמ' ר' זעירא בשם ר' יונתן. מהלכות שלעימעום היא. פיתן. ר' יעקב בר אהא בשם ר' יונתן. עוד היא מהלכות שלעימעום.

- I. What is the difference between one who says "Gather [vegetables of the Sabbatical year] for me" and one who says, "In return for this [*issar*] gather for me"?
- II. R. Avin in the name of R. Yosé b. Haninah: "It is one of the ambiguous laws, *šel 'im 'um* [that the rabbis legislated]."
- III. There we learned in the Mishnah: "A man may not say to his friend, 'Take this produce [in the status of second tithe] up to Jerusalem [in order] to divide [it between us].'"
- IV. Rather, he should say [to the friend], 'Take this [produce] up [to Jerusalem] so that we may eat and drink them [together] in Jerusalem.'"
- V. What is the difference between he who says "to divide [it between us]" and he who says "Take this [produce] up [to Jerusalem] so that we may eat and drink in Jerusalem"?
- VI. R. Zeira in the name of R. Yonatan: "It is one of the ambiguous laws, *šel 'im 'um* [that the rabbis legislated]."
- VII. There we learned in the Mishnah: "A man [on the Sabbath] borrows jugs of wine or oil from his fellow, provided that he does not say to him, 'Lend [them] to me.'"
- VIII. What is the difference between he who says "Lend [them] to me" and "let me borrow them"?
- IX. R. Zeira in the name of R. Yonatan: "It is one of the ambiguous laws, *šel 'im 'um* [that the rabbis legislated]."
- X. Their bread. [Said] R. Yaakov b. Aha in the name of R. Yonatan: this is yet another instance of ambiguous laws [*me-hilkhot 'im 'um*].

The first three laws pertain to asking someone (a) in §I, to fetch a certain amount of *šemiṭah* (Sabbatical year) produce; (b) in §III, to transport one's *ma'aser šeni*, second tithe, to Jerusalem; and, (c) in §VII, to borrow jugs of wine or oil on Shabbat. All three such requests should be

forbidden *de jure*.⁶⁴³ The *im'um*, or ambiguity, in each of these three cases, however, alludes to nuanced phrasings provided by a mishnah that turn the prohibited requests into permitted ones. In contrast, regarding Gentile bread, referred to in §X, neither m. *Avodah Zarah* 2:6 nor the Mishnah anywhere else offer such a halakhic leniency. Furthermore, unlike the first three cases, in the case of Gentile bread, the leniency, if such leniency exists, is not a matter of a linguistic legal fiction but of permitting an actual forbidden physical object. Thus, it is only in the context of these three first cases as cited in y. *Ševi'it* 8:4 that one might be puzzled, as R. Yosé appears to be in §XI in the continuation of the *sugya* below, regarding the view of R. Yonatan that seems to imply a leniency. In contrast, the texts in y. *Avodah Zarah* and y. *Šabbat* do not lead off with these three cases, thus providing no context for R. Yosé's confusion.⁶⁴⁴

Furthermore, in three of the four laws (*ma'ašer šeni*, Sabbath borrowing, and Gentile bread) the phrase about *im'um* is attributed to R. Yonatan (in §VI, §IX, and §X). The fourth, relating to *ševi'it*, is attributed in §II to R. Yosé b. Haninah. Thus, the order of the scenarios in y. *Ševi'it* makes sense. It starts with a law of *ševi'it* with R. Yosé b. Haninah's pronouncement of *im'um* followed by identical pronouncements by R. Yonatan on three other laws. The phrase is not used in any other context in the Yerushalmi by R. Yonatan (or R. Yosé). It therefore seems plausible that all four cases were documented in this one place and then R. Yonatan's pronouncement regarding Gentile bread was subsequently transcribed to the discussion in *Avodah*

⁶⁴³ For reasons unrelated to and beyond the scope of this dissertation.

⁶⁴⁴ J.N. Epstein (J. N. Epstein, *Mevo'ot le-Sifrut ha-Amoraim: Bavli vi-Yerushalmi* 1962, 277 Item 4) suggests that the source of this *sugya* is y. *Šabbat* as opposed to y. *Avodah Zarah* because the word *pittan* upon which the *sugya* expounds appears there, not in m. *Avodah Zarah* 2:6 which instead writes *veha-pat*. This is not necessarily a definitive proof, however. As E.Z. Melamed (Melamed, *Pirkei Mavo le-Sifrut ha-Talmud* 1973, 540-541) points out, such words from Mishnah in the Talmudic texts were likely inserted by later scribes to facilitate comprehension and were not part of the original Talmud text. Interestingly, Epstein does not mention the two other parallels, in y. *Ševi'it* and y. *Ma'ašer Šeni*.

Zarah and *Šabbat* where it was relevant. For the two reasons above, it is suggested here that the original site of the *sugya* may have been in *y. Ševi 'it*.

Following, and more germane to the discussion here, is the rest of the *sugya* as recorded at *y. Ševi 'it* 8:4 38a:⁶⁴⁵

- X. Their bread. [Said] R. Yaakov b. Aha [IA3/4] in the name of R. Yonatan [IA1]: this is yet another instance of ambiguous laws [*me-hilkhot 'im 'um*].
- פיתן. ר' יעקב בר אחא בשם ר' יונתן.
עוד היא מהלכות שלעמיעום.

In the three cases discussed earlier in the *sugya*, the *'im 'um* in the respective mishnayot permits otherwise-forbidden requests if rephrased a certain way. R. Yaakov b. Aha [IA3/4] in the name of R. Yonatan suggests that the characteristic of *'im 'um* applies to the prohibition of Gentile bread as well.

- XI. R. Yosé [IA3 or 4] raised the question before R. Yaakov b. Aha: “What is the meaning of ‘an instance of ambiguous laws?’”
- אמ' ר' יוסי. קשייתה קומי ר' יעקב בר אחא. מהו מהלכות שלעמעום הוא.⁶⁴⁶

R. Yosé is puzzled as to what R. Yonatan is referring, since *m. 'Avodah Zarah* 2:6 prohibits Gentile bread with no leniency, whereas the respective mishnayot offer leniencies in the three other cases.

⁶⁴⁵ *Y. Ševi 'it* 8:4 38a 206:4-14. Translation is mine. Commentary is added following each clause to help elucidate the structure, progress, and interpretational uncertainties of the *sugya*. Textual variants are noted only where pertinent. See (Lieberman, *Ha-Yerushalmi Ki-Feshuto: Shabbat* 2008) for a more complete textual analysis.

⁶⁴⁶ §XI appears to have been inserted by an editor in *y. Ma 'aser Šeni* but is absent in *y. 'Avodah Zarah*.

To flesh out R. Yosé's question, either the anonymous narrator of the Talmud or R. Yosé offers two possible scenarios regarding the intent of R. Yonatan. In Scenario #1, Jewish bread is readily available. In Scenario #2, it is not. Scenario #1 succeeds in explaining the term *'im 'um* in a manner consistent with the earlier three, permissive examples, but in fact contradicts the mishnah. Scenario #2 is consistent with the mishnah but is inconsistent with the permissive sense of *'im 'um* as used in the other three examples. Thus, neither scenario actually reconciles m. *'Avodah Zarah* 2:6 to the characterization of *'im 'um*.

XIII. [Scenario #1:] In a place where Israelite-baked bread is readily available, it is logical that Gentile bread should be forbidden, but they equivocated over it and permitted it?⁶⁴⁸

[במקום שפת ישראל מצויה בדין הוא
שתהא פת גוים אסורה. ועימעו!ום!
עליה והתירוה.]⁶⁴⁹

It is not clear whether this question is merely a hypothetical permission to eat Gentile bread in such a circumstance, or whether there was in fact a practice to do so. (And, if so, who permitted the bread?)

⁶⁴⁷ See (Lieberman, *Mashehu al Mefarshim Kadmonim la-Yerushalmi* 1950, 299) who asserts that this is a question. See also (Moscovitz, *Ha-Terminologia shel ha-Yerushalmi: Ha-Munahim ha-Ikari'im* 2009, 280-282 esp. n221) for an analysis, which ends inconclusively, of whether this phrase is a question or a statement.

⁶⁴⁸ "Equivocate" is used here in the sense of "turn a blind eye," not in the sense of "prevaricate." (Guggenheimer 2000) uses "obfuscation" instead of both "equivocation" and "ambiguous."

⁶⁴⁹ This segment is missing in the Leiden manuscript and was also not added by its proofreader. It is inserted here the text from the parallel sugya in y. *Ma 'asher Šeni*, since it appears (in some form) in all the other parallels, as well as in the Geniza of *Šabbat* in fragment CUL: T-S F17.35 (2r) (Ginzberg, *Seridei ha-Yerushalmi min ha-Genizah asher be-Mitzrayim* 1909, 66:26-33) and (Sussmann, *Ginzei ha-Yerushalmi* 2020, 133) and fragment CUL: T-S F17.51 (1v) in (Sussmann, *Ginzei ha-Yerushalmi* 2020, 646:2). It appears that this segment is absent from y. *Ševi 'it* due only to scribal error.

XIV. {**Scenario #2:**} In a place where Israelite-baked bread is not readily available, it is logical that Gentile bread should be permitted, but they equivocated over it and forbade it?

במקום שאין פת יש' מצויה בדין היה שתהא פת (יש') גוי מותרת. ועימעמו עליה ואסרוה.

This would explain the prohibition in the mishnah, but the definition of *'im 'um* would be inconsistent with the lenient meaning of the term in the three other cases where the term is applied.

XV. R. Manna [IA5] asks:⁶⁵⁰ {**Interjection #1**} “But do we equivocate to impose a prohibition [on what is otherwise logically permitted]?”

אמר ר' מנא. ויש עימעום לאיסור.

I.e., is there such thing as *'im 'um* for greater stringency?? Of course not! With this reading, R. Manna asserts that Scenario #2 is not viable.

XVI. {**Either R. Manna continues, or the anonymous narrator then asks:**

ופת לא כתבשילי⁶⁵¹ גוים היא.

⁶⁵⁰ One might also read this as a statement by R. Manna rather than a question, as do several traditional commentaries, such as Ra'avyah (R. Eliezer b. Yoel Halevi), Responsum #954. The interpretation would thus be that R. Manna *states*, rather than asks, that, indeed, there is such a thing as *'im 'um* for greater stringency. In other words, if Jewish bread were not available, Gentile bread should have been permitted, but the rabbis of the mishnah prohibited it. And if this is the case, Scenario #2 would be correct. However, this reading is not consistent with the parallel in y. *Avodah Zarah* where the text reads *we-khi yeš* (וכי יש) rather than *we-yeš* (ויש), though the word *we-khi* (וכי) is also absent in the parallels in y. *Ševi'it* and y. *Šabbat*. Other traditional commentaries, such as R. Moshe Margoliot's *Pnei Moshe ad loc.* and R. David Frankel's *Qorban ha-Edah* on the parallel sugya y. *Šabbat*, s.v. *we-yeš 'im 'um le-'issur*, understand R. Manna as asking a question, not making a statement. Saul Lieberman (Lieberman, Ha-Yerushalmi Ki-Feshuto: Shabbat 2008, 46) also concludes that R. Manna asking, not stating. This is the interpretation adopted here.

⁶⁵¹ In (Ginzberg, Seridei ha-Yerushalmi min ha-Genizah asher be-Mitzrayim 1909, 277) the word is תפשילי, *tafšilei*. Similarly, y. *Avodah Zarah* 2:6 41d in fragment CUL: T-S F 17.51 7-8 (Sussmann, Ginzei ha-Yerushalmi 2020, 646:2). (Sokoloff, A Dictionary of Jewish Palestinian Aramaic (Third Edition) 2017) equates תפשיל, *tafšil*, with תבשיל, *tavšil*.

Interjection #2} And is bread not like
[the prohibition of] food cooked by
Gentiles?

I.e., in addition, is bread not like Gentile-produced
food? In which case, as the discourse continues below,
why would it ever be permitted?

XVII. Do we say thus: In a place where
Jewish-prepared foods are not readily
available, Gentile-prepared foods
should be permitted but they
equivocated on them and prohibited
them?

I.e., with Gentile cooking, would one ever say that if
Jewish food were not available, Gentile cooking might
be permitted??!! Of course not!! And since Gentile
cooking is prohibited even if no Jewish food is
available, Gentile bread should also not be permitted
even when Jewish bread is not available. Thus, even the
initial premise of Scenario #2 is not reasonable.

כך אנו אומ'. במקום שתבשילי ()⁶⁵²
[ישראל]⁶⁵³ אינן מצויין שם בדין היה
שיהו תבשילי גוים מותרין. ועימעמו
עליהן ואסרום.

XVIII. Rather, (say that) such is the case
{**Scenario 3**}: where no Jewish bread
is readily available [*'ein mešuya*], it is
logical that Gentile bread would also
be prohibited. But they equivocated

אלא (אמ') כן היה.⁶⁵⁷ במקום שאין פת
יש' מצויה בדין הוא שתהא פת גוים
אסורה. ועימעמו עליה והתירוה מפני
חיי נפש.

⁶⁵² Scribal erasure. See (Talmud Yerushalmi 2016, מז).

⁶⁵³ Scribal insertion. See (Talmud Yerushalmi 2016, מז).

⁶⁵⁷ The variants in the parallel sugyot are *keini* (כיני), *kakh hi* (כך היא), and *ken hu* (כן הוא), in the present tense, which is adopted in the translation here on the assumption that the scribe inadvertently wrote the letter *heh* (ה) here rather than an *aleph* (א) after the *heh-yud* (הי), putting the verb into past tense.

[*we- 'im 'imu*] and permitted it because it is life-critical.⁶⁵⁴

It is not clear who is replying: (a) R. Yaakov to R. Yosé's question, (b) R. Manna to his own question, or (c) the anonymous narrator to R. Manna's or to his own question. Regardless, the response offers a new, third scenario. (Such answers are commonly introduced in the Yerushalmi with *'ella ken hu* or a variant.⁶⁵⁵) The answer is that indeed Gentile bread should be forbidden even if no Jewish bread is to be had, but the tannaitic sages permitted it because bread is critical to life. Thus, this use of *'im 'um* is consistent with its use in the other three cases in implying leniency. Nonetheless, in this case the *'im 'um* does not refer to a mishnaic ruling but either to some other rabbinic ruling not documented elsewhere or to the rabbis' simply having refrained from ruling at all on this matter.⁶⁵⁶

⁶⁵⁴ The Yerushalmi uses the phrase *mipnei hayyei nefesh* (מפני חיי נפש, due to life-critical concerns) six times. Four are in the present *sugya* and its three parallels. The other two are: (a) y. *Demai* 4:6 24b 130:49-50 (when an individual comes into a town and, for fear of lack of tithing, does not know from whom he may buy even vegetables), and (b) y. *Giṭṭin* 9: 50d 1094:45-48 (where a husband vows not to feed his wife). Both other cases are indeed cases of life or death. While the importance of bread in this society cannot be underestimated, the situation being described in this *sugya* is not in fact a matter of life or death. The phrase *'einan meṣuyin* (אינן מצויין) may be interpreted as merely “not readily accessible.”

⁶⁵⁵ (Moscovitz, *Ha-Terminologia shel ha-Yerushalmi: Ha-Munahim ha-Ikari'im* 2009, 71-72).

⁶⁵⁶ Traditional commentators dispute the precise circumstances of how the sages “equivocated” and permitted the bread. Tosafot, b. *Hullin* 64a, s.v. *simanin*, Rosh, *Hullin* 3:61, and R. Mordekhai b. Hillel (*Mordekhai*, 1240-1298), *Hullin* 3:640, all write that the Yerushalmi states that “the rabbis took a vote and permitted” Gentile bread. Tosafot b. *'Avodah Zarah* 35b, s.v. *mi-klal de-ikka*, uses similar language. But there appears to be no record in the Yerushalmi of such a vote. R. Yeshayah b. Mali the Elder of Trani (1180-1260, Italy) in *Tosafot Rid*, b. *'Avodah Zarah* 35b, s.v. *mi-klal*, in *Piskei Rid*, b. *'Avodah Zarah* 35b, s.v. *'amar rav*, and in Responsa #116, s.v. *ṣurba mide-rabbanan*, for example, asserts that the people permitted this action even though they were wrong and without the permission of the *beit din* (sages); nonetheless, the *beit din* did not forbid it and allowed the people to maintain their permissiveness without admonishment. R. Aharon ha-Levi (Re'eh, 1235-c.1303) opines thus as well. (*Peruṣ ha-Re'eh* on b. *'Avodah Zarah*, M. Y. Blau, Deutsch Printing Company, Brooklyn, 1969, 94, s.v. *Yeruṣalmi*, as downloaded from www.otzar.org 2 September 2022).

XIX. The Rabbis of Caesarea [said] in the name of R. Jacob b. Aha: according to he who permits [Israelites to buy bread baked by Gentiles,] it is only [if bought] from a *palter* [bread store].⁶⁵⁸

רבנין דקיסרין בשם ר' יעקב בר אהא. כדברי מי שהוא מתיר. ובלבד מן הפלטר.

R. Yaakov b. Aha, cited earlier in §X, is quoted here as limiting the leniency on Gentile bread to the acquisition of the bread only from a bread store.

XX. But we do not do so.⁶⁵⁹ ולא עבדין כן.

The Yerushalmi offers no reason for the prohibition of bread, nor does it say at what point the Sages relented from a full prohibition of Gentile bread. From the Talmud's response in §XVIII, though, it appears that, despite the mishnaic prohibition of Gentile bread, permission to eat Gentile bread under some circumstances is presumed to either have been granted or resignedly accepted at the time of R. Yonatan, a first-generation 'Ereṣ Israel amora.

Traditional understanding of this *sugya* is that the prohibition of Gentile bread emanates from a concern over intermarriage.⁶⁶⁰ However, the question regarding 'im 'um in the *sugya* above

⁶⁵⁸ Lee Levine writes (L. I. Levine, *Caesaria Under Roman Rule* 1975, 95) that the “Rabbis of Caesarea” are mentioned some 140 times in the Yerushalmi, both transmitting the opinions of others and expressing their own views. Zechariah Frankel (Z. Fraenkl 1870, 123a-b) suggested that citations of Caesarean sages by name becomes scarcer after the death of the major Caesarean sage R. Abbahu and that the *rabbanan de-Qisrin* are referred to more often. It is unclear, however, whether the term “Rabbis of Caesarea” was a generic term by which Tiberean rabbis referred to all Caesarean rabbis or whether it referred to one specific local group. Stuart Miller notes (Miller, *Sages and Commoners in Late Antique 'Erez Israel: A Philological Inquiry into Local Traditions in Talmud Yerushalmi* 2006, 405) that it appears certain that the *rabbanan de-Qisrin* encompassed a broad spectrum of masters of varying degrees of scholarly achievement and recognition. He adds (456-457) that they should not be thought of as a formally organized group or affiliate of the larger movement. Rather, it is more likely that they constituted related “opinion clusters.”

⁶⁵⁹ Translated here in a manner consistent with the apparent meaning in the three other uses of the phrase in the Yerushalmi: *Mo'ed Qatan* 3:5 83a 818:47, *Ševu'ot* 5:1 36a 1357:43, and *Yevamot* 12:1 12c 885:34. See further discussion later in the text regarding the meaning of this phrase.

⁶⁶⁰ For example, as R. Isaac b. Moshe of Vienna explains ('*Ohr Zaru'a*, '*Avodah Zarah*, Makhon Yerushalayim, 2010, III:188) after citing this *sugya*, “they permitted to buy Gentile bread [in these circumstances] specifically from a bread store and to eat, and not from Gentile householders generally, so that everyone won't be drawn to his Gentile friend

is equally understandable in the context of a prohibition based on prohibited ingredients. Although intermarriage, a seemingly remote concern, is a serious transgression with severe consequences, the concern over the inadvertent consumption of impermissible ingredients, a relatively minor offense, is more immediate. All three scenarios posited in the *sugya* can be construed in terms of either concern.⁶⁶¹

But, what may tip the scale in favor of the *sugya*'s referring to concern over impermissible ingredients rather than intermarriage is §XIX, where the Caesarean sages permit bread from a *palṭir*, a shop or shopkeeper primarily of breads.⁶⁶² Traditional commentators explain that buying bread from a professional Gentile bread shopkeeper raises less concern over intermarriage than buying home-baked bread directly from a Gentile.⁶⁶³ This distinction seems rather arbitrary and unconvincing, however. For, if the concern is intermarriage, should the amoraic restriction not have been directed towards *where* one buys the bread, i.e., a public setting rather than, say, the

to buy from him and set his eyes upon the Gentile's daughter and come to violate the negative commandment of 'thou shalt not marry them.'"

⁶⁶¹ While this is so, it nonetheless seems to me more intuitive that a prohibition based on a fear of inadvertent consumption of impermissible ingredients would be more easily waived than a prohibition based on a fear of possible intermarriage, even if remote.

⁶⁶² M. *Demai* 5:3-4 differentiates among three types of bread-sellers. *Naḥtom* (Sokoloff, A Dictionary of Jewish Palestinian Aramaic (Third Edition) 2017, 386) appears to be a baker, who may even bake in his home. *Palṭir* appears to be a shopkeeper (Sokoloff, A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods 2002, 493) and (Jastrow n.d., 1180)) who sells primarily breads from multiple *naḥtomim*. Saul Lieberman (Lieberman, Tosefta Kifshuta: Seder Zeraim 2001, 254) notes that, consistent with its Greek etymology, Tosefta understood that *palṭirim* sold other food items as well. A *manpol* (Jastrow n.d., 802) is a trading mart that buys and resells breads from multiple *palṭirs*. Meir Ayali (Ayali 1987, 15-16 and 133) offers a different distinction, based on R. Menachem ha-Meiri's gloss on *Avodah Zarah* 55b (*Beit ha-Behirah*, Mekhon ha-Maor, Jerusalem, 2006, 111): that the *naḥtom* kneads the loaf, but that the *palṭir* is the baker to whom the *naḥtomim* bring their loaves to bake. Samuel Krauss (Krauss 1929, IIa:153-157) offers yet another distinction: a *ba'al ha-bayit* is one who bakes bread for himself. A *naḥtom* bakes bread to sell in the market. *Palṭir*, which he equates with *prater* in Greek, is a trader/seller, although he is uncertain whether the *palṭir* bakes bread as well.

⁶⁶³ R. Shlomo b. Aderet (Rashba, 1235-1310) focuses (*Torat ha-Bayit ha-'Arokh veba-Qaṣar le-Rabeinu Šlomo b. R. Avraham Aderet*, §III:7 Mossad Harav Kook, Jerusalem, 2010, I:1024-1026) on who baked the bread rather than where it is being sold and thus forbids buying privately baked Gentile bread even from a *palṭir*. Interestingly, though, he permits buying the bread of a *palṭir* even in the home of the Gentile. R. Aharon Halevi (Re'eh, 1235-1303) disagrees with Rashba (*Bedek ha-Bayit* §III:7 in *Torat ha-Bayit ha-'Arokh veba-Qaṣar le-Rabeinu Šlomo b. R. Avraham Aderet*, Mossad Harav Kook, Jerusalem, 2010, I:102-1028, s.v. *ule-'inyan pat*) and argues that the permission relates to its sale by a bakery, which is interested only in making a sale and there is no *qiruv* (קירוב), i.e., closeness or attraction.

baker's home, where the Gentile daughter might be personally and directly accessible in a relatively private setting?⁶⁶⁴ Furthermore, there is no guarantee—and certainly no specification by the amoraim—that the *palṭir* was situated in a public marketplace rather than selling out of a home-based storefront. Rather, the amoraim specified *from whom* one may buy the bread: ones who baked the bread to be sold versus ones who may have baked the bread for their own consumption. This implies that there is something unique about a *palṭir* that enables one to buy there.⁶⁶⁵ This permission to buy Gentile bread from a *palṭir* is similar to the permission for Jews to buy certain other food products only from artisans or professionals.⁶⁶⁶ So too, they could buy bread only from a bread artisan or professional: the shopkeeper who sold breads—who could be trusted to distinguish among the breads of various bakers represented and to know and report honestly the ingredients in each kind of loaf.⁶⁶⁷

⁶⁶⁴ This argument is bolstered if what Carol Meyers (Meyers, *Having Their Space and Existing There Too: Bread Production and Female Power in Ancient Israelite Households*. 2002) suggests was true in ancient Israelite households during the Iron Age also held true in 'Ereṣ Israel of late antiquity. Namely, that bread production in the household was a largely female task. (See also (Dever 2012, 159-164, 173)). Thus, in the Gentile's home at that time, too, women may have produced the bread but also been engaged in selling the bread at home. On the other hand, Tal Ilan (T. Ilan, *Jewish Women in Greco-Roman Palestine* 1995, 128-132 and 184-190) and Cynthia Baker (Baker, *Rebuilding the House of Israel: Architectures of Gender in Jewish Antiquity* 2002, 77-112) seek to demonstrate that women played an active role in the marketplace. Their arguments are not decisive, however; it is not clear that women were shopkeepers in public markets. If so and the rabbis were concerned about intermarriage, their distinction should have related to the public-ness of the setting where the purchase was made. Interestingly, textile production appears to have been another female-dominant household activity (Meyers, *In the Household and Beyond: The Social World of Israelite Women* 2009, 26). Yet there seems to have been no concern by the sages over the possibility of intermarriage in purchasing one's garments from a Gentile's home. (Indeed, *Sifre Numbers* 131, as discussed earlier, relates to the buying of clothing.) This too argues against fear of intermarriage as the rationale behind the prohibition of Gentile bread.

⁶⁶⁵ There appears to be no parallel concern among the tannaim or amoraim of a woman buying bread from a male in the public market or even at the Jew's home. Or, indeed, eating together.

⁶⁶⁶ See t. *Avodah Zarah* 4(5):11 and t. *Avodah Zarah* 4(5):13, discussed in the previous chapter, which permit purchasing in this manner such things as brine, Bithynian cheese, drops of asafetida, wine in Syria, a piece of meat lacking any mark, and, according to R. Simon b. Gamliel, *ḥileq*.

⁶⁶⁷ Not all shopkeepers were trustworthy. For example, as noted by Stuart Miller (Miller, *Those Cantankerous Sepphoreans Revisited* 2021, 568-569), y. *Šeqalim* 7:5 50c 629:25-29 discusses a particular (Jewish?) butcher who sold impermissible carrion. *Leviticus Rabbah* 5:6 tells in the name of R. Aibo, a fourth century 'Ereṣ Israel amora, about a Jew who sold his fellow Jew impermissible meat. However, y. *Šeqalim* states that the rabbis of Sepphoris, continued to trust all the other butchers in town, showing perhaps that, as a rule, shopkeepers could be trusted where their business depended on such trust.

Finally, the *sugya* above concludes in §XX with an interesting statement of reality: *we-lo 'avdin ken* (ולא עבדין כן), literally, “but we do not do so.” Traditional commentators offer three possible interpretations. One is that the people did not adhere to the stringency imposed by the Rabbis of Caesarea and would even buy homemade bread from a Gentile baker.⁶⁶⁸ Some explain that this was the case even when Jewish bread was available.⁶⁶⁹ One might speculate, according to these first two interpretations, that people might have been more likely to ignore the ban when they knew they could rely on the bread-seller than a ban based on a grave concern over intermarriage. Or, perhaps, the general public in cosmopolitan Caesarea may not have even been aware of the amoraic limitations to buying Gentile bread only from a *palṭir* and bought bread from whomever they believed used only permissible ingredients.

The third traditional interpretation is that the Rabbis of Caesarea themselves chose not to buy from Gentile bread shops even in extenuating circumstances.⁶⁷⁰ In this interpretation, it seems quite reasonable that the rabbis would have conceivably acted more stringently regarding concern over impermissible ingredients than out of concern over intermarriage, which was not a particularly germane personal concern to this group.

A separate *sugya* in the Yerushalmi is also more explicable if one understands the prohibition of Gentile bread as being based on concern regarding impermissible ingredients rather than *ḥatnut*. M. *Pesahim* 2:2 states that, in contrast with Jewish bread, one may derive benefit from Gentile bread that existed over Passover. The Yerushalmi explains that in places where Jews eat

⁶⁶⁸ See, e.g., Ramban, b. *Avodah Zarah* 35b, s.v. *mah ra'u ḥakhamim*, 94-99, Pnei Moshe, y. *Ševi'it* 8:4 and y. *Avodah Zarah* 2:9, s.v. *we-lo 'avdin ken*, and Korban ha-Edah, y. *Šabbat* 1:4, s.v. *we-lo 'avdin ken*. See also b. *Avodah Zarah* 13b that tells how one amora bought bread from a private home.

⁶⁶⁹ *Ohr Zarua*, b. *Avodah Zarah* 35b #188, 3:625. He adds that while the Bavli disputes this ruling, we adopt the Yerushalmi's ruling in this instance because bread is a matter critical to life.

⁶⁷⁰ See, e.g., R. Shlomo Sirilio, gloss on y. *Ševi'it* 8:4, s.v. *we-lo 'avdin ken*.

Gentile bread, not only is one permitted to derive benefit from Gentile bread that existed over Passover, but one is permitted to eat it as well.⁶⁷¹ This shows that the amoraim perceived that certain communities in 'Ereṣ Israel, where Jewish bread was presumably readily available, ate Gentile bread.⁶⁷² While the authority of the 'Ereṣ Israel rabbis even at this point may not have been as dominant as would later be in Babylonia,⁶⁷³ it is difficult to imagine that the rabbis would accept without comment that entire communities would ignore an edict enacted to prevent the serious sin of intermarriage. On the other hand, one can envision communities that knew their Gentile bakers and the ingredients they used in bread—or their willingness to bake separately for the Jews—and would not concern themselves with the remote possibility of the inclusion of impermissible ingredients, even if this were the fear of the rabbis.

Gentile Cooking Generally and the Statement of Rav

§XVI and §XVII of *y. Ševi'it* 8:4, cited in the previous section, ask whether bread should be considered Gentile cooking, and thus impermissible even if Jewish cooking is unavailable. On the surface, the Yerushalmi seems to recognize a prohibition of Gentile cooking generally. However: (a) Nowhere does the Yerushalmi equate *šelaqot*, used in *m. 'Avodah Zarah* 2:6, with *bišul* (בישול), or cooking generally. Nor does it call for a general prohibition of Gentile *šelaqot*, and not cooking generally, as understood by later decisors. To the contrary, it differentiates the *šiluq* cooking process from other forms of cooking. (b) A general prohibition of Gentile cooking may have been a later development that may have even been imported from Babylonia. (c) In the 'Ereṣ Israel

⁶⁷¹ *Y. Pesahim* 2:2 28d 507:7-9. The relevant phrase, “but in a locale where it was customary to eat Gentile bread” (אבל במקום שנהגו לאכל פת גוים) is an editorial insertion by the Leiden proofreader, but it appears to be a valid insertion into an otherwise incomprehensible text.

⁶⁷² This phenomenon is also alluded to in *b. 'Avodah Zarah* 37a.

⁶⁷³ R. Kalmin (R. Kalmin, *The Sage in Jewish Society of Late Antiquity* 1999, 7), for example, writes: “Babylonian sources...depict a rabbinic movement more secure in its social position, less economically dependent on outsiders, and more powerful than its Palestinian counterpart.”

generally in this context.⁶⁷⁷ In one *sugya*, cited below, the term *šalaq* refers to seething liver in vinegar prior to cooking it, clearly a unique cooking process. Y. *Terumot* 10:8 47b reads:⁶⁷⁸

ר' ירמיה בעי. שלקה בחלב מהו. ר' זעירא לא אכל כבד מימיו. שלקה ר' בא ואוכלה ליה. ואית דאמי. מלחה ר'
בא ואוכלה ליה.

- I. R. Yirmiyah asked: if one seethed liver in vinegar,⁶⁷⁹ may it be eaten?
- II. R. Zeira had never eaten liver.
- III. R. Ba seethed it [liver] and fed it to him [R. Zeira].
- IV. There are those who say he [R. Ba] salted it [the liver] and fed it to him [R. Zeira].

Another *sugya*, y. *Šeqalim* 6:2 49c, discusses the procedure for making the priestly anointment oil. It includes the process of *šeliqah* for the special spices, which is different from regular cooking.⁶⁸⁰ Elsewhere, *šeliqah* is included in the Sabbath cooking prohibition, but it is listed among other unique types of cooking. Y. *Šabbat* 7:2 10b writes:⁶⁸¹

הצולה והמטגן השולק והמעשן כולהן משום מבשל.

Roasting, frying, seething, and smoking are all [prohibited on Shabbat] due to cooking.

Yet another *sugya*, y. *Pesaḥim* 4:5 31a, discusses whether one is permitted to rinse off/prepare *kevušin* and *šelaqot* on Yom Kippur that occurs on Shabbat (in order to have food ready to eat as soon as the fast ends) as one is permitted to do if Yom Kippur falls out during the week.⁶⁸² These are unique food preparation processes. Another *sugya*, y. *Pesaḥim* 7:1 34a, distinguishes between *bišul* and *šeliqah* in discussing whether a paschal lamb that is partially boiled or partially *šaluq* is disqualified, since the Torah requires roasting.⁶⁸³ Finally, one who swears off *bišul*, cooking, is

⁶⁷⁷ Y. *Terumot* 10:8 47b 256:48-257:10. One cannot conclude from the discussion in the *sugya* about R. Akiva's statement in the mishnah, which refers to *bišul* (בישול) and not *šeliqah* (שליקה) that the Yerushalmi is equating the two. Moreover, it is unclear how R. Akiva's statement relates to the rest of m. *Terumot* 10:11.

⁶⁷⁸ Y. *Terumot* 10:9 47b 257:14-16.

⁶⁷⁹ Alternatively: fat. (Guggenheimer 2000): milk.

⁶⁸⁰ Y. *Šeqalim* 6:2 49c 623:39-44 and its parallel y. *Soṭah* 8:2 22c 938:50-939:4.

⁶⁸¹ Y. *Šabbat* 7:2 10b 410:42-44. Gilion haShas at loc suggests that המעשן should not be included in the list.

⁶⁸² Y. *Pesaḥim* 4:5 31a 519:39-520-10.

⁶⁸³ Y. *Pesaḥim* 7:1 34a 536:6-9 (שלק מקצת או בישל מקצת אין זה גדי מקולס) and its parallel y. *Beiša* 2:7 61c 691:35-37.

nonetheless permitted to eat something that was *šaluq*. The Talmud in y. *Nedarim* 6:1 39c makes clear that people at that time normally made this distinction.⁶⁸⁴

Nowhere does the Yerushalmi use the expression “Gentile *šelaqot*.” One might safely conclude that the Yerushalmi does not equate any general rule regarding the eating of Gentile cooking with the mishnaic prohibition of *šelaqot*.

(b) Possible late, Babylonian introduction. From a textual perspective, the flow of the y. *Ševi‘it sugya* above is problematic (as reflected in the running commentary) to the extent that it raises the question as to whether §XVI and §XVII, comparing Gentile bread with Gentile cooking, were a later insertion. In addition, Interjection #1 alone is sufficient to require a new scenario, where *‘im ‘um* would lead to a lenient ruling. Not only is interjection #2 unneeded, it disrupts the flow of the *sugya*, forcing a clumsy construct: the insertion of an unusual second *kakh ‘ani ‘omer* (כך אני אומר) into a single textual sequence.⁶⁸⁵ And finally, R. Manna, cited in §XV, was a fifth generation amora, and the latest named amora in the *sugya*. Given these factors, the phrases comparing bread to general Gentile food may have been a later development.⁶⁸⁶

⁶⁸⁴ Y. *Nedarim* 6:1 39c 1033:43-1034:17 (הלכו בנדריים אהר לשון בני אדם) and its parallels in y. *Eruvin* 3:1 20d 465:3-15 and y. *Nazir* 6:11 55c 1121:31-41.

⁶⁸⁵ (Moscovitz, *Ha-Terminologia shel ha-Yerushalmi: Ha-Munahim ha-Ikari'im* 2009, 280-283) alludes to some difficulties in the use of this expression twice in the *sugya*.

⁶⁸⁶ Indeed, the shaded section of §§XV-XVII in y. *Ševi‘it* 8:4 above is entirely absent in the citation by R. Zidkiyyahu b. Abraham ha-Ro‘fe (fl. 13th century) of the parallel *Šabbat sugya* in his *Šibbolei ha-Leqqet*, volume 2, based on the Oxford Manuscript, as printed in the weekly *Ha-Segullah*, M.Z. Hasidah (editor), Jerusalem, 2 Heshvan 5694 (1933), I:2, and reproduced in (Zidkiyyahu b. Abraham ha-Ro‘fe 1969 (5729), 2), both as downloaded from www.otzar.org. While by no means a definitive proof of a late insertion because it may be a mere transcription error or an editorial choice, R. Zidkiyyahu may have had a manuscript different from ours without this entire segment. Indeed, he cites the question “And is bread not like food cooked by Gentiles?” not in his excerpt of the Yerushalmi text, but as a question of R. Yeshaya (di Trani(?), 1180-1250). With great thanks to Simcha Emanuel for helping me track down these sources.

In seeming divergence from the foregoing, the following discussion in y. *‘Avodah Zarah* 2:9 41d would appear to attribute a prohibition of Gentile cooking to mishnaic *‘Ereš* Israel. Y. *‘Avodah Zarah* 2:9 41d reads:⁶⁸⁷

אמ(ר) קומי ר' חייה רובה. תני ר' שמעון בן יוחי כן. "אוכל תשברו מאת(ם) בכסף ואכלתם" וגו'. מה מים לא נשתנו מבריייתן אף כל דבר ש[לא] נשתנה מבריייתו. התיבון. הרי מוטליא ופנקריסין וקובטיות וקליות וחמים שלהן הרי אילו מותרין. ניחא כולהון שהן יכולין להישרות לחזור לכמות שהיו. קליות למה. ר' יוסי ביר' בון בשם רב. כל אוכל שהוא נאכל כמות שהוא {כ}חי אין בו משום בישולי גוים. עם הפת יש בו משום בישולי גוים.

- I. They said before R. Hiyya the Elder: “R. Shimon b. Yohai taught [regarding the following verse, *Deuteronomy* 2:6]: ‘You shall purchase food from them [Gentiles] for money, that you may eat; [and you shall also buy water of them for money, that you may drink.]’
- II. “[By analogy,] Just as water is something that was not changed from its natural state, so [too only] anything else that was not changed from its natural state [may be purchased from Gentiles and consumed by Israelites].”
- III. “Can this be so?⁶⁸⁸ For, their [Gentiles’] liverwort, [pressed] apricots, pickled [vegetables], roasted grain, and [boiled] water are permitted.⁶⁸⁹
- IV. “All of them pose no difficulties, for they can be soaked and returned to their original state.
- V. [But that clearly is not the case with regard to] roasted grain, [so] why [is it not forbidden by Torah law]?”
- VI. R. Yosé [IA5] b. R. Bun [IA3/4] in the name of Rav: “Any food that is eaten as it is as *hai* is not subject to the prohibition of Gentile cooking.
- VII. “[But food usually eaten] with bread is subject to the prohibition against Gentile cooking.”⁶⁹⁰

⁶⁸⁷ Y. *‘Avodah Zarah* 2:9 41d 1391:23-34. A parallel *sugya* is found in y. *Šabbat* 1:4 3c 371:40-47, though it ends a bit differently.

⁶⁸⁸ It is unclear from the text who is raising this challenge to the exegesis of R. Shimon b. Yohai: R. Hiyya, those who cited R. Shimon b. Yohai to R. Hiyya, or the anonymous voice of the Talmud.

⁶⁸⁹ As can be seen in t. *‘Avodah Zarah* 4:11, which lists [Gentiles’] liverwort, roasted grain, and [boiled] water as permitted.

⁶⁹⁰ The specifics of R. Yosé’s response will be analyzed in the next discussion.

Here, the Yerushalmi relates how the tanna R. Hiyya [TT⁶⁹¹] was presented with R. Shimon b. Yohai's [T3] statement that all Gentile cooking is banned based on on a biblical verse. Fourth generation tanna R. Shimon b. Yohai flourished about seventy years after the presumed date of the enactment of the Eighteen Edicts. R. Shimon b. Yohai's interpretation defies the simple reading of the verse.⁶⁹² R. Shimon's *halakhic* determination is challenged in §III by pointing to several counterexamples of Gentile-produced foods that are in fact permitted, thus demonstrating that the prohibition is rabbinic, not biblical. It is only a fifth generation 'Ereṣ Israel amora, R. Yosé b. Bun, who lived over 100 years later, who, in §VI, is cited to explain why the counterexamples are permitted. Neither a response similar to R. Yosé's nor anything further regarding the Gentile food prohibition is attributed to R. Hiyya; nor is there any indication that such a response was made in R. Hiyya's presence. Thus, there is no indication that R. Hiyya himself even assumed a rabbinic prohibition of Gentile foods in 'Ereṣ Israel, and the lone position of R. Shimon b. Yohai is rejected. But more importantly for our discussion: both the verse and R. Shimon's exegesis are entirely unrelated to intermarriage but relate to an entirely separate rationale.⁶⁹³ And neither R. Hiyya nor the narrator mention the notion of intermarriage or social separation.

⁶⁹¹ [TT] refers to a "transitional" *tanna*, whose lifespan overlapped the compilation of the Mishnah and the start of the amoraic period.

⁶⁹² See (Ben-Shalom 1993) for a possible historical context for R. Shimon b. Yohai's attitude towards the Romans.

⁶⁹³ R. Shimon b. Yohai's view was not the accepted tannaitic view, as it is not cited in either the Mishnah or Tosefta. Furthermore, m. *Avodah Zarah* 2:7, contrasting with R. Shimon b. Yohai's opinion, specifically permits Gentile-produced pickled vegetables and fish juice where one can be relatively confident that no impermissible ingredients have been admixed. The Yerushalmi too does not probe R. Shimon's position deeply, as it raises no challenge, for example, from a seemingly contradictory biblical verse, *Deuteronomy* 23:4-5: "4. An Ammonite or a Moabite shall not enter into the assembly of the Lord; even to the tenth generation shall none of them enter into the assembly of the Lord forever. 5. Because they met you not with bread and with water in the way when you came forth out of Egypt." These verses describe how the Ammonites and Moabites were to be punished precisely because they did not bring the Israelites "bread and water" in the desert. Also, the Bavli at b. *Avodah Zarah* 37b cites a similar exegesis on *Deuteronomy* 2:28 in the name of R. Yohanan, an 'Ereṣ Israel amora, but concludes that the exegesis is not a valid exegesis but is merely a mnemonic for a rabbinic prohibition. Nowhere else do the Mishnah, Tosefta, or Talmuds protest that these foods and bread should have been considered prohibited because they were Gentile cooking. Nor do they provide an alternate reading of these verses.

Based on the analysis of the y. *ʿAvodah Zarah* text above one cannot definitively attribute a Gentile-food prohibition to a fear of intermarriage. At best, a general Gentile-food prohibition may have been adopted late in amoraic *ʿEreṣ Israel* based perhaps on Babylonian influence. Indeed, R. Yosé [IA5] b. Bun was a late *ʿEreṣ Israel* amora, perhaps that last eminent one.⁶⁹⁴ R. Yosé is typically one of the last named Israeli amoraim in the Yerushalmi, and he is often the final voice cited in the Yerushalmi *sugya*.⁶⁹⁵ He either came to Israel from Babylonia or spent much time in Babylonia.⁶⁹⁶ He likely was familiar with Babylonian traditions and may have brought Rav’s tradition with him.⁶⁹⁷

(c) Impermissible ingredients, but not intermarriage concerns. Regardless of when it may have been instituted in *ʿEreṣ Israel*, the ban there on Gentile cooking seems rooted only in concern over ingredients. In his continuing explication of the prohibition of Gentile foods, R. Yosé b. Bun in y. *ʿAvodah Zarah* 2:9 41d above cites a statement (repeated here) attributed to the transition tanna/early Babylonian amora Rav.⁶⁹⁸

ר' יוסי ביר' בון בשם רב. כל אוכל שהוא נאכל כמות שהוא {כ} חי⁶⁹⁹ אין בו משום בישולי גוים. עם הפת יש בו משום בישולי גוים.

VI. R. Yosé [IA5] b. R. Bun [IA3/4] in the name of Rav: “Any food that is eaten as it is as *ḥai* is not subject to the prohibition of Gentile cooking.”⁷⁰⁰

⁶⁹⁴ (H. L. Strack 1931, 96). According to Albeck (H. Albeck, *Mavoh la-Talmudim* 1969, 336, 395, and 675), there were two R. Yosé b. Bun, and it is not always possible to distinguish between them, but Albeck attributes this citation to the latter, fifth-generation one.

⁶⁹⁵ (M. Margalioṭ, *Intziklopedia le-Hakhmei ha-Talmud vehe-Geonim* 2006) suggests that R. Yosé b. Bun was among the compilers of the Yerushalmi.

⁶⁹⁶ (H. Albeck 1969, 396).

⁶⁹⁷ As a matter of speculation, perhaps Rav issued his more lenient ruling to the Babylonian Jews, permitting them to eat certain types of Gentile-prepared foods, because there was no similar tradition of refraining from Gentile cooking in *ʿEreṣ Israel* (where Rav came from), certainly not unrelated to ingredient concerns. The social and relevant halakhic situation in Babylonia will be analyzed in greater depth later in this dissertation.

⁶⁹⁸ Y. *ʿAvodah Zarah* 2:9 41d 1391:28-30.

⁶⁹⁹ Venice: בחי. Also, in the five other occurrences in the Yerushalmi of this phrase, it reads כמות שהוא.

⁷⁰⁰ The translation of *ḥai* is discussed below.

VII. “[But food usually eaten] with bread is subject to the prohibition against Gentile cooking.”

The traditional understanding of this passage is that the prohibition of Gentile foods is based on the fear of intermarriage and that Rav permits food that can be eaten *ḥai*, translated as raw, but prohibits all other foods cooked by a Gentile.⁷⁰¹ As some traditional commentaries understand Rav, the process of cooking food that can be eaten *ḥai* does not sufficiently add value and transform the quality of the food to such an extent that it would be considered Gentile cooking.⁷⁰² It is as if, *halakhically* at least, the Gentile has not acted upon this food. On the other hand, Rav, according to this citation, declares that food cooked by a Gentile that is normally eaten with bread is prohibited. In this context, Rav’s statement indicates that the prohibition is rabbinic, not biblical (because such a distinction is not to be found in the Bible). Furthermore, it is a leniency that permits eating certain Gentile cooking.

But this interpretation is problematic.

First, the phrasing is strange. The words *kemot še-hu* (כמות שהוא) in §I, “as it is,” are superfluous. The word *ḥai* alone would be sufficient, as the clause would read: “Any food that is eaten *ḥai* is not subject to the prohibition of Gentile cooking.”

Second, if *ḥai* indeed means “raw,” Rav’s dichotomy is unclear: something that must be eaten with bread does not stand in contradistinction to something that can be eaten raw.⁷⁰³ Further,

⁷⁰¹ See, e.g., Rashi b. *Beṣa* 16a, s.v. *’ein ba-hem*: “For, the rabbis banned Gentile cooking out of fear of intermarriage, but food that is eaten as it is *ḥai* they did not ban its cooking since, because it is eaten as it is, *ḥai*, cooking does not enhance it at all.” (שגזרו חכמים בבשולי נכרים משום חתנות ועל שנאכל כמו שהוא חי לא גזרו על בשולו דכיון שנאכל כמו שהוא חי אינו) (בשול דלא אהני מידי) The Mishnah in several instances does in fact use *ḥai* in counterdistinction to *mevušal*, cooked. See, e.g., m. *Pe’ah* 8:3 and 8:4. But this use of the term is not its sole definition.

⁷⁰² See, e.g., Rashba, *Torat ha-Bayit* (Jerusalem: Mossad ha-Rav Kook, 2010) I:3:7 1144.

⁷⁰³ Guggenheimer (Guggenheimer 2000) is also troubled by this statement. He writes that “this restriction is found neither in the parallel *Šabbat* text nor the Bavli. It also contradicts the insertion in the *Šabbat* text. Either it is spurious, or the text here disagrees with the text there.”

if the distinction between something that can be eaten *hai* and something that cannot is the value added by the Gentile in the cooking, as traditionally understood, why would cooking food that can only be eaten with bread add more value than cooking food that does not have to be eaten with bread? What is the status of food that cannot be eaten raw but also does not need to be eaten with bread? Furthermore, it is also not clear why this specific distinction should lead to a difference regarding a concern about intermarriage, or in fact any social separation motivation.⁷⁰⁴

Finally, the statement attributed to Rav is cited in three other locations in the Yerushalmi. However, in all of these instances, the citation does not contain the second portion, with reference to bread. Rather, they all instead relate to *'eruv tavšilin* (the obligation to set out two cooked foods on the eve of a festival so as to permit cooking on the festival day for an ensuing Shabbat). Specifically, y. *Šabbat* 1:4 3c reads:⁷⁰⁵

אמ' ר' יוסי ביר' בון בשם רב. כל האוכל שהוא נאכל חי כמות שהוא אין בו משום תבשילי גוים ויוצאין בו משום עירובי תבשילין.

- I. R. Yosé b. R. Bun in the name of Rav: “Any food which is eaten *hai* as it is, is not subject to the prohibition against eating food cooked by Gentiles,
- II. and it can be used in fulfillment of [the requirements of] *'eruv tavšilin*.”⁷⁰⁶

⁷⁰⁴ R. Nissim ben Reuven of Girona (*Ran*) in his gloss on R. Isaac ben Jacob Alfasi ha-Cohen's (*Rif*) commentary on b. *Beša* 16a (24), s.v. *'im šela'an goy*, does assert that in cooking such foods there is no *qiruv ha-da'at*, the drawing together of minds with the Gentile. But he does not explain the basis of his assertion.

⁷⁰⁵ Y. *Šabbat* 1:4 3c 371: 45-47.

⁷⁰⁶ Saul Lieberman (Lieberman, *Ha-Yerushalmi Ki-Feshuto: Shabbat* 2008, 48) suggests that the phrase *we-yoš'in mišum 'eruvei tavšilin* (עירובי תבשילין), “and it can be used in fulfillment of [the requirements of] *'eruv tavšilin*,” is a scribal error due to R. Yosé b. Bun's statements elsewhere and should be replaced by *'im ha-pat yeš bo mišum bišulei goyim* (עם הפת יש בו משום בישולי גוים), “[food usually eaten] with bread is subject to the prohibition against Gentile cooking,” as it is in §II in y. *Avodah Zarah* 2:9 41d above. But perhaps his conclusion is not decisive, as this is how the statement appears in the Yerushalmi everywhere but in y. *Avodah Zarah*. Perhaps this is in fact the correct statement, and the one in y. *Avodah Zarah* is the incorrect one, caused by a scribal error. While this suggestion goes beyond the scope of the scribal changes recognized by Leib Moscovitz (Moscovitz, *Sugyot Makbilot u-Mesoret Nusakh ha-Yerushalmi* 1991, esp. 539), it is not unreasonable to assume that a scribe, who was more likely versed in the Bavli, was familiar with the Bavli parallel (b. *Avodah Zarah* 38a), either consciously assumed that Rav's statement in the Yerushalmi needed to conform to the two statements attributed to him in the Bavli, and added the phrase about the bread or inadvertently substituted this phrase in place of the phrase related to *'eruv tavšilin*. In b. *Avodah Zarah*

The other two citations, in y. *Avodah Zarah* 2:9 42a⁷⁰⁷ and y. *Neddarim* 6:1 39c,⁷⁰⁸ are identical to this except that the statement is cited in the name of R. Huna [BA2⁷⁰⁹], not Rav.⁷¹⁰

Rather, an alternate understanding of the meaning of *ḥai ke-mote še-hu* (חי כמות שהוא) is proposed here and it contrasts with eating with bread. Indeed, y. *Eruvin* 3:1 20c uniquely provides a precise, clear, and logical contrast between foods that are eaten *ḥai ke-mote še-hu* and those that can be eaten only with bread, *pat* (פה). Y. *Eruvin* 3:1 20c reads:⁷¹¹

מתני' דר' מאיר. דתני. כל דבר שהוא נאכל חי כמות שהוא מערבין בו. עם הפת. אין מערבין בו. השום והבצלים.
על דעתיה דר' מאיר אין מערבין בהן.

- I. The Mishnah [which discusses the types of food that can be used in an *eruv*] represents the view of R. Meir.
- II. For it has been taught: Any food that is eaten *ḥai ke-mote še-hu*, one may prepare the *eruv* meal with it.
- III. If it is eaten only with bread, one may not prepare the *eruv* meal with it.
- IV. As for garlic and onions, in the view of R. Meir one may not prepare a meal of *eruv* with them.

38a, there are two separate traditions as to what Rav said. And, interestingly, while here in the Yerushalmi, bread is intermixed in a single statement of Rav, in the Bavli, one version of Rav's statement mentions only the "raw" but does not mention "bread." The second tradition mentions bread, but in the context of a food worthy of spreading on bread at the King's table, *šulḥan melakhim* (שלוהן מלכים). In other words, for food to be considered Gentile cooking, it needs to be a food sufficiently worthy of being served on a king's table. (The sole appearance of the term *šulḥan melakhim* in the Yerushalmi is in y. *Qiddušin* 4:1 65b 1178:39-41 but relates to those who seek to convert to Judaism in order to benefit from the king's largesse.) Zvi Steinfeld (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 158) too points out that one cannot say with certainty that the two parts of Rav's statement in the Yerushalmi correspond to the two independent formulations in the Bavli. In other words, one cannot assume that Rav's complex statement here in the Yerushalmi should be understood in terms of his two separate statements in the Bavli.

⁷⁰⁷ Y. *Avodah Zarah* 2:9 42a 1392:31-33.

⁷⁰⁸ Y. *Nedarim* 6:1 39c 1034:15-17.

⁷⁰⁹ R. Yosé b. Bun was the student of a R. Huna [IA4] who was born and initially studied in Babylonia, then went to *Ereš* Israel and studied under R. Yirmiyah [IA3/4] in Tiberias. However, the R. Huna that R. Yosé cites is the more likely R. Huna [BA2] who lived in Babylonia, who was a close student of Rav and apt to be citing the teachings of Rav. In the y. *Nedarim* parallel, the name is *Hunah* (חונה) rather than Huna (הונה), but this may be assumed to be the same individual.

⁷¹⁰ It is unlikely that the name Huna (הונה) was inadvertently dropped or replaced by Rav in y. *Avodah Zarah* 2:9 41d where only the name Rav appears, as the Cairo Genizah fragment on this line also reads ...*be-šem Rav kol 'okhil še-...* (... [ב]שם רב כל אוכיל שה ...), i.e., it is a statement being made in the name of Rav. (Ginzberg, *Seridei ha-Yerushalmi min ha-Genizah asher be-Mitzrayim* 1909, 277:19).

⁷¹¹ Y. *Eruvin* 3:1 20c 464:10-13.

In other words, the contrast expressed in §II and §III is between something that can be eaten “as is, by itself” and something that cannot be eaten by itself. §IV lists garlic and onions as examples of foods that must be eaten with bread. This distinction makes perfect sense in the context of *‘eruv*, which requires two foods. Therefore, something that can be eaten alone may be counted as an independent food towards the two foods required for an *‘eruv*,⁷¹² whereas something that can be eaten only with something else (e.g., bread) may not be counted independently towards the required two food items.⁷¹³ The contrast between “with bread” and “without bread” is clear and logical.

This understanding of *hai ke-mote še-hu* is also consistent with Z. Steinfeld’s argument that *hai* does not mean “raw” in this context. Rather, he asserts that *hai* means alone or unmixed,

⁷¹² Although it may need to be cooked.

⁷¹³ M. *Ta’anit* 2:7 states: “On the eve of the Ninth of Av, one may not eat [in the pre-fast meal] two cooked food items.” A similar prohibition is noted in t. *Ta’anit* 3:11 (Vienna MS; 4:11, Erfurt MS). The topic is addressed at y. *Ta’anit* 4:10 69c 737:34-41 and in b. *Ta’anit* 30a. There is no discussion in either Talmud regarding what is considered a cooked food and specifically whether something that can be eaten *hai*, if cooked, is considered a cooked food for these purposes. One might suggest that the distinction made above between food that can be eaten alone versus food that can be eaten only with bread should carry over to the eve of the Ninth of Av. If so, one might expect that food that can be eaten alone, if cooked and with all other things being equal, would be considered a cooked food for the purposes of the final meal of the eve of the Ninth of Av. The matter is not straightforward, however, and later decisors disagree. On the one side, for example, tosafot, *Ta’anit* 30a, s.v. *‘erev Tiš‘ah b’Av*, writes that one may eat cheese that is cooked in a pot, since there is no prohibition to eat something that can be eaten *hai*, like milk, cheese, or apples, that are cooked, because it is not considered cooking at all. (Tosafot does not discuss *‘eruv tavšilin*. Tosafot also permits foods that do need to be cooked—like onions and eggs—but usually need to be cooked with additional ingredients to be eaten if they are cooked alone.) R. Ovadia of Bertinoro (1450-1510) in his gloss on m. *Ta’anit* 2:7, also states that something that can be eaten *hai*, even if it is cooked, is not considered a cooked food for these purposes. On the other hand, R. Yitzhak ben Abraham of Sens (*Ritsba*, d. c.1199 or 1210) as cited in R. Meir of Rothenberg’s (c.1260-c.1298) *Hagahot Maymoniyot*’s gloss on Maimonides’s *Hilkhot Ta’anit* 5:7, prohibits eating baked apples with another cooked item since one may use such cooked apples for *‘eruv tavšilin*. R. Israel Lipshitz (1782-1860), in his gloss *Tif‘eret Yisra‘el*, similarly considered such foods as cooked foods and prohibits them. However, it must be noted that not all other things are equal. The rationale behind the two cooked dishes for *‘eruv tavšilin* is not the same as that of the two cooked dishes on the eve on the Ninth of Av. The former appears more related to having pre-prepared foods for a Shabbat meal immediately following a holiday, while the latter appears to relate to minimizing physical pleasure at the approach of the somber day of the Ninth of Av. Thus, the criteria for what qualifies as “cooked food” for one are not necessarily the same as for the other. The approach of R. Yom Tov ben Abraham of Seville (*Ritva*, 1250-1330) in his novellae on b. *Ta’anit* 30a (Friedman Publishing, New York, 1966) is fairly clear about there being different criteria. He writes that, since fruit are eaten *hai* and cooked fruit are not considered Gentile cooking if cooked, they are not considered cooked food for the purposes of *Tiš‘ah b’Av* eve, *even though they do qualify for ‘eruv tavšilin*. (emphasis added). Furthermore, it is also possible to distinguish, as seemingly R. Israel Lipshitz above does, between considering an item cooked for purposes of *‘eruv tavšilin* or the eve of the Ninth of Av as opposed to considering it cooked for purposes of the prohibition of Gentile cooking.

not uncooked. He supports his assertion by noting that the term *yayin hai* in the Bavli means unmixed, not “live,” wine.⁷¹⁴

Returning with this understanding to the *sugya* above in y. *ʿAvodah Zarah* 2:9 41d and its parallels,⁷¹⁵ Rav (or Rav Huna) asserts that a food that can be eaten alone, on its own, even if cooked by a Gentile, is not prohibited. If the concern over Gentile cooking were possible intermarriage, it is not at all clear why this particular distinction should matter. But this distinction could very well make a difference if the concern were impermissible ingredients. That is because if a food can be eaten on its own, one may not be required to suspect that the Gentile may have mixed in an impermissible ingredient in order to make it (more) edible, but rather likely has cooked it on its own.

It must also be remembered that people in the Roman world, including *ʿEreṣ Israel*, did not customarily eat with knife and fork. They did not eat out of their own plates. They used their hands.⁷¹⁶ And they used bread as a scoop, or a sopper, out of communal serving platters.⁷¹⁷ Y. *Pesaḥim* 10:3 37d describes how in the time of the Mishnah they would dip vegetables together with bread into the sauce.⁷¹⁸ Simpler foods would be eaten with one’s hands; more complex foods, especially those with or that required sauces, were eaten with bread. Thus, a simpler food may not have been suspected of including impermissible ingredients, whereas who knew what was mixed

⁷¹⁴ B. *Sanhedrin* 70a and b. *Niddah* 24b.

⁷¹⁵ Y. *ʿAvodah Zarah* 2:9 42a, y. *Nedarim* 6:1 39c, and y. *Šabbat* 1:4 3c.

⁷¹⁶ Y. Eliav (Eliav, *The Material World of Babylonia as Seen from Roman Palestine: Some Preliminary Observations* 2015, 166-167) writes that, in discovered pictures, one “always sees large portions consumed with bare hands,” including a fourth-century painting showing the participants still eating with bare hands. He also cites a reference at the turn of the first century C.E. referring to “cabbage served in a large black dish and eaten with one’s fingers.” K. Bradley (Bradley 2001, 39) also notes that Romans had no forks and picked up their food with their fingers. Also, see (Cowell 1961, 29-30).

⁷¹⁷ Bread was also used as a spoon. See (Sparkes 1962), (Faas 1994, 190) (Dalby 2013, 310). For more on Roman and Babylonian dining habits, see (Eliav, *The Material World of Babylonia as Seen from Roman Palestine: Some Preliminary Observations* 2015).

⁷¹⁸ Y. *Pesaḥim* 10:3 37d 556:39-40.

into sauces and complex foods? In other words, something that can be eaten *hai*, let us call it a simple food that can be eaten alone, with bare hands, a vegetable for example, even if it is cooked, one would readily be able to tell whether there are extraneous ingredients in it. This would contrast with something that is typically eaten with bread, such as a sauce, or perhaps a juicy dish with multiple ingredients, where its contents are not easily discernible. Thus, Rav's only concern is for possible admixtures, which are not commonly found or can be easily discerned in dishes containing simple foods. Gentile-cooked food per se is not prohibited.⁷¹⁹

This view of Rav's position may be supported by y. *Avodah Zarah* 2:3 41b, where Rav is understood to be prohibiting Gentile bread and other foodstuffs due only to fear of the mixing in of forbidden ingredients. The beraita cited on y. *Avodah Zarah* 2:3 41b reads:⁷²⁰

רב אמר חבי"ת אסור חמפ"ג מותר חתיכת דג שאין בה סימן. בשר. יין. תכלת. אסור בחותם אחד. הלית. מורייס.
פת. גבינה. מותר בחותם אחד. אמר ר' יודן. טעמ' דרב. כל שאיסורו מגופו אסור בחותם אחד. על ידי תערובת
מותר בחותם אחד.

- I. Rav said: *havi"t* is prohibited; *hampa"g* is permitted.⁷²¹
- II. A piece of fish that has no indication [of its permissibility], meat, wine, and pale blue threads⁷²² [collectively, *havi"t*] are prohibited if [transported by a Gentile and] they have a single seal.
- III. *Hiltit*, *muryas*, bread, and cheese [collectively, *hampa"g*] are permitted with a single seal.
- IV. R. Yudan [IA3] said: "Rav's reason is: anything that is inherently prohibited is prohibited with only a single seal, [but anything that is prohibited only] due to [fear of] admixture is permitted with a single seal.

⁷¹⁹ Zvi Steinfeld too argues that Rav's stance may be a concern only over possible admixture. (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 161-166).

⁷²⁰ Y. *Avodah Zarah* 2:3 41b, 1387:40-44.

⁷²¹ *havi"t* and *hampa"g* are acronyms that are unpacked in the *beraita* itself.

⁷²² For *šišit*, fringes on a four-cornered garment.

In §IV, R. Yudan explicitly explains that Rav’s concern over bread is impermissible ingredients, as it requires, per §III, only one seal. Similarly, cheese, *muryas*, and *hiltit*, the latter of which may have been cooked.⁷²³ Yet, it too requires only one seal. The main point, though, is that Rav’s distinction is based on whether there is an inherent prohibition of the item versus an ingredient concern. There is certainly no mention of or allusion to intermarriage.

A final pericope discussing Gentile cooking, y. ‘*Avodah Zarah* 2:10 42a, reads:⁷²⁴

ר' יעקב בר אהא ר' חיייה בשם ר' יוחנן. יש' וגוי שהן שותפין בקדירה. יש' שופת והגוי מנער. מי מחזיר. סברין מימר. יש' מחזיר. אמר ר' בנימין בר ליואי. והוא שנתבשל כמאכל בן דרוסאי. ר' יוסי בעי. אם בשנתבשל כאכילת בן דרוסאי למה ליה יש' מחזיר. אפ' הגוי מחזיר.

- I. R. Jacob bar Aha, R. Hiyya in the name of R. Yohanan:
- II. “An Israelite and a Gentile who share in a pot [of food], the Israelite sets the pot onto the fire, and the Gentile stirs the pot.”
- III. [If it has been taken off,] who puts it back [to cook further]?
- IV. One might say that the Israelite must put it back.⁷²⁵
- V. Said R. Binyamin b. Livai, “This [rule] applies only if the food was cooked [as much] as the food of Ben-Derosai [i.e., sufficiently to be edible].”⁷²⁶
- VI. R. Yosé asked: “If it was cooked [as much] as the food of Ben-Derosai, why must an Israelite return it? Even a Gentile returns it.”

The flow of this *sugya* is unclear and traditional commentators disagree.⁷²⁷ It is not clear whether R. Binyamin in §V is referring to stirring the pot in §II or to returning the pot in §IV. It seems, however, that he is referring to stirring the pot, because why would an Israelite be required to put

⁷²³ For definition *hiltit*, see discussion in prior chapter of m. ‘*Avodah Zarah* 2:6.

⁷²⁴ Y. ‘*Avodah Zarah* 2:10 42a 1392:36-40.

⁷²⁵ See (Moscovitz, Ha-Terminologia shel ha-Yerushalmi: Ha-Munahim ha-Ikari'im 2009, 497-504) for an analysis of the meaning of *savrin meimar*.

⁷²⁶ The traditional understanding of the term *ke-'akhilat Ben-Derosai* (כאכילת בן דרוסאי) is food that is only a quarter or a third cooked. See, e.g., tosafot b. *Menahot* 57a, s.v. *we-'im nišlah bo*. Shamma Friedman (Friedman, Mi Hayah Ben Derosai? 1998) demonstrates that, in the Yerushalmi, such as in y. *Šabbat* 1:10 4b 375:25-39, it is the equivalent of the term *kol šorko* (כל צורכו), or, sufficiently cooked. See also (Steinfeld, Am Levadad: Mehkarim be-Misekhet Avodah Zarah 2008, 236-245).

⁷²⁷ See, e.g., Pnei Moshe *ad loc* and *Panim Me'ivot*, R. Meir Yosef Yanawa, Warsaw, 1894, Vol. II, 94 #141.

it back *only after* it has reached the stage of Ben-Derosai cooking and not before, which would be counterintuitive? Also, it is not clear if R. Yosé in §VI is responding to the statement in §IV, to R. Binyamin in §V, or to both. But it seems most straightforward that R. Yosé is clarifying §IV, adding that once the food is edible, the Gentile may be trusted to put the pot back on the fire.

Under this interpretation, the context for R. Yosé's concern can be understood as either ingredients or some other reason, such as social separation, though not necessarily intermarriage concerns. R. Yosé suggests that either (a) cooking the food further, once it is already edible, is no longer labeled Gentile cooking regarding R. Yosé's other concerns, or (b) he is not concerned, once the food is edible, that the Gentile then introduced foreign ingredients into it. On the other hand, R. Binyamin may be a bit more understandable in the context of concern over ingredients. For, the Jew's having put the pot on the fire would seem to remove it from the formal category of Gentile cooking in the social separation/intermarriage context. Whereas, letting the Gentile stir—and possibly add impermissible ingredients—would seem to be a bigger concern before the food is edible. Thus, perhaps this *sugya* may also suggest, especially according to R. Binyamin, though not strongly, that the rationale of the prohibition is concern regarding ingredients.⁷²⁸

Samaritan-produced food

In a significant and perhaps enlightening contrast, much Samaritan (*Kuttim*) produced food was permitted. While most sages did not deem *Kuttim* idol-worshippers, they were also not necessarily

⁷²⁸ B. *Avodah Zarah* 38a cites a parallel case, where the concern is almost explicitly an ingredient concern: תניא נמי הכי מניח ישראל בשר על גבי גזלים ובא גוי ומהפך בו עד שיבא ישראל מבית הכנסת או מבית המדרש ואינו חושש. שופתת אשה קדירה על גבי כירה ובאת גויה ומגיסה עד שתבא מבית המרחץ או מבית הכנסת ואינה חוששת. “So, too, it has been taught on *tannaitic* authority: If an Israelite puts meat on coals, a Gentile may come along and turn it over before the Israelite returns from the synagogue or house of exposition, and the Israelite does not have to be concerned; and an Israelite woman may set up a pot on a stove and a Gentile may come along and stir it before the Israelite returns from the bathhouse or synagogue and she does not have to be concerned.” The term *we-’eino hošeš* (ואינו חושש), “and he does not have to be concerned,” would seem to be more in keeping with an ingredient concern than a *hatnut* concern.

considered Jews.⁷²⁹ Y. *Gittin* 1:5 43c assumes that intermarriage with them is forbidden, with one view being that they were indeed not Jews.⁷³⁰ Yet we find at y. *‘Avodah Zarah* 5:3 44d that R. Yehudah [IA3/4] b. Pazzi in the name of R. Ammi [IA3], in §I below, permitted eating an egg roasted by Samaritans. R. Yaakov [IA3/4] b. Aha in the name of R. Elazar, in §II below, permitted cooked foods prepared by Samaritans into which it was not usual to add wine or vinegar. However, if it is certain that wine or vinegar was admixed, even deriving benefit is prohibited. The *sugya* reads:⁷³¹

ר' יהודה בר פזי בשם ר' אמאי. ביצה צלוייה שלכותים הרי זו מותרת. ר' יעקב בר אחא בשם ר' לעזר. תבשילי כותים הרי אילו מותרין. הדא דאת אמר. בתבשיל שאין דרכו לתת לתוכו יין וחומץ. הא דבר בריא שנתן אסור אפי' בהנייה

- I. R. Yehudah b. Pazzi in the name of R. Ammi: “A roasted egg prepared by Samaritans [*Kuttim*] is permitted.”
- II. R. Yaakov b. Aha in the name of R. Eleazar: “Cooked foods prepared by Samaritans [*Kuttim*] are permitted.”
- III. [The Talmud adds] This rule you have given applies to a dish in which it is not usual to put wine or vinegar.
- IV. However, if it is a matter of certainty that he put in wine or vinegar, it is prohibited, even for deriving benefit.

⁷²⁹ See discussion and footnote in the prior chapter about m. *Ševi ‘it* 8:10 regarding tannaitic perspectives of Samaritans. The question regarding the Jewishness of Samaritans carries forward to the Yerushalmi. Y. *Berakhot* 7:1 11b 56:31-34, in discussing whether a Samaritan may be counted towards a quorum for the *zimmun* before the Blessing after Meals, cites the disagreement between R. Shimon b. Gamliel and his son, R. Yehudah the Patriarch (Rabbi), but expands on the words of R. Shimon to “a Samaritan in like in Israelite in all matters.” Y. *Demai* 3:4 23c 127:19-28 similarly cites the two sages arguing whether a Samaritan can be trusted with a deposit. In neither case does the Yerushalmi say that, even according to R. Shimon, the Samaritan is Jewish, but only that he can be “considered as” a Jew. One view, at y. *‘Avodah Zarah* 5:3 44d 1407:39-48, considered the Samaritans, at a later period, dove-worshippers.

⁷³⁰ Y. *Gittin* 1:5 43c-43d 1057:5-13. The Talmud discusses the reason for the prohibition of intermarrying with Samaritans. One perspective is that the Samaritans were not Jewish. Another perspective seems to imply that they were Jewish, but that intermarriage was prohibited either due to their differing and inferior religious observances, in which case one could not know if the person they were marrying was a *mamzer* (illegitimate offspring) or to the inferior status of their priestly leadership.

⁷³¹ Y. *‘Avodah Zarah* 5:3 44d 1407:19-23.

In another example, R. Aha [IA4], R. Jeremiah [IA3/4], and R. Hizkiyah [IA4] went to Emmaus, a town with a significant Samaritan population.⁷³² R. Aha ate their dumplings, R. Jeremiah ate bread prepared by them, and R. Hizkiyah ate locusts prepared by them. The *sugya* reads:⁷³³

ר' אחא אזל למאוס ואכל חליטן. ר' ירמיה אכל חמצין. ר' חזקיה אכל קמצין.

- I. R. Aha went to Emmaus, and he ate their dumplings.
- II. R. Yirmiyah ate leavened bread prepared by them.
- III. R. Hezekiah ate their locusts prepared by them.

If concerns over intermarriage were the underlying rationale for the rabbinic ban on Gentile food, one would have expected these foods to have been prohibited too, even if Samaritans were not considered idolators, because intermarriage with them was prohibited. This would be especially true if the Samaritans were not considered Jews. Rather, we see from these examples that the sages believed that the concern over food was ingredients and that the Samaritans could be trusted on matters of ingredients.⁷³⁴

Gentile-Roasted Egg

Yerushalmi *Avodah Zarah* 2:9 41d cites a dispute regarding a Gentile-roasted egg. Bar Qappara [TT] permits it,⁷³⁵ while Hizkiyah [IA1] son of R. Hiyya forbids it. The *sugya* seems in fact to establish that the ban on a roasted egg is due to concerns of its inherent impermissibility, unrelated to intermarriage concerns. The text reads:⁷³⁶

⁷³² (Z. Safrai, Ha-Shomronim 1982, 258).

⁷³³ Y. *Avodah Zarah* 5:3 44d 1407:38-39.

⁷³⁴ In addition, t. *Pesahim* 1:14 (2:3) states that matzah made by a Samaritan is permitted (מצת כותי מותרת ואדם יוצא בו) (ידי חובתו בפסח), and one may even use it to fulfill one's obligation to eat matzah on Passover. Furthermore, R. Shimon b. Gamliel states there that in every commandment by which the Samaritans abided, they were much more meticulous than were the Jews (כל מצווה שהחזיקו בה כותים הרבה מדקדקים בה יותר מישראל). This may be precisely why the Sages would trust their foods. According to the Yerushalmi (y. *Avodah Zarah* 5:4 44d 1407:39-50), when Diocletian later decreed that he should be worshipped as a god by all his subjects except the Jews, the Samaritans joined up with the worshippers and poured libations of wine in an act of worship. At that point, R. Abbahu [IA3] forbade only their wine. (Levey 1975).

⁷³⁵ Disputing t. *Avodah Zarah* 4:11, discussed in the previous chapter.

⁷³⁶ Y. *Avodah Zarah* 2:9 41d 1392:3-14.

ביצה צלויה שלהן. בר קפרא שרי. חזקיה אסר. עד כדון בשנצלית לדעת. נצלית שלא לדעת. נישמענה מן הדא. מעשה שנפלה דליקה באשת קנים ובאגם תמרים והיו שם חגבים ונצלו. אתא עובדא קומי ר' מנא ואסר. אמ' ר' אבהו. משום תערובת חגבין טמאים. א' ר' יוסי ביר' בון. והדא מן חמירתא דרב. רב נחת לתמן חמתון מקללין וחמר עליהון. חד בר נש הוה טעין קופד מהלך בשוקא. אתת דייתא וחטפתא מן ידיה אתר תותיה. אזל בעי מיסביניה. אמ' ליה רב. אסיר לך. דנא אמר דנבילה הות טעינא ואתר תתה ונסיבת דין תחותוי. חד בר נש אזל בעי משוגא איסקופתה גו נהרא. אנשיתה וסלק ליה. אזל בעי מיסביניה. א' ליה רב. אסיר לך. דנא אמר ההיא שטפה נהרא ואייתי חורי דנבילה תותיה.

- I. Their [Gentile] roasted egg—Bar Qappara permitted. Hizkiyah prohibited.
- II. The foregoing [dispute] concerns an egg [that a Gentile] deliberately roasted. [What is the ruling regarding an egg] that was not roasted deliberately [by a Gentile but only inadvertently]?
- III. Let us infer the ruling from the following: It happened that a fire [set by a Gentile] broke out in a reed thicket and in a date grove, and locusts were roasted.
- IV. The case came before R. Manna, who prohibited [eating the locusts {presumably, because they were roasted inadvertently by a Gentile}].
- V. Said R. Abbahu: “[That is not proof. The locusts were not prohibited because a Gentile had set the fire but] because there was a mix with unclean locusts [roasted with the clean ones, and they could not be told apart].”
- VI. Said R. Yosé b. R. Bun: “And this was one of the strict rulings imposed by Rav [in the circumstance explained below].
- VII. “Rav arrived there [Babylonia]. He saw that they were lax [in their observance], so he imposed strict rulings on them. [As two examples:]
- VIII. “A man was walking in the marketplace carrying a piece of meat. A *diata*-bird flew down and snatched it from his hand. [As the bird flew off,] meat fell [under the bird]. [The man] went [and] wanted to take it [and eat it]. Rav said to him, ‘It is forbidden to you. For I say it [the bird] was carrying a piece of carrion meat, and it fell and the bird switched this piece for yours. [So the piece of meat you found is the carrion that the bird had been carrying, and that is why you may not eat the meat.]’
- IX. “A man went and wanted to rinse off, in the river, meat hanging on a crosspiece. He forgot it there and went on his way. [When he remembered,] He wanted to return to retrieve it. Rav said to him, ‘It is forbidden to you. For I say the piece you had was swept off by the river, which brought in its stead a piece of carrion.’”

In the foregoing discussion, no reason is given in §I for Hizkiyah’s prohibition of a Gentile-roasted egg.⁷³⁷ One might seek to explain that Hizkiyah considered Gentile roasting as cooking, and thus forbidden,⁷³⁸ even if the Gentile did not directly handle the food itself, only the shell.⁷³⁹ But the rest of the *sugya* disproves this understanding of Hizkiyah’s ruling. In §II, the narrator of the Talmud asks whether Hizkiyah would also prohibit an egg roasted accidentally by the Gentile. In §IV, the Talmud seems to answer yes, citing R. Manna⁷⁴⁰ who forbids locusts accidentally roasted in a thicket set afire by a Gentile. Since, in this instance, impermissible ingredients would seem not to be at issue, one might seek to impute the prohibition of even inadvertent Gentile cooking to a concern such as intermarriage. However, R. Abbahu [IA3] asserts immediately afterwards in §V that these roasted locusts are forbidden not because they were roasted by a Gentile but due to the possible presence of impermissible locusts. In §VI, R. Yosé [IA5] b. Bun offers a supporting view, asserting that, even in such a case, the locusts would have been permitted were this case not “among the strict rulings imposed by Rav” when he went down to Babylonia and saw a laxity in halakhic observance. As the two rulings of Rav cited in §VIII and §IX clearly reflect, Rav’s concern was about pieces of permissible meat over which the Jewish owner had lost control.

