

ABSTRACT

“Sabbath Desecrator With Παρρησία” A Talmudic Legal Term and its Historic Context

Moti (Mordechai) Arad

This book concerns the meaning of a Talmudic term, “מחלל שבת בפרהסיא”, which is conventionally translated as “Sabbath Desecrator **in Public**”. In the Abstract to my doctoral dissertation (DD) I translated it slightly different – “Sabbath Desecrator **With Παρρησία**” (SDP) – “suggesting that *παρρησία* does not merely refer to **the setting in** which the offense was committed, namely that the offense was done in public (was seen by ten Jews). Rather, the use of *παρρησία* implies also **the intent with** which the offense was committed. Thus, SDP is someone born Jewish who violates one of the laws of Sabbath for the sake of no practical reason, except for making a religious statement of breaking away from Jewish Law.”

I still stand by that translation and by the implication of intent, but most everything else in that phrase, and in my DD in general, needs to be refined and redefined. The most significant difference between the two studies lies in the methodology used, but the most dramatic difference is found in the answer offered to the question “what social group is referred to by the legal term “מחלל שבת בפרהסיא”. In my DD I was able to prove that the term did not refer to Sadducees, Samaritans, or “עם הארץ”, but there was no systematic work done to reach a positive identification, or to support my intuitive (and simplistic) conclusion that “it is to people like the Apostle Paul, whom some Jewish Christians called ‘an apostate from the law’, for his outspoken rejection of the ‘Sabbath of Creation’, that the concept SDP was directed”. I still stand by the dismissal of the three groups mentioned, but a new Gate was written (השער ההיסטורי), and my conclusion now is that SDP was a legal term defining Jews who violated the Sabbath as a formal act of apostasy, with the purpose of escaping a roman imperial decree of taxation or/and deportation. Most probable, the original source of “ישראל” – in Tosefta Eruvin 5:18 – created in אושה in the wake of the Bar Kochba rebellion, referred to Judean Jews who tried to escape the deportation decreed by Hadrian against Jews (including Nazarenes) from Jerusalem and its environs, as well as to all Palestinian Jews trying to escape the so called “Jewish Tax” decreed by Vespasian during the “Great Revolt”, a tax that was still in effect in the time of the academy at אושה.

The book applies a historical-philological method to reading Talmud, while keeping an open eye to the methodological challenges that were raised against this method.¹ The methodology offered in the הקדמה involves a division into four separate שערים (gates), representing four scientific disciplines (Talmud; language; literature; history), and in each one I tried to abide by the rules peculiar to that discipline. This separation, missing in DD, added reliability to the results, since those were arrived at rather

¹ For a short account of the methodology of Professor Saul Lieberman of blessed memory, and that of his living students Shamma Friedman, Daniel Sperber and Daniel Boyarin see the הקדמה above.

independently of each other. At the same time, each gate added new (and surprising) information and helped to complete the missing parts in the puzzle.

What follows is an account of the key discussions and results in each Gate.

Gate 1 – Talmudic Texts with SDP

SDP first appears in Tosefta Eruvin 5:18 (Lieberman, 114-115), where the reading is “ישראל המחלל את השבת בפרהסיא”; while a later text from the Babylonian Talmud (BT, *ibid.* 69/b; Hulin 5/a) reads “משומד לנסך יין ולחלל שבתות בפרהסיא” (one who apostatizes by either offering a libation or by desecrating Sabbaths with Parhesia). The Palestinian Talmud (PT Eruvin 6:1, 23/b) uses a different term - “משומד בגילוי פנים” (a shameless, “brazen-faced” apostate). Finally, both PT and BT remark on Mishna Eruvin 6: 1-2, which uses still a fourth term “מי שאינו מודה בעירוב” (one who does not follow the rabbinic enactment of עירוב הצרות). The order of the chapters is from early to late, that is תוספתא > משנה > ירושלמי > בבלי.²

Chapter 1 – the original reading of the Tosefta was that of the Gniza fragment “ישראל ישראל”, meaning that SDP was still considered ישראל, and as such he was able to interact with his neighbors by ביטול רשות, unlike a gentile who must rent out his share in the courtyard to his Jewish neighbors.

