



بِالسَّبِيحِ رَاجِبِ اِيْمَارِ وَنَجْمِ رَاجِبِ الْبَعِيْرِ الَّذِي يَنْظُرُونَ مَوْتَ تَابِلٍ وَكَسَّرَتْ اَسْنَانَهَا  
 وَرَزَزَتْ فُيُورَهَا وَوَادَ مَلِكُهَا. وَيُفَسِّحُ اَسْتِغْيَا السَّبِيِّ مِنَ النَّسَانِ بِمَجْدِ عَلَيْهِ  
 السَّلَامِ اِنَّمَا وَرَاجِبِ مَرْهُونَ قَوْمِةً مِنْ رَاجِبِ السَّارِيسِ وَعِنْدَ ذَلِكَ يَدْعُوهُمْ لِاَلِهَةِ اُر  
 بِعَلَى الْبَالِغِ اِلَّا الْاَقْتِرَاءُ مَا دَعَا مَا لَمْ يَكُنْ اَرَفَتْ بِهِ الْخَلْقُ مِنْ اَنْ رَاجِبِ الْبَعِيْرِ هُوَ  
 مُوسَى لَا يَجِدُ عَلَيْهِ السَّلَامِ وَمَا لَوْ سَمِعَ وَتَابِلٍ وَهَلْ طَهَّرَ لَهْ اَوْ لَعُوْمَهْ تَعَدَّى  
 مَا ظَهَرَ لِحَدِّ عَلَيْهِ السَّلَامِ وَالرَّجَائِيَّةُ فِيهَا كَلَّا لَوْ نَحْنُ اَمْرًا اَهْلُهَا زَا سَابِرًا اِنْ اَرْضُوا مِنْ  
 الْعَسِيْمَةِ بِالْاَبَابِ مَعَ الْبَانِ. وَمَا يُوَكِّدُ هَذَا الْاَسْتِشْهَادَ قَوْلُ اَلْمَلُوتِيِّ فِي  
 الشَّرْحِ الْخَامِسِ مِنَ التَّوْرَةِ الَّذِي يُعْرَفُ بِمِلْسَانِي: سَوَفَ اُنْقِمُ لَهُمْ نِيَا سَلَكَ مِنْ اَخْوَانِهِم

## LAW BEYOND ISRAEL

From the Bible to the Qur'an

Holger M. Zellentin

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ABRAHAMIC RELIGIONS

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# Law Beyond Israel

*From the Bible to the Qur'an*

HOLGER M. ZELLENTIN

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# Texts, Transcriptions, Transliterations, Translations, and Abbreviations

The text of the Hebrew Bible is the Masoretic text published in the *Biblia Hebraica Stuttgartensia*. The Bible's (vocalized) transcription follows the *SBL Handbook of Style*; its translation is indebted to the Jewish Publication Society Tanakh and the New Revised Standard Version.

The Greek text of the New Testament is that of Nestle Aland,<sup>28</sup> transcribed according to the *SBL Handbook of Style* and translated based on the New Revised Standard Version.

The text of the Qur'an, unless otherwise noted, is that of 'Āṣim as transmitted by Ḥafṣ, that is, the Cairo text; a single textual variant is discussed in Chapter 4. Arabic is transcribed according to IJMES. Translations of the Qur'an follow that of Sayyid 'Ali Quli Qara'i (ed. and trans.), *The Qur'an with an English Paraphrase* (Centre for Translation of the Holy Qur'an: Qom, 2003).

Rabbinic Hebrew, as well as Jewish and Christian Aramaic (i.e. Syriac), are transliterated in accordance with the early defective (i.e. non-vocalized) tradition, as follows: ' b g d h w z ḥ ṭ y k l m n s ' p ṣ q r sh t.

All other translations are my own; all cited translations are modified, sometimes thoroughly, to give a more literal sense of the texts.

Abbreviations of biblical books, including those of the New Testament, follow the *SBL Handbook of Style*.

I have made use of the following electronic resources: *Comprehensive Aramaic Lexicon Project/CAL Targumic Studies Module* (<http://cal.huc.edu/>); *Corpus Coranicum* (<https://corpuscoranicum.de/handschriften/>); *Digital Dead Sea Scrolls* (<http://dss.collections.imj.org.il/>); *Digital Syriac Corpus* ([syriaccorpus.org](http://syriaccorpus.org/)); *Gallica* (<https://gallica.bnf.fr/conseils/content/manuscrits-arabes/>); *Sabäisches Wörterbuch* (<http://sabaweb.uni-jena.de/Sabaweb/>); and *Thesaurus Linguae Graecae* (<http://stephanus.tlg.uci.edu/>); accessed as indicated below.



Map 1. Mecca and Medina along with their imperial neighbours that had sought to dominate Arabia for centuries: to the south-west, Aksum, which had long governed the formerly independent Himyarite kingdom in southern Arabia, to the north-east, Sassanian Persia, which by the seventh century CE had gained a foothold in southern and north-eastern Arabia and along the Gulf coast and, to the north, Eastern Rome. Map © Christian Robin, with the kind permission of the author.

# Introduction

## Law for Jews and Law for Gentiles

Most past and present adherents to the three major Abrahamic traditions—Judaism, Christianity, and Islam—would agree on the facts that God elected Abraham, and that He gave specific laws to the Israelites, Abraham’s descendants through his son Isaac. Disagreement, of course, would most likely prevail regarding the enduring validity of these laws after the coming of Jesus and, respectively, of Muhammad. Instead of concerning itself with such Israelite laws, this volume will focus on the laws that God is described as having given to “the gentiles” in all three traditions. Before turning to the content of these laws, a few words on the historical contingency of the term “gentile”—a derivative of the Latin *gens*, “people,” that usually describes “non-Israelites”—will allow us to perceive how distinctly some Eastern Christians and the Qur’an perceived of the ethnic and thereby the legal identity of the Israelites, of the church, and of the Arabian Ishmaelites, respectively.

While seemingly inconspicuous, the usage of the term “gentile” in English-language scholarship is tightly bound to the Hellenistic universalist heritage apparent in aspects of the Jewish and especially the “Western” Christian traditions themselves. Many Jews and Christians, and occasionally and in their very own ways Muslims as well, tended to delineate those whom they associated with Israelite ancestry—“Israelites,” “Hebrews,” “Jews”—from *all* other nations, that is, from “the gentiles.” Most historical usages of the term “gentiles” thus presuppose a worldview that juxtaposes Israel, “the nation,” to the rest of humanity, “the nations,” without necessarily dissolving the distinctive character of each of these gentile nations. The present volume will employ the term “gentile” in its basic meaning as “non-Israelite,” describing those not claiming descent from the twelve tribes that Isaac’s son Jacob fathered with his two wives and their two handmaids. In this sense, this is a book about the surprising continuities of *gentile law* from the Hebrew Bible, through late antique Judaism and Christianity, up to the Qur’an.

The term “gentile” is thus useful, yet its application to the Hebrew Bible is at least anachronistic. Whereas the Bible mostly focuses on Israel’s immediate and intermediate neighbours, the implicit horizon of the term “gentile” encompasses all peoples of the known world, thus presupposing a Hellenistic worldview that post-dates most biblical sources relevant to gentile law. The laws that the Hebrew Bible gives to gentiles, moreover, mainly address those living in the penumbra of

Israel already. The motivation of formulating these laws, taken up by parts of Second Temple Judaism, is to draw these gentiles ever nearer, or even integrate them into Israel, further undermining the applicability of the notion of “gentiles.”

The term “gentile,” moreover, can hardly do justice to Christian and Muslim self-identities, either. Some strands of Western Christian thought, to begin with, saw Christians as Levites or as the true Israel, hardly gentile categories. Ethiopic and Syriac Christian thought, moreover, at times presented the church itself simply as Israelite, or, respectively, as an ethnic amalgamation of the nation of Israel with the gentile nations of the world. The Qur’an, in turn, takes a unique position on the ethnic divide between Israel and the nations. It affirms God’s exceptional election of Israel. Moreover, its usage of the Arabic term *ḥanīf*, roughly translatable as “non-Israelite monotheist,” shows affinity to the notion of “gentile,” whereas its Arabic term *ummiyyūn* evokes the Jewish and Christian concepts of “the nations.” Yet in both cases, the Qur’an’s emphasis lies not on non-Israelite identity but on the fact that those described by these two terms have not yet received Scripture. Indeed, the Qur’an nowhere categorically juxtaposes the Israelites on the one hand to all other gentile nations on the other in the way the terms “the gentiles” or “the nations” would evoke. Rather, recent scholarship has shown that the Qur’an combines a particularistic with a universalist vision.

In the Qur’an’s historical paradigm, God generally sent *one* prophet promulgating law to *each* nation: among the Arabian nations, Hūd was sent to the ‘Ād, Ṣāliḥ to the Thamūd and Shu‘ayb to the Midianites, just as Muhammad was, at least initially, sent to the Meccans. The Israelites are exceptional mainly in as far as God sent them several prophets, such as Moses and Jesus, allowing them more than one chance of repentance. Yet Israel, in the Qur’an, is not juxtaposed to “the nations”—Israel, rather, is one among many distinctive peoples that have received divine revelation, among them, next to the children of Israel most acutely the Arabian “Ishmaelites” in the prophet’s audience, the descendants of Abraham through his older son.

The Qur’an thus perceives of its audience as direct descendants of Abraham, yet distinctly not as Israelites, and thereby construes its community within the space understood by the Jews and Christians of its time as “gentile.” At the same time, it complicates the dichotomy between Israel and the nations in two ways. First, along with important strands within Eastern Christianity, the Qur’an casts both Jews and Christians in terms of two distinct groups of *Israelites*. Second, while the Qur’an lays claim to the heritage of righteous gentiles more broadly, its later surahs, especially, equally endorse the closely related *Ishmaelite* tradition as its own, bypassing the Israelites by establishing direct prophetic succession from Abraham (see Table 1, p. 29 below). The Qur’an thereby thoroughly reconceives the notions both of “Israelite” and of “gentile” ethnicity, effectively diverting a stream of thought that had long determined Jewish and many forms of Christian self-identity into a new course.

This volume, hence, deals with many corpora for which the usage of the term “gentile” is essential, and with some for which it would be problematic. For this reason, it is not a history of “gentile law”: that term would not do sufficient justice to the complex ways in which some Christians saw themselves as Israelites, to the ways in which the Qur’an portrays them as such, and ultimately to the Arabian and Ishmaelite self-identity of the Qur’anic community. Yet the Qur’an’s residual embrace of the dichotomy between Israelites and gentiles, along with its non-Israelite self-identity, allows for this volume to employ the term “gentile law” in a pragmatic way: as designating the observances of non-Israelites whose salvation, according to Jews, Christians, and early Muslims, depended on following a specific “gentile” subset of biblical law that shaped late antique legal thought and thereby contributed to the foundation of Islamic law.

While gentile identity thus varied from the Bible to the Qur’an, the observances imposed on gentiles show a remarkable continuity. This study argues that the Hebrew Bible, late antique rabbis and Christians, as well as the Qur’anic community all offer a specific list of laws for those whom they all, in their own ways, construct as non-Israelites. The purpose of these laws, in the Bible, in rabbinic Judaism, in late antique Christianity, and in the Qur’an, is safeguarding non-Israelites from *prohibited* impurity, that is, irreversible impurity caused by grievous sins, such as murder, the consumption of blood, and sexual transgressions such as incest or intercourse during a women’s menses. The susceptibility of gentiles to *regulated* impurity, another form of impurity that is reversible and mainly relates to natural and licit sexual functions (with no direct connection to sinfulness), constituted a point of contention throughout late antiquity. Many Eastern and Western Christians observed regulated impurity well into the middle ages and beyond, whereas the rabbis and most Church Fathers dismiss the notion that the respective biblical observances were ever addressed to gentiles.

Importantly, the relatively stable list of laws applied to gentiles from the Bible to the Qur’an is first formulated from an Israelite perspective, as law for outsiders, in the Hebrew Bible, in the New Testament, and in the rabbinic tradition. Late antique Christians then developed this law either by placing themselves in this gentile tradition or by fusing Israelite and gentile self-identities. The Qur’an, in turn, complicates the divide between Israelites and gentiles by placing Christians, next to Jews, in the Israelite tradition and its own community in the Ishmaelite one, closely related to Israel through the common ancestor Abraham. The laws given to outsiders thus became laws adopted by insiders: Christianity and Islam are constituted by the laws the Hebrew Bible imposes on gentiles, yet their respective understanding and further development of these laws reflect the particularities of the Christian and the Muslim traditions themselves.

The story of gentile law thus begins in the Hebrew Bible. In ways direct and indirect, three distinct yet at times intertwined sets of law for gentiles in the Jewish, Christian, and Muslim tradition can be traced to the Hebrew Bible’s laws



for the non-Israelite “residents” of the Holy Land. Notions of ethnicity and identity, needless to say, evolve dramatically from the seventh century BCE, broadly speaking the epoch when many biblical laws were beginning to take shape, to the seventh century CE, when the Qur’an was committed to writing. This volume does not explore the complex developments shaping ethnicity and identity in this period, important as the topic may be. Its goal is humbler, namely, to illustrate that an underlying sense of a dual set of laws, one for Israel and one for gentiles, along with the content of these gentile laws, can be traced through these fourteen centuries, from the Hebrew Bible through the rabbinic and the Jesus movement up to the reconception of the divide between Israel and the gentiles in some Eastern Christian churches and in the qur’anic community.

The Bible, the rabbis, and the early Jesus movement, to reiterate, conceived of such gentile laws as given to others, yet later Christians as well as the qur’anic community applied them to themselves. The present study then, briefly stated, argues for the continuity of law for non-Israelites in all Abrahamic traditions. It equally emphasizes the distinct legal developments and literary forms that express these laws. I attempt to fill a lacuna at the very centre of the academic study of religion—and perhaps in Western and Islamic cultures more broadly—by sketching what gentile law is, and how centrally it shaped Christianity and early Islam at various stages of their history. I will therefore outline those ancient and late ancient narratives in which God is described as giving specific laws to non-Israelites, and I will seek to establish the continuities alongside the dynamic developments that one encounters when tracing gentile law from the Bible to the Qur’an.

The present four-partite Introduction summarizes this study’s broad scope in the most succinct way and on its own terms; the most relevant existing scholarship—to which this study is deeply indebted—will only be discussed in the volume’s main text. It will begin by pointing to the value of the study of “Law as Literature,” the methodological approach pursued in much of the volume. It will then condense the arguments of this volume into “Ten Propositions on Gentile Law,” and present a historical overview of the legal prerogatives of key texts, “From the Bible to the Qur’an,” to be considered in this study. Finally, a brief “Chapter Overview” will restate the content of this volume once more in a linear way. The partial overlaps between the summary and the overview may be justified in as far as this volume is geared towards readers from a broad variety of backgrounds—I beg those intimately familiar with parts of the material to indulge the redundancy that may add clarity to those coming from other fields.

This longitudinal study, then, on the one hand, constitutes a reception history of biblical laws for non-Israelites throughout the late antique period, and, on the other, uses the Qur’an as a focal point for doing so. The Qur’an, in other words, remains an object of scholarly analysis, yet it equally emerges as a hermeneutical

basis for challenging a number of historical assumptions about the history of Judaism, Christianity, and Islam and their legal and cultural interdependence. The validity of such a dual approach to gentile law can best be demonstrated by showing that there is, despite clear discrepancies, considerable continuity on the matter between the Bible, its late antique interpretative communities and nascent Islam. Thus, the following chapters will begin with the biblical record on law for non-Israelites and trace the extant evidence up to the Qur'an by focusing on the Jewish and especially the Christian development of gentile law throughout late antiquity. I will seek to illustrate the conceptual, exegetical, formal, narrative, and at times even lexical endurance of a concise body of law alongside this body's dynamic development in ever-changing cultural, linguistic, and theological contexts. The volume's success is thereby predicated on my attempt to present the legal and literary continuities without overstating them.

This volume is primarily addressed to students of Judaism, Christianity, and early Islam, as well as to historians of culture and law. In presenting my claims, I cannot fully dispense with using scholarly jargon now and then, yet I have sought, to the best of my abilities, to introduce and occasionally to recapitulate all key concepts that are particular to specific disciplines alone. All original texts are transcribed or transliterated. I ask for patience for the necessary historical detail and for forgiveness where I paint with strokes that are too broad. In return, I promise that this volume offers a new perspective on how closely related Jewish, Christian, and Muslim laws for gentiles have been in general, and on how different they are in some particularities. It shows, most importantly, how central law, and law for gentiles, both in practice and embodied in literary form, has been to the vibrant evolution of Judaism, Christianity, and Islam.

### Law as Literature

I here consider one methodological point before turning to my actual propositions. It is not a new insight that law must be treated as literature, yet many historical studies of law neglect this fact. In order to eschew this fallacy, this study will engage, in varying degrees, in literary analyses of legal texts. How does law relate to literature in the ancient world? In its scriptural instantiation as well as in most cases of its late antique interpretation, Jewish, Christian, and Islamic law was presented in elaborate literary form and always firmly embedded in narrative context, such as, say, the Exodus, the Sermon on the Mount, the Council of Jerusalem, or God's announcement that "today, I have perfected your religion (*dīn*) for you" in Q 5 *Sūrat al-Mā'ida* 3. Legal narratives, hence, are all those stories that inform the audience about the circumstances of the genesis and about the ongoing relevance of any specific set of laws, thereby establishing its validity and guiding its application.

This study seeks to keep its focus on the *fusion* of law and literature that marks scriptural along with late antique Jewish, Christian, and Islamic law. It is this fusion that necessitates our study of law *as* literature, which means that literary analysis is prerequisite to legal comprehension. Regarding the literary form of law, hence, the Hebrew Bible and the Qur'an present legal discourse in a highly stylized form, governed by a myriad of literary markers—such as the repetition of key words and sounds, the sequencing of specific laws and the presence of multiple overlying literary frames—that establish sophisticated structures and internal hierarchies. These markers are intended to constitute part and parcel of the legal message itself. The way in which the law is given, in these Scriptures, informs what the law is.

Furthermore, the Jewish, the Christian and the Muslim Scriptures, as well as the late antique talmudic tradition and the Christian apostolic literature, all present divine law, along with its interpretation, as part of “legal narratives,” such as the stories concerning Noah, the Decree of the Apostles, Jesus’ (partial) abrogation of the law, the rabbis’ discussions or the sending of the messengers. The well-established concept of “legal culture” traces the intertwined nature of a society’s actual law with those legal narratives that sanction the law by illustrating its genesis, its evolution, its urgency, its exemplary application, and so on.

Legal narrative can take a number of forms. There are, for example, short or elaborate instances stating that, and at times explaining why, God or one of His prophets, His Messiah, or one of His apostles, promulgated (or, in some cases, abrogated) a specific law. (In line with this volume’s biblical subject matter, I am adopting capitalization and the male gender for God.) There are, moreover, broader narratives that situate the giving of law to the Israelites, or to the nascent Christian and Islamic communities, within the respective histories of redemption, salvation, and judgment. Finally, there are narratives that relate how law was applied, or at times breached, sometimes by important figures or sometimes merely with the general aim of establishing legal precedent. In all these cases, both when presenting the law in literary form and when promulgating it in the context of legal narrative, the Jewish, the Christian, and the Muslim tradition, both in their Scriptures and in many of the later scriptural interpretations, effectively present law *as* literature, thereby making it necessary to engage in formal and narrative analysis when seeking to establish what the law is.

Among the many reasons why the following analysis will prove demanding, our own cultural distance to the past stands out. Things were always complex, yet in many ways simpler than presented here: the implied audiences of the respective scriptural and foundational late antique legal texts would likely have been largely acculturated to perform formal and legal analyses of scriptural law or of its later interpretation without even realizing that they were analysing at all, and certainly without the help of books such as the present one. For us, however, acquainting ourselves with the necessary languages and cultural codes has obviously

become a necessary precondition for grasping the variegated history of God's law. As part of this necessity, the present volume seeks to reconsider a specific part of this legal history by focusing on the period from the Bible to the Qur'an, and by focusing on law not for Israelites and Jews, but for gentiles, as promulgated by three Scriptures—the Hebrew Bible, the New Testament, and the Qur'an—and as interpreted by a variety of other late antique legal texts of significant status—the early rabbinic Jewish tradition and especially the postbiblical apostolic and patristic Christian tradition, both of which prepared the world that is in turn addressed by the Qur'an.

### Ten Propositions on Gentile Law

This monograph traces how the concept and content of God's law for gentiles developed from the Hebrew Bible to the Qur'an, with an emphasis on the importance of the Jewish and especially of the Christian legal cultures of late antiquity for the formation of nascent Islamic law. It presents the evolution of the actual laws—as they were promulgated by the respective Scriptures and as they were understood by later rabbinic and ecclesiastical authorities and in the Qur'an—along with the legal narratives that sanctioned these laws and in turn were sanctioned by them.

In this volume, I will make the case for ten interrelated propositions about the development from the Bible to the Qur'an, in particular throughout the first seven centuries of the Common Era. I argue for the remarkably stable content and form of God's law for gentiles and of some of the narratives connected to them. Some of my propositions are novel while others merely develop and connect distinct strands of previous scholarship whose mutually reinforcing nature has yet gone unnoticed. In conjunction, these ten propositions amount to a history of rabbinic and especially of Christian and qur'anic law for gentiles, allowing for a new perspective on the affinity of the Jewish, the Christian, and the Islamic legal and narrative traditions more broadly, as well as on the specific differences between them.

I will state now, and later repeat a few times, that the history of gentile law here presented does not in any way claim to exhaust or even approach the wider spectrum of law included in the Qur'an, in the Christian or Jewish tradition, or, for that matter, in the Hebrew Bible. Much more, for example, could be said about the Christian understanding of the Decalogue, originally addressed to the Israelites yet including a provision for non-Israelites as well, as universally applicable. (I have dealt with late antique and qur'anic approaches to the Decalogue in a previous publication and will here treat the matter only in passing.) I do, however, hold that qur'anic law should be understood first and foremost in light of the biblical and late antique discourse on *gentile* law. Conversely, even “non-biblical” developments in qur'anic law—those exclusive to the Qur'an along with those

in conversation with pagan, Jewish, or Christian Arabian traditions or with Aksumite (i.e. ancient Ethiopic), or Byzantine imperial law—should be understood within the main framework of “biblical” law, in which the Qur’an explicitly or implicitly places them.

The first five of my ten propositions offer a more etic perspective on the continuity of the law as expressed, in the first four propositions, by distinct legal decrees or, in the fifth one, as conveyed by the literary forms which these decrees take in the Bible and in the Qur’an.

1. *The Biblical Basis of Law Beyond Israel.* The starting point of this study can be found in the books of Genesis and Leviticus in the Hebrew Bible. According to Genesis 9, God imposes two laws against “blood” upon Noah and his offspring: the double prohibition of shedding human blood and of consuming animal blood. In Leviticus 17–26, God imposes further laws upon the so-called “residents” of the Holy Land, the non-Israelite *gerim* who are, as Noah’s offspring, already prohibited from “blood.” (The meaning of the biblical term *ger*, plural *gerim*, constitutes the basis for but differs from its later usage as designating “a convert to Judaism.”) In Leviticus, Israelites along with the *gerim* are prohibited from idol worship, from consuming animals not properly slaughtered and emptied of blood, and from committing a number of sexual transgressions, and they are to purify themselves if they consume carrion or come into contact with a human corpse. (By contrast, most other purity laws in Leviticus, such as abstinence from pork or the injunction to wash after sexual intercourse, are apparently addressed to Israelites alone.) My first proposition is that the laws addressed to Noah in Genesis and to the *gerim* in Leviticus form the foundation upon which the rabbinic corpus (esp. in Tosephta *Avodah Zarah* 8:4) as well as the New Testament (obliquely in Paul’s letters and directly in the Acts of the Apostles 15) build their respective and partially divergent list of laws for non-Jews, namely the slightly more lenient rabbinic Noahide Laws and the somewhat stricter Christian Decree of the Apostles. Both lists possibly build on similar postbiblical notions of universal law that precede them. At the same time, a central difference between the rabbinic and the Christian views can be found in the prohibition of carrion, for which the Bible already offers two separate rulings for the *gerim*: Leviticus 17:15 commands that any *ger* who consumes carrion must wash thereafter, whereas Deuteronomy 14:21 allows *gerim* to eat carrion without any such restrictions. I will suggest and assess the hypothesis that the Christian tradition, and with it the Qur’an, likely followed the stricter attitude towards the consumption of carrion expressed in Leviticus and intensified in Second Temple Judaism. The rabbinic tradition, likely based on Deuteronomy 14:21, by contrast allowed non-Jews to consume carrion, all the while creating the distinct legal category

of the “*ger* who eats carrion”—a gentile stopping short of full conversion precisely because of this culinary proclivity—in order to account for the diverging biblical legislation.

2. *The Christian Endorsement of Gentile Law.* I will, secondly, argue that while the establishment of a list of laws for gentiles became an ongoing yet marginal concern in the rabbinic tradition, it remained central for Christians across many geographic and linguistic boundaries, as can be traced by their respective ways of sanctioning the Decree of the Apostles and implementing its strictures. Crucially, the implementation of the individual mandates of the decree and the discussion of its authoritative nature do not fully overlap. On the one hand, we have to trace the evidence of the Decree’s individual laws as applicable for gentiles, sometimes justified with direct reference to Genesis 9 or Leviticus 17–18, yet most often simply accepted as binding for Christians. On the other hand, we need to consider explicit discussions or references to the Decree as such. Considering the evidence for both the practical and the theoretical aspects shows that late antique Christians displayed a variety of attitudes towards the laws for gentiles expressed in the Decree, constituting three main streams of legal thought that I will designate as endorsing a *dismissive*, an *appreciative*, and an *expansive* attitude towards gentile law. In brief, while only a minute number of Church Fathers *dismissed* or diminished the validity of the Decree of the Apostles (without necessarily curtailing its mandates), the large majority of Latin, Greek, and Syriac Church Fathers, and the entirety of recorded church councils without any exceptions, *appreciated* and sought to implement its laws in their entirety. Some Christian authors and apparently more than a few ordinary Christians—whose number and status of authority varied over the centuries—*expanded* these laws by bringing them closer in line with biblical laws for Israelites, for instance by instituting restrictions concerning the menstrual cycle that go beyond the biblical prohibition for gentiles to abstain from sexual intercourse in this period, by mandating washing after sexual intercourse, or by problematizing the consumption of pork.
3. *The Continuity of the Qur’an with Late Antique Law.* Third, I will seek to illustrate that the Qur’an, while containing echoes of the rabbinic Noahide Laws, by and large stands in discernible—though not full—continuity with the appreciative and especially with the expansive Christian attitudes towards gentile law, plausibly aligning itself with legal practices common among Eastern Roman, Mesopotamian, Arabian, and Aksumite Christians. The Qur’an, in other words, formulates the law for its own community in continuity and in conversation with late antique law for gentiles; it engages some aspects of the rabbinic list of laws for gentiles and especially of the Christian one, without ever being bound by its precedents.

4. *The Biblical and Arabian Context of Qur'anic Law.* The Qur'an occasionally bypasses the rabbinic and the Christian tradition by taking a more direct recourse to legal materials found in the Hebrew Bible—or one of its later written or more likely oral renderings in other Semitic languages—when formulating or specifying its own laws, at times in ways that are not paralleled in any other late antique legal culture. Moreover, qur'anic law maintains important aspects of traditional Arabian practice (as can be seen, e.g., in many of the laws governing the Ḥajj) at the same time as breaking with others (such as, e.g., Meccan food laws). As a fourth proposition, I hold that we can sometimes situate the Qur'an at the confluence of biblical, pagan Arabian, and Christian law (such as, e.g., those governing the menses).
5. *Law as Literature, Literature as Law.* My fifth proposition is the one already sketched above: that the literary form in which individual decrees are recorded in the Scriptures constitutes an inextricable part of the legal content itself. The decrees given in the Hebrew Bible and in the Qur'an are often marked by literary structures created by means of the repetition of sounds, lexemes, and roots that are constitutive of these Scriptures' legal message to their respective audiences. A focus on the literary form of gentile law can therefore strengthen or even reveal aspects of the continuity of law from the Bible to the Qur'an. While the specific formulations in the Scriptures are unique, some of the literary structures show an additional continuity between the Bible and the Qur'an.

Thus far, the outlined propositions focused on the content and form that marks the continuity of gentile law in a way that can only be observed by historians. Five further propositions in this volume incorporate a more emic perspective concerning the *literary narratives and discourses* that link the gentile laws themselves to sacred history and thereby also form part of the actual laws. Put inversely, the broader continuities that emerge in our distant perspective, as sketched above, can be located within the specific legal narratives now to follow. The first four of the following propositions concern the development of the narratives explicated by the Scriptures themselves, a fifth proposition involves their relationship to more diffuse discourse on purity. As is to be expected, the development of the legal narratives and discourses offered from the Bible to the Qur'an shows more variation than the comparatively stable evolution of actual law perceptible mainly in hindsight, yet continuities over the centuries can be identified here as well.

1. *Jewish and Christian Readings of the "Residents."* The biblical concept of the non-Israelite "residents" of the Holy Land, the *gerim*, whose rights and obligations are formulated especially in Leviticus 17–26, was originally formulated to allow the cultic integration of the *gerim* all the while avoiding the profanation of the Holy Land and of the Temple. The category of the



“resident,” however, had become inoperative already in the Second Temple period, and the nature of the concern for the Temple changed dramatically after its destruction, when the rabbinic Noahide Laws and the Christian Decree of the Apostles were first formulated. Early rabbis and Christians, possibly based on legal precedent, did not abandon the *gerim* laws but instead employed them to pious gentiles anywhere in the world. Both groups pursued their respective legal endeavours: the rabbis, arguably, sought to broaden the distance between Jews and gentiles; early Christians, by contrast, at least initially tried to narrow it.

2. *Noah and the Law in Judaism and Christianity.* The rabbis transformed the *gerim* laws by placing them within the established biblical story about universal law given to Noah, thereby delineating the concept of humanity as “Children of Noah,” in contradistinction to Israel. In doing so, the rabbis extended their notion of divine positive law—that is revealed God-given law—to pertain to non-Israelites in principle, all the while carefully distinguishing between Jew and gentile even when the content of specific biblical laws addressed to either group is identical. The Qur’an, I propose, combines the image of Noah as a warner to his generation, which is in turn prevalent in the Christian tradition, with the biblical, Christian, and especially with the rabbinic notion of Noah as law-giver—yet not necessarily a universal one, since in the Qur’an, Noah, in line with this scripture’s prophetological paradigm, is sent to his people alone.
3. *The Decree of the Apostles and the Qur’an.* The New Testament, just like the early rabbinic corpus, extends the laws originally addressed to the *gerim* to apply to all believing gentiles who accept God’s rule, yet it proposes a context different from the story of the laws given to Noah and his sons. The Acts of the Apostles, rather, present a distinctly messianic legal narrative relating the genesis and legal content of the Christian take on gentile law, the so-called Decree of the Apostles. This decree, formulated chiefly in Acts 15, maintains and even expands the central laws the Hebrew Bible had promulgated for the *gerim*, which are now seen as applying to all non-Jews seeking to join the Jesus movement. At the same time, Acts connects the purpose of these laws not to the avoidance of the profanation of the Holy Land or the Temple, but to the instructions the Holy Spirit gives to non-Jews, in line with apostolic authority. (The purpose of keeping the decree is to establish the purity necessary for the outpouring of the spirit.) The Decree of the Apostles remains a central point of reference for all forms of late antique Christian law. The Qur’an does not explicate its endorsement thereof, yet along with incorporating all legal provisions of this decree, it offers conceptual and plausibly even lexical echoes of it, in addition to endorsing and showcasing the notion of apostolic legal authority.



4. *Christian Narratives of Law and the Qur'an.* The early Christian understanding of law was thus a dual one: the Acts of the Apostles maintain the validity of the entirety of the Torah for Israel, on the one hand, and the relatively succinct catalogue of gentile law, on the other. This duality of law led to a conceptual and ethnic tension that proved too strong to be maintained once gentiles constituted the majority of the Jesus movement. Some Christians responded to this tension by expanding the notion of Jesus' abrogation to encompass all of the Israelite law. (Abrogation, in the Gospels, had originally—and even here to varying degrees—only pertained either to the rectification of human additions to the Torah or to falsifications in its application.) A majority of later Christian traditions thus understood Jesus as having abrogated the Israelite law in its entirety. Simultaneously, Christians excluded the Decree of the Apostles, as addressed to gentiles, from Jesus' abrogation. Among the several late antique Christian models addressing the status of gentile law, two streams are of special relevance for the Qur'an. They both address the permanence of law in terms of Jesus' *partial* abrogation thereof. First, some Christians (especially in the Syriac tradition as expressed in the *Didascalia Apostolorum* to be discussed below) developed the notion of an eternal law given to Moses that had only temporarily been augmented by a set of what I will call "punitive laws," i.e. laws given *as* punishments. These punitive laws were given to the Israelites as a punishment for the Golden Calf and other sins, which constituted the object of Jesus' abrogation in this narrative. Second, a minority in the Greek tradition (especially as expressed in the Clementine Homilies, to which we will equally turn) understood the Law given to the Israelites as unchanged and timeless, yet as having been corrupted and erroneously augmented in the past. In this narrative, Jesus' abrogation is again a partial one, pertaining only to the corrupted parts of the law, thereby restoring the Law to its pristine original state. Both narratives of Jesus' partial abrogation—of the punitive laws or of the erroneous additions to the law—help explain many of the Qur'an's statements on the role of Jesus as a lawgiver.
5. *Prohibited and Regulated Impurity.* Finally, the four concrete legal *narratives* described above—concerning Noah, the residents of the Holy Land, the Decree of the Apostles, and Jesus' partial abrogation of the law—should be understood in the context of the development of the broader and more diffuse biblical *discourse* on purity. Importantly, not all impurity is the same: the Bible differentiates between two different types I will present as *regulated* and as *prohibited* impurity. Contracting the former, regulated type of impurity is permitted and sometimes even necessary when fulfilling commandments; it results from mundane actions such as licit sexual intercourse or contact with corpses during burial. Prohibited impurity, by contrast, is contracted through acts such as idolatry, the shedding of human blood, or

the consumption of animal blood, and by committing sexual transgressions. The distinction between the two types of impurity is not categorical: the failure to implement the safeguards for regulated impurity turns what is merely regulated into prohibited impurity. A woman, for example, contracts regulated impurity during the time of her menses, yet engaging in otherwise licit intercourse in this period would impart prohibited impurity both on her and her sexual partner. Significantly, the Hebrew Bible applies the rules for the most severe cases of prohibited impurity both to Israelites and to the *gerim*, the non-Israelite residents of the Holy Land, and, arguably, even to all human beings. Likewise, the Bible applies to the *gerim* select rules concerning regulated impurity, such as corpse impurity or the impurity contracted through the consumption of carrion according to Leviticus (yet not according to Deuteronomy, as mentioned above). Early Jews and Christians diverged especially when it came to the question of whether such rules governing regulated impurity were applicable to gentiles. The rabbis dismissed the relevance of any aspect of regulated impurity for non-Jews, whom they saw as unsusceptible to such impurity, thereby widening the gulf between Jewish and gentile law. The case is more complex when considering the Christian tradition. The Decree of the Apostles focuses on actions that, in the Bible, lead to prohibited impurity contracted through idolatry, sexual transgressions, the shedding of human blood, or the consumption of animal blood. The Decree, in line with Second Temple traditions, considers the consumption of carrion, which in Leviticus only imparts regulated impurity, as causing prohibited impurity. When it comes to regulated impurity, later Christians, by contrast to the rabbis, displayed a broad range of stances. Some Church Fathers, especially those associated with the dismissive attitude towards the Decree of the Apostles, much like the rabbis, rejected the relevance of regulated impurity for gentiles. Other Christians, however, in particular those associated with the appreciative and the expansive attitude towards the Decree, saw gentiles as susceptible to sexual or even other types of regulated impurity that they would contract, for example through licit sexual intercourse or, for a woman, through her menses. The Qur'an, again, shares key aspects of the biblical understanding of regulated and prohibited impurity, some traits of which share comparable observances attested throughout the ancient Near East and especially in ancient Southern Arabia. The Qur'an can therefore be situated at the confluence of elements of the pagan Arabian purity tradition, the biblical, and especially the Christian tradition leaning towards the expansive attitude vis-à-vis the Decree of the Apostles.

These ten propositions are interlinked without being fully interdependent. Given the scope of this volume, I expect that some of its arguments will prove to

be more useful, or less naïve or ignorant, than others. I assume many readers will bristle when reading my summary claims about the views I attribute to “the rabbis,” “the Church Fathers,” or even to “the Qur’an.” I hope that the variegated chronological and historical analysis I seek to offer where necessary will absolve me of the otherwise justified charge of oversimplifying for the sake of readability. I am fully aware, for example, of the limitations of the notions of “gentile” and “purity,” and would agree that the best this volume can achieve may be to demonstrate the necessity of a much more granular view of their relevance for biblical, late antique, and qur’anic discourse. As laid out above, conceptions of who was a gentile and what this status entailed varied widely; the sources, again, do not give clear guidance on whether a gentile who has accepted the Noahide Laws, turned to Christ, or accepted Islam should still be understood as a such. Likewise, the notion of “purity” should be complementarily considered alongside the related yet independent notion of “sanctity,” as I will only briefly do in Chapter 4. Overall, however, I think the evidence here presented suggests that the notion of gentile law—law for non-Israelites—constitutes a point of noteworthy overlap and topical difference between the Jewish, the Christian, and the nascent Islamic tradition. The gentile laws remained remarkably stable, and the function of these law was always to ensure the avoidance of prohibited impurity, with disagreements pertaining mainly to the question of the degree of applicability, to gentiles, of laws governing regulated impurity.

The concept of gentile law should therefore receive much greater attention than is currently the case if we more fully want to understand any of the Abrahamic traditions on their own, or their intricate interactions over the centuries. I hold that we can tell a continuous story—with many turns and twists and breaks and starts and occasional jumps, yet a continuous story nonetheless—beginning with the laws given to Noah and to the residents of the Holy Land, and that this story connects Jewish and Christian notions of law for the gentiles with those of the Qur’an. I propose that the literary form and legal narratives that co-evolved with these laws perpetuated the legal rulings at the same time as guiding their application. I therefore submit the ten propositions laid out above as an invitation for a thorough reconsideration of the Jewish and Christian notions of God’s law for gentiles leading up to their qur’anic reformulation. This volume’s contribution, then, is twofold: first, I claim that law for gentiles has always existed, both hidden and in plain sight, at the very centre of the three Abrahamic traditions, and second, I seek to illustrate the specific continuities and differences between the ways in which these traditions implemented and spoke about these laws. In the following, I will briefly present the main sources I will discuss in order to illustrate this twofold argument that posits a much stronger continuity between the Bible and the Qur’an than is usually understood.

## From the Bible to the Qur'an

This study is based on a plethora of late antique sources, ranging from scriptural and exegetical texts to rabbinic law, church canons, and imperial decrees. The foundational texts that will feature most prominently in this volume are the books of Genesis and Leviticus in the Hebrew Bible, the Acts of the Apostles in the New Testament, the Tosephta among the Tannaitic rabbinic texts, the Didascalia Apostolorum and the Clementine Homilies among the Christian apostolic literature, and the Qur'an. A few remarks on the way in which these texts will be approached, and on their most salient legal attitudes vis-à-vis gentiles and gentile law, and especially on the continuities and discontinuities between them, may be helpful before turning to the chapter overview. The following summary is graphically represented in Table 1 (p. 29 below). References to scholarship relevant to the entire Introduction, to reiterate, will be provided in the main body of this volume.

### The Bible

The terms “Bible” and “biblical” will here be used in a broad sense, signifying those writings that were included in the canons of late antique Jews or Christians. When making more specific comments and when emphasizing the historical context of such writings, I will differentiate between, on the one hand, the Hebrew Bible in its codified form—which became the Scripture of the rabbis and, in varying forms, also the Christian Old Testament—and, on the other hand, the Christian New Testament.

The composition and canonization of the Hebrew Bible very broadly straddles the history of the Israelites leading up to and following the destruction of the First and the Second Temples in the seventh century BCE and the first century CE, respectively. As Scripture, the Bible addresses the people of Israel: its primary focus lies squarely within the bounds of its implied audience. Non-Israelites, however, appear throughout the Bible. To begin with the patriarchal history, the Bible relates the long prehistory of the election of Jacob as Israel (in Gen 32:22–32) by telling the story of a pre-Israelite past. The Hebrew Bible, it is true, inseparably connects Abraham to the fate of the Israelites. Late antique Jews, Christians, and early Muslims, however, all laid claim to Jacob's grandfather Abraham, portraying him, respectively, as a Jewish, a Christian, and eventually a Muslim figure. Some of its late antique readers, accordingly, pointed out that the Bible equally casts every patriarch and matriarch from Adam and up to Abraham's father, and even up to Sarah's and Abraham's initial lives as Sarai and Abram, as not yet belonging to Israel, and therefore, in the view of these readers, as gentile.

In addition to the figures that flourish before Israel, the Bible uses gentiles repeatedly in its later narratives as well. The Egyptians, for example, host and then suppress the Israelites, God uses the Assyrians as His rod to punish Israel, and gentiles feature centrally in Daniel's eschatological visions; in addition, books such as Ruth and Esther along with Ezra and Nehemiah divergently approach the appropriateness of intermarriage. While it is obvious that gentiles can in turn get punished for certain actions—such as the Egyptians who refuse to release the Israelites, other nations who hinder their progress during the Exodus, or the Canaanites who are expelled from the Holy Land—the Bible does not normally describe God as giving any specific laws to them. There are two main exceptions to this rule. First, when Noah and his offspring reach dry land after the flood (in Genesis 9), God imposes on them the double prohibition of blood—concerning the prohibition of shedding of human blood and the injunction to shed animal blood mentioned above—that many late antique readers of the Bible understood as applicable to Israelites and gentiles alike. Second, the Bible specifies that certain laws given to Israel equally apply to non-Israelite residents of the Holy Land, the so-called *gerim*. Most of the rulings for these *gerim* can be found in the writings of the so-called “Holiness School” of the Hebrew Bible, encompassing Leviticus 17–26, yet related rulings equally appear elsewhere in the Pentateuch, especially in Exodus and Deuteronomy.

These biblical laws given to the non-Israelites residing in the Holy Land can be briefly summarized; it is on their content that this volume largely bases its structure. Idol worship, to begin with, is prohibited to Israelite and *ger* alike in Deuteronomy (29:10–29), and the prohibition of idol worship also provides the frame narrative in which the laws for the *gerim* are presented in Leviticus 17. After a short condemnation of consuming improperly slaughtered animals, this passage likewise denounces the alleged Israelite practice to “offer their sacrifices for goat-demons, to whom they prostitute themselves” (Lev 17:7), and then extends *some* regulations concerning prohibited as well as regulated impurity not only to Israelites but also to the *gerim*. The further laws applicable to *gerim* set out especially in Leviticus 17–26 include the prohibition of murder, the injunction to drain animal blood during slaughter and the prohibition to consume it, a detailed list of illicit forms of sexual intercourse in Leviticus 18, and a variety of other prohibitions and ritual obligations. Whereas all *gerim* were required to follow certain ritual laws and enjoyed certain privileges, the Hebrew Bible allows for the circumcision of those *gerim* who wish to partake of the paschal feast (see Exod 12:48–49 and Num 9:14), but it does not demand that all *gerim* be circumcised. In other words, *gerim* likely form part of the *people* of Israel, yet within the people they remain distinguishable from *Israelites* proper even if they undergo circumcision. In the Bible, moreover, it is apparent that *gerim* are susceptible both to regulated and to prohibited forms of impurity; they are required to undergo forms of ritual purification if they contract the former and are cut off from the people if they contract the latter.

As mentioned above, one seemingly innocuous detail may have prepared a decisive shift between late antique conceptions of gentile law. While Deuteronomy (14:21) prohibits Israelites from eating carrion at all and instead enjoins them to sell carrion to the *gerim* for the expressed purpose of consumption, a passage in Leviticus (17:15–16) states that Israelites and *gerim* must purify themselves if they consume carrion. (The reason for the discrepancy has not been fully established, yet may at least partially be due to a legal development towards greater inclusion of the *gerim* in biblical times.) The ensuing tension between these two biblical attitudes towards carrion, and their underlying assumptions about gentile purity, prepared the main fault line between the rabbinic laws for gentiles, on the one hand, and Christian and qur'anic law, on the other. The historical record on the precise legal development on this question is wanting, yet we will see that nearly all Christian along with qur'anic law unanimously prohibits such consumption to gentiles more strictly than even Leviticus does, whereas the rabbis seem to have permitted carrion to gentiles, in line with Deuteronomy.

Postbiblical Jewish sources of the Second Temple period offer limited reflections on gentile law. It is obvious that many of the Dead Sea Scrolls understand the biblical term *ger* in the sense of “a convert to Judaism” rather than in terms of “a gentile resident of the Holy Land,” pre-empting the later rabbinic understanding of the term that is also partially reflected in the Bible’s most influential Greek translation, the Septuagint. By the first century CE, therefore, a disjunction between the reception of the biblical term *ger*, on the one hand, and the individual laws extended to (uncircumcised) non-Israelites, on the other, seems to have occurred, as can be seen in the New Testament and in the early rabbinic corpus.

Yet after the biblical period, the issue of gentile law first rose to discernible prominence again among Jesus-oriented Jews straddling the period of the destruction of the Second Temple, as reflected in their texts that were later collected in the New Testament. Some of the genuine epistles of Paul, written in the first half of the first century, address gentile law (all the while partially disavowing the concept), and so does the so-called Decree of the Apostles in the Acts of the Apostle, a text that was composed in the late first or more likely in the early second century CE, as a twofold composition along with the Gospel of Luke. The Decree of the Apostles is presented as the product of the apostles of Christ under the guidance of the Holy Spirit. The decree is directed to those among “the nations” who believe in Christ; the decree to the gentiles is here carefully distinguished from the more complex set of commandments that continue to apply to Jews. The Acts of the Apostles are thus evidently a “Jewish” text in as far as they fully endorse the Law’s validity for Jews, yet Acts equally offers one of the first attestations of the designation of gentile believers in Jesus as “Christian,” by which they designate the Church in Antioch (Acts 11:26). “Jews,” for Acts, are simply Jews no matter what their messianic orientation; “Christians,” at the same time, are Jesus-oriented gentiles who must obey the Decree of the Apostles as a

precondition for their salvation. It is to them alone that the short decree in Acts 15 is addressed, which encompasses only the pithy prohibition of idol meat, blood, “strangled things,” and improper sexual relations, four classes of prohibitions that summarize a sizeable body of biblical law. A considerable body of scholarship has established the notion, already surfacing in patristic literature, that the decree is most likely based on the laws given to the *gerim* in Leviticus 17 and 18. After Leviticus, the Decree of the Apostles therefore forms the second scriptural iteration of God’s law for the gentiles.

### Late Antiquity

Late antiquity, roughly speaking, stretches from the third century CE to the seventh century CE, the period that saw the rise of the Sassanian Empire, its repeated clashes with the Roman Empire, the latter’s Christianization since the fourth century, and finally the establishment of the Rashidun Caliphate and the Umayyad dynasty in the seventh century. It is the period on which this volume is focused, since it saw the emergence of rabbinic Judaism, the emergence of a variety of Christianities, many of which eventually or even initially rejected Judaism and Jewishness, and finally the emergence of the qur’anic community, which in turn understood itself as spiritually and legally superior in many ways at least to the majority of the Jews and the Christians of its time. Each of these three streams of late antique thought—rabbinic Judaism, Christianity in its many forms, and nascent Islam—in its own way endorsed the content if not the form of the main body of the gentile laws first promulgated in Leviticus. While the three traditions do not regularly make this connection explicit (beyond the occasional focus on Noah), the very continuity of gentile law and of the adjacent related narratives illustrates this central affinity between these three otherwise often divergent Abrahamic traditions. A few words on their chronological and geographical roots may be useful at this point.

There is ample discussion about when the rabbinic movement took shape; my own view is that it only gained traction in the second half of the second century at the earliest, after the failure of the Bar Kokhba revolt. (The revolt marked the last serious attempt to wrest political control from the Roman Empire; its failure gave way to the rabbis’ far-reaching accommodation of pagan rule.) We can, however, date the movement’s earliest records. The so-called Tannaitic texts, among them the Tosephta, were edited in Roman Palestine in the third and perhaps up to the early fourth centuries CE. It is the Tosephta that presents the rabbinic version of laws for gentiles, the so-called Noahide Laws. These laws will be argued to be based on the rabbis’ joint reading of Genesis 9 and of the *gerim* laws in Leviticus 17–26, possibly based on earlier traditions. In the rabbinic reading, these laws become applicable beyond the borders of the Holy Land, as universal law for those gentiles who want to draw near to the God of Israel. The rabbis’ Noahide



Laws—whose historical, let alone systematic implementation in any way, shape, or form is unlikely—will be presented as the third iteration of God’s laws for gentiles after that of Leviticus and the Decree of the Apostles. The close exegetical relationship between the Noahide Laws and the Decree of the Apostles, along with their patent differences when it comes to the status of carrion, will be discussed in detail. Later rabbinic texts of the Amoraic period, such as the Palestinian and the Babylonian Talmud that were redacted after the late fourth century, preserve the memory of the concept of the Noahide Laws, yet do not develop their content much further. The Noahide Laws apparently played only a minor role in Amoraic and perhaps even already in Tannaitic late antique Judaism, which seems to have favoured full conversion—rather than the observation of Noahide, gentile Law—as the preferred method for gentiles to join the fold.

Roughly contemporarily to the rabbinic movement, or plausibly a bit earlier, various forms of Christianity began to arise throughout the late ancient world from the early second century CE onwards. In the following, I will use the linguistic denominations “Greek,” “Latin,” and “Syriac” as shorthand for mainstream attitudes for major strands within culturally distinguishable forms of Christianity. There are of course broad theological overlaps especially between Greek and Latin and between Greek and Syriac churches, just as these “churches” were constituted by often antagonistic internal subdivisions. Yet for the purposes of this volume, it emerges that the simplification of Latin, Greek and Syriac Christians can tentatively be used to discuss various legally distinct profiles. Overall, it appears that very few Church Fathers seem to have endorsed the distinction between Jewish and gentile ethnicity and therefore between Jewish and gentile law that marked the Acts of the Apostles and other New Testament texts. Instead, Latin and Greek Christians seem to have increasingly dismissed the importance of Jewish ethnicity as legally prescriptive for a person’s mode of salvation—many Christians effectively subsumed “the nation” of Israel as one of the many “nations,” the gentiles. The Latin and Greek tendency to subsume Israel under the nations was shared by strands within the Syriac churches, whereas other strands among Syriac Christians, inversely, subsumed “the nations” under the one “nation” of Israel, the church, as we will presently discuss: here, we find an essential model explaining why the Qur’an would understand both Jews and Christians as two parties among the Children of Israel. The Decree of the Apostles, at the same time, was endorsed by all recorded late antique church councils, and by a vast majority of Church Fathers. A few Christian individuals, along with a few relevant Christian and plausibly Jewish texts, however, will prove particularly momentous for understanding how divergently Christians dealt with the legal aspect of their apostolic heritage, following, respectively, a dismissive, an appreciative, or an expansive way (see p. 9 above).

We will see that the *dismissive* attitude towards the Decree of the Apostles was displayed mainly by Augustine and partially by Chrysostom, two central Fathers



of the fourth and early fifth century CE, who, perhaps in their push against perceived aspects of Jewish practice among Christians, tended to reject or at least downplay any aspect of gentile law that derives from positive biblical rather than from natural law. These Fathers alone went as far as explicating their dismissal of key provisions of the Decree of the Apostles (Augustine) or at least diminished its importance, without questioning its binding nature (Chrysostom). Despite the general importance of these Fathers for Christian discourse, however, it is unclear if and when their legal attitude towards the decree became dominant. By contrast, significant strands of the entirety of the Christian tradition at least up to the seventh century CE, and in some traditions to this day, stand much closer to the *appreciative* attitude towards the decree, as a plethora of Greek and Latin alongside East and West Syrian patristic sources, church councils and canons, as well as later apostolic writings will illustrate. These appreciative writings endorse the Decree in its entirety, and, just like the Decree itself, by and large see gentiles as susceptible only to prohibited, but not necessarily to regulated impurity. The attestation of the relevance of the *expansive* attitude towards the Decree of the Apostles, finally, is solid, yet far less robust than that of the appreciative attitude. Yet this expansive attitude is especially important in order to understand the Qur'an's own formulation of gentile law. The evidentiary basis for the expansive attitude is, in turn, substantially broadened by the example of the nascent Islamic community itself, if one allows for a triangulation between three key texts over a broad expanse of time and space.

The two key sources attesting to an expansive attitude towards the Decree of the Apostles in late antiquity both incorporate older material, yet seem to have been largely redacted in the fourth or fifth century: first, the *Didascalia Apostolorum*, which appreciates the Decree but strongly rejects a specific list of additions to it, and, second, a text called the *Clementine Homilies*, which endorses both the decree and the very additions rejected in the *Didascalia*. Each of the two texts is unique, at least in its own time, in the way in which it constructs Israelite and gentile ethnicity and in the way in which it constructs gentile law based on the Decree of the Apostles. The legal and hermeneutical correspondence between these two texts as well as between them and the Qur'an points not so much to a textual relationship but to a continuity of legal hermeneutics and especially of legal practice between these sources' chronologically and geographically widely dispersed audiences.

The *Didascalia Apostolorum*, to begin with, is an apostolic text likely based on a third-century Greek source, of which only a few snippets survived. Its earliest full attestation is a Latin palimpsest from the fifth century and a Syriac manuscript from the early eighth century CE, pointing to its circulation at the time of the Qur'anic community. The *Didascalia* became a foundational document for the West Syrian church, the Syriac-speaking church sometimes referred to as "Jacobite" that was prevalent in parts of the Eastern Roman and of the Western Sassanian Empire. The

Didascalia will prove valuable for this study in three respects, furnishing Christian views both on gentile law and on legal narratives connected with it:

- First, the Didascalia, along with earlier Syriac Fathers such as Aphrahat, conceives of Christianity in a distinctly “Israelite” way. The church, in this view, is neither Jewish nor gentile, but constitutes an amalgamation of “the nation”—that is Israel—with “the (gentile) nations,” that is the gentiles who joined the nation of Israel under Christ. For the Didascalia, to put it simply, Israel *is* the church—there is no distinction between spiritual and carnal Israel.
- The Didascalia, secondly, takes on a very distinct attitude towards the Decree of the Apostles, which it cites and fervently appreciates. It declares the content of this decree, along with its own version of the Decalogue and a number of observances and laws pertaining for example to prayer, fasting, charity, financial honesty, and a strict prohibition to murder infants, to be the original, *primary* divine law given to Moses. This primary law (as mentioned above on p. 12) is clearly delineated from the *secondary* “punitive” laws given as a retribution for the Golden Calf and other sins. In this account, only this secondary law was abrogated by Jesus, who left the primary law intact, and extended its validity by welcoming all nations to join Israel as Christians. The Didascalia can therefore be said to consider the primary Israelite law as potentially universal, as applying to all gentiles joining the church.
- Third, the Didascalia offers an emphatic endorsement of the appreciative Christian attitude towards the Decree of the Apostles, which it cites and discusses in detail. It rejects the concept of regulated impurity as applicable to its community, and polemicizes against those who observe it at great length. In line with other heresiological writings, the Didascalia thereby becomes a significant witness negatively testifying to the *expansive* attitude towards gentile law that seems to have been held by some or even many of its community members, with whom it thoroughly disagrees. In its view, certain aspects of both prohibited and regulated impurity, such as abstinence from pork, or engaging in ritual ablutions before prayer or after sexual intercourse, were part of the punitive law given after the Golden Calf that Jesus had abrogated. Those who continue to observe these laws seen as punishment effectively deny God’s abolishment of them that marked his forgiveness of the worship of the Golden Calf—and since they deny the forgiveness, they are accused of continuing to commit the very same sin.

The expansive attitude towards the Decree of the Apostles decried by the Didascalia (which equally includes the prohibition of wine) is equally condemned—and thereby negatively attested—by a number of other Latin, Greek,

and Syriac patristic sources. Many of these sources, such as Epiphanius, follow their heresiological instincts to such a degree that they nearly become unsuitable to reconstruct actual practices among Christians of the time. There is, however, one source prior to the Qur'an that fully endorses the expansive attitude towards the Decree of the Apostles explicitly condemned by many fourth- and fifth-century sources: the so-called Clementine Homilies make not only the Decree but also several significant additions incumbent on gentiles, positively substantiating the very same list of additional observances the Didascalia had decried.

The Clementine Homilies are another apostolic text composed in Greek in the fourth or early fifth century, again likely based on previous sources. They were subsequently translated into, or at least epitomized in, several languages including Syriac, Ge'ez, and eventually (plausibly after the Qur'anic period) also into Arabic. The formative role of the Clementine Homilies (henceforth often simply "the Homilies") for the Christian tradition, and their reception history in the Greek tradition, are both very limited. The Homilies, however, will equally prove invaluable for this study since they, just like the Didascalia, testify to three important late antique views on gentile law and on legal narratives connected with it:

- The Clementine Homilies are unique in as far as they maintain and even sharpen the formulation of the strict differentiation between Jewish and gentile law that we saw in the Acts of the Apostles. The text, at least in theory, endorses the validity of Jewish law for Jews (who do not need Jesus) and the validity of the Decree of the Apostles for gentiles (who do not need Moses). By declaring Judaism to be a valid tradition based on Moses alone, the Homilies certainly constitute a Jewish text, even if they present the law as partially corrupted after Moses' death. Yet within this framework, their endorsement of the Decree of the Apostles for gentiles, and especially their focus on the salvation of gentiles, places them into the specific tradition of a "Christian" understanding of Judaism as pioneered by the Acts of the Apostles.
- The Clementine Homilies also offer testimony for a second legal narrative about gentile law, in addition to the one about punitive law found in the Didascalia, that will prove relevant for the Qur'an. Along with previous patristic sources in particular from the Alexandrian tradition, the Homilies present their version of gentile law as underlying God's command to the demons not to attack any human unless these humans first make themselves liable by breaking any of the divine and universal stipulations. These commandments are based on the Decree of the Apostles, yet in this reading include aspects pertaining not only to prohibited but equally to regulated impurity. The Clementine Homilies, unlike the Didascalia, do not distinguish between an eternal primary and a temporary secondary law. They do, however, offer a related concept of a two-partite law in which Jesus confirms

“the Law” while abrogating *part of it*: the Homilies endorse a salvation history in which the Law is given orally to Moses, and subsequently corrupted and falsely expanded by human error and by Satanic intervention. Jesus here serves as the prophet who restores the law to its original state, abrogating the erroneous additions to the Bible and seeking to save the gentiles. This constitutes a partial structural parallel to Jesus’ role as the abrogator of the punitive law in the Didascalia within a different narrative framework.

