Excommunication, Death and Mourning

Introduction

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A

This book explores the meaning of the practices that Jewish tradition requires of a person under *niddui*, or excommunication. What effect are these practices meant to have? How do they affect the person who must observe them, and how do they affect the social circles around him? As we shall see, these questions lead to another central issue, the meaning of the Jewish laws of mourning. In the case of *niddui*, I shall show that social death is no mere metaphor. It is a living reality that acts on the mind and body of the person under the ban. He becomes a dead man walking. Even at a distance, he is marked out as someone under a ban. Communication with him is restricted, and at close quarters he provokes disgust like an actual corpse. What makes *niddui* so powerful is precisely that he continues to be a social agent even as he loses his social face. As for mourning, the sources I shall examine suggest a surprising way of understanding Jewish mourning practices. They serve to discipline the mourner and silence him because he poses a threat to society. Both social ostracism and mourning are very much with us in contemporary culture. Who among us has never experienced some degree of social rejection? Its consequences can be devastating. There is, of course, a connection between violence and ostracism or exclusion. People who have been socially excluded often become violent. An analysis of what the practices of *niddui* meant to the Sages brings the connection between *niddui* and death into sharper focus. It also clarifies the psychological and social mechanisms brought to bear on a person subjected to a severe form of social exclusion. Rabbinic *niddui* teaches us something about the power of a form of exclusion that leaves "the door open" for the person under the ban and does not remove him from the community altogether. It is precisely this form of distancing that has the greater effect on him, because he experiences his exclusion again and again.

In antiquity, a person placed under a ban had no means of escape. Today, when social ties are looser and communities less cohesive, the effects of exclusion have diminished as well. And yet, being shunned or simply ignored can still have a decisive effect on the person at the receiving end. Among children, or in traditional communities, the situation of someone who is ostracised still closely

resembles that of earlier times. A child who is being shunned has nowhere to go and feels the full force of it. What is more, the religious courts of the Haredi community, and even the courts of the rabbinate when sitting as arbitrators, still threaten litigants with *niddui* to compel them to appear or to make the parties comply with a ruling. Clearly, the ban no longer reaches into every part of life as it did in the time of the Sages. Yet social exclusion and the loss of one's social face still constitute a momentous and traumatic event in a person's life.

As I have said, analysing the meaning of the practices of *niddui* also sheds light on Jewish mourning practices. The great majority of Jews still observe these customs, and they are almost invariably considered from the standpoint of the therapeutic power they hold. This book draws attention instead to their silencing and disciplinary effect, to the particular way in which they enfold the mourner in a bear hug that keeps him from giving voice to his anger or his heretical thoughts.

B

The relationship between the person under the ban and the community is complex. The community holds him apart from its members, yet it invests considerable energy in the very mechanism that does so. That investment testifies to a profound recognition of the person under the ban. Membership in a community, as we know, is hardly a given. It is a "good" that its members grant one another and grant to newcomers (Walzer 1983, 31). The relation between *niddui* and membership is therefore central. Does placing someone under a ban strip him of his membership? If not, what exactly is his status as a member or non-member of the community? Moreover, a ban can succeed only if the person concerned has no alternative community and accepts the authority of the one that has placed him under it. The difficulty, as I have suggested, is that the very act of imposing *niddui* affirms the membership it is meant to hold at a distance and restrict.

This sensitivity to the relation between distancing someone and drawing the boundaries of a community appears in the foundational rabbinic text on the question "For what deed or event does one place a person under a ban?" The lists of "grounds for imposing a ban" compiled by the authors of the halakhic codes rest on a saying of R. Joshua ben Levi, a first-generation amora of the Land of Israel who lived in the early third century CE. The saying appears in both the Babylonian and Jerusalem Talmuds. There are, it tells us, "twenty-four matters for which a ban is imposed". It had already acquired importance in the talmudic discussion itself. It is no accident that Maimonides and R. Joseph Karo took it up when they set out the grounds for *niddui* in their halakhic works. In the Babylonian version, R. Eleazar asks R. Joshua ben Levi where he can find

the twenty-four passages in which a ban is imposed to uphold a teacher's honour. R. Eleazar finds only three.

> And R. Joshua ben Levi said, "In twenty-four places the court imposes a ban to uphold a teacher's honour, and we have learnt them all in our Mishnah." R. Eleazar asked him, *heikha?* [Where?] He replied, *lekhi tishkaḥ* [Go and you will find them]. *Nefaq, daq ve-ashkaḥ telata* [He went out, examined the matter closely, and found three instances]. **One who makes light of the washing of hands, one who speaks ill of Torah scholars after their death, and one who presumes before Heaven.** (Berakhot 19a) [The emphases in quotations from rabbinic literature and the translations of those quotations throughout this book are my own. —Y.E.]

What distinguishes these three cases, and the saying of R. Joshua ben Levi that became the basis for the list of grounds for a ban? As I shall show, in each of the three cases *niddui* answers the challenge that the person under the ban poses to the very authority of the institution to determine the boundaries of the community or the ways one may address God.

Mark 7 and Matthew 15 recount a dispute about handwashing between Jesus and the Pharisees. The Pharisees complain that Jesus and his disciples do not wash their hands before eating. Jesus replies that nothing outside a person can defile him by entering his body. Only what comes out of a person defiles him. Some have interpreted this reply metaphorically. Others have understood it as a halakhic answer to the Pharisees' demand that Jesus' disciples wash their hands. Either way, handwashing is a matter of principle in the dispute between Jesus and the Pharisees. Jesus held that one need not wash one's hands and that only what comes out of the body defiles it. The Sages, for their part, regarded handwashing as an important matter of halakha. In the Babylonian Talmud (Gittin 57a), Onkelos the convert conjures up Jesus from the dead, and we learn of Jesus' punishment in the world to come. He is immersed in boiling excrement. The punishment has been understood as measure for measure. Jesus is punished for mocking the Sages' scruples about what enters their bodies (Furstenberg AM 5766, 121). R. Eleazar's inclusion of handwashing in his list of "grounds for imposing a ban", together with the account of R. Akiva's meticulous observance of the practice, makes clear how much was at stake for the Sages' authority. Handwashing was their own institution. To accept or reject the practice had consequences for whether one belonged at all to the community of which the Sages were members. The dispute between the Sages and Jesus thus goes beyond the question of eating in a state of ritual purity. It is about who counts as "inside" and who as "outside". His sentence of boiling excrement is more than a measure-for-measure response to his dissenting view. It signifies that Jesus, like excrement, is expelled from the community and cast out of it in the most disgusting and degrading way imaginable.

