

Ch. 3 – Leviticus

Love (of neighbor) and economic justice (the Jubilee Year)

Outline

(in italics, elements in outline not literally applicable after 70 A.D.;
** = observed primarily by Orthodox Jews)*

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Prejudice against the book of Leviticus is so strong that we tend to forget that both the fundamental commandment, “Love your neighbor as yourself” (19:18; → **Mark** 12:28-34 and //s; Rom. 13:8-10), and the radical economic measures of the Jubilee Year (Lev. 25:8-55; → **Luke** 4:18-19) first occur in this book, rarely read, even less appreciated and frequently even hated and denounced. The infrequent reading is understandable, since Leviticus consists mainly of detailed instructions concerning the sacrifices and the conduct of the priests in the ancient Temple worship in Jerusalem, which even the most orthodox Jews cannot observe (since its destruction in 70 AD by the Romans; see the above outline). Disdain of a book so centered in worship is also understandable, since after the Renaissance, the Protestant Reformation, and the Enlightenment, the bias of modern and post-modern people strongly favors the prophets, with their denouncements of social injustice and hypocritical worship.

Feminist scholars often express hostility against Leviticus for its patriarchal marginalization of women (see **2. Women** below) and sexual minorities are angered by the two “clobber texts” that foment prejudice and violence against gay males (see **3. Sexual Minorities** below). The dialectic in Leviticus between certain highly valued elements seen as divinely inspired and positive and other hated elements, perceived as diabolical, is instructive. We need to read the offensive texts of the book in the light of the transcendental principles of love and justice and not in isolation as autonomous elements, as is common in fundamentalist circles with their hermeneutics of “selective literalism” (selecting certain texts which confirm common prejudices and misinterpreting them in isolation from their historical-cultural context).¹

Given Leviticus’ bad reputation, as the source of two verses used to attack “homosexuals,” it’s ironic that the name itself, taken from the Septuagint (*Leueitikon*, latinized as *Leveitikon*), refers to the Levites, commonly itinerant, unmarried clergy, often sexual minorities of various types (→ **Judges**). The book’s content seldom refers to the Levites and often addresses the “priests” but not the Levites in general. In the Diaspora (the scope of the Septuagint) the Jews followed → **Deuteronomy** and → **1-2 Chronicles** and interpreted “Levites” as a synonym for “priest,” thus imposing an incorrect, and today somewhat ironic, title on the book.

In fact, Leviticus constitutes the nucleus of the priestly source (“P”, *Priesterschrift*), the latest and dominant source for the Pentateuch, starting from the description of the Tabernacle (Exodus 25–31, 35–40), almost all of Numbers and *all of Leviticus*, in addition to key preceding texts: the creation (Gen. 1:1–2:4a), circumcision (Genesis 17), flood (Gen. 6:2–7:7) and death of **Moses** (Deut. 34:1a, 7-9). The P source undoubtedly includes very old elements, but the post-exilic writing reflects the concerns of the Jewish people after the destruction of Jerusalem (587/6 BC). Their identity had been established by its Sabbath observance (Gen. 2:1-4a) and circumcision (Genesis 17) and the emphasis on the Creator as a God who makes distinctions (“day and night,” Jew and Gentile) and imposes order: → **Ezra** (divorce of non-Jewish wives), **Nehemiah** (the wall; cf. → **Ephesians** 2). Although the entirety of Leviticus is attributed to the P source, the Holiness Code (chapters 17–26) represents a later subdivision in the book, and it is to this later block that the now much cited texts belong: love of neighbor (19:18, 34), the Jubilee Year (25:8-55) and the sexual prohibitions (18 and 20).

Most scholars recognize that Leviticus includes very old *elements* (pre-exilic vocabulary and some customs perhaps pre-Mosaic) and that the *final* writing of the book occurred in the post-exilic period; apart from this consensus, three tendencies exist (see **Bibliography**, –, * and +).²

- – The majority conclude that the *final* post-exilic writing also represents the *primary* formation of the book (Philip Budd, Erhard Gerstenberger, Baruch Levine);
- * A minority (primarily Jewish) support a *pre-exilic*, but not Mosaic, date for the primary formation of the book (Jacob Milgrom); and
- + Another minority (primarily conservative evangelicals) continue supporting a principal formation in the desert with Moses (1300 B.C.), but with posterior adaptations (John Hartley, Walter Kaiser).

According to the Holiness Code (Leviticus 17–27), both the *love* of neighbor (chapter 19) and economic *justice* (chapter 25) are dimensions and manifestations of *holiness*. This holiness is the fundamental characteristic of the Liberating God of the Exodus (Lev. 19:34, 36b; → **Exodus**)³ who is manifested in the love in solidarity with the oppressed and in economic justice in the new community of the redeemed (→ **1 John**, “God is light...God is love”). In fact, holiness is the fundamental theme of the entire book, but P (Leviticus 1–16) restricts holiness to persons (priests and Nazirites) and places (sanctuaries: the Tabernacle and the Temple), while the Holiness Code (H, Leviticus 17–27) *extends holiness to the entire people of Israel and to all the Promised Land*:⁴

“You shall be holy, for I Yahweh your God am holy” (Lev. 19:2b).⁵

Such holiness implies separation, distinction, to be different (“queer”? / subversive), as already pointed out in the Exodus: “my treasured possession /peculiar people out of all the peoples...a priestly kingdom and a holy nation” (Ex. 19:5b-6a; → **1 Peter** 2:9-10, with the inclusion of believing Gentiles; Rom 12:1-2). “Holiness implies *imitatio dei*, namely, Israel should emulate God by living a godly life”⁶ (→ **Ephesians** 5:1-3; but cf. 4:26-27, 31, where one should avoid wrath). Yahweh differs from the pagan gods by being the God who liberates from the Egyptian oppression (cf. the pagan gods who supported the oppression of the empires); in the same way the entire people of God (H) should be different and manifest liberating justice and love in solidarity with the weak and oppressed. As the concept of holiness in P and H differs, so also does the teaching of pollution. In P when Israel sins, the sanctuary remains contaminated and has to be purified each year on the Day of Atonement (Lev. 6:3-22); in H the sin contaminates the land, which cannot be purified through rites, and therefore **its** inhabitants must be expelled (18:24-29; 20:2).

1. Poor and Oppressed. The *holiness* that Leviticus demands of God’s people (19:1-2) is not a narrow, hypocritical piety but a firm rejection of the idolatries of the oppressive empires and a manifestation of Yahweh’s own unique character: love in solidarity with the oppressed, egalitarian justice in the new community and profound wisdom that liberates the weak and equips them to survive in a hostile world. Next to the Leviticus texts that appear to marginalize, we should dialectically place:

When an alien (*ger*) resides with you in your land, you shall not oppress (*yanah*) the alien. The alien who resides with you shall be to you as the citizen among you; you shall love the alien as yourself, for you were aliens (*gerim*) in the land of Egypt: I am Yahweh your God (Lev. 19:33-34; liberation from slavery, the paradigm of the Exodus).⁷

Other texts in Leviticus 19 also make it clear that the transcendental norm of love for neighbor has in view especially the weak and the poor:

You shall not strip your vineyard bare, or gather the fallen grapes of your vineyard; you shall leave them for the *poor* (*'ani*) and the alien (*ger*): I am Yahweh your God (19:10).

You shall not defraud (*'ashaq*) your neighbor; you shall not steal (*gazal*); and you shall not keep for yourself the wages of a laborer (*sakir*) until morning (19:13; → **James** 5:4).

You shall not revile the *deaf* or put a stumbling-block before the *blind*; you shall fear your God: I am Yahweh (19:14).

The emphasis on the name of Yahweh (19:10, 14) and the Exodus paradigm (19:34) make it clear that the neighbor that we ought to love is above all the weak and the oppressed and that the love is a love in solidarity that seeks to free the oppressed with liberating justice. However, such a preferential “option” for the poor and weak should not go to the extreme of prejudice that distorts justice in the courts:

Do not pervert justice (*mishpat*); do not show partiality to the poor (*dal*) or favoritism to the great (*gadol*), but judge (*shafat*) your neighbor justly/fairly (*tsedeq*) (19:15).

Other than in chapters 19 and 25, very limited explicit vocabulary appears in Leviticus for the poor, but as Jacob Milgrom says, “A leitmotif of the sacrificial texts is their concern for the poor: everyone, regardless of means, should be able to bring an acceptable offering to the Lord.”⁸ In the instructions for the purification sacrifices after childbirth we find “If she cannot afford a sheep, she shall take two turtle-doves or two pigeons” (12:8), which was the sacrifice of the poor that Joseph and Mary offered after Jesus' birth (→ **Luke** 2:22-24, which speaks of Joseph's purification and not only that of Mary). A similar norm occurred in the instructions concerning the atoning sacrifice where, in the case of extreme poverty, the substitution of two liters of select flour was permitted (Lev. 5:7-13). The sacrifice for sin refers three times to cases of theft (*gazal*) and of oppression (*'ashaq*) as examples of sin that requires restitution (plus 20%) and a sacrifice (6:1-5). Likewise, in the instructions concerning vows, “If any cannot afford (*mak*) the equivalent,” the priest shall assess the value, “according to what each one making a vow can afford” (27:8).⁹

1.1 Leviticus 19. Holy, supportive love for neighbor and for immigrants (19:18, 34).

According to Jewish biblicists, Leviticus 19 is the center of the Pentateuch, which gives a transcendental importance to the commandment to love one's neighbor and the immigrant “as oneself.”¹⁰ Furthermore, in the New Testament, although neither Jesus nor Paul cited the two verses that prohibited anal sex between men (Lev. 18:22, 20:13), both chose love toward neighbor (Lev. 19:18) as the fundamental commandment for Christian praxis (Mark 12:28-31 and following; cf. Mat. 25:31-46; Gal. 5:14; Rom. 13:8-10; → **Romans** for the references to Lev. 18:22 and 20:13 in the rhetoric of Rom. 1:24-27, later deconstructed in the book's argument; also see Santiago 2:8). The vocabulary in Leviticus 19 makes clear that love of neighbor and the immigrant implies avoiding all oppression and manifesting supporting love, above all to the weak and the oppressed poor.

Lev. 19:1-2 Called to holiness: “Be holy, for I...am holy.”

I.

3a “Revere your mother and father” + v. 32 (#5 of the Ten Commandments) and

3b “**Keep** (*shamar*) my sabbaths;” see v. 30a (#4).

4 “Do not turn to idols...” (#2).

5-8 Sacrifices of peace-wellbeing, wholeness (→ Leviticus 3).

9-10 Leave the gleanings of the harvest for *the poor* (*‘oni*) and *the alien* (*ger*) (Deut. 24:19-22; → **Ruth**).

11a Do not steal (#8).

11bc Do not lie. Do not deal falsely with your neighbor. (#9).

12 Do not swear falsely by my name; see v. 30 (#3 + #9).

13 *Do not oppress* (*‘ashaq*) *your neighbor, do not steal* (*gazal*).... *Do not keep for yourself the wages of a laborer* (*sakir*) (#8).

14 *Do not revile the deaf nor put a stumbling block before the blind....*

15 Do not pervert justice (*mishpat*), do not be partial to the *poor* (*dal*) or defer to the great/rich (*gadol*), but judge all with justice (*tsedeq*).

16 Do not go around as a slanderer...and do not profit by the blood of your neighbor (#9 + #6).

17-18 Do not feed secret hate against your *brother*, but reprove your *neighbor* with frankness.... Do not be vengeful (*naqam*) with the children of your people nor bear a grudge (*natar*) against them but **love your neighbor as yourself**. I am Yahweh.

II.

19 **Keep** (*shamar*) my statutes: *avoid mixtures* of two classes of animals, seeds, materials.

20-22 If a man lies with a slave promised to another...sacrifice...pardon (#7).

23-25 Fruit trees...*uncircumcised* (unclean) fruit for three years...increased harvests.

26a Do not eat anything with blood (see Leviticus 17).

26b-28 + 31 Do not practice prophecy nor sorcery; do not round off the hair nor mar the edges of your beard, nor make any gashes in your flesh for the dead nor tattoo any marks.

29 Do not degrade your daughter by making her a prostitute (*znh*).

III.

30 **Keep** (*shamar*) my sabbaths and have reverence for my sanctuary; see v. 3b (#4).

31 Do not go to mediums nor look for wizards...impure (see vv. 27-29).

32 Rise before the aged, and defer to the old; see 3a (#5).

33-34 Do not oppress (*yanah*) the immigrant (*ger*); love the immigrant as yourself; see 17-18.

35-36 Do not commit injustices. Use honest balances, weights, and other measurements (*tsedeq*, four times) (#8).

37 **Observe** (*shamar*) all my statutes and all my ordinances.

1.2 The Year of Jubilee (*yobel*, horn): economic justice (Lev. 25:8-55). The legislation in Leviticus 25 deals in detail with how to respond to the three stages of impoverishment (*yamuk*):¹¹ (1) of selling land (vv.25-28), (2) of working as a day laborer (35-38), and (3) of selling oneself as a slave (39-43, 47-55). Given the provisions of the jubilee to relieve poverty by way of radical structural changes, it is appropriate that it be proclaimed every fifty years on the Day of Atonement, the only fast prescribed in the Law (25:8-9; 16:29-31). “To fast” in Hebrew is literally “to oppress the soul/life” (*'ana nefes*), a manifestation of solidarity with the poor and hungry.¹² (Cf. the other four post-exilic fasts, → **Zacarias** 7:3; 18:18.)

Every Israelite clan had an assigned piece of land that was to always remain as its possession (→ **Numbers** 26:52-56; Joshua 13–21). The Year of Jubilee in the Holiness Code breaks with the principal of the clan as the owner and recognizes the right of each *household* (*bet 'ab*, the extended “family” of 50-100 people) as owner (Judges 6:15). Ezekiel 47:21-23 extends the right of ownership to immigrants (*gerim*; see Lev. 24:22).¹³ The Year of Jubilee reflects Yahweh's character, the liberating God of the Exodus (Lev. 25:55), who seeks to renew that revolution every fifty years with and one ecological provision and three radical economic measures.

- The sabbatical year of rest/fallow for the land, which appears since the Book of the Covenant (→ **Exodus** 23:10-11): “you shall not sow, or reap the aftergrowth, or harvest the unpruned vines...” (Lev. 25:11-12, 19-22; the rest for the land, stipulated for the sabbatical year (25:1-7), is repeated in the Year of Jubilee (two continuous fallow years, Lev. 25:18-22);
- To the liberation (freeing) of all the slaves in the sabbatical year (Ex. 21:16; Deut. 15:12-18), Deuteronomy had added the forgiveness of all debts (15:1-11 // Lev. 25:10a, 35-55): “You shall proclaim liberty (*deror*) throughout the land to all its inhabitants” (Lev. 25:10a), a repetition of the experience in the → **Exodus** of the Hebrew slaves from Egypt (see Jer. 34:8-16);
- The return of all the Israelites to their paternal property and to their clan: “You shall return, every one of you, to your property and every one of you to your family,” the only new provision of the Jubilee Year (25:10b; ver 13-18, 23-24), a kind of radical agrarian

reform with the redistribution of riches, which repeats the taking and just distribution of the land (→ **Joshua**).

