

THE RULES OF CONSUMING AND COVERING THE BLOOD IN PRIESTLY AND RABBINIC LAW

“AND their sons in Egypt walked in the wantonness of their hearts, plotting against God's commandments and each man doing what was right in his own eyes, and they ate the blood and their males were cut off.” (CD III 5-7).

Scholars have commented that the *Book of Jubilees*, *The Temple Scroll*, the *Aramaic Levi Document*, and even the *Damascus Covenant* (1) all devote special attention to the laws of consuming and covering blood. This subject has not yet, however, been considered in depth. (2)

In this article I will try to fill this vacuum, and will demonstrate the profound legal conflict between the Rabbinic and the Priestly views on the subject of eating and covering blood. (3)

Two laws regarding blood were given to Noah upon leaving the ark:

But flesh with its soul, its blood, you shall not eat. But your blood, your souls, will I require; from every beast will I require it, and from

(1) All four of these books present the Priestly *Hakhalah* as well as the Priestly view of the Law. A precise definition of the Priestly view of the Law can only be found in: D. R. SCHWARTZ, "Law and truth: On the Qumran - Sadducean and the Rabbinic views of Law." In: *The Dead Sea Scrolls: Forty Years of Research*, ed. D. DIMANT and U. RAPPAPORT (Leiden - New York - Köln/Jerusalem, 1992), 229-240.

(2) An important contribution was made in: C. ALBECK, "Das Buch der Jubiläen und die Halacha," *B.H.W.J.* (Berlin, 1930), 24-25. Also see: H. RONSCHE, *Das Buch der Jubiläen, oder die Kleine Genesis* (Leipzig, 1874), 411. J. C. VANDERKAM, "The Righteousness of Noah," in: *Ideal Figures in Ancient Judaism*, ed. J. J. COLLINS and G. W. E. NICKELSAUPE (Scholars Press, 1980), 20-21. K. BEYER, *Das Buch der Jubiläen* (Jüdische Schriften aus hellenistisch-römischer Zeit, Band II/3 (Gütersloh, 1981), 367.

(3) In another article I examine the retelling of the story of the Flood in the *Book of Jubilees* due to the book's laws concerning blood. See C. WERMAN, "The Retelling of the Events of the Generation of the Flood in the *Book of Jubilees* and the Rule of Governing the Blood in the Priestly Law," (*Tarbiz*, in press).

man; from every man's brother will I require the life of man. Whoso spills man's blood by man shall his blood be spilled, for in the image of God made He man." (*Gen* 9, 4-6)

In the *Book of Jubilees*'s retelling of the events of the generation of the flood, the difficult expression *לֹא יִשְׁתַּחֲוֶה אֱלֹהִים*—"But flesh with its soul, its blood, you shall not eat"—is explained as a prohibition against eating blood: "But flesh with its soul, with the blood, you shall not eat" (6,4). The author of *Jubilees* adds a reason for the prohibition that does not appear in *Genesis*: "Because the soul of all flesh is in the blood." Thus, according to the author of the *Book of Jubilees*, following *Genesis*, mankind has been forbidden to eat blood and to murder.

The connection between God's commands to Noah and the covenant God made with him is not clear nor has it been resolved in the scholarly world. The author of the *Book of Jubilees* presents the commandments as if they were conditions of the covenant. According to *Jubilees*, a person who eats blood is not different from a murderer, both are to be sentenced to death at human hands (*Jubilees* 6, 7-8). If the courts do not enforce this penalty, they will bring about the obliteration of mankind for the second time.

Chapter 9 of *Genesis* states that the death penalty for murderers is death by human hands; however, no penalty is attached to the prohibition "But flesh with its soul, its blood, you shall not eat." Even more striking, the prohibition against eating blood, according to *The Book of Jubilees*, includes the commandment to put the blood on the altar or to cover it, as well as the commandment to beware of the appearance of drops of blood on the clothing or body of the performer of a sacrifice (7, 28-33, 21, 6-18, 6, 11-14) (4). For *Jubilees*, including these commandments in the prohibition against eating blood indicates that they are part of the conditions of Noah's covenant. The author attaches great importance to the prohibition against eating all blood, as well as the requirement to put *all* blood on the altar or to cover it, and includes a solemn warning against allowing the sacrificer's body or clothing to be stained with blood. A person who violates these precepts is a blood-letter (*Jubilees* 7, 29, 35), and his penalty is death at human hands, "For the land will not be purified from the blood which has been spilled on it, but by the blood of the one who spilled it the earth will be purified in all its generations." (*Jubilees* 7, 33).

An extension of the prohibition against eating blood may also be found in *The Temple Scroll*. There, in its wording of the verse

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from *Deut* 12, "Only you shall not eat the blood; you shall pour it upon the earth like water" (16), the author of the Scroll writes:

You shall pour it upon the earth like water and you shall cover it with dust. (LII, 11-12)(5)

The conclusion ("you shall cover it with dust"), in the opinion of the Scroll's author, is required by the positioning of the commandment "Only you shall not eat the blood" at the beginning of the Biblical verse.

