

DE GRUYTER

Adam B. Seligman, Maria Schnitter

OATHS AND VOWS

WORDS AS GENESIS

BAYEUX TAPESTRY.



Harold's Oath of Fealty to William of Normandy.

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After all, if you think of it, nothing is stronger in the world . . . and weaker – than a word!

Turgenev (*The Torrents of Spring*, 1906, 86.)

When the Holy One Blessed be He created the world He did so by the spoken word alone
and not with an oath.

Sifre on Deuteronomy (Sifre: A Tannaitic
Commentary on the Book of Deuteronomy,
translated by Reuven Hammer,
Yale University Press, 1987, 340)

Contents

List of Illustrations — IX

Acknowledgments — XI

Note on Texts and Translations — XIII

Personal Prologues — XV

Introduction — 1

Part One: **The Power of the Word**

Chapter One

Prolegomena: On Oaths and Vows — 11

Chapter Two

Obligating God — 38

Chapter Three

The Problem of Intentionality: Short Studies — 65

Part Two: **Desire and the Word**

Chapter Four

Eros, Ananke and the Gendered Oath — 95

Chapter Five

Eros and Oath — 126

Chapter Six

Oath and Eros — 154

Chapter Seven

Apophatic Love and the Paucity of Oaths in the Eastern Church — 182

Conclusion — 211

VIII — Contents

Sources — 217

Bibliography — 221

Index — 227

List of Illustrations

- Figure 1** Newly Recruited Pioneers in Front of a Partisan's Grave — **XVII**
Figure 2 Performance and its Realities — **73**
Figure 3 Les femmes tondues — **112**
Figure 4 Collaborator Getting Her Head Shaved — **112**
Figure 5 Der Kollaboration beschuldigte Französin — **113**

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Note on Texts and Translations

All quotes from the Babylonian Talmud (Mishnah and Gemara) are from the Sonchino English Edition of the Babylonian Talmud published in London between 1935 and 1952 under the editorship of Rabbi Isidore Epstein. All volumes are currently online.

The Hebrew texts consulted for Tractates *Nedarim* and *Shebu'oth* are those of the Schottenstein-ArtScroll edition

Translations of *Midrash Tanchuma* and *Avot d'Rabbi Natan* are by A. Seligman from printed originals (full references appear in the notes).

Translation of the *Euchologium Sinaiticum* (Sin. Slav. MS 37 + 1/N), 11th c. and *EUHOLOGION seu RITUALE a Metropolita Petro Mohyla curatum, Kioviae, 1646* as well as all Bulgarian versions of Church Slavonic texts are by M. Schnitter and S. Mathewson. Similarly, all direct translations of the ritual texts from Church Slavonic to English are by M. Schnitter and S. Mathewson.

All quotations from the New Testament are of the King James Version

All quotations from the Hebrew Bible are from the *Tanakh* (JPS Bible), Philadelphia: Jewish Publication Society, 2003.

Personal Prologues

Oaths and vows exist in and out of time. Uttered in time they nevertheless reach forward to define or circumscribe future action just as they reach back in time to draw their power from some sacred object or moment of the past; the sacrifices in the Temple of Solomon, holy relics or objects that have been infused with all manner of *baraka*, foundational documents of the polity, or objects sacralized with the blood of martyrs. Though they are future-directed, the past is never far, it is always somehow included in the purview of the oath, and more especially of the vow.

With this in mind, the authors felt it only right to begin with some acknowledgment of the role of the past in their present inquiry into and attempt to outline a phenomenology of the oath and of the vow. Mid-twentieth-century Bulgaria and Brooklyn thus allow us some narrow personal windows into the worlds of oaths and rituals that form the substance of this book. Opening these windows can, moreover, only be accomplished in the first person singular: as of course is only proper for a study of oaths and vows. And thus we begin:

Maria: I was born in the early 1960s and spent my childhood in a small town in the Rhodope mountains in Bulgaria. Although my family had lived there since before the war, they could never completely blend into the colorful ethnic and religious mosaic of the local population – perhaps because of our strange-sounding German name. Or maybe because of stories from the past that we didn't talk about at home. It was a normal thing for me that while the usual way to address other adults was “comrade,” everyone greeted my grandfather as “Mr. Schnitter.” My father taught German in the local high school, so the address “Herr Schnitter” that I kept hearing time and again from his pupils seemed to me like a regular part of his image as an educator.

In the autumn of 1971, I was about to become part of the Dimitrov Pioneer Organization “Septemberling.” This was an institution meant to prepare children between the ages of 9 and 14 for inclusion in the Dimitrov Communist Youth Union (the Bulgarian version of the Komsomol). Its structure, attributes, and functions, as well as its idealistic principles, were copied from the All-Union Lenin Pioneer Organization. One can find earlier equivalents in Bulgaria in the Scout movement and the youth organizations *Brannik* and *Hitler Jugend* (the latter being mandatory for all German boys born in the 20s and 30s).¹

The inclusion in “Septemberling” was an important and festive event, which children nevertheless looked forward to with trepidation; although there was little

¹ *Brannik* was a pro-fascist Bulgarian youth movement, modeled on the *Hitler Jugend* and founded in 1940.

chance of anyone not being accepted, as participation was mandatory for everyone, regardless of its formally defined volunteer nature. The ceremony happened twice a year, and for an excellent student like me, it was important to become part of the first group, which led to an immediate rise in the complicated micro-hierarchy of the school world.

The ritual that turned us into pioneers took place on an important historical date tied to the anti-fascist movement. The place was chosen fittingly as well: the grave of a fallen anti-fascist partisan woman whom the town is named after to this very day (Fig. 1). The ritual itself was a classic combination of a speech-and-act (see further ahead for the so-called “double performative”).

First, we had to recite our pioneer’s oath in front of the excited gathering of elderly communists: *“I, the Dimitrov pioneer, solemnly swear in front of my comrades and my heroic people to give my all fighting for the cause of the Bulgarian Communist Party and the victory of communism. To be true to the legacy of Georgi Dimitrov, to obey the laws of the Dimitrov pioneer. I promise to be a worthy citizen of my dear fatherland – the People’s Republic of Bulgaria.”* We had memorized it beforehand and, naturally, none of us had any doubts or uncertainties about the probability of us fulfilling our oath and building communism. When you’re nine, you rarely question the words of adults.

After saying the words of the oath, we received the coveted sign of belonging to the group – the red silken pioneer’s necktie – its triangular form symbolized the unity of the three generations working for a brighter future (pioneers, komso-mols, and communists). My tie was festively tied by a close neighbor whose son had died as a partisan. In doing this, she “adopted” the new generation, coming to replace the fallen. Although I often went along with my grandmother to visit her, at this time this woman with her warm eyes looked as if she had come from a different world.

This important and festive day concluded with a gift. My father, who had not attended the ceremony, gave me a collection of short stories by Chudomir. This was my first encounter with the writer, and while he is one of the classics of Bulgarian comedic prose, the book did not contain his humorous stories, but his “Scribbles from the Hospital” – the diaries from the last days before his suicide in 1967. It was an extraordinarily peculiar gift for a nine-year-old child on the day of her first oath, as I now realize.

Did Dad wish to add “a bit of a laugh” to the larger-than-life moment and relativize its seriousness? Did he recall the oath he made himself as a 12-year-old in the *Deutsche Schule* in a different world with equally few alternatives – and all the dramatic and tragic consequences it led to (personally for him, as well as for the world as a whole)? Could he suspect how soon after – less than 20 years – all publicly spoken words along with the bright future would scatter in the wind like

autumn leaves? I'll never know. But to this day, I can sing the “Hymn of the Pioneers.”



Figure 1: Newly recruited pioneers in front of a partisan’s grave, 1972. Source: Schnitter family archive.

Adam: And I grew up in a rather liberal, even progressive household, despite being sent to a religious school, a Yeshiva, for study. It was a world, Brooklyn in the 1950s and early 60s where a child just assumed that voting Democratic was part of being Jewish and all sorts of people, with all sorts of orientations, sexual, political, professional, linguistic, etc. would end up around our dinner table. Yet, at the age of eight or nine my mother made me – literally – wash my mouth out with soap for uttering an obscenity, one that was all too often in the mouth of the 45th president of the United States.

In our Yeshiva we were taught that when a prayer book fell on the floor we were to pick it up and kiss it before placing it back in its place. We were taught the proper order of “stacking books.” For example if one was to make a stack of a Tanakh (Hebrew Bible), Chumash (the five books of Moses only), a tractate from the Talmud and a prayer book – we were taught what should be on top and what on the bottom, according to the relative sacrality of the texts.

Today, in my Orthodox Jewish synagogue, during weekday prayers, many of the congregants pray using their smart-phone to access the prayers, rather than a

proper prayer book (on Sabbath use of electricity is forbidden and so the smart phones are only used six days a week).

In Yeshiva they also taught us how to pray. When to stand, when to sit (and the debates in the first century BCE around sitting or standing during the enunciation of what is as close as possible to the “creed,” the *Shema*, during morning and evening prayers). They told us when to bow, when to move sideways and when to take three steps forward or back. Later, as we (boys) were approaching our thirteenth birthday they taught us the complicated procedure of laying phylacteries (and when we came to school checked to see if there were marks on our arms from putting them on at home, if we lived too far away to participate in the morning prayer at school). We were thus taught the importance of the double performative, of the physical actions which had to accompany the holy words. And the lesson, the real lesson, not of how to wrap the strap of the phylactery around your finger or how deep to bow when citing the *Aleinu*, the real lesson – was that prayer was a performative. Perhaps *the* performative. As a very bright sociology doctoral student in Israel remarked to me some years ago: “I know why you are not really a sociologist.” “Why,” I asked. “Because you believe that something actually changes in the order of the world when we light Sabbath candles.” And he was absolutely correct. Prayers are like vows and oaths – all are verbal utterances that make substantive changes in the order of the world. It could be an inter-subjective world, as in the case of oaths, or a more hard-to-grasp world of the vow-maker and the cosmos. And that is why we *make* a vow. Words have power.

A friend of mine, now deceased, was a child in Budapest in WWII and used to recount how, near the end of the war, with the horrific battle between the Red Army and the Nazis raging around them, his mother would position him at the entrance to the bomb shelter where civilians took refuge and make sure he greeted every single person entering with the proper salutation. The proper salutation was important, even with bullets flying overhead and bombs dropping in the adjoining street. It established something in the orders of the human world, even if that world seemed to be falling apart.

Today it is a struggle to get almost anyone to begin an email with a salutation, of any kind. Even beginning an email message with “Hi” is seen as a useless formality. Sadly, people fail to realize that it is precisely the “useless formality” that preserves something human and intersubjective in the message and, at least to a small extent, prevents it from becoming purely instrumental – a type of message a computer could relay to another computer.

I was a late reader, but I grew to love books, their smell, their heft, even their taste; as turning pages of old volumes a corner would often break off and I would eat that little, brittle, yellow triangle. My love for the written word grew hand in

hand with an increasing suspicion of what it is we say – of just how difficult it is to encompass the world in the spoken word, while the written text had the advantage of giving time for reflection and not being forced to respond in real time to events in progress – whose meanings could barely be grasped before a response was expected. The words in the book were always the right words, the proper ones. They could be relied upon to grasp, hold and explain the world. And as I say, they had a strong physicality – smell, weight, sight and taste. Even sound, as one turned the pages of volumes new and old. As a child and only rarely getting the spoken word ‘right,’ the written word provided me with the security of words as they should be.

And among the many properties of words as they should be, was their power (recognition of which is sorely lacking today). For words are replete with power, not only in courts of law or on the tongues of priests, kings, presidents, generals or judges. They are powerful when used by all of us, which is probably why so many traditions enjoin us to silence and make explicit that the unsaid is preferable to the said. This power can be dangerous. Interestingly, one of the few places where we may find people careful in their use of words is among our friends in East Africa. There is something in the way they chose their words and articulate them that makes one sense that they are very well aware (perhaps at a subconscious level) of the weight and power of words and how gingerly one must approach their use.

Perhaps this is the result of the only very late introduction of literacy on the continent, together with the fact that most of our friends are Catholic.

The spoken word matters. Certainly where there is no written tradition not to say, when it carries with it sacramental meanings. There is a power to hearing the word of God spoken in a Catholic Church that is but a hut on wooden posts in Nyamasizi, Uganda that one cannot access in almost any of the grand Gothic European churches; and one need not be Catholic to recognize this power.

This is a book about the spoken word. It is about oaths and vows and an attempt to arrive at a phenomenology of what taking an oath or making a vow implies. It is thus about a way of being (not just communicating but being) that is increasingly foreign to us, we believe to our detriment.

Of necessity, we will be dealing mostly with texts, that is written words that refer to the spoken oath or vow. So we are hovering above the object of our inquiry at two removes. Our text here (the one you are now reading) is written and we are referencing written texts. This is unfortunate but is what scholarship has become over the centuries. In following chapters we will be looking at worlds where verbal utterances were more critical than they are today: both in oaths as well as in scholarship. The life and career of Peter Abelard serves as witness to both and we will be addressing the tragedy of his life in chapter four.

Indeed Peter Abelard is no outlier to our story. Famous as both a scholar and tragic lover, his life touches on two critical themes in our inquiry: language and love, or in terms of some of our following chapters, oath and Eros. Both, we have come to find are bound together, sometimes in opposition and sometimes as complement to one another.

In contrast to other works on oaths and vows, we are not setting out to write a history of this verbal form, nor a philosophy of its locution. If anything, we seek to understand their phenomenology. Just what is an oath. Or, of even greater curiosity what is a vow. We have many works delineating what they do, and how they have been used (politically, legally, religiously, mythically and so on) in different cultures and societies over time, indeed, over millennia. All these impressive works however leave unanswered the question of just how oaths and vows actually do what they do.

Oaths and vows have often enough been presented as performatives, perhaps even as performative acts par excellence. But from where do they draw their generative power? What is the source of their creative strength, of their ability to change something in the orders of the world? We, today, are so habituated to the corruption of language – of all language, including those of promises, oaths and commitments – that it is perhaps difficult for us to re-imagine the magic of the word as creation. The word, as bringing worlds into existence.

God could do this unaided.

For us however it is always some form of a social act (even the private act of vow-making – as opposed to oath-taking – is always according to a socially accepted script, proper words, terms and conditions are essential to its efficacy).

And this is why it is necessary to talk of oaths and vows and Eros, in the same breath. The language of oath-taking and vow-making have in them more than a bit of the erotic, in the broadest sense of the generative. Through oath-taking and vow-making we create worlds, and we do so with others, always with others. It is with the terms, forms, challenges and sometimes failure of this creative process that we shall concern ourselves.

Introduction

Oaths, Vows, Promises, Curses – all share – in Wittgenstein’s term – family resemblances.¹ They all carry illocutionary force, are all performatives and share among them other characteristics as well.² Oaths have rightly been termed, “conditional self-curses;” promises have been argued to be but a more developed form of vows; and oaths and vows are often used interchangeably. We devote a good deal of space in our first chapter to distinguishing between oaths and vows. Here however we wish to make a much more general point, both delineating the limits of our inquiry and making clear which of the above are not our concern as well as charting out how we shall approach our topic.

We are not concerned with curses. Whether in the form of “I’ll be damned if such and such” or simply in the use of profanities which in English are also termed oaths (reasonably enough as we shall see, for traditionally, oaths typically included a self-curse if its terms were not fulfilled). Nor will we be dealing with promises per se. Michael Robins has usefully pointed out that promises are social acts par excellence while vows (and we would include here some oaths) are private acts. In his own words: “vows differ from promises in the crucial aspect that they do not constitute the undertaking of an obligation to someone else, who then enjoys the power of releasing the vower from his obligation. Vows . . . are not obligations to anybody; there is no ‘vowee’ as there is a ‘promisee’ . . . the nature of vows is that of a self-imposed commitment to do something, which creates a right on the part of nobody.”³

Private acts, they can nevertheless be broadcast or declared publicly. This was the case with the famous oath of Harold to William the Conqueror depicted on our book cover. In 1054 placing his hands on sacred relics Harold promised his aid to William in securing the English crown (an oath he later revoked). His oath is shown in the Bayeux tapestries.

Another significant example of such an oath is the *Oath of Tyndareus*, taken by Helen’s suitors as well as the oath taken by the people of Israel to accept God’s commandments at Sinai. These were public declarations of private oaths. While these may well have been mythic, marriage vows are decidedly less so. And, as Robins reminds us, traditionally, the exchange of marriage vows was just that, an

1 Ludwig Wittgenstein, *Philosophical Investigations* (New York: MacMillan, 1953).

2 John Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge: Cambridge University Press, 1969), 3–53.

3 Michael Robins, *Promising, Intending and Moral Autonomy* (Cambridge: Cambridge University Press, 1984), 85.

exchange of personal vows. They were not promises from which one could be released but vows that each made on their own (hence could only be annulled as in Roman Catholic practice). This would be very different from a promise (of obligation, commitment, fidelity and so on) which has much more of a contractual element to it and is, indeed, closer to contemporary reality, but not that of our parent's generation.⁴

Indeed this nature of the oath as a public declaration or broadcasting of what is nonetheless a private act is explicitly recognized in the Jewish Talmud, (Tractate *Shebu'oth* on oaths) where it is made clear to the person taking an oath that an oath in court is interpreted according to the understanding of the court and not the individual oath-taker.⁵ A purely public utterance would need no such caveat. This Talmudic reading even bases itself on an understanding that when Moses swore the people to God's covenant (a second time) at *Arvut Moav* he made it clear that their oath was according to his and the Lord's understanding and not whatever internal readings the oath-takers may have had in mind.

Compare for example any number of other performatives brought by Austin, such as the naming of a ship or indeed the priest or mayor announcing to all assembled that the couple standing before him are now "man and wife."⁶ These are public, not private, performatives that need to be uttered by the correct functionary in the correct circumstances. The internal state, understanding, attitude etc. of the performer is irrelevant to their performative function. The distinction between the two is critical to our inquiry.

Our interest is not solely in the public act of promising which creates new social relations and on which so much of social life rests, as David Hume and Immanuel Kant and many after them understood so well. Our interest primarily is in the private act of one who vows or takes an oath to do or not to do some act. It is not the social dimension of promises and promise-keeping per se that is our interest, but very much the private reality of vow-making and oath-taking. A perfect example of such an oath is that taken by Michael Henchard in the opening chapter of Thomas Hardy's *The Mayor of Casterbridge* where, after losing his wife and son in a drunken challenge, he vows never to drink again. The internal, self-generated, verbally-articulated and formalized expression of a private commitment is thus the focus of our inquiry. We will occasionally stray into oaths of a different nature (for the above is really the definition of a vow). Oaths taken in courts of law for example are hardly self-generated. And while they are public

⁴ Michael Robins, *Promising, Intending and Moral Autonomy*, 86.

⁵ *Babylonian Talmud, Tractate Shebu'oth*, 29a–29b.

⁶ J. L. Austin, *How to Do Things with Words*. (Oxford: Clarendon Press, 1962).

and even social in that they are part of a social event they are not explicitly interpersonal in the sense adumbrated by Martin Buber's notion of *I and Thou*. The space of Buber's relationality is not the formal space of a court of law but rather the space of each individual's own soul. It is precisely this individual character that lends them their validity – which is perhaps why in the eleventh and twelfth centuries in Europe the practice of compurgation or “oath helpers” was such a crucial aspect of trial law. The more individual compurgators who would join in one's own oath, the more weight it would have.⁷

As just noted, and as we shall return to again and again in the course of our inquiry, the private acts of oath-taking and vow-making, may well have a public dimension, and surely, marriage vows present the clearest example of such. We will devote a good deal of time to marriage vows as a private act (albeit publically expressed) that nonetheless instantiates a civilizational imperative (the regulation of sexuality in kinship units). Marriage vows are, indeed, probably the only vow most in the West are familiar with today. As the marriage vow creates a new kinship unit (and within this unit socially-recognized children) it is still perhaps the most creative act most of us will engage in.⁸ Quite literally it creates worlds. And within these worlds, at least since the twelfth century in Western Christendom, language and love have been seen as complementary, if sometimes in tension with one another.

Words and love: both create. Together they are both generative of new orders and existences. Together they create new bonds and ties between human actors though, it would seem, with at least sometimes no small degree of slippage between them. Oaths create through the assumption by the oath giver of new obligations. Something new is created through the oath giver's self-limitation (an oath, is, after all, always a limit on one's free agency, a self-constriction in pursuit of a great good than simply enacting one's immediate desires or will in the world). This is the significance of all oaths of loyalty, of service (in some Armed Forces for example), and as we shall see in the following and as noted above, of the constitutive acts of people-making (what we today would term nation-building) among the Hellenes in the *Oath of Tyndareus* or of the Israelites before Sinai at the giving of the Law.⁹

⁷ Harold Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge: Harvard University Press, 1983), 51, 58, 60–1, 65–6.

⁸ Lest the reader think that the “socially recognized” clause is a matter of only nugatory importance they should recall Immanuel Kant's attitude towards bastards as presented in his *The Metaphysics of Morals*. (Cambridge: Cambridge University Press, 2017).

⁹ The historical veracity of these events is of course irrelevant to their role in the consciousness of the peoples for generations, and of the Jews, until this day.

On reflection, we see here an interesting dynamic, not unlike the Jewish Kabbalistic idea of *tzimzum*. That is, that God created the world by drawing Himself into Himself, thus allowing the world to come to be, providing it with the needed space to exist, as it were. For God perhaps, self-limitation on the cosmic scale. But the parallels are striking. For in the act of oath-taking the human agent submits to a restraint (of more or less serious dimensions) and in so doing allows something new to come into being. Ego is reigned in so something new can come into being. And what that new space provides for is not space for alter per se. But for the in-between; for what Martin Buber termed *das Zwischenmenschliche*, that is, for new world orders, new potentialities, ever new creative possibilities.¹⁰

And love does something similar. But it is generative in a very different way. For if oaths create through constriction, love or Eros creates through abundance or plentitude. If oaths correlate with obligations, love correlates with responsibility. Obligations are self-directed, even if they are inter-subjective in nature. Responsibilities are other-directed even as they flow from the self. They are, at their core, relational. Responsibilities flow from relations just as obligations flow from oaths. Both create a new “in-between,” a new space and so new potentials; but the one through self-directed obligations and the other through other-directed responsibilities. In Martin Buber’s terms: “Love is responsibility of an I for a Thou.”¹¹

Complicating this picture however is that in not a few mythic and literary works, from the twelfth through the nineteenth centuries in both Western and Eastern Europe, Eros and oaths are presented in opposition to one another – where love is understood as existing beyond all social forms, obligations and ties (as represented so vividly by oaths in general and marriage oaths and vows in particular). This is no more true than in Stendhal who was, avowedly, a champion of a love pure and beyond accepted social forms: e.g. beyond obligations, and social constraints. Stendhal’s notion of a pure love or “passionate love” is of an erotic tie beyond the norms of society, but not beyond the responsibility Eros entails. As such, and, as we shall see, it includes sacrifice as well as, indeed, as a complement to, desire.

Love and language, Eros and the oath are in fact two complementary, entangled sometimes opposing, sometimes enabling forces of creation in human life. We will view them in all their multiplicity, in their alliances as well as in their sometimes literary oppositions. These can be found in many of the stories in

¹⁰ Martin Buber, *Ich und Du* (Stuttgart: Reclam Verlag, 1923), in English as *I and Thou*, trans. R.G. Smith (Edinburgh: T.T.Clark, 1970); Martin Buber, *The Way of Response*, trans. Glatzer. (New York: Schocken Books, 1966).

¹¹ Martin Buber, *I and Thou*, 15.

Canterbury Tales or the *Decameron* or the early English fabliaux of *Dame Sirith*, and of course in Shakespeare and many other works as well.

In these tales oaths and Eros are set up sometimes as complimentary, sometimes as contradictory, sometimes as waltzing partners, sometimes as sparring partners. Our claim, in general, will be that oaths (and marriage vows) present an almost Aristotelian mode of habituating Eros. Oaths are a form of directing Eros (as they are seen in other contexts to be directing anger), channeling it, giving it an acceptable and human form, moving what Freud termed our primary processes (sex and aggression) away from animal instinct and towards a usable frame for human action.

Of course, sometimes the object of this “direction” or habituation is the wrong one and here we get endless comic situations, often of adultery (mostly of a young wife of a much older man) – which, as often as not, end in a new union with a more reasonable partner. *Love’s Labour’s Lost* is an excellent example of a move from oaths (to have no contact with women) to Eros emergent (as love and desire) and again to oaths – that is, marriage vows (though to be sure the second set of oaths is set after the play is to end). Indeed, in many works of fiction an original oath, of marriage say, is interrupted by the explosion of Eros whose effervescence in desire is only quieted through the reimposition of new oaths with a new partner. Think of Charlotte Bronte’s *Jayne Eyre* in this respect (where of course it is not really a new partner). Both the original tragic tale of Abelard and Heloise as well as Rousseau’s blockbuster novel of the eighteenth century (almost never read anymore) *Julie – ou la nouvelle Heloise* move more than once between Eros and oath, the later teasing the boundaries of both more than once, though of course in neither case is the ending a felicitous one.

And we would claim that this is the very core of tragedy in the works under review. Like comedy, we are faced with misdirected Eros, but in tragedy the force of the oaths hold, the ties it creates are not broken, and the result is a tragic situation (again, recall Stendhal’s famous novels). Aristotle is actually helpful here because he understands that the force of law and general principles (in our context, of the oath as directing Eros) must be mediated if we seek happiness which can only rest on correct action as directed by an understanding of the particular – this is really the meaning of *phronesis*. And simply maintaining our oaths in all circumstances (even with the wrong partner), denying a more phronetic understanding of where they must in fact bend and give (like the rulers/meters on the island of Lesbos which were of lead and so bent and curved with the terrain, – which is Aristotle’s own example); ignoring that is, the particular case at hand and the real demands of Eros (not simply as sexual desire but as love) – well, this cannot but lead to tragedy (and not only with Othello and Shylock).

Realizing the complex, sometimes contradictory, sometimes complimentary, never stable, relations existent between general rules and particular circumstances – may well reflect Martin Buber’s notion “that every Thou in our world must become an It.”¹² That “love itself cannot persist in direct relation.” Just as “every Thou in the world is by its nature fated to become a thing.”¹³ Even as Thou and It may remain “eternally entangled.” Stendhal’s heroes, Fabrizio in *The Charterhouse of Parma* and even more Julian Sorel in *The Red and the Black* move, indeed often vacillate in their relation to their loves between the two primary words of I-It and I-Thou of which Buber speaks. Without developing the comparison here, we may nevertheless note that the moves between oaths and Eros – at least in Stendhal – often parallel that between I-It and I-Thou in Buber’s vision.

If language (oaths) may seek a more true realization in love (Eros) as for example the sad case of the Prince of Cleves in Madame de Lafayette’s seventeenth-century novel, *The Princess of Cleves* (sad because he fails); so too does Eros all too often seeks its fulfillment in the words of the oath (or marriage vow), often enough through various comic twists and turns of plot in Shakespeare and others beside.

As noted, we will review this *pas de deux* between oaths and Eros in some detail (in chapters five, six and seven) among different fictional and mythic works. It forms part of our attempt to unpack the phenomenology of the oath and the vow. Before doing so however, in chapters one through four we will review the use of oaths and vows in different contexts, to better grasp their creative power as well as to measure our own distance from that world where words mattered.

The creative valence of oaths and vows was traditionally seen to exist on two separate planes: the vertical and horizontal. And while breaking our horizontal oaths – to other people – may have either comic or tragic results (if for example we are attempting to habituate Eros with the “wrong” partner), breaking our personal oaths to God rarely ends well. Both Tolstoy’s Anna Karenina and Stendhal’s Clelia (in *The Charterhouse of Parma*) break their oaths to God and the result cannot but be tragic. Note already here that in the West the marriage oath was in the final analysis solely “before God” and not “to God” while in the Eastern Orthodox Church it was manifestly sacral (a theme we shall explore in much greater depths in Chapter Seven).

This point however does take us to two additional themes which we explore in our first four chapters. For that wresting or dance (and it is sometimes one and

¹² Buber, *I and Thou*, 16.

¹³ Buber, *I and Thou*, 16–7.

sometimes the other) of oath and Eros is bounded on two sides. On the one side by God whose words, indeed, brought worlds into being. And on the other by our intentions. These represent those two poles between which oaths may manifest themselves: inward towards the infinity of our intentions and outward towards the eternity of God. Today's world of words seems to be devoid of both, a world of the conditioned rather than of the related. A world of "being such and such" rather than of sharing in a coexistent being.¹⁴ For, again in Martin Buber's terms:

He who takes his stand in relation shares in a reality, that is, in a being that neither merely belongs to him nor merely lies outside him. All reality is in an activity in which I share without being able to appropriate for myself. Where there is no sharing there is no reality. Where there is self-appropriation there is no reality. The more direct the contact with the *Thou*, the fuller is the sharing.¹⁵

Not of course that we can remain with the *Thou*, as we have already indicated. Yet,

it suffices him to be able to cross again and again the threshold of the holy place wherein he was not able to remain; the very fact that he must leave it again and again is inwardly bound up for him with the meaning and character of this life. There, on the threshold, the response, the spirit, is kindled ever new within him; here, in an unholy and needy country, this spark is to be proved.¹⁶

This crossing back and forth through the bonds of love and of oaths, creates worlds, creates in fact the worlds we all inhabit and which we so blithely and unthinkingly term institutions (through the bonds of marriage or even of political union), thus saving us from the chaotic destruction of unhabituated desires (erotic or aggressive as the case may be).

Bounded by the infinity of our desires on the one hand and the eternity of God's creation on the other, oaths and vows stand in fact at the nexus of our two existential planes. They are the node at which the horizontal axis of our existence – with other individuals and objects of creation – intersects with the vertical axis of our relations with the transcendent realm. For the vast majority of our lives, we devote ourselves to one or the other. Our participation in the division of labor, in the work of production and consumption, of buying and selling, even of art appreciation is experienced along the horizontal axis. Our acts of prayer, fasting, or sacrifice are registered along the vertical axis. Often enough we may enlist one in support of the other: purchasing a sacrificial item, printing a prayer-book, preparing the meal with which we will end Lent, and so on. But almost never do

¹⁴ Buber, *I and Thou*, 64.

¹⁵ Buber, *I and Thou*, 63.

¹⁶ Buber, *I and Thou*, 52–3.

we invoke both together as we do in oath-taking and vow-making. An interesting exception is the marriage rite, which, as we shall explore here is, in many (though not all) traditions, defined by oaths or vows. Creation then, at least for us humans, would seem to necessitate engagement with this nodal point of our existence. This is perhaps the source of any real generative power we may lay claim to.

This work then hopes to present a partial phenomenology of the vow and of the oath with the aim of clarifying what was once a critical part of our internal psychological “furnishings,” – existent in many cultures and societies. Our work draws, in the main (though not exclusively), on three sets of textual sources: a) Jewish legal and *aggadic* writings (that is Rabbinic stories woven around scriptural narratives), b) Eastern Christian *euchological* (ritual and liturgical) manuals, c) European myths and literature from the twelfth to nineteenth centuries which deal with marriage vows and their abrogation as these effected the creative or generative force of such vows. Marriage vows and oaths, we recall are perhaps the example par excellence of the creative force of such locutionary events in the establishment of new kinship units and within them of new life, both biological and social.

Jewish and Christian Eastern Orthodox texts were chosen not simply on account of their antiquity. More importantly, they continue in unchanged form today to regulate communal life millennia after their composition. Jews preserve the same attitude towards oaths and vows as we will find in Talmudic sources from the fourth century. A Greek Orthodox marriage today follows the same ritual form as in the seventh century CE. This is not the case in the Western Church. Within the world of Eastern Christendom, we have focused on the South Slav traditions, as Russian Orthodoxy was significantly effected by the Western rituals through the reforms of Peter the Great in the late seventeenth century.

Literary and popular works from the Western (and a bit of the Eastern European) cannot provide us with a rich mine of insights on the relations and *pas de deux* of Eros and oaths over the centuries.

Whether we are richer or poorer for living today in the almost total absence of this dance, the reader will have to judge.



Part One: **The Power of the Word**

Chapter One

Prolegomena: On Oaths and Vows

Language, in its primitive function, to be regarded as a mode of action, rather than as a countersign of thought.¹

. . . and performatives

Any study of oaths, vows, and for that matter promises, must begin with the recognition that they constitute what John Austin termed, “performatives.” That is to say, they are verbal acts that have concrete consequences in the world. While Austin gave examples of performatives such acts as the christening of a new ship (by a properly constituted official), or a Mayor pronouncing a couple “man and wife,” oaths and vows are no less performative acts. What they effect are either the relations between the person making the oath and a designated alter, or the relations between the person taking a vow and the world at large or even his or her relation with God or the gods.

Thus for example if I make an oath or a promise to give you something or withhold something from you I am putting myself under an obligation in relation to you that was not existent prior to the oath. Even in oaths pertaining to past events I am effecting something in our relations as I commit myself to a certain version of events that have taken place. I am placing myself in an indubitable relation to those events that cannot be gainsaid under any possible future sway of personal interest or profit. I am essentially bracketing out possible future reversals on my part in regard to said past. Thus, I am, in this matter if not in others, effecting a certain new obligation to numerous others.

Similarly, in vows which as we noted earlier have no direct bearing on another person – the vows of priesthood, or of the ancient Nazarite, a religious vow taken in hope of furthering a specific end – something concrete is nevertheless effected. A vow of celibacy for example is a change in the order of the world. A vow to plant a tree or build a bridge or give money to charity or even just to refrain from eating meat; all effectively commit me to some concrete action (either doing or refraining from some act or set of acts) and are therefore performatives in the full sense of the word.

¹ Bronislaw Malinowski, “The Problem of Meaning in Primitive Languages,” in Ogden and Richards, *The Meaning of Meaning* (New York: Harcourt Brace and World, 1923), 296.

By limiting the range of my possible actions (committing myself to celibacy or vegetarianism or to donating a certain sum to charity) they are – in however miniscule a manner – structuring future events and determining one course of action among the infinite ones that the future holds. They thus determine a set of future relations between me and others or possibly only between me and certain elements of the world.

. . . and desire

Critically, all future-oriented vows and oaths limit desire. (Properly speaking oaths related to past events also limit desire, as intuited above, for after attesting under oath to a certain event or sequence of events I cannot then change my story under pressure of new circumstances which may make this desirable for me). Desire is unmistakably future-orientated, and the oath acts as restraint on that desire rooted in a past event (the oath-taking event). A desire for a different outcome to some past event is more properly termed a regret, though one can as well fantasize on a more desirable outcome outside of times past or future.

By circumscribing desire, pegging relevant desires to the terms of one's oath or vow one is, effectively, determining – to some extent – future acts, events and circumstances, – according to (what will then, in the future be) a past event (the oath). For one is, very clearly, limiting future desire to the determinations of one's current will (expressed in the oath). Projecting forward, as the oath does, one is reigning in the future, restraining it – or elements of it – in terms of what at-that-future-time will be the past (that is, our present will, or volitional commitment to the oath). This is no small matter and one of major consequence. As the present continually segues into either a shared past or a reliable future and both are, at the end of the day, dependent on nothing more than our “word” we can see that the very woof and warp of all shared social life depends on such “illocutionary acts,” as Austin termed them.

It is thus no wonder that Immanuel Kant saw the promise as standing at the very basis of society, yet it also highlights the inherent fragility and indeterminacy of our shared world (as noted in the quote of Turgenev which we have chosen as an epigraph for this work). With so much resting on their reliability, the immediate challenge is however how to ‘secure’ the oath or vow. They are indeed but words, phonemes, standing in only an arbitrary relation with what they signify – itself no less ambiguous. Convention alone secures the veracity of the vow or oath to their referent which itself is but an internal state of will projected into the future (e.g. “I vow to be faithful”), thus nothing particularly stable in itself to begin with.

. . . and lies

In this, oaths and vows are perhaps the paradigm illustration of the possibility of the “lie” which, the anthropologist Roy Rappaport identified as a uniquely human capacity. While other species have the capacity to deceive, only humans can lie; that is to say, build elaborate systems of fictional representations with no connection at all to external physical reality (think of literature, for example). The blessing of language, of our communication via a symbol system that stands in only arbitrary relation to what it represents (there is no necessary, but only a conventional, relation between the word *table* and the rectangular wooden entity upon which my computer sits as I write these words) permits a degree of falsification not available to any other species. Quoting Martin Buber to the effect that “the lie is our very own invention, different in kind from every deceit that the animals can produce. A lie was possible only after a creature, man, was capable of conceiving the being of truth,” Rappaport views the lie as the fundamental problem of human society.²

The oath or vow exacerbates this situation considerably. For in their case the referent is not an external state of affairs that – at least theoretically – is given to empirical verification. Rather, their referent is a future (sometimes past) state of affairs which depends on the volition of the oath giver or vower. The oath or vow ups the ante of symbolic communication by at least two degrees. For one, it refers to a future (or past) state, that is, to a reality that is not given to immediate external verification. More importantly however its referent (especially when future-directed) is not to any sort of thing or entity or external state of affairs but rather a yet-to-be volitional state whose existence can in no way be ascertained prior to the time of its action.

If I tell you that the table in my room is round and red you can empirically verify the truth of this statement (and learn that it is rectangular and brown and hence that I lied). Even a future-directed statement, “Bernie will purchase a round, red table” is given to further verification, even before the fact. I can ask Bernie if indeed this is true. I can ask to see his purchase order. I can check at the store to see if he indeed has put through the order and so on.

But in the case of my vow to be faithful or promise to pay you back the money you lent me on such and such a day or vow to go to Mass weekly – there is no means prior to my acts themselves for you to verify what is essentially an intentional state. Yes, when the day comes around and I have not paid you back, or

² Roy Rappaport, *Ritual and Religion in the Making of Humanity* (Cambridge: Cambridge University Press, 1999), 13, 15.

I do not show up at Sunday Mass or you are given proof of my infidelity you will know that my vow went unfulfilled – though, to be sure in many cases you will never know if I intended to fulfill it or not. I may have deceived you from the beginning, never intending to fulfill my vow; but also I may have had full intention to keep my word but circumstances beyond my control prevented me (I broke my leg and the nearest church to my house burnt down; I lost all my money when the market went bust, I was drunk and not in control and she threw herself on me, and so on and so on).

. . . and the security of oaths

Given this state of affairs: on the one hand, the very centrality of oaths and vows to our shared life and, on the other hand, their terrible fragility; it is no wonder that for time out of mind the terms, meanings and possibility of breaking of oaths has been of central concern across many different societies and civilizations. The Babylonian Talmud has four whole tractates devoted to the subject. One on oaths, one on vows, one specifically on the vows of the Nazarite and one on Sotah (a woman who swears that she did not seclude herself with a man her husband had prohibited her from seeing). The laws, debates, rulings and legal inquiries are then furthered in the medieval and early modern legal codes by Maimonides (thirteenth century), the Tur (thirteenth/fourteenth centuries), Joseph Karo (sixteenth century) and others until this day.

But we needn't go so far afield. John Locke in his famous 1689 *Letter on Toleration*, famously excluded atheists from such toleration because “those are not at all to be tolerated who deny the being of a God. Promises, covenants, and oaths, which are the bonds of human society, can have no hold upon an atheist. The taking away of God, though but even in thought, dissolves all.”³ In fact, in Shakespeare's play *Titus Andronicus*, one of the characters, Aaron the Moor, who believes in no God holds no sanctity in oaths, would not be bound by them, but does maintain that those who do believe in God are so bound (such as the Roman Lucius).

The only security of oaths and vows which could be sought was in God. This position we may note, is not that far from the thesis propounded by Jan Assmann that the origin of monotheism was in the need to find a common guarantee of commercial transactions, traditionally “guaranteed” by a deity in the ancient

³ John Locke, *A Letter Concerning Toleration* (Cambridge: Cambridge University Press, 2012), 36.

world, but sadly by the different deities of the different trading partners – which of course provided no security for those not adhering to the same deities.⁴

We may jump 170 years from Locke to Mill, to the classic treatise of liberalism, J. S. Mill's *On Liberty* which inveighs against an 1857 court ruling predicted on “the legal doctrine, that no person can be allowed to give evidence in a court of justice, who does not profess belief in a God (any god is sufficient) and in a future state; which is equivalent to declaring such persons to be outlaws, excluded from the protection of the tribunals; who may not only be robbed or assaulted with impunity, if no one but themselves, or persons of similar opinions, be present, but any one else may be robbed or assaulted with impunity, if the proof of the fact depends on their evidence. The assumption on which this is grounded, is that the oath is worthless, of a person who does not believe in a future state.”⁵ The need for God (that ultimate truth, in Martin Buber's terms) as guarantor of the oath or vow, that most indeterminate of human locutions, seems to span human history or at least that history that is accessible through written documents. It continues in our own day in swearing in ceremonies of some armed forces as well as in the swearing in of judges, court officials and of witnesses in some courts of law (and in the USA of all Federal officials).

. . . and trust

The need for a god (and, following Mill, any god will do), to secure oaths and vows brings us to the core issue in their consideration – that of trust, or their trustworthiness. Moreover and as Rappaport made clear: “What is at stake is not only the truthfulness of reliability of particular messages but credibility, credence and trust themselves.”⁶ If belief in God (or gods) as guarantor/s somehow secures oaths and vows it does so by providing confidence in the reliability and intentions of the oath or vow giver. It thus behooves us to look a bit more carefully at these ideas of trust and confidence and the relations between them.

Here we would agree with Niklas Luhmann that the major difference between trust and confidence lies in predictability.⁷ If we can predict (or think we

⁴ Jan Assmann, *Of God and Gods: Egypt, Israel and the Rise of Monotheism* (Madison: University of Wisconsin Press, 2008), 54–6.

⁵ J.S. Mill, *On Liberty* (Indianapolis: Hackett Publishing Company, 1978), 28–9.

⁶ Rappaport, *Ritual and Religion*, 15.

⁷ Niklas Luhmann, *Trust and Power* (New York: John Wiley and Sons, 1979); Niklas Luhmann, “Familiarity, Confidence and Trust: Problems and Perspectives” in *Trust: Making and Breaking Cooperative Relations*, ed. Diego Gambetta (Oxford: Basil Blackwell, 1988), 94–107.

can predict) another's behavior we have confidence in outcomes (though of course we may be wrong). If we cannot predict we have no recourse but to trust, that is, have faith in what cannot be known or predicted. One strong factor in predictability is sanctions (positive and negative). If there are serious negative sanctions for non-compliance we feel that we can predict compliance. Similarly, if compliance is positively sanctioned we feel we can more or less reliably predict outcomes.⁸

These assumptions fit well with the ideas of John Locke on atheists and even nineteenth-century English law on non-believers: that atheists or those who do not believe in a future life cannot be trusted to fulfill their vows. Simply put, without the sanctions of the world to come, we have no confidence in their keeping their word. Simply trusting the vower or oath-taker to fulfill the terms of her vow is, it would appear, too risky an undertaking (given that fragility discussed above) and so some modicum of confidence is required as well; in this case in the sanctions of the world to come.

It may also be that belief in God or gods plays yet another role in granting us confidence in the oath-takers good intentions. For aside from sanctions another source of confidence is in familiarity. Let us call this sense of familiarity "stickball." Because John over there played stickball on East 13th Street as a boy, he shares with me certain codes of conduct, certain moral evaluations, certain ways of being and acting that bring me to have confidence in him. We are alike, in many important ways the same, and hence I can predict his actions. Knowledge of what will be, confidence and prediction, are here based not on sanctions but on sameness, on familiarity, and so on knowledge (or assumed knowledge) of how the other will act. Mind you, the relevant other may not be "the same" at all, but we will often draw certain conclusions (true or false) from modes of dress, speech, where he went to school, neighborhood, religion and so on. All of this will allow us to construct a story of sameness that will in turn allow us to have confidence in our ability predict behavior.

So too belief in God or in some higher power. As the oath-taker shares with others such a belief, there is some basic, shared frame of reference, meanings, ontological assumptions that serve as a sort of common past like "stickball" – with its attendant notions of familiarity – and so allow me to have confidence in her intentions to fulfill the vow or oath. Shared belief in some Almighty entity thus allows for confidence along somewhat different tracks than sanctions. It however plays the same role – of allowing us to frame the trust invoked by vows and oaths (when involving other-directed action) and embed them within a

⁸ Adam Seligman, *The Problems of Trust* (Princeton: Princeton University Press, 1997).

broader set of confidences based on knowledge (or assumed knowledge – pertaining to either the workings of sanctions or of a shared, hence familiar, structure of meanings).

Trust is too fragile a state upon which to rest those fundamental obligations of society that oaths, vows and promises maintain (the afore-noted circumscription of desire). “Trust,” as Luhmann points out “cannot be demanded, only offered and accepted” must thus be framed or embedded, protected perhaps, by whatever struts of confidence may be available to us. This then points us to the major paradox of the oath or the vow, or perhaps to the very miracle of social life itself: whose foundation proves to be nothing more than an inaccessible intentional state that nevertheless demands of others a trust in (its truthfulness) that can never be made wholly available (hence our continual recourse to confidence building measures). The believer’s struggle with her faith is perhaps no more than a working out of this dynamic in more apprehensible terms.

. . . and divine promises

It thus perhaps no wonder that at least in both Jewish and Christian traditions so much turns on oaths and vows and promises – not least those made by God. Indeed, both existence in general as well as the specific historical being of Jews and Christians (in their separate traditions) rest, at the end of the day solely on God’s promises and his abiding by the terms of his covenants. We recall that after the Flood, God promises to abide by his covenant never to again send a Flood to destroy the world (Gen 9:11) and even sets a sign, the rainbow, as a reminder (to Himself) of the terms of this covenant. God further establishes his covenant with Abraham and so sets forth the course of the Jewish people. In the New Testament, in Galatians and in Romans Paul of course reinterprets this covenant to mean the people of the promise, that is to say, not the physical descendants of Abraham (the Jews), but the believers in Jesus, Christians, to be the true “children of the promise.”

Existence, both in the most general terms – of the world at large after the deluge – as well as the particular existence of those respective salvational communities who accept the terms of the covenant (however differently understood by the different communities of Jews and Christians) rests on a promise or covenant made by God. Note these foundational moments are quite different from those in the creation story at the beginning of Genesis. There, creation is rooted quite simply in the word of God. Here a much more subtle dynamic is in play. There is no indicative command, but rather, a covenant, a promise, thus too an element of indeterminacy that did not exist in creation. Of course the promise is

by God which should leave one assured of its fulfillment. But, we are nevertheless told that God has to remind himself via the rainbow of his commitments. So the indeterminacy is still present (even if our interlocutor as it were is God): as it continues to be in the human world proper.

In the Islamic tradition the connection of covenant to the basic terms of human existence is made even more explicit. The Qur'an understands the first covenant as between God and Adam (20:115): "And We had already taken a promise from Adam before, but he forgot; and We found not in him determination"; and Adam's descendants as explicated in Sura Al-Araf (7:172) "And [mention] when your Lord took from the children of Adam – from their loins – their descendants and made them testify of themselves, [saying to them], 'Am I not your Lord?' They said, 'Yes, we have testified.' [This] – lest you should say on the day of Resurrection, 'Indeed, we were of this unaware.'" This, the so called "primordial covenant" – which is implicit rather than explicit in the verse – is actually a universalization of the biblical covenant between God and the people of Israel at Sinai, an event of major importance in the Qur'an as well (Sura 1:38/40). Indeed, for scholars from Toshihiko Izutsu to Tariq Jaffers, Andrew O'Connor J. E. Lombard, and many others, covenantal theology is essential to the Islamic vision of mankind.⁹ So far is this the case, that according to Tariq Jaffers the covenant referred to in Sura Al-Araf provided for the Mutazalite thinkers the very basis for human reason itself.¹⁰

Oaths and vows play a constitutive role in the coming to be of the Jewish people as narrated in the Hebrew Bible. Most obviously in God's remembering his covenant with Abraham, Isaac and Jacob during the travails of the people of Israel in Egypt (Exod 2:24) and of course in the giving of the Law on Sinai and the covenant between God and the people of the Israel concluded there. Even the first oath between humans recorded in the Hebrew Bible is the one Abraham extracts from his servant Eliezer as to the lineages from which he will (and will not) find a wife for his son Isaac. The oaths (and a covenant is of course but a matrix of oaths of the covenantal parties) given at Sinai are, in Jewish legal tradition, seen as so constitutive that, as one cannot give an oath upon an already sworn oath, it is impossible to swear an oath on something already committed to on Sinai (like eating unleavened bread, matzoth, on Passover: this is "a statue of the Lord," accepted by the Jewish people for all time and so no individual can swear

⁹ Toshihiko Izutsu, *Ethico-Religious Concepts in the Qu'ran* (Montreal: McGill-Queen's University Press, 2002), 88–92; Andrew O'Conner, "Qur'anic Covenants Reconsidered: mīthāq and 'ahd," *Polemical Context Islam and Muslim-Christian Relations* 30, no. 1 (2019): 1–22; J.E. Lombard, "Covenant and Covenants in the Qu'ran," *Journal of Qu'ranic Studies* 17, no. 2 (2015): 1–23.

¹⁰ Tariq Jaffer "Is There a Covenant Theology in Islam?" *Islamic Studies Today: Essays in Honor of Andrew Rippin*. in eds. M. Daneshgar and W. Saleh (Leiden: Brill, 2017): 98–121.

to uphold – nor to transgress it – as all have already sworn to uphold this at Sinai).¹¹

Thus, as we see, and in a manner very similar to human beings, God covenants with Noah and his offspring (Gen 9:8–18) to restrain his desire (to again destroy the world, for example) no matter the provocation, or, later, to maintain the people of Israel (regardless of their sinful nature), though to be sure he often enough needs Moses to remind him of this Divine restraint and give him new reasons to keep his promise and control his impulses. Our own human appeals to God as guarantor of our vows and oaths have it would seem but small purchase on his own.

Divine restraint, on the basis of an oath (as we find following the Flood) is, at least in the Jewish tradition, mirrored in human acts as well. Thus for example, we can find, in the fourth-century CE rabbinic commentary on the book of Deuteronomy, *Sifrei Devarim* (36:3): “This was the source of R. Josiah’s saying: One must bind his inclination by an oath, for you find everywhere that the righteous used to bind their inclination by an oath.”¹²

The midrash then goes on to show how: “just as the righteous used to bind their inclination by an oath to prevent it from acting so did the wicked bind their inclination to make it act.”¹³

. . . between trust and desire

From the above however we can see that both oaths and vows stand at the nexus of the most important force in human affairs and the most fragile of social constructs: desire and trust. There are actually quite a few commonalities linking desire and trust. For one, both are essentially predicated on an absence. In the case of desire, on the absence of the desired object. In the case of trust, on the absence of any basis for confidence. If the desired object (or person) is acquired, desire fades away (for that object at any rate) and if confidence measures exist there is no need for trust. The very existence of both desire and trust is thus tied to something that is not – and cannot – be present, that is, to something absent. Similarly, both exist in the optative mood. That is, both partake of an “if only” sense of things. In desire this “if only” is perhaps more immediately accessible. For desire is indeed powered by the “if only” (I had his wealth or her talent and so on). But

¹¹ *Babylonian Talmud, Tractate Shebu’oth*, 25b.

¹² Reuven Hammer, *Sifre: A Tannaitic Commentary on the Book of Deuteronomy* (New Haven: Yale University Press, 1987), 62.

¹³ Hammer, *Sifre*. 63.

the “if only” holds in the case of trust as well. There it refers to a hope in trust itself. “If only” she is true to her word, he to his committed obligations and so forth. Trust can in fact only exist in this optative mood. For, on the one hand, if I apply sanctions (or the terms of familiarity, as discussed above) to alter then I have a basis of confidence and have no need of trust. On the other hand, if alter does not maintain her trustworthiness or credibility there is also no longer a place for trust. Only perhaps regret.

Desire and trust share other characteristics as well. Both not only rest on an absence and exist in the optative mood, but in a sense demand or perhaps require a degree of reciprocity. As Alexander Kojève and Jean-Paul Sartre in their different ways made clear, desire, at least, between human beings, is a desire for desire.¹⁴ When I say that I desire you, what I really mean is that I desire your desire for me. In fact I desire your desire of my desire. What I want is for you to want me to want you. Trust is not so dissimilar. If our relations are to be based on trust (and not fall into the worlds of either positive or negative sanctions) the trust must be reciprocated. If my trust in you is met not by reciprocal trust but by a demand for guarantees, I will not trust you the next time and our relationship will develop along very different tracks – of mutual insistence on confidence-building measures – than it would were it based mutual expressions of trust: of what can “only be offered” (and never demanded).

What then does it mean to say that the oath or vow stands at the nexus of both? As noted above and in a strong sense, vows and oaths make trust possible by restricting desire. A self-limiting act that circumscribes future action and so holds desire at bay, they allow me to trust you on the basis of nothing more than your word (a word, it is true, that is often enough enmeshed within various ritual actions). On the other hand, if there were no trust in the vow or oath on the part of others they would not play such a role in restricting desire. If the oath is not accepted by others (for other-directed actions) it will likely not play a strong role in limiting future actions. If I swear an oath and no one believes in my intention to fulfill it, chances are that I will not feel bound by it (and this is why it is true as well for self-regarding actions, though perhaps to a lesser extent). Here of course we return to the idea of God as witness to oaths and so providing an anchor for them beyond and more substantial than their mere social acceptance. Whether society accepts them or not, God has accepted or witnessed them and so the oath-

¹⁴ Alexandre Kojève, *Outline of a Phenomenology of Right*, ed. Brayan-Paul Frost, trans. Bryan-Paul Frost and Robert Howse (New York: Rowman and Littlefield, 2007); Jean-Paul Sartre, *Being and Nothingness*, trans. Hazel E. Barnes (New York: Washington Square Press, 1993).

taker must feel obliged to maintain the oath or vow. In terms taken from George Hebert Mead we may call God, the “generalized other.”

The role of God as witness or guarantee of oaths raises interesting questions as to our contemporary secular society where belief in God – where it exists – is understood as a private matter with no public purchase. Devoid of a public presence as it were, belief in God is a private preference, rather like tennis or golf for their different adherents; not to mention the myriads of individuals who prefer to stay home and watch football on the television. How then to guarantee vows and oaths without this commonly held belief in divine witnessing? It is reasonable to assume that the pervasive cultural concern with sincerity, with being authentic and with the purity of our intentions is somehow connected to this state of affairs.¹⁵

This concern with the sincerity of our intent has become the touchstone of much of our moral reasoning, for instance in Immanuel Kant’s writings on the workings of the “good will.”¹⁶ As Kant stresses: “A good will is not good because of what it effects or accomplishes, because of its fitness to attain some proposed end, but only because of its volition, that is, it is good in itself . . .”¹⁷ Thomas Nagel and Bernard Williams cogently delineated the limits of this view in clarifying that: “However jewel-like the good will may be in its own right there is a morally significant difference between rescuing someone from a burning building and dropping him from a twelfth story window while trying to rescue him.”¹⁸ Nonetheless, from the Puritans of the seventeenth century to the talk shows of the twenty-first, a concern with the inner wellsprings of action and sincerity has become almost an icon of modernist culture. The issue of sincere intentions in respect to oaths and vows is something to which we shall return later in this work.

. . . and the Jewish tradition

It may well be that the Jewish legal abhorrence for oath-taking and even more for vow-making is rooted in the realization of on the one hand: the awesome moment of God witnessing our vows, and on the other hand, the recognition that those vows which commit us to behaviors whose actual accomplishment are clothed in

15 Adam B. Seligman, et al., *Ritual and its Consequences: An Essay on the Limits of Sincerity* (New York: Oxford University Press, 2008).

16 Thomas Nagel, *Moral Questions* (Cambridge: Cambridge University Press, 1979), 24.

17 Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. Mary Gregor, (Cambridge: Cambridge University Press, 1997), 8.

18 Nagel, *Moral Questions*, 25.

doubt (given the aforementioned complexity and contradictory nature of both reality and of ourselves) are very uncertain affairs at best. Indeed, the *Shulchan Aruch*, that sixteenth-century compendium of Jewish law that remains the ultimate legal authority for almost all observant Jews, makes clear: “Do not become accustomed to making vows. Anyone who vows, even if they keep them, is called evil and is called a sinner.”¹⁹ Or, “One who vows it is as if they built a forbidden altar, and one who fulfills the vow it is as if they have sacrificed, for it is better to annul the vow. . . . One should be careful not to make a vow in any matter. Even *tzedaka* (charity) should not be vowed; rather, if one has what to give, they should give it immediately, and if not, they should not vow until they have it. And if one is part of a *tzedaka*-distribution process, it should be done while stating ‘this is not a vow.’”²⁰ This reticence to any form of vow-making was echoed in the teachings of Jesus in his strictures on oaths.

Again, ye have heard that it hath been said by them of old time, Thou shalt not forswear thyself, but shalt perform unto the Lord thine oaths:

But I say unto you, Swear not at all; neither by heaven; for it is God's throne:

Nor by the earth; for it is his footstool: neither by Jerusalem; for it is the city of the great King.

Neither shalt thou swear by thy head, because thou canst not make one hair white or black.

But let your communication be, Yea, yea; Nay, nay: for whatsoever is more than these cometh of evil. (Matt 5:33–7, KJV)

These became, later, a touchstone of Protestant rejection of all oath-taking, often in contrast to a more accommodating pre-Reformation attitude.²¹

We could multiply quotes from the *Shulchan Aruch* as well as from myriad of other Jewish legal texts, earlier and later, all to the same effect. In all, the vow is understood as an event infused with sacred *baraka*, not to be undertaken in any but the most extreme circumstances. Words had power, held power, and were infused with an agency that we can barely apprehend in our world devoid not only of sacredness but also of any auricular sensibility. Power we continue to understand, as humans have since our origins. But the power of the word has been lost. And nothing so much expresses the power of the word as the act of (oath-taking or) vow-making: acts which played a critical role in societies and civiliza-

¹⁹ Shulchan Aruch, Yoreh Deah 203: 1.

²⁰ Shulchan Aruch, Yoreh Deah 203: 3, 4.

²¹ John Kerrigan, *Shakespeare's Binding Language* (Oxford: Oxford University Press, 2016), 20.

tions from time out of mind but have, in today's world, lost much of their purchase on our lives.

To get a sense of the continuing power of oaths and vows in the Jewish tradition it is best to begin, not with the Hebrew Bible, or legal texts, but with the opening liturgy of Yom Kippur (the Day of Atonement); the holiest day of the Jewish liturgical year. Yom Kippur, a full fast that begins at sunset the previous evening is a day of prayer, introspection and forgiveness (asked and proffered) that is, quite literally, the most awe-filled day of the Jewish year. The prayer that begins the service on the eve of Yom Kippur is called *Kol Nidre* which, literally means, "All our Vows." I quote in full from the Koren prayer-book:

With the agreement of God and of the community, in the heavenly council, and in the council of man, we give leave to pray with the transgressors among us.

Every vow and bind, oath, ban, restriction, penalty, and every term that sets things out of bounds; all that we vow or swear, ban or bar from ourselves, (from last Yom Kippur to this, and) from this Yom Kippur until that which is to come – let it be for the good – each one, we regret. Let each be released, forgotten, halted, null and void, without power and without hold. What we vow is not vowed, what we bind is not bound, and what we swear is not sworn.²²

The whole congregation dressed in white (actually dressed in an item called a *kit-tel*, reminiscent of a shroud) wearing prayer shawls (never otherwise worn in the evening) and with no leather items of clothing; stand together unharnessing, scattering and nullifying the very basic bands of social life (vows, oaths and promises) to stand before God in their singular and individual existence. It (together with the final prayer, twenty-seven hours later, termed *Ne'eila*) are the most powerful and awe-suffused moments in the life of observant, synagogue-going Jews to this very day.

And they begin with the nullification of all oaths and vows. Breaking the bonds of our oaths, vows and promises is understood to put us all in some way outside of society, to stand naked before the Creator. The *Kol Nidre*, liturgically, unshackles the ties of society thus giving evidence to just how critical are such oaths vows and promises to social existence.

In fact, this process begins ten days earlier, at the end of the morning service on the eve of Rosh Hashanah, the Jewish New Year, the day on which Jewish people believe the whole world is judged. Rosh Hashanah is also the first of the ten days of repentance when we beseech God to mitigate the harshness of his decree, to temper justice with mercy and save us from the severity of his judgment.

²² *Koren Yom Kippur Mahzor* (Jerusalem: Koren Publishers, 2014), 72.

These ten days are days of intense introspection, prayer, self-critique and the asking of forgiveness one from another. At this time, in every synagogue, rabbinic courts (of three members) are constituted and all vows are annulled.

This ritual nullification of all vows and oaths, especially in the *Kol Nidre* is such a powerful repudiation of social norms that in past times Christians used it as an example of the perfidiousness of the Jewish people. For this reason the rabbis wished to ban the *Kol Nidre* itself but were prevented by the popular outcry of their congregants who clearly felt that it fulfilled a fundamental existential need.²³

The next step is to understand a bit more the terms we are using. We have throughout, been discussing vows and oaths as if they were synonymous, but they are not and unpacking this difference in the Jewish tradition is the next step of our inquiry. An oath in Hebrew is termed *shevua* and a vow a *neder*. The myriad laws and restrictions related to both are rooted in the Hebrew Bible, Num 30:3 (NJPS): “If a man makes a vow to the Lord or takes an oath imposing an obligation on himself, he shall not break his pledge; he must carry out all that has crossed his lips.”

The distinctions drawn by the rabbis between vows and oaths are either technical or significant – depending on who you ask. Briefly, a vow is a verbal utterance that prohibits some thing, some concrete entity for use by the vower (this is the most standard form), while in an oath the oath-taker prohibits or commits himself to a certain act (or refraining from such). A vow is focused on the relevant object, an oath on the actor. The subject of the vow is the entity, not the person who makes the vow. Thus, for example, I can vow a prohibition on the eating of meat for a year. Or, famously, the vows of the Nazarite prohibit any article from the vine from his use, as well as a razor from cutting his hair or allowing himself to be in a state of impurity (by coming in contact with the dead). In this, the vow is different from an oath which need not involve a concrete object. Thus a vow that one will not sleep, or speak or walk is not valid, as it does not invoke a concrete object. While an oath not to sleep or speak or walk is valid.²⁴ However, if a man takes a vow that his mouth will not speak or his hands will not do something or his legs would not walk with another, the vow is valid, as it specifies a concrete object (mouth, hands, legs) and not just a state of existence.²⁵

In addition, the verbal forms of the vow (and there are many, discussed at length in the Talmud) are also understood as relevant to dedicating some thing to

23 The reaffirmation of normative order begins with the regular evening prayer, immediately following the final Yom Kippur prayer, *Neila* which is recited at sundown of the day.

24 Mishnah, Ned. 2:1.

25 Mishnah, Ned. 1:4.

the Temple in Jerusalem. These usages are also rooted in the Bible, for example Lev 22:18; Num 29:39; Deut 23:22–4. Prototypically these refer to an animal designated for sacrifice or money devoted to Temple use. Such an animal or such funds then are, clearly, prohibited to use by the person who made the vow. These two characteristics of vows are related: their “thingness” or embodied nature and their sacrificial character. As they are a form of sacrifice they must refer to some concrete entity, as does a sacrifice and cannot be abstract in nature, just as a sacrifice cannot be abstract in nature. (The sacrificial resonances of vows continued in English for example, in the idea of a votive utterance, drawn from the term *votum* meaning, prayer, promise or offering).

From these additional forms of vows comes the locution that a vow often takes the form of a man declaring that such and such is “prohibited to me as if it is a sacrifice.” Once designated, the sacrificial animal in essence no longer belongs to its owner, but to God and so its use by humans is prohibited.²⁶ And the analogy of vow to sacrifice is made explicitly in the *Shulchan Aruch* which, we recall, compared those who vow to those who set up a false altar and sacrificed thereupon. There is an interesting irony here. On the one hand the vow is understood as a sacrifice – thus attributing to it a great degree of sanctity. On the other hand, the act of vowing and its fulfillment is compared to false worship. We will return to this dichotomy shortly. For now we need to remember that the vow specifies a prohibited object. In Rabbinic parlance it is in fact called an “object prohibition.” It is also one that can be annulled by a rabbinic court. Typically this annulment can be based on insufficient attention paid by the vower to the full extent of the vow. Often this includes a change of circumstances that makes the vow something other than its original intent. To return to our earlier example. I may vow that meat is prohibited to me for a year and subsequently find out that I have a medical condition that mandates my consumption of 200 grams of meat a day. Or perhaps I may find myself in a country with nothing else to eat except meat. In such and similar circumstances the vow may be annulled.