Thus, the Jubilee Year represented a *reenactment* of the Exodus experience (the liberation and departure of the slaves) and of Joshua (the taking of the land and its just distribution among all the clans and patriarchal houses). Before, many biblicists concluded that the Jubilee Year was nothing more than a utopian dream of some priests who sought to promote the return to the land of their compatriots in the Exile. Now it is more common to affirm that it represents an historic pre-exilic Israelite institution. In addition to parallels in other cultures (new kings that initiated their reign with a proclamation of forgiveness of debts and liberation of slaves), there are other signs in the Hebrew Bible: → **Numbers** 36:4; Isaiah 58; Is. 61:1-2; Ezek. 46:16-18; Luke 4:18-19; Acts 2:44-45; 4:32-37; cf. Deut. 15:1-15; Ex. 21:2-4; 23:10-12; Is. 37:30 // 2 Kings 19:29; Is. 49:8-9; Jer. 34:8-22; Neh. 5:1-13; “The Jubilee laws incorporate Near Eastern legal institutions of great antiquity” (Bernard Levinson).¹⁴

The historic need for the reenactment of the Exodus paradigm is obvious, since Pharaoh and the Egyptians did not have a monopoly on oppressive tendencies. Leviticus makes clear the temptation and tendency of the Israelites themselves to oppress their fellow countrymen and women and slaves, day laborers and immigrants (*ger/im*, 25:23, 35, 47): oppress (*yanah*), 25:14, 17; tyrannize (*perek*), 25:43, 46, 53. Regardless, from a canonical perspective, the degree of historical fulfillment of the Jubilee Year provisions is of little importance, since Leviticus presents them as divine mandates that express the will of the Creator, a liberating and just God with an historic project of liberation and justice for all humanity and all creation.

In his erudite three-volume commentary on *Leviticus*,¹⁵ Jacob Milgrom, an Orthodox Jew, concludes his treatment of the Jubilee in Leviticus 25,¹⁶ summarizing the conclusions of a 1996 “Jewish-Christian symposium on the Jubilee,” sponsored by the World Council of Churches in Switzerland:

The jubilee has become the rallying cry for oppressed peoples today, as was the exodus theme for their counterparts in previous decades. This time, however, they are not enslaved politically (except where colonial rulers have been replaced by their own), but shackled economically. The global market economy has generated unprecedented growth and prosperity, but not for them....The impoverishment of the Third World has brought attendant injustices. Relevant to the jubilee (and sabbatical) theme is the issue of global pollution, especially in the developing nations. The depletion of the rainforests in the interest of the timber and mining industries, for example, has caused irremedial losses to Costa Rica. As a result, the debtor world has issued the following demands to the creditor nations (which operate through the International Monetary Fund and similar agencies): (1) cancellation of their debts; (2) restitution of land and resources to their original owners; (3) cessation from pilfering national resources and polluting them (one symposium paper cited Gen. 2:15b: God leased us the earth “to fill it and tend it,” but not to despoil it); and (4) termination of economic slavery (e.g., the atrocious case in *democratic* India)...by universally raising wages to a subsistence level. The jubilee prescribing remission of debts, restoration of land, Sabbath rest for land and people, and release from economic servitude corresponds to all four demands.¹⁷

However, as Christopher Wright points out, the Jubilee represents a critique, not only of the massive private accumulation of land and riches, but also of the forms of collectivism and nationalization on a grand scale that destroy the possibility of personal and family ownership (cf. Joseph in → **Genesis** 47:13-26).¹⁸

2. Women. Since the pioneering work of Mary Douglas (1966), the study of Leviticus has been impacted by the anthropological analysis of the worship concepts of impurity and purification. Douglas demonstrated how the Leviticus texts reflect pre-scientific concepts concerning the causes of certain physical conditions, such as menstruation (Leviticus 12, 15). According to Douglas, the concept of purity reflects the social ideas of normalcy and integrity. The emergence of body fluids makes the person incomplete and abnormal. Another anthropologist, A. S. Meigs (1978, followed by Jacob Milgrom¹⁹), then showed how the loss of fluids suggests death (consider the blood shed by Abel, Gen. 4:10-11; cf. 9:6). Menstruation is also the concern of → **Ezekiel**, the prophet-priest who deals with it in three oracles and condemns sexual relations with a menstruating woman **as** on equal footing with adultery (Ezek. 18:6) and rape (22:10; cf. 36:7).²⁰

Although Leviticus does not name any women (cf. 44 in → **1, 2 Chronicles** plus 15 without names and 32 in → **Genesis** plus 46 without names), the status of Hebrew women reflected in the book is more favorable in some ways than that of women in the neighboring cultures.²¹ Men were probably the ones who principally offered the stipulated offerings. However, Carol Myers points out that the imperatives in 27 texts are directed to a “person” (*nefesh*, traditionally “soul”) and that we should understand *nefesh* inclusively, since women such as Hannah (1 Sam. 1:24-28) and Mary (Luke 1:22-24; Lev. 12:8) offered sacrifices (see *nefesh* in Lev. 4:2, 27; 5:1-2, 4, 15, 17; 6:2; 23:29-30b; also in Numbers; → **Deuteronomy**, 2. Women).

Although Jacob Milgrom recognizes the “patriarchal” character of Israelite society reflected in Leviticus (both in 1–16, P and 17–27, H), he insists that we should employ the word with caution.²² That the father and the husband exercised absolute authority over the daughter or wife is evident from the fact that the father could make her a prostitute (Lev. 19:29, H), and the jealous husband could submit his wife to a trial by ordeal (→ **Numbers** 5:29-31, P; see Gen. 38:24). However, once a woman became a widow or divorced, she was no longer under any patriarchal authority. In Lev. 18:6-19 (H), the phrase “uncover the nakedness” is repeated in all the sexual prohibitions except in the case of adultery at the *end* (18:20), which means that the prohibition of adultery (theft of the sexual property of another man) does not apply to widows or divorced women. Therefore, in Lev. 20:10 adultery *heads* the list, indicating that the following cases refer to widows or divorced women.²³ Once a widow or divorced, the economic factor determined her autonomy (see Lev. 27:1-8, where the woman cannot be sold with her husband as a slave; 25:41; cf. Ex. 21:3).

2.1 Honor/respect your *mother* and your father (19:33, 30, 32; → Ten Commandments, Exodus 20 // Deuteronomy 5).

You shall each revere your mother and father, and you shall keep my **Sabbaths**: I am Yahweh your God (Lev. 19:3).

You shall keep my **Sabbaths** and reverence my sanctuary: I am Yahweh (Lev. 19:30).

You shall rise before the aged, and defer to the old; and you shall fear your God: I am Yahweh (Lev. 19:32).

Notably, the first concrete expression (19:1-2) of holiness in the chapter is the fear (reverence) of *mother* and father, and unlike #5 of the Ten Commandments (Ex. 20:12 // Deut. 5:16), Lev. 19:3 names the mother first (elsewhere the Bible names the mother first only in Lev. 21:2; cf. 20:19). Furthermore, Lev. 19:3 is different from the Ten Commandments in that the latter uses another verb (“honor”) and places the fear of the mother and father *before* the observation of the Sabbath (cf. #4, the Sabbath, followed by #5, honor of parents in the Ten Commandments). At the end of Leviticus 19, returning to the themes of the Sabbath and respect for elders, the chapter presents a type of inclusion in its structure that reflects the priorities and values of the community – or at least of the authors/writers of the chapter. Proverbs underscores the role of the mother in the education of the children (Prov. 1:8; 6:20; 31:1-9, 26; cf. 10:1; 17:25; 23:22; 29:3).

2.2 Childbirth and purification, 12:1-8.

If a woman *conceives* (*tazri‘a*, hiphil = causative of the verb *zara‘*, *to plant*) and bears a male child, she shall be ceremonially unclean seven days; as at the time of her menstruation, she shall be unclean (Lev. 12:2; see the plants that *sow*, Gen. 1:11-12).

In antiquity a familiar concept was that only the father produced the child **by** planting the seed (semen) in the mother's garden (womb), which left unexplained why the children frequently looked like the mother. Consequently, a minority proposed another theory: that the mother also had semen (or blood, according to Aristotle) that mixes with the semen of the male.²⁴ Such theories would explain why, literally, the best manuscripts of → **Hebrews** say:

Through faith also Sara herself received strength to conceive *seed* (*spérmatos*, sperm, semen, seed), and was delivered of a child when she was past age, because she judged him faithful who had promised (Heb. 11:11, KJV).

“*Katabolè spérmatos* is the *terminus technicus* for a seminal emission by a male person or animal”.²⁵ Consequently, H. J. Cadbury, C. Spicq and Pieter van der Horst support the literal interpretation of Hebrews, which, as the New Testament document most saturated by Greek philosophy, in 11:11 reflects the theories of Aristotle and other philosophers concerning the “two seeds”. Van der Horst emphasized that, although the third-century Alexandrian anatomist, **Herophilus**, established that women have ovaries, it was only in 1827 with the aid of a microscope, that C. A. Von Bauer discovered the ovule itself.

According to → **Genesis** 4:1, Adam “knew” Eve (sexually) and “she conceived and bore Cain (*qayin*), saying, ‘I have *produced/created* (*qanah*) a man with the help of the Lord.’” The Hebrew word for *produce/create* is the same word that describes the creative power of God (Gen. 14:19, 22; cf. its use with Lady Wisdom, *created/produced* by God in → **Proverbs** 8:22). The Hebrew Bible usually refers to women as “giving birth” to children, not as “creating” them. On saying that Eve “created” a man with God’s help, the Yahwist juxtaposes feminine creative power with Yahweh’s creative power.²⁶ So also, on naming her (Gen. 3:20), Adam reverently recognizes the unique role of Eve as “the mother of all the living” – a role that Paul also takes

into account, thus qualifying his mistaken affirmation that only the male was created in God's image (1 Cor. 11:7-12; cf. Gen. 1:27-28).

The hypothesis that the woman contributed semen or blood explains why John speaks of those who are born “of bloods” in contrast to those who are born of a man's will (John 1:13). Such texts, together with those which describe miracle births experienced by “sterile” women provide the basis for the accounts by Luke (1:22-24) and Matthew (1:18-25) of Jesus’ virgin birth (see also the “seed/semen” of the woman and of the serpent (Gen. 3:15). In Lev. 12:1-8 the fact that the purification after birth of a girl requires double the number of days than that of a boy may be due to the fact that boys were “purified” by their circumcision on the eighth day.

2.3 Impurity of ordinary sexual relations, 15:18.

If a man lies with a woman and has an emission of semen, both of them shall bathe in water, and be *unclean* until the evening (15:18). → **Romans** 1:24-27.

Since in the same priestly source, God had commanded “Be fruitful and multiply” (Gen. 1:28), such sexual relations were not sinful, but both persons had to bathe and remained “impure” until evening. “Impure” meant “disqualified to enter the Temple and participate in worship.” Thus, significantly, Paul does not describe the sexual activities of → **Romans** 1:24-27 as “sinful” but rather as “impure” (1:24).²⁷ The emission of semen constitutes a loss of vital fluid and leave the couple “impure”.²⁸ Although the result could be the procreation of new life, it would be another mortal being (Gen. 3:19).

2.4 Prostitutes, 19:29; 21:7-9, 14; → Genesis 38 (Tamar); → Joshua (Rahab); → Deut. 23:19, Micah 1:7. The priests were not to “degrade” their daughters, making them prostitute themselves (Lev. 19:29, a classic example of the “sliding slope” argument). A priest's daughter who voluntarily prostituted herself suffered the death penalty (by burning), for dishonoring her father (Lev. 21:9). However, in the prohibition of marriage of priests with prostitutes or divorcees, the prostitution is viewed as impure, not as sinful (21:7-8). The high priest could only marry an Israelite virgin, not a widow, nor a divorcee nor a prostitute (21:14). Recently many have questioned the existence of cultic prostitution in Israel and in the Hebrew Bible²⁹ (→ **Genesis, Joshua and Deuteronomy**).

2.5 Bestiality / Zoophilia (18:23a, masc.; 23b, fem.; + death penalty for both: 20:15-16). The continuity in the three legal codes in the Hebrew Bible is significant: → **Exodus 22:19**, every man, death penalty // → **Deuteronomy 27:21**, man. Only Leviticus makes explicit that women, like men, at times **took** sexual initiative with animals; cf. the lack of references to women in homoerotic relations (see **3.2 Bestiality / Zoophilia** below). And only Lev. 20:15-16 makes explicit that the animals also suffered the death penalty. Such punishment of animals appears unjust to the modern reader, but in biblical theology:

- As in the case of humans (Gen. 2:7), God gives life to animals instilling in them the very same breath/soul of divine life (*nefes*, breath/soul, Gen. 1:20-21, 24; 2:7);
- In making the covenant with Noah God includes animals (Gen. 9:1-17), with blessings and the responsibility to avoid violence, Gen. 6:11,13; 9:5-6);

- Animals are responsible beings: death penalty for killing **humans** (Ex. 21:28-32) or **for** participating in sexual relations with humans (Lev. 20:15-16);
- They even pray before eating (Ps. 104:21, 27) and repent of their sins (Jonah 3:7-9).³⁰

2.6 Menstruation, 15:19-33; 18:19; 20:18; → Mark 5:25-34 and //s (see Appendix 2 below).

- “19 When a woman has a discharge of blood that is her regular discharge from her body, she shall be in her impurity for seven days, and whoever touches her shall be unclean until the evening.... 24 If any man lies with her, and her impurity falls on him, he shall be unclean seven days; and every bed on which he lies shall be unclean” (Lev. 15: 19-30, priestly source = “P”).
- “You shall not approach a woman to uncover her nakedness while she is in her menstrual uncleanness” (Lev. 18:19, “P”, Holiness Code).
- “If a man lies with a woman having her sickness and uncovers her nakedness, he has laid bare her flow and she has laid bare her flow of blood; both of them shall be cut off from their people” (Lev. 20:18, “P”, Holiness Code).

“The abhorrence of the menstruant is a cardinal rule among all primitive societies”(Milgrom).³¹ Thus, taboos concerning women’s worship during their menstrual period were common in the ancient world. Significantly, the oldest Israelite legal codes (The Book of the Covenant in Exodus 21–23, the Ten Commandments, Deuteronomy, etc.) do not foment the common “menstru-fobia”. Thus, after the Exile (586-538 B.C.), Leviticus, representing the tradition of male priests (“P”), the latest and most patriarchal of pentateuchal sources, suddenly shows a unique concern for menstruation (the three laws cited above). The oldest of these priestly texts (Lev. 15:19-24; cf. vv. 25-30) considers a woman in her menstrual period as “impure” for seven days and stipulates that if a man has sex with her, he also will be considered *impure* for seven days, which makes participation in public worship impossible.³²

In two later texts, however, the sentence is much graver (Lev. 18:19 and 20:18). Both texts come from the Holiness Code of Leviticus 17–26, the last addition of the priestly tradition. To have sex with menstruating women is suddenly no longer a simple matter of not going to the Temple, bathing and offering more sacrifices – we now face an apodictic “do not” law (Lev. 18:19) similar to the Ten Commandments. Furthermore, Lev. 18:19 is followed by laws that prohibit adultery (Lev. 18:20) and the sacrifice of children to Molech (18:21).

