

The Hermeneutics and Genesis of the Red Cow Ritual*

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■ Introduction

The difficulties with the red cow ritual have long exercised readers of the book of Numbers. The ritual in Num 19:1–22 describes how cleansing from corpse impurity is to be effected. A red cow is burned in a manner carefully prescribed in order to produce ash. Mixed with water, the ash is then sprinkled upon the corpse-impure individual on the third and seventh day of his or her impurity. To some of the rabbis and many subsequent interpreters, the automatic efficacy of the rite appears to be tantamount to pagan magic. In addition, it has long been observed that the red cow ritual has a number of anomalies when compared to other rituals in the Old Testament. The red cow is designated a “purification offering” (הִטְאָה)¹ but is unlike the purification offerings described in Leviticus 4–5 or, indeed, any other sacrifice: the entire animal, including the blood, is burned outside the camp, and the goal of the ritual is the production of ash for the treatment of future and not past impurity.² Finally, there is what Jacob Milgrom describes as the “paradox of the red cow”: the red cow ritual makes the pure impure and the impure pure.³

The standard way in which these unusual features have been treated in critical scholarship has been to assume that we have here an ancient, perhaps even pre-

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¹ For the classic argument for הִטְאָה as “purification offering,” see Jacob Milgrom, “Sin-offering or Purification-offering?” *VT* 21 (1971) 237–39.

² Sabina Wefing, “Beobachtungen zum Ritual mit der roten Kuh (Num 19:1–10a),” *ZAW* 93 (1981) 341–64, at 344.

³ Jacob Milgrom, “The Paradox of the Red Cow (Num. XIX),” *VT* 31 (1981) 62–72.

Israelite, rite that has been incorporated into the Israelite cult with greater or lesser success.⁴ The rite, it is held, reflects a basic fear of human corpses. One of the earliest and most influential articulations of this approach is that of George Buchanan Gray in his magisterial *International Critical Commentary* on the book of Numbers.⁵ Like William Robertson Smith, Gray is carefully attentive to the developing discipline of anthropology, and he employs it to particularly good effect in commenting on Numbers 19. Gray observes that “the belief on which it is based and the custom which it regulates are ancient and primitive. . . . a dead body is a source or cause of pollution; and this doctrine is both ancient and widespread.”⁶ According to Gray, the significance of the ritual is to be religiously and theologically appraised by proper attention to the origins of the ritual and by observing how it was incorporated into the religion of Israel. As the ritual is transferred into its new context, it sheds its old meaning and is invested with new meaning. Rituals such as the red cow ritual “gradually exchanged their originally polytheistic for a monotheistic setting, and thus became a fit vehicle for the truths of the Hebrew religion.”⁷

Although some of his turns of phrase now sound rather dated, and despite the implausibility of a ritual being stripped of meaning before being reinvested with new significance, Gray’s broad interpretive strategy has proved impressively resilient in an ever-changing scholarly discipline. In part, no doubt, this is due to the volume of comparative material to which he appeals, but it is also due to a widespread sense that the rituals are primitive.⁸

⁴ So, for example, compare the different assessments given by Martin Noth and Gerhard von Rad. Noth can speak of the material of Numbers 19 as having “to begin with . . . a quite factually magical character, [which] has been brought into at least an outward connection with the legitimate (Yahweh) cult” (*Numbers: A Commentary* [trans. James D. Martin; OTL; Philadelphia: Westminster, 1968] 141). For von Rad, on the other hand, these prescriptions are cryptic evidence of the hard fought battle against the cult of the dead: “All these very lifeless-looking ritual regulations do not in themselves retain any traces of the hard defensive warfare which Israel waged, aided by these very cultic prescriptions” (Gerhard von Rad, *Old Testament Theology* [trans. D. M. G. Stalker; 2 vols.; New York: Harper, 1962–1965] 1:276).

⁵ George Buchanan Gray, *A Critical and Exegetical Commentary on Numbers* (ICC; Edinburgh: T&T Clark, 1903).

⁶ *Ibid.*, 243.

⁷ *Ibid.*, 48.

⁸ So Hyam Maccoby: “These rites have an anomalous, primitive air about them” (*Ritual and Morality: The Ritual Purity System and Its Place in Judaism* [Cambridge, U.K.: Cambridge University Press, 1999] 83); Eryl W. Davies: “It is clear that an ancient rite has been appropriated by the Priestly school and reinterpreted in the spirit of a later age” (*Numbers: Based on the Revised Standard Version* [NCB Commentary; London: Marshall Pickering, 1995] 193); Roland de Vaux: “This rite certainly originated in pagan practices, and it must have been originally a magic rite” (*Ancient Israel: Its Life and Institutions* [New York: McGraw-Hill, 1961] 461–62); Rolf P. Knierim and George W. Coats: “The ceremony must have had some lengthy history in itself, not simply have been the fruit of an artificial composition. The direction of the history may retreat to a stage of magic, removed from direct control of the priesthood” (*Numbers* [FOTL 4; Grand Rapids, Mich.: Eerdmans, 2005] 223). See also Noth’s comment in n. 4 above.

Although this interpretive tradition is long established, there is reason to question whether it is, in fact, well grounded. There is a danger that uncritical accounts of magic or of Israel's religious development might have been inadvertently smuggled into the interpretation of the text. Similarly, appeals to universal human customs may well be justified, but they require critical verification. It is at this point, however, that doubts arise. In his discussion of impurity in Israel and Mesopotamia, Karel van der Toorn observes that "the Mesopotamian texts hardly refer to the defilement incurred by the contact with a human corpse. The ideal of a swift and proper burial of the dead is apparently owing more to a concern for the welfare of the ghosts (*eṭemmū*) of the deceased than to a fear of contamination."⁹ Combining Van der Toorn's observation with a careful historical assessment of the biblical evidence, Reinhard Achenbach argues that the impurity of the dead is only explicitly found in later, post-Redactional levels of the Pentateuch—namely, in the Holiness Code and in parts of the book of Numbers. In Achenbach's view, the origins of this idea are to be found in the separation of the temple and its priesthood from the realm of the dead. This is reflected in 2 Kgs 11:15, where execution within the sanctuary is avoided.¹⁰ It is only with the extension of sanctuary regulations to the entire Israelite camp in later parts of the Pentateuch that corpse impurity becomes a central concern.¹¹

Attention to the other cultic material in the book of Numbers provides further grounds to doubt the antiquity of the red cow ritual. Several passages in Numbers show a knowledge of other pentateuchal cultic texts. Detailed sacrificial practices are assumed (e.g., 6:1–21), existing ritual material is supplemented (e.g., 5:5–10; 9:1–14) or assembled for a particular purpose (e.g., 18:8–32), and previous instructions are enacted in narrative (e.g., 5:1–4; 8:1–4). In short, there is extensive evidence that many of the ritual texts in Numbers were composed at a relatively late stage in the composition of the Pentateuch. Rituals in the book of Numbers draw extensively on extant texts, most especially from Exodus and Leviticus. Might this not also be true of the red cow ritual?

In the most recent and extensive literary critical examination of the book of Numbers, Achenbach argues that Numbers 19 draws widely from pentateuchal materials attributable to P^s and D. Consequently, Achenbach assigns both chapters to his *Theokratische Bearbeitung II*, a post-redactional compositional level of the Pentateuch that shows particular concern for the protection of the wilderness camp's

⁹ Karel van der Toorn, *Sin and Sanction in Israel and Mesopotamia: A Comparative Study* (Studia Semitica Neerlandica 22; Assen, the Netherlands: Van Gorcum, 1985) 37.

¹⁰ See also 1 Kgs 2:30.

¹¹ Reinhard Achenbach, "Verunreinigung durch die Berührung Toter. Zum Ursprung einer altisraelitischen Vorstellung," in *Tod und Jenseits im Alten Israel und in seiner Umwelt. Theologische, religionsgeschichtliche, archäologische und ikonographische Aspekte* (ed. Angelika Berlejung and Bernd Janowski; FAT 64; Tübingen: Mohr Siebeck, 2009) 347–69.

sanctity.¹² In his judgment, the instructions in Numbers 19 are “ritualgeschichtlich junge, synthetische Anweisungen.”¹³

In his investigations, Achenbach largely restricts himself to redaction-critical and religio-historical questions that are necessary to untangle the complex compositional history of the book of Numbers. In this essay, I wish to extend Achenbach’s analysis to show how a concern to relate the developing priestly corpus (Genesis–Leviticus) to other Israelite traditions, particularly those reflected in the book of Deuteronomy, generates the red cow ritual. Authorial creativity means that it is no longer possible to explain every detail of the text of Numbers 19 by appealing to prior textual material, but most of the anomalies in the ritual will be shown to be the result of an innovative hermeneutic and not due to the preservation of very ancient practices. In particular, I will argue that the author of Numbers 19 creates a new ritual in order to address a lacuna in the priestly purity regulations: the impurity caused by a human corpse. To do so, the author draws upon the rite for an unresolved murder in Deuteronomy 21 (or something very much like it), the priestly instructions for the purification offering (Leviticus 4–5), and the purity regulations (Leviticus 11–15). After exploring the ways in which Numbers 19 creates its novel ritual, I will ask what impact this had on the existing system of ritual purity regulated in Leviticus 11–15. I will argue that P’s notion of transmission of impurity by touch is transformed so that impurity can be transmitted at a distance. I will conclude with some more theoretical reflections on the process by which the ritual was created, which I suggest can be described as “the hermeneutics of ritual innovation.”