Also connected is the commandment regarding the water in the laver in *The Temple Scroll*:

[And] you shall make a conduit around the laver, near its house. And the conduit shall lead from the house of the laver into a pit [extending downwards into the land into which the water will be flowing and it will be lost in the land and it (the water) shall not be touched by anyone, for it is mixed with the blood of the burnt offering. (XXXII, 12-14).

The great importance the author of the *Book of Jubilees* gives to the laws of eating and covering blood indicates a strong argumentative position advocating an exclusive practice, different from that held by others at that time. An examination of Rabbinic Law on this subject suggest the view that is rejected and condemned by the author of *Jubilees*. (6)

The Rabbinic laws relevant to this subject are:

A. In Rabbinic Law, the blood of cattle is not covered; only the blood of venison and birds is covered.

The covering of blood is obligatory both in the land of Israel and outside it, while the Temple stands or not, on non-dedicated [animals] but not for [animal] offerings, and it is binding for venison and birds, whether they are free or kept indoors... (*Hulin* 6, 1)

while, with reference to the blood of slaughtered cattle:

"Like water." (*Deut* 12, 24) just as one is permitted to benefit from water, so one is permitted to benefit from blood, just as water enables the seeds to receive impurity, so blood prepares the seed, just as water is exempt from covering, so blood is exempt from covering. (*Sifte Deut*, Re'eh 71, FINKELSTEIN edition, p. 136)

(5) For a view of the way *The Temple Scroll* deals with this problem, see the detailed discussion in L. H. SCHIFFMAN, "Sacral and Non-Sacral Slaughter According to *The Temple Scroll*" in: *Time to Prepare the Way in the Wilderness*, ed. D. DIMANT and L. H. SCHIFFMAN (E. J. Brill, Leiden, New York, 1995), 69-84.

(6) Not all the laws included in the Mishnah and the Midrashic literature were consolidated and shaped by the end of the second century B.C. (which is, in my

B. The Rabbis also distinguish between the "blood of the soul" (*dam ha-nefesh*, also translated, "life essence") which gushes during slaughter and which must be covered, and the blood which does not flow and has to be expelled by force ("When is it *dam ha-nefesh*? The entire time it gushes. And *dam ha-tamsit*? The entire time it does not gush." Tosefta *Zevahim* 8, 17, ZUCKERMAN-DEL p. 492), and which does not have to be covered. Rabbi Yehuda disputes this, arguing that all blood must be covered, although only symbolically. (*Hulin* 6, 6) (7)

C. Rabbinic indifference with regard to blood is also expressed in permission given to use the blood that flows from the foundations of the altar and which mixes with the water of the conduit that descends from the Temple Mount. "And it is sold to gardeners as fertilizer..." (*Yoma* 5, 6) (8)

D. According to Rabbinic Law, no special care is taken to prevent blood from splattering on clothing. Even the blood of the sin offering, which is of special importance in comparison with the other sacrifices (*Lev* 6, 17-21), need not be washed off the garments. Only the blood that is splattered from the vessel must be laundered. (see *Zevahim* 11, 3)

E. While Rabbinic Law does not permit the consumption of blood, it imposes the penalty of מיתה (being cut off from the people) only in certain cases.

[Consuming] blood from the slaughtering of cattle, venison, or birds, whether unclean or clean; blood [spilled through] stabbing; blood from rending the windpipe and esophagus; and blood that spurts out [from a cut artery or vein] with which the soul is expunged—requires [the penalty of being cut off]. Blood from the spleen, blood from the heart, blood from eggs, blood from fish, blood from locusts, and the last blood that oozes [from a cut artery or vein]—do not require [this penalty]. Rabbi Yehuda requires [the penalty of being cut off] for the *dam ha-tamsit* [which oozes from a cut artery or vein]. (*Kri'at* 5, 1) (9)

opinion, the earliest date of composition that can be assigned to the *Book of Jubilees*; we find disputes on this subject among the Rabbis as well. Yet the *Book of Jubilees* itself adds weight to the claim that the other view existed. Furthermore, the *MAT Scroll* teaches us how early the split between Priestly Law and Rabbinic Law occurred.

(7) N. ZOHAR, *The Sin Offering in Tannaic Doctrine* (Masters thesis, Hebrew University, 1988), 26.

(8) We may suppose that the Priestly Law found this permissibility shocking, since, as I have noted, according to *The Temple Scroll* one is prohibited from gaining benefit from even the water in which the priests wash their hands and feet.

(9) It is interesting to compare *Targum Pseudo-Jonathan* (*Lev* 7, 26-27): "Moreover, you shall eat no manner of blood, whether it be of bird or of cattle in any of your dwellings. Every person who eats any manner of blood, that soul shall be cut off from his people." *Targum Pseudo-Jonathan*: "Every man who eats any manner of

F. The commandment in *Genesis* 9: "But flesh with its soul, its blood, you shall not eat," was not understood as a prohibition against eating blood, but rather only as a prohibition against eating a limb from a live animal. (10) This is also the interpretation given to the expression when it appears an additional time, in *Deuteronomy*: "And you shall not eat the soul with the flesh" (12, 23), that is a limb from a still-living animal... R. Hananiah ben Gamliel says: That is the blood from the living." (*Sifre Deut*, Re'eh, 76, FINKELSTEIN edition, p. 141)

