

## THE PRICE OF MEDIATION: THE ROLE OF PRIESTS IN THE PRIESTLY HALAKHAH

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Any discussion of facets of the Qumran writings is a risky task given the issues that are still being debated and the lack of consensus regarding numerous key questions. Nonetheless, most scholars nowadays would tend to concur that the halakhic dispute between the Qumran community members and the group(s) influenced by the Pharisaic position played a decisive role in the community members' decision to withdraw from Jerusalem and live in isolation.

Attempts to better understand the origin and specifics of this halakhic dispute must come to grips with methodological obstacles.<sup>1</sup> The halakhic system embedded in the Qumran writings is the one that was accepted by the Community, and was partly created within its own confines after the withdrawal and after its decision to adopt a 364-day calendar that had never been used in the Land of Israel before.<sup>2</sup> The Qumranic halakhic system needs to be teased apart to identify those elements adhered to by the community and those also accepted by the wider group from which the community detached itself, the priestly circle who controlled the Jerusalem temple during the fourth, third,

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<sup>1</sup> Joseph M. Baumgarten, "Sadducean Elements in Qumran Law," *The Community of the Renewed Covenant: The Notre Dame Symposium on the Dead Sea Scrolls* (ed. Eugene Ulrich and James C. VanderKam; Notre Dame, Indiana: University of Notre Dame Press, 1994), 27–36. The term "Qumran community" is used here to denote the groups whose existence is implied by the sectarian scrolls found in the cave near Khirbet Qumran (*The Rule of the Community, Rule of the Blessings, Hodayot, Damascus Document, and the pesharim*). The characteristic features of these communities are isolation from the rest of the people due to differences in halakhic rules, and the adoption of the 364-day calendar described in the *Astronomical Book of Enoch*. I make no claim regarding a link between Khirbet Qumran and these groups, nor do I argue that its membership was restricted to a single group.

<sup>2</sup> On the 364-day calendar during the Second Temple period see the discussion in Menahem Kister, "Studies in 4QMiqsat Ma'ase Ha-Torah and Related Texts: Law, Theology, Language, and Calendar," *Tarbiz* 68 (1999): 360–63 (Hebrew). On the acknowledgement, found in the Community's historiography, that the 364 day calendar was never used prior to the Community's founding, see Cana Werman, "Epochs and End-time: The 490-Year Scheme in Second Temple Literature," *DSD* 13 (2006): 229–55.

and second centuries B.C.E. The next step is to evaluate and understand the *halakhic* outlook shared by both priestly groups and then compare it to another *halakhic* system we do not know much about, the Pharisaic system. Reconstruction of the particulars and principles of Pharisaic *halakhah* is only partially possible. It can be done by identifying early layers in the tannaitic literature and by analyzing the arguments included in the Qumranites' writings to refute their opponents' views.<sup>3</sup>

In my paper I would like to reconstruct a *halakhic* disagreement between the early priestly circle and the Pharisees. I then define the principle governing the *halakhah* presented by the priests and suggest that this principle formed the core of the dispute between the two parties. For simplicity's sake, I use the terms "priestly *halakhah*" and "Qumranic *halakhah*" interchangeably through most of the paper and only differentiate the two layers in the last section.

#### 1. 4Q276–4Q277

The point of departure of the following analysis is two manuscripts, 4Q276 and 4Q277, published by the late Joseph Baumgarten in DJD XXV. Both manuscripts deal with the preparation of the ashes of the red cow and how they are to be used for purging defilement from a corpse.<sup>4</sup> The two manuscripts appear to reflect two independent compositions; however they are very similar in aim. 4Q276 contains instructions on how to prepare the ashes. Because of its fragmentary nature it is impossible to determine what other topics, if any, were included in this manuscript. 4Q277 contains instructions on both how to prepare the ashes and how to use them. The speaker is not identified in either composition. The term "Tent of Meeting", found in 4Q276, indicates that the author did not try to adapt the biblical world to his own time.

<sup>3</sup> For an important and pioneering effort to define the core of the dispute, see Daniel R. Schwartz, "Law and Truth: On Qumran-Sadducean and Rabbinic Views of Law," *The Dead Sea Scrolls: Forty Years of Research* (ed. Devorah Dimant and Uriel Rappaport; STDJ 10; Leiden: Brill, 1992), 229–240. For a response, see Jeffrey L. Rubinstein, "Nominalism and Realism in Qumranic and Rabbinic Law: A Reassessment," *DSD* 6 (1999): 157–83.

<sup>4</sup> Joseph M. Baumgarten, "274–278. 4QTohorot A–C," in Joseph M. Baumgarten et al., *Qumran Cave 4. XXV: Halakhic Texts* (DJD XXXV; Oxford: Clarendon, 1999), 111–19. Note that, following Jacob Milgrom, I use the term "red cow" to render the biblical expression אֲדוּמָה פָּרָה rather than the less precise, though more common, "red heifer."

Furthermore, in both compositions there is no division between the biblical quotations and their interpretation. This warrants labeling 4Q276 and 4Q277 as “rewritten Bible.”<sup>5</sup> The biblical chapter that is rewritten in 4Q276–4Q277 is Numbers 19. The first part of the biblical chapter provides details on how to prepare the ashes of the red cow; the second part explains corpse defilement and the use of the ashes mixed with water, called the water of lustration, for purging.

Numbers 19 contains a few features characteristic of the priestly source of the Pentateuch,<sup>6</sup> the most important of which is the severity of corpse defilement. Corpse defilement affects not only those who touch the dead but also those who are under the same roof as the corpse. Due to its severity, this impurity also affects the Tabernacle\ Tent of Meeting\temple;<sup>7</sup> hence any delay in its removal is forbidden: “Whoever touches a corpse, the body of a person who has died, and does not purge himself (אִתְּחַטֵּא), defiles the Lord’s tabernacle; that person shall be cut off from Israel. Since the water of lustration was not dashed on him, he remains impure; his impurity is still upon him” (v. 13). Note that the root אִתְּחַטֵּא, found in verse 13, is abundant in our chapter. אִתְּחַטֵּא appears in verse 9, in the concluding remark “תִּחַטְּאוּ אִתְּחַטְּאוּ,” “it is for purging.” In v. 17, the cow is called תִּחַטְּאוּ, “purging.” The root אִתְּחַטֵּא is also found in two verbal stems. The action of sprinkling the water is in *pi’el*, for instance in verse 19: “The pure person shall sprinkle it upon the impure, on the third day and on the seventh day thus purging him (וְיִחַטְּאוּ) by the seventh day.”<sup>8</sup> The action taken by the impure person upon whom the water is sprinkled is in *hitpa’el*, אִתְּחַטְּאוּ. Thus verse 12 reads: “He shall purge himself (אִתְּחַטְּאוּ) on the third and the seventh days.” Similarly in verse 13, cited above: “Whoever touches a corpse, the body of a person who has died, and does not

<sup>5</sup> On these considerations for evaluation of the literary genre, see Aharon Shemesh and Cana Werman, “Halakha at Qumran: Genre and Authority,” *DSD* 10 (2003): 104–29.

<sup>6</sup> Jacob Milgrom, *Numbers* (The JPS Torah Commentary; Philadelphia: JPS, 1990), 438. According to Knohl, Numbers 19 originated in P but also includes a few verses from an editorial layer of H. See Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995), 92–94.

<sup>7</sup> For clarity’s sake in what follows I will use the term “temple” to refer to God’s abode.

<sup>8</sup> The translation of this verse and all other biblical citations are adapted from NJPS. The changes I made pertain specifically to terms of purity—“pure” and “impure” rather than NJPS “clean” and “unclean”; “purging” instead of “cleansing”.

purge himself (יִתְחַטֵּא), defiles the Lord's tabernacle." Removal of the impurity is purging, חִטּוּי. Purging the impurity in the sphere outside of the tabernacle also removes the stain inside the tabernacle.

The belief that impurity present in the camp affects the temple from afar shapes other laws concerning impurity in the priestly sources of the Pentateuch. A *zab* (or *zaba*), i.e. a man or a woman with an abnormal discharge; a *yoledet*, woman after childbirth; and a leper are all obligated to bring a purgation offering. Blood from the sacrificial animal is sprinkled on the altar, thus purging the holy site and removing the impurity.<sup>9</sup> However, defilement from a corpse is different from the above. Its purging is an external rite, accomplished by an external sacrifice. The red cow is slaughtered outside the temple, and its ashes mixed with water are sprinkled on the impure outside the temple and not on items in the temple.<sup>10</sup> The view that corpse defilement is less severe than that of *zav*, *yoledet* and leprosy<sup>11</sup> is reflected in its different requirements.

Thus, the law of the red cow is a special case of a purgation offering. Consequently both the preparation of the ashes and the sprinkling of the water of lustration are located on the fragile boundary between an intra-sanctuary rite and an external one. The cow has to be without blemish, and never used for labor ("never previously yoked," 19:2), a regular stipulation in sacrificial laws.<sup>12</sup> Furthermore, a priest must be present while the cow is burning and must throw "cedar wood, hyssop, and crimson stuff" into the fire (19:6). A priest is also responsible for dashing the blood in the direction of the temple (19:4). The requirement to dash the animal's blood is another indication of an inner-

<sup>9</sup> Jacob Milgrom, "Israel's Sanctuary: The Priestly 'Picture of Dorian Gray,'" *RB* 83 (1976): 390-99.

