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A Bad Man Theory of Religious Law (Numbers 15:30–31 and Its Afterlife)

David C. Flatto

I INTRODUCTION

In a recent survey of modern Jewish thought, Leora Batnitzky homes in on its central tension: Does Judaism – a tradition suffused with rules and rituals – constitute a religion?[1] If this term is understood to emphasize the centrality of faith and creed, it seems inapposite to the hyper-normativity of Judaism. But discarding this label would call Judaism's legitimacy into question, at least from the vantage point of many who contemplated this matter at the dawn of modernity. Much of the creativity in the conceptions of Judaism that were formulated by leading Jewish thinkers from the eighteenth century onward emanated from grappling with this seminal challenge.[2]

The origins of this tension are usually traced to the sweeping transformations introduced by Jewish emancipation, including the consequential encounters of Jewish thinkers with Christian (especially, Protestant) theology.[3] Prior to the eighteenth century, on the conventional account, Judaism was widely conceived of as a "religion of laws." But this characterization glosses over variations within a tradition that evolved over many centuries.[4] Thus, substantial scholarship has explored the critical dialectic between "law" and "spirituality" in medieval Jewish thought.[5] Even in classical writings, one can discern a subtle and suggestive discourse surrounding these themes.

[1] Leora Batnitzky, *How Judaism Became a Religion: An Introduction to Modern Jewish Thought* (Princeton, NJ: Princeton University Press, 2011).

[2] This is the primary thesis of Batnitzky. See also Abraham Melamed, *Dat: From Law to Religion, a History of a Formative Term* [Hebrew] (Bnai Brak: Hakibutz Hameuhad, 2014).

[3] Protestant theology posed various challenges to Judaism. One came from the Protestant emphasis on faith over works or law. Another came from its conception of religion as being less of a public affair, and more of an interior or private matter, which is beyond the coercion of others. More generally, Protestant thought identified religion as apolitical, and therefore separate from, and consistent with, the expanding nation-state. The analysis below mostly relates to the first of these themes (along with other extra-normative dimensions of religiosity relating to the spiritual attitude and character of a person). See note 7. Batnitzky, by contrast, is also focused on religion's political dimensions.

[4] Another limitation of the conventional account is that the nature of law within the Jewish tradition also evolved over the centuries (see, e.g., the brief analysis of Mendelssohn's ceremonial laws in the conclusion). This phenomenon deserves further exploration.

[5] See, e.g., Isadore Twersky, *Studies in Jewish Law and Philosophy* (New York: Ktav Pub. House, 1982).

The latter needs to be underscored in light of contrary claims currently being advanced in the field of religious studies. Decrying the anachronism of applying the concept of "religion" to premodern works, scholars have urged us to "imagine no religion" in conjuring up the world of antiquity and late antiquity. In this vein, a recently published book under this title argues that various terms that appear in classical writings are mistranslated as "religion" and "theology."[6] But the absence of analogous terminology in older works is hardly dispositive. While the mature constructs of modern theology may be only of late vintage, substantial "religious" impulses or emphases relating to beliefs,[7] attitudes, or values beyond the system of norms are arguably embedded in much historic material.[8] Only a careful excavation of early literature can reveal their imprints.

The chapter below turns back many centuries before the period covered by Batnitzky's survey in order to further interrogate various conceptions of "Judaism" that are reflected in formative writings from antiquity and late antiquity. It seeks to illuminate whether earlier iterations of "Judaism" were so fully aligned with law and praxis that they constituted the entirety of religious life and its ultimate achievement. Or, alternatively, whether one can already perceive in earlier traditional discourse an acknowledgment, or even an articulation, of a "religious" or "theological" nucleus apart from the normative order.[9]

Instead of an elusive attempt to reconstruct the core of "Judaism" (which has been ventured by others with debatable degrees of success),[10] one can gain precious insight about its essence by concentrating on its measure of sacrilege

[6] See Carlin A. Barton and Daniel Boyarin, *Imagine No Religion: How Modern Abstractions Hide Ancient Realities* (New York: Fordham University Press, 2016). See also Brent Nongbri, *Before Religion: A History of a Modern Concept* (New Haven: Yale University Press, 2013).

[7] In this chapter, when I speak of "law" I am referring to a system of norms, mostly comprised of discrete actions that are mandated or proscribed, based on prescripts in the Torah and related traditions. In general, the term "religion" is rather open ended, and can encompass different matters. See, e.g., Micah Gottlieb's review of Batnitzky, *How Judaism Became a Religion*, entitled, "Are We All Protestants Now?," *Jewish Review of Books*, Vol. 10 (Summer 2012). In this chapter, however, when I explore the contours of religion beyond the system of prescribed norms, I am referring to beliefs, attitudes, or commitments, or what may be conceived of as modes of relating faithfully to, or with, God. Beyond this, I am not suggesting particular, rigid definitions of "law" or "religion," and recognize the fluidity of these concepts over time, and in different contexts.

[8] See Annette Y. Reed, "Partitioning 'Religion' and its Prehistories: Reflections on Categories, Narratives, and the Practice of Religious Studies," in *The Things We Study When We Study Religion*, ed. Leslie Dorrough Smith (Sheffield: Equinox, forthcoming).

Admittedly, there is a danger of universalizing phenomena that are more contextual or contingent, and in this respect the nomenclature can obfuscate as well as illuminate.

[9] To be sure, much biblical, Second Temple and rabbinic literature focuses on matters that pertain to faith. Yet throughout this corpus (but see note 13), the core religious life is evidently structured around prescripts and commandments. See generally Menachem Kellner, *Must a Jew Believe Anything?* (London; Portland, OR: Littman Library of Jewish Civilization, 1999). The inquiry below interrogates whether this characterization is incomplete, and whether there is a significant sphere of religious life that exists apart from the normative field

[10] See, e.g., George Foot Moore, *Judaism in the First Centuries of the Christian Era: The Age of Tannaim* 2nd ed. (Cambridge, MA: Harvard University Press, 1927); Solomon Schechter, *Some Aspects of*

or heresy.[11] What a tradition considers to be utterly contrary to its core reveals much about its foundations. This chapter therefore concentrates on conceptions of the "bad man" in early Jewish discourse to learn about where it draws its most fundamental lines.[12] In a concentrated form, this is vividly captured by the hermeneutic legacy of one seminal biblical passage.

A A Biblical Source and Its Afterlife

The conception of Judaism as a "religion of laws" derives in the first instance from the paramount role of norms in the Torah.[13] A plethora of commandments – including civil, criminal, cultic, and ritual prescripts – fill this corpus. Moreover, divine revelation at Sinai consists entirely of mandatory canons. In stipulating the observance of these laws, God enters into a binding covenant with Israel. By pledging its steadfast commitment to upholding these commandments, Israel in turn becomes a "priestly kingdom and holy nation" (Exodus 19:6). Legal obeisance is thus necessitated not for social or political reasons, but as a sacred imperative.[14] It is for this reason that when the term "Torah" is translated into Greek it is rendered as "*nomos*." The central theology of the Torah revolves around its laws.[15]

Rabbinic Theology (New York: Macmillan, 1910); and Ephraim E. Urbach, *The Sages, Their Concepts and Beliefs*, trans. Israel Abrahams (Cambridge, MA: Harvard University Press, 1987).

[11] Any study of the "essence" of Judaism must contend with the elusiveness or nebulousness of this concept. This is further exacerbated by many renderings that have accumulated over the centuries (and is also muddied by loaded terms such as "religion" and "law," which are themselves open to variable definitions). Nevertheless, such an inquiry is too vital to strike down on peremptory grounds. Rather this seminal topic must be approached from multiple perspectives, which can contribute meaningfully to a broader account. This chapter aims to make a contribution in this vein by considering an aspect of this inquiry that has been largely overlooked.

[12] The nomenclature of the "bad man" deliberately borrows from the famous American jurist Oliver Wendell Holmes, notwithstanding the very different connotation of this phrase in its original context. Writing in the "Path of the Law," a seminal late nineteenth century account of the nature of jurisprudence, Justice Holmes writes the following provocative words: "If you want to know the law and nothing else, you must look at it as a bad man, who cares only for the material consequences which such knowledge enables him to predict . . . " 10 *Harvard Law Review* 457, 459 (1897).

In this quintessential formulation of legal realism, Holmes stresses the significance of the real-world consequences of law for an offender. In this chapter, the subject matter and underlying argument is altogether different: If you want to know the degree to which a legalistic religion such as Judaism is exclusively defined by norms, you must (also) evaluate its conception of the ultimate sinner or transgressor.

[13] In the rest of the Bible, the role of law is much less pronounced. See James L. Kugel, "Some Unanticipated Consequences of the Sinai Revelation: A Religion of Laws," in *The Significance of Sinai: Traditions About Sinai and Divine Revelation in Judaism and Christianity*, ed. George J. Brooke, Hindy Najman and Loren T. Stuckenbruck (Leiden; Boston: Brill, 2008), 1–4. In postbiblical literature, there are also less legalistic strands. See, e.g., John J. Collins, "How Distinctive was Enochic Judaism?" *Meghillot* 5–6 (2007): 1–18.

[14] See James L. Kugel, *The Great Shift: Encountering God in Biblical Times* (Boston: Houghton Mifflin Harcourt Publishing Company, 2017) 177–86.

[15] See Jon Levenson, *Sinai and Zion: An Entry into the Jewish Bible* (New Voices in Biblical Studies series; San Francisco: Harper & Row, 1985), 42–55; and James L. Kugel, *How to Read the Bible: A Guide to Scripture, Then and Now* (New York: Free Press, 2007), 260–79.

Numerous scholars have articulated this vital feature of the Torah, perhaps none more cogently than Moshe Greenberg.[16] Contrasting the nature of biblical law with earlier cuneiform codes of the Ancient Near East, Greenberg highlights the religious character of the former as its distinguishing essence. His description (which focuses particularly on biblical criminal law) culminates with the striking implications of this phenomenon:

> In the biblical theory the idea of the transcendence of the law receives a more thoroughgoing expression . . . .There is a distinctively religious tone here, fundamentally different in quality from the political benefits guaranteed in the cuneiform law collections. In the sphere of the criminal law, the effect of this divine authorship of all law is *to make crimes sins*, a violation of the will of God.[17]

Formulated more generally, according to the Torah, violating any law is tantamount to sinning against God.

Adducing support for this proposition, Greenberg singles out one Pentateuchal source, Numbers 15:30–31.[18] To appreciate how this source functions as a proof text requires further background. As will soon become evident, Greenberg, if anything, is understating the dramatic implications of these verses.

The middle section of Numbers 15 (verses 22–31) records a pericope (the "Numbers pericope") relating to different modes of violating an unspecified transgression, which is comprised of two parts. Part one (15:22–29) addresses the sacrificial atonement for an inadvertent transgression of a community or an individual,[19] while part two (15:30–31) describes the fatal punishment for an individual transgression that is committed "with a raised hand" (Hebrew "*beyad ramah*"). Due to the juxtaposition of the two parts, the latter phrase has been interpreted by most scholars, including Greenberg, to refer to a transgression that is committed intentionally[20]

[16] Moshe Greenberg, "Some Postulates of Biblical Criminal Law," in *Studies in the Bible and Jewish Thought* 1st ed. (JPS Scholar of Distinction series; Philadelphia: Jewish Publication Society, 1995) 25–42.

[17] Ibid., 28. Emphasis added.

[18] Ibid., 29.