Thus, according to the Yerushalmi, an egg inadvertently roasted by a Gentile is not prohibited and may be eaten according to both Bar Qappara and Hizkiyah. R. Manna’s stringency in the case at hand specifically reflects concerns about “ingredients,” i.e., the possible and indistinguishable presence of impermissible locusts. Since the discussion in the *sugya* revolves around ingredients, one could perhaps conclude that Hizkiyah’s concern was an ingredient one as well. That, as suggested in the previous chapter regarding t. *‘Avodah Zarah* 4(5):11, the prohibition

⁷³⁷ Interestingly, in the parallel *sugya* in b. *‘Avodah Zarah* 38b, Hizkiyah permits a Gentile roasted egg.

⁷³⁸ See e.g., m. *Nedarim* 6:1 which distinguishes roasting from cooking.

⁷³⁹ See e.g., Rashi b. *‘Avodah Zarah* 38b, s.v. *Bar Kappara*.

⁷⁴⁰ Probably the first R. Manna [IA2].

of a roasted egg may be attributed to the fact that the roasted egg may have been used in an idolatrous rite, whereas in our case, if one actually knows that the roasting was inadvertent, then one would also know that it was not done in the context of a pagan rite. However, admittedly, the *sugya* indeed can also be learned that Hizkiyah's concern is *hatnut*, but that the categorization of "Gentile roasting" would not apply when the roasting was inadvertent.

Gentile *Turmusin*

Turmusin is a lupine, a genus of leguminous herbs.⁷⁴¹ While it was an important food item, especially for the simple people, it was quite bitter and evidently needed to be repeatedly boiled, spilling out the water after each time, before it became edible for humans.⁷⁴²



Figure 6.1. Lupines
(https://upload.wikimedia.org/wikipedia/commons/7/7a/Lupinus_albus.JPG)

The following pericope from *y. 'Avodah Zarah* 2:9 41d-42a seems to imply that Gentile *turmusin* is prohibited, at least according to one opinion.⁷⁴³ On the surface, this prohibition has no apparent connection to impermissible ingredients. The *sugya* reads:⁷⁴⁴

⁷⁴¹ Per (Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods* 2002, 1235), lupine, a genus of leguminous herbs.

⁷⁴² (Y. Feliks, *Mar'ot ha-Mishnah*, Seder Zeraim 1967, 154) and (Feliks, *Ha-Tzomeach vecha-Chai u-Klei Haklout ba-Mishnah* 1985, 168). Per b. *Šabbat* 74a (bottom), *turmusin* needed to be boiled seven times. M. *Šabbat* 18:1.

⁷⁴³ The *sugya* on *y. Pesahim* 2:5 29c 511:24-30 seems to imply that *turmusin* is an example of *šelaqot*. Yet here one opinion says that Gentile *turmusin* is not prohibited.

⁷⁴⁴ Y. *'Avodah Zarah* 2:9 41d-42a 1392:14-25.

תורמוסין שלהם, מה הן. ר' אוסר. גניבה מתיר. אמר ר': אני זקן והוא זקן. אני עלת על לבי לאסור והוא עלת על דעתו להתיר. ר' מנא בר תנחום אזל לצור והתיר תורמוסין שלהן. ר' חייה בר בא אזל לצור ואשכח לר' מנא בר תנחום שהתיר תורמוסין שלהן. אתא גבי רבי יוחנן אמ' ליה: מה מעשה אירע לידך. אמ' ליה: אשכחית לר' מנא בר תנחום שהתיר תורמוסין שלהן. אמ' ליה: ולא פגעת ביה. אמ' ליה: אדם גדול הוא והוא יודע למתק את הים הגדול. אמ' לו: לאו בני. חשבון מים הוא יודע. ובשעה שהמים מקלסין את בוראן הן מתמתקין. אמ' ר' יצחק בר לעזר: בא לומר גנייו ואמר שבהו. אמ' ר' יוסי ביר' בון: חשבון גדול הוא. ר' זכאי דאלכסנדריא הוה ידע לה. אמ(ר): ואילו בעית, ילפתה מיניה.

- I. What is the law regarding [consumption of] their [Gentile] lupines? R' [R. Yudan, IA2] prohibits. Genayva [BA2] permits.⁷⁴⁵
- II. Said R', "I am an elder, and he is an elder. I have determined to prohibit them, and he determined to permit them."
- III. R. Manna b. Tanhum [IA2/3] went to Tyre and permitted Gentile lupines.
- IV. R. Hiyya [IA3] b. Ba went to Tyre and found that R. Manna b. Tanhum had permitted [Gentile] lupines. He went to R. Yohanan [IA2]. [R. Yohanan] said to him, "What sort of case came to your hand?"
- V. He said to him, "I found that R. Manna b. Tanhum had permitted [eating] [Gentile] lupines."
- VI. [R. Yohanan] said to [R. Hiyya], "And did you excommunicate him?"⁷⁴⁶
- VII. He said to him, "He is a great man, for [he is so wise that] he knows how to sweeten the [water of the] Mediterranean."
- VIII. He said to him, "It is not so, my son. He merely knows how to make the calculation of the water. For when the water praises God who created it, [the water] turns sweet. [So, his knowledge is not so impressive.]"
- IX. Said R. Yitzhak [IA2/3] b. Elazar, "[Nonetheless,] he came intending to discredit him and ended up praising him." Said R. Yosé b. R. Bun, "It is a great piece of

⁷⁴⁵ Commentators, such as R. Issachar Tamar (*Alei Tamar*) cited in *Be'eri ha-Daf ad loc.* explain that "Rabbi" in this case is the first R. Yehudah *Nešiyah* [IA1], also referred to in the Yerushalmi as Rabbi and as R. Yudan. Aharon Hyman (Hyman 1910, I:253) suggests that, since Rabbi is abbreviated as R' in the manuscript, it may actually refer to Rav, under whom Genayva was said to have studied in Babylonia, and not to Rabbi, who resided in *Ereš* Israel. No commentator associates this abbreviation with Rabbi of Mishnah, who was also referred to as R'. As to Genayva, Strack and Stemberger (Strack and Stemberger, Introduction to the Talmud and Midrash 1991, 88) note that he is a second generation amora, Albeck (H. Albeck, *Mavoh la-Talmudim* 1969, 672) records him as third generation, while Margoliot (M. Margoliot, *Intziklopedia le-Hakhmei ha-Talmud vehe-Geonim* 2006) records him as generation 1/2. Since Genayva appears to have been a student of first-generation Babylonian amora Rav, second generation is adopted here.

⁷⁴⁶ (Guggenheimer 2000): "And did you not hit him?"

knowledge. R. Zakkai [A5] of Alexandria knows that wisdom.” He said, “If I wanted, I could have gone and learned it from him.”

A close read of this *sugya* can indicate that the concern is in fact one of permissibility of ingredients.⁷⁴⁷ First, R. Yudan, in explaining his disagreement with Genayva in §II, merely says “I am an elder, and he is an elder. I determined to prohibit them, and he determined to permit them.” R. Yudan provides no reason for his prohibition and seems unruffled by this disagreement. The tenor of his response is appropriate for a dispute regarding concern over the possible admixture of non-permitted ingredients in making *turmusin*, not one over intermarriage.

This same tone carries through the rest of the *sugya*, which relates a story about R. Manna b. Tanhum permitting the people of Tyre to eat Gentile-cooked *turmusin*. R. Yohanan, according to the Yerushalmi tradition, forbade it, but, by his interaction with R. Hiyya, does not appear to be insistent about the prohibition. For, after his initial reaction, R. Yohanan focuses on R. Manna rather than on seeking to correct the actions of the people.⁷⁴⁸ Furthermore, the *sugya* concludes open-endedly, without prohibiting *turmusin*. This Yerushalmi thus might be read as siding with the lenient point of view.

Since *turmusin* was quite bitter, it is possible that Rabbi and R. Yohanan were concerned that extraneous—and impermissible—ingredients might be added during the boiling process to

⁷⁴⁷ No commentator explicitly ties this prohibition to a fear of intermarriage, but nor does any commentator suggest that this prohibition is not connected to the fear of intermarriage that they associate elsewhere with Gentile cooking.

⁷⁴⁸ Interestingly, at b. *Avodah Zarah* 59a and b. *Yevamot* 46a cite a similar story of R. Hiyya b. Abba visiting Gabla and seeing the Jews there, among other things, eating *turmusin* prepared by Gentiles. When R. Hiyya later relates this to R. Yohanan, R. Yohanan ordered R. Hiyya to return to Gabla and to instruct the people that “Gentile cooking is prohibited because they [the people of Gabla] are not ‘*bnei torah*’ [knowledgeable of or observing the Torah.]” This implies that had they been *bnei torah*, the food would have been permitted to them. I.e., it is not prohibited due to Gentile cooking, but was prohibited out of concern that the non-Torah scholars might conclude that if they could eat this, they could eat other Gentile cooking as well. An anonymous narrative subsequently explains that this is because *turmusin* fails to meet one of the requirements that the Bavli established for a food to be considered Gentile cooking—that it is not eaten by kings with their bread. This condition is not cited in the Yerushalmi. Thus, on its face, R. Yohanan’s statement would seem to indicate that *turmusin* is not considered Gentile cooking.

mitigate the bitterness.⁷⁴⁹ Thus, this disagreement can be explained as being about whether one needs to be concerned about the possible addition of extraneous ingredients.

Gentile *Ḥaluṭ*

Ḥaluṭ appears to be the same as *ḥaliṭah*, which is a dumpling made by dropping flour into hot water.⁷⁵⁰ The following *sugya* at y. 'Avodah Zarah 2:9 42a implies a general prohibition of Gentile cooking by the fourth amoraic generation, but it provides no insight as to the possible concern. It reads:⁷⁵¹

חלוט שלהן מהו. נישמעניה מן הדא. ר' אממי סלק עם ר' יודן נשייא לחמתא דגדר והתיר חלוט שלהן. ר' בא בר ממל בעי: מה בין חלוט לתורמוסין. אמ' ר' יוסי: חלוט מחוסר מעשה ידי האור הוא. תורמוסין אינן מחוסר מעשה ידי האור הוא.

- I. Dumplings prepared by them [Gentiles] — what is the law?
- II. Let us infer the ruling from the following:
- III. R. Ammi [IA3] went up with R. Yudan the Patriarch⁷⁵² to the hot springs of Hammat Gader and permitted their [Gentile] dumplings.
- IV. R. Ba [IA2/3] b. Memel asked: “What is the difference between dumplings [which are permitted] and *turmusin* [lupines, which R. Yudan, above, prohibited]?”
- V. Said R. Yosé [IA4], “Dumplings are not cooked over fire [since they can be made in hot water no longer over fire, and the hot water itself, though prepared by a

⁷⁴⁹ (Zohary, Hopf and Weiss 2013, 98) write that genus *lupinus*, “are vigorous growers and produce large, attractive seed. However, their use is complicated by the fact that lupines generally contain bitter alkaloids which are difficult to remove.”

⁷⁵⁰ (Sokoloff, A Dictionary of Jewish Palestinian Aramaic (Third Edition) 2017, 207, s.v. *halitah*). A *ḥaliṭar* is a dumpling maker. Also, m. *Teharot* 10:8 employs *HLT* as a verb meaning to douse with boiling water. (Guggenheimer 2000) defines *ḥaluṭ* as parboiled foods, noting that scalding is not boiling and that, while scalded food is prepared, it is not cooked. However, he defines *ḥaliṭah* at y. *Pesahim* 4:4 31a 520:7-10 as fried foods.

⁷⁵¹ Y. 'Avodah Zarah 2:9 42a 1392:25-29.

⁷⁵² By inference of traveling with R. Ammi, this may refer, according to the traditional understanding, to a second R. Yehuda Nesiah [IA3]. Alan Appelbaum argues strongly (Appelbaum 2013, 81-84) that there was only a single R. Yehudah Nesiah who lived to an old age. Concluding that having two R. Yehuda Nesiyahs two generations apart, where each R. Yehuda was sufficiently outstanding to have the “the Patriarch” appellation appended to his name, “is like imagining that there could have been two tsars, with at most a generation between them, each named Peter and each outstanding enough to be universally called Peter ‘the Great.’” I adopt his conclusion in the discussion below, but the discourse can be understood even if there were also a younger R. Yehuda Nesiah, where the younger R. Yudan adopted his grandfather’s prohibition of *turmusin*.

Gentile, is permitted], while lupines are only cooked over a fire [and are thus prohibited].”

R. Ba’s question in §IV could have been answered that there is concern over admixture, say of wine, in *turmusin* but no such concern regarding dumplings. But this answer was not given. Rather, the fourth generation amora, R. Yosé, posits in §V that the difference has to do with the fact the *ḥaluṭ* is not considered cooked. This response seems to indicate the fact in R. Yosé’s time there was a general prohibition of Gentile cooking unrelated to ingredients and that *turmusin* is prohibited for this reason and not out of concern of admixtures.

But this conclusion is not straightforward. The following *sugya* indicates that a Jew is permitted to ask a Gentile on Yom Kippur afternoon to prepare food for him to be eaten immediately after Yom Kippur. Y. *Pesaḥim* 4:4 31a reads:⁷⁵³

ר' זעורה בעא קומי ר' אימי. מהו מימור לחליטה. עבד לי חליטה. אמ' ליה. שרי. עבד לי תופין. שרי. עבד לי פתילה. אמ' ליה. לא. מה בין זה לזה. זה אוכל נפש. וזה אינו אוכל נפש.

- I. R. Zeura [IA2?] asked before R. Aimee [IA3]: May one ask a [Gentile] dumpling maker [on Yom Kippur afternoon] “Make me a dumpling.”?⁷⁵⁴
- II. He [R. Aimee] responded: “Permitted.”
- III. “Make me *tupin* [a type of pastry⁷⁵⁵]?”
- IV. “Permitted.”
- V. “Make me a candle wick.”?
- VI. He [R. Aimee] responded: “No.”
- VII. What is the difference between one and the other?
- VIII. One is *okhel nefesh*, a life-sustaining food; the other is not a life-sustaining food.

The rationale for the permissions on dumplings in §II and *tupin* in §IV is given in §VIII as *okhel nefesh*, a life necessity. Traditional commentaries translate *tupin* as bread. Thus, this rationale

⁷⁵³ Y. *Pesaḥim* 4:4 31a 520:7-10.

⁷⁵⁴ (Guggenheimer 2000): fried foods.

⁷⁵⁵ (Guggenheimer 2000): baked goods.

appears like that given in *y. Ševi ʿit* 8:4 38a §IX (discussed above) and parallels permitting Gentile bread when there is no Jewish baker around. However, Michael Sokoloff translates *tupin* as a type of pastry, based on the root ʿAPH, to bake.⁷⁵⁶ If accurate, the permission in §IV goes beyond bread and seems to apply to Gentile baking generally. But even if one adopts the traditional interpretation, the issue at hand here is one of asking a Gentile to prepare food on which to break the fast after Yom Kippur. The rationale of *okhel nefesh* is used to permit asking a Gentile to do something that one is not permitted to do oneself on the holiday. There is no mention here of a prohibition of Gentile cooking that should have also been otherwise prohibited. In addition, there is no requirement that the individual asking the Gentile have no other food to eat after the fast, which does appear to be the requirement in *Ševi ʿit*.

Furthermore, it can be argued that the question posed by R. Ba to R. Yudan regarding *halut* in contrast with *turmusin* did not reflect a generally accepted prohibition of Gentile cooking but was limited to R. Yudan’s own position in *y. ʿAvodah Zarah* 2:9 41d-42a on *turmusin*, which, as explained above, could be attributed to concern over ingredients. Thus, while the answer of R. Yosé in §V in that *sugya* explaining how dumplings are not cooked over fire whereas lupines are seems to indicate a general prohibition of Gentile cooking, it might reflect only of one stream of halakhah—R. Yudan’s—in this later period.

Gentile-Smoked Foods

The Yerushalmi discussion on *m. Nedarim* 6:1 reviews the types of cooking included when an individual foreswears cooking. *Y. Nedarim* 6:1 39c reads:⁷⁵⁷

⁷⁵⁶ (Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Third Edition) 2017, 668) s.v. *tupin*, whose root is ʿAFH, or to bake. *Korban Edah* and *Pnei Moshe ad loc.* translate the word as loaves of bread.

⁷⁵⁷ *Y. Nedarim* 6:1 39c 1034:10-14.

הנודר מן המבושל מהו שיהא מותר מן המעושן. מהו שיהא מותר במטוגן. מהו שיהא מותר בתבשיל שנתבשל בה מי (ט) בריה. רבנין דקיסרין שאלון. מעושן מהו שיהא בו משום בישולי גוים. מהו שיהא בו משום תבשילי שבת. מהו שיהא בו משום בשר בחלב. מהו שי[טב]ל למעשרות. הנודר מן המעושן מהו שיהא מותר בתבשיל.

- I. He who vows not to eat what is cooked: Is he permitted to eat what is smoked?
- II. Is he permitted to eat what is fried?
- III. Is he permitted to eat what was cooked in the hot springs of Hamat Tiberias?
- IV. The Rabbis of Caesarea asked: “Are smoked foods subject to the prohibition against eating food cooked by Gentiles?”
- V. Are they subject to the prohibition of cooking on the Sabbath?
- VI. Are they subject to the prohibition of cooking meat in milk?
- VII. [Since cooking produce establishes the liability regarding tithes,] does smoking cause produce to be prohibited because it is as yet untithed?
- VIII. He who takes a vow not to eat what is smoked: Is he permitted to eat what is cooked?

The narrator asks in §I-III whether a vow not to eat “what is cooked” includes smoked foods, fried foods, or foods cooked in the hot springs of Hamat Tiberias. The Rabbis of Caesarea then ask in §IV whether Gentile-smoked food is considered Gentile cooking and thus prohibited. Then, they or the narrator ask in §§V-VIII whether smoking foods is included in the prohibition of cooking food on the Sabbath or the prohibition of cooking meat in milk, whether it establishes the requirement for tithing (as do other forms of food preparation), and whether one who forswears smoked foods may eat other cooked foods.

These questions are followed by a seemingly unrelated statement of R. Ba b. Yehuda:⁷⁵⁸

- ר' בא רב יהודה בשם דבית רב אתי.⁷⁵⁹ חביצא אין בו משום בישולי גוים ויוצאין בו משם עירובי תבשילין.
- I. R. Ba [IA2/3], R. Yehudah in the name of the house of R. Atti [says]:
 - II. “*Haviṣa* is not subject to the prohibition of eating food cooked by Gentiles,

⁷⁵⁸ Y. *Nedarim* 6:1 39c 1034:14-17.

⁷⁵⁹ The Leiden MS reads 'Atti (אתי), not 'Asi (אסי) or 'Ahi (אחי). Similarly in the Venice printing. I am not aware of any Genizah fragment or other manuscript that includes this pericope.

- III. but it serves for the purposes of *'eruv tavšilin* [the symbolic meal to permit cooking on festival days for an immediately ensuing Shabbat].”

It is suggested here, however, based on the following analysis, that R. Ba’s statement is in fact cited to respond to the question of the Caesarean rabbis. Specifically, the food referred to by R. Ba in our text is *ḥaviša* (חביצא). It is a *hapax legomenon* in rabbinic literature up through the Yerushalmi. While it is thus difficult to know what exactly it is, two definitions are typically offered. One, from the root *HVS*, to press, is a “dish of flour, honey, and oil beaten into a pulp.”⁷⁶⁰ The other, based on the Bavli, is “breadcrumbs dropped into boiling water, and they cohere with one another.”⁷⁶¹ According to the first definition, this food seems not to be cooked at all, so it is not clear why R. Ba needs to pronounce that it is not prohibited. In addition, according to both definitions, R. Ba’s statement is a non sequitur, as it has nothing to do with smoked foods and thus does not relate to the questions preceding it.

It is thus suggested here that food item referred to by R. Ba is not actually *ḥaviša* (חביצא), but something called *remiša* (רמיצא) and that a scribal error was introduced, changing the *RM* (רמ) of רמיצא to *HV* (חב) and resulting in חביצא. Though Saul Lieberman’s analysis of textual corruptions in the Yerushalmi does not include the switching of letter couplets, it is not difficult to imagine in this case.⁷⁶² One can see how the רמי of רמיצא, if written by a scribe as רמי might be misread by a

⁷⁶⁰ (Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Third Edition) 2017, 186) and (Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods* 2002, 376). (Guggenheimer 2000), from Arabic, defines it as: “a delicacy made from dates, cream, and starch.” Similarly, *Pnei Moshe* (R. Moshe Margoliot) *ad loc* and Yehiel Eckstein, *‘Arukh ha-Šalem* (Kohut 1926, III:335) define it as a dish of flour and dates. This appears to be the understanding of tosafot, b. *Menaḥot* 75b, s.v. *ḥaviša*. In geonic literature, חביצא is a food made of pressed grain and honey.

⁷⁶¹ R. David Frankel (*Qorban ha-‘Edah*) *ad loc*. Rashi in B. *Menaḥot* 75b, s.v., *hai ḥaviša*, and at b. *Berakhot* 37b, s.v., *ḥaviša* seems to have a similar definition. Alternatively, b. *Bava Mešia* 99b refers to a *ḥaviša* of dates, which Rashi *ad loc* s.v., *ḥaviša de-tamari*, explains as dates stuck together, and the Vilna Gaon (*Be’urei ha-Gra*, *Šulḥan ‘Arukh*, *Oraḥ Ḥayyim* 527:5.11) defines *ḥaviša* as baked apples.

⁷⁶² (Lieberman, *Al ha-Yerushalmi* 1929, 7-50).

later scribe as רמ and transcribed as רמי. The transcribing scribe may not have been familiar with the term רמיצא, which does not appear in the Bavli at all. But in fact, he may have been familiar with רביצא, which appears there a few times.⁷⁶³

It is quite possible, then, that *remiṣa* was a type or category of smoked food known in 'Ereṣ Israel. *Remeṣ* (רמיץ) is understood to mean hot ashes or embers.⁷⁶⁴ Indeed, a discussion in y. *Kil'ayim* 1:2 27a dealing with the prohibition of intermixing diverse kinds of vegetables in planting explains the name of the vegetable *remuṣah* thus:⁷⁶⁵

והרמוצה. אמ' ר' חנינא. כמין דלעת מרה היא והן ממתקין אותה ברמיץ.

Weha-remuṣah. Said R. Hinena. [It is] a type of bitter gourd and they sweeten it [by cooking it] in ashes [*remeṣ*].⁷⁶⁶

In other words, *remuṣah* is so called because it is a vegetable that they would “sweeten” by *remeṣ*, embers and ashes.⁷⁶⁷ It cannot be eaten otherwise. The distance between *remuṣah* and *remiṣa* is not great.⁷⁶⁸ *Remiṣa*, therefore, could have been a food whose preparation was somehow related to

⁷⁶³ B. *Bava Meṣia* 99b, b. *Menaḥot* 75b, and b. *Berakhot* 37b.

⁷⁶⁴ See e.g., (Jastrow n.d., 1483).

⁷⁶⁵ Y. *Kil'ayim* 1:2 27a 146:18.

⁷⁶⁶ At b. *Nedarim* 51a, there is an unresolved dispute between R. Ashi and Ravina as to whether *dela'at ha-remuṣa* (דלעת הרמוצה) is a gourd cooked in ashes or whether *remuṣa* (רמוצה) is the name of the place and the reference is to a gourd of a certain place. There is no mention of this view in the Yerushalmi. (Danby 1933, *Kilayim* 1:2, 28) translates it as “the bitter gourd.”

⁷⁶⁷ (Guggenheimer 2000) translates *remuṣa* as “ash gourd.” See also (Y. Feliks, *Kila'ei Zera'im ve-Harkavah: Masekhet Kil'ayim* 1967, 44, 63-71). This is also how R. David Frankel's *Qorban ha-Edah* defines the *remiṣa* at the end of *sugya* at y. *Nedarim* 6:1 39c 1034:26-27.

⁷⁶⁸ The Levenshtein distance is a metric for measuring the difference between two strings of characters. Informally, the Levenshtein distance between two words is the minimum number of single-character edits (i.e., insertions, deletions, or substitutions) required to change one word into the other. In this case, the Levenshtein distance is two: one is the often-interchanged final aleph (א) and heh (ה); the other is the interchange of the visually similar yod (י) and vav (ו).

embers or ashes—or specifically, in this case, smoked, rather than cooked in the traditional sense.⁷⁶⁹

If this hypothesis is correct, then R. Ba’s statement relating to a smoked food item would indeed be a response to the immediately preceding questions.⁷⁷⁰ R. Ba’s statement would address the question of the Caesarean rabbis by ruling that Gentile-smoked food is not considered Gentile cooking.⁷⁷¹ And the Yerushalmi, by citing only R. Ba with no opposing position, would indeed have been implicitly ruling that Gentile-smoked food is permitted. According to this hypothesis,

⁷⁶⁹ Pliny (Pliny, *Natural History: Books XVII-XIX* 1961, XIX:XXIV.74 469) discusses smoking gourds, though the context is not to make them edible but to strengthen them to serve as storage vessels for seeds. Apicius (Grocock and Grainger 2020) includes several recipes that call for broiling or heating in ashes, though it appears that the food is not placed directly in the ashes. Rather, Grocock and Grainger note, such recipes suggest that vessels were placed directly in the embers of mature wood fire already used for other purposes. The embers no longer produce flame—which would crack a ceramic vessel—but still put out considerable warmth. See, e.g., Apicius #4.2.5 (179): Another *patina* of asparagus (served) cold: “put this asparagus liquor in hot embers.”; #4.2.8 (181): Another hot or cold *patina* of elderberries: “pour into the dish 4 oz. of oil. Put in the hot ashes...;” #4.2.36 (193) Nettle *patina* served hot or cold: [Pour the mixture] over the cooked nettles in the dish. Let it have hot ashes above and below.”

⁷⁷⁰ R. Ba’s statement would also evoke the last item in m. *Nedarim* 6:1, which is the subject of discussion in the *sugya* above. The mishnah permits the forswearer of cooked foods to eat *dela’at ha-remuša* (דלעת הרמוצה), a gourd “sweetened” in ashes.

⁷⁷¹ Y. *Šabbat* 7:2 10a 408:18 categorizes smoking, *me’ašen* (מעשן), as one of the actions that, if performed on a fruit tree on the Sabbath in order to fumigate it for worms, falls under the category of enhancing the fruit on the Sabbath and is thus prohibited under the prohibition of *zore’a* (זורע), sowing. S. Krauss (Krauss 1929, II.1:215) claims that this demonstrates that smoking is considered cooking. But this is not at all demonstrated from this citation. Krauss cites another Yerushalmi text from y. *Šabbat* 7:2 10b 410:44 משל מבושם מבושם מבושם מבושם, he who roasts fries, seethes, and smokes—all of these are considered cooking [on Sabbath]. However, glosses on this, such as *Gilyon ha-Shas*, (R. Akiva Eger) *ad loc.*, and various responsa, including Responsa Maharam Rotenberg (I:58, Prague printing, Jerusalem, Makhon Yerushalayim, 2014) refute that smoking should be included in the list. While the word does appear in the Leiden MS, one can attribute its inclusion in the text as a “slip of the tongue based on habit” of a scribe at some point in its propagation. The term “smoking” is physically missing from the parchment in F-S F17.35 Fragment 4r, FGP No. C97788 in the Friedberg collection, as printed in (Sussmann, *Ginzei ha-Yerushalmi* 2020, 154), although the editor of the latter assumes that the term should be present. It is not clear, therefore, that this source cannot be used as a support one way or the other. With thanks to M. Pinchuk for making me aware of the Krauss source and other citations, and more generally for his interest and help on this topic.

Saul Lieberman (Lieberman, *Talmudah shel Kaisarin* 1931, 25) suggests that this *sugya* was learned in the Yeshiva of Caesarea and contradicts a *sugya* at y. *Šabbat* 7:2 10b 410:44 that was learned in the Yeshiva of Tiberias where, regarding Shabbat, smoking is in fact considered cooking. While one may interpret the *sugya* in y. *Šabbat* as contradicting the one in y. *Nedarim*, this is not necessarily so. The act of cooking may be a violation of the Sabbath prohibition of using fire, but the food product per se may not have the status of a cooked food, either for purposes of vows or for being considered Gentile cooking. See also (Moscovitz, *Sugyot Muhlafot ba-Yerushalmi* 1989, 32).

there is no missing statement in the Yerushalmi, only the mis-transcription of two letters in a single word.⁷⁷²

This interpretation might help explain why *remiṣa* (or *ḥaviṣa*) is not included in y. *‘Avodah Zarah* 2:6 among the examples of Gentile-prepared foods that are not considered Gentile cooking and thus permitted.⁷⁷³ Perhaps *remiṣa* is more relevant to this particular *sugya* in y. *Nedarim* where smoked foods are discussed.

The discussion in the foregoing *sugya* seems inconclusive regarding the question of whether Gentile cooking is prohibited due to *ḥatnut* concerns or ingredient concerns. Rather, the Yerushalmi can be understood simply as not considering smoking a form of “cooking” in the matters of Gentile cooking or vows.

⁷⁷² Several Medieval and later rabbinic decisors asserted, based on the question of the Caesarean sages in §IV, that Gentile-smoked cooking is not prohibited as Gentile food. R. Moshe b. Nahman, 1194-1290, (b. *‘Avodah Zarah* 38b, s.v. *we-ha de-felliggi*) and R. Nissim of Gerona, c. 1315-1376, (b. *‘Avodah Zarah* 15b, s.v. *dag maliah* who comments on the summary of R. Isaac Alfasi (*Rif*, 1013-1103) on b. *‘Avodah Zarah* 38b) claim that this *sugya* in the Yerushalmi resolves the issue. They write without elaboration: “in the Yerushalmi they said that smoked is not considered Gentile cooking” (בירושלמי אמרו במעושה שאין בו משום בישולי עכו"ם). Similarly, R. Moses b. Maimon, or Maimonides, c. 1135-1204), in his halakhic codex (*Mišneh Torah, Ma'akhalot 'Asurot*, 17:17), permits eating Gentile-smoked fruit.⁷⁷² In their glosses on the codex ad loc, R. Yosef Karo (*Kessef Mišneh*, 1488-1575) and R. Elijah of Vilna (Vilna Gaon, 1720-1797) both consider this Yerushalmi to be the source of Rambam's ruling. However, such a conclusion is not to be found in the text of the *sugya* as it has come down to us. Indeed, R. Shlomo b. Aderet, 1235-1310, (Rashba, b. *Nedarim* 49, s.v. *u-muttar*) asserts that the Yerushalmi did not in fact provide a final ruling in this case and that therefore one should be stringent and not eat Gentile-smoked food. Furthermore, in his critical edition of the Ramban's commentary on the Babylonian Talmud, Moshe Hirschler (Hirschler 1970) is puzzled by Ramban's conclusion, writing that he (Hirschler) did not find in the Yerushalmi the response to the question of the Rabbis of Caesarea regarding whether Gentile-smoked food is permitted. Hirschler is certain that Ramban's text also included the response, as is Saul Lieberman. (Lieberman, *Talmudah shel Kaisarin* 1931, 25). Lieberman further asserts that this open-ended question of the sages of Caesarea contradicts the definitive ruling in y. *Šabbat* 7:2 10b 410:44 that smoking is considered cooking as related to Shabbat transgressions. In other words, these opinions suggest that our texts are missing a substantial and meaningful segment of the *sugya*. The explanation presented in the body of this dissertation suggests that there is no lacuna and that, while the early Medieval decisors may have had a different text in front of them, that text may have differed from ours by only two letters, not an entire passage. If this assessment is correct, then they may have had an earlier text with רמיצא as opposed to our חביצא—in other words, our text with only the first two letters of this word altered. Indeed, Ramban lived before the writing of the Leiden manuscript in 1289, upon which all our editions of the Yerushalmi are based. (Sussmann, Introduction 2016).

⁷⁷³ Y. *‘Avodah Zarah* 2:2 41d-42a 1392:29-33.

Gentile *Martissah*

In y. 'Avodah Zarah 2:9 42a, R. Ba in the name of R. Atti asserts that a food known as *martissah* is not considered Gentile-cooking but is nonetheless considered a food that may be counted for purposes of 'eruv *tavšilin*. The passage reads:⁷⁷⁴

ר' בא בשם רב אתי: מרטיסה אין בו משום בישולי גוים ויוצאין בו משום עירובי תבשילין.

- I. R. Ba in the name of R. Atti: "*Martissah* is not subject to the prohibition of cooking by Gentiles,
- II. And [with *martissah*] one may fulfill the obligation of 'eruv *tavšilin* [setting out cooked food to enable cooking on a festival day for the immediately ensuing Shabbat]."

A number of definitions of *martissah* are offered by traditional commentaries. One is a hash of small fish or locusts preserved in salt.⁷⁷⁵ Another, based on the Bavli, defines it as a loaf that is fried in oil rather than baked.⁷⁷⁶ However, this instance of *martissah* is a *hapax legomenon* in all early rabbinic literature. Thus, its definition remains an open question, especially since a food name in 'Ereš Israel could mean something entirely different in Babylonia.⁷⁷⁷

Furthermore, this statement is identical to the one cited earlier in the discussion regarding Gentile smoked foods, with the difference being only the single word, מרטיסה, *martissah*, in place of *haviša* (חביצא), or, as suggested above, *remiša* (רמיצא).

⁷⁷⁴ Y. 'Avodah Zarah 2:9 42a 1392:30-31.

⁷⁷⁵ R. David Darshan (born c. 1527) in his gloss *ad loc.* as printed in the Krakow edition of the Yerushalmi (published 1609) *ad loc.* (Elbaum 2000, 272-287) (Jastrow n.d., 842).

⁷⁷⁶ *Pnei Moshe ad loc.* (Guggenheimer 2000) suggests that this word is unexplained and can be given sense only by radical emendation.

⁷⁷⁷ B. *Nedarim* 66b, for example, presents a humorous anecdote of the language misunderstanding between a Babylonian man who went to 'Ereš Israel and married a wife there, a case cited by (I. Gafni, Another 'Split Diaspora'? How Knowledgeable (or Ignorant) were Babylonian Jews about Roman Palestine and Its Jews? 2014, 36) and analyzed by (Sperling 1995). In b. 'Avodah Zarah 14b, Abayye admits to not knowing the identity of a fruit, *niklas*, mentioned in a *mishnah*. One modern example: Tortilla in Mexico is a flat bread, whereas in Spain it is a potato-filled omelet.

The possible scribal transposition of the resh (ר) and the mem (מ) in *remiṣa* is not an unreasonable supposition. Indeed, one textual witness of m. *Kil'ayim* 1:2 transposes the ר and מ in *weha-remuṣah* (והרמוצה), rendering it *weha-meruṣah* (והמרוצה).⁷⁷⁸ Such a switch here would render *remiṣa* as *meriṣa*, which, though admittedly speculative, might also be accidentally rendered by a scribe as *marṭissah*. If so, *marṭissah* may in fact be an accidental scribal phonetic variant of *remiṣa* (רמיצא).

If the hypotheses here regarding both *remiṣa* and *marṭissah* are correct, the statement of R. Ba (in the name of R. Atti) in y. *'Avodah Zarah* 2:9 42a above would in fact be identical to the one in y. *Neddarim* 6:1 39c discussed earlier. In other words, R. Ba will have been attributed a single statement (not two) that is recorded (though inaccurately) in two places. This is more reasonable than assuming that R. Ba made two separate statements about two very specific foods. Rather, his single statement would in fact have been about a single category of food items—Gentile-smoked foods.

In any event, in this instance too, a concern regarding potential admixture of impermissible ingredients appears to be underlying this prohibition, rather than intermarriage.

Gentile *Ḥawwarnas*

The anonymous voice in y. *'Avodah Zarah* 2:6 42a asserts that a food known as *ḥawwarnas* is not considered Gentile cooking but is considered food for the purposes of *'eruv tavšilin*. It reads:⁷⁷⁹

חורנס אין בו משום בישולי גוים ויוצאין בו משום עירובי תבשילין.

I. *Ḥawwarnas* is not subject to the prohibition of cooking by Gentiles,

⁷⁷⁸ (Safrai and Safrai, *Mishnat Eretz Israel: Sefer Zera'im, Masekhet Kil'ayim* 2012, 50) and (Zaks 1972, I:221), with the manuscript referred to being MS Cambridge 470.1 (Low).

⁷⁷⁹ Y. *'Avodah Zarah* 2:6 42a 1392:29-30.

- II. but one may fulfill the obligation of *'eruv tavšilin* [setting out cooked food to enable cooking on a festival day for the immediately ensuing Shabbat].

Ḥawwarnas is commonly understood as a small, salted fish.⁷⁸⁰ However, *ḥawwarnas* is a *hapax legomenon* in all early rabbinic literature and its meaning is uncertain. Perhaps the term derives from the root חוור, *HWR*, bleached or blanched.⁷⁸¹ Accordingly, the food here was blanched by the Gentile using a quick-boiling process meant to remove the skins of vegetables. This type of “cooking” is not considered problematic Gentile cooking and may be another example, like smoking, that is permissible because it is unlikely that impermissible ingredients would be admixed.

Gentile *Muryas*

The following *sugya* from y. *Terumot* 11:1 47c explores the permission to use *muryas* of a Gentile. As discussed in the previous chapter, this is likely *muria* in Latin, which is either a fish brine used as a table sauce or a finely chopped food fish preserved in brine, known in Aramaic as *šir*.⁷⁸² Y.

Terumot 11:1 47c reads:⁷⁸³

- I. ר' מנא בר' תנחום בעי. כדברי מי שמתיר לזרים. מורייס שלגוים למה אסור.
 II. ר' ירמיה בשם ר' חייא בר ווא. משום בישולי גוים הן אסורים.
 III. התיב ר' יוסי. והתני. המין מותר ושאינו המין אסור. המין מותר. לא אפילו מבושל. ודכוות' ושאינו המין אסור. ואפילו שאינו מבושל.

⁷⁸⁰ (Guggenheimer 2000) suggests that this word is unexplained and can be given sense only by radical emendation. Alexander Kohut (Kohut 1926, III:355) claims that *ḥawwarnas* is a bastardization of a Greek word *ichthyáron*, meaning small fish. See also (Danker, *The Concise Greek-English Dictionary of the New Testament* 2009, 179). R. David Darshan of Krakow in his gloss *Ha-Peruš ha-Qaşar* in the Krakow edition of the Yerushalmi defines the term as small, salted fish. Yissachar Tamar, in his gloss *Alei Tamar, ad loc.*, concludes that it is a small but unsalted fish. Moshe Margoliot in his gloss, *Pnei Moshe, ad loc.*, s.v. *ḥawwarnas* cites the start of y. *Nedarim* 6 (probably, m. *Nedarim* 6:4. and y. *Nedarim* 6:6 39d 1035:40) where the definition appears related to a small, salted fish, but, surprisingly, he then goes on to explain that it is wheat flour boiled in water. (Jastrow n.d., 430) suggesting that the word is *ḥarsana* and citing b. *Beša* 16a and b. *Avodah Zarah* 38a suggests that the fish was batter fried.

⁷⁸¹ (Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods* 2002, 435).

⁷⁸² (Sokoloff, *A Dictionary of Jewish Palestinian Aramaic (Third Edition)* 2017, 323).

⁷⁸³ Y. *Terumot* 11:1 47c 258:16-22. See the parallel of this *sugya* at y. *Avodah Zarah* 2:6 41c 1389:20-27 and the footnote at the end of this section.

.IV ואמ' ר' יוחנן בר מריה. ואפילו כמאן דאמ' המין מותר. ובלבד ביודע.

.V הדא אמרה. הניית תרומה מותרת. הניית ע"ז אסורה.

- I. R. Manna b. Tanhum asked: “According to the one who permits [fish brine into which heave-offering wine was admixed] to non-priests [because the wine is deemed insignificant relative to the brine], why is fish brine of a Gentile prohibited?”
- II. R. Yirmiyah in the name of R. Hiyya bar Ba: “It is on account of foods cooked by Gentiles that they are prohibited.”
- III. Objected R. Yosé: “But has it not been taught: [Brine made by] an expert is permitted and that which is not made by an expert is prohibited?⁷⁸⁴ Is it not that if it is made by an expert, [it is permitted] even if it has been cooked?⁷⁸⁵ And similarly, and [brine made by] one who is not an expert is prohibited, even if it has not been cooked?⁷⁸⁶”
- IV. And R. Yohanan b. Maryah said: “Even according to the one who rules that [fish brine] made by an expert is permitted—that is only if the Israelite purchaser knows [the Gentile].”
- V. This means [that] deriving benefit from heave-offering [wine mixed into fish brine] is permitted, [whereas] deriving benefit from idolatrous [wine mixed into fish brine] is forbidden.

The Yerushalmi discussion here clearly indicates that the concern is the permissibility of the ingredients, and specifically that wine may have been mixed in. In §I, R. Manna [IA2/3] b. Tanhum asks why Gentile *muryas* is prohibited if heave-offering wine does not disqualify *muryas* from a non-priest? In §II, R. Yirmiyah [IA3/4] in the name of R. Hiyya [IA3] b. Ba asserts that it is due to the prohibition of food cooked by Gentiles. §III, R. Yosé [IA4], however, proves that this is not

⁷⁸⁴ R. Yosé appears to be paraphrasing t. *Avodah Zarah* 4(5):13, which states that one may buy *muryas* only from a *mumḥeh*, an expert (אין לוקחין...מורייס אלא מן המומחה).

⁷⁸⁵ This parsing of this text is consistent with that of (Guggenheimer 2000).

⁷⁸⁶ The Yerushalmi text is a bit problematic. The word *'oman* (אומן), means an artisan or, perhaps, a professional merchant. (Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Third Edition) 2017, 11). The spelling of the word, from the Leiden MS and the Venice Printing, appears as *hamin* (המין). In later printed editions, including Zhitomer (1880-1886), on y. *Terumot* 38b, the word appears as *hamin* (חמין). Despite the textual challenges, the meaning of the Yerushalmi seems clear, as the tosefta that R. Yosé seems to be referring to t. *Avodah Zarah* 4(5):13 which clearly refers to *muryas* of artisans or professionals. Thus, *hamin* here should be understood as *'oman*.

the case, citing a tosefta that sauce/brine made by an artisan is permitted even if it is cooked. And if not from an artisan, it is prohibited even if uncooked. This is because wine was often put in by non-artisans, who used lower-quality fish or reused fish, to remove the smell. Thus, due to the concern that even a small amount of *yayn nesekh* was added, the fish brine of a non-artisan is forbidden. R. Yohanan [IA5] b. Maryah adds a requirement, however, that even according to the view that artisan *muryas* is permitted, the Israelite purchaser must know the Gentile. Nonetheless, since the Talmud lets R. Yosé's argument stand, this remains a question of ingredients, not of the preparer.⁷⁸⁷ §V makes clear that there would not have been a concern over Gentile *muryas* at all, as there was not regarding the heave-offering wine, were it not for the severity of idolatrous wine. This further supports the argument that the concern about Gentile cooking was ingredients.⁷⁸⁸

⁷⁸⁷ The Bavli too (b. *Avodah Zarah* 34b) cites a *beraita* that permits eating *muryas* acquired from an expert chef, because such an expert would not normally put wine into it. A similar *beraita* is cited at b. *Avodah Zarah* 39b to the effect that, in Syria, *muryas* and five other food items may be acquired only from an expert. Rashi's gloss *ad loc.*, s.v. *'ein loqhin*, explains that this *beraita* refers to concern over the possible Gentile origins of the food items. However, this is not at all obvious from the language of the *beraita*, which may be concerned merely with the permissibility of the ingredients in the food items. Furthermore, according to the sages of m. *Avodah Zarah* 2:4, there is no prohibition to purchase *muryas* from anyone, as one is not prohibited from deriving benefit from it.

⁷⁸⁸ The parallel of this *sugya* at y. *Avodah Zarah* 2:6 41c 1389:20-27 has slightly different wording, implying some textual challenges. It adds that the wine was used in the *muryas* in order to remove the contamination (ליטול את הזוהמא) from the fish. I interpret this phrase to mean "to counteract the bad smell (or taste)" of the fish. As Patrick Faas notes (Faas 1994, 143-146), "rotten fish smells disgusting...[and Roman fish sauce] factories stank." The alternate text in *Avodah Zarah* does not seem to affect my conclusion here. Leib Moscovitz, in an email exchange with Herb Basser which was shared with me, appears to read the *sugya* and conclude as I do. Herb Basser suggests that the phrase ליטול את הזוהמא means "to remove common grime;" that the wine was used as a cleanser but was not present in the final concoction. My reading is that the wine was put into the mixture to counteract the bad odor (or taste), and, though it may have lost its potency, the wine was still present in some form and thus deemed an "ingredient" in the final concoction. (See also y. *Ma'ašer Šeni* 2:1 53b and y. *Terumot* 10:1 47a that seem to indicate that the ingredients discussed were not a cleanser but were mixed into and not extracted from the cooked food.) Therefore, such *muryas* was prohibited due to the severity of idolatrous wine. The *Pnei Moshe* ad loc amends the *Avodah Zarah* text such that the Yerushalmi does not presume that cooked *muryas* can be accepted from a professional. Perhaps he does so because, as is his wont, he seeks to harmonize the *sugya* with the Bavli perspective that all Gentile cooking is prohibited, regardless of ingredients. *Pnei Moshe*, however, does not offer proof for his emendation. With thanks to Leib Moskovitz and Herb Basser for their significant input on this.

Gentile Cheese

Yerushalmi *Šabbat* 1:4 3d discusses the origin of the prohibition of Gentile cheese.⁷⁸⁹ It ignores R. Shimon b. Yohai's rationale, cited earlier in the text, that cheese is a food transformed by a Gentile.⁷⁹⁰ Rather, it cites a dispute between R. Yirmiyah [IA3/4], who says that the concern is the possible admixture of the milk of non-permitted animals, and R. Simone [IA2/3] in the name of R. Yehoshua b. Levi, that the reason is concern that a snake might have inserted its venom into the milk. Y. *Avodah Zarah* 2:5 41c also discusses the prohibition, with the concerns there being whether the cheese was curdled in the stomach of an animal designated for idolatry or that of a *neveilah*, non-slaughtered carrion.⁷⁹¹ None of these are concerns of intermarriage or separation from the Gentile.

Gentile Olive Oil

In both y. *Avodah Zarah* 2:9 41d and y. *Šabbat* 1:4 3d, the amora R. Yehudah [BA2] states that Gentile oil was forbidden by an edict of Daniel.⁷⁹² Furthermore, the prohibition of Gentile oil is listed, together with Gentile bread, as two of the Eighteen Edicts, discussed below. Both *sugyot* conclude by discussing how the oil ban was annulled because the people did not abide by it.⁷⁹³ Traditional commentaries and decisors consider both Daniel's edict and its inclusion with Gentile bread in the Eighteen Edicts as indicating that the prohibition of Gentile oil is due to *mišum*

⁷⁸⁹ Y. *Šabbat* 1:4 3d 372:2-16.

⁷⁹⁰ Y. *Šabbat* 1:4 3c 371:42.

⁷⁹¹ Y. *Avodah Zarah* 2:5 41c 1389:34-1390:3.

⁷⁹² Y. *Avodah Zarah* 2:9 41d 1391:34-1392:3 and y. *Šabbat* 1:4 3d 372:16-36.

⁷⁹³ This interesting phenomenon of the people's influence on the evolution of halakhah is discussed in (Raab, *The Democratic Evolution of Halakhah: A Political Science Perspective* 2018). Interestingly, the Yerushalmi offers no details regarding who constituted the numerator or denominator in the survey to determine that the "majority of the community" did not accept the edict on oil. Interestingly as well, the Talmud gives no indication as to what prompted Rabbi or R. Yehudah Nesiah to conduct a survey (*badqu u-maš'u*) to determine whether the people were adhering to the prohibition of Gentile oil. It also does not indicate why adherence to the prohibitions of Gentile bread or cooking were not surveyed at the same time.

ḥatnut.⁷⁹⁴ However, as discussed in the chapter on Second Temple literature, the proof from *Daniel* that concern over possible intermarriage underpins the prohibition of Gentile foods is inconclusive. The same is true regarding the motivation behind the Eighteen Edicts, and the tannaitic prohibitions of certain Gentile foods can be readily attributed to concern over impermissible ingredients.

The Eighteen Edicts: The Edicts

As mentioned earlier, *y. 'Avodah Zarah 2:6 41d-42a* discusses each Gentile food prohibition independently, unrelated to any other ban. It is only in *y. Šabbat 1:4 3c-d* that the enactment of the Eighteen Edicts in Hananiah's loft, described without detail in *m. Šabbat 1:4*, is tied to the prohibitions of Gentile bread, oil, and other Gentile-produced foods.⁷⁹⁵ This *sugya* in *y. Šabbat* has no parallel elsewhere in the Yerushalmi, including, somewhat surprisingly, in the segment in *y. 'Avodah Zarah 2:6 41d-42a* that discusses Gentile foods.

But *y. Šabbat 1:4 3c-d* projects confusion about which prohibitions—and even how many—prohibitions were enacted in Hananiah's loft. The Yerushalmi presents three enumerations: its “own” list, the list of the Rabbis of Caesarea, and a list attributed to the tanna R. Shimon b. Yohai. But once the lists are presented, the discourse ignores the latter two and expounds only on items in the Yerushalmi's own list. Furthermore, *none of the three enumerations* contains all three of the prohibitions of which this dissertation is focused: *pittam*, *šamnam*, and *šelaqot*, their bread, oil, and cooking.⁷⁹⁶

⁷⁹⁴ E.g., Ramban in his gloss on *b. 'Avodah Zarah 35b* who writes “according to Rav, who said the Daniel prohibited oil due to *ḥatnut*...” and Rashash (Shmuel Strashun, 1793-1872) gloss on *b. 'Avodah Zarah 39b*, s.v. *TD”H teneina*: “...so that you should not say that their milk is prohibited due to *ḥatnut* as is their oil.”

⁷⁹⁵ *Y. Šabbat 1:4 3c 371:10ff.*

⁷⁹⁶ According to R. Eliezer b. Nathan (Ra'avan, 1090-1170), in *Sefer Ra'avan* (David Deblitzky, publisher, Bnai Brak, second edition, 2017), chapter 338 (II:313), R. Shimon b. Yohai's list prohibited oil, not cheese. But all manuscripts available to us have cheese, not oil.

Y. *Šabbat* 1:4 3c starts by citing a *beraita* that appears nowhere else in the Talmudim and alludes to fifty-four edicts of which thirty-six were enacted, not eighteen. The text reads:

תני: שמונה עשרה דבר גזרו, ובשמונה עשרה רבו, ובשמונה עשרה נחלקו.⁷⁹⁷

- I. We learned [in a *beraita*]: they [unanimously] decreed eighteen things,
- II. and on eighteen [Beit Shammai] outnumbered [Beit Hillel and thus enacted the edicts],
- III. and on eighteen they disagreed [and were thus not able to enact any].

The three alternative enumerations the Yerushalmi provides regarding the edicts enacted are as follows:⁷⁹⁸

Edict Enumeration #1: The anonymous narrator of the Talmud

ואילו הן שגזרו: על פיתן של עכו"ם ועל גבינתן ועל שמנן ועל בנותיהן. ועל שכבת זרען ועל מימי רגליהן ועל הלכות בעל קרי. ועל הלכות ארץ העמים. תמן תנינן אלו פוסלין את התרומה. האוכל אוכל ראשון והאוכל אוכל שני. והשותה משקה טמאין והבא ראשו ורובו במים שאובין. וטהור שנפלו על ראשו ורובו שלשה לוגין מים שאובין. והספר והידים והטבול יום והאוכלים והכלים שנטמאו במשקין.⁷⁹⁹

- I. And these are what they decreed [in agreement]:
 - [1] on Gentile bread,
 - [2] and on their cheese,
 - [3] and on their oil,
 - [4] and on their daughters [*benoteihen*],
 - [5] and on their semen,
 - [6] and on their urine,
 - [7] and on their bodily emissions [that they are considered impure],
 - [8] and on foreign lands [that they be considered impure].
- II. There [in m. *Zavim* 5:12] they learned that these [following ten] things cause *terumah* to become ritually impure:
 - [9] and one who eats food that is of primary impurity,
 - [10] and one who eats of secondary impurity,

⁷⁹⁷ Y. *Šabbat* 1:4 3c 371:10-12.

⁷⁹⁸ Cf. similar analysis of G. Stemberger (Stemberger, Hananiah Ben Hezekiah Ben Garon, *The Eighteen Decrees And The Outbreak Of The War Against Rome* 2007, 694ff).

⁷⁹⁹ Y. *Šabbat* 1:4 3c 371:12-18.

- [11] and one who drinks ritually impure liquids,
- [12] and one who [has taken a ritual bath but then] covers most of his head and body in drawn water [who himself becomes impure],
- [13] and a pure person on whose head and most of his body three lug of drawn water have fallen [who himself becomes impure.]
- [14] and [contact with] holy books
- [15] or hands
- [16] and an impure person who immersed to purify himself, but the day has not yet darkened.
- [17] and food [that came in contact with impure liquids],
- [18] and utensils that came in contact with [impure] liquids.

In this enumeration, Gentile bread, cheese, and oil are mentioned in §I:1-3; *šelaqot* are not mentioned. The next listing is that of the Rabbis of Caesarea.⁸⁰⁰

Edict Enumeration #2: Rabbis of Caesarea

- .I רבנן דקיסרין אמרו אלו שגזרו ממה שרבו שבעה אינון.
- .II ואילין אינון חורנייתא...
- .III אלו הן שגזרו אילין עשרתי קדמייתא.
- .IV והשאר מן מה דתני רשב"י:⁸⁰¹

- I. The Rabbis of Caesarea said, these [first eight edicts of Enumeration #1] that they decreed [allegedly in agreement] are in fact ones that they enacted because they [Beit Shammai] were the majority, and there are only seven.⁸⁰²
- II. And these are the [eleven] others. [The Yerushalmi then enumerates these eleven edicts, all of which relate either to ritual impurity or Shabbat.]

⁸⁰⁰ As described in (Levey 1975, 65), when R. Abbahu died (320 C.E.), the school he led in Caesarea ceased to have a leader. Henceforth, authority was vested in a collegium of rabbis designated as the “Rabbis of Caesarea.” Thus, this listing would have been proposed approximately 250 years after the reported enactment in 66 C.E. Caesarea, was, at the time, likely the most integrated city with the most Hellenized Jewish population, and there was a large Christian population, both Jewish and non-Jewish. The Rabbis of Caesarea may have indeed had desire to separate Jews from Gentiles, and it may be no surprise that they cited R. Shimon b. Yohai (who lived 200 years before them). L. Levine (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 69) suggests that the Rabbis of Caesarea were referred to in the third century as well.

⁸⁰¹ Y. *Šabbat* 1:4 3c 371:18-25.

⁸⁰² These include Gentile bread, cheese, oil, and *benoteihen* as having been enacted because Beit Shammai outnumbered Beit Hillel. The Rabbis of Caesarea considered Gentile semen and urine as one.

- III. These are what they decreed [in agreement]: the first ten [9-18 in Enumeration #1, from m. *Zavim* 5:12].
- IV. And the rest [i.e., the remaining eight] are from among what R. Shimon b. Yohai [T3] taught.

The Yerushalmi then enumerates the Eighteen Edicts according to R. Shimon. b. Yohai:

Edict Enumeration #3: R. Shimon b. Yohai:

V. בו ביום גזרו על פיתן ועל גבינתן ועל יינן ועל חומצן ועל צירן ועל מוריין על כבושיהן ועל שלוקיהן ועל מלוחיהן ועל החילקה ועל השחיקה ועל הטיסני ועל לשונן ועל עדותן ועל מתנותיהן על בניהן ועל בנותיהן ועל בכוריהן.⁸⁰³

- V. “That very day they ruled:
- [1] on their bread,
 - [2] on their cheese,
 - [3] on their wine,
 - [4] on their vinegar,
 - [5] on their fish juice,
 - [6] on their *muryas*,
 - [7] on their pickled food [*kevušeihen*],⁸⁰⁴
 - [8] on their *šeluqim*,⁸⁰⁵
 - [9] on their salted products,
 - [10] on *hilkah*,⁸⁰⁶
 - [11] on their *šehiqah*,⁸⁰⁷
 - [12] on their *ṭissani* (or *ṭissnei*),⁸⁰⁸
 - [13] on [learning and using] their language,

⁸⁰³ Y. *Šabbat* 1:4 3c 371:25-29.

⁸⁰⁴ R. Shimon b. Yohai’s list seems to include all *kevašin*, which conflicts with m. *‘Avodah Zarah* 2:7 which explicitly states that *kevašin* into which wine is typically not added may be eaten. See Meir Marim Kobrin, *Sefer Nir*, Moed/Shabbat (Vilna, 1890), 6, s.v. *we-al širan we-al muryasan*.

⁸⁰⁵ For the meaning of this term, see the discussion in the prior chapter on m. *‘Avodah Zarah* 2:6.

⁸⁰⁶ For the meaning of this term, see the discussion in the prior chapter on m. *‘Avodah Zarah* 2:6.

⁸⁰⁷ (Jastrow n.d.), s.v. *šehiqah*, pounded spices. R. Moshe Margoliot (*Pnei Moshe*), *ad loc.*, defines it as crushed wheat divided in three, with the concern being their having been made susceptible to ritual impurity.

⁸⁰⁸ (Jastrow n.d.), s.v., *ṭissani*: barley-groats, pearl-barley. Margoliot (*Pnei Moshe*), *ad loc.*, defines it as crushed wheat divided in four, with the concern being their having been made susceptible to ritual impurity.

- [14] on [accepting] their testimony,⁸⁰⁹
- [15] on [accepting] their gifts,
- [16] on their sons,
- [17] on their daughters [*benoteihen*],
- [18] and on their first fruits.”⁸¹⁰

These three enumerations as well as those of the Bavli in b. *‘Avodah Zarah* 35b-39b are summarized in the Appendix following this chapter.

R. Shimon b. Yohai’s enumeration (#3) includes exactly eighteen edicts. Gentile oil is not among them.⁸¹¹ Enumeration #2, of the Caesarean rabbis, appears to include bread and oil by referring to the first eight edicts in Enumeration #1. But its language—“the rest are from among what R. Shimon b. Yohai taught”—is silent about which of R. Shimon b. Yohai’s eighteen edicts to include in its own enumeration.⁸¹² This statement is particularly confusing since R. Shimon includes bread in his count, whereas the Rabbis of Caesarea themselves had already enumerated bread.

The attribution of these edicts to R. Shimon b. Yohai is puzzling, since, as mentioned earlier, he asserts that the prohibition of Gentile food is biblical. If so, why would the rabbis issue edicts on these? Günter Stemberger speculates that, if attribution of the list of Eighteen Edicts to

⁸⁰⁹ Reuven Margalioṯ (R. Margalioṯ 1989, 61) wonders why prohibiting their testimony would be included among the Eighteen Decrees, when accepting such testimony is biblically prohibited by exegesis from *Deuteronomy* 19:18, “And the judges shall inquire diligently; and, behold, if the witness be a false witness, and hath testified falsely against his brother.” Rather, he suggests *pace* traditional interpretation, that the word *‘adi* (עדי) can be translated as clothing and jewelry. (See, e.g. (Kaddari 2007, 777) Thus, *‘edutan* (עדותן) here would not mean accepting their testimony, but rather wearing Gentile-style clothing which would correspond to the previous prohibition, learning their languages.

⁸¹⁰ R. Moshe Margalioṯ (*Pnei Moshe*), *ad loc.*, alternatively explains the edict of *bekhoreihem* not as related to first fruit but as to prohibiting Jewish boys from being with Gentile boys, thus preventing homosexual relations.

⁸¹¹ As noted in an earlier footnote, according to R. Eliezer b. Nathan (Ra’avan, 1090-1170), in *Sefer Ra’avan* (David Deblitzky, publisher, Bnai Brak, second edition, 2017) chapter 338 (II:313), R. Shimon b. Yohai’s list prohibited oil, not cheese. But the available manuscripts have cheese, not oil.

⁸¹² Some interpret this to mean that an unspecified eight edicts come from the list. Others, such as R. Yitzchok Isaac Krasilschikov (*Toledot Yiṣḥak*), *ad loc.*, s.v. *‘ellu hen et seq* and R. Moshe Margalioṯ (*Pnei Moshe*), *ad loc.* at y. *Šabbat* 1:4, 9b, s.v. *‘ellu hen et seq.*, interpret this to mean that the eighteen edicts listed by R. Shimon b. Yohai can be grouped into eight edicts. *Pnei Moshe* includes the ten from Zavim but excludes bread, as the eighteen are items that there was no disagreement about, whereas there was disagreement about bread.

Shimon b. Yohai is correct, “the most probable intention of the list is a collection of rules severely limiting contacts of Jews with non-Jews in the years after the Bar Kokhba revolt.”⁸¹³ Indeed, R. Shimon b. Yohai was a fourth generation tanna—a student of R. Akiva—who lived long after the reputed date of the enactment of the edicts and his antipathies towards Rome were known.⁸¹⁴ The possibility that these edicts were intended to promote social separation will be discussed shortly. But it is important to note here that a concern over intermarriage is nowhere evident.

Finally, the Yerushalmi appears to accept Enumeration #1 as authoritative, as its subsequent discourse proceeds to investigate only the elements of Enumeration #1 (their bread, cheese, oil, daughters, and semen) and in the sequence of Enumeration #1, not according to the list of the Rabbis of Caesarea or of R. Shimon b. Yohai.⁸¹⁵

In the entire *sugya*, the Yerushalmi gives no indication regarding the rationale of the Eighteen Edicts. It certainly does not attribute any of these prohibitions to fear of intermarriage.⁸¹⁶

⁸¹³ (Stemberger, Hananiah Ben Hezekiah Ben Garon, *The Eighteen Decrees And The Outbreak Of The War Against Rome* 2007, 698).

⁸¹⁴ See, e.g., *Mekhilta Be-Shalah, Mesekhta 2, Parashah 1*; b. *Šabbat* 33b.

⁸¹⁵ S. Lieberman (Lieberman, *Talmudah shel Kaisarin* 1931, 23-24 esp 24n2) notes that many of the contradictions in the Yerushalmi (most of which even appear within the same *sugya*) can be explained by the fact that the editor juxtaposed *sugyot* of different yeshivot into a larger *sugya*, even without noting them as such, and “in very many instances juxtaposed the learning of the yeshivot of the south (Caesarea-Lod) with the learning of the Galilean yeshivot (Tiberias-Zippori).” He then specifically mentions that the segment starting with the Rabbis of Caesarea was inserted into our *sugya* from “the Talmud of Caesarea.” This would explain why our *sugya* does not expound on and in fact does not accept the enumeration of the rabbis of Caesarea: our encompassing *sugya* was likely the product of the beit midrash of Tiberias.

⁸¹⁶ Regarding the circumstances surrounding the enactment of the Eighteen Edicts, the Yerushalmi cites an argument between R. Yehoshua and R. Eliezer in t. *Šabbat* 1:17 about how woeful a day it was when these edicts were enacted. It further cites a statement at y. *Šabbat* 1:4 3c 371:8-10 by R. Yehoshua of Ono [IA2/3] that just prior to enacting the edicts in the loft of Hananiah “the students of Beit Shammai stood downstairs and were killing students of Beit Hillel.” (Moshe Margoliot (*Pnei Moshe*) and David Frankel (*Qorban ha-‘Edah*) *ad loc.* explain that the Beit Shammai students merely threatened the students of Beit Hillel but did not kill them. Rambam, *Peruš ha-Mišnayot*, in his lengthy commentary on m. *Šabbat* 1:3(4) does not mention the violence at all. Tosafot, b. *Giṭṭin* 36b, s.v. *’ella*, however, understands the violence as real (as does J. Rubenstein (Rubenstein, *The Culture of the Babylonian Talmud* 2003, 179 n32)). Indeed, *Megillat Ta’anit Batra* #27, cites 9 Adar as a fast day commemorating the disagreement between Beit Shammai and Beit Hillel. R. Moshe Feinstein, *Iggerot Moshe, Orah Hayyim* 5:20.8, however, finds the words of both the Yerushalmi and Tosafot surprising and requiring further understanding, as there was no halakhic justification for any killing. Ostensibly, the students of Beit Shammai did what they did in order to stop the students of Beit Hillel

Thus, attributing any social engineering implication is indeed speculative, as Günter Stemberger suggests.⁸¹⁷

***Benoteihen* (Gentile daughters)**

Taking the argument one step further, the prohibition of *benoteihen* (Gentile daughters) appears in all three enumerations,⁸¹⁸ and the Yerushalmi discusses what the prohibition encompasses. Were the Yerushalmi's understanding that intermarriage was the concern of the edicts, one might have expected an extended discourse on the matter at this point, as well as a possible tie to the earlier commensal prohibitions. Rather, the Yerushalmi at *Šabbat* 1:4 3d cites two opinions:⁸¹⁹

בנותיהן. אמ' ר' לעזר. בשבעה מקומות כת' "לא תתחתן במ". אמ' ר' אבין. לוסר שבעה עממים. תנא ר' יהושע
אונייה. לוסר את ביציהן. תני ר' ישמעאל. "ואת בת היענה". זו ביצת הנעמית.

from entering the loft so that they, Beit Shammai, could obtain the majority needed to enact the edicts. Later in the *sugya*, on 3d, R. Abun again mentions the bloodshed involved in enacting the Eighteen Edicts. The story has no parallel in early rabbinic literature. The story conveys a severe and urgent context surrounding the enactment of the edicts. Yet, the Yerushalmi offers no reason for this exigency and violence and no indication as to which of the edicts from among the diverse collection prompted the violence. In the context of this dissertation, any such sudden urgency and violence would not make sense if the concern of the edicts were an ongoing problem of intermarriage or, for that matter, if the prohibitions of Gentile bread and oil were merely due to fear of admixture. Thus, if one accepts the historicity of the Yerushalmi's story, one must ask why these edicts were enacted at that particular moment, and why Beit Shammai may have been moved to some sort of violence, and even killing. I suggest a speculative interpretation. The underlying halakhic rationale for the prohibitions of Gentile bread, oil, and *šelaqot* (or cooking) were indeed stringencies in matters of ingredients. But by issuing general edicts, the objective was not to obtain a separation of Jews and Gentiles generally, because the power of the sages at the time of Hananiah to influence general behavior is highly doubtful. Rather, at the time, the zealots of Beit Shammai wished to foment a rebellion against the Romans. Beit Hillel, on the other hand, was the "peace" party who tried to maintain good relations with the Romans and sought compromise to maintain peace. Perhaps the zealots of Beit Shammai urgently wished to keep the Beit Hillel partisans away from the Roman authorities in advance of the outbreak of rebellion. This, so that Beit Hillel would not be able to undermine the rebellion by dining with the rulers and seeking peaceful accommodation. Beit Shammai sought to accomplish this specific separation by prohibiting main staples of the Near Eastern diet at the time—bread and oil. While the edicts might not have propagated to and been accepted by the people generally, having been enacted passed in an accredited legislative forum they would have an assured and immediate effect on constraining Beit Hillel's latitude in interacting with the Romans. Hence, the criticality of timing, the sense of urgency, and the willingness of Beit Shammai to resort to violence if necessary (or in fact) in order to achieve its goals. Thus, the Beit Shammai zealots may have waged almost a mini civil war to get Beit Hillel to stop dealing with the Roman government.

⁸¹⁷ (Stemberger, Hananiah Ben Hezekiah Ben Garon, *The Eighteen Decrees And The Outbreak Of The War Against Rome* 2007, 694ff).

⁸¹⁸ Number 4 in Enumerations 1 and 2, and number 17 in Enumeration 3.

⁸¹⁹ Y. *Šabbat* 1:4 3d 372:36-39.

- I. *Benoteihen* [Their daughters]. R. Elazar says: “In seven places it is written ‘You should not marry them.’ [Deuteronomy 7:3]”⁸²⁰
- II. R. Avin said: “[The sevenfold repetition is] to prohibit [marrying someone from] the Seven Nations.
- III. R. Yehoshua Unyah learned: to forbid their [Gentile] eggs.
- IV. R. Yishmael learns: “‘And the *bat ha-ya‘anah.*’ This is the egg of the *na‘amit.*” [An ostrich egg.]

The Talmud’s intent in citing R. Elazar and R. Avin in §I and §II is not entirely clear. The traditional understanding is that R. Avin, [BA3/4] by interpreting R. Elazar’s [B/IA3] citation of *Deuteronomy* as proving the prohibition of intermarriage with the Seven Nations is biblical, is implying that the sages in Hananiah’s loft thus prohibited marrying *any* Gentile.⁸²¹ But this implication is entirely absent in R. Elazar’s statement as well as R. Avin’s.⁸²² Indeed, the Talmud may be citing them to challenge the interpretation that the sages banned marrying *all* Gentiles and to set up the interpretation that follows in §III.

Indeed, the opinion in §III of R. Yehoshua, a second or third generation tanna from *Ereṣ* Israel, is that the prohibition of *benoteihen* does not refer to intermarriage at all but to eating Gentile eggs, again with no further elucidation as to the intent of the edict.⁸²³ R. Yishmael, a third generation tanna, is cited in §IV in apparent support of R. Yehoshua.

⁸²⁰ R. David Frankel in his gloss, *Qorban ha-‘Edah, ad loc.*, s.v. *be-šiv‘ah* notes that this exact phrase does not recur, but similar ones appear. Plus, the count includes those in the Prophets as well.

⁸²¹ E.g., R. Moshe Margoliot in his gloss, *Pnei Moshe, ad loc.*, s.v. *benoteihen*.

⁸²² R. Avin, though cited in the Yerushalmi, was a Babylonian amora of the third/fourth generation. Even if one posits the traditional reading into R. Avin’s intent, he may have been addressing a Babylonian concern regarding intermarriage at that time, and perhaps this clause was a later editorial/scrabal insertion.

⁸²³ R. Moshe Margoliot, *Pnei Moshe, ad loc.*, s.v. *tanna* and R. David Frankel, *Qorban ha-‘Edah, ad loc.*, s.v. *le-‘esor et beiseihen*, explain that R. Yehoshua is referring referred to a cooked or roasted egg.

Conclusion

This chapter has demonstrated that Yerushalmi sources, like the earlier 'Ereṣ Israel sources, can be read as not tying the prohibitions of Gentile foodstuffs to fear of intermarriage. While there seemed to have been a prohibition on Gentile cooking by the close of the Yerushalmi, there is no hint in the text that the prohibition was due to concern over intermarriage. Indeed, as seen, certain foods cooked by expert Gentiles were permitted. Gentiles per se were not the issue: not their purity and not their very being. Their existence or interaction with Jews did not in itself constitute a threat to Jews' way of life such that the sages felt they needed to institute prohibitions related to Gentile cooking. Rather, it was the Gentiles' ignorance of biblical, and certainly rabbinic, laws that called for a rabbinic reckoning of how their involvement affected Jews' observance of Jewish law—be it regarding idolatrous environments, 'eruv, dietary laws, and much else. Thus, the prohibitions all appear to be ascribable to concerns relating to the possible admixture of impermissible ingredients by the Gentile.

APPENDIX TO CHAPTER 6

The Various Enumerations of the Eighteen Edicts

The following table summarizes the enumerations of the Eighteen Edicts in Tosefta, the Yerushalmi, and the Bavli. Enumeration #2 of the Yerushalmi is shown as interpreted by three commentaries. Also shown, in contrast are the edicts identified in Tosefta, as well as the understandings of Rambam and Bertinoro of the Bavli's discussions. As noted previously, Mishnah does not associate any specific prohibition with the Eighteen Edicts.

Figure 6.2. The Various Enumerations of the Eighteen Edicts

	Tosefta ⁸²⁴	Yerushalmi					Bavli	
		Narrator ⁸²⁵	Caesarean rabbis ⁸²⁶			R. Shimon b. Yohai ⁸²⁷	Ovadiyah of Bertinoro ⁸²⁸	Rambam ⁸²⁹
			By Majority ⁸³⁰	By Consensus ⁸³¹				
				<i>Qorban ha-Edah</i> ⁸³²	<i>Toledot Yiṣḥak</i> ⁸³³			
Gentile languages						13		
Gentile testimony				15	15	14		
Gentile gifts				16	16	15		
Gentile sons						16		

⁸²⁴ T. *Šabbat* 1:18-19.

⁸²⁵ Y. *Šabbat* 1:4 3c 371:10-18. *Stam* refers to the anonymous narrator's voice.

⁸²⁶ Y. *Šabbat* 1:4 3c 371:18-29.

⁸²⁷ Y. *Šabbat* 1:4 371:25-29.

⁸²⁸ Bertinoro, m. *Šabbat* 1:4.

⁸²⁹ Rambam, *Peruṣ ha-Mišnayot*, *Šabbat* 1:3. "A" signifies edicts that Beit Hillel and Beit Shammai agreed upon. "D" signifies an edict where they disagreed but Beit Shammai outnumbered Beit Hillel in the vote and the edict was enacted.

⁸³⁰ This is the list of eighteen edicts that the Rabbis of Caesarea asserted that Beit Shammai had outnumbered Beit Hillel in the vote.

⁸³¹ This is the list of eighteen edicts that the Rabbis of Caesarea asserted were enacted by agreement between Beit Hillel and Beit Shammai.

⁸³² David Frankel (*Qorban 'Edah*), *ad loc.*, s.v. *min mah de-tani*, writes that the ten prohibitions from Mishnah *Zavim* are included in the count and that eight others are from among this list, but that R. Shimon b. Yohai did not specify which eight.

⁸³³ R. Yitzchok Isaac Krasilschikov (*Toledot Yiṣḥak*), *ad loc.*, s.v. *'ellu hen et seq.*

⁸³⁴ R. Moshe Margoliot (*Pnei Moshe*), *ad loc.*, s.v. *'ellu hen et seq.* He includes the ten prohibitions from Mishnah *Zavim* but excludes bread, as he understands the Rabbis of Caesarea as holding that the eighteen edicts are items upon there was no disagreement, but there was disagreement about bread.

	Tosefta ⁸²⁴	Yerushalmi					Bavli	
		Narrator ⁸²⁵	Caesarean rabbis ⁸²⁶			R. Shimon b. Yohai ⁸²⁷	Ovadiah of Bertinoro ⁸²⁸	R. Rambam ⁸²⁹
			By Majority ⁸³⁰	By Consensus ⁸³¹				
				<i>Qorban ha-Edah</i> ⁸³²	<i>Toledot Yiṣḥak</i> ⁸³³			
Gentile daughters (or eggs) ⁸³⁵		4	4		17 ⁸³⁶	17 ⁸³⁷	17	D17 ⁸³⁹
GENTILE FOODS								
Gentile bread		1	1		11	840	1	D14
Gentile oil		3	3					D15
Gentile wine							3	D16
Gentile vinegar					12	12	4	
Gentile fish juice							5	
Gentile <i>muryas</i>							6	
Gentile pickled food [<i>kevušeihen</i>]							7	
[Certain] Gentile-seethed vegetables [<i>šeluqeihem</i>] ⁸⁴¹					13	13	8	
Gentile-salted products							9	
Gentile-cut <i>hilkah</i>							10	
Gentile-cut <i>šehiqah</i>					14	14	11	
Gentile-cut <i>tissani</i> (or <i>tissnei</i>)							12	
Gentile cheese*		2	2		11	11	2 ⁸⁴²	
IMPURITIES								
Gentile semen		5	5					
Gentile urine		6						
Person with emissions may not speak words of Torah		7	6					
Foreign lands are considered impure		8	7 ⁸⁴³					

⁸³⁵ See y. *Šabbat* 1:4, 372:36-39. R. Avin says that this is an edict not to marry Gentile women not of the seven Canaanite nations. R. Yehoshua Unyah asserts that this does not refer to marriage but to eating eggs prepared by a Gentile. Even according to R. Avin, this was a new prohibition unto itself; nothing else was prohibited due to this. Note: it also was not on the list of the Rabbis of Caesarea.

⁸³⁶ Including sons as well.

⁸³⁷ Including sons as well.

⁸³⁸ Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'asar devarim*: These are all combined into one edict. Bread because of oil, oil because of wine, wine because of the daughters, and the daughters because of idolatry.

⁸³⁹ The edict is about being alone with a gentile woman [i.e., not intermarriage, which is presumably prohibited for other reasons].

⁸⁴⁰ R. Moshe Margoliot (*Pnei Moshe*) understands that Gentile bread was banned, but by Beit Shammai's majority rather than by agreement. Yitzchok Isaac Krasilschikov (*Tevunah*, 1888-1965), *ad loc.*, s.v. *de-tani* (*Muṣal me-'Eš* edition, 39) disagrees with *Pnei Moshe*'s interpretation of the text and his exclusion of bread from the list of agreed-upon edicts.

⁸⁴¹ Interpreted by many traditional commentaries as boiling or cooking generally.

⁸⁴² According to some, such as R. Eliezer b. Nathan (Ra'avan, 1090-1170), in *Sefer Ra'avan* (David Deblitzky, publisher, Bnai Brak, second edition, 2017) chapter 338 (II:313), R. Shimon b. Yohai's list prohibited oil, not cheese.

⁸⁴³ The remaining eleven that, according to the Caesarean rabbis were enacted due to Beit Shammai's majority were: 8. Giving ones purse to a Gentile if one is on the road when the Sabbath sets in, 9. A male emitter may not dine with a female emitter, 10. Anything with a circumference of a *tefaḥ* brings impurity of a covering, 11. How to harvest grapes and have them be considered pure in a field where impurity is in question, 12. Water transported to a *mikveh* by utensils forgotten under a rain pipe make the *mikveh* impure, 13-18. On six doubts, one needs to burn the *terumah*. R. Yossi b. Bun adds another: the outgrowths of *terumah* are considered *terumah*. R. Yitzchok Isaac Krasilschikov, *Toledot Yiṣḥak*, *ad loc.*, s.v. *'af gidulei*, and *Pnei Moshe*, *ad loc.*, s.v. *af gidulei*, explain that according to R. Yossi b. Bun, this is in place of number twelve, pertaining to utensils under a rain pipe.