<sup>10</sup> Milgrom (*Numbers*, 442-43) mentions two biblical sources which obligate a person who was defiled by a corpse to make an ordinary purgation offering: In Ezekiel a priest who was defiled by a corpse has to make a purgation offering (44:27); a nazirite who was defiled by a corpse has to make a purgation offering (Num 6:10-12). In Milgrom's opinion, these sources reflect an earlier layer than the one in Numbers 19.

<sup>11</sup> As was noted by Milgrom (*Numbers*, 443-42), the stance in Numbers 19 contradicts Numbers 5: "Instruct the Israelites to remove from the camp anyone with an eruption or discharge and anyone *defiled by a corpse*. Remove male and female alike; put them outside the camp so that they do not defile the camp of those in whose midst I dwell" (vss. 2-3).

<sup>12</sup> Baruch A. Levine, *Numbers 1-20: A New Translation with Introduction and Commentary* (AB 4; New York: Doubleday, 1993), 461.

temple rite. The blood of all cattle slaughtered for sacrificial purposes must be put on the altar; the dashing of the blood of the red cow symbolizes the connection of its blood to the temple. Another sign that the ritual of the red cow is an inner-temple practice is related to the biblical law which states that those who take part in purgation sacrifices are impure because of their contact with the purging substance that absorbed the impurity (Lev 6:21; 16:28). Similarly, those involved in the red cow rites, who are commanded to be pure while taking part in them, become impure until sunset and are commanded to bathe and wash their clothes at the end of the ceremony.<sup>13</sup> The priest who is present while the cow is burning (19:7); the one who burns the cow (19:8); the one who gathers the ashes (19:10) as well as the one who sprinkles the water of lustration: “A pure person shall sprinkle it upon the impure person on the third day and on the seventh day, thus purging him by the seventh day. He shall then launder his clothes and bathe in water, and at nightfall he shall be pure” (19:19).

The aspect of the red cow rite that is external to the Temple is conveyed by the participation of non-priests. Neither the person who slaughters the cow nor the one who gathers the ashes has to be a priest. The only stipulation is to be pure. The person who sprinkles the ashes on the impure also must be pure. However, Numbers 19 does not stipulate that he should be a priest: “Some of the ashes from the burnt purging shall be taken for the impure person, and fresh water shall be added to them in a vessel. A person who is pure shall take hyssop, dip it in the water, and sprinkle. . . .” (19:17–18).

With this biblical background in mind I now turn to 4Q276–4Q277. The table below compares 4Q276–4Q277 and Numbers 19:

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<sup>13</sup> All but the person who slaughters the cow. As Milgrom notes (*Numbers*, 439), the slaughtered cow becomes holy while its blood is dashed toward the tabernacle. The slaughterer takes part in the rite prior to the dashing and hence does not become impure.

Numbers 19 <sup>14</sup>	4Q276–277 (J. M. Baumgarten)
<p>I.</p> <p>(2) Instruct the Israelite people to bring you a red cow without blemish, in which there is no defect and on which no yoke has been laid. (3) You shall give it to Eleazar the priest. It shall be taken outside the camp and slaughtered in his presence. (4) Eleazar the priest shall take some of its blood with his finger and sprinkle it seven times toward the front of the Tent of Meeting. (5) Then the cow shall be burned in his sight, its hide, flesh and blood shall be burned, its dung included. (6) And the priest shall take cedar wood, hyssop, and crimson stuff, and throw them into the fire consuming the cow.</p> <p>(9) A man who is pure shall gather up the ashes of the cow and deposit them outside the camp in a pure place, to be kept for water of lustration for the Israelite community. It is for <i>purging</i> (חטאת). (10) He who gathers up the ashes of the cow shall also launder his clothes and be impure until evening.</p> <p>-----</p> <p>II.</p> <p>(17) Some of the ashes of the burnt <i>purging</i> (חטאת) shall be taken for the impure person, and fresh water shall be added to them in a vessel. (18) A person who is pure shall take hyssop, dip it in the water, and sprinkle...</p>	<p>4Q276</p> <p>[Garments] in which he did not minister in the sacred (precincts) [ ] and he shall gird (?) the garments<sup>15</sup> and one should slaugh[ter the cow [be]fore him. And he shall carry its blood <i>in a clay vessel which [was sancti]fied by the altar</i>. And he shall sprinkle from its blood with [his] finger seven [times to]ward the <i>T[e]nt of Meeting</i>. And he shall cast the cedar wood [and the hyssop and the cri]mson [stuff] into the midst of its burning.</p> <p>4Q277</p> <p>[And] <i>a man purified from any impurity (which lasts until) evening</i> [shall gather the ash of the cow and give it to] the priest <i>who is מכפר</i> with the blood of the cow. And anyone [who touches the ash or carries t]he clay [vessels] <i>with [whi]ch they כפרו</i> the law of [ ] shall bathe] in water and [be im]pure until the ev[en]ing</p> <p>-----</p> <p>[And let no] man [sprinkle] the lustration water upon those defiled by a c[orpse]. <i>Only a priest who is pure</i> shall [sprinkle upon] them, for he is <i>מכפר</i> [מ] the impu[re]. And a child shall not sprinkle upon the impure.</p>

<sup>14</sup> The verses are re-arranged according to the order of the instructions found in the Qumran fragments.

<sup>15</sup> The words are: וחיב את הבגדים. Baumgarten explains this as an instruction to fold the garment to prevent it from being stained by the cow's blood (Baumgarten, "4Q276," 112).

Table (cont.)

Numbers 19	4Q276–277 (J. M. Baumgarten)
<p>(11) He who touches the corpse of any human being shall be impure for seven days. (12) He shall <i>purge</i> himself (יִתְחַטֵּא) with it [= the ashes] on the third day and on the seventh day, and then be pure; if he fails to <i>purge</i> (יִתְחַטֵּא) himself on the third and seven days, he shall not be pure.</p> <p>(19) The pure person shall sprinkle it upon the impure person on the third day and on the seventh day, thus <i>purging</i> him (חִטָּא) by the seventh day. He shall then launder his clothes and bathe in water, and at nightfall he shall be pure.</p> <p>(13) Whoever touches a corpse, the body of a person who has died, and does not <i>purge</i> (יִתְחַטֵּא) himself, defiles the Lord's tabernacle; that person shall be cut off from Israel. Since the water of lustration was not dashed on him, he remains impure; his impurity is still upon him.</p>	<p>And those [who receive] th[e lustration water shall (first) immerse themselves in water and be pu[ri]fied of [human?] corpse defilement [ and of every] other [defilement<sup>16</sup> when the pri]est [spr]inkles the lustration water upon them to purify [them, <i>for they cannot be</i><sup>17</sup> כִּפְרָ? ] <i>unless they become pure and their flesh is p[ure].</i></p>

Despite the fragmentary state of the Qumranic source, key differences between its *halakhic* portions and Numbers 19 can be seen, both regarding the preparation of the ashes and the sprinkling. In the first paragraph of 4Q276–4Q277 (henceforth 4Q277) there is a non-biblical instruction: note the specification of the type of vessel to be used for receiving the cow's blood (which is to be sprinkled toward the tabernacle); namely a clay vessel sanctified by the altar: "And he shall carry its blood in a clay vessel which [was sancti]fied by the altar." Another change with respect to the biblical passage is the use of priests in roles

<sup>16</sup> One possible interpretation is that a person who was defiled by a corpse, before being sprinkled by the water of lustration, has to become purified himself by cleansing himself not only of corpse defilement but also from other impurities such as abnormal or semen discharge. Baumgarten suggested otherwise. He assumed that water of lustration was not only used for corpse defilement but also for other cases of corporal defilement. See Baumgarten, "4Q276," 83–87 and see below.

<sup>17</sup> At this point Baumgarten reconstructed a verb with the root קד"ש. As will be shown below, the root כִּפְרָ fits better.

not assigned to them in Numbers. According to Numbers 19 someone who is pure gathers up the ashes. In 4Q277 as well, a pure person gathers up the ashes; however, he must hand the ashes to the priest who is with him in the field. In addition, as seen in part II of the table, a priest rather than a pure layperson performs the sprinkling. Note the admonition: “Only a priest who is pure shall sprinkle upon them.” There is another important change: whereas Numbers does not find it necessary to define the level of purity of the person who performs the sprinkling, 4Q277 (second paragraph, part I of the table) specifies the level of purity required: he has to be **איש טהור מכול טמאת ערב**. Translated literally, this phrase reads: “A man who is pure from any impurity that lasts until evening or until sunset.” Translated freely, the phrase reads: “This man must achieve a state of purity (from any kind of contamination) on the day before the sprinkling, and not on the day of the sprinkling.”

Three more alterations are present in 4Q277 although one is doubtful, because of the text’s fragmentary nature. This is the absence of a warning that those who fail to purify themselves will be punished by **כרת** as indicated by the blank cell on the Qumran side of the table. The other two alterations are quite clear.