[19] Numbers 15 refers to an inadvertent transgression of the community (15:24–26) and an individual (15:27–29). The topic of atonement for an inadvertent transgression is also addressed in Leviticus 4, which refers to these same two bodies, as well as two other figures (an anointed priest and a leader), and contains somewhat different regulations. The relationship of Number 15 to Leviticus 4 is much debated by commentators and scholars. See the references cited in the next two notes.

[20] See Rashi on Numbers 15:30, who defines "*beyad ramah*" as "*be-mezid*." Among modern scholars, see Baruch A. Levine, *Numbers 1–20: A New Translation with Introduction and Commentary* 1st ed. (Anchor Bible series; New York: Doubleday, 1993) 396; Aryeh Toeg, "A Halakhic Midrash in Numbers 15.22–31," [Hebrew] *Tarbiz* 43 (1973–74): 1; Jacob Licht, *A Commentary on Numbers* [Hebrew] (Jerusalem: Magnes Press, 1985–91), 92; Aharon Shemesh, *Punishments and Sins: From Scripture to the Rabbis* [Hebrew] (Jerusalem: Magnes Press, 2003), 58; and Bennie H. Reynolds, "The Expression *Beyad Ramah* in the Hebrew Bible and the Dead Sea Scrolls and the Legacy of the Holiness School in Essene Legal Texts," *JBL* 132.3 (2013): 589, 604. See also Jacob Milgrom, *Numbers* (New York: JPS, 1990), 96, 122 and Appendix 35.

In general, Shemesh's analysis of the Numbers pericope, as well as its subsequent exegesis in Qumran and rabbinic literature, is highly illuminating.

(a dissenting viewpoint interprets it as a publicly defiant act, which seems to be the meaning of "*beyad ramah*" elsewhere in the Bible).[21] The contrast between the two parts of the pericope on this (majority) reading is plain. Whereas an inadvertent transgression can be atoned for by (a specific regimen of) sacrifices, an intentional transgression cannot, and is instead punished harshly.

What is the nature of the transgression discussed in this pericope (in either part)? The verses invoke the generic formulation of the transgression of the "commandments."[22] This implies that the second part of the pericope refers to an intentional violation of *any* prohibition.[23]

In light of this, the second part's description of the gravity of a single violation and its ensuing punishment is startling (far exceeding Greenberg's measured formulation that a violation constitutes a sin). Here are the verses in full:

> 30But whoever acts intentionally (*beyad ramah*), whether a native or an alien, blasphemes (*megadef*) the Lord, and shall be cut off (*venikhrata*) from among the people. 31Because of having despised the word of the Lord (*devar Hashem bazah*) and breached his commandment (*mitsvato hefer*), such a person shall be utterly cut off (*hikaret tikaret*) and bear the guilt (*avonah bah*).

A person who intentionally violates the law – any law – blasphemes God, the ultimate form (or act) of sacrilege. By transgressing God's word, he or she despises it; and by failing to uphold a commandment, he or she annuls it. An act of such gravity saddles its perpetrator with guilt. Echoing an ominous refrain, Scripture declares a ruthless punishment of excision for the transgressor (variants of the term *karet* appear three times in these verses).[24] More than a sin (Greenberg's characterization), a violation of

Note that this chapter mostly focuses on "*beyad ramah*" as a key phrase. In addition, the interpretations of other – arguably interrelated – terms, phrases, and clauses in these verses are also significant. See notes 54 and 77.

[21] See Targum Onqelos on Numbers 15:30, who defines "*beyad ramah*" as "*be-resh gali*," bare-headed (i.e., an idiom for a brazen posture). Certain modern scholars likewise posit a "gap theory" in construing this pericope: While 15:22–29 refers to an inadvertent transgression, 15:30–31 glosses over an intentional violation and instead addresses the impact and punishment of a brazen transgression. See Roy Gane, *Cult and Character: Purification Offerings, Day of Atonement, and Theodicy* (Winona Lake, IN: Eisenbrauns, 2005), 204–13; Joel S. Baden, "The Structure and Substance of Numbers 15," *Vetus Testamentum* 63 (2013): 359; Timothy R. Ashley, *The Book of Numbers* (Grand Rapids: Wm. B. Eerdmans Publishing Co., 1993), 288; Host Seebass, *Numeri* (Neukirchen-Vluyn: Neukirchener, 1995), 146–47; and Aryeh Amihay, *Theory and Practice in Essene Law* (New York: Oxford University Press, 2017), 94. The dissenting viewpoint is informed in part by the semantic of the term "*beyad ramah*" elsewhere in Scripture. See note 32.

[22] The opening verse of the pericope, Numbers 15:22, refers to "all of the commandments," which presumably means a single violation of any of them. When the passage shifts to the transgression of an individual (whether inadvertent or "*beyad ramah*"), it clearly relates to a single violation, as reflected in the formulations of 15:27, 31.

[23] In theory, this can refer to violating any negative commandment or abrogating any positive commandment, but it is plausible to limit it to the former category. See Toeg, "A Halakhic Midrash in Numbers 15.22–31," 3–4.

[24] *Karet* is usually understood as a divine punishment, but there is a dissenting viewpoint in modern scholarship. See Shemesh, *Punishments and Sins*, 59.

a norm according to these verses constitutes a shattering transgression which evokes a devastating response. The pericope emphatically projects legal obeisance as the measure of religious devotion.[25]

In an important analysis of this pericope, Aryeh Toeg likewise draws attention to the extraordinary rhetoric it employs when describing the consequences of a single transgression (i.e., blaspheming God, etc.). In order to account for this charged language, Toeg posits that these verses are formulated with a "prophetic vocabulary" that conveys the experiential dimension – rather than the normative implications – of sin.[26] By appealing to an alternate genre to explain these verses, Toeg rightly magnifies their religious intensity. But their semantic cannot be stripped of its normative content which is integral to their meaning.[27] Rather, the brunt of these verses emanates from the way they yoke religion and theology to legal obeisance. Only by conceiving of religion as primarily filtered through law, can such radical verses about the consequences of a transgression be comprehended.[28]

Given the potency of these verses, the question of their legacy becomes critical. These verses confront all subsequent readers and interpreters, who must determine whether they can assimilate, or abide by, their plain, and radical, implications about the theological weight of law. Alternatively, if they reinterpret these verses (by rendering "*beyad ramah*" and its other loaded phrases in a different manner) to refer to something other than an intentional violation of law as the root of religious blasphemy this will inevitably lead to a revised construction of the theological

[25] Presumably, the pericope operates within a covenantal framework which adds to the gravity of each legal violation. See, e.g., Gane, *Cult and Character*, 212. This is certainly how these verses are understood in Qumran literature. But see the references to an alien (*ger*) in Numbers 15:26, 29, 30, which may complicate matters. See Christiana van Houten, *The Alien in Israelite Law* (Sheffield: JSOT Press, 1991), 149–51.

[26] See Toeg, "A Halakhic Midrash in Numbers 15.22–31," 1–20 (the extraordinary rhetoric is highlighted ibid., 2). See also Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Oxford University Press, 1985), 189–94, 223–24.

[27] In any event, it is apparent from the analysis below that certain early biblical interpreters understood the verses in this pericope to have normative significance.

[28] Even then, certain scholars feel the need to further contextualize the underlying ideology of the Numbers pericope. For example, Toeg associates it with Leviticus 19's particular conception of commandments as an inexorable expression of the divine will (which is captured in the refrain "I am God" that is reiterated throughout the litany of commandments recorded in Leviticus 19). In such a scheme, breaching any commandment constitutes a clear affront to God. See "A Halakhic Midrash in Numbers 15.22–31," 17–19. Israel Knohl, in turn, links it to the interpersonal relationship between man and God that is intrinsic to "Holiness" theology. See "The Sin Offering Law in the 'Holiness School' (Numbers 14.22–31)," in *Priesthood and Cult in Ancient Israel*, ed. Gary A. Anderson and Saul M. Olyan (JSOTSup 125; Sheffield: JSOT Press, 1991), 192–203.

While these scholarly theories have a certain appeal, they may situate the Numbers pericope in too narrow a frame. As Greenberg intimates (but understates), this pericope's ideology is in consonance with the legalism of Sinai and much of the Pentateuch, even if its implications are striking. In any event, such theories are not relevant for the postbiblical (i.e., Second Temple and rabbinic) legacy of the Number's pericope. But see Reynolds, "The Expression *Beyad Ramah*," 591, 04–605, about the nexus between Holiness theology and the Qumran scrolls.

sphere. The exegesis of these verses thus serves as a prism for subsequent interpreters to negotiate the foundational relationship between religion and law.

Notwithstanding the singular tone and content of the Numbers pericope, it takes on much significance in early postbiblical exegesis.[29] Below I will examine two sets of exegetical traditions which (for the most part) advance profoundly different approaches toward these consequential verses. A dominant trope in Qumran literature, where these verses have a surprisingly pervasive afterlife, builds upon their plain sense in constructing a religious world view structured around the normative order. In contrast, rabbinic literature largely pivots in another direction, articulating novel forms of religious heresy that are increasingly differentiated from the sphere of law. While both traditions contain counter voices and overlap to a certain extent, their overall divergent emphases are unmistakable. These diverse traditions advance alternate paradigms of law and religion.

II QUMRAN LITERATURE

The distinct formulations and verses of Numbers 15:30–31 figure prominently in the Qumran corpus, especially in a couple of passages I will analyze below. In fact, Elisha Qimron notes that the Scrolls routinely employ the Scriptural term "*beyad ramah*" as a standard label for an intentional transgression (alongside other terms for an inadvertent one, such as "*shogeg*"), instead of the common biblical and rabbinic term, "*mezid*."[30] This usage reflects that the Numbers pericope is often understood at face value in this corpus (i.e., following the majority reading).

If the term "*beyad ramah*" signifies an intentional violation, however, it should not be construed merely as a technical term. As Aryeh Amihay has argued, this phrase evidently retains a loaded biblical resonance in Qumran.[31] While Amihay bases this term's fuller semantic upon several biblical passages (such as Exodus 14:8, Numbers 33:3, etc.), most of the Qumran references that invoke this term appeal specifically to Numbers 15:30 (as recently stressed by B. Reynolds).[32] As noted, in the Numbers pericope the term means any intentional transgression; and violating any such

[29] The Numbers pericope also has an important afterlife in early Christian literature, with an emphasis on the sin of blasphemy. See, e.g., Mark 3:28–29; Matthew 12:32; Luke 12:10. Highlighting this particular sin may reflect a somewhat distinct interpretive tradition of the Numbers pericope. See note 70. See also David Flusser, "Some of the Precepts of the Torah from Qumran (4QMMT) and the Benediction Against the Heretics," [Hebrew] *Tarbiz* 61 (1992): 336–38; and Yair Furstenburg, *Purity and Community in Antiquity* [Hebrew] (Jerusalem: Magnes Press, 2016), 61.

[30] Qimron further argues that the term "*zadon*" of Deuteronomy 17:12 is deliberately transformed to "*beyad ramah*" in 4Q159. In 4Q171 both terms are used. See Elisha Qimron, "On Unintentional and Intentional Sins in the Dead Sea Scrolls: A Study in the Terms Used for Their Designation," [Hebrew] *WCJS* 10a (1990) 103–10.

[31] See Amihay, *Theory and Practice in Essene Law*, 93–99.

