**“The Impurity of the Land of the Gentiles” as a Means for Defining the Halakhic Borders of the Land of Israel**

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The main components of Jewish perceptions of regions considered to be included in the l and of Israel, or considered to be “abroad” are biblical heritage, geopolitical circumstances, economic needs, and demographics. In this paper, I concentrate on the demographic aspect and claim that the halakhic notion of the “impurity of gentile lands” also functioned as a means by which the sages encouraged the geographic continuity of Jewish settlement.

The impurity of foreign lands is presented in rabbinic literature as a decree that assigns the halakhic status of impurity to the areas outside the borders of the land of Israel. This impurity shapes the way space is depicted in the land of Israel compared to space in a foreign land. The ruling that a place is impure with the impurity of “foreign lands” anchors it as such in both consciousness and practice, although that place might have once been included within the biblical bounds of the land of Israel.

The Bible already treats regions outside of the land of Israel as unclean,[[1]](#footnote-1) but the halakhic status of this impurity is fixed in rabbinic literature. The impurity of foreign lands is mentioned frequently in the Mishnah and Tosefta. The decree is ascribed to the first named pair of sages, Yose ben Yoezer of Zerida and Yose ben Yohanan of Jerusalem, in a baraita that appears in both the Babylonian Talmud and the Palestinian Talmud: “Yose ben Yoezer of Zerida and Yose ben Yohanan of Jerusalem decreed the impurity of foreign lands and glass vessels” (*b.Shabbat* 14b; *y.Shabbat* 1:3 [3d]).[[2]](#footnote-2)

# The Reason for the Impurity of Foreign Lands

 The sources that attest to the decree of impurity of foreign lands do not explain the reasons for it. Gedalyahu Alon linked the impurity of foreign lands to the impurity of gentiles, relying on a series of halakhot on the impurity of foreign lands that cannot be explained by a concern for corpse impurity. In his view, the aim of the halakhot concerning the impurity of gentiles and gentile lands is to separate Israel from the nations. Alon dated these halakhot to the beginning of the Second Temple period or even earlier.[[3]](#footnote-3)

 Already in the books of Ezra and Nehemiah can be found the emphasis on the need to maintain Jewish distinctiveness and total segregation from the people of the land. The most powerful expression of this separation is the uncompromising struggle against marriage to foreign women, but it is not confined to the separation of Diaspora returnees from foreign wives. As noted, the books of Ezra and Nehemiah construct high barriers between the Diaspora returnees, the Samaritans, and the rest of the surrounding nations. Moreover, the separation from and disregard for the population that had remained in the land of Israel during the Babylonian Exile, who were the descendants of those whom the forefathers of the returnees considered brethren, further demonstrates the drive to separation that characterizes these compositions.

 Mary Douglas’s approach appears to fit Alon’s view that the notion of the impurity of the gentiles began in the time of Ezra and Nehemiah. According to Douglas, a small and threatened group, living with a sense of being an “enclave,” tends to uphold laws of segregation and purity to maintain its distinctiveness. According to the events described in the books of Ezra and Nehemiah, the Diaspora returnees felt they were such a small and threatened group, which explains Ezra and Nehemiah’s uncompromising battle against intermarriage[[4]](#footnote-4) and supports the view that the idea of gentile impurity began in the time of Ezra.

 Alon concluded that the impurity of foreign lands served to distance Israel from the gentiles who were regarded as impure, but that the reason for the decree was later forgotten and was explained as corpse impurity, as the fear of the presence of human bones, since foreigners do not bury their dead.**[[5]](#footnote-5)** Alon’s account, which explains the decree on the impurity of foreign lands as resulting from the impurity of gentiles present in these lands, reflects a view that it is the ethnic factor that determines the purity of a place when it comes to the impurity of foreign lands. An impure region is a place where gentiles live, and it is located outside the area of Jewish habitation in the land of Israel.

 Christine Hayes argued against Alon’s approach and argued that the concern for corpse impurity was the initial reason for the impurity of foreign lands.[[6]](#footnote-6) Hayes noted that the impurity of foreign lands generally appears, in the Tosefta as well as the Mishnah, in proximity to discussions of graveyard impurity or the impurity of a plowed field that may contain a grave (*beit ha-peras*),[[7]](#footnote-7) and there are even in halakhot that draw a parallel between the impurity of foreign lands and the impurity of *beit ha-peras*.**[[8]](#footnote-8)** Hayes therefore explained the impurity of foreign lands as Maimonides and Rashi explained it—as corpse impurity that was decreed because gentiles bury their dead haphazardly.[[9]](#footnote-9) Hayes did not accept Alon’s view that the impurity of foreign lands stems from the gentiles who live there.[[10]](#footnote-10) She relies on a passage from the Temple Scroll to conclude that corpse impurity had been the reason for the impurity of foreign lands as early as the Hasmonean era.[[11]](#footnote-11) The passage warns not to desecrate the land as the gentiles do when they do not designate places to bury their dead:[[12]](#footnote-12) “You shall not do as the nations do; they bury their dead everywhere, they bury them even in their houses” (Temple Scroll XLVIII, 11–12). **[[13]](#footnote-13)**