The first alteration is the replacement of the root **חט"א**, purge, by **כפ"ר**. The root **כפ"ר** appears in the fragmentary statement regarding the ashes or the ashes mixed with water that are kept in the vessel: “[with [whi]ch they **כפרו**.” In the process of sprinkling, according to 4Q277, the priest is “**כפר**[מ] on the impu[re].”<sup>18</sup>

The second change is the differentiation made in 4Q277 between the process of purification and the rite of sprinkling. To understand the

<sup>18</sup> Another occurrence of the root **כפ"ר** in 4Q277 is not related to the water of lustration but to the dashing of the cow’s blood toward the temple. The priest who performs the sprinkling is called: “the priest who **מכפר** with the blood of the cow.” Defining dashing as **כפ"ר** might be the outcome of a close reading of Leviticus 17. According to chapter 17 all forms of slaughter are forbidden, except slaughtering sacrifices in front of the temple, and the blood of each of the cattle must be placed on the altar as an act of expiation, **כפרה** (On the interpretation of this chapter in the priestly circle see Cana Werman, “The Rules of Consuming and Covering Blood in Priestly and Rabbinic Law,” *RevQ* 16 [1995]: 621–36). The author is apparently aware of the seeming contradiction between Numbers 19 and the prohibition in Leviticus 17 against slaughtering animals outside of the temple area, and explains that the cow’s blood is nevertheless being used for expiation, however not by bringing it to the altar but by dashing it in the direction of the temple.



revolutionary nature of the distinction between purification and sprinkling we need to look at a law found in the *Temple Scroll*.<sup>19</sup> According to the *Temple Scroll*, individuals defiled by a corpse must, in addition to being sprinkled twice, bathe, and wash their clothes three times, on the first, third, and seventh days:

...bathe in water and launder their clothes on the first day; and on the third day they shall sprinkle over them water of lustration, and they shall bathe, and launder their clothing...And on the seventh day they shall sprinkle a second time, and they shall bathe and launder their clothes... and by evening they will become pure of the dead...they should not touch pure things until they will be sprinkled the seco[nd time] on the seventh day and they will be pur[e in the eve]ning at the going down of the sun (11QT<sup>a</sup> 49:17–50:4).

The statement in 4Q277 is a short summary of the injunction in the *Temple Scroll*. 4Q277 makes it clear that only those with pure flesh are allowed to receive the sprinkling: “And those [who receive] th[e lustration water shall (first) immerse themselves in water and be pu[ri]fied of [human] corpse defilement [ and of every] other [defilement when the pri]est [spr]inkles the lustration water upon them to purify [them, for they cannot be (?) כפר] unless they become pure and their flesh is p[ure].” Note that from the author’s point of view the immersion itself causes the impure person to become pure, as suggested in the first sentence: “immerse themselves in water and be pu[ri]fied of [human] corpse defilement.” This statement plainly contradicts Numbers 19:11–12, where bathing is not required at all and the sprinkling of the water of lustration is the only way to achieve purity: “He who touches the corpse of any human being shall be impure for seven days. He shall purge himself with it [= the ashes] on the third day and on the seventh day, *and then be pure*; if he fails to purge himself on the third and seventh days, he shall not be pure.”

To better grasp the differences between 4Q277 and Numbers we need to explore the author’s intent. I begin with what appears to be a minor detail, the fact that the vessel for the cow’s blood must be sanctified at the altar. By adding this stipulation, the author may have

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<sup>19</sup> The quotations from the *Temple Scroll* are my translation of the Hebrew text as it appears in Qimron’s edition: Elisha Qimron, *The Temple Scroll: A Critical Edition with Extensive Reconstructions* (Beer Sheva: Ben Gurion University of the Negev Press, 1996).

been attempting to create a closer tie between the temple and the ritual that took place at a distance. In other words, the author wanted to transform an extra-temple feature into an intra-temple one. Two other alterations in 4Q277 are consistent with this goal. The first is the stipulation that priests must play an essential role in the preparation of the ashes and the rejection of all but priests for the sprinkling. The second is that the degree of purity required of the people involved is equal to the degree of purity required in the temple; i.e., not only must the person be pure but he must also have achieved a state of purity by sunset of the previous day.

At this point it is important to note that as far as we know, all sectors of Second Temple Judaism concurred that temple rituals and ceremonies required a level of purity in which the procedure of purification had been completed on the previous day. All parties forbade someone categorized as a *tebul yom*, a person who performed ritual immersion but the day of his immersion is not yet over, from entering the temple. Take for example, a tannaitic midrash which enumerates the ten degrees of holiness:

There are ten degrees of Holiness:

- (10) *The land of Israel* is holier than all lands for they bring from it the *Omer* and first fruit and the two loaves which they do not bring from all the other lands;
- (9) *The land of Canaan* is holier than the other side of the Jordan River because the land of Canaan is appropriate for the House of the Deity and the other side of the Jordan River is not appropriate for the House of the Deity;
- (8) *The cities surrounded* by a wall are holier than the land of Canaan for the lepers are sent from them...;
- (7) *Jerusalem* is holier than the cities surrounded by a wall for lesser sanctities and second tithes are eaten there and are not eaten in the cities surrounded by a wall;
- (6) *The Temple Mount* is holier than Jerusalem for *zabim* and *zabot* enter Jerusalem and do not enter the Temple Mount;
- (5) *The Rampart* is holier than the Temple Mount for gentiles and he who is made impure by a corpse enters the Temple Mount and does not enter the Rampart;
- (4) *The women's court* is holier than the Rampart for a *tebul yom* enters the Rampart and does not enter the women's court;
- (3) *The Israelite's court* is holier than the women's court for one who must seek atonement enters the women's court and does not enter the Israelites court;
- (2) Israelites on whom the sun set upon entering the *court of the priests*... (*Sifre Zuta* on 5:2, p. 228)

This list will be studied again later on. The important point here is that a *tebul yom* is allowed in Jerusalem, on the Temple Mount and on the Rampart but not in what is defined as part of the temple, the women's court: "the women's court is holier than the Rampart for a *tebul yom* enters the Rampart and does not enter the women's court."

At first glance, the concurrence between the priestly sources and the tannaitic midrash seems surprising. We know of a bitter dispute between the Pharisees and the priests (Qumranic and Sadducean alike) regarding the participation of a *tebul yom* in the red cow ritual. In MMT the writer proclaims:

ואף על טהרת פרת החטאת השוחט אותה והסורף אותה והאוסף [א]ת אפרה והמזה את [מין] החטאת לכול אלה להערי[בו]ת שמש להיות טהורים

And concerning the purity regulations of the cow of purging: he who slaughters it and he who burns it and he who gathers its ashes and he who sprinkles the water of lustration—it is at sunset (of the previous day) that all these become pure (after their immersion) (MMT B 13–16).

The Mishna, for its part, preserves traces of the struggle between the Pharisees and the priests resulting from the Pharisees' efforts to conduct the rite of burning at the purity level of *tebul yom*:

וזקני ישראל היו מקדימים ברגליהם להר המשחה ובית טבילה היה שם. ומטמאים היו את הכהן השורף את הפרה מפני הצדוקים שלא יהיו אומרים במעורבי שמש היתה נעשית

And the elders of Israel would precede [them] on foot to the Mount of Olives and a house of immersion was there. And they would render the priest who burns the cow impure, because of the Sadducees, so they should not say, "It is done by one on whom the sun has set (= on the day of their purification)" (*m. Parah* 3:7).

It seems to me that 4Q277 can shed some light on the nature of the quarrel among Second Temple Jews. In light of the new data from Qumran it can be suggested that the dispute did not involve the *concept* of *tebul yom*. Rather it revolved around the role of a *tebul yom* in the rite of the red cow, which was the pretext for a more essential question; namely whether the preparation of the red cow's ashes and its sprinkling are an integral part of temple ritual. The priests wanted both the preparation and the sprinkling parts of the rite to be temple-like; hence they demanded sanctification of the vessel, greater priestly involvement, and restriction to people whose day of purification had ended. For their part, the Pharisees wanted the rite to be extra-temple;

hence they did not require sanctification of the vessel used in the ceremony. More importantly, they insisted on a *tebul-yom* degree of purity for those officiating in this ritual and tried to prevent priests whose day of purification was over to take part in the rite.

## 2. *TEBUL-YOM*: ITS STATUS AND PLACE

The *halakhot* regarding impurities and purification rites found in Qumran strengthen my claim that the dispute between the priests and the Pharisees was not whether a *tebul-yom* is considered pure or not. An analysis of the data now available reveals that in Qumranic *halakhah* as well a *tebul-yom*, a man who had bathed but whose day of immersion was not yet over, was regarded as pure. The following table presents the relevant regulations.<sup>20</sup>

	Outside the cities	The Cities	Jerusalem	The Temple
Normal male discharges		And if a man lies with his wife and has an emission of semen, he shall not come into any part of the city of the temple... for 3 days (11QT <sup>a</sup> 45:11–12)	And if a man has a nocturnal emission, he shall not enter into any part of the temple until [he will com]plete 3 days. And he shall launder his clothes and bathe on the first day, and on the third day he shall launder his clothes and bathe	And when the sun is down he may come within the temple (11QT <sup>a</sup> 45:7–9)

<sup>20</sup> As noted above, quotations of the *Temple Scroll* are from Qimron's edition (see above, n. 19). The quotations from MMT are taken from Elisha Qimron and John Strugnell, *Qumran Cave 4. V: Miqsat Ma'ase ha-Torah* (DJD X; Oxford: Clarendon, 1994), 54. 4Q514 was first published by Baillet: Maurice Baillet, "514. Ordinances," *Qumrân grotte 4. III (4Q482–4Q520)* (DJD VII; Oxford: Clarendon, 1982), 296. 4Q266 is one of the manuscripts of the Damascus Document found in Cave 4 and published by Joseph M. Baumgarten: Joseph M. Baumgarten, "4Q266," *Qumran Cave 4. XIII: The Damascus Document (4Q266–273)* (DJD XVIII; Oxford: Clarendon, 1996), 55. For a different discussion but the same conclusion see Hannan Birenboim, "Observance of the Laws of Bodily Purity in Jewish Society in the Land of Israel During the Second Temple Period" (Ph.D. diss., The Hebrew University, 2006), 249–59 (Hebrew).

