

How does one “lie with a woman”? The performance of gender in the Holiness Code (*Leviticus* 17-26)¹

CARMEN DELL’AVERSANO

ABSTRACT: The usually virulent, and occasionally murderous, homophobia of a number of Christian and Jewish denominations can be traced back to two verses in the Hebrew Bible, *Leviticus* 18:22 and *Leviticus* 20:13. One generally overlooked characteristic of both these passages is that their normative thrust is *gendered*: the Holiness Code does not show any interest in “lying with a male” in general, but only forbids “lying with a male *as one lies with a woman*”. My argument will start from this obvious fact to conduct an inquiry into the way the feminine is constructed in the Holiness Code. As the grammar of the original Hebrew makes unambiguously clear, the model of sexual transgression the text presents, and subscribes to, is structurally asymmetrical: with the very interesting exception of sex with animals (*Leviticus* 18:23), sexual transgressions are invariably assumed to be actions performed by the male on a passive female object. In this context, “lying with a male as one lies with a woman” can only be taken to refer to what in the whole pericope is assumed to be the defining characteristic of heterosexual sex, the structural asymmetry of positions, which constitutes it as a situation in which a subject makes use of an object, in relation to which the issue of consent is by definition immaterial; this has, of course, nothing whatsoever to do with homosexual sex, but is the definition of what we today understand as homosexual rape. Therefore the real object of the prohibition expressed in *Leviticus* 18:22 (and of the sanctions specified for it in *Leviticus* 20:13) is not sex between men but exactly, and *exclusively*, this objectification, which erases the social difference between man and woman, and therefore poses a formidable threat to the status of the only subject whose existence is acknowledged by the social order of ancient Israelitic culture, the adult human male. And, of course, the very anxiety associated with this possibility is a clue to the fact that in the Holiness Code gender is conceived of not as an essence, which will remain firm and unaltered through any number and kind of vicissitudes, but as the intrinsically unstable result of relationships, events, and negotiations, which have the potential to question, unsettle, and trouble it; in short, as what thousands of years later would come to be known as performative.

KEYWORDS: *Leviticus* 18:22; Jewish studies; Membership Categorization Analysis; homophobia; gender.

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My brother Jonathan,
You were most dear to me.
Your love was wonderful to me
More than the love of women.
(2Sam 1:26)

To Harvey Sacks.
May his memory be for blessing.

1. EVIDENCE AND METHOD

The usually virulent, and occasionally murderous, homophobia of a number of Christian and Jewish denominations can be traced back to a grand total of two verses in the Hebrew Bible:² *Leviticus* 18:22, “Do not lie with a male as one lies with a woman; it is an abhorrence”, and *Leviticus* 20:13, “If a man lies with a male as one lies with a woman, the two of them have done an abhorrent thing; they shall be put to death—their bloodguilt is upon them”. In what follows I will engage with them in a way which is, on the one hand, almost embarrassingly commonsensical, being grounded as it is in a number of basic considerations of grammar³ and context which are so trivial as to border on tautology, but on the other hand, as far as I know, not unoriginal in its conclusions, which may prove to be both of theoretical and of practical interest.

The (not particularly insightful) premiss of my argument is that the normative thrust of both passages is *gendered*:⁴ the Holiness Code does not show any interest in “lying with a male” in general, but only forbids, and condemns with words of the strongest opprobrium⁵ “lying with a male *as one lies with a woman*”. It follows that any effort to understand the Biblical prohibition in a way which is not so superficial and generic as to be worse

² All English translations are from JPS 1999.

³ It is, I assume, hardly necessary to point out that my argument was developed with reference to the original Hebrew text, and that the grammatical points I will be making are unambiguously and immediately evident to anyone with a basic working knowledge of Hebrew grammar.

⁴ And, as such, it is, among other things, grounded in the distinction, which is no less fundamental for being implicit, between “lying with a woman” and “lying with a male” in a way which, because it is not “as one lies with a woman”, is not forbidden, and therefore not mentioned anywhere in Biblical law; this distinction, however interesting, is unfortunately impossible to explore in any detail owing to the complete lack of textual evidence.

⁵ The Hebrew תועבה (tō‘ēbā) is usually translated “abomination” or, as in JPS, “abhorrence”; its exact meaning is, however, different: “the word [...] means something like ‘transgression of borders’” (BOYARIN 2007 note 1); this clarification will prove crucial to my argument (see below section 3, “‘Man’ as ‘woman’ in *Leviticus* 18:22”).

than useless must be grounded in a preliminary inquiry into the way that the feminine is constructed at least in its immediate context. It turns out, surprisingly, that this almost embarrassingly pedestrian line of reasoning, no doubt because of its very triviality, has not been thought worth pursuing before.

