

## CREATIVE INTERPRETATION AND INTEGRATIVE INTERPRETATION IN QUMRAN

VERED NOAM

Scripture teaches that a person who touches another, who has himself become impure by contact with a corpse, becomes impure until the evening: “and the person who touches him shall be unclean until evening” (Num 19:22). However, rabbinic halakhah establishes a more sophisticated approach to corpse impurity—with various stages of impurity ranging four levels beyond the dead individual himself (*m.’Ohal.* 1:1–4). Maimonides argued that this extended chain of “contagious” impurity, not referred to in the Torah itself, was the result of rabbinic legislation:

Regarding *karet* (divine punishment by untimely death or eternal excommunication) for one who enters the temple or eats sanctified foods while impure, only a person in the first two stages of impurity is liable: One—somebody who has actually touched a corpse; and two—somebody who then touched him. As the Torah prescribes: “and the person who touches him shall be unclean” (Num 19:22). However, one who touches utensils that touched someone who touched a corpse or who touched an individual who touched utensils that came into contact with a corpse is not liable... Although these stages are accepted legal tenets, they are not Torah law. Only the status of one who touches a corpse and that of one who then touches him are explicit in the Torah... (Maimonides, *Mishneh Torah, Hilkhot tum’at met* 5:5)

R. Abraham b. David of Posquières, the 12th century commentator known as the Ra’avad, in his gloss on this section, noted with anger:

I have seen this man—all that he finds difficult in the words of our rabbis he excuses by saying: “This is rabbinic, this is not from the Torah, the rabbis said this.” Not true! All four stages of corpse impurity stem directly from biblical verses, as is evident from the *Sifre* (Ra’avad, *ad loc.*)<sup>1</sup>

---

<sup>1</sup> For the Tannaitic homilies implied by the Ra’avad see *Sifre Num* 127; 130 (Hayim S. Horovitz, [ed.], *Sifre D’be Rab. Numbers* [Leipzig: Libraria Gustav Fock, 1917], 164, 168). The same attitude is exhibited in the Ra’avad’s gloss to *Hilkhot Ishut* 3:20.

For the Ra'avad, the very existence of legal homilies proves that the law derived from a biblical verse through homiletical means is biblical itself. Conversely, Maimonides probably would have viewed the use of such homilies as *asmakhta*, secondary biblical backing of extant rabbinic legislation.<sup>2</sup> If we apply terms of modern scholarship to this medieval debate, we can say that for the Ra'avad the relevant homilies from the *Sifre* were *מדרש יוצר*—"creative interpretation"—actually producing laws from biblical phrases, thus keeping them on a biblical level of import. For Maimonides, however, these homilies were only *מדרש מקיים*—"integrative interpretation," providing support for independent rabbinic tradition.<sup>3</sup>

This dispute reflects one of the most basic of questions concerning the formation of Jewish law—one that has been asked since the Gaonic period through the age of modern scholarship. Is rabbinic legislation an actual product of biblical interpretation, or is it part of an ancient oral tradition which was only later superimposed upon Scripture, in an attempt to lend it more legitimacy? Of course, there is no one simple answer. The picture is complicated and both models can find support in different examples. In many cases, diverse kinds of exegetical activity may be interwoven within a single hermeneutic process.<sup>4</sup>

<sup>2</sup> For Maimonides' general view concerning the status of precepts which were deduced from the biblical verses through midrash, see Jehoshua Blau, *R. Moses b. Maimon Responsa II* (Jerusalem: Rubin Mass, 1986), 633–32 (Hebrew). Maimonides apparently changed his mind with regard to this problem. See *ibid.*, note 21; the two versions of his commentary to the *m. Qid.* 1:1 (ed. Yosef Kappah; Jerusalem: Mossad Ha-Rav Kook, 1965; 280 and note 15); and the two versions of the text of *Hilkhot Ishut* 3:20. Cf. recently David Henshke, "On Maimonides' Halakhic Thought: Inner Dynamism versus Institutional Conservatism—On the Nature of the Halakha in Maimonides' *Sefer ha-Mitzvot*," in *Maimonides: Conservatism, Originality, Revolution* (ed. Aviezer Ravitzky; Jerusalem: The Zalman Shazar Center for Jewish History, 2008), 1:131–33 (Hebrew).

<sup>3</sup> For these terms and for a review of the scholarly debate concerning this issue, see Menachem Elon, *Jewish Law: History, Sources, Principles* (trans. Bernard Auerbach and Melvin J. Sykes; 4 vols; Philadelphia and Jerusalem: The Jewish Publication Society, 1994), 1:283–90. See also the following note.