Table (cont.)

	Outside the cities	The Cities	Jerusalem	The Temple
<i>Zaba</i> for seven days (a menstruant)	And in every city you shall allot places for those afflicted with leprosy or with plagues or with scab, who may not enter your cities and defile them, and also for those who have a discharge, and for women during their menstrual uncleanness and after giving birth, so that they may not defile in their midst with their menstrual uncleanness (11QT <sup>a</sup> 48:14–17).			
Woman after childbirth	"			
<i>Zab/Zaba</i>	" A man who did not start purifying himself from his impurity, who is still in his first stage of impurity, shall not eat (4Q514)	And those whose impurity extends over d[ays], on the day of their purification they shall bathe and launder in water and be purified. Then they shall eat according to the ordinance of purification (4Q514)		She shall not eat anything hallowed, nor co[me] into the sanctuary until sunset on the eighth day (4Q266)

Table (cont.)

	Outside the cities	The Cities	Jerusalem	The Temple
Leprosy	And in every city you shall allot places for those afflicted with leprosy or with plagues or with scab, who may not enter your cities and defile them, and also for those who have a discharge, and for women during their menstrual uncleanness and after giving birth, so that they may not defile in their midst with their menstrual uncleanness (11QT <sup>a</sup> 48:14–17).		None afflicted with leprosy shall enter it until they are purified. And when he is purified he shall bring his purgation-offering. He may have access to the purity within the city of the temple on the eighth day. But he shall not enter the sanctuary, nor eat of the sacrifices (11QT <sup>a</sup> 45:17–46:10); But now while their impurity is still with them le[pe]rs enter] into a house containing sacred food (MMT B 67–68)	And when the sun sets on the eighth day he may eat of the sacrifices and enter the sanctuary (11QT <sup>a</sup> 45:17–46:10)  Moreover, when they have the] impurity of leprosy, one should not let them eat of the sacred food until sunset on the eighth day (MMT B 71–72)

Each row in the table represents one kind of corporal impurity; the topics are self-explanatory. The geographical division in the four columns reflects the worldview expressed in the Qumran *halakhic* literature. Three spheres of holiness are present in Qumran thought, each with its own level. The inner sphere, the temple, is the holiest. The sphere around it is Jerusalem, the “city of the temple” (as in the *Temple Scroll*), the “Holy Camp,” “Head of the camps of the Israelites” (as in MMT B 59–62). This sphere is holy, but to a lesser degree than the temple. The third sphere is the cities of the Israelites, the “Gates,” the “Camps.” Its degree of holiness is below that of the two other spheres. Yet, it has a holiness of its own. The people of Israel, the holy nation, reside in their cities while God resides with them: “Because I God reside among the people of Israel and I will sanctify them and they

will be holy" (11QT<sup>a</sup> 51:7–8). Aside from these three spheres, there is no holiness at all.

This Qumranic notion of spheres and their degrees of holiness is not biblical: the Pentateuchal impurity laws, stemming from P, assume the existence of three geographical spheres. What we find in Qumran, however, represents a calculated attempt to unify the contradictory, mainly Pentateuchal schemes of spheres found in P, H, and D.

In P, as mentioned, there are three spheres: outside the camp, the camp, and the tabernacle. Outside the camp is the sphere of evil and impure forces. The tabernacle is the divine abode, the holy place. For P, the camp, the place of the Israelites' dwelling, is not innately holy. However, based on the belief that impurities in the camp affect and defile the sancta from afar, P demands a constant effort to keep the camp pure. H takes a different stance. Its legislation relates not to camp versus tabernacle, but to the land of Israel as a whole and the tabernacle in its midst. God is present not only in the tabernacle but also in the land of Israel; hence the Israelites must avoid defiling the land. Furthermore, as God's nation they are called upon not only to be pure but also to strive for holiness. Deuteronomy holds a contradictory view. At the center of the Deuteronomic picture is the chosen place, a city. The temple is also present but its importance derives from being within the chosen place. In D, holiness is ascribed neither to the city nor to the temple, or to any other geographical location, but to the Israelites. Having been chosen by God they are holy; therefore, they must avoid pollution and abomination.

The four-sphere depiction from Qumran is the result of integration and reformulation of these conflicting biblical views. In the Qumran scheme, the temple, as in P, is at the center and is declared the most holy.<sup>21</sup> Unlike P, but similar to H, at Qumran not only is the temple holy. Jerusalem, missing from P and H, and not holy in D, is declared the head of the camps (a unique concept) and holy. Holiness is also ascribed, but to a lesser extent, to the cities of Israel, another concept not found in the Bible but reminiscent of P's camp.

The Qumranic purity laws are consistent with this geographical escalation of holiness. Since the Israelites and God are not present outside

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<sup>21</sup> This paragraph draws extensively on the studies of Aharon Shemesh and David Henshke. See Aharon Shemesh, "The Holiness According to the *Temple Scroll*," *RevQ* 19 (2000): 369–82; David Henshke, "The Sanctity of Jerusalem: The Sages and Sectarian *Halakhah*," *Tarbiz* 67 (1998): 5–28 (Hebrew).

the cities, it is possible to set aside places there for those who bear impurity.<sup>22</sup> The biblical law requires sending from the camp: “anyone with an eruption or discharge and anyone defiled by a corpse. Remove male and female alike; put them outside the camp so that they do not defile the camp of those in whose midst I dwell” (Num 5:2–3). The *Temple Scroll* ignores individuals defiled by corpse and adds the menstruant and woman after childbirth: “And in every city you shall allot places for those afflicted with leprosy or with plagues or with scab, who may not enter your cities and defile them, and also for those who have a discharge, and for women during their menstrual uncleanness and after giving birth, so that they may not defile in their midst with their menstrual uncleanness” (11QT<sup>a</sup> 48:14–17). A fragment found in Qumran, 4Q274 (4QTohorot A), provides a glimpse into the juxtaposition of various impurities created by the injunction in the *Temple Scroll*. 4Q274 presents instructions regarding contact of one kind of impurity with another kind: a *zab* who touches another impure person, a *zaba* who touches a *zab*, a menstruant (labeled in 4Q274 as “a *zaba* for seven days”) who touches a *zaba* (labeled “a *zaba* for many days”). 4Q274 is also enlightening regarding the priestly perception of impurity. Impurity is made up of layers.<sup>23</sup> Each layer is removed by time and/or by a purification rite. Thus, by touching a *zab*, the impure person acquires an additional layer. To remove this layer and return to the original defilement the person must bathe and wash his clothes. In an effort to guarantee rapid execution 4Q274 prohibits the impure from eating before removing the additional layer: “An impure person w[ho touches] him,<sup>24</sup> he should bathe and launder his clothes and then he should eat” (4Q274 1 l. 3).

The view that impurity consists of layers and the perception that these layers can be removed gradually enable the priestly legislator to construct a complex procedure of purification corresponding to the

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<sup>22</sup> Milgrom’s assertion (Jacob Milgrom, “Studies in the *Temple Scroll*,” *JBL* 97 [1978]: 516) that all of those with corporal impurities, beside the leper, were confined to allotted areas in the cities themselves does not appear to be supported by the wording in the *Temple Scroll*. The leper is on the same list as the *zab* and women: “...for those afflicted with leprosy or with plagues or with scab, who may not enter your cities and defile them, and also for those who have a discharge, and for women...”.

<sup>23</sup> Jacob Milgrom, “4QTohora(a): An Unpublished Qumran Text on Purities (4Q274),” in *Time to Prepare the way in the Wilderness; Papers on the Qumran Scrolls* (ed. Devorah Dimant and Lawrence H. Schiffman; Leiden: Brill, 1995), 59–68.

<sup>24</sup> Milgrom (“4QTohora[a],” 59–68) assumes that the leper is the one who is touched. I follow Baumgarten (“274–278. 4QTohorot A–C,” 100) who assumes it is the *zab*.



various spheres of holiness mentioned above. The table clearly shows the effort made by the priests to align their spheres of holiness with the biblical purification laws.

The first row in the table refers to minor impurities, those who have sexual intercourse and a person with a normal discharge called *baal-keri*. In the Bible, "...if a man has carnal relations with a woman, they shall bathe in water and remain impure until evening" (Lev 15:18). The *Temple Scroll* makes the biblical law more restrictive: it only applies to the "cities of Israel" sphere. The Scroll adds another stratum, forbidding an impure couple from entering the city of the temple for three days: "And if a man lies with his wife and has an emission of semen, he shall not come into any part of the city of the temple...for three days" (11QT<sup>a</sup> 45:11-12). In the previous line, the scroll decrees that for a *baal-keri*, who in biblical law is impure only for one day ("When a man has an emission of semen, he shall bathe his whole body in water and remain impure until evening," Lev 15:16) there are three days of impurity with two immersions, one on the first day and one on the third: "And if a man has a nocturnal emission, he shall not enter into any part of the temple until [he will com]plete 3 days. And he shall launder his clothes and bathe on the first day, and on the third day he shall launder his clothes and bathe" (11QT<sup>a</sup> 48:8-10). Although not stipulating this explicitly, the *Temple Scroll* apparently requires a twofold rite for a couple who has sexual intercourse, one on the first day and one on the third day. The first rite, which involves bathing and laundering, reduces the impurity to the level permissible within the city. The second immersion, on the third day, permits him or her to enter the city of the temple at sunset.

