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INCEST IN THE BIBLE

CALUM CARMICHAEL*

The topic of incest occasions surprise in unexpected ways. It is common to find the topic turning up with increasing frequency in film and fiction. It is, however, surprising to find that, if James Twitchell of the University of Texas, Austin, is correct, there are undertones of father-daughter incest in advertisements by such well-known companies as Pepsico and Metropolitan Insurance Company.¹

The Bible contains its own surprises when it comes to the topic of incest. There is a very real sense in which a central tradition in the Old Testament and a major, arguably the major, religious doctrine in the New Testament condoned incest. Consider the case cited by Paul in 1 Corinthians 5.² A man is living with his stepmother, his father’s wife. I presume the father has died or has divorced her. Paul condemns the union in question, but it has to be pointed out that in doing so he must counter a fundamental Christian doctrine, namely, re-creation. His condemnation should not conceal the underlying religious belief that has prompted the couple’s relationship. Two features of the situation occasion surprise.³ First, Paul says that not even the pagan world permits marriage to a stepmother. Second, and most remarkable, the Corinthian community to which he is writing is very proud of this couple’s union. They are “puffed up” about it. Why should they be so?

Before explaining why, let me point out that trials of Christians in second-century Lyons and Vienne had them charged with “Oedipodean intercourse.”⁴ Church historians dismiss the accounts as malicious slander against the Christians. They are wrong. The same profound religious doctrine underlies these incestuous unions and the

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* Professor of Law, Cornell University.
⁴ Eusebius, Ecclesiastical History 5.1.14; Tacitus, Histories 5:5; Athenagoras, Plea for the Christians 31.1. See David Daube, Ancient Jewish Law, 15.
union between the son and stepmother in Corinth. The doctrine in question is the one that a person who becomes Christian undergoes a passage from death to life. He or she is a new creation, newborn in such a real sense that no longer is he or she the same person. All the old relationships are dissolved. So, for example, if a brother and his sister convert, they are no longer brother and sister. They are free to marry.

The belief in rebirth is one that Paul took over from the Judaism of his time. In his day, when someone converted to Judaism, that person was considered newly born. The new birth was taken so seriously that the law of inheritance, for example, was affected. In regard to marriage, the Rabbis introduced, not a watering down of the supernatural nature of the miracle of new birth—that is how they regarded it—but a restriction that disallowed unions that were contrary to Gentile law and morality. The result was that a variety of incestuous unions were banned. The Rabbis' reasoning was that the outside world might not appreciate the miracle of new birth, and would consequently judge Jews to be lax in sexual matters if unions prohibited by the surrounding culture took place. The Jewish leadership did not want that kind of Gentile response.

When Paul says that not even the Gentiles permit the union that the couple in the Corinthian church has contracted, he is applying the same restriction. The Pauline position is that the church has to put up with a second best: the couple, having become newborn and therefore no longer stepmother and stepson, nonetheless has to avoid marriage. Fundamentally, they are free to marry, but consideration for the milieu in which they find themselves, the dictates of public policy and public relations, rule it out. The Corinthian community's failure to understand the limitations on their new found freedom was as damnable as gross incestuous intercourse under the old law. Paul excommunicated the offending couple.

There are traditions in the Old Testament that might well have been viewed at some point in time as, potentially at least, offering a


6. If a gentile and his children become Jews, in strict law a debt owing to the gentile need not, on the gentile's death, be paid to his children, m. Shebi 10:9. The reason is that the convert and his children all count as newly born, and consequently are no longer related.

7. For illuminating remarks about scholars' avoidance of the topic of new birth in regard to the Jewish law of conversion, see David Daube, Appeasement or Resistance, and Other Essays on New Testament Judaism (Berkeley: 1987), 64.
licence for incestuous unions. I refer to the remarkable number of liaisons between close kin in the early narratives of the Bible. For example, in the Books of Genesis and Exodus the daughters of Lot produce sons by their father; Abraham marries his half-sister Sarah; Jacob marries two of his first cousins who are sisters to each other; Nahor marries his niece, that is, his brother’s daughter; Judah’s daughter-in-law Tamar seeks a remedy for her childless state by having intercourse with her father-in-law; and Moses’ father marries his aunt, that is, his father’s sister. In the Book of Samuel, David’s daughter, Tamar, tells her half-brother, Amnon, who is sexually harassing her, that he should go to their father, and he, King David, will consent to a proper way by which Amnon can marry her.

Abraham, Jacob, Judah, Moses, and David were outstanding figures in Israelite tradition. It surely mattered that the issue of incest arose with them. My contention is that it mattered very much. The patriarchs’ incestuous involvements are the key to the case I will make for a new way of understanding how the incest rules of Leviticus 18 and 20 came to be formulated. Let us note right away that these rules treat the relationship that Abraham had with Sarah, union of brother and half-sister, as incest, hence too the relationship that Tamar discussed with Amnon. A relationship with a daughter-in-law is ruled out. So too is marriage to two sisters while both are alive. These Levitical rules also prohibit the union that Moses’ own parents contracted, namely, a man and his aunt. On the other hand, the lists do not contain any prohibition of a union between first cousins, or of a union between a man and his niece.

A pressing question is this: How do we relate the rules about incest in the legal parts of the Bible to what occurred among the founding fathers of the nation of Israel? When we look at the reason given by the biblical lawgiver to justify these rules, we are told that the Israelites must not imitate the practices of the Egyptians and the Canaanites. All later commentators have readily accepted this reason. One must wonder, however, were the compilers of the rules not aware of the conduct of some of their ancestors? I shall return to this question as the main focus of this Article.

I first raise the general question: Why does one find rules barring incest at all? Alas, there are no ready answers. One common view in our culture is that incest leads to defective offspring. No ancient source nor any anthropological evidence gives much or any support for this view. If the ancients had known of such a causal connection between incest and defective children, they would have used it in sup-
port of their rules. They do not. I think we can rule out any awareness of a genetic factor as relevant to the origin of incest rules.\(^8\)

The Bible does provide an indication as to why some incest laws might exist. Consider again the story of Amnon’s violation of his half-sister Tamar (2 Sam. 13). His deed so enrages Tamar’s full brother, Absalom, that Absalom has Amnon slain. What motivated Absalom to take such extreme revenge for his brother’s misdeed? After all, it appears that Amnon could have married his sister if he had gone about it in the proper way, namely, by speaking to their father, King David.

One major reason for the existence of some incest rules is to ensure that family life is as sexually unimpassioned as possible. If it is not, violence of the kind that Absalom has inflicted on Amnon is the likely outcome. The potential problem of violence is well brought out if we reflect on an incident in the Book of Genesis. Jacob’s oldest son, Reuben, lies with one of his father’s wives. His example draws to our attention the peculiar problems that may come up when polygamy is practised. In a polygamous set-up, when a father takes a new wife, a son by a previous wife may be around the same age as the new wife (though this consideration did not apply with Reuben). In ancient Mediterranean society, where there was little social mixing of the sexes, it cannot surprise that a son may conceive a desire for his father’s new wife. To permit the two men to compete for her sexual favors is a recipe for violence. We can be fairly sure that the prevention of such conflicts constitutes one powerful reason for some incest rules.\(^9\)

I return to the question of incest and the fathers of the nation of Israel. I wish to ask the question: How do we square the incest rules in the Bible with some of the relationships that existed among these revered ancestors? The view generally adhered to is that we have to reckon with historical development. A relationship that was acceptable during an earlier period of time became unacceptable.

