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TITLE "The Significance of Tractate Yadaim"

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THE SIGNIFICANCE OF TRACTATE YADAIM

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requirements for the degree of Master of Arts in
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PREFACE

Tractate Yadaim is one of the most fascinating tractates in the Talmud. It has no Gemara and is not extant in the Palestinian Talmud. Tractate Yadaim opens the door to numerous halachic problems and historical problems.

This tractate proved to be so rich in material that I decided, with the approval of my thesis advisor, Dr. Alexander Guttman, to limit this thesis to the first and fourth chapter of Tractate Yadaim. However, I shall present both the Mishnah and the Tosefta of Yadaim.

I wish to offer my deep thanks to Dr. Alexander Guttman, who is both my thesis advisor and my teacher. He has constantly aroused my curiosity and has whetted my appetite for more and more learning. I also wish to thank my wife, who found the time to type my thesis in addition to caring for two small children.

INTRODUCTION

The regular text of a standard set of Mishnayoth, a complete set of the Babylonian Talmud and the München Manuscripts were used in dealing with the Mishnah.

The material used for dealing with the Tosefta is not as well known, but equally important. First, a standard set of the Babylonian Talmud has the following material on Seder Tohoroth; critical notes and a commentary by the Gaon of Vilna, a presentation of variations in the text called the 'or Ganuz and a commentary called Minhath Bikurim along with a guide to parallel material in rabbinic literature called the Mizpeh Shmu'el - both the Minhath Bikurim and the Mizpeh Shmu'el are by Samuel Avigdor of Slonimo. There is a special work on the Tosefta of Seder Tohoroth that was put together by a group of students of the Gaon of Vilna called Taharath Haqodesh. This work contains a presentation of the text of the Tosefta to Seder Tohoroth based on the Gaon of Vilna's notes. A commentary called Zer Zahav is included. It was published in Zolkiew in 1804. In a standard edition of the Babylonian Talmud, the Zer Zahav and the Minhath Bikurim are combined.

Of course, there is the Zuckerman Tosefta - which is a standard critical edition of the Tosefta.

Tractate Yadaim, both Mishnah and Tosefta, has some striking textual variations - which makes it all the more interesting.

Tractate Yadaim

Mishnah

Chapter 1

Mishnah 1.

Translation:

One can administer a quarter-log (two ounces) of water to the hands of one or even two (persons). A half-log (four ounces) for three or more (persons). One log (eight ounces) or more for five, ten or even a hundred. R. Jose says: only that there should not be less than a quarter-log for the last of them. One may add to the first administration but not to the second.

Comment:

As far as the amount is concerned, the quarter-log that is referred to in the text of the Mishnah is the equivalent, in bulk, of an egg and a half-- according to Bertinoro. For the sake of better clarification, contemporary measurements are being given.

What is the principal on which the first clause of the Mishnah operates? Rashi explains that the first person must have at least two ounces of water. He makes the application of water and therefore leaves a little less than two ounces for the second person. Although the second person is technically not using two ounces, it is as good as if he had used two ounces.¹ It is valid because there was the proper amount to start with.²

Where one person washes the hands a quarter log of water is necessary, and so where two persons wash the hands one after the other only a quarter log is necessary; obviously then in the latter case the second person washes his hands with less than a quarter of a log. This is allowed, however, because of the reason stated infra, that the second person

uses the residue of what was the proper amount for washing the hands.³

The same principal holds true with the other proportions of amounts of water and the number of people applying the water to their hands. According to the Tosefta, R. Jose is responsible for this entire Mishnah. If so, by insisting that the last person applying water to his hands must have at least two ounces: R. Jose is being inconsistent with his original principle.

Die Einschränkung R. Joses darf nicht vergessen lassen, dass die ganze Mishna, wie die Tos lehrt, von R. Jose stammt. MAIM. hält daran fest, dass für jede Person $\frac{1}{4}$ Log Wasser nötig sei, wie auch die Tos zunächst lehrt, und bezieht unsere Mishna auf das zweite, nicht reinigende, sondern nur abspülende Übergießen der Hände, vgl. auch die folgende Mishna I lb, BART. hingegen, gestützt auf seine Lehrer, bezieht es auf den ersten Guss (zur Anzahl der Güsse und ihre Voraussetzungen s. Einl. S. 7): Begießen sich zwei Personen aus einem Viertellog, so haben die Reste des Viertellogs den Wert des Ganzen. So beweist er auch scharfsinnig das Recht der anschliessenden Aufstellungen: Die erste Aufstellung zeige, dass die erste Person weniger als ein Viertellog verbrauchen dürfe, also könne ein halber Log, der eigentlich nur für zwei Personen auszureichen scheint, sofort für drei Personen angesetzt werden und dann folgerichtig auch für vier, wobei BART. ganz richtig die Regel heraushebt, für die letzten beiden müsse in der Rechnung ein Viertellog bleiben. Das steht im Gegensatz zur Forderung R. Joses, der hier offenbar die logische Folgerung aus seinem--anerkannten--Satz nicht gezogen hat. Daher ist es nur richtig, dass, wie MAIM. bemerkt, die Halaka nicht nach R. Jose ist.⁴

As far as the first clause is concerned, the Mishnah text actually states that one may add to the second administration but not to the first. However, the München Manuscripts state the clause as it has been translated. The Tosefta renders the last clause as it appears in the

Mishnah text. The text speaks of a double application. The purpose of the second application is to purify the water of the first application. (The reasons for this will be discussed later on). The basic question is: If one of the applications was not enough to cover the hands up to the wrists, can one add an additional amount to the water originally used for the application to make up the difference? The difference between the Mishnah text and the München Manuscripts is over which application water may be added to. Mishnah 2.

Translation:

One could administer (water) to the hands from any vessel - even from a vessel made of baked ardure, a stone vessel or an earthen vessel. One does not administer (water) to the hands from the side of a vessel, the sides of a broken ladel or the bung of a pouched vessel. One should not administer (water) to his fellow from the hollow of the hands. For one may not draw water, prepare the water of lustration, sprinkle the water of the sin offering or apply water to the hands except in a vessel. Only a vessel with a closely covered lid can protect (against impurity).

Comment:

The ritual procedures mentioned in the middle of this Mishnah are based upon the instructions concerning the red cow found in Numbers 19.

The Lord spoke to Moses and Aaron, saying: 2 This is the ritual law that the Lord has commanded:

Instruct the Israelite people to bring you a red cow without blemish, in which there is no defect and on which no yoke has been laid. 3 You shall give it to Eleazar the priest. It shall be taken outside the camp and slaughtered in his presence. 4 Eleazar the priest shall take some of its blood with his finger and sprinkle it seven times toward the front of the Tent of Meeting. 5 The cow shall be burned in his sight -

its hide, flesh, and blood shall be burned, its dung included - 6 and the priest shall take cedar wood, hyssop, and crimson yarn, and throw them into the fire consuming the cow. 7 The priest shall wash his garments and bathe his body in water; after that the priest may re-enter the camp, but he shall be unclean until evening. 8 He who performed the burning shall also wash his garments in water, bathe his body in water, and be unclean until evening. 9 A man who is clean shall gather up the ashes of the cow and deposit them outside the camp in a clean place, to be kept for water of lustration for the Israelite community. It is for cleansing. 10 He who gathers up the ashes of the cow shall also wash his clothes and be unclean until evening.

This shall be a permanent law for the Israelites and for the strangers who reside among you. 11 He who touches the corpse of any human being shall be unclean for seven days. 12 Such a one shall cleanse himself on the third day and on the seventh day, and then be clean; if he fails to cleanse himself on the third and seventh days, he shall not be clean. 13 Whoever touches a corpse, the body of a person who has died, and does not cleanse himself, defiles the LORD'S Tabernacle; that person shall be cut off from Israel. Since the water of lustration was not dashed on him, he remains unclean; his uncleanness is still upon him.

14 This is the procedure: When a person dies in a tent, whoever enters the tent and whoever is in the tent shall be unclean seven days; 17 and every open vessel, with no lid fastened down, shall be unclean. 16 And in the open, anything that touches a person who was killed or who died naturally, or human bone, or a grave, shall be unclean seven days. 17 Some of the ashes from the fire of cleansing shall be taken for the unclean person, and fresh water shall be added to them in a vessel. 18 A person who is clean shall take hyssop, dip it in the water, and sprinkle on the tent and on all the vessels and people who were there, or on him who touched the bones or the person who was killed or died naturally or the grave. 19 The clean person shall sprinkle it upon the unclean person on the third day and on the seventh day, thus cleansing him by the seventh day. He shall then wash his clothes and bathe in water, and at nightfall he shall be clean. 20 If anyone who has become unclean fails to cleanse himself, that person shall be cut off from the congregation, for he has defiled the LORD'S sanctuary. The water of lustration was not dashed on him: he is unclean.

21 That shall be for them a law for all time. Further, he who sprinkled the water of lustration

shall wash his clothes; and whoever touches the water of lustration shall be unclean until evening. 22 Whatever that unclean person touches shall be unclean; and the person who touches him shall be unclean until evening.⁵

There is a problem with the words *לֹא נֶאֱסָר* in the text of the Mishnah. The phrase comes from Numbers 19:15-
 "15 and every open vessel, with no lid fastened, shall be unclean."⁶ There is some question as to the meaning of the rendering "lid fastened down." *נֶאֱסָר* usually means "the cover of a vessel."⁷ The problem comes in putting the words together. *לֹא נֶאֱסָר* generally has the meaning of a cord or thread.⁸ What does it mean in this context? Gray contends that it is difficult to establish *נֶאֱסָר* as meaning a "cover" or "stopper."

Which hath no covering and no cord upon it the meaning perhaps is which has no covering tied over it, but the exact meaning of the words here used is uncertain.⁹

Perhaps *נֶאֱסָר* was already obsolete when the law was edited was explained, whether quite rightly we cannot say, by the addition of *לֹא נֶאֱסָר* = 'a cord' (1538).¹⁰

We will now turn our attention to a clause that is present in the Mishnah text but absent in the München Manuscripts.

וְהָיָה כִּי יִשְׁכַּח אֶת הַיָּדָא וְלֹא יִשְׁכַּח אֶת הַיָּדָא

Translation:

And only a proper vessel can protect against impurity that can be contracted in an earthen vessel.

Comment:

It is important to understand that not every vessel can protect its contents against impurity.

The following vessels protect their contents when they have a tightly fitting cover: Those made of cattle dung, of stone, of clay, of earthenware, of alum-crystal, of the bones of a fish or of its skin, or of the bones of any animal of the sea or of its skin, and such wooden vessels as are always clean. These afford protection whether the covers close their mouths or their sides, whether they stand on their bottoms or lean on their sides. If they were inverted with their mouths downwards they afford protection to all that is beneath them to the nethermost deep. R. Eliezer rules that this is unclean. These protect everything, except that an earthen vessel affords protection only to foodstuffs, liquids and earthen vessels.¹¹

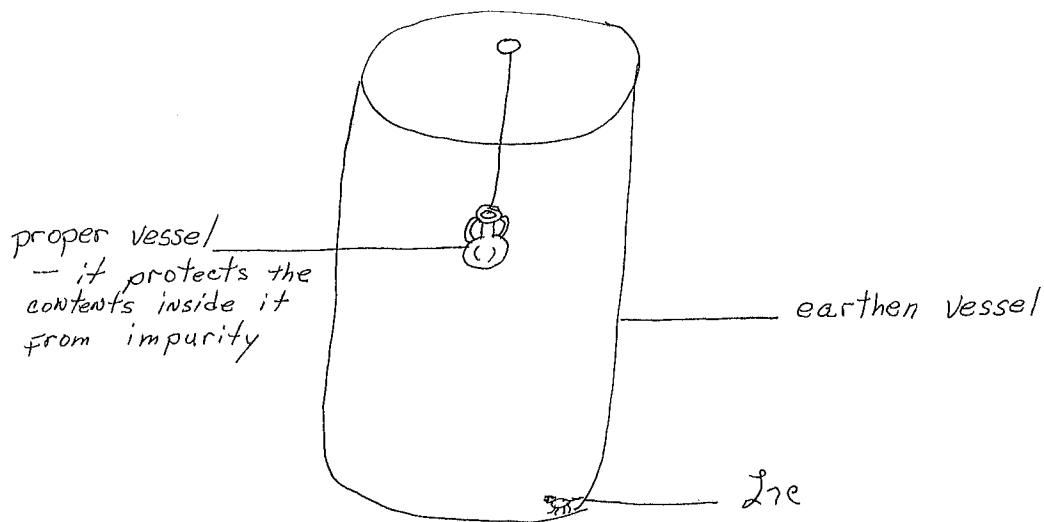
If a colander placed over the mouth of an oven was slightly sinking into it, and it had no rims, and a [dead] creeping thing was in it, the over becomes unclean, and if the creeping thing was in the oven, foodstuffs in the colander become unclean, since only vessels afford protection against uncleanness in an earthen vessel...¹²

In order to be a proper vessel, the object has to have handles and a receptacle.¹³ The entire problem is based on a passage from Leviticus.

31 Those are for you the unclean among all the swarming things; whoever touches them when they are dead shall be unclean until evening. 32 And anything on which one of them falls when dead shall be unclean; bit 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. 33 And if any of those falls into an earthen vessel, everything inside it shall be unclean and [the vessel] itself you shall break. 34 As to any food that might be eaten, it shall become unclean if it came in contact with water; as to any liquid that might be drunk, it shall become unclean if it was inside any vessel. 35 Everything on which the carcass of any of them falls shall be unclean; an oven or stove shall be smashed. They are unclean and unclean they shall remain for you. 36 However, a spring or cistern in which water is collected shall be clean, but whoever touches such a carcass in it shall be unclean.¹⁴

We are concerned with what happens to objects that are suspended in an earthenware vessel and how to save them from impurity.

If a dead unclean reptile (*לִצְלָע* -Leviticus 11, 29,30; *לִצְלָע* 141) lies in an earthenware vessel, any food-stuffs and liquids suspended in the air-space inside-even if not in contact with the vessel or with the reptile-become unclean, but a person or vessel in like circumstances does not contract uncleanness; and in the latter case any liquids or foodstuffs in the suspended vessel remain clean, provided this vessel is sound. In the case of the *לִצְלָע* - if a sound vessel is properly shut with a close-fitting cover and it is in a room where lies a corpse, the contents remain clean; but if this vessel is unsound, e.g. it is cracked, the cover is ineffective to prevent the contents suffering uncleanness.¹⁵



Mishnah 3

Translation:

Water that is not fit for cattle to drink is unfit for handwashing in a vessel but fit if it is on the ground. If ink or resin fell into it and ruined it and the appearance of the water is changed, it is unfit. If one did work with it or dipped his bread in it, it is unfit. However, if one intended to dip his bread in the other water and it fell into his water, it is fit.

Comment:

When reading this Mishnah, one is immediately bothered by the word לִשְׁתִּי which puts the entire meaning of the last clause of the Mishnah in question.

Some render this Even though he intended to soak his bread in this cleansing water but it fell into other water, the latter remains valid. The word לִשְׁתִּי here presents a great difficulty.

Maimonides followed by Bertinoro takes the words of R. Simon as a question: 'Do you mean to say that even if there were no intention it should be invalid? It is not so, but it is valid.'

The Wilna Gaon reads:

לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי לִשְׁתִּי

Simon of Teman says, Even though he intended to soak his bread in other water it is valid, but if to soak in one water and it fell into the other cleansing water it remains valid - even according to the לִשְׁתִּי לִשְׁתִּי.

But the best way to overcome the difficulty is to read the לִשְׁתִּי לִשְׁתִּי for if his bread were soaked unintentionally in it, the water becomes invalid; to this R. Simon says that not only if there was no intention at all is the water clean, but even if there was intention in the way that he intended to put his bread in one water but it fell into another it is valid because this was with intention לִשְׁתִּי לִשְׁתִּי 16

One is also led to wonder about the fitness of water

on the ground and water that is polluted or whose color is changed. The question is answered by a clarification and a Mishnah. Concerning water on the ground: "If polluted or putrid; but if by reason of mud, it is invalid. Such water may be used for the ritual bath if there is forty seahs....."17 The matter of the water is a more complicated question.