Chapter 2 – the legal category “מי שאינו מודה בעירוב” was created by the editor of the Mishna, and the צדוקי in M. Eruvin 6:2 is but one example (other examples being Samaritans and possibly SDP). Critical reading of the Mishna indicates that, like SDP in the Tosefta, מי שאינו מודה בעירוב cannot make עירוב, but can still use ביטול רשות.

Chapter 3 – the legal category “משומד בגילוי פנים” in PT Eruvin 23/b was a new category added by Rav to two older categories – גר תושב ועבד תושב (a resident alien and a resident [gentile] slave) – two categories that are mentioned elsewhere in PT Yevamot and in an earlier text (מכילתא דרשב"י) as working on Shabbat. Thus the ruling by Rav indicates that the משומד בגילוי פנים is an apostate who works on Shabbat. Since this category appears only once in PT, my preposition that it equals SDP depends on a parallel reading in the Bavli by Rav Huna (a student of Rav), to be discussed in the next chapter, as well as on linguistic reasoning (the two terms גילוי פנים and פרהסיא are synonymous in Syriac). It appears, then, that משומד בגילוי פנים is one and the same as SDP. We note a change in the legal status of SDP from ישראל המבטל רשות to a משומד that is equal to a גוי לכל דבר, and must rent out his share in the courtyard.

Chapter 4 – the סוגיא in BT Eruvin 68/b-69/b is a late conflation of two earlier Sugiot, one from Pumbedita and the other from Sura. It is in the latter סוגיא that Rav Huna uses the same words as PT – משומד בגילוי פנים – and claims that that legal category (attributed in PT to his rabbi, Rav) equals SDP of the Tosefta. We noted a significant change in the language of the Tosefta (from ישראל to משומד like in PT, and שבתות instead of שבת). Two later אמוראים – רב אשי – argue whether Rav Huna meant that desecrating the Sabbath a few times (later rabbis tend to favor “three”) is the act of apostasy (רב אשי), or that it describes the behavior of apostates later in their lives (רב נחמן בר יצחק). Later rabbis (like רש"י and סעדיה גאון) followed R' Nachman's opinion, and reported that behavior of apostates on Sabbath was indeed an indication

² For a detailed explanation of my methodology see the general הקדמה as well as the one to the Gate.

of the sincerity of their apostasy, and paid less attention to R' Ashi's opinion; yet these rabbis assumed that an act of apostasy must have taken place prior to that behavior on Shabbat, even though they did not spell out the nature of that act. However, R' Ashi, the great last Amora of the Sura academy, reports a precious Baraita recalling that חילול שבתות בפרהסיא was used as an act of apostasy, much in the same way as was the ritual of apostatizing by a wine libation to the genius of the roman emperor. This practice was already obsolete in the time of the late Babylonian academy, and even more so in the time of the Geonim, which may account for that silence, but it becomes clear when one studies the history of שבת בפרהסיא as a ritual of apostasy recorded both in the third and fourth gates.

Appendix – All Tannaitic texts discussing the offence of חילול שבת (Tractates Shabbat, Sanhedrin and Karitut), read “המחלל את השבת”, which proves that בפרהסיא does not add to the severity of the crime; המחלל את השבת deserves כרת and סקילה, even when the crime was witnessed by two witnesses. In comparison, המחלל את השבת בפרהסיא (SDP) is not recorded in punitive contexts, but rather in social contexts, where the texts discuss the status of SDP in matters of עירוב הצרות and שהיטה. Thus, this Gate leads to a solid conclusion that we are dealing with a well known social category, significant enough to deserve legal regulation. Who are those people? Why are they called ישראל in Tannaitic texts and apostates in Amoraic texts? What exactly was involved in the act of apostasy known as חילול שבת בפרהסיא, and why does it take ten people and three times to “earn” the title? These questions were not answered by the four Talmudic texts examined in this Gate, but I stumbled over the answers unexpectedly when I examined the linguistic, literary and historical material relevant to these texts.