- The Homilies, finally, formulate their version of gentile law by expanding the Decree of the Apostles in a way that closely resembles the observances specifically condemned in the Didascalia. The key aspect of regulated impurity law which it imposes on gentiles, beyond the stipulations of the Decree of the Apostles, is the requirement to wash after sexual intercourse and, arguably, before prayer; the Clementine Homilies also associate pigs and wine with demons.

In addition to the aforementioned texts, there are a number of Jewish and Christian sources that we will encounter throughout this volume; these will be introduced in more detail in due course. In short, several further Palestinian and Mesopotamian rabbinic texts, such as the Palestinian and Babylonian Talmud (henceforth often “the Yerushalmi” and “the Bavli”) will illustrate the development of rabbinic views of the Noahide Laws, and offer glimpses of Jewish practices that have affinity to those of Christians and of the nascent Islamic community. The Apostolic Constitutions, furthermore, a Greek apostolic text from the fourth century that was in turn based on a version of the Didascalia Apostolorum, will prove important in their view of laws given to Noah as natural law. Various early Church Fathers, such as Tertullian, Cyprian, and Origen in the second and third centuries CE, Eusebius in the third and fourth, as well as Jerome in the fourth and fifth, will prove essential for tracing the development of gentile laws in Latinate and Greek Christianity. Aphrahat and Ephraem, the two foundational Fathers of both the East and the West Syrian traditions who both flourished in the fourth century, in the Eastern Roman Empire and in the north of the Sassanian Empire, respectively, will offer crucial information on the development of Christian law and legal narrative. Both Syriac Fathers display close affinities with, yet also evident differences from, the legal concepts offered by the Didascalia Apostolorum. Likewise, Mar Aba, the sixth-century Father of the East Syrian church, sometimes referred to as the “Nestorian” church, which was especially prevalent in Mesopotamia yet equally established in the Gulf region, will prove especially significant for the Qur’an’s view of incest laws. Finally, the Justinian Code, the collection of laws promulgated by the sixth-century CE Christian emperor, will further help to contextualize some of the Qur’an’s rules for dealing with adultery or same-sex intercourse along with punishments for a variety of acts deemed criminal.

## The Qur'an, Arabian Epigraphy, and the Islamic Tradition

When seeking to balance the Qur'an's broader "biblical" context against its continuity with specifically Arabian cultural paradigms, it remains paramount to avoid two fallacies.

- First, we must not construct a false dichotomy between Judaism and Christianity, on the one hand, and Arabian culture, on the other, since by the turn of the seventh century, Jews and Christians had long developed distinctly Arabian forms of their traditions. A growing archaeological record firmly locates Jewish and Christian communities in South-West-Arabia, for example in and around Najrān, Qaryat al-Fa'w and Ḥimā', in North-West Arabia, for example in al-'Ulā, Taymā' and Madā'in Sāliḥ, and finally in historical Bahrain and several Gulf islands, including Ṣīr banī Yās (see map p. xii above). Previous studies, moreover, have shown the many ways in which the Qur'an engages aspects of Jewish and Christian forms of culture. Judaism and Christianity had therefore long become fully naturalized Arabian religions.
- Second, however, it is apparent that pagan Arabian culture as such continued to thrive in the Hejaz at the time of the prophet. Meccan paganism had likely become broadly henotheistic. Meccans did not deny the power of adjacent divine and angelic or *daimonic* forces (such as the "daughters of God," or the *jinn*), yet they evidently surmised the primacy of the one God, whom they seem to have referred to largely in terms similar to those employed by the Qur'an itself. The Meccans also seem to have been faintly acquainted with certain aspects of the Israelite tradition, as becomes clear, for example, when the Meccans, confronted with the Qur'an, dismiss it as irrelevant and categorize it among the "tales of the ancients" (*asāṭīr al-awwālīn*; see for example Q 6:25, Q 8:31, and Q 83:13). Arabian paganism thus remains the central touchstone when seeking to understand the Qur'an's biblicization of Arabian culture, and ignoring it would distract from recognizing its revolutionary message.

In order to avoid both pitfalls—the image of Arabian culture untouched by the Israelite tradition, on the one hand, and the dismissal of Arabian paganism as long defunct, on the other—the present volume will employ three approaches, albeit with decreasing centrality, when trying to balance its emphasis on the richly documented biblical tradition with the much more scarcely attested pagan Arabian records.

- The primary source for pagan Arabian culture in the Hejaz, first of all, remains the Qur'an itself, whose commensurate continuity and break with Meccan discourse and practice resonates in most of its verses. While the perspective

of the Qur'an does not allow for a "thick" description of Meccan culture, the body of text is in my view sufficiently rich and detailed to allow for a historical approach to the Qur'an's context through the Qur'an itself.

- Second, a large number of pagan inscriptions in a various forms of Arabic offer occasional help in locating the Qur'an's vocabulary in its historical environment. Among these, a growing corpus of epigraphy in forms of ancient South Arabian, that is Sabean—southern, central, and northern—from before and after the turn of the first millennium offers surprising affinity with biblical, late antique, and qur'anic vocabulary. The study of these inscriptions, and their relationship to the Qur'an, is the subject of rapid ongoing scholarly developments, to which the present volume cannot contribute in any systematic way. The corpus of inscriptions, however, is sufficiently well studied to use extant lexicography to guide our attempt to situate the Qur'an at the confluence of biblical and pagan Arabian traditions in a broad sense. Even though a more differentiated approach would palpably sharpen the focus of the findings, ancient South Arabian epigraphy already offers comparanda for the Qur'an's unmistakably Western Arabian vernacular.
- Third, another obvious corpus to engage would be that of the "Islamic tradition," which includes a wealth of historiographical, bibliographical, lexical, and exegetical information. While I will reference this corpus in passing, I will largely exclude it from the current study for methodological reasons. Any full appreciation of the Qur'an must of course pay very close attention to the tradition that preserved the text itself. The importance of Islam's own historical contextualization of its Scripture in Mecca and Medina at the turn of the seventh century CE has recently gained ever-growing support from all but the most sceptical of scholars. Yet the contextualization of qur'anic law and literature in its pre-Islamic biblical and pagan context, in my view, must take procedural primacy, and this effort remains far behind schedule, as the present volume itself amply illustrates.

In other words, it will soon be high time to re-evaluate the present findings, and to take the entirety of the Islamic tradition into account when situating qur'anic law at the confluence of the increasingly well-known pagan Arabian and late antique biblical traditions. Yet this time, I hold, will only have come once we fully establish the ways in which the Qur'an deals with Arabian paganism and with the Hebrew Bible and its late antique interpreters in both legal and literary ways.

The Qur'an, we will see, endorses the individual laws given in the Decree of the Apostles as binding for its community. It does not mention the decree itself, yet stands in demonstrable continuity—with measured modifications—with all its stipulations as they were formulated and practised throughout late antiquity; it equally shows select lexical continuity with the decree's Syriac formulation. In addition, among those rules governing regulated and prohibited impurity in the

Hebrew Bible and especially those extended to the *gerim*, the Qur'an precisely promulgates those that had been previously imposed upon gentile believers by those late antique Christians endorsing an expansive attitude towards the Decree of the Apostles.

Initially, the Qur'an had dismissed another set of food laws, namely those practised by its Meccan contemporaries. This initial reluctance, however, soon segues into an appreciative and even expansive attitude towards the very food laws we find in the Decree of the Apostles, expanded through the prohibition of wine and swine—two prohibitions attested in the expansive tradition of interpreting the Decree among Christians. When it comes to *prohibited* sexual impurity, the Qur'an censures pagan Arabian practices—some of them also known through pre-Islamic Arabic poetry—and in their stead endorses biblical rulings. The case of *regulated* sexual impurity, however, stands out, in as far as we will be able to situate the Qur'an at the confluence of biblical, Christian, and pagan Arabian practices. In addition, the Qur'an equally expands and modifies the laws of the Decree of the Apostles by specifying some of the stipulations, arguably with direct recourse to the biblical formulations of incest and tort law. Finally, the Qur'an offers a series of punishments for a variety of transgressions, mechanisms for atonement, and dispensations for specific circumstances, some of which are previously attested in South Arabian epigraphy, whereas others closely correspond to aspects of West and East Syrian as well as Byzantine legal practice.

In addition to its continuity with late antique law, one of the Qur'an's main legal narratives portrays God as stipulating law for the nascent Islamic community, much like He is portrayed in the Hebrew Bible as giving law to the Israelites. In its Medinan phase, the Qur'anic law itself constitutes or reinforces the nascent Islamic in-group by appealing both to the Israelite past and to the prophetic Ishmaelite present. Yet the Qur'an also integrates a number of other biblical and postbiblical legal narratives in ways that always reflect its own prophetological paradigms. Just like the rabbis, Tertullian, Ephrem, and the Apostolic Constitutions, for example, the Qur'an eventually implies that Noah was given law, and it retains a sense of the protection of "the land" from prohibited impurity. Yet in the Qur'an, Noah mainly functions as warner to his generation, and it conceives of both "the land" and its susceptibility to impurity somewhat differently than either the Bible or the Jewish tradition. Its apostolic nature places the Islamic Scripture in broad continuity with the narrative surrounding the Decree of the Apostles.

We will also see that the Qur'an combines two central legal narratives regarding Israelite law: it operates, on the one hand, with the notion of a primary and enduring law that was first expanded by a temporary "punitive" law and subsequently abrogated, and, on the other hand, it accuses the Israelites—both Jews and Christians—of having partially corrupted the law that was entrusted to them by textual alteration, addition, or misinterpretation. The Qur'an thus presents itself as restoring the primary divine message, "in which there is no doubt" (Q 2:2),



and it presents Jesus as abrogating *some* of the previous laws given to the Israelites as a punishment for the sins they had committed (Q 3:50), prominently including the veneration of the Golden Calf. In all this, the Qur'an may indeed constitute a "Scripture that confirms [the Scripture of Moses] in the Arabic language" (*wa-hādhā kitābun muṣaddiqun lisānan 'arabiyyan*, Q 46:12) in a far more precise sense than hitherto acknowledged—especially if we consider it as a confirmation of biblical law for gentiles and of some of the legal narratives connected to these laws both in the Bible and throughout late antiquity.

The following pages thus focus on the development of gentile law throughout late antiquity precisely because the Qur'an constitutes its focal point. The most innovative suggestion put forward by this monograph is that the Qur'an's laws, just like the rabbinic Noahide Laws and the Decree of the Apostles, stand in *indirect yet broad and practical* continuity with the Bible's *gerim* laws, especially in the way in which these laws were understood and practised throughout late antique Christianity. The Qur'an, after the Hebrew Bible, the New Testament, and the Tosephta, therefore is presented as formulating the fourth version of God's law for gentiles. Based on the cumulative evidence of closely aligned legal pathways, I will argue that the Qur'an stands in dialogue especially with the appreciative and with the expansive Christian attitude towards the Decree of the Apostles, which it endorses and modifies when formulating its own laws given to Arabians. The Qur'an, in turn, portrays Arabians as non-Israelites, and thereby, arguably, as "gentiles" according to the narrow definition here employed, as spelled out above; the Qur'an obviously displays an increasing sense of its community's distinctness from Israel and eventually an Ishmaelite self-identity. (The Qur'an itself thereby contributed to the creation of the category of "Arab" self-identity.) At the same time, the Qur'an subsumes "the Christians," with which its community stands in contact, under the broader category not only of the (mainly Medinan) "Scripture People" but also under the category's (mainly Meccan) predecessor, "the Sons of Israel"—even if the qur'anic Christians remain differentiated from "the Jews" by disputes over how to follow the Law. The Qur'an's view of the Israelite identity of Christians, along with the legal positions attributed to the Christians in the Qur'an, we will see, roughly correspond to the ethnic self-identity and legal observances prevalent in strands of the West Syrian and possibly also in the Aksumite church, and to some strands of Byzantine political theology.

The historical provenance of the Qur'an, and the proper scholarly approach to it, have been controversial topics for a long time, and for some quarters of scholarship they remain so. Over the past decade or so, however, an increasing consensus has begun to form that situates the Qur'an by striking a balance between those who fully rely on the traditional Islamic historiography, on the one hand, and scholarly approaches wary of placing any trust in them, on the other hand. This moderate approach, aided by C14 dating of many qur'anic manuscripts, recent archaeological findings, and a better understanding of the Qur'an's relationship to



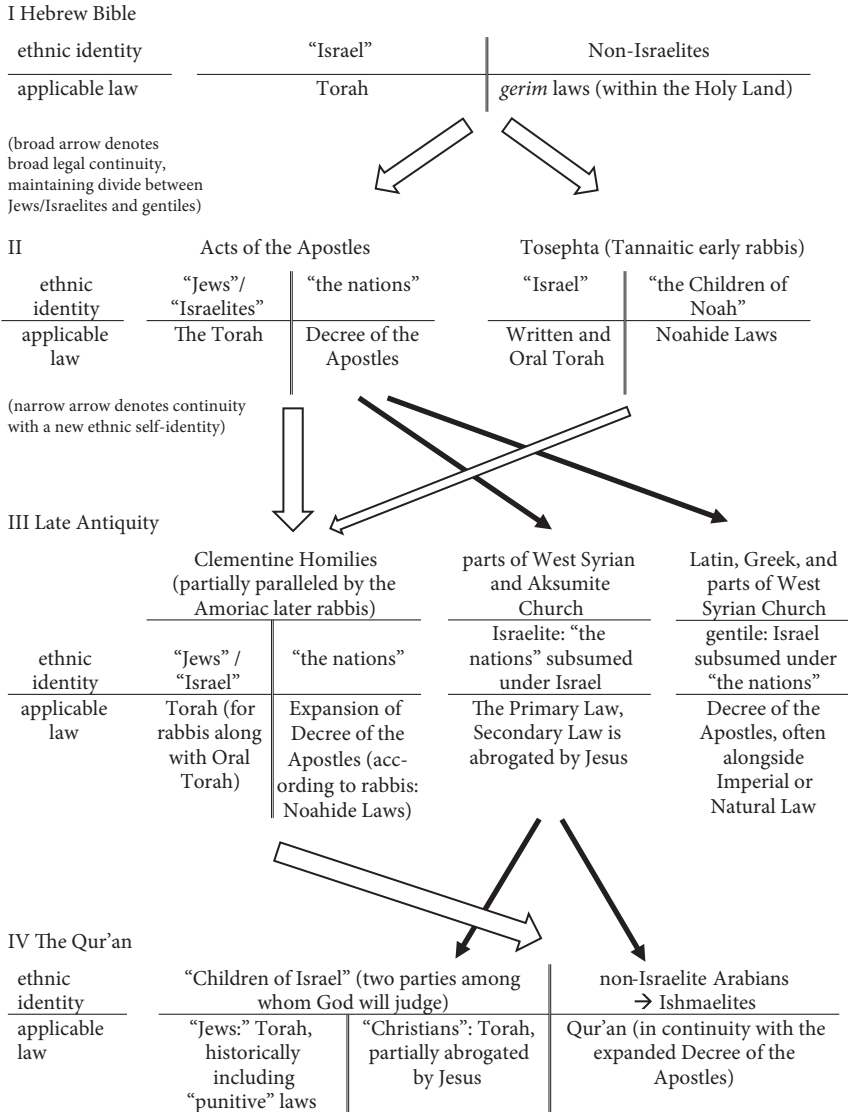
late antiquity, securely places the Qur'an's genesis into the Hejaz—the part of north-western Arabia encompassing both Mecca and Medina depicted on p. xii above—at the turn of the seventh century and connects both the figure of the prophet Muhammad and his growing community CE to the development of their emerging Scripture.

I follow this formative consensus about Islamic origins that, overly enthusiastically, positivists had long sought to dislodge. I therefore see the Qur'an as a late antique text, even if the movements set in motion by the emergence of its community, such as the Arab Muslim conquests of the Near East, can pragmatically be seen as introducing the beginning of the slow and successive transition of this period into the classical Islamic period (concurrent with the European middle ages). This moderate approach, moreover, takes the basic division of the Qur'an into an earlier Meccan and a later Medinan phase as granted, and retains the possibility of more precise relative datings of specific surahs, or even of individual passages within them.

Within this emerging consensus, I advocate a two-partite approach vis-à-vis the traditional Islamic historiography. In a first step, the present study, along with many others, is dedicated to connecting the Qur'an to its late antique biblical and pagan Arabian surroundings. This endeavour has gained much momentum, but will need a few more years to yield more solid results. In a second step, the more secure contextualization of the Qur'an in its late antique context in the seventh century CE will eventually allow for reassessment of the Muslim sources from the eighth and ninth century that describe the prophetic period. Since this second step is only slowly finding a more secure footing in dialogue with the first step, I remain, for now, fully dedicated to pursuing the latter one. I expect that the main lines of the traditional Islamic narrative will eventually be confirmed in the near future, yet at the current moment, I hold that an attempt to reach beyond the middle of the seventh century CE would overburden this study.

To conclude the presentation of the main sources, then, we should keep in mind that the extant writings are but a faint written echo of the rich oral discourse that permeated Arabia at the turn of the seventh century CE. Yet an echo they are, and using what we have may reduce our margins of error when compared with not attempting to contextualize the Qur'an at all. This volume's greatest strength, then, may be the way in which it presents the laws of the Arabian Qur'an and its legal narratives in light of their continuity with, and their departure from, specific strands of late antique law and literature known from outside of Arabia. This strength equally points to its greatest weakness since its focus on extant late antique sources leaves us with very few witnesses from within the Arabic peninsula. Beyond a growing number of published inscriptions, plausibly aspects of the Christian martyrological record, and parts of the pre-Islamic Arabic poetry, hardly any Arabian witnesses have yet been verified to stem from this

**Table 1** A simplified view of major continuities in law and ethnicity, from the Bible to the Qur’an, at the exclusion of “direct” continuities between the Bible and the Qur’an as well as between rabbinic, East Syrian, and Byzantine law and the Qur’an



period. Yet if the study’s arguments will stand, then the following also prepares the attempt to establish pre-Islamic Arabian law by using the Qur’an itself as evidence that those *shared* Jewish and Christian practices it endorses, along with those which it rejects, will help us establish pagan, Jewish and Christian pre-Islamic Arabian legal culture.

## Chapter Overview

In order to combine a longitudinal approach with an attempt to make the wealth of data most accessible, this volume has been divided into four chapters, each of which presents one case study, focusing on food (“Blood and Demons”), sexual laws more broadly (“Sex as Crime”), prohibited unions more specifically (“The Poetics of Incest Law”), and on the implications of transgressions (“Purity and Punishment in the Qur’an”). Each case study shows how the four iterations of God’s laws for gentiles—the laws given to the residents of the Holy Land, the rabbinic Noahide Laws, the Decree of the Apostles, and Muhammad’s address to the qur’anic community—deal with the specifics of each legal area, arguing for the broad legal continuity amidst specific variegation.

### Chapter 1. Blood and Demons: Genesis 9 and Leviticus 17 to Q 6 *Sūrat al-An‘ām* 145–6 and Q 5 *Sūrat al-Mā’ida* 3

Using the double prohibition of murder, on the one hand, and of the consumption of animal blood and of improperly slaughtered animals, on the other, the first chapter introduces the laws given to Noah and his offspring in Genesis 9. It argues that these two prohibitions, legally as well as narratively, form the background also of the laws given to the non-Israelite residents of the Holy Land, the *gerim*, in Leviticus 17. The chapter then illustrates how the prohibitions imposed upon gentiles in the Decree of the Apostles—concerning the consumption of idol meat, of blood, and of improperly slaughtered meat, along with the prohibition of bloodshed—are best explained as based on *gerim* laws formulated in Leviticus 17. The Decree is presented as focusing on aspects of impurity that the Hebrew Bible prohibits to Israelite and *ger* alike; the issue of regulated impurity is not explicitly mentioned. The chapter further considers the entirety of the *gerim* laws in Leviticus 17–26 and argues that these laws underlie not only the Decree of the Apostles but also the rabbinic Noahide Laws, following different exegetical hermeneutics. This allows for a triangulation of the exegetical biblical background of both Jewish and Christian legal narratives, and equally highlights two key differences between the more lenient rabbinic and the stricter Christian tradition of gentile law. Both traditions prohibit idolatry and bloodshed alongside the consumption of blood and a broad list of sexual transgressions, albeit with different emphases. Whereas the rabbis allow gentiles to consume carrion—arguably containing coagulated blood—and patently dismiss the notion that gentiles are susceptible to regulated impurity, Acts prohibits carrion along with all forms of blood as causing prohibited impurity and remains open to being understood as extending the laws pertaining to regulated impurity to gentiles as well.

The chapter then traces the prohibition of idol meat, blood, and carrion throughout late antique Christianity and up to the Qur'an. It argues that the gentile purity laws defined in the Decree of the Apostles, though partially softened or even dismissed by a small minority of Church Fathers since the fourth century, remained part of mainstream Christianity throughout late antiquity and were universally appreciated as well as repeatedly connected to Leviticus 17. Many Christian authorities expanded the scope and the urgency of the gentile purity regulations, always in close dialogue with the Hebrew Bible, and at times also with ascetic forms of Christianity, within the framework of late antique demonology. The chapter concludes with a consideration of the Qur'an's food laws, arguing that the Qur'an dismisses pagan Arabian food laws and instead takes the appreciative and especially the expansive Christian tradition of gentile food laws as its point of departure, all the while expanding some of its regulations and prohibitions pertaining to impurity and introducing dispensations for specific circumstances. The Qur'an also integrates and recasts some of the legal narratives connected to biblical, rabbinic, and Christian food laws, and thereby continues to develop the appreciative and the expansive late antique attitude towards the laws previously associated with the Decree of the Apostles within a novel legal and literary context.

## Chapter 2. Sex as Crime: Leviticus 18:19–26 to Qur'anic *fāhīshah/fahīshā'* (Sexual Transgression) and *zinā* (Fornication)

The second chapter focuses on prohibited and regulated impurity caused by the human sexual functions. A continuous legal development can be traced that starts with the prescriptions on *prohibited* sexual impurity imposed on the *gerim*, on the non-Israelites, especially in Leviticus 18, throughout all forms of late antique Christianity, in this case even more fully shared with the rabbinic Noahide Laws, to the Qur'an. When it comes to prohibited sexual impurity, in other words, the Qur'an seems to dismiss Arabian practices and adopts a biblical model close to that of many late antique Jews and Christians. When considering the concept of *regulated* sexual impurity, by contrast, the Qur'an takes a more specific legal pathway. The Hebrew Bible, along with the Acts of the Apostles, explicates its rulings only for the Israelites, leaving their applicability to the *gerim* and respectively to gentile Christians open to diverging late antique interpretations. The Qur'an's point of departure regarding regulated sexual impurity, in turn, can be pinpointed at the confluence of pagan Arabian culture and the practices of those Christians who endorsed the expansive attitudes towards the Decree of the Apostles, and obeyed laws pertaining to regulated sexual impurity.

The chapter will first sketch the biblical laws pertaining to *prohibited sexual impurity*, which legislate on sexual intercourse during a woman's menses, on

adultery, on sacrificing children to Molech (which was broadly understood as marrying them to pagans), on sex between men, and on bestiality. Simultaneously, the law for Israelites (not given to the *gerim*) in Leviticus governing *regulated* impurity, especially to wash after intercourse and further rules for dealing with menstrual impurity, will also be presented. The rabbis, along with Christians leaning towards a dismissive attitude towards the Decree of the Apostles, in this case joined by many that appreciated the decree as such, tended to reject the applicability of regulated impurity to gentiles. Those Christians defined by an expansive attitude, by contrast, placed great emphasis on regulated sexual purity, perpetuating a number of legal practices equally found in the Qur'an, which expresses them in traditional terms well-attested in Arabian epigraphy.

The chapter will explore the significance of the legal narratives connected to Noah, his son Ham, and the latter's Canaanite offspring in Sodom, and consider the Christian tradition of fusing natural law discourse with a sense that God gave specific laws before Moses. It will furthermore examine the relationship of sexual purity and impurity to the presence of the Holy Spirit and of demons, respectively, and describe a variety of Christian attitudes towards ritual washing and menstrual purity with which the Qur'an can be illustrated to stand in conversation. The chapter will conclude with a study of Meccan and esp. Medinan attitudes towards sexual purity (esp. Q 2:221–222, Q 4:15–18, Q 5:5–7, and Q 24:2–5), arguing that the Qur'an, just as in its stance towards food, stands in continuity with the respective Christian understanding of the Decree of the Apostles, and again in closest continuity with the appreciative and especially the expansive understanding of the decree. In line with the particular laws, the chapter argues that the Qur'anic term *zinā* should be understood in dialogue with the Christian concept of "fornication" as denoting any type of non-incestuous heterosexual intercourse between a man and a woman not married to each other (including adulterous unions), whereas that the far broader Qur'anic term *fāḥishah/fahshā'* should be understood in continuity with the biblical and New Testament notions of "uncovering of nakedness" and *porneia* as "sexual transgression," which both in turn tend to encompass all infractions of the laws given in Leviticus 18 as interpreted by late antique authorities.

### Chapter 3. The Poetics of Incest Law: Leviticus 18:6–18 to Q 4 *Sūrat al-Nisā'* 22–23

This chapter will focus on literary form at the same time as examining the affinity of biblical, late antique, and Qur'anic incest laws. The legal continuities from the Bible to the Qur'an described in Chapters 1 and 2 largely point to the endurance of practice, coupled with the type of broader lexical and conceptual continuity, amidst partial change, one can expect if laws develop over centuries and cross

several cultural and linguistic boundaries in the process. Yet in the case of the Qur'an's legislation on prohibited marriages (in Q 4 *Sūrat al-Nisā'* 22–23), law as formulated in the Hebrew Bible seems to have been accorded a more palpable direct presence. This chapter will argue that the nature and order of the qur'anic prohibitions suggests that the Scripture of Islam integrates and updates a catalogue very similar to the one preserved in the Hebrew Bible (in Lev 18:6–18), which, once again, is addressed to Israelites and *gerim* alike. It will offer a detailed analysis of the biblical law as it is presented, combining a study of literary form with that of the history of law. I will argue that the Bible's incest prohibitions are based on consanguinity and the protection of the rights of God, of male relatives, and of a man's spouse, yet not on affinity, that is relationships acquired by marriage. Analyzing the logic behind the order of the respective marriage prohibitions in the Bible and in the Qur'an, with a focus on literary features such as the repetition of key phrases and terms, the chapter proposes that the Qur'an reflects aspects both of the biblical law in its original order and of the centuries of Jewish and especially Christian discourse on incest prohibitions. Of special relevance for this discourse is the fact that Christian exegesis of Gen 2:24 understood the sexual union between a man and a woman to create a bond akin to that of family ties, and thereby introduced a new restriction of incest law based on affinity—a concept argued to be absent in the Hebrew Bible and only indirectly present in the rabbinic tradition. The Qur'an's largely reciprocal application of laws prohibiting affinal marriages next to consanguineous ones thus again emphasizes the importance of the Christian over rabbinic legal tradition for our understanding of the qur'anic attitude towards biblical gentile purity law. The Qur'an, in this case, can be argued to stand closer to the Bible than Latin, Greek, and West Syrian Christian law, which evidently reflect their Roman legal context. In focusing on the Bible, the Qur'an could even be said to share an attitude with the East Syrian tradition on this matter, yet here we can also find manifest echoes of Byzantine legal reforms. The Qur'an's general leniency for certain types of first-time or inadvertent offenders, along with its dispensations for marriages contracted prior to a couple's joining the qur'anic community, is argued to stand in conversation with both West and East Syrian as well as with Byzantine marriage law. We will see that the qur'anic incest laws equally maintain a demonstrable pagan Arabian heritage.

#### Chapter 4. Purity and Punishment in the Qur'an

Chapter 4 will seek to summarize the Qur'an's system of purity and impurity, and sketch how its catalogue of punishments relates to Syriac and Byzantine legal culture. The chapter begins with an analysis of the qur'anic concept of *prohibited* impurity, epitomized by the term *rijs*, which I hold offers a key to the broader qur'anic purity system. While the Qur'an associates this type of impurity with the

demonic, it remains fully under the power of God, who seeks to remove it with the active collaboration of the believers. The case of *rijs* will be argued to constitute a *pars pro toto*, pointing to the Qur'an's consistent equation of *any* transgression with prohibited impurity. The Qur'an, however, also demands the removal of *regulated* impurity, contracted chiefly through sexual intercourse and a woman's menstrual cycle. Whereas the Qur'an's vocabulary for the two types of impurities, prohibited and regulated, is clearly distinct, its vocabulary for their respective removal partially overlaps, and only the absence of both types of impurity constitutes the general precondition to and the result of divine favour.

Identifying the centrality of prohibited impurity in the Qur'an allows for a revisit of its concept "corruption in the land," which will be argued to share important aspects with the respective biblical and especially rabbinic concept of the Holy Land's pollution through crime. A consideration of the respective punishments for the land's corruption will then lead to a summary of the basic principles of forgiveness and punishment in the Qur'an, which will again emphasize how the Qur'an is best understood in general continuity, and in partial difference, with established practice. A variety of punishments in the Qur'an show close affinity with Byzantine legal reforms of the sixth century, pointing, once more, to the Qur'an's affinity with Christian practice.

### An Outlook

The volume then concludes with an outlook, seeking not so much to summarize its main theses but to consider their implications for the study of history more broadly, and for the study of the Abrahamic traditions more specifically. The relationship of the Bible to the Qur'an can only be comprehended if we give due credit to the importance of law not only in the Jewish but also in the Christian and nascent Islamic traditions. By considering the *gerim* laws as a guiding principle to understanding late antiquity, we may come to a better appreciation not only of the legal but also of the broader continuities between Judaism, Christianity, and Islam. These continuities must be more fully understood in order to grasp the specific divergences between the three major traditions and their many sub-branches, since both the continuities and the differences mark our relationship to our secular as well as to our practising neighbours to this day.

# 1

## Blood and Demons

### Genesis 9 and Leviticus 17 to Q 6 *Sūrat al-An‘ām* 145–6 and Q 5 *Sūrat al-Mā‘ida* 3\*

Previous scholarship (with some contributions by myself) has recognized the link between Leviticus and the early Christian purity regulations,<sup>1</sup> their applicability throughout late antiquity,<sup>2</sup> as well as the continuity between Christian observances and those promulgated for the emerging Islamic community in the Qur’an.<sup>3</sup> This volume pieces together previous studies and describes the resulting

\* The present chapter is a revised and expanded version of Holger Zellentin, “Judaean-Christian Legal Culture and the Qur’an: The Case of Ritual Slaughter and the Consumption of Animal Blood,” in *Jewish Christianity and the Origins of Islam*, ed. Francisco del Río Sánchez (Turnhout: Brepols, 2018), 117–59. Its results align with my previous propositions. The current version, however, expands the record by distinguishing between “regulated” and “prohibited” forms of impurity, as will be discussed below, and probes the Second Temple period in more detail. The notion of “Judaean-Christian Legal Culture” originally proposed in *ibid.* and in Zellentin, *The Qur’an’s Legal Culture: The Didascalia Apostolorum as a Point of Departure* (Tübingen: Mohr Siebeck, 2013), will be revisited in the conclusion.

<sup>1</sup> See for example Friedrich Avemarie, *Neues Testament und frührabbinisches Judentum* (Tübingen: Mohr Siebeck, 2013), 773–800; Isaac Oliver, *Torah Praxis after 70 CE: Reading Matthew and Luke-Acts as Jewish Texts* (Tübingen: Mohr Siebeck, 2013); William Loader, *The Septuagint, Sexuality, and the New Testament: Case Studies on the Impact of the LXX in Philo and the New Testament* (Grand Rapids: Eerdmans, 2004); Peter J. Tomson, “Jewish Purity Laws as Viewed by the Church Fathers and by the Early Followers of Jesus,” in *Purity and Holiness: The Heritage of Leviticus*, ed. Marcel J. H. M. Poorthuis and Joshua Schwartz (Leiden: Brill, 2000), 73–91; Markus Bockmuehl, *Jewish Law in Gentile Churches: Halakhah and the Beginning of Christian Public Ethics* (Edinburgh: T & T Clark, 2000); and Jürgen Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden: Studien zum historischen und theologischen Hintergrund des sogenannten Aposteldekrets* (Göttingen: Vandenhoeck & Ruprecht, 1997).

<sup>2</sup> The classical study remains that of Karl Böckenhoff, *Das apostolische Speisegesetz in den ersten fünf Jahrhunderten: Ein Beitrag zum Verständnis der quasi-levitischen Satzungen in älteren kirchlichen Rechtsquellen* (Paderborn: Schöningh, 1903); Böckenhoff’s derisive attitude towards purity laws is typical of much of the scholarship. A more helpful approach is displayed by Moshe Blidstein in his study *Purity, Community, and Ritual in Early Christian Literature* (Oxford: Oxford University Press, 2017), esp. 61–92; Wojciech Paweł Rybka, *Meaning and Normativity of Jerusalem Council’s Prohibitions in Relation to Textual Variants of Acts 15:20.29 and Acts 21:25: An Analysis and Comparison of Early Interpretations (2nd–5th Century)* (PhD diss., University of Edinburgh, 2017); and David M. Freidenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian, and Islamic Law* (Berkeley: University of California Press, 2011).

<sup>3</sup> See Mehdy Shaddel, “Qur’anic *ummī*: Genealogy, Ethnicity, and the Foundation of a New Community,” *Jerusalem Studies in Arabic and Islam* 43 (2016): esp. 25–41; Erwin Gräf, *Jagdbeute und Schlachttier im islamischen Recht: Eine Untersuchung zur Entwicklung der islamischen Jurisprudenz* (Bonn: Orientalisches Seminar der Universität, 1959), 14–22; Josef Joel Rivlin, *Gesetz im Koran: Kultus und Ritus* (Jerusalem: Bamberger & Wahrmann, 1934), 71; as well as Zellentin, “Judaean-Christian Legal Culture and the Qur’an” and *The Qur’an’s Legal Culture*, esp. 155–74. Cf. also François de Blois



aspects of legal continuity from the Bible to the Qur'an. It seeks to illustrate how later authorities took the basic laws that the Hebrew Bible applied to non-Israelites within the Holy Land as the basis for establishing laws for non-Jews from the first century CE to the seventh and beyond—both in theory and practice. This hermeneutical continuity occasionally included a return to the gentile purity laws of the Hebrew Bible and the ongoing distinction between Jews and non-Jews in questions of law. It was marked by a slow specification, often coupled with an expansion of the Levitical laws for non-Israelites that can be observed in early Judaism and Christianity, throughout late antiquity and up to the Qur'an. This first chapter is constituted of four parts. In its first part, "Purity and Food from the Noahide Covenant to the Holiness School," the food laws given to Noah and the non-Israelite "residents" of the Holy Land will be presented as the biblical basis of all later approaches to gentile law. The second part, "Blood and Carrion before and after the Destruction of the Second Temple," will focus on the double prohibition of blood—murder and the consumption of animal blood—along with the prohibition of carrion in the first three centuries before and of the Common Era. The third part, "Pure Food for Gentiles throughout Late Antiquity," will trace food laws for gentiles from the fourth to the seventh century, with an emphasis on the three divergent Christian attitudes vis-à-vis the Decree of the Apostles: dismissive, appreciative, and expansive (see pp. 19–20 above). The fourth and final part, "Pure Food for Gentiles—or Ishmaelites—in the Qur'an," will examine how the Qur'an positions itself within the long history of the biblical laws for gentiles, and especially vis-à-vis the Christian understanding of these laws. The focus of the chapter will be on the development of the laws and the narratives in which they are embedded; at the same time, we will consider how attitudes towards gentile purity co-developed with these laws.

### **Purity and Food from the Noahide Covenant to the Holiness School**

In order to understand the Bible's purity regulations for gentiles, it is necessary briefly to sketch the broader Israelite purity system, along with the role of the *gerim*—the non-Israelite "residents" of the Holy Land—within this system.<sup>4</sup> A good

"Naṣrānī (Ναζωραῖος) and ḥanīf (ἔθνηκος): Studies on the Religious Vocabulary of Christianity and of Islam," *Bulletin of the School of Oriental and African Studies* 65 (2002): 1–30.

<sup>4</sup> The exact status of the *gerim* (the plural of *ger*) and the related *toshavim* (the plural of *toshav*) in the Bible remains the subject of scholarly debate; an exact determination of the social realities of Israelite society can be bracketed for the current inquiry. On the term *ger* in its biblical context see especially Joram Mayshar, "Who Was the 'toshav'?" *Journal of Biblical Literature* 133 (2014): 225–46; Reinhard Achenbach, "*gēr-nakhrī-tōshav-zār*: Legal and Sacral Distinctions Regarding Foreigners in the Pentateuch," in *The Foreigner and the Law: Perspectives from the Hebrew Bible and the Ancient Near East*, ed. Achenbach, Rainer Albertz, et al. (Wiesbaden: Harrassowitz, 2011), 29–51; and Saul Olyan, *Rites and Rank: Hierarchy in Biblical Representations of Cult* (Princeton: Princeton University Press,

starting point for a discussion is offered by Jonathan Klawans, who has refined earlier scholarship by Jacob Milgrom and others, and suggests that the purity system of the Hebrew Bible, insofar as it applies to Israelites, can best be described as distinguishing between the concepts of “moral” and “ritual” impurity. Since Klawans’ definition is paramount for this volume, I quote it at length:

Leviticus 11–15 and Numbers 19... describe what is commonly referred to as “ritual impurity.” This defilement results from direct or indirect contact with any one of a number of natural processes, including childbirth, scale disease, genital discharges, the carcasses of certain animals, and human corpses.... [T]he following can be said of ritual impurity: It is natural, more or less unavoidable, generally not sinful, and typically impermanent. It is true that the refusal to purify oneself would constitute a transgression, as would coming into contact with the sacred while in a state of ritual impurity.... But in the end, the following claim still stands: It is not sinful to be ritually impure, and ritual impurity does not result from sin.

The defilement that results from sin, however, is altogether different. This “moral impurity” results from committing certain acts so heinous that they are considered defiling. These acts include sexual sins, idolatry and bloodshed, and they bring about an impurity that morally—but not ritually—defiles the sinner, the land of Israel, and the sanctuary of God. This defilement, in turn, leads to the expulsion of the people from the land of Israel.... There is no contact-contagion associated with moral impurity: One need not bathe subsequent to direct or indirect contact with an idolater, a murderer, or an individual who committed a sexual sin. Moreover, there is no purification rite akin to those associated with ritual impurity: moral purity is achieved by punishment, by atonement, or by not committing morally impure acts in the first place. While the sources of ritual impurity convey to persons an impermanent contagion, the sources of moral impurity convey a long-lasting, if not permanent, defilement to sinners and to the land upon which their sins have been committed. Because of these differences, it is imperative to distinguish between moral and ritual impurity.<sup>5</sup>

2000), 69–74; for a lucid summary see also Adi Ophir and Ishay Rosen-Zvi, *Goy: Israel’s Multiple Others and the Birth of the Gentile* (Oxford: Oxford University Press, 2018), 23–56. For Qumranic evidence see Carmen Palmer, *Converts in the Dead Sea Scrolls: The *ger* and Mutable Ethnicity* (Boston: Leiden, 2018) and Kengo Akiyama, “The 11 and Interpretive Integration in the Damascus Document 6:20–1 and 14:3–6,” *Journal of Jewish Studies* 67 (2016): 249–66. If not further qualified, I use the term *ger* exclusively in order to designate the biblical “resident”; note, however, that the term *ger* in Qumranic and rabbinic Hebrew can designate a person whose observances equal that of an Israelite. On the rabbis’ reasoning for effectively eradicating the interstitial biblical category of the biblical *ger* see the helpful discussion of Ophir and Rosen-Zvi in *Goy*, 180–201 as well as Moshe Lavee, *The Rabbinic Conversion of Judaism: The Unique Perspective of the Bavli on Conversion and the Construction of Jewish Identity* (Leiden: Brill, 2017); see also note 16 below.

<sup>5</sup> Jonathan Klawans, *Impurity and Sin in Ancient Judaism* (Oxford: Oxford University Press, 2000), 41; for previous important studies see e.g. Jacob Milgrom, *Leviticus: A Book of Ritual and Ethics*

Klawans' definition improves previous models that did not precisely distinguish between the two types of purity we find in the Hebrew Bible. The definition cannot, of course, describe the variegated and multilayered nature of biblical purity as such. It is, rather, most closely aligned with the purity system of the Holiness School, a layer of Leviticus to which we will presently turn. The Holiness School indeed uses overlapping language to describe two diverging types of impurity. Bloodshed, idolatry, and sexual transgressions lead to a type of "moral" impurity from which an Israelite cannot, or at least not easily, be cleansed, whereas the realities of daily life—the procurement of food, sexual intercourse, disease, and death—lead to ritual impurity, from which an Israelite can and must be cleansed. The distinction between moral and ritual purity, which *prima facie* applies to Israelites, will prove helpful when trying to understand the biblical alongside later Jewish, Christian, and early Islamic approaches to *gentile* purity laws. These traditions, unsurprisingly, primarily focus on those transgressions the Bible portrays as "moral impurity," in Klawans' parlance—yet often without leaving "ritual" purity discourse behind. Significantly, both the *distinguishable* nature of the two types of impurity, as well as their fundamental conceptual overlap, has concomitantly co-determined not only biblical but also late antique and qur'anic *discourse* and practice.

Klawans' system, in other words, is useful only as a first approach. Already in the Hebrew Bible, the distinction between "moral" and "ritual" impurity is more complex than the terms (if not the qualifications) suggested by Klawans indicate, as Mila Ginsburskaya and others have pointed out. Menstrual purity, we will see, has both "moral" and "ritual" components. Failures to comply with "ritual" regulations, moreover, must be classified as "moral" failures, as Klawans himself readily points out, and the Hebrew Bible at times use the language of ritual purity to castigate moral transgressions (see e.g. Ps 51, Ezek 36:25, and Isa 64:5). Ginsburskaya, moreover, prefers to speak of "sin-impurity" vs "physical" impurity instead of "moral" vs "ritual" impurity, and has furthermore argued that there are important distinctions between major and minor cases resulting from either type of impurity.<sup>6</sup> Since some types of "sin-impurity," especially those relating to food laws, undeniably have "physical" implications, Ginsburskaya furthermore suggests an alternative distinction between "removable" and "irremovable" forms of impurity. Ginsburskaya's alternative categories have the great advantage that they offer an effective analytical approach to the Bible while at the same time adding

(Minneapolis: Fortress Press, 2004) and Hyam Maccoby, *Ritual and Morality: The Ritual Purity System and Its Place in Judaism* (Cambridge: Cambridge University Press, 1999).

<sup>6</sup> See Mila Ginsburskaya, "Purity and Impurity in the Hebrew Bible," in *Purity: Essays in Bible and Theology*, ed. Andrew Brower Latz and Arseny Ermakov (Eugene, OR: Wipf and Stock, 2014), 3–29. Ginsburskaya, as well as Klawans, draw on the work of David P. Wright, "The Spectrum of Priestly Impurity," in *Priesthood and Cult in Ancient Israel*, ed. Gary Anderson and Saul M. Olyan (Sheffield: JSOT Press, 1991), 150–81.

less socio-linguistical baggage than the notions of “sin” or “morality.” Ginsburskaya then recasts the relationship between the two distinct types of impurity as distinguishable yet as less insurmountable than Klawans has it: in the Bible, some forms of “removable” purity can become “irremovable” if not properly addressed. Milder forms of what could otherwise become “irremovable” impurity can be atoned for in a variety of ways, be it by sin-offering or by repentance.<sup>7</sup>

The rapprochement between the two forms of impurity is thus firmly inscribed in the Bible, both in the semantics of its overlapping vocabulary and in its metaphorical landscape. The simultaneous process of distinguishing between moral and ritual forms of impurity and conflating them rhetorically or even conceptually has informed postbiblical Jewish and Christian discourse and also marks the Qur’an, as we will see. Yair Furstenberg has argued that in the Second Temple period “the distinction between moral and ritual impurity was blurred, and practices for the disposal of bodily impurity were gradually applied to carriers of sin impurity.”<sup>8</sup> Furstenberg, with good reason, also places the ritual language of baptism in this tradition. In addition to the symbolical fusion of two types of impurity we find in the Hebrew Bible and in the Second Temple period, we will also encounter instances of an inverted polemical fusion between “ritual” and “moral” impurity, employed by Church Fathers opposed to observing the former type: accusing those pursuing it of being guilty of the latter type is a standard theme in patristic literature. Most importantly, we will see that even Christian literature endorsing the observance of ritual purity, along with the Qur’an, tends to fuse the concepts of ritual and moral *purity* to a degree, all the while distinguishing between the respective kinds of *impurity*. Klawans’ distinction, if carefully employed, can thus help us perceive moments of the categorical distinction and conflation of purity with greater clarity in the Bible, in its Jewish and Christian interpretation, and in the Qur’an.

In order to establish a nuanced yet robust approach that allows us to discuss the continuities of biblical and late antique types of impurity, I will build on Klawans’ work along with Ginsburskaya’s modifications while also simplifying the complex discussions of biblical purity by juxtaposing the two categories of impurity strictly for the purposes of this volume. I hold that one can approach the entirety of cultures and literatures from the Bible to the Qur’an by differentiation between “regulated” and “prohibited” impurity—as long as one equally allows for contingent overlap between these two categories. The former type of “regulated” impurity corresponds to what scholars have called “ritual,” “physical,” or “removable” purity, the latter type of “prohibited” corresponds to “moral,” “irremovable,”

<sup>7</sup> See Ginsburskaya, “Purity and Impurity in the Hebrew Bible,” 8–14 as well as David Lambert, *How Repentance Became Biblical: Judaism, Christianity, and the Interpretation of Scripture* (Oxford: Oxford University Press, 2016).

<sup>8</sup> Yair Furstenberg, “Initiation and the Ritual Purification from Sin: Between Qumran and the Apostolic Tradition,” *Dead Sea Discoveries* 23 (2016): 365.

or “sin-impurity.” In effect, the general distinction between the categories of prohibited and regulated impurity, along with their occasional conflation (either from an insider’s perspective or from outsider’s seeking to ridicule regulated impurity observances), constitutes the smallest common denominator shared by biblical, late antique, and early Islamic systems of purity. This holds true even in those cases when the issue of regulated impurity only marks discourse by the negation of its relevance, as in some patristic polemics. Even those Church Fathers who consider the category of regulated impurity as obsolete, in other words, often accuse Christians who observe it as contracting *prohibited* impurity in their futile pursuit of avoiding the regulated type. A full anthropological assessment of each of these complex systems would surpass the scope of the present preliminary study by far. Yet the following attempt to illustrate the residual yet demonstrable conceptual continuity of prohibited and regulated impurity, both in discourse and in practice, from the Bible to the Qur’an, may be useful for scholars attempting more deeply to engage in this type of inquiry that has received far too little attention especially in Christian and in Islamic studies.

In what follows, we will see that the ongoing validity of the prohibitions Genesis imposes on gentiles and Leviticus on the *gerim* were, by and large, uncontested throughout late antiquity, even if they were understood in diverging ways: Christians were stricter in their understanding of *prohibited* impurity with regard to gentiles, whereas the rabbis imposed more lenient interpretations of the same prohibitions on gentiles.<sup>9</sup> However, when it comes to the susceptibility of Jews and gentiles to *regulated* types of impurity, different traditions, unsurprisingly, make strongly divergent claims, which can be roughly placed into three categories:

1. Some textual witnesses consider both Jews and gentiles (or, in the case of the Hebrew Bible, Israelites and *gerim*) as susceptible to regulated impurity. The Holiness School, to which Leviticus 17–26 is usually attributed, many

<sup>9</sup> Language denigrating what I name “regulated impurity” as such is arguably rooted in the New Testament and commonly found throughout late antiquity, yet not a single text of which I am aware rejects the notion of the type of impurity I designate as “prohibited.” For instance, even the, arguably, most anti-Jewish of the Deutero-Pauline epistles, the one to Titus, which praises “not paying attention to Jewish myths or to commandments (*ioudaikois mythois kai entolais*) of those who reject the truth” (Titus 1:14), endorses the category of prohibited impurity when stating that “to the pure all things are pure (*panta kathara tois katharais*), but to the polluted and unbelieving nothing is pure (*tois de memiammenois kai apistois ouden katharon*). Their very minds and consciences are polluted (*alla memiantai autōn kai o nous kai ē syneidēsis*)” (Titus 1:15). Note that the passage from the Letter to Titus is exploited by the Church Fathers; see e.g. Tertullian, *De Corona* 10 and Augustine, *Contra Faustum* 6:3 and 31:1–4. On the matter of impurity in Christianity more broadly see e.g. Blidstein *Purity, Community, and Ritual in Early Christian Literature*; John Dunnill, *Sacrifice and the Body: Biblical Anthropology and Christian Self-Understanding* (Abingdon: Routledge, 2016), esp. 65–98; Furstenberg, “Initiation and the Ritual Purification from Sin,” 365–94; Darian Lockett, *Purity and Worldview in the Epistle of James* (London: T & T Clark, 2008), esp. 26–65; and Daniel Weiss and Holger Zellentin, “Purity and the West: Christianity, Secularism and the Impurity of Ritual,” in *Purity and Danger Now: New Perspectives*, ed. Daniel Weiss, Simone Schnall, and Robbie Duschinsky (Abingdon: Francis and Taylor, 2016), 181–204.

- late antique Christians (from the early Alexandrian tradition to the Clementine Homilies and likely Gregory the Great), as well as the Qur'an seem to belong in this category.
2. Second, some texts consider only Jews but not necessarily gentiles (or, in the case of the Hebrew Bible, Israelites but not *gerim*) as susceptible to regulated impurity; arguably, parts of Deuteronomy, the rabbis, along with many New Testament texts (such as Paul's letters and possibly the Acts of the Apostles) seem to follow this option.
  3. Finally, many patristic sources consider the notion of regulated impurity as abrogated, for Jews, by Jesus' coming, and as irrelevant for gentiles, and therefore as obsolete at best, if not as a dangerous heritage from the past. Yet even some of these sources tend to contain occasional vestiges of regulated impurity discourse, including aspects of impurity resulting from menstruation or post-partum bleeding, or aspects of ritual washing.

With a broad sketch of late antiquity in mind, we can turn to the case of Leviticus, and trace the development of its purity system especially when it comes to food laws, up to the Qur'an. The relevant passages in Leviticus, it would seem, only applied select cases of regulated impurity to the *gerim*—they are clearly susceptible to corpse impurity and impurity gained through the consumption of carrion, for which ritual purification is required. The case of corpse impurity will be bracketed off for the present considerations, since such purification became impossible when the ashes of the Red Heifer became unprocurable at some point after the destruction of the Temple; the matter equally received less attention throughout late antique Christianity and none in the Qur'an.<sup>10</sup> The issue of gentile impurity contracted through the consumption of carrion, however, can be traced from the Hebrew Bible all the way to the Qur'an—yet whereas non-Israelites who ate carrion would only have contracted regulated impurity according to one layer of the Hebrew Bible, the consumption of such meat would have led to prohibited impurity in much of late antique Christianity and in the nascent Islamic community. In order to understand this peculiar development, we need to consider the emergence of gentile law at the narrative beginning, in Genesis.

In its historical narrative, the Hebrew Bible places the laws applicable to Israelites alone in the framework of God's much older relationship with all of humanity. The laws pertaining to prohibited and to regulated impurity given to

<sup>10</sup> The issue of corpse impurity remained a central part of Jewish and an important part also of Christian discourse, as recently illustrated by Blidstein in his study *Purity, Community, and Ritual in Early Christian Literature*, esp. 92–104; inversely, Jews were equally susceptible to the cult of relics, see Jeffrey L. Rubenstein, "A Rabbinic Translation of Relics," in *Crossing Boundaries in Ancient Judaism and Early Christianity: Ambiguities, Complexities, and Half-Forgotten Adversaries: Essays in Honor of Alan F. Segal*, ed. Kimberly Stratton and Andrea Lieber (Leiden: Brill, 2016), 314–34. The role of corpse impurity, as well as impurity through scale disease or, for women, by giving birth, for late antique gentiles remains in need of further scholarly attention, yet see also note 86 (Chapter 2) below.

Moses and viewed as binding to all Israelites were preceded by another covenant between God and Noah; it is this covenant that determined all later gentile purity regulations—albeit in different ways.<sup>11</sup> After the flood, God explicitly allowed all humans to consume animals, yet He also required them simultaneously never to consume animal blood and not to spill human blood, as detailed in Genesis 9:

3. Every moving thing that lives shall be food for you

and just as I gave you the green plants, I give you everything.

4. Only, flesh with its soul, its blood (*bāsār bənapšō dāmo*), you (pl.) shall not eat

5. For your own soul-blood (pl., *ʿet-dimkem lənapšōtēkem*) I will surely require a reckoning:

from every animal I will require it and from human beings,

each one for the blood of another,

I will require a reckoning for the human soul (*ʿet-nepeš hāʿādām*).

6. Whoever sheds the blood of a human (*šōpēk dam hāʿādām*),

by a human shall that person's blood be shed (*bāʿādām dāmō yiššāpēk*),

for in His own image God made humankind.

The Bible here thematically associates two prohibitions which remain interdependent in later jurisprudence: it associates the consumption of animal blood with the spilling of human blood.<sup>12</sup> These two prohibitions form the very basis of all later gentile purity regulations from those of the Bible to those of the Qur'an. The language in Genesis, however, does not yet mention purity. This is not surprising; as mentioned above, the biblical purity regulations are generally focused on Israelites. In later Jewish thought, gentiles as such cannot, in general, be defiled or defiling—as the Talmud puts it, “whoever has no purity law cannot

<sup>11</sup> The narrative in Gen 8:20–9:17 does not technically predicate the validity of the covenant on the double prohibition of blood, yet the laws pertaining to blood in Gen 9:1–6 are framed within God's decision (Gen 8:20–22) and his subsequent covenantal promise (Gen 9:8–17) never to flood the entire earth again, a promise recalled elsewhere in the Hebrew Bible (see e.g. Isa 54:9). The rabbis and the Church Fathers, we will see, return to this passage when discussing laws for gentiles; see e.g. *Bereshit Rabbah* 34:11 and 44:5; Bavli *Sanhedrin* 56b; Ephrem, *Commentary on Genesis* 6:14–15; Apostolic Constitutions 6:12; Cyril of Jerusalem, *Catechetical Lecture 3 (On Baptism)*, 5; Saint Augustin, *Against Heresies* 3:11:8; and John Chrysostom, *Homily 14 (On Hebrews)*, 4; see also Stephen D. Benin, “Commandments, Covenants and the Jews in Aphrahat, Ephrem and Jacob of Sarug,” in *Approaches to Judaism in Medieval Times*, ed. David R. Blumenthal (Chico, CA: Scholars Press, 1985), 135–56.

<sup>12</sup> It is unclear whether the capital punishment for the spilling of human blood is to be administered by other humans (“by a human that person's blood shall be shed”), as translated here and widely endorsed, or left to divine justice (“for a human that person's blood shall be shed”), as argued by Bernard Jackson, *Wisdom-Laws: A Study of the Mishpatim of Exodus 21:1–22:16* (Oxford: Oxford University Press, 2006), 146 note 145. For a detailed commentary on the passage see e.g. Ronald Hendel, *Genesis 1–11: A Translation and Commentary* (The Anchor Yale Bible Commentaries; New Haven: Yale University Press, forthcoming); and Georg Fischer, *Genesis 1–11* (Herders Theologischer Kommentar zum Alten Testament; Freiburg: Herder, 2018), 454–516.



contaminate.”<sup>13</sup> The rabbis, in other words, eliminate the concept of regulated impurity when it comes to gentiles and exclusively focus on transgressions that would cause them to contract prohibited impurity, just as many Church Fathers considered the former case of impurity as abrogated for Jews and gentiles alike, retaining only the latter notion. Considerable strands within late antique Christian thought, however, along with the Qur’an, can be situated squarely in-between these two more interventionist approaches, retaining aspects of both types of impurity, and applying them to Jews as well as to gentiles.

This intermediate position has a readily perceivable biblical pedigree. Contrary to the strand in Israelite and then Jewish thought, priestly sources including the products of the “Holiness School”—esp. the so-called “Holiness Code,” the post-exilic passage comprising Leviticus 17–26 that most scholars see as redacted independently of the main body of Leviticus—understood the slaughter of animals to idols, the consumption of carrion and of animal blood, the shedding of human blood alongside the touching of corpses, and sexual contact with menstrual discharge as *defiling* gentiles along with Israelites.<sup>14</sup> Some of these defilements, we will see, fall into the category of “prohibited” impurity, while others constitute cases of “regulated” impurity.

In detail, Leviticus upholds the Noahide Covenant as binding; it therefore prohibits, in clear terms, both Israelites and *gerim* to shed human blood or consume blood of any sort.<sup>15</sup> We should first note that the text places the double prohibitions of blood in a context that differs from the primordial Noahide story by prefacing them with the double context of foreign worship and of sexual

<sup>13</sup> See Bavli *Nazir* 6a–b; Mira Balberg, using gentile purity as an example, has recently underlined just how widely the rabbis’ understanding of purity differs from that of the Bible; see Balberg, *Purity, Body, and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014), esp. 122–47; see also Vered Noam, “Another Look at the Rabbinic Conception of Gentiles from the Perspective of Impurity Laws,” in *Judaea-Palaestina, Babylon and Rome: Jews in Antiquity*, ed. Benjamin Isaac and Yuval Shahar (Tübingen: Mohr Siebeck, 2012), 89–110, and Christine Hayes, *Gentile Impurities and Jewish Identities: Intermarriage and Conversion from the Bible to the Talmuds* (Oxford: Oxford University Press, 2002), 39 and 107–45; see also p. 66 below.

<sup>14</sup> The concept of the “Holiness School” is of course a contemporary construct subject to constant revision; see most recently Julia Rhyder, *Centralizing the Cult: The Holiness Legislation in Leviticus 17–26* (Tübingen: Mohr Siebeck, 2019) and the foundational works by Jacob Milgrom, *Leviticus 17–22: A New Translation with Introduction and Commentary* (Anchor Bible Commentary; New Haven: Yale University Press, 2007) and Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Winona Lake, IN: Eisenbrauns, 2007). A closer connection between the Holiness School and Genesis has been put forward by Bill T. Arnold, “The Holiness Redaction of the Primeval History,” *Zeitschrift für die alttestamentliche Wissenschaft* 129 (2017): 483–500; the evidence for the argument, however, remains insufficient. Note that the term “code” would imply a comprehensiveness and a systematic presentation that hardly does justice to any of the legal collections under scrutiny in this volume; for a summary of the recent discussion see Pamela Barmash, *The Laws of Hammurabi: At the Confluence of Royal and Scribal Traditions* (Oxford: Oxford University Press), esp. 7–22.