■ The Red Cow Ritual (Num 19:1–22)

Although Milgrom has argued that an anti-death symbolism undergirds the purity legislation in Leviticus 11–15, corpse impurity is a striking absence.¹⁴ The Holiness Code is the earliest part of the Pentateuch to be explicit that corpses and participation in mourning rites cause impurity. The instructions for the priests and high priest in Leviticus 21 assume that the dead defile. The priests are to avoid defiling themselves with an exception for their closest kin; the high priest may not be defiled by any. The reason for the priests being set apart in this matter is their service in the sanctuary (Lev 21:6, 12). The graded holiness of the high priest, priests, and people, which corresponds to the graded holiness of sacred space, explains the differentiation between the types of defilement that are permissible. Defilement does not occur in the abstract but relates to the sanctuary as the locus

¹² Reinhard Achenbach, *Die Vollendung der Tora. Studien zur Redaktionsgeschichte des Numeribuches im Kontext von Hexateuch und Pentateuch* (Beihefte zur Zeitschrift für altorientalische und biblische Rechtsgeschichte 3; Wiesbaden: Harrassowitz, 2003) 505–8, 525–28.

¹³ Achenbach, “Verunreinigung,” 362.

¹⁴ For a critical engagement with Milgrom’s interpretation of Leviticus 11–15, see Christophe Nihan, *From Priestly Torah to Pentateuch: A Study in the Composition of the Book of Leviticus* (FAT II/25; Tübingen: Mohr Siebeck, 2007) 301–39.

of the divine presence. Consequently there are no instructions for the laity about corpse defilement. Nevertheless, the Holiness Code's instructions for priests create a significant lacuna within the existing priestly purity legislation. If there are particular rituals for the cleansing of menstrual impurity or the purity of the leper, even guidance on impurity due to contact with an animal corpse, what rituals pertain for those contaminated by a human corpse? The Priestly Code offers no guidance.

It might not seem obvious for Deuteronomy to offer some guidance on this omission, for it is often overlooked that the last book of the Torah has its own, albeit understated, notion of purity and impurity.¹⁵ The most distinctive departure from the priestly system of purity is in Deuteronomy's association of violent death with impurity. In Deut 21:22–23 it is forbidden to leave the corpse of an executed malefactor hanging overnight, for to do so would bring impurity on the land (וְלֹא תִטְמָא אֶת־אֲדָמַתְךָ).¹⁶ In Deut 17:8 the levitical priest makes judgment between different kinds of "blood," which should most likely be understood as contagion resulting from a murder.¹⁷ Deut 26:14 implies that corpses defile more generally. This verse is most naturally taken to imply that impurity is contracted through some contact with the dead or those mourning.¹⁸ As part of this concern,

¹⁵ Moshe Weinfeld, for example, seeks to establish that Deuteronomy is a document with a secular character; see esp. *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon, 1972) 180–89, 225–32. He draws a stark contrast between "the author of the Priestly Code, to whom sacral-ritual matters are of primary importance" and "the author of Deuteronomy . . . who is free of such sacral conceptions or indifferent to them" (*ibid.*, 232). The people's holiness is maintained through obedience to the ethical precepts of the Deuteronomistic law. Nevertheless, as John Rogerson and Philip Davies rightly observe, "we must not overlook the book's persistent, if not boldly stated, stress on purity" (*The Old Testament World* [Cambridge, U.K.: Cambridge University Press, 1989] 247). Or, as Norbert Lohfink puts it in his critique of Weinfeld's thesis, "'purity' is the representation of 'holiness'" ("The Destruction of the Seven Nations in Deuteronomy and the Mimetic Theory," in *Contagion: Journal of Violence, Mimesis, and Culture* 2 [1995] 103–17, at 105).

At some points Deuteronomy's account of purity shares some common elements with Leviticus 11–15. Pure and impure animals are distinguished in Deut 14:3–21 (see Leviticus 11), and Deut 23:10–12 is often taken to be instructions about an emission of semen, even if some of the terminology differs from Leviticus 15. With respect to the former passage, though, it is not unusual to argue that the dietary regulations are an alien element introduced into the Deuteronomistic law code from a priestly source. See, e.g., Andrew D. H. Mayes, "Deuteronomy 14 and the Deuteronomistic World View," in *Studies in Deuteronomy: In Honour of C. J. Labuschagne on the Occasion of His 65th Birthday* (ed. Florentino García Martínez; VTSup 53; Leiden: Brill, 1994) 116–81, esp. 181. At other points Deuteronomy departs from priestly notions, such as in its insistence that human feces threaten the holiness of the military camp (Deut 23:13–15).

¹⁶ Alternatively, it has been argued that the perceived source of pollution is the curse rather than the corpse; so Achenbach, "Verunreinigung," 354. For the difficult כִּי־קָלְלָה אֱלֹהִים תְּלוּי see Timo Veijola, "'Fluch des Totengeistes ist der Aufgehängte' (Dtn 21,23)," *UF* 32 (2000) 543–54. Veijola makes a convincing case that אֱלֹהִים is a ghost.

¹⁷ See Anselm C. Hagedorn, "Deut 17,8–13. Procedure for Cases of Pollution?" *ZAW* 115 (2003) 538–56. Hagedorn also argues that the judgment between different kinds of "blow" (נִיב) is best explained as cases of scale disease (see Leviticus 13–14; *ibid.*, 547).

¹⁸ Timo Veijola and Jan Christian Gertz have argued, however, that this is a relatively late addition to the Deuteronomistic law code; see Timo Veijola, *Das fünfte Buch Mose. Deuteronomium*

Deut 21:1–9 describes a ritual to be performed upon the discovery of a murder victim where the murderer cannot be ascertained. The slaughter of a young cow at an uncultivated location is said to remove the stain of innocent blood (see 19:13).¹⁹ This ritual provides atonement for the blood;²⁰ it is the only occasion on which the root כפר occurs in the Deuteronomic law code.²¹

I want to argue that the composer of Numbers 19 used his knowledge of the ritual of Deuteronomy 21 or a ritual very much like it as part of the basis for creating a new ritual to deal with a situation of impurity that had not been anticipated in the priestly purity regulations of Leviticus 11–15. For the composer of Numbers 19, it was not enough simply to appropriate the rite of Deuteronomy 21, not only because the Deuteronomic rite addresses another problem, but also because within the priestly system every rite of purification requires the sacrifice of a purification offering (זֶבַח טָהוֹרָה). The ritual described in Deuteronomy 21 and the instructions about the purification offering in Leviticus 4–5, together with the priestly instructions about ritual impurity in Leviticus 11–15, provide the composer of Numbers 19 with the principal ingredients for creating his novel ritual.

(ATD 8,1; Göttingen: Vandenhoeck & Ruprecht, 2004) 304; Jan Christian Gertz, “Die Stellung des kleinen geschichtlichen Credos in der Redaktionsgeschichte von Deuteronomium und Pentateuch,” in *Liebe und Gebot. Studien zum Deuteronomium* (ed. Reinhard G. Kratz and Hermann Spieckermann; FRLANT 190; Göttingen: Vandenhoeck & Ruprecht, 2000) 30–45, esp. 30–33.

¹⁹ For an analysis of the attempts to understand the rite and for the argument that it is a reenactment and elimination rite, see David P. Wright, “Deuteronomy 21:1–9 as a Rite of Elimination,” *CBQ* 49 (1987) 387–403. The rite has now received extensive treatment from Jan Dietrich in *Kollektive Schuld und Haftung. Religions- und rechtsgeschichtliche Studien zum Sündenkuhritus des Deuteronomiums und zu verwandten Texten* (Oriental Religion in Antiquity 4; Tübingen: Mohr Siebeck, 2010).