The dispute over handwashing between Jesus and the Sages gives symbolic expression to a dispute over the community's boundaries. Mary Douglas drew attention to the connection between the way a society draws its boundaries and various bodily practices (Douglas 2004, 135). She argues that there is a semiotic relationship between the boundaries of the body and those of society, and that the rituals performed in a community give bodily, physical expression to social relations. Jesus and his companions are therefore at odds with the Sages over more than whether something that enters the body can defile it. They call the community's boundaries into question and ask who has the authority to draw them. Jesus takes an inclusive position and the Sages an exclusive one. On the Sages' account, what enters the body can defile it, and the boundaries of the body-community must therefore be closely guarded. Jesus is concerned only with the points of exit from the body and gives no thought to the points of entry into the body-community. It follows that the ban imposed on R. Eliezer ben Ḥanokh for his lack of care over the purity of his hands should be read both as a story about the Sages' insistence on handwashing or on their authority, and as a dispute over the proper attitude towards entry into and departure from the community. Eliezer ben Ḥanokh's exclusion from the community is thus measure for measure. Making light of handwashing is intimately connected with an inclusive or exclusive conception of admission to the community.

The second case R. Eleazar found was the ban imposed on Akavya ben Mahalalel. The disagreement between Akavya ben Mahalalel and the Sages (Mishnah, Eduyot 5:6) concerned whether a woman suspected of adultery should be made to drink the water that brings a curse if she is a convert or a freed slave. Akavya ben Mahalalel does not count a freed slave woman among the women of Israel. Consequently, she should not be made to drink the waters of the *sotah*. The Sages counter that Shemaya and Avtalyon once gave a freed slave woman the water to drink. Akavya ben Mahalalel replies that what they gave the woman to drink was *dikhma*. If *dikhma* means "because they are like her", as the Jerusalem Talmud explains, then Akavya meant to disparage them by reminding them that they themselves were converts. Shemaya and Avtalyon gave her the water because they, like her, were converts. Another possibility is that they gave her a drink that was not really the bitter water that brings a curse (*dikhma* = a likeness). The water they gave her resembles her in that it, like her, is of no consequence. According to Rav Hai Gaon, they showed her coloured water meant to frighten her into confessing.

R. Eleazar, who gave the story of Akavya's ban the heading "one who speaks ill of Torah scholars after their death", took the central issue to be the slur on the good name of Shemaya and Avtalyon. Whether they gave her coloured water or poison other than the bitter water that brings a curse, the mere act of pointing this out would damage their good name and, by extension, the halakhic

tradition that derives from them and the authority of the Sages in general. If, however, the interpretation R. Eleazar accepted was that Akavya meant to stress that Shemaya and Avtalyon were converts like the freed slave woman, a further dimension of the story comes into focus. What does it mean to invoke the fact that Shemaya and Avtalyon were converts? Akavya ben Mahalalel, known for possessing a well-established halakhic tradition and for the reliability of the teachings he handed down from his masters (Mishnah, Eduyot, ibid.), challenges the very halakhic authority of Shemaya and Avtalyon as relative newcomers. To mention their conversion, then, is to suggest that they do not possess a well-established halakhic tradition. It is to challenge their very authority to rule on matters of halakha as people who came from "outside" and were not born into the Jewish people. If so, Akavya's own ban is measure for measure. He is put outside the community and dies under the ban because he did not accept the entry of Shemaya and Avtalyon into the community.

The third story of *niddui* that R. Eleazar found tells of the ban with which R. Shimon ben Shetaḥ threatened Ḥoni the Circle-Drawer for his audacity towards Heaven in demanding that God send down rain.

> Once they said to Ḥoni the Circle-Drawer, "Pray for rain to fall." He told them, "Go and bring in the Passover ovens so they will not dissolve." He prayed, and no rain fell. What did he do? He drew a circle and stood inside it. He said before God, "Master of the universe, your children have turned to me because I am like one of your own household before you. I swear by your great name that I will not move from here until you have mercy on your children." The rain began to drip. He said, "This is not what I asked for. I asked for rain to fill the cisterns, the pits and the caves." The rain began to come down in fury. He said, "This is not what I asked for. I asked for a rain of favour, blessing and bounty." The rains fell as they should, until the Israelites had to leave Jerusalem for the Temple Mount on account of the rain. They came to him and said, "Just as you prayed for the rains to fall, pray now for them to go away." He said to them, "Go and see whether the Stone of Lost Property has dissolved." Shimon ben Shetaḥ sent word to him, "Were you not Ḥoni, I would decree a ban against you. But what can I do with you? You coax the Omnipresent, and he grants your wish, like a son who coaxes his father and whose father grants him what he wants. Of you Scripture says, 'Let your father and mother rejoice, and let her who bore you be glad' (Proverbs 23)." (Mishnah, Ta'anit 3:8)

Ḥoni is more than a holy man living on the outskirts of a settlement who intervenes in the order of the world (David Levine AM 5761, 139). His presumption before Heaven shows itself in his flippancy towards God and, more particularly, in his refusal to accept the hierarchy according to which it is the Sages who shape the ways in which one communicates with God. The Sages no longer act as intermediaries for Ḥoni. He addresses God directly. Ḥoni challenges the very identification of the relationship between God and the

community with that of husband and wife. He feels like a beloved, indulged son speaking to his loving father. Why does Shimon ben Shetaḥ threaten Ḥoni with a ban? Rain is a means by which God communicates with his community (Walfish AM 5761, 11). When the rains are withheld, communication has broken down. The longer the drought persists, the stronger the community's sense that God has placed it under a ban. Shimon ben Shetaḥ threatens Ḥoni with *niddui* because a direct appeal to the one who imposed the ban can be disastrous. Ḥoni's informal way of speaking to God might well have aggravated the ban and made the harm to the whole community greater still.

