Other Peoples’ Rituals: Tannaitic Portrayals of Graeco-Roman Ritual

DISSERTATION

Presented in Partial Fulfillment of the Requirements for the Degree Doctor of Philosophy in the Graduate School of The Ohio State University

By

Avram Richard Shannon, M.St.

Graduate Program in Near Eastern Languages and Cultures

The Ohio State University

2015

Dissertation Committee:

Professor Michael D. Swartz, Advisor
Professor Daniel Frank
Professor Sarah Iles Johnston
Professor Samuel A. Meier
Professor Lynn Kaye
Abstract

This dissertation looks at the ways in which the Tannaitic Sages portrayed and discussed non-Jewish ritual. Although this has been traditionally characterized as “idolatry,” this dissertation argues that that is not a category which would have been applied by the Sages of the Mishnah, Tosefta and the Tannaitic Midrashim. In fact, the Sages did not consider worship of avodah zarah, as it is called in this text, as something which was wholly different from their own ritual. The Tannaitic Sages conceived of non-Jewish ritual and Jewish ritual to be part of a single category of ritual. This category ultimately derived from the ritual practices of the Jerusalem Temple, which meant that rituals which were performed outside of that context were sacrilege and an affront to the God of Israel. It was precisely the similarities, rather than the differences, between Jewish and non-Jewish ritual which gave the Tannaitic Sages pause. These similarities, however, also gave the Sages tools for controlling non-Jewish ritual. They did this through a quest for plausible contexts for non-Jewish ritual behavior. Through establishing these contexts, the Tannaitic Sages are able to control what does and does not qualify as the worship of avodah zarah.
Dedication

This dissertation is dedicated to my children: Lydia, Elisheva, Guinevere, Enoch and Athena, without whose forbearance it would have never been finished.
Acknowledgments

I wish first to thank my advisor, Michael D. Swartz, who has provided many years of mentorship in the field of Jewish Studies, and whose insightful comments pushed me further in my scholarship. I would also like to thank the other members of my dissertation committee: Sam Meier for his careful comments, Daniel Frank for his kind advice, Sarah Iles Johnston for providing a view from “the other side,” and Lynn Kaye for helpful discussions on rabbinic ideology, especially on the notion of meʻilah. A special thanks to Fritz Graf for allowing me to see a pre-publication copy of his book, Roman Festivals in the Greek East. I also would like to extend thanks to the Melton Center for Jewish Studies, who provided funding for two of the years during my PhD program. Finally, a special thank you to my wife, Thora Shannon, both for her patience and for her helpful editorial comments on this dissertation.
Vita

1999..........................................................Homeschool

2007..........................................................B.A. Ancient Near Eastern Studies, Brigham Young University

2008..........................................................M.St. Jewish Studies, University of Oxford

2008 to present ...........................................Graduate Teaching Associate, Department of Near Eastern Languages and Culture, The Ohio State University

Publications

“Come Near Unto Me: Guarded Space and Its Mediators in the Jerusalem Temple.”


Fields of Study

Major Field: Near Eastern Languages and Literatures

Graduate Interdisciplinary Specialization in Religions of the Ancient Mediterranean
Table of Contents

Abstract ........................................................................................................................................ ii

Dedication ................................................................................................................................... iii

Acknowledgments ........................................................................................................................ iv

Vita ................................................................................................................................................ v

List of Tables ............................................................................................................................... xi

Abbreviations ............................................................................................................................... xii

Chapter 1: Introduction ............................................................................................................... 1

Text and Context in Ritual Law ................................................................................................. 1

Religion in the Ancient World ...................................................................................................... 8

Derivation of the English Word “Idol” .......................................................................................... 14

Avodah and Me’ilah in Hebrew .................................................................................................... 19

An Overview of Foreign Worship in the Bible and Ancient Israel ............................................. 26

Methodological Considerations .................................................................................................... 35

Arrangement of the Dissertation ................................................................................................. 38

Chapter 2: Scholarship on Non-Jewish Rituals ......................................................................... 41
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Idolatry” in Biblical Studies</td>
<td>42</td>
</tr>
<tr>
<td>New Testament Influence on Scholarship on Foreign Worship</td>
<td>47</td>
</tr>
<tr>
<td>The Sages and Image Worship</td>
<td>50</td>
</tr>
<tr>
<td>Lieberman and Beyond</td>
<td>53</td>
</tr>
<tr>
<td>Foreign Worship and Egypt</td>
<td>63</td>
</tr>
<tr>
<td>Language and the Question of Foreignness</td>
<td>65</td>
</tr>
<tr>
<td>Rituals</td>
<td>66</td>
</tr>
<tr>
<td>Studies of Greek and Roman Ritual and Religion</td>
<td>70</td>
</tr>
<tr>
<td>Sources Used in This Dissertation</td>
<td>73</td>
</tr>
<tr>
<td><strong>Chapter 3: Mishnah Avodah Zarah</strong></td>
<td>81</td>
</tr>
<tr>
<td>Sacred Space and Commerce</td>
<td>82</td>
</tr>
<tr>
<td>Ornaments and Images</td>
<td>96</td>
</tr>
<tr>
<td>Place and Space</td>
<td>109</td>
</tr>
<tr>
<td>Obscure Objects in Mishnah Avodah Zarah: Asherah and Merqolis</td>
<td>117</td>
</tr>
<tr>
<td>Use and Abuse of Images</td>
<td>125</td>
</tr>
<tr>
<td>Libation and Wine</td>
<td>134</td>
</tr>
<tr>
<td><strong>Chapter 4: Tosefta Avodah Zarah</strong></td>
<td>145</td>
</tr>
<tr>
<td>Characteristics of Tosefta Avodah Zarah</td>
<td>145</td>
</tr>
<tr>
<td>Festivals and Fairs</td>
<td>147</td>
</tr>
</tbody>
</table>
Theoretical Underpinnings ........................................................................................................ 155

Interaction with the Broader World ...................................................................................... 160

Images and Materiality ........................................................................................................... 168

Law and Land ......................................................................................................................... 171

Food and Sacrifice .................................................................................................................. 174

Iconography ............................................................................................................................ 177

Annulment of Avodah Zarah ................................................................................................. 186

Definitions and Descriptions ................................................................................................. 192

Music and Ritual ..................................................................................................................... 194

Space and Impurity ................................................................................................................ 197

Merqolis and Custom .............................................................................................................. 209

Making Wine and Libations .................................................................................................... 212

**Chapter 5: Mishnah Sanhedrin 7** ..................................................................................... 221

Defining the Worship of Avodah Zarah .................................................................................. 221

Ritual in Exodus and the Surrounding World ....................................................................... 227

The Rabbis and Pythian Oracle ............................................................................................. 230

Instigators to the Worship of Avodah Zarah .......................................................................... 232

**Chapter 6: Mekhilta** ......................................................................................................... 235

No Other Gods ....................................................................................................................... 235
Images in Rabbinic Literature ................................................................. 331
Astral Imagery ......................................................................................... 334
Viewing of Images in Antiquity ................................................................. 345
Conclusion .................................................................................................. 354

Chapter 11: Rabbis, Rituals and the Bible .............................................. 358
Asherah ....................................................................................................... 359
Molech ....................................................................................................... 371
Conclusion .................................................................................................. 381

Chapter 12: Foreign Ritual in the Surrounding World ......................... 383
Merqolis ..................................................................................................... 383
Merqolis and Herm .................................................................................... 388
Libations .................................................................................................... 393
Minḥah and Libation in the Bible ............................................................... 395
Materials for Libation ................................................................................ 396
Libation in Rabbinic Ritual ........................................................................ 401
Blood Libation .......................................................................................... 403
Conclusion .................................................................................................. 409

Chapter 13: Conclusion ........................................................................... 411

Bibliography ............................................................................................. 417
List of Tables

Table 1: Ritual Practice in Exodus................................................................. 228
Table 2: Ritual Practice in Mishnah................................................................. 279
Table 3: Non-Jewish Ritual Practice................................................................. 316
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABD</td>
<td>Anchor Bible Dictionary</td>
</tr>
<tr>
<td>BD</td>
<td>Book of the Dead</td>
</tr>
<tr>
<td>CoS</td>
<td>The Context of Scripture</td>
</tr>
<tr>
<td>CT</td>
<td>Coffin Texts</td>
</tr>
<tr>
<td>CTH</td>
<td>Catalog der Texte der Hethiter</td>
</tr>
<tr>
<td>DDD</td>
<td>Dictionary of Deities and Demons in the Bible</td>
</tr>
<tr>
<td>DtrH</td>
<td>Deuteronomistic Historian</td>
</tr>
<tr>
<td>HALOT</td>
<td>Hebrew and Aramaic Lexicon of the Old Testament</td>
</tr>
<tr>
<td>HSM</td>
<td>Harvard Semitic Monographs</td>
</tr>
<tr>
<td>HTR</td>
<td>Harvard Theological Review</td>
</tr>
<tr>
<td>IOSCS</td>
<td>International Organization for Septuagint and Cognate Studies</td>
</tr>
<tr>
<td>JBL</td>
<td>Journal of Biblical Literature</td>
</tr>
<tr>
<td>JQR</td>
<td>Jewish Quarterly Review</td>
</tr>
<tr>
<td>LSJ</td>
<td>The Liddel-Scott-Jones Greek-English Lexicon</td>
</tr>
<tr>
<td>TDOT</td>
<td>Theological Dictionary of the Old Testament</td>
</tr>
<tr>
<td>ThesCRA</td>
<td>Thesaurus Cultus et Rituum Antiquorum</td>
</tr>
<tr>
<td>VT</td>
<td>Vetus Testamentum</td>
</tr>
</tbody>
</table>
Chapter 1: Introduction

Text and Context in Ritual Law

Exodus 20 records what have come to be known as the Ten Commandments, which represent, to many, the foundational basis for God’s laws. The Ten Commandments, together with other parts of the Torah, include commands and laws which were very similar to other laws in the ancient Near East, such as injunctions against murder, adultery and false witness. Against these laws, which are in continuity with other nations, it begins with the peculiarly Yahwistic command:

I am Yahweh, your God who brought you out from the land of Egypt, from a house of servitude. You will have no other gods aside from me. You will not make for yourself a carved image and any representation of anything that is in the sky above or that is in earth underneath it, or that is in the waters underneath the earth. You will not prostrate to them and you will not serve them, for I, Yahweh, your god, am a jealous god, visiting the sin of the fathers upon the children up to

---

the third and the fourth generation of my haters, but showing covenant loyalty to thousands who love me and observe my commandments (Ex 20:2–6).²

The book of Exodus, therefore, frames the covenant relationship between God and Israel as an exclusive relationship. Not only is there exclusivity in worship, there is exclusivity in portrayal. According to this biblical passage, the Israelites were forbidden to make images, not only of deities, but, according to the strictest reading of this passage, they were forbidden to make images of anything from the natural world.

In time, this particularity in Israelite worship would come to characterize Israelite and later Jewish worship. The exclusivity of Israelite religion and Judaism would be taken up by prophets in and after the Babylonian exile who would extend the notion of the incomparable nature of the Jewish God, and the inability to express his form in images.³ This later point was extended as a parody and a polemic against the gods of non-Jewish peoples, and especially about their expression as images. The creation and the worship of images became place for Jewish/non-Jewish boundary maintenance. This was the case with Ezra and Nehemiah. This was the case with the various authors of the Daniel traditions. This was the case with Maccabees. This was the case with Philo and with Josephus. And it was the case with the Jewish Sages who created the Mishnah, Tosefta and early rabbinic literature.

² אָנֹכִי יְהוָה אֱלֹהֶיךָ אֲשֶר הُוֹצֵאתִיךָ מֵאֶרֶץ מִצְרַיִם מִבֵית עֲבָדִים † לֹא יִהְיֶה־לְךָ אֱלֹהִים אֲחֵרִים עַל־פָנָי יִבָאָר לָאָרֶץ מִתַָחַת וַאֲשֶר בַמַיִם מִתַחַת לָאָרֶץ וַאֲשֶר בָאָרֶץ מִמַעַל וַאֲשֶר בַשָמַיִם מִמַעַל וְכָל־תְמוּנָה אֲשֶר בַשָמַיִם מִמַעַל וְכָל־פֶסֶל אֲשֶר בָאָרֶץ לֹא־תַעֲשֶה־לְךָ וְלֹא תַעֲבְדֵם כִי אָנֹכִי יְהוָה אֱלֹהֶיךָ אֵל קַנָא פֹקֵד עֲוָן אָבֹת עַל־בָנִים וְתַעְנִי יְשֹבֵעַ עַל־בָנִים וְעַל־רִבְעִים לְשֹנְאָי וְעָשֶה חֶסֶד לַאֲלָפִים לְאֹהֲבַי וּלְשֹמְרֵי מִツוֹתָי וְעֹשֶה חֶסֶד לַאֲלָפִים לְאֹהֲבַי וּלְשֹמְרֵי מִツוֹתָי


Translations of all ancient texts are my own, unless otherwise indicated.
The Sages of rabbinic Judaism viewed themselves as the inheritors of the biblical tradition. They were also responsible for creating and transmitting their own legal jurisprudence, a jurisprudence which was paradigmatic for the version of Judaism which they were promulgating. Their laws on non-Jewish ritual are the result of the tension between biblical ideals of covenant loyalty and their current living of everyday life in a world where non-Jewish images and ritual could be encountered anywhere. This dissertation begins by looking at how the Sages conceived of non-Jewish ritual practices, known in rabbinic sources as the worship of *avodah zarah*. These practices, often discussed in modern times under the rubric of “idolatry,” were discussed in various ways by the Sages as part of their discourse on identity. Examining this discourse then allows us to understand the ways in which the Sages constructed others as part of their process on constructing themselves.

The earliest sources of rabbinic Judaism—including the Mishnah, Tosefta, and halakhic midrashim—contain numerous discussions of the worship of *avodah zarah*, including laws on specific rituals as well as general discussions of Jewish interactions with non-Jews. The Sages who promulgated these discussions are known as the Tannaim, from an Aramaic word which means “teacher” or “transmitter.” These early sources serve as the foundations for rabbinic Judaism. Because the conception of *avodah zarah* served as one of the chief distinguishers between Jews and non-Jews, the laws in these Tannaitic sources governing the worship of *avodah zarah* often shade over into general laws about

---

7 The term “discourse” is borrowed from Bruce Lincoln, as explained later in the Introduction.
the interaction between Jews and non-Jews. This is especially true in m. Avodah Zarah—
specific discussion of ritual behavior is not a particular concern of that tractate. What is a
concern is economic benefit.

From a theoretical standpoint, these concerns are part of the ongoing discussion of
what religion was and was not in the ancient world. Because the Tannaitic Sages are
interacting with a ritual system different from their own, this discourse might be termed
one of the earliest sustained dialogues on another religious system, yet instead of
distinctive beliefs or doctrines the Sages discuss matters of economic interaction and
ritual behavior. They do so using cross-cultural ritual behavior such as sacrifice, the
pouring of libations, and the burning of incense rather than emphasizing differences.
Where differences are discussed (the largest of these being the use of images), the
primary concern is in Jewish interactions with non-Jewish ritual behavior, including the
pouring of libation, animal sacrifice, and monetary gifts. The emphasis is on economic
actions at the first, and on perceivable ritual actions on the second—belief or doctrine
does not really enter into the question.

The emphasis in the Tannaitic discourse on non-Jewish ritual is, therefore, on
visible external behavior. There are two pragmatic aspects to this emphasis which
undergird much of the specific discussion in the Tannaitic sources. First, the laws
governing interactions between Jews and non-Jews recognize that non-Jews are not
engaged in ritual behavior at all times. In this system, not all spilled wine needs to be
automatically considered a libation. On the other side of this, contrary to the modern
conception of religious ritual as something which is idealized and independent of the rest
of life, issues of worship and ritual played an integral part in the life in the ancient world.
The interplay between the fact that ritual was, in many ways, the defining feature of ancient life and the recognition that not all behavior by non-Jews is ritual behavior serves as the backdrop for much of the Tannaitic discussions on non-Jewish ritual. One of the chief concerns of this discourse, therefore, is establishing when a non-Jew was or was not engaged in ritual. This drives the specific aspects which Tannaitic literature discusses—it is in those places where the context of a non-Jewish ritual is unclear that most of the discussion happens.

In addition to the two general ideas standing at the core of Tannaitic discourse on non-Jewish ritual, there are two other principles which guided rabbinic discourse on non-Jewish ritual. Given these two ideas—both that non-Jews are not engaged in ritual at all times, and yet daily, embedded rituals are an essential aspect of the Graeco-Roman world surrounding them—the Tannaitic Sages create a category of legal suspicion of non-Jews in ritual laws. Thus, although not all spilling of wine qualifies as the pouring out of a libation, non-Jews are expected to pour out a libation immediately when out of sight of a Jew.

The other major principle guiding the creation of laws here is that these laws, although they deal with non-Jewish ritual practice, are not primarily about non-Jews. They are concerned with the regulation of Jewish interaction with non-Jews, but the emphasis is on the Jews. Thus, many of the regulations are concerned with activities where Jews might inadvertently become involved in an act of non-Jewish ritual or might appear to do so to an outsider. One of the functions of laws regulating Jewish interactions with non-Jews is to create and to maintain boundaries, a process which is enjoined upon them both by their own cultural development and biblical ideology. The laws against
worshiping *avodah zarah* maintain these boundaries by clarifying those aspects that make one Jewish, by specifying those activities which non-Jews perform.

The discussions in the Tannaitic sources on non-Jewish rituals are, therefore, in constant examination of contexts for non-Jewish rituals and their intersection with Jewish life. The Tannaitic discourse on non-Jewish ritual is a very contextual discourse. This is visible in the various perspectives on the viewing of images, discussed in Chapter 10. An example of this is visible in m. Avodah Zarah 3:4, initially examined in chapter 3, where Rabban Gamliel’s entire point of discussion is that the context of an image helps to dictate whether it is appropriate or not. Within the context of the bathhouse, an image of Aphrodite is not being venerated by non-Jews, and by Gamliel’s argument, is therefore not offensive. Realizing the contextual nature of rabbinic discourse on non-Jewish ritual helps to explain the Helios imagery in synagogue mosaics, or the various figures at Dura Europos; the rabbinic Sages’ view on looking at images was also contextual.

At its core, the rabbinic discussion on non-Jewish ritual is concerned that Jews not be engaged in activities where there is a plausible context for non-Jewish ritual behavior. This includes the possibility of gaining economic benefit from non-Jewish ritual, whether inadvertently or not. The *asherah*, which in the Bible was an object of *Israelite* worship, however foreign, becomes in the Mishnah a non-Jewish ritual object. The discussion in the Mishnah is then largely about how the various materials of the tree, including and especially its wood, cannot be used to the benefit of a Jew, because that would cause the Jew to gain benefit from a non-Jewish ritual object. The same applies to the initial discussion of *merqolis*, a heap of stones worshiped by throwing stones at it. M. Avodah Zarah does not primarily discuss how a non-Jew viewed the *merqolis*, or what it
symbolically represented. M. Avodah Zarah is concerned with whether it is appropriate to use the stones which made it up. The Tannaitic discourse on this ritual behavior is a pragmatic one that looks primarily at the involvement of Jews in the world, including the contexts for non-Jewish ritual.

As part of this looking for contexts, worshiping *avodah zarah* becomes in Tannaitic discourse something of a shorthand for non-Jewish behavior. Many different types of behavior are discussed in Mishnah and Tosefta Avodah Zarah, from commerce before and after a non-Jewish festival, to the proper protocol for receiving a haircut from non-Jews, to the appropriate process for desecrating an image. These activities are not all ritual behavior, *per se*, although some definitely are. They are, however, places where a Jew could plausibly expect to find non-Jewish ritual behavior.

There is, however, another element in rabbinic discourse about non-Jewish ritual and behavior. The Sages were a part of the culture in which they resided, and accordingly, even as they set themselves in opposition to the various religious, civic and ritual cultures which surrounded them, they also took actions and ideas from that culture. Thus, the very criteria that the Sages used to look at non-Jewish ritual and thought about definitions of material which we would consider “religious,” derived from concepts which would have been familiar to and part of the religious vocabulary of the Greek and Roman world. The intersection of the cultural norms which formed the foundation of the life surrounding the Sages, combined with the biblical injunction to stay separate and different, meant that the rabbinic discourse on non-Jewish ritual was a search for plausible contexts for ritual activity. This dissertation demonstrates those contexts, and
shows the ways in which the Sages were in continuity with their non-Jewish neighbors in the very act of defining their differences.

Religion in the Ancient World

The question of definitions is not simply an ancient one. Indeed, one of the difficulties which scholars of ancient religions face is defining what “religion” meant in the ancient world.8 Brent Nongbri suggests that “religion” as a modern construct primarily refers to ideas of an “idealized, private, interior realm.”9 This is not really the case in the ancient world. James B. Rives notes, “Even the concept of ‘religion’ does not seem to have been part of traditional Graeco-Roman culture.”10 Rives goes on to note the probable significance of the fact that neither Latin nor Greek have a word which directly corresponds to the English conceptions of religion.11 This is as true in the Hebrew and Aramaic of the Tannaitic Sages as it is of the literature and languages of their Greek and Roman contemporaries. Like the Greeks and Romans, the Jews used a variety of different terms to describe the relationship between the human and the divine, none of which corresponds directly to the English concept of religion. Some of these terms, such as avodah and derek will be examined later in this dissertation.

A general examination of these words, whether Greek, Latin, or Hebrew, shows that these words do not refer primarily to belief, but instead to things which the people did—a complex of ritual and customs. Thus, although the Sages, as represented in the Mishnah and Tosefta, do not speak much about the beliefs of non-Jews, they do represent

those beliefs through their depiction of *avodah zarah*. The Sages define non-Jews by the tangible way in which they interacted with the world.\(^{12}\) In the case of ancient religion, that means ritual. For the purposes of this dissertation, ritual will be defined as the external activities relating to interactions with the numinous, specifically the external practices of Greek and Roman practice.\(^{13}\)

Part of the difficulty in defining religion and ritual stems from the problem arising from applying Enlightenment and Christian categories of thought to ancient religious and ritual systems.\(^{14}\) Of particular importance in this is an emphasis on belief as the primary and most important category in discussions about religion. In many ways, focusing on belief as the primary category of what constitutes “religion” prioritizes Christian (Protestant, in particular) concepts of what is important in religion. J. Z. Smith, in his book *Drudgery Divine*, has shown that much of the discourse and study of religion was pushed forward, at least in part, by polemic arguments of Protestant Christianity against Catholicism.\(^{15}\) In recent years, scholarship has begun to move away from this, but a general idea that belief (understood here as a sort of internal orthodoxy) is of primary importance is still somewhat pervasive in talking about religion.

In *Drudgery Divine*, Smith argued that one of the primary purposes of polemicizing against Catholicism was to show that the primitive Christian system (usually as expressed in Protestant conceptions of Pauline Christian thought) was unique


\(^{13}\) This definition derives in some part from the ideas put forth by Clifford Geertz in his famous discussion of religion. Geertz, “Religion as a Cultural System,” in *The Interpretation of Cultures* (New York: Basic Books, 1973): 87–125.


in the ancient world and the history of the world. In other words, Christianity was the pure spiritual system without compare, and things which detracted from that particular Protestant conception were admixtures from other cultural and religious systems. In this particular world-view, because of its own ritual system, Judaism is used as a tool for arguing for the uniqueness of Christian thinking, and the superiority of Christianity over the Jewish system.

The Protestant Christian writers discussed by Smith are not the only writers with a desire to argue from a fundamentally apologetic perspective that this system or that system is essentially unique. It also crops up in discussions of Judaism, especially in regards to the relationship of Judaism to the culture in which it lived. In earlier scholarship it was assumed that the religion and rituals of the Bible were inherently superior to everything around them. It is possible to see this even in a pioneering work like W. Robertson Smith’s *Lectures on the Religion of the Semites.* It is also present in E. E. Urbach’s seminal discussion on the laws governing Jewish interaction with non-

---

16 Smith, *Drudgery Divine,* 44–45.
19 This idea is expressed in the Bible, as in Exodus 15:11: “Who is like you, O Yahweh, among the gods?” Similar expressions are found in Mesopotamian and Egyptian literature, making clear that this is not a statement of monotheistic intent, but simply a hyperbolic statement about the power of the god being praised.
20 W. Robertson Smith, *Lectures on the Religions of the Semites,* 3rd edition (Cambridge University Press, Cambridge, 1897), xii–xv, especially xxviii, where the introduction asserts that Robertson Smith’s work “emphasize[s] the profound spiritual difference which he had always maintained between the Old Testament and other literature.”
Jewish ritual in the rabbinic sources. For Urbach, not only was there no attraction for Jews in non-Jewish ritual, there was also no similarity in their thought or practice.\(^{21}\)

There is no doubt that the lines against interaction with non-Jews are drawn very strongly in the Tannaitic sources. There is further no doubt that the laws, especially in Mishnah Avodah Zarah, are primarily concerned with economic interaction. Rabbinic Judaism was a system, however, which was embedded into the larger social system of the Roman Empire. In fact, there are distinct parallels between the Jewish approach to ritual and the non-Jewish approach. The approach of the Jews to non-Jewish ritual was one which was mandated in many ways by the intersection of the Jewish desire to be separate with the practical need of Jews in the Roman period to interact with their non-Jewish neighbors.

Obviously, not every parallel is significant. Any scholar who engages in comparative work must be careful to avoid “parallel mania.”\(^{22}\) Not every parallel between Greek and Roman and rabbinic thought is significant. Not every similarity is a parallel. Specific parallels are often difficult to prove. The careful examination of rabbinic literature, however, reveals telling ways in which they are in continuity with the surrounding culture in the very act of defining and declaring their difference from it.

In particular, from examining the rabbinic perspective of ritual, it is possible to make connections and comparisons between Jewish rituals and non-Jewish rituals. The laws against the worship of \textit{avodah zarah} condemn certain ritual practices precisely because they are like those rituals practiced in the Jerusalem temple. It is their similarity


\(^{22}\) This term was popularized by Samuel Sandmel in his presidential address to the Society of Biblical Literature. “Parallelomania,” \textit{JBL} (1962): 1–13.
and not their difference which makes them objectionable to the Rabbis. Indeed, the Sages of the Tannaitic period seem to have conceived of ritual as a cross-cultural idea which encompassed both their own rituals and the rituals of others. The mere fact of a ritual being Jewish or non-Jewish was not a primary concern in categorizing rituals. Because of this, there are ritual activities, such as the “customs of the Amorites,” which look to us like they ought to be understood as the worship of avodah zarah, if for no other reason than they involve the invocation of gods besides the God of Israel. This is not, however, the case, and they are placed into a different category. The reason for this seems to derive from the fact that they are not considered by the Sages to be ritual.23

Another difficulty in discussing ancient religion and Jewish perspectives on it is that modern terms are often imprecise or even out and out polemical. In this vein, J. Z. Smith observes that “the traditional vague terminology of…’Jewish,’ ‘Gentile,’ ‘Pagan,’ ‘Graeco-Oriental,’ etc. will not suffice. Each of these generic terms denotes complex plural phenomena.”24 As is well-known, “pagan” comes from a Latin term meaning “rustic,” and was originally used by urban Christians to characterize those who lived in the country and followed previous modes of worship.25 It was, therefore, always intended as a pejorative. As importantly, it is not a word or a concept which was adopted by the rabbinic Sages in their own discussions about ritual practice and identity. The distinction between city and country, and especially non-Jews as untutored yokels, was not a point of discussion for the Tannaitic Sages.

23 This is further discussed in this dissertation in chapters 7 and 10.
24 Smith, Drudgery Divine, 117.
In addition, this dissertation eschews the word “gentile.” This word is traditionally used to translate Hebrew גוי and Greek ἔθνος, words which mean “nation” or “people” in their respective languages. Originally the word had no pejorative sense, and the Israelites were one nation, or goy, among others. Eventually, however, this term came to refer specifically to non-Israelite, non-Jewish nations. Like idolatry, the translation of gentile derives from Christian usage, and has with it a variety of connotations surrounding it, some of which are not applicable to the Tannaitic discourse on non-Jewish ritual. In order to be as neutral as possible, this dissertation will use the phrase “non-Jew” to translate the Hebrew term of goy.

Using the terms “polytheism” and “polytheistic ritual” has some promise for understanding the cultural world in which the Jewish people found themselves, but those terms mask the presence of non-Jewish monotheists in late Antique Roman contexts, especially the cult Sol Invictus and Theos Hypsistos. In some cases these monotheists can be connected with the godfearers mentioned in Josephus and the New Testament, and so can be connected with Judaism, but in other cases, they appear simply to be non-Jews who worshiped one god, usually a sky-god, at the exclusion of all others.

A similar difficulty is present in the term “idolatry.” It can even be difficult to settle on the proper terms for discussing non-Jewish ritual, since these terms prejudice the discussion from the outset. The common terms for discussing these activities illustrate

---


some of these difficulties. In this dissertation, we will be following the usage which the Mishnah itself follows. The actual object worshiped will simply be left untranslated and called an *avodah zarah* (עבודה זרה), a phrase which literally means “foreign worship.”

Rather than idolatry, this dissertation will either use “worshiping *avodah zarah*” or “foreign ritual” in order to describe non-Jewish ritual practices. The primary reason for this lies in one of the purposes of this project, which is to see how the Sages themselves viewed foreign ritual and practice, rather than how it appears to modern scholars (or even medieval thinkers). By leaving the term untranslated, it will be possible to avoid some of importing inappropriate implications and connotations for the modern reader. This is an attempt to represent, as much as possible, the conceptions which lie behind the rabbinic description of foreign ritual. Not only do “idolatry” or “pagan” have specific connotations to us which would not be present to the ancient Jews, but the use of these terms also masks the fact that neither of these terms precisely matches the conception of the Sages on matters of foreign ritual. As noted above, these two conceptions are essentially Christian, and their application to ancient Jewish conceptions would be incorrect and lead to slippage in both argumentation and conclusion.

*Derivation of the English Word “Idol”*

The modern terminology of “idol” and “idolatry” derives from the Septuagint, although it was popularized by the Church Fathers. The English word *idol* is borrowed from Latin *idolon*, which has its basis in Greek εἴδωλον, used in places in the LXX to refer to images of non-Israelite gods. This word has as its core concept the idea of an image, although the specific nuances of the term vary across Greek texts. In Homer it is used to designate

---

28 Hereafter LXX.
29 εἴδωλον, *LSJ*. It also appears in the New Testament although more rarely.
the empty phantasms of the dead, with the emphasis on the insubstantiality of the images.\textsuperscript{30} Therefore, although there is an idea of image, there is also an idea of insubstantiality and emptiness. Related to this idea, and presumably the reason behind the choice of translation, there are a couple of places in the LXX where this term translates Hebrew \textit{hebel} (הבל), which has the same sense of fleeting emptiness.\textsuperscript{31} In spite of being used in a few places to refer to objects of foreign worship, the Hebrew term does not refer to physical images in its etymological sense.

Robert Hayward has written an article where he looks at the usage of the word \textit{εἴδωλον} in the LXX Pentateuch.\textsuperscript{32} For Hayward, “the Greek translators of the Pentateuch were the first to give currency to the notion of an ‘idol’ as a futile object, or putative deity, to which cult was addressed; and from the decision of those Greek translators sprang the use of the word in the Greek biblical Jewish writing dating from late Second Temple times, and the New Testament.”\textsuperscript{33} The stated purpose of Hayward’s article is to look at why this word, which usually references fleeting visions in other Greek texts, was taken up by the Greek translators of the LXX Pentateuch. This points, however dimly, towards understanding its adoption as the standard English word for the image of a deity. For Hayward, although the word is not used often in the LXX Pentateuch, its usage to translate \textit{פסל} (pesel) “worked image” in the Decalogue of Exodus shows its “central importance” to the translators of the LXX Pentateuch.\textsuperscript{34} Hayward suggests that the word

\begin{thebibliography}{9}
\bibitem{Iliad} Odyssey 4.796
\bibitem{Deuteronomy} These places are Deut 32:21, Jer 14:22 and 16:19. The sense of both of these verses involves the worship of non-Israelite gods, and so the translation is appropriate.
\bibitem{Hayward2} Hayward, “Observations on Idols,” 41–42.
\bibitem{Hayward3} Hayward, “Observations on Idols,” 41.
\end{thebibliography}
εἴδωλον was chosen because it fit with the extant notion of the translators of the LXX Pentateuch about non-Jewish ritual, and the futility of the worship of non-Jewish gods.\textsuperscript{35} Developing out of Judaism was the Jesus Movement, which was, by the period discussed in this dissertation, well on its way to becoming Christianity. Early Christian discourse on this point is one of the strongest places where a dialogue of idolatry can really be seen developing, although most of Christianity departs from its Jewish roots and becomes an entirely different system.\textsuperscript{36} Like the LXX, the New Testament is written in Greek. It is therefore combining Greek and Jewish notions. In the New Testament, Paul makes use of the Greek terms εἴδωλον and εἰδωλολάτρης in such a way that suggests that his readers are familiar with the term.\textsuperscript{37} Paul offers two different explanations for foreign deities within the same text—they are either empty and nothing (1 Cor 8:4–6) or they are inhabited by demons (1 Cor 10:14–21).

These two options continue through the Church Fathers, who remain concerned with Graeco-Roman worship in a way which does not happen in either the earlier Hellenistic Jewish sources or the contemporaneous rabbinic documents. Even after the ways between Judaism and Christianity “parted,” Christianity and Christian concerns have controlled the discourse on the worship of images and the concept of idolatry, and deployed it in the various colonial and missionary efforts of Europe.\textsuperscript{38} In many ways, the

\textsuperscript{35} Hayward, “Observations on Idols,” 57.
\textsuperscript{36} There remains, of course, some disagreement on when the so-called “parting of the ways” actually happened. See the discussion in Adam H. Becker and Annette Yoshiko Reed, The Ways that Never Parted: Jews and Christians in Late Antiquity and Early Middle Ages (Minneapolis: Fortress Press, 2007).
\textsuperscript{37} Hayward, “Observations on Idols,” 22.
translation of *avodah zarah* as “idolatry” derives from applying an essentially Christian hermeneutic to Jewish conceptions of outside worship.

The literal meaning of the Hebrew term is “foreign worship,” or perhaps “foreign ritual.” The first part of the collocation, *avodah*, derives from the Hebrew root ע/ב/ד which means “to serve”. This root refers in many places to the specific cultic service offered up by the Aaronic priests in the various shrines dedicated to God. The term *avodah* appears 145 times in the Hebrew Bible. In some places (such as the beginning of the Exodus story), this root refers to simple work projects, since work or service is the primary meaning of the Hebrew root. After the destruction of the Second Temple in AD 70, there are a series of *piyyutin*, liturgical prayers and songs which are called the *Avodah* service and point to the sacrificial rituals of the Second Temple.\(^{39}\)

Noam Zohar has recently argued that in many of its uses in the Mishnah, the collocation *avodah zarah* refers primarily to the actual object of worship—that is to say the image itself.\(^{40}\) This is generally speaking true, but there are exceptions, which are noted in the chapters of this dissertation that analyze specific texts. From an analytical perspective the meaning of *avodah zarah* as the image itself illustrates the need to be careful in the work of translation and interpretation. There is a danger placing too much emphasis on the origins of words (something which plagues most historical reconstructions), and encourages scholars of the ancient world to remember that words do shift in meaning. In this case, the collocation referring to the ritual practices associated with the worship of a foreign god is nominalized. This lexicographical action is part of the

---


cultural matrix which necessitates the discussion of non-Jewish ritual—most other ancient languages do not have a word for “foreign god.” Biblical Hebrew has several, but the Sages do not generally use those. Instead they use this collocation deriving from ritual ideas.

This usage is likely euphemistic—there are only a few references by name to other gods in the rabbinic corpus, something which Mirielle Hadas-Lebel has argued is because of the halakhic injunction against saying the name of the deities, although Rivka Ulmer sees Egyptian names where Hadas-Lebel might not.\(^41\) The individual gods have names that are not even worth knowing, and so they are rejected as merely being *avodah zarah*. This makes our position in the modern world somewhat difficult, since it obscures, in many case, the specific ritual, practice or even deity associated with a given practice. Oftentimes, it even obscures how much the Sages knew about a given practice. Certain halakhah presupposes that they are, at least, partially aware, of what ritual practices are associated with a given deity, since the halakhah requires knowing what ritual practices are associated with the worship of a given god in what contexts, in order to avoid them.

In connection with this point, Hadas-Lebel has argued that the Sages were well aware of the various items which were sacrificed as part of Graeco-Roman ritual.\(^42\) This does in fact seem to be the case, and in at least one Toseftan case, that of the white rooster, they seem to be aware of the specific valences of some of the sacrificial animals which were part of the cults of their neighbors. White roosters were often sacrificed to healing deities, such as Serapis and Asclepius, in the same way that black roosters were often sacrificed to chthonic deities. The Mishnah and Tosefta are at least aware enough of

\(^{41}\) Rivka Ulmer, “The Egyptian Gods in Midrashic Texts,” 181–204.
these sacrificial animals to be able to forbid Jews to sell them to their non-Jewish neighbors.

All of the foregoing discussions points to a key idea in the discourse of the rituals of the non-Jews in the rabbinic corpus—the English word idolatry does not really map to the concepts prevalent in the sources. Neither Rabbinic nor Biblical Hebrew has a word which really should be translated as “idolatry” (contra common translation practices), or even one which can be translated as idol. The situation was different in Hellenistic Judaism and in particular the Jesus Movement and early Christianity. Although boundary maintenance was a concern for the ancient Jewish authors, the laws dealing with religious and ritual interactions with non-Jews were not based on abstract philosophical formulations. They were rather based on the realities of a world full of ritual systems contrary to their own. In order to better understand how the Rabbis understood the rituals of others, therefore, it is necessary to move beyond the standard definition of idolatry, and view ancient Judaism in all its multivalent, polysemic glory, and not allow pre-established views of either Judaism or the worship of images to pre-draw for us the picture of the ancient world.

_Avodah and Meʻilah in Hebrew_

The rabbinic phrase for non-Jewish ritual practice, _avodah zarah_, provides clues, therefore, for what they thought about that practice. This collocation is not a biblical one, and so we cannot look to the Bible as the primary source of this idea in the Mishnah and Tosefta. An examination of the words discussing foreign ritual activity in the Hebrew Bible shows that these terms generally refer to the images being worshiped, with _zonah_
being an obvious exception. For the Sages, the problem is based around the core idea of *avodah*. I will show that the Sages had a relatively consistent definition of ritual which they applied to their interpretations of the rituals around them.

The word *avodah* derives from a Hebrew root which, at its core, means “work”. It is used in this way in the Exodus account where it describes the labor that the Egyptians put on the Israelites (Ex 1:14). This is its most common meaning throughout the Hebrew Bible. Even in a ritual context, such as Leviticus, the word describes the non-Priestly, non-ritual labors which the Levites (as the porters and carriers of the movable shrine) were to perform. This word is never used in Leviticus to refer to ritual work and service, which is the sole province of the priests in the Priestly materials.

There are, however, places in the Hebrew Bible where *avodah* has a ritual meaning. Generally speaking, in these contexts, this phrase refers to the ritual service at the Yahwistic Tabernacle or Temple. The commandment to keep the Feast of Unleavened Bread is referred as an *avodah* in Ex 13:5: “And it will be, when Yahweh brings you to the land of the Canaanites, the Hittites, the Amorites, the Hivites, and the Jebusites,

---

43 A good survey of these words may be found in Hurowitz, “What Can Go Wrong with an Idol?” 259–260, no. 1. Some of the words referring to divine images such as און and כות have meanings outside of a specifically non-Israelite ritual context. Most famous of these is probably the creation of humanity in God’s כות in Gen 1:26–27. For zonah see Irene E. Reigner, *The Vanishing Hebrew Harlot: The Adventures of the Hebrew Stem ZNH* (New York: Peter Lang Publishing, 2009).
44 Koehler and Baumgartner, *HALOT* 776–777.
45 See, for example, Gen 29:27, 30:26; Psalm 104:14, 23, Is 14:3; Ezl 29:18.
48 The change in meaning from “work” to “ritual work” in the Hebrew Bible is given diachronic significance for the dating of the P material in the Hebrew Bible by Milgrom in *Leviticus 1–16*, 8. Milgrom also notes that the ritual meaning of *avodah* derives from its original meaning. There certainly does seem to be a difference between the use of *avodah* in Leviticus and the use of *avodah* in Chronicles. Numbers, being largely P, uses *avodah* in a similar manner to Leviticus.
which he swore to your fathers to give to you—a land flowing with milk and honey—that you will work this ritual in this month.”

Later in the Hebrew Bible, in the book of Chronicles, the term avodah still often refers to the work of the Levites, but in the Chronicler’s ritual system, the Levites have a ritual and liturgical role, unlike in some other versions of the Israelite ritual system. It also carries in these sections a general meaning of ritual of the Temple of Yahweh. Thus, 1 Chron 28:13 speaks of the “ritual vessels” and 1 Chron 23:24 grants to the Levites part in the “work of the ritual of the house of God.”

The other half of the collocation avodah zarah is an adjective referring to the type of ritual. The Hebrew word זרה (zharah) refers to strangeness or foreignness. In Leviticus 10:1–2, Nadab and Abihu, the sons of Aaron, are destroyed by God for offering “strange fire” (Heb. אש זרה [‘ēsh zār]). The biblical text gives no further meaning or explanation of how this incense burning is different or displeasing to God. This word is also used in what is primarily a term of sexual opprobrium in the book of Proverbs, where several proverbs warn against a “strange woman” using precisely this root. In addition, Psalm 44:20 (21) speaks of praying to a “strange god,” with a clear contextual meaning of a god

---

49 Heb. עבדת את-העבדה הזאת בחדש הזה
50 1Chronicles 23:23–32.
51 Heb. כל העבדה.
52 Heb. מעשה עבדת בית האלהים.
54 The similarity between the names of these two sons of Aaron and the son of Jeroboam I has led some biblical scholars to suggest, probably correctly, that at least part of what is going on here is a polemic against the shrines of the Northern Kingdom, set up by Jeroboam I. Moses Aberbach and Leivy Simolar, “Aaron, Jeroboam, and the Golden Calves,” JBL 86 (1967): 129–140. The use of the word zr, then, helps to underscore both the foreignness and the familiarity of the Northern Yahweh cult to the primarily Southern, Judahite authors of most of the Hebrew Bible.
55 See, for example, Proverbs 2:16–20 and 5:1–23. Botterweck and Ringgren, TDOT, 56–57. See also my discussion on the assumed sexual nature of foreignness and foreign worship.
who is not Yahweh. All of these uses probably had play in the coining of the post-biblical designation of non-Jewish worship as *avodah zarah*. In their monograph on the conceptual notion of idolatry in Judaism, therefore, Moshe Halbertal and Avishai Margalit note that the usage of the root for strangeness can be construed two ways: “One is the strangeness of the object toward which the worship is directed, not the ‘proper’ God, but other gods. The other refers to the method of worship.” Thus, both the incense offering and the deity to whom it is offered may be “strange.” This is a key point for understanding how the Mishnah and Tosefta are discussing foreign ritual, as the Tannaitic Sages are concerned about both kinds of “strangeness.”

As in Biblical Hebrew, in Mishnaic Hebrew, *avodah* often has a meaning of “work” or “manual labor.” It also, however, carries with it a secondary meaning referring to the ritual in the Jerusalem Temple as in m. Yoma 3:3: “No one enters the Temple court for the ritual service, even if ritually pure, until he immerses.” It also has a liturgical referent, as in m. Rosh Hashanah 4:5. Intriguingly for the present study, the collocation *avodah zarah* is the most common usage for this word. When paired with *zarah*, it only refers to ritual, and always to non-Jewish ritual. Not everything, however, which we would characterize as *avodah zarah*, such as many of the customs of the Amorites, is so characterized in Tannaitic literature. This act of categorization helps to make clear how the Sages in Tannaitic literature were making sense of and including foreign worship into their discourse. Speaking broadly, the comparison of rituals was, for the Sages, a comparison of like types.

---

57 Jastrow, *Dictionary*, 1036.
58 אין אדם נכנס לעזרה לעבדת ערבם, עד שיטבול
As is the case with many aspects of rabbinic law in the Mishnah, there is another concept which may be helpful to us in understanding the conceptual idea behind *avodah zarah*. The biblical injunction against images and worshiping other gods necessitates the Tannaitic discourse on non-Jewish ritual. Within that discourse, there is a distinctive logic at play. The key to understanding the discourse on the definition of *avodah zarah* in the Mishnah is found in the legal category of *me‘ilah*, a word which is usually translated as “sacrilege”.

Like many terms in the technical religious vocabulary of the Mishnah, *me‘ilah* derives from a word present in Biblical Hebrew, which has other uses even in the Mishnah, but which also carries with it a fairly narrow meaning. Its general meaning refers to fraud or to false dealing. Its more common legal meaning refers to matters dealing with the improper use of sacred things—i.e. the use of food and vessels which have already been consecrated for use within the sacred precincts for profane purposes. There is an entire tractate in the Mishnah (and therefore the Tosefta and the Babylonian Talmud) dedicated to discussing specific examples of this principle, and to discussing when it applied to various laws.

The Mishnaic law of *me‘ilah* primarily governs physical items and the monetary benefit and gain which come from those items. The conceptual notion behind *me‘ilah* goes much deeper than that, however. The idea of temple property being the property of the divinity, and that the inappropriate use of it is a crime, goes back to the ancient Near

---

60 Along with the rest of the order of Qodashim, the tractate Meilah is missing from the Yerushalmi.
East and the biblical period.\textsuperscript{61} The book of Leviticus speaks in a number of places of food which is the priests’ prerogative to eat, because it was consecrated and set apart (Leviticus 7:28–34). The idea of the misuse of Temple materials was also part of Roman conceptions, and so formed part of the broader world in which the Sages lived.\textsuperscript{62} This dissertation posits a conceptual \textit{me’ilah} as a heuristic category for understanding how the Tannaitic Sages classify and characterize the rituals of non-Jews.

Many of the activities which are punishable as the worship of \textit{avodah zarah}, such as the offering of sacrifice and the burning of incense were, during the period of the Second Temple, activities which were only appropriate within the walls of the Temple.\textsuperscript{63} The act of sacrifice must not, in and of itself, be an incorrect action, because God himself sets forth a detailed system of sacrificial law in the Torah, the very foundation of Jewish thought. Similarly, libation must not be of itself wrong, because the Torah contains laws about how to use libations in the worship of God. In the words of Halbertal and Margalit again, the difficulty here is “the strangeness of the object toward which the worship is directed, not the ‘proper’ God, but other gods.”\textsuperscript{64}

Thus, activities which were reserved for the Temple must remain in the Temple.\textsuperscript{65} Part of the general complex of ritual practice in the ancient world was the constant play

\begin{footnotes}
\footnotetext[61]{One the very earliest laws in the Code of Hammurapi (1792–1750 BCE) §6: “Should a person steal the property of a god or palace, that person will be put to death.”}
\footnotetext[63]{But see Naomi Janowitz, “Good Jews Don’t: Historical and Philosophical Constructions of Idolatry,” \textit{History of Religions} (2007):239–252 for a further nuance to this position. She notes, in particular the possibility that Jewish constructions of idolatry and image worship may have come from the dominant paradigm of the Graeco-Roman world. While this is no doubt true, \textit{me’ilah} shows one of the ways in which the Mishnah is constructing these ideas within that dominant paradigm. Lincoln, \textit{Discourse and the Construction of Society}, 4–5.}
\footnotetext[64]{Halbertal and Margalit, \textit{Idolatry}, 3.}
\footnotetext[65]{In addition to \textit{me’ilah}, this is the same logic which occasions the discussion of non-sacral slaughter in the tractate of Hullin.}
\end{footnotes}
between cult inside formal shrines and cultic practices outside of the shrine. In discussing magic, David Frankfurter has noted that oftentimes magical rituals were cultic rituals appropriated and used outside the cult for different purposes. Examples of this proliferate in the Greek Magical Papyri, where syncretic spells such as Mithras Liturgy abound. Such a situation was unacceptable to the Sages of the Mishnah, and so they police the boundaries of what is and is not appropriate outside of the Temple, to the point where the name of God is not to be pronounced outside of the Temple in very specific contexts. It is in this kind of environment that the notions of meʿilah and avodah zarah come together.

The worship of avodah zarah is precisely meʿilah, in that it represents activities which belong properly to the Temple being used outside of the Temple for non-sacred purposes. Thus, for the Sages, avodah and ritual were deeply rooted in the rites of the Temple, and thus their discourse on the rituals of non-Jews is also based upon the rites of the Temple. Those ritual activities which were performed to the God of Israel in the Temple were those activities which are explicitly called out as part of the worship of avodah zarah. To perform these activities outside of their prescribed situations turns them into meʿilah, and thus makes them punishable as the worship of avodah zarah.

---


68 This is a practice which is still in force to this day, of course, although m. Sanhedrin 7:5 operates under the assumption that the pronunciation of the name was generally known, but was not used. See Bohak, Jewish Magic 376–378.
An Overview of Foreign Worship in the Bible and Ancient Israel

The basis for the rabbinic discourse on non-Jewish ritual, thus, comes at the intersection of biblical ideology and pragmatic living in the Roman world. In order to gain a clearer view of the basis for rabbinic discussions, it is important to see what the Bible actually says about foreign worship. Edward M. Curtis in his Anchor Bible Dictionary article defines an idol as a “physical representation of a deity, usually for worship.” This position is a useful place to start from. This definition also serves as reminder that the prohibition of worshiping and making representations of Yahweh is articulated in the Bible as two separate, although related points. In the Decalogue in Exodus, Israel is commanded: “You will have no other gods aside from me. You will not make for yourself a carved image and any representation of anything that is in the sky above or that is in earth underneath it, or that is in the waters underneath the earth: You will not bow down to them or serve them, for I, Yahweh, your God, am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of those that hate me” (Ex 20:3–5).

The commandment is expressed in two different ways here. In fact, because there are actually more than ten commands in the Ten Commandments, different communities have divided them in different ways. Moshe Halbertal and Avishai Margalit suggest

---

that is possible to distinguish the commandment to “have no other gods” (Ex 20:3) and to “not make for yourself a carved image” (Ex 20:4).\footnote{Halbertal and Margalit, Idolatry, 37.} There are difficulties in this approach, not the least because the rabbinic Sages considered Ex 20:3–6 to be a single commandment.\footnote{Coogan, Ten Commandments, 9–10.} The reason for dividing these commandments is there are places within the biblical text and the rabbinic movement that implicitly divide these two injunctions from one another by discussion the prohibition of foreign gods and the prohibition on making images separately.

The injunctions to have no other gods and to not make images are related to one another thematically and historically, but there is no grammatical reason why the two should be conflated into a single idea, although it might be possible to see a logical progression in the conflation of the two. If, after all, Israel is forbidden from making any images of anything, and the nations surrounding Israel do make images of their gods, then it is a simple step to assume that having no other gods means having no images of gods. In fact, the biblical text itself provides further elaboration on this point, since immediately following the command to make no images, Israel is commanded to “not bow down to them or serve them” (Ex 20:5). Thus, even within the Ten Commandments, the command to not make images is closely connected to a ritual concern. For this passage in Exodus, the difficulties in making images are expressed as a ritual difficulty. The entire complex of the verses in these chapters then raises the questions about what kinds of portrayals are appropriate.
There were apparently some images acceptable in the temple cult. There is place within Judaism and the Jewish/Israelite temple for what José Faur calls “iconolatry.” With this concept he points to the various images that were actually associated with the temple cult, which were, at their simplest designation, contrary to the prohibition in Ex 20:4 not to make a likeness of anything, whether in the sky, earth or water. The temple of Solomon had images of oxen supporting the so-called “molten sea,” as well as specific images of bulls, lions and cherubim (1 Kings 7:23–29). The Ark of the Covenant itself had images of cherubim on the kapporet, the lid to the Ark which served as Yahweh’s throne. There were, in fact, images, and even apparently statues of cherubim all around the Jerusalem temple. The injunction against the making of images is, therefore, apparently mitigated for formal portrayals within the cult itself.

Regardless of the historical relationship between an aniconic portrayal of the God of Israel, and the exclusive covenant which Israel had with their God, foreign deities and the images of those deities were held up for contempt in ancient Israel. Although the prohibition in Ex 20:4 contains the neutral term pesel (פסל) or image, other references in the Hebrew Bible to non-Israelite gods do not use such neutral terms—these terms often have stronger connotations than pesel, and do not specifically reference the iconographic nature of non-Israelite worship. For example, one of the most common words to describe

---

non-Israelite gods is Hebrew *gillul* (גִּלּוּל), a word of uncertain derivation,\(^7^6\) which is always used to describe objects of foreign worship, and always used in a negative or pejorative sense. It is most used by Ezekiel, who may have actually coined the term. Another common word is 'elil (אליל), which means emptiness or vanity, but is often applied to non-Israelite gods. There is likely a word-play here with *el*, which is the standard Semitic word for “god.”

Thus, the Hebrew Bible does not have a single view or mode of dealing with the ritual practices of surrounding nations. Although it is never appropriate, within the biblical framework, for Israelites to worship other gods, what that actually entails is a question much debated among biblical scholars. Ziony Zevit has shown from archaeological finds that ancient Israel incorporated a wide variety of traditions and rituals, and in some places worshiped dyadic or triadic figures.\(^7^7\) There are no texts associated with these cult sites, and so the actual figures worshiped remain obscure. If we assume that these are Israelite sites—and the evidence is good for that—then we may assume that at least one of the figures worshiped was Yahweh. The inscription found at Kuntillet Ajrud dedicated to “Yahweh and his asherah,” while grammatically difficult, indicates that in the Negev Yahweh could be anciently associated with either a goddess or a cultic piece associated with a goddess.\(^7^8\)

\(^7^6\) It may come from the word for droppings. See *HALOT", 192. There is further discussion in H. D. Preuss, "Gillolim," *TDOT* 3:1–4, 2.

\(^7^7\) Zevit, *Religions of Ancient Israel*, 168. As an example of a similar divine polymorphy which he sees as going back to biblical times, Daniel Boyarin suggests that the Christian conceptions of trinity and especially of the father/son dichotomy are developments of native Jewish thought which ultimately derives from Israelite religion. “Beyond Judaisms: Metatron and the Divine Polymorphy of Ancient Judaism,” *Journal for the Study of Ancient Judaism* 41 (2010): 323–365.

\(^7^8\) Mark Smith, *The Origins of Biblical Monotheism* (Oxford: Oxford University Press, 2003); Zevit, *Religions of Ancient Israel*, 370–405. The literature on this topic is immense, with very little actual firm consensus from the scholarly world.
The Hebrew Bible rejects many of these ideas as additions to pure Yahwism brought about by what the Deuteronomistic Code calls the “abominations of the nations” (Deut. 18:9). In the system presented by Dtr, only certain practices, when practiced at the central location (interpreted as the Temple of Jerusalem by DtrH), are approved. This has caused many biblical scholars to consider many of the ritual practices proscribed within the various legal codes, and the narratives associated with them, as original to Israelite religious thinking.79

There are elements in the Hebrew Bible which support an approach where Yahweh is the god only of Israel, and it is only when the Israelites break their own specific covenant with Yahweh that his wrath is incurred. This system creates a sort of live-and-let-live approach which is well-illustrated in the prophetic book of Micah (8th C. BCE). Micah conceived of an eschatological world where Israel was left alone to worship Yahweh, while all of the other nations worshiped their gods: “For all peoples will walk, every man, in the name of his god, and we will walk in the name of Yahweh, our God, forever and ever” (Micah 4:5).80 The prophet’s conception entails a relatively free approach to the gods of other nations—as long as Israel is free to worship their god, than it logically follows that the other nations are free to follow their gods. This approach is warranted by the idea that the various nations were assigned deities, but that Israel was Yahweh’s special and peculiar people.81

79 Zevit, Israelite Religions, 476.
80 Hebrew: כִּי כָל־הָעַמִּים יֵלְכוּ אִיש בְשֵם אֱלֹהָיו וַאֲנַחְנוּ נֵלֵךְ בְשֵם־יְהוָה אֱלֹהֵינוּ לְעֹולָם וָעֶד.
81 For a biblical example of this, see in particular Deuteronomy 4:15–20, as well as the marginal reading on Deuteronomy 32:8, where a probable original “according to the number of the sons of God,” i.e. the divine council is changed to the essentially meaningless “according to the number of the children of Israel.” See the discussion in Ronnie Goldstein, “A New Look at Deuteronomy 32:8–9 and 43 in Light of the Akkadian Sources,” Tarbiz (2010): 5–21.
This idea was not the regnant one in the Hebrew Bible. In general the ancient authors and editors of the Hebrew Bible treat the practices and objects of worship of their neighbors with contempt, as noted above. Polemics against foreign gods in the Hebrew Bible are divided into two broad categories, which more or less correspond to the two commandments in Exodus 20 to have no other gods and to have no images. The polemics thus are termed in both theological and ritual ways.

Jeremiah 10:1–6 contains a discussion specifically about images in regards to foreign worship:

Hear the word, which Yahweh says to you, O house of Israel. Thus says Yahweh, ‘Do not learn the way of the nations, nor fear the signs of heaven, for the nations fear them. For the customs of the peoples are empty. for they cut wood from the forest, the work of the workman’s hands with an axe. With silver and gold they adorn it, with nails and hammers, they fasten it, so that does not move. They are like a palm tree, of turned work. They do not speak. They indeed must be carried, because they cannot step. Do not fear them; for they cannot do evil, neither is doing good in them.'

In this passage, the Israelites are commanded to reject the ways, customs and rituals of the non-Israelite nations precisely because the images are not really gods. They are rejected because, unlike Yahweh, they have no power to affect the world. The following verse sums up the message, by comparing these ineffectual images to Yahweh: “There are none like you, Oh Yahweh—you are great, and your name is great in power.”

A similar polemic can be found in Psalm 115:4–7, one of the traditional loci for discussing images used by non-Israelites for worship: “Their standing images are silver

---

82 Hebrew: שָמַעֲתָא אֱלֶהֶנָּה אֲשֶר דִּבְרֵיהֶם עֲלֵיכֶם בֵּיתוֹ
83 Hebrew: יִשָּרְאֵל
and gold; the work of the hands of humanity. They have mouths, but do not speak. They have eyes, but do not see. They have ears, but do not hear. They have noses, but do not smell.”

These foreign deities, who are designated by a term which refers to the fact the cultic images are set up, are derided for being unable to interact with the world in any meaningful way, despite being given organs to be able to do so. Here, as in the passage in Jeremiah, physical representations of the divine realm are rejected because they have no power. Verse 8 brings the whole point home: “Their makers will be like them; all those who trust in them.” Thus, those who worship and venerate these images which have no power are destined to become like them. This perspective is a far cry from the relatively tolerant conception exemplified by the passage of Micah.

In addition to the above, Isaiah 46 contains a lengthy polemic against other deities which not only follows the usual pattern (the gods are the work of men’s hands, and need to be carried around and are, therefore, without actual power), but also calls out two Mesopotamian gods by name—Bel and Nebo. Bel is Marduk, the hero of the Enuma Elish and the chief god of the city of Babylon. He was often known in Babylonian sources as Bel, a name meaning “lord” and the Akkadian equivalent of West Semitic Ba’al, although that name is usually associated with the storm god Hadad in West Semitic literature. Nebo is Nabu, a Mesopotamian wisdom god whose name appears as

---

84 Hebrew:

1: קלע ויהיה לא קלע ירלשהאם מ לבוד יירלשהאם

2: יאלאה נהמה לפי אתרי.getNum יועש

3: אצצמר קפה חוגיא נעשה דר אבלה

4: בעבר יא עדבי עביד יאמ לה אריא

5: ויאזים לכל יאמ לה אריא יהא ריהמה

6: יאמ לה אריא יאמיאש איא לה אריא יאמיאש

7: יאמ לה אריא יכתשדך לה אריא להאריא יכתשדך

85 However, see tablet VII in the Enuma Elish where Marduk is equated with Addu, the Akkadian equivalent to Hadad.

32
the theophoric element in the names of Neo-Babylonian kings Nabu-kudurri-uṣur (Nebuchadnezzar) and Nabu-na'id (Nabonidus, the last reigning king of the Neo-Babylonian Empire). These specific deities are likely singled out for mention as important gods in the context of Second Isaiah.

What is probably the most famous of the polemical stories about the relationship between Yahweh and other gods—the fight between the prophet Elijah and the priests of Ba'al recorded by DtrH in 1 Kings 18—is set up by Elijah as a discourse about power, specifically which god has the power to light the sacrificial fire from heaven. According to the narrative, Elijah sets up the proposition like this: “And you [the priests of Ba'al] will call upon your god, and I will call upon the name of Yahweh—and it will be that the god who answers with fire is God. And all the people answered and said, ‘The matter is good’” (1 Kings 18:24). The fact that the contest is about power is underscored by Elijah’s mocking of Ba'al and his priests: “Call louder, for he is a god. Perhaps he is speaking, or going away, or perhaps he has turned aside into a road, or maybe he is sleeping and needs to be awakened” (1 Kings 18:27). The first part of this verse indicates the context for the other parts. The sarcasm inherent in Elijah’s statement that Ba'al is a god reverberates down the ages. For Elijah this is not about which god is more powerful. Underneath the surface is the question whether or not Ba'al is even a god. The fallout of the whole affair where Elijah (presumably with the complicity of the people)
kills all of the priests of Ba‘al suggests that this message was not lost on Israel, as they appear not to fear retribution from Ba‘al for the slaying of his priests.

All of these facts point to one of the key difficulties in dealing with the Hebrew Bible, which is to say that that, except in general terms, the authors and editors of the Hebrew Bible are not concerned with what the other nations are doing. Although foreign gods, such as Ba‘al and Chemosh, are mentioned by name, the specifics of their character or cult are not really discussed at length in the Bible. Discussions of the rituals of their neighbors are, with a few rare exceptions, primarily designed as internal prohibitions rather than external discussions. One thing that should be noted, however, is that as general rule in the Hebrew Bible foreign ritual is condemned because it is not what Israelites are supposed to do, rather than because it possesses some sort of inherent crime. Deriving from Exodus 20 and the relationship enjoined therein, the crime is really one of not giving proper due to the covenant relationship which Israel has with God. In many ways, all of the commandments which are bound up in the relationship of the Israelites with the religions and rituals of foreigners are bound up in the concept of the dangers of decreasing Yahweh’s honor and dignity. Indeed, the reason given for the commandment to have no other gods before Yahweh is that Yahweh is a “jealous” God (Ex 20:5). When Israel worships other gods it incites Yahweh’s jealousy,

Although this study is primarily concerned with the rituals, the ideology and myths behind rituals serve as an important analytical tool. The laws in the Hebrew Bible commanding the Israelites to not involve themselves with the worship of deities besides Yahweh were one of the most distinctive aspects of Israelite religion, and

---

88 The close connection between these two ideas is what drove the scholarly inquiry of the “Myth and Ritual School,” which argued that every myth was deployed for a ritual purpose.
remained distinctive as Israelite religion continued to develop after the Exile and the loss of the Davidic king. Indeed, one of the important influences and projects of Ezra and Nehemiah was the removal of foreign influences from within Judaism. Those who had not taken part in the Exile were excluded from Judaism on the suspicion that they had been involved in the worship of gods other than Yahweh. The merest suspicion of illicit ritual behavior was sufficient to deny them access to the community.89

This, then, is the trajectory which the ideas of foreign worship followed forward through time, and which developed into the discussions that the Jews of the Second Temple Period and beyond had on foreign worship. With these background conceptions in mind, the motivations and the methods behind the rabbinic discourse on non-Jewish ritual becomes more obvious.

Methodological Considerations

As noted previously, the Sages of Tannaitic literature did not generally use the same terms as the Hebrew Bible, although there is clear continuity between the Sages and the Bible. Even more than the terms, the Tannaitic Sages do not always exhibit the same approach to foreign ritual as the Bible. The literature of the Tannaitic Sages was composed and promulgated in a world which was very different from the world of the biblical authors, editors and tradents. The Jews of the Roman period were part of a Roman cultural world, and their discussions come out of their world. As part of this Roman world, the Tannaitic Sages were not the primary power structure in the world in

---

89 See Neh 10:30.
which they lived. The Tannaitic discourse on non-Jewish, including Roman, ritual was, therefore, a discourse of a subordinate sub-culture within a dominant culture.\footnote{Hadas-Lebel, \textit{Jerusalem against Rome}, 355–366.}

Much of the method for this project borrows conceptually from the program set forth by Bruce Lincoln in his \textit{Discourse and the Construction of Society: Comparative Studies of Myth, Ritual and Classification}.\footnote{Bruce Lincoln, \textit{Discourse and the Construction of Society: Comparative Studies of Myth, Ritual and Classification}. Oxford: Oxford University Press, 1992.} Lincoln posits that societies use both force and discourse in the process of defining and constructing their societies.\footnote{Lincoln, \textit{Discourse and the Construction of Society}, 3–4.} As has already been emphasized in this dissertation, the Tannaitic Sages lived in a world of Roman Imperial control. Some Jews attempted to deploy force during the Jewish revolts with disastrous result. The literature of the Sages represents the efforts of the Sages to deploy discourse. The Mishnah portrays, in many ways, the ideal society as constructed by the Tannaitic Sages. This society was created in opposition to the society in which the Sages lived, but was also a result of that society. These Tannaitic Sages, therefore, construct their society through a series of classifications.\footnote{Lincoln, \textit{Discourse and the Construction of Society}, 7.} As a “tool of struggle”\footnote{Lincoln, \textit{Discourse and the Construction of Society}, 7.} the Tannaitic discourse on non-Jewish ritual is an attempt to construct Jewish society in opposition to the prevailing Roman culture. This construct is built both from distinctively Jewish elements as well as elements that come from the broader society in which the Tannaitic Sages live.

This dissertation speaks, therefore, of the Tannaitic discourse on non-Jewish ritual. By this is meant the ways in which the Tannaitic Sages deploy notions from the Bible, their own halakhic reasoning, and the customs and culture deriving from the

\begin{thebibliography}{9}
\bibitem{Hadas-Lebel} Hadas-Lebel, \textit{Jerusalem against Rome}, 355–366.
\bibitem{Lincoln3} Lincoln, \textit{Discourse and the Construction of Society}, 7.
\bibitem{Lincoln4} Lincoln, \textit{Discourse and the Construction of Society}, 7.
\end{thebibliography}
surrounding culture in order to define and delimit both their own culture, and their resistance to Roman control. Through the very act of legislating against non-Jewish ritual, the Tannaitic Sages are constructing society, and looking at the ways in which those Sages deploy the various elements in this discourse provides valuable insight into how the Tannaitic Sages viewed all ritual and their society.

One of the considerations at play in the Tannaitic discourse on non-Jewish ritual is the intention and human will. There are places within the sources examined in this dissertation ascribe the importance of knowing what non-Jews intend in their rituals. The classic study on intention and human will in the Tannaitic Sources is Howard Eilberg-Schwartz’s *The Human Will in Judaism: The Mishnah’s Philosophy of Intention.* Eilberg-Schwartz’s observation, “The sage’s frequent appeal to an individual’s subjective intention can only be understood in light of certain theological presuppositions. The Mishnah relies on intention because it takes for granted that God holds actors accountable for their innermost thoughts.” In the case of looking at non-Jewish ritual, intention involves a double characterization of accountability for innermost thoughts as well as a realization of the non-Jews own internal (by which is meant, within non-Jewish society) criteria and classification of ritual.

This dissertation will look at various sources from the Mishnah, Tosefta, and the Tannaitic Midrash, Mekhila di-Rabbi Ishmael. Where available, critical editions have been consulted, but, in general the textual variants in the sources examined do not have much bearing on the arguments of this project. While allowing for differences in time,

---

these texts are read largely synchronically, as representing a generalized notion of Tannaitic Judaism. In so doing, this dissertation does not wish to diminish the very real differences which exist between the sources examined, and will, in some places, highlight that difference, especially in regards to Mishnah and Tosefta Avodah Zarah.

Arrangement of the Dissertation

The Tannaitic discourse on the worship of *avodah zarah* derived from the intersection of the biblical injunction to covenant fidelity and the world in which the Sages lived. It thus begins with Mishnah Avodah Zarah, showing that the tractate named after the worship of *avodah zarah* is concerned primarily with discussing plausible contexts for non-Jewish ritual activity. The associated Toseftan tractate follows, which contains much more discussion about actual rituals, showing how Tosefta is more lenient, which requires them to give more in-depth examination. The discussion then moves to Mishnah Sanhedrin, which contains the actual definition of the worship of *avodah zarah*, and introduces the notion of customary action as part of the Sages’ views of ritual in general. Following that, the dissertation presents the Tannaitic midrash Mekhilta di-Rabbi Ishmael on Exodus, which provides commentary on the biblical laws of non-Israelite worship, and further clarifies and defines how custom is used in the rabbinic discourse on non-Jewish ritual. The final text examined is Tosefta Shabbat 7–8, discussing the “Customs of the Amorites,” showing that these customs, in spite of being rituals and in spite of their being characterized as foreign, do not qualify as worshiping *avodah zarah*, because the Tannaitic Sages do not place them in the same ritual category. Although these textual chapters follow the texts by course, the commentary within these chapters does not
discuss every tradition and section of each of these texts. Such an undertaking would be beyond the scope of the present project.

Following the textual chapters, the dissertation discusses in greater detail the issues which the texts brought out. The first of these chapters looks at how the Sages defined ritual, showing that the Tannaitic notion of ritual derived from the Jerusalem Temple cult, and that the difficulty with foreign worship was its similarity to the rituals of the Temple. The next chapter looks at the power which custom and ancestral custom had for defining ritual in general in the ancient world, and shows how the Sages deploy this idea in their discussions about foreign ritual. This illustrates the continuity which the Sages had with other systems in the Roman world. After this, the dissertation looks at the most obvious examples of non-Jewish ritual behavior—the images which represented non-Jewish gods. The rabbinic approach to these images demonstrates the rabbinic concern for context, and helps to explain the wide spectrum of Rabbinic approaches to images that can be seen in both text and archaeology. Because the rabbinic laws on non-Jewish ritual derive from the tension between the biblical ideal and the world in which the Sages lived in, the final two chapters look at specific examples of rabbinic discourse in the biblical world and the world contemporaneous to the Sages. The tension between the Roman world and the biblical ideal leads the Tannaitic Sages’ to adopt a discourse on non-Jewish ritual that is sensitive to context, allowing them to both participate in and remain separate from the broader Roman world.