²⁰ Although it is often suggested that Deut 21:1–9 concerns the purification of the land, this is not explicitly stated; see Tikva Frymer-Kensky, “Pollution, Purification, and Purgation in Biblical Israel,” in *The Word of the Lord Shall Go Forth: Essays in Honor of David Noel Freedman in Celebration of His Sixtieth Birthday* (ed. Carol L. Meyers and M. O’Conner; Winona Lake, Ind.: Eisenbrauns, 1983) 399–414, at 408. As Eckart Otto points out, the idea of the purification of the land is present in the book of Deuteronomy at 21:22–23 and 24:1–4, but the ritual for the atonement of the unsolved murder is said to atone for the people (21:8) (“Soziale Verantwortung und Reinheit des Landes. Zur Redaktion der kasuistischen Rechtssätze in Deuteronomium 19–25,” in *Propheetie und geschichtliche Wirklichkeit im alten Israel. Festschrift für Siegfried Hermann zum 65. Geburtstag* [ed. Rüdiger Liwak and Siegfried Wagner; Stuttgart: Kohlhammer, 1991] 290–306). The suggestion that this ritual concerns the purification of the land is usually based on the requirement that the cow be slaughtered at an uncultivated location and the recognition that Deut 21:8, with its reference to the whole Israelite nation, could not have been part of the pre-Deuteronomic rite. Dietrich argues that the rite originally concerned a local community and questions whether a strong distinction between land and community is valid (*Kollektive Schuld*, esp. 223).

²¹ Andrew D. H. Mayes judges the whole of v. 8 to be Deuteronomistic (*Deuteronomy* [NCB; Grand Rapids, Mich.: Eerdmans, 1981] 297). Many interpreters, however, attribute v. 8b to the Deuteronomic version of the rite; so Wright, “Deuteronomy 21:1–9,” 392 n. 18; Eckart Otto, *Das Deuteronomium. Politische Theologie und Rechtsreform in Juda und Assyrien* (BZAW 284; Berlin: de Gruyter, 1999) 265; and Bernd Janowski, *Sühne als Heilsgeschehen. Traditions- und religionsgeschichtliche Studien zur Sühnetheologie der Priesterschrift* (2d ed.; WMANT 55; Neukirchen-Vluyn: Neukirchener, 2000) 164–66. Most recently, Dietrich has argued that only v. 8b is original (*Kollektive Schuld*, 84–86).

At first blush, the priestly purification system and the ritual in Deuteronomy 21 are in an irresolvable tension with one another. In the priestly purity regulations, purification requires the offering of a זָבַח , and such offerings can only be made in the sanctuary. The ritual in Deuteronomy 21 is not a sacrifice: it takes place in open country and is dealt with in a manner unlike any sacrifice elsewhere in the Pentateuch.²² The ritual of the red cow in Numbers 19 seeks to combine both, although it requires certain gymnastics to do so.²³ The setting in the country is the principal contribution of the rite in Deuteronomy 21, but this requires that certain parts of the purification sacrifice be adjusted. Most importantly, the sacrifice needs to be related to the sanctuary in ways similar to that of other purification sacrifices. The slaughter of the cow is described with the usual priestly language for sacrifice (זָבַח), although the sacrifice is said to take place before Eleazer the priest. This unusual specification perhaps suggests that Eleazer, in some way, can be taken to be a representative of the sanctuary, since the sacrifices are usually to take place before the tent of meeting or YHWH (e.g., Lev 4:4).²⁴

The connection to the sanctuary is also maintained through the manipulation of the blood. In the case of the anointed priest and the congregation, the blood of the purification offering is sprinkled seven times before the curtain of the sanctuary (Lev 4:6, 17), as well as being applied to the horns of the altar and being poured out at the base of the altar (Lev 4:7, 18, 25, 30). In the red cow ritual, the blood is sprinkled in the direction of the sanctuary (Num 19:4). The rest of the blood is burned with the cow. The novelty of this requirement has often been observed.²⁵ In Milgrom's opinion, "it is the blood of a *ḥatta't*, a purification offering, which is the ritual detergent *par excellence* and which will remove the impurity from those contaminated by contact with corpses."²⁶ This may be, but there is nothing in the text of Numbers 19 that confirms Milgrom's supposition. The reason should rather be sought in the fact that without the altar, at the base of which the sacrificial blood is poured, the author of Numbers 19 could envisage no other appropriate means

²² For Deut 21:1–9 not being a sacrifice for Deuteronomy, see Wright, "Deuteronomy 21:1–9," and Dietrich, *Kollektive Schuld*, 41–44, 235–45.

²³ Interpreters have frequently struggled to make sense of this tension. Thus, for example, Eryl Davies rejects Milgrom's (and the text's!) understanding of the red cow as a purification offering with the observation that "the fact that the animal was to be slaughtered outside the precincts of the sanctuary indicates that it could not have been regarded as a sacrifice to Yahweh" (*Numbers*, 197). This sense of difficulty has long been felt. It may already be present in the LXX where זָבַח is translated with $\alpha\gamma\gamma\iota\sigma\mu\acute{o}\varsigma$ in Numbers 19 rather than $\acute{\alpha}\mu\alpha\rho\tau\acute{\iota}\alpha$.

²⁴ Contra the suggestion of Jacob Milgrom that "the need for continuous priestly supervision betrays the inherent danger that the ritual may slip back into its pagan moorings" (*Leviticus 1–16: A New Translation with Introduction and Commentary* [AB 3; New York: Doubleday, 1991] 273).

²⁵ E.g., Davies, *Numbers*, 198.

²⁶ Jacob Milgrom, *Numbers = [Ba-Midbar]: The Traditional Hebrew Text with the New JPS Translation* (JPS Torah Commentary; Philadelphia: Jewish Publication Society, 1990) 159.

by which the blood should be disposed.²⁷ The fact that in the rite of Deuteronomy 21 the heifer is strangled, and so killed without shedding any blood, may well have influenced the author when reading the rite together with the instructions about the purification offering.²⁸ Less likely is the possibility that the instructions in Deut 12:27 to present the meat *and* the blood of the burnt offering on the altar influenced the author of Numbers 19.²⁹

The indebtedness of Numbers 19 to the textual instructions concerning the purification offering in Leviticus 4–5 is sufficient to explain הָרָאָה הַיָּזָה (Num 19:9). Milgrom makes much of the Masoretes pointing the masculine pronoun of the consonantal text as a feminine. The consonantal text, Milgrom contends, must refer to the ashes, but the Masoretic pointing refers to the cow.³⁰ Milgrom is correct about the Masoretes' actions; here as elsewhere the Masoretes' decision to point הָרָאָה as a masculine or feminine depends upon the material that constitutes the offering.³¹ The consonantal text, however, reflects the almost consistent practice in Leviticus 1–7 of using הָרָאָה in the summarizing statements about the various sacrifices. The suggestions that הָרָאָה הַיָּזָה be rejected as a gloss,³² or that it be translated differently since the cow cannot possibly be a sacrifice,³³ fail to recognize the dependence of verse 9 upon its literary precursor in Leviticus 4–5.

It is natural to wonder why Num 19:2 specifies that a “cow” (פָּרָה) be used for the sacrifice.³⁴ Why do we not find here a “heifer” (עֵגְלָה בִּקְרָה) as in Deuteronomy

²⁷ It should also be noted that, in contrast to the instructions for the purification offering, Eleazer “takes” (וּלְקַח) the blood and sprinkles it (Num 19:4). In the purification offering, the priest “takes” (וּלְקַח) some of the blood, “dips” (וַיִּטְבֵּל) his finger in and sprinkles it, and then puts some on the altar and disposes of the rest at the foot of the altar (Lev 4:5–7). The instructions in Leviticus presuppose a vessel to carry the blood, which is not the case in Numbers; see Milgrom, *Leviticus 1–16*, 234. For a rabbinic discussion reflecting this, see *Sipre Zuṭa* on Num 19:4.

²⁸ Deuteronomy 21, of course, does not specify how the heifer is to be disposed of.

²⁹ Veijola understands Deut 12:27 to mean the blood was burned on the altar: “Die Brandopfer werden ganz, mit Fleisch und Blut, auf dem Altar verbrannt” (*Das fünfte Buch Mose*, 279). Samuel Rolles Driver, on the other hand, interprets the verse in light of Leviticus 1: “The flesh and the blood alike are to come upon the altar (strictly the blood of both these offerings was thrown in a volume (זֶרֶק) against the altar)” (*A Critical and Exegetical Commentary on Deuteronomy* [ICC; Edinburgh: T&T Clark, 1895] 149). Veijola is probably correct, since the verse concludes that the blood from the other sacrifices is poured out at the base of the altar while the meat is consumed.