[32] See Reynolds, "The Expression *Beyad Ramah*," 589. There are certain historic and exegetical passages in Qumran that seem to appeal to other scriptural references of the term "*beyad ramah*" where the semantic is a brazen, public, defiant or haughty act. See ibid., 600–04.

transgression, according to the pericope, constitutes a blasphemy against God. By repeatedly citing this term, then, Qumran authors are presumably evoking this meaning, and making its strong nexus between law and religion a centerpiece of their ideology (a secondary set of Qumran texts discussed below function differently).[33] In certain Qumran texts this ideology is in fact especially pronounced. Building upon the Numbers pericope, they project normative perfection as essential to the religious identity of the sect, and therefore consider transgressions to be particularly damaging to the religious fabric of the community.[34]

A vivid instance of the latter is found in the opening passage of the foundational rules of the Community (the "rules of volunteering") in 1QS 5.[35] Explicitly invoking the term "*beyad ramah*" toward the end, the passage throughout expands on its themes. After delineating the formative covenant of the sectarian community, which revolves around punctilious observance of the laws of Moses as explicated by the priestly sons of Zadok, the passage draws a stark contrast between its members and the wicked sinners. A new initiate to the community must openly pledge his allegiance:

> He should swear by the covenant to be segregated from all the men of injustice who walk along the path of wickedness. (1QS 5:10–11)

The Scroll's account of the latter is particularly significant:

> For they are not included in his covenant since they have neither sought nor examined His decrees in order to know the hidden matters (*nistarot*) in which they err by their own fault and because they intentionally violated (*beyad ramah*) revealed matters (*niglot*). (1QS 5:11–12)

Invoking the terminology of the Numbers pericope, the passage extends its scope to encompass a collective rather than an individual, and to repeat violations rather than a single transgression. Further, it conflates the two parts of the pericope in characterizing the "men of injustice." Negligently violating hidden, that is, unrevealed, prohibitions (corresponding to the inadvertent transgression of Numbers 15:22–29)[36]

[33] Qimron describes the Qumran corpus as less developed in its vocabulary for intentionality than rabbinic literature, which uses the terminology of "*mezid*." However, the deployment of "*beyad ramah*" seems deliberate and purposeful in this oeuvre, as intentional violations are tantamount to a grave sin in Qumran theology.

[34] See also Gary A. Anderson, "The Interpretation of the Purification Offering (*Hatat*) in the *Temple Scroll* (11QTemple) and Rabbinic Literature," *JBL* 111 (1992): 17–35, who argues that according to Qumran exegesis Numbers 15 is the primary source for inadvertent transgressions. It records the general rule, while Leviticus 4 addresses the special sacrificial rites for the consecration of the Tabernacle (in contrast, rabbinic exegesis identifies Leviticus 4 as the primary source that records the general rule, while Numbers 15 addresses the case of idolatry, at least according to a well-known rabbinic tradition discussed below).

[35] For further analysis, see Aharon Shemesh and Cana Werman, *Revealing the Hidden: Exegesis and Halakhah in the Qumran Scrolls* [Hebrew] (Jerusalem:Mosad Bialik, 2011),246–54.

[36] On the relationship between the concealed or unrevealed teachings of the sect, and inadvertent transgressions, see Aharon Shemesh and Cana Werman, "Hidden Things and their Revelation," [Hebrew] *Tarbiz* 66 (1997): 471–82; Shemesh and Werman, *Revealing the Hidden*, 81–83;

as well as intentionally violating revealed ones (corresponding to the intentional transgression of 15:30–31), the ignoble sinners are those who continually transgress the law. They are fated to a ravaging punishment, an intensification of the damning fate of Numbers 15:

> this is why wrath will rise up for judgment in order to effect revenge by the curses of the covenant, in order to administer fierce punishments for everlasting annihilation (*kalah*) without there being any remnant. *Blank* (1QS 5:12–13).[37]

Expanding upon the Numbers pericope in these various ways, the passage magnifies the stakes of legal obeisance.

Another remarkable passage with a similar ideological thrust appears later in (certain recensions of) 1QS. Establishing a penal scheme for a sectarian member who violates a single transgression, it relies explicitly on the Numbers pericope. In its bold implementation of the biblical template, it likewise revises certain of its salient features.

The passage opens by underscoring the meticulous normative standards demanded from members of the sect (referred to here as the "council of holiness"):[38]

> *Blank* These are the regulations by which the men of perfect holiness shall conduct themselves, one with another. All who enter the council of holiness of those walking in perfect behavior as he commanded. (1QS 8:20–21)

What happens when a member violates these binding rules depends on the mode of the offense. Initially, the passage relates to an intentional violation ("*beyad ramah*"), based on Numbers 15:30–31:

> anyone of them who breaks a word of the law of Moses intentionally (*beyad ramah*) or fraudulently (*remiyah*) will be banished from the Community council and shall not return again . . . . (1QS 8:21–23).

Next, the passage relates to an inadvertent transgression based on the earlier verses of the Numbers pericope (Numbers 15:22–29):

> However if he acted inadvertently (*bi-shegaga*) he should be excluded from pure food and from the council and they shall apply the (following) regulation to him: ≪He may not judge anyone and [he may] not [be a]sked any advice for two whole years≫ . . . if he has not sinned again through oversight until two full years have passed. *Blank*. (1QS 8:24–27)

Shani Tzoref, "The 'Hidden' and the 'Revealed': Progressive Revelation of Law and Esoterica," [Hebrew] *Meghillot* 7 (2009): 157–90; and Gary A. Anderson, "Intentional and Unintentional Sin in the Dead Sea Scrolls," in *Pomegranates and Golden Bells* (Winona Lake, IN: Eisenbrauns, 1995), 54–57.

[37] See Jacob Licht, *Rule Scroll: A Scroll from the Wilderness of Judea: 1QS, 1QSa, 1QSb* (Jerusalem: Mosad Bialik, 1965), 132 (who compares this passage to 1QS 2:15 and 4:13); and note the allusions to Deuteronomy 29:19; Ezekiel 24:8; and Proverbs 15:1.

[38] Scholars debate whether the council is equivalent to the community or not. See Shemesh, *Punishments and Sins*, 80–82.

This passage shares the orientation of the 1QS 5 passage, but each is more exacting in certain respects. Both underscore that transgressions violate the core religious identity of the sectarian community. The 1QS 8:20–27 passage further states that a single intentional violation leads to banishment from the Sectarian community.[39] In other words, it affirms the plain sense of Numbers 15:30–31 in all its severity.[40] The passage diverges (at least in focus), however, from the 1QS 5 excerpt in terms of who responds to the intentional transgressor. Whereas 1QS 5 describes the intensified punishment of divine annihilation (*kalah*)[41] for transgressors, according to 1QS 8 the penal agent is the communal council who administers a punishment of expulsion. Indeed, in this sense 1QS 8 departs from the Numbers pericope, as well. According to the Numbers pericope, an intentional transgressor who sins against God receives a heavenly punishment of excision (repeated threefold in the verses), and an inadvertent one atones by bringing a sin offering. In 1QS 8 these are translated into communal punishments to be meted out by the council, the former by expulsion and the latter by way of a temporary ban.[42]

In order to illuminate the crux of 1QS 8, Aharon Shemesh attempts to reconstruct its theological underpinnings by linking it to other sections of the Rule of the Community and the Damascus Covenant.[43] For instance, he argues that an intentional transgressor is expelled by the council because his actions expose him as a "son of darkness," as described in 1QS 3 (or, perhaps more explicitly as a "wicked person," as described in 1QS 5). This also implies that following his ejection by the council, the transgressor will be vanquished by God.[44] Similarly, Shemesh explains the temporary expulsion of an inadvertent transgressor as based upon a larger theology of exile in the Scrolls.[45] As intriguing as these cross references are, they gloss over the locus of this passage, which is brought into sharper relief by its juxtaposition with 1QS 5. Instead of a heavenly damning of sinners, here the

[39] This exacting standard may be an outgrowth of the intensified covenantal commitment among the members of the sectarian community. Dedicating to embodying a religious ethos of legal perfection, the community purges deviants as a way of maintaining this commitment. Note also that the scriptural references in 1QS 8 omit mention of the *ger* (alien) that appears in Numbers 15. See note 25. See generally Bilha Nitzan, "The Concept of the Covenant in Qumran Literature," in *Historical Perspectives: From the Hasmoneans to Bar Kohba in Light of the Dead Sea Scrolls*, eds. David Goodblatt et al. (Leiden: Brill, 2001), 85–104. See also Menahem Kister, "Marginalia Qumranica," [Hebrew] *Tarbiz* 57 (1988): 315–25.

[40] There are various other related passages in Qumran literature. See Anderson, "Intentional and Unintentional Sin in the Dead Sea Scrolls," 51–52; and Shemesh, *Punishments and Sins*, 65–67, 72–80.

[41] See also 1QS 4:14.

[42] See also Simeon Chavel, "Numbers 15.32–36 – A Microcosm of the Living Priesthood and Its Literary Production," in *The Strata of the Priestly Writings: Contemporary Debate and Future Directions* (Zurich: AThANT 95, 2009), 45–56.

[43] See Shemesh, *Punishments and Sins*, 60–82.

[44] Shemesh, *Punishments and Sins*, 62 links this to a doubling of *karet* in Num 15:31, but it is more likely that it is based on an exegesis that construes "*karet*" as "*kalah*." In any event, according to Shemesh, the sectarian actors are abetting the divine punishment.

[45] See Shemesh, *Punishments and Sins*, 67–72.

theological drama all plays out within the normative structure of the community. The religious constitution of the community is preserved by normative perfection; the spiritual state of an individual member turns on his legal obeisance; and his theological destiny is determined by the council's penal pronouncement. Religion is filtered through law, and law alone.

Several passages in the Qumran corpus offer variants of this paradigm.[46] In the proximate 1QS 8:15–17 passage, for instance, an intentional transgressor ("*beyad ramah*") is punished with (temporary) exile (not a permanent expulsion). According to CD 10:3, such a figure is only disqualified from delivering testimony. In other words, he remains nominally within the sectarian community, but is pushed to its margins in terms of his legal and social status.[47] Both of these sources likewise operate within a religious worldview that is highly legalistic (i.e., where an intentional transgression elicits a legal response, and the boundaries of the religious community are maintained by legal sanction), but calibrate the penal and social consequences in a different, and more lenient, manner. All three texts (CD 10, 1QS 8:15–17 and 20–27) echo the Numbers pericope in treating an intentional transgression as a decisive breach of the community's religious ethos of legal perfection.

Certain scholars attribute the severe Qumran punishment of an intentional transgressor recorded in 1QS 8:20–27 to the reality of sectarian life where maintaining social conformity was feasible.[48] While this context may make such an arrangement attractive or at least possible, it is hardly inevitable. When considered alongside the various passages surveyed above, 1QS 8 emerges as one response among several alternatives.[49]

Other Qumran writings (such as 1QS 6–7, 4Q266, frag. II, 4Q270, frag. 7i, 15–19), in fact, diverge from this paradigm and do not define the religious fabric of the sectarian community in normative terms. Operating with a dual construct similar to 1QS 8:20–27 (and arguably based upon its Scriptural foundation, the Numbers pericope), these texts crucially differ in terms of what triggers a harsher response. Instead of invoking the phrase "*beyad ramah*," they introduce terms like "*moes*," to despise, or "*libgod*," to rebel, to characterize the underlying wrong.[50] In other words, the grounds for expulsion from the community is a brazen rejection of God and the

[46] Shemesh and Anderson downplay the significance of, or gloss over, these variants, but this is not convincing. See Shemesh, *Punishments and Sins*, 80–82; and Anderson, "Intentional and Unintentional Sin in the Dead Sea Scrolls," 57, n. 20.

[47] The underpinnings of this legal-sociological construct, and its analog in the later rabbinic category of a *rasha*, require separate treatment. I explored aspects of this topic in a lecture entitled, "Who is Wicked? Adapting Witness Qualification Standards in Rabbinic Law" (Columbia University Conference in Honor of David Weiss Halivni, New York, NY, May 2005).