How can we explain the creation of two such opposing paths in religious outlooks that are both based on the Bible and its commentaries and midrashic interpretation? The answer may be found in the fact that different approaches appear in the Bible itself. The chapters important to our topic are *Lev* 17 and *Deut* 12. (11) I begin with an examination of chapter 17, which is attributed to the Holiness School. (12) Torah scholars of all generations are divided on the essence of the prohibitions in this chapter, and of their relation to *Deut*. 12. (13)

Leviticus 17 can be divided into five paragraphs: vv. 3-7, vv. 8-9, vv. 10-12, vv. 13-14, and vv. 15-16. The first four paragraphs open with the expression, "Whatever man there be of the house/of the children of Israel"; three paragraphs also have the expression, "and of the proselytes who sojourn/who will sojourn among you." According to SCHWARZ, these phrases occur "not to add any legal information but rather as a manifestation of the legislator's desire to emphasize the applicability of his words to

blood from any animal", etc., while *Torai Kohanim* says (Tsa'v, 39:1): "You shall eat no manner of blood—even the blood of those that walk on two legs, the blood of vermin, and the blood of eggs, the blood of fish and blood of locusts, all is included? Learn from what is written, 'of birds and cattle.' How are birds and cattle exceptional? They have both a simple and a major source of impurity; they can be both forbidden and permitted; and they are a kind of flesh. These rule out; the blood of those that walk on two legs, who do not have simple impurity; the blood of vermin that do not have major impurity; the blood of eggs which are not any kind of flesh; the blood of fish and the blood of locusts that is always permitted..." On *Targum Pseudo-Jonathan's* method in *halakhot* see A. YITZNAKI, "Targum Yerushalmi and Dubei R. Yishmael," *Sifra* 4, 1985, 45-57. YITZNAKI notes the close relationship between *Targum Pseudo-Jonathan* and *Dubei R. Yishmael*.

(10) *Tosefta Avoda Zara* 8 (9): 6, ZUCKERMAN-DEL edition, 473-474. One should note the prohibition against eating blood (and the meat of a strangled animal) that is enumerated among the prohibitions imposed on converts to Christianity (*Acts* 15, 20). It would seem that a priestly law has been preserved here!

(11) See also SCHIFFMAN, note 6, where the difference is dealt with in outline.

(12) Y. KNOX, *The Sanctuary of Silence* (Jerusalem, 1993), 70.

(13) Among those who have written on this subject, I should mention: D. Z. HORMANN, *Sefar Vayihir*, A. (Jerusalem 1963), 320-329. Y. KAUFMAN, *Toldot Haemuna Hagisraelit* (Jerusalem-Tel Aviv 1956, vol. I, Book I), 127-131. KAUF-

everyone, and the importance of proclaiming them to everyone." (14)

Interpretation of the first paragraph of chapter 17 depends on how the root שׁח is understood (15). If we understand שׁח as 'slaughter' in the technical sense (cutting, slitting the neck), (16) then chapter 17 contains a prohibition against any killing of cattle for the purpose of eating anywhere but at the entrance of the Tent of Meeting. If the root שׁח is interpreted as referring to the peace offering-sacrifice, then sacred slaughter is forbidden except in the Tent of Meeting, while profane slaughter is permitted any place. (17)

It is difficult to decide between the two possible meanings of שׁח because the expression of purpose in 17, 4—"to offer an offering to the Lord"—may be complementary to the expression following it: "And brings it not to the door of the Tent of Meeting, to offer an offering to the Lord," or it may be linked to the previous verse: "that slaughters... to offer an offering to the Lord."

Deciding between these two definitions of שׁח is also difficult because the paragraph offers two reasons for the law. The first justification is hinted at in the description of the action: "Blood shall be imputed to that man, he has spilt blood; and that man shall be cut off from among his people" (v. 4). The expression 'spilled

MAN refers to many earlier scholars. B. A. LEVIN, *Leviticus, the JPS Torah Commentary* (Philadelphia, N.Y., Jerusalem, 1989), 110-117. J. MILGROM, "A Prolegomenon to Leviticus 17:11," *Journal of Biblical Literature*, 90 (1971), 149-156 (henceforth: Milgrom, Chapter 17). J. MILGROM, "Profane Slaughter and a Formative Key to the Composition of Deuteronomy," *Hebrew Union College Annual*, 47 (1976), 1-17 (henceforth: Milgrom, Profane Slaughter). H. C. BRONTO, "On Slaughter and Sacrifice, Blood and Atonement," *Hebrew Union College Annual* 47 (1976), 19-55. The most exhaustive study is that of B. Y. SCHWARTZ: *Three Chapters from the Book of Holiness—A Literary Study of Leviticus 17-19* (Ph. D. diss., submitted to the Hebrew University Senate, 1987), 26-54.

(14) B. Y. Schwartz (note 13), 25-27.

(15) On the opinions of the Jewish commentators, see B. Y. Schwartz (note 13), 212, his note 1. On the Tannaic literature see there and below. In the coming lines I will concentrate on the difficulties of understanding chapter 17 and not on the solutions that have been offered by the critics; the question at hand is how it was comprehended by the people of the Second Temple period, and not the process of its creation and formulation.

(16) On this meaning, see Milgrom, Profane Slaughter (note 13), 14.