Gate 2 – Linguistic Considerations

Παρησία is a Greek word, and we are reminded by Amram Tropper that “By means of a loanword from Greek or Latin, the author of a rabbinic text may have alluded to a specific setting or institution well known to his audience but unfamiliar to the modern reader.”³ Most of the Gate is devoted to παρησία, and the fifth (and last) chapter searches for the meaning of the key terms used in Gate 1 – גילוי פנים, משמר שבתו בשוק, משומד.

Chapter 1 - Greek and Syriac ancient sources (Pagan, Christian and Jewish) use παρησία to mean openness, integrity, saying and doing exactly as one thinks. In Athenian democracy παρησία justified freedom of speech, the highest privilege of a respectful citizen, but παρησία carried a negative connotation when practiced by an unworthy man. In Philo and in Christian writings, παρησία represented the highest quality of the Holy Man in his intimacy with God,⁴ and in Martyrology παρησία is a key word, repeating in every story, and always at the crucial point of the trial, when the defendants say loud and clear the exact words which incriminate them. In some cases the word παρησία is even integrated into the Testament of the Martyr, who courageously declares in his/her public trial – “I am a Christian,

³ P. 107. See also S. Friedman's remark on this matter in the Hebrew introduction to this book.

⁴ On Philo see pp. 111-112 and the remark of Shlomo Na'eh in n. 24; Peter Brown's work is very important in regard to Christian writings. See especially pp. 124-125 n.63-64, 145-146.

παρρησία”.⁵ Also, Roman courts practiced a legal procedure, where the defendant had to repeat the incriminating words three times, before the court declared his/her guilt.⁶ Of importance is also a reference to a “marriage with παρρησία” in a Syro-Roman book of laws, where a liturgical procession carrying the bride from her father’s home to the groom’s served as an alternative to a documented marriage.⁷

In all the above cases it is the precision of repeating a prescribed procedure, to the point of turning into a liturgy, that makes παρρησία, and not the public setting in which it occurs; although that liturgy is performed in front of an audience.

Finally, we noted that most of the New Testament references to παρρησία in Greek were translated into Syriac as **ܥܝܢܐ ܒܓܠܐ** (עין בגלא = with uncovered eyes, to one’s face, boldly) or **ܒܥܦܐ ܓܠܝܬܐ** (with uncovered face, brazen), and that supports our conclusion that **בפרהסיא** in the Yerushalmi is synonymous to **בפרהסיא** in the Tosefta and the Bavli. However, six occurrences of **ܦܚܐܣܝܐ** or **ܦܚܐܣܝܐ** in the Epistles of St. Paul indicate that in cases where the precise repeating of a text is at stake, the translation kept the original word – Parhesia.⁸

Chapter 2 – The five occurrences of **בפרהסיא** in Tannaitic compilations,⁹ all match the meaning in the non-rabbinic texts presented in Ch.1. It is not the public nature of the Exodus from Egypt, or of the giving of the Torah at Sinai that the Mechilta tries to capture by using the word **בפרהסיא**, neither is it the public nature of practicing Judaism that Sifrei Deuteronomy marvels; but rather it is the clarity and perfect conviction in the presence of God and an absolute confidence in the authenticity of the Torah – both Written and Oral – the word means. The context of these Midrashim seems to be a Jewish Christian polemic about whose teaching is the authoritative word of God. Parhesia is seen in a positive light.