[48] See Anderson, "Intentional and Unintentional Sin in the Dead Sea Scrolls," 53. Even if the sectarian milieu enabled such a scheme, it is still worth reflecting upon the religious axioms of such a system, which is my aim above.

[49] See also 4Q159 which may even refer to a death penalty for a violation committed "*beyad ramah*," although this is far from certain. See Reynolds, "The Expression *Beyad Ramah*," 598.

[50] These terms may be interpretations of the Scriptural terms "*beyad ramah*" and/or "*megadef*."

religious values of the community.[51] The foundational sin is thus not committing a legal violation, but repudiating the community's principal commitments. Prefiguring certain aspects of rabbinic literature, this strand reflects a secondary voice in the Qumran corpus.[52]

The dominant strand in Qumran writings, however, advances a religious order bounded within a normative frame. Here, the Numbers pericope openly serves as a foundational text, and "*beyad ramah*" (in its plain sense) functions as a pivotal term.[53] Further, a couple of passages expand upon this legalistic foundation in ways that exceed Scripture. 1QS 5 envisions a bloc of transgressors, a foil to the community, who will suffer divine castigation; and 1QS 8 circumscribes a covenantal community whose religious ethos is defined by law, and whose boundaries are controlled by law. By accentuating, augmenting, and implementing the striking paradigm of the Numbers pericope, this strand epitomizes a conception of Judaism as a religion of laws.

III RABBINIC LITERATURE

The primary rabbinic source that elaborates on the Numbers pericope – a range of homilies in the Sifre spread over two sections (111–12) – contains certain traces of the legalistic sectarian position.[54] In its opening paragraph (111), the Sifre records the well-known view of the rabbis which interprets the Numbers pericope as referring specifically to the transgression of idolatry (more on this shortly),[55] but first the

[51] See the sources and analysis in Shemesh and Werman, *Revealing the Hidden*, 254–73.
Also, CD 3:9–19 sounds like the contrast to the inadvertent sinners who are the forerunners of the sect are the sinning Israelites who completely reject and abandon the covenant (i.e., they are more than intentional sinners), pace Shemesh and Werman, *Revealing the Hidden*, 257–58.

[52] This secondary Qumran tradition arguably follows the minority reading of the Numbers pericope. See note 21.

[53] See Anderson, "The Interpretation of the Purification Offering," 33.

[54] The analysis below will trace legalistic and extra-legalistic strands in the early rabbinic exegesis of the Numbers pericope. These correlate to a certain extent with whether the phrase "*beyad ramah*" from the latter part of the pericope is rendered as an intentional or brazen act. In addition, there are other variables in the rabbinic understanding of this part that are consequential, including whether its subject matter is any (and all) prohibition(s), idolatry, or some other form of "heresy" (which perhaps does not depend on a discrete act); whether other Scriptural terms, such as "*megadef*," "*devar Hashem bazah*," "*mitsvato hefer*," etc., are treated as independent or integrated phrases, and how they are interpreted; and the nature of the *karet* punishment recorded in this part. I will relate to several of these variables below. All references to the Sifre below are to the edition of Menahem Y. Kahana, *Sifre on Numbers: An Annotated Edition* [Hebrew] (5 vols.; Jerusalem: Magnes Press, 2011–15).

[55] This rabbinic interpretation of Numbers 15 is informed to some extent by the rabbinic interpretation of Leviticus 4. According to rabbinic exegesis, Leviticus 4 discusses the general rule of sin offerings for inadvertent transgressions (*korban hatat*), which applies to all inadvertent transgressions of *karet* prohibitions (but see Louis Finkelstein, *Sifra on Leviticus*, Vol. 1 (New York: Jewish Theological Seminary Press, 1990), 199; and Noam Zohar, *The Sin Offering in Tannaitic Literature* (MA dissertation, Hebrew University, 1988), 128–31; and see also the broad definition of *karet* advanced by Shemesh alluded to in note 61, which needs to be balanced with Shemesh's remarks referenced in note 74). On this understanding, neither biblical source applies to lesser (i.e., non-*karet*) prohibitions

midrash considers (and subsequently rejects) another option (Sifre 111, ed. Kahana, lines 1–5):

> "But if you unintentionally fail to observe all these commandments (Numbers 15:22)"[56]: . . . Scripture here speaks of idolatry. You say idolatry, *but perhaps (it speaks of his transgressing) all of the commandments of the Torah* . . . (emphasis mine).[57]

And similarly in the continuation of the midrash (ibid., lines 5–7):

> "And it shall be, if by the eyes of the congregation it were done in error (Numbers 15:24)" – Scripture hereby singles out one mitzvah. And which is that? (the injunction against) idolatry. You say it is idolatry, *but perhaps it is (any) one of all the mitzvoth stated in the Torah* . . .. (emphasis mine)

In other words, the midrash registers the plain sense of Scripture (presumably following the majority reading).[58] In fact, certain rabbinic traditions arguably

(which generally are punishable with lashes when violated intentionally, and have no sacrificial requirement when violated inadvertently). See also Anderson, "The Interpretation of the Purification Offering," for further discussion.

A comprehensive evaluation of the rabbinic interpretation of Numbers 15 must thus be evaluated alongside the rabbinic understanding of Leviticus 4 and other scriptural passages relating to the *karet* punishment; as well as the general penology and sacrificial system according to the rabbis. This chapter's scope, however, is more narrow in focus. The rabbinic interpretations of Numbers 15 necessarily advance certain theological perspectives, and evaluating their underpinnings is its primary concern.

[56] This Sifre passage addresses the first part of the Numbers pericope, but this hermeneutic likely informs how the rabbis read the latter part as well. In the continuation of the Sifre, there are alternate renderings of the latter part, but they probably do not reflect upon how the rabbis read the first part of the pericope (since requiring a sacrifice on such alternate grounds is difficult to fathom). But see Nahmanides on Numbers 15:22, who presents an alternate plain sense reading of the first part of the pericope.

[57] The literal verse refers to all the commandments; the continuation of the pericope refers to a single commandment. See note 22.

[58] Arguably, this Sifre tradition is aware of the sectarian position recorded in Qumran literature. This conjecture may also be reflected in the reference to the covenant in the continuation of the midrash ("Just as one who transgresses all of the commandments . . . breaks the covenant . . . ") which is not mentioned in the verses, but may be implicit in certain Qumran elaborations on these verses. See note 39.

A further clarification is in order: The majority and minority readings turn on whether to construe the term "*beyad ramah*" in the latter part of the pericope as an intentional or brazen act, but both readings generally assume that this section involves any prohibition. Rabbinic discourse, by contrast, suggests that it may refer to any prohibition, idolatry, or another form of "heresy." So when the paragraph above states that the midrash registers the plain sense of the pericope this means, minimally, that the rabbis are aware that the Numbers pericope can be referring to any or all commandments (rather than idolatry), but does not necessarily mean that sinning "*beyad ramah*" is to be construed as acting in an intentional manner. Nevertheless, this construction seems likely. To wit, this clearly seems to be the understanding of "*beyad ramah*" according to the rabbinic tradition that the pericope addresses the sin of idolatry (i.e., verses 30–31 are referring to an *intentional* violation of idolatry; see Rashi on Numbers 15:30). The continuation of the paragraph above lists other rabbinic traditions that may likewise follow the majority reading of the pericope. Later on, the chapter will evaluate rabbinic traditions in the Sifre and elsewhere that follow the minority reading.

interpret (the latter part of) the Numbers pericope in this manner. Thus, Sifre 112 (ed. Kahana, line 50) records an exegetical gloss attributed to R. Akiva on Numbers 15:31,[59] "a soul—who sins intentionally (*mezidah*)."[60] Likewise, the teaching of R. Hanania b. Gamliel in tractate Makkot (3:15) that "one could lose their life for committing just one sin" may echo this position.[61]

Most rabbinic constructions of the Numbers pericope, however, eschew the literal interpretation for a variety of reasons, and do not identify a single violation of any prohibition as the root of the religious rupture which is depicted in its verses. A central question raised by these alternative hermeneutics is whether they signal a different conception of religion. On the literal understanding of the Numbers pericope (i.e., the majority approach), the essence of religion is comprised of legal obeisance; and therefore violating the law severs one's relationship with God and the religious community. Do these other rabbinic readings operate with a similar template, or present a different kind of religious order that is not solely structured around norms?

The most familiar rabbinic interpretation of the Numbers pericope – advanced in lieu of the plain meaning in the paragraph above – limits its subject matter to the prohibition of idolatry.[62] The following paragraph addresses the opening part of the pericope:

> "But if you unintentionally fail to observe all these commandments (mitzvoth) (Numbers 15:22)": . . . Scripture here speaks of idolatry. . . . (Sifre 111, ed. Kahana, lines 1–5)

[59] This teaching of R. Akiva (if it originated in this context, see the parallel reference in the next note) may be in tension with his teaching about the doubling of *karet*, analyzed below.

[60] See Sifre 70 (ed. Kahana, lines 6–8). See also the successive teachings in Sifre 112 about the cascading effects of a sin (ed. Kahana, lines 41–45); and Sifre Zuta on Numbers 15:22, 30.

[61] This is how Shemesh interprets this teaching (which also assumes that the punishment of *karet* can be supplanted with lashes, at least when the latter are a suitable alternative punishment). See *Punishments and Sins*, 95.

Note that Shemesh even argues that the well-known position of the Sifre described in the next note accords with the plain sense of the pericope (and the narrow focus on the sin of idolatry refers to other parts of the pericope), a claim which is more questionable. See *Punishments and Sins*, 82ff.

[62] The well-known rabbinic tradition that limits the Numbers pericope to the sin of idolatry (or other prohibitions of a similar scale) has certain halakhic implications. First, according to this tradition, the Numbers verses establish that idolatry is punishable by (the standard) *karet* (punishment). See *m. Ker.* 1:1. Moreover, the verses inform the general scope of sin offerings for inadvertent transgressions (*korban hatat*): atonement is only required for inadvertent transgressions of *karet* prohibitions. See Sifre Numbers 112 (cited in note 64), and Sifra *Hova* 1:7 (note the continuation of the Sifra considers, but rejects, alternate classifications of severe prohibitions that may be considered to be on a similar scale to idolatry).

Yet, this rabbinic tradition also raises questions (beyond the glaring issue that there is scant textual evidence to link the Numbers pericope to idolatry). Why would Scripture dedicate a discrete (part of a) pericope to the intentional sin of idolatry, as opposed to all other *karet* prohibitions? Further, why do the pericope's verses employ extraordinary rhetoric? At first blush, there is nothing halakhically distinct about an intentional violation of idolatry that differentiates it from other *karet* prohibitions (in contrast with the inadvertent case, where the sacrificial requirements for atoning for the sin of idolatry are anomalous). See Nahmanides on Numbers 15:22, whose comments may help address this issue by linking this rabbinic tradition with his understanding of the pericope's plain sense. This will not, however, explain the rabbinic tradition on its own terms. But see *b. Hull.* 5a.