³⁰ Milgrom, *Numbers*, 160. Other interpreters are content to gloss over the difficulty and to assume the Masoretic reading. See William K. Gilders, “Why Does Eleazar Sprinkle the Red Cow Blood? Making Sense of a Biblical Ritual,” *Journal of Hebrew Scriptures* 6 (2006) 8 n. 16; Baruch A. Levine, *Numbers 1–20: A New Translation with Introduction and Commentary* (AB 4A; New York: Doubleday, 1993) 464.

³¹ Rolf Rendtorff, *Leviticus* (BKAT 3/1; Neukirchen-Vluyn: Neukirchener, 2004) 61.

³² “Ein weiteres inhaltliches Argument betrifft den v. 9ב (הָרָאָה הַיָּזָה): Daß das vorliegende Ritual ein Sündenopfer sei, ist völlig aus der Luft gegriffen und hat im Text selbst keinen Anhalt, so daß dieser Versteil mit Sicherheit als sekundär abzutrennen ist” (Wefing, “Ritual mit der roten Kuh,” 354 [emphasis mine]).

³³ Davies, *Numbers*, 199–200. See also NIV “for purification from sin.”

³⁴ The term פָּרָה states nothing about the age of the animal. The traditional rendering “heifer”

21? The difference can be attributed to the influence of the purification-offering legislation, which for an unintentional transgression of the people is a “bull” (פר), and not a “heifer” (עגלה) or a “young bull” (עגל, as in Lev 4:14). Numbers 19 has a female animal as in the ritual of Deuteronomy 21 but adopts the language of Leviticus 4. In doing so, it is aided by the availability of the cow within Leviticus’s system of purification, since it had not been designated in Leviticus 4 for the purification of any group or individual (see chart).

	Male	Female
Bovine (פר בין בקר)	Anointed priest (4:3–12) Israelite community (4:13–21) ³⁵	Available for red cow ritual
Goat (שעיר עזים)	Leader (4:22–26)	Individual Israelite (4:27–31)
Lamb (כבש)		Individual Israelite (4:32–35)

The description of the animal as “perfect, in which there is no blemish” (תמימה אשר אין בה מום) has been judged a “tautology.”³⁶ The apparent redundancy can be attributed to the use of priestly and Deuteronomic terminology. The adjective “perfect” (תמים) is the standard description of the sacrificial animal in the priestly literature, never once occurring in Deuteronomy.³⁷ The language of “blemish” (מום) occurs in the Deuteronomic law code at Deut 15:21 and 17:1; it also occurs in the Holiness Code in Lev 22:20–25, perhaps influenced by Deuteronomy’s usage,³⁸ but not in the earliest priestly material. The final description of the red

is already found in LXX (δέμαλιον). LXX is probably influenced by the description of the animal as having never had a yoke set on it; so John William Wevers, *Notes on the Greek Text of Numbers* (Septuagint and Cognate Studies 46; Atlanta, Ga.: Scholars, 1998) 311. It is also possible, however, that LXX’s translation is influenced by the rite in Deuteronomy 21.

The color of the cow cannot be explained by appeal to literary precursors. The authors of Numbers 19 possibly have some symbolic significance in view, though this cannot be ascertained. The color of the earth or the color of blood have been suggested as explanations and either would be possible; see Philip J. Budd, *Numbers* (WBC 5; Waco, Tex.: Word Books, 1984) 212.

³⁵ Note, however, that Num 15:24 has a different specification for the inadvertent sin of the community: a goat for a sin offering together with a bull for a burnt offering.

³⁶ Davies, *Numbers*, 197.

³⁷ For P^g and P^s see Exod 12:5; Lev 1:3, 10; 3:1, 6, 9; 4:3, 23, 28, 32; 5:15, 18; 6:6; 9:2; 14:10. In H and Numbers, see Lev 22:19, 21; 23:12, 18; Num 6:14; 28:3, 9, 11, 19, 31; 29:2, 8, 13, 17, 20, 23, 26, 29, 32, 36.

³⁸ A number of studies have convincingly demonstrated that the Holiness Code is familiar with the book of Deuteronomy, including Deuteronomistic materials. See, most recently, Christophe Nihan, “The Holiness Code between D and P: Some Comments on the Function and Significance of Leviticus 17–26 in the Composition of the Torah,” in *Das Deuteronomium zwischen Pentateuch und Deuteronomistischem Geschichtswerk* (ed. Eckart Otto and Reinhard Achenbach; FRLANT 206;

cow is that it must never have borne a yoke (אשר לא-עלה עליה על; Num 19:2). A similar requirement is made of the heifer in the Deuteronomy 21 rite, but the phrasing is different (אשר לא-משכה בעל; v. 3). An exact parallel is found in 1 Sam 6:7, and it is possible that this narrative, rather than Deuteronomy 21, has influenced the phraseology. 1 Sam 6:7 also describes an elimination rite with the ark of the covenant borne back to Israelite territory on a cart drawn by two “milk cows that have never been yoked” (פרות עלות אשר לא-עלה עליהם על).³⁹

The ritual of the red cow in Numbers 19 draws not only upon Deuteronomy 21 and the חטאת regulations of Leviticus 4–5 but also, as we might expect, on the different purity regulations in Leviticus 11–16. This is most apparent in the utilization of cedar wood, crimson material, and hyssop in the red cow ritual. These three ingredients also appear in the ritual for the cleansing of the leper (Lev 14:6). In Leviticus 14 they are used to sprinkle the impure leper while in Numbers 19 they are burned together with the cow.

There are four other ways in which the red cow ritual appropriates the purity regulations. First, the concerns about touching a corpse and its contamination of open vessels (Num 19:14–16) are somewhat similar to the impurity contracted through contact with the corpse of a swarming land animal (שרץ; Lev 11:29–38). As was the case with Deuteronomy 21, despite some thematic similarities, there are few verbal parallels.⁴⁰ If the author of Numbers 19 has been influenced by Leviticus 11, he has rephrased his material considerably. Second, the two-stage purification is an indication of the seriousness of the impurity contracted and is reminiscent of the two stages required for the parturient (Leviticus 12). Third, the contraction of impurity by those who enter the tent has its closest parallel in the instructions about the contaminated house (Lev 14:46). The level of impurity is

Göttingen: Vandenhoeck & Ruprecht, 2004) 81–122; Jeffrey Stackert, *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation* (FAT 52; Tübingen: Mohr Siebeck, 2007).

³⁹ “Eine literarische Abhängigkeit scheint zwischen Num 19,2 und 1 Sam 6,7 vorzuliegen, kaum jedoch zwischen Num 19,2 und Dtn 21,3b” (Dietrich, *Kollektive Schuld*, 238 n. 335; see also 79–80). The fact that we have an almost identical animal being described in Numbers 19 and Deuteronomy 21, but with significant terminological differences, could suggest that the author of Numbers 19 was influenced not by the *text* of Deuteronomy 21 but by the ritual described in Deuteronomy 21 or a ritual very like it. We cannot entirely exclude the possibility that the author so completely redescribed the ritual in Deuteronomy 21 that no verbal parallel can be found. Such cases of extensive rewriting can be found in the Temple Scroll from Qumran, which was likely written not much later than some of the latest texts in the Pentateuch such as Numbers 19. A remarkable example is 11QT XLIII, 12–17 where Deut 14:24–29 is reworded such that almost nothing remains of the original biblical phrasing and, as Stephen A. Kaufman observes, “The only truly biblical idiom in this entire text, דרך שלשית ימים, is actually taken from a totally different, unrelated source (Exod 3:18)” (“The Temple Scroll and Higher Criticism,” *HUCA* 53 [1982] 29–43, at 38). This could provide a parallel to Numbers 19, which has similarities to Deuteronomy 21, but where the closest parallel—the description of the animal—is not to Deuteronomy 21, but to 1 Samuel 6.

⁴⁰ The verb נגע is employed (Num 19:16; Lev 11:31), and everyone that is within a tent with a human corpse or everything in an earthenware pot with a שרץ corpse is unclean (וכל-אשר באהל יטמא) [Num 19:14]; כל אשר בתוכו יטמא [Lev 11:33]).

seven days, as though the corpse had been touched. Fourth, the language of “fresh water” (מים חיים; Num 19:17) is relatively rare in the Old Testament but also occurs in Lev 14:5, 50–52; 15:13. In the purification rites for the leper and the house, the water is used together with the active element from the sacrifice, the blood. In the red cow ritual the water is used with ash as the active element. In both cases the resulting mixture is sprinkled on the unclean abode or the unclean people.

