

Sex Lessons in the Torah¹

This week's double *Torah* portion, *Acharey-Mot K'doshim*, juxtaposes two very different themes, which look at first sight to be totally unrelated: sexual prohibitions on the one hand, and a code for ethical and just action, on the other. In fact, these two portions provide us with a Leviticus 'sandwich': the Holiness code of Leviticus 19 sandwiched between laws against sexual misconduct in chapters 18 and 20

In Leviticus 18 and 20, the focus is on prohibited sexual acts – those between family members; a man and his neighbour's wife²; a man and a menstruating woman³, two men; a man or woman and an animal. In all these cases, with the exception of bestiality, where initiation of the act by both sexes is conceived, the individual male is the *subject*, the individual female is the *object*. And this perspective is reinforced in all the other references to sex in other legal texts in the *Torah*: a bride must be a virgin⁴; a father is prohibited from making his daughter a prostitute⁵; sex out of wedlock is not punished as long as the woman is an un-betrothed virgin and the man who lies with her, marries her⁶.

Interestingly, however, in two key *narrative* passages dealing with exceptions to the taboo surrounding incest, the active role is taken by women. Following the destructions of Sodom and Gomorrah, and the transformation of Lot's wife into a pillar of salt⁷, Lot's two daughters, left alone with their father, get him drunk on successive nights and lie with him, to ensure they have offspring⁸. In another case where the future is at stake, Judah's daughter-in-law, Tamar, childless because Onan has spilled his seed rather than produced a child in the name of his dead brother, Er (Tamar's first husband), conceals her true identity with the garments of a prostitute and entices her father-in-law to lie with her so that she may conceive⁹.

These two exceptions highlight the hierarchy of values implicit in the system of sex laws outlined in the *Torah*: ultimately, the imperative of reproduction is so important it may even over-rule incest taboos. What is more, *ethical* conduct as such is a secondary consideration. The primary principle underlying the rules of sexual behaviour is the maintenance of *social order* and the preservation of the *separateness* of the people of Israel. The laws regulating sexual acts in Leviticus 18 and 20 are set in the context of the book's concern with *k'dushah* – with *setting apart*: the offerings to be made on the altar from the remainder of property, the priests from the people, the people from the other nations. As the preamble to the sex rules in Leviticus 18 indicates, ethical issues are less relevant to the laws regulating sexual conduct than the need to ensure that the people do not follow the ways of Canaan or Egypt, but rather walk in the way of God¹⁰.

But one rule in Leviticus 18, by contrast, does seem to emerge from a predominantly ethical concern. At verse 18 we read:

And you shall not take a woman to her sister, to be a rival to her, to uncover her nakedness, beside the other in her lifetime.

While there are no laws against bigamy in *Torah*, and indeed bigamy was only out-ruled for *Ashkenazi* communities in the late tenth century by the ban of Rabbeinu Gershom ben Judah¹¹, and remains an option (in theory) for *Sephardim* within the religious Courts of Israel to this day, the rule against marriage between man and his wife's sister seems motivated by consideration of the wife's feelings and the need to preserve the integrity of the relationship between two sisters. As such it has much more in keeping with the next chapter, Leviticus 19, where the need for right conduct in social relationships is stressed again and again. Indeed, the link in ethical tone between this rule, and the chapter sandwiched between the two dealing with prohibited sexual acts, makes the apparent contrast between the *ethical* preoccupations of Leviticus 19 and the *separatist* agenda of 18 and 20 even more marked.

In my view, the juxtaposition of the chapters is not accidental. Rather, it suggests that just as the sex rules should be understood in the context of the imperative of setting the people Israel apart from the other nations, so they should be understood in the context of the ethical regulation of social relationships. And yet, in fact, to this day, Jewish law has failed to consider the implications of this juxtaposition for sexual ethics.

At the heart of Leviticus 19, a chapter dealing with correct ritual practice and ethical behaviour towards the poor, the stranger, the disabled, the elderly, one's neighbour, lies the famous dictum 'You shall love your neighbour as yourself. I am the Eternal' (19:18). This verse is part of a section of laws dealing with acts of justice, with the myriad material ways in which we must fulfil our responsibilities towards our neighbours and towards God.

Significantly, of the various ethical rules delineated in Leviticus 19, only that concerning the command 'You shall love your neighbour as yourself' deals with the relationship of *peers*; of *equals*; of *equal men*. All the others involve ensuring right conduct between those whose relationship to one another is *asymmetrical* the person with property *vis a vis* the one who is poor, the Israelite *vis a vis* the stranger, the able-bodied *vis a vis* the disabled, the young *vis a vis* the old. Similarly The Song of Songs is unique in its egalitarian treatment of the lovers. In its pastoral paradise, love and desire is expressed equally and actively by both partners. Indeed, it is the passionate female voice present in the poem which has led some scholars to suggest that the text is probably the work of a woman¹².