<sup>15</sup> See Rhyder, *Centralizing the Cult*, 190–259; for a comprehensive commentary on Leviticus 17 and a review of recent literature see Thomas Hieke, *Leviticus: Zweiter Teilband: 16–27* (Herders Theologischer Kommentar zum Alten Testament; Freiburg im Breisgau: Herder, 2014), 611–42. The connection between Genesis and Leviticus has already been pointed out by Hayes, *Gentile Impurities*, 37–39.



transgressions; the triad of bloodshed, idolatry, and sexual transgressions will remain central also in late antique discourse. According to Leviticus 17,

1. The Lord spoke to Moses:
2. Speak to Aaron and his sons and to all the people of Israel and say to them: This is what the Lord has commanded.
3. If anyone of the house of Israel slaughters an ox or a lamb or a goat in the camp, or slaughters it outside the camp,
4. and does not bring it to the entrance of the tent of meeting, to present it as an offering to the Lord before the tabernacle of the Lord, he shall be held guilty of blood; he has shed blood (*dām yēḥāšēb lā'īš hahû' dām šāpāk*), and he shall be cut off from the people (*wānikrat hā'īš hahû' miqqereb 'ammô*).
5. This is in order that the people of Israel may bring their sacrifices that they offer in the open field, that they may bring them to the Lord, to the priest at the entrance of the tent of meeting, and offer them as sacrifices of well-being to the Lord.
6. The priest shall dash the blood against the altar of the Lord at the entrance of the tent of meeting, and turn the fat into smoke as a pleasing odour to the Lord,
7. and they may no longer offer their sacrifices for goat-demons (*wālō'-yizbāḥû' 'ōd 'et-zibḥēhem laššō'irim*), to whom they prostitute themselves (*'āšer hēm zōnīm 'aḥārēhem*). This shall be a statute for ever to them throughout their generations.
8. And you shall say to them (i.e. to “all the people of Israel”), “Whoever there is of the house of Israel, or of the *ger* who sojourn among you (*haggēr 'āšer-yāgûr batōkām*), who offers a burnt offering or sacrifice,
9. And brings it not to the door of the Tent of Meeting, to offer it to the Lord; that man shall be cut off from among his peoples (*wānikrat hā'īš hahû' mē'ammāyw*).”

The audience of this passage is crucial for my argument: it is addressed to Israelites first (see v. 2) and to the *gerim* second (see v. 8); note that the latter can apparently be “cut off” from their people as much as the former ones (see v. 9). We cannot here discuss whether the *gerim* form part of “the people” of Israel without being Israelites themselves.<sup>16</sup> Yet Israelite and *ger* alike are required to bring all animals to the Tent of Meeting as a sacrifice to God. Slaughter is ritualized, and the failure to sacrifice to God is associated with the three sins of bloodshed (v. 4),

<sup>16</sup> The precise status of the biblical as well as of the rabbinic *ger* vis-à-vis a natural born Israelite remains a matter of dispute. I am fully convinced by the general argument that Israel as such remains an ethnically distinct category in all forms of ancient thought: one can become an Israelite only by birth; see esp. Matthew Thiessen, *Contesting Conversion: Genealogy, Circumcision, and Identity in Ancient Judaism and Christianity* (Oxford: Oxford University Press, 2011). The rabbis equally seem to consider only people who are the offspring of an Israelite woman to be Israelites (and, for example, permitted to marry a priest, see Mishna *Yevamot* 6:5 and *Bikkurim* 1:5); converts may thus well be “Jewish,” but remain in an ethnically distinct category (see also note 4 above).

idolatry, and sexual transgression (both in v. 7). In detail, the necessity to atone for the shedding of animal blood—which may be said to be implicit already in Genesis 9 and is then explicated in the passage’s sequel—is in turn predicated on the notion that the failure to present the animal as a sacrifice is in turn presented as “bloodshed,” the term associated with the killing of a human being in Genesis.

The text, to be sure, does not explicitly state that the spilling of animal blood is tantamount to the spilling of human blood. Nevertheless, it states that “the man” who fails to bring the killed animal to the altar “is considered guilty of blood; he has shed blood” (*dām yēḥāšēb lāʾiš hahūʾ dām šāpāk*), and will be “cut off from among his people” (Lev 17:4). The phrasing evokes the general prohibition of human bloodshed in Genesis, “whoever sheds the blood of a human” (*šōpēk dam hāʾādām*, Gen 9:6), symbolically linking the slaughter of animals with that of humans (through chiasm, in the Hebrew text). The wrongful shedding of human blood thus constitutes much more than a “crime” in the modern sense, as an injustice directed against an individual or society. Spilling human or animal blood in any circumstance other than those narrowly defined in the Bible—avenging a murderer or properly slaughtering an animal, in the Tabernacle or Temple if possible, by draining its blood in any case—constitutes an offence against God, akin to blasphemy, which Leviticus equally prohibits to Israelites and *gerim*, again in the context of prohibiting murder (see Lev 24:16). Moreover, the failure to bring the meat and fat of the slaughtered animal to the Tent of Meeting is explained as preventing the previously prevailing sacrifice to the “Goat demons”—an act which in turn is presented symbolically as sexual transgression, which will be the focus of Leviticus 18 (and the following two chapters of this volume).<sup>17</sup> The ethical triad of prohibiting idolatry, blood—both murder and the consumption of animal blood—and sexual transgressions is thus addressed to the gentile *ger* in its entirety when he makes an entry in Leviticus 17.

The passage then continues by returning to the main theme of Genesis 9, the prohibition of consuming animal blood that forms in several ways the legal basis of all later gentile purity regulations:

10. And whoever there is of the house of Israel, or of the *ger* who sojourn among you (pl., *ūmin-haggēr haggār bətōkām*), who eats any kind of blood (*kāl-dām*); I will set my face against that soul who eats blood (*bannepēs hāʾōkelet ʿet-haddām*), and will cut him off from among his people (*wəhikrattī ʾōtāh miqqereb ʿammāh*).

<sup>17</sup> On the biblical goat demons see Rhyder, *Centralizing the Cult*, 209–17; Maciej M. Münnich, “What Did the Biblical Goat-Demons Look Like?,” *Ugarit-Forschungen* 38 (2006): 523–33; on the translation of the passage in the Septuagint and the Targumim and its importance for understanding late antique demonology see pp. 88–98 below and see Oliver, *Torah Praxis after 70 CE*, 371–75; on the development of demons more broadly see for instance Armin Lange et al. (eds), *Die Dämonen: Die Dämonologie der israelitisch-jüdischen und früh-christlichen Literatur im Kontext ihrer Umwelt* (Tübingen: Mohr Siebeck, 2003).

11. For the soul of the flesh is in the blood (*kî nepeš habbāsār baddām hî*); and I have given it to you upon the altar to make an atonement for your souls (*lakappēr ‘al-napšōtēkem*); for it is the blood that makes an atonement for the soul.

12. Therefore I said to the people of Israel, No soul of you shall eat blood, nor shall any *ger* who sojourns among you (pl., *wəhaggēr haggār bātōkkem*) eat blood.

13. And whoever there is of the people of Israel, or of the *ger* who sojourns among you (*ūmin-haggēr haggār bātōkām*), who hunts and catches (*yāšūd šēd*) any beast or bird to be eaten: he shall spill its blood (*wəšāpak ‘et-dāmō*), and cover it with dust.

14. For it is the soul of all flesh; the blood of it is for its soul; therefore I said to the people of Israel, “You shall not eat the blood of any kind of flesh; for the soul of all flesh is its blood; whoever eats it shall be cut off” (*kāl-‘ōkālāyw yikkārēt*).

15. And every soul who eats that which died of itself (*nabēlāh*), or that which was torn (*ūtārēpāh*, i.e. by wild beasts), whether he is a natural-born citizen or a *ger* (*bā‘ezrāh ūbaggēr*), he shall both wash his clothes, and bathe himself in water, and be unclean (*wəṭāmē*) until the evening; then shall he be clean.

16. But if he washes them not, nor bathe his flesh; then he shall bear his iniquity.

Leviticus here adds a new idea to the concept, in Genesis, that improperly spilled blood requires punishment: even the proper spilling of blood of animals requires *atonement*. It is for this reason as much as for the avoidance of idol worship that all animals killed must be brought to the altar.<sup>18</sup>

How do the transgressions here listed relate, first, to prohibited and, second, to regulated impurity? The Holiness School presupposes rather than develops the notion that heinous offences permanently defile a human sinner, a discourse attested throughout the Pentateuch. The spilling of human blood defiles the land, for “blood pollutes the land (*kî haddām hū’ yāhānīp ‘et-hā’āreš*)... and you (sg.) shall not defile the land (*wəlō’ təṭammē’ ‘et-hā’āreš*)” (Num 35:33–34, see also Isa 24:5 and Jer 3:1).<sup>19</sup> The Hebrew term *hā’āreš* can denote either “land” or “earth.” While the Bible seems to imply that the pollution through bloodshed applies to the “Land of Israel” alone, it never states so explicitly, and later readers took diverging opinions on whether this defilement would equally apply to the soil anywhere.

The biblical decree against bloodshed, in the meantime, is categorical and clear: a ransom is not acceptable for murderers, and even people merely guilty of unintentional manslaughter, Israelite and *gerim* alike, must flee the Holy Land and

<sup>18</sup> On the biblical context of the passage see e.g. Hieke, *Leviticus*, 630–39.

<sup>19</sup> On the close affinity of bloodshed and defilement see Matthew J. Lynch, *Portraying Violence in the Hebrew Bible: A Literary and Cultural Study* (Cambridge: Cambridge University Press, 2020), esp. 230–60.

cross the Jordan in order to find refuge. The implication seems to be that only the shedding of their own blood would otherwise purify them from the blood they had unintentionally shed, just as the shedding of the blood of a murderer atones for the deed (see e.g. Num 35:19–34 and Deut 19:1–13). According to Leviticus, acts of idolatry, the consumption of animal blood, as well as murder and sexual transgressions, equally came to be seen as defiling—both in explicit law and in the legal narratives that develop along with the actual rules. It is these sins that lead to a type of prohibited impurity that can affect Israelites and gentiles alike.<sup>20</sup>

It is in light of the close symbolical association of the shedding of human and of animal blood that the strict prohibition to consume blood both in Genesis and in Leviticus 17 should be understood. The Israelite or the *ger* who consumes it will be cut off “from his people” (verses 10 and 14) indicating that he (and it is exclusively of men that Leviticus tends to speak) may not have been an Israelite, but very much part of ‘*am*, “a people.” The *ger* is thus part of “a people,” or perhaps even part of the “people” of Israel without being an Israelite, as noted above.

The strict prohibition of the consumption of blood in Genesis, moreover, requires the adjacent adjudication of borderline cases—as will later also happen in the gentile purity regulations, up to the Qur’an. Leviticus, already specifying the general prohibition of blood in Genesis, clarifies four common cases in which the killing of an animal could not easily be conducted in a proper way: that of hunting, of secular slaughter, of carrion (*nevelah*), that is, a naturally deceased animal, and that of an animal torn by wild beasts (*trefah*).

In the case of hunting, Leviticus offers a simple dispensation: the hunter has to drain the blood of the animal after killing it; the covering of the blood with sand here takes the place of the ritual slaughter at the altar (see Lev 17:13). Similarly, we find a dispensation for the “secular” killing of animals in towns “too far” from the sanctuary in Deut 12:15–21.<sup>21</sup> Such cases remain unaffected by the specific demand to present the meat to the altar; here, as in the case of the hunter in Lev 17:13, the spilling of the blood onto the ground is sufficient.

The cases of carrion or animals torn by wild beasts were more difficult. Here, the blood has obviously not been removed from the animal, and, due to the onset of cardiovascular decay, doing so has become impossible. The text does not

<sup>20</sup> See Klawans, *Sin and Impurity*, 28; Hayes, *Gentile Impurities*, 19–44; and Milgrom, *Leviticus 17–22*, passim, and see Deut 12:23.

<sup>21</sup> Lev 17:13 becomes relevant in later rabbinic regulations for secular slaughter; see e.g. Bavli *Hulin* 27b and 83b. The Tosephta warns not to pour an animal’s blood into a vessel or a hole in public, since such practices resemble those of “the heretics”; see Tosephta *Hulin* 2.19 (Zuckerman, *Tosephta*, 503). While we are lacking historical evidence for technical details of the Christian practices described below, we should note that the Tosephta’s warning eventually leads to the story of Eliezer ben Dama, a much-discussed story that situates the rabbis vis-à-vis certain perceived aspects of Christianity; see e.g. Philip Alexander, “Jewish Believers in Early Rabbinic Literature (2d to 5th Centuries),” in *Jewish Believers in Jesus: The Early Centuries*, ed. Oskar Skarsaune and Reidar Hvalvik (Peabody: Hendrickson, 2007), 659–709.

specify whether the defilement through such meat occurs by consuming the flesh along with the coagulated blood inside or through contact with the carcass of the dead animal, or through some combination thereof. The similar law for Israelites in Lev 11:39–40 does not resolve the issue, either: here, we learn that whoever eats, touches, or carries the carcass of a clean animal becomes impure. In Leviticus 11, the Israelites must wash, an act which by the evening will have removed the impurity contracted, yet only in case they carry or eat the carcass, they must wash their clothing as well, an obligation not stipulated for those who only touch it. No matter what the precise mechanism, it seems likely that the inclusion of the *gerim* in the regulation of impurity through the consumption of carrion in Leviticus 17 extends a ruling originally applicable only to Israelites.

The evolution of the matter becomes more understandable when considering that elsewhere in Leviticus, priests and Levites, but not common Israelites, were prohibited from eating carrion and animals torn by wild beasts entirely (see Lev 22:8, a view also attested in Ezek 44:31; and cf. Ezek 4:14), just as they are prohibited from contracting corpse impurity except for the burial of close kin (Lev 21:1–4). It thus seems that for the Holiness School, eating a naturally deceased or mangled animal, for Israelites as well as for gentiles, causes a regulated type of defilement that can easily be removed. At the same time, *not* purifying oneself after consuming carrion would be, as is always the case, an evident transgression of the purity regulation, leading to prohibited impurity. Whoever fails to do so “shall bear his iniquity”—a case comparable again to corpse impurity, from which purification is obligatory and omission sinful, as specified for Israelite and *ger* alike in Numbers 19:13 and 20.20.<sup>22</sup> In Leviticus, eating carrion thus clearly falls under the category of “regulated” impurity, and just as the *gerim* are susceptible to corpse impurity, they equally need to wash after consuming carrion.

Deuteronomy, by contrast, categorically prohibits the consumption of carrion precisely *not* to gentiles, but to Israelites alone: instead, “you (pl.) will give it to the *ger* within your gates, and he will eat it (*laggēr ’āšer-biš’ārêkâ tittānennāh wa’ākālāh*), or you shall sell it to a foreigner (*lənākārî*), for you are a people holy to the Lord your God” (Deut 14:21). Here, not only priests and Levites but all Israelites are prohibited from eating carrion. *Gerim*, in this view, are not holy, and thus allowed to eat carrion; no mention is made of defilement or purification here. The exclusion of the *ger* from Israel, in this case, is both unusual and very

<sup>22</sup> On the precise mechanisms of washing see Jonathan David Lawrence, *Washing in Water: Trajectories of Ritual Bathing in the Hebrew Bible and Second Temple Literature* (Atlanta: Society of Biblical Literature, 2006); see also Klawans, *Impurity and Sin*, 25.

relevant for the present purposes.<sup>23</sup> A discrepancy then prevails between the Israelite purity regulations of Leviticus and Deuteronomy regarding carrion; while the former prohibits it to priests and Levites alone and allows Israelites and *gerim* to eat carrion under the condition of subsequent purification, the latter prohibits the consumption of carrion to Israelites and allows it for gentiles. The eating of blood, in the entire Pentateuch, thus imputes *prohibited* impurity to Israelite and *ger* alike, yet the eating of carrion conveys a form of *regulated* impurity to Israelite and *ger* according to Leviticus, whereas it is entirely prohibited to Israelites—and nearly encouraged for *gerim*—in Deuteronomy.

The divergence of law between Leviticus and Deuteronomy may well be due to the question, first, how closely the *ger* can be integrated with the natural-born citizens, and, second, which type of blood is to be avoided. The assumptions governing the second question, and their technical implications, will also prove relevant in late antiquity: does the prohibition of blood in the Noahide Covenant only concern fresh blood flowing from a recently slaughtered animal, as Deuteronomy seems to hold, or does it concern blood in general? Is the coagulated blood within a deceased animal's veins a problematic substance, as the injunction to wash after its consumption in Leviticus seems to imply, or is the impurity of touching a deceased animal the overriding issue, as noted above? The information contained in the Hebrew Bible is frustratingly succinct and does not allow for a deeper inquiry on the precise status of carrion, yet the consequences of the discrepancy between the two approaches to carrion are considerable. Namely, the legal tension within the Bible maps onto the central divides within late antique approaches to gentile purity law, in two ways. First, on the conceptual level, we will see that rabbinic law and some strands of Christian law are dismissive of the concept of regulated impurity in as far as it applies to gentiles (or even to Jews, respectively), whereas other strands of Christian law and qur'anic law fully maintain the category. Second, on the concrete level, the rabbis' prohibition of carrion to Jews and their permission of carrion (and, arguably, coagulated blood) to gentiles, stands close to the approach of Deuteronomy. By contrast, the majority of the Christian along with the Muslim tradition, which enacts a strict *prohibition* for gentiles to consume carrion, beasts torn by wild animals, and any type of blood, seems to share the purity concerns for gentiles we have seen in Leviticus. Yet here, carrion merely defiled, falling into the category of regulated rather than prohibited impurity. A closer look at the Second Temple period helps understand how the two divergent approaches may have developed, and how the

<sup>23</sup> The juxtaposition of "holiness" and the "stranger" is also emphasized elsewhere in the Pentateuch, e.g. in Exod 29:33 and Lev 22:10. For a detailed discussion see Ophir and Rosen-Zvi, *Goy*, 27–39 and Olyan, *Rites and Rank*, 74–81.

discrepancy between the Holiness School and Deuteronomy echoed throughout late antiquity—albeit in plausibly indirect ways.

### **Blood and Carrion before and after the Destruction of the Second Temple**

The understanding of the term *ger*, denoting a permanent resident of the Holy Land upon whom a selection of purity rules was incumbent in the Hebrew Bible, underwent a dramatic shift in the Second Temple period. As has long been remarked, the Greek of the Septuagint translates the term either as “*proselutes*” or as “*paroikos*,” two terms which have traditionally been understood roughly to correspond to our contemporary notions of a “proselyte” (i.e. a “convert” to Judaism) and to a “sojourner,” respectively.<sup>24</sup> While recent scholarship questioned the precise meaning of these translations in different parts of the Septuagint, it remains apparent that the Greek Bible considers a “proselyte” to be more closely connected to the Israelites than a “sojourner.”<sup>25</sup> Accordingly, the Septuagint translates the term *ger* as it appears in the documents of the Holiness School (esp. in Lev 17 and 18) as “proselyte.” In contrast, it translates Deut 14:21, the passage stipulating that carrion may be sold to a *ger*, as an enjoinder to give such meat to the “*paroikos*” rather than the proselyte, thus resolving or at least alleviating the legal tension between the two passages.

A similar shift regarding the term *ger* and a harmonization of food laws for *gerim* has been detected in one of the strands represented in the Dead Sea Scrolls, whereas the *ger* is entirely excluded in another strand. As Carmen Palmer has recently argued, in this literature,

[a] *gēr*-convert is a prior gentile who converted to Judaism and is assumed to have undergone circumcision, and joined the movement affiliated with the Damascus tradition. However, this same Gentile convert to Judaism, . . . the *gēr*, is found to be excluded from the movement affiliated with the Serekh tradition . . . The nature of conversion or its denial is esteemed to involve a notion of mutable or immutable ethnicity, whereby features of a shared notion of kinship, connection to a land, and a common culture in the practice of circumcision, are critical points.<sup>26</sup>

<sup>24</sup> See e.g. Hayes, *Gentile Impurities*, esp. 61–7; see also Shaye Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* (Berkeley: University of California Press, 2001), 140–74.

<sup>25</sup> See Matthew Thiessen, “Revisiting the *προσήλυτος* in ‘the LXX,’” *Journal of Biblical Literature* 132 (2013): 333–50 as well as David M. Moffitt and C. Jacob Butera, “P. Duk. inv. 727r: New Evidence for the Meaning and Provenance of the Word *Προσήλυτος*,” *Journal of Biblical Literature* 132 (2013): 159–78.

<sup>26</sup> See Palmer, *Converts in the Dead Sea Scrolls*, 5; see also *ibid.*, 186–90. The *Serekh ha-Yahad* is also known as the *Rule of the Community*, a strongly sectarian text found in Qumran.



The Dead Sea Scrolls, in addition to the Septuagint, thus provide good evidence that some Jewish groups in the Second Temple period, both those producing Greek and those producing Hebrew literature, understood the biblical notion of the *ger* in terms of a proselyte.

Intriguingly, the Temple Scroll, a text also found among the Dead Sea Scrolls, equally contains an indication that, in this tradition, neither Israelites nor *gerim* were allowed to eat carrion, nicely paralleling the Septuagint's diverging translation of *ger* noted above.<sup>27</sup> The Temple Scroll, which regularly combines passages from Leviticus with those of Deuteronomy, stipulates that an Israelite should "not eat the carcass of any bird or quadruped, but may sell it to a foreigner (*lənākārī*). And any abominable thing (*tō'ēbāh*) you shall not eat, for you are a people holy to the Lord, your God."<sup>28</sup> The text evokes, combines, and thereby modifies the two biblical passages, the stipulation of Lev 17:15, which had allowed both Israelite and *gerim* to eat carrion provided that they clean themselves afterwards, and the text of Deut 14:21, which had categorically prohibited the consumption of (unspecified forms of) carrion precisely *not* to *gerim*, but to *all* of Israel, promulgating that instead, "you (pl.) will give it to the *ger* within your gates, and he will eat it (*laggēr 'āšer-biš'ārēkā tittənennāh wa'ākālāh*), or you shall sell it to a foreigner (*lənākārī*), for you are a people holy to the Lord your God" (Deut 14:21). The harmonization in the Temple Scroll thus offers two legal innovations: first, *pace* Deuteronomy 14, it prohibits carrion for *gerim* and Israelite alike, and second, *pace* Leviticus 17, it implies carrion to cause *prohibited* rather than *regulated impurity*, referring to it in conjunction with the notion of an abomination (*tō'ēbāh*), akin to the list of forbidden birds and insects that precedes the passage in Deuteronomy (with a parallel in Leviticus 11:13–21).<sup>29</sup> For the communities associated with the Septuagint and with the Temple Scroll, we can thus conclude that *gerim* were considered as converts to Judaism, and that both Israelites and converts were expected to refrain from carrion.

Whereas the shift in meaning of the term *ger* will prove essential for our discussion of specific late antique gentile purity laws, the fact that the *ger* at some point became "Jewish" points to a larger trend away from any notion of "gentile

<sup>27</sup> See Oliver, *Torah Praxis after 70 CE*, 388.

<sup>28</sup> 11 QT<sup>a</sup> 6–7, cited according to <http://dss.collections.imj.org.il/temple>, accessed 19 March 2020; for a brief discussion of the passage see also Lawrence H. Schiffmann, "Laws Pertaining to Forbidden Foods," in *Halakhah in Light of Epigraphy*, ed. Albert Baumgarten, Hanan Eshel, Ranon Katzoff, and Shani Tzoref (Göttingen: Vandenhoeck & Ruprecht, 2011), 77–78.

<sup>29</sup> Note that in the Hebrew Bible, the term *tō'ēbāh*, "abomination," designates not only idolatry (e.g. Deut 7:25 and 13:14) and illicit sexual relations (e.g. Ezek 22:11 and 33:26) but also unclean animals (Deut 14:3) and a variety of other crimes, including the falsification of measures (e.g. Deut 25:13–19), theft, murder, and the breaking of covenants (e.g. Jer 7:9–10) as well as usury, robbery, and oppression of the poor (e.g. Ezek 18:10–13) and see p. 75 below. A fuller comparative investigation into the relationship of Qur'anic *rijs* to the biblical *tō'ēbāh* would surpass the format of the present study and most likely only shed light on both Scriptures as part of a broader inquiry into the affinities and differences between their respective embedded systems of prohibited impurity, taking into account cognate terms and concepts.



purity.” This issue, which defined the Levitical laws for the *gerim*, does not seem to have been a central topic in the Second Temple period. Some late biblical sources, especially after Ezra and Nehemiah, go as far as emphasizing the permanent and irremediable impurity of all non-Israelites, whom they associate with idol worship.<sup>30</sup> We cannot exclude the possibility that the preserved texts may represent minority positions, and it is not impossible that the mainstream Jewish attitude considered gentiles both as potentially pure and therefore susceptible at least to prohibited forms of impurity. Texts such as the Book of Tobit, the *Rule of the Community*, and the *Damascus Document*, all of which were (at least partially) equally found among the Dead Sea Scrolls, consider the issue of laws for gentiles in a perfunctory way, yet what these texts offer does not, in my view, amount to the type of systematic approach to law for gentiles we will find in late antiquity.<sup>31</sup>

One putative indication of an ongoing usage of the Bible’s *gerim* laws, or at least for the understanding of Noah’s covenant as a basis for universal law, is offered by the *Book of Jubilees*. This work, likely stemming from the second century BCE, is equally attested in Qumran, and scholars seeking to reconstruct the history of laws for gentiles have repeatedly drawn our attention to it.<sup>32</sup> A brief consideration

<sup>30</sup> The views of relevant passages in Deuteronomy, Ezra, Nehemiah, and later prophets on gentile impurity are only indirectly pertinent for the current inquiry; on the biblical context see Hayes, *Gentile Impurities*, esp. 27–34; see also Eve Levavi Feinstein, *Sexual Pollution in the Hebrew Bible* (New York: Oxford University Press, 2014), 132–35.

<sup>31</sup> In other words, it may well be possible that the laws given to the *gerim* living in Israel, in Leviticus 19–26, were simply assumed to be applicable to gentiles not only in Israel but also beyond, yet such speculations can hardly be corroborated, and I find this scenario unlikely. In order to determine the ritual status of gentiles in the Jewish mainstream in Palestine and in the diaspora, the best evidence may be archaeological; restrictions of access to the Temple’s precinct for gentiles are an especially revealing case, even if Josephus, Philo, and of course Acts (esp. 21:27–36) allow for some inferences on gentile purity and its limitations; see e.g. Vered Noam, “Josephus and Early Halakhah: The Exclusion of Impure Persons from Holy Precincts,” in *“Go Out and Study the Land” (Judges 18:2): Archaeological, Historical and Textual Studies in Honor of Hanan Eshel*, ed. Aren M. Maier, Jodi Magness, and Lawrence H. Schiffman (Leiden: Brill, 2012), 133–46 and Hayes, *Gentile Impurities*, 50–55.

<sup>32</sup> For a useful recent discussion of the evidence of law for gentiles in the Second Temple period see Todd R. Hanneken, “The Sin of the Gentiles: The Prohibition of Eating Blood in the Book of Jubilees,” *Journal for the Study of Judaism* 46 (2015): 1–27; David Sabbato, *Noahide Laws in Tannaic Literature* (MA thesis, The Hebrew University of Jerusalem, 2014); Moshe Lavee, “The Noahide Laws: The Building Blocks of a Rabbinic Conceptual Framework in Qumran and the Book of Acts,” *Megillot: Studies in the Dead Sea Scrolls* 10 (2013): 73–114; Terence L. Donaldson, *Judaism and the Gentiles: Jewish Patterns of Universalism (to 135 CE)* (Waco: Baylor University Press, 2007); and Cana Werman, “The Concept of Holiness and the Requirements of Purity in Second Temple and Tannaic Literature,” in *Purity and Holiness: The Heritage of Leviticus*, ed. Marcel J. H. M. Poorthuis and Joshua Schwartz (Leiden: Brill, 2000), 163–79; see also Werman, “The Rules of Consuming and Covering the Blood in Priestly and Rabbinic Law,” *Revue de Qumrân* 16 (1995): 621–36; and Werman, *The Attitude towards Gentiles in the Book of Jubilees and Qumran Literature Compared with Early Tannaic Halakh and Contemporary Pseudepigrapha* (PhD diss., The Hebrew University of Jerusalem, 1995). The importance of Jubilees for the history of laws for non-Jews may first have been pointed out in Louis Finkelstein, “The Book of Jubilees and the Rabbinical Halakha,” *Harvard Theological Review* 16 (1923): 36–61 and in Michael Guttman, *Das Judentum und seine Umwelt: eine Darstellung der religiösen und rechtlichen Beziehungen zwischen Juden und Nichtjuden mit besonderer Berücksichtigung der talmudisch-rabbinischen Quellen* (Berlin: Philo Verlag, 1927), 103. On the relationship of Jubilees and laws for Israelites see e.g. Gabriele Boccaccini and Giovanni Ibba, *Enoch and the Mosaic Torah: The Evidence of Jubilees* (Grand Rapids: Eerdmans, 2009); for the rabbinic approach see pp. 66–77 below.

of the laws regarding blood in Jubilees indeed helps us understand the development of late antique rulings for gentiles, since Jubilees emphasizes that all human beings must abstain from blood.

In detail, Jubilees retells the story of Noah by highlighting the importance of God's double commandment not to eat animal blood and not to shed human blood. Jubilees, not unlike Genesis, nearly fuses the two prohibitions of blood, at least on a symbolical level:

But you are not to eat animate beings with their spirit—with the blood—(because the vital force of all animate beings is in the blood) so that your blood with your vital forces may not be required from the hand of any man. From the hand of each one I will require the blood of man.<sup>33</sup>

Jubilees stays close to the language of Gen 9:4–9, and in doing so highlights the crime of consuming animal blood.<sup>34</sup> Jubilees also provides a significant precedent for late antique gentile law by reading Genesis 9, at least partially, in light of Leviticus 17, as becomes obvious when considering Noah's testimony to his sons that recapitulates God's strict double prohibition of blood:

For I myself see that the demons have begun to lead you and your children astray; and now I fear regarding you that after I have died you will shed human blood on the earth and (that) you yourself will be obliterated from the surface of the earth.... No blood of all the blood which there may be at any time when you sacrifice any animal, cattle, or (creature) that flies above the earth is to be seen on you. Do a good deed for yourself by covering what is poured out on the surface of the earth. Do not be one who eats (meat) with the blood; exert yourselves so that blood is not consumed in your presence. Cover the blood because so was I ordered to testify to you and your children together with all humanity. Do not eat the life with the meat so that your blood, your life, may not be required from every person who sheds (blood) on the earth. For the earth will be purified of the blood which has been shed on it; but by the blood of the one who shed it the earth will be purified in all its generations.<sup>35</sup>

<sup>33</sup> Jub. 6:7–8, translation according to James C. VanderKam, *The Book of Jubilees* (Corpus Scriptorum Christianorum Orientalium 511/Scriptores Aethiopici 88; Leuven: Peeters, 1989), 38, based on the critical edition of the Ge'ez in VanderKam, *The Book of Jubilees: A Critical Text* (Corpus Scriptorum Christianorum Orientalium 510/Scriptores Aethiopici 87; Leuven: E. Peeters, 1989), 36.

<sup>34</sup> Note that Leviticus 17, in turn, equates the crime of illicit secular slaughter, but not the crime of consuming blood, with human bloodshed, stating that "the man" who fails to bring the killed animal to the altar "is considered guilty of blood; he has shed blood" and will be "cut off from among his people" (see Lev 17:4), as we have seen above.

<sup>35</sup> Jub. 7:27–33, cited according to VanderKam, *The Book of Jubilees*, 48. As Süleyman Dost has pointed out, the emphasis, in Jubilees, on the defilement of blood-stained clothing, can be found in Southern Arabia as well: an inscription in the sanctuary of *Hljfi* in the northeast of Yemen stipulates that "whoever comes to the sanctuary... with a weapon or clothes that are defiled by blood will pay a

Jubilees here describes the crime of bloodshed and consummation of animal blood as leading to the pollution of the “earth,” fusing the theme of Genesis 9 with the tradition that “blood pollutes the land (*kī haddām hū’ yahānīp ’et-hā’āreṣ*) . . . and you (sg.) shall not defile the land (*wālō’ təṭammē ’et-hā’āreṣ*)” that we have seen in Num 35:33–34.<sup>36</sup> At the same time, by pointing to the dangers of being misled by “demons” enticing their victims first to consume animal blood and then to commit bloodshed, Jubilees connects the double prohibition of blood in Genesis 9 with the association of idolatrous slaughter (“to goat-demons”) and “bloodshed” we have already seen in Leviticus 17. Jubilees equally associates this tradition with the idea that the “earth was corrupted” (*wattīššāhēt hā’āreṣ*) in the story of the “Watchers” it derives from Gen 6:1–4 Genesis 6, contributing, to the foundation of late antique demonology.<sup>37</sup>

Jubilees’ broad formulation of Noah’s testimony evokes the impression that we are here dealing with a law given to all of humanity. While this is not untrue, Jubilees here should not be understood as interested in universal law, for two reasons: first, it is evident according to this tradition that no gentile would ever abide by this law, and second, the formulation of Noah’s prohibition of blood mainly serves as a precursor to the respective prohibition given to Israel. Jubilees thus recalls the central theme of the pollution of the earth through bloodshed when relating Abraham’s testament to his instruction to Isaac:

At all times be clean with respect to your body. Wash with water before you go to make an offering on the altar. Wash your hands and feet before you approach the altar. When you finished making an offering, wash your hands and feet again. No blood is to be visible on your clothing. My son, be careful with blood; be very careful to cover it with dirt. You are not, therefore, to consume any blood because the blood is the vital force. Do not consume any blood. Do not take any bribe for any human blood so that it may not be shed casually—without punishment—because it is the blood that is shed which makes the

fine to the priests of the deity”; see Suleyman Dost, “Language of Ritual Purity in the Qur’ān and in Old South Arabian,” in *Scripts and Scripture: Writing and Religion in Arabia circa 500–700 CE*, ed. Fred M. Donner and Rebecca Hasselbach-Andee (Chicago: Oriental Institute, 2022), 164–5. Importantly, the term here used to describe defilement is a close cognate to Qur’anic Arabic *najas*, which we will discuss in Chapter 4.

<sup>36</sup> Also note that, according to Jubilees, Noah, by sacrificing a kid after the flood “atoned with its blood for all the sins of the earth”; Jub. 6:2, translation according to VanderKam, *The Book of Jubilees*, 36.

<sup>37</sup> The narrative in Jubilees in turn is closely related to that of the *Book of the Watchers*; see e.g. 1 Enoch 7:1–6 and 98:11; see also e.g. James C. VanderKam, “The Demons in the *Book of Jubilees*,” in *Die Dämonen: die Dämonologie der israelitisch-jüdischen und frühchristlichen Literatur im Kontext ihrer Umwelt*, ed. Armin Lange et al. (Tübingen: Mohr Siebeck, 2003), 339–64.

earth sin. The earth will not be able to become pure from human blood except through the blood of the one who shed it.<sup>38</sup>

Abraham's instruction to Isaac regarding blood closely follows Noah's instructions to his sons, which may apply to all of humanity, yet are clearly structured as prefiguring Abraham's teachings. Whereas blood is thus presented as defiling gentiles and Israelites alike, it does not seem to occur to the author of Jubilees that gentiles would ever heed this prohibition—the formulation of gentile law is thus not within the purview of Jubilees.<sup>39</sup> This postbiblical narrative, however, still prepared gentile purity law in more than one way: while Numbers understands the pollution strictly in the context of the Holy Land, the pollution in Jubilees seems to occur anywhere that blood is unjustly shed onto the *earth*, in line with Genesis 6, as Cana Werman has correctly pointed out—the Hebrew *hā'āreṣ* (just as the Qur'anic *arḍ* we will discuss in Chapter 4) can denote either “land” or “earth.”<sup>40</sup>

Moreover, the injunction, in Jubilees, to cover the blood after having drained it from the slaughtered animal is equally not given in Genesis but in Lev 17:13; it is thus obvious that “Jubilees composed this passage in light of Leviticus 17's prohibition of shedding animal blood,” as Werman rightly notes.<sup>41</sup> From this tendency, in Jubilees, to formulate its law broadly, without defining them as specifically applying to Israelites, Werman concludes that according to Jubilees, the double prohibition of blood “given to Israelites and strangers [i.e. *gerim*] in Leviticus 17 is given to all mankind everywhere,” and that “[t]he laws restricted to the Land of Israel in the Pentateuch are generalized in Jubilees to apply to the entire world.”<sup>42</sup>

Werman has good reasons to understand the laws given to Noah as universal, which they already are in Genesis. When considering the only other legal passage in Noah's testament to his children, according to Jubilees, moreover, there are a few overlaps with the *gerim* laws in Leviticus 17 and 18, namely in the following passage:

<sup>38</sup> Jub. 7:27–33 cited according to VanderKam, *The Book of Jubilees*, 48.

<sup>39</sup> Jubilees understands the laws given to Noah as universally applicable, yet it also makes it clear that it is only Israel that will ever keep them. It thus introduces the story of the flood by highlighting that Israel will, along with Noah, find God's favour (Jub. 5:17–19), and it associates the Israelites' covenant and oath not to eat blood with God's covenant with Noah and with the latter's oath not to consume blood (Jub. 6:10–12).

<sup>40</sup> Werman, “The Concept of Holiness and the Requirements of Purity,” 174.

<sup>41</sup> Werman, “The Concept of Holiness and the Requirements of Purity,” 170.

<sup>42</sup> Werman, “The Concept of Holiness and the Requirements of Purity,” 170–72; note that Werman rightly remarks that “Jubilees also attempts to distance the nations from holiness and it does so by ascribing impurity to them”; *ibid.*, 173. A similar point is made by Todd Hanneken, “Moses Has His Interpreters: Understanding the Legal Exegesis in Acts 15 from the Precedent in Jubilees,” *The Catholic Biblical Quarterly* 77 (2015): 686–706; Hanneken does not engage Werman's arguments.

He [Noah] testified to his sons that they should do what is right, cover the shame of their bodies, bless the one who had created them, honour father and mother, love one another, and keep themselves from sexual transgressions, uncleanness, and from all injustice. For it was on account of these three things that the flood was on the earth.<sup>43</sup>

One should understand the prohibition of “sexual transgressions” as a reference to Leviticus 18, which would support Werman’s argument that the *gerim* laws here serve as the basis for universal law. In the next chapter, moreover, we will see that Jubilees bases its prohibition of intermarriage on the injunction not to “pass one’s seed” to Molech, given in Lev 18:21. The laws which are *also* given to the *gerim* in Leviticus are thus relevant to Jubilees, yet it should be pointed out that the text’s focus remains on Genesis, and that its steps to universalize law are limited.<sup>44</sup> These narrative and legal linkages emphasize just how closely the accounts of Genesis and the laws of the Holiness School are connected. Reading them in conjunction with each other is, on the one hand, a sign of an astute exegetical observation, and, on the other, a continuation of the Israelite and Jewish development towards formulating universal law. Jubilees thus moves towards generalizing the laws governing the Holy Land, and among them some of the laws *also* given to the *gerim*, to apply to the entire world.<sup>45</sup> This exegetical tendency, however, while certainly present in Jubilees, is more fully formulated only in the foundational texts of Christianity and rabbinic Judaism, to which we will now turn.

The testimony of Paul the Apostle is of limited relevance when it comes to the consumption of animal blood. In Chapters 2 and 3, I will argue that the historical Paul contributed fundamentally to the expansion of the *gerim* laws applicable to illicit sexual intercourse recorded in Leviticus 18. With regard to food, however,

<sup>43</sup> Jub. 7:20–21 cited according to VanderKam, *The Book of Jubilees*, 46–47, slightly modified.

<sup>44</sup> The narrative of Jubilees, in other words, is primarily based on the account of the story of Genesis 6:1–4, not on Leviticus 18, which matters here in as far as a focus on the latter passage would have pointed to the importance of the *gerim* laws found in Leviticus, whereas a focus on the former passage simply reiterates the biblical universalist legal foundation. Jubilees then goes on to provide the specific case of illicit intercourse of the Watchers with human women, taken from Genesis, which is classified as uncleanness (Jub. 7:21), listing the bloodshed and injustice (Jub. 7:22–24) that followed from these acts and led to the flood. Furthermore, the commandment to honour father and mother are part of the Israelite Decalogue, given in Exod 20:12 and in Deut 5:16, yet seem to appear here in light of the starkly contrasting actions of Noah’s three sons towards their father as related in Gen 9:18–29. This last passage is equally evoked by the instruction to cover “the shame of their bodies,” which reminds us of the respective neglect of Noah and the crime of his son Ham in the same passage. On the close relationship between Jubilees and the Enochic tradition in this narrative and important differences, see e.g. Todd R. Hanneken, *The Subversion of the Apocalypses in the Book of Jubilees* (Atlanta: Society of Biblical Literature Press, 2012), 61–64.

<sup>45</sup> Werman also rightly notes that Jubilees formulates the law of jubilees for the land in general terms even if these laws, in Lev 19:23–25, originally apply only to the land of Israel; see Werman, “The Concept of Holiness and the Requirements of Purity,” 171. Yet Werman’s conclusion that Jubilees thereby “makes this obligation universal” does not give justice to the exclusively Israelite audience of Jubilees, within which Noah’s discourse must be read. Inversely, it is only in the case of the double prohibition of blood that Jubilees clearly explicates that the law *does* apply to all of humanity.

Paul's letters are more difficult to assess—despite, or perhaps at times because of the enormous amount of scholarship on the matter. For our purposes, it suffices to note that Paul, first, held a rather nuanced view of the prohibition of idol meat, and second, that he endorsed the association of the consumption of idol meat with the presence of demons, closely following the model we found in Leviticus and Jubilees, thereby preparing a central theme of patristic discourse. Paul thus perpetuated the understanding of prohibited impurity as demonic.<sup>46</sup> Yet is not the historical Paul but rather the Acts of the Apostles, redacted in the late first or early second century CE, which gives the fullest early picture of the ways in which the biblical *gerim* laws informed the Christian and Islamic purity regulations for non-Israelites; on the rabbinic side, it is the Tosephta that, arguably, based its Noahide Laws on the very same regulations. We will return to the rabbinic record after evaluating the—slightly earlier—Christian evidence.<sup>47</sup>

Along with the Gospel of Matthew and Revelation, Acts is one of the texts within the New Testament canon that maintains a clear separation between laws for Jews and gentiles, including a focus on regulated types of impurity as pertaining at least to Jews (even if its context of transmission within the Christian canon has been understood, un-historically in my view, to dismiss such notions).<sup>48</sup> The

<sup>46</sup> Regarding food, however, Paul's own evidence is less relevant. In his preserved letters, Paul—who seems to endorse the legal distinction between Jews and gentiles—discusses the consumption of idol meat by gentiles (see 1 Cor 8 and 10). He encourages believers to buy “whatever is sold in the meat market” (1. Cor 10:25) in this context, but does not discuss the proper procedure of slaughter or of the consumption of blood. Blood itself is a central topic for Paul, yet it is the blood of Christ on which the apostle focuses. Isaac Oliver and Daniel Weiss have independently suggested to me that Paul's attitude towards animal blood could well have prefigured that of the rabbis, who generally permit its consumption to gentiles, as we will see below. Yet the evidence is too scant to assess the matter, and Paul will therefore largely be excluded from the present consideration; we will return to his impact on later Christian thought on idol meat—especially that of Origen and Augustine—below. On the vast literature on the issue of the laws of idol meat in Paul and his successors see e.g. David Frankfurter, “Jews or Not? Reconstructing the ‘Other’ in Rev. 2:9 and 3:9,” *Harvard Theological Review* 94 (2001): 403–25; Alex T. Cheung, *Idol Food in Corinth: Jewish Background and Pauline Legacy* (Sheffield: Sheffield Academic Press, 1999); and Romano Penna, *Paul the Apostle: Wisdom and Folly of the Cross: A Theological and Exegetical Study* (Louisville: Liturgical Press/Glazier, 1996), vol. II, 24–44. On Paul's ethnic identity politics see the useful essays in Mark D. Nanos and Magnus Zetterholm (eds), *Paul within Judaism: Restoring the First-Century Context to the Apostle* (Minneapolis: Fortress Press, 2015).

<sup>47</sup> The earliest witness of Acts comes from the third century CE; I am inclined to date the text to the early second century. For a brief overview of the various positions regarding the composition of the text see Joseph A. Fitzmyer, *The Acts of the Apostles: A New Translation with Introduction and Commentary* (New York: Doubleday, 1998), 51–54.

<sup>48</sup> Among the most noteworthy studies on this topic I suggest considering Matthew Thiessen, *Jesus and the Forces of Death: The Gospels' Portrayal of Ritual Impurity within First-Century Judaism* (Grand Rapids: Baker Academic Press, 2020); John R. van Maaren, *The Gospel of Mark within Judaism: Reading the Second Gospel in its Ethnic Landscape* (PhD diss., MacMaster University, 2019); Suzanne Watts Henderson, “Was Mark a Supersessionist? Two Test Cases from the Earliest Gospel,” in *The Ways That Often Parted: Essays in Honor of Joel Marcus*, ed. Lori Baron, Jill Hicks-Keeton, and Matthew Thiessen (Atlanta: Society of Biblical Literature, 2018), 145–68; Todd Berzon, “Ethnicity and Early Christianity: New Approaches to Religious Kinship and Community,” *Currents in Biblical Research* 16 (2018): 191–227; van Maaren, “Does Mark's Jesus Abrogate Torah? Jesus' Purity Logion and Its Illustration in Mark 7:15–23,” *Journal for the Jesus Movement in Its Jewish Setting* 4 (2017): 21–41; Berzon, *Classifying*



emphasis on regulated impurity as applicable to Jews can be found explicitly in Acts, which portrays Paul as *rejecting* allegations of ignoring precisely this matter. The slanderers, real or perceived, claimed that Paul taught “all the Jews living among the Gentiles to forsake Moses” and “not to circumcise their children or observe the customs” (Acts 21:21), an idea that the text rejects in the strongest terms. Acts portrays the apostles as refuting such scandalous defamation; in Acts 21:26, Paul is portrayed as responding to it by performing the removal of regulated impurity publicly and unapologetically:

Then Paul took the men, and the next day, having purified himself, he entered the temple with them, making public (*diangellōn*) the completion of the days of purification (*tou hagnismou*) when the sacrifice would be made for each of them.

The text enacts and demands of Jews to keep the law pertaining to the Nazirite vow he had taken (see Acts 18:18 and Num 6:1–21). It presents Paul as a fully observant Jew, having “in no way committed an offence against the law of the Jews” (Acts 25:8) until the end of his recorded ministry.<sup>49</sup> The law, for Jews, consists of the entirety of the biblical regulations, including those about removable purity prior to entering the Jerusalem Temple. With Acts—a text, nonetheless, that was fundamental in the shaping of the term “Christian”—Christianity thus contains a seed that, long after Jesus’ death and the destruction of the Temple, still

*Christians: Ethnography, Heresiology, and the Limits of Knowledge in Late Antiquity* (Berkeley: University of California Press, 2016); Anders Runesson, *Divine Wrath and Salvation in Matthew: The Narrative World of the First Gospel* (Minneapolis: Fortress Press, 2016); Lawrence M. Wills, “The Jewishness of the Gospel of Mark,” in *Bridging between Sister Religions: Studies in Jewish and Christian Scriptures Offered in Honor of Prof. John T. Townsend*, ed. Isaac Kalimi (Boston: Brill, 2016), 69–86; Avemarie, *Neues Testament und Frührabbinisches Judentum*; Oliver, *Torah Praxis after 70 CE*; Thomas Kazen, *Jesus and Purity Halakhah: Was Jesus Indifferent to Impurity?* (Stockholm: Almqvist and Wiksell, 2002); Frankfurter, “Jews or Not?”; Tomson, “Jewish Purity Laws,” 73–91; Loader, *The Septuagint, Sexuality, and the New Testament*; Bockmuehl, *Jewish Law in Gentile Churches*; and Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*; for some of my own views see Holger Zellentin, “Jesus and the Tradition of the Elders: Originalism and Traditionalism in Early Judean Legal Theory,” in *Beyond the Gnostic Gospels: Studies Building on the Work of Elaine H. Pagels*, ed. Eduard Iricinschi et al. (Tübingen: Mohr Siebeck, 2013), 379–403. On Paul see also the next note.

<sup>49</sup> We cannot confirm whether the claim made by Acts is historically accurate. The historical Paul clearly ties legal obligation to ethnicity. His statement in 1 Cor 9:21, “to those outside the law I became as one outside the law (though I am not free from God’s law but am under Christ’s law) so that I might win those outside the law,” on the one hand, indicates that he may well have seen himself as of permeable ethnicity, and thereby as not bound by the legal requirements for Jews. On the other hand, Paul’s nuanced view of his own status may have been misunderstood by his contemporaries (as it remains difficult to understand to this day), and the depiction in Acts may well reflect the stance of the historical Paul; see e.g. Mark D. Nanos, *Reading Paul within Judaism* (Eugene: Cascade, 2017); Paula Fredriksen, *Paul: The Pagans’ Apostle* (New Haven: Yale University Press, 2017); Matthew Thiessen, *Paul and the Gentile Problem* (New York: Oxford University Press, 2016); and the unsurpassed study by Stan Stowers, *A Rereading of Romans: Justice, Jews, and Gentiles* (New Haven: Yale University Press, 1994). The issue cannot and need not be resolved here; what matters is that Acts sees Paul as both Jewish and as observant. On the similar issue in other New Testament texts see the previous note.

presupposed the *Jewish* observance of those purity laws that can be classified as governing regulated impurity.<sup>50</sup>

Along with its endorsement of the concept of regulated impurity for *Jews*, Acts maintains the ethnic and legal separation of gentile and Jewish ethnicities. Acts, indeed, consistently maintains such a separation, and specifies certain purity requirements as binding for believing gentiles. In doing so, Acts orients itself towards the Noahide covenant and the requirements for *gerim* spelled out in the Holiness School. In order to dispel the impression that imposing these purity laws on believers residing outside the Holy Land would constitute an innovation, the text emphasizes that the apostles responsible for a respective decree were divinely guided, and that they followed the law of Moses in this regard. The key passage for our purposes is the famous Jerusalem Council in Acts 15, which illustrates the text's firm commitment to gentile purity. In their reported address to the gentiles, the apostles take up James' suggestion and write as follows (Acts 15:28–29):<sup>51</sup>

For it has seemed good to the Holy Spirit and to us not to impose on you (pl., *mēden...epitithesthai hymin*) any further burden (*baros*) than these required ones: that you abstain from what has been sacrificed to idols (*eidōlothytōn*) and from blood (*haimatos*) and from what has been strangled (*pniktōn*) and from illicit sexual intercourse (*porneias*).

The most important word in this passage is the plural “you.” The context makes it apparent that this so-called Decree of the Apostles, issued by “the apostles and the elders,” is directed to those “from the gentiles” (*tois apo tōn ethnōn*, Acts 15:19) who want to find salvation with Jesus. The question then arises whether or not these (male) converts to the Jewish Jesus movement would need to be circumcised.

Neither in this decree nor anywhere else does Acts suggest that Jews who endorsed Jesus would thereby alter the way in which they ought to observe Jewish

<sup>50</sup> While Acts was likely composed after the destruction of the Temple (see note 47 above), it does not indicate that the destruction of the sanctuary would alter any of the ritual laws for Jews or for gentiles. For a thorough discussion of the attitudes of Acts to the Jewish law see Oliver, *Torah Praxis after 70 CE* and, with a very different emphasis, Stephen G. Wilson, *Luke and the Law* (Cambridge: Cambridge University Press, 1983), 59–102.

<sup>51</sup> Note also the parallels in Acts 15:20, to be discussed below, and in Acts 21:25. For the manuscript evidence—and especially the case of the so-called “Western” tradition that lacks the references to the “things strangled,” as well as for the witnesses that add the “golden rule” into the decree—see Martin Meiser, “Texttraditionen des Aposteldekrets—Textkritik und Rezeptionsgeschichte,” in *The Book of Acts as Church History: Text, Textual Traditions, and Ancient Interpretations* (Berlin: De Gruyter, 2003), 373–98; Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*, 21–106, and Karl Böckenhoff, *Das apostolische Speisegesetz*, 90–93. Important further evidence has now been offered by Rybka, who adds testimony to the Western tradition offered by Pacian of Barcelona, Augustine, and Ephrem, see Rybka, *Meaning and Normativity*, 86–98; Ephrem's testimony is only transmitted in Armenian. Despite its poor attestation and further signs of interpolation, the “Western” version has been eagerly accepted as the original form by some scholars; see the summaries in Meiser, “Texttraditionen des Aposteldekrets,” 377–81 and Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*, 26 note 8.



law. As we have seen, full observance is taken for granted, and the allegation of aberration therefrom constituted an insufferable insult. In line with its endorsement of Israelite law, Acts even depicts Paul as commissioning the circumcision of one of his gentile acolytes “because of the Jews who were in those places,” whom he intended to visit (see Acts 16:3, difficult as it may be to square this act with the thoughts on the circumcision of gentiles expressed by the historical Paul). Acts, however, rejects the idea that all gentile males who want to join the fold should “be circumcised and ordered to keep the law of Moses” (Acts 15:5; see also 15:1).<sup>52</sup> Requiring circumcision for all would be the view of the believing Pharisees, a view that Acts, based on Peter’s dream showing him that gentiles should not be called “profane or unclean” (Acts 10:28), dismisses. The attitude of Acts, which allows individual converts from the gentiles to be circumcised without demanding circumcision for all gentile converts, aligns itself well with that of the Hebrew Bible towards its *gerim*, who are not required to be circumcised, even in order to worship in the temple, yet are free to be circumcised should they want to be (see p. 16 above). Importantly, the commandments the Bible imposes on the *gerim* also largely dovetail with the actual commandment Acts gives to those gentiles who hope for salvation through Christ. Acts, of course, mentions “proselytes” alongside Jews (see Acts 2:10 and cf. 6:5), so the debate in Acts 15 on the question of which minimal legal observances gentiles turning to Jesus needed to accept arguably reflects a turn to the biblical laws for the *gerim*—termed “proselytes” in the relevant passages of the Septuagint—as the most obvious legal guide.

Indeed, the brief catalogue of prohibitions in Acts follows the injunctions imposed on *gerim* in Leviticus more closely than a first reading suggests. While the text does not cite Leviticus in our sense of the word, it can be shown to take knowledge of the laws contained in it for granted, as scholars noted long ago.<sup>53</sup> When first iterating its decree, Acts points both to the issue of purity and to the biblical source of its reasoning, as can be seen in James’ statement in Acts 15:19–21:

<sup>52</sup> For a convincing analysis of the Acts’ attitude towards circumcision see Oliver, *Torah Praxis after 70 CE*, 401–38 as well as Thiessen, *Contesting Conversion*, esp. 43–66 and 111–42; for the view of the historical Paul on circumcision see Gal 2 and Rom 3–4; for recent scholarship on the matter see note 49 above.

<sup>53</sup> The most complete work on the topic remains that of Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*; Wehnert presents a helpful history of previous scholarship in *ibid.*, 14–20; note also the important subsequent considerations proposed by Oliver, *Torah Praxis after 70 CE*, 365–98, as well as the volume by Markus Öhler, *Aposteldekret und antikes Vereinswesen: Gemeinschaft und ihre Ordnung* (Tübingen: Mohr Siebeck, 2011). The first work to argue for the engagement of Leviticus 17 in the Decree of the Apostles, according to Wehnert, was Albrecht Ritschl, “Das Verhältnis der Schriften des Lukas zu der Zeit ihrer Entstehung,” *Theologische Jahrbücher* 6 (1847): 293–304. For a thoughtful consideration of the diaspora context of Acts and a radically diverging reading of the text itself see Roland Deines, “Das Aposteldekret: Halacha für Heidenchristen oder christliche Rücksichtnahme auf jüdische Tabus?,” in *Jewish Identity in the Greco-Roman World*, ed. Jörg Frey, Daniel R. Schwartz, et al. (Brill: Leiden, 2007), 323–95.

Therefore, I have reached the decision that we should not trouble (*mē parenochlein*) those gentiles who are turning to God, but we should write to them to abstain (*tou apechesthai*) from the pollutions (*tōn alisgēmatōn*) caused by idols (*tōn eidōlōn*) and by sexual transgression (*kai tēs porneias*) and by things strangled (*kai tou pniktou*) and by blood (*kai tou haimatos*). For in every city, for generations past, Moses has had those who proclaim him, for he has been read aloud every Sabbath in the synagogues.

As Jürgen Wehnert has shown, the term “strangled” meat, though rare in the first two centuries, occurs a handful of times, in Hebrew and in Greek, in rabbinic and in other Jewish and Christian sources to indicate improperly slaughtered meat.<sup>54</sup> Acts thus prohibits idols (i.e. idol meat, see v. 29), sexual transgressions, improperly slaughtered animals, and blood, thus explicitly promulgating that those from the gentiles who wish to follow Jesus must obey four of the injunctions that the Hebrew Bible had already imposed on the *gerim*. The text designates all four transgressions as causing an unspecified form of impurity.<sup>55</sup> In the absence of any indication of rituals of purification even after the consumption of carrion, we should assume that Acts here, not unlike the Temple Scroll in the case of its respective understanding of the concept of the *ger* as full “convert,” slightly deviates from the Holiness School when it comes to carrion. Arguably in line with broader trends in Second Temple Judaism that considered carrion as akin to a *tō‘ēbāh*, an

<sup>54</sup> The consumption of “strangled” (*apopnigontes*) meat is discussed in Philo, *De specialibus legibus* 4:122, Leopold Cohn, *Philonis Alexandrini opera quae supersunt* (Berlin: De Gruyter, 1962), vol. V, 237. Wehnert notes that Clement of Alexandria, in a discussion of Jewish laws in *Paedagogus* 2:1:17:2, equally speaks of the prohibition to touch “strangled” meat (*apopepniigma*); Wehnert persuasively argues the use of the same Greek term in both sources points to shared technical vocabulary; see Claude Mondésert and Henri-Irénée Marrou, *Clément d’Alexandrie: Le pédagogue* (Paris: Éditions du Cerf, 1965), 42 and see Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*, 228–30. As important, however, is the rabbinic evidence. Wehnert shows that the Hebrew root *h-n-q* can function as a synonym of the terms *pswl* and *nblh* as indicating animals not properly slaughtered; the key passage is Mishna Hullin 1:2; cf. the parallel in Tosephta Hullin 1:7, and see Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*, 221–32. We should also note that Julian, like Clement, summarizes the Jewish food laws as including a prohibition of “pork or any animal that has been strangled (*pniktou*) or had the life squeezed out of it (*tou apolibentos*),” see Julian, *Letter to Theodorus*; Wilmer C. Wright, *Julian the Apostate in Three Volumes* (Loeb Classical Library; London: Heinemann’s, 1923), 58–59. By using the term as a broad category for all improperly slaughtered food, Julian, who seemed informed well enough about some details of Jewish law, gives us an important outside perspective; on Julian’s knowledge of Jewish law see Ari Finkelstein, “The Use of Jews in Julian’s Program: ‘Dying for the Law’ in the Letter to Theodorus—A Case Study,” in *Religious Competition in the Third Century CE: Jews, Christians, and the Greco-Roman World*, ed. Jordan D. Rosenblum, Nathaniel DesRosiers, and Lily Vuong (Göttingen: Vandenhoeck & Ruprecht, 2014), 169–70. Important further evidence is offered by Oliver, *Torah Praxis after 70 CE*, 380–90.