 Hayes does not distinguish between impurity of what the sages call “gentile dwelling places” (*medorot goyim*), that is, impurity that occurs in a place where gentiles live among Jews and in the land of Israel, and the impurity of foreign lands, which presents a difficulty for her approach. According to the Mishnah (*Ohalot* 18:7), the impurity of gentile dwelling places may be removed after an examination that ensures that no human body parts are present. This possibility is never mentioned regarding the impurity of foreign lands.**[[14]](#footnote-14)**

 The passage from the Temple Scroll that Hayes relies upon deals with graves within the land of Israel, a term that in rabbinic literature corresponds to “gentile dwelling places” rather than to foreign lands. According to the Tosefta, “There is no gentile dwelling place or a *beit ha-peras* outside of the land [of Israel]” (*t.Ohalot* 18:11, according to MS Vienna [ed. Zuckermandel, p. 617]). Likewise, the sages’ need for two distinct terms—”gentile dwelling places”[[15]](#footnote-15) and “foreign lands”—indicates that they distinguished between these impurities. Indeed, because places where gentiles live outside the land of Israel are already impure as foreign lands, the impurity of gentile dwelling places must only apply to the land of Israel. The Tosefta lists places a priest incurs lashes for rebelliousness (*makot mardut*) for entering: “One who enters a *beit ha-peras* or [enters gentile lands] to measure gentile lands or goes outside the land of Israel incurs lashes of rebelliousness” (*t.Makkot* 4:17, according to MS Erfurt [ed. Zuckermandel, p. 443]). The list is interpreted as relating to a priest who enters a *beit ha-peras* in order to “measure gentile lands” (MS Vienna has “gentile dwelling places”), or goes outside the land of Israel for no reason.

# Impure Space and Holy Space: The Impurity of Foreign Lands and the Borders of the Babylonian Returnees

The mishnah on the “ten sanctities,” appears at the beginning of seder Toharot. It outlines the hierarchy of the sanctity of space:

6. There are ten grades of holiness: the land of Israel is holier than all other lands. And what is the nature of its holiness? That from it are brought the omer, the first fruits and the two loaves, which cannot be brought from any other lands.

7. Cities that are walled are holier, for lepers must be sent out of them and a corpse, though it may be carried about within them for as long as is desired, may not be brought back once it has been taken out.

8. The area within the wall [of Jerusalem] is holier, for it is there that *qodashim qalim* (sacrifices of lesser sanctity) and second tithe may be eaten. The Temple Mount is holier, for *zavim*, *zavot*, menstruants, and women after childbirth may not enter it. The *chel* is holier, for neither non-Jews nor one who has contracted corpse impurity may enter it. The court of women is holier, for a *tevul yom* may not enter it, though he is not obligated to bring a sin-offering for doing so. The court of the Israelites is holier, for a man who has not yet offered his obligatory sacrifices may not enter it, and if he enters he is obligated to bring a sin-offering. The court of the priests is holier, for Israelites may not enter it except when they are required to do so: for laying on of the hands, slaughtering [an offering] or waving [and offering].

9. The area between the porch (*ʾulam*) and the altar is holier, for [priests] who have blemishes or unkempt hair may not enter it. The Sanctuary is holier, for no one whose hands or feet are unwashed may enter it. The Holy of Holies is holier, for only the high priest, on Yom Kippur, at the time of the service, may enter it. (*m.Kelim* 1:6–9).

The mishnah of the “ten sanctities” structures sacred space in hierarchical concentric circles with the temple at the center and the external circle is the land of Israel.[[16]](#footnote-16) It does not relate to the area surrounding the land of Israel whose halakhic status is impure because of the decree on the impurity of foreign lands. The space surrounding the area of Jewish settlement is impure; the impurity of foreign lands is a marker that distinguishes between the area of Jewish settlement within the land of Israel and areas where gentiles live.

The places where there was continuous Jewish settlement are described in the the Mishnah as the territory settled by the Babylonian returnees. In these areas, the commandments dependent on the land such as the Sabbatical year and the separation of tithes and offerings (Mishnah Shevi'it 6:1) applied. The sages were familiar with the books of Ezra and Nehemiah and the limited area actually settled by the Babylonian returnees. The territories considered by the sages as those settled by the returnees were nevertheless much larger areas and most of these areas are not included in the territory described in the books of Ezra and Nehemiah as settled by the returnees. This usage reveals something about the sages’ self-perception – they regarded the beginning of the renewed Jewish presence in the land of Israel as dating from the returnees from Babylonia in the Persian period. At that time a “second sanctity” was initiated, shaping the territory of the returnees from Babylonia. This sanctified area expanded with the growth of the Jewish settlement: “They compared their arrival in the days of Ezra to their arrival in the days of Joshua... but you are acquiring and becoming obligated each one anew” (y.Shevi'it 6:1 [36b]). That is, the sanctity initiated in the days of Ezra expanded with the gradual expansion from the days of Ezra onwards until the time of the sages. The criterion for including an area or site in the land of Israel, fully obligated in the land-dependent commandments, is its being territory where Jews settled. However, the term for these territories, as the land “settled by the returnees from Babylonia” informs us about the perception of Jewish national identity.