	Tosefta ⁸²⁴	Yerushalmi					Bavli				
		Narrator ⁸²⁵	Caesarean rabbis ⁸²⁶			R. Shimon b. Yohai ⁸²⁷	Ovadiah of Bertinoro ⁸²⁸	R. ⁸²⁹	Rambam ⁸²⁹		
			By Majority ⁸³⁰	By Consensus ⁸³¹							
				<i>Qorban ha-Edah</i> ⁸³²	<i>Toledot Yiṣṣhak</i> ⁸³³					<i>Pnei Moshe</i> ⁸³⁴	
<i>Kuttite</i> daughters cause menstrual impurity from birth							10 ⁸⁴⁴				
A Gentile male child causes impurity ⁸⁴⁵					18		18	D18			
One who eats food that is of primary impurity, or of secondary impurity, or drinks impure liquids himself becomes of secondary impurity and invalidates <i>terumah</i> by his touch ⁸⁴⁶		9-11		These ten items with another eight drawn from R. Shimon b. Yohai's list	1-10	1-10		1-3	D1-D3		
One who has taken a ritual bath but then covers most of his head and body in drawn water becomes impure ⁸⁴⁷ and invalidates <i>terumah</i> by his touch		12								4	D4
A pure man on whose head and most of his body three <i>lug</i> of drawn water are poured becomes impure ⁸⁴⁸ and invalidates <i>terumah</i> by his touch		13								5	D5
Contact with holy books invalidates <i>terumah</i> ⁸⁴⁹		14								6	D6
Contact with (unwashed) hands invalidates <i>terumah</i> ⁸⁵⁰		15								7	D7
Contact with <i>ṭevul yom</i> who did his ritual bath before evening invalidates <i>terumah</i> ⁸⁵¹		16								8 ⁸⁵²	
Contact with impure food that became impure from impure liquids invalidate <i>terumah</i> ⁸⁵³		17								8	D8

⁸⁴⁴ Per R. Nahman b. Yitzhak's interpretation of R. Yosé (b. *Šabbat* 16b) and R. Nahman b. Yitzhak's interpretation of R. Tarfon (b. *Šabbat* 17a).

⁸⁴⁵ Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'asar devarim*: so that a Jewish boy will not be accustomed to lie next to him which could lead to homosexual relations.

⁸⁴⁶ M. *Zavim* 5:12. Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'asar devarim*: since sometimes he will eat or drink the impurity and put *terumah* in his mouth and thus invalidates it.

⁸⁴⁷ M. *Zavim* 5:12. Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'asar devarim*: after taking a ritual bath in stagnant water, individuals would rinse off with the drawn water, and people because to believe that it was not the stagnant ritual bath water that purified them but the fresh drawn water.

⁸⁴⁸ M. *Zavim* 5:12. Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'asar devarim*: same reason as above.

⁸⁴⁹ M. *Zavim* 5:12. Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'asar devarim*: people used to store food near the books and mice would come and harm the books.

⁸⁵⁰ M. *Zavim* 5:12. Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'asar devarim*: Ordinarily, hands dirty themselves when one wipes himself.

⁸⁵¹ M. *Zavim* 5:12.

⁸⁵² As reflected in Bertinoro, m. *Zavim* 5:12, s.v. *u-ṭevul yom*, considers this a biblical prohibition, and so does not count it among the Eighteen Edicts. See also b. *Avodah Zarah* 14b.

⁸⁵³ M. *Zavim* 5:12.

	Tosefta ⁸²⁴	Yerushalmi					Bavli	
		Narrator ⁸²⁵	Caesarean rabbis ⁸²⁶			R. Shimon b. Yohai ⁸²⁷	Ovadhah of Bertinoro ⁸²⁸	Rambam ⁸²⁹
			By Majority ⁸³⁰	By Consensus ⁸³¹				
				<i>Qorban ha-Edah</i> ⁸³²	<i>Toledot Yiṣṣhak</i> ⁸³³			
Contact with impure utensils that were made impure by impure liquids invalidate <i>terumah</i> ⁸⁵⁴		18					9	
The liquid exuded by harvested grapes in the container primes them to be made impure even though this liquid typically goes to waste to the chagrin of the owner ⁸⁵⁵							12	D11
Anything with a circumference of a <i>tefah</i> brings impurity of a covering ⁸⁵⁶	1	10					11	D10
Water transported to a <i>mikveh</i> by utensils forgotten under a rain pipe make the <i>mikveh</i> impure	2	12 ⁸⁵⁷						D9
MISCELLANEOUS								
Anything that grows out of <i>terumah</i> even if the <i>terumah</i> itself is no longer extant ⁸⁵⁸							13	D12
<i>Bekhoreihem</i> : either (a) required to bring first fruits from land sold to gentile, or (b) all male gentile children are considered emitters ⁸⁵⁹ so that a Jewish child would not be placed close to him ⁸⁶⁰				18		18		
One with a wallet in his pocket as Shabbat approaches should give it to a gentile to carry rather than continue to walk a little bit at a time ⁸⁶¹		8					14	D13
Delousing one's clothes by candlelight on Friday night ⁸⁶²							15	A16

⁸⁵⁴ M. *Zavim* 5:12.

⁸⁵⁵ Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'ašar devarim*: due to concern that he will harvest into tarred containers in which the liquid will not go to waste, in which case the liquid emanation is acceptable to the owner, in which case it does prime the grapes for impurity.

⁸⁵⁶ R. Tarfon (b. *Šabbat* 17a) asserts that this edict was not enacted. R. Nahman b. Yitzhak *ad loc.* asserts that R. Tarfon held instead that the edict that was enacted was that Kuttite daughters cause menstrual impurity from birth.

⁸⁵⁷ Per b. *Šabbat* 16b (and Rashi *ad loc.*, s.v. *bi-meqomah 'omedet*), according to R. Yossi, this is not counted as one of the eighteen, as it was never brought to a vote and Beit Hillel did not accede to Beit Shammai. Instead, the edict that the daughters of *kuthim* are considered menstrually impure (*niddah*) from birth, was enacted by majority vote.

⁸⁵⁸ Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'ašar devarim*: due to concern over impure *terumah* in the hands of a kohen that he will keep it with him until planting time to use it for planting but inadvertently eat it in its impurity.

⁸⁵⁹ *Zav* (pl. *zavim*), someone with a bodily discharge, as specified in *Leviticus* 15:1-15.

⁸⁶⁰ R. Yitzchok Isaac Krasilschikov (*Toledot Yiṣṣhak*), *ad loc.*, s.v. *we-al bekhoreihem*.

⁸⁶¹ Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'ašar devarim*: due to concern that perhaps he will accidentally carry it more than four *'amot* (cubits, or approximately 6 feet) in one continuous movement.

⁸⁶² M. *Šabbat* 1:3. Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'ašar devarim*: due to concern that he might accidentally move the lit oil lamp to see better.

	Tosefta ⁸²⁴	Yerushalmi					Bavli		
		Narrator ⁸²⁵	Caesarean rabbis ⁸²⁶			R. Shimon b. Yohai ⁸²⁷	Ovadiah of Bertinoro ⁸²⁸	R. R.	Rambam ⁸²⁹
			By Majority ⁸³⁰	By Consensus ⁸³¹					
				<i>Qorban ha-Edah</i> ⁸³²	<i>Toledot Yiṣṣhak</i> ⁸³³				
Reading by candlelight on Friday night ⁸⁶³							16	A17	
Carrying from one domain to another on the Sabbath ⁸⁶⁴								A1-A8	
A person should not go to the barber, or to the bathhouse, or to a tannery, or to eat, or to court right before the time of <i>Minḥah</i> service (lest he becomes involved and forgets to pray in time) ⁸⁶⁵								A9-A13	
A tailor should not go out with his needle nor a scribe with his quill right before the Sabbath ⁸⁶⁶								A14-A15	
Male and female emitters should not eat together			9					A18	
How one harvests grapes in <i>beit ha-pras</i>			11						
On six (6) doubts we burn <i>terumah</i>			13-18						

⁸⁶³ M. *Šabbat* 1:3. Per Bertinoro, m. *Šabbat* 1:4, s.v. *u-šemonah 'ašar devarim*: due to concern that he might accidentally move the lit oil lamp to see better.

⁸⁶⁴ M. *Šabbat* 1:1.

⁸⁶⁵ M. *Šabbat* 1:2.

⁸⁶⁶ M. *Šabbat* 1:3.

7. THE BAVLI'S TREATMENT OF GENTILE FOODS

The previous chapters reviewed mentions of Jewish abstention from Gentile foods in Second Temple literature and Mishnah, Tosefta, and the Yerushalmi. It was demonstrated how virtually all, if not all, of these concerned ingredients including, in some cases, possible prior idolatrous use. Thus, the abstentions—and even the tannaitic and 'Ereṣ Israel amoraic prohibitions of Gentile food—were seemingly not due to concern over Gentile impurity, a Gentile chef, an attempt to maintain social separation from Gentiles, nor to prevent intermarriage. It is the Bavli that introduces the terminology of *mišum ḥatnut*, “due to (the fear of) intermarriage,” as the rationale for the prohibitions of Gentile bread and Gentile beer. It is contended here and discussed more fully in Part III of this dissertation that this rationale was introduced in Babylonia because the frequency of intermarriage and its consequences may have been of greater concern there.⁸⁶⁷

The current chapter reviews the *sugyot* in the Bavli that relate to the prohibition of certain Gentile foods and to the fear of intermarriage. It will analyze the introduction of the fear of *mišum ḥatnut* as the reason for the prohibition of Gentile bread and argue that the historicity of the Talmud's retrojection of this rationale onto the tannaitic period is doubtful. It will further argue that the introduction of *mišum ḥatnut* may have been a late Babylonian innovation. Furthermore,

⁸⁶⁷ It is possible to speculate, additionally, that adherence to the prohibition of Gentile bread in Babylonia required bolstering in any case. B. *Avodah Zarah* 37a implies that 'Ereṣ Israel Jews were not stringently adhering to the prohibition of bread, just as they were not adhering to the prohibition of oil. Babylonian Jews may have been even more lax than their 'Ereṣ Israel compatriots regarding this prohibition because the ingredient concerns related to bread may have been less severe in Babylonia: fancy and yeast-based breads may have been more common in 'Ereṣ Israel while flat, pita-like bread may have been dominant in Babylonia at the time.

it will demonstrate that the Bavli, while it did attribute *mišum ḥatnut* to Gentile beer, it did not do so either explicitly or implicitly to the prohibition of Gentile cooking.

Gentile Bread

Bavli Šabbat 13b-17b

Like Yerushalmi *Šabbat* 1:4, discussed in the previous chapter, Bavli *Šabbat* 13b-17b seeks to compile a list of the Eighteen Edicts enacted, per m. *Šabbat* 1:4, in the loft of Hananiah.⁸⁶⁸ The Bavli's list differs from the three lists enumerated in the Yerushalmi.⁸⁶⁹ R. Shimon b. Yohai's listing in the Yerushalmi of eighteen edicts is not cited at all. Rather, relying on various exegeses and sources, the Bavli seems to struggle to come to a count of eighteen items, asking "And what else?" (ךךיא) before each prohibition it adds to the list.⁸⁷⁰ Most of the discussion revolves around edicts pertaining to ritual purity. The Bavli does not offer any proofs that the particular edicts it enumerates were in fact enacted among the Eighteen Edicts.

Only at the very end of the discussion does the Bavli quote the amora Bali [BA4] in the name of the amora Avimi [BA2] to the effect that bread, oil, wine, and "their daughters" were

⁸⁶⁸ Interestingly, Bavli does not mention the violence surrounding the event, as does the Yerushalmi at y. *Šabbat* 1:4 3c. And b. *Šabbat* 17a applies the expression "That day was difficult for Israel as the day during which they made the [Golden] calf" to an entirely different episode—a disagreement between Hillel and Shammai about the purity laws pertaining to grape harvesting. And, when it asserts that the Eighteen Edicts cannot be overturned it does not state, as the Yerushalmi does, that this was due to the willingness of Beit Shammai to lay down their lives to enact the edicts. This omission can be seen as consistent with the Bavli's presentation of the edicts whose enactment would have presented no particular time-urgency or rationale where violence might be called for.

⁸⁶⁹ The Appendix to the prior chapter contains a summary of the enumerations of the edicts according to the various listings in the Yerushalmi, the Bavli, and their commentaries.

⁸⁷⁰ G. Stemberger also notes (Stemberger, Hananiah Ben Hezekiah Ben Garon, *The Eighteen Decrees And The Outbreak Of The War Against Rome* 2007, 701) that "the list of the Bavli is no longer connected with the Sabbath halakhah. Its reconstruction proceeds only with great difficulty; the traditions behind it are very fragmentary." He concludes overall (703) that "In the context of the Mishnah, we have to think of Sabbath laws, possibly combined with purity laws. The anti-Gentile tendency of these laws is assumed only in the Yerushalmi where several efforts are made to identify the halakhot on the basis of lists of halakhot in the Mishnah... The Mishnaic text is problematic. The efforts to interpret it have led to a number of hypotheses in the Talmudim. They have to be considered as literary developments, but not as remnants of solid historical traditions."

among the Eighteen Edicts. Bavli *Šabbat* 17b presents a discussion regarding the inclusion (or not) in the Eighteen Edicts of several items. It states:

- .I אמר באלי אמר אבימי סנוותאה:
- .II פתן ושמן ויין ובנותיהן כולן מי"ח דבר הן.
- .III הניחא לרבי מאיר,
- .IV אלא לר' יוסי שבסרי הוין.
- .V איכא הא דרב אחא בר אדא, דאמר רב אחא בר אדא אמר ר' יצחק:
- .VI גזרו על פתן משום שמנן ועל שמנן משום יין.⁸⁷¹
- .VII על פתן משום שמנן: מאי אולמיה דשמן מפת?
- .VIII אלא, גזרו על פתן ושמן משום יין, ועל יין משום בנותיהן,
- .IX ועל בנותיהן משום דבר אחר,
- .X ועל דבר אחר משום דבר אחר.
- .XI מאי דבר אחר? אמר רב נחמן בר יצחק: גזרו על תינוק נכרי שמתמא בזיבה, שלא יהא תינוק ישראל רגיל אצלו במשכב זכור.
- .XII אי הכי לר"מ נמי תשסרי
- .XIII הוין אוכלין וכלים שנטמאו במשקין בחדא חשיב להו.

- I. Bali said in the name of Avimi the Nabatean:⁸⁷²
- II. [The prohibition against] their bread, oil, wine, and daughters are all among the eighteen matters.
- III. This is good according to R. Meir, [since, according to his opinion, the *sugya* has now enumerated eighteen edicts.]
- IV. But, according to R. Yosé, [who holds that a dispute remains regarding vessels in the courtyard,] there are only seventeen [edicts].
- V. [The Gemara answers:] There is also that [view] of R. Aha b. Adda. For R. Aha b. Adda said in R. Yitzhak's name:

⁸⁷¹ The phrase "and their oil due to their wine" (ועל שמנן משום יין) does not appear in certain witnesses of b. *Avodah Zarah* 36b, which is cited below.

⁸⁷² Though the text suggests a different locale, Christine Hayes (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 148) refers to the amora as "the Nabatean," probably based on Oxford 366: אמ' באלי אמ' אבימי ניותאה משמיה דרב: (The parallel *sugya* in b. *Avodah Zarah* also includes an attribution to Rav: אמ' באלי אמ' אבימי נותאה משמיה דרב.) Geniza Fragment CUL: T-S F 1(2).51 has אמ' באלי אמ' אבימי ניות?א?ה? Munich 95 has: אמ' באלי נתוואה, with the order of the citation reversed. Vatican 127 has: אמ' באלי אמ' אבימי with no geographic attribution. Venice (ר"פ-רפ"ג) and Italia (רמ"ט-רנ"ח) have אבימי rather than אבימי. The *Arukh* (Rome n.d., 93) s.v. *nawot* (נוות) suggests that the attribution refers to the place Nayyot, as cited in *I Samuel* 19:19.

- VI. “They forbade their [Gentile] bread due to their oil; and their oil due to their wine.”
[I.e., they are two separate edicts, bringing R. Yosé’s total to eighteen.]
- VII. [The narrator interjects:] Their bread due to their oil? How is [the prohibition of] oil greater [i.e., more of a concern] than that of bread?
- VIII. Rather, they decreed [against] their bread and oil due to their wine, and [they decreed] against their wine due to their daughters.
- IX. And [they decreed] against their daughters due to another [unmentionable] matter [presumably, idolatry].
- X. And [they decreed] on another matter, due to [yet] another matter.
- XI. What is this ‘another matter [in §X]?’ Said R. Nahman b. Yitzhak: They decreed that a Gentile child shall defile by flux, [as one with the legal status of a *zav* who experienced emissions, even if he did not experience an emission] so that an Israelite child should not associate with him for sodomy.
- XII. But if so, according to R. Meir too there are nineteen [edicts, which is problematic]!
- XIII. [Rather, the decrees of] food and drink which were defiled through liquid, he counts as one. [Consequently, according to R. Meir, too, there are only eighteen edicts.]

This pericope presents a seeming rationale for some of the Gentile food edicts. Several observations are in order. First, whereas the Bavli includes the prohibition in §VIII of Gentile-produced wine (*stam yaynam*), it appears in only one of the three lists in the Yerushalmi.⁸⁷³ And, as stated previously, R. Shimon b. Yohai’s list in the Yerushalmi does not include oil, whereas the Bavli includes it in §VIII. The Bavli does not cite R. Shimon b. Yohai at all, nor does it include seethed vegetables, *šelaqot*, in its list.⁸⁷⁴ It cites disputing amoraic opinions regarding the inclusion

⁸⁷³ Y. *Šabbat* 1:4, 3c-d 371:10-373:18. See the Appendix to the Chapter on the Yerushalmi for a complete comparison of the various suggestions regarding the list of Eighteen Edicts.

⁸⁷⁴ The discussion in b. *‘Avodah Zarah* 37b-38a regarding *šelaqot* first bases the prohibition on biblical exegesis, then reverts to its being a rabbinic ordinance, but does not attribute it to the Eighteen Edicts.

of certain items in its list. These inconsistencies seem to challenge the unassailability of there being a definitive list of tannaitic origin.⁸⁷⁵

Second, Bali, in §II, does not specify what “their daughters” means. Nor does he state that Gentile-produced oil, bread, and wine were banned because of “their daughters,” which would indicate a possible attraction to Gentile women. Neither Bali nor Avimi mentions *šelaqot*, let alone Gentile cooking generally.

Third, the Bavli in §V and §VI cites a third-fourth generation amora, R. Aha b. Adda in the name of R. Yitzhak, seeking to claim in §VIII that Bali’s statement is meant to signify that Gentile-produced oil, bread, and wine were prohibited due to Gentile daughters. As Zvi Steinfeld notes, however, it is the anonymous voice of the Bavli that tries to tie the words of R. Yitzhak regarding bread and oil to daughters, implying a fear of intermarriage. However, if one reads the words actually attributed to R. Yitzhak at §VI, he merely states that Gentile bread is prohibited because of Gentile oil and Gentile oil because of Gentile wine.⁸⁷⁶ Thus in this pericope, it is only the anonymous voice of the Talmud in §§VII and VIII that seeks to tie the prohibition of Gentile bread to Gentile daughters (and possible intermarriage). Yet even the words of the anonymous voice do not tie the bread prohibition to Gentile women directly, but rather to wine. As discussed in the chapter on tannaitic literature regarding m. *‘Avodah Zarah* 2:6, fear of the possible admixture of Gentile wine may have in fact been the rationale behind the prohibition of Gentile oil, and the prohibition of Gentile bread due to the use of Gentile wine-tainted oil (or Gentile wine directly).⁸⁷⁷

⁸⁷⁵ Commentaries on the Bavli further disagree and offer their own variations as to the exact composition of the Eighteen Edicts in the Bavli. See, for example, R. Ovadia of Bertinoro (1450-1510) gloss on m. *Šabbat* 1:4 and Rambam, *Peruš ha-Mišnayot, Šabbat* 1:3, whose numberings are included in the summary chart in the Appendix to the previous chapter.

⁸⁷⁶ (Steinfeld, *Am Levadad: Mehkarim be-Misekhet Avodah Zarah* 2008, 101).

⁸⁷⁷ As discussed in the chapter on tannaitic literature, extreme stringency where Gentile wine is concerned is known in the Bavli (e.g., b. *‘Avodah Zarah* 62b and b. *‘Avodah Zarah* 71a) because “the stringency of idolatrous wine (*yayn nesekh*) is different” (חומר א דין נסך שאני).

In other words, R. Yitzhak appears to be referring to an admixture concern, not one of intermarriage, and the anonymous voice may or may not be disagreeing.

Bavli 'Avodah Zarah 35b

A single narrative in the Bavli *'Avodah Zarah* introduces the concept of *mišum ḥatnut*, the fear of intermarriage, as the rationale for the prohibition of Gentile-produced bread and seeks to attribute this rationale to the tannaitic era.⁸⁷⁸ B. *'Avodah Zarah 35b* reads:

- | | |
|-------|--|
| .I | והפת: |
| .II | א"ר כהנא א"ר יוחנן: "פת לא הותרה בב"ד." |
| .III | מכלל דאיכא מאן דשרי? |
| .IV | אין. דכי אתא רב דימי אמר: |
| .V | פעם אחת יצא רבי לשדה והביא עובד כוכבים לפניו פת פורני מאפה סאה. |
| .VI | אמר רבי: "כמה נאה פת זו. מה ראו חכמים לאוסרה?" |
| .VII | מה ראו חכמים? |
| .VIII | משום חתנות! |
| .IX | אלא "מה ראו חכמים לאוסרה בשדה?" |
| .X | כסבורין העם התיר רבי הפת, ולא היא: רבי לא התיר את הפת. |
| .XI | רב יוסף, ואיתימא רב שמואל בר יהודה, אמר: "לא כך היה מעשה." |
| .XII | אלא אמרו: פעם אחת הלך רבי למקום אחד וראה פת דחוק לתלמידים. אמר רבי: "אין כאן פלטר?" |
| .XIII | כסבורין העם לומר פלטר עובד כוכבים, והוא לא אמר אלא פלטר ישראל. |
| .XIV | א"ר חלבו: "אפילו למ"ד פלטר עובד כוכבים, לא אמרן אלא דליכא פלטר ישראל, אבל במקום דאיכא פלטר ישראל, לא." |

⁸⁷⁸ Maimonides (R. Moses b. Maimon, or Rambam, 1135 or 1138 to 1204) in his commentary on this mishnah, *Peruš ha-Mišnayot*, m. *'Avodah Zarah 2:6*, seems to broaden the definition of *mišum ḥatnut*. He writes: “[Gentile] bread and *šelaqot* and the like, were prohibited only so that we would distance ourselves from them [the Gentiles] and not intermix with them. So that we would not be drawn by mixing with them to *hefquerut* [reckless abandon] in something not permitted. This is the matter referred to as *mišum ḥatnut*.” See also *Tosafot Rid* (R. Yeshayah of Trani, c.1180–c.1260), b. *'Avodah Zarah 35b* gloss on m. *'Avodah Zarah 2:6*. The Rambam’s definition notwithstanding, the term *ḥatnut* seems to have historically been used in early literature only with reference to marriage. For its biblical usage, see (Gesenius 1844, 361-362) and (Kaddari 2007, 367-368). For its Yerushalmi usage, see (Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Third Edition) 2017, 226). For its Bavli usage, see (Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Gaonic Periods* 2002, 491) and (Jastrow n.d., 514). While Jastrow offers a broader primary definition of the root חתן as “to tie, connect, to covenant,” all of Jastrow’s citations from rabbinic literature relate to marriage. See also (Kohut 1926, 521). This dissertation adopts the understanding that the root, HTN, and the term *ḥatnut* refer to intermarriage.

XV. ורבי יוחנן אמר: "אפי' למ"ד פלטר עובד כוכבים, ה"מ בשדה אבל בעיר לא"

XVI. משום התנות.⁸⁷⁹

- I. And the [Gentile] bread:
- II. R. Kahana said in the name of R. Yohanan: [Unlike oil,] their bread was not permitted by the court.
- III. [The Gemara asks:] Is it to be deduced from this statement that somebody does allow it?
- IV. Yes, because when R. Dimi came [from 'Ereṣ Israel to Babylonia,] he said:
- V. Once, Rabbi [R. Yehuda ha-Nasi] went out into the field, and a Gentile brought before him a loaf baked in a large oven [*purnei*] from a *se'ah* of flour.
- VI. Rabbi exclaimed: "How beautiful is this loaf! Why did the Sages see fit to prohibit it?"
- VII. [The Gemara asks, incredulously:] Why did the Sages see fit [to prohibit it]?!
- VIII. [Certainly, it was due to] *mišum ḥatnut!* [as a safeguard against intermarriage!]⁸⁸⁰
- IX. No, what Rabbi meant was: "Why should the Sages have thought fit to prohibit it in a field [where the fear of intermarriage does not apply⁸⁸¹]?"
- X. [As a result of this remark] people believed that Rabbi permitted the loaf [of a Gentile] but that was not so; Rabbi did not permit it.
- XI. R. Yosef—according to another version, R. Shmuel b. Yehuda—said: The incident was not so.
- XII. Rather, it is said that Rabbi once went to a certain place and observed that his disciples experienced difficulty in obtaining bread; so, he asked, "Is there no baker [*palter*] here?"
- XIII. People believed that his inquiry was regarding a Gentile baker [which would indicate that bread baked by a professional baker is permitted, even if he is a Gentile], but he really intended an Israelite baker.
- XIV. R. Helbo said: Even according to those who maintain [that he inquired about] a Gentile baker, [the permission] would apply only where there was no Israelite baker but not where such was to be found.

⁸⁷⁹ The ensuing discussion explains why this occurrence of the phrase *mišum ḥatnut* (משום התנות) is excluded from R. Yohanan's statement and recorded in the anonymous voice of the Bavli.

⁸⁸⁰ This may be an example of what M. Lavee (Lavee, *The Rabbinic Conversion of Judaism: The Unique Perspective of the Bavli on Conversion and the Construction of Jewish Identity* 2018, 18) terms "rhetoric of the obvious."

⁸⁸¹ Presumably because Gentile daughters are not found in the fields.

XV. R. Yohanan, however, said: Even according to those who maintain [that he inquired about] a Gentile baker, [the permission] only holds in a field, and not in a city.”

XVI. *Mišum ḥatnut* [as a safeguard against intermarriages].⁸⁸²

The *sugya* presents a story of Rabbi, who (in §VI), when given a beautiful loaf of Gentile bread, exclaimed, “Why did the rabbis see fit to prohibit such a loaf?” This seems to imply—as the initial anonymous respondent in §IV who answers “yes” to the question in §III of whether someone allowed Gentile bread and as “the people” in §X understood it—that Rabbi expressed puzzlement over and thus annulled the ban on Gentile bread.⁸⁸³ It is only the anonymous voice of the Talmud that responds, emphatically, in §VIII: “*Mišum ḥatnut!* [It was certainly due to the fear of intermarriage!]”

The phrase *mišum ḥatnut* appears again in §XVI. While this occurrence is present in most of our manuscripts, it is absent entirely in the textual citations of several commentators on this *sugya*, which may reflect an earlier version of the text.⁸⁸⁴ Thus, the use of the term in §XVI may be a later anonymous insertion. In fact, the phrase here may have been inserted even later by a scribe rather than by the redactors of the Talmud. For this reason, it is not included here in the statement of R. Yohanan in §XV.

There are several problems with this *sugya*’s attempt to attribute to Rabbi an understanding that the prohibition of Gentile bread was due to the concern of *mišum ḥatnut*. First, as noted, the

⁸⁸² The ensuing discussion explains why this occurrence of the phrase *mišum ḥatnut* (משום החנות) is excluded from R. Yohanan’s statement and recorded in the anonymous voice of the Bavli.

⁸⁸³ See (Hauptman, *The Stories They Tell: Halakhic Anecdotes in the Babylonian Talmud* 2022) for an extensive analysis of halakhic anecdotes in the Babylonian Talmud. While Hauptman’s focus is on stories of amoraim, the story here of the tanna Rabbi follows the pattern that she suggests for the amoraic stories: that the anecdote depicts an attempt to modify the law.

⁸⁸⁴ Rif (R. Isaac b. Jacob Alfasi ha-Cohen, 1013-1103), R. Hananel (Hananel b. Khushiel of Kairouan, d. 1055), Ramban (R. Moshe b. Nachman, 1194-1270), and Rosh (R. Asher b. Yehiel, 1250-1327), all as also noted by (Z. A. Steinfeld 2008, 49 n16). Rif text can also be seen in Geniza fragment Cambridge T-S NS 329.545 (1v). With thanks to Geoffrey Herman for bringing this fragment to my attention.

anonymous narrator of the *sugya* (§IV) himself responds positively to the question posed in §III, suggesting that there was indeed a valid ruling that the prohibition of Gentile bread had been voided. Indeed, the story of Rabbi in §§V and VI seems to have been cited precisely in order to prove that Rabbi cancelled the prohibition, just as the prohibition of Gentile oil had been cancelled.⁸⁸⁵ Second, the story is recounted by R. Dimi, a third-fourth generation amora who lived about 150 years after Rabbi, which might call into question his tradition of the story or whether the Babylonian sages correctly understood the story.⁸⁸⁶ Third, R. Dimi's rendition of the story is in fact disputed by another, third-generation amora, either R. Yosef or R. Shmuel b. Yehuda, who also lived long after Rabbi and offers an entirely different story.⁸⁸⁷ Fourth, R. Yohanan, a third century 'Ereš Israel amora appears to be responding in §XV to the statement in §XIII of R. Yosef, a fourth-century Babylonian amora. And, finally, no named sage actually mentions concern over intermarriage; rather, it is the conclusion and insertion of the anonymous narrator in §VIII and §XVI (the latter of which may have even been a later, scribal addition).

In his extensive work on the topic, Jeffrey Rubenstein suggests that reworking stories in the Talmud provided the anonymous editors with an “indispensable way to address leading tensions of their times.”⁸⁸⁸ By reworking the plots, the editors were able to express themselves while preserving the veneer of anonymity. In many cases, “a particular motif is Babylonian, not Palestinian, despite the fact that the Bavli attributes statements containing the motif to Palestinian

⁸⁸⁵ B. 'Avodah Zarah 36a.

⁸⁸⁶ See (Rosenthal, *Mesorot Eretz Yisraeliot ve-Darkan le-Bavel* 1999) for a discussion and additional examples of how Babylonian amoraim did not always correctly understand the communications and stories brought to them by *naḥuti*.

⁸⁸⁷ Even traditional commentaries on the Bavli are at odds in trying to explain the narrative of this *sugya* and its conclusions. See, for example, R. Yom Tov b. Abraham of Seville (*Ritva*, 1250-1330), *ad loc.*, in *Ḥidušeī ha-Riṭva*, (Jerusalem: Mossad Harav Kook, 2008, 159).

⁸⁸⁸ (Rubenstein, *The Culture of the Babylonian Talmud* 2003, esp. 6-8).

sages.” He concludes that it is unlikely that the theme of a story is authentically *’Ereṣ* Israeli if it somehow escaped all mention in *’Ereṣ* Israel works.

Richard Kalmin too believes that not all sources attributed to *’Ereṣ* Israel rabbis in the Bavli were authored by the rabbis to whom they are attributed, or even necessarily reflect an *’Ereṣ* Israel point of view. “Some statements attributed to Palestinian rabbis in the Bavli are more Babylonian than Palestinian, and other sources attributed in the Bavli to early rabbis were invented or tampered with by later rabbis.”⁸⁸⁹

The same mechanisms and retrojection can be discerned in the Bavli’s effort in this *sugya* to apply *mišum ḥatnut* to the earlier prohibition on bread. Nothing like the stories above about Rabbi appear in *’Ereṣ* Israel rabbinic literature. Thus, it is quite possible that the stories in this *sugya* about Rabbi were reworked in order to provide greater weight and authority to this late Babylonian innovation of *mišum ḥatnut*.⁸⁹⁰

⁸⁸⁹ (R. Kalmin, *Jewish Babylonia between Persia and Roman Palestine* 2006, 16-17). Jacob Neusner (J. Neusner, *The Bavli and its Sources: The Question of Tradition in the Case of Tractate Sukkah* 1987, esp. 5), who held that the final redactors exercised complete control over antecedent sources, reworking them at will, would certainly not have disagreed with this assessment.

⁸⁹⁰ As characterized by Aharon Oppenheimer (Oppenheimer, *Rabbi Yehuda Ha-Nasi* 2007), Rabbi Yehudah the Patriarch (Rabbi) sought to reform halakhah in several areas. In one example, as related by y. *Ta’anit* 4:9 69c 737:23-26 and b. *Megillah* 5a-b, Rabbi wished to abolish the fast of the Ninth of Av (either entirely or at least when it was deferred due to its falling on Shabbat). But Rabbi’s attempts at reform were particularly pronounced in economic matters. For example, as related by y. *Demai* 2:1 22c 121:36-38, Rabbi pronounced that the laws dependent on *’Ereṣ* Israel no longer applied to the cities of Beit She’an, Caesarea, Beit Guvrin, and Kfar Ṣemaḥ because the respective Gentile populations outnumbered the Jewish populations. At one point, as related by y. *Demai* 1:3 22a 118:17, he went so far as seeking to annul entirely the practice of a sabbatical in seventh year. It is therefore quite possible that Rabbi actually did try to abolish the prohibition of Gentile bread—certainly a matter with economic impact. It is also plausible that, in Rabbi’s time, many were not adhering to the prohibition in any case. This was the situation by the time of Rabbi’s grandson R. Yehuda Nesiah, as the Bavli itself attests in *’Avodah Zarah* 37a. Furthermore, the Bavli appears to be merely reinterpreting stories which, on their face, do in fact appear to be portraying Rabbi’s annulling the prohibition or at least expressing a prelude to doing so. For these reasons, I suggest here that the story about Rabbi was reworked rather than made up out of whole cloth.

It is noteworthy, as well, that in this *sugya* too, like the parallel *sugya* in the Yerushalmi discussed earlier, §X and §XIII imply that the people in 'Ereṣ Israel had not fully adopted and conformed to this prohibition.⁸⁹¹

Finally, given the introduction of the term by the anonymous voice in §VIII rather than by a named amora, the seeming anonymous insertion of the phrase in §XVI, and the seemingly reworked nature of the entire discourse, as described above, *mišum ḥatnut* would appear to have been a later interpolation.

'Avodah Zarah 36b

In a pericope parallel to the one in Bavli *Šabbat* 17b cited earlier, Tractate 'Avodah Zarah also cites Bali's statement including bread, oil, wine, and "their daughters" among the Eighteen Edicts.

B. 'Avodah Zarah 36b reads:

- | | |
|------|--|
| .I | גופא אמר באלי אמר אבימי נותאה משמיה דרב: |
| .II | פיתן ושמנן יינן ובנותיהן, כולן משמונה עשר דבר הן. |
| .III | בנותיהן מאי היא? |
| .IV | אמר רב נחמן בר יצחק: גזרו על בנותיהן נידות מעריסותן. |
-
- | | |
|------|--|
| I. | As previously mentioned [on 36a], Bali [BA4] declared that Avimi the Nabatean said in the name of Rav: ⁸⁹² |
| II. | [The prohibitions regarding] Gentile bread, oil, and wine of Gentiles and their daughters are all among the eighteen matters. |
| III. | What is [the meaning of] "their daughters"? |
| IV. | R. Nahman [BA4] b. Yitzhak says: They [the schools of Hillel and Shammai] decreed that their daughters should be considered as in the state of <i>niddah</i> [menstrual impurity] from their cradle, [i.e., Gentile women should always be |

⁸⁹¹ Y. 'Avodah Zarah 2:6 41d 1391:13.

⁸⁹² Regarding Avimi's locale, see footnote on the parallel *sugya* in b. *Šabbat* 17b, discussed above.

considered ritually impure due to menstruation, even before they have begun menstruating].

In contrast with the pericope in Tractate *Šabbat*, Bali's statement here is not in his own name but in that of Rav. Rav was a first generation amora who studied under Rabbi in 'Ereš Israel and ultimately settled in Babylonia. Citing Rav's name imputed greater authority to this statement. Even so, the statement attributed to Rav, as cited by Bali in §II, merely states that the prohibitions of Gentile bread and oil were among the Eighteen Edicts. It does not tie the prohibitions of bread and oil to "their daughters," which might have implied that the prohibitions were predicated on the fear of intermarriage. Furthermore, in §IV R. Nahman b. Yitzhak interprets "their daughters" as an entirely separate prohibition related to ritual purity. According to this interpretation too, the other three prohibitions—bread, oil, and wine—have nothing to do with their "their daughters." Rather, this statement complements R. Nahman b. Yitzhak's statement cited earlier in *Šabbat* 17b §XI regarding the impurity of Gentile boys as well, which also has no connection to Gentile foods.

'Avodah Zarah 36b (cont'd)

In the continuation of the *sugya* above on b. 'Avodah Zarah 36b, the amora Genayva [BA2] too speaks in the name of Rav and connects the bread, oil, wine, and, seemingly, "daughters" prohibitions to idolatry.

- .V. וגניבא משמיה דרב אמר:
.VI. כולן משום עבודת כוכבים גזרו בהן.
.VII. דכי אתא רב אחא בר אדא א"ר יצחק:
.VIII. גזרו על פיתן משום שמנן.⁸⁹³
.IX. מאי אולמיה דשמן מפת?
.X. אלא על פיתן ושמנן משום יינן,

⁸⁹³ Venice and Pissarro printings have the word שומנן. JTS MS has the text as פתן משום שמנן ועל שמנן משום יינן. Munich 95 has it as פתם משוי שמנן ועל שמנן משוי יינן ועל יינן משוי בנותיהן (!) משוי דבר אחר ועל דבר אחר משוי דבר אחר.

- .XI ועל ייגן משום בנותיהן,
 .XII ועל בנותיהן משום דבר אחר,
 .XIII ועל דבר אחר משום דבר אחר.

- V. And Genayva said in the name of Rav:
 VI. All these things they prohibited due to [protecting against] idolatry.
 VII. When Rav Aha [BA3] b. Adda came [from 'Ereṣ Israel to Babylonia], he declared in the name of R. Yitzhak [I/BA3]:
 VIII. They decreed against [Gentile's] bread due to their oil.
 IX. [The Gemara interjects]: But how is [the prohibition of] oil [of] greater [concern] than bread?
 X. Rather, [they decreed] against their bread and their oil due to their wine.
 XI. And against their wine due to their daughters.
 XII. An against their daughters due to another matter.
 XIII. And against another matter due to yet another matter.

Genayva, citing Rav in §VI, states that all of the prohibitions were enacted due to idolatry, but offers no further explanation. Rav Aha b. Adda's statement in the name of R. Yitzhak, immediately ensuing in §VII can in fact be read as disputing Genayva's tying of the prohibitions to idolatry.⁸⁹⁴ For, R. Yitzhak refers only to "bread due to their oil," which, as explained earlier, was likely a concern of impermissible ingredients, not of intermarriage. However, the narrator of the *sugya*, perhaps to explain Genayva's statement, reinterprets R. Yitzhak's words to imply a connection of the prohibitions of bread, oil, and wine to "their daughters," and the prohibition of "their daughters" (in §XII) as "due to another matter." The reading of "due to another matter" is left undefined by the Bavli. Most traditional commentaries understand this "other matter" as idolatry.⁸⁹⁵ Under this understanding, the narrator is seeking to connect the prohibition of Gentile

⁸⁹⁴ Indeed, R. Samuel Strashun (Rashash, 1794-1782), in *Hagahot we-Hiduṣei ha-Rashash, ad loc.*, writes that R. Adda disagrees with Genayva.

⁸⁹⁵ If the concern is indeed idolatry, however, it is puzzling why this was not specified. The Bavli did not shy away from using the term "idolatry" just above, in §VI. I do not have a satisfying answer to this question nor an alternative

bread to intermarriage and the latter prohibition to idolatry.⁸⁹⁶ At any rate, the connection of bread to intermarriage is implied only in the words of the narrator, not in the words of a named sage, thus indicating perhaps that concern over intermarriage in the context of the Gentile bread prohibition was a later addition.⁸⁹⁷

Gentile Beer

In only a single instance in the Bavli is the term *mišum ḥatnut* attributed to a specific amora. Indeed, it is the only other place in either Talmud where the term appears, and it relates to Gentile beer. B. *‘Avodah Zarah* 31b states:

- | | |
|------|-------------------------------------|
| .I | אתמר מפני מה אסרו שכר של גוים |
| .II | רמי בר חמא אמר רבי יצחק משום חתנות |
| .III | רב נחמן אמר משום גילוי |
| .IV | אגילוי דמאי |
| .V | אילימא גילוי דנזייתא אנן נמי מגלינן |

explanation. Thus, I too assume that “other matter” is idolatry and that, perhaps, the phrase is being used since it is used in the subsequent edict in §XIII, which for some reason the Bavli did not wish to be explicit about.

⁸⁹⁶ E.g., Rashi *ad loc.*, s.v. *u-venoteihen* and Ramban, *Ḥidušeī ha-Ramban*, b. *‘Avodah Zarah*, *ad loc.*, s.v. *we-‘al yaynan* (Makhon ha-Talmud ha-Yisraeli ha-Shalem, Jerusalem, 1970, 108). Ramban himself appears to be struggling with understanding the connections. As he writes, *ibid.*, “How can one say that they prohibited Gentile bread due to wine that was libated before idolatry? What is the connection of one to the other? Also, [if idolatry were the concern,] they could have prohibited Gentile bread for fear that the bread itself was offered to the idols. (היאך אפשר לומר שגזרו על פתן משום חתנות? מה ענין זה לזה. ועוד, משום פתן שנתקרב לעבודה זרה מצו למגור. He concludes, citing *Pirquei de-Rabbi ‘Eli‘ezer* 47, that Gentile wine was prohibited due to the events surrounding the zealotry to *Pinḥas*. But he does not return to the question of Gentile bread.

⁸⁹⁷ The continuation of the *sugya* understands “their daughters” as a prohibition of intermarriage and asks why an edict was needed when intermarriage is a biblical prohibition. It responds first that the biblical prohibition applies only to the seven Canaanite nations but that the rabbis extended the prohibition to any idolater. It then goes into a long, complex discussion of the purpose of the rabbinic edict based on the opinion of R. Shimon b. Yohai (whose opinion is not accepted as *halakhah*) who asserts that intermarriage with *any* idolater is a biblical prohibition. It concludes that, according to R. Shimon b. Yohai, the edict of Beit Hillel and Beit Shammai was to prohibit being alone even with an unmarried Gentile woman. Furthermore, C. Hayes (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 149-154) and (Hayes, *Palestinian Rabbinic Attitudes to Intermarriage in Historical and Cultural Context* 2003) provides an extensive analysis of this lengthy *sugya* regarding the position of the *tanna* R. Shimon b. Yohai who seemingly bans intermarriage as a biblical prohibition. His focus on this might imply that intermarriage may have in fact been a concern in *tannaitic* times. However, after reviewing parallel citations of the statement of R. Shimon b. Yohai in b. *Yevamot* 23a and b. *Qiddušin* 68b, Hayes concludes (153) that “the extension of the biblical ban on intermarriage to all Gentiles, based on the rationale provided in *Deuteronomy* 7:4, is to be attributed to a late redactor of the Bavli rather than the second-century R. Shimon b. Yohai.” R. Shimon b. Yohai’s statement, Hayes asserts, is concerned not with intermarriage but matrilineal descent.

.VI	ואלא דחביתא אנן נמי מגלינן
.VII	לא צריכא באתרא דמצלו מיא
.VIII	...
.IX	רב פפא מפיקין ליה לאבכא דהנותא ושתי
.X	רב אחאי מייתו ליה לביתיה ושתי
.XI	ותרוייהו משום חתנות
.XII	רב אחאי עביד הרחקה יתירתא

- I. It was said: Why did they forbid Gentile beer?
- II. Rami [BA4] b. Hama said in the name of R. Yitzhak [I/BA3]: *mišum ḥatnut*, [due to the fear of intermarriage]
- III. R. Nahman [BA3] said it was *mišum gilui*, [due to the fear of exposure to snake venom]
- IV. What was exposed [to snake venom]?
- V. If we say the tub in which the beer was made is exposed [to snake venom], we [Jews] leave [the beer-making tub open and] exposed.
- VI. If we rather say it is the barrel [in which the beer is stored after it is made that is open and exposed], we [Jews] also expose [the barrels].
- VII. No. This is referring to a place where they let the water stand [before pouring it into the grain to make the beer, and we fear that a snake has inserted its venom]
- VIII. ...
- IX. They would take the beer outside of the doorway of the store for R. Papa and he would drink
- X. R. Ahai would take the beer home and drink
- XI. And both [R. Papa and R. Ahai did so because they were concerned about intermarriage] *mišum ḥatnut*,
- XII. [but] R. Ahai distanced himself extra [from the Gentile establishment]

In this instance, fourth generation amora Rami b. Hama in the name of third generation amora R. Yitzhak disagrees with third generation amora R. Nahman and posits (§II) *mišum ḥatnut* as the reason for a prohibition against drinking Gentile-produced beer (*šeikhar 'akkum*). The prohibition of Gentile beer (or, for that matter, any alcoholic beverage other than wine) is not mentioned in Mishnah, Tosefta, or the Yerushalmi. It is clearly a Babylonian innovation, first articulated in the

Bavli in the name of third generation amora R. Yitzhak.⁸⁹⁸ Fourth- and fifth generation amoraim, Rami b. Hamma, R. Pappa, and R. Ahai, are subsequently cited as complying with the prohibition but permitting its consumption outside the Gentile's establishment.⁸⁹⁹

Gentile Oil

The Bavli delves into the prohibition of Gentile oil and cites a dispute between the amoraim Rav and Shmuel regarding the origin and rationale of the prohibition. B. *Avodah Zarah* 35b-36a states:

- | | | |
|--|------|--|
| | .I | והשמן שלהן: |
| | .II | שמן רב אמר דניאל גזר עליו |
| | .III | ושמואל אמר זליפתן של כלים טמאים אוסרתן |
| | .IV | אטו כולי עלמא אוכלי טהרות נינהו |
| | .V | אלא זליפתן של כלים אסורין אוסרתן |
-
- I. And their oil:
 - II. Oil. Rav said: Daniel prohibited it.
 - III. And Shmuel said: the oozing of their impure vessels [into the oil] makes their oil forbidden.
 - IV. Does this mean that everyone [is stringent and] eats food only in purity?
 - V. Rather, the oozing of their forbidden vessels [which have been used to prepare non-permitted foods] makes their oil forbidden.

§V clearly associates the prohibition of Gentile oil with a fear of the admixture of non-permitted ingredients, even just the oozing from the walls of the vessels into the oil. Rav, in §II, attributes

⁸⁹⁸ Beer was certainly a known alcoholic beverage in the ancient Near East and even to the compiler of the Mishnah, as m. *Pesaḥim* 3:1 mentions “Persian beer.” Yet m. *Avodah Zarah* 2:6 does not include beer in its list of prohibitions of impermissible Gentile foods. Nor do the Talmuds include it in their lists of Eighteen Edicts. These are further indications that this prohibition, which could not be due to possible impermissible ingredients, was therefore excluded from the earlier, *Ereṣ* Israel rabbinic literature, but was a later prohibition innovated in Babylonia and associated with the fear of intermarriage. Interestingly, there is no prohibition of drinking Gentile distilled spirits, despite what would seem to be the obvious similarity of effect that would lead to concerns regarding intermarriage. It is possible that distilling techniques—and thus such spirits—were not available in Babylonia until after the Bavli was closed, perhaps as late as 1100, per our earliest records of the distillation of alcohol (in Italy). See (Forbes 1970, 87).

⁸⁹⁹ It is interesting to note that, according to Elman (Elman, *Shopping in Ctesiphon: A Lesson in Sasanian Commercial Practice* 2015, 238), the fifth-sixth amoraic generation “is precisely the time in which ‘identity politics’ became important in the wake of the parallel attempts by both rabbinic and Zoroastrian authorities to discourage intercommunal socialization.”

the prohibition to Daniel, but offers no reason for the prohibition. After an extended discussion in the continuation of the *sugya* (not cited here), the Talmud concludes on Rav's behalf that Daniel prohibited Gentile oil in the cities whereas the rabbis in their Eighteen Edicts instituted the prohibition in the fields as well. But the Bavli offers no rationale for the prohibition. Daniel's prohibition too may have been due to concern over ingredients or idolatry, as discussed in the chapter on Second Temple literature.

The Bavli concludes with a discussion of how this prohibition was annulled by R. Yehudah the Patriarch because the people were not abiding by it. Nowhere does the Talmud associate this prohibition with *mišum ḥatnut*.

Gentile Cooking Generally

The Bavli appears to prohibit Gentile cooking merely because the Gentile cooked it. For example, 'Avodah Zarah 38b makes clear that Gentile-grilled meat (even permissible meat) is prohibited.

אינו אסור עד שתהא תחלתו וגמררו ביד גוי...

[A piece of meat] is not prohibited unless its [grilling] start and completion was by the hand of a Gentile.

This prohibition does not appear to be related to a concern over ingredients. At the same time, nowhere in the Bavli is the term *mišum ḥatnut* applied to Gentile cooking.⁹⁰⁰ Rather, b. 'Avodah

⁹⁰⁰ It is not only the Bavli that does not associate the prohibition of Gentile cooking with *mišum ḥatnut*. A responsum of the later Babylonian sage, R. Sherira Gaon (d. 1006), associates the prohibition with the biblical verse, *Deuteronomy* 2:28, cited here, not *mišum ḥatnut*. (*Teshuvot u-Persushei Rav Sherirah Gaon*, Mossad ha-Rav Kook, 135; *Halakhot Pesuqot min ha-Geonim* #22, 21; and (Brody, *Otzar Ha-Geonim ha-Hadash: Avodah Zarah—Horiyyot 2022*), 'Avodah Zarah 38a, 74-75, #132. Traditional Talmudic commentators too are careful in their language in applying *mišum ḥatnut* to this edict. Interestingly, in his gloss on m. 'Avodah Zarah 2:6, s.v. *weha-šelaqot*, Rashi (R. Shlomo b. Yitzhak, 1040-1105) writes that bread, oil, and *šelaqot* are all due to *mišum ḥatnut*. Yet in his gloss on the discussion in the Talmud itself (b. 'Avodah Zarah 38a, s.v. *mi-de-rabbanan*) he writes that the prohibition is out of concern that the Gentile "will feed him something impure [impermissible]." R. Yitzhak b. Moshe of Vienna (*Ohr Zarua*, 'Avodah Zarah, §191-192, as cited in *Psakim 'Avodah Zarah*, 293) cites Rashbam (R. Samuel b. Meir, 1085-1158) to the effect that the prohibition is intended to prevent the Gentile giving the Jew impermissible ingredients.

Zarah 37b-38a, in a discussion reminiscent of Yerushalmi *Šabbat* 1:4 3c and *‘Avodah Zarah* 2:9 41d analyzed in the previous chapter, suggests other reasons for the prohibition of Gentile cooking:⁹⁰¹

- | | |
|------|---|
| I. | והשלקות: מנהגי מילי |
| II. | אמר רבי חייא בר אבא אמר רבי יוחנן אמר קרא |
| III. | (דברים ב כח) אכל בכסף תשברני ואכלתי ומים בכסף תתן לי ושתיתי |
| IV. | כמים מה מים שלא נשתנו אף אוכל שלא נשתנה |
| V. | ... |
| VI. | אלא מדרבנן וקרא אסמכתא בעלמא |
-
- I. And their *šelaqot*: From where do we know [that this is forbidden]?
 - II. R. Hiyya b. Abba said: R. Yohanan said: “The [biblical] verse states:
 - III. (*Deuteronomy* 2:28) ‘Thou shalt sell me food for money, that I may eat; and give me water for money, that I may drink;...’
 - IV. Like water: Just as water is unchanged from nature, so too [one is permitted to eat only Gentile] food that is unchanged from nature.”
 - V. ...
 - VI. Rather, [the prohibition is only] rabbinic and the [biblical] verse is merely an indirect support.

Here, R. Yohanan in §§I-III seems to assert that all Gentile-produced foodstuff is prohibited biblically. §V presents an extended argument as to why this cannot be the case. Thus, in §VI the anonymous voice of the Talmud concludes that it is a rabbinic prohibition but does not explain the basis of the prohibition.⁹⁰²

⁹⁰¹ Y. *Šabbat* 1:4, 3c 371:25-40 and y. *‘Avodah Zarah* 2:9 41d 1391:23-34. In the Yerushalmi parallels, however, the exegesis in §IV is presented to R. Hiyya the Elder rather than by R. Hiyya b. Abba, as it is here. It is repeated there in the name of R. Shimon b. Yohai, rather than R. Yohanan. The verse used there is *Deuteronomy* 2:6, rather than 2:28. And in the Yerushalmi text, it may be R. Hiyya himself who challenges the exegesis.

⁹⁰² In his gloss on this discussion *ad loc.*, Rashi (R. Shlomo b. Yitzhak, 1040-1105) s.v. *vide-rabbanan*, writes that the prohibition is out of concern that the Gentile “will feed him something impure.” Tosafot *ad loc.* s.v. *‘ella* seeks to focus on *mišum ḥatnut* instead. Tosafot first comments that it would have seemed more natural to explain the reason for this prohibition as *mišum ḥatnut*. Tosafot goes on to cite R. Abraham b. David and R. Tam, who interpret this as a prohibition having to do with both intermarriage and ingredient concerns. Similarly, Mordekhai (R. Mordekhai b. Hillel, d. 1298) *ad loc.* #830, s.v. *de-šelaqot*, understands the Bavli’s conclusion as distinguishing between two

But from the discussions in the Bavli of what is *not* considered prohibited Gentile cooking, one may deduce that a reason other than a concern about ingredients underlies the prohibition. For example, b. *Avodah Zarah* 37b-38a explains that, according to Rav, food that is typically not laid upon the king's table is not considered Gentile cooking:

- .I אמר רב שמואל בר רב יצחק אמר רב:
- .II כל שאינו עולה⁹⁰³ על שולחן מלכים ללפת בו את הפת אין בו משום בישולי גוים.
- I. R. Shmuel b. R. Yitzhak said in the name of Rav:
- II. Anything that unsuited for the king's table to be spread on the bread [sic] is not considered Gentile cooking.

The exact intent of the phrase “to spread on the bread” is unclear, but the implications of Rav's statement is that a food not worthy of the king's table is also of insufficient significance to be considered Gentile cooking. This factor would seem to be irrelevant if the concern were only one of ingredients. In addition, the Talmud implies that if a Gentile lit an oven to cook food for himself and a Jew had food hidden in it, even if the Gentile was not aware of the Jew's food, the Jew's food is prohibited. This too would seem to have nothing to do with ingredients.⁹⁰⁴

Additional discussion on b. *Avodah Zarah* 38a seems to seek ways to limit the prohibition, despite concern over the Gentile preparer. Rav is cited as positing two criteria, either of which precludes a food item cooked by a Gentile from being prohibited. The first is its unworthiness to

separate edicts: bread and *šelaqot*. Whereas the prohibition of Gentile bread was due to concern over intermarriage and was part of the Eighteen Edicts, the prohibition of *šelaqot* was an “ancient” edict. His language would imply that the original concern was not related to intermarriage concerns.

⁹⁰³ B. *Avodah Zarah* 38b in the Venice and Pissarro printings have the word *ne'ekhal* (נאכל), is eaten, rather than *oleh* (עולה), goes on. However, b. *Avodah Zarah* 59a and b. *Yevamot* 46a as well as the Munich 95 MS have it as written here. The JTS 15 and Paris 1337 manuscripts have it as *kol še-'eino 'oleh 'al šulḥan melakhim le'ekhol bo pat* (כל שאינו עולה לשולחן מלכים לאכול בו פת).

⁹⁰⁴ B. *Avodah Zarah* 38b. Yet, this very *sugya* presents another case which is seemingly a pure ingredient issue and not one pertaining to intermarriage. Specifically, it differentiates between date skins boiled in a large pot in which non-permissible foods may also have been cooked at some point and their being boiled in a small pot, where it is presumed nothing impermissible was cooked in it. The former date skins are prohibited, whereas the latter are permitted. Perhaps these skins are not considered worthy of being served at the king's table, so the only thing at issue is ingredients.

be served in royal meals, discussed above. The second is whether it can be eaten uncooked (כל הי הנאכל כמות שהוא הי, *kol ha-ne`ekhal kemot še-hu hai*). That is, according to these statements of Rav, in order for a food cooked by a Gentile to be prohibited, (a) the item must have some degree of importance and (b) cooking is needed to transform it from inedible to edible.⁹⁰⁵

B. *Avodah Zarah* 38b further loosens the prohibition by expanding the definition of Rav's permitted "edible uncooked" even to items that can be eaten only if soaked in lukewarm water. It also requires that the Gentile who does the cooking or fires the oven to actually intend to cook something; a food that the Gentile cooks without intending to cook anything is not considered Gentile cooking. Furthermore, if a Jew is engaged in the cooking process in almost any way, the food is not considered as having been cooked by a Gentile. Thus, even if a Jew merely stirs the coals under a loaf baked entirely by a Gentile, the loaf is permitted.

These all appear to be technical delimiters that are deemed sufficient to take foods out of the category of prohibited Gentile cooking. Such minute distinctions do not make sense if the concern regarding Gentile food is entirely ingredient-based. Rather, they make sense regarding sufficiency to take them out of the halakhic category of prohibited Gentile food only if there is a different rationale for the prohibition.

In terms of that rationale, the Bavli provides none. As noted above, nowhere does it apply *mišum hatnut* to Gentile cooking. Nonetheless, consistent with the leniencies cited above, one might posit a desire for social distancing from Gentiles, connected or not to fears of intermarriage. To support this Babylonian view, one might at this point refer to Zvi Steinfeld's citations from

⁹⁰⁵ In this discussion of the Bavli, the word *hai* in Rav's expression is translated as typically understood, as this is the understanding that has filtered down since the Bavli. In the previous chapter, the word was translated in the context of y. *Avodah Zarah* 2:9 41d and its parallels as "as is, by itself" and having nothing to do with the significance of the effect of cooking the food.

Talmud, discussed in the tannaitic literature chapter, which present views that disparage eating with a Gentile. A *beraita* in b. *Sanhedrin* 104a cites R. Shimon b. Elazar's declaration that Israel was exiled to Babylonia because King Hizkiyahu had eaten with visiting Gentiles. B. *Megillah* 12a relates a dialogue between tanna R. Shimon b. Yohai and his students in which the students suggest that the reason that the Persian Jews in fact deserved the death penalty at Purim is that "they partook in the feast of that evil man [Ahasuerus]." As stated in the earlier analysis, neither of these are definitive. But their citation by the Talmud may indicate an undercurrent of a desire among Babylonian amoraim to avoid eating with Gentiles or, more generally, a desire to distance Jews from Gentiles.

Conclusion

The foregoing discussion shows that the association of *mišum ḥatnut* with beer may have been an accepted notion around the time of third generation Babylonian amoraim. On the other hand, it seems that its application to the rabbinic prohibition of Gentile bread may have been a later one, even during the later stage of editing the Bavli, as it is not associated with any named amora in this context. It was applied only to bread. The Talmud does not apply the term *mišum ḥatnut* to other alcoholic beverages or to Gentile oil. Nor does it explicitly apply *mišum ḥatnut* to Gentile cooking generally, and one is left with only an implicit message from the Bavli of distancing regarding Gentile cooking. If so, the sages merely applied this known concept to a single already-prohibited food item, bread, just expanding upon an existing prohibition.

By introducing the concept that the prohibitions of Gentile bread and beer are based on *mišum ḥatnut*, the Bavli is sending a message meant to reduce commensality-related interactions in environments where bonds of fellowship with the Gentiles might be established and lead to

intermarriage.⁹⁰⁶ This, however, appears to have been only an incremental step. The Babylonian sages did not abandon the admixture concern; they simply added a new one. They did not prohibit deriving benefit from Gentile bread. They did not explicitly apply the concern of *mišum ḥatnut* to other Gentile cooking. The Bavli does not prohibit breaking bread with the Gentile, even intimate settings, even with wine being served at the meal, and even though in Zoroastrian Babylonia Gentile meals often incorporated a religious dimension.⁹⁰⁷ And, as b. *Šabbat* 150a indicates, the sages did not outlaw maintaining friendships with a Gentile.

In summary, it would appear that in Babylonia, particularly in later amoraic periods, there was rabbinic interest in separating Jews to some degree from non-Jews commensally. Since the Babylonian rabbis did not prohibit eating with a Gentile, however, perhaps Gentile bread and beer (in addition to wine) were the limit either to which the rabbis felt they could be effective in instituting commensal prohibitions or the limit they felt they needed to go. Cultural anthropologist Mary Douglas writes that food sends a message “about different degrees of hierarchy, inclusion and exclusion, boundaries and transactions across the boundaries” and that dietary practices can establish symbolic separation between intertwined religious populations.⁹⁰⁸ Perhaps the Babylonian sages, in attributing *mišum ḥatnut* to Gentile bread, were seeking to add a new meaning to an existing symbol: a pre-existing tannaitic prohibition. The message of fear of intermarriage

⁹⁰⁶ These were above and beyond the separate prohibition to drink Gentile wine and above and beyond ingredient-based concerns regarding Gentile foods.

⁹⁰⁷ As Richard Payne notes (Payne 2016, 118-121), “Eating was an unavoidably religious activity in Iran. Before consuming food, Zoroastrians were to recite a brief prayer, the *wāz*, which rendered the act of eating a part of the system of rituals that culminated in the *Yasna*.”

⁹⁰⁸ (Douglas 1972, 61) and (Douglas 2003). Other scholars take similar perspectives. As cited in (Freidenreich 2011, 6), William Robertson Smith, a late nineteenth century orientalist, wrote that commensality confirms or even constitutes kinship and to reject proffered food is to reject an offer of love or friendship and to express hostility toward the giver. Conversely, Claude Grignon emphasizes the significant function that excluding outsiders from shared meals plays in defining the limits of one’s group and strengthening the bonds that unite insiders.

was sent and regulations sufficient to disrupt, though not sever, commensal—and thus social—interactions with the Gentiles were instituted.

APPENDIX TO CHAPTER 7

A Post-Bavli Indication

This dissertation seeks to demonstrate based on contemporaneous texts the different rationales in 'Ereš Israel and Babylonia underlying the rabbinic prohibitions on Gentile bread and food. It is interesting to note a post-Talmudic source that appears to support the position presented herein. *Ha-Hiluqim še-bein 'Anšei Mizrah u-Venay 'Ereš Yisra'el* was a pamphlet written between 657 C.E. and the end of the ninth century by an anonymous author living in Tiberias.⁹⁰⁹ It lists forty-six differences between the halakhic practices of Babylonian Jews and those of 'Ereš Israel at the time. Two of the differences cited appear to support the distinction made above between the 'Ereš Israel abstention from eating Gentile bread and food as deriving from concern over impermissible ingredients versus the Babylonian concern over *mišum ḥatnut* and/or social separation.

Difference #30

Difference #30 revolves around whether throwing a wood chip into the oven where a Gentile is making bread renders the bread baked by the Gentile permissible. Difference #30 reads:⁹¹⁰

⁹⁰⁹ (M. Margaliot, *Ha-Hilukim she-Bayn Anshei Mizrah u-Venay Eretz Israel* 1938, 28-32). See (Ephrathi 1973, 146-152) for an analysis of the timing of its writing and its purpose. See also discussion in (M. Margaliot 1938, 7) and (Ginzberg, *Geonica* (2 volumes) 2018, 542-544 and 572-573) about whether Pirkoi b. Baboi believed that the Jews of 'Ereš Israel at the time of R. Yehudai Gaon (fl. 757-761 CE) were observing the prohibitions of Gentile cooking and bread.

⁹¹⁰ (M. Margaliot, *Ha-Hilukim she-Bayn Anshei Mizrah u-Venay Eretz Israel* 1938, 84 and 147-148). See also (Lewin 1942 (1973), 60) and (Y. H. Miller 1878, 29-30).

אנשי מזרח אוסרין פת שאפה גוי, ואוכלין פת גוי ובלבד שיהא ישראל משליך עץ בתנור, ובני ארץ ישראל אוסרין אותו בעץ, שבעץ לא אוסר ולא מתיר. אימתי התירוהו? במקום שאין דבר לאכול, ועשה יום או יומים שלא אכל כלום, התירוהו לו מפני חיי נפש, כדי קיום נפשו, ובלבד מן הפלטר שלא נכנס בשר בחנותו מימיו, ואף על פי שהרי הוא כתבשיל.

- I. The people of the east [Babylonians] forbid bread baked by a Gentile,
- II. But they eat bread of a Gentile only if a Jew throws a piece of wood into the oven,
- III. And the residents of 'Ereṣ Israel prohibit it [even] with the wood, for the wood neither makes it permitted nor forbidden.
- IV. When do they [the residents of 'Ereṣ Israel] permit it?
- V. In a place where there is nothing to eat, and [one] has gone a day or two eating nothing,
- VI. they permitted it to him due to life exigency but only in order to sustain his life,
- VII. but only [if the bread is] from a baker *into whose store meat never entered* [emphasis added]
- VIII. even though [the bread] is like a cooked dish.

§II shows that Babylonians accepted the Jew's throwing a wood chip into the fire as removing the bread from the category of Gentile bread. §III records that this action had no such impact for the residents of 'Ereṣ Israel. For the Babylonians, if the concern were *mišum ḥatnut*, the Jew's action of merely throwing a wood chip into the oven, as suggested in §II, could make sense as a “legal fiction” for transforming the *halakhic* classification of the bread from being Gentile-baked to Jewish-baked, thus permitting the bread. In contrast, if the concern for the residents of 'Ereṣ Israel were impermissible ingredients, as is claimed here, indeed what effect would tossing a wood chip into the oven have? Doing so would serve no function in allaying concerns over impermissible ingredients, as indicated in §III.

There are in fact other hints in this pericope that the concern of residents of 'Ereṣ Israel was impermissible foods rather than *mišum ḥatnut*. First, permission in §V to eat bread from a Gentile is given only to a person seemingly on the verge of starvation. This would appear to be quite a severe condition for removing a rabbinic prohibition based on the remote fear of possible

intermarriage. But it would be more reasonable if the concern were about eating biblically impermissible ingredients, such as lard or idolatrous wine, as has been argued here. Second, restricting such a hungry person to buying only from a Gentile baker but not from a Gentile in his home is puzzling at first glance. Someone in this position should be permitted to eat anything. Rather, the text is clearly referring to a very hungry person, though not a starving one. The consideration truly seems to be one of impermissible ingredients, as §VII explicitly lays out that the bread may be bought only from a baker *into whose store meat never entered*.

Difference #53

Difference #53, below, addresses Gentile cooking more generally. Difference #53 reads:⁹¹¹

אנשי מזרח מתירין פול ששלקו גוי, וכן חגבים, ובני ארץ ישראל אוסרין מפני שמערבין שלוקין של בשר בשלוקיהן של פירות.

- I. The people of the east [Babylonians] permit a bean stewed by a Gentile, as well as grasshoppers,
- II. And the people of 'Ereṣ Israel forbid it because they [the Gentiles] mix stewed meat into their fruit stews.

According to §I, Babylonians ate beans seethed by a Gentile. This dish, therefore, was clearly not prohibited to them as Gentile cooking. Perhaps the Babylonians considered this dish “unsuited for the king’s table” and thus, according to b. *Avodah Zarah* 38a, not falling into the category of concern over *mišum ḥatnut* and prohibited Gentile cooking. On the other hand, the people in 'Ereṣ Israel prohibited this stew seemingly out of concern over the possible admixture of impermissible ingredients, as indicated explicitly in §II, and not due to the preparer per se.

⁹¹¹ (M. Margaliot, *Ha-Hilukim she-Bayn Anshei Mizrah u-Venay Eretz Israel* 1938, 176). See also (Lewin 1942 (1973), 107), (Y. H. Miller 1878, 45), (R. Brody, *Teshuvot Rav Netrunai Gaon* 2011, #236, 365), and (Emanuel 2018, #138, 180).

A Concluding Thought

Intermarriage may have become a more-prevalent phenomenon and concern in 'Ereṣ Israel in the later Byzantine period after the close of the Yerushalmi, as hinted at by other *Differences*⁹¹² or by the Theodosian ban on intermarriage enacted in 388 C.E.⁹¹³ Even if so, the rationale of *mišum ḥatnut* had not yet been adopted in 'Ereṣ Israel. As will be discussed later, Nissan Rubin explains the sociological concept of “cultural lag” as “the gap between sociological-institutional changes, which can be rapid, and cultural adaptation, which is more gradual and slow.”⁹¹⁴ Thus, increasing intermarriage may have been a sociological change, but the corresponding cultural adaptation—halakhic change reflected in the Yerushalmi—would not have come in time before the closing of the Yerushalmi.

⁹¹² (Newman, *Ha-Ma'asim Li-Vnei Eretz Israel: Halakhah ve-Historia be-Eretz Yisrael ha-Byzantit* 2011). See, in particular, *Ma'aseh* 8 (131), *Ma'aseh* 16 (143), and *Ma'aseh* 59 (193).

⁹¹³ See (Linder 1987, 179–180).

⁹¹⁴ (N. Rubin 2019, 35).

PART III. READING THE SOCIETIES

8. SOCIETAL HYPOTHESIS AND METHODOLOGY

SOCIETAL HYPOTHESIS

Part II demonstrated that pre-Babylonian rabbinic texts that described the avoidance or rabbinic prohibition of eating Gentile breads and other foods can be read as being motivated by concern over the possible admixture of impermissible ingredients. The discussion also demonstrated that it was in the Bavli that the fear of intermarriage, *mišum ḥatnut*, was first associated with the prohibition of Gentile bread.

This part of the dissertation seeks to offer a sociological perspective to answer a key follow-on question: why did the fear of intermarriage prompt only the Babylonian sages to act and not the 'Ereš Israel sages? The dissertation proposes to explain this dichotomy by analyzing the *sitz im leben* of these halakhot, i.e., the societies in which they were generated. The three Jewish societies that are the focus of this dissertation—tannaitic 'Ereš Israel, amoraic 'Ereš Israel, amoraic Babylonia—sat amidst surrounding cultures. The nature and characteristics of the interrelationships of the Jewish societies with their respective external societies appear to have been different in each instance. Thus, each society is analyzed along two dimensions, relying on extant historical and literary sources: (a) whether societal conditions were such that intermarriage might have become a significant religio-social issue and (b) whether intermarriage seems to have in fact been a significant religio-social issue, at least as perceived by the rabbis in those societies.

Societal conditions and dynamics in 'Ereṣ Israel—in both the tannaitic and amoraic periods—appear to have been somewhat different from those in Babylonia. It is hypothesized here that these conditions yielded differences in societal predispositions towards intermarriage. Thus, it is hypothesized here that the phenomenon of intermarriage in 'Ereṣ Israel was not one severe enough to prompt the sages there to take halakhic action and that, in contrast, intermarriage was indeed an issue in Babylonia that prompted the sages there to prohibit Gentile bread due to *mišum ḥatnut*.

This is not to suggest that intermarriage, including with Gentiles outside the Seven Canaanite Nations, was seen as permitted in 'Ereṣ Israel.⁹¹⁵ Nor is this to say that intermarriage did not occur there.⁹¹⁶ Individual Jews were certainly attracted to individual Gentiles.⁹¹⁷ However, it is to say that incidence of intermarriage did not rise to a level of practical concern in the eyes of the sages that needed to be addressed in 'Ereṣ Israel tannaitic or amoraic literature and certainly not with rulings specifically oriented to keep Jews from interacting socially with Gentiles.⁹¹⁸

⁹¹⁵ See the Working Definitions later in this chapter for a discussion of the definition of intermarriage in the context of this study.

⁹¹⁶ Martin Goodman (Goodman, Rome and Jerusalem: The Clash of Ancient Civilizations 2007, 113), for example, points to the early Christian evangelist Timothy who, according to *Acts* 16:1-4, had a Jewish mother and Greek father. *Acts* 24:24 reports that the wife of Roman Governor Felix (governed 52-59 C.E.), Drusilla, was Jewish. Indeed, notwithstanding the fact that *qiddušin* (Jewish marriage) does not take hold between Jew and Gentile, m. *Yevamot* 7:8 discusses the scenario of a Jewess marrying a Gentile. However, this mishnah, which will be discussed later, does not necessarily indicate the existence or extent of an actual phenomenon.

⁹¹⁷ Josephus (Josephus, Antiquities 12.187) relates such a story, that took place in Alexandria and not in 'Ereṣ Israel. It may nonetheless be enlightening. Solymius, a member of the family with whom Nehemiah quarreled and whose possessions Nehemiah considered as defiling the Temple (*Nehemiah* 13.8-9), arranged to prevent his brother Joseph from entering into a relationship with a non-Jewish dancing girl by substituting his own daughter as Joseph's bride. He did this because "Jews were forbidden by law from having intercourse with a foreign woman." M. *Miqva'ot* 8:4 also discusses sexual intercourse between a Jew and a Gentile.

⁹¹⁸ For example, while Eyal Regev (Regev, Herod's Jewish Ideology Facing Romanization: On Intermarriage, Ritual Baths, and Speeches 2010) cites an example of intermarriage in the Herodian family, it appears that even Herod and his family, with few exceptions, went out of their way to avoid intermarriage. Indeed, one marriage seemed to have been called off because the groom-king was not willing to be circumcised. (Goodman, Rome and Jerusalem: The Clash of Ancient Civilizations 2007, 113).

It is suggested here that in 'Ereš Israel, during the periods under consideration the Jews were a plurality in their land. They appear to have lived primarily in rural settings in their own towns, villages, hamlets, and the countryside, primarily in the Galilee and Golan. For the most part, and certainly outside the cities, they had only transient contact and interaction with Gentiles. The political environment was one of Roman dominance and disdain, especially by the conservative and ruling class. While there was a certain attraction for many Jews towards Roman imperial culture, the Jewish religion was at odds with paganism, and, increasingly, Christianity. And although later in this period the Jewish population in urban centers expanded, most Jews continued to live in their own towns and villages in the Galilee. Thus, one might suggest that the environment in 'Ereš Israel was not ripe for a concern over intermarriage, though clearly instances of intermarriage did occur.

In contrast, the Jews in amoraic Babylonia were a minority in a foreign land, even though they had a significant presence in heartland cities. They seem to have lived intertwined in Gentile cities, towns, and villages and most Jews came into frequent, if not daily, extended contact with Gentiles. The political environment, while having some ups and downs, was welcoming. And contrasting with paganism and Christianity, which were antithetical to Judaism in their essence due to their belief in a physically manifested deity, Zoroastrianism may have appeared less so (as Judaism may have to Zoroastrians). Though quite different from Judaism, several precepts and practices of the ambient Zoroastrian religion would not have seemed entirely foreign to Babylonian Jews. Jews were comfortable with the Persian culture and adopted elements of it. In short, the Babylonian milieu in which the Jews lived may have been relatively ripe for the possibility of intermarriage. And, as the addition of *mišum ḥatnut* to the preexisting bread prohibition was not a major leap, it could have been a step taken solely on the basis of the social context.

The proposition here links one societal phenomenon—the attribution of *mišum ḥatnut* to the rabbinic prohibition on Gentile bread—to another actual, or perceived, troubling societal phenomenon: intermarriage. As Nissan Rubin suggests, “if the investigated phenomenon changes when other phenomena change in that same society, it reasonable that we have achieved a valid explanation.”⁹¹⁹ Even if the differences between the rabbis of *’Ereṣ* Israel and Babylonia were merely perceptual regarding intermarriage in their respective circumstances, these differences might have weighed on the rabbis’ actions. As Rubin writes, “it is the constructed subjective reality that influences human behavior in daily life.”⁹²⁰

These hypotheses are admittedly somewhat speculative. The data are limited—certainly for Babylonia—and there does not appear to be definitive proof one way or the other for any of the geographies or time periods. However, even with these limitations, the ensuing chapters will seek to show that the hypotheses are reasonable.

The remainder of this chapter proposes a framework for analyzing the three societies—tannaitic *’Ereṣ* Israel, amoraic *’Ereṣ* Israel, and amoraic Babylonia—as pertaining to their respective proclivities towards intermarriage. It is followed by a discussion of methodological challenges and then working definitions of the terms to be used in this analysis.

THE ANALYTICAL FRAMEWORK

This section proposes a framework for analyzing the three societies vis a vis their possible propensity towards intermarriage. Ideally, such an analytical framework should be sufficiently robust to analyze conditions related to intermarriage in Jewish society not only in the timeframes

⁹¹⁹ (N. Rubin 1995, 11).

⁹²⁰ (N. Rubin 2008, 225).

and geographies that are the focus of this dissertation, but in Jewish societies in later times and other geographies. The framework should be sufficient for conducting a synchronic analysis of each society in order to help understand why there may or may not have been concern over intermarriage in that society. And it should also provide a tool for a diachronic analysis, to help explain how changed conditions over time and locations might have affected the different realities and perceptions regarding intermarriage. The model needs to focus on the day-to-day relationships among individuals and among groups of individuals in society. It does not, however, need to address institutional arrangements (such as the relationship between individual Jews or Jewish institutions) and the Gentile administration, or the institutions of other groups (such as the Christian Church hierarchy in Babylonia), as these do not appear to directly relate to intermarriage and commensal prohibitions. The framework also does not need to provide a complete anthropological analysis of these societies. Rather, it should provide characterizations sufficient to explain interpersonal relations and a motive for action (or inaction) of the sages in the matter being discussed.⁹²¹ In addition to meeting the requirements above, the framework can be deemed appropriate if (a) it is consistent with general anthropological theories and, (b) as Nissan Rubin suggests, it works in explaining things.⁹²²

Affinity-Opportunity Matrix

The key element of the proposed analytical framework is termed the “affinity-opportunity matrix.”⁹²³ The contention here is that the greater the affinity of a group with its surrounding

⁹²¹ Thus, the focus here will not be on all similarities among the Jewish societies, as one can expect a great deal of similarity among societies that shared a common religion and certainly between the two societies centered in *’Eretz* Israel. But even in the latter two cases, a society in a single geography can change based on external influences and experiences over time. These influences might include changes in the ambient religions, political-socioeconomic conditions, and/or technologies. So, the focus will be only on the substantive differences that might affect the hypothesis here.