<sup>55</sup> The verb *apechesthai tinos* determines the genitive of *tōn alisgēmatōn*, “of the pollutions”; note that the ongoing genitival form of all nomina describing the four prohibited categories indicates that pollution occurs through each of them; see already Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*, 239–45. For a diverging—grammatically correct yet in my view tendentious—reading, considering only idol meat to pollute, see Avemarie, *Neues Testament und Früh-rabbinisches Judentum*, 783–85.

“abomination,” Acts apparently held the impurity resulting from all four transgressions to be permanent rather than regulated and therefore prohibited to Jews and believing gentiles alike—whom it seems to draw ever closer towards Israel while maintaining a categorical ethnic distinction.

Much depends on how to reconstruct the notion of “prohibited impurity” within which Acts operates. On the one hand, the applicability of the Decree of the Apostles beyond the confines of the Holy Land suggests that the physical defilement of land and sinner, and the necessary removal of the latter from the former (to which we will return), is not at the forefront of Acts. At the same time, the biblical foundation of Acts and much of the Second Temple reception history of the notion of defilement through sins as discussed above point to a basically permanent condition, which the narrative’s emphasis on the central ritual of baptism elucidates further. Whereas this topic is too vast to consider here in detail, we should note that the cleansing of gentiles and of Israelites from sin is described as a miracle: John called them to the “baptism of repentance,” yet only after they were *physically* baptized into “the name of the Lord Jesus” were they pure enough for “the Holy Spirit” to “come upon them,” as Acts 19:4–6 (along with Acts 15:8–9) seems to suggest if we read it along with its similar formulation regarding the Spirit’s descent on the “men of Israel” (*andres Israēlitai*) later in the narrative. Here, the Jews who witness the outpouring of the Holy Spirit on gentile believers are instructed to “repent, and be baptized every one of you in the name of Jesus Christ so that your sins may be forgiven (*baptisthētō hekastos humōn epi tō onomati Iēsou Christou eis aphesin tōn hamartiōn humōn*); and you will receive the gift of the Holy Spirit” (Acts 2:38). In other words, it does take God’s direct intervention to cleanse both the gentiles and Israelites of their otherwise permanent prohibited impurities, henceforth, the former alongside the latter are to “maintain their newly acquired . . . purity by avoiding the futility of idol worship as well as the sexual immoralities of the nations,” as Oliver puts it.<sup>56</sup> In the concrete physical nature of baptism as a precondition of the removal of prohibited impurity, early Christians had effectively instituted a practice that would stand in tension with attempts fully to interiorize the concept of both sin and repentance, and few Church Fathers—with noteworthy exceptions—tried to do so, as we will see.

<sup>56</sup> Oliver, *Torah Praxis after 70 CE*, 376; Oliver follows Klawans in speaking about “moral” rather than “prohibited impurity” which may let one forget that avoidance of blood or carrion are indeed moral matters in this system. On the role of baptism in instituting purity in Christian discourse see also Blidstein *Purity, Community, and Ritual in Early Christian Literature*, 107–34; Furstenberg, “Initiation and the Ritual Purification from Sin,” 365–94; Loren T. Stuckenbruck, “The ‘Cleansing’ of the Gentiles: Background for the Rationale behind the Apostles’ Decree in Acts 15,” in *Aposteldekret und antikes Vereinswesen: Gemeinschaft und ihre Ordnung*, ed. Markus Öhler (Tübingen: Mohr Siebeck, 2011), 65–90; as well as David Hellholm, Tor Vegge, Øyvind Norderval and Christer Hellholm (eds), *Ablution, Initiation, and Baptism: Late Antiquity, Early Judaism, and Early Christianity* (Berlin: De Gruyter, 2011) and Everett Ferguson, *Baptism in the Early Church: History, Theology and Liturgy in the First Five Centuries* (Grand Rapids: Eerdmans, 2009).

The matter of purity, in Acts, is thus a rather straightforward affair, if read in the light of the Hebrew Bible. In prohibiting “meat sacrificed to idols,” Acts relies on the respective prohibition to the *gerim* in Lev 17:7–9. In prohibiting “blood,” it evokes the twofold prohibition against shedding and consuming blood already given in Gen 9:6 for all humankind and repeated in Lev 17:10–14 for the *gerim*. By prohibiting illicit sexual intercourse, the text evidently evokes the prohibitions for *gerim* in Leviticus 18. Finally, by prohibiting “strangled,” that is improperly slaughtered, meat, the text seems to base itself not so much on the injunction for *gerim* to wash after polluting themselves with carrion or with animals torn by beasts of prey in Lev 17:15–16. Rather, Acts here is more in tune with the textual interventions we have witnessed in the Temple Scroll, which make it quite obvious that carrion was prohibited for Israelites and proselytes alike, and may have constituted an abomination all of its own. (The Septuagint of Leviticus likewise brings the proselytes closely into Israel, as we have seen on pp. 50–51 above.) If one abstains from constructing “conversion” as a fixed category in the first century, then the category of the *gerim* explains the decree’s laws for gentiles very well. The key difference between the Hebrew Bible and Acts, to reiterate, seems to be the latter’s sidelining of regulated impurity: given that Acts here speaks of impurities without offering any remedies, it seems more than likely that Acts here understands all four transgressions as causing prohibited impurities which must be avoided by Jews and those gentiles who want to join the community.

The connection between the Decree of the Apostles and the purity regulations for *gerim* in Leviticus can also be corroborated contextually. Acts evokes “the law of Moses” (Acts 15:21) in its decision, pointing to the origin of its covenantal rules in the Pentateuch.<sup>57</sup> By stating that his laws have been read “in every town,” Acts points to the applicability of the laws even outside the land of Israel, allowing for the identification of the *gerim* in Leviticus with *all gentiles* in the world.<sup>58</sup> Here, the text simultaneously evokes the gentile visitors of synagogues whom it takes for granted (see e.g. Acts 14:1); its underlying logic seems to be that since these gentiles have already heard the law, imposing those Mosaic rules which pertain to non-Israelites on them would not constitute much of an innovation.<sup>59</sup>

<sup>57</sup> This has been pointed out especially by Hanneken, “Moses Has His Interpreters.” It should be noted that while the author of Acts acutely remembers the covenant with Abraham (see e.g. Act 3:25 and 7:8, cf. Luke 1:72), it does not make any reference to Noah.

<sup>58</sup> We should note in this context that the draining of blood is of course a practical matter that is widely observed, and generally so by Greco-Roman slaughters as well. Yet in as far as we can be certain, Roman butchers would regularly cut the windpipe along with the main artery, thereby leaving much of the blood within in the animal, as noted in John M. Barclay, *Jews in the Mediterranean Diaspora from Alexander to Trajan (323 BCE–117 CE)* (Edinburgh: T & T Clark, 1996), 434, and in Ed P. Sanders, *Jewish Law from Jesus to the Mishnah: Five Studies* (London: SCM Press, 1990), 278–79.

<sup>59</sup> Wehnert does consider Luke’s application of the laws of the *gerim* to all gentiles as legal innovation; while this may well be the case, we should not dismiss the alternative scenario sketched above, that these laws were more widely accepted as guiding gentile purity among the Jews of Palestine or that of the diaspora. The issue would require a further study of the status of the “god-fearers,” the

Pieter B. Hartog, partially building on my own work, has recently argued that the ambiguity in Acts, on the one hand, seeks to evoke the legacy of Genesis 9 and the *gerim* laws, yet simultaneously takes the legal ambiguity that Acts displays vis-à-vis its legal sources as indication of the novelty of the Jesus movement.<sup>60</sup> While this approach would explain Acts' allusive nature, we should also note that Acts portrays James as having no authority to invent these laws: indeed, he comes across as having weighed the option proposed by his opponents, both of which fall within the purview of the biblical *gerim* laws discussed above. One could either require gentile male believers in Jesus to join Judaism through circumcision, in accordance with the option given to the *gerim* in Exodus 12, or one could opt for the milder requirements for *gerim* found in Leviticus. James seems to have chosen the latter option.<sup>61</sup>

The decree's focus on prohibited rather than regulated impurity is thus palpable in as far as it goes, yet it leaves us somewhat in the dark regarding two issues. First, we cannot fully determine whether the gentile converts to the Jewish Jesus movement in effect do remain gentiles. They clearly are not Israelites, yet their conversion may have turned them into an interstitial category not unlike that of the uncircumcised biblical *gerim*. If this is the case, then the present volume must be forgiven for classifying Acts under the category of "gentile" purity rules—perhaps "purity rules for gentile converts" would be a better term both in the case of Acts and in the case of many later groups, plausibly including the nascent Islamic community. Second, we cannot probe the views of Acts when it comes to the case of gentile converts and regulated, rather than prohibited, impurity. While the

gentile acolytes found attested throughout the Jewish diaspora, about whom we know next to nothing. For god-fearers in Acts see e.g. J. Brian Tucker, "Godfearers: Literary Foil or Historical Reality in the Book of Acts?," *Journal of Biblical Studies* 5 (2005): 21–39; for some of the pertinent archaeological finds see Irina A. Levinskaya, "The Inscription from Aphrodisias and the Problem of the God-Fearers," *Tyndale Bulletin* 41 (1990): 312–18.

<sup>60</sup> Hartog, "Noah and Moses in Acts 15," esp. 504–7; and see already Justin Taylor, "The Jerusalem Decrees (Acts 15.20, 29 and 21.25) and the Incident at Antioch (Gal 2.11–13)," *New Testament Studies* 46 (2001): 372–80. Alternatively, the choice in Acts not to explicate the biblical sources of the Apostle's decree may be a nod to the Pauline tradition of widening the gulf between gentiles and any aspect of the law; see note 46 above.

<sup>61</sup> The Decree's primary focus on foodstuff, alongside bloodshed and sexual behaviour, strongly suggests that its rules are mainly focused on the problems arising from a believing gentile's participation in a traditional Greco-Roman banquet. Such a banquet in its pagan form would involve quite precisely meat slaughtered in whichever way and dedicated to the gods, and at least in some cases banquets would have involved forms of sexual intercourse, for example with male slaves, that were prohibited in Leviticus 18 to Israelite and *ger* alike. For a convincing discussion of the purpose of the Decree of the Apostles, along with a summary of previous points of view see Oliver, *Torah Praxis after 70 CE*, 368–70; for a recent description of the continuities and differences between pagan and Christian banquets see Dennis E. Smith, *From Symposium to Eucharist: The Banquet in the Early Christian World* (Minneapolis: Fortress Press, 2003). Note also that while the prohibition of idol meat, blood, and strangled meat shows the decree's *primary* focus on food laws, this does not allow us to downplay the importance of the symbolic association of consuming and shedding blood that we saw in Genesis, which still permeates late antique discourse; see e.g. Zellentin, "The Case of Ritual Slaughter and the Consumption of Animal Blood," 27.

consumption of carrion is likely understood to cause prohibited rather than regulated impurity in this text, we cannot determine to what degree Acts would have considered the entirety of the *gerim* laws, including other causes of regulated types of impurity—resulting, for example from contact with corpses or non-sexual contact with menstrual flow—as applicable to gentile believers. The issue of regulated impurity only becomes relevant for Jews in this text, as we have seen above in the case of Paul’s visit to the Temple.

Conversely, it is evident that the Decree of the Apostles in no way constitutes a complete ethical system and was never thus understood in late antiquity. It should be noted here that the prohibition of *porneia* in Acts, which I argued to include the prohibition of sexual intercourse during a woman’s menses, would likely classify such intercourse as causing “prohibited” impurity, as we will see in the next chapter. Yet would the text consider a woman herself as governed by the laws of “regulated” impurity during her menses? The biblical regulations for the menses may not conflate, yet at least connect the issue of a woman’s regulated impurity during her menses with a couple’s prohibited impurity should they have intercourse in this period, and this basic affinity concerned all those who wished to observe the sexual prohibitions formulated in Leviticus 18—that is *all* Jews and Christians on record, and, arguably, also the Qur’an.<sup>62</sup> The legal hermeneutics applied by Acts would thus include the concept of regulated impurity for gentiles at least in the case of sexual impurity, and was thus understood by many late antique Christians.<sup>63</sup> It seems that the omission of any discussion of regulated impurity is no mere accident, yet I hold that the question whether Acts was operating within or without a broader sense of regulated impurity for gentiles ultimately cannot be answered. Suffice it to say that if Acts operated entirely without such a system, this would constitute a key point of difference between this text and many of its late antique Christian readers, ranging from the early Alexandrians to Gregory the Great. We can be more confident, however, in stating that sexual regulated impurity mattered far less to the authors of Acts than to most late antique Christians, who spent a lot of energy struggling with this issue—though not at all with regulated impurity with respect to food, a concept equally absent from the Qur’an.

What we can determine, following Werman, is that the Decree of the Apostles may have an important precedent in Jubilees—yet it seems likely that the laws that Acts imposes on gentiles equally derive from reinterpretations of the Bible such as the one offered by the Septuagint and from other rewritings of the biblical

<sup>62</sup> See Michael Rosenberg, “The Conflation of Purity and Prohibition: An Interpretation of Leviticus 18:19,” *Harvard Theological Review* 107 (2014): 447–69.

<sup>63</sup> For the late antique Christian observance of menstrual laws see e.g. Charlotte Elisheva Fonrobert, *Menstrual Purity: Rabbinic and Christian Reconstructions of Biblical Gender* (Stanford: Stanford University Press, 2000); for my own views see Zellentín, “The Case of Sexual Purity and Illicit Intercourse,” esp. 121–23 and 139–43 as well as the Chapters 2 and 3 below.



text such as the one we have seen in the Temple Scroll. In addition, there is a third argument to be made for considering Acts' engagement with Leviticus as exegetical, be it directly or indirectly: the parallel case of the rabbinic legislation for gentiles offers an exegetical hermeneutics that is largely parallel to Acts, since, as I will claim below, the rabbis equally base their legislation for gentiles on the laws given to *gerim* in the context of a joint reading of Genesis 9 along with those of the Holiness School. The rabbis, furthermore, equally grapple with the same legal tension prevailing between the rules given for *gerim* in Lev 17:15–16 and Deut 14:21 that we encountered in the Dead Sea Scrolls, even while coming to a very different solution. I thus hold that the food laws for gentiles in Leviticus, in turn, shaped all streams of Christianity as well as the rabbinic Noahide Laws. Whereas the latter clearly differ from the former in content, we will see that their exegetical basis is very similar.

The importance of the *gerim* laws for Acts in the early second century, in other words, can be corroborated by that of the Tannaitic rabbis, whose earliest written records were edited from the early third to the early fourth century CE. In light of my argument that the Qur'an's view of gentile purity must be understood primarily against the background of the stricter Christian legal tradition and only secondarily in light of the more lenient rabbinic regulations for non-Jews, I will forego engaging in a fuller technical discussion of the development of rabbinic laws for gentiles, a topic to which I hope to turn on a separate occasion.<sup>64</sup> My brief arguments in the following will suggest that the rabbis offer a two-pronged approach when engaging the biblical concept of the *ger*, which governs diverging concepts of applicable law.

As we learn in the rabbinic exposition of Lev 25:35 in *Sifra Behar* 5:1 (partially paralleled in 8:1), there are two types of *gerim*: the *ger tsedek*, a full convert to Judaism, and the “*ger* who eats carrion.”<sup>65</sup> Whereas this early source does not record the exegetical pathway that led the rabbis to the distinction between two

<sup>64</sup> The rabbis, just like the books of the Hebrew Bible, offer diverging tendencies on the question of whether or not gentiles can be saved; the debate in Tosephta *Sanhedrin* 13:2 seems to point to the fact that they can, thereby constituting the need to formulate laws governing their behaviour. A good discussion of the debate can be found in Marc Hirshman, “Rabbinic Universalism in the Second and Third Centuries,” *Harvard Theological Review* 93 (2000): 101–15; on pre-rabbinic attitudes towards the salvation of gentiles see also pp. 50–57 above.

<sup>65</sup> Cited according to Manuscript Oxford in the edition of Isaac Hirsch Weiß, *Sifra debe Rab* (Vienna: Jacob Schlossberg, 1862), 109a; the passage is not preserved in the edition of Louis Finkelstein, *Sifra or Torat Kohanim: According to Codex Assemani Levi* (New York: Jewish Theological Seminary of America, 1956), which ends with *Behar* 1:1. For later discussion see also Yerushalmi *Yevamot* 8.1 (8d), and *Pesachim* 2.1 (28c), *Bavli Avodah Zarah* 64b–65a, and see e.g. *Bava Metsi'a* 70b–71a as well as the discussion in *Bavli Pesachim* 21b. See also Boaz Cohen, *Jewish and Roman Law: A Comparative Study* (New York: The Jewish Theological Seminary of America, 1966), 31–57. Oliver and the sources on which he relies in this case just miss the mark, see Oliver, *Tora Praxis after 70 CE*, 393. On the status of the *ger* in Second Temple Judaism see pp. 50–51 above. Note that for the rabbis, the regulated impurity caused by carrion according to Lev 17:15–16 only applies to the carcass of a clean bird, and even in this case further specifications apply; see *Mishna Taharot* 1:1 and *Sifra Emor* 4:12–13 and see note 115 below.

types of *gerim*, the reasoning is rather apparent. The rabbis, much like other Jewish authors ranging from the Temple Scroll to Acts and plausibly including the Septuagint, generally understand the term *ger* to designate a full convert, who would be obliged to follow all laws given to the Israelites. The permission for the *ger* to consume carrion in Deut 14:21 thus requires them to establish a separate category of “a *ger* who eats carrion,” thereby solving, as they tend to, the legal tension between this verse and Lev 17:15–16. The very necessity to create this super-erogatory interstitial category therefore already suggests that just as Acts and many others before them, the rabbis are thus using the *gerim* laws to establish a (non-comprehensive) list of laws for those gentiles who wish to join the fold.

The preferred option for doing so that eventually became codified in rabbinic law was that of the full convert. Yet the Babylonian Talmud, a source redacted closer to the time of the Qur’an than to that of the Acts of the Apostles, retains a discussion that seems reminiscent of allowing for a wider range of options:

Who is a *ger toshab*? Any [gentile] who takes it upon himself (variants: in the presence of three) not to worship idols. Such is the statement of R. Meir; but the Sages declare: Any [gentile] who takes upon himself the seven precepts which the sons of Noah undertook; and still others maintain: These do not come within the category of a *ger toshab*; but who is a *ger toshab*? A *ger* who eats carrion.<sup>66</sup>

The Babylonian Talmud, in its third interpretation, contains an echo of the earlier understanding that connects the notion of the *ger* with that of the consumption of carrion we had already seen in *Sifra*, evoking the permission we had seen in Deut 14:21. The first interpretation understands the *ger* in terms of avoidance of idolatry, which is a central theme both in the Holiness School and its later interpretations, including Acts. It is, however, the second interpretation that is of key relevance here, which explicitly connects the notion of the *ger* with the “Seven Commandments which the Children of Noah” had accepted. This link, albeit late, offers a third piece of circumstantial evidence—in addition to the passage in *Sifra* and the posited similar exegetical derivation in Acts—that links the rabbinic laws for non-Jews to the *gerim* laws of the Holiness School.

The “seven precepts which the sons of Noah have undertaken” mentioned in the Bavli, nowadays often referred to as “Noahide Laws,” consist of the necessity for gentiles to establish a legal system, along with the prohibitions of idol worship, blasphemy, sexual sins, bloodshed, theft, and the consumption of live flesh. Before turning to the rabbis’ precise wording, a few notes on the rich previous

<sup>66</sup> Cited according to Manuscript Munich 95, Paris 1337, and JTS Rab. 15, which offer only minor variants. The Vilna and Soncino prints, by contrast, add that the promise not to worship idols must occur in the presence of three rabbinic authorities (*haberim*) and that such a *ger* would follow the entirety of the laws of the Torah to the exclusion only of the prohibition of carrion, very likely a later interpolation. On the relationship of the biblical *ger* to the *ger toshab* see note 4 above.



scholarship on the matter is in order. The rabbinic laws for gentiles, first of all, should not be considered as constituting “natural law” in the vein of later Christian discourse, even if the rabbis raise just this possibility.<sup>67</sup> The rabbis, of course, saw some laws as self-evident, yet their view of law in the last instance is exclusively that of “positive law,” that is as owing its validity to having been given by God, even where a given law might overlap with other possible sources of establishing human conduct.<sup>68</sup> Moreover, Ishay Rosen-Zvi and Adi Ophir, building on previous scholarship, point to the many parallels between these Noahide Laws and the Decree of the Apostles, at the same time as pointing to a key difference: the latter is designated to bring the gentiles in, whereas the former are largely addressed to those who choose to stay out of the fold.<sup>69</sup> Finally, it is well

<sup>67</sup> David Novak has argued that the notion of natural law is pertinent for the study of the rabbinic Noahide Laws; see Novak, *The Image of the Non-Jew in Judaism: An Historical and Constructive Study of the Noahide Laws* (New York: Edwin Mellen, 1983); a position later revised in Novak, *Natural Law in Judaism* (Cambridge: Cambridge University Press, 2008). I share the reservations against the concept as applicable to the rabbis as voiced by Bernard S. Jackson, “The Jewish View of Natural Law,” *Journal of Jewish Studies* 52 (2001): 136–45; see now also Christine Hayes, *What’s Divine about Divine Law: Early Perspectives* (Princeton: Princeton University Press, 2015), 356–69 and Hayes, “Were the Noahide Commandments Formulated at Yavne? Tosephta Avoda Zara 8:4–9 in Cultural and Historical Context,” in *Jews and Christians in the First and Second Centuries: The Interbellum 70–132 CE*, ed. Joshua Schwartz and Peter J. Tomson (Leiden: Brill, 2017), 225–64. Likewise, Ishay Rosen-Zvi and Adi Ophir have emphasized that the different ways in which the same laws apply to Jews and to gentiles obviate the concept of natural law; see Rosen-Zvi and Ophir, *Goy*, 195, based in turn on Sabbato, “Noahide Laws in Tannaitic Literature,” esp. 37–38 and 83–85. The interesting suggestion by Boaz Cohen to compare the rabbinic Noahide Laws to the Roman *ius gentium*, however, should not be rejected just because the rabbis “did not have any such power over any group of non-Jews,” as Novak would have it (see Cohen, *Natural Law*, 150). The rabbis equally legislated on the Temple after its destruction; their application of law is always a secondary consideration. On Cohen’s hypothesis see Cohen, *Jewish and Roman Law: A Comparative Study* (New York: The Jewish Theological Seminary, 1966), 26ff. For a broader discussion see Anver M. Emon, Matthew Levering, and David Novak (eds), *Natural Law: A Jewish, Christian, and Islamic Trialogue* (Oxford: Oxford University Press, 2014); on natural law in Christianity and in the Qur’an, see pp. 153–57 and 188–90 below.

<sup>68</sup> An addendum to an early rabbinic source, Sifra *Aḥarei Mot* 13:9, for instance, suggests that laws against robbery (*hgzlwt*), fornication (*wh’rywt*), idol worship (*w<sup>o</sup>*), blasphemy (*wqlt hshm*), and the spilling of human blood (*wshpykwt dmyim*), even if they had not been written (*sh’ylyw l’ nktbw*, i.e. in the Torah), could be justifiably committed to writing (*bdyn hyh lktbn*, i.e. as quasi-divine law); cited according to Manuscript Oxford in the edition of Weiß, *Sifra debe Rab*, 86a. The early rabbis thus likely saw these laws, which equally form part of the Noahide Laws, as constitutive of a functioning society. The passage thus contains a nod towards the concept of natural law, yet it does so within the acknowledged context of the primacy of positive law, namely those laws that *have* been written. Later, Amoraic rabbinic thought in turn dismisses the concept even more strongly. Natural law, namely, seems to be ironized by a statement attributed to R. Johanan in the Babylonian Talmud, who reportedly said, “If the Torah had not been given, we would have learned about modesty (*shny’wt*) from the cat, and about robbery (*wgzl*) from the ant, and about fornication (*w’rywt*) from the dove. Worldly manners (*drk r’s*)? From the cock that first coaxes and then copulates! (*shmpyys w’hr kk bw’l*)” (Bavli *Eruvin* 100b). Rashi’s forced commentary on the passage notwithstanding, it is clear that the Talmud here dismisses the idea that anything “natural” should guide human interactions. This corroborates the conclusion spelled out by Hayes, namely, that “[t]he cumulative evidence provided by the sources examined... strongly suggests that the Talmudic rabbis did not understand the Noahide Laws in primarily natural law terms. Moreover, the Babylonian Talmud’s unprecedented construction and subsequent contestation of an alternative position that *does* represent Noahide law in natural law terms suggests that the rabbinic rejection of a natural law view of Noahide law was a self-aware one”; see Hayes, *What’s Divine about Divine Law*, 370.

<sup>69</sup> Note that Rosen-Zvi and Ophir argue that “aggadic Tannaitic midrash uses the seven [Noahide] commandments to exclude gentiles from the covenant... Interestingly enough, the exact inversion of

established that the rabbis base their Noahide Laws partially on Genesis 9, as the rabbis themselves explicitly claim (and as Jubilees did before them). What I wish to add to the state of research here is that in my view, the rabbis construct *the entirety* of their laws for gentiles in close dialogue not only with God's covenant with Noah in Genesis but also in dialogue with the *gerim* laws we find in Leviticus 17–26. They do so in a way similar to Acts—yet with a different understanding of which type of “blood,” exactly, would be prohibited to gentiles, and in full appreciation of the Masoretic permission of carrion to *gerim* in Deut 14:21.<sup>70</sup> The difference between the Christian and the rabbinic reading of the prohibition of blood and carrion, in turn, will not only corroborate my reading of Acts in relationship to the Hebrew Bible but also indicate that the Qur'an can be placed in a legal tradition in which the Acts of the Apostles play a much more central role than the rabbinic Noahide Laws. On a side-note, I may add that this result falsified the inverse assumption with which I set out in pursuing the present study many years ago.

In detail, in the Tosephta's commentary on idol worship, in *Avodah Zarah* 8:4, the Tannaitic rabbis list a total of more than a dozen commandments given to Noah. Of these, only the following seven had already been accepted in their time, and these formed the basis of all later rabbinic discussions on the matter:

The children of Noah were commanded concerning  
seven things:  
concerning a legal system (*hdynyn*),  
and concerning idol worship ('*bwd' zrh*),  
and concerning cursing the name (of God, *qyllt hshm*),  
and concerning the uncovering of nakedness (*gylwy 'rywt*),

this position is found in Acts 15, where the commandments to the gentiles are used as a way to let gentiles in"; see Rosen-Zvi and Ophir, *Goy*, 195. While I concur prima facie with Rosen-Zvi and Ophir in their assessment of the Noahide Laws as excluding the gentiles from entering the covenant, it is far from clear that this is the intent of this legislation rather than the result of its status as alternative to conversion. On the rabbinic Noahide Laws more broadly see most recently *ibid.*, 194–97; Hayes, “Were the Noahide Commandments Formulated at Yavne?,” 225–64; Hayes, *What's Divine about Divine Law*, esp. 356–69; Yishai Kiel, “Noahide Law and the Inclusiveness of Sexual Ethics: Between Roman Palestine and Sasanian Babylonia,” *Jewish Law Annual* 21 (2015): 59–109; Sabbato, “Noahide Laws in Tannaitic Literature,” esp. 52–84; Lavee, “The Noahide Laws,” 73–114; and the classical if dated studies by Bockmuehl, *Jewish Law in Gentile Churches*, 145–74; Klaus Müller, *Tora für die Völker: Die noachidischen Gebote und Ansätze zu ihrer Rezeption im Christentum* (Berlin: Institute Kirche und Judentum, 1994), and Novak, *The Image of the Non-Jew*. I have presented my views orally on several occasions; e.g. Holger Zellentin, “The Biblical Basis of the Rabbinic Noahide Laws: A New Approach to an Old Problem,” given at the British Association for Jewish Studies Annual Conference, University of Edinburgh, 11 July 2017, and Zellentin, “The Noahide Covenant from the Bible to the Qur'an,” International Qur'anic Studies Association Annual Conference, San Antonio, 20 November 2016.

<sup>70</sup> The validity of God's covenant with Noah, and its applicability to all of humanity until the end of days, is thus explicitly endorsed by the rabbis, yet we should note that the covenant with Noah is portrayed as having been “pushed away” by the covenant with Abraham when it comes to Israelites, as explicated in *Bereshit Rabbah* 44:5; see Matthias Morgenstern, *Die große Genesis-Dichtung: Juden und Christen im Gespräch über das erste Buch der Bibel* (Paderborn: Schöningh, 2022), 209–10 and see also *Tanhuma* (Buber) Noah, 17.

and concerning the spilling of blood (*shpykwt dmym*),  
 and concerning theft (*hgzl*),  
 and concerning a limb from a living being (*'br mn hhy*).<sup>71</sup>

While the relationship between biblical and Tannaitic, rabbinic law is not always straightforward, I hold that this list, both in the Tosephta as well as in its later parallels, seems to draw on the Hebrew Bible's laws for gentiles, especially those in Genesis and Leviticus.<sup>72</sup> My argument for the exegetical nature of the relationship between the Bible's *gerim* laws and the rabbis' Noahide Laws rests on the almost complete overlap between the extended version of the respective prohibitions for gentiles in the Tosephta and in Leviticus 17–26, which is embedded in shared language. My claim does not, of course, preclude the possibility that the Tosephta draws on an earlier tradition, yet if this is the case, then such traditions are likely rabbinic ones. I hold that we lack earlier extra-rabbinic evidence for this tradition, or any evidence at all, since the obvious candidates—such as Jubilees and the Acts of the Apostles—offer much stricter laws regarding blood and, in the case of Acts, also regarding carrion.<sup>73</sup> The rabbis may thus have taken an exegetical cue from the Christians, all the while developing their own application thereof. As likely, both traditions may reach back to a shared precedent, or both traditions may have come up with the same answer to a similar problem. For the present study, what matters most is not the chronological nature of their relationship, but their role as mutually enforcing the two parallel hypotheses, by Wehnert and by myself, determining their linkage to Leviticus, along with their *divergent* interpretation thereof.

Six of the seven Noahide Laws listed above are based either on Genesis 9 or the *gerim* laws of the Holiness School. In the Bible, as we have seen, *gerim* are prohibited from worshipping idols in Lev 17:7–9 (paralleled in Deut 29:10–29); committing blasphemy (“and he who misuses the name,” *wəṇōqēb šēm-Yahweh*) in Lev

<sup>71</sup> See Moses Samuel Zuckerman, *Tosephta: Based on the Erfurt and Vienna Codices* (Jerusalem: Bamberger & Wahrmann, 1937), 473. Note that the sentence “a limb from a living being” only appears a little later in the text of the Vienna manuscript; the Erfurt manuscript cites it as translated here.

<sup>72</sup> Important later parallels include Midrash *Bereshit Rabbah* 34:8, Yerushalmi *Avodah Zarah* 2.1 (40c, 14–25), Bavli *Chullin* 92a–b, and Bavli *Sanhedrin* 56a–60a; see also note 79 below. The later explanation of the hermeneutics in the Babylonian Talmud distracts from this fact, as I hope to argue in a separate publication. In Bavli *Sanhedrin* 56a–60b, the rabbis seek to derive the Noahide Laws from a number of sources, esp. from Genesis 2–6. The understanding of the *ger* not as a gentile but as a proselyte, and the effective exclusion of the interstitial category of the “*ger* who eats carrion” in Amoraic rabbinic culture made the laws given to the *gerim* in Leviticus 17–26 obsolete as a subset of law for the Babylonian Talmud. In my view, the Tosephta, in partial contrast to the Babylonian Talmud, understands all laws given to the *gerim* in the Pentateuch as potentially pertaining to gentiles, and, like Acts, constructs a category of gentiles that can be saved if they obey them.

<sup>73</sup> Note also that Sabbato convincingly argues that the list in the Tosephta is based on rabbinic precedent, as is common for the Tosephta; see Sabbato, “Noahide Laws in Tannaitic Literature,” esp. 52–84 and 86–87. On the rabbinic interpretation of Lev 17:15–16 see note 65 above. Note also the rapprochement between the historical Paul and a putative proto-rabbinic version of the Noahide laws in Matthew P. Van Zile, “The Sons of Noah and the Sons of Abraham,” *Journal for the Study of Judaism in the Persian, Hellenistic, and Roman Period* 48 (2017): 386–417.

24:16; and “uncover[ing] the nakedness” (*ləgallôt ʿerwāh*), in Lev 18 and 20. The “spiller” of human “blood,” *šōpēk dam hāʿādām*, is incriminated in Gen 9:6 (and cf. Lev 17:4) and theft is prohibited in Lev 19:11 (*lōʾ tignōbū*) and 13 (“and do not rob,” *wəlōʾ tigzōl*). Finally, the prohibition of the “blood-soul of flesh” (*bāsār bənapšō dāmō*), a difficult compound expression that appears in Gen 9:4 and Lev 17:10, is elsewhere understood by the early rabbis as a prohibition of “a limb from a living being.”<sup>74</sup> Arguably, the rabbis thus look at the same biblical texts that formed the basis of the Decree of the Apostles, yet the laws they derive are somewhat milder. We have seen that the Decree of the Apostles *prohibited* gentiles from consuming meat in the borderline cases of carrion and mangled animals (in line with its understanding of “strangled meat” and the impure nature of such meat according to the conflation of Lev 17:15 and Deut 14:21 we saw in the Temple Scroll as well as, possibly, in the Septuagint). In contrast, the rabbis allow gentiles to consume such meat by omitting its prohibition from the laws given to the sons of Noah in the Tosephta, arguably on the basis of the exemption in Deut 14:21.

In much closer exegetical relationship with the Hebrew Bible, and in contradistinction to the looser relationship between Acts and the Septuagint, the Tosephta, in prohibiting “the spilling of blood” (*shpykwt dmym*), “the uncovering of nakedness” (*gylwy ʿrywt*), and “theft” (*gzl*), uses the same terms we find in Gen 9:6, Lev 18:6, and Lev 19:13, respectively; its prohibition of “blasphemy” is equally reminiscent of the prohibition addressed to the *gerim* in Lev 24:16.<sup>75</sup> Within its rabbinic context, the usage of the specific terminology for the prohibition of the “uncovering of nakedness” makes it all but certain that the category includes all types of transgressions mentioned in Leviticus 18, such as incest, adultery, and sex during a woman’s menses. (We will, in Chapters 2 and 3, see that these acts are equally included in the definition of *porneia*, or illicit sexual intercourse, in Paul’s letters, in Acts, and throughout late antique Christianity; they equally figure in the Qur’an’s notion of *fāḥisha/fahshāʿ*.) Moreover, several rabbinic sources confirm the obvious reading of the term “uncovering of nakedness” as assuming reference to the whole of Leviticus 18 and adjacent texts.<sup>76</sup>

The relevance of Genesis 9 and the *gerim* laws for the rabbis’ Noahide Laws is thus already likely when it comes to six of the first seven canonical laws. The

<sup>74</sup> See Sifra *Shemini* 2:4 and 6:1, *Pesiqta de Rav Kahana* 12:1, Bavli *Sanhedrin* 56a–59b, and cf. the detailed analysis of further relevant sources by Sabbato in “Noahide Laws in Tannaitic Literature,” esp. 37–44 and 57–73.

<sup>75</sup> Lev 24:16 censures him “who misuses the name of G’d” (*wənoqēb šēm-Yahweh*), whereas Tosephta, omitting the explicit reference to God’s name in accordance with rabbinic law and usage, prohibits “cursing the Name (of God, *qyllt hshm*).” Both texts share the direct reference to God’s “name.” Note that the Tosephta uses the nominal form of “theft,” or “robbery,” *hgzl*, whereas the Bible uses the verbal form, “do not steal,” *wəlōʾ tigzōl*.

<sup>76</sup> For an illustration of how the rabbis specify “the uncovering of nakedness” according to Leviticus 18, including instances of incest, see e.g. Mishna *Sanhedrin* 7:4, *Kerithoth* 1:1, Yerushalmi *Sanhedrin* 7:5 (24c), and Bavli *Sanhedrin* 53a–55b; on the concept as such see also pp. 240–42 below.

relationship can further be corroborated by the fact that some rabbis apparently considered *all* the laws addressed to the sons of Noah and the *gerim* in Genesis 9 and Leviticus 19–26, respectively, as forming the basis of the Noahide Laws. This becomes apparent when the Tosephta stipulates further prohibitions in the name of individual authorities, in the sequel to the text cited above, which have often been neglected in previous scholarship on the matter.<sup>77</sup> The overlap between the biblical *gerim* laws and the rabbinic Noahide Laws is not as clear-cut as it is in the first part of the Tosephta's list, yet an obvious exegetical engagement with *gerim* laws, and with Leviticus 17–26 more broadly, transpires in the following five rabbinic laws given to the Noahides:

- the prohibition of the consumption of “blood from a living being” (*hdm mn hhy*);
- the prohibition of castration (applicable to both humans and animals, *hsyrws*);
- the prohibition of magic (*hkshpym*);
- the prohibitions spelled out in *Parashah Bnei Noah*, that is Gen 6:9–11:32;
- the prohibition of certain forms of cross-breeding (*hkl'ym*).<sup>78</sup>

This expanded list, and the explicit prohibition of “blood from a living being” and magic to gentiles, is repeated in all late antique reiterations of the Noahide Laws after the Tosephta, that is in the fourth-century CE commentary on Genesis, *Bereshit Rabbah*, as well as in the Palestinian and Babylonian Talmudim. However, while these later Amoraic texts spell out the laws for gentiles found in the Tosephta, they do not engage with the text of Leviticus any further.<sup>79</sup> It is only in

<sup>77</sup> One of the few scholars who gives closer attention to the second set of Noahide Laws is Sabbato, who equally illustrates important inner-rabbinic parallels, see Sabbato, “Noahide Laws in Tannaitic Literature,” 71–79.

<sup>78</sup> Zuckerman, *Tosephta*, 473.

<sup>79</sup> See note 72 above. Note that the Palestinian Talmud expands the number of prohibitions to thirty laws without spelling out the additional ones. According to Bavli *Chullin* 92a–b, the “sons of Noah,” i.e. the gentiles, had indeed accepted to fulfil thirty laws, yet actually “they only follow (*yn mqyymyn T*) three: they do not write a *ketubah* (marriage certificate) for males, they do not weigh the flesh of the dead in the market, and they respect (*shmkbdyn*) the Torah.” The rabbinic view here is marked by realism as much as by sarcasm at least in the first two cases, esp. if the Noahides here are seen as Romans. The phrase “they do not weigh the flesh of the dead in the market” (*shwqlyn bsr hmt bmqwlyn*), to begin with the second one, evokes the martyrdom of Rabbi Aqiva, about whom it is reported that “they weighed his flesh in the market” (*shshwqlyn bsrw bmqwlyn*) after he was killed by the Romans; see Bavli *Menahot* 29b and *Berakhot* 61b. While the story of Rabbi Aqiva may well indicate that the gentiles have crossed even one of the last boundaries, it seems more likely that the text suspects the gentiles of following only external forms of piety. Even if the flesh of the dead is not available for sale publicly, gentiles are clearly guilty of the spilling of blood, contravening the prohibition in Gen 9:1–7. In parallel with the first case, this implies that the gentiles allowed sex between males in contravention of Lev 18:22, even if they do not officially recognize marriages between men (as occurred of course in the case of Nero; see Suetonius *Nero* 28 and Dio Cassius *Epitome* 62.28); sex between men was prohibited by Constantius II; see *Theodosian Code* 9.7.3 and see Craig A. Williams, *Roman Homosexuality* (Oxford: Oxford University Press, 2010), 279–86. The Talmud's double irony

the early Tosephta that we can perceive a general focus on the regulations for *gerim* from Genesis and Leviticus, which share, or are understood by the rabbis as sharing, several of the same prohibitions:

- The added prohibition of “blood from a living being,” in addition to the consumption of “a limb from a living being,” like that of “a limb from a living being,” reflects an expansion of the rabbis’ reading of Gen 9:4 and Lev 17:10.<sup>80</sup>
- The prohibition of cross-breeding (*kl’ym*) appears in Lev 19:19 (without reference to the *gerim*), where the same term is used (see also Deut 22:9–11; the derivation is indirect).
- The prohibition against gentiles castrating animals is most likely based on the prohibition of accepting castrated animals from gentiles for sacrifice, according to Lev 22:24 (where the law is given for Israelites and foreigners, thus including *gerim*).
- The general prohibition against gentiles practising magic (which the Talmud later expands to include practices such as divination, wizardry, and necromancy, on the basis of Deut 18:10, see Bavli *Sanhedrin* 56b) is stipulated, including *gerim*, in Lev 20:6 and 27.
- Finally, gentiles must observe all the laws given in the biblical “pericope of the sons of Noah,” that is Gen 6:9–11:32, which begins with the Noahide covenant as spelled out above, alongside several further prohibitions of magic.

We can thus confirm that the Tosephta’s expanded list of stipulations attributed to individual authorities, with varying degrees of textual immediacy, can equally be said to reflect the rabbis’ engagement with Leviticus 17–26 in general and with the *gerim* laws more specifically, just as its list of generally accepted laws. The outcome of the rabbis’ deliberations partially overlaps with the Christian list in as far as the narrower focus in Acts allows us to tell. The clearest difference emerges in the rabbis’ lenient reading of blood and carrion, which palpably contrasts with the more stringent understanding in Acts, in the Christian movement more broadly, and in the Qur’an, as we will see. The early rabbis, to conclude, seem to have considered not only many of the prohibitions given to *gerim* in Leviticus 17–18 and 20–26 but also those in Leviticus 19, as applying to all gentiles, even if the laws on which they finally agreed present only a selection of these.

Despite the discrepancies of detail, we can argue that both the Tannaitic rabbis and Acts based their laws for gentiles on the Noahide covenant and on the *gerim* laws, in Genesis and Leviticus, respectively, with two key differences. First,

suggests that the alleged “honour” which the gentiles bestow on the Torah may equally be less than perfect; alternatively, it may be reference to the limited legal autonomy accorded to the Jews under the Sasanians; see e.g. Geoffrey Herman, *A Prince without a Kingdom: The Exilarch in the Sasanian Era* (Tübingen: Mohr Siebeck, 2012).

<sup>80</sup> See note 74 above.



Christians were stricter in their interpretation and, two, the rabbis, unlike Acts, do not evoke the concept of purity in this context. The rabbis, indeed, never discuss the issue of prohibited impurity when it comes to gentiles, and, in turn, eventually dismiss the concept of regulated impurity when it comes to gentiles. The three-way relationship between Genesis/Leviticus, Acts, and the Tosephta therefore allows us to see to what extent both the early Christian and rabbinic streams of Jewish thought agreed on the issue of gentile law, and where exactly they parted ways—issues not sufficiently clarified in previous scholarship of which I am aware.

The main discrepancy between Christian laws for gentiles in Acts and those in the Tosephta therefore concerns the precise nature of blood and the permissibility of carrion, alongside the applicability of the notion of impurity. Unlike Acts, the rabbis did not disallow gentiles to consume carrion, arguably on the basis of Deut 14:21. Yet they did make a distinction between those *gerim*—in the rabbinic sense of the term—who did and those who did not consume carrion, possibly based on Lev 17:15–16. The rabbis, moreover, did not object to the gentile’s consumption of animal blood other than that of “blood from a living being”—the blood contained in carrion was thus permissible for gentiles, as would be the consumption of meat procured through any form of slaughter.<sup>81</sup> The legal divergence between rabbis and Christians, and therefore between Jewish gentile law, on the one hand, and Christian and qur’anic law, on the other, can thus be traced to a precise exegetical difference, yet such a focus would obfuscate the multitude of other cultural factors that codetermined the respective readings of the Bible.

A last key difference between rabbis and Christians to be considered before turning to late antiquity more broadly pertains to the biblical image of the impurity of the land. The Christian tradition, we will see, offers a wide range of attitudes towards the applicability of *regulated* impurity to gentiles. At the same time, there is unanimity pertaining to the notion of *prohibited* impurity as such, no matter its precise origins and effects. Yet even so, Christians did not tend to consider the ways in which spilled human *blood* would pollute. They hardly if ever discuss the issue of the “pollution of the land” caused by bloodshed or other crimes, despite the notion’s importance in the Hebrew Bible and its universalization in the Book of Jubilees. The Acts of the Apostles, we have seen, do not mention any concrete result of the pollution of a sinner and seems to operate beyond the confines of the Holy Land. Apart from the Clementine Homilies (see p. 96 below), I am not

<sup>81</sup> The novelty of my argument here is thus neither the general parallel between Acts and the rabbinic laws, nor the importance of the *gerim* laws as such for both bodies of law, both of which have been observed before (see note 69 above). Rather, it is my suggestion that the early, tannaitic rabbis, in addition to Genesis 9, directly and predominantly exegetically engaged the biblical *gerim* laws in their construction of the Noahide Laws, as I have sought to illustrate above. Later rabbinic iterations of Noahide Laws include a wide variety of legal specifications; the relevance of the laws of the *gerim* in Leviticus 17–26 here loses relevance along with the Amoraic rabbinic reinterpretation of the *ger* as proselyte. On the divergence of later rabbinic Noahide law from Israelite law, see Hayes, *What’s Divine about Divine Law*, 356–69.

aware of any later Christian engagement of the land's pollution through sin, either.<sup>82</sup> The rabbis took a different approach. They fully rejected the notion of regulated impurity when it came to gentiles, and they do not raise the notion of prohibited impurity with regard to gentiles, either.<sup>83</sup> The rabbis, moreover, especially in the early, tannaitic rabbinic period, retain the notion of prohibited impurity and evoke the pollution of the land. The phrase “the spilling of blood which defiles the land” (*shpykwt dmym shmṭm’ ʾt h’rṣ*) serves as a common legal parameter; even an ox that has killed a man pollutes the land and must be executed.<sup>84</sup> Yet the rabbis by no means consider bloodshed as the only sin that defiles the land, as the following passage in the early Tannaitic *Sifra* illustrates:

“You shall not do wrong in judgment” (Lev 19:15). This teaches that a judge who perverts justice . . . leads to five things: He pollutes the land (*mṭm’ ʾt h’rṣ*) and profanes the Name (of God) and uproots the Shechinah and causes Israel to fall by the sword and exiles it from its land (*wmgllh ʾwt’ m’rṣw*).<sup>85</sup>

The rabbis thus seem to equate injustice in general, including the type committed by a person who “lies with measures” (*shyqr bmydh*) or by someone who is guilty of sexual misconduct, with sins that can pollute the land—which in their case likely remains the Holy Land, since they understand the pollution as leading to exile.<sup>86</sup> In the Qur’an, we find a possible echo and broadening of this very tradition, as will be discussed in Chapter 4.

The exegetical affinity between the positions on gentile law found in Acts and in the rabbinic corpus, along with the evident discrepancies when it comes to food laws, now places us in a position from which to appreciate the developments

<sup>82</sup> A few exegetical references to the pollution of the earth through bloodshed of course can be found; see e.g. Saint Basil’s remark that Cain had made “the earth . . . accursed for himself by polluting it with his brother’s blood (*gē ēn epikataraton heautō epoiēse mianas adelphikō haimati*)” based on the story in Gen 4:1–18; see Basil, Letter 260.4.22–23, cited according to Yves Courtonne, *Saint Basile: Lettres* (Paris: Les Belles Lettres, 1966), vol. III, 110. Yet even here, the pollution leads to a curse for Cain only, and the pollution has no other effects; on Christian notions of prohibited impurity see note 9 above.

<sup>83</sup> The recent study by Rosen-Zvi and Ophir clearly illustrates just how far the rabbis’ dissociation of gentiles and notions of what I designate as regulated impurity went; see Rosen-Zvi and Ophir, *Goy*, esp. 215–24.

<sup>84</sup> See Mekhilta deRabbi Ishmael *Neziqin* 10, cited according to Jacob Lauterbach, *Mekhila de-Rabbi Ishmael: A Critical Edition on the Basis of the Manuscripts and Early Editions with an English Translation, Introduction, and Notes* (Philadelphia: The Jewish Publication Society of America, 1949), vol. III, 79; see also Mekhilta deRabbi Ishmael *Neziqin* 13 (*ibid.*, 101), *Shabbata* 1 (*ibid.*, 198), see also *Sifre Numeri* 160 and 161 and *Bavli Yoma* 85a; see Klawans, *Impurity and Sin*, 92–133.

<sup>85</sup> *Sifra Qedoshim* 4.1, cited according to Manuscript Oxford in the edition of Weiß, *Sifra debe Rab*, 88b–89a; see also *Ruth Rabbah* 1:2.

<sup>86</sup> It seems as if the rabbis understand much of what the Bible designates as *tō’ēbāh*, “abomination,” (see note 29 above) as potentially polluting the land. Elsewhere in *Sifra*, Lev 19:35 is understood as indicating that he who cheats in measures brings about the pollution of the land; see *Sifra Qedoshim* 8:5, see Manuscript Oxford in the edition of Weiß, *Sifra debe Rab*, 91a. Note also that the equation of adultery and the pollution of the land according to Jer 3:1 is cited in *Bavli Yoma* 86b; the Septuagint, by contrast, already elides the reference to the pollution of the land in Jeremiah and is thus cited, for example, in Basil, Letter 188.9.9; see Yves Courtonne, *Saint Basile: Lettres* (Paris: Les Belles Lettres, 1961), vol. II, 128. On the universalization of the notion of the land’s pollution in the Book of Jubilees see pp. 52–56 above.



in later forms of Christianity, as well as in the Qur'an.<sup>87</sup> In what follows, we will see that the food laws for *gerim* found in Leviticus were generally seen as binding for gentiles by most Christian authorities, and that the Levitical basis of these laws were often, but not always, explicitly evoked when the Decree of the Apostles was discussed, albeit generally without direct reference to the notion of the biblical *ger*. While the laws themselves remained largely stable up to the rise of Islam, the attitudes towards this decree varied—ranging, as pointed out in the Introduction, from an “appreciative” majority of sources to a small number of “dismissive” and a considerable number of “expansive” ones at either side of the mainstream. Especially those Christians who maintained or expanded the Decree of the Apostles contributed to preparing the Qur'an's own unique approach that builds on various aspects of the rabbinic and especially of the appreciative and expansive Christian traditions.

The interpretative crux when seeking to reconstruct the vibrant world of late antiquity in general, and its gentile purity regulations in particular, is the weighing of the evidence constituted by the highly selective record of preserved literary sources. It is crucial to remember that most of what we know stems from elites, from those who could write, and from those whose texts were transmitted, while the large majority of Jews and Christians in the period were not among the privileged, were illiterate, and followed streams of thought embodied in vivid oral cultures only subjectively and selectively reflected in our written records. It is, in effect, not only difficult to assess the “Common Judaism” of the Second Temple period or of late antiquity, where sources are very limited, it is also difficult to assess “Common Christianity,” as I will do in my attempt to describe its legal points of continuity with the Qur'an. In order to achieve this goal, I will seek to

<sup>87</sup> Another early “Christian” text focused on the gentile purity regulations which one should take into consideration is the Didache; I take its opening address “to the nations” (*tois ethnesin*) as historically accurate (if not original to the text). The Didache's fundamental laws are almost entirely congruent with the gentile purity regulations given in Leviticus 17, 18, and 20: “Do not commit murder; do not commit adultery (*ou moicheuseis*); do not corrupt boys (*ou paidofthorēseis*); do not have illicit sex (*ou porneuseis*); do not steal; do not practice magic (*ou mageuseis*); do not practice witchcraft (*ou farmakeuseis*); you shall not murder a child, whether it be born or unborn” (Did. 2:2, on magic and idolatry see also 3:4, on theft 3:5). This central list is largely congruent with the gentile purity regulations found in Leviticus 17–26, and has special affinities with its application to gentiles both by Paul and by the rabbis. Further relevant laws in the Didache include the prohibition of blasphemy (Did. 3:6), cognate to Lev 24:16, and the positive commandment to love one's neighbour as oneself (Did. 1:2), as spelled out in Lev 19:18. Unsurprisingly, we also find a prohibition of “meat offered to idols,” later in the document, along with an exhortation to “bear what you are able” concerning food regulations (Did. 6:3). It is unclear, however, whether the text engaged Leviticus as evidently as Acts did. Moreover, the Didache does not make any reference to the central prohibition of “blood” and improperly slaughtered meat, endorsed by a majority of later Christian texts (as “strangled” meat) as well as, *mutatis mutandis*, by the rabbis (as “limb” or “blood” from a living being). The way in which the Didache understands the gentile purity regulations, therefore, may be closer to that of Paul than to that of Acts. On the dating and context of the Didache see for instance, Aaron Milavec, *The Didache: Faith, Hope, & Life of the Earliest Christian Communities, 50–70 CE* (New York: The Newman Press, Paulist Press, 2003) and the still useful collection edited by Clayton N. Jefford, *The Didache in Context: Essays on Its Text, History, and Transmission* (Leiden: Brill, 1995).

differentiate between patristic authors, on the one hand, and, on the other, those “simple believers” whose role in channelling traditions and practices into the milieu of the Qur’anic community may have been at least as important as that of ecclesiastical authorities.<sup>88</sup>

### Pure Food for Gentiles throughout Late Antiquity

For the purposes of our analysis, the reception of the Decree of the Apostles can be understood as readily dividing late antique Christian groups into three broad traditions; without claiming a clear-cut taxonomy, these attitudes can be characterized as dismissive, expansive, and appreciative. Select Church Fathers—really mainly Augustine and, at least rhetorically, Chrysostom—questioned the Decree of the Apostles in various ways, while others, such as Clement of Alexandria, Origen, and Tertullian, subscribed to a more expansive attitude towards it. The vast majority of Christians, however, simply appreciated and upheld it without expanding or even explaining its provisions in any further detail—the hallmarks of a near-unanimous consensus of practice embedded within, yet not tantamount to, a broadly shared legal narrative.

In detail, Karl Böckenhoff has long shown that the mainstream tradition in late antique Christianity, at least for the first seven centuries of the Latin, the Greek, and the Syriac churches, was the one I suggest calling *appreciative* towards the Decree of the Apostles. Confirmed by subsequent scholars, we can fully endorse Böckenhoff’s overall sense that Christians, by and large, simply followed the Decree or at least its individual mandates.<sup>89</sup> The canonical origin of the Decree of the Apostles within the Christian Bible, that is in Acts, was obvious to all Church Fathers who discuss it, and some connected it further to the laws of Genesis and Leviticus. The acknowledgment of the decree is thus not surprising, and a few examples easily illustrate how broadly the decree was officially endorsed in its entirety by the churches of the East and the West: the examples collected by Böckenhoff amount to an overwhelming sense that the synods, the church canons, the church historians, and individual Church Fathers up to the time of

<sup>88</sup> It has long been recognized how difficult it is to reconstruct “mainstream” or “common Judaism” in Second Temple Judaism and in the rabbinic period; see e.g. Adele Reinhartz and Wayne O. McCreehy (eds), *Common Judaism: Explorations in Second-Temple Judaism* (Minneapolis: Fortress Press, 2011) and Seth Schwartz, *Imperialism and Jewish Society: 200 BCE to 640 CE* (Princeton: Princeton University Press, 2001). In both Palestine and even in Babylonia, the majority of Jews stood probably much closer to what the rabbis called the *‘Am Ha’arets*, the “people of the Land,” than to the minute circle of the rabbinic elites themselves. The same seems to hold true for Christianity as well; see e.g. Jack Tannous, *The Making of the Medieval Middle East: Religion, Society and Simple Believers* (Princeton: Princeton University Press, 2018).

<sup>89</sup> See Karl Böckenhoff, *Das apostolische Speisegesetz*; Meiser, “Texttraditionen des Aposteldekrets,” 381–98; and see also Peter Tomson, *Paul and the Jewish Law: Halakha in the Letters of the Apostle to the Gentiles* (Minneapolis: Fortress, 1990), 177–86.

the Qur'an endorsed the Decree almost unanimously; thereafter, many later testimonies suggest a general continuity with it. At the same time, the evidence in no way suggests that the Christian population itself would have diverged from the Decree's provisions in large numbers; the sanctions for doing so seemed to have been both effective and generally accepted.<sup>90</sup>

The decree is confirmed by the Synod of Gangra in 340 CE,<sup>91</sup> and reconfirmed by the Second Council of Constantinople in 553 CE,<sup>92</sup> as well as by the Council in Trullo (i.e. the Quinisext Council) in 692 CE.<sup>93</sup> The Apostolic Constitutions, in the fourth century, endorse the decree and explicitly identify it with the laws given to Noah and other figures living before the law (6:12, on which more below),<sup>94</sup> and the decree is confirmed in the Latin as well as in the Syriac version of the *Didascalia Apostolorum* (ch. 24, to which we will also return).<sup>95</sup> Moreover, after the sixth-century CE reforms of the *Catholicos* Mar Aba, the East Syrian Church understood Leviticus 18 as equally applicable to its Christian constituents.<sup>96</sup> The *Canons of the Apostles* (preserved as part of the Apostolic Constitutions), likely at the turn of the sixth century CE prohibit "flesh with the blood of the life thereof, or anything killed by beasts (*thērialōton*), or that dies of itself (*thnēsimaion*)," understanding the prohibition of "strangled meat" in light of both Gen 9:6 and Lev 17:15, just as Wehnert had indicated the term "strangled" should be read.<sup>97</sup> The Decree is equally sanctioned by prominent church historians such as Socrates

<sup>90</sup> See Böckenhoff, *Das apostolische Speisegesetz*; for later sources see esp. Böckenhoff, *Speisesatzungen mosaischer Art in mittelalterlichen Kirchenrechtsquellen des Morgen- und Abendlandes* (Münster: Verlag der Aschendorffschen Buchhandlung, 1907).

<sup>91</sup> Synod of Gangra, Canon II, see Jacques-Paul Migne (ed.), *Dionysii Exigui justī, facundi opera omnia* (Patrologia Latina 67; Paris: Migne, 1848), 55–56; see also Böckenhoff, *Das apostolische Speisegesetz*, 78–79.

<sup>92</sup> See Richard Price, *The Acts of the Council of Constantinople of 553: With Related Texts on the Three Chapters Controversy* (Liverpool: Liverpool University Press 2009), 111.

<sup>93</sup> Council of Trullo, 692, canon 67; see Heinz Ohme, *Concilium Constantinopolitanum a. 691/2 in Trullo habitum* (Berlin: De Gruyter, 2013), 50; see also Böckenhoff, *Speisesatzungen mosaischer Art*, 4.

<sup>94</sup> See Marcel Metzger, *Les constitutions apostoliques* (Paris: Éditions du Cerf, 1987), vol. 2, 332–34; see also Böckenhoff, *Speisesatzungen mosaischer Art*, 81.