Similarly, a subsequent paragraph (Sifre 112, ed. Kahana, lines 59–61) interprets the latter part as involving an intentional violation of idolatry.[63]

At first blush, narrowing the Numbers pericope in this manner still assumes a religious order that is defined by norms, but only deems an intentional violation of a severe prohibition to have the dire consequences described in the pericope's latter part. This is the implication of a related Sifre teaching that groups idolatry with other legal prohibitions of a similar scale (i.e., prohibitions which are punishable by *karet*).[64] It is also possible that idolatry is singled out as a cardinal prohibition which is in a category of its own, or emblematic of all the commandments.[65] The first paragraph concludes in this vein (Sifre 111, ed. Kahana, lines 5–10):

> It is, therefore, written "And if you err and do not do all of these commandments (Numbers 15:22)": This comes to define the one commandment. Just as one who transgresses all of the commandments divests himself of the yoke (*poreq ol*), and breaks the covenant (*mefer berit*), and reveals the Torah (*megaleh panim ba-Torah*), so, he who transgresses one commandment (idolatry) does the same, as it is written, "to destroy His covenant (turning to the worship of other gods . . .) (Deuteronomy 17:2–3)." And the covenant is nothing other than Torah, as it is written, "These are the words of the covenant, etc. (Deuteronomy 28:69)."

But this justification raises another possible explanation for why the Sifre distinguishes this particular sin. Idolatry is not just a cardinal prohibition, but a flagrant betrayal of God. Arguably, this is the underlying thrust of the above passage (committing idolatry divests oneself of the yoke, etc.).[66] The fundamental theological affront of idolatry is likewise underscored in a neighboring passage in the Sifre that employs a somewhat cryptic metaphor to capture its audacity.[67]

[63] This interpretation is also presumed in *m. Hor.* 2:6 and throughout tractate Horayot (Mishnah and Tosefta); as well as in Sifra *Hova* 1:7, Sifre Zuta on Numbers 15, and various *baraitot*. See also Shemesh, *Punishments and Sins*, 91–93; and Anderson, "The Interpretation of the Purification Offering," 19–20.

Of course, a collateral effect of narrowing the pericope to the sin of idolatry, or the alternate renderings explored below, is to reduce the stakes of violating a generic prohibition. This may be part of the rabbinic design. I thank Professor Benny Porat for emphasizing this point.

[64] "'An individual who sins unintentionally (Numbers 15:29)'– R. Yehudah b. Betheira says: . . . Just as serving idolatry is distinct in that it is an act in which deliberate transgression is punishable by *karet* (excision), and unwitting transgression by a sin-offering, so all who act unwittingly must be an act where deliberate transgression is punishable by *karet* (excision) and unwitting transgression by a sin-offering" (Sifre 112, ed. Kahana, lines 34–36).

[65] In theory, one could imagine grouping idolatry with a smaller set of severe prohibitions, such as murder and adultery. See, e.g., *y. Peah* 1:1 (which also adds the prohibition of *lashon hara*). But this possibility is not hinted at in this context.

[66] An alternate formulation is that idolatry constitutes a profound rejection of the foundations of Judaism, including the yoke, the covenant, etc. In either case, the brunt of the transgression is less about a prohibited normative action than about what it signifies religiously.

[67] "'[he] blasphemes the Lord (Num 15:30)' – R. Eliezer b. Azariah says, As a man would say to his neighbor: 'You have scraped out the dish (of food) and diminished it.' Issi b. Akavya says, As one would say to his neighbor: 'You have scraped out the entire dish and left nothing in it' (Sifre 112, ed. Kahana,

These alternate explanations reflect two different ways of conceptualizing the prohibition of idolatry:[68] a normative perspective, where idolatry is classified as a "first-degree" offense; and a theological perspective, where idolatry epitomizes the ultimate religious betrayal.[69] Notably the other two specific prohibitions that surface in rabbinic constructions of the Numbers pericope – committing blasphemy against God[70] and rejecting the rite of circumcision[71] – share a similar duality. These are cardinal commandments, where the violation and heresy are interwoven.

A *A Novel Series of Rabbinic Interpretations of the Numbers Pericope*

The rabbinic interpretations of the Numbers pericope examined so far are thus arguably grounded in a traditional normative discourse.[72] In other passages, however, the Sifre betrays a decidedly different tone.[73] When unmoored by the midrash

lines 46–48)." See also Sifre Zuta on Numbers 15:24. There are other traditions in the Sifre that compare idolatry to a rejection of the Decalogue, but their meaning is more equivocal.

[68] Idolatry is a prohibited act which signifies a theological stance. Still, a given discourse may place greater emphasis on one of these dimensions.

[69] See Sifre Deuteronomy 221 and *m. Sanh.* 6:4, which refer to idolatry and blasphemy as unique sins that undermine a foundational principle (*pashat yado ba-ikar*). According to the rabbis, both of these cardinal prohibitions may be alluded to in Numbers 15:30–31. See the next note. See also David Henshke, "For a Hung Body Is an Affront to God: On the Difference in Exposition between the Sages and the Sectarians and the Mishnah and the Tosefta," [Hebrew] *Tarbiz* 69:4 (2000): 510–14.

[70] The term *megadef* (in Numbers 15:30) is interpreted by *Hazal* as a (second) reference to idolatry or a discrete sin of blasphemy (see *b.Ker.* 7a-b; a sugya which also cites Sifre 112). See Henshke, "For a Hung Body is an Affront to God," 513. According to the former tradition, the term focuses on a blasphemous act of idolatry or its blasphemous consequences (which may be indicative of a theological discourse).

The latter tradition interprets this term to refer to a discrete sin of blasphemy. Accordingly, the verse refers both to the prohibition of idolatry (either "*beyad ramah*" or "*devar Hashem bazah*") and blasphemy ("*megadef*"). See also *m. Ker.* 1:1 which lists idolatry alongside blasphemy as prohibitions punishable by *karet*, presumably based on this verse; and *m. Sanh.* 7:4 which also lists them sequentially.

There also may be a distinct exegetical tradition which interprets the verse as solely focused on the sin of blasphemy. See note 29.

[71] See Sifre 112 (ed. Kahana, lines 53–56) and *m. Avot* 3:11 cited below.

[72] Even if idolatry has a certain duality, as described above, it remains an established norm. Still, the idolatry hermeneutic of this pericope may enable a pivot to a different kind of theological discourse, especially since approaching it solely on normative grounds arguably does not account for the pericope's content and extraordinary rhetoric. See note 62.

[73] For further analysis of various sections of the Sifre and other parallels in rabbinic literature, see Kahana, *Sifre on Numbers* on Sifre 111–12; Shemesh, *Punishments and Sins*, 88–95; Chaim J. Milikowsky, "*Gehenna* and 'Sinners of Israel' in the Light of *Seder Olam*," [Hebrew] *Tarbiz* 55 (1986): 311–43; and Chaim J. Milikowsky, *Seder Olam: Critical Edition, Commentary and Introduction* [Hebrew] (Jerusalem: Yad Ben Zvi, 2013) on S. Olam 3. See also Toeg, "A Halakhic Midrash in Numbers 15.22–31," 2–3, 19–20; Flusser, "Some of the Precepts of the Torah from Qumran (4QMMT)," 333–74; Adiel Schremer, *Brothers Estranged: Heresy, Christianity and Jewish Identity in Late Antiquity* (Oxford; New York: Oxford University Press, 2010), 33, 79–81; Jenny R. Labendz, "Know What to Answer the Epicurean: A Diachronic Study of the ʾApiqoros in Rabbinic Literature," *Hebrew Union College Annual* Vol. 74 (2003): 175–214; Jonathan Klawans, *Heresy, Forgery, Novelty: Condemning, Denying, and Asserting Innovation in Ancient Judaism*

from its plain sense, the pericope is open hermeneutically, with each verse, and even each clause, potentially pregnant with distinct meanings.[74] A string of rabbinic traditions fill this interpretive void in striking ways.[75]

Beyond their notable number and range, these traditions diverge– to varying degrees– from the interpretation of "*beyad ramah*" as an intentional transgression.[76] Rather than limiting the pericope to a particular prohibition, and assimilating it into a familiar halakhic discourse where religiosity is measured by legal obeisance, they posit novel dimensions or forms of irreligiosity.[77] Ultimately, the Sifre here transitions into an altogether different discourse of sin and punishment.[78] Wittingly or not, the rabbis here

(New York: Oxford University Press, 2019), 67–72; David Michael Grossberg, *The Meaning and End of Heresy in Rabbinic Literature* (PhD diss. Princeton University, 2014), 192–211; and David Michael Grossberg, *Heresy and the Formation of the Rabbinic Community* (Tubingen, Germany: Mohr Siebeck, 2017), 55, 76–77, 152.

74 Toeg argues that these Sifre interpretations, which revolve around non-idolatrous sins, are homiletic and ideological in nature; they serve as a secondary layer within the Sifre that complements its halakhic core, which maintains that the subject of the pericope is idolatry. See Toeg, "A Halakhic Midrash in Numbers 15.22–31," 19–20. See also Ishay Rosen Zvi and Adiel Schremer, "Hagadot al Dofi," [Hebrew] *Teudah* 31 (2021) 381; and, in a different vein, Shemesh, *Punishments and Sins*, 93, n. 103. But most of these Sifre interpretations seem to be discrete traditions that stand on their own (as opposed to passages such as Sifre 112, ed. Kahana, lines 57–59, or the Talmudic materials cited by Toeg, which clearly seem to be supplementary traditions that are homiletic in nature). In any event, this argument misses a crucial point. Fundamentally, the idolatrous and non-idolatrous interpretations recorded in the Sifre are elaborating on two alternate constructions of "*beyad ramah*." The former renders this phrase as an intentional act (i.e., the majority reading), and the latter renders it (and other terms in these verses) as referring to various modes of sac-religiosity (i.e., the minority reading, largely following the Targum's tradition of "*be-resh gali*"). See note 77. This basic difference, in turn, has profound theological stakes for the legacy of the Sifre pericope that have gone unnoticed: Whether religiosity is normatively bounded, or has other extra-normative, and arguably more essential, dimensions.

75 Note that I am not denying that there might have been sociological or polemical factors (e.g., anti-sectarian or anti-Christian, etc.) that influenced rabbinic discourse in these paragraphs and similar texts, as emphasized by other scholars. My argument is that scholarship has largely overlooked the significance of the Numbers pericope in prompting or enabling the rabbis to fill an interpretive void. Moreover, wittingly or not, through their hermeneutics the rabbis developed new religious terminology and concepts, and more generally, constructed elements of a distinct theological sphere. At the same time, I agree that the impetus for rabbis to engage in this discourse and the specific content with which they filled this void was likely informed by the socio-religious context in which they lived.

76 In a related vein, they also disagree about whether to interpret "*beyad ramah*" as involving a transgression that is violated by a discrete act (with different degrees of intentionality), or not.

77 These novel forms should be seen as articulations that align with the minority reading of the Numbers pericope, following the Targum's interpretation (see note 21). Once "*beyad ramah*" is not rendered as an intentional transgression, but as some mode of sac-religiosity (with or without an underlying act), other phrases from the latter part of the pericope may be understood to signify additional modes. Accordingly, this section of the Sifre also construes such other phrases. In contrast, the previously analyzed Sifre traditions that follow the majority reading presumably interpret these verses in a more integrated manner that focuses on a transgression and its consequences (but see note 70). The different Sifre traditions also seemingly diverge on how to interpret the pericope's punishment of *karet*. See the last paragraph of Section III below.

78 For more general accounts of sin in rabbinic literature, see, e.g., Adolf Büchler, *Studies in Sin and Atonement in the Rabbinic Literature of the First Century* (London: Oxford University Press, 1928);

articulate elements of a religious worldview that is not bound within the normative order.