The next rows in the table, which deal with more severe impurities, are crucial to understanding the status of the *tebul-yom*. The halakhot regarding the menstruant and woman after childbirth have not been preserved. We have information, however, regarding lepers and *zab*, both male and female.

In the column pertaining to "outside the cities" we find the section of the *Temple Scroll* requiring expulsion of the *zab* and *zaba* from the cities, like others with severe impurities. The *Temple Scroll* instructs the *zab* and *zaba* to stay outside the holiness circles as long as the disease is present in their body, in accordance with the law in Numbers 5:2-3. In the same cell of the table there is another *halakhah*, 4Q514, relating to a *zab* who is in the process of healing. The biblical law regarding the *zab*'s healing is found in Leviticus where the healed *zab*

is instructed to count seven days without any discharge: “when one with a discharge healed from his discharge, he shall count off seven days for his purification, launder his clothes and bathe his body in fresh water; then he shall be pure” (Lev 15:13). On the eighth day he is to bring a purgation offering: “On the eighth day he shall take two turtledoves or two pigeons and come before the Lord at the entrance of the Tent of Meeting and give them to the priest. The priest shall offer them, one as a purgation offering and the other as a burnt offering. The priest shall effect purgation on his behalf, for his discharge, before the Lord” (Lev 15:14–15). The table shows that the *halakhah* in Qumran was more complex.

4Q514 1 sheds light on the first purification steps to be taken by the *zab* upon his healing. Two instructions in this passage are important for our current discussion:

- (1) אל יאכל [איש] אשר לא החל לטהור ממקרו [אשר הוא]  
בטומאתו הראשונה  
(2) וכל טמאי הימים ביום [ט]הרתם ירחצו וכבסו במים וטהרו ואחר  
יאכלו את לחמם כמשפט ה[ט]הרה.

- (A)[4] who[ever] has not begun to purify himself of his occurrence is not to eat [while still being] [5] in his original impurity.  
(B) And all those who are impure for more than one day, in the day of their purification they should bathe [6] and launder in water and then become pure. *vacat* Afterwards they shall eat their bread according to the purity rule.<sup>25</sup>

<sup>25</sup> The paragraph is far from being sound; the unnecessary repetitions point to scribal mistakes:

- ואל [ ]  
(4) יאכל [איש] אשר לא החל לטהור ממקרו [ ]  
(5) בטמאתו הרישונה וכול טמאי הימים ביום [ט]הרתם ירחצו  
(6) וכבסו במים וטהרו ואחר יאכלו את לחמם כמשפט ה[ט]הרה  
(7) ואל יאכל ח[עו]ד בטמאתו הרישונה אשר לא החל לטהור ממקרו  
(8) וגם אל יאכל עד בטמאתו הרישונה וכל [ט]מאי הימים ביום  
(9) ט[הרת]ם ירחצו וכבסו במים וטהרו ואחר יאכלו את לחמם  
(10) כמ[שפט]

- (4) who[ever] has not begun to purify himself of his occurrence is not to eat [ ]  
(5) in his original impurity. And all those who are impure for more than one day, in the day of their purification they should bathe  
(6) and launder and then become pure. *vacat* Afterwards they shall eat their bread according to the purity rule.  
(7) He is not to eat in his original impurity while he has not begun to purify himself from his occurrence

The author of 4Q514 does not directly say what purification rites the *zab* should undergo; his intention is to stipulate when he is allowed to eat. However in doing so he hints at two stages, on two different days.

The first instruction forbids a healed *zab*, on the day of his recovery, to eat unless he has gone through his purification procedure. The *halakhah* underlying this stipulation requires the *zab*, on his first day of recovery, to perform a purification rite to remove his “original impurity.”<sup>26</sup> A comparison with the second instruction shows that this initial purification does not enable the impure person any mobility in the sphere of holiness. Purification is only mentioned in the second instruction: ‘וְטָהַר’, as is the permission to eat food “according to the purity rule.” Thus, complete purity is achieved only “on the day of their purification,” in the case of *zab* on the seventh day, and the condition for full purification is bathing and laundering of clothes for the second time. Note that there is no requirement to wait until sunset for complete purity; having attained the status of *tebul-yom*, the *zab* is considered pure and can join the community of those who are pure inside the cities of Israel. Thus according to Qumran *halakhah* in the realm of the cities of Israel, there can be a pure *tebul-yom*.

The next *halakhah* in the *zab* row confirms what was found in the first row of the table: a *tebul-yom* is not to enter the temple. Surprisingly he is forbidden in the temple not only on the seventh day but

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(8) nor shall he eat as long as he in his original impurity. And all those who are impure for more than one day, in the day of their healing they should bathe and launder and become pure; afterwards they shall eat their bread

At the end of line 4 the editor reconstructed: “[and he should not eat more]” thus creating a new sentence and a new rule. My reconstruction relies on the statement found in line 7. A three-part instruction is found in line 7: (a) he who is still in his original impurity (b) who did not start to purify himself (c) should not eat. These three elements were included, in my mind, in lines 4–5, however in a different order: (a) is not to eat (b) who[ever] has not begun to purify himself of his occurrence (c) [while still being] in his original impurity. Accordingly I restored: “while still being” at the end of line 4.

<sup>26</sup> Joseph M. Baumgarten, “The Purification Rituals in DJD 7,” *The Dead Sea Scrolls: Forty Years of Research* (ed. Devorah Dimant and Uriel Rappaport, Leiden: Brill, 1992), 199–209. In Milgrom’s view (“Studies,” 512–18) already after the first bathing the impure is considered *tebul-yom* (Birenboim, *Observance of the Laws*, 249–59, relies on Milgrom in his evaluation of *tebul-yom*). However the *halakhah* at Qumran does not consider the one who immersed on his first day of healing to be pure in any way and as we will see, the epithet *tebul-yom* applies more satisfactorily to someone who bathes and launders his clothes on the seventh day.

also on the eighth day, when he has already acquired the status of one “on whom the sun has set.” 4Q266, a manuscript from the Damascus Document, contains the following statement regarding a *zaba*:<sup>27</sup> “She shall not eat anything hallowed, nor co[me] into the sanctuary *until sunset on the eighth day*” (6 ii 3–4).<sup>28</sup> Despite being at the end of the seventh day of purification, the *zaba* is not pure enough to enter the most holy sphere; she (as well as the *zab*) must wait until the ninth day. The *zab* row reveals a gradual purification process in full harmony with the holiness sphere: a *zab* on the seventh day, with the status of *tebul-yom*, is pure for the cities of Israel, and on the ninth day is allowed in the temple. It is reasonable to assume that on the eighth day, the day on which he enters into the status of “on whom the sun has set,” he can enter Jerusalem.

An examination of the leper row confirms these conclusions regarding the *zab*. The “Jerusalem” column contains a statement found in the *Temple Scroll*, as reconstructed by Qimron: “None afflicted with leprosy shall enter it until they are purified. And when he is purified he shall [bring his purgation-offering. He may have access to the purity within the city of the temple on the eighth day. Bu]t he shall not enter the sanctuary, [nor eat of the sacrifices].” The end of the sentence is found in the next cell, under “the temple”: “[And when the sun sets on the eighth day] he may eat [of the sacrifices and may enter] the sanctuary” (11QT<sup>a</sup> 45:17–46:10). Qimron’s reconstruction, although speculative, is warranted. The pronominal suffix in “None . . . shall enter it” is feminine and must refer to the city. However, the author also deals with another subject, the entry to the temple, as seen in the words: “he shall not enter the sanctuary”; “[ ] the sanctuary.” The difference between the requirements for entering the city and the requirements for entering the temple indicates that the two precincts are not identical. Consequently, the reconstruction indicating a stipulation to wait seven full days before entering the city and a stipulation to wait eight full days before entering the temple is not farfetched.

The assumption that the *Temple Scroll* depicts the healed leper’s gradual entry to the inner spheres of holiness is sustained by the *halakhah* of the leper found in MMT. The author of MMT has two

<sup>27</sup> The preceding words “And if she saw more and she is not in [her menstrual period]” show that in the current paragraph *zaba* is the subject.