My view is different. I wish to argue that there is a direct link between patriarchal sexual conduct and the existence of the incest rules in Leviticus 18 and 20. The reason for the link is that the priestly

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\(^8\) 2 Sam. 21:20 (=1 Chron. 20:6) tells of a Philistine warrior who had six fingers on each hand and six toes on each foot. Jacob’s breeding experiment indicates that these ancients were aware of the effects of breeding in animal husbandry (Gen. 30:25-43). Exactly what they knew is impossible to judge.

\(^9\) One has to be careful not to generalize for every society. Among the Manchus group, marriage existed in that younger brothers had the right of physical access to the wives of elder brothers. See R.D. Jamieson, *Three Lectures on Chinese Folklore* (1932), 75.
INCEST IN THE BIBLE

lawgivers disapproved of what they found in some of their nation's traditions on the grounds that these traditions condoned relationships that the priests thought to be incestuous. I do not hold that biblical laws reflect the social history of the times when they were formulated. That assumption is standard among other scholars when they interpret biblical laws.\(^{10}\) Instead, I view the laws as taking up issues that we come upon in the stories and legends in, for example, the Book of Genesis. My assumption is that the biblical lawgivers set out to tackle the ethical and legal problems that they encountered in their reading of these tales. Biblical laws consequently constitute commentary on matters arising in the national folklore. I shall come back to the notable fact that the lawgivers lash out at the Egyptians and the Canaanites for incestuous practices, and not at the ancestors themselves.

I first turn to the lists of incest rules in \textit{Leviticus} 18 and 20 in order to draw attention to some of their peculiar features. It is puzzling, for example, to find that a prohibition—it is the first in the list—against a son's violation of his father or the son's intercourse with his mother should be set down at all. By and large, if ancient lawgivers are addressing societal problems, they are not motivated to set down in writing what no one questions, just as no university has rules stating that those giving lectures should not come dressed in spacesuits or deliver them in a monotonous plainsong.\(^{11}\) Everyone takes for granted such forbidden relationships as a son with his father or a son with his mother. They are so taboo that they will not even come to consciousness, except, for effect, to a modern filmmaker. Yet, I repeat, we find this peculiar formulation at the head of a list of incest prohibitions.

Again, the list contains no express prohibition against intercourse with a full sister. Nor is there a prohibition against intercourse with a son or a daughter, that is, where the father, not the child, is the target


\(^{11}\) On this characteristic aspect of ancient law codes and language—there are no words for those who do not murder, or, until 1892 with the introduction of the word heterosexual (to indicate a negative feature: "a morbid sexual passion for one of the opposite sex," \textit{Webster's New International Dictionary}), those who are sexually active but do not engage with the same sex—see David Daube, "The Self-Understood in Legal History," \textit{Juridical Review} 85 (1973), 126-34; \textit{Ancient Jewish Law} (Leiden: 1981), 123-29; "The Contrariness of Speech and Polytheism," \textit{Festschrift John Noonan, JLR} 11 (1995), 1601-05.
of the prohibition. We must take seriously and ask why the initial rule is addressed to the child of a family as though he, or she, would be the instigator of an incestuous liaison. After all, the sexual abuse of a son or daughter by a parent (or a sister by a brother) is much more likely in the world of experience at any time. No one, so far as I am aware, has raised this problem—why the child and not the parent is the target of this particular rule. The concern with a child who initiates an incestuous liaison, and the lack of any rule about more commonly occurring liaisons within a family, suggest that the usual attempt to read these rules against the social practice of ancient Israel is the wrong approach to understanding them.

Yet another problem in studying the biblical incest rules is that mixed in with them are rules that have nothing to do with incest, for example, rules about a marriage to two sisters while each is alive, sex with a menstruating woman, adultery, child sacrifice, homosexuality, and bestiality.

Another puzzle is the arrangement of topics in the series of rules. We have to ask whether it really is the case that, to account for the seemingly disorganised arrangement of the rules in Leviticus 18, we should reckon on additions over time. One can understand why this view has become so embedded in scholarly approaches. Thus there are two rules about intercourse with a half-sister; one rule more general than the other, and separated from it by a rule prohibiting intercourse with a granddaughter. A rule about the worship of Molech seems out of place in a series of rules involving sexual offences.

12. In the Hittite Laws (189) both a son (with a mother, cp. CH 157) and a father (with a daughter, cp. HL 189, or with a son) are targeted, Ancient Near Eastern Texts Relating to the Old Testament, ed. J.B. Pritchard (Princeton: 1950), 196.

13. Consider the impressionistic reporting of a Mrs. Christian Annersley, "magistrate and Chairman of the Bench," in an East Anglian village this century:

There was more incest in the past and it was always fathers and daughters, never brothers and sisters. It happened when mother had too many children, or when mother was ill, or when mother was dead. And very often it didn't matter a bit. The daughter usually proved to be very fond of the father and there would be no sign of upset in the family. No, I think it was quite an understood thing that a daughter would take on the father when the mother was ill or dead. It would always happen in a "basic" family, of course. Then somebody would give them away. Or it would come out when the daughter became pregnant. You would then come up against a strange form of innocence. Not ignorance, innocence. You would hear all about it from police notebooks, pages and pages and pages, and you'd wonder why the man didn't look like a monster. Then you'd realize that what he'd done and what we were saying he had done seemed to be two quite different things. We had strayed into the dark, into the deep—the hidden ways of the village.


14. A. Tosato thinks that, in the Molech rule, intercourse with a foreign woman is at issue, so intent is he to produce some homogeneity into the list of rules in Lev. 18:18-23. His view
How do we explain the sequence: menstruation, adultery, and then Molech worship? Can we solve these problems without resort to the assumption that biblical scribes went in for redactions of existing lists of rules quite unaware apparently that their insertions and additions were so badly done? I believe we can, if we take stock of a process of legal formulation, so deeply implanted in every part of the Pentateuch that it accounts for the unique integration of law and narrative that is the Pentateuch.

Biblical laws were formulated in relation to biblical narratives. The lawgivers went through the historical traditions of the nation Israel and formulated rules in response to events or issues that arose in these traditions, rather than in response to problems in their own time. Viewing the material in this light, we can provide a solution to the archaistic presentation of biblical laws, namely, their attribution to the legendary figure of Moses who judged matters past, present, and future. The primary impetus in the composition of the laws was the creation for the nation Israel of its own ancient legal tradition, with the laws explicating the epics of the past. The process that accounts for the presentation of the narratives is the same process that accounts for the presentation of the laws. The narratives do two major things. First, they reflect the compilers' interest in universal and Israelite origins (from the origin of the world in the Book of Genesis to the origin of kingship in the Book of Samuel). Second, they record matters that recur throughout succeeding generations (from the problems of the first family in the Book of Genesis through the problems of the kings in the historical books). The compilers of the laws do likewise. They take up problems that presented themselves for the first time in the biblical narrative history, and they also address comparable problems that recur in succeeding generations of that history.