Here are the relevant excerpts from the Sifre on Numbers 15:30–1 (Sifre 112, ed. Kahana, lines 37–57):[79]

(1) "But whoever acts intentionally (*beyad ramah*) (Numbers 15:30)" – This is one who reveals the Torah (*megaleh panim ba-Torah*), like Menasheh ben Hezkiah.
(2) "[he] blasphemes the Lord (Numbers 15:30)" – This is one who sits and renders a ridiculous homily in front (alt. to the face) of the Lord (*Ha-Maqom*), saying (for example): "He should not have written in the Torah 'And Reuven went [in the days of the wheat harvest . . .] (Genesis 30:14)'" . . .[80]
(3) "Because of having despised the word of the Lord (Numbers 15:31)" – This is a Sadducee. "and breached his commandment (Numbers 15:31)" – This is a heretic (*apiqoros*).
(4) Another interpretation: "Because of having despised the word of the Lord (Numbers 15:31)" – This is one who reveals the Torah (*megaleh panim ba-Torah*). "and breached his commandment (Numbers 15:31)" – This is one who breaks the covenant (*mefer berit*) of the flesh (circumcision). From here R. Elazar Hamodai said: One who desecrates the offerings, cheapens the festivals, breaks the covenant (*mefer berit*) (of circumcision) of our father Abraham or reveals the Torah (*megaleh panim ba-Torah*) – even if he has performed many commandments, it were best to thrust him from the world.
(5) If he says: "The entire Torah I accept, except for this one matter" – [This is] "Because of having despised the word of the Lord (Numbers 15:31)." "The entire Torah he (Moses) said from the mouth of the Holy One but this thing he said on his own" – [This is] "Because of having despised the word of the Lord (Numbers 15:31)". . . .[81]

The Sifre's range of interpretations covers uncharted terrain that lies beyond the familiar normative landscape. According to many scholars, Paragraph (1) refers to the violation of a prohibition in a brazen or defiant manner,[82] which arguably

Solomon Schechter, *Some Aspects of Rabbinic Theology* (New York: Macmillan, 1910), ch. 14; Stanley Wagner, "Religious Non-Conformity in Ancient Jewish Life" (DHL dissertation, Yeshiva University, 1964); Urbach, *The Sages, Their Concepts and Beliefs*, 420–523; George Foot Moore, *Judaism in the First Centuries*, Vol. I, 460–96; Milikowsky, "*Gehenna* and 'Sinners of Israel' in the Light of *Seder Olam*"; Labendz, "Know What to Answer the Epicurean"; and Gary A. Anderson, *Sin: A History* (New Haven, CT: Yale University Press, 2009), 95–110.

79 I have translated these excerpts based on the Kahana edition, and added an enumeration. See his notes for manuscript variants, which have little influence on my broader argument.

80 See the references in note 87.

81 See the parallel traditions cited in Kahana, *Sifre on Numbers*, 805–06.

82 This depends on the meaning of the phrase "*megaleh panim ba-Torah*." The interpretation herein follows Kahana and Naeh, who interpret this as an open or public, i.e., brazen, transgressive act. This

expresses, if you will, a mens rea of heresy or insurrection;[83] Paragraph (2) and certain parts of Paragraph (4) involve various disdainful attitudes; Paragraph (3) refers to a heretical or sinful persona, rather than a prohibited act or mode of conduct;[84] and other parts of Paragraph (4) and Paragraph (5) describe a rejection of the covenant, Scripture or law. In sum, the sins depicted in these sections of the Sifre are attitudinal, ideational, or theological.

One can sort this catalog of sins (alongside others referenced in proximate passages in the Sifre) across a spectrum that ranges from standard norms to increasingly novel ones, with a waning link to formal praxis.[85] Beginning with an intentional violation of a single or all commandment(s) (which the Sifre at least registers), the Sifre refers to: a violation of an arch commandment; (arguably) a violation of an arch commandment that is expressive of a rejection of a core theological principle (God's supremacy or the covenant); a violation of a single commandment in a defiant manner (arguably expressing a mens rea of heresy or insurrection); a rejection of the (normative) authority of Scripture or the law; a disdainful attitude toward religious institutions (such as holidays or sacred objects); a rejection of a core theological principle (e.g., resurrection); a heretical or sinful persona (that transcends any particular transgression, attitude, or idea);[86] and (arguably) a betrayal or

interpretation can be traced back to the Targum's translation of "*be-resh gali*" (see note 21), as "*megaleh panim*" may well be an extension of that phrase. See, e.g., *b. Eruv.* 69a. There are also alternative interpretations of "*megaleh panim ba-Torah*" that associate it with a brazen rejection, or exegesis, of the Torah. See the discussions in Kahana, *Sifre on Numbers*, 797; Grossberg, *The Meaning and End of Heresy*, 186–211; Menahem Kister, "Studies in 4QMiqsat Maase Ha-Torah and Related Texts: Law, Theology, Language and Calendar," [Hebrew] *Tarbiz* 68 (1999): 327, n. 42; Shimon Sharvit, "Hermeneutic Traditions and their link to Scribal Traditions of the Mishnah," in *Studies in Rabbinic and Biblical Literature and in the History of Israel: In Memory of Professor Ezra Z. Melamed* [Hebrew] (Ramat Gan: Bar-Ilan Press, 1982), 120–21; and Moti Arad, *Sabbath Desecrator with Parresia: A Talmudic Legal Term and its Context* [Hebrew] (New York: Jewish Theological Seminary, 2009), 213–27.

[83] Such a brazen act can be conceived of as a more flagrant form of violating a norm; a violation with a deleterious social impact; or, as stated in the paragraph above, an act of insurrection or a mode of expressing heresy.

Interestingly, the Sifre never refers in this context to a repeat offender, like a *meshumad*, or a *mumar lehachis*. Other rabbinic sources do. See, e.g., *t. Sanh.* 13:5; and Sifra *Nedava* 2:3. There are also other rabbinic sources that may relate to a mens rea of heresy or insurrection. See, e.g., the suggestive formulation in Sifra *Behuqotai* 2:2.

[84] An evaluation of this irreligious persona depends on whether a Sadducee and/or an *apiqoros* is classified based on his or her: anti-halakhic praxis; belonging to a distinct social group; or espousing a problematic theology. See the references in note 86.

[85] The precise (conceptual) ordering is debatable; the above represents one plausible way to sort these sins in such an array.

I tend to read the Sifre here as being inchoate, as the discourse explores the boundaries of religious sins. The novel renderings of the Sifre may or may not be mutually exclusive.

[86] The nature of the "heresy" is presumably not rooted in any one specific transgression, but a broader heretical orientation. The midrash's subject has shifted from a violation, to a sin, to a sinner.

On the definition and status of the heretic, see Milikowsky, "*Gehenna* and 'Sinners of Israel' in the Light of *Seder Olam*," 329–37; Labendz, "Know What to Answer the Epicurean," 177–89; Grossberg, *Heresy and the Formation of the Rabbinic Community*, ch. 5; and Christine Hayes, "Legal Realism

blasphemy of God. A conventional normative framework is expanded to encompass increasingly original sins of a theological nature.

At times, the shift in discourse evident in the Sifre is more subtle, but also revealing. Consider in this vein a notable difference in emphasis among a couple of the paragraphs cited above. Paragraph (5) describes a challenge to the authority of the Torah and its precepts – either by rejecting the Torah's integrity or by limiting the scope of its divine origins. The sacrilege is not measured by a violation of law per se, as much as by undermining the stature of the Torah or the legal traditions. Still, the heresy in question implicates the supreme standing of biblical law.

A seemingly related interpretation (2), however, discards these normative trappings. Here the rabbis likewise describe an impugning of Scripture, but the critique is expressed as scornful mockery.[87] Moreover, this interpretation – which construes the Scriptural words, "[he] blasphemes the Lord (Numbers 15:30)" – depicts the jeering homilist confronting Scripture's Author, "sit[ting] and render[ing] a ridiculous homily in front (alt. to the face) of the Lord …. " Moving beyond the status of Scripture and the law, the heretical challenge targets God, as it were. Note that on its terms, the homilist-blasphemer is not denying the divinity of the Torah, but challenging God's immaculate wisdom that is manifest in it. The crux of the verbal assault is personal.

B *The Triad As Reflecting a Shift in Rabbinic Discourse*

A more dramatic shift in the rabbinic discourse surrounding the Numbers pericope can be discerned when one focuses on the literary record of three phrases that appear in the Sifre and elsewhere in rabbinic literature: "*megaleh panim ba-Torah*," "*mefer berit*," and "*poreq ol*."[88] In Paragraph (1), the Sifre invokes the phrase "*megaleh panim ba-Torah*;" and in the opening part of Paragraph (4), the commentary on one lemma refers to it as well, while the commentary on the next lemma refers to "*mefer berit*." As discrete phrases, they presumably designate distinct prohibitions.[89]

and the Fashioning of Sectarians in Jewish Antiquity," in *Sects and Sectarianism in Jewish History*, ed. Sacha Stern ; IJS Studies in Judaica series (Leiden; Boston: Brill, 2011), 133–44. For a helpful overview of the scholarly debate about heresy, see Michal Bar-Asher Siegal, *Jewish-Christian Dialogues on Scripture in Late Antiquity* (New York: Cambridge University Press, 2019), 7–17.

87 See Kahana, *Sifre on Numbers*, 797–99; Aharon Shemesh, "Traces of Sectarian Halakha in Tannaitic Literature" [Hebrew] *Meghillot* 2 (2004): 91–101; Hananel Mack, "What Else Did King Manasseh of Judea Discover in the Torah," [Hebrew] *Meghillot* 2 (2004): 105-11; and Rosen Zvi and Schremer, "Hagadot al Dofi."

88 For a list of references, see Kahana, *Sifre on Numbers*, 805 n. 105. For an extended analysis, see Grossberg, *The Meaning and End of Heresy*, 183–211.

89 For example, "*mefer berit*" on its own presumably means not being circumcised (still, it may express – or may over time signify – something more); "*mefer berit*," as an element within the triad (and perhaps in certain other sources), may refer to the heresy or insurrection involved in not being circumcised, or a rejection of the covenant (perhaps even the Sinai covenant). The latter can have theological and/or social implications. A full analysis is beyond the scope of this chapter.

However, in an earlier passage in Sifre 111 (cited below), these two phrases, preceded by "*poreq ol*," form a litany of three offenses. This same triad is recorded in several places in rabbinic literature. Beyond individuated offenses, they seem to comprise a single category (either they share a common denominator, or are conflated into a single wrong).[90] The very formulation of a triad may reflect a revised conceptualization of grave sin.

What is the nature of this triad, and how is it (or are they) violated? A partial response can be gleaned from the hermeneutic elaboration recorded in Sifre 111 (ed. Kahana, line 8):

> . . . one *who transgresses all of the mitzvoth* divests oneself of the yoke (*poreq ol*), and breaks the covenant (*mefer berit*), and reveals the Torah (*megaleh panim ba-Torah*) . . . (emphasis mine).

As represented in this passage, the triad is not a label for a sin(s), but the derivative consequence(s) of a cumulative transgression. One who violates all the commandments[91] causes the drastic fallout that is captured by this threefold formulation. The triad is thus associated with established norms.[92]

What is fascinating is that elsewhere (in tannaitic literature) the nature of the triad (or a couple of its elements) differs. In three tannaitic sources – Mishnah Avot, Baraita Shavuot, and Tosefta Sanhedrin – the triad is projected as a stand-alone sin (or sins), which is unrelated to other violations. Moreover, each of these tannaitic sources accents different characteristics of the triad that diverge from conventional norms.