The three cases—making light of handwashing, speaking ill of Torah scholars after their death, and presuming before Heaven—reveal the connection between *niddui* and the community's boundaries. They also draw attention to the relation between deviance and the way those boundaries are defined. Group conformity is notoriously powerful. Members of a group generally prefer to surrender their own judgement rather than differ from the others, or do so out of obedience to a figure of authority. In other words, deviance or refusal to accept authority is unusual. Yet deviance has considerable social importance. It affirms cultural norms and values (every definition of good also requires a concept of evil), delineates the moral boundaries of a society, reaffirms what its members have in common and reinforces social uniformity. Ultimately, deviance also encourages social change, because it points to alternatives to the existing order and has the potential to shift the very moral boundaries it calls into question (Durkheim 1964, 71).

Niddui, then, is a means of restoring the social order, and the person under the ban is an important social figure. A ban can, of course, be put to use in a great variety of social situations, as the lists of "grounds for imposing a ban" in Maimonides and R. Joseph Karo show. Yet in every case the social effects it seeks are the same. It preserves social uniformity, the established boundaries of society, the authority of its institutions and of the people at their head, and the system of values those institutions and people represent.

The complex relation between the community and the person under the ban also finds expression in the practices of *niddui*, many of which concern the body. Examples are the prohibitions on bathing, cutting one's hair and washing one's clothes. In Hebrew there is a clear connection between *niddah* ("the status of a woman during menstruation and, by extension, anything so repugnant that people distance themselves from it", according to the Ben-Yehuda dictionary) and *niddui* (the placing of a person under a ban, according to the Even-Shoshan dictionary). What is the relation between bodily discharges that prompt people to keep their distance, such as a woman's menstrual flow or anything that arouses disgust, and the ways people are kept at a distance socially? If there is indeed a semiotic relationship between the boundaries of the body and those of

society, as Mary Douglas argues, the picture becomes more complex. What, if anything, do the bodily practices of *niddui* signify, and how does this system of signs relate to the menstruant and to menstrual blood? One of the important questions I shall take up in analysing the practices of *niddui* in Chapter One is whether bodily rituals also have consequences for the way a society draws its boundaries. How is this expressed in the bodily practices of *niddui*, and can one discern such a connection at all in the social institution of *niddui* in rabbinic literature?

It is instructive to compare *niddui* with the forms of discipline Michel Foucault identifies in *Discipline and Punish*. Foucault distinguishes between a model of discipline based on "the arrest of the plague" and one based on "the exile of the leper" (Foucault 1995, 198). Expelling the leper separates him from the community and purges it of his presence. Quarantine during a plague, by contrast, proceeds by separating each individual from every other through surveillance and control, the taking of samples, division and categorisation under constant observation. Foucault sees in this model the ideal exercise of disciplinary power, while the leper provides the model for every project of expulsion from the social body (*exclusion*). The question I shall take up in Chapter Two is where *niddui* stands in relation to these two models of discipline. Other questions follow. Does *niddui* in fact allow social values to be reconsidered? Does it make the antagonist's motives intelligible? Does it lay bare the underlying system of values that binds the members of the community to one another?

C

The etymological range of *niddui* (which, as we have seen, is related to distancing, disparagement, the ban known as *ḥerem*, and a woman's *niddah*) matches the breadth of the social phenomenon. Ostracism crosses boundaries. It is found in almost every culture or civilisation. What psychological and social effect, then, are the practices of *niddui* meant to have on the person under the ban? The mid-1980s saw a revival of interest in ostracism and exclusion as a general phenomenon. Ostracism was examined from a broad perspective. It was argued that ostracism is only one act in a continuum of exclusionary acts, rather than a drastic step taken only on rare occasions. An attempt was made, for instance, to describe ostracism as a biological phenomenon by no means peculiar to human beings. Researchers showed how ostracism takes place in chimpanzee societies. They also studied the effect of social ostracism on the person ostracised, in particular the use of silence as a sanction that profoundly affects that person's most basic needs. The study of the rabbinic system of *niddui* offers us something further. This system both specifies the grounds for imposing *niddui* or *ḥerem* and lays obligations on the person under the ban as a direct consequence of its imposition. These obligations can tell us more about

the experience and state of mind of the person under the ban, as the Sages envision them. Scattered through the scholarly literature are brief formulations that evoke the social and psychological experience of *niddui*: "a prison without a lock" and "iron fetters that the eye cannot see but the body feels acutely" (Assaf AM 5682, 31), or "civil death", or "the person under the ban is kept apart from those around him as if he were a murderer or ritually impure" (Falk AM 5731, 172). But what is the nature of this social system? What is civil death like? How does the prison without a lock work? What are its rules, what effects does it have, and how is the body meant to feel the invisible fetters?

Studies of *niddui* among the Sages suggest a pattern of historical development. Its use was limited in mishnaic and talmudic times, both in how widely it was applied and in the size of the community that imposed the ban. The use of *ḥerem* then grew more extensive up to the beginning of the modern period. Once it became possible to leave the Jewish community and live among the Christian population, the use of *ḥerem* declined sharply. Yet it is difficult to tell from any of these studies precisely how *niddui* affected the person under the ban. Scholars speak of "humiliation and distress" (Libson AM 5739–5740, 193) or of a physical and psychological threat (Katz AM 5746, 125), but give no details of how the practices do their work, or why they humiliate or threaten the person under the ban. Some note the relation between the degree of social cohesion and both the force of *niddui* and the extent of its use within the community (Kaplan AM 5763, 125). They do not, however, consider how the social system of *niddui* takes effect in practice. What emerges from the research surveyed so far is that the social system surrounding *niddui* developed over time and placed more and more obligations on the person under the ban. This development can also be seen in the widening social circles within which a ban could be imposed, in the growing variety of grounds for it, and in the magical elements that came to form part of the ritual.