<sup>4</sup> See, for example, the survey by Jacob N. Epstein, *Introduction to Tannaitic Literature: Mishna, Tosephta and Halakhic Midrashim* (Jerusalem: Magnes; Tel Aviv: Dvir, 1957) 501–15 (Hebrew); Chanoch Albeck, *Introduction to the Mishnah* (Jerusalem: Bialik Institute, 1959), 40–62 (Hebrew); Ephraim E. Urbach, "The Derashah as a Basis of the Halakhah and the Problem of the Soferim," *Tarbiz* 27 (1958): 166–82 (Hebrew); repr. in *idem, The World of the Sages* (Jerusalem: Magnes, 2002); Moshe D. Herr, "Continuum in the Chain of Torah Transmission," *Zion* 44 (1979): 43–56 (Hebrew); David Weiss Halivni, *Midrash, Mishnah, and Gemara* (Cambridge, Mass.: Harvard University Press, 1986), 18–37; Adiel Schremer, "[T]he[y] Did Not Read in the Sealed Book': Qumran Halakhic Revolution and the Emergence of Torah Study in Second

The Qumran corpus serves as a uniquely important source for the reconstruction of early Jewish biblical hermeneutics. It provides us with a historic window through which to view the substrata of legal exegesis as known to us in its late Tannaitic incarnation. These texts may help clarify some aspects of the query with which we opened.

My recent research regarding the development of conceptions of impurity from the Bible to rabbinic literature has uncovered a variety of embryonic midrashim in a number of Qumranic passages devoted to this subject. These are, in essence, mere hints at Bible exegesis, incorporated into the sectarian legal discourse.<sup>5</sup>

As many scholars have already shown, Qumranic homilies of this kind are not easily discerned from the surrounding material. They do not appear as explicit biblical interpretations. They do not begin with the citation of a verse; nor do they use the standard terminology we find in Tannaitic material. These latent homilies may be reconstructed from allusions to biblical words or expressions. In other cases, the intertwining of disparate biblical texts uncovers the inter-textual hermeneutic at work in the Qumranic corpus. Additionally, we sometimes find that these latent homilies parallel Tannaitic legal midrash.

Were these early homilies, representing the foundations of Qumranic law, designed to aid in the actual application of biblical law, or were they aimed at artificially connecting an independent, extant tradition to biblical “proof-texts”?

It appears that in the sectarian corpus, similar to the situation in rabbinic literature, we can discern (alongside traditions which have no biblical sources at all), laws which seem to be seeking out supporting “proof-texts”—integrative interpretation,<sup>6</sup> together with those

---

Temple Judaism,” in *Historical Perspectives: From the Hasmoneans to Bar Kokhba in Light of the Dead Sea Scrolls* (ed. David Goodblatt et al.; STDJ 37; Leiden: Brill, 2001), 105–26 and the bibliography mentioned there.

<sup>5</sup> A full survey of the comprehensive research on Bible exegesis in Qumran would be out of place here. For a general outlook on the legal interpretation of Scripture in Qumranic literature in comparison to rabbinic legal midrash and for previous scholarly literature, see Moshe J. Bernstein, and Shlomo A. Koyfman, “The Interpretation of Biblical Law in the Dead Sea Scrolls: Forms and Methods,” in *Biblical Interpretation at Qumran* (ed. Matthias Henze; Grand Rapids/Cambridge: Eerdmans, 2005), 61–87; Steven D. Fraade, “Looking for legal Midrash at Qumran,” in *Biblical Perspectives: Early Use and Interpretation of the Bible in Light of the Dead Sea Scrolls* (ed. Michael E. Stone and Esther G. Chazon; Leiden: Brill, 1998), 59–79.

<sup>6</sup> On the existence of Qumranic interpretative traditions which do not originally stem from Scripture and the scholarly dispute in this regard see Bernstein and Koyfman, “Interpretation of Biblical Law,” 63 and note 5.

which appear to have been actually created through sectarian biblical hermeneutics—creative interpretation. The current paper will demonstrate a number of each type of homily and explicate their hermeneutic purpose and exegetical strategy.

## 1. QUMRANIC CREATIVE INTERPRETATIONS

### 1.1. *Foods and Utensils which Contract Corpse Impurity*

Scripture teaches that an open utensil within an enclosed space overlaying a corpse becomes impure (Num 19:16). The biblical text does not describe which type of utensils it means, the status of their contents, the rules concerning food and drink in this space—whether in containers or not, etc. All of these instances are described, however, in the *Temple Scroll*.<sup>7</sup> Its author utilizes verses from two separate biblical pericopae to make up for these lacunae. These are the descriptions of impure “things that swarm” from Lev 11:29–38 and the tale of the war against Midian in Num 31:19–24.<sup>8</sup> From Leviticus the impure status of foodstuffs is inferred, as well as the need for these items to be moistened before becoming susceptible to impurity.<sup>9</sup> Additionally, “open vessels” in Num 19:16 are identified with “earthen vessels” from Leviticus 11:33.<sup>10</sup> Finally, the *Temple Scroll* offers a list of vessels which may become impure, but can be purified.<sup>11</sup> This list was composed from items specified in both Lev 11:32 and Num 31:20, 22.<sup>12</sup>