If baskets of olives or baskets of grapes were washed in the mikveh and they changed its color, it continues to be valid. R. Jose says; Dye-water renders it invalid by a quantity of three logs, but not through changing its colour. If wine or the sap of olives fell into it and changed its colour, it becomes invalid. What should one do [to make it valid again]? One should wait with it till the rain falls and the colour reverts to the colour of water. If it contained forty seahs, water may be drawn and carried on the shoulder and put therein until the colour reverts to that of water.18

Mishnah 4

Translation:

If one washed off utensils with it [the cleansing water] or cleaned out his measures with it, it is not proper [legal for washing the hands]. But if one rinses clean or new utensils with it [the cleansing water,] it is proper. Rabbi Jose declares water which was used to cleanse new vessels improper.

Comment:

It is easy enough to understand the concept of rinsing off vessels, but the concept of cleaning out measures needs further clarification. First, who is involved?

A wholesale dealer must clean his measures once in thirty days, and a producer once in twelve months. R. Simeon B. Gamaliel says: the statement is to be reversed. A shopkeeper must clean his measures

twice a week, wipe his weights once a week and cleanse the scales after ever weighing.¹⁹

Bertinoro states in the passage just quoted, Baba Bathra 10:5, states that the oil that would stick to the measures would render them inaccurate.²⁰ Bertinoro also presents the problem of why the root *ḥṣ*, a root which usually denotes hard wiping, scraping and rubbing, is used in this context. He refers us to Psahim 68a, which deals with scraping out the intestines of an animal.

And the cleansing [mihuy] of its bowels. What is the cleansing of its bowels? R. Huna said: [It means] that we pierce them with a knife. Hiyya b. Rab said: [It means the removal of] the viscous substance of the bowels, which comes out through the pressure of the knife.²¹

So, according to Bertinoro, the action involved is applying "elbow grease" to scrape and clean out the hard residue that sticks to the measures.

Mishnah 5

Translation:

The water that the baker dips delicate bread in is unfit [for washing the hands.] But if he wets his hands [with said water and then kneads the dough with his wet hands] the water is fit. All are fit to administer water to the hands, even a deaf-mute, imbecile or minor. One may place a pouched vessel between his knees and apply the water or incline a pouched vessel on its side and apply the water. An ape may apply water to the hands. R. Jose negates these last two cases.

Comment:

One may find, upon reading this Mishnah, that the reference to the ape is seemingly ludicrous. However, it is not likely that this reference was meant to evoke

laughter. It is imperative to understand why an ape is used as a Halachic example in this Mishnah. As compared to the rest of the animals, the ape is special in Rabbinic Literature. Many times the ape is used as a standard of comparison. For example, in Baba Bathra there is the passage about R. Bana'ah going to the cave where the Biblical characters mentioned in Genesis are buried.

R. Bana'ah said: I discerned his [Adam's] two heels, and they were like two orbs of the sun. Compared with Sarah, all other people are like a monkey to a human being, and compared with Eve, Sarah was like a monkey to a human being, and compared with Adam, Eve was like a monkey to a human being, and compared with the Shechinah, Adam was like a monkey to a human being.²²

The ape is also used to express a condition of Halachic neutrality--where something is neither sanctified or invalidated; as is the case with the rules concerning the shewbread.

Rabina said: We assume that he removed it before then. Mar Zutra, or as some say, R. Ashi said: You may set the case even if he had not removed it before Sabbath eve, since, however, he had put it in order at variance with the regulation it is as if a monkey had laid it there.²³

note 2: Without any intention, hence the table does not sanctify it, for we consider that since it was placed there without intention, it was technically not placed there at all, hence it becomes neither sanctified or invalidated.²⁴

There are certain Midrashic passages that present an almost Darwin-like relationship between the ape and the man.

Four things changed in the days of Enosh: The mountains became [barren] rocks, the dead began to feel [the worms,] men's faces became ape-like, and they became vulnerable to demons.²⁵

The Yfei Tho'ar commentary on Genesis Rabbah presents a surprise question. Isn't it explicitly stated in the Torah that man was created in the Divine Image? However, there was a lessening of man's stature; as he became more sinful. The Yfei Tho'ar states that the ape ranks in stature between man and an ordinary domesticated animal. This same relationship applies to the lessened man and his more virtuous ancestors. This can be illustrated by an evolutionary diagram:

- | LOW | HIGH |
|---|------|
| 1. domesticated animal → ape → man | |
| 2. domesticated animal → lessened man → early man ²⁶ | |

In Sanhedrin 109a it is stated that in the generation of dispersion, after the construction of the Tower of Babel, there was a marked change in mankind. The people in the generation of dispersion split up into three parties: The first party merely wanted to ascend the Tower of Babel and live there. The second party wanted to ascend the Tower of Babel and serve idols. The third party wanted to ascend the Tower of Babel and wage war against God. The first party was scattered; the second party had their language confounded and the third party was turned into apes, devils, night-demons and spirits.²⁷ According to this passage the ape is considered one of the many types of supernatural beings who were created from the most sinful party of the generation of dispersion. One may argue that the ape has a physical form while the others are spiritual beings - this is not so. According to Rashi's comment on

the passage; devils have the form of man and they eat and drink like man, spirits do not have a body or form and night-demons have the form of man except for the fact that they have wings.²⁸

However, it should also be mentioned that the ape was also used as an ordinary domestic animal to help keep the house clean.

R. Ishmael said: It is however, allowed to breed village dogs, cats, apes, huldoth sena'im [porcupines] as these help keep the house clean.²⁹

Apes are only mentioned once in the Bible, I Kings 10:22.

For the king's Tarshish-fleet was at sea with the fleet of Hiram: once in three years would the Tarshish fleet come in bringing gold and silver, ivory, ebony, and apes and baboons.³⁰

The Tiferet Israel commentary on the Mishnah states that the Mishnah does not imply that one should or even can have an ape apply water to his hands. The ape is merely mentioned to deal with a basic concern in the rules of washing the hands--that the water applied to the hands be applied by human force. Many assimilated Jews are perplexed when they visit an observant home and find that the Jews therein take a cup of water and pour it over their hands to perform the mitzvah of $\rho'2' \pi\delta'6\rfloor$ instead of putting their hands directly under the faucet. This is not to say that an orthodox Jewish surgeon will not use a hot water faucet to scrub up for an operation. However, when the occasion calls for the mitzvah of $\rho'2' \pi\delta'6\rfloor$, he will pour the water over his hands from a cup. This is

because the water used for *ש'ך' נס'ב'ך* must not be applied by any mechanical means such as a water faucet. The term ape is used merely as a general term to show that the water must be applied to the hands through the exertion of a living being and not by any mechanical means.³¹

The instance of placing a pouched vessel between the knees and letting the water run out or else tilting the vessel on its side are stated in order to refine the concept of using human strength for applying water. It is true that when one tilts a heavy vessel full of water on its side and the water runs out, the water is running out of its own strength and not because of any action by a human being. However, it counts as an action of human force because it was the man who originally tilted the vessel on its side. However, R. Jose does not accept this modification.³²

The final problem that remains for us to solve is what is meant when the Mishnah states "R. Jose negates these last two cases." There are three possibilities: The first possibility is that R. Jose is not referring to the statement about the ape but the two cases refer to putting the vessel between the knees and inclining the vessel. The second possibility is that R. Jose is referring to the statement about the ape and that the cases of putting the vessel between the knees and tilting the vessel are to be considered as one case. The third possibility is that he is referring to tilting the vessel and the ape applying water.

Tosefta 1:1,2

(1) One may use a quarter-log (two ounces) of water to the hands of one (person) but not of two (persons)-- (to wash them). A half-log (four ounces) for three (persons) but not for four. One log (eight ounces) or more for five (persons) but not for ten and not for a hundred. One may add to the first administration but not to the second--these are the words of R. Meir. R. Jose says: One can administer a quarter-log (two ounces) of water to the hands of one or even two (persons). A half-log (four ounces) for three or more (persons). One log (eight ounces) or more for five, ten, or even a hundred. (2) One may add to the second administration but not to the first. How can this be? One took the first administration and wiped [his hands off]. Then he reconsidered and took a second administration. If the water (of the second administration) did not reach the wrist--one must add to it. It makes no difference whether one administers (the water) to one of his hands or both of his hands, and it makes no difference whether the one taking the administration is an adult or a minor--a quarter-log is essential.

R. Simeon ben Gamaliel said: If two persons administered water to just one of their hands (for example, if the two persons just washed their left hands)--the legal status is that of two people washing their hands. How can this be? If two persons each administered water to one of their hands from a quarter-log, the first person must not go back and administer water to his other hand from what water is left from the quarter-log.

Comment:

When this passage of the Tosefta is considered along with the first Mishna of Yadaim, we see a number of difficult problems. It has already been mentioned that if R. Jose is the author of the passage which states that a quarter-log can be used for more than one person (and also for the other arithmetic progressions mentioned), he could not possibly be the author of the statement that each person must have a quarter-log.

If the position of the Mishnah is taken, we have to explain our way out of the problem by saying that if one administered water to his hands from an amount that was originally a quarter-log, it is the same as if he had administered water to his hands from a quarter-log of water. However, one also has the statement of R. Meir to contend with-- that a quarter-log will suffice only for the hands of one person. So, there is a problem of confused authorship of the statements and a conflict of opinions regarding the procedure that is to be followed for administering water to the hands.

Therefore, what is the law? Maimonides did an excellent job of resolving the contradictions in the Mishnah and Tosefta and yet being able to incorporate the material into a body of consistent law. In order to understand what Maimonides has done, we must now investigate the basic principles of impurity.

Various degrees of uncleanness are distinguished. the greatest of all is that of a human corpse, called the prime origin (lit., "father of fathers") of uncleanness; this is followed in successively decreasing states by 'origin' (lit., "father") of uncleanness, first, second, third and fourth degrees of uncleanness. When an object becomes unclean through contact with another, its degree of defilement is one stage below that which defiles it. By Biblical law unclean food or drink does not defile the person who eats it; but the Rabbis enacted that it does, and so he in turn renders terumah unfit by contact.--Ordinary unsanctified food (hullin) does not proceed beyond the second degree; i.e., if second degree hullin touches other hullin the latter remains clean; but if it touches terumah, it becomes a third degree. Again, terumah does not go beyond the third degree (hence it is then designated 'unfit', not

'unclean' in respect of other terumah); but if it touches flesh of sacrifices (hekdes) it renders this unfit, and it is called 'fourth degree'. 33

The hands are always in the second degree of impurity, making necessary the practice of administering water to the hands.

The necessity for the ritual cleansing of the hands is nowhere stated in the Bible. The Rabbis found some support for this institution in Lev. XV, 11, And whomsoever he that hath the issue toucheth, without having rinsed his hands in water (Hul. 106a). The development of this rite can, however, be traced through its various stages. Solomon is said to have enacted that the hands must be cleansed before touching food (Shab. 15a). By the beginning of the first century, the rite was well established as it is included among the eighteen decrees of Beth Shammai which prevailed against the views of Beth Hillel, namely, that the hands be cleansed before touching terumah, the underlying reason being that the hands are constantly in use and become dirty very quickly (Shab. 15a). To ensure the observance of this decree it was further laid down that hands are at all times in the second degree of uncleanness and therefore if they touched terumah without having been cleansed first, would render it 'unfit' (Yad. III, 2 and notes infra).

Finally the rite was extended to the eating of common food, hullin (Hag. II, 4 and 18b). This was introduced in order to accustom a person to cleanse his hands at all times before handling food, and thus ensure that terumah would not be touched by unclean hands (Hul. 106a). The hygienic reason is, of course, obvious (cf. Tosaf. Hul. 106a s.v. וְיָצֵא). 34

Terumah is the standard by which impurity to the hands is judged. "Terumah is rendered unfit by anything which is in the second degree of uncleanness." 35

Everything which renders Terumah unfit conveys a second degree of uncleanness to the hands. One [unwashed] hand can convey uncleanness to the other hand. [These are] the words of R. Joshua. But the sages say: That which is in the second degree of uncleanness cannot convey a second degree of uncleanness. He said to them: But do not the Holy Scriptures which are in the second degree of uncleanness render unclean the hands? They said to

him: The laws of the Torah may not be argued from the laws of the Scribes, nor may the laws of the Scribes be argued from the laws of the Torah, nor may the laws of the Scribes be argued from [other] laws of the Scribes.³⁶

The Scribes, i.e., Solomon, enacted that hands must be cleansed since they convey uncleanness, v. Introduction. The Scribes, i.e., the Rabbis, enacted that the Holy Scriptures convey uncleanness. Hence one cannot deduce that just as in the case of the Holy Scriptures a second degree of uncleanness conveys a second degree of uncleanness, so in the case of other defilements, a second degree of uncleanness conveys a second degree.³⁷

Before presenting Maimonides it is important to understand why he is so valuable in helping us piece together the problems of conflicting passages in the Talmud. Later codes were based more on halachic authorities than on the Talmud itself. For instance, Joseph Karo when writing the Shulhan Aruch; voted Maimonides, the Rosh, and the Rif against each other. This led to an obscuring of what was actually in the Talmud. The Gaon of Vilna saw this and cautioned his students with a very famous statement: "Do not regard the views of the Shulhan Aruk binding if you think that they are not in agreement with those of the Talmud."³⁸ Thus, the Gaon of Vilna helped uphold the authority of the Talmud. This is where Maimonides is such a great help to us--he approached the Talmud like a human computer and he systematized all the halachic material in the Talmud. This monumental work is called the Mishneh Torah or Yad Hazakah. Maimonides even systematized the theological and ideological basis of the halacha. For example, Maimonides starts off by actually listing the 613 commandments and dividing them into positive

and negative commandments. So in our case, Maimonides was able to take the conflicting aspects of Yadaim and make a viable procedure of observance out of them.

4. How far up must the hands be washed? Up to the wrist. How much water should be used? A quarter (of a log) for both hands. Whatever substances are regarded as preventing the water from coming in contact with the body, when bathing in a ritual bath, are also so regarded in washing the hands. Whatever may serve to make up the measure of water required in a ritual bath will also serve for the fourth of a log requisite for washing the hands.

5. If a person who had to wash his hands dipped them into the water of a ritual bath,--this is sufficient. But if he dipped them in a quantity of water less than that required for a ritual bath or in water that had been drawn forth from the ritual bath even if it is now in (a hollow of) the ground, his act is ineffective. For water that is drawn forth is only regarded as cleansing the hands, if poured on them.

6. A person washing his hands must have regard to four things: as to the water, that it should not be unfit for washing the hands; as to the quantity, that there should be the fourth of a log for each pair of hands; as to the vessel, that the water used for washing the hands should be in a vessel; and as to the person who washes the hands, that the pouring of the water should result directly from the exercise of human effort.

10. A person washing his hands should pour the water on his hands little by little, till the prescribed quantity has been used. If the entire quarter of a log has been poured forth at once, this too is a correct lavation. Four or five persons may wash at the same time, their hands being adjacent or above each other, provided that the hands are kept loose, so that the water can pass between and provided also that the quantity of water used amounts to a quarter of a log for each person.³⁹

1. We have already explained that the rules about washing the hands and immersing them rest on the authority of the Scribes; and that if the hands require immersion they may be immersed only in a valid immersion pool containing forty se'ah, for where utensils are immersed, there the hands are immersed; but even if the hand only need washing and they are immersed in the water of an immersion pool, they become clean. If they

are immersed in drawn water, whether in vessels or on the ground, the hands do not become clean; they remain unclean until the drawn water in a vessel is emptied over them. For the washing of hands can be duly performed only with water poured from vessels, and poured by human effort, as we have explained in Laws Concerning Benedictions.

2. Whatever interposes during immersion interposes also at the ablution of hands, both when they are immersed and when they are washed. And whatever serves to fill up the measure of an immersion pool--such as thin mud--serves also to make up the measure of the quarter-log with which the hands are washed. And he who washes his hands must also rub them.

3. If a man wishes to wash his hands for heave offering, he must wash them again a second time with other water to remove the water on his hands, since the water with which he washes them first--which is called "The first water"--is rendered unclean by his hands. Therefore if a loaf of heave offering falls in the water with which he first washes his hands, it becomes unclean. If he pours both the first water and the second water over the same place and the loaf of heave offering falls thereon, it becomes unclean. If he pours the first water over his hands and something which interposes is found on them, and he removes it and then pours the second water, his hands remain unclean as they were before, because the second water renders clean only what remains on his hands of the first water.