In Lev. 20:18, the latest of the three, after imposing the death penalty for all kinds of sins (especially incest), Leviticus decrees that a couple who have sexual intercourse during the menstrual period must be *separated / cut off from their people*. Commentators continue to debate whether the death penalty is thus explicitly imposed (as in 20:10-16) or only excommunication/exile (which would have the same results), or is the reference simply to the threat that God's wrath would soon be manifest in some form.³³

In the final strata of the Pentateuch, in the same exilic period of this increasing menstrual blood phobia, we find a similar concern in the priest-prophet → Ezekiel (18:6, 22:10). Ezekiel, just as

in the priestly Holiness Code (of the same period), compares sexual relations during menstruation with adultery (Ez. 18:6) and even murder (22:6, 9-10). The same context in Ezekiel points out the relationship between the oppression of the poor and the weak with pagan idolatry (seen as the ideology of the Babylonian oppressors). Perhaps Ezekiel witnessed humiliations suffered by Israelite wives during the Exile, when their captors forced them to have sexual relations during their menstrual period.

Since this concern appears suddenly in Ezekiel and Leviticus, and with the death penalty only in the Holiness Code (Leviticus 20), concrete historical experiences obviously **are** indicated. The total absence of this type of law in the Hebrew Bible literature in all the other periods makes it clear that these texts do not represent an “absolute sexual ethic,” but a peculiar concern during the Exile. After having been decimated in the Exile, the urgency for population growth contributed to this priestly concern (see “be fruitful and multiply” in Gen. 1:28, also representing the Exile's priestly tradition). Power struggles between priestly and levitical factions also must have contributed to the decision to marginalize women from religious leadership (using as an excuse the “impurity” of their menstruation).

If sexual relations during menstruation were simply a sin, like murder and adultery (which required the death penalty), we would expect the New Testament to be concerned about the issue. On the contrary, not a word in the New Testament supports such a notion. Challenging the Leviticus concern about the purity of worship, Jesus directs himself to a woman who has the worst form of hemorrhaging – permanent (Lev. 15:25-30) – who touches the edge of his cloak – but instead of becoming impure himself, she is miraculously cured (Mark 5:25-34 // Matthew 9:18-26 // Luke 8:40-56). Mark makes clear that the woman had been isolated for 12 years and impoverished by seeking treatment from various doctors (a detail that Dr. Luke preferred to omit). Mark inserted this episode in the account of the trip to the home of wealthy Jairus, making clear that Jesus' love for all includes a “preferential option” for the poor. Jesus' challenge of the levitical laws, preoccupied by impurity in worship, is unquestionable, since later he touches the body of Jairus' daughter and raises her from the dead. Whatever legitimate concern for hygiene or charity toward “the weaker sex” that commentators have thought to find in Leviticus and Ezekiel, Jesus clearly manifests a radical change in the concept of impurity, making it a purely interior matter of the heart (Matt. 5:8; → **Mark 7:1-23**).³⁴

Feminist and anthropological studies show that in societies with a strong macho ideology, the taboos related to menstruation are stronger.³⁵ With the development of patriarchal worship structures, such taboos commonly marginalized women from the political, military and religious power structures, even demoting them from priestess to sacred prostitute.³⁶

How is it then that Christian churches have managed to lynch “homosexuals” with the Lev. 18:22 and 20:13 texts (almost literally with 1,000 years of burning “lesbian witches” and the death penalty for “sodomy”), while they forget the Leviticus penalty of eliminating couples who have had sexual relations during the woman's menstrual period? Although ideological fundamentalists like to forget about it, the church for centuries did not forget about sex during menstruation. The Church Fathers (Clement of Alexandria, Origen and Jerome) and medieval theologians (Thomas Aquinas, Albertus Magnus, Duns Scotus) condemned sexual relations during menstruation as mortal sin that produced deformed children: leprosy, hydrocephalus,

curvature of the spine, Cyclops, epilepsy, lameness, devil possession. Furthermore, in the Middle Ages women in their menstrual period were discouraged from taking communion.³⁷

Letha Scanzoni and Virginia Mollenkott pointed out the incoherence of those who use proof texts from Leviticus 18 and 20 to condemn “homosexuals”, while ignoring other prohibitions of the book, especially those in the same chapter which prohibited sexual relations during the menstrual period.³⁸ Scanzoni and Mollenkott's argument would be strengthened by a detailed exegesis of the texts in their contexts (see **3.2 Bestiality** and **Appendix 2**, below).

2.7 Incest, 18:7-18; 20:11-14,17,19-21 (see **3.3 Fourteen prohibitions of “Incest”** and **3.3.3 – Note 1**, below).

3. Sexual Minorities and Sexual Sins

3.1 Polygamy. Four laws (two in Leviticus, **18:18 // 20:21**) take for granted the acceptability of polygamy. The prohibition of taking as wife the *sister* of one's wife implies more than one wife³⁹ (see polygamy under → **1-2 Chronicles** and **1-2 Kings**). → **Deuteronomy 21:15-17**: “¹⁵If a man has two wives, one of them loved and the other disliked, and if both the loved and the disliked have borne him sons, the firstborn being the son of the one who is disliked, ¹⁶then on the day when he wills his possessions to his sons, he is not permitted to treat the son of the loved as the firstborn in preference to the son of the disliked, who is the firstborn. ¹⁷He must acknowledge as firstborn the son of the one who is disliked, giving him a double portion of all that he has; since he is the first issue of his virility, the right of the firstborn is his” (Deut. 17:17 refers to polygamous kings).

3.2 Bestiality / Zoophilia (18:23a, masc.; 23b, fem.; + death penalty for both: 20:15-16); → Ex. 22:19, male (*kol*, all; death penalty) // Deut. 27:21, male. As indicated in 2.5 above, the continuity in the Hebrew Bible's three legal codes is significant. But the New Testament never refers explicitly to bestiality (see *porneia*, → Mark 7:21-23; in his discussion concerning Jesus, *porneia* and homosexuality, Robert Gagnon tries to overlook the menstruation in Lev. 18:19 and 20:18 (see above), which is fatal to his argument.⁴⁰

3.3 Fourteen prohibitions of “Incest”: the texts *in their contexts* – literary, historical, cultural. Leviticus 18 and 20 contain a concentration of *sexual prohibitions* unparalleled in the Bible. → **1 Corinthians 5–7** in the New Testament includes positive elements for married and unmarried in addition to the prohibitions (against incest, the use of prostitutes, prolonged sexual abstinence in marriage, etc. Above all, Leviticus 18 and 20 empathize what we would call prohibitions against “*incest*” (18:6-18; 20:11-12, 17, 19-21). According to traditional interpretation, only incestuous abuse of *women* is prohibited, not that of other males.

Leviticus 18, 20 prohibitions

14 “incest” + 6: menstruating woman, adultery, Molech, two males, bestiality m. and f.

vv. 1-5 Do not imitate Egyptian and Canaanite customs

→ Leviticus 20, 16 prohibitions

7 “incest” + 5 sexual and 4 non-sexual

vv. 1-5 sacrifice of children to Molech
6, 27 mediums and spiritists
7-8, 24b-26 be holy like God

vv. 6-18 Prohibitions against incest (14 cases)	9	cursing father or mother
18:6 general principle; close relative (includes males)		
18:7 your father or mother		Prohibitions of incest (7 cases)
18:8 father's wife	→ 20:11	death penalty
18:9 your sister / half-sister	→ 20:17	banishment from the people
18:10 daughter of son or daughter		
18:11 stepsister		
18:12 your father's sister (your aunt)	→ 20:19a	subject to punishment
18:13 your mother's sister (your aunt)	→ 20:19b	subject to punishment
18:14 your uncle or your aunt	→ 20:20	sterile (without children)
18:15 your daughter-in-law	→ 20:12	death penalty
18:16 your brother's wife (sister-in-law)	→ 20:21	sterile (no children)
18:17a a woman and her daughter	→ 20:14	death penalty (by burning)
18:17b their grandchildren		
18:18 two sisters		
v. 19 woman during menstrual uncleanness	→ 20:18	cut off from the people
v. 20 adultery = uncleanness	→ 20:10	neighbor's wife, death
v. 21 children sacrificed to Molech	→ 20:1-5	death (see above)
v. 22 anal sex with other male (“abomination”)	→ 20:13	death penalty
v. 23ab bestiality prohibited, men and women	→ 20:15-16	death + animal
vv. 24-30 all these <i>abominations</i> (to‘<i>eba</i>, 26-27, 29) prohibited (including both citizens and aliens in the holy land)	→ 20:22-24,	driven out from the land

20:25-26 clean/unclean animals, Lev. 11; Deut. 14

3.3.1 The major emphasis here in Leviticus is on the prohibition of *14 types of “incest”* (Leviticus 18; cf. Leviticus 20, which repeats seven, three with a stipulated death penalty). These prohibitions have had a greater impact on Western law than any other comparable body of laws in the Bible. For example, all were enacted by the Anglican Church and were in force in England from 1603 until 1907.⁴¹

3.3.2 The Bible does not contain a word for “sex” or “sexual relations” nor for the category that we call “incest”. Rather, as is common in other references to human sexuality, it employs euphemisms (“discover the nakedness of...”; in 1 Cor. 5:1 Paul describes the act of incest as a type of *porneia* – prostitution, sexual immorality). In Leviticus 18 and 20 all the prohibitions of “incest” are directed toward males and are prohibitions of sexual abuse of other males or of women in the patriarchal house, some related by blood and others by marriage. We should not conclude from the number of prohibitions that “incestuous” relations represent the *gravest* sexual sin, but rather suggests that this sin was the *most common* in the context of the rural patriarchal houses and clans reflected in the texts.

3.3.3 The primary concern is male honor, when his “nakedness is uncovered” by another male dishonoring and sexually abusing him (or by a related female). Another aim would be the *protection of the honor and dignity of weak persons*: above all an elderly patriarch whose son seeks to replace him (18:7-8; see the uncle, 18:14). This priority of protecting elderly fathers and mothers also is evident in the following chapter, 19:3, 32 (see #5 of the Ten Commandments);

consider Reuben + Bilhah, Jacob's (Israel's) concubine (incest + adultery, → **Genesis** 35:22); and Absalom + David's concubines (→ **2 Samuel** 16:20-22). Furthermore, the laws against incest seek to protect vulnerable women in the patriarchal houses (Lev. 18:9-11); e.g., Amnon raped Tamar, his half-sister (→ **2 Samuel** 13:12, 14). Likewise, in → **1 Corinthians** 5:1-11, Paul dealt with a case of incest (a son taking advantage of his father's vulnerability?) before instructing about other sexual areas (1 Corinthians 6–7). Therefore, **we** must ask if the other prohibitions in Leviticus 18 and 20 also seek to protect weak and vulnerable persons.

However, in Genesis *approved* “incestuous” relations abound (three patriarchs), and they also occur in Exodus (Moses' parents). Furthermore, the ancient Book of the Covenant (→ **Exodus** 21–23) does not contain **any** prohibition of incest but follows the Genesis tradition of approving the “incestuous” relations of the patriarchs and matriarchs. Even Jochebed, the mother of Moses, Aaron and Miriam, is the wife *and aunt* of Amram, Moses' father (Ex. 6:20; Num. 26:59), a relationship prohibited in Lev. 18:12 and 20:20. Such diversity in the Pentateuch creates grave problems for fundamentalists, since it is highly doubtful that Moses would write the laws of Leviticus that consign his own parents to divine judgment and death. Also, surprisingly, Leviticus 18 and 20 (Holiness Code from the priestly, “P” source) condemn an “incestuous” relation which in Ex. 6:20 (also from the “P” source!) characterizes Moses' parents!

- → **Deuteronomy** prohibits only **three** incestuous relations in four texts:
 - with the father's wife/woman (Deut. 22:30 // 27:20; → **Ezekiel** 22:10-11);
 - with a sister (27:22); and
 - with a mother-in-law (27:23).

Leviticus 18:6-18 has **fourteen** prohibitions of incest, while **Lev. 20:11-21** repeats **seven** of these but specifies the **death penalty** (by *human* judgment) in three cases (20:11-12, 14) and “expulsion from the people” in one case (v. 17); cf. *divine* punishment in three cases: “carry the guilt” in two cases (vv.19-20) and sterility in two cases (vv.20-21; v. 20 has two punishments, “carry the guilt” and sterility). The *structure and order* of themes in Leviticus 18 and 20 are notably different, and the chapters appear to be independent compositions that the writer of the Holiness Code (Leviticus 17–26) placed as a framework of Leviticus 19, the center of the book and of the Pentateuch:⁴²

- **Leviticus 18** consists of 14 apodictical laws or prohibitions: “Do not uncover the nakedness....” It is organized according to *the types of sexual sin*: first, an introduction (vv. 1-5) warns that the practices of Egypt and Canaan must be avoided, then 14 prohibitions of incestuous relations are named (vv.6-18), followed by six other prohibitions (vv. 19-23, all sexual except that of the sacrifice of children to Molech, v. 21). **Finally a conclusion, vv. 24-30, returns to the introductory theme.** The quantity of specified relations treated together reflects the rural context of numerous patriarchal houses **and** clans.
- **Leviticus 20** consists of 12 “casuistic” laws (case law): “**If** someone lies with....” This chapter is organized according to the types and severity of the punishments, beginning with the death penalty: first, a prohibition against the sacrifice of children to Molech (vv. 1-5), another against mediums and wizards (v. 6; see v. 27), an exhortation to holiness

(vv. 7-8), prohibition against cursing parents (weak, v. 9), twelve sexual prohibitions dealing with seven cases of incest mixed with five other sexual prohibitions (vv. 10-21), a conclusion concerning Canaanite practices with concrete references to clean and unclean animals (vv. 22-26) and an appendix that repeats the prohibition of mediums and wizards (v. 27; see v. 6). The lower number of incestuous relationships, mixed with other offenses, and the diversity of punishments suggest an urban situation (→ **Deuteronomy**).