This list is found not only in the *Temple Scroll*, but also in Tannaitic literature. The Tannaitic homilies manipulate these same pericopae—albeit with more sophisticated technique and terminology. They too

---

<sup>7</sup> 11QT<sup>a</sup> 49: 7–19; 50: 16–19; Elisha Qimron, *The Temple Scroll: A Critical Edition with Extensive Reconstructions*, (Beer Sheva: Ben-Gurion University of the Negev Press and Israel Exploration Society, 1996), 71, 73. I am relating to the *Temple Scroll* as a representative of a law system which had been either accepted, adopted or created by the Sect, and which greatly resembles other legal texts in Qumranic literature. For the purpose of the current paper there is no need to determine whether it was authored in a sectarian or a pre-sectarian context.

<sup>8</sup> Num 31:51 is also alluded to in the context of corpse impurity in CD 12:18.

<sup>9</sup> 11QT<sup>a</sup>, 49:7–10, Qimron, *Temple Scroll*, 71.

<sup>10</sup> 49: 8; 50: 17–19, Qimron, *Temple Scroll*, 71, 73.

<sup>11</sup> 49:14–19; 50:16–17, *ibid.*

<sup>12</sup> See the detailed discussion in Yigael Yadin, ed., *The Temple Scroll* (3 vols.; Jerusalem: The Israel Exploration Society, The Institute of Archaeology of the Hebrew University of Jerusalem, the Shrine of the Book, 1983), 1:326–31.

come to the same legal conclusions, integrating some very similar expressions.<sup>13</sup> Therefore, we can affirm that the Qumranic sources represent a primordial halakhic process that can be recognized as underlying later tannaitic halakhah and its midrashic approach.

In this case, it appears that the list relates to these biblical verses not merely as “proof-texts.” Rather, the implied hermeneutic allows us to peer into the very “factory” wherein the halakhah was formulated. That is, here we can witness how utilization of other biblical passages enabled the closing of the lacunae left open in Numbers 19. It appears that the hermeneutic logic behind combining these distinct pericopae was indeed responsible for generating the resultant laws.

### 1.2. *The Degree of Removal of the Corpse-Contaminated from the Camp*

The case of distancing the impure from the Israelite camp provides us with another example of an early hermeneutic process which generated a prototypical halakhic framework common to both the Qumran sect and the Sages. In Num 5:2, the Israelites are commanded to “remove from the camp anyone with an eruption or a discharge and anyone defiled by a corpse.” Here one who has been defiled by the dead is separated from the Israelite encampment. However, in the main section dealing with the impurity of the dead (Numbers 19) it appears that an impure individual need *not* leave the encampment, but only the more sacred space of the Tabernacle.<sup>14</sup>

According to Qumranic interpretation, the biblical removal from the encampment meant removal from all cities during the Second Temple era, while removal from the Tabernacle alone was read as removal from the Temple city. The *Temple Scroll* preferred the latter biblical pericope with its more limited removal of the defiled by the dead.<sup>15</sup> In the descriptions found in the *Temple Scroll*, we discover a two-tiered system of impurity each requiring a different level of separation

<sup>13</sup> *Sifre Numbers*, 126 (Horovitz, 162–63). See Yadin, *ibid*.

<sup>14</sup> See Jacob Milgrom, *Leviticus: A New Translation with Introduction and Commentary*. (Vol. 3, 3a, 3b; AB; NY: Doubleday, 1991–2001), 3a: 276–77; *idem*, “Studies in the Temple Scroll,” *JBL* 97 (1978): 515. See also Cana Werman, “The Price of Mediation: The Role of Priests in Priestly Halakhah,” *Meghillot* 5–6 (2008): 85–108, at 87 (Hebrew).

<sup>15</sup> See Milgrom, “Studies,” *ibid*.

or removal from public space.<sup>16</sup> The first level, including those with discharges—זָבִים, lepers, menstrual and post-partum women, requires removal from all cities.<sup>17</sup> The second level, including those defiled by a corpse, by seminal emissions, or conjugal relations, are excluded only from the Temple City.<sup>18</sup> It seems that the author of the *Temple Scroll* took the category of those defiled by a corpse out of the triumvirate of Numbers 5 (lepers, those with discharge, and those defiled by a corpse) who are to be removed from the Israelite encampment and inserted it among the “less severe” category of those made impure by seminal emissions or conjugal relations.