(17) KATZMAN surmises that in the ancient period there was no profane slaughter. There was a distinction between sacrifices brought to the Temple and offered by the priest, and slaughter that was performed by the people, with the beast's blood being sprinkled on a boulder or large rock. Thus, even "slaughter" had a sacred dimension to it. But chapter 17 is not a product of the ancient Israeli period. It is part of *The Book of Holiness* that has its origins in priestly circles in the period of Ahas and Hezekiah, in the eighth century B.C. We must not, therefore, rule out the existence of actual profane slaughter among the people, even given that chapter 17 deals also with the struggle against the altars and foreign rites. See below and KNOLL (note 12), 203.

blood" has two meanings: the literal meaning that says, since the slaughter took place outside, blood has been spilled on the ground and was not brought to the altar; and the metaphorical meaning, that accuses the slaughterer (the spiller of blood) of murder. (18) Slaughtering without putting the blood on the altar is thus compared to murder, and the spiller makes himself liable to being cut off from his people. (19) According to this view, it is clear that the "sin" of blood spilling exists in every slaughter, whether sacred or not. One must conclude, then, that the root שׁח is being used in its technical sense.

But the second reason offered for the law points in another direction, even if it does negate its predecessor. (20) We read in v. 5: "To the end that the children of Israel may bring their sacrifices, which they offer in the open field..."; and in v. 7: "And they shall no more offer their sacrifices to the demons...". So the unit is focused on the offering and its place, and the שׁח that is forbidden is a sacred שׁח that is not conducted in the Tent of Meeting.

The claim that profane slaughter is forbidden seems stronger, since it is supported by the simple meaning of the verse and by the central justification, "blood shall be imputed to that man, he has spilt blood." However, the end of the paragraph makes it difficult to adopt this meaning. There it says: "This shall be a statute forever to them throughout the generations" (v. 7). With the exception of two short periods in the life of the nation (the wanderings in the desert and the beginning of the return from Babylonia), the requirement that every cattle fit for sacrifice be slaughtered in the sanctuary (or the Temple) could not possibly have been carried out. Perhaps, as has been suggested, the law was utopian: "There may be 'utopian' laws, unimplementable laws that the tellers of the Torah included among the commandments in order to illustrate an ideal or aspiration." (B. Y. Schwartz, p. 37) (21)

The second paragraph of chapter 17 forbids "a burnt offering or sacrifice" that is not performed in the Tent of Meeting. It does not specify to whom the sacred slaughter is intended. In the version before us it would seem that this is a prohibition against sacrifice to a different divine entity. (22)

The third paragraph stands at the center of the chapter. (23) and contains the prohibition against eating blood. Blood must

(18) B. Y. Schwartz (note 13), 40.

(19) Milgrom, Chapter 17 (note 13), 150; Schwartz (note 13), 40.

(20) B. Y. Schwartz (note 13), 39.

(21) On other difficulties and their solutions, see: Schwartz (note 13), 33-39.

(22) See: B. Y. Schwartz (note 13), 43-45.

(23) See: B. Y. Schwartz (note 13), 32.

not be eaten: "for the soul of the flesh is in the blood: and I have given it to you upon the altar to expiate for your souls; for it is the blood that effects expiation (in exchange) for the soul" (11). At first glance this would seem to be a specific justification ("And I have given..."—speaking only of the cattle being sacrificed) that explains the comprehensive prohibition (eating any blood). "This logic can only be explained on the basis of the assumption that the law requires offering all blood as expiation, but that this is not possible except in the case of sacrificed cattle" (B. Y. Schwartz, p. 50). Cattle fit for sacrifice must be slaughtered only before God, and its blood must not be eaten because only by putting the blood on the altar may it expiate the life of the slaughterer who spilt the blood. (24) This paragraph thus suggests an explanation of the concept lying behind the first two paragraphs. It determines the meaning of the first paragraph, and even clarifies why "blood shall be imputed" to the slaughterer if he does not bring the slaughtered cattle's blood to the altar.

The two final paragraphs in *Leviticus* 17 deal with cases in which the blood cannot be put on the altar. The fourth paragraph is devoted to the pouring of the blood of venison or birds that are hunted, and the requirement to cover the blood. There is a complex reason for this: "For the soul of all flesh, its blood, is in its life (literally, *soul*): therefore I said to the children of Israel, you shall eat the blood of no manner of flesh: for the soul of all flesh is its blood: whoever eats it shall be cut off" (v. 14). The verse, "For the soul of all flesh, its blood, is its life (literally, *soul*)" is adjacent to the requirement to cover the blood with earth, so that the purpose of covering the blood should be interpreted as not only making it unfit to eat, but also concealing it—"For the soul of all flesh, its blood..." lest it cry out for atonement. This interpretation is reasonable because of the emphasis on the blood-soul connection in the paragraph. (25) and also because this paragraph stands in the shadow of the previous paragraph, expressing the need for atonement for the act of spilling blood.

The fifth paragraph introduces a commandment regarding the eating of a wild animal that has either died a natural death or that has been the prey of wild beasts. Here there is no accusation of spilling blood, since the animal has died a natural death or has been killed by another animal. A person who eats the meat of such an animal with the blood, however, becomes unclean.