Leviticus 18:6-18 (fourteen prohibitions) → **Lev. 20:11-12,14,17,19-21 (seven)**
 (= by blood relations; – = by marriage)

1. + **Lev. 18:6** (general principle – close relative, including *father, son, brother*)
2. + **18:7** *your father or your mother*
3. – **18:8** father's wife → **1. 20:11, death penalty**
 - Reuben + Bilhah, Jacob's concubine (incest + adultery), Gen. 35:22
 - Absalom + David's concubines (2 Sam. 16:20-22)
 - 1 Cor. 5:1-13 (*porneia*, sexual immorality), expulsion from the church (5:13)
4. + **Lev. 18:9** your sister / half-sister → **4. 20:17, cut off from people**
 - Abraham + Sarah (Gen. 20:2, 12)
 - Amnon rapes Tamar, his half-sister (2 (Sam. 13:12, 14)
5. + **Lev. 18:10** son or daughter's daughter
6. – **18:11** your step-sister
7. + **18:12** your father's sister (your aunt) → **5a. 20:19a** subject to punishment
 - Amram + his aunt Jochebed, parents of Moses, Aaron, Miriam (Ex. 6:20, Num. 26:59)
8. + **18:13** your mother's sister (your aunt) → **5b. 20:19b** subject to punishment
9. – **18:14a** *your uncle*; **14b** your uncle's wife → **6. 20:20** sterile (no children)
10. – **18:15** your daughter-in-law → **2. 20:12 death penalty**
 - Judah with Tamar (Gen. 38:18)
11. – **18:16** your brother's wife (sister-in-law) → **7. 20:21** sterile (no children)
 - Mark 6:17-18, Herod with Herodias (brother Philip's wife) + adultery
12. – **18:17a** a woman and her daughter → **3. 20:14 (death (burning))**
13. – **18:7b** son's daughter nor daughter's daughter
14. – **18:18** two sisters
 - Jacob + Leah and Rachel (Gen. 29:28)

3.3.3 – Note 1. Lev. 18:6 includes incestuous relations of men with father, son and brother;⁴³ see Lev. 18:7a, “You will not have intercourse with your father *and/or* [Hebrew “*waw*”] your mother” (NJB, LXX, KJV; cf. NRSV, NIV). In this case the Hebrew conjunction *waw* is better translated “and” or “or” than “which,” which would make the objects of incestuous abuse equivalents rather than distinct. Likewise, Lev. 18:14a and b should be translated so that the masculine object (14a, paternal uncle) is distinguished from the feminine object (14b, paternal aunt) of the incestuous abuse: “You will not have intercourse with your father's brother; you will not approach his wife” (NJB). Thus, the inclusion of prohibitions of incestuous abuse with masculine objects in Leviticus 18 and 20 is understandable and reflects biblical norms and those of the ancient Near East. Hittite law 189 prohibits the sexual rape of a son.⁴⁴ Gen. 9:21-22 probably refers to the incestuous rape of Noah (drunk and sleeping naked) by his son Ham,⁴⁵ the first case in the Bible of incestuous abuse which appears as the first example of Lev. 18:7a, “You

will not have intercourse with your father *and/or* your mother.” In Lev. 21:2 the reference to “close relative” includes not only the three women but also the men (father, son, brother). Reflecting her heterosexism, Susan Rattray omitted the men in 21:2-3 and again in 18:6-7a and 14 (see **Note 2** below).⁴⁶

In three cases, the Deuteronomy and Leviticus codes condemn the “incestuous” relations permitted in Genesis and Exodus:⁴⁷

- Abraham's marriage with Sarah, a paternal half-sister (Gen. 20:12, “E” [Elohlist source]; Genesis 12; cf. 2 Sam. 13:13, when Amnon rapes his half-sister Tamar), a relationship condemned in Deut. 27:22 and Lev. 18:9;
- Jacob's marriage with the sisters Leah and Rachel (bigamy), condemned in Lev. 18:18; they are also Jacob's cousins (Gen. 29:10, apparently the preferred relationship in Genesis; see Isaac and Rebekah, 22:22-23; 24:15; Esau and Mahalath, Gen. 28:8-9);
- The levirate (Tamar in → **Genesis 38; Ruth**). The levirate law in → **Deuteronomy** (24:5-10) commands the prohibited sexual relationship in Leviticus (18:16; 20:21), usually interpreted as an exception permitted because of a brother's death and the urgency to procreate heirs in an agricultural society.

How then can we explain the diversity reflected in the Hebrew Bible's narratives and legal codes and the increasing emphasis on the incest prohibitions reflected in Leviticus 18 and 20?

- The texts themselves emphasize in the beginning that incestuous relations “dishonor” other members of the family: the father (20:11), the sister (20:17), an aunt (20:19), an uncle (20:20), a brother (20:21). The Hebrew literally says “uncover the nakedness of...” (NRSV, KJV).
- In recent centuries, it has been common to attribute modern scientific knowledge anachronistically to the authors of Leviticus, since the children of incestuous blood-related relationships tend to have abnormalities. However, seven of the twelve prohibited relationships are based on affinity (marriage), not blood relation. Furthermore, even consanguineous incest gives no basis for prohibition if it is not a procreative relationship (advanced age, sterility, use of prophylactics; NJB note 18:6c; incestuous due to relationship by marriage: mother, sisters, children, grandchildren).
- Recently various anthropological and feminist studies conclude that such laws of Leviticus 18 and 20 seek to protect women in *rural* areas in vulnerable situations and avoid rape in the patriarchal households (→ **Amos 2:6-8**). The studies concerning incest have demonstrated that when speaking about socially weak persons (women, employees, slaves), the more powerful individuals rarely have to recur to violence, since the weak fear the consequences of refusing sexual demands.⁴⁸

However, a father or uncle of advanced age also was in a vulnerable situation, and some laws against incest sought to protect weaker males (Lev. 18:7-8, 14, 16; see Absalom and David's concubines, 2 Sam. 16:20-22; also Adonijah, 1 Kings 2:13-25);⁴⁹ → **1 Corinthians 5:1-13**. Jacob Milgrom points out: “The basic sociological unit was the *bet 'ab* ‘father's house’. It included three to five generations consisting of fifty to a hundred people living in close proximity.”⁵⁰ Contrary to almost all translations and modern literature, the Bible never speaks of “family” (nuclear) in the modern sense, and much less of “family values”; to a great extent it subverts them. In urban contexts the Bible continually speaks of “the household” (not “family”),

but frequently in a more literal sense it speaks of the people beneath the same roof (→ **Acts** 16:31). Thus, the four incest prohibitions in Deuteronomy (22:30; 27:20, 22-23; reflecting urban contexts), are probably later than the rural contexts reflected in Leviticus 18 and 20.

Obviously, a dialectic exists between the patriarchal narratives that favor marriage with relatives, especially cousins (inbreeding; see Genesis and Exodus), and the incest prohibitions that promulgate marriage outside the patriarchal household (outbreeding; see Leviticus 18 and 20 and Deuteronomy). However, both norms function to strengthen the patriarchal household, maintaining the honor of the patriarch, protecting the weak members and promoting alliances with other households and clans, which would avoid conflict (see Dinah's rape and Jacob's anger against Simeon and Levi, Gen. 34:30; 49:5-7).

3.3.3 – Note 2. In the incest prohibitions in Leviticus 18 and 20, a problem much discussed recently is *the absence of an explicit prohibition of sexual relations between father and daughter*, especially because this is the type of *abuse* most common today (cf. the more common *consensual* relations between siblings and cousins.⁵¹ Biblicists have responded in four ways:

- They criticize the patriarchal perspective of the text as prejudiced.
- They conclude that the patriarchal perspective makes such a prohibition *unnecessary*, since a *virgin* daughter represented an economic value to the father (Ex. 22:16-17; Deut. 22:13-21).⁵² Before marriage virgin daughters were the sexual property of the father, who would not want to “burn down his own barn” and thus lose the economic value of his own property.
- They indicate that *Lev. 18:6* gives the *general principle* of prohibiting sexual relations with *close relatives* (*she'er besaro*, “flesh of your flesh”) and that a daughter is included. The specific prohibitions of 7-18, then, only complement the general principle without specifying all of the cases implicit in 18:6.⁵³
- They point out that Lev. 18:17 prohibits sexual relations with a woman and her daughter, while Lev. 20:14 prohibits relations with a woman and her mother, which in effect prohibits that a father who has relations with his wife have relations with a daughter.⁵⁴

Although Leviticus 18 and 20 constitutes the most extensive teaching concerning human sexuality in the Hebrew Bible, Leviticus notably does not repeat → **Deuteronomy's** prohibitions against transvestism (Deut. 22:5) nor eunuchs (23:1). On the other hand, Deuteronomy and Exodus do not contain any prohibition against male-male anal sex (see below concerning Lev. 18:22 and 20:13). That is, as regards these three sexual matters, continuity is lacking for these prohibitions in biblical theology, since the only related texts are isolated and would reflect the concrete historical circumstances of a book rather than continuous norms in biblical teaching. Notably all the prohibitions against incest are directed toward men (strong) and only the prohibition of bestiality considers a possible feminine sexual initiative (18:23b; 20:16), although other books are more conscious of this possibility (Potiphar's wife in Genesis 39; the strange woman in → **Proverbs; Song of Songs**, etc.).

3.4 Male-male anal sex (without a condom): Lev. 18:22 + 20:13 (death penalty).

18:22 And you (masculine singular) shall not lie with (a) free male (*zakar*)
(the) lyings of (a) woman (*mishkebe 'ishah*)
[= as one lies with (a) woman (the penetrator, active)
= as a woman who lies (the penetrated, passive) ?]
it is an abomination (*to'ebah*)....

20:13 And (a) man (*'ish*) who lies with a free **male** (*zakar*)
(the) lyings of (a) woman (*mishkebe 'ishah*)
[= as one who lies with a woman (the penetrator, active)
= as a woman who lies (the penetrated, passive)?]
they committed an abomination (*to'ebah*);
both will be condemned to death,
of which *they* themselves will be responsible.
[the abrupt change to the *plural* “they” (20:13b) would indicate a later expansion]

Since in all the Hebrew Bible legal codes the only prohibitions of male-male anal sex occurs in the Holiness Code, the latest code (Lev. 18:22 and 20:13), it is notable that:

- Other themes (incest, sacrifice of children to Molech) receive much *more emphasis* in the whole Hebrew Bible. These two verses have an importance similar to the two verses of the New Testament commanding that a woman cover her head while praying or prophesying (1 Cor. 11:5-6), which few people take as normative today.
- One theme, sex with a menstruating woman, receives *equal emphasis* (Lev. 18:19; 20:18), but it is not considered normative today.
- The prohibition is limited to *males*; → **Romans 1:26**, which also does not refer to lesbians (cf. bestiality, which in Leviticus 18 and 20 does include women).
- The prohibition is limited to an *act* and does not pretend to indicate anything about sexual *orientations*. (The silence concerning women and sexual orientations is a motive for avoiding references to “homosexuality” in ancient texts, since that would include lesbians and refer to an orientation which may exist without expression in acts.)
- The prohibited act is limited to *anal penetration* of another male and does not include other homoerotic expressions (mutual masturbation, oral and intercrural sex). Saul Olyan has shown that in other texts the Hebrew phrase indicates “to be penetrated” sexually by a man in such a way that the woman ceases to be a virgin (Num. 31:17-18, 35; Judges 21:11-12). Therefore, with reference to two males, it indicates anal penetration.⁵⁵

Regarding “...**the lyings of (a) woman (*mishkebe 'ishah*)” (Lev. 18:22, 20:13), rabbis have noted the plural (lyings) but the form remains without a satisfactory explanation.⁵⁶ However, the only occurrence of *mishkebe* (plural), aside from Lev. 18:22 and 20:13, is Gen. 49:4, where it refers to the *incestuous* “lyings” of Reuben with Bilhah, Jacob’s concubine. Thus, “The plural is always found in the context of illicit carnal relations (Gen 49:4; Lev 18:22; 20:13; contrast *miskab* (Num31:18), the singular implying licit relations).”⁵⁷ A similar expression in the singular occurs five times in the phrase, “the lying [singular] of the *male* (*mishkab zakar*; Num. 31:17-18, 35 and Judges 21:11-12.”⁵⁸ These texts about women who had not known/experienced**

the “lying of the male” refer to female virgins “who ‘has not known a man with respect to the lying down of a male.’”⁵⁹ Consequently, the two references to “the lyings of (a) woman” (Lev. 18:22, 20:13) “seem to refer specifically to intercourse and suggest that anal penetration was seen as analogous to vaginal penetration.”⁶⁰ Therefore, the only act that Lev. 18:22 and 20:13 condemn is *male-male anal penetration*, not other homoerotic expressions **such** as mutual masturbation or oral or intercrural sex.⁶¹

- The two prohibitions are directed to *free* Israelite men (as is the case for almost all of the laws in the Pentateuch) and indicate prohibited conduct between such men. Thus the laws were not directed toward slaves (who had no option in the use/abuse of their bodies) nor did they prohibit relations between a free man and his slave.
- Anal penetration would have occurred without the use of condoms and without modern knowledge of safer sex to prevent illnesses, which are risks in any sexual relationship.
- The prohibited act is mentioned in a context with other prohibitions that sought to maximize procreation (not with menstruating women nor with animals, an intent already recognized in the thirteenth century by rabbi Ramban.⁶²
- The act of anal penetration between two men is categorized as an “abomination” (*to‘ebah*, Lev. 18:22; 20:13), and *both* should suffer the penalty of death (20:13), even if rape was involved or it was a case of abuse of a minor,⁶³ a punishment no one would want to apply today.

Although there is consensus that the condemned act is limited to anal penetration between two free males (see Olyan), consensus does not exist concerning **the motive or intent of this prohibition**. Four current interpretations have been offered to explain the punishment and all four proposals could have been present in variable combinations through the centuries. **One is condemned:**

a. For the association with pagan **idolatry**: in addition to the warning against idolatry as a framework of both chapters (Lev. 18:1-5, 24-30; 20:1-6, 22-27), “abomination” usually refers to idolatrous practices;⁶⁴ → **Ezekiel**); cf. an expression of xenophobia, → **1 Corinthians** 8.⁶⁵ Also, the association with idolatry as motive would explain the absence of the prohibition in Deuteronomy, since → **Deuteronomy** condemns temple prostitutes (23:17-18).⁶⁶

b. Because of the urgency in the post-exilic community to avoid wasting semen (*zera‘*) and to **maximize procreation**. The Hebrew word *zera‘* means “semen, seed, descendant” and consequently the translations obscure the relationship in the text between the prohibition of not offering *zera‘* (descendants, children) to Molech (Lev. 20:2-4; 18:20-21) and other ways to waste semen and not procreate children and legitimate heirs.⁶⁷ According to Jacob Milgrom, Leviticus prohibits only homoerotic acts by *Jewish* men, ancient or modern, living in the land of Israel; hence modern Jewish gay men in Israel may adopt children to fulfill the intention of the commandment.⁶⁸

c. Because Lev. 18:22 and 20:13 refer only to **incestuous** anal penetration between men.⁶⁹

(1) The primary concern in Leviticus 18 and 20 is the incestuous relations (18:6-18 and 20:11-12, 14, 17, 19-21), probably reflecting the context of the patriarchal households and clans in more isolated rural areas.

(2) In Lev. 20:13 the prohibition of anal sex between men is preceded (20:11-12) and followed by prohibitions of incestuous relations, with the death penalty decreed for incestuous acts (20:11-12, 14, 17).⁷⁰

(3) The only occurrence of *mishkebe* (plural), other than in Lev. 18:22 and 20:13, is Gen. 49:4, where it refers to the incestuous relationship between Reuben and Bilhah, Reuben's father's concubine.