2. “MAN” AND “WOMAN” IN THE HOLINESS CODE

My argument will focus on chapter 18 of *Leviticus*. The properly normative part of the pericope begins with 18:6, “None of you shall come near anyone of his own flesh to uncover nakedness”.

All the prohibitions which follow, up to and including 18:18, are particular specifications of this overarching principle. In all these cases the grammar, which in Hebrew unambiguously differentiates between masculine and feminine verbal forms, makes clear that the subject of the prohibition is the male, and the female is its object.⁶ No mention is to be found of any symmetrical cases, in which the one “uncover[ing] nakedness” of a kinsman (or, for that matter, of a kinswoman) might be a woman; and this absence is all the more peculiar since it is evident that all the various transgressions addressed by the prohibitions *must* be perpetrated by a man and a woman *together*.⁷ The structure of the *situation* described is necessarily symmetrical, but the *model* which the Holiness Code presents, and subscribes to, is blatantly asymmetrical: sexual transgressions are actions performed by the male, for which he is exclusively responsible, and of which he and only he is guilty, and therefore he, and he alone, is the sole proper target of any prohibition which may concern them. This is exactly parallel to 18:21 “Do not allow any of your offspring to be offered up to Molech”, where, even though each child obviously has two biological parents, one male and one female, the right to determine its fate is an exclusive prerogative of the father, and therefore the prohibition to sacrifice it to Moloch can only conceivably be addressed to him.

⁶ This is of course also true of the commandments in *Exodus* 20:1-14 and *Deuteronomy* 5:6-18; moreover, as a consideration of the content of *Exodus* 20:14 and *Deuteronomy* 5:18 makes clear, it would be hard to explain this away as an instance of the universal masculine: the subject of the injunctions not to “covet your neighbour’s wife” is obviously not just grammatically masculine; he is *socially* masculine. The implications of this absolutely basic observation for a feminist theology are deserving, in my opinion, of a thorough exploration.

⁷ This evident fact is confirmed (should there be any need for confirmation) by the fact that the punishments in *Leviticus* 20 are imposed on both.

The significance and the purpose of the prohibitions spelled out in *Leviticus* 18:6-18, and of their peculiar phrasing, is clarified by the comparison with 18:20 “Do not have carnal relations with your neighbor’s wife and defile yourself with her”, and with the sixth and ninth commandments; all three prohibitions are practically equivalent, and all three forbid (to an obviously male subject) the sexual use of a woman who is the rightful property of another man. What makes such a prohibition reasonable and necessary is a fundamental principle of ancient Israelitic law and culture: that *women are property*;⁸ and it is this very same principle which also ensures its effectiveness: a woman is not an autonomous subject of rights, but is invariably in all cases the object of someone’s⁹ right of ownership; and that “someone” is, by definition, male.¹⁰ This is shown, among other things, by the fundamental continuity between “the wife” and sundry

⁸ This principle is of course a staple of early patriarchal cultures like that of ancient Rome, and, through – among other things – the central role of both Roman law and the Bible in Western culture, has had a momentous, and far from benign, influence on Western law and civilization up to the present day. The still widespread custom of the bride’s father “giving her away” to the husband during the wedding ceremony is a visible expression of this pervasive and fundamental legal and social assumption. That women are property in ancient Israelitic law is obvious, for instance, in the prescriptions regarding the rape of virgins in *Exodus* 22:15-16 and *Deuteronomy* 22:28-29: in both cases, the woman’s fate is decided jointly by her rapist (who can either marry her or pay fifty shekels as the bride price), and by her father (who can refuse to give her away to her rapist); she has no say in the matter. Of course, until quite recently, “marry-your-rapist” laws were ubiquitous the world over; but it should also be noted that, in all societies where a bride price is paid (and this includes ancient Israel), the deal is invariably negotiated exclusively between the father of the bride and the would-be husband: a wife (as is abundantly clear from the lists in *Exodus* 20:14 and *Deuteronomy* 5:18) is equivalent to any other piece of property, and the issue of consent is not contemplated or addressed in her case any more than it would be contemplated or addressed in the sale of “a house, a field, a slave, an ox, or an ass”.

⁹ The “someone” may be an indeterminate collective, as long as its gender is male, as the Italian phrase “*donna pubblica*” (“public woman”, an old-fashioned euphemism for a prostitute) graphically illustrates; the comparison with “*uomo pubblico*” (“public man”, a widespread designation for men of renown, especially politicians) is enlightening.