(24) B. Y. Schwartz (note 13), 50 is unsure about the meaning of this verse.

(25) B. Y. Schwartz (note 13), 52. According to Schwartz, however, the requirement of covering the blood with earth is solely a technical matter—to make the blood unfit to eat.

The commandments and prohibitions of chapter 17 reflect the view of the Holiness School: the slaughtering of cattle and venison for human consumption is defined as an intrinsic transgression, but a transgression for which remedies are provided—placing the blood of the cattle on the altar as atonement, and covering the blood of venison. (26) The inquiry of slaughter is thus focused on the blood and the attitude to it. The inherent nature of blood, "For the soul of all flesh is its blood," and its purpose, "and I have given it to you upon the altar," are the reasons for the prohibition against eating it.

In chapter 12 of *Deuteronomy* we find a different view. The chapter is divided into two sections: 1-19 and 20-28. The first part contains the dispensation to eat meat "throughout all your gates, the unclean and the clean may eat of it as they do of the gazelle and the deer" (15), and permission is given to pour the blood on the ground like water. (27) The sense of guilt involved in slaughtering cattle or venison has disappeared, and a new concept, meat meant for eating rather than for sacrifice, has appeared. The slaughter is entirely separated from any ritual, and from any link with the ritual place, and the requirement to cover the blood has been rescinded. Only the meat sacrificed in the Temple, which is intended for God, must have its blood put on the altar. The prohibition against eating blood, however, has been preserved. (28)

(26) КАУФМАН, МИСРОМ, and ВАНГЕНО (note 13) hold this view. B. Y. Schwartz takes exception: "It is more reasonable that this prohibition expresses the concept that the sacrificed cattle are the food of God, and not the food of flesh and blood" (p. 38).

(27) A. ROSE, *Introduction to Deuteronomy* (Jerusalem, 1988), 10-18.

(28) On the profane nature of *Deuteronomy* see M. WEINFELD, *Deuteronomy and the Deuteronomistic School* (Oxford, 1972), 179-245. MISROG, in his criticism of the book, opposes this approach. See J. MISROG, "The Alleged Demythologization and Secularization in Deuteronomy," *Israel Exploration Journal*, 23 (1973), 156-161. He also agrees that on this subject *Deuteronomy* is the exact opposite of the Holiness School and the Priestly Doctrine. See MISROG Lev. 17 (note 13), 186, his note 32. It is hardly surprising that there is also a difference between the Holiness School and the Book of *Deuteronomy* with regard to murder. According to the Holiness School, a man who murders unintentionally is also liable for the death penalty, since the blood of the murder victim cries out for atonement, whether or not the murderer intended to murder him (*Gen* 9, 6, *Nam* 35, 33). We do not find this approach in *Deuteronomy*, and the difference may be clarified when one carefully examines the instructions about the cities of refuge. Cities of refuge, according to the Holiness School, were Levitical cities—in other words, temple cities (*Nam* 35, 6). The role of these cities of refuge was to protect the unintentional murderer from the avenger and also to punish him. The assumption is that the unintentional murderer must make atonement for the clean blood he has spilt, and that he must endure the penalty of enforced residence in a holy sanctuary, until the death of the High Priest (of the city of refuge or of the murderer's city 35, 28). The death of the High Priest

The second half of chapter 12 of *Deuteronomy* repeats this sanction to slaughter outside the premises of the Temple, but it also contains an attempt to square this sanction with *Leviticus* 17. A reason is given for the change in law: "When the Lord your God shall enlarge your border..." (12, 20), an explanation is given for a somewhat obscure verse (v. 22 clarifies v. 15), and terminology belonging to the Holiness School is cited with regard to blood: "for the blood is the soul, and you may not eat the soul with the meat" (vv. 12, 23), in contrast with the first half of the chapter, which ignores this and simply warns against eating blood (v. 16).

The students of *halakhat* of the Second Temple period were faced with the contradiction between the demands of the Holiness School and the relaxed rules of *Deuteronomy*. This contradiction could be confronted on two levels, the *halakthic* and the interpretive.

An examination of the laws in the *Book of Jubilees* and *The Temple Scroll* shows that the Priestly Law reflected in these sources clearly accepted the viewpoint of the Holiness School. The dread of blood still exists in the Priestly Law. Indeed, this approach lies at the root of the sect's line of interpretation.

A. The problem of allowing the cattle's blood to be spilt on the ground like water (*Deut* 12) is resolved by extending the prohibition against eating blood to include the command to cover the blood. (29) The blood of cattle slaughtered outside the Temple must thus be covered.

alones for the spilling of blood (once again, blood for blood) ("Just as in his life the priest bears the transgressions of the children of Israel and atones for them, so in his death he atones for the accidental murder that has no atonement but a soul," KRONI, 169). Ransom may not be taken to allow an accidental murderer to leave a city of refuge (35, 32). And ransom is not to be taken to atone for blood spilt intentionally, since the *land* is rendered impure if blood is not atoned for with blood.