(4) Hittite Law 189 punishes abusive sex of a man with his mother, daughter *or son*.⁷¹ However, in Lev. 18:22 the anal sex prohibition between males occurs in a context of prohibited sexual acts that have nothing to do with incest (18:19-21, 23), and the chapter appears to be organized according to the principle of distinguishing between the prohibitions of fourteen incestuous relationships (18:6-18) and five non-incestuous acts (18:19-23).⁷²

d. Because of the cultic *uncleanness* that would result from **prohibited mixtures**:

(1) of semen with feces;⁷³

(2) of the *two sexes*: the sexual ideology that God created two sexes, male and female, and that the sexes should maintain a distinct and pure identity, without “mixing”.⁷⁴

In addition to the lack of consensus about these four possible motives for the prohibitions, the phrase “**the lyings down of a woman**” (*mishkebe ’ishah*) is *ambiguous* in Hebrew and may refer to the active male who penetrates⁷⁵ or to the passive male who is penetrated.⁷⁶

a = “as one who lies with a woman (active male who penetrates).” (Saul Olyan)⁷⁷

According to **Olyan**, Lev. 18:22 and 20:13a (singular) condemn only the *active* male who penetrates (oppression, abuse of power), while 20:13b (plural) extends the condemnation to include the passive male who is penetrated like a woman (both with the death penalty). This interpretation is more consistent with the Exodus paradigm (Ex. 18:3; see the name of Yahweh, 18:1-2, 4, 6, 21, 30) and the theology of the Holiness Code (Leviticus 17–26, especially Leviticus 19). The abrupt change to the *plural* in 20:13b would indicate a later expansion to condemn the passive male.

Olyan’s interpretation implies that Israel’s norms *differed* from the norms in other cultures, since elsewhere the legal codes made distinctions according to class or age:

- In **Greece** intergenerational sex was accepted, for example between a professor (active) and a student (a free youth, passive), but relations between owners and slaves were disapproved;
- **Rome** accepted relations between owners (active) and slaves (passive) or with prostitutes, but punished older males who abused free youths.

b = “as a woman one who lies down (passive male, penetrated).”⁷⁸

According to **Jerome Walsh**, Lev. 18:22 and 20:13a (singular) condemn the *passive* male who offers himself to another male to be penetrated: who knows/experiences being penetrated like a

woman (confusion/mixture of the two sexes), while 20:13b (plural) extends the condemnation to include the active male (both with the death penalty).⁷⁹ Walsh argues that his interpretation better explains the consistent use of “free male” (*zakar*) for the one who penetrates in both texts of Leviticus and also the references to “the lyings down of a woman (*mishkebe 'ishah*)” as something the woman knows from the experience of being penetrated in Numbers 31:17-18, 35 and Judges 21:11-12.⁸⁰ This interpretation is more consistent with the traditional priestly theology (patriarchal) and with the concept of impurity in Leviticus 1–16. For Walsh, then, the texts *reflect* patriarchal theology: the sin in both texts consists in not maintaining the purity of the masculine gender, with its *superior* dignity and honor, and of “mixing” the masculine with the feminine (*inferior*) in a repugnant way (“abomination”). Walsh’s interpretation implies that Israel’s norms *reflect* common ancient male attitudes regarding the supposed superiority and dignity of males.

John Habgood, in his review of Duncan Dormor and Jeremy Morris, ed. (2007), *An Acceptable Sacrifice: Homosexuality and the Church* (London: SPCK Times Literary Supplement, July 18, 2007), also supports Walsh’s interpretation that the true offense consists in the idea that a male lying with another male implies “a violation of the [supposed] superiority of the male” and that the preoccupation of Leviticus, therefore, is patriarchal: it has to do with gender relations, not with sexual orientation.

3.4 – Note (see point 2 above). Jacob Milgrom and Robert Gagnon’s attempted refutation.⁸¹

Robert Gagnon attempts to refute Jacob Milgrom’s explanation of the *main motive* for the sexual prohibitions in Leviticus 18 and 20 as the **failure to procreate** but fails to take into consideration two characteristics of biblical laws: (1) the difficulty of establishing their motives and purposes; and (2) that *a law may last for centuries without a change, while the motives and purposes may be multiple and changeable*. That is, motives may be present in *variable combinations* through the centuries. Other basic weaknesses in Gagnon’s critique:

a. When Gagnon refers to Milgrom’s position as proscribed “*Merely Because of Wasted Seed and Lack of Progeny*”⁸² he oversimplifies Milgrom’s interpretation and sets up a straw man, since Milgrom in fact only emphasizes lack of progeny as the basic rationale, not the only one.

b. The sexual prohibitions of Leviticus 18 and 20 are best understood as reflecting the *multiple* concerns of avoiding idolatry and the mixing of elements that should be kept separate to avoid impurity, as well as the basic procreation factor. However, as Sarah Melchor points out, the concern of texts such as Leviticus 18 and 20 is not simply *quantitative* procreation of the maximum number of humans, but includes *qualitative* concerns for the procreation of legitimate *heirs to the land* to be nurtured in stable Israelite families.⁸³

c. Gagnon’s own basic explanation, his imagined divine plan to have human sexual relations that always manifest male-female complementarity, of course, is totally absent from the texts and imposes an eighteenth century romantic concept on the biblical texts, which commonly depict male-female relations as reflecting patriarchal hierarchy, not complementarity (→ **Romans**).

d. In his attempt to refute Milgrom’s conclusion that the Leviticus clobber texts only address Jews living in the Holy Land, Gagnon inadvertently seizes upon a genuinely wise scriptural principle: “The sexual laws in Leviticus 18 and 20, like those in Leviticus 19 and elsewhere, were designed to *promote the well being* of the Jews in Israel. They are not irrelevant for the promotion of the *well being* of Gentiles”⁸⁴ – an insight dangerously similar to Paul’s clear teaching that all Israel’s laws were designed to

promote love and avoiding harm for neighbor (Romans 13:8-10). Unfortunately, instead of developing this insight and noting that love for left-handed persons is not expressed by forcing them to go through life with their left hand tied behind their back and trying to act as if they were right-handed, Gagnon allows his cruel heterosexist ideology to twist the texts in blatant contradiction to the tons of scientific evidence now conveniently accumulated in recent Supreme Court decisions in California, Connecticut and Iowa.

In the case of Leviticus 18 and 20, however, the Bible (especially in the New Testament) remarkably deconstructs each of the four commonly proposed motives:

- *uncleanness*: → **Mark** 7:21-23; **Romans** 1:24-27; 14:14,20; Paul encourages the couple to abstain from sex only to pray, not to avoid menstrual impurity (1 Cor. 7:1-5);
- the *rigid distinctions* between male and female, Jew and Gentile, disappear (Gal. 3:28; 1 Cor. 12:13; Acts 10–11; Ephesians 2; women are priests, as are all believers, and may even be apostles, 1 Peter 2:4-5; Rom. 16:7);
- celibacy is praised and *procreation* is notably absent when it refers to sexuality (Mat. 19:12; Rev. 14:4; 1 Corinthians 7);
- although *idolatry* is condemned (Romans 1), certain practices commonly related to idolatry must be evaluated with discernment (e.g., eating meat, 1 Cor. 8–10; Romans 14).

Furthermore, the New Testament cites and exalts the Lev. 19:18 commandment to love one's neighbor (Jesus in the Synoptic Gospels; Rom. 13:8-10; James 2:8), but not Lev. 18:22 and 20:13. Paul's vocabulary (*arsenokoitai*, → **1 Corinthians** 6:9; cf. 1 Tim. 1:10) probably alludes to Leviticus (cf. → **Romans** 1:24-32), but the use of *arsenokoitai* limits the act to male-male anal sex and in Romans Paul deconstructs the rhetoric of Romans 1 in the following chapters.

The homophobic tradition in Christian history maintained the death penalty for acts of “sodomy” from the end of the Middle Ages until the nineteenth century. It is difficult to understand how many churches today, while opposing sexual minorities, pretend to submit to the authority of the Bible but without supporting the death penalty that Lev. 20:13 commands for both participants, even for sexually abused children or adults who suffer rape. (This is another example of selective and arbitrary literalism that always characterizes fundamentalisms.)

Even the majority of fundamentalist theologians recognize that, given the immense number of isolated biblical commandments that no one thinks of obeying literally today, we cannot arbitrarily cite such texts as normative for communities of faith. In fact, in the book of Leviticus, Christians will not find any commandment in chapters 1–17 and 21–27 that they attempt to obey today. Even for Orthodox Jews the situation is not very different (see the above outline of the book). Thus, those who look to the Bible as a source of norms seek to demonstrate *continuity* with other biblical texts and some kind of *theological coherence*.⁸⁵

For that reason, we should note that the Leviticus texts often cited to condemn “homosexuals” represent a very isolated phenomenon: they were absent from the original laws of the “Book of the Covenant” (Exodus 21–23), from the Ten Commandments (Exodus 20 // Deuteronomy 5) and from the book of Deuteronomy (800-700 B.C.). In Leviticus, from the late priestly source (“P”, exilic, post-exilic), they appear only in the Holiness Code (Leviticus 17–26), the late part of the last code. Thus, during the first eight centuries of Israel’s history, from Moses (1300 B.C.)

until the post-exilic period (538 B.C.), her legal codes did not prohibit anal sex between males. During these first eight centuries of Israel's history, homoerotic relations could flourish without any risk of legal condemnation. (See the famous narratives of → **Ruth** and Naomi (1100 B.C.) and of David with Jonathan (1000 B.C.), → **1-2 Samuel**). And so today, neither the motive to maximize procreation nor to defend supposed male superiority and accompanying patriarchal honor and privileges provide any adequate basis for perpetuating as normative the two prohibitions of male-male anal sex in Leviticus. Like heterosexual relations, any continuing prohibition should be limited to unloving, nonconsensual abuse, as in the case of rape (Sodom).

Since the Pentateuch contains memorable rape narratives (Noah, apparently raped by his son Ham, → Genesis 9:20-27; the men of Sodom seeking to rape the two visiting angels, → **Genesis** 19), some suggest that the anal sex prohibitions between males come from a reaction to rapes that Israelite men suffered as prisoners and exiles during the Exile (587/86-538 B.C.). Furthermore, with the population decimated by the war and exile, the urgency to “multiply” (Gen. 1:26-28) would create extraordinary pressure against any non-procreative sexual practices. The priestly (P) version of the pact with Abraham (Genesis 17) had stressed the promises of *land* and of numerous *descendants* (“seed/seedmen”), which is precisely the focus of Leviticus 18 and 20: the appropriate use of *semen* in order to remain in the *land*.⁸⁶ In fact, Jacob Milgrom concludes that the anal sex prohibitions are obligatory only for the Jews and other *inhabitants of the Holy Land*, although he also concludes that gay Jews in Israel today can please God if they adopt children.⁸⁷

The “bad” texts and hermeneutics.⁸⁸ Traditionally churches have affirmed that “all Scripture is inspired by God and is useful...for training in liberating justice” (→ **2 Timothy** 3:16), that Scripture is a source of healthy, nutritional teaching (Titus 1:9; 2:1) and that “the commandment of the Lord is clear, enlightening the eyes” (Psalm 19:8b). However, in recent centuries an increasing number of Bible readers are disturbed to find texts that appear to promote hate, vengeance, violence, wars, racism, machismo, heterosexism, xenophobia and homophobia. Like Elisha's disciples who cried “there is death in the pot!” (2 Kings 4:40), Hans de Wit concludes his work on hermeneutics struggling with the question: “But what shall we do with the ‘bad texts?’”⁸⁹ He refers to the texts “on the conquest, women, homosexuality, slavery,” whose presence appears to be negative. De Wit concludes that such texts obligate us to recognize the *diversity* in the Bible⁹⁰ and “This diversity saves our Scripture from the fundamentalisms (of either the right or left) and makes the Bible more human.”⁹¹

Furthermore, the encounter with the bad texts is “a mirror” (James 1:22-25) and “a source for self-comprehension and self-criticism,” since “Whoever dares to say...that they have nothing of the conqueror, the arrogant male, the slave-holder, the excluder?”⁹² Citing Walter Brueggemann, de Wit points out that we can learn from persons who have been wounded by an authoritarian church how to *read “from the perspective of the wounded.”*⁹³ (See the classical work, *The Wounded Healer* [New York: Doubleday, 1972], by the Catholic gay mystic, Henri Nouwen.) De Wit concludes that “the good texts are the majority.”⁹⁴

Appendix 1

Menstruating Women (unclean?): Moses vs. Moses and Jesus vs. Moses?

“When a woman has her flow of blood, her uncleanness will last seven days, and anyone who touches her will be unclean until evening....And if a man lies with her and her flow touches him, he will be unclean seven days; any bed he lies on will be unclean” (Lev. 15:19-30, priestly source = “P”).

“Do not approach a woman during the flow of her uncleanness to expose her nakedness” (Lev. 18:19, “P”).

“If a man lies with a woman during her sickness/menstruation and exposes her nakedness, he has uncovered her flow, and she also has exposed her flow of blood; both of them will be cut off from their people” (Lev. 20:18, “P”. Cf. Mark 5:24-34 and //s.)

Feminist and anthropological studies point out that “Societies which are not strongly male supremacist are likely not to have strong menstrual taboos”⁹⁵ and that with the development of oppressive patriarchal structures, cultic menstruation taboos commonly serve to marginalize women from the political, military and religious power structures – even reducing them from priestesses to cult prostitutes.⁹⁶

Decades ago, Scanzoni and Mollenkott pointed out the fundamental incoherence and arbitrariness of all who use proof texts from Leviticus 18 and 20 to condemn “homosexuals,” while ignoring so many other prohibitions in the book, especially those in the same chapter which prohibit sexual relations with women during menstruation.⁹⁷ Their basic point still stands unrefuted and their argument can even be strengthened by detailed exegesis of the texts in their contexts.

Most who continue to cite Leviticus against modern homosexuals assume that listeners will never read the book nor note the context. For the vast majority this is a pretty safe assumption, since anyone who reads Leviticus will recognize at once that more than 90% is never considered applicable to modern Christians: chapters 1–8 give detailed instructions on five kinds of sacrifices; chapters 9–10 describe male priestly vestments and ordination rites; chapter 11 distinguishes “clean” from “unclean” animals; 12 female “uncleanness” resulting from childbirth; 13–14 uncleanness of “leprosy”, etc. While 19:18 unobtrusively slips in the text on love for neighbor (which both Jesus and Paul exalted), plainly the burden of proof lies on anyone insisting that a verse in Leviticus must be accepted as “moral law” for the Christian church. The whole chapter of radical Jubilee Year economic provisions (Leviticus 25), which Jesus made fundamental for his own proclamation of Good News to the poor (Luke 4:18-19)⁹⁸, is totally ignored by “evangelists” who seize on two verses to club “homosexuals” and promote gay bashing.

When we contemplate the exegetical jigs and hermeneutical leaps abounding in the writings of the few conservatives who really grapple with the data, one can only wonder why social and

liturgical dance have not become more acceptable in fundamentalist churches. But before we sit back to enjoy the spectacle we should try to understand what the texts actually say and intend in their contexts.

Commentators of all stripes recognize that cultic taboos regarding menstruating women were common in the ancient world. Significantly, Israel's earlier legal codes (Book of the Covenant, Ten Commandments, Deuteronomy, etc.) do not promote the common phobia. Only Leviticus (representing the male priestly source, "P", the latest in the Pentateuch, from the Exile period ca. 586-539 B.C.) suddenly evidences major concern in this area with the three distinctive laws cited above. The earliest of these priestly texts (Lev. 15:19-24; cf. vv. 25-30) qualifies the menstruating woman as "unclean" for seven days and stipulates that if a man has sex with her, he also remains "unclean" for seven days (unable to participate in public worship).