The boundaries of the area of Jewish settlement exclude areas that were within the biblical borders of the land of Israel delineated in the book of Numbers (34:1–12), and even some of the areas divided among the tribes. Thus the status of the area from the “borders of Babylonian returnees” to the biblical border of Levo Hamat in the northeast according Numbers 34:8, as well as the northern portion of the territory of the tribe of Asher, which belongs to the land divided among the tribes in the book of Joshua, is considered impure as foreign lands.

This halakhic system correlates the borders of the area where the ethnos, that is, the Jewish people, resides, with the borders of the land of Israel. The area where the Jewish people resides determines the borders of the holy land that is subject to the commandments, while the area surrounding it is impure as foreign lands.

# The Impurity of Foreign Lands, Obligations That Apply Only in the Land of Israel, and the Area of Jewish Settlement

The discussion above brings out that the borders of the Babylonian returnees signify the region of the land of Israel where the Jewish population is concentrated which is distinguished from the foreign population. This sheds new light on the laws on the impurity of foreign lands.

The tannaitic sources show that the sages used the concept of the impurity of foreign lands as a means to define or expand the area of Jewish settlement. For this reason, the cities that Rabbi Yehudah HaNasi exempted from the commandments that apply only to the land of Israel were not considered impure as foreign lands. If indeed the reason for the exemption from these obligations was to encourage Jews to settle in those cities, the determination that they were not impure as foreign lands would encourage settlement in those places, while in other places that were not impure as foreign lands one would be required to fulfill these obligations. Thus, “If one buys a field in Syria near to the land of Israel: If he can enter it in purity, it is deemed pure and is subject to [the laws of] tithes and *shevi‘it* [the Sabbatical year]; but if he cannot enter it in purity, it [is deemed] impure, but it is still subject to [the laws of] tithes and *shevi‘it*” (*m.Ohalot* 18:7).[[17]](#footnote-17)

This interpretation also explains why the Tosefta emphasized the unique status of those cities “located within the land of Israel”:[[18]](#footnote-18) “Cities that are within the land of Israel like Sisita and its vicinity and Ashkelon and its vicinity, although they are exempt from tithes and *shevi‘it* they are not considered foreign lands” (*t.Ohalot* 18:4, according to MS Vienna [ed. Zuckermandel, p. 616]).[[19]](#footnote-19) This special, intermediate status resulted from Rabbi Yehudah HaNasi’s exemption of these places from the commandments that apply to the Land, which aimed to encourage their settlement. Although gentiles lived in these places, they were not deemed impure as foreign lands because such a decree would discourage Jewish settlement there.

The sages’ effort to encourage Jews to settle in the space by means of declaring it clean of the impurity of foreign lands is further clarified in the explanation of the decree of the impurity of foreign lands regarding the area south of Ashkelon—the region of Gerar:[[20]](#footnote-20)

Why did they not decree concerning the air of Gerarike [that it is impure as part of the land of gentiles]?

R. Simon in the name of R. Joshua ben Levi [said] “It is because it is a terrible [uninhabitable] region….” But indeed, Gaza [which is in this territory], is a lovely region![[21]](#footnote-21)

According to the Palestinian Talmud, the reason the region between Ashkelon and Nahal Mitzrayim[[22]](#footnote-22) is not impure as foreign lands is because “its oases are poor,” that is, because it is difficult to live there. In order to encourage its settlement by Jews, the sages did not include it in the decree of the impurity of foreign lands. Thus, the constellation of considerations of whether to define a region as impure as foreign lands is influenced and even guided by the desire to encourage Jewish settlement in that region.

# Syria and Its Purification from the Impurity of Foreign Lands

An examination of the halakhot on the removal of the impurity of foreign lands from regions of Syria also reflects a trend to encourage territorial continuity of settlement into Syria. Thus, for instance, Mishnah *Ohalot* 18:7 states:

If one buys a field in Syria near the land of Israel: If he can enter it in purity, it is deemed pure and is subject to [the laws of] tithes and *shevi‘it* [produce]; but if he cannot enter it in purity, it [is deemed] impure, but it is still subject to [the laws of] tithes and *shevi‘it* [produce].The dwelling places of non-Jews are impure. How long must [the non-Jew] have dwelled in [the dwelling places] for them to require examination? Forty days, even if there was no woman with him. If, however, a slave or [an Israelite] woman watched over [the dwelling place], it does not require examination.

According to this mishnah, the space that is not impure as foreign lands can be expanded out from the land of Israel into Syria and create territorial contiguity of pure status.