¹⁰ The most recent and, for reasons which will readily be apparent, the most intolerable confirmation of the vitality of this hoary and venerable principle is to be found in the most widespread endorsement of #MeToo by well-meaning men on social media: their opposition to the harassment or rape of women and girls, whether expressed through the sharing of memes or in their own voices, almost invariably took the form of “She is somebody’s daughter/sister/mother/girlfriend/wife/partner/other relation *to a male*”: in other words, the most direct and most violent attack to a woman *as a woman* was only condemned because its victim was connected to a man, who endowed her with social existence and personal dignity, to which she evidently had no right independently of him. A number of feminist bloggers and scholars have offered critiques of this highly alarming phenomenon; among them: [Anna Bonazzi](#), [Cara’s Corner](#), [Arctic Centre](#).

kinds of property in *Exodus* 20:14 and *Deuteronomy* 5:18.¹¹ *Leviticus* 18:6-18 addresses – and settles – a further issue: that of forbidding the sexual use of women which a male subject, in a patriarchal family structure, could rightfully consider to be his property, and to whom he could therefore reasonably believe he had a right to have sexual access.

An analysis of the context of *Leviticus* 18:22 therefore points to the conclusion that the text models sexual relations between men and women in a fundamentally asymmetrical way, as acts performed by the man on a object, to which therefore no guilt or responsibility can be ascribed *by definition*; this interpretation is confirmed by an analysis of the only prohibition addressed to a woman in the pericope, which is the second part of *Leviticus* 18:23 “Do not have carnal relations with any beast and defile yourself thereby; and let no woman lend herself to a beast to mate with it; it is perversion”. The reason why here (and here only) the prohibition is addressed to both the man and the woman is that a man and a woman, however different their status may be in relation to each other, are clearly both social subjects in relation to animals, and their common superordinate status makes them both potentially responsible, and guilty, in the event of

¹¹ *Exodus* 20:14 “You shall not covet your neighbor’s house: you shall not covet your neighbor’s wife, or his male or female slave, or his ox or his ass, or anything that is your neighbor’s”. *Deuteronomy* 5:18 “You shall not covet your neighbor’s wife. You shall not crave your neighbor’s house, or his field, or his male or female slave, or his ox, or his ass, or anything that is your neighbor’s”.

Before we lash out against “the barbarity of cavemen”, we might care to remember that, in the legal systems of Western democracies, the possibility of rape within marriage has only quite recently become legally conceivable (1991 in England and Wales, 1993 in the US, 1997 in Germany; the Wikipedia entry for “Marital rape” makes for some sobering and ghastly reading...). This means that, in virtually all human societies, and for the overwhelming majority of human history, both recorded and unrecorded, sex within marriage was conceptualized as an asymmetrical relationship between an owner and his property, where by definition the issue of consent cannot arise, that is, *exactly like in Leviticus*. Exactly like *Leviticus*, until incredibly recently, what the law, even in the most “highly evolved” Western democracies, was interested in defining were exclusively the boundaries within which men’s property rights over women could be rightfully asserted: on the objective existence, and the absolute validity, of those rights no doubt could be entertained.

A particularly troublesome example of the vitality of this legal conception, which in principle gives men unbounded control over women’s lives and bodies, is the present backlash against reproductive rights in the US. That what is really at stake is not the “sanctity of unborn life”, but women’s right to self-determination, is clear from the fact that the law does not protect the embryos created in fertility clinics, which are routinely destroyed in the process of treatments. In the words of the sponsor of the Alabama abortion bill (which makes performing an abortion a felony punishable by up to 99 years in prison, and includes no exception for victims of incest or rape), Clyde Chambliss, “The egg in the lab doesn’t apply, [...] It’s not in a woman. She’s not pregnant” (NEWKIRK 2019).

a sexual transgression involving an animal: in this case (and not in any other) the positions of both man and woman are perfectly equivalent: both are responsible in relation to the animal, both are guilty of a transgression perpetrated with an animal, and therefore the prohibition applies to both.¹²

The comparison with 18:23 therefore confirms that the asymmetry we detected in 18:6-18 and 20, where prohibitions concerning heterosexual sex were invariably addressed to the man, and the woman was never acknowledged as a possible perpetrator, is to be interpreted as a consequence of the different statuses ascribed in the Holiness Code to men and to women respectively in heterosexual sex: the sex act is an action performed by a male *subject* (to whom agency, responsibility, and therefore guilt, can be ascribed) on a female *object* (to which by definition no agency or responsibility, and therefore no guilt, can be ascribed, and who is accordingly never addressed in any prohibition concerning sexual activity between humans); therefore the legal and ritual significance of any transgressions which it may entail concerns the man exclusively, and he is the only possible target of any prohibitions which address them.