4. The hands incur uncleanness and are restored to cleanness as far up as the wrist. Thus, if a man pours the first water as far up as the wrist and pours the second water beyond the wrist, and the second water flows back to his hands from beyond the wrist, his hands become clean, since the second water is clean; but if he pours both the first water and the second water beyond the wrist, and the water flows back to the hands, his hands remain unclean, since the first water beyond the wrist becomes unclean because of the water on his hands, and the second water does not render clean the first water beyond the wrist. And since the water beyond the wrist flows back to his hands, it renders them unclean.

5. If he pours the first water over one hand and reminds himself and pours the second water over both hands, his hands remain unclean, since the second water becomes unclean because of the hand that has not been washed with the first water, so that it returns and renders the other hand unclean.

If he pours the first water over both hands and then pours the second water over one hand only, the one hand becomes clean. If he pours water over one hand and rubs it on the other, the water on it becomes unclean because of the other hand which has not been washed, and it again renders unclean the hand that has been washed. But if he rubs it on his head or on the wall to dry it, it remains clean.

6. If the water is poured over both hands with a single rinsing, they become clean, and he may not be said to be like one who has poured over one hand water that has flowed off the other hand. Indeed, it is permissible to pour over the hands of even four or five persons, either side by side or one above the other, provided only that they are not too close together, so that the water may flow between them.

7. If a man pours water over part of his hand and then returns and pours more water over the rest of his hand, it remains unclean as it was before; but if there still remains on the part that was first washed enough moisture to impart wetness, it becomes clean. This applies to the first water; but as to the second water a man may pour it over part of his hands and then return and pour more over the other part.

8. The quantity of water which must be poured at the first washing is a quarter-log for each person for both hands. There may be no quantity less than this, as we have explained concerning the washing of hands before a meal. But of the second water, two persons need pour but a quarter-log over their hands, and three persons or four need pour but a half-log, and even a hundred need pour but one log, since it is not for the second water to impart cleanness but to remove the first water.

9. If a vessel contains a quarter-log of water valid for the washing of hands, and one puts into it a small amount of water which is not valid for the washing of hands, it still remains valid. But if he pours out of the vessel the same quantity which he puts in, and there remains a quarter-log only, as it was before, this is invalid, since the invalid water has served to fill up the measure of the quarter-log.⁴⁰

There is a problem concerning the double rinsing.

The conflict deals with what happens to the water that is poured on the hands. One may be led to think that the water

of the first rinsing contracts first degree impurity and therefore would render the water of the second rinsing impure. According to the 'or samah the water that is on the hand from the first rinsing assumes the same status as the hand itself. Therefore, the water of the second rinsing is not rendered impure. However, when the water goes beyond the area of the hand (i.e. beyond the wrist) it becomes *shay'bi* *shay'bi* even though the area beyond the wrist is not considered a *shay'bi* *shay'bi*.⁴¹

We are also faced with the problem of the double rinsing. According to the commentary of Rabbi David 'Ara'mah on the Mishneh Torah, for ordinary purposes a single rinsing with at least a quarter-log (2 ounces) is sufficient to make the hands pure. However, for Terumah, even if the first rinsing contained a quarter-log, one must give his hands a second rinsing. The basis for division of opinion in regard to ordinary things would be the question of whether or not one applied a full quarter-log to his hands.⁴²

We are also plagued by conflicting texts concerning to which rinsing one may add. Maimonides solves this problem in the seventh halacha of the 11th chapter of Miqwaoth.

7. If a man pours water over part of his hand and then returns and pours more water over the rest of his hand, it remains unclean as it was before; but if there still remains on the part that was first washed enough moisture to impart wetness, it becomes clean. This applies to the first water; but as to the second water a man may pour it over part of his hands and then return and pour more over the other part.⁴³

The commentary of the Ra'bad on the Mishneh Torah discusses the problem of which rinsing may be added to and which

statement belongs to R. Meir and which belongs to R. Jose. Say that a man applied only enough water to cover half of his hand. Realizing what happened, he poured water on the second half of his hand; his hand is impure. However, if he applied enough water to wet his entire hand in the first rinsing; he may add all he wants to the second rinsing. So it is the second rinsing to which one may add!

There remains one final problem for us to consider. Maimonides insists that each person must use at least a quarter-log (2 ounces) of water in administering water to his hands. If this is true, what about the statements that we have in both the Mishnah and the Tosefta about two people being able to use a quarter-log, three or more people being able to use a half log, five, ten or even a hundred people using a log? Maimonides solves this contradiction by saying that this statement refers to the second rinsing. In other words, each person must use a quarter-log for the first rinsing but two people can share a quarter-log for the second rinsing etc..⁴⁴

Tosefta Yadaim 1:3,4,5

Translation:

(3) One who administers water to his hands must rub his hands. [If one administered water to one of his hands and rubbed it on the other hand], it (the hand originally rinsed) becomes impure. [If one wiped his hand on his head or on the wall, it is pure. But if he goes back and touches them (his head or the wall--where it is still moist from wiping his wet hand) his hand is impure. One who applies a single rinsing to his hands must use a quarter-log (two ounces)--these are the words of R. Meir. R. Jose says: if he administers

water] to both hands he must apply a quarter-log. However, if he [administers] water to one hand, even if he only applied what water was left over from a quarter-log; it is proper.

(4) Anything that is considered an obstruction for the [immersion] of the body is considered an obstruction for the sanctification of the hands and feet for the Temple Service. (5) One who administers water to his hands for the Temple Service must use a quarter-log and there is no specified amount for the sanctification of the hands.

Comment:

The necessity of rubbing or wiping the hands is specifically stated in Soṭah 4b.

R. Zerika said in the name of R. Eleazar: Whoever makes light of washing the hands [before and after a meal] will be uprooted from the world. R. Hiyya b. Ashi said in the name of Rab: With the first washing [before the meal] it is necessary to lift the hands up; with the latter washing [after the meal] it is necessary to lower the hands. There is a similar teaching: Who washes his hands [before the meal] must lift them up lest the water pass beyond the joint, flow back and render them unclean. R. Abbahu says: Whoever eats bread without first wiping his hands is as though he eats unclean food; as it is stated. And the Lord said, Even thus shall the children of Israel eat their bread unclean.⁴⁵

Let us assume that one applied water to just one of his hands and then rubbed the other hand with his wet hand. The water that is on the hand that he originally washed becomes impure because his other hand "which was impure" touched it. This would come under the category of liquid contracting impurity. The second rinsing would not correct the matter. For the impure water of the first rinsing would render the water of the second rinsing impure. However, if one administers water to both of his hands together, it is as if he administered water to just one of his hands.

Therefore, this danger of impurity is eliminated. Now, let us assume that one administered water to his hand and he wiped his hand on his head or on the wall in order to dry it, this is a valid procedure. However, the moisture that is on his head and on the wall from the wiping that he performed is now impure. Therefore, if one goes back and touches the moist place on his head or the wall he contracts impurity.⁴⁶

Concerning the matter of obstruction of purification, there is a parallel in Hullin 106b. "Whatsoever is deemed to be an interposition with regard to the immersion of the body is also an interposition with regard to the washing of the hands and the sanctification of the hands and feet for the Temple service."⁴⁷ The necessity for the Priests to wash their hands and feet is based on a passage from Exodus 30: 17-21.

17 The LORD spoke to Moses, saying: 18 Make a laver of copper and stand of copper for it, for washing; and place it between the Tent of Meeting and the altar. Put water in it, 19 and let Aaron and his sons wash their hands and feet [in water drawn] from it. 20 When they enter the tent of Meeting they shall wash with water, that they may not die; or when they approach to serve, to turn into smoke an offering by fire to the LORD, 21 they shall wash their hands and feet, that they may not die. It shall be a law from all time for them--for him and his offspring throughout the generations.⁴⁸

It is a basic principle that the waters of the miqweh touch every part of the body, and that even a tiny part of the body that does not come into direct contact with the water renders the entire miqweh invalid.

5. She should at the time of Tvilah retain such a position and posture so that the water of the Mikvah will

come in direct contact with every part of her body. Her feet should not be too close to each other. She should not press her arms to her body; should not clench her fists; should not press her lips tightly nor close her eyes firmly. Her position should be natural and free. She should not bend or stoop so much that folds will be formed in her body and prevent the direct contact of the water with parts of the body.

6. If after Tvilah the woman discovers that she has not removed any article or sticky materials from her body or hair, the object should be removed and Tvilah must be performed again.⁴⁹

The same strict standards that apply to immersing ones body in the miqweh applies to washing the hands.

The passage from our Tosefta concerning the santification of the hands and feet for the Temple Service is confusing. The Biblical requirement of washing the hands and feet is mentioned plus an administration of water to the hands for the Temple Service. The problem of the size of the laver in which these administrations are to be made is dealt with in Zebahim 21b-22a.

The [above] text [stated] 'R. Jose son of R. Hanina said: You may not wash in a laver which does not contain sufficient water for the sanctification of four priests, for it says, That Moses and Aaron and his sons wash their hands and their feet thereat. An objection is raised: All vessels sanctify, whether they contain a rebi'ith [22a] or they do not contain a rebi'ith, provided they are service vessels? -Said R. Adda B. Aha: This means where one bales out from it. But the Divine Law saith, 'Thereat'?--They should wash is to include any service vessel. If so, then a profane vessel too [should be fit]?--Said Abave: You cannot say [that] a profane vessel [is fit], this being deduced from its base, a fortiori: If its base, which was anointed together with it [the laver], does not sanctify [the water poured into it], is it not logical that a profane vessel, which was not anointed with it, does not sanctify? 50

Tosefta 1:6

Translation:

"If the stopper of a jar was fashioned [into a vessel], it may be used for washing the hands."⁵¹ The skin-bottle and the inverted vessel, even though they are inferior,

can be used for administering water to the hands. "A sack or a basket, even though they were made to hold water, may not be used for washing the hands."⁵² Water can be administered to the hands from a check box or cupboard even though they are not made (big) like a "tent!" However, when they are (legally) considered a tent, one may not administer water to the hands from them.

Comment:

The skin-bottle goes back to Biblical times.

The bottle was a leathern bag made from the skins of the young kid, goat, cow, or buffalo. The largest ones were roughly squared and sewn up.....The skin-bottle, being portable and unbreakable, was admirably suited for the deep stone-built well, the shepherd's troughs, and the encampment of the traveller in waterless districts.⁵³

A sack or basket may not be used for administering water to the hands because "these do not usually hold water and cannot be regarded as a vessel for washing."⁵⁴

It is important to understand the concept of impurity contracted through a "tent". Any projecting structure is considered a tent. For instance, let us assume that there is a dead lizard in a telephone booth. If I walk into that telephone booth, even if I did not touch the lizard, I still contract impurity by being under the same tent-like structure that the original source of impurity was. However, a converse principle may be applied. A tent-like structure can act as a screen against impurity. In other words, if the dead lizard was lying directly outside the telephone booth and one entered the telephone booth, the telephone booth would act as a screen against contracting any impurity from the dead lizard. Now, there are times when such things as a box or cupboard are considered tents and there are times

when they are not considered tents. For instance, if one is carrying a cupboard, it is not considered a tent. "If a man enters heathen land in a chest, a box, or a cupboard that is carried aloft through the air, he becomes unclean, since a "tent" that is in motion is not a "tent" in the accepted sense."⁵⁵

Tosefta 1:7,8

Translation:

(7) The priests only sanctify themselves for the Temple Service from a (proper) vessel. Also, they only give the ordeal water to the suspected adulteresses and only purify the lepers out of a (proper) vessel. The bottom of a vessel; a wood vessel, a vessel [made of] bone and a glass vessel cannot be used for administering water to the hands. However, if one trimmed their rims and made them (proper) vessels and they have a receptacle that can hold a quarter-log they can be used for administering water to the hands. (8) The fragments of an earthen vessel, as long as they have a receptacle that can hold a quarter-log, can be used for administering water to the hands. However in respect to the fragments of metallic vessels, even if they have a receptacle that can hold a quarter-log, they can not be used for administering water to the hands.

Comment:

In this context sanctifying means "to wash hands and feet prior to a sacred act."⁵⁶

They brought him to the Parwah Chamber which stood in holy ground. They spread a linen sheet between him and the people. He sanctified his hands and his feet and stripped off his clothes. R. Meir says: He [first] stripped off his clothes and afterward sanctified his hands and his feet. He went down and immersed himself, came up and dried himself. They brought him white garments; he put them on and sanctified his hands and his feet.⁵⁷

The ordeal that the suspected adultress is put through is described in Numbers 5:12-31.

12 Speak to the Israelite people and say to them: If any man's wife has gone astray and broken faith with him 13 in that a man has had carnal relations with her unbeknown to her husband, and she keeps secret the fact that she has defiled herself without being forced, and there is no witness against her--14 but a fit of jealousy comes over him and he is wrought up about the wife who has defiled herself; or if a fit of jealousy comes over one and he is wrought up about his wife although she has not defiled herself--15 the man shall bring his wife to the priest. And he shall bring as an offering for her one-tenth of an ephah of barley flour. No oil shall be poured upon it and no frankincense shall be laid on it, for it is a meal offering of jealousy, a meal offering of remembrance which recalls wrongdoing.

16 The priest shall bring her forward and have her stand before the LORD. 17 The priest shall take sacral water in an earthen vessel and, taking some of the earth that is on the floor of the Tabernacle, the priest shall put it into the water. 18 After he has made the woman stand before the LORD, the priest shall loosen the hair of the woman's head and place upon her hands the meal offering of remembrance, which is a meal offering of jealousy. And in the priest's hands shall be the water of bitterness that induces the spell. 19 The priest shall adjure the woman, saying to her, "If no man has lain with you, if you have not gone astray in defilement while married to your husband, be immune to harm from this water of bitterness that induces the spell. 20 But if you have gone astray while married to your husband and have defiled yourself, if a man other than your husband has had carnal relations with you"--21 here the priest shall administer the curse of adjuration to the woman, as the priest goes on to say to the woman--"may the LORD make you a curse and an imprecation among your people, as the LORD causes your thigh to sag and your belly to distend; 22 may this water that induces the spell enter your body, causing the belly to distend and the thigh to sag." And the woman shall say, "Amen, amen!"

23 The priest shall put these curses down in writing and rub it off into the water of bitterness. 24 He is to make the woman drink the water of bitterness that induces the spell, so that the spell-inducing water may enter into her to bring on bitterness. 25 Then the priest shall take from the woman's hand the meal offering of jealousy, wave the meal offering before the LORD, and present it on the altar. 26 The priest shall scoop out of the meal offering a token part of it and turn it into smoke on the altar. Lastly, he shall make the

woman drink the water.

27 Once he has made her drink the water--if she has defiled herself by breaking faith with her husband, the spell-inducing water shall enter into her to bring on bitterness, so that her belly shall distend and her thigh shall sag; and the woman shall become a curse among her people. 28 But if the woman has not defiled herself and is pure, she shall be unharmed and able to retain seed.

29 This is the ritual in cases of jealousy, when a woman goes astray while married to her husband and defiles herself, 30 or when a fit of jealousy comes over a man and he is wrought up over his wife; the woman shall be made to stand before the LORD and the priest shall carry out all this ritual with her. 31 The man shall be clear of guilt; but that woman shall suffer for her guilt.⁵⁸

According to the Gaon of Vilna, vessels made out of glass, bone etc. cannot be used because of their pointed projections at the top. A proper vessel can be turned over and still stand. Let us assume that we have a bone vessel which is pointed at the top. We can trim away the point so that it would stand when turned upside down.

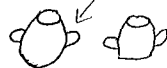
Proper Vessel



vessels unable to be turned over due to projections;



if trimmed



The earthen vessel is unique among all the vessels. The basis for its uniqueness is to be found in Leviticus 11:33.

"And if any of those falls into an earthen vessel, everything inside it shall be unclean and [the vessel] itself you shall break."⁵⁹

If a utensil is broken and its shape spoiled, the fragments thereof are not susceptible to uncleanness

even though those fragments are suitable for some use; save only the fragments of earthenware vessels, for if there is a potsherd among them able to contain anything, it is susceptible to uncleanness, for it is said, And every earthen vessel (Lev. 11:33); and by traditional interpretation it is learned that the particular purpose of this verse is to include fragments of earthenware vessels.⁶⁰

Tosefta 1:9

Translation:

If one hollowed out a trough and made a receptacle in it; even though the water detached it and then fastened it; one may not draw water, prepare the water of lustration nor sprinkle (the water of the sin offering) from it. Furthermore, it does not require a closely covered lid and one may not apply water to the hands from it. If one detached it, fixed it and designed it after its detachment, one can draw water, prepare the water of lustration, sprinkle (the water of the sin offering) from it. Furthermore, it requires a closely covered lid and one can apply water to the hands from it.