<sup>95</sup> See Richard H. Connolly, *Didascalia Apostolorum: The Syriac Version Translated and Accompanied by the Verona Latin Fragments* (Oxford: Clarendon Press, 1929), 209; Arthur Vööbus, *The Didascalia Apostolorum in Syriac II* (Corpus Scriptorum Christianorum Orientalium 407; Louvain: Secrétariat du CorpusSCO, 1979), 237. See also "Further Canons of Jacob of Edessa," in Arthur Vööbus, *The Synodicon in the West Syrian Tradition* (Corpus Scriptorum Christianorum Orientalium 367; Louvain: Secrétariat du CSCO, 1975); as well as Athanasius of Balad, *Letter*; François Nau, "Littérature canonique syriacque inédite," *Revue de l'Orient Chrétien* 14 (1909): 128–30, on Athanasius also Robert G. Hoyland, *Seeing Islam as Others Saw It: A Survey and Evaluation of Christian, Jewish and Zoroastrian Writings on Early Islam* (Princeton: Darwin, 1997), 148; and Zellentin, *The Qur'an's Legal Culture*, 5–17.

<sup>96</sup> More on the importance of Mar Aba in Chapter 3 below; note that Mar Aba's sixth-century treatise on Leviticus 18 is missing in the otherwise helpful discussion of the Christian exegesis on Leviticus by Daniel Stökl Ben Ezra, *The Impact of Yom Kippur on Early Christianity*, 261–89.

<sup>97</sup> *Canons of the Apostles*, Canon LXIII; see Metzger, *Les constitutions apostoliques*, vol. 3, 298; see also Böckenhoff, *Speisesatzungen mosaischer Art*, 37–38.

Scholasticus.<sup>98</sup> The punishment of the deliberate transgression of the laws governing prohibited impurity was usually excommunication (in perhaps conscious parallel to the punishment of being “cut off” from the people in Leviticus); yet Böckenhoff lists a number of cases in which both Eastern and Western Church Fathers explicitly permitted the consumption of foodstuff normally prohibited under duress (a ruling we will equally find in the Qur’an).<sup>99</sup> The decree was thus maintained and appreciated by most Christians.

In order to convey a sense of a slightly thicker cultural reading, a few excerpts from the Church Fathers that recognize the Decree—most of whom duly noted by Böckenhoff, some supplemented by Martin Meiser—may suffice.<sup>100</sup> Clement of Alexandria, disgustingly accuses the Arab nomads of drinking the blood of their camels even when they do so in order to escape death.<sup>101</sup> The fourth-century Father Cyril of Jerusalem emphasizes that the Decree is “universal from the Holy Ghost,” and depicts as savage those who “living like dogs, both lap up the blood, after the manner of the fiercest wild beasts, and eat their fill unsparingly of things strangled.”<sup>102</sup> Jerome, who, following Ezekiel, also includes “that which dies of itself and which is captured by wild animals” (*omne morticinum et captum a bestia*) under “strangled” meat.<sup>103</sup> Of special importance for the unconditional endorsement of the prohibition of blood in the Syriac churches is the fourth-century Father Ephrem, even if his direct testimony on the Decree of the Apostles is difficult to assess. Ephrem, namely, emphasizes both the binding nature and the unaltered validity of the “three covenants” that “God established with Noah,” which he lists as the prohibition to consume blood, the accountability of beasts who devoured humans, and the death penalty for murderers. The passage is worth considering in its entirety:

<sup>98</sup> Socrates Scholasticus, Church History 5:22.69, see Pierre Périchon et al., *Socrate de Constantinople, Histoire ecclésiastique* (Livres IV–VI) (Paris: Éditions du Cerf, 2006), 233–35.

<sup>99</sup> See Böckenhoff, *Speisesatzungen mosaischer Art*, 1–10; see also the incidents of forceful consumption under Julian described in Böckenhoff, *Das Apostolische Speisegesetz*, 74–75.

<sup>100</sup> See Meiser, “Texttraditionen des Aposteldekrets,” 381–93 and see note 51 above.

<sup>101</sup> See Clement of Alexandria, *Paedagogus* 3:3:25, in Claude Mondésert and Henri-Irénée Marrou, *Clément d’Alexandrie. Le pédagogue, Livre III*. (Paris: Éditions du Cerf, 1970), 56; see also *ibid.* 2.7.56 and Clement of Alexandria *Stromata* 4:15:97, in Ludwig Früchtel et al. (eds), *Clemens Alexandrinus* (Berlin: Akademie Verlag, 1960), 290–91, and see Böckenhoff, *Das Apostolische Speisegesetz*, 41–44.

<sup>102</sup> See Cyril of Jerusalem, *Catechetical Lecture* 17:29; Wilhelm K. Reischl and Joseph Rupp, *S. Patris nostri Cyrilli, hierosolymorum archiepiscopi opera quæ supersunt omnia* (Hildesheim: Georg Olms, 1967 [1848]), vol. II, 287, translation according to P. McCauley and Anthony A. Stephenson, *The Works of Saint Cyril of Jerusalem* (Washington, DC: Catholic University of America Press, 1969), vol. 1, 133, see also Böckenhoff, *Das Apostolische Speisegesetz*, 75–7; and Cyril of Jerusalem, *Catechetical Lecture* 4:28, see Reischl and Rupp, *S. Patris nostril Cyrilli*, vol. I, 121, translation according to McCauley and Stephenson, *The Works of Saint Cyril of Jerusalem*, 133.

<sup>103</sup> Jerome understands the prohibition in Ezek 44:31 (on which see p. 48 above) to apply to all Christians; the passage reflects the milder prohibition of carrion and animals torn by wild beasts found in Lev 17:15; see Jerome, *In Ezechielem Liber XIII, Caput XLIV*, see Jacques-Paul Migne (ed.), *S. Eusebii Hieronymi, Opera Omnia* (Patrologia Latina 26; Paris: Migne, 1845), 444; see also Jerome, *Against Jovinianus*, I:34, see Jacques-Paul Migne (ed.), *S. Eusebii Hieronymi, Opera Omnia* (Patrologia Latina 23; Paris: Migne, 1848), 268; and see Böckenhoff, *Das Apostolische Speisegesetz*, 95–97.

14. [God] also blessed Noah and his sons that they might be fruitful and multiply and that fear of them should fall upon all flesh both in the sea and on dry land. “Only you shall not eat flesh with its life (*blḥwd lm bsr’ dnpshh bh l’ t’klwn*),” that is, you shall eat no flesh that has not been slaughtered (*dl’ ’tnks*) and whose blood, which is its life, has not been drained (*wrd’ dmh dhw npslh*). God established three covenants (*tlt’ gyr qymyn ’qym*) with Noah: one, that they should not eat blood (*dl’ ’klwn dm*); one of retaliation (*wḥd dnwḥm*), that God will require the blood of animals (*dntb’ dmhwn mn hywt’*); and one that a murderer is to be put to death (*wḥd dqtl ntqtl*).<sup>104</sup>

We will find a similar understanding of the validity of the Noahide covenant, understood in the testimony of Tertullian and in that of the *Apostolic Constitutions*, to which we will turn below and in the next chapter, respectively.

Almost all late antique Christians thus endorsed the Decree of the Apostles in some form. Still, the tradition *dismissive* of gentile purity regulations can be shown in both Latin and Greek forms of Christianity from the fourth century onwards; it seems to be absent in other Eastern churches such as those speaking Syriac, Coptic, or Ge‘ez (ancient Ethiopic), as we will see. While of secondary concern for the present inquiry, it should be noted that the dismissive attitudes proved dominant only in medieval Latin and later in Catholic and Protestant forms of Christianity—yet not in the Greek Orthodox Church.<sup>105</sup> More importantly, however, we should note that the way in which the few late antique Church Fathers who do dismiss the Decree of the Apostles still points to its prevalence among their contemporaries, to the fact that even these dismissive Church Fathers were keenly aware of the Levitical basis of the Decree of the Apostles, and to the danger of prohibited impurity as such. It seems that the attempt to diminish or even to turn away from the Decree of the Apostles in parts of the Greek and the Latin church, despite the canonical prohibitions, was first undertaken in the fourth century CE, yet did not gain ground for centuries. A brief look at the two prominent Church Fathers responsible for this attempt, John Chrysostom (347–407) and Augustine (354–430), can by no means do justice to the complexity of their nuanced and sometimes evolving positions, let alone to their overwhelming reception history. The purpose of what follows, however, is simply to illustrate that despite their prominence in church history, they effectively argued a minority position when they move towards questioning or even dismissing the

<sup>104</sup> See Ephrem, *Commentary on Genesis* 6.14, R. M. Tonneau, *Sancti Ephraem Syri in Genesim et in Exodum Commentarii* (Corpus Scriptorum Christianorum Orientalium 71; Louvain: Sécrcariat du CSCO, 1955), 62 translation according to Edward P. Matthews and Joseph P. Amar, *Ephrem the Syrian: Selected Prose Works: Commentary on Genesis, Commentary on Exodus, Homily on Our Lord, Letter to Publius* (Washington, DC: The Catholic University of America Press, 1994), 143; on Ephrem’s possible citations of the Decree of the Apostles see note 51 above.

<sup>105</sup> See Böckenhoff, *Speisesatzungen mosaischer Art*.

applicability of the Decree of the Apostles—even if their respective perspectives eventually carried the day in both the Greek and the Latin church.<sup>106</sup>

Chrysostom, to begin with, seems to question the applicability of the gentile purity regulations in the Decree of the Apostles by asserting that “these things the New Testament did not severely ordain (*dietatteto*), we nowhere find that Christ discoursed about these matters; but these things they (i.e. the apostles) take from the Law.”<sup>107</sup> Chrysostom nominally gives a nod to the claim, in Acts, that the Apostles were guided by the Holy Spirit, to which John’s contemporary Cyril had pointed so emphatically when defending the decree’s universal status. John, by contrast, by indicating the decree’s scriptural origin, and can be understood as effectively calling for the decree’s supersession along with that of the Torah. Chrysostom thus follows a double strategy of downplaying the importance of the Decree along with “Judaizing” it—incidentally showing that he was fully aware of how deeply rooted the Decree really is in “the Law,” that is in Leviticus 17–18. Chrysostom furthermore completely rejects any implication of bodily purity inherent to the decree, interpreting both the prohibition of “things strangled” and of “blood” as mere prohibitions of “murder”—an interpretation that incidentally heeds the hermeneutics behind the Noahide association of the double prohibition of spilling and consuming blood in order not to dislodge either prohibition, but at least to recontextualize the latter one.<sup>108</sup> Chrysostom represents one of the most restrictive interpreters of the Decree. In his downplaying of the significance even of the consumption of blood, however, he transfers rather than negates the issue of the prohibited impurity resulting from grievous sin. Chrysostom elsewhere goes as far as stating that regarding impurity (*akatharsia*) “all matters are transferred to the soul” (*metestē eis tēn psychēn to pan*).<sup>109</sup> Both in his downplaying of

<sup>106</sup> Another figure who argued for a purely “spiritual” reading of the prohibition of blood given to Noah is Ambrose, in *Psalm* 118, 13,6, as noted by Meiser, “Texttraditionen des Aposteldekrets,” 392. It should also be noted that a few New Testament texts did not accept the gentile purity regulations stipulated in Acts; on the possible case of Paul, see note 46 above; see further e.g. 1 Tim 4:3 and Hebrews; on the shortening of the Decree of the Apostles in the Codex Gigas and in Irenaeus see note 51 above, and see Weiss and Zellentin, “Purity and the West,” 181–204.

<sup>107</sup> John Chrysostom *Homilia XXXI on the Acts of the Apostles*, 32–33, Jacques-Paul Migne (ed.), *Joannis Chrysostomi Opera Omnia*. (Patrologiae Graeca 60; Paris: Migne, 1860), 240.32–3, see also Böckenhoff, *Speisesatzungen mosaischer Art*, 84–85.

<sup>108</sup> Chrysostom *Homilia XXXI on the Acts of the Apostles*, 32–33, see Jacques-Paul Migne (ed.), *Joannis Chrysostomi Opera Omnia*, 240.32–33; see also Chrysostom’s *Homily 46* on the Acts of the Apostles. In *Homily 74* on Matthew, Chrysostom correctly identifies the dual prohibition of shedding and consuming blood as deriving from the prohibition given to Noah in Gen 9:5. It does not, however, follow that Chrysostom would allow the consumption of blood, which he opposes, e.g., according to his *Homily on Genesis* 27.13–16. Note that Irenaeus had understood the prohibition of blood exclusively in terms of “murder” long before Chrysostom; see Irenaeus, *Against Heresies* 5.14.1; on the prohibition of “blood” as “murder” see also the testimony of Augustine, Tertullian, and the Clementine Homilies below. Note that Böckenhoff also counts Cyril of Alexandria as an “opponent” of the decree of the apostle; in his case, however, the evidence is not as clear-cut (see Böckenhoff, *Das Apostolische Speisegesetz*, 103–7).

<sup>109</sup> Chrysostom, *Commentary on the Epistle to Titus*, Homily 2, MPG 62:681, 1; see also note 100 (Chapter 2) on this passage.



the Decree of the Apostles and in his interiorization of prohibited impurity, we will see, Chrysostom was an outlier, even if he ultimately upheld the majority view of the decree's validity.

So, on the one hand, it is readily perceived that the language of prohibited impurity remains universal in all forms of Christianity. On the other hand, however, both Chrysostom's negation of any *concrete* basis for prohibited impurity, as well as his attenuation of the prohibition to consume animal blood, represent a very small minority within late antique Christianity. When it comes to the nature of prohibited impurity, most Church Fathers (and later the Qur'an) emphasize the *demonic* origin of prohibited impurity. Such a view, of course, is not necessarily incompatible with Chrysostom's transferral of impurity to the soul, and, in Chapter 4, we see that the Qur'an's stance on the matter—which firmly connects prohibited impurity with the devil—shares a similar outlook. Yet his emphasis matters: it is certainly no coincidence that Chrysostom is also an outlier in rejecting the power of demons in compelling human beings, and, in turn, I am not aware of other Church Fathers taking such a resolute stance on the immaterial nature of prohibited impurity as we find in Chrysostom. Likewise, whereas the Byzantine church did not generally endorse his questioning of the Apostolic Decree, Chrysostom effectively falls in line with the scribe of the one manuscript that simply excised the prohibition of strangled animals—and thereby the explicit prohibition of non-flowing forms of blood—from the Decree of the Apostles altogether.<sup>110</sup>

For the present purposes, it is essential to note a two-partite development regarding gentile purity: Acts already sidelined the issue of regulated impurity with respect to gentiles, followed by the appreciative majority as well as by the dismissive stream of its interpreters, some of whom took to polemicizing against this form of purity observance. With Chrysostom, we see a further transfer even of the notion of prohibited impurity, which seeks to decouple the concept from the believers' physical existence, and consequently recontextualizes the biblical and apostolic dietary requirements even when ultimately upholding them. This attitude towards gentile purity thus stands closest to the rabbinic views towards the matter as expressed in the Noahide Laws, which equally curtail the applicability of the *gerim* laws pertaining to foodstuff such as blood and carrion; the dismissive attitude equally stands furthest from those Christian appreciative and expansive tendencies that will prove formative for the Qur'an's legal point of departure.

Yet even if Chrysostom's view was that of a small minority among Christians, he finds himself in limited but famous company not only, as it were, among the rabbis. Both of his hermeneutical strategies, of undermining and reinterpreting

<sup>110</sup> For Chrysostom's view on the powerlessness of demons to compel human beings see e.g. the first of this *Three Homilies on the Devil* and the dissertation by Samantha Lynn Miller, *No Sympathy for the Devil: The Significance of Demons in John Chrysostom's Soteriology* (PhD diss., Marquette University, 2016). On other Christians dismissing the Decree of the Apostles see note 51 and 106 above.

the decree, are equally present, and even more fully spelled out, in the writings of Augustine; Augustine again inadvertently offers testimony that the Christians of his time did observe food laws all the while downplaying their significance. The Latin Father, just like the Greek one, dismisses any physical aspects of prohibited impurity through forbidden foods, an affinity Böckenhoff has already pointed out.<sup>111</sup> Citing the historical Paul, Augustine begins with the prohibition of idol meat, and then moves to blood and carrion, writing as follows:

Again, if you ask why, of all the kinds of food prohibited in the former typical dispensation, we abstain only from what dies of itself (*morticino*) and from food offered to idols (*immolatio*), you shall hear, if for once you will prefer the truth to idle calumnies. The reason why it is not expedient for a Christian to eat food offered to idols is given by the apostle: "I would not," he says, "that you should have fellowship with demons" (1 Cor 10:20)... If the nature of the sacrificial flesh were unclean (*esset immunda*), it would necessarily pollute (*contamineret*) even when eaten in ignorance. But the reason for not partaking knowingly is not in the nature of the food, but, for conscience sake, not to seem to have fellowship with demons.<sup>112</sup>

The prohibition of idol meat, for Augustine, has nothing to do with the sacrificial meat itself, but is valid only "for conscience sake, not to seem to have fellowship with demons," as he understands Paul's words.<sup>113</sup> Yet Augustine also speaks of the prohibition of *morticino*, of "what dies of itself," which he lists as the only other Christian food requirement whose observation he condones. Carrion, of course, is not part of the explicit list in Acts, yet in line with the correct understanding of the term "strangled" as a summary category for "carrion"—explicated equally in several other witnesses—it had become common Christian practice to understand "things strangled" to include it, just as we will find both terms in the Qur'an. Augustine reluctantly endorses the prohibition; for him, however, it has nothing to do with purity, it is merely a matter of health: "I suppose the reason why such food was prohibited was that the flesh of animals which have died of themselves is

<sup>111</sup> See Böckenhoff, *Das Apostolische Speisegesetz*, 98–103. Böckenhoff here points out that Augustine's discussion of the purity laws should be understood in the context of his anti-Manichean polemics; see also Meiser, "Texttraditionen des Aposteldekrets," 392 and Freidenreich, *Foreigners and Their Food*, 116–17. Augustine's dismissal of the decree, in other words, is not a categorical one, as becomes clear for example in his stance on the Galatians 2; see e.g. Jason A. Myers, "Law, Lies and Letter Writing: An Analysis of Jerome and Augustine on the Antioch Incident (Galatians 2:11–14)," *Scottish Journal of Theology* 66: 127–39.

<sup>112</sup> Augustine, *Contra Faustum* XXXII.13; Jacques-Paul Migne, *Sacncti Aurelii Augustini, Hipponensis Episcopi, Opera Omnia*. (Patrologia Latina 42; Paris: Migne, 1865), 504; modified translation according to Roland Teske and Boniface Ramsey, *The Works of St Augustine: Answer to Faustus, a Manichean* (Hyde Park: New City Press, 2007), 415–16; see also Augustine, *Epistle 82* (to Jerome) 2:9; Jacques-Paul Migne, *Sacncti Aurelii Augustini, Hipponensis Episcopi, Opera Omnia*. (Patrologia Latina 33; Paris: Migne, 1865), 279.

<sup>113</sup> Augustine, *Contra Faustum* XXXII.13.



diseased, and is not likely to be wholesome for the body (*nec apta ad salutem corporis*), which is the chief thing in food.”<sup>114</sup> Augustine therefore attests to the Decree’s prevalence in his own time, referring to the things from which “we,” that is Christians, “abstain,” even as he dismisses it.

Augustine furthermore evokes both the prohibition of blood to gentiles given to Noah and its confirmation by the Decree of the Apostles, in line with the reading of the Decree suggested above. He then argues that it is merely a relic of the early church, whose pertinence has disappeared along with the presence of practising Jews in the parts of the church with which he is familiar, yet he also testifies to the decree’s observance by some of his compatriots:

The observance of pouring out the blood (*de effundendo sanguine...praeceptum*) which was enjoined in ancient times upon Noah himself after the deluge... is thought by many (*plerique intelligunt*) to be what is meant in the Acts of the Apostles, where we read that the Gentiles were required to abstain from fornication, and from things sacrificed, and from blood (*ut abstinerent gentes tantum a fornicatione, et ab immolatis, et a sanguine*), that is, from flesh of which the blood has not been poured out (*ne quidquam ederent carnis, cujus sanguis non esset effusus*). Others give a different meaning to the words and think that to abstain from blood means not to be polluted with the crime of murder. It would take too long to settle this question, and it is not necessary... Now that the Church has become so entirely gentile (*gentium*) that none who are outwardly Israelites (*Israelita carnalis*) are to be found in it, no Christian feels bound to abstain from thrushes or small birds because their blood has not been poured out (*nisi quarum sanguis effusus est*), or from hares because they are killed by a stroke on the neck without shedding their blood (*nullo cruento vulnere occisus est*). Any who still are afraid to touch these things are laughed at by the rest (*a ceteris irridentur*).<sup>115</sup>

Augustine’s testimony here is again instructive. Fully dismissive of the notion of purity (a term he omits from his summary of the Decree of the Apostles), the Church Father shows how well versed he is in the laws of Leviticus. Augustine, like so many others, testifies to the foundation of the Decree of the Apostles in Genesis 9 and Leviticus 17. The cases of improperly slaughtered animals Augustine presents as examples, the bird and the hare, fall precisely under the categories

<sup>114</sup> Augustine, *Contra Faustum* XXXII.13.

<sup>115</sup> Augustine, *Contra Faustum* XXXII.13; see also *ibid.*, 22. Note that the Babylonian Talmud rules that fowl killed by “pinching” (*m-l-q*, i.e. pinching off the head) would in theory and in the context of a specific sacrifice not need to be ritually slaughtered according to Scripture; doing so is presented as a rabbinic rule in Bavli *Nazir* 29a, whereas the opinion that “ritual slaughter for birds is not derived from the Torah” is intensely discussed throughout the Bavli tractate *Hullin*; see e.g. 4a, 20a–b, 27b–28a, and 85b–86a as well as *Kiddushin* 71a (see also note 65 above).

outlined in Lev 17:13 discussed above, describing an Israelite or a *ger* “who hunts and catches any beast or bird that may be eaten; he shall pour out its blood.” Augustine, like Chrysostom, thus again implicitly confirms how clearly the Decree of the Apostles is rooted not only in the Noahide Covenant but also in Leviticus. “Strangled meat,” for Augustine, includes not only carrion but also any improperly slaughtered animal, as it does for almost every other Christian appreciative authority that specified the term (in a way similar to the one we will find in the Qur’an). In his ridicule of the observation of these laws within his gentile community, Augustine also gives testimony to the ongoing observance of what constituted the Christian mainstream opinion throughout the Christian world. Since Christians before and after Augustine, and even the medieval Latin church, maintained aspects of the prohibition of blood, we may well wonder how many Christians, exactly, were “laughing” at how many others regarding this matter.<sup>116</sup>

Chrysostom and Augustine, in their own ways, thus equally attest to the fact that even in their time, Christians still did abstain from carrion, “that which dies of itself,” and from improperly slaughtered animals. This is especially noteworthy since the prohibition of carrion is circumscribed by the crucial notion of “strangled” animals in Acts, whose pertinence can *only* be understood if reading Acts alongside Leviticus, as both the Christian tradition at large and both of the dismissive Church Fathers seem to do. Augustine, finally, also attests that some Christians in his time continued to drain the blood of birds and hares, exactly as they are instructed in Lev 17:13, and again, only a Christian culture that understood and lived the Decree of the Apostles in light of Leviticus would explain the practices that Augustine rationalizes or dismisses. It should be noted that some contemporary scholars, in line with Chrysostom’s and Augustine’s understanding of “blood” as “murder” alone, have likewise argued for an alternative explanation of the Decree: that the prohibition of blood in Acts would only refer to the shedding of human blood, or that the purity rules in Acts were “simply” invented to ease Jewish–gentile relations, as Augustine suggests—perhaps in the same way that Paul, in Acts, has a gentile circumcised “because of the Jews,” or in the same way that the historical Paul suggested that one should not eat idol meat in order to “give no offence to the Jews” (1 Cor 10:32).<sup>117</sup> There is no way to disprove such alleged pragmatism, which may or may not have played a role even in a text as uncompromising as Acts. Yet the underlying motivation in such arguments seems to be to downplay the sticky and enduring notion of impurity, both regulated and prohibited, at the heart of late antique Christian discourse—in contrast to the

<sup>116</sup> See p. 84 above.

<sup>117</sup> See 1 Cor 10:23–33, and 1 Corinthians 8 and 9, where Paul argues that one should abstain from idol meat in order to prevent the conscience of “weak believers” among the gentiles from being “defiled.” For a thorough consideration of the evidence from a contemporary parallel perspective see Deines, “Das Aposteldekret.”

majority position sketched above, which appreciated the Decree of the Apostles in its entirety.

An early interpretive direction opposite to that of the dismissal or curtailing of the laws originally given to the *gerim* by Augustine, by Chrysostom, and before them by the rabbis was espoused by those appreciating or even expanding the urgency, applicability, and scope of the Decree of the Apostles. This route had already been taken by some of the early Fathers, such as Clement of Alexandria, Origen, and Tertullian, whose testimony nicely illustrates the laws put forth in the church councils. It is these early Fathers, most likely along with many regular believers in their congregations, who most fully understand the Decree as legislating on the prohibited impurity resulting from the ingestion of blood or carrion. No sharp distinction between an appreciative and an expansive tradition regarding food laws should be posited among early believers. Regardless, we will see that their emphasis on avoiding prohibited impurity through food was continued precisely by those Christians who later expanded the Decree's remit, arguably setting the closest precedent for the food laws eventually adopted by the qur'anic community.

It is also Clement of Alexandria, Origen, and Tertullian who emphasize the novel ethnic identity of Christianity, as Denise Kimber Buell has illustrated.<sup>118</sup> Buell's important findings can be augmented by considering that these authors continue to emphasize the importance of avoiding prohibited impurity to their gentile audience, and that for them, such impurity remained as polluting the entire human being, including the body, just as it is conceived of in the Hebrew Bible and in the Acts of the Apostles. Tertullian, in his apology, written in the summer of 197 CE, most likely in Carthage, addresses his gentile audience—whom it accuses of devouring blood, and even human blood—as follows:

Blush for your vile ways before the Christians, who have not even the blood of animals at their meals of simple and natural food; who abstain from things strangled and that die a natural death (*qui propterea suffocatis quoque et morticinis abstinemus*), for no other reason than that they may not be contaminated (*contaminemur*), so much as from blood secreted in the viscera. To clench the matter with a single example, you tempt Christians with sausages of blood, just because you are perfectly aware that the thing by which you thus try to get them to transgress they hold illicit (*illicitum*).<sup>119</sup>

<sup>118</sup> See Denise Kimber Buell, *Why This New Race: Ethnic Reasoning in Early Christianity* (New York: University of Columbia Press, 2008), esp. 70–75.

<sup>119</sup> Tertullian, Apology 9.13, see Terrot R. Glover, *Tertullian: Apology; De spectaculis* (Loeb Classical Library 250; London: Heinemann, 1931), 50–53. Tertullian, despite endorsing the prohibition of the consumption of blood, states that “interdictum enim sanguinis multo magis humani intellegemus,” clearly understanding the prohibition of murder in line with Gen 9:6; see Tertullian, *De Pudicitia* 12.4–5, Claudio Micaelli and Charles Munier, *Tertullien: La pudicité* (Sources Chrétiennes 394; Paris: Éditions du Cerf, 1993), vol. 1, 204, as observed already by Freidenreich, *Foreigners and Their Food*,

Tertullian, like Augustine would later do, attests to an appreciative or even expansive reading of the Decree of the Apostles in light of Leviticus, including the strict prohibition of carrion—to which he, unlike his famous north African Latin successor, wholeheartedly adhered. By pointing to the “blood secreted in the viscera” of animals that are strangled or “die a natural death,” Tertullian furthermore continues the discourse that already typified the relationship of Leviticus to Genesis and of Acts to Leviticus: he is part of the long process of legal explanation and specification of the Decree of the Apostles, which lasted well into the seventh century CE and beyond. Even more impressively than Augustine, Tertullian confirms the suggested critical understanding of the prohibition, in Acts, of “strangled” meat as a general specification of the prohibition of blood in all animals that were improperly slaughtered. For Tertullian, only through proper slaughter and the shedding of all blood can one avoid the blood secreting from the viscera.

Just as significantly, Tertullian also describes the observance in terms of purity and law: contracting “pollution,” for him, has nothing to do with purity of the mind alone, or with the presence or absence of Jews; it would simply “contaminate” and be “illicit,” fully falling into the category of prohibited impurity that contaminates the entire human being. Crucially, Tertullian understands the prohibition of blood given to Noah in terms of the “the re-formation of the human race (*in reformatione generis humani*),” summarizing the covenant as stating that “one provisional law sufficed, abstaining from blood (*suffecisse unam interim legem a sanguine abstinendi*).”<sup>120</sup> In this, Tertullian understands the covenant with Noah as binding: the “provisional” nature of the law, in his case, does not point to its later abrogation, but to its reiteration in the Decree of the Apostles.

The development of a legal narrative of purity rules, alongside the actual laws, can be appreciated in Tertullian’s contemporary, Origen, who wrote at the opposite eastern end of North Africa, in Alexandria. In a passage preserved in Rufinus’ Latin translation, Origen, a most careful reader of the Bible, construes gentile Christians based on the *gerim*, emphasizing the applicability of Leviticus 18 for gentiles:

You see then that the law respecting blood (*de observatione sanguinis legem*), which was given both to the sons of Israel and to resident aliens (*et filiis Israel et*

253 note 17. Elsewhere, however, Tertullian associates Noah not with the law given in Genesis 9, but with his keeping of natural law (on which more below); see e.g. *Adversus Iudaeos* 2 and Karen Taliaferro, *The Possibility of Religious Freedom: Early Natural Law and the Abrahamic Faiths* (Cambridge: Cambridge University Press, 2019), 104–27. On the consumption of human blood in ancient Rome see e.g. Ferdinand P. Moog and Axel Karenberg, “Between Horror and Hope: Gladiator’s Blood as a Cure for Epileptics in Ancient Medicine,” *Journal of the History of Neurosciences* 12 (2003): 137–43.

<sup>120</sup> See Tertullian, *On Fasting*, 4, Latin according to August Reifferscheid and Gustav Wissowa, *Quinti Septimi Florentis Tertulliani Opera* (Corpus Scriptorum Ecclesiasticorum Latinorum 20; Prague: F. Tempsky, 1890), vol. I, 278. Note that Justin Martyr, like Tertullian, equally notes the prohibition of blood given to Noah, albeit only in his polemic with Trypho; see Justin Martyr, *Dialogue with Trypho*, 20. On both see also Meiser, “Texttraditionen des Aposteldekrets,” 383–84.

*advenis*), is observed by us Gentiles as well who, through Jesus Christ, believe in God. For Scripture customarily calls us proselytes and resident (*proselytos et advenas*) . . . This is why the Church of even the Gentiles has received the universal law which safeguards against blood (*legem de observatione sanguinis*) with the sons of Israel. For in those days the blessed council of the apostles, understanding that these things were written in the law in this way, for that reason pronounced dogmas and decrees for the Gentiles, writing that they should not only keep themselves from things sacrificed to idols and from fornication but also from blood and strangled things (*a sanguine et a suffocato*) . . . [C]oncerning things strangled . . . a law has been given both to the sons of Israel and to residents (*utrum communis filiis Israel cum advenis data sit lex*), since the statutes of the apostles decreed that the Gentiles are to observe even this. Listen to how carefully it has been safeguarded in the laws of God concerning this as well, “Anyone, anyone (*homo, homo*), of the sons of Israel or of the residents who are among you (*ex filiis Israel et ex advenis qui sunt in vobis*), whoever hunts down a beast or bird that may be eaten shall pour out its blood (*effundat sanguinem*) and cover it with earth (*et cooperiat terra*). For the soul of all flesh is its blood.”<sup>121</sup>

This passage, which appears in a broader discourse on circumcision, offers the clearest patristic statement of which I am aware that links the Apostolic Decree with the laws for the biblical *gerim*. In the sequel, Origen surmises a general identification of gentiles with the biblical residents.

Origen, at the same time, cared deeply about menstrual purity, and the Alexandria church, in general, maintained a special focus on the various respective forms of regulated impurity we will discuss in Chapter 2.<sup>122</sup> Many of the canons prohibiting women from partaking of the Eucharist during their menses, for example, come from Egypt.<sup>123</sup> Origen, in his *Commentary on Matthew*, also understands food laws in terms of purity. Here, he dismisses the *Israelite* food laws given “in Leviticus and Deuteronomy” explicitly. Yet he also teaches us about the importance of the food laws in terms of purity from demons—the very same

<sup>121</sup> Origen, *Commentary on the Epistle to the Romans*, 2:14, translation according to Thomas P. Scheck, *Origen: Commentary on the Epistle to the Romans, Books 1–5* (Washington, DC: The Catholic University of America Press, 2001), 151; Latin according to Theresia Heither, *Origenes: Commentarii in Epistulam ad Romanos* (Liber Primius, Liber Secundus; Freiburg: Herder 1990), 270–72; see also Meiser, “Texttraditionen des Aposteldekrets,” 388.

<sup>122</sup> See also Gerard Rouwhorst, “Leviticus 12–15 in early Christianity,” in *Purity and Holiness: The Heritage of Leviticus*, ed. Marcel J. H. M. Poorthuis and Joshua Schwartz (Jewish and Christian Perspectives Series 2; Leiden: Brill, 2000), 181–93.

<sup>123</sup> See Shaye Cohen, “Menstruants and the Sacred in Judaism and Christianity,” in *Women’s History and Ancient History*, ed. Sarah B. Pomeroy (Chapel Hill: University of North Carolina Press, 1991), 287–90; Dorothea Wendebourg, “Die alttestamentlichen Reinheitsgesetze in der frühen Kirche,” *Zeitschrift für Kirchengeschichte* 95 (1984): 149–70; Sr. Vassa Larin, “Ritual Impurity,” *St Vladimir’s Theological Quarterly* 52 (2008): 275–92; Tomson, “Jewish Purity Laws,” 73–91; and Zellentin, *The Qur’an’s Legal Culture*, 93 note 23.

context in which we found this issue already in Jubilees and in Paul. Highlighting the affinity between impurity, blood, sacrifice, and demons, Origen, like Augustine will do later, bases his views on Paul's teachings in 1 Corinthians 10. And just like Augustine, Origen not only considers the case of idol meat but also that of blood and "strangled things," the consumption of which he prohibits in no unclear terms. Yet the conclusions Origen draws markedly differ:

But as for us who know that some things are used by demons (*daimoniois*), or if we do not know, but suspect, and are in doubt about it, if we use such things, we have used them not "to the glory of God" (1 Cor 10:31) nor in the name of Christ; for not only does the suspicion that things have been sacrificed to idols (*eidōlothyta*) condemn him who eats, but even the doubt concerning this . . . . He then eats in faith who believes that that which is eaten has not been sacrificed in the temples of idols (*mē en eidōleiois tethysthai*), and that it is not strangled (*pnikton*) nor blood (*haima*); but he eats not of faith who is in doubt about any of these things. And the man who knowing that they have been sacrificed to demons (*daimoniois tethysthai*) nevertheless uses them, becomes a participant with demons (*koinōnos de tōn daimoniōn*), while at the same time, his imagination is polluted with reference to demons participating in the sacrifice (*meta memolysmenēs tēs peri tōn daimoniōn koinōnēsantōn tō thymati phantasias*).<sup>124</sup>

For Origen, the consumption of blood was not only as detrimental as idol worship, as it is for Tertullian; for Origen, the consumption *amounts* to idol worship, since demons participated whenever humans consume blood.<sup>125</sup> Origen here understands Paul's letters in the line of the theory about demonic spirits of Clement, yet Origen goes further than both of his contemporaries.<sup>126</sup> By equating the consumption of improperly strangled meat and blood with idol worship, Origen perpetuates the powerful paradigm for the hermeneutical

<sup>124</sup> Origen, *Commentary on the Gospel of Matthew, Book XI*, 12.48–63; Robert Girod, *Origène: Commentaire sur l'évangile selon Matthieu* (Sources chrétiennes 162; Paris: Éditions du Cerf, 1970), vol. I, 330–32. See also Origen, *Contra Celsus* 8:30; Marcel Borret, *Origène: Contre Celse* (Sources chrétiennes 150; Paris: Éditions du Cerf, 1969), vol. IV, 238–40. See also Wehnert, *Die Reinheit des "christlichen Gottesvolkes" aus Juden und Heiden*, 215 note 17.

<sup>125</sup> In his argument, Origen makes both a legal and a theological case that is well worth unpacking. He specifies that the meat one consumes must be of traceable origin: it is upon the believer to erase not only a founded "suspicion" about the meat's origin. The merest "doubt" disqualifies it from consumption—taking a view on due diligence in case of uncertainty that evokes Paul's own reasoning in 1 Cor 8:7 and 10:27 (which Origen clearly had in mind, since he cites not only 1 Cor 10:31 but also 8:8 as well as Rom 14:23), all the while reaching a far stricter conclusion than Augustine and perhaps even Paul envisioned. On Origen's association of blood and the soul according to Genesis 9 see also *De Principiis* 2.8.1.

<sup>126</sup> On Clement's view of demons see *Paedagogus* 2:1:8–10, in Claude Mondésert and Henri-Irénée Marrou, *Clément d'Alexandrie: Le pédagogue*, Livre II (Paris: Les Éditions du Cerf, 1965), 25–45, and see Blidstein, *Purity, Community, and Ritual in Early Christian Literature*, 74–77 and 185–202 and Böckenhoff, *Das Apostolische Speisegesetz*, 41–44.

contextualization of the Decree of the Apostles that connects the consumption of blood with idol worship, as Leviticus and Jubilees had before him.

When it comes to foodstuff, to reiterate, it hardly seems useful to differentiate between an appreciative and an expansive tradition towards the Decree of the Apostles before the fourth century. The absence of a clearer record on earliest practices makes it impossible to decide whether Tertullian and Origen merely specify existing practice or, whether, in the process of their legal discourse, they slightly expand it. (We should also not oversimplify matters by imagining legal uniformity throughout the Christian communities of the Middle East, let alone practices elsewhere in the Roman or Sasanian Empires.) The one late antique Christian text calling for the implementation of slight expansions of the food laws of the Decree of the Apostles is the one that also endorses the concept of sexual regulated impurity as applicable for both Jews and gentiles more broadly and more emphatically than even the Alexandrian church did. The Clementine Homilies, whose preserved text was edited in the fourth or fifth century CE, endorse and expand the entirety of the gentile requirements found in Leviticus, along with the precepts to wash after intercourse and before prayer. The text also places these requirements in the framework of purity rules pertaining both to Jews and to believing gentiles, all the while rejecting the very idea of a sanctuary (or, for that matter, of a holy land). The written *text* of the Homilies is of little relevance for the Qur'an's legal culture. Yet their testimony to the expansive attitude towards the Decree of the Apostles, if understood in conjunction with patristic polemics, likely reflects much broader tendencies among the *practices* of late antique Christian communities than has hitherto been suspected, thereby making them a central witness for the present inquiry.

The Homilies were written in Greek, in the narrative form of a late antique romance that constitutes the framework of its extensive apostolic teachings. These teachings are usually given in the form of theological-philosophical dialogues—the name “homilies” is as misleading as their secondary attribution to Clement of Rome and therefore their common moniker as pseudepigraphic.<sup>127</sup> I have pre-

<sup>127</sup> I reject the notion of calling the Homilies or any other ancient text “pseudo-apostolic” since we do not have any “authentic” written document from any of those who could even putatively have been sent out by the historical Jesus. The study of the Clementine Homilies (and Recognitions, a related Latin text) has gained much attention over the past decade or so; see e.g. Annette Yoshiko Reed, *Jewish-Christianity and the History of Judaism: Collected Essays* (Tübingen: Mohr Siebeck, 2018); Alain Le Bouleuc, “La doctrine d’un vrai prophète dans les écrits pseudo-Clémentins,” in *L’Ésotéricisme shi’ite: ses racines et ses prolongements*, ed. Mohammad Ali Amir Moezzi (Turnhout: Brepols, 2016), 139–62; Pierluigi Piovanelli and Tony Burke (eds), *Rediscovering the Apocryphal Continent: New Perspectives on Early Christian and Late Antique Apocryphal Texts and Traditions* (Tübingen: Mohr Siebeck, 2015); Stanley F. Jones, *Pseudoclementina Elchasaiticaque inter judaeo-christiana: Collected Studies* (Leuven: Peeters, 2012); Frédéric Amsler, Albert Frey, et al. (eds), *Nouvelles intrigues pseudo-clémentines—Plots in the Pseudo-Clementine Romance. Actes du deuxième colloque international sur la littérature apocryphe chrétienne, Lausanne-Genève, 30 août–2 septembre 2006* (Prahins: Zèbre, 2008); and Philippe Luisier (ed.), *Studi su Clemente Romano. Atti degli incontri di Roma, 29 marzo e 22 novembre 2001* (Roma: Pontificium Institutum Orientalium Studiorum,



viously sketched the close relationship—along with important differences—of the legal culture we find in the Clementine Homilies to that of the Qur’an. The following considerations in turn locate the legal discourse of the Clementine Homilies more broadly in late ancient Christian discourse. In so doing, they broaden the evidence for my repeated argument that the Qur’an should not be understood in the framework of its affinity to the putative notion of “Jewish Christianity,” as briefly reiterated in the conclusion. My take on the Clementine Homilies is largely congruent with, and much indebted to, the work of Karin Hedner Zetterholm.<sup>128</sup> It is crucial to note that while there is no *extant* full translation of the Clementine Homilies into Syriac, Arabic, or Ge’ez, we have partial evidence that over the course of the centuries the text was well received in all three of these languages. Whereas the following considerations take only the Greek evidence into account, I stipulate a much broader reception history for both possibly the text of the Homilies and with much more certainty the practices detailed within it: paucity—and by no means absence—of evidence, as so often, is not evidence of paucity or absence, either of the text itself, and more significantly, of the legal practices they endorse.<sup>129</sup>

As in the case of the New Testament documents we have briefly considered, the Homilies’ ethnic considerations parallel their approach to Israelite and gentile purity. The text stipulates what seems to underlie the legal reasoning of Acts, namely that there are two distinct ways to salvation. Jews need to obey the Mosaic Law, gentiles need to follow the teaching and the laws given by Jesus, the true

2003); also note the comments on purity in the Clementine Homilies in Blidstein, *Purity, Community, and Ritual in Early Christian Literature*, 185–93. For my own thoughts see Zellentin, *The Qur’ān’s Legal Culture*, esp. 77–126 and 175–202.

<sup>128</sup> See esp. the recent essays by Karin Hedner Zetterholm, “Jewish Teachings for Gentiles in the Pseudo-Clementine Homilies: A Reception of Ideas in Paul and Acts Shaped by a Jewish Milieu,” *Journal for the Jesus Movement in Its Jewish Setting* 6 (2019): 68–87 and Hedner Zetterholm, “Jewishly-Behaving Gentiles and the Emergence of a Jewish Rabbinic Identity,” *Jewish Studies Quarterly* 25 (2018): 321–44.

<sup>129</sup> The direct evidence of the continuing relevance of the Clementine literature more broadly, especially in the Syriac, Arabic, and Ge’ez translations, epitomes and retellings, past the fourth century, allows for a possible, yet by no means necessary, historical bridge between the fourth and the seventh centuries; see e.g. Geneviève Gobillot, “Two Arabic Epitomes of the Pseudo-Clementines: Texts of Sinai (MS. No. 508) and British Museum (MS. XXVIII, add. 9965),” in *Christian Apocrypha: Receptions of the New Testament in Ancient Christian Apocrypha*, ed. Jean-Michel Roessli and Tobias Nicklas (Göttingen: Vandenoek & Ruprecht, 2014), 213–33; Gobillot, “Des textes Pseudo-Clementins à la mystique juive des premiers siècles et du Sinai à Ma’rib: Quelques coïncidences entre contexte culturel et localisation géographique dans le Coran,” in *The Coming of the Comforter: When, Where, and to Whom?*, ed. Carlos A. Segovia and Basil Lourié (Piscataway: Gorgias Press, 2012), 31–118; Alessandro Bausi, “San Clemente e le tradizioni clementine nella letteratura etiopica canonico-liturgica,” in *Studi su Clemente Romano. Atti degli incontri di Roma, 29 marzo e 22 novembre 2001*, ed. Philippe Luisier (Rome: Pontificio Istituto Biblico, 2001), 13–55; Stanley F. Jones, “Evaluating the Latin and Syriac Translations of the Pseudo-Clementine Recognitions,” *Apocrypha* 3 (1992): 237–57; François Nau, “Note sur le prologue de la Didascalie arabe et sur quelques apocryphes arabes pseudo-clémentins,” *Journal asiatique* 10(17)(1911): 319–23; and Paul Anton de Lagarde, *The Pseudo-Clementine Recognitions and Homilies (10–14) in Syriac* (Piscataway: Gorgias Press, 2012 [1861]); as well as note 127 above.



prophet. The Clementine Homilies thus explicitly formulate the framework of ethnic separation and concomitant endorsement of Jews and gentiles as two sides of the same coin that we saw at work in the Acts of the Apostles and other texts. The Homilies, however, explicitly spell out a theological position not explicated in any other tradition belonging to the Jesus movement: Jews, at least in theory, do not need Jesus, the gentiles, at least in practice, do not need Moses.<sup>130</sup> In this, the Homilies maintain the theological model of the ethnic separation between Jews and gentiles akin to the one that was largely self-understood for the authors of Acts and other earlier texts. The Jews, for the Homilies, need to observe all laws given in the Torah; these laws are assumed, but never discussed in detail.<sup>131</sup> Accordingly, the Homilies summarize God's commandments to the gentiles in the words of the apostle Peter, as follows, in a way that combines instructions against regulated and prohibited impurities:

And this is the service He has defined:

To worship Him only, and believe only in the prophet of truth (*tō tēs alētheias monō pisteuein prophētē*),

and to be immersed (*baptisthēnai*) for the remission of sins (*eis apheresin hamartiōn*),

and thus by this pure dye (*tēs hagnotatēs baphēs*) to be born again unto God by saving water (*dia tou sōzontos hydatos*),

<sup>130</sup> The text states the following: "Neither, therefore, are the Hebrews (*hebraioi*) condemned on account of their ignorance of Jesus, by reason of Him who has concealed him, if, doing the things commanded by Moses, they do not hate him whom they do not know (*hon ēgnoēsan mē misēsōsion*). Neither are those from among the nations (*hoi apo ethnōn*) condemned, who know not Moses on account of Him who has concealed him, provided that these also, doing the things spoken by Jesus, do not hate him whom they do not know (*mē misēsōsion hon ēgnoēsan*); Clementine Homilies 8:7, translation according to Alexander Roberts and James Donaldson, *Ante-Nicene Christian Library: Translations of the Writings of the Fathers Down to AD 325*, vol. XVII, *The Clementine Homilies* (Edinburgh, T & T Clark, 1870), 140; Greek text according to Bernhard Rehm, *Die Pseudoklementinen I: Homilien* (Berlin: Akademie Verlag, 1969), 124; see Hedner Zetterholm, "Jewish Teachings for Gentiles," 81–82; Zellentin, *The Qur'ān's Legal Culture*, 23–24; Annette Yoshiko Reed, "'Jewish Christianity' after the 'Parting of the Ways': Approaches to Historiography and Self-Definition in the Pseudo-Clementines," in *The Ways that Never Parted: Jews and Christians in Late Antiquity and the Early Middle Ages*, ed. Adam H. Becker and Reed (Minneapolis: Fortress Press, 2007), 213–17. Note that the Clementine *Recognitions* do not maintain a similar separation of Jewish and gentile ethnicity, instead constructing Christians as Israelites; see Buell, *Why This New Race*, 71–73.

<sup>131</sup> There is no consensus as to whether the Homilies' conception of the Jewish law would be based on notions of any rabbinic or any diaspora community, or altogether idiosyncratic. While research by Reed and others persuasively points to the importance of rabbinic ideas for the Homilies, it should be noted that their radical rejection of Temple theology and of the integrity of the Hebrew Scriptures (see note 141 below) sets the text starkly apart from the fundamentals of rabbinic dogma. Despite the Homilies' rejection of the Temple, the text's overall view of Judaism would be more easily compatible with the broad notion of "Common Judaism" (see note 88 above) than with the rabbinic movement itself. On the importance of rabbinic ideas for the Homilies see e.g. Donald H. Carlson, *Jewish-Christian Interpretation of the Pentateuch in the Pseudo-Clementine Homilies* (Minneapolis: Fortress Press, 2013), 111–36; Annette Y. Reed, "Heresiology and the (Jewish-)Christian Novel: Narrativized Polemics in the Pseudo-Clementines," in *Heresy and Identity in Late Antiquity*, ed. Eduard Iricinschi and Holger Zellentin (Tübingen: Mohr Siebeck, 2008), 273–98, and the previous note.

to abstain from the table of demons (*trapezēs daimonōn*), that is, from food offered to idols (*eidōlothytōn*),  
 from carrion (*nekrōn*),  
 meat strangled (*pniktōn*) or caught by wild beasts (*thērialōtōn*),  
 and from blood (*haimatos*),  
 not to live any longer impurely (*mē akathartōs bioun*),  
 to wash after lying with a woman (*apo koitēs gynaikos louesthai*),  
 that they (i.e. the women) observe the menses (*aphedron phylassein*),  
 that all should be sober-minded,  
 given to good works (*eu poiein*),  
 refraining from wrongdoing (*mē adikein*),  
 looking for eternal life from the all-powerful God,  
 and asking with prayer and continual supplication that they may win it.<sup>132</sup>

This list of observances, like that in Leviticus, is mainly addressed to men, but a side-note about menstruation also addresses women.<sup>133</sup> The teaching of Jesus as portrayed in the Clementine Homilies constitutes a summary of Christian and rabbinic understandings of how the Bible's *gerim* laws, as previously channelled by the Decree of the Apostles and the Noahide Laws, respectively, apply to gentiles. While one should never reduce a text to the sum of its elements, the precise identification of antecedents to both the concepts and the language used in the Homilies helps us contextualize this relatively marginal text within the Jewish and especially the Christian tradition more broadly:

- Peter's speech in the Clementine Homilies is partially modelled on the one Peter gives during the Pentecost in Acts 2; the call here to the audience to immerse (*baptisthētō*) for the "remission of your sins" (*eis aphenin tōn hamartiōn humōn*) follows the text quite closely—save, of course, the reference to immersion "in the name of Jesus Christ" in Acts 2:38, which the Homilies replace by a baptism "unto God."<sup>134</sup> As in Acts, baptism miraculously once, and only once, removes previously incurred "prohibited" impurity from the gentiles who have come to believe.

<sup>132</sup> Clementine Homilies 7:8; see also 7:4 and 8:19.

<sup>133</sup> On the importance of the issue of menstrual purity see Chapter 2 below.

<sup>134</sup> The precise phrase "for the remission of sins" (*eis aphenin hamartiōn*) is also used in the New Testament in order to institute the Eucharist; see Matt 26:28; see also Mark 1:4; Luke 1:77; 3:3; and 24:47, on baptism in the Homilies, see now Hedner Zetterholm, "Jewish Teachings for Gentiles," 74–76, and Wehnert, *Die Reinheit des "christlichen Gottesvolkes" aus Juden und Heiden*, 168–78.

- The Homilies' imagery of "saving water" had been phrased similarly already by Origen and Cyprian of Carthage.<sup>135</sup>
- The Homilies' requirement of washing after sexual intercourse, and, as indicated elsewhere, before prayer, stands in line with the injunction to do so given to Israelites—but not to gentiles—in Lev 15:18. The biblical *gerim*, we have seen above, are required to wash after contracting impurity by consuming carrion according to Lev 17:15, even if the categorical restriction of such meat renders this precedent moot. Still, various forms of washing are well attested in many forms of Christianity, as we will equally discuss in Chapter 2. We can note already here, however, that this injunction to wash shows that the Homilies extend a sense of regulated impurity to baptized gentiles as well, to be observed once their prohibited impurity has been removed.
- The Homilies present the problematic nature of idol meat in line with the views originally expressed by Paul, further developed by Origen as discussed above, as food pertaining to the "table of the demons" (*trapezēs daimoniōn*; see 1 Cor 10:22).
- The text then presents the teaching of Jesus and his disciples, as preserved by the apostles, as containing an unequivocal endorsement of the observances known from Acts: the prohibition of the impurities resulting from meat sacrificed to idols, of blood, and of strangled meat, using the very wording used in the Acts of the Apostles (see e.g. Acts 21:25, "that they may guard themselves from idol meat and blood and strangled meat and *porneia*," *phylassesthai autous to te eidōlothyton kai haima kai pnikton kai porneian*). Instead of using the broader term used in Acts, *porneia*, that is "sexual transgression"—prohibition of which is taken for granted—the Homilies here only find one aspect of "the uncovering of nakedness" found in the Bible as in need of explication: the abstinence from intercourse during a woman's menses, as specified in Leviticus 18:19.<sup>136</sup>
- Moreover, the Homilies intersperse the items originally listed in Acts with two prohibitions based on two categories of meat problematic for gentiles that are also found in Leviticus 17: after the prohibition of idol meat, the Homilies explicate the prohibition of carrion (*nekrōn*); after the prohibition of strangled meat, the Homilies explicate the prohibition of animals killed by wild beasts, using the same term we find in the Septuagint's rendering of Leviticus (*thērialōton*, Lev 17:15). The same understanding of "strangled" meat, we have seen, was found in Jerome and in the Canons of the Apostles, and was likely shared by Augustine and most Christian authorities.

<sup>135</sup> Origen, Commentary on John 13:176, Cécile Blanc, *Origène: Commentaire sur saint Jean* (Sources chrétiennes 222; Paris: Éditions du Cerf, 1975), 131; see also Cyprian of Carthage, *Epistle LXIII* (To Jubaianus) 1; Hartel, *S. Thasci Caecili Cypriani Opera Omnia*, 779.

<sup>136</sup> The Clementine Homilies denounce adultery in general; see e.g. *ibid.* 3:49 and esp. 4:20.

The Clementine Homilies, thus far, expand the sexual laws applicable to gentiles, yet not necessarily the food laws. Instead, by explicating and specifying details of the nature of “strangled meat,” the text continues the long Christian return to Leviticus. After the prohibition of “blood,” the Homilies stipulate the necessity not to live impurely, repeatedly emphasizing a framework that includes aspects of “prohibited” and “regulated” impurity. The Clementine Homilies thus explicate their understanding of the Decree of the Apostles in light of Leviticus 17, and in light of the way in which it has been understood in previous Christian tradition, adding, just as Jerome and the Canons of the Apostles, the two types of meat which had been problematized in Lev 17:15 as *nevelah* and *trefah* in the Hebrew and as *thnēsimaion* and *thērialōton* in the Greek of the Septuagint. Whereas the Homilies clearly consider such meat to cause *prohibited* impurity, they seem to apply the concept of *regulated* impurity not to food but to bodily fluids, much like the Qur’an, as we will see.

The Clementine Homilies, it seems, explicate the two categories which had been included under “strangled meat” for centuries by Church Fathers who endorsed them as well as by those who dismissed them. The text’s “expansive” attitude, hence, manifests itself first and foremost by reading the Decree of the Apostles, which likely focuses on the danger of contracting prohibited impurity, within a new framework that understands gentiles as susceptible to the regulated impurities caused by sexual intercourse and menstruation. This reading seems to be based upon a combination of understanding, once again, the laws of Genesis 9 with those of Leviticus, where the *gerim* here are susceptible to regulated impurity caused by contact with corpses and the consumption of carrion. Just like Acts, however, the Homilies consider carrion as a cause not of regulated but of prohibited impurity, as the absence of any ritual remediation and a brief discussion of its narrative framework makes apparent.

Accordingly, the Homilies retell the story of the flood by blaming the bloodshed that led to it on the fact that the giants (known from Gen 6:1–4) had consumed blood, which led them to cannibalism and other crimes, closely following the narrative we had seen in the Book of Jubilees, which was equally received by Origen:

But they [the giants], on account of their bastard nature, not being pleased with purity of food, longed only after the taste of blood (*monēs tēs tōn haimatōn geuseōs*). Wherefore they first tasted flesh. And the men who were with them there for the first time were eager to do the like. . . . But when irrational animals fell short, these bastard men tasted also human flesh. For it was not a long step to the consumption of flesh like their own, having first tasted it in other forms. But by the shedding of much blood (*epi de tē pollē tōn haimatōn rhysei*), the pure air being defiled with impure vapour (*akathartō anathymiasei miantheis*) . . . rendered them liable to diseases. But the earth being by these means greatly

defiled (*hē de gē ek toutōn sphodra miantheisa*)...all things, therefore, going from bad to worse, on account of these brutal demons (*dia tous thēriōdeis daimonas*), God wished to cast them away.... And for this purpose, having warned a certain righteous man, with his three sons, together with their wives and their children, to save themselves in an ark, He sent a deluge of water, that all being destroyed, the purified world (*ho kosmos katekkatharistheis*) might be handed over to him who was saved in the ark, for a second life.<sup>137</sup>

The Homilies here put the narrative about Noah into a framework we have encountered before, first in the Bible and, already broadened, in the Book of Jubilees: a clear echo of the universal nature of Noah's covenant. First, the Homilies spell out the symbolic association of the consumption of animal blood with the shedding of human blood, and second, they universalize the biblical concept of the Holy Land's defilement through bloodshed as pertaining to the entire earth.<sup>138</sup> The latter concept especially helps us contextualize the qur'anic notion of crimes that corrupt both the Holy Land and the earth anywhere they are committed.

Importantly, the Homilies also highlight the legal implications of the flood above and beyond the biblical and postbiblical precedents: according to the Homilies, the flood killed the giants, yet their souls endured, and God is portrayed as detailing to the demons a list of the actions He prohibits to all of humanity. The endurance of the demons becomes part of the divine plan, since the demons are now allowed to attack humans only if these commit one of the following actions:

Worshipping you and sacrificing and pouring libations (*kai thyōn kai spendōn*),  
and partaking of your (i.e. the demons') table,  
or accomplishing anything else that they ought not,  
or shedding blood (*ē haima cheōn*),

<sup>137</sup> Clementine Homilies 8:15–17, translation according to Roberts and Donaldson, *The Clementine Homilies*, 2, Greek according to Rehm, *Die Pseudoklementinen I*, 144–45. On the relationship between Jubilees and the Clementine Homilies and other Christian texts see e.g. Blidstein, *Purity, Community, and Ritual in Early Christian Literature*, 78; Annette Yoshiko Reed, "Retelling Biblical Retellings: Epiphanius, the Pseudo-Clementines, and the Reception History of Jubilees," in *Tradition, Transmission, and Transformation from Second Temple Literature through Judaism and Christianity in Late Antiquity. Proceedings of the Thirteenth International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature, Jointly Sponsored by the Hebrew University Center for the Study of Christianity, 22–4 February, 2011*, ed. Menahem Kister et al. (Leiden: Brill, 2015), 304–21.