Thus, suddenly in the exilic period, menstruating women are denied normal social contact and sexual relations one week each month – and any woman who was a prophetess (like Jeremiah's pre-exilic contemporary Huldah, ca. 600 B.C.) would have been sent home seven days each month. Male commentators such as R. K. Harrison rush to explain why this was really an act of great kindness, even "honor" to the woman: "By placing the woman in what amounted to a state of isolation, the legislation made it possible for her to enjoy some respite from her normal duties, and gave her an opportunity of renewing her energy"⁹⁹ – a wise extension of the sacred Sabbath principle! Of course, the text doesn't say she doesn't have to work, just leaves her to work alone!

In addition, we must understand that "some women experience painful abdominal cramps, profuse bleeding, migraine, low backache and associated irritability" (still Harrison) – better to isolate her than try to get along with her when she's like that! Finally, the isolation treatment is required by medical hygiene, since males tempted to have sex at such a time might develop "non-specific urethritis" (Dr. Harrison explains). One can only wonder at the obtuseness of New Testament authors in not making such wonderful laws explicitly binding on the Christian churches. However, even in the earliest Old Testament text, having sex with a menstruating woman was not sin, it just made the man cultically "unclean" like the woman: they had to "skip church" together one Saturday each month!

In two later texts, however (Lev. 18:19; 20:18), things get much more serious. Both stem from the Holiness Code (Leviticus 17–26), probably the latest laws in the late Priestly source. Suddenly having sex with women is no longer a simple matter of having to skip church, take more baths, and offer more sacrifices – we are confronted with a "Thou Shalt Not" (Lev. 18:19) that reads like the Ten Commandments and in fact immediately precedes the prohibition on adultery (Lev. 18:20), and another prohibiting child sacrifices to Molech (18:21).

In the latest text (Lev. 20:18), in a chapter that sounds like it might have been written by Alice in Wonderland's Queen of Hearts ("Off with their heads!"), after imposing the death penalty for all sorts of sins (especially sexual), Leviticus decrees that even a couple having intercourse during menstruation are to be "cut off" from their people. Commentators continue to debate whether the death penalty is explicitly imposed (as in 20:10-16), or excommunication/banishment (which might have the same result), or simply an ominous threat that God's wrath would soon fall.¹⁰⁰ Those who seek to make Leviticus 18 and 20 "moral" law binding on Christian churches never seem bothered by the limited scientific horizon evident in the confidence that incest with an aunt

or sister-in-law must result in childlessness (20:20-21; we can only hope that adolescents in fundamentalist churches, denied more modern means of birth control, not be tempted to try it in order to prove that “The Bible Was Right After All”).

While this growing phobia regarding menstrual blood is not found in earlier strata of the Pentateuch (or the Old Testament generally), significantly we do find a similar fierce concern in the priest-prophet Ezekiel (18:6 and 22:10). Ezekiel, like the priestly Holiness Code (same period), puts sex during menstruation right on par with adultery (18:6) and murder (22:6,9). The contexts in Ezekiel also indicate a relationship with oppression of the poor and weak and with pagan idolatry (viewed as the ideology of the Babylonian oppressors). Perhaps Ezekiel witnessed a humiliation suffered by Israelite wives during the Exile when captors and overlords forced them to have sex during menstruation. The prophet may also have observed such practices in the pagan fertility cults. Since the concern surfaces suddenly in the priestly strata (Leviticus 15) and fiercely only in the Holiness Code and Ezekiel, concrete historical experiences are obviously indicated. The total absence of such laws in Old Testament writings from all other periods makes clear that we have no “absolute sexual ethic” but a peculiar exilic concern. After the exilic decimation of the population, the urgency of population growth may have contributed to this priestly preoccupation (see the “be fruitful and multiply” of Gen. 1:28, also from the exilic priestly source). Power struggles between priestly factions and Levites may also have contributed to male determination to marginalize women from religious leadership.

Were sex during menstruation always a sin like murder or adultery (calling for the death penalty), we might expect the New Testament to take up the concern. But to the contrary, not a word in the New Testament supports such a notion. Flaunting the cultic cleanness concerns of Leviticus, Jesus allows a woman with the worst sort of blood flow (permanent; Lev. 15:25-30) to touch the hem of his garment – but instead of becoming unclean himself, she is miraculously healed (Mark 5:25 and //s). Mark makes clear that the woman, isolated and shunned for 12 years, had also become impoverished by seeking healing from various physicians. He sandwiches this episode into the narrative about the trip to the home of the prosperous Jairus, making clear that Jesus' love for all included a “preferential option” for the poor. No doubt is left about Jesus' flaunting of levitical laws concerning cultic uncleanness, because he then proceeds to touch the corpse of Jairus' daughter and raise her from the dead. Whatever legitimate hygienic or benevolent concerns male commentators may think to find in Leviticus and Ezekiel, Jesus clearly sets forth a radical change in the concept of uncleanness, making it a matter of the heart.¹⁰¹

How, then, has the Christian church managed to hang homosexuals with texts from Leviticus 18 and 20 (almost literally, with 1,000 years of “burning faggots” and death penalty for “sodomy”), while forgetting all about “cutting off” couples who have sex during menstruation? Although ideological fundamentalists like to forget about it, for centuries the church did not forget about sex during menstruation. Both Church Fathers (Clement of Alexandria, Origen, Jerome) and medieval theologians (Thomas Aquinas, Albertus Magnus, Duns Scotus) condemned sex during menstruation as mortal sin that produced deformed children: leprous, hydrocephalic, hunchbacked, one-eyed, epileptic, lame and possessed by the Devil. In addition, during the Middle Ages menstruating women often were discouraged from taking communion.¹⁰² While this view may seem cruel and ridiculous, it had the virtue of consistency (singularly lacking in modern substitutes) and wonderfully exemplified the Augustinian concern that all sex be

procreative (in obedience to the “universal absolute” divine command in Genesis 1:28). But once the marvelous consistency of the Augustinian system was abandoned, homophobic theologians found themselves on the very kind of “slippery slope” they most dreaded. Their hermeneutical antics in the course of their downward slide are hardly convincing but do manage to make for entertaining reading on a subject most males prefer not to think about.

The Reformation offered a secure toe hold for centuries by stressing the “obvious” distinction between “moral” and “ceremonial” laws in the Pentateuch. Almost everyone found this “perfectly obvious,” and it was also thus clear that sex during menstruation was a purely ceremonial cultic concern, while “sodomy” was a moral matter so grave as to merit the wrath of God and legal death penalty (well into the nineteenth century in Britain and the USA). Even after a century of biblical theology objecting that the distinction between moral and ceremonial law is foreign to biblical thought, this “obvious” explanation still reigns in ideological fundamentalism (where it easily passes for “taking the Bible seriously”). More careful conservative scholars now reject both gruesome medieval “consistency” and the “obvious” unbiblical distinctions of classical Protestant systematicians,¹⁰³ but they find themselves skidding pell-mell toward the bottom of their slippery slope.

With both Medieval and Reformation approaches discredited, can theologians find a way to shelve discreetly the clubs prohibiting sex during menstruation while still hanging onto two verses from Leviticus for gay bashing? In traditional Catholic and conservative Protestant circles, where theological creativity is considered a vice and homophobia maintained as a Cardinal Virtue, a growing awareness of crisis is evident. In his (usually excellent) commentary on Leviticus, Gordon Wenham's heroic efforts represent a kind of “Custer's Last Stand.”¹⁰⁴ Wenham first sets out to build his case by a simple, direct appeal to New Testament texts and to establish the coherence of Leviticus and “New Testament” (= Paul) in condemning “homosexuality.”

As often happens, Wenham imports the modern scientific term and concept of “homosexuality” into Leviticus, failing to note that the Leviticus texts (1) say not a word about women/lesbians; (2) describe euphemistically only one kind of male same-sex act (anal penetration); (3) are totally unaware of modern scientific understanding of homosexual orientation. Such highly ideological exegesis avoids raising impossible-to-answer questions about Paul's suddenly “inventing” a new sin of lesbianism in Romans 1:26. Then Paul's condemnation of “male-beds” in 1 Cor. 6:9 (male prostitutes? pedophilia?) is added for good measure.¹⁰⁵ Both the diversity and difficulties in the three Pauline texts are ignored, and the absence of any related teaching from Jesus or other sources covered up by referring continually to Paul as “the New Testament.”

However, regarding sex during menstruation, Wenham boldly brings to bear the most modern insights regarding cultic uncleanness¹⁰⁶ and even recognizes that Jesus' “attitude to the laws about bodily uncleanness was of a piece with his attitude to the food laws....According to Jesus, uncleanness was more a matter of the mind than the body.”¹⁰⁷ How near to the bottom of the slippery slope Wenham plunges becomes clear when we note that a decade later William Countryman would point out that even in → Romans 1:24-27 Paul treats same-sex acts under the category of gentile “uncleanness” that cannot simply be equated with “sin.”

Wenham manages to equate Paul with Leviticus on “incest” by failing to note that Paul treats only one such case (1 Corinthians 5, the son offending against patriarchal dignity by taking the father's wife) and that Paul calls such behavior “*porneia*” not “incest.” (Leviticus has no such general term either, but the English word is more justified by the general principle set forth in 18:6, “close relative” and the multiplicity of types prohibited; see above).

Finally, Wenham's hermeneutical slight of hand may be detected when he flatly maintains Leviticus' condemnation of sex with animals¹⁰⁸ as an “unnatural” kind of “mixture,” but without the slightest support from any New Testament text. While gay bashing with Leviticus texts can be defended only because the New Testament (=Paul) also requires it, sex with animals must be prohibited in the church with no New Testament basis, and sex during menstruation can now be applauded despite Leviticus prohibitions. Perhaps sensing that he has become incoherent and contradictory, the unbiblical distinction between moral and ceremonial rules earlier rejected is reintroduced,¹⁰⁹ and final obeisance made to something like situational ethics: “The reason why these laws apply to us and others do not, lies in our situation”!¹¹⁰ Custer's Last Stand has become Custer's last cartwheels and we can only wish Wenham a soft landing at the bottom of his slippery slope.

Dismissing Leviticus' prohibitions of sex during menstruation, fundamentalists Tim and Beverly LaHaye give us a wonderful lesson in hermeneutics: “Those laws were given 3,500 years ago before showers and baths were so convenient, before tampons, disinfectants, and other improved means of sanitation had been invented.”¹¹¹ Since this makes heterosexuals happy, evidently it passes muster for “taking the Bible seriously.” The LaHayes have no hesitation about invoking superficial hermeneutical considerations to make life more pleasurable for modern heterosexual couples during menstruation (see also birth control). However, more basic hermeneutical considerations regarding homosexuality (ancient ignorance of modern scientific perspectives) cannot even be contemplated, much less applied. And this is still commonly the case, even though informed evangelical scholarship repeatedly points out that Romans 1 as well as Leviticus must pass through the fire of hermeneutical criteria: “The question is whether Paul condemns all homosexual behavior or only that which is freely chosen, because of their insatiable lust, by people with a heterosexual orientation.”¹¹²

Appendix 2

Seven *Myths* in the Homophobic Interpretations of Leviticus 18:22 and 20:13

18:22 And with a free male (*zakar*) you shall not lie
the lyings down of a woman (*mishkebe 'ishah*),
[= like one who lies with a woman (penetrator, active)
=like a woman who lies down (penetrated, passive)?]
that is an abomination (*to 'ebah*)....

20:13 And a man (*'ish*) who lies with a free male (*zakar*)
the lyings down of a woman (*mishkebe 'ishah*)
[= like one who lies with a woman (penetrator, active)
= like a woman who lies down (penetrated, passive)?]
they did an abomination (*to 'ebah*);
the two of them must surely die; *their* blood is upon *them*.
[the change to the *plural* “they...the two of them” (20:13b) may be a later expansion].

Myth #1 Leviticus condemns all homosexuals. The prohibitions refer only to sexual *acts*, not to sexual *orientations*: “homosexuality” refers to an orientation that may exist without being expressed in acts and same-sex acts often are committed by persons of heterosexual orientation.

Myth #2 Leviticus condemns all homosexual acts. If Lev. 18:22 addressed women, it would prohibit all *heterosexual* relations!¹¹³ But the texts do not refer to women or lesbians; cf. the condemnation of bestiality in Lev. 18:23b and 20:16, which does explicitly include women. This silence regarding women is another reason to avoid the term “homosexuality,” which not only refers to sexual orientations but also *includes lesbians*; → Romans 1:26 similarly does *not* refer to lesbians (but only to a change to “unnatural” anal sex with males to avoid procreation).

Myth #3 Leviticus 18:22 and 20:13 condemn all same-sex acts between males. The prohibitions address only free males, as is the case with virtually all the laws in the Pentateuch, and prohibit a certain conduct involving such males. The laws do not address *slaves*, since they had no option in the use/abuse of their bodies, nor are relations between a free male and his slave prohibited.¹¹⁴

Myth #4 Leviticus 18:22 and 20:13 condemn all types of same-sex acts between free males. The *only* act prohibited is male-male *anal* sex.¹¹⁵ If the prohibition were general, the phrase “like one who lies with a woman” would have been omitted: “You shall not lie with a free male” – period! In his philological analysis, Olyan shows that the Hebrew phrase indicates “being sexually *penetrated* by a male in such a way that a woman ceases to be virgin” (Num. 31:17-18, 35; Judges 21:11-12); therefore the prohibition does *not* include other expressions of homoeroticism (mutual masturbation, oral and intercrural sex, etc).

Note. Robert Gagnon responds.¹¹⁶ Gagnon accepts Olyan’s linguistic evidence that Lev. 18:22 and 20:13 do not refer to sexual orientations, nor to women (much less “lesbians”) and that the only act explicitly condemned in Leviticus is male-male anal sex [without condoms, we would add]. Nevertheless, Gagnon seeks to negate the significance of these exegetical conclusions, arguing that when

the Bible condemns certain sexual *acts* (adultery, incest, rape), the Bible by no means approves caresses, kisses or mutual masturbation in such relations. Gagnon's argument, however, overlooks the fact that the condemnations of adultery, incest and rape express continuous norms in many texts throughout the Bible, since they represent abuses of power that *harm the neighbor* (Rom. 13:8-10). The prohibition of anal sex between two free males, however, occurs only in the Leviticus Holiness Code and appears to reflect a specific historical context, motivated by the association with idolatrous cults, being thus a matter of cultic uncleanness, not a transcendent norm for conduct.

