

# Journal of Ancient Judaism Supplements

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# Halakhah in Light of Epigraphy

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surrounded the perimeter of the Temple Mount. And even after the commandment in Lev 23:40 was separated from the commandment to build booths, and reinterpreted to refer to the lifting and waving of the four species each day of Sukkot, the people continued to store the *lulavim* atop the columns and beams surrounding the Temple Mount, which created a *de facto sukkah* in the “courtyards of the house of God,” even if they did not dwell in this “booth” at all, and did not consider it a fulfillment of either the commandment to dwell in booths or the commandment to “take up” the four species. As time went on, the people became less and less conscious of the connection between the storage of *lulavim* atop the structure on the perimeter of the Temple Mount and Nehemiah’s version of the “making of booths, as is written,” to the point that even after Herod surrounded the Temple Mount with a permanent roofed *stoa*, they continued storing the *lulavim* atop the roof of this structure, even though in doing so they did not create any form of *sukkah*, since placing branches atop a solid, permanent roof is not considered building a *sukkah* by any standard.

An interesting echo of the explanation offered here is found in the version of Rahava of Pumbeditha’s statement found in the Florence manuscript of *bBer* 33b:

דא' רחבא א' רבי יהודה רה רבתי סטיי כפול היה והיה סטיי ולפניו סטיי ויהיה סטיי  
לפניו סטיי ולפניו סטיי

Rahava said in the name of Rabbi Yehudah: the Temple Mount consisted of a double *stoa*. It was a *stoa* within a *stoa*, and it was roofed with *sekhakh* from colonnade to colonnade and from colonnade to the Temple Mount [wall].

While this tradition is not found anywhere else, and is no doubt the work of the imagination of a later scribe, it shows that the connection between the building of *sukkot* in the Temple courtyard, as reflected in Nehemiah, and the storage of the *lulavim* atop the permanent roof of the *stoa*, as found in the Mishnah, was obvious even to someone who was unaware of the missing link, the open-roofed *parवारim* thatched with *sekhakh* on the perimeter of the Temple Mount in the Temple Scroll. With the discovery of the Temple Scroll, the missing link between Nehemiah and the Mishnah, the strange use of the exposed roof of the *stoa* as a storage place for *lulavim* makes sense. *Lulavim* were stored atop the roof of the *stoa* despite the fact that this would dry them out, in an echo of early halakhah, the most ancient interpretation of the Lev 23:40, according to which Israel is to rejoice before the Lord with the four species by using them to build *sukkot* on the Temple Mount.<sup>14</sup>

<sup>14</sup> For further discussion of the Temple Mount *sukkah*, see D. Henshke, *Festival Joy in Tannaite Discourse* (Hebrew: Jerusalem 2007) 188–89 n. 100, and bibliography cited there.

## “The Gentleness of the Gentiles”:

### Two Approaches to the Impurity of Non-Jews

#### Introduction: The Impurity of Gentiles

An essential impurity that attaches to gentiles by virtue of their very being is mentioned in different rabbinic contexts, as well as in some scattered references in Second Temple literature.<sup>1</sup> This issue has been extensively discussed in modern scholarship, beginning with a comprehensive study by Adolf Büchler. Büchler surmised that a decree was issued during the Hasmonean period declaring that a limited menstrual impurity applied to gentile women, and derivatively to gentile men. Only at the eve of the Great Revolt against Rome was a general full-scale impurity imposed on all gentiles, by virtue of “gentleness,” and this for political reasons. The latter decree, however, hardly ever had practical consequences in real life.<sup>2</sup>

Gedalia Alon challenged Büchler’s view and concluded that “The impurity of non-Jews is one of the early halakhot, current among the nation a long time before the destruction of the Temple,” and that it is rooted in the ascription of impurity to “the idol and its attendants.” This impurity adhered to the very essence of the gentile, and was not condition-dependent. “Its influence,” he wrote, “was very evident in the life of the nation,” though subsequently it was restricted by the rabbis and ultimately discontinued.<sup>3</sup>

Jonathan Klawans argued, in contrast to his predecessors, that both in scripture and in Second Temple literature, ritual impurity was not attributed to gentiles, but only a moral impurity. In his view, gentile ritual impurity

<sup>1</sup> The sources are collected in G. Alon, “Levitical Uncleanness of Gentiles,” in idem, *Jews, Judaism and the Classical World: Studies in Jewish History in the Time of the Second Temple and Talmud* (trans. Israel Abrahams; Jerusalem 1977) 149–54. These sources are treated also in the works cited below. For a review and reassessment of this subject see my paper “Another Look at the Rabbinic Conception of Gentiles from the Perspective of Impurity Laws,” in Benjamin Isaac and Yuval Shahar, eds., *Judaea, Babylon and Rome* (TSAJ; Tübingen forthcoming).

<sup>2</sup> A. Büchler, “The Levitical Impurity of the Gentiles in Palestine before the Year 70,” *JQR* 17 (1926–1927) 1–81. H. Maccoby, *Ritual and Morality: The Ritual Purity System and its Place in Judaism* (Cambridge 1999) 8–12, 100, emphasized the limited scope and effect of the decree on impurity of gentiles, and assigned it to the eve of the Great Revolt and to political motives, but did not mention Büchler.