The contrast between Jewish (and by extension Christian) ritual and discourse and Graeco-Roman ritual is something which has been a concern of scholars for many years,
and this has generated much scholarly discussion. Accordingly, before looking at the texts, a brief overview of previous scholarship is necessary.
Chapter 2: Scholarship on Non-Jewish Rituals

Generally speaking, the various theological inquiries that sometimes characterize studies on foreign ritual will not be of much concern, as this dissertation deals primarily with practical conceptions of ritual. This dissertation works primarily from studies on the Jewish response to both the biblical injunctions against foreign worship and the world of images in which they were embedded, as well as studies on Greek, Roman and Late Antique Semitic religion and rituals where they are useful to the present study. Because this dissertation deals primarily with the rabbinic portrayal of Graeco-Roman religion, however, the focus is on those studies which speak to Jewish perceptions of foreign worship, usually based on the various communities’ readings of Ex 20:3–4.

These studies fall into several categories, which can also be further broken down into sub-categories. The first category of studies is comprised of those which look at foreign worship as a general phenomenon. These are often based on Christian or New Testament ideas and derive general principles on the idea of foreign ritual from biblical or rabbinic discussions of foreign worship. In many ways they attempt to maintain the moral and ethical distinction of the sources, and are often transhistorical. Related to this are the studies which look primarily at ritual, and how ritual is thought of and conceived. The remaining categories are more grounded, in one way or another, in history, although they individually vary on their belief of the ability of the scholar to acquire historical data from the texts.
Studies that look at foreign worship as a general phenomenon include examinations of Israelite and biblical religion as described in the Hebrew Bible. Many of these studies have broken down many of the essentialist barriers between Israelite and “Canaanite” ritual, and shown that Israelite religion was not a *sui generis* phenomenon in history. The next two categories look at early Christianity and early Judaism and try to address how they lived in their polytheistic environment. This category includes work on Philo and Josephus. The final broad category contains discussions of foreign worship in connection to the Judaism of the sources. The studies in this category are often concerned with reconciling the statements of the Sages with archaeological and other forms of data. This includes studies which look at the Jewish conception of images, which is related, but separate from the idea of foreign worship. In a category almost by itself is the pioneering work of Saul Lieberman, whose early work on the interaction between Greek and Rabbinic culture is foundational for later discussions of these interactions. There is also a sub-category of this which looks at and specifically studies the Jewish tractate of Avodah Zarah, in its various attestations in rabbinic literature. At this point it is important to note the foundational work of Strack and Stemberger’s *Introduction to the Talmud and Midrash*, which provides a first-place reference for rabbinic literature.⁹⁷

“Idolatry” in Biblical Studies

Because of its position in the religious imagination of later generations, as well as its centrality in how Judaism and Christianity constructed their identity, there have been studies which have attempted to view idolatry as a broad concept, usually as a precursor to showing the superiority of Judaism and Christianity to other systems. Part of the

---

assumption here is that monotheism is an inherently superior moral position to polytheism.

Many, if not all, of the earliest studies on the religion of Israel or of the Jews, such as folklorist Elford Higgins’s *Hebrew Idolatry and Superstition: Its Place in Folklore* took this approach.⁹⁸ Even W. Robertson Smith’s *Religion of the Semites*, which was a watershed in the study of comparative religion, assumed a stark distinction between Jewish religion and the religion of everybody else.

A similar approach may be seen in the work of Yehezkel Kaufmann. His *Religion of Ancient Israel* was influential on a generation of Israeli scholars who used his portrayal of biblical conceptions in their own discussions of foreign ritual.⁹⁹ It has therefore been very influential on the study of non-Jewish ritual in Jewish Studies. Although it situates itself within an historical discourse, it deals with these issues in a way which betrays something of Kaufmann’s ideological purpose. Kaufmann’s study is a direct response to the scholarship of Julius Wellhausen and his view of Israelite monotheism deriving from the prevailing Canaanite religion. He attempts to maintain and preserve the essential differences between Israelite (as the precursor to Jewish) religion on the one hand and Canaanite (and by association all other non-Jewish ritual systems) on the other, and so argues that Israelite monotheism is inherent to Israelite thought. For Kaufmann, the Israelites were unable to worship foreign gods, this being outside their modes of thought. Biblical injunctions against worship of non-Israelite gods were only against what

---

Kaufmann called a “vestigial idolatry.” In Kaufmann’s view, Israelite religion was, therefore, fundamentally different from other forms of religion, and this fundamental difference followed through into Judaism.

Modern biblical scholarship does not support Kaufmann’s view of events. The discovery of the texts of the ancient city of Ugarit, which contained language very similar to language used of God in the Bible addressed to other gods, provided a context for some of the material relating to the worship of Yahweh. Mark Smith is representative of scholars who have argued from this evidence for a strong continuity between Israelite religion and something which could be called Canaanite religion. It should be noted that both Kaufmann and Smith are concerned primarily with defining Israelite religion. Their approaches are similar in some respect, in that they are seeking to establish Israelite religion in connection to its outside world, either in continuity with it or in discontinuity with it. Their concern with discussing foreign worship, as such, is tangential to their larger topics. A challenging and helpful discussion of the historiographic concerns involved in the study of Israelite religions is found in Zevit’s masterful work on the religion of ancient Israel. Zevit suggests that most of the work on Israelite religion (which must by definition deal with the relationship between Israel and the other nations, including cultic concerns) is driven by decidedly theological or antitheological agendas.

100 Kaufmann, History, 54.
102 Zevit, Religions of Ancient Israel, 1–80.
103 Zevit, Religions of Ancient Israel, 78–80.
Moshe Halbertal and Avishai Margalit’s study *Idolatry* directly addresses the arguments found in Kaufmann’s work.\(^\text{104}\) This work attempts, through various permutations, to establish what idolatry is as a general category of thought. This book looks to a question which is much more conceptual than the topic of the present dissertation, as it deals with issues far beyond specific applications of rituals. Their chapter on idolatry and myth is, however, germane to the topic of this project, because they directly address the issue of the relationship between myth, ritual, monotheism and paganism. They express Kaufmann’s idea of the relationship between myth, ritual, monotheism and paganism in this manner: “Pagan ritual is a form of magic, and in it man claims to be able to control the gods. In contrast, biblical ritual [and by extension Jewish ritual] is the fulfillment of God’s will, keeping his commandments and not a technique for compelling God to act on man’s behalf.”\(^\text{105}\) Idolatry—explicitly defined as “pagan ritual”—is, therefore, according to their summation of Kaufmann, simply magic, and is inherently morally inferior to ritual as found in the Hebrew Bible and extended to Judaism. Halbertal and Margalit attempt to move away from this point, by providing a more nuanced and philosophical discussion of idolatry, although it is still a discussion with a polemical turn.

The purpose of Halbertal and Margalit’s argument is explicitly transhistorical.\(^\text{106}\) They are attempting both to define what “idolatry” is (from a theological, primarily Jewish, perspective) and to establish how and why it came to be understood as “an

---


\(^{105}\) Halbertal and Margalit, *Idolatry*, 69.

unspeakable sin.” Their project is a “philosophical” one, rather than a “historical, theological, [or] anthropological” one. Although the scope and nature of Halbertal and Margalit’s book differs from this dissertation, its discussions center on the conceptual worlds which formed the backbone of the textual data on foreign worship. As they say, their book “is principally a conceptual analysis of idolatry as it is seen by its opponents, and especially as seen in Jewish sources….The assumption is that we can find the answer to the question of what the monotheists consider the proper worship of the proper God by seeing how they define the alien realm.” Although the present dissertation looks at the rabbinic perspective on non-Jewish ritual, because it is essentially historical, it provides a more balanced approach to the question, since it is not interested in a conceptual analysis of idolatry—in other words, this dissertation is concerned with Jewish perspectives rather than on non-Jewish ritual itself.

Articulating something of the transhistorical power of this term, Joan-Pau Rubiés has produced a useful article wherein he discusses the historical concept of the term “idolatry,” and its eventual displacement of a term with any real meaning during the Enlightenment. Rubiés suggests that part of the death of this term was a change from viewing non-Christian ritual as devilish, to viewing non-Christian ritual as ignorant superstition. This displacement then allowed the attack to be on the ideas of idolatry rather than its practices. In spite of Rubiés’s proposed displacement of the term, the word

107 Halbertal and Margalit, Idolatry, 1.
108 Halbertal and Margalit, Idolatry, 6.
109 Halbertal and Margalit, Idolatry, 8.
111 Rubiés, “Historicization of Idolatry,” 596.
is still used in many studies which compare and (mostly) contrast monotheism with polytheism.

New Testament Influence on Scholarship on Foreign Worship

A recent volume edited by Stephen C. Barton entitled *Idolatry: False Worship in the Bible, Early Judaism and Christianity*, part of T&T Clark’s Theology series, is an anthology of a number of different essays on the topic of foreign worship. In spite of its subtitle, covering the Hebrew Bible, Judaism and Christianity, half of the essays in the book are taken up with discussions of idolatry in the modern world from a Christian perspective. The stated approach of the volume is theological—it constitutes a “critique of idolatry and its moral corollary, greed.”

In spite of the theological aims of the volume, it does contain articles which touch on the present study, especially in providing a background for the specific topic of the dissertation. Stuart Weeks’s article “Man-Made Gods: Idolatry in the Old Testament” is an overview of the discussions of the portrayal of the use of images in the Hebrew Bible. In the end he suggests that one of the ways in which the biblical authors were able to place certain practices outside of the Israelite conception of deity was to redefine the very concept of who God was. The Tannaitic discussion of non-Jewish ritual contains similar changes, especially, in the “Customs of the Amorites,” constantly defining and refining what it means to be Israel, and the relationship that Israel has with its God.

---

The most useful article for the present study in Barton’s collection is one by Robert Hayward, which discusses the use of the word εἴδωλον in the LXX of the Pentateuch, already discussed.115 This word, which in some ways represents a peculiar translation choice in the LXX, drives much of the discussion and characterization of polytheistic religion as idolatry (in fact the modern word “idol” derives from this Greek term, which was taken up by early Christianity). Hayward suggests that the characterization of non-Jewish worship in the Pentateuch as “emptiness” derives primarily from the prophetic corpus.116 The use of the term “idol” has far-reaching effects on how Greek and Roman religion is viewed in the West, and so is behind many of the concerns which this project is attempting to address, especially in observing that Tannaitic Judaism did not derive from a Greek-speaking tradition, and so would not have had the same influences in their conceptions of foreign worship.

The emphasis on ideas which derive from the New Testament is also found in Karl-Gustav Sandelin’s work, recently collected in Attraction and Danger of Alien Religion: Studies in Early Judaism and Christianity.117 This book comes primarily from work which he did looking at similarities between the works of Philo and letters of Paul. The studies range from papers published as early as 1991 (“The Danger of Idolatry According to Philo of Alexandria”) and as recent as 2012 (“Does Paul Warn the Corinthians Not to Eat Demons?”), with the rest of the papers falling within that date-range. As a whole, the book is asking many of the same questions as the present dissertation, but doing so for different texts and communities. The needs of early

117 (Tübingen: Mohr Siebeck, 2012)
Christianity, or even Philo’s diaspora Judaism, were not the same as those of the Sages, and this is reflected in how they discussed foreign ritual. Although according to the subtitle the text is supposed to deal with “early Judaism and Christianity,” an examination of the articles and the sources which Sandelin uses makes it clear that by this he means the New Testament plus Philo. Sandelin’s book is useful for the present study in his documentary goals. His conclusion simply states: “As a general conclusion we may say that there were strong voices in both Early Judaism and Early Christianity warning against and forbidding participation in alien cultic practices. Nevertheless there were individuals who did not listen to such warnings and prohibitions, but were drawn into activities understood as idolatry by their critics.” This provides groundwork from which to consider individual ideas about non-Jewish worship.

This is not to say that incorporating comparison with early Christian sources is wholly without merit, either from the broad topic of foreign worship in the ancient world or from the specific question. Taking up the writings of the Latin Church father, Tertullian, Stephanie Binder has shown—first in an article, and then recently expanded into a book—that Carthage in the period under question was an extremely cosmopolitan city, with many interactions between Jews, Christians and polytheists. She suggests that, like the Sages, Tertullian was interested in promulgating his form of Christianity to the exclusion of both Judaism and other forms of Christianity. In spite of this, she

118 Sandelin, Danger and Attraction, 202.
120 Binder, “Jewish-Christian Contacts,” 190.
argues that based on the arrangement and argument in Tertullian’s *De Idolatria* that he had access to and was familiar with some form of m. Avodah Zarah.\(^{121}\) This suggests that the rabbinic literature was more widely disseminated than has sometimes been argued, and that there were non-Jews familiar not only with Jewish ritual law, but specifically with the portion of law designed for internal/external policing. Binder’s argument is derived primarily from a specific knowledge on the part of Tertullian.\(^ {122}\) Although the policy of the Church Fathers was much more directed and specific against polytheists (which is understandable, given the polytheistic background of most of the Church in Carthage) it still shows continuity with Jewish ideas about ritual.

*The Sages and Image Worship*

Like scholarship on early Judaism and Christianity, scholarship on Jewish and rabbinic perspectives on non-Jewish ritual and worship has often had an ideological component to them. In the middle of the twentieth century, E. R. Goodenough tried to find explanation for the many images found in a Graeco-Roman context in his monumental study of figural images and symbolism in late Antique Palestinian Judaism.\(^ {123}\) There Goodenough argues for a popular form of Judaism\(^ {124}\) which was much more comfortable with Graeco-Roman or pagan symbolism and imagery than the Sages of the Mishnah. Goodenough’s argument is that during the 2\(^{nd}\) Temple period, the Jewish leaders of the people, represented by the Pharisees and the Sadducees, had greater control over their religious

\(^{121}\) Binder, “Jewish-Christian Contacts,” 197.
\(^{124}\) By which he means only peripherally related to the Judaism of the Sages.
concerns than after the destruction of the Temple. His monumental work is in several volumes, but he also published an article examining his conclusions. This article is concerned with defending his position, which had faced some difficulties even in his own lifetime.\textsuperscript{125} It also provides a useful reference point for Goodenough’s views. In the same volume where Goodenough published his defense, Joseph Gutmann published an article which follows a similar line of argument, showing that a rigid aniconism was not part of the Jewish experience in general.\textsuperscript{126} Both of these articles are an attempt to address the presence of clearly non-Jewish images in the ancient synagogues, especially in connection with Ex 20:3–5.

Responding directly to the assertions of Goodenough is the work of E. E. Urbach, which represents another way of looking at the Sages and their interactions within the Greco-Roman world. In many ways his “The Rabbinic Laws of Idolatry in the Second and Third Centuries in the Light of Archaeological and Historical Facts” is a monumental piece of scholarship on the topic of Jewish interactions with foreign worship. It takes into account both the textual data as well as archaeological data in order to paint a complex picture of the interactions between Jews and non-Jews in their late antique environment.\textsuperscript{127} Like Goodenough, Urbach attempts to address the question of the meaning of numerous figures, including and especially the Helios and Zodiac mosaic floors, found in Late Antique Palestinian synagogues. Urbach contends that these

representations were not revered, and so the Sages could afford to be accommodating of their usage. In many ways, this dodges the question, which is not whether or not the Sages had to accommodate in a Greco-Roman world at large, but why the images are on the floors of the synagogue. This dissertation responds to both Urbach and Goodenough, and takes up this question in chapter 10, discussing the contextual nature of the rabbinic discussion of non-Jewish ritual and its relationship to the Second Commandment.

Urbach, in continuity with Kaufmann and early biblical scholars, viewed the Judaism of the Sages as wholly separate from its surrounding Greco-Roman culture, even as biblical religion was (and is) often divorced from its Canaanite connections. As already shown, this exceptionalist view of Judaism has been characteristic of scholarly discussions of non-Jewish ritual and the Jewish interaction with it. The ideological and theological perspectives of the scholars who approached it had a strong impact on how they framed and talked about the interactions between Jewish and non-Jewish ritual.

The piece of evidence which pushes forward this entire line of questioning is the undeniable presence of images of Helios, the Greek sun god, and a zodiac wheel on the mosaic floors of synagogues, as preserved archaeologically. The implications of this for the study of Judaism have generated much scholarly work, from Goodenough onward, as already noted. Emmanuel Friedheim has recently written an article which proposes a new approach to the question of what is going on with these floors. He argues that these synagogue mosaics represent, in fact, wholly polytheistic imagery, which was a point of disagreement between the Sages and the rest of Judaism: “The Hammath Tiberias mosaic

---

reveals that the Jews who entered the synagogue did not really heed the rabbis and were under the influence of the pagan ritual atmosphere that reigned in the region.”

In many ways Friedheim is picking up the thread of argument left by Goodenough, in repudiation of Urbach’s conclusions. This dissertation attempts to navigate a middle road between Urbach and Goodenough, in order to show that although the Sages were opposed to such images, the contexts in which they appeared mattered.

Lieberman and Beyond

There have long been scholarly discussions about paganism in Palestine and the interactions between Judaism and the pagan world. Almost all of these studies build, in some way, on the work of Saul Lieberman, and his examination of both Hellenism and Greek language in Jewish Palestine. The present study is no different in this regard. Lieberman’s two pioneering studies placed, once and for all, the world of rabbinic literature firmly within the broader Graeco-Roman linguistic and cultural group. One of the primary projects of both Hellenism in Jewish Palestine and the earlier Greek in Jewish Palestine was to show the commonalities which Rabbinic Judaism shared with the surrounding Greek culture. Since that time, discussion has raged not on whether Judaism was “Hellenized,” but how deep the Hellenization went, and how the specific elements of Hellenism played out in Judaism. This dissertation assumes that the Sages come from a worldview which is in continuity with the Greek and Roman ritual systems—it is not that it is Hellenized, but that it is Hellenistic. This worldview, combined with biblical

---

ideology, explains why the Sages need to look so much for plausible contexts for non-Jewish ritual.

Of the early studies which have been done on the topic of polytheistic ritual in Judaism, Liebermann’s studies address the concern of ritual most directly, as may be clearly seen by the title of many of the chapters: “Gentiles and Semi-Proselytes,”132 “Oaths and Vows,”133 “Rabbinic Polemics against Idolatry,”134 “Heathen Idolatrous Rites in Rabbinic Literature,”135 “Heathen Pre-Sacrificial Rites in the Light of the Rabbinic Sources,”136 and “The Consecration of a Victim in Heathen Rites.”137 Because of the relevance to this dissertation, this section of the review examines Lieberman’s work, chapter by chapter. It is important to note, however, that Lieberman draws his evidence not only from the Tannaitic period, but also from the Amoraic, which is beyond the scope of the present study. Liebermann’s work establishes the embeddedness of late Antique Judaism in the larger, Greek and Roman, world, but does not specifically address rabbinic discourse. Where Lieberman showed how diligent scholarship can uncover practices and ideas which were part and parcel with the Greek-speaking world in which rabbinic literature was formed, the current project will look at ideas and rituals which the Sages identified as foreign, and show how they discussed those practices.

As they directly relate to the present project, it is useful to examine each of the relevant chapters from Lieberman in depth. All of Lieberman’s arguments stem from his observation, “The Rabbis had a fair knowledge of the rites and practices of idol

---

worshipers and of the various regulations bearing on heathen divinities.” Lieberman argues that the Sages were quite aware of the non-Jewish rituals which surrounded them, and used them for polemical purposes. Lieberman makes the germane observation that the Mishnaic tractate associated with the worship of *avodah zarah* “does not engage in refutations of the principles of idol worship.” Lieberman shows that the sages did not engage in the same kinds of polemics against images which are found in the Church fathers, based on the derision of classical myth. Lieberman suggests that this derives from knowledge of the Sages of their audience rather than an ignorance of Greek mythological stories.

Lieberman accepts (along with many scholars) that the Jews in the Mishnaic period were not tempted by the rituals of their neighbors. Because of this, he suggests that there is not a lot of fire behind the rabbinic polemics—the concern of the Sages was primarily one of commercial contact rather than of actual religious concern. For Lieberman, the primary grist for the writings of the Sages on the worship of *avodah zarah* is from personal contact—for Lieberman, however, this makes it all the more useful, since one can therefore derive information on the rites which the Sages are viewing.

The next chapter, “Heathen Idolatrous Rites in Rabbinic Literature,” is the chapter which most clearly aligns with the present initial question of this dissertation. This chapter, however, is mostly concerned with similarities and parallels between Jewish and

---

140 Lieberman, *Hellenism*, 118.
141 Lieberman, *Hellenism*, 120–121. “In the first centuries C.E. the Jews were so far removed from clear-cut idolatry that there was not the slightest need to argue and to preach against it.”
non-Jewish ritual, and not how the Sages took this ritual and discoursed about it. From this idea comes Lieberman’s observation: “There was a general pattern in the ancient world of temples and sacrifices which the Jews shared.”

Lieberman then carefully discusses several examples which he considers to be examples of rabbinic knowledge of rabbinic ritual, paying particular attention to methods of slaughtering and to Serapis and Isis. He ends this chapter with an intriguing observation, especially given his research program: “We see from the preceding material that the Rabbis were acquainted with the various rites of idolatry prevalent in the Middle East in their day. It is therefore sometimes impossible to define precisely the heathen cult they had in mind in their allusions to certain rites of idolatry.”

This is begging the question, since essentially Lieberman is saying that the reason scholars are unable to discover more specifics about rabbinic knowledge of foreign cults is because the Sages knew so much about those cults. Lieberman’s observation accords well with the thesis of this dissertation that the Sages frame their ideas with many of the same assumptions as their non-Jewish neighbors. Thus, specific knowledge is not always necessary, since the Tannaitic discourse is one which is driven, in many ways, by plausibility rather than by specific knowledge.

The next chapter is rich in information for this dissertation because it deals with one of the specific discussions of rituals in Judaism as found in rabbinic literature that was changed so would be less like non-Jewish sacrificial rites. Lieberman cites the

---

143 Lieberman, *Hellenism*, 130.
145 It is also important to note that Lieberman is not quite consistent in this observation: “The rabbis were fully aware of their own ignorance regarding the details of idol worship.” Lieberman, “Palestine in the Third and Fourth Centuries,” *JQR* 37 (1947), 44.
tradition found in the Tosefta Sotah 8:10, referring to officers in the Temple, called “knockers” whose job it was to knock calves between the horns. Lieberman shows that this was a very common practice in the ancient world which surrounded the Jews, and observes that it is expressly identified as such by the Tosefta. Lieberman’s next observation, that Johanan the High Priest removed the chanting of a verse from the Psalter (44:24) because it represented a similar ritual opening as that found in certain Egyptian temples, is more difficult. Although this is possible, it remains unfalsifiable.

Lieberman continues with his theme of finding comparative information between Jewish and non-Jewish ritual. Here Lieberman is not really concerned with non-Jewish ritual, as such, but rather with similarities and continuities between Jewish and non-Jewish rituals. So, for example, Lieberman discusses a mishnah which describes bulls adorned with garlands and horns overlaid with gold (m. Bikkurim 3:2–3). Lieberman shows that the custom of having sacrificial victims with adorned horns was a common practice in the ancient Mediterranean. Although Lieberman shows this without a doubt, it represents an example of the general embeddedness of Judaism in the tissue of Graeco-Roman ritual life.

Lieberman’s final chapter on this topic, “The Consecration of a Victim in Heathen Rites,” applies to the practical question of when something qualifies as having been consecrated or set apart to a non-Jewish deity. Much of Lieberman’s evidence in this chapter comes from the two Talmuds and so is, generally speaking, outside of the scope

146 Lieberman, Hellenism, 141.
147 “Wake up! Why are you sleeping, O Lord? Get up, do not cast us off forever. Why do you hide your face [and] forget our affliction and oppression?” Lieberman cites Porphyrius Tyrius De abstin. IV. 9 as his source for this (Lieberman, Hellenism, 142, no. 25). The awakening of the God was certainly an important aspect of Egyptian temple worship, as the daily temple liturgy from Karnak shows.
148 Lieberman, Hellenism, 144–146.
of this project. He does show, however, that many of the activities which the Sages claim to be non-Jewish rites which need to be avoided may be found within Greek and Roman sources, thus illustrating where and how they are part of their broader world. By showing the ways in which the Sages were part of their broader world, the work done by Lieberman remains foundational to the present study. This dissertation takes those assumptions and shows how the Sages navigate the tension between the biblical ideal and that world they were a part of.

Gerald Blidstein’s doctoral dissertation, written in 1968 for Yeshiva University, is a general examination of the rabbinic perspective on the worship of avodah zarah. Blidstein focusses primarily on the rules about attending the fair and rules governing the creation of images.

Two Israeli scholars have been in dialogue about the historical background of the formulation of the halakhic rulings on worshiping avodah zarah. Ishay Rosen-Zvi argued that a distinction can be made between the midrashic school of Akiva and the midrashic school of Ishmael. According to Rozen-Zvi, the Mishnah reflects the midrashic school of Akiva, while Ishmael has affinity with halakhah deriving from priestly circles in the Second Temple. Moti Arad has written an article responding to some of these claims. For both Arad and Rosen-Zvi, the halakhah recorded in the Mishnah comes from a background of halakhic disagreement recorded in the halakhic midrashim, but

149 The core of his argument derives from opinions preserved in b. Temurah 29a.
152 Moti Arad, “‘Ye Shall Surely Destroy all the Places, Wherein the Nations That Ye are to Dispossess Served Their Gods’: The Annihilation of Idolatry in Tanaitic Halakhah,” Oqimta 1 (2013), 25–69. (Hebrew)
they disagree on which of the two positions is the more lenient.\textsuperscript{153} Although it is helpful to be aware of the possible influence of different schools in the historical development of the Mishnah as we currently have it, the difficulty in dating the material in both the Mishnah and the Tannaitic Midrashim means that, in the present dissertation, diachronic questions of the development of halakhah are mostly bracketed out.

One of the best in-depth approach to the topic of \emph{avodah zarah} and its worship in rabbinic Judaism is a 1979 article by Mirielle Hadas-Lebel, “Le paganisme à travers les sources rabbiniques des IIe et IIIe siècle: Contribution à l’étude du syncrétisme dans l’empire romain.” This was, in many ways, a water-shed attempt to bring together more modern methods of study into the question of foreign worship.\textsuperscript{154} This impressive article addresses the major issues brought up in Mishnah and Tosefta Avoda Zarah, and attempts to put them into their Graeco-Roman contexts. Her stated purpose is to discuss syncretism in the Roman Empire, using Judaism as a source of discussion. The first part of this article discusses the various deities mentioned by name in Mishnah Avodah Zarah (Aphrodite, Merqolis, Serapis, and “the goddess who gives suck”\textsuperscript{155}) and places the deities in an eastern context (concluding, for example, that the Aphrodite referred to in the story of Gamliel in m. AZ 3:4 was a syncretized Syrian variant rather than the

\textsuperscript{153} Arad, “Annihilation of Idolatry,” 27.
\textsuperscript{155} “The goddess who nurses” does not actually qualify as a name, of course. This example nicely illustrates some of the difficulties inherent in the study of polytheistic religion from the perspective of Judaism. Most scholars, including Hadas-Lebel, identify this goddess as Isis, as suggested by her close association in the text with Serapis. See, however, the argument in Emmanuel Friedheim, “Who are the Deities Concealed behind the Rabbinic Expression ‘A Nursing Female Image,’” \textit{Harvard Theological Review} 96 (2002): 239–250, where he argues that it refers to images of Dionysus and his mother Semele.
Classical Greek version). After discussing the imported Graeco-Roman variants, Hadas-Lebel looks at the examples which she identifies as Semitic cults. Her discussions of mountain worship, *asherah*, water worship and the putative Canaanite deity of Gad show that the Semitic cults remained strong, even in the face of Hellenism. The distinction between traditional and Greek and Roman gods is not really a concern to the present study, which is primarily concerned with distinctions that the Sages made, and this does not appear to be one of their categories—to the Sages, *avodah zarah* was *avodah zarah*.

Hadas-Lebel’s paper attempts to deal with all of the many examples of polytheistic behavior mentioned or alluded to by the Sages in their literature. She has a lengthy section where she discusses the “Customs of the Amorites.” Hadas-Lebel associates these traditions with various practices which were part of Graeco-Roman ritual, suggesting that, for her, they actually represent foreign practices, rather than general examples of folk-magic which the Sages moved into the realm of the foreign.

Hadas-Lebel’s discussion of the “Customs of the Amorites” is taken up by Jonathan Seidel in his article “Charming Criminals: Classifying Magic in the Babylonian Talmud.” This article argues that the Sages were concerned with classifying magic, in

---

157 “cultes sémitique”
158 Mentioned in Is 65:11: “But you are the abandoners of Yahweh, forgetters of my holy mountain, that set up a table for Gad, and establish a libation offering to Meni.” Many translations have “Fortune” for Gad and “Destiny” for Meni.
part to insure that certain kinds of magical power remained in the hands of the Sages.\textsuperscript{162}

Seidel’s approach is not to attempt to adduce Graeco-Roman antecedents for each of these practices. His goal instead is to show what function identifying a practice as being part of the Ways of the Amorites would have for the Sages. In particular, Seidel discusses the difficulties in defining the distinction between magic and superstition. In some ways, this is particularly relevant to the present study, because no matter how we might define such practices in our modern era, they represent rituals, and are understood and discussed as such by the Sages. Although the rituals which are part of the Ways of the Amorites are not necessarily described as worshiping \textit{avodah zarah},\textsuperscript{163} they are rituals which the Sages understand as, or wish to understand as, foreign.\textsuperscript{164} This is also the core argument which Gideon Bohak makes in his history of Jewish magic.\textsuperscript{165}

The most in-depth scholarly discussion of this passage has been by Giuseppe Veltri in various articles and especially in his monograph \textit{Magie und Halacha}, where he offers a line by line commentary on the “Customs of the Amorites.”\textsuperscript{166} In addition to this book, he has also authored an article where he attempts to categorize the customs of the Amorites and place them in a Graeco-Roman context. Relevant to the present discussion,

\begin{itemize}
  \item \textsuperscript{162} Seidel, “Charming Criminals,” 165.
  \item \textsuperscript{163} Seidel notes that they do not count as “abominations,” as found in the Pentateuch. Seidel, “Charming Criminals,” 162.
  \item \textsuperscript{164} Seidel notes the intriguing suggestion that the phrase “ways of the Amorites (emori)” could also be an oblique reference and polemic for “ways of the Romans (romi). If this is correct, it would make the Customs of the Amorites even more specific in their presentation of foreign ritual which the Sages are concerned with. Seidel, “Charming Criminals,” 161.
  \item \textsuperscript{165} Gideon Bohak, \textit{Ancient Jewish Magic: A History} (Cambridge: Cambridge University Press, 2011), 382–383.
\end{itemize}
Veltri notes that only two sources explicitly connect the “customs of the Amorites” with foreign worship: these are Sifra Ahere 13:9 and the Babylonian Talmud at b. Avodah Zarah 11a–11b.\(^{167}\) He considers the “customs of the Amorites” to be analogous to the magical literature in the Greek Magical Papyri.\(^{168}\) One difficulty with Veltri’s argument is that he does not define religion, magic or science until the very end of the argument. For Veltri, a core part of the rabbinic discussion on these rituals is ultimately a pragmatic one (he calls it empirical): whether such practices work or not.\(^{169}\)

One of the most prolific recent scholars of polytheistic religion in the Roman period and the relationship of the Rabbis to it is Emmanuel Friedheim. He has written a number of articles, as well as the book length *Rabbinisme et Paganisme en Palestine Romaine*.\(^{170}\) Friedheim’s goal is to adduce specific historical information about Jewish and polytheistic interaction in the rabbinic period.\(^{171}\) “The Religious and Cultural World of Aelia Capitolina: A New Perspective” argues that the rites and rituals practiced in the newly formed Aelia Capitolina were comprised exclusively of Graeco-Roman religions which had been imported into the city rather than a resurgence of native Semitic (Syrian or Phoenician) rites.\(^{172}\) He has also written on the attraction which the music that served as part of the ritual world of polytheistic rites would have held for Jews living in the

---

\(^{168}\) Veltri, “The Rabbis and Pliny,” 68.
\(^{169}\) Veltri, “The Rabbis and Pliny,” 84–86.
\(^{171}\) This is made quite clear by the subtitle of his book, which claims to be looking for “realia.”
Roman Empire.\textsuperscript{173} This relates to Friedheim’s larger thesis about the appeal which polytheistic cult had for Jews living in the Roman Empire.\textsuperscript{174}

In Friedheim’s book, the most relevant chapter to the present study is chapter 6, “Rituels Païens Mentionnés dans la Littérature Talmudique.”\textsuperscript{175} In this chapter, Friedheim examines Talmudic literature, including the Mishnah and Tosefta, for descriptions and discussions of polytheistic rituals. One of the points which he brings out which is very relevant is the observation that the Sages’ knowledge of polytheistic ritual would be of what Friedheim calls “ambient paganism,”\textsuperscript{176} which is to say, those rituals which were part of the general Graeco-Roman culture in which Tannaitic Judaism was embedded. He observes that the possibility “les Rabbins n’avaient qu’une connaissance toute extérieure du paganisme local, doit être sérieusement relativisé.” He differs from the present project in that his claims are essentially historical, or rather the questions he asks are historical in nature, while the questions in the present dissertation, although firmly situated in the historical milieu are more concerned with the Sages’ perceptions than whether or not they got it right in any meaningful way.

\textit{Foreign Worship and Egypt}

In her book length treatment of Egyptian motifs in rabbinic literature, Rivka Ulmer provides one the clearest examples of the usefulness of showing how the Sages were embedded in their greater environment.\textsuperscript{177} Particular helpful is Ulmer’s observation that

\begin{footnotesize}
\bibitem{175} Friedheim, \textit{Rabbinisme et Paganisme}, 249–303.
\bibitem{176} “paganisme ambiant”
\bibitem{177} Ulmer, \textit{Egyptian Cultural Icons in Midrash} (Berlin and New York: Walter de Gruyter, 2009).
\end{footnotesize}
Egypt was used particularly because it represented the “Other” so completely for Rabbinic Jews. Ulmer deals primarily with Egyptian material, and she suggests that the Sages were familiar with Egyptian myth and ritual. This project focusses primarily on material from Greek and Roman contexts. Ulmer does not focus on ritual, being interested primarily in cultural icons, a term which she has borrowed from art history and semiotics. She does cite examples of customs and rituals which derive from Egypt in the Roman period, but does not analyze them in any depth. The other difference is that her work tends to emphasize the Midrashim, both the Halakhic and the later Midrashim. Although this project does look into the Midrash, it primarily derives from Mishnaic and Toseftan sources.

Ulmer is not the only scholar who has tackled Egypt and its relationship to the texts and culture of rabbinic Judaism. Gideon Bohak has written an article which looks at rabbinic perspectives on Egyptian religion. As noted in the Introduction, religion often means ritual, which Bohak also briefly addresses in his article. Under his section titled “Rabbinic References to Egyptian Religion as Part of Contemporary Realia,” he notes “The rabbis had little incentive to provide their hearers or readers with detailed descriptions of ‘pagan’ cults as seen from the ‘pagan’ point of view.” Bohak goes on, however, to note that the Sages often represented Egyptian cultic material in their biblical interpretation (where Egypt shows up quite often), and reminds modern readers that the

Sages would regularly use knowledge from their own period to explore or explain what was happening in the biblical text. In other words, just as the Sages would update biblical heroes and prophets by “rabbinizing” them and turning them into sages, they would use their own understanding of present ritual and religion of polytheists to explain and update the ritual and religion of polytheists in the Hebrew Bible. This has profound implications for understanding how the Sages discussed non-Jewish ritual in their surrounding world.

*Language and the Question of Foreignness*

Language is the primary communicant of culture, and so a discussion of the rabbinic perspective on foreign ritual contains in it questions of their abilities with foreign languages. Drawing on Lieberman’s linguistic work, Daniel Sperber has asked the question, who among the Rabbis spoke Greek, and how much of Greek did these Sages know. This question pushes towards the understanding of ritual on the part of the Rabbis, since Greek would be medium through which the Tannaitic Sages would have learned about some rituals (other rituals they could have observed in their surrounding world). Sperber—mostly following Lieberman—adduces a number of clear examples in rabbinic literature where there is knowledge of Greek. This knowledge is primarily centered on Greek legal concepts and rhetoric, but also apparently included Homer.

---

185 A process which some of the less savory individuals in the Hebrew Bible, such as Doeg, also underwent.
Rituals

The study of ritual has been with the study of religion for a long time. Indeed, following on the pioneering work of W. Robertson Smith’s *Religion of the Ancient Semites*, scholars often looked at religion, myth and ritual as a single category. This linkage is a core point behind the scholarship of Jane Harrison. Her *Prolegomena to the Study of Greek Religion* and, in particular, *Themis* articulate a theory of ritual and myth where ritual is primary, and where the myth becomes primarily etiological and explanatory of ritual already practiced.\(^\text{187}\) For Harrison, community ritual is the essential foundation from which religion sprang, and myth and ritual arise together as expressions of the same emotional feeling.\(^\text{188}\)

In his historiographic study on the various theories of religion, Eric Csapo has noted, “The relationship between ritual and myth has long been a celebrated chicken and the egg story….”\(^\text{189}\) There is no doubt that myth and ritual are closely connected, especially in the ancient world. The difficulty comes from the assumption that this connection is the same for every myth or for every ritual. Taken to its extreme, it can cause scholars to look for the ritual behind every myth on the one hand, and the myth behind every ritual on the other hand to find out what each on “really means.” Those who maintain the close relationship between myth and ritual, often called ritualists, disagree on how that relationship plays out exactly.\(^\text{190}\) The present study is continuity with these efforts connecting myth and ritual, although the Tannaitic Sages are speaking about those


\(^{188}\) Harrison, *Themis*, 16.


\(^{190}\) Csapo, *Theories of Mythology*, 180.
things which they can directly observe, and so their discussion centers on non-Jewish behavior. In their discourse on foreign ritual, however, the Tannaitic Sages do construct an ideology of what it means to be Jewish and non-Jewish.

Thus, although there is now less scholarly certainty on a causal relationship between myth and ritual, ritual still remains the primary expression of what we would term religious behavior in the ancient world. In fact, ritual can be used in order to look at the ideas behind a religious or cultic act, even without looking for a myth. This is part of the argument of Catherine Bell in her *Ritual Theory, Ritual Practice*. The paired concepts of ideology and practice serve as an underpinning to many of the arguments presented in this dissertation, which looks at the Jewish discourse on foreign ritual practice.

This project is, in many ways, a response to an article by Sarah Iles Johnston where she suggests looking at how ancient ritual practitioners understood their own religious and ritual practices. In a study on rituals to animate statues, practiced by late Antique theurgists, she observes that one of the advantages of studying those who practiced theurgy is the ability of the ancient theurgists to comment upon their own ritual world-view, since they were educated, literate and articulate. She further suggests that there were writings from other ancient cultures, such as the late antique rabbis, which would be able to shed light on these ritual systems, since they were also educated, literate, and articulate. Instead of looking at how the Sages looked at their own rituals,

---

192 Sarah Iles Johnston, “Animating Statues: A Case Study in Ritual,” *Arethusa* 41 (2008): 445–477, 469–470. Being educated and articulate remains a rarity even now, while literacy is the reason that we are able to have anything to read.
this dissertation investigates what an educated, literate and articulate ancient group has to say about other peoples’ rituals, which gives information about the discoursing groups’ own ritual world-view.

Michael D. Swartz recently showed an example of ancient Jewish (rabbinic and non-rabbinic) theorizing about the Yom Kippur service practiced in the Second Temple.194 This ancient theorizing by two different, but related, parties (the Mishnaic sages and the Payyetanim) provides the modern scholar with an idea of how ancient Jewish thinkers theorized and conceived about their rituals.

Maria-Zoe Petropoulou recently published a version of her Oxford DPhil thesis, which discusses the concept of sacrifice in the religion of the ancient Greeks, in Judaism and in Christianity, setting her study right within the Tannaitic period (although, as we shall see, she is not primarily concerned with Tannaitic Judaism).195 The purpose of her study is to look at animal sacrifice within the Roman Empire, primarily to ask questions about the eventual end of sacrifice as a primary component of religion.196 Her book is a useful sourcebook, combining evidence about this most important of ancient rituals all in one place, but it is hampered by a number of difficulties in the section on Judaism, which limits its usefulness to the present project. Her section on Jewish sacrifice takes her information from three primary sources: Philo, Josephus, and the Mishnah.197 The lion’s share of her argument derives from Philo, who, although an important source, was also

---

195 Maria-Zoe Petropolou, Animal Sacrifice in Ancient Greek Religion, Judaism, and Christianity, 100 BC to AD 200 (Oxford: Oxford University Press, 2008).
197 Petropolou, Animal Sacrifice, 130–136.
allegorizing the Temple and its cult, and his portrayal of it would be influenced by that point. Although she cites Mishnah as one of the major sources, and identifies it as “the oldest extant corpus of Jewish Law,”198 this work depends on Neusner and Danby’s translations of the rabbinic materiel in order to make her point.199 She does, however, do an excellent job of establishing this central ancient rite, providing background for a discussion of the shared rituals of the ancient world. Petropoulou is the student of Fergus Millar, at Oxford, and he has long taken the approach of using the writers of the Classical world to understand Judaism and vice versa.200

Sacrifice is, of course, the foundational concern in the ancient world, and understanding sacrifice has been a major enterprise of modern scholarship. Much of the scholarship on this topic emphasizes the victim and views sacrifice in either a substitutionary way or as being about violence. Some of this is an attempt to generalize and explain the explanation of sacrifice as found in the Christian New Testament Epistle to the Hebrews.201 The recent monograph by Jonathan Klawans: Purity, Sacrifice, and the Temple: Symbolism and Supersessionism in the Study of Ancient Judaism attempts to address this often overtly Christian perspective.202 In this book, Klawans attempts a corrective to many of the prevailing scholarly opinions about sacrifice, which, he contends, do not hold true in the Jewish system of sacrifice.

198 Petropolou, Animal Sacrifice, 134. This seems to be an unlikely statement in light of The Community Rule and the Damascus Document from the Qumran Communities, as these are both texts dealing with Jewish law. It may be that she means Rabbinic law, in which case her observation is correct, although it paints an incomplete picture of ancient Judaism.
199 See, for example, Petropolou, Animal Sacrifice, 198.
201 The scholarship of René Girard is particularly in this vein.
Considering its pervasiveness in the ancient world, libation has not been much studied, especially not in an Israelite or a Jewish context. This is likely because of the prescribed character of libation offerings in Israelite religion, a circumstance which is carried over by the Sages of the Mishnah. In his study of the Israelite offering and sacrificial system, Rolf Rentdorff has a brief excursus on free-standing libation offerings (that is to say, libation offerings which are not part of the minhah or meal offering) in Israelite religion. The only real Yahwistic example which he adduces is Jacob’s setting of a masseba after the theophany at Beth-El (Gen 35:14).\footnote{Rolf Rentdorff, \textit{Studien zur Geschichte des Opfers im Alten Israel} (Assen, Netherlands: Koninklijke Van Gorcum & Co, 1967):171.} The other examples which he adduces from the Hebrew Bible set up the concept of a free-standing libation offering as something which is done primarily, if not exclusively, by non-Yahwists, or at least by Yahwists whose practices are not approved by the authors and editors of the Hebrew Bible.\footnote{Rentdorff, \textit{Opfers im Alten Israel}, 172.}

\textit{Studies of Greek and Roman Ritual and Religion}

Scholars have been examining Greek religion and ritual for as long as they have the Bible and Judaism, and as with that topic, this dissertation did not use every discussion. There are a number of studies which were used in this dissertation. Rives’s \textit{The Religion of the Roman Empire} provides an consistent introduction to many of the various aspects of ancient ritual and religion, including, as noted in the Introduction, something of the problematic in the use of those terms. Although it is often outside of the temporal span of this dissertation, Walter Burkert’s \textit{Greek Religion}, is foundational in provided important background on the ritual assumptions which were made by ancient non-
Jews. Although it is written from the Christian-centric perspective on religion mentioned in the Introduction, Hans-Josef Klauck’s *The Religious Context of Early Christianity* provides a useful description of the variety of religious experience in the pre-Christian Roman Empire, often with a helpful bibliography.

Greek and Roman festivals are an important part of the Tannaitic discussion on non-Jewish ritual. This topic has been examined recently by scholars of Greek and Roman religion. Fritz Graf has produced a monograph which discusses the ways in which Roman festivals were applied and adapted in Eastern Roman Empire, which included, of course, Palestine. In his discussion on the diffusion of Roman festivals in the East, Graf uses Mishnah Avodah Zarah, which lists festivals that have a clear and unmistakable Roman character. Graf’s chapter provides a close reading of m. Avodah Zarah 1:3 that delineates the meanings of the often obscure festivals in this passage, and places those festivals within their Roman context.

In addition, Oxford has recently published an anthology dedicated to the topic of Greek and Roman Festivals, based on a 2006 seminar. For the purposes of the present study, the two must helpful articles in this anthology are Jon W. Iddeng’s “What is a Graeco-Roman Festival? A Polythetic Approach” and Walter Burkert’s “Ancient

---

Views on Festivals: A Case of Near Eastern Mediterranean Approach."

Iddeng’s article works to provide a definition of this ancient phenomenon which is easy to describe, but hard to categorize. Accordingly, Iddeng suggests rather than a tight definition, a polythetic description is more helpful.\textsuperscript{212} Of his five points, the last three are the most important to the present dissertation. Iddeng’s third descriptive point is that festivals are public, even when they have a secret component.\textsuperscript{213} The fourth and fifth descriptive points connect the festivals explicitly to worship and ritual—for Iddeng, festivals are not festivals unless they have a ritual core.\textsuperscript{214} The combination of the ritual nature of festivals with their publicness illustrates why they are a context which worried the Tannaitic Sages.

Burkert’s article shows that festivals were part of the basic ritual and cultural assumptions which were made throughout the ancient world. He includes a quote from the 5\textsuperscript{th} Century Christian historian Sozomen, discussing a festival at Hebron that was celebrated, although differently, by Jews, Christians, and polytheists, before being stopped by Constantine.\textsuperscript{215} Burkert uses this festival to show that the festival was a point of contact between the various ethnic, religious, and ritual communities in the ancient world. Although the dates for Sozomen correspond to the Amoraic period, the idea of the festival as a point of contact provides further explanation of the Sages’ concern about festivals as plausible contexts for Jewish interaction with non-Jewish ritual.

\textsuperscript{212} Iddeng, “Graeco-Roman Festival,” 12–15.
\textsuperscript{213} Iddeng, “Graeco-Roman Festival,” 30.
\textsuperscript{214} Iddeng, “Graeco-Roman Festival,” 30.
\textsuperscript{215} Burkert, “Ancient Views on Festivals,” 40–41.
Because this project deals extensively with *herms* through the medium of the Jewish *mergolis*, by association it deals with the question of Greek aniconism. Millete Gaifman has recently published a monograph looking at Greek aniconism in both the literary and archaeological record.\(^{216}\) Gaifman demonstrates that there existed in ancient Greece a spectrum of aniconism and iconism, going from unworked stones to Classical images. In addition to discussing this spectrum of Greek aniconic representations, including the *herms*, Gaifman discusses the use of Pausanias, one of the Greek authors from whose testimony this dissertation draws comparative data.

*Sources Used in This Dissertation*

This textual evidence for this dissertation derives primarily from Mishnah and Tosefta. I also reference the halakhic midrash Mekhila di-Rabbi Ishmael. Later Amoraic sources also have important things to say about rabbinic perspectives on non-Jewish ritual practices, but in the interest of space the present study is limited to Tannaitic sources. This dissertation therefore largely presents a picture dealing with Jewish interactions with Greek and Roman ritual systems.

The first text under discussion in this dissertation is Mishnah Avodah Zarah. In 1888, renowned Talmudist Hermann Strack did a critical edition and German translation of that tractate, which had a second edition in 1909.\(^{217}\) At the turn of the last century, W. A. L. Elmslie did a critical edition of Mishnah Avodah Zarah based primarily on the Bomberg printed edition, with a running commentary—this edition was reprinted in


1967. This early edition and translation has a useful commentary, but has been superseded by more recent efforts, not the least by Herbert Danby’s standard English translation.

For his 1980 dissertation Hebrew University in Jerusalem, David Rosenthal produced a critical edition of this tractate. My translation of Mishnah Avodah Zarah is taken primarily from this critical edition of the tractate. Rosenthal uses the Kaufmann manuscript as the base text for his critical edition of tractate Avodah Zarah. According to Rosenthal, this is the oldest, most complete manuscript of the Mishnah, and is also the most accurate of the Mishnah manuscripts. Although the Kaufmann manuscript is the base for his edition, Rosenthal uses several other texts in his quest for variants. This includes editions of both Talmuds, commentaries and, of course, editions and manuscripts of the Mishnah itself, as well as fragments from the Cairo Genizah. As noted, his base text is the Kaufmann manuscript, which resides in the National Library in Hungary. The other important manuscripts are the Parma manuscript, an edition which resides in the library at Cambridge, and the editio princeps published in Naples in 1492. Rosenthal argues from internal evidence that this tractate was originally two tractates which had been joined.

Tosefta Avodah Zarah picks up on Mishnah’s lack of discussion of the actual ritual practices associated with the worship of avodah zarah, and provides more

---

221 Rosenthal, Mishnah Avodah Zarah, ii.
222 Rosenthal, Mishnah Avoda Zarah,
examples and discussion. The most important early edition of Tosefta for this tractate is Zuckermandel’s edition of the Tosefta.\textsuperscript{223} Unfortunately, in Lieberman’s masterful edition of Tosefta, he did not get to tractate Avodah Zarah. More recent than these, Reena Lynn Zeidman put together a critical edition of Tosefta Avodah Zarah for her dissertation in 1992.\textsuperscript{224} It is an eclectic edition based primarily on the Vienna Manuscript, building on the work of Lieberman and Zuckermandel. In addition to her text critical work, Zeidman has an informative and helpful discussion on the relationship between the Mishnah and the Tosefta, focused on this particular tractate, but extending to the rest of the Mishnah and the Tosefta. Rather than address the relationship of each of the two sources to the Talmud, which has been the general way of previous times, she looks at how the Mishnah and Tosefta play off of one another, in a relationship which she calls “contrapuntal,” drawing on language from music.\textsuperscript{225} This term suggests that the two sources comment on and work off of each other, although the Mishnah appears to have been codified somewhat earlier. Whatever the broader relationship between Mishnah and Tosefta, Tosefta Avodah Zarah is later than Mishnah Avodah Zarah, because Tosefta quotes from Mishnah at the very beginning of this tractate.

According to Zeidman’s 1992 critical edition, Tosefta Avodah Zarah may be derived from four manuscripts. These are the \textit{Editio Princeps}, published in Venice in the 16\textsuperscript{th} Century, a 12\textsuperscript{th} Century Ashkenazic Manuscript (MS. Erfurt), a 14\textsuperscript{th} Century Vienna


\textsuperscript{225} Zeidman, \textit{View of Celebrations}, 21.
manuscript (which Lieberman identified as Spanish	extsuperscript{226}), and a Genizah Fragment covering Tosefta Avodah Zarah 3:4–4:5. Zeidman’s is an eclectic edition, for good and for ill, and uses the Vienna manuscript for the basis of her orthography.	extsuperscript{227} My translation is taken from Zeidman’s edition, with occasional reference to readings found in the manuscripts, as noted. Like Zeidman, I follow Zuckermandel’s divisions, since these have become standard in the field and allow for the easiest reference.	extsuperscript{228} Zeidman’s notes are often useful, especially where commentaries and the parallels from rabbinic literature are concerned. I have noted where it has helped in my translation.

From the Mishnah and Tosefta we move to the Tannaitic Midrash on Exodus, the Mekhilta di Rabbi Ishmael, called Mekhilta hereafter. This text is, according to Lauterbach, “one of the older tannaitic works,”	extsuperscript{229} as well as “one of the oldest Midrashim.”	extsuperscript{230} In regards to the dating of the text, there are many instances in the Midrash where, like Tosefta, it quotes directly from the Mishnah, suggesting that at least parts of it are secondary to that source.	extsuperscript{231} It is a halakhic midrash, covering Ex 12:1–

\textsuperscript{226} Zeidman, View of Celebrations, 49.
\textsuperscript{227} Zeidman, View of Celebrations, 52.
\textsuperscript{228} Zeidman, View of Celebrations, 52.
\textsuperscript{230} Lauterbach, Mekhilta de Rabbi Ishmael, xxv. On the other hand, like most ancient literature, Mekhilta was heavily redacted in later periods. B. Z. Wacholder gives it a date in the 8th Century C.E. “The Date of the Mekilta de-Rabbi Ishmael,” HUCA 39 (1968): 117–144. Strack and Stemberger give the date of final redaction in second half of the third century, C.E. Introduction, 255. The balance of the evidence is in favor of the earlier date.
23:19; 31:12–17 and 35:1–3. There are two critical editions of the Mekhilta. One is J. Z. Lauterbach’s critical edition of the text, first published in 1933 and republished in a second edition in 2004. Lauterbach’s edition is an eclectic edition. The textual apparatus in this edition is not complete. Lauterbach’s edition also has an English translation of the Midrash, which I have consulted, but which my translations are not dependent upon. The other was done by H. S. Horowitz and I. A. Rabin. I have taken my texts for translation from this edition.

In addition to rabbinic literary sources, I draw on sources deriving from the non-Jewish world which surrounded the Jews. They are primarily used in order to provide points of reference between the Sages and the practices of the surrounding cultures. For this dissertation, my comparative data is drawn mostly from Greek, Roman and Egyptian sources. From Egypt, there is the daily temple ritual at the Temple of Amun-Re in Karnak, taken from Berlin Papyrus 3055. This text dates to the 22nd Dynasty (c. 10th–8th BCE), but according to Robert Ritner, it is “one of the best sources for the standardized morning liturgy used for divine and royal cults throughout Egypt from the New Kingdom until Roman times,” i.e. up until the beginning of the Tannaitic period. One of the characteristics of Egyptian ritual in particular, is the continuity between the

232 Strack and Stemberger, Introduction, 252.
233 Strack and Stemberger, Introduction, 256.
235 There is similar comparative data from Mesopotamia, but it is, in general, outside of the temporal and geographic constraints of this article. This is not to deny the significant influence which Mesopotamia had on biblical thought and religion, but because rather this dissertation emphasizes the material found within the Roman Empire in which the Tannaitic Sages were embedded.
various Egyptian rituals and texts across the vast span of Egyptian history.\textsuperscript{238} The other thing to note about the Egyptian sources is the common reference to images and iconographic evidence, which can sometimes limit the literary evidence, but which plays into the relationship between image and cult.

Greek examples derive primarily from Pausanias’s \textit{Description of Greece}, which continues numerous contemporary descriptions of shrines and the \textit{leges sacrae}, i.e. the customs and practices which were part of the rituals of those shrines.\textsuperscript{239} Pausanias lived around 110–180 CE, and so flourished right in the middle of the Tannaitic period (although he mentions no interactions with Jews—such things were not his concern). He does provide, however, a fine example of the kinds of ritual actions which were taking place in the world which surrounded the Tannaitic Sages, as well as a love of antiquity which provides evidence of the importance of custom in the ancient world.\textsuperscript{240} The other Greek source I use is Homer, which contains numerous descriptions of ritual activity, and which, according to Walter Burkert, was “the model and common reference point for the Greek mind.”\textsuperscript{241}

\textsuperscript{238} L. V. Zabkar discusses precisely the updating and adaptation of this ritual from a New Kingdom context to a Ptolemaic-Roman one: “Adaptation of Ancient Egyptian Texts to the Temple Ritual at Philae,” \textit{The Journal of Egyptian Archaeology} 66 (1980): 127–136. As an example of this process, Jennifer Pinowski discusses the long history of the Temple of Mut up through the reign of the Roman emperor Tiberius, “Egypt’s Ageless Goddess,” \textit{Archaeology} 59 (2005): 44–49.


\textsuperscript{240} Arafat, “Pausanias’ Attitude,” 387.

Building heavily on the textual work of Rosenthal is Christine Hayes’s *Between the Babylonian and the Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah*. Because she is concerned with substantive halakhic differences between the two Talmuds, she provides evidence for David Rosenthal’s assertion that there are actually two versions of the Mishnaic tractate of Avodah Zarah, one which undergirds the Babylonian Talmud and the other which undergirds the Jerusalem Talmud. She suggests that some of these textual differences may be accounted for by changes to the Tannaitic text by the legal suppositions and conceptions on the part of the various Amoraim, while others derive from differences in the transmission of the two texts. The bulk of her argument is beyond the scope of the present dissertation. Hayes is concerned primarily with explaining the halakhic differences in relation to the two Talmuds. She provides useful analysis of many of the questions which are being asked by Mishnah Avodah Zarah, although Hayes does not concern herself primarily with questions of ritual.

One of the important studies on this topic is the work of Alberdina Houtman, where she sets up a synoptic parallel between two Mishnaic tractates and two Toseftan tractates (Berakhot and Shebi’it). Although these two tractates are not under consideration in the present dissertation, her discussion of the relationship between Mishnah and Tosefta is useful for discussing the differences between Mishnah and Tosefta Avodah Zarah. Especially intriguing is the realization that it is not really possible

---

to do a synoptic reading of Mishnah Avodah Zarah versus Tosefta Avodah Zarah, because the two texts are so different from one another. The two works are, however, arranged according to a common structure, as is normal for Mishnah and Tosefta. Houtman argues that Tosefta was composed by a conservative faction of the Sages precisely to preserve the polysemic nature of the oral law, over and against the codification of Rabbi Judah’s Mishnah.²⁴⁵

The first text discussed in this dissertation is the tractate which is theoretically dedicated to foreign ritual. Although m. Avodah Zarah is named after avodah zarah, its placement in the Mishnaic Order of Neziqin is not by accident. As is customary for that Order, this tractate is primarily concerned with economic issues, rather than with ritual ones. There is some regulation of ritual law in this tractate, but the discussion of avodah zarah is embedded in a more general discussion of the social and economic interaction between Jews and non-Jews. Part of the purpose behind Tannaitic discourse on ritual is to place various actions within their context to allow for interactions between Jews and any non-Jews they would come into contact with. In many ways, this tractate is primarily about describing the contexts for non-Jewish ritual behavior rather than about those rituals themselves. The fact that the Sages do not talk much about actual foreign ritual in the Mishnaic tractate dedicated to that topic is a powerful statement about their view on ritual. The discussion of contexts for rituals does still contain, however, ritual content, and this dissertation looks at that first.

The examination and establishing of plausible contexts for non-Jewish ritual behavior helps to explain why there are discussions in this tractate of activities and items which are not immediately identifiable as religious or ritual. These can be divided into two categories: things which are “forbidden” (אסורין), and things which are “forbidden for benefit” (אסורין אסור הנאה). In this context, something which is “forbidden” means that Jews...
can take no part in it. Something which is “forbidden for benefit” is something they cannot sell or use for monetary gain. What are being regulated in Mishnah Avodah Zarah are not so much the rituals and the Jewish interaction with them, but the economic world and concerns which derive from those interactions—the contexts associated with ritual activity. From this perspective, Mishnah Avodah Zarah is not actually very concerned with regulating Jewish interactions with non-Jewish ritual. This is in contradistinction with Mishnah Sanhedrin and Tosefta Avodah Zarah, both of which are very concerned with ritual interactions.

Sacred Space and Commerce

The very first discussion in this tractate is on non-Jewish festivals and the fairs associated with it. Because these festivals and fairs were associated with non-Jewish gods, they were one of the most obvious contexts for non-Jewish ritual. In addition, they were places of commerce, and so one of the places where Jews and non-Jews would interact.

I. It is forbidden to buy and sell with non-Jews for three days before their festivals.

II. [It is likewise forbidden] to contract business transactions with them,
   A. to lend to them
   B. or to borrow from them,
   C. [or] to collect payment from
   D. and to be collected from.

III. R. Judah says, One may collect payment because it is grievous [to him]

---

246 Idiomatically, the Hebrew here has the sense of reciprocal interactions, as in borrowing or negotiating. I have chosen to translate it this way in order to highlight the economic nature of this distinction.
IV. They said to him, although it is grievous now, he will rejoice later.

לפניך אידיהן של הימים אסור נשאת ולהות מנחת. לפניך אידיהן של הימים.

The word for festival appears in parallel passages in two different variants, אידיהן and עידיהן, although the Mishnah manuscripts have only אידיהן. Elmslie argues that אידיהן is correct, and connects to the Latin *Idus*, seeing this as a loanword from Latin. On the one hand, Latin terms in the Mishnah generally refer to military or legal terms. On the other hand, two of the festivals actually discussed in this section of m. Avodah Zarah (Saturnalia and Calends) clearly derive from the Latin. There is also a potential Arabic cognate, which refers to the periodic nature of the festivals, and is spelled with an ‘ayin.

Because ritual and religious institutions were also civic institutions in the ancient world, a civic event such as a fair would be a place where there would be a context for the worship of *avodah zarah*. These contexts are part of what make the Sages so leery of these events. This illustrates why this tractate is more concerned with the where and when of non-Jewish ritual than with definitions and discussions of the actual ritual activities. The emphasis on finding contexts helps to explain why the definition for worshiping *avodah zarah* is not found here, but in m. Sanhedrin, discussed in chapter 5. Even there, the definition is based on general assumptions about ritual in the ancient world which they shared with their non-Jewish neighbors.

247 For convenience, the Hebrew is reproduced below each translation. The Hebrew for the Mishnah comes from the Kaufman manuscript.
248 The Babylonian Talmud for this tractate begins with a discussion of the two traditions of these words, and resolves the difference with a reference to two different similar sounding words. b. Avodah Zarah 2a.
Because a festival was usually set up in the honor of a deity, and therefore a portion of the funds spent at the fair would go towards the deity, Jews were forbidden to interact economically with non-Jews for three days before the festival:

I. “R. Ishmael says,
   A. “Three days beforehand,
   B. and three days after their festivals,
      1. they are forbidden [to engage in commerce].”
   C. But the Sages said, “Before their festivals it is forbidden.
      1. After their festivals it is permitted” (m. Avodah Zarah 1:2).

By thus restricting when and where the Jews were permitted to trade, the Sages could ensure that the Jews were not supporting the worship of *avodah zarah* by attending a fair. Note that the halakhah of the anonymous Sages is less stringent than that of R. Ishmael. This discussion also illustrates that, according to the halakhah, the Jews did not need to be necessarily isolated from the cultural and economic movements around them. They were not living in their own world, with interactions with Jews only. It was the pragmatic need for interactions with non-Jews that necessitated the need for these discussions on non-Jewish ritual occasions.

The Mishnah then turns to the enumeration of what festivals the law is primarily discussing:
I. These are the festivals of the nations:

A. Calends,
B. Saturnalia,
C. Qartesim,
D. and the day of the genesia of the emperors,
E. the day of the birth
F. and the day of death.

II. These are the words of R. Meir. (m. Avodah Zarah 1:3)

ואלו אידיהן של גוים. קלנדס. וסטרנלייה. וקרטסיס. ויום גניזי סיא שלמלכים. ויום הלדה. ויום המיתה. דברי רבי.

The identification of the named festivals in m. Avodah Zarah 1:3 has a long history of scholarly discussion. Some, such as the Calends or Saturnalia are not really in dispute. On the other hand, the question of what is precisely meant by qartesim and genesia presents more difficulties. The presence in the list of two immediately identifiable imperial level festivals suggests that the other named festivals would also be on the imperial level, rather than simply associated with whatever local cults were practiced in Roman Palestine during the period of the Sages.

253 See the discussion in Zeidman, Tosefta Avodah Zarah, 243, and especially 341ff..
254 Lieberman contends that although the Sages knew Greek, they were not familiar with Latin, “except for military and judiciary terms.” Lieberman, Hellenism, 17. This accords well with the observation that the Sages are concerned primarily with external unavoidable rituals. The terms which they use in Latin derive from the Latin which the Sages would have interacted with most often, namely the legions and the immediate government.
Lieberman connected qarṭešim to Greek κράτησις, and notes that this Hebrew word is only found in the Mishnah and the Tosefta.\textsuperscript{255} He then notes that both Talmuds identify this festival as commemorating “the day on which Rome seized an empire.”\textsuperscript{256} Following Lieberman, Zeidman suggests that this festival commemorates Octavian’s final victory against Mark Antony on August 1, 30 BCE.\textsuperscript{257} Graf has shown the word is not attested as a festival name, and so must be being used descriptively. He then connects this descriptive term to festivals commemorating the accession of the Roman emperor, whoever it might be at the time. This festival is, therefore, part of the imperial cult in the Roman East.\textsuperscript{258} The oft-mentioned “imperial cult,” which refers to a conglomeration of various ritual activities throughout the Roman Empire, honored the emperor with various holidays and festivals including \textit{“the emperor’s birthday, the anniversaries of his accession and major military victories, and other notable occasions.”}\textsuperscript{259}

The \textit{genesia} is also traditionally held to refer to the birthday\textsuperscript{260} of the emperor, but there is not a strong scholarly consensus on this point. S. Lachs and Urbach both argued separately that, based on the traditional reading of the text, the \textit{genesia} mentioned in this tractate was a single festival in honor of both the emperor’s birthday and commemorating his death.\textsuperscript{261} This idea is rejected by Zeidman, who argues for two separate and distinct

\begin{itemize}
  \item \textsuperscript{255} Lieberman, \textit{Greek}, 9–10.
  \item \textsuperscript{256} y. Avodah Zarah I.2, 39c and b. Avodah Zarah 8b, cited in Lieberman, \textit{Greek}, 10.
  \item \textsuperscript{257} Zeidman, \textit{Tosefta Avodah Zarah}, 343.
  \item \textsuperscript{258} Graf, \textit{Roman Festivals}, 117.
  \item \textsuperscript{260} This Hebrew is derived from Greek γενέσια. Mark 6:21 has an example of this term in a Jewish Greek text which is roughly contemporaneous to the Mishnah where it refers to the birthday of Herod. For Mark as Jewish text see Daniel Boyarin, \textit{The Jewish Gospels: The Stories of the Jewish Christ} (New York: The New Press, 2012).
  \item \textsuperscript{261} S. Lachs, “A Note on Genesia in in Abodah Zara I.3,” \textit{JQR} 58, 69; Urbach, “Rabbinical Laws,” 240.
\end{itemize}
fests. Graf, however, shows that birthdays, not just of the emperor, but of the entire imperial household, were celebrated throughout the Roman Empire. This then, helps to explain that, contra Urbach, “the day of birth” and “the day of death” are not explanatory glosses on genesia, but refer to festivals celebrated for other members of the imperial household.

The discussion which these festivals generate shows that although the primary purpose of the Sages is to establish contexts for non-Jewish ritual, their unstated assumptions create difficulties for present-day scholars to know precisely what is going on. The festivals mentioned in m. Avodah Zarah are, however, easily placed into the broader world of Roman imperial culture, even where it is not possible to identify the rituals beyond reasonable doubt.

The general discussion of festivity then turns to one of the specific elements of discussion of foreign ritual in m. Avodah Zarah:

III. But the Sages said,

A. “Any death that has fire, has in it avodah zarah.

B. Any in which there is no fire, does not have in it avodah zarah,” (m. Avodah Zarah 1:3)

This mishnah contains one place where the collocation avodah zarah refers to a foreign ritual rather than to a physical image. The “death where there is burning” seems to refer

262 Zeidman, Tosefta Avodah Zarah, 347.
263 Graf, Roman Festivals, 119–120.
264 Graf, Roman Festivals, 122.
here to the Roman practice of deifying their emperors upon their death, especially given
the discussion of the “day of the death” just before it. The imperial ceremony signifying
the ascension of the Roman emperor among the gods\textsuperscript{265} was the lighting of a fire, and the
releasing of a bird to represent the emperor’s new status.\textsuperscript{266} The Sages know, therefore, of
an imperial ritual, and they are enough aware of it that they are able to make distinction
between two separate types of funerals, and recognize which one would be the more
problematic from a Jewish perspective. Both the Jerusalem and the Babylonian Talmuds
do not accept this reading, and suggest that this has to do with the burning of objects at
the funeral of the wealthy. The connection between the listed imperial festivals,
especially the \textit{genesia}, suggests that this does in fact refer to \textit{apotheosis} of the emperors,
as the distinction between there being the worship of \textit{avodah zarah} or not because of
burning is more meaningful in that context.\textsuperscript{267}

Because festivals were ritual and cultic affairs, the space where this happened
could be treated as sacred space.\textsuperscript{268} M. \textit{Avodah Zarah} 1:4 addresses this problem by
attempting to control Jewish access to the space in which the festivals occur:

I. “Concerning a city that has in it an \textit{avodah zarah}:
   A. Its outskirts are permitted [for business].

II. If its outskirts have an \textit{avodah zarah}:
   A. Its center is permitted [for business].”\textsuperscript{269}

\textsuperscript{265} The mythological prototype of this action was the ascension of Romulus, worshiped by the Romans as
Quirinius. It was an already established practice by the closing of the Mishnah circa 200 CE. Spencer Cole,
\textsuperscript{266} Robert Price, “Noble Funerals to Divine Cult: The Consecration of Roman Emperors,” in \textit{Rituals of
Royalty: Power and Ceremony in Traditional Societies}. Ed. by David Cannadine and S. R. F. Price
\textsuperscript{267} Elmslie, \textit{Aboda Zara}, 23.
\textsuperscript{268} For a discussion about the use of private space for ritual activity see Pauline Schmitt Pantel, “De

88
Remembering that in the Mishnah, the phrase *avodah zarah* refers to an image, this law divides the city into two parts, the center and the outskirts, and then if there is only an *avodah zarah* in one of those two places, the other is permitted. Ritual space is constrained and limited to the immediate surroundings of the image and the cult which surrounded it.

As part of its delimitation of contexts where non-Jewish ritual would be practiced, m. Avodah Zarah 1:4 proceeds to ask about travel through the controlled space:

I. “[When] is it permitted to travel to there?

   A. When it is a unique road to a single place, it is forbidden.

   B. But if one is able to travel in it to another place, it is permitted.

This law is basically structured around the question of whether or not one could reasonably construe a Jew’s travel as being toward the *avodah zarah* (presumably for the purpose of worship) or if it could be to another place. If the road only goes to the *avodah zarah* then the presumption is always that the travel is toward the *avodah zarah*, and that this would be a reasonable context to assume non-Jewish ritual behavior. This plausible context then provides the reasons for permitting or forbidding travel to the city.