⁹²² (N. Rubin, *Simhat Hayyim: Tiksei Erusim u-Nessu'im bi-Mekorot Haza"l* 2004, 9-12) and (N. Rubin 2008, 8-13).

⁹²³ This matrix draws on and adapts the work of Peter Blau and Joseph Schwartz (Blau and Schwartz 1997).

culture and the greater the number of opportunities a member of the group has to interact and transact with members of the opposite sex in surrounding groups, the greater the possibility of intermarriage. Factors comprising “affinity” and “opportunity” are discussed below.

The distance that two people have to traverse in order to harmonize their cultural differences, religious beliefs, and the distinctive values that they carry with them, among other things, in order to decide to marry, can be called an “intermarriage adjustment factor.” It can be argued that the greater the affinity of the groups of which the individuals are members, the smaller the “intermarriage adjustment factor” and thus the greater the likelihood that a couple might traverse the boundaries between the groups.

“Affinity” in this context means the closeness of Jews as a group to the “Other” and might include one or more of the following group circumstances: (a) Political consonance (e.g., where Jews are perceived as integrated politically into the society, and there are no laws or violence against Jews); (b) Closeness of Jew-Gentile relationships deemed acceptable by the community; (c) Theological consonance (or, perhaps, parallels) between Judaism and surrounding religious practices, texts, philosophies, and/or symbols; and (d) Cultural consonance and adoption by the Jewish society of meaningful elements and symbols of the surrounding cultures (e.g., language, norms of communication, technologies, music, cuisine, and holidays⁹²⁴) or vice versa.

In terms of the latter, the following classic definition of acculturation is adopted: “Acculturation comprehends those phenomena which result when groups of individuals having different cultures come into continuous first-hand contact, with subsequent changes in the original cultural patterns of either or both groups.”⁹²⁵ John Berry’s two-dimensional model of acculturation considers that there are two relationships with respect to how acculturation takes place: the

⁹²⁴ A modern example: Thanksgiving.

⁹²⁵ (Redfield, Linton and Herskovits, Memorandum for the Study of Acculturation 1936).

individual's relationship (i) with their heritage or ethnic culture and (ii) with the new or larger society.⁹²⁶ Since these two relationships are considered independent, positive or negative orientations to these issues define four acculturation strategies. A strong link to both groups is indicative of an integration strategy; links with neither group defines marginalization; an exclusive link with the dominant culture indicates assimilation, whereas exclusive link with the ethnic group indicates separation. These four acculturation strategies are referred to as AIMS (Assimilation, Integration, Marginalization, Separation), that reflect the relationships between desire/actions to become engaged with the larger society versus the desire to maintain the heritage culture of one's own group.⁹²⁷ As defined by Saba Safdar and Fons J.R. van de Vijver:

At the individual level, when there is no preference to maintain heritage culture, but value is seen in having contact with members of other ethnocultural groups, *assimilation* is defined. When individuals prefer to maintain heritage culture but do not value having contact with members of other ethnocultural groups, *separation* is defined. When there is an interest to maintain heritage culture and also have contact with other groups, *integration* is the outcome. Lastly, when individuals have no interest either in maintaining their original culture or in having contact with other groups, *marginalization* is the outcome.⁹²⁸

Despite more recent refinements to these definitions, they suffice for the purposes here.

“Opportunity” might include one or more of the following societal characteristics: (a) The frequency with which a single member of one group might meet single members of the opposite sex in other groups in informal settings. This could be a function of the physical living arrangements of the two groups, the economic interaction between them (e.g., was there a central marketplace?), and the role of woman in that economy (were they shopkeepers or were they sent to market to buy/sell product?); (b) Acceptability in the society for the intermingling of unmarried

⁹²⁶ (J. W. Berry 1980).

⁹²⁷ (Berry 1974) and (J. W. Berry 1980).

⁹²⁸ (Safdar and van de Vijver 2019, 4-5)

men and women; (c) The ability of individual men and women to transact their own marriages and to support themselves afterwards;⁹²⁹ (d) The typical age of marriage (the younger the children are married off, the less likely that they will have a voice in who their parent chooses for them and certainly to meet and decide to marry whomever they wish).

Table 8.1 below summarizes the key attributes of each of these two dimensions. Noted in each quadrant is a hypothesized likelihood of the occurrence of intermarriage in such a society. The three societies analyzed here are also slotted into their conjectured quadrant.

FIGURE 8.1. CONJECTURED SOCIETAL PROPENSITY TOWARD INTERMARRIAGE⁹³⁰

		Affinity towards the Other		
		Familiarity	Foreignness	
		<ul style="list-style-type: none"> • Common/harmonious religious symbols/concepts • Common/harmonious cultural symbols and values • Acceptance of Jews into fabric of general society 	<ul style="list-style-type: none"> • Conflicting religious concepts • Anti-Jewish measures/hostility • Conflicting values with surrounding culture 	
Opportunity to Meet/Marry the Other	Difficult	<ul style="list-style-type: none"> • Controlled/formal social interactions only • Arranged marriages • Rare/passing meetings • Stifled/supervised • Separate communities 	<p style="text-align: center;">Moderate</p>	<p style="text-align: center;">Low (Tannaitic 'Ereṣ Israel)</p>
	Easy	<ul style="list-style-type: none"> • Personal interactions • Informal/comfortable • Individual picks spouse • Common social meetings • Inter-group dialogue • Proximate living 	<p style="text-align: center;">High (Amoraic Babylonia)</p>	<p style="text-align: center;">Moderate (Amoraic 'Ereṣ Israel)</p>

⁹²⁹ See extended discussion of this topic in (N. Rubin 2004, 35-72).

⁹³⁰ R. Cavan (Cavan 1970, 314) sets up a similar chart. However, hers relates to groups and is based on the degree of mutual hostility, indifference, or friendliness to the other “in-group” as well as whether the groups are strongly, preferentially, or permissively endogamous. While these factors are important, the focus here is more on the individuals within the groups where other factors also come into play, particularly when the individual’s attachment to the group weakens.

Attachment to the Group

In addition to a group's affinity-opportunity relationship with surrounding groups, two additional factors relating to the individual's attachment to his/her group would likely also affect the probability of intermarriage. While Mary Douglas's "group-grid" classification of society's boundaries underwent several iterations, some of her definitions may be useful here.⁹³¹ "Group," deals with the criteria for membership in a society or group. This involves the more-or-less rigid conditions required for entering into the society, as well as how much loyalty (to the tribe, forefathers, church, sect, or military unit) its members must show. "Grid," deals with the society's ability to control individuals in the group; that is, the degree of freedom of action that the society grants individuals.

Douglas's "group" dimension may be applied to the Jewish societies being analyzed here.⁹³² Since the time of Ezra, inclusion in the group—and recognition by other group members that one is part of the group—merely required being born to a Jewish mother.⁹³³ Formal requirements for entering this group from the outside changed over time and geography. The border of the group was more porous at first in the Eres Israel and became less porous in Babylonia. "Conversion" to Judaism, particularly during the periods under discussion, required circumcision for males and ritual immersion for both males and females. In tannaitic times, the borders were fairly permeable. In later periods, the sages created a more defined boundary by adding more

⁹³¹ See (Spickard 1989) and an unpublished lecture by Mary Douglas accessible at https://www.researchgate.net/profile/Detlef-Brem/post/How_should_I_interpret_it_and_what_could_be_the_causes_that_no_particular_sub_culture_dominates/attachment/59d630fdc49f478072ea0c55/AS%3A273621249921024%401442247797210/download/douglas1.pdf.

⁹³² See (N. Rubin 2008, 33-36) for an explanation of Douglas's framework and how it applies to those who heeded the Sages before and after the Bar Kokhba revolt.

⁹³³ See, e.g., (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002).

stringent requirements for conversion.⁹³⁴ The overwhelming majority of the members of this group qualified merely by virtue of a Jewish mother. But whether native-born or converted, once a Jew, always a Jew.⁹³⁵ In *'Ereṣ* Israel it was thus easier to join the group than it would be in Babylonia. One might suggest, therefore, that intermarriage could more easily be avoided in *'Ereṣ* Israel than in Babylonia given its less-rigorous conversion process. Thus, Douglas's group dimension will be analyzed here for each society in terms of the ease of entering the Jewish society by means of conversion.

In terms of the "grid" dimension of Douglas's model, one might project that, all affinity-opportunity factors being equal, the propensity towards intermarriage would be lower where individuals have high attachment to their respective groups and vice versa. In this context, tighter control of a society over the individual would seem to mitigate against intermarriage. At first blush, one might think that in Babylonia, where the rabbis seem to have been more cohesive and had more influence in the community than was the case in *'Ereṣ* Israel and where the structure and authority of the Resh Galuta oversaw the Jewish community on communal matters, there would have been greater control over the individual in Babylonia than in *'Ereṣ* Israel. However, one cannot conclude this, as the precise definition of authority structures of the societies under investigation is not known, nor is the actual degree of authority held by any purported authority figure or group.⁹³⁶ It is impossible to characterize the control on the group as a whole either in *'Ereṣ* Israel or Babylonian. Thus, it is not possible to analyze the collective strength of individuals'

⁹³⁴ (Lavee 2018).

⁹³⁵ B. *Sanhedrin* 44a. R. Abba b. Zavda said "Though he has sinned, he remains an Israelite."

⁹³⁶ (G. Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* 2012). In his recent book, Simcha Gross argues strongly (Gross, *Babylonian Jews and Sasanian Imperialism in Late Antiquity* 2024, 59-85) that in Babylonia as well "there was no central governing rabbinic body to determine rules, regulations, even basic laws, nor to disseminate them to the public at large." He also argues that the rabbis had little enforcement power as well.

connections to the respective Jewish societies, i.e., the “grid” dimension, that are the focus of this dissertation—particularly as related to the possibility of intermarriage.

METHODOLOGICAL CHALLENGES

Providing support in the following chapters for a hypothesis regarding the differences between *’Ereṣ* Israel and Babylonia regarding the reality, or perceived reality, of intermarriage is fraught with methodological challenges.

The first challenge is one of data. Anthropological studies of societies often rely on an ethnographic analysis of the culture being studied. Such an ethnography is typically constructed based on firsthand observation of and conversations with members of the society. In the present case, these long-gone societies cannot be observed firsthand to know to what degree there was concern over intermarriage or, for that matter, how commonly intermarriage truly occurred. Rather, the analysis is forced to rely on a critical assessment of relevant statements, stories, and explanations of rulings as they appear in a relatively limited number of texts that these societies have left behind, near-contemporaneous histories written about them, and any physical remains left behind, with all the challenges that each of these entails.

The data challenge is even more pronounced for amoraic Babylonia. Middle Persian texts, for example, though containing some hints of the reality, need to be approached cautiously. As one example, at the heart of this literature is the *Zand*, a translation of and commentary on the sacred tradition known as the *Avesta*.⁹³⁷ It includes a translation of some of the surviving books of the *Avesta* (which had been transmitted orally until late Sasanian times) and Bavli-like lengthy, learned discussions, sometimes attributed to named Zoroastrian authorities and sometimes

⁹³⁷ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 23-28).

anonymous. It is not clear when and where the Zand was composed. Shai Secunda suggests that it can be approached as an oral text that was first put together prior to the Muslim conquest. However, it is not known whether the Zand has come down to us in fundamentally the same form as its late antique incarnation. It also contains elements of Avesta that actually preceded the Sasanian period, though it is not always easy to discern what was still relevant in the Sasanian period. Similar issues pertain to other groups of text. Thus, certain insights about the Sasanian period can be drawn, but only with great care.

There is extant a limited body of Syriac Christian literature particularly the Persian Martyr Acts. Though there is what to be learned from them about Jewish society, much of the material is hagiographic. Additionally, there is a scarcity of material remains that can be unproblematically tied to the Sasanian period.⁹³⁸ The Bavli will be used as one source, where appropriate. As Seth Schwartz concludes, “In the case of Babylonia, there is, then, no escaping the fact that all historiography is necessarily primarily Talmudic exegesis.” Similarly, Yaakov Elman writes, “Our data is restricted to the Bavli, except for the magic bowls, which may date from a later time, and we are thus at the mercy of the redactors of that compilation and of the rabbinic class they represent and re-present.”⁹³⁹

Nissan Rubin suggests that, while not as optimal as firsthand, participatory observation of the society being investigated, analyzing texts is indeed valid from an anthropological perspective.⁹⁴⁰ “The investigator...knows which questions he would have asked had he participated in the life of that society as an observer. In this way, he seeks to understand the

⁹³⁸ (R. Kalmin, *Jewish Babylonia between Persia and Roman Palestine* 2006, 121). (S. Schwartz 2007).

⁹³⁹ (Elman, *Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition* 2007).

⁹⁴⁰ (N. Rubin 1995, 11).

significance of phenomena in the eyes of the members of the society to which the text relates and the significance of the symbols of the culture that he is studying.”

A further methodological challenge is that, as discussed in Chapter 3, while the rabbinic texts often describe their own society, as well as the societies around them, they were not written as historical documents but to serve other purposes, such as religious or moral guidance, polemics, or apologia to neighboring cultures.⁹⁴¹ Furthermore, in very many instances, from the times these texts were produced until today’s editions, they underwent sometimes significant and substantive modification or excisions due to inadvertent transcription or printing errors or to conscious censorship or other agenda-driven changes. One thus must be extremely cautious in drawing conclusions from these texts, where they exist. Nonetheless, as discussed in Chapter 3, much can be gleaned from them especially if triangulated against other contemporaneous texts and supplemented by scholarship based on physical remains through recent archaeological digs.

Galit Hasan-Rokem takes a similar approach to Rabbinic literature. “I hold the [rabbinic] texts to be ethnographic in their main interest as they...reify the experienced world, of the society they relate to, based on dialogically narrated material.”⁹⁴² She cautions that “this should not be understood as a call to view rabbinic texts as fieldwork journals,” but suggests that these texts were indeed created by the rabbis out of an ethnographic interest in their own culture.⁹⁴³

⁹⁴¹ As Yosef Hayim Yerushalmi (Yerushalmi 1996, xxxiii-xxxiv) notes, “Although Judaism throughout the ages was absorbed with the meaning of history, historiography itself played at best an ancillary role among the Jews, and often no role at all; and, concomitantly, that while memory of the past was always a central component of Jewish experience, the historian was not its primary custodian...Even individual memory is structured through social frameworks, and, all the more, that collective memory is not a metaphor but a social reality transmitted and sustained through the conscious efforts and institutions of the group.” In our case, it is the rabbis of the Mishnah, Tosefta, and the Talmudim whose conscious efforts are transmitting the memory that they wish their followers to have.

⁹⁴² (Hasan-Rokem 2003, 3).

⁹⁴³ (Hasan-Rokem 2003, 30).

A third challenge is generalizing about the societies being examined here. The Jewish community in 'Ereṣ Israel at any given point was strewn over various regions. Sociological homogeneity cannot be assumed. Urban life dramatically differed from rural life. Particularly in the mid-fourth century, as will be shown, the situation in the Roman metropolis of Caesarea was much different from that of Tiberias, a mere fifty miles away, or from the small Jewish towns of the Galilee just to the northwest of Tiberias. “Southern” rabbis, though separated by fewer than 100 miles, were disparaged by “northern rabbis” as less learned and as belittling rabbinic law.⁹⁴⁴ Even more so, perhaps, in the larger Babylonia there were certainly perceived, and likely actual, differences in society and religious observance by location. For example, the Babylonian rabbis called Messene, a region only about 100 miles south of the Babylonian center, “dead” from a Jewish lineal purity perspective, and Elam, a bit further south and east, as “dying.”⁹⁴⁵ Even within one geographic location, Jew-Gentile interaction differed by socioeconomic category or in the cities versus towns and villages.⁹⁴⁶

Within the societies being analyzed, there was variability in other factors likely affecting intermarriage, including economic conditions. Even at the same time and in a single geographic region, one can find various family structures, each adapted to its own conditions of existence.⁹⁴⁷

⁹⁴⁴ Regarding being less learned, see y. *Mo'ed Qaṭtan* 3:5 82d 817:12-13 and its parallel, y. *Berakhot* 2:6 5b 21:11-12: “Where there were greater rabbis right in front of him [in the North] he asked lesser rabbis [in the South]?” See also (Miller, Sages and Commoners in Late Antique 'Erez Israel: A Philological Inquiry into Local Traditions in Talmud Yerushalmi 2006, 31ff) for an analysis of the latter sugya and similar. Also, y. *Pesahim* 5:3 32a 525:31-34, where R. Yonatan had a “tradition from my fathers” that one should not teach Southerners aggadah because “they are haughty and limited in Torah.” Regarding belittling rabbinic law, see b. *Avodah Zarah* 36a: “Lyddans, such as R. Samlai the Southerner, belittle rabbinic law.” Interestingly, Lawrence Schiffman (L. H. Schiffman 1992) points out that mishnaic texts note several instances where Galileans were indeed more stringent in regard to the law than their Judean coreligionists.

⁹⁴⁵ (Paz, 'Meishan is Dead: On the Historical Contexts of the Bavli's Representations of the Jews in Southern Babylonia 2018) and (Paz, Elam Gosseset: Ha-Talmud ha-Bavli ve-Yehudei Khuzestan ba-Tekufah ha-Sasanit 2024).

⁹⁴⁶ (N. Rubin 2008, 3-4).

⁹⁴⁷ (N. Rubin 2004, 41-43).

Finally, as with all sociological-anthropological analyses of earlier societies, the analysis must proceed with caution since the lens being used to analyze these ancient societies is, unavoidably, tainted by modern sensibilities.

Despite the challenges, it remains a worthwhile exercise to assess the situation in this regard in the three societies in order to determine whether the change to the rabbinic explanation of the prohibitions of Gentile bread and food might relate to differences between the *'Ereṣ Israel* Jewish societies on the one hand and the Babylonian Jewish society on the other. Rubin claims that this is a valid anthropological approach. “Every culture is fair for comparison: the comparisons check if the existence of specific social or cultural phenomena are accompanied by the existence or absence of other social and/or cultural phenomena.”⁹⁴⁸

With these caveats in mind, the next chapters apply the above framework to what is known of the respective societies, projecting how the societies may or may not have been predisposed to intermarriage. This is followed in each chapter by what may be deduced about the actual state of affairs—or at least the respective rabbinic perceptions of such—in each society.

WORKING DEFINITIONS

Attempting to discuss, let alone, reconstruct socio-political conditions that existed two millennia ago, especially when offering them as the context for the halakhic decision-making of the sages of the time, is a challenging undertaking. Yet the discussion of the rabbinic fear of intermarriage, the focus of this dissertation, must posit some definitions and hypotheses regarding the following questions: What did it mean to be Jewish at the time? Were there different categories of Jews? What were the boundaries of who was considered Jewish? Who was considered a Gentile? Was

⁹⁴⁸ (N. Rubin 1995, 11).

there a single notion of “Gentile” or were there perceived variations? Was there a (conversion) process by which a Gentile could become Jewish? If so, what was that process? Was it possible for a Jew to become “un-Jewish?” What was Jewish marriage at the time? Did becoming “married” entail specific, established rites? If so, what constituted a marriage between two people of different religions? Was there a commonly accepted definition of intermarriage and, if so, what was it? Did the act of marriage itself create a “conversion?”

The answers to these questions and the definitions of the terms evolving from these answers are far from straightforward. To complicate matters even further, the answers and definitions changed substantially over the periods and geographies focused on here. Furthermore, each of these questions has been analyzed intensively by many scholars, and there is much disagreement. Rather than undertake an independent analysis that is unlikely itself to lead to decisive or definitive conclusions, what follows is a brief summary of terms to help construct a working definition of intermarriage. Most of these terms will be analyzed more deeply in the three ensuing chapters.

Over the period addressed in this dissertation, many concepts and boundaries were somewhat amorphous at first but took on increasing definition as time went on until they reached a form that is more recognizable today. Nonetheless, as will be shown, regardless of the specific definitions that might be applied today to any or all of these terms, it is quite likely that at each point and place in history, the people themselves, for the most part, knew what intermarriage was and who was not “Jewish” for these purposes.

Who was a Jew?

Shaye Cohen, in his classic analysis of the evolution of the definition of a Jew, writes that the Jews (Judeans) of antiquity constituted an ethnic group attached to a specific territory, whose members shared a sense of common origins, claimed a common and distinctive history and destiny,

possessed distinctive characteristics, and felt a sense of collective uniqueness and solidarity.⁹⁴⁹ Following the Hasmonean rebellion in second century B.C.E., for the first time, anyone could become a *Ioudaios* through a change in values, culture, and practice.⁹⁵⁰ By the time of King Herod (ruled c. 37 to c. 4 B.C.E), *Ioudaios* was not only an ethno-geographic term, but also a religious and political one.⁹⁵¹

Cohen suggests that, externally, in many places—certainly the Roman cities—it was sometimes difficult to distinguish a Jew from a Gentile as they were often corporeally, visually, linguistically, and socially indistinguishable.⁹⁵² Other Mideastern cultures (e.g., Idumeans and Itureans) also circumcised, and Greek was a common language for Jews, especially in Roman cities. Jewishness expressed itself primarily, at least in eyes of outsiders, via the observance of Jewish practices, such as abstaining from pork, refraining from work on Sabbath, or attending synagogue.⁹⁵³

But religious observance itself was not uniform, even among practicing Jews. First and foremost, prior to the compilation of the Mishnah c. 200 C.E., there was no standard book of “Jewish Law.” Rather, observance was mimetic—having been handed down from one generation to another, family by family. By the first century C.E. there were a number of sizable streams of

⁹⁴⁹ (S. J. Cohen 2000, 7).

⁹⁵⁰ (S. J. Cohen 2000, 24, 109ff, 136-137).

⁹⁵¹ Ibid.

⁹⁵² While this may have been so for many Jews, it was certainly not the case for all Jews. Jews committed to biblical law were forbidden to cut their hair or shave their beards in certain ways, in keeping with *Leviticus* 19:27 “You shall not round the corners of your heads, neither shall you mar the corners of your beard.” Though referring to a time period a bit later than the one Cohen refers to, t. *Šabbat* 6(7):1 forbids a *qomi* (κόμη) haircut and shaving one’s head but keeping a ponytail as being the “ways of the Amorites,” or Gentiles. Indeed, the Talmud relates how one Reuven b. Istrovli (b. *Me’ilah* 17a, or Avtolos b. Reuven per t. *Soṭah* 49b, or Avtolmos b. Reuven per b. *Bava Qama* 83a) took on a *qomi* haircut in order to look like a Gentile when he approached the Caesar. These would imply that Jews did not all blend in otherwise in tannaitic times.

⁹⁵³ See (Adler 2022, 27-37) regarding Jewish adherence to dietary laws at this time.

philosophies and practice.⁹⁵⁴ Very briefly, the *Sadducees* appear to have been drawn from priestly, aristocratic, and military circles. Their attention was focused on Temple worship.⁹⁵⁵ Rejecting Oral Law, they looked to divine inspiration in determining the law.⁹⁵⁶ The *Pharisees* appear to have been the most popular sect in Judea. They followed the written Torah but also relied on and propagated the Oral Law. The *Essenes* were exclusivists who abstained from Temple worship in Jerusalem because they felt that the priests were corrupt. They devoted much of their time to study, were stricter than the Pharisees in many of their observances, and were known for voluntarily living in poverty and performing water purification rituals regularly. Joining the sect was very difficult, requiring an extensive trial period along with many vows. The most important trait of the *Zealots*, referred to by Josephus as the Fourth Philosophy, was their passion for liberty. They are associated by some scholars with the *sicarii*, Jews who killed those, including other Jews, whom they viewed as collaborators with the Romans.⁹⁵⁷ The *Dead Sea Sect* resided in a desert complex west of the Dead Sea, known as Qumran.⁹⁵⁸ Scholars disagree whether this group was separate from or connected to the Essenes, as many of their practices were similar. Also, since they lived remotely, the extent of their interaction with other Jewish streams is not clear.

⁹⁵⁴ (Josephus, *The Jewish War: Books 1-2* (Loeb) 1927, 2:119–166), (Josephus, *Jewish Antiquities XII-XIV* 1957, 13:171–173), (Josephus, *Jewish Antiquities, Books XVIII-XIX* (Loeb Classical Library) 1965, 18:11–22) and, regarding the zealots, (Josephus, *Jewish Antiquities, Books XVIII-XIX* (Loeb Classical Library) 1965, 18:23).

⁹⁵⁵ (Regev, *Pure Individualism: the Idea of Non-Priestly Purity in Ancient Judaism* 2000, 198).

⁹⁵⁶ (Lifshitz 2019, 83ff).

⁹⁵⁷ (Josephus, *Jewish Antiquities, Books XVIII-XIX* (Loeb Classical Library) 1965, XVIII:23 21). Not all scholars saw the Zealots as a separate group. Some, such as Heinrich Graetz (Graetz 1893 (1956), 269-270) and Israel Ben-Shalom (Ben-Shalom 1993), believed that they were part of the Beit Shammai bloc of Pharisees. Richard Horsley (Horsley, *Politics, Conflict, and Movements in First Century Palestine* 2023, 215) suggests that the Zealots were not a sect or philosophy but rather largely villagers from northwest Judea. “When the Roman reconquest of the country [in 67 C.E.] made their traditional way of life impossible, they formed brigand groups in the countryside. Then as the Romans advanced, they fled to Jerusalem and formed their coalition and called themselves ‘Zealots.’”

⁹⁵⁸ The term “sect” applies to this group as they clearly separated themselves from the rest of Israel. As written in their *Halakhic Letter* (4QMMT C:7-8): “We have separated ourselves from the multitude of the people and from all their impurities and from intermingling in these practices and from participating with them in these (practices).” (Qimron and Strugnell 1994, 134).

Following the destruction of the Second Temple in 70 C.E., these streams, or sects, gradually dissipated. Many scholars believe that the Pharisees persisted and evolved into the rabbinic movement that eventually became the normative tradition of Judaism. Despite the disappearance of the sects, the reported convening of the council of Sages at Yavneh (c. 90 C.E.), and the gradually increasing role of the rabbis, or tannaim, as they were known at the time, religious practice among the Bible-observing Jews continued to be highly personal.⁹⁵⁹ As will be discussed at greater length in the next chapter focused on the tannaitic period, this dissertation adopts Stuart Miller's characterization of religious observance at the time as a Torah-derived "complex common Judaism."⁹⁶⁰

It was only with the introduction of the Mishnah around 200 C.E. that a "regularization" of halakhah seems to have ensued. Despite the diverse opinions recorded in the Mishnah on a preponderance of matters, a set of bounds of "legitimate" halakhic opinion and praxis was established. From that time on, Jews could be increasingly characterized by the extent of their acceptance (in theory, at least, if not in full practice) of the dicta in that corpus and the sages who promulgated those dicta. During the later amoraic 'Ereṣ Israel, the boundaries began to take on even greater definition.

In amoraic Babylonia, the Jews were a clearly defined group. Though Zoroastrian theological, ethical, and ritual prescriptions may have felt familiar to Babylonian Jews despite the divergences, there is no question that Jews saw themselves as quite distinct.⁹⁶¹ Judaism was also

⁹⁵⁹ On the realities of Yavneh, see (S. J. Cohen, *The Significance of Yavneh: Pharisees, Rabbis, and the End of Jewish Sectarianism* 1984). On the other hand, other scholars, such as Daniel Boyarin (*Boyarin, Anecdotal Evidence: The Yavneh Conundrum, Birkat Hamminim, and the Problem of Talmudic Historiography* 2006) and Stuart Miller reject the historicity of the "Council of Yavneh."

⁹⁶⁰ For a survey of the various characterizations and the rationale for Miller's use of "complex common Judaism" see (S. S. Miller, *Sages and Commoners in Late Antique 'Erez Israel: A Philological Inquiry into Local Traditions in Talmud Yerushalmi* 2006, 21-26 incl n68).

⁹⁶¹ (Elman, *He in His Cloak and She in Her Cloak: Conflicting Images of Sexuality in Sasanian Mesopotamia* 2007, 131) and (Elman, *Talmud ii. Rabbinic Literature and Middle Persian Texts* 2010).

perceived by Babylonians as a religion separate from Zoroastrianism, Christianity, Manichaeism, and other religions prevalent in Babylonia at the time.⁹⁶²

Standards of Jewish practice became more formalized in Babylonia, with the presence, certainly in the later period, of two main centers of Jewish learning, *yešivot*, in Sura and Pumbedita and the gradual development of the Babylonian Talmud with its halakhic discourses and rulings.⁹⁶³ However, even at this point, not all practice was standardized.⁹⁶⁴ Furthermore, even in the Bavli there are references to non-rabbinic (or non-halakhah-compliant) Jews.⁹⁶⁵ In addition, as will be discussed later, some rabbinic Jews in Babylonia may have followed the rulings of *'Ereš Israel* rabbis, rather than Babylonian ones. Finally, material remains indicate that many Jews may have resorted to magic and incantation bowls to address their issues, perhaps to the rabbis' chagrin.⁹⁶⁶

⁹⁶² See, e.g., the inscription of the Zoroastrian priest Kertir from the latter half of the third century. In it, Jews are listed alongside Buddhists, Hindus, Nazarenes, Christians, Baptists, and Manichaeans. (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 18).

⁹⁶³ Scholars debate when these academies evolved. Isaiah Gafni (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 177-203) and several other scholars posit that these were early institutions. David Goodblatt (Goodblatt, *Rabbinic Instruction in Sasanian Babylonia* 1975, 263-285) argues that early on they were more transient and smaller Master-centric disciple circles and that “the academies of the Islamic era did not exist in the amoraic period under any name.” Jeffrey Rubenstein (Rubenstein, *The Rise of the Babylonian Rabbinic Academy: A Reexamination of the Talmudic Evidence* 2002) suggests that full-fledged institutions came into being in post-amoraic (stammaic) times and are referred to in the Bavli, but only in the later, anonymous editorial layers.

⁹⁶⁴ Haym Soloveitchik (H. Soloveitchik, *The 'Third Yeshiva of Bavel'* 2014) argues that there were centers of learning, *battei midraš*, throughout Babylonia and that the primacy attributed today to the centers at Sura and Pumbedita may not have in fact been seen as such by Babylonian Jews at the time. Indeed, he argues that there was a third primary yeshiva that highly influenced Ashkenazic learning and decision-making at the beginning of the second millennium.

⁹⁶⁵ For example, a story at b. *Avodah Zarah* 76b refers to one Baṭi b. Tovi who King Shapur assumed did not adhere to the strictures of kashrut because the king was aware of his sexual indiscretion the previous evening. B. *Hullin* 110a relates how Rav found Babylonians lax in the rabbinic prohibitions of cooking milk and meat, with one woman even asking her friend how much milk was needed to cook a certain amount of meat. And, as will be discussed extensively later, b. *Qiddušin* 71a-72b includes a discussion of the very “Jewishness” of Jews in certain regions of Babylonia.

⁹⁶⁶ See discussion in (J. Neusner, *Archaeology and the Study of Babylonian Judaism* 1970) regarding seventh-century A.D. magical bowls of Nippur and related Bavli texts showing how the sages seemingly relegated R. Yehoshua b. Perahia, a prominent early sage, to a minor status seemingly owing to the later association of his name with magic and incantation bowls. Simcha Gross and Avigail Manekin-Bamberger, on the other hand, tentatively suggest (Gross and Manekin-Bamberger, *Babylonian Jewish Society: The Evidence of the Incantation Bowls* 2022) that “it is clear that among the bowl scribes, some had access to rich collection of Jewish texts and traditions and appear to have been intellectually and socially proximate to rabbinic circles” and that this phenomenon “complicates the simplistic binaries between rabbinic literature and incantations.”

Pagans and Romans

Among the population of 'Ereṣ Israel were cults that worshipped multiple deities who were given physical representations/embodiments and to whom sacrifices were typically offered. This local paganism, notes Nicole Belayche, was “not *one* organized religious system.”⁹⁶⁷ The cults had no dogma, “catechism,” or sovereign sacerdotal authority. Rather, they were amalgams of rites and homage rendered to diverse gods of ethnic and/or local origin. The Romans later brought with them the practices of Hellenistic paganism and, over time, added Emperor worship to their pagan beliefs. In Imperial Roman paganism, sacrifices were often brought during civic events; libations were offered to the gods during meals. Over time, local pagan cults also adopted elements of Roman/Hellenistic paganism. The specifics of local and/or Roman Imperial pagan practices are not relevant to the discussion here. What will be important are the boundaries and relationships between members of these groups and Jews. These will be explored in the following chapters.

Non-rabbinic sources during this period talk of pagans who had an affinity of one sort or another towards Judaism and adopted some (or all) of its practices. Nonetheless, as Shaye Cohen notes, the boundary that separated Jews and Judaism from pagans and paganism, though broad, was distinct.⁹⁶⁸ Jews in a community could likely identify those whom they considered Jewish and those they did not. As Cohen writes, “A Gentile who engaged in ‘Judaizing’ behavior may have been regarded as a Jew by Gentiles, but as a Gentile by Jews.”⁹⁶⁹

⁹⁶⁷ (Belayche 2001, 27ff).

⁹⁶⁸ (S. J. Cohen 1989, 31).

⁹⁶⁹ (S. J. Cohen 1989, 14).

Christians

The diversity in Judaism in first century 'Ereş Israel, described above, was only part of “the kaleidoscope nature of the overall religious scene” at the time.⁹⁷⁰ For, concurrently, Christianity was evolving from within Judaism. Starting with the crucifixion of Jesus around 30 C.E., a movement took hold primarily among Jews, at first, that perceived Jesus as the Messiah. The boundary lines were not clear. David Frankfurter makes the case that, in the first century, the “Jesus movement” was an entirely intra-Jewish sectarian movement with followers accepting the basic tenets of Judaism and its teachings but also accepting the teachings of Jesus.⁹⁷¹ From the start, a prominent group of Christian leaders and followers saw themselves as a continuing part of the Jewish people, seeking to bring salvation to them. These Christians continued to participate in Temple services and abide by Jewish law. They insisted that any Gentile who converted to Christianity be circumcised.⁹⁷²

The Christian mission began in 'Ereş Israel with the intent to convince Jews to recognize Jesus as the Messiah who would bring about the Kingdom of God on earth.⁹⁷³ The extent of the success of the mission among Jews is not clear. What is clear is that the Jews who accepted Jesus did not uniformly adopt his and his followers' messages. In the words of Paula Fredrickson, “Jews joining the Jesus movement, in short, did not ‘convert’ so much as make a lateral move within Judaism, similar to a decision to move from being a Sadducee to becoming a Pharisee.”⁹⁷⁴

⁹⁷⁰ (Grabbe, *A History of the Jews and Judaism in the Second Temple Period; Volume 4, The Jews Under the Roman Shadow (4 BCE-150 CE)* 2021, 167).

⁹⁷¹ (Grabbe, *A History of the Jews and Judaism in the Second Temple Period; Volume 4, The Jews Under the Roman Shadow (4 BCE-150 CE)* 2021, 157). (Frankfurter 2001).

⁹⁷² (Frankfurter 2001, 421).

⁹⁷³ Gager notes (Gager 1985, 150) that only the later *Gospel of John* was the first to use “the Jews” as a universal term without internal distinction as a synonym for the opponents of Jesus.

⁹⁷⁴ (Fredriksen, *When Christians were Jews: The First Generation* 2018, 150).

Further into the first century, Paul and others initiated a mission to the Gentiles, primarily outside of *’Ereṣ* Israel but in it as well. Though he considered himself an observant Jew, for his mission to the Gentiles Paul promoted the notion of the “inward” Jew.⁹⁷⁵ Paul’s new “true” Jew needed not follow halakhah, but rather embrace a “spiritualized” Torah. Circumcision needed only to be “written on his heart” rather than physically on his body, as was maintained by Jesus believers in Jerusalem.⁹⁷⁶

During the first century and early second century, there was an “extraordinary range of practice and belief” in Christianity.⁹⁷⁷ Gedalyahu Alon estimates that at least five streams developed just among those who adopted both “Jewish” and “Christian” beliefs and practices, including two groups known as Ebionites and one as the Elcesaites.⁹⁷⁸ Many of these believers were indistinguishable on the surface from Jews and may have even prayed together with non-Jesus Jews.⁹⁷⁹

It was only toward the end of the first century that physical and theological distancing of Christians from the Jews began to be discerned, by some Christian leaders denigrating the Jewish religion, blaming Jews for the death of Jesus, not requiring circumcision, changing the day of the Sabbath, permitting the eating of pork, and claiming to be the true Israel. Early into the second

⁹⁷⁵ (Gager 1985, 113).

⁹⁷⁶ *Paul* 2:28-29. (Gager 1985, 113). (Frankfurter 2001).

⁹⁷⁷ (Wilson 1995, 2).

⁹⁷⁸ (Alon, *Toledot ha-Yehudim be-Eretz Israel bi-Tekufat ha-Mishnah vaha-Talmud* 1988 (Eighth Printing), 179-192). Also variously known as Elcasaites, Elcesaites or Elchasaites.

⁹⁷⁹ Stephen Wilson (Wilson 1995, 152) identifies a number of additional groups. One was the Jacobites, who focused on the figure of James, a Law abider. Another group, described by Epiphanius (Epiphanius 2009, 123-130) in the fourth century was the Nazoraeans, although it is not clear whether he is conflating this group with one of the groups previously described. This group, according to Wilson (Wilson 1995, 155), used the Old and New Testaments, knew Hebrew, had one Hebrew Gospel, accepted resurrection of the dead, believed in one God, the creator, and his son Jesus, observed the Jewish Laws, and were hated and cursed by the Jews for its messianic beliefs.

century, the books of the New Testament were written, and, with the writings of John, an anti-Jewish tone began entering the discourse.⁹⁸⁰

By the beginning of the second century, according to many scholars, Christianity was recognizable to outsiders as a separate religion, even as some of the practices overlapping Judaism continued.⁹⁸¹ Indeed, Roman eyes apparently saw a distinct identity as, by 112 C.E., Christians were outlawed and subsequently persecuted and martyred throughout the second century.⁹⁸²

Even in the second century, Christianity showed great diversity with no settled orthodoxy.⁹⁸³ In addition, there were Gentile Christians, referred to as “Judaizers,” who adopted some or even many of the Jewish practices because they saw attraction—and even the legitimization of Christianity—in the antique Jewish religion and its laws. Conversely, according to several modern scholars, there were tradition-observant Jews who incorporated Jesus into their belief system. Adam Becker and Annette Reed suggest “ample evidence that speaks against the notion of a single and simple ‘Parting of the Ways’” of Judaism and Christianity in the first or second century C.E.⁹⁸⁴ David Frankfurter writes that “there is evidence for a degree of overlap in self-definition that, all things considered, threatens almost every construction of an historically distinct ‘Christianity’ before at least the mid-second century, ... situations where there is ritual or interpretive attention in some form to Christ practiced entirely within a Jewish self-definition.”⁹⁸⁵ Annette Reed also writes that “some late antique authors and communities appear to have accepted Jesus as a special figure in salvation-history, without seeing this belief as inconsistent with Torah-

⁹⁸⁰ (Gager 1985, 16).

⁹⁸¹ See (Alon, *Toledot ha-Yehudim be-Eretz Israel bi-Tekufat ha-Mishnah vaha-Talmud* 1988 (Eighth Printing), 180).

⁹⁸² (Wilson 1995, 16-18). (Letter of Pliny to the Emperor Trajan 10.96.1-4, 6-7).

⁹⁸³ (Wilson 1995, 195).

⁹⁸⁴ (Becker and Reed, Introduction 2007, 22-23).

⁹⁸⁵ (Frankfurter, *Beyond "Jewish Christianity": Continuing Religious Sub-Cultures of the Second and Third Centuries and Their Documents* 2007, 142).

observance and/or the continued validity of God's eternal covenant with the Jews."⁹⁸⁶ This phenomenon persisted in the Roman Empire even into the late fourth century and, possibly, beyond that time outside of the Empire.⁹⁸⁷

Despite the degree of nebulosity to modern scholars, Martin Goodman notes that the "occasional contact and conflict between members of distinct groups, and their sharing of theological notions or liturgical practices, need not imply any lack of clarity for the ancient participants of each group about the differences between them."⁹⁸⁸

Conversion Process

The process by which a Gentile could join the Jewish people and be considered a Jew (and his/her marriage to a Jew would not be considered an intermarriage) underwent change over time. In the tannaitic period, conversion to Judaism seems to have been a private affair.⁹⁸⁹ Conversion did not need to be supervised or sponsored. There was no need for a formal acceptance of the commandments, nor for witnesses.⁹⁹⁰ Gary G. Porton writes that the Mishnah doesn't seem interested in "conversion" as a concept.⁹⁹¹ For example, it doesn't discuss the details of conversion rituals, whether to encourage or discourage conversion, the Gentile's motives for converting, or that converts must observe the whole Torah. Aside from non-rejection of Jewish law, for circumcision for the male and ritual purification in the ritual bath, *miqveh*, for both genders—for which the convert's own testimony seems to have been relied upon—there seems to have been no

⁹⁸⁶ (Reed 2007, 189).

⁹⁸⁷ (Becker, *Beyond the Spatial and Temporal Limes: Questioning the "Parting of the Ways" Outside of the Roman Empire* 2007).

⁹⁸⁸ (Goodman, *Modeling the "Parting of the Ways"* 2007, 119).

⁹⁸⁹ (S. J. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* 2000, 51) and (Lavee, *The Rabbinic Conversion of Judaism: The Unique Perspective of the Bavli on Conversion and the Construction of Jewish Identity* 2018, 183).

⁹⁹⁰ See, e.g., Tractate *Gerim* 4:3. Paula Fredriksen (Fredriksen, *Paul: The Pagans' Apostle* 2017, 66) too, contends that "we do not know how, outside of marriage, pagan women 'became' Jews, other than by assuming Jewish practices."

⁹⁹¹ (Porton, *The Stranger within Your Gates* 1994, 30).

ritual, ceremony, or symbol to effect the transition to this new status.⁹⁹² As for males, many have been previously circumcised in any case, as this was the practice in several surrounding cultures.⁹⁹³

By the Yerushalmi's time, there may have been a requirement, according to some amoraic opinions, to merely disavow one's idolatry or, according to others, to accept all of the Torah commandments.⁹⁹⁴ However, by the time of the Babylonian Talmud, as Moshe Lavee shows, the conversion process had changed and that the Babylonian rabbis had "rabbinized" the conversion process.⁹⁹⁵ For example, the rabbis instituted the need for a rabbinical "conversion court" of three sages to oversee the entire conversion process, the need for both circumcision and immersion to be part of the procedure attested to by qualified witnesses, and the need for a formal acceptance by the prospective convert of a commitment to observe the commandments.⁹⁹⁶ This conversion court, writes Lavee, "appears to have been invented out of whole cloth by the Bavli."⁹⁹⁷ Lavee also

⁹⁹² See (Schiffman, Conversion to Judaism in Tannaitic Halakhah 2015). Mishnah is silent regarding a conversion process, although it seemingly assumes (m. *Pesahim* 8:8) the need for circumcision and immersion. Schiffman cites the three conversion requirements listed in *Sifre Ba-Midbar* 108: circumcision, immersion, and offering a sacrifice. The latter was not relevant after the destruction of the Temple. He also cites t. *Demai* 2:5 which states that "we do not accept a convert who has accepted upon himself all the laws of the Torah except one." Goodman (Goodman, Rome and Jerusalem: The Clash of Ancient Civilizations 2007, 112) illustrates the simplicity and ease of exercise of this option by describing how the two daughters of Agrippa I (d. 44 C.E.) married kings from other parts of the Roman Near East who submitted to circumcision for the sakes of their marriages.

⁹⁹³ (S. J. Cohen, The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties 2000, 39ff, 115). Cohen suggests (265-266) that, even in tannaitic times, marriage alone was the functional equivalent of "conversion." The woman joined the house of Israel by joining her Israelite husband. Conversely, when an Israelite woman married a foreigner, she usually became part of the husband's family and was no longer under authority of her native people. Martin Goodman (Goodman 1989) asserts that the Romans, and possibly even the Jews, did not even recognize the notion of conversion until the reign of Nerva, in 96 C.E. For an analysis of the nature of conversion and its relationship with Jewish identity, particularly in the post-mishnaic period through modern period, see (Zohar and Sagi 2015).

⁹⁹⁴ Y. *Yevamot* 8:1 8d 865:24-26. The requirement of attendance by a rabbi is possibly implied in y. *Yevamot* 8:1 8d 865:12 by R. Yehoshua b. Levi's invitation to Rabbi to stay overnight to attend the immersion of a female proselyte. However, this is not stated explicitly, and R. Yehoshua b. Levi would have been around in any case. Thus, the invitation may merely have been one to participate in celebrating the occasion.

⁹⁹⁵ (Lavee, The Rabbinic Conversion of Judaism: The Unique Perspective of the Bavli on Conversion and the Construction of Jewish Identity 2018).

⁹⁹⁶ (Lavee 2018, 183-184).

⁹⁹⁷ (Lavee 2018, 46).

shows that, in Babylonia, converts were not always well received.⁹⁹⁸ These circumstances now made conversion somewhat of a barrier in Babylonia.

Despite the sometimes-ambiguous status or unwelcoming treatment of the successful proselyte in different places and times, marriage by a convert to Judaism would likely not have been considered a forbidden intermarriage.

The Marriage Rite

Michael Satlow writes that Jewish wedding rituals from the Second Temple period are almost completely unknown.⁹⁹⁹ During the latter half of the second century and the early part of the third, the rabbis began to define certain parameters of the Jewish marriage rite.¹⁰⁰⁰ These included the modes of effecting the marriage transaction (money/valuables, contract, or intercourse);¹⁰⁰¹ the days of the week when marriages should occur;¹⁰⁰² the wife's rights to certain benefits during the marriage;¹⁰⁰³ and, a set alimony in case of divorce.¹⁰⁰⁴ Tannaitic sources also attest to the custom of a marital blessing, though no set formula is recorded. Satlow asserts that, at this time, "the blessing was almost certainly created ad hoc."¹⁰⁰⁵ By the time of the Bavli, however, the marriage rite had become more defined.¹⁰⁰⁶

⁹⁹⁸ (Lavee, *Proselytes are as Hard to Israel as a Scab is to the Skin* 2012) and (Lavee, *The Rabbinic Conversion of Judaism: The Unique Perspective of the Bavli on Conversion and the Construction of Jewish Identity* 2018, 107). In an email to me, Stuart Miller suggests that there were likely to have been then, as there are now, cynical Jews who didn't accept the conversion.

⁹⁹⁹ (Satlow, *Slipping Toward Sacrament: Jews, Christians and Marriage* 2003, 69).

¹⁰⁰⁰ (Satlow 2003, 74). See m. *Soṭah* 9:14 and t. *Soṭah* 15:8-9.

¹⁰⁰¹ M. *Qiddušin* 1:1.

¹⁰⁰² M. *Ketubot* 1:1.

¹⁰⁰³ M. *Ketubot* 5:6-7.

¹⁰⁰⁴ M. *Ketubot* 1:2. M. *Ketubot* 5:5 specifies the work that the wife must provide on behalf of the husband.

¹⁰⁰⁵ (Satlow 2003, 75). See, m. *Megillah* 4:3 and t. *Megillah* 3:14.

¹⁰⁰⁶ E.g., b. *Ketubot* 7b and b. *Qiddušin* 5b.

Intermarriage

Milton Yinger defines intermarriage as “marriage across a socially significant line of distinction” such as race, religion, ethnic culture, and social class.¹⁰⁰⁷ Ruth Cavan suggests that such “social significance refers to basic values widely accepted in a given society, to which members are deeply committed, and which to an observer distinguishes this society from others.”¹⁰⁰⁸ Religions typically organize themselves so as to preserve their values and to achieve and maintain biological, cultural, and social integrity. One part of that internal organization is what Cavan terms a “marital eligibility system” that controls or, in some cases, merely sets guidelines for mate selection. A basic feature of a marital eligibility system is endogamy, or marriage within the religion. Intermarriage is thus a violation of endogamy.

Shaye Cohen concludes that a general prohibition of intermarriage does not appear anywhere in *Tanakh*.¹⁰⁰⁹ The intermarriage prohibitions of *Exodus* 34:16 and *Deuteronomy* 7:2–4 refer only to the seven Canaanite nations.¹⁰¹⁰ The prohibition of *Deuteronomy* 23:4 precludes Ammonites/Moabites from “entering the congregation,” and *Deuteronomy* 23:8–9 permits Egyptians/Edomites to “enter the congregation” only after three generations. But it is not entirely clear that these prohibitions of “enter the congregation” are marriage bans. Mishnah *Megillah* 4:9 specifically rejects connecting “Do not allow any of your offspring [literally, your seed] to be offered up to *Molekh*” (*Leviticus* 18:21) to intermarriage. Even the intermarriage concern of *Ezra* 9:1 is very specific to Canaanites, Hittites, Perizites, Jebusites, Ammonites, Moabites, Egyptians,

¹⁰⁰⁷ (Yinger 1968).

¹⁰⁰⁸ (Cavan 1970).

¹⁰⁰⁹ (S. J. Cohen, *From the Bible to the Talmud: The Prohibition of Intermarriage* 1983) and (S. J. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* 2000).

¹⁰¹⁰ Brian Doak (Doak 2020, 26, 37) suggests that we have no good data on who these nations were and that “most scholars agree that these groups are not distinct racial or ethnic categories, and they are certainly not nations.” Rather, he suggests (39) that, “in biblical terms, seven indicates a totality.”

and Amorites and does not necessarily apply to all Gentiles. *Nehemiah* 13:23ff refers to intermarriage among Jews to the very specific “women of Ashdod, of Ammon, and of Moab.” While it is not clear to whom exactly “the women of Ashdod” refers, the other two nationalities are in fact those specifically prohibited in the Bible.

Furthermore, it is clear from the biblical texts that the underlying fear regarding intermarriage is that the Gentile spouse would turn the Jewish spouse away from God to worship idols and perform other abominations.¹⁰¹¹ Even Solomon with his 700 wives and 300 concubines was berated (*I Kings* 11:1-3) only for loving women who “surely...will turn away your heart after their gods.”¹⁰¹²

Indeed, there are indications in the Bible itself that intermarriage per se was not prohibited, even post-Sinai.¹⁰¹³ For example, the Bible implies that a war prisoner—the Midianite (*Numbers* 31:17–18) or other beautiful Gentile female (*Deuteronomy* 21:10–14)—may be naturalized merely

¹⁰¹¹ See *Exodus* 34:16.

¹⁰¹² In the chastisement of King Solomon in *I Kings* 11:1, the “Sidonians” are included in the list of nations with whom God prohibited intermarriage. They are not among the Seven Nations listed in *Exodus* 34:16 and *Deuteronomy* 7:2–4. While this could be interpreted as an indication that the biblical intermarriage ban was in fact not limited to the Seven Nations, Lawrence Schiffman (L. H. Schiffman, *Who Was a Jew? Rabbinic and Halakhic Perspectives on the Jewish Christian Schism* 2019, 15) suggests that the list in *I Kings* 11:1 is merely an update of the seven nations of pre-Israelite Canaan “in accord with the realities” of Solomon’s day.

¹⁰¹³ Christine Hayes (*Hayes, Palestinian Rabbinic Attitudes to Intermarriage in Historical and Cultural Context* 2003) points out that “close analysis of the sources indicates greater uniformity on [the matter of the scope of the biblical ban on intermarriage] than is generally supposed. The tannaim do not generally hold that the Bible contains a universal ban on intermarriage. The attribution of such an idea to an important second century tanna is the invention of the redactional layer of the Babylonian Talmud (b. *Avodah Zarah* 36b and b. *Šabbat* 17b). The rabbis understand the Bible to contain only a partial ban on intermarriage (i.e., only certain nations are prohibited). Second, as regards the rationale for the Bible’s partial ban on intermarriage, rabbinic sources of all stripes—early, late, Palestinian and Babylonian—attribute this ban to the moral-religious danger that such a union poses for the Israelite spouse.” Laliv Clenman (Clenman 2009) provides a detailed analysis of classical Jewish sources on intermarriage. She identifies “various systems” that the rabbis adapted in dealing with intermarriage, including Jewish betrothal/marriage (*qiddušin*), the status of the offspring, the concept of the congregation of God (*qahal*), the ten categories of Jews (*‘aşarah yuḥasin*), the Levitical incest laws (*‘arayot*), as well as the legal rules related to marriage and sexual relations between Jews and Gentiles.” Aggadic stories, she claims, consistently reveal “a remarkable awareness on the part of the rabbis of the fallibility of their halakhah and of the impracticality and challenges of enforcing it in the real lives of actual people in society.” She concludes that one cannot speak of a single rabbinic position, legal system, or legal rule *vis-à-vis* intermarriage. Rather, several and variable kinds of language, terminology, and interpretive approaches are used to describe and understand it.

through marriage.¹⁰¹⁴ Nor is there any indication in the Bible that Moshe's Midianite wife Zipporah converted after the Torah was given.

Even without a general biblical prohibition against intermarriage, there are many indications from, at latest, the beginning of tannaitic times that Jews sought to avoid intermarriage.¹⁰¹⁵ King Herod and his family, for example, appear to have gone out of their way to avoid intermarriage. Indeed, one wedding seemed to have been called off because the groom-king chose not to be circumcised.¹⁰¹⁶ Another example is the story recorded by Josephus of Anilaeus, a Jewish brigand in Parthia during the reign of Artabanus III (12–38 C.E.) who married the wife of a slain Parthian general.¹⁰¹⁷ Josephus reports that the Jewish leaders there scolded Anilaeus “that his actions were quite contrary to Hebraic custom and not consonant with their laws, in that he had taken a Gentile wife.”¹⁰¹⁸

Treatment of Intermarriage in Rabbinic Literature

Tannaitic literature is aware of the intermarriage phenomenon. But it specifies that the Jewish marriage rites—*qiddušin* and *nešu'in*—could not take effect between a Jewish woman and Gentile man.¹⁰¹⁹ Nonetheless, this and even later amoraic literature provide no formal, precise, halakhic

¹⁰¹⁴ The major decisor and commentator, R. Moses b. Nahman, *Ramban, ad loc.*, states that the woman is in fact still considered non-Jewish in her married state.

¹⁰¹⁵ Gedalyahu Alon (G. Alon, *Gentile Impurity* 1937, 128) also posits that intermarriage to any Gentile was forbidden in the Second Temple period. He cites several proofs: m. *Sanhedrin* 9:6 *qana'im pog'im bo* (קנאים פוגעים בו), zealots harm him; *Jubilees* 30:13-15: death to whoever marries his son or daughter of Gentiles; Herod's insistence on non-intermarriage; and Ezra's separation of Gentile wives.

¹⁰¹⁶ (Regev, *Herod's Jewish Ideology Facing Romanization: On Intermarriage, Ritual Baths, and Speeches* 2010, 197-206).

¹⁰¹⁷ (Josephus, *Jewish Antiquities*, Books XVIII-XIX (Loeb Classical Library) 1965, XVIII:342ff).

¹⁰¹⁸ As an interesting aside, according to Josephus, Anilaeus felt that “he could not hope to enjoy this woman but by obtaining power over her as a captive.” (342) The meaning of the latter phrase is unclear. But perhaps it reflects the fact that Anilaeus believed that although she would not convert, she would not need to convert if he considered her “captured in war.” This, in accordance with *Deuteronomy* 21:10-14, which does not mention the need for conversion in its permission to take a Gentile war captive as a wife. Thus, perhaps he rationalized that what he did was not intermarriage, despite the perceptions of the people around him.

¹⁰¹⁹ M. *Giṭṭin* 9:2.

definition of intermarriage and are relatively reticent regarding intermarriage. Perhaps this is because the Jewish concept of marriage, *qiddušin*, does not apply to Gentiles.¹⁰²⁰ But, the Bavli does refer (once, at *Avodah Zarah* 36b) to intercourse in a marriage situation with a Gentile, *išut derekh ḥatnut* (אישות דרך חתנות), contrasted with prostitution. And, as will be shown in the ensuing chapters, allusions to intermarriage can be found in the Talmudim, particularly in the Bavli, through discussions of “pre-intermarriage” situations and of the progeny of such unions.

Conclusion

To summarize, the definition of intermarriage varied by geography and time. The further along the timeline, the clearer the definitions become. However, even regarding the early centuries under review, despite the great diversity in religious belief and practice, informality of ritual, and the fact that the boundaries may appear blurry to the modern-day observer, there were nonetheless recognized cores in each religion and its practices. The individual living then who was about to marry likely knew very well to which group the other person belonged. The lack of precise

¹⁰²⁰ M. *Qiddušin* 3:12 and b. *Qiddušin* 68b. See also b. *Yevamot* 76a, where Rava states that “when they are in their Gentile state, they do not have *ḥatnut*.” *Sifra* on *Leviticus* 20:12 seems to base this exclusion on an exegesis. It states that “We have heard the exhortation, but we have not heard the punishment; it is, therefore, written (*Leviticus* 18:15) ‘The nakedness of your daughter-in-law you shall not reveal.’ By the term ‘your daughter-in-law,’ I would think even a maidservant or a Gentile woman; it is, therefore, written (*Leviticus* 18:15) ‘She is the wife of your son.’ Scripture speaks only of a woman with whom there is ‘wifehood’ with your son — to exclude a maidservant and a Gentile woman, where this does not obtain.” (אי כלתך (ויקרא יח, טו), אי כלתך) עונש שמענו אזהרה לא שמענו תלמוד לומר “ערות כלתך לא תגלה” (ויקרא יח, טו), אי כלתך) אפילו שפחה אפילו נכרית, תלמוד לומר “אשת בנך היא” לא אמרתי אלא באשה שיש לה אישות עם בנך יצאו השפחה והנכרית שאין לה אישות. עם בנך. B. *Qiddušin* 68b applies this biblical invalidity of marriage to all Gentiles, not just members of the Seven Nations. Furthermore, the pronouncement at b. *Sanhedrin* 52b that “one is not liable for the death penalty for having intercourse with the wife of the Other” (*prat le-’eshet ’aḥerim*) seems to imply that there is no rabbinic concept of marriage even among the Gentiles themselves. (Tosafot, *ad loc.*, s.v. *prat le-’eshet*, claims that there is nonetheless a prohibition for a Jew to have relations with such a woman.) At b. *Yevamot* 16b, R. Yehuda says in the name of R. Assi says that in his era, if a Gentile were to marry using *qiddušin*, we act stringently and treat it as a valid marriage because “perhaps he was from the twelve Tribes” exiled by Nebuchadnezzar and is really Jewish. This again indicates that the Talmud does not consider marriages with Gentiles valid. Cf. towards the bottom of b. *Sanhedrin* 57b which implies that there is a husband-wife bond among Gentiles, but only after intercourse, rather than a ceremony alone.

definitions and boundaries in modern terms is not troubling. The people and rabbis at each point in time very likely recognized intermarriage when they saw it.¹⁰²¹

For purposes of this thesis, “intermarriage” would apply to situations where a man and woman—one of whom is identified as Jewish and the other is not—have decided to cohabit, have children, and “build a household” yet neither has chosen to seek acceptance into the other’s religious group, either de facto or formally to the extent that formal procedures existed.

Since this dissertation focuses on rabbinic fear (or lack thereof) of the extent of intermarriage in the society in which they found themselves, it is important to recognize that fear of assimilation is a correlative of fear of intermarriage. As Ruth Cavan notes: “Endogamy not only has cultural and religious values in holding young people within the religion and away from the misbeliefs or evils of the larger society, but also retains the children of these young people upon whom the society depends for actual biological survival.”¹⁰²² One might suggest that concern over intermarriage likely becomes heightened as a social concern if its incidence also increases the possibility of broad scale assimilation.¹⁰²³

¹⁰²¹ As noted earlier, Martin Goodman suggests (Goodman, *Modeling the "Parting of the Ways"* 2007, 119) that ancient participants of each group were not necessarily unclear about the differences between them.

¹⁰²² (Cavan 1970).

¹⁰²³ Though she suggests that the term “assimilation” is not preferred by modern Jewish historians, Beth Berkowitz (B. A. Berkowitz 2012, 6-9) chooses to use it as a means of capturing the intent of the speaker’s perception of a crisis in Jewish identity and what it tells about the author’s construction of Jewishness.

9. TANNAITIC 'EREṢ ISRAEL AND INTERMARRIAGE¹⁰²⁴

The first section of this chapter applies the framework developed in the previous chapter to the Jewish society of tannaitic 'Ereṣ Israel in order to assess its predisposition towards intermarriage. It will conclude, based on the limited data available, that the society, as a whole, was likely not predisposed towards intermarriage. The second section of the chapter will then review available data to make a conjecture regarding the reality of the situation—or at least the likely perceived reality in the eyes of the sages at the time.

SOCIETAL PREDISPOSITION TOWARDS INTERMARRIAGE

The tannaitic era comprised three separate seventy-or-so-year periods: pre-Destruction (Late Second Temple Period to the Destruction in 70 C.E.); interbellum/Yavneh (70 to 135 C.E.); and post-Bar Kokhba Revolt and the estimated compilation of the Mishnah (135–200 C.E.). Social dynamics varied among these periods. In pre-Destruction 'Ereṣ Israel, for example, Jews lived throughout the land. The Second Temple was the focal point for most Jews for religious observance and rulings. In the interbellum period, a large portion of the Jewish population and the center of its religious decision-making appear to have been concentrated in the South.

This chapter focuses on the period following the Bar Kokhba Revolt during which the Mishnah and Tosefta were compiled, if not finally redacted. As will be discussed below, by the end of this period, there were clearer, though by no means set, boundaries among the various

¹⁰²⁴ For analyses of intermarriage prior to the mishnaic period, see (Frevel 2011) and (Lange 2011).

religious groups. The Jewish sects of the Second Temple period had all but disappeared, Christianity was in the process of disengaging from Judaism, the rabbis had taken on a more prominent role in defining proper religious practice, and the Jewish population now clustered primarily in the Galilee.

The Jews as a Group in Tannaitic 'Ereṣ Israel

Before analyzing opportunity and the affinity of the Jews with the ambient society, it is important to first address whether the Jews of tannaitic 'Ereṣ Israel could be characterized as a group and, if so, how the group was defined and where it resided. Over the past century, a lively scholarly debate has been waged over the intertwined questions of Jewish identity and rabbinic leadership in 'Ereṣ Israel during the tannaitic and amoraic periods. The questions to be explored now are the extent to which religious boundaries were defined, the rabbis' role in defining those boundaries, and whether the Jews seem to have adhered to those bounds. For, if Jews were not strongly attached to their own group, intermarriage might have been a common occurrence.

Adolf Büchler, Gedalyahu Alon, and Efraim Urbach claimed that, throughout this period, the tannaitic sages were the leaders of the Jewish community and that the Jewish people adhered to their rulings.¹⁰²⁵ More recent scholars have viewed the rabbis as a limited “movement” and/or considered religious observance as only nominally Jewish. Erwin Goodenough put forward a picture of nonrabbinic Judaism that adopted and integrated pagan symbols.¹⁰²⁶ Jacob Neusner claimed that there were “multiple Judaisms.”¹⁰²⁷ Martin Goodman perceived tannaitic rabbis as wielding considerably less influence than their literatures imply.¹⁰²⁸ Catherine Hezser understands

¹⁰²⁵ (A. Büchler 1909). (G. Alon, *The Jews in their Land in the Talmudic Age (70-640 C.E.)* 1980). (E. E. Urbach, *The Sages* 1979).

¹⁰²⁶ (Goodenough 1953-68).

¹⁰²⁷ (J. Neusner, *Judaism: The Evidence of the Mishnah*, BJS 129 1988).

¹⁰²⁸ (Goodman, *State and Society in Roman Galilee, A.D. 132-212* 1983).

the rabbis as an informal “personal alliance system” in which small groups of sages formed “clusters” that were based on social ties.¹⁰²⁹ The individual rabbis belonging to these clusters would have had their own limited circles of students and followers. Hayim Lapin too sees the “institutionalization” of the rabbis only as a later development.¹⁰³⁰ Shaye Cohen concludes that the 128 case stories touching on 134 topics in tannaitic case law reflect the totality of the issues brought by the people to the rabbis and, thus, that “the rabbis were but a small part of Jewish society, an insular group which produced an insular literature.”¹⁰³¹ He further doubts that those whose tombs referred to them as rabbis were in fact rabbinic sages. Rather, they were only what he terms “epigraphical rabbis,” since rabbinic literature does not mention them.¹⁰³² Lee Levine concludes that there are clear traces of a Judaism not entirely in consonance with the religious outlook of the sages, and that these sages were quite dispersed primarily among the smaller towns of *’Ereṣ* Israel.¹⁰³³

Seth Schwartz offers perhaps the most radical view.¹⁰³⁴ He claims that in the wake of the disastrous Bar Kokhba Revolt, Jewish society in *’Ereṣ* Israel had “shattered” and “imploded.” From then until into the fourth century, most Jews, with the exception of a very marginal and powerless group of rabbis, lived as quasi- or even full-fledged pagans. Schwartz states “with certainty” that Judaism ceased to function as an authorized set of religious and legal norms¹⁰³⁵ and

¹⁰²⁹ (Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine* 1997, 492-493).

¹⁰³⁰ (Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 C.E.* 2012).

¹⁰³¹ (S. J. Cohen, *The Rabbi in Second-Century Jewish Society* 1999 (written in 1983)). Robert Brody argues (R. Brody, *Rabbinic and non-Rabbinic Jews in the Mishnah and Talmud* 2017) that one cannot leap to Cohen’s conclusion since, as even Cohen himself admits, we do not know the criteria by which legal cases and other narratives were selected for inclusion.

¹⁰³² (S. J. Cohen, *Epigraphical Rabbis* 2010).

¹⁰³³ (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 25, 29, and 98).

¹⁰³⁴ (S. Schwartz, *Imperialism and Jewish Society, 200 B.C.E to 640 C.E.* 2001).

¹⁰³⁵ (S. Schwartz, *The Ancient Jews from Alexander to Muhammad (Key Themes in Ancient History)* 2014, 117).

that the Jews of Roman *'Eres* Israel were reduced to “some type of Sabbath observance, avoidance of pork, and circumcision of males.”¹⁰³⁶

Stuart Miller, Adiel Schremer, and Robert Brody have critiqued and rebutted Seth Schwartz’s and similar characterizations of the Galilee.¹⁰³⁷ They argue that it would appear that a sizable percentage Jews of the tannaitic period saw the Torah as the core of their religion and were aware of or may have even sought out rabbinical guidance on matters of religious performance. Furthermore, the rabbinic movement, while not centralized or institutionalized, was not as diminutive as some claim.¹⁰³⁸ The combination of individual rabbis and the Torah-observing Jewish population who cared about the proper mode of religious practice was in fact significant.

That said, Jewish praxis, though based on the Torah, was likely quite diverse. There was much unsettled halakhah, and the practices of the people—even those who sought out or were aware of the guidance of the rabbis—in the various communities where the rabbis resided likely varied depending on the views of the particular rabbi who lived among them, which views were not necessarily shared by the rabbis or the practices of other towns and villages.¹⁰³⁹

¹⁰³⁶ (S. Schwartz, *The Ancient Jews from Alexander to Muhammad* (Key Themes in Ancient History) 2014, 106). Separately, Emmanuel Friedheim (Friedheim 1997) goes so far as to build a picture of prevalent Jewish idol worshipping in *'Eres* Israel during the tannaitic and amoraic periods. His proofs, however, are not indicative of a widespread phenomenon in the day-to-day lives of the Jewish population, certainly not in the Galilee. Friedheim notes fifteen examples in thirteen locations where, he claims, archaeological, epigraphical, and other sources indicate that pagan worship took place. But none of these locations are in the Galilee or southwestern Golan, the Jewish population centers of the period, as will be discussed shortly. His citations from midrash and Talmud are not conclusive. The sole seemingly meaningful example of a Jew sacrificing an animal and offering its fat and blood to idolatry (*Y. Gitṭin* 6:6 48b 1082:25-27) reportedly takes place in Caesarea, where it is not impossible for there to have been some assimilation, as will also be discussed shortly.

¹⁰³⁷ (Schremer, *The Religious Orientation of Non-Rabbis in Second Century Palestine: A Rabbinic Perspective* 2010, 335ff). See (Brody, *Rabbinic and non-Rabbinic Jews in the Mishnah and Talmud* 2017, 275 n2) for citations of Hillel Newman’s, Ranon Katzoff’s, and Moshe Herr’s additional critiques.

¹⁰³⁸ (Miller, *The Study of Talmudic Israel and/or Roman Palestine: Where Matters Stand*. 2017, 442).

¹⁰³⁹ For example, *b. Šabbat* 21b tells of two old men (sages?) in Sidon, one of whom lit the Hanukkah candles according to the view of Beit Shammai and the other according to the view of Beit Hillel.

In addition, one may assume that there were many rabbinic points of view other than those included in the Mishnah or Tosefta. The Talmudim, for example, often cite tannaitic rulings not found in the Mishnah or Tosefta. One might conjecture that there were many more not considered sufficiently “mainstream” to be mentioned anywhere. Thus, even among rabbinic Jews, practice was likely highly diverse. As Schremer notes,

In the second and early third centuries, it is not at all clear whether we can speak of “deviance from the halakhah,” because there was no such thing then...There were many halakhic opinions among Palestinian rabbis, and only rarely was a single halakhic norm accepted by all halakhic authorities.¹⁰⁴⁰

It is also likely that there were those who observed rabbinic rulings to a lesser degree or to no degree at all.¹⁰⁴¹ For these reasons, it would appear that the Jews at this time, in large measure, identified with and did observe Jewish law in a “biblically-derived complex common Judaism,” to adopt Stuart Miller’s terminology.¹⁰⁴² Though practice was not homogeneous—hence, “complex”—its origins in the biblical tradition ensured resemblance in many areas of religious practice—hence, “common.” There are several important indicators that this was the case.

For example, Miller notes that there are both literary and archaeological indications that ritual purity rites endured long after the destruction of the Temple and eventually made their way into Late Antiquity.¹⁰⁴³ These include, from Sepphoris, several stepped pools in a domestic quarter with few pig remains, yet with a plethora of ethnic markers, including mosaic fragments with Hebrew letters, incense shovels, and stone vessels that may have been popular because they were

¹⁰⁴⁰ (Schremer, *The Religious Orientation of Non-Rabbis in Second Century Palestine: A Rabbinic Perspective* 2010, 328).

¹⁰⁴¹ (Schremer, *The Religious Orientation of Non-Rabbis in Second Century Palestine: A Rabbinic Perspective* 2010, 324-325).

¹⁰⁴² (S. S. Miller, *Stepped Pools, Stone Vessels, and other Identity Markers of "Complex Common Judaism"* 2010).

¹⁰⁴³ (Miller, *The Study of Talmudic Israel and/or Roman Palestine: Where Matters Stand*. 2017, 451).

deemed insusceptible to impurity, vessels from a renown Jewish pottery center, and other pottery incised with candelabra, *menorot*.

Second, as Miller argues, there were multiple types of Jews in the rabbinic orbit: the rabbis themselves; their disciples who studied with them; the rabbi's extended households; the *bnei/ʿanšei ʿir X* (the residents/people of city X) mentioned often in the Yerushalmi as seemingly interested in, and sometimes soliciting, rabbinic opinions; the non-active public who were aware of the halakhic rulings through friends and neighbors; and finally, the *ʿammei ha-ʿareṣ* (literally, the people of the land; singular: *ʿam ha-ʿareṣ*) who knew little and were deemed less punctilious in their observances, particularly of tithing and ritual purity, yet were not viewed as antithetical to the Jewish community.¹⁰⁴⁴

This complex mosaic perhaps included yet another group: those who adhered to the teachings and practices of the likely numerous teachers and rabbis whose rulings did not make it into the final redaction of Mishnah or Tosefta.¹⁰⁴⁵ Catherine Hezser too suggests that the “literary rabbis” were not the only Jews who possessed Torah learning and that there were likely study houses other than those associated with “the rabbis.”¹⁰⁴⁶ If so, the actual number of rabbis and “rabbinical” Jews would have been even greater than the numbers and spheres of influence of only the rabbis mentioned in Mishnah and Tosefta.

Third, Uzi Leibner concludes that the biblical motifs present in mosaic floors of the synagogue at Khirbet Hamam demonstrate that there were in fact synagogues in the Galilee in the

¹⁰⁴⁴ (Miller, Sages and Commoners in Late Antique 'Erez Israel: A Philological Inquiry into Local Traditions in Talmud Yerushalmi 2006, 308ff).

¹⁰⁴⁵ For example, m. *Hullin* 8:4 relates that the tanna R. Yosé the Galilean permitted cooking chicken in milk. Could there not have been other rabbis who permitted, say, a calf in milk, since the biblical injunction in *Exodus* 23:19, *Exodus* 34:26, and *Deuteronomy* 14:21 mention only a (goat) kid in its mother's milk? Or another rabbi who might have ruled that even a goat was permitted to be cooked in milk if one was sure that it was not its mother's milk?

¹⁰⁴⁶ (Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine* 1997, 490f).

third century. Furthermore, the synagogue decorations indicate a familiarity of the common people with rabbinic lore, *Aggadah*,¹⁰⁴⁷ and that the sages and the people shared common traditions and practices.

Fourth, as Robert Brody notes, it exceedingly hard to imagine that “the disintegrated shards of Judaism surviving...in a religious system that was basically pagan,” as posited by Schwartz, would have been strong enough to serve as the foundation of a reconstituted Judaism in the fourth century. Even Schwartz admits that it is difficult to reconcile the evidence of a strong Jewish identity in the fourth century with his theory that this identity virtually disappeared for two centuries or so after the Bar Kokhba rebellion.¹⁰⁴⁸ As Stuart Miller argues, the rabbis “would have gone nowhere had there not been other Jews who likewise struggled with the meaning and application of their shared biblical tradition in an admittedly radically transformed world.”¹⁰⁴⁹

Fifth, as Stuart Miller notes, the rabbis, in making their halakhic determinations, were attentive to and often accepted the practices of the common people.¹⁰⁵⁰ Had the population been mostly pagan, it is doubtful that the rabbis would have done so.¹⁰⁵¹ Adiel Schremer cites examples from Tosefta that are perhaps even more indicative of rabbinic perceptions of the awareness and

¹⁰⁴⁷ (Leibner, *An Illustrated Midrash of Mekilta de R. Ishmael, Vayehi Beshalah*, 1 – Rabbis and the Jewish Community Revisited 2014) and Uzi Leibner, <https://scholars.huji.ac.il/uzileibner/wadi-hamam>.

¹⁰⁴⁸ (R. Brody, *Rabbinic and non-Rabbinic Jews in the Mishnah and Talmud* 2017, 277-278).

¹⁰⁴⁹ (S. S. Miller, *The Study of Talmudic Israel and/or Roman Palestine: Where Matters Stand*. 2017, 454).

¹⁰⁵⁰ (S. S. Miller, *The Study of Talmudic Israel and/or Roman Palestine: Where Matters Stand*. 2017, 450ff).

¹⁰⁵¹ Examples include several in Mishnah *Pesahim*. *M. Pesahim* 4:1 permits working on the eve of Passover until midday depending on local practice. *M. Pesahim* 4:3 permits selling small animals (sheep, etc.) depending on local practice. *M. Pesahim* 4:5 permits work on the fast of the Ninth of Av dependent on local custom. In none of these cases is the determination of local custom circumscribed to a certain category of Jew. In *m. Pesahim* 4:8, the tannaim noted that the residents of Jericho (*'anšei yeriho*) did six things, three to rabbinic satisfaction and three not. But the latter three cannot be characterized as counter Torah-based Judaism; indeed, in one case the residents of Jericho clearly believed, contra the views of the tannaitic sages, that they were fulfilling the commandment of *pe'ah* by leaving a corner of their vegetable field for the poor. In this latter case, the sages of the mishnah held that the commandment did not apply to vegetable fields and thus the Jerichoans were excluding those vegetables from being tithed.

acceptance of common practice.¹⁰⁵² One Tosefta that he cites, t. *Ṭeharot* 5.3, rules that “people may purchase and borrow urine from any source, and they do not have to worry about the possibility that it derives from menstruating women, since the daughters of Israel are not suspected of collecting their urine during their period.” As Schremer notes, the Tosefta’s testimony must be taken seriously, for the rabbis would not have issued a permissive ruling unless they were certain about the halakhic devotion of Jewish women with respect to the grave laws of menstruants, *niddah*. In none of the instances cited by Schremer does the Tosefta circumscribe the definition of the populace to which it refers.¹⁰⁵³

¹⁰⁵² (Schremer, *The Religious Orientation of Non-Rabbis in Second Century Palestine: A Rabbinic Perspective* 2010, 335ff). For example, though the Tosefta was aware of Jews who desecrated the Sabbath in public, t. *Demai* 5:2 nonetheless asserts that, in general, as a basis for halakhic rulings, “the fear of the Sabbath is upon the ‘*am ha-‘ares*.” T. *Kil‘ayim* 2:16 presupposes that ordinary Jews observe the biblical prohibition of mixed kinds, *kil‘ayim*. T. *Kil‘ayim* 5:2 asserts that the people of Israel are not suspected of not tithing. Two additional toseftot, not cited by Schremer, t. *Makhširin* 3:5 and 3:6, note that the people of Sepphoris took it upon themselves not to wash bundles of cucumbers and gourds with sponges and not to soak beans and pulse in water before pounding them into paste, thus preventing them from becoming susceptible to ritual impurity.