<sup>3</sup> Alon, “Levitical Uncleanness,” 147, 149.

was a tannaitic innovation, developed gradually by the sages, and even that rather loosely and apart from the regular scheme of purity and impurity.<sup>4</sup>

Christine Hayes, in the vein of Klawans, rejected the existence of a gentile ritual impurity in Second Temple period sources, with the possible exception of the Qumran/Essene sect. As for rabbinic literature, Hayes claimed that in the tannaitic period a rabbinic decree applied to gentiles a very limited form of impurity defined as the impurity of *zav* (a person with a discharge), but nonetheless, in Hayes' view, dissimilar to original impurity. Hayes further held that this impurity imposed on gentiles had nothing to do with the impurity of idolatry. The rabbinic decree on gentile impurity, according to Hayes, was an expression of new, expansive definitions of Jewish identity current in rabbinic circles. This relatively mild and ineffective form of impurity was established as a replacement to much more stringent positions taken by other Jewish circles, and earlier Jewish traditions, on the issue of sexual relations and marriage with non-Jews and on the possibility of full conversion to Judaism.<sup>5</sup>

Recently Hanan Birnboim revived the view that gentile ritual impurity was both early and intense, suggesting that it was the process of separation from gentiles during the Babylonian exile and the early years of the Return that motivated the creation of barriers in the form of ritual impurity ascribed to gentiles and to objects of idolatry.<sup>6</sup>

In a recent article, I have examined the application of circumstantial corpse impurity to gentiles in rabbinic thought, its relation to the particular decree on gentile inherent impurity, and the image of the gentile as it emerges from this rabbinic system.<sup>7</sup>

In the current paper I would like to focus on a piece of evidence that I believe may add to our understanding of the date, the rationale, and the development of the decree of gentile impurity. I shall begin with the biblical context that served as the reference for the concept of the impurity of gentiles' utensils in both Qumran and rabbinic literature, and then proceed to the different interpretations suggested for it in these two corpora. The dissimilarity of these two veins of exegesis may delineate the transformation into the general notion of gentile impurity from the Second Temple era into rabbinic culture.

<sup>4</sup> J. Klawans, "Notions of Gentile Impurity in Ancient Judaism," *AJS Review* 20 (1995) 285-312. A comprehensive bibliography on the subject of gentile impurity is supplied in the course of that article.

<sup>5</sup> C. E. Hayes, *Gentile Impurities and Jewish Identities* (Oxford 2002); see esp. chapters 3 and 6.

<sup>6</sup> H. Birnboim, "Observance of the Laws of Bodily Purity in Jewish Society in the Land of Israel: During the Second Temple Period" (Hebrew; Ph.D. diss., the Hebrew University of Jerusalem), especially chapter 2.

<sup>7</sup> Noam, "Another Look."

### Purification of Utensils in Numbers 31

Though the laws of corpse impurity are set forth in the Torah mainly in the chapter concerning the "red heifer," Numbers 19, several other passages provide ancillary rules on such matters as the circumstances in which the impurity is forbidden, the status of the impure person, and the impurity of vessels. The most important of these passages is that concerning the war against Midian in chapter 31 of Numbers, where several central rules concerning corpse impurity are stated (vss. 19-24). Though the plain sense of the passage is that these are temporary orders for that particular war, the orders reflect fundamental general concepts of purity and impurity. Indeed, many biblical scholars believe the laconic description of the war with Midian to be no more than a narrative frame for these laws.<sup>8</sup> It is widely held by critical scholars that the entire chapter lacks any historical base and is a late stratum of the priestly code, or an addition to it.<sup>9</sup> However, there have also been scholars who pointed to early elements and an historical kernel in the section.<sup>10</sup>

Both the content and the language of the verses on corpse impurity in Numbers 31 display an unmistakable dependence on chapter 19. Points of similarity in content between the two chapters include the following:

- 1) the seven days of impurity: "You shall then stay outside the camp seven days, every one among you or among your captives who has slain a person or touched a corpse" (Num 31:19); cf. "And in the open, anyone who touches a person who was killed or who died naturally ... shall be unclean seven days" (Num 19:16)
- 2) cleansing on the third and seventh days: "he shall cleanse himself on the third and seventh days" (Num 31:19); cf. "He shall cleanse himself with it on the third day and on the seventh day, and then be clean" (Num 19:12)

<sup>8</sup> See G. B. Gray, *A Critical and Exegetical Commentary on Numbers* (ICC 4; Edinburgh 1986) 418; M. Noth, *Numbers: A Commentary* (trans. J. D. Martin; OTL 4; London 1968) 228; B. A. Levine, *Numbers: a New Translation with Introduction and Commentary* II (AB 4; New York 1993-2000) 445; J. Licht, *Commentary on the Book of Numbers* (3 vols. Hebrew; Jerusalem 1991) 3:112. For a conspectus of critical opinion on the passage see P. J. Budd, *Numbers* (WBC 5; Waco, Texas 1984) 327-29. Milgrom, on the other hand, supposes that the story is earlier than the laws appended to it. See J. Milgrom, *The JPS Torah Commentary: Numbers* (New York 1990) 492.

<sup>9</sup> See Budd, *Numbers* 327 and the literature cited there; Gray, *Numbers* 418-19, who terms the chapter a "midrash" superimposed on an earlier priestly stratum. (See also the view of R. de Vaux quoted in Budd, *Numbers* 330.) Levine, *Numbers* 464, 472-74, dates the chapter to the Persian period. Noth, *Numbers* 229, 231, considers the entire passage a late addition to the Torah in general, and verses 21-24 a foreign body within that. See further below.

<sup>10</sup> See the views surveyed by Milgrom, *Numbers* 490-91, and his own view.

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- 3) cleansing in "water of lustration": "except that they must be cleansed with water of lustration" (Num 31:23); cf. "The water of lustration was not dashed on him: he is unclean. . . . He who sprinkled the water of lustration. . . . Whoever touches the water of lustration. . . ." (Num 19:20–21)
- 4) cleansing of persons and objects: "Every one of you. . . shall cleanse himself. . . . You shall also cleanse every cloth, every article of skin, every-thing made of goats' hair, and every object of wood" (Num 31:19–20); cf. "sprinkle. . . on all the vessels and people" (Num 19:18)
- 5) washing of clothes: "On the seventh day you shall wash your clothes and be clean" (Num 31:24); cf. "He shall then wash his clothes and bathe in water" (Num 19:19).