From a cultural perspective, heterosexual sex is the most central activity in which men and women take part together, since it is on heterosexual sex that both the physical continuity of society (through biological reproduction), and its symbolic continuity (through the institutions of marriage and the family, and through the patterning of gender roles) ultimately depend. It is therefore far from surprising that heterosexual sex should be the locus where the definition of the *social categories* “man” and “woman” in ancient Israelitic law and culture emerges in the clearest and the most

¹² The position of man and woman in this verse is, however, not exactly symmetrical: the prohibition is addressed to the man directly, in the second person, and to the woman only indirectly, in the third person. Even when the exact same behaviour is being forbidden to both man and woman, the Holiness Code singles out man as worthy of being addressed directly by the Godhead, while it does not dignify woman with the status of an interlocutor. A parallel to this use of the third person is found in *Leviticus* 20:1-21 and 27, where the penalties to be meted out for the various transgressions are spelled out; there, the reason is obvious: the transgressors, because of their guilt, are outside the boundaries of the Covenant (and about to be pushed still further out, since the punishment for all offenses is invariably death); therefore, they are no longer included in the community of possible interlocutors: the grammar of the text reflects their marginal social status. The grammar of the text in *Lev.* 18:23 would seem to imply that, what in the case of men is an occasional stigma, which only arises as a consequence of serious transgressions, corresponds, in the case of women, to a structurally subordinate position, which deprives them *by definition* of the status of social subjects, and therefore makes them ontologically unfit to be addressed directly by the word of God.

unambiguous way through their respective category-bound activities.¹³ From the analysis of *Leviticus* 18:6-18 and 20 I have just undertaken (as well as from a wealth of other evidence from Biblical law), it is evident that these are *subjecthood* (which has among its implications social, legal, ritual, and religious responsibility, and, as a consequence, possibly guilt) for the man, and *objecthood* (which makes the question of responsibility and guilt immaterial, since it makes it impossible to raise the issues of agency or consent) for the woman.¹⁴

The issue of the definition and separation of social categories, which is vital in any culture, is particularly salient in the Holiness Code, and in Biblical law in general:

Other precepts extend holiness to species and categories. Hybrids and other confusions are abominated.

Lev. 18:23: “And you shall not lie with any beast and defile yourself with it, neither shall any woman give herself to a beast to lie with it: it is perversion”.

The word ‘perversion’ is a significant mistranslation of the rare Hebrew word *tebhel*, which has as its meaning mixing or confusion. The same theme is taken

¹³ “Let’s introduce a term, which I’m going to call ‘category-bound activities.’ What I mean by that is, there are a great many activities which Members take it are done by some particular category of persons, or several categories of persons, [...]” SACKS 1992: 241. As Sacks’s use of the term in various places of the *Lectures* makes clear, the distinction between category-bound activities (which are assumed to be “natural”, and therefore in no need of an explanation), and “accountable actions” (which are not explained by the category ascription of the subject who performs them, and therefore need to be accounted for) is a vital component of the definition of social categories, and of the way separation between different social categories is maintained and enforced, and transgression against it are sanctioned; as I will argue below (section 3), this is exactly what happens in *Lev.* 18:22. I explore some of the implications of Sack’s concept of accountability in DELL’AVERSANO 2020.

¹⁴ Again, regarding objecthood as category-bound to “woman” is by no means a hallmark of “primitive” cultures: this is shown (among many other things...) by the ubiquitousness in public discourse (online and elsewhere) of rape threats against women who are perceived to “transgress” the boundaries of their gender. In category terms, what rape threats mean is “You believe that you can usurp the category-bound activities (free speech, right of criticism, originality of thought, bodily autonomy...) of the natural social *subject* (who is of course by definition male); but actually your *nature*, as made manifest by your anatomy, is to be an *object*, always and at all times completely vulnerable and utterly defenseless against an action (sexual penetration) which is category-bound to being *male*, and which can be performed against your will, and with no regard for your consent”. As long as the commonly accepted definitions of the social categories “man” and “woman” will continue to entail “subjecthood” for men, and “objecthood” for women (as witnessed, for example, by the social imperative that women assess their self-worth according to their ability to be selected as an *object* of desire by men), it is to be expected that rape threats will continue to be a part of public discourse, and to threaten women’s presence, and their very survival, in the public space.

up in *Leviticus* 19:19: “You shall keep my statutes. You shall not let your cattle breed with a different kind; you shall not sow your field with two kinds of seed; nor shall there come upon you a garment of cloth made of two kinds of stuff”.