Comment:

The problem of the trough is mentioned in Miqwa'oth 4:5.

A trough hewn in the rock--they may not gather the water into it, or mix [the ashes] therein, or sprinkle from it; it does not need a tightly stopped-up cover, nor does it render an Immersion-pool invalid. If it was a movable vessel, although it had been joined [to the ground] with lime, they may gather water into it or mix the ashes therein or sprinkle from it; and it needs a tightly stopped-up cover, and it renders an Immersion-pool invalid. If there was a hole in it below or at the side such that it can hold no water at all, the water is valid. How large need the hole be? As large as the spout of a water-skin. R. Judah B. Bathyra said: It once happened that the Trough of Jehu in Jerusalem had in it a hole as big as the spout of a water-skin, and all the acts in Jerusalem requiring cleanness were done after immersing [the vessels] therein. But the School of Shammai sent and broke it down, for the School of Shammai said: [It is still to be accounted a vessel] until the greater part of it is broken down.

If it was hewn out of the rock, water collected in it does not count as 'drawn water', since the trough counts not as a 'vessel', but part of the earth itself.

But if it was only made fast to the rock it counts as a vessel and a receptacle, and water used from it is 'drawn' and invalid for an Immersion-pool.⁶¹

One is led to wonder why the word *שׁוּב* is used here instead of *שׁוּבָה*. In any event, what has taken place? According to the Gaon of Vilna the first instance in the Mishnah deals with the case in which the water itself detached the trough and the trough became reattached by natural means. All this occurred without any human labor. In an instance like this, the trough simply does not qualify as a proper vessel. The second instance in the Mishnah deals with the case in which a man detached the trough and carefully repaired it. It is then considered a proper vessel.

Tosefta 1:10,11

Translation:

(10) In respect to water that is not fit for cattle to drink, R. Simeon ben Elazar said: If it is on the ground one may immerse [vessels for purification] in it, but one may not apply water to the hands from it. The water that the bakers dip delicate bread in, even though (the water) its appearance is not changed, one may not apply it to the hands. And if he takes water in his hands and applies it to the loaves--if its (the water's) appearance is changed, it is unfit; if not, it is fit.
(11) Water that is by the smith, even though its appearance is not changed, may not be applied to the hands--for certainly work was done with it. In respect to water that is by the basin; if its appearance is changed, it is unfit, if not it is fit.

Comment:

It is obvious that sections of this passage of the Tosefta conflict with the Mishnah which is parallel to it. Again we must turn to Maimonides for a synthesis of the conflicting passages.

7. Four circumstances render water unfit for washing the hands,--change in color, exposure, previous use, and deterioration to an extent that would prevent cattle drinking of it. If water has changed in color, whether it is contained in a vessel or kept in the ground and whether the change was caused by a substance dropped into the water, or is due to its situation, it is unfit for washing the hands. So also, if it has been subjected to such an exposure as would prohibit its being used for drinking, it is unfit for washing the hands.

8. Water used in work becomes waste and is unfit for washing the hands. For example, water in which one washed utensils or dipped his bread, etc., whether the water is in vessels or in the ground is unfit for washing the hands. But if one rinses in it utensils that have been washed or that are new, he does not render it unfit. The water in which the baker dips the loaves is unfit for washing the hands; but that from which he fills his hands while kneading is fit, because only the water in his hands is regarded as having been used, but not the water left in the vessel from which he filled his hands.

9. Any water, unfit for a dog to drink, e.g. water that is so bitter, salty, muddy or malodorous that a dog will not drink it, is unfit for washing the hands, if contained in vessels. As long as it is in the ground, it is fit for ritual bathing. While the hot waters of Tiberias are in their natural situation, the hands may be immersed in them. But if one has drawn off some of it in a vessel, or diverted it by a channel to another situation, it may not be used for washing the hands before or after a meal because it is unfit for an animal to drink.⁶²

In regard to the last section in the Tosefta about the basin, some versions have 700--a hair-cutter, instead of 600--a basin.

Tosefta 1:12,13

Translation:

(12) All are fit to administer water to the hands--even one who is impure by means of contact with a corpse or even one who has had intercourse with a menstruating woman. Anything that does not render the water impure by carriage is proper for administration to the hands.

(13) If the one who administered the water to the hands acted without intent and the one who received the administration acted with intent and the converse; his hands are pure.--R. Jose said his hands are impure.

Comment:

Contracting impurity by contact with a corpse or by having intercourse with a menstruating woman are examples of contracting impurity par excellence. Before going any further, it is necessary to understand the impurity by carriage.

"Uncleanness by carriage," wherever mentioned, whether it concerns a corpse or anything else that conveys uncleanness by carriage, implies that a man carries the unclean thing although he may not have touched it; even if there is a stone between him and the unclean thing (and he moves it by moving the stone), he becomes unclean, in as much as he carried it. No matter whether he carried it on his head or on his hand or on any other part of his body, and no matter whether he himself carried it or whether another carried it and laid it upon him; inasmuch as it was in anywise borne on him he becomes unclean. Even though the uncleanness was suspended by a thread or a hair and the thread hung from his hand and he in the least degree lifted the uncleanness, he is deemed to have carried it, and is rendered unclean.....Man alone, and not vessels, can contract uncleanness by carriage. Thus if ten vessels, one above the other, are placed on his hands, and the uppermost vessel contains carrion or the like, he becomes unclean as one who carries carrion, but the vessels on his hand all remain clean except the uppermost which the unclean thing has touched. And the same applies in every like case.⁶³

How then can the water be rendered impure by carriage. An example would be: if a person used a fragment of a human skull to administer water to the hands, it would be invalid. The reason is that a fragment from a human skull is one of the things that conveys impurity by contact and carriage.

In performing any mizwah the intent is what is important.

For example, if one absent-mindedly applied water to his hands in order to cool them, it is not considered a valid administration of water to the hands. In order for the miqwah to be fulfilled one must pour water over his hands with the specific intent of performing the miqwah of administering water to the hands. Needless to say, there is a conflict with the first Tanna and R. Jose. The Gaon of Vilna solves the conflict by using the Halachic distinction of "in the first place" and "expost facto."

Of these two antithetical terms the Gemara makes frequent use in the interpretation of the Mishna, especially in questions of the ritual law, *דבר ראשון* means, literally, as for the beginning, at the outset, beforehand, previously. The term denotes the question of law concerning an act to be done, whether it may properly be done in that certain manner or not. *אחר כך* (contraction of *אחר כך* ^{1/2}) means if he has done. In contradistinction to the former, this term denotes the question of law concerning an act already done, whether it is valid and acceptable or not.⁶⁴

An example is the case mentioned in Hullin 13b. What happens if a blind person slaughtered an animal? Is it kosher?

The answer the Gemara gives is that if he already slaughtered the animal, it is kosher; however, he shouldn't have slaughtered the animal in the first place.

The same principle applies to the situation where either the one who applies the water or the one who receives the application acts without intent. If the deed was done it is proper, but it would not have been done in the first place.

Tosefta 1:14

Translation:

If one breaks open a hole in a caldron and administers water to the hands from it or if one administered water to his hands from a duct that has a recepticle that can hold a quarter-log, his hands are pure. R. Jose says his hands are impure. Even R. Jose admits that if one placed a pouched vessel between his knees or between his elbows and administered water to his hands, his hands are pure.

Comment:

There is a conflict of opinion between the first Tanna and R. Jose, on the principle of human power. We have already mentioned the fact that the water must be administered to the hands by human strength. Now, what happens if a human being punched a hole in a caldron and the water gushes forth and he washes his hands with it? The first Tanna bases his opinion on the fact that it was human strength that punched the hole in the caldron. However, if the caldron sprung a leak or broke by itself, even the first Tanna would not permit a hand washing from it.

R. Jose bases his opinion on the fact that it is not human strength but rather gravity which is causing the water to gush forth. However, R. Jose is willing to admit that if one placed a large barrel between his knees and tilted it, it is a proper rinsing, even though there is more than human strength that is causing the water to come out. The barrel is being tilted by human strength. In this case the majority of halachic opinion seems to be on the side of R. Jose.⁶⁵ The requirement that the water be poured by human strength is the all important factor. In this passage, from the Tosefta there seems to be a fine distinction made

between combining human strength with the laws of physics and breaking opened a caldron so that the laws of physics take over entirely.

Introduction to Chapter 4

The fourth chapter of Tractate Yadaim deals with a number of halachic issues that were taken up on an event called *lo' 2 12* -"on that day". The question arises as to what "that day" was. According to the narrative that we have in Berakoth 27b-28a "that day" refers to the day in which Rabban Gamaliel was impeached. The powerful narrative in Berakoth sets the scene for chapter 4 of Tractate Yadaim.

It is related that a certain disciple came before R. Joshua and asked him. Is the evening Tefillah compulsory or optional? He replied: It is optional. He then presented himself before Rabban Gamaliel and asked him: Is the evening Tefillah compulsory or optional? He replied: It is compulsory. But, he said, did not R. Joshua tell me that it is optional? He said: Wait till the champions enter the Beth ha-Midrash. When the champions came in, someone rose and inquired, Is the evening Tefillah compulsory or optional? Rabban Gamaliel replied: It is compulsory. Said Rabban Gamaliel to the Sages: Is there anyone who disputes this? R. Joshua replied to him: No. He said to him: Did they not report you to me as saying that it is optional? He then went on: Joshua, stand up and let them testify against you! R. Joshua stood up and said: Were I alive and he [The witness] dead, the living could contradict the dead. But now that he is alive and I am alive, how can the living contradict the living? Rabban Gamaliel remained sitting and expounding and R. Joshua remained standing, until all the people there began to shout and say to Huzpith the turgeman, Stop! and he stopped. They then said: How long is he [Rabban Gamaliel] to go on insulting him [R. Joshua]? On New Year last year he insulted him; he insulted him in the matter of the firstborn in the affair of R. Zadok; now he insults him again! Come, let us depose him! Whom shall we appoint instead? We can hardly appoint R. Joshua, because he is one of the parties involved. We can hardly appoint R. Akiba because perhaps Rabban Gamaliel will bring a curse on him because he has no ancestral merit. Let us then appoint R. Eleazar B. Azariah, who is wise and rich and the tenth in descent from Ezra. He is wise, so that if anyone puts a question to him he will be able to answer it. He is rich, so that if occasion arises for paying court to Caesar he will be able to do so.

He is tenth in descent from Ezra, so that he has ancestral merit and he [Rabban Gamaliel] cannot bring a curse on him. They went and said to him: Will your honour consent to become head of the Academy? He replied: I will go and consult the members of my family. He went and consulted his wife. She said to him: [28a] Perhaps they will depose you later on. He replied to her: [There is a proverb:] Let a man use a cup of honour for one day even if it be broken the next. She said to him: You have no white hair. He was eighteen years old that day, and a miracle was wrought for him and eighteen rows of hair [on his beard] turned white. That is why R. Eleazar b. Azariah said: Behold I am about seventy years old, and he did not say [Simply] seventy years old. A Tanna taught: On that day the door-keeper was removed and permission was given to the disciples to enter. For Rabban Gamaliel had issued a proclamation [saying,] No disciple whose character does not correspond to his exterior may enter the Beth ha-Midrash. On that day many stools were added. R. Johanan said: There is a difference of opinion on this matter between Abba Joseph b. Dosethai and the Rabbis: one [authority] says that four hundred stools were added, and the other says seven hundred. Rabban Gamaliel became alarmed and said: Perhaps, God forbid, I withheld Torah from Israel! He was shown in his dream white casks full of asks. This, however, really meant nothing, he was only shown this to appease him.

A Tanna taught: Eduyyoth was formulated on that day--and wherever the expression 'on that day' is used, it refers to that day--and there was no halachah about which any doubt existed in the Beth Ha-Midrash which was not fully elucidated. Rabban Gamaliel also did not absent himself from the Beth ha-Midrash a single hour.⁶⁶

Chapter 4

Mishnah 1

Translatipn:

On that day they voted that any tub for foot-baths with a capacity from two logs (1 pint) to nine kabs (2½ gallons) which is cracked can contract midras-impurity. But Akiba says that a tub for foot-baths always keeps its original status.

Comment:

First it is necessary to define midras-impurity.

MIDRAS (Lit. treading, place of treading). It denotes uncleanness of the first degree ('Father of uncleanness') contracted by an object on which a gonorrhoeist (more exactly those mentioned in Lev. XII, 2; XV, 2, 25) sits, lies, rides or leans against. Any object fit for, and usually used as a seat, cover, etc. is susceptible to midras-uncleanness.1

It should be mentioned that this category includes more than those who have gonorrhea. The class includes those who have a bodily discharge-for a variety of reasons. The fifteenth chapter of Leviticus is the main source of this ruling.

The LORD spoke to Moses and Aaron, saying: 2Speak to the Israelite people and say to them:

When any man has a discharge issuing from his member, he is unclean. 3The uncleanness from his discharge shall mean the following-whether his member runs with the discharge or is stopped up so that there is no discharge, his uncleanness means this: 4 Any bedding on which the one with the discharge lies shall be unclean, and every object on which he sits shall be unclean. 5 Anyone who touches his bedding shall wash his clothes, bathe in water, and remain unclean until evening. 6Whoever sits on an object on which the one with the discharge has sat shall wash his clothes, bathe in water, and remain unclean until evening. 7 Whoever touches the body of the one with the discharge shall wash his clothes, bathe in water, and remain unclean until evening. 8 If one with a discharge spits on one who is clean, the latter shall wash his clothes, bathe in water, and remain unclean until evening. 9 Any means for riding which one

with a discharge has mounted shall be unclean; 10 whoever touches anything that was under him shall be unclean until evening; and whoever carries such things shall wash his clothes, bathe in water, and remain unclean until evening. 11 If one with a discharge, without having rinsed his hands in water, touches another person, that person shall wash his clothes, bathe in water, and remain unclean until evening. 12 An earthen vessel which one with a discharge touches shall be broken; and any wooden implement shall be rinsed with water.

13 When one with a discharge becomes clean of his discharge, he shall count off seven days for his cleansing, wash his clothes, and bathe his body in fresh water; then he shall be clean. 14 On the eighth day he shall take two turtle doves or two pigeons and come before the LORD at the entrance of the Tent of Meeting and give them to the priest. 15 the priest shall offer them, the one as a sin offering and the other as a burnt offering. Thus the priest shall make expiation on his behalf, for his discharge, before the LORD.

16 When a man has an emission of semen, he shall bathe his whole body in water and remain unclean until evening. 17 All cloth or leather on which semen falls shall be washed in water and remain unclean until evening. 18 And if a man has carnal relations with a woman, they shall bathe in water and remain unclean until evening.

19 When a woman has a discharge, her discharge being blood from her body, she shall remain in her impurity seven days; whoever touches her shall be unclean until evening. 20 Anything that she lies on during her impurity shall be unclean; and anything that she sits on shall be unclean. 21 Anyone who touches her bedding shall wash his clothes, bathe in water, and remain unclean until evening; 22 and anyone who touches any object on which she has sat shall wash his clothes, bathe in water, and remain unclean until evening. 23 Be it the bedding or be it the object on which she sat, on touching it he shall be unclean until evening. 24 And if a man lies with her, her impurity is communicated to him; he shall be unclean seven days, and any bedding on which he lies shall become unclean.

25 When a woman has had a discharge of blood for many days; not at the time of her impurity, or when she has a discharge beyond her period of impurity, she shall be unclean, as though at the time of her impurity, as long as her discharge lasts: she shall be unclean. 26 Any bedding on which she lies while her discharge lasts shall be for her like bedding during her impurity; and any object on which she sits shall become unclean, as it does during her impurity: 27 whoever touches them

shall be unclean; he shall wash his clothes, bathe in water, and remain unclean until evening.

28 When she becomes clean of her discharge, she shall count off seven days, and after that she shall be clean. 29 On the eighth day she shall take two turtle doves or two pigeons, and bring them to the priest at the entrance of the Tent of Meeting. 30 The priest shall offer the one as a sin offering and the other as a burnt offering; and the priest shall make expiation on her behalf, for her unclean discharge, before the LORD.

31 You shall put the Israelites on guard against their uncleanness, lest they die through their uncleanness by defiling My Tabernacle which is among them.