In this section, the reference to a “city that has within it *avodah zarah*” in 1:4 must refer to a fair or festival being put on by the city, rather than to the presence of a

---

269 Elmslie connects this travel with the collection of the *octroi*, a tax levied on food and drink in the Roman Empire. Elmslie, *Aboda Zara*, 6.
shrine to a non-Israelite god within a given city. This point has been made by Z. Safrai, and was also taken up by the Talmud Yerushalmi, which specified that this was, in fact, still referring to a town with a fair. This passage represents, then, another place where the collocation _avodah zarah_ is used to refer to an example of foreign worship and not specifically to an image.

This mishnah should not be read, therefore, as a blanket rule about cities which have images in them. In the context of the Roman world, where even in Roman Palestine most cities would have images (even in the absence of a formal shrine), a law to this effect would be effectively meaningless. Were a law forbidding Jews to travel toward anywhere where there was an image taken to its logical conclusion, a Jew would be unable to travel anywhere at all. Context demands, therefore, that this passage refers to the presence of a fair or festival dedicated to a non-Jewish deity being practiced within the limits of a city. The law here then refers to whether or not the Jew can travel without appearing to take part in the ritual festivities.

The Mishnah then speaks of adorned and unadorned shops:

I. **“Concerning a city that has in it an _avodah zarah_**

A. which has shops which are adorned

B. and others which are not adorned:

   1. This was the case in Bet Shean.

---


271 An example of this may be seen in the famous anecdote of Rabban Gamliel in the bathhouse of Aphrodite in Acco, which appears later in m. Avodah Zarah 3:4. This aggadic story will be discussed in greater depth later in this chapter.

272 This is not even to mention the presence of _herms_, which were set up as markers and guardians of wayfarers (these are referred to in m. Avodah Zarah as _merqolis_ and are discussed extensively later in the dissertation, especially in chapters 8 and 12).
C. The Sages said:

1. Those adorned are forbidden
2. and those not adorned are permitted. (m. Avodah Zarah 1:4)

The mishnah again refers to a city which is having a festival. What the Mishnah means by adornment is somewhat obscure, although the Sages are able to cite a specific example from the town of Bet-Shean. The law becomes clearer under the assumption that this is still speaking of a town during a festival. The adorned shops are, therefore, those shops which are celebrating the festival and taking part in the rituals of avodah zarah.273 The unadorned shops are those which are not participating.274 In the ritual discourse of the Sages, every non-Jew is not engaged in ritual, and especially not in proscribed ritual, at every moment. This is an important consideration, as it is one of things which allowed Jews to live in a society which was surrounded by images and foreign cults. This should not be seen as accommodation or some kind of notion that the Sages were somehow lenient with regard to non-Jewish ritual for economic reasons. The Sages discourse on the rituals of their neighbors was a complex negotiation of the intersection of the ideal of Exodus 20 and the world in which they lived.

The next mishnah makes reference to specific items associated with ritual in the Graeco-Roman world:

273 Elmslie, *Aboda Zara*, 7
274 Compare this to the statement in Tertullian *De Idolatria* XV, where he commands Christians to not adorn their doors with laurels and lamps.
I. These are the things which it is forbidden to sell to non-Jews:

A. fir-cones,

B. white figs [on] their stems,

C. frankincense,

D. and a white rooster.

1. Rabbi Judah permits one to sell a white rooster in a group with other roosters.

2. But when it is by itself: cut off its spur and sell it.

3. This is because they do not offer up defective animals to an avodah zarah, (m. Avodah Zarah 1:5).

The animal mentioned in this section is a white rooster, which is generally forbidden, but may be sold in a mixed bunch, or with its leg broken.277 This mishnah references regulations in the foreign cults which often dictated those animals that were and were not approved for sacrifice.278 In particular, Rabbi Judah’s statement seems to indicate at least the appearance of some knowledge of non-Jewish cultic regulations, especially in the realm of sacrifice. The frankincense, the fir cone and the figs also appear to have been

---

275 Hebrew איצרובילין from Greek στρόβιλος
276 The Babylonian and Palestinian versions of this text differ from one another in the understanding of this term. Danby has “white figs with their stalks,” (Mishnah 437). According to Hayes, following Lieberman, this actually refers to two different kinds of figs, with phrase “on their stems” being an explanatory gloss. Hayes, Babylonian and Palestinian Talmuds, 50–53.
277 The white rooster is to be differentiated from the black animals which were sacrificed to Hades and the chthonic gods.
part of the general knowledge on the part of the Sages about non-Jewish rituals. They were familiar enough to the Sages to allow them to regulate gaining benefit from possible non-Jewish rituals.

M. Avodah Zarah 1:6 invokes custom (and therefore “sacred laws”):

I. In a place where it is customary\(^{279}\) to sell small cattle,
   A. one may sell them.
   B. In a place where it is not customary,
      1. one may not sell.

II. Let no man change [the custom] on account of dissension.\(^{280}\)

III. And in every place, one may not sell large cattle to them:
   A. [whether] calves or foals,
   B. whole or maimed.\(^{281}\)
      1. Rabbi Judah permits it if they are maimed,
      2. and Ben Betira permits in the case of a horse.

Large cattle are always forbidden. In their discourse on ritual, whether their own or others, the Tannaitic Sages recognized certain universals, and so the Mishnah forbids certain animals which would have been customarily considered to be part of a

---

\(^{279}\) Hebrew \(\text{הנבא} \)\n
\(^{280}\) I.e. in order to not create dissension. This line is present in the Kaufmann manuscript, but is not in many other witnesses.

\(^{281}\) The Mishnah here specifies that all types of large animals are forbidden, not matter their age or condition.
Each individual shrine would have its own sacred laws concerning the sacrifice of smaller animals, and so the appropriate custom of the area creates the halakhah. Whether or not the Tannaitic Sages knew what the local custom was, this law claims knowledge of local custom for those Sages. Thus, the Sages in any given area are presumed to be aware of the animals which were regularly sacrificed in the various local cults, and so the regional custom would have been set accordingly. Rabbi Judah once again allows it if the animals were damaged, since this would, for polytheistic cults, much as it would for the Temple cult, disqualify them for use as sacrificial animals.

Mishnah 1:7 discusses public building projects. These projects represent Jewish interactions into the public sphere and not specifically places of foreign ritual, although they certainly could have foreign ritual take place within them.

I. One may not build with them [i.e. non-Jews]
   A. basilica,
   B. a scaffold,
   C. a stadium,
   D. or a stand for public speaking.

II. But one may build with them [i.e. non-Jews]
   A. Public bath-houses

---

282 See my discussion on m. Sanhedrin 7:6 and sacrifice in chapter 5.
283 The Sages are much more likely to have this kind of knowledge of local custom than they are to be aware of practices happening in the major temples in the large cities of the Roman Empire.
284 Hebrew בסילקי
285 Hebrew דימוסיאות, from demasion. Here the Mishnah ventures off for a little bit into a related halakhah. The theater and the pedestal, in addition to their other uses, could also be used for worship and ritual, and so it is not too much of a stretch, but it does not hew closely to the over-arching topic.
286 There is some textual difficulty in this word. The Palestinian text type has דימוסאות, from demesion. Some of the Babylonian texts have בסיטא which would indicate pedestals. Elmslie, Mishna Aboda Zara, 13–14; Rosenthal, “Mishna Avoda Zara,” 17.
B. and bath-houses.  

III. If any of these buildings have a niche which has in it an *avodah zarah*,

A. it is forbidden to build it, (m. Avodah Zarah 1:7)

Although these places are not necessarily places for the worship of *avodah zarah*, they are contexts in which non-Jewish ritual could be reasonably inferred to be practiced. For one thing, all of these buildings are associated with imperial power. In spite of their not being specifically sites of *avodah zarah*, which is to say formal shrines, they are still regulated because of the legal possibilities. Anything with a nave or niche with a specific spot for an image is forbidden, even if the building is normally allowed, as that would explicitly turn the intention of the building toward the worship of images. This section is another nuancing of Tannaitic pragmatism—building, even buildings of imperial import could be build, but the line was drawn at actually building a place for an image. Tannaitic pragmatism was not the same as condoning non-Jewish worship. Indeed, Mishnah is primarily concerned with these types of *avodah zarah*. It is not very concerned with policing Judaism relating with formal foreign worship, but with the fact that foreign worship was going on around them at all times. It is these regular, continuous examples of foreign worship which the Mishnah is most worried about.

---

287 In this divvying up of building projects which are approved and disapproved, many of the buildings come as no surprise, such as the scaffold. It is not specifically part of the worship of *avodah zarah*, but it is a hated reminder of Imperial control and hegemony. Bathhouses are discussed in more detail later in this dissertation.
Ornaments and Images

M. Avodah Zarah 1:8 relates once again to commerce, and to the practice of adorning images. This entire phrase is textually problematic, at least in part because of the permission of Rabbi Eliezer to sell ornaments for profit. It is not present in Kaufmann 40, but is present in the Babylonian textual tradition.\(^{288}\)

I. One may not make ornaments for an *avodah zarah*:
   A. either a chain,
   B. or an earring,
   C. or a ring.\(^{289}\)

II. Rabbi Eliezer said,
   A. If it is for profit, it is permitted.

 Archaeologists have found a number of images with holes in them so that necklaces and other adornments could be fixed to the image, and it is these that the Mishnah likely references.\(^{290}\) Rabbi Eliezer makes the observation that it is appropriate to make jewelry to adorn an image if the motive and intent are for profit only. Rabbi Eliezer’s exception is a surprising one, and it was astounding enough that it was removed from certain copies of the Mishnah.\(^{291}\) As we shall see in the discussion of m. Sanhedrin 7, in chapter 5,

---


\(^{289}\) Although this could be intended to refer to votive offerings, the context of the rest of passage suggests that these are being conceived as part of the appurtenances of the cult.

\(^{290}\) Although stone and metal images are of course more common finds in the archaeological record, there is substantial evidence for wooden images, especially in early periods, but extending into the Hellenistic and the Roman period. See Irene Bald Romano, “Early Greek Idols: Their Appearance and Significance in the Geometric, Orientalizing and Archaic Periods,” *Expedition* (1982): 3–13, 5.

\(^{291}\) Urbach, “Rabbinical Laws,” 158.
interactions with the images themselves are not as punishable as activities which were part of the general idea of ritual.

One of the guiding principles in the formation of the mishnaic halakhah on non-Jewish ritual is the legal suspicion held by the Sages for the activities and rituals of non-Jews. Mishnah Avodah Zarah 2:1 presents non-Jews as suspect in matters of rape, bestiality and murder:

I. One may not stable an animal in the inn of non-Jews
   A. because they are suspected [of bestiality] concerning the animal.

II. One may not leave a woman with them,
   A. because they are suspected concerning sexual immorality.

III. One may not leave a man with them,
   A. because they are suspected concerning bloodshed.

This is far beyond any kind of ritual connection, but it helps to explain why there is such a concern about ritual—the rituals of non-Jews were an expression of their non-following of Yahweh, and they are, therefore, suspect. The term which is above translated as “suspected” is Hebrew חשוד (hašūd). This word refers to suspicion in general, and can include false suspicion. It has a negative valence in Mishnaic Hebrew. This is an idea which is in continuity with the extreme covenant piety towards Yahweh which the

293 Hebrew פונדקנית, from Greek πανδοχεῖον.
Hebrew Bible enjoins upon Israel, especially in Deuteronomy. The essential immorality which the Bible ascribed to the Canaanites was transferred to other non-Jews after the biblical period, and so was the essential immorality which the worship of gods besides Yahweh is supposed to entail. This distrust is the matrix in which these halakhah foment.\(^\text{295}\)

It is difficult to see any kind of religious or even ritual significance in the following law from m. Avodah Zarah 2:2:

I. “One does not have one’s hair cut by them in any place.

   A. This is the opinion of R. Meir.

II. But the Sages say:

   A. In a public place, it is permitted

   B. but not if it is just between the one and the other [i.e. the Jew is alone with the barber].”

The relationship between a Jew and a non-Jewish barber is not one of ritual or one where the worship of the God of Israel would be in question. Simply put, it has nothing to do with *avodah zarah*, as such, but only with a general legal suspicion of non-Jews.\(^\text{296}\)

According to Jacob Neusner, this very mistrust is *sine qua non* for all of the discussion in m. Avodah Zarah, and therefore for rabbinic discussion of non-Jewish ritual.\(^\text{297}\) Although, as the above passage clearly indicates, this mistrust could shade over into a moral


\(^{296}\) The Babylonian Talmud at b. Avodah Zarah 29a assumes that the barber might cut off the forelock and offer it as a dedicatory sacrifice. This section does not generate much discussion in the Talmud.

\(^{297}\) Neusner, *Performing Israel’s Faith*, 74–75.
dimension, the general purpose of m. Avodah Zarah is to regulate Jewish interactions within plausible contexts for non-Jewish ritual.

Avodah Zarah 2:3 continues the process of defining these contexts by discussing objects which could have ritual uses:

I. These are the things of the non-Jews which are forbidden and forbidden for benefit:
   
   A. wine,
   
   B. and the vinegar of non-Jews that began as wine,
   
   C. Hadrianic earthenware
   
   D. and hides pierced at the heart.

1. Rabban Shimon ben Gamliel says:

   a. When [the hole] is circular it is forbidden,
   
   b. but when it is lengthwise it is permitted.

M. Avodah Zarah actually regulates wine in greater depth later on in the tractate. It is difficult to see how these four items are related, unless they are related because of ritual use.

   The Hebrew term for the hides pierced at the heart is לבובין which is usually understood as a demonstrative coming from לב, or “heart.” It refers, therefore, in some way to action related to the heart. The following reference to the type of hole, suggests
that this verb refers to some kind of piercing or cutting action near the heart. Thus, it is generally considered that the circular hole refers to a hide from an animal where the heart has been removed while the animal is still alive. The difficulty with this interpretation is that no such ritual has survived from the ancient world in a Greek, Roman or Semitic context, although that does not automatically remove it as a possibility. The usual method of animal sacrifice in the Greek and Roman world was by the slitting of the animal’s throat. Elmslie suggests that this might refer to bull-slaying ritual of the mystery cult of Mithras, although he also notes “it must be left doubtful whether the tearing out of the heart…is an imaginative guess of the [Talmud Yerushalmi], or an actual part of the Mithraic ritual of which we have otherwise no record.” Lieberman cites Clement of Alexandria, who speaks of “the extraction of the heart,” in the worship of Demeter, Attis and Cybele. The attempt of both Elmslie and Lieberman to connect this section to practices in different mystery cults illustrates the difficulties in using the Mishnah as a historical source about Graeco-Roman ritual. The Mishnah makes a rule about a ritual practice, but it is not a practice which survives into the modern record. In a somewhat ironic turn of events, modern scholarship is here looking for a context for an obscure rabbinic turn of phrase. There is no specific ritual behavior with which these hides can be definitely linked.

The next part of m. Avodah Zarah 2:3 contains an explicit reference to rituals involved in the worship of *avodah zarah*:

II. Flesh brought in to an *avodah zarah* is permitted

---

A. but [if] brought out it is forbidden because it is [as] the sacrifices of the dead. This is the opinion of R. Akiva.

If meat is eaten from flesh being brought to an image of a non-Jewish deity it is permitted, because it is, at that point, simply meat, no matter what the intention is. On the other hand, coming out from the shrine, it may not be eaten, being considered to be “the sacrifices of the dead.”

The remainder of the second pereq of Mishnah Avodah Zarah is largely taken up by these concerns of food, and the culinary aspects and difficulties of being involved in the world of non-Jews. It is not always clear from the text why these particular items are discussed in this tractate, but there presence illustrates a primary notion behind Tannaitic discourse on non-Jewish ritual. The first is that m. Avodah Zarah contains much discussion of material that is not avodah, as such. It is instead concerned with looking for plausible contexts for non-Jewish ritual, and finds them in these foods, even if we are unable to see the significance.

Chapter 3 contains some clearer examples of non-Jewish ritual, and the Tannaitic discourse on them. Specifically, it begins by giving a reason why images are forbidden:

I. All images are forbidden,

A. on account that they are worshiped [at least] once a year.

1. This is according to R. Meir.

---

B. But the Sages say, “None are forbidden except any that that has in its hand

1. a staff,
2. bird
3. or globe.

C. Rabban Shimon b. Gamliel says, “Any that has anything in its hand.”

(m. Avodah Zarah 3:1)

R. Meir’s position represents the widest prohibition of images in the Mishnah. As is usually the case with the opinion of R. Meir, it is overturned by the Sages, who only forbid any image “that has in its hand a staff, bird or globe.” Some scholars have attempted to connect this to specific deities, usually deities of imperial power such as Jupiter, but Elmslie and Hadas-Lebel have both shown that these iconographic elements are associated with numerous deities throughout the Greek, Roman and Semitic religious worlds. The sheer variety of polytheistic iconography is apprehended by the dicta quoted in the name of Rabban Shimon b. Gamliel: “Any [image] that has anything in its hand [is forbidden].”

The rulings of R. Meir on the one hand and the Sages and Rabban Shimon b. Gamliel on the other, provides a spectrum of opinion of the how and why images are

---

forbidden. These dicta are based on similar, but different theoretical propositions. R. Meir’s is a very action-focused perspective—it is the ritual activity which defines whether or not an image is prohibited. For R. Meir, all images of any kind are worshiped at least once a year, and this ritual veneration means that every image qualifies as *avodah zarah*. R. Meir’s opinion is independent of any actual practice by non-Jews. For the Sages, although ritual remains in the background, the question is one of iconography—what does the image represent? It is a very pragmatic approach to the question, especially in a world which is as saturated with images as the world of Tannaitic Judaism was. The opinion of R. Shimon b. Gamliel splits the difference between that of R. Meir and that of the Sages. Although the Sages’ list (staff, bird, or globe) covered a wide number of deities’ distinctive iconography, there were elements which it did not cover and R. Shimon’s opinion addresses those. The logic here is essentially because images which are worshiped have items in their hands as elements of iconography, all images which hold items in their hand are rejected as potentially representing forbidden objects of worship. This problem will examined more fully in chapter 10.

From this point, the Mishnah moves to questions about fragments and pieces of images:

I. “[The law concerning] the finder of the fragments of an image.

A. Indeed these are permitted” (m. Avodah Zarah 3:2).

המציא שברי צלמים. הרי אלו מותרים.

The first part of the law refers to broken pieces of images, which are recognizable as coming from an image (if they were not recognizable, there would be no issue). Although
the Mishnah allows, generally speaking, fragments of images to be used by Jews, it then
draws out specific examples which are forbidden:

II. “The one that finds the shape of a hand [or] the shape of a foot,

A. these are indeed forbidden, on account when one goes out with them, it
is worshiped.”

These images have several possible referents.\textsuperscript{307} The practice of offering up votive
images of hands and feet offered up to Asclepius and other deities in thanks for healings
is well-known.\textsuperscript{308} Hadas-Lebel points to an image of Serapis, discovered in the past
century, that has the god surmounting a giant foot.\textsuperscript{309}

M. Avodah Zarah 3:3 addresses inscribed images on vessels:

I. “[As for] the finder of vessels [which have] upon them

A. a figure of the sun,

B. a figure of the moon,

C. the figure of a \textit{drakon}:

D. convey them to the Dead Sea” (m. Avodah Zarah 3:3).

These images are to be carried to the Dead Sea and thrown in. This is the preferred
method of destruction for images in this tractate. The process of throwing something in

\textsuperscript{308} Arthur Bernard Cook, “Greek Votive Offerings,” \textit{Folklore} 14 (1903): 260–291, 266.
\textsuperscript{309} Hadas-Lebel, “Le paganisme,” plate II.
the Dead Sea meant that not only was it irretrievable, but it provided no benefit at all, not even as manure or mulch. It simply sank to the bottom of sea where nobody, Jew or non-Jew, could derive any sort of benefit from it.

Of the three images on the vessels specified in this section, two offer few problems, while the last is not as immediately obvious. The *drakon*, or dragon, may also be an astral representation, like the sun and the moon, referring to the constellation which we now call *Draco*. If this is the case, then its association with the sun and the moon in this passage makes sense and helps to clarify the kinds of images which the Mishnah is concerned with.

The vessels are further characterized by the value of the materials from which they were made—valuable objects are forbidden, while ones without value are permitted (m. Avodah Zarah 3:3).

The Mishnah then turns to a famous aggadic example of dealing with image, and especially with their embeddedness in the Roman world which the Jews inhabited:

I. “Proclus, son of Philosoph,**310** asked Rabban Gamliel in Akko, when he was washing in the bathhouse of Aphrodite.**311**

II. He said to him,

---


311 Hadas-Lebel connects this deity with a Semitic goddess Atargatis, seeing this as a local normalization of the deity: “Ainsi c’est probablement une Aphrodite très sémitisée qui est railleé par R. Gamaliel dans les thermes d’Acre,” Hadas-Lebel, “La paganisme,” 403. The presence of Semitic images in bathhouses is unattested, but Greek Aphrodite was associated with bathing and bathhouses. Therefore, although most forms of Aphrodite which would have been encountered in Roman Palestine would likely have been semiticized, images encountered in a bathhouse would likely be associated with a classically-styled Aphrodite. The cult of Aphrodite is attested at Acco. Donald T. Ariel and Natalie Messika, “Finds from the Hellenistic ‘Favissa’ at ‘Akko-Ptolemais,” Atiya 57 (2007): 11–20, 17.
A. “It is written in your Torah,

1. ‘And there shall not cling to your hand any part of the ḥerem.’

2. Why then are you bathing in the bathhouse of Aphrodite?”

III. He said to him, “There is no answering [of scriptural questions] in a bathhouse.” (m. Avodah Zarah 3:4)

This particular aggadic story has garnered much scholarly discussion because it presents an excellent example of the interactions between the Jews and polytheists (real and imagined). It also gives further insight into how the Sages discoursed about ritual. The story is presented as a give and take between one of the Sages (who is also connected to the patriarchate, and therefore to Roman power) and an individual who may derive from the class of philosophers. The philosopher has a decidedly Greek name, but is able to

312 This is, of course, the same verse quoted above for the discussion of how to deal with images. There is obviously some technical meaning of ḥerem being employed here.

313 Seth Schwartz, “Rabban Gamliel in Aphrodite’s Bath: Palestinian Judaism and Urban Culture in the Third and Fourth Centuries,” in *The Talmud Yerushalmi and Graeco-Roman Culture I*, (1998), 203–217. Much of the scholarship on this story is concerned with the historicity of this particular story, and therefore who the two interlocutors actually were. M. D. Herr, “The Historical Significance of the Dialogues between Jewish Sages and A. Wasserstein, “Rabban Gamliel and Proclus the Philosopher”. While such studies have their uses, for the present discussion, only the literary remains are sufficient to discuss the Sages’ view of avodah zarah.
quote Torah to Rabban Gamliel.\textsuperscript{314} Rabban Gamliel escapes answering immediately by observing that the bathhouse was hardly the place for such discussions.

The story continues with Rabban Gamliel’s response:

IV. “After they had gone out, he said to him,

A. “I did not come into her borders, she came into my borders.

1. They do not say ‘Let us make a bathhouse to beautify Aphrodite,’

2. but rather they say, ‘Let us make Aphrodite to beautify a bathhouse’” (m. Avodah Zarah 3:4).

The answer which Rabban Gamliel gives is based on a conception of images that defines their appropriateness in terms of cultic contexts. Rabban Gamliel is rejecting the idea that the mere presence of an image of Aphrodite turns the bathhouse into sacred space. It is not the domain of Aphrodite, but rather of Gamliel (here representing humanity in general), and Aphrodite is an interloper into the quotidian domain. In fact, Rabban Gamliel argues that the intent for which the image was made determines its appropriateness in a Jewish context. The bathhouse was not intended to be a temple, and

\textsuperscript{314} There may be a subtle polemic beneath the quoting of Torah on the part of Rabban Gamliel’s presumably polytheistic interlocutor, by implying that even the Greek philosophers were conversant with the laws of the Jews. Although it is clear that figures such as Moses and Abraham were known to non-Jews in this time period, a non-Jew being able to quote from Deuteronomy to make his point seems unlikely, and moves this story firmly into the realm of aggadic discourse.
the image was not intended to be worshiped. It may be considered an adornment to the bathhouse, and Rabban Gamliel seems comfortable with allowing it in the bathhouse.

There is, of course, probably some pragmatism at play here, since without this pragmatism, Gamliel would be unable to bathe.

This answer does not quite satisfy, and the Mishnah, sensing this, provides an alternative explanation, although it is really simply another articulation of the underlying conception of sacred space and ritual:

V. "Another opinion:

A. Even if they give to you much wealth,

1. you would not set up an *avodah zarah*
   a. unclean
   b. and having had a seminal emission
   c. and urinate in its presence.

2. Yet this one is standing before the gutter and everyone urinates in its presence," (m. Avodah Zarah 3:4).

The other opinion is also related to ritual behavior. It states that even for money, a non-Jew would not enter into sacred space unclean, but does enter into a bathhouse unclean, in spite of the image of Aphrodite. According to this opinion, a bathhouse is not sacred space, and the image of Aphrodite which is placed therein does not render it so. This is,
many ways, a re-articulation of the former argument. If it were sacred space, Gamliel
suggests, non-Jews would not come into the bathhouse in states of uncleanness,\footnote{Most of the ancient Greek cults had some rules and regulations about cleanliness and ritual purity, although purity was never the major conception of priesthood that it was in ancient Israel (see Ezra 6:20) and ancient Egypt. See Robert Parker, \textit{Miasma: Pollution and Purification in Early Greek Religion} (Oxford: Oxford University Press, 1996).} and
neither would they perform acts which would be degrading to the image, such as
urinating in front of it. Because the non-Jews did not treat it as a ritual object, the image
of Aphrodite could be considered by the Sages to be a non-ritual object, and therefore it
would be appropriate to bathe in a bathhouse with such an image, because the bathhouse
is not a place of worship, and it is not being treated as such by the non-Jews. According
to the thesis of this dissertation, the Sages’ conception of what was and was not
appropriate behavior relating to foreign worship was also one where the context placed
upon by the non-Jews was an important part of the rhetorical discourse.

\textit{Place and Space}

The next mishnah deals with the problematic consideration of the worship of places and
natural objects—of \textit{gentii loci}, or the spirits of places:

I. “The non-Jews worship the mountains and the hills.

A. They [the mountains and the hills] are permitted,

1. but what is on top of them is forbidden, as it is written,

a. “You will not desire the silver and the gold that is upon

them and take it (Deuteronomy 7:25).”\footnote{The beginning of this verse (not quoted in this mishnah) references burning the “images of their gods.” This verse provides background for the idea of not receiving advantage from foreign gods, since the gold and the silver are forbidden to Israelites.}

B. Rabbi Yose the Galilean says,
1. “Their gods upon the mountains” (Deut 12:2),
   a. and not “the mountains, their gods.”

2. “Their gods upon the hills,”
   a. and not “the hills, their gods.” (m. Avodah Zarah 3:5)

Jews are permitted access to mountains and hills, even if non-Jews venerate them, although they are not allowed access to any of the mineral wealth, which is derived from a citation in Deuteronomy. Following this, Rabbi Yose observes that in the Torah, the gods upon the mountains are forbidden, and not the mountains themselves. This little bit of exegesis uses the preposition in the Hebrew to warrant the accommodation of a cultic practice which pervaded the ancient world.

From the discussion of the mountains, and whether worshiped mountains are acceptable, the Mishnah turns to discussing the asherah. There is a certain logic here, since asherah were also natural objects associated with non-Jewish cults:

I. “And why is an asherah forbidden?
   A. Because of the manipulation by the hands of men.
   B. [Thus it is] forbidden,” (m. Avodah Zarah 3:5).

---

317 The actual nature of the asherah is a much- vexed question, which I address more fully in chapter 11.
This particular law actually relates to the previous discussion on mountains. Mountains are permitted, even when they are worshiped, because they are part of the natural world. Asherah could take the form of natural trees or of man-made poles, but in either case they come from human intervention. Thus, they are not in the same category as mountains, which are permitted because of their natural setting. The Mishnah clarifies that asherah, even asherah that are natural growing trees, are forbidden because they are taken care of and manipulated by humans.

The recorded opinion of R. Akiva connects the asherah to other forms of non-Jewish ritual:

II. “Rabbi Akiva said,

A. ‘I will explain it to you.

B. Any place that you find a high mountain, lofty hill, or green tree

1. know that there is avodah zarah,” (m. Avodah Zarah 3:5).

R. Akiva’s opinion contains an allusion to Deuteronomy 12:2, which has already been quoted in this mishnah, when R. Yose the Galilean made his point about their gods upon the mountains, instead of their gods, the mountains. The three places where the gods are situated in this verse are “on every high mountain, on every elevated hill, and under every green tree,” a biblical collocation which represents a general condemnation of places
where Israelites were culpable for foreign worship. The verse, with its reference to both high mountains and green trees brings together both halakhic categories already mentioned in this passage. R. Akiva’s allusion to this verse highlights his interpretation, which is essentially that all of the previous discussions represent so much hair-splitting—foreign worship is so pervasive that it is found everywhere, so whether the tree is manipulated by human hands or whether the mountain itself is worshiped or not, it is still associated with the worship of *avodah zarah*.

The next section of this passage deals with the sharing of sacred space—specifically what happens when a polytheistic shrine and a Jewish home share a wall:

I. “Anyone that has a house supported by a house of *avodah zarah*,

A. and [the wall] falls down,

B. he is forbidden to rebuild it.

1. What then may he do?

2. He moves four cubits, and rebuilds.

C. What if the wall is both his and the *avodah zarah*’s?

1. We judge half and half.”

According to this law, the Jews are forbidden from providing any kind of support for an *avodah zarah*, to the point that if a wall between a Jewish house and a polytheistic shrine

---

318 See 1 Kings 14:23, 2 Kings 16:4, 17:10 as well as Je 2:20 and Is 57:5. As relatively common as this collocation is in the Bible, the fact that R. Yosi the Gallilean already quoted Deut 12:2, which also contains this collocation, suggests that this verse is the locus for R. Aqiva’s comment.
falls down, the Jew cannot rebuild the wall in the same place. He has to move it four cubits (about 7 and half feet) and rebuild it.

Following this, the halakhic category that an *avodah zarah* (referring to the image itself) falls into is explicated by the Mishnah. There is a disagreement whether an *avodah zarah* conveys uncleanness like a lizard,\(^{319}\) or like a menstruating woman.\(^{320}\) The first opinion is in the voice of the anonymous Mishnah:

I. “Its stones, its wood and its dust

A. cause uncleanness like a reptile, as it is written,

1. ‘You will utterly abhor them (Deut 7:26).’”

אבניו עציו ועפרו. מטמאין כשרץ. שנאמר (שם ז) שקץ תשקצנו

On one level the interpretation here derives from phonetic similarity between שֶרֶץ “unclean reptile” and וַעֲרָה “abhor.” The similarity in both form and meaning makes this connection very attractive. The reptile was one of the categories of uncleanness discussed in the Mishnaic tractate of Niddah. On the other hand, Akiva draws a conclusion about its level of uncleanness based on a similarity derived from the biblical book of Isaiah:

II. “Rabbi Akiva says,

III. “Like a menstruating woman,” as it is written,

A. “You will cast them away as a menstrual cloth\(^ {321}\), you will say to it,

‘Get out’ (Is 30:22).”

---

\(^{319}\) Hebrew שֶרֶץ

\(^{320}\) Hebrew נַעֲרָה

\(^{321}\) This incidentally shows why euphemistic translations can sometimes do a disservice. A number of translations, including the 1917 JPS have “unclean thing” for נַעֲרָה. R. Aqiva’s exegesis requires that its
B. Just as the menstruating woman causes uncleanness through carrying,

1. so also does *avodah zarah* cause uncleanness through carrying.”

The rest of the verse in Isaiah makes it clear that R. Akiva chose this verse as his text because it explicitly refers to cultic images:

“And you will desecrate the coverings of your silver images, and overlays of your golden cast images, you will scatter them like a menstrual cloth, you will say to it: Get out.”

Looking at the verse in Isaiah provides a helpful explanation for the genesis of R. Akiva’s exegesis. The characterization of the images as “menstruous cloth” provides the matrix for comparing images to that of a woman in the state of ritual impurity because of menstruation. In addition, the word which I have translated as “scatter” comes from ה/ר/ה, which although it is etymologically unrelated to the *zarah* in the collocation *avodah zarah*, the similar consonants were likely suggestive for this interpretation.

The halakhah of R. Akiva is the more stringent of the two, since the unclean reptile only conveys uncleanness by touch and not by carrying, while the menstruant conveys uncleanness both by touch and by carrying. Neither the menstruant nor the unclean reptile conveys uncleanness by overshadowing, which is primarily conveyed by

---

meaning of menstrual impurity be made explicit, because he is comparing an *avodah zarah* to *niddah* laws as explicated in other places in the Mishnah.

322 Hebrew פְסִיל
323 Hebrew מָסְכַּת
324 וְטִמֵאתֶם אֶת־צִפוּי פְסִילֵי כַסְפֶךָ וְאֶת־אֲפֻדּוֹד מַסֵּכַת זְהָבֶךָ תִזְרֵם כְּמוֹ וְהָדָה צֵא תֹאמַר לֹו
corpses and is the subject of tractate Oholot. The concern in this passage with placing images into categories of uncleanliness illustrates something about how the Sages viewed ritual (including foreign ritual). The polytheistic image must be placed within its proper Jewish category as part of the theoretical world-ordering. This drives home the point that the Sages’ category of ritual was a category which derived from their own world-view, and was used for their own argumentation. Although this may seem to be obvious, it is something which is vital to remember—when the Sages are talking about foreign ritual, they are not concerned with foreign ritual as such, but rather with foreign ritual as it relates to Jewish life and ritual. The discussion about non-Jewish ritual and plausible contexts for those rituals is part of a regulation on Jewish life and practice.

The next mishnah shows the Mishnah’s love for numbers and putting categories in numbers, which would aid in the memorization of the halakhah:

I. “There are three [kinds of] houses [relating to avodah zarah]:

A. the house that is built at the outset for avodah zarah,

   1. indeed this is forbidden.

B. Someone plasters and tiles it for avodah zarah and makes it new.

   1. One removes what is new
   2. [and the rest is permitted].

C. Someone brings into the midst of [the house] an avodah zarah and brings it out [again].

   1. Indeed this is permitted,” (m. Avodah Zarah 3:7).
These three categories are then repeated for a stone used as a pedestal and for a tree used as an asherah. This analysis will focus on the house, as it is the first named category, but the concepts apply equally to all three categories. The first kind of building is that which is built for the purpose of housing an avodah zarah. Because it is intentionally built for the purpose of housing a foreign image, it is completely rejected by the Sages. The sacred space implied by the presence of the image is essentially inviolate. The other two categories, however, show that this is not the case. In fact, the sacred space created by the polytheistic cult and images associated with them could be transient and ephemeral. After discussing the purpose-built shrine, the Mishnah considers a building which has been added to and upgraded as a polytheistic shrine. As long as it is in use as a shrine, it is obviously forbidden. If afterwards a Jew desires to use the building, he must remove all of the improvements which were made to the building, since they were part of converting it to polytheistic usage.

The final ruling has the most significance for the present study. If a polytheistic image is brought into a building and set up (and presumably worshiped) and then removed, the building is completely permitted. In the Jewish conception the sacredness (or lack thereof) of the foreign images is not contagious. They do not leave behind any residual characteristic in the house into which they are placed. It is not permanently transformed into sacred space simply by the bringing in of the image.
Obscure Objects in Mishnah Avodah Zarah: Asherah and Merqolis

Mishnah then turns again to a discussion of the *asherah*:

II. “What exactly is an *asherah*?

A. Any [tree] that has underneath it an *avodah zarah*” (m. Avodah Zarah 3:7).

In this definition, an *asherah* is not specifically worshiped—it rather represents a cultic appurtenance associated with another polytheistic image.\(^{325}\) One thing that is clear from the Mishnah’s perspective is that the *asherah* which the Sages are discussing is not a goddess, or even necessarily connected with the worship of a goddess, as it seems to be in many places in the Hebrew Bible. The Mishnah records, however, a differing opinion in the name of R. Shimon:

III. R. Shimon says, ‘[An *asherah*] is any [tree] that has those who worship it.’”

Here it is the tree itself that is worshiped. This is followed up by an aggadah about R. Shimon, where he puts his halakhah into practice:

I. “There is a story about an elm in Sidon that had worshippers and they found a heap beneath it.

II. R. Shimon said to them, ‘Search this heap.’

A. They searched it

III. He said to them, ‘Since they worship the figure’

A. [Therefore] the elm was permitted to them,” (m. Avodah Zarah 3:7).

R. Shimon completely overturns the halakhah of the anonymous Mishnah, which had previously defined an *asherah* as a tree with an image beneath it; for R. Shimon it is only forbidden if the tree itself is worshiped. The Mishnah does not resolve the difference between the two opinions— one of the characteristics of the Mishnah in particular is its willingness to preserve more than one opinion.\(^{326}\)

The next few *mishnayot* deal with practical considerations associated with the *asherot*, specifically with when and how a Jew may make use of wood and products from an *asherah*, however it is defined:

I. “One does not sit in its shade,

A. and if one does sit,

1. he is ritually impure.

B. And one does not pass underneath it,

1. but if one does pass,

   a. he is unclean,” (m. Avodah Zarah 3:8).

The Mishnah here is explaining and clarifying another element of into the discussion of the contagiousness of uncleanness. The shade of an asherah was considered part of its constituent parts, and so it transfers its uncleanness to anyone who so much as passes beneath it. This contagiousness also applies to items which are planted within the shade of an asherah:

I. Vegetables may be planted under [an asherah]
   A. in the days of rain, but not in the days of sun

II. As for lettuces, neither in the days of sun, nor in the days of rain.

Thus, the transmission of impurity from an asherah does not apply to only humans, but also to vegetable planted underneath it. The idea here is, as in other parts of this tractate, preventing the gaining of benefit from the asherah, even as shade for the growing of plants. In the next section, R. Yose takes it one step further, and says that vegetables are forbidden also in the days of rain, because even the falling leaves will provide benefit for the leaves.

III. R. Yose says, ‘Not even vegetables in the days of rain [it is forbidden],
   A. on account that leaves fall upon it and acts as manure.’

These rules against gaining benefit from an asherah are absolute in the Mishnah, and are discussed in halakhic detail:

I. If someone carries from it wood,
A. it is forbidden for benefit.

II. [What if] he burned it in the oven?
A. If it [the oven] was new,
   1. it is broken up,
B. but if it was old,
   1. it must be allowed to cool.
C. If someone baked bread in it
   1. [the bread] is forbidden for benefit.
   2. If it was conveyed among other [loaves]
      a. all of them are forbidden for benefit.
   3. Rabbi Eliezer says,
      a. ‘One carries the benefit [of the specific loaf] down to
         the Dead Sea.’
      b. They said to him, ‘There is no redemption for avodah
         zarah.’

III. If one makes from it a shuttle-cock,
A. it is forbidden for benefit.
B. If it had been used to weave clothing,
   1. the clothing is forbidden for benefit.
   2. If it had been conveyed among others,
      a. and [those] others among still others,
      b. all of them are forbidden for benefit.
   3. Rabbi Eliezer said, ‘
a. One carries the benefit [of the specific clothing] down to the Dead Sea.’

b. They said to him, ‘There is no redemption for *avodah zarah*.

Wood taken from an *asherah* cannot be burned in an oven. In a new oven this ruling is absolute, and that oven is to be taken apart, because with a new oven, the fire from the wood of an *asherah* which is used to heat the oven will help to cure and harden the bricks. Since this would mean that the entire oven would benefit from this action, a new oven needs to be dismantled. The old oven would not gain this last benefit from the wood, and need only cool from the immediate benefit of the wood.\(^\text{327}\) The rule is so absolute that the uncleanness which is conveyed by the oven is transferred to any bread baked in the oven—not only that, it is transferred to any bread which is carried with the bread to market. This provides the background for a halakhic disagreement between R. Eliezer and the anonymous Sages:

I. “Rabbi Eliezer says,
a. ‘One carries the benefit [of the specific loaf] down to the Dead Sea,’”

(m. Avodah Zarah 3:9).

Under Rabbi Eliezer’s system, only the price of the bread mixed in with the rest is forbidden, and the price of it is to be taken to the Dead Sea, where it is permanently disposed of. The Sages disagree with him, and argue that to do such would be to receive redemption money for the worship of avodah zarah.

The final mishnah in this pereq deals with the annulment or desacralization of an asherah, which is as simple as causing damage to it:

I. How does one annul it [the asherah]?
   A. If it is trimmed and pruned,
   B. or if he removes a branch or twig,
      1. or even a leaf,
      2. indeed this is annulled

II. If it is trimmed for its sake
   A. It is forbidden

III. But if not for its sake
   A. It is permitted (m. Avodah Zarah 3:10).

The halakhic issue here is one of intent and reason, as it only counts as a desecration if it was done so in order to hurt the tree. If it was pruning or otherwise taking care of the tree, then it did not count for the purposes of annulling the tree. What the Mishnah does not
indicate is whether the various rules on who is allowed to annul an \textit{avodah zarah} also apply to an \textit{asherah}.

The Mishnah turns to another natural object which is turned to ritual use, that of the \textit{merqolis}. This word is generally considered to be a Hebrew variant of the Latin word \textit{Mercurius}, and therefore refers to some sort of image or representation of the god Mercury.\textsuperscript{328} Sanhedrin 7:7 states about the worship of the \textit{herm}: “The one who throws stones at a \textit{merqolis}; this is how it is worshiped.” The reference to stone-throwing suggests that the \textit{merqolis} represents some variation or specific example of the \textit{herm}, which was a pillar or stela said to represent Hermes or Mercury that was placed alongside roads or at crossroads.\textsuperscript{329} Travelers would throw small stones at the pillar in order to invoke good luck or blessings on their travels. The destruction in the Mishnah seems to suggest some kind of heaped cairn, rather than a pillar \textit{herm}:

\begin{itemize}
  \item [I.] “R. Ishmael says, Three stones side by side are a \textit{merqolis}.
    \begin{itemize}
      \item [A.] They are forbidden.
      \item [B.] What if there are two?
        \begin{itemize}
          \item [I.] They are permitted,” (m. Avodah Zarah 4:1).
        \end{itemize}
    \end{itemize}
  \item [II.] But the Sages say, That which appears with it is permitted, while which does not appear with it is forbidden.
\end{itemize}

\textsuperscript{328} So argues Mirielle Hadas-Lebel, “Le paganisme,” 403–405. I discuss the \textit{merqolis} in greater detail in chapters 9 and 11.

\textsuperscript{329} Hetty Goldman, “The Origin of the Greek Herm,” \textit{American Journal of Archaeology} 46 (1942): 58–68. See also Pausanias 1.17.2. Pausanias says that the custom of setting up “limbless” (ἀκωλουθ) \textit{herme} derives from the Athenians. 1.24.3.
Elmslie suggests that this reference is, in fact, to a square pillar-style *herm*, and that the rocks heaped up were the rocks which were thrown by worshipers. Against this, the next mishnah in the *pereq* makes it abundantly clear that the *merqolis* was an object of ritual activity:

I. “[If] someone found on top of it money, covering, or vessels,
   A. indeed these are permitted.
II. The stem of a vine, an olive crown, wine, oil, sifted flour, or anything that goes out for an offering upon the top of an altar:
   A. these are forbidden,” (m. Avodah Zarah 4:2).

The Mishnah notes here that there are two different kinds of things which one might find on top of a *merqolis*: one category is permitted, while the other is forbidden. The items which the Mishnah forbids are those which are clearly related to cultic offerings, especially to libation and meal offerings. The word used for “offering” in this section comes from the Hebrew root ב/ר/פ, which clearly places these particular offerings as cultic offerings, apparently in contradistinction to the offerings of money or vessels left on top of the *merqolis*. In other words, it is only those materials which specifically relate to some kind of ritual which are forbidden for use by Jews. The Sages appeal here to a

---

general idea of ritual and ritual behavior, and so those things which do not have a plausible ritual context, based on Jewish ritual assumptions, are not forbidden.

Use and Abuse of Images

M. Avodah Zarah 4:3 deals once again with concerns about space and the regulation of it, although here the concern appears to be primarily an economic one:

I. An *avodah zarah* that has a garden or bath-house.
   a. One may make use of it if there is no gratuity,
   b. and one may not make use of it if there is a gratuity.

II. [If the property also belongs] to others
   a. [it may be used] whether there is a gratuity
   b. or whether there is no gratuity.

As noted previously, one of the major concerns about m. Avodah Zarah, introduced in the very first mishnah, is that Jews do not support the worship of *avodah zarah* economically, and do not benefit economically from the worship of *avodah zarah*. M. Avodah Zarah 4:3 refers to a pleasure garden or bathhouse which is connected to a shrine dedicated to an *avodah zarah*. In order for the mishnah to be comprehensible, the parks

---

331 I.e. if one has to pay an entry fee in order to enter into the garden or bathhouse.
332 Besides the *avodah zarah*.
333 This appears to be part of the distinction which Rabban Gamliel is insisting upon in the story in m. Avodah Zarah 3:4. There are bathhouses which have images of deities, such as Aphrodite in them, and there are shrines to deities which have bathhouses connected to them. Elmslie does note, however, that
and bathhouses which are associated with these shrines have to be open to the public in some way. This does not refer to sacred space here, which makes explicable why a Jew would be allowed into these parks. This law only forbids entrance if entrance requires some kind of gratuity, probably remuneration to the priest who is associated with the shrine. If it represents some kind of shared property, a Jew can even pay to go in, because the entry fee will not necessarily be going toward the upkeep of an unapproved shrine. Because it might be going to another place, Mishnah allows it to be used, because the probable context for non-Jewish ritual is diminished.

The next mishnah deals with the thorny topic of annulling or desacralizing an image, namely, who is allowed to do it and how that is to be done. This section once again highlights that the Sages’ general category for worship was derived from their own needs and purposes. Although this mishnah regulates non-Jewish interaction with their own images, it works primarily from Jewish concerns about interacting with non-Jewish images. The first thing to note is the curious law based on the manufacturer of the image:

I. “An avodah zarah of a foreigner is forbidden from the outset,

A. but [that] of an Israelite when it is worshiped,” (m. Avodah Zarah 4:4).

If a non-Jew makes an image, it is automatically considered to be an avodah zarah, which makes sense. Somewhat paradoxically, this is not the case if the image were made by Jew. Such an image is only forbidden after it has been worshiped. The Israelites, and therefore the Jews of the Tannaitic period were forbidden by Ex 20:4 of even making an

[although there are a few shrines which have parks attached to them, there is no attested reference or archaeological find to a shrine which has a bathhouse associated with it. Aboda Zara, 64.] 126
image, while Ex 20:5 forbad them from prostrating or worshiping an image, using the same root as is found in this mishnah. This suggests the helpfulness of, at least heuristically, separating the command to make images from the command to not worship other gods, because the Mishnah itself makes this distinction.

The question of who is allowed to make an image and who is allowed to desacralize that image is one which generates a fairly difficult halakhic discussion. Following the above quoted section, Mishnah says that a non-Jew can desacralize any image, but a Jew is unable to desacralize any image. The apparent idea here, as with the bathhouse of Aphrodite is that the non-Jewish approach to the image is what matters. This ruling is reversed in Tosefta Avodah Zarah, and is discussed in further detail there.

M. Avodah Zarah 4:5 then asks the question about the activities involved in the proper neutralization or desacralizing of an avodah zarah:

I. “How does one annul it?
   A. One cuts off the tip of its ear,
   B. or the tip of its nose,
   C. or the tip of its finger,
   D. or by battering it,
      1. even if it is not diminished,
      2. it is annulled,” (m. Avodah Zarah 4:5).

From this mishnah it is clear that physical damage is necessary to desacralize an avodah zarah. Note, however, that the destruction need not be absolute. All that is necessary is
that a small piece of one of the extremities of the images is broken off. As long as there is
damage done, whether or not it physically diminishes the image, it counts as neutralizing
the image for the purposes of worship and ritual. The other thing which this mishnah
makes clear is that the image needs to be damaged—it is not sufficient to simply degrade
it:

A. Spitting in its face,
B. urinating before it,
C. dragging it around,
D. throwing filth upon it,

1. indeed it is not annulled.”

There is no doubt that this behavior is degrading, and would be considered blasphemous
by the worshipper of a given image. It is not, however, sufficient to count as
desacralization. Although these activities are degrading, they are not permanent—
according to the Mishnah, it takes visible permanent damage in order for it to count as
sufficient to neutralize the image for worship.

The Mishnah records a halakhic disagreement on whether or not selling an image
qualifies it as neutralizing it:

I. “[If ] someone sells it or pawns it,
A. Rabbi says it is annulled,
B. but the Sages say it is not annulled,” (m. Avodah Zarah 4:5).
This Mishnah clearly refers to a situation referring to the resale of image, rather than to its sale by the original artisan who made it, as that would mean that all images would be automatically annulled. Urbach suggests that Rabbi’s ruling is based on the notion that “the idol was desecrated merely by being sold or given in pledge, since these actions proved that the Gentile intended to divest the shape of the idolatrous of any divine significance.” This is not explicitly stated in Mishnah, although it is possible to see a similar idea to that of how a non-Jew treats his image being important. The anonymous Sages line is harder than that of Rabbi.

Closely related to the question of desecrated images is how treat abandoned images:

I. “An avodah zarah that is left by its worshipers in a time of peace is permitted,

A. [but] in a time of war is forbidden (m. Avodah Zarah 4:6).

The presumption here is that images worshiped in times of peace were worshiped by people who have been forced from their homes by the war, and that when the war is over they will return to their homes and to their object of worship. On the other hand, an image abandoned during a time of peace was left behind by its worshipers, and so they have no plan of returning.

In addition to these images, m. Avodah Zarah 4:6 talks about the pedestals which are used to place images of the emperor on:

II. “[As for] pedestals of kings,

A. indeed these are permitted

1. because they [only] set them up in the time that the king passes through.”

The Mishnah views these pedestals as examples of political expedience related to the visitation of an emperor and so not really problematic when the emperor is not around.\textsuperscript{335}

This shows the pragmatic approach which the Sages especially took to the relationship between Judaism and the imperial cult and government.

As mentioned in the Introduction, in the commentary to his edition to Mishnah Avodah Zarah, David Rosenthal shows that this tractate of the Mishnah is composed of two separate, smaller tractates. These tractates may be called Avodah Zarah proper, which comprises chapters 1 through 4:7, and Libation Wine, which comprises 4:8 through the end of 5. These two tractates are thematically related, but remain separate topics. M. Avodah Zarah 4:7, which is the last mishnah in the putative original tractate Avodah Zarah, contains an aggadic story about a discussion between the Elders in Rome and unspecified interlocutors. It is often the case in the Mishnah that a tractate will end with some kind of aggadic tradition or story, and so this is one of the markers that this mishnah marks the line between the two original tractates.

I. They asked the Elders in Rome,

A. “If he [God] does not approve of *avodah zarah*,

B. why doesn’t he destroy it?”

The identity of people involved in this anecdote is somewhat difficult to ascertain. The Mishnah uses plural nouns, so it is not a single person involved here. The interlocutors with the Elders in Rome may be considered to be non-Jews—they are not even conversant in Torah as Proclus is in the story of Rabban Gamliel in the bathhouse. In fact, the protagonists of this story are not even Sages, they are Elders. The question about why God does not destroy images worshiped as gods likely represents an internal question as much or more than it does an actual conversation with outsiders. One of the advantages of putting this kind of question into the mouth of non-Jews is that it is possible for the Sages of the Mishnah to ask questions which would be theologically problematic for them to ask on their own. The question which the anonymous questioners ask the Elders in Rome is a natural one when dealing with a theology which contains an all-powerful God against other gods, namely, why does he not simply end it?

The Sages’ answer derives from the Sages’ opinion (and knowledge?) of non-Jewish astral worship, which was a common feature ascribed to non-Jewish religion in

---

336 The root here is ב/ט/ל, which is the same root used for the annulment of images in the previous mishnah.
337 This same story appears in Tosefta Avodah Zarah and in Mekhilta di-Rabbi Ishmael. The parallel in Tosefta Avodah Zarah, although with some irregularity in the verb forms, also makes the interlocutors into the Elders of Rome and some other unspecified group. When the same story appears in Mekhilta di-Rabbi Ishmael, the Elders in Rome have been replaced with Rabban Gamliel (who is a favorite character in these aggadic stories about Jewish and non-Jewish discussions).
338 It is clear from context that they are Jewish elders. Their connection to the rabbinic class of Roman Palestine and Sassanian Babylon (in a later period) is unclear, although it is presumed by the text.
sources from the Hebrew Bible onward. They respond by speaking about the kinds of things which non-Jews worship:

II. They said to them, ‘If they worshiped something that the world did not need, then he would destroy it,

A. but behold, they worship the sun, the moon and the stars.

B. Should he destroy his world on account of fools?’” (m. Avodah Zarah 4:7).

Astral worship was a fact in the ancient world, from pre-biblical times up to the time of the composition of the Mishnah. In addition to the Greek and Roman gods which the ancients associated with heavenly bodies, there were gods such as Baalbek, who was a native Semitic sun-god worshiped in the broader Roman Empire. The most important of the astral gods for the present discussion is Helios, who was an important figure in the Roman Empire, where he was often worshiped as Sol Invictus, the unconquered sun. In many ways, Helios became a universal figure across the Graeco-Roman world, even in Jewish and Christian circles. In Jewish iconography, Helios-figures appear as mosaics on the floor of several third and fourth century synagogues.

---

339 In fact, in addition to avodah zarah, polytheistic worship is often described as oved kokabim, literally “the worship of the stars.”
340 The worship of Sol Invictus also seemed to have lent itself towards a development of a monotheistic flavor of Graeco-Roman religion that blurs traditional division of religions into monotheism and polytheism (not that Christianity, with its Trinity, does not already do this). Stephen Mitchell, “Theos Hypsistos,” 81–148.
341 There is an immense scholarly literature and debate on the significance of the Helios figures in synagogues. Emmanuel Friedheim, “Sol Invictus in the Severus Synagogue at Hammath Tiberias, The
This aggadah may be in discussion with these traditions, since it merely includes the sun as part of a list of astral gods which represented forces in nature which polytheists worshiped, but that were necessary to the world. Just because a few people were foolish enough to worship these astral beings as gods did not obviate the valuable function they performed. Note that the Elders in Rome implicitly reject any suggestion that the astral bodies have numinous powers. There are other places in rabbinic literature where the sun and the moon are invested with will, but this is not one of them. They are preserved because the world has need of them.

This answer is insufficient for those who asked the original question to the Elders in Rome, and so they raise an objection:

III. They said to them, ‘If this is the case, why doesn’t he destroy the things the world does not need and leave aside those things which the world does need?’

אמרו להן. אם כן, יאבד דבר שאין צורך לעולם בו ויניח דבר שצורך העולם בו.

According to the polytheists, the answer does not fully answer the question, because it fails to recognize the variety of gods worshiped in the Empire. The idea that the God of Israel would not destroy heavenly bodies because they are worshiped really does not

---

Rabbis and Jewish Society: A Different Approach,” Review of Rabbinic Judaism 12 (2009): 89–128; Goodenough, “The Rabbis and Jewish Art in the Greco-Roman Period, Hebrew Union College Annual 32 (1961): 269–279. There is also the famous example found in the 3–4th Century Hebrew magical book, Sefer ha-Razim, which contains a Greek prayer to Helios that has been transliterated into Hebrew characters. This prayer probably refers to an Egyptian conception of the sun, since it refers to Helios as a mariner, which fits the Egyptian context far better than the Greek, where Helios uses a chariot. Thanks to John Gee for pointing this out to me. I do not believe that the presence of the magical prayer warrants Friedheim’s assertion that “[t]his demonstrates the presence of Jews in the Land of Israel at the end of the Roman period who regarded Helios/Sol Invictus as an omnipotent cosmic deity to whom prayers could be addressed.” Friedheim, “Sol Invictus,” 121. It is as likely that this prayer was simply voces magicae. This is further discussed in chapter 10.
answer the question about any other kind of foreign worship, including the emperor cult, or the worship of images. The Elders answer this by drawing in a social dimension to it:

IV. They said to them, “Indeed we would encourage their worshipers, and they would say,

A. ‘Know that these are gods, for these are indeed not destroyed.’”

אמרו להן. אף אנו מחזיקין ידי עובדיהם של אלו. שאומרים הללו הם כנראה אלוהים. והם לא טלו

In other words, the deities (or other objects of worship) which would be left would have their cults encouraged and increased, because those cults could point to their gods’ continued existence as a symbol of their divine power. This is an ingenious answer which allows the Sages to maintain their reasons for the persistence of foreign worship in the light of an omnipotent God.

Libation and Wine

As noted, after this story, the text moves toward a discussion of libations, and with it, the general connections to wine and wine-making in the ancient world. Wine and viticulture were vital parts of the ancient world, and so was the pouring out of libation offerings. Although libations could be made from many different liquid substances (such as milk or honey) wine was far and above the preferred liquid used to perform libations.342 The final part of this tractate is primarily concerned with the process of making wine, and with ensuring that wine does not become “libation wine,” by which is meant wine that has been used for pouring out a libation, which is forbidden for Jews. Libation was one of the

rituals offered in the temple, and so came under the conceptual category of *me‘ilah*, mentioned in my dissertation. In addition, it use give benefit from wine used in a non-Jewish ritual. In Mishnah Avodah Zarah, non-Jews are legally presumed to be pouring out libations whenever they get a chance.\(^{343}\)

This is not, in some ways, an untoward supposition on the part of the Sages. Libations were one of the most common examples of ritual in the ancient world—in discussing libations offered to the dead, Rives points out libations were so common “that some graves were even equipped with special tubes into which people could pour the liquid.”\(^{344}\) This section also does not discuss the non-Jewish ritual of the pouring of libation in any detail.\(^{345}\) It is rather concerned with the various ways in which wine could be “contaminated” and become libation wine. Because wine could be contaminated at any point in the wine-making process, this section is a fairly technical section, as it brings in ancient viticulture and wine-making.

The first thing which the Mishnah requires is that it has to actually be a liquid in order to qualify as libation wine—it has to be wine, as such.\(^{346}\) This is the sense of m. Avodah Zarah 4:8:

I. “Libation wine is not made until it flows into the vat.

   A. If it flows into the vat

       1. whatever is in the vat is forbidden,

\(^{343}\) As I will show in the next chapter, this presumption is made explicit in Tosefta Avodah Zarah, but in Mishnah Avodah Zarah it is only implied.

\(^{344}\) Rives, *Religion in the Roman Empire*, 118.

\(^{345}\) Although, once again, Tosefta Avodah Zarah has a longer discussion of the ritual processes which were involved in the pouring out of libations.

\(^{346}\) It should be noted here that wine in the ancient world included a wide variety of levels of fermentation and techniques, and included what we would call grape juice today. For this reason even the juice which comes fresh from the grape comes under the jurisdiction for libation wine.
From a ritual standpoint, only those items which would actually be used in the ritual qualify as libation wine.

The presumption of non-Jews “contaminating” wine by offering it as a libation is illustrated in a mishnah concerning Jews who make wine “in purity.” This mishnah states:

I. “The one who makes in purity the wine of a foreigner

A. and puts it in his domain in an open house,

1. which is in the public domain,

2. in a city that has in it both Israelites and non-Jews,

a. it is permitted” (m. Avodah Zarah 4:11).

The idea here is that because the wine is in the public domain, with both Jews and non-Jews around, the non-Jews would not be able to pour libation offerings with the wine, and so it would be permitted. The Mishnah continues:

I. “In the city that is entirely made up of non-Jews,

A. it is forbidden,

1. unless there sits next to [the wine] a watcher.

a. The watcher does not need to constantly sit and watch,
b. even if he goes out and comes in, it is permitted.”

In this scenario, the wine would not be under constant scrutiny by people (including Jews) walking by, and so it needs to be watched in order to be permitted. It is sufficient, however, for it to be watched part-time, because that would still limit the pouring of the wine as a libation offering. This is not the only opinion in this mishnah, however:

I. “Rabbi Shimon b. Elazar said, ‘Every domain of a non-Jew is one.’”

For Rabbi Shimon, the fine distinctions in space between a mixed city and one which is completely non-Jewish are not important—non-Jewish space is non-Jewish space.

Mishnah Avodah Zarah 5:1 shows that avoiding gaining benefit from foreign worship applies to work for hire as well as for commerce:

I. “[If] someone hires a laborer to work with him [in making] libation wine,

A. his hire is forbidden.”

The ruling does have exceptions which allow for the laborer who is caught in a difficult situation:

II. If he hired him for working with him in any other occupation,

A. Even if he said to him:
B. Move this jar of libation wine from this place to this place,

1. his hire is permitted.

In other words, a Jew is not allowed to accept funds explicitly to work in a situation which would bring about the worship of *avodah zarah*, here in the form of wine for libations, but if, in the course of other duties he was called upon to aid, he was permitted to do so. This underscores one of the points about the Sages and foreign ritual, namely that although foreign ritual is inherently bad, the Jews lived in a world where it was everywhere, and their rulings reflect this ubiquity. This ruling is followed up by a related ruling which highlights the fact that the key idea here is the unintentional nature of the Jew’s support of libation wine:

I. “[As for] the one who hires an ass to bring upon it libation wine,

A. its hire is forbidden,

B. but if he hired it to sit upon it,

C. even if the non-Jew rested his flagon on it,

1. its hire is permitted.”
Here once again, the property of a Jew is hired for a legitimate reason (under Jewish law), but through no action of his own, the Jew becomes complicit in carrying libation wine—the money received for renting the ass is still permitted.

A number of the mishnayot in this section betray a profound legal suspicion of non-Jews in relation to the pouring of libation wine. In many cases, the Jews are not allowed to leave wine with a non-Jew “long enough to [for the non-Jew] bore a hole, seal it up and [the clay] dry.”347 The scenario which the Mishnah presents here is one where the Sages leave wine with a non-Jew (for various reasons). The non-Jew is assumed to, while the Jew is gone, to take the wine, put a hole in the jar (or open it, according to the opinion of Shimon b. Gamliel), pour out a libation offering, and then reseal the jar so that the Jew does not know if a libation offering has been poured or not. Although there seems to be an environment of legal presumption towards libation offerings, the Mishnah presents a situation beyond what seems to be warranted by the ancient evidence.

M. Avodah Zarah 5:8 shows that the impurity which libation wine offers is not absolute:

I. Libation wine is forbidden,

A. and it makes forbidden anything that comes into contact with it.

1. Wine in wine,

2. and water in water,

   a. anything that comes into contact with it.

3. Wine in water,

4. and water in wine

347 This is referenced in m. Avodah Zarah 5:3, 5:4, and 5:5.
a. whenever it imparts a taste.

II. This is the general rule:

A. type with type,
   1. as the original item,

B. but not with type,
   1. if it imparts a taste (m. Avodah Zarah 5:8).

If it is mixed with water, libation wine is only forbidden if it imparts a flavor to the water. Wine has a more distinctive flavor and color than water, of course, so practically speaking it takes only a small amount of wine to impart a flavor. Ideologically speaking, however, this ruling presents a situation which shows that in the underlying theory, although wine is forbidden, and makes other things it touches forbidden, it needs to be detectable for it to count as halakhically significant. As noted, this is extended into a general ruling.

The same principle is applied in an earlier mishnah, where wine from the vat (which m. Avodah Zarah 4:8 counts as libation wine) falls on grapes or dates:

I. Libation wine that falls upon the back of grapes,
   A. rinse them and they are permitted,
      1. but if they are split,
      2. they are forbidden.
   B. If it falls on the backs of figs and dates,
1. if it had imparted to them any taste,

2. they are forbidden. (m. Avodah Zarah 5:1)

Following the general principle there is a *maaseh* which is employed to explain a previous ruling:

II. “It happened that Betus b. Zonin that was bringing dried figs in a ship,

A. and a jar of libation wine broke and fell upon [them],

B. he asked the Sages, and they resolved it.

1. This is the ruling:

2. Any that a taste imparted,

   a. it is forbidden,

3. but any that did not have any taste imparted,

   a. it is permitted.”

The idea here is that these foods are forbidden only if they can be directly associated with a non-Jewish ritual.

The following list illustrates that the Sages had one ritual category, as it lists both items which are dedicated for ritual purposes to the worship of the God of Israel, and to other gods:
I. These are forbidden, and make everything that comes into contact with them forbidden:

A. libation wine,

B. *avodah zarah*,

C. hides pierced in the heart

D. the ox that is to be stoned,

E. the calf whose neck is broken,

F. the birds of the leprosy rite,

G. the hair of the Nazarite,

H. the firstborn of an ass,

I. flesh with milk,

J. the scapegoat,

K. and the dedicated animal which is slaughtered in the courtyard

1. indeed all of these are forbidden

2. and they make forbidden everything that comes into contact with them” (m. Avodah Zarah 5:9)

Of the items in this list, some of them refer specifically to foreign worship, such as libation wine, or the *avodah zarah* itself. Other items refer to objects which are simply part of practices which are defiling, such as flesh with milk. Others are the direct

---

348 Presumably the hide pierced in the heart fits into this category, although there is no substantive evidence of what this actually means. See note 37, above.
byproduct of Jewish cult and ritual, such as the scapegoat and the birds of the leprosy rite. All ritual involves an invocation of the other world, and all ritual remains potentially dangerous, because of its contact with the other world. One of the primary purposes of the Jerusalem Temple was to negotiate between the divine and the human realm. They are all contextually connected with various kinds of ritual.

Mishnah Avodah Zarah closes with a discussion of the purifying of various wine-making and other paraphernalia, a topic which is only tangentially related to the actual regulation of the worship of avodah zarah. This relative lack of specific regulation discussing foreign ritual provides evidence that the Sages of the Mishnah were not concerned with regulating foreign ritual. It is instead concerned with looking at and defining the contexts in which plausible ritual activity could take place. This is a natural result of the interaction between the commands found in Exodus and the world of non-Jewish ritual in which the Sages were embedded. The Tannaitic discourse on non-Jewish ritual was not one where definitions and descriptions of those rituals were the primary concern, because much of that definition was assumed as part of the culture in which the Sages lived.

This is not to say that there is no discussion of ritual behavior. The actual criteria for what constitutes the worship of avodah zarah are presented elsewhere, especially in tractate Sanhedrin. Even more compelling is that ritual procedures and regulations take up a significantly larger portion of Tosefta Avodah Zarah. Assuming that Tosefta and the Mishnah are roughly contemporaneous, with the Mishnah being the earlier of the two documents, this is compelling evidence that the editors and tradents of Tosefta felt the

---

lack, and produced a document which examined ritual in even more specific detail. It is to Tosefta Avodah Zarah that we turn next.
Chapter 4: Tosefta Avodah Zarah

Characteristics of Tosefta Avodah Zarah

The halakhah on dealing with *avodah zarah* is worked out in much greater detail in Tosefta Avodah Zarah as opposed to its Mishnaic counterpart. There are similarities in the laws presented, and in the order in which they are presented, but Tosefta is much more concerned with actually dealing with the questions of *avodah zarah* and the interactions between Jews and non-Jews on a ritual basis, rather than simply on an economic level. Where the Mishnah is primarily concerned with exploring those plausible contexts for non-Jewish ritual behavior, Tosefta is concerned with looking more closely at non-Jewish ritual in order to better discover those contexts. It is in Tosefta where the idea that a non-Jew is not always engaged in ritual is more fully explored.

Thus, in addition to discussions deriving from biblical terms, such as the *asherah*, Tosefta Avodah Zarah also references non-Jewish sacrifice and even non-Jewish ritual officers (t. Avodah Zarah 6:13). The halakhah in Tosefta is, in general, more lenient than that of the Mishnah. The leniency actually leads Tosefta to be more specific in its description of ritual, because although it is still the product of an examination for plausible contexts, Tosefta must look closer precisely because it is more lenient.

Although Tosefta contains these rulings, it also preserves that law which greatly problematizes the examination of the Sages’ perspective on non-Jewish ritual. T. Avodah
Zarah 6:11 contains an injunction against using the names of polytheistic streets and temples as addresses, using Ex 23:13 as its proof-text. With this injunction in mind, the difficulty which modern scholars have attaching ritual discussions in rabbinic literature to specific practices in the ancient Graeco-Roman world becomes clearer—many of the specific examples which might have survived have been purposefully glossed over by the Sages. Mishnah and Tosefta’s extant reference to non-Jewish deities Asherah and Mercury probably derives from the lexicalization of those terms as cultic objects, instead of as names of deities. According to the conception of the Sages, those items are things, not gods, and so mentioning their names is not in the same legal category as mentioning the name of specific deities.\(^\text{350}\)

A key difference between Mishnah and Tosefta Avodah Zarah, which may be generalized to other tractates of Mishnah and Tosefta, is that there is much more midrash in the form of scriptural exegesis in Tosefta as opposed to Mishnah. In some cases, as in Tosefta 6:13, Tosefta seeks to resolve specific disagreements between different verses in the Hebrew Bible. This kind of definite biblical exegesis is not a general feature of the Mishnah (although its presence in the roughly contemporaneous Tosefta, not to mention the halakhic midrashim, suggests that it was genre which still had a lot of appeal in late Antique Judaism).\(^\text{351}\) In the Babylonian Talmud the divisions between halakhic discussions and aggadic story-telling are closely intertwined, of course.

The midrashim in Tosefta are primarily halakhic midrashim that are trying to deal with halakhic issues, rather than the generally later aggadic midrashim. The Hebrew

\(^{350}\) Aphrodite and Serapis are mentioned, of course, but in some ways they are the exception that proves the rule.

\(^{351}\) Arad, “Annihilation of Idolatry,” 26–27.
Bible forms part of the foundational core of discourse in the Mishnah, but Mishnah very rarely works from the Bible or comments on it. It is, in fact, “everywhere absent.”

Tosefta mitigates this a little bit, and the corpus of Tannaitic midrashim quite a bit more, such that the laws governing interactions with non-Jewish ritual derive from the intersection of biblical ideology with pragmatic concerns about living in a non-Jewish world.\textsuperscript{352}

\textit{Festivals and Fairs}

From the very start of the text, Tosefta Avodah Zarah is aware that it presents not only an expansion of the halakhah in m. Avodah Zarah, but also in many cases preserves a different halakhic opinion. As is common with Tosefta, t. Avodah Zarah follows the basic lines of argument present in its associated Mishnaic tractate. T. Avodah Zarah thus begins its discussion with a discussion of feasts and festivals, and when one may attend them:

I. “Nahom the Mede said: One [day] before their [non-Jewish] festivals\textsuperscript{353} in the Exile is forbidden.

A. In what case are the matters forbidden?

B. [It is] concerning their fixed festivals, but their festivals which are not fixed are not forbidden, except for that day alone,

\textsuperscript{352} This is, of course, part of the way in which religious life plays out over the various generations. Take the example of many American Christians who are attempting to conform their life to the biblical model, including expressions like “biblical marriage,” a phrase which has little or nothing to do with how marriage is actually presented in the Bible. These modern believers are negotiating a present social situation based on an authoritative text—and, because of notions of \textit{sola scriptura}, their religious tradition does not even give them the kind of interpretive leeway which rabbinic Judaism had. This present day example illustrates that the Sages are not alone in the historical record in their negotiating of authority and pragmatics in their in-group/out-group relations.