In contrast to the vow, the oath is understood as a “person-based prohibition.” That is to say, rather than the object being prohibited to the person, the person prohibits himself from or commits himself to some object, statement or act. As noted earlier there are two totally different tractates of the Babylonian Talmud dedicated to vows and oaths respectively. There are four different forms of false oaths, each with their own penalties.

²⁶ That a vow is a form of sacrifice is true in many traditions, including those without the Jewish notion of “object-prohibition” nor its distinction between concrete things and forms of actions.

The first, the “the oath of utterance” is predicated on Lev 5:4 “Or when a person utters an oath to bad or good purpose – whatever a man may utter in an oath – and though he has known it the fact has escaped him, but later he realizes his guilt in any of these matters.” This refers to an oath a man takes on himself, committing himself to certain actions (what is termed in English a “promissory” oath), or to refraining from them in the future, swearing that he did or did not perform certain actions in the past (what we call an “assertory” oath). In the event of his swearing falsely different punishments are ordained if the false oath was intentional or not. If intentional the punishment is lashes, if unintentional a “variable offering” (depending on one’s wealth).

The second oath, “the vain oath” is an oath taken on an impossibility: such an oath that for example a pillar of stone is really of gold or that he will not sleep for three days (deemed impossible) or that he will not fulfill one of the commandments. (Interesting discussions in fact ensue if the later oath, not to fulfill one of the commandments given on Sinai is of the same ontological status as a physical impossibility). In this case, if the oath is intentional the punishment is lashes, if not, there is no punishment at all.²⁷

The third type of oath, the “oath of testimony” refers to the case where a plaintiff asks two people to serve as witnesses for him in court (in his case against another man) and they swear falsely that they have no testimony to give. This is predicated on Lev 5:1 “If a person incurs guilt – when he has heard a public imprecation and – although able to testify as one who has either seen or learned of the matter – he does not give information, so that he is subject to punishment.” In this case he is liable to a sacrificial offering both in intentional and unintentional cases at the time of the act, though if they forgot their witnessing at the time of oath-giving they are not liable.

The final oath is the “oath of deposit” and refers to a man swearing that a certain item was not deposited with him for safe-keeping or that he does not owe money to a certain individual. If he then admits that he swore falsely and does owe the item or sum in question he must, in addition to returning the sum with damages, offer a guilt sacrifice for theft as specified in Lev 5:21–2: “When a person sins and commits a trespass against the Lord by dealing deceitfully with his fellow in the manner of a deposit or a pledge or through robbery, or by defrauding his fellow . . . if he swears falsely regarding any one of the various that one may do and sin thereby.”

²⁷ There is some correlation here to what in English is considered a “profane oath,” that is, an oath “taken in inappropriate circumstances to support a lie or a frivolous statement.” John Spurr, “A Profane History of Early Modern Oaths,” *Transactions of the Royal Historical Society* 11 (2001): 38.

As we can see immediately all of these oaths are either personal or interpersonal in nature. The final two, the “oath of testimony” and the “oath of deposit” are inherently interpersonal, as they are juridical in nature. The “vain oath” indeed pertains to no real entity, to nothing actually existent in the world – or to events of no consequence, such as swearing to throw (or not to throw, to have thrown or not to have thrown) a pebble in the sea. It is a personal utterance of no import and even in some cases, of no sense (to swear that one has seen a snake as flat as a mill stone) in terms of worldly objects.

The first category of oaths, the “oath of utterance” is analytically perhaps the most interesting and maybe either personal and self-directed, or other-directed. Thus rather than prohibiting the article of meat from my diet, I will swear not to eat meat for a year (here is why some say the distinctions between oaths and vows are simply technical, as the result is the same in both: not eating meat). I am the agent of the oath and while in the case of the vow, it is difficult to say that an inanimate object is an agent, it is the object itself which moves into a realm now inaccessible to me – as a result of my vow (and now we are beginning to get a sense that the distinction is something more than technical, however identical the consequences).

I can make an oath to prohibit myself from a thing or an action, or to commit to it. The action may be positive or negative, in the future or the past, – but in all cases I remain the relevant agent. I can make an oath not to eat of my grapes this harvest season just as I can make an oath prohibiting you from eating my grapes.

I can also make an oath prohibiting me from eating your grapes, though of course, I cannot take an oath prohibiting you from eating your grapes. I believe the element of agency is the critical factor in an oath. We may recall here that the most crucial oath in the Jewish tradition – in essence constitutive of their peoplehood – was the one taken by the Israelites at Sinai, obligating both them and their children for all generations. This collective oath prohibits one from taking any future oath either contrary to that oath or even affirming its terms, as mentioned above, one cannot make an oath on an oath. Note that in this highly interactional moment – of the Jewish people and the Almighty – it is an oath that is taken, not a vow. Indeed, just as the people of Israel swore to uphold God’s commandments at Sinai, so God swore to give them the promised land, (Exod 13:5 as well as in Num 32:11). It is an oath taken by God, not a vow.

This, the specific nature of God’s verbal act, will be important to us in the next chapter. Oaths are relational in nature. Not only between one person and another but between the Deity and individuals as well as collectivities.

. . . and agency

To fully recognize the distinction of oaths from vows we must understand the relevant agency as two dimensional in nature. There is the primary agency manifest in the oath and vow itself – the taking the oath or making a vow – and then there is the situation that results from that act. Here is where the difference lies. In the case of the oath, agency remains with me and is focused on my person (I will or will not do x,y, or z).

In the case of the vow agency actually is taken away from the vow-maker and in some sense moves to the object, though in our world this may not make much sense (though it certainly does in other – mostly preliterate – societies, and those that accept the workings of magic for example). It is perhaps easier for us moderns to understand if we think of putting ourselves in the orbit of the object. I, the vow-maker, am no longer the locus of action. My actions or life are, rather, determined by those objects apart from me. I have, we would maintain, changed something in the orders of the world. Some sense of this can perhaps be ascertained in the difference between oath-taking and vow-making. Making a vow is akin to making something out there in the world (a painting say, or statue, or even just building a wall). It exists independently of me and of my will (after the initial act of willing).

Perhaps this is why so much more attention is paid in the *Shulchan Aruch* to vows than to oaths. When we vow, we are encroaching on divine prerogatives: those of creation. We are creating a new situation out there, in the world, independent of us. True, we can do so only in our own world with no bearing on any other, but it is an independent creation nonetheless. As such it is an act verging on the sacred. This is not so with an oath. Oaths are sustained by my observance of them, they do not exist independently of such observance. The agency of the oath-taker continues (and maintains the oath), or does not throughout the existence of the oath. The vow, by contrast, exists independent of he or she who vowed. It changed something in the orders of existence. Hence, its extremely dangerous qualities and the great circumspection one must take when approaching them. Here then is the key to how a vow can be both understood as a sacrifice and (in the writings of Joseph Karo author of the *Shulchan Aruch*) and as a sacrifice made on a “false altar.” This is precisely the ambivalence of all that is taboo and indeed of the sacred itself: a realm holy in itself but also one not to be approached. Set apart and forbidden (the original meaning of tabu in the Tongan language) the vow, like all things taboo (and surprisingly resonant with Durkheim’s definition of the sacred) brings us in contact with powers and forces be-

yond those of everyday life.²⁸ One does not touch the Ark of the Lord, even to prevent it from overturning: “But when they came to the threshing floor of Nacon, Uzzah reached out for the Ark of God and grasped it for the oxen had stumbled. The Lord was incensed at Uzzah. And God struck him down on the spot for his indiscretion and he died there beside the Ark of the Lord.” (II Sam 6:6–7).

In our own *entzaubert* world it is perhaps difficult to understand this ontological status given to objects outside of human manipulation and hence the double edged nature of agency: of original verbal act and of its consequences. Having placed ourselves at the center of creation we find it difficult to envision a creation existing independent of human manipulation. This is perhaps our greatest challenge when approaching the vow: to appreciate that through our verbal act we have changed the objective orders of the world, in a manner not unlike a sculptor who turns a block of granite into the image of a man. The very fact that it is devoid of an interactive (human-Divine or human-human) element is what makes it so foreign to our way of thinking and being. The one contemporary act that resonates here of course are marriage vows. Making a marriage vow changes something in the orders of existence. This changed status remains whether we remain in love or not, whether we continue to live together, to be faithful or not. It is a changed state in the nature of the two people now defined as married whose status is not at all dependent on their own subjective state, feelings, actions and so on. It is solemnly proclaimed and must just as solemnly be dissolved – or rather, annulled. The Catholic prohibition on divorce well understands this matter of something changed in the orders of the world – that is, essentially, the sacramental nature of marriage. While others cannot perhaps sympathize with this moment, it does allow us insight into what is for most of us a lost past. But it is also a rare exception in a world where oaths are common, or at least easily understood (even if not so commonly abided by) yet one where vows are increasingly foreign.

Understanding the vow (or the oath) as a verbal event brings us back to where we began, to the idea of performatives – which, in contemporary chirographic and typographic culture needed to be discovered by a philosopher, but in pre-literate societies was a taken for granted fact of life. That the “voicing” of an oral performance (as oath-taking and vow-making undoubtedly are) was an event in the full sense of the word, was understood by all.

In Hebrew this is explicitly so, as the Hebrew word *dabhar* means both word and event. The trilateral root *d-b-r* covers a wide field including; word, event, speech, and deed. Indeed, the Rabbinic justification for why the sabbatical year annuls oaths (related to debt) and not just loans plays on this multivocality of the

28 *Oxford English Dictionary*, 2nd ed. (Oxford: Oxford University Press, 2004), s.v. “Taboo.”

word in Deut 15:2 “This shall be the nature of the remission . . .” where they interpret “the nature” (*dabhar*) to mean as well the spoken word of an oaths.²⁹ Words, as Malinowski claimed, were, among oral cultures, primarily modes of action.³⁰ They were expressions of power (prototypically in God’s words creating the world in the Book of Genesis); and so were powerful in their own right. As Walter Ong made clear, oral societies have no notion of a set of signs mediating between the thing and what it is called. “Written and printed representations of words can be labels . . . imaginatively affixed to an object named . . . spoken words cannot be.”³¹ Rather, the act of naming actually calls into being – which is about as powerful an action as can be imagined.

Sound is, according to Ong, both more real and existential than other senses, if also more evanescent.³² In the form of speech it is also markedly situational, concrete (as opposed to generalized and generalizable), context-rich and difficult to reduce to abstract logical categories. It contains much of the fuzziness of our own thought. “The spoken word,” he tells us “is always an event, a movement in time, completely lacking in the thing-like repose of the written or printed word.”³³ He goes on to explain that in preliterate, predominantly oral societies and cultures where “the word has its existence only in sound, with no reference whatsoever to any visually perceptible text, and no awareness of even the possibility of such a text, the phenomenology of sound enters deeply into human beings’ feel for existence, as processed by the spoken word. For the way in which the word is experienced is always momentous in psychic life.”³⁴

Vows and oaths originate from such worlds and though distant, careful attention to their timbre will help them resonate for us as well. This of course is not to say that all vows and oaths in preliterate societies meant the same, carried the same associations, were directed to the same ends or had the same role in social and spiritual life. We turn now to a brief comparison of what we just studied of Jewish vows and oaths with those of ancient Greece and Rome to get some sense of just these differences.

29 *Tractate, Shebu’oth* 49a.

30 Malinowski, *The Meaning of Meaning*, 296–336; On the Hebrew see also; Bowman, *Hebrew Thought Compared with Greek* (New York: Norton, 1970), 65, 66.

31 Walter Ong, *Orality and Literacy* (London: Routledge, 1982), 33.

32 Walter Ong, *The Presence of the Word* (New Haven: Yale University Press, 1967), 111.

33 Ong, *Orality and Literacy*, 73.

34 Ong, *Orality and Literacy*, 73.

. . .in the Greek tradition

With these insights of Walter Ong in mind, it is perhaps best to remind ourselves that oaths were the common coin of the Grecian world, used by the people in their everyday affairs. As noted by Saul Lieberman: “The Gentile population in Greece resorted to oaths in their ordinary talk in the streets and the markets, even for purposes of cheating and out of mere verbosity.”³⁵ Popular oaths were a common feature of both piety and everyday life in the Greco-Roman world and people swore on just about anything and everything – from the name of the gods to the life of the king, to that of the fig-picker. Prostitutes, we are told, swore by the goddess Isis.³⁶ This common use of oaths was true of everyone, Gentile and Jew alike, and the rabbinic strictures on their use which we viewed above, must be understood in this context: attempts to limit their use and codify which oaths were legitimate and which not.

Widespread, they were also feared and even such an author as Philo advises against their use, recommending shortened and non-explicit forms of oath-taking.³⁷ (Rabbinic and later Christian injunctions against oath-taking were thus far from unique). Indeed, an interesting common Grecian locution was swearing by a dog or by a goose: a practice philosophers defended as simply stand-ins for the name of the gods, but which both Christians and Jews derided.

Given this shared popular culture of oath-taking it is useful to view some of the more literary and archaic Greek usages, in the *Iliad* and *Odyssey* or the more accessible works of Greek drama (Sophocles, Euripides) where we get a very different set of meanings and nuances when looking at oaths and vows. Vows, for one, as we have come to understand them in Rabbinic texts, do not exist as such in the Greek. True, they carry with them the associations of sacrifice (as in the Hebrew), but most often in exchange for the gods granting a wish.³⁸ In this they are most similar to the Biblical story of the oath of Yiftach in Judg 11:30 who vowed to the Lord to sacrifice the first thing that came out of his house if he returned victorious from his battle with the Ammonites. As is well-known, it was his daughter that greeted him on his return and, after a two-month delay during which she prepared herself, he sacrificed her. In this sense of a sort of quid pro

³⁵ Saul Lieberman, *Greek in Jewish Palestine/Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary, 1994), 116.

³⁶ Lieberman, *Greek in Jewish Palestine*, 140, 141.

³⁷ Lieberman, *Greek in Jewish Palestine*, 124, 125.

³⁸ Here, in terms of their sacrificial nature there is little difference between oaths and vows, see Judith Fletcher, *Performing Oaths in Classical Greek Drama* (Cambridge: Cambridge University Press, 2011), 9–11.

quid, it was akin to the manner of vows in Greek myth and drama. Hence too their strong association with votive offerings, an association existent in other linguistic and religious traditions as well.³⁹ In Latin, its associations are clearly those of consecration.⁴⁰

What is so different here from the Hebrew case is the reciprocity of the vow. It is moreover a reciprocity between humans and gods which, as we shall see, distinguishes it from the reciprocity of the oath in Jewish law, which is – with a few critical exceptions, such as the covenant at Sinai – between humans. The biblical story of Yiftach, as we pointed out, is thus much closer to the Greek world (temporally as well) than it is to the rabbinic world where a reciprocal relationship with a transcendent God is not so easily attained – and exchange relationships were markedly one-sided. Yiftach and his daughter are much akin to Agamemnon and Iphigenia. Both are, essentially, attempts (successful attempts), at the magical manipulation of the cosmos. By the fourth century CE such attempts at cosmic manipulation, at least for the rabbis, were seriously frowned upon.

Vows were, as Benveniste makes clear, verbal declarations of the act of consecrating something to a deity. The material object so consecrated was henceforth prohibited to the former owner, as it was now the property of the gods. As such verbal declarations the word for vow took part in the meaning of both prayer and boasts. Prayer being those repeated utterances which invoked divine assistance or protection (through the vow) and the boast as giving “solemn guarantee of the truth of what one asserts.”⁴¹

In the form of votive offering or consecrated item, the vow we find in Greek texts distinguishes itself from the rabbinic vow – where items are no longer consecrated to God (such were sacrifices which could only be offered in the Temple, which was no longer in existence in rabbinic times) but rather simply prohibited to the vow taker. When, taking a rabbinic vow, I prohibit myself from accessing or benefiting from something, or prohibit you from benefiting from something of mine I am not thereby dedicating it to the deity. This is a significant difference from the earlier usage in Greece and its continued usage elsewhere, most especially in the Christian world (to which we shall turn in a later chapter).⁴² In its reciprocity as well as its material embodiment however, the ancient Greek vow shares much with the Greek oath to which we now turn.

39 Émile Benveniste, *Dictionary of Indo-European Concepts and Society*, trans. Elizabeth Palmer (Chicago: HAU, 2016), 491.

40 Benveniste, *Dictionary*, 492.

41 Benveniste, *Dictionary*, 489.

42 See Kevin Uhalde, *Expectations of Justice in the Age of Augustine* (Philadelphia: University of Pennsylvania Press, 2007), 77–104.

Perhaps the paradigm example of the oath in Greek mythic culture was the *Oath of Tyndareus*. Tyndareus was the father of Helen (and so also of Clytemnestra). Unable to decide which of the suitors of Helen to choose as her husband, and realizing that the choice of one of the heroes over others would lead to strife and bloodshed, he was at a loss for what to do. He ultimately took the advice of Ulysses (himself one of the suitors along with Ajax, Menelaus and other great warriors) to have all the suitors bind one another in an oath to accept the choice of Helen and defend that suitor from any who broke the oath. This oath to defend the husband of Helen thus precipitated the Trojan War. And though, at a later date, both Ulysses, Ajax and Agamemnon all attempted to extricate themselves from the oath's obligations, they were not ultimately successful in doing so.⁴³

This oath, different aspects of which we can find in Hesiod as well as in Sophocles' *Ajax* (111–114) and Euripides's *Iphigenia in Aulis* (58–65) has been termed by Isabelle Torrance as one of the critical “aetiological oaths” of Greek culture.⁴⁴ Others include the oath that committed Amphiaraus to a military expedition and, critically, the oath that Hera extracted from Zeus ensuring Eurystheus' power over Heracles, thus causing the labors of Heracles. As it is related in the *Iliad* (19.107–13) Hera requests that Zeus should confirm by an oath his statement that whatever child of his blood was born on that day would be lord over his neighbors. Zeus duly swears the oath in anticipation of the birth of Heracles, but Hera delays Heracles' birth until after that of Eurystheus, leading to Eurystheus' dominance over Heracles against Zeus' will.⁴⁵ Interestingly, as she points out, it is the only case we have of Zeus himself swearing an oath.⁴⁶ We will have need to return to this notion of aetiological oaths, as they are prominent in many cultures and traditions. Both God's oath to Abraham in the Covenant of Parts (Gen 15) and the Covenant at Sinai (Exod 19) as well as the “covenant verse” in the Qur'an (Sura Al-Araf 7:172) studied by Tariq Jaffer and noted above – are all such aetiological oaths.

The Greek oath itself involved a verbal declaration about either the present, past or future, the invocation of a superhuman power as guarantor of the oath (usually Zeus), most often accompanied by a sacrifice and the conditional curse the oath-taker calls down in the event he or she fails to fulfill the terms of the oath. This curse was a critical component of the oath, all are, as pointed out by

⁴³ See Isabelle Torrance, “Oaths in Traditional Myth” in *Oaths and Swearing in Ancient Greece*, eds. Sommerstein and Torrance (Berlin: de Gruyter, 2014), 49–51, especially on the ambiguous nature of Agamemnon's position, if he was or was not bound by the oath.

⁴⁴ Torrance, “Oaths,” 49.

⁴⁵ Torrance, “Oaths,” 54.

⁴⁶ Torrance, “Oaths,” 55.

Sommerstein, present in Euripides's *Medea*.⁴⁷ As Walter Burkert described, “the entrails of the victim (*splanchna*), the heart and the liver, are placed in the hands of the person who is to swear the oath so that he makes physical contact with the sacred.”⁴⁸

“The eating of the *splanchna* may become a swearing together, a conjuration – secret societies were even credited with cannibalistic rites.”⁴⁹ Even without sacrifice, the oath involved a ritual with material elements, or a “sanctifying object” giving it its “irrevocable character.”⁵⁰ These might have taken the form of a rod or scepter (as Achilles giving his to Agamemnon in the *Iliad*) or, alternatively a stone, or piece of iron thrown into the sea, or burning of a wax image to symbolize the destruction the oath-taker curses himself with in the case of nonfulfillment of the oath.⁵¹

The curse in fact is one of the central aspects of Greek oaths, tying them in a unique manner to the invocation of the gods or other superhuman powers (thus the Erinyes were overseers of curses as well as oaths). The connection of oath and curse is evident even linguistically in the very word for oath, *horkos* which signifies an oath of every sort, but is also a god, whose birth was witnessed by the Erinyes (Hesiod WD 802–4) and is the personification of a curse.⁵² The Erinyes themselves are tasked with fulfilling the self-curse that is part and parcel of every oath.⁵³

The same linguistic connection between oath and curse is evident in other languages and traditions as well. In the Jewish tradition the word *alaah* אלה is used to mean both curse and oath, as is the word *arur* ארור. The ambiguity of the former as oath and curse is discussed in detail in Tractate Shebu'oth (35:2, 36:1) as the rabbis attempt to separate out one meaning from the other. *Arur* which we generally take to mean cursed is used explicitly as an oath in the juridical nullification of oaths and vows that takes place on the eve of Rosh Hashanah and was discussed above. In the Slavic languages too and similar to Greek, the word *клетва* (*kletva* – curse/oath) has both sets of meaning

47 Sommerstein, “What is an Oath“ in *Oaths and Swearing in Ancient Greece*. eds. Sommerstein and Torrance (Berlin: de Gruyter, 2014), 2.

48 Sommerstein, “What is an Oath“ in *Oaths and Swearing in Ancient Greece*. eds. Sommerstein and Torrance (Berlin: de Gruyter, 2014), 2.

49 Walter Burkert, *Greek Religion* (Oxford: Blackwell, 1985), 252.

50 Benveniste, *Dictionary*, 436; Burkert, *Greek Religion*, 250.

51 Torrance, “Oaths,” 133; Kyriaki Kostantinidou, “Oath and Curse,” in Sommerstein and Torrance, eds. *Oaths and Swearing*, 22.

52 Kostantinidou, “Oath and Curse,” 9; Benveniste, *Dictionary*, 433–36.

53 Kostantinidou, “Oath and Curse,” 10.

As for the Greek tradition, Hesiod in his *Theogony* (231–2) describes *horkos* as “the worst of all scourges for every terrestrial man who knowingly shall have violated his oath.”⁵⁴ *Horkos* is, as Benveniste explains, “a destructive force which is unleashed in case of breach of oath.”⁵⁵ The *horkos* is moreover, according to Benveniste not a verbal act but a thing, a substance, a material and sanctifying object that has the power to punish if the oath is not fulfilled, has the power that is, to enact the curse. The oath, as he explains, is not “autonomous.” It is part of a larger ritual which accords it its sacred character and is embodied in the *horkos*. The oath-taker “takes hold of the *horkos*,” literally as well as figuratively in the verb *omnumi* (to take hold).⁵⁶ “To bind oneself by an oath always means devoting oneself in advance to divine vengeance,” since the punishment of false oaths is not a human concern.⁵⁷ In this too there is a marked difference from later Jewish texts in the Talmud where punishment for broken or false oaths are administered by juridical process. (Though there is an interesting variant on grasping an article that we can find in Jewish legal proceedings. When courts are suspicious that an individual in a tort case is indeed “good for his word” they may ask him to swear while holding on to a Torah scroll. This would be used when the fear is not that the individual would lie outright – let us say deny a debt – with no intention of paying, but was denying an aspect of the debt and in fact had every intention of repaying, but not at the time which the plaintiff had indicated). Such practices, of rooting oath-taking in a material object were very widespread and can be found in diverse societies and traditions. For the Kikuyu in Kenya, the *i-thathi* or “oathing stone” as the British called them, served the same purpose as the *horkos* among the ancient Greeks. Its use and misuse, indeed the corruption of its use in the 1950s apparently played a not insignificant role in the Mau Mau uprising.⁵⁸

In these cases, one is called to mind the “double performative” evident in many ritual acts, centrally of course in the Christian sacraments.⁵⁹ By double performative we mean a performative involving both word and deed, something spoken and something enacted – as in fact many languages derive the verb for swearing from that of grasping or holding something.⁶⁰ Both moments are neces-

54 Quoted in Benveniste, *Dictionary*, 436.

55 Benveniste, *Dictionary*, 436, 437.

56 Benveniste, *Dictionary*, 432, 433.

57 Benveniste, *Dictionary*, 442.

58 Robert Blunt, “Kenyatta’s Lament: Oaths and the Transformation of Ritual Ideologies in Colonial Kenya,” *HAU Journal of Ethnographic Theory* 3, no. 3, (2013): 167–93.

59 Maria Schnitter, Мария Шниттер: *Пътница през православния ритуал* (Sofia: East-West Publishing House, 2017), 345.

60 Spurr, “A Profane History,” 45.

sary for the efficacy of the ritual action. This is very much the case with the Greek oath, it involves a declaration, invocation of supernatural power and curse – accompanied in formal oaths by one of many forms of physical actions, the sacrifice of an animal, destruction of an object and so on. In this double performance, we seem to see a unity of internal states of intention with the external physical world – from which, or by way of which, if the oath is not fulfilled the curse will be enacted.

In some ways this brings to mind the interpenetration of natural and human worlds that the psychoanalyst Arnold Modell analyzed in the Paleolithic art of Altamira and Niaux (representations of an art that existed virtually unchanged from 30000 BCE to 12000 BCE). Modell analyzed how paleolithic artists made use of natural geological formations (cavities in the floor, protrusions in the wall, formations of stalactites etc.) as intrinsic components of their pictures. He called this interpenetration “a tangible expression of the mental process of creation itself.”⁶¹ It brings to mind too the laws of purity and impurity in so many traditions, certainly in Judaism, where a space and hence a link is created between natural, external phenomena and inner states.⁶² We submit that the same is at work in the double performative of the oath, – which, as we have been maintaining throughout, seeks to structure and delimit the future (of real, tangible, external states and things) on the basis of current, internal states of consciousness (one’s intentions).

The self-curse was, as mentioned above, multi-generational. As Konstantinidou notes, it was not “limited to archaic times, the utter ruin (*exoleia*) of those swearing falsely – which denotes not only their own death, but can extend to the destruction of their offspring and, sometimes, even household – is the main manifestation of the explicit form of divine punishment, especially in formal oath-taking in all periods.”⁶³ Breaking an oath thus upsets the very order of creation and of generational continuity. This is very significant and as we know, from much later (medieval) times, inter-generational trust (predicated on the oath/curse) was essential to the workings of many social networks, as for example trading networks in the Mediterranean.⁶⁴ When we leave the modern liberal world of conceiving of the individual as an autonomous moral unit and begin to

⁶¹ Arnold Modell, *Psychoanalysis in a New Context* (New York: International Universities Press, 1984), 191.

⁶² On this connection see Seligman et al., *Ritual and its Consequences*, 39.

⁶³ Konstantinidou, “Oath and Curse,” 11.

⁶⁴ Avner Greif “Contract Enforceability and Economic Institutions in Early Trade: The Case of the Maghribi Traders,” *American Economic Review* 83, no. 3 (June 1993): 525–48.

understand personhood as deeply enmeshed within social and first and foremost kinship networks, the workings of the multi-generational curse begin to make sense, even moral sense. If the oath is the very basis of society, the formative illusionary act, then punishment for its breach must extend beyond the oath-taker. We have a reminder of this as well in the book of Genesis, both when Abraham swears Eliezer on his thigh (24:2) not to take a wife for Isaac from among the Canaanites, and later when Jacob swears Joseph not to bury him in Egypt (47:30–31); also by the placing of Joseph's hand on Jacob's thigh. Here then, the proximity of the thigh to the generative organs recalls the same intergenerational dynamic existent in Greek curses. Indeed, this inter-generational aspect of oaths and curses continues today in Slavic folk beliefs where a curse operates for a full seven generations – while that of a mother, lasts forever.

Perhaps it makes good sense to return to the idea of the oath in its aetiological functions. If in its breach it portends endings, the very taking of oaths often prepares beginnings, at least in the traditions we have, however schematically, reviewed above. In Islam these are the beginnings of all human generations. In the Hebrew tradition, both of the world and its seasons, after the Flood, and of the Jewish people: first in God's oath to Abraham and then, later in the Covenant at Sinai. Here, in the Greek context however what is explained is the origin of strife, of some form of *agon*, as we have seen, whether through the military expedition of Amphiaraus, of the labors of Hercules or as the very cause of the Trojan War.

Is it too much to say that here we have an aetiology of endings as opposed to one of beginnings? And if so, does the intervening Axial Revolution in human consciousness and the emergence of a new sense of hope rooted in the idea of salvation – and so of transcendence – have some role to play in this transformation.⁶⁵ These are questions that would take us too far afield from our inquiry here, but are nevertheless worth considering.

⁶⁵ On Axial break see: S.N. Eisenstadt, ed., *The Origins and Diversity of Axial Age Civilizations* (Albany: SUNY Press, 1986); Benjamin Swartz, ed., "Wisdom, Revelation and Doubt: Perspectives on the First Millenium B.C.," *Daedalus* 104, no. 2 (Spring, 1975).

Chapter Two

Obligating God

By the word of the LORD were the heavens made;
And all the host of them by the breath of His mouth.

He gathereth the waters of the sea together as a heap;
He layeth up the deeps in vaults

Let all the earth fear the LORD;
Let all the inhabitants of the world stand in awe of Him.

For He spoke, and it was;
He commanded, and it stood.

The LORD bringeth the counsel of the nations to nought;
He maketh the thoughts of the peoples to be of no effect.

The counsel of the LORD standeth for ever,
The thoughts of His heart to all generations.¹

Previously, we examined the different ways that oaths obligated the oath-taker as, indeed, an oath or vow cannot obligate an other – only the agent of the oath itself.

This truism has at least one interesting exception in different cultural contexts. These are stories, and in one case a legal procedure, where people take oaths and in so doing obligate God. This is also the case in the famous pan-European tale of Tristan and Iseult that originated in the twelfth century and exists in many different versions.² We can find as well Jewish stories of oath-takers obligating God to act, as well as a fascinating midrash (scriptural commentary) of Moses absolving God of God's vows.

The most famous of these Jewish tales is that of Honi the circle maker. Here is how it appears in Mishnah Ta'anit. 19:a.

The alarm is sounded on account of any visitation, that comes upon the community except on account of an over-abundance of rain. It happened that the people said to Honi the circle drawer, pray for rain to fall. He replied: "go and bring in the ovens [on which you have roasted] the paschal offerings so that they do not dissolve." He prayed and no rain fell. What did he do? He drew a circle and stood within it and exclaimed, "Master of the universe, thy children have turned to me because they believe me to be as a member of thy

1 Ps 33:6–11.

2 There exist different versions of this story in the following languages: British, Irish, Persian, French, Nordic, Dutch, Welsh, Spanish, Italian, Slavic etc.

household; I swear by thy great name that I will not move from here until Thou hast mercy upon thy children.” Rain then began to drip, and thereupon he exclaimed: “It is not for this that I have prayed but for rain [to fill] cisterns, ditches and caves.” The rain then began to come down with great force, and thereupon he exclaimed; “it is not for this I have prayed but for rain of benevolence, blessing and bounty.” Rain then fell in the normal way until the Israelites in Jerusalem were compelled to go up [for shelter] to the Temple Mount because of the rain. They came and said to him: “In the same way as you have prayed for [the rain] to fall, pray [now] for the rain to cease.” He replied: “Go and see if the stone of claimants has been washed away.” Thereupon Simeon b. Shetah sent to him [this message]: Were it not that you are Honi I would have placed you under the ban, but what can I do unto you who importune God and he accedes to your request as a son that importunes his father and he accedes to his request; of you scripture says, let thy father and thy mother be glad, and let her that bore thee rejoice.

During a period of severe drought, the people approached Honi the holy man and asked him to pray for rain. His first attempt was unanswered (the interpretation was that he appealed without due modesty) and so he drew a circle around himself and swore by God’s “holy name” not to leave it until rain fell, in fact not until rain fell in precisely the quantities he intended. Moreover he even prayed for the rain to stop when it was too much – something (praying for rain to cease) that is explicitly enjoined against in rabbinic writings.

The fact that Rabbi Shimon Ben Shetach considered excommunicating Honi shows just how close to magic Honi’s acts were considered.³ The Rabbis had strict injunctions against magic which, if nothing else, indicates how much they believed in its efficacy. Circle-drawing, as defining the space of an oath, or of prayer or of other ritual action has been widely practiced in many societies. We even have evidence from an early seventeenth-century English traveler of oath-taking on Goa which involved drawing a circle of ashes and standing within it while taking an oath.⁴ In fact and according to some scholars (in disagreement with Benveniste’s thesis that we noted in the previous chapter) the very Greek term for oath *horkos* originated in the word *herkos* meaning an enclosure or a barrier. Thus Agamben quotes Jean Bollack to the effect that “the term *horkos* designates not, as Benveniste thinks, the object on which the oath is pronounced, but the enclosure with which it surrounds the one who swears.”⁵

3 Shimon ben Shetach was a well-known opponent of magic and so we can assume that for all his bluster he did not consider the act of Honi magical in its essence. See Suzanne Stone, “Rabbinic Legal Magic: A New Look at Honi’s Circle as the Construction of Law’s Space,” *Yale Journal of Law and Humanities* 17, (2005): 104.

4 Noted in John Kerrigan, *Shakespeare’s Binding Language*, 30.

5 Quoted in Giorgio Agamben, *The Sacrament of Language*, trans. Adam Kotsko (Oxford: Polity Press, 2011), 12.

A Circle of Obligation

Within the Jewish corpus we have as well, in *Midrash Tehillim* (chapter 77) the story of Habakuk drawing a circle and praying to God from within. Further, in the ninth chapter of *Avot De-Rabbi Natan* (another midrashic collection) a similar story of Moses drawing a circle when he prays to God to release Miriam from the leprosy she suffered as a punishment for her slander against Moses. As the story goes, Aaron and Miriam fault Moses for his supposed arrogance in sequestering himself from his wife (hence from sexual relations) as a condition for his prophecy. They note how they have received prophecy while not separating from their spouses and how their forefathers received prophecy without such acts of abstinence. As we know Miriam is punished with a leprosy-like skin disease and Aaron intercedes with Moses to act on her behalf with God.

At that moment, Moses drew a small circle and stood inside it, requesting mercy for Miriam and said *I will not move from here until You heal her*. . . . God answered . . . *though* [properly] *she should be shamed for fourteen days, for your sake I will forgive her*.⁶

Delineating the space of an oath, the space of prayer, of a legal proceeding in a court of law, even of a Temple, and as Jan Huizinga has taught us, of play as well (whether a chess board, football field, stage or race track) – all partake of the sacred *temenos*, a space separated from the quotidian world of daily affairs. There is something of denotation in this spatial circumscription. A separating off from daily life and events (and rules), to mark a special space (and often time) where a very different gestalt is to reign. Within this space special rules apply. Skill (in contests of *agon*), luck (in those of *alea*) may best wealth or status or worldly powers. *Illinx* may overcome order and *mimicry* (as in carnival) may make of prostitutes, nuns and of butchers Kings. Or, as we are noting, oaths – taken in such “magic” circles – may even obligate God.⁷

We have no explicit oath in the case of Habakkuk and Moses, just the circle. In the case of Honi however we certainly have the aforementioned “double performative”: the verbal utterance of the oath, together with the physical act of circle drawing. In the case of Iseult too (which we shall presently address), we have both a verbal and an enacted component – together proclaiming her innocence (which of course was a false claim, quite simply a lie, but one that God validated). The Jewish cases including the ones we have not yet looked at; the case of the

⁶ *Avot d'Rabbi Natan*, ed. Shneer Zalman Schechter (Vienna: Ch. D. Lippe, 1887), 21. (Author's translation, emphasis added).

⁷ Seligman et al., *Ritual and its Consequences*, 69–102.

Sotah as well as the story told in the Babylonian Talmud, (Ber. 32:a) of Moses invalidating God's vow, all have of them something of a legal character. Indeed, this is true for the story of Iseult as well, her oath and ordeal were part of a juridical proceeding. The legal scholar Suzanne Stone has in fact argued that the case of Honi (as well as of Habakkuk and Moses and Miriam) all have about them an aura of legal proceedings. The shaman, holy man and intercessor are, she claims, analogous to the *sanegor*, the advocate (for the defense) initiating prayer to overcome a decision from on High, attempting to forestall or overcome a legal decree. Law, religion and magic, as she notes, have a curious way of blending into one another.⁸ For one, we may note, they all involve the "double performative." To this day, this is true not only of religious acts (as well as magical ones) but law as well, where one swears on the Bible or other holy text, in a manner not that far from the ancient *horkos* or medieval usage. We shall explore the connection of words and things at the end of our current inquiry into obligating divine action but first let us turn to that blending of law, religion and magic evoked in some of our stories.

The one Jewish example that most clearly brings together law, magic and religion is that of the Sotah. Not unlike the story of Tristan and Iseult this too is a tale of trial by ordeal, that begins with an oath. Like that medieval romance it too revolves around woman's constancy and men demanding something beyond her word, in order to believe her affirmations of innocence.

The case of the Sotah, described in Num 5:11–29 refers to the ritual whereby a man, overcome by jealousy accuses his wife of relations with another man (which she may or may not have carried out) and for which there are no witnesses and which she denies. The woman is brought to the Temple, appropriate offerings are made, her hair unbound, the priest prepares a mixture of water and earth from the ground of the Temple and adjures the woman thus:⁹

And the priest shall bring her near, and set her before HaShem.

And the priest shall take holy water in an earthen vessel; and of the dust that is on the floor of the tabernacle the priest shall take, and put it into the water.

And the priest shall set the woman before HaShem, and let the hair of the woman's head go loose, and put the meal-offering of memorial in her hands, which is the meal-offering of jealousy; and the priest shall have in his hand the water of bitterness that causeth the curse.

⁸ Stone, "Rabbinic Legal Magic," 119–23.

⁹ *Tanakh* Numbers 5:16–24.

And the priest shall cause her to swear, and shall say unto the woman: 'If no man have lain with thee, and if thou hast not gone aside to uncleanness, being under thy husband, be thou free from this water of bitterness that causeth the curse;

but if thou hast gone aside, being under thy husband, and if thou be defiled, and some man have lain with thee besides thy husband

then the priest shall cause the woman to swear with the oath of cursing, and the priest shall say unto the woman – the HaShem make thee a curse and an oath among thy people, when HaShem doth make thy thigh to fall away, and thy belly to swell;

and this water that causeth the curse shall go into thy bowels, and make thy belly to swell, and thy thigh to fall away'; and the woman shall say: Amen, Amen.'

And the priest shall write these curses in a scroll, and he shall blot them out into the water of bitterness.

And he shall make the woman drink the water of bitterness that causeth the curse; and the water that causeth the curse shall enter into her and become bitter.¹⁰

The woman then drinks of the mixture and if she is guilty of adultery "her belly shall distend and her thigh shall sag." If she is innocent and pure she will remain unharmed (Num 5:27–8).

It is unclear if this ritual was ever enacted. A major scholar has indeed claimed that it never actually took place.¹¹ There is however a whole tractate of the Babylonian Talmud devoted to this ritual that most probably was not. In the Mishnah the rabbis change both the causal circumstances of the ritual as well as the ritual itself. The focus becomes the nature of the husband's act of warning, as well as the wife's seclusion with another man. The situation, in their telling, becomes one in which the husband specifically warns his wife not to be alone with another named individual and learns that she has, while she denies the incident. The verb *kinah* which in the biblical text is used to mean jealousy or rather the spirit of jealousy, with the rabbis comes to mean a formal warning he gives his wife. Thus, the woman only becomes a sotah if her husband specifically warned her not to "seclude" herself with the specific man she is accused of having been with (for the time necessary to commit a sexual act, and that too is discussed).¹²

¹⁰ Num 5:16–24.

¹¹ Ishay Rosen-Zvi, *The Rite That Was Not: Temple, Midrash and Gender in Tractate Sotah* (Hebrew) (Jerusalem: Magnes Press, 2008).

¹² Whether the warning was against speaking to the individual man or against secluding herself with him is a matter much discussed in different texts with different understandings in the Babylonian and Jerusalem Talmuds respectively. The question according to Rosen-Zvi is in fact if

In the biblical text the focus is on the husband's jealousy and the wife's sexual acts. In the Mishnah, the focus is on the husband's warning (which must be in front of witnesses) and on the very act of seclusion (in violation of the husband's warning).

The Mishnah significantly elaborates on the ritual; the woman is given the chance to admit her misdeeds or deny them. If she denies them the ritual continues, and not only is her hair undone, so is the top of her dress (unless she is comely, in which case her breasts are not revealed), a rope is tied below her breasts, her jewelry is removed, clothing changed and so on. The Mishnah also devotes a good deal of space to discussing the written text of the curse which is dissolved in the water and which contains the ineffable name of the Lord (the Bible makes no mention of a written curse, the curse – and this is really the only formal example of a “self-curse” in Jewish law – is simply “administered” [וְהִשְׁבִּיאָ אֶתְּהָ הַכֹּהֵן]). And indeed the priest pleads with the woman to admit her wrongdoing rather than bring about a situation where the name of the Lord is erased in the bitter waters.

There is of course much more that can be related from the Mishnah and later from the Gemara on the case of the Sotah. For our interests however what we have is a unique example in Jewish law of a form of magical manipulation of God, consequent on an oath or adjuration. The woman swears her innocence, is subjected to the ordeal of the bitter waters and the consequent physical transformations – if they occur – are resultant from the truth or falseness of her oath. (There is a long, further discussion of when these physical transformations may take place with different rabbis asserting that good deeds and the study of Torah may delay their appearance for years. That this would then bring further complications is of course a whole other matter).

In a sense God's hand has been forced through her oath and subsequent ordeal. He will validate or invalidate her oath, which is indeed a “self-curse” similar to those we know in other cultures, but which are significantly lacking in Jewish texts. It is similar to the story of Honi, in that God is obliged to act in response to an oath, indeed to the “double performative” of oath and ritual action. It is much more firmly in the legal arena than the stories of Honi, Habakuk and Moses, but shares with them the tie to magical manipulation of the orders of the world and in that is very much an exception to the highly rational orientations of most Jewish legal codes.

Before turning to the role of the oath and ordeal in the medieval European myth of Tristan and Iseult let us review one more Jewish text that deals with

what is at issue is an attempt to forestall adultery or to exert near total control over the wife's actions and limit her basic freedom.

oaths and oath-like statements – though in this case, a vow – as connecting God and mankind. This is the midrash on Moses’s intervention with God following the incident Golden Calf and God’s intention to destroy the people of Israel and make of Moses and his progeny, alone, a new nation. As part of a long discussion in the Babylonian Talmud, Tractate Berachot on the different ways Moses intervened to allay God’s wrath with the people of Israel following the incident of the Golden Calf, we find the following:

And Moses besought [wa-yehal] the Lord his God. R. Eleazar said: This teaches that Moses stood in prayer before the Holy One, blessed be He, until he [so to speak] wearied Him [hehlahu]. Raba said: Until he remitted His vow for Him. It is written here wa-yehal, and it is written there [in connection with vows], he shall not break [yahel] his word; and a Master has said: He [himself] cannot break, but others may break for him.¹³

Here, it is as if Moses nullified the Lord’s vow to destroy Israel. In other words, God had vowed to destroy the people of Israel, and Moses, playing the role of a judge in Israel had the power to nullify God’s own vow. We recall from our previous chapter the great reticence of Jews to swear oaths or make vows. We recall as well that there is a whole tractate of the Talmud dedicated solely to vows (as opposed to oaths) and to the rules of their nullification, conditions thereof and so on. Vows can be formally annulled in a legal setting and this midrash evokes such a legal setting in the image of Moses annulling God’s vow. Like the case of the Sotah and unlike the other midrashim, it is an explicitly legal framework that is presented, though the legal decisor is Moses, rendering his decision on the acts of the Creator of the Universe.

Here too is an insight into what becomes rather clear in the Talmudic Tractate Nedarim (vows) though never explicitly stated as such. From so many of the cases brought, of vows annulled, or of conditions where the avower may seek annulment, it becomes clear that in the rabbinic mind there was a strong connection of vows with anger.¹⁴ Vows (the making of which is in principle prohibited to Jews) are understood as expressions of anger (perhaps at a neighbor, a child, a spouse, a parent – these are the examples given). Perhaps indeed the vow is understood by them as a means of habituating or directing anger (just as a marriage vow is a form of habituating Eros). Aggression, which is instinctual, is humanized through anger and habituated, directed, formed and so mediated – in the eyes of the rabbis – through vows. These, in turn, may often need to be annulled, can-

¹³ Ber. 32:a.

¹⁴ These appear mainly in chapters nine, ten and eleven of Tractate Nedarim. See for example: 64, 65, 79b, and *passim*.

celed or absolved given the very destructive elements which adhere to aggression and the realization of violent intentions.

In the above midrash we have as well a sort of double reversal of the former cases. It is no longer a human oath, obligating God. Rather a divine oath – expressing anger – is annulled by a human and hence the oath's obligations are erased. In the former cases God is obliged by human acts (oaths). Here God's obligations (pursuant on his oath) are erased by a human act. The oath, as the nexus of divine-human interaction and relationship is thus preserved, if in a radically different manner. While on first sight one might think that agency is reversed, it is probably closer to the truth to say that in all of the stories we have looked at, agency is shared between humans and God, though the mediating agent does indeed shift.

The midrashic notion of Moses annulling God's oath and the insight it gives us into the human-God relationship opens even wider vistas (on both Eros and anger). For while, as we have seen, oaths can indeed obligate God; they are not the only "coercive" force that can effect divine actions. Nor are they the only nexus of their relationships. As Yochanan Muffs has argued in his now classic essay "Who will Stand in the Breach?" this is precisely what prophets do.¹⁵ Moses convinces God to heal Miriam from the skin disease the Almighty inflicted on her. He prayed to save Aaron's life. Most famously, he convinced God not to destroy the people of Israel after the incident of the Golden Calf. All these are of course not rabbinic interpretations, but textual stories (Num 12:13, Deut 9:20, Exod 32:11). Moses even reminds God of his promise: "Remember Abraham, Isaac, and Israel, Thy servants, to whom Thou didst swear by Thine own self, and said unto them: I will multiply your seed as the stars of heaven, and all this land that I have spoken of will I give unto your seed, and they shall inherit it for ever" (Exod 32:13). Here Moses challenges God to keep his promise, to fulfill the terms of His covenant with Abraham. To abide by His obligations.

And of course the very Jewish tradition of arguing with a personal God begins with Abraham himself. Abraham "bargains" with God at the moment of sealing the covenant between him and Abraham. This is documented in the details of the bilateral agreement in which both sides agree to secure the fulfillment of certain obligations which depend on each other. Paradoxically, the relationship between the parties seems if not exactly as equals, at least as commensurate enough to allow negotiations about the conditions and consequences of the commitments undertaken. On two occasions Abraham turns to God and rebukes him for leaving

¹⁵ Yochanan Muffs, *Love and Joy; Law, Language and Religion in Ancient Israel* (New York: Jewish Theological Seminary, 1992), 9–48.

him without offspring (Gen 15:2–3) and when it is promised that his descendants will be as many as the stars in the sky (Gen 15:5) and they will rule this land, he requests some proof (“And he said, Lord GOD, whereby shall I know that I shall inherit it?” Gen 15:8). What follows is the covenant in which God announces his action in the simple present tense (without formally swearing an oath) and his pronouncement is by definition performative and introduces the paradigm of God’s interaction with the human race (cf. Gen 15:18 “In the same day the LORD made a covenant with Abram, saying, Unto thy seed have I given this land . . .”). Around fifteen years later when Ishmael was born, God repeats his promise, this time listing in detail his requirements from Abraham and his offspring as well as His commitments. This event occupies almost the whole of Gen 17. The word oath is not mentioned in these texts; instead, the phrase “eternal covenant” is used according to which “And I will give unto thee, and to thy seed after thee, the land wherein thou art a stranger, all the land of Canaan, for an everlasting possession; and I will be their God. . . . This is my covenant, which ye shall keep, between me and you and thy seed after thee” Gen 17:8–10.

Later, in Gen 18, Abraham pleads for the people of Sodom and Gomorrah, arguing with God over the terms of collective punishment. And this argument we recall was initiated by God Himself: “Shall I hide from Abraham that which I am doing?” (Gen 18:17). God is looking for an interlocutor, seeking a personal relationship with a human actor who can restrain His will and actions. And Abraham responds: “That be far from Thee to do after this manner, to slay the righteous with the wicked, that so the righteous should be as the wicked; that be far from Thee; shall not the judge of all the earth do justly?” (Gen 18:25). By the force of argument, that is, by the force of his spoken words, Abraham seeks to obligate God to act or rather not act, in a certain manner. And these attempts, sometimes successful and sometimes not, which begin with Abraham continue throughout the course of Hebrew prophecy. The words of the prophets are thus not far at all from the words of the oath that obligate God and in other contexts obligate ourselves. Just as oaths limit (our actions and as we see here, in certain circumstances, the actions of God) so too do the words of the prophet who is, in Muffs words: “an independent advocate to the heavenly court.”¹⁶

Muffs builds his argument from Abraham through Moses, Samuel (who is disconsolate at having to remove the kingship from Saul), Jeremiah, Ezekiel, and Amos, showing how the prophets – and through them humanity – become “partners with God in the act of creation.”¹⁷

¹⁶ Muffs, *Love and Joy*, 9.

¹⁷ Muffs, *Love and Joy*, 46.

The critical move here, according to Muffs, is what we find in Ezekiel 22:30 (from which the title of his essay comes): “And I sought for a man among them, that should make up the hedge, and stand in the breach before Me for the land, that I should not destroy it; but I found none.” This is a theme that reappears in the Jewish tradition. We can find it in the interpretation of Ps 94:16 as explained in Midrash Tanhuma where, on Moses’s death, the Lord Almighty is distraught at the thought that none will now be able to stand up to Him, to argue Him out of his wrath when Israel sins and request mercy for the sins of Israel, to “turn back” his anger.¹⁸

God is distraught because there is no one to take Moses’s place, to “stand in the breach” and argue God out of His wrath. There is no one to stand up to him, no interlocutor, no one brave enough to play the role of Abraham in the story of Sodom and Gomorrah. No one who will, by the force of his word, obligate God to mercy and forgiveness.

This very personal relationship or dialogue is one which requires bravery on the part of the prophet, a willingness to argue with God in what Muffs defines as a “creative leap of loving communication.”¹⁹ God and man enter into that shared, personal space of true dialogue where Martin Buber’s “in-between” can be found. It is a space of true exchange, of mutuality and mutual giving, the gifts of God and the gifts of man. Among the latter are of course the sacrifices, prayers and keeping of his vows that man has pledged to God.

As we know from anthropologists dating back to Marcel Mauss, freely given gifts – nevertheless bring with them obligations (recall Mauss’s insight regarding the three obligations of gift exchange: giving, receiving and returning the gift).²⁰ Oaths and vows do the same. The relationship of mutuality and giving, even “giving freely and willingly,” that is, “with love,” as the word was used in ancient Babylonian and Hebrew texts (*be’ahava u-verason*), is nonetheless one which entails obligations. The interpersonal obligations among humans occasioned by oaths are here mirrored in the mutuality of obligations between God and humans.

And just as oaths and vows create a new space, bring into being new potentialities, generate new relationships and deepen existing ones, so does the encounter of the prophet and God, casting His relationship with humanity in a new light. The affinities of the words of the prophet and those of the oath and vow with love are however all too often lost in our only partial understanding of their resonances.

¹⁸ Midrash Tanhuma, “*Va’etchana*” (Hebrew), (Jerusalem: Eshkol Press, 1975).

¹⁹ Muffs, *Love and Joy*, 45.

²⁰ Marcel Mauss, *The Gift: The Form and Reason for Exchange in Archaic Societies*, trans. by W.D. Halls, (London: Norton, 2000).

It is time to leave the realm of Jewish texts, legal and otherwise, and turn to one of the great mythic tales of all times, that of Tristan and Iseult, – which is, not surprisingly (and not so unlike the case of the Sotah), a tale of sexual desire and its consequences. Different versions exist in many different European traditions and the variations between them are not insignificant. Our own interest remains the double performative of an oath, embedded in ritual action that obligates God – to support a fallacy.

Forcing God's hand in Tristan and Iseult

Originally an Irish folktale, the love story of Tristan for Iseult, the wife of King Mark was made famous in the twelfth century in its French version. There, the two are united through a magical love potion that leaves them inseparable in life as in death. In the thirteenth century the story was integrated into the Arthurian romances where King Mark – originally a sympathetic figure who garnered Tristan's loyalty and Iseult's loyalty and love (if not passion) – is turned into a villain and ultimately kills Tristan. These chivalric tales were rediscovered in the nineteenth century, and became the basis of poems by Swinburne, Tennyson and Mathew Arnold. Much more famously they became the basis of Wagner's opera which he wrote for his wife Cosima.

In the archetypal plot line, Tristan, who is the nephew of King Mark of Cornwall, secures Iseult as wife for his uncle. The tale traces Tristan from birth onwards. Having set out to his uncle's court in search of adventures he defeats the giant Moholt only to be grievously wounded in the battle. Set adrift in a skiff he ends up in Ireland where the queen heals him and he defeats a dragon which wins him the hand of Isolde for his uncle. En route back to King Mark's court however both Tristan and Isolde drink of a magic love potion that the queen had prepared for Iseult and King Mark and that is when the tragic events of the tale unfold.

After myriad attempts of King Mark to entrap the lovers he discovers them one day asleep in a forest with an unsheathed sword between them. Tristan yields Iseult to King Mark and moving to Brittany marries another Iseult: she "of the white hands." Near death from a poisoned wound he sends for the original Iseult to come and heal him – with instructions that the ships should mount white sails if she is coming and black ones if she refuses. His jealous wife however tricks him with the news that Iseult had refused to come and help and so he dies. Arriving too late to save Tristan, Iseult too dies in her lover's arms. Two trees grow from their graves, forever intertwined.

The subplot of interest to us concerns Iseult's willingness to undergo a form of trial by ordeal, after swearing that she was never unfaithful to King Mark. Responding to accusations of her adultery she arranges that witnesses to her oath and ordeal will include knights and lords beyond the retinue of the King. She also arranges for Tristan, who is hiding nearby disguised as a poor pilgrim, to approach her as she is to ford the river by the banks of which her ordeal shall progress. We quote here from Hillary Belloc's English translation of Joseph Bedier's 1913 text of *Le Roman de Tristan et Iseult*

On the appointed day King Mark and Iseult, and the barons of Cornwall, stood by the river; and the knights of Arthur and all their host were arrayed beyond.

And just before them, sitting on the shore, was a poor pilgrim, wrapped in cloak and hood, who held his wooden platter and begged alms.

Now as the Cornish boats came to the shoal of the further bank, Iseult said to the knights:

"My lords, how shall I land without befouling my clothes in the river-mud? Fetch me a ferryman."

And one of the knights hailed the pilgrim, and said:

"Friend, truss your coat, and try the water; carry you the Queen to shore, unless you fear the burden."

But as he took the Queen in his arms she whispered to him:

"Friend."

And then she whispered to him, lower still

"Stumble you upon the sand."

And as he touched shore, he stumbled, holding the Queen in his arms; and the squires and boatmen with their oars and boat-hooks drove the poor pilgrim away.

But the Queen said:

"Let him be; some great travail and journey has weakened him."

And she threw to the pilgrim a little clasp of gold.

Before the tent of King Arthur was spread a rich Nicean cloth upon the grass, and the holy relics were set on it, taken out of their covers and their shrines.

And round the holy relics on the sward stood a guard more than a king's guard, for Lord Gawain, Girflet, and Kay the Seneschal kept ward over them.

The Queen having prayed God, took off the jewels from her neck and hands, and gave them to the beggars around; she took off her purple mantle, and her overdress, and her shoes with their precious stones, and gave them also to the poor that loved her.

She kept upon her only the sleeveless tunic, and then with arms and feet quite bare she came between the two kings, and all around the barons watched her in silence, and some wept, for near the holy relics was a brazier burning.

And trembling a little she stretched her right hand towards the bones and said: “Kings of Logres and of Cornwall; my lords Gawain, and Kay, and Girflet, and all of you that are my warrantors, by these holy things and all the holy things of earth, *I swear that no man has held me in his arms saving King Mark, my lord, and that poor pilgrim.* King Mark, will that oath stand?”

“Yes, Queen,” he said, “and God see to it.”

“Amen,” said Iseult, and then she went near the brazier, pale and stumbling, and all were silent. The iron was red, but she thrust her bare arms among the coals and seized it, and bearing it took nine steps.

Then, as she cast it from her, she stretched her arms out in a cross, with the palms of her hands wide open, and all men saw them fresh and clean and cold. Seeing that great sight the kings and the barons and the people stood for a moment silent, then they stirred together and they praised God loudly all around.²¹

Iseult begins by removing her mantel and jewels, in a manner somewhat reminiscent of the Sotah whose jewelry and clothing are also removed prior to her ordeal. She then swears by the holy relics that “that no man has held me in his arms saving King Mark, my lord, and that poor pilgrim” after cleverly arranging for the intervention of the pilgrim, that is of Tristan, in the whole *mise en scene* prior to the oath and ordeal.

Swearing an oath on holy relics was of course a Christian version of the ancient practice of grasping the *horkos* that we discussed in our previous chapter. The Christian practice of swearing on holy relics proceeded from the sixth to twelfth century providing an alternative to prior material bases of the oath-taking, that material element of the double performative discussed above and exemplified in the stories of circle-making we have just reviewed.²²

Her oath itself, of course, is a bit of trickery. While technically true in all details, it is for that very reason fully deceitful. Such use of the technical veracity of

21 M. Joseph Bédier, ed., *The Romance of Tristan and Iseult*, trans. Hillary Belloc (London: George Allen and Company, 1913), 93–96.

22 Harold Berman, *Law and Revolution*, 65.

oaths to actually deceive is a well-known ploy in fact and fiction. What is fascinating and critical here, is that the entity “deceived” is not just the King (and various lords, barons and knights), but God himself. For she comes through the following trial by ordeal, grasping the red hot iron, unscathed.

Now, it is doubtful that anyone fully believed that God himself was deceived by the oath in the manner that King Mark was. What is of interest is that the literal truthfulness of the oath was enough to guarantee her successful passing through the ordeal of red-hot iron. Through the literal truthfulness of her oath, Iseult was able to oblige God to intervene and save her, however deceitful it was in its social intent and consequences.

An oath was an oath, regardless of the circumstances in which it was given, the nature of the oath-giver's intention or his or her emotional state at time of oath-taking. Think again of our marriage vows. The very nature of a performative means that something is effected in the world regardless of intent. Partners to a marriage may have no love for one another (they may be marrying solely for reasons of securing a visa for one of them), no intent to be faithful or abide by any of the “terms” of the marriage. Intent is irrelevant; they remain married by the act. This is how oaths were held in medieval legal thought.

So too with pre-modern oaths, apparently in God's eyes as well. We are here far from any twentieth-century notion of a situational ethics, where the ethical evaluation of the act of oath-taking is contingent on an appropriate contextualization of the conditions of oath-taking. For here, in Iseult's case, the situation quite clearly foreswore the oath on a substantive level, while maintaining it on the formal or technical level.

Indeed, as oaths came slowly to replace trial by ordeal (and as with the case of Iseult, continued to exist alongside the ordeal) an oath's strength or veracity – its “proof” was achieved through the practice of “compurgation.” Not the presentation of evidence, but the mobilizing of supporters who could give oaths attesting to the unperjured nature of the litigant's oath was what was deemed essential in judicial decision making.²³ In fact, the ordeal was retained as a mode of trial for those cases where there were no kin or other possible “compurgers” in oath-taking or if for other reasons an oath was not viable.²⁴

Both the story of Iseult and that of the Sotah are ones that tie together trial by ordeal with oath-taking. Ordeals of course, were physical acts, rather drastic ones, while oaths are at the end of the day – and however many compurgers may participate – simply verbal utterances. Ordeals themselves can of course be un-

²³ Berman, *Law and Revolution*, 58.

²⁴ Berman, *Law and Revolution*, 65.

derstood as a way of forcing God's hand or, as we have framed it, obligating God. In the twelfth century, ordeals were increasingly shunted aside in favor of oaths; ordeals were seen as ways of "tempting God" and condemned as such.²⁵ They began with solemn oaths such as the following:

O God, lover and author of peace: Thou who lookest on the earth and causest it to tremble, look down we pray Thee on the faith and prayers of Thy supplicants, who have brought the causes of their complaint to Thy judgment. Send forth Thy blessing on this iron glowing with the fire to dissolve their contentions . . . that by its agency, justice should shine abroad and evil-dealing be conquered.²⁶

But as Peter Brown makes clear these were essentially dramatic frames where the interpenetration of sacred and profane constructed a space for communal decision making. An ordeal was essentially a long drawn-out affair, a *spectaculum* that began with preparations days before the event and allowed for many interpretive judgments of the community afterwards. Interpretation was key, as was ambiguity. While Iseult was wound-free after grasping the iron, in reality the hand of the person undergoing the ordeal was bound and only opened three days later and rather than expect to see a palm free of wounds the discussion turned on if the progress of healing was normal or not.²⁷ There was much room then for interpretation.

At the end of his review of the ordeal and its social context Peter Brown presents us with an important insight: "What we have found in the ordeal is not a body of men acting on specific beliefs about the supernatural; we have found instead specific beliefs held in such a way as to enable a body of men to act."²⁸ This is of course true of the oath as well, not just of the medieval oath, or those oaths tied to the ordeal, but is true of all oaths and vows, both in history and down to this very day. Like the ordeal, oaths provide certainty. They established a reality. This is of course the very nature of a performative. They may bring something new into the world or asseverate a given reality: anything from the social recognition of a new kinship unit (in marriage), the name of a ship, or the veracity of some past event.

It is this aspect of the oath that is so interesting to us here, in terms of obligating God. For it is God, after all, who speaks and brings the world into being: creating physical entities by the force of His word. That oaths and vows purport to do

25 Peter Brown, "Society and the Supernatural: A Medieval Change," *Daedalus* 104, (Spring 1975): 136.

26 Quoted in Brown, "Society and the Supernatural," 136.

27 Brown, "Society and the Supernatural," 139.

28 Brown, "Society and the Supernatural," 140.

something similar (in however limited realm) would seem to posit an analogous conflation of word and deed, subject and object, even of internal and external states and realities. Like the ordeal, oaths are “controlled miracles,” on the par with creation.²⁹ To unpack these acts of conflation we will need turn to uncover the deeper significance of any ability to obligate God to do anything – let alone as in Iseult’s case to uphold a deceitful oath.

Oaths and the Psychodynamics of Creation

Perhaps best to begin with the opening verse of the Gospel of John: “In the beginning was the Word, and the Word was with God, and the Word was God” (John 1:1). Or perhaps, it is better to begin with Goethe’s rejoinder in *Faust*: “In the beginning was the Act;” or perhaps it is better still to begin with Vygotsky’s commentary on both: “In the *beginning* was the deed.” The word was not the beginning – action was there first, it is the end of development, crowning the deed.³⁰ Both word and deed are tied up with the very development of human consciousness. In these terms the oath (as a locutionary event) is quite a radical revision, for the word (in the Gospel) – at least at first sight – precedes the deed. We would however argue that it is a good deal more complicated, for it is not so much that the word precedes the deed (“in the beginning was the word”), but more accurately, the oath *is* the deed. The word and the deed are one act (or one speech) – “with no interval between them” as Philo pointed out two millennia ago.³¹ Word and deed are one, as is the case in Genesis: “And God said, let there be light and there was light” (Gen 1:3). The metanarrative of the Gospel of John (“In the beginning”), imposes a temporal sense of sequencing that is not there in the original Hebrew. The human oath-giver thus mimics the divine act of creation in making the oath equivalent to the deed, indeed in uniting both in one creative moment. The few cases of obligating God that we have looked at here speak to the power of this creative potency in the human agent. We can not only mimic God, we can, in this act of mimicry, compel Him and force His will. In what is perhaps an act of supreme hubris, we assert our creative power by compelling the Creator. If not precisely usurping his powers, the act of obligating God does nonetheless index a human generative capacity that mimics in the social world what God wrought in creation *grosso modo*.

²⁹ Brown, “Society and the Supernatural,” 135.

³⁰ See Goethe, *Faust Pt I & II*, trans. A.S. Kline. (Poetry in Translation, 2003), Act I. scene iii, line, 1237; Lev Vygotsky, *Thought and Language*, trans. and ed. Alex Kozulin (Cambridge, MA: MIT Press, 1986), 255.

³¹ Philo, *Sacr.* 18.65 (Colson and Whitaker, LCL).