32 Such is the ritual concerning him who has a discharge and him who has an emission of semen and becomes unclean thereby, 33 and concerning her who is in menstrual infirmity: anyone, that is, male or female, who has a discharge, and also the man who lies with an unclean woman.²

A woman after childbirth also fits into this category as shown in Leviticus 12:2,5.

2 Speak to the Israelite people thus; When a woman at childbirth bears a male, she shall be unclean seven days; she shall be unclean as at the time of her menstrual infirmity....5 If she bears a female, she shall be unclean two weeks as during her menstruation, and she shall remain in a state of blood purification for sixty-six days.³

Our interest centers on a clause in chapter 15 verse

four: "...And every object on which he sits shall be unclean."

In Shabbat 59a it states that we may get a mistaken impression from this. What if this unclean person sits on a barrel that is normally used to store wine? Would said wine barrel be susceptible to impurity under this category? The answer is no. Only an object that is used exclusively for sitting is susceptible to impurity under this category. Now, a tub that was used for foot-baths and became cracked

was generally used for sitting. The Rosh explains that said tub has to be so badly cracked that the water would run out before one had the chance to bathe even one foot. Thus the status of the tub changes to that of "an object used exclusively for sitting." Rabbi Akiba offers a view that is not accepted: even though the tub is cracked badly, the status of the tub does not change into an object used for sitting. In fact, the status of the tub does indeed change and if a person with a discharge sits on it, it contracts midras-impurity.

Mishnah 2

Translation:

On that day they said that all the sacrifices which were not offered for their specific purpose are valid but do not credit the performer (of the sacrifice) with the fulfillment of said obligation excepting the Passover-offering and the sin-offering. The guilt-offering is valid any time offered. Rabbi Simeon ben Azzai said: I have a tradition from the seventy-two elders on the day they instated R. Elazar ben Azariah as head of the Yeshivah-that all sacrifices that are eaten and were not offered for their specific purpose are valid but do not credit the performer (of the sacrifice) with the fulfillment of said offering excepting the Passover-offering and the sin-offering. Ben Azzai included the burnt-offering (in addition to the Passover-offering and sin offering,) but the majority did not agree with him.

Comment:

This translation is according to the München Manuscripts which vary considerably from the Mishnah text. It is only fair to present Danby's translation of the portion of the Mishnah text that differs.

This rule applies to a Passover-offering at its

appointed time and to a Sin-offering at any time. R. Eliezer says: Excepting also the Guilt-offering; this rule therefore applies to a Passover-offering at its appointed time, and to a Sin-offering and a Guilt-offering at any time. Rabbi Simeon b. Azzai said.....4

In order to better understand this Mishnah, it is necessary to explain the sacrificial system to a certain extent. Sacrifices are divided into two categories: ק'רן קדש and ק'רן קדש, "holy of holies" and "minor sacrifices." For our purposes we will simply call them major and minor sacrifices. The major sacrifices include 1) the burnt offering-- ד' 2) the sin offering where the blood is applied to the inside altar-- ח' 3) the sin offering where the blood is applied to the outside altar-- ח' 4) the guilt offering -- ח' and 5) the peace offering (communal). -- ח' . Minor sacrifices include 1) the individual peace offering-- ח' 2) the thanksgiving offering-- ח' 3) the first-born offering-- ח' 4) the tithe offering of cattle -- ח' and 5) the Passover offering-- ח' .

Major sacrifices can be brought by the individual or by the community except the guilt offering which is always brought by the individual. Minor sacrifices are only brought by the individual. There are sacrifices that are mandatory and sacrifices that are given as the result of a vow or pledge. The sin offering, the guilt offering, the first-born offering, the tithe offering of cattle and the Passover offering are mandatory. The burnt offering, the

peace offerings, and thanksgiving offerings are also mandatory but can also be used to fulfill a pledge. It is important to understand the distinction between a sacrifice made to fulfill a vow and a sacrifice made to fulfill a pledge. If one intended to bring a sacrifice to fulfill a vow and the sacrificial animal was either lost or stolen before he had a chance to offer it, he is not responsible for the sacrifice. However, if one intended to offer a sacrifice to fulfill a pledge and the sacrificial animal was lost or stolen before he had a chance to offer it, he is responsible for the sacrifice.⁵

It is also necessary to check a parallel passage-Zebahim 1:1.

All animal-offerings that have been slaughtered under the name of some other offering remain valid (but they do not count to their owner in fulfilment of his obligation) excepting a Passover-offering and a Sin-offering. This rule applies to a Passover-offering at its appointed time and to a Sin-offering at any time. R. Eliezer says: Excepting also a Guilt-offering; this rule therefore applies to a Passover-offering at its appointed time and to a Sin-offering and a Guilt-offering at any time. R. Eliezer said: A Sin-offering is offered because of a sin and a Guilt-offering is offered because of a sin; therefore as a Sin-offering is invalid if slaughtered under some other name so must a Guilt-offering be invalid if slaughtered under some other name.⁶

Now we must consider what is at stake. Suppose a "burnt-offering" was slaughtered as a peace-offering [פ'נדע]?⁷. What does the Mishnah mean when it says that the offerings are still valid? It simply means that "their blood may still be tossed against the Altar-base and their 'sacrificial

portions' burnt on the Altar."⁸ This is a long way from fulfilling the requirements of the sacrifice. Let us consider the obligations involved in the sacrifices mentioned in the Mishnah under consideration (Yadaim 4:2) as they appear in the München manuscripts: i.e. the Passover-offering, the sin-offering, the guilt-offering and the burnt-offering. Of this group, only the Passover-offering is a minor sacrifice. The Passover-offering must be offered by every Israelite on the fourteenth of Nissan after midday in fulfillment of the commandment in Numbers 9:2: "Let the Israelite people offer the passover sacrifice at its set time."^{8a}

The sin-offering in which the blood is applied to the inside altar is sacrificed to atone for the following sin: a court made a mistake and said that "X" was permissible when in reality it was punishable by premature death by divine intervention whether it was done accidentally or intentionally. Suppose that the populace acted upon this mistaken decision which the court made? All those who are involved are guilty of a sinful act and must atone as is stated in Leviticus 4:13-14.

If it is the whole community of Israel that has erred and the matter escapes the notice of the congregation, so that they do any of the things which by the LORD'S commandments ought not to be done, and thus incur blame-¹⁴ when the sin through which they incurred guilt becomes known, the congregation shall offer a bull of the herd as a sin offering, and bring it before the Tent of Meeting.⁹

The sin-offering in which the blood is applied to the

outside altar involves various sins done by the individual or community either inadvertently or on purpose.

The guilt-offering expiates for various sins or sinful states that put one in a state of guilt. The burnt offering is a type of sacrifice where the entire animal is burnt on the altar. There are two categories-the burnt offering of the individual and the burnt offering of the community. The burnt offering of the individual is sub-divided into two categories: the offering of a pledge and the pilgrims burnt offering. The pledge offering expiates for a failure to perform a positive commandment or for breaking a negative commandment that must be compensated for by performing a positive act. An example of this would be breaking the prohibition against stealing. The violator must compensate by making restitution. The pilgrim offering must be brought by every Israelite male on the Three Festivals.

The burnt offering of the community is subdivided into three categories: the eternal offering, the bull of idol worship and the free-will offering. The eternal offering is offered every day-once in the morning and once in the evening. The bull of idol worship expiates for a community that was mistakenly led into idol worship. The free-will offering was sacrificed when the altar was not being used for any other sacrificial purpose- in order that the altar never be without a sacrifice. This was provided for by the Temple fund.

The sacrificial system is complicated. Different occasions and conditions demand different sacrifices. For each sacrifice there is a certain set of procedures that must be followed to the letter.¹⁰

Therefore, the issue involved in our Mishnah is not whether any obligation can be fulfilled when one offers a sacrifice under a set of procedures for a sacrifice not relating to the demands of the occasion or condition. The issue is: if said mistake was made, is the sacrifice a total waste or can it be offered properly as a valid sacrifice.

Mishnah 4:3

Translation:

On that day they said: What is the procedure for (Israelites living in) Ammon and Moab in the Sabbatical year. Rabbi Tarfon decreed: the poor man's tithe. And R. Elazar ben Azariah decreed: second tithe. R. Ishmael said: "Elazar ben Azariah, you must provide the proof-for it is incumbent upon the more stringent man to provide the proof." R. Elazar ben Azariah said to him, "Ishmael my brother, I did not change the cycle; Tarfon, my brother changed it-so he must provide the proof." R. Tarfon answered, because Egypt is outside Israel as are Ammon and Moab. Just as the poor man's tithe is given in Egypt in the Sabbatical year, so in Ammon and Moab it must be given in the Sabbatical year. R. Elazar ben Azariah answered: Babylonia is outside Israel as are Ammon and Moab. Just as the second tithe is given in Babylonia in the Sabbatical year, so it must be given in Ammon and Moab in the Sabbatical year. R. Tarfon said: the poor man's tithe must be given in Egypt because it is near to Israel so that poor Israelites can depend on it in the Sabbatical year. So the poor man's tithe must be given in Ammon and Moab because they are near to Israel and poor Israelites can depend on them in the Sabbatical year. R. Elazar ben Azariah said: you would benefit them with money but destroy souls, as it is stated in Scripture: "Will a man rob God? Yet ye rob Me. But ye say: 'Wherein have we robbed thee?' In tithes and heave-offerings,"¹¹ (Malachi 3:8) R. Joshua said: I would answer on behalf

of Tarfon my brother, but not using his argument. [The matter of tithes in] Egypt is a recent issue and that of Babylonia is an old issue. The matter that is before us is a recent issue. So let a recent issue serve as precedent for a recent issue. [The rule of tithes in] Egypt was an enactment of the Elders. So let an enactment of the Elders serve as precedent for an enactment of the Elders and do not let an enactment of the prophets serve as precedent for an enactment of the Elders. They voted that [Israelites in] Ammon and Moab should give the poor man's tithe in the Sabbatical year. When R. Jose ben Durmaskith went to R. Eliezer in Lod, he (Eliezer) said to him: "Was there any new issue in the Beth Ha-Midrash today? He said: They voted that (the Israelites) in Ammon and Moab should give the poor man's tithe in the Sabbatical year. R. Eliezer cried and said: "The counsel of the Lord is with them that fear Him; and His covenant, to make them know it."¹² (Psalms 25:14) Go and say to them: Don't worry about your vote. I received a tradition from Rabban Yochanan ben Zakkai who heard it from his master. His master heard it from his master. So it can be traced back to Moses at Sinai that [Israelites in] Ammon and Moab must give the poor man's tithe in the Sabbatical year.

The tithe was a tax on the agricultural produce of one's land; generally, ten percent. There are a number of Biblical references to various tithes. These references are not necessarily consistent and there are a number of critical explanations for this. However, the rabbis of the Talmud found a way to categorize these tithes and create an orderly cycle. The tithing schedule is determined on a seven year cycle. Every year each land owner must give two tithes. One is called the "First Tithe"-it is given to the Levites, who in turn give ten percent of their tithe to the priests. On the third and sixth year of the cycle, the other tithe goes to the poor-it is called the "Poor man's tithe." On the first, second, fourth and fifth year of the cycle; the other tithe is to be used for consumption at the temple feast.

Of course, the actual produce that makes up the tithe can be sold and one therefore uses the money of the sold tithe for the temple feast. Of course the seventh year is the Sabbatical year and all the land in Israel is put to rest.

Year	1	2	3	4	5	6	7
Tithe #1	רעגן י'ע/כ	רעגן י'ע/כ	רעגן י'ע/כ	רעגן י'ע/כ	רעגן י'ע/כ	רעגן י'ע/כ	ש ש ש
Tithe #2	רעגן י'ע	רעגן י'ע	רעגן י'ש	רעגן י'ע	רעגן י'ע	רעגן י'ש	ש ש ש

However, the Sabbatical year is not a requirement for lands outside Israel. Therefore, if the land is being cultivated, the question arises as to which tithes must be given. Needless to say, the obligation of tithing would apply only to the Jewish residents of the countries under consideration. So the question was taken up in reference to the Jewish residents of Ammon and Moab as to whether they should offer the Second Tithe or the Poor Man's tithe. This leads to a conflict between R. Tarfon and R. Elazar ben Azariah. Tarfon claimed that the required tithe is the Poor Man's Tithe while Elazar ben Azariah claimed that it is the Second Tithe. R. Ishmael challenges R. Elazar ben Azariah to provide the proof because his position is the more stringent. The produce of the Poor Man's Tithe was used for the needy members of the community. The produce of the Second Tithe was considered "consecrated" and had to be con-

sumed at the Temple Feast in Jerusalem. The more lenient position would be to give the tithe in question to the needy. R. Elazar ben Azariah replies that Tarfon's position would violate the order of the cycle-a year in which the Poor Man's Cycle is offered is followed by a year in which the Second Tithe is offered. If we accept Tarfon's position, there would be two years in a row of the Poor Man's Tithe being offered. Tarfon uses the procedure in Egypt as a precedent-for the Poor Man's tithe is given during the Sabbatical Year in Egypt. However, Elazar ben Azariah quoted Babylonia as a precedent--where the Second Tithe is given in the Sabbatical year. Tarfon counters by saying that Egypt is near Israel and poor Israelites could benefit from the tithe. At this point R. Elazar ben Azariah accuses Tarfon of wanting to temporarily bring material benefit to the needy, but ultimately causing harm by robbing God of the consecrated tithe. In the München Manuscripts it says "R. Tarfon replied..." However, the München Manuscripts do not have the reply. Therefore, we are missing part of the debate. Anyhow, R. Joshua comes to Tarfon's aid by saying the precedent of Egypt is a more recent one; therefore, more valid. A vote is taken and it is decided that the Poor Man's tithe is to be given in Ammon and Moab in the Sabbatical year.

Suddenly the scene changes. R. Jose ben Durmaskith went to report the days activities to R. Eliezer ben Hyrcanus. R. Eliezer was extremely conservative in that he

believed that every teaching must have precedent. He once stated that he didn't teach anything original--everything he stated was learned from his teachers. However, there is a certain amount of misinformation about Eliezer ben Hyrcanus. Contrary to popular belief, he was not a Shammaite. Secondly, "one of the main reasons for the ban against R. Eliezer was his unusual insistence upon a lenient opinion in a matter of ritual purity." 12b Because of the ban against him he could not participate in the discussions in the Beth Ha Midrash. R. Eliezer uses an interesting phrase-- *U'ON DENF D'JED*. This does not mean that it is part of the Torah given at Sinai--for there is no reference to this matter in the Torah.

There are some legal traditions of an ancient date concerning the ritual law, for which the Rabbis were unable to find a biblical support or even a mere hint. They are termed *U'ON DENF D'JED* "traditional laws handed down from Moses on Sinai". That this phrase is not to be taken literally, but often as merely intended to designate a very old tradition the origin of which cannot be traced, is evident from Mishnah Eduyoth VIII,7. Maimonides in the introduction to his Mishna Commentary enumerates the traditions mentioned in the Talmud by that appellation to the number of twenty three. This enumeration, however, has been found not to be quite correct, as the traditions designated by the name actually amount to the number of fifty five.13

R. Jose ben Durmaskith or Jose Son of the Damascene is only mentioned in this Mishnah. Even though Eliezer was excommunicated, there were rabbis who held him in high esteem. There is an interesting mistake in the München Manuscripts. Eliezer ben Hyrcanus is once referred to as Elazar ben Azariah.

Mishnah 4

Translation:

Judah, an Ammonite proselyte came that day and stood before the Beth Ha Midrash. He said to them: "May I enter the congregation?" Rabban Gamaliel said to him: "You may not." R. Joshua said to him: "You may." Rabban Gamaliel said to him, Scripture states: "No Ammonite or Moabite shall be admitted into the congregation of the LORD; none of their descendents, even in the tenth generation."¹⁴ (Deuteronomy 23:4) R. Joshua said: "Are the Ammonites and Moabites in their native land? Long ago the Assyrian King Senacherib rose up and mixed the nations." as it states in Scripture: "In that I have removed the bounds of the peoples, And have robbed their treasures, And have brought down as one mighty the inhabitants,"¹⁵ (Isaiah 10:13) Rabban Gamaliel said to him, Scripture states: "But afterward I will bring back the captivity of the children of Ammon..."¹⁶ (Jeremiah 49:6)--so they have returned already, Rabbi Joshua said to him, Scripture states: "And I will turn the captivity of My people Israel,...¹⁷ (Amos 9:14)--but they have not returned yet. So they permitted him to enter the congregation.