An entirely different picture may be found in *Deuteronomy*. The city of refuge is a refuge and no more. The connection with the Levite cities is severed. The cities are chosen in accordance with their geographic location, so that none would be too far away for one who unintentionally deals a fatal blow to another (*Deut* 19, 3, 6). The High Priest is not mentioned, nor is the prohibition against taking punishment and blood spilt by accident does not cry out for atonement. The malicious murderer is subject to the death penalty, not because the blood of the murderer cries out and the lack of atonement makes the land impure, but because: "You shall put away the guilt of *innocent* blood from Israel, that it may go well with you" (*Deut* 19, 13).

(29) See discussion at beginning of this article. It may be that this extension is the result of a special interpretation of *Lev* 17. Note that in the fourth paragraph of that chapter (vv. 13-14) the order is as follows:

B. The justification given in *Deuteronomy*, "If the place which the Lord your God has chosen to put his name there be too far from you" (*Deut* 12, 21), is taken literally. So, according to *The Temple Scroll* (LII, 13-16), it is not permitted to eat meat not meant for sacrifice within a three days' walk from the Temple city. Adherence to this law could have had the effect of raising the number of sacrifices whose blood is placed on the altar, with the purpose of atoning for the slaughter itself. It is therefore clear that the city of Jerusalem, in proximity to the Temple, does not fall under the definition of "your gates" (30)

In contrast, Rabbinic Law adopts the approach of *Deut* 12. The Rabbis remove the guilt and dread associated with blood that is expressed in *Lev* 17; the only two details that the Rabbis take from that chapter are the clear tenets of covering the blood of beasts and birds, and the prohibition against eating blood. The restrictions made to bring *Deuteronomy* in line with chapter 17 are omitted; according to Rabbinic Law, the eating of meat not intended for sacrifice was permitted even in Jerusalem. (31)

A. The commandment to spill the blood of venison and birds and to cover it.
B. The justification: "For the soul..."
C. "Therefore I said to the children of Israel, you shall eat the blood of no manner of flesh;"

The order is thus commandment-justification-commandment. In this structure it may be concluded that the first and the second commandments are identical because they are linked to the same justification. It may therefore be said that the prohibition against eating blood includes not only the command to spill it, but also the command to cover it with dust.

This is also the order, although less clearly so, in the third paragraph:

A. The punishment for eating blood (being cut off).
B. The justification: "For the soul..."
C. "And I have given it to you upon the altar to make atonement for your souls."

Once again we find the structure commandment-justification-commandment. The prohibition against eating blood thus includes the commandment to put it on the altar.

(30) As noted by E. Tov, *The Temple Scroll* avoids the repetition in *Deut* 12, E. Tov, "Deut 12 and *HGT* Temple LII-LIII, A Contrastive Analysis," *Revue de Qumran* 19:57-58 (1991), 169-173. However, Tov neglects to note that the Scroll chooses to cite the unit that relates to *Lev* 17 and uses the terminology of *Lev* 17. This choice is no coincidence. Also see SCHIFFMAN'S (note 5) comment on Tov's article, p. 81.

(31) A later law referring to defilement in meat meant for eating rather than sacrifice is given in *Tosefta Nida* 9, 18 (ZUCKERMAN, 652). The reason for this structure is not found in Tannaic sources although the Jerusalem Talmud states: "At the first they said one may take cattle [from the money of *ma'aser shevi*] for meat meant for eating rather than sacrificing but this resulted in not bringing peace offerings to the altar. So they said, they should not take even beast or bird [from the money of *ma'aser shevi*]" [*Ma'aser Shevi* Chap. 1; *halakhat* 3, 52:4].

Let us examine the interpretation of these commandments in Rabbinic Law.

4. In contrast to the Priestly Law, *Deut* 12, 21 "If the place which thy Lord thy God has chosen to put his name there be too far from you..." is interpreted in a very narrow sense: Jerusalem is included in the definition of "your gates."

B. There is a dispute among the Rabbis as to the significance of the prohibition in *Leviticus* 17, 1-7 and the relation between *Leviticus* 17 and *Deut* 12.

R. Yishmael says, from this we learn that meat for profane consumption was prohibited to Israel in the wilderness, and when they came to the Land the Rabbis permitted it to them. (32) R. Akiva says, the purpose of the verse [in the Torah] is only to teach you [the commandments] that are set forth in it. (*Sifre Deut*, Re'eh, 75, FINKELSTEIN edition, p. 140)

R. Yishmael thus accepts the basic interpretation of the Priestly Law of *Lev* 17, but is of the opinion that the prohibition was removed when the Israelites entered the Land. R. Akiva rejects this understanding of *Leviticus*. (33)

In *Torat Kohanim, Lev* 17, 1-7 is interpreted as dealing with the prohibition of altars outside the Temple, as Rabbi Akiva contends. The midrash several times emphasizes individual rather than collective punishment:

נְכַרְתָּ הָאִשָּׁא לֹא תִצְרֹחַ... בְּקִרְבְּ עַמִּי שְׂלָלִים

"and that man shall be cut off' not the people, 'from his people,' not *his people*, who remains undisturbed" (*Aharei Mot*, 84:1). This would appear to be a reaction to the Priestly Law of universal responsibility I noted above. The Mishna in *Zevachim* 13-14, also assumes that the intention of the prohibition in *Lev* 17 is to forbid

(32) Different manuscripts of *Sifre* differ here. The Berlin MSS and the Midrash Chachamim MSS have, "Scripture permitted it to them." The Roma 32 MSS and Oxford 151 are as given in the text. The London MSS reads, "And when they came to the Land, it was permitted to them by the Rabbis."