All these injunctions are prefaced by the general command: “Be holy, for I am holy”.

We can conclude that holiness [...] requires that individuals shall conform to the class to which they belong. And holiness requires that different classes of things shall not be confused.

Another set of precepts refines on this last point. Holiness means keeping distinct the categories of creation. It therefore involves correct definition, discrimination and order. Under this head all the rules of sexual morality exemplify the holy. Incest and adultery (*Lev.* 18:6-20) are against holiness, in the simple sense of right order. Morality does not conflict with holiness, but holiness is more a matter of separating that which should be separated than of protecting the rights of husbands and brothers (DOUGLAS 1966: 54).

Douglas’s analysis makes it obvious that the driving motive behind these precepts is the deep-set and overpowering anxiety which any social order displays when faced with the possibility of the erasure of the boundary which must at all times keep different social categories distinct, one which, because of its ubiquitousness in cultural discourse, and of its pervasive and deep-reaching social effects, I believe to be deserving of a specific label: I would like to suggest “category panic”.¹⁵ Extending and generalizing Douglas’s analysis makes it possible to realize that category panic is salient, obvious, and conspicuous in a number of prescriptions of Biblical law beyond the ones she explicitly deals with; this is not particularly surprising, since the purpose of Biblical law, as of any social order, is to maintain society as a differentially ordered system of categories, which are defined, enforced, and made recognizable first and foremost through the activities bound

¹⁵ That this concept is more than a capricious addition to the already burgeoning vocabulary of the social sciences, and may indeed fill a real cognitive gap, and prove hermeneutically productive, may be shown for example by reference to Zygmunt Bauman’s theory of proteophobia as the actual foundation of animosity towards the Jews (BAUMAN 1998): it is clear that “the apprehension and vexation related [...] to something or someone that does not fit the structure of the orderly world, does not fall easily into any of the established categories” (BAUMAN 1998: 144) can only exist if the “impossibility of order”, which Bauman takes to be the deepest and most significant hallmark of the antisemitic construction of Jewishness (BAUMAN 1998: 148), is considered problematic, indeed highly so; therefore, category panic is the indispensable precondition for the existence of proteophobia, and therefore logically superordinate to it, just like allo-Semitism (as Bauman, and Sanders before him, perceptively observed) is the indispensable precondition for, and logically superordinate to, antisemitism.

to them. However, in ancient Israelitic culture, this priority is made even more pressing by the fact that, as Douglas observes, the “holiness” which must be preserved by maintaining the separation between categories is the foundation of the relationship between God and His chosen people. This is the reason why the Holiness Code, and Biblical law in general, devote so much attention to the issue of the definition and separation of social categories, and why punishments for transgressions are so severe:

[In Biblical law, t]he precepts and ceremonies alike are focussed on the idea of the holiness of God which men must create in their own lives. So this is a universe in which men prosper by conforming to holiness and perish when they deviate from it. If there were no other clues we should be able to find out the Hebrew idea of the holy by examining the precepts by which men conform to it. It is evidently not goodness in the sense of an all-embracing humane kindness. Justice and moral goodness may well illustrate holiness and form part of it, but holiness embraces other ideas as well (DOUGLAS 1966: 51-52).

More specifically, that the issue of categories is indeed of vital importance in the Holiness Code in particular can be proved by an analysis of the apparently puzzling formulations of a number of verses in the very chapter we are considering. In *Leviticus* 18:7, 11, 14, 15, and 17 the reasons given for the prohibition to “uncover the nakedness” of several female relatives seem absolutely tautological, and therefore irrational:¹⁶ stating that “your father’s wife’s daughter” “is your sister” (*Lev.* 18:11), or that the “wife” “of your father’s brother” “is your aunt” (*Lev.* 18:14), or that “your daughter-in-law” “is your son’s wife” (*Lev.* 18:15), or that “a woman and her daughter” and “her son’s daughter or her daughter’s daughter” “are kindred” (*Lev.* 18:17), or, for that matter, that “your mother” “is” indeed “your mother”

¹⁶ The verses are the following; the “tautological” motivations are emphasized.

Lev. 18:7 “Your father’s nakedness, that is, the nakedness of your mother, you shall not uncover; *she is your mother*—you shall not uncover her nakedness”.

Lev. 18:11 “The nakedness of your father’s wife’s daughter, who has born into your father’s household—*she is your sister*; do not uncover her nakedness”.

Lev. 18:14 “Do not uncover the nakedness of your father’s brother: do not approach his wife; *she is your aunt*”.