Comment:

The fact that the Ammonite in question was a proselyte and yet was asking for entrance into the congregation may seem like a contradiction. Rashi reminds us that "entering the congregation" means to marry a Jewish woman. There are certain people whom we might consider Jewish but yet are not permitted to marry a Jewish woman.¹⁸

Deuteronomy 23:2-7:

2 No one whose testes are crushed or whose member is cut off shall be admitted into the congregation of the LORD.

3 No one misbegotten shall be admitted into the congregation of the LORD; none of his descendants, even in the tenth generation, shall be admitted into the congregation of the LORD.

4 No Ammonite or Moabite shall be admitted into the congregation of the LORD; none of their descendants, even in the tenth generation, shall ever be admitted

into the congregation of the LORD, 5 because they did not meet you with food and water on your journey after you left Egypt, and because they hired Balaam son of Beor, from Pethor of Aram-haharaim, to curse you.--6 But the LORD your God refused to heed Balaam; instead, the LORD your God turned the curse into a blessing for you, for the LORD your God loves you.--7 You shall never undertake anything for their welfare or benefit as long as you live. 19

Although he was impeached, Rabban Gamaliel attended every single session in the Beth Ha Midrash. We must bear in mind that Gamaliel was impeached because of his abuse of R. Joshua. The request of an Ammonite proselyte to marry a Jewish woman triggered a debate between these two great antagonists of the Beth Ha Midrash. Gamaliel, true to his character, wants to deny the Ammonite proselyte the right to marry a Jewish woman. Joshua takes the opposing view. Gamaliel reminds Joshua of the prohibition against allowing an Ammonite or Moabite to marry a Jewish woman. In this Mishnah text, Joshua's reply to this is incomplete. This incident is more completely reported in the Gemara of Berakhoth 28a. Joshua states that Senacherib mixed up the nations and so Joshua applies the principle that is missing in our Mishnah text, yet is the key to his argument--

ע'רר /כ'ר'ר ע'רר ס', "whatever comes out of a mixed multitude, is presumed to have come from the majority, i.e. has the legal status of the majority;"²⁰

...if there are nine shops in a street selling kasher meat and one selling trefa, and we find a piece of meat in the street, we presume that it came from one of the kasher shops, v. Keth. 15a. So here, we presume that this man came from one of the other nations.²¹

Gamaliel than quotes a promise to return the Ammonites from their captivity - so the Ammonites must have returned to their native land. Joshua counters by quoting a promise that Israel will return from her captivity. Israel has not returned from her captivity so why should we assume that the Ammonites have returned from their captivity? This clinches the argument, a vote is taken and the Ammonite proselyte was allowed to marry a Jewish woman. The Mishnah text stops here. However, the version in Berakhoth 28a tells how this argument led to Gamaliel's reinstatement. Seeing how influential Joshua was, Gamaliel decides to go and apologize to him. In what transpires we can see a real world of difference and conflict between the proletarian rabbis and those rabbis who were aristocrats.

Rabban Gamaliel thereupon said: This being the case, I will go and apologize to R. Joshua. When he reached his house he saw that the walls were black. He said to him: From the walls of your house it is apparent that you are a charcoal-burner. He replies: Alas for the generation of which you are the leader, seeing that you know nothing of the troubles of the scholars, their struggles to support and sustain themselves! He said to him: I apologize, forgive me. He paid no attention to him. Do it, he said, out of respect for my father. He then became reconciled to him. They said: Who will go and tell the Rabbis? A certain fuller said to them: I will go. R. Joshua sent a message to the Beth ha-Midrash saying: Let him who is accustomed to wear the robe wear it; shall he who is not accustomed to wear the robe say to him who is accustomed to wear it, Take off your robe and I will put it on? Said R. Akiba to the Rabbis: Lock the doors so that the servants of Rabban Gamaliel should not come and upset the Rabbis. Said R. Joshua: I had better get up and go to them. He came and knocked at the door. He said to them: Let the sprinkler son of a sprinkler sprinkle; shall he who is neither a sprinkler nor the son of a

sprinkler say to a sprinkler son of a sprinkler, Your water is dave water and your ashes are oven ashes? Said R. Akiba to him: R. Joshua, you have received your apology, have we done anything except out of regard to your honour?²²

It is amazing to learn that Rabban Gamaliel was reinstated through Joshua's insistance. The basis for Joshua's insistance was the principle of "letting the man who is qualified for the job, do the job." This created a problem with Elazar ben Azariah-they could not just depose him for no reason. The rabbis compromised by letting Gamaliel lead on three weeks out of the month and Elazar one week out of the month.

Mishnah 5

Translation:

The Aramaic passages in Ezra and Daniel make the hands impure. Aramaic passages rendered into Hebrew, Hebrew passages rendered into Aramaic and Hebrew lettering do not make the hands impure. [Scripture] never makes the hands impure unless it is written in Assyrian lettering in a book and with ink.

Comment:

There is a historical question pertaining to the change of script (lettering) that the Scriptures were written in.

Mar Zutra or, as some say, Mar 'Ukba said: Originally the Torah was given to Israel in Hebrew characters and in the sacred [Hebrew] language; later, in the times of Ezra, the Torah was given in Ashshurith script and Aramaic language. [Finally,] they selected for Israel the Ashshurith script and Hebrew language, leaving the Hebrew characters and Aramaic language for the hedyototh. Who are meant by the 'hedyototh'? -R. Hisda answers: The Cutheans. And what is meant by Hebrew characters? -R. Hisda said: The libuna'ah script.Why is it called Ashshurith?--Because it came

with them from Assyria.

It has been taught; Rabbi said: The Torah was originally given to Israel in the Ashshurith writing. When they sinned, it was changed into Ro'as. But when they repented the Assyrian characters were re-introduced.(Sanhedrin 21b-22a)²³

Hebrew Script. This is the name given to the older form of the Hebrew alphabet which was used by the Hebrews, Moabites, and Phoenicians. It was angular in shape, and can be seen on the Moabite stone and on various Hebrew inscriptions discovered in Samaria, Gezer and Siloam. The 'Hebrew Script' was replaced by the 'Assyrian Script' i.e., the square alphabet now in use. This was introduced by Ezra, and was so called because (a) it was brought back from Assyria, or (b) because its characters are straight in form, *שקופ מלל*.²⁴

However, these are strained explanations. The simple fact is that the "assyrian lettering" refers to the Aramaic script. Being that the area was later conquered by Assyria, they changed the name to "assyrian lettering."^{24b}

In the last clause there is a significant difference between the Mishnah text and the München Manuscripts. The Mishnah text uses the word *דף*-parchment; the München Manuscripts have the word *ספר*-a book. This could possibly be a reflection of the fact that through out history there were different attitudes as to what were the proper materials that might be used for the writing of Scriptures. The copyist of the München Manuscripts may have mentioned what was taboo in his times.

Mishnah 6

Translation:

The Sadducees say: "We cry out against you"²⁵ Pharisees! For you say that the Scriptures make the hands impure, but the Sifrei Hamiram do not. Rabban Yockanan ben Zakkai

said: "Have we only this complaint against the Parisees? Behold they say the bones of a dead ass are pure but the bones of Jonathan the High Priest are impure." They said to him: "in proportion to the esteem in which things are to be held, is their uncleanness; (human bones are declared unclean, whereas the bones of beasts are clean) in order that a man may not make spoons out of the bones of his father or mother."²⁶ [Rabban Yochanan ben Zakkai] said to them: so it is in the case of Scriptures - "in proportion to the esteem in which things are to be held, is their uncleanness;..."²⁷ The Sifrei Hamiram, which are not worthy of esteem, do not make the hands impure.

Comment:

One who has studied a lot of Talmud is surprised at the extensive references to Pharisees and Sadducees. One runs into the terms when he studies history, reads Josephus or reads the New Testament. Standard religious school textbooks seem to indicate that the Pharisees were "the good guys" while the Sadducees were the "bad guys." However, this is only true of Jewish religious school textbooks. The New Testament gives a very negative view of Pharisees. One can find very little help when he studies the Talmud. The term Sadducees and Pharisees are used very little in the Talmud. We are especially surprised to see Talmudic references to Pharisees that are negative. This may lead one to ask, who really were the Pharisees and Sadducees and who were the "villians" and "heroes".

The main cause of this difficulty is a naive assumption that the Pharisaic party always remained the same throughout its history. This would be just like saying that the Republican party in the United States has always been the

same and that there is no difference between the Republican party in the days of ^{Theodore Roosevelt and the days of} Calvin Coolidge. Parties do change-- in fact, they may even do a complete "about face". This is what happened with the Pharisees and the Sadducees.

The conflict between Pharisees and Sadducees is extremely old.

The first historical incident in which these names appear is the conflict between John Hyrcanus (133-104 B.C.E.) and the Pharisees. In this incident, the Sadducees and Pharisees appear as established adversaries of each other, meaning that they must have been in existence for some time. Even the origin and meaning of the terms is controversial.²⁸

One of the key areas of difference was acceptance of the Oral Law. The Pharisees accepted the Oral Law which enriched Jewish life and made Judaism applicable to changing times. The Sadducees rejected the Oral Law--more on social and political grounds than on theological grounds.

The Sadducees rejected the Oral Law not only because they were conservative, but mainly because they wanted to limit religion and keep it within the boundaries of the Torah, which entrusted them with leadership. Of course, they would not admit this openly; instead, they claimed that the Oral Law constituted an unnecessary, senseless burden which they did not wish to bear.....²⁹

Of course, there were numerous disputes in the areas of ritual, law and such theological issues as resurrection and the World to Come. Such things as resurrection, the World to Come and Reward and Punishment were accepted by the Pharisees but rejected by the Sadducees. As the struggle went on, the Pharisees ultimately gained control and became the dominant party; especially when it came to religious

issues. However, the destruction of the second Holy Temple in 70 B.C.E. changed the entire picture. The influence of the Sadducees declined.

The classical period of Sadducees and Pharisees ended with the destruction of the Jerusalem Temple in 70 C.E. After this date, there was no High Priest, and most of the wealthy Sadducean socialites lost their wealth during the war. There was no basis on which to continue the Sadducean party as the party of the wealthy social elite.

This, however, did not spell the end of the Sadducees. They continued their separate existence as a quasi-sectarian group, upholding and fostering the religious ideas and practices of their predecessors, till they finally vanished. Some of their tenets were taken over by the Karaites of the Middle Ages who claim to be the successors of the Sadducees.³⁰

Our main concern is: What happened to the Pharisees?

First, it is necessary to emphasize the fact that the Pharisees were not monolithic. There was a liberal and conservative wing of the Pharisaic party. Now we are ready to solve the puzzle of why the references to Pharisees in the Talmud are few and at times derogatory.

The answer to the puzzle is that when the Temple was destroyed, the progressive wing of the Pharisees (Beth Hillel), prevailed and became the main stream of Judaism while some peripheral groups perpetuated themselves, remaining on the sideline of history.... The designation "Pharisees" was now used by the Talmud for the dissident peripheral groups, mostly exaggerating pietists who, no doubt, opposed the changes necessitated by the destruction of the Temple. While Rabbinic Judaism of the post-Temple period was well aware of its Pharisaic roots and conceded that there were genuinely pious men among the Pharisees of their own day too, the tension between the progressive Rabbinic Judaism and the reactionary Pharisees resulted in derogatory remarks by some rabbis against these non-conforming Pharisees,...³¹

The conservative wing of the Pharisees went on to become

the "Holy Rollers" of their day.

A possible meaning of perushim here is "separatists." But in what sense were they separatists? They were separatists by displaying an exaggerated piety, which R. Joshua considered an improper demonstration of their piety.....Pharisees of the second century C.E. were considered by the rabbis separatists in the sense that they were extremists and dissenters. It is questionable whether the rabbis drew a clean line between confessed Pharisees and other extreme separatists of their time.³²

Terms have a way of changing. For instance, the word "appeasement" became a very negative word after Neville Chamberlain ceded the Sudetenland to Hitler in 1938. After the destruction of the second Holy Temple the word "Pharisee" became a negative term. "The Talmud referring to the past, uses the term Pharisee only when this is unavoidable, as in the discussions between Sadducees and Pharisees."³³

We now approach the question of how this related to our Mishnah. The role played in this Mishnah by Rabban Yochanan ben Zakkai is especially interesting. Even before the destruction of the second Holy Temple he was an arch enemy of the Sadducees. In fact, he made a Sadducean High Priest unfit for priestly duties by nipping his ear.³⁴ He became a well known disputant against the Sadducees. And it was said of him that he knew how to refute the arguments of the Sadducees.

The split between the reactionary Pharisees and the progressive ones, widening to the extent that the progressive ones did not even consider themselves as Pharisees, may even antedate the destruction of the Temple somewhat. Johanan ben Zakkai, the great Jewish leader before and after 70 e.e., defends the Pharisees speaking in the third person. This may mean that, while

strongly opposed to the Sadducees, he does not consider himself a Pharisee. He merely defends them against the common adversary. However, it is also possible that a third person formulation is of a later date, an editorial change undertaken lest Johanan ben Zakkai be considered a Pharisee.³⁴

There is no real agreement in the scholarly word as to what the *seferi* are.

The meaning of this word is obscure. The Mishnah is evidently referring to a well known example of secular writings. Aruch offers three explanations s.v. *seferi* viz., (a) heretical books, from *sefer* to change; (b) the books of the name of a heretic (so also Maim. and Rosh reading *seferi*); (c) books of Greek wisdom called in Greek, Homeros. Many scholars have suggested that it refers to the works of Homer. Kohut in the J.Q.R. Vol. III 546-548, who collects all the various conjectures, himself suggests pleasure, entertainment, i.e., books of entertainment.³⁵

Jonathan the High Priest was the son of Mattathias who became the first Hasmonean High Priest in 153 B.C.E. However, the most important thing we learn from this Mishnah is the concept of impurity. In this thesis, a deliberate attempt has been made to use the word "impure" rather than "unclean." The two concepts are not the same. An Orthodox Jew understands this. Why is there a need to go to the miqveh? One can become quite clean by taking a shower-he will not become any cleaner by going to the miqveh. The answer is that impurity is not merely the physical state of being dirty--it is a theological state of being. One can be impure without actually being dirty. As we see from this mishnah, impurity can even come from contact with a sacred item. One can only understand Talmud only when he rids himself of the notion that *seferi* means being dirty.

Mishnah 7

Translation:

The Sadducees say: "We cry out against you Pharisees! For you declare a connecting flow of a liquid from one vessel to another pure." The Pharisees say: "We cry out against you Sadducees! For you declare a canal of water that comes from a cemetery pure. The Sadducees say: "We cry out against you Pharisees! For you say: 'In the case of my ox or my ass, for whose observance of mizvot one is not responsible; I am liable for damages (done by my ox or my ass).'" - "Look here! If I am responsible for my male servant's and my female servant's observance of mizvot, does it not stand to reason that I should be responsible for damages (done by my servants)?

They (the Pharisees) said to them: "No! Were you to state this about my ox or my ass (that the owner is responsible for damages they do) who have not the power of reasoning; how can you say this about my male servant or female servant who have the power of reasoning?

- "Because if I were to make him angry, he may go out and set fire to someone else's stack of grain and I would be responsible for compensation.

Comment:

This mishnah appears in the form of a blow by blow argument between the Pharisees and Sadducees. The translation is based on the München Manuscripts which have a number of differences with the Mishnah text. The dashes are there to indicate an interruption by the Sadducees. The issues involved have a lot to do with the economic differences between the Pharisees and Sadducees.

The Mishna, Yadayim 4.7, records that there was a controversy between the sects regarding the purity of the nizzok. The precise meaning of this word has, however, been the subject of considerable discussion. The commentators explain that it is a stream of water; and that the Sadducees maintained that when a liquid is poured from a clean into an unclean vessel, the stream of water joining the two vessels carries the uncleanness from the lower one into the upper one. The Pharisees denied this. The interpretation, which is

found in all the ancient commentaries, is based on a comparison of Mishna Yadayim with the Mishna Makshirim, 5.9; and is accepted by Professor I. Ginzberg (Eine unbekannte juedische Sekte, p.77) Nevertheless it presents grave difficulties, which have caused it to be rejected by a number of other scholars. The most important of these is the interpretation of the rejoinder made by the Pharisees in the argument which has been preserved on the question (Mishna Yadayim, loc.cit.). According to the record, "The Sadducees said to the Pharisees, We cry out against you, Pharisees, that you declare the nizzok pure. The Pharisees replied, We cry out against you, Sadducees, that you declare a stream of water which comes through a cemetery pure."36

The famous controversy between the Pharisees and the Sadducees concerning the nizzok, mentioned in Mishna Yadayim 4.7 and discussed in this book (pp.811-813), can now be shown to have arisen from a natural difference of approach by priests and scholars of the market place. The traditional interpretation of this controversy, accepted by Professor Louis Ginzberg, is doubtless correct. The issue was whether a stream of water* in flowing from one vessel to another unites the two bodies of liquid. If so, an impure vessel receiving the liquid would defile both that being poured into it and the source in the "pure vessel."