A similar two-tier break-down of impure categories and their repercussions is found in Josephus, though his presentation differs in its details. He too incorporated corpse impurity with the more lenient impurities. According to Josephus, those with discharges or lepers were expelled from the city. However, those defiled by a corpse and

<sup>16</sup> For a somewhat different interpretation of the Qumranic system of impurity see Werman, “Mediation.” On the theological concept and the motivation in the background of the holiness system of the *Temple Scroll*, see Aharon Shemesh, “The Holiness According to the Temple Scroll,” *RevQ* 19/75 (2000): 369–82 and Werman, *ibid.*

<sup>17</sup> 11QT<sup>a</sup>, Temple Scroll 48:14–17, Qimron, *Temple Scroll*, 70.

<sup>18</sup> *Ibid.*, 45: 7–17, Qimron, *Temple Scroll*, 63. The term “עִיר הַמִּקְדָּשׁ”—the Temple City—was interpreted differently by different scholars. Nearly a century ago, Louis Ginzberg already wondered regarding its occurrence in CD 12:1–2, whether it meant the entire city of Jerusalem or just the Temple Mount (Louis Ginzberg, *An Unknown Jewish Sect* [trans. Ralph Marcus, H. L. Ginsberg and Zvi Gotthold; repr., New York: Jewish Theological Seminary of America, 1976], 73–74). Yigael Yadin believed that in the *Temple Scroll* it meant the whole of Jerusalem (Yadin, *Temple Scroll*, 1:279–85), and this seems to be Jacob Milgrom’s opinion as well (Milgrom, “Studies,” 512–18), but Baruch A. Levine, “The Temple Scroll: Aspects of Its Historical Provenance and Literary Character,” *BASOR* 232 (1978): 14–17 preferred the minimizing interpretation. Lawrence H. Schiffman, “Exclusion from the Sanctuary and the City of the Sanctuary in the Temple Scroll,” *HAR* (1985): 301–20, suggested that the term Temple City denoted an expanded *temenos*. It seems that a paragraph in 4QMMT<sup>a</sup> which explicitly identifies the biblical camp with Jerusalem is a central argument in favor of Yadin’s position, as noted by the editors (4QMMT<sup>a</sup> B:29–31, John Strugnell and Elisha Qimron, eds., *Qumran Cave 4.V: Miqsat Ma’ase Ha-Torah [DJD X]*; Oxford: Clarendon, 1994), 48–50. For discussion see *ibid.*, 144–45). However, this problem is not fundamental for our purpose here. Another scholarly debate concerns the meaning of the phrases “כּוֹל הַמִּקְדָּשׁ”; “הַמִּקְדָּשׁ” (11QT<sup>a</sup> 45:7–10, Qimron, *Temple Scroll*, 63) with regard to the bans on a person incurring the impurity of nocturnal emission. See Yadin, *Temple Scroll*, 1:285–88; Milgrom, “Studies,” 517–18; Schiffman, “Exclusion,” 306–9; Werman, “Mediation,” 93. My own working-hypothesis here is that according to the *Temple Scroll*, the one who had an emission of semen should be excluded from Jerusalem as a whole, in light of 11QT<sup>a</sup> 46:16–18 and in accordance with Yadin and Milgrom (in spite of their different solutions to the phrase “כּוֹל הַמִּקְדָּשׁ”).

menstrual women were segregated from others, but not removed from the city.<sup>19</sup>

The ways in which biblical sacred space was understood in the rabbinic corpus differ greatly from those found in the writings of the sectarians and Josephus. For the Sages, the Temple was the equivalent of the camp of the divine presence—the biblical Tabernacle, and the Israelite encampment was translated into Jerusalem, whereas the Temple Mount was considered equal to a third, intermediate section—the Levitical camp. This meant that the city beyond the Temple Mount was equivalent to the most profane, external space in the hierarchy of holiness and exclusion of impurity, while the rest of the country was not even part of the discussion over removal of the impure.<sup>20</sup> Consequently, even the leper, whose removal from the Israelite camp is an explicit biblical precept,<sup>21</sup> was allowed to remain in every regular Jewish settlement.<sup>22</sup> Elsewhere I have described the Tannaitic tendency to reduce the biblical concept of impurity to the sacred sphere.<sup>23</sup> It appears that the contraction of the context of purity and impurity from its wider biblical dimensions to the boundaries of the city of Jerusalem alone is yet another example of the same orientation.

According to rabbinic legislation, only lepers are sent out of Jerusalem altogether. Those with discharges (as well as menstrual and post-partum women) may not enter only the Temple Mount.<sup>24</sup> The death

---

<sup>19</sup> Josephus, *Ant.* 3.261–64. For discussion and bibliography, see Steven Mason, ed., *Flavius Josephus: Translation and Commentary* (Vol. 3: *Judean Antiquities* 1–4, translation and commentary by Louis H. Feldman, Leiden: Brill, 2000), 308–9.