The compilers of all the laws in the Pentateuch are the Deuteronomic and the Priestly writers, and they proceed in identical fashion. Their rules reflect, I claim, a special mode of ancient law teaching that to date has gone unnoticed. For example, time and again a dispute that is recounted in a narrative tradition, and in which the deity plays a decisive role, is taken up in a law, and a legal, as opposed to a divine,
judgment is given for a later equivalent dispute.\textsuperscript{16} Or, again, the deity's judgment in a tradition is translated into a rule that would apply to an approximately similar situation in the world of experience.\textsuperscript{17} Meir Malul stresses that the Near Eastern codes represent a literary tradition and not one that was necessarily used to inform the practice of law in the real world.\textsuperscript{18} I, in turn, wish to emphasize that the links between the laws and narratives in the Pentateuch represent the Israelite literary activity equivalent to what we find in the broader Near Eastern cultural world. I do not rule out the possibility that the Israelite lawgivers were inspired to give the Mosaic equivalent of laws from the Near Eastern codes by asking themselves what, in light of Israelite and patriarchal history, would Moses' comparable judgments have been.

The lawgiver tends not to take up the obvious offences presented in a narrative. Rather, he formulates rules that address offences which are indirectly suggested by ancestral behavior. A parallel to this procedure is found in the hypothetical cases that the prophets construct when at times they respond to actual offences. For example, King Ahab fails to kill the Aramean King Ben-hadad when he ought to have done so after he defeats him in battle (1 Kgs. 20:26-43). Instead Ben-hadad, hiding in the city of Aphek, sends messengers to Ahab to see if he will spare his life. Ahab responds positively and receives Ben-hadad well, especially so when Ben-hadad promises to restore some cities that his father captured from Ahab's father and authorizes the Israelites to set up bazaars in Damascus. A member of a prophetic guild goes in disguise to Ahab and presents him with a fictitious case that is about an offence analogous to Ahab's:

> Your servant [the disguised prophet] went out into the thick of the battle; then a soldier turned and brought a man to me, and said, "Guard this man; if he is missing, your life shall be given for his life, or else you shall pay a talent of silver." While your servant was busy here and there, he was gone.

\textsuperscript{16} For example, God's judgment on Onan's failure to meet his levirate obligation to his dead brother in Genesis 38 has its legal equivalent in the rule about the levirate in Deut. 25:5-10. See my Law and Narrative in the Bible (Ithaca: 1985), 295-97.

\textsuperscript{17} God's opposition to Sarah's going from her husband Abraham to another man and her return to Abraham in Genesis 20 is translated into a rule against the renovation of a marriage where the legal machinery of divorce has been used for the first husband's gain. See Calum Carmichael and David Daube, The Return of the Divorcee (Inaugural Jewish Law Fellowship Lecture, Oxford Centre for Postgraduate Hebrew Studies: 1992), 15-28.

Ben-hadad is not given over to Ahab with an instruction to guard him, whereas someone gives the soldier an enemy to guard. The soldier is under no obligation to kill his ward, but simply warned about losing him. Ahab, on the other hand, is, it is understood, under an obligation to kill Ben-hadad. When the king hears the case about the soldier, he judges that the soldier has been derelict in doing his duty. In so judging, Ahab condemns himself for his analogous offence, as the prophet, revealing himself, spells out: "Thus says Yahweh, 'Because you have let the man go whom I had devoted to destruction, therefore your life shall be for his life, and your people for his people'" (1 Kgs. 20:42).

There is no question then that the made-up case takes up from Ahab's situation. The offence that the prophet invents is one comparable to Ahab's. It is not the same offence, because it is presumably crucial for the prophet not to address Ahab too directly about his for fear of being struck down on the spot. The way in which the biblical lawgivers construct legal formulations from narrative accounts of ancestral offences is very similar to the prophet's procedure. Indeed, the lawgivers probably identified themselves with these prophetic guilds, not only adopting their method of constructing judgments, but also, when judging Israel's ancestors, taking over the same religious, moral, and legal perspective. The lawgivers' motivation in judging their ancestors is, remarkably, in one way strikingly similar to these prophets when they judge monarchs. The lawgivers only indirectly attack ancestral conduct.

Light is shed on the puzzling structure and formulations of the rules in Leviticus 18 once we draw a link between the rules there and certain narratives in the Book of Genesis. The reason why the prohibition about sexual relations with parents is the first in the series in Leviticus 18, and why it is formulated at all, is because legends in the Book of Genesis determine the lawgiver's concerns. Moreover, because the levitical rules are formulated as a reaction to what goes on in these legends, and not to what goes on in ordinary life, it becomes understandable why many of the rules strike us as implausible. There

19. Compare how the prophet Nathan presents King David with a made-up case for judgment about the theft of a ewe lamb (2 Sam. 12:1-6), and the woman of Tekoah with one about a widow threatened with the loss of her one remaining son because, this son having killed his brother, other family members seek vengeance for the killing (2 Sam. 14:4-7). David's adultery with Bathsheba, and Absalom's exile from his father David because he had his brother Amnon slain, inspire the two hypothetical constructions.
is, for example, in *Leviticus* 18:17 a quite extraordinary rule against a man's having a relationship with three different generations of women: a woman, her daughter, and her granddaughter.

Interpreters do draw attention to the fact that patriarchal history provides examples of unions that are prohibited in the incest laws of *Leviticus* 18 and 20. They have not gone far enough in their observations. If, as is universally agreed, the Priestly (P/H) writer not only knew, but also worked with the ancient traditions of his people that are contained in the Pentateuch, it can occasion no surprise that much, to him, objectionable behavior became the focus of his concern. It is precisely this kind of analytical and critical response to his sources—largely Genesis, but also Exodus—that accounts for both his setting down the rules in *Leviticus* 18, and the order in which he has arranged them. After all, so many of the relationships cited in Genesis and Exodus involve kinship ties.

After presenting my analysis of some rules in *Leviticus* 18, I shall address some of the other puzzling features about them. H—the designation commonly used for *Leviticus* 17-26 (the Holiness Code), or its redactor—first takes up three examples of incestuous, or near incestuous, conduct in primeval and patriarchal times. H then responds to both actual and hypothetical situations involving incest, or related sexual matters, that the stories about Abraham, Isaac, Jacob, and Judah pose. Although he gives no reasons for his assessment, Malcolm Clark is correct to characterize *Leviticus* 18-20 as "a purely ideal literary construct without institutional realization."

I turn to the analysis of the first rule.