With respect to language, the use in chapter 31 of several expressions from chapter 19 is striking:

- 1) כלל נגע כלל נגע "Every one. . . who has . . . touched a corpse," (Num 31: 19, cf. Num 19: 16)
- 2) תרחטא "shall cleanse himself," (Num 31: 19, cf. Num 19:12, 13, 19, 20)
- 3) זאת חוק התורה "This is the ritual law," (Num 31:21, cf. Num 19:1)
- 4) כי נדה "water of lustration" (Num 31: 23, cf. Num 19: 9, 13, 20, 21)

Nonetheless, our section, Num 31:19–24, also includes additions and changes to Num 19:

- 1) There is a list of the organic materials from which objects requiring "cleansing" are made—cloth, skin, goats' hair, and wood.
- 2) Explicit mention is made here not only of "every one. . . who. . . touched a corpse," but also of "one who has slain a person." The "slayer" could be seen as merely a contextually appropriate specific instance of the "toucher." However, the verse can also be seen as an expansive interpretation of the rule on the "toucher," namely that one who kills by a sword is considered as if he touched the corpse directly. The implication is that "touching by a connection," as the rabbis put it, or in other words, any indirect contact with a corpse, defiles.<sup>11</sup> A more far-reaching interpretation would derive from the verse that even one "who shot an arrow and killed" becomes impure, in other words that the very killing of a person causes impurity even without any contact.<sup>12</sup>
- 3) Scripture here instructs that for the Israelite soldiers the Midianite casualties cause impurity. Furthermore, even the foreign captives ("among

<sup>11</sup> Licht, *Numbers* 2:122.

<sup>12</sup> The rabbis accepted the first of these expansive interpretations, closer to the plain meaning of scripture, and rejected the second. Sifre Numbers 127 (ed. Horowitz, 164–65).

you or among your captives") must be purified.<sup>13</sup> Our passage, then, spells out what is left unstated, or is at most hinted, in Numbers 19 — that a gentile corpse causes impurity and that a living gentile (or at any rate one who is held by an Israelite as a captive or perhaps also as a slave) is susceptible to corpse impurity and requires purification just as an Israelite does.

4) Here, as in Num 5:1–4, impure persons are required to leave the Israelite camp, contrary to chapter 19, which places no such requirement.<sup>14</sup> Some have explained away the discrepancy by pointing to the differing circumstances of desert war conditions and normal settled life; others have seen in these passages opposing principles in the doctrines of the Torah concerning purity.<sup>15</sup>

5) The most striking innovation in the section is in the speech of Eleazar: (21) Eleazar the priest said to the troops who had taken part in the fighting, "This is the ritual law that the Lord has enjoined upon Moses: (22) Gold and silver, copper, iron, tin, and lead—(23) any article that can withstand fire—these you shall pass through fire and they shall be clean, except that they must be cleansed with water of lustration; and anything that cannot withstand fire you must pass through water. (24) On the seventh day you shall wash your clothes and be clean, and after that you may enter the camp. (Num 31:21–24)

<sup>13</sup> Tannaitic midrash rejected this conclusion vigorously: "Just as 'you' are members of the covenant, so are 'your captives' members of the covenant" (Sifre Numbers 157 [ed. Horowitz, 212]). See Rashi ad loc. Ibn Ezra here (Num 31:19) and in the earlier passage (19:10, s.v. נדה) comments that the duty of gentiles to purify themselves in these cases derives from their proximity to the presence of the *Shekhina*, in the Land of Israel generally (chapter 19) or in the military camp (chapter 31), "because of the Holy One who dwells within them." Nahmanides, ad Num 31:19, s.v. נדה, interprets the purification of the "captives" as referring to the captives' clothes and utensils. For more on the exemption of gentiles from corpse impurity, see Ohal 1:4, 14:6, bYev 60b–61a; bNaz 61b. I hope to return to this point on another occasion.

<sup>14</sup> J. Milgrom, *Leviticus: A New Translation with Introduction and Commentary* (AB 3, 3a, 3b; New York 1991–2001) 276–27, adduces several grounds for the assertion that in Numbers 19 a person with corpse impurity is not required to leave the camp. Rashi evades the difficulty by interpreting "outside the camp" at 31:19 as "outside the Temple precinct," and "enter the camp" at 31:24 as referring to "the camp of the *Shekhina*," that is the Tabernacle precinct. Nahmanides, ad Num 31:23, explains the requirement of leaving the camp as a practical one, "so the people will not become impure," rather than as a legal principle forbidding the presence of a person with corpse impurity in the camp of the Israelites.

<sup>15</sup> See Licht, *Numbers* 1:58; 2:173; Milgrom, *Leviticus* 43–45, 261, 276, 310–13, 976–85; idem, *Numbers* 258, 260–61; I. Knohl, *The Sanctuary of Silence. The Priestly Torah and the Holiness School* (Minneapolis 1995) 185–86; T. Frymer-Kensky, "Pollution, Purification and Purgation in Biblical Israel," in C. L. Meyers and M. O'Connor, eds., *The Word of the Lord Shall Go Forth: Essays in Honor of David Noel Freedman in Celebration of His Sixtieth Birthday* (Winona Lake 1983) 399; D. P. Wright, "Purification from Corpse-Contamination in Numbers XXXI 19–24," VT 35 (1985) 213–23, esp. 215 n. 7; J. Milgrom, "The Scriptural Foundations and Deviations in the Laws of Purity of the Temple Scroll," in L. H. Schiffman, ed., *Archaeology and History in the Dead Sea Scrolls* (JSPSup 8; Sheffield 1990) 83–99. Concerning the ambivalence with regard to impurity in the non-sacred realm, see V. Noam, "The Dual Strategy of Rabbinic Purity Legislation," *JVS* 39 (2008) 471–512 and the literature cited there.