<sup>20</sup> See, for example, *m. Kelim* 1:6–9; *t. Kelim-B. Qam.* 1:12; *Sifre Num* 1; *Sifre Zuta Num* 5:2; *b. Pesah.* 67a. For a comparison of the sectarian and the rabbinic halakhah in this regard, see Yadin, *Temple Scroll* 1:277–94; Milgrom, “Studies,” 512–18; Schiffman, “exclusion”; David Henshke, “The Sanctity of Jerusalem: The Sages and Sectarian Halakhah,” *Tarbiz* 66 (1997) 5–28 (Hebrew); Menahem Kister, “Studies in *Miqṣat Ma’ase Ha-Torah* and Related Texts: Law, Theology, Language and Calendar,” *Tarbiz* 68 (1999) 335–39 (Hebrew).

<sup>21</sup> Lev 13:45–46; 14:3,8. See also 2 Kgs 7:3; 15:5.

<sup>22</sup> According to some rabbinic sources, the leper is expelled from “walled cities” and not from Jerusalem alone. However, according to all rabbinic sources, he is not expelled from regular settlements. See *m. Kelim* 1:7; *Sifre Num* 1; *t. Kelim-B. Qam.* 1:8. For a polemical midrash which tries to refute the notion that the leper is removed from regular cities, see *Sifra Meṣora, parashah* 6, *pereq* 4:4.

<sup>23</sup> Vered Noam, “The Dual Strategy of Rabbinic Purity Legislation,” *JSJ* 39 (2008): 471–512.

<sup>24</sup> On the rabbinic tendency to circumscribe the scope of *zab* impurity in other respects as well, see Joseph M. Baumgarten, “Zab Impurity in Qumran and Rabbinic Law,” *JJS* 45 (1994): 273–77.

defiled is surprisingly considered the most lenient among all these severe impurities. He may ascend to the Temple Mount,<sup>25</sup> and in this respect his impurity becomes even milder than the one-day-impurity of a person with an issue, who is forbidden to go there.<sup>26</sup>

Despite the opposite practical consequences of the different definitions given by the Qumranites and the rabbis to the realms of purity and impurity, it is important to note that at base they share the very same exegetical strategy concerning the death defiled: Both disconnect him from the other two categories of impurity mentioned together with him in Numbers 5 and integrate him into the realm of lenient impurities. Both allow his entry into the equivalent of the biblical Israelite camp. In other words, both privilege the more lenient consequences of Numbers 19, which forbade only entrance into the Tabernacle, but did not require removal from the entire camp, over the stringencies in Numbers chapter 5.

It appears here that the hermeneutical struggle to balance two conflicting biblical sections generated the resultant law and not vice versa.

### 1.3. *The Impurity of a Woman Carrying a Dead Fetus*

Sometimes we find a rabbinic text which points us to homiletics hidden within the Qumranic corpus. It is particularly interesting when these rabbinic parallels reflect dissenting exegetical material. For example, the *Temple Scroll* uses the term “grave” to describe a woman carrying a dead fetus.<sup>27</sup> As I have shown elsewhere, this one word is in essence a legal homily which plays off the terminology of Numbers 19:16: “And in the open, anyone who touches a person who was killed or who died naturally, or human bone, or a grave, shall be unclean seven days.” The word “grave” is used to suggest that this woman is impure because she holds within her a dead body, just as the biblical grave does. The reconstruction of this homily is made possible by studying two Tannaitic homilies. These midrashim use other phrases in the self same verse, reactively making the *opposite* case—that this woman

<sup>25</sup> *M. Kelim* 1:7–8. See also the sources mentioned in note 19 above.

<sup>26</sup> *Sifre Deut* 255; *b. Pesah* 67b.

<sup>27</sup> 11QT<sup>a</sup> 50:11, Qimron, *Temple Scroll*, 73.

remains in a state of purity despite carrying a dead fetus.<sup>28</sup> While the Qumranic homily seems to be a natural extension of the associative similarity between the grave and the womb—and indeed, this metaphor is implied in the Bible itself and is quite common throughout rabbinic literature too<sup>29</sup>—the Tannaitic reactive homilies are remarkably forced.<sup>30</sup> Therefore, we may assume that in this case the Qumranic homily is an initial creative interpretation which launched a halakhic position through an innocent reading of the biblical verse. The Tannaitic reaction, by contrast, is a secondary polemic attempt to anchor the opposite—lenient—stance in the biblical text.