*Intercourse with father, with mother* (Lev. 18:6, 7)

6 *None of you shall approach to any that is near of kin to him, to uncover their nakedness: I am Yahweh.* 7 *The nakedness of thy fa-

21. See his contribution "Law" in *Old Testament Form Criticism*, ed. J.H. Hayes (San Antonio: 1974), 128. All lists of rules about incest have something of this character. The philosopher John Locke expresses the matter as follows:

To know whether his idea of adultery or incest be right, will a man seek it anywhere amongst things existing? Or is it true because anyone has been witness to such an action? No: but it suffices here, that men have put together such a collection into one complex idea, that makes the archetype and specific idea; whether ever any such action were committed *in rerum natura* or no.

ther, or the nakedness of thy mother, shalt thou not uncover; she is thy mother; thou shalt not uncover her nakedness.

The two earliest incidents of incestuous conduct in the Book of Genesis involve drunkenness: first Noah’s and then Lot’s. The two incidents have much in common: the role of wine, the initiative towards the parent that comes from the son or daughter taking advantage of the drunken father, and the concern with future generations. The lawgiver looks at the two incidents together and uses them to set down the first rule of his series of rules on incest.

The first incident in the Bible that raises the issue of incestuous conduct is Ham’s offence against his father Noah (Gen. 9:20-27). Ham looks upon Noah’s nakedness and informs his two brothers Shem and Japheth, who carefully walk backwards and cover their father with a garment. When Noah finds out that his son has violated him in some way that is not clear to us, he curses him to a life of enslavement to his brothers. Whatever the precise nature of the offence, the Priestly lawgiver uses the incident to reflect on the potential sexual offence of a son against his father.

The second incident pertinent to the rule is when Lot’s daughters get their father drunk and lie with him in order to produce offspring by him. The lawgiver sets down the equivalent male offence: a son’s intercourse with his own mother. This move on the part of the lawgiver is an example of how the link between a rule and a narrative is of an indirect nature.

The rules are addressed to males, but we should be alert to the distinct possibility that in certain appropriate instances the masculine second person pronoun “thou” may include the feminine. I am claiming that the lawgiver moves from Noah’s situation, where a son offends against his father, to Lot’s situation, where daughters offend

22. The account is confusing. Ham is the offender, but his son Canaan is cited in Noah’s condemnation. It is as if there is a reversal of actions. Ham, who is explicitly cited as the father of Canaan, offends against his father Noah, and Noah in turn acts against Ham’s son Canaan. The lawgiver concentrates on Ham’s offence.

23. It is safe to assume that sexuality is involved, that Ham is not looking at his father’s left ear, or right toe, but at his genitals. In light of Canaan’s punishment—he loses his status as a member of Noah’s line and becomes a slave to his brothers—the offence seems to be disrespect of a progenitor’s status. Noah’s drunkenness is not considered relevant to his role in the matter.

24. For those who think the incident between Ham and Noah involved a homosexual act, see Anthony Phillips, “Uncovering the Father’s Skirt,” VT 30 (1980), 39, 40. They speculate, wrongly, I think, that because the act was so abhorrent the biblical author did not spell it out. My view is that a lawgiver found the narrative suggestive of the topic of sexual encroachment on a father.

25. To cite but one example, the rule in Deut. 12:18: “Thou, and thy son, and thy daughter, and thy manservant, and thy maidservant . . . .” The first “thou” includes the man’s wife.
against their father. There is thus considerable merit in reading the first part of the rule about the father to include an offence by either a son or a daughter. The language of the law is most appropriate if the lawgiver considered the two offences in the legends together. Ham looks upon a father's nakedness and Lot's daughters uncover their father's. In expressing an offence against a father in terms of nakedness, the lawgiver encapsulates both offences well.

If the language of the rule includes a daughter, then we have a rule prohibiting a daughter from instigating a relationship with a father. Ordinarily, however, a father's sexual advances on a daughter is the problem, but no such formulation is found in the code. The story about Lot's daughters would account for the reverse formulation in this rule.

The rule gives more attention to an offence against a mother than to an offence against a father. The increasingly common attempt to read the rule as solely about a sexual violation of a mother doubtlessly has been encouraged by the emphasis on her in the rule's formulation. The reason for the bias may well be the fact that in the narratives, the offence against the father is not in doubt, but rather is spelled out. In making a rule, however, the lawgiver has to postulate a corresponding offence against a mother. It is important to emphasize that the lawgiver uses a tradition, less to condemn conduct described in it—after all, the tradition itself will usually take care of the obvious offence—but more to bring out analogous conduct. The relationship between the law and the narrative is not a slavish one-to-one correspondence.

26. Karl Elliger (who first introduced me to the study of biblical law) feels compelled to introduce it. It had, he believes, inadvertently dropped out. "Das Gesetz Leviticus 18," ZAW 67 (1955), 2. Note how he assumes that the rules must have been set down with a view to governing social and family life.

27. Recent translations, for example, RSV and JPS, interpret the rule as solely about intercourse with a mother. They choose to read not the literal, "The nakedness of thy father and the nakedness of thy mother shalt thou not uncover," but place upon the connecting particle waw ("and") the weight of a circumstantial clause: "The nakedness of thy father which is [waw explicative] the nakedness of thy mother." While it is a possible, if a rather free translation, it is an awkward one that badly overloads the sentence, as interpreters who accept the translation point out. See, e.g., S.F. Bigger, "The Family Laws of Leviticus 18 in Their Setting," 196. Usually the lawgiver is more explicit when he makes the point that uncovering the nakedness of one person uncovers a related person's nakedness. For example, in the immediately following rule in Lev. 18:8, we have: "The nakedness of thy father's wife shalt thou not uncover: it is thy father's nakedness." In Lev. 18:14 ("Thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach to his wife"), uncovering an uncle's nakedness does indeed mean intercourse, not with him, but with his wife. There is no connecting particle waw between the two parts of the rule. Anthony Phillips also opposes the transferred meaning: "It is much more natural to understand Lev xviii 7a in its present form as prohibiting sexual relations with either of one's parents." "Uncovering the Father's Skirt," 39, 40.
It is rather a sensible exploration of the pertinent issues that the narrative raises.

A father's wife (Lev. 18:8)

8 The nakedness of thy father's wife shalt thou not uncover: it is thy father's nakedness.

The lawgiver takes up another offence that occurred in patriarchal history. Reuben, Jacob's oldest son, lies with his father's concubine Bilhah. Again, as in the legends about Noah and Lot, the child violates a parent, in this instance a stepmother. Leah is Reuben's mother, not Bilhah. The lawgiver generalizes from this patriarchal incident to include any wife of the father. Either the father has divorced his wife or he has died. The rule readily follows the previous one because in the earlier rule the focus is also a father's wife, specifically, a man's own mother.

In switching from the earliest history of the biblical ancestors to Reuben's escapade, the lawgiver typically ranges over the history of the generations. Where he finds an example in a later generation comparable to what occurred in an earlier one, he will switch to that example. He then returns to the chronological sequence of events in the history of the ancestors.

The rule describes the son's intercourse with the wife of the father as an uncovering of the father's nakedness. This focus in the rule on the father, and not on the stepmother, may well come from Reuben's father's own description of the incident. Jacob tells Reuben that it is against him Reuben has offended when, at the end of his life, Jacob assembles his sons together and addresses each in turn. In speaking to Reuben, he takes up the matter of his sexual offence but, interestingly, he states it in such a way as to make it appear that Reuben has violated him. Thus, Jacob talking, says, "Thou wentest up to thy father's bed; then defiledst thou it: he went up to my couch" (Gen. 49:4).28 He does not refer to the fact that a woman is involved.