The extension into territories contiguous to the land of Israel (which is pure) enables the purification of that space. This sheds light on the halakhah that states that the roads that lead from Babylon to the land of Israel, by which the Jews returned from Babylonia to Israel, are pure: “The status of the roads by which returnees from Babylon arrive, even though they are within foreign lands, is pure” (*t.Ohalot* 18:3). According to Midrash Tannaim, the reason is that “according to our way we learned that the travelers to the land of Israel purify the foreign lands” (Midrash Tannaim [ed. Hoffmann, p. 112]).[[23]](#footnote-23)

That is, the purification of these roads was effected by Jewish presence on these roads. Since these areas’ purification was the result of regular and continuous Jewish presence, we can see that the impurity of foreign lands is a result of continuous gentile presence, rather than a fear of corpse impurity, as Hayes claimed.

Those halakhot that deal with the purification of the impurity of foreign lands share a goal of extending territorial continuity outward from the borders of the Babylonian returnees into Syria. Most of this territory is within the borders of the returnees from Egypt or within the borders of the Promised Land that stretch to the Euphrates. This continuity purifies those territories that extend from the land of Israel from the impurity of foreign lands and obligates those areas in the commandments applied only to the land of Israel, such as *shevi‘it* and tithes.

# Samaria – A Samarian Area Dividing the Land

The link between the spread of Jewish settlement into a region and the question of the region’s status as impure as foreign lands also occurs in the opposition direction, in a halakhah that removes territories within the land of Israel from the holiness of the land and deems them impure as foreign lands.

According to the Tosefta, the land of the Samaritans is pure, in contrast to impure foreign lands:[[24]](#footnote-24) “The land of the Samaritans is pure, its mikvaot, dwelling places, and roads are pure, foreign land is impure, its mikvaot, dwelling places and roads are impure” (*Mikvaot* 6:1).

However, according to both the Palestinian Talmud and the Babylonian Talmud, the area between Judea and the Galilee, where the Samaritans dwell, is an area that is impure with the impurity of gentile lands. This is reflected in the way the Talmud explains the halakhic difference mentioned in the Mishnah (*Hagigah* 3:2) between the people of Judea, who are fastidious about the purity of wine and oil all year round, and the people of the Galilee, who are not fastidious. According to Reish Lakish in the Babylonian Talmud, this is because “a strip of Samaritans separates them” (*b. Hagigah* 25a). According to the the Palestinian Talmud, “Rabbi Simon, Rabbi Yehoshua ben Levi in the name of Rabbi Pedaya: ‘Because a *fiskia*[[25]](#footnote-25) of Samaritans interrupts’” (*y.Hagigah* 3:4 [79c]).[[26]](#footnote-26) That is, the land of the Samaritans in Samaria that separates Judea and the Galilee is impure as foreign lands.

Rabbi Abahu holds that this “strip” is a space that had never been holy.[[27]](#footnote-27) “Rabbi Abahu said:[[28]](#footnote-28) There are Samaritan places exempted since the days of Joshua bin Nun and they remain exempted” (*y.Shevi‘it* 6:1 [46c]).

Sussmann connected this memra with the final verse of the Rehov inscription, which starts with the words “the cities exempted in the area of Sebaste.” This is the only passage in the Rehov inscription that has no parallel in rabbinic literature.[[29]](#footnote-29) As Sussmann noted, the structure of the inscription indicates that this passage was appended to the text that was copied from a source that lacked this passage. It was added in the margin of the inscription after the word *shalom*, which ends the inscription, which also starts with *shalom*. The section that deals with cities permitted in the area of Sebaste also does not appear on the plaster inscription from the synagogue, which demonstrates the precedence of the plaster inscription to the inscription on the mosaic floor.[[30]](#footnote-30)

According to Sussmann, the inscription indicates that these “exempted cities” were exempted from *shevi‘it* and tithes. That is, the region of Samaria defined by the Amoraim as a Samaritan “strip” or *fiskia*, where the Samaritans dwelled, became exempt from priestly tithes and *shevi‘it* and was considered impure as foreign lands[[31]](#footnote-31) following a change in the Samaritans’ halakhic status to “gentiles in every way, from small to large, without rabbinic controversy.”[[32]](#footnote-32) Lieberman dated the change in the status of the Samaritans to complete gentiles to the end of the fourth century CE.

Sussmann believed that the exemption stemmed from the change in the halakhic status of the Samaritans from Israelites to gentiles. Zeev Safrai assumed that the cities in the area of Sebaste were exempted because gentiles dwelled in these cities.[[33]](#footnote-33) In any case, whether the change in the region’s halakhic status was a result of the halakhic status of the Samaritans or of gentiles living among the Samaritans, it was the change in ethnonational status from Samaritan to gentile cities that caused a change in the halakhic status of the region north of Shechem.

We see that a region that was once an inseparable part of the land of Israel, and area where the obligations associated with the land of Israel were in full force and that was deemed pure of the impurity of foreign lands, became impure and exempt from those commandments. This development shows the close link between the ethnic composition of the area and its definition and halakhic status.