<sup>28</sup> Baumgarten, “4Q266,” 55.

caveats regarding the leper.<sup>29</sup> The first is worded as follows: “but now while their impurity is (still) with them le[ppers enter] into a house in a state of purity for the sacred” (B 67–68). Since a dwelling place (a “house” in the text) in which the degree of holiness is the one appropriate for the temple or for food from the temple is mentioned, Jerusalem must be the point of reference as it is the only place where a residential area can be ascribed this degree of holiness. The Pharisaic *halakhah* permitted the leper to enter Jerusalem during the second week of his purification process; hence it is more than probable that the caveat in MMT refers to that week. The Priestly *halakhah* obligated the leper to wait until the week comes to a complete end, until sunset of the seventh day. Only then, in the priestly *halakhah*, can he enter Jerusalem. Note that this conclusion is consistent with the reconstructed law of the *Temple Scroll*. From the wording of the second caveat in MMT, it emerges clearly that the subject is the leper’s entry

<sup>29</sup> Below is the full MMT paragraph regarding the leper:

- ואף על הצורעים אנחנו (64)  
 א[ומרים שלא י]בואו עם טהרת הקוד[ש] כי בדד (65)  
 [יהיו מחוץ למחנה ו]אף כתוב שמעת שיגלה וכבס [י]שב מחוץ (66)  
 [לאוהלו שבעת י]מים ועתה בהיות טמאתם עמהם (67)  
 [הצורעים באים ע]ם טהרת הקודש לבית ואתם יודעים (68)  
 [שעל השוגג שלא יעשה את המצוה] ונעלה ממנו להביא (69)  
 [חטאת ועל העושה ביד רמה כת]וב שהואה בווה ומג[ד]ף (70)  
 [ואף בהיות להמה טמאות נגע] אין להאכילם מהקוד[ש]ים (71)  
 עד בוא השמש ביום השמיני (72)

- (64) And concerning (healed) lepers we  
 (65) are [of the opinion that they may not] enter (any place) of purity for the sacred but should be isolated  
 (66) (and) outside any camp]. And it is (indeed) written that after he (i.e., the leper) shaves and washes he should dwell outside  
 (67) [his tent for seven] days; but now while their impurity is (still) with them  
 (68) le[ppers enter] into a house containing sacred food. And you know  
 (69) [that if someone violates a prohibitive commandment unintentionally], and the fact escapes him, he should bring  
 (70) a purgation offering; [and concerning him who purposely transgresses the precepts it is writ[en] that he “despises and blasphemes.”  
 (71) [Moreover, since they have the] impurity of leprosy, one should not let them (i.e., the lepers) eat of the sacred food until sunset on the eighth day (Qimron and Strugnell, *Miqsat Ma’ase ha-Torah*, 55).

On line 66 the editor reconstructed: “[and] outside any house.” It seems to me however that the reconstruction should be: “[and] outside any camp.” In my opinion lines 64–67 are the background on which the case, starting in the middle of line 67, is constructed. On lines 64–67 the author tries to explain to his addressees that there are two periods of defilement, and both should be observed fully. The first one is that of outside the camp (line 65b–66a); the second, outside the tent (66b–67a).

into the temple: “[Moreover, since they have the] impurity of leprosy, one should not let them (i.e. the lepers) eat of the sacred food until sunset on the eighth day” (B 71–72). This is additional evidence that in the priestly *halakhah* lepers are not allowed in the temple before the ninth day, two days after the second week is over.

It is now time to return to the question of *tebul-yom*. If the construction of the purity laws and the geographical spheres as outlined above is correct, the priestly *halakhah* accepts the concept of *tebul-yom*; hence it does not require the *zab* to wait outside the cities until sunset of the seventh day. The claim that the dispute regarding *tebul-yom* in the red cow rites reflects a deeper and more essential disagreement is thus confirmed. The priests perceived the red cow rites as part of the temple rites. Consequently they demanded greater priestly involvement in the rites and excluded a *tebul-yom* from them. The Pharisees insisted that both the preparation of the ashes and the sprinkling have no ties to the temple. To make their point that the red cow rite was independent, they insisted on making the priest who took part in preparing ashes (and probably also the person who sprinkled) a *tebul-yom*.

### 3. 4Q277: A FURTHER EXAMINATION

At this stage it is possible to reconstruct the *zab* purification procedures according to Qumranic *halakhah*. On the first day of his recovery the *zab* must go through initial purification; i.e., bathe and wash his clothes; on the seventh day he has to immerse himself and wash his clothes again; then he is allowed into the cities of Israel. On the eighth day, he is allowed to enter Jerusalem. Only on sunset of the eighth day, i.e. on the ninth day, is the *zab* given access to the holiest sphere and can make his obligatory sacrifices. Time and purification rites bring the *zab* gradually into the inner sphere.

This outline may hint at the role assigned in Qumran *halakhah* to the purgation offering the *zab* and *zaba* are required to make. Its postponement from the eighth day (as in the biblical injunction) to the ninth is a clear sign that the Qumranites did not perceive the offering as a way of purging the holy of the impurity attached to it from afar; if its task were to purge, the delay would be unexplainable. Apparently in Qumran thought, the defilement was removed and was wiped out while the *zab* immersed and had washed his clothes. His obligatory sacrifices were not viewed as part of the purification process.

The rules of the *zab* shed light on the halakhot of corpse defilement discussed above. The fact that the *zab* purgation offering is not for purging since immersion is the tool for purification is consistent with the changes 4Q277 made in the biblical law. The difference in 4Q227 between purification through immersion and the water of lustration is the crucial point. In 4Q277 the sprinkling does not purify the impure; an ablution on the first, third and seventh day does.<sup>30</sup>

The halakhot of *zab* and corpse defilement found in Qumran justify the conclusion that the biblical conception of dynamic impurity, the view that impurity affects the sancta from afar and should be purged by the blood of the purgation offering, was rejected in Qumran.<sup>31</sup> This conclusion clarifies another difference between 4Q277 and Numbers 19; namely the avoidance of the root זָבַח.<sup>32</sup> The author chose to

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<sup>30</sup> The requirement for triple bathing and washing of clothes demonstrates that corpse impurity was considered more severe in Qumran than *zab* impurity (where only double bathing and clothes washing were obligatory). The view that corpse impurity is more severe can further be seen by the fact that there is no *tebul-yom* in the Qumran halakhot of corpse defilement. A person who was defiled by corpse has to wait until sunset before touching pure things: "And they should no[t touch their pure thi]ngs until they sprinkle on the second time on the seventh day and become pure in the evening, on sunset" (11QT<sup>a</sup> 50:3–4). It might be argued, however, that the requirement to wait until sunset resulted from a specific interpretation of a biblical verse. In Num 19:19 we find: "A pure person shall sprinkle it upon the impure person on the third day and on the seventh day, thus purging him by the seventh day. He shall then launder his clothes and bathe in water, and at nightfall he shall be pure." The instruction: "He shall then launder his clothes and bathe in water, and at nightfall he shall be pure" refers to the one who sprinkles. He becomes impure like the other people who take part in the red cow rite. However, it is possible that the Qumranites perceived the person who was defiled by a corpse as the subject of this law. Consequently, the requirement for bathing and laundering on the seventh day as well as the requirement to wait until sunset were viewed as a biblical injunction.

<sup>31</sup> At this point it should be mentioned that in 4Q277 there is no statement that one who avoids the sprinkling defiles the temple and is to be punished by *karet*. If the author chose not to include this warning (note that we have no way to determine whether it was included or not) he would have done so because he did not view corpse defilement as affecting the sancta from afar.

<sup>32</sup> At first sight Baumgarten's suggestion that the waters of lustration were sprinkled upon those with corporal defilements sustains this conclusion: since the purgation offering does not purge the sancta it can be replaced by the water. However, there is no indication in Qumran literature of any authorization to use the waters of lustration for defilement other than corpse defilement. Contrary to Baumgarten's claim, the water of lustration is not mentioned in 4Q514 where corporal defilement is discussed. 4Q274 2 in 1–2 is another source cited by Baumgarten ("4Q276," 103). In his opinion, it is probable that these lines, which mentioned sprinkling in addition to bathing and laundering, refer to *zab*. A closer look reveals, however, that 4Q274 should be interpreted as an instruction regarding corpse defilement: "whe]n they will sprinkle on him [for the] fi[r]st time he shall bathe and launder before [eating. and if] the seventh day wi[ll fa]ll on Sabbath he should not sprinkle on Sabbath because [it is

avoid this root because he did not perceive the water of lustration as a tool of purgation.

While the waters of lustration were not given the same role in Qumranic thought as in the Bible, the Qumran fragments indicate that they were considered obligatory. Their role in the Qumranic perception thus needs to be analyzed. One key point is the evaluation of the root chosen to replace כפ"ר חט"א.<sup>33</sup>

At first glance, a search for the meaning of כפ"ר in 4Q277 seems unnecessary.<sup>34</sup> כפ"ר in biblical Hebrew means to purge or to decontaminate. However, as we saw, 4Q277 does not accept the view that impurities affect the sancta from afar, and hence does not assume a need for purging. Accordingly the root כפ"ר in 4Q277 cannot be interpreted as "purgation."

Two other meanings are assigned to כפ"ר in the Bible. The first is that of ransom, a payment in return for human life. כפ"ר in Leviticus 17 holds this meaning: The blood of an animal slaughtered for consumption is brought to the altar in exchange for human blood. Ransom, however, does not fit the use of כפ"ר in 4Q277. There is no echo in 4Q277 of the idea that corpse defilement, impurity caused by involvement in activities related to daily life, would lead to the need for ransom. The same reasoning brings me to reject the other biblical meaning of כפ"ר, to atone, to ask for forgiveness for one's sins, as compatible with the act of sprinkling on a person who was defiled by corpse. Does involvement in activities related to daily life need forgiveness? The conclusion that there was a development in the semantic field of כפ"ר during the Second Temple period and that the term כפ"ר in Qumran has a new meaning is thus warranted.

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said: 'you should keep] the Sabbath.' He should not touch pure things until he does it a second time." Two sprinklings are mentioned here. We do not know when the first one that is accompanied the bathing and laundering, takes place. There is no need to assume that the first day of purification is referred to; the third day, when a person who was defiled by corpse is sprinkled for the first time might be the subject. There is no question that the second sprinkling, which is performed on the seventh day, is in line with the corpse impurity law.

<sup>33</sup> The editors of Qumran fragments containing halakhot of purification assumed that the כפ"ר mentioned in them should be interpreted as atonement for sin. See, for example, Esther Eshel, "4Q414: 4QRitual of Purification A," *DJD* XXXV, 141, 144, 147.