28. A major reason why intercourse with a father's wife is thought of as uncovering the father's nakedness has to do with the near universal use of clothing to indicate the marital relation. As well illustrated in Deut. 22:30 ("A man shall not take his father's wife, nor shall he uncover his father's skirt"), a husband and wife, for both protective and sexual purposes, cover each other as if each is a garment. The Koranic statement that wives are "raiment for you and ye are raiment for them" (Q.2:187) well describes the biblical position also. See my discussion in Law and Narrative in the Bible (Ithaca: 1985), 198.
Intercourse with a half-sister, a granddaughter, and (again) a half-sister (Lev. 18:9-11)

9 The nakedness of thy sister, the daughter of thy father, or daughter of thy mother, whether she be born at home, or born abroad, even their nakedness thou shalt not uncover. 10 The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover: for their's is thine own nakedness. 11 The nakedness of thy father's wife's daughter, begotten of thy father, she is thy sister, thou shalt not uncover her nakedness.

The next three rules pose a very obvious puzzle. There is first a prohibition against intercourse with a half-sister, where she is either a daughter of the same father or a daughter by the same mother who has had a previous marriage. There is next a prohibition against a man's relationship with a granddaughter. The third prohibition is again intercourse with a half-sister, this time more narrowly defined: she and her brother have the same father, but a different mother.

Why would a lawgiver set down the same prohibition about a brother and a half-sister almost side by side? Why too, for that matter, does a prohibition about a man and his granddaughter come between these two almost identical rules about a half-sister? The conventional view is that we have to reckon with a code of laws patched together from different sources at some time in the history of ancient Israel.29 There is another, more interesting solution—and I might add, one more complimentary to the ability of ancient authors to set out rules in a way that made sense to them.

The focus of these three rules continues to be patriarchal history. In the first one, a man must not have intercourse with the daughter of his father's wife—a father's wife was the focus of the preceding law—not a daughter by his mother's previous marriage. This rule, and the two following ones about grandfather-granddaughter and the half-sister, look at actual and hypothetical aspects of the history of Abraham.

The lawgiver first focuses on Abraham's marriage to Sarah when Abraham encounters problems during a sojourn in Egypt (Gen. 12:10-20). On the occasion Abram (as his name is at this point in time) says to his wife: “Say, I pray thee, thou art my sister” (vs. 13). Abram attempts to deceive the pharaoh in order to conceal that Sarai (her

name at this time) is in fact his wife. He is motivated to do so because he fears the Egyptians will kill him and appropriate her. The hypothetical issue of a man’s marriage to his sister arises from the story in the sense that a man who can say that his wife is his sister, even if she is not, poses the issue: Can a man in fact marry his sister?  

This issue of marriage to a sister arises even if we did not know from a later notice in Genesis 20:12 that Sarai is indeed Abram’s half-sister, the daughter of his father. In the first of his rules about the half-sister, the lawgiver generalizes from Abram’s remark to the pharaoh, and thinks of both the half-sister from the father as well as the half-sister from the mother.

Why do we find the additional rule about the half-sister in the instance where she is solely the daughter of a father’s wife? Why this prohibition again, which the lawgiver has included in the preceding rule but one? The answer is that he has under scrutiny the specific, later notice in Genesis 20:12 about Abraham’s relationship to Sarah. Abraham (his name and Sarah’s have been altered by this time) is again sojourning in foreign parts, the Kingdom of Gerar, and again he fears that he will be killed on account of his wife. He resorts to the same ruse he tried in his previous visit to Egypt. Again the ploy becomes undone. The foreign king, Abimelech, finds out that Sarah is in fact Abraham’s wife. In response to the king’s discovery, Abraham informs Abimelech that Sarah is indeed his sister as well as his wife: “the daughter of my father, not the daughter of my mother, and she became my wife.” It is precisely this relationship that the lawgiver prohibits, having laid out in his previous law but one the more general prohibition against marriage to a daughter of one’s father or a daughter of one’s mother.

30. The lawgiver must have been all the more impelled to address the issue of brother-half-sister marriage because a similar incident occurs in the generation after Abraham. To protect himself from the men of Gerar, Isaac falsely claims that the woman (Rebekah) to whom he is married is his sister (Gen. 26:6-11).

31. August Dillmann points out that the statement in Gen. 12:13 about Sarai as Abram’s sister does not necessarily imply what we are told in Gen. 20:12, namely, that Sarah is the daughter of Abraham’s father, but not of his mother. Die Genesis, 6 (Leipzig: 1892), 227. Nor does the genealogical notice in Gen. 11:29 about Abraham’s father’s lineage give this information. In other words, the lawgiver has the statement in Gen. 12:13 in focus and he simply covers the two possibilities of marriage to a sister who is either the daughter of one’s father or the daughter of one’s mother. Of the daughter by the mother the lawgiver states that the prohibition applies to a daughter who has been born to the mother at home or abroad. Gen. 11:31 indicates that Abram’s father Terah moves with Abram and Sarai from his home in Ur of the Chaldees to go abroad. Since we learn in Gen. 20:12 that Sarah’s father is Terah, her mother would presumably have been from Ur. The point, however, is not Sarah’s possible genealogy. It is the contrast between home and abroad, which the Genesis narrative brings out, that has prompted the geographical statement in the rule.
The lawgiver’s method, by which he examines from a later ethical and legal stance information brought out in the narrative sequence, explains why he repeats the prohibition. I might add that it is my contention that the legal material in the Bible constitutes the substance of the redactional activity that the Graf-Wellhausen theory claims is responsible for the make-up of the Pentateuch with its four different strands: J, E, D, and P. The relationship between, on the one hand, the D and P rules and, on the other, the J and E narratives, is such that the four strands form a much greater unity than critics have hitherto realized.32

In between the two episodes about Sarah’s sexual history with other men is the incident about Lot’s daughters lying with their father. That incident was pertinent to the first rule prohibiting intercourse with a parent. The lawgiver looks at the incident again and uses it to derive his prohibition against a sexual relationship between a man and his granddaughter. This time he scrutinizes the incident in its wider context as part of the history of Abraham.

Lot is Abraham’s nephew (the son of his brother Haran). Lot’s daughters are Abraham’s grandnieces. Lot and his daughters are saved from the destruction of Sodom and Gomorrah because of Abraham’s good standing with the deity (Gen. 19:29). Their future husbands are not saved because they refuse to depart the threatened city. As a consequence of the destruction wrought on Sodom, the daughters reckon that for procreative purposes, “Our father is old, and there is no man in the earth to come in unto us after the manner of all the earth” (Gen. 19:31).

The lawgiver has reflected on the reasoning of the daughters of Lot. There is no man on earth to impregnate them, they reckon. That is not true. If they mean that men from their kinship group are not available, that is not true either. There is their granduncle Abraham. To be sure, he is even more aged than their father, but as we learn from the account of Abraham’s life at this point in time, he is perfectly capable of performing sexually at an advanced age. In their old age, he and Sarah produce their son, Isaac. Abraham, then, could come in to these daughters of Lot “after the manner of all the earth.”