Even more relevant to this book is Tosefta Demai 2:9, which like Tosefta Eruvin 5:18 deals with forms of “apostasy”. It asks whether members of a **חבורה** or **גרים**, who have left the group (or the Jewish people) **בפרהסיא**, were still allowed to repent and return? Once more, Parhesia is seen in a positive light – “desertion” done **בפרהסיא** serves in one’s favor, because it speaks for integrity and reliability. **בפרהסיא** in this case means a formal and liturgical procedure whereby the leaving member comes in front of the forum which accepted him into the group, and renounces the vows he made then. In case of a **עם הארץ** that became a **חבר** and now leaves the **חבורה**, the forum must have been at least ten people, as attested by rabbinic and non rabbinic texts.¹⁰ However, the forum of ten men is not what **פרהסיא** entails – rather it is the full procedure of renunciation including exchanging prescribed words and burning **טהרות** that is entailed by **בפרהסיא**. Tosefta Demai, which is the only other text in the Tosefta using **בפרהסיא**, strongly suggests that in Eruvin too, the Tosefta talks about a person that lost his full Jewish status by an act of a formal and prescribed **שבת חילול**, and that liturgy is referred to as **בפרהסיא**.

⁵ See especially the stories of Policarp (p. 124) and the Coptic Martyrs (p. 126-127).

⁶ See the story of Policarp, and the reference to Pliny’s letter to Trajan (p. 124 and n. 62).

⁷ See pp. 144-145.

⁸ See pp. 129-135, and especially 130 and 133-134.

⁹ That is in addition to Tosefta Eruvin discussed above. For a detailed discussion of the two texts in the Mechilta see pp. 149-154; for the two texts in Sifrei Deuteronomy see pp. 155-166; for Tosefta Demai 2:9 see pp. 167-180. There is no mention of **בפרהסיא** in the Mishna.

¹⁰ See in the Index under **שבת חילול**, and especially pp. 174 n. 191; 203-204 and n. 262.

All Tannaitic texts, then, use בפרהסיא in much the same way as Greek and Syriac texts have done, as representing honesty, integrity, precision and dedication.

Chapter 3 – the Yerushalmi mentions בפרהסיא twice, and in both cases it involved a ceremonial act of חילול השם (desecrating the Name of God) performed by a king. In one case, בן יאשיהו the king of Judah cut into pieces a prophetic scroll, and threw the pieces – each one with the Name of God written on it – in the fire; in the second case, King David threw a piece of pottery with the name of God written on it into the water. These symbolic acts which literally desecrated the Name of God were done in public, but it is the brazen act of חילול השם that seems to explain the choice of the term Parhessia. In these cases, it carries a negative connotation.

Chapter 4 – the Bavli uses בפרהסיא as meaning “publicly”. The most relevant text to our discussion is Sanhedrin 74/a-b, which explicitly asks “בכמה פרהסיא?” (how many people are needed for Parhessia?) and the answer is – אין פרהסיא פחותה מעשרה – בני אדם (Parhessia should have at least ten men). The late editing is clear, and a comparison with parallel Palestinian texts suggested that the original reading was ברבים (Sifra and Yerushalmi) or בשעת השמד (Tosefta) and not בפרהסיא.¹¹ Still, even in the Bavli בפרהסיא cannot be reduced to mean just “in public”, as becomes clear from the position of Rava;¹² rather בפרהסיא (as well as ברבים) is used in these contexts of duress (בשעת השמד) as representing a public scene of a very specific and liturgical nature – a person ordered by a Roman judge or guards to pour a libation to the genius of the Emperor (בימוסאות של מלכים) in the Agora (בשוק). Moreover, Rava requires that the forbidden act be ordered as an act of apostasy, not for some other benefit. It is important to note that the two acts mentioned are idolatry and desecration of the Sabbath, which are the same as those given in BT Eruvin 69/b. This similarity confirms the hypothesis that חילול שבת בפרהסיא was an act of apostasy. Finally, the fact that the term Parhessia appears again, like in Christian Martyrology, in a context of קידוש השם is striking. This may explain the need for desecrating three שבתות in term of the roman legal procedures (confer Gate 1 Ch. 4 and Ch. 1 above).