As we noted in the previous chapter, this creative capacity can be accessed via the very trilateral Hebrew root *d-b-r* which means both word and event; a phenomenon probably not uncommon in archaic societies according to Walter Ong who points out that “every word in its primary state of existence, which is its spoken state, is an event.”³² Establishing a sense of personal presence in the “here and now,” the spoken word connects, establishes an in-between, in Martin Buber’s terms, that we quoted in our preface: *das Zwischenmenschliche*. We need only recall the stories of Genesis, of the binding of Isaac and God’s call to Abraham, or later Jacob, to appreciate the power of this presence. Oaths and vows do much the same, between individuals and between individuals and God. The spoken event is a “presencing” as, properly, speaking, is all verbal communication.

Ironically, this creation or generation of a new space of presence – not all that dissimilar to prophecy as we discussed above – involves what may be understood as a form of psychological “regression.” The very active de-differentiation of word and deed on which such “presencing” rests, moves us after all, into what the psychologists term the world of primary processes, of highly ambiguous and relatively undifferentiated thought processes. As Vygotsky made clear in terms of mankind’s phylogenetic development, “the word is a higher stage in man’s development than the highest manifestation of action. . . . The word did not exist in the beginning. In the beginning was the deed.”³³ And the ability to distinguish between them ontogenetically, is similar to the ability to distinguish between self and other, memory and perception, past, present and future, internal from external – all mark the development of the discriminating and mature ego.

“Regression” however involves very different types of mental processes and should not by any means be always conceived of as a negative phenomenon or sign of mental illness. As pointed out by the psychoanalyst Herbert Schlesinger, “When we dream or fantasize or engage in forms of creative pursuit, such as poetry and art, we allow earlier modes of mental activity, earlier states of mind less wedded to logical thinking, to become active again. These excursions into regression differ from psychopathology mainly in the degree of control one has, how voluntary or controlled the experience is, and perhaps the degree to which the experience is ego-alien, that is, how particularly frightening it seems to be.”³⁴ Oaths, as we have been arguing, are a creative act par excellence, second only, in fact claiming parity with, the creations of the Almighty. Moreover, as we have seen, phylogenetically we have moved – at least in the legal realm – from trial by

³² Ong, *The Presence of the Word*, 113.

³³ Vygotsky, *Thought and Language*, 255.

³⁴ Herbert Schlesinger, *Promises, Oaths, and Vows: On the Psychology of Promising* (London: Taylor and Francis, 2008), 28.

ordeal, to oaths, to evidentiary standards in litigation. And while some may claim that the oath as a legally binding rule – let alone one binding on God, as in the cases described here – are from a relatively early stage of social development and so only relevant to that period – this is arguable. Clearly they are not by any means from the very earliest period of our species development envisioned in Vygotsky's thinking. And while it is true that the Greeks saw them as predating human society, as essentially coterminous with the gods, it is also true that they have continued in society ever since. Even the Jewish texts we have been looking at come from a period with highly developed legal and evidentiary reasoning, and the Sotah is, as noted, the one exception to these rules.

Oaths and vows then are not simply a case of ontogenesis following phylogenesis though such general processes do indeed occur in children as part of ego maturity. Rather, we feel something else, much more primal is at work, much more akin to regression in its creative sense as quoted above. This accords with the notion developed by the psychoanalyst and art historian, Ernst Kris, of “regression in the service of the ego.”³⁵ Kris explained, “the control of the primary process and generally the control of regression by the ego may have a specific significance for the creative process.”³⁶ Regression to an undifferentiated state is, here, linked to ego creativity rather than psychopathology. What Kris terms “functional regression,” that is a relaxation of ego functions and allowing the ambiguity of fundamental needs and desires to manifest themselves is for him a condition of all creativity. “Regression in the case of artistic creation” is, he claims, “purposive and controlled” – a constant mediation and shift between “creation and criticism” central to which is the working of primary processes within which “ambiguity is most prominent.”³⁷ That is, a certain amount of de-differentiation, of a return to the blurred boundaries between precisely those entities listed above (self and other; internal and external; word and deed) are necessary to the creative act.

Kris was not alone in such thinking. Marion Milner, Ernst Jones and others (including the poet William Wordsworth who Milner quotes) have seen such fail-

³⁵ Ernst Kris, “Neutralization and Sublimation: Observations on Young Children,” *Psychoanalytic Study of the Child* 10 (1955): 30–46. Kris’s concept was both seminal in the development of psychoanalytic theory and equally controversial. See for example, Phillip Weisman, “Theoretical of Ego Regression and Ego Functions in Creativity,” *The Psychoanalytic Quarterly* 36, no. 1 (1967): 37–50. On the critique of Jacques Lacan see: Steffen Kruger, “Fresh Brains: Jacques Lacan’s Critique of Ernst Kris’s Psychoanalytic Method in the Context of Kris’s Theoretical Writings,” *American Imago* 69, no. 12 (Winter 2012): 507–42.

³⁶ Phillip Weisman, “Theoretical of Ego Regression and Ego Functions in Creativity,” *The Psychoanalytic Quarterly* 36, no.1 (1967): 31, 32.

³⁷ Ernst Kris, *Psychoanalytic Explorations in Art* (NY: Schocken Books, 1952), 263, 253–4.

ure to discriminate (in this case between self and other) as the very basis of empathy. The ability, says Milner, “to find the familiar in the unfamiliar, requires an ability to tolerate a temporary loss of self, a temporary giving up of the discriminating ego which stands apart and tries to see things objectively and rationally.”³⁸ In essence they are claiming that the very primary act of sociability rests on the blurring of distinctions, the temporary setting aside of hard and fast boundaries, of cognition no less than of emotion. It is no coincidence that oath-taking shares in this general gestalt of blurred boundaries – here not those of self and other, but of word and deed and so also of internal and external, and of course of past, present and future: as the internally generated present oath assumes an externally existent future deed.

In this context of blurred boundaries, we should think as well of the Chinese Mahayana Buddhist practices of wish-vowing (*yuan*), a form of vow-taking, though there is no creator God involved. The vows taken by the bodhisattvas for the enhancement of all sentient beings, or that of the householder for their son to pass the university entrance examinations are all forms of *yuan* – of greater or less particular intent (grander or less grand forms of *yuan*, which means desire, are determined by the range of beings who are included as beneficiaries of the vow: from all of creation at one extreme to one’s progeny at the other). What is blurred here is again, the boundary of word and deed, but writ large – rather as the boundary of self and its actions, of desire and its realization, and, on the other hand, the world of deities, buddhas and bodhisattvas. So much is this the case that it is unclear if the entity obligated is the different buddhas or deities to which the vow was made, or the vow-taker herself or himself. The wish-vow is binding on both and the returning of the wish-vowers to the various temples with anything from cash donations to “18 summer and winter quilts” to make good their vows give evidence to the binding nature of the vow on all involved (the deities who granted the wish, the vower who fulfills the terms of their vow).³⁹ As argued by a number of scholars, most especially by the anthropologist Yang Shen, the wish-vow is a form of self-cultivation and realization, even of agency. She quotes Sangren to the effect that: “What starts out as an engagement with a reified, alienated divinity becomes a more reflective engagement with the self; ‘enlightenment’ amounts to the discovery that the self is itself divine and for some, divinity is but a projection of the self Those who sincerely seek guidance [from gods] are thought [by themselves and

38 Marion Milner, “Aspects of Symbolism and Comprehension of the not-Self,” *International Journal of Psychoanalysis* 33 (1952): 182.

39 Yang Shen, “Side-Stepping Secularism: Performance and Imagination in Buddhist Temple Scapes in Contemporary China,” PhD diss. (Boston University, 2019), 15.

by various shifu personas] inevitably to learn eventually that prayer for solely individual benefits is only the beginning of the cultivation process (*xiude*).”⁴⁰ Clearly, here too is a creative act, the emergence through cultivation, itself the product of a certain form of blurred boundaries, of a new self: a self-created self, but one contingent not only on the participation of those deities obligated by the vow, but of the myriad of other temple-goers whose very numbers and magnitude increase the efficacy of the vows made in their premises, a social self that is just as much self as it is social.

It is certainly no mere coincidence that oath-taking is perhaps the primary act of sociability, creating as it does the space for the other, and hence for the social, to be present. If empathy is an internal process allowing for life with others, oath-taking is an external act, fundamental to our life with others (as Immanuel Kant understood the promise to be). Both tie us to others, bind both us and our (very often future) acts and, as we note, both are, curiously, predicated on the blurring of some of our most critical cognitive categories. Both involve some return to primary processes where ambiguity may reign and so a consequent setting aside of secondary processes for a less securely adumbrated world.

Thus, and for all the later benefits of differentiation and distinction, it is important to realize that the psychological process of “regression in the service of the ego” is in some sense a reprise of ways of being and understanding that we have lost in our over literate societies. For in early oral-aural cultures, like the Greek and Hebrew and even to some extent the medieval European world, the past lived in the present; it was present in speech and everyday life.⁴¹ In this way the spoken word was also experienced as a direct connection to truth – however ambiguous that truth may seem to us living as we do in literate and chirographic cultures. In the words of Walter Ong: “For oral-aural man, utterance always remains of a piece with his life situation. It is never remote.”⁴² It may well be that in such a manner what we see as discrete and present facts were inexorably linked to past myths and hazy memories. But that in itself does not mean they were further from living truths. Indeed, and as Ong has claimed: “The word is

⁴⁰ P. Stephen Sangren, *Chinese Sociologies: An Anthropological Account of the Role of Alienation in Social Reproduction* (Oxford: Berg Publishers, 2000), 80–6.

⁴¹ On the Jewish context see Talya Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Culture* (Philadelphia: University of Pennsylvania Press, 2013).

⁴² Ong, *The Presence of the Word*, 33.

something that happens, an event in the world of sound through which the mind is enabled to relate actuality to itself.”⁴³ Thus indeed, is the ego served.

To recap our claims thus far:

- a) Oaths are a creative act. Perhaps they are the socially creative act par excellence (by many accounts they provide the very foundations of social life).
- b) One mark of this creative potential is in their capacity in certain circumstances to obligate God Himself, creator of all that exists.
- c) As creative acts they conflate or de-differentiate word and deed, intention and act. They also tend to blur the boundaries between internal and external realities, as well as past-present-future states (in a manner reminiscent of the cultural dynamics of all oral-aural cultures).
- d) In this capacity they carry certain traits of regression to primary processes and a pre-reflective state, which is, according to some, the necessary condition of all creative acts and, according to others, the very empathy that allows us to live with and among others.
- e) In some sense then an oath can be seen as the external, enacted – performed – expression of sociability, analogous to its internal, felt representation as empathy; and so, as stated in our preface, is comparable in some very important ways to love or Eros.⁴⁴

If we recall that the oath is first and foremost a speech act we can attain even greater understanding of its affinity with love as the type of generative act we have been understanding it to be. To refer once again back to Walter Ong, voice, first and foremost, “conveys a presence.”⁴⁵ It is, “in its deepest sense more real and more really a word” than its written cousins, however evanescent it may be and however enmeshed in “nonverbal actuality” it may remain.⁴⁶ As such, it convey a unique sense of interiority – which is, we would think, the very precondition of love. “Sound,” Ong teaches, “reveals interiors, because its nature is revealed by interior relationships.”⁴⁷ Indeed, sound reveals interiority without the need to physically violate the object. Other senses (with the exception of smell), must actually invade the object to get at what is inside (breaking the piggy bank to see its con-

⁴³ Ong, *The Presence of the Word*, 22.

⁴⁴ Ong makes much of the relation between speech per se and sociability, pointing out that “the word moves towards peace” and even with hostile and hateful words, as long as people are talking, maintaining verbal contact, they are not engaging in hostilities. Those begin when speech ends. Ong, *The Presence of the Word*, 192–3.

⁴⁵ Ong, *The Presence of the Word*, 114.

⁴⁶ Ong, *The Presence of the Word*, 114.

⁴⁷ Ong, *The Presence of the Word*, 118.

tents, stripping the coin to see if it is lead or silver). Only sound can provide access to the internal without destroying it in the search for what it holds. A better description of love cannot be found. Nor of empathy. These constitutive human feelings are mirrored in the acts of oath-taking and vow-making and is what gives them both their creative force and manna. The spoken words of the prophet calling God to account shares in this same love and presence.

Recalling the claim we made earlier, in our preface, on how both love and oaths are bounded on the one side by the infinity of our intentions and on the other by the eternity of God; we have here revealed the key to both. That is to say, the spoken oath which both reveals and illuminates the interiority of consciousness does at the same time reach out to eternity, calling on – and as we have seen in this chapter – even obligating God. As Paul states in Rom 10:17, “Faith comes through hearing.” God creates through the word and through the word we receive God as well. “The word of God shall stand forever” we are taught by the prophet Isaiah (Isa 40:8). And so, while our own words are evanescent, coming to be in and disappearing out of time, God’s words are eternal, and so beyond time, indeed possibly constitutive of time itself.

Between His eternity and our interiority reside the potential for both creation and destruction, for truth and falsehood, for the generative and the barren, for empathy or indifference, kindness or meanness, indeed for the full panoply of human actions and emotions. Oaths and vows, like love and Eros with which it both shares certain characteristics but also stands in conflict, are one – most probably universal form – of tying the eternity of one and interiority of the other together. As we have seen, so is prophecy. The consequences of the total unraveling of that knot has however brought us some of the most terrible moments of our long history as humans.

If this is true, then the source of the powerful manna that adheres to oaths, even to this day, at least among certain populations, must therefore be explored in other, less phenomenological (as well as less theological), and more anthropological terms, to round our picture; we turn to that now.

Ritualized Words

In our earlier chapter we mentioned Roy Rappaport’s critical insight into human language and symbolic communication in general. To recall his main insight: the nature of our symbolic communication, that is to say, language, is such that the symbol (word or words) may exist without their referent, without what it is they signify. Similarly, any given reality can exist without it being referenced, or in his

terms “signaled.”⁴⁸ I may be struggling with cancer, but if I do not tell my loved ones they have no way of knowing. Every night before bed I read a few pages of a six hundred page novel by Henry James. I get deeply involved in the characters, in the plot, discuss it daily with those close to me, analyze motives, meanings and machinations. And yet, none of this is real, none of it refers to or signals any reality whatsoever.

This built-in propensity of human communication is what Rappaport calls the lie and distinguishes it from deceit per se, a phenomenon common to other species and not just to homo sapiens. The lie, however, is, as we noted earlier, a uniquely human potential. A lie may indeed, as John Ruskin taught, “be told in silence, by equivocation, by the accent on a syllable, by a glance of the eye attaching a peculiar significance to a sentence,” but all are one way or the other rooted in the fact that in human beings the relation of sign to signified is only ever “conventional.”⁴⁹

What Rappaport means by conventional is that there is no necessary or inherent relation between sign and signified. No necessary connection exists between the rectangular wooden entity upon which my computer and books rest and either the phonemes enunciated or the written script that represents them in the words: *table*, *Tisch*, *maca*, שולחן and so on. He is relying here on the critical distinctions made by Charles Sander Peirce between symbol, index and icon as three very different types of signs.⁵⁰ In the case of symbols, which is the case of human language, the relation between the sign and its object is arbitrary, or conventional. There is no necessary connection between the word and the thing. In the case of an index there is some necessary and direct relation between the object and its sign. Thus, for example, the relation between smoke and fire, or the temperature in the room and the reading on the thermostat, or the wind and the weather vane. In the case of icons the sign shares some direct quality with its object, for example with onomatopoeic words (and of course Orthodox Christian icons themselves).

The deceptions practiced by other species are always either iconic or indexical. The moth whose perfect imitation of the bark of a certain tree seems to dissolve the boundaries of both, the leaf insect discussed by Caillois who blends so perfectly with the plant it feeds on that others of its kind actually feast on it are

⁴⁸ Roy, Rappaport, *Ritual and Religion*, 11.

⁴⁹ Ruskin, “Modern Painters,” quoted in *London Review of Books* 42, no. 7, (April 2020): 4; Rappaport, *Ritual and Religion*, 11.

⁵⁰ Charles Peirce, *Collected Papers of Charles Sanders Peirce*, vol. 2, eds. C. Hartshorne and P. Weiss (Cambridge: Belknap Press, 1932), 129–73.

all deceptions predicated on iconic signs.⁵¹ On the other hand, the case of the Figan, the chimpanzee discussed by Rappaport who could only lead his fellows away from the clutch of bananas left in the clearing (in order to quietly return later, alone, and eat his fill) by jumping up and down and running in another direction as the accepted “sign” to alert others of an imminent event needing attention – is an indexical sign. He could not simply *tell* his compatriots that there were better bananas or perhaps bananas and mangoes in the far clearing, or perhaps a danger from which they must escape. He was forced to enact, to index, or what Rappaport terms, provide a “pseudo-index” as a communicative sign. This is a far cry of course from the novel of Tolstoy that I am reading or my total involvement with the characters on my favorite TV show or for that matter filling out a report on yearly scholarly activities which include a jaunt to Trieste with my girlfriend listed however as archival research. What permits these later, whether what we call fiction or what we call lies, is precisely the disembedding of the communicative sign from any connection to its object.

This long discussion of the fragility of human communication, its essential lability and unreliability, is necessary to get at our question of the uniquely creative power of oaths and their place in human communication. For Rappaport, the indeterminacy of language was the precondition for ritual. For him, ritual – in its formal, enacted (that is performative) and iterated nature – ameliorated the “problems of falsehood intrinsic to language to a degree sufficient to allow human sociability to have developed and to be maintained.”⁵² In his words: “the performance of more or less invariant sequences of formal acts and utterances not entirely encoded by the performers logically entails the establishment of convention, the sealing of social contract, . . . the investment of whatever it encodes with morality . . . the representation of a paradigm of creation, the generation of the concept of the sacred and the sanctification of conventional order . . . the construction of orders of meaning transcending the semantic.”⁵³

By not entirely encoded by the performer, Rappaport is referring to both the formal quality of oaths and that their meanings or significance are – at least in some parts – external to the performers. As the example of marriage given earlier illustrates, once having participated in a marriage ceremony one is married, regardless of one’s internal state, feelings, intentions and so on. And of course this the precisely the situation we saw with Iseult. All agreed to the form of the oath, God above apparently agreed to its literal truthfulness. The fact that its intention

51 Roger Caillois, “Mimicry and Legendary Psychasthenia,” trans. John Sheply. *October* 31 (1984): 16–32.

52 Rappaport, *Ritual and Religion*, 18.

53 Rappaport, *Ritual and Religion*, 27.

was to deceive the king and all present (very much along the lines of the Ruskin quote above) was irrelevant for its efficacy.

For Rappaport, rituals are the “basic social act.”⁵⁴ And this is so because the actors essentially subject themselves to a performance whose significance lies outside of their own mental or emotional states (though such may overlap as well). The acts and utterances that make up ritual do not originate in the performers, nor are they idiosyncratic in nature. If they were, of course, there would be no ritual. For ritual to be repeated, iterated, it must have important formal elements. Rituals do, of course, change, often as part of broader socio-cultural change, not however at the whim of individual performers.

This has been the case in all of the examples presented above; circle drawers, *sotah*, wish-vowers and even the combined ordeal/oath of Iseult; all were not simply personal, unconventional or idiosyncratic events. They all followed custom – that is, convention – they were all enactments of more or less formally defined codes and conducts, words and deeds, whose origins and meanings lay external to the performers themselves. They were, in short, rituals.

But oaths and vows are a good deal more than just another ritual. To no small extent they embody the very essence of obligation. And, another point learned from Rappaport, is that breach of obligation is perhaps the only act considered immoral in all societies everywhere at all times (even God, apparently, shies away from it, if under prodding by his prophets).⁵⁵ Obligations; as oaths, vows, promises, contracts, covenants, compacts and pledges are the very woof and weave of social life. They are the ties that bind us to others, to our shared social world, to our common deities and even to our own words and deeds. It is no wonder then that the formal aspects of oaths and vows are so carefully detailed in the relevant texts. Precise expressions and locutions, the exact ordering of the words, which synonyms are allowed or not, which alternatives (initials, slang expressions, words used in one locale but not another) are acceptable and which not are the subject of treatise after treatise in those cultures where written texts define practice. In others, whether the examples of ancient Greece discussed in our previous chapter or among such preliterate societies as the Cheyenne or the Ashanti (but among many others as well), very precise – and formal – actions make up the *mise en scene* of oath-taking.⁵⁶

If, earlier, we noted how oaths and vows exacerbate the possibility of falsehood in human communication, by referencing something in the future or past,

54 Rappaport, *Ritual and Religion*, 31.

55 Rappaport, *Ritual and Religion*, 132.

56 E.A. Hoebel, *The Law of Primitive Man* (Cambridge: Harvard University Press, 1954).

something not even theoretically verifiable; here we find something very different. Oaths, through their ritualistic character, provide the means to anchor linguistic/symbolic communication within a ritual frame and so provide them with a quiddity they would not otherwise have.

Oaths, if you will, are ritualized words. Even more strongly: they are indexical symbols. Through the formal, iterated, performed and externally encoded nature of the oath we, like the chimpanzee Figan index – and so provide a firmament to – our otherwise solely labile utterances. It is precisely this indexical quality that lend our oaths their strong creative properties. Oaths create something out of nothing, precisely because it is no longer a “nothing” out of which they are creating. Rather, through their formal, iterated and performative qualities they are creating out of always already existing social bonds. Those bonds that of course would not exist without the oath itself. And this is their paradox, for they would seem to index nothing but themselves.

We shall return to this paradox in the following chapters but it is important here to grasp the unique role of oaths in the panoply of ritual acts. Ritual acts ground canonical meanings and so maintain the cosmological structure of the social universe in question. They maintain the plausibility structure of the social universe and the conventional orders of what Rappaport termed the social Logoi. They preserve the “truths” of the social order – whether in the forms of a creedal declaration, as the Jewish Shema, an oath of allegiance, a baptism, a Fourth of July parade or a Passion play. Ritual is constitutive of order even as it gives us the tools to deal with its inherently fragmented, partial, ephemeral and deeply contradictory nature.⁵⁷

Oaths do the same, however, in the more limited, but extremely important realm of obligations per se. Less the canonical meaning of God, salvation, peoplehood, the Crucifixion, exodus from Egypt or murder of Imam Hussein in Karbala (or Washington crossing the Delaware for that matter) and more in the intensely personal and inter-personal realm of our mutual ties. As we discussed in Chapter One, oaths create obligations. They do so through formal verbal utterances. The formal and ritualistic nature of the oath relieves somewhat the great degree of uncertainty that would otherwise adhere to them. Creating obligations however is, essentially, creating society. Obligating God, we obligate ourselves.

Herein lies the unique nature of the oath, as opposed to all other rituals. While all rituals ground words (symbols) within indexical meanings, oaths do so

57 Seligman, Weller, et. al., *Ritual and its Consequences*; Robert Orsi, *The Religious Worlds People Make and the Scholars who Study Them* (Princeton: Princeton University Press, 2005).

for the specific words that form our obligations (to God, self and others) – that is, that form society itself. If the words of God founded creation, the words of the oath create society. Hence their unique role in all social formations from time out of mind. For Giorgio Agamben, the oath creates what it names (as do all performatives through their indexical qualities).⁵⁸ This is precisely our claim here. The oath names obligations and in so doing creates them. Only in the case of obligations what is created is society itself.

Emile Durkheim, the founder of sociology has taught us that the essence of moral authority (which for him is but another name for society) is obligation, but that for us to fulfill our obligations we must experience them not only as an imposed duty but also as desirable.⁵⁹ This in turn assumes a certain confidence or trust in the actor's intentions to fulfill the terms of his or her vow or oath. The problematic relations between these terms: confidence, trust, intention and the risk they entail will be the subject of the following chapter.

⁵⁸ Giorgio Agamben, *The Sacrament of Language*.

⁵⁹ Emile Durkheim, *Sociology and Philosophy* (New York: Free Press, 1974), 36.

Chapter Three

The Problem of Intentionality: Short Studies

Below the surface-stream, shallow and light,
Of what we say we feel – below the stream,
As light, of what we think we feel – there flows
With noiseless current strong, obscure and deep,
The central stream of what we feel indeed.

–Mathew Arnold¹

Intention: Confidence, Trust and Desire

To clarify the relation of trust to confidence it is best to begin with Niklas Luhmann who, as we have already noted, developed the distinction between the two.² Confidence, he pointed out, is what we have when we know (or think we know) what to expect (from another person, or from a particular situation). Trust in contrast is called upon in order to act in a situation when we do not know what to expect – cannot be sure of outcomes – and yet do not necessarily anticipate danger or hurt. The situation (or person) is not understood as dangerous, but risky. If there were no risk, it would indicate that we knew what to expect (whether a positive or negative outcome) and hence confidence would be the overwhelming frame of our interaction and would consequently set our expectations. Risk however emerges with our inability to predict outcomes. The absence indicated in our first chapter, is the absence of knowledge and so of the confidence that accompanies it.

Can we be confident in the oath-taker's fulfillment of his or her assertion and if so how? On what basis? We may be confident that the sun will rise tomorrow (even if we cannot see it on a rainy or cloudy day), but is the same true of the oath's adjuror? Or perhaps is the best that we can expect merely some modicum of trust that the terms of the oath or vow will be kept, barring circumstances beyond the control of the oath-taker. Or yet again, is the oath itself perhaps an indicator of the fact that both trust and confidence are rather ideal types, existing if at all, as outliers and that in the actual workings of the world the boundary between them is blurry and not easily defined.

¹ Mathew Arnold, *Saint Paul and Protestantism with Other Essays* (London: John Murray, 1912), 56.

² Niklas Luhmann, *Trust and Power*; Adam Seligman, *The Problem of Trust* (Princeton: Princeton University Press, 1998).

The paradigmatic case from pre-historical myth, studied earlier, of the *Oath of Tyndareus* would seem to indicate that, as far as possible in matters concerning human action and intention, the oath was understood (at some point) to provide confidence as to the oath-takers' future actions. For we know that both Odysseus and Agamemnon assiduously attempted to find a way out of the obligations entailed by the oath and both failed.³ This happened even though the oath was taken years before the events that led to the Trojan War occurred. Both were bound by their word, by their honor, however much they sought to avoid participating in the war. From this we may assume that one could have much more than trust in the oath-takers actions; could in fact be confident of his fulfilling his responsibilities. At least within the world of myth. Here it is important to remind ourselves that, as we have already seen, Thucydides himself doubted the force of the oath in compelling the suitors to join the expedition against Troy. Thus, by the fifth century BCE at least some were treating the myth as, indeed, no more than a myth – perhaps an ideal but nothing more.

The biblical stories of oath-taking are, similarly, those of oaths binding and thus fulfilled – sometimes with dire consequences as in the case of Yiftach sacrificing his daughter consequent on his oath (Judg 11:29–40) – and hence providing some basis for confidence. In fact, to this day most observant Jews consider themselves obligated by the oath taken by the Israelites at Sinai, and renewed at *Arvot Moab* where Moses declared (in God's name): "Neither with you only do I make this covenant and this oath; but with him that standeth here with us this day before the LORD our God, and *also with him that is not here* with us this day" (Deut 29:13–14, emphasis added). That is, with future generations.

As an ideal, the oath was meant to provide a basis for confidence, for knowledge of future actions. That all it could only ever really provide in terms of actual, concrete human action was however only some sense of trust in what *may* transpire is we believe, also the case. The obligations of Sinai – however interpreted – are, after all, assumed today by only a minority (in the USA today, about 6%–10% of American Jews).⁴ Moreover the texts we shall study in the following chapters all point to the very tenuous hold the oath maintained on those averring its terms. In the face of desire our fictional characters again and again chose to break their oaths – and even when they did not, the very struggle and sacrifice entailed by fulfilling their obligations would hardly point to maintaining confidence in the oath-takers actions.

3 Torrence, "Oaths in Traditional Myth," 50–1.

4 Pew Research Center, Aug. 26, 2015, "A Portrait of American Orthodox Jews."

While the historiographic work of ascertaining the dependability of oaths and oath-takers across different time periods and societies is quite beyond our capabilities (and beyond the historical record as well) we do feel that the fictional stories we shall study (and their saliency over centuries and different countries) provide sufficient insight – if not into actual reality – then at least into perceptions of reality where, we will see, oaths often buckled in the face of desire. Consequently, we are left with oaths as providing a modicum of trust rather than a basis of confidence in the future actions of the oath-taker.

Indeed, in our first chapter we reviewed the need for oaths and vows as the only way to “guarantee” the fulfillment of social obligations and that directing and shaping of desire which makes society at all possible. However, and, at the same time, we looked at the very fragility of this “guarantee”; its dependence on gods (or God), on systems of retribution, punishment (the ‘self-curse’) and something beyond its own verbal forms to secure compliance. It would seem that at one and the same time there is the felt need for the oath (and the vow too in certain cases, such as marriage) to provide confidence in future action; as well as the recognition that alone it cannot do so, that really all it can provide is some basis for trust in another’s future actions and such appeals to godly retribution, self-curses, other authorities and so on are, precisely what we term today “confidence building measures” as trust, by itself, is not enough.

Going one step further, we may claim that if confidence emerges almost involuntarily from knowledge; trust can be understood as an act of will. One must make a conscious effort to trust which is very different from the weighing of evidence to see if confidence is merited or not. Thus, if confidence is in a strong sense a predicate of our knowledge of an existing state of affairs – or personal traits of alter, or some such – but in all cases of what exists; trust both emerges from and contributes to the creation of new conditions of existence; of new potentialities, possibilities and relations, which is of course precisely what oaths and vows do. Confidence reflects existence as it is (or a version thereof), trust is emergent.

In fact, knowledge (which is the product of inductive reasoning in scientific investigation), becomes the often totally false premise of deductive reasoning in the realm of human relations. This is no small point, as the generalizations and principles which are seen to provide knowledge are in their very nature incapable of accounting for any particular individual, or concrete set of individuals or individual acts. And actions, we recall, let alone people, are always concrete, particular and, consequently, all we can ever do is to have *experience* of others, of their action (and of our own) – rather than *know* them.

Trust, by contrast, emerges from our capacity to suspend final judgments, to live in ambiguity, in some degree of ignorance of what will be, and of our willing-

ness to bracket out existing knowledge and tolerate (suffer) challenges to our existing ways of “knowing” the world; or assumptions on the future acts of this or that individual (or class of individuals).⁵ We create trust, while we are passive recipients of confidences, based on knowledge usually of a provenance beyond our control.

Closer to our concerns, oaths and vows themselves create and in so doing delineate future possibilities and impossibilities, quite irrespective of any interpersonal component which may or may not exist. Taking a vow of celibacy (as a Catholic priest or taking holy orders for example), or becoming a Nazarite may not immediately affect anyone other than the actor, is not interpersonal yet it quite clearly creates something new in the world. The very creative component of oaths and vows make knowledge of worlds they bring into being impossible, in the sense that confidence as we have said, is predicated on knowledge. There is an ontological openness to oaths and vows and the manner in which they shape and give form to desire that limits any possibility to have confidence in outcomes and so leaves us with but trust in the oath-taker’s adherence to its terms.

Thus, as we can see, and despite the semi-indexical quality of their performance, true confidence in the oath is not possible and so we are left with trust; but so also with the attempts to guarantee it as far as possible with the cultural tools at hand – which of course changed over time: from the self-curse, to the medieval ordeal, to heavenly retribution, even, as we have seen, in the distant heaven of the nineteenth century.

Our modern world has sought to root trust in the oath in a somewhat different dynamic – that of the intention of the oath-taker. This is in line with the general default of so many modernist ways of thinking that privilege sincerity as a value of highest worth. From the Puritans of the seventeenth century to the talk shows of the twenty-first, a concern with the inner wellsprings of action and sincerity has become almost an icon of modernist culture.

The sincere seeks to root out all ambiguity. Its dictionary meanings include: “being without admixture,” “free,” “pure,” “whole,” and “complete.” Samuel Johnson lists among its cognates: “unhurt,” “uninjured,” “pure,” “unmingled,” and “un-corrupt.” Sincerity, carried to its extreme, is the very search for wholeness, for the overcoming of boundaries and the positing of a unitary, undifferentiated, un-corrupted reality – for a pure intention.

Critical for our concerns, the sincere is further characterized by a search for motives and for purity of motives, reminiscent of Kant’s privileging of the purity of the moral will as discussed in Chapter One. Sincerity morally privileges intent over

5 Adam Seligman, *Modest Claims* (Notre Dame: Notre Dame University Press, 2004).

action. Intention rather than action, internal conviction rather than external practice become the loadstone of our judgments and assessments of worldly actions. Lionel Trilling begins his famous study *Sincerity and Authenticity* by quoting some of the best-known testaments to the sincere mode of thought. He includes Polonius's speech to Laertes, "This above all: to thine own self be true" and Mathew Arnold's dictum on "the central stream of what we feel indeed" (as opposed to what we merely say we feel). He goes on to quote Schiller on the harmonious unity of each man's human ideal and discusses the central role of Puritan "plain sermons" on the developing idea of sincerity in our tradition.⁶

The sincere privileging of intention implicitly challenges the ritualized oath as being only pure convention, mere action (perhaps even just acting) without intent, as performance without belief. The alternatives it often suggests are categories that grow out of individual soul-searching rather than the acceptance of such social conventions. Sincerity thus grows out of abstract and generalized categories generated within individual consciousness and eschews the performatives of ritual action. Recall here the double performative of the oath: both verbal and enacted, to judge its distance from our current concern with action's intent or source in an "authentic" sentiment. The sincere mode of behavior seeks to replace the "mere convention" of ritual – and with it of the ritualized oath – with a "genuine" and thoughtful state of internal conviction. Rather than having our acts bound by the external, social formulations of the oath (and its guarantees, however weak they may be) our acts are henceforth "bound" by our internal adherence and intention alone. This approach to oath-taking emphasizes tropes of "authenticity" as each individual oath-taker essentially takes on him or herself the responsibility the whole society had previously provided through the ritual forms of oath-taking and its concomitants.

The sincere move inward, what Eric Voegelin understood as a form of gnosticism, had profound implications for ritual in general and the rituals of oath-taking in particular.⁷ For sincerity – the belief that truth resides within the authentic self, that it is coherent, and that incoherence and fragmentation are therefore themselves signs of insincerity – became the new benchmark through which oath-taking was to be judged. While the fact of the matter is, that at least in self-generated oaths and vows (as distinct from those imposed by a court or political office) the very act of oath-taking recognizes one's less than whole, stable and uni-directed inner-state, for otherwise, there would be no need to make a vow to begin with. My

⁶ Lionel Trilling, *Sincerity and Authenticity* (Cambridge: Harvard University Press, 1972), 3, 5.

⁷ Eric Voegelin, *The New Science of Politics: An Introduction* (Chicago: University of Chicago Press, 1952); Seligman, et al., *Ritual and its Consequences*.

self-generated oath or vow commits me to a course of action that I fear I may otherwise not follow, due precisely to the weakness of my will and my less than coherent feelings of intention. Needless to add, the oath forced on Iseuld by King Mark illustrates how even the most insincere (if truthful) of oaths may in fact be validated.

What we usually call the “modern” period, certainly our contemporary world, should thus be understood in part as a period in which sincerity claims have been given a rare institutional and cultural emphasis. As a consequence, such ritual acts as oath-taking have come to be seen from the perspective of sincerity claims, and have come to be relegated in our minds to a supposedly “traditional” order that we have heroically superseded. Indeed, so pervasive have these sincerity claims become that oaths and vows are judged almost solely in terms of endlessly averred criteria of sincerity and authenticity. That this was not always the case, and indeed, continues not to be the case in societies defined in more ritualistic terms – and thus in societies where the spoken word seems to count for more than it does with us – we shall see in our following studies.

Intentionality in Talmudic views of Oaths and Vows

It was 2006, in Talas, Kyrgyzstan, at a seminar on ritual organized by *Aigine*, a local NGO and attended by Western and Central Asian academics, local practitioners, shamans, Manaschi (master narrators of *Manas*, the famous Kyrgyz epic, 600 times the length of the *Odyssey* and not recorded in written form until the twentieth century) and at least one female bard. Different groups were making presentations of different rituals and one group of scholars and practitioners had decided to enact a Kyrgyz wedding ceremony, to better demonstrate its details to the audience. At one critical juncture in the performance three elderly, female shamans began jumping up and down and gesticulating from the back of the hall, demanding that the proceedings stop immediately; for if they continued the “couple” enacting the performance would, indeed, be married. And so the performance had to end. No amount of explaining would help. These shamans had no truck or interest in such notions of intention, frames of action (in the sense of Ervin Goffman), or social context. It was quite clear to them that a ritual was taking place (and not a “play” being performed) and when the proper words were said and actions affected, a marriage would take place.

These ladies took performatives much more seriously than most of the readers of this work do and attributed an ontological efficacy to ritual that the majority of us are much too “sophisticated” to embrace. At most we can warrant a social efficacy and legitimation to the act, but not an independent reality. Yet, the attitude of those shamans to the wedding “play” was precisely what we described

in Chapter 1 on the matter of vows: something actually changes in the orders of the world and one must be very very circumspect in unleashing powers of that magnitude. What one intended to do has no bearing on the consequences. Intention, internal realities, the world of thought and emotion have no bearing on the actual, external, objective reality brought about as a consequence of our words and actions.

Vows and more critically oaths hold a somewhat ambiguous position between the type of magical manipulation of the cosmos that our Central Asian shamans attributed to the enacted anthropological “ceremony” and the type of concern with internal states of volition, intention and commitment that have defined a good deal of philosophical literature on this subject.⁸ Vows, at least in some traditions, lean more to the former orientation, oaths to the later (which is why though observant Jews to this day are reluctant to take an oath, they are enjoined never to make a vow – as we discussed in our earlier chapters). The power of these verbal formulations, as we saw in Chapter 2, was such that they could obligate God himself. The difference between them also correlates with the more private or personal aspect of vows as opposed to the more social or public, or perhaps simply interactive, nature of oaths.

On the one hand, the power of these illocutionary acts rests on their performative nature, on the quiddity of their enactment. On the other hand, the force that sets them in motion, even and especially in the case of vows, is the human agent to whom it is impossible not to attribute some degree of internality, intention and simply will. The fact that physical coercion can invalidate an oath is a case in point. And mistakes can and do happen. Jewish law, for example, allows a vow to be annulled if the circumstances under which it was made change in a manner unforeseen at the time the vow was made (as we discussed in an earlier chapter and as still practiced in the Catholic annulment of marriages). Charlotte Bronte’s mid-nineteenth-century novel *Jane Eyre* describes the type of tragedy that ensues when marriage vows cannot be broken, however false and deceitful were the circumstances that led to the marriage vows when they were made.

In this chapter we shall view how different traditions deal with the matter of intention and how they parse the ambiguity that is inherent to the workings of intention in the making and taking of oaths and vows. We should begin however by noting that there are at least two broad rubrics under which to understand intention. The first is the inner state of the vow-maker or oath-taker. Was she in-

⁸ Michael H. Robins, *Promising, Intending and Moral Autonomy* (Cambridge: Cambridge University Press, 1984); H. A. Prichard, *Moral Obligations and Duty* (Oxford: Oxford University Press, 1968).

deed committed to her verbal statement? Was it a fully volitional act or were there hesitations, ambiguities and unspoken caveats attached to the vow or oath? The second broad spectrum of possibilities that could raise questions regarding intentionality have to do with the correlation between the intent of the actor and what she actually said. Did she say what she meant? Did other people understand her to say what she meant? Could there have been some misunderstanding in interpreting her statement? Was the spoken word indeed reflective of the internal volitional state and was it understood to be so? All these are of a somewhat different order than the internal state of the actor when making her oath or vow. Let us see how different traditions approach these two aspects of intentionality.

Other than addressing the problem of outright (or more subtle forms of) deceit, the Jewish tradition – with which we shall begin our inquiry – does not concern itself over much with the inner state of the oath-taker. The sincerity of the will or purity of volition is not a subject with which it concerns itself at least not in terms that would be recognizable to modern psychologists or philosophers – though as we shall see the situation is far from uni-dimensional. In fact, concern with intention veers towards the performative aspects of the act rather than the internal state of the actor. The exception, as noted, is in the case of deceit, not that is to say of a false oath, for there the issue is simply of a lie, along the lines discussed in chapter one, but of an oath that in its verbal assertion is correct but is nonetheless aimed at perpetrating a deception. As we shall see, the nature of deception can be “hard” or “soft.” By that we mean a full-fledged attempt to deceive one’s interlocutor (hard) or, on the other hand, a form of rhetorical trope that is meant to convey one’s opinion in terms, perhaps more forceful and irredeemable, than one really intends (soft). We will discuss this shortly in terms of vows.

The example of “hard” deceit in matters of oaths given in *Tractate Shebu’oth* of the Talmud concerns the oath of testimony. A man insists that he returned a loan the existence of which the other litigant denies and so is made to swear that the funds had been returned. Before appearing in court however he hollows out a walking stick, fills in the void with the coins, the sum that he owes, and just before he goes up to swear to the court that he returned the loan, he asks his accuser to hold the cane (with the invisible money in its hollow core) and swears that the funds had been returned. He then retrieves the cane, with the money, after making his oath.

This case is surprisingly like that of Iseult swearing that she was in no man’s arms except those of her husband and the beggar who helped her across the river (who was in reality Tristan), analyzed in chapter two. It addresses the case where the oath is literally a true oath but with the purpose to deceive. The intention however is clear, deception; and there is no ambiguity in internal states, the

only ambiguity or slippage is in the relation of the spoken word – the performance – to the internal state. Even in such cases the concern and focus of the textual tradition is on the performance-in-relation, rather than on any reality independent of the performance itself.

It may be useful to represent this visually (Fig. 2). In the center of concern is the performative act, the oath or vow, the spoken word which creates a new reality (either inter-subjective or, in the case of the vow, between the vow-maker and elements of the cosmos). The interest of the tradition is in the relation of this event to two different realities: that of the world in which this speech act is effected (external reality) and that of the actor's own internal state (internal reality).

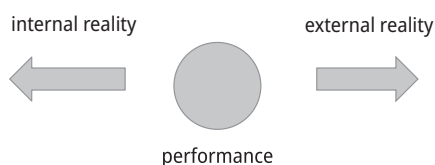


Figure 2: Performance and its Realities.

Just as the performance itself is scrutinized to ascertain that it conforms to certain conditions (the proper words were uttered, these and not those synonyms being allowed or prohibited, the oath did not repeat or violate a previous oath, including the 613 commandments given at Sinai and so on) so also its relation to the “surrounding” reality is also studied. However, as noted, concern with the internal reality of the oath-taker or vow-maker is more or less limited to ascertaining if a conscious deception was involved and, clearly, that no act of coercion was imposed.⁹

We have already discussed, in Chapter 1, the possibility to have a vow annulled if the circumstances in which it was made change and the vow-maker would not have made the vow had he known of the change. (Vows made by women could be subject to overriding by either their father or husband, except in very limited circumstances as discussed in *Tractate Nedarim* Chapter Eleven, hence the framing of our following cases in the masculine). If, for example, a vow was made inviting someone to dinner and one or the other, or one of their progeny took sick, or the river overflowed its banks making it impossible to fulfill the dinner invitation, then the vow is rendered invalid (*a priori* as it were). These examples too are understood as forms of coercion (אונסין). Other forms of vows

⁹ Regarding cases where it is permissible to give a vow with no intention of fulfilling its terms, in the face of coercion by robbers, thieves or the State see, Ned. 27b, 28a.

that are invalid by definition are those made on an impossible object (seeing a snake in the shape and form of the beam of an olive-press is the example given).

The annulment of vows is one arena where it is possible to get a sense of how the issue of intentionality is perceived by the Rabbis. These are discussed in the third and ninth chapters of Tractate Nedarim. Chapter Three lists the four broad categories of vows that may be annulled. The first is, interestingly, vows that were taken without a commitment to their terms, but with the intention of getting another to accept what one is saying, the examples given are of seller and buyer in the market making vows as to the minimum price they are asking or the maximum they are willing to spend.¹⁰ These are termed vows of incentive (זריוזין). Perhaps, vows as marketing ploy or other form of persuasion. The assumption behind this is that the vow-maker had no “real” intention to fulfill the vow but was using it as a rhetorical device only, and all were aware of this usage.

The second general condition for annulment of vows refers to vows of exaggeration (הבאי).¹¹ These are vows that were clearly exaggerations and everyone understood them to be so. There could be no assumption that the vow-maker intended his words to be taken literally, such as the aforementioned case of a snake in form of a beam of wood, or claiming to have seen a company made up of 600,000 people (less likely to be sure in fourth century CE than in the twenty-first). Under this general category are included not only vows related to clearly exaggerated items, but also to items that could have no existence in the world. Here too then the prevailing assumption is that the vow-maker could not have “meant” what he said in the literal sense – analogous in this way to the vows of incentive.

The third category of such vows are mistaken vows (שגגות).¹² These refer simply to vows made in ignorance of the correct state of affairs or perhaps when the vow-maker has forgotten an incident that took place in the past. For example, conditioning a vow on its maker not having eaten or drunk and then remembering that he had indeed done so; or prohibiting something to someone only to learn later that they are relatives; or instituting a vow as a result of an action that the vow-maker later learned did not take place (the example given is punishing his wife because she beat their child, only to learn later that she did not). In all such cases the vows are rendered invalid. Here then the intention was clearly there, unlike in the first two cases discussed, but the conditions defining or lead-

¹⁰ Ned. 20b–21b.

¹¹ Ned. 24b–25b.

¹² Ned. 25b–27a.

ing to the intention were either incorrect or wrongly ascertained and so the vow is invalid.

The fourth general form of vows rendered invalid by their very nature is the vow made through some form of coercion, discussed above. Further reasons for the annulment of vows are given as well in Chapter Nine of Tractate Nedarim and allow for vows to be annulled if they will lead to mockery or contempt for one's parents or for the Almighty (presumably a consequence not considered by the vow-maker), or if the vow was made to thoughtlessly include anti-normative behavior. For example, a man who vows to refrain from meat and wine (say for a year) without exempting Sabbath and Holy Days from this restriction (days on which one is commanded to celebrate, and there is no celebration without wine) will have the vow altered to exclude the Sabbath and Holy Days (though some claim that in doing so, the whole vow is annulled).

What we can learn from these cases of annulment is that when a vow was undertaken with imperfect knowledge, or under conditions of coercion, or if we have reason to believe that the vow-maker did not in fact “mean” – that is to say, intend – what he said, but used the vow for some other, generally accepted, purpose such as to incentivize his interlocutor: in all these cases, the vow is rendered invalid. In all, the performative act is understood to be less than representative of the “free will” of the vow-maker. There is, in all cases, some disconnect between performative act and internal state and that renders the vow invalid. As a general principle this is articulated in the middle of the third Mishnah of Chapter Seven of Tractate Nedarim when Rabbi Judah says “It all depends on the person who vows.” The full Mishnah reads:

He who vows [not to benefit] from garments is permitted sack-cloth, curtain and blanket wrapping. If he says ‘*konam* if wool comes upon me’, he may cover himself with wool fleeces, [‘*konam* if flax comes upon me’ he may cover himself with flax bundles. R. Judah said: It all depends upon the person who vows, [thus] if he is laden[with wool or flax] and perspires and his odour is oppressive, and he vows ‘*konam*’ if wool or flax come upon me’ he may wear them but not throw them [as a bundle] over his back.¹³

The meaning of R. Judah's statement is that we must rule according to the intent of the vow-maker in the circumstances of his vow.¹⁴ In other words we must seek to uncover what he meant to do within the particular circumstances within which the vow was made, including the limiting circumstances noted above, that is those permitting for a vow's annulment. The connection of internal state and performative act must be, as it were, unsullied and transparent and the act must

¹³ Ned. 55b.

¹⁴ Tractate Nedarim, ch7. Mishnah 3, in *Mishnayot Kahati*, (Hebrew) Jerusalem 1998.

reflect the clear intent of the vow-maker to indeed fulfill his vow in conditions free of coercion, ignorance or –on his part – rhetorical overreach. Again, as noted above, what is of interest to the tradition is the connection between the internal state of the vow-maker and the performative act – as representative of the un sullied state of vow-making – rather than the subtleties of the internal state itself.

As we move from the nexus of performance and the intention of the vow-maker to that of the performance and the reality outside of either the performance or the performer we move as well from vows to oaths. As discussed in earlier chapters, oaths are much more inter-subjective events than vows and involve much more than simply the public declaration of private acts (as of course the announcement of marriage vows are). Rather, they place us under obligation to an other and thus it makes sense that the locus of concern with oaths moves from the internal to external states.

As with vows, in the case of oaths, a good deal of attention is paid to proper locution. That is to say, the Talmud pays careful attention to matters of synonyms, linguistic equivalences, slang or popular expressions, repeated attestations and all manner of linguistic expressions that could commit their user to an oath; and debates if indeed an oath has been uttered or not.¹⁵ It further (as is usual in Talmudic reasoning) interrogates scripture for subtleties of meaning and rules of oath making (if for example an oath is valid if it was tied to another event, such as “I will not eat meat or drink wine, as on the day my father died”).¹⁶

As the issue is not the intent of the oath-taker but consequences of the oath in the world; the focus of discussion and debate thus turns on such matters as, for example; the amount of food the oath-taker prohibited himself from eating but did actually eat. Is there a minimum amount? Can the amount of bread, say, that the oath-maker prohibited himself from two separate loafs of bread in two separate oaths – but nevertheless ate – be added together to account for one violation (even if each in itself was less than the minimum that would constitute a violation)?¹⁷ Concern, as we see, is not if the intentions of the oath-taker were realized in the oath – but if a violation of the oath, as it was pronounced, indeed occurred. Was the performance validated in the subsequent acts of the performer? If a man made an oath not to eat and did not eat, but did in fact drink, was that a violation of the oath? If he made an oath not to eat and he ate prohibited items such as insects or meat not slaughtered in a kosher manner, was that a violation of the

¹⁵ *Babylonian Talmud*, Tractate *Shebu'oth*, 20a,b.

¹⁶ *Tractate Shebu'oth*, 20b.

¹⁷ *Tractate Shebu'oth*, 22a.

oath? If he made an oath not to eat and ate non-edible items (tree branches for example), is that a violation, and so on?¹⁸

Note that all these are examples of what we defined in Chapter 1 as oaths of utterance. We are not dealing with juridical oaths, of testimony or of deposit which are in fact fully inter-personal in their construction. In the cases above, which are albeit framed in terms of understanding if a violation of the oath occurred, the analytic point at issue is the performative meaning of the oath taken. Does an oath not to eat, include not drinking as well?¹⁹ If violated, is one liable on two prohibitions or only one? Does an oath not to eat include the eating of substances not generally eaten, either by humans or by Jews? It is, in these cases, less the specific, personal intention of the oath-taker (what Rabbi Judah stressed in the matter of the vow-maker quoted above) but very much the meaning, or if you will, the *intent* of the oath-as-performance, of the oath as illocutionary event that is at issue.

Debate if an oath to prohibit oneself from eating wheat includes a prohibition on barley, or spelt or other grains and the difference between an oath specifying “loaf” or not when uttered, is more about the illocutionary force of the oath than the original intent of the oath-taker.²⁰ All of these issues are not really about ascertaining the state of mind of the performer, but rather on understanding the scope of the oath: how far does its power extend, just to wheat, or to all grains and how does a small change in the wording change its force field. What is addressed, as we claimed earlier, is precisely the nexus of oath and world; of the intent of the oath (as act) and how it plays out in the world of human action. Intention then is understood somewhat differently from the type of internal spiritual or psychological processes that we so often identify with intentionality.

In this context we should recall the stress put on the utterance, on the verbal act of locution, rather than say an internal determination to take an oath. The scriptural passage provides the basis for this concern: “Or if a soul swear, pronouncing with his lips to do evil, or to do good, whatsoever it be that a man shall pronounce with an oath, and it be hid from him; when he knoweth of it, then he shall be guilty in one of these” (Lev 5:4). And the concern is very much in ascertaining the nature of the verbal utterance and if it fulfills the scriptural conditions of a true oath (possibility of positive or negative renderings “to do evil or to do good”; the tense of oath, past or future and so on).

¹⁸ *Tractate Shebu'oth*, 22b.

¹⁹ *Tractate Shebu'oth*, 23a.

²⁰ *Tractate Shebu'oth*, 23a–b.

Different possible scenarios are further explored as acts of clarification: for example if one intended to make an oath prohibiting himself from eating barley bread, but in the end simply said “bread.”²¹ What is prohibited? The way the problem is dealt with is actually quite elegant. The Gemara thus allows the internal state to be used as an interpretive tool in order to understand the verbal utterance; all the while making clear that an oath is not an oath unless and until it is actually spoken. The importance of individual intent, at least here, as a clarifying measure, is to help interpret the oath, to render it more accessible to others rather than to define its validity. Again, to allow its proper positioning within the surrounding – external – reality.

Like vows, the rules pertaining to oaths and their validity also entail taking account of different forms of coercion. Here also, as in the matter of vows, “coercion” is understood not simply as force exercised by an other, but the fact that we are all subject to the vagaries of imperfect memory or even attention and perception. Thus I may have prohibited myself from eating barley, and assumed that what I had in hand was wheat, but it was actually barley. Or indeed, I may have simply forgotten that I took such an oath at all. Or yet again, forgotten that it was barley that was subject to the oath and not a different grain.²² At one point discussion focuses on the peculiar circumstances of a man having both forgotten that he undertook an oath and also mistook the item that he ate. Thus, he took an oath not to eat wheat bread, forgot that he had taken the oath and also assumed that the bread in his hand was made from barley while in fact it was made from wheat. He, consequently violated his oath in two directions as it were; forgetting both the oath and misapprehending the item that he ate. Debate in such case turned on if it is the act of forgetting that we will use to adjudge the case or the mistaken apprehension of what he ate.²³

Similar problems of the role of (incorrect) memory in giving a false oath are discussed in Chapter Five of Tractate Shebu’oth which is devoted to oaths of deposit and include not only funds deposited with another, but also loans, monies found or appropriated. Here distinctions are drawn between swearing falsely intentionally as opposed to mistakenly – and the different penalties invoked. In discussions of the circumstances in which one who gives a false oath (denying that he has any funds belonging to another) is or is not liable for a sacrifice, distinctions are clearly made between those who purposely give a false oath and those who make such an oath by mistake. The latter case may include not only those

²¹ *Tractate Shebu’oth*, 26b.

²² *Tractate Shebu’oth*, 26a.

²³ *Tractate Shebu’oth*, 26a.

who do not recall, when making the oath, that the other had indeed lent, or deposited monies with him, but also the case where he remembered the monies but did not remember that the punishment for giving such a false oath was offering a sacrifice. Indeed, different levels of inadvertent or false oath-taking are analyzed and ruled on by the authorities, including:

- False oaths predicated on simple deception where one knows he is lying as he denies having the deposit and also knows that a) lying is forbidden, and b) a sacrifice must be offered for giving a false oath,
- False oaths predicated on deception where the oath giver knows when giving the oath that the monies were indeed deposited with him, but did not know that lying was prohibited and did not know that the penalty for such false oath was to offer a sacrifice,
- False oaths offered without knowledge that the penalty for such was a sacrifice (though he did remember that the monies were with him),
- False oath offered with the oath giver having no memory at all of having received the money in question (in which case it is ruled a mistaken oath and not a false oath and no penalty is extracted).

All such cases are debated (not only in the Mishnah and Gemara but among later medieval judicial decisors as well) as to their constituting coercive circumstances which rendered the oath invalid as the failed performance (or aspects thereof) resulted not from the willful act on the part of the performer but of circumstances beyond his control. One can understand this as a concern with the intent of the actor, but we can just as easily understand it as a concern with the failed performance itself and its consequent status in the world.

Just as performances can fail, so can acts of interpretation or understanding.²⁴ This is the theme of the penultimate Mishnah and subsequent Gemara of Chapter Three of Tractate Shebu'oth. Thus, if a man takes an oath that he saw a camel flying in the air, the question is raised if this is indeed a vain oath, as it refers to an impossible state of affairs. As we discussed in Chapter 1, oaths of utterance predicated on such vanities are not oaths. Or, is it possible that he simply meant to swear that he saw a cloud in the shape of a camel? Not a vain oath at all, simply a misunderstanding of its terms on the part of the interlocutors. Or a discussion of the aforementioned snake that was like the beam of an olive press. Was the meaning that it was as large as such a beam (and hence discussions if such is or is not possible in nature or so, if it was or was not a vain oath)? Or perhaps the oath-taker was referring simply to the pattern on the snake's back which was similar to

²⁴ *Tractate Shebu'oth*, 29a–b.

the cracked wood of the olive press's beam, a common occurrence in snakes. Here then, as stated at the beginning of our chapter, the nexus is that between the oath as performance and its understanding or interpretation. Here in fact, intent is mobilized for interpretive purposes (similar to the unspoken part of an utterance that can be used to interpret the oath, discussed above). What was meant can be mobilized to establish what was said. Note however an additional point as well. For what is opened up in raising different interpretive possibilities is a process similar to that described by Peter Brown regarding the ordeal: an interpretive challenge as to how to assess the meanings of the act or event. Instead of being closed, the illocutionary act becomes open, labile and given to multiple readings. The performative reality of what was said is no longer a closed box but a collective act of understanding. Internal intent as read by external actors. The performative act remains at the nexus.

As we know from our first chapter, oaths are subject to all manner of limiting conditions. They often involved what may be termed the “double performative” of spoken words tied to physical actions. Thus we discussed the *horkos* as the substance grasped during oath-taking in ancient Greece, or the “oathing stone” in East Africa to which we may add, for example, the arrow, thrust through a piece of meat, placed on a “red painted buffalo skull and then raised towards the sun” with which the Crow Indian in what is now Montana guaranteed his oath.²⁵ We noted as well the use of sacred relics in the Christian tradition and the swearing on the Torah for one who partially admitted a loan in the Jewish tradition. Among such limiting conditions of different forms of performatives was, as John Austin pointed out, and as we noted at the very beginning of our study, the need for the performer to be of a specified nature, or incumbent of a specific role. Not every drunk can smash a bottle of beer on the prow of a ship and in doing so rename it. Not every passerby can carry out a marriage ceremony that will be deemed socially legitimate.

So also with oaths in the Jewish tradition. Not everyone can take an oath. Indeed, certain categories of people are specified as being problematic in terms of oath-taking. These are categories of people who are, a priori suspected of swearing falsely whether in cases of giving testimony or in oaths of deposit or even in cases of vain oaths. In the former two cases they would be violating relations both between man and man – and so causing concrete harm to another – as well as between man and God. In the later case, of vain oaths, they would consist solely of violating relations between humans and God and thus not causing harm

25 Nick Yablon, “For the Future Viewer: Salvage Ethnography and Edward Curtis’s *The Oath – Apsaroke*,” *Journal of American Studies* 53 (2019): 2.

to their fellows, but, nonetheless are forbidden from taking oaths. They are thus not sworn or adjured in any legal matter when they are litigants. Here is how this appears in the Mishnah:

He whose opponent is suspected of taking a false oath. – How? Whether it be the oath of testimony or the oath of deposit, or even a vain oath; if one [of the litigants] was a dice-player, or a usurer, or pigeon-flier, or dealer in the produce of the seventh year, his opponent take the oath and receives [his claim]. If both are suspect, the oath returns to its place: This is the opinion of R. Jose. R. Meir says, they divide.²⁶

The case in question concerns one of the litigants, who as he is the accused must swear to his innocence but is not deemed reliable in giving an oath. The categories of people deemed unreliable is itself interesting. They are all individuals who do not earn their living in an acceptable manner, do not submit themselves to the same conditions, trials and tribulations of their neighbors, and so we cannot rely on their “intentions” or honesty in manners of oaths. These include; gamblers, usurers, speculators who market fruits grown during the seventh year of *shmita* when the land is to be left fallow as well as those who release pigeons either in a type of race, or to be hunted – thus evincing an unbecoming cruelty. In such cases the litigant – typically the defendant – is by definition suspect and not adjured. Rather the plaintiff is adjured in his stead and receives the sum owed. If both are suspected of any of the above acts, neither swears (“the oath returns to its place”) but the defendant must pay. In another reading of this state of affairs (where neither party may swear) the sum in question is divided. In the Gemara the expression “the oath returns to its place” is discussed and different interpretations are offered. Returning to its place is seen as referring to the giving of the Law on Sinai and God’s injunction against theft. In this reading the plaintiff must therefore secure the funds from the defendant, but outside of any juridical procedure. In another interpretation, God himself will insure that the sum is repaid to the plaintiff. And in yet another, the defendant must pay the plaintiff even without an oath.

For our interest in intention; the exclusion of certain categories of individuals as incapable of taking oaths is of great interest. People who essentially set themselves up outside of social norms and the proper exchange relations of the division of labor are, *prima facie* suspect. Their refusal and attempts to dodge or foil the force of Ananke, of the necessity we all labor under, makes them unreliable. We cannot trust them, even of what they may say under oath. We can assume no commitment to their utterances, no correspondence between word and volition,

²⁶ *Tractate Shevu'oth* 44b–45a.

intent and act (that is performance). The oath is, we have been arguing throughout, the social form par excellence, it is the concentrated or essence of what is social, of what stands between us and thus it stands to reason that those who refuse the agreed upon norms of social exchange should be considered suspect in their oaths and thus not adjured.

Felicitous and Infelicitous Conditions of Oath taking in Orthodox Christianity

The examples discussed so far which display a systematic concern with the internal and external factors that make the keeping of an oath possible and are characteristic of the Jewish tradition, show an advanced level of self-reflection lacking in the Orthodox Christian tradition. In fact, the detailed discussion of the reasons and reasoning behind a broken oath sounds to the Christian ears more like an attempt to circumvent the words of the oath, rather than an effort to correctly interpret the intentions of the person taking the oath.

From the Christian point of view the whole oath-taking ordeal seems to be significantly simpler and gives far less space to any doubts about the meaning of the speech act. Once taken, the oath irreversibly binds the oath-taker, regardless of the presence or absence of any mitigating circumstances that would weaken its power. Indeed, and very much in the Jewish vein, Jesus (as quoted earlier) explicitly warns his followers against the taking of oaths.

In terms of the “felicitous conditions” (in Austin’s sense) of the oath, it is surprising to what extent the absence of accepted conventional procedure and specifically named people and circumstances is compensated in the Christian tradition by the presence of thoughts, feelings and intentions on the part of the person taking the oath to behave in a specific fashion afterwards.²⁷ It seems that, regardless of the circumstances of the oath or vow, according to Christians, the leading factor for its felicity is the individual’s personal attitude towards the statement (its truth or falseness), as well as that person’s subsequent behavior. All of this, of course, is enacted in the presence of a transcendent and divine power.

We may illustrate this idea with an example or two. Pronouncing the words 1) “I swear to never drink again” or 2) “I promise to always be faithful to you” may be uttered in different circumstances. The pronouncement can be made in front of, or to other people, with or without witnesses (example #2), but could also be made in the solitude of a morning hangover (example #1). The circumstances

27 J.L. Austin, *How to Do Things with Words*.

could also be those of duress. When in a threatening situation (to life and/or health – of oneself or one’s nearest and dearest), one promises to do something, even though that may be extremely unpleasant.²⁸

In the first case, in which the promise is made without witnesses, it remains shared solely between the speaker and God, which at least in theory, does not reduce its binding power in the slightest. Obviously the words could be spoken purely rhetorically (someone nursing a hangover probably does not intend to stop drinking forever), so that the systematic use of such spoken formulas leads to their loss of meaning – similar to the boy who cried wolf – the person using them risks being put in the position of the aforementioned mistrusted witness.

The second case is much more complicated. Although it seemingly assumes feelings of love towards the addressee by default, this need not be the case (as seen in the many examples discussed so far). The taking of this oath can be caused by a myriad of reasons, some more and others less deserving of respect – from sincere love and an intention of fidelity to purely selfish intentions (for example, the chance to immediately take advantage sexually of the object of one’s lust, or the opportunity to use him/her as an instrument to improve one’s own social status). Regardless, this does not change the fact that an oath has been taken and, at least theoretically, gives the addressee the right to demand an adherence to the promise – with different likelihoods of success, depending on a number of factors. (Here again, note the difference between an oath and vow, for the latter provides no such right to the addressee).