In Pharisaic law such a stream of water is not unifying (Mishna Makshirim 5.9); the Sadducees said that it was.

The Torah offered no clear rule regarding this problem. Therefore later scholarship had to follow its own judgment in the matter.

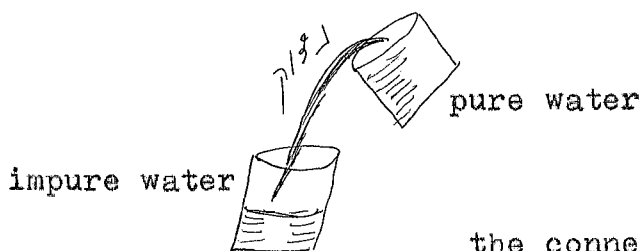
The Temple priests considered the liquid being poured from one vessel into another a continuous body ruling that if the liquid in the contaminated vessel was impure it defiled the liquid flowing into it and also that in the original container.

Such interpretation of the Law was feasible for priests in the Temple, who could avoid pouring liquid into defiled vessels. So could the wealthy householder on his farm or in his mansion. When wine or other liquid was poured by a slave into an impure vessel only a minor calamity occurred unless the original source contained a considerable amount of water or oil.

The situation was different for city traders. Most of their customers were presumably defiled, many with major impurity, such as that resulting from attendance at a funeral or from a "flow," and the vessels they brought to the shops were therefore also impure. The trader often had to pour wine from his jug directly
~~*could actually be any liquid~~

into that bought by a customer, often held in the hands of the purchaser while it was being filled. To declare the stream of liquid "impure" was to defile the liquid in the original container and in fact to forbid all customary dealing in the market place. The Pharisee and his predecessors would not have objected to this sacrifice, as they did not object to other great sacrifices, had it been commanded in the Torah. But there was no evidence of such a command in the Torah. The Hasidean (and perhaps the Prophetic exegete before him) therefore followed the usual norm, that "one who declares something prohibited, should produce evidence for his view." In the absence of such evidence, one could not assume a prohibition.

The Sadducean argument that the liquid in the original container, the stream, and the vessel into which it was being poured constituted a single physical unit seemed to the Pharisees illogical. Sadducean exegesis, if accepted, would lead to the conclusion that a brook is physically a unit and that contamination of a part contaminated the whole. Why then was a stream flowing through a cemetery not impure? The Sadducees themselves did not in this instance go to the extreme of considering a whole river a physical unit. Why then should a jet of water unite physically, for the purpose of ritual law, the contents of two flasks? 37

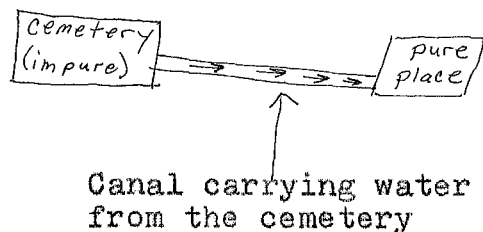


The Sadducees claim that the connective formed by the stream of water between the pure and impure water automatically makes all the pure water impure. Such a rule could be ruinous for a poor person.

However, the question arises as to why the Pharisees did not give a direct refutation to the argument. Instead they brought up the case of the Pharisees declaring water that is piped in from a cemetery to be pure. There is a number of explanations for this. Finkelstein feels that the word *nizōq* means "aqueduct".

The Pharisees held that water brought by an aqueduct was "pure" and fit for immersion; the Sadducees denied this. When the Pharisees were taunted for leniency by their opponents, they replied that the Sadducees permitted the use of water which is taken in an irrigation canal through a cemetery, showing that so long as the water remains attached to the soil it remains fit for the purposes of purification. They felt that they might justly infer from this that an aqueduct built into the ground would not prevent the water drawn in it from being used in a pool of purification (mikveh).³⁸

However, it could be said that the example which the Pharisees used is a direct retort showing how inconsistent the Sadducean attitude was. The canal serves as a connective just as well as a stream of water does, therefore, the same principle would apply.



The same principle can be applied here as was used for the two vessels. The entire place to which the water is piped is impure because a connective (the canal) directly links it to an impure place.

This Mishnah contains another conflict of opinion between the Pharisees and Sadducees that is directly related to economics.

The question involved was the liability of an owner for damages committed by his slave without his knowledge. The Sadducees held the master responsible for his slave as he would be for his ox; the Pharisees denied this and left the injured person without redress.

The Pharisaic rule would have worked obvious injustice in any slave-holding community. If the master is freed from responsibility for damage done by his slave, all motive for exercising

discipline over him with regard to such depre-
dation disappears. The slave, who has no per-
sonal responsibility, is left free to ruin any-
one against whom he may bear a grudge. The patri-
cians--who were owners of slaves--could not possibly
accept this Pharisaic doctrine, which indeed could
only have arisen among plebeians, for whom the
whole question was theoretical.

But just because the Pharisees were without
interest in the practical application of this rule,
it afforded them an excellent opportunity for
the expression of their abstract principle.
Ordinarily, they would have hesitated to sacrifice
definite social need to mere metaphysical notions.
But since they owned no slaves, they were free
from the usual judicial inhibitions, and could
readily indulge their tendency to make the slave's
personality equal with that of the free man.

The Sadducees are reported to have said to
the Pharisees in the discussion of this question:
"If I am responsible for damage done by my ox
and my ass, although I have no obligation with
regard to any ceremonial observances by them,
how much more must I be responsible for the damage
done by my men-servants or maid-servants, since
I am obliged to arrange for their observance of
the ceremonial law." To this the Pharisees
replied: "No, you may rightly make a master
responsible for damage done by his ox or his ass,
since these animals have no mind. But how can
you make the master responsible for damage done
by the man-servant or maid-servant, who have
minds of their own?"

The argument shows plainly that the Pharisees
based their rule on the recognition of the
moral responsibility of sentient beings. The
slave has a mind of his own; to make the master
answerable for him is a derogation of the
principle of human responsibility. Their
respect for the dignity of man as homo sapiens

made it impossible for them to countenance a law which made one man answerable for another's deeds. To compare the slave to an ox or an ass was in itself a judicial insult: the one was human, the other a chattel.

The Sadducees were unsympathetic to the principle of human equality involved in the metaphysics of the Pharisees, and at the same time were keenly aware of the social dangers involved for their class in the adoption of the proposed law. Men of wealth, with large tracts of land exposed to depredation, they were indignant at a ruling which left them without redress against an unruly slave of their neighbor.³⁹

It is interesting that in regards to this issue Beth Shammai adopted the view of the Sadducees while Beth Hillel adopted the view of the Pharisees.

Mishnah 8

Translation:

A Galilean min said: "I cry out against you Pharisees! For you write [the name of] the ruler and Moses on the get." The Pharisees say: "We cry out against you Galilean min! For you write [the name of] the ruler along with God's name on the page; and not only that but you write [the name of] the ruler above and the name of God below.

Anyway, Scripture states: "But Pharaoh said, 'Who is the LORD that I should heed Him and let Israel go?'" (Exodus 5:2) ⁴⁰

And what did Pharaoh say after he was smitten. "I stand guilty this time. The LORD is in the right, and I and my people are in the wrong." (Exodus 9:27) ⁴¹

Comment:

There is no agreement about who the minim (min, singular) were. Later editions of the Mishnah substitute the word "Sadducee" for min. Finkelstein feels that the min in this Mishnah was a Galilean nationalist.

The Mishna Yadayim, end, records a controversy between the Pharisees and a Galilean heretic regarding the propriety of dating ritual documents, like writs of divorcement, by the years of the Herodians

and Roman rulers. While some later texts have replaced the original min with Zadoki in this passage, it is clear that the sectarian involved was not a Sadducee, but a Galilean nationalist, who opposed the recognition of the non-Davidic, and certainly of the Roman, rulers in Jewish ceremonial.⁴²

Klausner thinks that the min in this passage was Zealot.

The Zealots: These were the young enthusiasts who were unable to endure the yoke of the "kingdom of Edom" (The rule of Herod the Edomite) which with them was synonymous with the "kingdom of Rome," for both alike they had a deadly hatred. In speaking of the Zealots Josephus explicitly mentions "The young men" ἄνδρες νεοὶ and in the time of Hezekiah the Galilean, father of the Zealots, the women came crying, and wailing, and seeking vengeance for the blood of their children shed by the young Herod when governor of Galilee. It was these young people, therefore, whose mothers bewailed them, who were the "licentious ones," the "outlaws" and "sicarii" at the time of the Destruction-the "Bolsheviki" of the time, who hated the rich, powerful and ruling classes.

And yet they were the finest patriots Israel knew from the rise of the Maccabaeans to the defeat of Bar Kokhba.....

It would certainly seem to be of one of these that we read in the Mishna: "A Galilaean sectary said, 'I protest against you, O Pharisees, that ye write the name of the Governor together with that of Moses on the divorce decree.' The Pharisees answered, 'We protest against thee, O Galilaean sectary, that ye write the name of the Governor together with the Sacred Name on a (single) page; and what is worse, ye write the name of the Governor above and the Sacred Name below, as it is written, And Pharaoh said, Who is the Lord that I should hearken to his voice?" ⁴³

However, our best clue to finding out who the minim were is through the knowledge we have of the Birkhath Ha Minim which is part of the 'amidah, which is recited by observant Jews three times daily. The text of the prayer is as

follows:

May the slanderers have no hope; may all wickedness perish instantly; may all thy enemies be soon cut down. Do thou speedily uproot and crust the arrogant; cast them down and humble them speedily in our days. Blessed art thou, O Lord, who breakest the enemies and humblest the arrogant.⁴⁴

Scholars disagree as to whom this malevolent prayer is directed at.

Bircath hamminim or hatzaddukim also hazzedim (b. Ber. 28b; jer. Ber. IV, 3; Tanhuma, Korah end; M.R. Bamidbar 18,17). This benediction or "malediction," as Kohler calls it, was composed according to Talmudic sources (l.c.) by Samuel the Younger about 1000 E. on the request of Rabbi Gamaliel and against sectarians and heretics among the Jewish people. However, Kohler is of the opinion that this prayer was composed before the Destruction. "The Hostile kingdom spoken of in such fierce terms can only refer to the fourth world kingdom of Daniel, either that of Syria or of Rome." The expressions "The uprooting, the crushing and the hurling down of the kingdom of arrogance....Who breakest the enemies and humblest the arrogant"--all these point to the hostile and arrogant rule of the Romans. "But then," Kohler concludes, "when these Christian maligners in the very midst of the Synagogue had become a menace to the Jewish people, and Rabbi Gamaliel called for some of his disciples to formulate a prayer against the 'Minim.' As it was, however, merely a casual change of words, he failed, as we are told, in the following year to remember exactly the words he had used before.... Since then the various versions present different terms for the initial words, while the rest retained the old form" (cf. Appendix III,1).

The text underwent several changes due to the attack of the Church which claimed that this prayer was directed against Jewish converts to Christianity. Consequently, the first word lameshumadim was changed to welannalshininim--to the slanderers. Likewise was the word lannotzerim--The Christians--removed. The word "to the converts" has been retained in the Yemenite ritual. The meaning of lameshumadim is "to be baptized" according to some scholars, and is derived from lameshuamadim, using the "Shafil" form of the Syrian root amad, as meshuabadim from avad. This refers to the followers of John the Baptist

(see Yuhasin ed. Fil, p.15). Hence, in the prayer were specified the "Meshuamadim" who were the followers of John the Baptist, the "minim" who were the heretics, and the "Notzrim" who were the followers of Jesus and who antagonized the disciples of John. Later the source of the word was forgotten, and was identified with shamad-- to exterminate--to which it really has no relation. R. Hai Gaon still knew the source of the word.⁴⁵

The argument is over the get --the divorce document.

The standard get has twelve lines. It starts off with the date, place and the nearest two bodies of water. The parties involved in the divorce are identified and the place and the bodies of water are repeated. Then the divorce formulae is given in several dialects of Aramaic (this was done so that the wife could understand the get--no matter what dialect of Aramaic she spoke. Therefore, she couldn't claim that she did not understand the get because she didn't speak that dialect of Aramaic). The get ends with the words לכך תעשה --"according to the law of Moses and Israel". Finally, the signatures of two witnesses appear on the get.

The problem occurs over dating the get by naming the ruler in office at that time. The tendency on the get was to do everything possible to make the time and place more precise so that there could be no mistake. This is true even of modern times. It would not be enough to say that a particular divorce took place in Cincinnati. A body of water, such as the Ohio River and another nearby body of water would have to be mentioned. This is because there is duplication of names of cities. For instance, there is a

Columbus, Ohio and a Columbus, Mississippi and a Cincinnati in Indiana.⁴⁶ Naming the ruler would make the date more precise. In case there was a mistake in the date, this would act as a corrective. For example, this would have the effect of saying "during Woodrow Wilson's administration" giving us an immediate frame of reference for the date. However, the practice of putting in the name of a local person in government or of a ruler no longer done when writing the contemporary get. Naming a national and/or local ruler also helped to identify the place.

The Galilean min claimed that having the name of the ruler and the name of Moses on the same sheet was disrespectful to Moses. The Pharisees counter with two arguments. In the first place, they point out how inconsistent the Galilean min was. The group he came from, whatever it was, listed the name of God and the name of the ruler on the heading of the sheet on which the get was written. This inconsistency is shown up to be even more hypocritical by the fact that the name of the ruler was written above the name of God. Secondly, the Pharisees provide an argument from Scripture to show that the worries of the Galilean min were unfounded. In Exodus 5:2, the name of Pharaoh is mentioned before the name of God. If such a thing can appear in the Torah (which would not contain any affront to God), the Galilean min need not worry about any affront to Moses.

The argument is completed and logically the tractate could end here. However, the Rabbis did not deem it proper that the tractate should end with a passage that contained a denial of God. Therefore, the tractate ends with Pharaoh's contrition after God brought hail upon Egypt, in which Pharaoh affirms God's greatness and his own sinfulness.⁴⁷

Parallel Passages in the Tosefta

Tosefta 2:15, 16

Translation:

(15) Ammon and Moab (i.e., the Jews living in Ammon and Moab) give the Poor Man's tithe in the seventh year. The other countries go according to the cycle of the septennate-if it [the year of the cycle] is the Poor Man's Tithe, then it is the Poor Man's Tithe; if it is the Second Tithe, then it is the second tithe.

(16) R. Jose Ben Durmaskith said: I was with the first elders who came from Yavneh to Lydda. I came and found R. Eliezer sitting in a bakery in Lydda. He said to me, "Was there any new issues in the Beth Ha Midrash today?" I said to him: "We are your pupils and we have drunk of your waters."

He said to me: "Nevertheless, what new issues [came up today?]" I told him about all the halakhoth and tshuvoth and [about the vote.] When I arrived at this point about the vote, tears flowed from his eyes and he said: "The counsel of the Lord is with them that fear Him; and His covenant, to make them know it." (Psalms 25:14)⁴⁸ and scripture states: "For the Lord God will do nothing, But he revealeth His counsel unto His servants the prophets." (Amos 3:7)⁴⁹ Go and say to them: Don't worry about your vote. I received a tradition from Rabban Yoehanan ben Zakkai who received it from the Zugoth, the Zugoth from the Prophets-[all the way back to] Moses from Sinai; that Ammon and Moab give the Poor Man's Tithe in the seventh year.