\textsuperscript{353} As opposed to Mishnah, there is manuscript evidence here for the two different readings of this word. Zeidmann has \textit{אידיהן}, which is the reading of most Mishnah manuscripts. Zuckermandel has \textit{עידייהן}. 
C. despite the fact [the Sages in the Mishnah] say: “Three days are forbidden to buy and to sell with them.”

This tractate begins with a quotation from Nahom the Mede, a first generation Tanna who was originally from Babylonia, centering the discussion on festivals outside of the Land of Israel (this is, in many ways, an unusual turn for Tannaitic discussion, which usually centers on the halakhah in Palestine). The elliptic nature of the quotation from Nahom the Mede suggests that this section is dependent on m. Avodah Zarah, as it presumes that argument. T. Avodah Zarah explicitly overturns the law found in the corresponding passage in m. Avodah Zarah, going so far as to cite the Mishnaic tradition with the intention of overturning it. The halakhah about foreign ritual is clearly developing here in relation to an already extant set of traditions which can be both quoted and overturned.

Sections 1:1 and 2 are, as in Mishnah, concerned primarily with limiting and regulating economic interactions between Jews and non-Jews.

T. Avodah Zarah 1:3 continues this discussion by addressing who may work and when:

I. Artisans of Israel that are working beside non-Jews in the house of an Israelite are permitted.

II. [But] in the house of a non-Jew, [they are] forbidden.”

---

354 M. Avodah Zarah 1:1.
Very early in Tosefta, it strongly articulates the notion that not all non-Jews are engaged in ritual at all times—even during festival times. In an early section Tosefta makes an observation about the multiplicity of ritual observance in the Graeco-Roman world:

I. One city observes, and one city does not observe; one people observes and one people does not; one family observes, and another family does not:
   A. the celebrants are forbidden,
   B. but those that do not celebrate are permitted (t. Avodah Zarah 1:4).

The Hebrew word which I have translated as “observe,” is ‘asah (עשה), which usually carries the meaning of “make” or “do.” Jastrow notes in his dictionary that this word “corresp[onds] in variety of meaning to עבד.” Jastrow means here the Aramaic עבד rather than the Hebrew. The connection between עבד andעשה likely lie behind the usage in t. Avodah Zarah 1:4 whereעשה tightakes the contextual meaning “to observe a festival.”

Aside from these lexical observations, this passage first shows awareness on the part of the Sages that the polytheists who surrounded them were not a homogenous group. There were in the ancient Roman empire festivals and sacrifices which not every person celebrated. This represents, of course, what we know about the variety of ritual expression in the ancient world—its characterization as “polytheistic” did not come out of nowhere. By recognizing that not everyone worships at the same time (and by

---

implication not even the same gods), Tosefta allows for commerce to take place around the time of polytheistic fairs, since from a practical standpoint only those who are actively involved in the fair are forbidden for commerce. This means that rituals are only forbidden when they are actually being performed. Although a polytheist is always legally suspect of worshiping *avodah zarah* (see m. Hullin 2:7) and of pouring out libations (see t. Avodah Zarah 7:1), such suspicions are not sufficient grounds for cutting off contact. Commerce is *only* forbidden to those who are actively observing a festival through one of the various polities and groups to which ancient people belonged.\(^{357}\)

Iddeng highlights that one of the purposes of festivals was to create group cohesion, and by avoiding festivals of various groups, Jews are excluding themselves from those groups.\(^{358}\)

After acknowledging that not everyone observes the same festivals, Tosefta must deal with imperial-wide festivals, such as the Calends:

I. As for the Calends: Even though everybody observes,

   A. none are forbidden except for worshipers alone.”

   קלנדא א כל פל שהלל תושבי קynthia אפוג אולא פלולו מבלב

In this case, the Hebrew word which I have translated as “worship” is פל (“palah), which like עבד (“abad) has a core meaning of “work” or “serve,” which is then transferred to

\(^{357}\) As an aside, this passage in Tosefta also illustrates an awareness of the various levels and areas of membership which existed in the polytheistic world, with references to cities, peoples and families. The inscriptive evidence shows sacrifices and dedications from all of these kinds of groups. Membership in these groups was an important part of ancient identity, as shown in Philip Harland’s book on associations in the ancient world. The Jewish synagogue and the Christian church both had certain structural similarities here as well. See Philip A. Harland, *Associations, Synagogues, and Congregations: Claiming a Place in Ancient Mediterranean Society* (Minneapolis: Fortress Press, 2003).

\(^{358}\) Iddeng, “What is Graeco-Roman Festival?” 29.
“serve the deity” or “worship.” Unlike עבד, when this word carries the meaning of worship, it refers almost exclusively to non-Jewish worship. In this passage, Tosefta makes a distinction between “observers” and “worshipers,” with worshipers being a sub-category of all those who keep the holiday of Calends. For the halakhah to have any force—remembering that this project takes as a general assumption that laws are made to deal with real situations—there must be some way of differentiating between those who were observers and those who were worshipers. Tosefta itself contains no such parameters, but at least one of the criteria would have been participating in the rituals which surrounded the ancient festival. Ritual, and participation with it, is therefore center stage in the rabbinic conception of interactions with non-Jews during their holidays.

Tosefta makes distinctions between public and private observances, although it does not make explicit the rules it is drawing from this distinction. We may infer from the ruling on the Calends that public holidays followed that same halakhic rule—observers of the holiday are permitted, but worshippers are forbidden.

I. As for Saturnalia, the day that they seized the Empire, Qarṭesim, the day of genesia of the emperor, the day that every king began to reign,

A. these indeed are public holidays.359

II. As for individual observances:

A. The day of his feast,

B. and the day that he is made governor.

C. R. Meir said: the day that he recovers from sickness is forbidden (t. Avodah Zarah 1:4).

359 Zeidman’s edition has ברבים, while the printed edition has כרבים.
The festivals listed above (which parallels the list in m. Avodah Zarah 1:3) are identified in t. Avodah Zarah as public holidays, which follow the same rule as Calends. Tosefta then calls out a few “individual” observances, which Tosefta considers to be forbidden since they are occasions for worship and ritual.

Tosefta contains a similar discussion about travel, fairs and shrines as Mishnah:

I. Concerning a fair that is outside a city, one may not travel to it,

A. either by the same road,

B. or by the surrounding towns,

C. lest it should appear that he is travelling to the fair.

1. This according to the opinion of R. Meir.

2. But the Sages say: None of it is forbidden except for the city itself.

II. Concerning a fair that is in the midst of a city,

A. the middle of the city is forbidden,

B. but outside the city is permitted.

III. As for [a fair] that is outside the city,
A. outside the city is forbidden, but inside the city is permitted.

B. And the shops that are adorned because of [the fair], in either place, indeed these are forbidden.

IV. A man passing through in a caravan from [one] place to [another] place

A. and enters into a city that has fair in its midst,

B. does not worry that he appears as though he were going to the fair (t. Avodah Zarah 1:6).

Tosefta expands on the rulings found in m. Avodah Zarah, but adds a few more categories in addition to Mishnah’s fairs within the city or without the city. There is a disagreement in the halakhah attributed to R. Meir and that of the anonymous Sages. R. Meir’s opinion is closest to that of the Mishnah, which forbids any appearance of travel to a city which might be construed as coming to participate in the fair. The Sages are only concerned with people who are entering the city itself. Another nuance to this is provided by the final ruling which states that if a Jew passes through a city where there is a festival under way, that Jew does not need to worry that he has inadvertently supported avodah.
zarah. Again, these are fairly lenient rules that allow for Jews to interact in a world filled with fairs and festivals.

The regulations on fairs are differentiated, so that that civic fairs and fairs given in the honor of an avodah zarah are distinct:

I. “A fair that the Empire gives and that a district gives and that the dignitaries of a district give are permitted.

A. There is no fair forbidden except that of an avodah zarah alone,” (t. Avodah Zarah 1:7).

All of the various distinctions in festivals which Tosefta differentiates are part of the cultural background surrounding Tosefta. In this system, only fairs which are expressly dedicated to foreign worship are forbidden by Tosefta. What we might call municipal fairs are expressly permitted. This is actually somewhat problematic, given the embeddedness of ritual in the ancient world. Tosefta here, however, recognizes that the commerce of the fair could be distinguished from a fair which was organized in the honor of an avodah zarah, even though most fairs, whether they were municipal or not, had a sacrificial element.

Thus, for the Sages of Tosefta, a non-Jew was not always engaged in ritual. The corollary of this was that a Jew could meaningfully engage with a non-Jew on non-ritual occasions. In many ways, the regulations in Mishnah, and especially Tosefta, Avodah Zarah are attempts to make explicit the difference between ritual and non-ritual

360 Iddeng, “What is a Graeco-Roman Festival?” 16–19.
occasions. It is this process of making things explicit which gave rise to the search for these plausible ritual contexts. The regulations on fairs and festivals recognize both the pervasiveness of religion and ritual in Graeco-Roman life and the pragmatic realization that not every interaction between a Jew and a non-Jew had to be a ritual occurrence. When combined with the biblical imperative to covenant fidelity, this recognition provides the impetus for discussion on non-Jewish ritual behavior.

Theoretical Underpinnings

Tosefta also recognizes, however, even this leniency in Jewish interaction with non-Jews around times of festivals did not make the concerns about foreign ritual less important. In fact, the presence of foreign ritual and its embeddedness in the broader culture made negotiating ritual and non-ritual more difficult. Tosefta talks about four “shades” or murky areas where the law is difficult (t. Avodah Zarah 1:10).

I. There are four kinds of [legal] shade:

A. the shade of usury,

B. the shade of the sabbatical year,

C. the shade of avodah zarah

D. and the shade of evil speech.

II. The shade of usury: One should not conduct business with loan of his neighbor on account of the shade of usury.

III. The shade of the sabbatical year: One should not conduct business [with a non-Jew] with the produce of the sabbatical year, on account of the shade of the sabbatical year.
IV. The shade of avodah zarah: One does not do business with a non-Jew at the time of his festival on account of the shade of avodah zarah.

V. The shade of evil speech: [Although] one does not do business with good speaking at the fair; it is permitted to raise [this] on account of the shade of evil speech (t. Avodah Zarah 1:10–14).

This passage makes explicit how the Sages seek to clarify the hows and wheres of non-Jewish ritual. The murky areas discussed in this section are about avoiding appearing to support the worship of avodah zarah. Additionally, Tosefta acknowledges that the rabbis are dealing with a murky area—the trade interactions between Jews and non-Jews during their festivals are not clear-cut. It is precisely in these areas where the establishing of contexts and indicating when a non-Jew is or is not engaged in ritual behavior becomes important. Like the Mishnah, Tosefta is concerned with plausible contexts, but it looks to specifics in order to clarify, as much as possible, the murky areas.

The need for contexts also provides grist for the clarifying boundaries in Jewish life. Although rabbinic literature is very concerned with boundary maintenance, there are different kinds of boundaries. The Sages do foment a very strong “Self vs. Other”
mentality, but not all others are identical. T. Avodah Zarah 1:15 talks about three separate categories: Jews, Samaritans, and non-Jews. Each of these three groups has a slightly different law in relation to assumptions of participation in the worship of *avodah zarah* at a festival or fair:

I. If an Israelite is going to the fair, it is permitted to do business with him,
   A. but on his return it is forbidden because he was involved in *avodah zarah*.

II. [As for the Samaritan, whether he is going or whether he is coming, it is permitted.]\(^\text{362}\)

III. As for a non-Jew who is going to worship,\(^\text{363}\) it is forbidden to do business with him, but on his return it is permitted,
   A. because he is as an *avodah zarah* that has left his worshippers.

IV. An Israelite, whether he is coming or going, is forbidden.

The most lenient rule governs the Samaritan, who in spite of the bad blood between Jews and Samaritans, is not considered in this section to have been involved in worshiping


\(^{362}\) This line is omitted in Zuckermandel’s edition, but is in Zeidman’s. It is present in the Vienna Manuscript and the printed editions.

\(^{363}\) Hebrew תרפות, which literally signifies obscenity. See the discussion in Zeidman, *Tosefta Avodah Zarah*, 246.
A Jew returning from the fair is tainted by the worship of *avodah zarah*, presumably because unlike a Samaritan, he ought to know better. A non-Jew is assumed to be involved, but after he has finished with his festival, he is once again permitted to trade with. This reiterates the point that a non-Jew is not always involved in the worship of *avodah zarah*. The final law over-turns the first halakhic point, without resolving the different rulings.

Tosefta then launches into a lengthy discussion about what sorts of things are acceptable to sell to non-Jews, paralleling m. Avodah Zarah 1:5. This section illustrates a useful point: although Tosefta Avodah Zarah is more concerned with actual ritual than Mishnah Avodah Zarah, economic concerns remain a major consideration. Various items are identified, and then the Sages specify the selling of ritual paraphernalia to non-Jews:

I. He is permitted to sell a bundle [of incense] of any type.

II. So, what constitutes a bundle?
   A. R. Judah ben Bathira says: With frankincense that does not have a small quantity from three *maneh*.365

III. It is permitted to [sell to] a merchant but not to sell to a householder
   A. and if the merchant is suspect, it is forbidden to sell to him.
   B. One may sell to him pigs,
      1. and one does not worry that he will sell them for *avodah zarah*.
   C. One may sell wine to him,
      1. and one does not worry that he will sell it for *avodah zarah*.

---

364 Lawrence Schiffman, “The Samaritans in Tannaitic Halakhah,” *JQR* 75 (1985): 323–350. Schiffman shows that there is a change in the Tannaitic perspectives on Samaritans, who because of their support for the Romans in the Bar-Kokhba revolt were re-understood by the Tannaim as non-Jews.
365 This is a weight (and subsequently a coin) equal to about 60 sheqels.
D. One may sell wine to him,

1. and one does not worry that he will pour out a libation for an *avodah zarah*.

E. But if he specifies to him,\(^{366}\) even if water or salt, he is forbidden to sell it to him.

IV. One may sell a white (rooster) if among roosters.

A. Rabbi Judah says, What things are we talking about?

B. In the time that is \(^{367}\) prohibited \(^{368}\) to him.

V. \[He may say\]: Sell to me any rooster, but if he specifies it,

A. because he is sick or making a feast for his son,

1. indeed this is \(^{369}\) forbidden.\(^{369}\) (t. Avodah Zarah 1:21)

\(^{366}\) That it is for the worship of *avodah zarah*.

\(^{367}\) Hebrew has sell, but context demands emendation. Zeidman, *Tosefta Avodah Zarah*, 183, no. 14. There is a Geonic source which has a lacuna missing from manuscripts of the Tosefta which provides support for the emendation. Zeidman, *Tosefta Avodah Zarah*, 248.

\(^{368}\) That is to say, in the regular periods when Jews and non-Jews are forbidden to buy and sell around festivals and sacrifices.

\(^{369}\) This is מותר in almost all editions, as it is in the Hebrew text below. Zeidman has אסור, which better fits the context, and so is followed here.
The rules here are actually fairly lenient. This section draws out three examples of non-Jewish worship—the burning of incense, the sacrifice of animals and the pouring of libations. All of these activities are rituals which are both part of the ritual world of the prevailing Greek and Roman culture and the Jerusalem Temple, which places them into the world of *avodah*. Tosefta permits the selling of these items to a merchant, but forbids them to an individual. The merchant is presumed to want the items in order to resell them at a profit, while the individual householder is presumed to want for their immediate ritual purpose. Although the merchant will be selling the items to others for a ritual purpose, they will not be using them themselves, and so Jews are, in some sense, insulated from the worship of *avodah zarah*. Treating with a householder contains no such insulation. The situation with the white rooster creates a sort of “don’t ask, don’t tell” policy around the sale of white roosters, which were used for sacrificial purposes. It is appropriate to sell them, but only if unaware that they will be used for the worship of *avodah zarah*.

*Interaction with the Broader World*

Just before this, the next addresses the reading of Greek literature. Although this is not specifically a ritual activity, it is one where there might be context for Jewish ritual:

I. They asked R. Yehoshua: When may a man teach his son a Greek book?

II. He said to them: He may teach in the hour when it is neither day nor night, as it is written,

   A. ‘And you will meditate on it day and night’ (Joshua 1:8),” (t. Avodah Zarah 1:20)
The verse from the book of Joshua references a command earlier in the verse that the “book of the Law” (ספר התורה) not pass out of Joshua’s mouth. The collocation “Greek book” in the Mishnaic passage is structurally similar to “book of the Law,” and so Tosefta is setting up a direct comparison between the two. In this kind of comparison, the Greek book cannot help but lose, for it is being compared with Torah, the central component of the Jewish experience. That the question is even being asked suggests, however, that there was interest in learning from “Greek books.”

Contextually, the phrase “Greek book” must refer to various types of Greek learning. We are not necessarily talking about Philo or Josephus here, or even the Septuagint, but to books containing not only Greek language, but also Greek thinking. The answer does not out and out forbid Jews from studying such things, but it presents very strong discouragement by placing it in liminal times, backed up with a verse from scripture. As already noted it places the Greek book in direct opposition with the book of the Law, but only prefers one to the other, rather than completely forbidding teaching from a Greek book. The liminal nature of the timing for studying the Greek book may also be a statement about the liminal nature of such study as considered by R. Yehoshua.

The next chapter of Tosefta contains a discussion on attendance in the theater, a point about which there seemed to be some level of disagreement in ancient Judaism, and even in rabbinic literature itself. The Hellenistic Jewish philosopher Philo of Alexandria

---

certainly attended the theatre, as he references experiences there. He does, however, express a negative opinion of the theatre in other places. This same kind of ambivalence is mirrored in the Sages’ discussions on attending the theatre:

I. It is forbidden to go up to the theatres of the non-Jews,
   A. on account of *avodah zarah*.
   B. This according to the opinion of R. Meir.

II. But the Sages say: In the time of sacrifice* it is forbidden,
   A. because of *avodah zarah*,
   B. but [when] there is no sacrifice,
   C. it is forbidden on account of “the seat of the scoffers” (Psalm 1:1) (t. Avodah Zarah 2:5).

R. Meir forbids attending the theatre out of hand—his express reason for doing so is that the theatres were places of worshiping *avodah zarah* (t. Avodah Zarah 2:5). As is the usual case in t. Avodah Zarah, the Sages disagree with the stated halakhah of R. Meir,

---

371 “On Drunkeness,” 177; “Good Person,” 141. In this last reference, Philo specifically quotes from a play of Euripides which he saw in the theatre. Here Philo attests to not only attending the theatre, but being sufficiently engaged as to know what plays were being performed.


373 Some Hebrew manuscripts have זבל, which Jastrow gives “to offer to idols, make merry with idolatrous ceremonies.” Far more common is “to manure.” This word is similar to the common Hebrew word for “to sacrifice,” זבח, which appears in Zuckerman’s texts. It seems likely that this word was chosen as verbal polemic against polytheistic worship. Jastrow, *Dictionary*, 379. See also Ziedman, *Tosefta Avodah Zarah*, 251.

374 See the discussion on Jewish interactions between the theatre and spectacle in Zeev Weiss, *Public Spectacles in Roman and Late Antique Palestine* (Cambridge, Mass.: Harvard University Press, 2014), 200–204.
although in many ways, it is only a theoretical rather than a practical difference. This section presents a nuance to Tannaitic recognition that non-Jews are not constantly engaged in ritual acts. The Sages agree with R. Meir in that the theater is forbidden to Jews because of ritual practices related to *avodah zarah*. In terms of the rabbinic search for context, this makes sense in light of the fact that although a Jew would probably be unlikely to enter into a polytheistic temple to view a sacrifice, they might go to a theater, which were also places of Graeco-Roman ritual. As opposed to R. Meir, the Sages acknowledge that they are not always places of ritual, but still forbid them on the grounds that they are not places where Jews should be seen, using a citation from Psalm 1.

They expand on this idea in Tosefta Avodah Zarah 2:6:

I. The one who goes to the theatres and to the circuses

II. and watches the diviners, the enchanters, muleteers\(^{375}\), and puppets:

A. indeed this is the seat of scoffers, as it is written: “And in the seat of scoffer he does not sit, but in Torah…” (Psalm 1:1–2).

B. This teaches that a man brought [to entertainment] rejects the study of Torah.”

The issue here is not one of forbidden foreign ritual, *per se*. It is possible to reject the better things in life for the kinds of things in circuses—these are not *avodah zarah*, but they are still forbidden. Although this passage has nothing to say about the diviners and

---

\(^{375}\) I am following Zeidman here, who has מוליך.
enchanters, the fact that they are included in a discussion about theatres being used for entertainment purposes rather than ritual, suggests that these individuals are being marginalized in that context, instead of as part of a discourse on magic.

Tosefta then rules that it is permissible to attend the theater if one is forced, or in order to save life (t. Avodah Zarah 2:7):

I. The one who goes up in the theater of the non-Jews:

II. If he shouts because of the suffering, it is permitted.
   A. If he takes thought concerning it, this is forbidden.\(^{376}\)

III. And the one who sits at the stadia,
   A. indeed this is [like] the shedding of blood.
   B. R. Nathan permitted it for two reasons:
      1. because he calls out and saves lives,
      2. and because he witnesses for the woman who is widowed.

IV. Those who go the theater in order to call out and save lives,
V. and to the circus because they are put there by the state,
   A. but if as participants, this is forbidden.

The balance of the law on the theatre does not emphasize ritual concerns, although that was R. Meir’s primary concern in the very first ruling on this topic. Although the Sages

\(^{376}\) The text is very problematic here. Zeidman has: “But [his attendance] is forbidden if he can be considered as a (typical) participant.” Tosefta Avodah Zarah, 187.
are deeply concerned with ritual, it is not their only concern when navigating non-Jew ideas ritual behavior. Even where the issue is not one of ritual there are activities which are still disapproved.

Tosefta also contains ideas of space and the division of space. J. G. Davies suggests an absolute division between sacred and profane space as general categories of thought, and although there can be gradations of sacredness, the line between sacred and profane is absolute. Tosefta Avodah Zarah 2:9 says:

I. In both of these places [both inside and outside of the Land of Israel], an Israelite does not sell his house to a non-Jew,

II. on account that he will bring into its midst an avodah zarah.

A. “but they may rent to them stables, warehouses, and inns even if it is known that they will bring into its midst avodah zarah.”

The house of a Jew is defined as separate space, where the bringing in of an avodah zarah (which clearly carries the meaning of the image in this passage) is forbidden. It is followed up by this law: “but they may rent to them stables, warehouses, and inns even if it is known that they will bring into its midst avodah zarah.” It is clear from comparing this law to the previous one that the Sages make a distinction between the space in the home and the space in outbuildings—what is not immediately clear is whether these distinctions derive from Jewish conceptions or from perceived foreign conceptions. The

---

presence of house gods is well-known in the Graeco-Roman context, and a Greek (or any non-Jew) could be expected to bring in their household gods. It is clear that whatever rituals the Sages associated with the various outbuildings, these building did not create the same level of sacred space, and so did not need to be as strictly regulated. Their contexts did not make them plausible places for ritual concern in the view of the Tannaitic Sages.

Tosefta’s laws on midwifes and nursemaids are also primarily about a search for plausible ritual contexts. These rules take the biblical injunction to covenant fidelity and extend it to other plausible contexts. As with many of the laws on *avodah zarah*, to modern eyes these laws can seem harsh and insular:

I. A daughter of Israel does not nurse the child of a foreign woman,
   A. because she will raise it up to *avodah zarah*,
   B. but a foreign woman may nurse the child of an Israelite under supervision.

II. The daughter of Israel does not perform midwifery for a foreign woman
   A. because she bears a son for *avodah zarah*,
   B. and the foreign woman may not perform midwifery for the daughter of Israel
   C. because they (non-Jews) are suspect concerning bloodshed
   D. this is according to the opinion of R. Meir.

---

III. But the Sages say: The foreign woman may perform midwifery for the daughter of Israel when others are supervising her.379

A. In other circumstances it is forbidden because they are suspect concerning bloodshed (t. Avodah Zarah 3:3).

All of these laws derive from the same principle, namely that to perform these services for non-Jewish women perpetuates the system of *avodah zarah* and so increases sin in the world. This point is worth making again—although the Sages could and would make exceptions and rules to allow for interaction within the broader world in which they lived,380 they were fundamentally and ideologically opposed to the worship of any god besides the God of Israel. The relative tolerance expressed in the verse in Micah 4:5 is not really part of this: “For all the peoples, every man will walk in the name of his god, and we will walk in the name of Yahweh, our God, forever and ever.” Micah’s eschatological dream was not the view of the Sages, who considered the worship of *avodah zarah* to be against the commandments which God had given Noah, and which were incumbent on all the nations of the world.381 Hence the laws governing midwifery

379 Lit. “standing by her back.”
380 Although I reject the suggestion that everything the Sages did needs to be read in light of the Jewish revolts, rabbinic Judaism displays a tension between political accommodation and ideological resistance. In many ways, the laws regulating *avodah zarah* present one of the easiest places to see that tension.
381 See the discussion on t. Avodah Zarah 8:1ff below. A passage in the Babylonian Talmud denies even this to the non-Jewish nations. See the discussion in the article by Jeffrey L. Rubenstein, “An
and serving as a nursemaid are designed to prevent the raising up of a new generation of avodah zarah, or at least to prevent Jews from having any part in such an exercise.

Images and Materiality

Because images were the most obvious representation of non-Jewish ritual, one thing which both Mishnah and Tosefta Avodah Zarah deal with is how to appropriately take care of the images and the material culture associated with the worship of gods besides the God of Israel. These rules are primarily about how to dispose of the various cultic objects, including the images themselves, associated with polytheistic worship.  

Avodah Zarah 3[4]:19 records in the name of R. Yose:

I. R. Yose says, As for an avodah zarah itself,
   A. one shatters it,
   B. and spreads it to the wind
   C. or conveys it to the sea.”

Based on various parallels in this and other discussions about the disposal of items associated with the worship of avodah zarah, the sea referred to here is probably the

---

382 The notion of “annulling” images is one which has generated some scholarly attention. Blidstein, “Nullification of Idolatry in Rabbinic Law,” Proceedings of the American Academy for Jewish Research 41/42 (1973–1974), 1–44; Zohar, “Idolatry and its Nullification.” Urbach, “Rabbincial Laws,” 229–233. These scholars are primarily discussing the historical possibilities behind the different rules for who cannot and cannot nullify an avodah zarah. Although this relates to this dissertation’s postulate that the Sages recognized that non-Jews are not engaged in ritual at all times, many of the specifics of that argument are not germane to the present argument.

383 According to Zuckermandel and the Erfurt manuscript, this is ascribed to R. Judah. The Vienna Manuscript ascribes this saying to R. Yose, and since even Erfurt has R. Yose for the rest of the following halakhic disagreement, that is followed here.
Dead Sea (see m. Avodah Zarah 3:3). To dispose of an image, therefore, one must shatter it and then spread the pieces to the wind.

This interpretation sparks a disagreement between the anonymous Sages and R. Yose:

II. They said to him: Indeed it will become manure,
   A. as it is written, “And there will not cling to your hand anything from the ban” (Deut 13:17 [H 18]).

III. R. Judah said to them: Indeed it is also written, “And your sinful thing, which you have made [I have taken and burned in the fire]” (Deut 9:21).

IV. They said to him: Is there proof from there? “And he sprinkled it on the water, and made the Children of Israel drink it” (Ex 32:20).
   A. This teaches that they tried them in the same way that they try the suspected adulteress.

V. R. Yose said: Indeed it [scripture] says: “And they left their idols,” (2 Sam 5:21).

VI. They said to him: Is there proof from there? As it is said: “And they burned them with fire,” (1 Chron 14:12).

---

384 Referring to the Golden Calf.
385 In other words, the anonymous Sages suggest that even if one shatters it and spreads it around it will still turn into manure and so provide positive benefit. Yose cites Moses, who performed a similar destruction to the Golden Calf.
386 See Num 5:11–18.
387 The verse appears differently in Tosefta than in the MT.
388 2 Sam 5:21 and 1 Chronicles 14:12 are parallel narratives which both refer to a battle David had with the Philistines, where the Philistines left behind their gods. R. Yose contends that David and his men carried the gods off, according to 2 Sam 5:21, while the anonymous Sages respond with the verse in Chronicles to show that David actually burned them.
VII. R. Yose said to them: Indeed it [scripture] says: And also Maacah, the mother of Asa, the king [he removed, because she had set up] an image [for an asherah],” (1 Chronicles 15:16). He cut it open to remove it.

VIII. They said to him: Is there proof from this? “And Asa cut down the image, and stamped on it and burned it at Wadi Kidron” (1 Chronicles 15:16).

IX. R. Yose said to them: Indeed it [scripture] says: “And he broke up the bronze serpent which Moses had made, because in those days the Children of Israel burned incense to it, and he called it nehuṣtan,389” (2 Kings 18:4).

X. They said to him: And this was avodah zarah?

A. Did not Moses make it?

B. This teaches that Israel went astray after it until Hezekiah came and hid it.

The Sages object to Yose’s ruling by pointing out that if the image is treated in this way, it will turn to manure, and thus violate the command given in Deuteronomy 13:18 to let

---

389 This word is spelled differently in Tosefta than in the MT.
nothing from the *herem* cling to the hand of the Israelites.\(^{390}\) The Sages and Yose trade verses back and forth as Yose attempts to make his point about the specific way in which an image must be destroyed. In a typical midrashic fashion, the discussion ranges all over the text of the Hebrew Bible, eventually settling on 2 Kings 18:4. R. Yose cites this verse because it speaks of Hezekiah breaking the bronze serpent into many pieces, which accords with his original point about smashing an *avodah zarah*. The Sages reject Yose’s argument for a reason which has implications for our understanding of how they understood and deployed foreign ritual: “They said to him: And this was *avodah zarah*? Did not Moses make it? This teaches that Israel went astray after it until Hezekiah came and hid it.” This passage is further addressed in chapter 10, but for the present it is sufficient to note that the Sages do not, in this passage, accept that the bronze serpent, made by Moses according to Numbers 21, counted as *avodah zarah*, even though it was an image to which the Israelites were burning incense.

*Law and Land*

T. Avodah Zarah contains a lengthy discussion about the differences between living in the Land of Israel and outside of it, not all of which attend directly to ritual matters. T. Avodah Zarah 4[5]:5–6 brings in a scriptural discussion, suggesting that living outside the Land of Israel is tantamount to the worship of *avodah zarah*.

I. But as long as they are upon [the land of Israel], it is as if it had been conquered, and [when] they are not upon it, it is as if it is not conquered.

II. Thus does David say: “For they have driven me out today, saying, Go, 
Serve other gods,” (1 Sam 26:19).

\(^{390}\) The Sages often bring this verse to bear on the question of associating with *avodah zarah.*
III. For do you think that King David worshiped *avodah zarah*?

A. Rather David made the following exegetical explanation:

B. Any that is staying in the Land of Israel during a time of peace and leaves, it is as if that one worships *avodah zarah*, and thus it is written:

   “And I will plant them in this land faithfully with all my heart and soul,” (Jeremiah 32:41).

C. Any time they are [physically] on it, it is as if they are planted before me faithfully, with all my heart and soul.

D. If they are not [physically] on it, it is as if they are not planted before me faithfully, and not with all my heart and all my soul.

I. R. Shimon ben Elazar said: An Israelite that is outside the Land [of Israel] is a worshiper of *avodah zarah*.

A. How is this so?

B. A non-Jew makes a [wedding] feast for his son,

C. and goes and invites all the Jews that live in his city, despite the fact that [the Jews] eat their food and drink their food, and are served by their own [Jewish] servant,

D. they are worshipers of *avodah zarah*: “And he summoned you, and you ate from his sacrifices,” (Ex 34:15).
The explanation for this derives from R. Shimon’s opinion on the Jewish/non-Jewish relationship. His argument is that when Jews in a community are invited to a wedding feast made by a non-Jew for his son, even if they have their own provisions for appropriate food and drink, they are still guilty of participating in the worship of *avodah zarah*. He argues his position from a verse in the book of Exodus, which in its original context actually refers to the forbidden Canaanite nations that actually lived *within* the Land of Israel. This presents a different theory of worshiping *avodah zarah* than we have seen previously—the worship of *avodah zarah* is attributed to the Jews living abroad, even though they are explicitly not taking part in the eating of improper food or ritual.

According to R. Shimon’s opinion, even living among non-Jews is enough of a plausible context. Shimon’s opinion is not the majority rule.

In the next tradition in Tosefta, the Sages pick up a question which we have already seen in m. Avodah Zarah concerning hides with holes in them:

I. What are considered hides [pierced] in the heart?

A. Any that is pierced near its heart, and made as a kind of window,

B. but if it is lengthwise, then this is permitted.
This provides some explanation and context for the putative ritual of tearing the heart of a sacrificial animal invalidating the use of the hide. The Sages quoted in Tosefta, which is clearly dependent on the Mishnah here, are already unsure what the referent of the law about pierced hides is, and so must try and clarify this. They attempt to differentiate between an intentional hole near the heart, and an innocuous one made as part of the process of preparing the hide, thereby creating regulation based on plausible context.

Food and Sacrifice

At this point, Tosefta turns to alimentary laws. This is unsurprising given the close connection between food and sacrifice in the ancient world. This also helps to explain the close connection between kashrut and the laws about worshiping avodah zarah. Indeed, the connection between eating and sacrifice was both a part of Jewish custom and traditions, from the Hebrew Bible onward, and part of the assumptions made in the surrounding culture.

The first items seem to be forbidden because of their connection to the possibility of libation wine:

I. The pickled and the stewed vegetables of non-Jews which it is their custom to place in wine and in vinegar and Adriatic earthenware
   A. these indeed are forbidden for benefit. [This is according to the opinion of R. Meir.
   B. But the Sages say: The prohibition does not forbid benefit.]  

---


392 Hebrew יוהי

174
II. Olives that are sent that are sold at the doors of bathhouses are forbidden for eating, but are permitted for benefit.

III. R. Yose forbids even for benefit because they drip vinegar over them in order that they may remove their pits (t. Avodah Zarah 4[5]:8).

There is a disagreement between the various Sages over whether or not one is able to sell certain kinds of food products for benefit or not, but Tosefta records no such disagreement concerning whether or not it is forbidden for consumption—that goes without saying. R. Yose forbids even olives for selling because of the vinegar, which brings them into danger of being associated with libation wine.

The discussion of these various foods items over the next few baraitot then occasions a lengthy discussion of food and purity laws:

I. One may purchase from the non-Jews grain, beans, dried figs, garlic and onion in any place, and there is no worry about impurity.

II. The red berry of the sumac tree is unclean in any place; [while] rice is clean everywhere.

III. The hunter is believed who says: This bird is unclean or this bird is clean.

---

393 The bracketed material is not found in the Erfurt manuscript, but is in Vienna. The Hebrew is: דברי ר”מ וחכמים אומרים אין איסורן איסור הנאה
394 Like Zeidman, I am following Jastrow here. See Zeidman, *Tosefta Avodah Zarah*, 264.
IV. One believes the *am ha-aretz* who says: These pickled vegetables are unclean [or] these pickled vegetables are clean, [when he says] I did not sprinkle liquid on them,

A. but one does not believe them when they say, I caught these fish in a state of purity, and I did not throw a net over them.

V. Their capers, leeks, liver-wort, parched grain, boiled water are permitted.

Their roasted eggs are forbidden.

VI. R Judah\(^{395}\) and his court permitted the oil of non-Jews with a vote of quorum.

VII. Bread that is baked by a non-Jew without Israelite supervision, indeed this is forbidden.

A. Bread that is baked by an Israelite even if a non-Jew kneads it, and

cheese that that an Israelite supervised, even if it was made by a non-Jew, indeed this is permitted.

VIII. An Israelite sits at end of his herd and a non-Jew milks it and brings it to him, there is no problem (t. Avodah Zarah 4[5]:11).

---

395 This refers not to Rabbi Judah ha-Nasi, but to his grandson. Zeidman, *Tosefta Avodah Zarah*, 261.
The placement of this section in tractate Avodah Zarah helps us to see that this tractate has material which governs all interactions between Jews and non-Jews, not just those of a specifically ritual nature. This is, at least in part, because of the close connection between ritual concerns and everyday living. As already noted, the Sages’ discourse about non-Jewish ritual allowed for the idea that non-Jews are not engaged in ritual at all times. The embeddedness of ritual, and its connection to ritual purity and impurity, still meant that there was a legal suspicion of non-Jews. Thus, even in non-ritual contexts, there could be danger of contamination—sometimes from fear of using the material for libation, as in the case with the milk above, and sometimes from the general transmission of impurity.

**Iconography**

The rules concerning images in t. Avodah Zarah tend to be more specific than those found in m. Avodah Zarah.

I. But the Sages said, There is nothing 396 forbidden except that which has in its hand 397
   
   A. a staff
   
   B. bird
   
   C. sphere
   
   D. sword
   
   E. crown

396 That is to say, no image.
397 Manuscript Erfurt has יב. Reading יב along with mishnaic parallel.
F. ring

G. image,

H. or snake. 398

II. [Images] upon valued [things], such as chains, earrings, necklaces and rings, are forbidden,

III. but as for valueless things such as kettles, boiling pots, [frying pans], [kettles], bowls, mats and coins, indeed these are permitted (t. Avodah Zarah 5[6]:1).

As a preliminary observation to this topic, Tosefta begins with the Sages’ rebuttal of R. Meir’s opinion from the Mishnah that all images are forbidden, because they are worshiped once a year (m. Avodah Zarah 3:1), but does not record R. Meir’s actual opinion. This shows the general dependence of t. Avodah Zarah on its associated Mishnaic tractate. By removing the citation of R. Meir’s opinion, but including further discussion of images, Tosefta assumes a more lenient position than Mishnah, even though its list of iconographic features is longer than Mishnah’s.

Hadas-Lebel connects the iconographic symbols held in the hands of these unapproved images to the Imperial cult. She notes that in all the Amoraic discussions of

398 This list is significantly longer than the corresponding list in M. Avodah Zarah.
these items they are connected with power and dominion over the earth.\textsuperscript{399} In particular she cites a \textit{baraita} in BT Avodah Zarah 41a which directly connects the scepter, bird, and globe with worldly power. She notes, however, that these iconographic symbols are connected with more than just representations of the Roman emperor, and so we are dealing with more than simply the worship of the Roman emperor.\textsuperscript{400} She notes, for example, the bird (the species of which is left unspecified in Hebrew) can as easily be connected to Aphrodite’s doves as to Zeus’s eagle.\textsuperscript{401} The Mishnah (but once again, not Tosefta) records an opinion in the name of Rabban Shimon b. Gamliel that: “‘Any [image] that has anything in its hand [is forbidden].’” Rather than restricting the prohibition on images to a set list of items, Shimon b. Gamliel seems to recognize the huge variety of iconographic representations which are present in images worshiped by polytheists, and to reject it all.

This makes Tosefta’s position all the more intriguing. In the Mishnah, the opinions of R. Meir and Rabban Shimon b. Gamliel frame the list of unapproved iconographic features. By not preserving either of their positions, Tosefta focusses the discussion solely on what is being held in the hand of the images, which creates an entirely different discursive context than what is found in Mishnah. Tosefta lacks the reasoning behind signaling out a specific list of items, but also lacks Shimon b. Gamliel’s reaction to and recognition of the sweeping nature of polytheistic iconography. This suggests that there was a spectrum available in the Tannaitic search for context, and Mishnah and Tosefta created two different contextual discourses. The position of Tosefta

\textsuperscript{399} Hadas-Lebel, “La paganisme,” 422.
\textsuperscript{400} Hadas-Lebel, “La paganisme,” 423.
\textsuperscript{401} Hadas-Lebel, “La paganisme,” 423.
here is more lenient, as noted, and so it must have even longer discourse on definition.

The comparative leniency of Tosefta is what creates the need for its longer list.

This same passage in Tosefta goes on to address a god by name, one of the few places where this happens in rabbinic literature. Following the discussion on what an image needs to hold in its hand in order to count as an avodah zarah image, Tosefta discusses disposing of images by throwing them into the Dead Sea, a consequence designed to makes sure that a Jew is unable to recover their image and so return to the worship of avodah zarah.

IV. If someone finds a ring, and there is on it the image of

A. the sun

B. or the moon

C. or a dragon

D. one takes these to the Dead Sea.

E. [R. Judah said,] even the figure of the one who nurses and of Serapis [are to be taken to the Dead Sea]. (t. Avodah Zarah 5[6]:1)

Serapis is, of course, the Graeco-Egyptian god who seems to have been a combination of Osiris and Apis with certain Greek characteristics. His worship is attested in the

---

402 Material in the square brackets is omitted in the Erfurt manuscript.
403 This parallels m. Avodah Zarah 3:3.
material culture of the Holy Land during the Tannaitic period.\(^{405}\) His being specifically named in this passage shows a familiarity on the part of the Sages with a non-Jewish deity worshiped in the world which surrounded them. The presence of Serapis in rabbinic writings means that there could be other gods of whom they are aware, but do not mention.

The point of contention in this passage in current scholarship is the identity of “the one who nurses.” This is a definite circumlocution, in accordance with the usual practices of the Sages, but the figure of the one who nurses appears next to an explicitly named deity. She is usually associated with the Egyptian goddess Isis, who was, among other things, Serapis’s consort (as a holdover from earlier Egyptian thought, where she is Osiris’s consort). Isis is often iconographically represented nursing her son Horus or Harpocrates.\(^{406}\) These two facts cause most modern scholars to associate “the one who nurses” with the Egyptian goddess Isis.\(^{407}\)

Friedheim disagrees, and argues that there is no actual evidence for the cult of Isis within Roman Palestine during the period under question.\(^{408}\) He, therefore, questions whether the Sages would be concerned with images of a goddess who is unattested in the geographical place and time where the Sages were constructing their laws. The scholarly argument over this one word indicates many of the difficulties which plague the study of

---


\(^{406}\) Harpocrates is the Greek form of the name hr-p3-hrd, which means “Horus the Child.” Like Serapis, Harpocrates was a Greek adaptation of a native Egyptian god, and together with Serapis and Isis, was worshiped in a triad (such triads were fairly common in Egyptian religious thought).

\(^{407}\) To the point where Zeidman simply has “Isis” in her translation, although she notes the literal meaning of the text in a footnote. Zeidman, “Tosefta Avodah Zarah,” 207. When I mentioned this passage to an Egyptologist, specializing in the Graeco-Roman period, he automatically assumed that this referred to Isis because of the association with Serapis. See also, Jensen, Face to Face, 64, fig. 37.

the Sages’ opinions on the religion and ritual of the others—although it would have been clear to them who they meant; it is not always clear in the modern world. The Sages’ reticence to name specific gods is laid out in a tradition recorded later in Tosefta Avodah Zarah at 6[7]:11:

I. A man does not say to his fellow: Meet me at the street of a certain avodah zarah, and I will meet at the place of a certain avodah zarah, as it is written: “And the name of other gods you will not bring to remembrance” (Ex 23:13).

Even the speaking of the names of gods in common conversation is not allowed by the Sages, since that would bring them to the remembrance of Jews in contradistinction to the law in Exodus. This makes the specific mention of Serapis all the more intriguing.

Immediately following the discussion on images, Tosefta Avodah Zarah discusses a number of rules which derive from the biblical injunction to not make images. The halakhot are arranged around a discussion of seals and their creation and use by Jews. In this case they specifically make a distinction between an image with an avodah zarah and an image without one:

I. A ring that has on it [an image of] an avodah zarah when it is cut in relief is forbidden for benefit.

II. If it is not cut in relief, it is permitted for benefit.

A. In either case it is forbidden to seal with it.

182
III. And if it does not have on it [an image of] an avodah zarah it is permitted for benefit, and it is permitted to seal with it.

IV. As for a ring that has upon it a seal, it is permitted to seal with it.

A. R. Judah said: If the seal is engraved, it is forbidden to seal with it, because it would make an image” (t. Avodah Zarah 5[6]:2).

לחוסה מבועטת עליה נבודה דוד מוחזר הבנאה אילין皓ה מבועטת שמלת נבודה עליה נבודה מוחזר הבנאה ר"י יהודה אומ

אמה חותמת שוקע אוסרلاحוותה מבועטת שמלת נבודה ר"י יהודה אומ

Tosefta divides seals into four categories: avodah zarah cut in relief, avodah zarah in bas-relief, no avodah zarah in relief, no avodah zarah in bas-relief. Two variables come out of the above list: whether or not the ring has an image of an avodah zarah and whether or not it is cut into the seal. Rings which have images of an avodah zarah cannot be used as seals, as that would be tantamount to creating a new avodah zarah image every time the seal was used. According to the anonymous opinion, those rings that do not have specific images on them (i.e. no images of a foreign god) are permissible to trade with and to use as seals. R. Judah says that engraved seals are not permitted because the process of using a seal would make an image, which would be in violation of Ex 20:4: “You will not make for yourself any image, or any likeness of anything in the sky above, or earth below, or the waters that are below the earth.” A seal makes an image—for this halakhah to make any sense, the law to not make images and the law to not worship other

gods must have been understood as separate commandments by R. Judah. The division of this into two commandments gives a strong background for basing this section on context.

The regulation of rings and images continues, discussing both reliefs and *bas-*reliefs:

V. An engraved seal-ring is forbidden for sealing because it makes a protrusion, but it is permitted to give into his hand [i.e. that of an Israelite]

VI. and if the seal is protruding, it is permitted to seal with it, but it is forbidden to give it into his hand [i.e. that of an Israelite] (t. Avodah Zarah 5[6]:2).

Here again, there is a distinction which is made between rings which have a relief on them, and images with a *bas*-relief. According to this ruling, the distinction derives from whether or not an image is protruding from the seal—the protruding image, i.e. one that has form, is the image that is regulated against. Thus, a Jew may handle a seal which has the image carved on it, but may not seal with it, since it creates a form when it is used. The law is reversed for seals which press into the wax, since they already have form, and so are not making another image.

After this t. Avodah Zarah 5[6]:2 then turns to deal with two specific kinds of images:
VII. [As for a] ring that has upon it a visage,⁴¹⁰ is permitted to seal with it.

A. R. Hanninah ben Gamliel said: In the house of my father, there were seals with faces.

B. R. Lazar b. R. Zadok says: All visages were [present] in Jerusalem except for that of a human visage alone.

VIII. The item made as a type of dragon: it is forbidden, but if the dragon is hanging, one may remove it and cast it away, and the remainder [of the bauble] is permitted.

A. This is the type of dragon that is forbidden: R. Shimon ben Lazar said: Any that has fringes going out from its neck, but if [the neck] was smooth, indeed this is permitted.

The visage here refers to human faces, and represents, therefore, a specific kind of image. According to the ruling here, Jews were allowed to seal with rings that had the visage of a human. In fact, Hanninah ben Gamliel confirms this halakhah based upon a memory about the seals with faces which could be found in the house of his father, Rabban Gamliel. R. Lazar mitigates this by saying that the faces on the seals were not human faces. This may be the logical reason behind the next law discussing dragons on images.

⁴¹⁰ Jastrow suggests that this comes from the Greek πρόσωπον.
The fringes spoken of might refer to rays of the sun, but it is difficult to see how such a distinction would make any difference on the depiction of a creature which is already mythological. In this passage, the law is clearly about discussing ritual context, but precisely what that context is a little unclear to the modern reader.

**Annulment of Avodah Zarah**

Mishnah and Tosefta both discuss the process of annulling or desacralizing an image. In fact this process begins a fairly lengthy section on how to interact with the physical images that constituted *avodah zarah*. It begins with a hypothetical situation:

I. The one who buys fragments from a non-Jew and finds therein an *avodah zarah* he removes and throws away [the *avodah zarah*] and the remainder [of the shavings]; indeed this is permitted” (t. Avodah Zarah 5[6]:3).

In other words, if somebody purchases scrap from a non-Jew and finds an image of a non-Jewish god among it, as long as the god is thrown away, there is no difficulty, and the remaining scrap may be used. This then begins a discussion on the annulment of images, and who can and cannot annul images and when and where this can be done.

Tosefta notes in various places that Israelites are essentially never permitted to annul images, whether of a non-Jew or of a Jew. Tosefta 5[6]:3–4 says:

I. An Israelite that finds an *avodah zarah*—before it enters his [the Israelite’s] domain, he says to a non-Jew and he desecrates it.

II. A foreigner may desecrate an *avodah zarah* whether it is his or his fellows,
A. Whether it has been worshiped or has not been worshiped,  
B. Whether inadvertently or with intention,  
C. Whether under duress or freely.

III. An Israelite that makes an avodah zarah, it is forbidden even if it has never been worshiped, therefore he is not able to desecrate it.

IV. A non-Jew who makes an avodah zarah, it is permitted until it is worshiped, so that he is able to annul it.

V. Rabbi said in the name of R. Jacob: If [the non-Jew] made it for an Israelite from the outset, he is not able to annul it.

Non-Jews, therefore, have more power in the annulment of avodah zarah. This raises intriguing questions about the nature of how Jews viewed the images of non-Jews, since Jews are not to annul them—Jews cannot remove from an avodah zarah any of the distinctive characteristics which give it its sanctity. Non-Jews, on the other hand, are free to annul any image at any time, “whether it is his or his fellows, whether it has been worshiped or has not been worshiped, whether inadvertently or with intention, whether under duress or freely” (t. Avodah Zarah 5[6]:3). This difference is explicable in connection the rabbinic view of context and custom. There is no appropriate context for a
Jew to have an image, but there are contexts where non-Jews could have decided that their image is no longer appropriate, and so are able to annul it.

The laws which govern the annulment of images make presumptions about the use of those images because they are concerned with whether or not the image has been actively worshiped—this indicates who can annul it. Tosefta disagrees with the Mishnah on this particular point—m. Avodah Zarah 4:4 says: “The *avodah zarah* of a foreigner is forbidden from the outset, while that of an Israelite is not forbidden until it is worshiped.” Contrast this with t. Avodah Zarah 5:4: “As for a non-Jew who makes an *avodah zarah*, it is permitted until it is worshiped, such that he is able to annul it.” Likewise, Tosefta indicates that “An Israelite that makes an *avodah zarah*, it is forbidden even if it has never been worshiped; therefore he is not able to desecrate it” (t. Avodah Zarah 5[6]:3).

The actual final halakhah of both sources is the same—only a non-Jew can properly annul an image, but the process of getting there derives from different presumptions about the creation of images.

From this section, Tosefta discusses the possibility of using images that have somehow transferred ownership:

I. A non-Jew that sells an *avodah zarah* to its worshipers, it is forbidden,
   a. but if [it is not sold] to its worshipers it is permitted to pledge with it.

II. If something falls upon it, if a river swept it away, or if robbers stole it, or if robbers carried it off,

III. or its owners abandoned it, as in the war of Joshua,
   a. if the owners in the future return to it, it is forbidden
b. but if not, permitted.\footnote{This is presumably a question of intention as much as it is one of actual usage.}

I. Pedestals that non-Jews erect in a time of persecution, even though the persecution has passed, indeed these are forbidden (t. Avodah Zarah 5[6]:5–6).

The question here follows naturally from the discussion of annulled images—are there actions besides physically damaging an object that count as annulling an object? Selling an image to those who worship it is obviously still in the category of treating it as divine, and so it would not be annulled. If it was sold to those who did not worship it, then clearly it was being treated with a different function from a different perspective. The same general rule applies to other mishaps which can befall an image. The question behind the rabbinic discourse here is actually a question about how non-Jews customarily treat their images—in other words, what assumptions are behind non-Jewish perspectives on their rituals.

Tosefta Avodah 5:6 continues to discuss the contexts behind this discussion on annulment:

I. And is it possible that every \textit{avodah zarah} that a non-Jew has annulled is forbidden?
II. Scripture says, “And the images of the[ir] gods [you will burn with fire]”
(Deuteronomy 7:25).”

III. Whatever [the non-Jew] customarily⁴¹² counts as his god is forbidden and whatever he does not treat customarily as his god is permitted.

IV. Is a non-Jew able to nullify the avodah zarah [of an Israelite?]⁴¹³ Is it possible to nullify [its own]? Scripture says, “And the images of their gods”

  a. Whether or not he is accustomed to treat it as a god, it is forbidden (t. Avodah Zarah 5[6]:6).

Since the halakhah permits the use of some images after they have been annulled, Tosefta wonders how the verse in Deuteronomy, which seems to advocate total destruction of the images of foreign gods, should be interpreted. It answers the questions by an appeal to ancestral custom: “Whatever [the non-Jew] customarily counts as his god is forbidden and whatever he does not treat customarily as his god is permitted” (t. Avodah Zarah 5[6]:6). Thus, only those gods that the non-Jew is accustomed to worship can be annulled by that non-Jew. Images made by Jews are never permitted to be annulled in Tosefta, because they were never supposed to have been made, and are therefore automatically forbidden (t. Avodah Zarah 5[6]:3). Tosefta therefore does not care whether or not the

---

⁴¹² Hebrew נָהֲג
⁴¹³ Supplied from the Vienna Manuscript.
Israelite is accustomed to treat an image as a god; as such things are not part of the custom of Jewish religion. Custom and tradition thus play a powerful role in determining what qualifies as the worship of avodah zarah for both Jews and non-Jews.

The actual process of annulment involves striking the image with a hammer in order to do real damage to the figure:

I. How is it annulled? R. Meir says: When it is struck with a hammer and disfigured.

II. R. Shimon says: Even if it is struck and slapped and [a piece] falls, indeed this [counts] as annulment.

III. But the Sages say: A foreigner may annul [both] his own avodah zarah and that of an Israelite.

IV. But an Israelite may not annul the avodah zarah of a foreigner.

V. R. Shimon b. Mansaya says: As for the avodah zarah of an Israelite, it may never be annulled. (t. Avodah Zarah 5[6]:7).

Thus, according to the Sages, the appearance of the image matters, such that if it is clearly broken, it is no longer considered to be an avodah zarah. This importance of the

---

414 To push this a little further, a Jew would be forbidden by Ex 20:3 to have any other gods before Yahweh. Taking custom (in its various terms) as the primary basis for ancient religion, a Jew would never be accustomed to treat an image as representing God, except in a case similar to the famous Golden Calf incident in Exodus 32.

415 Vienna Manuscript has יכפל, which is here followed.
physical integrity of the image is followed by another sharp distinction being drawn between the abilities of non-Jews to annul images.

Definitions and Descriptions

Because of the general embeddedness of ritual in the ancient world, drawing lines between a religious ritual and one that is simply civic or general in nature would have been very difficult, which is why the Sages are in constant discussion for plausible contexts for non-Jewish ritual. With this ambiguity, it is noteworthy that Mishnah never actually defines what an *avodah zarah* actually is, nor how it is worshiped. Tosefta does provide a definition, although that definition still leaves many questions. Tosefta’s interest in further definition and delineation here seems to derive from the general leniency in Tosefta. Tosefta continues Mishnah’s search for plausible contexts, but allows for more contexts, and so must define grey areas more closely.

It begins with discussing altars and sacrificial animals associated with the worship of *avodah zarah*:

I. A pedestal that has been broken—indeed this is permitted.

   A. As for an altar that has broken down, it is forbidden unless it is separated.

   B. An animal set aside for sacrifice (ד器材 [by its owner]) is forbidden, but if by his friends it is permitted.\(^\text{416}\)

   C. Before he sanctifies it is forbidden, but after it is permitted.

\(^{416}\) Manuscript Erfurt switches these two rulings.
II. When is something called *muqṣeh*? \(^{417}\) When it has been treated as such. \(^{418}\)

III. What is this that is served? \(^{419}\) Anything that is worshiped, whether unintentionally or intentionally.

A. What is a *muqṣeh*?

B. Something that is set apart for an *avodah zarah*, but if one says: This house is for an *avodah zarah*, nobody says anything,

C. because it cannot be dedicated to an *avodah zarah* (t. Avodah Zarah 5[6]:8–11).

This definition itself does not actually clarify anything, but instead says that anything that is worshiped qualifies to be treated under the laws governing *avodah zarah*. Looking at the placement of this passage in Tosefta is helpful here. The passage just quoted is part of a discussion on *מוקצה*, which is a technical term referring to items dedicated for worship. \(^{420}\) Thus, the definition in Tosefta may not necessarily be a totalizing definition of every kind of *avodah zarah* (although it is certainly all-encompassing), but rather

\(^{417}\) Zeidman translates this somewhat more straightforwardly as “What is the definition of an idol,” Zeidman, “Tosefta Avodah Zarah,” 210.

\(^{418}\) Following Zeidman.

\(^{419}\) Zeidman has “What is the definition of an idol?” With my translation, I have attempted to preserve the sense of the Hebrew and the notion of service, rather than one of the rabbinic terms for the image.

\(^{420}\) Jastrow, *Dictionary*, 747.
related to the specific argument which Tosefta is making in this section. Thus Tosefta 5[6]:8–9 says: “An animal set aside for sacrifice that belongs to him is forbidden, but if it belongs to his friends it is permitted. Before he sanctifies it is forbidden, but after it is permitted. When is something called muqṣeh? When it has been treated as such.” It follows with the definition of worship already quoted, with a continuation of the discussion of מוקצה: “What is a muqṣeh? Something that is set apart for an avodah zarah” (Tosefta 5[6]:10). Thus, here avodah zarah is defined in relationship to the discussion on the setting apart and sanctification of items for sacrifice, and not as part of an all-encompassing definition of avodah zarah.

Music and Ritual

The next section includes some discussion of some of the ritual connections, such as music:

I. Flutes of an avodah zarah are forbidden to mourn with.

II. But if they were rented to the state, even if they were used for the need of an avodah zarah, it is permitted to mourn with them (t. Avodah Zarah 6[7]:1).

Emmanuel Friedheim has written an article about the Sages’ interactions with music, and the threat which it presented them. In this article, Friedheim suggests that subsequent

---

421 Presumably for ritual music surrounding an avodah zarah.
to the destruction of the Second Temple, all music and dancing were considered part of polytheistic worship, although the prohibitions against them were not strongly enforced.\footnote{Friedheim, “Jewish Society in the Land of Israel and the Challenge of Music in the Roman Period,” \textit{The Review of Rabbinic Judaism} 15 (2012): 62–88.} For the purposes of this dissertation, Friedheim’s observations about the ritual nature of music in Second Temple Judaism are especially germane. He observes: “The picture that emerges overall is that in the Second Temple period ritual music occupied a place of honor in the cultural and religious life of Land of Israel Jews, in both the Temple and their everyday practices.”\footnote{Friedheim, “Challenge of Music,” 62.} Music in the ancient world, whether Jewish or not, was something that the ancients encountered primarily in their ritual world.

Because of this, after the destruction of the Temple, the passages in the sources that “speak of music and musical instruments link them to pagan music that led to assimilation among the Gentiles. Most of the instruments mentioned are connected with the observance of pagan rituals.”\footnote{Friedheim, “Challenge of Music,” 68.}

This of Tosefta discusses the “flutes of \textit{avodah zarah},” which is to say, those flutes associated with a cult. Tosefta associates these flutes explicitly with the worship of \textit{avodah zarah}, for they are forbidden to use in a named Jewish ritual context: “Flutes of an \textit{avodah zarah} are forbidden to mourn with. But if they were rented to the state, even if they were used for the need of an \textit{avodah zarah}, it is permitted to mourn with them.”

Friedheim includes a list of deities who were associated with music and flutes: this includes Dionysus, Isis and Serapis, and Cybele.\footnote{Friedheim, “Challenge of Music,” 73.} The Roman historian, Tacitus, explicitly connects Judaism to worship of the Roman god Liber Pater: “From the fact,
however, that their priests used to chant to the music of flutes and cymbals, and to wear garlands of ivy, and that a golden vine was found in the temple, some have thought that they worshiped Liber Pater, the conqueror of the East.” Liber Pater was the Roman god of viticulture, and was associated with Dionysus and Bacchus. Like sacrifice, the burning of incense and the other ritual activities mentioned in Sanhedrin 7:7, music was a ritual category which was shared by Judaism and the surrounding world, so much so that some non-Jews considered the similarities sufficient to make a connection between Judaism and a pagan cult. The rabbinic conception of ritual was a comparison of like-types, as noted, but this comparison went both ways.

This halakhah is based on ancient mourning customs described as far back as the Hebrew Bible. The flute was used to accompany the wailing of mourners, as in the lament over Moab in Jeremiah’s oracles against the nations. The New Testament contains evidence that there was continuity with this practice into the Second Temple period, as it speaks about “musicians” present at a death bed. The practice of wailing and playing music as part of the mourning rites was common throughout the ancient world in both Jewish and non-Jewish contexts. The flutes that belonged to a non-Jewish god could not be employed in this way, although flutes which have been temporarily

427 Tacitus, History 5:5, trans. by Alfred John Church.
429 The connection which is made in Tacitus between Liber Pater and the God of Israel finds odd support in the writings of Josephus, where he calls the palm branches used at Sukkot “thyrsus,” the fennel branch closely associated with the worship of Dionysus. Josephus, Antiquities of the Jews 13.372. It is an intriguing choice of a Greek word on the part of Josephus.
430 “Therefore my heart will blow like flutes for Moab, and for the men of Qir-Heresh my heart will blow like flutes, therefore the wealth he made perishes” (Jeremiah 48:36).
431 Matthew 9:23.
rented to the government, even if those flutes were used in polytheistic rites, were still permissible for use.\footnote{There are two other items (storefronts and cisterns) included in this section with similar rulings, but they are not directly related to the specific Tannaitic discourse on ritual, and so are not included.}

\textit{Space and Impurity}

The discourse on space and sacredness, first referenced in t. Avodah Zarah 2:9, is again taken up in t. Avodah Zarah 6[7]:2–3.

I. As for the one who designates his home for an \textit{avodah zarah}:

\begin{itemize}
  \item[A.] all of it renders unclean when entering,
  \item[B.] and passing through the midst of it is like passing through the midst of the \textit{avodah zarah}.
  \item[C.] But if there were multiple ways dividing [the house]
  \item[D.] it does not render unclean, except for the way [by the \textit{avodah zarah}] alone.
\end{itemize}

II. As for the one who leans his house on an \textit{avodah zarah}: everything is rendered unclean when entering.

\begin{itemize}
  \item[A.] If they [that is to say, the non-Jews who built the shrine for an \textit{avodah zarah}] did not attach it, not everything renders unclean upon entering,
  \item[B.] only the wall which is adjudged to divide [the house from the \textit{avodah zarah}].
  \item[C.] If it falls, he is forbidden to rebuild it.\footnote{Since by so doing he would be building up a temple to a non-Jewish god.}
  \item[D.] Should [non-Jews] rebuild it, returning it to its former condition,
  \item[E.] not all of it renders unclean upon entering
\end{itemize}
F. except for the wall which divides [the house from the avodah zarah].

III. The one who sells his house to an avodah zarah: its price is forbidden and he brings the profit to the Dead Sea.

A. But if the non-Jews force him and seize his house and erect in it an avodah zarah, his money is permitted.

B. He must write down (the deed) and bring it up to the courts.

IV. The one who puts in his head or most of his body becomes unclean.

V. Earthenware vessels that come in after him to an avodah zarah are unclean.

VI. Benches and chairs which have most of their parts brought in to a house of avodah zarah are unclean.\footnote{This is one of the few specific references in these sections to a polytheistic temple.}

This passage discussed the mechanics of the transference of impurity through space occupied by an avodah zarah. As is usual in a rabbinic discursive context, Tosefta presents a number of scenarios in order to illustrate its legal opinion. The first case is that of someone who has dedicated his or her house to a foreign god (or at least to the deity’s...
image, since the collocation *avodah zarah* is used): “The one who designates his home for an *avodah zarah*: all of it renders unclean when entering, and passing through the midst of it is like passing through the midst of the *avodah zarah*. But if there were multiple ways dividing it does not render unclean, except for the way [by the *avodah zarah*] alone.” This halakhic ruling mirrors the one about travelling to a city with a shrine or temple—as long as there are multiple ways through the house it is permissible to use those. Otherwise the Jew risks contamination and impurity.

Even partial entrance into the sacred space of the deity conveys impurity to a Jew who comes into contact with it: “The one who puts his head or most of his body [into a space dedicated to *avodah zarah*] becomes unclean” (t. Avodah Zarah 6[7]:3). For the purposes of transmitting impurity a Jew does not even need to enter all of the way, but only needs to put in a head. Inanimate objects respond similarly: “Benches and chairs which have most of their parts brought in to a house of *avodah zarah* are unclean” (t. Avodah Zarah 6[7]:3). Both humans and empty chairs contract impurity when most of their component parts are brought into the sacred space of the foreign deity.435

This tractate of Tosefta appears aware of ways in which images are venerated in the Roman world, and Jews are instructed to avoid such veneration. These relate to the difficulty of having images in the plastic arts associated with gods which were a common part of city adornments throughout the Roman world.436 With all of these divine images

---

435 T. Avodah Zarah 6[7]:3 contains a reference not only to the present halakhic problem, but also to a specific shrine to an *avodah zarah*.
436 Even the viewing of images could have significance in the ancient world as Rachel Neis has recently shown. Rachel Neis, “Eyeing Idolatry: Rabbinic Viewing Practices in Late Antiquity,” *JQR* 102 (2012): 533–560. I examine this idea more closely in chapters 8 and 11.
around, Late Antique Jews needed to be careful in order to not appear to be worshiping *avodah zarah*. Thus, concerning a Jew who had dropped coins:

I. Anyone that drops coins in front of an *avodah zarah* does not prostrate in front of it [while picking up the coins],
   A. lest he appear to be worshiping the *avodah zarah*.

II. He is instead to turn his back and pick [them] up. But in the place where he is not seen it is permitted [to pick up the coins while facing the image]” (t. Avodah Zarah 6[7]:4).

The last sentence makes this clear that this ruling is primarily concerned with avoiding the appearance of evil, since it is appropriate to bend down in front of the image if no-one can see the dropper.\(^{437}\) There is a similar ban in place on drinking from a spring which has an *avodah zarah* overlooking it. As with the coins, the Jew simply turns his back before drinking, and is permitted to drink facing forward if no one is watching. In both cases, the ritual act of worship which the Jew is avoiding is the prostration or bowing down before the image, and it is sufficient to simply avoid appearing as though one is worshiping the god.

Fountains were one particularly common example of the omnipresence of images in the ancient world. The water for the fountain often spouted from the fountain’s

\(^{437}\) This concept is codified in Judaism as *ma'arit ayin*. 200
mouth. This iconographic peculiarity is subject to a halakhah from t. Avodah Zarah 6[7]:6:

I. As for visages which spout water for cities,

A. one does not rest one’s mouth on the mouth of the visage and drink, so that it does not look like one is kissing the avodah zarah.

B. Rather [he fills] his hand and drinks.

Kissing an avodah zarah is forbidden in m. Sanhedrin 7:7 as one of those ritual activities which violate a negative commandment. This ruling provides a practical consideration to avoid the appearance of breaking the commandment from m. Sanhedrin. Tosefta Avodah Zarah does not assume that these activities are actually the worship of avodah zarah—the problem here is not that Jews will be involved in foreign ritual, but rather that they will appear to be so.

Tosefta Avodah Zarah 6[7]:8 makes a distinction in punishment between the item being worshiped and the worshiper. It does so through two specific examples, the veneration of a mountain and the worship of a human being. The second example almost certainly refers to Imperial cult and emperor worship. The halakhah is as follows:

438 The association between fountains and images is also the background behind the aggadic discussion of Rabban Gamliel’s famous encounter over the image of Aphrodite in the bathhouse in m. Avodah Zarah 3:4, discussed in this dissertation.

439 The word visage here refers to masks which serve as water spouts and which were an abundant feature of fountains in the Roman Empire.
I. As for a man that is worshiped, even though this is permitted, his worshipers [are punished] with stoning (t. Avodah Zarah 6[7]:8).

According to this, the worship of the emperor is permitted on a purely theoretical level, but those who actually take part in the rituals of worship for the emperor are punished with stoning, which is to say, with the punishment for worshiping avodah zarah.⁴⁴⁰ The worship of hills and mountains is included in this same passage with an identical halakhah.

This is a challenging section to interpret in light of many of the other laws regulating Jewish participation in the rituals of non-Jews. Mishnah Avodah Zarah is aware, at least, of the rituals surrounding the apotheosis of the Roman emperor, as indicated by the statement by the Sages in m. Avodah Zarah 1:3: “The Sages say, Any death that has fire, has in it avodah zarah. Any in which there is no fire, does not have in it avodah zarah.” This is a reference to the ceremony where the body of the emperor was burned, and a bird was released, representing the ascension of the emperor’s genius as a divine being.⁴⁴¹ Although there was in ancient Israelite religion a tradition of divine ascension of human individuals, which had some survival into the Second Temple period

---

⁴⁴⁰ See m. Sanhedrin 7:7.
and beyond, in general the Sages rejected that kind of blurring between the human and the divine realm. This is highlighted by the passage under question—any who worships a man is to be put to death by stoning. What is difficult is the ruling that the worship of a man is not forbidden, only that the punishment for doing so was death by stoning. This seems to represent a pragmatic solution on the part of the Sages. The Roman imperial cult, in all of its various expressions, was a fact of life in most parts of the Empire, and was therefore something that the Sages needed to negotiate in such a way that would not specifically alienate the imperial powers. A law which permitted the worship of a man, but punished the worshiper (meaning that it was only an internal concern) was one way of navigating this difficult topic.

Tosefta then turns to laws discussing asherot. This section has a definition of what an asherah is:

I. What then is an asherah? Any [tree] that the non-Jews worship and take care of it but do not eat from its fruit” (t. Avodah Zarah 6[7]:8).

This is a different definition than m. Avodah Zarah’s definition, which defines an asherah as a tree that has an image beneath it. This halakhic difference is instructive, because it shows there was not a clear definition of what an asherah actually was, or rather that there were several concurrent definitions of what an asherah was. It is possible that both definitions come from a larger definition. This is one of the great challenges in examining how the Sages talked about and considered other people’s rituals, since they

---

themselves were not always clear or consistent in how they discussed them. The case of the *asherah* is likely one where the Sages are applying a biblical category (a category which is by no means itself clear-cut) to ritual phenomena in their own time and place.\(^{443}\)

Although there is general scholarly agreement on the relationship between the conceptual category of sacred trees and *asherah*, there is not agreement on what part these trees played in their respective ritual communities. This is likely in part because the various things which the Sages identify as *asherah* had different ritual meanings to the non-Jewish worshipers. The polysemy in the Sages’ opinions reflects a polysemy of polytheistic practice.