These instructions follow immediately after the rules for purification from corpse impurity of the warriors and of their captives and booty specified earlier (31:19–20), which correspond perfectly to the rules in the section on the red heifer (Numbers 19) and reflect its language. The phrase *חוקת חוקת הרתור* (“this is the ritual law”) that opens Eleazar’s speech also reflects the section on the red heifer. However, the speech contains a new law to which there is no reference in chapter 19. The warriors are required to pass metal utensils through fire, and utensils made of materials not resistant to fire through water, in addition to purification in “water of lustration.”<sup>16</sup> According to Martin Noth, verses 21–24 are an addition detached from some other context, and the words *חוקת חוקת* (“water of lustration”) are a yet later addition.<sup>17</sup> David P. Wright sees these verses as a later supplement to the laws of Numbers 19, adding procedures for purification from corpse impurity. The supplement adds immersion for objects with corpse impurity in line with the immersion prescribed in Leviticus for objects contaminated by swarming things or discharge. Purification of metal vessels here by fire rather than by immersion in water is due to the more intense contamination of corpse impurity. In Wright’s view, it is the seeming innovation of the prescriptions in our passage that leads to having Eleazar, rather than Moses, announce them. By means of this ascription, the new instructions are seen as part of the original prescriptions, and not as the product of a new revelation.<sup>18</sup> Jacob Licht also believes that the passage is a supplement, originating, in his view, in a separate body of purity regulations. It is not, in his view, an expansion of the regulations of Numbers 19, for whereas those regulations prescribe procedures for purification of vessels contaminated in the course of normal life, our passage treats purification from corpse impurity specifically of war booty.<sup>19</sup> Milgrom holds that the prescription on passing through water and fire is not a supplement to chapter 19, but rather represents an older tradition, more severe in the matter of corpse impurity and requiring more intense measures for its removal.<sup>20</sup>

<sup>16</sup> Some modern scholars identified the “passing through water” with the sprinkling of “water of lustration.” According to that view only non-fire-resistant utensils would require sprinkling. Furthermore, the passage would then not require immersion at all, but only, as alternatives, sprinkling with “water of lustration” or passing through fire. The simple meaning of the passage accords better with the traditional interpretation by which immersion or passing through fire are required in addition to sprinkling with “water of lustration.” See Gray, *Numbers* 422; Wright, “Purification”, Licht, *Numbers* 3:115; Milgrom, *Numbers* 261.

<sup>17</sup> Noth, *Numbers* 231.

<sup>18</sup> Wright, “Purification.” See also Milgrom, *Numbers* 260; Rabbinic midrash interpreted the appearance of Eleazar in different ways: Sifre Numbers 157 (ed. Horowitz, 213).

<sup>19</sup> Licht, *Numbers* 3:115, 123.

<sup>20</sup> Milgrom, *Numbers* 261.

#### Rabbinic Interpretation: Scorching, Rinsing, and Immersion in a *Mikveh* of Utensils Used by Gentiles

Surprisingly, rabbinic interpretation of the passage displays a quasi-critical approach, seeing verses 21–23 as an intrusion of a foreign body dealing with a different subject. It goes without saying that rabbinic midrash did not use modern critical terminology, nor was it concerned with the questions of modern critical study. Nonetheless, the halakhic conclusions are reached by severing an apparently continuous and coherent text into two distinct contexts. The apparent redundancy of the procedures for purification—immersion in water or passing through fire, in addition to sprinkling of “water of lustration”—and the total absence of any reference to these rules in chapter 19 brought the rabbis to see these verses as a parenthetical passage on a separate matter.<sup>21</sup> In the rabbis’ view, these verses do not treat corpse impurity, but rather the issue of utensils used by gentiles for cooking forbidden food. Required is not purification, but *hag’alah*—scorching (in fire) or rinsing (in water) to purge remnants of that food, and not in wartime, but in daily life.<sup>22</sup> That is, the passage prescribes the method for making utensils used by gentiles, *gi’ulei goyim*, acceptable in terms of *kashrut*, and has nothing to do with corpse impurity.<sup>23</sup> By contrast, with respect to corpse impurity the halakhah determined that contaminated vessels require sprinkling with the water of the red heifer, but neither scorching (in fire) nor scalding or rinsing (in water). This radical reinterpretation of the passage entails real difficulties, for the verses are embedded in a clear and continuous frame dealing with purification from corpse impurity (verses 19–20, 24). The text contains no indication of change of subject and, above all, in this very verse reference is made to “water of lustration” (“Any article that can withstand fire—these you shall pass through fire and they shall be clean, except that they must be cleansed with water of lustration”), the very term used no less than three times (verses 9, 13, 20) in chapter 19 (and nowhere else in the Bible) for the water prepared with the ashes of the red heifer. There can be no clearer evidence that our verse in fact treats the purification from corpse impurity! But the rabbis were unconcerned by this difficulty. A tannaitic *midrash* cited in the Talmud presents a new interpretation of the expression “water of lustration” in our context, quite contrary to its meaning in its other occurrences:

<sup>21</sup> In Num 19:19 too the impure person is required to bathe in water on the seventh day of his purification. However, there the washing is of a human being, not of utensils. Passing through fire is not mentioned in Num 19 at all.