At this point I should like to make two brief methodological observations. The first concerns the question of how a synchronic discussion of rabbinic *niddui* can be justified. After all, we are dealing with a period of some six hundred years in which *niddui* was regarded in different ways. The second concerns what the practices of *niddui* mean. To what extent can we interpret them through modern theories without falling into anachronism, given that the age of the Sages differed fundamentally from our own in a great many respects?

On two matters a continuous line of thought can be traced in rabbinic literature from the tannaitic period to the end of the amoraic period (roughly from the first century BCE to the sixth century CE): the element of social distancing in *niddui*, and the close connection between *niddui* and death. The link between *niddui*, death and mourning appears, as I shall show below, in early texts (the Mishnah and Tosefta) and remains a living tendency in later texts as well (in

the Babylonian and Jerusalem Talmuds). The comparison between the mourner and the person under the ban goes back a long way. Nor was it a casual comparison or a mere association. Rav Yosef (a fourth-century CE amora) and the anonymous editor of the talmudic discussion that sets out the laws of *niddui* and of mourning understood the comparison as one of substance. That early texts discuss the person under the ban and the mourner together is not simply a matter of a late reading by Rav Yosef or the editor of that discussion. As I shall show, the comparison, in its original setting, expresses a deep connection between *niddui* and death that is already present in such relatively early rabbinic texts as Tosefta Ta‘anit and Mishnah Ta‘anit.

The same is true of the element of distancing. To begin with, many of the prohibitions that keep people apart are mentioned in relatively early texts. The prohibition on a person under the ban entering the courtyard of the Temple appears in Mishnah Eduyot (5:6), which is considered an early mishnah. So does the obligation to stone his coffin if he dies under the ban. The same holds for the obligation to make the circuit of the Temple Mount to the left, which appears in Mishnah Middot (2:2), likewise numbered among the early tractates. The prohibitions on cutting one’s hair and washing one’s clothes are indirectly inferred from Mishnah Mo‘ed Katan (3:1). The prohibition on wearing sandals in the city is inferred from Tosefta Ta‘anit (1:6). The prohibition on Torah study finds support in a *baraita*, apparently a late one (Babylonian Talmud, Mo‘ed Katan 15a), with a parallel in tractate Evel Rabbati (5:14). Yet this prohibition has an early history in the study house, in the story of the ban on R. Eliezer ben Hyrcanus. Thus the rabbinic practices of *niddui* appear in early tannaitic texts and are mentioned again in later talmudic texts.

What justifies discussing them together despite the differences between the historical periods is more than the fact that they are mentioned in relatively early texts. A continuous line of thought can be traced between them. The mishnah that permits a person under the ban to ascend the Temple Mount (making the circuit to the left) has led scholars to conclude that he was kept at a distance but still belonged to the community. “The ban consisted only in isolating the person under it in a condition of humiliation and disgrace”, and did not entail “expulsion and removal from Pharisaic society” (Libson AM 5739–5740, 186). In other words, he may ascend the Temple Mount, yet he is barred from the courtyard. This tendency to exclude someone while stopping short of removing him altogether from the community is also evident in later texts. The talmudic discussion in Mo‘ed Katan, for instance, determines that the person under the ban may send his offerings to the Temple. He continues to be a social agent, even as he is excluded from the community to some degree. The precise character of this exclusion and what it means are the subject of this book. This is also the general tendency evident throughout rabbinic literature.

As for what the practices of *niddui* mean, understanding an obligation observed by someone under the ban depends on the historical and social context in which it was observed. To understand why he made the circuit of the Temple Mount to the left, for example, one needs to know that in the ancient world a circuit to the left was a sign of misfortune. Nor can one get to the heart of this practice without considering its textual setting, in which it connects the mourner to the person under the ban as someone "to whom something has happened". "All who enter the Temple Mount enter on the right, go round and leave on the left, except someone to whom something has happened, who goes round to the left" (Mishnah Middot 2:2). Yet there appears to be an aspect of the text that is also intelligible to me and has a bearing on my own experience: making the circuit to the left on entering the Temple Mount labels the person under the ban. Whereas everyone else enters on the right and leaves on the left, he enters on the left. The answer to the question of what it means to label someone in this way depends on an analysis of the psychological and sociological effects of labelling and of its anthropological and philosophical significance. This raises a difficult question. Take distancing and death, the two elements that concern us in this study. Death in rabbinic literature was understood and experienced differently from the way it is understood and experienced in modern society. Compared with modern society, society in the ancient world and in the Middle Ages was considerably more cohesive. In the Western world, as a result of social fragmentation, mourning practices have dwindled. Today, in developed countries, mourning has ceased to be a social affair and has become a matter for the individual and the family. Yet as recently as a few hundred years ago, when a death was expected, the dying person would be surrounded by family, friends and a community that supported both the dying person and the family. Death was then a public affair rather than a private one. The pain was absorbed by society as a whole as well as by the individual. The argument is that today, in a departure from the past, people deny the very existence of death, grief, loss and mourning, publicly, socially and even in their personal lives.

As the rabbinic text makes clear, the distancing of the person under the ban takes place in three stages, each defined by distance: first one sees him, then one comes within speaking distance, and finally one comes within four cubits of him. It might, of course, be argued that this reading itself reflects a modern worldview with its particular attentiveness to techniques of discipline. Yet there are good reasons to reject that argument. First, there can be no doubt (as all those who have studied *niddui* before me have shown) that distancing is the general aim of the practices of *niddui*. Second, the rabbinic text on these practices is so meticulously edited that it is hard to find a better explanation for their arrangement in the talmudic discussion. Even if we accept that the practices of *niddui* are arranged according to one's distance from the person

under the ban, the difficulty remains. The restrictions that come into play when he is seen from a distance have to do with labelling and marking him. The restrictions on speaking to him limit, of course, the possibility of communicating with him. Those that apply within four cubits are intended to limit physical contact with him and cut him off from other people. Here, too, however, the problem of context arises. In all three forms of distancing listed here—labelling, restricting communication and limiting physical contact—considerable differences may emerge between societies in the ancient world and society in the modern world. Each of the three systems has a cultural component. The way people are labelled depends on the culture. Each culture has its own way of labelling people, related to what is visible to the eye. The same holds for restrictions on communication. What counts in one culture as part of an ordinary relationship may be understood in another as restricting communication. The same goes for the avoidance of physical contact. In certain cultures, withholding physical contact signifies one thing, while in other cultures it may signify something else.