By declaring an intention to change his or her behavior in a specific way, the oath-taker engages in a peculiar form of gift exchange with the transcendent authority.²⁹ He or she will stop drinking/being unfaithful, i.e. will abstain from something important and/or pleasant, with the hope of receiving something else even more important and/or pleasant, such as good health or reciprocated love from their partner, or even life (in the case of *Beauty and the Beast* for instance). Thus the scheme of communicative exchange either gets further elaborated or reduced to the formula *I will do/stop doing X, but in return will get Y*. This line of analysis leads to the interesting question of balance in the exchange – a person is

²⁸ A classic example is the promise given by the father in the fairytale, *Beauty and the Beast* – in order to save his life, the father swore to send one of his daughters to the beast’s castle. Albeit undesired, the promise was binding and its execution was doubted by neither of the sides in the communicative act. This pattern of thinking (both positive and negative) can be discerned in many mythologies, folklores, and the scriptures of various religions and usually serves as an entanglement and reference point for subsequent events.

²⁹ On gift exchange see Marcel Mauss, *The Gift*.

offering/sacrificing something important, which is difficult to obtain or enact, otherwise one could not expect something even more valuable and unobtainable.³⁰

This in turn leads to the further idea that the taking of an oath is focussed on the seriousness of the words, “their being uttered as (merely) the outward and visible sign, for convenience or other record or for information of an inward and spiritual act,” which, in turn, leads to the idea that “in many cases the outward statement is a description, true or false of the occurrence of the inward performance.”³¹ This external realization of an inward act is irreversible, or at least that is how it seems from a logical point of view.

How – we may ask – does this play out in reality? Let us then review some “infelicitous conditions” of oath-taking. After all, it was hardly possible that all oaths taken and promises given in the Christian world were kept under all circumstances. The breaking of an oath can happen due to the lack of initial intent in the speaker (Austin formulates it through Hippolytes “ἡ γλῶσσά ὁμώσχε, ἡ δὲ φρενὴν ἀνωμοτόσχε” – “my tongue swore, but my heart didn’t”), or the inability to keep the promise caused by a change of circumstances or a moment of weakness. Notwithstanding the reason for the breaking of the oath, the oath-breaker is placed in a specific position with regard to the transcendent witness/authority, as well as with regard to society, not to mention the destruction of their relationship with the direct addressee of the oath. If the relationship between the oath-taker and the addressee is interpersonal and, therefore, subject to constant redefining and renegotiation, in relation to the community that judges the person’s behavior, he/she is defined as an oath-breaker, and in relation to the transcendental authority, a sinner.

Failure to fulfill the terms of an oath is presumably subject to both human and divine sanction. From the point of view of society, the sanction should restore violated justice, i.e. the match between words and reality, which gives a feeling of adequacy and correctness in the functioning of the universe in relation to the community as a whole, as well as to its individual members. In different cultures the sanction can vary considerably – from public reprehension to different forms of ostracization, to looking for a justification or apology for the act.

What means did pre-modern Christians have of coping with *infelicitous performatives* and the sin they seeded? One interesting text that offers insights into this topic is to be found in Orthodox liturgical practice, of which there are written accounts from the period between the eighth and nineteenth centuries. Specifi-

³⁰ In other words, if a vegetarian swears not to eat meat, this would not be a legitimate promise even if they adhere most conscientiously to the promise given as they do not deprive themselves of something precious and do not do anything difficult.

³¹ Austin, *How to Do Things with Words*, 11.

cally, it is a prayer [administered from] above “those that have boldly sworn”, which aims to absolve the person who was bold enough to take an oath, but failed to uphold it. The prayer is very old, found in the oldest known Byzantine euchologion (the so-called *Barberini Euchologion*)³² from the eighth century. It was translated into Church Slavonic shortly afterwards, and was included in the oldest Glagolitic Slavic euchologion – the *Euchologium Sinaiticum*. It seems that the prayer was used relatively often, as a number of variants of it can be found in South Slavic trebniks from the period between the fifteenth and nineteenth centuries.³³ (*Trebnik* is the ritual book specific for the Orthodox Church with the text of the six of the seven sacraments as well as the rituals and prayers for different occasions that priests receive upon become priests, and basic for their everyday work). Alongside the prayer above those that have boldly sworn, other permissive prayers with the same function were copied and disseminated through Slavic *trebniks* of the premodern era. This suggests that in traditional Orthodox society, the breaking of an oath was thought of as a serious offense in both religious and civil law, and required a special normalizing procedure, which would restore order. This refers to the inner order of the individual who has sworn falsely, the order in intrapersonal relationships, as well as the correctness of the relationship between the person and God.

The original text is as follows:

МОЛ(ИТЕЯ) НАД(Ъ) ПРИСАЖЪЩИИМЪ ДРЪЗОСТИИЖ

Б(о)же вѣды немощь. і оудобь // погыбение рода чл(овѣ)ча . і // мыслен нашихъ оудъ. делѣя // разоудѣя. Помышлениѣ прѣбѣя//важшиѣ намъ въ дръзости. // съи незълобениѣ. Съподоби прѣ //зырѣти въпадъшимаѣ. Въ мь//нѣниѣ присаггы отъпоустн. ты // во единѣ събѣси тангы ср(ъдъ)ць на// шихъ. тѣмъже молимаѣ ти сѧ от(ъ)//данне подажди гмъ. і намъ// благостыина твоѣя радн. в(ш)// Ъко вл(а)г(сло)ви сѧ и прослави. прѣчест(ьное . . . нал твое)

Prayer Above those that have boldly sworn:

Oh God, who knows the weakness and propensity of the human race to temptations and who discovers all the thoughts of our minds, and understands our abiding and ever-living boldness and audacity; You who are without malice, show mercy to those who fall into sin and dare to swear and to take an oath; for You alone know the secrets of our hearts; therefore we pray to You; in Your kindness and everlasting goodness unbind them and us. Amen.

32 Stefano Parenti, Elena Velkovska. (ed.) *L'Eucologio Barberini gr. 336*. (=Bibliotheca “Ephemerides liturgicae” “Subsidia”), (Roma, 1995), 223.

33 We will use the text of the prayer according to the two editions of the manuscript by Rajko Nahtigal (ed.) *Euchologium Sinaiticum. Starocerkenoslovanski glagolski spomenik* T. II, (Ljubljana, 1942), 55 (f. 24r); Cf. Jean Frček. (ed.) *Euchologium Sinaiticum. Texte Slave avec sources Grecques et tradition Française*. Par Jean Frček. Editions Brepols. (Turnhout: Belgium 1983), 706–7

The prayer's title "Above Those That Have Boldly Sworn" implies the specific positioning of the oathbreaker's body during the ritual – he or she kneels before the priest, who is reading the prayer, so as to express remorse for his/her moment of weakness. This presupposes that he/she has already confessed to his/her sin and, as such, has borne a significant portion of the punishment for his/her mistake. Although the confession is secret and the role of the priest (especially in the Orthodox church) is rather that of an intermediary between the sinner and God,³⁴ through confession the person that had boldly sworn has realized the error of his/her ways and bears the burden of self-judgment.

The text is short and relatively simple in structure. It lacks the extensive allusions to biblical precedents characteristic of later prayers, which normally serve as an argument for people's pleas.³⁵ The appeal to the transcendent addressee is direct and starts by describing God as recognizing humanity's weakness, which is the reason for the human race's damnation (meaning the weakness which the first man and woman showed when faced with temptation, which led to the Fall). The ability of the Creator to understand "all the thoughts of our minds" is directly connected to his "lack of malice" towards those that are "ever-living [in] boldness and audacity", that is to say connected to His expected mercy. This concludes the argumentation and is followed by the plea itself – that the sin of the one "fallen into sin and dare to swear" be forgiven, that the promise given be annulled and thus free him/her from the oath, and more importantly – from the sin of oath breaking itself. The final formula is directly addressed to God once again, referring to Him through a series of important felicitous conditions of the illocutionary act (a plea) – He knows the secrets of people's hearts, He is gracious and loves mankind, which makes the requested forgiveness and "unbinding" of the oath (and consequently being released from having sinned) possible and expected. Again note the difference here from the Jewish attitude discussed above. There the restitutive act was legal, here it is in the purely ritual acts of prayer and confession.

Unlike the taking of an oath, which can be either private or public (as part of a ritual), the undoing of an oath is unequivocally connected with a Church ritual. One can promise (solely before God and oneself) to do something, but dealing

³⁴ In the Catholic tradition the different interpretation of the priest's power to "bind and unbind," i.e. to absolve from sin, is one of the main signs of the "Western way" of coping with sin. The possible functional parallels between the ritual practices described here and the later system of indulgences is not a topic in this text.

³⁵ Traditionally the form of supplicatory prayers was the invocation of a past act of God's goodness or mercy and on that basis asking for help today. The precedents listed can be many in number.

with one's failure to uphold the oath requires external help. Even if one tries to free oneself from the oath on one's own, this would only leave the situation unbalanced. Relations between the oath-breaker and society, the oath-breaker and God and even his relations with himself would be left in a state of a-symmetry, sin and a discordance that only Church ritual can right. Whatever the justifications for the failures, which Austin describes as "misexecutions . . . misinvocations . . . insineries,"³⁶ it is nonetheless clear that these myriad variants are, in Christian understanding, simply different forms of human weakness in the face of passions and temptations.

The realization and admission of this weakness places the Christian sinner in quite a different position from the oath-breaker in the Jewish tradition. Rather than the type of legal arguments for non-compliance that we have studied above, the Christian admits their weakness with a broken spirit and faces judgment – from society and/or the community, from their conscience, as well as from God, relying on His mercy.

With regard to the social attitude towards oath-breaking, it turns out that it is quite nuanced and differentiated in its details, and although not present in any normative text, it is no less effective than a standard legal norm. Thus there is the latent possibility of an oath being taken by a person, who has no intention to uphold it, without any consequences on the level of officially formulated and socially accepted norms. The (written) Christian legal tradition lacks discussions of cases that are connected to the annulment of an oath.³⁷ Although society and institutions are confronted with cases like this on an everyday basis, every specific case is solved in compliance with the law of precedence.

There are a number of interesting examples to observe, included in D. Marinov's remarkable compendium *Bulgarian Common Law*.³⁸ False oath-taking and perjury are described in §88–93, directly following blasphemy, which indicates the seriousness which traditional culture has ascribed to misdemeanors of this kind. Starting with the saying "when two lose their souls, a third loses his head," the older informants explain its meaning – if two people get together to take a false oath against a

³⁶ Austin, *How to Do Things with Words*, 18.

³⁷ An exception is the annulment of an unconsummated marriage in which the key role of the *bodily performative* as a required element of a marriage (alongside the performative function of the sacred act). This deserves a separate analysis.

³⁸ Dimitar Marinov, *Living Past. Book 4. People's Common Law*. Russe, 1894 *Book 6. People's Criminal Common Law*. Sofia 1907 (II Phototype print Sofia, Marin Drinov Academic Press, 1995). The data were collected in North Western Bulgaria at the end of the nineteenth century and the field notes comprise a serious study of the beliefs and traditions among the Bulgarians. It might be assumed that the collection provides evidence for the traditions in the Balkans at the time of transition from pre-modernity to modernity.

third, they can destroy that person; but just by colluding with each other in such a fashion has lead them to “lose their souls” i.e. they have doomed their souls to eternal damnation in hell. The old folk belief is extremely rigid in its conviction, that whoever deliberately lies when taking an oath is thus committing a sin, which must not remain unpunished – either in their lifetime, or through their children.³⁹

What is interesting in this case is that the community obviously already knew that the oath was false the moment that it was being pronounced. Regardless, nothing can undermine the juridical power of the spoken word – the testimonies under oath of two people who have “decided to destroy their souls,” are enough to cause a third person to be (undeservedly) sentenced, even if the judge senses, that they are lying. The words of an oath, even if intentionally false, do their work and create a new reality, which one is forced to accept and seemingly cannot resist. The responsibility for the consequences (in this world, as well as in the next) is seemingly completely transferred to the omnipresent transcendent witness and judge, who is expected to inevitably reward both evil, as well as good, and restore the disturbed balance. Thus the validity of human judgment is somewhat relativized at the expense of the infallible and peremptory divine judgment.

Christian attitudes towards coerced oaths were, interestingly, not at all parallel to those we saw in our review of Talmudic dictates.⁴⁰ Thus if a person was forced to take a false oath out of fear for their life, or the lives of their loved ones, the social attitude was ambiguous. We read that in such cases (of coerced oaths): “The people deem that he has committed a sin, but forgive him, because he swore to save himself. . . . The people excuse and forgive, because it is done out of fear. . . . It is a sin, but the people look on this oath and perjury with mercy.”⁴¹ Thus, in the event of coercion, the taking of a false oath was considered sinful, though not regarded as the type of unforgivable sin which directly sentenced the taker to the fires of hell. The collective social sanction in this case did not stop it from being a sin (which, as we saw, was not the case in Judaism), but expressed mercy and compassion towards the sinner, who lied out of fear for their life. In cases like this there was unexpected leniency towards cowardice – unlike the categorical and uncompromising assessment in folklore.

³⁹ Marinov, *Living Past*, 105–6.

⁴⁰ One important version of being coerced by one’s oath is the story of King Herod who swore to fulfill Salome’s desire and was bound to bring her John the Baptist’s head albeit unwillingly “Whereupon he promised with an oath to give her whatsoever she would ask . . . And the king was sorry: nevertheless, for the oath’s sake, and them which sat with him at meat, he commanded it to be given her.” (Matt 14:7,9), KJV.

⁴¹ Marinov, *Living Past*, 106–7.

Another exception to the belief in the sanctity of the given word was in the case of the oath being given before an infidel. According to one of D. Marinov's informants, "the oaths, which were once [under Ottoman rule] given before the Qadis [Sharia judges] were thought of as nothing by the people [the Christians], because then they would swear on the Turkish book [the Quran], the Qadi would administer the ritual, not a priest, and said the words 'Wallahi, billahi' that nobody understood. 'I would take such an oath three times' – this is what everyone would say, and swear. But when it came to swearing on the gospel and before a priest of ours – then it became difficult to take an oath."⁴² Obviously the conventional procedure of taking an oath in an Islamic court, although formally correct, turns out to have been invalid and thus non-binding for Christians. The foreign ritual words, as well as the foreign ritualistic context (using the Quran instead of the Bible), and the ritual officer himself (the Qadi, accredited as a legitimate administrator of the ritual within the Islamic setting, but not outside it), were circumstances that invalidated the oath, at least from the Christian point of view. Such religious contextualisation of the terms of validity of the act of oath-taking could be observed in cases of clearly defined confessional borders, additionally hardened through situations of ethnic, political and social conflict, i.e. nearly everywhere.⁴³ This questions the whole basic function of an oath – to supply human interactions with the necessary security and predictability in cases where trust cannot be accepted as a predicate and confidence is the maximal possible guarantee of success in communication. If a person could only trust people from their own religious group, who would all swear on the same holy book as them, then how would trade be possible in a multinational and multireligious empire? How would international contracts, bound by an oath, be signed between representatives of different religions?⁴⁴ As we know, Jan Assmann attributed the rise

⁴² Marinov, *Living Past*, 107.

⁴³ It remains so today as well. See for example cases of false evidence from Roma people in judicial institutions of the State (i.e., the institutions of the *Other*) without any hesitation while in the *meshere* (i.e., their court) such perjury is unthinkable; a lie pronounced there has severe consequences both on the horizontal and the vertical plane. Cf. Alexey Pamporov. *The Meshere – Structure and Social Function* – (Balkanistic Forum 2002/1-2-3), 207–12.

⁴⁴ Cf. The description is of the signing of the peace pact between Omurtag, a Bulgarian pagan ruler, and Leo V, a Byzantine emperor-iconoclast in 814–5. The Byzantine swore according to the proto-Bulgarian tradition (spilling water from a cup, overturning a saddle, and raising a triple plaited whip) while the Bulgarian placed his hand on the Gospels. This crossing of religious borders angered Byzantine chroniclers who called Leo V "an enemy of truth" and referred to his behavior as "shameful and immoral." *Vita Nicephori auctore Ignatio Diacono*, FONTES GRAECI HISTORIAE BULGARICAE, Vol. IV, (Sofia: Publishing house of BAS, 1961), 36–7.

of monotheism precisely to this need for people to guarantee their contracts by appeals to a deity recognized by all.⁴⁵

Returning to the infelicitous conditions of an oath according to Bulgarian common law, there is a further precedent described by the informants as being fallacious and superstitious, but obviously present in practice. This concerns the act of purposefully sabotaging the success of a performative utterance by performing specific actions that were believed to have the power of invalidating the pronounced words, i.e. here the double performative is asynchronous, words and actions lead in opposite directions, whereby the power of action is supposed to prevail over the power of words. “Fools believe that when a person swears, . . . if that person is holding a flint and steel . . . a stone from the river . . . a coal from an abandoned house . . . Or if they say to themselves “speak mouth, but you soul – be silent,” or if dressed in the clothes of a dead person – then there is no sin . . . The oath is not an oath and it is as if it never was.”⁴⁶ It is of interest to anthropologists to analyze the meaning of these ritualistic actions – their clear connection to fire or water (cleansing powers severing the link between the person and their actions) and especially – the signs of non-existence (the extinguished fireplace in the abandoned house, the clothes of the dead) through which the oath-taker would try to cut the connection between that spoken by the mouth and wished for by the soul, and protect themselves from the deserved punishment for taking a false oath. Although qualified as being methods that only the “simple and stupid” would accept, these are undoubtedly echoes of an archaic understanding of a unity between the ritual word and act which when disrupted invalidates the whole performative act.

There is another important detail, deserving of attention, which concerns the taking of an oath within the Orthodox tradition. This concerns the conscious difference between an oath and a so-called *bozhba*, or oath to God, which was a public (but not ritualistic) self-swearing, whose aim was to emphasize the veracity of the spoken words. “An oath is an oath, when it is taken before a priest, the cross and the gospel. In another place and before other people, I can swear three hundred times. The shopkeeper swears three hundred times a day to convince you that his stock is good; the innkeeper swears three hundred times a day that he hasn’t put water in the wine and the rakia and doesn’t cheat; while the gypsies can’t live without lying and swearing – but it is all empty swearing; obviously this isn’t good, but this is what they are used to, it is not such a big sin.”⁴⁷ Again, com-

45 Jan Assmann, *Moses the Egyptian* (Cambridge: Harvard University Press, 1998).

46 Marinov, *Living Past*, 107.

47 Marinov, *Living past*, 107–8.

pare this to the Jewish concept of “vows of incentive” studied above – where the non-oathlike quality of the oaths is understood by all.

We can thus see that in some cases (vows of incentive for example) there is much overlap between Jewish conceptions and the folk practices of Christian Orthodox society. However, we must not ignore the fact that the general orientation to oath-taking and oath-breaking is vastly different. As we have seen this was the case in terms of oaths coerced by external forces, towards which the Christian tradition was ambiguous while the rabbinic tradition has no problem thoroughly discounting. Similarly, the type of exchange relation with the Almighty which we saw as characteristic of different forms of Christian oaths, while existent in the Bible (Old Testament) is non-existent in rabbinic and later Jewish thought. It is seen as approaching that form of magical manipulation of the cosmos that Honi the circle-maker just managed to skirt.

From a Christian perspective the Jewish approach would appear as endless attempts at exculpation and denial of the guilt incurred with the breaking of one’s oath. The Jewish perspective, for which sin is not an ontological state, but simply a mistake, an error, “missing the mark” the concern is less with exoneration from sin and more with determining the phenomenological frame (in Goffman’s sense) of the act. Less individual intention and more the myriad conditions of the oath as an act, indeed as an interlocutory event, are the concern of the rabbis. We would of course be remiss if we did not mention that these differences in approach touch on some of the worse misunderstandings of the Jewish civilizational project by Christian thinkers and theologians for millennia.



Part Two: **Desire and the Word**

Chapter Four

Eros, Ananke and the Gendered Oath

The communal life of human beings had, therefore, a two-fold foundation: the compulsion to work, which was created by external necessity, and the power of love, which made man unwilling to be deprived of his sexual object – the woman, and made the woman unwilling to be deprived of the part of herself which had been separated off of her – her child. Eros and Ananke [Love and Necessity] have become the parents of human civilization too.

–Sigmund Freud¹

Understanding, interpreting and dealing with unfulfilled or broken oaths or vows is, as we have seen, irreconcilably tied to our understanding of the intentionality of the oath-taker or vow-maker. Further, as we have also seen, these attitudes differed across different traditions, religions and time periods. They also differed across the variable of gender. For oaths were, as we analyze here, irredeemably gendered. That is to say, the relevant realm of efficacy of the oath or vow's action and hence the consequences for its violation differed greatly – across different cultures – for men and women. To no small extent women's oaths pertained to the oikos, the home and men's to the polis, the city; thus to the realms of sex and kinship and of politics respectively (though of course such distinction is far from absolute).

After first exploring these gendered aspects of oath-taking and vow-making in this chapter we shall proceed in those that follow to focus on the breaking of marriage oaths by women as presented in European myths and literature from the twelfth to the nineteenth centuries. Doing so will allow us greater purchase on the analytic themes broached in Part One of our study.

Eros and Ananke

In his late work *Civilization and its Discontents* Freud posited a tension between love and necessity, or Eros and Ananke; both, in his words, “the parents of human civilization.” Necessity, Ananke, is imposed by the need to work – and as Karl Marx taught us, to work together with others, to transform the natural envi-

¹ Sigmund Freud, *Civilization and its Discontents*, vol. xxi *Standard Edition of the Complete Psychological Works of Sigmund Freud*, eds. Anna Freud and Alex Strachey (London: Hogarth Press, 1961), 101.

ronment.² Love, Eros, arises out of two sets of bonds, that mother and child and that between men and their sexual objects.³ Both serve as the basis of human community and thus of civilization.

Love or Eros may also be understood as the generalization of trust from the primal units of mother-child and male-female to broader society (in what Freud would term aim-inhibited or non-object specific love).⁴ The original dyadic relation is generalized until it becomes the basis of collective solidarity and group belonging. This generalization notwithstanding, our understanding of love or Eros has as its ideal an unmediated connection, that is, of an overcoming of conflict, frustration, pain and indeed of the frail and fragile, labile and mutable nature of all human relations. It seeks unity rather than differentiation, wholeness rather than partiality, homogeneity rather than heterogeneity, unselfishness rather than selfishness and in general the overcoming of that separation and loneliness that is our sad lot as human being. It is Martin Buber's *I-Thou* rather than *I-It*.

Necessity, on the other hand, is always mediated. For we always intervene in nature to transform it together with other human beings (whether by building houses, planting fields, hunting animals, even getting manicures). This is quite simply what we mean when we talk of the division of labor.⁵ Our social, communal or civilizational relation to the natural world is thus always mediated by other human beings, and more specifically by the laws that govern our relations to these other human beings. These laws, upon which all social order, all civilization, is built are and must always be mediated, based as they are on differentiation and division – from the division of roles, responsibilities, obligations and entitlements within the family to those of the division of labor itself. Once we leave the “garden” and the path towards unity closes behind us, all relations – in order to exist – need to be mediated.

This mediation arises from those promises, vows, oaths and obligations the keeping of which for Immanuel Kant were a “perfect duty” and that for David Hume were the basis of justice and community.⁶ Oaths and the law within which they are embedded are thus our primary form of mediation.

If Eros represents a striving for oneness, and so the creative push to overcome all mediation and the boundaries they imply; necessity and the law that it

2 Karl Marx and Friedrich Engels, *The German Ideology*, ed. S. Ryazanskaya (Moscow: Progress Publishers, 1968).

3 On these relations as the basis of human trust see P.J. Wilson, “The Promising Primate,” *Man* 10 (1975): 5–10.

4 Freud, *Civilization and its Discontents*.

5 Marx and Engels, *The German Ideology*.

6 David Hume, *A Treatise of Human Nature* (New York: Macmillan, 1948), 490–545.

entails, implies a recognition of partiality, differentiation and separation, that is, precisely, of boundaries and their endless, often fraught (sometimes violent) negotiation. The role of the law and of those oaths which make law possible mediate between these separately bounded entities.

That the oath or vow is critical to the social regulation of sexual desire through marriage relations (however conceived) is a truth hardly worth repeating. Marriage vows formalize and thus socialize – through a combination of legal and ritual action, in a purely performative act – the sexual relations between women and men (and increasingly in today’s world of same sex relationships as well). Marriage vows first appeared in Northern France in the fourteenth century and spread rapidly in Western Christendom over the next 100 years.⁷ Their very popularity however indicates something beyond mere regulation or reformation.

For the marriage oath or vow does much more than simply “regulate” or reform. Rather, and as noted in our introduction, it habituates. That is to say, it provides the space, the frame, the very possibility for the working out, the realization, even the flowering of erotic relations. If we think for a moment of Freud’s notion of the two primary drives of sexuality and aggression, we can thus see the oath as critical in the habituation of both. We may, in this reading, take sexuality and aggression as biological “givens” instincts that we share at very least with other primates, if not the broader genus of mammals. These basic or primary instincts attain, in our minds anyway, a more human form in our conceptions of love (or Eros) and anger. In these states of being the primary mammalian instincts have already undergone an initial transformation into something we recognize as human, if in an as yet inchoate form. Habituation takes these as yet “raw” emotions to another level. Social scientists may say it “socializes” these emotions while Aristotelian philosophers would claim that proper habituation will lead us to be “angry at the right things and towards the right people, and also in the right way, at the right time and for the right length of time.” In such circumstances anger too may be a virtue and the angry person is to be “praised.”⁸

If *pace* Aristotle we “become just by doing just things,” with the emphasis on the necessity of the practice itself, a practice which as Margaret Hampson has claimed, comes to be a habit, even “a second nature”; then we begin to see the critical role of the oath in habituating us to a virtuous Eros and even a virtuous anger.⁹ The oath provides the phronetic frame as it were for such achievement (what in German is termed *Bildung*). While this role of the oath is perhaps most

7 Kenneth Stevenson, *Nuptial Blessing: A Study of Christian Marriage Rites* (Oxford: Oxford University Press, 1983), 75, 82.

8 Aristotle, *Nicomachean Ethics*, trans. T. Irwin (Indianapolis: Hackett Publishing Co., 1999), 61.

9 Margaret Hampson, “Aristotle on the Necessity of Habituation,” *Phronesis* 66 (2021): 1–26, 24.

obvious in terms of the workings of Eros, it is true of anger as well. This was surely in the mind of the rabbis in their detailed attention to the many conditions in which a vow can be annulled or abrogated. As we have already seen, they understood that vows were an already-socialized or habituated form of anger and so could be directed and molded in creative ways. Indeed, the very assimilation of the self-curse to the oath in early, archaic societies, points to the same.

Given this role of oaths in habituating both Eros and anger, it is not surprising to find how crucial it was in constituting political society and so in establishing a community beyond the original ties of family. Modern political theory has recognized this at least since the writings of Grotius (d. 1645) who saw fulfillment of promises as an aspect of natural law and later of Puffendorf (d. 1694) who asserted that: “oaths are invented among men to knit themselves more firmly together after the Divine appointment hath made them sociable creatures.”¹⁰ For Puffendorf the “public oath” of the people put them “under perpetual Obligation” making of them a “compound body.”¹¹ Indeed the sixteenth and seventeenth centuries were replete with all manner of “oaths of allegiance and supremacy, bonds of association and national covenants,” as attested to most strikingly in Shakespeare’s plays among others.¹² The oath, constitutive of political community, is thus that mechanism which allows the generalization of Eros to broader social groups beyond the immediacy of family (and genital) ties.

The socially mandated performative act of oath-taking or vow-making thus imposes the necessity of ordered, that is formalized, iterated and so habituated relations on our wildly disordered drives or instinctual needs – which, through such acts – are reconstituted according to the rules of necessity as realized in the oath. That one of these drives, the erotic or sexual, is creative and life affirming puts it in a very particular relation to the equally creative force of obligations, and so of the oath itself. For the order-maintaining aspects of the oath in some sense end up mirroring the creative plentitude of Eros. That this is a dynamic which plays out in different ways will be the subject of our following chapters.

Our point for the moment however is the sheer power of the oath in habituating both sexuality and aggression into virtuous natures. That this is effected

¹⁰ Samuel Puffendorf, *Of the Law of Nature and Nations*, London, 1729, 343. https://www.google.com/books/edition/Of_the_law_of_nature_and_nations/7MchAQAAAMAJ?hl=en&gbpv=1&sq=oaths (Accessed 29.9.2023).

¹¹ Puffendorf, *Law of Nature*, 351.

¹² Kerrigan, *Shakespeare’s Binding Language*, 34. This theme has been explored in terms of the history of political theory and philosophy by Agamben in his, *The Sacrament of Language*; as well as by Paolo Prodi. See Paolo Prodi, *Il sacramento del potere: Il giuramento politico nella storia costituzionale dell’Occidente* (Bologna, Il Mulino, 1992).

through nothing more substantial than performative verbal utterances speaks both to the inherently social nature of people as well as their lability of mind; not to mention the power of our symbolic selves over our instinctual natures. We must of course recognize that this habituation is not always successful and not always felicitously directed. Eros may find in the binding terms of our oaths and vows a “poor fit” and it is very much those cases that are the concern of our following chapters. Getting the “fit” right is in fact what perpetually brings hope to necessity and grace to law and so makes life possible at all, despite our many failures. Getting it wrong, can lead to either comedy or tragedy as we shall be arguing later.

In Chapter 1 we briefly discussed the *Oath of Tyndareus* taken by all of Helen’s suitors to unite together and defend the suitor she should chose – thus avoiding what was feared would lead to mutual carnage as a result of her choice. Traditionally this was seen as the cause of the Trojan war and it is worth noting that Thucydides (fifth century BCE) is at pains to debunk this myth in his *History of the Peloponnesian War*.¹³

The need to do so however, actually illustrated how pervasive was this account even in Thucydides’ time. He however did not doubt that it was only through the Trojan War and as a result of the unity of different peoples, coming together to rescue Helen (stipulated by the oath) that a Greek people, a Hellen, was born. (Thucydides does not doubt the historicity of the oath only his claim is that it was Agamemnon’s superior strength that allowed him to raise the forces necessary for the war, not the binding force of the oath). Thus,

Before the Trojan war there is no indication of any common action in Hellas, nor indeed of the universal prevalence of the name; on the contrary, before the time of Hellen, son of Deucalion, no such appellation existed, but the country went by the names of the different tribes, in particular of the Pelasgian. It was not till Hellen and his sons grew strong in Phthiotis, and were invited as allies into the other cities, that one by one they gradually acquired from the connection the name of Hellenes; though a long time elapsed before that name could fasten itself upon all. The best proof of this is furnished by Homer. Born long after the Trojan War, he nowhere calls all of them by that name, nor indeed any of them except the followers of Achilles from Phthiotis, who were the original Hellenes: in his poems they are called Danaans, Argives, and Achaeans. He does not even use the term barbarian, probably because the Hellenes had not yet been marked off from the rest of the world by one distinctive appellation. It appears therefore that the several Hellenic communities, comprising not only those who first acquired the name, city by city, as they came to understand each other, but also those who assumed it afterwards as the name of the whole

¹³ Thucydides, *The History of the Peloponnesian War*, trans. Richard Crawley. (London: J. M. Dent, 1913), 2–3.

people, were before the Trojan war prevented by their want of strength and the absence of mutual intercourse from displaying any collective action.¹⁴

A people constituted through common endeavor, affirmed by an oath. We know of course of another people also constituted through a common endeavor, affirmed by oath – which is that of the people of Israel at Sinai, covenanting with the Lord to keep his strictures.

Significantly the *Oath of Tyndareus* addressed two issues: sexuality and aggression. In addressing both it set up the possibility of political community. For it established a people, the Hellenes, if indeed for Thucydides it was rather the war, (which in mythic thought was the outcome of the oath) which played this role. In all events it established, very much as Puffendorf taught, a mutual obligation among all participants: an obligation for mutual defense and renunciation of claims to Helen. Thus directing or habituating both sexual desire and anger into what was understood as virtuous directions. The one oath established a political (that is social bond) and did so on the basis of sexual renunciation (or rather, in terms we have been using here, of the habituation of desire). Indeed, we may well claim that the very capacity to generalize the primary erotic bond beyond the immediacy of familial and genital ties and so form a political community – insofar as Freud is correct and this indeed occurs – must rest on the habituation of both Eros and anger. These have been represented mythically through such foundational oaths as those on Sinai and of Helen's suitors.

It is surely no coincidence that the rabbinic view of the Revelation on Sinai also contains these two dimensions of peoplehood and sexual regulation. The latter is made evident in the Rabbinic interpretation of the Golden Calf which they understand as a time of sexual license and abandon.¹⁵ Acceptance of the law, of (its) necessity (with the second set of tablets and covenant/oath to the Almighty) involved sexual regulation and the channeling of desire, as the people were now constituted as a "holy community."

In this context we recall that the Talmud in Tractate *Nedarim* is replete with examples of oaths and vows taken in anger.¹⁶ While never stated explicitly it would seem that for the Rabbis, oaths and vows were a way of diverting anger and thus often left the oath-taker or vow-maker with the problem of annulling the oath or vow when his anger was assuaged. Here then a prime example of oaths and vows as directing aggression just as they do sexuality.

¹⁴ Thucydides, *Peloponnesian War*, 2–3.

¹⁵ See Rashi (R. Solomon ben Isaac), *Commentary on the Bible*, Exodus 32:6, that the worship of the Golden Calf involved both sexual license as well as violence.

¹⁶ See, especially *Tractate Nedarim*, 21a–23b.

In some way, this confluence of the sexual and the aggressive resonates with Freud's own myth making endeavor in *Totem and Taboo* where he hypothesizes on how a primal band of brothers killed and consumed the father and through this deed, and its ritualization in the totem meal gave birth to both "social organization [] moral restrictions and [] religion."¹⁷ Freud goes so far as to explain the law against incest as a result of the brothers recognizing that "though the brothers had banded together in order to overcome their father, they were all one another's rivals in regard to the women. Each of them would have wished, like his father, to have all the women to himself. . . . Thus the brothers had no alternative, if they were to live together but to . . . institute the law against incest, by which they all alike renounced the women whom they desired and who had been their chief motive for dispatching their father."¹⁸

We bring this quote and indeed, Freud's own myth (*Totem and Taboo* was in his own eyes, his most prized work) not because we deem it a theory worthy of anthropological consideration, but because of its striking similarity to the Greek story of Helen's suitors and how a transformation in the usages of sexuality and of violence are so closely linked and at the same time, constitutive of the establishment of political community. We may look at the Greek myth and of Freud's myth as the bookends of our inquiry into the place of oaths in the making of human community.

Bearing in mind not only the Greek and Freudian myth, but also of biblical narrative and its rabbinic understanding, it is best to remind ourselves of yet another text, Aristophanes' *Lysistrata* from the early fifth century BCE. The comedy presents us with what is essentially the mirror image of the claim we are making above: that is, the binding together of men through an oath to regulate their aggression together with the circumscribing and direction of their sexuality. Aristophanes presents us with an alternative version to the stories above, where women bind together through an oath to refuse their sexual favors to men (their husbands and lovers) unless the later put an end to the Peloponnesian War. In this manner *Lysistrata* brings the war to an end by tying access to sex to the cessation of all hostilities. Here too the same features appear: social or political union through a shared oath, directed towards regulating aggression (in this case that of the men) to be attained by the constraint (here total denial) of sexuality. Unity through the oath directed towards the dual forces of sex and aggression. The parallels are striking, even as the agents of the act are women (acting with difficulty against their natural

¹⁷ Freud, *Totem and Taboo*, 142.

¹⁸ Freud, *Totem and Taboo*, 144.

inclinations for sexual gratification) rather than men. The oath they take, over a bowl of wine is worth quoting in full:

I will have naught to do with lover or husband
 Albeit he come to me with an erection
 I will live at home unbullied
 Beautifully dressed and wearing a saffron-colored gown
 To the end I may inspire my husband with the most ardent longings
 Never will I give myself voluntarily
 And if he has me by force
 I will be cold as ice, and never stir a limb
 I will neither extend my Persian slippers towards the ceiling
 Nor will I crouch like the carven lions on a knife-handle
 And if I keep my oath, may I be suffered to drink this wine
 But if I break it may my bowl be filled with water

[lines 215–235]¹⁹

Just as in the preceding examples, the oath (albeit here of the women to deny sex to their men as long as they insist on war-making) is the marker of a civilizing imperative that reigns in both primal processes, of aggression and of sexuality. The confluence of all terms: oath/political union-aggression-sexuality seem almost paradigmatic.

To reprise: As an icon of the legal bond, and hence of Law per se, oaths represent Necessity, Ananke in Freud's terms. Yet, at the same time, they also provide the form par excellence for the habituation of Eros (in kinship relations, for us, here, in dyadic marriage relations) as well as of anger (in the rules of political unions or covenants). As such they stand in tension with the more unfettered, unregulated strivings to express these drives or instincts or primary processes in an unmediated manner.

Visually we can present our claims thus far as follows:

<u>Instinct</u>	<u>Humanized</u>	<u>Fulfilled/Made Virtuous</u>
sexual desire -----	Eros -----	oath (marriage)
aggression -----	anger -----	oath (political union)

We will devote ourselves in this work to the unique relations existent between oaths and Eros and forgo any analysis of the second branch of necessity – the regulation of aggression in political union. We shall briefly review a selection of

¹⁹ Aristophanes, *Lysistrata*, in *Complete Greek Drama*, edited by Oates and O'Neill (New York: Random House, 1938), 818–20.

texts: folk-tales, myths, letters, plays and novels – from the picaresque to the great novels of the 19th century that touch on the intersection of oath (and vows) and Eros. Most of the texts chosen explore the difficulty in squaring the marriage vow with the rise of erotic desire outside of marriage

If Freud understood Eros and Ananke as the parents of human civilization; here we are presenting the oath as the critical moment in its realization. Representing the world of Law, that is the necessity of mediation in our relations with others, at the same time, oaths and vows provide the possibility of that ultimate union, of undifferentiated love, that requires no laws or mediating structures, institutions, formalities – of the *I-Thou* and not only of the *I-It*. Of course it can only do both simultaneously in a very limited range of circumstances: where the demands of necessity and of love coincide. This happens only rarely which sets up the opportunities for many fictional presentations – sometimes comic, sometimes tragic – of oath in the service of Eros. Before looking at these cases however, we must delve a bit more into the gendered nature of oaths upon which so much of the comic or tragic dynamic is predicted.

Gender and the Oath

In subsequent chapters we shall – as noted – be dealing with both oaths and Eros in different fictional settings. In exploring their representation we have been led to review various stories; mythic, fictional and real, of infidelity, and of broken trust. After all, both Eros and oaths proceed on the basis of what is essentially an act of faith (or trust). The depths of love cannot be plumbed nor can an oath or vow be verified (at the time of its adjuration). If it could, there would be no need for its locution. True, as we saw in our previous chapter, the indexical quality of oaths lends to them a great creative force, constituting that “sacramental bond” between humankind and its language that Agamben critiques.²⁰ But for creation to take place, for a change in the orders of existence to emerge – in love as in social relations generally – faith must be placed in its signifying markers: those external forms of internal grace as it were. Love’s interlocutor, just as the oath’s, must believe in the illocutionary force of the acts (whether of love making or oath-taking). They must fundamentally accept that there is no slippage between inside and outside, form and content, signifier and signified. This, rather supreme act of faith is what joins together Eros and oaths, despite precisely those slippages

²⁰ Agamben, *The Sacrament of Language*, 72.

which always do occur and make for both those tragic and comic tales which we explore in the following chapters.

In almost all of the cases we study – presenting stories comic or tragic by turns – the parties breaking the trust, are women. It is women’s infidelity that forms the vast corpus of fictional and other works on the breaking of the marriage vow. This very fact calls for our attention and some explanation. After all, infidelity is not the province of women alone. Yet the cultural focus across multiple time periods and societies has been on women’s infidelity rather than men’s.

As explained in our introduction this book is devoted in the main to the private vow and interpersonal oath and to the inter-subjective realities they create rather than to the legal or political realms of oath-taking (and their realities). Our focus is thus on the realm of erotic attachment as expressed in, and as sometimes in conflict with, their requisite forms of oaths and vows. Hence the stories and analyses that make up the following chapters, which – as we note – are almost all focused on women.

And the obvious question is why. Why do women play such an inordinate role as the cultural embodiment of infidelity and adultery while men’s actions of a similar nature are glossed over, ignored and even when they are condemned it is never in the same terms as women’s actions and they never attain the same cultural status?

The usual anthropological approach to this phenomenon is to focus on the possibility of children born out of wedlock and the threat this poses to kinship systems. Women’s infidelity which leads to indeterminacy as to the child’s father is a huge obstacle to patriarchally ordered kinship systems. To this day, in societies which still celebrate ritualized periods of sexual license, a woman who is unlucky enough to be impregnated in such activities is expected to have an abortion and if she does not must leave the village. Such “unspoken for” children threaten the very basis of a kinship based social order.²¹ Of course the continuation of such attitudes into the nineteenth- and early twentieth-century European societies that are not nearly as kin-based as traditional societies still must be explained – hopefully in a more robust form than simply as cultural remnants.

While not for a moment doubting this explanation we therefore feel the need to broaden its compass somewhat in terms of our study of oaths and vows. Indeed, we wish to claim that the obverse of women’s marital infidelity is not men’s marital infidelity, but the perfidy of the traitor. The mirror image of the adulterous wife is not the adulterous husband, but the turncoat, collaborator or quisling. Vidkun Quisling was of course, the infamous Norwegian head of government and

21 Personal communication from informants in the Bukwo region of Uganda, December 2019.

collaborator with the Nazis who was tried and executed at the end of the Second World War. His name has since become synonymous with traitor throughout the world.

In other words, both men and women are held accountable, answerable and in fact chargeable to accusations of infidelity; but in different realms. For the woman it is the realm of the *oikos* and for the man, the *polis*; what in many societies has been seen as the woman's primary realm of commitment is to the *oikos* and so that is where infidelity becomes a matter of ultimate concern. In contrast, a man's primary area of commitment has been understood to be to the *polis* and his betrayal of the *polis* is, consequently, a capital offense. This, perhaps too neat distinction does however map easily on to our previous analysis of the oath as structuring the realms of sexuality and aggression respectively. Sexuality defines the *oikos* just as aggression does the *polis*. Or perhaps more to the point, the structuring and channeling of sexuality into kinship units is the very definition of the *oikos* just as the structuring and sublimation of aggression defines the *polis*. Both realms have been more or less, gendered – regardless of current concerns with gender equality.

It is surely no surprise that these two realms are precisely those realms defined and circumscribed by the oath as the socially defining mechanism par excellence. If we recall what we stated in our earlier discussion of the *Oath of Tyndareus* as well as of the oath taken by the Israelites at Sinai we see again these two critical realms, of sexuality and of aggression. The oath limits, circumscribes and channels both. The oath channels sexuality into kinship systems and some form of marriage (and it matters not if it is monogamous, polygamous, polyandrous, it is the channeling and the structuring of sexuality that is at issue, not its form) and hence the *oikos*. And it channels aggression into political units, hence the *polis*.

The *Oath of Tyndareus* brought both together explicitly, circumventing the violence (and in so doing, establishing a Greek people) that Helen's choice of sexual partner was feared to produce. And while finding both elements in the story of Sinai which is more dependent on Rabbinic commentary it is clearly there as well. As noted, the interpretation of the Golden Calf as a time of unabashed sexual license, restricted by the giving of the Law which constituted peoplehood in the Jewish etiology of selfhood speaks to the same two dimensions – of *oikos* and *polis*.

Here too, and not surprisingly, both realms reflect the two primary drives that Freud forced us to recognize; those of sexuality and aggression. We cannot overcome them; barely can we control and sublimate them. We do so however, precisely through the civilizing process that the oath, that voluntary restriction on desire, puts in place.

What we wish to argue is that to no small extent the circumscription worked by the oath – as social ritual par excellence, indeed as the ritual act that constitutes society itself – is gendered. Its restrictions in the realm of the oikos – of sexuality – have been understood as predominantly the realm and responsibility of women. Its restrictions in the realm of the polis – of aggression – have been understood predominantly in the affairs of men. Hence the severe consequences for men in failing to maintain their loyalty to the polis while the relatively light consequences for their betrayal of the oikos.

With women it is more complicated and thus also more interesting. For a start, it is difficult when considering many ancient societies to disaggregate the oikos from the polis. Thus, if we look to Greek mythology, we can find a number of women who betrayed the polis, but in fact were betraying the King, their father (or in the case of Antigone, her uncle). Ariadne, Medea and Antigone all can be said to have betrayed the polis. Ariadne helped Theseus kill the Minotaur and save those marked for sacrifice. Medea helps Jason secure the Golden Fleece and abandons her father's house in Colchis to go with him. Antigone buries her brother Polynices who had been killed in his attempt to overturn the rule of his brother Eteocles. Antigone is the subject of Aeschylus's *Seven Against Thebes* and of Sophocles' *Antigone*. *Medea* is the subject of a play by Euripides by that name.

All three women betrayed their family or the oikos for love and an erotic attraction (for Jason in the case of Medea, for Theseus in the case of Ariadne and in the case of Antigone, what Freud would have termed aim-inhibited love). Critically, their betrayal was of their father's (or uncle's) house, hence of the oikos, which however cannot in their cases be separated from the polis. This theme of betrayal of the oikos, though not always of the marriage bed itself continues in European literature and we analyze it in the case of Abelard and Heloise (her uncle's wishes in that case) and later in Rousseau's reprise of their story in his *La Nouvelle Heloise*.

In this context it is important to remember the restrictions of the Num 30:3–17 that gave to a woman's father or husband the power to annul or invalidate their daughter or wife's vow or oath. The oath was thus, clearly, an oath *of* that realm, of the oikos and hence the ability of the father or husband as patriarch to overrule the words of the woman. It is not the power, legal status, autonomy or lack thereof of the woman that is the main issue here so much as the space of the oath, its place. In our analysis of Honi the circle maker we saw how the physical definition of space was essential to certain forms of oath-taking. This has resonances today where physical space defines jurisdictions and so where writs can be served. Here too, the oikos and polis, household and public arena, are two different types of physical space which are the proper preserve of the oaths and vows of women and men respectively.

A further illustration of this spatial nature of vows and the way women could represent that space can be found in the Roman myth of Tarpeia, daughter of the Roman commander Spurius Tarpeius. Here however we see how only by her absence from the space of the household (and so of the vows and oaths associated with it), could she play a political role (that is, enter the realm of the polis and its vows and oaths). Tarpeia was one of the vestal virgins – that is a priestess dedicated to the goddess of the hearth (Vesta) – who was said to betray the city to the Sabines at the same time that the Romans abducted or raped the Sabine women (in order to increase their own population as there existed then a dearth of women in Rome). As a vestal virgin, Tarpeia belonged to no oikos, no household – but to the Temple of the goddess – and was committed to chastity (thus committed to no future household either). Her sole role was to guarantee the security of the city. Note how to play a political role (as guarantor of the city's security and well being), a role in the polis, she had to be unconnected to any household or oikos. Her crime was precisely to hand the polis over to those seeking to destroy it in revenge for the Roman attempt to build up their own population – oikos plus polis – at the Sabine's expense. She was killed and the place of her burial, Tarpian Rock became in the days of the Republic the site of public execution.

To play a positive political role, as vestal virgin and so protectress of the city, Tarpeia had to leave the oikos. However, in her role as betrayer or traitor to the polis her story again brings together both oikos and polis. For the Sabine women were abducted to provide children to the Romans. Their abduction or rape (there exist different interpretations of the word) was for the benefit of the polis, but through the expansion of oikoi. So again, as in the Greek myths of Ariadne, Medea and Antigone the two realms – when the matter is of betrayal – are tied together.

This dichotomy is an interesting one. It seems that, at least in some Greek and Roman myths, for a woman to play a positive and constructive role in the polis she must reside outside of the oikos, outside of family bonds and the oaths that define them. However, when a woman betrays the polis, acts as a traitor or renegade, the two realms of oikos and polis are somewhat interconnected, in the case of Tarpeia, both occur at different temporal moments.

In a very different context and strengthening the case of the positive role that women may play where they are outside of the oikos, we can find the story of Rahab the harlot mentioned in the *Book of Joshua*. She hid the Israelite spies who had come to survey the city, and provided false information to the city officials who had heard that they had been in her house. Before their departure from her house she extracted from the spies an oath of loyalty (Jos 2:12–22):

Now therefore, I pray you, swear unto me by the LORD, since I have dealt kindly with you, that ye also will deal kindly with my father's house – and give me a true token – and save alive my father, and my mother, and my brethren, and my sisters, and all that they have, and deliver our lives from death.' And the men said unto her: 'Our life for yours, if ye tell not this our business; and it shall be, when the LORD giveth us the land, that we will deal kindly and truly with thee.' Then she let them down by a cord through the window; for her house was upon the side of the wall, and she dwelt upon the wall. And she said unto them: 'Get you to the mountain, lest the pursuers light upon you; and hide yourselves there three days, until the pursuers be returned; and afterward may ye go your way.' And the men said unto her: 'We will be guiltless of this thine oath which thou hast made us to swear.

While Rahab did in fact betray her city of Jericho, the story of course is told from the triumphant Israelite perspective and from their perspective her role was undeniably positive. Here too then we have the case of a woman who plays a political role (province of the polis) but she belongs to no oikos. She is, after all, a prostitute, living outside of familial suzerainty.

This disaggregation of oikos from polis when the matter at hand is women's positive political contribution can be found in the biblical accounts of Yael and of Esther as well. Queen Esther left her family home and the supervision of her uncle Mordechai, to become queen of the Persians, doing so she betrayed the oikos and saved her people.²² Yael who was married to Chever the Kenite brought the Canaanite general Sisera into her tent where, when he slept after she fed him milk, she killed him with the tent post. The Talmud (Tractate *Horayot*, 10b) understands her to have had sexual relations with him as well, to dissipate his strength and so allow her to kill him. She thus betrayed her family obligations to perform a heroic politico-military act. The rabbis by the way viewed this very favorably, turning her into the paradigm case of how one "who transgresses for the sake of the Lord is greater than one who observes a commandment for the sake the of Lord."²³ We should recall here the injunction: "A woman shall not wear that which pertaineth unto a man, neither shall a man put on a woman's garment; for whosoever doeth these things is an abomination unto the LORD thy God" (Deut 22:5). Jewish commentators have traditionally interpreted this as meaning women

22 Interestingly, Queen Esther became with time the great heroine of the Marranos, those Jews who during the time of the Spanish Inquisition pretended to be Christians while practicing Judaism in secret. While viewed heroically over the centuries in Jewish folktales, the Marranos were in fact condemned in the Sephardic rabbinic tradition, (those rabbis who left Spain in 1492) not surprisingly perhaps, as traitors. See B. Netanyahu, *The Marranos of Spain from the late 14th to the early 16th centuries* (Ithaca: Cornell University Press, 1999), 172–4.

23 Rashi (R. Solomon ben Isaac), *Commentary on the Bible*, Judges 5:24, understands the inclusion of Yael with the blessings bestowed on the Matriarchs as an example of the above dictum, an understanding predicated on the interpretations of R. Nachman bar Yitzchak.

should not gird swords or engage in warfare.²⁴ The raiments of each must reflect their allotted spheres or realms of signification.

Another case of prostitutes, whose actions had political implications is brought by the historian David Nirenberg in reference to prostitutes in fourteenth-century Aragon.²⁵ There, not a story of triumph told by the victors, but one of historical fact whose consequences were rather more sanguinary. As noted above prostitutes reside outside of the oikos. They are neither under their father's roof nor a husband's. Yet, where their activity threatened communal boundaries, they were severely punished, that is both they and their clients were executed, in the case of Christian prostitutes who slept with Moslem or Jewish men, by burning.

There is little doubt that in a society where "Christians, Moslems and Jews drank together, gambled together, went to war together, lived in the same neighborhoods (sometimes in the same houses) established business partnerships, engaged in all forms of commercial exchange, even watched each other's religious ceremonies and processions" the possibilities for sexual activity across communal lines and so of miscegenation were many.²⁶ The fear of miscegenation was thus great and widespread in all three communities and transgressors were duly punished. But in a sense the argument for miscegenation holds less for prostitutes where it becomes but a subset of the overall problem of any progeny they may have, regardless of their sexual partners.

Nirenberg recognizes this challenge and develops a fascinating theory of the role of the prostitute as "la femme publique," the public woman who, in effect represents the male principle per se, as she belongs to no man and so to all men. "The property of all men . . . as they were the property of none."²⁷ For Nirenberg the prostitute "represented manhood because she represented male rights over women, because with her all men could enact their masculinity." He goes on to claim that as "receptacle of male lust" she became the "concrete representation of a community of men united to each other by common sexual bond."²⁸ Hence an answer to the conundrum he presents earlier as to why a community would "invest its honor with women whom the community itself defined as without honor."²⁹ And the answer as he defines it, if in different terms, is that by belonging to no household, to no man, to

²⁴ On that verse see for example Chapter 9 of Ibn Ezra's *Yesod Mora*. (Hebrew) (Jerusalem: Hokhmat Yisra'el, 1931).

²⁵ David Nirenberg, *Communities of Violence: Persecutions of Minorities in the Middle Ages* (Princeton University Press, 1996), 127–65.

²⁶ Nirenberg, *Communities of Violence*, 157.

²⁷ Nirenberg, *Communities of Violence*, 153.

²⁸ Nirenberg, *Communities of Violence*, 154–5.

²⁹ Nirenberg, *Communities of Violence*, 152.

no oikos, they can come to represent that unity of all the oikoi – whether understood as the polis, the community, or, as here as a religious body rather than what we would term a purely political one.

Here too then, at a distance of millennia from Roman myth or biblical stories we have women whose (in this case purely symbolic) political role (as representative of – quite literally – the body of men, or body politic) can be accomplished only when she is outside of any household. This political role however only becomes apparent in its violation, when prostitutes take as clients members of a different religious community. In such cases they have acted as traitors, (not as adulterers of course, as prostitutes cannot commit adultery) and are punished accordingly, just as are their male counterparts.

But, we mustn't forget that the political betrayal of the communal body (of the body of men), is done through the sexual act, that is through the act most representative of the household and of the oikos. Thus, on the one hand, standing outside the oikos the prostitute can make of her sexuality, politics – either in a rather unique representative function, as argued by Nirenberg, or through its violation. Limiting herself to clients of her own community she plays what we have termed a “positive” political – if symbolic – role. However, when she takes as clients members of a different religious community she violates the boundaries of that very community and her act is one of political betrayal.

In the Ottoman Balkans of the 19th century with the re-emergence of prostitution, a rather different dynamic was effected, as a fictional identity was established for the prostitute. Their real ethnicity was hidden, they were given foreign names, false biographies and were represented as belonging to different foreign communities; Serbs or Villach, Hungarian as the case may be. In this way the “purity” of the ethnic group to whom the prostitute in reality belonged was maintained.³⁰

30 It is remarkable that this understanding of prostitution not existing in one's own tradition is persistently preserved in the scientific literature even today, see Zlatareva, V., *Prostitution and the Fight against It* (in Bulgarian) (Sofia, “Land and Culture” Cooperative, 1936), 154: “The first prostitutes in newly liberated Bulgaria were foreigners: Austrians, Romanians, Serbians . . .” It should be noted that the author connects the appearance of moral decay among Bulgarian women with the Russian military presence after the Liberation. In the “new times” in M. Georgiev, (ed.) *Anthropological Dictionary Mythology of the Human Body* (in Bulgarian) (Sofia, Prof. Marin Drinov Publishing house of BAS, 2008), 545, an article of only two paragraphs is devoted to the subject of the harlot, where it is insisted: “as a professional mistress, the harlot does not exist in Bulgarian traditional society, she is rather a literary image, passed on to the public consciousness through popular Christian literature . . . After the Liberation, professional prostitutes appeared in Bulgaria, who in the first decades were only foreigners.” In the second edition of the dictionary, even this short article was removed, as if not to defile the pages of the serious academic edition.

Moreover, and because, at the end of the day, the polis is always – in the last instance – dependent on the oikos, it is impossible to totally separate both realms when we are looking at the symbolic role of women. For while it may be possible to limit men’s symbolic role almost exclusively to the realm of the polis, women’s symbolic role is more complicated – precisely because the boundaries of the oikos itself continually blend (or have the potential to blend) into those of the polis. (The most tragic proof of this is the use of rape as a weapon in war, mostly recently in Russia’s invasion of Ukraine).

Changing only in contemporary times, and slowly at that, traditionally it was understood that men’s “proper” symbolic domain was that of the polis, that is of what Freud termed aim-inhibited or non-object specific love. This is the realm of community (tribe, people, nation, community in its different forms) where it was primarily aggression and anger that was reformulated, and phronetically repurposed through the oath. This was principally the realm of the political oath per se, an oath (explicit or implicit) whose betrayal merits death.

The woman’s symbolic sphere however was that of the primal unit, both of male-female relations and of those between mother and child. This was the sphere encompassed by the marriage vow and other forms of personal or inter-familial locutionary commitments (oaths, promises, engagement contracts) all of which habituated sexuality and Eros into sustainable and fulfilling ways of being between human lovers.

While these may be represented as separate spheres they are not fully autonomous from one another. And while the primal unit can, in theory, exist without a broader collective entity, and, to some extent does in relatively undifferentiated kinship organized societies; the broader collective unit, the polis, the community constituted from different kin groups, cannot exist without the primal unit. Women’s infidelity, however private in nature, thus always carries the – at least symbolic potential – of betraying not only the oikos but the polis as well.

Contrariwise, women’s sexual betrayal of the polis, as in the case of prostitutes in fourteenth-century Aragon, always also carries the stain of a betrayal of the oikos as well.

Below are pictures of *les femmes tondues* (women of shaven heads Fig. 3,4,5): French women accused of sleeping with German soldiers during the occupation of France in WWII. Following liberation such women were humiliated, tarred and feathered, beaten, their heads were shaved and they were run out of town. Only rarely however were they killed.

On the other hand, immediately following liberation, over 10,000 male collaborators were executed, mostly without trial. (Marshal Phillippe Petain, leader of the collaborationist Vichy regime died in prison. His death sentence was commuted to life in prison in light of his service in WWI).



Figure 3: “*Les femmes tondues*” by Robert Capa, 1944, Source: Magnum Photos, Inc.



Figure 4: Collaborator Getting Her Head Shaved. Source: gettyimages.



Figure 5: Der Kollaboration beschuldigte Französisinnen, Paris, 21.6.1944. Source: Das Bundesarchiv.

Twentieth-century France was not fourteenth-century Aragon, and the women who slept with German soldiers during France's occupation were not prostitutes. Following Nirenberg we can say that they therefore played no "representative role" vis-à-vis the polis. Their acts were private acts, by private women. Yet they were brutally punished, in the most vigilante of fashions, for what were considered acts of public betrayal. Boundaries were breached. Communal integrity compromised (and just perhaps the masculinity of French males impugned). In any case, this presents a further indication, we would claim, of how difficult it is in the final analysis to separate the two realms of the oikos and the polis, when the matter at hand is one of women's sexuality.

Counterfactuals

a) The Jewish exception

The fact that through the centuries Jewish women were more or less excused from any culpability for the crucifixion in Christian thought is interesting in our

context.³¹ It is almost as if there was an unwillingness to associate women with the greatest act of theologico-political betrayal (from a Christian perspective of course) in human history. Women were not seen to play in that arena (though the fact that Jewish men – who were, infamously, held responsible for the death of Jesus throughout the millennia – were believed to menstruate shows just how complicated this Christian vision of Jews in fact was).³²

Indeed, we may understand both beliefs as connected. The idea of Jewish men menstruating and otherwise excreting blood monthly (sometimes in the form of piles) was directly tied to the verse in Matt 27:25 “Then answered all the people, and said, His blood be on us, and on our children” (KJV).³³ Its connection to the removal of Jewish women from any responsibility for the crucifixion is to be understood in terms of the very contradictory position of Christianity in relation to its Jewish lineage. This was the legacy left by Paul in his metaphor of the olive tree in Rom 11:13–27 (KJV):

For I speak to you Gentiles

Boast not against the branches. But if thou boast, thou bearest not the root, but the root thee.

Thou wilt say then, The branches were broken off, that I might be grafted in.

Well; because of unbelief they were broken off, and thou standest by faith. Be not high-minded, but fear:

For if God spared not the natural branches, take heed lest he also spare not thee.

Behold therefore the goodness and severity of God: on them which fell, severity; but toward thee, goodness, if thou continue in his goodness: otherwise thou also shalt be cut off.

And they also, if they abide not still in unbelief, shall be grafted in: for God is able to graft them in again.

For if thou wert cut out of the olive tree which is wild by nature, and wert grafted contrary to nature into a good olive tree: how much more shall these, which be the natural branches, be grafted into their own olive tree?

³¹ See on this, especially in terms of Chateaubriand attitudes towards Jews: Julie Kalman, *Orientalizing the Jew: Religion, Culture, and Imperialism in Nineteenth-Century France* (Bloomington: Indiana University Press, 2017).

³² Janet Adelman, *Blood Relations: Christian and Jew in the Merchant of Venice* (Chicago: University of Chicago Press, 2008), 125–8.

³³ See Adelman, *Blood Relations*, 125, 127; see also David S. Katz, “Shylock’s Gender: Jewish Male Menstruation in Early Modern England,” *Review of English Studies* 50 (1999): 440–62.

For I would not, brethren, that ye should be ignorant of this mystery, lest ye should be wise in your own conceits; that blindness in part is happened to Israel, until the fullness of the Gentiles be come in.

And so all Israel shall be saved: as it is written, There shall come out of Sion the Deliverer, and shall turn away ungodliness from Jacob:

For this is my covenant unto them, when I shall take away their sins.

Here the Christians are reminded that their lineage is that of the people of Israel, the “house of Jacob,” in the locution of Jacques Maritain, and that they were grafted onto this tree of Israel when its natural branches “were broken off” due to lack of faith – but are fated at some point to return and partake of salvation in no less a fullness than that of Christians.³⁴ Christianity thus both rests on the bedrock of Judaism, but also clearly supersedes it. The Jew who must be superseded cannot however be ignored. He cannot be ignored precisely because he is superseded. The Christian is thus at the same time both of the Jewish lineage and beyond it. He partakes of a salvation to which the Jew at present has no access, but on whom the very process of salvation is predicated. His is the covenant of the spirit, as opposed to the Jewish covenant of the flesh.

We submit that this ambivalent and indeed contradictory position of Christianity towards its Jewish antecedents has much to do with the curious exculpation of Jewish women from any guilt related to the Crucifixion while, at the same time symbolically making of Jewish men “women” by attributing to them the primary marker of women and so of the world of kinship – menstrual blood. The men, carrying with them the curse of Matthew become “women,” and in so doing, come to represent that “house of Jacob,” the Jewish oikos, while Jewish women are freed from such fleshy concomitants to join the Christian ecumene: beyond any particular polis, people or kin group (“There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus” Gal 3:28, KJV). A particularly interesting example of this can be found in the character of Jessica, Shylock’s daughter in Shakespeare’s play *The Merchant of Venice*. Jessica’s very name, we recall, invokes Jesse – father of David, and so the messianic line. In her name, as in her actions she is a marker of what Sigmund Freud once termed the “small difference” and the crossing over of it. She effects the move from Jew to Christian (in love no less, while Shylock’s conversion is coerced), and so actually bespeaking a resolution of dichotomies not

³⁴ Jacques Maritain presented his idea of “the Mystery of Israel” that Jews were best defined not as a race, nor religion, nor people, nor nation but, simply as the “House of Jacob.” See his *Redeeming The Time* (New York: Charles Scribners, 1943).

given to the male characters of the play. Under cover of carnival, (which Shylock abhors with its mistaken identities), Jessica goes from being Jewish to being Christian, from being daughter (of the Jew) to being lover/wife (of the Christian).

Though she is not of the stature of Portia – who after all, presents the resolution of all dichotomous categories and instantiates love triumphant– she does point in that direction, in her abandonment of the codes of her father and easy assimilation into those of the Christian world. Portia, the obedient daughter of a dead father is, in fact, countered by Jessica whose father (though alive) cannot control her actions. Indeed, if there are anti-Semitic elements in Shakespeare's play it is in the guise of these two women who, in their person, represent the overcoming of the contradictions and ambivalences – the rule of Ananke – that define the real life of people in the world and whose overcoming of such is in terms of Christian terms and tropes. One's attitude towards this and the extent of its antisemitic valence will of course depend on one's attitude towards the possibility of such overcoming.

The new dispensation promises an overcoming of both violence and sexuality, thus, to render unnecessary both polis and oikos. Both will become in some sense irrelevant with the new instauration. Overcome as well of course are the oaths by which both realms are constituted. This is perhaps why the breaking of their oaths by the Christian figures in the play are the cause of nothing but humor (and why the play was understood for so long as a comedy) but why Shylock's insistence of having his oath or bond led to such tragic consequences for him.