The thesis that Numbers 19 draws upon a ritual similar to that described in Deuteronomy 21 and the ritual instructions in Leviticus allows us to shed light on Milgrom’s paradox. He writes:

Whereas the ashes of the Red Cow purify those whom they sprinkle, they defile those who do the sprinkling (vv. 19, 21) and, indeed, anyone who handles them (v. 21) and is involved in preparing them (vv. 6–10). This paradox is neatly captured in the rabbinic apothegm: they purify the defiled and defile the pure.⁴¹

The ritual ablutions in the red cow ritual can be understood if we view them as a combination of the ritual ablutions like those described in Deuteronomy 21 and the Yom Kippur ritual (Leviticus 16). In the ritual of Deuteronomy 21, the slaughter of the cow takes place outside the camp and part of that rite is the washing of all the participants’ hands over the body of the slain cow. This ritual act of washing removes bloodguilt and transfers it to the cow. In the ritual of Yom Kippur the person who burns the bull and goat of the purification offering needs to wash himself and his clothes before reentering the camp. This is usually understood as a rite of purification, but this interpretation is mistaken and is the result of reading Numbers 19 into Leviticus 16.⁴² In Numbers 19 the purpose of the washing is

⁴¹ Milgrom, “Paradox,” 63. Milgrom creates a false set of problems by trying to reconstruct how the rite might have been performed. As a result, he must posit the presence of someone to do the slaughtering of the cow before Eleazer and a priest to consecrate the blood. This creates a perplexing result since “neither the slaughterer of the cow, nor the priest who consecrated its blood is said to be unclean” (*Leviticus 1–16*, 274). Consequently Milgrom has to resolve the problem of why only some of the participants are defiled during the ritual. He concludes, “The difference is one of time: only those who make contact with the Red Cow after the consecration of its blood become impure. This proves that the blood consecration transforms the Red Cow into a *ḥaṭṭāʾt*, a purification offering, for anyone handling the *ḥaṭṭāʾt* becomes impure” (ibid.). The problem only arises when it is assumed that there is an actual ritual behind Numbers 19 that the biblical text is seeking to describe, rather than a literary construction that brings together a variety of different texts. This is not to say, of course, that the attempt to practice the ritual did not result in a need to fill gaps or give rise to a number of puzzling questions. Already in 4QMMT there are additional participants in the rite (4Q394 3–7 I 16b–19a); see Ian C. Werrett, *Ritual Purity and the Dead Sea Scrolls* (STDJ 72; Leiden: Brill, 2007) 195. Milgrom’s problem and proposed solution is already evidenced in rabbinic discussions, but the artificiality is apparent, for in this understanding the purification offering only transmits impurity when it is outside the sacred precincts (Milgrom, *Leviticus 1–16*, 1053).

⁴² So, e.g., Roy Gane, *Cult and Character: Purification Offerings, Day of Atonement, and Theodicy* (Winona Lake, Ind.: Eisenbrauns, 2005); David P. Wright, *The Disposal of Impurity: Elimination Rites in the Bible and in Hittite and Mesopotamian Literature* (SBLDS 101; Atlanta, Ga.: Scholars Press, 1987); Milgrom, *Leviticus 1–16*, 1050.

for purification, since the one being washed is explicitly said to be unclean until evening (וּטְמֵא הַכֹּהֵן עַד־הָעֶרֶב) in v. 7; see also vv. 8, 10, 21, and 22). In contrast, Leviticus 16 never specifies that the washing of bodies or clothes is necessary for purification or that the participants in the rite have become impure. Indeed, it is often observed that this cannot be the case for the high priest (Lev 16:24). In this case the washing has been described as a rite of transition,⁴³ and this description also fits well the washing undertaken by those responsible for the disposal of the *חטאת* on Yom Kippur.⁴⁴

The author of Numbers 19 includes washing to reenter the camp because the ritual described in Deuteronomy 21 has the rite take place outside the camp, and in Leviticus 16 those who dispose of the sacrificial carcasses outside the camp have to wash on reentering the camp. The hand-washing rite of Deuteronomy 21 has not been retained in Numbers 19, but the idea that washing removes some form of impurity has been. The rite of transition in Leviticus 16 is, thus, transformed into a purification rite in its reception in Numbers 19, and each of the participants is said to be impure until evening (Num 19:7–10). It is this hermeneutical transformation that generates the paradox that so perplexed the rabbis.

In conclusion, we have shown that the red cow ritual is a literary creation, the result of an extension of rituals found in the developing priestly corpus and in the book of Deuteronomy. The anomalies in Numbers 19 arise not because we have an ancient ritual preserved in a late priestly form, but because we have a creative coordination of other rituals or ritual texts to create a new ritual.⁴⁵ To state this in the

⁴³ Wright, *Disposal of Impurity*, 218 n.100; Milgrom, *Leviticus 1–16*, 1048–52.

⁴⁴ This resolves a number of problems created by assuming the washings in Leviticus 16 are for purification. First, Milgrom wrestles with the absence of the clause “they shall be impure until evening,” which is found on other occasions of impurity (*Leviticus 1–16*, 1050–51). His explanation that the clause was unnecessary because there was no access to the sanctuary and no danger of the sacred offerings being consumed since Yom Kippur is a fast day is tortuous. Second, the difficulty of explaining the difference between the high priest and the other participants in the rite is removed. There is no need to argue that the sanctuary or the high priest himself has a level of sanctity that protects the high priest from pollution by the *חטאת*.

⁴⁵ Some, of course, might object that Deuteronomy 21 could describe an ancient, primitive ritual. If this chapter was a precursor to Numbers 19, then interpreters such as Gray are not mistaken in finding in Numbers 19 an ancient ritual in priestly dress. To this objection I make the following observations. First, the ritual of Numbers 19 is some distance from the pre-Deuteronomic rite of Deuteronomy 21. The oldest elements are the slaughter of an unworked heifer in the fields for blood pollution. However, that leaves a number of the elements that have been judged problematic in Numbers 19, such as Milgrom’s paradox and the identification of the red cow as a *חטאת*, of more recent origin. Thus, while the red cow ritual has parentage, it is its own distinct rite. This rite is not conceivable prior to the bringing together of the priestly purity rituals and Deuteronomy 21. Secondly, it is possible that the pre-Deuteronomic rite in Deuteronomy 21 is ancient but, unfortunately, we simply cannot tell. While concerns about bloodguilt can be found in the second millennium B.C.E., they are still at home in the first millennium, most especially in Deuteronomy and the Deuteronomic tradition (see further below). For Deuteronomy, as Dietrich puts it, “es geht nicht um Primitives, sondern um Fundamentales” (*Kollektive Schuld*, 2; quoting Walter Burkert in reference to Greek sacrifice). Thirdly, what is ultimately at issue is what counts as explanation. It is my contention that

starkest terms, the original *Sitz im Leben* of the red cow rite was nothing other than its *Sitz im Text*. To speak in this manner is to assert only that the ritual originated in the text rather than the text being a reflection of an existing ritual. This is not, of course, to suggest that the authors did not intend the ritual to be practiced or that it was not practiced. Nor is it to deny a historical context within which human corpses were now viewed as sources of a virulent impurity and as such were a threat to YHWH's sanctuary. The Holiness Code is the first to show a concern with corpse impurity, but only as it applies to priests. The book of Numbers extends this to the camp and to all of the Israelites (Num 5:1–4). Thus, corpse impurity appears to have become a particular concern only in the Persian period, and may reflect the influence of Greek ideas about sanctuaries and the divine realm in the Levant.⁴⁶

■ The Transformation of the System of Ritual Purity

Under the influence of Milgrom, much recent work on ritual in the Old Testament has begun to consider priestly rituals as coherent systems rather than as chance deposits from a large cache of ancient priestly lore. The work of Milgrom and his students gives ample evidence of the value of approaching the ritual material in the Old Testament in this manner. The understanding of the red cow ritual offered here suggests that we might also need to think about such systems diachronically. The priestly system of ritual purity in Leviticus 11–16 did not originally include any measures for corpse impurity.⁴⁷ The red cow ritual is an attempt to expand the ritual system and close this lacuna. Yet, as we have already seen, the expansion of the ritual system through the incorporation of another ritual has consequences for the other existing rituals in the ritual system. Interpreted as part of a ritual system that includes Numbers 19, the rites of transition in Leviticus 16 are transformed into rites of purification. In other words, the Pentateuch has evidence that its ritual systems were not static. Modifications to a ritual system had authoritative force for subsequent readers, and the anomalies introduced by it created new interpretive pressures as readers attempted to understand the new ritual and its precursors as part of a coherent ritual system.⁴⁸

insufficient attention has been paid to the exegetical instincts at work in Numbers 19, and that the categories of “primitive” and “archaic” do little more than *explain away* the anomalies of the ritual.