Having recognised this problem, however, I want to narrow its scope, both as it concerns death and as it concerns the means of keeping people at a distance. First, even in a cohesive society with a "dense social network", the different ways in which people engage with death address the universal aspect of the fear of death. This fear arises from our being creatures defined by a beginning (birth) and an end (death). It expresses our lack of control over our fate, our fear of being left alone, our fear of the unknown, of punishment, of what will happen to those we love after we die. Even if an individual's death was a public event in the world of the Sages, whereas modern society keeps death at a distance, this does not do away with the fear of death as a universal factor in human life. The difference in context therefore calls for care in analysing the texts. Clearly, only information appropriate to the historical setting I am studying is suitable for use. Yet that different historical setting does not do away with the underlying fear of death. The transformation of the person under the ban into a "dead man walking" carries within it both the distinctive attitude towards death in the society of the Sages and that same universal fear of death. To understand the ancient connection between the person under the ban and the mourner, one must be sensitive to the fact that death is experienced differently in Western society and in the society depicted in rabbinic literature. Whenever there were good grounds for giving expression to the universal fear of death, however—grounds arising from the way the texts themselves were shaped and the way the Sages read them at different periods—I did not hesitate to do so.

Second, consider the element of distancing and, within it, the related elements of labelling and restricting communication and physical contact. In one sense

the question is less daunting than it first appeared. There is agreement, as I have said, that the practices of *niddui* are observed in a setting whose purpose is to keep someone at a distance. This narrows the range of interpretations and gives the discussion a focus. The context in which the practices of *niddui* are set down further narrows the range of interpretations. In rabbinic texts, for instance, the prohibition on a person under the ban cutting his hair is linked to the same prohibition imposed on the mourner. Scholars have noted both the ease with which hair can convey social messages in the context of Jewish mourning practices and the attention it attracts. In this respect, the book undertakes the modest task of setting the prohibitions in context and interpreting them anew. In discussing labelling, I use modern theories to bring into sharper focus what is already apparent once the practices of *niddui* have been put in context: their purpose is to keep the person under the ban at a distance. Jewish society in the time of the Sages paid particularly close attention to the body and to dress. This warrants the use of theories that bring out the power of appearance and dress in relations of power between people. The very restrictions and prohibitions that deal with these matters in a setting of social distancing lead us to the relation between appearance and social power. In this sense, bringing these theories to bear clarifies the direction of the rabbinic text itself, without the anachronism of imposing an interpretation drawn from a different cultural setting. Much the same is true of restrictions on communication. The prohibition on Torah study that applies to a person under *ḥerem* (and to one under *niddui*, according to tractate Evel Rabbati) is to be interpreted in light of what Torah study meant in the time of the Sages. It is precisely an understanding of its importance in the rabbinic context that brings home the full force of the prohibition and the depth of its effect on the person under the ban. It is from within this context that I draw on theories that clarify just how far the human "self" is constituted by others, and how gravely a person is affected when others withhold recognition, even in ordinary conversation. In other words, I have drawn on theories of labelling and theories of the constitution of the self as they emerge from a discussion of the rabbinic texts themselves, rather than imposing them *a priori*.

Distancing that takes the form of withholding physical contact also presents a problem, as we have seen. To understand the prohibition on bathing, for instance, we have to place it in its historical setting. Much depends on what rabbinic literature tells us about habits of hygiene in mishnaic and talmudic times. The prohibitions governing the body and dress of the person under the ban (cutting his hair, bathing, washing his clothes and wearing sandals) tell us how closely the Sages attended to the body and to dress. Moreover, in the context of *niddui*, the focus from the outset is on how these prohibitions serve to distance him. The problem of historical context is narrowed both by the distancing involved in the bodily prohibitions and by what we learn from

rabbinic literature itself about the great importance of bathing and personal hygiene. As I shall show below, from the Second Temple period onwards, baths and bathhouses were taken for granted as part of everyday life. It appears that in the early rabbinic period bathing was even permitted on the Sabbath, an indication of how frequent and how important it was.

In the talmudic discussion (Babylonian Talmud, Mo'ed Katan 14–16), the prohibitions concerning the body and dress appear as part of a system for keeping people apart at close quarters. The discussion itself sets bounds to its treatment of them. The prohibition on cutting one's hair is discussed as one of the practices that label the person who observes them. The prohibitions on washing one's clothes, bathing and wearing sandals are discussed among those whose effects are perceptible only to someone who comes close to that person. The distinction matters. Hair is understood as an element of distancing in a system meant to make the person under the ban recognisable from afar. The prohibitions on bathing and washing clothes make themselves felt only at a distance at which they can be perceived by particular senses, namely smell or close-range sight. This connection between degrees of distance and the use of the senses is found only in the context of disgust. In other words, the reason for examining the practices of *niddui* that keep people apart at close quarters in terms of disgust comes from the text of the Sages itself. Unlike other forms of aversion, disgust has physical aspects and depends entirely on senses such as smell and sight. Admittedly, disgust is culturally specific, and what disgusts people in one culture (eating frogs, for instance) need not disgust people in another. Yet in the case of bathing, washing clothes and wearing sandals, it is the talmudic discussion itself that directs us to the link between distancing and the senses, a link also found in theories of disgust and of being disgusted. Moreover, if we examine the prohibition on sitting within four cubits of the person under the ban against the background of rabbinic literature, it proves to have a close connection with disgust. In rabbinic literature, keeping four cubits away is associated precisely with keeping one's distance from things regarded as disgusting across a wide range of societies: faeces, urine and a corpse.