In Shakespeare's play, the present is made to accommodate the future. In actual reality however, the position of *Jewish* men and women were re-imagined to accommodate the contradictory nature of Christianity's own Jewish heritage. No less a thinker than Stanley Cavell, has seen in the threatened mutilation of Antonio in *The Merchant of Venice* a symbol of castration, if not circumcision – at once making him Jew-like and unmanned.³⁵ James Shapiro has shown how in the popular imagination Jews were understood to have circumcised their victims before killing them in ritual murders. John Foxe's own rendition of the murder of Hugh of Lincoln has him circumcised before he was murdered.³⁶ More tellingly, Shapiro relates how one of the sources for the "pound of flesh" theme in Shakespeare's play is in Alexander Silverg's work *The Orator* (the first English translation appeared in 1596).³⁷ The same also appeared in such works as *Il Pecorone* and the

35 Stanley Cavell, *The Claim of Reason* (Oxford: Oxford University Press, 1979).

36 James Shapiro, "Shakespeare and the Jews," in Martin Coyle (ed.) *The Merchant of Venice: William Shakespeare* (New York: St. Martin's Press, 1998), 73–91, here 82.

37 Shapiro, "Shakespeare and the Jews," 83.

German *Mosche* (1599). In all, the idea of the Jew willingly shedding Christian blood is approached via the figure of the usurer demanding his pound of flesh to enforce the bond.³⁸

The murdering Jew is, on some level, connected with the castrating Jew.³⁹ And castration is not totally beyond the pale when images of circumcision, i.e. Jewishness (of which circumcision is the marker) are invoked. Jewishness is thus evocative of the loss of life, as well as the loss of manhood. Mutilation, castration and circumcision are all woven together in the trope of the “pound of flesh.” Interesting is that even in the Muslim societies of North Africa (where men were of course circumcised), Jewish traders were allowed into the *haram*, the women’s quarters where men were forbidden – somehow the notion was that Jews were less than men and so did not present any threat to the women folk or honor of the males.⁴⁰ The Jews were not *really* men and so could enter into areas from which men were forbidden. Having no role in the polis (either in North African Muslim society, nor in medieval or Renaissance Europe) the Jews were indeed essentially of the oikos. Perhaps Shylock’s crime was precisely in treating his oath as belonging to that realm from which he was a priori excluded. That having his oath meant that the default on his bond would require physical violence to Antonio was surely, for a Jew, to step outside his gendered – or perhaps more precisely, gender-neutered – space. The Jew had no place in the polis and inhabited that gendered female space of the Jewish oikos; though one, as we have seen, curiously devoid of women: upon whom Christian belonging and salvation could be grafted.

³⁸ John Gross, *Shylock: A Legend and Its Legacy* (New York: Simon & Schuster, 1992), 29.

³⁹ See Adelman, *Blood Relations*, 177–78.

⁴⁰ Harvey Goldberg and Rahel Rosen, “Itinerant Jewish Peddlers in Tripolitania at the End of the Ottoman Period and under Italian Rule.” M. Abitbol (ed.) *Communautes juives des marges sahariennes du Maghreb*. 3. (Jerusalem: Institut Ben-Zvi pour la Recherche sur les Communautés juives d’Orient, 1982), 316–9. *The Book of Mordechai*, by Mordecai Ha-Cohen. Trans. and ed. by Harvey E. Goldberg. (Institute for the Study of Human Issues, Philadelphia: 1980). In Hebrew it appears in *Higgid Mordecai*, by Mordecai Ha-Cohen. *The History, Institutions and Customs of the Jews of Libya*. Edited and annotated by H. Goldberg. (Jerusalem: Ben-Zvi Institute, 1979). 1980. See also Goldberg and Rosen, “Itinerant Jewish Peddlers in Tripolitania at the End of the Ottoman Period and under Italian Rule.” 303–20, in M. Abitbol (ed.) *Communautes juives des marges sahariennes du Maghreb* (Jerusalem: Institut Ben-Zvi pour la Recherche sur les Communautés juives d’Orient, 1982), 303–20.

b) Christian Monks

There is of course another group of people who exist both outside of the polis and, in fact, outside of the oikos as well: Christian monks. Monasticism is a specific, ritually regulated and socially accepted, form of renouncing the life of society. The first communities of monks appeared in the fourth century CE, soon after Christianity was legalized in the Roman Empire, as a reaction of fervent Christians to the spread of the religion and what they perceived as the profanation of its religious forms. Leaving “the world,” placed monks in a sort of heterotopia, in which specific rules are valid and where they can devote themselves to prayer and the search for God, without being subject to the norms of wider society. Becoming a monk involves a multi-stage ritual process, which culminates in the taking of the monastic vow. As noted in our introduction we will focus on the Eastern Orthodox rite, because of the great continuity across millennia of its practice. Within the rituals of the Orthodox Church (which we shall review briefly) this final stage is called the Great Schema. As we shall see, the act of vow-making not only regulates oikos and polis, but the monk’s removal from them as well.

In Christian tradition, the process of becoming a monk (Schema, from the Greek *Σχημα*) is the next step of a human’s sanctification after baptism. The obvious parallels of form and content between the two rituals in the early Christian era led to an interpretation of the monastic schema as a second baptism, while its classification as one of the sacraments of the Orthodox church was changed only in the fifteenth century, under the influence of Western scholasticism. It is believed that the monk/nun has come as close as possible to perfection in their earthly life and have attained a state of mind and body that distinguishes them from the laity. Their vows of obedience, celibacy, and poverty elevate them above the vanity of everyday life – take them out of the realm of Ananke – and bring them closer to the angels, transforming them into a kind of mediator between the people and God (along with priests and saints). The contemporary form of the Orthodox ritual, including its three stages (Enrobement, Little Schema and Great Schema), was not finalized until the twelfth century. The three stages can take place over a long period of time or quickly as the transition from one step to the next is optional. We will focus on the central moment of the ritual action – the taking of monastic vows.

Choosing the monastic way of life may be understood as a form of social death and rebirth as a new being. The initiate is purged of the characteristic traits of the laity and comes to resemble an angel. It is not accidental that one of the names of the ritual of the Great Schema is The Angelic Image. All family ties are

severed – including all legal elements including property and inheritance.⁴¹ The monk/nun receives a new name and commences a new life in the family of monastic brotherhood. The comparison with angels is mainly connected to the vow of celibacy, while nuns are considered brides of Christ. The transformation of a human into an angel (i.e. choosing to lead an angelic life) requires great strength of will and is unequivocally connected to the binding ritual of the monastic vows. It is only permitted after a certain age (at the moment the minimal age is seventeen or eighteen), as it is considered that earlier a person is not capable of realizing the gravity of such a decision.

Before taking vows, an obligatory introductory stage – defined by the practice of obedience – is demanded. During this period the monastic novice lives in the monastery, before finally deciding to join the monastic community. The duration of this period in the ancient monastic traditions was usually three years; nowadays this period has been significantly shortened. The main requirement in this period is obedience, i.e. the deliberate refusal to manifest one's own will, the abuse of which is considered to be the cause of original sin and, generally speaking, the presence of evil in the world. The specific practices applied to the period of obedience are described in many patristic writings and biographies of monks. A leading element in them is the overcoming of pride and passion through humility, the consistent suppression of the impulses of pride and ambition, which are opposed by the unconditional obedience to another person's will. This is the first step towards the symbolic death of the layman. And we would stress the gendered man. For it is one's will that is most manifest in the workings of both the polis and oikos – and of this will, the novice is shorn.⁴²

41 Prior to taking monastic vows, the novice writes a will, renouncing all of his property as of that moment. See in more detail in: B. Nikolova. *Monasticism, Monasteries and Monastic Life in Medieval Bulgaria* (in Bulgarian) (Sofia: Alfagraf, 2010, vol. 2), 616–742, in particular. 670–1, where the relevant rule from the legislative collection Kormchaya is cited – V. N. Benešević, ed. *Syntagma XIV titulorum sine scholiis secundum versionem palaeoslovenicam, adjecto texto graeco e vetustissimis codicibus manuscriptis exerato* (Sofia: BAS, 1987). Vol. 2, 55.

42 This stage of the transition towards becoming a monk is described in the biography of the monk Romil Vidinski, written in the fourteenth century by Grigory Dobropisets, see Ivanova, Kl. (comp. and ed.). *Old Bulgarian Literature, vol. IV: Agiographical works*. (in Bulgarian)(Sofia: Bulgarian writer, 1986) (= B. St. Angelov, et. al. (eds.) *Old Bulgarian Literature in Seven Volumes*), 468–93. Describing the arduous tasks entrusted to this young hesychast (fishing with bare hands through a hole drilled in the ice, spending the night outdoors beneath the snow, etc.), the biographer summarizes: “And let our word go on and, following the order, to affect everything, so that it may be made clear to the ignorant what desire he had from the beginning for virtue and for every ideal, and above all to be obedient to holy and divine men; [what a desire he had] for obedience, without which no mortals can see the Lord . . . Knowing well the benefits of obedience, he endeavored indeed, as perfect according to God, not to be ignorant of the beatitudes [ac-

Once prepared in this way, the future monk takes the first step towards the Schema by Enrobement. Enrobement however is not binding and invites those to join the monastic fraternity at first without taking a vow, so as to test their will and readiness to accept the Schema. It is traditionally assumed that the trial period lasts about three years, although it is not uncommon for it to be significantly shortened. The rasophore (from the Greek *ρασφόρον*, meaning “wearing a robe”) can remain at this stage for their entire life without continuing up the ranks by attaining the Little and/or Great Schema.

The ritual of enrobement is performed at the end of the liturgy, the person wishing to receive spiritual ordination being greeted by the abbot, who asks him whether his decision has been made consciously and has been well thought out. Following an affirmative answer, he is brought into the church, where, after reading the relevant ritual texts (prayers and psalms), the abbot thanks God for guiding the monastic candidate in the right ways, and prays for his admission to the flock of the selected.⁴³ The following words point to the new requirements for the candidate – the observance of chastity and restraint: *Облѣци его с(щ)ениид одеж (д)ею. цѣломоудрениемъ прѣпоиашн чрѣсла его в(ь)сакого въз(д)ръжаниид, ѣви под(ь) вижника . въ ниемь и въ на(с) . . .*⁴⁴ “dress him in a garment of light; gird his loins with chastity; manifest the ascetic in him as well as in us . . .” The practical part of the ritual follows – enrobement and the cutting of the hair. The haircut of the person wearing the cassock is a clear sign of the ongoing change of his identity, in which a bodily sacrifice is offered. This is an essential visible component of the initiation of newly admitted member of the community, which symbolizes his ritual death and acquiring of a new identity.

The ritual of enrobement ends with the putting on of the cassock and the soft monastic hood (“that tames passion”⁴⁵). Before dismissal, a kiss is performed (exchanged, in ritual form between the novice and his monastic brethren) and thus the rasophore becomes part of the monastic community. Here, as we see, the removal of the rasophore from the realm of the *oikos*, complementing his removal from the *polis* during the previous, introductory stage. First, through the eviscera-

quired] by obedience. . . he could not stand to live of his own free will and without obedience.” This description gives an idea of the style and attitudes demonstrated in literature written by hermits; and emphasizes that the categorical renunciation of *one’s own will* was the most important prerequisite for a monastic life.

⁴³ The parallel between this part of the ritual and the beginning of the sacraments of betrothal and marriage in the Russian tradition are obvious, see here, chapter seven.

⁴⁴ From here onwards the edition of Toncheva-Todorova, H. (ed.) *Development of the Old Bulgarian Rites for Entry into Monasticism in the X–XVIII Centuries*. (in Bulgarian) (Plovdiv, PU Publishing House, 2004) is used.

⁴⁵ Toncheva-Todorova, *Development*, 28.

tion of the will – whose paradigmatic manifestation is in the polis – and then of his sexuality whose arena is the oikos; the initiate is thus removed from the very terms of social life, removed from the bonds of both Eros and Ananke to pursue a very different version of existence, an angelic one.

The next steps in attaining angelic life are the rituals of the Little and Great Schema. Although after the twelfth century they became separate rituals, their common meaning and similar structure justify our treating them as one. According to manuscripts the ritual of attaining the Little and Great Schema (from the Greek Σχήματος – *image*) begins when the ecclesiarch introduces the one who wishes to take the tonsure into the church, and he bows three times in front of the holy doors and the abbot. The initiate is then taken to the narthex, where he removes his everyday clothing and remains *СТОИТЬ ВЪ КРАТ(Ъ)ЦѢ РИЗѢЦѢ. НЕПОЯСАНЬ, НЕОБУВЕНЬ, Ш(Т)КРЪВЕНЬ, СРАНИЦЮ ЕДИНЮ ОДѢЯНЬ ЗА БЛАГООБРАЗІЕ*⁴⁶ “standing only in a short shirt; without a belt, without shoes, with an uncovered head, dressed decently in a short piece of clothing.” In the ritual of the Great Schema, the monk does not leave the church, rather, he lies undressed on the floor in front of the holy doors, thus expressing humility and repentance. Taking off one’s clothes is a sign of denial of the world and separation from one’s previous identity (but it may also be interpreted as emulating the passions and humiliations of Christ). The threefold bowing is a symbol of the repentant return of the Prodigal Son to the home of the Father. Thus, deprived of all physical marks of identity, the future monk is ready to proceed to the next series of trials.

These involve, first, a series of questions and answers between the abbot and the initiate to the Schema, the *erotapocritics* (ἐρωταποκρίσεις). They aim to reaffirm the latter’s desire to take the path of monasticism. The questions are as follows:

- 1) Why have you come, brother? . . . 2) Do you voluntarily and consciously approach the Lord? . . . 3) Did someone or something force you to do this? . . . 4) Do you renounce the world and everything in it, according to God’s commandments? 5) Will you remain a virgin until the end of your days? 6) Will you stay in the monastery until your last breath? . . . 7) Will you keep obedience to your superior and your brothers until your death? 8) Will you endure all the sorrow and grief of monastic life for the sake of the kingdom of heaven?

These questions can be sorted into two groups – those concerning the conditions and reasons for the choice made, and those concerning the future behavior of the monk. The first group of questions (questions one to three) is related to the intentionality and conditions for the felicity of the speech act. The explicit requirement to declare that the choice is of one’s own volition, as well as the question of

⁴⁶ Toncheva-Todorova, *Development*, 9.

whether it was not made under pressure from an external will is repeated again and again in different forms until the end of the ritual.⁴⁷ The fourth question is central – it summarizes the meaning of the ritual and formulates the future monk’s renouncement of the earthly world, i.e. the essence of the vow. Questions five to seven specify the three main monastic vows – of chastity, of life-long enclosure in the monastery and of obedience. The vow of poverty, although fundamental to the Christian tradition (both in the West and in the East), is not explicitly mentioned in any of the existent Slavic manuscripts. The eighth question summarizes the meaning of the act from an eschatological perspective. Note that, all three major promises made by the monk at this stage of the ritual concern his future behavior, rather than his faith.

This is followed by the announcement – a special instruction to the recipient of the Schema, which aims to once more explain the meaning of the act and to warn the initiate of the difficulties on his chosen path and the responsibility that he is taking upon himself. This interpretive part, although an integral part of the ritual, is not executive – it is rationalizing and interpretative. In the Western Catholic tradition the initiate literally put a handwritten and signed promise on the altar (the term for this act is “profession”); while the more ancient Eastern ritual seems to prefer “transcendental accounting” without written documents.

The main themes in the schematic announcement are aimed at purging the monk’s future life of basic human activities – sex, freedom of movement, sleep, and nutrition. These are successive steps in the process of distancing the monk from his human form and bringing him closer to the angelic image.

The announcement is followed by three prayers, after which the future monk is again invited to (verbally) confirm his desire to freely and without compulsion accept the Schema “in the invisible presence of God.” Following this the initiate’s name is changed and his hair is cut.

Cutting the hair is a key moment in the ritual of the Schema, which bears a similar meaning to the ritual act of enrobenment, and takes place after the abbot addresses the initiate three times and asks him to personally take and hand him the scissors. This once again confirms the voluntary character of the act – similar to the threefold confirmation of the union with Christ at baptism; the difference is that instead of verbal formulas, here we deal with bodily performatives⁴⁸ –

⁴⁷ A similar concern with the free agency of the oath-taker can be found in some wedding rituals as will be discussed in Chapter 7.

⁴⁸ Even today, according to ancient custom in the Athos monasteries, the abbot discards the scissors three times and the novice must bring them back. This is also the last possibility to reject the tonsure without any subsequent sanctions. If the novice unwaveringly confirms his desire to become a monk, going back is no longer possible.

with the addition of corresponding (interpretative) ritual words: – *Г҃е ѡ(т) роуы Х(с)вы въземлѣши ихъ*⁴⁹ “here, from the hands of Christ you take them [the scissors].” The prayer, which is read during the tonsure emphasizes the parallel between the bodily sacrifice of the hair and the sacrifice of the initiate’s life – just as the hair is insensitive and does not feel the cut, so the monk’s body must become insensitive to carnal urges – *Г҃е ѡ(т)ниини ѡ(т) него в(к)сакоу пль(т)скоую похоть . . . да ѡ(т)ложениѣмъ нечювьствьнны(х) влась. съ ѡ(т)ложитъ, и бесловесныє лислы и дѣла . . .*⁵⁰ “free him from all carnal lust . . . as he frees himself from his insensitive hair, let him also reject all animalistic thoughts and actions.” In the past, the hair was completely removed, today the hair is cut in the shape of the cross and this is interpreted as a seal of faith of the initiate and his willingness to bear his personal cross. Following the evangelical command (Matt 10:37–8) “Whoever loves his father or mother more than Me; and whoever loves his son or daughter more than me is not worthy of Me; and he who does not take up his cross and follow me is not worthy of Me” the new monk breaks his ties with his family, i.e. passes from his traditional community to the community/family of monks. At this point the monk is first called by his new name signifying his new angelic nature and clothed with the monastic vesture as the armor of the new warrior of Christ. The ritual ends with the introduction of the initiate into the flock of the saved and a final prayer for the purification of his thoughts *ѡ(т) пль(т)скы(х) похотїи* “from carnal lust.” Beyond the polis and its test of wills and freed from sexuality and the work of the oikos the new monk has indeed entered a heterotopia transcending the reach of either Eros or Ananke.

The specifics of the female Schema are found less often in manuscript sources, though the practice dates to the middle of the fourth century CE. The texts of the female Schema differ from the male ones only in the content of some of the prayers, in which the names of female saints are indicated as mythological precedents for the forthcoming ascetic triumph. However, the promises made are identical – once a monk/nun is ritually deprived of his or her natural sexual characteristics, it is expected of him or her to make a similar vow.

Although similar to an angel (i.e. asexual), the nun still retains her feminine nature in her role as a bride of Christ. In this sense, the body of the nun attains a special status, and even in some sense is no longer a physical body at all, but a manifestation of God’s disembodied love. On the other hand, it is significant that nuns are not identified with the Virgin Mary (despite – or precisely because of – her parthenogenesis). It is hardly a coincidence that in praising the monastic feat

⁴⁹ Toncheva-Todorova, *Development*, 16.

⁵⁰ Toncheva-Todorova, *Development*, 15.

of St. Petka, Patriarch Euthymius uses the biblical register of wedding chants from the Song of Songs, which abounds with erotic allusions: “I longed and sat in his shadow and his fruit is sweet to my throat, as I am exhausted from love! His left hand is on my head and his right hugs me. That is why the Bridegroom sweetly said: “Come down with me from Lebanon, bride, come down from Lebanon! Come and penetrate the original source of faith. Calm down, enjoy, celebrate true eternal peace!”⁵¹ Thus the nun’s virgin body is constantly in wedding attire and waiting for the Bridegroom. Therefore – although an angel – she actually retains her rejected feminine nature, but only reserved for the single worthy object – God.

Note then, that though they may well be brides of Christ the nuns are still brides. That is to say, something of womanhood continues to adhere to them. So much is this so, that we have saint’s biographies where nuns disguised themselves as men, entered monasteries and spent their whole lives as monks, their biological sexes only discovered after death.⁵² These Russian stories from the fifteenth to the seventeenth centuries raise the intriguing possibility that, whereas monks may indeed become angelic, nuns however can never fully shed their corporeal selves. As we say, they are still brides of Christ.

To fully leave the world, whether of the polis or the oikos, the women must, after-all, somehow become “faux” men. Brides are brides and so the oikos, even if the householder is God himself, is never totally beyond them. This state of affairs gives us, in turn, further insights into our previous analysis of prostitutes being outside of the oikos – especially if they are to play a political role, a role in the polis. As we learned, the polis is never fully free of the oikos and so women’s identification with the oikos, together with the fact that she can never totally free herself from this identification, even as bride of Christ, necessitates at very least her removal from any specific oikos. Resting on the unity of oikos the polis must then be free of the threat posed by women’s membership in any concrete and particular oikos. Just as the nun must leave womanhood completely (at least in a subjunctive sense) in order to fully leave the world, that is the realms of oikos and polis, of sex and aggression; so must the more earthly woman leave the one if she is to play a role in other.

51 We present here an English translation of Patriarch Euthymius’s fourteenth-century text from Ivanova, Kl. (comp. and ed.). *Old Bulgarian Literature, vol. IV: Agiographical Works*. (Sofia: Bulgarian writer, 1986) (= B. St. Angelov, et. al. (eds.) *Old Bulgarian Literature in Seven Volumes*), 201.

52 See e.g. the story/vita of the venerable elder Dositheus of Kiev/ Darya Tyapkina (1721–1776), who practiced, in a male guise, in the Kiev-Pechora Lavra. http://www.hram-feodosy.kiev.ua/iconostas_36.htm, accessed 12.06.2023.

This is as good a place as any to end this brief inquiry into the place of gender in the world of oaths. Oaths, as we see, not only define and regulate the gendered realms of polis and oikos, but – of equal significance – the lives of those who live beyond their purview, among the angels. We have after all been concerned to show that the oaths of the household, of the oikos have been (justly or unjustly, that is not our concern) understood as primarily the space of women, while those of the polis, that of men. This spatial gendering of oath-taking – and so of course of oath breaking – is responsible for the inordinate cultural attention paid to adultery among women as they step outside the normatively ordered space that their oaths and vows (or those taken in their name by their fathers) defined. It is not, we are maintaining, that the oaths per se are gendered, so much as the spaces in which the oaths are rendered are so gendered. With different spaces or places identified primarily with different genders the oaths which define and structure those realms become similarly so defined. The space of the monastic – beyond both – is, as we have seen, also defined by a specific illocutionary act: a vow.

The myths, folklore, plays, novels and so on that we will be studying reflect this reality. As noted more than once, they have become our focus in consequence of our primary interest in the way oaths and vows create an intersubjective reality, that is a shared space, (even if only in *minora*), or even a solitary space for a lone individual, rather than on the more substantial field of political and military action or international relations. With this clarified we can now turn to our case-studies.

Chapter Five

Eros and Oath

When my love swears that she is made of truth,
I do believe her though I know she lies.
That she might think me some untutored youth,
Unskilful in the world's false forgeries.
Thus vainly thinking that she thinks me young,
Although I know my years be past the best,
I, smiling, credit her false-speaking tongue,
Outfacing faults in love with love's ill rest.
But wherefore says my love that she is young?
And wherefore say not that I am old?
O, love's best habit's in a soothing tongue,
And age, in love, loves not to have years told.
Therefore I'll lie with love, and love with me,
Since that our faults in love thus smothered be.

–William Shakespeare, *The Passionate Pilgrim* ¹

Earlier we introduced the Aristotelian notion of “habituation” as a useful way to conceptualize how oaths (and more particularly marriage oaths and vows) stand in relation to Eros. By calling someone or something erotic we are pointing to a set of feelings or impulses that they arouse in us, that are already beyond mere instinct (or Freud's primary drives). They are, in a sense, humanized – if not yet in the Aristotelian sense, habituated. The habituation of feelings – their becoming virtuous – takes place, according to Aristotle, through mindful (i.e. conscious) decision making processes where “practical reason and desire work in tandem throughout.”² The “rationalization of desire” is, in Nancy Sherman's terms, “a kind of obedience.”³ It is not however the imposition of an external regulative norm on the pursuit of happiness but is rather happiness itself.⁴ Critical for Aristotle in this process is the role of decision making. In Book III chapter 2 of his *Nicomachean Ethics* Aristotle explains just how and why decisions are a neces-

1 William Shakespeare, “The Passionate Pilgrim,” in *The Complete Works of William Shakespeare* (New York: Cumberland Publishing House, 1911), 1312.

2 Nancy Sherman, *The Fabric of Character: Aristotle's Theory of Virtue* (Oxford: Clarendon Press, 1989), 199.

3 Sherman, *The Fabric of Character*, 163.

4 Sherman, *The Fabric of Character*, 122.

sary component of virtuous action and as we discussed earlier, in our first chapter the heart of the oath is precisely its decisionary character – bearing not solely, indeed not primarily on present action, but future acts as well.

The oaths and vows that in many traditions define a marriage are, arguably, the example par excellence of the thesis that sustains this inquiry: that oaths and vows are generative acts which create new entities in the world. These entities, as noted earlier, are both social and biological as marriages create new kinship units and within them (when all goes according to plan) children, new human beings. Standing at the origins of both society (through kinship) and human life their role in habituating virtue is thus critical to their constitutive role in social life.

In this manner is Eros habituated and its impulses refined into virtuous ones. However, and as noted in our previous chapter and as anyone with phronetic knowledge can attest, when dealing with practical matters we are often forced to revise, change, reconfigure our original approach to the matter at hand. The stud on the wall where we wished to secure the shelf may not be where the building code says it should, there may not be sufficient rivets in the hull to keep a boat afloat when punctured (the Titanic) and we may have been prevented from coming to Jerusalem in Temple times to offer the Passover sacrifice (and so there is “second Passover” a month later). So too with Eros, our plans of habituation may run afoul of a wrong partner, new developments, changes in us or in our chosen partner and any number of other exigencies. And thus it may fail.

Our oaths may not hold.

Often, at least in their literary representations, the result of oath’s failures – their inability to properly habituate erotic desires – is presented as comedy, even farce. These will be the focus of this chapter. In the following two chapters we will survey very different scenarios, those where the phronetic failure of habituation leads not to comedy but to tragedy. The difference, as we shall see, will be in the nature of the oath. For oaths may exist on either the mundane, horizontal, level or the transcendent, vertical level. Broken oaths of a mundane nature may lead to either comic or tragic outcomes. Broken oaths of a vertical nature – especially if they are private and personal rather than public and formal – can only be tragic. (Broken vows almost always end tragically as they exist only on the vertical plane. As discussed in our introduction you cannot make a vow to another person). We will return to this matter of vertically posited oaths in our next chapter, but let us first enjoy some of the more comic forms taken by oaths unattended.

Eros Ascendant in some early European fabliaux

i. Dame Sirith, a Thirteenth-century English fabliaux

Dame Sirith is the earliest example of an English fabliaux and possibly an influence on Chaucer's *Canterbury Tales*. Fabliaux were medieval French tales, written between the twelfth and fourteenth centuries, eventually spreading to different European languages. They often contained lewd or bawdy material and the theme of a deceived husband was a common one. Farce too is common in many of these short tales.

Within this genre both *Dame Sirith* and *Canterbury Tales* present stories of erotic encounters where oaths and vows and their violation play a substantial role. Composed in the second half of the thirteenth century in the West Midlands dialect and meant to be performed, *Dame Sirith* is the story of a clerk, Wilekin, who makes advances on a married woman, Margery during her husband's absence.⁵ At first, She is oblivious to his intentions but when she divines his purpose she throws him out, piously affirming her married state and swearing constancy to her absent husband. At this point Wilekin goes to the village wise woman (and trickster) Dame Sirith and asks her to help in his quest to bed Margery. She refuses to help initially, as she is afraid of being accused of sorcery and evicted from the village. However she eventually agrees, providing Wilekin keeps their encounter a secret, which he does, swearing on the "Holy Cross" and he pays her twenty shillings. She comes up with a clever plan. She calls over her dog and feeds him mustard and peppered meat so that his eyes tear and he cries. She then goes to Margery, appearing as a pitiful and wretched old woman and relates a long story of how one day when her husband was out of town her daughter was approached by a cleric who swore his love for her. The daughter however refused the cleric who then, using witchcraft, turned her into a bitch and from that day forward she has been a dog, crying over her fate. Margery becomes terribly afraid upon seeing the tearful dog and hearing this story so similar to Wilekin's approaching her and her refusal; that she begs Dame Sirith that if she should see Wilekin, to send him to her immediately and she pledges to reward the old woman. Dame Sirith returns with Wilekin and on seeing him Margery changes

⁵ George H. McKnight, *Middle English Humorous Tales in Verse* (Boston: Heath, 1913), 1–20, based on manuscript in Oxford, Bodleian Library, Digby 86 (SC 1687), ff. 165^r–168^r and accessed through the following website, accessed 26.9.2023. https://pcmep.net/textdetails.php?poem_name=DameSirith.

her tune and accepts him as her lover. The fabliaux ends with the following words of Wilekin to Dame Sirith:

Nelde, par ma fai!
Thou most gange awai,
Wile ich and hoe shulen plaie.

Grandmother, by my faith!
You must go away,
While I and she shall play.

And Dame Sirith's reply:

Goddot so I wille:
And loke that thou hire tille,
And strek out hir thes.

God knows as I will:
And look until you plow her,
And stretch out her thighs.⁶

It is a humorous, bawdy and thoroughly enjoyable tale of love, desire, infidelity, cunning and virtue undone. Oaths appear in various places in the text, beginning with Margery's swearing to do Wilekin's bidding when he first appears. Then she swears fealty to her husband; responding to his sexual advances by declaring:

That wold I don for nothing,
Bi houre Louerd, hevене king,
That ous is bove!
Ich habe mi louerd that is mi spouse,
That maiden broute me to house
Mid menske inou;
He loveth me and ich him wel,

"That would I do for nothing,
By our Lord, heavenly king,
That is above us!
"I have my husband who is mi spouse,
That [as a] virgin brought me to house
With honor enough;
He loves me and I him well,

In this story Margery's marital fidelity as well as the reiteration of her constancy in the oaths she partook of in her first meeting with Wilekin are easily violated in her fear of being turned into a dog and the tale ends with her granting him his wishes.

Though it is fear that leads her to violate her oaths and adjuration not to sleep with Wilekin, we nevertheless recognize the call of Eros for, in truth, and from the outset she not so oblivious to its song as she herself, when fending off Wilekin's first entreating, presented herself. After all, as she rejects his offers, she refuses his love asserting "That ne shal nevere be, That I shal don selk falseté, On bedde ne on flore" ("That shall never be, that I do such deceit, on the bed nor on the floor") – indicating at very least an awareness of the pull of sexual desire not evident in the rest of her rather self-righteous speech. She is a good, sympathetic, character

⁶ *Dame Sirith*, <https://img.atwikiimg.com/www38.atwiki.jp/earlymiddleenglish/attach/26/12/Dame%20Sirith.htm>. Accessed 26.9.2023.

worthy of our empathy. Undone by fear (rather than her own desire, as in most of our following tales) we nevertheless witness the triumph of Eros over the constraints of the married state and with it the liberation that laughter provides, uncovering the possibilities of future free from fear, censorship, power and prohibitions.⁷

ii. Boccaccio and Women's Desire

Composed in the middle of the fourteenth century, slightly after the Black Death ravaged Europe, Boccaccio's *Decameron* is of course a classic of world literature. It is a "frame story" of one hundred tales, told by a group of seven women and three men who escape plague ridden Florence to the outlying hill of Tuscany and entertain themselves with short stories that they tell one another over the course of a fortnight. In structure it is meant to imitate Dante's *Divine Comedy* in various ways. While some scholars question Boccaccio's familiarity with the French fabliaux, others place the *Decameron* firmly within the genre.⁸ Katherine Brown for instance claims that fully one quarter of the tales recounted in the *Decameron* have their origin in the French fabliaux tradition.⁹ Variants of some of his stories later made their way into Chaucer's *Canterbury Tales*; just as his own themes were taken from collections originating in Asia and elsewhere. (Chaucer's *Merchant's Tale* for example makes use of the same themes as the tale told by Boccaccio on day seven, novella #9 where a young woman has sex with her lover before her husband's very eyes, while he is convinced by her that he saw no such act. In Boccaccio the sexual act happens under a tree, in Chaucer on the tree and the ruse is different – the meanings, the same).

The very ubiquity of these tales, over many centuries, and multiple languages speaks to their representative function, if we may call it that. Praised by Montaigne, the *Decameron* was nevertheless seen by him as a form of light entertainment. Yet as Mikhail Bakhtin has shown, by the end of the Middle Ages, the boundary between high literature and folk humor had been erased as popular themes, including those appearing in Boccaccio's work moved into new genres.¹⁰

7 On the importance of laughter in these terms see Mihail Bakhtin, *Rabelais and his World*. (Indiana University Press, 1984), esp. 94–5 and 122–3.

8 Of the former see for example, Carlo Heffernan, "Chaucer's Miller's Tale and Reeve's Tale, Boccaccio's Decameron, and the French fabliaux," *Italica* 81, no. 3. https://go-galecom.ezproxy.bu.edu/ps/i.do?p=AONE&u=mlln_b_bumml&id=GALE%7CA124560859&v=2.1&it=r&ugroup=outside. (Accessed 16.9.2023). For one of those making the firm connection between Boccaccio and the fabliaux, see Wayne Rebhorn, in the introduction to his translation of the *Decameron*. (NY: WW. Norton, 2013).

9 Katherine Brown, *Boccaccio's Fabliaux: Medieval Short Stories and the Function of Reversal*. (Gainesville: University Press of Florida, 2014).

10 Bahktin, *Rabelais and his World*, 64, 97.

That Boccaccio continues to be translated afresh, (a new English translation appeared in 2013), is evidence of his continually purchase, interest and the place he has in our world. That the dissemination of the stories range far and wide, both temporally and spatially a strong argument for their reflecting some basic themes of the human experience; at least over the past two millennia and can be found in Sanskrit texts from 500 CE.

The hundred stories range indeed over many themes, from friendship to greed, the role of Fortune in human life, the place of the Church and many more.¹¹ Over two dozen of the stories are tales of love and desire (often combined but not always) and of the breaking of marriage bonds to fulfill one or the other. While there are some tales where the locus of Eros is in male desire, the overwhelming number of stories deal with married women turning their husband into a cuckold. Indeed, even stories of male lust often invoke female desire as well, such as in the third novella told on day three where there is a story of a young handsome gardener in a convent with whom all the nuns and eventually the Abbess willingly take to bed. (Here and elsewhere in *Decameron* an exception to the “rule” claimed above, that the breaking of vows always ends in tragedy).

If the marriage vow – which we recall was instituted in the fourteenth century – is that which is most often broken in Boccaccio’s tales – whether by men or women – the second set of vows broken in the *Decameron* are those of holy orders; of priests, monks and nuns. All willingly disregard their vows of celibacy to enjoy “heaven and their lusts as well.”¹² Other social conventions in matters of sex are also disregarded in these stories, as for example, when a godfather seduces the mother of his godchild, a sexual relationship which was deemed sinful and outside the normative order – beyond the norms of the *oikos*.¹³ Here then an abjuration not of the marriage bond explicitly, but of the sexual mores and rationalization of Eros that the marriage vows embody.

As we already noted many of these violations are initiated by women, mostly by married women, often married to older men, men away on business or so concerned with piety and their religious obligations that they have little time for their wives. Women’s unfulfilled sexual desire is a theme that appears in many of

11 For a breakdown of all these themes see Sarah Parker, “Themes of Decameron” <https://prezi.com/erwdmi2ckwtj/themes-of-the-decameron/> Accessed 29.9.2023.

12 Quote is from John Davenport, seventeenth-century New England Puritan Divine, uttered in a totally different context, it is nevertheless more than relevant here. Stories that involve clergy and nuns abandoning their vows can be found on: Day one, story number 4; Day three, story number 10; Day eight, story number 8.

13 See for example the third and tenth stories told on day seven.

the stories that make up the *Decameron*. We will present only one instance of its clear and joyous elaboration, which is the tenth story told on day two by Dionio.

The tale is of a judge, in Pisa, who takes as a wife a young and beautiful “maid as fair and fit for amorous dalliance as any in Pisa.”¹⁴ He was however not really up for the task as we soon learn. “The judge brought her home with all pomp and ceremony, and had a brave and lordly wedding; but in the essay which he made the very first night to serve her so as to consummate the marriage he made a false move, and drew the game much to his own disadvantage; for next morning his lean, withered and scarce animate frame was only to be re-quickened by draughts of vernaccia, artificial restoratives and the like remedies.” Realizing that his sexual prowess was no match for his wife’s desires he strove to convince her of all the fast days, saint’s days and other calendrical obstacles that would prevent them (really him) from fulfilling their/his marital duties.

During an excursion to the sea, the wife is kidnapped by a pirate, Paganino del Mare, who “deemed himself lucky to have gotten so beautiful a prize; and being unmarried, he was minded never to part with her, and addressed himself by soft words to soothe the sorrow which kept her in a flood of tears. Finding words of little avail, he at night passed . . . to acts of love, and on this wise administered consolation so effective that before they were come to Monaco she had completely forgotten the judge and his canons, and had begun to live with Paganino as merrily as might be.”¹⁵

The pirate thus falls in love with his captive who, in turn, responds to his sexual desires with her own and is quite happy in his company. The judge eventually learns of his wife’s whereabouts and missing her sorely goes to claim her back, more than willing to pay whatever ransom Paganino demands. Recognizing the judge in town, the now very content captive informs Paganino who befriends the judge and allows him to claim his wife, if she is indeed so and desires to depart with him. At first the wife denies even knowing her husband and when her husband requests – and Paganino complies – to speak to her alone, without the pirate present, she shares with her husband all her true feelings, which are worth quoting at length:

“Rest assured that my memory is not so short but that I know you for what you are, my husband, Messer Ricciardo di Chinzica; but far enough you shewed yourself to be, while I was with you, from knowing me for what I was, young, lusty, lively; . . . You should not have taken a wife if she was to be less to you than the study of the law, albeit ‘twas never as a judge that I regarded you, but rather

14 Giovanni Boccaccio, *The Decameron*, trans. J. M. Rigg (London: A.H. Bullen 1903), 165.

15 Boccaccio, *Decameron*, 166.

as a bellman of encænien and saints' days, so well you knew them all, and fasts and vigils. And I tell you that, had you imposed the observance of as many saints' days on the labourers that till your lands as on yourself who had but my little plot to till, you would never have harvested a single grain of corn."¹⁶

Admonishing her husband that he was "more devoted to the service of God than to the service of ladies," she points out that at present, with her lover "we are at work day and night, threshing the wool, and well I know how feately it went when the matin bell last sounded."¹⁷

She thus makes her desires clear, his sexual inadequacy explicit and her joy in the pirate's company inarguable. The story ends with the judge returning home crestfallen and defeated. He soon dies of grief of which "when Paganino learned, being well assured of the love the lady bore him, he made her his lawful wife; and so, keeping neither feast nor vigil nor Lent, they worked as hard as their legs permitted, and had a good time."

While the story would seem to argue for sexual fulfillment over marriage; it is perhaps not so simple. For Paganino eventually marries the lady after she is widowed and so a not insignificant nod is made to the importance of marriage and even of love in marriage. Near the end of the long exchange quoted in part above, between the judge and his wife she tells her husband: "Moreover, let me tell you, that, whereas at Pisa 'twas as if I were your harlot, seeing that the planets in conjunction according to lunar mansion and geometric square intervened between you and me, here with Paganino I deem myself a wife, for he holds me in his arms all night long and hugs and bites me, and how he serves me, God be my witness."

The ideal here is thus clearly not Eros in opposition to oath that is, to the marriage vow, but the need for them to be conjoined. Oaths without Eros are, as we see in so many of these tales (and others) farcical. But here, as elsewhere, Eros only reaches its fulfillment within the oath – or more properly marriage vow.

Not all of Boccaccio's tales end with the marriage vows of illicit lovers. Most do not. Some, as for example the story of the gardener and the nuns, end with an arrangement that satisfies all involved and continues for years. As noted earlier, the worlds of Eros and those of oaths and vows, interact in many different forms (not all of Aristotelian provenance).

¹⁶ Boccaccio, *Decameron*, 168.

¹⁷ Boccaccio, *Decameron*, 169.

iii. Gleanings from Chaucer's *Canterbury Tales*

The most famous of the English fabliaux is without a doubt Chaucer's *Canterbury Tales* written about 100 years after *Dame Sirith*, and a bit after the *Decameron*, in the late fourteenth century.¹⁸ It recounts the tales, twenty-four in number, told among a group of 30 (31 including Chaucer) pilgrims en route to Saint Thomas a Becket's shrine in Canterbury. The group is a mix of very different social types who recount, moreover, stories in a diversity of genres, from fabliaux, courtly romance, religious tales and so on. Not a few of these tales touch on our theme of Eros and oath, often with a clearly comic – in the classical sense – resolution. *The Merchant's Tale*, which we shall take up first is one where an old knight (named January) is desperate to wed, both for sexual pleasure and to leave an heir and, against the advice of well-wishers marries a young, beautiful and flirtatious woman (named May) only to be cuckolded at the end by his squire Damyan. Much is made of the marriage and its ceremony, all the more setting off the strange and comic scene of January's cuckolding.

This takes place in the garden where he, by now blind, invited his wife for a sexual escapade. She however had planned a different encounter, with Damyan who awaited her up in the pear tree (below which the husband had intended to have intercourse with his wife). May climbs the tree to grasp a pear that she requests her husband to give her, knowing full well his inability to do so (due to his blindness and fragility). Whilst up in the tree, May and Damyan are engaged in the sexual act, and January regains his sight and is appalled by what he sees. May however convinces him that she is just “wrestling” with a man and his failing sight, so recently returned prevents him from seeing correctly what is happening. Indeed, this wrestling with a man in a tree, she claims, was precisely the medicine prescribed to her in order to help her blind husband regain his sight.

At first unconvinced – for he saw them engaged in sex with his own eyes – May eventually persuades January that just as a man awaking from sleep takes a while for his eyes to readjust, so too from blindness one does not immediately recover and is liable to see things that are not there. Happy to be proved wrong, January embraces May who jumps from the tree (which she had climbed by stepping on January's back) but with the caution, that indeed, it may be a while before he sees again properly.¹⁹

¹⁸ The literature on Chaucer's *Canterbury Tales* is immense. A good, if somewhat dated, compendium of studies focusing on the sources used by Chaucer in Boccaccio and others is: W.F. Bryan and Germaine Dempster, eds., *Sources and Analogues of Chaucer's Canterbury Tales* (NY: Humanities Press, 1958).

¹⁹ All of the following textual quotations are taken from Harvard University Geoffrey Chaucer Website: <https://chaucer.fas.harvard.edu/pages/text-and-translations> Accessed 26.9.2023.

She thus intimates her intention of continuing her erotic relations (with Damyan or with others) in the future. This is a much more fully comic scenario than that of *Dame Sirith*. The foolish old knight is not only cuckolded, but lied to, become complicit in the mendacity and even provides his back as the ladder with which his wife can reach her lover. And as a final touch, further infidelities are hinted at, with the cuckolded husband's deceit almost guaranteed. As he did something so foolish as take a maid not yet twenty for a wife while in his dotage, it is difficult to feel sympathy for him or feel that he received anything other than his just deserts.

From our perspective – of oath and Eros – what is of great interest is the intervention of the gods in this story. Pluto and Proserpine both witness the happenings prior to the actual sexual union of May and Damyan and Pluto swears to intervene by granting January his sight so he can witness the perfidy of women. Proserpine then vows that she will give May, and all women, the means to verbally talk their way out of compromising situations. Here is Proserpine:

- Now by my moodres sires soule I swere / Now by my mother's father's soul I swear
 2266 That I shal yeven hire suffisant answer, / That I shall give her sufficient answer,
 2267 And alle wommen after, for hir sake, / And all women afterwards, for her sake,
 2268 That, though they be in any gilt ytake, / That, though they be in any guilt taken,
 2269 With face boold they shulle hemself excuse, / With bold face they shall themselves
 excuse
 2270 And bere hem doun that wolden hem accuse. / And bear them down who would
 them accuse
 2271 For lak of answer noon of hem shal dyen. / For lack of answer none of them
 shall die.
 2272 Al hadde man seyn a thyng with bothe his yen, / Although a man had seen a thing
 with both his eyes,
 2273 Yit shul we wommen visage it hardily, / Yet shall we women face it out boldly,
 2274 And wepe, and swere, and chyde subtilly, / And weep, and swear, and chide
 deceitfully,
 2275 So that ye men shul been as lewed as gees. / So that you men shall be as ignorant as
 geese.

She grows increasingly angry, especially at ancient King Solomon whose words on never finding a trustworthy woman in the Book of Ecclesiastes, Pluto had quoted to great effect. In face of her anger, Pluto is then forced to declare:

- “Dame,” quod this Pluto, “be no lenger wrooth; / “My Lady,” said this Pluto, “be no
 longer angry;
 2312 I yeve it up! But sith I swoor myn ooth / I give it up! But since I swore my oath
 2313 That I wolde graunten hym his sighte ageyn, / That I would grant him his sight again,
 2314 My word shal stonde, I warne yow certeyn. / My word shall stand, I warn you
 certainly.
 2315 I am a kyng; it sit me noght to lye.” / I am a king; it is not proper for me to lie.”

The presence of these oaths is of no small significance, raising much deeper issues than simply the marriage vows taken by January and May and violated by the later for her sexual pleasure. Proserpine's oath and the tools she has given to women in their defense should bring us in mind of our previous discussion in Chapter 1 of deceit and lies and Roy Rappaport's claim that given the instability of any spoken word, it is only in the performatives of ritual that we can ground social order and expectations (and even they – as we have been seeing – cannot be relied upon too much). We are reminded as well of the ultimate fragility of oaths and vows when not supported by Eros with its unique generative (if also variable) capabilities.

While feminist critique may see her speech as advancing a misogynist argument that women are inherently untruthful, we believe something much more significant is at work. Rather than raising a question about women's truthfulness, we believe it is raising questions about words per se, and so by extension about the oath – the verbal performative par excellence. We – not just women, all of us – can talk our way out of almost anything. This was the basis of the Confucian suspicion of *fa*, that is of legal arguments.²⁰ Anything that can be argued, can also be argued in the reverse. Neo-Confucians (much like Rappaport) much preferred *li*, proper practice, proper performance as its quiddity could not be open to question. Words can be the source of falsehood not less than of truth – they can even get us to misbelieve the proof of our own eyes. Here then, in the *Merchant's Tale*, Eros triumphs not only over marriage vows, but, actually over the act of oath-taking per se. Perhaps in fact less a triumph and more an illumination of those potential limitations inherent to any act of oath-taking and verbal performance.

The *Wife of Bath's Tale*, perhaps the most famous of the *Canterbury Tales* with a prologue twice as long as the tale itself will concern us only briefly and only because its resolution is very different from either *The Merchant's Tale* or *The Miller's Tale* to which we shall immediately turn. In this story, a knight who violated a maiden is condemned to death, but the Queen pleads for him and manages to convince the King to spare his life if, in the period of a year and a day, he can find out what women truly want or “do most love.” The knight goes out into the world, meets many different women who tell him they want many different things (from riches, to sexual pleasure, to love, to being considered steadfast). At the end he comes upon twenty-four fair maidens who magically disappear on his approach, leaving an old haggard and ugly woman. She will give him the answer

20 J.G.A. Pocock, *Politics, Language and Time: Essays on Political Thought and History* (New York: Atheneum, 1973), 42–79.

(which we recall, will save his life) if he pledges to marry her, which he does. The answer to what women most love turns out to be mastery over their husbands:

“Wommen desiren to have sovereynetee / “Women desire to have sovereignty
 1039 As wel over hir housbond as hir love, / As well over her husband as her love,
 1040 And for to been in maistrie hym above. / And to be in mastery above him.

To which, all in court agree. Pledged as he is to marry the ugly old hag, the knight can not however find in himself the sexual desire for her when they reach their marriage bed. He blames her looks, her poverty and her low birth. She answers each in turn and leaves him with a choice:

1219 “Chese now,” quod she, “oon of these thynges tweye: / “Choose now,” she said, “one of
 these two things:
 1220 To han me foul and old til that I deye, / To have me ugly and old until I die,
 1221 And be to yow a trewe, humble wyf, / And be to you a true, humble wife,
 1222 And nevere yow displese in al my lyf, / And never displease you in all my life,
 1223 Or elles ye wol han me yong and fair, / Or else you will have me young and fair,
 1224 And take youre aventure of the repair / And take your chances of the crowd
 1225 That shal be to youre hous by cause of me, / That shall be at your house because
 of me,
 1226 Or in som oother place, may wel be. / Or in some other place, as it may well be.
 1227 Now chese yourselven, wheither that yow liketh.” / Now choose yourself, whichever
 you please.”

The knight then leaves the choice to her, remembering perhaps his learning on what women most desire. And the dialogue continues.

1236 “Thanne have I gete of yow maistrie,” quod she, / “Then have I gotten mastery of
 you,” she said,
 1237 “Syn I may chese and governe as me lest?” / “Since I may choose and govern as I
 please?”
 1238 “Ye, certes, wyf,” quod he, “I holde it best.” / “Yes, certainly, wife,” he said, “I consider
 it best.”
 1239 “Kys me,” quod she, “we be no lenger wrothe, / “Kiss me,” she said, “we are no longer
 angry,
 1240 For, by my trouthe, I wol be to yow bothe – / For, by my troth, I will be to you both –
 1241 This is to seyn, ye, bothe fair and good. / This is to say, yes, both fair and good.
 1245 And but I be to-morn as fair to seene / And unless I am tomorrow morning as fair to
 be seen
 1246 As any lady, emperice, or queene, / As any lady, empress, or queen,
 1247 That is bitwixe the est and eke the west, / That is between the east and also the west,
 1248 Dooth with my lyf and deth right as yow lest. / Do with my life and death right as you
 please.
 1249 Cast up the curtyn, looke how that it is.” / Cast up the curtain, look how it is.”
 1250 And whan the knyght saugh verrailly al this, / And when the knight saw truly all this,

- 1251 That she so fair was, and so yong therto, / That she so was beautiful, and so young
moreover,
1252 For joye he hente hire in his armes two. / For joy he clasped her in his two arms.
1253 His herte bathed in a bath of blisse. / His heart bathed in a bath of bliss.
1254 A thousand tyme a-rewhe he gan hire kisse, / A thousand time in a row he did
her kiss,
1255 And she obeyed hym in every thyng / And she obeyed him in every thing
1256 That myghte doon hym plesance or likyng. / That might do him pleasure or
enjoyment.

Here then we have a story which begins with a breach of a major norm, an untrammelled expression of both primary processes: sex and aggression (the later in the rape of the maiden). To save his life he ends up marrying an ugly old crone who at the end proves to be a young and beautiful and faithful wife. The marriage vow can almost be seen as an atonement for the earlier sexual violence, but also as a reward: a renewal of desire and erotic feeling – “And she obeyed him in every thing that might do him pleasure or enjoyment.” Here then Eros (as well as the earlier aggression which should not be made light of) is undone by a vow whose reward is a return of Eros. Neither tragedy nor comedy we feel, though we do smile on the vagaries of the human condition as we realize the constant movement and play between, Eros and oath and Eros again. Eros ending in obligation only to be transformed in turn into erotic fulfillment and creation.

In this context perhaps a word on the overlong prologue to this tale. There is one oath mentioned in the prologue where the Wife of Bath swears on Saint Thomas to tell the truth of what transpired between her and her fifth husband (she had previously given brief histories of the other four). It is a story not without violence. He is reading from a book full of stories defaming women, stories taken from history, from the classics and from scripture – of their perversity. This angers her and so she tears out pages from the book he is reading. In return he strikes her, harder than intended and is fearful of having caused her serious harm as she falls into a faint. He then kisses her, begs her forgiveness and they never quarrel again and she remains true to him until his demise. It is almost as if the violence of the tale’s beginning is mirrored in that of the prologue’s end and the resolution of the tale’s erotic end is mirrored in the hymn to marriage(s) (the more the merrier) in the prologue’s beginning. Both recognize the strength of Eros, its pleasures as well as dangers and seek resolution.

The final example we shall bring from *Canterbury Tales* is the *Miller’s Tale*. It too is a story of an old man, a carpenter who marries a very beautiful, spirited and “wanton” young woman of eighteen years and is sore afraid of being cuckold. In the house was a boarder, young Nicolas who soon takes up with the wife (Alison) whenever the husband is away. They however are frustrated not to be able

to spend a whole night in each other's arms but must find their pleasure only fleetingly. Nicholas contrives a complicated story of an impending flood and convinces the carpenter to sleep in the barn in one of the kneading tubs he had fashioned to carry them over the waters. At the same time another young man, Absolon, also falls for the carpenter's wife, entreats her pleasures, which she denies him as she is quite Nicolas's lover. The night the carpenter sleeps in the barn, and Nicholas in his bed, together with the young wife Alisoun, Absolon comes knocking on the window demanding a kiss, Alisoun presents her ass for the kiss and Absolon on perceiving the insult (after the fact) is set on revenge. He goes to an ironmonger and take a red-hot plough shear full intending to implant it on Alisoun's rear as he repeats his performance, this time promising a ring for the kiss. However, rather than Alisoun, he is presented with Nicolas's rear end, which breaks wind in his face and he then brands Nicolas's backside with the red hot iron. Nicolas's screams awake the carpenter who falls from the top of the barn to its floor, breaks his arm and despite all his protestations, no one believes the tale he tells (of Nicolas's story of the impending flood). Both Nicolas and Alisoun convince all that he is crazy. The tale ends:

3849 And every wight gan laughen at this stryf. / And every person did laugh at this strife.
 3850 Thus swyved was this carpenteris wyf, / Thus screwed was this carpenter's wife,
 3851 For al his keypyng and his jalousye, / In spite of all his guarding and his jealousy,
 3852 And Absolon hath kist hir nether ye, / And Absolon has kissed her lower eye,
 3853 And Nicholas is scalded in the towte. / And Nicholas is scalded in the rump.
 3854 This tale is doon, and God save al the rowte! / This tale is done, and God save all this company!

This indeed is real comedy, of the slapstick variety: the foolish carpenter who took a young wife well deserved to be cuckolded, Nicolas gets his nether parts burned and Absolon ends up kissing Alisoun's "nether eye." With the exception of Alisoun all get what they deserve and we the readers, are left with laughter and a sense of desserts well served. All, as we say, except Alisoun. And so, we are left contemplating once again the triumph of Eros, or at very least of female sexuality (not unlike our previous cases).

Oaths appear in a number of places in this tale. The miller, who is drunk swears in the prologue "By (Christ's) arms, and by blood and bones," (3125) that he knows a noble tale to tell and reiterates his desire to share it, again with a vow (3132). Later, Alisoun swears to Nicholas that she will sleep with him, as soon as an opportunity presents itself:

3288 This Nicholas gan mercy for to crye, / This Nicholas began to cry for mercy,
 3289 And spak so faire, and profred him so faste, / And spoke so fair, and pressed his suit so fast,

- 3290 That she hir love hym graunted atte laste, / That she granted him her love at the last,
 3291 And swoor hir ooth, by Seint Thomas of Kent, / And swore her oath, by Saint Thomas
 of Kent,
 3292 That she wol been at his comandement, / That she will be at his commandment,”

And Nicolas swears John (the carpenter) to secrecy, not to share his predictions of the upcoming flood with anyone, which he does.

- 3508 “Nay, Crist forbede it, for his hooly blood!” / “Nay, Christ forbid it, for his holy
 blood!”
 3509 Quod tho this sely man, “I nam no labbe, / Said then this hapless man, “I am no
 blabbermouth,

Absolon swears – perhaps to give himself courage, to knock at the bedroom window, softly to gain his kiss:

- 3675 “So moot I thryve, I shal, at cokkes crowe, / “As I may prosper, I shall, at cock’s crow,
 3676 Ful pryvely knocken at his wyndowe / Very quietly knock at his window
 3677 That stant ful lowe upon his boures wal. / That stands very low upon his bed-
 room’s wall.
 3678 To Alison now wol I tellen al // To Alison now I will tell all
 3679 My love-longynge, for yet I shal nat mysse / My love-longing, for yet I shall not miss
 3680 That at the leeste wey I shal hire kisse. / That at the very least I shall her kiss.

And finally the carpenter swore many oaths to convince folk of his story, but no one took him as other than crazy (3845).

The oaths are, however, as nothing to the force of Eros. They do not direct the plot, Eros does. In the prologue they are uttered by the drunken miller, Alison’s oath to Nicolas comes to buttress erotic desire, not direct it, John’s oath is part of his simple mindedness and Absolon’s oath is much more of an asseveration than a proper oath. Here too then, the world as ordered by words – that is, primarily by oaths, is undone by Eros.

We move now, two hundred years ahead to Shakespeare’s (1564–1616) plays where oaths play major roles, not only in his tragedies and comedies but in his historical plays as well. We will limit ourselves to a review of just two comedies, *Measure for Measure* and *Love’s Labour’s Lost* as well as *The Merchant of Venice* which has both comic and tragic elements and, in its history, has been played as both.

Shakespeare and the Drives of Eros

In *Measure for Measure* Eros and oath face off against one another as do Carnival and Lent in Breughel's famous painting of 1559. Set in Vienna, a city presented to be rife with sexual licentiousness, bawdy houses, bastard children and unregulated desire; in short, a city where Eros is totally unrestrained (and not in the least "habituated"). The Duke, Vicentio, decides that the law restricting sexual activity to the bounds of marriage must be re-imposed, houses ill repute closed down and unregulated sex punished by death. However, he leaves the imposition of the law to his Deputy, Angelo and makes as if to take himself off, returning in disguise as a monk to see how his reforms are progressing.

Angelo proves to be both a tyrant and a hypocrite. He easily condemns Claudio, a pleasant enough young man, to death for having had – mutually consensual – sexual relations with his beloved, Juliet. Engaged to be married, both were frustrated with the matter of the dowry which was held up by legal matters and consummated their love before tying a legal bond rather than put off their physical union until after the wedding. For this Angelo condemned Claudio to death. Angelo however, as it transpires over the course of the play, had broken his vow to betroth Mariana when it became clear that a dowry would not be forthcoming. Cruel, he is also a hypocrite for while easily condemning moralistic transgressions he so desperately wishes to sleep with Isabella – who is Claudio's sister and in the process of taking holy orders – that he offers her brother's life if she agrees. She does not.

In fact, both Isabella and Angelo are sexual prudes, Angelo hypocritically so, Isabella self-righteously so. Indeed, Angelo is, we feel, both genuinely attracted to Isabella, but also sexually aroused by the idea of corrupting her virtue. His soliloquy after his first meeting with Isabella as she begs for her brother's life ends with him declaring:

Can it be
 That modesty may more betray our sense
 Than woman's lightness? Having waste ground enough,
 Shall we desire to raze the sanctuary
 And pitch our evils there? O fie, fie, fie!
 What dost thou? Or what art thou, Angelo?
 Dost thou desire her foully for those things
 That make her good?

(II, ii, 167–175)²¹

21 Shakespeare, *Measure for Measure* in *The Complete Works*, 91–2.

Following Angelo's propositioning of her, Isabella meets with her brother in his prison cell and tells him of Angelo's proposition and her refusal. He reasonably argues with her to reconsider as "Death is a fearful thing" to which she retorts "And shamed life a hateful" (III, i, 16,17). The end of their exchange shows her insufferable sanctimoniousness as she reproaches her brother in the harshest possible words.

O you beast!
 O faithless coward! O dishonest wretch!
 Wilt thou be made a man out of my vice?
 Is't not a kind of incest, to take life
 From thine own sister's shame? What should I think?
 Heaven shield my mother play'd my father fair!
 For such a warped slip of wilderness
 Ne'er issu'd from his blood. Take my defiance!
 Die, perish! Might but my bending down
 Reprieve thee from thy fate, it should proceed.
 I'll pray a thousand prayers for thy death,
 No word to save thee.

(III, i, 135–146)²²

Quite willing to sacrifice her brother on the bier of her own virtue, Isabella is hardly a more sympathetic figure than is Angelo. Both prudes, one a hypocrite the other smothered in self-righteousness, the play would have been a tragedy if not for the intervention of the world-wise and rather "diabolical" Duke.²³ He arranges a 'bed-trick' so that Angelo, thinking he is sleeping with Isabella, is actually bedding his spurned lover, Mariana (who still loves him and continues to throughout the play). The Duke also substitutes the head of a pirate for that of Claudio so that Angelo (and all, including Isabella), believe he has indeed been beheaded by Angelo; the later thus breaking his word to save Claudio's life if Isabella slept with him which, to the best of Angelo's knowledge she did).

The play ends with all deceptions revealed – beginning with the Duke's true identity. His consequent judgments force Angelo to wed Mariana, Claudio to marry Juliet (with no further discussion of dowry), Lucio (a friend of Claudio and all around disreputable character) forced to marry a woman with whom he had a child and spurned for a whore causing him to plead with the Duke "Your highness said even now, I made you a Duke [as Lucio removed the monk's cowl thus revealing the Duke's identity]: good my lord, do not recompense me in making

²² Shakespeare. *Measure for Measure*, 135.

²³ This characterization of the Duke and indeed a wonderful analysis of the play can be found in Alan Bloom, *Love and Friendship* (New York: Simon and Schuster, 1993), 338 and 327–45.

me a cuckold” (V,i, 520, 521). And he, the Duke, walks off with Isabella to apparently wed her at the palace as he declares; “What’s mine is yours, and what is yours is mine” (V, i. 541) – much we imagine to Angelo’s eternal distress.

The only significant oaths and vows in this play are those not articulated in the course of the action; Angelo’s revoking his commitment to Mariana and Claudio and Juliet’s untaken vows of marriage. Yet the play itself is all about the struggle of unbound Eros and its habituation through marriage vows. The play deals harshly with those who would deny Eros completely (Angelo and Isabella), generally through the trickery and machinations of the Duke. Indeed, it deals more harshly with them than with the debauched multitude whose sexual needs are actually recognized by the Duke (who clearly shares them) but who realizes that they must be controlled, regulated and channeled in a socially acceptable manner (that is through marriage). The play takes its name from the Sermon on the Mount:

Judge not, that ye be not judged.

For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again.

And why beholdest thou the mote that is in thy brother’s eye, but considerest not the beam that is in thine own eye?

Or how wilt thou say to thy brother, Let me pull out the mote out of thine eye; and, behold, a beam is in thine own eye? (Matthew 7: 1–4)

Its words are invoked in the Duke’s admonition to Angelo (V,i, 403) that he actually deserves death for the “killing” of Claudio.²⁴ In fact however, each get what they deserve in the balance struck between unrestrained Eros and the severity of the law. In Allan Bloom’s words:

This is a terrible play in its threats and a very sweet one in its results. The Duke understands effective law to be a delicate mixture of fear-producing force, wisdom, and above all, natural inclination, producing as much happiness for individuals as human society admits of. He does not believe that sexual desire can express itself without limits in a decent society. He thinks sexual satisfaction is a good thing and that it does not take too much, unless there has been a total emancipation, to calm sexual desire sufficiently in the name of marriage.²⁵

The Duke’s vision thus emerges as eminently Aristotelian, for by the end of the play, Eros is only realized in the oaths and vows to be taken with the marriages of Angelo and Claudio. The oath and the marital vow, as forces of necessity, habituate an earlier ‘undirected’ Eros has perhaps had her day and successfully staked her own claims but only in serious consideration of necessity’s mantle.

²⁴ On its significance see, Kerrigan, *Shakespeare’s Binding Language*, 295–6.

²⁵ Alan, Bloom, *Love and Friendship*, 345.

In contrast to this, stands *Love's Labour's Lost*. Here the action is much more fully comic as, indeed, the oaths are more explicit. If, in *Measure for Measure* the oaths are either not taken (Claudio and Juliet) or transpired before the action began (Angelo's to Mariana), in *Love's Labour's Lost* they appear front and center at the play's outset; as Ferdinand, King of Navarre and his attending lords swear to sequester themselves from the world and its charms (including the charms of women) for three years to devote themselves to scholarship. Never mind that the lords did not all actually sign on to these terms, or did so "only in jest" the King commits them all to his venture. As pointed out by John Kerrigan, the swearing of oaths and "the existence of oath-bound groups had a significant place in the associational world of Elizabethan England."²⁶ It formed moreover an essential component of matriculation and initiation of colleges and various societies, the likes of which the King hopes to model for his court. Here however it becomes clear that the law's force was to be over the whole land as Costard, a servile clown is sentenced for dallying with a maid – though the sentence is comically light.