<sup>138</sup> A similar echo of Jubilees can be found in the *Acts of Andrew and Matthias*, which has been epitomized by Gregory of Tours. In this text, the inhabitants of a mythic city cease to eat human flesh and to drink human meat after being converted and baptized by Andrew; see e.g. Dennis R. MacDonald, *The Acts of Andrew and the Acts of Andrew and Matthias in the City of the Cannibals* (Atlanta, GA: Scholars Press, 1990); my gratitude to Mary Cunningham for bringing this work to my attention.

or tasting dead flesh (*sarkōn nekrōn geuomenos*),  
 or filling themselves with a piece left by a beast of prey (*thēriou leipsanou*),  
 or that which is separated (*tmētou*),  
 or that which is strangled (*pniktou*),  
 or anything else that is unclean (*akathartou*) . . .<sup>139</sup>

The firm connection of impurity and demons, in the Homilies as throughout the early church, highlights how Christians conceptualized the dangers of prohibited impurity. In line with Paul, Acts, Tertullian, Clement, and especially Origen, the Homilies perceive of idol meat in terms of the danger of demons.<sup>140</sup> The Homilies can thus be understood as a particularly striking example of the way in which Christians more broadly had transformed the biblical understanding of gentile purity. In the Bible, gentile purity, as part of the Israelite collective purity system, focused on the Holy Land and on Sanctuary (the instructions regarding which the Homilies do not consider to be part of the Torah in the first place). Christians, in line with some postbiblical Jewish traditions, thus transformed the biblical system doubly: first by focusing on the individual, and second by conceiving of prohibited impurity as *demonic* impurity, a notion not espoused in the same way by the rabbis.<sup>141</sup> Purity becomes necessary in order to fend off the evil spirits, who are allowed to attack only once someone willingly brings impurity over him- or herself.<sup>142</sup>

<sup>139</sup> Clementine Homilies 8:19, translation according to Roberts and Donaldson, *The Clementine Homilies*, 145–16; Greek according to Rehm, *Die Pseudoklementinen I*, 129.

<sup>140</sup> See already Reed, “‘Jewish Christianity’ after the ‘Parting of the Ways,’” 218–24, Reed, *Jewish-Christianity and the History of Judaism*, 355–58; and Böckenhoff, *Das apostolische Speisegesetz*, 61–63.

<sup>141</sup> The Clementine Homilies, for example in their third chapter, consider commandments concerning sacrifice a satanic interpolation of Scripture. This topic has received intense scholarly attention in recent years; see e.g. Evgeniia Moiseeva, “The Old Testament in Fourth-Century Christian–Manichaean Polemic,” *Journal of Late Antiquity* 11 (2018): 274–97; Karl Shuve, “Unreliable Books: Debates over Falsified Scriptures at the Frontier between Judaism and Christianity,” in *Books and Readers in the Premodern World: Essays in Honor of Harry Gamble*, ed. Shuve (Atlanta: SBL Press, 2018), 171–206; Carlson, *Jewish-Christian Interpretation of the Pentateuch in the Pseudo-Clementine Homilies*, 51–76; Giovanni Battista Bazzana, “Apelles and the Pseudo-Clementine Doctrine of the False Pericopes,” in “*Soyez des changeurs avisés*” *controverses exégétiques dans la littérature apocryphe chrétienne*, ed. Gabriella Aragione and Rémi Gounelle (Strasbourg: Université de Strasbourg, 2012), 11–32; and Karl Evan Shuve, “The Doctrine of the False Pericopes and Other Late Antique Approaches to the Problem of Scripture’s Unity,” in *Nouvelles intrigues pseudo-clémentines*, ed. Amsler and Frey (Prahins: Éditions du Zèbre, 2008), 437–46; and Vaccarella, *Shaping Christian Identity*; cf. also Kelley Coblenz Bautch, “Obscured by the Scriptures, Revealed by the Prophets: God in the Pseudo-Clementine Homilies,” in *Histories of the Hidden God: Concealment and Revelation in Western Gnostic, Esoteric, and Mystical Traditions*, ed. April D. DeConick and Grant Adamson (Abingdon: Routledge, 2014), 120–36; for my own views see Holger Zellentin, “‘One Letter Yud shall not Pass Away from the Law’: Matthew 5:17 to Shabbat 116a–b,” in *Religious Identities in Antiquity and the Early Middle Ages: Walking Together & Parting Ways*, ed. Ilkka Lindstedt, Nina Nikki, and Riikka Tuori (Leiden: Brill, 2021), 204–58; see also note 108 (Chapter 2) below.

<sup>142</sup> The world of the rabbis both in Palestine and especially in Babylonia was, just as much as that of Christians, “humming with demons,” as we will discuss further on pp. 176–78 (Chapter 2) below; see

The Homilies, while innovative in many ways, are thus also deeply conservative. The dangers of pollution in the Clementine Homilies include language and concepts also found in precisely the biblical and postbiblical sources we have discussed so far, including the rabbinic ones:

- The Homilies' narrative association of the consumption of animal blood with murder is already symbolically suggested by Gen 9:4–5; whereas its prohibition of shedding human blood (*ē haima cheōn*) is based on Gen 9:6, “whoever sheds the blood of a human being,” *ho ekcheōn haima anthrōpou* in the Septuagint's rendering. Both themes are also central for the Book of Jubilees.
- The Homilies' association of idol worship with bloodshed is symbolically indicated in Lev 17:4.
- The association of idol worship and the table of the demons, we have seen above, is broadly attested and goes back to Jubilees, to the historical Paul, and to Origen's teachings.
- The prohibition of dead flesh, or of a piece left by a beast of prey, we have seen above, is already indicated by Leviticus 17 and was likely part of Christian practice based on the Decree of the Apostles more broadly, which had turned the regulated impurity associated with carrion in the Bible into a matter of prohibited impurity.
- The prohibition of “that which is separated” from an animal may not, *in stricto sensu*, be an expansion of Acts if the limb contains any blood. The phrase may rather reflect the rabbinic understanding of the gentile purity regulations in Leviticus 17 according to the Tosephta and later rabbinic sources, which prohibit “the blood” as well as “the limb of a living being” specifically to all gentiles.<sup>143</sup>
- The prohibition of tasting that which is strangled (*pniktou*), finally, goes back to the way in which the Decree of the Apostles understands the general prohibition of blood in Leviticus, as we have seen above.

also Sophie Lunn-Rockliffe, “Demons between the Desert Fathers and the Rabbis,” *Jewish Studies Quarterly* 25 (2018): 269–96. The rabbis, as much as most ancient cultures, also associated demons with places of filth, such as toilets. Yet the rabbis do not tend to conflate impurity with demonic forces, and see demons as created by God on the sixth day of creation (see Mishna *Avot* 5:6 and Sifre *Devarim* 355)—clearly distancing them from the notion of the fall of any angels so central in 1 Enoch, Jubilees, and in the Christian tradition, which partially helps us understand the respective passages in the Qur'an; see e.g. Holger Zellentin, “Triological Anthropology: The Qur'an on Adam and Iblis in View of Rabbinic and Christian Discourse,” in *The Quest for Humanity—Contemporary Approaches to Human Dignity in the Context of the Qur'anic Anthropology*, ed. Rüdiger Braun and Hüseyin Çiçek (Newcastle Upon Tyne: Cambridge Scholars Publishing, 2017), 54–125. On the role of demons and Satan as tempters see also note 111 (Chapter 2) below.

<sup>143</sup> On the rabbinic law see pp. 70–73 above, on possible rabbinic elements in the Clementine Homilies, see note 131 above.



The Clementine Homilies thus remain a marginal text when taking their reception history into account. In turn, however, they integrate many of the gentile purity regulations promulgated from the times of the Bible to the rise of Christianity, equally including aspects found in the rabbinic understanding of Leviticus. Their *specific* expansion when it comes to food, as in the case of Tertullian and Clement, would seem to be minimal, and primarily consists of specifying the Bible's *gerim* laws in dialogue with the text of Leviticus and, arguably, with its rabbinic interpretation. However, in expanding the catalogue first by a category of plausibly rabbinic origin, and by broadly phrasing a prohibition of "anything else that is unclean (*akathartou*)," the Homilies would make the notion of an expansive attitude towards food laws seems rather apropos, especially in light of their text's attitude towards pork and wine.<sup>144</sup>

The Homilies' explicit and recurrent association of pork and wine with demonic forces, in turn, relies on Matthew's usage of pigs in Jesus' purification of the land of Israel and on the common usage of wine for libations. As I have previously argued, the Homilies representation of pork and wine points to these food's effective inclusion into the text's blanket category of agents of prohibited impurity. Significantly, the Homilies go as far as rejecting the report that Noah, as a righteous prophet, would have drunk himself into a stupor.<sup>145</sup> Such a prohibition would indicate a considerable expansion of the Decree of the Apostles in the Clementine Homilies. The broader patristic record polemicizing very precisely against such an expansive attitude solidifies my suggestion, since a few outside texts denounce many of precisely those legal expansions embraced by the Clementine Homilies. Two sources are of special relevance here:

- Epiphanius of Salamis, writing in the late fourth century CE, denounces practices very much akin to those endorsed in the Clementine Homilies and attributes them to the so-called "Ebionites" of Palestine, a place he knew intimately.<sup>146</sup> Despite Epiphanius' fanciful elaborations and his dependence

<sup>144</sup> My approach here is in line with current attempts to reconsider some of the marginalized or condemned texts of late antiquity; see e.g. Scott Fitzgerald Johnson, "Christian Apocrypha," in *The Oxford Handbook of the Second Sophistic*, ed. Daniel S. Richter and William Allen Johnson (Oxford: Oxford University Press, 2017), 669–87 and Jörg Frey, Claire Clivaz, and Tobias Nicklas (eds), *Between Canonical and Apocryphal Texts: Processes of Reception, Rewriting and Interpretation in Early Judaism and Early Christianity* (Tübingen: Mohr Siebeck, 2018).

<sup>145</sup> See Clementine Homilies 2:52 and see Zellentin, *The Qur'an's Legal Culture*, 77–126 and note 186 below.

<sup>146</sup> See e.g. Patricia Crone, "Jewish Christianity and the Qur'an (Part One)," *Journal of Near Eastern Studies* 74 (2015): 225–53; Crone, "Jewish Christianity and the Qur'an (Part Two)," *Journal of Near Eastern Studies* 75 (2016): 1–21; Edwin K. Broadhead, *Jewish Ways of Following Jesus: Redrawing the Religious Map of Antiquity* (Tübingen: Mohr Siebeck, 2010), esp. 188–212; Petri Luomanen, "Ebionites and Nazarenes," in *Jewish Christianity Reconsidered*, ed. Matt Jackson-McCabe (Minneapolis: Fortress, 2007), 81–118; Charlotte E. Fonrobert, "Jewish Christians, Judaizers, and Christian anti-Judaism," in *A People's History of Christianity*. Vol. II, *Late Ancient Christianity*, ed. Virginia Burrus (Minneapolis: Fortress, 2005), 234–54; Anders Ekenberg, "Evidence for Jewish Believers in 'Church Orders' and

on previous authorities, we cannot dismiss the likelihood that some of the practices he describes were actually followed in Palestine—albeit not necessarily in separate “Ebionite” or “Nazarene” communities, as he wants us to believe, and more likely among broader swaths of Christianity. We will discuss Epiphanius’ testimony in more detail in the next chapter.

- More intriguingly yet than Epiphanius, the Latin and the Syriac versions of the Didascalia, dated to the very late fifth and the early eighth century CE, respectively, denounce similar practices *within* their communities that resemble those of the Clementine Homilies acutely.<sup>147</sup> As I have previously illustrated, the Didascalia—which endorses the Decree of the Apostles—rejects a list of expansive practices within its community that corresponds quite closely to those endorsed in the Clementine Homilies: most importantly, the prohibition of pork and wine, to which the Homilies are arguably gravitating, and the necessity of ritual washing after sexual intercourse and before prayer, which the Homilies advocate.

Whereas the testimony of Epiphanius may reflect groups that may or may not have existed, that of the Didascalia—especially if read alongside the Clementine Homilies—shows the reach and persistence of the expansive understanding of the gentile food laws.

The full relevance of these regulations, and their attestation in the early seventh century CE, may only fully come to the fore if we admit the Qur’an itself not only as an object of study but as historical testimony of late antique practice. The evidence of the Didascalia already indicates as much. This church order circulated widely, and for many centuries, across several sociolinguistic boundaries, continued to develop in the process. Its testimony therefore does not allow us precisely where and when to place those followers of Jesus who continued to expand the gentile purity regulations in the way it describes them.<sup>148</sup> Yet the simultaneous attestation of the expansive view of the gentile purity regulations in the Clementine Homilies, in Epiphanius’ Palestine, and in the Syriac-speaking church

Liturgical Texts,” in *Jewish Believers in Jesus: The Early Centuries*, ed. Oskar Skarsaune and Reidar Hvalvik (Peabody: Hendrickson, 2007), 649–53; and Albertus F. J. Klijn and Gerrit J. Reinink, *Patristic Evidence for Jewish-Christian Sects* (Leiden: Brill, 1973), 19–43 and 154–95; on Elchasaïtes see also Blidstein, *Purity, Community, and Ritual in Early Christian Literature*, 197–200.

<sup>147</sup> See also the comments on purity in the Didascalia offered by Blidstein, *Purity, Community, and Ritual in Early Christian Literature*, 193–97; as well as the analysis of the affinities between Acts, Didascalia, and the Clementine Homilies in Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*, 179–86.

<sup>148</sup> The roots of the Didascalia Apostolorum may lie in the second or third century, yet the Greek fragments testifying to the onset of the tradition tell us next to nothing about its early form and content. The first complete copies of the Didascalia Apostolorum are a fifth-century CE Latin version, preserved on a palimpsest, and an expanded Syriac version, whose earliest manuscript dates from the early eighth century CE. On the dating of the Didascalia Apostolorum see Zellentin, *The Qur’an’s Legal Culture*, 43–50 (on the chronological and geographical origins of the Didascalia) and 175–202 (on the triangular evidence in the Didascalia, the Clementine Homilies, and the Qur’an).

may simply illustrate the greater role these regulations continued to play in Eastern Christian discourse. Thus perceived, we can locate the expansive tradition of understanding the Decree of the Apostles in Western Asia, and thereby within the immediate network of the Arabian trade routes. The geographical and chronological data is admittedly vague; it is, however, sufficient to set the stage for understanding how the Qur'an came to reflect a community that endorsed and further developed the rules of the Decree of the Apostles precisely based on the expansive attitude that we find attested, positively and negatively, throughout late antiquity. The hypothesis now to be tested therefore is whether the Qur'an reflects a continued consideration of the gentile purity regulations in direct or indirect dialogue with the *gerim* laws found in Leviticus. If so, we have to inquire whether or not it shares scriptural hermeneutics prevalent throughout late antique Christianity, and what those continuities we can establish can teach us about the Qur'an—and about late antique Christianity at the same time.

Two final notes on late antique Christianity will be helpful before turning to the Qur'an, concerning the Syriac and the Aksumite churches more broadly. The Syriac tradition, to begin with, proves essential for the Qur'an in two further respects: law in general and a unique type of *partial* legal supersessionism, construed as restitution of original law, in particular. First, the Syriac church offer a pervasive endorsement not only of the Decree of the Apostles, but also explicitly endorses the concept of “law” as applicable for its community, a trait that places it closer to the Qur'an than to many forms of Latin and Greek Christianity that eschew the talk—though hardly the walk—of law. This wider endorsement of law encompasses both the tradition of the Decalogue and a list of further rules that constitute the core of both Syriac and qur'anic law, as I have previously argued.<sup>149</sup> Second, Ephrem, and along with him the majority of Syriac writers, often considers “the peoples,” that is the gentiles, to have replaced “the People,” that is Israel, just as parts of the Greek and Latin churches understood themselves as a “new” rather than only the “true” or “spiritual” Israel. In partial contradistinction

<sup>149</sup> The Christian tradition, from early on, combined the validity of the individual mandates of the Decalogue with their sense of the abrogation of “the Law” in general; see e.g. Irenaeus, *Against Heresies* 4:15–16; Clement of Alexandria, *Paedagogus* 3:12; and Augustine, *On the Spirit and the Letter* 23–24; a very useful overview is provided by Alison G. Salvesen, “Early Syriac, Greek and Latin Views of the Decalogue,” in *The Decalogue through the Centuries: From the Hebrew Scriptures to Benedict XVI*, ed. Jeffrey P. Greenman and Timothy Larson (Louisville: Westminster John Knox Press, 2012), 47–66. On the importance of the Decalogue both as symbolic discourse and as a broadened basis of law see Angelika Neuwirth, *Scripture, Poetry, and the Making of a Community: Reading the Qur'an as a Literary Text* (Oxford: Oxford University Press, 2014), 253–76; for my own views on the importance of the Decalogue for the Qur'an, with a special emphasis on its comparable role in the Syriac tradition, see Zellentin, *The Qur'an's Legal Culture*, 55–76 on the Decalogue in both traditions and 127–54 on legal narratives; note also the recent insights on the Syriac endorsement of law by Yakir Paz, “The Torah of the Gospel: A Rabbinic Polemic against *The Syro-Roman Lawbook*,” *Harvard Theological Review* 112 (2019): 517–40 and by Yifat Monnickendamm, *Jewish Law and Early Christian Identity: Betrothal, Marriage, and Infidelity in the Writings of Ephrem the Syrian* (Cambridge: Cambridge University Press, 2019).

to this tradition, the Greek church, especially since the sixth century, perceived itself as a “new” Israel.<sup>150</sup> Likewise, parts of the Syriac tradition had retained a view that saw the church as the result of an ethnic amalgamation: after Jesus’ coming, “the nations” have *joined* rather than *replaced* “the nation,” a vision close to the Pauline image of the olive tree that has wild branches grafted onto it. This is the view put forward by Aphrahat, which, in the words of Sebastian Brock, “held that the Church derived from both the People and the Peoples, and constituted a ‘new People.’”<sup>151</sup> Aphrahat’s model was explicitly retained by the Didascalia Apostolorum, and prepared the Qur’an’s perception of Christians as Israelites, as we will see below. These facts further complicate the current study’s emphasis on *gentile* law. In partial parallel to the case of the Bible and in the book of Acts, which, arguably, consider the *gerim* as part of the “people,” though not as Israelites, the Qur’an, which considers both Jews and Christians as Israelite, defines its own community both as gentile and increasingly as Ishmaelite.<sup>152</sup> The moniker of “gentile” law in the current volume may thus be, at best, an oversimplification, and, at worst, a misnomer. Regardless of the term’s limited precision, however, it may still help us to situate the respective communities on a sliding scale of self-identification with Israel. What holds this scale together is not the contemporary terms we choose to apply to them, but their firm commitment to those laws that the Hebrew Bible presents as applicable to non-Israelites.

There is one final body of evidence that may eventually prove crucial in order to appreciate the Qur’an’s approach to gentile purity. I am speaking of the case of the Aksumite church, whose relevance for the study of the Qur’an had long been invoked by scholars. The long Aksumite (Ethiopian) political and cultural presence in Southern Arabia is well established, and it is well known that the Qur’an uses Arabic words that have close cognates in Ge’ez (classical Ethiopic), including terms that have political significance or stand in direct relationship to

<sup>150</sup> Since the sixth century, the Byzantine church tended to portray Christendom in terms of a “New Israel,” as Stephen Shoemaker points out in his *The Apocalypse of Empire: Imperial Eschatology in Late Antiquity and Early Islam* (Philadelphia: University of Pennsylvania Press, 2018), esp. 40–42, which is based on the foundational study by Gerhard Podskalsky, *Byzantinische Reicheschatologie: die Periodisierung der Weltgeschichte in den vier Grossreichen (Daniel 2 und 7) und dem tausendjährigen Friedensreiche (Apok. 20). Eine Motivgeschichtliche Untersuchung* (Munich: Wilhelm Fink, 1972). Another noteworthy, if somewhat skewed, study is Tommaso Tesei, “Heraclius’ War Propaganda and the Qur’an’s Promise of Reward for Dying in Battle,” *Studia Islamica* 114 (2019): 219–47. On the traditional Greek and Latin understanding of the church’s relationship to Israel, see e.g. Marcel Simon, *Verus Israel: A Study of the Relations Between Christians and Jews in the Roman Empire, AD 135–425*, trans. H. McKeating (Oxford: Oxford University Press, 1986).

<sup>151</sup> See Sebastian Brock, *Synagogue and Church in Dialogue: Four Syriac Poems from Late Antiquity* (Journal of Jewish Studies Supplement Series 3; Oxford: Journal of Jewish Studies, 2019), 9. Note that according to Simcha Gross, the Syriac notion of ethnic continuity with Judaism has no basis in actual history; see Gross, “A Long Overdue Farewell: The Purported Jewish Origins of Syriac Christianity,” in *Jews and Syriac Christians*, ed. Gross and Aaron Michael Butts (Tübingen: Mohr Siebeck, 2020), 121–44. The matter requires further adjudication, yet has no immediate implication for the historical self-perception of the Syriac churches described above.

<sup>152</sup> See p. 109–10 and esp. note 171 below.

Christianity.<sup>153</sup> However, the difficulty of dating the Ge'ez tradition, whose manuscripts are mostly medieval, has thus far precluded a historically rigorous inquiry, especially since later medieval Ethiopic has in turn adopted many features of Islamic and Arabic culture, and especially Arabic loanwords.<sup>154</sup>

The recent redating of the Ge'ez Aba Garima gospels to the late antique period, however, has established a firmer chronological starting point allowing for an initial reconsideration of the relationship between the Qur'an, on the one hand, and, on the other, the culture of the kingdom of Aksum, and of the Ge'ez literature more broadly.<sup>155</sup> Several parts of the Garima gospel manuscripts have been redated based on carbon-14 on separate occasions, confirming an earlier observation that the Garima gospels show close affinity with the gospel passage in the sixth-century Kaleb-inscription.<sup>156</sup> This provides a new starting point for establishing the cultural, religious, and linguistic relationship between the Qur'an and the Ge'ez tradition, and especially between the Qur'an and the New Testament, and between the Qur'an and other Ethiopic texts such as the Book of Jubilees, 1 Enoch, and the Clementine tradition.<sup>157</sup> I hope that future research will seek to establish a profile of Aksumite Ge'ez literature that can be dated as anterior to the Qur'an, which would allow us to triangulate between the Ge'ez material, the Aramaic Christian tradition, and the Qur'an. Only then will we be able to understand aspects of the Qur'an in light of Aksumite Christianity and consider how the Qur'an's affinity with Ge'ez literature, may, in turn, help determine the literary tradition of Aksum.<sup>158</sup>

<sup>153</sup> Examples for such terms are *burhān*, "an evident proof," *munāfiqūn*, "heretics" or "hypocrites," or *hizb*, "party," as well as *injil*, "Gospel," *mā'ida*, "table," and *hawāriyyūn*, "apostles;" see most recently Guillaume Dye, "Traces of Bilingualism/Multilingualism in Qur'anic Arabic," in *Arabic in Context*, ed. Ahmad Al-Jallad (Leiden: Brill, 2017), 337–71; Manfred Kropp, "Beyond Single Words: *Mā'ida-Shaytān-Jibt* and *Ṭāghūt*. Mechanisms of Transmission into the Ethiopic Bible and the Qur'anic Text," in *The Qur'an in Its Historical Context*, ed. Gabriel Said Reynolds (Abingdon: Routledge, 2008), 204–16.

<sup>154</sup> See Wolf Leslau, *Arabic Loanwords in Ethiopian Semitic* (Wiesbaden: Otto Harrassowitz Verlag, 1990) and Leslau, "The Phonetic Treatment of the Arabic Loanwords in Ethiopic," *Word* 13 (1957): 100–23.

<sup>155</sup> See Alessandro Bausi, "Translations in Late Antique Ethiopia," *Dialogoi* 1 (2018): 69–100 and Judith S. McKenzie and Sir Francis Watson, *The Garima Gospels: Early Illuminated Gospel Books from Ethiopia* (Oxford: Manar al-Athar Monograph, 2016).

<sup>156</sup> See Michael Knibb, *Translating the Bible: The Ethiopic Version of the Old Testament* (Oxford: Oxford University Press, 1999), 46–54.

<sup>157</sup> See Alessandro Bausi, "The Earlier Ethiopic Textual Heritage," in *Scribal Practices and the Social Construction of Knowledge in Antiquity, Late Antiquity and Medieval Islam*, ed. Myriam Wissa (Leuven: Peeters, 2017), 215–35; Süleyman Dost, *An Arabian Qur'an: Towards a Theory of Peninsular Origins* (PhD diss., University of Chicago, 2016), esp. 175–221; Alessandro Bausi, "San Clemente e le tradizioni clementine nella letteratura etiopica canonico-liturgica," in *Studi su Clemente Romano: Atti degli Incontri di Roma, 29 marzo e 22 novembre 2001*, ed. Philippe Luisier (OCA 263; Rome: Pontificio Istituto Orientale, 2003), 13–55; and Paolo Marrassini, *Storia e leggenda dell'Etiopia tardoantica* (Brescia: Paideia editrice, 2014).

<sup>158</sup> See Bausi, "The Earlier Ethiopic Textual Heritage," and Pierluigi Piovaneli, "Reconstructing the Social and Cultural History of the Aksumite Kingdom: Some Methodological Reflections," in *Inside and Out: Interactions between Rome and the Peoples on the Arabian and Egyptian Frontiers in Late Antiquity*, ed. Jitse H. F. Dijkstra and Greg Fisher (Leuven: Peeters, 2014), 329–50.

The relevance of the Aksumite tradition for the current inquiry is apparent, since this tradition stands in close relationship with the biblical as well as with the Syriac Christian tradition in many ways, including legal issues. The orthodox Ethiopic church is well known to practise circumcision and observe Shabbat on both Saturdays and Sundays, to abstain from eating or even touching pork and from blood—the topic of inquiry in the present chapter. Moreover, orthodox Ethiopic Christians strictly observe sexual purity regulations pertaining to intercourse and the menses, whose prehistory we will seek to determine in the next two chapters.<sup>159</sup> While it is difficult to pinpoint the origin of these observances, Pierluigi Pionvanelli has recently suggested that the distinctively “Jewish” leanings of the Aksumite church—which largely align with the “expansive” attitude we find in the Clementine Homilies and as attested in the *Didascalia Apostolorum*—should be understood in light of the close relationship of the Aksumite Empire with the Jewish and Christian culture of the Southern Arabian Himyarite kingdom, whose cultural identities have equally found much scholarly interest in the recent past.<sup>160</sup> Issues of detail and dating, however, prevail, and it would be premature to posit the Aksumite church as the missing link between the late antique evidence for the expansive attitude towards the Decree of the Apostles. It would be unwise, in light of the recent developments, entirely to ignore the important possibility that we should understand the Christian culture of the Hejaz (the region depicted on p. xii above) in light of the Ethiopic practices. However, I have here chosen the more conservative option to amend the current findings—should

<sup>159</sup> See Ursula Schattner-Rieser, “Empreintes bibliques et emprunts juifs dans la culture éthiopienne,” *Journal of Eastern Christian Studies* 64 (2012): 5–28 and Paolo Marrassini, “Sul problema del giudaismo in Etiopia,” in *Movimenti e correnti culturali nel giudaismo. Atti del congresso tenuto a S. Miniato dal 12 al 15 novembre 1984*, ed. Bruno Chiesa (Rome: Carucci editore, 1987), 175–83; a more cautious note regarding the dating of the relevant observances is struck in Ralph Lee, *Symbolic Interpretation in Ethiopic and Early Syriac Literature* (Leuven: Peeters, 2017), 1–20.

<sup>160</sup> Pierluigi Pionvanelli, “Jewish Christianity in Late Antique Aksum and Himyar? A Reassessment of the Evidence and a New Proposal,” *Judaïsme ancien/Ancient Judaism* 6 (2018): 175–202; on the importance of the Aksumite cultural context of the Qur’an see now also Zishan Ghaffar, *Der Koran in seinem religions- und weltgeschichtlichen Kontext: Eschatologie und Apokalyptik in den mittelmekkanischen Suren* (Leiden: Brill, 2019) and Glen Bowersock, *The Crucible of Islam* (Cambridge: Harvard University Press, 2017); and Bowersock, *The Throne of Adulis: Red Sea Wars on the Eve of Islam* (Oxford: Oxford University Press, 2013). On the Himyarite kingdom see also Dost, “An Arabian Qur’an,” esp. 235–40; Iwona Gajda, “Remarks on Monotheism in Ancient South Arabia,” in *Islam and Its Past: Jāhiliyya and Late Antiquity in Early Muslim Sources*, ed. Carol Bakhos and Michael Cook (Oxford: Oxford University Press, 2017), 247–56; Gajda, *Le royaume de Himyar à l’époque monothéiste: L’histoire de l’Arabie d Sud ancienne de la fin du IV<sup>e</sup> siècle de l’ère chrétienne jusqu’à l’avènement de l’Islam* (Paris: Académie des Inscriptions et Belles-Lettres, 2009); Norbert Nebes, “The Martyrs of Najran and the End of the Himyar: On the Political History of South Arabia in the Early Sixth Century,” in *The Qur’an in Context: Historical and Literary Investigations into the Qur’anic Milieu*, ed. Angelika Neuwirth et al. (Leiden: Brill, 2010), 25–60; and Christian Julien Robin (ed.), *Le Judaïsme de L’Arabie Antique: Actes du Colloque de Jérusalem (février 2006)* (Turnhout: Brepols, 2015); and Robin, “Himyar, Aksūm, and Arabia Deserta in Late Antiquity: The Epigraphic Evidence,” in *Arabs and Empires before Islam*, ed. Greg Fisher (Oxford: Oxford University Press, 2015), 127–71.



more of the Ethiopic tradition turn out to be late antique—than to destabilize the study's evidentiary base by considering possibly medieval practices.

### Pure Food for Gentiles—or Ishmaelites—in the Qur'an

A few introductory words on the Qur'an are necessary in light of the prevailing divergence of approaches to its scholarly appreciation. First of all, I will here employ the view that the Qur'an can be divided into a Meccan and a Medinan layer; the difficult topic of Medinan additions to a Meccan surah will be discussed presently.<sup>161</sup> With noteworthy exceptions, moreover, the Qur'an's foundational role for Islamic civilizations had long distracted from the intimate relationship with the Jewish and Christian tradition in which the text places itself. A closer look, in my view, reveals that the cultural and linguistic boundaries between the communities reflected in the Qur'an, on the one hand, and, say, the West Syrian or Aksumite churches, on the other, are not necessarily more pronounced than the respective boundary between Byzantine and East Syrian Christianity. Building on the foundational work of figures such as Abraham Geiger, Heinrich Speyer, Joseph Horowitz, Tor Andrae, and others, the field of qur'anic studies is currently undergoing a reorientation that I have elsewhere named its "Syriac shift," which illuminates how closely the qur'anic community seems to have been familiar with Syriac (and possibly Aksumite) Christian culture, and how precisely the Islamic Scripture sets itself apart from this type of Christianity. Sidney Griffith, Angelika Neuwirth, Gabriel Reynolds, Joseph Witztum, and I myself have illustrated that, along with the Bible and rabbinic texts, the Syriac tradition—reflected especially in texts such as the Homilies of Jacob of Serugh, the *Cave of Treasures*, and the Didascalia Apostolorum—offers us glimpses of a world closely related to that of the Qur'an. Yet we should conceive of this shared world mostly, if not entirely, within the framework of a shared oral culture, and reject any notion of "textual influence" unless strong evidence suggests a more intimate textual relationship,

<sup>161</sup> The designations of a "Meccan" and a "Medinan" Qur'an are likewise to be understood as highlighting the variety in emphasis and the internal development within one text that I see as fundamentally cohesive. The identification of Meccan and Medinan surahs, as well as of Medinan interpolations, generally follows Theodor Nöldeke, *Geschichte des Qurāns*, vol. 1: *Über den Ursprung des Qurāns*, revised by Friedrich Schwally (Leipzig: Dieterich'sche Verlagsbuchhandlung, 1909). An important step towards a more robust consensus on the matter has been taken by Nicolai Sinai, *The Qur'an: A Historical-Critical Introduction* (Edinburgh: Edinburgh University Press, 2017), esp. 40–58 and 111–37. On the usefulness of the Jewish evidence for establishing a chronology of the Qur'an see Zellentín, "The Synchronic and the Diachronic Qur'an: *Sūrat Yā Sīn*, Lot's People, and the Rabbis," in *The Making of Religious Texts in Islam: The Fragment and the Whole*, ed. Asma Helali and Stephen R. Burge (Berlin: Gerlach Press, 2019), 111–72. I argue for a spatial and chronological differentiation between Meccan and Medinan materials; the identification of qur'anic references to *al-masjid al-ḥarām* and *al-madīna* to the places now known, respectively, as Meccan and Medina is plausible.



which is rare.<sup>162</sup> In general, the similarities of which written texts allow us to conceive are but a faint echo of the historically much more dynamic overlap in living discourse and practice. The affinity of the Qur'an and Syriac culture is doubly meaningful: it attests to the prevalence of Syriac culture in the milieu of nascent Islam, yet it also points to the key difference between Syriac culture and the Qur'an's Arabic and Islamic self-identity.<sup>163</sup> The Qur'an, indeed, situates itself both in continuity within and as set apart from both rabbinic Judaism and especially from Syriac Christianity, and it does so against the background of the Arabic cultural and linguistic horizon of the nascent Islamic community.<sup>164</sup>

In general, the Qur'an's view of law, like that of the rabbis and many Christians before it, preserves the narrative of Noah as well as the tradition of a law given to the Israelites alone, and it does so by presenting both within its own prophetological paradigms. The narrative of the flood, for instance, is present in the Qur'an, but the Qur'an does not associate Noah and his sons with a specific legal system: it is not Noah but his progeny who are given "prophethood and Scripture" (*al-nubuwwa wa-l-kitāb*). The Qur'an, likewise, does not connect Noah with any type of universal mission, let alone a legal one. When he disembarks, he is blessed,

<sup>162</sup> Important recent studies include Sidney Griffith, *The Bible in Arabic: The Scriptures of the "People of the Book" in the Language of Islam* (Princeton: Princeton University Press, 2013); Neuwirth, *Scripture, Poetry, and the Making of a Community*; Gabriel Said Reynolds, *The Qur'an and Its Biblical Subtext* (London: Routledge, 2010); Joseph Witztum, *The Syriac Milieu of the Quran: The Recasting of Biblical Narratives* (PhD diss., Princeton: Princeton University, 2010). Classical studies include Heinrich Speyer, *Biblische Erzählungen im Quran* (Hildesheim: Georg Olms Verlag, 1988) [originally published clandestinely between 1937 and 1939 in Breslau]; Josef Horowitz, *Koranische Untersuchungen* (Berlin: De Gruyter, 1926); Abraham Geiger, *Was hat Mohammed aus dem Judenthume aufgenommen?* (Bonn: F. Baaden, 1833); see also Zellentin, *The Qur'an's Legal Culture*, 32–41. The inadequate equation of the Qur'an's affinity with Hebrew with its alleged "dependence" on Judaism can be found most clearly in some classical works as e.g. Arthur Jeffery, *The Foreign Vocabulary of the Qur'an* (Leiden: Brill, 2007 [1938]); Josef Horowitz, "Jewish Proper Names and Derivatives in the Qur'an," *Hebrew Union College Annual* 2 (1925): 145–228; Wilhelm Rudolph, *Die Abhängigkeit des Quorans vom Judenthum und Christenthum* (Stuttgart: Kohlhammer, 1922); and Geiger, *Was hat Mohammed aus dem Judenthume aufgenommen?* Important corrections to this paradigm have been offered by Mohsen Goudarzi, "Peering behind the Lines," *Harvard Theological Review* 113 (2020): 421–35; Catherine Pennacchio, "Lexical Borrowing in the Qur'an," *Bulletin du Centre de recherche français à Jérusalem* 22 (2011): online (<http://bcfrj.revues.org/6643>); Witztum, "The Syriac Milieu of the Quran"; and Gabriel Said Reynolds, *The Qur'an and Its Biblical Subtext*; on orality see also note 167 below.

<sup>163</sup> One valuable study of the nascent Islamic community (without a focus on rabbinic or Syriac sources) that, in my opinion, underestimates the "Islamic difference" and the clear and early self-identity of the nascent Muslim community is Fred Donner, *Muhammad and the Believers: At the Origins of Islam* (Cambridge: Belknap, 2012).

<sup>164</sup> See also the justified emphasis on the Arabic context of the nascent Muslim community in Devin Stewart, "Speech Genres and Interpretation of the Qur'an," *Religions* 12 (2021): 529, doi.org/10.3390/rel12070529; Harry Munt, "The Transition from Late Antiquity to the Early Islam in Western Arabia," in *The Umayyad World*, ed. Andrew Marsham (Abingdon: Routledge, 2020), 357–73; Dost, "An Arabian Qur'an"; Neuwirth, *Scripture, Poetry and the Making of a Community* and cf. Aziz Al-Azmeh, *The Emergence of Islam in Late Antiquity: Allāh and His People* (Cambridge: Cambridge University Press, 2014); see also my comments in Zellentin, "Aḥbār and Ruḥbān," 258–89 and Zellentin, "The Rise of Monotheism in Arabia," in *A Companion to Religion in Late Antiquity*, ed. Josef Lössl and Nicholas J. Baker-Brian (Blackwell Companions to the Ancient World; Chichester: Wiley, 2018), 157–80 and the foundational study of Peter Webb, *Imagining the Arabs: Arab Identity and the Rise of Islam* (Edinburgh, UK: Edinburgh University Press, 2016).

as in the biblical tradition, but no further instructions are specified, as formulated for example in the Meccan passage Q 11 *Sūrat Hūd* 48:

It was said, ‘O Noah! Disembark in peace from Us  
and with blessings upon you (*wa-barakātin ‘alayka*)  
and upon nations from those who are with you (*wa-‘alā umamin  
mimman ma‘aka*).  
Yet (other) nations whom We shall provide for (*wa-umamun  
sa-numatti‘uhum*),  
then (*thumma*) a painful punishment from Us shall befall them.

As in the Christian tradition, Noah’s main function is that of a warner to his people, and even after the flood, the standard sequence of God tolerating transgression only for a while before destruction follows is present.<sup>165</sup> The biblical notion that we also saw in Jubilees, in the Apostolic Constitutions, in Ephrem, and in Tertullian, which regards the laws given to Noah applicable to all of humanity, may constitute the central legal narrative of laws for the gentiles in the “expansive” tradition of enacting the Apostolic Decree and, in starkly different ways, in rabbinic Judaism. Yet it is much diminished in the Qur’an.<sup>166</sup>

The breadth of the Christian tradition, in other words, predicated its laws for the gentiles on its two testaments, that is on the respective selection of Levitical laws and their application to gentiles in the Acts of the Apostles, just as the rabbis included the same Levitical laws for the *gerim* in their distinct concept and contents of Noahide Law. The long Christian tradition of applying the *gerim* laws to gentiles by way of their affirmation in the Council of Jerusalem especially continued in the Qur’an, yet these laws here underwent another interpretative shift marked by three steps: first, the Qur’an substitutes the broad concept of divine revelation for the Jewish and Christian practice of citing Scriptures; second, it offers itself as an Arabian revelation; and third, it understands both Jews and Christians as Israelites.

In detail, neither the concept of the *gerim* nor the Apostolic Decree as such appear at all in the Qur’an. The Islamic Scripture does not cite or even acknowledge texts

<sup>165</sup> On Noah’s role in the Qur’an see, for instance, Roberto Tottoli, *Biblical Prophets in the Qur’an and Muslim Literature* (New York: Routledge, 2002), 21–23; and see already Speyer, *Biblische Erzählungen im Qoran*, 84–115, and cf. Marc Durie, *The Qur’an and Its Biblical Reflexes: Investigations into the Genesis of a Religion* (Lanham: Lexington Books, 2018), 206–8. In the Hebrew Bible, Noah is not yet a warner, as emphasized by Lambert in *How Repentance Became Biblical*, 93.

<sup>166</sup> This discrepancy is even more meaningful in light of the general affinities between the Qur’an, 1 Enoch, and the Book of Jubilees noted by Dost; while further studies will be necessary to corroborate the observations, 1 Enoch and Jubilees may add an important and often overlooked context to our understanding of the Qur’an’s Arabian—and plausibly Aksumite—context; see Dost, *An Arabian Qur’an*, esp. 195–207 and note 35 above, and see Saqib Hussain, *Wisdom in the Qur’an* (PhD diss., University of Oxford, 2022), 114–32.

such as Genesis, Leviticus, or Acts of the Apostles at all, it merely refers to previous revelation, including the Torah and the gospel, in general terms.<sup>167</sup> At the same time, the concept that Christian apostles gave law based on their guidance by the Holy Spirit becomes one of the central concepts of the Qur'an, especially so in the Medinan surahs: here, the qur'anic prophet gives law precisely because he is an apostle, like Jesus and Moses before him.<sup>168</sup> The long history of reading the laws for the *gerim* in Leviticus as applicable to gentiles thus prepared the Qur'an's legislation in concrete and demonstrable terms, yet without their traditional narrative context.

A second interpretative shift that sets the Qur'an apart from both the Jewish and the Christian tradition of gentile law pertains to its Arabian and Arab, or plausibly "Ishmaelite" focus. Whereas many readers of the Qur'an see the text as universalist in its reach from the outset, Mohsen Goudarzi has recently suggested that the Qur'an, along with its universalist tendencies, establishes a novel form not of Israelite but of Ishmaelite particularism, a viewpoint especially prevalent in its focus on the offspring of Israel and Ishmael.<sup>169</sup> Goudarzi's thesis will occupy scholars of the Qur'an for some time to come, yet it is already clear that his suggestion fits well into the Qur'an's broader narrative of Israelite law. Here, the primary laws given to Moses, which had been expanded with a set of secondary, punitive laws after the Israelites' sins, and were *partially* abrogated by Jesus, are cohesive with or even tantamount to the Qur'an's own legislation. Yet this overall conformity of divine justice *does* allow for the sort of legal particularism that marks the Qur'an's view of the remaining distinctions between Israelite and nascent Islamic law. While God's law given to various people in the Qur'an thus maintains certain stable traits, room remains for differences between the laws given to specific people, and for the development of law both in the Israelite past and in the qur'anic community's present.<sup>170</sup>

<sup>167</sup> On the Qur'an's relationship to the Bible, which is "everywhere and nowhere in the Qur'an," and on the likely oral circulation of translations of the Bible into Arabic see, Griffith, *The Bible in Arabic*, 7–126; Neuwirth, *Scripture, Poetry, and the Making of a Community*, 76–101; Geneviève Gobillot, "Labrogation selon le Coran à la lumière des homélies pseudo-clémentines," in *Le Coran: Nouvelles approches*, ed. Mehdi Azaiez and Sabrina Mervin (Paris: CNRS éditions, 2013), 207–40 and Robert Hoyland, "Mount Nebo, Jabal Ramm, and the Status of Christian Palestinian Aramaic and Old Arabic in Late Roman Palestine and Arabia," *Proceedings of the Seminar for Arabian Studies* 40 (2010): 29–45. On the Qur'an's participation in oral culture see Zellentin, *The Qur'an's Legal Culture*, 14–15 and 49–50 note 59, and see note 3 (Chapter 4 An Outlook) below.

<sup>168</sup> The "prophetology" of the Qur'an has recently been re-evaluated by Mohsen Goudarzi, *The Second Coming of the Book: Rethinking Qur'anic Scripturology and Prophetology* (PhD diss., Harvard University, 2018); see also the important notes on *Sūrat al-Shu'arā'* (Q 26) in Griffith, *The Bible in Arabic*, 54–96.

<sup>169</sup> Goudarzi also notes the Qur'an's positive image of Ishmael that so clearly contrasts with his portrayal in the Hebrew Bible as well as in the Jewish and Christian traditions; see Goudarzi, "The Ascent of Ishmael: Genealogy, Covenant, and Identity in Early Islam," *Arabica* 66 (2019): 415–84 and "The Second Coming of the Book," esp. 324–50.

<sup>170</sup> See Zellentin, *The Qur'an's Legal Culture*, esp. 127–54, and the important considerations in Saqib Hussain, *Wisdom in the Qur'an*, 152–90.

A third shift essential to understanding the Qur'an's narrative of Israelite law, which prepares its ethnic and legal self-identity, is its recognition of Jews and Christians as separable only to a degree. In line with strands within the Syriac and Aksumite churches that saw themselves not only as the spiritual or the true but as the ethnic Israel—constituted of “the people” and “the peoples”—the Qur'an recasts both Jews and Christians as two factions among the one people of Israel.<sup>171</sup> The ethnic fusion of Jews and Christians as two groups within Israel includes the Qur'an's reconstitution of its own community as a truly “gentile”—in the sense of non-Israelite—alternative to both Israelite subgroups, preparing its claim to return to the original “Abrahamic” laws.

How exactly the Qur'an's view of its own community as “Ishmaelite,” as suggested by Goudarzi, relates to its more universalist tendencies to see itself as non-Israelite will be the subject of further debate: he combines the Qur'an's “Abrahamic exceptionalism” with its “universal horizon.”<sup>172</sup> What remains obvious, however, is that the Qur'an emphasizes its own Arabian Ishmaelite self-identity in as far as it considers the history of the Israelites as distinct from its own. Designating the Qur'an as a “gentile” text, in other words, would not do justice either to its nuanced position vis-à-vis Israel or to its particular Abrahamic universalism.<sup>173</sup> Moreover, we can discern a patent historical perspective in the Qur'an's legal narratives that dissolves the difference between Israelite and gentile law: endorsing a view shared with a variety of Christian sources, chiefly perhaps the Didascalia Apostolorum, it perceives the original law given to Moses as predating the punitive

<sup>171</sup> On Jews and Christians as Israelites note the considerations by Goudarzi, “The Second Coming of the Book,” esp. 324–50; Crone, “Jewish Christianity and the Qur'an (Part One),” 230; for my own thoughts see Zellentín, “The Qur'anic Community's Encounters with Jews and Christians,” in *Entangled Religions* (forthcoming); Zellentín, “*Aḥbār* and *Ruhbān*: Religious Leaders in the Qur'an in Dialogue with Christian and Jewish Literature,” in *Qur'anic Studies Today*, ed. Angelika Neuwirth and Michael Sells (Abingdon: Routledge, 2016), 287, note 12; and Zellentín, *The Qur'an's Legal Culture*, 163–64; see also the previous note. On the respective Aksumite self-identity see pages 102–5 above.

<sup>172</sup> Goudarzi, “The Ascent of Ishmael,” 482.

<sup>173</sup> We cannot at this point recapitulate the ongoing debate on the meaning of the Qur'anic term *ḥanīf*, whose semantic field includes both the non-Israelite ethnicity of Abraham as much as the avoidance of *shirk*, of “associationism”; see note 126 (Chapter 2) below. The same holds true for the Qur'anic term *ummiyyūn*, which is translatable as the “unscriptured nations.” Another study on the matter with a different emphasis, though largely compatible with the views of Goudarzi and my own, can be found in Shaddel, “Qur'anic *ummi*: Genealogy, Ethnicity, and the Foundation of a New Community,” 25–28; the entire debate remains indebted to aspects of de Blois “*Naṣrānī* (*Ναζωραῖος*) and *ḥanīf* (*ἔθνηκός*)”; see also Nicolai Sinai, *Key Terms of the Qur'an: A Critical Dictionary* (Princeton: Princeton University Press, forthcoming), s.v. *ḥanīf* and *ummi*, and the essay by Islam Dayeh, “Prophecy and Writing in the Qur'an, or: Why Muhammad Was Not a Scribe,” in *The Qur'an's Reformation of Judaism and Christianity: Return to the Origins*, ed. Holger Zellentín (New York: Routledge, 2019), 31–62. On the legal implications of the Qur'an's return to the religion of Abraham see e.g. Witzum, “The Syriac Milieu of the Quran,” 277; for my own views see Zellentín, *The Qur'an's Legal Culture*, 155–74. Elsewhere, I argue that the Qur'an formulates a theological narrative meant to supersede the erroneous “Israelite” particularism it associates with each of the two “groups among the sons of Israel (*ṭā'ifatun min banī isrā'īla*; see Q 61:14)”; see Zellentín, “Triological Anthropology,” 60–61; the issue of Qur'anic supersessionism, however, remains a complex question that would need to be addressed in light of a better understanding of a Medinan chronology.

dietary laws given to Israel as a result of their sins such as that of the Golden Calf; the punitive laws were in turn abrogated by Jesus. The result of this abrogation, reiterated by Muhammad himself, seems to align very closely with the Qur'an's own laws, whose legal continuities with (partially abrogated) Israelite law it repeatedly points out.<sup>174</sup> While endorsing the ethnic and legal distinctiveness of Israel, the Qur'an thus equally emphasizes the historical development of its law both in the Israelite past and in its own present, which largely fuses the true Israelite and gentile law. We will now turn to qur'anic law itself and trace the development from the earlier to later formulation of the Qur'an's regulations on food, which allows us to understand their initial affinity with the laws first formulated in Genesis and Leviticus, and their later broadening in implied yet demonstrable dialogue with the Hebrew Bible and with the expansive tradition of the laws of the Decree of the Apostles.

The first full manifestation of the Qur'an's food laws can be found in a surah whose body as a whole is traditionally, and in my view correctly, attributed to the Meccan period, Q 6 *Sūrat al-An'ām*; the passage in question mainly comprises the verses Q 6:145–46. Nicolai Sinai has recently provided compelling arguments that the passage in question should indeed be considered as a Medinan addition to the Meccan surah, as scholars had long suspected. Sinai equally points out that the added verses 6:145–46 stand in marked contrast to the general attitude of the Meccan surah in which they were placed. In particular, the remarkable passage Q 6:136–44, clearly of Meccan origin, constitutes a sustained polemic *against* the dietary restrictions of the Meccans, too intricate to discuss here, which the Qur'an initially seems to dismiss entirely, replacing them with its own rulings only in the secondary, Medinan stage of the history of its law. Sinai demonstrates convincingly that the initial stage of the qur'anic view on food laws therefore represents a fascinating parallel to the broadly attested Christian attitude that dismisses any food restrictions, an attitude which we encountered both among the proponents of the dismissive and the appreciative attitude towards the Decree of the Apostles. The Qur'an's dismissal, however, targets local Arabian and especially Meccan rather than biblical food laws, and should primarily be understood in that context. In addition, Sinai corroborates the view that the verses Q 6:145–46 constitute the starting point of the Qur'an's own development of dietary regulations, which he then traces through the sequence Q 6:145–46 → Q 16:115 → Q 2:173 → Q 5:3, a sequence I will adopt for the present purposes.<sup>175</sup>

<sup>174</sup> On the narrative importance of the Golden Calf in Judaism, Christianity, and Islam, see now the broad study by Michael Pregill, *The Golden Calf between Bible and Qur'an: Scripture, Polemic, and Exegesis from Late Antiquity to Islam* (Oxford: Oxford University Press, 2020); for my own analysis of the legal repercussions of the calf esp. in Christian and qur'anic narrative see note 170 above.

<sup>175</sup> See Nicolai Sinai, "The Qur'an's Dietary Tetralogue: A Diachronic Reconstruction," *Jerusalem Studies in Arabic and Islam* 46 (2019): esp. 134–46. In addition to arguments based on style and vocabulary, Sinai's most conclusive argument may be that the passage Q 6:145–46 places a different emphasis on food laws than the preceding passage, esp. Q 6:140 and 142, even if the original target of

The importance of the Qur'an's dismissal of pagan Arabian practices concerning food, and the secondary introduction of cognate biblical rulings, cannot be overstated. Here, the qur'anic discourse aligns with the actual rulings, both pointing to the fact that the Qur'an consciously rejects aspects of pagan Arabian practice (with the possible exception of the prohibition of pork and laws pertaining to hunting) and replaces them with its own unique set of laws—which in turn shows great affinity to the biblical and especially to the expansive Christian tradition concerning the Decree of the Apostles. This scenario regarding the biblicization of food laws stands in contradistinction to the ways in which the Qur'an deals with pagan Arabian practices relating to sexual impurity. In the following two chapters, we will see that the Qur'an may well reject and biblicize pagan Arabic sexual norms, replacing them with a biblical notion of *prohibited* sexual impurity. Yet this stands in full continuity with notions of *regulated* sexual purity attested in ancient South Arabia—which, incidentally, share much with the biblical and again specifically with the expansive Christian tradition towards the subject matter. When it comes to food, however, the Qur'an's rejection of pagan Arabian practices seems pervasive. In line with the rabbinic Noahide Laws and especially with the Christian tradition, the Qur'an does not apply the concept of regulated impurity to food at all, and it rarely mentions "purity" directly as a determining factor in its conception of permissible food or drink. In these cases, however, we will see that it does highlight how significant it is to avoid prohibited *impurity* that a believer could contract through food.

In the first of the four legal passages governing food, that is Q 6:145–46, the Qur'an differentiates between the food regulations given to its own community and those given to "the Jews," the former retaining important aspects of an appreciative and expansive understanding of the Decree of the Apostles:

Q 6:145 Say, "I do not find in what has been revealed to me that anyone be forbidden to eat anything (*muḥarraman 'alā ṭā'imin yaṭ'amuhu*) except for carrion or spilt blood or the flesh of swine (*illā an yakūna maytatan aw daman masfūḥan aw laḥma khinzīrin*)—for that is indeed an impurity (*fa-innahu rijsun*)—or an impiety offered to other than God (*aw fisqan uhillā li-ghayri llāhi bihi*)."  
But should someone be compelled,  
without being rebellious or aggressive,

criticism here is not biblical but Arabian food laws. From this, Sinai reconstructs an initial "anti-nomian" qur'anic attitude towards food that is then replaced by a developing legal attitude more in line with, yet clearly set apart from, Israelite observances; see *ibid.*, esp. 131–32. On the position of most qur'anic law as Medinan, see already Shlomo Dov Goitein, "The Birth-Hour of Muslim Law," *The Muslim World* 50 (1960): 23–29; Wael Hallaq has emphasized the Meccan basis of many of the later qur'anic principles; see Hallaq, "Groundwork of the Moral Law: A New Look at the Qur'an and the Genesis of Shari'a," *Islamic Law and Society* 16 (2009): 239–79.



indeed your Lord is all-forgiving, all-merciful.

Q 6:146 To the Jews We forbade every animal with claws (*kulla dhī zūfurin*), and of cattle and sheep, We forbade them their fat, except what is borne by their backs or the entrails or what is attached to the bones.

We requited them with that for their rebelliousness, and We indeed speak the truth.

The “Jewish” laws indicated in verse 146 serve as an exemplary summary of the entirety of the Jewish food laws given in the Torah without fully expounding them.<sup>176</sup> The passage illustrates that the Jews were ordered to keep laws that go beyond those imposed upon other groups, including its own community. The Qur’an thereby endorses the separation of Jewish and non-Jewish ethnicity *in the past*, apparently seeking to move beyond the juxtaposition of “Israelite” and “gentile” food law that occurs in much of late antique Jewish and Christian literature. It may still be permissible to speak of the Qur’an’s food laws as constituting “gentile” law, as long as one keeps the Qur’an’s unique view of its community members, and its own law, as both Arab and gentile—or perhaps even as Ishmaelite—and as long as one remembers that the Qur’an views these Jewish laws as abrogated since Jesus’ coming. Yet precisely in the length of these qualification lies perhaps the strongest argument to attenuate the use of the term “gentile” when it comes to the Qur’an, defensible as it may otherwise be, and instead to highlight the ways in which the Qur’an moves past the Jewish–gentile divide that preoccupied late antique Jews and Christians.

The Qur’anic laws, by contrast to the Jewish ones epitomized in verse Q 6:146, are those given in verse 145, after the rejection of locally obeyed pagan Arabian observances. By describing the laws as directly revealed, the Qur’an indicates their affinity with strands of biblical law. Accordingly, the laws given to the nascent Islamic community largely—though not fully—overlap with those that Genesis, Leviticus, the Acts of the Apostles, and the Christian tradition impose on the respective non-Israelite groups:

- To begin with the ending, the prohibition to eat the “flesh of swine” (*lahm khinzīr*), followed by the explanatory phrase, “for this is impurity” (*fa-innahū rijs*), recalls the phrasing (but not all the lexemes) of the prohibition of pork to Israelites alone in Lev 11:7–8, “and the pig (*wə’et-haḥāzīr*) . . . it is unclean for you (*ṭāmē’ hū’ lākem*) . . . their flesh you shall not eat” (*mibbāsārām lō’*

<sup>176</sup> On the nature of the cited laws as a summary for the entirety of the punitive food regulations given to Israel see also Sinai, “The Qur’an’s Dietary Tetralogue,” 118–19; Zellentin, *The Qur’an’s Legal Culture*, 164–65, and Freidenreich, *Foreigners and Their Food*, 134 and 274.



*tō'kēlū*). It is perhaps the biblical analogy that has led almost all Western interpreters of the Qur'an to understand the phrase as attributing the impurity described as *rijs* to pork alone. (We will return to the meaning of the term *rijs* in detail in Chapter 4.) Whereas such a reading of pork alone as causing impurity would be defensible on purely grammatical grounds, David Freidenreich has rightly pointed out that “[t]he singular antecedent for the pronoun (i.e. *innahu*) in Q 6:145 is best identified as the implied ‘it’ of ‘unless it is...’ (*illā an yakūn*, which I translate idiomatically as ‘except for’).”<sup>177</sup> In other words, what the Qur'an describes as *rijs* is a prohibited type of impurity one contracts by eating, out of one's free will, not only pork, but also carrion or spilt blood. In order to assess the Qur'anic prohibition of pork, it may thus make good sense first to contextualize the other prohibited foodstuffs, and then return to the more complex issue of the prohibition of pork among gentiles.

- The prohibition of “blood” recalls the prohibition of blood in the covenant with Noah in Genesis, the term *dam masfūh*, “spilled blood,” especially reminds us of the requirement “to spill its blood” (*wašāpak ʿet-dāmō*), that is that of the killed animal, in Lev 17:13. The Arabic verb *safaḥa* in the sense of “spilling out” in Q 6:145 constitutes a *hapax legomenon* in the Qur'anic corpus, yet the root *s-f-ḥ* is attested in Safaitic, Nabatean, and South Arabian inscriptions, where it may have the same meaning of “spilling out,” including with a reference to sacrificial blood.<sup>178</sup> Importantly, the Medinan passage Q 2:84 uses the related verb *safaka* to indicate God's prohibition of “bloodshed,” here using a cognate to Hebrew, Aramaic, and Syriac *sh-p-k*, “to spill” or “to pour” that is, to the best of my knowledge, not epigraphically attested in Arabia. The Qur'an thus echoes both of the two related biblical prohibitions

<sup>177</sup> David Freidenreich, “Holiness and Impurity in the Torah and the Quran: Differences within a Common Typology,” *Comparative Islamic Studies* 6 (2010): 9.