# The Definition of the Borders of the Land – the Exemptions of Rabbi Yehudah HaNasi

##  The Places that Rabbi Exempted

 Rabbi (Rabbi Yehuda HaNasi) exempted certain places from the obligation of *shemita*,[[34]](#footnote-34) from setting aside priestly gifts and tithes, and from the impurity of foreign lands. Shmuel Safrai has shown that Rabbi’s exemptions from *shemita* stemmed from his general view that the obligation of *shevi‘it* during the Second Temple period was rabbinic legislation and that the sages thus have the power to waive it.[[35]](#footnote-35) As we noted above, *t.Ohalot* 18:4 mentioned that certain cities within the land of Israel are exempt from tithes and *shevi‘it*, but are not considered foreign lands. That is, the exemption from laws applied only to the land of Israel does not necessarily result in the status of being impure as foreign lands. [[36]](#footnote-36)

## The Reason for Rabbi’s Exemptions and Their Purpose

Most of the places whose exemptions are ascribed to Rabbi (Beit Shean, Caesaria, Beit Guvrin, and Ashkelon) were mixed cities where both Jews and gentiles lived.[[37]](#footnote-37) It may be that Rabbi intended to lighten the burden on Jews who lived in these places.[[38]](#footnote-38) Aharon Oppenheimer and David Levine linked the process of urbanization of the land of Israel and the Roman Empire in general in the Severan period to Rabbi Yehudah HaNasi’s exemptions, which sought to encourage Jews to settle in these cities.[[39]](#footnote-39)

We can suppose that the outcome Rabbi Yehudah HaNasi hoped for was to create dense Jewish settlement in a given place. This type of settlement would have caused a change in the status of the place, requiring it to fulfill those commandments that apply only to the land of Israel. The current exemption from the commandment of *shevi‘it* and setting aside priestly gifts and tithes was meant to encourage settlement and thus in the future to expand the area required to fulfill these obligations. This approach sharply contrasts with the drive toward separation seen in Ezra and Nehemiah and in Yose ben Yoezer and Yose ben Yohanan, who decreed the impurity of foreign lands. The change in orientation explains the vigorous opposition that Rabbi Yehudah HaNasi’s *takkanot* engendered;[[40]](#footnote-40) this act, in which he defined and diminished the borders of the land of Israel even in places considered in biblical literature to be the land of Israel proper, sparked strong dissent in the Palestinian and Babylonian Talmuds.

This interpretation sheds new light on Rabbi’s exemptions, since those places that Rabbi exempted were in the future to be required to fulfill the commandments that apply only to the land of Israel due to the expected growth of Jewish settlement there.[[41]](#footnote-41) That is, Rabbi’s exemptions were meant to expand the range of Jewish settlement and integrate Jews into the Hellenistic cities on the borders of the land.

# Conclusion

A comprehensive view of the laws of the impurity of foreign lands shows that the areas that lack this impurity depend on where Jews dwell. An analysis of the system of laws dealing with the way a space is purified of the impurity of foreign lands demonstrates that the land of Israel can be expanded and space once deemed impure can become pure by means of continuous settlement or by Jewish presence, like the roads used by the Babylonian returnees. The sages used this law as a tool to expand the area of Jewish settlement. That is, by means of a decree that is a kind of administrative order, the sages expanded or contracted the borders of the land of Israel designated as the borders of the Babylonian returnees. The orientation reflected in rabbinic literature is to expand Jewish settlement into Syria, where there was an important concentration of Jews, though less densely settled than the Galilee. In the Jewish mind, which relied on the Bible, Syria was included in the territory of the returnees from Egypt.

Dating the decree of the impurity of foreign lands to the time of Yose ben Yohanan and Yose ben Yoezer, who were active in the Hasmonean period, allows us to understand it as motivated by a territorial orientation suited to a state. The segregationist approach that characterized the time of Ezra and Nehemiah and the decrees of sages of the Hasmonean period changed sharply with the decrees of Rabbi Yehudah HaNasi. Rabbi Yehudah HaNasi tried to expand the area of Jewish settlement by encouraging settlement in mixed cities, an act that spurred controversy among the sages.

On the other hand, the link between the demography of an area and its halakhic status also engendered halakhic definitions in the opposite direction. An area located in the heart of the land of Israel could become impure as foreign lands if gentiles or a population that was no longer defined as Jewish lived there. Such a dynamic demonstrates the direct and shifting connection between the borders of religious identity and Jewish nationalism and between the borders of the territory the sages identified with the land of Israel.