#### 1.4. *Liquids Capable of Causing Susceptibility to Impurity*

Several Qumran fragments point to the sect's position that all liquids may make foodstuffs susceptible to impurity. Two of these, 4Q274 frg. 3 i and 4Q284a frg. 1 deal with the defilement of fruits due to the oozing of their own juices.<sup>31</sup> 4Q284a prohibits the harvesting of figs, pomegranates and possibly also olives<sup>32</sup> by “[one] who has not been brou[ght into the co]venant,”<sup>33</sup> namely “an unclean person”<sup>34</sup> as the fruits will be “crushed so that their juice has oozed out,”<sup>35</sup> making them susceptible to the impurity of this person.

This halakhic stance is evidence of an exegetic analogy between two halves of a biblical verse: **מִכָּל הָאֵלֶּיךָ אֲשֶׁר יֵאָכֵל אֲשֶׁר יִבּוֹא עֲלָיו מִיַּם יִטְמָא** “As to any food that may be eaten, it shall become unclean if it came in contact with *water*; as to *any liquid* that may be drunk, it shall become unclean if it was inside any vessel” (Lev 11:34). The first part of this verse describes how foods may become susceptible to the impurity of the above mentioned dead “swarming things” after being moistened with water. It mentions

<sup>28</sup> See Vered Noam, “Qumran and the Rabbis on Corpse-Impurity: Common Exegesis—Tacit Polemic,” in *The Dead Sea Scrolls: Texts and Context* (STDJ 90; ed. Charlotte Hempel; Leiden: Brill 2010), 397–430.

<sup>29</sup> See Jer 20:17; *m. 'Ohal.* 7:4; *t. 'Ohal.* 8:8.

<sup>30</sup> Noam, “Qumran and the Rabbis on Corpse-Impurity.”

<sup>31</sup> Joseph M. Baumgarten, “274. 4QTohorot A,” in *Qumran Cave 4.XXV: Halakhic Texts* (ed. Joseph M. Baumgarten et al.; DJD XXXV; Oxford: Clarendon, 1999), 106–7; “284a. 4QHarvesting,” *ibid.*, 131–33.

<sup>32</sup> Completion of the editor based on the following verbs: **יִלְאֲצוּ** (press), **לְגַלְעֵם** (opening them), and on the reconstruction of **ד[בב]** ([in the olive pr]ess).

<sup>33</sup> 4Q284a, frg. 1, l. 6.

<sup>34</sup> See 4Q274 frg. 3 i, l. 8.

<sup>35</sup> *Ibid.*, l. 7. See also 4Q284a frg. 1 l. 5.

water specifically as the liquid which allows this to occur. The second part of the verse describes the actual impurity of liquids themselves resultant of these swarming things falling into them. *Here* the reference is to “any liquid”. It seems clear that some early exegete expanded the reference to “כל משקה” (“any liquid”) in the second part of the verse to refer to the first half of the verse. Therefore, “any liquid” may enable the defilement of food. This led to an emphasis on the biblical word משקה in several Qumranic texts which deal with causing susceptibility.<sup>36</sup> Traces of such a היקש, analogy, between the two parts of the verse exist in rabbinic sources as well.<sup>37</sup> The Sages also maintained that liquids other than water may enable foods to become impure. But the Rabbinic law limited this broadening interpretation of the biblical “water” to seven liquids alone.<sup>38</sup> However, the common halakhic principle, as well as the common comparative strategy (היקש) both point to a common exegetical foundation of the meta-biblical stance that many liquids may cause susceptibility.

The Qumranic homilies enumerated above served us as examples of sectarian “creative interpretations”—they appear to be actually producing laws through biblical hermeneutics, uncovering before our eyes the very process by which some basic halakhic elements were initially created. Let us now turn to some “integrative interpretations,” namely supportive homilies, which seem to be secondary biblical backings of extant legislation.

## 2. QUMRANIC INTEGRATIVE INTERPRETATIONS

### 2.1. *Impurity of the Components of the House*

The Damascus Document uses the phrase: “וּבַל הָעֵצִים וְהָאֲבָנִים וְהָעֶפֶר” to teach that “wood, stones and dust,” the materials which compose the house enclosing a corpse, contract corpse-impurity.<sup>39</sup> In the fol-

<sup>36</sup> See 4Q274 3 i 6, 7; Baumgarten *ibid.*, 106; 4Q284 1 l. 5; *ibid.*, 131–32.

<sup>37</sup> The homilies in *Sifra Shemini* 8, 1 apply the words “כל משקה” to liquids which cause susceptibility to foodstuffs, rather than to liquids becoming impure themselves. See also *b. Pesah.* 16a, where this interpretation is expressed explicitly: “What does ‘it shall become unclean’ mean? [It means:] ‘It shall make [others, i.e., solid foodstuffs] susceptible [to impurity].’”

<sup>38</sup> *m. Makš.* 6:4; *m. Ter.* 11:2.