I should like to make one further brief observation about the "leap" I want to make from the talmudic texts I am studying to an argument that rests on the psychological processes that a person under the ban undergoes or is supposed to undergo. As Dilthey showed, inquiry in the natural sciences differs from inquiry in the human sciences (Dilthey 1989, 66). The human sciences concern themselves with every expression of human activity, whether art or literature. Interpreting such human expressions is not an act of scientific inquiry in the sense of measuring, quantifying and calculating, as in the natural sciences. Perhaps one might speak of "understanding" as against "explanation" in the natural sciences. Such understanding comes about when a text or a human

action is interpreted in the light of lived experience rather than by means of scientific methods or metaphysical ideas. To compare Dilthey's project with Kant's: if Kant's project sought to establish the foundations of knowledge, Dilthey's sought to establish those of self-understanding (Palmer 1969, 100). Such self-understanding is historical. It arises from people's experience and their expectations for the future. A person's inner life is a complex affair. Will, feeling and consciousness are intermingled, and no rigid laws of causality can be applied to them. Understanding in the human sciences comes about through a process of mental transposition, a transposition made possible by the universality and likeness of human thought as such. Understanding, then, means grasping living human experience, experiencing the world through another person. In interpreting and understanding human expressions, we understand the world. The "historicity" of understanding derives from the experience of the past as it bears on human life, rather than from introspection. In other words, all understanding arises from a person's particular place in history. It follows that the interpretation of a text is neither entirely objective (because interpretation is historical) nor entirely subjective (because understanding rests on historical life experience and on a mental transposition of the author's lived experience). To move from a text and its interpretation to a picture of the world as a person under the ban experiences it is a "difficult" passage, but a possible one. It matters to me to show that the texts I analyse can indeed give us a picture of his world as he lives it, a picture that encompasses both his experience and his consciousness. At the same time I would, with due modesty, qualify what it is possible to say about those experiences on the evidence of the texts.

In sum, I have tried to interpret and analyse texts from rabbinic literature in their own context. Where that context points towards a conclusion for which sociological or psychological research offers support, I have drawn on that research. The methodology is not new. If there is anything new in this study, it arises from the nature of its subject: the ways in which the authority of the Sages was established and maintained. The book deals neither with forms of resistance to the exercise of rabbinic authority over a troublesome individual nor with the complex ways in which that authority found expression in practice. As I have said, its aim is to draw the "utopian" (or dystopian) model that the Sages themselves saw as underlying the forms of discipline they exercised. In this sense, the book presents a very "tidy" model with no gaps, a reflection of the model the Sages put forward. Reality, in its complexity, presumably bent this model out of shape at various points. It was in that reality, too, that those under the ban gave expression to their resistance to the model imposed on them.

D

The basic distinction in rabbinic literature is between three levels, or degrees, of distancing: *nezifah* (rebuke), *niddui* and *ḥerem*. I write "levels", rather than three kinds, because of the way the relationship between them is formulated: "Our Rabbis taught: *niddui* lasts no fewer than thirty days, and *nezifah* no fewer than seven days" (Babylonian Talmud, Moʻed Katan 16a). The Babylonian Talmud understands *ḥerem* as an intensification of *niddui*. If, after thirty days, the person under *niddui* has not made amends, he is placed under *niddui* again for another thirty days. Once those sixty days have elapsed, he is placed under *ḥerem* (ibid.). Are the differences between *niddui* and *ḥerem*, on the one hand, and *nezifah*, on the other, simply a function of the length of time the person is kept at a distance and of other technical details? Or are we dealing with something altogether different in kind?

In Babylonia, the difference between the person under *ḥerem* and the person under *niddui* comes down to two matters: Torah study and the prohibition on work. Someone under *niddui* may study Torah with others, whereas someone under *ḥerem* may not. As for work, someone under *niddui* may hire himself out or hire workers, whereas someone under *ḥerem* is forbidden to work, and no one may have any business dealings with him at all (Moʻed Katan 15a). In the sources from the Land of Israel, however, someone under *ḥerem* (in the Land of Israel, the person called *menuddeh*, "under *niddui*", corresponds to the one called *muḥram*, "under *ḥerem*", in Babylonia—Libson AM 5739–5740, 190) is permitted to work. "One may hire him, and one may hire oneself out to him, not for the sake of the benefit to be had from him, but so as not to shut the door in his face" (Evel Rabbati 5:14). Here we see a concern to keep the person under *ḥerem* within the bounds of the community, or at least within a reasonable range of communication.

Some maintain that *niddui* differs fundamentally from *ḥerem* in that the latter includes a curse (Halevi AM 5735, 153). On this view, *niddui* has no magical element, whereas *ḥerem* does. Others qualify the distinction, arguing that the line in this matter runs between the Land of Israel and Babylonia. In the Land of Israel a term of distancing, such as *niddui*, was used rather than a curse. In Babylonia, the language of cursing was used, as in the term *shamta*, from the Aramaic for "death" or "desolation" (Libson AM 5739–5740, 185). In any event, the argument is that the term *shamta* also has an element of distancing, and that the terms *ḥerem* and *niddui* have an element of cursing (ibid.). Indeed, rabbinic literature uses the term *arur*, "accursed", to denote a ban, a curse and an oath. "It was taught: 'Accursed' may signify a ban, a curse or an oath" (Babylonian Talmud, Shevuot 36a). *Niddui* thus already carried a certain magical significance in rabbinic literature. Yet it seems to me that there was a historical development here. The rabbinic sources from both Babylonia and the

Land of Israel give no indication that the curse was central to *niddui* and *ḥerem*. The curse acquired a more central place after the close of the talmudic period. In post-talmudic descriptions of the imposition of communal bans, or bans in general, the curse and magic more broadly play a more central role. Thus one finds in these accounts such magical elements as candles, a bier or inflated skins, none of which features in the talmudic descriptions of *niddui* and *ḥerem* (Responsa of the Geonim, *Sha'arei Tzedek*, part IV, gate V, §22). The magical character of *niddui* seems to have grown more pronounced after the close of the talmudic period, as bans became an accepted means of enforcing authority within the medieval Jewish community. From this point of view, the intensification of the magic associated with *niddui* and *ḥerem* more generally served as a deterrent that helped enforce the ban. At any rate, in rabbinic literature the curse does not mark a difference in kind between *ḥerem* and *niddui*. The unmistakably magical element that accompanies *ḥerem* appears only at the beginning of the geonic period.