(33) This may be summarized as follows: The Priestly Law: *Lev* 17—prohibition of meat meant for consumption rather than sacrifice. *Deut* 12—partial permission. R. Yishmael: *Lev* 17—prohibition of meat meant for consumption rather than sacrifice. *Deut* 12—full permission. R. Akiva: *Lev* 17—meat meant for consumption rather than sacrifice is allowed. *Deut* 12—meat meant for consumption rather than sacrifice is allowed; the chapter deals with the laws of slaughter. R. Yishmael thus represents an approach that is closer to the Priestly Law—see Note 9 on the closeness of *Debet R. Yishmael* to the *Pseudo-Jonathan Targum*, which in many cases refers to the Priestly Law. The dispute over *Lev* 17 also appears in later sources. For details, see B. Y. SCHWARTZ (note 13), 212, his note 1.

altars outside the Temple. According to this interpretation, meat meant for consumption rather than sacrifice was never forbidden.

What led to these two paths? Why has the Priestly Law chosen *Lev* 17 as its guideline, while the Rabbis chose to ignore it to the extent that they could, and accepted *Deut* 12 in its literal sense? (34)

It may well be that each of these *halakic* paths preserved a tradition from earlier times. However this assumption can neither be proven nor tested today.

It has already been shown that the Priestly Law always rules strictly, (35) and this instance is no different. (36) In the case under discussion there may, however, be a further explanation.

Rabbinic Law and Priestly Law have different views of the laws in the Torah. While the Rabbis view the commandments in the Torah as decrees given by God to man, the adherents of the Priestly Law saw them as "guidelines, based in independent situations, which man, enabled by the grace of the wisdom-giving God, may introduce among his considerations in accepting the yoke of the commandments." (37) Chapter 17 of *Leviticus* thus serves as a guide for the Priestly Law in understanding existing situations. The picture of reality derived from this chapter, is that "the blood is the soul," blood that cries out for atonement, a cry that finds its remedy when the blood is covered or put on the altar. Additional laws are derived from this approach, laws that do not appear in the Torah but which are necessary for the reality according to the *Weltanschauung* that this view reflects. Thus,

(34) See D. R. SCHWARTZ's comment: "Why did this particular type of sect reach the conclusions it did, while other Jews reached other conclusions?" In: D. R. SCHWARTZ, "On Gannan Halakha," *Jewish Studies, Forum of the World Union of Jewish Studies*, 33 (1983), 71-73.

(35) See: Y. SUSSMAN, "The History of Halakha and the Dead Sea Scrolls—A Preliminary to the Publication of *4QMMT*," *Tarbiz* 59 (1980), 27.

(36) See the dispute between R. Yehuda, whose opinions coincide with those of the Priestly Law, and R. Shimon ben Azai: "Only be sure that you do not eat the blood" (*Deut* 12, 23). R. Yehudah says: This indicates that Israel was bathed in blood before the Torah was given. One might think that this situation continued even after they had joyfully received it from Mt. Sinai, so it is written 'only.' R. Shimon ben Azai says: Are there not three other commandments like it in the Torah? [The emphasis only it indicates that if in the case of the interdict of blood which is the least of all the commandments, Scripture emphatically warns you, how much more so does this apply to other [more grave] commandments." In: *Sifre: A Tannaitic Commentary on the Book of Deuteronomy*, trans. Reuven HAMMER (Yale University Press, 1986).

(37) Y. SUSSMAN, "Halakic Determination of a Nominalistic and Realistic Nature: Legal and Philosophical Considerations," *Dine Yisrael* 12 (1984-1985), 251. On this entire matter see D. R. SCHWARTZ's article, note 1.

the blood of cattle that cannot be put on the altar must be covered like the blood of venison; one must take precautions against blood appearing on the garments or on body of the sacrificer; and a person who does not take these rules seriously is a spiller of blood, the label the Torah reserves for the profane slaughterer, not easily distinguishable from a murderer. (38)

Rabbinic Law sees chapter 17 of *Leviticus* as no more than a collection of rulings, so it is not bound by an interpretation that places a specific reality or common ground at their foundation. Therefore a change, as expressed in *Deuteronomy* 12, does not require an effort of interpretation that will reconcile the two contradictory chapters.

The difference between Rabbinic Law and Priestly Law grew deeper as a result of the adoption of a new concept among the promulgators of Rabbinic Law, the view that the soul is a substance that is not connected to the blood, but which has its own existence. The expression "because the soul is in the blood" came to be interpreted as meaning that the soul depends on the blood for its existence, but is not actually *in* the blood. (39) The belief in "a life for a life" (or a "soul for a soul") becomes irrelevant when the opinion that "blood is a soul" is rejected. The fundamental concept that appears to unify chapter 17 of *Leviticus* was thus lost. (40)

(38) It is not surprising that the Priestly Law demands a life for life ("blood for blood") also in the case of human life. This approach is the basis for the laws of execution for murder. It is sufficient, in Priestly Law, for three separate witnesses, each witnessing a different murder, in order to execute the criminal (*CD* IX 16-22). Rabbinic Law, on the other hand, demands two witnesses to the same murder as well as a warning on their part, in order to condemn the murderer. In Priestly Law, a false witness who causes the death of an innocent person is also executed; while in Rabbinic Law, such a false witness is not executed. In fact, according to the Rabbinic Law, a false witness whose perjury is revealed before the innocent is executed is to be killed (*Makkot* 1, 6).