Thus, Both PT and BT, use παρρησία in cases of חילול השם and קידוש השם; whether willful and brazen (PT), or forced (BT); and the term משומד (apostate) seems appropriate in both texts.

Chapter 5 – Further attention is paid to linguistic considerations of the other terms (beside פרהסיא) mentioned above. I will refer here to just a few of these:

גילוי פנים – of special interest are ancient Aramaic texts (תעודות יב) as well as early rabbinic texts which indicate a customary covering of one’s head and face as a sign of respect and humility by a subject toward a sovereign (pp. 215-216).

ברבים – In the Sifra and in the Yerushalmi the term refers to a mixed audience of gentiles and Jews watching a trial of קידוש השם (pp. 228-232).

¹¹ See discussion of the parallel texts, pp. 198-202.

¹² Rava seems to be the original author of the Sugiya, and his position in cases of idolatry under duress and the meaning of בפרהסיא in those cases is discussed also in BT A”Z 54/a. See pp. 205-208.

שוק (Agora) – In the Bavli it is the ultimate expression of publicity. However, the market place was also the favorite place for placing the bust (or genius) of the Roman Emperor, and for the public trials and executions; and in Tannaitic Midrashim it is the place where both loyalty and defiance to authority are expressed (p. 236).

משומד – Megilat Ta’anit has the first record in Talmudic Literature of the term, and the Scholion mentions riding a horse on Shabbat as the offence. However, in this source, “משמדיא” means “one who is condemned to death”, not an apostate.¹³ In a later compilation, the Tosefta, משומד means already an apostate (p. 238); but the list of acts of apostasy recorded in T Horayot 1:5 includes אוכל חזיר, המחלל את השבת והמשוך (eating pork, Sabbath desecration and stretching of the foreskin), which are of Hellenistic origin. The late Babylonian parallel Beraita omits these three forms of apostasy but keeps יין נסך. Rav Ashi in Eruvin 69/b and in Hulin 5/a takes a middle ground, omits אוכל חזיר והמשוך, but keeps המחלל את השבת and המנסך יין. These two seem to be the customary ways of apostasy in Roman time. Based on Christian texts discussed in Gate 4, I posit that while circumcision was a sign for a Jewish identity, after Nerva there was no need to stretch one’s foreskin to prove one’s apostasy – it was enough to desecrate the Sabbath.

Finally, it appears that the legal category משומד לדבר אחד is a late construct, and that in Tannaitic times משומד simply meant an apostate, and not any religious offender.¹⁴

Gate 3 – a neo-platonic text of the sixth century sets the tone for an entire literary gate devoted to one well defined act of apostasy. The source reads: “Zeno, an Alexandrian born a Jew, renounced in public the nation of the Jews in the way usual among them, riding the white ass through their so-called synagogue on the day of rest.”¹⁵ This description coming from a renowned philosopher should read as a historical reality and not as a literary construct, and it adds validity to the story in the Scholion mentioned in 2:5 above. A series of stories ranging from Philonian Alexandria to Byzantine Antioch indicates that indeed, as Damascius claimed, riding a horse (or an ass) on Shabbat near (or through) a synagogue (or the Temple) was a well known and customary liturgy of renunciation, fitting the Talmudic accounts of a liturgical בפרהסיא שבת in Gate 1.

A close study of ceremonial riding of horses and donkeys in Antiquity yielded two different literary types – the Hellenistic and Roman Adventus ceremony, and the Biblical scene of the Messiah entering Jerusalem.

In an Adventus, a victorious monarch would enter a city, riding his white horse, and then – as a symbolic gesture of peace – he would get off his horse, walk to the Temple of the city, and there in the presence of the ten elders of the city he would make a peace offering to the God protector of the city. The opposite ceremony is also known, a violent entering into the Temple, defiling it, and making a sacrifice to the rival god (Greek or Roman). I posit that riding a horse near (or through) the

¹³ I consider the Scholion to כ”ב באילול to be the source to the parallel readings in PT and BT, and in any case the Aramaic ancient part of the scroll already read משומדיא. See pp. 240, 244, 263-279, 358.