Niddui and *ḥerem*, then, are presented as two interdependent categories. *Niddui* is less severe than *ḥerem* in two restrictions whose significance we shall have to consider: the prohibition on work and that on Torah study. Yet what the Babylonian Talmud presents in the categories of *niddui* and *ḥerem* are degrees of distancing rather than a distinction in kind. At the level of literary form, the *baraita* binds the two categories together. Its wording sets out a progression rather than a dichotomy: "One who is under *niddui* may teach, and others may teach him. He may hire himself out, and others may be hired by him. One who is under *ḥerem* may neither teach nor be taught, neither hire himself out nor have others in his hire" (Mo'ed Katan 15a). This is quite clear at the end of the *baraita*: "But he may study by himself so as not to interrupt his learning, and he may make himself a small shop for his livelihood." The person under *ḥerem* is allowed to study on his own and to earn enough for bare subsistence. Setting the person under *ḥerem* alongside the person under *niddui* in this way establishes a degree of identity between them. The point is not to set them up as separate and distinct categories.

Where does *nezifah* stand in all this? To begin with, *nezifah* is a voluntary act, unlike *niddui* and *ḥerem*, which are treated as systems of restrictions imposed on a person to keep him at a distance. The recurring formula for *nezifah* is *nahag nezifuta benafsheih* (Mo'ed Katan 16b): he observed the restrictions of rebuke of his own accord. A man realises that he has been rebuked and keeps his distance. But what does this observance consist of? It means keeping away from the person who delivered the veiled criticism that prompted him to act as one rebuked. It seems that no one else is obliged to keep him at a distance. It is the rebuked man who cannot appear before the person whose criticism led him to act as one rebuked:

> Once Rabbi decreed that students were not to be taught in the marketplace [R. Judah the Patriarch decreed that Torah should not be taught outside the study house]. How did he derive this? "The curves of your thighs are like jewels" [Song of Songs 7:2]. Just as the thigh is kept out of sight, so words of Torah are to be kept out of sight. R. Ḥiyya went out into the marketplace and taught his brother's two sons, Rav and Rabbah bar bar Ḥana. *Shema Rabbi, iqped* [Rabbi heard that R. Ḥiyya had disobeyed his instruction and took offence]. *Ata R. Ḥiyya le-itḥazuyei leih* [When R. Ḥiyya came to see him], he said to him, "'Iyya, who is calling you outside?" [He mockingly called him "'Iyya" instead of "Ḥiyya" and hinted that he should go outside.] *Yeda de-naqat milta beda'ateih* [R. Ḥiyya understood that Rabbi had taken what he had done seriously], *nahag nezifuta benafsheih telatin yomin* [and decided, of his own accord, to observe the restrictions of rebuke for thirty days]. (Babylonian Talmud, Mo'ed Katan 16a–b)

R. Ḥiyya understands that Rabbi wants to keep him at a distance, so for thirty days he does not appear before him. Assuming that Rabbi was present in the public sphere of Torah scholars and of public life in those days, the result of the rebuke was that R. Ḥiyya could not go to the study house or to Rabbi's seat. No one, however, was obliged to observe a set of restrictions towards R. Ḥiyya. Moreover, the observance begins only when the rebuked man undertakes it of his own accord. This is an entirely different category of distancing, both in its mechanism and in what sets it in motion. Rebuke means keeping one's distance from the person who administered it and requires the rebuked man to understand that he has indeed been rebuked. What we have here is an intimate relationship in which the parties understand one another and the hierarchy between them is also clear. The important formal feature of rebuke, its limited duration, allows anger to be vented within a hierarchical relationship.

This point about the link between rebuke and hierarchy can help us understand an idiosyncratic passage in the Jerusalem Talmud, Mo'ed Katan (3:1). The Jerusalem Talmud records a classic rebuke story (with a parallel in the Babylonian Talmud), that of Bar Kappara's rebuke:

> *Ve-Rabbi hava moqer le-Bar El'asah* [Rabbi used to show honour to Bar El'asah]. Bar Kappara said to him, *kol amma sha'alin le-Rabbi, ve-at leit at sha'el leih?* [Bar Kappara said: Everyone asks Rabbi questions, and you don't ask him anything?!] He said to him, *mah nish'ol?* [What should I ask?] He told him to ask: "From heaven she looked down, murmuring in the recesses of her house, in fear of every winged creature. Young men saw him and hid, and old men rose and stood. The one who fled said, 'Ho, ho!' And the one who was caught was caught in his iniquity." *Hafakh Rabbi ve-ḥamyeih gaḥeikh* [Rabbi turned and saw Bar Kappara laughing]. Rabbi said, "I do not recognise you, old man." *Vi-yeda de-leit hu mitmaneya beyomoi* [Bar Kappara understood that he would not be appointed in Rabbi's lifetime].

It is hard to tell from the story what the distancing actually entailed. In the Jerusalem Talmud, Bar Kappara understands the words "I do not recognise you, old man" to mean that Rabbi will not appoint him in his lifetime. The Babylonian Talmud explicitly says that Bar Kappara observed the restrictions of rebuke of his own accord for thirty days (Mo'ed Katan 16a).

Perhaps the riddle Bar Kappara posed can shed a little light on the nature of this distancing. There is a good deal of mystery surrounding the riddle:

> "The solutions that later scholars have laboured to find for this riddle are, in my opinion, mistaken. The words refer neither to death [death as a metaphorical answer to the riddle—Y.E.] nor to the severity of the Patriarch's judgements. I, too, should like to venture a conjecture and lay it before discerning readers. The riddle refers to the 'maidservant of Rabbi's household' who ruled his house. At times the aged Sages and the young students quailed before her, and many stories were told of her long afterwards" (Graetz AM 5732, 292).