Lev. 18:15 “Do not uncover the nakedness of your daughter-in-law: *she is your son’s wife*; you shall not uncover her nakedness”.

Lev. 18:17 “Do not uncover the nakedness of a woman and her daughter; nor shall you marry her son’s daughter or her daughter’s daughter and uncover her nakedness: *they are kindred*; it is depravity”.

(*Lev. 18:7*) would seem to add absolutely nothing to the prohibition as it has already been stated, and therefore to leave the prohibition itself completely unmotivated. This impression is, however, incorrect: what appears to be a tautology actually expresses the conceptual operation through which an individual is ascribed to its proper social category; and since it is the category, and not the individual, to which the prohibition applies, this ascription, far from being “tautological”, is actually an absolutely vital piece of the legal reasoning from which the prohibition arises, and motivates it in an explicit and rational way. What the Holiness Code is saying is, “anyone belonging to the social category X cannot be the object of such-and-such an action, because such-and-such an action would be a transgression of the boundaries dividing social category X, towards which it is forbidden, from other social categories, towards which it is permitted; A is a member of social category X (the “wife” “of your father’s brother” “is your aunt”), therefore you are forbidden from performing such-and-such an action on A”.

3. “MAN” AS “WOMAN” IN *LEVITICUS* 18:22

This fairly long and complex preliminary argument about the Biblical definition of the social categories “man” and “woman” through the category-bound activities of subjecthood and objecthood was necessary in order to make possible an analysis of the opposition which makes up such a central part of the meaning of *Leviticus* 18:22 which, after all, does not forbid (nor, indeed, show any interest in) “lying with a male”, but only “lying with a male *as one lies with a woman*”, and therefore a rational interpretation of the verse. With these preliminary conceptual points firmly in place, we can now at last turn to consider 18:22 “Do not lie with a male as one lies with a woman; it is an abhorrence”. What does it mean to “lie with a male as one lies with a woman”? And why is it “an abhorrence”? Technically, from an anatomical standpoint, the statement is meaningless, since all sexual acts which the subject of the prohibitions in *Leviticus* (who, as we have seen, is by definition male) can conceivably perform both with a woman and with a man (oral, anal, etc.) are not *a priori* marked as heterosexual, and therefore cannot account for the peculiar specification “as one lies with a woman”. However, as the analysis of the phrasing of the prohibitions addressing various forms of heterosexual activity in *Lev. 18:6-18* and 20 conducted in the previous section has

shown, there is a social, as distinct from an anatomical, sense in which “l[ying] with a male as one lies with a woman” is perfectly possible, since the defining characteristic of heterosexual sex in ancient Israelitic culture is the asymmetry of social positions, which constitutes it as a situation in which *a subject makes use of an object*.

And the real target of the prohibition expressed in *Leviticus* 18:22 (and of the sanctions specified for it in *Leviticus* 20:13) is exactly, and exclusively, this objectification, which questions, threatens, and attacks not only the status of the only subject whose existence is acknowledged by the social order of ancient Israelitic culture, the adult human male, but *the very structure of categories* on which social life depends. The very concept of a “structure of categories” implies that the definition of individual categories is *differential*: the social category “man” can only be defined, indeed, only has meaning, by contrast with the opposite category, “woman”; and the need to confirm and uphold this distinctive opposition, on which the existence and the continuation of the social order depend, is the reason why the formulation of *Leviticus* 18:22 does not forbid (indeed, does not even mention) “lying with a male” but only sanctions “lying with a male *as one lies with a woman*”, thus making the meaning of the prohibition contingent on the construction of heterosexual sex. As I have shown in the previous section, in *Leviticus* 18:6-18, and 20 heterosexual sex is construed, in an absolutely systematic and perfectly consistent fashion, as an action performed by a subject (the man) on an object (the woman), an object with regard to which it therefore does not *by definition* make any sense to raise the question of agency, of consent, of responsibility, nor, consequently, of guilt, exactly as it does not make any sense to raise them in regard to a sexual act between a human (whether male or female) and an animal. This makes it obvious that any situation in which a man makes sexual use of another male treating him as an object, and not as a social subject equal to himself, *and only such a situation*, is a situation in which a man “lie[s] with a male as one lies with a woman”. And such a situation is indeed “an abhorrence”,¹⁷ since it transgresses the boundaries between the social categories of “man” and “woman”.

“L[ying] with a male as one lies with a woman” therefore means to transgress the boundaries between categories (which are established by

¹⁷ In the exact sense specified above, see note 5.