<sup>178</sup> The root *s-f-ḥ* is attested in a Safaitic inscription (Ṭarafah, \*10) depicting “the cult stones among which blood is poured” (*wa-l-ʿanṣābi yusfaḥu bayna-hunna damu*); see Ahmad Al-Jallad, *The Religion and Rituals of the Nomads of Pre-Islamic Arabia: A Reconstruction Based on the Safaitic Inscriptions* (Leiden: Brill, 2022, 28); on sacrificial stones see also note 210 below and p. 296 below. The root *s-f-ḥ* is equally attested in Ge'ez and in an ancient Southern Arabian inscription in the sense of publicly “decreeing” or “ordering”; see Joan Copeland Biella, *Dictionary of Old South Arabic* (Harvard Semitic Studies 25; Chico: Scholars Press, 1982), 341. It is likely, however, that in a Sabeian inscription (unfortunately lacking any royal name) it equally denotes “pouring out” of a liquid during a magical ceremony as first suggested by Albert Jamme, *Sabaean Inscriptions from Maḥram Bilqīs (Mârib)* (Baltimore: The Johns Hopkins University Press, 1962), 213 (on Ja 735, ll. 8–9, reproduced on plate 36 in the same volume). The same reading is emphatically endorsed by Alfred F. L. Beeston, “Recension of Jamme, A., *Sabaean Inscriptions from Maḥram Bilqīs (Mârib)*,” *Bulletin of the School of Oriental and Asian Studies* 35 (1972): 352 and suggested at least as a plausible alternative in Walter W. Müller, “Altsüdarabische Rituale und Beschwörungen,” in *Orakel, Ritual Bau- und Votivinschriften, Lieder und Gebete*, ed. Otto Kaiser et al. (Texte aus der Umwelt des Alten Testaments 2; Gütersloh: Gütersloher Verlagshaus, 1986–91), 451 note 9a. See also <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResult?idSearchRoot=sfh> (accessed 5 March 2021); on the usage of the same root *s-f-ḥ* in Q 5:5 with a different meaning see pp. 216–17 below.

concerning blood: the unwarranted shedding of human blood and the consumption of animal blood designated by the verb *sh-p-k* in Gen 9:6 and in Lev 17:4 as discussed in detail above. By using two closely related roots to describe both actions, it may even echo the symbolical association of the two laws we could trace from the book of Genesis throughout late ancient Judaism and Christianity.<sup>179</sup> At the same time, the Qur'an's legislation does not share the urgency attached to the prohibition of blood in Jubilees or in early Christian discourse. Clement of Alexandria, for example, expressed disgust about the Arab nomads' habit of drinking the blood of their camels even when they do so in order to escape death (see p. 79 above), and others, like Genesis and Leviticus, equate the consumption of any blood with murder. The Qur'an, by contrast, merely states the prohibition without excluding it from its later dispensations in case of hardship. In this attitude, it stands apart from the early Christian tradition and closer to the later Christian authorities who equally allowed for specific dispensation from the prohibition to consume animal blood under duress.<sup>180</sup>

- The Qur'an, however, does not only forbid "flowing blood," as the rabbis understood the gentile prohibition, but also "carrion," thereby dismissing the permission given to non-Israelites in Deuteronomy and in the Tosephta and siding with Leviticus, Acts, and the Christian majority view. "Carrion" rather than "strangled" meat here constitutes the main category, departing from the terminology—but not the actual law—found in the Decree of the Apostles and maintained throughout late antique Christianity. The Qur'an thus returns to the usage of the term "carrion" as the chief concept, which had also been used by some of the Christian writers we have discussed above. This change in terminology makes it evident that the earliest Qur'anic

<sup>179</sup> Note that Sinai questions the symbolical association of murder and slaughter I suggest. He rightly maintains that "the difference between *safaḥa*, used in a dietary context, and *safaka*, used to refer to illicit killing and concatenated with the plural *dimā'* rather than with the singular *dam*, is to be interpreted as a principled distinction; but the net result is nonetheless that the received text of the Qur'an weakens the association between 'the consumption of animal blood' and 'the spilling of human blood' that Holger Zellentin detects in Genesis 9"; see Sinai, "The Qur'an's Dietary Tetralogue," 117–18 note 15. While I fully agree with Sinai's careful emphasis on the less than full overlap of semantic fields, I would maintain the association created through near homophony of both verbs and alternatively suggest that the Qur'an's evolving choice of words could equally show its biblicization not only of law but also of vocabulary.

<sup>180</sup> See note 99 above. Sinai rightly points out that Q 16:6 presupposes that blood may not have been seen as fit for consumption in pre-Islamic Arabic culture, yet the Qur'anic exemption would fit well with the record of Clement who points out to the extremity of the situation in which the Arab nomads found themselves when resorting to consuming blood as indicated in on p. 79 above; the Qur'an's ruling may thus be less distinct from pre-Islamic practice in this case. See Sinai, "The Qur'an's Dietary Tetralogue," 119 note 22, with reference to Julius Wellhausen, *Reste arabischen Heidentums* (2nd ed.; Berlin: Georg Reimer, 1897), 117–18; and Gräf, *Jagdbeute und Schlachtier im islamischen Recht*, 21. None of the South Arabian inscriptions relates to the consumption of blood; the only relevant reference seems to be the one relating to entering a temple with blood-stained clothing or weapons mentioned in note 35 above.

formulation of the gentile purity regulations reflects broad Christian terminology and practice without necessarily standing in a direct literary conversation with the wording of the Decree of the Apostles—whose vocabulary, we will see, plays a more central role in later stages of the qur’anic food laws.<sup>181</sup> Yet it is also clear that the qur’anic law stands in a Christian tradition. The rabbis, we have seen, equally prohibited the consumption of such animals to Jews, following the stricter attitude towards carrion in Deuteronomy, but allowed such meat for gentiles. Christians, following precedent in the Second Temple Judaism, adopted the designation of carrion as purveyor of prohibited impurity to Jews and gentiles alike. The Qur’an thus here again stands closest to the Christian tradition which, as we have seen above, followed the prohibition of carrion to *gerim* already attested in the Dead Sea Scrolls, understanding it as applicable to all gentile believers.

- Finally, in its prohibition of “an impiety offered (*uhilla*) to other than God,” the Qur’an equally follows the central prohibition of idol meat in the Decree of the Apostles. The root of Arabic verb *ahalla bi-*, moreover, is equally attested in Palestinian Christian Aramaic and Syriac, with a close cognate in biblical Hebrew. It occurs exclusively in the four qur’anic passages repeating the gentile purity regulations as indicated here; it thus constitutes another instance in which the rarity of a qur’anic word highlights the affinity of the legal dialogue with the Israelite, and especially the Christian tradition.<sup>182</sup> The Qur’an, here, as in Q 6:121 and Q 5:3, calls idol meat *fisq*, “a transgression,” that idol meat would also be included under the category of prohibited impurity designated as *rijs* may well be implied in Q 22:30.

Three of the four prohibitions in the Qur’an—blood, carrion, and idol meat—thus recall the Decree of the Apostles, as has long been remarked.<sup>183</sup> In addition, I suggest that the Qur’an’s list here stands in close continuity with the practices of the majority of Christians of its time, and that this continuity may extend to classifying any transgression as causing prohibited impurity: as we have already seen on pp. 60–63, the Acts of the Apostles plausibly designates not only idol meat but also “blood” and “strangled meat” as causing prohibited impurity, and a vast majority of Christians had thus understood gentile food laws. Based on Freidenreich’s reading of blood, carrion, and pork as causing such impurity as noted above, the

<sup>181</sup> On carrion and purity in classical Islam see e.g. Marion Holmes Katz, *Body of Text: The Emergence of the Sunnī Law of Ritual Purity* (Albany: University of New York Press, 2002), 2–10 and 145–49; Mohammed H. Benkheira, “Chairs illicites en Islam. Essai d’interprétation anthropologique de la notion de *mayta*,” *Studia Islamica* 84 (1996): 5–33; and Michael Cook, “Early Islamic Dietary Law,” *Jerusalem Studies in Arabic and Islam* 7 (1986): 217–77.

<sup>182</sup> See e.g. Michael Sokoloff, *A Syriac Lexicon: A Translation from the Latin, Correction, Expansion and Update of C. Brockelmann’s Lexicon Syriacum* (Winona Lake: Eisenbrauns, 2009), 344–45.

<sup>183</sup> See already Rivlin, *Gesetz im Koran*, 64–70; and Gräf, *Jagdbeute und Schlachtvieh im islamischen Recht*, 8–66.

Qur'an's continuity with Christian gentile law would thus emerge in even sharper relief, especially if we can contextualize its prohibition of pork, which many Christians did eat, within this posited continuity.

In previous historical scholarship on the Qur'an, three approaches to its prohibition of pork have been suggested: first, the Qur'an here simply adopts a "Jewish" law; second, it continues with an Arabian practice; and third, it stands in continuity with an expansive understanding of the Decree of the Apostles. In this case, all three explanations maintain some merit, particularly if considered jointly.

- It is undeniable that pork symbolically constitutes a quintessentially "Jewish" prohibition in the perception of many ancient and modern writers, and it may well be a majority of Western commentators who see the Qur'an's respective prohibition as endorsing a "Jewish" rule.<sup>184</sup>
- Moreover, there is limited yet coherent ethnographical evidence that pigs were uncommon in Arabia, and that the pre-Islamic Arabians (here "the Saracens") "consider it nefarious to eat the flesh of swine" (*hi nefas arbitrantor porcorum vesci carnibus*), as Jerome put it, whereas Sozomen claims that the Arabians refrained from pork since their Ishmaelite customs emulated those of the Hebrews.<sup>185</sup>
- As I have argued previously, some proponents of the expansive tradition of understanding the Decree of the Apostles in the Greek and the Syriac traditions had likely included pork among the prohibitions of the gentile purity regulations for centuries, and it is mainly here, in the Christian tradition, that we find an association of pork and demons not highlighted in the Hebrew Bible or the rabbinic tradition.<sup>186</sup>

<sup>184</sup> See, for example, Sinai's more nuanced view in Sinai, "The Qur'an's Dietary Tetralogue," 120–22; for the symbolism of the Jewish prohibition of pork see Zellentin, *The Qur'an's Legal Culture*, p. 100 note 35 and Jordan D. Rosenblum, "'Why Do You Refuse to Eat Pork?' Jews, Food, and Identity in Roman Palestine," *Jewish Quarterly Review* 100 (2010): 95–110.

<sup>185</sup> See Jerome, *Adversus Jovinianus* 2.7 (334), Latin cited according to Jacques-Paul Migne (ed.), *S. Eusebii Hieronymi, Opera Omnia* (Patrologia Latina 23; Paris: Migne, 1848), 308. Pliny the Elder, in the first century CE, testifies that "in Arabia the species of the hog does not live" (*in Arabia suillum genus non vivit*; *Natural History* 8:78; see Harris Rackham, *Pliny: Natural History* (Loeb Classical Library 353; Cambridge: Harvard University Press, 1938), 148–49); yet his statement occurs in the immediate context of discussing wild boars, not domestic pigs (which are treated in the preceding chapter), and the situation may well have changed with the presence of Roman troops. Likewise, Sozomen's often-cited claim that the Saracens "like the Hebrews, circumcise and abstain from the meat of swine, and observe many others of their habits" (*homoiōs hebraiōis peritemnontai kai hyeiōn kreōn apechontai kai alla polla tōn par' autois etōn fylattousi*) may well be accurate, yet could be dismissed as ideologically tinted (see *Ecclesiastical History* VI 38.11.2–3, Greek text according to Joseph Bidez and Gunther C. Hansen, *Sozomenus: Kirchengeschichte (Die griechischen christlichen Schriftsteller* 50; Berlin: Akademie Verlag, 1960), 299). The above citation of Jerome, however, seems *prima facie* credible, since he merely evokes the Arabian custom among many other correct statements as a quasi-ethnographic fact; the cumulative evidence of all three sources, which do not necessarily reinforce each others' stereotypes, seems even more likely to be accurate.

<sup>186</sup> Note that Isa 66:3 establishes a loose parallel between the sacrifice of pork and idolatry, as do the Talmudim in the context of the narratives about the destruction of the Temple (see e.g. Yerushalmi

Any contextualization of the Qur'an's prohibition of pork, in other words, should avoid reductionism and seek to take at least the three viewpoints here summarized into account. Sinai, for instance, reasonably conjectures that it

seems to me that the best way of explaining this peculiar combination—a general invalidation of Jewish law combined with an acceptance of at least one prominent aspect of Pentateuchal dietary law [i.e. the prohibition of pork]—is to view the Qur'an as being engaged in an attempt to carve out a religious identity that is independent both of rabbinic Judaism and mainstream Christianity, by combining certain symbolically charged aspects of Pentateuchal law with an unequivocal dismissal of rabbinic law as a whole: abstention from pork would have demarcated the qur'anic Believers from Christians while rejection of the Mosaic law in its entirety would have demarcated them from Jews.

Sinai then concludes, in dialogue with my own arguments, that

the Qur'an engages Jewish dietary law by amplifying pre-existing Christian tendencies to endorse and expand upon the purity rules of the Apostolic Decree—a current of late antique Christianity that is easily overlooked from a contemporary Western vantage point.<sup>187</sup>

I do not disagree in principle with Sinai's summary here, yet his usage of the term "Jewish" here risks to overlook the ubiquity of *gentile* law that the Bible had bequeathed to late antiquity. Sinai here highlights the Qur'an's discontinuity with both Jewish and Christian food laws, yet if one differentiates between Jewish and gentile law, then the continuity of qur'anic law especially with the Christian legal tradition may come to the fore more clearly. If Arabians in general abstained from pork, it may well be that Arabian Christians maintained this practice, just as some of them seem to have done in Palestine and Mesopotamia. If we add to this the record that Aksumite Christians equally abstained from pork, in particular in light of the recent arguments about the Aksumite cultural sphere stretching well into Arabia, then the Qur'an's prohibition of pork may have been far less culturally distinctive than is often conjectured, thus weakening Sinai's reasoning in this case.<sup>188</sup> If so, then the Qur'an's depiction of pork as *rijs* would constitute the

*Ta'anit* 4:8 (68c) and Bavli *Sotah* 49b). Within the biblical tradition, however, the connection of pork with the demonic or satanic seems to be mainly a Christian phenomenon; on the prohibition of wine and pork among the constituents of the Didascalia Apostolorum, and its demonic associations in the Clementine Homilies, see Zellentin, *The Qur'an's Legal Culture*, 110–25 and note 145 above. On the prohibition of pork in classical Islamic law see e.g. Richard A. Lobban, "Pigs and Their Prohibition," *International Journal of Middle East Studies* 26 (1994): 57–75.

<sup>187</sup> Sinai, "The Qur'an's Dietary Tetralogue," 122.

<sup>188</sup> On Aksumite observance see pages 102–5 above; cf. de Blois "Naṣṣrānī (*Ναζωραῖος*) and ḥanīf (*ἔθνικός*)."

integration of this prohibition within its own system of prohibited impurity, which in turn develops the Christian discourse associating impure food with the demonic—a noteworthy development regardless of whether Arabian pagans did or did not refrain from pork. We will, in Chapter 4, return to the matter of *rijs* as designating prohibited impurity, the demonic implications of which will again highlight the relevance of the Christian tradition legal narratives, over and against the rabbinic ones, for understanding the Qur'an's laws, including the prohibition of pork.<sup>189</sup> As we will presently see in the related cases of wine, the Qur'an's eventual prohibition of wine and its classification as *satanic* prohibited impurity, as “*rijs* of Satan's doing” (*rijs min 'amali l-shaytān*, Q 5:90), again places the Qur'an in dialogue with those Christian traditions that understand wine as an agent of evil in general, or more specifically as an ingredient of idolatry perceived as the worship of the demons, thereby once more suggesting the importance of a Christian context of the Qur'an's purity laws—along with its continuity with pagan Arabian terminology, as we will see in Chapter 4.<sup>190</sup>

Already in their first iteration, the Qur'an's food laws can thus be associated with the Christian tradition of gentile purity regulations initially formulated in Genesis and particularly in the *gerim* laws of Leviticus, which equally prohibit blood, carrion, and idol meat. Whereas some commentators understood the inclusion of pork as a sign of “Jewish influence,” or perhaps equally as sign of a distancing of the qur'anic community from Christian practice, I think that it is at least as likely that the prohibition points to broadly shared Arabian practices, and especially to the expansive Christian attitude towards the Decree of the Apostles, and perhaps equally to the importance of Aksumite food laws. Cultural affinity is not a zero-sum game—there is no reason to understand the importance of one cultural context as tantamount to the exclusion of others.<sup>191</sup>

<sup>189</sup> As Sinai has pointed out, the passage in question contains the Qur'an's only explanation of the prohibition of pork in terms of *rijs*; see Sinai, “The Qur'an's Dietary Tetralogue,” 118.

<sup>190</sup> While there is no need to retrace the qur'anic development from the permission of wine Q 16:67 and its incremental criminalization in Q 4:43, Q 2:219, and Q 5:90–91, the case constitutes a parallel to the initial rejection of food laws to their later reintroduction and expansion pointed out by Sinai, as discussed above. For the prohibition of wine in the Jewish and especially the Christian Encratite movements, and the relevance for the Clementine Homilies and the Didascalia Apostolorum in this respect, see in Zellentin, *The Qur'an's Legal Culture*, 110–25 and note 186 above.

<sup>191</sup> On the difficult passage Q 5:5, “the food of those who were given the Book is lawful to you, and your food is lawful to them” (*wa-ta'amu lladhina ūtu l-kitāba hīllun lakum wa-ta'āmukum hīllun lahum*), see Sinai, “The Qur'an's Dietary Tetralogue,” 137; Shaddel, “Qur'anic *ummī*: Genealogy, Ethnicity, and the Foundation of a New Community,” 25–28 and my own comments in Zellentin, *The Qur'an's Legal Culture*, 158–61. As mentioned above, I do not share the assumption of many previous scholars that all Christians must surely have eaten pork, which seems to be the major point of contention when trying to contextualize this verse. Such an assumption does not square with the patristic records about Arabian practices, which, in the aforementioned case of Sozomen, discuss the conversion of Arabians to Christianity without mentioning any changes in their custom of avoiding pork. The assumption equally does not take the expansive tradition of applying the Decree of the Apostles, and including Aksumite practices, into account. If Arabians, no matter whether they were Jews, Christians, or pagans, tended to refrain from pig, then Q 5:5 may well be based on either the historical or the stipulated affinity of the laws of the Christians and the qur'anic community, on the one hand, and the Qur'an's insistence that the Jewish laws are in fact partially abrogated, on the other.

In light of this broad continuity of the Qur'an's food laws with those which the Hebrew Bible and especially the Christian tradition imposed on gentiles, it is important to point out that the Qur'an does not share the stringency regarding the gentile purity regulations that we can find in parts of the Christian tradition when it comes to otherworldly punishment, or, in the rabbinic tradition, when it comes to the judicial prosecution of transgressors.<sup>192</sup> As we have seen above, Origen associates the consumption of blood with idolatry, and the result of transgressing the regulations in the Homilies is near-irreversible harm to the soul. Later Christian authorities, we have seen, did allow for much more lenience in times of crises, just as the Qur'an allows for the consumption of any foodstuff under duress, "should one be compelled."<sup>193</sup> The impression, nevertheless, arises that the Qur'an's food laws are generally more lenient especially when compared with the early Christian tradition, or with the proponents of the expansive tradition of understanding the gentile purity regulations.

Elsewhere, the Qur'an even warns against too expansive a view of these laws. The respective verse in *Sūrat al-Naḥl* 115 constitutes, according to Sinai, a second—later—insertion into another Meccan surah. Here, the Qur'an repeats the prohibitions and the dispensation (under duress) given in Q 6:145; it then specifies that God has "forbidden only" (*innamā ḥarrama*) the four items named above (i.e. carrion, blood, pork, and idol meat), warning against expanding or dismissing the gentile purity regulations, "asserting falsely with your tongues, 'This is lawful, and this is unlawful,' to fabricate lies against God" (Q 16:115). After an initial rejection of Meccan food laws, the Qur'an can thus be said to follow its very own version of the gentile food laws rather persistently. While the initial Meccan rejection of food laws bears some superficial affinities with the dismissive view towards the Decree of the Apostles, we can situate its Medinan formulations in between the appreciative and the expansive view we have seen in Christianity. These affinities include dispensations under duress and a patent prohibition of further expansions.

The two later Medinan verses that restate the Qur'an's central food laws repeat the earlier formulations, but also add a list of specifications that reflect those found in the expansive tradition of the Decree of the Apostles already noticeable in the earlier inclusion of pork in Q 6:145. The Medinan passage Q 2 *Sūrat al-Baqara* 173, to begin with, indicates the inner-qur'anic continuity of the gentile purity regulations. It equally repeats that God has "only forbidden" four items to its community: "carrion, blood, the flesh of swine, and that which has been offered to other than God," followed by the same dispensation should one act under duress we have already seen in Q 6:145 and in Q 16:115. Both the list and

<sup>192</sup> Note that the rabbis demand the penalty of death for the transgression of the Noahide Laws (without showing any intent or possibility of enforcing it); see e.g. Bavli *Sanhedrin* 56a, and see also Jackson, "The Jewish View of Natural Law."

<sup>193</sup> See p. 79 above.



the dispensation are repeated, slightly differently, in the Medinan Q 5 *Sūrat al-Māʾida* 3–4, the fourth and final of the passages under consideration, whose opening with legal matters is not unparalleled in the Qurʾan.<sup>194</sup> The opening passages of Q 5 have rightly been identified as a foundational speech to the nascent Muslim community that recreates the foundation of the Israelite community as portrayed, for example, in the opening lines of Deuteronomy 5.<sup>195</sup> The surah’s actual laws, in turn, reflect the gentile purity regulations of the Hebrew (or Arabic) Bible and the appreciative and expansive attitudes towards the Decree of the Apostles as much as they reflect the Qurʾan’s unique Arabian context, notably pertaining to the laws of hunting and of pilgrimage.

In its first verse, *Sūrat al-Māʾida*, after reminding the believers to fulfil contractual obligations, specifies that “you (pl.) are permitted animals of grazing livestock (*bahīmatu l-anʿami*), except what is announced to you.”<sup>196</sup> Before restating and refining the general food laws given in Q 5:3, the surah, in verses one and two, then first turns to the laws for hunting (*al-ṣayd*) and sanctity (*h-r-m*, as opposed to *purity*) during the holy months, and to other aspects of the Hajj—denoting a very distinct Arabian type of pilgrimage sanctity to which we will briefly return in Chapters 3 and 4.<sup>197</sup> For the present purpose, it suffices to point to the doubly distinct nature of the Qurʾan when it comes to the interlinked topics of

<sup>194</sup> The opening of a surah with legal, in this case contractual obligations towards hostile religious groups during and after the sacred months has limited parallels; a related case can be found in the opening of the Medinan Q 9 *Sūrat al-Tawba*.

<sup>195</sup> In Deut 5:3, Moses recites “the statutes and ordinances that I am addressing to you today (*hayôm*),” just as God has His prophet announce that “today I have perfected your religion” (*al-yawma akmaltu lakum dīnakum*) in Q 5:3; both passages describe the affirmation of communal identity by establishing a specific list of laws. This view is also reflected in Q 5:48, which states, “a set of laws and a custom” (*shirʿatan wa-minhājan*) has been appointed to each “community” (*umma*, Q 5:48). The word *minhāj* constitutes another hapax legomenon; Wael Hallaq aptly notes that the Qurʾan repeatedly stresses “that believers must judge by what was revealed to them . . . . It is noteworthy here that the ‘normative way’ is represented by the term *minhāj*, a cognate of the Hebraic word *minhāg* [custom]. The creation of an Islamic parallel here speaks for itself”; Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 21; see also Zellentini, *The Qurʾān’s Legal Culture*, 171–72. I have not yet been able to incorporate the relevant insights by Mohsen Goudarzi in his recent paper “Between Triumphalism and Pluralism: The Qurʾan’s Legal Philosophy,” presented in the framework of the workshop Late Antique Legal Instruction and the Qurʾan, at the Oriental Institute, University of Oxford, on 30 April 2021.

<sup>196</sup> Cf. also Q 22:30; the term *bahīma*, which only occurs here and in Q 22:28 and 34, is a close cognate of Hebrew *bhmh*, “cattle,” and has likely the same meaning; see Jeffery, *The Foreign Vocabulary of the Qurʾān*, 34–35; it should be noted that the same root, to the best of my knowledge, is not attested in ancient South Arabian epigraphy.

<sup>197</sup> Note that the root *ṣ-y-d* occurs only in this surah and is a cognate of Hebrew, Aramaic, and Syriac *ṣ-w-d* and *ṣ-y-d*; see Q 5:1–2 and 94–96. It is also attested in pre-Islamic Arabian inscriptions; see Mohammed Maraqtan, “Hunting in Pre-Islamic Arabia in Light of the Epigraphic Evidence,” *Arabian Archaeology and Epigraphy* 26 (2015): 214; Jacques Ryckmans, “Rites du paganisme de l’Arabie méridionale avant l’islam,” *Bulletin de la Classe des lettres et des sciences morales et politiques* 4 (1993): 139; for the important inscription regarding the restrictions of hunting during the pilgrimage to Itwat (today Jabal Riyām, north of Sanaʿa), see note 48 (Chapter 4) below. For further occurrences of the root *ṣ-y-d* see Copeland Biella, *Dictionary of Old South Arabic*, 421 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=syd> (accessed 5 March 2021); see also note 213 below.

pilgrimage and its accompanying sacrifice. First, most if not all forms of Christianity, including those endorsing the expansive attitude towards the Decree of the Apostles, had largely reinterpreted, ignored, or outrightly rejected the Jerusalem Sanctuary along with the festivals requiring pilgrimage (*ḥagim*) to and sacrifice at this site, as legislated in the Hebrew Bible.<sup>198</sup> One of the few exceptions here is again the Aksumite Church, which endorses many biblical holidays—yet the relevance of the practices for the Hejaz at the time of the Qurʾan remains difficult to assess.<sup>199</sup> The Qurʾan’s Medinan laws, by contrast, legislate on the Arabian sanctuary along with the rules for pilgrimage to it and the accompanying sacrifice, primarily observed by non-Israelites (even though Jews and Christian do not seem excluded from the practice). In addition, they also prescribe a respective list of laws governing *sanctity* (as opposed to *purity*) during its performance. Despite some superficial similarities between the biblical pilgrimage festivals and the Ḥajj, along with its sacrificial rules, I will argue in Chapter 4 that the legal context governing its fulfilment should be understood within a specifically Arabian, and more specifically Meccan, context. The fact that the Jerusalem Temple, along with its pilgrimages and sacrifices, had long ceased to have practical importance once again shows that the continuity of biblical and qurʾanic law matters mostly in areas of the former’s ongoing relevance in the day and age of the latter’s community. The Qurʾan’s association of the Kaʿba with Abraham and Ishmael, in turn, constitutes a blicization of the Meccan sanctuary that should partially be understood in light of the growing importance of Jerusalem alongside the Temple’s diminished role in the late Roman Empire in the early seventh century CE, as we will discuss in Chapter 4. The discrepancy between biblical law governing the Temple and the qurʾanic sanctity laws, in turn, will offer a helpful contrast in highlighting how close, by comparison, the qurʾanic notion of purity stands to those of the Hebrew Bible especially as channelled by the Christian tradition.<sup>200</sup>

<sup>198</sup> On the biblical context of the three pilgrimage festivals see e.g. Carol Meyers, “The Function of Feasts: An Anthropological Perspective on Israelite Religious Festivals,” in *Social Theory and the Study of Israelite Religion: Essays in Retrospect and Prospect*, ed. Saul Olyan (Atlanta: Society of Biblical Literature, 2012), 141–68 and Beth Alpert Nakhai, *Archaeology and the Religions of Canaan and Israel* (Boston: American School of Oriental Research, 2001); on the transformation of sacrifice throughout late antiquity see e.g. Guy G. Stroumsa, *The End of Sacrifice: Religious Transformations in Late Antiquity* (Chicago: University of Chicago Press, 2009), esp. 85–128. Note that the Decree of the Apostles and its various understandings developed after the destruction of the Jerusalem Temple, yet so did rabbinic culture, which maintained a clear *theoretical* focus on the pilgrimage; see Zellentin, *The Qurʾan’s Legal Culture*, 131–32.

<sup>199</sup> The Christian tendency to polemicize against the observance of Jewish festivals, so prominent in many patristic sources, did not of course preclude the fact that Christians took much inspiration from the festivals of their Jewish contemporaries, as demonstrated for instance by Daniel Stökl Ben Ezra, *The Impact of Yom Kippur on Early Christianity: The Day of Atonement from Second Temple Judaism to the Fifth Century* (Tübingen: Mohr Siebeck, 2003).

<sup>200</sup> The close affinity of the Hajj in the Qurʾan and Arabian epigraphical evidence has already been highlighted by various scholars; see e.g. Christian Julien Robin, “Marib et Makka: deux pèlerinages de l’Arabie préislamique qui se tenaient à la veille de l’équinoxe de printemps,” *Graeco-Arabica* 12 (2017): 661–73; Ryckmans, “Rites du paganisme de l’Arabie méridionale avant l’islam,” 134–37; and

In Q 5:3–4, then, the Qur’an again expands those food laws given in its previous three iterations by specifying them, again in partial continuity with both the expansive Christian attitude towards the Decree of the Apostles and with epigraphically attested ancient South Arabian customs. The bulk of the food regulations are given in Q 5:3 and phrased as follows:

Q 5:3 You are prohibited (*ḥurrimat ‘alaykumu*) carrion (*al-mayta*),  
 Blood (*al-dam*),  
 the flesh of swine (*al-khinzīr*),  
 And what has been offered to other than God (*wa-mā uḥilla li-ghayri llāhi bihi*).  
 And the animal strangled (*al-munkhaniqa*)  
 or beaten to death (*wa-l-mawqūdhā*),  
 And that which dies by falling (*wa-l-mutaraddiya*)  
 or is gored to death (*wa-l-naṭīḥa*),  
 And that which is eaten by a beast of prey (*al-sabu*)  
 —barring that which you may slaughter (*illā mā dhakkaytum*)—  
 And what is sacrificed on sacrificial stones (*mā dhubiḥa ‘alā l-nuṣubi*),  
 And that you should divine with arrows (*wa-an tastaqsimū bi-l-azlāmi*).  
 These things are a transgression (*dhālikum fisqun*).  
 Q 5:4 They ask you as to what is lawful to them (*mādhā uḥilla lahum*).  
 Say, “All the good things are lawful to you (*uḥilla lakumu l-ṭayyibātu*).”  
 As for what you have taught hunting dogs,  
 teaching them out of what God has taught you,  
 eat of what they catch for you  
 and mention God’s Name over it (*wa-dhkurū sma llāhi ‘alayhi*),  
 and be wary of God.  
 Indeed God is swift at reckoning.

The Medinan layer of the Qur’an here first repeats those prohibitions of blood, carrion, pork, and of any meat that “has been offered to other than God,” we already encountered in the first three iterations of the food laws. These prohibitions, we have seen, stand in close relationship to the gentile purity

Wellhausen, *Reste Arabischen Heidentums*, 68–147. On the Hajj in classical Islam see e.g. Eric Tagliacozzo and Shawkat M. Toorawa (eds), *The Hajj: Pilgrimage in Islam* (Cambridge: Cambridge University Press, 2016); Francis Edward Peters, *The Hajj: The Muslim Pilgrimage to Mecca and the Holy Places* (Princeton: Princeton University Press, 1994), 3–59 and already Rivlin, *Gesetz im Koran*, 21–49, as well Sinai, *Key Terms in the Qur’an*, s.v. *ḥajja*, and pp. 308–15 below.

regulations in Genesis and Leviticus as understood by the expansive tradition of their Christian interpretation. At the same time, it was palpable that the earlier formulation of the gentile purity regulations did not reflect the language of the Decree of the Apostles as preserved either in the New Testament or in any of its later renderings. The specifications of the earlier rules in Q 5:3, by contrast, which Sinai has identified and described as a secondary, “proto-exegetical” addition to the verse, maintain the focus on the Bible, yet equally engage the wording of the Decree of the Apostles directly.<sup>201</sup> Importantly, whereas the Qur’an follows the expansive tradition of understanding the Decree, it also becomes clear that the Qur’an’s notion of the purity of food stands in a well-documented pagan Arabian tradition and focuses on *prohibited* impurity at the exclusion of the *regulated* type.

- The prohibition of the chief category of “carrion” is now specified by using a list of several technical terms that are unique to this surah. The first one of these specifications, unsurprisingly, is “strangled” meat (*al-munkhaniqa*), a term whose Arabic root is a close cognate to the Hebrew, Aramaic, and Syriac terms that throughout late antiquity had functioned as the chief category designating “carrion.” By reintroducing “strangled” meat as the first subcategory of “carrion,” the Qur’an effectively regularizes the unique terminology of Acts and several patristic authors which had dominated Christian discourse throughout late antiquity—a term equally appearing in the rabbinic Tosephta but receding in later rabbinic writings. Since the term *al-munkhaniqa* constitutes another *hapax legomenon* as well as a close cognate to the Hebrew, Aramaic, and Syriac term *h-n-q*, it seems likely that the Qur’an here reflects the pervasive Syriac and putative Arabic rendering of the Decree of the Apostles, which, in the Peshitta of Acts 15:29, equally prohibits *hnyq*, “things strangled.”<sup>202</sup>
- The Qur’an then specifies carrion further by including animals that were “beaten” to death (*al-mawqūdhā*), that “fell” to death (*al-mutaraddiya*), or that were “gored” to death (*al-naṭīḥa*). The first and the third term are equally unique in qur’anic terminology, making it again more likely that the Qur’an here engages existing law. Indeed, it seems that the Qur’an engages and expands Leviticus 17 by employing three categories we equally find in Exodus 21, the *locus classicus* of biblical tort law: here, we learn about how to deal with the restitution of animals that died because they “fell” (*wənāpal*) into a pit, that were “beaten” to death (*yiggōp*) or were “gored” (*naggāh*)

<sup>201</sup> See Nicolai Sinai, “Processes of Literary Growth and Editorial Expansion in Two Medinan Surahs,” in *Islam and Its Past: Jāhiliyya and Late Antiquity in Early Muslim Sources*, ed. Carol Bakhos and Michael Cook (Oxford: Oxford University Press, 2017), esp. 79–85.

<sup>202</sup> The relevance of the Decree of the Apostles in this context has already been noted by Gräf, *Jagdbeute und Schlachtvieh im islamischen Recht*, 22–24 and by Rivlin, *Gesetz im Koran*, 71; the root *kh-n-q*, to the best of my knowledge, is not attested in Arabian epigraphy.

(Exod 21, esp. 33–36). While the meaning of the qur’anic terms is difficult to establish, the presence of all three concepts, “beating,” “falling,” and “goring” in both corpora would unlikely be coincidental (even though they use different roots).<sup>203</sup> Yet the qur’anic prohibition of the meat of such animals is far stricter than that in Exodus. Exodus, namely, seems to reflect the older, more lenient understanding of the biblical laws of carrion equally displayed in Leviticus 17, and only prohibits the consumption of the meat of an oxen that has killed a human being and is subsequently stoned to death (Exod 21:28). This implies that the meat of the other dead animals in Exodus—whose carcass the person making restitution “may keep” (Exod 21:34 and 36)—were originally not prohibited for consumption, even if washing were required thereafter, according to Lev 17:15–16. The Qur’an, we have seen, categorizes carrion as purveyor not of regulated but of prohibited impurity, departing from biblical precedent in closer proximity to the Christian tradition.

- Animals mangled by beasts of prey, the next item on the Qur’an’s list, equally constitute part of the mandate to wash after its consumption in Lev 17:15, along with the focus of an implicit prohibition, as “strangled meat,” in the Acts of the Apostles. The term in Acts had already been expounded as designating animals mangled by beasts of prey especially in those Christian traditions that expand the gentile purity items; we have already encountered this in Jerome, in the Canons of the Apostles, and in the Clementine Homilies, who equally prohibit “a piece left by a beast of prey (*thēriou leipsanou*)” explicitly. For the Qur’an, likewise, animals mangled by beasts of prey are generally prohibited; the term “wild animal” (*al-sabu*) in this meaning constitutes yet another *hapax legomenon*.<sup>204</sup>
- The Qur’an then offers an exemption for animals attacked by predators “which you can slaughter” (*mā dhakkaytum*); whereas the formulation leaves open the possibility that this exemption extends to all forms of carrion, it seems likely that it specifies only the one item immediately preceding it, animals mangled by beast of prey, and even among those only the ones on

<sup>203</sup> It is not unlikely that the Qur’an here engages with an existing (likely oral) translation of the Hebrew Bible into Arabic; see note 167 above. It is evident that in this case, all three terms used to designate “to beat,” “to fall,” and “to gore,” used in Exodus 21 in the Hebrew Bible (as well as its Aramaic and Syriac translations) are different from the ones used in the Qur’an. Arne A. Ambros renders *mawqūdhā* as “trampled (to death);” *mutaraddiya* as “fallen, tumbled (to death);” and *naṭīḥa* as “butted (to death);” see Ambros, with Stephan Procházka, *A Concise Dictionary of Koranic Arabic* (Wiesbaden: Reichert, 2004), 293, 111, and 270. Note that the Mishna equally turns to Exodus 22 in order to establish legal categories; unlike the Qur’an, however, it uses “the ox” and “the pit” rather than “goring” and “falling” as its chief legal categories; see e.g. Mishna *Bava Qamma* 1.1 and the commentary in both Talmudim, making the rabbinic record less relevant in this instance.

<sup>204</sup> Note that the root *s-b-ʿ* is attested in ancient South Arabian epigraphy in the sense of “conquest” and “subjection,” suggesting a clear etymology for the qur’anic term; see Copeland Biella, *Dictionary of Old South Arabic*, 327.

the verge of death, as tradition relates on the verse.<sup>205</sup> Such a dispensation is not found in the Bible, yet it is given, in certain cases, by the rabbis.<sup>206</sup> Based on the posited affinity between the qur'anic root *dh-k-y/w* and the common Aramaic and Syriac roots *d-k-y* and *z-k-y*, designating “purification,” some scholars, myself included, had previously understood the qur'anic in light of the biblical term—perhaps an understandable step given that the Qur'an equally employs the root *z-k-w/y* in the sense of “purification,” as we will discuss in Chapter 4.<sup>207</sup> The Arabic root *dh-k-y/w* occurring in Q 5:3 as a *hapax legomenon*, however, is attested in ancient South Arabian epigraphy, where it simply designates “to slaughter.”<sup>208</sup> In this case as well, we can therefore conclude that the Qur'an eschews any connection of its food laws with the concept of *regulated* impurity—one can either slaughter an animal, and it is pure, or one cannot, in which case it would convey *prohibited* impurity, in line with the Christian tradition of applying the Bible's laws to gentiles. The association of the Arabic root *dh-k-y/w* with any Aramaic cognate, by contrast, seems misleading.<sup>209</sup>

- The prohibition of animals slaughtered (*dhabaḥa*) on “sacrificial stones” (*nuṣub*), finally, is governed by the previous prohibition of “what has been

<sup>205</sup> On the traditional interpretation and historical context of the qur'anic legislation see Gräf, *Jagdbeute und Schlachtier im islamischen Recht*, 8–66, and now Al-Azmeh, *The Emergence of Islam in Late Antiquity*, 412 note 340.

<sup>206</sup> In tractate *Hulin* 3 of the Mishna and in its talmudic commentaries appraise each mangled animal according to the wounds it sustained, declaring some fit for consumption by Jews after appropriate slaughter while declaring others *trefah*, i.e. impermissible.

<sup>207</sup> For the alleged association of the qur'anic root *dk-k-w* with Aramaic *d-k-y* cf. e.g. Catherine Pennacchio, *Les emprunts à l'hébreu et au judéo-araméen dans le coran* (Paris: Maisonneuve, 2014), 160–61; Zellentin, “Judaean-Christian Legal Culture and the Qur'an,” 157 and Jeffery, *The Foreign Vocabulary of the Qur'an*, 135.

<sup>208</sup> See Copeland Biella, *Dictionary of Old South Arabic*, 94; for further occurrences of the root *dh-k-y/w* see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=dkw> (accessed 5 March 2021); for qur'anic *dh-k-y/w* see also Ambros, *A Concise Dictionary of Koranic Arabic*, 104. Importantly, note that one single known attestation of the root *dh-k-y/w* in ancient Southern Arabia, just as Q 5:3, connects the root with the root *ḥ-r-m*, denoting the “sacred” or the “prohibited” (see Copeland Biella, *Dictionary of Old South Arabic*, 82); we will explore the meaning of both roots—*dh-k-y/w* and *ḥ-r-m*—in Chapter 4 below.

<sup>209</sup> The case may therefore function as a cautionary tale to those who do not fully heed Walid Saleh's warnings against the excesses of etymology; see Saleh, “The Etymological Fallacy and Qur'anic Studies: Muhammad, Paradise, and Late Antiquity,” in *The Qur'an in Context: Historical and Literary Investigations into the Qur'anic Milieu*, ed. Angelika Neuwirth et al. (Leiden: Brill, 2010), 649–98, even if some of Saleh's examples are more helpful than others. Note also the recent radical proposal by Marijn van Putten to doubt whether or not the Qur'an contains any Syriac loan-words, see van Putten, “Classical and Modern Standard Arabic,” in *Arabic and Contact-Induced Change*, ed. Christopher Lucas and Stefano Manfredi (Berlin: Language Science Press, 2020), 69–72, as well as Ahmad Al-Jallad's response in Al-Jallad, “The Moth *ḍr* in Safaitic and the Status of Spirantisation in 'Arabian' Aramaic,” *Aramaic Studies* 18 (2020): 147–70. Meanwhile, van Putten's underlying suggestion that Aramaic must have been used in Arabia long before the emergence of Syriac has, at least for the north and east of the peninsula, been independently confirmed by Peter Stein, “The Role of Aramaic on the Arabian Peninsula in the Second Half of the First Millennium BC,” in *Languages, Scripts and Their Uses in Ancient North Arabia*, ed. Michael C. A. Macdonald (Oxford: Archaeopress, 2018), 39–49; for the debate regarding South Arabia see Stein, “Sabaica-Aramaica,” *Folia Orientalia* 49 (2012): 503–22.



offered to other than God”; the roots *dh-b-ḥ* and *n-ṣ-b* describe “slaughter” and “sacrifice” in general as well as pagan sacrificial stones more particularly in ancient Safaitic and South Arabian epigraphy; their prohibition is in line with the Qur’an’s rejection of idolatry, as has been noted long ago.<sup>210</sup>

- The injunction not to “divine with arrows” (*wa-an tastaqsimū bi-l-azlāmi*) can equally be placed in a specifically Arabian context. The verb *qasama* is connected to oracular practices both in the Hebrew Bible and in ancient South Arabian epigraphy. Likewise, the use of arrows for divination is well attested in the Hebrew Bible and in pagan Arabian practice and fully rejected by the Qur’an, as previous studies have pointed out.<sup>211</sup>
- In verse 4, the surah permits the consumption of “good things” (*al-ṭayyibāt*), a notion repeated in verse 5 (which also occurs in the context of regulated sexual impurity; see pp. 213–16 below). In a previous publication, I had advocated understanding this term in the context of purity discourse. Sinai, by contrast, emphasized the ways in which the term describes the general “wholesomeness” and “cleanliness” of foodstuff (or, in Q 5:6, of soil), pointing to the central theological tenet of the permissibility of God’s provisions throughout the Meccan and Medinan food laws. Both arguments seem to hold water. When it comes to Sinai, we should note that a similar theological usage of the root *t-y-b*, designating divine pleasure, can also be found in

<sup>210</sup> See e.g. Sinai, “Processes of literary growth and editorial expansion in two Medinan Surahs,” 80; Rivlin, *Gesetz im Koran*, 82–83; for the roots *dh-b-ḥ* and *n-ṣ-b* in Safaitic inscriptions see Al-Jallad, *The Religion and Rituals of the Nomads of Pre-Islamic Arabia* esp. 17–29; for South Arabian epigraphy see Copeland Biella, *Dictionary of Old South Arabic*, 91 and 311 as well as <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=nṣb> and [=ḍbh](http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ḍbh) (both accessed 5 March 2021); see also Sinai, *Key Terms of the Qur’an*, s.v. *dhabaḥa* as well as note 178 above and 26 (Chapter 4) below. On the biblical parallel of the interdiction to erect altars of unhewn stone see Zellentin, *The Qur’an’s Legal Culture*, 77–78 and 120–21.

<sup>211</sup> Nadia Jamil cautions against the conflation of such arrows with the game of chance called *maysir*, see Jamil, “Playing for Time: Maysir-Gambling in Early Arabic Poetry,” in *Islamic Reflections, Arabic Musings: Studies in Honour of Professor Alan Jones*, ed. Robert G. Hoyland and Philip F. Kennedy (Cambridge: Gibb Memorial Trust, 2004), 50–54. Nicolai Sinai, endorsing Jamil’s view, furthermore, points out that the Qur’an, in Q 5:90, lists *maysir* and *azlām* as separate prohibitions, emphasizing the distinctness of the two practices; see Sinai, “Processes of Literary Growth and Editorial Expansion in Two Medinan Surahs,” 80; for the possible secondary biblical and rabbinic connections see also Zellentin, *The Qur’an’s Legal Culture*, 77–78 and 120–21. Yet Q 5:3 clearly relates the practice of *istiḡṣām* to slaughtered animals, strongly suggesting that the distinction between this practice and *maysir* may denote but two subcategories of the same tradition, perhaps as performed by professional diviners and laypeople. For the root *q-s-m* as indicating oracular practices in Safaitic inscriptions see Al-Jallad, *The Religion and Rituals of the Nomads of Pre-Islamic Arabia* esp. 48–53 for the root in ancient South Arabian epigraphy see Copeland Biella, *Dictionary of Old South Arabic*, 463 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=qsm>; cf. Ambros, *A Concise Dictionary of Koranic Arabic*, 224. In the ancient South Arabian epigraphical record, divining arrows are equally plausibly designated by the root *s-l-ṭ*; see Copeland Biella, *Dictionary of Old South Arabic*, 334 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=slṭ> (accessed 5 March 2021). On divining arrows and games of chance see also note 174 (Chapter 2) and pp. 295–96 (Chapter 4) below.



ancient South Arabian epigraphy.<sup>212</sup> “Wholesomeness” and “cleanliness” thus constitute the primary semantic field designated by the frequent Qur’anic adjective *ṭayyib*. With regard to purity discourse, however, it is obvious that the Qur’an’s food laws endorse rules pertaining to *prohibited* impurity caused through food (all the while eschewing any notion of *regulated* impurity in this respect). As we will see in Chapter 4 in more detail, the Qur’an in this respect thus remains close to the appreciative and even expansive Christian tradition of interpreting the Decree of the Apostles.

- The verse then returns to the theme of hunting which we had already encountered as *al-ṣayd*, in the context of the pilgrimage, in verse 1. In verse 4, the special case of hunting with the use of dogs—here portrayed as a teaching of divine origin—is permitted and regulated; such a custom was not exclusive to, yet widespread in ancient South Arabia, where it was denoted by the same root.<sup>213</sup> It is noteworthy that the audience in this case addresses the prophet with a respective question, and that this occasion introduces another parallel to the conglomerate of topics we had encountered in the laws given to the *gerim* in Leviticus 17. In the Bible, the person who “hunts” (*yāṣūḍ ṣēd*, based on the root *ṣ-y-d*, Lev 17:13) animals, be they an Israelite or a *ger*, must make sure that the victim’s blood is properly spilled. The necessity of the spilling of the blood of the hunted animal, presumably right after its death, as prescribed by the Bible, is likely implied in the Qur’an as well, as argued above in the case of the “slaughter” of a mangled animal. Q 5:4, in line with Q 22:34, as in the case of such an animal, develops what may well be the confluence of pagan Arabian practices and biblical law, developing both by specifying that one must “mention God’s name over it” (*li-yadhkurū sma llāhi*), that is over the victim during slaughter. The Qur’anic root *dh-k-r*, in turn, is broadly attested in ancient South Arabian epigraphy, where it designates a public declaration or the remembrance, much as in the Qur’an.<sup>214</sup> Just as is the case with regular slaughter, we now learn that the

<sup>212</sup> On the matter of “good things” (*al-ṭayyibāt*, Q 5:5) and “good ground” (*ṣa’īdan ṭayyiban*, Q 5:6), see Zellentín, *The Qur’an’s Legal Culture*, esp. 144–45, placing the concept into the context of purity, along with the important corrections in Sinai, “The Qur’an’s Dietary Tetralogue,” esp. 136–38 as well as Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur’an* (Montreal: McGill–Queen’s University Press, 2002), 235–37; on the epigraphic record see Copeland Biella, *Dictionary of Old South Arabic*, 218; for further occurrences see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=tyb> (accessed 5 March 2021). In a private communication, Isaac Oliver has also suggested reading the verse in light of 1 Tim 4:4 “for everything created by God is good (*kalon*), and nothing is to be rejected, if it is received with gratitude”; the usage of “goodness” in subsequent Christian discourse deserves further inquiry.

<sup>213</sup> See note 197 above; on the well-established nature of hunting throughout Arabia see Ryckmans, “Rites du paganisme de l’Arabie méridionale avant l’islam,” 137–42 and Maraqtén, “Hunting in Pre-Islamic Arabia,” 208–23.

<sup>214</sup> See Copeland Biella, *Dictionary of Old South Arabic*, 95; for further occurrences of the root *ḍ-k-r* see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ḍkr> (accessed 5 March 2021).

hunter equally must mention God's name over the victim after its capture, in both cases a law unique to the Qur'an.

The Medinan layer of the Qur'an, we can thus summarize, develops in its later passages what is already prohibited in the earlier ones. It retains a robust sense of a dismissive attitude towards Meccan pagan food laws (with the possible exception of the prohibition of pork) we had seen above. The Medinan expansions of the Meccan verses, and particularly the entirely Medinan surahs, retain robust aspects of pagan Arabian practices, such as the permissibility of hunting, and much traditional Arabic vocabulary. Yet at the same time, they stand in an even more intimate continuity with the appreciative and especially with the expansive Christian tradition of understanding the Decree of the Apostles than the Meccan verses did. In some cases, the Qur'an can be argued equally to stand in dialogue with—most likely oral renderings or practical applications of—the Bible itself, a phenomenon we will revisit in detail in Chapter 3. The laws given to the non-Israelites in the Bible thus form the framework of the rabbinic and especially the Christian tradition of gentile laws, and this tradition is then partially confirmed by the Qur'an—which also integrates the laws in question into a distinct ethnic framework and into a list of laws that functioned as a partial basis for the later Islamic legal system.

As we will see in Chapter 2, the Qur'an endorses the category of regulated impurity that was so central for the Hebrew Bible's purity system, and it equally applies it to non-Israelites. Yet unlike the Bible and after it the rabbis, it nowhere extends this concept to govern food—an insight that allows more specificity than my own previous views on the matter. In the Qur'an, forbidden food, such as blood and carrion, therefore, fully falls under the item of prohibited impurity, as it does in the Decree of the Apostles' interpretation of the *gerim* laws, and in the late Antique Christian tradition.

The continuity of the Qur'an with the way in which late antique Christians understood the biblical *gerim* laws thus consists of its independent promulgation of the laws in question, of its emphasis on general legal continuity, and of its rhetorical strategy not to "cite" or otherwise concretize references to previous traditions. This strategy seems to confirm the Qur'an's independent judicial stance: it thereby indicates that it does not in any meaningful way "depend" on its legal heritage. It uses it freely, and adapts it to its own purposes, distinguishing itself from its predecessors even or especially when it emphasizes continuity. Likewise, the Qur'an's integration of its biblical heritage, likely conveyed by a living Jewish and especially Christian Arabian legal culture, can only be understood in the context of its broader Arabian cultural context. We will find a very similar pattern of continuity and change when it comes to the Qur'an's sexual purity rules, to which we will now turn.

## 2

### Sex as Crime

#### Leviticus 18:19–26 to Qurʾanic *fāḥisha/fahshāʾ* (Sexual Transgression) and *zinā* (Fornication)\*

In Chapter 1, I have sought to establish how the legal tradition based on the double prohibition of blood, in Genesis 9, and on the laws given to the *gerim*, the “residents” of Leviticus 17, codetermined late antique Jewish and especially Christian views on food prohibited to non-Jews, which in turn prepared the Qurʾan’s legal point of departure. In this chapter, I will seek to establish a parallel tradition of law and legal narrative that begins with the inclusion of the *gerim* in the Bible’s sexual purity laws and continues with the Jewish and especially the Christian reception history of these laws. These biblical laws, channelled by late antique communities, once again constitute the basis for the Qurʾan’s views on adultery, fornication, and homosexual intercourse, and on washing after intercourse and before prayer. I will seek to show that a broad consensus prevails between the Abrahamic traditions pertaining to prohibited impurity caused by a specific catalogue of sexual transgression; fundamental disagreement, yet once more, can only be found with regard to the question whether gentiles can contract regulated impurity. The related case of the incest laws that are equally applied to the *gerim* in Lev 18:6–18 offers an especially compelling case of *literary* legal continuity between the Bible and the Qurʾan and will therefore be treated independently in Chapter 3.

My argument in the following is subdivided in six parts. In the first section of this chapter, “Sexual Purity Regulations from the Noahide Covenant to the Holiness School,” we will turn to the outset of sexual purity regulations according to the Hebrew Bible’s Holiness School—the very passage comprising Leviticus 17–26 stipulating many of the rules for non-Israelites that featured prominently in the previous chapter and will equally determine the following one. In the second section, “Illicit Sexual Relations in the First and Second Centuries CE,” we will

\* The present chapter is an expanded and revised version of Holger Zellentin, “Gentile Purity Law from the Bible to the Qurʾan: The Case of Sexual Purity and Illicit Intercourse,” in *The Qurʾan’s Reformation of Judaism and Christianity: Return to the Origins*, ed. Zellentin (New York: Routledge, 2019), 115–215; see also Zellentin, *The Qurʾan’s Legal Culture*, esp. 77–202. Its results closely align with and update my previously published propositions. In particular, the following considerations expand the record by distinguishing between “prohibited” and “regulated” forms of gentile impurity, continuing the line of argument already established in Chapter 1.

consider how the biblical requirements for the *gerim* were received in the Second Temple period and extended to all (believing) gentiles by the early Jesus movement, a turn attested to by the Letters of Paul, the Acts of the Apostles, and, *mutatis mutandis*, in early rabbinic Judaism. We will then trace the development of the sexual purity regulations throughout late antiquity further with particular attention given, in the third section, to Christian groups who displayed “Appreciative Attitudes towards Sexual Purity,” and, in the fourth section, those who displayed “The Expansive Attitude towards Sexual Purity.” The Qur’an’s rulings on sexual purity for its community will be placed in the long biblical and late antique legal history of gentile law, with a special emphasis given to the appreciative and expansive attitude, in the fifth section, “Sexual Purity Regulations in the Meccan Qur’an” and in the sixth, “Sexual Purity Regulations in the Medinan Qur’an.”

### **Sexual Purity Regulations from the Noahide Covenant to the Holiness School**

We have already seen that the Hebrew Bible places the laws pertaining specifically to the Israelites within the framework of God’s much older relationship with all of humanity. The laws given to Moses, and viewed as binding on all Israelites, were preceded by another covenant between God and Noah; it is the two laws concerning blood included in this covenant that determined all later gentile purity regulations.<sup>1</sup> After the flood, God explicitly allowed all humans to consume animals, yet He also required them never to consume (animal) blood or spill human blood (see Gen 9:1–7), a passage we have discussed in detail in Chapter 1. The sequel of the narrative is doubly relevant to the development of late antique law. First, in Noah’s drunkenness, various commentators found reason enough to condemn the use of wine, giving way to those encratic traditions that codetermined the Qur’an’s eventual rejection of the product (see pp. 99 and 118 above). Second, the actions of Noah’s son Ham, the father of the Canaanites and thereby of the Sodomites, in response to Noah’s drunkenness, feature symbolically in biblical sexual purity law. When depicting Ham as failing to cover Noah when he laid naked and drunk in his tent, the Hebrew Bible narratively prepares the ground for its sexual purity laws against illicit intercourse in a number of ways. Genesis 9, namely, introduces the concept of the failure to “cover” a father’s “nakedness,” as well as the curse of the Canaanites, thereby foreshadowing the biblical narratives about Sodom; the post-exilic Levitical laws against the “uncovering of nakedness,” of which the Canaanites are chiefly accused, in turn heighten the stakes also of the Genesis account. The stories of Noah and Ham on the one hand and of Lot,

<sup>1</sup> On the nature of Noah’s “covenant” according to Genesis 9 see note 11 (Chapter 1) above.

his daughters, and the Sodomites on the other, thus offer a rich canvas in the construction of biblical gender, and should not be reduced to the issue of incest and male rape, let alone consensual sex between men.<sup>2</sup> Inversely, however, the narrative of the actions of the inhabitants of Sodom and of Lot's daughters in Genesis 19 and the laws of Leviticus 18 are symbolically interlinked, and became points of legal and narrative reference that proved central for Jewish, Christian, and early Islamic conceptions governing gentile sexual purity. When trying to grasp these developments, it is therefore important fully to comprehend the narrative and legal basis of the biblical concept of sexual impurity to which we will first turn.

In Genesis 9 Noah is reported to have planted a vineyard and to have lain drunk in his tent (vv. 20–21). Here, his son “Ham, the father of the Canaanites, saw the nakedness of his father” (*wayyar ʕām ʾābī kānʾan ʾēt ʿerwat ʾābīw*) and told his brothers outside so (v. 22). Shem and Japheth then “covered their father’s nakedness” (*waykassû ʾēt ʿerwat ʾābīhem*, v. 23) and are consequently blessed (vv. 26–27), whereas “Canaan,” that is the people descending from Ham, is cursed for “what his youngest son had done to him” (*ʾēt ʾāšer-ʾāsāh-lô bənô haqqāṭān*) (vv. 24–25). The biblical wording is evocative. Ham merely “saw” his father naked and his transgression is constituted by his failure to cover and therefore to respect him; Ham instead exacerbates his transgression by informing his brothers of their father’s state. The Hebrew term “nakedness” (*ʿerwāh*), moreover, eventually gained the meaning of undue access to a man’s sexuality or to that of those women he must protect. “Seeing” someone’s nakedness, in the post-exilic period and especially in the Holiness School, came to denote sexual relations (see, e.g. Lev 20:17, “he saw her nakedness and she saw his nakedness” (*wārāʾāh ʾet-ʿerwāt-āh wāhī-tirʾeh ʾet-ʿerwātô*), a passage we will revisit in Chapter 3). Some early Jewish traditions, along with some modern scholars, therefore understood the Bible as intimating that Ham sexually abused his own father during the latter’s drunken sleep.<sup>3</sup> The Bible itself, of course, does not normally shy away from graphic depictions. The original ambiguity in Genesis aims elsewhere: the narrative here

<sup>2</sup> See Ronald Hendel, Chana Kronfeld, and Ilana Pardes, “Gender and Sexuality,” in *Reading Genesis: Ten Methods*, ed. Ronald Hendel (Cambridge: University of Cambridge Press, 2010), 71–91.