Others think that the subject of the riddle is Bar El'asah, a wealthy and arrogant man who tyrannised over his household and over Torah scholars (Rabinowitz AM 5700, 334). And there is also this judgement: "The words are, in fact, a riddle, and we have no means of solving it" (Alon 1953, vol. 2, 146).

The subject of the riddle may be Rabbi's own leadership. Bar Kappara challenges Rabbi's leadership and the way he imposes his authority. He criticises Rabbi in the guise of a dove looking down from heaven, cooing chiefly in her own house, yet afraid of the other winged creatures. Here there is a hint of his fear of men of wealth (such as Bar El'asah himself). Bar Kappara continues his criticism: the young students or those who are not learned in Torah may be afraid of R. Judah the Patriarch, but old men like Bar Kappara rise and stand up to him. "The one who fled said, 'Ho, ho!'" alludes to Zechariah's call to the Babylonian exiles to go up to the Land of Israel: "Ho, ho! Flee from the land of the north" (Zechariah 2:10). Perhaps Bar Kappara is hinting at this prophecy because of what follows: "For whoever touches you touches the apple of his eye." He may thereby be intimating that Rabbi must not harm him on account of the criticism he voices. Another possibility is that he is urging Rabbi to flee the patriarchate, just as Zechariah urges the Babylonian exiles to go up to the Land of Israel. "And the one who was caught was caught in his iniquity" alludes to Jeremiah's prophecy in Lamentations: "The breath of our nostrils, the Lord's anointed, was caught in their pits" (Lamentations 4:20). This is open criticism of Rabbi. The reply "I do not recognise you, old man" is meant to signal to Bar Kappara that Rabbi understood his veiled criticism and indeed sees in him the old man who rises, stands his ground and defies his leadership. The rebuke thus comes in response to a challenge to Rabbi's leadership. Compared with the formal mechanism of *niddui*, rebuke appears

more flexible. The story of Bar Kappara's rebuke thus bears out his criticism that Rabbi is too soft on the "winged creatures".

At any rate, it is clear that *nezifah* differs fundamentally from *niddui* and *ḥerem*. Why, then, is it mentioned in the same breath as the other two? The talmudic arrangement of the material on *nezifah*, *niddui* and *ḥerem* shows how broadly the editor thought about mechanisms of distancing. He distinguishes the three practices while preserving a single framework within which to address them. Although *nezifah* differs fundamentally from *niddui* and *ḥerem*, both the Babylonian discussion and the discussion from the Land of Israel that deal with *niddui* and *ḥerem* consider it alongside them. As we have seen, *niddui* and *ḥerem* isolate a person from society, whereas *nezifah* is described as a system that operates only between the person who administers the rebuke and the one who receives it. Furthermore, *nezifah* is set in motion voluntarily by the weaker party, whereas *niddui* and *ḥerem* are imposed on those subjected to them. In the case of *niddui*, at least one line of interpretation compares the person under the ban to the entire people of Israel in the wilderness, or to a community observing a fast. So too, according to one opinion in the Jerusalem Talmud, *nezifah* is likened to the rebuke that God administered to the people of Israel in the wilderness (Jerusalem Talmud, Mo'ed Katan 3:1). All these degrees of distancing also have in common that they answer a blatant and open challenge to authority. The classic rebuke story, like the stories of *niddui* and *ḥerem*, tells of a challenge to authority. All three mechanisms of distancing—*nezifah*, *niddui* and *ḥerem*—are discussed in the same social setting: a challenge to the authority of the Sages is answered by keeping someone at a greater or lesser distance, for varying lengths of time.

E

The book, then, is organised as follows. Chapter One begins with a preliminary classification of the practices of *niddui*. I then examine the ancient connection between death and *niddui* in rabbinic literature. To clarify the concepts of death and recognition as they bear on *niddui*, I draw on Hegel's dialectic of master and slave. I also examine the connection between melancholia and *niddui*. Each of the practices of *niddui* is then analysed in turn. This is a theoretical discussion of the place of the practices within the system of *niddui* and an inquiry into what they mean. At the heart of Chapter One, and at the core of this entire book, is an account of *niddui* as a system and of the context in which it operates, together with an account of the relation between *niddui* and death in rabbinic literature. In Chapter Two I show that the condition of *niddui* is a complex one. The person under the ban is still a social agent, yet he loses his social face. In this chapter I discuss the prohibition on his joining a *zimmun* (the invitation to say grace together after a meal) or a *minyan* (a prayer quorum), a prohibition that appears after the close of the talmudic period. I also examine

Hannah Arendt's "The Jew as Pariah" and the story of the ban on R. Eliezer ben Hyrcanus. I show that *niddui* in rabbinic literature is almost always discussed in the context of social visibility, since the festival pilgrimage is the primary setting in which rabbinic *niddui* appears. Chapter Three is devoted to understanding what the procedure for *niddui* means. I show how the procedure itself expresses an attitude that rejects, humiliates and distances the person under the ban. Chapter Four analyses the discussion of *niddui* in the Babylonian Talmud, tractate Mo'ed Katan (14b–16a). The system of meanings of *niddui* set out earlier finds powerful expression in this talmudic discussion. Besides *niddui*, the discussion describes two further ways of dealing with figures who undermine the foundations of society: the mourner and the leper. Chapter Four also sets out the differences between the approaches taken towards these figures and seeks to understand how the systems of discipline described in the talmudic discussion differ from one another.

The book includes many passages from rabbinic literature. I have tried to explain the Aramaic in plain language. Where its sense was ambiguous, I have tried to say so. The same holds for tannaitic texts written in Hebrew that require prior knowledge of halakha. I have also used the term *halakha* for a passage from the Tosefta (tannaitic material that was not incorporated into the Mishnah and was edited separately), and the term *mishnah* for a passage from the Mishnah.

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