<sup>34</sup> In the following analysis of the biblical meaning of כפ"ר, I draw extensively on Jacob Milgrom, *Leviticus: A New Translation with Introduction and Commentary* (AB; New York: Doubleday, 1991–2001), 1079–80.



A search of Qumran writings reveals two other fields of *halakhah* where the root כפ"ר appears. One is the case of purgation offerings from those who had committed a sin; the other relates to the first fruit festivals.

Previous research on Qumran halakhot regarding purgation offerings for sins indicated that in the priestly thinking of the Second Temple period the meaning of כפ"ר as atonement and forgiveness was preserved whereas the meaning of purgation disappeared. In biblical law, כפ"ר as mentioned in the laws dealing with purgation offerings made after committing a sin can denote either purging the stains in the sancta caused by sins or being granted forgiveness/atonement. In Qumran, on the other hand, כפ"ר when mentioned in halakhot of purgation offering for sins only denotes forgiveness and atonement.<sup>35</sup>

At the same time there are instances of the root כפ"ר in *halakhic* texts which cannot be associated with sinners. The halakhot of the first fruit festivals in the *Temple Scroll*, the festival of wine and the festival of oil, show that in Qumran terminology כפ"ר meant חל"ל, de-sanctification. Examining the *halakhic* specifics of these festivals shows that they are meant to transfer fruit from God to men.<sup>36</sup> The fruit were put first on the altar as a libation for the sacrifices made to God. Then

The priest shall drink (the wine) first, and the Levites [second. And after them the Israel]ites. The chiefs of the "standards" first [and all the commanders of the thousand]s. And then all the people both great and small shall begin to drink new wine and to eat any grapes and sour grapes from the vines [for on] this [da]y they יכפרו on the wine (11QT<sup>a</sup> 21:4–8).

Clearly, "de-sanctify" is not the appropriate definition for כפ"ר in 4Q277. However, as already said, "to atone, to be granted forgiveness" does not seem quite right either: As was mentioned before, there is no reason to believe that someone who came in contact with a corpse was perceived as a sinner in need of forgiveness. However, the two known denotations in Qumran should be examined. Consideration of כפ"ר in the context of the first fruits festivals reveals that 4Q277's

<sup>35</sup> Cana Werman, "The Atonement Festivals in the *Temple Scroll*," *Meghillot* 4 (2006): 89–119.

<sup>36</sup> Cana Werman, "The First-Fruit Festivals according to the *Temple Scroll*," in *Zaphenath-Paneah: Linguistic Studies Presented to Elisha Qimron On the Occasion of His Sixty-Fifth Birthday* (ed. Daniel Sivan, David Talshir, and Chaim Cohen; Beer-Sheva: Ben-Gurion University of the Negev Press, 2009), 177–95.

כפ"ר is its exact opposite. The fruits are first of all God's possession and are indeed given to him. The priests then have their share, followed by the ordinary people. At this point the fruit no longer has any sanctity. 4Q277, and the other laws concerning severe impurities, start where the fruit-festival laws end. Those with severe contamination must be outside any sphere of holiness. Purification rites and the passage of time open the door for their gradual return to the holy spheres. Corpse contamination is gradually eradicated by bathing and laundering of clothes. The sprinkling of the water of lustration by the priests (and the purgation sacrifices made by the *zab*, the leper, and a woman after childbirth) is the final stage of a gradual inner process. Thus the כפרה given by the priest to the impure may indicate the creation of a new bond after his relationship with God was cut off due to his defilement; it announces the return of the impure to God's presence. In short, כפ"ר in the context of the first fruit festivals means to de-sanctify; כפ"ר in the context of 4Q277 means to sanctify. כפ"ר of 4Q277 is consistent with the third meaning of כפ"ר at Qumran, that of "to atone" which is found in laws of purgation offerings for sins. This meaning of כפ"ר in the context of sins also denotes a restoration of the relationship between man and God. The common ground of "to atone," "to restore" and "to de-sanctify" is that in all these usages, כפ"ר connotes the creation of the appropriate link between man and God.

The use of כפ"ר in Qumran indicates that the priests interpreted, and modified, the biblical laws in a way that granted them, the priests, a full role as mediators between God and the people. Mediation was necessary not only in cases of sin but also in everyday instances of impurities and field crops.<sup>37</sup>

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<sup>37</sup> Previous scholarship may not have paid enough attention to the differentiation in Qumran between the כפרה needed for the sinner and the כפרה needed by the impure. Consequently, the common assumption in scholarship is that in Qumran the impure person was considered to be a sinner. For a compelling argument refuting the idea that impurity is viewed as a sin, see Martha Himmelfarb, "Impurity and Sin in 4QD, 1QS and 4Q512," *DSD* 8 (2001): 9–37 and further bibliography there. For another thoughtful evaluation, see Hannan Birenboim, "For He is Impure Among All Those Who Transgress His Words': Sin and Ritual Defilement in the Qumran Scrolls," *Zion* 68 (2003): 359–66 (Hebrew).

## 4. PRIESTS AND PHARISEES: THE REASON FOR THE DISPUTE

It seems, however, that the Pharisees refused to accept the need for intercession and mediators. They struggled to create greater opportunities for man to stand face to face with his God without priestly assistance. However, as stated in the introduction, any attempt to draw conclusions on the sociological and religious situation outside the Qumran community should be made with caution.

As was mentioned, we do not know which Qumran *halakhic* writings reflect the view of the Jerusalemite priests held when the Pharisees came to power in the middle of the second century B.C.E. We thus cannot be certain that the Qumranic division into three spheres of holiness was accepted by the entire priestly movement. Furthermore, there is no way to prove that the view of impurity as layers and the instructions for gradual removal of these layers were part of the priestly *halakhah* before the split. It is hard to believe, for example, that the priestly group in entirety agreed to expel menstruants and women after childbirth from the cities of Israel as is ruled in the *Temple Scroll*. It is probable that the ideal picture found in the Qumran *halakhic* literature that the unclean return gradually to the holy spheres is a creation of an isolated community and not of the broader priestly group.

With more certainty we can state that the first fruit festivals that give *כפרה* for the wine and oil were not celebrated among the Sadducees or their predecessors who lived before the split. These festivals can only be held under a 364 day calendar, and the 364 day calendar was only operational in the Qumran Community. The *כפרה* achieved by bringing the wine and the oil is promised only in Qumran *halakhic* writings and is not in the worldview of the other groups, either priestly or Pharisaic.

However, even if the ideal *halakhah* is only the product of an isolated community, it is plausible that by its creation the community brought ideas and theology to an end that were present in the priestly circles but were never crystallized into a full *halakhic* system. In other words, the Qumran community, due to its position as an isolated group which did not have to cope with the difficulties of enforcing *halakhah* on diverse communities and people, could construct and develop *halakhic* details reflecting fully the ideas and theology of the third and second century B.C.E. priestly circles. Thus arguably, the priestly circle prior to the founding of the community saw itself as an intermediary

between God and the people and interpreted biblical law in a way that strengthened their status as intermediaries.

The dispute between the priests and the Pharisees regarding the level of purity needed for the red cow rite furthers this claim that “intercession” was a pan-priestly idea. The Sadducees’ position expressed in the Mishna has no sectarian features; 4Q277 as well does not express ideas that could not be shared by the priests outside the community. The priests wanted a central role in a rite that was perceived as unifying man and God; the Pharisees refused to allot them a central role. They held that laymen as well could take part.<sup>38</sup>

Tannaitic literature also captures an enmity resulting from the Pharisees’ insistence on taking part in removing sins. This is the background to the following mishna: “All may drive the scapegoat into the wilderness (= on Yom Kippur). But the high priests made it a practice of *not letting Israelites drive it out*. R. Yose said: Once Arsala drove it out and he was an Israelite” (*m. Yoma* 6:3). Driving the scapegoat away was viewed as part of the *כפרה* attained on Yom Kippur both in the priestly *halakhah* and in the Pharisaic *halakhah*. The Mishna expresses a firm opinion. Removing sins and achieving *כפרה* are not solely the role of the priests.

The struggle for and against priestly mediation also had repercussions on the classifications of, and criteria for, the spheres of holiness. As we saw earlier, the four degrees of holiness in Qumran *halakhah* are in full accord with purity regulations, whereas the Sages refer to ten degrees of holiness with no accompanying purification laws. For the current discussion, the status of Jerusalem as a site for religious ritual is important. At Qumran Jerusalem was considered holier than other cities with respect to impurities, hence those who were impure were only allowed to enter Jerusalem on the 8th day of their purification. However, as was shown by Henshke, in the priestly *halakhah* the holier status of Jerusalem in comparison to the other cities meant only “extending the restrictions from the temple to the city while not every activity belonged in the temple could be transferred to the city.”<sup>39</sup> The priestly *halakhah* contains no mention of religious rituals a per-

<sup>38</sup> For a full discussion and evaluation of the tannaitic sources dealing with the red cow rites, see Meir Bar-Ilan, “Polemics Between Sages and Priests Towards the End of the Days of the Second Temple” (Ph.D. diss. Bar-Ilan University, 1982), 129–44 (Hebrew).

<sup>39</sup> Henshke, “The Sanctity of Jerusalem,” 21.

son can perform in Jerusalem. All the priestly gifts are brought to the temple: first fruits (which are the *terumah*),<sup>40</sup> fourth year fruit, first born and cattle tithe. Furthermore, a sacrifice and a product brought by the owner and meant to be eaten by the owner (such as second tithe and peace offering) are to be consumed, in the priestly *halakhah*, only within the confines of the temple. The same was true regarding the Passover sacrifice: it is only eaten in the temple (*Jubilees* 49 16; 11QT<sup>a</sup> 17:8–9).