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1. In the book of Amos 7:17 the Exile is an impure land “and your land shall be divided up with a measuring line. And you yourself shall die on unclean soil; for Israel shall be exiled from its soil.” Jonathan Klawans distinguished between moral impurity and ritual impurity and interpreted the Bible’s notion of “unclean soil” as moral impurity, while the rabbinic decree on the impurity of foreign lands, reflected, in his opinion, ritual impurity. See Klawans, *Impurity* *and Sin in Ancient Judaism* (Oxford: Oxford University Press, 2000), 134–35. [↑](#footnote-ref-1)
2. *B.Shabbat* 15a includes another opinion, that a *beit din* decreed this decree eighty years before the destruction of the Temple. The decree is explained by the expansion of impurity to the air of foreign lands. See Urbach, *Ha-halakhah, mekorotehah ve-hitpatḥutah* (Jerusalem: Yad LaTalmud, 1984), 15. Urbach noted that the decree only appears in a baraita in an incidental discussion in the Bavli and in a memra in the Yerushalmi. The term “impurity of foreign lands” already appears several times in the Mishnah and Tosefta: *m*.*Ohalot* 2:3; *Toharot* 4:5; *t.Ohalot* 17:6. Alon showed that the discussion between R. Shimon and the sages in the Tosefta indicates that the sages held that the impurity of foreign lands predates the return to Zion. “R. Shimon says that the ashes of [red heifers] were exiled with them to Babylonia and returned. They said to him, was it not defiled in foreign lands? He said to them, they only decreed impurity on foreign lands after they returned from exile” (*t.Parah* 3:5, according to MS Vienna). See Alon, “Gentile Impurity,” *Tarbiz* 8 (1937): 146 [in Hebrew]. J. Baumgarten, “The Disqualifications of Priests in 4Q Fragments of the Damascus Document, A Specimen of the Recovery of Pre-Rabbinic Halakha,” in *The Madrid Qumran Congress II* (STDJ, 11)*,* eds. J.T. Barrera and L.V. Montaner (Leiden:Brill, 1992): 503-513 connects R. Yose ben Yoezer’s notion of the impurity of foreign lands to the laws that appear in fragment 4Q266 from Qumran regarding a priest who was disqualified from service because he was taken captive by the gentiles or because he “wandered” among the gentiles. [↑](#footnote-ref-2)
3. Alon, “Gentile Impurity,” 144–47. See also Urbach, *Ha-halakhah*, 15. See Louis Ginzberg, *Mekomah shel ha-halakhah be-ḥokhmat Yisraʾel* (Jerusalem: Hebrew University, 1931), 15. Lieberman adopted Alon’s position and saw the presence of gentiles as a factor determining the impurity of foreign lands. See Saul Lieberman, “The Halakhic Inscription from the Bet-Shean Valley,” *Tarbiz* 45 (1975): 57 [in Hebrew]. Birnbaum also took the view that dates gentile impurity to the Persian period. See Hanan Birenboim, “Gentile Impurity in Ancient Judaism,” *Cathedra* (2011): 7–30 [in Hebrew]. [↑](#footnote-ref-3)
4. Mary Douglas, “The Stranger in the Bible,” *European Journal of Sociology* 35, no. 2 (1994): 283–98. For more on this theme, see Yonina Dor, “The Theme of the Foreign Women in Ezra-Nehemiah” (PhD diss., Hebrew University, 2001), 181–85 [in Hebrew]. [↑](#footnote-ref-4)
5. Alon, “Gentile Impurity,” 145. [↑](#footnote-ref-5)
6. Christine Hayes, *Gentile Impurities and Jewish Identities* (Oxford: Oxford University Press, 2002), 199–204. [↑](#footnote-ref-6)
7. See, for example, *m.Nazir* 7:3: “However, [the nazirite does not shave for these]: The hanging branches over a corpse, and the projecting stones, and a *beit ha-peras*, and the land of the nations, and the grave cover; and the grave walls, and a quarter-log of blood from a corpse; and a tent.” *m*.*Ohalot* 2:3: “The following defile by contact and carriage but not by overshadowing: A bone of barleycorn size, earth from a foreign country, a *beit peras*.” [↑](#footnote-ref-7)
8. For example, *m.Ohalot* 18:7 (ed. Goldberg, pp. 132–33): “A person who walks through a *bet peras* on stones that cannot [easily] be moved, or [who rides] on a man or beast whose strength is great, remains pure. [But if he walks] on stones that can [easily] be moved, or [rides] upon a man or beast whose strength is lousy, he becomes impure. A person who travels in the land of the gentiles over mountains or rocks, becomes impure; but if [he travels] by the sea or along the strand, he remains pure.” The next mishnah states, “If one buys a field in Syria near to the land of Israel: If he can enter it in purity, it is deemed pure and is subject to [the laws of] tithes and *shevi‘it* [produce]; but he cannot enter it in purity, it [is deemed] impure, but it is still subject to [the laws of] tithes and *shevi‘it* [produce].” This is followed by, “The dwelling-places of non-Jews are impure. How long must [the non-Jew] have dwelt in [the dwelling-places] for them to require examination? Forty days” (ed. Goldberg,

pp. 133–34). [↑](#footnote-ref-8)
9. See Rashi on *b.Shabbat* 14b and Maimonides on *m.Ohalot* 2:3. This explanation is not found in rabbinic literature. Rashi and Maimonides explained the impurity of foreign lands as corpse impurity, likely based the usual juxtaposition of the discussion of the impurity of foreign lands and those of