<sup>22</sup> See Sifre Numbers 158 (ed. Horowitz, 214), discussed in detail below; mAZ 5:12; yAZ 5:15 (= 45b); bNaz 37b; bAZ 75b–76a.

<sup>23</sup> See e.g. yAZ 5:15 (= 45b); bPes 44b; bNaz 37b; bAZ 38b. See also Tg. Ps.-J. ad loc.

Bar Kapara taught: From what was said, "with water of lustration," I might have learned that [a vessel taken from a gentile] requires the sprinkling of the third and seventh days. Scripture teaches: 78 "except"; it distinguishes. What then does scripture teach in the words "water of lustration"? Water in which a menstruant immerse.<sup>24</sup> [Note the play on the two senses of the word טָוַךְ in biblical Hebrew—(1) "sprinkling, lustration," the plain meaning in this verse, and (2) "menstruant woman, menstrual period," its exclusive sense in rabbinic Hebrew, introduced into the verse by the homilist.]

This interpretation, turning the purification by ashes of the red heifer in the plain meaning of the text into an instruction on immersion in a *mikveh*<sup>25</sup> served the rabbis as support for the additional requirement to immerse in a *mikveh* utensils purchased from gentiles even if the utensils were never used by the gentile for eating or cooking.<sup>26</sup> This interpretation was incorporated into the targum Pseudo-Jonathan on the words "except that they must be cleansed with water of lustration"; The targum states: "Afterwards it should be sprinkled with water fit for purification of a menstruant." Biblical commentators sensed the difficulty. Abraham Ibn Ezra admitted, "It would seem to us that this ['water of lustration'] was the water of the ashes of the red heifer... Yet the sages said it means the quantity of water in which a menstruant woman immerses, and their minds are greater than ours."<sup>27</sup> Nahmanides stated, very hesitantly, "I have the feeling that the requirement of immersion is a rabbinic ordinance, and that the verse is only cited to provide scriptural support."<sup>28</sup>

<sup>24</sup> bAZ 75b.

<sup>25</sup> It should be noted that this homily is not found in the tannaic halakhic midrashim. There it seems that the expression "water of lustration" was taken in its plain sense, water with ashes of the red heifer. In the view of the *Sifre* and *Sifre Zuta* the verses treat vessels that were used by gentiles and in addition underwent corpse impurity, and thus require both sprinkling and *hag'alah*. See Saul Lieberman, *Sifre Zuta: (Midrashah shel Lode)* (New York 1968) 104–108. Lieberman suggests taking the Bavli passage in the same sense, but this is difficult. I thank Prof. Menahem Kahana for the reference.

<sup>26</sup> See IAZ 8:2 and parallels; Yemshalmi loc. cit. (see supra n. 16).  
<sup>27</sup> Ad Num 31:23 s.v. 78. On Ibn Ezra's approach to halakhic matters in his commentary to the Pentateuch see Uriel Simon, "The Exegetic Method of Abraham Ibn Ezra, as Revealed in Three Interpretations of a Biblical Passage," *Bar-Ilan Annual of Bar-Ilan University. Studies in Judaica and the Humanities* 3 (1965) 92–138.

<sup>28</sup> Ad Num 31:23 s.v. 72i. Rashi too, ad loc., distinguishes between "the simple meaning" and "the rabbinic exegesis."

#### Qumranic Interpretation: Impurity of Idolatry

It appears that an interpretation similar to the rabbinic one, detaching the verse from its context, corpse impurity, was known to, and apparently accepted by the author of the Temple Scroll. When detailing the procedures for purification of a house containing a corpse and utensils, the scroll prescribes, *inter alia*—

- 13 On the day when
- 14 the corpse is removed from it, they shall purify the house and all its utensils, the mill and the mortar
- 15 and all utensils of wood, iron, and bronze, and all vessels for which there is purification.
- 16 Clothes, sacks, and skins shall be washed; and every person who was in the house
- 17 and every person who entered the house shall bathe in water and wash his clothes on the first day (Temple Scroll 11QT<sup>a</sup> col. 49).<sup>29</sup>

As Yadin demonstrated, the author combines here phrases taken from three separate sources—Numbers 19 (corpse impurity), Leviticus 11 (swarming-thing impurity of vessels and clothing), and Numbers 31 (the war against Midian). "The house and all its utensils" (11QT<sup>a</sup> 49:15) paraphrases "on the tent and on all the vessels" (Num 19:18); "And all utensils of wood" (line 15) is drawn from "and every object of wood" (Num 31:20); the reference to iron and bronze in line 15 echoes the listing of "Gold and silver, copper, iron, tin, and lead" (Num 31:22). The phrase "Clothes, sacks, and skins" (line 16) derives from "... any article of wood, or a cloth, or a skin, or a sack..." (Lev 11:32).<sup>30</sup> We may add that the list of utensils requiring purification in the context of a dead fetus in utero: "And all the utensils, and the clothes, and the skins, and everything made of goats' hair; you shall deal with them according to the regulation of this law" (11QT<sup>a</sup> 1:16–17) reflects the verse "You shall also cleanse every cloth, every article of skin, every thing made of goats' hair, and every object of wood" (Num 31:20).<sup>31</sup> Now, though the author of the Temple Scroll makes much use of the passage in Numbers 31, and even cites from the list of utensils in 31:22 precisely the items that are to be passed through fire or water, nonetheless the scroll makes no mention at all of scorching contaminated utensils in the entire

<sup>29</sup> E. Qimron, *The Temple Scroll: A Critical Edition with Extensive Reconstructions* (Beer Sheva/Jerusalem 1996) 71; Y. Yadin, *The Temple Scroll* (3 vols.; Jerusalem 1983) 2:215–16.