The lawgiver condemns out of hand the action of these daughters in resorting to sex with their father. The very fact that they get him drunk to begin with is an indication that they know their action is

improper. For the lawgiver, on the other hand, intercourse with their granduncle Abraham would presumably have been acceptable. Just as the lawgiver does not prohibit a union between a man and his niece—a relationship Abraham's brother Nahor had with his niece Milcah—so he would not prohibit a union between a man and his grandniece. As in Roman Law, the relationship is too distant for it to trigger a prohibition.\textsuperscript{33}

My submission is that the lawgiver derives his prohibition against a man having a relationship with a granddaughter from his examination of the episode of Lot's daughters. He has made the following move. He condemns a relationship of a daughter with a father, but would not condemn one between a man and a grandniece. He does, however, consider the question: what about the relationship that is in between these two relationships? Can a man have a sexual relationship with his granddaughter? The lawgiver, prohibiting daughter and father, likewise prohibits grandfather and granddaughter.

Two other features of the material may also have been suggestive of a relationship between a man and his granddaughter. First, Lot is very old when the incident with his daughters occurs. Second, Lot's own father Haran died before Abraham and Lot migrated to Canaan. Abraham, as Lot's uncle, took on the role of father to Lot as a result. In this light, Abraham is even closer to being a grandfather to these daughters. The fact that there is a tradition highlighting Abraham's sexual activity at a period in his life when he is very old would bring into focus a sexual offence by a man two generations removed from a female relative.

There is no prohibition against either a brother's intercourse with a full sister, or a father's intercourse with a daughter where the father is the target of the prohibition. There is, however, a prohibition against a man's intercourse with his daughter-in-law (Lev. 18:15). The reason why the prohibitions about a sister and a daughter are omitted is not solely that they are self-understood: that the lawgiver does not raise issues that no one questions. Although this universal feature of early law codes is a factor,\textsuperscript{34} the main reason for the absence of express prohibitions against intercourse with a full sister and a daughter

\textsuperscript{33} If S.A. Naber's emendation of "sister" into "niece" is correct, Plutarch cites a prohibition in Roman Law for marriage with a niece (but not, I repeat, between a man and his grandniece). See F.C. Babbitt, Plutarch's Moralia, LCL, 4 (1936), 16, n.2.

\textsuperscript{34} See David Daube, "The Self-Understood," 126-34. It is a factor for a sister. Thus in Lev. 18:11 the reason given for prohibiting a relationship between a man and his father's daughter by a wife other than the man's own mother is that "she is thy sister." It follows that there is a bar to a relationship with a full sister.
is that the relationships in question were not ones that the lawgiver felt pressed to extrapolate from his scrutiny of the narrative material with which he worked. The omission of a rule prohibiting a father’s intercourse with a daughter may be surprising. In that the incident involving Lot and his daughters is about the daughters’ initiative and Lot’s lack of it because of age and drink, the lawgiver has not bothered to look at the offence in terms of a father’s initiative.

The omission of a rule about a father’s intercourse with a daughter, but the inclusion of one about a man’s intercourse with a granddaughter, presents a major problem for those inquirers who automatically apply sociohistorical considerations to an understanding of biblical legal material. J.E. Hartley, for example, proposes that “the reason for its [the rule about a daughter] absence may have been socio-economic; that is, an Israelite would not think of severely reducing the marriage price his daughter could command by having relations with her.” But it is not very believable that a father’s lust aimed at a daughter would be deflected by thoughts of his bank account. Sexual passion just does not work that way. Hartley admits that his proposal does not explain the absence of a law against a union between a brother and a full sister. An approach to these laws primarily in terms of social history is not a fruitful one. The laws were not set down to govern society, even though some of them may have governed society in fact.

I turn to a sequence of rules beginning with a prohibition against a man having a relationship with his daughter-in-law. There then follows a rule prohibiting a man his brother’s wife. Then follows the extraordinary rule about a man having sexual relations with a woman, her daughter, and her granddaughter.

*Intercourse with a daughter-in-law; a brother’s wife; a woman, her daughter, and her granddaughter (Lev. 18:15-17)*

15 Thou shalt not uncover the nakedness of thy daughter in law: she is thy son’s wife: thou shalt not uncover her nakedness.
16 Thou shalt not uncover the nakedness of thy brother’s wife: she is thy brother’s nakedness.
17 Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son’s daughter, or her daughter’s

35. CH 154 has the prohibition: “If a seignior has had intercourse with his daughter, they shall make that seignior leave the city,” ANET, 172.
These three rules, I submit, have been formulated in response to the story of Judah and Tamar in *Genesis* 38. Recall that Judah, one of Jacob's twelve sons, separates himself from his brothers and, living in Canaan, marries a Canaanite woman. Judah produces three sons by her. He marries the first of his sons, Er, to Tamar. God strikes Er down for some wickedness he does. There is no child by the union and the second son Onan is obliged, by the levirate custom, to give conception to Tamar to raise up a child to his dead brother. Presumably for reasons of greed, because Onan stands to gain if no son becomes heir to his dead elder brother, Onan avoids his obligation by ejaculating outside of Tamar. Onan too is struck down by the deity. The obligation to fulfill the levirate duty then falls upon the youngest son, Shelah. Shelah, however, has not yet reached puberty. Moreover, from Judah's vantage point, it appears that Tamar is the sinister force that causes the deaths of his sons. Therefore, when Shelah reaches sexual maturity, Judah, fearing for Shelah's life, does not involve him with Tamar. Tamar takes the matter into her own hands. She dresses as a prostitute and, with her face covered, she seduces Judah when he is on his way to a sheepshearing festival. After some months, Judah is told that his daughter-in-law is pregnant by harlotry. Judah pronounces a sentence of death by burning for her offence. As she is being led out to be burned, Tamar in her own defence produces objects that Judah gave to her at the time of their sexual transaction. Judah then acknowledges the rightness of her action, namely, producing an heir to her dead husband by a member of his family. By keeping Shelah from Tamar, Judah failed to fulfill this duty to his dead son Er. The story ends with Tamar producing twins.

The lawgiver sets down his rule against a sexual relationship with a daughter-in-law in response to Judah's dealings with Tamar, his daughter-in-law. "You shall not uncover the nakedness of your daughter-in-law: she is your son's wife, you shall not uncover her nakedness." At the time of Tamar's ploy she is not actually married to any of Judah's sons. The point is, however, that whether Judah permits Shelah to consummate a marriage with her or not, Tamar's situation is such that she is affianced to Shelah by the custom of levirate marriage. That is why she can be accused of harlotry.