Tosefta becomes very concrete in its discussion of the *asherah*, repeating a tradition in the name of R. Shimon ben Lazar that there are three *asherot* in the land of Israel (t. Avodah Zarah 6:8). It then proceeds to list four trees that it considers to be *asherot*:

II. A carob that is in Kefar Petam, that is in Kefar Pigshah, a sycamore that is in Rano and in Carmel” (t. Avodah Zarah 6[7]:8).

*Carmel* may refer to a settlement in Judea (1 Sam 25:2) or to the mountain in the north of the Holy Land. If it refers to the mountain, then there is likely continuity between Canaanite worship and the worship discussed by the Sages in Tannaitic literature. Carmel

\(^{443}\) Scholars have argued, however, for a persistence of Canaanite (by which they mean Ugaritic) religious conceptions into the Roman world. See Robert A. Oden, “The Persistence of Canaanite Religion,” *The Biblical Archaeologist* 39 (1979): 31–36. All Oden’s article really does is establish that goddesses who had some similarities to the goddesses mentioned in Ugaritic literature were worshiped during the Roman period. In some ways, this is a surprise to no one who has read Lucian’s *The Syrian Goddess.*
is often understood as a *portmanteau* of בֵּרֵן, “vineyard” and אלה “El or God.” Although this is possible, it is somewhat questionable because the weakening of the aleph is not characteristic of Northwest Semitic languages in the period when the portmanteau would have formed. The site might still be connected to Canaanite El. In addition, the site was considered to be a holy site in the Graeco-Roman period, and was, according to Iamblichus, visited by Pythagoras. Iamblichus references Carmel as being “more sacred than any other mountain.” The sanctity that polytheists attached to this site suggests that the Sages were actually somewhat aware of the ritual world which surrounded them. It should be noted, however, that, even with the identification of Mount Carmel as a Canaanite/Phoenician sacred site, the presentation in Tosefta suggests that these are specific trees identified as *exempla*, rather than an attempt to identify all of the *asherot* in the Holy Land.

The Sages in Tosefta then proceed to discuss laws, some of which parallel laws in the Mishnah, governing the use and the difficulties with the *asherah*.

III. As for an *asherah* one may plant under it vegetables in the days of rain, but not in the days of sun.

IV. Lettuces [may not be sow] either in the days of rain or the days of sun.

V. R. Shimon ben Lazar says: In fact, one may not plant vegetables in the days of rain because the leaves drop and they become fertilizer.

VI. [If someone] enters underneath it [an *avodah zarah*], it is like entering into [a house of] *avodah zarah*.

A. If there is a public road which passes by it, indeed this is permitted.

---

VII. An Israelite who prunes an asherah, whether for its benefit or not, is forbidden.

A. And a non-Jew who prunes an asherah for its benefit, it is forbidden [but the clippings] are permitted.

1. If for his benefit, both are forbidden.

From a ritual perspective, an asherah is treated like a shrine which contained an avodah zarah, in that passing underneath of it transmits impurity—in fact, Tosefta makes a direct comparison between walking underneath an asherah and entering the shrine of an avodah zarah (t. Avodah Zarah 6[7]:8). Asherot are also subject to the law of benefit, but, as is the usual case, Jews are forbidden to prune an asherah, whether for its branches or for the health of the tree (t. Avodah Zarah 6[7]:9). The one is forbidden because the Jew gains benefit from it, while the second is forbidden because the tree benefits from it, and so the Jew is supporting foreign worship. A Jew is likewise forbidden to gain benefit from the trimmings of an asherah that a non-Jew has made for his or her own benefit, although if it was trimmed for the benefit of the tree, a Jew may gain benefit from the branches, but still not from the tree.

Part of the nature of religious and ritual activity in the ancient world was the practice of giving gifts and offerings. This was, of course, one of the commonalities
shared between Jewish and non-Jewish ritual systems. Because there were images and shrines all over the Roman world, in many cases these items and gifts would be left on shrines and altars. Tosefta Avodah Zarah 6[7]:12 discusses the possibility of a Jew taking these items, which were left as ritual offerings, for his own benefit. The image itself is forbidden, which is unsurprising, but offerings which are definitively ritual offerings are also forbidden:

I. An avodah zarah and anything that is upon it, indeed this is forbidden.

II. If one finds on it wine, oil, fine flour, or anything what normally is brought as an offering on the altar is forbidden (t. Avodah Zarah 6[7]:12).

Part of the rules for the regulation of non-Jewish cult is an awareness of the general nature of cultic work in the ancient world, which further shows that the rabbis were making rules based on shared assumptions. These offerings were also part of the grain offerings offered in the Jerusalem Temple.

The Hebrew Bible also warned in the book of Deuteronomy about being too interested in the wealth which can be associated with divine images. It does so in two places, with two different prepositions. Because the Sages considered every word in the Hebrew Bible to be significant, Tosefta employs the midrashic method, and asks why the Torah uses different terms:

I. A certain scripture says: ‘You will not desire the silver [and the gold which is on them]’ (Deuteronomy 7:25).
II. Another scripture says: ‘And the silver and gold which is with them,’
(Deuteronomy 29:17 [H 16]).

III. How are we to fulfill these two scriptures?

A. ‘Upon them’ whether the body [of the image] is clothed with them or not, they are forbidden.

B. ‘With them’: if the body is clothed with them they are forbidden, but if they are not clothed with them, they are permitted.

The two scriptures are interpreted in the context of accoutrements and adornments of images. The final effect of the ruling is that anything which is associated with an image is rejected. The last ruling must assume that items which do not clothe an image are not associated with them.

This section also contains a reference to a non-Jewish ritual practitioner, although the actual officer in question remains quite obscure:

I. And even items which their bodies are clothed with and which [non-Jewish] priests steal and sell, indeed these are permitted. (t. Avodah Zarah 6:12).

The word used for priests is כומר, a word used in the Hebrew Bible to describe non-Israelite priests. This particular word only appears three times in the Hebrew Bible.

---

445 2 Kings 23:5 is paradigmatic of this usage in the Hebrew Bible.
(although biblical scholars have conjectured a few more). It is not much more common in rabbinic literature. The fact that the Tannaitic Sages elected to use this word, rather than one drawn from the Graeco-Roman world around them, suggests that it is being used as a general, rather than a specific, term. It should also be noted that the word never has a positive or even neutral meaning in the Hebrew Bible, as here, where the non-Jewish priest is accused by the Sages of stealing offerings from the image, and then turning around and selling those offerings.

*Merqolis and Custom*

It is in connection with the discussion of offerings that the *merqolis* is introduced in Tosefta. Since these items were often found at crossroads or other outside places, they were likely to have items placed on top of them. Tosefta records two opinions about how one is to treat the items found on top of a *merqolis*. The first opinion forbids everything related to a *merqolis*, from the stones to the offerings:

I. A *merqolis* and all that is upon it, indeed this is forbidden.

II. If someone finds upon it wine, oil, flour, or anything that is brought as an offering on the altar, this is forbidden.

III. Coins and vessels—these are permitted.

IV. Others say: As for coins and vessels on the uppermost stones, indeed these are forbidden. (t. Avodah Zarah 6[7]:13).

מרקוליס וכל מה عليه הרי זה אסור מצא עליו יינות שמנים וסלתות וכל דבר שכיוצא בו קרב ע״ג המזבח אסור מעות וכולים הרי אלו מותרין אחרים אומרים מעות וכלים שע״ג אבן העליונה הרי אלו אסורין.

---

446 *HALOT*, 482.

According to the second opinion only those things which are associated with rituals around the *merqolis* are forbidden. An offering like a coin, which has no explicit cultic activity associated with it, is not forbidden—it is not *avodah* and is not forbidden as such. The final opinion notes: “Others say: As for coins and vessels on the uppermost stones, indeed these are forbidden.” According to this opinion, these coins and vessels are absolutely associated with *merqolis* as votive offerings, and so could not be taken.

As a pile of stones, the *merqolis* presents an interpretative problem. They are not worked and they are not images, but are, as noted in the Introduction, piles of rocks. Thus, these ritual objects in the ancient world are difficult for scholars to find and describe, since rocks, even piles of rocks created intentionally, do not necessarily leave a discernible archaeological trace. As is usual in Mishnah and Tosefta Avodah Zarah, the primary concern is one where the contexts in which they are found and the contexts in which they can be used matters—can the stones be used for other things, or has their association with *avodah zarah* forever tainted them? Tosefta rules that for the purposes of stones, it is merely a question of whether or not they look to be actually part of the *merqolis*:

I. As for stones which have fallen from a *merqolis*, if they appear to be with it, they are forbidden, but if not, they are permitted.

II. R. Ishmael says: Those that are within grasp of it are forbidden, but those that are not within grasp are permitted” (t. Avodah Zarah 6[7]:14).

אבניים שנשרו מן המרקוליס אם היו נראות עמו אסורות אם לאו מותרות. ר' ישמעאל אמר של חסרים לא אותו המותרות אפיון לא למותרות.
R. Ishmael’s ruling is really a specification and amplification of the anonymous opinion. Thus, only those stones which lie within an arm’s length of the *merqolis* are considered to be part of it.

The next question is about the movement and transference of the stones of a *merqolis*. As is often the case, Tosefta makes separate rulings for relations of Jews and non-Jews to the various items associated with worship and ritual. Jews, as is to be expected by this point, are not allowed move the stones, since the carrying of stones is the same as carrying an *avodah zarah*:

III. An Israelite that brings stones from a *merqolis*, indeed this is forbidden
   A. because they are forbidden (in the same manner) as *avodah zarah*.

IV. But a non-Jew who brings a stone from a *merqolis*, indeed this is permitted because it is like an *avodah zarah* which is abandoned.
   A. And, as for a *merqolis* removed from its place, it is permitted for benefit (t. Avodah Zarah 6[7]:14).

The idea here is that if a non-Jew carries the stones away from an *avodah zarah*, he is taking away, and hence taking apart, the source of foreign worship. Finally, we get a sense of the embeddedness of sacred space in the next ruling: “And, as for a *merqolis* removed from its place, it is permitted for benefit” (t. Avodah Zarah 6:14). In this case, if

---

448 Mishnah Avodah Zarah indicates that the according to the opinion of Akiva an image conveys impurity in the same manner as a menstruant woman, as noted in chapter 3.
the *merqolis* has been moved from where it was, it no long qualifies as a *merqolis*, and is therefore permitted for benefit as it reverts to its status as a pile of stones. It is the context in which it is placed, and the authority the cultic object has in the prevailing culture that determines whether or not it is forbidden. The thing to note here is the intentionality on the part of the non-Jew.

*Making Wine and Libations*

The next chapter of t. Avodah Zarah correlates to m. Avodah Zarah 4:8, which is primarily concerned with questions of wine-making in the context of the general universality of libation offerings in the ancient world. This is one of the places where the legal suspicion of non-Jews is at its strongest. Tosefta states very clearly that the moment a non-Jew is out of sight of a Jew, he is immediately suspected of pouring out a libation:

I. At first they used to say: One does not cut grapes with non-Jews, and one does not tread the winepress with an Israelite in a state of impurity, but one may tread with a non-Jew.

II. They now say: One does not tread with a non-Jew, and one does not cut grapes with an Israelite in a state of impurity, but one may cut grapes with a non-Jew.

III. One conveys with him new barrels, but not old ones—this is according to the opinion of R. Meir.

A. But the Sages say: The new and the old are as one—they assist him until he passes from sight.
B. [When] he passes from sight, it becomes libation wine (t. Avodah Zarah 7[8]:1).

This section further underscores the prevalence of libations as seen through the eyes of the Tannaitic Sages. Because libations were such a common part of the ritual life of the ancient world, as well as part of the rituals in the Jerusalem Temple, it needs to be discussed and examined.

Tosefta assumes knowledge of the ritual process which non-Jews used when offering libations:

I. If an Israelite that works with a non-Jew at the press,
   A. and this brings up the bread to the top of the pile
   B. and brings down the bread from the top of the pile,
   C. even if the wine is floating on the top of [the non-Jew’s] hands,
      1. [this] is permitted,
      2. because this is not their custom\textsuperscript{449} for libations.

II. As for someone who weighs grapes in the basket of a balance,
   A. despite the fact that [the wine] floats on top of [the non-Jew’s] hands,
      1. [this] is permitted,

\textsuperscript{449} Heb. דרך
2. because this not their custom for libations.

III. Someone who presses grapes into an earthen vessel,

A. even if the wine flows off the back of [the non-Jew’s] hands,

1. [this] is permitted,

2. because it is not their custom for libations (t. Avodah Zarah 7[8]:3–4).

The various scenarios presented are not ruled to be worshiping *avodah zarah* because “this is not their custom” for libations.” Here, once again, ritual and religion is connected to previous custom. The Sages are aware that libations happen according to certain customary rituals, and that not every interaction between a non-Jew and wine ends up in that wine becoming libation wine. According to the rabbinic discourse of ritual, they happen according to limited formula, and if those formulae are not met then no ritual was performed. Libation becomes, therefore, one of the places where it is easiest to see how the Sages discoursed on ritual for two reasons. The first was its pervasiveness in the ancient world, as already noted, and the second was its similarity to Jewish ritual.

According to t. Avodah Zarah 7:14, the Sages are aware that although wine was the primary medium of libation in the Roman world, there were other liquids which non-

---

450 Heb. דרך

451 This connects, of course, to the modern conception of ritual as customary behavior, as well.
Jews used. As in other situations, the intention and the custom of the non-Jew is one of the criteria for judging whether or not a substance was permissible or not:

I. Wine closed at the house of a non-Jew is forbidden because of libation wine,

A. but brine, fish, oil and honey

B. if he sees it as a libation,

C. it is forbidden, but if not, it is permitted (t. Avodah Zarah 7[8]:14).

In this passage it is clear that the Sages view wine as being more likely to be used for a libation. Other substances could be poured out as libations, but wine was clearly represented as the favored choice. In this case, the question is how the non-Jew sees the substance. Presumably, this would relate to the specific cults and ordinances which a given a non-Jew takes part of. How this information is to be communicated to the Jew is unclear, but is ultimately unimportant. In the cultural world in which the Jews were embedded, wine was chief in libation, followed by other liquids, and so it is wine that needs to be regulated most closely.

T. Avodah Zarah 8:4 introduces the Noahide Laws, which are those laws which were incumbent on non-Jews. These laws provide a valuable window into how the Sages viewed others, and what kinds of conduct they expected from them. There are seven laws which theoretically create a sort of universal ethical standard. Six of the laws are negative commandments, while only one is a positive commandment. The six negative laws are not to worship *avodah zarah*, not to shed blood, not to commit incest, not to eat of any
animal improperly slaughtered, not to rob, and to avoid blasphemy against the name of God. The one positive law is to establish fair justice. For the present study, the most important commandment is the command to avoid the worship of avodah zarah. In this section, the commandment of Ex 20:3 to have “no other gods before [Yahweh]” did not derive from Yahweh’s special covenant with Israel, but was a universal commandment given to the entire world.

In some ways, this idea in Tosefta is similar to other ways that Jewish groups understood non-Jewish ritual. Like the Sages, Paul argues that some laws go to the very beginning of creation—in some ways his argument is even harsher than the Sages (Romans 1:20–25). He argues, in effect, that people besides the Jews knew about God, but willfully rejected him, and “served the creature rather than the Creator.” Note that Paul argues that they “are without excuse.” According to Betz, Paul’s statement is that originally people knew about God because of a direct “cosmic” revelation of God himself. Betz then observes that in Paul’s scheme of religion “all present religion suffers from degeneration.” Paul, of course, included Judaism in that degeneration—for Paul only the person of Jesus restored to the world the “cosmic” knowledge held by the putative primeval ancients, excluding both the Jewish and the Greek and Roman system.

Both Paul’s statement and the Noahide laws have the same function—this highlights and, at the same time, removes the peculiarity of the Sinai covenant, where God and Israel formed their special covenant relationship. God is not just the God of

454 As similar notion is also seen in Acts 15:7–21, recording the First Jerusalem Council.
Israel; he is God over all of the peoples of the Earth. This is clearly part of the Sages’ rejection of the eschatological vision of Micah and their assent to the vision of the future presented in the prophecies of Second Isaiah. Instead of every man worshiping under his own tree, content merely to worship his own god while Israel worships the God of Israel, the Noahide laws assume that God is the God of the other nations, and they are also living under covenant. It is a covenant which is less strict, and indicates a less personal relationship with God than Israel’s, but it is a covenant all the same. Therefore, according to this scheme, worshiping other gods is rejecting God and the covenant which he made with Noah. For this reason, the rejection of the worship of *avodah zarah* is ranked in t. Avodah Zarah as one of the chief commandments required on non-Jews.

Each of the Noahide laws has commentary and explanation of how it is to be judged. Some of these judgments are difficult for moderns to appreciate (such as the ruling on bloodshed which forbids non-Jews to each other and Jews, but which permits Jews to kill non-Jews). Others provide specific halakhic discussion, such as the discussion surrounding the eating of the flesh of living animals. The discussion about worshiping *avodah zarah* is combined with that of blasphemy against the divine name and is relatively short:

I. Concerning *avodah zarah* and concerning blaspheming the Name, what is meant?

a. A non-Jew that worships *avodah zarah* and curses the Name is not to be put to death among the children of Noah except by the sword alone” (t. Avodah Zarah 8[9]:4).
According to m. Sanhedrin 7:1, beheading was the death penalty which had the least gravity; coming after burning, stoning, and strangling. The anonymous mishnah in m. Sanhedrin 7:3 says:

I. The commandment concerning beheading: They used to chop off the head with a sword, as it was custom for the government to do.

II. Rabbi Judah says: This was shameful? Instead he would rest his head on the block, and the heads [would use] a hatchet.

III. They said to him: There is no death more shameful than this.

According to m. Sanhedrin 7:4, an Israelite who worships avodah zarah was punished by stoning, rather than by beheading, so there is a distinction being made between the treatment of a non-Jew who worships avodah zarah and a Jew who does, although both of them carry the death penalty. This is a legal fact that bears repeating, because it leads into the theorizing about the nature of the rituals of non-Jews—non-Jews who worship their gods are, under Jewish law, guilty of a crime which carries the penalty of death by beheading. Since the entire thrust of the preceding tractate was that non-Jews are presumed to be constantly engaged in the worship of gods besides the God of Israel, this has the consequence that most of the world is under a very specific death penalty. As with any law which deals with how an outside group is supposed to conduct itself, it is

---

455 Hebrew דרך
456 Rabbi Judah’s imaginary interlocutors are surprised that Rabbi Judah is making any distinction between the two kinds of beheading, as they are both shameful deaths.
very unlikely that this law was ever actually observed. The practical considerations of such a law would have been sufficiently difficult to enforce as to be essentially non-existent. The theoretical considerations, on the other hand, are enormous. According to this halakhah every single non-Jew has rejected the relatively simple commandments which God commanded the children of Noah. This is a position that rejects the idea that the worship of gods aside from the God of Israel has a place in the world even for non-Jews. This is the universal message of Second Isaiah where God is God over the whole earth taken to the extremes of interpretation.

Unapproved magical practices are also included in this section on the Noahide laws, which are introduced not while discussing the laws against worshiping avodah zarah, but are instead connected with the eating of improperly slaughtered animals. It supports this with a verse from Deut 18:

I. R. Shimon says: Even concerning sorcery.

II. R. Yose says: The children of Noah are warned on everything concerning [sorcery] in the biblical passage, as it is written: “You will not find among any that passes his son and his daughter through fire [and so forth] and the enchanter…for these things are an abomination to Yahweh” (Deut 18:10–12)”

(t. Avodah Zarah 8[9]:6).

ר’ שמואל אומן על המיספים ר’ יוסף אומר כל האומר פורży בנים בנים מטומין עליה של לא ימצא בנו מעבר בשם

באות וגו וודבר המיבר כה חוגץ ה.
The passage speaks of being warned, and these verses represent a list of practices which the Deuteronomist considered to be foreign. It is simply a proof-text in this section in that this verse is not being explicated—none of the practices condemned in the verses in Deuteronomy are explored, including passages that other parts of Tannaitic literature examine, such as the passing of the children through the fire. The verse merely illustrates R. Yose’s point that the children of Noah were warned against all of these practices, and therefore have no excuse. There is no discussion in this section on any of the ritual practices which the Sages associate with magic.

In many ways, the discussion about the Noahide laws is a fitting place for Tosefta to end its discussion on avodah zarah, as it speaks to general principles governing interactions with non-Jews, rather than specific legal rulings (although, in the nature of rabbinic literature, the general principles are made up of specific rulings). The Noahide rules are not part of the broader discourse on non-Jewish ritual, except insofar as they condemn non-Jews for their unwillingness or inability to keep even the smaller covenants mentioned as part of the Noahide laws.

Having looked at those topics which the editors and tradents of both Mishnah and Tosefta considered to be germane to the topic of avodah zarah, this dissertation moves back to the Mishnah. In m. Sanhedrin 7, the Tannaitic Sages discuss crime and punishment, including the worship of avodah zarah, which must be defined before it can be enforced.

---

457 Biblical scholars have long noted that these practices were likely originally approved practices in some parts of Israelite religion before the Deuteronomistic reforms associated with the Judahite king Josiah.

458 This statement involves, of course, a presupposition that the surrounding nations had some kind of access to Torah and that the fact that non-Jews did not live it represented a willful rejection of God’s law. This is a very similar idea to Paul’s in the Epistle to the Romans. One of the great ironies of the Noahide laws is that most non-Jews were likely even unaware of their existence.
Chapter 5: Mishnah Sanhedrin 7

Defining the Worship of Avodah Zarah

The previous two chapters discussed the various ways in which the Tannaitic looked for probable contexts for the worship of *avodah zarah*. Those Tannaitic discussions progressed with an assumed definition of non-Jewish ritual practice. The definition of what constitutes the worship of *avodah zarah* does not appear in either the Mishnaic or Toseftan tractate devoted to that topic. It instead appears in Mishnah Sanhedrin 7. This tractate is about criminal judgment, so in some ways it makes sense that the definition would appear here.\(^{459}\) The seventh chapter of m. Sanhedrin is a discussion on methods of execution allowed to the court and the various misconducts that those methods punish. As part of this, Sanhedrin 7 lists those crimes that are punishable by stoning, and then specifies and clarifies those crimes. Although many of these crimes relate to the incest taboo, a number of them are directly about foreign ritual. Among other offences, it lists crimes that are directly related to foreign ritual liable for the death penalty:

I. the worshiper of *avodah zarah*,

II. the one who passes his seed to Molech,

III. the necromancer and the wizard…

\(^{459}\) That the tractate Avodah Zarah would assume a definition which is found in another tractate, rather than redefining it, provides evidence for intertextuality among the various Mishnaic tractates.
IV. the instigator [to the worship of *avodah zarah*],

V. the seducer [to the worship of *avodah zarah*],

VI. the sorcerer” (m. Sanhedrin 7:4).

The biblical basis for the laws in m. Sanhedrin 7 lays the foundation for another observation about the Sages views on foreign ritual. They are, or at least present themselves as, simply working with the legal situation from the biblical text. As noted previously, the collocation *avodah zarah* does not appear in the Hebrew Bible, but the other crimes from these sections do derive from the Hebrew Bible. The “one who passes his seed through the fire to Molech” appears in the Holiness Code in Leviticus 18:21 and again in Leviticus 20:2. The verse in Leviticus 20:2 also designates the punishment for this act: “And you will say to the children of Israel, to every man, whether from the children of Israel, or from the resident alien in Israel, that the one who gives from his

---

seed to Molech will surely be put to death. The people of the land will stone him with
stone[s].” The necromancer does not appear in the specific collocation found in this
law, which seems to be a back formation from 1 Samuel 28, although various similar
forms appear in both the Holiness Code and the Covenant Code. The wizard is
likewise forbidden in the same passage in both of these codes, as is the sorcerer.

The seducer and the instigator both bear special examination, as they are not
specific unapproved ritual functionaries, unlike many of those who are designated for
stoning in this passage. These two individuals refer to Israelites who are encouraging
other Israelites to worship deities aside from Yahweh. The biblical formation of this law
is found in Deut 13:6 [H 7], which has: “For if your brother, the son of your mother, or
your son, or your daughter, or the wife of your bosom or your neighbor, who is like you,
talk to you in secret, saying, Let us go, that we may serve other gods, whom you do not
know, neither you, nor your fathers…” In keeping with the biblical background of this

---

461 Hebrew אֲשֶׁר יִתֵּן מִזַּרְעֹו לַמֹּלֶךְ מֹות יוּמָת עַם הָאָרֶץ יִרְגְּמֻהוּ בָאָבֶן. There is much disagreement among biblical scholars what the precise
meaning of אוב is, although most scholars agree that it had to do with some form of necromantic divination. אוב is a word which may even be
of non-Semitic origin. H. A. Hoffner connects it to a pit used for necromancy, similar to that found in
Hittite culture. H. A. Hoffner, “‘ob,” TDOT, 130–134. Cristiophe Nihan takes it from אב ‘father,’ and so to
Canaanite ancestor cults. Cristophe L. Nihan, “1 Samuel 28 and the Condemnation of Necromancy in
Persian Yehud,” in Magic in the Biblical World: From the Rod of Aaron to the Ring of Solomon, JSOTS
Theodore J. Lewis’s observation that אוב is a word with “no certain etymological derivation” is most
sensible. Theodore J. Lewis, Cults of the Dead in Ancient Israel and Ugarit (HSM, ed. by Frank More

462 Hebrew כִּי יְסִיתְךָ אָחִיךָ בֶּן־אִמֶךָ אֹו־בִּני אֹו־בִתְךָ אֹו אֵשֶת חֵיקֶךָ אֹו רֵעֲךָ אֲשֶׁר כְּנַפְשְךָ בַּסֵּתֶר לֵאמֹר
נֵלְכָה וְנַעַבְדָה אֱלֹהִים אֲחֵרִים אֲשֶׁר לֹא יָדַעְתָּ אוֹרְשֶׁךָ אוֹב אֲשֶׁר נַגְרֵי בְיוֹחֶם מָדַה מִיַחְצֵךְ. The Holiness Code does not mandate stoning for wizards, but instead makes them liable to the
cרת. The best general discussion of these various ritual practitioners in a biblical context is Ann Jeffers, Magic and

463 Hebrew ידוענים. This word comes from the root יד/ע, which means “to know,” making it closely
analogous to English “wizard,” which is related to “wit.”

464 Hebrew: כִּי יְסִיתְךָ אָחִיךָ בֶּן־אִמֶךָ אֹו־בִּני אֹו־בִתְךָ אֹו אֵשֶת חֵיקֶךָ אֹו רֵעֲךָ אֲשֶׁר כְּנַפְשְךָ בַּסֵּתֶר לֵאמֹר
נֵלְכָה וְנַעַבְדָה אֱלֹהִים אֲחֵרִים אֲשֶׁר לֹא יָדַעְתָּ אוֹרְשֶׁךָ אוֹב אֲשֶׁר נַגְרֵי בְיוֹחֶם מָדַה מִיַחְצֵךְ.

465 Hebrew: כִּי יְסִיתְךָ אָחִיךָ בֶּן־אִמֶךָ אֹו־בִּני אֹו־בִתְךָ אֹו אֵשֶת חֵיקֶךָ אֹו רֵעֲךָ אֲשֶׁר כְּנַפְשְךָ בַּסֵּתֶר לֵאמֹר
נֵלְכָה וְנַעַבְדָה אֱלֹהִים אֲחֵרִים אֲשֶׁר לֹא יָדַעְתָּ אוֹרְשֶׁךָ אוֹב אֲשֶׁר נַגְרֵי בְיוֹחֶם מָדַה מִיַחְצֵךְ.

Deuteronomy 13 has long been considered to be derived from a Neo-Assyrian model, and especially from
Esarhaddon’s Vassal Treaty. See Bernard M. Levinson, “Textual Criticism, Assyriology, and the History of
chapter in the Mishnah, the law in Deuteronomy also mandates the punishment for this crime as stoning (Deuteronomy 13:6 [H 7]). The Hebrew Bible enjoins that the Israelites have no pity or compassion on anyone who would seek to turn them away from the God of Israel (Deuteronomy 13:8 [H 9]).\footnote{See the discussion of this difficult issue in Levinson, “Recovering the Original Meaning of לא תכסה עליו (Deuteronomy 13:9),” \textit{JBL} 115 (1996), 601–620. Levinson argues that this section places loyalty to Yahweh above all other loyalties, including family loyalties, up to and including the killing of the one enjoining apostasy, without mercy or regard to family ties.} In fact, Deuteronomy seems to advocate an immediate justice for the apostate—there is no remanding to judges or a reference to the law of witnesses, rather, they are to be killed immediately: “For you will surely kill him—your hand will be upon him first to kill him, and afterward, all the people” (Deuteronomy 13:9 [H 10]). As we shall see, the Hebrew Bible’s position of direct vigilante justice is mitigated in the rabbinic interpretation of this passage.\footnote{Recently Joshua Berman called this into question, and drew a parallel to the text with Hittite treaty models: “CTH 133 and the Hittite Provenance of Deuteronomy 13,” \textit{JBL} 130 (2011), 25–44. From the Sages’ perspective, of course, Deuteronomy came from God through Moses, and they dealt with it from that point of view.}

Rabbinic jurisprudence recognizes more crimes than those deriving from foreign worship and so M. Sanhedrin 7 initially addresses issues of sexual immorality and the violation of the incest taboo. It discusses how blasphemy cases were tried, and makes the observation that someone is only liable for stoning for blasphemy if the divine Name were uttered “distinctly,” i.e. so that it could be clearly understood as the Tetragrammaton. This suggests that at the time of the tradition recorded in m. Sanhedrin 7 there was an accepted pronunciation of the Tetragrammaton, and that it had not yet been completely lost. Given its prevalence in the Greek Magical Papyri as a name with...
magical power and significance, there seems to have been some recognized ways of pronouncing the name, although it is unclear what counted as “distinctly.”

Following this, the Mishnah gives the definition of what qualifies as worshiping *avodah zarah*:

I. The one who worships *avodah zarah*

II. [It is] the one who worships,

A. [meaning] the one who sacrifices

B. the one who burns incense,

C. the one who pours out libations,

D. the one who bows down,

E. the one who receives it for his god,

F. and says to it, ‘You are my god,’” (m. Sanhedrin 7:6).

In previous chapters this dissertation has argued that much of the Tannaitic discourse on non-Jewish ritual is fed by a search for plausible contexts for ritual behavior. Mishnah Avodah Zarah, in particular, is concerned with defining these contexts. Because Mishnah Sanhedrin 7 is concerned with punishment of crimes, this tractate needs to specify not the contexts where foreign ritual could be found, but how foreign ritual could be defined. It does so here by specifying those practices that count as worshiping *avodah zarah*.

Nowhere in this passage does it explicitly say “other gods,” but the presence of the

---

collocation *avodah zarah*, demands such an interpretation. All of these rituals were part of the cult of the Jerusalem Temple, as shown below. They are also ritual activities that are part of the broad assumptions in the culture in which the Tannaitic Sages were embedded. The search for contexts is a search necessitated by the similarity in ritual between that of Jews and non-Jews. In fact, worshiping *avodah zarah* was a sub-species of worship in general, as defined for the Sages by the cult of the Jerusalem Temple.

This made clearer by a list of activities that do not qualify as the worship of *avodah zarah*, but only as transgressing a negative commandment:

I. But the one who
   A. Embraces it
   B. Kisses it
   C. Sweeps around it
   D. Sprinkles it
   E. Anoints it
   F. Clothes it
   G. Or puts shoes on it

1. Transgresses a negative commandment.

All of these activities involve interacting with the actual divine image, and yet the Mishnah does not consider these actions to be at the same level of culpability as the ritual activities cited in the first part of this mishnah. It is those rituals that are shared between the Jewish and non-Jewish systems that are punishable by stoning as the worship of *avodah zarah*. Rituals that have no place in the Jewish system, like anointing an image,
do not warrant the death penalty. The Tannaitic Sages clearly have here different
categories for non-Jewish ritual activity, and the activity most intimately involved in
foreign worship—the care of a divine image—is not part of the worship of *avodah zarah*,
because it is not *avodah*, which is defined in terms of the relationship with the God of
Israel.

*Ritual in Exodus and the Surrounding World*

This seems somewhat peculiar to modern eyes. An explanation for this is visible in some
of the ancestral customs that were at the foundation of rabbinic thinking about ritual. ⁴⁶⁹
For the Tannaitic Sages this meant, among other things, the Temple cult as described in
the Bible. Every ritual practice mentioned in Sanhedrin 7:7 may be found in the Hebrew
Bible as part of that cult. This is demonstrated by the following table pulled exclusively
from the book of Exodus. These verses are representative rather than exhaustive, and are
presented in order to show their general pervasiveness throughout the Hebrew Bible.

⁴⁶⁹ This will be more closely examined in Chapter 9.
Table 1: Ritual Practice in Exodus

<table>
<thead>
<tr>
<th>Ritual Practice</th>
<th>Biblical Citation from Exodus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service ( filmer )</td>
<td>Ex 23:25: “And you will serve Yahweh, your God, and he will bless your bread and your water.”</td>
</tr>
<tr>
<td>Sacrifice ( זובח )</td>
<td>Ex 20:24: “And you will make for me an earthen altar, and you will sacrifice upon it your whole burnt offerings, and your well-being offerings, your flocks and your herds.”</td>
</tr>
<tr>
<td>Incense ( מקטר )</td>
<td>Ex 30:8: “And when Aaron shall light the lamps in the evening, he will offer incense upon it, as a perpetual incense offering for your generations.”</td>
</tr>
<tr>
<td>Pouring Libations ( מנסך )</td>
<td>Ex 29:40: “The tenth of a measure of fine flour with the fourth of a hin of fine oil, and the fourth of a hin of wine for a libation offering.”</td>
</tr>
<tr>
<td>Bowing Down ( משתחוה )</td>
<td>Ex 33:10: “And all the people saw the pillar of the cloud standing at the door of the tent, and all the people stood up and bowed down, every man at the door of his tent.”</td>
</tr>
</tbody>
</table>

---

1. See also Num 18:7, 1 Sam 12:14–24.
2. See also Ex 3:18, 5:3; Lev 1:9ff.
4. A hin is a unit of liquid measurement which is roughly equal to 12 liters.
5. Referring to the tent-shrine, often called the tabernacle in English.
6. Referring to the tent-shrine, often called the tabernacle in English.
The Sages were by no means limited by the Hebrew Bible in their formation of halakhah, but in this case their definitions of ritual activity are well within the specific ritual bounds set out in the Pentateuch for the Temple Cult.

The first item on the list is sacrifice, which is fitting, because it is the ritual par excellence in the ancient world. Much as the modern practitioners of religion struggle to think of religious activity that does not include certain ideas and behaviors, such as the primacy of faith, sacrifice, in its various forms, was at the core of ancient religion. The next item on the list is the burning of incense. Incense is, in many ways, part of a regional conception of ritual, one that is naturally brought about by the heat of the Mediterranean region. Incense burning was present not only in Israelite religion and in the Jerusalem temple cult, but was also attested in Egypt, in Mesopotamia and in Syria and Phoenicia. It was also included as part of Greek and Roman cults, and is well-attested both iconographically and archaeologically.

Following this discussion in Mishnah of obvious ritual activities, both those that were avodah, and so punishable as avodah zarah, and those that were not avodah, and so only transgressing a negative commandment, the Mishnah addresses two ritual activities for which it struggles to find a context:

---

477 Parker, On Religion, 124.
479 Nielsen, Incense in Ancient Israel, v.
480 Nielsen, Incense in Ancient Israel, 11–17.
I. The one who exposes himself to Ba’al Peor
   A. This is how it is worshiped.

II. The one who throws stones at a merqolis
   A. This is how it is worshiped.

These two laws refer to the need of the Tannaitic Sages to look for contexts, especially when those contexts are not always clear, and involve performing activities that might otherwise be considered degrading behavior. Thus, although on the surface of it exposing oneself and throwing stones is degrading, because the worship of Ba’al Peor and the merqolis are respectively characterized by these two rituals under the Mishnah’s definition of the worship of avodah zarah, these activities are prohibited. The Tannaitic Sages allow for the non-Jewish context of rituals to help determine their appropriateness or not, usually in terms of Graeco-Roman custom.482

The Rabbis and Pythian Oracle

Mishnah Sanhedrin 7:8 then discusses activities that it does not characterize as the worship of avodah zarah, but which are connected to the broader world of Greek myth and ritual practice. The first practice so referenced is בעל אוב (ba‘al ’ov), translated in this discussion as “necromancer.” The rabbinic discussion connects this biblically proscribed ritual practitioner to the Greek world by defining a necromancer as “the pythonian spirit that speaks from his arm-pit” (m. Sanhedrin 7:8). The reference to speaking from the arm-pit refers to the practice of ventriloquism, such that this particular ritual practitioner is not considered to be operating under the operation of a supernatural power, but

482 Both of these peculiar activities are further addressed in Chapter 9
preparing divinations under the guise of a spirit speaking. What makes this intriguing is
the idea that this activity is called פותום (pūtōm), a word that is connected to the Greek
πύθων, or “Python.” This word, and its connection to divination, brings us to the world of
Greek mythology, and to the famous oracle at Delphi. 483

According to the Greek mythographers, Delphi was originally home to a
monstrous serpent, Python. The myth states that when Apollo claimed the oracle he slew
Python with his arrows. The name of the mythical guardian of Delphi was expressed in
the name of the chief priestess of the oracle of Delphi, the Pythia. She was also the
prophetess at Delphi, and the one who actually made the mantic statements that issued
from her, traditionally envisioned as coming from fumes which came out of the earth. 484
Because the Delphic oracle was, in many ways, the diviner par excellence in the Graeco-
Roman world that surrounded the Sages, the idea of the pythia was transferred to other
divinatory practitioners. The example cited in m. Sanhedrin 7 is one example of this. 485

The actual priestess at Delphi received her divinatory messages through the power of the
god Apollo. 486 The Tannaitic position represents something different, and illustrates how
these Sages viewed the background behind foreign rituals. Where the Greek sources are
quite clear that the oracles from Delphi are messages from Apollo, speaking through the
priestess, for the Tannaitic Sages, the “necromancer” is a deceptive figure who uses
ventriloquism. The Tannaitic portrayal of this non-Jewish ritual practitioner uses a

483 The Oracle at Delphi was not a necromantic oracle, but it was connected with the spirits of the dead. See
the discussion in Johnston, “Delphi and the Dead,” in Mantikê: Studies in Ancient Divination, ed. by Sarah
Iles Johnston and P. T. Struck (Leiden: Brill, 2005): 283–306. There is an in depth discussion of Delphi and
the priestess there in Johnston, Ancient Greek Divination (Malden, MA: Wiley-Blackwell Publishing,
2008), 33–60.
484 Johnston, Ancient Greek Divination, 33–34. There are difficulties with this traditional view, which
Johnston addresses on pages 48–51.
485 Johnston, Ancient Greek Divination, 44–47.
biblical term and an idea from the world which surrounded them, which they do not accurately portray.

*Instigators to the Worship of Avodah Zarah*

M. Sanhedrin 7:10 contains the rabbinic interpretations about the law of the one who tempts others to worship *avodah zarah*. As previously noted, the biblical law in Deuteronomy is uncompromising in its devotion to Yahweh—anyone who suggests turning aside from Yahweh is to be killed immediately by stoning. M. Sanhedrin brings a requirement of the law of witnesses to the instigator. Not even a crime as terrible as the worship of *avodah zarah* is immune from this requirement. Thus, m. Sanhedrin 7:10 reads: “If he said [i.e. go and worship another god] to two, they are his witnesses—they bring him to the court and stone him.” Even though the Mishnah requires the law of witnesses, if it cannot get two witnesses it advocates entrapment of the instigator:

I. If he said it to one, he says, I have friends that desire thus [to worship another god].

II. If he [the instigator] was clever and he is not willing to speak before them, witnesses are hidden from him behind a fence, and [the other person] says to him:

III. Say what you said to me privately.

IV. The one says to him, and he says to him, Should we leave our God that is in Heaven, and go and serve trees and rocks?

V. If he retracts it, indeed this is good,

VI. but if he says: Thus is our obligation, and thus it is appropriate for us;
A. then those standing behind the fence bring him to the court,

B. and they stone him.”

Thus, although the Sages mitigate the uncompromising violence of Deuteronomy and adapt to their own social environment, the specter of avodah zarah was so great that it was still worth ensuring witnesses to prosecute it through entrapment. This is not a world-view where avodah zarah was not a concern. This is a world still struggling with the pervasiveness of the worship of avodah zarah. This world was one where the Tannaitic Sages needed to create systems to find plausible contexts for non-Jewish ritual.

M. Sanhedrin 7:10 contains a list of statements that qualify either as the worship of avodah zarah or mark one as an instigator:

I. The one who says, I will serve, I will go and serve, Let us go and serve

II. I will sacrifice, I will go and sacrifice, Let us go and sacrifice

III. I will burn incense, I will go and burn incense

IV. I will pour out libations, I will go and pour out libations

V. I will worship, I will go and worship.
Each of the actions mentioned in this section is a specific ritual action in both Judaism and in the surrounding world. By specifying each of the different grammatical terms, the Mishnah indicates there is full culpability in performing the indicating intent, ritual action, or instigating others to the worship of *avodah zarah*.

The discussion in Mishnah Sanhedrin 7 provides the legal framework for what it means to worship *avodah zarah*. At the core of this definition are rites that would have been recognizable throughout the ancient world as ritual actions. Each of these activities was also practiced in the Jerusalem Temple, which undergirded the rabbinic conception of ritual. Activities that were not part of the general assumptions about ritual were also condemned, in the right contexts. Some are condemned only as the breaking of a negative commandment, but others are condemned as the worship of *avodah zarah*, even when it is not ritual behavior found in the Jerusalem Temple. Figuring out the when and why of these contexts was a major feature of rabbinic discourse on foreign ritual. One of the chief ways in which this was done was by an appeal to custom and tradition. This is further clarified in the Tannaitic midrash Mekhila di-Rabbi Ishmael, to which this dissertation turns next.
Chapter 6: Mekhilta

From the Mishnah and Tosefta we move to the Tannaitic Midrash on Exodus, the Mekhilta di Rabbi Ishmael, called Mekhilta hereafter. The material in Mekhilta presents an intriguing third voice in the discussion about ritual as found in the Mishnah and Tosefta. Where Mishnah Avodah Zarah deals with the concepts primarily from the perspective of interaction and plausible contexts for ritual behavior, and Tosefta Avodah Zarah expands on that to look at specific ritual instances in order to better clarify difficult contexts, the material in this Tannaitic midrash addresses the conceptual ideas behind the worship of *avodah zarah*. This discussion is not unexpected in this midrash, since it covers Ex 20:3–5, the original locus for the prohibition on both the creation of images and the worshiping of non-Israelite gods. As noted in the Introduction, the Tannaitic discourse on the worship of *avodah zarah* comes from the tension of the pragmatic needs of everyday life meeting with the biblical ideology of covenant fidelity, including a prohibition against images. Where Mishnah and Tosefta Avodah Zarah started from Jewish interactions with non-Jews and applied it to the biblical injunction, this midrash starts with the Bible and works its way to the interactions.

*No Other Gods*

In *Baḥodeš* 6, the midrash begins its examination of Ex 20:3:

I. **You will have no other gods before me** (Ex 20:3).

235
II. Why is this said? Because it says, “I am Yahweh, your God” (Exodus 20:2)

III. It may be likened to a king of flesh and blood who entered to a province. His servants said to him, Issue upon them decrees. He said to them, No. When they will receive my government, I will issue upon them decrees, for if they do not receive my government, how can they fulfill my decrees?

A. Thus the Omnipresent\(^{487}\) said to Israel: I am Yahweh, your God, you will have no other gods before me. I am the one whose government you received upon you in Egypt.

B. They said to him: Yes, and yes.

C. [He said to them]: Now that you have received my government over you, receive my decrees: “You will have no other gods before me.”\(^{488}\)

These initial sections work to establish what Israel’s covenant piety entails. Mekhilta often begins its discussions with the question “Why is this said?” This question is then followed by exegesis. Here, the darshan compares God to a king, and observes that the

\(^{487}\) This how I have chosen to translate the divine title, "مكان", “place,” which appears often in rabbinic literature.

\(^{488}\) The text is taken from Lauterbach, *Mekhilta*, vol. 2, 237–246.
command about having no other gods is the direct response to Israel’s acceptance of God’s sovereignty. Taking this one step further, the plural “decrees” here suggest that this refers to the Law of Moses. Israel accepted God’s government, and with that, they accepted the Law. Thus, inherent in being a follower of the Torah is the command to have no other gods.

The Mekhilta then asks another question of the biblical text:

I. **You will have no other gods before me:**

II. Why is this said? Because when it says, “You will not make for yourself any image, etc.” (Exodus 20:4), it is not clear to me except to not make any [image].

   A. How [does one know] that the one already made is not to be kept?

   Scripture teaches: “You will have no other gods, etc.”

למה נאמר לפי שנאמר לא תעשו לך פסל וכל תמונה אין לי אלא שלא י.SQLite:תעשו העשוי כבר מנין שלא יקיים תלמוד לומר לא יהיה לך

Here, Mekhilta asks a specific question about the relationship between the keeping and the making of an image. The anonymous author notes that the Bible commands Israel not to make any (implied divine) images, but does not say anything about images that are already made. Therefore, in this midrash, Exodus 20:3 establishes that Israel is not to worship any gods besides the god of Israel, including already extant images of gods.

As noted in the Introduction, part of the rabbinic discourse on non-Jewish gods was about their power, especially in relationship to the God of Israel. Mekhilta accordingly introduces the question as to whether images of gods can be gods:
I. **Other gods:**

II. But are they gods? Does not Scripture already say: “And give their gods into the fire, for they are not gods” (Isaiah 37:19).

III. So what does Scripture teach by “Other gods”?

IV. Those that others call gods.

The *darshan* notes that in Isaiah 37:19, the Bible indicates that the gods of the other nations are not actually gods.\(^489\) So, if in fact, these gods are not actually gods, why does Exodus say “other gods”? According to the *darshan*, these “other gods” are actually those that others (i.e. non-Jews) call gods, and in calling them gods, Exodus is making no statement about their divinity. The midrash actually offers several different opinions on what is meant by the statement “other gods”:

I. Another opinion: Backward\(^490\) gods, for they turn back the good from coming into the world.

II. Another opinion: “Other gods,” for they make their worshipers into others.

III. Another opinion: “Other gods,” for they are others to their worshipers and it says “He will cry to him, but he will not answer, neither save him from his trouble” (Isaiah 46:7).

\(^489\) This a good example of the omni-significance of Scripture in Midrash.

\(^490\) The word for “backwards” and the word for “other” derive from the same root in Hebrew.
What is intriguing about these opinions is that they all have different theoretical and theological backgrounds for understanding the power of the other, non-Jewish, gods. The first interpretation (based on Isaiah 37) suggests that they have no power at all, while others seem to suggest that the other gods have power in the world, but it is an inimical power.

The next midrash is based on the very similarity which Judaism had to other nations. One of the key points of this project is that both the Jewish and Israelite systems shared ritual and religious categories, such as sacrifice, with the surrounding nations. Because of these continuities, both the Hebrew Bible and rabbinic texts are very concerned with delimiting the boundaries that reflected the difference enjoined upon Israel by the biblical injunction to covenant fidelity. The Sages have opinions about the rituals of non-Jews because there are similarities, rather than because there are differences:

I. Rabbi Yose says: “Other gods.”

II. Why is this said? To not give an excuse to the nations of the world to say: If these were called by his name, they had in them some worth.

III. But indeed they are called in his name, but they do not have in them any worth.

IV. When were they called in his name? In the days of Enos, son of Seth, as it is written: “Then [men] began to call upon the name of Yahweh” (Genesis 4:26).
A. In that same hour the ocean\(^{491}\) rose and flooded a third of the world.

B. The Omnipresent said to them: You have done a new doing and have called yourselves gods.

C. Therefore, I will do something new, and call myself Yahweh. For this it says: “The one who calls the waters of the sea, [and pours them out upon the face of the land, Yahweh is his name]” (Amos 5:8).

This midrash deals with the difficulty of the word for God in Hebrew, אֱלֹהִים. In the Hebrew Bible this word usually refers to the name of the God of Israel, as in Genesis 1 and other passages too numerous to cite. It can also, however, be used to refer to gods in general, in the singular as well as in the plural.\(^{492}\) The classic example of this may be found in Psalm 82:1: “God\(^{493}\) has stationed himself in the divine council, in the midst of the gods he judges.”\(^{493}\) The same word is used in this verse for both the singular God of Israel as well as for the plural gods in the divine council, and a related term is used to describe the divine council itself.

---

\(^{491}\) Hebrew אוקיאנוס, from Greek ὠκαενος.

\(^{492}\) A discussion of the so-called “plural of majesty” and its relationship to the form of אֱלֹהִים may be found in Bruce K. Waltke and M. O’Conner, *An Introduction to Biblical Hebrew Syntax* (Winona Lake: Eisenbrauns, 1990), 122–124.

\(^{493}\) This verse has been much discussed in scholarly literature, and the literature on it is both immense and outside the scope of this paper. See Simon B. Parker, “The Beginning of the Reign of God: Psalm 82 as Myth and Liturgy,” *Revue Biblique* 102 (1995): 532–559.
This midrash is then dealing with the fact that אֱלֹהִים may be used both as a general term for deity as well as a specific name to refer to the God of Israel. The darshan suggests that other gods may get honor because they are called by one of the names of God. It then says that this is not the case, and that this idea is the very reason that the God of Israel revealed his personal name as Yahweh—the others may have taken upon themselves the name of gods [אֱלֹהִים], but they cannot take upon themselves the name of Yahweh. The reference in Exodus to “other gods” then refers to the fact that, although they are called by the same name as the God of Israel, they do not share in the fullness of his power. This is one of the conceptions behind ritual for the Sages—the God of Israel is the god with power in the world, and so the worship of other gods is not only foolish, but is an affront to the God of Israel.

Mekhilta is very concerned with the materiality of divine images, and the next midrash, in the name of R. Eliezer, draws this from the statement “other gods”:

I. Rabbi Eliezer says: “Other Gods,” for they make gods anew for themselves every day.

II. How is this so? If someone has an [image] of gold, and needs it [i.e. the metal content of the image] he makes one of silver.

III. If he has an image of silver, and needs it, he makes one of copper.

IV. If he has one of copper, and needs it, he makes one of iron.

V. Likewise with tin and with lead, as it is written: “New gods that came newly up,” (Deuteronomy 32:17).

---

495 This rest of this verse represents an argument for covenant faithfulness on the part of the Israelites by appealing to ancient custom.
This section is related to the classic polemic against the making of images, namely that because they are made of things which come from this world, they are only treated as gods when it is convenient to the worshiper. Thus, worshipers of these gods must remake their gods periodically, because they use the metal content in them for other purposes. In many ways, this is a polemical flip-side to the notion that non-Jews are not constantly engaged in ritual. In the Mishnah and Tosefta, the idea that non-Jews are not always engaged in ritual behavior was used to provide reason for accommodation, while here it is used as a theoretical point against the rituals of non-Jews.

In the next midrash, the Sages comment on the sheer number of gods worshiped by non-Jews:

I. “Rabbi Isaac says, If the name of every *avodah zarah* were specified and divided up every skin [parchment for writing] would not be sufficient [to fit them all].”

The next midrash builds off of the discussion in Exodus 20 to provide a midrash based on the practice of passing children through the fire to Molech, which was discussed in the previous chapter:
I. Rabbi Hanninah ben Antigonus says, Come and see the language which Torah selected “To Molech.”

II. Anything that rules over you, even if it is a single woodchip or potsherid.

R. Hanninah is, however, unconcerned with the actual ritual associated with the worship of Molech, but instead with a midrashic play on words. The name Molech is spelled with the same letters as the word for king, מ/ל/כ. Hanninah is midrashically deriving his interpretation in order to show that any physical object which rules over you is to be treated as an inappropriate image, which therefore counts as “other gods.”

The final midrash on this section refers once again to the man-made nature of images that are used for worship:

I. Rabbi says: “Other Gods,” for they were after that which is last in creation.

II. So what is that which was last in creation? This one that calls them “gods”.

According to the rabbinic reading of the Genesis creation account, humanity is the last of God’s creation. Rabbi is playing with the fact that the adjective אחר, “other,” can also have a temporal meaning, “after.” These gods come after the last thing which God

497 This is alluded to in this section attributed to Rabbi, and has its clearest expression in t. Sanhedrin 8:7–8.
created, being creations of humans themselves. This provides a theoretical background for Sages’ ability to maintain distinctiveness of their ritual system. Even when there are similarities in terminology or ritual, the images and gods of non-Jews were still dissimilar to the God of Israel, in power if nothing else.

**Materials of Images**

The next section is a lengthy section, where the midrash considers the various materials that a divine image could be constructed from, and rejects each one using a scripture from the Hebrew Bible:

I. **You Will Not Make any Image** (Exodus 20:4)

II. He will not make one that is engraved.
   A. But what if he makes one that is solid?
   B. Scripture teaches: “Any manner of likeness.”
   C. So not a solid one.

III. But what if he plants for himself a planted one?\(^{498}\)
   A. Scripture teaches, “You will not plant for yourself an *asherah*” (Deuteronomy 16:21).
   B. So not a planted one.

IV. But what if he makes for himself one out of wood?
   A. Scripture teaches, “Of any kind of tree” (Deuteronomy 16:21).
   B. So not one out of wood.

V. But what if he makes himself one out of stone?

---

\(^{498}\) This would be like the *asherot* mentioned in the Hebrew Bible and Mishnah and Tosefta Avodah Zarah.
A. Scripture teaches, “[Neither will you set any] cut stone.” (Leviticus 26:1).

B. So not one out of stone.

VI. But what if he makes for himself one out of silver and of gold?

A. Scripture teaches, “And gods of silver and gold you will not make for yourselves,” (Exodus 20:20).

B. So not out of silver and gold.

VII. But what if he makes one for himself out of copper, or iron, or tin, or lead?

A. Scripture teaches, “And molten gods you will not make for yourselves” (Leviticus 19:4).

B. He will not make for himself any likeness out of all of these.

This midrash demonstrates awareness of the sheer variety of materials which images were made from in the ancient world. The archaeological record displays a clear preservation bias towards stone and metal images, but we know from literary sources that wood images also existed, and were, in fact, considered to be the oldest images in the Greek world.499

499 Romano, “Early Greek Idols,” 3.
Having established that there is no material from which it was acceptable to make an image, the midrash moves to specify what types of likenesses are unapproved:

I. But what if he makes for himself a likeness of any carved image?
   A. Scripture teaches, “Lest you corrupt yourselves and make for yourselves an image, even the form of any figure” (Deuteronomy 4:16).
   B. So not a likeness of any carved image.

II. But what if he makes for himself the image of a beast, wild beast, or fowl?
   A. Scripture teaches, “A figure of any beast that is in the earth, a figure of any flying bird” (Deuteronomy 4:17).
   B. He will not make any image of these.

III. But what if he makes for himself an image of fish, locusts, unclean reptiles, or creeping things?
   A. Scripture teaches, “A figure of anything that creeps in the dust, a figure of any fish that is in the water” (Deuteronomy 4:18).
   B. He will not make for himself any image of these.

IV. But perhaps he will make for himself a likeness of the sun, or the moon, the stars or the planets.
   A. Scripture teaches, “And lest you lift up your eyes towards heaven [and see the sun and the moon and the stars, all of the host of heaven, and you should be impelled to worship them]” (Deuteronomy 4:19).
   B. You will not make for yourself any likeness of these.
V. But what if he makes for himself an image of angels, or cherubim, or ophanim?

A. Scripture says, “Anything that is in heaven” (Exodus 20:4).

B. Concerning “anything that is in heaven,” is he only not able [to make] an image of the sun, the moon, the stars and the planets?

C. Yet Scripture teaches, “Above,” [indicating] not an image of angels, not an image of cherubim, not an image of ophanim

D. he may not make an image of any of these.

The first part of this midrash, which derives its argument from Deuteronomy 4:16, removes the possibility of most divine images—the implication of both the verse in Deuteronomy and in this verse is that this refers to images in human form, whether male or female. From human images (which were, of course, the preferred form for divine images in the Graeco-Roman period), the midrash moves to animals, birds, fish, and creeping things, using categories derived from Genesis 1. In fact, in many ways the midrash represents the intersection of Ex 20:3–5 with Deut 4:16–19, which is itself intersecting with Genesis 1. It addresses astral worship with a verse from Deuteronomy
4:19, and then brings Exodus 20:4 back in, in order to show that divine beings, which are above heaven, are not allowed to be made, (although Mekhilta is aware of the images of the cherubim in the Temple).\textsuperscript{500}

The final section indicates the view, which the Sages ascribed to Hebrew Bible on the subject of worshiping \textit{avodah zarah}, by finishing off with a statement from R. Akiva about reflected images:

I. But what if he makes for himself an image of the abyss or of darkness?
   A. Scripture teaches, “That are in the water below the earth” (Exodus 20:4).
   B. This includes the reflected image, according to the opinion of Rabbi Akiva.
   C. There are others who say this includes temporary blindness.
      1. Scripture pursues so strongly against the evil inclination [to worship \textit{avodah zarah}] that does not give place to find any pretext for permitting it.

R. Akiva argues that even an image which is seen reflected in a pool qualifies as an image, and is therefore to be avoided.\textsuperscript{501} Akiva’s ruling is followed up by an observation

\textsuperscript{500} The worship of angels appears periodically in early Jewish and early Christian literature. In Christianity, Colossians 2:18 is the classic locus for this discussion. In b. Hagigah 15a, Metatron, the Angel of the Presence is demoted and whipped with fiery whips in order to show that as an angel, no matter how exalted his power, he is not to be worshiped. Boyarin, “Divine Polymorphy,” 345–350.
in the voice of the anonymous midrash, noting that Scripture has bent over backwards in
order to prevent the worship of *avodah zarah* such that it is next to impossible to find
pretext for the practice in the text of the Hebrew Bible.

*Worship and Jealousy*

In the vein of the passage found in m. Sanhedrin 7 specifying the varieties of ritual
activities which qualify as the worship of *avodah zarah*, the next midrash, drawing on the
midrashic principle of the significance of every word, wonders why Exodus 20:5 needs to
specify both the ritual act of “bowing down” and the ritual act of “service”:

I. **You Will Not Bow Down and You Will Not Serve Them** (Exodus 20:5)

A. Why is this said? Because it says, “And they went and served other
gods” (Deuteronomy 17:3).

B. [This teaches] that one incurs guilt for the act of service\(^{502}\) in itself,
and for the act of bowing down in itself.

   1. You interpret it thus, but may it mean that one incurs guilt only
      if he both serves and bows down?

   2. Scripture teaches, “You will not bow down to them, and you
      will not serve them” (Exodus 20:5).

C. [Therefore] one incurs guilt for the act of service in itself, and for the
act of bowing down in itself.

D. Another opinion: “You will not bow down to them.”


\(^{502}\) Hebrew *avodah*
E. Why is this written? Because it says: “Anyone who sacrifices to any god, besides Yahweh alone, will be utterly destroyed” (Exodus 22:20[H 20]).

F. We have heard the penalty, from where [do we derive] the injunction?
   1. Scripture teaches, “You will not bow to them,” and also, “You will not bow down to other gods” (Exodus 34:14).

According to this midrash, both bowing down and serving (avodah here is a metonymy for all ritual acts of worship, as noted in m. Sanhedrin 7) are individually punishable as acts incurring guilt. In the rabbinic discourse on non-Jewish ritual, the Tannaitic Sages had a single category for ritual, which was the same whether it was offered to the God of Israel or to another god, as argued in Chapter 8.

   The next section thus offers an interpretation on the description of God as jealous, assuming that God’s jealousy refers primarily to the act of worshiping avodah zarah:

I. “Another Opinion: For I Yahweh, Your God, am a Jealous God
   (Exodus 20:5)

   A. In jealousy I exact payment from them for the worship of avodah zarah
As noted in the Introduction, one of the driving ideas behind how the Tannaitic Sages defined ritual, whether Jewish or not, was its connection to the cult of the Jerusalem Temple, and ultimately to the notion of *me‘ilah* or sacrilege. For the Sages, the worship of *avodah zarah* was offensive because it took privileges which belonged to the God of Israel and gave them to something else. The covenant fidelity enjoined upon Israel in this biblical section is not, then, simply about the creation of boundaries, although that is there. *Me‘ilah* means that the rituals of the Temple, and the keeping of those rituals in proper contexts remains fundamental to what it means to be Jewish for the Tannaitic Sages.

The next section introduces an aggadic discourse between Rabban Gamliel and a non-Jew, similar to the one recorded in m. Avodah Zarah 3:4. The dialogue is really three separate points. In the first, the philosophy interacts directly with Exodus 20:5, which is likely the occasion for its inclusion in Mekhilta:

I. A certain philosopher asked Rabban Gamliel, “It is written in your Torah: ‘For I, Yahweh, am a jealous god.’

II. But is there in an *avodah zarah* power to cause jealousy?

   A. A great man is jealous of a great man.

   B. A wise man is jealous of a wise man.

   C. A rich man is jealous of a rich man.
D. Is there in an *avodah zarah* power to cause jealousy?”

III. He answered him, “Suppose a man should call a dog by the name of his father, and when he swore [an oath], he swore by the life of his dog.

Against whom would the father be angry—against the son, or against the dog?”

ашא פלוסופוס אהודราคา רב גמליאל טיב ובתרתיכם כי הוא אלהיך אלהיך אדם כי יְmalıdırְיוּוּךְ כלב והלתתנוּת בְּבָר וְותָן בָּר אָלֶיה שְֶריוֹנִים אֶלֶּיה בְּבָר וְותָן בָּר אַל אָלֶיה קרו

As with all of these aggadic dialogues, we need not suppose that this refers to any specific interaction between Rabban Gamliel and a specific philosopher. This discourse is a polemical discourse, and it represents Jewish ritual concerns rather than non-Jewish ones. The question is if, in fact, the images/other gods have no power, then what is there for God to even be jealous of? In essence the philosophers point is that people are only jealous of their equals or their betters, not of their inferiors. Rabban Gamliel responds by comparing this situation to a man and his dog, and that there is no occasion for God to be angry with other gods, who have no power, but there is sufficient reason to be angry with humans who ascribe God’s power to inappropriate places.

The nameless non-Jewish philosopher then attempts another tack—he suggests that sometimes a foreign god is actually helpful:

I. He [the philosopher] said to him, “In some cases [an *avodah zarah*] is necessary.”

II. He [Gamliel] said to him, “How do you reason?

252
III. He said to him, “Indeed, there was a fire that fell upon such-and-such a province and the house of an avodah zarah was saved. Was this not because it could stand for itself?”

IV. He said to him, “I will tell you a parable. To what may this be compared?

A. To a king of flesh and blood that went out to battle.

B. Against whom does he fight? Against the living or against the dead?”

C. He said to him, “Against the living.”

The text presents Rabban Gamliel’s suspicion with the question, “How do you reason?” The philosopher tells of an example of shrine which was saved from disaster. Rabban Gamliel’s response plays on the same logic found in the previous part of the discussion—kings do not fight against the dead, but against the living.504 There would have been no point in destroying the shrine of an avodah zarah because it had no power.

The final interchange plays on similar logic behind the discussion between the philosopher and the elders of Rome in m. Avodah Zarah 4:7. It contains the same appeal that if the deities have no power, why does God not simply end them and prevent much of the world from going into error:

I. He [then] said to him, “Since [an avodah zarah] is not necessary, why does he not destroy [them]?”

504 See the discussion about the relationship between the gods and the dead in my discussion of m. Avodah Zarah 2:3 in Chapter 4.
II. He said to him, “Is there but one thing you worship? Indeed, you serve the sun, the moon, the stars, the planets, the mountains, the hills, the rivers and valleys, and even humans! Should he destroy the world on account of fools? ‘Shall I utterly destroy everything from off the face of the ground? says Yahweh’” (Zephaniah 1:2).

III. He said to him, “Since it causes the wicked to stumble, why does he not cause it to pass from the world?”

IV. He said to him, “On account of fools? If they even worship humans, “Shall I cut off humans from off the face of the earth?” (Zephaniah 1:3).

The response, that God would not destroy the world because of fools, is also the same. The Sages viewed the rituals worshiping avodah zarah to be foolish, and without efficacy—not “necessary”, as this text puts it. In spite of their pragmatic need to interact with non-Jews, and in spite of the shared assumptions, the Jewish discourse on non-Jewish ritual is an inherently negative one, although it also remains an eminently pragmatic one. God, and implicitly the rabbis, continues to allow the various false gods, including the emperor, to remain.

---

505 This refers to the divinization of emperors. See my discussion on Tosefta Avodah Zarah 6:8 in Chapter 5.
Exodus 20:23

Mekhilta continues to discuss the rest of the Ten Commandments, and then eventually Mekhilta moves to a midrash explicating Exodus 20:23: “You will not make with me gods of silver, and gods of gold you will not make for yourselves.” The first section of this midrash contains a statement similar to a previous one:

I. And You Will Not Make With Me

II. Rabbi Ishmael said, You not will make a likeness of my ministers, who minister before me in the heights

A. not a likeness of the angels

B. not a likeness of the cherubim

C. and not a likeness of the ophanim.

לא תעשון אתי אלהי כסף ואלהי זהב. רבי ישמעאל אומר דמות שמשיי המשמשין לפני במרום לא דמות מלאכים ולא דמות אופנים ולא דמות כרובים.

As with the previous dictum to not make images of angels, this perhaps reflects a practice of worshiping angels that seemed to have been a part of the ancient world view. After all, a view where there are high gods and lower gods who serve the high gods is not so very different from a system with God and angels who serve him, which makes the process of venerating or worshiping angels seem not so different.

The next section uses the grammar of the verse to talk about the specific prohibition of not making images of the God of Israel:

I. Rabbi Nathan said, ‘You will not make me’ so that you will not say, ‘Indeed, I am making some sort of likeness [of God]’ and worship it. Scripture says, “You will not make me,” (Exodus 20:23).

II. And thus it says, “So watch yourselves greatly, [for you did not see any form]” (Deuteronomy 4:15).

This represents a different reading of the consonantal Hebrew text. The preposition “with” (ｱ elkaar) is formally identical with the definite direct object marker (ｱ elkaar). Instead of reading “You will not make with me,” as with the Masoretic vocalization, this midrash reads “You will not make me.” The tradition understands, in the name of R. Nathan, that this commandment, therefore, actually refers to not making any images of God—Deuteronomy 4:15 is introduced in order to show that Israel never actual saw any form on Sinai, and so it is impossible to represent God with an image.

In the next midrash, Rabbi Akiva suggests that the nature of non-Jewish ritual is such that their customs are not really true religion:

I. Rabbi Akiva said, ‘You will not make with me’

II. So that you do not comport yourself towards [God] as the custom of others towards their own temples [possibly standing in for gods].

---


508 The Bible is not universal on this point, as discussed in chapter 10 of the present project.

509 נוהגים
III. When good comes upon them, they honor their gods, as it is written, “Therefore he sacrifices to his net, [and burns incense to his drag-net, because their portion is fat, and their food plentiful]” (Habakkuk 1:16).

IV. But when divine punishment comes upon them, they curse their gods, as it is written, “And it shall be that he will hunger and become angry, and curse his king, and his god” (Isaiah 8:21).

V. But, as for you, if I bring upon you good, give praise.

VI. If I bring upon you correction, give praise.

A. Therefore David says, “I will lift up the cup of salvation and call upon the name of Yahweh,” (Psalm 116:13)

B. [and also] “I found trouble and sorrow, but in the name of Yahweh will I call,” (Psalm 116:3–4).

This section of Mekhilta is less concerned with the specific ritual activity of polytheistic religion, but is instead concerned with establishing an ideological difference between the two systems.

The midrash then moves on to explicate why gods of gold and gods of silver are specifically mentioned in Exodus. The Midrash has already gone through and midrashically argued that all substances are forbidden. Because of this, it must ask why
these two materials are specified, especially since Exodus does in fact allow for gold images in the Tabernacle:

I. **Gods of Silver and Gods of Gold**

II. Why does it say this? Because [Scripture] already says, “And you will make two gold cherubim,” (Exodus 25:18).

III. So what if [someone] said, Look, I am going to make four?

A. What does Scripture say? “Gods of gold.”

B. If you add more to the two, indeed these are as gods of gold.

The midrash specifically addresses what represents sort of an elephant in the room in any discussion of the Israelite commandment against the making of images—the explicit command on the making of images associated with the tabernacle or temple, including the making of images of cherubim. The command to make the cherubim comes right from the Bible, showing that the Sages are aware of some the difficulties with this, but the midrash deals with this by suggesting that the text delimits only the two cherubim which are mandated by the text. Anything more than this would qualify as “gods of gold” and so would be considered part of the worship of avodah zarah. This helps to show why the rabbinic discourse must be contextual, because the presence of images of cherubim in the Temple itself illustrates the fact that even Judaism could not say, “No images, ever,” since there were images in the Temple.
The midrash then wonders why it is important to specify both gods of gold and gods of silver:

I. **Gods of Silver**

II. Why is this said? Indeed, it has already said, "Gods of gold," so why is Scripture saying "gods of silver"?

A. Indeed if we have forbidden what would we [otherwise] permit; that which is forbidden [from the outset] logically [remains forbidden], why then does Scripture say: "Gods of silver"?

B. Because we find in every vessel of the Eternal House, that if they are not made of gold it is permitted to make them out of silver, [therefore] I might suppose that the two cherubim [could also be made out of silver].

C. Therefore Scripture teaches, "Gods of silver."

D. Thus, if you change them [and make them not] out of gold, they are as if they are gods of silver.

The midrash here refers to materials from which the various tabernacle materials were to be constructed. It builds logically from the previous midrash and assumes that Exodus is still talking about the cherubim. Having already established that there may be only two

---

510 That is to say, the temple.
cherubim, the midrash proceeds to suggest that Scripture is arguing that because all of accoutrements of the temple could be constructed from either gold or silver, one might be able to likewise conclude that the cherubim could also be made out of either gold or silver. The midrash denies this possibility by saying that if the cherubim were made out of silver, they would qualify as gods of silver. Although the text in Exodus is talking about non-Israelite images, Mekhila has turned this into an internal matter for the Jewish cult. The discourse on non-Jewish ritual is effectively a discourse on Jewish ritual here.