The critical stipulation of the oath; "That no woman shall come within a mile of my court . . . on pain of losing her tongue" (I, i, 120) or "If any man be seen to talk with a woman within the term of three years, he shall endure such – public shame as the rest of the court can possibly devise" (I, i, 130–3) is immediately questioned by the assembled lords who point out that the French King's daughter is en route to negotiate with the King over the lands of Aquitaine. The King himself realizes that "We must of force dispense with this decree, She must lie here on mere necessity." (I, i, 148, 149). This however provides the opportunity for one of the lords, Biron, to declare: (I, i, 150–61):

Necessity will make us all forsworn
 Three thousand times within this three years' space;
 For every man with his affects is born,
 Not by might master'd but by special grace:
 If I break faith, this word shall speak for me;
 I am forsworn on 'mere necessity.'
 So to the laws at large I write my name . . .
 But I believe, although I seem so loath,
 I am the last that will last keep his oath.

"Necessity" in his words of course is no longer the diplomatic force majeure that the King referred to but of the erotic desire all are prey to. And indeed, the King and his lords fall in love with the Queen and her ladies and all oaths are easily forsworn as the men perjure themselves again and again. John Kerrigan has described *Love's*

26 Kerrigan, *Shakespeare's Binding Language*, 74.

Labour's Lost as a play “dominated by oaths” where perjury and oath-breaking are as common as oath-taking.²⁷ The perjury of course is done under the compulsion of Eros, of love and its clearly overwhelming power against the all too feeble oaths of the King and his lords. As Biron asserts “Vows are but breath, and breath a vapour is: /Then thou, fair sun, which on my earth dost shine,/ Exhalest this vapour-vow; in thee it is:/ If broken the, it is no fault of mine./ If by me broke, what fool is not so wise/ To lose an Oath to win a paradise.” (IV, iii, 67–72). Oaths are here presented as the most unsubstantial of entities, easily whisked away by the sun and, in any case, paling in significance to the paradise of love’s fulfillment.

The play is replete with oaths, vows and promises of many natures, as well as their forswearing and general inconstancy of the principals. It is filled with word play, disguise, legerdemain and many forms of plays within plays that do not concern us here. What does concern us however is how Eros provides the very constitutive basis for the oaths, words and verbal arguments of the play’s characters. The most outstanding example of this dynamic is Biron’s exhortation at the end of Act IV which, despite its length we quote in full, given its importance. Oaths as presented in this monologue are posited as actually formed by erotic desire, in all its generative capacity.

Consider what you first did swear unto,
 To fast, to study, and to see no woman;
 Flat treason ‘gainst the kingly state of youth.
 Say, can you fast? your stomachs are too young;
 And abstinence engenders maladies.
 And where that you have vow’d to study, lords,
 In that each of you have forsworn his book,
 Can you still dream and pore and thereon look?
 For when would you, my lord, or you, or you,
 Have found the ground of study’s excellence
 Without the beauty of a woman’s face?

From women’s eyes this doctrien I derive;
 They are the ground the books, the academes
 From whence doth spring the true Promethean fire
 Why, universal plodding poisons up
 The nimble spirits in the arteries,
 As motion and long-during action tires
 The sinewy vigour of the traveller.
 Now, for not looking on a woman’s face,
 You have in that forsworn the use of eyes
 And study too, the causer of your vow;
 For where is any author in the world

²⁷ Kerrigan, *Binding Language*, 101.

Teaches such beauty as a woman's eye?
 Learning is but an adjunct to ourself
 And where we are our learning likewise is:
 Then when ourselves we see in ladies' eyes,
 Do we not likewise see our learning there?
 O, we have made a vow to study, lords,
 And in that vow we have forsworn our books.
 For when would you, my liege, or you, or you,
 In leaden contemplation have found out
 Such fiery numbers as the prompting eyes
 Of beauty's tutors have enrich'd you with?
 Other slow arts entirely keep the brain;
 And therefore, finding barren practisers,
 Scarce show a harvest of their heavy toil:
 But love, first learned in a lady's eyes,
 Lives not alone immured in the brain;
 But, with the motion of all elements,
 Courses as swift as thought in every power,
 And gives to every power a double power,
 Above their functions and their offices.
 It adds a precious seeing to the eye;
 A lover's eyes will gaze an eagle blind;
 A lover's ear will hear the lowest sound,
 When the suspicious head of theft is stopp'd:
 Love's feeling is more soft and sensible
 Than are the tender horns of cockl'd snails;
 Love's tongue proves dainty Bacchus gross in taste:
 For valour, is not Love a Hercules,
 Still climbing trees in the Hesperides?
 Subtle as Sphinx; as sweet and musical
 As bright Apollo's lute, strung with his hair:
 And when Love speaks, the voice of all the gods
 Makes heaven drowsy with the harmony.
 Never durst poet touch a pen to write
 Until his ink were temper'd with Love's sighs;
 O, then his lines would ravish savage ears
 And plant in tyrants mild humility.
 From women's eyes this doctrine I derive:
 They sparkle still the right Promethean fire;
 They are the books, the arts, the academes,
 That show, contain and nourish all the world:
 Else none at all in ought proves excellent.
 Then fools you were these women to forswear,
 Or keeping what is sworn, you will prove fools.
 For wisdom's sake, a word that all men love,
 Or for love's sake, a word that loves all men,
 Or for men's sake, the authors of these women,

Or women's sake, by whom we men are men,
 Let us once lose our oaths to find ourselves,
 Or else we lose ourselves to keep our oaths.
 It is religion to be thus forsworn,
 For charity itself fulfills the law,
 And who can sever love from charity?

(IV, iii, 291–364)

In this, justly famous monologue, Biron positions love as the force behind all learning, all books, laws and indeed the very words upon which our oaths rest. Eros is, in his presentation, anterior to all civilizing instruments to which the lords have sworn fealty for the coming three years. Embracing and nourishing the whole of creation, Eros stands out as that lifeforce without which we ourselves could not be and so better to “lose our oaths to find ourselves” than to lose “ourselves to keep our oaths.”

However, and while Eros here will out, mobilizing words in her defense, she also – as we come to see – learns some lessons in humility as the princess of Aquitaine refuses to wed Ferdinand immediately as is his wish, but makes him (as well as the lords and ladies in waiting, also bound to matrimony) wait a year and a day, the better to test if their ‘love’ is really the Love of which Brion speaks and not simply offers made “in heat of blood.” The waiting period is also one of various trials for the men, perhaps as penance for breaking their original oaths (to refrain from contact with women). Pointing out to Ferdinand that he is “perjured much” and so untrustworthy she sends him off to an isolated abode as test of his steadfastness and commitment. She similarly promises to shut herself up “in a mourning house” for the same period of time, not surprising as she has just learned of the death of her father the King. In her words:

Your oath I will not trust; but go with speed
 To some forlorn and naked hermitage,
 Remote from all the pleasures of the world;
 There stay until the twelve celestial signs
 Have brought about the annual reckoning.
 If this austere insociable life
 Change not your offer made in heat of blood;
 If frosts and fasts, hard lodging and thin weeds
 Nip not the gaudy blossoms of your love,
 But that it bear this trial and last love;
 Then, at the expiration of the year,
 Come challenge me, challenge me by these deserts,
 And, by this virgin palm now kissing thine
 I will be thine

(V, ii, 797–810)

Eros, as passion may well put paid to the opening oaths taken by the King and his lords at the onset of the play. This makes for much fun and comic humor. However, and as noted by Umberto Eco, comedy no less than tragedy serves to support social order – and thus the social obligations that oaths represent – rather than subvert it (as it too ends with the reaffirmation of the rules and of social structure). Order is broken, rules are violated but then reasserted.²⁸ And here, in our case, when passion is to be at the service of love, let alone dynastic politics between Aquitaine and Navarre, and so sealed in the social oath of a marriage vow it must first be tried and found true which is precisely the verdict the Princess and her ladies put on their male suitors through penitential acts and the delaying of any union for a year and a day.

The final Shakespearean play we shall review is *The Merchant of Venice* which as we noted is both comedy and tragedy wrapped into one. As the basic elements of the plot are widely known we shall refrain from any general review. For the first few hundred years of its staging, it was understood as a comedy. Until the nineteenth century and the portrayal of Shylock by the actor Edmund Keane the play was in fact performed as a comedy. It was Keane, and actors such as Edwin Booth and Henry Irving following him, who drew out the humanity of Shylock's predicament. As Irving declared, "I look on Shylock as the type of a persecuted race; almost the only gentleman in the play and the most ill-used. . . . He feels and acts as one of a noble and long oppressed nation. In point of all intelligence and culture he is far above the Christians with whom he comes in contact, and the fact that as a Jew he is deemed far below them in the social scale is gall and wormwood to his proud and sensitive spirit."²⁹

In fact, as Martin Jaffe, Richard Weisberg, Stanley Cavell and other (interestingly, Jewish) commentators have pointed out, the play is not at all unfriendly to Jews.³⁰ The easy, popular, assimilation of Shylock to anti-Semitic stereotypes was a hallmark of an all too popular political correctness *avant la lettre*. (And like political correctness today, a sign of people's marked difficulty in dealing with ambiguous situations and characters. Ironically, a friend studied *The Merchant of*

²⁸ Umberto Eco, "The Frames of Comic Freedom" in Thomas Sebeok, ed., *Carnival* (Berlin: Mouton, 1984), 1–9.

²⁹ Quoted in Toby Lelyveld, *Shylock on the Stage* (Cleveland: The Press of Western Reserve University, 1960), 82–3.

³⁰ Martin D. Yaffe, *Shylock and the Jewish Question* (Baltimore: Johns Hopkins University Press, 1997); Stanley Cavell, *The Claim of Reason* (Oxford: Oxford University Press, 1979). Other Jewish commentators sharing this view include James Shapiro, *Shakespeare and the Jews* (New York: Columbia University Press, 1996); Hermann Sinsheimer, *Shylock: The History of a Character* (New York: B. Blom, 1947); Richard Weisberg, "Antonio's Legalistic Cruelty," *College Literature* 25 (Winter 1998): 12–20.

Venice in a Yeshiva in New York in the 1950s, though it was not taught in the New York public schools in those days because it was seen as an anti-Semitic text).

It is not only in the familiar soliloquy of “Hath not a Jew eyes” that Shylock’s humanity is evinced, though we should recall those famous lines and what follows as well.

Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions? Fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer as a Christian is? If you prick us do we not bleed? If you tickle us, do we not laugh? If you poison us, do we not die? And if you wrong us, shall we not revenge? If we are like you in the rest, we will resemble you in that. . . . If a Jew wrong a Christian, what is his humility? Revenge. If a Christian wrong a Jew, what should his sufferance be by Christian example? Why revenge. The villainy you teach me, I will execute; and it shall go hard but I will better the instruction. (III, 1, 60–75)

Note that Shylock not only claims to a shared, general humanity, its common capabilities and sentiments – but claims no more than his rights within the prevailing mores of the majoritarian Christian culture.

Shylock’s fundamental humanness is however evinced throughout the play and not only in this scene – as is the overwhelmingly Christian refusal to entertain that shared human status and to admit Shylock into that realm of generalized Eros claimed by the Christian characters. Recall Shylock’s pain at his daughter Jessica’s betrayal and her flight with Lorenzo and subsequent conversion. Recall too Shylock’s desire for Antonio’s friendship and Antonio’s constant humiliating words to Shylock:

Shy: Signior Antonio, many a time and oft
In the Rialto you have rated me
About my moneys and my usances:
Still have I borne it with a patient shrug;
For suffrance is the badge of all our tribe.
You call me a misbeliever, cut-throat dog,
And spit upon my Jewish gaberdine,
And all for use of that which is mine own.
Well then, it now appears you need my help:
Go to, then; you come to me, and you say
‘Shylock, we would have moneys:’ you say so;
You that did void your rheum upon my beard
And foot me as you spurn a stranger cur
Over your threshold: moneys is your suit.
Ant: I am as like to call thee so again,
To spit on thee again, to spurn thee too.

If thou wilt lend this money, lend it not
 As to thy friends; for when did friendship take
 A breed for barren metal of his friend?
 But lend it rather to thine enemy;
 Who, if he break, thou mayest with better face
 Exact the penalty.
Shy: Why, look you, how you storm!
 I would be friends with you, and have your love,
 Forget the shames that you have stain'd me with,
 Supply your present wants, and take no doit
 Of usance for my moneys, and you'll hear me:
 This is kind I offer.

(I, iii, 107–44).

Antonio's continual hatred of Shylock, refusal of offers of friendship and exclusion of Shylock from the terms of that common human bond provide the clear background for Shylock's desire for revenge. Recall that the "Hath not a Jew eyes" speech begins with Shylock's recognition that a pound of Antonio's flesh is good only "To bait fish withal: if it feed nothing else, it will feed my revenge" (III, I, 54). And the revenge is prompted by the continual mockery to which Shylock is subject. Rejected from any participation in the community of love, or any erotic relation, he has no recourse but to the mediated relations of the law and so the oath he swore "to have [his] bond."

In the beginning of Act III, scene ii Shylock dismisses Antonio exclaiming: "I'll have my bond, speak not against my bond, I have sworn and oath that I will have my bond. Thou call'dst me dog before thou hadst a cause; But since I am a dog, beware my fangs." Note how tied together are his insistence on his oath and his deep hurt at his rejection by Antonio. In Act IV (scene I, 36–9) he again asserts "And by our holy Sabbath have I sworn to have the due and forfeit of my bond: If you deny it, let the danger light Upon your charter and your city's freedom." And in response to Portia's famous "The quality of mercy is not strain'd" oration (IV, i, 223–5) he again declares "An oath, an oath, I have an oath in heaven: Shall I lay perjury upon my soul? No, not for Venice." And this despite Bassanio's willingness to pay him back ten times the sum originally lent, on the spot, in court or "forfeit" his own life and limb to save Antonio.

Clearly the issue for Shylock is not the bond, nor the oath, but Antonio's refusal to include him in the erotic circle that seems to include all the other protagonists. We need not enter into speculations on the possible homoerotic aspects of the play neither of Antonio's relations with Bassanio nor even of Shylock's desire for Antonio's friendship or what John Kerrigan termed the "marriage of Shylock

and Antonio” – whose synecdoche is in the relations of Jessica and Lorenzo.³¹ It is enough to recall our remarks earlier on aim-inhibited love, through which the original erotic relationship – dyadic in nature – become generalized and socialized; becoming that is precisely the basis of that belonging from which Shylock was excluded. Pursuing his oath to the end leads to Shylock’s tragic undoing and the destruction of his whole world.

Oaths play an important role in the other erotic ties of the play as well, where Portia and Nerissa give rings to Bassanio and Gratiano, their intended. For Portia it is symbol of putting herself utterly in Bassanio’s hands:

This house, these servant and this same myself
 Are yours, my lord: I give them with this right;
 Which when you part from, lose or give away,
 Let it presage the ruin of your love,
 And be my vantage to exclaim on you.

To which Bassiano avers:

But when this ring
 Parts from this finger, then parts life from hence:
 O, then be bold to say, Bassanio’s dead.
 (III, ii, 162–9, 185–9)

After the trial Portia, still in her disguise as a young lawyer and Nerissa in hers as his clerk, request those very rings which the men are wearing; to which request they accede after only a slight remonstrance.

Solemn oaths, easily forsworn and after a most serious reprimand and comic exchange (initiated by both Nerissa and Portia) are just as easily forgiven in the final scene of the play. Indeed, both Portia and Nerissa swear not to enter the beds of their beloved until they see the rings again (which of course they have in their possession). This forces from Bassanio yet another oath made to Portia, never again to “break an oath with thee” (V,i, 248). At this point Portia gives Antonio the ring to give to Bassanio, claiming to have received it from the young lawyer for her sexual favors. Nerissa avers the same to Gratiano. In the end, all is forgiven, love reigns in Belmont, all is whole except Shylock who was left with but bare life, at the end of Act IV.

Following dramatic conventions, *The Merchant of Venice* is indeed a comedy as the denouement occurs in the penultimate act and not the final one. If comedy though, one enwrapped in tragedy not to say the hypocrisy of most all the Chris-

31 Kerrigan, *Shakespeare’s Binding Language*, 202.

tian figures.³² In terms of our concerns with Eros and oath the play presents us with what are perhaps mixed messages. In the relations of Bassanio, Portia, Graziano and Nerissa, broken oaths are no hindrance to the realization of Eros's aims. In contrast, Shylock's determined insistence on his oath, on "having his bond" leads to his own tragic end. While a simple reading would see this as just punishment for his insistence on revenge – for his taking the law beyond all reasonable limits, for adhering too strictly to the terms of his oath – it is clear that behind his desire for revenge is a deep pain at his exclusion from the company of Antonio and the erotic bond of fellowship, of being considered a fellowman. The connection between Eros denied and oaths upheld on the one hand and a tragic outcome on the other is something we will explore in greater depths in future chapters.

Let us however close this chapter by remembering Miguel de Cervantes (1547–1616) and his tragic-comic character, Don Quixote. A contemporary of Shakespeare and creator of characters as memorable and well-known as any of Shakespeare's inventions, Cervantes has given us a world where the orders of necessity are constantly challenged. There are ninety-two oaths taken in Don Quixote, mostly by Don Quixote and Sancho Panza and they pertain to all manner of events.³³ As exemplar we will take but one, the oath Don Quixote takes after the visor of his helmet was destroyed in battle. Here he swears "By the Great Creator of the universe . . . by every Syllable contained in the Four holy Evangelists . . . to lead a life Like the Great Marquess of Mantua, when he made a Vow to revenge the Death of his Cousin Baldwin, which was never to eat Bread on a Table cloth never to lie with the dear Partner of his Bed, and other Things, which though they have now slipped my Memory, I comprize in my Vow no less than if I had now mention'd them."³⁴ In view of Sancho's horror at this vow, the Knight revokes his oath ("as to the Point of Revenge") but confirms his commitment to lead the life avowed until he should despoil "some Knight of as good a Helmet as mine was."

As is well-known this leads him to take a simple barber's basin for the famed Mambrino's Helmet, an illusion along the lines of taking windmills for giants, rustic inns for grand castles, cruel farmers for knights, a simple, crass peasant girl

³² On this, see Adam B. Seligman Love, *Necessity and Law in the Merchant of Venice*, *Journal of Scriptural Reasoning* 11, no. 1 (August 2012) <http://etext.lib.virginia.edu/journals/ssr/issues/volume11/number1/index.html> (Accessed 26.9.23.)

³³ Michael McGaha, "Oaths in Don Quixote" *Journal of Romance Studies* 14, (Spring, 1973): 565.

³⁴ Miguel de Cervantes, *The Ingenious Gentleman Don Quixote of La Mancha*. trans. Motteux revised by Ozell (NY: Modern Library, 1950), 59.

for his “Lady Dulcena” and so on. His illusions are legendary and it is only just before his death that he casts them aside and “declares” himself “an Enemy to . . . all profane Stories of Knight-Errantry.”³⁵

Don Quixote is clearly mad, living in a world of his fancy and, through his very oaths managing to put reality itself on a shaky footing. He is for example, unexpectedly feted to an account of books describing his current exploits even “while the Blood of those Enemies he had cut off, had scarce done reeking on the Blade of his Sword.”³⁶ Worlds, within worlds. Throughout this long work, Ananke keeps pushing back on Don Quixote’s imaginings and he just as adamantly denies its reality, until the very end. His oaths and vows are not, therefore, the instrument of necessity at all, but of his unique Eros. Eros here however is not that of sexual desire nor of dyadic relations, neither those between male and female or even of mother and child. Eros is, rather precisely that aim-inhibited Eros that creative force which is responsible for civilization itself, that which stands at the source of all order and itself gives rise to necessity in a manner not unlike that reprised in Biron’s monologue quoted above. For this very reason, Don Quixote’s own death saddens us so, and brings to mind W.H. Auden’s final words on the death of Freud:

Sad is Eros, bulder of cities,
And weeping anarchic Aphrodite.³⁷

³⁵ Cervantes, *Don Quixote*, 931.

³⁶ Miguel de Cervantes, *Don Quixote*, 459.

³⁷ W.H. Auden, “In Memory of Sigmund Freud,” in *W.H. Auden Selected Poems*, ed. E. Mendelson (London: Faber and Faber, 1979), 95.

Chapter Six

Oath and Eros

We declare and hold as firmly established that love cannot exert its powers between two people who are married to each other. For lovers give each other everything freely, under no compulsion of necessity, but married people are in duty bound to give in to each other's desires and deny themselves to each other in nothing.

Therefore let this our verdict, pronounced with great moderation and supported by the opinion of a great many ladies, be to you firm and indubitable truth. The first day of May, in the year 1174, the seventh of the indiction.¹

This ruling is from one of the famous medieval “courts of love” which settled disputes between the troubadours and their ladies. These courts were composed of between ten and sixty ladies, the most famous being those of Eleanor of Aquitaine (1124–1204), of the ladies of Gascony and of Viscountess of Narbonne (1127–1197).² We see in this ruling the perception of a clear divide between the demands of erotic love and those of kinship obligations. The world of marriage, of the vow, the habituation of Eros and the necessity of an ordered social life are posited in direct opposition to the freedom of love, that is beyond any possible duty.

In contrast, consider the story of Judah and Tamar as related in Genesis 38. Tamar, we may recall, had been married to Judah's son Er, who was evil and so died without heirs at the Lord's hand. His second son, Onan, was supposed to come to Tamar in levirate marriage but “spilled his seed” on the ground (hence our word onanism) and he too died at the hands of the Lord. At this point, Judah was loath to engage Tamar to his third son Shelah and told her to wait for him to mature. In the meantime, Judah's wife died and he traveled to Timnah to graze his flock. Tamar, after waiting in vain for Shelah, whom Judah continually delayed giving to her and on learning of his journey, disguised herself as a prostitute and awaited Judah on the path he would take. Not recognizing her as his daughter-in-law, he sought her favors. She demanded of him his seal and staff and cord as proof of future payment for her services. Later on, sending the goat's kids as payment she was nowhere to be found. As time passed and Tamar was seen to be pregnant she was accused of being a prostitute. Judah declared she should be executed but when she presented his pledges he realized that she was

1 Andreas Cappellanus, *The Art of Courtly Love*, trans. John Jay Perry (NY: Columbia University Press, 1960), 106–7.

2 Various cases brought before these courts are noted at the end of Book II Capellanus, *The Art of Courtly Love*.

pregnant by him. He acknowledged paternity and she had twins by Judah. At least one voice in the Jewish tradition had Judah continuing sexual relations with Tamar, presumably within a newly married state.³

Here we have a story of Eros, in the simplest form of sexual desire (Judah's) giving way to kinship obligations; obligations which are indeed, the overwhelming driving force of the whole story. Er does not have children, Onan refuses to fulfill his kinship obligations (to maintain his brother's lineage) Judah is not particularly eager for Tamar to unite with Shelah (again to fulfill kinship obligations) as he fears for the life of his third son following the death of his first two children. Tamar is the one character supremely aware of the importance of kinship and by her ruse manages to maintain her place within the kin group.

In this biblical tale kinship and with it the maintenance of familial obligations have the last word and, at least in Jewish tradition (if not in the Bible per se), unhabituated sexual desire is transformed into ordered sexual relations (in the assumed marriage of Tamar and Judah). The results are neither comic nor tragic. The biblical story itself simply ends with the birth of Perez and Zerah. Much later, the rabbis add the "epilogue" on the continuing relations of Judah and Tamar and make of them both righteous individuals.⁴ In so doing of course they bring erotic desire into the realm of *Ananke*, of necessity and of propriety. That the story is interjected in the middle of the Joseph tale, and just before the incident of Potiphar's wife is also indicative of its message on the right ordering of sexual relations. In some sense we can see it as a story that accepts the same premise as to be found in our opening quote (on the obligations of the kinship system), if drawing very different conclusions and leading to a very different moral stance.

The difference between the two could not be sharper. If duty and the obligations of kinship define proper action in the biblical tale, the ruling of the court of the Countess of Champagne points in a very different direction. In this chapter we shall explore those texts where the obligations of the oath were upheld against the force of Eros, even when the habituation of erotic desire through marriage failed to occur.

While the triumph or redirection of Eros in fiction; in stories, fables, plays and novels, may well end in comedy, in life of course it just as often ends in tragedy. In all cases, necessity (*Ananke*), will demand its due. Forsaking the demands of society, of one's kinship obligations, whether represented in the marriage vow or – as is also often the case – in parental strictures – comes with a hefty price. The "happy end" of *Love's Labour's Lost* – whose cost is but a year's delay in

³ *Tractate Sotah* 10a.

⁴ *Genesis Rabbah*, 85:9, 11.

love's consummation – is perhaps more wish-fulfillment than realism. Betraying one's marriage vows may just as often end with something much more along the lines of *Anna Karenina*.

Here we will explore a number of crucial texts from the twelfth century to the nineteenth century where misdirected Eros leads to less than comic endings. These are texts where infidelity comes with a hefty price and often with a tragic ending. We can find examples from the story of Abelard and Heloise in the twelfth century, to Jean Jacques Rousseau's *La Nouvelle Heloise* at the end of the eighteenth century. In some cases, it is less the forswearing of a marriage vow, but rather the rejection on the part of a young woman of her father's or guardian's wishes for her marriage that defines the tragic plot. Thus, a rejection of the demands of kinship per se that is at the core of the tragic. In others, Stendhal's novels for instance, it is not the violation of the public and formal oaths or vows of marriage (those these form part of the plot), but the abrogation of more personal and private vows to God that lead to catastrophe.⁵ In all, the price paid when Eros works not in tandem with Ananke, but in opposition to it, is high.

Tristan, Isault and Courtly Love

Both the mythic tale of Tristan and Isault, parts of which we discussed in an earlier chapter and the story of Abelard and Heloise date from the twelfth century. The “renaissance of the twelfth century” has, by some historians, been identified with the rise of the individual and a new awareness of personality, personal responsibility, perhaps even personhood not evinced in earlier times.⁶ To quote Benjamin Nelson, “the extraordinary stress on the responsibility of each individual for the activity of his will and the state of his soul attained its height in the High and Later Middle Ages.”⁷ It was not solely Abelard who stressed inward intentionality in his conceptualization of the spiritual life (a position embraced forcefully by Heloise and more than evident in their exchange of letters). This position was taken up even by Abelard's critics such as Bernard of Clairvaux and

5 Though to be sure, the power of the marriage vow – even one given under false circumstances, even to a madwoman – to generate tragedy when abrogated remains a critical trope in many fictional stories, as is made evident in Charlotte Bronte's *Jane Eyre*.

6 Colin Morris, *The Discovery of the Individual 1050–1200* (Toronto: University of Toronto Press, 1987); Carol Bynum, “Did the Twelfth Century Discover the Individual?” *Journal of Ecclesiastical History* 31 (1980): 1–17.

7 Benjamin Nelson, *On the Roads to Modernity: Conscience, Science and Civilizations* (Blue Ridge, PA: Toby Huff, 1981), 34.

institutionalized in such decrees as that of the Fourth Lateran Council of 1215 which mandated individual confession for communicants at least once a year. As Colin Morris has noted: “[T]he attempt to make intention the foundation of ethical theory is a striking instance of the contemporary movement away from external regulations towards an insight into individual character; a movement which finds its widest expression in the acceptance of private confession as the basis of the Church’s normative discipline.”⁸

This was the period which saw as well the proliferation of “specialized treatises tracing the obligations of conscience in here and now, spelling out how individuals were obligated to act in every case they encountered in the conduct of their lives. . . . In these works, conscience extended into every sphere of action, ranging over the whole life of man.”⁹ This too was a period of the establishment of new religious orders and proliferation of new religious roles, one which saw the development of friars among men, and the creation of new roles such as the beguine among women – all of which stood in some tension if not opposition to existing institutional structures.¹⁰

It is no wonder then that this was also the period where a new consciousness of love as an individualized passion emerged, as well as the perceived tension between love and existing social structures and ordered relations of kinship. This tension and the need to reconcile its terms went to the heart of troubadour poetry as well as of myth, starting of course with that of Sir Lancelot, King Arthur and Queen Guinevere as developed by Chretien de Troyes in his twelfth-century romance *Lancelot: le Chevalier de la Charrette*. It is a position made clear as well in the seventh dialogue between a man and a woman in Andreas Capellanus’s *The Art of Courtly Love*:

The man says: ‘I admit it is true that your husband is a very worthy man and that he is more blest than any man in the world because he has been worthy to have the joy of embracing Your Highness. But I am greatly surprised that you wish to misapply the term “love” to that marital affection which husband and wife are expected to feel for each other after marriage, since everybody knows that love can have no place between husband and wife. They may be bound to each other by a great and immoderate affection, but their feeling cannot take the place of love, because it cannot fit under the true definition of love. For what is love but an inordinate desire to receive passionately a furtive and hidden embrace? But what embrace between husband and wife can be furtive, I ask you, since they may be

⁸ Morris, *The Discovery of the Individual*, 75.

⁹ Nelson, *Self Images*, 45.

¹⁰ On the connection of these developments to the rise of individualism see; Adam Seligman, “Individualism as Principle: Its Emergence, Institutionalization and Contradictions” *Indiana Law Journal* 72, no. 2 (Spring 1997): 503–27.

said to belong to each other and may satisfy all of each other's desires without fear that anybody will object?"¹¹

They may have, between them "every sort of affection" but these "cannot take the place of love." The man's position is justified no less, by the Countess of Champagne's "court of love" from which the opening quote of this chapter is taken. Following the words quoted at the outset of the chapter, the court's ruling went on to state that:

Besides, how does it increase a husband's honor if after the manner of lovers he enjoys the embraces of his wife, since the worth of character of neither can be increased thereby, and they seem to have nothing more than they already had a right to? And we say the same thing for still another reason, which is that a precept of love tells us that no woman, even if she is married, can be crowned with the reward of the King of Love unless she is seen to be enlisted in the service of Love himself outside the bonds of wedlock. But another rule of Love teaches that no one can be in love with two men. Rightly, therefore, Love cannot acknowledge any rights of his between husband and wife.¹²

Love in this reading is beyond the obligations of the social, of the oath. It is rather pure plenitude as we noted in our preface, an abundance resting in individual passion: an abundance thus, of other-directed feelings existing beyond the world of

"rights" or entitlements existing solely in and for itself.
But there is still another argument that seems to stand in the way of this, which is that between them there can be no true jealousy, and without it true love may not exist.¹³

The issue of jealousy is important to our study here and was raised earlier by the man who stated:

But there is another reason why husband and wife cannot love each other and that is that the very substance of love, without which true love cannot exist – I mean jealousy – is in such a case very much frowned upon and they should avoid it like the pestilence but lovers should always welcome it as the mother and the nurse of love. From this you may see clearly that love cannot possibly flourish between you and your husband.¹⁴

Jealousy does in fact play a role in many of the texts we shall be looking at and the distinction made by Capellanus between the jealousy of the husband and that

11 Capellanus, *The Art of Courtly Love*, 100.

12 Capellanus, *The Art of Courtly Love*, 100.

13 Cappelanus, *The Art of Courtly Love*, 107.

14 Cappelanus, *Art of Courtly Love*, 101.

of the lover is interesting in itself. The first is a “shameful and evil suspicion of a woman” and is not actually jealousy at all, but suspicion. True jealousy however, is the preserve of the lover alone, and rooted in his fear that he is inadequate to this love, that she may in fact love another and “may not love him as he loves her.”¹⁵ True jealousy relates not to acts (suspected or otherwise), but to feelings, that is, again, to the interiority that is becoming so central in the twelfth century; and which again and again is given primacy of place in a rising conception of the individual outside – as it were – of formal institutional structures. Flowing from the self, jealousy emerges from the fear that the responsibilities of love (which are to love) have not been met.

Much later, in *Othello*, Shakespeare has the Moor, who is in fact husband to Desdemona, but loves more like a lover (“not wisely but too well”) declaim: “O curse of marriage, that we can call these delicate creatures ours, And not their appetites!” (III, iii, 268). As we shall see when we turn shortly to the seventeenth-century novel *The Princess of Cleves*, the Prince of Cleves will lament that he is bereft as both husband and lover as he believes his wife, the Princess of Cleves, accords him none of the love due a lover nor the fidelity due a husband.

The jealousy of the lover must never be confused with the suspicion of the husband (which is of course Othello’s case). The “jealousy” of the husband destroys love, since it is really suspicion. What is at stake between them is, after all, not love freely given and freely taken, but fidelity to their vows – to the contractual nature of their tie. Jealousy, on the other hand, is the necessary complement of love that can only be freely given. It is, we may say, both its price and the ground on which it grows.

In Chapter 2 we retold the story of Isolde’s trial by ordeal, giving proof of her faithfulness to her husband, King Mark (Tristan’s uncle) by grasping hold of the red hot iron and emerging unscathed. What occasioned this trial, was his jealousy (actually suspicion) of Tristan which both predated this incident and continued well beyond it (until much later when he, in fact, finds them sleeping side by side, chastely – in some versions with a sword between them – in a bower). We have presented a brief précis of the story in our previous chapter and need not go over it once again. Critical to the text, in its many versions is the problem of harmonizing the demands of love and of society: Eros and Ananke. Some versions, like that of Gottfried of Strassburg stress God’s continual interventions to save the lovers

¹⁵ Cappelanus, *Art of Courtly Love*, 102.

while others stress how the dangers of illicit love can subvert the knight from his duty.¹⁶

Given the emergence of individuality in this period and with it, the valorization of a bond (of love) between individuals outside of existing institutional structures it is no wonder that so many texts turn on the consequent tensions. In some, as in Marie de France's *Lay of Eliduc* there is a resolution of this tension (ultimately in the Church). Indeed, in another work by Chretien de Troyes the romance of *Cliges*, reconciliation comes about with the help of a magic potion that deceives the husband (King and uncle to Cliges just as Mark is to Tristan) into thinking he is possessing his wife, Fenice, but she only really, ever sleeps with her lover Cliges. As she explains to him:

And know well that, so may God guard me, never had your uncle share in me, for neither did it please me nor was it permitted to him. Never yet did he know me as Adam knew his wife. Wrongly am I called dame; but I know well that he who calls me dame knows not that I am a maid. Even your uncle knows it not, for he has drunk of the sleeping draught and thinks he is awake when he sleeps, and he deems that he has his joy of me, just as he fain would have it, and just as though I were lying between his arms; but well have I shut him out. Yours is my heart, yours is my body, nor indeed will any one by my example learn to act vilely; for when my heart set itself on you, it gave and promised you my body, so that nobody else shall have a share in it.¹⁷

Thus Fenice maintains her “purity” and her relations with both men, their rectitude as there is no divide between heart and body, intention and act, love and will. If love has indeed not been habituated into marital relations, their ultimate opposition is, at very least, defused through a magic potion.

Tristan and Isolde are not so fortunate. They never succeed in reconciling the demands of society and its kinship obligations (Tristan's to his uncle the King and Iseult to his uncle, her husband) with those of love. Their story is a tragic one and its ending thus becomes a precursor to so many similar deaths in the fiction of coming centuries.

Irving Singer has argued that courtly love was “explicitly sexual much of the time.” It was such, without being “necessarily” matrimonial. It was at some points viewed as adulterous (more so as it moved North – to Aquitaine and later England) and occasionally seen as incompatible with the married state. In this move, the earlier, more Provençal stress on unattainable yearning, of a sexual union equally sought yet retreated and shied away from, gives way to “the mutuality of

¹⁶ Irving Singer, *The Nature of Love, Courtly and Romantic* vol. 2 (Chicago: University of Chicago Press, 1987), 101–10.

¹⁷ *Cliges de Troyes, A Romance*, trans. Gardiner. Project Gutenberg, 2000. <https://www.gutenberg.org/files/2414/2414-h/2414-h.htm>. (Accessed 29.9.2023).

amorous emotion and the sharing of beneficial pleasure.”¹⁸ Through it all, love emerges as a dominant theme and one that will remain so in all of European literature. As Erich Auerbach notes, “the literature of the ancients did not rank love very high on the whole. It is a predominant subject neither in tragedy nor in great epic.”¹⁹ It becomes, however central in courtly culture, part of the “elevated style of the European vernaculars.” And with this new role comes the need to tie the force of passionate, erotic desire to the demands of existing kinship obligations, and so to habituate Erotic fulfillment through the obligations entailed by the oath. That this was no mere conceit of fiction we can see only too well in the tragic story of Abelard and Heloise.

Abelard and Heloise

The story of Abelard and Heloise is perhaps too well-known to bear extended review. Abelard, one of the most famous (and contentious) philosophers of the twelfth century (often in conflict with Bernard of Clairvaux) was hired by her uncle to be a tutor to the young and very talented Heloise. His interest in her, at first explicitly sexual, became over time a deep love as well. Both were heartily reciprocated. Often their lessons became love trysts and he even beat her, to allay suspicion – an act that was in truth less pedagogic than erotic and one they both seemed to enjoy. As Abelard recounts:

Her studies allowed us to withdraw in private, as love desired, and then with our books open before us, more words of love than of our reading passed between us and more kissing than teaching. My hands strayed oftener to her bosom than to the pages; love dew our eyes to look on each other more than reading kept them on our texts. To avert suspicion I sometimes struck her, but these blows were prompted by love and tender feelings rather than anger and irritation and were sweeter than any balm could be. In short, our desires left no stage of lovemaking untried and if love could devise something new, we welcomed it.²⁰

Both were deeply, passionately in love and Abelard would sing her praises in the streets of Paris, so that their relations eventually became known to many, includ-

¹⁸ Singer, *The Nature of Love*, 28, 29, 34. Denis de Rougemont predicates his thesis on the connection of love and death among the troubadours to this dialectic of desire and renunciation in the literature of the period. Denis de Rougemont, *Love in the Western World*, trans. Montgomery Belgion (New York: Harper, 1940).

¹⁹ Eric Auerbach, *Mimesis: The Representation of Reality in Western Literature* (New York: Doubleday, 1957), 123–4.

²⁰ All quotations are from *The Letters of Abelard and Heloise*, trans. by Betty Radice, (Harmondsworth: Penguin, 1974), 11.

ing her uncle. At about the same time they were found in bed together, Heloise became pregnant and Abelard moved her to Brittany, to his sister where she gave birth to their son, Astrolabe. To placate her uncle Abelard proposed to marry Heloise but insisted that it be kept a secret as the married state could interfere with his rise in the ecclesiastical world of the universities. Heloise grandly protested the marriage, preferring to live with him in the “sin of fornication” rather than prove a hindrance to his development as a philosopher.²¹ She appears more concerned with what the married state would effect in him as a thinker and so the person she loved and thus its effects on their love, than any purely instrumental concern with his career.²² In fact the reasons that Abelard insisted on a secret marriage remain somewhat obscure. Heloise’s reluctance however is central as we shall see.

Married however they were, but the secret was not kept as promised by the uncle, Fulbert. Increasing tensions between him and Abelard led the latter to place Heloise in the convent in Argenteuil where she had spent her childhood. Fulbert, believing this was a ploy on Abelard’s part to rid himself of Heloise, sent his minions to Abelard’s house where they castrated him. He then entered the Abbey of St. Denis to retreat from his pain and humiliation and spent the rest of his life in the Church as did Heloise who eventually became Prioress of Argenteuil and later Abbess of the Oratory of the Paraclete.

Their letters, exchanged many years after the tragic events of their early love are easily divided into those pertaining to those times and those devoted to matters of dogma and practice, practical and theoretical questions that Heloise posed to Abelard. In contrast to all the other texts we are studying in this (and the previous chapters) the story of Abelard and Heloise is a true story whose tragic details have not failed to fascinate for the past 900 years.²³ Their letters have been studied and commented on by literary and other scholars. The Church, not surpris-

²¹ *The Letters of Abelard and Heloise*, 12, 13.

²² *The Letters of Abelard and Heloise*, 13–6.

²³ The authenticity of the letters has in fact been subject to scholarly controversy since the 1970s; some maintain they were a later forgery of the thirteenth century, others that they were a forgery of Abelard himself. Even if true, neither claim would affect their importance for our purposes here. One important argument for the authenticity of the letters, indeed, of the existence of additional letters is that of Constant Mews in his *The Lost Love Letters of Heloise and Abelard: Perceptions of Dialogue in Twelfth-Century France* (New York: St. Martin’s Press, 1999). A very good review of the whole controversy and positive assessment of Mews’s work can be found in John Marenbon, “Lost Love Letters? A Controversy in Retrospect: *The Lost Love Letters of Heloise and Abelard: Perceptions of Dialogue in twelfth-century France*, ser. *The New Middle Ages* by Constant J. Mews,” *International Journal of the Classical Tradition*, 15, no.2 (June, 2008): 267–80.

ingly, has presented their story as one of sinners “ultimately finding God,” while the Humanist tradition sees them as the progenitors of “courtly love.”²⁴

Our concern with this passionate and tragic story is limited to our overriding interest in the conflict between Eros and Ananke, love and necessity, the power of erotic attraction and the overwhelming force of vows – made to God – subsuming such passion. In the story of Abelard and Heloise the vow of real consequence is Heloise’s taking holy orders against Abelard’s wishes. As she reprimands him: “Is it not far better now to summon me to God than it was then to satisfy our lust?”²⁵

For Heloise (and here is the connection to courtly love) marriage (as yet without vows, as these would develop over the next two hundred years) was the antithesis of love. She writes to Abelard years after the events,

The name of wife may seem more sacred or more binding, but sweeter for me will always be the word friend (*amica*) or, if you will permit me, that of concubine or whore. . . .

You kept silent about most of my arguments for preferring love to wedlock and freedom to chains. God is my witness that if Augustus, Emperor of the whole world, thought fit to honor me with marriage and conferred all the earth on me to possess for ever, it would be dearer and more honourable to me to be called not his Empress but your whore.²⁶

In another letter she reflects on the irony of their situation:

For while we enjoyed the pleasures of an uneasy love and abandoned ourselves to fornication (if I may use an ugly but expressive word), we were spared God’s severity. But when we amended our unlawful conduct by what was lawful and atoned for the shame of fornication by an honourable marriage, then the Lord in his anger laid his finger upon us and would not permit a chaste union though he had long suffered one which was unchaste. The punishment you suffered would have been proper vengeance for men caught in open adultery. But what others deserve for adultery came upon you through a marriage which you believed had made amends for all previous wrongdoing; what adulterous women have brought upon their lovers, you own wife brought upon you.²⁷

Marriage and the world of ordered and lawful relations did, in their case as in so many others we are reviewing lead to tragedy. Yet, while in most cases the tragedy resulted from unfulfilled passion, from Eros gone begging, here both the marriage and the tragedy happened after the fact. The great tragic novels of the nineteenth century say, *Anna Karenina* for example or Stendhal’s *Le Rouge et la*

²⁴ Singer, *The Nature of Love*, 90.

²⁵ *The Letters of Abelard and Heloise*, 55.

²⁶ *The Letters of Abelard and Heloise*, 51.

²⁷ *The Letters of Abelard and Heloise*, 65–6.

Noir turn on the breaking of marriage vows, or, as in *La Nouvelle Heloise*, of the eighteenth century, or the seventeenth-century novel by Madame La Fayette, *The Princess of Cleves* in the destruction of worlds (and individuals) occasioned by the failure to follow the creative path of Eros – the cost then of bowing to necessity and keeping one’s oath. Here, the order is somewhat reversed. Eros is realized, passion fulfilled but the imprimatur of order comes after the fact and not only does not prevent, but in Heloise’s terms, actually precipitates the tragic tale.

If the marriage of Heloise to Abelard precipitated their tragedy (in the form not only Abelard’s castration, but of their separation and her taking of orders) the vows of the later state proved no release from the challenge continually posed by Eros to the terms of social – or even religious – order. We quote at length from the last of Heloise’s personal letters to give an idea of just how little did the walls of the convent protect from erotic attachments whose past was but a present continuous:

In my case, the pleasures of lovers which we shared have been too sweet – they cannot displease me, and can scarcely shift from my memory. Wherever I turn they are always there before my eyes, bringing with them awakened longings and fantasies which will not even let me sleep. Even during the celebration of the Mass when our prayers should be purer, lewd visions of those pleasures take such a hold upon my unhappy soul that my thoughts are on wantonness instead of on prayers. I should be groaning over the sins I have committed, but I only sigh for what I have lost. Everything we did and also the times and places where we did it are stamped on my heart along with your image, so that I live through them all again with you. Even in sleep I know no respite. . . . Men call me chaste; they do not know the hypocrite I am.²⁸

These lines themselves are tragic, painful to read. The utter helplessness of she who writes them, years after the last time they met, the continuing agony of a soul still caught in the throes of passion and so in anguish as well, call to mind nothing so much as William Blake’s *The Garden of Love* from his *Songs of Experience* which is, we feel, perhaps the most fitting end to this sad story.

I went to the Garden of Love,
And saw what I never had seen;
A Chapel was built in the midst,
Where I used to play on the green.

And the gates of this Chapel were shut,
And ‘Thou shalt not’ writ over the door;

²⁸ *Letters*, 68, 69.

So I turned to the Garden of Love
That so many sweet flowers bore.

And I saw it was filled with graves,
And tombstones where flowers should be;
And priests in black gowns were walking their rounds,
And binding with briars my joys and desires.²⁹

The Princess of Cleves

Published in 1678 and written by Madame de Lafayette *The Princess of Cleves* describes fictional events that purportedly took place about a century earlier in the court of Henry II. Many of the characters (if not the protagonist) and events are historical. The novel delineates with almost painful psychological insight the unfolding of the young Mademoiselle de Chartre's life: her arrival at court with her mother, her marriage to the Prince of Cleves who is very much in love with her and the mutual attraction that grows between the Princess of Cleves and the charming and talented Duke de Nemours.

With time and the twists of the plot it becomes impossible to conceal the Duke's deep attraction and love for the Princess from her husband, the Prince of Cleves. The Prince moreover comes to believe that the Princess not only returned these sentiments but showered her favors on the Duke as well. He laments that he has "at once the jealousy of a husband and lover."³⁰ Meaning, precisely those two emotional states indicated by Capellanus and discussed above, both "shameful suspicion" as to her conduct (as a husband) as well as jealousy of feeling that her heart belongs to another (as a lover). Convinced of his wife's infidelity, the Prince of Cleves dies and though she is now "free" to follow her sentiments – much to the Duke's joy and anticipation – the Princess of Cleves imposes a penance on herself, absenting herself from society and barring one, final, meeting and explanation, any future contact with the Duke de Nemours (who remained so deeply in love he would spy on her from the window of a neighboring house). There she explained to him that her duty "forbids me to think of any man, but of you the last in the world, and for reasons which are unknown to you." She ends her life spending half her time in a convent and half a recluse from society.

²⁹ William Blake, *The Garden of Love*. (London: R. B. Johnson, 1901). <https://www.gutenberg.org/files/1934/1934-h/1934-h.htm#page56> (Accessed 29.9.2023)

³⁰ Madame de Lafayette, *The Princess of Cleves*, trans. T.S. Perry. (Project Gutenberg, 1996). <https://www.gutenberg.org/files/467/467-h/467-h.htm#chap03> (Accessed 29.9.2023).

Madame de Cleves is a monument to virtue and fidelity to the vows of marriage per se, that is, critically, to a marriage without love, to oaths without Eros. Of course, just how much she was aware of Eros at all is itself a question as it takes more than half the plot for her to even be aware of her own feelings toward the Duke de Nemour. The marriage however, as described by the narrative voice of the novel was such that:

The Prince of Cleves did not find that Mademoiselle de Chartres had changed her mind by changing her name; his quality of a husband entitled him to the largest privileges, but gave him no greater share in the affections of his wife: hence it was, that though he was her husband, he did not cease to be her lover, because he had always something to wish beyond what he possessed; and though she lived perfectly easy with him, yet he was not perfectly happy.³¹

She was a perfect wife, but the Prince sought as well in her the soul of a lover and thus came away continually frustrated. So far however is the Princess from the world of Eros that it was only by observing her own jealousy when she mistakenly believed that a letter written to and for another, belonged to the Duke – that Madame de Cleves finally is forced to come to terms with her own feelings of love for the Duke of Nemours. These cause her such deep shame at her betrayal (in feelings, it is critical to point out) of her husband that it leads to a critical meeting in the garden between husband and wife, where the Princess admitted to being loved by another and gives indication that she reciprocates these feelings. In her “confession” to her husband however, what emerges is her own rectitude and irreproachable behavior.

‘Alas, sir,’ answered she, falling on her knees, ‘I am going to make a confession to you, such as no woman ever yet made to her husband; but the innocence of my intentions, and of my conduct, give me power to do it . . . I ask you a thousand pardons, if I have sentiments which displease you, at least I will never displease you by my actions; consider, that to do what I do, requires more friendship and esteem for a husband than ever wife had; direct my conduct, have pity on me, and if you can still love me.’³²

She goes on to point out to him that he should be “content . . . with the assurance which I once more give you, that my sentiments have never appeared by any of my actions and that no address hath been made to me that could give me offence.”³³

Through it all however, and despite her immaculate behavior with the Duke de Nemour her husband realizes the state of affairs, where, as he tells her: “It has

31 Madame de Lafayette, *The Princess of Cleves*.

32 Madame de Lafayette, *The Princess of Cleves*.

33 Madame de Lafayette, *The Princess of Cleves*.

not been in my power to kindle in your breast any spark of love for me, and now I find you fear you have an inclination for another.” “Few men of so high a spirit” as the narrator tell us, “and so passionately in love, as the Prince of Cleves, have experienced at the same time the grief arising from the falsehood of a mistress, and the shame of being deceived by a wife.”³⁴

That he was never deceived by any *action* of his wife (though indeed she both loved and was loved by another) is something the Prince of Cleves never comes to believe and the belief in her inconstancy is the cause of his death. On his deathbed, he has the following encounter with the Princess. Dying, the Prince intones:

‘Why did you inform me of your passion for the Duke de Nemours, if your virtue was no longer able to oppose it? I loved you to that extremity, I would have been glad to have been deceived, I confess it to my shame; I have regretted that pleasing false security out of which you drew me; why did not you leave me in that blind tranquility which so many husbands enjoy? I should perhaps have been ignorant all my life, that you were in love with Monsieur de Nemours; I shall die,’ added he, ‘but know that you make death pleasing to me, and that, after you have taken from me the esteem and affection I had for you, life would be odious to me. What should I live for?’³⁵

To which she rejoins:

‘I guilty!’ cried she, ‘I am a stranger to the very thought of guilt; the severest virtue could not have inspired any other conduct than that which I have followed, and I never acted anything but what I could have wished you to have been witness to.’ ‘Could you have wished,’ replied Monsieur de Cleves, looking on her with disdain, ‘I had been a witness of those nights you passed with Monsieur de Nemours? Ah! Madam; is it you I speak of, when I speak of a lady that has passed nights with a man, not her husband?’ ‘No, sir,’ replied she, ‘it is not me you speak of; I never spent a night nor a moment with the Duke de Nemours; he never saw me in private, I never suffered him to do it, nor would give him a hearing. I’ll take all the oaths . . .’ ‘Speak no more of it,’ said he interrupting her, ‘false oaths or a confession would perhaps give me equal pain.’³⁶

The Prince of Cleves never comes to believe in his wife’s virtue and she, as we have seen, can hardly believe that he actually suspects her of adultery. She has made a strict point of being faithful to her husband in word and deed, in every act and every moment spent in the Duke’s presence, if not in those internal states which she hardly controls. It is these states and sentiments that she divulges to the Duke in their final meeting (though in fact he knew of them through a prior

³⁴ Madame de Lafayette, *The Princess of Cleves*.

³⁵ Madame de Lafayette, *The Princess of Cleves*.

³⁶ Madame de Lafayette, *The Princess of Cleves*.

subterfuge); revealing both her deep love for him, as well as the reason she will not wed him, be his, even – or more properly now – that her husband is dead.

I will acknowledge to you that you have inspired me with sentiments I was unacquainted with before I saw you, and of which I had so slender an idea, that they gave me at first a surprise which still added to the pain that constantly attends them: I am the less ashamed to make you this confession, because I do it at a time when I may do it without a crime, and because you have seen that my conduct has not been governed by my affections.

This in all probability will be the only time I shall allow myself the freedom to discover them to you; and I cannot confess without a blush, that the certainty of not being loved by you, as I am, appears to me so dreadful a misfortune, that if I had not invincible reasons grounded on my duty, I could not resolve to subject myself to it; I know that you are free, that I am so too, and that circumstances are such, that the public perhaps would have no reason to blame either you or me, should we unite ourselves forever; but do men continue to love, when under engagements for life? ‘I confess,’ answered she, ‘that my passions may lead me, but they cannot blind me; nothing can hinder me from knowing that you are born with a disposition for gallantry, and have all the qualities proper to give success; you have already had a great many amours, and you will have more; I should no longer be she you placed your happiness in; I should see you as warm for another as you had been for me; this would grievously vex me, and I am not sure I should not have the torment of.’³⁷

Striking here is her affirmation of the “freedom” of love and of lovers and of its essentially different gestalt from anything to do with marriage and commitment – again the ruling of the Court of the Countess of Champagne quoted above. Jealousy (that is “true jealousy”) is also, as we see, recurrent theme and again one is led to wonder if it is not an almost necessary concomitant of erotic relations not predicated on the oath and the confidence and predictability that the oath brings; which is precisely why the courts of love saw jealousy as necessary to that love which can only exist outside of the bonds of marriage.

The cost of love (and perhaps its very ground) is jealousy, for the Princess “the worse of all ills” and itself good enough reason not to join in marriage to the Duke. Aside then from the penance at her husband’s death (which she compares to his having been killed in a duel by the Duke, and she the cause) the cost of Eros is too high for her to bear. Marriage, akin to that she enjoyed with the Prince of Cleves is one thing. It is about social order, life in court, social responsibilities, in short Ananke. Love, Eros, is another matter entirely. And it was perhaps the Prince of Cleves’s fatal flaw to marry for love, to mix both realms and to expect love in marriage. Hence as we have been told he suffered doubly as husband and as lover. She, however, will not make that mistake and retreats from the challenge of bringing both in harmony (by marrying Monsieur de Nemours). We may go even further

³⁷ Madame de Lafayette, *The Princess of Cleves*.

and assume that the Princess who was firmly ensconced in the self-righteousness of fulfilling those obligations of necessity (of her marriage vows) was however unwilling in any way to take on the responsibilities of love. Either way, Madame Lafayette presents us with two roads, one seemingly blocked, a dead-end (marriage without love), and the other, a road not taken, and so one whose destination cannot be known.

La Nouvelle Heloise

Six hundred years after Abelard and Heloise, Jean-Jacques Rousseau wrote *Julie ou la Nouvelle Heloise*, which is a reprise of their story set in the Switzerland of his day. It is a series of letters not only between the lovers Julie and her tutor Saint-Preux, but of a number of the other principles involved. Much of the text is given over to Rousseau's moralizing and explication of his philosophy and, as Alan Bloom has remarked "it is a book that almost no one reads anymore unless they have to."³⁸ Yet, in its day it was a runaway best-seller, with seventy-two editions printed between 1761 and 1800. In Bloom's words "it took Europe by storm" and was extremely influential in the birth of the Romantic movement in Europe.

The early plot follows closely to the story of Abelard and Heloise.³⁹ Julie, a brilliant and fine-looking young woman of eighteen is seduced by her twenty-three year old tutor, Saint-Preux. Prior to and following her seduction they exchange passionate letters of love and heightened erotic tension. Their affair however also threw Julie into despair as it flaunted social morals as well as the wishes of her very bourgeoisie parents. She is both in love, consumed by passion and deeply ashamed. (In her letters for example, she compares their earlier enjoyments of one another's company as "tranquil and lasting" to the change that occurred after they slept with one another, turning their times together to "nothing but fits of passion.")⁴⁰ Her mother dies shortly after discovering the letters – for which Julie blames herself – and subsequently her father learns of her relationship with Saint-Preux. Through the benevolent intervention of a traveling English Lord Bomston, who was himself attracted to Julie, she and Saint-Preux were

³⁸ Alan Bloom, *Love and Friendship*, 140.

³⁹ *The Letters of Abelard and Heloise* are even raised in letter number 24 of Saint-Preux's to Julie where he condemns Abelard for lack of virtue and caring only for sexual gratification. Jean-Jacques Rousseau, *Julie - or the New Heloise: Letters of Two Lovers Who Live in a Small Town at the Foot of the Alps*, ed. and trans. Philip Stewart and Jean Vache (Hanover: New Hampshire, 1997), 70.

⁴⁰ Rousseau, *Julie*, 84.

offered a country house in Oxfordshire in which to live out their love. Julie however rejects the offer as leading to a life of dishonor, outside of social conventions and without the approval of her father. Love and sexual desire are, for her, at odds with the demands of civilization embodied for her, above all, by her father's approbation. Indeed, in attempting to convince her to take up his offer, Lord Bomston warns Julie that:

The tyranny of an intractable father will draw you into the abyss you will measure only after falling in. Your extreme meekness sometimes dissolves into timidity: you will be sacrificed to the fantasy of station; you will have to contract an engagement your heart will disavow. Public approval will be constantly contradicted by the outcry of your conscience; you will be honored and despicable.⁴¹

The relations between Lord Bomston and Saint-Preux which begin with the later challenging the Englishman to a duel and evolve into close friendship, are a continual theme in the novel with the Englishman continually trying to tame Saint-Preux's passions. However, these relations are not our concern in the context of this study. Tellingly, in Julie's response to the generous offer of Lord Bomston, she, thanking him for his offer, notes that though it "is a great deal for love, is it enough for felicity? No, if you want me to be at peace and content, offer me an even more secure sanctuary, where one can escape shame and regret." Later she notes "my parents will make me unhappy, I know it full well; but for me it will be less cruel to lament in my misfortune than to have caused theirs, and I shall never desert the paternal household."⁴²

The lovers part "forever," with Julie swearing that she will never marry Saint-Preux without the consent of her father, nor marry anyone of whom Saint-Preux does not approve. On learning this, her father threatens Saint-Preux if he does not release her from this obligation. He does, and she marries a much older man, one who we learn with time is a close friend of her father, Monsieur Wolmar, and Saint-Preux goes on a lengthy world tour for four years. On her marriage Julie informs her former lover that "all is changed between us" and that she is no longer "your former Julie" that though she will always love him she is now "tied to a husband's destiny or rather to a father's intentions by an indissoluble bond" and that their former passion must be transmuted to the happiness that comes with virtue.⁴³ Later, she asks her former lover to cease writing to her despite the fact that she still loves him and only occasionally to send word of his wellbeing through her cousin and close confident, Claire.

⁴¹ Rousseau, *Julie*, 164.

⁴² Rousseau, *Julie*, 170–1, 177.

⁴³ Rousseau, *Julie*, 279.

Wolmar is a supreme rationalist, an atheist – a character trait which, we learn later, brings great pain and sorrow to his wife Julie – and a man who lives without passions, whose only “active principle is a natural taste for order.”⁴⁴ He is thus the exact opposite of Saint-Preux, the romantic hero par excellence, driven by his passions, by his love, his personal ideas of honor, disregard for social propriety and willingness to sacrifice everything for love. While he continues to be ruled by his passions (in this case despair over the loss of Julie), Wolmar and Julie have three children and build together an ordered passionless and what appears, idyllic life. Theirs is the world of the oath: of sexuality as kinship, of love as friendship and of passion as a disease from which one is to be cured. Julie describes this “civilized” life, as the true path to happiness in words worth quoting in full as they express in superb terms the juxtaposition of Eros and Ananke discussed in our earlier chapter.

The thing that long deluded me and perhaps still deludes you is the idea that love is essential to a happy marriage. My friend, this is an error; honesty, virtue, certain conformities, less of status and age than of character and humor, suffice between husband and wife; that does not prevent a very tender attachment from emerging from this union which, without exactly being love, is nonetheless sweet and for that only the more lasting. Love is accompanied by a continual anxiety of jealousy or deprivation, ill suited to marriage, which is a state of delectation and peace. One does not marry in order to think solely about each other, but in order to fulfill conjointly the duties of civil life, govern the household prudently, raise one’s children well. Lovers never see anyone but themselves, are endlessly occupied with each other alone, and the only thing they can do is love each other.⁴⁵

Here then, we have as it were the mirror image of the ruling of the medieval “court of love” with which we opened this chapter. Only of course with totally different evaluations of the respective states of marriage and love. We are led to believe that within this arrangement, Julie has not fallen into the type of hypocrisy against which Lord Bomston cautioned and that she is genuinely at peace and happy in virtuous union defined by friendship rather than love.

After six years of marriage, Julie divulges her past affair with Saint-Preux to Wolmar who, not only is not offended, but invites Saint-Preux to visit them to take his measure. Finding him to be a virtuous man Wolmar eventually devises a plan for Saint-Preux to live with them and become tutor to their children just as he had been to Julie so many years ago. Before doing so however Rousseau builds a scene which can only be described as the Garden of Eden revivodus. He leads our group of three, Julie, Wolmar and Saint-Preux who is now a dear friend of

⁴⁴ Rousseau, *Julie*, 403.

⁴⁵ Rousseau, *Julie*, 306.

the whole family, “healthy [of] soul and [with] a heart free from the confusion of passions” seemingly delighting with them in social virtue, to a veritable Elysium (so called in the novel as well).⁴⁶ A place where all is tranquility and peace where even nature has been tamed solely by natural goodness (and Julie’s planning and ordered provisions), where water runs in beautiful rivulets, where birds gather freely to feed and lay their eggs with no fear of predators; where all is free and the senses delight with both wild and garden flowers with different trees, flowering bushes, woody vines and all that one would expect in Acadia. A paradise on which no money had been spent in its construction thus heightening its otherworldly character, emergent solely from the good will of its creators.

Here then are the rewards of civilization, of the eschewal of passions, of necessity met and ordered in a manner the manner of virtuous men and women (Lord Bomston is continually exhorting Saint-Preux to act like “a man”). And, lo and behold, only shortly after their sojourn in this Eden, Wolmar leads Julie and Saint-Preux back to another grove, one firmly identified in their minds with their earlier liaisons and declares he is leaving for a week and will leave them alone together – trusting totally to their virtue.

That it is a different if adjacent garden – grove actually – is very interesting, almost as if Rousseau would not pollute paradise with the temptation of desire. Wolmar gives Saint-Preux the option of joining him on the journey but of course doing so would be to admit the presence of what both he and Julie deny (mostly to themselves). The week of Wolmar’s absence presents one extended and extraordinary temptation, one that convinced Saint-Preux of the “freedom of man and merit of virtue.”⁴⁷ Saint-Preux remains passionate as ever, if managing with effort to sublimate desire into tenderness. It is Julie however who, in Saint-Preux’s account of the incident to Lord Bomston “who sustained the greatest battle that a human soul could have sustained, yet she triumphed.”⁴⁸ (It is interesting to compare this “trial of the will” to a somewhat similar, though much less emotionally charged, scene in *The Princess of Cleves* where the Prince, already suspecting the Princess of a liaison with the Duke of Nemours nevertheless leaves them unsupervised telling his wife that “I cannot put a greater restraint upon you than by leaving you to your liberty.” In both cases the women proved themselves true to their marriage vows and obligations, though if this was a good thing or not is very much left to the reader’s discretion).

⁴⁶ Rousseau, *Julie*, 387.

⁴⁷ Rousseau, *Julie*, 428.

⁴⁸ Rousseau, *Julie*, 428.

Here then the final triumph of will over passion, of order with its oaths and vows over Eros and of duty over desire. With one critical caveat: Julie dies. Not long after this incident she jumps into a river to save her son who had fallen into the water; she comes down with a fever and succumbs. She leaves letters for her husband Wolmar and for Saint-Preux, permitting Wolmar to read the letter for Saint-Preux before giving it to him. In her letter to Saint-Preux she declares her unending love – and desire – for him. She admits to having deluded herself (in her psychological adjustments to the married state) and to having made that delusion last as long as it was “salutary” that it collapsed as soon as it was no longer needed.⁴⁹ She feared indeed that one more day of her husband’s absence would have led her to Saint-Preux’s arms. She admits in essence that in sacrificing love, she had sacrificed everything and death was no further deprivation; it was almost welcome. Her death strikes the reader as close to a suicide (something that would have been unavailable to her given her religious scruples). She clearly states in this last letter, noting that; “everything within the power of my will was for my duty. If the heart, which is not in its power, was for you, that was a torment for me and not a crime. I have done what duty required; virtue remains to me without spot, and love has remained to me without remorse.”⁵⁰

Love without remorse because Julie’s “vows” were fulfilled (close to the final words of the novel in a letter from the cousin Claire to Saint-Preux) which also left her virtue unblemished.⁵¹ A triumph then of the socially conditioned will, – not we note, of properly habituated Eros – over passion, desire and erotic longing. A triumph however that is also a tragedy; in Julie’s death, and in Wolmar finally realizing that reason is not enough (in his despair at her death) and in the weeping of “anarchic Aphrodite” and all that Eros did not create. Here then, another case of unhabituated erotic longing remaining out of harmony with the demands of Ananke with tragic consequences.