¹⁰⁵³ Stuart Miller (Miller, “All Law Begins with Custom:” *Rabbinic Awareness of Popular Practice and Its Implications for the Study of the Jews of Roman Palestine* 2020, 352-368) notes that there are examples in the Yerushalmi as well. Though they reflect the later amoraic period, there is no compelling reason to believe that Jewish practice may have suddenly become more rigorous among the general population in the third and fourth centuries. Thus, conclusions from the Yerushalmi, where the Yerushalmi appears to have accepted the practice of the commoners, likely applied to the earlier period as well. For example, y. *Pesahim* 4:1 30c-d 517:6-38 relates several areas where the sages made the law dependent on the practice, *minhag*, of common people: women who would not do work when Shabbat went out until the men returned from synagogue; women who would not work on the New Moon, *Rosh Hodesh*; women who would not weave from Rosh Hodesh of the month of Av until the Fast of the Ninth of Av; not sitting on a Gentile vendor’s bench on the Sabbath; not fishing in Tiberias, not grinding legumes in Sepphoris, and not grinding wheat in Acre on the intermediate days of the festivals, *hol ha-mo‘ed*; and, not sailing out from Meisha (out of concern of violating Shabbat). The Yerushalmi treats *minhag*, custom, with great awareness and respect in its halakhic decision-making. Indeed, the Yerushalmi states that custom annuls law, though the phrase needs to be understood in a limited fashion. And, as the Yerushalmi at y. *Pe‘ah* 7:6 20c 108:40-42 relates, mid-third-century Palestinian amora R. Joshua b. Levi rules that when a halakhic issue stymies the rabbis, they should go out and see what the community [*ha-šibbur*] is accustomed to do [*noheg*] and rule [*u-nehog*] accordingly. R. Joshua’s maxim represents a general directive to rely on the people’s practice whether a biblical or rabbinic issue is at stake and regardless of whether the people’s practice is stringent or lenient. For example, as related in y. *Yevamot* 7:2 8a 861:44-48 in the matter of whether the slaves of a pregnant woman who married a priest who subsequently dies may eat of the priestly portion, *terumah* (תרומה), considered holy, the people stringently did not allow the slaves to eat, and the rabbis adopted that ruling. At the same time, on the question of whether “fourth year” fruits, *neṭta rev‘ai* (נטע רביעי), need to be tithed, y. *Pe‘ah* 7:6 20c 108:39-42 relates how the lenient view of the public was accepted, despite the fact that a biblical prohibition was at stake. In no case is specification given as to “which” people should be observed. Some scholars [and traditional commentaries] claim that the people’s actions are accepted because the people are thought to be in sync with a legitimate position mooted at some point by the rabbis. However, there is no indication to this effect. For the present purposes, too, this debate is not relevant, because, either way, it shows that the rabbis considered the general public performance sufficiently reliable to base a halakhic ruling on their practice. I.e., they considered the public Torah-observant.

To summarize, it is the position of this dissertation, as propounded by Stuart Miller and Adiel Schremer, that the people of the Galilee practiced a biblically derived complex common Judaism which, nonetheless, served to bound their group identity and distinguish them significantly from others around them. Though the lines may not have been sharply defined, this bounding not only makes the notion of intermarriage relevant during this period, but it also increases the likelihood that the Jewish populace would have shunned prohibited intermarriages even if presented with the opportunity.

Opportunity

Physical interaction

A vibrant scholarly debate rages over whether Jews represented the dominant population in the Galilee and whether its towns and villages were primarily Jewish during the tannaitic period. Tannaitic *'Ereṣ Israel* was home to multiple religious/ethnic groups, including Samaritans, Greco-Roman and local pagans, and increasingly, Christians. According to Doron Bar and Ann Killebrew, the majority of the population in *'Ereṣ Israel* during this period, perhaps two-thirds or more, was rural.¹⁰⁵⁴

Gedalyahu Alon and others estimate that at the end of the failed Bar Kokhba revolt c.135 C.E., the Jewish and Samaritan populations each represented about a quarter of the population of *'Ereṣ Israel*.¹⁰⁵⁵ At the end of the tannaitic period, the percentages seem to have been not much

¹⁰⁵⁴ (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuhret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 124, 162, 165), (Bar, Continuity and Change in the Cultic Topography 2008, 276), and (Z. Safrai, The Missing Century 1998, 66-75).

¹⁰⁵⁵ (Alon, Toledot ha-Yehudim be-Eretz Israel bi-Tekufat ha-Mishnah vaha-Talmud 1988 (Eighth Printing), 4) and (Avi-Yonah 1984, 19). Moshe Herr (Herr, The Land of Israel in Late Antiquity (324-640): A General Introduction (Hebrew) 2022, 65) estimates the Jewish population after the Bar Kokhba War at sixty percent, though possibly less.

different.¹⁰⁵⁶ The Samaritans lived separately from the Jews, primarily in Samaria but in some of the major cities as well.¹⁰⁵⁷

Doron Bar estimates that pagan idol worshippers and/or Roman emperor worshippers accounted for approximately the other half of the residents of 'Ereṣ Israel.¹⁰⁵⁸ As noted earlier, Nicole Belayche suggests that local paganism “is not *one* organized religious system.”¹⁰⁵⁹ The cults had no dogma, “catechism,” or sovereign sacerdotal authority. Rather, they were an amalgam of rites and homage rendered to diverse gods of ethnic and/or local origin. In the many cities where they lived, such as Caesarea Maritima, Caesarea Philippi (dedicated to Pan), Mamre (near Hebron), and Gaza, but smaller ones as well, the local pagans established cultic centers, with temples.¹⁰⁶⁰ Finally, Stephen Wilson suggests, that, at this time, the Christians were a small minority, primarily an urban phenomenon, and not a significant factor in the Galilee.¹⁰⁶¹

¹⁰⁵⁶ (Avi-Yonah, *The Jews under Roman and Byzantine Rule: A Political History of Palestine from the Bar Kokhba War to the Arab Conquest* 1984, 133) and (G. Alon, *The Jews in their Land in the Talmudic Age (70-640 C.E.)* 1980, 36) estimate that the Jews represented about 25% of the population of 'Ereṣ Israel overall even at the end of the third century. Herr (Herr, *The Land of Israel in Late Antiquity (324-640): A General Introduction (Hebrew)* 2022, 66) estimates that the Jewish population declined during the third century, attributing it to Roman decrees that prompted emigration. Nonetheless, Herr estimates that the Jews still represented a third of the population at the end of the fourth century.

¹⁰⁵⁷ (Mor 2003, 193).

¹⁰⁵⁸ (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 125).

¹⁰⁵⁹ (Belayche 2001, 27ff).

¹⁰⁶⁰ (Bar, *Continuity and Change in the Cultic Topography* 2008, 277-279, 287).

¹⁰⁶¹ (Wilson, *Related Strangers: Jews and Christians 70-170 CE* 1995, 25-26). Wilson guesses that, at 100 C.E., there were between 100,000 and 250,000 Christians in the Roman Empire, and possibly up to 1.5 to 2 million around 200 C.E.



Figure 9.1 The Galilee in Late Antiquity
(bible-history.com/geography/map-lower-galilee)

It appears that the majority of 'Ereṣ Israel Jews resided in towns and villages in the eastern Galilee, with smaller numbers settling in southern, coastal, or marginal regions such as the Golan.¹⁰⁶² Jewish settlement in the Galilee may have reached its peak in the second and early third centuries,¹⁰⁶³ with Jews constituting a decisive majority in the rural areas of the Galilee.¹⁰⁶⁴ Only a relatively small percentage of Jews of 'Ereṣ Israel at this time lived in the larger cities.¹⁰⁶⁵ For example, Lee Levine points out that although a Jewish community continued to exist in Caesarea

¹⁰⁶² (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 135). (Killebrew 2010, 193).

¹⁰⁶³ (Leibner, Settlement Patterns in the Eastern Galilee: Implications Regarding the Transformation of Rabbinic Culture in Late Antiquity 2009).

¹⁰⁶⁴ (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 130). (Z. Safrai, The Missing Century 1998, 52).

¹⁰⁶⁵ (Feldman, Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian 1993, 24–25 and 40); (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 135). See also (E. E. Urbach, The Rabbinical Laws of Idolatry in the Second and Third Centuries in the Light of Archaeological and Historical Facts 1959). Jürgen Zangenberg and Diane van De Zande (Zangenberg and van de Zande 2010, 179) conclude that “most of the population...lived in provincial towns and villages of various sizes.”

throughout the second century, it never became an important center of Jewish life.¹⁰⁶⁶ Even in the Lower Galilean cities, such as Sepphoris and Tiberias, where there are indications of multicultural society,¹⁰⁶⁷ Jews were the predominant Jewish social segment in the first centuries of the Common Era.¹⁰⁶⁸ While local cultic pagans designated sacred places in the form of trees, hills, springs, and caves were scattered all over the countryside,¹⁰⁶⁹ it seems that they were not a significant factor within the towns and villages of the Galilee or the Golan.

Seth Schwartz posits that Galilean Jews seem to have lived in mixed towns and villages during this period.¹⁰⁷⁰ He claims that Galilean synagogues date to the fourth century or, at earliest, late third century, and that other physical remains are neutral, ambiguous, or “straightforwardly pagan.” Thus, he concludes that *’Ereṣ Israel* was not much different from any other eastern Roman province of the second and third centuries.

But Schwartz’s assessment is disputed.¹⁰⁷¹ First, the absence of “Jewish” markers does not necessarily imply that the cities were mixed, as this is an *argumentum ex silentio*. Second, Uzi Leibner, based on four years of digs around the Khirbet Hamam synagogue, concludes, as noted earlier, that there were in fact synagogues in the Galilee as early as the third century.¹⁰⁷² Third, in addition to what appears to be compelling evidence based on his many excavations, Mordechai

¹⁰⁶⁶ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 45).

¹⁰⁶⁷ (Z. Weiss, *Unique finds in Sepphoris Excavations* 2016).

¹⁰⁶⁸ Regarding Sepphoris, see (Z. Weiss, *From Galilean Town to Roman City, 100 B.C.E. - 200 C.E.* 2015, 71-72) and (Z. Weiss, *Sepphoris* 2017, 207-209). Weiss cites as indicators of Jewish predominance in Sepphoris the number of immersion pools, the prevalence of impurity-resistant stone vessels, and the relatively few Greek or Aramaic inscriptions relative to other cities around the country.

¹⁰⁶⁹ (Bar, *Continuity and Change in the Cultic Topography* 2008, 277-279, 287).

¹⁰⁷⁰ (S. Schwartz, *Some Types of Jewish-Christian Interactions* 2003, 205-206).

¹⁰⁷¹ For example, Robert Brody (R. Brody, *Rabbinic and non-Rabbinic Jews in the Mishnah and Talmud* 2017, 277) presents a scathing critique of Seth Schwartz’s conclusions. He writes that “Schwartz argues that archaeology trumps rabbinic literature, but his interpretation of the archaeological evidence depends on assumptions for which very little supporting argumentation is offered... Schwartz’s book is riddled with statements based on assumptions that seem to be no more than projections of the author’s attitude.”

¹⁰⁷² (Leibner, *An Illustrated Midrash of Mekilta de R. Ishmael, Vayehi Beshalah, 1 – Rabbis and the Jewish Community Revisited* 2014).

Aviam compared the maps of the distribution of eleven different types of archaeological data.¹⁰⁷³ These included pagan Hellenistic period pottery, Hasmonaean coins, *miqva'ot* (ritual baths), stone vessels typical of Jewish life in the first century C.E., synagogues, pagan temples, churches and monasteries, Roman period pottery, statues and figurative art, ossuaries, and secret hideaways. He further reviewed the historical borders attested to by Josephus, borders attested to in Jewish textual sources, the list of the towns of the twenty-four Priestly Courses, as well as the homes of rabbis mentioned in Mishnah and the Talmud. His conclusions are very clear:

The Galilee, from the end of the second century B.C.E. to the fourth century C.E. was inhabited mainly by Jews living in villages, towns, and cities. The majority of these Jewish settlements continued well into the Byzantine period, even though there was a growing number of Christians in the two capitals of Galilee—Tiberias and Sepphoris—as well as in new Christian villages and monasteries. The archaeological remains consistently point not only to a vast majority of Jews but also to a clear isolation of Jewish villages in the Jewish region from Gentile villages around it.

No mixed communities existed in the rural areas, Aviam concludes. “Small villages were closed societies.”¹⁰⁷⁴

Other scholars arrive at similar conclusions. David Goodblatt concludes that the archaeological evidence appears to confirm this picture of regional concentration of the Jewish population in the Roman period and demonstrates it for the Byzantine period.¹⁰⁷⁵ Zvi Gal argues that the Beit She'an and Harod valleys and the surrounding Issachar plateaus were uniformly

¹⁰⁷³ (Aviam, *Jews, Pagans, and Christians in the Galilee: 25 Years of Archaeological Excavations and Surveys Hellenistic to Byzantine Periods* 2004) and (Aviam, *Distribution Maps of Archaeological Data from the Galilee* 2007).

¹⁰⁷⁴ (Aviam, *Jews, Pagans, and Christians in the Galilee: 25 Years of Archaeological Excavations and Surveys Hellenistic to Byzantine Periods* 2004, 7-21).

¹⁰⁷⁵ (Goodblatt, *Population Structure and Jewish Identity*. 2010, 112-113).

Jewish, and that Beit She'an (Scythopolis) was “a Gentile enclave within the heart of the Jewish rural settlement.”¹⁰⁷⁶

The conclusions laid out by Aviam et al seem compelling. Most recently, Uzi Leibner, as well, writes that, “aside from Sepphoris and Tiberias, from which there are witnesses of mixed populations, there is no finding or fact that would indicate Christian villages nor of mixed villages in the region [the Galilee] during the period under discussion [the end of the tannaitic period], and it appears that this was a block of homogeneous Jewish settlement.”¹⁰⁷⁷ Fergus Millar also concludes that “the rural temples of the Imperial period, which are so frequent on Mount Hermon, around the Bekaa Valley, and on Mount Lebanon, are not to be found in the neighboring hill-country of Galilee.”¹⁰⁷⁸ Thus, the posture adopted here is that the Jews during this period lived in their own towns and villages with relatively few Gentiles living among them.¹⁰⁷⁹

Despite the above understanding of the Jewish settlement in the Galilee, opportunities to interact with the Gentiles certainly existed, particularly on the roads or on market days in the cities and larger towns.¹⁰⁸⁰ And surely some of these Galilean Jews periodically visited pagan cities, such as Beit She'an (Scythopolis). But for the most part, these opportunities were likely relatively

¹⁰⁷⁶ (Gal 1995, 171-172).

¹⁰⁷⁷ (Leibner, Mesoret Galuyot 'Ha-Sanhedrin' ve-Toldot ha-Yishuv ha-Yehudi ba-Galil 2023, 250). Richard Horsley (Horsley, Galilee: History, Politics, People 1995, 6) concurs. Of course, this does not preclude there having been Jews within the Jewish communities who were Jesus-believers. But these would likely have been a small minority.

¹⁰⁷⁸ (Millar 1995, 379).

¹⁰⁷⁹ Galilean Jewish towns and villages were overwhelmingly Jewish but perhaps not always entirely so. As Richard Horsley (Horsley, Galilee: History, Politics, People 1995, 243) notes, “There had simply been too many conquests and shifts in rulers, with whatever minor movements of people those entailed. Thus at least some of those living in Galilee must have been non-Israelites, ethnically or in cultural heritage.” He suggests that this is the situation that was presupposed in early rabbinic literature, as numerous tannaitic rulings pertain to dealings between “Israelites” and “Gentiles.” Relying on later sources, Joan Taylor (Taylor 1993, 225) asserts that a story recorded of the grandsons of Judas, as recounted by Eusebius (Eusebius Pamphilus of Caesarea 1850, III.20 102-103), suggests that there may have been some Jewish Christians living in Nazareth at the end of the first century. There is also Talmudic reference (y. *Šabbat* 14:4 14d 435:8-15 and b. *Avodah Zarah* 27b) to a man named Jacob of Kfar Samma/Sakhniya who seems to present as a Christian Jew at the beginning of the second century. These might be actual people. But there is no specific evidence that Jewish-Christians lived in Galilee during the late Roman period to any extent.

¹⁰⁸⁰ (Killebrew 2010, 202).

limited, related more to market and business transactions or periodic entertainment, where interactions with the Gentile were intermittent and focused rather than casual and regular, local, and neighborly interactions that could lead to more intimate relationships.

The extent of household involvement during this era in broader trade—i.e., members of households going to the city markets to buy and sell—is also a matter of scholarly dispute.¹⁰⁸¹ In one view, the Galilean economy was based on self-sufficient and self-supportive units: households produced what they consumed with relatively little access to liquid capital and trade. Wares and other household supplies were produced and traded locally. The integration of a typical Jewish household into regional trade networks was virtually non-existent.¹⁰⁸²

The opposing scholarly approach emphasizes the significance of trade for the *'Ereṣ Israel* village economy and the integration of the village economy into regional and even international trade networks.¹⁰⁸³ Cynthia Baker has suggested a much more diverse and open type of household economy, in which marketplace activities constituted a crucial component of everyday economic life.¹⁰⁸⁴ To this view, Jewish households were not just the basic units of production and consumption, but also the basic units of trade in produced goods. The participation in the market economy was just as important for them as other kinds of economic activities.¹⁰⁸⁵

¹⁰⁸¹ See (Sivertsev 2010).

¹⁰⁸² (Horsley 1995, 203-207). See also (S. Schwartz, Political, Social, and Economic Life in the Land of Israel 66-c. 235 2006, 39).

¹⁰⁸³ (Goodman, State and Society in Roman Galilee, A.D. 132-212 1983, 19 and 54-63) and (Z. Safrai, The Economy of Roman Palestine 1994, 415-431, esp. 423).

¹⁰⁸⁴ (Baker, Imagined Households 2004, 113-128).

¹⁰⁸⁵ (Baker 2002, 77-112).

Regardless, even according to the view that Jewish households were involved in broader trade, the possibility of interaction of single men and women of differing religious affiliations seems to have been relatively limited.

Patriarchal society

Although the socio-dynamics were evolving during this period, Jewish society was still relatively patriarchal in terms of arranging marriages.¹⁰⁸⁶ Fathers were responsible for marrying off their children, certainly the daughters. Thus, even if the child would have met someone that their heart desired, the father was in control of marriage choices. This would have been another barrier to the opportunity for intermarriage.

In short, it would seem that, overall, the opportunity to interact with the surrounding societies, let alone to transact for marriage, was limited in the tannaitic era.

Affinity

Political consonance in Roman 'Ereṣ Israel

Scholars dispute the degree of animus towards Rome that existed in the buildup to the First Revolt of 66 to 70 C.E. and the Destruction of the Temple. Martin Goodman takes the perspective that:

Roman comments about Jews were rarely hostile before the outbreak of war in 66...It is in fact rather hard to see any reason why Jews should have experienced particular hostility from Romans before the rebellion broke out in 66. Jews were odd in some respects, but through their adoption of many of the cultural traits of Hellenism they resembled cultures quite familiar to Romans.¹⁰⁸⁷

¹⁰⁸⁶ See, e.g., (N. Rubin, *Time and Life Cycle in Talmud and Midrash: Socio-Anthropological Perspectives* 2008, 19-21).

¹⁰⁸⁷ (Goodman, *Rome and Jerusalem: The Clash of Ancient Civilizations* 2007, 366ff).

He further writes: “The Jewish world in which Jesus lived was under Roman rule but was not, and did not feel, oppressed by Rome.”¹⁰⁸⁸ Indeed, he describes a situation quite the opposite: “It is hard to appreciate the felicity of Judea in those days only because the later events have cast a pall of gloom over memory.”¹⁰⁸⁹ He suggests that the Temple’s destruction came about not because of increasing enmity, but because of a series of unfortunate events, sparked by the “maladministration by an individual low-grade governor.”¹⁰⁹⁰ He admits, though, that Jews were expelled from Jerusalem a few times in the first century and cannot explain why Seneca “wrote about the Jews with such antagonism.”¹⁰⁹¹

Many other scholars, however, speak of a build-up of tension over an extended period during the course of which there was significant harassment of the Jews.¹⁰⁹² As Israel Ben-Shalom portrays the developments, starting with Pompey’s arrival in *’Ereṣ* Israel and his entry into Jewish Temple in 63 B.C.E., the Roman Empire installed dictatorial, corrupt, despotic, and violent governors and procurators, despoiled the land economically, and injected itself into the Jewish religious institutions. These measures fomented a growing antipathy among the people, who viewed Greeks/Romans as outsiders, interlopers, and occupiers, culminating in the rebellion that erupted in 66 C.E.¹⁰⁹³ That year, according to Josephus, Tiberias Julius Alexander’s troops killed

¹⁰⁸⁸ (Goodman, *Rome and Jerusalem: The Clash of Ancient Civilizations* 2007, 552).

¹⁰⁸⁹ (Goodman, *Rome and Jerusalem: The Clash of Ancient Civilizations* 2007, 552).

¹⁰⁹⁰ (Goodman, *Rome and Jerusalem: The Clash of Ancient Civilizations* 2007, 553).

¹⁰⁹¹ (Goodman, *Rome and Jerusalem: The Clash of Ancient Civilizations* 2007, 369 and 373)

¹⁰⁹² See, for example, (E. M. Smallwood 1976), (I. L. Levine, *Yerushalayim Tahat ha-Shilton ha-Romi: Shilton Romi Yashir--ha-Memad ha-Histori* 2020), (J. Schwartz, *Sefer Yerushalayim bi-Yemei ha-Bayit ha-Sheini* 2020). (Kasher, *Terumat Yisrael* Friedman Ben-Shalom le-Mehkar al Tenuat ha-Mered Negged Romi be-Hashra'at Beit Shammai 2005), and (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 124) which notes the “sense of threat and contention” between Jew and Gentile in *’Ereṣ* Israel that confronted the Jews in a Hellenistic-Roman atmosphere.

¹⁰⁹³ (Ben-Shalom 1993, 3). The view adopted in this thesis is the more classic one: that genuine animosity existed all along and climaxed with the despotic administration of the later procurators, including Antonius Felix and Gessius Florus.

fifty thousand Jews, and the people of Caesarea killed Jews in the city.¹⁰⁹⁴ Israel Ben-Shalom describes the enmity between the Hellenist cities supported by Rome and the Jewish community in the land as well as confrontations between Jews and Gentiles in the mixed cities themselves.¹⁰⁹⁵

Additionally, though occurring outside of 'Ereṣ Israel, Jews appear to have been expelled from Rome three times: in 139 B.C.E.,¹⁰⁹⁶ 19 C.E.,¹⁰⁹⁷ again in either 41 or 49 C.E.¹⁰⁹⁸ Scholars debate the reasons for these ousters. Some, like Leonard Rutgers, argue that ousters were initiated only due to local issues unrelated to denigrating Judaism.¹⁰⁹⁹ Others, however, such as Peter Schäfer, suggest that the motivation, at least regarding the first two, was “the sheer Jewish presence in Rome.”¹¹⁰⁰ Either way, it is plain that Jews were singled as a group for punishment.

Then, as noted by Peter Schäfer, in 38 C.E. the Jews of Alexandria, Egypt, revolted when Flaccus deliberately abolished the Jews' citizenship and forced them into one section of the city,

¹⁰⁹⁴ (Josephus, *The Jewish War: Books 1-2* (Loeb) 1927, II.49). Josephus (Josephus 1998, War X:284-288) also records the tension in 66 C.E. between a synagogue and a Greek who owned the property next door and purposely set up a workshop there, refusing a purchase price far exceeding its true value. Brian McGing (McGing 2002, 96-97) suggests that Josephus did not necessarily provide exact numbers, which probably were not available to him in any case but was merely indicating that a large number of Jews were killed. He adds that Josephus's numbers are often “simply a patriotic estimate reflecting his sense of national pride rather than actual or known, but exaggerated, figures.”

¹⁰⁹⁵ (Ben-Shalom 1993, 3). For a survey of Jewish relations with neighboring societies during this period and earlier, see (Kasher, Edom, Arabaia, and Israel [Hebrew] 1988).

¹⁰⁹⁶ According to Nepotianus's (fourth-fifth century C.E.) version of Valerius Maximus (beginning of first century C.E.), “they attempted to transmit their sacred rites to the Romans,” and, according to Paris (fourth century C.E.?), because they “attempted to infect the Roman customs with the cult of Jupiter Sabazius,” i.e., perhaps, the customs of Shabbat. (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, I:358 #147a and #147b).

¹⁰⁹⁷ Tacitus, II:69, #284, *Annales* 2.85.4-5; Suetonius, II:113, #306, *Divus Tiberius* 36.1; Cassius Dio II:365, #419, *Historia Romana* 57.18.5a all in (M. Stern, *Sin'at-Yisrael be-Roma* 1991).

¹⁰⁹⁸ Suetonius, (II:113, #307, *Divus Claudius*, 25:4) and Cassius Dio (II:367 #422, *Historia Romana*, LX 6:6) in (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980). See extensive gloss by Stern on Suetonius. Stern asserts that it is fairly clear that it was the Christians who were causing the unrest but that, at the time, Rome did not distinguish between Jews and Christians, and so it punished all Jews. He also notes the debate among the scholars about whether it was a single event, an actual expulsion as recorded by Suetonius, or just a limitation on the right of assembly, as recorded by Cassius Dio, and when the event occurred, 41 or 49 C.E. In any case, Stern notes that many Jews left Rome at the time. There is no mention of this expulsion in Josephus, but it is mentioned in *Acts* 18:2.

¹⁰⁹⁹ (Rutgers, *Roman Policy towards the Jews: Expulsion from the City of Rome during the First Century C.E.* 1994).

¹¹⁰⁰ (Schäfer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 107-111).

while their abandoned homes and shops were pillaged.¹¹⁰¹ In 119 C.E., the Jews of Alexandria, Egypt, again rebelled against Rome. While these uprisings took place outside of 'Ereṣ Israel, it would likely not have enhanced Roman political attitudes towards Jews in 'Ereṣ Israel, where in 66 C.E. and again in 135 C.E. the Jews of 'Ereṣ Israel themselves rebelled against Rome. Aharon Oppenheimer writes that following the rebellion of 135 C.E., the Romans took a heavy hand against the Jews and, though some of the edicts enacted expired with the death of Hadrian in 138 C.E., the Roman policy in 'Ereṣ Israel remained one of suppression.¹¹⁰²

Furthermore, Roman statesman and historian Cassius Dio (c. 160 to 230 C.E.) writes that Vespasian's son, Domitian (81 to 96 C.E.) slew Flavius Clemens the consul, along with many others.¹¹⁰³ The charge, as Menachem Stern writes, was that Clemens and his wife were inclined towards Judaism, a charge for which, Dio notes, many others who "drifted into Jewish ways" were also condemned and put to death and or deprived of their property.¹¹⁰⁴

Several tannaitic texts hint at the existence of actual danger and threat posed by Roman troops inside 'Ereṣ Israel and on its borders.¹¹⁰⁵ R. Meir [T3], for example, reported that he and R. Akiva [T2] were forced to recite the *Šema* quietly in the study hall (*beit midraš*) because a Roman quaestor was standing at the door.¹¹⁰⁶ Separately, R. Gamliel [T1] warns: "Be cautious of the

¹¹⁰¹ (Schafer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 140).

¹¹⁰² (Oppenheimer, *Rabbi Yehuda Ha-Nasi* 2007, 41).

¹¹⁰³ (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, II:380, #435, *Historia Romana* LXVII 14:1-3).

¹¹⁰⁴ Stern writes that some scholars have thought that Christianity was the issue here, not Judaism. However, he concludes that taking Cassius Dio's words at face value seems more acceptable, in part because "there is no reason to assume that either Cassius Dio or his epitomator would have confused Christianity with Judaism" and that the differences between the creeds were sufficiently clear to Roman authorities.

¹¹⁰⁵ (Porton, *Goyim: Gentiles and Israelites in Mishnah-Tosefta* 1988, 234–235, incl. nn60–62). Per (Oppenheimer, *Rabbi Yehuda Ha-Nasi* 2007, 42), two Roman Legions were stationed in 'Ereṣ Israel in the late second century.

¹¹⁰⁶ T. *Berakhot* 2:13. See additional examples in (Porton, *Goyim: Gentiles and Israelites in Mishnah-Tosefta* 1988, 235 n61).

[Gentile] civil authority, for they only get close to people for ulterior motives. They appear friendly when the hour benefits them, but they do not stand by a person at the hour of his crisis.”¹¹⁰⁷

By the time the Mishnah was compiled around 200 C.E., relations may have improved somewhat. At that time, there does not appear to have been religious persecution per se. Cassius Dio asserts that the Jews enjoyed freedom in their observances.¹¹⁰⁸ Apparently, Jews could continue to observe their dietary laws, circumcise their newborn males, and assemble to read the Torah.¹¹⁰⁹ No one compelled them to break the rules of resting on the Sabbath or to participate against their conscience to worship other gods. Like other households in the Roman Empire, Jews had considerable freedom to pursue their own religious expression.¹¹¹⁰ Their obligation to perform the rites while serving on the *boule* of various cities and various points in time was waived.¹¹¹¹ And, during the Severan rule (193-235 C.E.), there seems to have been a rapprochement between Jews and Romans, with the emperors demonstrating a positive attitude towards Jews,¹¹¹²

But even at this later period, the *fiscus Ioudaicus* could be interpreted as a form of ongoing denigration.¹¹¹³ Immediately following the destruction of the Temple in 70 C.E., Vespasian

¹¹⁰⁷ M. 'Avot 2:3. Mishnayot, often offered as counterexamples, showing Jewish support for the Roman government and culture are not conclusive. M. Avot 3:2, for example, exhorts Jews to “pray for the well-being of the Empire.” But this is not a prayer out of affection; rather, as the mishnah itself goes on to explain, “but for the fear of it, people would eat each other alive.”

¹¹⁰⁸ *Historia Romana* 37.17.1-2. (M. Stern, Greek and Latin Authors on Jews and Judaism 1980, §406 II:351).

¹¹⁰⁹ (Goodman, Rome and Jerusalem: The Clash of Ancient Civilizations 2007, 487).

¹¹¹⁰ (Rives 2007, 116f, 130, 146ff).

¹¹¹¹ (Linder 1987, 103).

¹¹¹² (L. I. Levine, Caesaria Under Roman Rule 1975, 65). Hints of this thawing can be found in b. 'Avodah Zarah 10b, b. Sanhedrin 91a-b, and Mekhilta d-R. Yishmael be-Shalah 2 and 6, which tell stories of close relations between Rabbi Yehuda the Patriarch and the Severan emperors.

¹¹¹³ Rutgers (Rutgers, Roman Policy towards the Jews: Expulsion from the City of Rome during the First Century C.E. 1994, 72) does not see it this way: “It is much more likely that Rome construed this measure as an ingenious redirecting and systematization of an already existing tax,” especially when seen in the larger context of Vespasian’s taxation policy.

assessed a unique tax on the Jews, *fiscus Iudaicus*, the Jew tax, above and beyond other taxes.¹¹¹⁴ This tax was imposed on Jews wherever they resided in the Empire. The amount was the same as that of the traditional *maḥašit ha-šeḡel*, two Roman *dinarii*, the amount typically donated for the upkeep of the Temple. But now, its payment was mandatory rather than optional. Also, contrary to the practice of the *maḥašit ha-šeḡel*, this tax appears to have applied to women, Jewish slaves, children over the age of three, and without the traditional age cap of fifty. Sending an antithetical message to the Jews, the funds initially went to the building of the Roman Jupiter Capitoline Temple in Jerusalem.¹¹¹⁵ Vespasian's son, Domitian, expanded the tax "with utmost vigor," requiring it to be paid by Jews who were no longer practicing or who tried to hide their origins.¹¹¹⁶ While Emperor Nerva, circa 96 C.E., seems to have returned the tax to its initial form in at least some aspects, the tax may have continued to be levied until the third or fourth century.¹¹¹⁷ Stuart Miller suggests that the *fiscus Ioudaicus* was essentially a payment to the government for permission to practice the religion unimpeded. Nevertheless, such a tax was unique to the Jews, was demeaning, and caused friction with the Romans. Peter Schäfer notes that "there can be no doubt that the measures poisoned the atmosphere."¹¹¹⁸ Many Jews appear to have tried to circumvent it, for example by claiming that they were not Jews or even by "converting." Indeed, Roman historian Suetonius (60 C.E. to first half of the second century C.E.) writes of an incident

¹¹¹⁴ While other focused taxes were imposed at approximately the same time, the *fiscus Alexandrinus* on (or, according to some scholars, specifically excluding) Alexandria, Egypt, and the *fiscus Asiaticus* on the Asian reaches of the Empire (Ginsburg 1931, 286), the *fiscus Iudaicus* was the only one targeted at a specific ethnus/religion.

¹¹¹⁵ As noted by Cassius Dio (M. Stern 1980, #430 II:375).

¹¹¹⁶ Per Suetonius (M. Stern 1980, #329 II:128).

¹¹¹⁷ For an in-depth analysis of the *fiscus Ioudaicus* and its impact, see Marius Heemstra (Heemstra n.d.). There is a scholarly dispute regarding whether this tax was abolished or merely adjusted during the 16-month reign of Nerva (96 to 98 C.E.). Heemstra claims that it was adjusted; Peter Schafer (P. Schafer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 115) claims that it was abolished, but reestablished by Trajan, as there are receipts for the Jew tax from the town of Edfu in 116 C.E. (Tcherikover and Fuks 1960, 160-229) as well as a payment recorded in a papyrus from Karanis (Tcherikover and Fuks 1960, 460) from later in that century. Most scholars believe that the tax was finally abolished in the third century or, at latest, by the emperor Julian around 363 C.E.

¹¹¹⁸ (Schafer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 115).

in which he witnessed a ninety-year-old man suspected of being Jewish and avoiding taxes being publicly examined physically in a very crowded courtroom to see whether he was circumcised.¹¹¹⁹

In short, while Jews were permitted their customs and protected, it is unlikely that the Jews would have seen the political environment under the ruling Roman government as welcoming.

Cultural/religious consonance: Roman attitudes towards Judaism and Jews

The written record offers a mixed picture regarding Roman attitudes towards Judaism and Jews. Nonetheless, as Peter Schäfer notes, although one encounters “a remarkable degree of sympathy for Judaism in the ancient world, the patterns of animosity are undeniable” and “there did exist a phenomenon which may be called ‘hatred of the Jews.’”¹¹²⁰

Starting with the Greeks, Lysimachus (fourth to third century B.C.E.), whom Schäfer characterizes an “arch-antisemite,”¹¹²¹ describes how “a certain Moses” instructed the Jews “to show goodwill to no man, to offer not the best but the worst advice, and to overthrow any temples and altars of the gods which they found.”¹¹²² Also, first century B.C.E. Greek rhetorician Apollonius Molon reviled Jews as atheists, misanthropes, cowards yet of reckless madness, and “the most witless of all barbarians who have contributed no useful invention to civilization.”¹¹²³

Later, Apion (d. 45 C.E.) wrote what Josephus termed “an indictment of [the Jewish People] formal enough for a court of law.”¹¹²⁴ According to Schäfer, Apion informs his readers that “he has revealed the secret of the Jewish God and the essence of his worship: a continually

¹¹¹⁹ (M. Stern 1980, #329 II:128).

¹¹²⁰ (Schäfer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 6). The book provides an in-depth survey and analysis of the attitudes of Greco-Roman writers about Judaism and Jews.

¹¹²¹ (Schäfer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 23).

¹¹²² (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #158 I:384).

¹¹²³ (Josephus, *Against Apion* 1926, II: 148 and II:258). (Schäfer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 21).

¹¹²⁴ (Josephus, *Against Apion* 1926, II:1).

renewed ritual of hostility toward foreigners” and that “their mysterious God is a cruel God who demands human sacrifices.” A specific pernicious allegation of Apion was of an annual Jewish rite to “kidnap a Greek foreigner, fatten him up for a year [in the Temple], and then convey him to a wood, where they slew him, sacrificed his body with their customary ritual, partook of his flesh, and while immolating the Greek, swore an oath of hostility to the Greeks.”¹¹²⁵ Apion made it clear that the Jewish worship in its very essence stood against the accepted values of the civilized, that is Greek, world.

Seneca (end of first century B.C.E. to 65 C.E.) called the Jews an “accursed race” who, despite having been vanquished, were trying to “give their laws” to their Roman victors.¹¹²⁶ Plutarch (shortly after 70 C.E.?) called the Jews “barbarians” and fretted that Greeks were imitating “evil things,” including keeping the Sabbath.¹¹²⁷ Juvenal (c. 60 to 130 C.E.) characterized Jews and those who converted to Judaism as flouters of Roman law.¹¹²⁸

Cornelius Tacitus, a Roman Senator considered one of the great Roman historians, attacked the Jews “with incomparably aggravated anger and contempt,”¹¹²⁹ in the words of Peter Schäfer. Tacitus described the customs introduced by Moses as a “perversion of the religious practices common to all other human beings.”¹¹³⁰ In his *Histories* (composed c. 105 C.E.), Tacitus wrote:

[T]he Jews are extremely loyal toward one another and always ready to show compassion, but toward every other people they feel only hate and enmity. They sit apart at meals and they sleep apart, and although as a race, they are prone to lust, they abstain from intercourse with foreign women...The first lessons [that converts to Judaism] learn are to despise the

¹¹²⁵ (Josephus, *Against Apion* 1926, II:89-96).

¹¹²⁶ As cited by Augustinus, *De Civitate Dei*, VI 11 (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #186 I:431).

¹¹²⁷ See Robert Goldenberg (Goldenberg 2016) for an analysis of Shabbat observance, both Jewish and Roman, in the Roman world.

¹¹²⁸ (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #301 II:103).

¹¹²⁹ (Schäfer, *Judeophobia: Attitudes toward the Jew in the Ancient World* 1998, 98 and 192).

¹¹³⁰ Tacitus, *Histories* V.5.1, cited in (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #281 §4.1. II:25).

gods, to disown their country, and to regard their parents, children, and brothers as of little account.¹¹³¹

Roman statesman and historian, Cassius Dio (second century C.E.) also wrote that the Jews “are distinguished from the rest of mankind in practically every detail of life, and especially by the fact that they do not honor any of the usual gods.”¹¹³²

Philostratus (late second century to mid-third century C.E.), a Greek sophist of the Roman imperial period, wrote that Jews were a race that were in revolt “against humanity,” that they “cannot share with the rest of mankind in the pleasures of the table nor join in their libations or prayers or sacrifices,” and that, because the Jewish race “made its own a life apart and irreconcilable,” a huge gulf existed between it and Roman society.¹¹³³

Erich Gruen takes a more beneficent view of these Roman writers’ perspectives of the Jews, claiming that they may not have been as anti-Jewish as scholars have understood them.¹¹³⁴ Admitting that Roman intellectuals were not great advocates or admirers of Jews, he claims that most of their remarks do not reflect intense antipathy. Rather, he claims, “they were generally dismissive or scornful rather than vituperative.”¹¹³⁵ He claims that the afore-cited “scattered observations and occasional notices” may not be representative and only provide a glimpse into the perceptions or misperceptions that Romans held about Jewish character, principles, and practices. For example, he suggests that the context of Seneca’s remarks and intentions are “indecipherable” and that Juvenal has “sardonic wit” that cannot be taken too seriously. In short, he concludes, that most Romans writing about Jews during this time “contented themselves with

¹¹³¹ Tacitus, *Histories* V.5.1, cited in (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #281 5:1-2 II:26).

¹¹³² (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #406 §2 II:351).

¹¹³³ (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #403 II:341).

¹¹³⁴ (Gruen 2011).

¹¹³⁵ (Gruen 2011, 181).

superficial appearances and impressions. As a consequence, they retained shallow, half-baked, and misinformed opinions. They were either indifferent to Jews or derided them with mockery.”¹¹³⁶ He even cites a counterexample: the Roman polymath Varro, writing at the end of the first century B.C.E., equated the god of the Jews with Jupiter, there being no difference between them other than the name.¹¹³⁷ Gruen also downplays much of what Tacitus writes.

Tacitus is the consummate ironist...Paradox and inconsistency abound, juxtaposed statements and explanations undermine one another, suggestions are put forward, then turned upside down, plausible versions emerge only to be compromised by subtle hints, bitter jibes, or cynical analysis. None of this is innocent, none of it is inadvertent. The wit is sharp, and the humor is dark.¹¹³⁸

John Gager also concludes that “the negative views expressed by Tacitus and Seneca spring from conservative and xenophobic circles opposed not so much to Judaism itself as to a successful expansion into Roman circles.”¹¹³⁹ Paula Fredriksen similarly suggests that “pagan ‘anti-Judaism,’ seems simply an occasional subspecies of a more general contempt for foreign customs and the obverse expression of Greco-Roman patriotic pride. Converts, not ‘native’ Jews, stimulated the greatest hostility.”¹¹⁴⁰

Whether one takes the written record of these Greco-Roman writers at face value, like Stern and Schäfer, or applies Gruen’s, Gager’s, or Fredriksen’s interpretation to them, it seems that the

¹¹³⁶ (Gruen 2011, 184).

¹¹³⁷ Varro *apud* Augustine *De Consensu Evangelistarum* 1.30; cf. 1.31, 1.42.

¹¹³⁸ (Gruen 2011, 195).

¹¹³⁹ (Gager 1985, 77-78). He notes that Plutarch (46 to after 119 C.E.), in his *Dinner Conversations*, writes as a historian of religion and with no hint of criticism of Jews, though nor is there any hint of sympathy or admiration.

¹¹⁴⁰ (Fredriksen, *What “Parting of the Ways”? Jews, Gentiles, and the Ancient Mediterranean City* 2007, 47).

Roman elite, as reflected in most surviving literature, looked down upon the Jews, either with hatred or mere disdain.¹¹⁴¹

On the other side, Jewish practices seem to have been attractive to some degree to individual Romans of all strata of society. Jewish sacred texts had been translated into Greek in the mid-third century B.C.E. and were thus accessible to anyone with a basic education. Synagogues were open to all and, reportedly, many Gentiles would attend. Josephus writes that there was widespread adoption of several Jewish practices, noting, though certainly exaggerating, that “there is not one city, Greek or barbarian, not a single nation, to which our custom of abstaining from work on the seventh day has not spread, and where the fasts and the lighting of lamps and many of our prohibitions in the matter of food are not observed.”¹¹⁴²

Menachem Stern writes that the first century was “marked by the unprecedented fusion of Jewish ideas and customs among various classes of society.”¹¹⁴³ For example, Cassius Dio

¹¹⁴¹ As a side note, it is not surprising how, precisely in the Roman context, Jewish refusal to eat with the Romans may have been a cause for enmity and perceived as misanthropy, as concluded by Tacitus. The main (evening) Roman meals, such as *cena* and *convivium*, were significant social occasions as well as eating opportunities. As Keith Bradley notes, “because, in fact, the Roman dinner was constructed principally as a vehicle of display for the enhancement of an individual’s reputation, it was the men comprising the host’s circle of friends, real or potential, who were the primary focus of interest in the consumption and sharing of food.” (Bradley 2001, 52). Thus, if Jews would not participate in these meals, even due to concern regarding ingredients, they were shunning important social invitations that would have helped to demonstrate their status. It was the Romans who may have conflated the Jews’ refusal to join Roman dinners because of ingredient prohibitions with abstaining from socializing. (Yonatan Adler (Adler 2022, 27) concludes based on both literary and archaeological findings that, in the first century, Jews did indeed strictly adhere to biblical dietary restrictions, especially pork but likely also other prohibited species, such as scaleless fish.) Indeed, the Greek sophist of the Roman imperial period, Philostratus, cited earlier, specifically identifies Jews’ refraining from eating, libation, and worship, as *the* indicators of Jewish misanthropy. (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #403 II:341) Patrick Faas similarly concludes that “in a feasting culture, therefore, careful Jews...were considered antisocial.” (Faas 1994, 30). There were indeed other forms of social interaction between Jews and Romans. Jews did seem to go to the theater, sports arenas, or bathhouses with the Gentiles. M. *’Avodah Zarah* 3:4 even presents a discussion between R. Gamliel and Proclus that takes place in a Roman bath in the Roman city of Akko. T. *’Avodah Zarah* 2:6 (and related) shows that Jews went to stadiums and amphitheatres to see performances and sporting events. M. *’Avodah Zarah* 5:5 discusses having meals—including wine—with the Gentiles in the Jew’s home. Thus, it was all about eating and worship at Roman meals.

¹¹⁴² (Josephus, *Against Apion* 1926, ii.282).

¹¹⁴³ (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, I:362).

mentions that there were many people who “affected” Jewish customs.¹¹⁴⁴ Tertullian, a Christian author in the second and third centuries C.E., adds that Romans adopted the Feast of Purification (Yom Kippur?), unleavened bread, and “praying at the seashore.”¹¹⁴⁵

Shaye Cohen, though admitting “a paucity of evidence,” defines seven non-mutually exclusive categories of behavior by which a Gentile demonstrated respect or affection for Judaism: (1) admiring some aspect of Judaism; (2) acknowledging the power of the god of the Jews or incorporating him into the pagan pantheon; (3) benefiting the Jews or being conspicuously friendly to Jews; (4) practicing some or many of the rituals of the Jews; (5) venerating the god of the Jews and denying or ignoring the pagan gods; (6) joining the Jewish community (without becoming a Jew); and (7) converting to Judaism and “becoming a Jew.”¹¹⁴⁶ The Jews of antiquity in both Greek and Hebrew called these Gentiles, or at least some of them, “God Fearers” or “Venerators of God.”¹¹⁴⁷

Many sources describing these Gentiles were external to *'Ereṣ* Israel, but it appears reasonable to assume that members of each category did exist in *'Ereṣ* Israel, particularly in the Roman cities such as Caesarea.¹¹⁴⁸ At the same time, John Nolland notes that pagan adoption of Jewish customs was not necessarily the result of “a positive attitude to Judaism” and that, despite their adoption of these practices, they “firmly” disliked Judaism itself. Rather, the pagan practice of apparently Jewish customs may in fact be divorced from any conscious connection with Judaism.¹¹⁴⁹ And, as John Gager concludes, “in many cases, the evidence points not so much to

¹¹⁴⁴ (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, #406 §17:1 II:351).

¹¹⁴⁵ Tertullian, *Ad nationes* I.13 as cited in (Nolland 1979). The last allusion is unclear.

¹¹⁴⁶ (S. J. Cohen, *Crossing the Boundary and Becoming a Jew* 1989, 14-15).

¹¹⁴⁷ (S. J. Cohen 1989, 31).

¹¹⁴⁸ (Rives 2007, 162). Indeed, one of Paul’s strategies was to target such God-fearers, and many have suggested that it was from among them that the first Gentile Christians came.

¹¹⁴⁹ (Nolland 1979, 11 n28).

conversions as to varying degrees of sympathy and attachment. Many Gentiles adopted one or another belief or practice from Judaism, without embracing the entire system.”¹¹⁵⁰

Thus, while Roman elites and others may have looked down upon Judaism as an alien religion, Judaism seems not to have been perceived as evil by the general Roman populace.¹¹⁵¹ Indeed, non-infrequent popular affinity might indicate that conversion to Judaism before marriage—if demanded by the Jewish spouse-to-be—may not have represented a stigma or a significant barrier.

Religious/cultural consonance: Jewish attitudes towards Romans, their culture, and paganism

For those *’Ereṣ* Israel Jews who did come in contact with Romans, Roman imperial culture was unquestionably attractive. Its literature, art, architecture, fashion, and its impact on other aspects of society—economic, social, political, and material—were appreciated, adapted, and absorbed.¹¹⁵² Many Jews took on Greek and Latin names.¹¹⁵³ As tannaitic literature itself also seems to support, Jews were attracted to the theater, amphitheater, the Greek language, and Greek philosophy, among other things.¹¹⁵⁴ Given the widespread use of Greek among Jews, the tannaitic rabbis even approved using Greek for many liturgical readings.¹¹⁵⁵ Second-century R. Shimon b. Gamliel II even allowed Torah scrolls to be written in Greek.¹¹⁵⁶

At the same time, there was likely a difference between city and village regarding the adoption of Roman imperial culture. By the time of the Mishnah’s compilation, several cities had

¹¹⁵⁰ (Gager 1985, 86).

¹¹⁵¹ With thanks to Jack Lightstone for this insight.

¹¹⁵² (L. I. Levine, *Judaism & Antiquity: Conflict or Confluence?* 1998).

¹¹⁵³ (T. Ilan, *Lexicon of Jewish Names in Late Antiquity: Part I--Palestine 330 B.C.E. to 200 C.E.* 2002).

¹¹⁵⁴ For example, t. *’Avodah Zarah* 2:5-7.

¹¹⁵⁵ M. *Sotah* 7:1 and m. *Sotah* 7:2. Interestingly, all the prayers that needed to still be recited in Hebrew related only to the Temple or biblical prescriptions, some of which were no longer relevant in mishnaic times.

¹¹⁵⁶ M. *Megillah* 1:8.

been created, designed, and run on the Greco-Roman model. These cities, however, were for the most part populated by non-Jews, though Jews did live there as well. Such urban centers were indeed a meeting place for diverse peoples and ideas, with greater opportunities for contact and influence. Jewish communities in Roman cities, such as Bet She'an (Scythopolis) or in coastal cities such as Caesarea, Ashqelon, and Jaffa, were deeply acculturated. The Greek language and institutions were most prominent within these centers, and the Jews' adaptation to their surroundings there was far more pronounced than in the rest of the country. Indeed, as Lee Levine notes, the Tosefta even cites a case where a Caesarean Jew slaughtered an animal and then wished to offer its fats and blood to idolatry.¹¹⁵⁷

But, as suggested earlier, most Jews seem to have lived in second-tier cities and villages, particularly in the Galilee, with typically Jewish populations. The Jewish population in Caesarea, for example, was not significant in the second century.¹¹⁵⁸ Governance of the towns and villages was in the hands of the Jews. The smaller the town, the greater the traditional life. It was in these locations that most rabbis operated. Relatively few were in big cities at this time. These villages and towns remained more isolated and insulated and thus less under the influence of Roman culture.

Even where it did occur, however, attraction to the Roman culture does not necessarily translate into an attraction to paganism and idol/emperor worship, per se. Jews could adopt elements of Roman culture but still find abhorrent and refrain from Roman religious observance.¹¹⁵⁹ Though there was no "conversion" to paganism and a Jew could easily adopt pagan

¹¹⁵⁷ T. *Hullin* 2:13. The actual circumstances of this episode are not clear. It is possible that the Jew merely wished to acknowledge to common local practice with no actual intent of idol worship.

¹¹⁵⁸ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 45).

¹¹⁵⁹ In modern terms, one may think of the distinction between appreciating Handel's Messiah and attending Christmas Mass.

practices, it is not known to what extent even acculturated Jews accepted the pagan ways. For example, the eating of pork, an important Roman sacrificial animal, remained abhorrent to Jews.¹¹⁶⁰

Martin Goodman suggests that the indications “that some practicing native Jews may have thought of themselves as Romans...are not numerous.”¹¹⁶¹ He adds that “it must have been easy for most religiously observant Jews simply to reject Rome as the wicked kingdom, to look inwards to their own society, rejecting or ignoring the outside world.”¹¹⁶²

Finally, the message of the Mishnah regarding Gentiles, writes Simcha Fishbane, is that they were evil, corrupt, sexually perverted, thieves, and murderers and that they and their governments were dangerous and could not be trusted.¹¹⁶³ Gary Porton suggests that the characterization by the Tosefta is even harsher.¹¹⁶⁴ Though such tannaitic stereotyping may have been exaggerated, as claimed by Porton,¹¹⁶⁵ perhaps as a means to deter socializing with Roman or local pagans and imitating their behaviors, it is unlikely that these perceptions were entirely foreign to many Jews.

¹¹⁶⁰ See, e.g., (Adler 2022, 27-37). Indeed, Friedheim’s findings footnoted above might in fact indicate the lack of such pagan practice among *’Ereṣ* Israel Jews, especially of the Galilee.

¹¹⁶¹ (Goodman, *The Roman Identity of Roman Jews* 1996, 89).

¹¹⁶² (Goodman, *The Roman Identity of Roman Jews* 1996, 93).

¹¹⁶³ (Fishbane, *Descriptive or Prescriptive: The Case of the Gentile in Mishnah* 2007, 156–163) and as reflected in, for example, m. *’Avodah Zarah* 2:1–2.

¹¹⁶⁴ (Porton, *Goyim: Gentiles and Israelites in Mishnah-Tosefta* 1988, 109-110) who writes: “When Tosefta appears to add a reference to the Gentile in its apparent reworking of a portion of Mishnah, it most often does so to paint a negative picture.” See, for example, t. *Terumot* 7:20 and 8:12, t. *Pe’ah* 4:1; t. *Demai* 5:2, and t. *’Avodah Zarah* 3:2–5.

¹¹⁶⁵ For example, Gary Porton (*Porton, Goyim: Gentiles and Israelites in Mishnah-Tosefta* 1988, 286).

Religious/cultural consonance: Jew-Christian relations

The picture on the person-to-person Jew-Christian level, in situations where there was interaction, is complex and difficult to characterize precisely. As Adam Becker and Annette Reed write, reality was “far messier” than a unilinear spatial metaphor allows:

Developments in both traditions continued to be shaped by contacts between Jews and Christians, as well as by their shared cultural contexts. Even after the second century, the boundaries between ‘Jewish’ and ‘Christian’ identities often remained less than clear, consistent with the ambiguities in the definition of both ‘Jew’ and ‘Christian.’ Likewise, ...the continued diversity of Judaism and Christianity found expression in the variety of ways in which Jews and Christians interacted in different geographical, cultural, and social context.¹¹⁶⁶

However, while a sharp boundary between Christian and Jew may not have been discernable, there is some evidence that Jews harassed those in their midst in the Galilee during this period who continued to practice as Jews but also believed in Jesus.¹¹⁶⁷ David Rokeah contends that the apparent objective of the blessing *birkat ha-minim*, praying for the destruction of certain people opposed to the Jews, was to expel Jewish Christians from the synagogues, i.e., from the Jewish community.¹¹⁶⁸ This prayer may have been established quite early, perhaps even in the late first century C.E.¹¹⁶⁹ The wording of the prayer, as found in certain Cairo Geniza manuscripts, is that

¹¹⁶⁶ (Becker and Reed, Introduction 2007, 2).

¹¹⁶⁷ (Grabbe, A History of the Jews and Judaism in the Second Temple Period; Volume 4, The Jews Under the Roman Shadow (4 BCE-150 CE) 2021, 158-159).

¹¹⁶⁸ (Rokeah 1996, 192).

¹¹⁶⁹ Y. *Berakhot* 4:3 8a 37:28 and b. *Berakhot* 28b. For a discussion of scholarly views on the origin of the prayer, see (Langer 2012, 16-39). Langer suggests that the early history of the *birkat ha-minim* is not precisely known and there is little evidence about its origins. The *birkat ha-minim* curses heretics and apostates. However, some scholars have suggested that the prayer may have been instituted in response to Christian participation in synagogues. Nevertheless, there are surprisingly few passages in Christian sources that scholars have interpreted as witnesses to the *birkat ha-minim*. Daniel Boyarin (Boyarin, Anecdotal Evidence: The Yavneh Conundrum, Birkat Hamminim, and the Problem of Talmudic Historiography 2006) argues against the historicity of Yavneh altogether and claims (Boyarin, Border Lines: The Partition of Judaeo-Christianity (Divinations: Rereading Late Ancient Religion) 2004), as cited by Langer, that it is more likely that *birkat ha-minim* first appeared in the liturgy in the third century. Other scholars accept the

the *nošrim* (presumably Christians) and *minim* (presumably apostates) should disappear immediately.¹¹⁷⁰ Rokeah notes that John, in his Gospel, writes: “For the Jews had already agreed that anyone who confessed Jesus to be the Messiah would be put out of the synagogue,” and notes that, though even Jewish authority figures believed in Jesus, they would not confess it out of fear that the Pharisees would eject them from the synagogue.¹¹⁷¹ Paula Fredriksen notes that Paul also writes in *2 Corinthians* how he was physically harassed by the Jews with imprisonment, “countless” floggings, beatings, and stoning for seeking to spread his gospel.¹¹⁷² Then again in *I Thessalonians*, Paul writes how the Jews barred him from his missionary activity.¹¹⁷³ Rokeah notes that Justin Martyr (c. 100 to c. 165 C.E.) also complains of the Jews “cursing in your synagogues those that believe in Christ.”¹¹⁷⁴ Thus, while the situation in late Antiquity may appear amorphous to modern scholars, both the prayer and the Jews’ actions against Paul targeted a known and recognizable phenomenon. Despite the pockets of overlap and interactions, Christianity was seemingly increasingly antithetical to the beliefs of Galilean Jews, particularly by late tannaitic times.

From the Christian perspective, Stephen Wilson writes that, generally, “it was a far more pressing matter for Christians to come to terms with Jews than Jews with Christians.”¹¹⁷⁵ Certainly

existence of Yavneh, and Shaye Cohen suggests that *birkat ha-minim* was inserted into the prayer service during the Yavnean era. (S. J. Cohen, *The Significance of Yavneh: Pharisees, Rabbis, and the End of Jewish Sectarianism* 1984, 42).

¹¹⁷⁰ See (Ehrlich and Langer 2005, 72). Even in the fourth century, Epiphanius complained that the Jews cursed Jewish Christians three times a day (Epiphanius 2009, 29:9.2-3).

¹¹⁷¹ *John* 9:22, 12:42, and 16:2. (Wilson, *Related Strangers: Jews and Christians 70-170 C.E.* 2005, 175) and (Visotzky 2024, 141-142).

¹¹⁷² *II Corinthians* 11:24-27. (Fredriksen, *When Christians were Jews: The First Generation* 2018, 145) and (Fredriksen, *Paul: The Pagans' Apostle* 2017, 82)..

¹¹⁷³ *I Thessalonians* 2:14-16. See (Bockmuehl 2001) which analyzes the historical placement of this event.

¹¹⁷⁴ *Dialogue with Trypho*, Chapter 16. (Visotzky 2024, 141-142).

¹¹⁷⁵ (Wilson 1995, 181). Martin Goodman (Goodman, *Modeling the "Parting of the Ways"* 2007, 119) also writes: “The relationship between Jews and Christians may generally have been important for Christians as part of their self-definition, but it was much less critical for Jews, who could ignore for much of Late Antiquity what Christians thought and did.”

by later tannaitic times, Christian elites looked condescendingly upon Judaism and Jews, seeing Christianity now as the true Judaism and the Jews as being misguided due to their outdated beliefs and practices. Christian literature became more denigrating of Judaism as time went on. This phenomenon would become more pronounced in the amoraic period as would the converse phenomenon of Gentile Christians adopting Jewish customs, both of which will be discussed more fully in the next chapter. In short, it was quite possible that many Christians did feel an affinity towards Judaism. If marrying a Jew was in the offing, converting to Judaism might not have been a barrier.

Religious/cultural consonance: Jewish attitudes towards the Samaritans

Not much reliable information is available on the relations between Jews and Samaritans. However, Menachem Mor notes that, for the most part, there was enmity and rivalry between the two groups during this period.¹¹⁷⁶ Several sources, including Jerome's writing cited by Lee Levine, even imply that a war broke out between the two groups toward the end of the second century.¹¹⁷⁷

Additional Factor that may have Mitigated Against Intermarriage

An additional factor may have also prevented those who cared to one degree or another about rabbinic rulings from entering into an intermarriage. As described in Chapter 8, it appears to have been relatively simple for a Gentile to convert to Judaism in the tannaitic period, even according to rabbinic standards. All that seems to have been required was circumcision for a male, immersion for both a male and female, and no rejection of any of the commandments. Thus, it would have been a straightforward matter to avoid—even in halakhically accepted terms—becoming

¹¹⁷⁶ (Mor 2003, 195).

¹¹⁷⁷ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 64). For a full analysis of whether war broke out between Jews and Samaritans, see (Mor 2003, 186-196).

“intermarried.” There is little reason to believe that a trend of marriages following conversions would have raised the ire of the rabbis if these conversions had met the fairly limited requirements at the time.¹¹⁷⁸ And, in fact, as noted earlier, there are indications that Romans were concerned by the number of proselytes to Judaism during this period and certainly about Romans adopting certain Jewish practices, including circumcision.

Conclusion

The foregoing discussion has posited a scenario of later tannaitic times whereby: (a) The Jews lived primarily in a fairly circumscribed geography and in primarily, if not exclusively, Jewish towns and villages in the Galilee. (b) Their interaction with Gentiles was primarily cursory. (c) The Jews had a certain animus towards Romans, other pagans, and, to an increasing degree, Christians. In the Galilee, the Jews’ acculturation strategy can be defined as one of separation, whereas in the cities there was a degree of integration, though not necessarily one of assimilation. (d) The Roman elite and others denigrated the Jews, but there were Romans interested in Jewish practices, as were many Christians. (e) Judaism was likely not seen as evil by either the Roman populace or lay Christians, and converting to Judaism may not have been uncommon and, thus,

¹¹⁷⁸ Another possible mitigator of intermarriage, at least in some circles, was that certain tannaim deemed the offspring of a Gentile man and Jewish woman an illegitimate bastard (*mamzer*) with severe limitations on being considered part of or participating in the Jewish community. (Francus 1998, 98). See m. *Yevamot* 7:5 and t. *Qiddušin* 4:16. R. Akiva in m. *Yevamot* 4:13 concurred. According to y. *Qiddušin* 3:14 64c 1176:35-40, Rabbi concurred as well. This dispute appears to have carried forward to the *Ereš* Israel amoraim, as reflected in y. *Qiddušin* 3:14 64c-d 1176:24-1177:43. The discourse seems to end inconclusively, though Michael Satlow (Satlow, *Jewish Marriage in Antiquity* 2001, 158-160) suggests that the Yerushalmi concludes that these children are considered *mamzerim*, whereas Christine Hayes (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 184) disagrees. Either way, there appears to have been a stigma regarding the offspring of a Gentile man and a Jewish woman. This stigma may have discouraged intermarriage, especially given the relative ease of avoiding this stigma entirely through a fairly simple conversion procedure. Furthermore, Cana Werman (Werman, "Jubilees 30": Building a Paradigm for the Ban on Intermarriage 1997) argues that *Jubilees* called for an absolute ban on intermarriage with the punishment for a man who gave his daughter in marriage to a Gentile. Conversion was not an option. She suggests that this position contrasted with that of the tannaim but that it may have carried forward to the tannaitic period in some form. If so, then to the extent that *Jubilees* affected the practice of a segment of the people its strict ban on intermarriage would have been another factor limiting intermarriage during the tannaitic period.

may not have represented a barrier before marriage. (f) Intermarriage carried a stigma but conversion of the Gentile to Judaism was relatively easily accomplished. For these reasons, it would seem that intermarriage would likely not have been a common phenomenon.

Furthermore, the negativity of accepting Gentiles into the Jewish people was not as pronounced as it was in the time of Ezra. Ezra, in seeking to revitalize the decimated Jewish community of *'Ereṣ* Israel after the destruction of the First Temple was concerned about genealogical purity.¹¹⁷⁹ He focused specifically on the seven Canaanite nations. But, as Christine Hayes notes, by the later and post-Second Temple periods, the rabbinic concern returned to “the moral-religious danger that such a union poses for the Israelite spouse.”¹¹⁸⁰ The concern was once again the fear of the Jew being drawn to idolatry and pagan behaviors, as expressed in the Bible, rather than genealogical purity.¹¹⁸¹ Intermarriage *per se* was thus less a concern if the previously-Gentile spouse did not overtly reject the practices of the Jewish spouse (especially if there were no offspring).

Finally, even if there was consternation over individual cases of intermarriage, there was likely less of a tannaitic concern over a broader social problem and particularly over increasing assimilation. The Jewish community in *'Ereṣ* Israel remained a significant one.¹¹⁸² There was little reason to fear that the Jewish community would assimilate and diminish through intermarriage.

¹¹⁷⁹ See, for example, (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 68-91 and 274 n59).

¹¹⁸⁰ (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 145-163).

¹¹⁸¹ (Hayes, *Intermarriage and Impurity in Ancient Jewish Sources* 1999, 36) and (Hayes, *Palestinian Rabbinic Attitudes to Intermarriage in Historical and Cultural Context* 2003).

¹¹⁸² (Oppenheimer, *Relations between Jews and Gentiles in the Localities of Talmudic Babylonia* (Hebrew) 1985), (Oppenheimer, *Links Between the Land of Israel and Babylonia during the Transition from the Tannaic to the Amoraic Period* (Hebrew) 2004), (Oppenheimer, *Contacts between Eretz Israel and Babylonia at the turn of the period of the "tannaim" and the "amoraim"* 2005), and (Oppenheimer, *Rabbi Yehuda Ha-Nasi* 2007).

Thus, intermittent intermarriages in tannaitic times do not appear to have been seen as a worrisome indicator that needed to be addressed by the rabbis.¹¹⁸³

THE INTERMARRIAGE PHENOMENON AND RABBINIC PERCEPTIONS

Scholars debate the frequency or rate of intermarriage during the tannaitic period. Shaye Cohen writes that “intermarriages between Jews and non-Jews were not unusual occurrences in antiquity,” though he offers no support nor does he quantify.¹¹⁸⁴ Rather, he suggests that statistics regarding the number of intermarriages or rate of intermarriage during this period are unavailable and a desideratum.¹¹⁸⁵ Other scholars, such as Louis Feldman, assert that intermarriage was not frequent in *’Eres Israel* during this period.¹¹⁸⁶ Following is a survey of some of the relevant historical and tannaitic literature of the period that appear to refer to intermarriage. None indicates a societal phenomenon that troubled the rabbis of the period.

Eyal Regev, carefully analyzes the marriage practices of King Herod and his family, near the turn of the millennium.¹¹⁸⁷ He finds that, with very few exceptions, they went out of their way to avoid intermarriage. Indeed, one marriage seemed to have been called off because the groom-king was not willing to be circumcised. While this may be a societal indicator, it may also not be,

¹¹⁸³ Arye Edrei and Doron Mendels (Edrei and Mendels 2007) suggest that the tannaitic sages did not take an interest in the Greek-speaking, western diaspora and let it slip away from its connection to the *’Eres Israel* center, taking no steps to try to maintain the connection. Similarly, one might wish to argue that intermarriage did occur among people already on the fringes of Jewish society—and who did not actively participate in the “complex common Judaism”—and the rabbis decided to let these marginal Jews disappear. Edrei and Mendels admit that they offer no hypothesis as to why the rabbinic leadership would allow this phenomenon to develop and grow, and it is indeed not clear why the rabbis saw fit not to act. This argument is therefore counterintuitive to me, both as pertains to diaspora and to the suggestion that it might apply to intermarriage is well.

¹¹⁸⁴ (S. J. Cohen, *Crossing the Boundary and Becoming a Jew* 1989, 13).

¹¹⁸⁵ (S. J. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* 2000, 245 n12).

¹¹⁸⁶ (Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian* 1993, 79).

¹¹⁸⁷ (Regev, *Herod's Jewish Ideology Facing Romanization: On Intermarriage, Ritual Baths, and Speeches* 2010, 197-206).

as Herod, concerned about his own Jewish lineage,¹¹⁸⁸ may have gone out of his way to demonstratively indicate his commitment to Judaism.

Joseph and Aseneth, discussed in the Chapter on Second Temple literature, would seem to indicate that the possibly first or second century author and his (Jewish?) audience were aware of and concerned about intermarriage.¹¹⁸⁹ A key teaching of the retold story is that intermarriage is not permitted but that marriage after conversion is possible. One might wish to suggest that the book's agenda is to help stop intermarriage in society by offering a corrective mode of action. But, as previously noted, the book may have been authored in Egypt, not in 'Ereṣ Israel, and would thus have been addressing a diasporic problem. Furthermore, as Christoph Burchard comments, the book is remarkably ill-suited as an Introduction to Judaism for a pagan.¹¹⁹⁰ The author might merely be explaining, as part of an extended novel based on these two characters, how it was possible for Joseph to marry a non-Jew, and thus remove a "rough spot in the Bible" and satisfy "pious curiosity as to the circumstances of a noted patriarch's surprise wedding to a non-Jew," without inference to the society around him.¹¹⁹¹

A possible indication of the low incidence of intermarriage, at least of a Jewish man with a Roman woman, during this period may come from Roman Historian Tacitus who noted, in his diatribe against the Jews, that "they abstain from intercourse with foreign women."¹¹⁹² As noted earlier, one must tread carefully in understanding Tacitus's rhetoric and intent. But his statement is all-encompassing, not limiting itself to one situation or another (such as non-marital intercourse, prostitutes, slave girls, etc.). This would seem to include marrying Gentile women who had not

¹¹⁸⁸ (Marshak 2015, 110): "Herod was an Idumean with a Nabatean mother, and thus some Judaeans did not even consider him entirely Jewish."

¹¹⁸⁹ With thanks to Herb Basser for this insight.

¹¹⁹⁰ (Burchard 2021, 194-195).

¹¹⁹¹ (Burchard 2021, 186-196).

¹¹⁹² Tacitus, *Histories* V.5.1, cited in (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, II:26).

first converted.¹¹⁹³ Tacitus's view likely came from his perception in Roman cities, where Jews lived intermingled with Gentiles; 'Ereš Israel would certainly not have been different. Indeed, Martin Goodman concludes from Tacitus's phrase, "and [they] sleep apart" that it was "common knowledge" that Jews in general preferred to portray themselves as marrying only within the fold.¹¹⁹⁴ Menachem Stern too suggests that "abstention from marriage and cohabitation with Gentile women became a common practice from the time of Ezra and Nehemiah and is well reflected in the literature of the Second Temple."¹¹⁹⁵

Regarding rabbinic perception of an intermarriage problem, Calvin Goldscheider observes that while inter-religious marriages were anticipated in the community imagined by the Mishnah and there was formal prohibition of such marriages, there is little outright condemnation of such intermarriages.¹¹⁹⁶ The major concern seems to be the status of the children and the rights of women to the husband's resources. Furthermore, instead of issuing strong negative sanctions, there is a concerted attempt in the Mishnah to include the intermarried couple and their offspring within the community.¹¹⁹⁷ Goldscheider concludes that "intermarriages were not viewed as a threat to the continuity of families or of the community because of either their rarity or a general high level of tolerance of inter-caste marriages."

¹¹⁹³ Sources cited earlier in this dissertation indicate Roman concerns about conversion to Judaism, and certainly about adopting certain Jewish practices, during this period. Several scholars assert that there was indeed a flurry of proselytizing during the period. On the other hand, Martin Goodman (Goodman 2001) argues strenuously against this conclusion. William Braude (Braude 1940, 8) asserts that the notion of mass Jewish proselytizing was a Christian invention. Similarly, Paula Fredriksen (Fredriksen, What "Parting of the Ways"? Jews, Gentiles, and the Ancient Mediterranean City 2007, 43) writes that "the idea of Jewish missions to Gentiles to convert them to Judaism has been one of the biggest historiographical mistakes of the past century." She argues (55), in part, that "to have actively pursued a policy of alienating Gentile neighbors from their family gods and native civic and imperial cults would only have put the minority Jewish community at risk."

¹¹⁹⁴ (Goodman, *Mission and Conversion: Proselytizing in the Religious History of the Roman Empire* 2001, 77).

¹¹⁹⁵ (M. Stern, *Greek and Latin Authors on Jews and Judaism* 1980, II:26).

¹¹⁹⁶ (Goldscheider 2019, 161-164). (S. J. Cohen, *From the Bible to the Talmud: The Prohibition of Intermarriage* 1983). Rosen-Zvi and Ophir (Rosen-Zvi and Ophir, *Goy: Toward a Genealogy* 2011) would seem to concur with this characterization.

¹¹⁹⁷ M. *Qiddušin* Chapter 4.

The following mishnayot might be read as alluding to a concern over intermarriage, which was certainly prohibited.¹¹⁹⁸ But none conclusively offers insight as to the reality at the time of Mishnah's compilation.

M. *Sanhedrin* 9:6 states:

הגונב את הקסנא והמקלל בקוסם והבוועל ארמית. קנאים פוגעים בָּהֶן.

- I. One who steals a [sacred Temple] libation vessel,
- II. One who curses [God] by the name of another god,
- III. and one who sexually possesses an Aramean woman:
- IV. zealots may attack him.¹¹⁹⁹

§III might be read as the mishnah's concern over intermarriage. However, this mishnah appears to be addressing egregious offensive acts where zealots may attack the offender without waiting for due process of law. Thus, §III should be read as an allusion to biblical Phineas' act (*Numbers* 25:1–18), which was a spur-of-the-moment reaction to a public, flagrant, idolatry-related, one-time act by a tribal leader. The mishnah appears concerned about an exceptional event that replicates a very public situation at the moment of its occurrence, and not, for example, to a Jew's maintaining an ongoing discreet relationship with a Gentile woman.

M. *Gittin* 9:2 states:

הָרִי אֶת מוֹתֶרֶת לְכָל אָדָם אֶלָּא לְאִבָּא וּלְאִבִּיהּ, לְאִסְי וּלְאִסְיִיהּ, לְעֵבֶד וּלְנוֹכְרִי, וּלְכָל מִי שְׂאִין לָהּ עֲלִיו קִידוּשִׁים, כְּשֶׁר.

¹¹⁹⁸ A number of mishnayot might be thought to be dealing with intermarriage but are not. M. *Yadayim* 4:4 presents a dispute between R. Yehoshua and Rabban Gamliel whether Yehudah, an Ammonite convert, was permitted to marry a Jewess. However, this was not a question of intermarriage as Yehudah was Jewish; the concern was whether he could marry despite the prohibition in Deuteronomy 23:4-5 “An Ammonite or a Moabite shall not enter into the assembly of the Lord; even to the tenth generation shall none of them enter into the assembly of the Lord forever.” The mishnah makes clear that this ban no longer applied in their day. Additionally, m. *Yevamot* 3:6, 7, and 9 refer to marriage to *nokhriyyot* women. While the term *nokhrit* sometimes refers to Gentile women, in these mishnayot the term means “unrelated to each other” rather than “Gentile.”

¹¹⁹⁹ This phrase is traditionally understood as a physical attack. However, it could also be understood as verbal confrontation as in *Jeremiah* 7:16, *Ruth* 1:16, and y. *Qiddušin* 3:12 64d 1177:18-21.

- I. [If the divorcing husband said] “You are permitted to everyone except to my father;”
- II. Or “To your father,” “To my brothers;” or “To your brothers;”
- III. “To a slave;” or “To a Gentile;”
- IV. Or to anyone with whom betrothal is impossible—[literally, anyone upon whom she does not have valid betrothal]
- V. It [the divorce] is valid.

In §III, the mishnah is referring to a husband who, though divorcing his wife, restricts her from marrying a Gentile. One might wish to conclude that such a marriage was a common one, from which the husband wished to preclude his soon-to-be ex-wife. However, the purpose of the mishnah is to expound the legal principle that the husband’s condition to restrict his wife from marrying someone with whom Jewish marriage—*qidduṣin*—cannot take root is a non-condition and the divorce is effective. Just as a woman marrying her brother (§II) is not a real-world scenario that concerns the mishnah, so too her marrying a Gentile man (§III) does not necessarily indicate a practical concern.

One mishnah, m. *Yevamot* 7:5, does use the term *niṣu’in* regarding a Jewish woman who married a Gentile. The surrounding mishnayot discuss who is considered part of the priestly household and is thus permitted to eat of the priestly portion, *terumah*. They also discuss which changes in family status invalidate one’s permission to partake of the priestly portion. This mishnah explains how a bastard offspring might, depending on the circumstances, either enable or disable his mother’s partaking of the priestly portion. M. *Yevamot* 7:5 states:

ממזר פוסל ומאכיל. כיצד, בת ישׁראל לפהו, ובת פהו לישראל, וילדה ממנו בת, והלקה הבת ונשאת לעבד, ונשאת
לנכרי וילדה ממנו בן. הרי זה ממזר. היתה אם אמו בת ישׁראל לפהו, תאכל בתרומה. ובת פהו לישראל, לא תאכל
בתרומה.

- I. A *mamzer* [bastard] makes unfit and permits eating [the priestly portion].
- II. How?
- III. [If] a daughter of an Israelite [was married] to a priest,

- IV. or a priest's daughter [was married] to an Israelite,
- V. And she had a daughter from him,
- VI. And the daughter went and was married to a slave or a Gentile and had a son from him—
- VII. In this case, this [son] is a *mamzer*.
- VIII. If his mother's mother was a daughter of an Israelite [married] to a priest, she [the grandmother (as in §III) because of the *mamzer* grandson,] may eat *terumah*.
- IX. [If she was] a priest's daughter [married] to an Israelite, she [the grandmother (as in §IV), because of the *mamzer* grandson,] may not eat *terumah*.

The mishnah in §VI describes an instance of intermarriage. The terminology is puzzling, as the Mishnah elsewhere does not recognize such marriages.¹²⁰⁰ Indeed, m. *Qiddušin* 3:12 is quite explicit on this point.¹²⁰¹ Regardless, assuming that the text of m. *Yevamot* 7:5 above is correct, the mishnah might appear to be pointing to a feasible scenario. However, the circumstances posited are in fact highly convoluted. Rather, this appears to be a scholastic exercise where the mishnah's actual purpose is to define the bounds of family partaking in the priestly portion, *terumah*. It cannot be taken to reflect the reality of the time.

Perhaps the single most plausible indication in tannaitic literature regarding a practical concern over intermarriage is m. *Sukkah* 5:8. It appears to allude to an actual instance of intermarriage where a punishment (although it is not called such) was visited upon the priestly course of Bilgah. The final sentence in Tractate *Sukkah*, m. *Sukkah* 5:8, reads:

בלגה חולקת לעולם בדרום, וטבעתה קבועה, וסלונה סתומה.

- I. [The priestly watch of] Bilgah always shares [the showbread] in the south,

¹²⁰⁰ Indeed, tosafoth on the mishnah, at b. *Yevamot* 69b, s.v. *we-nis'ate*, is surprised by the mishnah's use of the term and suggests that it should be *nikhbešah*, she was captured (or enamored or attached). Interestingly, neither the Yerushalmi nor the Bavli include any discourse on this mishnah's use of the term. This raises the intriguing question of whether the phrase "or married a Gentile" was in the original mishnah text, though it does appear in the Kaufmann MS.

¹²⁰¹ "And anyone who cannot have betrothal, not with him and not with others—the offspring is like her. And which is this? This is the offspring of a slave woman or a non-Jewish woman." (הנולד כמותה. ואי זה זה. זה נולד שפקה נ(ו)כרית)

- II. And its ring is fixed,
- III. And its wall niche is sealed.

This mishnah's parallel in t. *Sukkah* 4:28 provides more specifics about the events:

בלגה לעולם חולקת בדרום וטבעתה קבועה, וחלונה סתומה, מפני מרים בת בלגה שגשמתמדה, הלכה ונשאת לסרדיוט אהד ממלכי יון, וכשנכנסו גוים להיכל באתה וטפחה על גגו של מזבחת, אמרה לו, לוקס לוקס, אתה תהרבת ממונן של ישראל ולא עמדת להם בעת צרתם. ויש אומ' מפני עיפוב משמרות, נכנס ישבאב ושימש תחתיה, לפיכך בלגה נראית יוצא לעולם, וישבאב נראית נכנסת לעולם. כל השכנים הרעים לא קבלו שכר, חוץ מישבאב שהן שכניה של בלגה וקבלו שכר.