The other distinction that this text makes is a distinction between ritual activities in the shrine and activities outside of it—there is a distinction in Mekhila between the temple and the synagogue:

I. **You Will Not Make For Yourself**

II. So that you may not say, Because Torah gives permission to make [images of cherubim] in the Temple, I may make them in the synagogues and the study-houses,

III. therefore Scripture teaches: “You will not make for yourself.”

IV. Another opinion: “You will not make for yourself gods of silver”
   A. that you may not say I am going to make for an adornment, according to the custom that others make in the provinces.
   B. Therefore Scripture says, “You will not make for yourself.”

511 This verse is different from that found in the Masoretic text, and similar to that found in LXX, which has led Dirk Büchner to suggest that Mekhila and the LXX share a similar Vorlage or harmonizing tradition. “On the Relationship between ‘Mekila de Rabbi Ishmael and Septuagint Exodus 12-23,’” *IOSCS Congress 9* (1995): 403–420, 412.

512 כדרך
This law has direct bearing on how the Sages interacted with images in synagogues. As alluded to in the Introduction, archaeologists have found mosaic images in synagogues in the Galilee and other places. The reference to adornments in the synagogues in the provinces brings to mind the famous images on the Synagogue at Dura Europos. These issues will further discussed in Chapter 11. Here in Mekhilta, these laws provide further evidence that the rabbinic discourse on non-Jewish ritual is equally a discourse on Jewish ritual. Likewise, the search for plausible contexts to avoid non-Jewish ritual can be transferred to pushing certain things out of Jewish contexts. When images are condemned, they are condemned because they infringe on Temple privileges, and can be considered a kind of meʻilah.

The next part of the midrash dealing with foreign ritual is based on Exodus 22:20 [H 19]: “The one who sacrifices to a god, save Yahweh alone, he will be subject to utter destruction." The midrash wonders here where the injunction against performing this act is found, since this only includes the punishment:

I. **The One Who Sacrifices to a God.**

II. We have heard the penalty, but we have not heard the warning.

---

Hebrew ירדה 513.
III. Scripture teaches, “You will not bow down to them, and you will not serve them” (Exodus 20:5).

זובח לאלהי יחרם. עונש שמענו אזהרה לא שמענו תלמוד לומר (שמות כ׳) לא תстаוהו להם ולא תעבדם

Exodus 20:5 is brought in to show where the admonition comes from. Mekhilta then wonders why the ritual act of sacrifice is brought out in this verse:

I. Sacrifice was [already] included in the class [of worship],
   A. but it is specified to teach that sacrifice is peculiar to the worship of heaven,
   B. and one is liable concerning it [if one sacrifices to an avodah zarah] whether or not it is worshiped in this way.514

II. It is likewise for any act that is [characteristic] to the worship of God,515
   A. and one is liable concerning those acts, whether or not [the avodah zarah] is worshiped in this way.

III. But any [ritual activity] that is not [characteristic] to the worship of God, if [the avodah zarah] is worshiped that way, one is liable, but if not, one is not liable.516

514 לכה
515 Literally, “heaven.”
516 Lauterbach, Mekhilta, vol. 3, 135.
I already introduced the use of custom in the defining of ancient ritual and it will be the subject of Chapter 9. In this midrash, sacrifice is drawn out specifically because it is common to both the worship of the God of Israel and the worship of other gods—it was, as noted previously, the universal ritual in the ancient world. The darshan claims that it is exactly this commonality that caused scripture to use sacrifice, in order to show that ritual actions which are like those for the God of Israel count as the worship of avodah zarah.

Whereas Mishnah and Tosefta were primarily concerned with looking for specific ritual actions and finding and defining plausible contexts for those rituals in order to help Jews to avoid them, Mekhila is concerned with the conceptions behind those rituals, and how those rituals were both similar to and different from those of non-Jews. Mekhila derives its discussions on foreign worship directly from the biblical text in Exodus. It is concerned with defining and delimiting what is meant by the original command to ancient Israel concerning the worship of other gods than the God of Israel. In continuity with their Greek and Roman neighbors, ancient, ancestral custom stands as of the important ideas behind how the Tannaitic Sages are discussing ritual, and for the Sages, that custom came from God at Sinai, and so was the only true and appropriate custom.

The other important notion which Mekhila brings to the forefront, as in m. Sanhedrin 7, is the idea that ritual is something which everybody engages in, and that Jewish rituals are not inherently different from non-Jewish ones, and vice versa. Thus, the images of the cherubim in the tabernacle must be discussed, because they are like the images which non-Jews use for worship. It is the commonalities between Jewish and non-

---

517 Parker, On Religion, 124.
Jewish ritual, as much as the differences, which drives much of the discussion. The Tannaitic discourse on commonalities came from the fact that all ritual in the ancient world shared certain characteristics, while differences came from very covenant fidelity enjoined upon Israel by Exodus. The search for contexts, seen in Mishnah and Tosefta Avodah Zarah, comes from the interaction between the commonalities and the differences.

Mekhilta provides the theoretical background for the notions of me’ilaḥ which serve as a key point in the rabbinic discourse on non-Jewish ritual. Mekhilta also gives evidence for the strength of ancestral custom in determining rabbinic ritual discourse something which they had in continuity with their neighbors. The strength of avodah and the Temple in determining the rabbinic discourse on ritual is visible in the rabbinic discourse on a series of practices which seem to qualify neither as magic nor as the worship of avodah zarah. In rabbinic literature, these are called the “Customs of the Amorites” and they are most completely discussed in t. Shabbat 6–7. As part of this discussion, it becomes clear that even though the Tannaitic Sages constructed these ritual activities as foreign, they were not part of the worship of avodah zarah. It is to this topic and this text which we turn next.
Chapter 7: Tosefta Shabbat 6–7 (7–8)

Alongside Halakhic discussions about the formal civic and religious rituals of the Roman state, rabbinic literature contains another category which needs to be addressed as part of a discussion on the rabbinic view of others’ rituals: the “Customs of the Amorites.”518 This category covers a wide of practices, very few of which are associated directly with the worship of avodah zarah.519 Some of these customs are associated with non-Israelite practices forbidden in the various biblical codes, but not all of them, a situation which we have already seen with the worship of avodah zarah. Whatever the difficulties which the Tannaitic Sages had with these practices, it is clear from Tosefta Shabbat that they were not in the same category as the worship of avodah zarah. They were not meʿilah and they were not avodah, and so they were not considered by the Tannaitic Sages the worship of avodah zarah.

The name of these customs is intriguing, although it is difficult to ascertain whether it is an inherited phrase, or one invented by the Sages.520 The late Antique Jewish usage “Amorites” derives from the Hebrew Bible, and is one of the forbidden Canaanite nations (Ex 3:8). They are presented in many cases in the Bible as the prototypical inhabitants of Canaan whose ritual customs the Israelites were not to imitate (1

518 הדרי האמורי
520 Bohak, Ancient Jewish Magic, 384.
Designating these rituals as the “customs of the Amorites” provided a way for the rabbis to conceive of their prohibitions within the commandments against the Canaanites in the Torah. It is this last conception which presents such an intriguing addition to how the Sages viewed the rituals of others (and perhaps how they changed internal rituals). The characterization of these practices as custom fits well within the rabbinic conception of religion and ritual as inherited ancestral practice, discussed in chapter 9.

In the Mishnah, only Hullin 4:7 and Shabbat 6:10 mention the customs of the Amorites, but this category is more fully explored in other Tannaitic sources. The fullest list of the customs of the Amorites is found in Tosefta *Shabbat*, chapters 6 and 7. The occasion for discussing this in the context of Sabbath law is part of the laws about what is permissible to carry on the Sabbath:

I. The one who goes out with
   A. the egg of a locust
   B. or the tooth of a fox
   C. or the nail from a crucified convict
      1. for the sake of healing
      2. this is the opinion of Rabbi Meir.

II. But the Sages say, Even on a weekday are they forbidden, on account of the customs of the Amorites (m. Shabbat 6:10).

---

These rituals represent a collection of rituals which are labeled as foreign, but which do not necessarily correspond to a given practice of the surrounding nations. Ascribing these practices to the Amorites, a foreign people long gone by the rabbinic period, allowed these practices to be censured as foreign without specific appeal to current Graeco-Roman practices.

Unlike Tosefta Avodah Zarah, this tractate was edited critically by Lieberman. As part of his critical edition, Lieberman produced a useful commentary on this passage.522 The most in-depth scholarly discussion of this passage has been by Giuseppe Veltri in various articles and especially in his monograph Magie und Halacha, where he offers a line by line commentary on the “Customs of the Amorites” recorded in this section.523 Veltri attempts to categorize the customs of the Amorites and place them in a Greco-Roman context. Relevant to the present discussion, Veltri notes that only two sources explicitly connect the customs of the Amorites with foreign worship: these are Sifra Ahere 13:9 and the Bavli at b. Avodah Zarah 11a–11b.524 He considers the customs of the Amorites to be analogous to the magical literature in the Greek Magical Papyri.525 One difficulty with Veltri’s argument is that he does not define religion, magic or science until the very end of the argument, which makes following his assumptions difficult. For

522 Lieberman, Tosefta Ki-fshuta, vol. 3 For general characteristics of Tosefta, including dating issues and its relationship to the Mishnah, refer to my discussion of t. Avodah Zarah in the Introduction.
525 Veltri, “The Rabbis and Pliny,” 68.
Veltri, part of the theorizing which the Sages do on these rituals is ultimately a pragmatic one (he calls it empirical), whether such practices work or not.\textsuperscript{526} Mirielle Hadas-Lebel has also examined these practices as part of her general discussion on syncretism in Judaism, characterizing them as part of polytheistic practices.\textsuperscript{527} Jonathan Seidel argues that this is not necessarily the case, but that these may be practices that were common among both Jews and non-Jews, but which the Tannaitic Sages were uncomfortable with, and so they categorized them in this way in order to dismiss them as foreign.\textsuperscript{528}

The purpose this chapter is not to explain every aspect of the customs of the Amorites. Such an undertaking would be beyond the scope of this dissertation. Instead this chapter will look at the rabbinic discussion of Amorite customs in order to show more clearly how the Sages conceived of what was and was not \textit{avodah}. Even something which is understood as a foreign practice is not automatically the worship of \textit{avodah zarah}. Many of the activities described in this passage have mirrors in practices from the Greek and Roman world, as Hadas-Lebel has shown. By identifying these ritual activities as Amorite customs, the Sages mark these ritual activities as foreign. They differ from the other rituals discussed in this dissertation, because they are not, for the most part, associated by the Sages with the worship of non-Jewish gods. Although these are actions which we would characterize as ritual, they were not \textit{avodah} in the conception of the Sages, because they are not ritual activities associated with the Jerusalem Temple cult.

Bohak suggests that these practices occupied a middle ground between magic and the worship of \textit{avodah zarah}, both of which were punishable by stoning—and that this

\textsuperscript{526} Veltri, “The Rabbis and Pliny,” 84–86.
\textsuperscript{527} Hadas-Lebel, “Paganisme,” 454–476.
\textsuperscript{528} Jonathan Seidel, “Charming Criminals: Classification of Magic in the Babylonian Talmud,” 161, no. 52.
middle ground was not actually enforceable. Whether or not they occupy that particular middle ground, they are still neither avodah nor meʻilah, and so are part of a different strand in the Sages’ discourse on foreign ritual.

T. Shabbat 6 begins with a discussion of hairstyles, a practice that, despite its quotidian nature, actually connects to larger discussions on foreign worship.

I. These are the items which are from the customs of the Amorites:
   A. The trimmer of the fringe of hair.

This passage may be fruitfully compared with m. Avodah Zarah 1:3, where one of the forbidden festivals is “the shaving of [a non-Jew’s] hair and beard.” The word for hair in both cases is קומי, which is a distinctive feature of this discussion. Jastrow connects the word with Greek χόμη, and suggests that it references, in particular, a non-Jewish hairstyle. It is a practice that is associated with non-Jews, and implicitly associated with the worship of avodah zarah, but it is not actively a ritual practice.

The following is presented as a sample of the practices contained in t. Shabbat:

I. The one who supplies,

II. and the one who claps,

III. and the one who dances at a fire,
   A. this is the customs of the Amorites.

IV. If he drops bread and he says, ‘Restore it to me, that it is not destroyed.’

---

529 Bohak, Jewish Magic, 384.
530 Jastrow, Dictionary, 1333.
A. I bless the one who set the light upon the land that the dead may feel pain,

B. do not set a lamp on the earth that the dead may not feel pain.

V. If there falls from it sparks and he says, “Today one travels to us”

A. this indeed is among the customs of the Amorites.

As noted, these practices are not categorized in Tannaitic thinking as *avodah*—they are not formal ritual actions, and so have a different place within the ritual discourse of the Tannaitic Sages. As with many places in rabbinic literature, these practices are not discussed at length, but are simply listed and placed in the appropriate category.

Even though the customs of the Amorites are not characterized as *avodah* by the Sages, and so are not considered worshiping *avodah zarah*, there are practices which are explicitly associated in Tosefta with gods besides the God of Israel by Rabbi Judah:

I. The one who says “YMMY and BṢY,”

A. This indeed is among the customs of the Amorites.

B. Rabbi Judah said, One may say YMMY and BṢY,

II. The one who says “QRRN DGN,”

A. Indeed this is among the customs of the Amorites.

B. Rabbi Judah says, “DGWN on account of Dagon, the foreign deity,

1. As it is written: ‘To Dagon, their god’ (Judges 16:23).
III. And the one who says, “DNY DNY,”

A. This is among the customs of the Amorites.

B. Rabbi Judah said this is on account of Dan, the foreign deity,

1. As it is written: “Your god lives, Dan, [and your god lives, Oh Beer-Sheba]” (Amos 8:14) (t. Shabbat 7:2–3).

In this passage, the Sages place certain ritual utterances among the customs of the Amorites. Rabbi Judah goes further than that, and suggests that the words used in these particular customs of the Amorites refer specifically to non-Jewish gods mentioned in the Hebrew Bible. The first two words are acceptable because Rabbi Judah does any foreign deity in them.

The fact that the gods mentioned are gods from the Hebrew Bible feeds into the question of the derivation of ritual concepts from the biblical text, which has been discussed in Chapter 5. For the purposes of the present chapter, a brief overview of the gods which Rabbi Judah is alluding to is all that is needed. Dagon is mentioned in the biblical books of Judges and 1 Samuel as a Philistine god, who has traditionally been seen as a fish god, deriving from the root DG, referring to fish. He was a god borrowed from the West Semitic world by the Philistines. According to 1 Maccabees 10:83–84,

---

531 Bohak notes that Judah’s reading of these as relating to foreign divinities is “an exception, and perhaps also a minority view.” Bohak, *Jewish Magic*, 384, no. 104.

there was a temple to Dagon in Ashdod during the Maccabean revolt, which suggests that Dagon was worshiped in the area inhabited by the Philistines into the Hellenistic Period:

“And the horsemen scattered down to the plain, and fled into Azotos533 and went into Bethdagon,534 which belonged to their image, for safety. And Jonathan burned Azotos and the surrounding cities, and he carried off the spoils, and the temple of Dagon, that they had fled into together, he burned with fire.”535

Dan, the second divine name adduced by Rabbi Judah, has been taken out of its original biblical context and reinterpreted to refer to a foreign god. The original passage in Amos invokes the God of the shrine at Dan, who was Yahweh (as he was worshipped in the North).536 These particular ritual utterances are interpreted by R. Judah as invoking the names of foreign deities, which appears to be what puts them in the category of customs of the Amorites, but the mere mention of a name is not one of the ritual acts mention in m. Sanhedrin 7, and so it is not avodah.

If Rabbi Judah is correct, and these are divine names, then they are likely simply voces magicae. The presence of divine names as ancient voces magicae is a known practice. The invocation of divine names is an important aspect of contemporaneous magical practices such as those recorded in the Greek Magical Papyri found in Egypt. In

533 This is the Greek name for Ashdod.
534 From the Semitic meaning “House of Dagon.”
535 83 καὶ ἔπεσεν ἐσκορπισθὲν ἐν τῷ πεδίῳ καὶ ἔφυγον εἰς ἄζωτον καὶ εἰσῆλθον εἰς βηθδαγων τὸ εἰδώλον αὐτῶν τοῦ σωθῆναι 84 καὶ ἐνεπέρισσεν ἦσαν εἰς τὴν ἄζωτον καὶ τὰς πόλεις τὰς κύκλῳ αὐτῆς καὶ ἔλαβεν τὰ σκύλα αὐτῶν καὶ τὸ ἱερὸν δαγων καὶ τοὺς συμφυγόντας εἰς αὐτὸ ἐνεπέρισσεν πιρί
536 The site of Dan was excavated since 1966, and a sacred precinct, which probably corresponds to Jeroboam’s national shrine complex, was uncovered. The full site reports for this excavation have not been published yet, but the lead archaeologist, Avraham Biran, published a preliminary report in 1980: “Two Discoveries at Tel Dan,” Israel Exploration Journal 30 (1980): 89–98.
many cases these divine names, which include Egyptian gods, names of the God of Israel, and even the Mesopotamian goddess Erishkigal, are not included as prayers or specific invocations to the named deities, but *voces magicae* to lend their power to the ritual practices.\(^{537}\) It seems unlikely that the ritual practitioner who included Erishkigal in the Greek Magical Papyri had any sense of her cult, myth, or anything at all about her characteristics or worship as found in Mesopotamia. Such considerations are unnecessary if she is merely being used for the general power which divine names bring to these kinds of ritual, independent of worship.

The passage on the customs of the Amorites does, however, explicitly deal with ritual practices forbidden by the legal codes in the Bible, expanding on concepts which we have already seen in m. Sanhedrin 7:8.\(^{538}\) M. Sanhedrin 7 spoke about two of the unapproved ritual practitioners: the בעל אוב and theידעוני, while this section discusses theמנחש and theחובר. T. Shabbat 7:12 defines first theמנחש, which I have translated as “diviner”:

I. What is a diviner?

II. The one who says,

A. My staff has fallen from my hand

B. My bread has fallen from my mouth

C. A certain man calls out behind me

D. A crow calls out to me

E. A dog barks at me


\(^{538}\) See Deuteronomy 18:10 and Leviticus 19:26. This is discussed in Chapter 5.
F. A snake passes over on my right side, and a fox on my left side.

G. A deer cut off the way before me.

H. Do not begin in me, that indeed it is dawn.

I. It is the new moon.

J. It is the coming in of the Sabbath.

All of these statements concern things which may be interpreted as bad omens.

According to Tosefta Shabbat, a diviner, therefore, is one who looks to and accepts omens. Belief in and reliance on omens was part of the general Graeco-Roman worldview, which was part of how the Sages constructed their own world. Some ritual specialists also interpreted omens, but the two were not inextricably related. According to the rabbinic discourse on foreign ritual, the diviner is forbidden because of the Bible, but because interpreting omens is not *avodah*, it cannot be the worship of *avodah zarah*.

The next section deals with the חובר, which is translated here as enchanter:

I. As for an enchanter—what is an enchanter?

A. R. Ishmael says, This one that that passes an object before his eyes.

B. R. Akiva says, These calculate times like those who say,
1. Today is beautiful for going out,
2. Tomorrow will be beautiful for shopping.
3. Today the sky will be covered,
4. Tomorrow the rain will come down.

C. These are like those who say,
1. The wheat ripening on the seventh year is generally sound,
2. the pulse generally unsound.

D. But the Sages say, These are those who deceive the eyes.

There is a disagreement recorded here on the definitions and characteristics of what an enchanter entails. Rabbi Ishmael’s opinion is very obscure.⁵⁴⁰ Rabbi Akiva’s opinion relates the practice to those who calculate lucky and unlucky times for certain actions.

The anonymous Sages give an opinion that these practitioners are those who practice sleight of hand—again, there is no actual ritual happening here. Unlike other parts of this passage in Tosefta, both designations are not explicitly identified as customs of the Amorites, which means that they may not have always been associated with those customs.

---

⁵⁴⁰ According to b. Sanhedrin 65b, which is the primary locus for sustained discussion of magic in rabbinic literature (although later than the texts under discussion in the present dissertation), the things passing before the eyes are semen from seven male species, used for unspecified magical purposes.
The customs of the Amorites show that the Sages were concerned with things that were ritual, but which they did not place in the same category as worshiping *avodah zarah*, and were not punishable to the same degree. The customs of the Amorites were not, according to the Tannaitic discourse on foreign ritual, *avodah*. In the following chapter, this dissertation takes a closer look at how the Sages conceptions of *avodah* and *meʻilah* are an important part of their discourse on foreign ritual and *avodah zarah*. These concepts help to explain why activities that seem to modern observers to have so clear of a ritual basis were not considered to be rituals from the perspective of the Tannaitic Sages.
Chapter 8: Rabbinic Ritual Discourse

Ritual of the Tabernacle

From the foundational discussion about the Tannaitic discourse on non-Jewish ritual, this dissertation moves to a closer discussion of the points that were brought out by those texts. The Tannaitic Sages possessed a general conception of avodah as a category of ritual that they applied to both their own rituals and to foreign rituals, and so in the comparison between Jewish and non-Jewish ritual, avodah zarah is avodah first. This is why the customs of the Amorites are not part of the worship of avodah zarah, because they are not avodah. This chapter looks more closely at how the rabbinic notions of Temple and cult, which constitute proper avodah, provided the background for their discussions on non-Jewish ritual.

The Temple is the category through which the Tannaitic Sages understood ritual. Although the Judaism of Tannaitic Judaism represents a Judaism that is in many ways post-Temple, it is a system in which the Temple is everywhere absent. Naftali Cohn has shown that the Sages use the Temple in order to illustrate and solidify their leadership over other parts of Judaism. Naftali S. Cohn, The Memory of the Temple.

---

542 Naftali S. Cohn, The Memory of the Temple.
style jurists over Jewish ritual law, including and especially temple law. Thus, being experts in Temple law, which means ritual law, the Mishnah gives the Sages authority over all aspects of Jewish life.

That the Mishnah is not generally concerned with foreign ritual narratives is entirely in keeping with Cohn’s thesis about the Sages’ purpose of establishing their leadership through creating memories of a ritual system that was beholden to the Sages for regulation of proper ritual. The regulation of proper performance of non-Jewish ritual would be outside the jurisdiction of the Sages, in any case, and so there is no need to define their power through narratives describing those rituals. The Tannaitic Sages are concerned, however, with their own rituals, and they apply categories of their own rituals to non-Jewish ritual as part of their discourse on non-Jewish ritual. The presence of detailed descriptions of Temple ritual in Mishnah underscores their claim to being ritual experts over the Temple, something which is continued in Tosefta and the Tannaitic midrashim. Although the Temple was destroyed, it was at the core of the Tannaitic discussion on ritual. The following chart illustrates this (this chart, like the chart on Exodus, is representative rather than comprehensive):

---

543 Cohn, Memory of the Temple, 119–120.
544 Cohn, Memory of the Temple, 91–118.
Table 2: Ritual Practice in Mishnah

<table>
<thead>
<tr>
<th>Ritual Activity</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sacrificing</td>
<td>There are numerous examples of sacrifice in the Mishnah, since it was the primary ritual activity in the ancient world. As an example, the tractate Tamid, in the order Qodashim, is dedicated to describing how the daily sacrifice played out.</td>
</tr>
<tr>
<td>Burning Incense</td>
<td>m. Tamid 4:4 “And the one to whom the lot of the incense fell took the [incense]-spoon.”</td>
</tr>
<tr>
<td>Pouring Out Libations</td>
<td>m. Menahot 9:4 “And they may mix the libations of rams with the libations of bullocks…”; m. Sukkah 4:9 “’The water libation, seven days…’”</td>
</tr>
<tr>
<td>Bowing Down</td>
<td>m. Sheqalim 6:1 “There were thirteen shofars, thirteen tables and thirteen prostrations that were in the Temple.”</td>
</tr>
</tbody>
</table>

The very kinds of ritual thinking and ritual discourse that mark the work of the Sages in talking about their own rituals creates those categories they use in their discussion of foreign ritual. The process of discussing non-Jewish ritual was, as already discussed in this dissertation, a composite project. The Tannaitic Sages use biblical and
Temple vocabulary and apply it to non-Jewish ritual in order to create the categories which defined their own, and others’, ritual spheres.

This composite project is visible in Sanhedrin 7:6’s presentation of the Mishnaic definition of worshiping *avodah zarah*:

II. The one who worships *avodah zarah*—
   A. the one who worships,
   B. the one who sacrifices,
   C. the one who burns incense,
   D. the one who pours out libations,
   E. the one who bows down,
   F. the one who accepts it as God

All of the ritual activity forbidden as the worship of *avodah zarah* is also part of the Jerusalem cult, as described in both the Bible and Tannaitic literature. They are, by definition, sacred activities within Judaism. In addition, these actions were common to those rituals which were practiced in the broader world in which the Tannaitic Sages lived.

This clarifies the distinction why sacrifice to another god is a greater crime in the Mishnaic system than physical interaction with an image of a non-Jewish god.

Immediately after listing the various activities that make one culpable for worshiping *avodah zarah*, the Mishnah lists another series of activities:

III. But the one who
   A. Embraces it

---

545 The Yerushalmi and the Bavli have “the altar,” Hebrew המזבח. Given the ritual context of this passage, the present reading is preferred.
B. Kisses it
C. Sweeps around it
D. Sprinkles it
E. Anoints it
F. Clothes it
G. Or puts shoes on it

1. Transgresses a negative commandment.

All of these activities involve interacting with the actual divine image, yet, as noted in Chapter 5, the Mishnah does not consider these actions to be at the same level of culpability as the ritual activities cited in the first part of this mishnah. Recognizing the categories that the Sages are using in this section clarifies what is going on here: these activities are not activities which were practiced in the Jerusalem Temple. They could not have been, because there was no image of the God of Israel within the Jerusalem Temple. These ritual activities are therefore, not avodah and the performance of them does not involve transgressing me‘ilah. In a somewhat ironic turn of events, it is precisely because these ritual activities involve interaction with an image that they are not at the same level of culpability as the worship of avodah zarah. Although the Mishnah condemns these activities, they do not add the insult of sacrilege on top of the injury of performing rituals before a forbidden image.

The concept of avodah and me‘ilah explains places within the laws in Mishnah and Tosefta where activities that appear to be foreign ritual behavior are only lightly condemned. The most obvious example of this is the customs of the Amorites. The
Tannaitic Sages do not view these ritual actions as part of the worship of *avodah zarah*. This is even though they contain ritual utterances which Rabbi Judah adduces as the name of non-Jewish gods. To the modern viewer, many of these activities should be considered in the same category as the worship of *avodah zarah*, but they are not so characterized within the text, and are only lightly condemned. Not quite magic, but definitely somewhat heterodox, the customs of the Amorites present something of a mystery. Recognizing that the categories of *avodah* and *meʻilah* are at play here points toward a helpful way of thinking about these distinctions. Simply put, the customs of the Amorites did not derive from the Temple, and so were not considered ritual. They were not *avodah* and did not come under the law of *meʻilah*. This does not, of course, make them approved. The rabbis tended to disapprove of ritual activities which they themselves did not control, as well as of images on general principle.

*Laws and non-Jews*

The concept of *avodah* provides the ideological basis regulating the how and where Jews were allowed to interact with non-Jews. Ritual activity is just that, an activity. The ban on foreign ritual is not, inherently, a ban on all interactions with non-Jews. Although such a response might be suggested by the biblical sources, it was not a practical response in the interactions between Jews and non-Jews in the world of the Roman Empire. Israel was no longer a sole polity. Any rights which they had were given them by the reigning authorities. Part of how this is negotiated in sources from the Tannaitic period is through the recognition that within the category of ritual, not all non-Jews were performing rituals constantly, and that it was only the performance of actual ritual that created any legal
difficulty. This is why Mishnah and Tosefta spend so much of their time looking for plausible contexts for the worship of *avodah zarah*. A system that allows for this kind of variability also requires specification about which activities count as the worship of *avodah zarah*.

To be sure, non-Jews were under a great deal of legal suspicion. By legal suspicion this dissertation means only that the Sages are dealing with a legal construct, and does not follow Neusner that the laws against worshipping *avodah zarah* were in place because of Jewish feelings of non-Jewish depravity.⁵⁴⁶ There are laws which have that sense (especially m. Avodah Zarah 2:1), but it does not seem to have been a general assumption of the Tannaitic Sages. The laws, by their very nature, allow for interactions between Jews and non-Jews. In some cases, the issue seems to be one of expectation, as in the case of libation wine in t. Avodah Zarah 7:1, where it discusses working in the production of wine with non-Jews:

I. One conveys with him new barrels
   A. but not old ones
      1. this is according to the opinion of R. Meir.
   B. But the Sages say: The new and the old are as one
      1. they assist him until he passes from sight.
      2. [When] he passes from sight, it becomes libation wine

It is significant to note here that the wine does not become libation wine until it passes from sight. It is not the mere presence of a non-Jewish worshipper that makes it libation wine. Neither does the handling of the wine by someone not in a state of ritual purity

⁵⁴⁶ Neusner, *Performing Israel’s Faith* (Baylor University Press), 72.
invalidate it. It is only the actual ritual action of pouring out libations, which as we noted above counts as conceptual *me’ilaḥ*, that creates the legally difficult situation. The legal assumption is that the non-Jews are engaged in ritual behavior when they are not being watched by Jews (again this seems to have been of particular importance in the case of libation, probably because of its ease of performance and pervasive character), but as long as the Jews can see that no ritual activity is taking place, the wine remains ritually unsullied.

This is the basis for a similar law earlier in t. *Avodah Zarah*, about the pouring out of wine as a libation:

I. One may sell wine to him,

A. and one does not worry that he will pour out a libation for an *avodah zarah*.

B. But if he specifies to him,\(^{547}\) even if water or salt,

1. he is forbidden to sell it to him (t. *Avodah Zarah* 1:21).

Thus the legal suspicion behind non-Jewish ritual behavior does not extend to the selling of wine—it is in fact, specially permitted. Mishnah and Tosefta, in particular Tosefta, are both aware that non-Jews are not constantly engaged in forbidden ritual, and although they are suspect when it comes to the making of wine, that legal suspicion does not extend to the selling of wine. It is only if the non-Jews tell a Jew that the wine is for ritual purposes that the Jew is forbidden to sell that wine. In addition to being poured out as a libation, wine was drunk all the time in non-ritual circumstances, and so the legal suspicion does extend to this context.

\(^{547}\) That it is for the worship of *avodah zarah*.  

284
Another example of the idea that non-Jews are not constantly engaged in ritual, and so do not comprise an essentialized class of “idolaters”, may be found in both the Mishnaic and Toseftan directives dealing with fairs and their celebrants. Mishnah Avodah Zarah 1:5 implies that there is a distinction between non-celebrants and celebrants:

II. Concerning a city that has in it an *avodah zarah*

A. which has shops which are adorned

B. and others which are not adorned:

1. This was the case in Bet Shean.

C. The Sages said:

1. Those adorned are forbidden

2. and those not adorned are permitted (m. Avodah Zarah 1:5).

Tosefta Avodah Zarah continues the distinctions which this allows:

I. One city observes,

A. and one city does not observe;

B. one people observe

1. and one people does not;

C. one family observes,

1. and one does not:

D. the celebrants are forbidden,

---

548 Hebrew אדם. Jastrow points out that this word corresponds to the various meanings of מצורים. The translation here is an attempt to preserve the distinction between worship and the observation of a festival which the Hebrew original is trying to make.
1. but those that do not celebrate are permitted [for business transactions] (t. Avodah Zarah 1:4).

Both Mishnah and Tosefta operate under the assumption that the only those who are involved in the ritual activity at a fair or festival are involved in the worship of *avodah zarah*.\(^{549}\) *Avodah* and therefore *avodah zarah* are not internal notions of identity and belief, but are instead definite markers of specific ritual activity.

T. Avodah Zarah further nuances this position by allowing for different categories of fairs, remembering that Mishnah Avodah Zarah is concerned with the large framework and Tosefta Avodah Zarah is looking at a smaller framework, and so tends to break things down into smaller categories than Mishnah. Thus, where Mishnah assumes (probably correctly) that all fairs would have some kind of ritual element, Tosefta legislates what might be termed civil fairs differently from those that are specifically given to honor a specific deity.

I. A fair that the government gives
   A. and that a district gives
   B. and that the dignitaries of a district give
      1. are permitted.
   C. There is no fair forbidden except that of an *avodah zarah* alone.

As noted with its distinction between celebrants and non-celebrants, t. Avodah Zarah allows that although non-Jews are legally suspect in matters of worshiping *avodah zarah*, worshiping *avodah zarah* is an activity which must be performed in order to be actionable. It is a ritual, and it is only the ritual which is suspect. As seen in m. Sanhedrin

---

\(^{549}\) This also may come from the example of the cross-ethnic and religious festival in Hebron, mentioned by Sozomen and addressed by Burkert. See Burkert, “Ancient Views on Festivals,” 40–41.
7 and Mekhilta, the Tannaitic Sages define ritual as activity which is either peculiar to the God of Israel, or peculiar to another god.

The fact that the rabbinic conceptions of what constituted foreign ritual could be contextual may also be seen in the story of Rabban Gamliel in the bathhouse of Aphrodite. It is worth presenting the story in whole again:

I. “Proclus, son of Philosoph, asked Rabban Gamliel in Akko, when he was washing in the bathhouse of Aphrodite.

II. He said to him,

A. “It is written in your Torah,

1. ‘And there shall not cling to your hand any part of the herem’ (Deut 13:18 [H 17]).

a. Why then are you bathing in the bathhouse of Aphrodite?”

III. He said to him, “There is no answering [of scriptural questions] in a bathhouse.”

IV. “After they had gone out, he said to him,

B. “I did not come into her borders, she came into my borders.

1. They do not say ‘Let us make a bathhouse to beautify Aphrodite,’

2. but rather they say, Let us make Aphrodite to beautify a bathhouse.’

V. “Another opinion:

B. Even if they give to you much wealth,
1. You would not set up an *avodah zarah*
   a. while unclean
   b. and having a seminal emission
   c. and urinate in its presence,
   d. yet this one is standing before the gutter and everyone urinates in its presence” (m. Avodah Zarah 3:4).

This famous aggadic episode illustrates a number of the concepts of discourse laid out in this chapter. The idea that the presence of the image of Aphrodite is only objectionable when it is being used for worship is in continuity with idea of *avodah* and *me’ilaḥ* being the primary determinant of what constitutes foreign ritual. Although ritual purity was an important part of the temple cult at Jerusalem, the act of immersion was apparently not part of the *avodah*, and so bathing, as such, was not *me’ilaḥ*. The second opinion appeals to customary views of worship available which were part of the broader cultural conception, discussed in the next two chapters: since performing such unclean activities were not part of the rituals of the non-Jews, the presence of a statue in the context of a bathhouse did not qualify as ritual activity.

The viewing of the image in the bathhouse of Aphrodite shows the final aspect in the rabbinic discourse on the meaning of ritual, that of iconography. Even in the biblical period, the command to make no images and the command to not worship gods beside Yahweh could be separated. Even though individual devotions to images were not *avodah*, because they were not activities which were performed in the Jerusalem Temple, the making of images is still explicitly forbidden by the Law of Moses. Within this
system, images still come under the concept of *meʾilah*, because they take from the 
dignity which belongs to the God of Israel.

Mekhilta di-Rabbi Ishmael discusses how all the materials are forbidden for the 
making of images:

I. **You Will Not Make any Image** (Exodus 20:4)
   
   A. He will not make one that is engraved.
   
   B. But what if he makes one that is solid?
      1. Scripture teaches: “Any manner of likeness.”
      2. So not a solid one.
   
   C. But what if he plants for himself a planted one? \(^{550}\)
      1. Scripture teaches, “You will not plant for yourself an *asherah*”
      (Deuteronomy 16:21).
      2. So not a planted one.
   
   D. But what if he makes for himself one out of wood?
      2. So not one out of wood.
   
   E. But what if he makes himself one out of stone?
      1. Scripture teaches, “[Neither will you set any] cut stone,”
      (Leviticus 26:1).
      2. So not one out of stone.
   
   F. But what if he makes for himself one out of silver and of gold?

---

\(^{550}\) This would be like the *asherot* mentioned in the Hebrew Bible and Mishnah and Tosefta Avodah Zarah, and discussed at length below.
1. Scripture teaches, “And gods of silver and gold you will not make for yourselves,” (Exodus 20:20).

2. So not out of silver and gold.

G. But what if he makes one for himself out of copper, or iron, or tin, or lead?

1. Scripture teaches, “And molten gods you will not makes for yourselves” (Leviticus 19:4).

2. He will not make for himself any likeness out of all of these.

Mekhita here is demonstrating a similar eye toward making definitions as that in Tosefta Avodah Zarah, but with an eye toward materiality rather than toward events.

Mishnah, Tosefta and Mekhilta all take up the issue of appropriate iconography, including the issue of what constitutes an inappropriate image. It is instructive to compare the various sources:

I. All images are forbidden,

A. on account that they are worshiped [at least] once a year.

1. This is according to R. Meir.

B. But the Sages say,

1. “None are forbidden except any that that has in its hand

   a. a staff,

   b. bird

   c. or globe.”

2. Rabban Shimon b. Gamliel says,

290
a. “Any that has anything in its hand.” (m. Avodah Zarah 3:1).

II. “[The law concerning] the finder of the fragments of an image.”
   A. Indeed these are permitted,” (m. Avodah Zarah 2:4).
   B. “[As for the] the shape of a hand
      1. or the shape of a foot,
         a. these are indeed forbidden,
            i. on account when one goes out with them, it is worshiped.”

Compare those Mishnaic examples with the following from Tosefta:

I. And the Sages said, There is nothing forbidden expect that which has in its hand
   A. a staff,
   B. bird,
   C. sphere,
   D. sword,
   E. crown,
   F. ring,
   G. image,
   H. or snake (t. Avodah Zarah 5:2)

551 That is to say, no image.
The Mishnah preserves here three different halakhic positions on which images are acceptable. Rabbi Meir’s position is the strictest, and simply forbids every image. The position of the Sages is that certain items held in the hand mark it as a divine image, and so make it forbidden. Tosefta continues from that logical point, but extends the list of forbidden items in the hand.

Note that although the list from Tosefta is significantly longer than the list in Mishnah, it lacks the dictum from Shimon b. Gamliel, which means that it is actually the more lenient of the two rulings, which is why it needs to specify out the list, which is the ordinary mode for Tosefta.

The Mishnah presumes that even images that are not part of a shrine would be used for ritual purposes at least once a year, and so would be forbidden to Jews. Note that the question is not settled in this case by an appeal to the command against making figural representations in Exodus 20:4. The solution to the problem derives instead from a statement about how the images are used for ritual purposes. Even when the Mishnah is discussing iconography in specific, it is still the ritual that is more important.

Mishnah then goes on to address the issue of broken pieces of images:

I. “The one that finds pieces of images,
   A. these are indeed permitted.

II. If he finds the shape of a hand,
   A. or the shape of a foot,
      1. these are forbidden,
         a. on account that when they went out with them
         b. they are worshiped.”

292
Here, as with Rabbi Meir’s position in the previous Mishnah, the halakhic concern is whether or not these images are or have been worshiped. It is not the image, *per se,* which is being legislated against, but rather it is certain ritual practices which non-Jews associate with the image. The discussion of pieces of images and the worshiping of body parts is completely missing from Tosefta.

Mekhila contains an even lengthier discussion on forbidden images:

I. But what if he makes for himself a likeness of any carved image?
   A. Scripture teaches, “Lest you corrupt yourselves and make for yourselves an image, even the form of any figure” (Deuteronomy 4:16).
   B. So not a likeness of any carved image.

II. But what if he makes for himself the image of a beast, wild beast, or fowl?
   A. Scripture teaches, “A figure of any beast that is in the earth, a figure of any flying bird” (Deuteronomy 4:17).
   B. He will not make any image of these.

III. But what if he makes for himself an image of fish, locusts, unclean reptiles, or creeping things?
   A. Scripture teaches, “A figure of anything that creeps in the dust, a figure of any fish that is in the water” (Deuteronomy 4:18).
   B. He will not make for himself any image of these.

IV. But perhaps he will make for himself a likeness of the sun, or the moon, the stars or the planets.
A. Scripture teaches, “And lest you lift up your eyes towards heaven [and see the sun and the moon and the stars, all of the host of heaven, and you should be impelled to worship them]” (Deuteronomy 4:19).

B. You will not make for yourself any likeness of these.

V. But what if he makes for himself an image of angels, or cherubim, or ophanim?

A. Scripture says, “Anything that is in heaven” (Exodus 20:4).

B. Concerning “anything that is in heaven,” is he only not able [to make] an image of the sun, the moon, the stars and the planets.

C. Yet Scripture teaches, “Above,” [indicating] not an image of angels, not an image of cherubim, not an image of ophanim—he may not make an image of any of these.

A comparison of this midrashic text with the Mishnah and Tosefta shows that although they are closely related in legislating on the kinds of approved images, these texts are dealing with two different halakhic questions. By discussing items in an image’s hand, Mishnah and Tosefta deal with an implied human image and so, by extension, are legislating on probable divine images. The question which drives Mishnah and Tosefta forward is what types of anthropoid images represent gods and are therefore forbidden, and what are simply images of individuals and, while distasteful, do not represent the worship of avodah zarah.

Mekhila, on the other hand, is concerned with working out in full the idea found in Exodus (which it is exegeting on, of course) that the creation of images is forbidden. Mishnah and Tosefta are interpreting an already extant, non-Jewish, set of iconographic
categories, while the other is policing the Jewish ability to create images, and limiting how and where images may be used. To be sure, both are part of a discourse on worshiping avodah zarah, but they are taking up different parts of the same question. In theory, Exodus 20:3 rejects all figural representation of anything “in heaven above, or in the earth below, or in the waters beneath the earth.” This was nuanced even in the biblical period. The Ark of the Covenant itself, the symbol of God’s presence on the earth, was covered by a gold plate which had carved images of cherubim resting on it (Ex. 25:17–19). The biblical ambiguity toward figural images is carried into the Tannaitic period (and beyond).

This is a good idea to keep in mind when dealing with the presence of images on synagogues of mosaics of zodiacs, including images of Helios in the sun chariot. There seems to have been in the creation and viewing of images—as in most matters in Jewish and Israelite religion—a spectrum of practice. These mosaic images in synagogues lead the discussion back to m. Sanhedrin 7:7 and its discussion of what constitutes the actionable offense of worshiping avodah zarah. This is will be further discussed in Chapter 10.

The contextual discourse on images is another place where the definition by the Tannaitic Sages of avodah comes into play. For these Sages, avodah was a category of ritual in general, which could then be subdivided into appropriate and non-appropriate types of ritual, rather than a somewhat indistinct or blanket category of “idolatry”. The appropriateness of images in their contexts was based then on whether they counted as avodah, in this case whether or not an image had been (or would be) the subject of an
actionable ritual action. The process of definition here is one of specifically actionable ritual practices rather than a broad interpretative trend against all polytheistic practices.

**Conclusion**

Although rabbinic literature is often characterized by its willingness to preserve multiple voices within legal discussions, an examination of Tannaitic literature brings forth some constants in how the concept of ritual is used in Jewish discourse on non-Jewish ritual. Tannaitic literature differentiates when a non-Jew is legally suspect of worshiping *avodah zarah* and when it is not. This distinction is based on the idea that ritual is an activity, and therefore, non-Jews are only engaged in it when they are performing ritual acts. Specifically, the idea ritual activity that constitutes worshiping *avodah zarah* derives from activities that are associated with the Jerusalem Temple. They are, in fact, *avodah*, which represent the rabbinic category of ritual: activities which are performed to the God of Israel in the Temple of Jerusalem. Thus part of what makes worshiping *avodah zarah* so heinous is that it also comes under the rabbinic category of *me’ilah*, which is the use of materials set aside for sacred or divine use in inappropriate environments. This idea builds on common ideas that were part of the world in which the Tannaitic Sages lived, and that involved an appeal to ancestral custom. It is this idea that the next two Chapters examines.
Chapter 9: Custom in the Ancient World

Custom and Law

The project of this dissertation is to understand what is behind Tannaitic discussions of non-Jewish ritual. By looking at the ways that these Sages categorized ideas and practices, this dissertation is able to draw conclusions about how they conceived of ritual practices, as well as what drove those conceptions forward. The definitions that the Tannaitic Sages brought to their discourse on non-Jewish ritual were in continuity with similar definitions found in the rest of the ancient world. This chapter looks at one way in which the ancient Greeks and Romans examined their ritual, which is the notion of religion as custom handed down from antiquity. This idea was also shared with the Tannaitic Sages. The idea of ancient custom prevalent in the Greek and Roman world shows that in these systems, rituals and religions are embedded in culture in such a way that they may be established as “the way things are.”

There are a number of terms in Greek and Latin used in the discussion of religion and ritual that illustrate the notion of ancient custom. In Greek the most important is the word νόμος, a word which has a wide variety of meaning and usage in the ancient world. It is often translated as “law,” which was its basic meaning in general usage. It could also be used in a cultic context to refer to the various rules and regulations that surrounded a given shrine. This usage is taken over into Jewish Greek contexts, such that in the LXX,
Philo, Josephus and the New Testament, it is used to refer to the Law of Moses. This Greek Jewish discussion of the law is part and parcel with how the ancient Greeks thought about their cults and shrines.

This usage also points to a useful tool for discussing how they categorized ritual in their own lives. The core meaning of the word νόμος was “custom,” referring to things passed down. Most of the laws associated with shrines and cults were noted for their antiquity. One of the difficulties in the present argument is the dangers in taking a relatively common noun, giving it a specific meaning, and assuming that usage across the board. After all, νόμος is a common noun which can simply mean “law.” The ancient notion of law, however, was one where ancientness and appeal to customary activity held great appeal. So, although this term does not always refer to ancestral custom, it has that meaning in enough places to be a useful discussion point.

The significance of this word, and its broad usage in the ancient world, may be seen in the fact that it appears as a loan-word in rabbinic (mostly Amoraic) sources. Usually spelled נימוס, this word has in rabbinic literature the full range of meaning of the Greek term, referring to law, religious usage and general custom. Thus, in the sense of law, Genesis Rabba compares Greece to Rome: “Rab Huna said to him, In three things is the Greek kingdom advanced over the wicked kingdom: in laws [נימוסין], in books [פנקיסין], and in language.” In the sense of a religious usage, Numbers Rabba states:

---

553 LSJ gives the base meaning as “that which is in habitual practice, use or possession,” before going on to discuss meanings relating to both law and custom. See LSJ s.v. νόμος, 1180.
554 From Greek πίναξ.
555 Genesis Rabba 16, 4.
“It is the custom [דרכי] of the nations to have many ritual norms [נימוסין] and many priests.” Finally, in the sense of general custom or usage, it appears in Genesis Rabba: “Rabbi Abun said in the name of Rabbi Meir, When you come to a village, follow its customs[דרכי]...” These Rabbinic examples show that the diversity of the meaning of νόμος was not apparent only in Greek sources, but that it was borrowed into Hebrew and Jewish Aramaic with much the same complexity and range of meanings as it had in the Greek sources, thus illustrating its general currency in the ancient world.

In addition to νόμος, the word ἔθος appears in various Greek sources, and is often translated as “custom.” Where νόμος has a clear legal sense, ἔθος highlights the habitual repetitive nature of customary activities, including ritual itself. The shared valences of these words illustrates that there is some variability in Greek discussions on law and custom. Although the two terms were closely related, there was some difference: νόμος is primarily a civic word, while ἔθος generally referred more to habitual behaviors. They could, however, both be used to describe religious ritual. The New Testament Gospel of Luke has both: “According to the custom [ἔθος] of the priesthood, his lot was to burn incense when he entered into the shrine of the Lord,” (Luke 1:9) and “The Law [νόμος] and the Prophets were until John” (Luke 16:16). In this context, both terms refer to things that were passed down, but that were part of the ritual world of Christianity’s Jewish roots.

In the Tannaitic sources there are three basic Hebrew terms that are used for custom. The first and most common is נהג, which has a core meaning of “to guide or

556 Numbers Rabba 18, 8.
557 Genesis Rabba 48, 14.
558 Compare with Syriacܢܡܘܣܐ.
direct,” but that is commonly used to refer to conduct.\textsuperscript{559} The second term is רַדְרָדָה. This is an extremely common word in both Biblical and Rabbinic Hebrew, and in its primary usage refers to a path or road. It also refers to customs, as can be seen in the phrase “customs of the Amorites,” discussed in Chapter 7. The Mekhila di-Rabbi Ishmael Neziqin 17 refers to customary religious practice with the prepositional phrase, דרך, meaning, “in this way.” This prepositional phrase addresses assumed knowledge on the part of the hearer.

The Hebrew root ר/ד/ד is used in Tosefta to refer to what might be considered \textit{leges sacre} or “sacred laws.” Tosefta Avodah Zarah provides a midrashic reading of Deut 7:25, which reads in the Hebrew Bible: “The images of their gods you will burn with fire—you will not desire the silver and gold on them, nor take it for yourself, lest you be snared by it. It is an abomination to Yahweh, your god.”\textsuperscript{560} Tosefta explicates the first part of the verse, and specifically draws its conclusions from the possessive pronoun on the end of “gods.” The end point of Tosefta’s argument is that the gods of other nations are only considered gods if the non-Jews treat them as such: “Whatever [the non-Jew] customarily counts as his god is forbidden and whatever he does not treat customarily as his god is permitted.”\textsuperscript{561} The word here translated as “treat customarily” is נהג. In this section of Tosefta, therefore, the argument is ultimately predicated on an appeal to custom. Tosefta’s identification of probable context for non-Jewish ritual derives from the customs and laws which governed individual shrines.

\textsuperscript{559} Jastrow, \textit{Dictionary}, 880–881.
\textsuperscript{560} פסלי אלられています ישארו ביבשה לאראנגיים חם חם עליהם הר runnable לא חתם על הם עלך ביבשה לא ראני חמה עליך והא
\textsuperscript{561} Tosefta Avodah Zarah 5[6]:6. See Chapter 4.
This dissertation defines “custom” as “activities that are regularly practiced and that are perceived as having been passed down.” There are a few things to note about this definition. The first is the emphasis on perception—many laws and cults claimed antiquity, and it has become something of a commonplace to assume that such claims are rationalizations to lend prestige to the given activity. As with most things in this dissertation, the emphasis on perception means that this dissertation is less concerned with establishing the historicity of the antiquity such claims, and looks instead at how the Tannaitic Sages themselves discoursed about ritual. The other part of this definition is the regular practice. Something that has only been done once cannot count as custom.

There are numerous examples of the importance of custom in the ancient world. A selection of Graeco-Roman and non-rabbinic Jewish sources elucidates this importance. These examples lead into a discussion on the concept of cultic norms or *leges sacrae* (those laws which governed shrines), which illustrates how the Mishnah and Tosefta are in continuity with these ideas. We then look at how the Tannaitic Sages use ideas of custom in their own work of defining and characterizing non-Jewish ritual.

*Claudius’s Letter to Alexandria*

The first text comes from a letter in the possession of the British Museum, first published in 1924. It is the text of a letter from the emperor Claudius to the city council of the Egyptian city of Alexandria shortly after his ascension to the throne. The first part of the letter is full of a wealth of information about the various honors that formed what is

---


commonly called the imperial cult in Alexandria in the early years of Claudius’s reign (the papyrus is dated to year 2 of his reign, around 42 CE).  

This included the erection of several statues of him and his family, the establishment of a Claudian tribe, and the keeping of his birthday as dies Augustus. He then addresses specific questions about enrollment in the ephebate (a privilege that granted certain rights in the city, and one that the Greek inhabitants of Alexandria guarded jealously from the native Egyptians).

Claudius then proceeds to make a statement about the Jews living in Alexandria:

As for the question, which party was responsible for the riots and feud (or rather, if the truth be told, the war) with the Jews, although in confrontation with their opponents your ambassadors, and particularly Dionysios the son of Theon, contended with great zeal, nevertheless I was unwilling to make a strict inquiry, though guarding within me a store of immutable indignation against whichever party renews the conflict. And I tell you once and for all that unless you put a stop to this ruinous and obstinate enmity against each other, I shall be driven to show what a benevolent Prince can be when turned to righteous indignation. Wherefore, once again I conjure you that, on the one hand, the Alexandrians show themselves forbearing and kindly towards the Jews who for many years have dwelt in the same city, and dishonor none of the rites observed by them in the worship of their god, but allow them to observe their customs as in the time of the Deified Augustus, which customs I also, after hearing both sides, have sanctioned; and on the other hand, I explicitly order the Jews not to agitate for more privileges than they formerly possessed, and not in the future to send out a separate embassy as though they lived in a separate city (a thing unprecedented), and not to force their way into gymnasiarchic or cosmetic games, while enjoying their own privileges and sharing a great abundance of advantages in a city not their own, and not to bring in or admit Jews who come down the river from Egypt or from Syria, a proceeding which will compel me to conceive serious suspicions.

The social setting of this letter may be more clearly seen by referring to Jewish Greek writings of Philo and Josephus. In fact, before the discovery of this papyrus, their

---


565 For the birth of the emperor as an imperial holiday, see m. Avodah Zarah 1:3 as well as the discussion in chapter 3 of this dissertation.

accounts were the only versions of these events that we had. In his *In Flaccum*, Philo claims that when Aulus Avilius Flaccus received the prefecture of Egypt, he encouraged behavior that eventually led to the Jewish massacre in 38 CE. The redress of this massacre was the cause of the embassy to Caligula, which Philo took part in and described in his *Legatio ad Gaium*. After the death of Caligula, Claudius restored normal relations between Jews and non-Jews in Alexandria.

In addition, Josephus preserves a version of Claudius’s edict that bears strong similarity to what is found in the papyrus:

Tiberius Claudius Caesar Augustus Germanicus, high priest, and tribune of the people, ordains thus: Since I am assured that the Jews of Alexandria, called Alexandrians, have been joint inhabitants in the earliest times with the Alexandrians, and have obtained from their kings equal privileges with them, as is evident by the public records that are in their possession, and the edicts themselves; and that after Alexandria had been subjected to our empire by Augustus, their rights and privileges have been preserved by those presidents who have at divers times been sent thither; and that no dispute had been raised about those rights and privileges, even when Aquila was governor of Alexandria; and that when the Jewish ethnarch was dead, Augustus did not prohibit the making such ethnarchs, as willing that all men should be so subject [to the Romans] as to continue in the observation of their own customs, and not be forced to transgress the ancient rules of their own country’s religion; but that, in the time of Caius, the Alexandrians became insolent towards the Jews that were among them, which Caius, out of his great madness and want of understanding, reduced the nation of the Jews very low, because they would not transgress the religious worship of their country, and call him a god: I will therefore that the nation of the Jews be not deprived of their rights and privileges, on account of the madness of Caius; but that those rights and privileges which they formerly enjoyed be preserved to them, and that they may continue in their own customs. And I charge both parties to take very great care that no troubles may arise after the promulgation of this edict.\(^567\)

\(^567\) “Τιβέριος Κλαύδιος Καίσαρ Σεβαστός Γερμανικός δημαρχικός δημιουργής ἐξουσίας λέγει. ἐπηγγέναις ἀνέκαθεν τοὺς ἐν Ἀλεξάνδρεια Ἰουδαίους Ἀλεξάνδρείας λεγομένους συγκατοικισθέντας τοῖς πρώτοις εὐθὺ καροῖς Ἀλεξάνδρείσι καὶ ἰσης πολιτείας παρὰ τῶν βασιλέων τεταχύτας, καθώς φανερὸν ἐγένετο ἐκ τῶν γραμμάτων τῶν παρ᾽ αὐτοῖς καὶ τῶν διαταγμάτων, καὶ μετὰ τὸ τῇ ἡμετέρᾳ ἡγεμονίᾳ Ἀλεξάνδρειαν ὑπὸ τοῦ Σεβαστοῦ ὑποτευχθήναι περιολίσθαι αὐτοῖς τὰ δίκαια ὑπὸ τῶν πεισθέντων ἐπάρχον καθὰ διαφόρους χρόνους μηδεμίαν τε ἀμφισβήτησιν περὶ τῶν τοιούτων γεγομένων τῶν δικαίων αὐτοῖς, ἀμα καὶ καθ᾽ ὅν καὶρὸν Ἀκόλουθα ἦν ἐν Ἀλεξάνδρεια τελευτησάντων τοῖς τῶν Ἰουδαίων ἐθναρχίας τὸν Σεβαστὸν μὴ κεκολυκεῖν εθνάρχας γίνεσθαι βουλόμενον ὑποτεύχθαι ἐκκόστους ἐμμένοντας τοῖς ἰδίοις ἔθεσιν καὶ μὴ παραβαίνειν.
Not unsurprisingly, Josephus’s version is much kinder to the Jews who are living in Alexandria, and emphasizes the rights that the non-Jews gave them. Although the differences between the two decrees are significant, in particular the way in which the papyrus highlights that the Jews were “inhabitants of a city not their own,” while Josephus insists that the Jewish inhabitants of Alexandria were Alexandrians, the similarity between them is marked. From a purely historical perspective, the papyrus probably more accurately represents the actual social status of Jews in Alexandria in the early imperial period.\textsuperscript{568} For the present purposes, it is sufficient to note that both clearly refer to the same historical circumstance.

In both versions of the edict, Claudius appeals to the customary behavior that characterized the lifestyle of the Jews before the reign of Caligula, and the difficulties that apparently surrounded that lifestyle. Thus in Josephus’s version, Claudius decrees that “those rights and privileges which they formerly enjoyed be preserved to them, that they may continue in their own customs.” The word translated here as “customs” in this passage in Josephus is ἔθος, a word that refers to the habitual nature of custom, as noted. The core of the statement in Josephus is that Jews are allowed to continue with whatever privileges they had before the current troubles, which were, according to this version, from the time of Augustus.

Josephus does not use the word νόμος in this section. Certainly he is familiar with it, as he uses it in numerous other contexts, even within Antiquities. Often, νόμος refers to the Law of Moses in its entirety in Josephus, as it also does in the Septuagint and the New Testament. It is unclear, of course, how much of the original language of this edict Josephus is preserving, but Josephus is retaining a distinction made in this decree about the nature of the customs of the Jews. It seems likely that Josephus would have preserved the word νόμος if it had been present in the decree, since that word carried with it a greater notion of authority. The use of the word ἔθος is highly suggestive that although it is, in fact, ancestral custom that is being cited by Claudius, the idea of custom in this decree refers to habitual living, rather than to a notion of specific laws. In other words, although νόμος in its core meaning refers to laws passed down through custom, not all customs were laws, as such, and it was possible to make a distinction. Even though ἔθος is not as strong of a legal term, it can still carry a weight that is tantamount to law in ritual circumstances, as can be seen in this Alexandrian example.

The version in the papyrus letter also contains an appeal to the time of Augustus, suggesting that the Jews may “observe their customs as in the time of Deified Augustus, which customs…I have sanctioned.” In this case, the word for customs is νόμος. The reference to Augustus in both cases highlights the importance of the continuance of the Jewish customs. They are not seen by Claudius as innovative, and the strength of their argument for continued existence under Claudius is because they were established previously. In the ancient world, where law and custom so often coincided, a claim to antiquity increased the profile and acceptability of a given cult. For Claudius, the strength
of the Jewish position was that there was precedent within Roman Imperial jurisprudence for the antiquity of Jewish laws.

In fact, Tessa Rajak has shown that although it may be tempting to assume that there was some kind of formal Roman charter allowing Jews to live their ancestral laws, analogous to similar Jewish charters from the Middle Ages, no such formal charter existed.\textsuperscript{569} Indeed, such a charter would not have been viewed as necessary by the Roman Empire. As Rajak shows, an examination of the various Roman decrees and legal decisions, especially as found in Josephus, shows that these documents were largely concerned with individual issues rather than providing for Empire-wide decisions. Most of these edicts, decrees and letters make reference to the antiquity of Judaism’s customs and systems. This antiquity was, in fact, one of Judaism’s great protections in the world of the Roman Empire.

\textit{Cult and Antiquity}

The antiquity of a cultic system had great rhetorical power in the ancient world. One of the primary claims that polytheists levelled against nascent Christianity was that it abandoned ancient customs (whether Jewish or polytheistic) for the worship of a deity that no one had ever heard of. As an example of this, according to Origen, the polytheistic philosopher Celsus attacked Christianity with a back-handed defense of Judaism by saying:

\footnotesize
\begin{itemize}
\end{itemize}
As the Jews, then, became a peculiar people, and enacted laws in keeping with the customs of their country, and maintain them up to the present time, and observe a mode of worship which, whatever be its nature, is yet derived from their fathers, they act in these respects like other men, because each nation retains its ancestral customs, whatever they are, if they happen to be established among them.\textsuperscript{572}

The Greek word for custom here is νόμος. By setting up Judaism against Christianity, Celsus was essentially arguing that the Christians were following something that had recently been innovated, and rejecting the antiquity of both polytheism and Judaism. The entire core of Celsus’s argument, as preserved by Origen, was predicated on the idea that the proper approach to ritual was to follow those things that had been passed down. It cannot be said that Celsus approves of the Jewish ritual system, since he describes them as a “peculiar people” and is uncertain about the nature of the Jewish ritual system. He sets Judaism approvingly against Christianity, however, because it, at least, had been passed down from times past. According to Celsus, the Jews, in following their ancient laws, behaved like everybody else. It was the antiquity of these systems that provided their authority in the ancient Roman worldview.

In fact, the Romans in particular were, as a broad generalization, noted for their conservatism in matters of ritual and cult.\textsuperscript{573} J. A. North suggests that a respect for the

\textsuperscript{570} ἔθνος ἱδιον
\textsuperscript{571} θρησκείαν
\textsuperscript{572} Ἰουδαῖοι μὲν ὦν ἕθνος ἱδιον γενόμενοι καὶ κατὰ τὸ ἐπιχώριον νόμως θέμενοι καὶ τούτους ἐν σφίσιν ἢ τὸν περιστέλλοντες καὶ θρησκείαν ὦν ἔθνος ἵδιον κακαθεστηκότα, περιέπουσι. Quoted in Origen, Against Celsus 5.25, translated by Frederick Crombie from Ante-Nicene Fathers, vol. IV, 554 (1885).
traditions of the past was inherent to the general form of ritual and practice that
classified Greek and Roman cultic practices: “A system in which the emphasis falls
primarily on the performance of ritual acts…such a system inescapably makes it a
primary value, though not necessarily the only value, that the known ritual should be
successfully repeated.”^574 Because cultic practices in the ancient world were embedded in
their broader cultural matrices, all “religious” systems were ones in which “the emphasis
[fell] primarily on the performance of ritual acts,” not simply Roman ones. Although
distinctions can be made between the various compartments of cultural behavior, the
proper performance of ritual behavior was an ancient virtue not simply because it was a
religious value, but because it was a civic value.

_Ritual Norms_

The essentially civic nature of customary ritual is displayed in the characteristics of so-
called “sacred laws.”^575 Generally speaking these are laws designed to regulate shrines,
cults and holy places in the Greek and Roman world.^576 Carbon and Pirenne-Delforge
suggest that this general genre may be more accurately, and more helpfully, identified as
“ritual norms.”^577 According to Parker, these rules normally emanate from a citizens’

---

574 North, “Conservatism and Change,” 1.
575 This phrase has a complex and difficult history, and there have been recent attempts to clarify and
sharpen the usages of the term. Jan-Mathieu Carbon and Vinciane Pirenne-Delforge, “Beyond Greek
Courts in Ancient Greece_, Edward M. Harris and Lene Rubenstein, eds. (Bristol, UK: Bristol Classical
M. Gargarin, “Writing Sacred Laws in Archaic and Classical Crete” in _Sacred Words: Orality, Literacy
101–111. It is adopted in the present dissertation as a matter of convenience, while allowing for its
somewhat problematic character.
council or other local ruling body.\textsuperscript{578} They are, in other words, designations of civic behavior by civic organizations, in spite of their dealing with the numinous world. These regulations are concerned with a large variety of topics, such as the designation of types of animals sacrificed, and the insistence on certain types of ceremonies at certain times. Many of the sacrificial regulations in the Mishnah are similar to these “sacred laws” or ritual norms. Like the Greek and Roman laws, the laws in Mishnah also govern ritual matters with the assumption that they are part of the general practice in life in the ancient world. The Mishnah regulates all aspects of life. Where Greek and the Roman examples differ from Israelite and Jewish ones is that there is not a single source of collected sacred laws—this is, of course, at least in part because of the multiplicity of cults in the Greek and Roman world.

The ritual norms draw on previous tradition, and rarely provide information about where they came from. Parker’s observations about these kinds of laws that “it is precisely a characteristic of laws in contrast to decrees…not to explain when and why they were passed, but merely to say what is and what is not to be done.”\textsuperscript{579} This distinction is visible in the decree of Claudius, discussed above. In that letter, he confirms already established cultic and customary norms of the Jews, citing historical precedents. The cultic institutions cultivated in his honor do not get the same distinction and they are allowed by decree, not assumed on account of their antiquity. Sacred laws exist because they are the result of ancient custom. Even when promulgated by a body or assembly, they are codifications and clarifications of laws that are already generally understood by a community as binding on that community.

\textsuperscript{578} Parker, “What are Sacred Laws?” 58.
\textsuperscript{579} Parker, “What are Sacred Laws?” 59.
As noted above, these sacred laws covered a wide variety of activity. They regulate the maintenance of the physical aspects of the shrine; they declare the prerogatives of the cultic personnel; and they indicate the types and nature of the sacrifices that were could be offered. In many ways, these sacred laws provide some of the best information that present-day scholarship has for the study of Greek cults. Their existence shows that there was a desire within the religious and cultic world-view of the ancients to regulate and control the ritual behavior that surrounded a given shrine. Although the Mishnah is similar, it differs in its interest in the ritual behavior of non-Jews.

Angelos Chaniotis notes that there are several layers detectable in ancient Greek sacred laws.\(^580\) The first layer of these is “an invariable hard core—designated as the patria (‘the ancestral custom’) and the nomizomena (‘the customs’), without which they would not be effective and recognisable.”\(^581\) On top of this are the nomoi proper, the regulations about the specific aspects of a given sacrifice.\(^582\) The final layer consists of variable elements, which are designed to increase the efficacy of the rituals.\(^583\) This give and take between the invariability of ancestral custom and variability in Greek rituals helps to illustrate both the Tannaitic Sages’ ability to make definitive statements in their discourse about non-Jewish rituals as well as the general vagueness on specifics of worshiping avodah zarah—the same definiteness and vagueness is also found in the actual ritual texts which remain from the ancient world.

\(^{581}\) Chaniotis, “Dynamics of Ritual Norms,” 95.
\(^{582}\) Chaniotis, “Dynamics of Ritual Norms,” 102.
Ancestral Custom and Ancient Assumptions

The example of the sacred law that Chaniotis begins his argument with shows the vagueness of these ritual texts: “The council and demos may resolve: Everything that is stated above may be done as the people decided. Concerning the construction of the altar, let the prytaneis be responsible.” This decree cites the previous ritual legislature, but does not explain it. Instead this law indicates who is able to construct the altar, but an explanation of how to build the altar—what is it made out of and what does it look like? That is left to the assumptions that are at the background of this law.

This idea is not limited to Greek sources. The single most reproduced funerary text from Ancient Egypt is Coffin Text 335, which corresponds to Book of the Dead 17. This text is germane to the present discussion for a number of reasons. First, the fact that we have it preserved both among the Coffin Texts, which date to the Egyptian Middle Kingdom, and the Book of the Dead, which dates to the New Kingdom, shows both its antiquity and its long preservation. In addition this text was carefully annotated and commented upon, but often times the annotations are perhaps even less clear than the original text. The assumptions that the ancient Egyptian scribes brought to this very important ritual text are, therefore, in many ways completely obscure to modern Egyptology. The fact that it even needed to be glossed suggests that it was considered unclear even within the ancient contexts in which it circulated.

584 Quoted in Chaniotis, “Dynamics of Ritual Norms,” 92.
Thus, the text says: “I am the great self-evolving god.” The gloss in the Coffin Text version then asks the question: “Who is he, the great self-evolving one? It is water: It is the Waters, the father of the gods.” The Book of the Dead then proceeds to give a variant explanation: “Variant: it is the sun.” The variants are mutually exclusive from one another, and do not especially assist with the understanding of the text. The fact that this ancient ritual text was much copied and much reproduced illustrates its importance in Egyptian funerary literature, while at the same time illustrating that there were cultic assumptions that the Egyptians made that were not always clear even to them.

The assumptions about ritual matters are also found in the biblical book of Leviticus. A brief look at Leviticus is sufficient to show that, despite being all about the Israelite sacrificial system, it is not possible to perform a sacrifice based on the material in Leviticus. As an example of this, Leviticus has detailed instructions for the types of libation offerings that accompany the various technical sacrifices that the ancient Israelites performed, but never describes how to pour out a libation. This instance from the first chapter of Leviticus is telling:

“If he brings for his offering a whole burnt offering from the herd, an unblemished male, to the door of the Tent of Meeting, he will offer it of his own free will to Yahweh. And he will place his hands upon the head of the whole burnt offering that it may be accepted for an atonement for him. And he shall kill the bull before Yahweh, and the sons of Aaron, the priests, will bring the blood

---

and they will sprinkle the blood all around the altar that is by the door of the Tent
of Meeting” (Lev 1:3–5). 587

There were presumably ritual words and aspects associated with this sacrifice, but they
are not found within Leviticus, and are instead simply assumed as part of the background
of the text.