Unquestionably this novel, one of the most important and influential of the eighteenth century, portrays the subjugation of erotic longing to the power of the oath – even in the infelicitous conditions of a mismatched marriage. On finishing the novel we are however left wondering if the snake in the garden was, at the end of the day, the snake of sexual temptation and erotic longing, or that of reason, order and civilized virtue itself.

⁴⁹ Rousseau, *Julie*, 608.

⁵⁰ Rousseau, *Julie*, 609.

⁵¹ As it appears in *La Nouvelle Heloise* (trans by Judith Mcdowell) University Park: Penn State University Press, 1968, 408. Steward and Vache translate as “wishes,” 611. The original in French reads *voeux* (J.J. Rousseau, *Julie ou la Nouvelle Héloïse* tome 2, Paris: Folio Classique, 1996, 389).

Oath and Eros in Stendhal and Henri Beyle

Stendhal is surely the great chronicler of Eros in the nineteenth century. In fact, one can say that rather than Mme. de Renal or Julien Sorel (*The Red and the Black*), rather than Fabrizio del Dongo, or the Sanseverina or Clelia (*The Charterhouse of Parma*) the real hero, or more probably heroine, of Stendhal's novels is love itself. Stendhal sets out to portray the vicissitudes not only of this or that protagonist, but of love. The growth and transformation of the hero, the emergent self-realization of different heroines are but the mirror of the transformation and changing nature of their love. Stendhal was not only a chronicler of love, but its greatest defender. As he proclaimed: "In all others, desires must accommodate themselves to cold realities; here it is realities which model themselves spontaneously upon desires. Of all the passions, therefore, it is in love that violent desires find the greatest satisfaction."⁵² Or, "Passion-love casts all nature in its sublimer aspects before the eyes of a man, as a novelty invented but yesterday. He is amazed that he has never seen the singular spectacle that is now discovered to his soul. Everything is new, everything is alive, everything breathes the most passionate interest."⁵³

And of an earlier age, modeled on the "courts of love" discussed above, Stendhal understood that: "[l]ove took a singular form in Provence, from the year 1100 up to 1328."⁵⁴ It had an established legislation for the relations of the two sexes in love, as severe and as exactly followed as the laws of Honour could be today. The laws of Love began by putting completely aside the sacred rights of husbands. They presuppose no hypocrisy. These laws, taking human nature such as it is, were of the kind to produce a great deal of happiness."⁵⁵ It is not surprising that his book *On Love*, contains a long Appendix dedicated to those "courts of love" of the twelfth century with their ideal of a happy love.⁵⁶ Critical to this happiness was the equality that held between the lover and his mistress which, in his view is essential to the workings of Eros: "In order that love may be seen in all the fullness of its power over the human heart, equality must be established as

⁵² Stendhal, *On Love*, trans. Philip Sidney Woolf and Cecil N. Sidney Woolf (NY: Brentano Books, 1920), 45.

⁵³ Stendhal, *On Love*, 261.

⁵⁴ Note how the courts of love came to an end at approximately the same time that the marriage vow was gaining acceptance in the marriage rituals of France and England.

⁵⁵ Stendhal, *On Love*, 200.

⁵⁶ Stendhal, *On Love*, 332–40.

far as possible between the mistress and her lover. It does not exist, this equality, in our poor West; a woman deserted is unhappy or dishonoured.”⁵⁷

In contrast to this idyll, he derided the French for their excess of vanity and hence their sacrifice of love’s pleasure for those of *amour propre*. This is not to say that he did not understand the role of vanity in love. He surely did and the “love” depicted between Julien Sorel and Mathilde de la Mole are a most subtle and wicked representation of the place of vanity in love. Indeed, Julien’s earlier love affair with Mme. de Renal begins along very similar lines, certainly for Julien. But by the novel’s tragic ending a real, what Stendhal defines as “passionate love” has been achieved, in the hearts of both. This is why it may be misconstruing Julien’s death at the end of *The Red and the Black* as tragic. For his attempted murder of Mme. de Renal, trial, time in prison before execution and so on were all but the stage on which both he and Mme. de Renal came to realize the fullness of Passion-love. And for Stendhal, this realization, apotheosis really, even for a week, a day, a moment was the equal of a lifetime of both aristocratic gallantry or bourgeoisie marriage. As he quotes from Barnave at the top of Chapter 31: “So this is your civilization’s great achievement! You have transformed love into a commonplace affair.”⁵⁸

In his book *On Love*, Stendhal outlines four different types of love: Passion-love, Gallant-Love, Physical-Love, Vanity-Love. Comparing the first two types he proclaims: “Passion-love carries us away in defiance of all our interests, gallant love manages always to respect them. True, if we take from this poor love its vanity, there is very little left: once stripped, it is like a tottering convalescent, scarcely able to drag himself along.” Physical-love is self-explanatory and of Vanity-love, he tells us:

The vast majority of men, especially in France, desire and have a fashionable woman, in the same way as a man gets a fine horse, as something which the luxury of a young man demands. Their vanity, more or less flattered, more or less piqued, gives birth to transports of feelings. Sometimes there is also physical love, but by no means always: often there is not so much as physical pleasure.⁵⁹

Stendhal spends a good deal of time explaining and exploring the role of vanity in love, both as a component in one of the other forms of love and for its own

57 Stendhal, *On Love*, 213.

58 Stendhal, *The Red and the Black*, trans. Roger Gard (London: Penguin, 2002), 443.

59 Stendhal, *On Love*, 20.

sake. He realized its critical role, together with pride in the progress of love and the uniqueness of Passion-love, which for him is the only real form of love, is precisely in its transformation of Vanity-love to something quite different. This is that purifying moment between Mme. de Renal and Julien shortly before his death and, presumably, between Fabrizio and Clelia near the end of *The Charterhouse of Parma*.

In both novels as well as his didactic work *On Love*, Stendhal outlines the many pitfalls on the path to Passion-love, not only those of pride and vanity (of which he is most concerned) but even of courage. His remarks on the *La Princesse de Cleves* are telling in his astute understanding of how even virtues can prove obstacles to love.

As for moral courage, so far superior to the other, the firmness of a woman who resists her love is simply the most admirable thing, which can exist on earth. All other possible marks of courage are as nothing compared to a thing so strongly opposed to nature and so arduous.

Hard on women it is that the proofs of this courage should always remain secret and be almost impossible to divulge.

Still harder that it should always be employed against their own happiness: the Princess de Clèves would have done better to say nothing to her husband and give herself to M. de Nemours . . .

I should think that Madame de Clèves would have repented, had she come to old age, to the period at which one judges life and when the joys of pride appear in all their meanness. She would have wished to have lived like Madame de la Fayette.⁶⁰

Stendhal's assessment of the actions of the *La Princesse de Cleves* is not however because he is an advocate of adultery for adultery's sake, nor a believer in any necessary or inherent contradiction between love and marriage. It is rather that Passion-love is so far above marriage in the hierarchy of goods, that fidelity to marriage vows is not a value to be adduced in rejecting the claims of love. Or in his words: "The only unions legitimate for all times, are those that answer to a real passion."⁶¹ Hence his condemnation of the *La Princesse des Cleves*.⁶² And these are matters of sentiment we must recall, not of physical union: "In passion-

⁶⁰ Stendhal, *On Love*, 99.

⁶¹ Stendhal, *On Love*, 305.

⁶² See also Singer, *The Nature of Love*, 372, 373.

love intimate intercourse is not so much perfect delight itself, as the last step towards it.”⁶³ It is however the fate of only the “happy few” (a term Stendhal apparently took from Goldsmith and while with the latter it indicated the monogamous state, for Stendhal it indicates the state of being truly in love).

Given this deep commitment to Passion-love, above all else it is notable that both of Stendhal’s great novels end – if not in tragedy according to Aristotle – then in death, not perhaps of love, but of the lovers. Moreover, at least in *The Charterhouse of Parma* the deaths are tied explicitly, to the breaking of a vow. It is moreover not so much the vows of marriage, but of a private vow taken by Clelia never to see her lover again. It is true that in both novels, both women are married (Clelia, only after her affair with Fabrizio begins) but that state of affairs and the marriage vows which define it, do not seem to play a critical role in the development of the tragic ending, though to be sure the perception of Mme. de Renal of the true state of her heart only develops when the word adultery first arises in her consciousness. In fact, in her case, as she explains to Julien, she had come to see, through her discussions with the curé M. Chelan that pledging her affections to her husband precluded offering them to Julien – though of course this understanding immediately took flight upon meeting one another after their first long separation.⁶⁴ Later, before his execution she states unequivocally that she had always loved him and only him. For Stendhal that is the moment that is worth any price.

Oaths and vows then – at least, in Clelia’s case, quite apart from those of marriage – play a critical role in the denouement of both works. Time and again, in *The Charterhouse of Parma*, Clelia invokes her vow to the Madonna never to see Fabrizio again, as in fact, they continue even their physical intimacy without the benefit of seeing one another. “Pious and sincere” Clelia knew that “she would never find happiness part from Fabrizio; . . . [yet] she had vowed never to see Fabrizio again.”⁶⁵ Again and again, in her meeting with Fabrizio after he was appointed Grand Vicar and Coadjutor to (and thus eventually to succeed) the Archbishop she protests his callousness in visiting her and so forcing her to break her “sacred oath . . . worn to the Madonna” never to see him again.⁶⁶ And, indeed, she saw the death of her son Sandrino as punishment for breaking that oath (having viewed Fabrizio by candlelight “and even twice in broad daylight”) and her death followed his a few months later.

63 Stendhal, *On Love*, 112.

64 Stendhal, *The Red and the Black*, 232.

65 Stendhal, *The Charterhouse of Parma*, trans. Richard Howard (New York: Modern Library, 2000), 429.

66 Stendhal, *Charterhouse of Parma*, 449.

In the case of Mme. de Renal, the tension between love and marriage, and hence between the demands of love and the obligations of the marriage vow, are made more explicit. Mme. de Renal is thus reminiscent of the Princess des Cleves both in her own innocence of love, pedestrian marriage (pedestrian in terms of her feeling that is) and the awakening of love beyond its bounds. The critical difference of course is that Mme. de Renal breaks those bounds and also – under the direction of the Church – sets off that chain of affairs that lead to Julien’s attempt at her life, his execution and finally, her own death; thus exemplifying Stendhal’s own dictum that: “The fidelity of married women, where love is absent, is probably something contrary to nature. Men have attempted to obtain this unnatural result by the fear of hell and sentiments of religion.”⁶⁷

In *The Charterhouse of Parma* the tragic mechanism that causes the cascade of deaths at the end is – at least in the eyes of the heroine – the fact that she, Clelia, broke her oath to the Madonna (and we have focused on her rather than the much more interesting character of the Duchess of Sanseverina and her passion for Fabrizio, because our interest is in the tension between oaths and Eros, and not in love per se). Passion-love triumphed over her personal oath and tragedy ensued. In *The Red and the Black*, the tragic mechanism (again in the eyes of the heroine, Mme. de Renal) is much less her adultery and hence breaking of her marriage vow – but much more her stepping outside of the broader bonds of kinship obligations, to her children. (And hence our interest in her and not in Mathilde de la Mole whose love play with Julien involves no such tension between love and necessity, between Eros and Ananke – as it is primarily Vanity-love on both their parts).

When her son, Stanislas is ill, Mme. de Renal cries out to Julien “Oh my friend! oh why aren’t you Stanislas’s father! – then it would not be such a terrible sin to love you more than your son.”⁶⁸ Julien even comes to recognize and value Mme. de Renal’s love for her children as he notes to himself “my only rival in her heart was the dread of her children’s death – a reasonable and natural fear, lovable even to me who suffered from it.”⁶⁹ In fact he contrasts this naturalness (essential to Stendhal’s ideals of love) to the aristocratic gallantry that surrounds the life of Mathilde de la Mole.

67 Stendhal, *On Love*.

68 Stendhal, *The Red and the Black*, 125.

69 Stendhal, *The Red and the Black*, 316.

With Mme. de Renal and even with Julien there is a very strong sense that the real challenge of love is to unite kinship obligations to Passion-love (Ananke with Eros). Hence Julien's extraction from Mme. de Renal the oath that she would not commit suicide on his death and would instead look after Mathilde's child (as we saw, she keeps her oath, but dies anyway). It is not her broken fidelity to her husband that bothers Mme. de Renal, so much as her view that the punishment for such was her son's illness. It is kinship – as exemplified in children – not dyadic marriage that is opposed to Passion-love for Stendhal: this and this alone is the true force of Ananke, rather than the meager vows of a marriage rite.

The overwhelming significance of this insight is evident in the last meeting of Julien and Mme. de Renal in his prison cell where she shares with him that she believes the rumors that he is indeed married to Mathilde de la Mole (rumors Mathilde spread to allow her entry to Julien in his jail cell) are true. To this he replies: "It is only true in appearance . . . She is my wife, but not the one I adore" ("C'est ma femme, mais ce n'est pas ma maîtresse . . ." literally, not my lover).⁷⁰ Now, Mathilde de la Mole is in fact, *not* Julien's wife though she is pregnant with his child. And that, we are arguing, is the whole point. In this, almost insignificant detail in an otherwise emotionally overwhelming profession of mutual love – "Never in his whole life had Julien had a moment to compare with this" – we see the link of marriage and kinship for Stendhal.⁷¹ Pregnant with his child makes her his wife "in appearance." Love is somewhere else. But the correlation of marriage (and hence too the marriage vow) with children and hence with broader kinship obligations is telling and perhaps, fatal, for Passion-love.

And to be sure, both stories end with no small number of dead. In *The Charterhouse of Parma* not only does Clelia die following the death of her child, but so do the Duchess Sanseverina and Fabrizio as well. It is an ending worthy of Shakespeare, in the simple number of bodies littering the stage. In *The Red and the Black*, following Julien's execution and Mathilde de la Mole's macabre ceremony with his guillotined head, and despite her vow not to take her own life to look after Mathilde's child, Mme. de Renal, with her own children in her arms – in what is the final sentence of the book – dies as well.

Perhaps it is so with Passion-love: that it is not possible to live "happily ever after" in the bourgeoisie world of the nineteenth century (or the twenty-first for that matter). Perhaps tragic endings are the only way to prevent the *Thou* from

⁷⁰ Stendhal, *The Red and the Black*, 514; For the original French see, Stendhal, *Le Rouge et le noir*. http://www.gutenberg.org/files/798/798-h/798-h.htm#CHAPITRE_XLIII-2 (Accessed 24.9.23)

⁷¹ Stendhal, *The Red and the Black*.

becoming an *It* (in Martin Buber's terms quoted in our Preface). Irving Singer seems to believe that Stendhal's inability to imagine a happily married life (children, mortgages, summer camps, fights over which car to buy, etc.) is an indication of his own "truncated" thought and somewhat adolescent attitudes towards love.⁷² Alan Bloom is less given to make psychological assessments or arguments predicated on some theory of "false consciousness" and accepts what Stendhal tells us at face value, to wit: "Julien and Mme. de Renal did find each other in spite of the thickets of propriety and convention. This is Stendhal's response to any suspicions that human existence is futile."⁷³ It is also an expression of the very radicalness of Stendhal's vision. For Stendhal, Passion-love was decidedly not, simple uninhibited Eros. It was not pure sexual desire. His insistence on the equality of the lovers, on an "established legislation" of their relations predicated on human nature and the rejection of all lies and hypocrisy speak to his own vision of Passion-love as its own form of habituated Eros, no less virtuous (for him, more virtuous) than that provided by the marriage vow. Its brevity is perhaps an indication of its very reality. Again, akin to Buber's insistence on the existence of the *I-Thou* always only in *statu nascendi*.

In our foregoing two chapters we have reviewed a number of texts from the twelfth to the nineteenth century in Western Europe dealing with the place of oaths and vows in habituating Eros. In Chapter Five we looked at texts where Eros – sometimes as simple desire, sometimes as something more – overcame the obligations of the oath in cases of a mismatched couple, or we may say, of misdirected Eros. Often however, by the end of the action, Eros came to accept the binding terms of oath, with another partner. The very terms of necessity, of Ananke – in the form of oaths taken – were accepted, if reconfigured by Eros and erotic desire. We laugh at misdirected Eros, as we laugh at misdirection in so many comic forms. The denouement however redirects erotic desire to a more appropriate partner or in more appropriate forms.

In the current chapter we have reviewed further accounts (fictional and non-fictional) of these relations, but have looked at tales where oaths were not forsworn despite their role in misdirecting erotic desires (with an inappropriate partner). These stories end dismally, either with the maintenance of an oath's obligations or the tragic consequence of its rejection; sometimes with the death of the protago-

⁷² Singer, *Nature of Love*, 372, 373.

⁷³ Bloom, *Love and Friendship*, 190.

nists, or, as with Abelard (as well as in other fictional stories not dealt with here), their serious physical impairment.⁷⁴ Critically, in those cases where death or injury do not result, we end the tales with a retreat from society and a renunciation of its claims: neither Eros nor Ananke. If Eros cannot flower beyond its habituation, neither can Ananke's claims be recognized beyond the call of Eros.

⁷⁴ We haven't looked at *Jane Eyre* by Charlotte Brontë, but that Mr. Rochester loses his hand and is more or less blind by the end of the novel, as a result of the fire set by his mad wife, who was confined to the attic and whose existence prevented his first attempt to marry Jane (and who perished in the conflagration) is a case in point. The reader is left with the feeling that his injuries are somehow penance for his earlier attempt to ignore his married state and, in essence, commit bigamy by marrying Jane – the derailing of which led to critical plot developments, until the marriage takes place near the end of the book (despite his somewhat crippled state).

Chapter Seven

Apophatic Love and the Paucity of Oaths in the Eastern Church

In its sacramental nature, marriage transfigures and transcends both fleshly union and contractual legal association: human love is being projected into the eternal Kingdom of God.
–John Meyendorff¹

Turning eastwards, to the world defined by Christian Orthodoxy the situation is rather different from what we have seen in previous chapters. As we shall see, it is not even uniform across all Eastern Orthodox Churches. Thus, Church practice as it developed and changed in the Russian lands evolved in ways that were resisted in the South Slav territories in some cases until very recently. In both however no tradition of the troubadours existed, nor did either have a history of knight errantry – so central (according to Auerbach) for the emergent of a courtly literature focused on love which in turn played such a strong role in the development of a vernacular literary tradition in the West. All this was absent in the East.

However, it was not only a literature of love that was absent there. In Eastern Orthodox lands, marriage was also conceived of differently than in the West. Oaths and vows had no part to play (at least until the seventeenth century) in marriage and so the idea of the oath or marriage vow as somehow habituating Eros makes no sense in this context. In the Orthodox Church, the priestly consecration of the married couple (with or without vows) placed them in a realm quite beyond that of either Eros or Ananke. Their harmonization had, perforce, to be achieved elsewhere.

The dynamics and ultimate meaning of marriage was thus markedly different, with serious implications for the arguments we are presenting here. So, for example, what was broken in the sort of public infidelity represented by Anna Karenina was not the public marriage vow (if such indeed ever took place), so much as public morality – with all its hypocrisy – that Anna distained. If any vows were of relevance to her tragic fate they were Anna's private ones. Indeed, a focus on the public and social aspects of the married state informs all of the texts we shall review here and has much to do with the almost other-worldly and certainly mystical notion of marriage in the Orthodox tradition. As an entry point to the eternal and the Divine, Eros in marriage was so divorced from the concerns

¹ John Meyendorff, *Byzantine Theology: Historical Trends and Doctrinal Themes* (NY: Fordham University Press, 1979), 197.

of mundane sexuality that these latter could not but be the perennial focus of public opprobrium.

In this chapter we continue our analysis, turning to literary texts from Russia, hence from the cultural sphere of Eastern Orthodox Christianity. Our texts, of Pushkin and Tolstoy, are of the nineteenth century. This is neither a coincidence nor oversight on our part. For, as just noted, the conditions that informed the reality represented in Western literature – whether of the use of oaths in marriage or of a literature of love – simply did not exist in the East. From the “courts of love” described by Andreas Capellanus in the twelfth century to the romantic novels of the nineteenth century the sometimes comic, sometimes tragic consequence of such oaths formed a pervasive theme in Western literature. The dynamic in the East was different and it was only in the nineteenth century that Western literary themes and forms were taken up by Slavic writers, even as they critiqued Western influence.

As the Eastern Christian world had neither marriage oaths nor a literature of desire we have – somewhat playfully – graced this chapter with the words “apophatic love,”² that is a love not knowable in words (and so not knowable by reason), a love that can only be experienced (just as God can, in Eastern theology, only be experienced, not known).³ To properly grasp the differences between Eastern and Western Christian traditions, and to appreciate the different role played by oaths and vows in the marriage traditions of both, some appreciation of the marriage rites in both is called for.

Marriage rites East and West

The first inroads of Western marriage practices in the Slavic world began only in the seventeenth century when the Metropolitan of Kiev, Peter Moghila [Mohyla, Mogila], introduced into the Russian *Euchologia* the Western practice of questioning the bride and bridegroom as part of the marriage formula.⁴ This practice was not adopted by the southern Slavs, though it was accepted in Russia. John Meyendorff has convincingly argued that this adoption of Western practices must indeed be understood as “inspired by the Latin marriage rite” as Kiev was “then

2 Our use of the term in the context of such a literature is meant solely metaphorically and without the full range of philosophical and theological meanings attributed to the negative theology and the apophatic experience of God.

3 John Meyendorff, *Byzantine Theology*.

4 *EUHOLOGION seu RITUALE a Metropolita Petro Mohyla curatum*, (Kioviae: 1646) (=Moghila, *Euhologion*)

within the borders of the Kingdom of Poland.”⁵ Like the introduction of such acts of mutual consent (through the questions and answer of the groom and bride) – which was congruent with Polish law – the introduction of marriage vows was a Western interpolation that was not organic to the Eastern rite.⁶

In Peter Moghila’s breviary the rite of betrothal begins with an obligatory instruction towards the priest to examine in detail the couple wanting to get married, probing to what extent their decision is of free volition. The questions are asked in the Russian language (i.e. so that they can be clearly understood, not in Church Slavonic) successively to the groom and to the bride. Both of them state their intention to commit and confirm that they are not already married, and promise to be with each other until death, after which there follows a precept to the priest:

Be careful and diligently observe this, o priest! If one of them does not answer your questions, or says, that they are not willing, do not dare to betroth them, cease your actions and send them away . . . if the wedding directly follows the betrothal, then the questions are to be asked at the end of the betrothal, before the wedding.⁷

Following that, the ritual of betrothal continues in the established order. If however the couple affirm their wish to marry, but the wedding is delayed for more than two months, then the priest is obliged to examine them again, as the circumstances may have changed in the meantime.

When the wedding directly follows the betrothal, the questions to the couple are asked before the beginning of the ritual. The following precept addressed to the priest insists: “Be careful, o priest, if the groom or bride doesn’t answer your questions, or one of them says that they aren’t willing, then by no means should you marry them, on pain of laicization [removal of clerical rights], instead send them away.”⁸

The ritual then continues in the usual fashion, but before the crowning with wreaths (i.e. the proper performance of the sacrament), a new element (for the Slavic tradition) was introduced. It is partially derived from ancient pre-Christian ritual, and involves the linking of the right hands of the newlyweds, which are then (quite literally) bound to be of the same flesh by being tied with both ends of the *epitrachelion*. Thus, embracing, holding each other’s hand and facing God and

5 John Meyendorff, *Marriage an Orthodox Perspective* (New York: St Vladimir’s Seminary Press, 1984), 35.

6 There were of course exceptions. See, Gabriel Radle, “The Rite of Marriage in the Archimedes Euchology and Sinai gr. 973 (a. 1152/3),” *Scripta & eScripta* 12 (2013): 187–99.

7 Moghila, *Euhologion*, 419–20.

8 Moghila, *Euhologion*, 430–1.

the people, the couple repeat, one after another, the marital vows pronounced by the priest.⁹ This is followed by another instruction to the priest, which states that if both newlyweds have spoken the marital vows clearly and without hesitation (“so as to be heard by all”), then the priest makes the sign of the cross over them, and blesses them with the words “What God has joined together let no man put asunder,” after which he proceeds to the actual wedding ceremony. We should point out that the joining of hands, this ancient element of the ritual, is sometimes found in old southern Slavic euchologion texts but never includes the taking of vows.¹⁰ Before continuing with the next elements of the ritual, Moghila’s breviary states another strict instruction to the priest: “Beware, priest, and strictly observe: if one of the newlyweds does not take these vows, without them a legal marriage cannot take place, so do not dare to marry them, send them away. If both of them take the vows, let them kiss the holy gospel and then carry on.”

We can see from this detailed reading of the ritual instructions, that in the middle of the seventeenth century (under the influence of western ritual practice) a foreign element infiltrated the rituals of betrothal and marriage in Russia, which, however, did not enter the practices of the Greeks and Southern Slavs to this day. The attention paid to the correct execution of the ritual is exceptional, the questions and answers are repeated over and over again before it comes to the actual vow-taking by both newlyweds. It is explicitly stated that without the verbal consent of the two of them the ritual can and should be terminated, even if it has already begun. This was a real innovation; for – as we shall see – one of the major distinctions of the Orthodox wedding ritual from the Roman rite was the absence of questions to the newlyweds. This key exchange of expressions, which is central to the Western ritual tradition, was practically unknown to the southern Slavs, at least until the end of the nineteenth century. The public confirmation of one’s readiness to marry, which carries an almost performative function in both Catholic (and most especially, Protestant) ritual, seems to be unnecessary from the Orthodox point of view.¹¹

An interesting example of the exceptional conservatism of the southern Slavic ritual tradition is its continual rejection of these innovations. In the Bal-

9 Moghila, *Euhologion*, 438–9.

10 Цибранска-Костова, Марияна, Е. Мирчева. (съст., изд.) *Зайковски требник от XIV век. Изследване и текст*. (София: Изд. Валентин Траянов, 2012). (Tsibranska-Kostova, M. and E. Mircheva. (comp., ed.) *Zaykovski trebnik from the XIV Century. Research and Text.*) (Sofia: Ed. Valentin Trayanov, 2012), 241 (f. 25r from the manuscript).

11 Thus Pope Nicholas I (820-867) decreed that if newlyweds’ families are very poor and cannot provide the accessories necessary for the ritual - wreaths, or a veil “according to the laws it is enough to only have the consent of those who are going to be joined” - *Responsa Nicolai I papae*

kans, a wedding continued to be much more the ratifying of an arranged union between two families, than a confirmation of the newlyweds' individual choices. In the rare cases of a public declaration of consent to marry the question is directed towards those present in the church, rather than towards the newlyweds themselves.¹² One of the possible explanations for this is the custom, according to which the bride is obliged to *zooee* (fast, archaic to *remain silent*) during the wedding ceremony and for a specific time afterwards. Thus, she has no right to speak at all, no way to pronounce the coveted "I do" before the altar. D. Marinov retells a series of events, documented at the end of the nineteenth century, when "modern" young priests were attempting (in adherence to the rite that had been reformed according to the Russian model) to "perform this formality" and ask the bride for her consent to marry; doing this they only provoked the protests of the wedding guests, who insisted that the bride has no right to answer.¹³

What we can gather from these stories is both the emergent changes in the understanding of marriage and the role of the individual in it – as well as the opposition to such changes. In traditional, pre-modern society, the wedding had been an event for the community, while in the modern contemporary world it has increasingly become an expression of individual free will. From our interest in oaths and vows and their relation to the calls of Eros, it is significant that a literature reflecting such relation did not emerge in the East until the nineteenth century. And indeed, as we shall see in our textual analysis, our authors explicitly blame the reading of Western literature on the growing romantic notions that overtake their heroines.

We would like to argue here that the reason behind both the lack of vows and so the dearth of any literary tradition tracing a tension between marriage vows and the calls of Eros and of desire is rooted in the very nature of marriage in the Eastern Church. Different from the Western Church as well as from Jewish, Roman

ad consulta Bulgarorum - FONTES LATINI HISTORIAE BULGARICAE, vol. II (Sofia: Publisher House of BAS, 1960), 68. In fact, and under Russian influence (see below) at the beginning of the twentieth century a semi-official Book of Rules of the Bulgarian Orthodox Church was published. The wedding ritual included questions to the newlyweds but this innovation was never included in the later printed Bulgarian editions of the Euchologion.

¹² See an example of such a question in Prayer book 973 from the twelfth century kept in the Sinai monastery referenced in the footnote #6. To the words of the priest "Those who have consented are being joined together with your common consent . . ." Those present at the ritual reply "Yes, according to God's will!" which is the consent of the Christian community rather than the consent of those being wed. – Gabriel Radle, "The Rite of Marriage in the Archimedes Euchology and Sinai gr. 973 (a. 1152/3)" in *Scripta & eScripta* 12 (2013): 187–99.

¹³ See, Maria Schnitter, *Prayer and Magic*. (Sofia: University of Sofia Publishing House, 2001), 136–7 for a detailed description and analysis of this phenomenon.

or Islamic ideals; marriage in the Eastern Church is first and foremost a public liturgy solemnized through priestly blessings.¹⁴ Though the Western Church first sacramentalized marriage in the twelfth century – as part of the *Peace of the Church* – and its sacramental status was widely accepted by the mid-fourteenth century (to become doctrine within three generations); in the East, marriage – from the beginning – was enacted through the public performance of the Eucharist as the newly married couple were integrated into the realm of Godly love (or more specifically, Christ’s love for the Church).¹⁵ Needless to add, much later the Reformation thinkers denied any sacramental character to marriage – which for Martin Luther was but a “*weltliches Geschäft*.”¹⁶ Indeed such reformers as Luther, Calvin and Beza had all claimed that Catholic thought had misread the meaning of *mysterion* as *sacramentum* in an error that they sought to rectify through proper scriptural readings.

While the Roman Church never adopted anything near the Protestant attitude towards marriage, to properly appreciate the uniqueness of Eastern Orthodox attitudes we do need to understand more the strength of both contractual as well as the consensual elements in the Western rite. The Roman Catholic Church was strongly influenced by pagan rites, those of the Germanic tribes as well as earlier Roman traditions – all of which in fact were accepted by the early Church – as was “the jurisdictional power of the state” – as a legitimate foundation for marriage.¹⁷ Indeed there was no obligatory church liturgy until the eleventh century.¹⁸ Marriage was, in these societies, understood primarily in contractual terms (much as Jewish marriage is to this day). Well into the middle ages, the validity of Christian marriage rested primarily on “the mutual consent of the two baptized partners.”¹⁹ Indeed so much was this the case that by the thirteenth century it was assumed that it was the “mutual exchange of will” (i.e. consent) which “triggered the conferral of sacramental grace.”²⁰ This was in fact the resolution of a dispute that had lasted more than one hundred years on the relative importance of contracts entered into by families as opposed to the will/consent of the marrying parties themselves. Known as the dispute between the Schools of Bolo-

14 Kenneth Stevenson, *Nuptial Blessings: A Study of Christian Marriage Rites* (New York: Oxford University Press, (1983), 120.

15 Edward Schillebeeckx, *Marriage: Human Reality and Saving Mystery* (London: Sheed and Ward, 1965), 280–7, 318, 379.

16 See Theodore Mackin, *The Marital Sacrament* (New York: Paulist Press, 1989), 84.

17 Schillebeeckx, *Marriage*, 244–256; 272.

18 Schillebeeckx, *Marriage*, 262.

19 Schillebeeckx, *Marriage*, 273.

20 John Witte, *From Sacrament to Contract: Marriage, Religion and Law in the Western Tradition* (Westminster: John Knox Press, 1997), 28.

gna and Paris, with their primary interlocutors being Peter Lombard (of the School of Paris) and Gratian (of the School Bologna) the dispute was resolved with the unambiguous recognition of the importance of the consent of the parties.²¹ This in turn made the questioning of the couple a critical aspect of Western marriage rites, an orientation that was lacking in the East.

Notwithstanding the importance of the couple's consent the contractual element of marriage maintained its crucial place in Western conceptions of marriage. What was diminished in importance was the place of the families, but not of contract per se. (Indeed the posting of marriage bans was meant as a mechanism which would maintain the importance of consent but at the same time prevent clandestine marriages that were against the will of the families or communities involved). The fourteenth-century theologian, Duns Scotus managed a synthesis of both positions in his dictum: "*Matrimonium dicitur contractus, quasi simul contractus duarum voluntatum*" (Marriage is called a contract in the manner of a drawing together of two wills).²² Thus, and of the three components of marriage in Catholic thought, the natural, the contractual and the sacramental, it was to a great extent the second which bound the third to the first.

While the Western Christian conception of marriage was originally legalistic and never fully emancipated itself from a Roman legal conception, rather appending a churchly sanctity to the legal union; in the Eastern Orthodox tradition the relation was rather reversed. In fact, in the East it was the Church rite that defined the legal union itself. As described by Edward Schillebeeckx: "By the end of the tenth and the beginning of the eleventh centuries, then, marriage by the Church had become, in the Greek-Byzantine legal view, the generally accepted obligatory form of law of the marriage contract."²³ Indeed, as he states unambiguously, "marriage as contract played no part in the East where more emphasis was placed on the mystical meaning of marriage and its spirituality."²⁴

Highlighting this aspect of Orthodox marriage is the priest's role as minister of the marriage, performing a role analogous to the one he plays as he administers the Eucharist.²⁵ This as opposed to the Western rite where the priest acts solely as a witness to a rite actually performed by husband and wife themselves.²⁶

21 Mackin, *What is Marriage?*, 154–75.

22 Mackin, *What is Marriage?*, 186.

23 Schillebeeckx, *Marriage*, 352.

24 Schillebeeckx, *Marriage*, 344.

25 Schillebeeckx, *Marriage*, 315.

26 Ultimately, in the Eastern Church it is God who sanctifies and not the priest, which is an important difference from the Western Church. See for example the following quote from Stylianos, "The true minister of the sacrament is God. God – Who works both through the couple

In fact in the Council of Florence, in 1439 it was explicitly determined that the ministers of the sacrament are the spouses themselves and not the witnessing priest!²⁷ Not so in the East where the aforementioned ceremony of crowning or garlanding (*stephanoma*) by the priest, was, from the ninth century understood as what gave the marriage its sacramental character as it was he who bestowed both the blessing and the crown on the heads of the newlyweds.²⁸

In this context, of its strong sacramental and mystical meaning, it is perhaps not surprising that the Eastern rite of marriage is in-dissolvable, even by death (here very different from the Western marriage where remarriage is permitted on the death of a spouse) precisely because, as explained by Meyendorff: “the Orthodox Church implicitly integrates marriage in the *eternal* (emphasis in original) Mystery, where the boundaries of heaven and earth are broken and where human decision and action acquire an eternal dimension.”²⁹ The Eucharist, not surprisingly, was compared by the fourteenth-century Orthodox mystic Nicholas Cabasilas to the wedding feast. The crowning of the couple – a practice mentioned in the fourth century (and discontinued in the early medieval Western Church) was part of its Eucharistic liturgy symbolizing the eternity of the sacramental bond, beyond the realm of earthly passions and desires.³⁰

Here then the critical aspect of the Eastern marriage which – as opposed to the Western rite as well as to marriage in other monotheistic civilizations – is not primarily a legal contract sanctified by the Church, but itself a portal into God’s eternal kingdom as presented in Paul’s comparison of human marriage to Christ’s love of his Church:

Husbands, love your wives, even as Christ also loved the church, and gave himself for it; That he might sanctify and cleanse it with the washing of water by the word, That he might present it to himself a glorious church, not having spot, or wrinkle, or any such thing; but that it should be holy and without blemish.

So ought men to love their wives as their own bodies. He that loved his wife loveth himself.

and the liturgical life of the Church – is the ‘Celebrant of mystical and pure marriage,’ i.e., marriage as a sacrament. The Orthodox marriage rite correctly again and again invokes God/ Christ to bless and unite the couple into the conjugal bond against the background both of a theology of creation and a theology of redemption.” T. Stylianopoulos, “Towards a Theology of Marriage in the Orthodox Church,” *Greek Orthodox Theological Review* 22 (1977): 274–5.

27 Mackin, *What is Marriage?*, 383.

28 Schillebeeckx, *Marriage*, 353.

29 Meyendorff, *Byzantine Theology*, 23.

30 Stevenson, *Nuptial Blessings*, 31.

For no man ever yet hated his own flesh; but nourisheth and cherisheth it, even as the Lord the church:

For we are members of his body, of his flesh, and of his bones.

For this cause shall a man leave his father and mother, and shall be joined unto his wife, and they two shall be one flesh.

This is a great mystery: but I speak concerning Christ and the church. (Eph 5:25–32, KJV)

This, according to Meyendorff “became the basis of the entire theology of marriage as found in Orthodox tradition.”³¹ And this “great mystery,” enacted in the Eucharistic crowning of the betrothed, is, we claim, the heart of the matter. Vows and oaths are “of the flesh,” but Orthodox marriage is not. Orthodox marriage, wherein the couple partakes of the true and eternal love of God, is rather a critical venue within which men and women may realize Athanasius’s famous claim that: “God became man so that man may become God.”³² Here then it is crucial to recall that the Eastern Church maintained a positive view of marriage and physical pleasures when blessed by God. The liturgy, most especially of Christ at the wedding in Cana all reinforced this attitude, which was very different from the Western default of marriage as only a “second best” solution to a problem which should rightly have been met with abstinence and celibacy.³³

In Orthodox marriage, human beings participate in God through realizing their true nature – of communion in the risen body of Christ. Marriage is thus, “of the Kingdom,” a means where men can “grow in divine life.”³⁴ Orthodoxy does not share the Western Church’s ideas of “original sin” and of the inherited nature of Adam’s Fall. In Orthodoxy grace does not erase sin, but acts in synergy with mankind’s essential freedom to fulfil its telos.³⁵ This provided a very different frame for understanding marriage than that of the Western Church.

In the traditions of the Western Church, nature, and so the desires of “the flesh,” which is conceived in sin, needs to be constrained. To some extent, this was a reaction to the influence of early Christian “rigorists” such as the Montanists, certain Pauline communities, Gnostics of various forms, followers of Marcion and others including the later Manicheans – all of whom denigrated sexual activity and so marriage as well. Such extreme attitudes continued into the Middle Ages in the

31 Meyendorff, *Marriage an Orthodox Perspective*, 15.

32 quoted in Meyendorff, *Byzantine Theology*, 4.

33 Stevenson, *Nuptial Blessings*, 103.

34 Meyendorff, *Byzantine Theology*, 139.

35 Georgi Kapriev, “The Sin of Adam and Eve in Maximus the Confessor’s Teaching about Man,” *Christianity and Culture*, 7 (202), 2021: 5–21.

form of different dualist beliefs of the Cathars or the Albigensians.³⁶ While rejecting these beliefs the Western Church nevertheless could not totally distance itself from them and so they continued to inform its attitudes towards sexual activity which was so different from that of the Eastern church. Given this background we must understand marriage in the West more as a bulwark against sin and less as a mode of being in Christ, a synecdoche for Christ's relation to the Church (though that image was shared in both the West and the East). Moreover, and from the fourteenth century on it was understood that marriage itself was achieved through – among other activities- the acts of oath-taking or vow-making. As discussed earlier, oaths and vows direct desire as part of the habituation of Eros. They limit the range of possible future actions on the part of the oath-taker or vow-maker. It is this role that makes their trustworthiness so crucial in social life. And it is this – together with the contractual and legal nature of the Western marriage – that made them so central to Western marriage rites given its overwhelmingly negative orientations towards sexual activity.

Orthodox marriage is a rather different entity. Orthodox marriage is not – or not primarily – a set of legal or contractual obligations (which were deemed non dissolvable for Christians in the Western Church). Nor does sexual activity have the same valence as the primary conduit of sin (indeed of original sin) into the life of men and women as it does in the Western Church. Marriage (and so too sexual activity within marriage) is rather, primarily a sacrament and its sacramental nature is beyond any legal prescriptions, obligations or duties; it pertains rather “to the eternal life in the Kingdom of God” (which is why until the tenth century second marriages – which were but a compromise with human weakness – were not blessed in the Church with a Eucharistic ceremony and were performed without crowning).³⁷

Oaths and vows thus become irrelevant. While accepting the needs of society for regulated legal arrangements the Orthodox Church nevertheless understood marriage as one of the most important ways to realize man's true freedom. That is, the freedom to achieve communion with God through communion with the other (united in the Church). Marriage was the principle arena of uniting the eternity of divine freedom with Godly love, not of circumscribing earthly freedom for the benefit of a divine or transcendent love.³⁸ Here its fundamental difference

³⁶ Theodore Mackin S.J. *The Marital Sacrament*, 88–112, 286. These beliefs have long and deep roots in the Balkans where they continue to influence people's world views and frames of existence.

³⁷ Mackin, *Marital Sacrament*, 54. See also, Meyendorff, *Byzantine Theology*, 197.

³⁸ As Jean Danielou explicated in terms of the thought of Gregory of Nyssa, there is no contradiction between human characteristics such as reason and freedom on the one hand, and love

from the Western Church and here too the reason why oaths or vows would have no place in a marriage rite. As described by Meyendorff: “In its sacramental nature, marriage transfigures and transcends both fleshy union and contractual legal association: human love is being projected into the eternal Kingdom of God.”³⁹

Freedom and desire were not directed or habituated in marriage but sacralized. Neither oaths nor vows were needed as freedom was not delimited by marriage but reconfigured in terms of God’s eternal love. Transforming that which oaths were meant to regulate and confine, the very idea of any direction of Eros by oaths disappears. Indeed, we can go so far as to say that Eros no longer stands in any relation to Ananke. Rather the very transformation of Eros does away with the existence of Ananke. Corporeal necessity has no place in God’s Kingdom, nor in its sacraments.

To summarize what we have said thus far about the oath of marriage in the Eastern Orthodox Christian tradition: in the Orthodox wedding ritual up until the nineteenth century there was no formal declaration by the newlyweds that functioned as a marital vow, and it was only later that the practice of declaring an intent to marry appeared, and rarely at that (the so called “marital consensus”). The incidental appearance of a form of marital vow in Peter Moghila’s Euchologion from the mid-seventeenth Century is most likely due to influences from the West, which never managed to take hold permanently in Orthodox ritual practices.

The social and legal consequences of the sacrament in regard to inheritance do not actually depend on the presence or absence of a marital vow. Why then did Moghila insist on newlyweds taking that vow?

At this stage the only possibility is to assume that this isolated attempt at ritual innovation was aimed to enforce administrative control and regulation of parishioners’ civil status – part of the process of “adjustment” of the Orthodox church administration and civil institutions to the requirements of the (Catholic) political authority in the Grand Duchy of Lithuania.⁴⁰ To look at it more generally, it was an effort on behalf of the state, assisted by the church, to transform marriage from an “event of the community” (i.e. regulating the relations between two families) into an “event of the individual” (i.e. regulating personal relations be-

(or grace) on the other. There is no dichotomy between the created spirit of man and the attributes of divine life. Jean Danielou, *Platonisme et théologie mystique* (Paris: Aubier, 1944), 54. See also, Meyendorff, *Byzantine Theology*, 138–40.

³⁹ Meyendorff, *Byzantine Theology*, 197.

⁴⁰ For the same reasons and at the same time Metropolitan Peter Moghila introduced registers referred to as *metric (or metrical)* books in which christenings and funeral services were recorded. They were used as data bases for fiscal and administrative purposes.

tween two people). If this is the case, then this process is part of the larger process of the (modern) individual's emancipation from the "embrace" of community living, which turns the individual into an autonomous unit, personally responsible (in front of God, but also in front of State institutions) for their actions.

In the West this process traces its beginnings back to the early medieval *Konsensprinzip* (i.e. the necessity of the bride and groom's declared consent to get married) and was further encouraged by the "invention" of the idea of "marriage for love" by the Romantic writers of the eighteenth century. Until then eroticism (both romantic and sexual) had belonged outside of marriage. Marriage, by contrast, was the realm governed by Ananke. The early medieval *Konsensprinzip* marked in fact the first steps in the development of the romantic bourgeois ideal of uniting love with sexuality and marriage – an ideal that rarely manages to realize itself fully outside the dreams of Romantic writers, but nevertheless, as we shall see, serves as the basis for a sustainable model that has yet to lose its validity.

The Eastern Church knew not of oaths, nor the Eastern literary tradition of a tension between marriage oaths and Eros. Until, that is, a relatively late date with the growing influence of Western literature and of the Western Church. With this in mind, we may now turn from these theological speculations to view some classics of nineteenth-century Russian literature with two hypotheses in mind: 1) in Russian fiction of the time, marriage is a sacrament with irreversible consequences, regardless of whether a vow has been formally taken as part of the ritual or not; 2) the idea, that a verbal declaration of this sacrament by the newlyweds is necessary is a result of Western influence.

***The Blizzard* – A.S. Pushkin**

This short story is part of the well-known *Tales of the late Ivan Petrovich Belkin*, written by Pushkin in the autumn of 1830. It describes a series of events that took place in the historic winter of 1812, during and after Napoleon's invasion of Russia. The main character, Marya Gavrilovna, is the daughter of a wealthy landowner, "brought up on French novels and consequently [...] in love."⁴¹ Her parents oppose her romance with a "poor lieutenant," therefore the lovers decide to defy them and marry in secret. On the night of their planned elopement, a blizzard rages and the groom-to-be gets lost in the snow and only manages to reach

41 Alexander Pushkin, *Tales of Belkin and other Prose Writings*, trans. R. Wilks (London: Penguin Books, 1998).

the church at dawn. Marya returns to her parents' home, covering up her escape, and never mentions her beloved again, who, soon after that, dies in complete desperation. Having become a rich heiress, Marya Gavrilovna rejects all attempts to woo her, until (three years later) the "wounded colonel Brumin of the Hussars, with the Order of St. George on his buttonhole and with an interesting pallor" appears.⁴² Despite the mutual feelings that the two develop for each other, Brumin, surprisingly, remains very reserved in the aspect of courtship. Provoked by Marya's decisive "military actions," he comes to the inevitable confession, not of merely admitting his love, but also explaining the reasons that would make their love impossible.

Pushkin describes this scene with a slightly ironic tone, underlining the parallels between the behavior of his characters and the French novels that were popular at that time in Russia – i.e. the Western models of romantic love, adopted enthusiastically by educated maiden ladies, but still alien to traditional Orthodox culture. "I behaved impudently," – Brumin confesses – "by indulging myself in the charming habit of seeing you and hearing your voice every day." (Marya Gavrilovna remembered St. Preux's first letter).⁴³ This direct reference to *La Nouvelle Heloise* by Rousseau, transforms the dialogue into a series of confessions with a romantic literary subtext. Both of them declare, almost simultaneously, that their love could not result in marriage. It becomes clear, that in that long gone night, lost in the same blizzard, Brumin had accidentally entered a village church instead of the expected groom, and in the ensuing confusion had been married to the bride there, although he didn't even know her. Realizing what was happening just as the priest allowed him to kiss the bride, the unwitting bridegroom left the church, leaving his wife, who had fainted, and soon even forgot the name of the unknown village, where this had happened. Three years later though, in love with Marya, he realizes that he is married, and therefore may not ask her to marry him. This mutual recognition leads to a happy ending, but there are grounds to analyze this episode in further detail.

On the one hand, it is clear that Brumin and Marya are married by mistake, i.e. the groom had no intention of getting married. It isn't clear which ritual was conducted (Pushkin merely states "we were married"), but everything seems to point towards the traditional Orthodox version (i.e. without the preliminary questions to the newlyweds, and without the taking of marriage vows; otherwise these ritual acts would have most probably caught the slightly drunk groom's attention and stopped him from participating in the taking of the sacrament). The realiza-

⁴² Pushkin, *Tales of Belkin*, 28.

⁴³ Pushkin, *Tales of Belkin*, 29.

tion of the mistake by all present (the bride exclaims “Ah, it’s not him!” and faints) does not change the reality of the situation – the formula has been pronounced and the marriage is finalized. In the following years, both the bride and groom behave as is expected of married people – they carefully avoid any form of extramarital affairs. Having lost his tracks in the blizzard, Brumin loses all hope “of ever finding that woman upon whom I played such a cruel joke and who has now taken such cruel vengeance.”⁴⁴

Without delving into the depths of canonical law, according to which, although finalized, a marriage can be dissolved if it has not been consummated, it becomes clear that even the most ephemeral possibility of such a solution to the problem is rejected.

Thus we can see that in nineteenth-century Russia the interpretation of marriage as being an indestructible bond between a man and a woman was a fact, regardless of the presence or absence of the taking of marital vows, and/or a loving relationship between the two parties. The performance of the sacrament is informed by the evangelical principle – “whatever you bind on earth will be bound in heaven, and whatever you loose on earth will be loosed in heaven,” (Matt 16:19, see also Matt 18:18), which has been transformed into “whomsoever God has joined together, let no man put asunder” – a rule that is the basis of the Christian interpretation of divorce.

Simultaneously, Pushkin explicitly emphasizes the fact that the examples described in *Tales of the late Ivan Petrovich Belkin* of an independent attitude towards marriage by young ladies are foreign to their traditions, and, to a great extent, are a result of foreign literary influences. In the short story *The Squire’s Daughter* he describes the “provincial young ladies . . . [b]rought up in the fresh air, in the shade of the apple trees in their gardens, they derive their knowledge of the world and life from books. Solitude, freedom and reading develop in them at an early age sentiments and passions unknown to our beauties living among the distractions of the city.”⁴⁵

The starting point of the twists and turns in the plot is the carnivalesque change of apparent social standing of the protagonist. Having Miss Jackson as her governess (“a prim old maid of forty, who powdered her face, dyed her eyebrows and read the whole of Pamela”),⁴⁶ Lizaveta Muromska is completely submerged in

⁴⁴ Pushkin, *Tales of Belkin*, 32.

⁴⁵ Pushkin, *Tales of Belkin*, 56.

⁴⁶ Pushkin, *Tales of Belkin*, 56. (*Pamela or Virtue Rewarded* [1740], a sentimental novel written by Samuel Richardson).

the world of literary heroines, of whom she believes to be one herself. The final happy resolution of the story only becomes possible, however, when the masks are removed and the traditional social order is reinstated. Despite displaying a certain irony towards the romantic impulses of young ladies and their attempts to express their own opinion on the question of marriage, Pushkin correctly describes a process of infiltration of Western European models that – at least concerning the higher social layers – would slowly move the Russian understanding of love and its role in marriage towards a more “modern” perspective.

Eugene Onegin

This novel in verse was written by Pushkin from 1823 to 1831, i.e. in the same period as *Tales of the late Ivan Petrovich Belkin*. The relationship between Eugene Onegin and Tatyana Larina has become a model to describe the complicated fluctuations of romantic love, set in the cultural and historical context of Russian high society at the beginning of the nineteenth century. The moral commentary on the characters’ behavior expresses the poet’s own position, which is further complicated by the conflict between a traditional patriarchal order and a romantic interpretation of love, introduced to Russia from Western literature that was popular at the time.

This conflict is revealed in the second chapter of the novel through the retelling of Larina (Tatyana’s mother) the elder’s story, who in her youth was enamored of Richardson’s sentimental novels, not because she had read them, but because they reminded her of her unfulfilled love for the glorious dandy – a sergent in the royal guards.

At that time still affianced was
her husband, but against her will.
She sighed after another
whose heart and mind
were much more to her liking;
that Grandison was a great dandy,
a gamester, and an Ensign in the Guards.

. . . .

but without asking her advice
they took the maiden to the altar;

.

she tossed and wept at first,
almost divorced her husband,

then got engaged in household matters,
 became habituated, and content.
 Habit to us is given from above:
 it is a substitute for happiness.⁴⁷

Thus it was acceptable and even seemingly advisable for the young ladies of the Russian aristocracy to read the sentimental novels of their time. This gave them the socially expected romantic attitude, which would make them attractive for courtship. But as soon as they “went under the wreath,” it would be expected of them to abandon all romantic ideals and become exemplary wives, devoted to their domestic obligations. Like her mother and the heroines in the “Belkin Tales,” the enamored Tatyana completely drifts off into the world of these literary figures:

She early had been fond of novels;
 for her they replaced all;
 she grew enamored with the fictions
 of Richardson and of Rousseau.⁴⁸

 With what attention now
 reads a delicious novel,
 with what vivid enchantment
 drinks the seductive fiction!
 By the happy power of reverie
 animated creations,
 the lover of Julie Wolmar,
 Malek-Adhel, and de Linar,
 and Werther, restless martyr,
 and the inimitable Grandison,⁴⁹
 who brings upon us somnolence –
 all for the tender dreamer
 have been invested with a single image,
 have in Onegin merged alone.
 Imagining herself the heroine
 of her beloved authors –
 Clarissa, Julie, Delphine –
 Tatiana in the stillness of the woods
 alone roams with a dangerous book;

⁴⁷ Alexander Pushkin, *Eugene Onegin*, trans. V. Nabokov (Princeton: Princeton University Press, 1991), 140.

⁴⁸ Pushkin, *Eugene Onegin*, 139.

⁴⁹ *Sir Charles Grandison* (1753) is an epistolary novel by Samuel Richardson. It is one name among many that Pushkin lists as examples of foreign romantic literature.

in it she seeks and finds
 her secret glow, her daydreams,
 the fruits of the heart's fullness;
 she sighs, and having made her own
 another's ecstasy, another's melancholy,
 she whispers in a trance, by heart,
 a letter to the amiable hero.
 But our hero, whoever he might be,
 quite surely was no Grandison.⁵⁰

In this whole passage the stark dissonance between Tatyana's literary tastes and the protagonist's view of her is noticeable – while the young lady is fascinated by “the inimitable Grandison, who brings upon us somnolence”; the reading of sentimental novels is described as being a “seductive deception,” and the novels themselves as being “dangerous,” because they make her adopt “another's ecstasy, another's melancholy,” i.e. she lives in a world of make-believe. The clash between this fantasy world and reality ends painfully for the heroine. She sends a letter, written in French in the style of an epistolary novel, but expressing her genuine feelings, in which she clearly formulates the contradiction between the two possible paths that she must choose from – that of a woman in love, and that of a virtuous wife:

Why did you visit us?
 In the backwoods of a forgotten village,
 I would have never known you
 nor have known bitter torment.
 The tumult of an inexperienced soul
 having subdued with time (who knows?),
 I would have found a friend after my heart,
 have been a faithful wife
 and a virtuous mother.
 Another! . . . No, to nobody on earth
 would I have given my heart away!
 That has been destined in a higher council,
 that is the will of heaven: I am thine!⁵¹

It is worth paying attention to the sudden and meaningful change from the formal mode of address *вы* to the intimate *ты*, which expresses a deep trust in her beloved. The sharing of her deepest feelings is placed above the rules of their society – it is “destined in a higher council” and therefore not affected by human

50 Pushkin, *Eugene Onegin*, 153–4.

51 Pushkin, *Eugene Onegin*, 165–6.

judgment. These words practically replace the marital vow, “pronounced” in the presence of a transcendent witness, and are irreversible – i.e. in Tatyana’s consciousness, it is not marriage, but love that “rearranges the world” by being sanctified through a vow – so that even after she is married, having taken a vow, nothing changes her attitude towards Onegin.

Tatyana’s confession is met by Onegin’s cold moralizing response, which reveals a worldly man, experienced in the ways of love. He sketches their future possibilities as a family, describing the inescapable boredom that will eventually replace love and turn their sentimental romance into dreary everyday life:

Believe me (conscience is thereof the pledge),
wedlock would be anguish to us.
However much I loved you, I,
having grown used, would cease to love at once.⁵²

Rejecting Tatyana’s declaration of love, Onegin assures her, that time will heal her hurt feelings, and she will change the object of her love as “a sapling thus its leaves changes with every spring,” while also advising her to learn to control herself, as not everyone will respond to her revelations as nobly as he has:

By heaven thus ‘tis evidently destined.
Again you will love; but . . .
learn to control yourself;
not everyone as I will understand you;
to trouble inexperience leads.⁵³

Devastated by this cruel sermon, by Lensky’s tragic death and Eugene’s departure, Tatyana remains alone and spends months on end trying to comprehend the reasons for what has happened. She spends whole days in the library of Onegin’s desolate home, where under the gaze of a portrait of Byron, she delves into the books that her beloved has kept, coming to the conclusion that he himself is a clumsy imitation of a hero from a romantic novel:

A sad and dangerous eccentric,
creature of hell or heaven,
this angel, this arrogant fiend,
who’s he then? Can it be—an imitation,
an insignificant phantasm, or else
a Muscovite in Harold’s mantle,

52 Pushkin, *Eugene Onegin*, 181.

53 Pushkin, *Eugene Onegin*, 182.

a glossary of other people's megrims,
 a complete lexicon of words in vogue? . . .
 Might he not be, in fact, a parody?⁵⁴

Although untrue, this explanation helps Tatyana free herself from her “literary addiction,” but does not free her from her love.

When Onegin and Tatyana meet again, at first glance it seems that their roles have been swapped. She is the wife of a prince, and shines with her beauty among the cream of St. Petersburg's aristocracy, shrugging off Eugene's feelings with cold indifference – he suddenly falls desperately and passionately in love with her. Having learnt from his poignant lecture, she responds to his romantic aspirations and messages by remaining impervious and indifferent to him. Completely entrenched in her new social role of a virtuous wife, she nonetheless does not deny her love for Onegin, which has now, though, become impossible. The second tête-à-tête between the two main characters is filled with dolor, and seemingly mirrors their previous conversation. But, if before, in the garden of the village house,” happiness had been so possible, so near! . . .,” Tatyana now insists:

But my fate
 already is decided. Rashly
 perhaps, I acted.
 With tears of conjuration, with me
 my mother pleaded. For poor Tanya
 all lots were equal.
 I married. You must,
 I pray you, leave me;
 I know: in your heart are
 both pride and genuine honour.
 I love you (why dissimulate?);
 but to another I've been given away:
 to him I shall be faithful all my life.⁵⁵

Love continues to live in the heart of the “casual legislatress of the halls,” but her marital state makes this love now illegal. Critics have already commented on the choice of language,⁵⁶ the use of the passive form of the verb (“я другому отдана,” literally “I have been given away to another”; rather than “отдалась,” literally. “I gave myself away to another”), which seemingly implies that Tatyana's

⁵⁴ Pushkin, *Eugene Onegin*, 262.

⁵⁵ Pushkin, *Eugene Onegin*, 307.

⁵⁶ Belinskij unjustly blames Tatyana that her decision is a result of her obeying the hypocritical moral norms of the aristocracy, and according to him she acts as if she were a victim rather than taking responsibility for her choice.

marriage was not an expression of her free will. Nonetheless, it becomes clear, that she was not forced into marriage (“With tears of conjuration, with me my mother pleaded”), rather she chose to get married so to fulfill what was socially expected of her – in a situation, where her specific choice was meaningless, as without love it made “for poor Tanya . . . all lots were equal.” Once sealed, the sacrament of marriage makes it impossible to go back. Regardless of whether the ritual encompassed the taking of marital vows (in this case – most probably not), the sacrament irreversibly binds the couple, making the search for love outside of that marriage a crime. The idea of infidelity in marriage, which is frivolously and rapturously described in chivalric romance, and by the heroes of the *Decameron*, is in the mind of Pushkin’s heroine only an expression of the vulgarity of social intrigue. She comes to the conclusion that Eugene is not attracted to her “real self”:

not with the shrinking little maiden,
enamored, poor and simple-
but the indifferent princess⁵⁷

Thus, his sudden love is not motivated by the beauty and depth of her feelings for him, but rather, at least partially, by her new position as a high-ranking married woman, whose “disrepute would be remarked by everybody now and in society might bring you scandalous prestige?”⁵⁸ Such an accusation of the protagonist, although understandable coming from a woman with hurt feelings, is unjust – public opinion has long stopped being a leading factor in his behavior. Tatyana’s high social position, although enviable, is not really that important to her:

But as to me, Onegin, this pomp,
the tinsel of a loathsome life,
my triumphs in the vortex of the World,
my fashionable house and evenings,
what do I care for them? . . . At once I would give
all this frippery of a masquerade,
all this glitter, and noise, and fumes,
for a shelfful of books, for a wild garden,
for our poor dwelling,
for those haunts where for the first time,
Onegin, I saw you.⁵⁹

57 Pushkin, *Eugene Onegin*, 294.

58 Pushkin, *Eugene Onegin*, 305.

59 Pushkin, *Eugene Onegin*, 306.

At the same time, she is prepared to take complete responsibility for her decision. And despite permitting herself to note “carelessly I maybe acted,” her choice is final. But what could have happened, if Tatyana was not as consistent and uncompromising in her decision? What if she had given in to the urges of her heart and Onegin’s amorous requests? Another great Russian novel of the nineteenth century gives us an answer to this hypothesis – *Anna Karenina* by Leo Tolstoy, at the center of which lies the theme of marital infidelity.

Anna Karenina

Anna Karenina (1873–78) was published about half a century after *Eugene Onegin*, but does not show any serious changes in the interpretation of marital vows and the consequences of breaking them in Russian high society. It is maybe more important to note that this novel was published only twenty years after the famous French novel on the same theme (*Madame Bovary* – 1856). Without delving into a comparative analysis of these classic works, their similarity lies in the fact that in both stories marital infidelity (by the women) inexorably leads to a tragic resolution. (Though of course the cause of the infidelity in *Madame Bovary* was boredom rather than Eros).

In *Anna Karenina*, Tolstoy skillfully tells the stories of two families – that of the Karenin family, which is falling apart; and that of the love between Kitty Shcherbatskaya and Nikolai Levin, which after going through a series of difficulties and challenges, ends in marriage and a happy family life. The mirroring of these two parallel storylines throughout the novel, highlights the narrator’s ambivalent position very clearly. This is expressed through Dolly’s thoughts during Kitty and Levin’s wedding ritual. Being a victim of her own husband’s regular infidelities, she remembers her own wedding,

recalling only her first innocent love. She remembered not only herself, but all women, her close friends and acquaintances; she remembered them at that uniquely solemn time for them, when they, just like Kitty, stood under the crown with love, hope and fear in their hearts, renouncing the past and entering into the mysterious future. Among all these brides who came to her mind, she also remembered her dear Anna, the details of whose presumed divorce she had heard recently. She, too, had stood pure in her orange blossom and veil. And now what? ‘Terribly strange,’ she murmured.⁶⁰

⁶⁰ Leo Tolstoy, *Anna Karenina*, trans. Richard Pevear and Larissa Volokhonsky (London: Penguin Books, 2002), 313.

Marriage, which in a traditional society (such as an Eastern Orthodox one) is the only socially prestigious and acceptable path in a woman's life, is also seen as the end of real "innocent" love. The comments of the anonymous "choir" of women casually going to church, accompanied by the discussion of the latest fashion trends and the groom's material wealth end with a very definite conclusion: "Say what you like, one feels pity for a sister."⁶¹

Returning to the wedding ritual itself, as depicted in detail by Tolstoy, it is clear that it consists of two stages – the betrothal and the marriage. The second part is obviously conducted according to a model that is at least partially borrowed from the one described earlier in Mogila's euchologion, as it starts with the asking of the spouses-to-be, whether they are prepared to enter into holy matrimony. "After the usual questions about their desire to enter into matrimony and whether they were promised to others, and their replies, which sounded strange to their own ears, a new service began." (Part 5, chapter VI). The fact that the questions and answers are already habitual, implies that at least two generations have passed since the change from the old tradition (as described in Pushkin's novel). On the other hand, there is no taking of marital vows in the ritual described. It seems that these innovations entered Russian ritual practice somewhere between the beginning and the middle of the nineteenth century. Later this partially westernized ritual variant would reach the southern Orthodox Slavic lands by means of printed Russian euchologia, where it would be met by fervent resistance.