Gagnon begins with the explanation that any mixing/confusion of the two sexes is the abomination (see above), but defends the texts as normative for today. He insists that God created only two sexes (Genesis 1–2), which must always **complement each other** in sexual relations and only within the framework of marriage.¹¹⁷ Gagnon thus treats the Leviticus texts as condemnations of “homosexuality” and always plays his trump card, insisting that the motive for divine condemnation in Leviticus is not the urgency (in the postexilic community) to procreate, nor because of the association with pagan idolatry, nor for any cultic uncleanness (that would result from mixing semen with feces), but for the principle that the two sexes ought always maintain a pure identity without mixture or confusion, and that the two sexes ought always complement each other in sexual relations within heterosexual marriage. *How male and female manage to become “one flesh” in marital sex without any “mixing” is never clarified in this argument and Gagnon’s concept of “complementarity” is modern, not biblical (→ Galatians 3:28; Romans 1).*

Myth #5 Leviticus 18:22 and 20:13 indicate the gravity of the sin of same-sex acts by referring to them as an “abomination” (to‘ebah). Although many translations disguise the truth, *all* the practices condemned in Leviticus 18 and 20 are described as an “abomination,” in Lev. 18:29, even sexual relations with a wife during her “menstrual impurity” (Lev. 18:19; 20:18). Such relations receive *equal condemnation* but such condemnation is almost never considered normative today (although see Seventh Day Adventist Davidson!).¹¹⁸

Myth #6 Leviticus 18:22 and 20:13 provide a strong biblical basis for modern church crusades promoting laws that punish sexual minorities. Citing a law that punishes two *males* with the *death penalty* as the basis for punishing two *lesbians* with *prison* sentences is totally incoherent and hypocritical. Moreover, in the case of two males practicing anal sex, *both* are to suffer the death penalty (20:13), even if one had been raped or was an abused minor (Brooten 1996:290). But how many churches today would seek to impose the death penalty on a youth sexually abused by his priest or pastor? In the eighteenth-nineteenth centuries, more coherently, many churches cited Leviticus in their campaigns to maintain the *death penalty* for “sodomites.” Gagnon and Davidson claim to defend the “historical-traditional-conservative” position of the church, but forget that for a millennium, until the beginning of the twentieth century, all churches supported the death penalty for “sodomites,” a cruelty now limited to certain fundamentalist Islamic countries.

Myth #7 Biblical scholars understand why Leviticus 18:22 and 20:13 condemn sex acts involving anal penetration (without condoms) between males and agree that this prohibition should be normative for the churches today. To the contrary, although most recognize that the condemnation is limited to anal penetration between free males, regarding the *motive* for this prohibition no consensus exists. Studies of legal codes in antiquity make clear (1) the difficulty of establishing precise motives and purposes for many laws; (2) that *a law may endure without changes for centuries, while the motives and purposes may be multiple and changeable.*

Currently scholars offer four interpretations that may explain the motive/s and purpose/s of the prohibition and any of the four proposals may be present in variable combinations for centuries. **The condemnation of free males engaging in anal sex may be due to:**

7.1 The association with pagan idolatry. A prohibition of idolatry frames both chapters (Lev. 18:1-5, 24-30; 20:1-6, 22-27). Moreover, the term “abomination” almost always describes idolatrous practices¹¹⁹ (→ **Ezekiel**); cf. an expression of xenophobia in → **1 Corinthians** 8.¹²⁰ Also, the association with idolatry explains the absence of the prohibition in Deuteronomy, since → **Deuteronomy** includes a similar prohibition against cultic prostitutes (23:17-18).¹²¹

7.2 The urgent need in the decimated post-exilic Jewish community to maximize procreation and not waste semen (*zera'*). The Hebrew *zera'* means “semen, seed, descendent.” Translations thus commonly obscure the relations in the text between the prohibition of not offering *zera'* (descendants, children) to Moloch (Lev. 20:2-4; 18:20-21) and other ways of wasting semen and not producing sons and legitimate heirs.¹²²

Note. Robert Gagnon’s attempted refutation of Jacob Milgrom.¹²³ Robert Gagnon attempts to refute Jacob Milgrom’s explanation of the *main motive* for the sexual prohibitions in Leviticus 18 and 20 as the **failure to procreate** but fails to take into consideration the two characteristics of biblical laws mentioned above: (1) the difficulty of establishing their motives and purposes; and (2) that *a law may last for centuries without a change, while the motives and purposes may be multiple and changeable*. That is, motives may be present in *variable combinations* through the centuries. Other basic weaknesses in Gagnon’s critique:

- When Gagnon refers to Milgrom’s position as “Proscribed *Merely* Because of Wasted Seed and Lack of Progeny,”¹²⁴ he oversimplifies Milgrom’s interpretation and sets up a straw man, since Milgrom in fact only emphasizes lack of progeny as the basic rationale, not the only one.
- The sexual prohibitions of Leviticus 18 and 20 are best understood as reflecting the *multiple* concerns of avoiding idolatry and the mixing of elements that should be kept separate to avoid impurity, as well as the basic procreation factor. However, as Sarah Melchor points out, the concern of texts such as Leviticus 18 and 20 is not simply *quantitative* procreation of the maximum number of humans, but includes *qualitative* concerns for the procreation of legitimate *heirs to the land* to be nurtured in stable Israelite families.¹²⁵
- Gagnon’s own basic explanation, his imagined divine plan to have human sexual relations that always manifest male-female complementarity, of course, is totally absent from the texts and imposes an eighteenth century romantic concept on the biblical texts, which commonly depict male-female relations as reflecting patriarchal hierarchy, not complementarity (→ **Romans**).
- Gagnon repeatedly has tried to prove that the reference to Sodom’s “abomination” (→ **Ezekiel 16:49-51**) refers to homoerotic relations.¹²⁶ However, the golden rule of hermeneutics (the context) demands that we first consider the significance of “abomination” *in Ezekiel itself* (43 times plus two of the verb), before resorting to any other source such as the Holiness Code (Leviticus 17–26, with its references to anal sex between free males as an “abomination” (18:22; 20:13). And “abomination” (*to’eba*) *in the book of Ezekiel* mainly refers to *idolatry* and twice to the heterosexual sin of adultery, but never to male-male anal sex (→ **Ezekiel**, Appendix 1 for details).

7.3 *Cultic uncleanness that results from prohibited mixtures:*

a. *of semen with feces*; this would explain the absence of any prohibition of relations between two women;¹²⁷

b. *of the two sexes*: the sexual ideology that God created two sexes, male and female, which ought to be kept distinct and pure without any “mixing,” especially the male, considered “superior;”¹²⁸ this also explains the absence of any prohibition of female homoeroticism, since a woman would not lose status thereby.

7.4 To avoid incest between father and son. Lev. 18:6, 14, 22 and 20:13 prohibit only male-male *incest*, according to **David Stewart**.¹²⁹ Gen. 49:4 shows that when “lying(s) of X” is plural it refers specifically to incest.¹³⁰ Stewart’s radically new interpretation *solves five traditional problems*:

a. The total absence of any prohibition of male-male anal sex anywhere else in the Hebrew Bible. Were all homoerotic relations contrary to the will of a Creator who demands only male-female “complementarity,” as revealed in the creation narratives in Genesis 1–2, why were related prohibitions not included in the earlier codes? Why were male homoerotic relations acceptable from Moses (1300 B.C.) thru Deuteronomy (seventh century B.C.), only to be punished with the death penalty in Lev. 20:13 (post/exilic, sixth-fifth century B.C.)? (See → **Ruth** and Naomi ca. 1100 B.C.; David and Jonathan ca. 1000 B.C., → **1-2 Samuel**).

b. The context in both Leviticus 18 and 20 emphasizes almost exclusively what we categorize as “incest” prohibitions (18:6-18; 20:11-12,17,19-21). However, according to traditional heterosexist readings, Leviticus 18 and 20 refer only to male incestuous abuse of females, but do not prohibit male incestuous abuse of other males, even though this is the first kind of incestuous abuse described in the Bible (Ham and Noah in Gen. 9:21-22). Understood as prohibiting male-male incest abuse, 18:22 and 20:13 simply extend the chapters’ prohibition to all related males, to the same degree as 18:6-18 did for females (but see c. and f. below).

c. The Ancient Near East Hittite Law 189 forbids a man from sexually violating his son.¹³¹ Similarly Gen. 9:21-22 probably refers to Ham incestuously raping his father Noah, who lay drunk with genitals exposed.¹³² Unless we count Cain, who apparently took his sister as wife (Genesis 4), this is the first case of incest abuse in the Bible and corresponds to the first example in Lev. 18:7a, “You shall not uncover the nakedness of your father nor [Hebrew “*waw*”] the nakedness of your mother (NJB; LXX; cf. NRSV, NIV, Jewish Study Bible!). The Hebrew conjunction *waw* is here best translated “and” or “or,” not “which is” (NRSV), which would equate rather than distinguish the objects of incest abuse. Similarly, Lev. 18:14a and b should be translated so as to distinguish male (14a, paternal uncle) and female (14b) objects of incest abuse (as in NJB). Thus, the inclusion of male objects of incest abuse in Leviticus 18 and 20 is not surprising and fits both the Ancient Near East and biblical patterns (see also the drunken Lot abused by his daughters in Gen. 19:32-35).

d. For centuries commentators were perplexed by the apparent absence of any prohibition of a father abusing his daughter, the most common incest offense in both ancient and modern times. Susan Rattray solved the problem, citing Lev. 21:2, where the reference to “near relations” (“your flesh”) includes mother, daughter, and sister of marriageable age.¹³³ Due to

internalized heterosexism, Rattray failed to note that male subjects are included in Lev. 21:2 and so also in 18:6-7a and 14 (father, son, brother, uncle).

e. No other text in the Hebrew Bible repeats or refers to the prohibitions of Lev. 18:22 and 20:13, so the earliest Jewish homophobic interpretations surfaced in the intertestamental deuterocanonical and apocryphal works, reflecting resentment against the oppression and violence of Greek and Roman overlords. For incest prohibitions in the NT, see Paul in 1 Corinthians 5, John the Baptist in Mark 6:18.

Nevertheless, in the case of Lev, 18:22, the prohibition of male-male anal sex occurs in a context of prohibited sexual acts apparently unrelated to incest (18:19-21, 23). The chapter appears to be organized around the principle of distinguishing between the fourteen prohibitions of incest (18:6-18) and five non-incestuous acts (18:19-23): sex during menstruation, adultery, child sacrifice, male-male anal sex, bestiality.¹³⁴ Such diversity may well reflect the continuity of legal prohibitions with shifting diversity of motives and purposes.

In addition to the lack of consensus about the four possible motives for the prohibitions, the phrase **“the lyings down of a woman”** (*mishkebe ’ishah*) is *ambiguous* in Hebrew and may refer to the active male who penetrates¹³⁵ or to the passive male who is penetrated.¹³⁶

a = “as a woman one who lies down (passive male, penetrated).”

According to Jerome Walsh,¹³⁷ Lev. 18:22 and 20:13a (singular) reflect a *patriarchal* sexual ideology: the sin in both texts consists in not maintaining the purity of the masculine gender, with its *superior* dignity and honor, and of “mixing” the masculine and the feminine (*inferior*) in a repugnant way (abomination). The texts thus condemn the *passive* male who offers himself to another male to be penetrated: who knows/experiences being penetrated like a woman (confusion/mixture of the two sexes), while 20:13b (plural) extends the condemnation to include the active male (both with the death penalty). Walsh contends that his interpretation explains better the consistent use of “free male” (*zakar*) for the penetrator in both Leviticus texts and also the references to the “lyings of (a) woman (*mishkebe ’ishah*)” as something that the woman “knows = knows through the experience of being penetrated” in Num. 31:17-18, 35 and Judges 21:11-12.¹³⁸ Walsh's interpretation thus implies that the Israelite norms *reflect* the common macho attitudes concerning the male's supposed superiority and dignity, an interpretation more consistent with the traditional priestly theology (patriarchal) and with the concept of impurity in Leviticus 1–16.

John Habgood in his review of Duncan Dormor and Jeremy Morris, ed. (2007). *An Acceptable Sacrifice: Homosexuality and the Church* (London: SPCK Times Literary Supplement, July 18, 2007) also supports Walsh's interpretation that the true offense consists in the idea that a male lying with another male implies “a violation of the [supposed] superiority of the male” and that the preoccupation of Leviticus, therefore, is patriarchal: it has to do with gender relations, not with sexual orientation.

b = “as one who lies with a woman (active male who penetrates).”

According to **Saul Olyan**, however,¹³⁹ Lev. 18:22 and 20:13a (singular) condemns only the **active** male who penetrates (oppression, abuse of power); while 20:13b (plural) extends the condemnation to include the passive male who is penetrated like a woman (both with the death penalty). This interpretation is more consistent with the Exodus paradigm (Ex. 18:3; see Yahweh’s name, Lev. 18:1-2, 4, 6, 21, 30) and Holiness Code theology (Leviticus 17–26, especially Lev 19). The abrupt change to the *plural* in 20:13b would indicate a later expansion to condemn the passive male.

Olyan’s interpretation implies that **Israel’s norms differed** from the norms in other cultures, since elsewhere legal codes made distinctions according to class or age:

- The **Greeks** accepted intergenerational sex, for example between a professor (active) and a student (free youth, passive), but disapproved relations between owners and slaves;
- **Rome** accepted relations between owners (active) and slaves (passive) or with male prostitutes, but punished older males who abused free youths.

Conclusion. For those who use the Bible as a source for norms, it might appear important to establish a principle motive so as to decide if this motive and the law itself have literal validity today. In this case, however, the Bible (especially the **New Testament**) **deconstructs** the four motives proposed for the laws:

- Although **idolatry** is condemned (Rom. 1:18-25), certain related practices must be evaluated with discernment (e.g. eating meat offered to idols, either in pagan temples or in the homes of unbelievers, 1 Corinthians 8–10; Romans 14).
- In the New Testament celibacy is exalted and **procreation** is notably *absent* when discipleship and sexuality are treated (Mat. 19:12; Luke 14:26; 18:29; Rev. 14:4; 1 Corinthians 7; see also **Song of Songs**);
- **Uncleanness** (→ Mark 7:21-23; Rom. 1:24-27; 14:14,20; Titus 1:15). Paul declares that all *things* are clean; married couples are to abstain from sex in order to pray, not to avoid menstrual impurity (1 Cor. 7:1-5);
- **Rigid distinctions** between male and female, slave and free, Jews and gentiles, disappear (Gal. 3:28; 1 Cor. 12:13; Acts 10–11; Eph. 2:11-20); like all believers, women are priests and may even be apostles (1 Peter 2:4-5; Rom. 16:7). It would be an anachronism to import the modern concept of complementarity into the Bible.

Moreover, the New Testament cites and exalts the command to **love your neighbor (Lev. 19:18;** Jesus in the synoptic gospels, Mark 12:31; Paul in Rom. 13:8-10; see James 2:8), but the NT never cites Lev. 18:22 and 20:13. Probably Paul’s vocabulary (*arsenokoitai*, → **1 Corinthians** 6:9; cf. 1 Tim. 1:12) alludes to Leviticus (cf. → Rom. 1:24-32). Nevertheless, the use of *arsenokoitai* in these two texts limits the acts to anal sex between free males and in the later chapters of Romans, Paul deconstructs the pejorative rhetoric of Romans 1.