various types of corpse impurity, as in *m.Ohalot* 2:3. [↑](#footnote-ref-9)
10. Alon, “Gentile Impurity,” 144–47. [↑](#footnote-ref-10)
11. Hayes, Gentile Impurities, 203. [↑](#footnote-ref-11)
12. Yadin interpreted this instruction to set aside places for burial to apply only in the land of Israel. See Yadin, *The Temple Scroll* (Jerusalem: Ha-ḥevrah Leḥakirat ʾEretz-Yisraʾel, 1977), 250. Margalit understood it not to be limited to the land of Israel. See Ohr Margalit, “The Concept of Mitzvot Ha-teluyot Ba-aretz in Rabbinic Literature” (PhD diss., Ben-Gurion University, 2005), 44. But it is difficult to derive a decree from the simple meaning of “set apart places within your land.” It is thus hard to accept Margalit’s suggestion. [↑](#footnote-ref-12)
13. Dead Sea Scrolls (ed. Qimron, p. 187). [↑](#footnote-ref-13)
14. At a time when the purification of foreign land occurred by means of Jewish

presence or ownership of the soil. [↑](#footnote-ref-14)
15. *m.Ohalot* 18:9–10. [↑](#footnote-ref-15)
16. Except for houses in walled cities that are considered in between the external circle of the land of Israel and Jerusalem. [↑](#footnote-ref-16)
17. Thus, “A Jew who bought a field in Syria, although he returned and sold it to a non-Jew, it is still obliged to tithes and *shevi‘it*” (*t.Terumot* 2:11, ed. Lieberman, p. 114). And see Saul Lieberman, *Tosefta kifshuta* (New York: Jewish Theological Seminary, 1955), 1:315. [↑](#footnote-ref-17)
18. On the notion of cities “within” foreign lands, see Michael Greensweig, “Place Names in Tannaitic Literature” (PhD diss., Hebrew University, 1999), 6. [↑](#footnote-ref-18)
19. On this, see David Levine, “Rabbi Judah the Patriarch and the Boundaries of Palestinian Cities: A Literary-Historical Study,” *Cathedra* 7 (2010): 13 [in Hebrew]. [↑](#footnote-ref-19)
20. Eusebius identifies this place as twenty-five kilometers south of Beit Guvrin and identifies Gerar with the region of Gerarutikh. See the entry, “Gerar,” *Onomasticon* (ed. Melamed, no. 294). And see *t.Kelim* 1:5 (ed.

Zuckermandel, p. 569). [↑](#footnote-ref-20)
21. See also *Genesis Rabbah* 64:3 (ed. Albeck, p. 702). [↑](#footnote-ref-21)
22. Saadya Gaon suggested that the biblical *Nahal Mitzrayim* was Wadi El-Arish in the northern Sinai. More recently, Nadav Neeman has suggested that it is the Besor stream in the northwestern Negev. See Nadav Neeman, “Shihor mitzrayim veshur ‘al penei mitzrayim,” in *Iyyunim Bamiqra: Y.M Grintz Memorial Volume,* ed. B. Oppenheimer (Tel Aviv: Hakibbutz Hameuhad, 1982): 205-221. [↑](#footnote-ref-22)
23. Kahana also sees this halakhah as relating to Syria. See Menachem Kahana,