A similar example is found in the very first tradition recorded in the Mishnah:

“When is it appropriate to say the Evening Shema?” (m. Berakhot 1:1). 588 The Mishnah
then proceeds to record various answers to this particular question, but it does not address
its assumptions. This single sentence already assumes that there is an Evening Shema,
which needs to be recited, although it is does not explain what that is. If there is an
Evening Shema, is there also a Morning Shema? The text does not say, although the
specification of an Evening Shema suggests that this is the case. The Mishnah also
assumes that there are appropriate and inappropriate times to recite the Evening Shema,
which implies certain things about the ritual practice. Some of these questions are
answered later in the tractate or the Mishnah and some of them are picked up in the
Gemara, but generally speaking they represent the unexamined assumptions of the text,
handed down from ancient custom. Applying Chaniotis’s observations to Mishnaic law,
the existence of the Evening Shema represents the patria, the tradition passed down from

587 אִם־עֹלָה קָרְבָנֹו מִן־הַבָקָר זָכָר תָמִים יַקְרִיבֶנוּ אֶל־פֶתַח אֹהֶל מֹועֵד יַקְרִיב אֹתֹו לִרְצֹנֹו לִפְנֵי יְהוָה

4 וְסָמַךְ יָדֹו עַל רֹאש הָעֹלָה וְנִרְצָה לֹו לְכַפֵר עָלָיו •

5 וְשָחַט אֶת־בֶן הַבָקָר לִפְנֵי יְהוָה וְהִקְרִיבוּ בְנֵי אַהֲרֹן הַכֹהֲנִים אֶת־הַדָם וְזָרְקוּ אֶת־הַדָם עַל־הַמִזְבֵחַ סָבִיב אֲשֶר־פֶתַח אֹהֶל מֹועֵד

588 מאימתי קורין את שמע בערבית

313
the ancestors. The laws and discussion surrounding the how and why it was said—the Mishnah proper—are then the nomoi that builds on the basic assumptions of the Mishnah.

These sacred laws illustrate the strength that an argument from antiquity had in the ancient world—the ancestral customs are not questioned, examined, or changed. In fact, they are simply part of the assumptions that the various bodies, priesthoods and cults brought into their own ritual discourse. The presence of decrees, laws and commentaries such as the various Greek sacred laws, the Egyptian glosses on CT 335/BD 17, Leviticus, and the Mishnah illustrates that there was give and take within the base assumptions, but those unspoken assumptions provided the foundation for all other ritual discussion. Ritual performances are repeated and often unexamined, even in regards to formalized, cultic performances. The presence of these assumptions shows that the ancient world did not deploy ideas of antiquity solely in order to increase their profile—it was simply part of the ancient understanding of their ritual world.

Tannaitic Assumptions

The Mishnah’s discussion of Jewish law is not the only place the Tannaitic Sages build on assumptions. They brought similar expectations to all of their discussions on non-Jewish ritual in Mishnah, Tosefta and the Tannaitic Midrashim. The various ritual activities that constitute the worship of avodah zarah are things that were part of the general idea of ritual in the ancient world. In other words, they were things that could be assumed. Mishnah Sanhedrin 7:6 lists these out:

---

590 Chaniotis, “Dynamics of Ritual Norms,” 98.
IV. The one who worships avodah zarah\textsuperscript{591}\textemdash

A. the one who worships,
B. the one who sacrifices,
C. the one who burns incense,
D. the one who pours out libations,
E. the one who bows down,
F. the one who receives it for his god,

1. and says to it, “You are my god.”

As argued in Chapter 8, all of the rituals which the Sages set forth as the worship of avodah zarah are also part of the Jerusalem Temple cult, and so their usage outside of that would be me’elah. The following table shows that each of these practices was part of the rituals of non-Jews throughout the ancient world:

\textsuperscript{591} The text is specifying here those who count as worshiping avodah zarah, and who are therefore culpable for stoning.
### Table 3: Non-Jewish Ritual Practice

<table>
<thead>
<tr>
<th>Ritual Practice</th>
<th>Non-Jewish Example¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service</td>
<td>Greek: λατρεία; Egyptian: <em>ir n²</em></td>
</tr>
<tr>
<td>Sacrifice</td>
<td>Greek: “It is usual to sacrifice to the god any animal except the goat.”³⁴</td>
</tr>
<tr>
<td>Incense</td>
<td>Greece: “They sacrifice in an ancient manner; for they burn on the altars incense with wheat which has been kneaded with honey.”⁵&lt;br&gt;Egypt: “[SPELL FOR] PLACING the incense-bowl on the censor arm. WORDS TO BE SAID: ‘Hail to you, incense bowl of […] the field in Mendes…”⁶</td>
</tr>
<tr>
<td>Pouring Libations</td>
<td>Greece: “There it rested…his [Achilles’s] handsome, well-wrought cup. No other man would drink the shining wine from its glowing depths; neither would Achilles pour the wine to any other god, none but Father Zeus.”⁸&lt;br&gt;Egypt: Temple of Seti I in Abydos, Chapel of Osiris, North Wall, Eastern Section.⁹</td>
</tr>
<tr>
<td>Bowing Down</td>
<td>Greece: “When the Lacedaemonians saw them they bowed down¹⁰ and prayed, thinking that the Dioscuri themselves had come to the sacrifice.”¹¹&lt;br&gt;Egypt: “I have prostrated (myself) through fear of you, fearful of your dignity.”¹²</td>
</tr>
</tbody>
</table>

¹ Many of these examples were pulled from the *Thesaurus Cultus et Rituum Antiquorum (ThesCRA)*, J.C. Balty, John Boardman, et al. eds., (Los Angeles: The J. Paul Getty Museum, 2004–2012).

² Raymond O. Faulkner, *A Concise Dictionary of Middle Egyptian* (Oxford: Griffith Institute), 27. This collocation derives from the word *iri*, which can have the sense of “to make or to do,” bringing it, conceptually, in line with the Hebrew and Greek idea of worship as a service. John D. Ray notes “There is no specific word for ‘ritual’ in the Egyptian language; they are variously referred to as *ir ḫt* ‘doing things, *irw*; ‘things done,’ or nt-3, ‘regular procedure (lit. that pertaining to prescription).’” Quoted from “Cults,” in *The Ancient Gods Speak: A Guide to Egyptian Religion*, ed. Donald B. Redford (Oxford: Oxford University Press, 2002), 61–91, 63.

³ For Greek view of Egyptian animal sacrifice, see also Herodotus, *History* 2:38–40.

⁴ Pausanias, *Description*, Phocis 32:12.

⁵ Pausanias, *Description*, Elis I 15:10.


¹⁰ Greek προσκύνουν

¹¹ Pausanias, *Description*, Messenia 27:2.

After looking at the category of primary ritual actions that qualify as the worship of *avodah zarah*, the Mishnah looks at those actions that it does not characterize as the worship of *avodah zarah*, but that instead involve the breaking of a negative commandment:

I. The one who embraces,

II. the one who kisses,

III. the one who honors,

IV. the one who sprinkles,

V. the one who bathes,

VI. the pourer of libations,

VII. the one who dresses,

VIII. and the one who puts shoes on it

A. Transgresses a negative commandment,” (m. Sanhedrin 7:6).

The primary way in which these differ from the first category is that they all involve interactions with an image itself instead of general ritual actions that may be offered to any deity, including the God of Israel. There are different ritual assumptions at play here, which lead to different ritual contexts being adduced by the Tannaitic Sages.
This is not to say that the Sages made this list up. There is evidence for these activities in the Mediterranean world that the Tannaitic Sages inhabited.\footnote{There is not a corresponding table for biblical behavior, since aniconism is a major feature of how Israelite ritual behavior is presented in the Hebrew Bible, although the archaeological evidence on this point is mixed. See Othmar Keel and Cristoph Uehlinger, \textit{Gods, Goddesses, and Images of God in Ancient Israel}, Thomas H. Trapp, trans., (Minneapolis: Fortress Press, 1998), 395–409. Many of these actions were also characteristic of Mesopotamian treatment of their divine images. For an excellent discussion of Mesopotamian attitudes towards their divine images, see Thorkild Jacobsen, “The Graven Image,” in \textit{Ancient Israelite Religion: Essays in Honor of Frank More Cross}, eds. Patrick D. Miller, Paul D. Hanson, and S. Dean McBride (Philadelphia: Ausburg Fortress, 1987): 15–32.} The dressing of an image was an important part of the treatment of Egyptian cult images, as indicated by the Daily Temple ritual: “You have your beauty, O Amun-Re, Lord of the Thrones of the Two Lands. Naked one, be clothed. Dressed one, be dressed.”\footnote{Ritner, “Daily Ritual,” 56.} For the Greeks, Athena in particular was associated with dressing, as befitted her status as the patroness of the art of weaving. She had a \textit{peplos} woven for her as part of the Panathenian festival.\footnote{John Magruder Mansfield, “The Robe of Athena and the Panathenaic \textit{Peplos},” (Unpublished PhD Dissertation, the University of California, Berkeley, 1985), especially 138–142; E. W. J. Barber, “The Peplos of Athena,” in \textit{Goddess and Polis: The Panathenaic Festival in Ancient Athens}, ed. Jenifer Neils (Princeton: Princeton University Press, 1992): 102–117, 106.} Pausanias records an example where it was removed in an impious act: “Lachares…stripped even the statue of Athena of its removable ornament.”\footnote{Pausanias, \textit{Description of Greece}, 1.25.7. According to \textit{ThesCRA}: “Pour les Grecs et les Romains, l’habillage, couronnement et l’ornement de statue divine avec des étoffes et des parures réelles étaient considéré comme des actes de veneration.” Aliki Kauffmann-Samaras and Anne-Violaine Szabados, “Vêtement, parures,” \textit{ThesCRA} 2 (2004): 427–437, 427. Other examples of clothing of images, primarily of female deities, may be found in the \textit{ThesCRA} article.} Interaction with an image was part of the cultic world that surrounded Jews, but the Tannaitic Sages did not characterize it as an act of worship.

The connection of these customary ritual activities to the worship of \textit{avodah zarah} is made even clearer in Mekhilta, Neziqin 17. This midrash examines the biblical passage, Ex 22:20 [H 19]: “One who sacrifices to gods, except for Yahweh alone, will be
The specific reference to sacrifice in Exodus occasions in Mekhilta a midrashic expansion on what is meant by the calling out of sacrifice:

I. **The One Who Sacrifices to Other Gods** (Exodus 22:20)

II. We have heard the penalty, but we have not heard the warning.

III. Scripture teaches, “You will not bow down to them, and you will not worship them” (Exodus 20:5).

IV. Sacrifice was [already] included in the class [of worship],

   A. but it is specified to teach that just as sacrifice is peculiar to the worship of God

   B. and one is liable concerning it [if one sacrifices to an *avodah zarah*] whether or not it is worshiped in this way

   C. so it is likewise for any act that is [characteristic] of the worship of heaven,

      1. And one is liable concerning those acts, whether or not [the *avodah zarah*] is worshiped in this way.

V. But any [ritual activity] that is not [characteristic] of the worship of God,

   A. if [the *avodah zarah*] is worshiped that way,

      1. one is liable,

---

608 This could possibly be translated as ‘a god,’ since the Hebrew here is *Elohim*, which generally speaking refers to the Israelite God in the singular. It also has the meaning as a common word for god in Biblical Hebrew, as well as a plural term for other gods in places. The context in Exodus here precludes a reference to the God of the Israelites, and so I have chosen to translate it in this manner. See the discussion in Bruce K. Waltke and M. O’Connor, *An Introduction to Biblical Hebrew Syntax* (Winona Lake, In.: Eisenbrauns, 1990), 122.

609 Lit. “heaven” (used as a circumlocution for the name of God).

610 בַּשֵּׁם
2. But if not, one is not liable.

Mekhilta asks the question whether only sacrifice to a foreign god is sufficient to qualify for the stated penalty, or does any kind of worship of a god besides the God of Israel make one liable for punishment? The darshan brings in Ex 20:5 (“You will not bow down to them or worship them”). He does this to illustrate that 22:20 contains the punishment for the crime in 20:5. In other words, the penalty is death as expressed in Ex 22:20[H 19] and the warning is to not bow down or to worship other gods, as put forth by Ex 20:5. If Exodus 20:5 (do not bow down or worship other gods) is the injunction for which Exodus 22:20 (the one who sacrifices to other gods will be put to death), then bowing down and worshiping must also reference sacrifice. This allows the specific ritual act of sacrifice to be generalized in the midrash to refer to all avodah.

*Specific Acts of Avodah Zarah: Merqolis and Baal Peor*

Having addressed the customary acts of worship, and having discussed how ritual acts are customarily associated with image cults, but not (for obvious reasons) with Jewish ritual, m. Sanhedrin 7:6 looks toward another kind of custom, in order to place some of those practices that were not common into their proper contexts: “The one who exposes himself to Baal Peor, this is how it is worshiped. The one who throws stones at a merqolis, this is how it is worshiped,” (m. Avodah Zarah 7:6).

The Mishnah gives two specific examples, both of which are identified as worshiping avodah zarah. The worship of Baal Peor derives from Numbers 25 in the Hebrew Bible, while the throwing of stones refers to a practice from contemporaneous Greek ritual and culture. An examination of these two ritual practices helps us to
understand why, in a section devoted to broad discussions of forbidden ritual practices, these two practices are specifically called out, and how Mishnah’s statement “this is how it is worshiped”\footnote{Use Hebrew: \textit{עבודתו}} relates to the larger discussion about \textit{avodah zarah} and its relation to the power of custom in the ancient world.

“The one who exposes himself to Baal Peor” refers to the story recorded in Numbers 25, where the Israelites “joined”\footnote{Use Hebrew: \textit{יצמד}} to this Moabite deity, associated by the Hebrew Bible with Balaam and Balak (Num 31:16).\footnote{There is a discussion about the biblical possibilities of the identification of this deity with Baal from the Ugaritic materials in K. Spronk, “Baal of Peor,” in \textit{DDD}, 147–148. As noted, the Mishnah seems to preserve no such cultural memory, but, of course, the fact that there less than ten non-Jewish deities mentioned by name in Tannaitic literature shows that the Sages seem to care little about specific associations of deities.} According to a midrash found in the Tannaitic Midrash Sifre to Numbers 131, the Israelites were seduced into worshiping Baal Peor by exposing themselves\footnote{The text is taken from Menahem I. Kahana, \textit{Sifre on Numbers: An Annotated Edition} (Jerusalem: Magnes Press, 2011).}:

I. At that same time, the Ammonites and the Moabites stood up and they built for them snares [compartments] from Bet Hayyeshismah until Har Hasheleg.

II. They settled there women, sellers of all kinds of sweets.

III. And the Israelites would eat and drink there.

IV. At that time, a man went out for a walk in the market and was looking to take some desirable thing for himself from an old women and she would sell it to him at its price.\footnote{Lit. “in vain.”}
V. And a young woman would call him and say to him from inside [a shop], “Come and take for yourself for less.”

A. And he would buy from her the first day and the second day.

B. On the third day she would say to him, “Come in further and select it for yourself, as if you were a householder.”

C. And he would enter and there was a pitcher full of Ammonite wine next to her (the wine of non-Jews was not yet forbidden to Israelites).

D. She would say to him, “Would you like to drink some wine?”

E. He would drink until the wine burned in him.

F. He would say to her, “Surrender yourself to me.”

G. She would bring out a cast of Peor from under her breast band.

H. She would say, “If you really want that I surrender myself to you, worship this.”

I. He would say to her, “Should I worship an avodah zarah?”

   1. She would say to him, “What should prevent you, all that is required is uncovering before it.”

   2. For thus it [the Mishnah] says, “The one who uncovers himself before Baal Peor, for this is its worship and the one who throws a stone at a merqolis, for this is its worship,” [m. Sanhedrin 7:7].

616 This is a sexual proposition.
617 Note that the element בעל, which was almost certainly part of the original divine name, is missing in this aggadah.
618 Hebrew פסיא, from Latin fascia or fasciola.
619 Hebrew שושיחה.
J. Now the wine [still] burned him and he said to her [again], “Surrender yourself to me.”

1. She said to him, “If you really want me to surrender myself to you, separate yourself from the Torah of Moses, as it is written,

2. “And these came to Baal Peor, and separated themselves to Shame” (Hosea 9:10).

K. Afterwards they went back to make for them banquets, and they would summon them and they would eat, as it is written,

1. “And they summoned the people [to the sacrifices of their gods, and the people would eat, and bow down to their gods],”

(Numbers 25:2).620

620 Sifre Numbers is usually assigned to the same exegetical school as Mekhilta, although the midrash is not all of one piece. Strack and Stemberger, Introduction, 267.
There are a number of literary and structural aspects behind calling out the worship of Baal Peor specifically. The biblical story, along with its midrashic expansion, helps to underscore the licentious aspects of polytheistic ritual, as seen from the perspective of the Sages. There is precedent for this assumption in the biblical text of Numbers 25, which begins by observing that the people of Israel “began to whore with the daughters of Moab” (Numbers 25:1). This narrative sequence ends with the slaying of the Midianite woman and her Israeliite paramour by Phineas while they are, apparently, in the middle of the sexual act (Num. 25:8). In addition to the supposed licentious nature of polytheistic ritual, this story also presumes that the god Baal Peor was worshiped through rituals that might appear degrading, such as exposing oneself or defecating in front of it. It is the degrading aspects in particular that constituted the worship of this particular deity, and that marked it off as being worthy of discussion.

The other specific example which Sanhedrin cites is what rabbinic literature calls a merqolis. This is generally considered to be a Hebrew variant of the Latin word Mercurius, and therefore refers to some sort of image or representation of the god Mercury. Emmanuel Friedheim connects the god mentioned in the Mishnah to the

---

Heliopolitan triad of Baalbek, associating this deity with Dionysus.\textsuperscript{625} According to Andreas J. M. Kropp, Heliopolitan Mercury is usually depicted as an armless \textit{herm}, even when in connection with other gods being portrayed anthropomorphically.\textsuperscript{626} It is likely that when discussing the throwing of stones at the \textit{merqolis}, the Tannaitic Sages are actually referring to a variety of related practices. The actual practice of throwing stones at a \textit{merqolis}, alluded to in this passage, is examined further in chapter 12.

M. Sanhedrin 7:6 considers both uncovering oneself to Baal Peor and throwing stones at a \textit{merqolis} to be part of worshiping \textit{avodah zarah}, although these two acts of worship are not part of assumed custom coming from the Jewish Temple, and are certainly not \textit{meʿilah}. These two acts show how important context is to the rabbinic discourse on foreign ritual. In the case of the \textit{merqolis}, it is not stone-throwing in general that is forbidden. It is, rather, the specific act of throwing stones at a \textit{herm} that is condemned. Once again, the reason that Mishnah gives for this is significant: “this is how it is worshiped.”\textsuperscript{627} Throwing stones at a \textit{merqolis} is expressly forbidden, because that action is a known ritual associated with the \textit{merqolis}. Following the logic of this passage, if one were to throw stones at an image of Olympian Zeus or Serapis, it would not be forbidden, for those gods are not worshiped by people throwing stones at them and one so doing would not be liable for stoning under the category of worshiping \textit{avodah zarah}. A similar argument could be made for not uncovering oneself before Baal Peor. They are forbidden because custom dictates they are part of the worship of \textit{avodah zarah}.

\textsuperscript{625} Friedheim, \textit{Rabbinisme et Paganisme}, 227.
\textsuperscript{627} Lit. “this is its worship.”
Conclusion

The nature of custom and law in the ancient world is behind much of the Tannaitic discourse on the worship of avodah zarah. Cults in Roman world were the result of traditions passed down by ancestral custom, and one of the most common words for “law,” νόμος, refers precisely to laws that have passed down. The Tannaitic discourse on ritual was one built from the same building blocks of the ritual systems around them. Like their neighbors, the Sages brought to their discussions on ritual certain unspoken assumptions. Places where the assumptions did not apply as clearly required the Tannaitic Sages to look more closely at contexts. Custom has, therefore, two functions in the Tannaitic discourse on the worship of avodah zarah. On the one hand, it provides the foundational background for the Tannaitic assumptions. On the other hand it gave the Sages tools for categorizing unfamiliar ritual practices.

Thus, according to the system set out in Mekhila Neziqin 17, performing an act to another god that would normally be performed for the God of Israel makes one liable for punishment, even if the god so worshiped is not ordinarily worshiped by that act. This is why sacrifice is always forbidden. On the other hand, any act worshiping a god who is worshiped through rituals that are not similar to those performed for God of Israel only requires punishment if the method of worship is characteristic of the worship of that god. Thus, acts of worship that would not be considered the customary mode of worship in the ancient world—such as those listed out in m. Sanhedrin 7:6—only bear liability to punishment if they are part of a cult’s own idiosyncratic customs of worship.
The Sages solve the problem of the singling out of sacrifice in Exodus 22:20 by creating two different categories of ritual actions that constitute *avodah zarah*: those that are part of the common custom, characterized by sacrifice, and those that are singular to the customs of the various individual cults. The Sages identify sacrifice as the practice that characterizes the worship of Yahweh, building on the biblical verse that seems to be offering a similar metonymy. As in other places, although this law is designed to maintain the distinctiveness of Jewish worship and identity, it is exactly the non-distinctiveness of the practice of sacrifice that occasions this particular interpretation. Sacrifice is forbidden because it could be interpreted as paying and honor to other deities that is due to God.

The universalizing of sacrifice in Mekhilta Neziqin 17 may then be tied back to the definition of worshiping *avodah zarah* in m. Sanhedrin 7:6. In both places it is precisely the commonality of the rituals and their universally recognized character as rituals that make them legally actionable—the Tannaitic Sages are concerned with plausible contexts, which are supplied to them by custom and antiquity. The other category, that of individual cultic customs, actually expands on the idea of customary worship, and in so doing provides the theoretical background for forbidding both throwing stones at the *merqolis* and exposing oneself to Baal Peor. These practices are outside of the ordinary plausible contexts for non-Jewish ritual. The Tannaitic Sages must, therefore, create categories of worship by appealing to the concept of custom and tradition. The impetus for this process is primarily textual. According to the logic presented by the Sages in this passage, if a ritual activity is customarily not associated
with God, it is only forbidden when applied to the gods with whom it is associated. The appeal to ancestral custom could be used to clarify and define those contexts where ritual was adduced by the Sages, but seemed implausible without some kind of custom behind it.
Chapter 10: Idols and Images

Introduction

The previous two chapters presented the way in which the Tannaitic Sages framed the discussion on the worship of *avodah zarah*. This chapter looks at the material images themselves, and how the discussion is developed in response to actual images. One of the most distinctive aspects of Jewish practice when set against the ritual world of the Roman Empire was the generally aniconic nature of Judaism. As noted in the Introduction, this regulation about the creation of images derives from the biblical period, and may be seen in the Sinai covenant and the Ten Commandments, especially Ex 20:3–5. This commandment had a major influence on the development of Judaism from the biblical period into the rabbinic period, especially in relationship to the rituals of surrounding non-Jews. Just as Judaism was generally aniconic, so too were most Greek and Roman cults generally iconic. The term “iconic” refers here to physical representations of divine images. The ubiquitous presence of images in the world that surrounded the Jews meant that the Tannaitic Sages were confronted with images on many different fronts. This chapter examines the Tannaitic Sages’ responses both to figural art and to the use of figural art for ritual purposes by non-Jews.

Ex 20:3 appears to reject all figural representation of anything “in heaven above, or in the earth below, or in the waters beneath the earth.” Practically speaking, however,
this injunction was nuanced even within the biblical period. As described in the biblical book of 1 Kings, the temple to Yahweh that Solomon built contained numerous images of bulls, lions and cherubim (1 Kings 7:29). Josephus criticized Solomon for allowing these images into the Temple, although there is no hint of condemnation in the Bible itself concerning these images.\(^628\) The Ark of the Covenant was covered by a gold plate that had carved images of cherubim resting on it (Ex 25:17–19). The presence of possible images of Yahweh in the Kuntillet Ajrud inscriptions and the Taanach Cult Stand nuances the practice of the biblical prohibition on images even more.\(^629\)

The spectrum of practice that this suggests in the biblical period continued into the Second Temple and Rabbinic periods. This is visible in synagogues, which were long considered strongholds of rabbinic—and Pharisaic before it—power. Recent research has shown that this view of the Sages having complete control over Judaism and the synagogues is fraught with difficulties in both the archaeological and the historical record.\(^630\) As an example of these difficulties, archaeologists have uncovered synagogues that contain mosaic floors that include not simply figural representations, but even figural representations of what appear to be mythological or polytheistic figures or elements.

---

\(^{628}\) *Antiquities* 8.195. This may be compared to the condemnation given to Jeroboam I for setting up images of bulls in his rival shrines at Dan and Bethel. See 1 Kings 12:25–33.


Images in Rabbinic Literature

M. Avodah Zarah contains a discussion of what images are and are not allowed for use by Jews. As is generally the case with m. Avodah Zarah, the question is primarily an economic one. M. Avodah Zarah 3:1 begins by stating:

I. All images (צלמים) are forbidden, on account that they are worshiped once a year.

The words of Rabbi Meir.

The word צלם represents one of the more common words in the Hebrew Bible for representative images. In Num 33:52 and 2 Chron 23:17, the LXX translates this word with εἴδωλον. R. Meir presumes that even images that are not part of a shrine would be used for ritual purposes at least once a year, and so would be forbidden to Jews. Note that the question is not settled in this case by an appeal to the command against making figural representations in Exodus 20:4. The solution to the problem derives instead from a statement about how non-Jews use images for ritual purposes. The halakhah here based on an assumptions about the world surrounding R. Meir.

It is also not without disagreement in the Mishnah:

II. But the Sages say, They are not forbidden, except one that has in its hand a staff or a bird [or] a globe.

III. Rabban Simeon ben Gamliel says, Any [image] that has anything in its hand.”

---

631 This word is perhaps used most famously in Genesis 1:26–27, where God makes man in God’s image.
632 It should be noted that the Helios figure on the synagogue mosaic at Beth Hammat is holding a globe in its hand.
This Mishnah preserves three different halakhic positions on which images are acceptable. Rabbi Meir’s position is the strictest, and simply forbids every image based on the logic mentioned above. The position of the Sages is that certain items held in the hand mark it as a divine image, and that is what makes an image forbidden. Rabban Simeon ben Gamliel’s stance is that any image that is holding anything is forbidden, once again because this marks it as a divine image. Rabban Simeon ben Gamliel’s opinion is stricter than the opinion of the anonymous Sages, but he is uninterested in categorizing types of images. He does not go so far as Rabbi Meir, but takes the logic of the anonymous Sages’ opinion and extends it.

Looking at the parallel passage from Tosefta Avodah Zarah is instructive:

I. And the Sages said, There is no [image] forbidden except that which has in its hand
   A. a staff
   B. bird
   C. sphere
   D. sword
   E. crown
   F. ring
   G. image
   H. or snake (t. Avodah Zarah 5:1).
This list adds several items to those things that are forbidden in the Mishnah, all of which, like Mishnah’s list, are attested in Palestine in this period. What is missing in the Toseftan parallel is Rabban Simeon ben Gamliel’s opinion that every image is forbidden. Although neither the Mishnah nor the Tosefta indicate which halakhah is the one to be followed, the lack of Rabban Simeon ben Gamliel’s opinion suggests that Tosefta’s law is actually less stringent than Mishnah’s in spite of the longer list of forbidden images.

Mishnah then goes on to address the issue of broken pieces of images:

I. The one who finds pieces of images, these are indeed permitted.

II. If he finds the shape of a hand, or the shape of a foot, these are forbidden, on account that when they went out in them, they worshiped (m. Avodah Zarah 3:2).

The identity of these images is debated, but it is possible that they refer to votive offerings to the Greek god of healing, Asclepius. It was customary in ancient times to dedicate images of organs, which a given god had healed, to that god. It is also possible that these images of hands and feet are associated with the worship of Serapis. Here, as with Rabbi Meir’s position, the halakhic concern is whether or not these images are, or have been, worshiped. It could be the case that the difficulty is one of the

633 Friedheim, Rabbinisme et Paganisme, 288–290, esp. no. 1103.
634 Friedheim, Rabbinisme et Paganisme, 278–283.
636 Friedheim, Rabbinisme et Paganisme, 279–280.
appearances of evil. Because images and feet were sometimes associated with unapproved votive practices, then they would be forbidden to the Jew for benefit. There is a difficulty in this, however, since votive offerings aren’t worshiped *per se*. It is possible to dismiss this objection by observing that the Sages often get details wrong when describing the worship of non-Jews. This position is not really sustainable, however. Although the Sages occasionally get details wrong, as this dissertation has shown, they make clear distinctions between what they categorize as worship and what is simply an unapproved practice. That suggests that this Mishnah refers to images in the shape of a foot, such as those of Serapis, or fragments of other divine figures, which could be the object of worship.

*Astral Imagery*

That the Mishnah is not only concerned with three-dimensional depictions is clear from a passage dealing with images inscribed on vessels:

I. The one that finds vessels and upon it is an image of the sun, or an image of the moon, or the image of a dragon (דרקון), he should throw them in the Dead Sea.

II. Rabban Simeon ben Gamliel says: If [the images] are upon something valued, they are forbidden, but if upon something worthless, they are permitted (m. Avodah Zarah 3:3).

---

The first two images that appear on vessels in this mishnah are heavenly bodies. Presumably here the reference is to images of the sun and the moon as celestial bodies, rather than to images of the various deities who worshiped in the part of the sun, although is by no means certain. The fact that images of astral objects can represent deities in the ancient world comes back to the question about the presence and appearance of the images of Helios and the wheel of the zodiac on the floors of Palestinian synagogues.

Indeed, the visual elements that have probably generated the most scholarly discussion are the images of the Zodiac with the Greek sun god Helios in his chariot figured prominently in the center. Modern scholars have devised a number of different ways of approaching this phenomenon. Lee Levine notes the variety of meanings that have been suggested by scholars at various points: “the God of Israel; the archangel mentioned in Sefer Ha-Razim; a symbol of God’s power as Creator of the universe or Master of nature and history; the importance of the Jewish calendar (which includes days, months, and seasons); the symbol of God’s covenant with Israel; astrological ramifications; and a mere decorative element.” Each of these suggestions has evidence in favor and against it, and any of these meanings might have been present in the ancient conception of the Jews attending these synagogues. It is possible that individual Jews


639 E. E. Urbach most famously preserves the opinion that what we have here is not some kind of polytheistic Judaism, but something that can fit within the already established Jewish and Rabbinic order. Urbach, “The Rabbinical Laws of Idolatry,” 151–193.

would have interpreted the images differently. If nothing else, these mosaics serve as a reminder that much scholarship on the ancient world involves putting together a puzzle with sometimes maddeningly few pieces.

Answering, once and for all, the question of the meaning of these mosaics is beyond the scope of this dissertation. Helpful here is the observation of Sacha Stern: “Obviously, what is important here is not whether we would regard these images as pagan, but rather whether the Jews of the period would have done so, as opposed to treating them as religiously ‘neutral’ artistic motifs.”

At present the most basic answer is that it seems that there were Jews who were comfortable with portrayals of iconography, even in places such as synagogues, which were clearly inspired by imagery from the non-Jewish world around them. As shown in the previous chapters, the Sages were part of the broader Roman culture, and approached the world with a similar worldview. The Helios and Zodiac synagogue mosaics are a healthy reminder that ancient Jews had systems of taxonomy and distinction, but as we saw with the “customs of the Amorites” these systems can take some work to explicate and uncover. It seems clear that the Jews did not view these images as “pagan,” but it is not as clear how they did view them. Figural art was part of the world in which Late Antique Judaism was embedded, however, and not all images, even of deities, provided plausible context for non-Jewish ritual.

---


642 Miller observes: “Astrological symbols and understandings of the sun were so much a part of the surrounding culture it would have been surprising if Jews had not somehow incorporated them into their worldview.” See, “Epigraphical Rabbis,” 74.
These mosaic images provide further evidence of the legal distinction that m. Sanhedrin 7 makes between the activities that are actively the worship of *avodah zarah* and those that are secondary crimes. M. Sanhedrin preserves in its discussion on the worship of *avodah zarah* a distinction between interacting with figural images and the ritual worship of deities or powers besides the God of Israel. This distinction is already discernible in the Hebrew Bible itself, as noted in the Introduction. It will helpful to briefly re-address that discussion here. Ex 20:4 and 5 consists of two commandments, which may be separated. Ex 20:4 forbids the making of images, while Ex 20:5 specifically forbids the worship of those images.

M. Sanhedrin 7:6, however, differentiates between the worshiping of *avodah zarah*, which is punishable by stoning, and various interactions with a statue, which are characterized as “breaking a negative commandment.” This is in keeping with the Sages concept of *avodah* as a category of ritual in general, which could then be subdivided into appropriate and non-appropriate types of ritual. The process of definition that the Sages are generally engaged in is one of defining specifically actionable ritual practices rather than creating a broad hermeneutic against all non-Jewish activities.

With the understanding that ritual practice can be a separate category from belief or interaction with images of deities, passages where the Sages do not come out as strongly against images and the archaeological fact of the Helios mosaics in the synagogue itself become easier to explain. According to m. Sanhedrin 7:6, looking at figural representations of even non-Jewish gods does not constitute worshiping *avodah*

---

zarah. That is done through specific ritual actions, customary to worship in the ancient world. If the Sages or their followers did, in fact, participate in the services in the Synagogue, the mere act of entering a room with an image was not automatically worshiping avodah zarah.

The possible distinction in the Hebrew Bible between the worship of other gods and the making of images seems to have allowed some Jews to have also made a similar distinction when dealing with their own work. The presence of Helios-figures on synagogue floors is a larger issue, of course, than the Sages allowing for certain images in order to keep the peace between themselves and their neighbors, since it brings figural art, of an apparently non-Jewish character, into the synagogue.

In the case of these synagogue mosaics, it is clear that for the builders and users of these synagogues mere beholding of figural art was not part of the legal definition of the worship of avodah zarah. The Tannaitic Sages defined worshiping avodah zarah as an act—specifically a ritual act.644 Those acts that the Sages include as worshiping avodah zarah are acts that would have been broadly considered in the ancient world to be acts of devotion and ritual. These Sages, therefore, appeal to the general custom and cultural assumptions for their definition of ritual. Even more than simply defining ritual from custom, they take the very pervasiveness of certain ritual practices and deploy that in order to define, in a negative sense, those activities which are unapproved. Since in the

rabbinic schema only the God of Israel is permitted to be worshiped, therefore all ordinary acts of are rejected if they are performed for someone besides the God of Israel.

The Tannaitic Sages still needed to examine and clarify the viewing of images within their discourse on foreign ritual, because it could be an area of difficulty. Although this dissertation does not answer what exactly the images in the synagogues meant to those Jews who built and used the synagogues, it is possible to look at the writings of the Tannaitic Sages and see ways in which some images, at least, did not constitute foreign worship.

Tosefta Avodah Zarah 3:18 contains a halakhic disagreement between R. Yose and the anonymous Sages that touches on both what constitutes an image and how one is to deal with an image:

I. R. Yose says, As for an avodah zarah itself one shatters it, and spreads it to the wind and conveys it to the sea.

II. They said to him: Indeed it will become manure,
   A. As it is written, “And there will not cling to your hand anything from the ban” (Deut 13:17 [H 18]).

III. R. Yose said to them: Indeed it is also written, “And your sinful thing, which you have made [I have taken and burned in the fire]” (Deut 9:21).

IV. They said to him: Is there proof from this? “And he sprinkled it on the water, and made the children of Israel drink it” (Ex 32:21).

645 Referring to the Golden Calf.
A. This teaches that they tried them in the same way that they try the suspected adulteress.646

V. R. Yose said: Indeed it [scripture] says: “And they left their idols,” (2 Sam 5:21).

VI. They said to him: Is there proof from there? As it is said: “And they burn them with fire,” (1 Chron 14:12).

VII. R. Yose said to them: Indeed it [scripture] says: And also Maacah, the mother of Asa, the king [he removed, because she had set up] an image [for an asherah],” (2 Chron 15:16). He cut it open to remove it.

VIII. They said to him: Is there proof from this? “And Asa cut down the image, and stamped on it and burned it at Wadi Kidron” (2 Chron 15:16).

IX. R. Yose said to them: Indeed it [scripture] says: “And he broke up the bronze serpent that Moses had made, because in those days the Children of Israel burned incense to it, and he called it neḥuštan,” (2 Kings 18:4).

X. They said to him: And this was avodah zarah?

A. Did not Moses make it?

B. This teaches that Israel went astray after it until Hezekiah came and hid it.

This section is part of a larger discussion on how to treat non-Jewish images—R. Yose states at the beginning that an avodah zarah that comes into the

646 See Num 5:11–18.
647 This word is spelled differently in Tosefta than in the MT.
possession of a Jew is to be broken into pieces and thrown into the Dead Sea. The
anonymous Sages disagree, which begins a midrashic argument culminating in the
quotation of 2 Kings 8:14, and the discussion of a biblical item that defied in many ways
easy categorization by the Sages. This is the bronze serpent or nehuštan, which is clearly
a figural representation, but one that was, according to the Bible, made by Moses at
God’s direct command.

The anonymous Sages quoted in this section of Tosefta do not consider the bronze
serpent to be an avodah zarah. A little background on this story is helpful for
understanding why this is even a disputed point. 2 Kings 18:4 says that Hezekiah, king of
Judah, “broke the bronze serpent that Moses had made, because in those days the
Israelites burned incense to it.” This verse in Kings is itself a reference to a story about
the Exodus, as described in Numbers 21. There, Yahweh sends fiery serpents to punish
the Israelites for speaking against the leadership of Moses (Num 21:5–6). Yahweh then
commanded Moses to build a bronze serpent and place it on a pole as an apotropaic
image against the bite of the serpent: “So Moses made a bronze serpent, and he set it on
the standard, and so it was, when the serpent bit any man, anyone that looked on the
bronze serpent lived” (Num 21:9). According to 2 Kings 18:4, the Israelites preserved
this artifact of Moses, and by the days of Hezekiah were burning incense to it. Hezekiah
smashed the serpent as part of his program of reform.

648 The fiery nature of these serpents is usually connected to some kind of poison—snakes are presumed to
be poisonous in the Hebrew Bible, which may mean that these serpents were especially virulent. They may
also be connected with the seraphim mentioned in Is 6, which have in turn been connected to the uraeus
serpents that protected the Egyptian pharaoh and were said to spit venom at his enemies.
The Sages claim here that the serpent smashed by Hezekiah is not *avodah zarah*. Their argument is essentially an appeal to authority—since Moses made it, how could it be categorized as *avodah zarah*? In the version of this story presented by the anonymous Sages, the people in Hezekiah’s time were not worshiping the bronze serpent, but instead merely erred or made a mistake (טעה). The aggadic nature of this is further enhanced by the anonymous Sages’ interpretation of what Hezekiah did: “Hezekiah came and hid it away.” On the one hand, they are not really answering the contention of R. Yose, since he is talking about smashing the serpent, and they claim that Hezekiah “hid it away,” which is a midrashic variation on the narrative of the MT. On the other hand, they make the claim that although the Israelites’ interactions with the serpent were a mistake, they were not actually worshiping *avodah zarah*, for how could Moses have made an image to be worshiped? This is the result of special pleading, but it shows that for some of the Tannaim, the mere fact that an image exists is not sufficient to make it an unapproved image.

One of the reasons why the *nehuštan* does not qualify as an *avodah zarah* is because of its place in the custom of the Israelites. However wrong the Israelites were in burning incense to it, its Mosaic origination made it an item where ancient custom protected it. Note that in the rabbinic version the serpent is not even destroyed, but hidden away. The world of the Sages is a world of continuums, and even the laws on images were not necessarily absolute.

---

Whereas the discussion in Sanhedrin 7:6 was very much centered on what was and was not ritual, and therefore what was or was not actionable, the halakhah on images is primarily concerned with appearances and benefit. This is fitting, because in spite of the Mishnah’s general unity of thought, the different tractates address the same topics from different perspectives. Tractate Avodah Zarah, with its preference for economic concerns, provides another perspective from tractate Sanhedrin, concerned primarily with prosecution and crime. Although forbidden rituals are behind most of the discussion which surrounds the worship of non-Jewish gods, it is not always the rituals the Sages are concerned with. It was often the contexts in which those rituals could be found that concerned the Tannaitic Sages. The production and regulation of material images was an example of this. The Sages are not constructing an abstract “law of idolatry,” but are instead working from a world-view that prioritized practical considerations.

Because of this emphasis on practical considerations, specifying the material characteristics of images is part of the Tannaitic discourse. Thus, Mekhilta contains a lengthy discussion about the material that images should not be made out of:

VIII. **You Will Not Make any Image** (Ex 20:4)

IX. He will not make one that is engraved.

A. But what if he makes one that is solid?

B. Scripture teaches: “Any manner of likeness” (Ex 20:4).

C. So not a solid one.

X. But what if he plants for himself a planted one?\(^{650}\)

---

\(^{650}\) This would be like the asherot mentioned in the Hebrew Bible and Mishnah and Tosefta Avodah Zarah.
A. Scripture teaches, “You will not plant for yourself an asherah” (Deut 16:21).
B. So not a planted one.

XI. But what if he makes for himself one out of wood?
A. Scripture teaches, “Of any kind of tree” (Deut 16:21).
B. So not one out of wood.

XII. But what if he makes himself one out of stone?
A. Scripture teaches, “[Neither will you set any] cut stone,” (Lev 26:1).
B. So not one out of stone.

XIII. But what if he makes for himself one out of silver and of gold?
A. Scripture teaches, “And gods of silver and gold you will not make for yourselves,” (Exodus 20:20 [H 19]).
B. So not out of silver and gold.

XIV. But what if he makes one for himself out of copper, or iron, or tin, or lead?
A. Scripture teaches, “And cast gods you will not makes for yourselves” (Lev 19:4).
B. He will not make for himself any likeness out of all of these.

The midrash is concerned with the variety of materials that it is possible to make images out of, and brings in various scriptures in order to illustrate its point. In this passage in Mekhila, the Sages show themselves concerned with the very materiality of the images that are being created. One of the intriguing observations about the laws against
worshiping *avodah zarah* is that they are regulating ritual concerns, and therefore are connected to the nature of the numinous world, but they are actually regulating physical *realia*. It is inherent in the nature of discourse about images that the Sages are dealing with something that is material, and its very materiality feeds their discourse.

The emphasis on the materiality of the images likely had a polemical purpose for the Sages. Non-Jewish philosophers were concerned with the materiality of their images and so has their own internal discussion about nature of the images of their gods. Robin Margaret Jensen, writing on the Christian taking up of Greek and Roman philosophical views about the transcendence of deity observes: “Although the polytheism of Roman Late Antiquity embraced many gods…the educated classes tended toward a kind of enlightened deism…eschewing overly materialistic beliefs that localized or limited divinity to a particular statue or image.”651 This emphasis on transcendence gave educated polytheists the ability to interact with their gods in a way that did not impact their sensibilities. As educated members of Roman society, the Sages were likely aware in some way of these arguments, although their education differed in key points. The Tannaitic Sages, being opposed to the use of divine images, emphasized their materiality where one of their educated non-Jewish neighbors might not.

*Viewing of Images in Antiquity*

The question of images and their materiality was part of the concerns in the ancient world from the perspective of both Jews and non-Jews. The Graeco-Roman cultural was a visual one, and divine images were a vital part of that. The visual culture of the

surrounding word meant that the Tannaitic Sages were presented with the question of what is the proper response when presented with an image, even an image that is not necessarily intended for worship. Is it appropriate to even look at an image?

The scholarship of Rachel Neis examines this very issue: how the Sages felt about looking at images. Her scholarship presents a sort of “viewer’s response” reading of the rabbinic texts. The view of the Sages on looking at rituals would not necessarily be a ritual one, but is instead a way of examining how the Sages negotiate their reading of Ex 20:3–4. Germene to the present study, she adduces looking as a category of worship, and therefore as ritual. According to this argument, Rabbinic dicta on turning one’s head and not looking at images make sense according to a logic where even the act of seeing an image is a ritual act that could constitute worshiping avodah zarah. As Neis puts it: “The prohibition of looking per se would make sense—even beyond rigorisms—in a world in which vision is no casual affair and in which seeing is essential to the ritual experience of the sacred.”

Neis’s observation introduces a spectrum of possibilities into the discussion of the Tannaitic perspective of viewing—she cites the example of the praise the Sages give to the piety of R. Menahem ben R. Simai, who would not even look at coins, for example.

It is certain that there is ample evidence for the viewing of sacred objects and images as part of the rituals of the ancient world, both in the Roman period and before. According to Apuleius’s Golden Ass, the culmination of initiation into the mysteries of

---

the cult of Isis is primarily a visual thing—he describes the culmination of the initiation in terms of viewing of the image of Isis: “After this, having stayed for some days in that place, I enjoyed the inexplicable pleasure of viewing the holy image, being indebted to it for a benefit which can never be sufficiently rewarded.” Although the *Golden Ass* is set in a Roman environment, the ritual significance of viewing images of deities was an Egyptian concept from pharaonic times. In the daily temple liturgy of the temple Amun-Re at Luxor, one of the privileges of the Egyptian prophet, *ḥm-nṯr*, is his ability to view the image of the god—in essence to see god: “Spell for seeing the god. WORDS TO BE SAID: My face is protected from the god and vice-versa. O gods, make way for me so that I may pass. It is the king who has sent me to see the god.”

Although the Isis cult derives from an Egyptian context, the ritual significance of looking at images was not only an Egyptian concern. Georgia Petridou recently discussed ritual viewing as part of the rituals practiced by the Mysteries at Eleusis. Petridou observes that the initiate into these mysteries is known as an ἐπόπτης, “one who sees.” The ability to view the sacred objects was an important part of what it meant to be an initiate.

The ritual power of looking, and the privilege of viewing the divinity, is an idea that had resonance in the Hebrew Bible as well. In certain places in the Bible Moses is presented as one who has the distinctive ability to see God: “Hear now my words. If there

---

656 COS, 1.34, 55–57, 56.
is a prophet among you, I, Yahweh, will make myself known to him in visions, and I will speak with him in dreams. My servant Moses, who is faithful in my entire house, is not like this. Face to face I will speak with him, apparently, and not in hidden words. And he will gaze on the image of Yahweh” (Num 12:6–8). Moses, the biblical prototypical and arch-typical biblical prophet (see Deut 18:15), is differentiated here from other prophets by his singular ability to gaze upon the “image of Yahweh.”

The Bible is not monolithic on this point, however, and does preserve a distinction between the image of God and representations of God. Deut 4:15 gives the reason for not making images of Yahweh by indicating that Israel saw no image on Horeb, although that statement is addressed to corporate Israel and not to Moses. Even within Exodus 33, the text is unclear on whether Moses viewed God “face to face” (Ex 33:11), or whether he was only able to view the “back parts” (Ex 33:23). In this last example, source critics have noted the many difficulties Exodus 33 presents.

Early Christianity takes in part in some of this ambiguity. In some places, the seeing of God is part of how salvation is framed. In Matthew, Jesus says paradigmatically: “Fortunate are the pure of heart, for they will see God” (Matthew 5:8). Paul likewise in his first letter to the Corinthians in discussing eschatological fulfillment claims: “For we see now through a mirror a dark image, but then face to face” (1 Cor 13:12). Cyprian, writing in the 3rd century made a similar claim about the moral

---

superiority in not looking at images. Cyprian is addressing lapsed Christians, i.e. converts into Christianity who had left and then returned, and he makes the assumption that looking at divine images was something that held meaning for them, including a ritual meaning. Christianity, like Judaism, is part of the broader visual culture, but differentiates between visions of God and looking at images.

Neis’s connection of rabbinic visual culture to Graeco-Roman visual practices nuances how the Tannaitic Sages thought about foreign ritual. Something that seems as innocuous to modern eyes as looking at an image was laden with ritual and religious significance. Yet, gazing on an image is not included in the list of activities that constitute the worship of avodah zarah from m. Sanhedrin 7:6, nor is it included as part of those interactions with the image that constitute the breaking of a negative commandment. It is not, in fact, avodah. Beholding an image could not be avodah, because the God of Israel had no physical image. The rabbinic perspective on the viewing of images is part of their search for plausible contexts for non-Jewish ritual. Thus Neis observes: “The very designation of an object as ‘idol’ rabbinized it, even under the veil of prohibition.” The interaction between what was, and what was not an appropriate image, was something that was being continuously negotiated by the Sages into the Amoraic period. Neis is right that the Sages lived within an environment where vision had ritual significance, but their own conception of avodah and ritual, as laid out in this

661 Cyprian, De Lapsis, 28.
dissertation, meant that the Tannaitic Sages could, and did, take different approaches to images, even of gods.

It is in this environment of diverse approaches to images that the famous story of Rabban Gamliel in the bathhouse of Akko becomes clear. For convenience, it is again reproduced below:

I. Proclus, son of Philosoph, asked Rabban Gamliel in Akko, when he was washing in the bathhouse of Aphrodite.

II. He said to him, “It is written in your Torah, ‘And there shall not cling to your hand any part of the herem.’ Why then are you bathing in the bathhouse of Aphrodite?”

III. He said to him, “There is no answering [of scriptural questions] in a bathhouse.”

IV. “After they had gone out, he said to him, “I did not come into her borders, she came into my borders. They do not say ‘Let us make a bathhouse to beautify Aphrodite,’ but rather they say, ‘Let us make Aphrodite to beautify a bathhouse.’”

V. “Another opinion: Even if they give to you much wealth, you would not set up an avodah zarah unclean and having a seminal emission and urinate in its presence, and this one is standing before the gutter and everyone urinates in its presence,” (m. Avodah Zarah 3:4)
Like the presence of images of Helios in synagogue mosaics, this particular story has been much discussed in scholarly literature. The general issues that this story raises were already discussed in chapter 3. This chapter examines how this tale of Rabban Gamliel interacting with an image of Aphrodite nuances the discussion about how the Sages feel about images, and whether there can be a distinction made between figural images for art and figural images for worship.

There are two halakhic positions taken up by Rabban Gamliel in his discussion with the non-Jew Proclus about appropriateness of bathing in a bathhouse with an image of Aphrodite, both of which relate to the larger question of how one interacts with non-Jewish figural images. The first thing to note is that the question of bathing in a room with a divine image was not a self-evident one, as it needed to be explicated. As noted in chapter 3, it should not be assumed that this represents an actual opinion held by non-Jews. This is, instead, a question that the compiler(s) of the Mishnah wished to answer. Thus, both the ambiguity of the question and its solution serve a rhetorical function within the discussion about the worship of avodah zarah.

The first halakhic position places the discussion into the rabbinic perspective on probable contexts for non-Jewish ritual. Gamliel assumes that the intention of the non-Jewish builders of the bathhouse is for its stated purpose of bathing, and not as a kind of

---

backwards attempt to spread image worship. Thus, the bathhouse was not built for the purpose of honoring the goddess Aphrodite—the image of Aphrodite was included as a part of the bathhouse in order to beautify it. Rabban Gamliel here suggests that that images, even explicit images of divine beings, may have aesthetic purposes, and that buildings where such images are placed for aesthetic purposes alone may be used by Jews. This ruling also relates to the Mishnaic concern for economic benefit. Because Aphrodite is part of the décor of the bathhouse, rather than the bathhouse being a shrine to Aphrodite, bathing in the bathhouse is not to the benefit of her or her cult.

Friedheim argues that this is not the case, and that the bathhouse of Aphrodite had, in fact, cultic functions.665 This is certainly a possibility, based on what we know about other bathhouses in the ancient world, but if Friedheim is correct, this makes the two opinions given in this story an even more intriguing spin. In the story, Proclus is essentially arguing that such a bathhouse ought to be treated by Jews as a shrine, while Gamliel argues against that point. For the purposes of the story, and its function in the Tannaitic discussion of *avodah zarah*, the observation that the bathhouse likely had cultic functions does not change the fact that the Mishnah is not concerned with those functions, and seeks specifically to find ways to allow for bathing in such a bathhouse.

The second halakhic position, introduced by the rabbinic formula “another opinion,” suggests that even non-Jews have certain standards of behavior towards their gods. This second opinion argues from the cultural and customary assumptions that existed in the ancient world. Because the treatment of images within the bathhouse—

---

where people are urinating and are ritually unclean—is not according to these standards of conduct, the image is not being treated as a divine image by its putative worshipers, and does not need to be so treated by Jews bathing in the bathhouse.

According to both Mishnaic opinions the image is allowed explicitly because the non-Jews who set it up are not treating as though it were a divine image. The treatment of the image by non-Jews is, therefore, the deciding factor in this case of defining whether or not the image of Aphrodite is acceptable. This means that, on some level, the rabbinic conceptualization of what constitutes appropriate or inappropriate behavior in regards to foreign cult derives from the surrounding world, and not from within Judaism itself. The appeal to the surrounding world is part and parcel with the Tannaitic life within that broader world.

It is also, however, important to be careful from drawing too much from this passage. The answer to this question has practical implications. First, if the bathhouse is judged to be a place of avodah zarah, then Jews are not able to avail themselves upon its services. Second, the fact that two opinions are given suggests that it is not a problem that yields to an easy solution. Neither solution given in the text really solves the problem of the ritual significance that images possessed in the ancient world, except by arguing that non-Jews did not apply significance to certain images, and so Jews are justified in the applying the same criteria. In many ways, this story about Rabban Gamliel is in dialogue with that of R. Menahem ben R. Simai, who refused to look at coins.\(^666\) In both cases, the

problem is the same—the reconciliation of biblical ideology with the prevalence of images in the ancient world. The solutions are very different, representing a spectrum of practical approaches to images among the Sages.

The literature of the Tannaitic Sages preserves that spectrum in its discussions of images and the worship of *avodah zarah*. Although the story of Rabban Gamliel allows one foreign institution to be used, even if an image of a foreign deity is present, it may be productively compared with R. Meir’s opinion in m. Avodah Zarah 3:1, already quoted: “All images are forbidden, because they are worshiped [at least] once a year.” Although the dictum of Rabbi Meir seems very distinct from Rabban Gamliel’s, it is actually in line with the second opinion given in the story of Rabban Gamliel—an image in a bathhouse will not be worshiped, because the worshipers in the bathhouse are ritually unclean, and it therefore does not need to be forbidden because it cannot be worshiped. For the purposes of either mishnaic discussion, it does not matter if Rabban Gamliel or Rabbi Meir were correct—the concerns of the Tannaitic Sages are internal, even when discussing external matters.

*Conclusion*

The world of the Sages was one that was surrounded by images, and the fact that these images could have ritual significance means that the Sages needed rules to regulate plausible contexts for interacting with these images. The rules and dicta recorded in the various sources, as well as the evidence of archaeology, create a complex and varied picture about when an image was considered to be an object of worship, and therefore
forbidden by the Sages. The complex picture shows the Tannaitic Sages’ need to interact in a world where there were images everywhere.

In some cases, the presence of images seems to indicate a view towards images that is outside of the Sages’ preferred interactions. The Helios mosaics show that there were some Jews who were comfortable with the appropriation of polytheistic imagery into their distinctive ritual worlds. Something like the various depictions of biblical events on the walls of the synagogue at Dura Europos is one such case, but even more so are various synagogue mosaics depicting images with non-Jewish imagery. As noted above, it is possible to suggest that the Helios figures were understood in a Jewish manner, but the variety of possible interpretations means the question remains vexed. But however such figures were understood by the people in the synagogue, their presence illustrates that for some Jews living in late Antiquity, the viewing of images did not always present a plausible context for non-Jewish ritual. Whether this was a result of accommodation, or some kind of “polytheistic” Judaism outside of rabbinic control remains unclear.

On the other end of the spectrum, it is clear from both rabbinic and non-rabbinic sources that the viewing of images was seen by some in the ancient world, including some Sages as a ritual act. It was not part of the Jerusalem Temple cult, and so was neither me’ilaḥ nor avodah, but was still a practice to be regulated and concerned with. The most pious did not look at images, even on coins. This extreme position makes the presence of the images on the floors of synagogues all the more amazing, and points to
the diversity of Judaism in this period, even on issues such as the boundaries of the Jewish community.

All of this suggests that the Sages’ view of images and their worship is situational and contextual. Both of Rabban Gamliel’s arguments are contingent on the notion that what an image is used for is as important as what the image represents. It may even be that the situation of the Helios mosaics and the image of Aphrodite in the bathhouse are cut from the same cloth. The Tannaitic Sages make a distinction between images intended for worship, images for decoration, and even for images not being worshiped. The case of neḥuštan, the bronze serpent destroyed by Hezekiah, makes the situational nature of the classification of images even more apparent. That was an image that was being, in some senses, worshiped (the burning of incense is one of the activities forbidden by m. Sanhedrin 7). However, its heritage and the situations surrounding its creation meant that it was not treated as avodah zarah, but was instead categorized differently.

In general, however, the halakhah in the Tannaitic sources strikes a middle ground. We have seen that Mishnah and Tosefta are concerned primarily with the world of ritual and practice. Although these documents are often utopian in its outlook, they envision a this-world utopia. The primary concern of the Tannaitic Sages is legislating activities in the present world. Thus, there is a marked emphasis on the materiality of images. Images, even those that are considered divine by their worshipers, are artifacts that are made of materials found in this world, and thus the halakhah must discuss specific interaction with those artifacts. This materiality is itself a polemic, for it emphasizes the images themselves, while denying any reality to the deities that the
images represented. By the process of making rulings about the material objects that were worshiped, the Sages were able to emphasize the images lack of power.

The command to not make images, which provides the foundational background for this polemic on powerlessness, derives from the Hebrew Bible. The Hebrew Bible is also the locus for a number of specific discussions on the part of the Tannaitic Sages. These specific examples show the ways in which the Sages applied the principles and discourses that have been discussed in the past two chapters. The final two chapters of this dissertation look at how the Tannaitic Sages apply the discourse on the worship of *avodah zarah*, first to ideas that derive from the biblical text and from their own surrounding world.
Chapter 11: Rabbis, Rituals and the Bible

The Tannaitic discussion of non-Jewish ritual is found at the intersection between biblical ideology and the Roman world in which they lived. The previous chapter showed how the Rabbinic Sages used different understandings of images as part of their discourse on what was and was not foreign ritual. It is in the Hebrew Bible that the injunction against foreign gods and images was first articulated—as noted in the Introduction, the very existence of these laws in the Hebrew Bible necessitates the Tannaitic discussion of avodah zarah. In this chapter we look at two examples which serve as test cases for illustrating the ways in which the Tannaitic Sages draw on ideas of ancestral custom and search for plausible contexts for non-Jewish ritual. The biblical material is intriguing, because it shows the Tannaitic Sages using and applying biblical ideas to a non-biblical world. Because of this, it is important to note that the emphasis here is on how the Sages viewed these materials, rather on what they actually mean in the Bible.

The halakhah and discussions about biblical matters are not uniform in the Tannaitic sources—even those sources that describe the worship of avodah zarah are not identical in their own discussions, as we have already seen. The primary concern of the Sages was their own life and practice, and the halakhah that they promulgated derived from those concerns. They were, however, a community that revered the Hebrew Bible.667

---

667 Urbach, The Sages, vol. 1, 286–297. In her book on the interpretation of impurity in the Judaism of the Sages, Mira Balberg speaks about “the early rabbis…remaking the biblical laws of purity and impurity,”
and so biblical interpretation and concepts formed an important, if not sole, part of their discussion.

In addition to the general discussions of images and gods that derive from Exodus 20 and its related laws, which were examined in closer detail particularly in the previous chapter and in Chapter 6 on Mekhilta, the Tannaitic Sages address and examine specific biblical concepts and relate them to their world. In so doing, the Sages create a kind of midrashic halakhah—a conceptual amalgam of the biblical and rabbinic world. Specific ritual concepts from the Hebrew Bible that the Sages address this way include *asherah* and the passing of children through fire to Molech. In both of these cases, the problem is suggested to the Sages by ideas drawn from within the biblical text, but their exegesis does not end there, and the solution is often found far outside of the confines of the Hebrew Bible.

*Asherah*

The first such example examined in this chapter the *asherah*. The meaning of the Hebrew word *asherah* is unclear, even within the context of the Hebrew Bible. On the one hand, the word seems to represent a cultic object or pole, while on the other it seems to refer to a goddess worshiped by the ancient Israelites. Scholars of the Hebrew Bible and the Ancient Near East have written many useful articles examining the nature of the *asherah*, but in many ways these scholarly discussions are not really part of the concern of the

---

*Purity, Body and Self in Early Rabbinic Literature* (Berkeley, Cal.: University of California Press, 2014), 2. The laws of *avodah zarah* were similarly made and remade by the early rabbis.

668 Examples of places where it is a cultic object: Ex 34:13; Deut 7:5; 2 Kings 17:10. Examples where it is a deity: Judges 3:7; 1 Kings 18:19; 2 Kings 21:7. A handy overview and bibliography on the topic may be found in N. Wyatt, “Asherah,” *DDD*: 98–105.
present dissertation, since in the rabbinic sources the term *asherah* simply refers to a tree that is in some way associated with non-Jewish worship.⁶⁶⁹ In this way, the Tannaitic sources are in continuity with the LXX, which usually translates Hebrew ירשת (asherah) with ἄλσος, which means a grove or a glade.⁶⁷⁰ There is no concept of *asherah* referring to a specific deity in the Mishnah. She has either been repressed or, more likely, forgotten. In this case the Sages have appropriated a biblical term in order to explain a ritual phenomenon that was fairly common in their own experiences and interactions with non-Jews.

The Tannaitic Sages inherit a tradition that does not recognize any equal to Yahweh, let alone a female consort. The conception of the *asherah* in Tannaitic literature refers, therefore, to cult and to ritual and its appurtenances, rather than to the world of Canaanite myth, although there are a number of examples of Canaanite goddesses being associated iconographically with trees.⁶⁷¹ There was, of course, almost certainly continuity between the aspects of Canaanite religion described in the Hebrew Bible and the native cults of the peoples who surrounded the ancient Israelites and Jews, but information on those cults has been obscured in both the Jewish and the Greek sources.⁶⁷² What may be said is that once again, in our sources, the Sages are concerned primarily

---


with present ritual and custom. Although Michael Fishbane has shown that there are elements of Canaanite myth that survive from the biblical period even as far as the Kabbalah and beyond, the Tannaitic discussion of *asherah* in m. and t. Avodah Zarah is grounded in the polytheistic world surrounding the Sages, rather than the Canaanite one which surrounded the biblical authors and editors.673

There is evidence that some trees in the Graeco-Roman world could have numinous associations. The Roman Stoic Seneca the Younger observed:

If you have ever come upon a dense grove of ancient trees rising to an unusual height and blocking the sight of the sky with the shade of branch upon branch, the loftiness of the forest, the solitude of the place, and the marvel of such thick and unbroken shadow out in the open generate belief in a divine presence.674

Seneca’s discussion gives some insight into how traditions about or customs about trees as objects of divine worship might arise. Seneca suggests that the overwhelming beauty of a natural scene might “generate belief” (*faciet fidem*) in a divinity in the tree. What Seneca does not discuss is how or what cult might be associated with this, if any. Some of that information is supplied by Apuleius, also writing in Latin. Apuleius, in discussing the general ignorance of small shrines, speaks about “an oak decked with horns, a beech hung with the skins of beasts.”675 Here, these trees are subject to minor devotions and votive offerings.

675 Apuleius, *Florida* 1.
M. Avodah Zarah also assumes that trees may be object of cultic devotions. As with most of the discussion in m. Avodah Zarah, the question is framed around the idea of benefit—Jews were not supposed to benefit in any way from polytheistic worship. For the asherah this idea shows itself first in the problem of identifying when a tree qualifies as an asherah. Since in the Tannaitic system an asherah is some kind of sacred tree associated with non-Jewish ritual figuring out what trees were and were not acceptable for use is a primary concern in these discussions. Mishnah and Tosefta must look for plausible contexts for non-Jewish ritual, and the asherah provides some difficulties. The section dealing with the asherah also addresses the mergolis for similar reasons. Just as it is important for ancient Jewish worshippers to know when a tree is simply a tree and when it is associated with unapproved ritual practices, it is equally important to note when a pile of rocks is simply that or is instead some kind of cairn.

The Mishnah places the discussion in a section that identifies items associated with the worship of avodah zarah in groups of threes. M. Avodah Zarah 3:7 speaks of three kinds of houses for avodah zarah (referring in this context to both purpose-built shrines and images brought into other houses), as well as different kinds of stones. The three categories are those that are created (or grown in the case of the asherah) expressly for the purpose of worship to a foreign god, those that have been taken care of for a foreign god, and something that has a divine image associated with it, but where the image is then removed. In all three cases, the purpose-built item is forbidden from the outset, while the other two types are allowable under certain circumstances.

Thus, concerning the asherah, M. Avodah Zarah 3:7 states:
I. “There are three [kinds] of asherah:

A. a tree that was planted from the beginning to the name of an avodah zarah
   1. this indeed is forbidden;

B. one pruned and trimmed to the name of an avodah zarah and sprouted
   1. He cuts that which has sprouted.

C. If someone set up an avodah zarah underneath and has [subsequently] annulled it
   1. This [i.e. the tree] is permitted” (m. Avodah Zarah 3:7).

This Mishnah characterizes what trees are forbidden and approved based on the ritual actions that were associated with the maintenance of such a cult. Mishnah then defines what an asherah is:

II. “What is an asherah?

A. Any [tree] that has underneath it an avodah zarah” (m. Avodah Zarah 3:7)

There is some disagreement among the Tannaitic sources and even within this tradition whether an asherah is worshiped in and of itself, or whether it is simply associated with another image, as R. Simeon subsequently defines an avodah zarah as “any tree they [that is, non-Jews] worship” (m. AZ 3:7). The Mishnah’s initial definition of asherah as any tree that is part of the sacred space and ritual materials of a non-Jewish shrine accords well with those parts of the Hebrew Bible that do not accord to it specific divine power, while R. Simeon’s connects to those places in the Hebrew Bible where
Asherah appears to be a goddess, although it is not clear that the Sages are viewing it as a goddess.

This discussion on asherah as a tree points to the ancient connection between trees and goddesses. The image of the tree of life was a common motif in the ancient world, and like many mythological motifs, it is found in the ritual and cultic materials of numerous deities in both the Semitic and Graeco-Roman spheres. The uncertainty in both the Mishnah and the Hebrew Bible about the nature of the word asherah, and its double association with a goddess and a tree, well represents the variety of associations that goddess figures had with trees in the ancient Mediterranean.

Following R. Simeon’s opinion, the anonymous Sages of the Mishnah explore the nature of the asherah by relating an aggadah about a ruling that R. Simeon made concerning a tree that was in the city of Sidon. This particular tree was worshiped and also had a heap of stones underneath it. R. Simeon commanded the people to examine the heap, and upon doing so, they found an image concealed in the pile of stones. R. Simeon then concluded that the people had been worshiping the image in the heap, and so the tree was permitted. The Mishnah does not declare whether R. Simeon or the anonymous Mishnah’s definition of an asherah is correct halakhically, although the presence of the aggadah suggests a leaning in R. Simeon’s direction, a leaning which is followed by Tosefta. As far as the final part of this mishnah is concerned, the difficulty is in the

worship of the *asherah*, and not in its presence as another kind of ritual object. It is only when the tree is specifically worshiped like an *avodah zarah* that it becomes forbidden.

There is likely significance in the fact that a story about *asherah* takes place in Sidon. Sidon was an important Phoenician city (and Sidonians usually served in the Hebrew Bible as metonymy for Phoenicians). In 1 Kings 11:5, Solomon is condemned for following after “Ashtoret, god[dess] of the Sidonians.” The biblical name Ashtoret represents the Masoretic vocalization of the divine name Astarte, who was associated with East Semitic Ishtar. The worship of Astarte by the Phoenicians can be collaborated from both Greek and native Phoenician sources, including Philo of Byblos’s recording of the work by Sanchuniathon. Astarte’s association with sexuality, as well as her iconographic portrayal with the tree of life, along with the tendency, even in the Semitic sources to conflate and syncretize Anat, Astarte and Asherah make it likely that the setting of this story in Sidon points to a connection between trees as cultic objects and the worship of Semitic goddesses. The Sages are obliquely providing information about the rituals of others in this case. This is not to say that the Sages are making a reference to a specific Phoenician goddess, but rather that this was part of their cultural context.

Tosefta Avodah Zarah once again offers a more specific answer to the question of what an *asherah* is. Instead of defining it as any tree with an *avodah zarah* beneath it, Tosefta defines it as any tree that “worshipers of *avodah zarah* worship, take care of, and do not eat of its fruit” (t. Avodah Zarah 6[7]:8). In the same tradition, R. Simeon b. Elazar states that there are three *asherot* in the Land of Israel: “A carob tree in Kefar

---

677 Biblical Hebrew lacks a word for “goddess” and so simply uses the masculine *elohey* in place of a putative feminine *elohat.*
Petam and in Kefar Pigshah, a sycamore in Arno and in Carmel.” The presentation suggests that these are specific trees, identified as examples, rather than an attempt to identify all of the asherot in the Holy Land. The first thing to note about this section is that R. Simeon only mentions two types of trees in four different places. This difficulty may perhaps be derived from a difficulty in the textual transmission of this passage. Regardless of the fact that there are neither three trees nor three types of trees in this passage, it attempts to specifically identify asherot, and to place these asherot in defined geographic positions.

The definition presented in m. Avodah Zarah 3:7 is further problematized by a passage in Mekhila, which is dealing with the commandment “You will not make any graven images” in Ex 20:3. Commenting on this verse, Mekhila asks the question of what sorts of representations are forbidden, and are there any representations that are not forbidden. It then proceeds to show through various scriptures that images from various materials and representing various items are forbidden. One of the questions that the text asks is whether or not one can plant a tree to worship. The Midrash cites Deut 16:21 “And you will not plant for yourself an asherah.” It then asks “If one cannot plant for oneself, can one make [an image for worship] out of a tree?" The Midrash repudiates this notion by finishing up the above-quoted verse in Deuteronomy: “Of any kind of wood.” This section in Mekhila seems to indicate a conception that not only could trees be associated with cultic and ritual sites, the tree themselves could be worshiped. This

---

678 Mekhila Bahodeš 6, 321. The Hebrew word is עץ, which may be translated as both “wood” and “tree.”
effectively combines the two decisions from the Mishnah, such that neither trees
associated with cultic worship nor trees worshiped as such were allowed.

One of the characteristics of the Late Antique environment inhabited by the Sages
is the idea of a populated divine world. General custom in the Roman Empire admitted
a large variety of grades of divine beings. Indeed, this was part of the difficulty that Jews
faced in their interactions with their non-Jewish neighbors. In addition to the Olympian
and Imperial gods, there were myriads of spirits, _genii loci_, river gods, divinized heroes,
dryads and so forth. The worship of these lesser gods constituted an important part of
how the ancients constructed their world. The continuance of certain kinds of animist
thought and belief in the spirits of trees helps to show that although the Sages are using a
biblical term in order to discuss sacred trees, trees could certainly be the object of
worship in the ritual world that surrounded them. It might be helpful to remember that the
word _pagan_, which is often used to characterize the polytheistic world, means “rustic”
and was applied to those who still practiced what Christian authors represented as
ignorant superstition. Although the Tannaitic Sages appear to have had some interaction
and knowledge about the rituals of non-Jews, it is clear that the specific nuance of
whether a tree was being worshiped or simply included as part of the cultic furniture was
sometimes—probably purposefully—lost on the Sages.