Thus, the Mishnah in Avot (as it is paraphrased in the latter part of Paragraph (4) of the Sifre) includes two of the triad's elements on a list of egregious modes of conduct or postures that can hardly be designated as standard violations. This is further implied by the conclusion which states (in the Sifre's rendition) that if any item on the list was infringed, "even if he has performed many commandments, he deserves to be thrust from the world."[93] The enumerated items differ from conventional prohibitions, and their gravity exceeds the ordinary normative metric.[94]

[90] The latter suggestion is the thesis of Grossberg, *The Meaning and End of Heresy*, 183–211.

[91] The continuation of the passage refers to the transgression of idolatry: "so, he who transgresses one mitzvah (idolatry) does the same, as it is written, 'to destroy His covenant (turning to the worship of other gods . . .) (Deuteronomy 17:2–3).' And the covenant is nothing other than Torah, as it is written, 'These are the words of the covenant, etc. (Deuteronomy 28:69)'."

[92] It is difficult to place this source and the ones cited below in chronological order. As a result, it is difficult to know whether the triad formulation emerged within a normative context, or was transplanted from a non-normative context.

[93] The Mishnah's rendition is, "even if he has accomplished good deeds (commandments), he has no share in the world to come." See Kahana, *Sifre on Numbers*, 804–05 (who also lists other significant variants). The Mishnah (and perhaps the Sifre's rendition of the Mishnah as well) should thus be added to the notable references to the world to come evaluated below, and offers further evidence of a penological shift that is manifest in the rabbinic discourse regarding these novel forms of sin.

[94] On this reading, the Mishnah is stating that regardless of one's normative record, he or she should be cast out on account of these enumerated sins.

A *baraita* recorded in the Talmud underscores another essential characteristic of the sui generis triad:[95]

> Rabbi Judah the Prince says: For all transgressions that are stated in the Torah, whether one repented, or whether one did not repent, Yom Kippur atones, except for one who divests oneself of the yoke (*poreq ol*), and reveals the Torah (*megaleh panim ba-Torah*), and breaks the covenant (*mefer berit*). For these, if one repented, Yom Kippur atones, and if not, Yom Kippur does not atone.

Unique among all sins in terms of atonement,[96] the triad is openly contrasted with standard halakhic violations. Only the triad demands a more intensive atonement procedure in which repentance is indispensable (a requirement which arguably derives from the rabbinic interpretation of the final clause of Numbers 15:31, "and bear the guilt (*avona bah*)").[97] In other words, the *baraita* classifies the triad as a more weighty category of sin(s).[98] To the extent that the triad consists of foundational, theological sins or heresies that are based on the sinner's interior attitude or state, the necessity of repentance seems particularly apt.[99]

[95] See *y. Sheb* 1:6, *y. Yom* 8:6, *b. Sheb* 13a, *b. Yom* 85b.

[96] There are different ways to evaluate the core of a religion, even within a so-called "bad man" approach. This chapter focuses on the exegesis of a foundational text about a cardinal sin and its grave consequences. Another way is to consider which sins mandate the most demanding forms of penitence or atonement. A third path is to evaluate which kinds of sinners forfeit their share in the world to come. As is evident from this chapter, there may be a degree of overlap among these indicia. Other methods can also be explored, including: Who is branded as a *rasha*, *min*, *meshumad*, *apiqoros*, etc.? Which sins receive the harshest punishments? Which sins are inviolable even under great duress? Which sins are singled out as especially severe in halakhic or aggadic discourse? Etc.

[97] See Sifre 112, ed. Kahana, lines 66–67.

[98] The hierarchy of sins in terms of atonement and repentance requires discrete analysis. See, e.g., *m. Yom.* 8:8, *t. Yom.* 4:5–9, and Mekh. R. Ishmael, *Bahodesh Parsha* 7 (ed. Horowitz, 227–29).

[99] Strikingly, The Talmud (e.g., *b. Shev* 13a) links this heightened demand of repentance to the double formulation of *karet* in Numbers 15:31, capturing the centrality of the Numbers pericope for the adumbration of rabbinic theology. This specific prooftext is also the source for a punishment in the world to come according to R. Akiva, as explained in the next paragraphs. While the Talmud contrasts these two exegetical renderings of the double formulation, they seem to cohere conceptually: The triad warrants a distinctive, spiritual punishment and demands a distinctive, spiritual process of repentance. In other words, repentance may be especially apt for a religious, extra-legalistic, sin, and such a sin when unrepented may warrant a punishment in the world to come. Indeed, in the Sifre 112 (ed. Kahana, lines 62–67), they seem to operate in tandem. See also Shemesh, *Punishments and Sins*, 87–90, who notes that the potential for repentance is not stated in the verses and is an innovation of R. Akiva (which may differ from R. Yishmael in *t. Yom.* 4:6–8). But note that this "innovation" is a lessening of an extraordinary punishment of forfeiture of the world to come, a crucial point that is glossed over in his analysis. See note 113. So there is an internal consistency to R. Akiva's approach to this pericope: A theological sin necessitates a spiritual punishment, but can also be redressed through repentance. See also Saul Lieberman, *Tosefta Ki-Feshuta*, Vol. 4 (New York: Jewish Theological Seminary of America, 1992), 826.

Parenthetically, it is interesting to note the rhetoric of the Talmudic sugya (*b. Shev.* 12b–13a) in its characterization of other sins (aside from the triad). The Talmud refers to an intentional violation of a prohibition as an insurrection (*mered*), and to one who refrains from repenting for a violation as one who sustains his or her insurrection (*omed bemirdo*). Thus, even violating a standard prohibition constitutes an insurrection for the Talmud (and evidently an even more acute religious rupture is caused by the sin of the triad).

Finally, a third tannaitic source, a Tosefta Sanhedrin passage linked to *m. Sanh.* 10:1 (knows as the opening Mishnah of *Pereq Heleq*), betrays other essential characteristics of the triad.[100] The Mishnah records a list of beliefs that preclude a person from a share in the "world to come (*olam haba*),"[101] including a person who denies resurrection (from the Torah),[102] rejects the notion of "Torah from Heaven," and an *apiqoros*.[103] *T. Sanh.* 12:9 adds the triad (as well as one who pronounces the divine name)[104] to this list.

The placement of the triad alongside these other wrongs implies that they all share a similar quality. All are arguably theological or creedal sins.[105] What elsewhere is conceived of as a triad involving normative violations is now associated with heresies.

A crucial signal of the theological nature of the Tosefta's discourse here is the striking punishment it declares for breaching the triad – a forfeiture of a share in the world to come. Notice how this diverges from the standard penology of rabbinic literature. Ranging from lashes to capital punishment (and encompassing *karet* and *mitah beyedei shamayim*),[106] the standard penology is imminent and corporeal. In contrast, the forfeiture described in the Tosefta is deferred and (perhaps also) noncorporeal.[107] Or to formulate it differently, it is a heavenly punishment that fits a theological sin.[108]

[100] For more on Mishnah and Tosefta *Heleq* (and the parallel passage in *Seder Olam*), see the references cited in notes 73 and 86; and the discussion and references in David M. Grossberg, *Heresy and the Formation of the Rabbinic Community* (Heidelberg: Mohr Siebeck, 2017), 110–15.

[101] The first line in the printed editions is a later addition, and the original core of the Mishnah is composed of only these three items. See Israel Jacob Yuval, "All Israel Have a Portion in the World to Come," in *Redefining First-Century Jewish and Christian Identities: Essays in Honor of Ed Parish Sanders*, ed. Fabian E. Udoh (Notre Dame, IN: University of Notre Dame Press, 2008), 114–38 (who also evaluates the Jewish-Christian polemical dimensions of this Mishnah and other related sources).

[102] There are different recensions of this line. See Adiel Schremer, "Negotiating Heresy: Belief and Identity in Early Rabbinic Literature," in *Canonization and Alterity: Heresy in Jewish History, Thought, and Literature*, eds. Gilad Sharvit and Will Goetsche (Berlin: de Gruyter, 2020), 43, n. 40.

[103] Strikingly, each of these three types of sinners are alluded to in Sifre Numbers 111–112, ed. Kahana: line 52 (*apiqoros*), line 57 (related to Torah from heaven), and line 74 (related to resurrection). See also Kahana, *Sifre on Numbers*, 812.

[104] This latter item, too, is based on Numbers 15:30. See Shemesh, *Punishments and Sins*, 75.

[105] See Milikowsky, "*Gehenna* and 'Sinners of Israel' in the Light of *Seder Olam*," 329–37.

[106] These divine punishments are also part of the ordinary penological scheme. See also Aharon Shemesh, *The Punishment of Flagellation in Tannaitic Sources* [Hebrew] (PhD dissertation, Bar-Ilan University, 1994), ch. 7; and Shoval Shafat, *The Interface of Divine and Human Punishment in Rabbinic Thought* [Hebrew] (PhD dissertation, Ben-Gurion University, 2011), 25–30.

[107] The nature of the world to come is debated in scholarship. See Milikowsky, "*Gehenna* and 'Sinners of Israel' in the Light of *Seder Olam*," 320–21. A punishment involving the world to come may target the sinner's body and soul (see *t. Sanh.* 13:2–5); or is one of privation, at least as represented in the Mishnah. Other sinners listed in the Tosefta (*t. Sanh.* 13:4) and Seder Olam (the latter part of ch. 3) commit carnal sins – i.e., "*begufan*" – and their posthumous punishment is of a different nature. See ibid., 336.

[108] See also *y. Pe'ah* 1:1.

The roots of this transfiguration can be traced back to a different passage in the Sifre. Recall how the Numbers pericope records variants of the term *karet* three times in delineating the punishment for sinning "*beyad ramah*." Certain rabbinic hermeneutics interpret these verses to be referring to a standard form of *karet*. For instance, the rabbinic tradition that identifies the pericope's transgression as idolatry must understand the verses in this manner (since *karet* is clearly specified as the punishment for idolatry alongside numerous other prohibitions enumerated on a seemingly exhaustive rabbinic list).[109] But other traditions in the Sifre examined above that construe the pericope as referring to novel forms of sinning cannot brook this interpretation[110] (since these sins are not included on this rabbinic list).[111] Moreover, these are not the kinds of sins that warrant standard punishments, which are only meted out for prohibited actions. As the conception of the pericope's underlying sin evolves in the Sifre, the punishment must as well. This seems to be the implication of R. Akiva's teaching in Sifre 112 (ed. Kahana, lines 62):

> "shall be utterly cut off (*hikaret tikaret*) (Numbers 15:31)": "cut off (*hikaret*)" – in this world; "utterly cut off (*tikaret*)" – in the world to come (*olam haba*). These are the words of R. Akiva . . .[112]

Upon introducing the world to come, the rabbinic discourse surrounding the Numbers pericope withdraws from the standard penology of the halakhah and enters into a new realm.[113] What justifies this shift is in part the extraordinary rhetoric of the verses, including its ringing (and anomalous) repetitions of *karet*. An intensification

[109] See *m. Ker.* 1:1. By identifying idolatry as the subject matter of the Numbers pericope, this rabbinic tradition distinguishes the unique sacrifices delineated in the pericope from the standard *hatat* regulations delineated in Leviticus 4 (which according to the rabbis are required for inadvertent transgressions of other *karet* prohibitions). At the same time, this rabbinic tradition streamlines the punishment for an intentional violation specified in the latter part of the pericope with the generic category of *karet*.

[110] Note, however, that even the novel interpretations of Numbers 15:30–31 probably interpret the first part of the pericope as referring to idolatry. See note 56.

[111] See *m. Ker.* 1:1; nor are they referred to as punishable by *karet* elsewhere in the Bible or rabbinic literature (see Shemesh, *Punishments and Sins*, 59).

