THE HALAKHIC CATEGORY-FORMATIONS OF NORMATIVE JUDAISM: WHY THIS, NOT THAT IN THE MISHNAH-TOSEFTA-YERUSHALMI-BAVLI

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The Halakhah of Rabbinic Judaism as set forth in the Mishnah-Tosefta-Yerushalmi-Bavli organizes its data into generative category-formations, most of them shaped around the twin-principles of [1] the analysis of [2] a particular topic, hence, analytical-topical category-formations.1 Information on a given subject is shaped into the answer to one or more propositional or analytical questions of broad interest, generally transcending the subject-matter altogether. Then we should be able to account, within this theory, not only for the category-formations that govern, but also for the omission of those that can have served but play no role in Halakhic exposition of corporate Israel’s culture and social order.

The question, why this, not that? encompasses both the method of category-formation and the message conveyed therein through the repertoire of topics. At issue are [1] ways of category-formation not taken and [2] Halakhic categorical possibilities not realized in the normative statement of the Halakhah: the Mishnah’s fifty-nine topical-analytical category-formations as mediated by the Tosefta, Yerushalmi, and Bavli. A brief reprise of the range of now-established knowledge will establish for us the rules that govern: the regularities characteristic of the data of anomalous method and of new topical composites. Then we shall understand why this not that, specifically, why this method of Halakhic category-formation and not other methods that can have been chosen? Why these particular category-formations and no others in the Mishnah-Tosefta-Yerushalmi-Bavli?

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From scattered evidence of alternative methods of category-formation, I propose to extrapolate the rejected alternatives: theories of category-formation that can have served but were not utilized in the Halakhic construction that defines the norm. When it comes to the new topical or analytical or topical-analytical category-formations, we are able to account for two facts. First, all but one of the new category-formations are either topical or analytical but not both; then the question, why this, not that, as to topics centers on, why only a single topical-analytical category-formation beyond the initial repertoire? Second, I can account for all of the new topical category-formations by a familiar labor of classification: comparison and contrast to the established ones of the initial structure. From the expansion of the program of the category-formations beyond the Mishnah’s particulars, therefore, I set forth the rules of choosing topics. Of a theoretically-unlimited number, the Halakakh set forth in the Mishnah chose three score, and the successor-documents added remarkably few to that number. To state matters simply; of topics available for a religious theory of the social order to address there is in theory no necessary limit. But the Halakhic category-formations actually number at the end not a great many more than at the outset.

The order of exposition is [I] Unrealized Theories of Category-Formation; [II] The Expansion of the Halakakh: The Identification of New Topical or Analytical Category-Formations; and [III] Why This Not That? The Premises and Goals of the Halakhah.

I. Unrealized Theories of Category-Formation

Besides the Mishnah’s normative theory of topical-analytical category-formation, I identify these other theories that account for anomalous composites, which turn out to form variations on the initial theory, and not very influential ones at that.

2 With colleagues I have conducted a systematic comparison of the category-formations of the classical Halakhic documents of Judaism with their counterparts in Islam, the results being presented in Comparing Religions Through Law: Judaism and Islam (with Tamara Sonn; London, 1999: Routledge); Judaism and Islam in Practice. A Source Book of the Classical Age (with Tamara Sonn and Jonathan Brockopp; London, 2000: Routledge).