God, and whose maintenance is a fundamental part of the Covenant) by making a man the object of a sexual act to which he has no choice but submit passively, with no acknowledgement of his personhood (which is the hallmark of his superordinate social status), and no regard for his agency or consent.¹⁸ This is a behaviour which today the legal systems of most Western democracies (and, with considerably less conviction, the cultures of the societies which are ruled by those legal systems) sanction as rape: in ancient Israelitic culture, such a behaviour is unmarked, normal, and in no way problematic in relation to a woman, since it merely reaffirms the definition of the social category she belongs to through a rehearsal of the activity bound to it, objecthood; however, in the case of a man, it represents an unacceptable assault against his status as a social subject, which is exactly what differentiates him categorially from a woman. And the categorial significance of this assault is what grounds and explains the prohibition of a sexual behaviour which questions or erases that very categorial difference which, like all categorial differences, must always be maintained in order for the people of God to remain “holy”. Indeed, that the rape of a woman and of a man are actually regarded very differently in ancient Israelitic culture can easily be shown by referring to the incident of the Levite and his concubine in *Judges* 19: the behaviour of the host shows that the attitude of a subject who is presented as abiding by cultural norms and respectful of social values¹⁹ towards, respectively, the possible rape of a man and of a woman, is very different: regardless of the duties

¹⁸ This is in no way contradicted by the fact that in *Leviticus* 20:13 the punishment (death) is to be meted out to both: the punishments in the Holiness Code have a ritual purpose, the elimination of impurity from the social body of the chosen people, who, in order to maintain its covenant with God, must remain “holy” (see DOUGLAS 1966: 51-52, quoted above); this is obvious, from example, from the fact that in *Leviticus* 20:15 the animal (who is certainly not responsible, and who consequently cannot be considered guilty) is also killed.

¹⁹ ¹⁵“They turned off there and went in to spend the night in Gibeah. He went and sat down in the town square, but nobody took them indoors to spend the night. ¹⁶In the evening, an old man came along from his property outside the town (This man hailed from the hill country of Ephraim and resided at Gibeah, where the townspeople were Benjaminites.) ¹⁷He happened to see the wayfarer in the town square. “Where,” the old man inquired, “are you going to, and where do you come from?” ¹⁸He replied, “We are traveling from Bethlehem in Judah to the other end of the hill country of Ephraim. That is where I live. I made a journey to Bethlehem of Judah, and now I am on my way to the House of the Lord, and nobody has taken me indoors. ¹⁹We have both bruised straw and feed for our donkeys, and bread and wine for me and your handmaid, and for the attendant with your servants. We lack nothing.” ²⁰“Rest easy,” said the old man. “Let me take care of all your needs. Do not on any account spend the night in the square.” ²¹And he took him into his house. He mixed fodder for the donkeys; then they bathed their feet and ate and drank.”

of hospitality (which compel him to offer to surrender his own daughter to the aggressors), he obviously considers the possible rape of his female guest as much less serious than that of his male one:²⁰

²²While they were enjoying themselves, the men of the town, a depraved lot, had gathered about the house and were pounding on the door. They called to the aged owner of the house, “Bring out the man who has come into your house, so that we can be intimate with him.” ²³The owner of the house went out and said to them, “Please, my friends, do not commit such a wrong. Since this man has entered my house, do not perpetrate this outrage. ²⁴Look, here is my virgin daughter, and his concubine. Let me bring them out to you. Have your pleasure of them, do what you like with them; but don’t do that outrageous thing to this man.”

Leviticus 18:22 therefore does not in any way concern itself with sex between men, but is exclusively aimed at forbidding an action which we today define as rape, and which we consider (at least in theory) equally reprehensible whether its victim be a man or a woman, but which, for ancient Israelitic culture, when performed on a woman was nothing more than the legitimate exercise of, or an illegitimate abuse of, property rights, while, when its victim was a man, it constituted an extremely serious, and therefore harshly punishable, attack to his very definition as a social subject: an action which equated him with a woman as an object of a sexual act performed without any consideration of his subjectivity; an action which therefore, by failing to maintain the distinction between the activities bound to the categories of “man” and “woman”, subjecthood and objecthood respectively, violated the separation mandated by God between the category “man” and the category “woman”. The current majority interpretation of the verse, as a prohibition of male homosexuality (or at least of some of its forms), which throughout history, up to and including the present day, has exerted a disproportionate and calamitous