⁴⁶ See Achenbach, “Verunreinigung.”

⁴⁷ The significant differences between Numbers 19 and the impurity regulations of Leviticus 11–15 make untenable any suggestion that they were originally of one piece, or that the red cow ritual was originally part of Leviticus 11–15 and only subsequently relocated.

⁴⁸ The need to continue integrating the red cow ritual and to clarify its prescriptions is clearly evidenced in the Second Temple period; see esp. Angelika Berlejung, “Variabilität und Konstanz eines Reinigungsrituals nach der Berührung eines Toten in Num 19 und Qumran,” *TZ* 65 (2009) 289–331. Berlejung observes: “Die Verfasser der T[empel]R[olle] (und des Damaskus Dokuments) vereinheitlichten unterschiedliche biblische Bestimmungen, die unmittelbar zum selben Themenbereich gehörten (Kontakt mit Menschenleichen) und/oder biblische Bestimmungen, die zwar nicht unmittelbar, jedoch nach Ansicht der Verfasser der TR durchaus zum selben

The addition of the red cow ritual to the existing ritual system had significant consequences for how the subsequent system was understood. Most obviously, by drawing extensively upon the existing system of ritual purity, the composer of Numbers 19 made the red cow ritual the sum of purity regulations and the corpse the most virulent form of impurity (see *m. Kelim* 1:1–5). It is also apparent why many scholars have discerned the theme of death throughout the purity regulations in Leviticus 11–15, for each form of ritual impurity has some relationship to Numbers 19.⁴⁹ From this perspective it is possible to appreciate the merits of Milgrom’s proposal as an account of how the purity rituals function as a canonical, synchronic whole.

An important case of transformation, with significant repercussions for our understanding of recent scholarship on the purity regulations, most especially Milgrom’s, is the question of how impurity was believed to be transmitted. It is to this subject that we will now turn.

■ The Transmission of Impurity and the Contamination of the Sanctuary

In his influential essay “Israel’s Sanctuary: The Priestly ‘Picture of Dorian Gray,’” Milgrom expounded his view that impurity in Leviticus “was a physical substance, an aerial miasma which possessed magnetic attraction for the realm of the sacred.”⁵⁰ This miasma pollutes the sanctuary in different ways depending upon who commits the sin and whether the sin is wanton or inadvertent. The location of the sinful act does not affect the pollution; the sanctuary can be polluted even from a distance:

It is patently clear that these texts are grounded in the axiom, common to all ancient Near Eastern cultures, that impurity is the implacable foe of holiness wherever it exists; it assaults the sacred realm even from afar.⁵¹

In his examination of Milgrom’s theory of ritual impurity, Roy Gane correctly observes that the crucial move in Milgrom’s argument is grounded in only a few biblical texts. On the basis of these specific cases, Milgrom extrapolates his general

Themenbereich zu zählen waren (Kontakt mit Tierkadavern, Reinigung bei Aussatz). . . . Dies deutet daraufhin, dass man in Qumran gezielt daran gearbeitet hat, Rituale zu transformieren, unterschiedliche Rituale aufeinander abzustimmen und ein kohärentes System von Riten zu erzeugen” (*ibid.*, 322–23). Thus, attempts by Milgrom and others to reconstruct the *original* ritual and fill in gaps have limited value, for such attempts assume that the author is seeking (inadequately) to describe a known ritual. Nevertheless, they do have value for understanding the later reception of the scriptural text and the attempt to perform its instructions in the Second Temple period.

⁴⁹ For a critique of this association and alternative approaches to the purity regulations, see esp. Nihan, *Priestly Torah*, 301–39.

⁵⁰ Jacob Milgrom, “Israel’s Sanctuary: The Priestly ‘Picture of Dorian Gray,’” *RB* 83 (1976) 390–99, at 392.

⁵¹ *Ibid.*, “Israel’s Sanctuary,” 393.

theory of an aerial miasma.⁵² Thus, in the immediate context of the above quote, Milgrom writes,

Molech worship is forbidden because it contaminates “my sanctuary” (*Lev.*, xx, 3). Whoever is contaminated by a corpse and fails to purify himself “has contaminated the Lord’s sanctuary” (*Numb.*, xix, 20, 13). Those afflicted with pelvic discharges also need purification “lest they die through their impurity by contaminating my tabernacle which is among them” (*Lev.*, xv, 31). The two latter offenders are banished with the leper “that they do not contaminate the camp in whose midst I dwell” (*Numb.*, v, 2b). True, the rabbis interpreted each these passages [sic] on the assumption that impurity came into direct contact with the holy, specifically that the offender while in an impure state entered the sanctuary or ate of sacred food. However, it is patently clear that these texts are grounded in the axiom, common to all ancient Near Eastern cultures, that impurity is the implacable foe of holiness wherever it exists; it assaults the sacred realm even from afar.⁵³

The two crucial texts for Milgrom’s argument are Lev 20:3 and Numbers 19. Both appear to suggest that the sanctuary can be polluted when certain sins are committed, even if this takes place outside the sanctuary.

Of these two texts, the most detailed, and consequently the most important for Milgrom’s understanding of impurity and the sanctuary, is Numbers 19. The red cow ritual presents a consistent picture of impurity as something that can be transmitted through space, and not only by touch. This is apparent in the instructions in Num 19:14–15. If someone dies in a tent or there is a corpse in the tent, anyone who enters the tent is contaminated and any open container is contaminated. Corpse impurity, it would seem, is envisaged as an invisible, gaseous substance that is contained by the tent and contaminates anything within. Transmission of impurity through space is also apparent in the case when an Israelite fails to cleanse himself with the ashes of the red cow. The sanctuary is defiled, despite the fact that the corpse-impure person has not ventured into the sanctuary (vv. 13, 20). But it is not only impurity that has an effect from a distance. In the preparation of the ashes, some of the cow’s blood is sprinkled towards the sanctuary. In the instructions for the *הטאת* in Leviticus 4–5, the blood is sprinkled before the curtain of the sanctuary, while in the red cow ritual it is sprinkled in the direction of the sanctuary. For the composer of Numbers 19, distance from the curtain is presumably not a problem, for the blood or the sanctuary can have the desired effect through space.

It is crucial to observe, however, that neither of the texts that form the basis of Milgrom’s understanding of impurity is to be found in the regulations for ritual

⁵² Gane, *Cult and Character*, 144–62. Gane seeks to maintain much of Milgrom’s understanding of the purification of the sanctuary without his theory of aerial miasma. Instead, Gane argues that impurity is transferred through touch and that the *הטאת* sacrifice removes impurity from the offerers. In his view impurity is transferred to the sanctuary awaiting the final removal on Yom Kippur. Thus, for Gane the removal of impurity is a two-stage process.

⁵³ Milgrom, “Israel’s Sanctuary,” 392–93.

purity in Leviticus 11–15. In other words, neither text belongs to the original priestly document. Lev 20:3 is part of the Holiness Code and, as we have seen, Numbers 19 reflects P and Deuteronomy, and must be redactional or post-redactional. How, then, is impurity transmitted according to the purity regulations in Leviticus 11–15? In Leviticus 11–15 transmission of impurity is detailed in the cases of animal carcasses, infected houses, and genital discharges.⁵⁴ In the case of the carcass of a land swarmer (שָׂרִיץ), impurity is transmitted when it is touched or falls onto or into something (11:29–38). In the case of clean carcasses, impurity is transmitted by touch, ingestion, and carrying. In the latter two cases, a greater level of impurity is contracted, probably because of the more involved contact with the carcass. Not only is the person unclean until evening, but he or she must also launder his or her clothes (11:39–40).⁵⁵ In the case of the male suffering a discharge (זָב), impurity is transmitted by touching the זָב, his spittle, or anything he has sat on (15:4–12). In the case of the man who has an emission of semen, any clothing that has been splashed is unclean and so is his sexual partner (15:16–18). In the case of the menstruant, impurity is transmitted by her touch or contact with anything she has sat or lain on; if she has intercourse, the man is made impure (15:19–24). In the case of the female suffering a discharge (זָבָה), anything she sits on transmits impurity when touched. In each case we have a case of impurity that requires not only bathing, but also the laundering of clothes.