The discussion on _asherah_ leads to an important point to consider when
discussing the ritual world surrounding the Sages—they were not dealing with a single

---

679 We saw this already in our discussion of Seneca, Apuleius and Pausanias.
680 The worship of the spirits of natural objects. The term derives from Latin _animus_ “motivating power or
religious or ritual system. By its very nature, the worship of multiple gods rejects exclusivity and encourages interaction between ritual systems. The local cults to various gods thus tend to be exactly that—local. Hadas-Lebel pointed to this already when she suggested that the Aphrodite mentioned in the story of Proclus and Gamliel referred to an aspect of Atargatis, also known as “the Syrian Goddess.” The image in the bathhouse was, in other words, an example of the local Semitic goddess that had been syncretized and assimilated with Aphrodite by the local cult. One of the difficulties that faces a scholar looking at Tannaitic portrayals of the rituals of others is knowing where to look. Knowing who actually is being worshiped (or at least, who the Sages thought was being worshiped) is important to understanding how much the Sages knew about foreign cults.

As we have seen, sacred trees were a distinctive part of the imagery and ideology of ancient Semitic religion that were often associated with goddesses and fertility. There are examples of associations with trees and deities in Hellenized or Roman religion, as well. According to Pausanias, there was an olive tree planted nearby the shrine to Athena in Athens, and she was associated with that tree. This tree had totally different associations than that which we saw with the Semitic fertility goddesses, since Athena was not a fertility goddess, but if any of the Sages had seen it, they would have likely associated it with an asherah. It was, after all, a sacred tree associated with the cult of a foreign goddess.

682 A similar situation may be found in Acts 19:28, where there is a reference to Artemis of the Ephesians. It is clear from the iconographic evidence that Artemis of the Ephesians had a different, apparently pre-Hellenic character than most other examples of Artemis in the Greek world.
683 Pausanias, Description, 1.27.2.
The discussion of *asherah* and its position and nature in the rituals of the ancient Greeks is part of the question of ancient aniconism and the representations of gods, mentioned in the previous chapter. In her discussion of previous scholarship on aniconism, Milette Gaifman notes that this phrase generally refers to the of portrayal of a deity, and has been conceived both as a referent to a representation of a deity that lacks human form, such as the *herm* or the *asherah*, as well as a lack of desire to portray the deity at all, as is often generally conceived to be the case with the God of Israel, especially in light of the commandments in Exodus 20.\footnote{Gaifman, *Aniconism in Greek Antiquity*, 27.} The ritual world of non-Jews, however, was one of a continuum of iconic and non-iconic portrayals.\footnote{Gaifman, *Aniconism*, 28–29.}

Although we usually associate Greek and Roman religion with the anthropomorphic images carved from marble, such as the famous Venus de Milo, both Greek and Roman cults had aniconic representations in many of their cults.\footnote{Gaifman, *Aniconism*, 29–41.} Additionally, the Hellenistic Semitic gods such as those worshiped at Heliopolis retained much of their Semitic characteristics, in spite of their syncretic character.\footnote{Robert J. Oden, Jr. “The Persistence of Canaanite Religion,” *The Biblical Archaeologist* 39 (1976): 31–36.} This included their association with aniconic portrayals. The Syrian Goddess (Atargatis, from Semitic ‘*Atar’ata*\footnote{The persistence of the Proto-Semitic consonant *ghayin* is clear in the Greek transliteration of this particular divine name.}) is associated with votive stones, Greek βαιτυλος. This word has a possible derivation from Semitic bet-el, “house of god,” implying for the modern reader some
kind of numinous spirit inhabiting the stone.\textsuperscript{689} A Semitic background for this word is suggested by the fact that it first shows up in Philo of Byblos’s quotation of Sanchuniathon’s discussion of Phoenician antiquities.\textsuperscript{690} Another example of this kind of aniconism is the “image” of the god Elagabalus, which was a meteorite that was worshiped, and during the reign of the emperor Elagabalus paraded around in a chariot.\textsuperscript{691}

David Frankfurter, referencing Lucian’s \textit{De Dea Syria}, has spoken about the “quintessentially Hellenistic proclivity towards mixing and matching religious practice under Greek rubrics whether or not indigenous explanation exists.”\textsuperscript{692} The Sages of the Mishnaic period were also, in many ways, quintessentially Hellenistic, as Lieberman has already famously shown. The Tannaitic theorizing on rituals comes out of this Hellenistic worldview, and although they have no apparent desire to adapt Greek ritual, they show a similar disregard for “indigenous explanation.” They rabbinize everything they can and subsume various religious practices under Rabbinic rubrics—including practices found in the Bible. The rabbinic search for contexts for non-Jewish ritual means that the Tannaitic Sages take foreign rituals from the Bible and apply them to plausible places in the world around them.

\textsuperscript{689} George F. Moore, one of the earliest scholars to write on this topic, concluded that the chief characteristic of these stones was not that they contained a numinous spirit, but rather that they moved. “Baetylia,” \textit{American Journal of Archaeology} 7 (1903): 198–208.
\textsuperscript{690} Moore, “Baetylia,” 198.
Molech

The rabbinic creation of categories of *avodah*, which is inherent in their comparisons of like-type, is problematized by examples that we in the present time might characterize as worshiping *avodah zarah*, but that they do not. M. Sanhedrin 7:8, immediately after defining and delimitating the practices that count as worshiping *avodah zarah*, addresses the biblical practice of passing one’s children through the fire to Molech:

I. As for the one who passes his seed to Molech, he is not liable until he dedicates to Molech and he passes him through the fire.

   A. [If] he dedicates to Molech, but does not pass through the fire,
   
   B. [or] if he passes through the fire, but does not dedicate to Molech
   
   C. he is not liable,

      1. until he has [both] dedicated him to Molech
      2. And passed him through the fire.

This practice is forbidden in the biblical Holiness Code in Lev 18:21, which reads, “And you will not give of your seed to pass through to Molech.” In this particular biblical verse there is no specific mention of fire, although there are other places where fire is mentioned. In part because of the ambiguity of the ritual act described in the Hebrew

---

693 מִזַּרְעֲךָ לֹא־תִתֵּן לְהַעֲבִיר לַמֹלֶךְ, אַנָּא חֲרִיב. מָסָר לְמֹלֶךְ וּלְאָיִן הָעֹבֵר בַּאֲשׁ.

694 2 Kings 23:10 is the only place in the Hebrew Bible where the divine name Molech appears in conjunction with a specific reference to fire. Generally speaking if Molech is mentioned, fire is not and vice

371
Bible, scholarly opinion is divided on the topic of what the biblical phrase “passing one’s seed through the fire to Molech” actually entails. Some scholars have connected this ritual to the tophet condemned in the prophets, or to the Phoenician molk sacrifices, linking this practice to some form of Israelite or Canaanite human sacrifice. Others, such as Zivy Zevit, have suggested that it refers to a dedicatory ritual offered up to a god. Its placement in the Holiness Code, embedded between two sections on sexual misconduct, suggests that even in the Hebrew Bible it may have been associated with that, rather than with the cultic practices discussed later on in that chapter.

Molech is often associated, both in the Hebrew Bible and by later scholarship, with Milcom, who is called the god of the Ammonites in 1 Kings 11:33 and the detestable thing (Heb. שִׁכְבּ) of the Ammonites in 1 Kings 11:55 and 2 Kings 23:13. The specific name of Molech is associated with Ammon in 1 Kings 11:7, where it is likewise identified as the “detestable thing of the Ammonites.” Zevit identifies Molech

versa. Compare, for example, Leviticus 18:21 to 2 Kings 21:6. This may be why the Sages identify offering to Molech and passing through the fire as different ritual acts.


696 First suggested in Otto Eissfeldt, Molk als Opferbegriff im Punischen und Hebräischen und das Ende des Gottes Moloch (Halle (Saale) : M. Niemeyer, 1935); Morton Smith defends the idea that this refers to the practice of human sacrifice in “A Note on Burning Babies,” JAOS 95 (1975): 477–479.

697 Zevit, Religions of Ancient Israel, 469. He then connects this with ritual purification by fire of vessels, such as is seen in Numbers 31:23: “Everything that can stand the fire, you will pass through the fire, and it will be clean.” The verb for passing through the fire in Numbers is the same verb which is often found in the collocation referring to Molech. In connection with passing things through the fire, in order for them to come clean, see m. Avodah Zarah 5:12. See also N. H. Snaith, “The Cult of Molech,” VT 16 (1966): 123–124.

698 Zevit points out “although Milkom, mlkm, was apparently the patron deity of Ammonite people, his name occurs infrequently in known anthroponyms, nine times.” Religions of Ancient Israel, 651, no. 75.
with the West Semitic Storm god Hadad, whom the Hebrew Bible and the Ugarit materials usually call Ba’al.\textsuperscript{699} Day associates Molech with Ugaritic Mlk and Akkadian Malik.\textsuperscript{700} The name as presented in the Hebrew Bible is not very helpful. The vocalization of Molech is generally considered to derive from that of \textit{boshet} “shame,” a practice that is probably also operative in the vocalization of \textit{tophet}, the sacrificial object that seems to have been associated with the ritual of passing the children through the fire (see 2 Kings 23:10).

Therefore, on the surface, the example of giving seed to Molech seems to be roughly analogous to what we saw in the case of Baal Peor, or really anything dealing with the Temple, where the Tannaitic Sages are creating legislation dealing with situations set out in the Hebrew Bible, but where the social or other context has changed. Whether this is because of the ending of the Judahite monarchy (which represents in itself one of the most significant changes between the pre-Exilic and post-Exilic periods) or the destruction of the Second Temple (one of the primary changes between the rabbinic period and earlier periods in Jewish and Israelite history) does not matter, since the from the rabbinic viewpoint the oral law was given on Mt. Sinai. This creates a sort of eternal legal now. This is in tension with the Tannaitic realization that the world in which they lived was not the same as the biblical world, and further fed into the rabbinic negotiating between those two worlds.

\textsuperscript{699} Zevit, \textit{Religions of Ancient Israel}, 469. This was also argued by Moshe Weinfield, “The Worship of Molech and of the Queen of Heaven and its Background,” \textit{Ugarit-Forschungen} 4 (1972): 133–154.
\textsuperscript{700} Day, \textit{Molech}, 41–55.
The case of passing one’s children through the fire to Molech seems to be an easy example of this negotiated halakhah, since Molech was presumably no longer a concern for Jews living in Roman Palestine. The situation is not addressed as neatly as that, however. Most of our evidence for the molk sacrifices, which are often connected to the worship of Molech (because of structural and linguistic similarities, although there are enough differences to make the connection between the two by no means definite), comes from the Carthage and Punic civilization, which is much closer in time to the Sages than it is to the biblical period. This connection makes it much more likely, although by no means certain that the Tannaitic Sages are dealing with rituals that they would be familiar with.

After the Tannaitic period, rabbinic Sages discuss non-Jewish altars that are very similar to Phoenician or Carthaginian altars described by classical authors, and related to molk sacrifices. Gideon Bohak argues that these similarities refer primarily to an awareness on the part of the Sages of the general literary topos of this kind of image/altar that was common in the Graeco-Roman world, rather than to a specific knowledge of actual Punic realia. Indeed, the actual evidence of what the Carthaginians actually did, and how to connect the archaeological materials with the literary and epigraphic data remains a difficult and vexed question. A recently published study suggests that the tophet at Carthage was a burial-place for ordinary infant mortalities, and not for infant

This in turn led to a series of papers in the pages of *Antiquity* arguing whether or not there actually was infant sacrifice at Carthage.\(^{704}\)

If we are to connect the ritual practice of the *tophet*, described in such detail by the Sages, with the ritual of passing through the fire to Molech, we must deal with the Mishnah’s legislation on this ritual. In m. Sanhedrin 7:7, quoted above, one is guilty only if a two-part ritual is practiced—both the dedication to Molech and the passing through the fire. The first obvious observation on this particular legal ruling is that it seems the Sages did not view the practice of passing through the fire to represent a form of infanticide or human sacrifice. If they did so, it is likely that the Mishnah would be much more emphatic in its condemnation of the practice, rather than merely viewing it as one element—however essential—in the worship of a specific non-Israelite god. The two-part requirement relates back to the concept of customary worship. For the Sages in the Mishnah, Molech is worshiped both through an act of dedication and a cryptic ritual act of “passing through the fire.”\(^{705}\) It should be noted that the ritual of “passing through the fire” is cryptic in the biblical text as well. The text of m. Sanhedrin 7:8 is clear on one count, however. One is only guilty of “giving seed to Molech” if one both dedicates it to Molech and then causes it to pass through the fire. Geza Vermes observes that this has


\(^{705}\) That this collocation and ritual practice are what are important to the Sages may be seen by the fact that the divine name Molech does not appear by itself at all in Tannaitic literature, but appears dozens of times in the Mishnah and Tannaitic midrashim with the preposition *lamed* in connection with this ritual practice.
the effect of rendering “law prohibiting the worship of [Molech] completely redundant.”

It may be that the ritual actions that are entailed here could be actionable under other clauses, of course. It is difficult to see any circumstance where dedicating seed to Molech would be approved of by the Tannaitic Sages, or not be considered the worship of a non-Jewish god and therefore actionable under the worshiping *avodah zarah* clause of m. Avodah Zarah 7:6. With all of that in mind, the fact remains that in the juridical system of m. Sanhedrin 7, giving of one’s seed to Molech, with its associated two-part dedication and passing through the fire are a different, although perhaps related, legal category than worshiping *avodah zarah*. The obscurity of the ritual of passing through the fire combined with the abominable nature of Molech in the Hebrew Bible may have encouraged specific legal exegesis instead of simply leaving it as part of the general category of worshiping *avodah zarah*. The two-part ritual category speaks against that idea, however. It suggests that Sages had something specific in view here.

This entire discussion is actually part of a larger discussion within Judaism about what the nature of the worship of Molech entailed. Vermes identifies three separate interpretations of Lev 18:21 dating from the Second Temple and later. Of these interpretative strands, not one of them suggests that “passing through the fire” refers to some kind of infant or child sacrifice. In fact, the prevailing interpretation seems to have a sexual valence (as we saw from the examination of Baal Peor, Jewish sources often

---

707 That this debate has been repeated from the earliest periods of biblical interpretation and that debate is still ongoing in the modern period serves as a reminder of Qohelet’s observation that “there is nothing new under the sun” (Ecc. 1:9).
associate non-Jewish worship with sexual promiscuity). Within the context of Leviticus 18, the verses surrounding passing through to Molech deal with sexual misconduct, and not with foreign cult or ritual. In fact the entire chapter is primarily concerned with proper sexual relationships and regulating the incest taboo. If, indeed, that verse does refer to a non-Israelite ritual practice, contextually it is being condemned primarily because it has some kind of sexual element to it. The use of the word “seed” or “semen” here rather than child or son might also be suggestive of an original sexual content.

There is a tradition in Mekhilta where passing through the fire to Molech to removed even one more step from its biblical background. Mekhilta Baḥodeš 6 says:

I. Rabbi Hanninah ben Antigonus said, Come and examine the language chosen by Torah:

A. ‘to Molech’

B. [meaning] anything that rules over you,

1. whether piece of wood

2. Or potsherd.”

Hanninah takes advantage here of the shared letters between the divine name Molech, and the root verbal m/l/k, which can mean “to serve as king” or “to rule over.” Hanninah’s interpretation, which uses the midrashic method of creative etymology, ignores most of the historical or biblical associations with Molech. The connection between a non-Jewish god and the meaning to “to rule over” are both necessary for the midrash to work, however, since the midrash is about the worship of other gods, and so

---

708 Mekhilta di-Rabbi Ishmael Baḥodeš 6.
the connections to a foreign deity are important for establishing what is meant by “to be a ruler.” The worship of Molech is thus generalized away from specific ritual concerns to general ideas about diminishing God’s sovereignty.

In many ways, Rabbi Hanninah’s opinion moves away from the idea of religion as custom, and towards a theological concept about the idea behind why worship of other gods is forbidden. The specific ritual action involving the worship of Molech—which was the point of the verse cited—is entirely irrelevant to Rabbi Hanninah’s point. This is not a midrash against the specific ritual practices associated with the worship of the god Molech. This midrash, rather, is specifically against representation in general—it does not matter how small or insignificant the physical object worshiped is, if one sets it up as a ruler by worshiping it, then it counts as breaking the commandment found in Ex 20:3 to “have no other gods before Yahweh.” In the end, Hanninah’s reference to Molech here has very little to do with how the Tannaitic Sages understood the ritual practice of “passing seed to Molech.”

This is not to say that the Tannaitic Sages do not have sections where they address the specific rituals for Molech. Sifra, the Tannaitic Midrash to Leviticus, has a discussion on the matter of passing one’s seed through the fire to Molech that explains through midrashic logic why the law requires two parts. The passage being expounded upon is Lev 20:1–5, which is one of the places in the Hebrew Bible that mentions Molech. The Mishnah begins with a discussion of the various ways in which God addresses Israel, and observes that these phrases are like the languages of humanity, which have many different ways of saying things, all of which need to be interpreted. For the midrashist in
Sifra, the various categories in the verse (Israelites and proselytes) showed the all-encompassing nature of the prohibition giving seed to Molech.

The *darshan* then proceeds to examine the verse in question. He quotes Lev 20:2 “…that gives of his seed to Molech,” and then says, “Not that he gives his children to heresy.” The midrash then goes through several permutations to prove its point:

I. Since it is said “who gives any of his offspring to Molech” (Lev. 20:2),
   A. one might have thought that even if one made his children pass through fire, but did not given them over,
   B. he should be liable.

II. But Scripture says, “who gives any of his children.”
   A. Might one have thought that even if one gave them over
      1. but not make them pass through fire,
      2. he might be liable?

III. Scripture says, “Do not pass any of your offspring through the fire to Molech” (Lev. 18:21).
   A. Might one suppose that even if one gave them over to be passed through to Molech,
      1. but not through fire,
      2. one might be liable?

---

709 Hebrew *ger*. In the context of Leviticus these are resident aliens who lived among the Israelites and were subject to their laws. By the rabbinic period this word had transferred meaning and referred to proselytes to Judaism. Jastrow, *Dictionary*, 263.
710 I am following Neusner here.
IV. Scripture says, “Let no one be found among you who passes his son or daughter through fire (Deut 18:10–12).

A. The word “pass through” appears in the several passages for purposes of establishing an analogy.

B. Just as the appearance of word in the present case involves Molech,
   1. so in the passage just now cited it must involve Molech.

C. Just as the word in the other passage involves the use of fire,
   1. so “pass through” here must involve the use of fire.

V. You end by ruling that one must both give the child over and also pass the child through in fire to Molech. ⁷¹¹

The midrash here draws together several verses relating to the worship of Molech in the Torah. It draws them together so that it can make the point that each refers to one aspect, either giving over to Molech or passing through fire. Because of the midrashic principle of omni-significance, each reference explains and clarifies the other. For the midrash, the fact that Scripture speaks about both giving over to Molech and passing

through fire must, therefore, mean that both are meant, and in verses where only one is mentioned it refers to the other. On the one hand, this solves the difficulty of the two-part requirement that the Sages placed on passing through the fire. On the other hand, it does so in such a circular manner as to be of no help in understanding what ritual the Sages had in view here. In this case it appears that the appeal to the biblical text is primarily based on an already existent halakhah. There is no doubt, from both this section and from the section in m. Sanhedrin, that passing through the fire to Molech is not an approved practice, but the nature of the ritual being examined remains obscure. Like, the asherah, however, the Tannaitic Sages speak of this ritual as though it could be a plausible context for non-Jewish ritual.

Conclusion

Unfortunately, in many ways all of this leaves us with many questions that remain difficult to answer in any sort of positive manner. Why does passing through the fire to Molech have a two-part element to it? What is it about passing through the fire that is so inoffensive that it only becomes an actionable offence when paired with a dedication to a deity who had loathsome connotations even in the biblical period? Although the answers to many of these questions are not immediately obvious, the questions themselves provide a clear example of how the Tannaitic Sages deploy the Bible in their discourse on foreign ritual. As we saw with the asherah and with images, the Hebrew Bible provides the vocabulary and the framework for the Sages discussing and

712 It should be noted at this point that the Bavli explicitly states that “passing through the fire to Molech does not constitute worshipping *avodah zarah,*” in a saying attributed to R. Abin, a Palestinian Amora, in b. Sanhedrin 64a. If this can be related back to the Mishnaic period it has significant implications for the idea of what is actually going on in the minds of the Sages *vis-à-vis* passing through the fire to Molech.
contextualizing their own ritual concerns, rather than the concerns of the original text. In the discussion on Molech, as with the asherah, the Tannaitic Sages appear to be looking for a plausible context for non-Jewish ritual in order to explain and deal with it. The actual context, if there is one, remains obscure to the present-day scholar.

The Hebrew Bible provided the Sages with fertile ground and a rich tradition for discussing the rituals of non-Jews. In the two examples examined in this chapter—the laws about the asherah and the laws about “passing the children through to Molech”—we saw how the Tannaitic Sages deployed the Bible in support of their discourse on foreign ritual. The vocabulary remained, in many ways, a biblical vocabulary, but the concepts examined reflected the worldview of the Sages. Because of that, old ideas such as the asherah and the passing of children through the fire to Molech took on new meanings. The Sages were thus able to keep their ritual conceptions within the vocabulary of the Bible, while still dealing with the polytheistic world in which they were at once embedded in and separate from.

In the next chapter, we turn from the Bible to the world of the Sages, and look at how the Sages discourse on ritual related to the everyday practices that surrounded them.
Chapter 12: Foreign Ritual in the Surrounding World

Having looked at how the Sages deploy concepts from the Hebrew Bible into their discussions about the non-Jewish ritual, this examines how the ideas of plausible context and the customary ritual were applied to notions that derived from the world that surrounded the Tannaitic Sages. This chapter examines in greater depth some of the specific examples that have been briefly introduced in previous chapters. This includes the merqolis and the pouring of libations. Each of these examples represents a specific way that the discourse on foreign ritual shows how the Tannaitic Sages apply the principles of avodah and ritual discourse, presenting several more test cases to illustrate the claims of this dissertation.

Merqolis

As noted in Chapter 9, the merqolis is usually taken to represent a kind of armless herm. This section will look at the evidence for such activities in the Roman east, as well as discuss how the Sages viewed and thought about the merqolis. The actual evidence for the existence of the merqolis in the ancient world requires more analysis than appears at first blush.

The merqolis is one of the more common elements discussed in the rabbinic discourse on foreign ritual. The practice of throwing stones at a merqolis is specifically called out as the worship of avodah zarah in m. Sanhedrin 7:6, even though this activity
is not associated with the Jerusalem Temple cult and would not be meʾilah, which is suggestive of its importance in the rabbinic mindset. Mishnah Avodah Zarah attempts to define what constitutes the makeup of a merqolis:

I. “R. Ishmael says, Three stones side by side are a merqolis.
   A. They are forbidden.

II. What if there are two?
   A. They are permitted,” (m. Avodah Zarah 4:1).

Throwing stones at a merqolis was apparently a sticking point for the Tannaitic Sages in their search for plausible contexts for non-Jewish ritual, as there is a great deal of discussion in the Tannaitic source. This rabbinic discussion has also generated scholarly debate, as figuring out the nature of the object that the Tannaitic Sages refer to as a merqolis presents some difficulties. There is little evidence for Athenian-style herms outside of that part of the Hellenic world. In spite of this, Elmslie argues that the rabbinic merqolis refers to square pillar-style herm and that the heaped up rocks, mentioned in the passage quoted above, were the rocks thrown by worshipers. In something of a contradiction, he makes the statement that the Sages of the Talmud were “not acquainted with Hermion shrines.” Still, the assumption that the merqolis is related to the herm in some way is picked up by other, later commenters, such as Mirielle Hadas-Lebel. Based on the votive offerings, discussed in further detail below,

---

713 Pausanias claims that the Athenians were the first to make this kind of herm. Pausanias, Description of Greece, 1.24.3.
714 Elmslie, Mishna Aboda Zara, 74.
Friedheim identifies the *merqolis* with a syncretized form of the Mercury of Baalbek.\footnote{Friedheim, *Rabbinisme et Paganisme*, 230–237.} Whatever the association between the *herms* and a specific non-Jewish deity, piles of stones were called *herms* throughout the Roman Empire.\footnote{Neudecker, “*Herms*,” *Brill’s New Pauly*. Brill Online, 2015. Accessed on April 20, 2015.}

Elmslie, somewhat inadvertently, points the way to a solution. He references a report, published in the 1885 edition of the Palestinian Exploration Fund Statement, which talks about dolmens found in the Holy Land. This report connects these dolmens to the *merqolis*, although this is contrary to Elmslie’s thesis that these were standard, square-hewn *herms*. There is a line-drawing of what the Fund suggests is a *merqolis*, which portrays a triple dolman, called a *trilithon* in the report.\footnote{Report of the Palestinian Exploration Fund, (1885), 10–12.} Of course, one of the difficulties in connecting cairns and dolmens with the rabbinic *merqolis* is that they do not leave behind much of an archaeological trace, and certainly not a datable one, being, in essence, piles of rocks.

Although it goes against his primary identification, Elmslie goes on to quote from a scholiast to the Odyssey who has an entry on Ἑρμαῖος λόφος, commenting on Odyssey 16:471.\footnote{Elmslie, *Mishna Aboda Zara*, 74.} Λόφος is word that means crest or ridge, and so this phrase is usually translated in the Odyssey as the “hill of Hermes” or the “ridge of Hermes.”\footnote{LJS, λόφος} Commenting on this section, the Scholiast says:

“(Ridge of Hermes) the heap of stones in the road is called a *herm*…for they call the markers of Roman miles ridged herms…wherefore do men honor Hermes by the road even up until now, through being led by the god and the steward of those...
living at home, they make heaps of stones and while carrying over they strike stones, and these they call “ridged herms.”

This scholion clearly dates to the Roman period or after (as the reference to Roman miles indicates). This passage is used by Elmslie to put forth his argument that the rabbis are referencing the piles of stones that derive from the practice of throwing stones at a herm. Elmslie’s position cannot be maintained, however, because the Tannaitic Sages refer to the merqolis itself as an object of worship, and the merqolis was defined in m. Avodah Zarah 4:1 as at least three stones together.

That this was conceived by the Mishnah as an object of ritual activity is shown in the mishnah immediately following the definition in 4:1:

I.  [If] someone found on top of it

A. money

B. covering

---

721 Greek: (471.) ἔπειρ πόλιος] ἀντί τοῦ ἐξω τῆς πόλεως. V.
Ἠρμιδὸς λόφος[ ὁ σωρὸς τῶν λίθων ἐν ταῖς ὀδοῖς ἔρμαιον ὄνομαζαν. ἤ καὶ θάλας λοίμων βοιμᾶς ἢ λόφος ἔρμαιον. ἢ ἄρ ἐπὶ τοὺς λόφους ἕρμου ἑρμημένου. V.
Ἠρμῆς πρώτος ἔκαθηρε ταῖς ὀδοῖς, καὶ εἰ που ἐκάθηρε, λίθων ἅπαν (5) ἄρ ἐξω τῆς ὀδοῦ, ὁ σημεῖον ἦν. ἔρμαιος αὐτὸς λόφος ἀντὶ τοῦ σημείου τῆς ὀδοῦ. τα γὰρ σημεῖα τῶν Ῥωμαίων μιλίων ἔρμαιως λόφους καλοῦσι. B.H.Q.
Ἡρμῆς κατὰ Δίος κέλευσιν ἀνελὼν Ἀργον τὸν τῆς Ἰουδὸς φύλακα ἰχθη ὑπὸ δίκην, Ἡρας αὐτὸν καὶ τὸν ἄλλον ἀγαγόντων θεὸν εἰς (10) κρίσιν ὅτι πρώτος ἐπεβεβλήκει δαιμόνων θητῶν μισήματι τὸν Ἀργον καὶ ἀνηρκεί. κρίνοντας δὲ τοὺς θεοὺς εὐλαβήσθησθαι μὲν τὸν Δίο διὰ τὸ ὑπόδικον γεγενήσθαι τὸν Ἐρμήν ταῖς αὐτοῦ παραγγελίαις. ἁμα δὲ ἀρσεωμένους τὸ ἄγος καὶ τῆς ἀνδροφοινίας ἀπολύσαντας αἰς ἐγὼν τοὺς ποιεῖν τὸν Ἐρμοῦ γῆρον πλῆθος, καὶ τοὺς ἀνθρώπους ἔχρι τοῦ νῦν εἰς τιμήν Ἐρμοῦ κατὰ τὰς ὀδοὺς, διὰ τὸ τὸν θεὸν εἶναι τοῦ- τον καθηγεμόνα καὶ ἐπίτροπον τῶν ἐκδημούντων, σωροὺς ποιεῖν λίθων καὶ διάγοντας προσβάλλειν λίθους, καὶ τούτους καλεῖ ἔρμαιος λό- φους. ἔστε δὲ λόφος πάν το εἰς ψυχὸς μετέωρον. ἢ ἰστορία παρ’ Ἀν- (20) τικλείδη. Q.V.
C. or vessels
   1. indeed these are permitted.

II. The stem of a vine
A. an olive crown
B. wine
C. oil
D. sifted flour
E. or anything that goes out for an offering upon the top of an altar
   1. these are forbidden (m. Avodah Zarah 4:2).

The Mishnah clearly has votive offerings in view here—in addition to the stones that make up this kind of merqolis, there are objects on it and surrounding it. The category of conceptual meʿilah explains the distinction that the Sages make between the two different categories of votive offerings. Money, cloth coverings and vessels have other uses besides ritual purposes, and so it is plausible that these things could be understood as not specifically votive offerings. They do not necessitate finding a plausible cause for non-Jewish ritual. Wine, oil and flour all are offerings that are part of the Temple Cult (see Lev 23:13). These are forbidden because of their similarity to the Temple rituals. The olive crown is the one object out of place here, but Friedheim suggests that this is because of the Dionysian nature of the god to whom the merqolis is dedicated. If

---

722 It is primarily from this crown that Friedheim believes that this refers to Mercury of Baalbek, because of the agricultural associations of that divinity.
Friedheim is correct, then this would be forbidden because it is customarily associated with the god, and so comes under condemnation through that clause. Regardless, these votive offerings clearly show that the *merqolis* is thus conceived as a definite ritual object.

*Merqolis and Herm*

From a modern scholarly perspective, discussions about the *merqolis* and its relationship to the *herm* require the examination of the evidence of classical and later Greek ritual practice. Elmslie’s assumption that these are traditional square *herm* is currently an untenable position, since no such objects have been found in the Holy Land. Early scholarship on the topic assumed that the ancient Greeks moved from aniconic to iconic representation, and that heaps of stones at cross-roads represented some of the earliest forms of Greek ritual representation. The references in these sections often read more into the statements of ancient authors than is warranted. For example, William Smith’s 1890 *Dictionary of Greek and Roman Antiquities* quotes the Hellenistic poet Nicander of Colophon, in order to show that the ancients threw stones at *hermae*. The reference is in *Theriaca*, the poet’s treatise on poisons. In Nicandor’s discussion on snakes, he mentions a venomous snake that “lives in stony ground and cairns.” Although this section is significant in that it speaks about a *hermakos* that snakes are able to live and secret themselves within, indicating that we are not likely looking at an Attic-style pillar herm,

---

724 This does not preclude the possibility of their being found, of course, but the Holy Land is one of the most archaeologically dug locations in the world.
725 William Smith, “Herme,” *A Dictionary of Greek and Roman Antiquities* (London: John Murray, 1890). It is interesting to note how much of the present discussion about the relationship between iconism and aniconism derives from Victorian conceptions of culture and religion.
726 Greek: τὸν οἱ λίθοικάς τε καὶ ἐρμάκας ἐννίοντες παυρότεροι, τρητεῖς δὲ καὶ ἐκπυροί.
it does not mention the throwing of stones. The clearest example in an extant Greek
source to the throwing of stones to worship a herm is a citation from Etymologicum
Magnum, an anonymous Byzantine etymological dictionary, which quotes a 3rd Century
Ionian historian, Xanthos of Lydia:

Herm: the heap of stone—in general, stones at the crossroads. According to
Xanthos, when Hermes killed Argus, and a judgment was exacted and he gave an
account to the gods, through the first to grasp (undertake), the guilt which they
purified, and remitting him from murder, striking him with pebbles; therefore it
[the practice of throwing stones] continues to the present day.727

This gives good evidence for the existence of heaps of stones associated with the worship
of Hermes or Mercury, yet it derives from a Byzantine rather than a Classical or
Hellenistic source, even though it quotes an earlier source.

Jerome’s Vulgate takes up the notion of throwing stones at a herm. In Proverbs
26:8 the Vulgate reads: “sicut qui mittit lapidem in acervum Mercurii ita qui tribuit
insipieni honorem,” which translates as “As one who sends a stone at a heap of Mercury,
so is ascribing honor to a fool.” This is a translation of the Hebrew: נזרו אב ממרמה כ- The Latin “in acervum Mercurii” is translating a fairly difficult word from
the Hebrew, mergamah.728 Although, as we shall see, it can mean “heap,” the Hebrew of

727 Ἐρμαῖον τὸν σωρὸν τῶν λίθων, καὶ συνόλως
toίς ἐνοδίους λίθους. λέγει δὲ περὶ αὐτῶν Ἑλάθος, ὅτι ἀποκτείναντος Ἐρμοῦ
tὸν Ἁργον, καὶ δίκαια εἰσπραττομένου καὶ ὑπέχοντος ἐν τοῖς θεοῖς διὰ τὸ πρῶτον
ἀγαθαί, τοῖς λουποῖς ἄφθοσισμένους τὸ ἄγος † καὶ ἀπολύσαντας τοῦ φόνου
προσβάλλειν αὐτοῖ τὴν ψῆφον ὅθεν διαμένειν ἔτι καὶ τοὺς. New Jacoby, .

728 מרגמ"ח, HALOT 632.
Proverbs makes no reference to Mercury or Hermes or to any other god. Where then is Jerome getting this interpretation for Proverbs from?

As in many cases, it is very likely that Jerome is getting some of this from Jewish sources, as a similar tradition is present in Tannaitic sources. Tosefta Avodah Zarah has a lengthy discussion on the intersection of throwing stones at a merqolis and this precise verse:

I. Anyone who throws a rock at a merqolis honors it,
   A. “like one who binds a stone to a sling, [so is he that gives honor to a fool]” (Proverbs 26:8),
   B. because the one who throws a stone at a merqolis honors it,
      1. but it does not know that it is being honored at all.
      2. [Likewise] the one who pays honor to the wicked, since the wicked does not know he is being honored.

II. Another interpretation: “Like one who binds a stone” is like one who throws a stone at a merqolis,
   A. [which is] likened to worshiping avodah zarah,
   B. so also is honoring the wicked [likened] to the worship of avodah zarah.
Tosefta here structures its argument around the same biblical verse of Proverbs 26:8: “Like the one who binds a stone in a sling, so is he that honors a fool.” Although the translation given here represents the majority reading from most major translations, and is in accordance with the Hebrew, there is an ambiguity in the text that is behind its relevance to the discussion of the merqolis. The word that I have translated as “sling” is the same word מרגמה, from above. According to Gesenius’s 1846 lexicon, it has the meaning of a “heap of stones,” deriving from the ר/ג/מ, a root that means in Arabic “to heap up stones.” The LXX has σφενδόνῃ, which means either the sling or the sling-stone. 729 According Koehler and Baumgartner the word is hapax legomenon, and so must be interpreted according to context, either following the LXX and the Peshitta to read “sling,” or to follow the Arabic root and read “a heap of stones.” 730

This word is not the only affecting the translation of this verse—the first word also presents difficulties, and influences how מרגמה is to be read. The first word in the verse is צazor, which can be read either as a Qal passive participle of צ/ר/ר, “to bind, constrain,” or it can be read as a noun meaning “pebble” or “small stone.” Proverbs 26:8 yields, therefore, two equally acceptable translations: “Like one who binds a stone to a sling” or “Like a pebble in a heap of stones.” 731 Both of these translations are acceptable, and are reasonably meaningful in the context of Proverbs 26, although to the modern ear, the second reading seems to make more sense. The verse refers, therefore, either to a

729 Similarly Peshitta has מלקה, which also means sling.
730 HALOT, 632.
731 Compare the 1917 JPS translation, “As a small stone in a heap of stones, so is he that giveth honour to a fool,” with the NRSV, “It is like binding a stone in a sling to give honor to a fool.” Both should be compared with the NJPS, which essentially splits the difference: “Like a pebble in a sling, So is paying honor to a dullard.”
situation involving binding stones in slings, in preparation for throwing them, or to looking for a small pebble amidst a heap of stones. Which activity is in view here, it is an exercise in futility, much like the giving of honor to foolish person.

Tosefta seems to be understanding מרגמה in the sense of “heap of stones,” rather than in the sense of “sling.” This admission does not rule out the option, however, that the Sages of Tosefta are aware of the ambiguity of the verse, and are, in fact, using both meanings. With both meanings behind their reading, connecting this verse with the practice of throwing small pebbles at herms becomes a natural result. Tosefta connects this practice directly to the verse by noting that “the one who throws a stone at a merqolis honors it, but it does not know that it is being honored at all” (t. Avodah Zarah 6[7]:15).

This interpretation acknowledges that throwing a rock at a merqolis is meant to honor it, but admits that a merqolis is essentially a pile of rocks, and so is unaware of the honor that is being given to it.

This is a different argument for the halakhic prohibition against throwing stones than the one presented in m. Sanhedrin 7:6. Whereas there the logic was that it was the relationship between custom and ritual that made the throwing of stones unacceptable, without regard to the nature of the thing being worshiped, here it is the insensibility (compared with the insensibility of the fool) of the merqolis that presents the difficulty. The Sages in the Mishnah and Tosefta are characterizing and understanding the merqolis not as a traditional Attic herm, but instead as a pile of rocks, which to say a cairn or a dolman, similar to the “heaped cairns” discussed in the above-cited etymological dictionary.
As noted, like Tosefta, the Vulgate connects מרגמה in Proverbs 26:8 to a heap of stones that is connected to the god Hermes or Mercury. Jerome learned Hebrew from Jews residing near his cave in Bethlehem, and he was aware of Jewish and aggadic tradition, as his Hebrew Questions on Genesis clearly shows. It is not impossible, therefore, to suggest that Jerome’s reading for this verse in Proverbs is influenced by Jewish conceptions of the mergolis. Among other things, this would mean that the interpretation of this verse by Jerome derives from Jewish conceptions of the Graeco-Roman religious and ritual world.

Nevertheless, the presence of this translation in the Vulgate, especially in contrast to the LXX, suggests that a concern for this particular ritual matter was something Jerome took from his Jewish teachers. The practice of throwing stones at roadside cairns, apparently associated with the worship of Hermes/Mercury, is passed on from a rabbinic expansion of specific non-Jewish practice into what would become the authoritative Christian translation of the Bible for centuries. The Tannaitic search for plausible contexts for non-Jewish ritual behavior brought one of those contexts to greater significance.

Libations

The pouring out of libations was of major concern to the Sages in Mishnah and Tosefta. Its prevalence in the ancient world which surrounded the Tannaitic Sages meant that it was a key place for looking for plausible contexts for non-Jewish ritual. The fact that

---

libations were also performed in the Jerusalem Temple meant that this practice would have also been part of the world of conceptual me’ilah. With this in mind, it is unsurprising that the practice of pouring out libations is such a large part of the Tannaitic discussions on non-Jewish ritual. As noted in the Introduction, David Rosenthal has suggested that the Mishnah (and therefore Tosefta) Avodah Zarah may be divided into two different smaller tractates, the second of which would be tractate Libation Wine.

The libation of various liquids was an important part of much of Greek and Roman ritual. Part of the nature of this ritual, which the Tannaitic Sages also note, is the ubiquity of the offering of libations. Walter Burkert notes that “the sponde [the ordinary kind of libation] is performed whenever wine is drunk.” This may be seen as early as the Homeric Hymn to Hestia which reads: “For without you there can be no feasts for mortals, if at the beginning yours is not the first and last libation of honey-sweet wine.”

Libation presents an intriguing line between Jewish ritual and the rituals that are common to the surrounding cultures, because they were part of the temple cult and so were me’ilah, but they were practiced so differently from those in the Temple that different lines needed to be drawn. Jonathan Kirkpatrick has recently argued that the

---

734 Burkert, Greek Religion, 71.
pouring of libations provided a talking point between Jewish and non-Jewish rituals, which was encouraged by some Jews in the ancient world.736

In spite of this similarity, it is very rare in the Hebrew Bible to see a libation offered by itself, and not as part of another offering, usually as part of the minḥah, or grain offering, which accompanied many of the offerings in the Israelite system.737 Most of the references of the Tannaitic Sages to this practice derive from the discussion on the minḥah, discussed by the Sages in the rabbinic tractate of the same name.

Minḥah and Libation in the Bible

Gen 35:14 provides the clearest biblical example of an independent libation offering to Yahweh, and it is represented in the text as happening before the Sinai Covenant, which may perhaps be suggestive of its non-paradigmatic nature. This passage is part of the Bethel narrative, where Jacob inadvertently incubates a dream revelation from Yahweh, and after the theophany, sets up an impromptu cult-site: “So Jacob set up a stela in the place that [God] spoke with him; a stone stela—he poured out a libation upon it and poured oil on it.”738 In this passage it is very clear that this is a dedicatory ceremony for this particular cult-site, which has numerous parallels in the ancient world.739 It is also, however, unique in the Hebrew Bible. This is probably because stelae—aniconic standing

---

737 Ex 29:40–41.
738 יָשֶׁב יֵעַקֹב מַצֵבָה בַמָקֹום אֲשֶר־דִבֶר אִתֹו מַצֶבֶת אָבֶן וַיָסֶךָ עָלֶיהָ נֶסֶךְ וַיֶצֶק עָלֶיהָ שָמֶן
stones—are associated in some places in the Bible with the worship of non-Israelite deities, such as Ba’al (Deut 12:3 represents a paradigmatic example).\textsuperscript{740}

\textit{Materials for Libation}

In the Hebrew Bible and the Mishnah, the approved substances for libation are oil and wine. M. Menaḥot contains a lengthy section that discusses the types and quality of oil and wine that were acceptable for use with the various offerings of the Second Temple cult.

I. And from where did they bring the wine?

A. Qerutim and Hatulim\textsuperscript{741} are first.\textsuperscript{742}

B. Second to them: Bet Rimmah and Bet Laban in the hill country

1. And Kefar Signah in the valley.

C. [The wine] from all places was appropriate,

1. but they used to bring it from there.

D. They would not bring it from a house of dung,\textsuperscript{743}

E. nor from a field which needs irrigation

F. neither from a vineyard which was sown between them [the vines],

1. but if they brought—it is permitted.

G. It is not permitted to bring from straw wine\textsuperscript{744}

\textsuperscript{740} See the discussion in Carl F. Graesser, “Standing Stones in Ancient Palestine,” \textit{The Biblical Archaeologist} 35 (1972): 33–63, as well as my own commentary on asherah in the previous chapter.

\textsuperscript{741} The places associated with these toponyms are still unsure.

\textsuperscript{742} Hebrew אֵלֶף, from the Greek \textit{alpha}. As the first letter of the alphabet, this letter could stand for something which was foremost in its class.

\textsuperscript{743} Jastrow suggests that this refers to a field which is dependent on manuring in order to be productive. Jastrow, \textit{Dictionary}, 379. See also, however, t. Avodah Zarah 2:5, where the same root has reference to non-Jewish merriment. It is probable that there is a pun being made in both cases.
1. And if it is brought—it is forbidden.

H. They do not bring dry wine,
   1. according to Rabbi.
   2. But the Sages permitted it.

I. They did not bring sweet wine, or smoked wine, or boiled wine,
   1. and if they bring them they are forbidden.

J. They do not bring from grapes from trellises,
   1. but from the ground and from worked vineyards” (m. Menahot 8:6).

These regulations are similar to others in the Mishnah (in fact there is a section dealing with similar regulations for oil in the very same pereq), but it serves to show the concern that the Sages had for the ritual preparation associated with the the cult, and with carefully regulating the material aspects of their own cult, which alos part of their concern for other peoples’ rituals.746

744 Hebrew אליסטן, from Greek ἡ λιαστός. This refers to wine where the grapes are dried in the sun in order to concentrate their sugars and make a sweeter wine.
745 Wine made from grapes which have been fumigated to preserve their freshness.
746 Cohn, Memory of the Temple, 17–38.
Much of the material in Tosefta Avodah Zarah deals with when wine is, or is not, considered libation wine. This section comes from the idea that non-Jews will make a libation at any moment, an ancient observation that is well in keeping with the prevalence of libation in Graeco-Roman ritual. Referring to a situation where a Jew is helping a non-Jew with the loading of wine, it quotes the opinion of the Sages:

I. But the Sages say: The new and the old [wine] are as one
   A. they assist him [with the wine] until he passes from sight.
   B. [When] he passes from sight, it becomes libation wine,” (t. Avodah Zarah 7[8]:1).

It is not the type of wine that is the concern in this section. This is not to say that the Tannaitic Sages are unconcerned with specifics, as they certainly are. What is instead going on here is that the plausible context for this ritual activity is found in the action of libation, not in the material being poured out as a libation. The assumption here is that the moment the non-Jew passes out of the supervision of the Jew he will pour out the wine as a libation. The Tannaitic Sages are adducing a plausible context for ritual behavior—because of the prevalence of pouring libations, even being around wine qualifies as a plausible context for a non-Jew to perform a ritual action.

As noted in Chapter 4, Tosefta Avodah Zarah is concerned with defining non-Jewish ritual more closely than Mishnah Avodah Zarah. As part of this process, t. Avodah Zarah discusses a number of scenarios that the Tannaitic Sages do not count as libation offerings, and that do not invalidate the wine for usage. Tosefta describes
circumstances where wine passes over the hands of a non-Jew during the process of wine making:

I. As for someone who weighs grapes in the basket of a balance, despite the fact that [the wine] floats on top of his [the non-Jew’s] hands,\textsuperscript{747}

A. [this] is permitted,

B. because this not their custom\textsuperscript{748} for libations.

II. Someone who presses grapes into an earthen vessel,

A. even if the wine flows off the back of [the non-Jew’s] hands,

B. [this] is permitted

C. because it is not their custom for libations.

III. If it fell into a well

A. and [something] touches [the wine] a little bit

B. all of it is forbidden.

C. If he went down to draw the skins and the pits out from the well:

1. this happened once, and they came and asked the Sages, and they said: Sell it all to the non-Jews.

IV. A non-Jew who brought up grapes in baskets and in wheeled vats to the wine-press

A. even though one has beat them in the vat

B. and the wine spurted on the backs of grapes,

\textsuperscript{747} The Hebrew phrase is: "אע''פ שהיין צף על גבי ידיו.

\textsuperscript{748} Hebrew דרך in all cases. See chapter 9 for a discussion of this term in relation to the idea custom in the ancient world.
1. [it is] permitted
2. since this is not their custom for libations. (t. Avodah Zarah 7:4–5)

These various scenarios are things that could plausibly arise in a wine-making context. In every case, except for the wine falling into the well, Tosefta says that the wine is not invalidated, because “it is not their custom for offering libations,” which is to say that even though they have touched the wine, they have not done so in such a manner that it qualifies as having poured out a libation.

This passage in Tosefta represents another piece of evidence for the conception of ritual as custom in the ancient world. This passage claims to be aware of how non-Jews make libations—it feels confident enough to make the statement: “it is not their custom for offering libations.” From the perspective of the ritual discourse of the Sages, this shows that the Sages consider themselves fully able to make judgments between ritual and non-ritual actions. Whether or not they are actually making informed opinions is, in some ways, beside the point. This is a prime example of this dissertation’s argument that Tannaitic Sages recognized that not everything a non-Jew does is a ritual, even when the physical act resembles other rituals. Libations are an excellent example of how this works. The overwhelming prevalence of libations in the Graeco-Roman world means that the Sages are keenly interested in regulation the world of wine, and wine-making. They recognize, however, that every time wine spills, it is not a libation. They, therefore, appeal to non-Jewish custom in order to establish what is, or is not, a ritual usage.
As noted, the anonymous Sages in Tosefta claim knowledge about how the non-Jews practiced libation offerings, because they are able to make, in the various scenarios presented, the observation: “it is not their custom offering libations.” What Tosefta does not give us, unfortunately, is a statement on what their custom actually is—there is no description of what a non-Jewish libation looks like. This helps to illustrate an important aspect of Tannaitic discourse on the rituals of others—they only actually care about the rituals insofar as they regulate internally against practicing them, or perhaps even more importantly, against the appearance of Jews practicing such rituals. Such regulation was necessary, because libations were, in many ways, a border category for the Tannaitic Sages—libations were practiced extensively in the ancient world, but those libations were not quite the same as what would have been found in the Jerusalem Temple. This creates a need and a space for a larger discussion on the nature of what libation was and was not, and when and where it was meʿilah. It will be helpful, therefore, to look at the specific examples of libation in Tannaitic literature.

Libation in Rabbinic Ritual

Libations in rabbinic literature are, in many ways as obscure as they are in the Hebrew Bible. Although rabbinic literature tends to provide more detailed ritual descriptions than the Hebrew Bible, this is simply not a place where the Sages in Mishnah and Tosefta are concerned with giving complex discussions. There are, however, two kinds of libation-like activities that the Sages do discuss more in depth—the water libation associated with Sukkot and the pouring of blood as part of slaughtering an animal. Each of these provides something of the complexity of the Tannaitic views on the pouring of libations.
The libation ceremony discussed in m. Sukkot 4:8 involved both a libation of water and of wine, and the halakhah is very strict against mixing them. Tosefta Sukkot has commentary on a story of a priest in the Jerusalem temple who performed the Sukkot libation incorrectly, and the fate which befell him. This same water libation is also mentioned in Sifre Numbers 150. The midrash is occasioned, at the very least, by the numerous mentions of libations in the biblical book of Numbers, more than any other book in the Hebrew Bible. Jeffrey Rubenstein, who has studied the Sukkot water libation in greatest depth, uses this to show that the Tannaitic sages assumed that the water libation associated with the rituals at Sukkot derived directly from the halakhah of the Hebrew Bible. The fact that the Tannaitic sources clearly feel a need to derive the Sukkot water libation from scripture is suggestive not only of the lack of information of this specific ritual in the Hebrew Bible, but also of the general paucity of specific information about libation in the Hebrew Bible.

This is one of the key differences between the mishnaic and biblical approach to ritual—the Hebrew Bible, in spite of devoting a large section to ritual matters, is rarely concerned with instructing how a ritual is to be performed. This may be contrasted with the Mishnah, where the specifics of certain Jewish rituals are spelled out in great detail. This nuances Neusner’s argument about the Mishnah not adding to Leviticus’s “system of sanctuary and sacrifice,” for while the Mishnah considers the biblical rituals to be sufficient, the presence of mishnaic ritual descriptions not in the Bible shows that this is

---

749 Jeffrey Rubenstein has shown that this reference in Tosefta is later than that found in the Mishnah, because it comments upon the halakhah in the Mishnah, which accords with the similar relationship between Mishnah and Tosefta Avodah Zarah. Jeffrey Rubenstein, “Sadducees and Water Libation,” 421.
751 Neusner, “Map without Territory,” 106.
not the whole situation. As Naftali Cohn has pointed out, the Sages described the rituals of the temple cult in order to establish their own authority in ritual matters, including the ability to regulate rituals.\footnote{Cohn, Memory of the Temple, 39–56.}

**Blood Libation**

As with many things in the discussion of foreign ritual in general and libation in specific, the Sages’ discussion begins at the cross-roads between biblical ritual and the world that surrounded them. When dealing with something like the possibility of a libation of blood, there is always a question of whether the Sages are accurately reporting what they are seeing, or whether their process transforming a practice of their surrounding world into something more relatable obscures what they are reporting beyond recognition.

According to both the Hebrew Bible and the Mishnah, one of the most important elements of animal sacrifices was the manipulation and disposal of the blood. The paradigmatic verse for this is, in many ways, Lev 17:11: “For the life of the flesh is in the blood.” This is the reason given in Genesis 9:4–5 why humans are forbidden to eat blood, which, because of its placement as part of the covenant that God made with Noah, was included as part of the Noahide commandments, and was therefore incumbent upon the non-Jewish nations.\footnote{See my discussion of t. Avodah Zarah 8, below. Note also the New Testament example of Acts 15:20, where non-Jewish converts to Christianity are not required to keep the law of Moses (including, and especially, circumcision), but are required to refrain from eating “strangled animals and blood.”} The only place where an actual blood libation is mentioned is in Psalms 16:4, which reads: “Their sorrows be multiplied that speed\footnote{Following the interpretation of LXX. NRSV has “choose,” emending בחרו to מבחרו.} after another [god].
Their libations of blood I will not pour out, neither will I lift up their names upon my lips. John Goldingay, in his commentary on this Psalm, suggests that the difficulty with the libations of blood mentioned in this verse is who it is offered to, rather than the actual ritual activity.  

Certainly the presence of actual blood manipulation as an important aspect in the description of the temple cult in both the Mishnah and the Hebrew Bible suggests that not all pouring of blood should be viewed as an automatic libation of blood. In the Hebrew Bible, several of the sacrifices required under the law of Moses have specific examples of manipulation of blood. A few examples will help to show this. Exodus 29, which describes the consecration of Aaron and his sons, includes the sacrifice of a bull as a חטאת (sin offering). The specific manipulation of blood figures strongly in this passage: “And you will take some of the blood of the bull, and you will place it upon the horns of the altar with your finger. And all the [rest of] the blood you will pour out at the base of the altar” (Ex 29:12). The creation of a priest in Exodus’s system also required, therefore, the specific manipulation of blood, although it should be noted that the pouring out of blood was not that manipulation. One final nuance to this question is that the pouring out

---

755 Heb. נסיכיהם מדם.  
756 For the ritual notion of calling upon the name of gods besides the God of Israel in the latter portion of this verse, see m. Sanhedrin 7:6.  
758 Kathryn McClymond argues that Jewish sacrifice is primarily about the manipulation of blood in Beyond Sacred Violence: A Comparative Study of Sacrifice (Baltimore: Johns Hopkins University, 2008), 92–130. Although McClymond’s use of the Mishnah and Biblical sources is sometimes uncritical, her work provides an important contribution to the discussion of sacrifice by attempting to move away from models of sacrifice which emphasize victims and victimization, and which are in many ways, the scholarly continuation of the theological point of the New Testament epistle to the Hebrews.  
759 כלתיץ מדם הפקת הארצות המתקאות מעפעת המתיישב לאירואיד החפש הרסייד המתקאות 2
of blood and the pouring of libations used two different technical verbs. The verb for pouring libations in the Hebrew Bible is ב/פ/כ. The verb for pouring out blood is ב/ו/ש.

Leviticus 1 describes the process for the sacrifice of the עלה (whole burnt offering). It also describes the manipulation of the blood on the part of the priests: “The priests, the children of Aaron, will bring near the blood, and they will sprinkle the blood, all around, on the altar which is by the door of the tent of meeting” (Lev 1:5). A similar ritual process is described in Lev 3:2, 8 and 13, in connection with the שֶׁלֶם (the peace or well-being offering). This manipulation of blood, including pouring it out, is in fact, a regular part of all of the sacrifices that are contained within the Bible’s complex system of sacrifice. The idea that the pouring out of blood in biblical sacrificial law is not seen by the text as relating to the practice of libation may be seen from the deployment of different verbs. The fact that the passage in the Psalm is the only place in the Hebrew Bible or Tannaitic literature where a “libation of blood” is mentioned suggests that the manipulation of blood was not generally characterized as a libation, although it could be connected to it.

The manipulation of blood and the plausible connection that it could have to non-Jewish ritual gave the Tannaitic Sages pause. An example of this is found in the Mishnaic tractate of Hullin, which discusses laws for slaughter. Because the line between slaughter and sacrifice was very thin in the ancient world, this topic also contains regulations that appear to be legislating against appearing to offer sacrifice or perform non-Jewish rituals.

760 See Ex 29:12; Lev 4:7, 18, 25, 30, 35, 8:15, 9:9, 17:3; Deut 12:16, Deut 12:27 and so forth. Ez 24:7 has a negative example of not performing the practice of pouring out blood.
Germane to the present discussion, it contains regulations for the non-sacrificial manipulation of blood:

I. One does not slaughter
   A. in the midst of seas
   B. or in the midst of rivers
   C. or in the midst of a vessel.

II. But one may slaughter into a pool of water,
   A. and [if] in a ship,
   B. onto the sides of a vessel.

III. One does not slaughter into a depression in the dirt,
   A. but one may make a depression in the midst of his own house for the blood to flow into,
      1. but not in the street
      2. so that he does not encourage the minim” (m. Hullin 2:9).

The first section appears to be regulation against the appearance of offering sacrifice to gods and spirits who lived in bodies of water. There was a specific technical vocabulary used for sacrifices for the crossing of borders, including specific examples of the sphagia...
for the crossing of rivers. As part of these rituals, the throat of the animal would be cut such that the blood would flow into the body of the water. As part of a sacrificial calendar at Mykonos, there is a reference to a sacrifice to the river-god Acheloios, who is honored with eight lambs, who are killed such that their blood flows into the river. The possibility of slaughtering an animal into a river or body of water being interpreted as a sacrifice to placate the god or spirit of that body of water was therefore a legitimate concern for the Sages of the Mishnah.

After discussing slaughtering into water, the Mishnah moves to the pouring of blood into a hole. In the world of Greek sacrifice, there are usually two main kinds of sacrifice adduced by scholars: Olympian and chthonian, although modern scholarship has nuanced these distinctions in recent years. Maria-Zoe Petropoulou has described five elements that she suggests indicate a class chthonian sacrifice, which is the sacrifice that most concerns a discussion of the pouring out of supposed blood libations: “the victims were black; they were slaughtered at night, with their head pressed downwards; they were slaughtered…in a pit; their blood was poured into the ground; libations were sober, not of wine.” Of most pressing concern to the current discussion on blood manipulation, and especially to the reference in m. Hullin, is the slaughtering in a pit, and the pouring of blood into the ground.

---

Pausanias, describing the cult offered to the founder hero at Phocis, says: “He is worshiped daily, and the Phocians bring victims and pour the blood into the grave through a hole.” Here, an important part of the sacrifice appears to be pouring the blood through a hole into the putative grave of the hero. This may be differentiated from the ritual practices of the cult to Yahweh by the simple observation that the blood is poured through a hole into a grave—this clearly represents a very different purpose than the pouring of blood at the base of the altar in Jewish and Yahwistic ritual. Likewise, the verb “to pour” is not a verb that is used in Greek ritual texts to describe the pouring of libations. This is a different ritual environment than that of libations. It is still, however, sufficient to give the Sages reason to pause—the pouring out of blood could be understood as a non-Jewish ritual practice that would lead them to differentiate from their own ritual practices, which meant that it was a plausible context for non-Jewish ritual behavior.

In addition to the pouring of blood, this section references the minim, a category of Jewish heretic. The identity of the minim in m. Hullin 2:9 is as obscure as are most other references to the minim in rabbinic literature. Scholarship often associates the minim with Jewish Christians, but given the general conception of sacrifice in Christianity, especially as expressed in the Letter to the Hebrews, it seems unlikely that these minim are Jewish Christians, because there is little evidence of early Christians pouring blood into holes inside or outside of their houses. The Tannaitic search for

---

767 ἐσχέοσιν
768 For a discussion of the difficulties in identifying the minim see the overview in Christine Hayes, “The ‘Other’ in Rabbinic Literature,” 257–263. The scholarship on sacrifice in Christianity is immense, although
plausible contexts for non-Jewish ritual means that border practices, like pouring blood into holes, needs to be regulated, even when it is not against the worshiper of *avodah zarah*.

**Conclusion**

In addition to biblical antecedents, the Sages of the Tannaitic period drew from and discussed activities that were part of the world that surrounded them. The rabbinic discussion of non-Jewish ritual was therefore one that melded real-world experience with the need for boundary maintenance. The Sages’ discussion pulled from experiences that were part of their broader world. In many cases, certain activities were more completely discussed and drawn out because they were borderline cases. The examples of the *merqolis* and the various rules for manipulation of liquids, including libations, fall into this category.

The Sages discussed the *merqolis* in part because they did not understand *why* an object should be worshiped by throwing stones at it. In the general scheme of ancient ritual that the Tannaitic Sages subscribed to, this was an impious act, and the very inversion of an impious act to pious one seems to have attracted the Sages’ interest. In addition, the physical *merqolis* was for the Sages a gray area, because it was made up of stones piled up. It was, therefore, something that could be easily mistaken for a non-ritual object. By defining the *merqolis* so strongly, the Sages doubly define a troublesome category—one that was ritually unclear, and one that was physically unclear.

---

*It usually derives its theoretical basis from the project of the ancient author of Hebrews. Petrapolou, *Animal Sacrifice*, 213–224 provides a useful overview.*
The prevalence of the pouring of libations and the similarity of other ritual manipulations of liquids represents another category where the Tannaitic Sages were driven to legislate on matters that resided in a border line of their world. Libations were a part of the Temple cult, but were not described in depth by either biblical legislation or the Mishnah. They would have still been in the part of the conceptual category of *meʿilah*, and so considered part of *avodah*. The Sages were aware, however, that every spilling of wine is not necessarily a ritual act, and the rules on wine-making reflects that understanding. In addition to realizing that wine and its libation fit into a category that had the potential to cross borders, the Sages were also aware of other liquid manipulations that were both like and unlike ritual practices deriving from the ritual cult of the Jerusalem Temple. These slaughtering activities were forbidden, even though they were not precisely the worship of *avodah zarah*.

In all of these circumstances, the Tannaitic Sages were working to delimit the borders of Jewish ritual practice and understanding. In some cases, such as the *mergolis*, the lines were easy to see, but the internal categories needed clarification. In the case of ritual manipulation of liquids, the boundaries were harder to see and so the Sages created a discourse that clarified boundaries, and forbad activities that were related to, but were not quite ritual. In these cases, the ritual world that surrounded the Sages served to give them tools that they needed to define and clarify the Graeco-Roman world in which they lived. The covenant fidelity enjoined upon Jews by the Torah separated Jews from that world. The Tannaitic discourse on non-Jewish rituals, such as the *mergolis* and libations derived from the intersection of that separation with the need to live within the world.
Chapter 13: Conclusion
From the biblical period through the Tannaitic period and beyond, Israelites and Jews have discussed what it means to have no other gods and to make no images. The Tannaitic discourse on non-Jewish ritual contains discussion on not just specific ritual questions, but also on the behavior of non-Jews in general, in part because Jewish rituals were not wholly different from non-Jewish rituals. Tannaitic Judaism was a ritual system enmeshed in a system which it was similar to, but from which it wanted to remain distinct. In this dissertation, I have looked at the Jewish discourse on non-Jewish ritual during the Tannaitic period, since this provides in many ways a foundational look at how Rabbinic Judaism developed its discourse on the question of non-Jewish ritual. This discussion was the result of the interaction between Jewish conceptions and rituals that were many of the very same conceptions and cultural and social forces that were present in the ritual world-view of the Greeks and Romans. The Tannaitic discourse on these rituals is a search for plausible context for ritual actions, in order to allow Jews to both take part in their broader society and to remain separate from it.

The Tannaitic process of looking for plausible contexts for non-Jewish ritual explains why both Mishnah and Tosefta Avodah Zarah discuss libations in great detail. The pouring of libations was a pervasive part of non-Jewish life. Indeed it was one of the most common rituals practiced in the Greek and Roman world. Because of its
pervasiveness, the pouring of libations is heavily regulated by the Tannaitic Sages. This includes discussions in Tosefta about a variety of contexts where the spilling of wine does not constitute the pouring of libations and the worship of *avodah zarah*.

Since rabbinic discourse on ritual comes from recognition of the pervasiveness of ritual, for the Sages, the halakhah on the worship of *avodah zarah* were as much a process of identifying the contexts of inappropriate ritual activity as anything else. The Tannaitic discourse on non-Jewish ritual was one that was rooted both in the Bible and in the Greek and Roman world in which they lived. From the Bible, the Sages derived the very conception of the need to have no gods and to make no images. It is the biblical law which creates the need for a discussion about non-Jewish ritual at all. Exodus 20:3–5 and other verses regulating Israelite and non-Israelite cult provided the baseline for discussing the rituals of non-Jews. As importantly, the Bible provided a kind of ritual vocabulary which the Sages deployed in their discussion of non-Jewish ritual. Individual verses in the Bible were used, as in other places in rabbinic discourse, to show and support the legal decisions which the rabbis wished to promulgate. Cultural practices, such as the setting up of *asherot*, were described and related to present concerns of the Sages. Other practices, such as the passing of seed through the fire to Molech, were discussed in such a way as to remove it as a matter of concern for Judaism—it was no longer part of the general religious world in which the Jews lived. These specific examples were used as part of the tools which Jews took to the presentation of non-Jewish ritual.

On the other side, the Sages brought concepts which were part of the world in which they lived into this discourse. As I have shown, there were several places in which
Judaism was in continuity with the religious and ritual world of the broader Roman Empire. Chief among these was the appeal to the antiquity of ritual systems as part of their discussion. Customary behavior, handed down from the ancestors, was at the core of much Greek and Roman conceptions on the how and why of ritual. Greek and Roman ritual decrees, including “sacred laws,” were based on an invariable core which they viewed as having come down from their ancestors. Ritual was, in many senses, simply “the way things were done.” Like their Greek and Roman neighbors, the Sages pulled from their own cultural ritual injunctions (including the destroyed Temple in Jerusalem). The Sages used this concept of ritual as customary behavior both in their discussions about their own rituals as well as those rituals of their non-Jewish neighbors. This definition of customary behavior was useful in the process of delimiting and clarifying those practices which the Sages needed to regulate.

The regulation happens, in part, because of a recognition of the similarity between Jewish and non-Jewish ritual systems. In many cases, non-Jewish ritual practices are condemned not because they are different, but precisely because they are similar to Jewish ritual practice. Activities such as burning incense, offering sacrifice, and even pouring out libations to gods besides the God of Israel are rejected because those actions are part of how Jews worship God. To perform activities to another god would be to give away God’s prerogatives. This is connected to the rabbinic concept of meʻilah—the use of temple privileges outside of the temple. The Tannaitic Sages viewed non-Jewish ritual as an affront to God’s sovereignty, not because the actions themselves were inherently immoral, but because they were performed in places and to deities which are contrary to
the God of Israel’s prerogatives. Non-Jewish ritual was, therefore, condemned because it resembled the core in Jewish conceptions of ritual, conceptions which were maintained even after the destruction of the Jewish Temple. At their core, the practices which made up the worship of avodah zarah were not significantly different from those involved in the worship of the God of Israel. It was this very similarity which drove the need to closely define what did and did not qualify as the worship of avodah zarah.

The final culmination of this is that the Tannaitic Sages created a working theory of ritual which they applied to their discourse. Avodah zarah was, in essence, a sub-class of the broader class of avodah, which served as a general concept of ritual, whether Jewish or not. I have argued that the general similarity of practices compared and commented upon by the Sages means that they were commenting upon like-types. The difference between the worship of avodah zarah and the worship of the god of Israel was not a moral difference. As I have demonstrated, the Sages were aware of the similarities between their own rituals and those of non-Jews. These very similarities drove much of rabbinic discourse. It also helps explain how various activities, identified by the Sages in Tosefta as the “Customs of the Amorites,” could be considered as not being punishable as the worship of avodah zarah, because they were not viewed by the Sages as ritual—they are not avodah zarah because they are not avodah. In searching for the context of these activities, the Sages deploy a category of ritual which excludes these customs from ritual.

As non-ritual activities, I have contrasted the “Customs of the Amorites” with ritual activities which did not fit within in the general Jewish conception of ritual, but which were still classed as avodah. These provided another point for the Sages to discuss
and define non-Jewish ritual. Chief among the rituals discussed is the *merqolis*, the rabbinic version of the *herm*. In the view of the Sages, throwing stones at a *merqolis* represented something which needed to be commented upon and clarified, because it represented a murky area. It would not do for Jews inadvertently to offer worship to a *merqolis* by thinking that they were dishonoring it by throwing stones at it. It is the very strangeness of the supposed act which requires it to be explored and explained. Although the discussion of the *merqolis* derives from the same legal needs of the other discussions—finding and exploring the contexts of non-Jewish ritual—it does so for an activity which appears to have somewhat perplexed the Sages. Because it was not part of the general customary assumptions about the context of ritual, the Tannaitic Sages felt that it warranted further discussion.

Looking forward, realizing that the Tannaitic Sages had a single category of *avodah* which was based on those ritual activities that were part of the Jerusalem Temple cult, an avenue for further research would be looking at how the Amoraic Sages used this category which they inherited from the Tannaim. The Mishnah and Tosefta were created in a Greek and Roman environment, while the Babylonian Talmud was created in a Persian, largely Zoroastrian, environment. Because the Tannaitic discourse on the rituals of non-Jews is a search for contexts in order to make judgments about possible rituals, different contexts would change that both the frame of the discourse and its solutions.

More work could also be done in comparing Greek sacred laws to the Jewish legal codes. Like the Mishnah and Tosefta, these laws derive from concepts of ritual which are based in a foundational understanding of certain invariable ideas about ritual that have
been passed down according to ancestral custom. The process of making sacred laws parallels, in that sense, the rabbinic process of legal thinking based on their own custom. Tannaitic Judaism developed from rules and regulations derived from the covenant fidelity urged upon Israel by the Torah, creating system which was ideologically separate from other nations and ritual systems. Yet the ways in which the Tannaitic Sages discoursed on the rituals of other, non-Jews, reflect the world in which they were embedded. The Tannaitic Sages brought to their discussion of non-Jewish rituals many of the same ritual assumptions shared by their non-Jewish neighbors. Because the Tannaitic Sages brought many of the same ritual assumptions as their non-Jewish neighbors, the separate and separatist nature of Judaism had to be deployed with a keen eye to context. The Tannaitic discourse on Greek and Roman ritual became, therefore, a search for context. The assumptions about sacrifice and the general ritual of the ancient world were so strong that the Sages continued to use them in their discourse long after the destruction of the Jerusalem Temple. The Tannaitic Sages ascribe continuities and discontinuities between Jewish and non-Jewish ritual in their discourse on the worship of avodah zarah, which is part and parcel with their need to maintain their differences connected with their integration into their broader world.
Bibliography


_________. *Roman Festivals in the Greek East: From the Early Empire to the Middle Byzantine Era*. Cambridge: Cambridge University Press, 2015.


426


427


_________________. *Tosefta Kifshuta*.