The story itself brings out the taboo inherent in a relationship between a man and his daughter-in-law. Tamar does not approach Judah openly to obtain seed from him, but has to disguise herself and
play the harlot. The story, moreover, tells us that after their one sexual encounter they never again have a sexual relationship. There is, then, a sense in which all the lawgiver does is spell out a rule that is implicit in the narrative. The narrative, after all, itself contains ethical and legal judgments. The lawgiver would simply be extending this process of judgment. He would be further encouraged to do so because the story in fact gives an ambiguous message. Because Judah failed to have his one remaining son, Shelah, give Tamar conception, Judah states how Tamar, in getting seed from him, is “more righteous than I, inasmuch as I did not give her to my son Shelah.” Judah’s statement might actually imply that in some circumstances it is acceptable for a daughter-in-law to have a sexual relationship with her father-in-law. The lawgiver opposes any such relationship.

The next rule against a sexual relationship with a brother’s wife also comes from reflection on the story. “You shall not uncover the nakedness of your brother’s wife: she is your brother’s nakedness.” The story presupposes the custom of levirate marriage, where a man in certain circumstances is obliged to have a sexual relationship with his dead brother’s widow. Onan is unwilling to meet his obligation and he conceals his unwillingness in an offensive way. Either the lawgiver opposes any union between a man and his brother’s wife no matter the circumstances, thereby cancelling the levirate custom, or the lawgiver views Onan’s example of unwillingness as wholly appropriate for all Israelite men, except in regard to the levirate custom. I cannot decide which view prevails.

I turn to the extraordinary rule about a man’s sexual relationships with three generations of women in the same family: “You shall not uncover the nakedness of a woman and of her daughter, and you shall not take her son’s daughter or her daughter’s daughter to uncover her nakedness; they are your near kinswomen; it is wickedness.” The rule is not just narrow in terms of the extraordinary relationships contemplated by it, but also in that the man marries a woman who already has children from a previous marriage. Again the story of Judah and Tamar is the key to making sense of it. A central feature of the story is that a woman, Tamar, has several sexual relationships within the same family. Although the story features a woman, in his rules the lawgiver addresses males. He therefore discusses a set of relationships for a man that approximates Tamar’s experience. We might recall how Lot’s daughters’ intercourse with their father prompts the lawgiver to set down a rule prohibiting a son’s intercourse with his mother.
Tamar has a sexual relationship with a man of her own generation, but also with his father, that is, with two generations of men belonging to the same family. She is to have a sexual relationship with another member of this family, namely, Shelah. Shelah, however, has not yet reached puberty when the occasion arises. From the sexual point of view, Shelah's youth puts him into a different generation than his dead brothers. Tamar's actual or potential sexual liaisons with what amounts to three generations of men in the same family inspire the lawgiver to set down a rule that prohibits a man to have sexual relations with three generations of women in the same family. 38

If the rule in any way is meant to apply to real life, we might ask how realistic is it? In the world of antiquity, a mother could be around forty, her daughter around twenty-five, and her granddaughter, like Shelah, around the age of puberty. Such a line-up, however, would be quite exceptional. When we take into account the improbable proposition that a man would seek a sexual relationship with all three generations, I think we have to reckon with the dramatic developments in the legend, rather than with real life as having triggered the lawgiver's thinking.

Marriage with two sisters in their lifetimes (Lev. 18:18)

Neither shalt thou take a woman as a rival wife to her sister, to uncover her nakedness, beside the other in her life time.

The lawgiver next sets down a rule that is not about incest. A man must not marry two sisters while they are both alive. It is easy to relate this rule to patriarchal history. Jacob is married to the two sisters, Rachel and Leah. These women are his first cousins, but that particular degree of consanguinity plainly is not the reason for the prohibition. Presumably the lawgiver permitted a marriage between first cousins. The reason in the rule as to why a man should not marry two sisters is the problem of rivalry between the sisters. The notable feature of Jacob's marriage to Rachel and Leah is precisely the rivalry

38. The rule speaks of uncovering the nakedness of the woman and her daughter, but of taking (to wife, laqah) the granddaughter. Tamar's lying with her father-in-law would not have occurred if he had done his duty by her and arranged for Shelah's fulfillment of the duty of levirate marriage. It would then have been appropriate to have spoken of Shelah's taking Tamar (to wife) for this purpose. As just indicated, for the lawgiver, a granddaughter is equivalent to Shelah in Judah's family.

Interpreters have been puzzled by the use of the term ša'ra, "relative," and typically read it as "they are her kin." The problem with this reading is that it states the obvious and we have to wonder why the lawgiver felt it necessary to use the term. The Septuagint is probably more accurate: "they are your kin." The law's background may again prove illuminating. The reference to kinship may reflect the fact that Judah is Tamar's father-in-law.
between them in competing for his sexual services. On one occasion, one woman hires him out to the other for a night's lovemaking (Gen. 30:14-18).

The history of patriarchal sexual relationships accounts, I contend, for the setting down of the series of rules in Leviticus 18:6-11, 15-18. Where these relationships raise issues of incest, the lawgiver will duly record his judgment. Where the stories raise related issues, but ones that do not involve incest, the lawgiver will also proceed to give his judgment. The lawgiver's method, then, accounts for the mixing together of laws having to do with incest and laws not having to do with incest. Any hypothesis about the nature of these rules has to account for such combinations of topics.

The lawgiver goes from the story of Tamar's marital history to the story of Jacob's when he sets down a rule about a man's marriage to two sisters after a rule about sexual relations with three generations of women. How do we account for this switch from one story to another? A fundamental procedure of the lawgiver is that he moves back and forth between the histories of the generations. What prompts him to do so is that, time and again, he finds that what occurs in one generation also occurs in a later or earlier generation. His procedure is exactly in line with how the biblical narrators themselves proceed in setting out their narrative traditions. Typically these narrators record similar developments in the lifetime of each patriarch, for

39. C.F. Keil and F. Delitzsch translate the verb sarar, usually translated "to make a rival wife," "to vex," in its other, doubtless related sense of "to pack together," that is, in a bond of marriage. This translation well brings out the fact that Laban forces Jacob into a marital bond with both of his daughters. Biblical Commentary on the Old Testament, vol. 2 (Edinburgh: 1869), 416. 'Alehah, "upon her," in the sense of beside the other sister as a wife, occurs also in Gen. 28:9 (Esau's acquiring other wives) and Gen. 31:50 (Jacob's acquiring wives in addition to Leah and Rachel).

40. I do not accept the view of A. Tosato that this rule has been properly interpreted by the Dead Sea community, "The Law of Leviticus 18:18: A Reexamination," CBQ 46 (1984), 199-214. CD 4:20-21 paraphrases the rule as a prohibition of bigamy, not as prohibiting marriage to two sisters while each is alive. I agree with Tosato that we should not introduce the notion of incest into this rule—a major part of his argument—but his interpretation that the rule is a general prohibition of bigamy still does not follow. He finds himself in considerable difficulty when he argues against the usual view that the rule is about two sisters. Thus he comments (p. 212),

One cannot forget that Jacob-Israel had at the same time two sisters as wives. . . . It is hard to believe that such personages were made into breakers of the Law on account of incest, with the counterproductive consequence for these "sons of Israel" of portraying themselves as a people irremediably unclean (just the opposite of the holiness sought!). Not incest, to be sure, but on other grounds the lawgiver condemns a marriage comparable to Jacob's. One wonders what Tosato would have to say about Abraham's marriage to Sarah in light of the Levitical prohibition against that incestuous union, and about Moses' rule in Lev. 18:12, 13 legislating against the union his parents contracted.
example, how each patriarch, beginning with Abraham in relation to his sons Isaac and Ishmael, had a problem involving his first-born son.