In every instance of impurity transmitted by animal carcasses or genital discharges, the purity regulations of Leviticus 11–15 are unequivocal: impurity is transmitted by physical contact. In some cases physical contact that is more involved than simple touch, such as by ingesting or carrying, can result in a greater impurity. A more difficult case is presented by the infected house. In the case of the infected house, impurity is contracted when someone enters the quarantined house (14:46). A greater level of impurity is contracted when a person eats in the house or sleeps in the house, for it is additionally specified that these people must launder their clothes (14:47). Milgrom argues that the infected house contaminates by overhang. Unsurprisingly the argument is made by appeal to Numbers 19.⁵⁶ However, if we were to read the ritual instructions without Numbers 19, together with the surrounding impurity regulations, it seems more likely that we should interpret this case also as an instance of physical contact. The person who becomes contaminated is someone who has gone into the house (וַהֲבֵא אֶל-הַבַּיִת; 14:46). The house is what is entered through the door and impurity is contracted at that point.

⁵⁴ Communication of impurity is not discussed in the case of the parturient (Lev 12:1–8) or the scale-diseased (Lev 13:1–46; 14:1–32). This is probably not because impurity was not transmitted; otherwise why was the scale-diseased placed outside the camp and required to cry out “unclean, unclean” (Lev 13:45–46)?

⁵⁵ The instructions about the land שָׂרִיץ would appear to be a redactional addition to the dietary laws, perhaps included in order to improve the connection between Leviticus 11 and 12–15 in the original priestly purity regulations.

⁵⁶ Milgrom, *Leviticus 1–16*, 875; see also Wright, *Disposal of Impurity*, 206–7.

The house should not be thought of as the constituent framework—door, walls, roof—as though these enclose a space that is not to be identified with the house.

Evidence from elsewhere in the Old Testament provides support for the view that impurity was understood to be transferred by contact. It would appear that doorkeepers were installed at the temple gates in order to ensure that the unclean did not enter (2 Chr 23:19). Psalms 15 and 24 are usually characterized as “entrance liturgies”; they provide a brief list of those who are excluded from the temple for moral faults. The brief account of priestly instructions about purity and impurity in Hag 2:10–14 also evidences an idea of impurity transferred by touch.

Thus, we have a consistent picture in Leviticus 11–15 and elsewhere in the Old Testament: impurity is transmitted by touch. If our arguments about the influence of the ritual of Deuteronomy 21, or something very like it, are correct, it would appear that the priestly perspective on impurity has been altered by coming into contact with a rather different concept of a maleficent power: bloodguilt. Deuteronomy 21 is not the only biblical text that testifies to the virulent potency of shed blood. Blood is portrayed with its own voice crying for vengeance (Gen 4:10), it pollutes the land (Num 35:33–34), and it is transferred through the generations (2 Sam 3:29).⁵⁷ It may be that blood was thought to pollute the immediate location through contact with the ground (see Gen 4:10–12; Deut 21:1–9*⁵⁸), but this was later extended, particularly in the Deuteronomic tradition, to the whole land and the people (Deut 21:8, 23).

Although the idea of bloodguilt and its polluting power is particularly prominent in Deuteronomy,⁵⁹ it is not found in the earliest priestly writings of the Pentateuch.⁶⁰ Indeed, it is only found in the book of Numbers: 19:1–22; 31:19–24; and 35:33–34.⁶¹ Since the term “impure” (טמא) is used for pollution resulting from bloodshed, it is perhaps not surprising that bloodshed would at some point

⁵⁷ For discussion, see Joel S. Kaminsky, *Corporate Responsibility in the Hebrew Bible* (JSOTSup 196; Sheffield, U.K.: Sheffield Academic Press, 1995) 96–113.

⁵⁸ Following the usual practice in redaction-critical scholarship, the asterisk indicates a reconstructed earlier text that is not identical with the text of MT and may lack words or phrases that have been identified as glosses or redaction pluses.

⁵⁹ “Hinzu kommt, daß insbesondere im Deuteronomium das Thema Totschlag als Bluttat (formuliert mit טף im Singular; vgl. Dtn 19,6.10.12f; 21,7–9; 27,25) und Blutschuld (formuliert mit טף im Plural; vgl. Dtn 19,10; 22,8, im Singular Dtn 17,8; 21,8b) von der Sache und auch vom Begriff her im Rechtskorpus eine wichtige Rolle spielt” (Dietrich, *Kollektive Schuld*, 197).

⁶⁰ However, the idea is found in Ezekiel (9:7; 22:1–4; 39:11–16).

⁶¹ Milgrom is probably correct to discern in Lev 18:24–30 an earlier influence of the idea of the defiling power of bloodshed within the written priestly traditions. He writes, “H has taken the ubiquitous notion that homicide pollutes the land (e.g., Gen 4:10–12; Num 35:33–34; Deut 21:1–9) and applied it to other violations. The change is in keeping with H’s terminological characteristic to metaphorize. Thus, whereas homicide literally pollutes the area where the blood is spilled, in H, sexual violations metaphorically pollute the entire land” (*Leviticus 17–22: A New Translation with Introduction and Commentary* [AB 3A; New York: Doubleday, 2000] 1579).

be brought into relationship with the priestly system of ritual purity.⁶² The result was a more dynamic and virulent concept of impurity than the idea of impurity transmitted by touch.

The conflation of these different concepts of pollution would go some way to explaining the differences among interpreters about how to understand ritual impurity in the priestly literature. We shall consider first Milgrom's conscious departure from the rabbis before turning to the disagreements between Milgrom and Maccoby.

First, Milgrom recognizes in his theory of miasma a departure from the rabbis' view on impurity, for whom the primary transmission of impurity occurs through physical contact. Milgrom understands Leviticus 11–15 in light of Numbers 19, while the rabbis understand Leviticus 11–15 to provide the norm and Numbers 19 to be something of an exception. The rabbinic principle of "overhang" can be seen as an attempt to make sense of this contamination without physical contact. The principle was then applied to lacunae in the purity laws in Leviticus 11–15, such as how impurity was communicated by the scale-diseased or within an infected house. Both the rabbinic extension of "overhang" and Milgrom's understanding of impurity as an "aerial miasma" can be seen as logical developments that result from the incorporation of the regulations about corpse impurity into the system of ritual purity in Leviticus 11–15. Nevertheless, it is helpful to recognize that these are both ways of reading the expanded system of ritual purity as a logical and coherent system. The diachronic analysis shows us that the earliest system of ritual purity, that is, Leviticus 11–15, made sufficient sense with the idea of physical contact.⁶³ Nevertheless, the addition of Numbers 19 has implications for how individual regulations and the purity system as a whole are understood.

Second, whether impurity is transmitted through touch or aerielly has significant implications for how the summary of the purity laws in Lev 15:31 is understood: "You must keep the Israelites separate from their impurity, so that they do not die in their impurity by defiling my sanctuary that is in their midst." Milgrom

⁶² That bloodshed does not belong within the original priestly purity system is inadvertently admitted in Wright's attempt to systematize the biblical understanding of impurity, in which he omits impurity resulting from homicide. Wright justifies the omission as follows: "The reason for this is the difference in loci of pollution, the treatment of the offender, the requirements for rectification of the impurity, and the language used to describe the impurity" ("Two Types of Impurity in the Priestly Writings of the Bible," *Koroth* 9 [1988] 180–93, at 187).