<sup>39</sup> CD 12: 15–17 in *Damascus Document, War Scroll and Related Documents* (ed. James H. Charlesworth; PTS DSSP 2; Tübingen: Mohr Siebeck, 2006), 52.

lowing lines it goes on to mention “any vessel, nail, or peg in a wall which are with a corpse in a house”<sup>40</sup> as well. This precept corresponds with the *Temple Scroll’s* instruction to scrape the floor, the walls and the doors of the house of the dead, and to wash with water its locks, doorposts, thresholds and lintels.<sup>41</sup> The impurity of the tent of the dead itself, in addition to the persons and utensils found in it, is explicit in scripture—“and sprinkle on the tent and on all the vessels and people who were there” (Num 19:18). The *Temple Scroll* and CD, like the Septuagint, Philo and Josephus, substituted “house” for the “tent” of the dead in Numbers 19.<sup>42</sup>

At first glance, there is no indication of biblical exegesis in CD. However, further inspection reveals that the Damascus Document did not use the inclusive term “all” incidentally. This word is found in the biblical verse: “*all* that is in the tent shall be unclean” (Num 19:14). Moreover, Targum Pseudo Jonathan to Num 19:14 attaches these same three items: “ground, stones and wood” to the biblical word *וכל* in this verse. Additionally, we find a Tannaitic legal midrash which *rejects* this very exegesis of the word “all” in the self-same verse:

“*Whatever is in the tent*” (Num 19:14): Do I hear that even the straw and the twigs, *the wood, the stones and the soil* are included? Scripture teaches: “*on the tent and on all the vessels and people*” (Num 19:18) (*Sifre Numbers* 126).<sup>43</sup>

The midrash uses a different phrase in the same biblical section to teach that only utensils and people in the house of a corpse are rendered impure—*not* the raw materials of the house itself.<sup>44</sup>

In these three sources—CD, *Sifre Numbers*, Ps. Jon.—the voice of an ancient halakhah is heard, one that listed the three items—wood, stones and soil—as receiving impurity. Presumably this halakhah was attached to the word *כל* in the verse, “*all* that is in the tent shall be unclean” (Num 19:14). This early midrash is implied in the wording of CD as well. The existence of this kind of inclusive exegesis in the *Damascus Document* is surprising. It is a highly developed midrashic

<sup>40</sup> Lines 17–18, *ibid.*

<sup>41</sup> 11QT<sup>a</sup> 49: 11–13.

<sup>42</sup> 11QT<sup>a</sup> 49:5–50:19; Qimron, *Temple Scroll*, 70–73; Philo, *Spec. Laws*, 3. 206; Josephus, *Ag. Ap.* 2.205; See discussion by Yadin, *Temple Scroll* 1:325–26.

<sup>43</sup> Horowitz, 162.

<sup>44</sup> For a detailed discussion of all these sources see Noam, “Qumran and the Rabbis.”

strategy, reminiscent of the classic homiletic style which flourished in Rabbinic circles two or three centuries later.<sup>45</sup>

Be that as it may, the midrash based on the word “all” is clearly a “technical” reading which does not depend upon innocent study of the plain meaning of the word. Elsewhere I have argued that at the foundation of the Qumranic stance which insists upon defilement of the components of the house lies the sect’s basic attribution of impurity to the artifacts of human culture, as opposed to the immunity of nature.<sup>46</sup> This homily is merely an artificial support added to one aspect of this broader attitude—an integrative interpretation.

## 2.2. *Distancing Burials from Cities*

Another example of this type of arbitrary homily can be seen in the *Temple Scroll’s* use of the verses from Numbers 35 and Deuteronomy 19, concerning Levite cities and cities of refuge, to develop the obligation to distance burials from all cities, despite the absence of any mention of this requirement in the verses themselves.<sup>47</sup> As Yadin has shown, the same verses are used as proof-texts for a similar, but reduced, obligation in late layers of rabbinic literature.<sup>48</sup> It appears that an early homily attached laws concerning the placement of cemeteries outside of city confines to the only biblical verses devoted to the planning of urban space and city life. This is similar to the way that these same verses were utilized to support the laws of Sabbath boundaries (תחום שבת).<sup>49</sup> These exegetical attempts seem artificial and do not appear to have been generative of the laws they supposedly produce. Rather, they only serve to support existing legal tenets.

<sup>45</sup> On the Tannaitic exegetical approach which understood inclusive biblical words like “all” as hints of multiplicity and expansion of rules, see Epstein, *Introduction*, 529–31, esp. 529.

<sup>46</sup> Noam, “Qumran and the Rabbis.”

<sup>47</sup> 11QT<sup>a</sup>, *Temple Scroll*, 48: 10–14, Qimron, *Temple Scroll*, 70. See Yadin, *Temple Scroll*, 1:322–23; 2:209, commentary to lines 10–11, 13.