In the story about Tamar, she is married first to one brother and then, after he dies, to another brother. The lawgiver turns to a comparable marital setup in the preceding generation, namely, Jacob's. Jacob is married to two sisters, Rachel and Leah. Unlike Tamar's consecutive marital unions to two brothers, Jacob is married to each sister during the lifetime of the other. There are other features shared by the two stories. Tamar's marriages to the two brothers are disastrous. Jacob's own marriages founder. He hates Leah because he has been tricked into marrying her, and Rachel, the one he loves, is barren. Onan's father instructs him, because of the levirate custom, to take Tamar as a wife. Onan spurns her. Leah's father instructs her, because of the custom to marry off the elder daughter before the younger, to become Jacob's wife. Jacob spurns her. In neither instance would Onan voluntarily have taken Tamar, nor Jacob Leah.

**Conclusion**

I conclude with the problem that, in introducing the sequence of rules I have just discussed, the biblical lawgiver expressly condemns not the conduct of the ancestors, but rather the conduct of the Egyptians and the Canaanites. In the prologue to the rules in *Leviticus* 18:1-3, the Priestly lawgiver warns: "After the doings of the land of Egypt, wherein ye dwelt, shall ye not do: and after the doings of the land of Canaan, whither I bring you, shall ye not do." In the warnings that follow the presentation of the rules (*Lev.* 18:24-30), the lawgiver again returns to the unacceptable conduct of the Canaanite inhabitants of the land and insists that the Israelites should not imitate it when they occupy the land of Canaan. One problem about these warnings is the difficulty in finding any evidence in the pertinent Near Eastern sources that the liaisons prohibited in Leviticus constituted a major feature of Egyptian and Canaanite life. Another problem is that it is hard to believe that Canaanite and Egyptian children were known for initiating sexual encounters with their parents or went in for relationships with three generations of women in the same family. I know of no scholar who addresses the discrepancy between vices that Moses attributes to Egypt and Canaan and the actual social prac-

41. Harry Hoffner points out how sparse is the evidence, for example, for bestiality and homosexuality (prohibited in *Lev.* 18:22, 23; 20:13, 15, 16) in Syro-Palestine and Mesopotamia: "Incest, Sodomy, and Bestiality in the Ancient Near East," in *Orient and Occident, AOAT 22* (Neukirchen-Vluyn: 1973), 82.
tices in those lands. Presumably, the tacit view is that if we knew more about these societies, revelations of their outrageous ways would be forthcoming. I am skeptical, however, about the common assumption that these nations were indeed notorious for decadent behaviors, with the Israelites reacting against them in the regulation of their own social life.

In every time and place, a typical phenomenon is for one group to blame another for sexuality that is deemed damnable. The Germans blamed syphilis on the French, the French on the Spanish, and the Spanish on Native Americans. Homosexuality has been termed the English disease; the term "bugger" means that it was the Bulgarians who engaged in homosexuality; and a Sodomite refers to the homosexual activity of the natives of Sodom. AIDS has been blamed on Africa. In a pre-Socratic Greek source we are told that the "Persians think it seemly that not only women but men should adorn themselves, and that men should have intercourse with their daughters, mothers and sisters, but the Greeks regard these things as disgraceful and against the law." According to the Bible, (sexual) harlotry starts with the Canaanites (Gen. 34).

My scrutiny of the incest rules suggests that it is the behavior of the ancestors of the Israelites, not Egyptian or Canaanite behavior, that the lawgiver has in focus and condemns. This conclusion should not be so unexpected when we recall that some of the rules do prohibit relationships that are actually found among the patriarchs. Why then does the lawgiver point the finger at the Egyptians and the Canaanites instead of at them? The answer is that the lawgiver had to view the behavior of the ancestors in light of their milieux. It is a universal phenomenon. Conduct barely acceptable in one part of the United States (Denver) is considered good enough in another part (San Francisco). The patriarchs did not have the laws of Moses by which to live, but instead were influenced by their Canaanite or Egyptian environment. That environment had to be taken into account in assessing their behavior. It is the lawgiver who infers, in a

43. See David Daube's study of New Testament and Talmudic ethical judgments where the influence of harmful milieu is taken into account, "Neglected Nuances of Exposition in Luke-Acts," Aufstieg und Niedergang der Römischen Welt, 2, Principat 25, Religion 3 (Berlin: 1985), 2329-56. Interestingly, the reference in Gen. 6:9 that Noah was "just and perfect in his generation" occasioned much debate as to whether Noah possessed absolute virtue or whether he stood out only among his contemporaries (Philo, De Abrahamo 7.36ff.; Genesis Rabba on 6:9).
44. A. Tosato forgets this fact and hence his difficulty when he states, "It is hard to believe that such personages [the patriarchs] were made into breakers of the Law." "Law of Leviticus 18:18," 212.
way that I indicated was typical at all times and places, that Canaanite and Egyptian ways were beyond the pale and that the activities of the ancestors were more understandable as a consequence.

As an example, look to Abraham's marriage to his half-sister. The lawgiver probably inferred that such a union, offensive to him, simply reflected Abraham's deficient social and cultural setting, Mesopotamian in this particular instance.45 He and Sarah married before they migrated to Canaan. Abraham himself saw the need to avoid a Canaanite marriage for his son Isaac (Gen. 24:3). Abraham's awareness of such an undesirable union would be evidence for the lawgiver that, already in Abraham's time, the Canaanites represented harmful influence. Judah's relationship with his daughter-in-law occurred in Canaan, after he himself had married a Canaanite in Canaan. Moses prohibited the very union that his own parents had contracted. They had contracted it in Egypt (Num. 26:59). For the lawgiver then, it was the host cultures in which the ancestors lived, not the ancestors themselves, about which he had to warn.46

The consensus of scholarly opinion has it that the Levitical lawgiver was himself living in a host culture, namely, Babylon. If this is so, it may be significant that he does not cite Mesopotamia as one of the cultures he deplores. To have done so would have been unwise. At the same time, however, if this historical context is relevant to the rules, the lawgiver is in a coded way telling his fellow Israelites to avoid Babylonian ways.47


46. Without realizing just how important is the connection, commentators have long drawn attention to the notices about the iniquity of these cultures in Genesis (13:13; 18:20ff.; 19:1ff.; 20:11) and the similar ones in Lev. 18:24-28, 20:22-24. See August Dillmann, Die Genesis, (Leipzig: 1892), 251; also M.A. Fishbane, Biblical Interpretation in Ancient Israel (Oxford: 1985), 420, who states that while Abraham on divine authority would inherit the land defiled by the Amorites (Gen. 15:7, 16), Abraham's descendants would forfeit it if they defiled it with those sins decreed by Ezekiel. Fishbane then cites Ezek. 33:25, 26 and Lev. 18:20, 26-30.