The ritual practice described by Tolstoy is still preserved in the Russian breviary to this day – the wedding starts by asking the couple about their intention to get married, while the pronunciation of vows is not present. Among the southern Slavs, this ritual was not adopted until at least the end of the twentieth century, and it is slowly coming into contemporary practice. This is not due to the influence of Russian liturgical practice, but rather the pressure of social expectations, themselves influenced by the so-called "Hollywood model" of marriage, which is often the only model to which couples now have access. But regardless of this, the maximum deviation from the traditional way that can be seen in the contemporary practice of the Orthodox church (long since legitimated in Russia, but still not canonical in the south), is the asking of questions to the newlyweds about their intention of getting married. The marital vow – the core of the Western ritual, has not managed to enter the ritual texts, interpretations and practice of Eastern Orthodoxy.

61 Tolstoy, *Anna Karenina*, 313.

While Kitty traverses the socially recommended way from an innocent girl in love to a wife that is faithful and happy in her marital subordination (“we are all obedient wives, this runs in the family” notes her older sister Lvova during the ritual), Anna Karenina walks the same route, but in the opposite direction (from the point of view of public opinion). From her position of the respected wife of the cold-hearted and high-ranking civil servant Alexei Alexandrovich Karenin, she sullies her marriage, and demonstratively starts an extramarital affair with her beloved Vronsky, leaving her in the tragic position of being rejected by society, deprived of the love of her own children, and even of her own lover, resulting in such wretchedness that her only escape is through death.

Naturally, it is not Anna’s adultery in itself that provokes public outcry. Marital infidelity was undoubtedly nothing new to Russian high society of the time. Quite the contrary, it was even an everyday practice amongst most of the aristocratic women around her – Princess Betsy’s affair with the young Tushkevich was a public secret; while contemplating his predicament of being a cuckold, Karenin remembered a series of similar cases among his immediate acquaintances:

I am not the first, nor am I the last. And, to say nothing of historical examples, beginning with Menelaus, refreshed in everyone’s memory by La Belle H el ene, a whole series of cases of contemporary unfaithfulness of wives to husbands in high society emerged in Alexei Alexandrovich’s imagination. ‘Daryalov, Poltavsky, Prince Karibanov, Count Paskudin, Dram . . . Yes, Dram, too . . . such an honest, efficient man . . . Semyonov, Chagin, Sigonin.’⁶²

Once more it is important to note that our examples of marital infidelity only concerned cases in which the wife was adulterous. There were just as many publicly known cases, in which the husband was having an affair – the novel after all begins with a dramatic argument on Oblonsky’s family whose wife has found out about his latest affair; during the course of the whole narrative news of similar events are casually stated, normally being accepted with silent approval. Naturally, there is a difference whether the object of a man’s courtship is a maiden or a married woman (the second being more prestigious); the social status of the woman is also of importance (if the husband is having an affair with a French governess as in the case of Oblonsky, or a parallel family and children from an actress as was the case with Alexander Vronsky, this sometimes angers wives, but never society).⁶³

⁶² Tolstoy, *Anna Karenina*, 197.

⁶³ This is a case of the “weakening” of adultery through bringing it out of the sacred space of the home (oikos) twice – once through the husband having an affair and a second time through having an affair with somebody socially inferior.

Alexei Vronsky, desperately trying to court a married woman, also does not risk being seen as a fool in the eyes of high society. “He knew very well that in the eyes of Betsy and all society people he ran no risk of being ridiculous. He knew very well that for those people the role of the unhappy lover of a young girl, or of a free woman generally, might be ridiculous; but the role of a man who attached himself to a married woman and devoted his life to involving her in adultery at all costs, had something beautiful and grand about it and could never be ridiculous.”⁶⁴

As a whole it is widely accepted by society that it is completely normal for men in love to follow every worldly beauty like shadows: “What should she do, when everyone is in love with her and follow her around like shadows? – Yes, I don’t dare to condemn . . .” Concerning real cases of infidelity, Betsy elegantly expresses her opinion: “And what else there is in fact, nobody wants to know. You see, in good society one doesn’t speak or even think of certain details of the toilette.”⁶⁵

The opposition of love and marriage as two alternative and incompatible variants of connection between a man and woman was a popular topic of discussion in the salons of St. Petersburg. Additionally, the cool-headed, cynical view of the fashionable, educated European aristocrats transported them back to the times of medieval courtly love, and they deemed marriage by reason to be the only acceptable and advisable form, rejecting love and passion as being incompatible with a happy married life. This is made more interesting by taking into account that the idea of love as being a possible factor in the decision whether to marry was then relatively new to the Eastern Orthodox world. This thought had only emerged a few decades earlier, encouraging Pushkin’s heroines to violate an ancient patriarchal tradition, while by Karenina’s time it was being rejected as being an antediluvian idea and old-fashioned. Here is an example:

‘They say it’s a marriage of passion.’

‘Of passion? What antediluvian thoughts you have! Who talks about passions these days?’ said the ambassador’s wife.

‘What’s to be done? This stupid old fashion hasn’t gone out of use,’ said Vronsky.

‘So much the worse for those who cling to it. The only happy marriages I know are arranged ones.’

‘Yes, but how often the happiness of an arranged marriage scatters like dust, precisely because of the appearance of that very passion which was not acknowledged,’ said Vronsky.

‘But by arranged marriages we mean those in which both have already had their wild times. It’s like scarlet fever, one has to go through it.’

64 Tolstoy, *Anna Karenina*, 96.

65 Tolstoy, *Anna Karenina*, 209.

'Then we should find some artificial inoculation against love, as with smallpox.'

'When I was young, I was in love with a beadle,' said Princess Miagky. 'I don't know whether that helped me or not.'

'No, joking aside, I think that in order to know love one must make a mistake and then correct it,' said Princess Betsy.

'Even after marriage,' the ambassador's wife said jokingly.⁶⁶

Thus according to the world view of the aristocracy of the time, love was a childhood disease, which was good to get over early, so that one could later devote oneself to the responsibilities and duties of marriage, which one was advised to intersperse with extramarital amusement to not get bored, but without challenging public morality. Even if these affairs included love as an element, they must not lead to public demonstrations of infidelity – neither by the husband, or (even more) by the wife – so that they could remain within the framework of socially acceptable behavior. At the beginning of her relationship with Vronsky, Anna receives well-wishing advice on how to retain apparent decency, without having to forego either her family or her love. Her husband himself is prepared to ignore her declared infidelity, as long as it is not publicly announced:

I ignore it. Not all wives are so kind as you are, to hasten to tell their husbands such pleasant news.' . . . 'I ignore it as long as it is not known to society, as long as my name is not disgraced . . . our relations must be such as they have always been . . . and that you behave in such a way that neither society nor the servants can possibly accuse you . . . And for that you will enjoy the rights of an honest wife, without fulfilling her duties.⁶⁷

At the same time, Karenin acts as the voice of an archaic, strict Orthodox Christian understanding of marriage to which feelings of love are irrelevant:

Your feelings are a matter for your conscience; but it is my duty to you, to myself, and to God, to point out your duties to you. Our lives are bound together, and bound not by men but by God. Only a crime can break this bond, and a crime of that sort draws down a heavy punishment.⁶⁸

Anna's tragic fate occurs due to her deeply rooted conviction in the validity of this idea. Torn between her sudden, strong feelings of love, and the weight of her guilty conscience, she never manages to escape a vicious cycle of self-blame. Even in her moment of unity with Vronsky, she manages to instill him with her catastrophic feeling of failure: "He felt what a murderer feels when seeing a body de-

⁶⁶ Tolstoy, *Anna Karenina*, 103.

⁶⁷ Tolstoy, *Anna Karenina*, 223.

⁶⁸ Tolstoy, *Anna Karenina*, 109.

prived of its life. This body, deprived of their life, was their love.”⁶⁹ It turns out that it is not just marriage that kills love; the consummation of her extramarital affair is enough to transform the once-proud Anna into a “fallen woman, unworthy of love” – first of all in her own eyes, and then gradually in public perception.

Unlike the other ladies in the salons of St. Petersburg, Anna declines the role of a demonstratively faithful wife. She throws a stone into the swamp of false morality, and devotes herself to her love, professing her feelings and her infidelity towards her husband. Ahead of her time by a number of generations of women, who will later be proud of their hard-fought freedom to love whomever they choose, she nonetheless does not manage to escape the framework of the religious interpretation of marriage as something holy and irreversible. This makes happiness unattainable, and the tragic finale of the story inevitable. Actually, the dynamic of the protagonists’ relationship has already lost its momentum by the middle of the novel – after the rift in the Karenin family becomes publicly apparent, and Anna leaves with Vronsky (at the end of Part IV). Although the story continues for the same amount of pages, it ultimately only describes the route to the now-expected resolution – as if the dice have been cast and a change to the development of the plot is impossible.

The violation of the marital vow is perceived differently by Anna and her husband. Despite his superficial fidelity to Orthodox doctrine, Alexei Alexandrovich did not actually suffer that much because of his wife’s affair in itself (so many others were cheating at the time), but rather because of Anna’s decision to make her infidelity public knowledge, which deprived him of the opportunity to carry on playing his role of the unwitting husband, and forced him to have to take decisions and act on them.⁷⁰ Naturally he continued to use the “Orthodox discourse” as a sophisticated way of having revenge on his wife – namely because to her it is not merely “discourse,” rather a reality that she has not only consciously realized, but also painfully endured. Anna does not even attempt to defend herself from his accusations: “She bowed her head. She not only did not say what she had told her lover yesterday, that he was her husband and that her hus-

⁶⁹ Tolstoy, *Anna Karenina*, 111.

⁷⁰ This reminds us of a regulation of the (extra)marital behavior of clerical wives, which we find in a manuscript from Hilandar 169 (the last quarter of the fourteenth century) “If the wife of a priest commits adultery but he is not aware of it, he continues to serve, if someone tells him about her infidelity, he stops serving. And he looks for the truth, and if he sees her infidelity with his own eyes, he must leave her” (ff. 72v–73r). See the manuscript published by Maria Schnitter, ed., *The Old Bulgarian Narratives. Confession Rites. Folklore Eroticon*. Vol. 6 (in Bulgarian) (Sofia: ROD Publishing house, 1998), 77–9. As we can see there are limited possibilities for a husband to react to his wife’s infidelity, the key issue being that his knowledge of her actions becomes the main reason for a change in the married couple’s relationship.

band was superfluous but she did not even think it. She felt all the justice of his words and only said quietly: – You cannot describe my situation as any worse than as I myself understand it.”⁷¹

Judgment is passed – “guilty.” The judgment of the author and of the reading public coincide with Anna’s despite the fact that her understanding of marriage has long since changed, and even become an anachronism along with the concept of the vow itself.

If she had died due to complications which ensued during the birth of her illegitimate child, Anna would have satisfied the novel’s inner logic, “getting what she deserved” for breaking her marital vows – deserved and even desired according to her own perception, solving annoying problems according to her husband, and even leaving Vronsky in the position of a romantic lover, who sacrificed his social standing for his love. And indeed, in a certain fashion the “real Anna,” loyal to her given word, “dies” in the middle of the novel, after being forgiven by Karenin in an unexpected moment of Christian mercy. The rest of the novel seemingly describes the desperate attempts of a soulless body, deprived of any support of self-respect, continuing to fight for a place in the sun – an attempt that gets more futile with every step, and logically leads only to death.

Love and eroticism (regardless of whether within or without marriage) were never topics of medieval literature within the Orthodox world. While chivalric romance and the jolly stories of the *Decameron* and *Canterbury Tales* were being enjoyed throughout Western Europe, in the Byzantine sphere of influence the only mention of love (and/or sex) stems from a small number of translated texts of pre-Christian origin, most of which are examples of “low” literature and Apocrypha.⁷² The topic of sexuality is only discussed through Apophasis – i.e. as part of the penitentials.⁷³ The detailed descriptions of diverse physical practices from these priceless sources confirm that the Eastern individual was in no way lacking a culture of sex and imagination. The only thing missing was a positive literary

71 Tolstoy, *Anna Karenina*, 252.

72 K. Krumbacher, *Geschichte der byzantinischen Litteratur von Justinian bis zum Ende des Oströmischen Reiches* (München: C. H. Beck, 1891) 385–480; H.-G. Beck, *Geschichte der Byzantinischen Volksliteratur* (München: C. H. Beck, 1971), 183–6; H. Hunger, *Die hochsprachliche profane Literatur der Byzantiner* (München: C. H. Beck, 1978), Bd. 2., Kap. 7, 87–178.

73 Tsiibranska-Kostova, M. *The Penitential Literature of the Bulgarian Middle Ages IX–XVIII Centuries*. (in Bulgarian) (Sofia: Valentin Trayanov Publishing House, 2011).

discourse on the subject – i.e. they were not skilled in poetically expressing their romantic or sexual feelings. The discourse is entirely negative – every sexual act is included in an exhaustive list of violations of the seventh Commandment “Thou shalt not commit adultery,”⁷⁴ therefore qualified as sin and assigned a specific penance.

The idea of “exalted” romantic love is neither discussed positively nor negatively in the literature of the Orthodox world until the early modern era.⁷⁵ The reasons behind this symptomatic absence deserve their own research. Most probably this was partially compensated for by the rich treasury of folklore ritual texts that discussed topics of love and marriage. As Russia was the first Orthodox country within which Western ideas spread and to some extent penetrated social life; there, these ideas managed to influence (albeit minimally) public opinion in higher social circles, though not the conservative ecclesiastic ritual.

Nonetheless, the persisting interpretation of marriage as a sacrament, which creates a new reality i.e. performative by definition, led to an irreversible restructuring of the relationship between its participants, regardless of whether marital vows were or (more often) were not exchanged – in both Eastern and Western cultures.⁷⁶ The literary examples we have viewed illustrate that even in “progressive” Russia, marriage, once entered into, defined the newlyweds’ social roles for the remainder of their lives. The combination of love and marriage (Eros and Ananke) only remained possible in the romantic dreams of aristocratic ladies. The public violation of marital fidelity by the wife categorically placed her outside the frame of socially acceptable behaviour, and doomed her to moral, social and even physical perdition.

In the Orthodox south, among the Balkan Slavs and Greeks, any innovation in either the ritual practice or its interpretation have been met with consistent rejection – by both the Church and society. Far from the idea of romantic love, up until the twentieth century there was no hesitation between Eros and Ananke in the Balkans. The taking of marital vows was completely unnecessary until the modern era, as the dominating patriarchal norms were more binding than any verbal formulations. On the other hand in the contemporary postmodern world, changes to the Orthodox ritual would be pointless – for most of the couples get-

⁷⁴ This commandment is the seventh one in the Orthodox list, while it is the sixth in Catholic one.

⁷⁵ The end of the pre-modern era in the Balkans is difficult to date due to various local versions based on a set of cultural and historical factors, see R. Koselleck, *Zeitschichten. Studien zur Historik* (Frankfurt: Suhrkamp, 2000).

⁷⁶ In a social sense (horizontally) and also in a transcendental sense (vertically), i.e. “on heaven and earth” (Matt 16:19).

ting married, the ritual words have long lost their power to rearrange the world and they exist merely as an exotic part of the wedding ceremony, whose value is mostly seen in the opportunity to take pleasant-looking photos. In this sense the “Hollywood” additions to the traditional ritual of marriage (questions towards the newlyweds, or maybe even a marital vow) would rather affect the staging and visual aspect of the wedding, than its deeper meaning.

Conclusion

The defining concern of this inquiry has been the power of oaths and vows to create new obligations, relations, reciprocities and so also, worlds. Part One was dedicated to working out these aspects of oaths and vows in somewhat historical but mainly analytic, sociological, anthropological and even psychological terms. In our first chapter, we focused on oaths and vows as creative acts as these were understood in different cultures and civilizations, most especially of ancient Jewish and Greek thought and practice. We then went on, in our second chapter to unpack the very creative power of oaths and vows; analyzing both their efficacy in obligating God Himself as well as the sources of this creative power in a unique combination of de-differentiation (word from deed, self from the external world, action from intent) complimented by highly developed formal properties of both speech and in many cases, action as well (the double performative noted earlier). In the final chapter of this section we spent more time unpacking the perceived role of intention in imbuing oaths and vows with their efficacy: especially as these registered very differently in Jewish and in one rarely studied exemplar of the Christian civilizational imperative, that of the Eastern Church.

Perhaps the most interesting finding of our inquiry turned on the great creative power of oaths and vows; a power which drew on its civilizing or habituating effects on both Eros and aggression. Critical to this power, we just noted, is the dissolution (within oaths and vows) of certain prime categories of conception and categorization – of actions, emotions, thoughts and intentions – together with the absolute imperative for oaths and vows, to follow clearly defined constructs of time, place, locution and indeed, performance. This has been true in all social formations – from pre-modern African tribes to highly sophisticated twenty-first-century legal and civic rituals, to ancient and medieval Jewish law as well as current Church practice.

The dissolution of categories (self and other), distinctions (my body, your body) and the differentiation of self from world is of course at the very heart of the erotic connection (not to mention the sexual act itself). It is as well the achievement of the marriage vow or oath which turns on the critical dissolution – of word from deed – into the primary building block of social life; in the family unit (and through it the kinship system and society writ large). Thus, do the marriage oath and vow reproduce in their workings the very dynamics of Eros itself.

Not only Eros. We have once or twice mentioned anger as expressing that other primary process – of aggression – that is also somehow contained and socialized within the form of the oath. Like Eros, anger is, as ancient civilizations knew only too well, a form of madness (Achilles being perhaps the most famous

example). And so, like Eros (and like madness), it involves a loss of self, a dissolution of the ego, a blurring of word and deed, of self and its intentions and the loss of control, only not in the desire for love, but of hatred. And here too, the oath or vow provides some measure of containment and socialization. We glimpsed hints of this in the many examples which we found in the Talmud where vows were seen as offered in anger and the problem remained how to deal with them with anger's passing.

Indeed, the final chapters of the Book of Judges in the Old Testament (chapters 19, 20, 21) relate a sordid tale of gang rape, murder, violence and the collective oath of the tribes of Israel to take vengeance on the tribe of Benjamin for the rape and murder of the "concubine of Gibeah" and never to marry off their daughters to the Benjaminites. After horrific battles and thousands of deaths on each side and after their final triumph, the tribes of Israel realize that withholding their daughters in marriage from the tribe of Benjamin will lead to the eradication of that tribe from the people of Israel. While the story ends with such marriages being effected (and so the existence of the tribe guaranteed) the Talmud (*Tractate Ta'anit* 30b) explains how the oath was actually annulled to allow the marriage of the Israelite children with members of the tribe of Benjamin. It goes on to explain that the date of the oath's annulment (the fifteenth of the month of Ab) is – together with Yom Kippur, the Day of Atonement (and the day when the second set of tablets were given)– is the most joyous day in the Jewish liturgical year.¹

Here then a tale reminiscent in some ways of the *Oath of Tyndareus* in its joining together of stories of desire, violence and the binding of violence by the oath (there of Helen's suitors, here of the tribes of Israel). Significantly, in the Talmudic pericope we have the explication of the annulment of the oath, its mechanism and salubrious effects. And, like the Greek tale, the end result is the unity of the people (there of the different Hellenes, here of the tribes of Israel with that of Benjamin). Again, then, the constitution of a community through the channeling of sexual desire and aggression. Here though and tragically, after their prior, murderous expression.

Such an approach to oaths and violence is not of course limited to Jewish texts. Think of King Lear's oath to disown, disinherit and exile Cordelia (which at least were lesser acts than the drawing of his sword as he did when Kent came to her defense). With both stories moreover the matter of Eros, of love in its different forms, reasserts itself as part of desire; not unconnected to but also beyond any aggressive dimensions.

¹ We wish to thank Shlomo Fischer for bringing these texts to our attention.

Hence in Part Two of our study, we explored the role of oaths and vows in habituating Eros. Through marriage oaths and vows, the generative force of Eros is socialized into “acceptable” and virtuous actions and becomes the foundation of human societies. Through them, the unmediated, non-intentional and instinctual (hence natural) force of the erotic is given form, molded, constrained and socialized into order giving and order maintaining relations.

Passing through the sieve of the oath or vow the erotic moves from being merely generative to becoming truly creative. The natural becomes intentional, the instinctual become symbolic and what was an unmediated force contained in a solitary self becomes a relationship mediated by shared acts of human will. This is no small transformation, as form, in fact the ritualized form of the oath, channels and redefines (indeed, as we have seen, in some traditions, sacralizes) the formless urgings of Eros into a world-making endeavor.

In our context oaths are understood as the normative framing or shaping – the habituating context – of desire. Through the marriage (oath or vow) the normative becomes, as it were, a constitutive part of the desirable. The norm becomes in essence, “inherent in the desire.”² And just as Eros makes of sexuality per se, human sexuality, so the marriage oath or vow makes it civilizational. Doing so, the oath immediately involves us in the endless dynamics of trust and confidence that characterizes almost all human relations.

Critically, as we have further explored, this formalization is no forgone conclusion. The purported habituation of Eros can misfire in any number of ways. It can proceed with the wrong partner and ultimately break down: a scenario which often ends in comedy and we presented examples from Boccaccio, Chaucer and others to this effect – where, as often as not, new bonds held by new oaths or vows with more appropriate partners eventuate. Alternatively, the bonds of the oath may hold, even with the wrong partner. In such circumstances Eros is also not habituated, but in a sense broken, as these tales end in tragedy (instances of which we viewed with Rousseau’s *Julie* as well as Madame de Lafayette *La Princesse de Clèves* among others).

Both of these cases are examples of breaking what we termed the horizontal oath: that given on the plane of this-worldly, human relations. However, there are also the cases of breaking vertical oaths and vows, those made to heaven. This was the case with Stendhal’s heroines, with *Anna Karenina* as well as many others (and in fact as an almost *sub rosa* dimension of *Julie* as well).

² This notion of the relation between norms and desires taken from Robert Bellah (ASA Action Theory Panel, October 9, 1982, handwritten notes). Quoted in Matteo Bortolini, *A Joyfully Serious Man: The Life of Robert Bellah* (Princeton: Princeton University Press, 2021), 233.

In its essence the problem comes down to what was termed earlier in our study, confidence in the oath: a problem which adheres to all of its possible locations (not solely those concerned with matters erotic as it is rooted in the very indeterminacy of the sign pointed out by Roy Rappaport). But the problem is a good deal broader, especially when the relevant desire is that for another human being – as is the case in all of our studies of Eros and oaths. For desire when directed towards another human being ties us inexorably to his or her freedom and agency as well. For though we may well desire another person, the truth is, we can never fully possess him, or her. If desire is simply lust that can be slacked in one moment of passion – Don Juan like – perhaps we can. But for most of us, lust, that is sexual desire, is wrapped up with emotions of many different types and though some may dream of possessing an other, none can; as we are all infinite in our being. The painting wrapped up by its new owner after the auction, even before it appears in her living room, maybe so possessed; not so the wife, husband, lover or friend. Once we desire, in some crucial ways, we are no longer our own master (or mistress). The lover who loves and desires to be loved in turn does not desire the love object to simply love as if enslaved. It is not power which motivates the lover but the desire that the love object loves freely and without any compulsion. Jean Paul Sartre put this in terms of each individual's ontological freedom. In his words: "He [the lover] wants to be loved by a freedom but demands that this freedom as freedom should no longer be free." Or elsewhere: "The total enslavement of the beloved kills the love of the lover. The end is surpassed, if the beloved is transformed into an automaton, the lover finds himself alone. Thus the lover does not desire to possess the beloved as one possesses a thing; he demands a special type of appropriation. He wants to possess a freedom as freedom."³

Leaving aside the gendered nature of Sartre's language and the fact that existential philosophy (and Sartre himself) are both somewhat out of fashion these days, the thought expressed here has great bearing on our problem. For in matters of erotic desire how can any one person secure – in terms worthy of confidence – a course of action that is, in its very essence, dependent on the freedom of the other? By the marriage oath? Our analysis tells a different story.

Indeed, knowledge of the type that undergirds confidence is impossible. Confidence, which rests on knowledge provides at least to some degree a measure of control as well, however and as we have just seen, in matters erotic not only is control impossible, but it is diametrically opposed to the desired state of affairs. Control is a function of power, not of love and not of desire (except in its crassest

³ Jean Paul Sartre, *Being and Nothingness*, 178–9.

or deviant forms). The interpersonal nature of desire and, in Sartre's terms, its dependence on the freedom of the other's will, leaves its effects beyond the scope of confidence, knowledge or control.

Desire is at its core generative (in much more than the limited sexual meaning of the word). As the Jewish tradition will have it, the very continued existence of the world is tied to the "evil inclination" (*yetzer ha'rah*): without desire there is no world. Tractate Yoma in the Babylonian Talmud (69b) for example, explains how the Sages of the Great Assembly after having by prayer and fasting destroyed the evil impulse for idolatry then attempted to remove the "evil inclination" *tout court*. The prophet Zechariah warned them that this would lead to the end of the world itself. As indeed, on their first attempts the chickens stopped laying eggs and there were no fresh eggs to be found in all of the Land of Israel. In the end the Sages settled for a very limited removal of the evil inclination, only in terms of the desire to commit incest with close relatives. Thus, while certainly dangerous when left to reign alone, the very existence of the world rests, in the talmudic view, on desire itself. Though we must add, that with only desire there is also no world.

And this leaves us with the conundrum of the oath and the risk that – despite all sacral measures – it may nevertheless fail its purpose. After all, there is always the chance or risk that the marriage may dissolve, the love go sour, the friendship turn to hatred. The demands on the human objects of our desire are, in theory anyway, endless and so also the possibility – risk – of refusal, failure, coming up short, angering or alienating the object of our desire. Anyone who has ever been in love will know what we mean. And indeed, we have seen this form of desire in some of our texts, the Prince of Cleves who wishes to be not only husband but lover (that is to have both the possession or confidence of a husband as well as the risks and so trust of a lover), Othello who bemoans his possession of Desdemona's body alone and not her feelings. The ultimate failure of Wolmar to win Julie's heart which through years of marriage still "belonged" to Saint-Preux – all give ample testimony to the risk that always, by necessity, accompanies every and any loving relation, any relation predicated on desire. Indeed, Andreas Capellanus's *The Art of Courtly Love* from which we have quoted extensively is in fact a hymn to the risks of love, juxtaposed to the expectations of the ("confident") married state (that is, one formalized by the oath).

Hence, as we have seen, and depending on the circumstances, oath breaking could, in literature at any rate, be understood as either comic or tragic. If Eros is essentially indexical (in the Peircian sense of the sign being actually effected by the object it denotes), vows and oaths are quintessentially symbolic and hence given to, indeed, in need of, interpretation (as are all symbols – consequent on the lack of all necessary connection between object and sign). The lability of the sign, despite all attempts to fix its meanings: whether as we have seen in Chris-

tian and modernist concerns with intentionality, or Jewish concerns with its external conditions – is the condition of its hermeneutic: Did she ever love him? He, her? Was it a marriage of love/convenience/mutual interest rather than love? Did the conditions of life/love/relationships change/develop/dissipate? Was the tragic/comic/tragi-comic ending to be foreseen from the start? Endless such queries for which there is generally no convincing answer. Just think back to our very first text, that of *Dame Sirith*. Margery is presented as loving her husband and wishing to be true to her oath. Yet, fear, trickery and the call of ever present Eros (with her husband far away) leads her in the end to bed Wilekin. Are we to condemn her, to laugh at an all too human foible (recall Mozart's *Così fan tutte*), to read the events as tragic or comic or both? Are we to view Margery's marriage vows through a lens of suspicion (from the start as it were) or attempt what Paul Ricoeur termed a hermeneutics of meaning: taking the character at her word (or perhaps her first words) and sidling up to the tale from a perspective of empathetic *Verstehen* of say a Max Weber or Wilhelm Dilthey rather than from a call to uncover the more "real" motives, the determination "in the last instance" of – in their respective realms of inquiry – a Freud or a Marx.⁴

The same hermeneutic choice of interpretative moves we face with almost all of our texts. How understand the Julie or Saint-Preux of Rousseau? How parse the heart of Mme. de Renal or, in the *Charterhouse of Parma* of Fabrizio? How for that matter, to read Shakespeare's heroes and heroines? The deep reading Stanley Cavell does of some Shakespeare plays, most famously of *King Lear* mentioned above shows just how rich a vein can be opened if we put aside our propensity to already know the "true engine" of any story; tragic, or comic, banal or singular, or indeed contra the dogmatic Marxists, of history itself.⁵

The interpretive move is of course ours to make and its very openness highlights both (with a nod to Turgenev) the power as well as fragility of the oath: a heroic attempt to ground human acts (that is both actions and their meanings) on a firm and incontestable foundation, yet one which – at the end of the day – remains as fungible as all our other acts and assertions.

Caught as we are between the act and its interpretation we must, at the end, choose to stand either with our oaths and vows (as with those of others as well), or without them. From this choice all of our truly creative powers will – or will not – follow.

⁴ Paul Ricoeur, *The Conflict of Interpretations* (Evanston: Northwestern University Press, 1974); Frederick Engels letter to Bloch September 21, 1890. https://www.marxists.org/archive/marx/works/1890/letters/90_09_21b.htm Accessed 28.3.2023.

⁵ Stanley Cavell, *Disowning Knowledge in Six Plays of Shakespeare* (Cambridge: Cambridge University Press, 1987), 39–125.

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Index

Note: Page numbers in *italics* denote images and associated captions.

- Aaron 40, 45
Abelard, Peter xix–xx
Abelard and Heloise 5, 106, 156, 161–165, 162n23. *See also* *Julie – ou la nouvelle Heloise* (Rousseau)
“Above Those That Have Boldly Sworn,” 85–86
Abraham 17–18, 33, 37, 45–47, 54
absolution 86n34
abstinence vows 2, 40, 83, 190. *See also* celibacy
Achilles 34, 99
Adam 18
adultery and infidelity
– and Abelard and Heloise 163
– and deception 14
– in early European fabliaux 128–130, 135
– and Eastern Orthodox tradition 182, 209
– and gendered character of oaths and vows 103–105, 110, 111, 125
– and *The Princess of Cleves* 165, 167
– in Pushkin’s *Eugene Onegin* 201–202
– and scope of text 5
– and the Sotah 42–43, 43n12
– and Stendhal’s works 176–178
– in Tolstoy’s *Anna Karenina* 204–207, 204n63
– in *Tristan and Iseult* 49, 160
– and wives of clerics 207n70
aetiological oaths 33
African tribes 211
Agamben, Giorgio 39, 64, 103
Agamemnon 32–34, 66, 99
agency 28–30, 56
aggadic writings 8
aggression and anger
– in early European fabliaux 138
– and Eros/Ananke dynamic 97, 98, 100–102
– and gendered character of oaths and vows 105–106
– and generative power of oaths 211–212
– and obligations created by oaths 44–45
– and scope of text 5, 7
agon 37, 40
Aigine 70
Ajax 33
Ajax (Sophocles) 33
alaah 34
Albigensians 191
Aleinu xviii
allegiance oaths 63, 98
All-Union Lenin Pioneer Organization xv–xvi
Altamira cave art 36
Ammonites 31–32
Amos 46
Amphiaraus 37
Ananke (necessity)
– and Abelard and Heloise 163
– and anti-Semitism in *Merchant of Venice* 116
– and Cervantes’s *Don Quixote* 152–153
– and Eastern Orthodox tradition 182, 209
– and Eros/Ananke dynamic 102–103
– Freud on 95
– and Judah and Tamar 154–156
– and *La Nouvelle Helois* 171, 173
– and marriage rites in Eastern Orthodoxy 192–193
– and *The Princess of Cleves* 168
– in Shakespeare’s works 143–145
– and status of Christian monks 118, 121, 123
– and Stendhal’s works 178–179
– and Talmudic view of oaths 81
Angelic Image 118–124
anger. *See* aggression and anger
Anna Karenina (Tolstoy) 6, 156, 163–164, 182, 202
annulment of oaths and vows
– and agency in vows and oaths 29
– and Eros/Ananke dynamic 98, 100
– and felicitous conditions of oaths 86–87, 87n37
– and gendered character of oaths and vows 106
– in Jewish tradition 25
– and oaths motivated by aggression 44–45
– and oaths of vengeance 212
– oaths/vows in Jewish tradition 22, 24
– and scope of text 2

- and Talmudic view of oaths 71, 73–75
- Antigone* 106, 107
- anti-Semitism 113–117, 148–150
- apophatic love 183, 183n2, 208
- Aragon 109, 111, 113
- Ariadne 106, 107
- Aristophanes 101–102
- Aristotle 5, 97, 126–127, 143, 177
- Ark of the Covenant 29
- Arnold, Mathew 48, 69
- Arthurian legends 157
- The Art of Courty Love* (Capellanus) 157–159, 215
- Arvot Moab* 66
- Arvut Moav* 2
- Ashanti people 62
- assertory oaths 26
- Assmann, Jan 14–15, 89–90
- Athanasius 190
- atheists and atheism 14–15, 16, 171
- Athos monasteries 12n48
- Auden, W. H. 153
- Auerbach, Erich 161, 182
- Austin, John 2, 11, 12, 80, 82, 84, 87
- autonomy 36–37
- Avot De-Rabbi Natan* 40
- Avot d’Rabbi Natan* xiii
- Axial Revolution 37

- Babylonian Talmud xiii, 14, 25, 41, 42n12, 44, 215
- Balkans 185–186, 191n36, 209
- baptism 118
- baraka* xv, 22
- Barberini Euchologion* 85
- Beauty and the Beast* 83–84, 83n28
- Bedier, Joseph 49
- Belloc Hillary 49
- Benjamin, tribe of 212
- Benvéniste, Émile 32, 35, 39
- Bernard of Clairvaux 156, 161
- betrothal 120n43, 141, 184–185, 190, 203
- Beza, Theodore 187
- Bible 18, 24–25, 31–32, 41, 91. *See also specific books*
- biblical oath-taking tales 66
- bigamy 181n74
- binding rituals 119, 184–185
- Blake, William 164–165
- blasphemy 87
- Bloom, Alan 143, 169, 180
- Boccaccio, Giovanni 130–133, 213
- Bollack, Jean 39
- Book of Joshua* 107–108
- Book of Judges 212
- Book of Rules of the Bulgarian Orthodox Church 186n11
- Booth, Edwin 148
- bozhba* 90
- Brannik* xv
- British culture 35
- Brontë, Charlotte 5, 71, 181n74
- Brooklyn xv
- Brooklyn, New York xvii
- Brown, Peter 52, 80
- Buber, Martin 3–4, 6–7, 13, 15, 47, 54, 96, 103, 180
- Buddhism 56
- Bulgaria xv, xv–xvi, 87n38, 89n44, 90, 110n30
- Bulgarian Common Law* (Marinov) 87
- Burkert, Walter 34

- Cabasilas, Nicholas 189
- Caillois, Roger 60–61
- Calvin, John 187
- Canterbury Tales* (Chaucer) 5, 128, 134–140, 134n18, 208
- Capellanus, Andreas 157–159, 165, 183
- Cathars 191
- Catholicism xix, 2, 29, 68, 86n34
- Cavell, Stanley 116, 148, 216
- celibacy 11–12, 68, 118–119, 131, 190
- Cervantes, Miguel de 152–153
- charity 22
- The Charterhouse of Parma* (Stendhal) 6, 176–179
- Chaucer, Geoffrey 134–140, 213
- Cheyenne people 62
- chivalric tales 48, 208. *See also Tristan and Iseult*
- Chretien de Troyes 157, 160
- Christianity
 - and covenants made by God 17
 - and felicitous conditions of oath taking 82–91
 - and gendered character of oaths and vows 113–117
 - injunctions against oath-taking 31
 - and nullification of vows and oaths 24

- status of Christian monks 118–124
- *See also* Catholicism; Eastern Orthodox Church; Orthodox Christianity
- Chudomir xv
- Chumash xvii
- circle-making 38–39, 40, 50, 62, 91, 106
- civic rituals 211
- Civilization and its Discontents* (Freud) 95
- Cliges de Troyes* (Chretien de Troyes) 160
- codes of conduct 16
- coercion 45, 71, 73–76, 78–79, 83, 88, 91, 115.
 - See also* obligations created by oaths and vows
- collaborators 111–113, 112, 113
- collective punishment 46
- comedy 139, 151–152, 216
- Commandments 209, 209n74
- compurgation 3, 51–52
- Confucianism 136
- consecration 32, 182
- contractual element of vows 2, 188
- “controlled miracles,” oaths as 53
- Council of Florence 189
- courtly love 156–161, 168
- Court of the Countess of Champagne 155, 158, 168
- court rulings 15
- “courts of love,” 154, 158, 168, 174, 186
- Covenant of Parts 33
- covenants with God 17–19
- creation stories 17
- creative (generative) power of oaths
 - and agency 28
 - and Cervantes’s *Don Quixote* 153
 - and Eros/Ananke dynamic 98
 - and felicitous conditions of oaths 88
 - and gendered character of oaths and vows 103–104
 - and intentionality 68
 - and marriage vows 127
 - and oaths obligating God 47
 - psychodynamics of 53–59
 - and ritual acts of oaths 63–64
 - and scope of text xx, 2–4, 6–8
 - in Shakespeare’s works 145, 147
 - and symbolic communication 61
 - and Talmudic view of oaths 71, 73
- in *Tristan and Iseult* 52–53
- Crow Indians 80
- crowning with wreaths 184, 189
- crucifixion 113–117
- curses 1, 33–37, 41–43, 67–68, 98, 115
- dabhar* 29–30
- Dame Sirith* 5, 128–130, 135, 216
- Danielou, Jean 191n38
- Dante Alighieri 130
- das Zwischenmenschliche* 4, 54
- Davenport, John 131n12
- Decameron* (Boccaccio) 5, 130–133, 201, 208
- deception 13–14, 26, 50–51, 60–63, 72–73, 79, 142, 198
- deposit, oaths of 26–27, 77–81
- Deuteronomy, book of 19
- dietary restrictions 25, 76–77
- Dilthey, Wilhelm 216
- Dimitrov Communist Youth Union xv
- Dimitrov Pioneer Organization
 - “Septemberling,” xv–xvii, xvii
- Divine Comedy* (Dante) 130
- divine covenants 17–19
- divine restraint 17–19
- divorce 195
- Dobropisets, Grigory 119n42
- Don Quixote* (Cervantes) 152–153
- double performative 41
- dreams 54
- drought 39
- Duns Scotus, John 188
- Durkheim, Emile 64
- East Africa xix
- Eastern Orthodox Church
 - and “apophatic love,” 182–183
 - and initiation into monastic orders 122
 - and intentionality of vows and oaths 211
 - marriage rites contrasted with the West 183–193
 - and sacral character of marriage vows 6
 - and scope of text 8
 - in Tolstoy’s *Anna Karenina* 205–206
- Ecclesiastes, book of 135
- Eco, Umberto 148
- ego, restraint of 4

- Eleanor of Aquitaine 154
 Eliezer 18, 37
 empathy 57–59
 Enrobement ritual 120–122
 Er (son of Judah) 154
 Ermengarde, Viscountess of Narbonne 154
 Eros (love)
 – and Abelard and Heloise 161–165
 – and agency in vows and oaths 129
 – and Cervantes's *Don Quixote* 153
 – and early European fabliaux 131, 133, 134–136, 138–140
 – and Eastern Orthodox tradition 182, 209
 – and Eros/Ananke dynamic 95–103
 – and gendered character of oaths and vows 111
 – and generative power of oaths 4–5, 58–59
 – and habituating effect of oaths 126–127
 – and Judah and Tamar 154–155
 – and *La Nouvelle Helois* 169–173
 – and marriage rites in Eastern Orthodoxy 186, 191, 192, 193
 – and oaths motivated by aggression 44–45
 – and *The Princess of Cleves* 165–169
 – in Pushkin's *Eugene Onegin* 202
 – and scope of study xx
 – and scope of text 5–7, 8
 – in Shakespeare's works 141–152
 – and status of Christian monks 121, 123
 – and Stendhal's works 173–180
 – in *Tristan and Iseult* 156–161
 erotapocritics 121
 Esther, Queen of Persia 108, 108n22
 Eteocles 106
 ethnic identity 89, 110
 Eucharist 187, 189
 euchological manuals 8
Euchologion xiii, 85, 183, 186n11, 192
Eugene Onegin (Pushkin) 196–202
 Euripides 31, 33, 34
 Eurystheus 33
 exaggeration, vows of 74
 Ezekiel 46–47
 fabliaux tales 128–130, 130–133, 134–140
 false evidence 89n43
 false oaths 25, 80–81
 false worship 25
 fasting 7
Faust (Goethe) 53
 felicitous conditions of oath taking 82–91
 Figan (chimpanzee) 61, 63
 Flood, biblical 17–19, 37
 folkways and folklore 37, 48, 83n28, 88, 91, 103, 108n22, 125, 130, 209
 forgiveness 23, 24, 47, 86, 88, 138, 151, 208
 foundational oaths 100
 Fourth Lateran Council 157
 Foxe, John 116
 fragility of oaths 14–15
 free will 186
 Freud, Sigmund 5, 95–97, 100–103, 105–106, 111, 115, 126, 153, 216
 functional regression 55
 Galatians, book of 17
The Garden of Love (Blake) 164–165
 garlanding (*stephanoma*) 189
 Gemara 43, 78, 79, 81
 Gemarah xiii
 gendered character of oath-taking/vow-making 95, 103–113, 113–117, 204, 214
 “generalized other,” 21
 generational aspect of oaths and curses 36–37
 Genesis, book of 17, 37, 53, 54, 154
 gift exchange 83–84
 Gnosticism 69, 190
 Goa 39
 Goethe, Johann Wolfgang von 53
 Golden Calf 44, 45, 100, 105
 good will 21
 Gospel of John 53
 Grand Duchy of Lithuania 192
 Gratian 188
 Greek Orthodoxy 8
 Greeks 30, 31–37, 57, 62, 99–100, 185, 188, 209
 Gregory of Nyssa 191n38
 Grotius, Hugo 98
 Habakkuk 40
 Habakuk 40, 43
 habituation effect of oaths and vows
 – and creative valence of oaths and vows 6
 – and Eastern Orthodox tradition 182

- and Eros 126–127
- and Eros/Ananke dynamic 97–99
- and generative power of oaths 211
- and Judah and Tamar 154–155
- and kinship ties 161
- and *La Nouvelle Helois* 173
- and marriage rites in Eastern Orthodoxy 191–192
- and marriage vows 5
- and obligations created by oaths 44
- in Pushkin's *Eugene Onegin* 197
- in Shakespeare's works 141, 143
- Hampson, Margaret 97
- "hard" deceit 72
- Hardy, Thomas 2
- Harold II 1
- Hebrew Bible 18, 24
- Hebrew language 29–30, 32
- Hebrews 57
- Helen of Troy 1, 99, 105. *See also* *Oath of Tyndareus*
- Hellenes 3, 99–100, 212
- Henchard, Michael 2
- Hera 33
- Hercules 37
- hermeneutics of meaning 216
- Herod 88n40
- Hesiod 33, 35
- Hippolytes 84
- History of the Peloponnesian War* (Thucydides) 99
- Hitler Jugend* xv
- "Hollywood model" of marriage 203
- Holy Days 75
- holy orders 68
- holy relics xv
- Honi the circle maker 38–39, 39n3, 40–41, 43, 91, 106
- horizontal plane of oaths and vows 6–7, 89n43, 127, 213
- horkos 34–35, 39, 41, 50, 80
- Hugh of Lincoln 116
- Huizinga, Jan 40
- Hume, David 2, 96
- "Hymn of the Pioneers," xvii
- iconic signs 60–61
- idolatry 215. *See also* Golden Calf
- ignorance 74
- I-It* and *I-Thou* dichotomy 3–4, 6–7, 96, 103, 179–180
- Iliad* (Homer) 31, 34
- Illinx 40
- "illocutionary acts," 12, 80
- incest 101
- indexical symbols 60–64, 68, 103, 215
- infelicitous conditions of oath taking 82–91
- infidelity. *See* adultery and infidelity
- intentionality
 - and confidence in oaths and vows 65–70
 - in early European fabliaux 128, 135
 - and gendered character of oaths and vows 95
 - and generative power of oaths 211
 - and *La Nouvelle Helois* 170
 - and marriage rites in Eastern Orthodoxy 184
 - Orthodox Christian view of oath-taking 82–91
 - and *The Princess of Cleves* 166
 - in Pushkin's "The Blizzard," 194
 - and status of Christian monks 121
 - and Talmudic view of oaths and vows 70–82
 - in Tolstoy's *Anna Karenina* 203
 - in *Tristan and Iseult* 51, 156–157, 160
 - and vows offered in anger 212
 - *See also* sincerity of oaths and vows
- invocations 36
- Iphigenia 32
- Iphigenia in Aulis* (Euripides) 33
- Irving, Henry 148
- Isaac 37, 54
 - covenant with God 18
- Isaiah 59
- Iseult 41
- Ishmael 46
- Isis 31
- Islam 18, 89, 117, 187
- Israel 1, 18
- Izutsu, Toshihio 18
- Jacob 18, 54, 115, 115n34
- Jaffe, Martin 148
- Jaffers, Tariq 18
- James, Henry 60
- Jane Eyre* (Bronte) 71, 181n74
- Jason (Greek hero) 106
- Jayne Eyre* (Bronte) 5

- jealousy 42, 43, 159
 Jeremiah 46
 Jericho 108
 Jerusalem Talmud 42n12
 Jesus 82
 Jesus Christ 191
 Jewish law 32, 71. *See also* rabbinic law and teachings
 Jewish Talmud 2
 John the Baptist 88n40
 Jones, Ernst 55
 Joseph 155
 Judah, Rabbi 77
 Judah and Tamar 154–155
 Judaism
 – and covenants made by God 17, 18
 – and gendered character of oaths and vows 113–117
 – injunctions against oath-taking 31
 – oaths/vows in Jewish tradition 21–27
 – Talmudic view of oaths and vows xvii, 8, 24, 35, 70–82, 108, 212, 215
 – *See also* rabbinic law and teachings
Julie – ou la nouvelle Heloise (Rousseau) 5, 106, 156, 164, 169–173, 194, 213
 justice 84. *See also* sanctions against oath/vow-breakers
- Kant, Immanuel 2, 12, 21, 68, 96
 Karo, Joseph ben Ephraim 14, 28
 Keane, Edmund 148
 Kerrigan, John 144–145, 150–151
 Kikuyu 35
kinah 42
 Kingdom of Poland 184
King Lear (Shakespeare) 212, 216
 kinship groups 37, 104, 111
 Kojève, Alexander 20
Kol Nidre 23, 24
Konsensprinzip 193
 Konstantinidou, Kyriaki 36
 Koren prayer-book 23
 Kris, Ernst 55
- Lafayette, Madame de 159, 164, 165–169, 213
Lancelot: le Chevalier de la Charrette (Chretien de Troyes) 157
- language of oath-taking xx, 59–63. *See also* verbal element of vows
las femmes tondues 111–113, 112, 113
 law and legal systems
 – and common law 90
 – and felicitous conditions of oaths 85
 – and generative power of oaths 54
 – oaths in Islamic courts 89
 – oaths/vows in Jewish tradition 21–24
 – and obligations created by oaths 40
 – and scope of text 2–3
 – *See also* rabbinic law and teachings
Lay of Eliduc (Marie de France) 160
 legal codes 14
 Leo V the Armenian 89n44
Le Roman de Tristan et Iseult (Bedier) 49
Le Rouge et la Noir (Stendhal) 163–164
Letter on Toleration (Locke) 14
 Leviticus, book of 26
 Lieberman, Saul 31
 literary influences 186, 193, 195–196, 196–198, 208–209
 litigants 81
 liturgical practices 84–85
 Locke, John 14–15, 16
 Logoi 63
 Lombard, Peter 188
The Lost Love Letters of Heloise and Abelard (Mews) 162n23
 love. *See* Eros
Love's Labour's Lost (Shakespeare) 5, 144–148, 155–156
 loyalty oaths 3, 107–108
 luck 40
 Luhmann, Niklas 15, 17, 65
 Lombard, J. E. 18
 Luther, Martin 187
Lysistrata (Aristophanes) 101–102
- magic xx, 28, 32, 39, 39n3, 40–41, 43, 48, 71, 91, 160
 Mahayana Buddhism 56
 Maimonides 14
 Malinowski, Bronislaw 30
Manas 70
 Manaschi 70
 Manicheans 190

- Marcion 190
 Marie de France 160
 Marinov, D. 87, 89, 186
 Maritain, Jacques 115, 115n34
 Mark, King of Cornwall 48–51, 70, 159–160
 Marranos 108n22
 marriage vows 162–164
 – and agency 29
 – and “apophatic love,” 182–183
 – in early European fabliaux 131–133, 134–138
 – and Eastern Orthodox tradition 208–210
 – and Eros/Ananke dynamic 97, 102–103
 – and felicitous conditions of oaths 87, 87n37
 – and gendered character of oaths and
 vows 95, 104–106, 111
 – and habituating effect of oaths 126–127
 – and intentionality 67
 – in *Jane Eyre* 181n74
 – and Judah and Tamar 154–155
 – and *La Nouvelle Helois* 170–173
 – and marriage rites in Eastern
 Orthodoxy 183–193
 – and monastic vows 120n43, 124
 – and obligations created by oaths 44
 – and *The Princess of Cleves* 165–166, 168–169
 – in Pushkin’s *Eugene Onegin* 199, 201
 – in Pushkin’s “The Blizzard,” 194–196
 – and scope of text 1, 2–3, 4–8
 – in Shakespeare’s works 141–143, 148, 150
 – and Stendhal’s works 175–180
 – and symbolic communication 61
 – and Talmudic view of oaths 70–71, 76, 80
 – in Tolstoy’s *Anna Karenina* 202–208
 – tragic potential of 156n5
 – in *Tristan and Iseult* 51–52, 159
 Marx, Karl 95–96, 216
 material objects and oath-taking 35
 Mau Mau uprising 35
 Mauss, Marcel 47
The Mayor of Casterbridge (Hardy) 2
 Mead, George Hebert 21
Measure for Measure (Shakespeare) 141–143
 Medea 106, 107
Medea (Euripides) 34
 Menelaus 33
The Merchant of Venice (Shakespeare) 115–117,
 148–152
The Merchant’s Tale (Chaucer) 134–136
meshere 89n43
 Mews, Constant 162n23
 Meyendorf, John 182, 189, 190, 192
 Meyendorff, John 183
Midrash Tanchuma xiii
Midrash Tanhuma 47
Midrash Tehillim 40
 military service oaths 3
 Mill, J. S. 15
Miller’s Tale (Chaucer) 138–140
 Milner, Marion 55–56
 mimicry 40
 Miriam 40, 45
 miscegenation 109
 Mishnah xiii, 42–43, 81
 Mishnah Ta’anit 38
 misogyny 136
 mistake vows and oaths 74, 78–79
 mitigating circumstances 82
 Modell, Arnold 36
 Moghila, Peter 183–185, 192, 192n40
 monasticism 118–124, 119n41
 monotheism, origins of 14–15, 90
 Montanists 190
 moral authority 64, 68–69
 Mordechai 108
 Morris, Colin 157
 Moses xvii, 2, 19, 40–41, 43–44, 46–47, 66
 mother-child relationship 96
 Muffs, Yochanan 45, 46–47
 multi-generational curses 36–37
 Mutazalite thinkers 18
 “the Mystery of Israel,” 115n34
 mythology 83n28

 Nagel, Thomas 21
 naming of ships 2
 nation-building 3
 natural law 98
 Nazarites 11, 14, 24, 68
 Nazis xviii
 necessity. *See* Ananke
Nedarim xiii
neder (vow) 24
 Nelson, Benjamin 156
 New Testament 17

- Niaux cave art 36
 Nicholas I, Pope 185n11
Nicomachean Ethics (Aristotle) 126–127
 Nirenberg, David 109–110, 113
 Noah 19
 nullification 44
 nullification of oaths and vows 23
 nuns 123–124
 Nyamasizi, Uganda xix
- oath helpers 3
 oathing stone 35, 80
Oath of Tyndareus 1, 3–4, 33, 66, 99–100, 105, 212
 oaths of utterance 26, 27
 obedience xvi, 118–119, 119n42, 121–122, 126, 138, 200n56
 obligations created by oaths and vows
 – boundaries of 40–48
 – and Christian monasticism 119
 – delineating the space of an oath 40–48
 – in early European fabliaux 138
 – and Eros/Ananke dynamic 96, 98, 100
 – and generative power of oaths 211
 – and intentionality of oaths 66–67
 – and Judah and Tamar 154–155
 – and kinship ties 161
 – and marriage rites in Eastern Orthodoxy 184, 186, 188, 191
 – obligating God 38–39
 – and performative element of oaths and vows 11
 – and *The Princess of Cleves* 169
 – and psychodynamics of creation 53–59
 – and ritual acts of oaths 63–64
 – and ritualized words 59–63
 – and scope of text 3
 – in Shakespeare's works 148
 – and Stendhal's works 178–179
 – and Talmudic view of oaths 71, 76
 – in *Tristan and Iseult* 48–53, 157–158, 160
 O'Connor, Andrew 18
 Odysseus 66
Odyssey (Homer) 31
 offerings 41. *See also* sacrifice
oikos (household) 95, 105–111, 113, 115–117, 118–121, 123–125, 131, 204n
- Old Testament 91, 212
 olive tree metaphor 114–115
omnumi 35
 Omurtag 89n44
 Onan (son of Judah) 154
 Ong, Walter 30, 31, 54, 57, 58
On Liberty (Mill) 15
On Love (Stendhal) 174–177
 ontological freedom 214
 oral-aural cultures 57
The Orator (Silverg) 116
 Order of the Great Schema 118–121
 Orthodox Christianity 6, 8, 82–91, 118–124
 Orthodox Judaism xvii–xviii
Othello (Shakespeare) 159, 215
 Ottoman Empire 89, 110
- Paleolithic art 36
The Passionate Pilgrim (Shakespeare) 126
 Passover 18, 127
 patriarchy 104, 106, 196, 205, 209
 Paul, the Apostle, Saint 17, 59, 114
 Pauline communities 190
Peace of the Church 187
 Peloponnesian War 101–102
 Perez 155
 performative element of oaths and vows
 – and agency 29
 – described 11–12
 – in early European fabliaux 136, 139
 – and Eastern Orthodox tradition 209
 – and Eros/Ananke dynamic 97–99
 – and felicitous conditions of oaths 87n37, 90
 – and gendered character of oaths and vows 112
 – and generative power of oaths 58, 211
 – and marriage rites in Eastern Orthodoxy 184–185, 187
 – in Pushkin's "The Blizzard," 195
 – and scope of text xx
 – and Talmudic view of oaths and vows 70–82
 – in *Tristan and Iseult* 50–51
 perjury 89n43, 145
 Petain, Philippe 111
 Peter I, Tsar of Russia 8
 Philo 31, 53
 phonemes 12

- phronesis* 5
 Phthiotis 99
 phylacteries xviii
polis
 – and anti-Semitism in *Merchant of Venice* 115–117
 – and gendered character of oaths and vows 95, 105–108, 110–111, 113, 125
 – and status of Christian monks 118, 119–121, 123–124
 political conflict 89
 Polonius 69
 Polynices 106
 popular culture 31
 Potiphar 155
 poverty vows 118, 119n41
 prayer xvii–xviii, 7, 85
 Prayer book 973, 186n12
 prayer books xvii–xviii, 7–8, 23
 prayers 86
 priesthood vows 11
The Princess of Cleves (Lafayette) 6, 159, 164, 165–169, 172, 176, 213, 215
 printed word 30
 private acts 1
 private element of oaths and vows 2
 profane oaths 26n27
 promises, vows contrasted with 1–2
 promissory oaths 26
 prophecies 46, 59
 prostitutes and prostitution 31, 107–113, 110n30, 112, 113, 124, 154
Prostitution and the Fight against It (Zlatareva) 110n30
 Protestantism 22, 187
 pschodynamics of creation 53–59
 public element of oaths 2
 public oaths 98. *See also* performative element of oaths and vows
 Puffendorf, Samuel 98, 100
 Pushkin, Alexander Sergeevich 193–196, 196–202

 Qadis (Sharia judges) 89
 Quisling, Vidkun 104–105
 Qur'an 18, 33, 89

 rabbinic law and teachings
 – and agency in vows and oaths 29
 – and circle drawing 39, 39n3
 – and covenantal theology 19
 – and Eros/Ananke dynamic 100–101
 – and felicitous conditions of oaths 91
 – and gendered character of oaths and vows 105, 108n22
 – and nullification of oaths and vows 24–25
 – and oaths in Greek tradition 31–32
 – and oaths motivated by aggression 44–45
 – and scope of text 8
 Rahab 107–109
 rape as weapon of war 111
 raped of the Sabine women 107
 Rappaport, Roy 13, 15, 59–63, 136, 214
 rationalization of desire 126
 reciprocity 32–33
The Red and the Black (Stendhal) 6, 174–175, 178
 Red Army xviii
 Reformation 22, 187
 regression 55, 57
 relics xv, 80
 responsibility created by oaths and vows 4
 restraint 4
 Resurrection 18
 Richardson, Samuel 197n49
 Ricoeur, Paul 216
 rigorists 190
 ritualized words 59–63
 Robins, Michael 1
 Roma 89n43
 Roman Catholic Church 2, 187
 Roman culture 118, 185
 Romans, book of 17
 Romanticism 169, 193
 romantic love 194–196, 196–202
 Rome, ancient 30, 31
 Rosen-Zvi, Ishay 42n12
 Rosh Hashanah 23–24, 34
 Rougemont, Denis de 161n18
 Rousseau, Jean-Jacques 5, 106, 156, 169–173, 194, 213
 Ruskin, John 60, 62
 Russian Orthodoxy 8, 182–183, 183–185, 186n11, 193–196

- Sabbath observance 75, 150
- sacraments xix, 6, 35, 103, 118, 189
- sacredness 22, 28–29
- sacrifice xv, 7, 25, 28, 32, 34, 79, 84, 142
- Salome 88n40
- salvation 37
- Samuel 46
- sanctions against oath/vow-breakers 16–17, 20, 84, 88, 122n48
- sanegor* 41
- Sanren, P. Stephen 56
- Sartre, Jean-Paul 20, 214–215
- Schillebeeckx, Edward 188
- Schlesinger, Herbert 54
- Schnitter, Maria xv–xvii
- School of Bologna 187–188
- School of Paris 188
- Scout movement xv
- scriptures 83n28
- secrecy 193–196
- security of oaths 14–15
- “self-curse” view of oaths 1, 34, 36, 43, 67–68, 98
- self-generated oaths and vows 69–70, 90
- self-limiting element of vows and oaths 20
- Seligman, Adam xvii–xx
- Sephardic rabbinic tradition 108n22
- service oaths 3
- Seven Against Thebes* (Aeschylus) 106
- sexuality and sexual desire 161
- and anti-Semitism in *Merchant of Venice* 116
- and “apophatic love,” 182–183
- and Cervantes’s *Don Quixote* 153
- in early European fabliaux 128–130, 130–133, 134–140
- and Eastern Orthodox tradition 208–209
- and Eros/Ananke dynamic 95–98, 100–102
- and gendered character of oaths and vows 104–106, 108–110, 111–113
- and Judah and Tamar 155
- and *La Nouvelle Helois* 170–173
- and marriage rites in Eastern Orthodoxy 190–193
- and “self-curse” view of oaths 42–43
- in Shakespeare’s works 141–143
- and status of Christian monks 121, 122, 123–124
- and Stendhal’s works 174, 180
- in *Tristan and Iseult* 160
- See also adultery and infidelity
- Shakespeare, William 5, 14, 115–116, 126, 141–152
- shamans 70
- Shapiro, James 116
- Sharia 89
- Shelah 155
- Shema xviii, 63
- Sherman, Nancy 126
- shevua* (oath) 24
- Shimon ben Shetach 39
- Shulchan Aruch* 22, 25, 28
- Shylock (Shakespeare character) 115–117, 148–152
- Sifrei Devarim* 19
- Silverg, Alexander 116
- sin 87, 91
- Sinai, Covenant at
- and aetiological function of oaths 37
- and agency element of oaths 27
- and Eros/Ananke dynamic 100
- and gendered character of oaths and vows 105
- and modern Jewish identity 66
- and oaths in Greek tradition 32–33
- and origins of Jewish identity 18–19
- and scope of text 1, 3
- and Talmudic view of oaths 73, 81
- and “vain oaths,” 26
- Sinai monastery 186n12
- Sincerity and Authenticity* (Trilling) 69
- sincerity of oaths and vows 21, 56–57, 68–70, 72. See also intentionality
- Singer, Irving 160, 180
- Sir Charles Grandison* (Richardson) 197–198, 197n49
- Sisera 108
- Slavic culture 8, 37, 85, 182–183, 183–186, 203
- Slavic folk beliefs 37
- sociability 58, 58n44, 61–62, 148, 212
- social act xx
- social isolation 118, 121, 123, 204
- social norms 24, 81
- Sodom and Gomorrah 46, 47
- “soft” deceit 72

- Solomon, King 135
 Sommerstein, Alan 34
Songs of Experience (Blake) 164–165
 Sophocles 31, 33, 106
 sorcery 128
 Sorel, Julian 6
 Sotah 14, 41, 42, 51
 South Slav traditions 8, 85, 182–183, 183–186, 203
 space delineated by an oath 40–48
 Spanish Inquisition 108n22
splanchna 34
 Spurius Tarpeius 107
The Squire's Daughter 195
 Stendhal 4–6, 156, 163–164, 173–180, 213
 Stone, Suzanne 41
 suicide 173
 supernatural powers 34, 36. *See also* curses
 superstition 90
 supplicatory prayers 86n35
 Sura Al-Araf 18
 Swinburne, Algernon Charles 48
 symbolic communication 59, 215
- Tales of the late Ivan Petrovich Belkin*
 (Pushkin) 193, 196–197
 Talmudic view of oaths and vows xvii, 8, 24, 35, 70–82, 108, 212, 215
 Tanakh (Hebrew Bible) xvii
 Tarpeia 107
 Temple in Jerusalem 25
 Temple of Solomon xv
 Tennyson, Alfred, Lord 48
 testimony, oaths of 26–27, 72, 77, 80–81, 88
 theft 26, 81
Theogony (Hesiod) 35
 Theseus 106
 Thomas, Saint 138
 Thucydides 66, 99–100
Titus Andronicus (Shakespeare) 14
 Tolstoy, Leo 6, 61, 156, 163–164, 182–183, 202–203
 tonsure 121–123, 122n48
 Torah scrolls 35, 80
 Torrance, Isabelle 33
The Torrents of Spring (Turgenev) v
Totem and Taboo (Freud) 101
- Tractate Berachot* 44
Tractate Nedarim 44, 73–75, 100
Tractate Shebu'oth xiii, 2, 72, 78
Tractate Ta'anit 212
Tractate Yoma 215
 tragedy 5, 216
 traitors 104–105, 107–110, 108n22
 transcendence 37
trebniks 85
 trial by ordeal 41, 43, 49–55, 62, 68, 159
 trial of the will 172–173
 Trilling, Lionel 69
Tristan and Iseult 41, 43, 48–53, 72, 156–161
 Trojan War 33, 37, 66, 99
 trust in oaths and vows 15–17, 19–21, 65–70
 Turgenev, Ivan v, 12, 216
 Tyndareus. *See* *Oath of Tyndareus*
tzedaka (charity) 22
tzimzum 4
- Ulysses 33
 usury 117
- vain oaths 26, 79, 80
 vengeance 212
 verbal element of vows
 – delineating the space of an oath 40
 – in Greek tradition 36
 – in Jewish tradition 24–25, 26, 30
 – and obligations created by oaths 63–64
 – ritualized words 59–63
 – social effect of 58, 58n44
 – and Talmudic view of oaths and vows 73, 76–77
 vertical plane of oaths and vows 6–7, 89n43, 127, 213
 vestal virgins 107
 Vichy regime 111–113
 Vidinski, Romil 119n42
 Virgin Mary 123–124
 Voegelin, Eric 69
 votive offerings 32
 vows of incentive 91
 Vygotsky, Lev 53–55
- Wagner, Richard 48
 Weber, Max 216

- wedding ceremonies 70
 Weisberg, Richard 148
 “Who will Stand in the Breach?” (Muffs) 45
Wife of Bath’s Tale (Chaucer) 136–138
 William I (the Conqueror) 1
 Williams, Bernard 21
 wish-vowing (*luan*) 56
 Wittgenstein, Ludwig 1
 Wordsworth, William 55
 World War II xviii, 104–105, 111–113
 wreath ceremonies 184–185, 185n11, 197
- Yael 108, 108n23
 Yang Shen 56
 Yeshiva studies xvii–xviii
 Yiftach, oath of 31–32, 66
 Yom Kippur 23, 212
luan (wish-vowing) 56
- Zechariah 215
 Zerah 155
 Zeus 33
Zwischenmenschliche 54