<sup>30</sup> Yadin, *Temple Scroll* 1:330, 2:216.  
<sup>31</sup> A very similar homily, *Sifre* Numbers 126 (Horowitz, 162–63), combines the lists of contaminated vessels in Num 19:31 and Leviticus 11.

section devoted to corpse impurity (48:10–14, 49:5–50:19).<sup>32</sup> Clearly in the view of the Temple Scroll the instructions on passing through fire and water must be removed from its immediate context, corpse impurity, and applied to some other matter. How, then, did the author of the Temple Scroll interpret the passing through fire in the scriptural text? Did he apply it, as did rabbinic halakha, to utensils that were used for forbidden foods? How did he understand the expression “water of lustration”? The Temple Scroll does not provide answers to these questions, but a Qumran fragment of the Damascus Document does.

[תכול] 8  
 הורב תבטת ותתועת והגדיל והען פרת אשר עשו הנגואים פוסל אל יראו 9  
 איש אל טהיל ותו מן החדו<sup>33</sup> רבא מן הטהרה<sup>34</sup> אל יגא איש לזול עור וברו וכו 10  
 כל הלכלים אשר יעשה מלאכה ברבים אשר יטמאו לנפש אדם ברא אדם הונו במשפט 11  
 [והטהרה] מן הטהרה בפק הרכען 12

4Q271 (4QD) 2:8–12

- 8 And of all [ ] the gold, silver, [copper,] tin, and [lead from which the gentiles made images],
- 9 let no one bring it
- 10 among [his] purities, [except only ne]w (materials) coming from the [pure shall be bring]. Let no [one bring any] leather, garment, or
- 11 any utensil [with which work is [done] which have been defiled by a [human] corpse, unless they were sprinkled according to the law
- 12 [of purification the waters] of sprinkling in the period of wickedness<sup>35</sup>

<sup>32</sup> Birenboim, “Observance of the Laws of Bodily Purity,” 261, has noticed this absence, and suggested that the author had a different reading in the Bible here.

<sup>33</sup> Baumgarten restores: [כ] אר כן החדו (Joseph M. Baumgarten, ed., *Qumran Cave 4.XIII: The Damascus Document* [DJD 18, Oxford 1996]).

<sup>34</sup> The two words רבא וטהרה are my restoration based on that of Elisha Qimron, *The Dead Sea Scrolls: The Hebrew Writings* [vol. 1: Jerusalem 2010] 33). The text given above is that of the Qumran fragments, the passage is marked as Section C, lines 99–103 (E. Qimron, *The Dead Sea Scrolls: The Hebrew Writings* [vol. 1: Jerusalem 2010] 33). The text given above is that of 4Q271, in Qimron’s edition, with one small correction, and one restoration omitted. I am very thankful to Prof. Qimron for making his edition available to me in advance of publication. The translation is mine, based on Baumgarten’s translation, *ibid.*, 174, with revisions.

<sup>35</sup> The passage exists in three copies—4Q269 8 ii 2–5; Baumgarten, DJD 18 pp. 130–31; neither by the space nor by the remains of the writing. 4Q270 3 iii 20–21; *ibid.* p. 151; 4Q271 2 8–12; *ibid.* p. 173. In a new edition of the Damascus Document by Elisha Qimron, incorporating the Genizah fragments of the work and new readings of the Qumran fragments, the passage is marked as Section C, lines 99–103 (E. Qimron, *The Dead Sea Scrolls: The Hebrew Writings* [vol. 1: Jerusalem 2010] 33). The text given above is that of 4Q271, in Qimron’s edition, with one small correction, and one restoration omitted. I am very thankful to Prof. Qimron for making his edition available to me in advance of publication. The translation is mine, based on Baumgarten’s translation, *ibid.*, 174, with revisions.

This passage, reconstructed from three fragmentary copies, is fraught with difficulties of reading, restoration, and interpretation. The precise proscription on metals used in making an idol is not quite clear. The use of the adjective “new” for metal is unusual, and the combination “new that comes from the pure” is difficult. The connection of the requirement of sprinkling “water of lustration” on vessels and clothing (lines 10–12) to the expression “period of wickedness” is also vague.<sup>36</sup> However, according to the above suggestions for restoration, which seem to me the most probable, the passage mandates that one may use metal utensils, most likely for cooking or serving foodstuff,<sup>37</sup> only when they are made from new metal that was never used by gentiles for idols. Birenboim has already used this passage as corroboration of the assumption that the concept of gentle impurity was prevalent in Second Temple Jewish society, and that it had to do with idolatry.<sup>38</sup> But examination of this passage against its biblical background and in comparison with its rabbinic counterpart is most revealing with regard to the bold exegesis required to support this concept of impurity, and the way it evolved in different Jewish circles. It should be noted that the passage is a skillful paraphrase of the biblical verses Num 31:20–23:

Damascus Document

Numbers 31

מכול הורב והרכק 9	אך את הורב ואת הרכק 9
והתועת והגדיל 10	את התועת את הגדיל ואת 10
והעופרת 11	העופרת: 11
אשר עשו הנגואים פסל 12	כל דבר אשר יבא באש תעבירו באש וקורו 12
אל יביאו איש אל טהרות 13	אף במי נהב יחוטא וכל אשר לא יבא באש 13
מן החדו רבא מן הטהרה ירא 14	תעבירו בקימם 14

And of all the gold, silver, copper, tin, and lead (22) Gold and silver, copper, iron, tin, and lead

from which the gentiles made images, (23) any article that can withstand fire—let no one bring it among his purities, these you shall pass through fire and they except only new (materials) coming shall be clean, except that they must be from the pure shall be bring. cleansed with waters of sprinkling; and anything that cannot withstand fire you must pass through water.