*Kiteʿe midreshei halakhah min ha-genizah* (Jerusalem: Magnes, 2005), 351. See also Lieberman, “Halakhic Inscription,” 154. [↑](#footnote-ref-23)
24. On the parallel between “foreign land” and “Samaritan land,” see Itzhak Hamitovsky, “Changes and Developments of the Samaritan Settlement in the Land of Israel during the Hellenistic-Roman Period” (MA thesis, Bar-Ilan University, 2004), 70–72. [↑](#footnote-ref-24)
25. “Strip,” in Greek *faski/a*, in Latin *fascia*; see Michael Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period* (Ramat Gan: Bar-Ilan University, 2017), 842. [↑](#footnote-ref-25)
26. Compare *y.Demai* 5:9 (25a): מפסקיה של כותין. *Lamentations Rabbah* 3:7 has מטלית של כותיין, and in the Scholion to *Megillat Ta’anit*, מטלת של כותים. See *Megillat Ta’anit* (ed. Noam, p. 243). [↑](#footnote-ref-26)
27. Alon, “Gentile Impurity,” 8–9. Lieberman, “Halakhic Inscription,” 56. [↑](#footnote-ref-27)
28. According to the Palestinian Talmud the Samaritans in Caesaria asked R. Abahu, “Your fathers were providing themselves from us. Why are you not providing yourselves from us? He answered them, your fathers did not spoil their deeds, you are spoiling your deeds” (*y*.*Avodah Zarah* 5:4 [44d]). [↑](#footnote-ref-28)
29. Ya’akov Sussmann, “A Halakhic Inscription from the Beth-Shean Valley,” *Tarbiz* 43 (1973): 136 [in Hebrew]. [↑](#footnote-ref-29)
30. Based on an oral conversation with Hagai Misgav, who is working on publishing the plaster inscription. [↑](#footnote-ref-30)
31. According to this view, the region became considered impure as foreign lands in the Talmudic period, when it had not been previously. Indeed, Hamitovsky noted that the sources that hold that Samaria is impure as foreign lands are Talmudic, while sources from the Second Temple period show no indication that Samaria is impure. See Hamitovsky, “Changes,” 73–75. [↑](#footnote-ref-31)
32. Lieberman, “Halakhic Inscription,” 59. Hamitvosky suggested that the transition of the Samaritans from rural settlements to coastal cities caused their defilement in the eyes of the sages. See Hamitovsky, “Changes,” 91–92. [↑](#footnote-ref-32)
33. Ze’ev Safrai, “Marginal Notes on the Rehob Inscription,” *Zion* 42, no. 1 (1977): 7 [in Hebrew]. In Shachar’s view, as well, in the third century CE western Samaria emptied of Jews and became populated with Samaritans. See Yuval Shachar, “Har Hamelekh — A New Solution to an Old Puzzle,” *Zion* 65 (2000): 275–306 [in Hebrew]. [↑](#footnote-ref-33)
34. *y.Demai* 80:2 (22c): “Rabbi permitted Bet Shean, on the testimony of Joshua ben Zeruz, the son of Rabbi Meir’s father-in-law, who said, I saw Rabbi Meir buy vegetables from a garden in the Sabbatical year. He permitted all of it.” [↑](#footnote-ref-34)
35. To the extent that he attempted to exempt it completely. “Rabbi wanted to permit *shemita*” (*y.Demai* 1:5 [22a]). See Shmuel Safrai, “The Practical Implementation of the Sabbatical Year after the Destruction of the Second Temple,” *Tarbiz* 35 (1966): 34–37 [in Hebrew]. [↑](#footnote-ref-35)
36. This is also reflected in the way Lieberman understood the question “what is its status [שנהיה in MS Vienna, in the first print, שנהג] regarding a foreign land?” on the purification of Ashkelon at the end of the Tosefta (*Ohalot* 18:18) which deals with the impurity of “gentile dwelling places” and applies only in the land of Israel and not in foreign lands. See Lieberman, *Tosefet Rishonim* (New York: Jewish Theological Seminary, 1999), 160. Oppenheimer deduced from this halakhah regarding the purity of all the places that were purified from the impurity of foreign lands, see A. Oppenheimer, “‘*Iyyur veteḥumei ‘arim beeretz yisrael haromit*,” in *The Jews in the Hellenistic-Roman World,* eds. A. Oppenheimer, Y. Gafni, and D. Schwartz (Jerusalem: 1996), 214. [↑](#footnote-ref-36)
37. Adolf Büchler, “The Patriarch R. Judah I and the Greco-Roman Cities of Palestine,” in *Studies in Jewish History by A. Büchler I,* eds. S. Brodie and J. Rabbinowitz (London: 1956): 180. [↑](#footnote-ref-37)
38. Gedalyah Alon, *Toldot ha-yehudim bi-tkufat ha-mishnah ve-ha-talmud* (Tel Aviv: Hakibbutz Hameuchad, 1967–70), 154. [↑](#footnote-ref-38)
39. A. Oppenheimer, “‘*Iyyur”*: 214. Levine, “Rabbi Judah the Patriarch,” 27–32. Oppenheimer believed that Rabbi did not exempt Sephorris and Tiberias, the largest Galilean cities, as well as Lod on the coastal plain, because prosperous Jewish communities resided in these cities, unlike those cities Rabbi exempted, where he wished to encourage Jewish settlement. Acre, which was not exempted, was pagan in character since it was a Roman colony. We should note that Rabban Gamliel, at least, saw Acre as within his territory (*m.Avodah Zarah* 3:4). Oppenheimer further assumed that the borders of the land of Israel for matters of commandments that apply to the land of Israel match the borders of the province Syria-Palestine. Since Acre was in the province of Phoenicia, if it were exempted, it would have generated a mismatch between the areas [↑](#footnote-ref-39)
40. See *b.Hullin* 5b–6a. Levine suggested that the criticism of Rabbi’s exemptions increased in the following generations, while in his own time, the critique was milder. See Levine, “Judah the Patriarch,” 18–19. [↑](#footnote-ref-40)
41. This conclusion does not accord with Safrai’s opinion. He saw Rabbi’s exemptions as an attempt to diminish the commandment of *shevi‘it* and held that Rabbi’s innovation was in his permissiveness in the commandment of *shemita*, since *shevi‘it* is a rabbinic law. See Safrai, “Sabbatical Year.” His main source is the debate between Rabbi “who wished to permit *shemita*” and Rabbi Pinchas ben Yair. But even Safrai would agree places may be permitted for *shemita* even if they are required to do so by biblical law. [↑](#footnote-ref-41)