The link established in the priestly circle between the degree of holiness and impurity restrictions was apparently not accepted by the Pharisees. A second look at the list of ten degrees of holiness in tannaitic literature would clarify this point. The list is very schematic: it enumerates more than ten spheres and it includes the term “Temple Mount” which was not in use during the Second Temple period.<sup>41</sup> Nevertheless, a few criteria might reflect a Pharisaic worldview. The key point is that there are spheres which are defined by accessibility of the impure; in direct contrast to the priestly *halakhah*, Jerusalem is not one of them. According to the list, lepers are not allowed in cities surrounded by a wall; *zab* and *zaba* are prohibited from in the Temple Mount; a person who was defiled by a corpse as well as gentiles may not enter the Rampart; a *tebul-yom* may not be in the women’s court; and “The Israelite’s court is holier than the women’s court for one who must seek atonement enters the women court and does not enter the Israelites court.” Since the term “Temple Mount” was coined after the destruction of the temple, it is likely that the *zab*, the gentile and a person defiled by a corpse were part of the same group during the Second Temple period. This group was restricted from the temple enclosure but was allowed in Jerusalem.

At the same time, as was noted by Henshke, the Pharisaic view adopts the Deuteronomistic picture. Jerusalem is “the place God will chose” while the temple derives its sanctity from the city. Jerusalem is thus the right place for the worship of God; its sanctity is expressed by the existence of sacred rituals. The definition of Jerusalem as “the chosen place” frees the people from the priests’ burden. Rites which in the Deuteronomistic legislation take place at the “chosen place” are

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<sup>40</sup> Aharon Shemesh, “The Law of First Fruits in the Dead Sea Scrolls,” *Meghillot* 1 (2003): 155–64 (Hebrew).

<sup>41</sup> Yaron Z. Eliav, *God’s Mount: The Temple Mount in Time Place and Memory* (Baltimore: Johns Hopkins University Press, 2006), 198.

located according to Pharisaic *halakhah* in Jerusalem, without priestly intervention. The Passover sacrifices and second tithes are eaten in Jerusalem. Fourth year fruit, despite its status as a “holy portion jubilation for the Lord” (Lev 19:24), are eaten by the owner, in Jerusalem. The cattle tithe is for the owner to eat in Jerusalem. The Pharisees wanted and succeeded in creating religious rites in which non-priests could worship God on their own, with no mediation.

## 5. CONCLUSION

My paper began with the question: what was the core of the dispute between the Pharisees and the priests in the second century B.C.E. Close examination of the law of the red cow at Qumran reveals that the dispute was rooted in the question of whether rituals could be performed outside the temple, without priests. The priestly faction rejected this possibility. The Pharisees heartily embraced it. Analysis of additional laws in the Qumran corpus strengthened our conclusion regarding the opposing views. The Qumran Community extended the use of the root כפ"ר—which in the Bible connotes the erasure of the stains of impurity and sin in the temple—to denote mediation and priestly intercession. Moreover, the root כפ"ר with its extended meaning appears in Qumran literature not only in the sphere of purity but also in the field of sin and de-sanctification of fruit. The Pharisees, in contrast, struggled to increase the number of rituals to take place in Jerusalem, not in the temple, in order to enable the individual to stand face to face with God.

## APPENDIX

Table 3: Synoptic Text, Hebrew: 4Q276–4Q277 and Numbers 19

4Q276–7	במדבר יט
<p>4Q276 [בגדים] אשר לא שרת במ בקודש [ ] וחיב את הבגדים ושח [ט את ה] פרה [ל]פניו ונשא את דמה בכלי חרש אשר [קד]ש במזבח והזה מדמה באצבע[ו] שבע [פעמים א]ל נוכח א[ו]הל מועד</p> <p>4Q277 והשליך את הארז [ואת האזוב ואת שני ה]תולע אל תוך שרפתה [ואסף] איש טהור מכול טמאת ערב [את אפר הפרה ונתן אותו ביד] הכוהן המכפר בדם הפרה</p> <p>וכול [הנוגע באפר והנושא א]ת [כלי] החלמה [אש]ר כפרו במ את משפט ה[ ] ורחץ[ ] במים [ויט]מא עד ה[ער]ב ואל יז[ ] איש א[ת] מי הנדה על טמאי ג [פש] כיא איש כוהן טהור [יזה על] יהן כ[י] א[מ] כפר הוא על הטמ[א] ועלול אל יז על הטמא</p>	<p>(ב) ויקחו אליך פרה אדמה תמימה אשר אין בה מום אשר לא עלה עליה על. (ג) ונתתם אתה אל אלעזר הכהן והוציא אתה אל מחוץ למחנה ושחט אתה לפניו. (ד) ולקח אלעזר הכהן מדמה באצבעו והזה אל נכח פני אהל מועד מדמה שבע פעמים. (ה) ושרף את הפרה לעיניו את ערה ואת בשרה ואת דמה על פרשה ישרף. (ו) ולקח הכהן עץ ארז ואזוב ושני תולעת והשליך אל תוך שרפת הפרה... (ט) ואסף איש טהור את אפר הפרה והניח מחוץ למחנה במקום טהור והיתה לעדת בני ישראל למשמרת למי נדה חטאת הוא: (י) וכבס האסף את אפר הפרה את בגדיו וטמא עד הערב</p> <p>(יז) ולקחו לטמא מעפר שרפת החטאת ונתן עליו מים חיים אל כלי. (יח) ולקח אזוב וטבל במים איש טהור והזה....</p>
<p>וה[מקבלים א]ת מי [הנ]דה יאבואו במים ויט[ה]רו מטמאת הנפש ב[אדם] ומכל טמאה[ ] אחרת [בז]רוק עליהם [הכו]הן את מי הנדה לטהר[ם] כי לוא יכופרו [?] כי אם [י]טהרו וט[הור] בשרהם.</p>	<p>(יא) הנגע במת לכל נפש אדם וטמא שבעת ימים. (יב) הוא יתחטא בו ביום השלישי וביום השביעי יטהר ואם לא יתחטא ביום השלישי וביום השביעי לא יטהר (יט) והזה הטהר על הטמא ביום השלישי וביום השביעי ויחטאו ביום השביעי וכבס בגדיו ורחץ במים ויטהר בערב</p>

Table 4: Purity Laws in the Bible

Leviticus and Numbers			
	Outside the camp	In the camp	The Tent of Meeting
Normal Male Discharges		When a man has an emission of semen, he shall bathe his whole body in water and remain impure until evening (Lev 15:16). And if a man has carnal relations with a woman, they shall bathe in water and remain impure until evening (Lev 15:18).	
Menstruate		When a woman has a discharge, her discharge being blood from her body, she shall remain in her impurity seven days (Lev 15:19).	
Woman after childbirth		When a woman at childbirth bears a male, she shall be impure seven days; she shall be impure as at the time of her menstrual infirmity; if she bears a female, she shall be impure two weeks as during her menstruation (Lev 12:2,5) She shall remain in a state of blood purification for thirty-three days... If she bears a female... she shall remain in a state of purification for sixty six days (Lev 12:4-5).	On the completion of her period of purification, for either son or daughter, she shall bring to the priest, at the entrance of the Tent of Meeting, a lamb in its first year for a burnt offering and a pigeon or turtledove for a purgation offering... (Lev 12:6).



Table 4 (cont.)

Leviticus and Numbers			
	Outside the camp	In the camp	The Tent of Meeting
<i>Zav/Zava</i> (abnormal discharge)	Instruct the Israelites to remove from camp anyone with an eruption or discharge and anyone defiled by corpse. Remove male and female alike; put them outside the camp so that they do not defile the camp of those in whose midst I dwell (Num 5:2-3)	When a man has discharge issuing from his member, he is impure (Lev 15:2); When one with a discharge healed from his discharge, he shall count off seven days for his purification, launder his clothes and bathe his body in fresh water; then he shall be pure (Lev 15:13)	On the eighth day he shall take two turtledoves or two pigeons and come before the Lord at the entrance of the Tent of Meeting and give them to the priest. The priest shall offer them, the one as a purgation offering and the other as a burnt offering. The priest shall effect purgation on his behalf, for his discharge, before the Lord (Lev 15:14-15)
Leprosy	Instruct the Israelites to remove from camp anyone with eruption or discharge and anyone defile by corpse. Remove male and female alike; put them outside the camp so that they do not defile the camp of those in whose midst I dwell (Num 5:2-3).	..at the time that he is to be purified....the priest shall go outside the camp. If the priest sees the leper has been healed of his scaly affection, the priest shall order two live pure birds, cedar wood, crimson stuff and hyssop to be brought for him who is to be purified [purification rite] After that he may enter the camp, but he must remain outside his tent seven days. On the seventh day he shall shave off all his hair—of head, beard and eyebrows... he shall launder his clothes and bathe his body in water; then he shall be pure (Lev 14:3-9)	On the eighth day he shall take two male lambs without blemish, one ewe lamb in its first year without blemish, three-tenths of a measure of choice flour with oil mixed in for a meal offering, and one <i>log</i> of oil. These shall be presented before the Lord, with the men to be purified, at the entrance of the Tent of Meeting, by the priest who performs the purification (Lev 14:10-11).
Corpse Defilement	"		