Homophobia in post-constantinian Christendom maintained the death penalty for acts of sodomy from the fourth century until the eighteenth (in Europe) and the nineteenth (in Great Britain). How, therefore, can so many churches today, in their condemnation of sexual minorities, pretend to submit to the authority of the Bible, but ignore the death penalty that Lev. 20:13 so clearly

commands? Undoubtedly, this is but another example of the *selective, arbitrary literalism* that always characterizes fundamentalist ideologies.

Even the majority of fundamentalist theologians recognize that, given the vast number of biblical commands that no one dreams of taking literally today, we cannot cite such texts as Lev. 20:13 and 18:22 as normative for modern communities of faith. In fact, in the entire book of Leviticus, Christians can find not a single command in chapters 1–17 and 21–27 that they would seek to obey today (nor would they obey everything in Leviticus 18–20; see outline, p. 1). Even for most orthodox Jews, the situation is similar, since the Temple with its sacrifices and priesthood has disappeared (replaced by synagogues with rabbis). Therefore, those who turn to the Bible as a source of norms seek to demonstrate *continuity* with other biblical texts and a certain *theological coherence*.¹⁴⁰

Hence the importance of recognizing that the two texts in Leviticus commonly cited to condemn “homosexuals” represent a quite isolated phenomenon: such prohibitions are absent from the ancient “Book of the Covenant” (Exodus 21–23), from the Ten Commandments (Exodus 20 // Deuteronomy 5), and from Deuteronomy. Even in Leviticus, from the late sacerdotal source (“P”, exilic or post-exilic), they appear only in the Holiness Code (Leviticus 17–26), the latest element in the priestly materials. Thus, during the first eight centuries, from Moses (ca. 1300 B.C.) until the post-exilic period (538 B.C.), Israel’s legal codes contained no prohibition of anal sex between free males (see the misuse of → **Romans** 1:26 to condemn lesbians only after 400 A.D.). Similarly in Church history the use of Lev. 18:22 and 20:13 did not enter the homophobic discourse until late in the Middle Ages¹⁴¹ and thus the Church, like Israel, for many centuries never cited Leviticus 18 and 20 to justify discrimination and violence against sexual minorities.

Since the Pentateuch contains memorable accounts of sexual violations (Noah, violated by his son Ham, → **Genesis** 9; the men of Sodom trying to rape the two angel visitors, → **Genesis** 19), many suggest that the prohibitions of male-male anal sex resulted as a reaction to the similar sexual violations Israelite males suffered as prisoners of war and slaves during the Exile (587/86–538 B.C.). Moreover, with the population decimated by war and exile, the urgency to “multiply” (Gen. 1:26–28, also “P”) would have created great pressure against all non-procreative sexual practices. The priestly version (P) of the covenant with Abraham (Genesis 17) had stressed the promises of *land* and numerous *descendants* (“seed/ semen”) and such precisely is the emphasis of Leviticus 18 and 20: the good use of *semen* in order to remain in the *land*.¹⁴² In fact, Jacob Milgrom concludes that Leviticus prohibits only male-male anal sex by *Jewish males* and other *inhabitants of the Holy Land*. He adds that today in Israel, gays may fulfill the intention of the commands by adopting children.¹⁴³

Were we to read Lev. 18:22 and 20:13 as addressing *women*, they might take it as a prohibition of *heterosexuality* and an encouragement of lesbian relations, rather than a prohibition of “homosexuality”: “Don’t lie with a male as one lies with a woman. That’s an abomination”! (Lev. 18: 22).¹⁴⁴ At any rate, obviously two gay males who live in a modern world suffering from demographic explosion, enjoying a loving relationship that is consensual and exclusive (or open, but practicing safer sex in other relations), do not harm anyone – and even more obvious is the case of two lesbians, who need not be so concerned with all the same measures of safer sex.

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Notes

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- ¹ Hans de Wit 2002:505-531.
- ² R. E. Gane 1999:54-59.
- ³ See “I [am] Yahweh,” 16 times in Lev. 19:2-4, 10, 12, 14, 16,18, 25, 28, 30-34, 36-37.
- ⁴ Milgrom 2000:1397-1400, 1594-1608.
- ⁵ See 20:7-8, 21; 21:16, 23; 22:16, 32 + 11:44-45 and Núm. 15:40, also part of H.
- ⁶ Milgrom 2000:1398.
- ⁷ Concerning immigrants (*gerim*),, see Milgrom, 1416-20.
- ⁸ Jacob Milgrom 1991:51.
- ⁹ Milgrom 2001:2193.
- ¹⁰ Milgrom 2000:1594-1726.
- ¹¹ Milgrom 2001:2193.
- ¹² Hanks 1982: 141-154; Severino Croatto 2001:115, nota 20; → **Isaías** 56-66; Ross y Gloria Kinsler 1999:76-84; 2000:65-75.
- ¹³ Milgrom 2000:1407-1409.
- ¹⁴ Barnard Levinson 1989:172; for details see Lisbeth S. Freíd and David Noel Freedman in Jacob Milgrom 2001:2257-2269; concerning → **Isaías** 58 as a Jubilee text, Hanks 1982:141-151; 1983/2000:87-108; Kinsler 1999:72-74 / 2000:80-83.
- ¹⁵ Jacob Milgrom, *Leviticus*, Anchor Bible, 1991-2001, 2714 páginas.
- ¹⁶ *Ibid.*, 2000:1407-1409; 2001:2145-2271.
- ¹⁷ *Ibid.*, 2001:2270-2271.
- ¹⁸ Christopher Wright, 1992, ABD III, 1029.
- ¹⁹ Jacob Milgrom 1991:1000-1004.
- ²⁰ Rhonda Burnette-Bletsch, WS 2001:205-206, 338.
- ²¹ Judith Wegner 1998:48.
- ²² Milgrom 2000:1412-1414.
- ²³ Milgrom 1413-1414, citando Jonathan Ziskind 1996:128-129.
- ²⁴ van der Horst, 1996:112-134.
- ²⁵ *Ibid.*, 112.
- ²⁶ Carol Meyers, “Eve” in WS, 2001:81.
- ²⁷ William Countryman 2007:108-123; Daniel Helminiak 1994:93-94.
- ²⁸ Jacob Milgrom 1991:930-934.
- ²⁹ Jacob Milgrom 2000:1695-1698; Susan Ackerman 2009:650-52.
- ³⁰ See Andrew Linzey 1994:22.
- ³¹ Jacob Milgrom 1991:949; see the Koran 2.222.
- ³² *Ibid.*, 948-953.
- ³³ Gordon Wenham 1979: 241-243.
- ³⁴ Myers, Ched. *Binding the Strong Man: A Political Reading of Mark's Story of Jesus*. Maryknoll, N.Y.: Orbis, 1988.
- ³⁵ Marilyn French 1986:65.
- ³⁶ *Ibid.*, 40-112.
- ³⁷ Ranke-Heinemann 1988/90:12-17.
- ³⁸ Letha Scanzoni y Virginia Mollenkott 1978/94: 64-66, 128-134.
- ³⁹ *Pace* Ronald du Preez 1993:70-80.
- ⁴⁰ Robert Gagnon 2001:191-192.
- ⁴¹ Carmichael 1997:1-3, cited in Milgrom 2000:1523.
- ⁴² Jacob Milgrom 2000:1765-1768.
- ⁴³ Stewart 2006:96-99.
- ⁴⁴ Hoffner 1997.
- ⁴⁵ Gagnon 2001:63-71.
- ⁴⁶ Susan Rattray 1987; cited in Stewart 2006:97.
- ⁴⁷ Jacob Milgrom 2000:1528-29; Tirzah Meacham 1997:254-259.
- ⁴⁸ Madelein McClenney-Sadler, WS 2001:208.

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- ⁴⁹ William Countryman (1988: 34-35, 159-164; 2007:28-29, 155-161).
- ⁵⁰ Jacob Milgrom (2000:1526).
- ⁵¹ Robert Crooks and Karla Baur 2000:588; L. N. Ferguson 1985:566-68.
- ⁵² Judith Wegner 1998:45.
- ⁵³ Sara Rattray 1987:542, followed by Jacob Milgrom 2000:1527; David Stewart 2006:96-99.
- ⁵⁴ Miller 1997; Stephen Bigger 1979:201; Tirzah Meacham 1997:255; Countryman 1988:162, note 30; 2007:317, note 34..
- ⁵⁵ Saul Olyan 1994/97:398-414, confirmed by Bernadette Brooten 1996, Marti Nissenen 1998, Jacob Milgrom 2000; Jerome Walsh 2001; Robert Gagnon 2001:111-146; see Daniel Boyerin 1995 concerning the Talmud.
- ⁵⁶ Olyan 1994/97:398-402; Milgrom 2000:1569; Lings 2009:238-41.
- ⁵⁷ Milgrom 2000:1569; Lings 2009:238-41; cf. Gagnon 2005JM:10.
- ⁵⁸ Olyan 1994/97:399; Lings 2009:239.
- ⁵⁹ Olyan 1994/97:399; Milgrom 2000:1569.
- ⁶⁰ Olyan 1994/97:400.
- ⁶¹ Olyan 1994/97:400, 413; Milgrom 2000:1567.
- ⁶² See Jacob Milgrom 2000:1567.
- ⁶³ Bernadette Brooten 1996:290.
- ⁶⁴ Norman Snaith 1967:126; George Edwards 1984:51-54; Boswell 1980/92:100-106/125-128.
- ⁶⁵ Levine 1989:123; cf. Robert Gagnon 2001:129-132.
- ⁶⁶ Thomas Thurston 1996:63; Manuel Villalobos Mendoza 2002:87-91.
- ⁶⁷ J. Milgrom, following Ramban, thirteenth century rabbi; S. Melcher; cf. Gagnon 2001:132-34; 2005JM:2-9.
- ⁶⁸ Milgrom 1993, 1994. Cf. Robert Gagnon's attempted refutation (2005JM, 13-17).
- ⁶⁹ Stewart 2006; Lings 2009. Cf. Robert Gagnon's attempted refutation (2005JM, 10-13).
- ⁷⁰ Lings 2009:245.
- ⁷¹ Lings 2009: 246, note 37.
- ⁷² Ibid., 2009:244.
- ⁷³ Saul Olyan 1994/97:411-12; cf. Robert Gagnon 2001:134-135; Stephen Bigger 1979, with other liquids.
- ⁷⁴ Douglas; Brooten; Thurston; Helminiak; Walsh + Gagnon 135-142.
- ⁷⁵ Saul Olyan 1994/97.
- ⁷⁶ Thurston 1990; Walsh 2001.
- ⁷⁷ S. Olyan, 1994/97
- ⁷⁸ Thurston 1990; Walsh, 2001.
- ⁷⁹ Walsh 2001:204-205.
- ⁸⁰ Ibid..
- ⁸¹ Jacob Milgrom 1993:8; 2000:1530, 1566-70; 1785-90; 2004:196-197, 206-08; Robert Gagnon 2001:132-34; 2005JM:2-9.
- ⁸² Gagnon 2005JM:2.
- ⁸³ Sarah Melcher 1996:98.
- ⁸⁴ Gagnon 2005JM:16.
- ⁸⁵ Richard Hays 1996:212-213; Robert Gagnon 2001:341-42; Charles Cosgrove 2002.
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- ⁸⁷ Jacob Milgrom 2000:1750, 1786-88.
- ⁸⁸ Hans de Wit 2002:505-531.
- ⁸⁹ Hans de Wit, 526.
- ⁹⁰ Ibid.
- ⁹¹ Ibid., 527.
- ⁹² Ibid., 528.
- ⁹³ Ibid., 513-514.
- ⁹⁴ Ibid., 530-531.
- ⁹⁵ French 1986:65.
- ⁹⁶ Ibid., 40-112.
- ⁹⁷ Scanzoni and Mollenkott 1978:60-61, 112-115; 1994:64-65, 132-34.
- ⁹⁸ Hanks 1983; 1987; 1992.
- ⁹⁹ Harrison 1980:164.
- ¹⁰⁰ Wenham 1979:241-243.

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- ¹⁰¹ Myers 1988 passim.
- ¹⁰² Ranke-Heinemann 1988/90:12-17.
- ¹⁰³ Wenham 1979:261, 32-37.
- ¹⁰⁴ Gordon Wenham 1979.
- ¹⁰⁵ *Ibid.*, 259-261.
- ¹⁰⁶ Mary Douglas, etc.
- ¹⁰⁷ Wenham 1979:224-225.
- ¹⁰⁸ *Ibid.*, 260.
- ¹⁰⁹ *Ibid.*, 260, 280.
- ¹¹⁰ *Ibid.*, 261.
- ¹¹¹ Cited in Scanzoni and Mollenkott 1994:133.
- ¹¹² Bandra and Verhey in Bromiley 1988:437.
- ¹¹³ Irene S. Travis 2000:37.
- ¹¹⁴ Jerome Walsh 2001:207-209.
- ¹¹⁵ Saul Olyan 1994:186; confirmed by Bernadette Brooten 1996; Marti Nissenen 1998, Jacob Milgrom 2000; Jerome Walsh 2001; supported by the Talmud and early rabbinic interpretation, Boyarin, 1995:336; and by comparative study of the laws from neighboring countries, Daube 1986:447-8.
- ¹¹⁶ Gagnon 2001:111-146.
- ¹¹⁷ *Ibid.*, 135-142, 169-176.
- ¹¹⁸ Davidson 2007:334, 634.
- ¹¹⁹ Norman Snaith 1967:126; George Edwards 1984:51-54; Boswell 1980:100-106; 1992:125-128.
- ¹²⁰ Levine 1989:123; cf. Robert Gagnon 2001:129-132.
- ¹²¹ Thomas Thurston 1996:63; Manuel Villalobos- Mendoza 2002:87-91.
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- ¹²⁴ Gagnon 2005:2.
- ¹²⁵ Sarah Melcher 1996:98.
- ¹²⁶ Gagnon 2001:79-87; 2003:56-62; 2005JM: 12, nota 46.
- ¹²⁷ Olyan 1994; cp. Gagnon 2001:134-135; Stephen Bigger 1979, with other liquids.
- ¹²⁸ Walsh 2001; cf. Douglas; Brooten; Thurston; Helminiak; Gagnon 135-142, 169-176.
- ¹²⁹ David Stewart, "Leviticus," in *The Queer Bible Commentary*, 2006:96-99, citing doctoral thesis, 2000; also Renato Lings 2009.
- ¹³⁰ Stewart 2006:97.
- ¹³¹ Hoffner 1997.
- ¹³² As even Gagnon argues, 2001:63-71.
- ¹³³ Susan Rattray 1987 SBL Seminar Papers.
- ¹³⁴ Recognized by Lings 2009:244.
- ¹³⁵ Saul Olyan 1994/97.
- ¹³⁶ Jerome Walsh 2001; also Thurston 1990.
- ¹³⁷ Jerome Walsh, 2001.
- ¹³⁸ *Ibid.*, 204-205.
- ¹³⁹ Olyan, 1994/97.
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- ¹⁴¹ Jennings 2009:5, 217.
- ¹⁴² Sarah Melcher 1996:98.
- ¹⁴³ Jacob Milgrom 2000:1750, 1786-88; 2004:196-197.
- ¹⁴⁴ Stewart 2006:96, citing Irene S. Travis, *Take Back the Word*, 2000:37.