- I. [The priestly watch of] Bilgah always divides it [the showbread] in the south, and its ring is fixed, and its wall niche is sealed
- II. Because of Miriam, daughter of Bilgah, who apostatized.
- III. She went and married an officer at the Greek royal house.
- IV. And when the Gentiles entered the sanctuary, she came and stamped atop the altar, screaming at it, “Wolf! Wolf! You have destroyed the fortune of Israel and did not stand up for them in their time of trouble.”
- V. And some say it was because [the priestly watch of Bilgah] delayed its observing the priestly watch.
- VI. So, the watch of Yeshebab went in and served in its stead.
- VII. Therefore, Bilgah is always seen among the outgoing priestly watches [at the south], and Yeshebab is always seen among the incoming priestly watches.
- VIII. Neighbors of the wicked normally receive no reward
- IX. Except for Yeshebab, neighbor of Bilgah, who received a reward.

This tosefta records how, before the Maccabean victory, a certain Miriam, of the priestly course of Bilgah, apostatized (§II), married a Greek officer (§III), and then went into the Temple and proceeded to denigrate and damage it (§IV). Bilgah's punishment is recorded in §I and §VII. Egregious as this instance was, it seems clear that this was an exceptional incident. In any case, it preceded even early tannaitic times by two hundred years and cannot be taken as an indicator of social reality or concerns at the time of the Mishnah.

At the same time, had intermarriage been a true tannaitic concern, one might have expected certain tannaitic prohibitions to have been attributed to *it*, rather than to other rationales. But this is not the case. Toseftot *Avodah Zarah* 2:5-6 read:

(5) הַעוֹלָה לְתַרְטִיאוֹת שֶׁל גּוֹיִם אָסוּר מִשּׁוּם עֲבוֹדַת זָרָה דְּבַר ר' מֵאִיר וְחַכְמֵי אוּמָא בְּזִמְנָא שֶׁמְזַבְּחִין אָסוּר מִשּׁוּם עֲבוֹדַת זָרָה. אִם אֵינָם מְזַבְּחִין אָסוּר מִשּׁוּם מוֹשֵׁב לְצִידִים.
 (6) הַהוֹלֵךְ לְאַיִצְטְרִטְיוֹנִין וְלַפְרָקְנִיּוֹן וְרוֹאֶה אֶת הַנְּחָשִׁים וְאֶת הַחֲבָרִין בְּקִיּוֹן וּמוֹקִיּוֹן מוֹלִיּוֹן סַגְלָרִיּוֹן סַגְלָרִיא הָרִי זֶה מוֹשֵׁב לְצִידִים...¹²⁰²

- I. (5) He who goes into the Gentiles' amphitheaters,
- II. It is forbidden on the grounds of idolatry, the words of R. Meir
- III. And the sages say, "When they are actually sacrificing, it is prohibited on the grounds of idolatry,
- IV. If they are not sacrificing, it is prohibited on the grounds of 'sitting with scoffers.'¹²⁰³
- V. (6) He who goes to a stadium or to a camp to see the performances of sorcerers and enchanters or of various kinds of clowns, mimics, buffoons and the like,
- VI. This is "sitting with scoffers."

In §II, R. Meir prohibits going to amphitheaters out of concerns of idolatry. The sages in §IV prohibit doing so even if there is no idolatry being performed but rather due to "sitting with scoffers," which is also given in §VI as the reason for prohibiting the activities listed in §V. Had fear of intermarriage been a rabbinic concern at this time, all of these social activities could have been expected to be banned out of fear of intermarriage.

In several places, the Mishnah addresses the children of interreligious relationships. M. *Qiddušin* 3:12 and m. *Yevamot* 2:5 rule that the child of a Jew with a Gentile woman or female slave is considered a Gentile.¹²⁰⁴ M. *Megillah* 4:(9)10 vehemently repudiates any understanding that having a child from such a union constitutes a violation of the biblical prohibition in *Leviticus*

¹²⁰² This pericope has several textual variants and challenges, but the overall gist is the same.

¹²⁰³ *Psalms* 1:1.

¹²⁰⁴ The latter considers both a "marriage" situation as well as, apparently, a less-committed relationship.

18:21 of giving one's son to the idol *Molekh*.¹²⁰⁵ However, these mishnayot give no hint that they are addressing anything other than the results of non-binding inter-religious intercourse. They do not refer to intermarriage per se.¹²⁰⁶

Also, in the late tannaitic period R. Yehudah the Patriarch enacted halakhic rulings that reduced the economic burdens of *shmittah* (the seventh-year sabbatical) and certain tithes in certain cities, declaring them “outside” of Israel.¹²⁰⁷ Lee Levine writes that, with improving relations between the Jews and the Imperial authorities, Rabbi “was eager to encourage Jewish migration into these cities, particularly Caesarea. A strong Jewish community there would provide political leverage in matters of Jewish interest.”¹²⁰⁸ These rulings were geared to foster Jewish migration into the Roman cities and can be taken as a sign that intermarriage was not a concern during this period. For, it seems unlikely that Rabbi would have condoned, let alone encouraged, such migration had there been a significant concern regarding intermarriage.

Another possible indicator that there was little worry in the tannaitic period over intermarriage is that after the destruction of the Second Temple, the *sefer yuḥasin*, a genealogical

¹²⁰⁵ In contrast, see *Jubilees* 30:7 (Klawans and Wills, *The Jewish Annotated Apocrypha: New Revised Standard Version Bible Translation* 2020, 64), exegeting the actions of Simeon and Levi, after the rape of their sister Dinah: “If there is a man in Israel who wishes to give his daughter or his sister to any man who is Gentile, he is to surely die. He is to be struck with stones because he has committed an outrage in Israel. As for the woman, she is to be burned with fire because she has defiled the name of her father’s house. Let her be eliminated from Israel.”

¹²⁰⁶ Regarding the notion of intermarriage being referred to as *zenut*, Christine Hayes distinguishes between the Qumranites and the rabbis. She writes (Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmud* 2002, 76), “For *Jubilees*, intermarriage is Pentateuchally prohibited *zenut*, an immoral act of sexual union with one of nonholy seed, generating a moral impurity that defiles the holy seed of Israel.” However, she contrasts “sharply” the rabbinic application of the term *zonah* to Gentile women and to Israelite intercourse with Gentile woman with its application in Second Temple sources. “For the rabbis, the terms [*zonah*, *zenut*] function as purely legal classifications that establish the nonbinding nature of Israelite intercourse with unconverted female Gentiles. In other words, such intercourse is ‘mere’ *zenut* and does not establish a marital bond.” In other words, *zenut* is a notion entirely separate from intermarriage.

¹²⁰⁷ See t. *’Ahirot* 18:17, y. *Demai* 2:1 22c 121:36–38, and b. *Hullin* 6b. One might argue that Rabbi was merely ruling on the reality that certain towns, like Beit She’an, were Gentile, perhaps even as a way of discouraging Jews from moving there. However, the “tax” advantages he provided for those cities would in fact have had the opposite effect.

¹²⁰⁸ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 68).

book that had been kept by a public authority to ensure purity of lineage, was no longer maintained except to some degree by private families.¹²⁰⁹

Thus, there appears to be little indication in either rabbinic or other extant literature of widespread intermarriage in tannaitic *'Ereṣ* Israel.

¹²⁰⁹ (R. Yankelevitch 1982).

10. AMORAIC 'EREṢ ISRAEL AND INTERMARRIAGE

Over the ensuing two centuries (200 to 380 C.E.), several changes relevant to the analysis here occurred in the life of the Jews in 'Ereṣ Israel. For example, the tannaitic period ended under a pagan Roman regime, while the amoraic period in 'Ereṣ Israel ended under a Christian Roman regime. Urbanization was another major development during this timeframe, with a corresponding decline in the rural settlement. The first section of the chapter explores what is known about these changes and their possible impact on the opportunity-affinity matrix. The analysis will suggest that, while the changes may have made social conditions more predisposed to intermarriage, many impediments remained. The second major section of this chapter will suggest that the occurrence of intermarriage in reality (or rabbinic perception) still did not rise to a level sufficient to prompt the rabbis to act.

SOCIETAL PREDISPOSITION TOWARDS INTERMARRIAGE

Opportunity

Physical interaction

The opportunity for interaction between single Jews and single Gentiles likely did increase to a certain extent in the amoraic period over the tannaitic one. For purposes of this analysis, however, one must distinguish between Roman cities, like Caesarea, Lydda, and Beit She'an, to which many Jews migrated, and what appear to have remained Jewish cities, though with an increased presence

of Romans and Christians, like Sepphoris and Tiberias.¹²¹⁰ These will be discussed shortly. But change may not have affected the bulk of the Jewish population in a substantive way because, though *'Ereṣ* Israel had become significantly more urbanized, the Jewish settlement remained primarily in the Galilee.

Uzi Leibner suggests that during the late Roman and early Byzantine periods, there was a shift of the population as the Jewish settlement in the Galilee gradually converged into the eastern portions, while its hold on western Galilee declined.¹²¹¹ He and others also conclude there was a long-term decline in Jewish settlement in lower eastern Galilee from the mid-third century through the second half of the fourth century.¹²¹² Leibner further posits that the venues of Galilean rabbinic activity appear to have shifted consistent with these population movements.¹²¹³ Furthermore, the sages, who had previously been based primarily in the smaller towns of *'Ereṣ* Israel migrated to urban centers like Tiberias, Sepphoris, Caesarea and Lydda. And no longer did the rabbis function only in informal, non-institutional settings; rabbinical academies were established in many of the major cities of Roman *'Ereṣ* Israel.¹²¹⁴

Despite the decline in population, it does not appear that the internal composition of the Jewish settlement changed significantly. Though scholars debate this issue, there are many

¹²¹⁰ (J. Schwartz, *Hayei ha-Yom Yom bi-Teveria bi-Tekufat ha-Mishnah vaha-Talmud* 1988, 106-107) discusses the non-Jewish population of Tiberias.

¹²¹¹ (Leibner, *Mesoret Galuyot 'Ha-Sanhedrin' ve-Toldot ha-Yishuv ha-Yehudi ba-Galil* 2023, 246-253).

¹²¹² (Leibner, *Hityashvut ve-Demographia ba-Galil ha-Mizrahi be-Tekufot ha-Romit ha-Meuheret vaha-Byzantit* 2009, 24) and (Leibner, *Settlement Patterns in the Eastern Galilee: Implications Regarding the Transformation of Rabbinic Culture in Late Antiquity* 2009, 273 and 277). Leibner asserts (283) that there may be a correlation between demographic decline and the changes that took place in rabbinic circles, first and foremost the compilation of the *Yerushalmi*, and that by the end of the fourth century the centers of learning that had developed had dropped out of the historical record.

¹²¹³ (Leibner, *Mesoret Galuyot 'Ha-Sanhedrin' ve-Toldot ha-Yishuv ha-Yehudi ba-Galil* 2023).

¹²¹⁴ (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 25, 29).

indicators that that most Galilean towns and villages remained Jewish throughout most of the amoraic period, unaffected by the growth in Christianity.

Archaeologically, Mordechai Aviam notes that while some Judeo-Christian groups were located in Jewish Galilee during the second and third centuries C.E., there are no archaeological remains in the Galilee of Christianity prior to the fourth century C.E.¹²¹⁵ Nazareth appears from excavations to have been a small, typical Jewish Galilean enclave all through the Byzantine period. Zeev Weiss also notes that, while marble or stone statues were discovered during this time along the margins of the Galilee and the settlements near it, on Mount Carmel, and even in Sepphoris itself, they have not been found in Jewish Galilee.¹²¹⁶

Uzi Leibner also notes that villages originally inhabited by Jews in western Lower Galilee were either left abandoned or populated by Christians. Western Lower Galilee was now densely settled by Christians, with a clear presence in southern Western Galilee. In a series of sites that had been previously settled by Jews during the Roman period, there is, in the Byzantine period, archaeological evidence of a Christian population, but no proof of a continuing Jewish stake hold in the area. This includes the fact that synagogues were entirely absent in the formerly-Jewish towns of Western Galilee,¹²¹⁷ whereas, in eastern Galilee there are many synagogue fragments.¹²¹⁸ Furthermore, Leibner suggests that even through the early Byzantine period, “we do not have archaeological data pointing to villages in which Jews and Christians lived concurrently... Villages were generally homogeneous from an ethnic perspective.”¹²¹⁹

¹²¹⁵ (Aviam, *Christian Galilee in the Byzantine Period* 1999, 283).

¹²¹⁶ (Z. Weiss 2021, 215-216).

¹²¹⁷ (Leibner, *Mesoret Galuyot ‘Ha-Sanhedrin’ ve-Toldot ha-Yishuv ha-Yehudi ba-Galil* 2023, 252).

¹²¹⁸ (Leibner, *Mesoret Galuyot ‘Ha-Sanhedrin’ ve-Toldot ha-Yishuv ha-Yehudi ba-Galil* 2023, 266).

¹²¹⁹ (Leibner, *Mesoret Galuyot ‘Ha-Sanhedrin’ ve-Toldot ha-Yishuv ha-Yehudi ba-Galil* 2023, 246).

Ann Killebrew also writes that the hundreds of villages in the Galilee and Golan are typically identifiable by the presence of cultural markers such as synagogues, Hebrew or Aramaic inscriptions, and elements of material culture that are specifically related to Jewish ritual or religious practices.¹²²⁰ Killebrew and Doron Bar note that rarely do synagogues and churches or pagan temples appear together in nonurban settlements, suggesting that these villages tended to be homogeneous in ethnic and religious affiliation.¹²²¹

Another indication that Christianity had not penetrated the Galilee, certainly in the early fourth century, is that out of about fifty bishops who attended the Council of Nicaea in 325 C.E. from Syria and 'Ereṣ Israel, none came from the Jewish towns of Galilee.¹²²² As Blake Leyerle notes, this suggests that there were no churches there.¹²²³

There are several literary indications as well. First, the Yerushalmi stipulates, as a stringent halakhic principle, that a court could assume that anyone killed between Tiberias and Sepphoris was Jewish.¹²²⁴ At least along this travel route, there appears to have remained a Jewish supermajority.

Christian literature too leads to a similar conclusion. Shortly after Eusebius Pamphili became the bishop of Caesarea Maritima (c. 314 C.E.), he compiled a book known as the *Onomasticon*, which lists towns and sites in 'Ereṣ Israel. Several scholars believe that, since Eusebius's book characterizes only a small number of cities as Jewish and only a small number as

¹²²⁰ (Killebrew 2010, 196).

¹²²¹ (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuhret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 135). (Killebrew 2010, 192 and 194). The exceptions can be explained as monuments at certain historic Christian sites with little, if any, nearby Christian population.

¹²²² (Edwards 2006, 538). See also (Goodblatt, *Population Structure and Jewish Identity*. 2010, 113).

¹²²³ (Leyerle 1999, 347 n10).

¹²²⁴ Y. *Sanhedrin* 5:1 22c 1289:1.

Christian or Samaritan, one might infer that the scores of other towns and villages described were mixed.¹²²⁵

This conclusion may not be correct. Umhau Wolf concludes that *Onomasticon* was a biblical geographical dictionary, quite possibly written as a travel guide to holy sites and points of interest for Christian pilgrims, whose visits Eusebius wished to encourage.¹²²⁶ It does not appear to have been written as a comprehensive road atlas of 'Ereş Israel. Indeed, the list of cities is sorted by biblical source and not in alphabetical or geographical order, either of which would have been more practical had the book been intended as an atlas.

Second, Eusebius's list is incomplete, with Judea being its primary focus, not the Galilee. Furthermore, Wolf notes that many biblical and New Testament city names are absent.¹²²⁷ Steven Notley and Zeev Safrai estimate that about 370 sites mentioned in Eusebius's sources do not appear in *Onomasticon*,¹²²⁸ and that, in the Galilee alone, *Onomasticon* omits about 70% of the places named in his sources. It is reasonable to assume that there were likely scores of additional Jewish villages and towns not included because their name was not biblical.

Third, Wolf, Notley, and Safrai suggest that one cannot take Eusebius's attribution—or non-attribution—of religions to sites as definitive.¹²²⁹ Only a single Galilean village (Dabiera) is listed in the *Onomasticon* as Jewish. On its face, it does not seem reasonable to assume that only

¹²²⁵ See, e.g., (Isaac 2004).

¹²²⁶ (Eusebius 1971). Indeed, the translation of the Greek title of the work is *Concerning Place-Names in Sacred Scriptures*. In other words, the towns and landmarks Eusebius chose to describe are only those mentioned in the Bible or New Testament. According to (Hunt 1982, 1-5) and (Walker 1990, 325ff), a Christian "holy land" began shortly after 312 C.E., when Constantine attributed his defeat of his rival to the "intervention of the God of the Christians," and his arrival in the east in 324/5.

¹²²⁷ C. Umhau Wolf's Introduction to (Eusebius 1971). For a critical analysis of the above, see Melamed, E. Z. *Tarbiş*, III (1932), 314-27, 393-409; IV (1933) 78-96 and 249-84 (in Hebrew). For a Hebrew translation, see Melamed, E.Z., *Tarbiş*, XIX (1948) 65-88 and 129-152; XXI (1950) 1-24 and 65-91.

¹²²⁸ (Notley and Safrai 2005).

¹²²⁹ C. Umhau Wolf's introduction to (Eusebius 1971) and (Notley and Safrai 2005).

a *single* place in the entire Galilee was Jewish. Furthermore, the *Onomasticon* makes no mention of Christian sacred sites, in the Galilee or otherwise, implying that such did not likely exist.¹²³⁰

The next chronological source is the first extant Christian pilgrimage account from an anonymous traveler from Bordeaux, who visited 'Ereṣ Israel in 333 C.E. His trip brought him from Caesarea to Scythopolis (Beit She'an) and then southward to Jerusalem. Though this route brought him within a day's trip to the Galilee, it is "striking" to Blake Leyerle that the pilgrim did not go there, even though he had ample time.¹²³¹ This seems to indicate that there was little or nothing of Christian interest in the Galilee.

Later, in his book *Panarion*, written in the 370s, Epiphanius, bishop of Salamis, Cyprus, relates the account of one "Count" Joseph of Tiberias.¹²³² According to Joseph's account, despite his efforts and despite his having been authorized by Emperor Constantine to build churches in the Galilee, he succeeded in building only a small church on the site of a former pagan temple in Tiberias.¹²³³ Even this task, he claimed, was accompanied by physical harm inflicted on him by the local Jewish community. Epiphanius himself notes that not only were there no churches in the

¹²³⁰ Additionally, the work was estimated to have been completed around the middle of the fourth century C.E. Jerome translated it around 390 C.E. But the manuscripts of Jerome's Latin translation date only from the eighth and ninth centuries. It is hard to know the extent and nature of redactions and editing that may have occurred to the text before it reached its current form.

¹²³¹ (Leyerle 1999, 346-347).

¹²³² (Epiphanius 2009, 131ff, Chap. 30: Against Ebionites). (Z. Safrai, *The Missing Century* 1998, 67). (Bar, 'U-Mil'u et ha-Aretz': *Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim* 2008, 127). See also (Irshai 2011).

¹²³³ Scholars disagree on the extent one should read this story in *Panarion* as factual. Zeev Rubin (*Z. Rubin, Parashat ha-Komess Yosef vaha-Nisyonot ke-Nitzur ha-Galil ba-Me'ah ha-Revi'it la-Sefirah* 1983, 106) argues that Epiphanius was well aware of the situation of Christianity of Beit She'an in the sixth decade of the fourth century. Thus, "one may relate with confidence to this portion of his story." At the same time, he writes (112) that "the character of Joseph himself, as described by Epiphanius, is not believable, and thus one must cast doubt on many details of the story attributed to him." Rubin concludes that "it is likely that Epiphanius would not have spoken of only a small church in Tiberias, if it were possible in his day to point to a large structure that stood on the spot. It seems, therefore, that Tiberias remained mostly Jewish even when Epiphanius wrote his *Panarion*." Regardless of how one reads this story, it seems that Epiphanius's account of Joseph's travails and very limited success indicates the complexities and difficulties facing the Christians in penetrating the Jewish towns and villages of the Galilee during this period.

Jewish towns in the Galilee, but there were also “no Greeks, Samaritans, or Christians among the population...especially at Tiberias, Diocaesarea, Sepphoris (sic), Nazareth, and Capernaum.”¹²³⁴

Benjamin Isaac takes Joseph’s desire to build churches in the four cities and Epiphanius’s concurrence as an indicator that in fact there were Christian populations in Galilean towns and villages.¹²³⁵ Yet, Isaac offers no additional support for his conjecture, and, in fact, Joseph may merely have wished to build churches at religiously significant sites, even with no Christian populations, in order to encourage pilgrimage.

Finally, in the early 380s, another pilgrim, a woman named Egeria, traveled from the West to the Holy Land.¹²³⁶ Among her various tours, she did travel to the Galilee. Her comments on this region survive only in a medieval digest of information on the holy places reported by Peter the Deacon.¹²³⁷ Egeria apparently visited a great number of biblical landmarks, but she refers to only a handful of Christian structures in Galilee. Even if the source is historically accurate, the number of structures she mentions is tiny, indicating perhaps, again, the dearth of Christians in the Galilee still at the end of the amoraic period.

Indeed, in this era, there seemingly continues to be a sharp division between the eastern Galilee, which remained overwhelmingly Jewish, and the western part, which became predominantly Christian. In the Golan, too, Zvi Maoz suggests a clear regional demarcation

¹²³⁴ (Epiphanius 2009, 140).

¹²³⁵ (Isaac 2004). Seth Schwartz (S. Schwartz, *Some Types of Jewish-Christian Interactions* 2003, 203) adopts Isaac’s perspectives as well, but he is forced to “suppose that the two religious groups gradually separated in the course of the century.” Schwartz offers no support for his hypothesis of the separation of mixed communities. See also Guy Stroumsa (G. G. Stroumsa 2008, 160), who takes a middle position that Christians and Jews lived together in towns and villages but that “there seems to have been a tendency toward separation between the communities in these villages.” But in this citation, he does not cite his sources.

¹²³⁶ (Leyerle 1999, 348).

¹²³⁷ (Wilkerson 1981, 192-203).

between Jewish and Gentile settlements analogous to the Upper Galilee.¹²³⁸ In other words, not only were settlements homogeneous, but there also continued to be separate religious geographic blocs.

In fact, as Zeev Safrai notes, until probably the early part of the fourth century, the Christian population seems not to have been a significant factor in *'Ereṣ* Israel generally. Christianity was still a small religion, which exerted only limited and insignificant influence within the total settlement.¹²³⁹ Doron Bar concludes too that the influence of Christianity in rural regions of *'Ereṣ* Israel, where the lion's share of the population lived, was marginal in the early stages of the Byzantine period.¹²⁴⁰ This was not for lack of trying, as seen in the account of Count Joseph. But a strong and cohesive Jewish presence rejected Christianity in those villages and actively opposed the penetration of Christianity into the Galilee.¹²⁴¹ Indeed, Richard Horsley also concludes that “evidence for anything that could be called ‘Christianity’ in Galilee is virtually nonexistent prior to the time of Constantine.”¹²⁴² Claudine Dauphin's map, in figure 10.1, pretty much reflects this as well.¹²⁴³

¹²³⁸ (Maoz 1993).

¹²³⁹ (Z. Safrai, *The Missing Century* 1998, 66). (Bar, 'U-Mil'u et ha-Aretz': *Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim* 2008, 130). See also (Irshai 2011).

¹²⁴⁰ (Bar, 'U-Mil'u et ha-Aretz': *Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim* 2008, 162).

¹²⁴¹ (Bar, 'U-Mil'u et ha-Aretz': *Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim* 2008, 127 and 130), (Z. Safrai, *The Missing Century* 1998, 67 and 69) writes that “Christianity spread more slowly in the rural sector of Palestine” and “The Christian penetration of Galilee was relatively late, only in mid-fifth century.” He also cites Epiphanius who describes the frustration that Christians had in trying to build churches at their holy sites in the Galilee.” He also notes (73) that the fact that, in church father's writings, each tale of a Jew converting was presented as a great accomplishment implies that it was quite an uncommon occurrence.

¹²⁴² (Horsley, *Galilee: History, Politics, People* 1995, 106).

¹²⁴³ (Dauphin 2024).

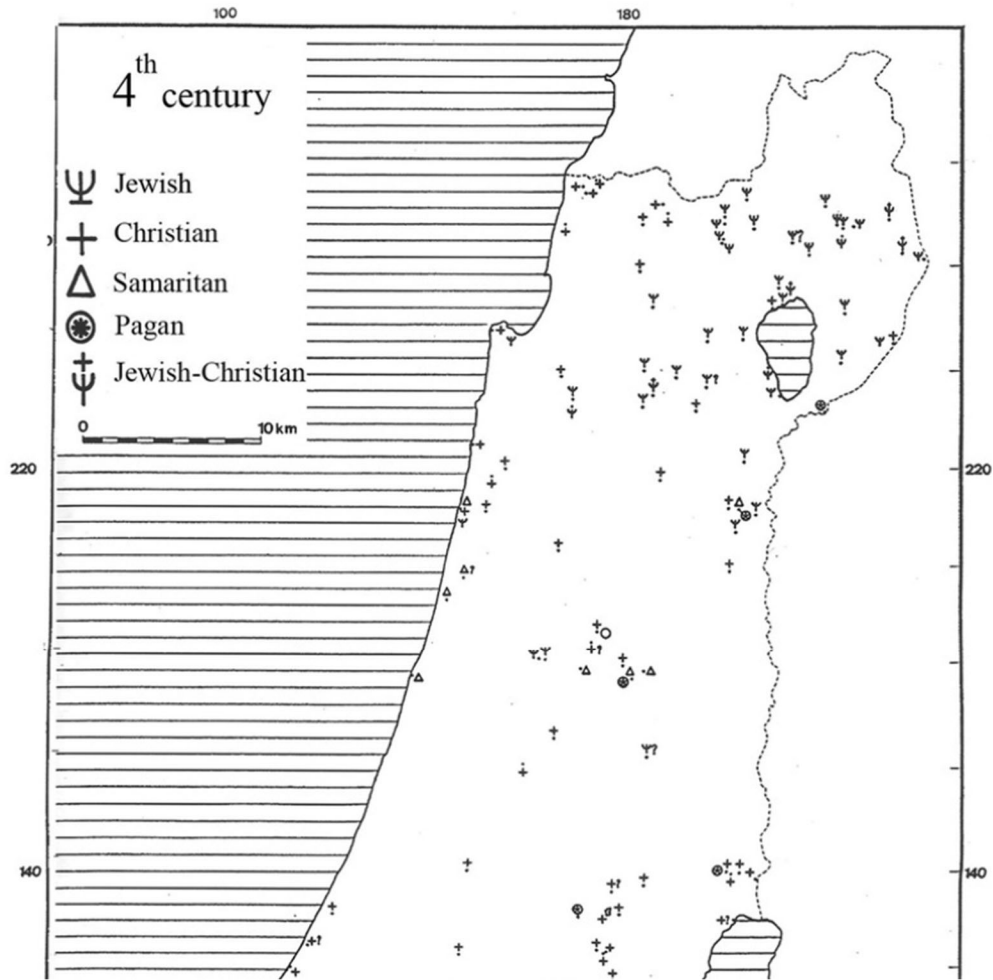


Figure 10.1 Distribution of sites according to their religion in fourth-century Palestine (Mapping D. Porotsky; © C. Dauphin)

There were larger towns too, but Tiberias and Sepphoris were the only significant urban centers in the predominantly Jewish Galilee.¹²⁴⁴ They were each estimated to comprise about 60 to 80 hectares.¹²⁴⁵ Scholars dispute whether Jews were the majority in these towns. According to Zeev Weiss, Sepphoris during this period also remained predominantly Jewish, though pagans lived there too, and Roman culture can be seen in the archaeological finds. These include

¹²⁴⁴ (Leibner, *Settlement and History in Hellenistic, Roman, and Byzantine Galilee: An Archaeological Survey of the Eastern Galilee* 2009) and (Leibner, *Sofah shel Tekufat ha-Amoraim ha-Eretz Yisraelit: Tikuf, Historia, ve-Archaeologia* 2019).

¹²⁴⁵ (Ahuvia 2020, 34-35).

decorations in a large mansion in the Jewish quarter and a 5,000-seat Roman theater built near Jewish homes.¹²⁴⁶ Uzi Leibner, on the other hand, believes that there is no literary or archaeological support to posit that Jews were the majority in the city.¹²⁴⁷ He does suggest, however, that Tiberias did remain clearly Jewish, certainly until the end of the fourth century, as did the Jewish settlement's hold on eastern Galilee and the Golan.¹²⁴⁸

Though Caesarea was a Gentile city at first, a significant Jewish population grew there over the third and early fourth centuries.¹²⁴⁹ Lee Levine describes how Jews, Christians, Samaritans, and local pagan cults members lived near or even intermixed with each other. None of the groups seemed to have been a majority and the size of the Jewish population is not known,¹²⁵⁰ but the Samaritans may have been the largest group at one point.¹²⁵¹ There appears to have been a significant degree of interaction of the local Jewish community with the other factions in Caesarea. Economically and perhaps socially (although sources regarding the latter are deficient), Jews came into daily contact with their neighbors. Jew and Gentile traded with one another in the local markets and shared other commercial and agricultural interests as well. Jews were involved in the entertainment world, working in theaters and participating in athletic events.¹²⁵²

In short, in the cities of Caesarea, Sepphoris, and, to a lesser extent, Tiberias, the Jews had opportunity to interact with Gentiles. Nonetheless, it appears that the bulk of the Jewish population remained segregated by towns and even regional blocs in the Galilee.

¹²⁴⁶ (Z. Weiss 2021, 206-215).

¹²⁴⁷ (Leibner, Mesoret Galuyot 'Ha-Sanhedrin' ve-Toldot ha-Yishuv ha-Yehudi ba-Galil 2023, 256-267).

¹²⁴⁸ (Leibner, Mesoret Galuyot 'Ha-Sanhedrin' ve-Toldot ha-Yishuv ha-Yehudi ba-Galil 2023, 257).

¹²⁴⁹ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 57-106). P.W.L. Walker (*Walker* 1990, 4-5) notes that the Christian presence in Eres Israel in the early third century was strongest in Caesarea, but that "here alone Christianity had put down firm roots."

¹²⁵⁰ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 41).

¹²⁵¹ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 107).

¹²⁵² (L. I. Levine, *Caesaria Under Roman Rule* 1975, 61).

Continuing patriarchal culture

Patriarchal families and marriage decision-making likely continued to be significant, especially in the Galilee. During this period, small farmers, who typically owned and operated a small homestead continued to be the backbone of the economy.¹²⁵³ In the Jewish villages, several basic household units typically shared walls or courtyards, forming large compounds that most likely housed several generations of extended family. Agriculture, animal husbandry, and household crafts remained the mainstays of economic production.¹²⁵⁴ Furthermore, there is evidence of these Jewish rural villages growing organically as populations increased over time. Open areas and alleys were utilized for additions to domestic units for extended families, buttressing the Jewish population at these locations.¹²⁵⁵

In this environment, it is likely that the *paterfamilias* continued to play an important role in the marriage of children, once again limiting the opportunity for intermarriage. Nissan Rubin suggests that, while, with urbanization, there was the beginning of transition from extended to nuclear families, as well as enhanced status of the woman, at this point, the head of traditional households still played an important role in deciding whom their children would marry.¹²⁵⁶ Examples cited by Hillel Newman indicate that, even after the close of the Yerushalmi, fathers in 'Eretz Israel often played a role in marrying off their children.¹²⁵⁷

¹²⁵³ (Z. Safrai, *The Missing Century* 1998, 38 and 46) and (Bar 2008, 173).

¹²⁵⁴ (Killebrew 2010, 201).

¹²⁵⁵ (Killebrew 2010, 198).

¹²⁵⁶ (N. Rubin, *Simhat Hayyim: Tiksei Erusim u-Nessu'im bi-Mekorot Haza"l* 2004, esp. 1-72) and (Schremer, *Male and Female He Created Them: Jewish Marriage in the Late Second Temple, Mishnah, and Talmud Periods* (Hebrew) 2003).

¹²⁵⁷ (Newman, *Ha-Ma'asim Li-Vnei Eretz Israel: Halakhah ve-Historia be-Eretz Yisrael ha-Byzantit* 2011, in particular, Ma'aseh #8 (131), Ma'aseh #16 (143), and Ma'aseh #59 (193), and 196-199).

Affinity

Acculturation: the Cities

The trend to urbanization and migration to Roman cities, where Jews lived, traded, and worked together with other groups, led to a higher degree of interaction with the surrounding cultures.¹²⁵⁸

This seems particularly true in Caesarea, which, Lee Levine calls “the Hellenized city of Palestine par excellence,” the antithesis of Jerusalem,¹²⁵⁹ where Jews were exposed to the cosmopolitan atmosphere of the capital of the Roman province.¹²⁶⁰ Nicole Belayche suggests that by the late third/early fourth centuries, even local “pagan cults in Palestine were Greco-Roman or thoroughly Greco-Romanized.”¹²⁶¹

Maren Niehoff notes that inscriptions from Caesarea, show that Jews cultivated the Greek language and culture.¹²⁶² Many of them recited the *Shema* in that language.¹²⁶³ Even rabbis seem to have adopted elements of the surrounding culture, including Greek names.¹²⁶⁴ Lee Levine writes that R. Abbahu [IA3], head of the Caesarea academy, had extensive knowledge of Greek and openly advocated teaching the language to girls.¹²⁶⁵ “Palestinian rabbis, including Caesareans, quoted from Greek translations of the bible and referred to Greek law, literature, and proverbs in

¹²⁵⁸ (Lieberman, *Greek in Jewish Palestine* 2012, 91).

¹²⁵⁹ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 63).

¹²⁶⁰ (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 84).

¹²⁶¹ (Belayche 2001, 281).

¹²⁶² (Niehoff 2024, 105).

¹²⁶³ (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 84). (L. I. Levine, *Caesarea Maritima* 2013). Also, see y. *Sotah* 7:1 933:10-13.

¹²⁶⁴ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 61). See also (S. Stern, *Jewish Identity in Early Rabbinic Writings* 1994, 170-194).

¹²⁶⁵ (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 129-130) and see y. *Pe'ah* 1.1 15c 79:39-42 and y. *Šabbat* 6:1 7d 395:8-12. Saul Lieberman (*Lieberman, Hellenism in Jewish Palestine: Studies in the Literary Transmission of Beliefs and Manners of Palestine in the I Century C.E.* 1942, 110-114 and 129-130) asserts that, as was common in Greco-Roman society, R. Abbahu took unusual pride in his physical appearance, possessed unusual strength, and frequented the baths of his native Caesarea and other cities. His handsome features impressed his contemporaries. See also (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 84).

their sermons, clearly assuming a degree of familiarity among their listeners.”¹²⁶⁶ R. Abbahu permitted, when necessary, reading the scroll of Esther in Greek and the use of Greek bibles.¹²⁶⁷

There appears to have been significant interaction in the religious-theological sphere as well. Caesarea had a meeting place where religious controversies were held.¹²⁶⁸ The Christian prelates Origen and Eusebius reportedly learned Jewish traditions from a Jew. R. Abbahu was said to have had amicable relations with Christian interlocutors, though Sarit Gribetz and Moulie Vidas suggest that this was not at his initiative.¹²⁶⁹ Culturally, too, Zeev Weiss suggests that Jews participated as spectators—and sometimes players—in the cultural life of the Roman cities, including theater performances as well as athletic contests, gladiatorial games, and animal baiting in the amphitheaters, although it is not certain to what extent.¹²⁷⁰

One outcome of this close contact, Lee Levine notes, is that, in Caesarea, “varying degrees of acculturation even assimilation, were in evidence, from flouting rabbinic laws to adopting idolatrous practices.”¹²⁷¹ Zeev Safrai points out that “there were always those who worshipped idolatry in a partial manner, that is they participated in one display or another, under social pressure or religious adoption.”¹²⁷² Gerald Blidstein claims that the Caesarean sages saw and tried to mitigate Jew-pagan interaction during pagan festivals and fairs and the environment where one

¹²⁶⁶ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 71).

¹²⁶⁷ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 71). See also *Y. Megillah* 2:1 73a 758:41:44.

¹²⁶⁸ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 83).

¹²⁶⁹ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 61). Sarit Gribetz and Moulie Vidas (Gribetz and Vidas 2012, 92 n4) write that the story in *b. Avodah Zarah* 4a implies that R. Abbahu is “willing to answer heretics” [likely, Christian] questions because he lives among them and has trained for such encounters, not that he has prepared because he is interested in a meaningful and sustained dialogue with *minim*.”

¹²⁷⁰ (Z. Weiss, *The Jews and the Games in Roman Caesarea* 1996). Weiss notes (Z. Weiss, *Public Spectacles in Roman and Late Antique Palestine* 2014, 191) that tannaitic sources (*t. Avodah Zarah* 2:7) permitted Jews to attend certain gladiatorial combats in the stadium only for the “needs of the state,” to save the lives of the defeated, or to testify to a woman that her husband had been killed.

¹²⁷¹ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 61). *Y. Gittin* 6:6 48b 1082:31-33 repeats the “case that occurred” recorded in *t. Hullin* 2:13 cited and discussed in the previous chapter, of a Jew wishing to offer the blood and fats of a slaughtered animal to idolatry.

¹²⁷² (Z. Safrai, *Ha-Dat ha-Ammamit bi-Tekhufat ha-Mishnah veva-Talmud* 2020, 212).

was in constant contact with images, decorative, mythical, or considered holy to the pagans.¹²⁷³ One might expect that intermarriage was not entirely infrequent in Caesarea.

However, these phenomena must be kept in perspective. First, the population size of Caesarea Maritima and its precise composition are unknown.¹²⁷⁴ Joseph Patrich estimates that, at its apogee by the end of the fourth century, the city may have comprised only up to 125 hectares (1.25 square kilometers, or about half a square mile).¹²⁷⁵ The other Roman city, Scythopolis (Beit She'an), measured about 95 hectares (less than one square kilometer).¹²⁷⁶ Furthermore, the situation in Caesarea—the seat of the Roman government in *'Ereṣ Israel* at the time—was not necessarily reflective of the situation for most of the population of *'Ereṣ Israel*, which continued to live in Jewish towns and villages. As mentioned earlier, the main weight of Jewish settlement was found in the Galilee, where the Jewish community constituted the decisive majority.¹²⁷⁷

There is much less information about the social dynamics of Sepphoris, and it is difficult to paint an exact picture. Zeev Weiss notes that, especially given Epiphanius's story above about “Count” Joseph's failure to build any churches there, one can conclude that at the start of the fourth century, “almost all of the residents of Sepphoris were Jewish,”¹²⁷⁸ though, as noted earlier, Uzi Leibner does not see evidence of such. But the city was also a Roman administrative center, known as Diocaesarea, with classic Roman monumental structures—a forum, basilica, two bathhouses, theater, library, a pagan temple, and buildings dedicated to Dionysus and Orpheus—built in the

¹²⁷³ (Blidstein, *Rabbinic Legislation on Idolatry--Tractate Abodah Zarah Chapter I* (doctoral dissertation) 1968).

¹²⁷⁴ Population estimates at the apogee range between 35,000 and 100,000. (Patrich 2011, 94 and 113).

¹²⁷⁵ (Patrich 2011, 94 and 113).

¹²⁷⁶ (Ahuvia 2020, 34-35).

¹²⁷⁷ (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 41). (Z. Safrai, *The Missing Century* 1998, 52) See also (Killebrew 2010, 194).

¹²⁷⁸ (Z. Weiss, *Sepphoris: A Mosaic of Cultures* [Hebrew] 2021, 44).

lower city.¹²⁷⁹ These would suggest a vital and wealthy pagan population as well. By the early third century, coins minted in Sepphoris speak of friendship and alliance with the Roman people.¹²⁸⁰ Rachel Neis posits that “the archaeological record of late antiquity makes it clear that people, in places such as Sepphoris...encountered a variety of images in their daily lives, from statues to mosaics to more modest images on domestic objects, such as oil lamps.”¹²⁸¹ Weiss suggests that it is possible that wealthy, local aristocratic Jews might have taken part in the religious festivals of the city, but that “there is no way to prove this absolutely.”¹²⁸² On the other hand, Stuart Miller notes, there are numerous reports that the “cantankerous” Sepphorians consulted with the local rabbis and that these sages also offered many rulings and discourses to the people in both the tannaitic and amoraic periods.¹²⁸³ Thus, while the city had a pagan population, pagan structures, and active marketplaces, the Jewish population may have dominated and no conclusion regarding the extent of their acculturation can be drawn, based on extant data.

Acculturation: The Galilee

During the third and fourth centuries, elements of Roman culture did penetrate to some degree the Galilee and western Golan, where the Jews were concentrated.¹²⁸⁴ There, Lee Levine notes, they created many, if not most, of their literary sources—including the Jerusalem Talmud and midrashic collections—and constructed scores of synagogues. He suggests that these instances of Jewish creativity in the material and literary realms can be fully understood and appreciated only if viewed in the wider Byzantine-Christian orbit in which they coalesced. They attest to the degree of the

¹²⁷⁹ (Z. Weiss, *Sepphoris: A Mosaic of Cultures* [Hebrew] 2021, 54ff).

¹²⁸⁰ (Millar 1995, 369).

¹²⁸¹ (Neis 2013, 200).

¹²⁸² (Z. Weiss, *Sepphoris: A Mosaic of Cultures* [Hebrew] 2021, 82).

¹²⁸³ (S. S. Miller, *Those Cantankerous Sepphoreans Revisited* 2021, 545).

¹²⁸⁴ (L. I. Levine, *The Appearance of Jewish Figural Art* 2024, 347-348).

Jewish communities' openness and willingness to adopt and adapt influences from the surrounding society.¹²⁸⁵

Jews were less put off by Roman/pagan images and, indeed, adopted some of these symbols. In Tiberias, for example, the fourth century stratum of the synagogue of Hammat Tiberias had not only dedicatory inscriptions in Greek but mosaics on the floor, including images of lions, the zodiac, the four seasons, and the sun god Helios, whose image was very much prevalent in Roman imperial and Christian circles.¹²⁸⁶

Nonetheless, Doron Bar concludes that the penetration of the imperial Roman culture or Christian influence into the Galilee was quite limited, and rural *'Ereṣ* Israel appears to have remained relatively unchanged.¹²⁸⁷ Ann Killebrew too notes that few of the external trappings of Roman culture are discernible in the material remains of these villages.¹²⁸⁸ There was almost a complete absence of villas of Roman character—large dwellings typical of wealthy landowners or aristocrats—or of farmsteads or estates among the rural areas of *'Ereṣ* Israel in the late Roman period and Byzantine era.¹²⁸⁹ Greek does not appear to have been in common use and is totally absent in the Upper Galilee.¹²⁹⁰ Zeev Weiss notes, that “to date, not a single amphitheater has been uncovered in Jewish Galilee. It should thus be concluded that amphitheatrical performances were not held in the region despite the fact that, compared to other performances, these are often

¹²⁸⁵ (L. I. Levine, *The Appearance of Jewish Figural Art* 2024, 347-348).

¹²⁸⁶ As discussed earlier, *pace* Goodenough's conclusions, these symbols do not indicate the adoption of pagan practices. Rachel Neis points out (Neis, *Religious Lives of Image-Things, Avodah Zarah, and Rabbis in Late Antique Palestine* 2016, 95-97) that “rabbinic laws of *'avodah zarah* created a taxonomy that sought to distinguish usable things from forbidden things, and ‘mere’ images from problematic ones, or *'avodah zara* (‘idols’)...There is a distinction between the referent of the visual representation and its status.”

¹²⁸⁷ (Bar, 'U-Mil'u et ha-Aretz': *Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim* 2008, 69-70, 94, 127). See also (Zangenberg and van de Zande 2010, 179).

¹²⁸⁸ (Killebrew 2010, 195).

¹²⁸⁹ (Bar, 'U-Mil'u et ha-Aretz': *Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim* 2008, 67). See also (Killebrew 2010, 195, 201).

¹²⁹⁰ (Killebrew 2010, 195) and (L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* 2011, 91).

mentioned in rabbinic literature.”¹²⁹¹ Rather, as Bar concludes, the local culture seems to have remained in place, even though the region very much enjoyed the fruits of the umbrella that the regime provided.¹²⁹²

Christian/Roman attitudes towards Jews

During this period, violence against the Jews appears not to have been prevalent, and Jews continued to be permitted their religious practices.¹²⁹³ However, institutional Gentile denigration of Jews and Judaism appears to have become more pronounced, particularly as the Roman Empire Christianized in the fourth century.¹²⁹⁴ As reflected in various Christian canons, Christian leadership propounded anti-Jewish sentiments and sought to separate Christians from the Jews. The Canons of Laodicea and the Apostolic canons, for example, both estimated as being from around the mid-fourth century,¹²⁹⁵ prohibited various religious interactions with Jews, including celebrating festivals with them or participating in their feasts, keeping the Sabbath, eating unleavened bread (matzah) during Passover or accepting it or other festival-related gifts, entering synagogues to pray, or fasting with the Jews.¹²⁹⁶ Punishments included deposing clergy and excommunicating laymen.

¹²⁹¹ (Z. Weiss, *Public Spectacles in Roman and Late Antique Palestine* 2014, 200). He adds that “The absence of amphitheatrical performances in the Galilee conforms largely with the conclusion...that amphitheatrical performances were held only in centers under Roman rule.”

¹²⁹² (Bar, 'U-Mil'u et ha-Aretz': *Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim* 2008, 94).

¹²⁹³ Several Roman laws permitted the Jews to continue in their practices and even if they were appointed to public office, they were exempted from rituals which would have conflicted with their religious beliefs. See (Linder 1987, 99ff), Laws #1, #2, and #4. The one exception seemed to be circumcising slaves and proselytes, which will be discussed in the text.

¹²⁹⁴ (Herr, *Hellenistic Influences in the Jewish City in Eretz-Israel in the Fourth and Sixth Centuries C.E.* 1978).

¹²⁹⁵ (Hosang 2010, 77 and 109).

¹²⁹⁶ *The Canons of Laodicea*, Canons 29, 37, and 38 and *Apostolic Constitutions* II:LXI, V:XVII, VIII:XLVII:70, as cited in (Hosang 2010, 93-120) and/or (Meeks and Wilken 1978, 35).

Around 323 C.E., Constantine converted to Christianity and, in 383 C.E., Theodosius made Christianity the official religion of the Roman Empire. During this intervening period, the denigration of Christian leaders towards Jews carried over to Roman officialdom as well. Roman laws enacted starting with Constantine's reign characterized Judaism in a highly negative light. Judaism was called "a nefarious sect,"¹²⁹⁷ "godless,"¹²⁹⁸ "sacrilegious,"¹²⁹⁹ "contaminating,"¹³⁰⁰ and a "contagion" that "pollutes."¹³⁰¹ Jewish practices were deemed "deeds of disgrace" performed "in turpitude."¹³⁰²

In addition to employing pejorative terms, several Roman laws enacted during this period or immediately following were particularly concerned with Romans/Christians converting to Judaism. These laws prohibited a Jew from buying/owning and/or circumcising Gentile slaves (an act required by halakhah) and circumcising proselytes. In the case of the slave, the slave was set free, and the perpetrating owner was liable to the death penalty as was even the "doctor" performing the rite. A law enacted in 329 C.E. promised to punish converts to Judaism.¹³⁰³ Another from 383 C.E. prohibited Christians from converting to Judaism and "polluting themselves with the Jewish contagions."¹³⁰⁴ In the case of freemen and freewomen converting to Judaism, their

¹²⁹⁷ "Prohibition of Persecution of Converts and of Proselytism," edict of Constantine the Great, 18 October 329, (Linder 1987, 126ff).

¹²⁹⁸ (Linder 1987, 157).

¹²⁹⁹ (Linder 1987, 151ff).

¹³⁰⁰ (Linder 1987, 176-177).

¹³⁰¹ (Linder 1987, 168ff).

¹³⁰² (Linder 1987, 147-149). (Linder 1987, 60) shows how later laws, promulgated after this period, were even more debasing, reflecting the belief that the Jews represented the absolute negation of values comprehended in a predominantly Christian context, such as wholesomeness, health, purity, life, honor, wisdom, and sanity. The Jews were depicted as representing the opposite: deformity and illness, pestilence, filth, abomination, death, infamy, and madness.

¹³⁰³ *Codex Theodosianus 16:8:1 and Codex Justinianus 1:9:3*. (Linder 1987, 126).

¹³⁰⁴ (Linder 1987, 168).

property was confiscated. Finally, another law, enacted in 388 C.E., prohibited the marriage of a Christian to a Jew.¹³⁰⁵

Despite this structured animus towards Jews, the number of Christian edicts and Roman laws—and their repetitiveness—would seem to imply that these banned behaviors persisted in the cities, despite the laws. Amnon Linder suggests that these prohibitions responded to real, ongoing circumstances at the time and were not edicts unrooted in reality.¹³⁰⁶ Indeed, during this period Judaism proved an enduring attraction to many Gentiles, including Christians, implying frequent and unimpeded interaction in the cities between Jew and Christian.

Though occurring outside 'Ereṣ Israel, John Chrysostom's homilies in Antioch in the second half of the fourth century are enlightening.¹³⁰⁷ Richard Wilkens writes that the culture of Antioch at the time continued to be informed by traditional pagan values.¹³⁰⁸ At the same time, the Jews were a recognized, distinct religious group with a synagogue in Antioch, as well as one in the suburb of Daphne.¹³⁰⁹ Malka Simkovich estimates that Jews made up five to ten percent of the city's population.¹³¹⁰ Christians were also present in Antioch, with a number of churches. In one, John Chrysostom in c. 386-387 delivered eight homilies, known as the *Homilia Adversus Judaeos*.¹³¹¹ Boddens Hosang suggests that these homilies, that virulently debased the Jews and their practices, addressed an actual situation¹³¹² and that Chrysostom's primary aim was to deter

¹³⁰⁵ *Codex Theodosianus* 3:7:2 (=Breviarium 3:7:2). (Linder 1987, 179-180). For all these laws, see (Linder 1987, especially 118, 140-142, 147-149, 151ff, 168ff, 176-177, and 179-180).

¹³⁰⁶ (Linder 1987, 79).

¹³⁰⁷ With great thanks to Jack Lightstone for making me aware of the relevance of Antioch and Chrysostom to this dissertation.

¹³⁰⁸ (Wilken 1983, 4, 11-19).

¹³⁰⁹ (Wilken 1983, 37).

¹³¹⁰ (Simkovich 2018).

¹³¹¹ (Lewy, John Chrysostom 1972). Jacques Paul Migne's *Patrologia Graeca*, the *Nicene and Post-Nicene Fathers* series, and (Chrysostom 1979) includes these homilies.

¹³¹² (Hosang 2010, 122).

his Christian congregants from participating in Jewish rites.¹³¹³ His target audience was regular churchgoing Gentile Christians who were attracted to Jewish practices, whom he referred to as Judaizing Christians. These Judaizing Christians were acquainted with Judaism through Christianity and had adopted certain Jewish customs and observances precisely because they were Jewish.¹³¹⁴ As Robert Wilken writes, they “saw no contradiction between going to the synagogue on Saturday to hear the reading of the Law and coming to church on Sunday to participate in the Eucharist.”¹³¹⁵ They were attracted to the Jewish synagogues to observe the “spectacle” of the festivals, including the trumpeting of horns, and to participate in fasts. Chrysostom claimed that on the Sabbath too, the Jewish synagogue was full of Christians.¹³¹⁶ The fact that Chrysostom was so concerned about Christians being attracted to Jewish practices and the synagogues indicates that there was a real draw.¹³¹⁷ The attraction was apparently so strong that Chrysostom at one point urges his congregants to use every means possible, including force if necessary, to save a fellow Christian from “the devil’s snare and deliver him from the fellowship of Christ killers.”¹³¹⁸ There were so many Judaizers, in fact, that Chrysostom was concerned about the public reputation of the church.¹³¹⁹ His concerns appear to have persisted, because Chrysostom repeated this theme in homilies over the course of a year.¹³²⁰

This phenomenon likely occurred in Caesarea as well, although, as Lee Levine notes, the two groups had diametrically opposed theological claims that often led to a highly charged

¹³¹³ (Sandwell 2007, 83).

¹³¹⁴ (Wilken 1983, 93). (Gager 1985, 118).

¹³¹⁵ (Wilken 1983, 75-76, 93).

¹³¹⁶ (Lewy, John Chrysostom 1972).

¹³¹⁷ As another possible example of the draw to the synagogues, Angelos Chaniotis, (Chaniotis 2010), in analyzing the list of at least 120 donors on a nine-foot-high marble block post that stood in a synagogue in the Asia Minor city of Aphrodisias in late antiquity (c. 350-500 C.E.), shows there were many recent converts to Judaism (proselytes) as well as unconverted members of the synagogue community (*theosebeis*, or “God-fearers”).

¹³¹⁸ (Meeks and Wilken 1978, 93) and (Chrysostom 1979, I:IV.5, 15).

¹³¹⁹ (Meeks and Wilken 1978, 113-114).

¹³²⁰ (Wilken 1983, 90).

atmosphere and strained relations.¹³²¹ However, again, this entire dynamic likely did not occur to a great degree in Jewish Galilee where the populations were, for the most part, separated.

In summary, opportunities to interact with the surrounding cultures appear to have increased during this period, particularly in the urban centers. Perhaps so did affinity in the Roman and even Jewish cities. However, (a) Judaism seems not to have been perceived as evil by the lay person and, thus, conversion would have been a viable option for avoiding intermarriage, and (b) The impact on the Jewish community in the Galilee was likely much less pronounced, possibly even in Sepphoris. Using the terminology of acculturation strategies, Jews in Roman cities were likely on the integration-assimilation spectrum. But the bulk of the Jewish population, while perhaps integrating to a greater degree than previously, seems to have still been primarily in separation mode. Thus, despite the possibility that intermarriage may have increased to some degree during the *'Eres Israel* amoraic period in the cities, the general environment seemed to have remained inconducive to it.

THE INTERMARRIAGE PHENOMENON AND RABBINIC PERCEPTIONS

During the amoraic period, intermarriages undoubtedly occurred in *'Eres Israel*. However, this section seeks to demonstrate, based on the admittedly limited extant sources, that, certainly during the third and probably early fourth centuries C.E., intermarriage did not represent a significant social phenomenon. And, even when it was about to occur, it was not unlikely that the Gentile spouse-to-be converted to Judaism before the marriage, and thus such a marriage would not necessarily have been considered an intermarriage.

¹³²¹ (L. I. Levine, *Judaism & Antiquity: Conflict or Confluence?* 1998, 101-102).

The Yerushalmi discusses intermarriage, interreligious intercourse, and the status of the progeny of such intercourse. However, out of the eight relevant pericopes from the Yerushalmi, presented below, that appear to deal with real-world intermarriage, seven refer to cases outside of 'Ereṣ Israel: two in Babylonia, two in Tyre, one in Palmyra, and two in Alexandria. The eighth relates to Sepphoris but, as will be seen, not to actual intermarriage.

The first pericope from *y. Qiddušin* 4:1 relates a dispute regarding whether to accept someone who converts in order to marry a Jew. *Y. Qiddušin* 4:1 reads:¹³²²

המתגייר לשם אהבה וכן איש מפני אשה וכן אשה מפני איש וכן גירי שולחן מלכים וכן גירי אריות וכן גירי מרדכי ואסתר אין מקבלין אותן. רב אמ'. הל' גרים הן ואין דוחין אותן כדרך שדוחין את הגרים תחילה. אבל מקבלין אותן וצריכין קירוב פנים שמא גייר לשם.

- I. He who converts for the sake of love [of a Jew], whether a man because of a woman, or a woman because of a man
- II. And also those who convert to gain access to the king's table, and also those who convert out of fear of the lions [and wish to have Jewish protection], and also those who converted during the reign of Mordecai and Esther [when the fear of the Jews was on the people]
- III. one does not accept them.
- IV. Rav said, "By law, they are converts, and one does not repel them as one repels converts at the outset,
- V. Rather, one accepts them and must embrace them, since the conversion was possibly for the sake of Heaven [and not merely for love]."¹³²³

§I and §II appear to deal with real-world situations where a Gentile has an ulterior motive for converting. One might infer from the scenario in §I not only that Jews and Gentiles had

¹³²² *Y. Qiddušin* 4:1 65b 1178:39-43.

¹³²³ Cairo Geniza fragment T-S F 17.2 line 4 (Sussmann, *Ginzei ha-Yerushalmi* 2020, 524) reads: וצריכין קירוב פעם (and one needs them to request a second time) in place of וצריכין קירוב פנים שמא גייר לשם (since the conversion was possibly for the sake of Heaven.). However, Leiden MS (171, verso, lines 4-7) is unambiguous. Even under the alternate reading, however, Rav accepts them if they come back again.

opportunities to interact and transact marriage but that perhaps, unlike the case at hand, they chose to marry without conversion. However, Rav's ruling cannot necessarily be ascribed to 'Ereš Israel, as Rav was a Babylonian amora.

Another *sugya*, in *y. Yevamot* 1:4, discusses whether converted Qordoians and Palmyrenes who emigrated to 'Ereš Israel should be accepted into the community despite the reputed intermixing of Jews and Gentiles in those communities.¹³²⁴ The question is whether such a person should be considered a Jewish *mamzer* who may not be accepted or a Gentile who may be accepted. Presumably, the phenomenon and concern about these cities related to their reputation for longer-term inter-religious relationships rather than occasional liaisons. *Y. Yevamot* 1:4 reads:¹³²⁵

רב נחמן בר יעקב אמ'. מקבלין גרים מן הקרדויין ומן התדמוריים. ר' אבהו בשם ר' יוחנן. מתנית' אמרה כן שגירי תדמור כשירין. תמן תנינן. "כל הכתמין הבאין מרקם טהורין". הא גירי תדמור כשירין. ר' יעקב אמ' שמועתא. ר' חנינה ור' יהושע בן לוי חד מכשיר וחד מקבל. מאן דמכשיר מקבל. ומאן דמקבל לא מכשיר.

- I. R. Nahman bar Jacob said, "One accepts converts from among the Qordoians and from the Tadmoraans [Palmyrenes, and we are not concerned that they are *mamzerim*]."
- II. R. Abbahu in the name of R. Yohanan [said]: "The Mishnah has [also] implied this, that converts from Palmyra are valid.
- III. For we have learned there [in *m. Niddah* 7:3]: 'All bloodstained clothes that come from Reqem are pure' [of suspicion of menstrual uncleanness, since all Reqemites can be considered Gentiles, whose menstrual blood is not impure. R. Yehudah disagrees and rules that the clothes are impure because those who come from Reqem are converts whose menstrual blood is impure].¹³²⁶
- IV. However, [all agree that] converts from Palmyra are valid [because they are all certainly Gentiles and can be converted]."

¹³²⁴ Per Menachem Katz (M. Katz 2015, 224), Qordoians came from north of Nisbis but south of Armenia. Palmyra was a city in northwestern Mesopotamia.

¹³²⁵ *Y. Yevamot* 1:4 3b 835:15-20 and parallel in *y. Qiddušin* 4:1 65c 1180:31-36.

¹³²⁶ Reqem was on the eastern border of Israel. (Cohen, Goldenberg and Lapin, *The Oxford Annotated Mishnah* (3 volumes) 2022, III:853).

- V. R. Jacob bar Aha said this tradition: “R. Haninah and R. Joshua b. Levi [disagree]: one declares them [the Palmyrenes] valid [*non-mamzer* Jews] and one declares that one accepts them [as proselytes. i.e., they were Gentiles].
- VI. “The one who says that they are valid also will accept them [as proselytes, because if they are born of a Jewish mother, they are valid Jews],
- VII. but the one who accepts them [i.e., their conversion] will not declare them [children of Gentile men and Jewish women generally] valid [rather, they are *mamzerim*. But these emigrees may convert because they are pure Gentiles].”

The opinions within the pericope are not expressed clearly or easily understood. There are both textual and interpretive challenges.¹³²⁷ Regardless, the mishnah conveys what appears to be common knowledge of widespread intermarriage, or at least rampant interreligious intercourse, in Qordo and Tadmor (Palmyra). Both cities, however, were outside of *’Ereṣ* Israel.

In another *sugya* at y. *Qiddušin* 3:12, the Yerushalmi describes how R. Hiyya b. Ba witnessed a woman in the mixed city of Tyre bear the child of a convert who had circumcised but had not performed the required ritual immersion. In other words, he was still considered a Gentile, and the question revolves around the whether the offspring is considered a *mamzer*. Y. *Qiddušin* 3:12 reads:¹³²⁸

ר' חייה בר בא אזל לצור. אתא לגבי ר' יוחנן. אמ' ליה. מה מעשה בא לידיך. אמ' ליה. גר שמל ולא טבל. אמ' ליה. ולמה לא פגעתה ביה. אמ' ליה ר' יהושע בן לוי. ארפי ליה. יאות עבד דלא פגע ביה...

- I. R. Hiyya bar Ba went to Tyre.
- II. [Upon returning] He [R. Hiyya] came to R. Yohanan. He [R. Yohanan] said to him, “What case do you have in hand?”
- III. He [R. Hiyya] said to him, “A proselyte who was circumcised but had not yet immersed himself [and had sexual relations with a Jewish girl].”
- IV. He [R. Yohanan] said to him, “And why did you not deal with him [and invalidate the offspring, labeling him a *mamzer*]?”

¹³²⁷ See e.g., the discussion at b. *Niddah* 56b.

¹³²⁸ Y. *Qiddušin* 3:12 64d 1177:18-21. See also (M. Katz 2015, 211).

- V. R. Joshua b. Levi said to him [R. Yohanan]: “Let him be. It was just as well that he [R. Hiyya] so acted in not invalidating him [the child, since even if the father was a Gentile, the offspring is not a *mamzer*]...”

It appears that this could be a case of marriage before the Gentile was fully converted, i.e., an intermarriage. This event too, however, takes place outside of *'Ereṣ* Israel.

Another story from Tyre at y. *Qiddušin* 3:12 raises the question of whether one was permitted to violate the Shabbat in order to circumcise the son of a Jew and a Gentile woman. It reads:¹³²⁹

יעקב איש כפר-נבורייה אזל לצור. אתון שאלון ליה. מהו מיגזור ברה דארמייתא בשבתא. וסבר למישרי להון מן הדא "וייתילדו על משפחותם לבית אבותם". שמע ר' חגיי אמ'. ייתי וילקי...

- I. Yaakov of Kefar Naborayya [IA4] went to Tyre. They came and asked him, “Is it permitted to circumcise the son of an Aramaean woman [and an Israelite man] on the Sabbath?”
- II. He considered permitting them to do so based on “and they declared their pedigrees after their families, by their fathers’ houses (*Numbers* 1:18)” [indicating that the father, not the mother, determines the Jewishness of the child].
- III. R. Haggai heard and said, “Let him [Yaakov of Kefar Naborayya] come and be flogged.”

This pericope would appear to be describing an actual event since R. Haggai (in §III) calls for R. Yaakov of Kefar Naborayya to be flogged for ruling that such a child was Jewish and could thus be circumcised on the Sabbath. This case appears to be one of intermarriage rather than a one-time interaction, as the Jewish father seems to have remained involved, wishing his son to be circumcised. This case too occurred outside of Israel.

¹³²⁹ Y. *Qiddušin* 3:12 64d 1177:35-43 and y. *Yevamot* 2:5 839:20-32. See also (M. Katz 2015, 213).

Yet another case, at y. *Qiddušin* 3:12, is about a man who came to Rav in Babylonia to obtain a ruling for himself regarding whether the son of a male Gentile and a Jewish woman could marry a Jewish woman. The sugya reads:¹³³⁰

חד בר נש אתא לגביה דרב. אמ' ליה. בגין דילידתיה אימיה מן ארמאי. אמ' ליה. כשר. אמ' ליה רב חמא בר גוריא. הן דעימך מגליך עד דאתי שמואל ויפסלינך.

- I. A man came to Rav. He said to him [Rav], “What is the law regarding [one] whose mother gave birth to him from an Aramaean [Gentile]?”
- II. He said to him, “He is valid.”
- III. R. Hama b. Guria said to him [the man]: “Even though your legs are tired, get out before Samuel comes and declares you invalid!”

This case also took place outside of *'Ereš* Israel.

In addition, as also described in y. *Qiddušin* 3:12, two cases were sent from Alexandria to Israel for halakhic determination. The cases related to whether the offspring of Gentile men and Jewish women (one wedded to a Jew and the other unwed) were to be considered *mamzerim*.¹³³¹

On the other hand, y. *Ta'anit* 3:4, might be seen to imply a serious issue of intermarriage in *'Ereš* Israel. The Yerushalmi there tells of a plague that befell the town of Sepphoris but excluded R. Haninah's neighborhood. Y. *Ta'anit* 3:4 reads:¹³³²

מותנא הוה בציפורין. לא הוה עליל גו אשקקה דהוה ר' חנינה שרי בגויה. והוון ציפוראי אמרין. מה ההן סבא בינכי ויתב שלם הוא ושכונתיה ומדינתא אזלא בבאישות. עאל ואמ' קומיהון. זמרי אחד היה בדורו ונפלו מיש' עשרים וארבעה אלף. ואנו כמה זמרי יש בדורינו ואתם מתרעמין.

¹³³⁰ Y. *Qiddušin* 3:12 64d 1176:50-1177:6 and y. *Yevamot* 4:15 6c 853:16-22. See also (M. Katz 2015, 209).

¹³³¹ Y. *Qiddušin* 3:12 64d 1177:6-18. See also (M. Katz 2015, 210). One might ask why the *'Ereš* Israel sages did not enact any legislation to combat potential intermarriage situations outside of *'Ereš* Israel, since they seem to have been aware of such instances. Perhaps they refrained from doing so in order not to burden the Jews of *'Ereš* Israel, where there was little concern over the phenomenon, as is being demonstrated in this section. As footnoted earlier, Arye Edrei and Doron Mendels (Edrei and Mendels 2007) suggest that the tannaitic sages did not take an interest in the Greek-speaking, western diaspora and let it slip away from its connection to the *'Ereš* Israel center, taking no steps to try to maintain the connection.

¹³³² Y. *Ta'anit* 3:4 66c 720:14-18.

- I. There was pestilence in Sepphoris, but it did not affect the neighborhood in which R. Haninah [IA1] lived.
- II. And the Sepphorians said: “How is it possible that that elder lives among you, he and his entire neighborhood, in peace, while the town goes to ruin?”
- III. He [R. Haninah] went in and said before them: “There was only a single Zimri in his generation, but on his account, 24,000 people died. And in our time, how many Zimris are there in our generation? And yet you are raising a clamor?”

The townspeople (in §II) protested to R. Haninah that his worthiness was not protecting them from the plague. Retorting (in §III), he asked them what they expected: if Moses could not prevent the death of 24,000 Israelites in the desert when Zimri cavorted with a Gentile woman (*Numbers* 25:1-9 and 14), how could R. Haninah’s worthiness be expected to protect the townsfolk when there were so many Zimris in their generation? From this story it seems that R. Haninah believed that inter-religious intercourse abounded, and he railed against it. There is no reason to doubt that such behavior did go on, particularly in a city like Sepphoris. And, while Zimri’s act alluded to by R. Haninah was one-time and flagrant act, it is possible that there was some amount of intermarriage among the Sepphorians. Yet, there is no way to know its true extent, R. Haninah did not see fit to legislate against it, and the Talmud does not expand discussion on this story.

However, in its discussion of m. *Sanhedrin* 9:6 (analyzed in the previous chapter), y. *Sanhedrin* 9:11 appears to consider a long-term relationship between a Jewish man and Gentile woman that yields multiple offspring a marriage, or intermarriage. Y. *Sanhedrin* 9:11 reads:¹³³³

"הבועל ארמית". תני ר' ישמעאל. זה שהוא נושא גויה¹³³⁴ ומוליד בנים ומעמיד אויבים ממנה למקום.

- I. “He who has intercourse with an Aramaean.”
- II. R. Yishmael taught, “This is one who marries a Gentile woman and produces children.
- III. “and establishes from her enemies of the Omnipresent.”

¹³³³ Y. *Sanhedrin* 9:11 27b 1313:50-1314:6 and its parallel y. *Megillah* 4:10 75c 773:31-32.

¹³³⁴ In the parallel y. *Megillah* 4:10 75c 773:31-32, Aramaean (ארמית) replaces Gentile (גויה).

As discussed earlier, the mishnah, m. *Sanhedrin* 9:6, upon which R. Yishmael expounds, cites intercourse with an Aramaean as one of three instances where zealots may attack the miscreant. The other two instances are one-time, egregious events—stealing a holy vessel from the Temple and cursing in the name of an idol—suggesting that the case of the Aramaean was a one-time, egregious event, and not an ongoing relationship.¹³³⁵ R. Yishmael’s statement here (in §II), however, implies a longer-term relationship—intermarriage—between a Jew and a Gentile woman. Clearly, such a situation is problematic, especially where the children are raised to be “enemies of the Omnipotent.” This does not, however, indicate a significant social problem, in either tannaitic times, when R. Yishmael is purported to have made this statement, or in amoraic times when it was recorded in the *Yerushalmi*. Similarly, *Sifre Numbers* 131, discussed earlier relating to the Israelites’ wanton sexual behavior in Midian (though not intermarriage), as related in *Numbers* 25:1-9, was recorded in amoraic times and may reflect a concern of some sages in the third century over wanton promiscuity, but it does not indicate a major societal intermarriage problem.

Thus, it is suggested here, based on the above analysis of rabbinic literature of the time, that intermarriage, to the extent that it may have occurred, did not seem to have been of particular concern to the sages of amoraic *’Eres* Israel.

However, intermarriage was a concern to Christians and, later, the Roman establishment, as reflected by the new ordinances they issued. The *Didascalia Apostolorum*, probably written in

¹³³⁵ Other sources in fact cite this statement in the context of a single act of intercourse and a single son, not an ongoing relationship. For example, *Sifre de-Bei Rav, Deuteronomy, Šoftim*, §171 (Lev Sameah Institute: Jerusalem, 1990, 283-284) writes “‘He who passes his son or his daughter to Molekh,’ this is one who has intercourse with an Aramaean and raises from her a son [singular] who is an enemy of God,” (מעביר בנו ובתו באש זה הבוועל ארמית ומעמיד ממנה בן אויב) (למקום). In the Bavli too, b. *Megillah* 25a reads: “It was expounded in the school of R. Ishmael: ‘Scripture is referring to one who has intercourse with a Gentile woman and has from her a son [dedicated] to idol worship,’” (תנא דבי רבי (ישמעאל בישראל הבא על הגויה והוליד ממנה בן לעבודה זרה הכתוב מדבר).

the third century (but possibly as late as the late fourth), states in Canon 20 that “a Christian is not allowed to give a woman to any sort of marriage...with a people outside our fold, or to a heretic, or to anyone whose faith is different from ours.”¹³³⁶ Similarly, though further away in Spain, Canon 16 of the Elvira synod around 305 C.E. prohibits the marriage of Christian girls to Jews.¹³³⁷ Roman sources, particularly as the Empire became more Christian, showed concern about Christians and pagans converting to Judaism and/or intermarrying. One law enacted in 339 C.E. is deemed by Linder and other scholars to preclude a Jewish man from marrying a Christian woman.¹³³⁸ In 388 C.E., an explicit ban on intermarriage with a Jew was enacted, with such an act carrying the same severe punishment as adultery.¹³³⁹

In addition, conversion to Judaism appears not to have been uncommon. At least six Roman laws enacted in the fourth century combat conversion. These laws prohibited circumcision of slaves and converts. Punishment of the convert who underwent circumcision and the “doctor” performing the circumcision could include exile, confiscation of property, and even capital punishment.¹³⁴⁰ The laws included an explicit ban on conversion to Judaism and confiscation of the property of a convert.¹³⁴¹ In the late fourth century, Christians were banned from participating in the Jewish cult and Jews were banned from owning or proselytizing Christian slaves.¹³⁴² As Amnon Linder writes, “One can appreciate how seriously the legislator considered this

¹³³⁶ (Stewart-Sykes 2009, 275). See also (Gibson 2011, III, 22). Sykes notes (261) that this block of canons appears in only one family of manuscripts (E) of the *Didascalia*, not the other (A). He suggests that the canons thus do not have the same support as the main body of the *Didascalia*.

¹³³⁷ (Hosang 2010, 40).

¹³³⁸ *Codex Theodosianus*, 16:8:6. (Linder 1987, 148-150, incl. nn8-9).

¹³³⁹ (Linder 1987, 179-180).

¹³⁴⁰ (Linder 1987, 100 and 118).

¹³⁴¹ (Linder 1987, 126 and 151ff).

¹³⁴² (Linder 1987, 168ff and 176-177).

phenomenon and evaluate the means he considered appropriate to deal with it, by the punishments he imposed upon both converts and those who performed their conversion.”¹³⁴³

It would, therefore, not be a major leap to conclude that a Gentile attracted to a Jew might have converted to Judaism before marriage and that conversion occurred preceding marriage. Such a marriage following conversion to Judaism, however, would not have been considered an intermarriage by the sages.

Normally, one might be inclined to suggest that such interreligious dynamics and attraction would have occurred equally in the opposite direction in terms of conversion and intermarriage. But this does not appear to have been the case, particularly in *'Ereṣ* Israel. True, Roman laws enacted in 329 C.E. and 335 C.E. stipulating punishment for harrasing Jewish converts to Christianity would seem to imply that Jewish conversion to Christianity was not rare.¹³⁴⁴ However, several scholars conclude that Jewish conversion to Christianity was in fact rare.¹³⁴⁵ For example, Gunter Stemberger argues that it was highly unlikely that Jews in the uniformly Jewish areas of settlement (e.g., the Galilee) would have converted to Christianity.¹³⁴⁶ Louis Feldman concludes that the harsh penalty that Christians imposed for intermarriage would seem to show that such intermarriages did not give Christians an opportunity to convert their Jewish partners to Christianity, but rather that in these cases the non-Jewish partner was often converted to Judaism.¹³⁴⁷ Amnon Linder concludes too that, even in the later period, the relatively small number of Roman laws in this regard would imply that the dimensions of this reverse conversion were

¹³⁴³ (Linder 1987, 81)

¹³⁴⁴ (Linder 1987, 126) and (Linder 1987, 140-142).

¹³⁴⁵ (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 128) and (Z. Safrai, *The Missing Century* 1998, 73).

¹³⁴⁶ (Stemberger, *Jews and Christians in the Holy Land* 2000, 81). He further (esp. 71-85 and 299-303) posits that the Roman laws were actually concerned more about conversions in Africa rather than in *'Ereṣ* Israel.

¹³⁴⁷ (Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian* 1993, 388).

“quite modest during the fourth to sixth centuries.”¹³⁴⁸ Not only this, but later Roman legislation recognized that many Jews converted to Christianity merely to evade tax or legal situations, seemingly implying that a recognizable number of Jewish conversions to Christianity were shams.¹³⁴⁹

If Jews were converting to Christianity and/or if intermarriages were bringing Jews into the Christian fold in significant numbers during this period, one might have expected to find Christian writers exulting in this fact. Yet, this is not the case. Testimonies in Christian sources regarding Jewish apostasies in these communities are rare.¹³⁵⁰ Zeev Safrai notes that each incident of conversion to Christianity “is depicted as a great accomplishment, thereby implying that it was a quite uncommon occurrence.”¹³⁵¹ Admittedly, this is an *argumentum ex silentio*, but it is nonetheless surprising to not find such stories. Similarly, one might have expected John Chrysostom to jump on opportunities to show how many Jews had come over to Christianity or were attracted to his church. As Wilken concludes, “perhaps the most telling fact, in the eyes of Christians, Jews, and, no doubt, onlookers, was that Christians were adopting Jewish ways, *but Jews did not adopt Christian ways.*”¹³⁵² [Emphasis added]

Indeed, Christians seem not to have been prevented by the Jews from entering the synagogues or from participating in the feasts, seemingly indicating that the Jews were not afraid of mixing with the Gentiles.¹³⁵³ And, if such was the case in Antioch, where Jews were a minority,

¹³⁴⁸ (Linder 1987, 79).

¹³⁴⁹ (Linder 1987, 80).

¹³⁵⁰ (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 130).

¹³⁵¹ (Z. Safrai, *The Missing Century* 1998, 73) and (Bar, 'U-Mil'u et ha-Aretz': Ha-Hituashvut be-Eretz Yisrael be-Tekufa ha-Romit ha-Meuheret uvi-Tekefah ha-Byzantit 135-640 li-Sefirat ha-Notzrim 2008, 128).

¹³⁵² (Wilken 1983, 78).

¹³⁵³ This seems to also be the conclusion of Peter Tomson (Tomson 1990, 245).

it seems that this would have also been the case in 'Ereṣ Israel, and the Galilee in particular, where the Jews were still the majority at this time.

In addition, there were some Jews who were Jesus-believers yet did not stop “being Jewish.” In the early third century Caesarea, for example, Origen knew of “Jews who believe in Jesus and have not left the law of their fathers.”¹³⁵⁴ Jerome, in the late third to early fourth century also knew of “Jews who believe in Christ” and who “want to be both Jews and Christians.”¹³⁵⁵ In the fourth century, Epiphanius wrote of the Nazoraeans, who “use not only the New Testament but the Old Testament as well.”¹³⁵⁶ It is not certain how many of these there were in 'Ereṣ Israel. But marriage to such a person, who continued to observe the commandments but also accepted Jesus as the Messiah, might not have been considered intermarriage at all.

Lee Levine cites one example of intermarriage in this period, preserved the *Vita of St. Susanna* as recorded in the *Acta Sanctorum*.¹³⁵⁷ Susanna was from Caesarea. Her father, Artemius, was a wealthy pagan priest, and Martha, her mother, was Jewish. Martha apparently did not disassociate herself from Jewish beliefs and practices. Indeed, she reportedly educated Susanna according to Jewish customs and traditions. While acknowledging that there are no other sources to corroborate this account and the historicity of such martyrologies is often tenuous (particularly since *Acta Sanctorum* was not compiled until the seventeenth century), Lee Levine wonders whether Jews often intermarried in Caesarea. But it seems that one should not draw broader conclusions from this single, possibly ahistoric, story. Furthermore, the story is set in Caesarea, not in the Galilean heartland.