<sup>48</sup> *y. Erub.* 5:3, 22d (= *y. Mak.* 2:7, 32a); Yadin, *Temple Scroll*, 1:323. On the rabbinic reduction of the prohibition to bury the dead near settlements, see Noam, “Dual Strategy.”

<sup>49</sup> CD 10: 21, 11:5–6; *m. Soṭah* 5:3. See Lawrence H. Schiffman, *The Halakhah At Qumran* (Leiden: Brill, 1975), 90–98.

### 2.3. *Moral Rationale for Corpse Impurity*

To these examples I would add one more whose focus is moral rather than legal. Numbers 35, alluded to in the above mentioned passage in the *Temple Scroll*, deals with “cities of refuge” for unintentional murderers. The biblical words “You shall not defile the land” (35:34) are used in this pericope as a warning against harboring intentional murderers. The *Temple Scroll* uses these same words: “And you shall not defile your land” to admonish against corpse impurity, engendered by burial in inhabited areas.<sup>50</sup> This connection may hint at an ethical rationale for the impurity of the dead. Let us take a look at a similar moral explanation suggested in Second Temple literature:

It (the law) gives instruction that both the house and its residents are to be purified after the funerary rites, so that anyone who has committed murder might be far from seeming to be pure (Josephus, *Against Apion* 2.205).<sup>51</sup>

So careful was the lawgiver to guard against anyone helping to bring about the death of another that he considers that even those who have touched the corpse of one who has met a natural death must remain unclean until they have been purified by aspersions and ablutions... (Philo, *Spec. Laws* 3: 205).<sup>52</sup>

It may very well be that the *Temple Scroll's* use of the verse dealing with murderers in the context of corpse impurity was meant to imply that distancing of ritual impurity reflects the distancing of moral impurity.<sup>53</sup>

<sup>50</sup> 11QT<sup>a</sup> 48: 10–11, Qimron, *Temple Scroll*, 70; Yadin, *Temple Scroll*, 2:209.

<sup>51</sup> Steven Mason, *Flavius Josephus: Translation and Commentary* (Vol. 10: *Against Apion*, translation and commentary by John M. G. Barclay, Leiden: Brill, 2007), 288. See the commentator's remark on the attempt of the common tradition of Philo and Josephus “to make *moral* impurity the primary phenomenon, and ritual, physical impurity derivative from it,” *ibid.*, note 829.

<sup>52</sup> Francis H. Colson, *Philo* (Vol. 7, LCL; Cambridge, Massachusetts: Harvard University Press; London: William Heinemann LTD, 1938), 603.

<sup>53</sup> On the relation between ritual and moral impurity in Qumran see Jonathan Klawans, *Impurity and Sin in Ancient Judaism* (New York: Oxford University Press, 2000), 67–91. For different interpretations of this passage in the *Temple Scroll* see pages 51 and 182, notes 69, 70, where the author suggests either the ritual explanation (the land is defiled due to improper burial) or the moral one (the land is defiled because of bloodshed). In his opinion, the second possibility obligates that this warning be an independent passage, isolated from the following section, which is devoted to ritual purity. My own suggestion, however, is that this phrase deals with ritual impurity, but hints to its moral roots, by means of allusion to the biblical context of murder and its effect on the land.

If this is true, then the exegetical strategy here was designed to serve an existing moral idea, common in other sources of Second Temple era.

### 3. CONCLUSION

In the current paper I wished to demonstrate that the common distinction between “creative interpretation” and “integrative interpretation,” usually applied to rabbinic legal midrash, may be fruitfully implemented for Qumranic legal hermeneutic as well, in spite of the embryonic nature of the sectarian exegesis. Our survey demonstrates the existence of Qumranic rules which were an actual product of biblical interpretation, thus enabling us to peer into the very “factory” wherein the foundations of halakhah were formulated (the list of foods and utensils which contract corpse impurity; the degree of removal of the corpse-contaminated from the camp; the impurity of a woman carrying a dead fetus; liquids capable of causing susceptibility to impurity).

On the other hand, we have also presented examples of religious rules which were arbitrarily attached to biblical “prooftexts.” In these cases, an independent, extant tradition was connected artificially to a Pentateuchal verse (impurity of the components of a house; distancing burials from cities; moral rationale for corpse impurity). This phenomenon sheds light on the existence of ancient non-biblical traditions in these Jewish circles of Second Temple era. It also illuminates the sectarian quest for biblical authorization.

Above and beyond these conclusions, we may infer the following: During the time in which the *Temple Scroll* was composed, as well as in the later periods of the composition of the *Damascus Document* and 4QMMT, legal exegesis of the Bible was not considered to be an independent genre. It lacked any distinctive literary form as well as any developed terminology. However, there is no doubt that more than two centuries previous to the destruction of the Second Temple, a wide variety of exegetical strategies were already at work, serving both to bolster existing laws as well as to form new ones.