Comment:

R. Jose ben Durmaskith mentioned that he was among those who went from Yavneh to Lydda. It is true that Eliezer Ben Hyrcanus was a member of the Sanhedrin in Yavneh. However, he later formed his own academy at Lydda. It is possible that

R. Jose ben Durmaskith was among those who went to study at Lydda under R. Eliezer Ben Hyrcanus. The meaning of the statement that the other countries must go according to the cycle of the septennate is that they must do what the year requires. For instance, if it is the third year of the seven year cycle, the Jews in the other countries must give the Poor Man's Tithe. However, if it is the seventh year of the cycle, they must give the Second Tithe--because, according to the schedule, a year in which a Poor Man's Tithe is given, is always followed by a year in which the Second Tithe is given. Being that the Poor Man's Tithe is given in the sixth year, the Second Tithe is given in the seventh year. However, this does not apply to Ammon and Moab--for they must give the Poor Man's Tithe in the seventh year of the cycle.

The essential difference of the Tosefta from the version in the Mishnah, is R. Eliezer ben Hyranus reaction to the vote that was taken concerning the Poor Man's Tithe. In the Tosefta version, R. Eliezer also quotes Amos 3:7 in addition to Psalms 25:14. Also in the Tosefta version R. Eliezer, instead of calling the tradition *בין דנין ודנין*, he gives the rabbinic ideal of a tradition that can be traced back to Sinai. His statement has roots in Avoth 1:1.

Moses received the Law from Sinai and committed it to Joshua, and Joshua to the elders, and the elders to the Prophets, and the Prophets committed it to the men of the Great Synagogue. They said three things: Be deliberate in judgement, raise up many disciple, and make a fence around the Law. 50

Tosefta 2:17,18

Translation:

(17)Judah, an Ammonite proselyte came that day and stood before the Beth Ha Midrash. He said to them: "May I enter the congregation?" Rabban Gamaliel said to him: "You may not!" R. Joshua said "You may." Rabban Gamaliel said to him, it is written in Scripture: "No Ammonite or Moabite shall be admitted into the congregation of the Lord...."(Deut. 23:4)

"are the Ammonites and Moabites in their native land?" Long ago Senacherib rose up and mixed all the nations," as it states in Scripture: "in that I have removed the bounds of the peoples. And have robbed their treasures," (Isaiah 10:13) Rabban Gamaliel said to him: is it not stated in Scripture: "But afterward I will bring back the captivity of the children of Ammon, Saith the Lord," (Jeremiah 49:6)51--"As at the first"(Jeremiah 33:11)52. So they have really not returned. He further said to him (to Gamaliel), Scripture states: "And I will turn the captivity of My people Israel....(Amos 9:14)53 In the manner that these have not returned, these have not returned.

(18)Judah, the Ammonite proselyte said to them: "what should I do?" They said to him: "You have already heard it from the Elder--you are permitted to enter the congregation."

Rabban Gamaliel said to them: "According to this principle, even an Egyptian (can enter the congregation)." They said to him: "Egypt was given a definite time limit (for its return). "As it is stated in Scripture: "At the end of forty years will I gather the Egyptians from the peoples whether they were scattered." (Ezekiel 29:13)54 and so (after the forty-year period) they dwelt on their land.

Comment:

We have three versions of the story about the Ammonite proselyte--one in the Gemara of the Berakhoth, one in the Mishnah of Yadaim, and one in the Tosefta of Yadaim. Each one of these versions is significantly different from the others. In this version Gamaliel quotes the Biblical prohibition of Ammonites and Moabites entering the congregation of Israel. So Joshua proceeds to present his argument about the fact that the nations are mixed. Then Rabban Gamaliel quotes a verse

promising the return of the Ammonites from their captivity. At this point we notice two striking differences. First, the principle of ^{וְיָשָׁב} / ^{לְאֶרֶץ} ^{עַמּוֹן} ^{וְיָשָׁב} ^{לְאֶרֶץ} ^{יִשְׂרָאֵל} is not mentioned. Secondly, a brand new side of the problem is approached in the Tosefta. In the Mishnah of Yadaim and in the Gemara of Berakhoth, Joshua clinches the argument by stating that if the Israelites have not returned from their captivity, the Ammonites have certainly not returned. However there is a problem, with this: the argument is taking place in Palestine. How can they say that the Israelites have not returned when they are standing on Palestinian soil. Therefore R. Joshua quotes from Jeremiah 33:11: "For I will cause the captivity of the land to return as at the first, saith the LORD." 55 The clause "as at the first" means more than just a physical return to the land. It means the rebuilding of the Holy Temple and the reestablishment of the sacrificial cult. If Israel has not had a spiritual return, certainly Ammon has not. Therefore, Joshua makes the criteria of a "return" a spiritual rebirth.

In the other two versions Gamaliel is defeated at this point. However, in this version, Gamaliel continues to argue. He states that even an Egyptian could be allowed to enter the congregation of Israel if we follow this line of reasoning. However, the other rabbis quickly put this argument aside by mentioning the fact that God gave Egypt a definite time for its redemption. This time has already come, so the Egyptians are redeemed. So there is no problem of the Egyptians being mixed (either physically or spiritually) with other nations.

We know who the Egyptians are and they are not allowed to enter the congregation of Israel.

Tosefta 2:19,20

Translation:

(19) Rabbi Yochanan ben Zakkai said to them: "The esteem in which Holy Scriptures are held make them susceptible to impurity so that one would not make covers for beasts out of them. (20) The Boethusians said: "We cry out against you Pharisesees! If the daughter of my son, who came from the coition of my son--who came from my coition, inherits me, does it not stand to reason that my daughter, who came from my coition, should inherit me?" The Pharisees said: "No! In one case you speak with the daughter of a son who indeed divides the estate with his brothers, in the other case you speak of a daughter who does not divide the estate with her brothers." The Morning Bathers said: "We cry out against you Morning Bathers! For you mention God's name from the body--that contains impurity."

Comment:

The Boethusians, one of the "priestly families whose members acquired their offices mostly through simony, were to all intents and purposes the rulers of the theocratic Jewish State during the first half of the first century C.E." 56 The name comes from the infamous Herodian High Priest--Boethus.

Herod had appointed various upstart proteges to the high-priesthood. His supporters in this policy could scarcely be called Sadducees, for it was directed against the family whom tradition identified with the High Priest Zadok. The upstarts and their following came to be called Boethusians, after the best known and least respected of the Herodian High Priests.....

No theological issue divided the Boethusians from the Sadducees. Both belonged to the same

ecclesiastical tradition. Both opposed the Pharisees and their traditions. But politically Sadducees and Boethusians were poles apart. The first were supporters of the ousted Hasmonean dynasty, and belonged to the old aristocratic families. The second were supporters of Herod and his flunkies, being upstarts from the lower ranks of the priesthood.

The Boethusians are therefore those whom the early Christians termed Herodians. The Christians called them after their political affiliation; the Talmud, after the high-priestly house they supported.⁵⁷

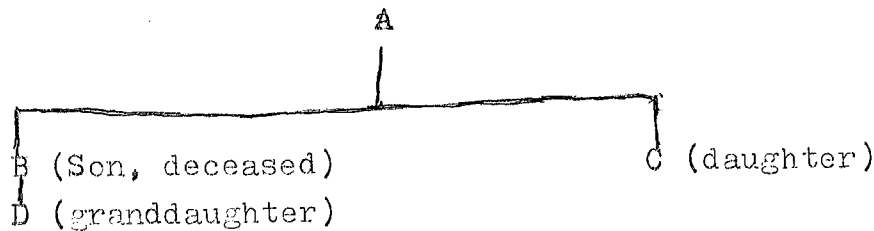
The affect that these corrupt priestly groups had on the populace is expressed in a ballad that is found in Pesahim 57a.

Woe to me from the house of Boethos,
Woe to me from their cudgel.
Woe to me from the house of Kantheras,
Woe to me from their writs.
Woe to me from the house of Anan,
Woe to me from their whispers.
Woe to me from the house of Ismael ben Phiabi,
Woe to me from their fist.
For they are high priests
and their sons are treasurers
and their sons-in-law are overseers
and their servants come
and beat us with sticks...⁵⁸

The approach of the Boethusians is the same as that of the Sadducees in this issue concerning the inheritance rights of ones daughter as opposed to ones granddaughter.

As is well known, biblical law recognizes sons as primary heirs; daughters inherit property only where there are no sons (Num. 27.8). It was assumed from the beginning that this precedence of brothers over sisters descended also to their sons; so that, if a man died while his father was alive, his sons took his place as next of kin, and were given precedence over any female relative.

The question arose, however, whether this rule applied also to the daughters of a son. If, for instance, the genealogical table was as follows:



i.e., if B died while his father was alive, did D, his daughter, inherit his rights of priority over his sister, C?

Logically, it would seem that, even from the point of view of the ancients, who had such deep respect for masculinity, little could be said in favor of granting D the whole of her grandfather's property and disinheriting C. Certainly a man's child should not be set aside in favor of his grandchild, when they were both of the same sex. And, indeed, the Sadducees did maintain that in such a case the daughter and granddaughter divided the property equally.

The Pharisees, however, insisted that the granddaughter inherited all her father's rights and was the sole heir. This view, which seems so contrary to the general tendency of the Pharisees toward the emancipation of women, becomes clear only when we analyze the social background against which it was formulated.

The issue of women's rights was not involved from the Pharisaic point of view; for both relatives were women. What was involved was the advisability of dividing property between heirs. The plebeians, whose estates were so small that they could hardly maintain a family in comfort, even with much effort, consistently opposed any rule which made for further division. This attitude of the plebeians was clearly demonstrated when the Pharisees, themselves, divided into two factions on similar issues which arose in later times. The Hillelites, and after them the great plebeian teacher, R. Akiba, always maintained that it was better to leave estates intact, even though one of the heirs was left without any property, than to divide the small estates into still smaller holdings, which would be insufficient for either relative.

The patricians with their larger and more productive estates did not have to choose between the painful alternatives, and were at liberty to bestow equal rights on the daughter and the granddaughter.

It should be noted, perhaps, that even according to Pharisaic law, the daughter was not left without support. A clear provision of the Pharisaic law declared that unmarried daughters were to remain in their

father's house after his death, and were to be supported by his heirs-whoever those might be-until they were married. Moreover, the plebeians did not regard it as humiliating or shameful for a woman to support herself. The daughter, who was denied the privilege of inheritance, was not an outcast; she simply shared the status of the daughters of many plebeian scribes, who had no property at all. If she did not wish to be maintained in her father's house after his death, she could find work and earn her livelihood. Among the patricians and provincials, who regarded the self-sufficient woman as an anomaly, if not worse, it seemed better to maintain the daughter in even the most precarious existence on a landed estate, rather than to thrust her into the world of work and commerce.⁵⁹

However, what was the theological justification of the Pharisees' position?

The Pharisees were unanimous on the right of a son's daughter to inherit in preference to her aunt, because that was the natural interpretation of Scriptural law. Scripture definitely stated: "If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter" (Num. 27,8). The words "and have no son" occur once more in another connection, namely, the law of the Levirate marriage. But there the word ben (rendered in that verse, "child" and really means "issue." If the widow had any descendant by the deceased brother, she was not subject to the Levirate marriage. By argument from the analogy the Proto-Pharisaic scholars inferred that "son," as used in the law of inheritance, also meant "issue"--in this instance, from the context, issue by a male child.⁶⁰

Also, if you check the Rashi to Baba Bathra 116a, we see that the case of the daughters of Zelophehad provide a precedent. Numbers 26:32-33

32 of shemida, the clan of the Shemidaites; of Hephher, the clan of Hephherites. 33-Now Zelophehad son of Hephher had no sons, only daughters. The names of the daughters were Mahlah, Noah, Hoglah, Milcah, and Tirzah.^{60a}

When Zelophehad died, there was danger that his name would be lost-as he had no male heir. Therefore, the daughters requested that they be allowed to hold their fathers share of the estate-as Zelophehad's brothers held their share. The case is decided in their favor.

Numbers 27:6-7

6And the LORD said to Moses, 7 "The pleas of Zelophehad's daughters is just: you should give them a hereditary holding among their father's kinsman; transfer their father's share to them.60b

There is scant information on who the Morning Bathers were. Graetz believes that the Morning Bathers were the Essenes. He mentions their constant ablutions and their habit of bathing every morning in fresh spring water. Graetz also claims a linguistic connection between the term and "Essenes."61 Samuel Avigdor of Slonimo only mentions that the Morning Bathers insisted upon bathing in 60 gallons of water instead of the accepted minimum of 2½ gallons. The Morning Bathers accused the Pharisees of mentioning God's name without having taken the proper precautions to purify themselves. The Pharisees pointed out the fact that the human body always contains some impurity. So if a human being mentions God's name, it is from an impure source. There are two possible interpretations of the Pharisees retort. Samuel Avigdor of Slonimo thinks that this is a personal remark directed at the Morning Bathers. The implication is that the Morning Bathers are impure because they do not observe the *mitzvot* correctly. Therefore, the Morning Bathers ought not to mention God's name because they themselves are impure. The Vilna Gaon thinks that this is just a general remark about human beings. Human beings always have impurities such as excrements in their bodies. Therefore, the human being is never completely pure. According to the Vilna Gaon the intent of the Pharisees remark is as follows: "Look! If you are going to get technical about

it and say that the fitness to pronounce God's name depends on how many gallons you bathe in or on when you bathe; let us remind you that the human body is never really pure . So, in a sense, God's name is always going to be pronounced by impure beings."62

FOOTNOTES

Chapter 1

1. *.57 /'sin 'e7*
2. *.116 /'6'd 'e7*
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10. Ibid., p. 256.
11. Epstein, op.cit., Kelin 10:1, p.52.
12. Ibid., p. 40.
13. *,42 '22 p'3', 21EN 120 222 728/c p'111*
14. The Torah, J.P.S. 1962, pp.198-199.
15. Philip Blackman, Mishnayoth, vol. 6, p.754.
16. Ibid., p. 774.
17. Ibid., p. 775.
18. Epstein, op. cit., Miqwaoth 7:3, p. 450.
19. Ibid., Bava Bathra I, p. 361.
20. *.21/c p'3' 0372 -11'1EN*
21. Epstein, op. cit., Pesahim, p. 345.
22. Ibid., Bava Bathra II, p. 233.

23. Ibid., Yoma, p. 139.
24. Ibid.,
25. Dr. H. Friedman & Maurice Simon, Midrash Rabbah, Vol. I., p. 196.
26. מדרש רב - וילנא כראשית רבה כ"ד.
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28. תלמוד בבלי רש"י סנהדרין ק"ט.
29. Epstein, op. cit., Bava Qamma p. 455.
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31. משנת-בראשית ר"פ א"ב.
32. חנוך אלדק ע"פ סג"ר משנת ר"פ א"ב.
33. Epstein, op. cit., Shabbath, p. 55.
34. Ibid., Yadaim, p. 545.
35. Ibid., p. 556.
36. Ibid., pp. 556-557.
37. Ibid.
38. Louis Ginzberg, Students, Scholars, and Saints, p. 141.
39. Maimonides, Mishneh Torah, ed. trans., Moses Hyanson, The Book of Adoration, pp. 151b-152a.
40. Maimonides, The Code of Maimonides, trans. Hebert Danby, Vol. 8, p. 532-539.
41. מא"ר שכתב עכ"פ מנחם נחמן על כל סדר משנת תורה
ערכיו משפ"ר מ"ח"ן ז"ל ג"כ 252.
42. משפ"ר מ"ח"ן משנת תורה ג"כ 1450.
43. Maimonides, trans. Danby, loc. cit.,
44. משפ"ר מ"ח"ן משנת תורה ג"כ 1451.
45. Epstein, op. cit., Sotah, p. 16.

46. *.d'p p'z' 0970 p'JEN*

47. Epstein, op. cit., Hullin, pp.590-591.

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49. Rabbi Mordechai Rabinowitz, Daughter of Israel, pp. 12-17.

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51. Ibid., Hullin, p. 593.

52. Ibid.

53. James Hasting, A Dictionary of the Bible, p. 311.

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60. Maimonides, Danby, op. cit., p.456.

61. Danby, op. cit., p. 737.

62. Maimonides, ed. trans. Hyanson, op. cit., p.151b.

63. Maimonides, trans., Danby, op. cit., pp. 7,8, 16.

64. Moses Mielzines, Introduction to the Talmud, p.197.

65. *ס' ש"ס ד'ק"ט ע"ז - ש"ס ז"ל
ז' י"ז פ"ז / כ"ט ז"ל*

66. Berakoth (Soncino), 27b-28a.

FOOTNOTES

Chapter 4

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3. Ibid., pp. 199-200.
4. Herbert Danby, The Mishnah, P. 782.
5. .36 דא תוספתא 'קין דא ס'כע
6. Danby, op.cit., p. 468.
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