¹³⁵⁴ *Contra Celsium* 2.1 apud (Wilken 1983, 70).

¹³⁵⁵ *Epistle* 112.13 of Jerome to Augustine, 404 C.E., <https://www.newadvent.org/fathers/1102075.htm>, downloaded July 12, 2022.

¹³⁵⁶ (Epiphanius 2009, 29.7 128-129).

¹³⁵⁷ (L. I. Levine, *Caesaria Under Roman Rule* 1975, 72).

In sum, the Jews did not seem to be attracted in significant numbers to Christianity.

Finally, Nissan Rubin explains “cultural lag” as “the gap between sociological-institutional changes, which can be rapid, and cultural adaptation, which is more gradual and slow.”¹³⁵⁸ Thus even had there been an increase in intermarriage in *’Ereṣ* Israel during the mid-fourth century—a sociological change—the corresponding cultural adaptation—a halakhic change reflected in the *Yerushalmi*—would have not have come in time for its closing by around 370 C.E. Quite possibly, as the demographic, religious, and social characteristics of *’Ereṣ* Israel changed, apostasy and intermarriage did later become Jewish problems.¹³⁵⁹ However, this would have occurred after the close of the *Yerushalmi* and would not have been addressed there.¹³⁶⁰

¹³⁵⁸ (N. Rubin 2019, 35).

¹³⁵⁹ (Newman, *Ha-Ma’asim Li-Vnei Eretz Israel: Halakhah ve-Historia be-Eretz Yisrael ha-Byzantit* 2011) analyzes 73 responsa from *’Ereṣ* Israel during this period. Some of the rulings allude to intermarriage. Specifically, *Ma’aseh* #25 (152), *Ma’aseh* #41 (173), *Ma’aseh* #42 (175), and *Ma’aseh* #73 (227) refer to apostasy, while *Ma’aseh* #66 (209) refers specifically to intermarriage.

¹³⁶⁰ (Linder 1987, 178).

11. AMORAIC BABYLONIA AND INTERMARRIAGE

Reconstructing the society of Babylonian Jewry is a challenging task. Shai Secunda notes that “there are virtually no surviving synagogues, mosaics, and inscriptions from Babylonian Jewry, although we do have hundreds of largely unprovenanced bowls inscribed with Babylonian Jewish Aramaic incantations, and a small handful of similarly unprovenanced stamp seals that appear to have been owned by Babylonian Jews.”¹³⁶¹ Most of what we can rely on are limited, often-polemical literary sources and primarily the Babylonian Talmud. Despite the challenges, the first section of this chapter applies the framework developed in Chapter 8 to the Jewish society of amoraic Babylonia in order to assess its predisposition towards intermarriage. The second section of the chapter will then review available data to make a conjecture regarding the reality of the situation—or at least the likely perceived reality in the eyes of the sages at the time.

SOCIETAL PREDISPOSITION TOWARDS INTERMARRIAGE

In contrast with *’Ereṣ Israel*, by the end of the amoraic era in Babylonia, as will be shown below, large numbers of Jews lived in urbanized areas and appear to have had an affinity towards their religio-cultural environment.¹³⁶² On the whole, the Jewish community was not persecuted, and relations both with neighbors and the regime were good. Jews could be socially mobile and ply all trades, which they did, interacting freely with the society around them. The picture that emerges is one of a cosmopolitan Jewish society, intertwined and interacting with the local Gentile

¹³⁶¹ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 436).

¹³⁶² (Ahdut 1990, 92). (J. Neusner 1966, 246-250). Grayzel (Grayzel 1968, 227).

population, comfortable in its environment, and adopting from and participating in its surrounding culture. Additionally, individuals in amoraic Babylonia appear to have had significant opportunity to meet, interact with, and marry members of other religions. As Jews were a minority in Babylonia, assimilation would likely have been a serious concern. While conversion to Judaism also occurred, the process was more difficult than it was in amoraic 'Ereṣ Israel, converts appear to have been less welcome,¹³⁶³ and there may have been negative political ramifications for converting to Judaism.¹³⁶⁴

In sum, the barriers to intermingling were softer when compared with amoraic 'Ereṣ Israel, but the requirements were more rigid for becoming part of the Jewish people. Hence, the conditions may have been riper for an intermarriage problem in Babylonia than in 'Ereṣ Israel.¹³⁶⁵ This may have been especially true towards the end of the Sasanian Empire in the late sixth and early seventh centuries C.E., when the move away from agriculture and towards urban living was most pronounced—and the period when the Bavli may have first introduced the rationale regarding the fear of intermarriage, *mišum ḥatnut*, to Gentile bread.

Opportunity

Frequency of Interaction

Figure 11.1 shows the Sasanian Empire, while figure 11.2 focuses on the region in which most Babylonian Jews were believed to have lived. Most Bavli references regarding Jewish domicile

¹³⁶³ (Lavee 2012).

¹³⁶⁴ (Jullien 2021).

¹³⁶⁵ (Lavee 2018).

refer to locations astride the Euphrates. The extent of residence of Babylonian Jewry along the Tigris is hardly mentioned.¹³⁶⁶



Figure 11.1. Map showing the approximate extent of the Sasanian Empire and some of the principal sites (S. J. Simpson 2017, 23)

¹³⁶⁶ Geoffrey Herman notes that references in the Bavli to a region dubbed “Between the Rivers” does not, in fact, include either an area along the Tigris parallel to the one along the Euphrates nor the extensive region between the Tigris and the Euphrates. Rather, he suggests that the term originally referred to a region along the Euphrates alone, specifically “that territory surrounded on three sides by the great bend of the Euphrates.” (G. Herman 2018).



Figure 11.2. Map of Southern Mesopotamia
(Paz, Elam Gosseset: Ha-Talmud ha-Bavli ve-Yehudei Khuzestan ba-Tekufah ha-Sasanit 2024)

Several scholars assert that agriculture was the leading form of economic activity in Sasanian Iran. The bulk of the population lived in the countryside and made their living by cultivating the soil as free or dependent farmers.¹³⁶⁷ Additionally, as Moshe Beer notes, Zoroastrianism glorified agriculture as the highest form of livelihood, where cultivating the land was a beneficent act and religious duty. By working the land, a man gloried Ahura Mazda and assured himself of divine rewards.¹³⁶⁸ Letting land sit idle was sinful.¹³⁶⁹ To foster agricultural development, Persian kings invested in irrigation systems¹³⁷⁰ to the point where, as St. John

¹³⁶⁷ (Wiesehöfer 2001, 191). (Daryaee 2013, 133). (Gafni, Yehudei Bavel bi-Tekufat ha-Talmud 1991, 130).

¹³⁶⁸ (Beer, *Amora'ei Bavel* 1986, 51-52).

¹³⁶⁹ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 47).

¹³⁷⁰ (Beer, *Amora'ei Bavel* 1986, 51) and Arthur E. Christensen, cited there.

Simpson describes it, the entire alluvial plain of Babylonia was integrated with an interlocked network of canals for irrigation, though also transportation.¹³⁷¹ Social prestige and political ambitions became keyed on large, landed estates with a great number of retainers.¹³⁷²

However, agricultural life was very difficult. The peasant was tied to the soil and required to furnish labor and to serve as a foot-soldier in war. The landowner and governmental authorities typically took an exorbitant share of the tenant's crop.¹³⁷³ The land-worker was also often liable to both a personal tax and a land tax¹³⁷⁴ and exposed to attacks of "strong-armed" people.¹³⁷⁵ Touraj Daryaee notes that even private ownership of a small farm became increasingly difficult to maintain. Communal ownership became more common, typically by co-religionists.¹³⁷⁶ Lands not owned by a religious community were mainly owned by aristocracy who lived in the cities and employed others to manage their estates.¹³⁷⁷

However, after coming to power in the early third century C.E., the Sasanian kings initiated and invested in an aggressive urbanization process, a strategic departure from the past.¹³⁷⁸ As Touraj Daryaee characterizes it, "The Sasanian Empire aimed to be an urban empire...The

¹³⁷¹ (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 18-19).

¹³⁷² (Payne 2016, 73), (Wiesehöfer 2001, 191), and (Beer, *Amora'ei Bavel* 1986, 44).

¹³⁷³ Before the reforms of the sixth century C.E., those who leased land did so in return for a fixed annual percentage of their produce. After the reforms, a fixed land tax was applied per unit area. (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 147).

¹³⁷⁴ (Christensen 1907, 56).

¹³⁷⁵ (Beer, *Amora'ei Bavel* 1986, 36).

¹³⁷⁶ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 136).

¹³⁷⁷ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 147). See also (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 20),

¹³⁷⁸ (Beer, *Amora'ei Bavel* 1986, 57).

establishment of cities is the main feature of the Sasanian state-building program, which had political, social, and economic repercussions for late antique Persian society.”¹³⁷⁹

Numerous new large cities were established. Existing cities, such as Ctesiphon, were expanded, and new settlements were constructed adjacent to previously-established cities.¹³⁸⁰ Major road- and dam-building projects were pursued, often employing Christians, Goths, and others relocated by Shapur I into the new cities and settlements.¹³⁸¹ The kings also resettled artisans into the cities and established manufacturing centers that produced highly trafficked textiles and precious metal commodities.¹³⁸² St. John Simpson points to archaeological evidence of large-scale industrial production of pottery, glass, and bricks.¹³⁸³ Josef Wieshöfer notes that these cities also became trade centers, and a great number of Sasanian Iranians played a role as middlemen in trade both to the east and to the west.¹³⁸⁴ There was large-scale maritime trafficking, with trade extending to India and other places around the northern Indian Ocean.¹³⁸⁵ Sasanian silks have been found in the Roman Empire.¹³⁸⁶ To support this activity, Babylonia also had a highly developed banking industry.¹³⁸⁷

In parallel, there seems to have been a large-scale population migration into large urban centers, not only through forced migration of Shapur I but from around Iran. Archaeological

¹³⁷⁹ (Daryaee 2013, 39). Isaiah Gafni (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 131) suggests that the investment was still nowhere near the investment made in agriculture. Regardless of the amounts invested, it would appear, as Daryaee writes, that urbanization was a major commitment of the Sasanian kings.

¹³⁸⁰ (Farahani 2014, 6468). See also (Farahani 2020).

¹³⁸¹ (Wieshöfer 2001, 201). (Daryaee 2013, 40).

¹³⁸² (Payne 2016, 41). (Wieshöfer 2001, 193-194).

¹³⁸³ (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 13, 25).

¹³⁸⁴ (Wieshöfer 2001, 192-197).

¹³⁸⁵ (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 22).

¹³⁸⁶ (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 25).

¹³⁸⁷ (Rostovtzeff 1986, 78-79).

evidence indicates a decline in rural settlement in southwestern Iran and massive migration into the cities.¹³⁸⁸ So many people settled into the cities that, according to Daryaee, by the end of the Sasanian period, Mesopotamia had the largest population density in the pre-modern period.¹³⁸⁹

It appears that Babylonian Jews were significantly involved in commerce. Indeed, Isaiah Gafni concludes that the economic activity of most Babylonian Jews was as members of this new commercial class.¹³⁹⁰ Support for this phenomenon is provided by the Bavli, whose positive opinions regarding trade and whose exhortations to involve oneself in commerce versus agriculture, notes Meir Ayali, significantly outweigh opposing views.¹³⁹¹ Babylonian amoraim Rav [BA1] and Rava [BA4], for example, both discouraged work in the fields,¹³⁹² and R. Elazar [BA3] is cited as saying that there is no trade lower than working the land.¹³⁹³

At the same time, R. Elazar is also reputed as saying that “any person who does not own land is no man,” and, indeed, like their Gentile counterparts, Babylonian Jews strove to amass land.¹³⁹⁴ Many known Babylonian amoraim were reportedly property-owners, their holdings including vineyards, date orchards, vegetable plantations, and forests. Though they sometimes worked these properties themselves, they employed sharecroppers, tenants, nursery workers, or waged laborers.¹³⁹⁵

¹³⁸⁸ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 135).

¹³⁸⁹ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 39-40).

¹³⁹⁰ (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 127).

¹³⁹¹ (Ayali 1987, 83).

¹³⁹² For example, b. *Yevamot* 63a reports that Rav once entered among growing ears of corn. Seeing that they were swaying, he called out to them: “Swing as you will, engaging in business brings more profit than you do.” It also records Rava as saying that “One hundred *zuz* invested in a business transaction every day [brings] meat and wine, [while] one hundred *zuz* in land [brings] salt and vegetables. Furthermore, it causes him to sleep on the ground and embroils him in strife.” B. *Sanhedrin* 29a states that Rava said: “For seven years there was a famine, but it did not reach the door of [i.e., affect] the tradesmen.”

¹³⁹³ B. *Yevamot* 63a.

¹³⁹⁴ (Beer, *Amora'ei Bavel* 1986, 41, 44).

¹³⁹⁵ (Beer, *Amora'ei Bavel* 1986, 21).

But the Bavli and other sources record numerous examples of how the sages were involved in all manners of commerce and trade.¹³⁹⁶ There is no reason to doubt that the lay Jews were involved as well, perhaps even more so.¹³⁹⁷ By Talmudic accounts, Jews seem to have been heavily involved in wholesale and retail wine trade,¹³⁹⁸ and in the production of wine barrels,¹³⁹⁹ amphorae¹⁴⁰⁰ and production equipment.¹⁴⁰¹ They traded in large animals for work and consumption,¹⁴⁰² wood,¹⁴⁰³ silk, linen, and sesame,¹⁴⁰⁴ wheat and other grains,¹⁴⁰⁵ steel and armaments,¹⁴⁰⁶ and land and houses. Jews owned ships¹⁴⁰⁷ and chartered caravans.¹⁴⁰⁸ R. Papa [BA5] was reportedly a prosperous beer manufacturer and merchant.¹⁴⁰⁹ Jews lent money to Gentiles.¹⁴¹⁰ On the retail level as well, Babylonian Jews would buy and sell all sorts of household needs such as food and cooking utensils,¹⁴¹¹ tapestries,¹⁴¹² and bread (or yeast).¹⁴¹³

¹³⁹⁶ See (Ahdut, Ha-Yahassim ha-Hevratim ve-kalkaliim ben Yehudim le-Nokhrim bi-Tekufat ha-Talmud (Unpublished Master's Thesis) 1990) and (Beer, *Amora'ei Bavel* 1986, 158ff and 201). While the Bavli was not written as a historical document, there is no reason to doubt the veracity of these allusions to professions and trades of the amoraim.

¹³⁹⁷ Artisans and merchants were denigrated by Zoroastrian belief compared to those who worked in agriculture. Maria Macuch (Macuch 2010, 204) suggests that it was almost impossible to change from one estate to another. Simcha Gross, on the other hand, suggests (S. Gross, *Babylonian Jewish Communities* 2024, 422) that these castes may have represented Zoroastrian ideals not reflected in actual daily Sasanian social life and policy. Geoffrey Herman (G. Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* 2012, 36) too appears to say that reality did not necessarily correspond to the formal imperviousness of the boundaries. In either case, perhaps, as Daryaei suggests, these ideals may have prompted dedicated Zoroastrians to shun these occupations thus opening the way for religious minorities, such as Jews, towards adopting them.

¹³⁹⁸ E.g., b. *Avodah Zarah* 57b; Rav's advice at b. *Avodah Zarah* 71a; R. Ikka on b. *Avodah Zarah* 65a-b.

¹³⁹⁹ B. *Ketubot* 100b.

¹⁴⁰⁰ B. *Avodah Zarah* 33b.

¹⁴⁰¹ B. *Avodah Zarah* 75b.

¹⁴⁰² Cow in b. *Avodah Zarah* 15a (bottom); mule in b. *Avodah Zarah* 15b; rams in b. *Eruvin* 47b.

¹⁴⁰³ B. *Nedarim* 62b; b. *Mo'ed Qatan* 12a; b. *Bava Mešia* 107b-108a.

¹⁴⁰⁴ (Beer, *Amora'ei Bavel* 1986, 158ff and 201)

¹⁴⁰⁵ B. *Avodah Zarah* 11b; b. *Pesaḥim* 40b.

¹⁴⁰⁶ B. *Avodah Zarah* 16a.

¹⁴⁰⁷ B. *Avodah Zarah* 62b; b. *Pesaḥim* 40b.

¹⁴⁰⁸ B. *Mo'ed Qatan* 25b.

¹⁴⁰⁹ B. *Bava Mešia* 65a; b. *Pesaḥim* 113a.

¹⁴¹⁰ (Ahdut, Ha-Yahassim ha-Hevratim ve-kalkaliim ben Yehudim le-Nokhrim bi-Tekufat ha-Talmud (Unpublished Master's Thesis) 1990, 59-66).

¹⁴¹¹ B. *Avodah Zarah* 75b.

¹⁴¹² B. *Pesaḥim* 40b.

¹⁴¹³ B. *Pesaḥim* 30a.

Michael Morony suggests that “socially, Jews were a representative cross-section of the Aramaean population in the Sasanian period. They were landlords, officials, soldiers, scholars, merchants, craftsmen, laborers, peasants, and slaves.”¹⁴¹⁴ These pursuits all imply vibrant non-agricultural commercial activity and close, day-to-day interactions with Gentiles.¹⁴¹⁵ In light of this broad engagement in non-agricultural pursuits, it is reasonable to conclude that a large portion of the Jewish community—particularly those in the orbit of the Babylonian sages—resided in urban settings rather than in isolated villages and estates.

Scholars suggest that there may have been some entirely Jewish cities¹⁴¹⁶ and a number of predominantly Jewish ones.¹⁴¹⁷ The latter include Nahardea, Pumbedita, Mata Mahsia/Sura, Mahoza, Kutha, and Neresh. Peasants in the surrounding countryside were also mainly Jewish.¹⁴¹⁸ Touraj Daryaee notes that Jews owned villages which employed slave labor to yield its produce.¹⁴¹⁹ Michael Morony suggests that Jews were to be found as resident minorities throughout Iraq.¹⁴²⁰ For example, as Mika Ahuvia notes, Ctesiphon, the capital, had a heterogeneous population, and

¹⁴¹⁴ (Morony, *Iraq after the Muslim Conquest* 1984, 310).

¹⁴¹⁵ Meir Ayali (*Ayali* 1987, 33) asserts that many sources in early rabbinic literature show that Jewish tradesmen worked for Gentiles and vice versa. Unfortunately, his examples come from *'Ereṣ Israel* literature and offer no reliable indication regarding the relative involvement in this sphere versus agriculture.

¹⁴¹⁶ For example, Roman historian Ammianus Marcellinus (Marcellinus 1911, IV:1) attests that during Emperor Julian’s attack on Sasanian Persia (c.363 C.E.), “In this district, a city, which on account of the lowness of its walls, had been deserted by its Jewish inhabitants, was burnt by our angry soldiers.” Michael Morony (Morony 1984, 307ff) estimates that, by the middle of the Sasanian period, “the population in the districts of Veh-Artakhshatr and of Veh-Kavat was almost entirely Jewish.

¹⁴¹⁷ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 164 n4) and (Morony 1984, 307ff).

¹⁴¹⁸ (Morony 1984, 307ff).

¹⁴¹⁹ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 136).

¹⁴²⁰ (Morony 1984, 307ff) For example, he writes, there were Jews on the periphery of this region at Hira and Nippur. Jews of mixed descent lived in the south at Harpania near Maysan and in Maysan itself. There were Jews east of the Tigris, Jewish communities in upper Iraq, and a cluster of Jewish settlements around the confluence of the Greater Zab and the Tigris. An important Jewish community at Nasibin in the first century C.E. survived into the Sasanian period in reduced numbers, and there were Jews in the subdistricts of Qardo and Bazabda.

Jews, a minority, lived among Persians.¹⁴²¹ Susa had a large Jewish population¹⁴²² as did a number of other cities in Khuzestan east of Messene, where there may have also been a rabbinic center.¹⁴²³ In Dura-Europos in the northwest, the synagogue was located in close proximity to a temple of Adonis, a Christian church, and a temple for Mithras worshippers.¹⁴²⁴ Nippur, in the south, also reflects a milieu where people spoke Jewish Aramaic, Syriac, and Mandaean.¹⁴²⁵

In the urban centers, Jews lived intermingled with the general population. There is no indication of physical separation from the surrounding cultures. Indeed, the problems raised in the Talmud of *eruv hašerot* in courtyards shared by Gentiles and Jews¹⁴²⁶ as well as other cases show how intertwined the populations were.¹⁴²⁷ As Simcha Gross writes, “Babylonian Jews and non-Jews shared cityscapes, businesses, and even homes. Jews inhabited the populous capital city, but also many other towns and cities that were undoubtedly mixed.”¹⁴²⁸ Shai Secunda too suggests

¹⁴²¹ (Ahuvia 2020, 47).

¹⁴²² (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 55) and (Oppenheimer, Isaac and Lecker, *Babylonia Judaica in the Talmudic Period* 1983). For a maps of Jewish settlements in the Middle East from the third century B.C.E. through seventh century C.E., see (Koltun-Fromm and Kessler 2020). *Cities of the Middle East and North Africa: A Historical Encyclopedia* (Dumper and Stanley 2007) suggests that a larger number of locations were primarily Jewish. For example, “Juhudistan, or Yahudiyya [where] twenty synagogues remain in the old quarter of Jubara alone.”

¹⁴²³ (Paz, *Elam Gosseset: Ha-Talmud ha-Bavli ve-Yehudei Khuzestan ba-Tekufah ha-Sasanit* 2024, 525). See map in figure 11.2 showing Babylonia, Messene, and Khuzestan.

¹⁴²⁴ (Ahuvia 2020, 46).

¹⁴²⁵ Nippur was in southern Babylonia, near the border of the districts of Messene and Kaskar, a milieu where people spoke Jewish Aramaic, Syriac, and Mandaean, and lived near each other. (Scotten 2007, 20) and (Ahuvia 2020, 48).

¹⁴²⁶ An *eruv hašerot* is a physical arrangement and associated rite that create a virtual single space out of multiple properties, thus permitting the carrying of objects on the Sabbath across property lines.

¹⁴²⁷ For example, as discussed in (Ahuvia 2020), b. *Eruvin* 62a-64a states that the requirement to pay rent to a Gentile in order to include his property in an *eruv hašerot* is a rabbinic edict to discourage Jews from living near Gentiles. (Notably, the Bavli’s approach is different from that adopted by the Yerushalmi at y. *Eruvin* 6:3 23c 479:31-32, where payment to the Gentile seems to be more of a practical solution for the lack of halakhic standing of the intent of a Gentile in getting his buy-in into an *eruv* than a penalty.) B. *Mo’ed Qaṭan* 9b and b. *Šabbat* 80b discuss how a *Kutti* (or, per MS Columbia, *goy*) poorly imitated, but with disastrous results, how his neighbor R. Bibi whitened his daughters so that they would be attractive to marry. B. *‘Avodah Zarah* 70a describes a house where a Jew lived upstairs with a Gentile downstairs. B. *Pesahim* 8b discusses searching for leavened bread, *ḥameš*, in a hole in a wall separating a Jew’s home from a Gentile’s. B. *Yoma* 84b-85a discusses the permissibility of violating the sabbath in order to save a life (*piquah nefesh*) if a house collapsed in a courtyard where nine Gentiles but only one Jew lived. While not a conclusive description of realia, this seems to be a case that the Talmud finds realistic. With thanks to Amnon Mezuman for referring me to this reference.

¹⁴²⁸ (S. Gross, *Babylonian Jewish Communities* 2024, 417).

that Jews lived intertwined among Zoroastrian, Christian, Manichaean and Mandaean populations, that Jewish neighborhoods, marketplaces, and shops were not separate from their Gentile compatriots, and that they “encountered each other constantly and consistently as they went about their daily routine.”¹⁴²⁹

In terms of archaeological evidence, St. John Simpson records that excavations of Southern portion of Veh Arashdir, shown in Figure 11.3, “revealed houses, shops, and workshops built of sundried brick with rooms arranged around central courtyards.”¹⁴³⁰ Houses within the residential quarters appear to have been accessed via an irregular network of narrow alleyways or passages, suitable only for pedestrians, barrows, or small pack animals.¹⁴³¹ Mika Ahuvia concludes that alleyways were not a phenomenon of urban life only, but also of smaller settlements. These venues could bring as many encounters as in a dense city square.¹⁴³²



Figure 11.3. The Craftsmen’s quarters at Veh Ardashir. (photo, Centro Scavi Torino)

¹⁴²⁹ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 35-38). See also (Mokhtarian 2020, 148). See also (Payne 2016, 14-15), and (J. Neusner, *A History of the Jews in Babylonia: II. The Early Sasanian Period* 1966, 91).

¹⁴³⁰ (S. Simpson 2012-2013, 10).

¹⁴³¹ (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 12) and (S. J. Simpson 2017, 26).

¹⁴³² (Ahuvia 2020, 48).

Not only living amongst the Gentiles, but other interaction between groups was a regular part of daily life for many in Sasanian Babylonia, Simcha Gross writes.¹⁴³³ Jews, he suggests, were likely members of many kinds of communities “reflecting a variety of practices, beliefs, loyalties, alliances, kinship relationships, social structures, political interests, economic conditions, and more” that crossed religious and ethnic lines, “whether as part of guilds and professional classes, politically aligned groups, or other shared identities.”¹⁴³⁴ The Bavli offers several instances of Jews interacting daily with Gentiles.¹⁴³⁵ Indeed, Moshe Beer notes that there is almost no amoraic generation in which there is not testimony of vibrant economic contacts with the Gentiles.¹⁴³⁶ This continuous and varied contact between the Jewish and Gentile communities occurred as well in even more intimate settings of daily life: drinking and eating together, sending gifts on holidays, mutual social assistance, etc.¹⁴³⁷

Providing an additional setting for informal interaction between Jews and Gentiles were Gentile slaves in Jewish households. Eli Ahdut argues that the Bavli suggests a reality in which

¹⁴³³ (S. Gross, *Babylonian Jewish Communities* 2024, 417). He cites (426) an example of a Jewish bowl in which Jesus and the Trinity appear as well as invocations of other non-Jewish deities, exposing a world in which different communities were in contact in a variety of settings.

¹⁴³⁴ (Gross, *Babylonian Jewish Communities* 2024, 414-417). In contrast, Josef Wiesehöfer asserts that “by far, the majority of the Jews made their living by farming, although handicraft and trade also played a part.” (Wiesehöfer 2001, 216). He claims that they lived predominantly in villages, though also in larger towns and cities and suggests that the Jews of Babylonia were not only separated in terms of education, activity, or political responsibility, but also in social and economic respects, though there is no indication of closed Jewish districts in the cities. However, he offers little proof for these assertions. In addition, for his conclusion regarding agriculture, he relies on b. *Bava Qamma* 113a, which reports that Jewish courts could not summons anyone during the months of Nissan and Tishri. Rashi ad loc, s.v. *lo yehavinan*, explains that this was because these were times of intensive agricultural labor. Rashi does not indicate, however, that the Jews were actual field workers and not the overseers or owners. Also, Rambam, *Mišneh Torah, Hilkhot Sanhedrin* 25:9, gives a reason entirely unrelated to agriculture: that people were busy with the holidays during these two months.

¹⁴³⁵ For example, two sages crossing a river on a ferry with a Gentile woman (b. *Šabbat* 81b); Jew and Gentile walking together (b. *Ketubot* 62b); Gentile grabbing hold of a bursting wine barrel (b. *‘Avodah Zarah* 60a) and similar cases (b. *‘Avodah Zarah* 72b and 59b); drinking wine together (b. *‘Avodah Zarah* 30a and 70a); and getting haircuts from Gentile barbers (b. *‘Avodah Zarah* 29a).

¹⁴³⁶ (Beer, *Amora’ei Bavel* 1986, 207-210).

¹⁴³⁷ (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 149-153).

many Babylonian Jews owned Gentile slaves,¹⁴³⁸ who were often employed by sages and common folks to help run the household or community institutions.¹⁴³⁹ Slave ownership continued into the geonic era and Jews were also involved in slave trade.¹⁴⁴⁰ Gentile slaves were required to be converted to Judaism with ritual immersion and, for males, with circumcision before entering the household.¹⁴⁴¹ Upon manumission, they were to be awarded a writ of manumission and undergo another immersion, after which they were free to enter the Jewish community and marry a Jewish spouse.¹⁴⁴²

However, in fact, slaves were not always converted upon entering the household, and they lived there as pure Gentiles.¹⁴⁴³ Furthermore, many manumitted slaves—even those who did undergo the initial steps—did not receive the required writ of manumission and/or undergo the

¹⁴³⁸ (Ahdut, *Ha-Yahassim ha-Hevratim ve-kalkaliim ben Yehudim le-Nokhrim bi-Tekufat ha-Talmud* (Unpublished Master's Thesis) 1990, 67ff). Eli Ahdut disputes Ephraim Urbach's contention (E. E. Urbach, *The Laws Regarding Slavery: As a Source for Social History of the Period of the Second Temple, the Mishnah, and Talmud* 1999) that in Babylonia, wealthy amoraim held *Jewish* slaves. Ahdut claims that Gentile slaves were common in Babylonia, not only among wealthy amoraim but among regular Jews as well. He argues, *inter alia*, that the amoraim would not have done certain things—such as checking slaves' virginity, allowing a Gentile to have relations with them, or swapping their partners—had they been Jewish slaves.

¹⁴³⁹ (Daryace, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 58) and (Macuch, *Legal Construction of Identity in the Sasanian Period* 2010, 195, 198). E.g., Shmuel's slaves (b. *Giṭṭin* 38a and b. *Niddah* 47a), R. Nahman's (b. *Bava Qamma* 97a, b. *Bava Meṣia* 64b, and b. *Niddah* 47a), R. Sheshet's (b. *Niddah* 47a), R. Hiyya b. Ami's (or Avin or Ashi) (b. *Giṭṭin* 45a), though this case may not be clearcut, R. Ashi's (b. *Yevamot* 46a and b. *Sukkah* 10b), a jointly owned slave, where one owner frees his half the slave (b. *Giṭṭin* 40a), a slave woman improperly used by a Jewish man (b. *Giṭṭin* 38a), and slaves sold to a Gentile (who then dies) who return to the Jewish owner to obtain their freedom (b. *Giṭṭin* 40a). See also b. *Qidduṣin* 22b. For sample household tasking, see b. *Hullin* 94a, b. *Avodah Zarah* 26a, 28a, 29a, and 57a, b. *Yoma* 84a, b. *Šabbat* 139b, b. *Mo'ed Qaṭan* 25b, b. *Roš ha-Šannah* 26b and b. *Megillah* 18a. For sample institutional tasking, see e.g., b. *Eruvin* 67b-68a (bringing water for a brit), B. *Bava Meṣia* 21a and 24a.

¹⁴⁴⁰ This can be seen from *geonic* responsa that discuss the fines imposed upon by R. Yehoshua b. Levi for selling slaves to Gentiles, thus abrogating the *halakhic* observance of the slave. One responsum of R. Nahshon Gaon (*Oṣar ha-Ge'onim*, *Giṭṭin*, 88-89, ##220-224) discusses whether this fine need be paid where the Jew was merely arbitrating the price of slaves, selling them quickly after buying them cheaply.

¹⁴⁴¹ B. *Yevamot* 48b. (E. E. Urbach, *The Laws Regarding Slavery: As a Source for Social History of the Period of the Second Temple, the Mishnah, and Talmud* 1999, 41-42).

¹⁴⁴² (E. E. Urbach, *The Laws Regarding Slavery: As a Source for Social History of the Period of the Second Temple, the Mishnah, and Talmud* 1999, 102 and 112-113).

¹⁴⁴³ Ephraim Urbach (E. E. Urbach, *The Laws Regarding Slavery: As a Source for Social History of the Period of the Second Temple, the Mishnah, and Talmud* 1999, 138-139) notes that Constantine's ban of Jewish possession of pagan or Christian slaves made it difficult to obtain Gentile slaves at the end of the third century and beginning of the fourth. While not a proof, it would seem that ownership of Gentile slaves may have declined in late 'Ereṣ Israel amoraic times. This is Eli Ahdut's read of Urbach as well.

required final step of conversion—immersion. Yet they entered Jewish society as Gentiles and easily assimilated as they were now familiar with the Jewish commandments and customs.¹⁴⁴⁴

Thus, in sharp contrast to tannaitic and amoraic *'Eres Israel*, the opportunities for Sasanian Jews to meet and interact with Gentiles in the public domain, in business, in one's neighborhood, and even in one's own home seem to have been unlimited.

Ability to Transact Marriage

A key question regarding the possibility of intermarriage is the degree to which marriages were arranged by a parent rather than by the individuals themselves and, relatedly, at what age people married. Nissan Rubin suggests that in societies in which the extended family acts as a corporation, as in agricultural and pastoral families, where the “accumulation of property” is a collective effort and where such property is passed to the next generation, families are very much involved in arranging matches among themselves in order to maintain or increase their resources.¹⁴⁴⁵ “Accumulated property” can include not solely economic assets, but social assets such as political power, prestige, knowledge, and family status. In such environments, parents typically choose the partner for their child. Rubin adds that even a relatively older male who is dependent on household resources, might not be able to freely choose a spouse, as a man of means could influence his son's choice of spouse even beyond the age of twenty because he could “hold his son by his throat” and withhold financial support.

¹⁴⁴⁴ (E. E. Urbach, *The Laws Regarding Slavery: As a Source for Social History of the Period of the Second Temple, the Mishnah, and Talmud* 1999, 103). Jews also likely entered Gentile households in an intimate way via debt bondage. Maria Macuch (Macuch 2010, 197) notes that debt bondage was “a common practice. A debtor who had no other property could offer a member of his family, especially one or several of his children, as a security for a loan to a creditor.” B. *'Avodah Zarah* 23a seemingly alludes to this practice as well by distinguishing between a woman incarcerated (נחבשה) by Gentiles as collateral for a debt (על ידי ממון) rather than for herself (על ידי נפשות), the latter likely meaning kidnapping. Sometimes these were for an extended period and, if the debt could not be repaid, turned into slavery. But this practice may have also occurred in *'Eres Israel*.

¹⁴⁴⁵ (N. Rubin, *Time and Life Cycle in Talmud and Midrash: Socio-Anthropological Perspectives* 2008, 14-21).

To Rubin, who concludes (contrary to the conclusion here) that in Babylonia the Jewish population was primarily agricultural and was based on large family homesteads and estates,¹⁴⁴⁶ there would be a great likelihood that the married son would be absorbed into the father's household, which enabled him to marry young.¹⁴⁴⁷ Indeed, the ideal in Babylonia was to marry sons and daughters close to puberty (a girl at nine, a boy at fifteen), implying a significant role for the father in choosing a spouse for his child.¹⁴⁴⁸

Similarly, Maria Macuch writes that, in Babylonia, "normally only the *paterfamilias* as the guardian and representative of all other members of the family was admitted to litigation as a plaintiff, defendant, or witness."¹⁴⁴⁹ All the women and minors in the family were obliged to obey the rulings of their guardian.¹⁴⁵⁰ Macuch adds that the woman remained under the legal guardianship of a man not only as a minor, but during her whole life, first under her father or any other family guardian. The *paterfamilias* was all-powerful and decided upon marriage partners. If a daughter wanted to marry someone not authorized by the family head, it was considered a misunion. The idea of the girl simply leaving the house to marry was unacceptable.¹⁴⁵¹ In fact, the Sasanian lawbook, *Book of a Thousand Judgements*, called a marriage against the father's will "not good" or invalid.¹⁴⁵²

However, as suggested here, in Babylonian amoraic times, given urbanization, Jews may have been less directly involved in homesteads. A sizable number, if not majority, of Jews likely lived in an urban setting and were involved in commerce and trade. It may have been more feasible

¹⁴⁴⁶ (N. Rubin, *Ketz ha-Hayyim: Tiksei Evel u-Kevurah bi-Mekorot Haza"l* 1997, 101).

¹⁴⁴⁷ (N. Rubin, *Time and Life Cycle in Talmud and Midrash: Socio-Anthropological Perspectives* 2008, 16).

¹⁴⁴⁸ (N. Rubin, *Simhat Hayyim: Tiksei Erusim u-Nessu'im bi-Mekorot Haza"l* 2004, 59-63). (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 60)

¹⁴⁴⁹ (Macuch, *Legal Construction of Identity in the Sasanian Period* 2010, 200).

¹⁴⁵⁰ (Macuch, *Legal Construction of Identity in the Sasanian Period* 2010, 207).

¹⁴⁵¹ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 60).

¹⁴⁵² (Perikhanian and Garsoian 1997, 101 XXXVI:2-5).

in such environments for individuals to become self-sufficient as artisans, as employees of others, and in their own commerce and less dependent on parents. Michael Morony suggests that two-generational nuclear households may have been common.¹⁴⁵³ In such families, where the man and woman might marry at a later age and could support themselves, individuals were more likely to transact their own marriages. And, while data is scarce regarding the involvement of women in Babylonian society and the acceptability of their interaction with men, Daryaee notes that women were to be treated as part of society.¹⁴⁵⁴ It does not appear that their interactions with men were infrequent.

Macuch too notes that there were many exceptions to spouse determination by a parent. For example, a widow could make her own choice of husband. Also, a woman had the right to refuse a marriage arranged by her father or brother and was even allowed to choose her own husband if her guardian failed to procure a husband for her by the time she had reached fifteen.¹⁴⁵⁵ Furthermore, men were permitted to take second wives and might have taken wives at a later age as well, especially if not satisfied with the wife “assigned” in his youth.¹⁴⁵⁶

Indeed, the Bavli hints that individuals transacted their own marriages, at least often enough to get the rabbis’ attention. For example, Rav would reportedly give lashes to one who did

¹⁴⁵³ (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 106). Morony notes that two-thirds of a sample of 119 incantation bowls from that period showed evidence of nuclear households. Interestingly, Yedidah Koren notes (Koren 2018) that *Ereṣ* Israel amoraim used the terminology of family (משפחה), whereas Babylonian amoraim looked at lineage issues more in terms of individuals and nuclear families and used the terminology of relationships (יחסין). However, she is non-committal regarding whether these rabbinic perceptions tie to realities on the ground and might signal a shift in family structure. Furthermore, she admits that not all examples support her hypothesis.

¹⁴⁵⁴ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 49). B. *Sanhedrin* 14b mentions how R. Papa’s wife ran her own business. Per (Elman, *Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition* 2007, 171), Zoroastrian texts seem to offer a relaxed attitude toward sexual ethics. Eli Ahdut’s doctoral thesis (Ahdut 1999) analyzes the status of the Jewish woman in Babylonian society but does not touch on the topic of interactions with Gentile men. Nor does Boyarin (Boyarin, *Carnal Israel: Reading Sex in Talmudic Culture* 1993) in his analysis of how rabbinic literature, including the Bavli, represented and discussed sexuality.

¹⁴⁵⁵ (Macuch, *Legal Construction of Identity in the Sasanian Period* 2010, 207).

¹⁴⁵⁶ (Baron 1952, 226) and (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 269-273).

not marry via an arrangement (*šidukhei*).¹⁴⁵⁷ If there was good reason, the rabbis could even annul the marriage.¹⁴⁵⁸ Perhaps most tellingly, the Talmud seemingly indicates that marriage was not necessarily controlled by the parents, at least in certain regions. Babylonian sages cited in the Bavli considered the Messene region “dead,” reputedly because priests did not desist from marrying divorcées, thus contravening biblical law.¹⁴⁵⁹ While it could also mean that the parents in the region who arranged the marriages for their children were not meticulous in this regard, the characterization would seem to indicate that there was personal selection of spouses in that area.

It is hard to know whether the situation in amoraic Babylonia was truly different than that of amoraic *’Ereṣ* Israel. However, given the urbanization and focus on commerce in urban Babylonia as opposed to the agrarian milieu of Jewish Galilee, this conjecture regarding nuclear urban families and a reduced role for the *paterfamilias* seems reasonable.

Affinity

Nissan Rubin notes that geographic proximity alone does not necessarily create cultural mimicking, especially if the neighboring culture contradicts the fundamental tenets of one’s own culture.¹⁴⁶⁰ The analysis below suggests, however, that there was a significant degree of affinity between the Jewish community and its surrounding society. As just some indicators, Yaakov Elman points out that relations between Zoroastrians and Jews were so good that members of one group frequently put their child into the temporary care of members of the other.¹⁴⁶¹ B. *’Avodah Zarah* 72b-73a notes a seemingly common (and permitted) practice for Jews to drink wine with

¹⁴⁵⁷ B. *Yevamot* 52a and b. *Qiddušin* 12b.

¹⁴⁵⁸ (N. Rubin, *Simhat Hayyim: Tiksei Erusim u-Nessu'im bi-Mekorot Haza"l* 2004, 101-102).

¹⁴⁵⁹ Y. *Qiddušin* 4:1 65c 1180:40.

¹⁴⁶⁰ (N. Rubin 2004, 47).

¹⁴⁶¹ (Elman 2006, 26-27).

Gentiles out of *qanišqanin* (containers with multiple built-in straws).¹⁴⁶² B. *Bava Meši'a* 24a notes non-Jews who “sat around” (דיתבו בהו כנענים) in both synagogues and study halls in significant numbers. Such close relationships between Jews and Gentiles in Babylonia were likely the results of political consonance, theological compatibility, and cultural adaptation.

Political consonance

In assessing the extent of the Jews' comfort in Babylonia, one must distinguish between their relations with the imperial government from their relations with the Zoroastrian religious hierarchy. For, although, as Shai Secunda points out, Zoroastrianism was “closely aligned with the state,”¹⁴⁶³ the government and religious hierarchies were separate, as were the roles of the Sasanian kings and Zoroastrian priests. Josef Wiesehöfer posits that there was no close alliance between “throne” and “altar” and that the concept of “state religion” and “state Church” was not applicable to Persia. Sasanian kings and Zoroastrian priests did not always act in unison vis a vis religious minorities. Even the state's promotion of Zoroastrianism, Geoffrey Herman suggests, did not imply confrontation with other religions. The kings seem to generally have had little to gain from fomenting friction with the minority religions that formed an important component of his kingdom, preferring a pragmatic approach towards them.¹⁴⁶⁴

The Sasanian regime seemingly offered a more benign environment for the Jews than either the Roman pagans or Christians had.¹⁴⁶⁵ As Isaiah Gafni writes, “One cannot compare the constraints and dangers in *'Ereš* Israel that confronted the Jews in a Hellenistic-Roman atmosphere, and even more so with the spread of Christianity, with the social structure and

¹⁴⁶² (Sokoloff 2002, 1005) s.v. *qanišqaniz* (note the variant spelling, consistent with MS Paris 1337).

¹⁴⁶³ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 435).

¹⁴⁶⁴ (Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* 2012, 41, 48-53). Herman notes (48) that even regarding kings with a reputation for being anti-Christian, the picture is not clear cut.

¹⁴⁶⁵ (Elman 2010).

religious atmosphere that accompanied it in Sasanian Babylonia.”¹⁴⁶⁶ He and David Goodblatt point out that there is no evidence of a discriminatory tax collected from the Jewish community in the Sasanian Empire as there was in Roman *’Ereṣ Israel*.¹⁴⁶⁷ And while Jews may not have been able to ascend to positions of real power and were at the mercy of the royal and religious ruling classes, there appear to have been no restrictions on Jews in terms of occupation, movement, or interaction with other religious groups.¹⁴⁶⁸

The religious world of Sasanian Babylonia was diverse.¹⁴⁶⁹ Primarily Zoroastrian, the population included Jews, Christians, Manichaeans, Mandaean, Judeo-Christian sects like the Elchasaites, and Christian sects like the Marcionites, and others.¹⁴⁷⁰ Richard Payne suggests that, for the most part, Zoroastrians seem to have been tolerant of other religions, practicing “differentiated, hierarchical inclusion rather than intolerance.”¹⁴⁷¹ As he writes, “Zoroastrian authorities, in theory and practice, recognized the place of Christians and Jews in Iran and regarded their institutions...as having the capacity to be helpful in the Zoroastrian mission.”¹⁴⁷² They did not call for the exclusion of “bad” religions from the empire or their segregation.¹⁴⁷³ Rather, what was important to them, according to Payne, was a hierarchy in which Zoroastrianism was at the top.¹⁴⁷⁴

¹⁴⁶⁶ (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 149-153). Gafni even claims that the amoraic discussions in the Bavli regarding the prohibitions of Gentile foods, which he assumes were geared to separate Jews from Gentiles, were (contra the position taken here) only a continuation of the mishnaic edicts and do not necessarily reflect contemporaneous conditions in Babylonia.

¹⁴⁶⁷ (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 103). (D. M. Goodblatt 1979).

¹⁴⁶⁸ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 101).

¹⁴⁶⁹ (De Jong 2014, 132).

¹⁴⁷⁰ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 435), (Becker 2014, 16), and (Elman 2005).

¹⁴⁷¹ (Payne 2016, 27).

¹⁴⁷² (Payne 2016, 57).

¹⁴⁷³ (Payne 2016, 37).

¹⁴⁷⁴ (S. Gross, *Irano-Talmudica and Beyond: Next Steps in the Contextualization of the Babylonian Talmud* 2016, 252 n16).

Thus, each report of systemic persecution of religious minorities must be evaluated in the context of the policy of the individual king, his conception of his role, the interests of the Zoroastrian clergy and of religious minorities, as well as the generally prevailing political situation.¹⁴⁷⁵ As will be shown below, some cases of governmental oppression may have had political motivations,¹⁴⁷⁶ and Zoroastrian leadership-led edicts and actions against Jews did not necessarily imply state-driven persecution.

There were indeed a number of periods of political uncertainty and repression for Jews. Scholars debate whether one such period was the transition between the Parthian and Sasanian empires around 225 C.E. Moshe Beer, for example, suggests that there was a period of upheaval due to religious fanaticism of an ascendant Zoroastrian priesthood brought in by the Sasanians, and that synagogues were destroyed, as alluded to in b. *Yoma* 10a.¹⁴⁷⁷ Richard Kalmin argues strenuously that, while the arrival of the magi was “not greeted with enthusiasm,” the change was not “considered significant enough to constitute a dividing line between two eras of Jewish history.”¹⁴⁷⁸

There are some indications that, in the mid-to-late fifth century, under the reigns of Yazdgird II (439-57) and King Pērōz (459-484), Babylonian Jews experienced difficulties.¹⁴⁷⁹

¹⁴⁷⁵ (Wiesehöfer 2001, 211-214).

¹⁴⁷⁶ For example, Josef Wiesehöfer suggests (Wiesehöfer 2001, 202) that King Shapur (r. 240 to 270 C.E.) may have dealt with Christians harshly because he perceived them as vanguards of Rome. Similarly, the Persian king in 340 or 341 C.E. reportedly persecuted Christians because the new Metropolitan of Selucia-Ctesiphon refused to collect a special tax from Christians to finance a war.

¹⁴⁷⁷ apud (Kalmin, *Jewish Babylonia between Persia and Roman Palestine* 2006, 128).

¹⁴⁷⁸ (Kalmin, *Jewish Babylonia between Persia and Roman Palestine* 2006, 138). Kalmin suggests (128) that the entire notion that synagogues were destroyed may have been a later mistranscription and insertion into the Bavli of a description by Rav Sherira Gaon that the synagogues were closed during persecutions in the year 474, not that they were destroyed.

¹⁴⁷⁹ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 83); (Elman, *Talmud ii. Rabbinic Literature and Middle Persian Texts* 2010). Though he characterizes his sources for this only as “generally reliable,” Jacob Neusner (*J. Neusner* 2008, 60-69) writes that, as part of the repression of non-Mazdaeans, the government of Yazdgird II instituted some highly unusual, unprecedented prohibitions of Jewish religious practices. Josef Wiesehöfer (Wiesehöfer 2001, 215-216) writes the same, drawing primarily on Neusner.

Indeed, b. *Hullin* 62b refers to Pērōz as Pērōz the Evil (פִּירוּז רְשִׁיעָא).¹⁴⁸⁰ Josef Wiesehöfer and others suggest a number of other killings of Jews. Regardless of the accuracy of these accounts, they appear to have been sporadic over centuries and may have been triggered by Jewish actions.¹⁴⁸¹

For the most part, though, it appears that Jewish relations with the Persian kings were good. Josef Wiesehöfer suggests, that King Shapur I (c. 250) came to an understanding with the Exilarch and rabbis whereby the Jews were granted more freedom of movement.¹⁴⁸² Similarly, the reign of Yazdgird I in the early fifth century seemed to be a particularly peaceful era for the Jews.¹⁴⁸³ Two sources portray the leading rabbis of the generation visiting Yazdgird I in the royal court, trading scriptural verses with him, and enthusiastically reflecting on the reception they received.¹⁴⁸⁴

As to persecution by the Zoroastrians, Shai Secunda notes that “there is little evidence of sustained and serious religious persecutions of Jews during this or later periods.” And, while there are some talmudic passages concerned with policies and actions of Zoroastrian priests directed at Jews, “these seem to have occurred when the practices of minority communities like Jews and Christians happened to impinge on Zoroastrian ritual.”¹⁴⁸⁵ For example, b. *Yevamot* 63b tells of

¹⁴⁸⁰ (Elman, *Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition* 2007, 166).

¹⁴⁸¹ Josef Wiesehöfer suggests (Wiesehöfer 2001, 215) that one Jewish action was reportedly in anticipation of the imminent arrival of the Messiah, whose appearance they connected to the 400th anniversary of the destruction of the Second Temple. Wiesehöfer also suggests that, in the sixth century, Jewish followers of a pretender to the throne were killed (see (Whitby and Whitby 1986, 141-142)) and, later, another Messianic revolt was “ruthlessly put down” in 640. Perhaps the first event was, as Salo Baron suggests (Baron 1952, 182), when the Exilarch Huna Mari was executed (471 C.E.) and his son, Mar Zutra II, revolted against Persia, and established a small Jewish principality over which he reigned for seven years. He was ultimately defeated and executed (c. 491 C.E.). Also, the *Annals of Hamzah al-Isfahani* (Daudpota 1932, 102) state that Pērōz “ordered half the Jewish population of Isfahan to be put to death and their children to be sent as slaves...as they had flayed the skin from the backs of two Magian doctors, joined the two skins and used them for tanning.” (The accuracy of this account can be challenged, as it is a tenth century account and there are seemingly rhetorical flourishes here, like killing “half the Jewish population” and the joining and tanning of the magi’s skin.)

¹⁴⁸² (Wiesehöfer 2001, 215). B. *Mo‘ed Qaṭan* 26a reports that King Shapur killed 12,000 Jews. However, the Talmud states that this was preceded by some sort of Jewish uprising.

¹⁴⁸³ (G. Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* 2012, 44).

¹⁴⁸⁴ (G. Herman, *The Last Years of Yazdgird I and the Christians* 2014, 77).

¹⁴⁸⁵ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 437).

edicts enacted in the mid-third century banning Jewish slaughtering of meat, ritual immersion (*miqveh*), and burial.¹⁴⁸⁶ As Richard Kalmin notes, however, these three bans may have been “Persian responses to Jewish practices that violate Persian ritual law, and that offend Persian sensitivities because they violate basic Zoroastrian principles.”¹⁴⁸⁷ Similarly, on b. *Šabbat* 45a, Rav asks whether one may move the Hanukkah menorah on Shabbat out of fear of the Zoroastrian magi. Here too, the profane use of fire was an affront to Zoroastrianism. Secunda concludes that even if disruptions of Jewish ritual did indeed take place as described in these sources, “they would not have been directed specifically as Jews *qua* Jews.”¹⁴⁸⁸

In the late third century, the zealous and power-seeking chief Zoroastrian priest, Kertir (fl. 276-293 C.E.), claimed in an inscription to have persecuted the Jews among other sects.¹⁴⁸⁹ The inscription reads:

“And the [false] doctrines of Ahriman and of the idols disappeared from the empire and lost credibility. And the Jews [*yahūd*], Buddhists Hindus [*braman*], Nazarenes [*nāsrā*], Christians [*kristiyān*], Baptists [*makdag*] and Manichaeans [*zandīk*] were smashed [*zad*] in the empire, their idols destroyed, and the habitations of the idols annihilated and turned into abodes and seats of the gods.”

¹⁴⁸⁶ (Beer, *Ha-Reka ha-Medini u-Pe'ilato shel Rav be-Bavel* 2011).

¹⁴⁸⁷ (Kalmin, *Jewish Babylonia between Persia and Roman Palestine* 2006, 133-134). Burial, because Zoroastrians considered it “a serious sin to defile the holy earth by burying the dead rather than exposing their flesh to birds and wild animals.” Ritual immersion, because Zoroastrians saw immersing post-menstrual women as defiling water, a sacred element. And meat, though a bit more obscure, may have been due to an aversion to slaughtering animals for general consumption rather than as part of a rite.

¹⁴⁸⁸ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 437).

¹⁴⁸⁹ (Wiesehöfer 2001, 199).

Some scholars suggest that Kertir was not referring to physical destruction.¹⁴⁹⁰ Nonetheless, Geoffrey Herman characterizes the years between 272–293 C.E. as years of “some degree of religious discomfort” for the Jews.¹⁴⁹¹

The Talmud in b. *Bava Meṣia* 86a refers to a persecution (אָרְמִיָּה) in the early fourth century, reporting that Rabbah b. Nahmani died during and, by implication, as a result of it. However, Simcha Gross notes that later editors of the Talmud sought to “negate” the persecution by attributing Rabbah’s death to a tax evasion scheme.¹⁴⁹² Thus, the Talmud offers no hint of the extent of such persecution.¹⁴⁹³

Thus, on the whole, during the centuries under review here the weight of evidence seems to suggest a situation of comfort for the Jews of Babylonia, despite periodic outbreaks of sometimes political, sometimes religious persecution.¹⁴⁹⁴ Scholars suggest that Sasanian treatment of Jews was better than its treatment of the Persian Christians.¹⁴⁹⁵ As Yaakov Elman writes, “unlike Christians, who might become a fifth column once Christianity became a tolerated religion in the Roman Empire in 313 C.E., the Jews would support the regime if they were left alone.”¹⁴⁹⁶ Furthermore, there is no evidence of rifts on an interpersonal basis against the Jews even during

¹⁴⁹⁰ See, e.g., (G. Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* 2012, 42 n116), (Mokhtarian, *Material Culture of the Jews of Sasanian Mesopotamia*. 2020, 152), (Beer, *Ha-Reka ha-Medini u-Pe'ilato shel Rav be-Bavel* 2011, 23), (Beer, *Al Shalosh Gezeirot she-Nigzeru al Yehudei Bavel ba-Me'ah ha-Shelishit* 2011), (Beer, *Gezeirotav shel Kertir al Yehudei Bavel* 2011, 332).

¹⁴⁹¹ (G. Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* 2012, 43).

¹⁴⁹² (Gross, *A Persian Anti-Martyr Act* 2018).

¹⁴⁹³ Yakir Paz suggests (Paz, *Elam Gosseset: Ha-Talmud ha-Bavli ve-Yehudei Khuzestan ba-Tekufah ha-Sasanit* 2024, 578) that the Talmud’s downplaying persecution of Jews, as in this instance, may not be historical and that there is no reason to assume that Jews may have been excluded from events of persecution of Christians and other minority religions.

¹⁴⁹⁴ (Elman 2010).

¹⁴⁹⁵ (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 78).

¹⁴⁹⁶ (Elman 2010).

“official” or “zealous” persecutions. Ordinary, workaday contact with Gentiles might have continued.¹⁴⁹⁷

Babylonian sages appear to have trusted their rulers in ways that Jews living under Roman/Byzantine rule did not. For example, while m. *Avodah Zarah* 1:7 states that one may not sell items to Gentiles that can endanger the public, b. *Avodah Zarah* 16a permits selling arms to the Persians because “nowadays, the Persians protect us,” (פרסאי דמגנו עילוון).¹⁴⁹⁸ As Christine Hayes explains, “by the late amoraic period, the Babylonian rabbis felt secure enough to cooperate with the regime in the supply of weapons-grade material.”¹⁴⁹⁹

Finally, there never appeared to have been a threat to the physical presence of the Jews in Babylonia. Isaiah Gafni suggests that Babylonian Jews felt a measure of local patriotism and self-confidence where they resided,¹⁵⁰⁰ contrasting significantly to their relations with the Gentiles of *Eretz* Israel, where there was a sense of threat and opposition from the Gentiles.¹⁵⁰¹ Josef Wiesehöfer summarizes that the Sasanians as well as the previous empires,

always embraced territories where non-Iranian groups of populations were at home, the problem of dealing with foreign languages, traditions and religious concepts, as well as with the political hopes and ambitions of previously independent nations...On the whole, the long duration of their reign over ‘Iran (and non-Iran)’ speaks for a rather gentle, farsighted and altogether successful policy of the kings with respect to cultural, religious or political minorities...Religious conformity was never demanded as a means to safeguard their reign, and the ruling principle was always the advancement of reliable groups and communities and their punishment of disloyal ones. Thus, the Jewish

¹⁴⁹⁷ (J. Neusner 2012).

¹⁴⁹⁸ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 100).

¹⁴⁹⁹ (Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* 1997, 178).

¹⁵⁰⁰ (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 117).

¹⁵⁰¹ (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 124).

communities of Mesopotamia experienced a time of undreamt-of prosperity and cultural-religious creativity.¹⁵⁰²

Finally, as the amora R. Huna [BA2] summed up the situation, the Babylonian Jews were at peace in their land of exile.¹⁵⁰³ The primary threats to the Babylonian Jewish community were cultural and spiritual, not physical.

Theological familiarity

Zoroastrianism and Judaism are two distinct religions, with serious theological differences. For example, at its core, Zoroastrianism is typically considered dualistic, believing in Ohrmazd, the good deity, and Ahreman, the evil deity.¹⁵⁰⁴ Judaism is monotheistic. Dietary laws are virtually absent from Zoroastrian practice.¹⁵⁰⁵ Zoroastrians believe in close-kin marriages, deemed incestuous abominations in *Leviticus* 18:6-18.¹⁵⁰⁶ Bathing in waterways is a sin against Zoroastrianism, whereas immersing oneself in flowing water is obligatory for Jewish ritual purification.¹⁵⁰⁷ Zoroastrianism considers burying the dead with the flesh a sin and calls for exposing the body to open air for vultures and dogs to eat away the flesh,¹⁵⁰⁸ contrasting sharply with the Jewish custom to bury a body intact as quickly as possible.¹⁵⁰⁹ Dogs are held in special

¹⁵⁰² (Wiesehöfer 2001, 243-244).

¹⁵⁰³ B. *Menahot* 110a. “Rav Huna said: ‘These are the exiles of Babylonia who are at ease with them as sons.’” (אמר רב הונא אלו גליות של בבל שדעתן מיושבת עליהן כבנים). While this event likely occurred before the rise of Kertir, his statement did survive the final redaction of the Talmud.

¹⁵⁰⁴ (Payne 2016, 27).

¹⁵⁰⁵ (De Jong 2014, 129).

¹⁵⁰⁶ (Daryae, Sasanian Persia: The Rise and Fall of an Empire 2013, 64). (Payne 2016, 109).

¹⁵⁰⁷ (Daryae, Sasanian Persia: The Rise and Fall of an Empire 2013, 65-66). Shai Secunda (Secunda, *The Talmud's Red Fence: Menstrual Impurity and Difference in Babylonian Judaism and its Sasanian Context* 2020, 71) notes that water had a paradoxical status in Zoroastrianism, both as something that needed to be protected from impurity but also as something that was used in the purification process, but only as the final step when some of the pollution had already been removed.

¹⁵⁰⁸ (Daryae, Sasanian Persia: The Rise and Fall of an Empire 2013, 65-66).

¹⁵⁰⁹ (N. Rubin 1997, 101). B. *Sanhedrin* 46b relates that R. Hama refused to answer King of Kings Shapur when asked where the Torah commands burial. B. *Yevamot* 63b describes how, under King of Kings Ardashir I, the Zoroastrians would dig up Jewish graves.

regard in Zoroastrianism,¹⁵¹⁰ whereas in Judaism they are just another impermissible animal.¹⁵¹¹ Jewish slaughter of cattle for general consumption (not just as part of a rite) and circumcision (whose harm to the child's body is deemed sadistic and demonic) were deemed sins in Zoroastrianism.¹⁵¹²

Institutionally, Zoroastrian religious leaders and literature denigrated Judaism.¹⁵¹³ Conversely, the amora Rav warned Jews against learning from Zoroastrian magi whom he considered idolators;¹⁵¹⁴ the amora Shmuel considered them witches.¹⁵¹⁵

And yet, Yaakov Elman suggests, many Zoroastrian concepts may have appeared to be “disturbingly familiar” to the amoraim,¹⁵¹⁶ and certainly to lay rabbinic Jews, than was Roman paganism or Christianity, even if details varied significantly. For example, Zoroastrian doctrines included creation by a benevolent and omniscient god, the fight against evil, reward and punishment, heaven and hell, the coming of messianic figures, the ultimate defeat of evil, the resurrection of the dead, and the renewal of creation. Zoroastrian ethics, like Judaic ethics, emphasized good thought, good speech, and good deeds. Its ritual system stressed the avoidance of idolatry, hatred of sorcery, “wasting of seed,” the notion of “ritual pollution,” and, relatedly, avoiding contact with menstruant women and dead bodies.¹⁵¹⁷ Zoroastrian tradition, like Jewish

¹⁵¹⁰ See, e.g., *Avesta Vendidad, Fargard* 13 and 14.

¹⁵¹¹ For a more nuanced survey of the complex relationship of Jews to dogs, see (J. Schwartz, *Dogs in Jewish Society in the Second Temple Period and in the Time of the Mishnah and Talmud* 2004).

¹⁵¹² (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 80). For the Zoroastrian perspective on animal slaughter, see (Macuch, *On the Treatment of Animals in Zoroastrian Laws* 2003).

¹⁵¹³ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 76-79).

¹⁵¹⁴ B. *Šabbat* 75a.

¹⁵¹⁵ B. *Šabbat* 75a, Rashi, *ad loc.*, s.v. *had `amar ḥarši*.

¹⁵¹⁶ (Elman 2007, 130).

¹⁵¹⁷ (Elman 2005). Shai Secunda (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 5-6) points to the story at b. *Niddah* 20b where the Gentile Ifra Hormiz sends samples of menstrual blood to the fourth-century amora Rava to ask about the purity status of her discharges as a demonstration of the intercultural dynamics between Jews and Zoroastrians.

tradition, promoted the oral transmission of sacred texts and the authority of learned elites.¹⁵¹⁸ Both religions promoted levirate marriages.¹⁵¹⁹ Both accepted polygamy and temporary marriages.¹⁵²⁰ Zoroastrians venerated fire and built fire temples, and Jews were commanded to maintain an ongoing fire on the altar in the Temple.¹⁵²¹

The two religions had some practices in common, such as carrying myrtles on a certain holiday, not talking during meals,¹⁵²² and wearing a belt to separate the upper body from the lower part.¹⁵²³ Both religions placed importance on mental intent (*kawannah*) when performing a commandment,¹⁵²⁴ emphasized the need for confession (*widui*) as a precondition for atonement,¹⁵²⁵ believed that sins committed by minor children go to the account of the father¹⁵²⁶ and that a son's actions could assist his parents' status in their afterlife.¹⁵²⁷

There is evidence of collegial and congenial interfaith public debate, perhaps even with royal backing.¹⁵²⁸ It is reasonable to assume that most Jews were familiar to some degree with the Persian religion from the magi who actively circulated in the cities and spoke publicly on the

¹⁵¹⁸ (Elman 2010).

¹⁵¹⁹ (Payne 2016, 111).

¹⁵²⁰ (Daryaei, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 61).

¹⁵²¹ *Leviticus* 6:5-6.

¹⁵²² (Shaked 2010). Shaked notes, though, that the practice of not speaking during meals—while mentioned in the Bavli (b. *Ta'anit* 5b and b. *Berakhot* 46b)—was never widely observed in Judaism.

¹⁵²³ Shlomo Rubin (S. Rubin 1909) suggests several additional examples of similarities between Judaism and Zoroastrianism. He further claims that these customs were likely adopted by the Jews from the Babylonians during their sojourn following the destruction of the First Temple. No such claim is made here about these or the other similarities described in this dissertation.

¹⁵²⁴ (Cantera 2010, 59). For positive commandments, see the Talmudic discussions in b. *Eruvin* 95b, b, *Pesahim* 114b, b. *Berakhot* 13a, b. *Roš ha-Šannah* 28b. Regarding violations, the distinction between unintentional (אגש) and intentional (מזיד), including differences in the severity of punishment, appear in the Bible itself (e.g., *Leviticus* 4:2, 4:22-27, 5:15-18, and 22:14 and *Numbers* 15:24-29 and 35:11-15) and are carried through the Talmud with examples too numerous to cite here.

¹⁵²⁵ (Cantera 2010, 61).

¹⁵²⁶ (Shaked 2012) and (Cantera 2010, 59).

¹⁵²⁷ (Brodsky 2018).

¹⁵²⁸ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 50-63, 142). (Oppenheimer 2017, 154). Some of these debates may have even been held in a Zoroastrian temple annex of Bei Abidan. (Elman 2007, 174). See also b. *Šabbat* 116a.

principles of the Mazdean religion.¹⁵²⁹ Secunda writes that many Jews may even have studied with magi, perhaps primarily as part of the “magic trade” but possibly science and even Zoroastrian scriptures as well.¹⁵³⁰

It would appear, therefore, that there was no structural imperial anti-Judaism and, that on a day-to-day basis, neither the average Zoroastrian nor Jew would have been put off or challenged by the other’s practices. Religious differences certainly did not impede social interaction; indeed, the similarities may have even eased them.

Theological familiarity: the incantation bowl phenomenon

Another source used by scholars over the past decades in attempting to understand the religio-social acclimation of Babylonian Jewry during amoraic times are incantation bowls, first uncovered in Babylonia in 1853.¹⁵³¹ Sergey Minov describes them as ordinary earthenware bowls of a diameter between 15 and 20 centimeters with spells inscribed in ink on the inside. When found *in situ*, they are usually buried upside down under the floor of people’s homes.¹⁵³² Their primary function was to protect the members of a household and their livestock from the threat posed by demonic or human adversaries. A smaller number of bowls were used for love or other magic.¹⁵³³ These bowls have been typically dated between the sixth and seventh centuries and confined primarily to Sasanian Mesopotamia.¹⁵³⁴ In a paper published in 2022, Sergey Minov estimated that

¹⁵²⁹ (Beer, *Gezeivotav shel Kertir al Yehudei Bavel* 2011, 340).

¹⁵³⁰ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 46).

¹⁵³¹ (Bohak 2019, 70-72).

¹⁵³² Michael Morony (*Morony, Magic and Society in Late Sasanian Iraq* 2003, 95) suggests that they were also found under thresholds or built into the wall of a house or in a cemetery. They are sometimes found with two or more bowls stacked atop each other, with the upper bowl inverted over an upright bottom bowl.

¹⁵³³ (Minov 2022, 8 §22).

¹⁵³⁴ (Minov 2022, 8 §23). (Gross and Manekin-Bamberger, *Babylonian Jewish Society: The Evidence of the Incantation Bowls* 2022, 5).

there are over 2,500 known incantation bowls, of which around 600 have been published.¹⁵³⁵ About two-thirds of the published bowls are in Jewish Aramaic script and Jewish Babylonian Aramaic.¹⁵³⁶ The rest may roughly be two-thirds Mandaic and a third Syriac.¹⁵³⁷ Minov suggests that scholars usually assume a close correlation between the script in which bowls are inscribed and the confessional identity of their scribes, although not necessarily of their clients.¹⁵³⁸ The corpus of Jewish bowls is, in Minov's words, "the second most important body of textual evidence of the Jewish society of Babylonia during the Sasanian period" after the Babylonian Talmud.¹⁵³⁹

Michael Morony characterizes the incantation bowls as a form of defensive, protective magic.¹⁵⁴⁰ They were usually created for named individuals.¹⁵⁴¹ The inscriptions invoked some powerful supernatural being or beings, often to ward off every imaginable evil, either of immediate concern or permanently¹⁵⁴² or to promote some beneficial outcome for the individual.¹⁵⁴³ Sometimes the incantations focused on specific, named demons, calling to expel or bound and seal them or to overturn their curses.¹⁵⁴⁴

Some scholars, like Ali Scotten, see the incantation bowl ritual as a cross-religious practice.¹⁵⁴⁵ One bowl, for example, includes allusions to Zoroastrian imagery, beliefs, and names

¹⁵³⁵ (Minov 2022, 8 §23).

¹⁵³⁶ (Minov 2022, 8 §24).

¹⁵³⁷ Based on a sample of 855 bowls compiled by Michael Moroney. (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 87).

¹⁵³⁸ (Minov 2022, 9 §25). Gideon Bohak (Bohak 2019, 72), for example, posits that one may "definitely" assume a connection between that bowls written in Aramaic and in the square script were produced by Jews (though not necessarily for Jewish clients).

¹⁵³⁹ (Minov 2022, 9 §26). Simcha Gross and Avigail Manekin-Bamberger note (Gross and Manekin-Bamberger, *Babylonian Jewish Society: The Evidence of the Incantation Bowls* 2022, 4) that "aside from few dozen Jewish Sasanian seals, the bowls represent our only material evidence from Babylonian Jews in late antiquity."

¹⁵⁴⁰ (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 96-97).

¹⁵⁴¹ (Scotten 2007, 10-13).

¹⁵⁴² (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 96-97).

¹⁵⁴³ (Daryaei 2013, 94).

¹⁵⁴⁴ (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 96-97).

¹⁵⁴⁵ (Scotten 2007, 10).

amidst Torah verses.¹⁵⁴⁶ Another is a Jewish bowl in which Jesus and the Trinity appear as well as invocations of non-Jewish deities.¹⁵⁴⁷ Some bowls seemingly intended for Jewish clients included Mandaic incantation texts.¹⁵⁴⁸ And, though Mandaeism was anti-Jewish, two Jewish Aramaic bowl texts were found to have duplicates in Mandaic.¹⁵⁴⁹ To some scholars like Scotten, therefore, these bowls expose a world in which different religious communities were in contact in a variety of settings.

The onomastic evidence of these bowls is also a tantalizing basis for scholars to draw conclusions regarding how Jews in Babylonia interacted with Gentiles in business, marriage, and magic in the late Sasanian era¹⁵⁵⁰ and to provide insight into the family structures and daily struggles of real people.¹⁵⁵¹ Based on Tal Ilan's seeming suggestion that Babylonian Jews did not take Zoroastrian theophoric names,¹⁵⁵² such names on the bowls might be interpreted to indicate mixed marriages or households. Indeed, Shaul Shaked claims that the Aramaic incantation bowls evince "a fair amount of mixture of blood between Semites and Iranians in Sasanian Babylonia,"¹⁵⁵³ and Michael Moroney and Jason Mokhtarian argue that these bowls suggest intermarriage.¹⁵⁵⁴ Touraj Daryaee too concludes that "from reading the inscriptions on...the bowls it becomes clear that the line of religious affiliation became blurred when it came to magic and popular religion."¹⁵⁵⁵

¹⁵⁴⁶ (Hunter and Segal 2000), Bowl 036A.

¹⁵⁴⁷ (Gross, *Babylonian Jewish Communities* 2024, 426).

¹⁵⁴⁸ (Scotten 2007, 26-28).

¹⁵⁴⁹ (Scotten 2007, 29).

¹⁵⁵⁰ (Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests: The Culture of the Talmud in Ancient Iran* 2015, 49).

¹⁵⁵¹ (Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests: The Culture of the Talmud in Ancient Iran* 2015, 132).

¹⁵⁵² (T. Ilan, *Lexicon of Jewish Names in Late Antiquity: Part IV* 2011, 7, 9, and 38).

¹⁵⁵³ *Apud* (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 40).

¹⁵⁵⁴ (Morony 1984, 309). (Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests: The Culture of the Talmud in Ancient Iran* 2015, 49).

¹⁵⁵⁵ (Daryaee 2013, 94).

Despite their potential support for the hypothesis in this dissertation, drawing such broad conclusions on the basis of the incantation bowls may be over-reaching. First, the sample size is relatively small. More significantly, the great majority of the bowls now in museums and private possession were either found on the surface of the ground or turned up on the antiquities market without an exact provenance, so it is impossible to tell exactly how, by whom, and where the bowls were used¹⁵⁵⁶ or how spells evolved and/or migrated from place to place.¹⁵⁵⁷

Furthermore, it is not clear where or why the practice of magic bowls began (or why it seemingly abruptly stopped¹⁵⁵⁸). Touraj Daryaee notes that “the use of magic then could have come from Mesopotamia, the Mediterranean or the Near Eastern tradition, or the native Persian tradition.”¹⁵⁵⁹ It is not impossible that this actually started as a Jewish practice that was adopted by others, as Jews were perceived to have had “the more established and prestigious tradition” of magic.¹⁵⁶⁰ As can be seen from Chrysostom’s sermons, discussed earlier, Jews were known for spells, amulets, and potions. Minov notes too that more than a century later, the homilies of the Antiochene patriarch, Severus, associated magical amulets with Jews,¹⁵⁶¹ which, as Avigail Manekin-Bamberger records, were being created around the same time in *’Ereṣ Israel* by Jewish “magicians.”¹⁵⁶² Many Jewish bowls, in fact, contain only Jewish themes, with no hint of syncretism or cross-fertilization.¹⁵⁶³ These magic bowls may not have been looked down upon by the rabbinic class, as evidenced by a number of bowls that were produced for rabbinic clients¹⁵⁶⁴

¹⁵⁵⁶ (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 95).

¹⁵⁵⁷ (Bohak 2019, 75).

¹⁵⁵⁸ (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 83).

¹⁵⁵⁹ (Daryaee 2013, 94).

¹⁵⁶⁰ (Minov 2022, 18 §61).

¹⁵⁶¹ (Minov 2022, 8 §20).

¹⁵⁶² (Manekin-Bamberger 2020, 251).

¹⁵⁶³ (Gross and Manekin-Bamberger, *Babylonian Jewish Society: The Evidence of the Incantation Bowls* 2022, 19).

¹⁵⁶⁴ (Gross and Manekin-Bamberger, *Babylonian Jewish Society: The Evidence of the Incantation Bowls* 2022, 3).

and, as Avigail Manekin-Bamberger argues, it was “scribes,” *soferim*, who were most likely responsible for producing most of the Jewish bowls.¹⁵⁶⁵ She and Simcha Gross demonstrate that some scribes clearly had access to a rich collection of Jewish texts and traditions and appear to have been learned and intellectually and socially proximate to rabbinic circles.¹⁵⁶⁶ The scribes invoked not only rabbis of the distant past but also local rabbis, the rabbinic class, and even rabbinic academy heads.¹⁵⁶⁷ Geoffrey Herman suggests that, other than the names, the bowls have only limited borrowings from Christianity and Zoroastrianism and that, with mostly Jewish script and Talmudic/Jewish content, one might conclude that it was the Jews who were actually more invested in the practice than their neighbors.¹⁵⁶⁸

Additionally, the onomastic evidence of the bowls cannot be relied on for conclusions about intermarriage. Shai Secunda, for example, suggests that Jews did take on Zoroastrian theophoric names. He cites b. *Qiddušin* 70a, where Rav Nahman named a woman in his household, likely a daughter, Dēnag, a widely attested Zoroastrian theophoric name. Secunda also cites an incantation bowl that references a rabbi alongside his mother, Khwardukh.¹⁵⁶⁹ Jason Mokhtarian too suggests that many Sasanian Jews had Iranian names, even ones with imperial or Zoroastrian connotations.¹⁵⁷⁰

Finally, the Bavli discusses numerous other types of magic but, Gideon Bohak notes, never refers to the practice of writing down spells on clay bowls. The Bavli seems unaware of this

¹⁵⁶⁵ (Manekin-Bamberger 2020).

¹⁵⁶⁶ (Gross and Manekin-Bamberger, *Babylonian Jewish Society: The Evidence of the Incantation Bowls* 2022, 7 and 29).

¹⁵⁶⁷ (Gross and Manekin-Bamberger, *Babylonian Jewish Society: The Evidence of the Incantation Bowls* 2022, 6).

¹⁵⁶⁸ (G. Herman 2021, 133-135).

¹⁵⁶⁹ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 442).

¹⁵⁷⁰ (Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests: The Culture of the Talmud in Ancient Iran* 2015, 132).

practice, “whose apogee probably postdates the time of its redaction.”¹⁵⁷¹ Thus what these bowls can tell us about the earlier Babylonian Talmud society may be limited.

Despite the problematics, the bowls do suggest intertwined populations, cultural exchange, and familiarity with the other’s religious practices and beliefs. For example, Minov posits that they “demonstrate that Christians of late ancient Mesopotamia did not hesitate to resort to the service of Jewish ritual practitioners or to integrate Jewish magical traditions into their own ritual power,” noting several bowls inscribed in Jewish script produced for clients bearing “explicitly Christian” names. In some Jewish bowls, the Christian figure is not the client but an acquaintance (and enemy) of the client.¹⁵⁷² Furthermore, Minov writes that the impression of close ties between the Christians of Sasanian Mesopotamia and the tradition of Jewish magic becomes even stronger when analyzing Syriac bowls.¹⁵⁷³ A considerable number of motifs and images are shared by Syriac incantations and those produced by Jewish experts, including instances where the Syriac bowls scribes, who were not Jewish, evoked supernatural or other figures not mentioned in the Bible but that appear in Jewish incantation bowls or rabbinic writings. The “most striking example” is the incorporation in six Syriac bowls of a *historiola* of a “Rav Yeshua bar Perahia” exorcising demons by writing them a document of divorce. R. Yehoshua ben Perahia is well represented in Jewish incantation bowls as a rabbinic authority evoked as a potent anti-demonic agent. His presence in Syriac bowls leaves little doubt to Minov that it is derived from the Jewish tradition of incantation bowls.¹⁵⁷⁴

¹⁵⁷¹ (Bohak 2019, 78).

¹⁵⁷² (Minov 2022, 8 §21 - 10 §36).

¹⁵⁷³ (Minov 2022, 11 §40).

¹⁵⁷⁴ (Minov 2022, 13 §44 - 15 §53). Minov suggests (16 §55) that this influence went on in the other direction as well but offers no proof. Only that “it is unlikely that...the Jews of Sasanian Babylonia were significantly different from their Palestinian co-religionists who did not mind turning to Christian ritual experts for help.”