אל יבא איש בול עור וברו וכו כל הכלים 9  
 אשר יעשה מלאכה ברבים אשר יטמאו לנפש 10  
 אדם 11  
 וכל בקר וכל קל עור וכל קעשה ערים וכל קל 12  
 קץ המתקטא: 13

<sup>36</sup> See Baumgarten’s suggestion DJD 18, 174–75.

<sup>37</sup> See Baumgarten’s suggestion DJD 18, 174–75.

<sup>38</sup> Birenboim, “Observance of the Laws of Bodily Purity,” 153.



כִּי־אָם הָיוּ בְמִשְׁעַט הַסִּרְחָה  
בְּכִי הָרִשָׁע

Let no one bring any leather, garment, or any utensil with which work is done which have been defiled by a human corpse, unless they were sprinkled according to the law of purification with the waters of sprinkling in the period of wickedness. (20) You shall also cleanse every garment, every article of leather, everything made of goats' hair, and every object of wood.<sup>39</sup>

The author of the paragraph in the Qumran text starts with a paraphrase of verses 22–23, the prescription given by Eleazar the priest. Then he moves back to verse 20. The list in the Damascus Document follows closely on Num 31:22—gold, silver, copper, tin, and lead. Now, in Numbers 31 the instruction to pass these utensils through fire is immediately followed by a reference to cleansing with water of lustration, indicating that the biblical context is that of purification from corpse impurity. Yet the author of the Damascus Document deletes the mention of “water of lustration” from the verse, thus detaching the verse from its context, corpse impurity, and gives it a new interpretation—“from which the gentiles made images.” The vessels to be purified were not made impure by contact with the dead, but rather by use for idolatry. The term “coming from the pure” רָבוֹא מִן הַטָּהוֹר may hint at passing through fire, since the word טָהוֹר in the biblical verse is the outcome of passing through fire: “these you shall pass through fire and they shall be pure” (Num 31:23). The term “purity” is mentioned elsewhere in Qumran literature with connection to fire—“iron refined and purified in a furnace.”<sup>40</sup> If this is indeed the case, the author is asserting that it is this impurity, that of idolatry, that requires purification in fire, and, secondly, that only fire can purify metal used in foreign worship and make it acceptable for reuse.

In the next prescription the author of the Damascus Document returns to verse 20 of Numbers 31 and paraphrases it—“any leather, garment.”<sup>41</sup> Now, however, he interprets the verse according to its proper context, purification from corpse impurity—“which have been defiled by a human corpse,” and makes it clear that the purification in the biblical verse refers to sprinkling

“according to the law of purification,” namely by the “waters of sprinkling.” Our author, then, detaches the phrase “waters of lustration / sprinkling” from its original place in verse 23, where it appears to refer to metal objects that require melting down or scorching, and places it into verse 20, concerning vessels that require sprinkling. The author of the Damascus Document made a bold, quasi-text-critical interpretative move, *essentially the same as that made by the rabbis*. He redirected the requirement of passing through fire to a context entirely different from the original, completely disassociating it from the process of purification from corpse impurity. Then he separated the phrase “water of lustration” in that verse from purification by fire, and returned it to the context of corpse impurity.

#### Impurity of “Gentleness” vs. Forbidden Foods: Ideological versus Circumstantial/Rational

The main difference between the interpretation of the rabbis and that of the Damascus Document is in the reasons given for the passing of the vessels through fire. The rabbis interpreted this requirement as resulting from the contact with non-kosher food and general use by gentiles; Qumran interpretation introduced the matter of idolatry.

Further examination, however, reveals that at the base of the tannaitic midrash lies a homily similar to that of the Damascus Document. The talmudic term for gentiles’ utensils used for forbidden foods is usually יָעוּלִים, “objects that require scalding because they used to belong to gentiles.” However, there is an alternative reading which appears twice in the best manuscripts of *Sifre Numbers* in the pericope that applies the requirement of “passing through fire” of Num 31:23 specifically to gentiles’ utensils. Instead of יָעוּלִים, we find the following—

*Any article that can withstand fire:* Such as cauldrons, knives, pots, spits, and grills, כַּדָּיִם, כַּדָּיִם, because of the gentleness of the gentiles. *And anything that cannot withstand fire:* Such as water vessels, cups, ladles, and kettles, כַּדָּיִם, כַּדָּיִם, because of the gentleness of the gentiles.<sup>42</sup>

<sup>39</sup> The translations of the verses in the chart are by the author, in order to emphasize that certain words and phrases in these verses were used literally by the author of the Qumranic text.

<sup>40</sup> War Scroll 5:11; Yigael Yadin, *The Scroll of the War of the Sons of Light Against the Sons of Darkness* (tr. Babva and Chaim Rabin; Oxford 1962) 282–83.

<sup>41</sup> The second prescription incorporates into the quotation of Num 31:20 references to Lev 11:32, “be it any article of wood, or a cloth, or a skin, or a sack—any such article that can be put to use shall be dipped in water, and it shall remain unclean until evening; then it shall be clean.”