²⁰ Phyllis Trible’s remark that “These two stories [that of Lot, and that of the Levite and his concubine] show that the rules of hospitality in Israel protect only males. Though Lot entertained men alone, the old man also has a female guest, and no hospitality safeguards her. She is chosen as the victim for male lust. Further, in neither of these stories does the male host offer himself in place of his guests” (TRIBLE 1984: 75) fails to take into account the real horror of the situation, which, like most real horrors, is systemic: the reason why “the rules of hospitality in Israel protect only males” is that *women are property*, and considering damage, and possible destruction, of *property* as the lesser evil compared to injury to a *person* is a choice which no society sanctions, and which even we would consider perfectly rational.

influence on theology, society, and the lives of homosexual people, is therefore in no way supported by a thorough analysis of the text. And in this regard it may be interesting to note that the phrasing of *Leviticus* 18:22, which has always been considered cryptic and problematic,²¹ is actually admirably clear and praiseworthy in its exactitude: in a cultural context where heterosexual sex is conceived of as an action performed by a male subject on a passive female object, where therefore the issue of consent cannot by definition arise, the only way in which it is possible to express a prohibition concerning homosexual *rape without* at the same time *prohibiting consensual sex between males* is precisely by saying *exactly what Leviticus says*, that is, “you will not have sex with a male in a way which reduces him to a passive object, and which makes his consent immaterial, erasing the category distinction between him and a woman”. And, of course, if the purpose of the Holiness Code had been to sanction sex between males in general, it would have been enough to say so with no need of further specifications or limitations; and this is proved by a comparison with the following verse, where “carnal relations with any beast” are made the object of an absolute and all-encompassing prohibition, which is not specified or limited by any reference whatsoever to “lying with women”, nor, for that matter, with men. The interpretation of *Leviticus* 18:22 I am proposing here has therefore the (not entirely negligible) additional merit of revealing that a formulation which has always been considered as unclear is actually not only intelligible, but the clearest way to convey a distinction which was of momentous importance in the legal and ritual discourse of the Bible, and which would have been very difficult to express in any other way.

The answer to the question in my title, “how does one ‘lie with a woman’?” is therefore that the culturally correct way to “lie with a woman” in the discourse of the Holiness Code (and of ancient Israelitic law and society in general) is to objectify her sexually so that the issue of her agency and consent is made immaterial. However, *Leviticus* 18:22 makes clear that this objectifying practice is not necessarily limited

²¹ As witnessed by the number of extremely diverse interpretations which have been put forward, ranging from an absolute prohibition of all “sexual” relations, however defined, between males, to a sanction exclusively targeting anal intercourse (and concerning sometimes the inserter, sometimes the insertee); a useful review starting from Rabbinic literature, even though heavily weighted towards the most recent contributions, is provided by OYLAN 1994: note 4.

to sexual relations between social subjects (men) and sexual objects (women), but is also culturally available as a very real possibility in sexual relations between social subjects themselves. And the very strength of the opprobrium with which this possibility is sanctioned, and the very prevalence of expressions of category panic regarding gender in the discourse of Biblical law,²² unmasks gender as a locus of devastating anxiety in ancient Israelitic culture. If the possibility of “lying with a male as one lies with a woman” is endowed with salient cultural existence in the discourse of legal and ritual norms, indeed, if it can be even merely contemplated, instead of being considered a logical impossibility, the reason is that gender categories are not considered unchanging, permanent, and substantial properties of individuals, which will remain firm and unaltered through any number and kind of vicissitudes; in other words, they are not regarded as *essences*. If they were, no behaviour, action, or event could ever trouble, question, or threaten them: after all, dietary laws do not state that behaving towards an impure animal as though it were pure, ritually slaughtering it, and cooking it in accordance to dietary prescriptions, makes the impure animal pure; indeed, the mere contemplation of such a possibility would be ludicrous. If, on the other hand, “lying with a male as one lies with a woman” can trouble, question, and threaten the category distinction between man and woman, and the ascription of a male to the category “man”, this is evidence for the fact that gender is conceived of not as an intrinsically stable essence, but as the intrinsically unstable result of relationships, events, and negotiations which have the potential to unsettle and subvert it; in short, as what thousands of years later would come to be defined as *performative*.²³

Carmen Dell’Aversano

carmen.dellaversano@unipi.it

University of Pisa

²² As evidenced, for instance, by the strength of the opprobrium heaped on what would appear to be a relatively minor transgression, cross-dressing, in *Deuteronomy* 22:5: “A woman must not put on man’s apparel, nor shall a man wear woman’s clothing; for whoever does these things is abhorrent to the Lord your God”. The word which motivates the prohibition, and which is here translated as “abhorrent”, תועבת (tō‘ēbāt), is exactly the same as in *Leviticus* 18:22.

²³ I have proposed an alternative genealogy of this foundational concept of queer theory in DELL’AVERSANO 2018.

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