¹⁴ The confusion between משומד and משומד is discussed in pp37 n. 89, 65-69, etc.

¹⁵ See Stern, GLAJJ II, no.550. The source is from Damascius, The Life of Isidore. See also Stern’s introduction about the author, and about the acceptance of Jews into neo-platonic groups in Alexandria.

Holy Place on the Holy Day, in front of the Holy Congregation was a symbolic act of apostasy which I refer to as “a liturgy of sin”.¹⁶

The scene of the Messiah entering Jerusalem on the back of an ass goes back to Zechariah 9:9 and to earlier Sumerian and Acadian liturgies, and is of course repeated in the “Palm Sunday” liturgy of Christian sources, where the Bishop of Jerusalem would imitate Jesus Christ in entering the city in a ceremonial procession. I posit that the story of חנניה the nephew of R’ Yehoshua entering Capernaum on Shabbat was a festive event commemorating Jesus’ first visit to Capernaum which happened on a Shabbat too, and the story must be understood as a sectarian (מינות) story and not as an act of apostasy.¹⁷ However, in Justin Martyr’s writings riding an ass is connected with the Christianization of Jews,¹⁸ and it may very well be that the two ceremonies merge into one, after the Christianization of the Roman Empire, which may explain why in Damascius the apostate rides an ass.

The story of Pelagia provides a literary glance at the views of the fourth century Christian Church in Antioch in regard to Sabbath; it appears that this day continues to be a sacred day, and Pelagia – riding a white ass on Sabbath in front of the Holy Basilica during a holy assembly of the regional bishops, her head uncovered, her sight and scent and loud music of her escorts disruptive and defiling – is presented as crossing over to the ranks of Antichrist by that “liturgy of sin”.

Strikingly similar, and more at heart of this study, is the story of אלישע בן אבויה, who turned backward, that is apostatized,¹⁹ by riding a horse near the Holy of Holies on Yom Kippur that falls on Shabbat; an act that is considered in the PT version of the story as the point of “no return” into the Jewish Fold. Based on Gate 4 I posit that there is a “historical kernel” at the core of this story – Jerusalemite Jews performing an act of apostasy at the wake of the Bar Cochba rebellion, in an attempt to earn a libellum, which would enable them to stay in Jerusalem and be exempted from paying the “Jewish Tax”.²⁰

Gate 4 – the Historical Gate is meant to create a “historical control” to the study. The question asked here was – can we prove, using entirely independent evidence, that desecration of Shabbat in a liturgical way was used as an act of apostasy?

Chapter 1 proved that Sabbath was considered THE major “Jewish way of life”.

Chapter 2 showed that during Antiochus IV (Epiphanies) desecration of Sabbath, a pig sacrifice to Dionysus and stretching the foreskin were signs of apostasy.

Chapter 3 presented direct evidence to the use of Sabbath desecration to avoid the “Jewish Tax” enacted by Vespasian, as well as escaping the deportation from Jerusalem decreed by Hadrian.

Thus, the compound employment of Talmudic, linguistic, literary and historical evidence, proved effective in uncovering a long forgotten practice, whereby a Jew would perform a liturgical desecration of Sabbath, to renounce his Judaism.

¹⁶ See my discussion of the Adventus, pp. 256, 279, 334-340.

¹⁷ In addition to the previous note, see also pp. 294-318, and especially pp. 308-313.

¹⁸ It must be clarified that Justin does not talk about Shabbat in that source; see pp. 309-311.

¹⁹ The meaning of אָחַב=אָחַב as turning backward is discussed by Lieberman; See p. 292.

²⁰ About the use of *libelli* in the time of the Decian Persecution see p. 431 n. 167.