Thus, relevant to the research here, it would appear that there was interaction and exchange between Jews and other religious groups in the area of incantations and magic. To Minov, the incantation bowls show that some clients, both Jewish and Christian, saw nothing wrong in resorting to ritual experts from religious traditions.¹⁵⁷⁵ At the very least, as Michael Morony concludes, “the texts written on the bowls show a set of shared assumptions about the causes of evil and how to avert it.”¹⁵⁷⁶

Cultural adoption

By the time of the close of the Babylonian Talmud, Jews had coexisted nearly 1,000 years with the Babylonians and their culture, starting from the Destruction of the First Temple.¹⁵⁷⁷ Given their long, relatively peaceful sojourn in Mesopotamia and close interactions with their neighbors, Babylonian Jews absorbed archetypal characteristics of the local popular culture.¹⁵⁷⁸ In a survey of sources and scholarship, Yaakov Elman suggests that “Middle Persian attitudes and doctrines made inroads in many areas of Babylonian rabbinic culture, in law, in theology, and in general cultural attitudes.”¹⁵⁷⁹ Several of the theological similarities between Zoroastrianism and Jewish halakhah cited earlier may have been the result of such inroads.

Many Jews lived in the cosmopolitan city of Mehoza, either synonymous with or adjacent to Veh Ardashir (Figure 11.4), across the Euphrates from Ctesiphon, the Sasanian winter

¹⁵⁷⁵ (Minov 2022, 17 §59).

¹⁵⁷⁶ (Morony, *Magic and Society in Late Sasanian Iraq* 2003, 85). In addition to the bowls, Shai Secunda (*Secunda, Babylonian Judaism and Zoroastrianism* 2023, 443) suggests that, in the Sasanian Jewish stamp seals, “there is evidence of Zoroastrian influence on Jewish visual culture,” with Zoroastrian symbols appearing alongside Jewish ones on a seal of Aha b. Sumqa.

¹⁵⁷⁷ (Elman, *Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition* 2007, 167-190).

¹⁵⁷⁸ (Gafni 1991, 149-153).

¹⁵⁷⁹ (Elman 2010).

capital.¹⁵⁸⁰ Veh Ardashir, covering approximately 700 hectares (2.7 square miles)¹⁵⁸¹ contained Zoroastrian, Christian, Manichaean, and other religious communities and edifices.¹⁵⁸² Mehoza was open to Persian and other influences, being close to Ctesiphon and a crossroads in Persian commerce.¹⁵⁸³ The Jews of Mehoza appear to have been highly acculturated. R. Nahman, depicted critically at b. *Qiddušin* 70a-b, seems to have been an acculturated Mehozan, offering his guests haute Persian cuisine and employing Middle Iranian words instead of their rabbinic or popular Aramaic counterparts.¹⁵⁸⁴ In fact, Mehoza was perceived as being so acculturated that a sage was asked whether one was permitted to marry a Mehozan woman.¹⁵⁸⁵

¹⁵⁸⁰ (Oppenheimer 2017, 259). “Mehoza” may technically have referred to the entire conurbation around Ctesiphon rather than to a specific city. As Richard Frye (Frye, *The Political History of Iran under the Sasanians* 1986, 120) notes, “Ctesiphon was in reality a group of towns, and they were called collectively *Māhōzē* in Syriac...meaning ‘the cities.’” For a detailed description of Veh Ardashir, believed to be Mehoza or adjacent to it, see (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015) and (S. J. Simpson 2017). (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 9) refers to the Jewish population as an “important minority.”

¹⁵⁸¹ (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 9).

¹⁵⁸² (S. Simpson, *The Land Behind Ctesiphon: The Archaeology of Babylonian During the Period of the Babylonian Talmud* 2015, 9). (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 3-4).

¹⁵⁸³ (Oppenheimer 2017, 153).

¹⁵⁸⁴ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 3-4). B. *Gittin* 45a.

¹⁵⁸⁵ B. *Qiddušin* 72b.

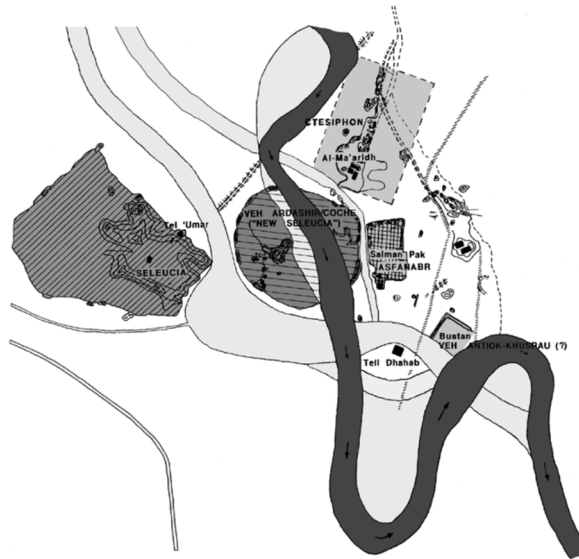


Figure 11.4 Major Sasanian sites in the Ctesiphon conurbation.¹⁵⁸⁶
(after Simpson 2015: 8, fig. 1.2).

Jews seemingly knew how to converse with their Babylonian neighbors. As Shai Secunda suggests, “the Jewish community spoke an Eastern dialect of Middle Aramaic now referred to by scholars as Babylonian Jewish Aramaic...Presumably, with moderate effort Babylonian Jews would have been able to converse with non-Jewish speakers of related Aramaic dialects such as Mandaic used by Mandaeans, and the Aramaic dialect spoken by Eastern Christians.”¹⁵⁸⁷ Where Middle Persian may have been a hurdle for many Babylonian Jews, Secunda notes that “there are indications that some rabbis and Babylonian Jews were able to understand and even speak Persian.”¹⁵⁸⁸ Secunda adds that nowhere does the Bavli emphasize or even mention any linguistic

¹⁵⁸⁶ The map “includes the location and reconstructed extent of Ctesiphon, Veh Ardashir, Aspanabr (i.e. ‘Asfanabr’) and Veh-az-Antiok-Khusro, the earlier city sites of Seleucia and Valasapat, the present course of the Tigris and the position of its palaeo-channels, and the alignment of First World War trenches following ancient canal beds.”

¹⁵⁸⁷ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 38).

¹⁵⁸⁸ There are instances of Middle Persian loanwords in the Talmud representing “indisputable evidence of Iranian phenomena in Talmudic literature,” in the words of Jason Mokhtarian (J. Mokhtarian 2018, 125). However, he notes (126) that the number of Iranian loanwords in the Talmud (under 300, according to (Elman, *Talmud ii. Rabbinic Literature and Middle Persian Texts* 2010)) is many fewer than the thousands of Greek and Latin words in rabbinic literature and in some ways may even point to a lack of Persian influence on the Talmud. And he concludes (144) “these loanwords and their respective motifs do not necessarily imply deeper narrative influences between the non-Jewish and Talmudic sources,” despite one’s desire to try to find such comparisons.

difficulties inherent in the encounters between the rabbis and Persians.¹⁵⁸⁹ Indeed, Elman notes that most Mahozans, who shopped in Ctesiphon, must have used Middle Persian to communicate there.¹⁵⁹⁰ Besides, as Josef Wiesehöfer notes, while Middle Persian was the language of the kings and priests, it was not imposed as a state language in the multilingual Sasanian empire. “Indeed, it was not even a *lingua franca*.”¹⁵⁹¹

Another example of acculturation is the Talmudic account of the table etiquette of the Jewish Babylonian Exilarchs which, according to Geoffrey Herman, followed social norms belonging to the upper strata of society and can be assumed to have been part of a “Persianized social milieu.”¹⁵⁹² It can be surmised that their households were not islands in the Jewish community in engaging with and adopting social norms around them, and that many others did so as well.

Furthermore, writes Secunda, “just by living in the Sasanian Empire, Jews would have regularly encountered Zoroastrian visual expressions.” Sasanian documents were stamped with seals of Zoroastrian functionaries, often with religiously symbolic words and images.¹⁵⁹³ Sasanian coins depicted the bust of a Sasanian king on the obverse side and a Zoroastrian fire altar on the reverse.¹⁵⁹⁴ Jews adopted Persian names, as noted earlier. R. Nahman the Mahozan seems to have adapted Sasanian law concepts—like that of temporary ownership and gifts—to Jewish halakhah.¹⁵⁹⁵ The amora Samuel’s dictum that “the [civil] law of the government is [valid] law”

¹⁵⁸⁹ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 39).

¹⁵⁹⁰ (Elman, *Talmud ii. Rabbinic Literature and Middle Persian Texts* 2010).

¹⁵⁹¹ (Wiesehöfer 2001, 203).

¹⁵⁹² (Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* 2012, 245). According to Herman, “the Exilarchate was the foremost leadership office of Babylonian Jewry in the Sasanian era. Based in the empire’s capital, the Exilarch was the official representative of the Babylonian Jews before the king.”

¹⁵⁹³ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 440).

¹⁵⁹⁴ (Mokhtarian 2020, 148).

¹⁵⁹⁵ (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014, 5).

indicates, in Yaakov Elman's view, that one of the greatest Babylonian rabbinic authorities was willing to come to terms with the Sasanian regime and legal system¹⁵⁹⁶—and permitted the people to operate under it.

It thus seems reasonable to conclude that there was a high degree of Jewish acculturation to the Persian way of life, mores, and culture and that, as Shai Secunda writes, “Babylonian Jewish beliefs, myths, and rituals were in some considerable ways shaped by a prolonged and powerful encounter with Zoroastrianism” and with their other “new-old Iranian neighbors in the dynamic space of the Sasanian Empire.”¹⁵⁹⁷ One might thus characterize the acculturation of Jewish Babylonia as being on the integration-assimilation spectrum, to use the terminology adopted in Chapter 8.

Conclusion

It would appear from the foregoing discussion that, due to both the unending opportunities for Jews to interact with members of other religions and the affinity of the Jews to their environment, particularly in the urban centers where the amoraim operated, Jewish Babylonian society would be fertile ground for a significant degree of intermarriage. Furthermore, although it was discouraged, it appears that intermarriage to a Jew may not have been a sin for Zoroastrians.¹⁵⁹⁸ Thus, this barrier to intermarriage also appears not to have existed.

Finally, conversion was frowned upon by both Jews and Zoroastrians. As noted in Chapter 8, by the end of amoraic Babylonia, conversion to Judaism was a challenging process, and the convert may have been looked down upon by rabbinic Jews. On the Zoroastrian side, as Richard

¹⁵⁹⁶ (Elman, *Talmud ii. Rabbinic Literature and Middle Persian Texts* 2010). See b. *Nedarim* 28a and parallels.

¹⁵⁹⁷ (Secunda, *Babylonian Judaism and Zoroastrianism* 2023, 443-445).

¹⁵⁹⁸ *Denkard*, Book III, Part I, responsum §80, as cited in (Silva 2020, 77, 83-85).

Payne notes, “Zoroastrian legal, literary, and political treatises were unanimous in describing apostates [as] ‘worthy of death,’” a principle he suggests was “ancient.”¹⁵⁹⁹ In practice, however, implementation seemed to have depended on political and social circumstances; the victims of the “law of apostasy” appear to have typically been members of aristocratic houses, with prosecution often brought by kinsmen who were concerned about losing their patrimony and status. There were many converts to Christianity who went unpunished, some of whom even flourished in Iranian society and attained imperial offices.¹⁶⁰⁰ Nonetheless, such a law on the books may have given pause to a Zoroastrian considering conversion to Judaism. Further, as Christelle Jullien notes, converting from Zoroastrianism may have come with a political price. Forfeiting one’s forefather’s religion “equated to renouncing the king’s religion,” and the convert away from Zoroastrianism became “a foreigner in his own country in a way.”¹⁶⁰¹ Thus, both this law and the potentially cold reception that a convert to Judaism might have received by both religious communities might have presented another barrier to a Zoroastrian considering converting to Judaism before marriage and may have prompted an intermarriage rather than conversion.

THE INTERMARRIAGE PHENOMENON AND RABBINIC PERCEPTIONS

Several modern scholars, including Adiel Schremer and Shai Secunda, suggest that there was a significant amount of intermarriage in greater Babylonia.¹⁶⁰² Moshe Beer concludes that while there was no intermarriage in central Babylonia with its Torah centers, elsewhere in the Persian

¹⁵⁹⁹ (Payne 2016, 48-55).

¹⁶⁰⁰ See a list of some of these in (Paz, *Elam Gosseset: Ha-Talmud ha-Bavli ve-Yehudei Khuzestan ba-Tekufah ha-Sasanit* 2024, 570-576). It is not clear, however, how public they were about their Christianity, even regarding their clothing, and whether, once they confessed their faith, they were deposed or killed.

¹⁶⁰¹ (Jullien 2021, 12).

¹⁶⁰² (Schremer, *Male and Female He Created Them: Jewish Marriage in the Late Second Temple, Mishnah, and Talmud Periods* (Hebrew) 2003, 157 n130). (Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* 2014).

Empire the Jews were assimilated by intermarriage.¹⁶⁰³ Yaakov Elman writes that, from the middle of the fourth century, “the acculturation of the Jewish community in Mahoza led to rabbinic concerns that Babylonian Jews would marry out of their community.”¹⁶⁰⁴ He adds that prominent Mahozan rabbinic authorities at the time attempted to prevent exogamy on the part of their cosmopolitan community, in part by taking a harder line regarding the theological status of the offspring of mixed marriages.¹⁶⁰⁵ As noted earlier, Shaul Shaked suggests that “there must have been a fair amount of mixture of blood between Semites and Iranians in Sasanian Babylonia.”¹⁶⁰⁶ And, though Aharon Oppenheimer posits that Babylonian Jews were careful not to mix with improperly converted proselytes (and, presumably, outright Gentiles),¹⁶⁰⁷ he limns only a very limited geography where obsessive Babylonian concern with lineage was maintained.¹⁶⁰⁸ The rest of Babylonia may not have been as particular.

There appears to have been a corresponding Zoroastrian concern about intermarriage with Jews at approximately the first half of the fifth century.¹⁶⁰⁹ Like the rabbis, the Zoroastrians also appear to have instituted or reiterated attempts to stop intermarriage.¹⁶¹⁰

¹⁶⁰³ (Beer, *Ha-Reka ha-Medini u-Pe'ilato shel Rav be-Bavel* 2011, 23).

¹⁶⁰⁴ (Elman, *The Other in the Mirror: Iranians and Jews View One Another: Questions of Identity, Conversion and Exogamy in the Fifth-Century Iranian Empire. Part Two*. 2006). Elman suggests that the reason it may not have begun earlier is due to the “unsettled times after the Sasanian assumption of power caused Jews to become more insular, at least for a time.”

¹⁶⁰⁵ (Elman, *The Other in the Mirror: Iranians and Jews View One Another: Questions of Identity, Conversion and Exogamy in the Fifth-Century Iranian Empire. Part Two*. 2006, 35).

¹⁶⁰⁶ (Shaked, *Religion in the Late Sasanian Period: Eran, Aneran, and Other Religious Designations* 2008).

¹⁶⁰⁷ (Oppenheimer, *Ha-Ir Mehoza bi-Tekufat ha-Talmud* 2016, 36-39) and (Oppenheimer, *Al Neharot Bavel: Sugyot be-Toledot Bavel ha-Talmudit* 2017, 148).

¹⁶⁰⁸ A quadrangle roughly 100 kilometers by 120 kilometers by 60 kilometers by 160 kilometers. (Oppenheimer, *Al Neharot Bavel: Sugyot be-Toledot Bavel ha-Talmudit* 2017).

¹⁶⁰⁹ (Elman, *The Other in the Mirror: Iranians and Jews View One Another: Questions of Identity, Conversion and Exogamy in the Fifth-Century Iranian Empire. Part Two*. 2006, 27, 30)

¹⁶¹⁰ Elman (Elman, *The Other in the Mirror: Iranians and Jews View One Another: Questions of Identity, Conversion and Exogamy in the Fifth-Century Iranian Empire. Part Two*. 2006, 25) cites a Zoroastrian text attributed to a priest from around that time to the effect that a Zoroastrian may offer a non-Zoroastrian only a coarse meal, may not be nice to him, and must not receive him as a guest or entertain him lavishly.

The following analysis seeks to determine the possible rabbinic perception of the phenomenon of intermarriage in Babylonia. It draws primarily from the Bavli, recognizing the methodological challenges noted earlier about doing so. In particular, sources will be analyzed for indications that (a) intermarriage appears to have occurred in Babylonia in earlier times; (b) the Bavli is concerned about intermarriage;¹⁶¹¹ (c) Gentile slaves entered Jewish society; (d) there were Gentiles who converted, yet were not considered Jews by the Babylonian sages; and (e) Babylonian lineage concerns may have in fact pertained to intermarriage.

Occurrence of intermarriage in earlier Babylonian times

Intermarriage appears to have occurred with some frequency outside of 'Ereṣ Israel throughout Jewish history.¹⁶¹² It can be argued, therefore, that it is exceptions to the rule that must be demonstrated, not the opposite. There is little reason to suggest that Babylonia would have been an exception. There are indeed hints that intermarriage may have occurred in Babylonia in earlier times. Kathleen Abraham suggests that “Babylonia (and Susa) in the first millennium B.C.E. was a multicultural society, in the countryside as well as in the cities. Populations of various ‘nationalities’ lived side by side, and must have interacted on various levels (economically, legally, socially, and culturally) and in various degrees of intensity...Daily contacts between different

¹⁶¹¹ Some external sources hint also at such intermarriage in Babylonia, though these sources are likely not reliable. For example, Richard Frye (Frye, *The Political History of Iran under the Sasanians* 1986, 178) notes that the city of Khwārizm was said to have been built by Narseh (r. 293-302 CE), the son of a Jewish woman. The eighth century Zoroastrian geographical work, *Šahrestānīhā ī Ērānšahr*, asserts that the cities of Šūš (Susa) and Šūštar were built by Šīšīnduxt, the wife of Yazdgird I (r. 399-420 CE) and the mother of the subsequent Sasanian King of Kings, Warahān V (Gur). Šīšīnduxt was reputedly the daughter of the Resh Galuta, the Jewish Exilarch. Most recent scholars have concluded that the story is fictional. (Daryaee, *Sasanian Persia: The Rise and Fall of an Empire* 2013, 78), (G. Herman 2014, 77). See also (Markwart 1931, 19). Simcha Gross tentatively suggests (S. Gross, *The Curious Case of the Jewish Sasanian Queen Šīšīnduxt: Exilarchal Propoganda and Zoroastrians in Tenth- to Eleventh-Century Baghdad* 2021) that the story is not only fictional but derives from the post-Sasanian period and reflects a number of issues affecting Jewish and Zoroastrian life in the tenth to eleventh centuries.

¹⁶¹² See, for example, Sebastian Gratz (Gratz 2013) who cites (Nutkowitz 2008) and (Porten 1969) to the effect that the Aramean Quarter of Elephantine housed many nations and religions within a limited area and that Jewish intermarriage was quite common in Elephantine during the Second Temple period.

ethnic populations in an open and inclusive society inevitably lead to intermarriage.”¹⁶¹³ Tero Alstola discusses an intermarriage between a Judean woman and Babylonian man that took place in 534 B.C.E.¹⁶¹⁴ Alstola notes that several aspects of their marriage agreement exhibit a high level of integration into Babylonian society, including the Babylonian witnesses of the contract, its conformity to the standard legal practices of its time, and the inclusion of Akkadian bed in the dowry, the latter possibly representing a device used to emphasize integration into Babylonian society.¹⁶¹⁵

In her analysis of fifty neo-Babylonian marriage contracts, Abraham suggests an additional case of the intermarriage of a Judean woman and Babylonian man. In addition, Shalom Holtz and Taro Alstola note that a legal document from the Achaemenid Era discusses an injunction whose purpose is to prevent an unwanted liaison between of woman of Judean descent and another man.¹⁶¹⁶ Since the court appears to have been not a Judean one, it seems likely that the man was not of Judean descent. Though dealing with a love affair and not marriage, this document may further reflect the kind of interactions that Judeans had with Gentiles in Babylonia.

In *Jewish Antiquities*, around 93-94 C.E., Josephus reports that Anilaeus married the wife of a slain Parthian general, who continued her idolatrous practice even after the marriage.¹⁶¹⁷

Bavli *Qiddušin* 72a lists locations to which the Twelve Tribes were exiled by Nebuchadnezzar. R. Yohanan says that, because they intermixed with the Gentiles there, “they are

¹⁶¹³ (Abraham 2015, 48-49). Ran Zadok (Zadok 2002, 57-60) seems to take a more skeptical view, suggesting that “segregating, non-assimilating tendencies” are discernable in the Babylonian Jewish society and that the evidence concerning Judeans who might have married out is “meager.”

¹⁶¹⁴ (Alstola 2020, 87). Alstola discusses (130-132) two additional marriage agreements that might have been, but were not necessarily, for intermarriages. One is signed by a majority of Judean witnesses and the other seems to specify a groom of Judean descent. In another (247), the names of the bride, her brother, and her father were all Akkadian, but the groom bore a West Semitic name and patronymic.

¹⁶¹⁵ (Alstola 2020, 97).

¹⁶¹⁶ (Holtz 2023, 186) and (Alstola 2020, 227-228). With thanks to Sid Leiman for making me aware of scholarly references relating to intermarriage in Babylonia during this period.

¹⁶¹⁷ (Josephus, *Jewish Antiquities*, Books XVIII-XIX (Loeb Classical Library) 1965, XVIII:340f 193f).

all unfit as to genealogy.”¹⁶¹⁸ As it is unlikely that R. Yohanan refers to the offspring of wanton sexual relationships across the board, he is likely alluding to intermarriage.

In Babylonia specifically, R. Elazar at b. *Qiddušin* 69b explains that Ezra “purified” the people of Babylonia before leading the others to *’Ereš* Israel.¹⁶¹⁹ As *Ezra* 2:59 itself attests, many of those that he brought with him from Babylonian were those who “could not tell their fathers’ house, and their seed, whether they were of Israel,” in other words whether or not they Jewish.¹⁶²⁰

There is no reason to assume that intermarriage had ceased in Babylonia by amoraic times.

Indications of contemporaneous intermarriage from the Bavli

The Bible appears to forbid marrying only a member of the Seven Nations.¹⁶²¹ The Bavli appears to assume a general prohibition of intermarriage and discusses the derivation of this prohibition at b. *’Avodah Zarah* 36b. The primary opinion is that the prohibition is rabbinic, enacted by Hillel and Shammai.¹⁶²² Yet, the Bavli has relatively little discussion about intermarriage per se.¹⁶²³ In one case, the narrative on b. *’Avodah Zarah* 36b discussing R. Shimon b. Yohai’s position that all intermarriage is prohibited biblically, distinguishes between “intercourse in the way of (or, via) marriage” (אישות דרך התנות) versus licentious intercourse, but does not expand on the concept. Its discussion at b. *Yevamot* 69b-70a of m. *Yevamot* 7:5, which uses the term *nišū’in* (marriage)

¹⁶¹⁸ Rashi ad loc explains that “every place to which the Tribes were exiled, the Gentiles intermixed with their daughters and, in the matter of a Gentile or slave who come upon a Jewess, even according to the one who asserts that the child is not a *mamzer*, he is nonetheless defective.”

¹⁶¹⁹ “R. Elazar said: Ezra did not go up from Babylon until he made it like pure sifted flour: then he went up.” (דאמר רבי אלעזר לא עלה עזרא מבבל עד שעשאה כסולת נקיה ועלה)

¹⁶²⁰ Ran Zadok (*Zadok* 2002, 57-58) suggests that Ezra, “who stemmed from the Jewish elite of Babylonia, applied an extreme attitude concerning foreign wives, which is different from the lenient attitude of second and third Isaiah, Zechariah several generations earlier, and some leading Judean clans.”

¹⁶²¹ *Deuteronomy* 7:3: “And you shall not marry them.” (ולא תחתן בהם) See b. *’Avodah Zarah* 36b.

¹⁶²² The Bavli also cites the opinion of R. Shimon b. Yohai who, alone, asserts that it is a biblical prohibition.

¹⁶²³ Michael Satlow (*Satlow, Jewish Marriage in Antiquity* 2001, 158ff) appears to take a position similar to the one taken here.

regarding a Jewish woman who married a Gentile or slave, does not address this term at all.¹⁶²⁴ So, other than attributing *mišum ḥatnut* to the rabbinic prohibitions of Gentile beer and bread, at b. *ʿAvodah Zarah* 31b and 36b respectively, the Bavli contains no explicit indication that intermarriage was a significant phenomenon or concern.

The Bavli’s seeming reticence could be taken to suggest that perhaps intermarriage was in fact not an issue in amoraic Babylonia. However, this is not likely the case. As noted previously, a “halakhic state of intermarriage” cannot exist since the Jewish marriage bond, *qiddušin*, does not take effect when one of the partners is a Gentile. Therefore, the Bavli has no halakhic framework for discussing this concept directly. Furthermore, the intermarriage transaction or ceremony itself was likely not a main concern. As Rabbah [BA3] at b. *Soṭah* 44a states: “One has not transgressed [any halakhah pertaining to marriage] until one has intercourse.”¹⁶²⁵ Rabbah’s statement is not disputed. Thus, an “act of intermarriage” to a Gentile per se does not appear to violate the prohibition of intermarriage.

Nonetheless, several *sugyot* deal with the anticipation of “intermarriage,” ongoing sexual relations, and the progeny of such unions. These appear to indicate a recognition by the Talmud and a concern of “intermarriage.”

First, as pointed out earlier in the analysis of the parallel story in the Yerushalmi, the Bavli at b. *Yevamot* 24b reports that Babylonian amora Rav ruled that one who converts out of love in order to marry is accepted. This seems to be a practical question, as are the other examples cited

¹⁶²⁴ Earlier manuscripts and printings (Munich 95 MS, 1342; Yad Harav Herzog MS (Yemenite); Karlsruhe Reuchlin 2 MS, 13th cent. (Ashkenaz); Barco printing (Soncino) 1498-1499; and Venice printing (Bomberg) 1520-1423) employ the word *kutti* rather than “idol worshipper.” In the Venice printing, in which Rashi’s commentary also appears, *kutti* is used in place of “idol worshipper” in Rashi as well. Karlsruhe Reuchlin 2 MS omits both *kutti* and idol worshipper in the second occurrence of the phrase on the page. Meiri, *ad loc.*, s.v., *na’arah* (87) also has the text as *kutti*.

¹⁶²⁵ Rashi, b. *Soṭah* at 44a, s.v. *kede-Rabbah*, explains that according to Rabbah, for a *mamzeret* or *netinah* [Gentile woman], there is no transgression in *qiddušin* alone, for the prohibition is not for a man to merely “take” the woman, but to have marital intercourse with her. With thanks to Aviel Raab for making me aware of this sugya.

in that *sugya* (e.g., those who converted out of fear of Mordecai and Esther, as attested to in *Esther* 8:17). The interchange with Rav demonstrates that Jews did in fact have opportunity to meet and interact with Gentiles and that probably they transacted marriage for themselves.¹⁶²⁶ One might safely conclude that there were likely other cases where there was no interest in conversion and the couple intermarried.

At b. *Giṭṭin* 88b, R. Mesharshia [BA5] asserts that potential intermarriage was so much a concern that the rabbis, in m. *Giṭṭin* 9:8, adopted the following restriction to try to prevent it. According to the strict rule of the Torah, a writ of divorce (*geṭ*) enforced by a heathen court is valid. However, the rabbis invalidated such a *geṭ* to prevent Jewish women from attaching themselves to heathens and thereby releasing themselves from their husbands. Though the Talmud rejects his opinion as the underlying rationale for the restriction, it is telling regarding amoraic attitudes.

At b. *Qiddušin* 72a, though disputed by the anonymous voice of the Talmud, R. Papa [BA5] notes a decline in the level of lineage purity of the Babylonian region known as Havil Yama, asserting that Gentiles were now intermixed in the population. This would seem to indicate an issue of intermarriage.

B. *ʿAvodah Zarah* 31b presents a new prohibition in Babylonia of Gentile beer due, according to Rami [BA4] b. Hamma in the name of R. Yitzhak [I/BA2/3] to the fear of intermarriage, *mišum ḥatnut*.¹⁶²⁷ This seems to be *prima facie* evidence of a concern in Babylonia.

¹⁶²⁶ B. *Menahot* 44a relates a story of an expensive prostitute who asked R. Hiyya (or R. Ahya, per Tosafot *ad loc.*, s.v. *le-veit midrašo*) to convert her because she wished to marry one of his students.

¹⁶²⁷ Aharon Oppenheimer (Oppenheimer, *Al Neharot Bavel: Sugyot be-Toledot Bavel ha-Talmudit* 2017, 148) points out the irony that it is the *ʿEreṣ* Israel-native *amora*, R. Yitzhak, who posits the Babylonian concern over *mišum ḥatnut*. Another irony—or curiosity—is that R. Papa, a wealthy beer-maker by profession (b. *Pesaḥim* 113a), is cited in b. *ʿAvodah Zarah* 31b as drinking Gentile beer but would drink it only outside the Gentile’s establishment.

The Talmud does not much discuss private sexual relations between Jew and Gentile, though they were prohibited.¹⁶²⁸ It does record two such acts that were punished by lashing.¹⁶²⁹ And, in its discourse, b. *Sanhedrin* 81b-82a appears to soften the punishment specified by m. *Sanhedrin* 9:6, discussed earlier, regarding one who has intercourse with a Gentile woman but has not been killed by a zealot. The Bavli concludes that the punishment is in heaven, or, in other words, there is no formal punishment for this act.

Rather, the main concern of the Bavli, as reflected by the many *sugyot* on the topic, appears to be the progeny of sexual relations between Gentile and Jews. The Bavli at b. *‘Avodah Zarah* 36b indicates that the child of a Jewish father and Gentile mother is considered a Gentile and that the prohibition is rabbinic rather than biblical.¹⁶³⁰ The even greater concern of the Bavli at b. *Yevamot* 23a, however, appears to be the child of a Jewish woman with a Gentile freeman or slave. Based on an exegesis of *Deuteronomy* 7:4, the offspring of such a union would be considered Jewish.¹⁶³¹ The biblical concern is that the father would influence his Jewish son to turn to idolatry. The Bavli discusses this scenario extensively.¹⁶³² The primary halakhic question, since he is

¹⁶²⁸ At b. *Sanhedrin* 82a and at b. *‘Avodah Zarah* 36b, R. Dimi and Ravin asserted that one who has sexual relations with a Gentile woman transgressed four sins, though their lists differ. R. Hiyya b. Abuyah asserts that any man who has intercourse with a Gentile woman it is as if he married idolatry, but he suggests no punishment. B. *‘Eruvin* 19a, in an exegesis of *Psalms* 84:7, states that Abraham brings up and receives the wicked who were sentenced to suffer in Gehenna, “except for an Israelite as had immoral intercourse with the daughter of an idolater.”

¹⁶²⁹ B. *Berakhot* 55a describes a case that came before R. Shela and b. *Ta‘anit* 24a a case that came before Rava. Both punished the perpetrator with lashes.

¹⁶³⁰ The Talmud also explains that the biblical case of Phineas was an anomaly because it was done so publicly and brazenly, but that more private situations would not constitute biblical violations.

¹⁶³¹ R. Yohanan replied in the name of R. Simeon b. Yohai: “Scripture stated, ‘For he will turn away your son from following Me.’ ‘Your son’ born from an Israelite woman is called ‘your son’ but ‘your son’ who was born from a heathen is not called ‘your son’ but her son. Said Ravina: From this it follows that the ‘son of your daughter’ who derives from a heathen is called ‘your son.’” (אמר רבי יוחנן משום רבי שמעון בן יוחי אמר קרא (דברים ז ד) כי יסיר את בנך מאחרי בנך מישראלית קרוי בנך ואין בנך הבא מן הגויה קרוי בנך אלא בנה. אמר רבינא שמע מינה בן בתך הבא מן הגוי קרוי בנך.)

¹⁶³² B. *Yevamot* 16a-17a, 23a, 44b-46a, 69b-70a, and 99a; b. *Qiddušin* 70a-72b and 75a-76a; b. *‘Avodah Zarah* 36b and 59a. B. *Yevamot* 68b discusses whether such a liaison invalidates the woman from permission to eat priestly food gifts.

Jewish, is whether such a child is considered a *mamzer*,¹⁶³³ an inferior Jew invalid for priesthood or priestly gifts,¹⁶³⁴ or an entirely valid Jew.¹⁶³⁵

In its coverage of the topic, the Bavli cites several seemingly actual cases. The following are a number from b. *Yevamot* 45a-b. One, on b. *Yevamot* 45a, reads:

- | | |
|------|--|
| .I | דההוא דאתא לקמיה דרב אמר ליה גוי ועבד הבא על בת ישראל מהו? |
| .II | אמר לו הולד כשר |
| .III | אמר ליה הב לי ברתך. |
| .IV | לא יהיבנא לך... |
| .V | לא הוה קאזיל מקמיה יהיב ביה עיניה ושכיב. |
- I. Once a man appeared before Rav and asked him, “What [is the legal position of the child] where an idolater or a slave had intercourse with the daughter of an Israelite?”
- II. “The child is legitimate,” Rav replied.
- III. “Give me then your daughter,” said the man.
- IV. “I will not give her to you” [Rav replied]...
- VI. As the man refused to go away, he [Rav] cast his eye upon him, and he died.

B. *Yevamot* 45a reports three other seemingly actual cases: one that came before R. Yehudah [BA2], the second to Rava [BA4], and the third to Rabbah [BA3]:

- | | |
|------|--|
| .I | דכי אתא לקמיה דרב יהודה אמר ליה זיל איטמר או נסיב בת מינך |
| .II | וכי אתא לקמיה דרבא אמר ליה או גלי או נסיב בת מינך |
| .III | שלחו ליה בני בי מיכסי לרבה מי שחציו עבד וחציו בן חורין הבא על בת ישראל מהו |
- I. When one [the child of a Gentile man and Jewish woman] came before R. Yehudah [BA2], the latter told him, “Go and conceal your identity or marry one of your own kind.”

¹⁶³³ *Mamzer*: b. *Qiddušin* 75b and b. *Avodah Zarah* 59a: R. Akiva and Rabba b. bar Hannah in the name of R. Yohanan, to R. Yosef in the name of Rabbah. B. *Yevamot* 45a: R. Ami, R. Yohanan, R. Elazar, and R. Hanina. B. *Yevamot* 99a: R. Meir.

¹⁶³⁴ Invalid for priestly functions: b. *Yevamot* 45a: R. Yehoshua b. Levi.

¹⁶³⁵ Not a *mamzer*: b. *Qiddušin* 68b: Ravina. B. *Yevamot* 45a: In Israel, R. Kafra or the rabbis of the South and Rabbi (according to R. Dimi’s account, but not Ravin’s); and in Babylonia, R. Matanah, Rav, Shmuel, Rava, R. Yehuda, Rabbah, and Amemar. The Bavli appears to conclude that the child of a Gentile or a Gentile slave with an unmarried or married Jewish woman is not considered a *mamzer*.

- II. When such a man appeared before Raba he told him, “Either go abroad or marry one of your own kind.”
- III. The men of Be-Mikhse sent [the following enquiry] to Rabbah [BA3]: [What is the law regarding the legitimacy of the child of] one who is a half slave and half freed man who cohabited with an Israelite daughter?

B. *Yevamot* 45b includes four examples:

- I. אמר רבינא אמר לי רב גזא איקלע רבי יוסי בר אבין לאתרין והוה עובדא בפנויה ואכשר באשת איש ופסיל.
- II. אמר רב ששת לדידי אמר לי רב גזא לא רבי יוסי בר אבין הוה אלא רבי יוסי ברבי זבידא הוה ואכשר בין בפנויה בין באשת איש.
- III. אמר ליה רב אחא בריה דרבה לרבינא איקלע אממר לאתרין ואכשר בין בפנויה בין באשת איש
- IV. והלכתא גוי ועבד הבא על בת ישראל הולד כשר בין בפנויה בין באשת איש

- I. Ravina said: “R. Gaza told me, ‘R. Yosé b. Avin happened to be at our place when an incident occurred with [that a Gentile man had intercourse with] an unmarried woman and he declared the child legitimate: [and when the same occurred] with a married woman he declared the child illegitimate.’”¹⁶³⁶
- II. R. Sheshet said: “R. Gaza told me that it was not R. Yosé b. Avin but R. Yosé son of R. Zeveida, and that he declared the child to be legitimate, whether married or unmarried.”
- III. R. Aha son of Raba said to Ravina: “Amemar once happened to be in our place and he declared the child to be legitimate, whether the woman was unmarried or married.”
- IV. And the law is that if an idolater or a slave cohabited with an Israelite daughter, the child is legitimate, whether the woman is unmarried or married.

¹⁶³⁶ (M. Margaliot, *Intziklopedia le-Hakhmei ha-Talmud vehe-Geonim* 2006) is uncertain as to who R. Gaza is and suggests that perhaps he was a *savorai*, not an *amora*. Neither (H. Albeck 1969) nor (Strack and Stemberger, *Introduction to the Talmud and Midrash* 1991) have an entry for him. In any case, it appears likely that he was a Babylonian.

In §I, R. Yosé b. Avin seems to have encountered two actual cases. §III is less clear but Amemar may have ruled in two additional actual cases. The Talmud then brings a fifth example: a ruling on R. Mari, who was the child of a Gentile man and Jewish woman:

.V רבא אכשריה לרב מרי בר רחל ...

V. Rava declared R. Mari b. Rachel to be a legitimate Israelite [despite being the progeny of a Gentile man and a Jewish woman named Rachel]¹⁶³⁷

The Talmud there mentions an additional seemingly real sixth case where a man was known as “the Aramaean” because his father was a Gentile and mother was Jewish. It further tells of a Gentile slave of R. Hiyya [BA4¹⁶³⁸] b. Ami who had a Gentile woman immerse herself because he wished to marry her, and the case came before R. Yosef [BA3].

Thus, in contrast with the Yerushalmi, the Bavli cites, across multiple generations of Babylonian amoraim, approximately ten ostensibly actual Babylonian instances of the progeny of mixed relationships. The breadth of these examples seems to indicate a phenomenon common to Babylonia across time. It is possible, but it does not seem likely that all of these instances were of prostitution or casual affairs.

Gentile slaves appear to have entered Jewish society.

Exodus 12:44 requires that a male Gentile, upon entering a Jewish household as a slave, to undergo circumcision. B. *Yevamot* 48a specifies that this needs to be done even against his will. The slave did not become a full-fledged Jew through this process (i.e., he was still considered a Gentile) and, upon manumission, the slave was required to complete the conversion process through

¹⁶³⁷ B. *Bava Batra* 149a describes how R. Mari was conceived before his father, Issur, converted but was born after he converted. Nonetheless, R. Mari is referred to be his mother’s name rather than his father’s.

¹⁶³⁸ According to Margalioth (M. Margalioth, *Intziklopedia le-Hakhmei ha-Talmud vehe-Geonim* 2006), R. Hiyya b. Ami was third generation.

immersion.¹⁶³⁹ Only at this point, did he become a full-fledged Jew, permitted to enter Jewish society. Both Talmuds seem to be troubled by the issue of slaves not willing to be circumcised upon entering slavery, with the sages offering leniencies permitting the maintenance of such slaves for twelve months or even in perpetuity.¹⁶⁴⁰

From the Bavli, one can come away with the sense that Jewish masters in Babylonia may not have sold such slaves after twelve months or completed the circumcision and immersion process by the end of the slavery, yet the freed slaves nonetheless integrated into Jewish society. For example, b. *Avodah Zarah* 57a discusses cases where the slave was circumcised but not ritually immersed. B. *Qiddušin* 70b reports that R. Yehudah [BA2] announced in Pumbedita that “Ada and Jonathan are slaves.”¹⁶⁴¹ He also reportedly announced that “Batti b. Toviah in his haughtiness never obtained a certificate of manumission” and was thus still technically a non-Jewish slave. R. Yoseph [BA3] announced that the inhabitants of Bei Kovi of Pumbedita all came from slaves.¹⁶⁴² In addition, R. Yehudah pronounced that the residents of two Babylonian cities—Guba and Durnunitha—were Gentile.

¹⁶³⁹ B. *Yevamot* 47b and Tosafot *ad loc.*, s.v., *šam ger we-‘eved*. The rabbis also required that a formal, legal writ of manumission be given to the slave. E. Urbach (E. E. Urbach, *The Laws Regarding Slavery: As a Source for Social History of the Period of the Second Temple, the Mishnah, and Talmud* 1999, 113-114) suggests that the rabbis mandated this certificate because, under Jewish law, manumission effected complete liberty and broke all bonds of servitude or obligation towards the former owner, whereas under Greek and Roman law, the manumitted slave remained, in a certain measure, obliged to his former master to render specified services and, if he treated these with insufficient seriousness, he might be imprisoned.

¹⁶⁴⁰ At b. *Yevamot* 48b, R. Yishmael [T2] is cited ruling that one could maintain an uncircumcised Gentile slave (“מקיימין עבדים שאינם מלין”). R. Yehoshua b. Levi [IA1] ruled there, regarding a (large) Gentile slave who did not wish to be circumcised, that one “rolls with him” for twelve months, trying to convince him to do so. If he refused persistently, one was required to sell him to a Gentile. But in the intervening twelve months, he could remain in the service of his Jewish master. Even more so, R. Ila’i [T2] ruled that if the master and the slave made non-circumcision a condition of the purchase, the slave could remain uncircumcised in perpetuity. In the Yerushalmi too, cf. y. *Yevamot* 8:1 8d 865:4-11.

¹⁶⁴¹ According to the *Še’iltot* of R. Ahai Gaon #41, 253, R. Nahman made the same announcement in the city of Shekhnetsiv, adding someone named Awwa.

¹⁶⁴² Rashi *ad loc* explains that Bei Kovi was a suburb of Pumbedita. It may also mean “House of Kovi.”

Thus, freed Gentile slaves seem to have entered Jewish society, presenting themselves as Jews, with it being determined only later—even after marriage to Jewish women—that they were still Gentiles. In other words, these were intermarriages.

Even converted Gentiles may not have been considered Jews by the Babylonian sages.¹⁶⁴³

Moshe Lavee argues that the Babylonian rabbis formalized, institutionalized, and “rabbinized” the conversion process significantly beyond how it was performed in *’Ereṣ* Israel, certainly in the time of the Mishnah.¹⁶⁴⁴ For example, the Babylonian rabbis instituted the need for a rabbinical court of three sages to oversee the entire conversion process, the need for both circumcision and immersion as part of the procedure overseen by the court, and the need for a formal acceptance by the prospective convert of a commitment to observe the commandments. Lavee also argues that the Babylonian rabbis discouraged conversion, calling converts “scabs” and requiring them to separate from their families and property, a stricture that was not required in *’Ereṣ* Israel.¹⁶⁴⁵ It thus seems possible that Jews desiring to marry Gentiles circumvented the onerous new process but the potential partner converted according to the earlier, simpler *’Ereṣ* Israel traditions. Indeed, Lavee himself asserts that “Geonic sources show...that even toward the end of the first millennium this model was not predominant and that it was not the only path to conversion.”¹⁶⁴⁶ Therefore,

¹⁶⁴³ Scholars dispute the prevalence of conversion in amoraic Babylonia. For example, Yaakov Elman writes, “It is hardly surprising that as a crossroads of (traveling) religions, Mehoza was home to many proselytes.” (Elman, *Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition* 2007, 167-190) In contrast, Isaiah Gafni (I. Gafni, *Gerim ve-Giyur be-Bavel ha-Sasanit* 1983, 207) minimizes the phenomenon of conversion. “We do not find many converts in Bavel. The few converts known to us were mostly in Mehoza and primarily in the time of Rava. Precisely in those days the Christians were being persecuted, and particularly in Mehoza.” In a more recent paper (Gafni, *Yehudei Bavel bi-Tekufat ha-Talmud* 1991, 121-125), Gafni’s tone and conclusions can be read differently. However, in an email to me, Gafni reaffirmed his previous conclusions. Aharon Oppenheimer, too, writes (Oppenheimer, *Ha-Ir Mehoza bi-Tekufat ha-Talmud* 2016, 36-39) “There are not many witnesses in Talmudic literature about the multiplicity of converts in Babylonia, except for [the city of] Mehoza.”

¹⁶⁴⁴ (Lavee 2018).

¹⁶⁴⁵ See also (I. Gafni 1983) and (Lavee 2012).

¹⁶⁴⁶ (Lavee, *The Rabbinic Conversion of Judaism: The Unique Perspective of the Bavli on Conversion and the Construction of Jewish Identity* 2018, 46 and 184). Similarly, Gary Porton (Porton, *The Stranger within Your Gates*

marriage by such converts may well have been considered by the Babylonian sages as intermarriages.

Furthermore, it may be possible that certain regions of greater Babylonia continued to follow the *'Ereṣ* Israel approach to conversion. Yakir Paz asserts that “it is possible that in Messene—which was for centuries a separate political, linguistic, and economic entity—some of the Jews did not shift their allegiances to the Babylonian sages but rather continued to conform to the halakhic hegemony of the Land of Israel.”¹⁶⁴⁷ Indeed, one passage at b. *Šabbat* 37b shows this dichotomy explicitly in reporting an exchange between very late amoraim: “R. Ukba [BA6] of Messene [*Meishan*] said to R. Ashi [BA6, who lived in Babylonia]: You, who are close to [Babylonian sages] Rav and Shmuel do as Rav and Shmuel (rule); we [who live in Messene] do like [the *'Ereṣ* Israel sage] R. Yohanan.” Thus, since conversion was a less formal process in *'Ereṣ* Israel than Babylonia, it might be conceivable that the Jews of Messene did convert properly by Israel standards, but not Babylonian standards. This could be one explanation for R. Papa the Elder’s pronouncement in the name of Rav at b. *Qiddušin* 71b that, from a lineage perspective, “Babylon is healthy, Messene [*Meishan*] is dead, Medea is sick, and Elam is dying.”¹⁶⁴⁸ The Babylonian sages might have considered marriages of such people in Messene as intermarriages.

1994, 14) argues that “it is difficult to ascertain a consistent view of converts and conversion” from our sources and concludes that “contrary to what prior scholars thought, a standard conversion rite probably was not applied throughout the Israelite communities during late antiquity.”

¹⁶⁴⁷ (Paz 2018, 78).

¹⁶⁴⁸ Y. *Qiddušin* 4:1 65c 1180:40 records this assertion but states that the problem with Messene was priest’s lack of meticulousness in avoiding marrying divorcées. It seems doubtful, however, that this alone would lead to the designation of the entire region as “dead.”

The Bavli's lineage concern may have in fact regarded intermarriage.

Babylonian Jews were obsessed with lineage and kept meticulous familial records, a *sefer yuhasin*.¹⁶⁴⁹ The Bavli at b. *Qiddušin* 71a-72b undertakes an extended analysis of the “purity” of lineage of certain Babylonian districts and cities, as well as *’Ereš* Israel and the rest of the world. As noted above, R. Papa the Elder is cited as saying in the name of Rav that Babylon is healthy, Messene is dead, Medea is sick, and Elam is dying. Rami (R. Ammi) [BA3] b. Abba adds at b. *Qiddušin* 72a, “Havil Yama is the *tekhelet* of Babylonia, Shunya and Gubya are the *tekhelet* of Havil Yama.”¹⁶⁵⁰ Ravina adds that, ‘Even Tzitzura’ [was such *tekhelet*]. The Talmud adds that tanna Hanan b. Phineas says, “Havil Yama is the *tekhelet* of Babylonia, Shunya, Gubya, and Tzitzura are the *tekhelet* of Havil Yama.”¹⁶⁵¹ In a continuation of the discussion, R. Ikka [BA3] b. Avin asserted in the name R. Hananel [BA2] who said in the name of Rav that Halazon Nehawend was of high genealogical purity. Abaye (278-338 C.E.) urged his disciples not to pay any attention to R. Ikka, because he was merely interested in marrying a levirate widow who came from there [and did not therefore want her categorized as genealogically impure].

¹⁶⁴⁹ E.g., b. *Qiddušin* 71a-72a. See also, (Rubenstein, *The Culture of the Babylonian Talmud* 2003, 84-87), (R. Kalmin, *Jewish Babylonia between Persia and Roman Palestine* 2006, 3), (Oppenheimer 1985), (Oppenheimer 1985), (Oppenheimer 1993), and (Oppenheimer 1998).

¹⁶⁵⁰ *Tekhelet* is the blue color applied to fringes. The term is used as a superlative, meaning the finest. The location of Havil Yama is disputed by scholars. Neusner (J. Neusner 2010) interprets the term as the Province by the Sea. See (G. Herman, *Babylonia of Pure Lineage: Notes on Babylonian Jewish Toponymy* 2018, 214-217), who discusses the location refers to it as “The Coastal Region” or “district beside the sea.” This interpretation, however, while possibly correct literally, is questionable, as the sea was far south of Babylonia and abutted Messene. Herman is also uncomfortable with it. Others propose that it refers to the coast of one of the large lakes that dot the route of the two major rivers through Babylonia. But there is no reason to assume this interpretation. Rather, perhaps the word *yama*, מַיָּם, means west, as it does in *Genesis* 28:14, וּפְרַצְתָּ יָמָה וּקְדָמָה וּצְפֹנָה וּנְגִבָה, and you shall burst forth to the west, east, north, and south, and the area referred to is western Babylonia along the Euphrates River, which is where the yeshivot of Sura, Nahardea, and Pumbedita were located. This interpretation is supported by the statement by R. Papa (b. *Qiddušin* 72a) that Havil Yama is *Perat di-boursi* or *diboursif*, or Borsip or Borsippa on the Euphrates, about fifteen kilometers south of the city of Bavel, which indeed on the western edge of Babylonia. It so happens that R. Papa is reported to have established a yeshiva in Narash near Sura, right in that very area. Adolphe Neubauer (Neubauer 1868, 326-327) suggests this possibility as well, as “le district vers l’ouest.”

¹⁶⁵¹ Tanna Hanan b. Phineas is cited only here and, on one other matter, in t. *Sotah* 1:2. It is not known when he lived. Y. *Qiddušin* 4:1 65c 1180:40 cites these same characterizations.

The Talmud is vague regarding the actual matter of the concern in all of these pronouncements, referring only to genealogical “deficiencies.” To R. Hiyya [BA3] b. Avin in the name of Shmuel, the issue was that priests did not abstain from marrying divorcées, counter to the prohibition in *Leviticus 21:7*.¹⁶⁵² The sugya at b. *Yevamot 17a* also discusses deficiencies of certain cities:

- | | |
|---|------|
| מאי הרפניא | .I |
| אמר רבי זירא הר שהכל פונין בו | .II |
| במתניתא תנא כל שאין מכיר משפחתו ושבתו נפנה לשם... | .III |
| פסולי דהרפניא משום פסולי דמישון ופסולי דמישון משום פסולי דתרמוד פסולי דתרמוד משום עבדי שלמה | .IV |

- I. What [is the meaning of] Harpania?
- II. R. Zera replied: A mountain whither everybody turns.
- III. In a beraita it was taught: Whosoever did not know his family and his tribe made his way thither...
- IV. The unfit of Harpania [were unfit] on account of the unfit of Messene, and the unfit of Messene on account of the unfit of Tarmod, and the unfit of Tarmod on account of the slaves of Solomon.

But this pericope too does not specify the issue with Harpania. The commonly accepted interpretation, however, is that the issue in both *Qiddušin* and *Yevamot* was widespread *mamzerut*.¹⁶⁵³ In one, b. *Qiddušin 71b* discusses how the son of R. Yehudah in Pumbedita was afraid to marry Pumbedita women, claiming that one could not be sure of their lineage. Since Israel was exiled due to sexual promiscuity and wife swapping, he feared that the women of Pumbedita were the progeny of those relationships, thus *mamzerot*. Elsewhere, b. *Qiddušin 73a* describes

¹⁶⁵² B. *Qiddušin 72b*. In a similar discussion in the Yerushalmi (y. *Qiddušin 4:1 65c 1180:39-43*), R. Haninah [IA3] b. Berokah also asserts that the concern was that priests were not scrupulous in avoiding marrying divorcées.

¹⁶⁵³ See Tosafot, b. *Yevamot 17a*, s.v. *pesulei meišan*. See also Rashi and Tosafot ad loc at b. *Yevamot 16b-17a* who explain that the discussion is about *mamzerut*.

public lectures by R. Zira [IA3, though born and trained in Babylonia] and Rava about *mamzerim*, giving permission for proselytes to marry them.

However, it is hard to comprehend that the issue of inappropriately married priests would lead R. Papa to call an entire region dead. It is also hard to imagine that promiscuity was so rife that an entire region was plagued by *mamzerut* to the point where it would be called dead, unless one accepts mass Jewish sexual profligacy and/or adoption of Zoroastrian practice of marrying kin. In addition, it is hard to imagine that the question at hand regarding R. Ikka is whether, as implied by Abaye, his brother had married a *mamzeret*. It would also seem quite surprising for an entire city, Harpania, where all those who were not aware of their lineage went to get married to not care about *mamzerut* yet to care about intermarriage, a less severe transgression. Furthermore, *mamzerut* was typically a private matter. No one would publicly pronounce their children *mamzerim* and the Talmud typically promotes a “don’t ask, don’t tell” policy.¹⁶⁵⁴ In addition, if *mamzerut* were as prevalent as implied, one might infer that intermarriage—a much less severe sin by biblical standards—would also have been rampant.

Rather, while *mamzerut* may likely also have been an issue, especially with Jews living in Zoroastrian society, the more significant concern was likely intermarriage, especially with the number of improperly enthralled or manumitted Gentile slaves.¹⁶⁵⁵

Indeed, the *sugya* itself adds that R. Ikka disputes R. Abba b. Kahana, who claimed that these were among the cities where the Twelve Tribes were brought.¹⁶⁵⁶ R. Papa too is cited

¹⁶⁵⁴ E.g., b. *Qiddušin* 71a: “Said R. Isaac: The Holy One, blessed be He, showed charity to Israel, in that a family once mixed up remains so.” This sentiment is echoed there by Abaye. Similarly, *ad loc.*, “Samuel said on the authority of an old man [*sabba*]: Babylonia [i.e., an individual from Babylonia wishing to be married] stands in the presumption of being fit, until you know wherewith it became unfit.”

¹⁶⁵⁵ See b. *Qiddušin* 70b.

¹⁶⁵⁶ As Rashi b. *Qiddušin* 72a, s.v. *we-khulan li-psul* explains, “every place to which the Tribes were exiled, the Gentiles intermixed with their daughters and, in the matter of a Gentile or slave who come upon a Jewess, even according to the one who asserts that the child is not a *mamzer*, he is nonetheless defective.”

claiming, regarding what some called an area of lineal purity, “but today, *kuttim* are mixed in.”¹⁶⁵⁷

R. Yishmael at b. *Qiddušin* 75a-76a claims that the *kuttim* never converted properly to Judaism. In other words, for these purposes, they were seen as Gentiles indicating the occurrence of intermarriage.

In summary, this section has attempted to show based on admittedly scarce data that intermarriage may not have been an infrequent occurrence in Babylonia and that it and its ramifications occupied the attention of the Babylonian sages of the Bavli.

¹⁶⁵⁷ B. *Qiddušin* 72a. As Rashi, b. *Qiddušin* 75b, s.v., *geirei 'arayot hen*, explains that “they are just like other Gentiles who married Jewish women.” Also, though R. Gamliel stated that “any mitzvah that the *kuthim* keep they are more meticulous in it than Jews,” the Talmud says that they are not expert in the laws of marriage and divorce, and thus let in *mamzerim* and Gentile slaves, and now one cannot know who is who among them.

PART IV: CONCLUSION

12. CONCLUSION AND AREAS FOR FURTHER RESEARCH

This dissertation set out to explore the provenance of the attribution of the fear of intermarriage, *mišum ḥatnut*, to the prohibitions of Gentile bread and other foods. Part II presented an analysis of Second Temple and earlier literature as well as 'Ereš Israel rabbinic literature. This analysis demonstrated that in all of this literature, the peoples' and/or rabbis' concern in avoiding these foods was not necessarily fear of intermarriage, fear of Gentile impurity, or the desire to separate Jews from Gentiles generally, or even from eating with Gentiles. Rather, the concern can be understood in each case to be one regarding the possible admixture of impermissible ingredients. It was the Bavli that first introduced the notion of *mišum ḥatnut* and attributed it to Gentile bread and other products. The dissertation showed that this attribution may have even been a later introduction by the editors of the Bavli. Part III of the dissertation speculated that it was only in Babylonia that the fear of intermarriage was attributed to Gentile bread because the rabbis perceived that there was an intermarriage problem there. The 'Ereš Israel sages were not concerned about such a phenomenon. This hypothesis was supported by an analysis of the 'Ereš Israel and Babylonia societies based on a framework proposed here and applied to available Jewish and other literary sources and archaeological findings. This analysis showed that 'Ereš Israel may not have been primed for intermarriage whereas Babylonia seems to have been. And it further analyzed available information—admittedly scant—about whether intermarriage may have been prevalent in each of the societies. This analysis appears to support the hypotheses of this dissertation.

In some ways, this research just scratches the surface. As noted, relevant data on the social realities of 'Ereṣ Israel and particularly Babylonia are sparse. The hypotheses presented herein regarding societal realities should continue to be revisited as new relevant data is uncovered.

In addition, future research might address questions about rulings during the Geonic period regarding Gentile food prohibitions associated with *mišum ḥatnut*. For example, there are some indicators that Gentile oil may have remained prohibited in Geonic Babylonia even though according to the Talmudim, as shown earlier, the ban was cancelled by Rabbi.¹⁶⁵⁸ It would be interesting to determine whether this was so and, if so, why. It would also be interesting to determine when and why the term *mišum ḥatnut* was applied to Gentile cooking generally rather than just to bread. Such a connection is not made in the Bavli though the acceptance of *mišum ḥatnut* as the overarching rationale behind the rabbinic bans on Gentile foods appears to have taken root by the end of Geonic Babylonia.

The association by the Bavli of *mišum ḥatnut* to the avoidance of Gentile bread seems to have been meant to send a strong message regarding the fear of intermarriage. It should have forever changed how Jews looked at Gentile foods. But it does not appear to have done so. As noted in the Introduction, adherence to the rabbinic food prohibitions based on *mišum ḥatnut* has

¹⁶⁵⁸ *Sefer Halakhot Gedolot, Hilkhot Milah*, (Jerusalem: Makhon Yerushalayim, 1992), 152, writes that the oil of a Gentile who became a Jew but then returned to his previous faith is like his wine, which becomes forbidden again. The exact authorship and dating of *Sefer Halakhot Gedolot* are debated, but it may have been written as early as the eighth or ninth century C.E. Interestingly, in citing m. 'Avodah Zarah 2:6, *Sefer Halakhot Gedolot* (601) omits the phrase "Rabbi annulled the prohibition on Gentile oil." (This is not decisive support for the suggestion that Gentile oil was still prohibited in Babylonia, as the omission may have been because the authors of these two books understood that it was not Rabbi but Rabbi's grandson, R. Yehuda Nesiyah, who annulled the prohibition and thus this act should not be recorded in a mishnah, which preceded him.) The glosses *ad loc.* are puzzled by this ruling, but R. Yaakov b. Asher (1270-1343) also cites it ('*Arba'ah Turim, Yoreh De'ah*, end of §268). In addition, Maimonides in his halakhic codex appears to be addressing an actual state of affairs when he emphatically writes in *Mišneh Torah, Hilkhot Ma'akhalot 'Asurot* 17:22: "Whoever prohibits it [Gentile oil], behold stands in a great sin because he is rebelling against the court that permitted it."

been uneven over time and geographies, and even today. Indeed, rabbinic rulings themselves have been uneven. The question that should be probed further is, why?

Some preliminary answers come to mind. First, very early on, the rabbinic prohibition of Gentile bread was deemed tenuous. As noted, first generation Israeli amora R. Yonatan declared that the prohibition of Gentile bread a halakhah of *'im 'um*, an “ambiguous” law.¹⁶⁵⁹ Also, as noted, first generation amora Rav leniently ruled that unimportant foods or foods that can be eaten raw are not considered Gentile cooking.¹⁶⁶⁰ Even regarding beer, which, according to one opinion, was prohibited *mišum ḥatnut* and one can intuit why, R. Papa and R. Ahai found leniencies to permit it.¹⁶⁶¹

Second, it appears that the prohibition of Gentile bread may have been too onerous and never fully adopted. The rabbinic prohibition of Gentile oil was annulled for this reason.¹⁶⁶² R. Samlai is reported suggesting to R. Yehuda the Patriarch II to do the same regarding Gentile bread.¹⁶⁶³

Third, as the earlier analysis showed, it is not even certain from the Talmud who attributed the concern of *mišum ḥatnut* to bread, and that this may have been a later insertion by the editors of the Bavli. Thus, it is not clear what impact this association had or in fact what had been hoped to be accomplished on a practical level by this attribution. It is further unclear how this attribution propagated. Indeed, as demonstrated earlier, *Hiluqim* #30 and #53 show that it may not have been adopted in *'Ereṣ* Israel at all, even after the close of the Talmud.¹⁶⁶⁴

¹⁶⁵⁹ Y. *'Avodah Zarah* 2:9 41d 1391:13.

¹⁶⁶⁰ B. *'Avodah Zarah* 37b-38a.

¹⁶⁶¹ B. *'Avodah Zarah* 31b.

¹⁶⁶² B. *'Avodah Zarah* 36a.

¹⁶⁶³ B. *'Avodah Zarah* 37a.

¹⁶⁶⁴ (M. Margalioṭ, *Ha-Hilukim she-Bayn Anshei Mizrah u-Venay Eretz Israel* 1938, 28-32).

Finally, in other halakhic rulings, once a rationale is offered the ruling remains in effect even if the underlying reason no longer applies.¹⁶⁶⁵ In other words, the ruling takes on a life of its own, irrespective of the initial rationale. However, the rationale of *mišum ḥatnut* seems to have remained an active, operative consideration in determining halakhah pertaining to Gentile foods, at least into the early Medieval period. For, on the surface, it appears that certain rabbinic rulings took into account the diverse socio-political realities confronting halakhah-observant Jews at particular times and in particular geographies. Specifically, the halakhic decisors of the tenth to mid-fifteenth centuries in Ashkenaz (Germany and northern France), which were under Christian domination, appear to employ a decidedly lenient approach to Gentile bread. In contrast, the Sephardi decisors of the same time period in Moslem Spain, where Jews were quite comfortable in their surrounding society, appear to take stricter line. The Appendix to this chapter provides very brief and preliminary survey of halakhic decisions that seem consistent with this distinction. It would be interesting to study this phenomenon in greater depth, to track relevant decisions into later times as well, to understand the extent to which the factors above may have affected individual observance, and to analyze rulings in modern days Israel where there is no intermarriage problem, as it was in Diaspora over the millennia.¹⁶⁶⁶

In short, over the centuries, the bounds of the rabbinic Gentile bread and food prohibitions to which the rationale of *mišum ḥatnut*, the fear of intermarriage, has been attributed seem to have been malleable, significantly affected by societal dynamics. Despite the research and analysis presented here, the question remains: why exactly? Much food for thought...

¹⁶⁶⁵ Maimonides rules (*Mišneh Torah, Hilkhhot Mamrim 2:2*) that even if the underlying reason for an edict is no longer applicable, the edict remains in effect until a court of greater stature vacates it. Nachmanides and others disagree require a court to annul but not necessarily one of greater stature. But in the case of *mišum ḥatnut* it appears that it remained an operative factor regarding the law, at least during the early Medieval period.

¹⁶⁶⁶ Neomi Silman (Silman 2013) has done a similar analysis of modern rabbinic rulings regarding the prohibition of wine touched by a Jewish Sabbath-violator.

APPENDIX TO CHAPTER 12

Brief Survey of Approaches of Medieval Ashkenazi and Sephardi Decisors Regarding Gentile Bread and Food

This Appendix provides a very brief survey of some early Medieval halakhic decisor rulings regarding Gentile bread and food. These rulings appear to indicate a different approach adopted by Ashkenazi and Sephardi decisors and suggests that this difference might be based on their differing societal milieux. For example, conditions in eleventh through early fourteenth century Spain appear to resemble those in Babylonia under Moslem rule. Jews were connected to and quite comfortable in their ambient Gentile society. On the other hand, Jew-Gentile relations in Ashkenaz (Germany and northern France) under Christian domination was antipathetic. As Mark Cohen notes, in the Middle Ages “Jews lived more securely in the medieval Arab-Islamic world than under Christendom.”¹⁶⁶⁷ Thus, one might posit that the reality and rabbinic fear of possible intermarriage and assimilation in Spain would have been significant whereas the concern over intermarriage and assimilation in Ashkenaz would have been low. One might therefore further hypothesize that the fear of *mišum ḥatnut* would retain its force in Spain and that the edicts based on *mišum ḥatnut* would continue to be interpreted stringently, as they had in Babylonia. Conversely, one might expect to find less of a need for the halakhic decisors in Ashkenaz to resort to *mišum ḥatnut* and to find more lenient interpretation and enforcements of the associated edicts. On the surface, this appears to be the case.

¹⁶⁶⁷ (M. R. Cohen 1994, xiii-xiv).

The *rishonim* (biblical, Talmudic, and *halakhic* decisors who were active from the tenth to mid-fifteenth centuries) in Ashkenaz employ a decidedly soft tone and lenient approach to Gentile bread. For example, one anonymous tosafist deduces from the Talmudic discussions that “we see that the prohibition [of bread] did not propagate. And from this they rely today to eat bread of idolaters since its prohibition did not propagate among all Jews.”¹⁶⁶⁸ The tosafist does not distinguish between bread of a bakeshop versus homemade bread; between city and out of town; and whether there was a Jewish bakeshop around. He states a further leniency that a Jew who is stringent about not eating Gentile bread may nonetheless scoop food with his bread out of the same dish being used by someone eating Gentile bread.

At b. *Berakhot* 39b, the Bavli discusses what blessing one should make when confronted with two foods over which different blessings are made or when confronted with two items of equal blessing but one of which is more desirable to the individual. An anonymous tosafist citing y. *Berakhot* 6:1 states: “a kosher loaf and the loaf of a Gentile, he blesses on the kosher one...but if the Gentile bread is more desirable and clean and the Jewish bread is not desirable, one should bless on whichever one he wants...However, R. Shimshon ordered to remove the clean Gentile bread from the table until after the *ha-Moši* blessing.”¹⁶⁶⁹ Thus, even according to R. Shimshon, Gentile bread is permitted, even in one’s home [i.e., in the city and not on the road] when there is Jewish-baked bread available. Tosafot does not distinguish between bakeshop versus homemade gentile bread.

Similarly, R. Eliezer b. Yoel ha-Levi (Ra’avyah, 1140-1225) rules that if one has two loaves in front of him—a refined one from a Gentile and a coarser one from a Jew—he may use

¹⁶⁶⁸ Tosafot, *‘Avodah Zarah* 35b, s.v. *mi-khlal*.

¹⁶⁶⁹ Tosafot, *Berakhot* 39b, s.v. *‘aval*.

either one, including the Gentile one. He adds, interpreting the *‘Avodah Zarah* discussion quite liberally, “The [prohibition of a] loaf of a Gentile is not so stringent, for there is an amora who said that a court had ruled that one may eat the bread loaf of a Gentile.” He even goes so far as to say that if one who is stringent and is sitting at a table with one who eats gentile bread, the one who is not accustomed to eating Gentile bread may break this bread as well.¹⁶⁷⁰

Elsewhere, commenting on the relevant segments in b. *‘Avodah Zarah*, Ra’avyah writes that, in his times, Gentile bread has no prohibition due either to *ḥatnut* or to Gentile cooking.¹⁶⁷¹ “And my rabbis explained that *ḥatnut* is more prevalent with bread than with beer. And this does not make sense to me, for drunkenness is more likely to induce *ḥatnut* than bread.”¹⁶⁷² He notes that “there were great men that I’ve seen that used to eat Gentile bread”¹⁶⁷³ and concludes that “before us [we see] that most people practice permission with Gentile bread and that it [the prohibition] is a weak/unstable law.”¹⁶⁷⁴

R. Yitzhak b. Moshe of Vienna (known as the *Ohr Zarua*, 1180-1250) states explicitly that one may eat Gentile bread even where Jewish bread is available.¹⁶⁷⁵

R. Asher (Rosh, 1250-1327, Germany) too gives a similar option when one has loaves from both a Jew and a Gentile.¹⁶⁷⁶ And in his commentary on b. *‘Avodah Zarah*, he permits Gentile bread, writing: “In most of our places of dispersion, Jewish bakeshops are rare and it is as if one has fasted three days,” in which situation the Yerushalmi permitted Gentile bread due to a dire

¹⁶⁷⁰ *Sefer Ra’avyah*, *Berakhot* 39b, 67.

¹⁶⁷¹ *Sefer Ra’avyah*, *‘Avodah Zarah* 35b, 1065, IV:32.

¹⁶⁷² Ra’avyah, *Responsa: Gentile Bread*, #954, III:207.

¹⁶⁷³ Ra’avyah, *Responsa: Gentile Bread*, #954, III:207.

¹⁶⁷⁴ Ra’avyah, *Responsa: Gentile Bread*, #954, III:207.

¹⁶⁷⁵ *Ohr Zarua*, *‘Avodah Zarah*, §189, as cited in *Psakim ‘Avodah Zarah*, 293.

¹⁶⁷⁶ Rosh, commentary on *Berakhot* 39b, #21.

situation (*ḥayye nefesh*).¹⁶⁷⁷ The gloss on Rosh's commentary by another, later, *rishon*, R. Israel of Krems (c. 1375), adds "one is permitted to eat Gentile bread, even if he has Jewish bread."¹⁶⁷⁸ From the language of Rosh, it appears that there is no distinction between homemade Gentile bread and bakeshop bread.

Tosafist R. Simha b. Shmuel of Speyer (13th century) permitted those who were careful not to eat Gentile bread to do so at a religiously obligatory meal (*se'udat mišvah*), presumably provided by someone not stringent in this regard.¹⁶⁷⁹

R. Mordekhai b. Hillel (Mordekhai, c. 1240-1298), a descendent of Ra'avyah, cites R. Avraham of Orleans: Gentile cooking is forbidden only if made in the Gentile's home, but if cooked in the Jew's home—even if the Jew did not participate in any way—the food is permitted because there is no concern [of *mišum ḥatnut* or] that the Gentile would surreptitiously insert impermissible ingredients.¹⁶⁸⁰ While not directly related to Gentile bread and while R. Yaakov b. Meir (R. Tam, 1100-1171) disagrees with this position and says that there is no distinction regarding cooking whether it is done in the Jew's home or Gentile's home, this is a lenient position regarding *ḥatnut*.¹⁶⁸¹

Mordekhai brings several additional leniencies. He cites an earlier *rishon*, R. Shemaryahu, who permitted Gentile bread when one was on the road.¹⁶⁸² He states that if one has broken [and made the blessing on] Gentile bread, he may eat it with the rest of the meal. And he generalizes,

¹⁶⁷⁷ Rosh, commentary on 'Avodah Zarah 35b, #27.

¹⁶⁷⁸ *Hagahot Ha-'Ašri* gloss, Rosh, commentary on 'Avodah Zarah 35b, #27.

¹⁶⁷⁹ (E. E. Urbach, *Ba'alay ha-Tosafot: Toldotayhem, Hiburayhem, Shittatam* 1954, 417).

¹⁶⁸⁰ Mordekhai commentary on 'Avodah Zarah 38a and 35b, #830. R. Avraham's opinion is also cited in Tosafot, 'Avodah Zarah 38a s.v. 'ella.

¹⁶⁸¹ Tosafot, 'Avodah Zarah 38a s.v. 'ella.

¹⁶⁸² Mordekhai commentary on 'Avodah Zarah 38a and 35b, #830. R. Avraham's opinion is also cited in Tosafot, 'Avodah Zarah 38a s.v. 'ella.

very clearly, that people in his region were permitted to eat Gentile bread for “we are among those places where the prohibition did not propagate, for we act permissively regarding it [Gentile bread].” He cites b. *Pesaḥim* 29a that discusses whether one is permitted to eat a Gentile’s *hametz* [unleavened bread] after Passover. This segment implies that there were indeed places where one could eat Gentile bread. Mordekhai [and others] concludes that this shows that eating Gentile bread was a local decision based on custom. He restricts the ruling to bakeshop bread, but then records a case that actually came before him where an oven that had been used earlier in the day by Jews was then used by non-Jews and he asserted—although without a factual basis—that presumably some embers from the earlier baking remained hot while the non-Jews baked, and thus a Jew had participated in the baking of this gentile bread, making it non-Gentile bread and thus permissible to eat.

Similarly, R. Yaakov Moelin (Maharil, d. 1427) writes: “even if there remains a single ember from the fire of a Jew and the Gentile created a new fire from it, the rabbis z”l permitted [for the food cooked on] it [to be eaten by a Jew], because they found difficult the practice that Gentile maidservants make fires (and cook) in their Jewish master’s house and no Jew stokes the fire at all, and [the rabbis] found the rationale that some amount of fire still remained from the day before and by dint of this rationale they permitted [this practice].”¹⁶⁸³ This would apply to bread as well as to general cooking.

Contrasting with the *rishonim* in Ashkenaz, the tone of the early decisors in Moslem countries appears more stringent.

¹⁶⁸³ Maharil, Responsa #193, 208.

R. Yitzhak Alfasi (Rif, 1013-1103, Algeria/Spain) concludes his *halakhic* recap of the Talmudic discussion with the two opinions cited in Bavli *‘Avodah Zarah*: that (a) Gentile bakeshop bread is permitted only where there is no Jewish bakeshop, and (b) Gentile bakeshop bread is permitted only out of the city.¹⁶⁸⁴ From Rif’s language, one can conclude that only Gentile bakeshop (not homemade) bread is permitted and only if one is either out of the city or where there are no Jewish bakeshops.

R. Moshe b. Maimon (Maimonides/Rambam, 1135¹⁶⁸⁵-1204, Spain/Egypt) in his commentary on Mishnah, *Peruṣ ha-Mišnayot*, writes regarding Gentile bread, that “it would appear from our Babylonian Talmud that it is prohibited. But a loaf from the market that the bakers sell is less stringent and closer to permitted than bread from the Gentile’s home. So, when traveling or in case of need it is permitted. And in my opinion, this matter is given over to local custom,”¹⁶⁸⁶ noting elsewhere that “our custom in the isle of Spain is to eat it.”¹⁶⁸⁷ In his *halakhic* opus, *Mišneh Torah*, however, Rambam takes a stringent approach.¹⁶⁸⁸ First, he states an outright prohibition of eating Gentile homemade bread as opposed to his use of relative terms in the commentary. Second, he requires that, even on the road, there must be no Jewish bakery around, a restriction not mentioned in his Mishnah commentary. And, finally, Rambam here does not write that his region is one where there are those who are lenient.

R. Aaron ha-Levi (Re’eh, 1235-1300) takes the standard stringent approach too.¹⁶⁸⁹ He initially cites a decisor who asserts that any leniency applies only to Gentile bakery (not

¹⁶⁸⁴ Rif, *Sefer Halakhot* on *‘Avodah Zarah* 35b.

¹⁶⁸⁵ Rambam’s birth year is subject to scholarly dispute. Some, such as (Twersky 1980, 1), assert it is 1135; others, such as (S. Stroumsa 2009, 8), assert that it is 1138.

¹⁶⁸⁶ Rambam, *Peruṣ ha-Mišnayot*, *‘Avodah Zarah* 2:6.

¹⁶⁸⁷ Rambam, *Peruṣ ha-Mišnayot*, *Pesaḥim* 2:2. An alternate text reads “isles of Spain,” i.e., the greater region.

¹⁶⁸⁸ Rambam, *Mišneh Torah*, *Ma’akhalot ‘Asurot* 17:9 and 12.

¹⁶⁸⁹ *Ḥiduṣay ha-Re’eh*, *‘Avodah Zarah* 35b, 93.

homemade) bread and only when no Jewish bakeshop is to be found. But he then says: “Perhaps the law is lenient...and in the field, all is permitted, whether of a bakeshop or homemade, and in the city, a [Gentile] bakery is permitted where there is no Jewish bakeshop.”

R. Yom Tov Ishbili (Ritva, 1250-1330):¹⁶⁹⁰ “[We can conclude] that Gentile homemade (*ba'alay battim*) bread is always prohibited, even in the fields.” Also, a bakeshop loaf sold by an individual householder (*ba'al ha-bayit*) is also forbidden, because “it all follows the Gentile who gives it to him or sells it to him because it is with him that *ḥatnut* is present.”

R. Yaakov b. Asher (*ʿArbaʿah Ṭurim*, or *Ṭur*, 1270-1343), a Sephardi decisor, in his halakhic opus too seems to take a view more stringent than his father, *Rosh*, an Ashkenazi decisor who moved to Spain in his later years. Whereas *Rosh* seemed to permit homemade Gentile bread in certain circumstances, *Ṭur*, seems to prohibit it.

The examples above would seem to indicate on the surface a difference in attitude among decisors in Ashkenaz and Spain during the eleventh through early fourteenth century regarding *ḥatnut* and Gentile bread. Haym Soloveitchik offers a similar suggestion regarding Gentile beer, which, as discussed earlier, the Bavli also prohibits *mišum ḥatnut*. R. Moshe of Coucy (1200-1260) was a student of R. Yehuda of Paris (1166-1224) and loyal adherent of the rabbis of the School of Dampiers. Nonetheless, he opposed their lenient rulings that permitted drinking Gentile beer with Gentiles in many cases. Soloveitchik suggests that R. Moshe’s stringency derived from the fact that, as opposed to his teachers and colleagues who were ensconced in the world of Ashkenaz, he was an itinerant preacher who reached Spain. There he saw the different lifestyle where there was much laxity in the observance of the halakhah and even the public taking of Gentile concubines.

¹⁶⁹⁰ *Ḥidušay ha-Ritva*, *ʿAvodah Zarah* 35b, s.v. *mi-khlal*.

To him, camaraderie and *ḥatnut* were not merely formalistic rationales for the prohibition but actual concerns.¹⁶⁹¹

¹⁶⁹¹ (H. Soloveitchik, *Ha-Yayin Bi-May ha-Baynayim* 2012, 317-318).

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