⁶³ Unfortunately, this distinction is not observed by Milgrom and his students. See, for example, Wright's application of overhang to the scale-diseased: "The impurity of a house infected with *šāra'at*, since it is of the same type of impurity, offers an example from which to deduce some aspects of the infected person's communicability. We can assume that just as an infected house pollutes for one day by overhang, an infected person who is in an enclosure pollutes other persons and things in the enclosure for one day. If people merely enter an enclosure where an infected person is, they need only to bathe and wait until evening. If they tarry there, for example by lying down or eating, they need to launder too" (*Disposal of Impurity*, 208–9; see also Milgrom, *Leviticus 1–16*, 962). This moves some distance from what is deducible from the text.

argues that “impurity can occur anywhere in the camp; it need not be brought into the sanctuary.”⁶⁴ In his view the sanctuary can be defiled despite distance from the tabernacle. In the context of Leviticus 11–15, however, Lev 15:31 should be understood as a warning that death will result if impurity is brought into contact with the sanctuary by the impure.⁶⁵ These different ways of understanding Lev 15:31 and the diachronic history that has given rise to them helps clarify the significant difference that exists between Milgrom and Maccoby. As we have seen for Milgrom, impurity always defiles the sanctuary by miasma. Consequently, it is imperative on all Israelites to cleanse themselves from impurity after they have acquired it. Maccoby, on the other hand, argues that “it is only when [most Jews] had to enter the Temple grounds, mainly at festival times, that they had to take care to remove their corpse impurity or other impurity by the prescribed purifications.”⁶⁶ For Maccoby the purity regulations are “a kind of palace protocol or etiquette, observed in the court of a monarch, but not required outside the confines of the palace.”⁶⁷ Outside the tabernacle or temple, purity is not a matter of concern. Maccoby’s theory functions well enough for Leviticus 11–15, but difficulties arise particularly with Num 19:13, 20. For both verses Maccoby has to argue unconvincingly that there is a textual ellipsis. Defilement of the tabernacle occurs only if the unclean person enters the sanctuary or unwittingly defiles a priest.⁶⁸ There is no need to choose between Milgrom’s and Maccoby’s solutions, for both have grasped aspects of the changing portrayal of impurity in Leviticus and Numbers. Maccoby correctly recognizes that in the purity regulations of Leviticus 11–15 transfer of defilement to the tabernacle only occurs through physical contact. Yet Milgrom’s objections to Maccoby draw attention to the fact that this could be seen to have been significantly altered as a result of the inclusion of Numbers 19 into the system of purity regulations.

■ The Dynamics of Ritual Innovation

In this essay I have raised serious doubts against the view that Numbers incorporates a very ancient ritual in chapter 19. Is it feasible, though, that the author of Numbers could have coined a new ritual? As Catherine Bell observes, such ideas do not fit well with our commonsense understanding of rituals:

Rituals tend to present themselves as the unchanging, time-honored customs of an enduring community. Even when no such claims are explicitly made within or outside the rite, a variety of cultural dynamics tend to make us take it for granted that rituals are old in some way; any suggestion that they may be rather recently minted can give rise to consternation and confusion. Indeed

⁶⁴ Milgrom, *Leviticus 1–16*, 946.

⁶⁵ See, e.g., David Hoffmann, *Das Buch Leviticus* (Berlin: Poppelauer, 1905) 430.

⁶⁶ Maccoby, *Ritual and Morality*, 4.

⁶⁷ *Ibid.*, 9.

⁶⁸ *Ibid.*, 173. For Milgrom’s response to Maccoby’s theory, see “Impurity Is Miasma: A Response to Hyam Maccoby,” *JBL* 119 (2000) 729–33.

. . . part of what makes behavior ritual-like is the way in which such practices imply the legitimacy of age and tradition.⁶⁹

Such commonsense views of ritual have informed most analyses of ancient Israelite ritual and resonate well with the usual interpretation of Numbers 19.⁷⁰ On this understanding the priestly composer of these chapters felt compelled to preserve the rituals since they were traditional, even if they did not easily fit his own theological instincts and needed to be purged of magical elements. Nevertheless Bell, along with other ritual theorists, insists that rituals can change, and that they can even be invented.⁷¹ Despite the apparent novelty of this proposal, there are plenty of examples in history of ritual invention. Indeed, there are cases in the biblical period, for ritual innovation took place in the creation of fasting days to mourn the fall of Jerusalem and in the creation of Purim.

Although not the case with all invented rituals (the fast days and Purim being good counterexamples), Bell argues that some invented rituals seek to conceal the fact of their own development.⁷² One aspect of such concealment would be the attribution of the red cow ritual to the authoritative figures of Moses and Aaron. Interestingly, though, the ritual instructions are not portrayed as having been received at Sinai or Moab but in the wilderness. As well as serving to conceal the ritual's recent origins, the appeal to traditional authority is important for the communal reception of the ritual. Another striking aspect of such concealment is what we might call the hermeneutics of ritual innovation. Similar to the hermeneutics of legal innovation that Bernard Levinson examines in Deuteronomy,⁷³ the hermeneutics of ritual

⁶⁹ Catherine M. Bell, *Ritual: Perspectives and Dimensions* (New York: Oxford University Press, 1997) 210.

⁷⁰ Ithamar Gruenwald's focus on ritual as a sequential process of acts in his work *Rituals and Ritual Theory in Ancient Israel* (Brill Reference Library of Judaism 10; Leiden: Brill, 2003) leaves no space, so far as I can see, for the invention of ritual. Gane's impressive analysis of expiation in the Old Testament recognizes the difficulties in moving from ritual texts to ritual actions but still assumes that texts reflect actions, if inadequately (*Cult and Character*). On the other hand, the possibility of ritual innovation is beginning to be recognized. Gerald A. Klingbeil discusses it, albeit briefly, in his introduction to using ritual theory in biblical interpretation; see *Bridging the Gap: Ritual and Ritual Texts in the Bible* (Bulletin for Biblical Research Supplements 1; Winona Lake, Ind.: Eisenbrauns, 2007) 144–45. More promising still is Bryan D. Bibb's recent work, which uses insights from Roland Grimes on ritual innovation to understand the dynamic of ritual and narrative in Leviticus (*Ritual Words and Narrative Worlds in the Book of Leviticus* [Library of Hebrew Bible/Old Testament Studies 480; London: T&T Clark, 2009] esp. 49–51). The direction of Bibb's thinking is clear, for he talks of rituals being "invented" in his discussion of Wright's work on ritual in Ugaritic narratives, despite the fact that this is not how Wright himself construes the issue (*ibid.*, 39); cf. David P. Wright, *Ritual in Narrative: The Dynamics of Feasting, Mourning, and Retaliation Rites in the Ugaritic Tale of Aqhat* (Winona Lake, Ind: Eisenbrauns, 2001) 3–4.

⁷¹ See also Ronald L. Grimes, *Reading, Writing, and Ritualizing: Ritual in Fictive, Liturgical, and Public Places* (Washington, D.C.: Pastoral, 1993) esp. 1–22.

⁷² Bell, *Ritual*, 224–25.

⁷³ Bernard M. Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (New York: Oxford University Press, 1997).

innovation present new rituals as though in essential continuity with earlier rituals despite significant innovations. Unlike the hermeneutics of legal innovation in Deuteronomy, the hermeneutics of ritual innovation do not seek to displace existing rituals. Indeed, they depend on the other rituals to create a density of traditional ritual actions upon which they improvise. This improvisation is central to the new ritual's effectiveness, for the new ritual seeks not to displace its ritual precursors but to take its place alongside them as part of an enlarged ritual system that imparts meaning to the ritual practitioners' world. As a result, the intertextual strategy is more complicated than we meet in many cases of legal innovation. The new ritual must draw on previous materials so as to be sufficiently continuous with them but inventive enough to justify its own existence. Thus, the range of other texts or rituals that Numbers 19 draws upon is key to its success.

The literary nature of the rituals places in question the idea that the invented rituals were an attempt to address some issue in religious practice in the Persian period. The ritual seems to stem from a literary and canonical impulse with its own logic not necessarily related to ritual practice. That is, Numbers 19 is the result of a canonical imperative toward closing ritual lacunae, even if the perception of what were the significant lacunae in the Pentateuch is, as we have seen, dependent on historical and cultural location. In addition, some effort has been made to integrate the red cow ritual into its narrative context,⁷⁴ and the ritual makes a significant contribution to the theme of death that pervades the book of Numbers.⁷⁵ The red cow ritual does not belong only to the narrative of the book of Numbers. The reception of the rituals in Second Temple and rabbinic Judaism points to an active history of practice. It is here, though, in the reception history of Numbers that the history of the ritual, with all its attendant worries about magic, is to be sought. It is not to be found in the history "behind" the text, for while the ritual has a genealogy, it has no history before the book of Numbers.

⁷⁴ Note the references to "Eleazer the priest" (vv. 3, 4), "the camp" (vv. 3, 7, 9), "the tabernacle" (v. 13), "the congregation of the Israelites" (v. 9), and "the tent" (vv. 14, 18 MT; contrast LXX and "the house" of Lev 14:33–53). The "waters of purification" are explicitly applied in the cleansing of the Israelite army after the defeat of Midian (Num 31:19–24).

⁷⁵ On death in the book of Numbers, see Dennis T. Olson, *The Death of the Old and the Birth of the New: The Framework of the Book of Numbers and the Pentateuch* (BJS 71; Chico, Calif.: Scholars, 1985); Adriane Leveen, *Memory and Tradition in the Book of Numbers* (Cambridge, U. K.: Cambridge University Press, 2008). In its immediate context the red cow ritual is followed by a brief account of the death and burial of Miriam (Num 20:1) and the rebellion at Meribah where the people fear that they will all die (Num 20:2–13).