[112] The (slightly emended) source continues (lines 62–64): "R. Yishmael says: But since it says, 'blasphemes the Lord, and shall be cut off (Num 15:30),' are there then three excisions in three worlds? Rather, what is meant by 'shall be utterly cut off (Num 15:31)' – the Torah speaks in the language of man."

Whether R. Ishmael disagrees with R. Akiva is less certain. The Talmud (*b. Sanh.* 64b and 90b) states that he agrees with R Akiva. But see Kahana, *Sifre on Numbers*, 808–09, who argues that, according to the Sifre, R. Yishmael may demur. The latter seems likely. According to R. Yishmael, the sin of the Numbers pericope is idolatry (see *Sifre* 112, ed. Kahana, lines 59–61), which is punishable by standard *karet* (see *m. Ker.* 1:1).

[113] My analysis above, which contends that rabbinic penal discourse here enters into a new penal realm, parts ways with Aharon Shemesh, *Punishments and Sins*, 75, 87–90, 93–95. In the medieval commentators, there is a similar debate about whether the *karet* in these verses, and in the teaching of R. Akiva, is sui generis or belongs to the generic category of *karet*. Contrast the position of Maimonides, Hilkhot Teshuvah 8:2, with Nahmanides on Leviticus 18:29. See also the important summary of the Abarbenel on Numbers 15:30. But even Maimonides' position is more complex. See Hilkhot Teshuvah 3:6–14; and Guide for the Perplexed 3:41.

of *karet*, according to this homily, signals a qualitative transformation. At another level, the shift is a function of nascent definitions of "*beyad ramah*" and the other key terms of the pericope in the Sifre.[114] As the religious rupture of the Numbers pericope defies a formal-normative discourse (which is also reflected in the revised conception of the triad that is recorded in the three tannaitic sources), a corresponding theological punishment must be formulated (or appealed to) by the Rabbis.[115] While the former discourse dominates rabbinic literature,[116] the latter – which is reserved for the most solemn religious sins or sinners – emerges in the rabbinic unpacking of this pericope.[117] These discursive traditions of the Sifre contribute to the formation of rabbinic theology, including its doctrines of penitence and the world to come.[118]

IV CONCLUSION

The Numbers Pericope encapsulates in a few verses a seminal dimension of biblical religion. Employing exceptional rhetoric, Scripture describes a sinner's frontal assault on the divine realm which leads to a catastrophic fallout. What precisely is the sin? The plain sense of Scripture according to most commentators is that

I offered initial reflections on these themes in a lecture entitled, "The Hermeneutics of Heresy," at the British Association for Jewish Studies Conference in Oxford, England, July 2019.

[114] Toeg is right to emphasize the pericope's extraordinary rhetoric describing the underlying sin, impact and punishment. See "A Halakhic Midrash in Numbers 15.22–31," 2; and the discussion near note 26 above. But labeling this terminology as a prophetic account of a legal transgression (i.e., as offering a different perspective on the impact of violating a normative prohibition; see "A Halakhic Midrash in Numbers 15.22–31," 18–19) is misleading according to the rabbis' novel discourse which responds to the charged language of this pericope. For the rabbis, the pericope is religious and theological in tone and substance. In this spirit, the rabbis further articulate its extra-normative dimensions, ranging from the original sins they enumerate, to a heightened requirement of repentance for such sins, to an alternate penology relating to the world to come.

[115] The Tosefta and Seder Olam also refer to more conventional sinners who receive a different posthumous punishment. See note 107.

[116] Rabbinic Judaism is hyper-legalistic in its focus. See, e.g., Moshe Halbertal, "The History of Halakhah and the Emergence of Halakhah," *Dine Israel* 29 (2013): 1–23. One telling indication of this is the manner in which theological commitments in the Bible, such as the call to love and fear God, are translated by the rabbis into concrete halakhic norms. Yet, the rabbis also developed theological ideas and doctrines (including outside the realm of aggada), notwithstanding the generalization of various scholars to the contrary. See also Milikowsky, "*Gehenna* and 'Sinners of Israel' in the Light of *Seder Olam*," 337; as well as the alternate perspective of Grossberg, *Heresy and the Formation of the Rabbinic Community*.

[117] The layout of tractate Sanhedrin seems to transition between these two discourses. Most of the tractate is devoted to standard halakhah and penology; but *Pereq Heleq* addresses a different – and arguably more severe – kind of sin (i.e., a theological rejection or betrayal) and punishment (i.e., a divine, eternal, and perhaps also noncorporeal one).

[118] There may of course be additional factors shaping rabbinic discourse in these spheres relating to sociological or polemical concerns (see note 75) or theological challenges involving questions of theodicy.

a person intentionally violated any biblical prohibition. A breach of norms amounts to divine blasphemy.

When one examines the early reception history of this pericope in Qumran literature these themes are mostly intensified, even as a secondary voice is also registered. The Scrolls regularly invoke the terminology of the pericope to refer to any intentional violation, and central passages in the Rule of the Community use it as a template for delimiting the normative boundaries of the sectarian community. In one passage, the apparatus of law is further deployed to ensure legal obeisance, which is vital for the community's socio-religious integrity. Law structures the community's core religious identity.

Yet in a later exegetical phase recorded in rabbinic literature a marked metamorphosis transpires.[119] Despite certain traces of the plain sense of the Numbers pericope, rabbinic hermeneutics largely reject the notion that its subject matter is a standard prohibition. The striking rhetoric of the pericope is instead reinterpreted by the rabbis through a series of transformative teachings. Despite the dominance of halakhah in the spiritual worldview of the rabbis, these homilies expose an essential religiosity that eclipses the universe of norms. Likewise, notwithstanding the usual focus of the rabbis on concrete actions with this-worldly consequences, here the rabbis explore a spiritual sphere and anticipate the world to come.[120] New theological frontiers, hinted at in the verses, receive preliminary formulations in the suggestive exegesis of the rabbis.

What began as a paradigm of religion structured through law in the Bible, and served as a foundational text in the Qumran corpus for the sectarian legal-religious imaginary, becomes a platform for the rabbis to adumbrate a theological world beyond the strict contours of law. In subsequent chapters, this novel hermeneutic becomes the basis for crucial expansions. Thus, the theological tropes that rabbinic traditions identified within the Numbers pericope and began to unpack, have a rich and varied afterlife in the Medieval period.[121] By the early modern period referred to at the outset, Judaism receives robust articulations as a religion that move well beyond the pericope.

Nevertheless, a striking echo of the pericope's motifs can be discerned in an important passage written by Moses Mendelssohn, the figure who, according to Batnitzky, "invented" the (early modern) idea of Jewish religion.[122] Expounding on the interplay between law and religion in the Bible in his landmark work *Jerusalem*, Mendelssohn offers a characterization that recalls (or, more precisely anticipates)

[119] Another significant difference between Qumran and rabbinic writings in this context is that the former place much emphasis on the social-communal consequences of sinning, which is less apparent in the latter. Still, the rabbis are also sensitive to its social dimensions, albeit in more subtle ways that are reflected in their classifications and rhetoric.

[120] In contrast, Qumran literature, which contains an extensive theology and eschatology, focuses on the normative dimensions of this pericope, and its immediate social consequences. Still, the gap between the present and the eschaton in the sectarian mindset may not be so vast, at least in certain respects.

[121] See note 113.

[122] Batnitzky, *How Judaism Became a Religion*, 4. I thank Professors Sharon Flatto and Edward Breuer for their guidance with this material.

the synopsis of Moshe Greenberg (who adduces the pericope as "Exhibit A") cited above:[123]

> . . . in this nation, civil matters acquired a sacred and religious aspect, and every civil service was at the same time a true service of God . . . the public taxes were an offering to God; and everything down to the least police measure was part of the divine service.[124]

A proximate passage notably formulates the converse dynamic as well:

> . . . Every sacrilege against the authority of God, as the lawgiver of the nation, was a crime against the Majesty, and therefore a crime of state. Whoever blasphemed God committed lese majesty . . .[125]

In other words, law and religion are deeply intertwined in the Bible.

More significant than the overlapping characterization of Greenberg and Mendelssohn, however, is its contrasting implications for each thinker. Greenberg's account, as elaborated upon above, suggests a convergence between these realms, as religion operates within a normative framework. But Mendelssohn marshals it to advance a more capacious conception of the religion of Judaism. By the early modern period the religious orientation is evidently too pervasive to be otherwise confined. On the contrary, the ceremonial laws, for Mendelssohn, are consonant with, and also constitutive of, religion writ large (as the term would be understood by his Protestant interlocutors).[126]

Supplementing a universal category of rational faith, Judaism contains historical truths and ceremonial rules. These latter precepts,[127] which must be embraced

[123] The political dimensions of his characterization are crucial for Mendelssohn and for appreciating the larger claims at stake in his argument, but are less germane to the religious dimensions explored in this chapter.

For more on the political dimensions, see Edward Breuer, "Mendelssohn's Jewish Political Philosophy," in *Moses Mendelssohn: Enlightenment, Religion, Politics, Nationalism*, eds. Michah Gottlieb and Charles H. Manekin (Baltimore, MD: University of Maryland Press, 2015), 1–48; and Eric Nelson, "From Selden to Mendelssohn: Hebraism and Religious Freedom," in *Freedom and the Construction of Europe: New Perspectives on Philosophical, Religious, and Political Controversies*, ed. Martin Van Gelderen and Quentin Skinner (Cambridge, MA: Harvard University Press, 2013), 105–14.

[124] Moses Mendelssohn, *Jerusalem, or, On Religious Power and Judaism* (trans. Allan Arkush; Hanover, MA: Brandeis University Press, 1983), 128.

[125] Ibid., 129.

Interestingly, Mendelssohn's other discussions of blasphemy and sacrilegious behavior may share certain similarities with the minority reading of the Numbers pericope. See ibid., 36, 129–30.

[126] See also Batntizky, *How Judaism Became a Religion*, 27–28, who especially emphasizes the apolitical and nonrational aspects of the ceremonial laws.

[127] Scholars have attempted to tease out some of the subtler implications of Mendelssohn's notion of ceremonial laws. See, e.g., Michah Gottlieb, *Faith and Freedom: Moses Mendelssohn's Theological-Political Thought* (New York: Oxford University Press, 2011), ch. 2; Gideon Freudenthal, *No Religion Without Idolatry: Mendelssohn's Jewish Enlightenment* (Notre Dame, IN: University of Notre Dame Press, 2012), ch. 6; and Elias Sacks, *Moses Mendelssohn's Living Script: Philosophy, Practice, History, Judaism* (Bloomington, IN: Indiana University Press, 2017), ch. 2.

voluntarily, are fulfilled with one's body, as well as one's heart, mind, and soul. They serve as a living script, rousing a practitioner, and inspiring his or her contemplation of metaphysical and moral ideals. Transitory in nature, these ceremonial laws foster an authentic religious experience, and evade the fetishism of idolatry. Alongside their praxis, their subjective and communal meaning is continually interpreted and revised. A more elastic form of law thus affords a more expansive religiosity.

For some other early modern thinkers following in Mendelssohn's wake (e.g., Abraham Geiger and Hermann Cohen), the ceremonial norms are mostly relinquished, and faith, reason, and ethics flourish in their place.[128] Whether through a framework of norms, or without one, conceptions of Judaism as a religion have continued to evolve ever since. From a tradition dominated by laws in much of its formative strata, "Judaism" has thus gradually developed rich discourses of theology, which are grafted onto, situated alongside, or advanced in lieu of the normative order. Indeed, in certain modern iterations, Judaism does not just make room for theology, but is even stunningly recast as the quintessential religion.

[128] See Batntizky, *How Judaism Became a Religion*, 36–40, 52–59.