(39) See the discussion in N. Zohar (note 7), 21-29.

(40) It is possible to demonstrate the process of examination of some of the material already discussed. Paragraph 3 in our analysis of *Leviticus* 17 appeared to be a specific justification ("and I have given...—speaking only of the cattle being sacrificed) that explains the comprehensive prohibition (eating any blood). "This logic can only be explained on the basis of the assumption that the Law required offering *all* blood as expiation but that is not possible except in the case of sacrificed cattle." (B. Y. Schwartz, 501). Separating the two first sections of this Biblical paragraph (prohibiting eating any blood and the justification "for the soul of the flesh is in the blood" and the third section—"And I have given...") demystifies the basic assumption that all blood was to be placed on the altar since the slaughterer's life was at risk in all cases. Indeed, this distinction is found in Rabbinic mainstream *halak-hah* but not in the remarks of R. Yehuda, who represents the view of Beth Shammai. It is worth examining a relevant *drasha* at this point: "Who eats any blood" (*Lev* 17, 10), what is to be learned from this? As it is written, 'because the soul of the flesh is in the blood...' (17, 11), it might be thought that we do not require [the

Beth Hillel adopted this approach (that the soul is not in the blood), while Beth Shammai (later represented by R. Eliezer and R. Yehuda) opposes it. (41) Beth Hillel makes a distinction between the different types of blood (*dam ha-nefesh* and *dam ha-tam-sit*, and blood according to what animal it comes from; see paragraphs B and E above). This concept also led to a different interpretation of the Biblical expression "But flesh with its soul." This is not the flesh with its blood, but the flesh while still alive—a limb from a living animal (see section F in the summary of the pertinent Rabbinic Law above).

The Priestly Law, like Beth Shammai, rejects this view. For its adherents, the source of authority is the Torah and the way it expresses reality. (42) The soul is in the blood, so blood must be treated with reverence. We find this emphasis in *The Temple Scroll*, rewriting of *Deut* 12. "Only be sure that you do not eat the blood, you shall pour it out upon the earth like water and cover it with dust because the blood is the soul, and you will not eat the

penalty of being cut off except on *dam ha-nefesh* of [animals] sanctified [for sacrifice]. From where do we know about *dam ha-nefesh* of non-dedicated [animals], about *dam ha-tam-sit* from the non-dedicated, about *dam ha-tam-sit* of sanctified animals? We learn 'who eats any blood'—the words of Rabbi Yehuda. The Rabbinic say, on all of these we are not guilty except on *dam ha-nefesh*." (*Torat Kohanim*, Ahaei Mot, 84-9). R. Yehuda connects the three components of the paragraph—the prohibition against eating blood; the justification, "for the soul of the flesh is in the blood..."; and the declaration "And I have given...". Thus, he raises the possibility that "it might be thought that we do not require [the penalty of being cut off] except on *dam ha-nefesh* of [animals] sanctified [for sacrifice]". But he rejects this possibility on the basis of his reading of the Bible as prohibiting the eating of *all* blood. "If *all* blood is forbidden, the soul is found in *all* blood and thus *all* blood must be placed on the altar as an expiation for the soul of the slaughterer. The Rabbinic, however, do not connect the various sections of the paragraph, reading the two first sections as independent of the third; only the third section relates to the altar in their reading. Their approach is to read "for the soul of the flesh is in the blood" as the blood is the vehicle in which the soul departs the body; thus, "who eats any blood" refers only to *dam ha-nefesh* which gushes during slaughter, *both* in ritual sacrifice and in profane slaughter. While the declaration, "And I have given..." is also understood by the Rabbinic to indicate that *dam ha-nefesh* can expiate, it *does not* determine, however, what sort of blood is permitted to be eaten. The distinction the Rabbinic draw between the various sections of the paragraph results from their special interpretation of "for the soul of the flesh is in the blood." For them there is no reason to combine the two separate uses of the word *dam* in the second and third sections, basic to the Priestly interpretation as well as reflected in the view of Beth Shammai.

(41) N. Zohar (note 7), 27-28.

(42) This is something of a qualification of D. R. Schwartz's general theory about the Priestly Law. On the conservatism of these circles in the study of science in general, see M. E. Stone, *Selected Studies in Pseudepigrapha and Apocrypha with Special Reference to the Armenian Tradition* (VTP 9) (Leiden: Brill, 1991), 247-258.

soul with the flesh..." (LIII, 5-6). While in *Deuteronomy* the justification ("because?") comes between the prohibition against eating blood (v. 23) and the command to pour it upon the earth (v. 24), in *The Temple Scroll* the justification comes *after* the commandment to cover the blood: "...and you covered [the blood] with dust because the blood is the soul..." (43)

Cana WERMAN.

(43) YADIN saw this revision as merely technical, making it match the version in 12, 16. See *Temple Scroll*, Part II, 168.