For the spirit of Leviticus 19:18 and The Song of Songs to infuse the sex laws would require a huge conceptual shift. It would mean treating both women and men as active *subjects*, peers, equals. It would mean perceiving sex, not as a series of acts perpetrated by one party on the body of another, but as a means of expressing a *relationship*. It would mean seeing the expression of love and desire as one of the *primary purposes* of sexual activity. It would mean recognising all relationships, whether heterosexual or homosexual, with or without children, as *variations* on the theme of human partnership and evaluating them all according to the identical criteria of *love, equality and reciprocity*.

The commandment to 'love your neighbour as you love yourself' provides the ethical framework for a code of sexual behaviour. So what happens when we apply the criteria of love, equality and reciprocity to the sexual prohibitions outlined in Leviticus 18 and 20? Clearly all relationships in which the *inequality* of the parties is an inherent feature, for example relationships between adults and minors, are unacceptable. As far as other relationships are concerned, a clue to whether or not they fulfil the criteria emerges from the specific sexual terminology employed in the texts. There are a number of linguistic expressions for sex in the Torah, of which the most common are *to know – lada'at* and *to lie down – lishkav*. Both of these terms are morally neutral. The words themselves do not convey the nature of the sexual encounter, positive or negative. By contrast the expression *gillui ervah*, 'uncovering nakedness', which is used in the *Torah* exclusively in cases of incest and in reference to sex with a menstruating woman, suggests not only sexual intimacy, but *vulnerability* and *danger*. Within the world-view of *Torah*, blood is a powerful substance, and contact with it is taboo. From the vantage point of the present day, the danger associated with 'uncovering nakedness' has more to do with the potential for exploitation involved in 'uncovering' a person's 'nakedness'. In the words of a contemporary rabbi quoted anonymously¹³: 'Very simply, it means making a person completely vulnerable and then not taking care of them in their nakedness.'

Interestingly, the expression 'uncovering nakedness' is not used in *Torah* in connection with other categories of prohibited sexual behaviour outlined in Leviticus 18 and 20 – adultery, sex between men and bestiality. In these examples, the more neutral term 'lying down' is employed¹⁴. Clearly none of these cases entails the danger of blood contact or a built-in asymmetrical power dynamic. Indeed, in the case of two men lying down together, perhaps there may be an implicit assumption that the *independent male subject* is not in a position to exploit his *equal* – another male. But, at a deeper level, 'uncovering nakedness' refers not only to *who* is involved, but to *what* is involved. Even if the parties concerned are equals, any sexual encounter which entails exposing and exploiting another person's vulnerability is 'uncovering nakedness'.

So, by reading the prohibitions against *gillui ervah*, 'uncovering nakedness', in Leviticus 18 and 20, through the prism of the injunctions 'to love your neighbour as yourself' in Leviticus 19, we can identify the parameters of an egalitarian sexual ethic that is inclusive of all relationships.

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¹ For a fuller treatment, see Chapter 9, 'Towards an Inclusive Sexual ethic' in my book, **Trouble-Making Judaism** (David Paul Books, 2012)

² See also Exodus 20:13.

³ See also Leviticus 15:19ff.

⁴ Deuteronomy 22:20.

⁵ Lev. 19:29.

⁶ Ex. 22:15-16; Deut. 22:28-29.

⁷ Gen. 19:26.

⁸ *ibid.* 19:30-39.

⁹ Gen. 38.

¹⁰ Lev. 18: 2b-3.

¹¹ Gershom ben Judah, (c. 960 -1040?), best known as Rabbeinu Gershom, 'Our teacher Gershom', was a famous *Talmudist* and *Halachist* within the *Ashkenazi* world. About 1000 CE, he called a synod which decided the following particulars: (1) prohibition of polygamy; (2) necessity of obtaining the consent of both parties to a divorce; (3) modification of the rules concerning those who became apostates under compulsion; (4) prohibition against opening correspondence addressed to another. See: <http://www.jewishencyclopedia.com/view.jsp?artid=172&letter=G>.

¹² See Sybil Sheridan, 'The Song of Solomon's wife', in Sybil Sheridan, Ed., *Hear Our Voice. Women Rabbis Tell Their Stories*, SCM Press 1994, 64-70.

¹³ See Sharon Cohen, 'Homosexuality and a Jewish Sex Ethic', *The Reconstructionist*, July-August 1989, 15f.

¹⁴ Note that the reference to bestiality in the case of a woman and an animal says 'You shall not stand before a beast...(*lo ta'amod lifnei veheimah*)'.