<sup>42</sup> *Sifre Numbers* 158 (Horowitz, 214). So MSS Rome 32 and Berlin Or. 4<sup>o</sup> 1594 33 (גרינ, גרינ); *Yalkut Talmud Torah* MS Oxford 2638 (גרינ); *Midrash Hakhamin* MS JTS Rab. 4937a (גרינ); *Commentary to Sifre* attributed to Rabad (גרינ, once only); Rabenu Hillel MS Vienna 60 (גרינ, נרנ); Horowitz incorporated this reading into his text, correctly. See apparatus to lines 5–6. It is noteworthy that in several later textual witnesses of the *Sifre* the original reading was corrected to כַּדָּיִם or the like. So the Venice printed edition (1546); MS Oxford 151; MS London 341; and textual witnesses for the commentary of Rabenu Hillel. The data presented here is drawn from the apparatus prepared by Prof. Menahem Kahana for *Sifre Numbers*. My thanks to Prof. Kahana

Note the closeness of the phrase *דורו דורו דורו* to the expression used by the Damascus Document—*דורו דורו דורו*, “which the gentiles made,” in connection with the self-same verse. The expression *דורו דורו דורו* did not originate in the list of vessels given in the midrash. Syntactically it is unconnected to the list and independent of it. Whereas the list depends on the words of the verse *any article* and specifies the articles, the phrase *דורו דורו דורו* depends on other words in the verse, *pass through fire/water*, and its purpose is not to specify but to justify—“pass through fire” because of the gentleness of the gentiles; “pass through water” because of the gentleness of the gentiles. *דורו*, “gentleness,” is clearly an abstract formed from *ור*, of the gentiles. *דורו*, “gentleness,” is obscure.<sup>43</sup> It seems that we have here, in both the midrash and the Damascus Document, an ancient, laconic homily, whose point is to separate the process of purification in this verse from corpse impurity, and to connect the “passing through fire” to that “which the gentiles made” or to “the gentleness of the gentiles,” that is, to justify the required procedure by the fact that the utensils were taken as war booty from *gentiles*, rather than by their having contracted corpse impurity. This interpretation became, so it seems, fundamental in all circles during the Second Temple period, as we see in the Temple Scroll and the Damascus Document, and, on the other hand, in tannaitic halakhah. All accepted that vessels contaminated by corpse impurity did *not* require passing through fire. The ancient homily then served as a starting-point for new interpretations based on it. In the sectarian literature “gentleness” was taken to be idolatry. Thus, to the ancient interpretation that in some way mentioned “that which the gentiles made” was added the word *לדור*, “idol.” This interpretation was no doubt supported by the parallel between the occurrence of our verse (Num 31:23) of putting gold and silver to the fire and the occurrence of the same in Deut 7:25—“You shall consign the images of their gods to the fire; you shall not covet the silver and gold on them and keep it for yourselves, lest you be ensnared thereby; for that is abhorrent to the Lord your God.”<sup>44</sup> The rabbis, on the other hand, took “gentleness” in preparation of forbidden foods, and applied the verses to utensils used in preparation of food—knives, pots, spits, cups and the like.

However, rabbinic literature also preserved the record of a broader interpretation of the “gentleness” that must be eliminated. According to both

for permission to use the draft of his edition. The list of utensils in the midrash was incorporated in the targum attributed to Jonathan ad loc.

<sup>43</sup> See Horowitz' note on line 5: “I have not found the source of the word *דורו*.” My brother Dr. Yoel Elitzur drew my attention to the expression *דורו*, bKet. 11a, referring to the condition of a

convert, slave, or captive, before her conversion.  
<sup>44</sup> Cf. *Temple Scroll* 2:7–8.

the *Sifre Zuta*<sup>45</sup> and the Yerushalmi,<sup>46</sup> immersion in water is required not only for food utensils taken or purchased from gentiles, but also for various household objects, arms, jewelry and even clothes. In this approach, the main justification for the purging is not the circumstantial presence of non-kosher food, but the more general consideration that the objects “left the impurity of gentiles and entered the sanctity of Israel.”<sup>47</sup>

#### Conclusion:

#### Provenance and Evolution of the Concept of Gentile Impurity

Our analysis seems to provide novel confirmation of Alon's old theory as well as of Birenboim's recent adoption of it. The impurity of gentiles must have been an ancient tradition, common to different Jewish circles in Second Temple period. It was considered an essential quality of gentiles, separating them, as well as their objects and utensils, from “the sanctity of Israel.” It seems that this impurity was explained, right at the outset, as resulting from idolatry. However, the rabbis later decreased the scope of the general obligation to purify gentile objects to the circumstantial concern of cleaning dishes from forbidden foods, thereby weakening the concept of the overall impurity of “gentleness”.

As for the exegetical strategies applied to the “passing through fire” in Num 31:23, which accompanied the development of the religious legislation, they point once again to the common roots of Qumranic and rabbinic interpretations of scripture. The phenomenon of a short, very ancient midrash quoted both in Qumran literature and in rabbinic literature but interpreted differently in each has appeared more than once in comparative studies of Qumranic exegesis and particularly ancient materials surviving in tannaitic midrash.<sup>48</sup> In our case, the parallel demonstrates how ancient and deeply rooted rabbinic interpretation may be even when at first sight it seems to be forced, audacious, and subversive of the plain meaning of scripture.

<sup>45</sup> *Sifre Zuta* 31:23 (Horowitz, 330); Menahem Kahana, *The Geniza Fragments of the Halakhic Midrashim. Part I* (Jerusalem 2005) 224 (Hebrew).

<sup>46</sup> *yAZ* 5.15 45b.

<sup>47</sup> *yAZ* *Ibid.* For all this see Lieberman, *Sifre Zuta* 106–107.

<sup>48</sup> For other examples, see V. Noam, “Qumran and the Rabbis on Corpse-Impurity: Common Exegesis – Tacit Polemic,” in C. Hempel, ed., *The Dead Sea Scrolls: Texts and Context* (STDJ 90; Leiden, 2010) 397–430; M. Kister, “Studies in 4QMiqsat Ma'ase Ha-Torah and Related Texts: Law, Theology, Language and Calendar,” (Hebrew), *Tarbiz* 68 (1999) 317–71, esp. 333–35. For another pre-tannaitic halakhah surviving in a Qumranic source and in halakhic midrash see V. Noam, “The Origin of the List of David's Songs” in “David's Compositions,” *DSD* 13 (2005) 134–49.