<sup>3</sup> For the biblical context see esp. pp. 240–43 below; for late antique readings see, e.g. the translations of the passage in Aquila, Symmachus, and Theodotus; see also the rabbinic interpretation in Bavli *Sanhedrin* 70a (cf. already *Bereshit Rabbah* 36:7, where Noah is castrated), and see David M. Goldenberg, “What Did Ham Do to Noah?,” in “*The Words of a Wise Man’s Mouth are Gracious*” (*Qoh 10,12*): *Festschrift for Günther Stemberger at His 65th Birthday*, ed. Mauro Perani (Berlin: De Gruyter, 2005), 257–66; James L. Kugel, *Traditions of the Bible: A Guide to the Bible as It Was at the Start of the Common Era* (Cambridge: Harvard University Press, 1998), 222–23; and already Albert Baumgarten, “Myth and Midrash: Gen 9, 20–29,” in *Christianity, Judaism and Other Greco-Roman Cults: Studies for Morton Smith at Sixty*, ed. Jacob Neusner (Leiden: Brill, 1975), vol. III, 55–71. To this evidence we can add the prohibitions against sex between father and son according to the Hittite law §189 (see Harry A. Hoffner, *The Laws of the Hittites: A Critical Edition* (Leiden: Brill, 1997), 118); the law indicates, if nothing else, that the Bible may well respond to a culturally established prohibition. There are, to the best of my knowledge, no other parallels to this specific law Hittite law, but see note 12 below and notes 1, 83 and 112 (Chapter 3) below.

indicates that “seeing” someone’s nakedness *inside* his tent can constitute sexual infringement of a person’s rights. This transgression does not amount to, yet may well foreshadow, the form of illicit intercourse marked by the double sin of sex between men and sex with a close family member: the very acts of which the Genesis account will accuse the Canaanite Sodomites, as well as well Lot’s daughters.<sup>4</sup>

The subsequent chapter of Genesis, accordingly, indicates that the inhabitants of Sodom were Canaanites, and thereby Ham’s children (see Gen 10:15–19). The linkage between Ham’s sin and the Sodomites, hence, is already indicated in Genesis and eventually strengthened by the Holiness School in several ways.

- First, the biblical story of the Sodomites’ sexual assault on God’s angels, who appeared in male human form, is well known: in Gen 19:4–5, the “men of the city” (*anšê hā’ir*) of Sodom, “both young and old, all the people to the last man,” demand of Lot to bring out his guests, “so that we may know them (*wənēdā’āh ’ōtām*),” that is sexually abuse them. Just as Ham transgresses the boundary of the intimacy offered by his father’s tent, so will the Sodomites seek to transgress the boundary of Lot’s house.<sup>5</sup>
- Second, the occasion on which Ham unduly entered his father’s tent was that of the latter’s consumption of wine which led to the quasi-incestuous “act” in Noah’s tent; parallelly, Lot’s daughters, whom their father failed sexually to protect in Sodom, eventually use wine in order incestuously to take charge of Lot’s own sexuality in the aftermath of Sodom’s destruction.<sup>6</sup>
- Finally, as we will also see in more detail in Chapter 3 below, the post-exilic concept of “your father’s nakedness,” which “you must not uncover” (*’erwat ’ābikā... lō’ tǝgallēh*, Lev 18:7)—that is the prohibition of the inversion of Ham’s transgression—became the basis of the prohibition of incest and all related biblical sexual laws, which in turn, are conceived of as the “deeds of the land of Canaan” (*’ūkama’āšēh ’ereš-kāna’an*, see Lev 18:3), that is, of Ham’s offspring, in the frame narrative of Leviticus 18.<sup>7</sup>

<sup>4</sup> As Ronald Hendel points out, we must not read the pre-exilic accounts of Genesis in light of the post-exilic laws of the Holiness School, such as the prohibition of sex between males and between father and daughter, see Hendel, *Genesis 1–11*. Inversely, however, it seems likely that the Holiness School carefully integrates the cultural memory of the patriarchal stories—from this later perspective, it would thus be even clearer that Ham’s actions foreshadow Canaan’s sins.

<sup>5</sup> On the juxtaposition of inside–outside see Hendel, *Genesis 1–11*; on the story of Sodom and its late interpretations more broadly see, for example, the volume by Ed Noort and Eigert Tigchelaar (eds), *Sodom’s Sin: Genesis 18–19 and Its Interpretation* (Leiden: Brill, 2004).

<sup>6</sup> The key concern of the Sodom narrative is the protection of boundaries: the Sodomites seek to “enter” Lot’s house in order sexually to penetrate the guests, Lot first endangers his own daughters and then runs the danger of the same fate as his charges. Lot’s actions eventually lead to the transgression of both gender and incest boundaries when Lot’s daughters unduly take charge of his sexuality; see Hendel, Kronfeld and Pardes, “Gender and Sexuality,” esp. 86–89.

<sup>7</sup> For a comprehensive commentary on Leviticus 18 and a review of recent literature see Hieke, *Leviticus*, 645–96. For the discourse of normative sexuality in the Hebrew Bible see e.g. Jonathan

The story of Ham's "penetration" of Noah's tent therefore foreshadows the events caused by Ham's offspring in Sodom. Just as the food laws of Genesis 9, as we have seen, received a new interpretation in the food prohibitions for the *gerim* in Leviticus 17, so do the sexual prohibitions in Leviticus 18 link themselves to the narratives of Genesis 9 and 19 in order to form the very basis of all later gentile purity regulations, from the Bible to the Qur'an.

We have already discussed that even if the language in Genesis does not mention purity, other passages in the Pentateuch, and especially the Holiness School, came to understand any infraction of the laws given to Noah as defiling the sinner, regardless of ethnicity—even if this fact does not allow us to posit a fully developed sense of "gentile purity" in the Hebrew Bible. We have seen that the Christian tradition, along with the Qur'an, by and large, preserves the concept of *prohibited* impurity when it comes to gentile food laws, yet *regulated* impurity pertaining to food here ceases to matter.<sup>8</sup> Sexual transgressions, likewise, form an integral part of the biblical system of *prohibited* impurity. The Bible makes it amply clear that sexual transgressions not only by the Israelites but also by the *gerim*, as well as by the Canaanites, would lead to prohibited impurity. However, whereas the biblical text never explicitly declares gentiles to be susceptible to regulated sexual impurity (with the possible exception of menstrual purity), this second type of gentile sexual impurity determines many late antique Christian traditions and the respective laws in the Qur'an.<sup>9</sup>

The specific relationship between the biblical system of purity and sexual activity has been analysed by Eve Levavi Feinstein, on whose scholarship I will rely in this chapter.<sup>10</sup> My own purpose in the following is not to elucidate the Bible but the way in which it informed late antique notions of prohibited and regulated sexual impurity among non-Jews. The main body of sexual purity regulations for gentiles is spelled out in Leviticus 18, a literary unit whose structure will be examined more fully on pp. 237–38 (Chapter 3) below. Evoking Ham's sin not to have covered his father's nakedness (*'ēt 'erwat 'ābîw*) in Gen 9:22, Leviticus prohibits Israelites and gentiles alike from engaging in the "uncovering of [the] nakedness" (*lāgallôt 'erwāh*), especially "the nakedness of your father" (*'erwat 'ābîkā*, Lev 18:6–7) and other close kin (vv. 8–18), the laws that constitute the focus of the following chapter. In addition, Leviticus lists those non-incestuous forms of the "uncovering of nakedness," namely of sexual transgressions that form the content of the present chapter, in the following words:

Patrick Burnside, "Strange Flesh: Sex, Semiotics and the Construction of Deviancy in Biblical Law," *Journal for the Study of the Old Testament* 30 (2006): 387–420.

<sup>8</sup> See pp. 63–64 above.

<sup>9</sup> The continuity of Christian and Islamic views of purity—Sunni as well as especially Shi'ite—remains under-theorized; see the helpful notes on the relationship of biblical and qur'anic purity by Katz, *Body of Text*, esp. 29–58; and Freidenreich, "Holiness and Impurity in the Torah and the Quran," 5–22.

<sup>10</sup> See Feinstein, *Sexual Pollution in the Hebrew Bible*.



19. Also a woman you shall not approach to uncover her nakedness (*lō' tigrab ləgallōt 'erwāt-āh*), as long as she is put apart for her menstrual uncleanness (*bəniddat tum'āt-āh*).

20. Moreover, you shall not sexually lie (*lō'-tittēn šəkābətəkā ləzāra'*) with your neighbour's wife, to defile yourself with her (*lətāmā'āh-bāh*).

21. And from your seed you shall not let any pass to Molech (*ūmizzar'ākā lō'-tittēn lāhā'ābir lammōlek*), nor shall you profane the name of your God; I am the Lord.

22. You shall not lie with a male (on) the bedsteads of a woman (*wə'et-zākār lō' tiškab miškabē 'iššāh*); it is abomination (*tō'ēb-āh hī'*).

23. Neither shall you lie with any beast to defile yourself with it (*lō'-tittēn šəkābətəkā lətāmā'āh-bāh*); nor shall any woman stand before a beast to lie down to it; it is perversion (*tebel hū'*).

24. Defile not you yourselves (*'al-tiṭṭammā'ū*) in any of these things; for in all these the nations are defiled (*niṭmā'ū haggōyim*) which I cast out before you,

25. And the land is defiled (*wattiṭmā' hā'āreṣ*); therefore, I do punish its iniquity upon it, and the land itself vomits out its inhabitants.

26. You shall therefore keep my statutes and my judgments and shall not commit any of these abominations (*hattō'ēbōt hā'ēlleh*); nor any of your own nation, nor any *gerim* who reside among you (*hā'ezrahī wəhaggēr haggār bātōkkem*).<sup>11</sup>

With the single exception of bestiality, this list of prohibited sexual partners is formulated almost exclusively from the phallic perspective of an “active” male; only postbiblical legislation tended to supplement cognate prohibitions for the passive male or female partner, as we shall see.<sup>12</sup> The individual mandates, which will inform all late antique discussions of prohibited sexual impurity that forms the Qur'an's point of departure, comprise the interdiction of:

<sup>11</sup> On the passage see Hieke, *Leviticus*, 650–54 and 676–97; on the legal context see also Adrian Schenker, “What Connects the Incest Prohibitions with Other Prohibitions Listed in Leviticus 18 and 20,” in *The Book of Leviticus: Composition and Reception*, ed. Rolf Rendtorff et al. (Leiden: Brill, 2003), 162–88.

<sup>12</sup> The passage paralleling Lev 18:22, Lev 20:13, does mention the punishment of both males engaged in sexual intercourse, giving legal attention to the act, but not the perspective, of a passive male. The difficult phrase *miškabē 'iššāh* is persuasively rendered as “on the bedsteads of a woman,” in the sense of a woman's sexual domain in recent scholarship, including Bruce Wells, “On the Beds of a Woman: The Leviticus Texts on Same-Sex Relations Reconsidered,” in *Sexuality and Law in the Torah*, ed. Hilary Lipka and Bruce Wells (London: T & T Clark, 2020), 123–58. The Levitical prohibition was thus for Israelite men, as well as for *gerim*, to have sexual intercourse with married men of any ethnicity and may thus have logically extended to all men who were married themselves. Idan Dershowitz argues that the biblical law, like the Hittite one pointed to in note 3 above, originally prohibited sex between related males; see Dershowitz, “Revealing Nakedness and Concealing Homosexual Intercourse: Legal and Lexical Evolution in Leviticus 18,” *Hebrew Bible and Ancient Israel* 6 (2017): 510–26.

- intercourse during the menses; while such an act is here listed as causing *prohibited* sexual impurity, the prohibition as such reinforced the late antique extension of laws pertaining to *regulated* menstrual impurity to gentile women especially in the Christian tradition;
- intercourse with another man's wife, which gave rise to the category of "adultery" as extra-marital sex not only for married women but also for married men;
- letting one's "seed" pass to Molech, which some Jews and many Christians understood as the prohibition to marry non-Israelites or pagans, respectively;
- for married men to have sex with another man, an action narratively associated with the intended action of the Sodomites already in Genesis that soon gave rise to a blanket prohibition of sex between males;
- and sex with animals, a topic which, in late antiquity, received the least attention within the present list of transgressions and, accordingly, became the only law of Leviticus 18 that does not find an echo in the Qur'an (even if its assumption can be surmised, as it was by the later Islamic tradition).

It is, of course, not difficult to find ancient Near Eastern parallels to the prohibition of incest, sex during a woman's menses, adultery, sex between men, or bestiality. Any demonstration of these laws' "biblical" context, in the Qur'an, cannot simply rely on the legal parallelism, intriguing as it may be.<sup>13</sup> When discussing gentile purity laws throughout late antiquity, we will thus consider not only the laws themselves but also their direct or indirect linkage and references to Leviticus 18, their presentation as a concrete cluster of sexual laws, and, perhaps most importantly, their presentation as laws governing the conduct of *gentiles* when faced with sources of prohibited or regulated sexual impurity.

Leviticus, to begin with, marks the applicability of its laws pertaining to prohibited impurity to the *gerim* in two ways. In addition to explicating that the *gerim* are among those to whom the prohibitions are addressed (in Lev 18:26), it leaves no doubt that it was disregard for these laws by non-Israelites—particularly Ham's children, the Canaanites, who had previously inhabited the land—which led to their past defilement and expulsion, graphically depicted as the land's "vomiting" (Lev 18 vv. 24–25). The sexual transgressions listed in Leviticus 18, alongside murder and idolatry, are thus clearly designated as among those acts

<sup>13</sup> For Ancient Near Eastern sexual laws see the following chapter (esp. pp. 222–23) as well as the helpful short overview by Harry A. Hoffner, "Incest, Sodomy, and Bestiality in the Ancient Near East," in *Orient and Occident: Essays in Honor of C. H. Gordon on the Occasion of His Sixty-Fifth Birthday*, ed. Harry A. Hoffner (Neukirchen-Vluyn: Neukirchener Verlag, 1973), 81–90; on the relationship between biblical and ancient Near Eastern law more broadly see e.g. Johnson M. Kimuhu, *Leviticus: The Priestly Laws and Prohibitions from the Perspective of Ancient Near East and Africa* (New York: Peter Lang, 2008); David P. Wright, *Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi* (New York: Oxford University Press, 2009); and Martti Nissinen, *Homosexualities in the Biblical World: A Historical Perspective* (Minneapolis: Fortress, 1998), esp. 19–56.

that pollute both the transgressor and the land. For the Bible, hence, the laws in Leviticus 18 apply not only to Israelites and *gerim* but to all humans that would inhabit the Holy Land—everyone would contract prohibited impurity by any of the transgressions here listed.

By contrast to these laws governing *prohibited* impurity, Leviticus neither confirms nor denies that its laws about *regulated* sexual impurity, contracted by sexual intercourse, by sexual fluxes such as genital discharge, or by post-partum bleeding, would apply to *gerim*. Whereas speculations about historical practice in ancient Israel are unwarranted, at least in the present context, a few further observations on the *gerim* and sexual impurity in Leviticus will help us navigate the intense late antique practical and exegetical debates on the matter. Those Christians leaning towards a dismissive attitude towards the Decree of the Apostles when it comes to food, namely, remained appreciative towards the applicability of biblical rules governing prohibited sexual impurity to all gentiles. No evidence, in other words, would allow us to construct a “dismissive” attitude towards the sexual prohibitions of the Decree of the Apostles; all Christians either appreciated these prohibitions as such or expanded them—in this case largely by considering *regulated* sexual impurity as applicable to gentiles.

Christians thus were split on the matter of regulated sexual impurity with regard to gentiles: many Christians seem to have considered parturient women impure, many saw them as impure during their menses, and many considered sexual intercourse to engender regulated sexual impurity. The case regarding sexuality is different from the one regarding food, where we had encountered a dismissive, an appreciative, and an expansive attitude towards impurity. When it comes to sexuality, those Christians who rejected the applicability of *regulated* sexual impurity to gentiles still considered all the laws governing *prohibited* sexual impurity to be applicable—including the prohibition of intercourse during the menses—and thus fall squarely into the camp of those appreciative of sexual purity regulations. No dismissive attitude, in other words, can be illustrated. Rather, over and against the *appreciative* attitude, those Christians leaning towards an *expansive* understanding of sexual purity tended to consider post-partum bleeding, the menses, and sexual intercourse as defiling, mandating abstinence from prayer and from church service in the period of defilement.

Regulated impurity through childbirth according to Lev 12:1–5, to begin with, is an important topic in Judaism, many strands of Christianity, as well as in classical Islam; not having found an entry into Qur’anic law, it will be discussed below mainly in passing. Two other forms of gentile regulated sexual impurity, namely through sexual intercourse and the menstrual cycle, however, were the focus of intense legal debates within late antique Christianity and are fully reflected in the Qur’an. A few observations on the biblical language may help us understand the possible exegetical roots of these late antique disagreements in more detail.

Leviticus details the requirement to wash after sexual intercourse, in Leviticus 15, in a complex passage. The following words suffice for the present purpose:

16. And if any man's semen goes out from him, then he shall wash in water (*wəṛāḥaṣ bammayim*) all his flesh and be unclean until the evening (*wəṭāmē' ad-hā'āreb*).

17. And every garment (*wəkāl-beged*), and every skin, on which the semen is, shall be washed with water (*wəkubbas bammayim*), and be unclean until the evening (*wəṭāmē' ad-hā'āreb*).

18. The woman also with whom the man, with discharge of semen, shall lie, they shall both bathe themselves in water (*wəṛāḥāšū bammayim*), and be unclean until the evening (*wəṭāmē' ad-hā'āreb*).

19. When a woman has a discharge of blood that is her regular discharge from her body, she shall be in her impurity for seven days (*šib'at yāmim tihyeh bənidḏāt-āh*), and whoever touches her shall be unclean until the evening (*wəkāl-hannōgē'a bāh yiṭmā' ad-hā'āreb*).

20. Everything upon which she lies during her impurity shall be unclean (*wəkōl 'āšer tiškab 'ālāyw bənidḏāt-āh yiṭmā'*); everything also upon which she sits shall be unclean (*wəkōl 'āšer-tēšēb 'ālāyw yiṭmā'*).

21. Whoever touches her bed shall wash his clothes, and bathe in water (*yəkabbēs bəgādāyw wəṛāḥaṣ bammayim*), and be unclean until the evening (*wəṭāmē' ad-hā'āreb*).

This passage is addressed to Israelites alone; the *gerim* are not mentioned at all in the entire chapter of Leviticus 15. Many ancient Near Eastern cultures, from Babylonia to Ethiopia, however, imposed laws governing regulated sexual impurity on gentiles as well. We will return to the case of South Arabian paganism when discussing the qur'anic evidence. At the same time, we will see that many late antique Christian gentiles equally saw such laws as binding for themselves. Here, the Decree of the Apostles did not guide them, since neither Acts nor Paul adjudicate matters of regulated sexual impurity for gentiles. We should briefly note that in the Hebrew Bible, the point of avoiding such regulated sexual uncleanness, for Israelites, is to avoid defiling the sanctuary, as detailed in Lev 15:31. Therefore, we can identify several reasons why ancient Israelites may indeed have included the *gerim* in these provisions, just as many later Christians did.

- First, *gerim* were allowed to enter the sanctuary, and a number of other regulated impurity laws applied to them, as we have seen above, suggesting that they would equally need to avoid regulated sexual impurity before entering the Temple, just as any Israelite.

- Second, both an Israelite man and a male *ger* would contract *prohibited* impurity by “approaching” a woman, that is by knowingly initiating sexual intercourse during her menses, as we have seen in Lev 18:19. (By contrast, tradition rightly interprets Lev 15:24 as pertaining to the menses’ sudden onset during intercourse.) The laws of intercourse during the menses thus provide one of the perplexing links between the biblical systems of prohibited and regulated impurity, as indicated in the Introduction. It is precisely this link that led to unending discussions also among late antique Christians who agreed on the prohibited nature of intercourse during the menses, on the one hand, but, on the other hand, were split on the matter of the menses’ conferral of regulated impurity.
- Third, the language employed to depict the specific type of ritual indicating one’s cleansing from regulated sexual impurity in Leviticus 15 is reminiscent of that which we find in Lev 17:15, in the instructions for Israelites and *gerim* alike to wash after eating carrion, which we have discussed in detail above (see pp. 46–50). The vocabulary with which Leviticus 11–17 describes ritual washing after a variety of defilements, in other words, is indeed quite consistent across a variety of similar regulated impurities, and washing after sexual intercourse or after touching a woman during her menses is no exception.<sup>14</sup> Both passages Lev 15:16–18 and Lev 17:15 instruct a man to bathe in water (*warāḥaṣ bammayim*), to wash his clothing in water (*wakibbes bəgādāyw/wəkāl beged . . . wəkubbas bammayim*), and both passages decree that he will remain unclean until the evening (*wəṭāmē’ ad-hā’āreb*). The similarity between the vocabulary used in the two laws—one, that requiring male and female Israelites to perform ablutions and that they would remain impure until the evening after being in contact with an emission of semen, and, two, that requiring both Israelites and *gerim* to perform ablutions after the consumption of carrion—is thus noteworthy. The uniformity of language could reflect a broader inclusion of the *gerim* under the Levitical purity regulations than the textual surface indicates, either in biblical times or at least in the eyes of the Bible’s late antique exegetes.<sup>15</sup>

<sup>14</sup> For an informative overview of the issues of purity and pollution in the Hebrew Bible, with a survey of the vast scholarly literature, see Feinstein, *Sexual Pollution in the Hebrew Bible*, 13–19.

<sup>15</sup> As previously mentioned, the requirement for washing after the consumption of impure meat is not the only passage in which the Hebrew Bible extends the requirement of ritual purification to gentiles. *Gerim* were also required to wash after contracting impurity during the ritual of the red heifer (see Numbers 19). They would also need to wash were they to contract impurity during the rituals on the Day of Atonement (according to Lev 16:29), a law that presupposes that they were allowed to participate in some way—as they were permitted to participate in other cultic activities. The fact that *gerim* were also allowed to make burnt offerings (see Lev 17:8 and 22:18 and Num 15:14–31, which goes as far as to state that “one Torah and one law shall be for you, and for the *ger* who sojourns with you”; see Num 15:16) makes it all but certain that the purity regulations concerning access to the sanctuary applied to the *gerim* in their entirety (even if we cannot be certain what exactly they could or could not do within the Temple). The biblical *gerim* thus had to remain pure in order to safeguard not only the

Proof that any of these suggested exegetical paths had been taken in the expansion of the biblical concept of regulated impurity to gentiles, let me hasten to add, is scant. Yet the ways in which the issue of regulated impurity contracted through sexual intercourse, or through the menses, determined late antique discourse provides ample proof that Christians did understand these laws as pertaining to gentiles as well, whom they expected to safeguard the purity of their holy assemblies and especially of the Eucharist.

As a starting point for the exceedingly complex late antique reception history of the *gerim* laws in Leviticus 18, a brief example will help guide the broader developments. The ways in which the prohibition for a man to “give his seed to Molech” in Lev 18:21 was read in various translations of Leviticus gives us a good sense of how sexual purity laws were applied to gentiles, in similar yet distinct ways from the Bible to the Qur’an. Most Jewish and Christian translations of the Bible into Greek, Latin, Aramaic, and Syriac—especially the Septuagint, the Vulgate, the Targumim, and the Peshitta, all of which came into being between the third century BCE and the fourth century CE—translate most of the sexual purity regulations in a rather literal sense, without adding or subtracting much detail. Yet all these texts update the Levitical prohibitions, making them applicable to their own time and context. An illustrative example of the broad legal overlap as well as of the distinct eco-typical legal differences is the development of the biblical prohibition against “let[ting] any of your seed pass (i.e. through the fire) to Molech” (Lev 18:21). Originally, the passage seems to have prohibited the sacrifice of one’s “seed” to the Canaanite deity Molech, or perhaps even to “the king,” as the Hebrew root *m-l-k* can also be read.<sup>16</sup> While many readers understood the Hebrew Bible’s “seed” as referring to one’s “offspring,” as Cana Werman has pointed out, both possible readings of the verse are attested in later translations.<sup>17</sup> The Vulgate, largely produced in late fourth-century CE Palestine, glosses that it was proscribed to “consecrat[e one’s seed] to the idol Molech” (*consecratur idolo Molech*), perhaps reflecting a discursive context in which forms of service in a pagan shrine were

sanctity of the land but also that of the sanctuary—which may have implied, at least to both a Jewish and a gentile late antique audience that endorsed the concept of regulated impurity even after the Temple’s destruction, that gentiles would need to wash after contracting sexual impurity as well.

<sup>16</sup> For an attempt to illuminate the historical context of the biblical prohibition see e.g. Francesca Stavrakopoulou, *King Manasseh and Child Sacrifice: Biblical Distortions of Historical Realities* (Berlin: De Gruyter, 2004); and see Hieke, *Leviticus*, 679–88.

<sup>17</sup> See Cana Werman, “Jubilees 30’: Building a Paradigm for the Ban on Inter-marriage,” *The Harvard Theological Review* 90 (1997): 17–21. Targum Neofiti, for instance, specifies that one is not allowed to give anyone “from your sons” (*wmbnyk*) to Molech, yet a marginal note to Lev 20:2 in Targum Neophyti specifies that the prohibition pertains to having sexual relations, as in the Peshitta (on which more below). Targum Onqelos translates the Hebrew, as usually, in a very literal way, preserving the figurative meaning of “seeds”; likewise, Targum Pseudo-Jonathan prohibits to pass one’s seed through the fire for “foreign worship” (*lpwlhn’ mwkr’h*). On the translation history see Kugel, *Traditions of the Bible*, 425–27.

still a relevant topic.<sup>18</sup> Much earlier, the Septuagint of Leviticus, composed in Ptolemaic Egypt, instead proscribes Israelites and gentiles alike from giving “your seed (*tou spermatos sou*) . . . to serve the ruler (*latreuein archonti*, Lev 18:21),” likely prohibiting their offspring from serving foreign kings or deities.<sup>19</sup>

Whereas the original context of the biblical prohibition, that is the issue of idolatry proper, was thus occasionally echoed in later readings of the Molech-prohibition, a complete reinterpretation of the verse became much more prominent in late antique discourse. It is first recorded in the Book of Jubilees, the third- or second-century BCE retold Bible whose record already informed the previous chapter on many occasions. Jubilees understands the verse in question as prohibiting the intermarriage between the female dependants of an Israelite man and a gentile, and considers the defilement from such a union irreversible:

If there is a man in Israel who wishes to give his daughter or his sister to anyone who is from the seed of the nations, he is to die. He is to be stoned because he has done something sinful and shameful within Israel. . . . This law has no temporal limit. There is no remission or any forgiveness, but rather, the man who has defiled his daughter within all of Israel is to be eradicated because he has given one of his descendants to Molech and has sinned by defiling them.<sup>20</sup>

Jubilees here understands Lev 18:21 as prohibiting intermarriage with gentiles, a concern it shared not only with Ezra and Nehemiah but also with other Jewish groups in the Second Temple period, as we have already seen in Chapter 1.<sup>21</sup> Importantly, some late antique Jews and many Christians understood the same passage as a prohibition to intermarry with pagan gentiles—a ruling equally found in the Qur’an. The Peshitta, the “Christian” Aramaic Bible, part of which

<sup>18</sup> On the demise of the shrines of Palestine see Doron Bar, “Continuity and Change in the Cultic Topography of Late Antique Palestine,” in *From Temple to Church: Destruction and Renewal of Local Cultic Topography in Late Antiquity*, ed. Johannes Hahn et al. (Leiden: Brill, 2008), 275–98. Note also that the Vulgate equally renders the Hebrew term *qōdeš hū’ Yahweh*, lit. “sacred to G’d” (in Josh 6:19 and 24) as *consecratur*, designating confiscation for the sacred treasury (as opposed to the general destruction) of the silver, gold, bronze, and iron vessels among the spoils of Jericho.

<sup>19</sup> The traditional explanation for the shift is that Greek *archon*, “ruler,” reflects a euphemistic translation of the deity Molech (*mōlek*) as “king” (*melek*). This line of reasoning, while plausible, has been persuasively questioned by Sarah Pearce; see her “Translating for Ptolemy: Patriotism and Politics in the Greek Pentateuch?,” in *Jewish Perspectives on Hellenistic Rulers*, ed. Tessa Rajak et al. (Berkeley: University of California Press, 2007), 169–72; but see Theodoret of Cyrus, *Questiones in Leviticum XXV* as cited in Hieke, *Leviticus*, 685; see also Philo’s comment on the passage in *On Special Laws* 3:29.

<sup>20</sup> See Jub. 30:7–10, cited according to James C. VanderKam, *The Book of Jubilees*, 193–94. The Latin has *alienigena* [*sic!*] instead of Molech, cf. the discussion in *ibid.*, 194, note ad 30:10; for the G’éz text see VanderKam, *The Book of Jubilees: A Critical Text* (Corpus Scriptorum Christianorum Orientalium 510/Scriptores Aethiopici 87; Leuven: Peeters, 1989), 164–65.

<sup>21</sup> See already pp. 52–53 above; for a discussion of the passage and its relationship to Leviticus see William Loader, *Enoch, Levi, and Jubilees on Sexuality: Attitudes towards Sexuality in the Early Enoch Literature, the Aramaic Levi Document, and the Book of Jubilees* (Grand Rapids: Eerdmans, 2007), 174–76; Werman, “Jubilees 30,” 1–22 as well as Shaye Cohen, “From the Bible to the Talmud: The Prohibition of Intermarriage,” *Hebrew Annual Review* 7 (1983): 34–36.



may well have been produced by Jewish translators, renders the phrase rather concretely, prohibiting the giving of “your seed (*zr’k*) to make a foreign woman pregnant” (*lmbtñw nwkryt*).<sup>22</sup> The Peshitta, just like Jubilees, thus understands the “seed” in Lev 18:21 as the sexual emission of a man, and the prohibition as that of engendering offspring with a “foreign” woman, a reading we equally encounter in the Didascalia Apostolorum.<sup>23</sup> The interpretation of Lev 18:21 as prohibiting sexual intercourse with pagans, as well as with heretics, remained determinative for Christian and Qur’anic law, which unanimously adopt very similar rulings, as we will see.

The rabbis seem to have been aware of the understanding of Lev 18:21 attested by Jubilees, by the Peshitta, and by the Didascalia, and the reading is also attested to in a marginal note to one late targum. The rabbis initially rejected it stringently; the Mishna states that anyone who (publicly) translates “and from your seed, you must not let any pass to Molech” as “and from your seed, you must not let any pass to heathendom (*b’rmywt*)” should be silenced with a sharp rebuke.<sup>24</sup> The Palestinian Talmud explains that such an interpretation of the verse, “to let pass to heathendom”—a reading which it equally rejects—means exactly what it means in the Peshitta: “to marry a foreign woman (*nws’ rmyt*) and to produce sons, who would be enemies of God,” a rendering of the verse also corroborated by the Babylonian Talmud.<sup>25</sup> The rabbis, of course, did not permit Jews to marry non-Jews anyway, so why did they resist such a reading, which they could have easily squared with Jewish law, in such strong terms?<sup>26</sup> The rabbis’ rejection may have been aimed at the reading of the verse according to the Book of Jubilees more broadly. More specifically, however, part of their reasoning may well be found in the ways in which Christians endorsed this reading, especially in as far as it echoes the Peshitta’s prohibition of the intermarriage of *gentile* Christians with pagans,

<sup>22</sup> On the *af’el* form of the verb *bṭn* see Sokoloff, *A Syriac Lexicon*, 139; on the Jewish or Christian identity of the authors of the translation of the Hebrew Bible into Syriac see e.g. Michael P. Weitzman, *The Syriac Version of the Old Testament* (Cambridge: Cambridge University Press), 206–62.

<sup>23</sup> See Kugel, *Traditions of the Bible*, 425–27. The Didascalia Apostolorum, moreover, just like the Peshitta, reads the prohibition of passing one’s seed to Molech according to Lev 18:21 as denigration of sex between a man and a “foreign woman” (*ntt’ nwkryt*); it also expands the prohibition of “adultery” to a man’s sex with a prostitute (*znyt*); see e.g. Didascalia Apostolorum, ch. 26 and see Vööbus, *The Didascalia Apostolorum in Syriac II*, 263. A similar interpretation is also given in the Scholia on Leviticus by Barhebraeus; see Martin Sprengling and William Creighton Graham, *Barhebraeus’ Scholia on the Old Testament, Part I: Genesis—II Samuel* (Chicago: University of Chicago Press, 1931), 172; see also Lev 20:2, Sprengling and Creighton Graham, *Barhebraeus’ Scholia on the Old Testament*, 175.

<sup>24</sup> Mishna *Megillah* 4:9, see also Sifre *Devarim* 171 (218F); on the Targumim, see note 17 above.

<sup>25</sup> See Yerushalmi *Megillah* 4:10 (75c) and *Sanhedrin* 16:11 (27b), and Bavli *Megillah* 25a. The Bavli restricts the saying to apply to Israelite men alone and attributes it as a past opinion of the school of Rabbi Ishmael, leaving its acceptability open; see already Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties*, 253–57.

<sup>26</sup> On the general prohibition for Jews to marry non-Jews see Mishna *Makkot* 12:1.

implicitly destabilizing the rabbinic attempt to widen the ethnic divergence between Jews and gentiles discussed in Chapter 1.<sup>27</sup>

Independently of the specific reading of Lev 18:21 we find in the Peshitta, the Christian prohibition of intermarriage with Jews or pagans, or, later, with Christians from other denominations, was a central topic of the Jesus movement, at least from the time of Paul onwards.<sup>28</sup> Such a prohibition came to permeate Latin, Greek, and Syriac Christian discourse in particular, in no unclear terms; its understanding is thus paramount for contextualizing the Qur'an's own take on religious ethnicity, sexual purity, and intermarriage. In general, authorities from the Western and Eastern churches endorsed a prohibition against intermarriage with pagans and heretics, albeit with varying degrees of intensity.<sup>29</sup> To give but one more concrete example, the third chapter of the *Didascalia Apostolorum*, the church order whose form was in flux throughout late antiquity and that we already encountered in the previous chapter, illustrates a Christian attitude that is especially relevant for the Qur'an.<sup>30</sup>

<sup>27</sup> See pp. 67–75. The reason the rabbis would reject the Peshitta's reading of Lev 18:4 may well be their view that the Christian gentiles in the rabbis' view remained *b'rmywt'*, "in heathendom," unless they converted to Judaism—how could they thus be prohibited to intermarry with other heathens? Such an interpretation of legal polarization, to be sure, is somewhat subverted by the status of the Children of Noah, and would be rendered even less striking if one considers the possible Jewish pre-history of the Peshitta, by the attestation of the reading in Jubilees, as well as the "marginal" attestation of the same translation in one Jewish Targum just mentioned. There may have been other reasons for the rabbis to reject the interpretation. On the Christian reception history of the Book of Jubilees see e.g. Hindy Najman (ed.), *Composition, Rewriting and Reception of the Book of Jubilees* (Paris: Gabalda, 2014).

<sup>28</sup> See already Paul's lenient approach in 1 Cor 7:12–16 and 39, and the likely secondary passage in 2 Cor 6:14.

<sup>29</sup> Intermarriage between Christians and non-Christians was generally prohibited across the Christian world; see already the early fourth-century *Synod of Elvira* (can. 16 and 17) and the mid-fourth-century *Council of Laodicea* (can. 10:31). The fifth-century *General Council of Chalcedon* (can. 14), in a slightly milder tone, prohibits such unions between members of the lower ecclesiastical grades and "heretical" women. While the Latin Church forbade these marriages, it did not declare them invalid. In the Greek Church, however, such marriages between Catholics and "heretics" were declared null and void, for instance in the seventh-century *Council in Trullo* (can. 72); Chrysostom, by contrast, follows the Pauline model in his *Homily 19 on First Corinthians*. In the West Syriac tradition, the *Testament of Our Lord Jesus Christ*, part of the Clementine Octateuch, instructs any Christian seeking matrimony to "marry a Christian, a believing women (*mhyymnt'*) of the race (*gns'*) of the Christians who is able to keep her man in the faith (*bhymnw't'*)" (see Vööbus, *The Synodicon in the West Syriac Tradition I*, 28). Likewise, the ruling of Chalcedon prohibiting clergy to marry "heretics" was equally included in the Syriac translation of the text (see *ibid.*, 135). In a collection of canons attributed to the Maruta, bishop of Maipherkat in the fifth century CE, we find prohibitions against intermarriage of Christians and of their offspring (can. 20, 32–35; see Oscar Braun, *De Sancta Nicaena Synodo: Syrische Text des Maruta von Maipherkat nach einer Handschrift der Propaganda zu Rom* (Münster: Verlag von Heinrich Schöningh, 1898), 74, 82–84). In the East Syrian tradition, finally, we also find a similar general prohibition to marry pagans in the sixth-century *Epistola Pragmatica* (47) of the Nestorian Mar Aba the Great, which even prohibited marriage with recent converts to all Christians; see Oscar Braun, *Das Buch der Synhados oder Synodicon Orientale: Die Sammlung der Nestorianischen Konzilien, zusammengestellt im Neunten Jahrhundert* (Amsterdam: Philo Press, 1975 [1900]), 131; for valuable but dated summaries see Jean Dauvillier and Carlo De Clercq, *Le mariage en droit canonique oriental* (Paris: Recueil de Sirey, 1936), 164–71 and in Athanase Hage, *Les empêchements de mariage en droit canonique oriental: étude historico-canonique* (Beyrouth: n.p., 1954), 121–31.

<sup>30</sup> On the origins and development of the *Didascalia Apostolorum* see note 148 (Chapter 1) above.

According to the Didascalia, “it is not lawful for a Christian to give a woman in any kind of marriage . . . with a people from outside our fold (*l'm' dlbr mn drtn*), nor to a heretic, nor to those who are strange to us in faith (*dnwkryyn ln bhhmnwt*).”<sup>31</sup> Significantly, the Didascalia maintains a law whose basis, through Jubilees and the Peshitta, can be found in the *gerim* laws of Lev 18:21 prohibiting to give one’s seed to Molech, yet its law only faintly echoes the original formulation. The Didascalia’s prohibition of a woman whose faith is “strange” recalls prohibition against engendering offspring with a *nwkryt*, a “strange woman,” in the Peshitta of Lev 18:21. The biblical basis of the prohibition, at the same time, is not emphasized, and the focus here has begun to shift from paganism to heresy. The insistence that Christians marry within the “faith” and from among the “people” that we already encountered in the Clementine Octateuch above, was widespread in the Syriac sources. It is also shared by the Qur’an’s mitigated prohibition of intermarriage, which allows intermarriage with the “people of the book,” but prohibits it with those perceived as being entirely outside the “faith” in Q 2:221, Q 5:5, Q 60:10, as we will discuss in detail below.

The intertwined Jewish and Christian history of the prohibition against “pass[ing] one’s seed to Molech” as prohibiting intermarriage thus illustrates well how the text of Leviticus remained alive throughout late antiquity even when reference to the letter of the law receded. It also shows how the Christian reading and Christian law on the topic prepared the respective legislation prohibiting intermarriage that we will find in the Qur’an. While the legal relevance of the original *gerim* laws as formulated in Leviticus 17–26 remained acute, their literary importance, in other words, varied. In the previous chapter, we have seen that the formulation of the Decree of the Apostles, or the rabbinic Noahide Laws, respectively, proved far more consequential for late antique gentile law than that of Leviticus in the case of food. In the present chapter, we will equally see that also in the case of sexual impurity, the late antique formulations of late antique law generally found a stronger echo in the Qur’an than this law’s biblical bases did. Yet, as we will see in the third chapter, this tendency should not be taken as universal: the literary form of Leviticus 18 proved as important as its legal content for both the late antique and the qur’anic understanding of incest law, as we will see in the next chapter.

<sup>31</sup> Didascalia Apostolorum, ch. 3, Arthur Vööbus, *The Didascalia Apostolorum in Syriac I* (Corpus Scriptorum Christianorum Orientalium 401; Louvain: Secrétariat du CorpuSCO, 1979), 51. On the materials collected in the third chapter of the Didascalia Apostolorum see Arthur Vööbus, *The Didascalia Apostolorum in Syriac, Chapters I–X, Translated by Arthur Vööbus* (Corpus Scriptorum Christianorum Orientalium 402; Louvain: Secrétariat du CorpuSCO, 1979), \*39–\*43. The “ethnic” reasoning behind the ruling of the Didascalia Apostolorum is typical of Syriac Christian discourse; see my comments in Zellentin, *The Qur’an’s Legal Culture*, 163–64; for ethnic reasoning in the Greek church see Buell, *Why This New Race*.

## Illicit Sexual Relations in the First and Second Centuries CE

With the exception of bestiality—which is present yet less prominent in Christian law and does not feature at all in the Qur’an—the laws in Lev 18:19–26 pertaining to prohibited sexual impurity remained acutely relevant throughout all forms of Christianity. In many cases, moreover, these were observed along with the regulated cases of sexual impurity caused by sexual intercourse and a woman’s menses, found in Leviticus 15.<sup>32</sup> In parallel to the case of the purity regulations regarding food based on Genesis 9 and Leviticus 17, the specific rulings based on Leviticus 18, and the ways in which these laws were understood as biblical varied from century to century, and from church to church. The Qur’an, likewise, in the case of laws governing sexual intercourse and food, does not directly acknowledge or cite Leviticus at all. Rather, as part of its self-understanding as divinely authored, it merely refers to previous revelation in the most general terms. Yet as in the case of the prohibition of blood and improperly slaughtered animals, the long history of reading the Levitical laws on sexuality paves the way for the Qur’an’s legislation in concrete and demonstrable terms. In the following, we will thus continue the broader consideration of the reception history of the laws promulgated for the *gerim* in Leviticus 17–26 in our quest to understand the continuity of Islamic with biblical and especially with late antique legal culture. For this purpose, we focus again on the broad consensus with regard to prohibited cases of sexual impurity according to Leviticus 18, and on the fierce debates when it came to cases of regulated sexual impurity according to Leviticus 15, especially within Christian cultures.

As William Loader has demonstrated through a series of studies, attitudes towards sexuality in Second Temple Judaism varied widely, ranging from occasional ascetic tendencies to commonly held espousal of matrimony and thereby

<sup>32</sup> The issue of bestiality appears only rarely in patristic discourse, and even then rather indirectly. Augustine, for example, mentions the tradition that Jupiter had sex with human women in the transfigured form of an animal (*City of God* 4:27), a topic that also arises in the Clementine Homilies (6.21.2). The issue finds more attention in legal literature. The penance for a man guilty of bestiality, for instance, is determined in the *Synod of Ancyra* (can. 16 and 17); see Sara Parvis, *Marcellus of Ancyra and the Last Years of the Arian Controversy* (Oxford: Oxford University Press, 2006), 8–37, and Heinz Ohme, “Sources of the Greek Canon Law to the Quinisext Council (691/2),” in *The History of Byzantine and Eastern Canon Law to 1500*, ed. Wilfried Hartmann and Kenneth Pennington (Washington, DC: The Catholic University of America Press, 2012), 39–41. The same canon is equally incorporated in the Syriac “Collection of all the Canons of the Holy Apostles and the Synods of the Fathers” (49; see Vööbus, *The Synodicon in the West Syrian Tradition I*, 57) as well as in the Syriac translation of “the Canons of the Synod of Ancyra” (can. 15–16; see *ibid.*, 98); the translation stems from the turn of the sixth century CE; see *ibid.*, 4. See also the early seventh-century CE Egyptian monastic treatise by John Climacus’ *Ladder of Divine Ascent* 15. For an overview of animal sexuality in the middle ages see Joyce Salisbury, *The Beast within: Animals in the Middle Ages* (Abingdon: Routledge, 2011), 61–80. The topic of bestiality is of course duly discussed in the legal tradition of classical Islam; see e.g. Georges-Henri Bousquet, *L’Éthique sexuelle de l’Islam* (Paris: Maisonneuve et Larose, 1966), 57.

of human sexuality as such.<sup>33</sup> Pertaining to sexual laws that Jews would have imposed on gentiles, however, the sources in this period are scarce. Whereas the issue of intermarriage features prominently in some Second Temple works, and sexual misconduct is part and parcel of religious discourse, as we have seen above, we can concur with Loader that “there is little evidence that the writers saw sexual wrongdoing as a major theme to be addressed,” and this applies to the sexual sins both of Israelites and gentiles.<sup>34</sup>

One passage of note is the one from Jubilees we have discussed in Chapter 1, in which Noah instructs his sons to “do what is right, cover the shame of their bodies, bless the One who had created them, honour father and mother, love one another, and keep themselves from fornication, uncleanness, and from all injustice.”<sup>35</sup> As I argued, the term “covering of the shame” here evokes the story of Ham’s sin towards Noah in Genesis 9. In addition, the formulation refers to the specific case of illicit intercourse in which the so-called “Watchers,” the angelic beings that occur in the Book of Jubilees, engaged. The Watchers had sex with human women, an act that Jubilees classifies as sexual “uncleanness” (Jub. 7:21), associating it with “injustice” (Jubilees 22). As in the case of bloodshed and the consumption of blood we have discussed in Chapter 1, it seems plausible that the authors and the audience of the Book of Jubilees would have understood gentiles as bound to keep the laws given to Noah. Yet the very possibility that non-Jews would have kept any of these laws does not seem at the forefront of Jubilees at all, and we should *not* use Jubilees as evidence for more than a preparatory step in extending the *gerim* laws of Leviticus 18 to all of humanity even in theory. This step, again, is fully realized only in late antiquity, as illustrated by the historical Paul, by the Acts of the Apostles, and by the rabbinic Tosephta.

The historical Paul, at least those of his letters that have been preserved, constitutes one of the earliest sources pursuing a broader formulation of gentile law: according to him, gentiles have not been given the Jewish law, but are, rather,

<sup>33</sup> See, for example, William Loader, *The Dead Sea Scrolls on Sexuality: Attitudes towards Sexuality in Sectarian and Related Literature at Qumran* (Grand Rapids: Eerdmans, 2008); Loader, *Enoch, Levi, and Jubilees on Sexuality*; and Loader, *The Septuagint, Sexuality, and the New Testament: Case Studies on the Impact of the LXX in Philo and the New Testament* (Grand Rapids: Eerdmans, 2004); note also Lawrence H. Schiffman, “Laws Pertaining to Women and Sexuality in the Early Stratum of the Damascus Document,” in *The Dead Sea Scrolls and Contemporary Culture: Proceedings of the International Conference Held at the Israel Museum, Jerusalem (July 6–8, 2008)*, ed. Adolfo D. Roitman, Lawrence H. Schiffman, and Shani Tzoref (Leiden: Brill, 2011), 547–69.

<sup>34</sup> Loader, *Enoch, Levi, and Jubilees on Sexuality*, 307. One good example of the broader attitude may be Philo, who laments sexual wrongdoing by gentiles but does not attempt to establish a concrete legal catalogue of observances for gentiles. His views, however, proved of indirect importance; see e.g. note 43 below and see now William Loader, “Not as the Gentiles’: Sexual Issues at the Interface between Judaism and Its Greco-Roman World,” *Religions* 9 (2018): 258; <https://doi.org/10.3390/rel9090258> (accessed January 1, 2021); and Loader, *The Septuagint, Sexuality, and the New Testament*, 12–14, 59–70, and 76–78.

<sup>35</sup> Jubilees 7:20–21 cited according to VanderKam, *The Book of Jubilees*, 46–47; see already p. 56 above.

“a law upon themselves,” which is “written upon their hearts” (Rom 2:14–15).<sup>36</sup> Paul seems to endorse the separation of Jews and gentiles, and discusses the consumption by gentiles of meat offered to idols (see 1 Corinthians 8 and 10); he does not, however, express his opinions on ritual slaughter or the consumption of blood, as we have briefly seen in Chapter 1 (see pp. 56–57 above). While Paul does not address the issue of regulated sexual purity, his discussion of prohibited sexual impurity and other transgressions strongly suggests his engagement of the laws given to the *gerim* in Leviticus 17–26 when establishing what law, exactly, would have been written on the hearts of the gentiles.

To begin with, in his letter to the gentiles in Corinth, Paul explicitly singles out a form of incest outside genetic family relations that is highlighted in Leviticus 18. Paul complains that among the Corinthians there is “a man...living with his father’s wife,” that is his stepmother, after his father’s death (see 1 Cor 5:1), evoking the specific prohibition in Lev 18:8 and 20:11 (as will be discussed in Chapter 3), along with similar prohibitions in “gentile” law.<sup>37</sup> Significantly, Paul designates this transgression as *porneia*, the very term we had encountered describing in Chapter 1 the sexual transgressions also in the Decree of the Apostles (see p. 94 above). This is a key term with a variety of meanings used throughout Christian literature, on the meaning of which much depends (I will return to the history of scholarship below). Its meaning can be specified more precisely for the present purposes:

- Literally, *porneia* designates “sex with prostitutes,” which is obviously not the meaning in which Paul employs it when railing against a union he sees as incestuous, on the apparent basis of his view that the rules of Leviticus 18 are already written “upon the hearts of” the gentiles.
- Elsewhere in Christian literature, *porneia* should often be translated as “fornication,” namely heterosexual intercourse between unmarried people. Fornication is to be distinguished from “adultery,” which, in the Hebrew Bible, involves only sex with another man’s wife; the notion was later broadened to include sex with another woman’s husband. There is no general law against fornication in the Hebrew Bible: just as adultery is here prohibited

<sup>36</sup> I treat the letters of Paul and the portrayal of Paul in Acts as distinct, if obviously interrelated sources, reflecting starkly different perspectives of the same historical events. I will thus differentiate between “the historical Paul” the author of his authentic letters, and “Acts,” a secondary, yet equally valuable, source. Some of the problems of relating the image of Paul in his historical letters to his portrayal in Acts are outlined, for instance, in Clare K. Rothschild, “Pisidian Antioch in Acts 13: The Denouement of the South Galatian Hypothesis,” *Novum Testamentum* 54 (2012): 334–53. For a more conservative position and a spirited, if somewhat apologetic, discussion of the difficulties in relating Acts to the historical Paul, see e.g. Frederick Fyvie Bruce, *The Acts of the Apostles: The Greek Text with Introduction and Commentary* (Grand Rapids: Eerdmans, 1990), 46–59.

<sup>37</sup> As Loader notes, the emphasis on the prohibition to have intercourse with a father’s wife can already be detected in the Second Temple period; see e.g. Jub. 33:13–15 and Loader, *Enoch, Levi, and Jubilees on Sexuality*, 199–200.



only in terms of sex with another man's wife, so the only restriction against extramarital intercourse is imposed on Israelite women living in their father's house and seeking to marry (see Deut 22:13–21). Paul, in contrast, based on precedent, such as many rulings in the Dead Sea Scrolls, reflects part of the broader late antique tendency to extend the rules against fornication to gentiles and men.<sup>38</sup>

- Paul's use of the term *porneia*, is, however, even broader: I will argue that Paul, as well as the Acts of the Apostles and most Christian texts affirming the Decree of the Apostles, uses the Greek term and its cognates to designate specifically the transgressions listed in Leviticus 18, which they understood as applying to gentiles and to Jews equally. In these instances, we should simply translate the Greek term *porneia*, or its Latin or Syriac equivalents, *fornicatio* and *znywt'*, as "illicit sexual intercourse" or simply as whatever the Hebrew Bible and its interpreters considered to be a "sexual transgression," keeping the entirety of the list in the Levitical passage in mind.

The meaning of *porneia* can therefore denote prostitution, its extension to include fornication, or the applicability of Leviticus 18 to all of humanity. I will argue that this view can be traced from Paul throughout much of rabbinic Judaism and late antique Christianity all the way to the Qur'an. Paul, for one, illustrates his awareness of the transgressions listed in Leviticus 17–20 not only by including the case of intercourse with a father's former wife, as already noted. In Gal 5:19–21, for example, Paul complains in general terms about practices including *porneia*, alongside "impurity" (*akatharsia*), "idolatry" (*eidōlōlatría*), and "sorcery" (*pharmakeia*). While such prohibitions are hardly surprising, they correspond fully to the sexual purity regulations given to the *gerim*, not only in Leviticus 18 but also in Lev 19:26, and 31, and in Deut 29:10–29.<sup>39</sup> Indeed, like many later witnesses we will examine, Paul arguably uses the term *porneia* in a

<sup>38</sup> Paul uses the image of "one flesh" (from Gen 2:24) as signifying the irrevocable marital union of the partners in sexual intercourse in 1 Cor 6:16 and 15:39; see also Eph 5:31, Matt 19:3–12, and Mark 10:2–9. For a discussion of the basis of these broad developments within Christian marriage law in Qumran literature see the next chapter. On the relationship of Roman incest discourse and Paul's reference to Lev 18:8 and 20:11 see William Loader, *The New Testament on Sexuality* (Grand Rapids: Eerdmans, 2012), 163–65; Paul Hartog, "Not Even among the Pagans" (1 Cor 5:1): Paul and Seneca on Incest," in *The New Testament and Early Christian Literature in Greco-Roman Context: Studies in Honor of David E. Aune*, ed. John Fotopoulos (Leiden: Brill, 2006), 49–62.

<sup>39</sup> Lev 19:26 and 31 prohibit various forms of magic without addressing gentiles; in Deut 29:11, the text explicitly addresses "your *gerim* who are in your midst" before moving on to chastise idol worship; see p. 70 above. While these prohibitions are hardly surprising, their cumulative nature points to an understanding of gentile law shared between Paul and the later rabbis, as we will see. Paul, in 1 Cor 5:11 also includes "revilers" (*loidōroi*), which, if their insult were directed against God and his apostles, would fall under the prohibition of blasphemy we find in the gentile purity regulations of Lev 24:16. However, we should also note that Paul's entire list in 1 Cor 5:11 includes topics not named in Leviticus 17–26, such as people guilty of other forms of perceived social misconduct, namely the greedy (*pleonektai*) and the drunkards (*methysoi*).



way that presupposes all of the prohibitions given in Leviticus 18, suggesting he was of the opinion that the laws of Leviticus 17–20 also applied *to gentiles*. As in the case of food, Paul's preserved letters neither confirm nor confound the hypothesis that in the case of sexual laws he, too, considered the biblical *gerim* laws to correspond to those laws God had already "written upon the heart" of the gentiles.

In the most well-known passage listing vices, 1 Cor 6:9–10, Paul gives a comparable list of persons whose offences he designates as being so egregious they would bar them from "inheriting the kingdom of God." Whereas such offences are universally punishable, criminal offenders such as thieves (*kleptai*) and robbers (*harpages*; see also Rom 13:9) conform to the prohibitions in Lev 19:11 and 13. Unsurprisingly, Paul's list in 1 Corinthians again includes "idolaters" (*eidōlōlatrai*) and "those engaging in illicit sexual intercourse" (*pornoi*). Of most relevance to the current inquiry, Paul includes two further types of sexual practitioners in his list, whom we once again find singled out in the sexual purity regulations in Leviticus: adulterers (*moichoī*), according to Lev 18:20 and 20:10, as well as male sexual partners, whom Paul describes respectively as active (*arsenokoitai*) and passive (*malakoi*). Again, Paul's censoring of sex between men employs Greco-Roman concepts as much as Levitical law: the distinction between the two partners in sexual intercourse between men reflects Roman sensibilities.<sup>40</sup> At the same time, Paul's language points directly to Leviticus: the term *arsenokoitai*, "to lie with a male"—a neologism possibly even coined by Paul—is most likely based on the Septuagint's circumscription of sex between men in Lev 18:22 (*meta arsenos ou koimēthēsē koitēn gynaikos*, lit. "with a male do not lie (on) a woman's bedstead"). The term *malakoi*, in turn, further qualifies the original law of Leviticus, broadening the exclusive focus beyond that on the active male. Paul's inclusion of both partners in male homosexual intercourse, however, is already implicitly prepared in Lev 20:13.<sup>41</sup>

The cumulative evidence thus suggests that Paul's concept of *porneia*, of illicit sexual intercourse, builds on Leviticus 18, both lexically and legally—yet his list in 1 Corinthians, just like the one in Galatians, is also representative rather than exhaustive, even though it is difficult to establish a negative hierarchy of

<sup>40</sup> The notion of "homosexuality," it has been pointed out, is a broad cultural construct whose implications make it unwieldy in the discussion of ancient notions. It is the more specific focus on sex between men that falls into the legal and cultural purview of ancient cultures. On the nuanced attitudes towards sex between men, and the clear distinction between the active and the passive partner in the Late Republic and the Roman Empire, see the studies by Craig A. Williams, *Roman Homosexuality* (Oxford: Oxford University Press, 2010); and Eva Cantarella, *Bisexuality in the Ancient World* (New Haven: Yale University Press, 2002 [1992]), 120–86.

<sup>41</sup> On the Levitical laws pertaining to sex between males see note 12 above. On the cultural context of *arsenokoitai* and *malakoi* in the New Testament and early Judaism see Raymond F. Collins, *First Corinthians* (Collegeville: Liturgical Press, 1999), 239; on the same topic see also Rom 1:27, where Paul more generally condemns "lust" between men, as well as 1 Cor 6:9–10 and 1 Tim 1:10.

transgressions.<sup>42</sup> Importantly, Paul, in Rom 1:24–27 also expands the Levitical list by adding a denunciation of “unnatural” (*para physin*) sex between women as a result of the “impurity” (*akatharsian*) to which God gave the gentiles “in the lust of their hearts,” introducing both a new legal principal—natural law written “upon their hearts,” on which more below—and a new legal concept—sex between women—to the biblical notion of prohibited impurity. Yet while the concept of natural law was pervasively discussed throughout Christian late antiquity, the concept of sex between women remained marginal both in Christian and in rabbinic discourse.<sup>43</sup> The historical Paul, then, is a significant early witness to the ways in which the Christian tradition began to apply the laws for the *gerim* found in Leviticus 17–26 to all gentiles, even if his approach is less than systematic.

Crucially, the term *porneia* does not occur in the Septuagint of Leviticus 18, which maintains the image of “the uncovering of nakedness,” whereas Christians generally avoided the latter term and used the former one. As Wehnert has conclusively demonstrated, however, the term’s meaning should be understood broadly equivalent, that is as denoting the entirety of transgressions of Leviticus 18.<sup>44</sup> Bruce Malina long ago argued the term *porneia* is not used with its more specific meaning of “sexual intercourse with a prostitute,” but rather to designate the broad category of sexual transgressions we find grouped together, particularly in Leviticus 18.<sup>45</sup> Moreover, we have seen the historical Paul’s designation

<sup>42</sup> Both in Gal 5:19–21 and in 1 Cor 6:9–10, Paul does not necessarily present a systematic list of the most egregious transgressions, which he, arguably, assumes to be self-evident. It thus seems that Paul in both instances focuses on borderline cases more so than on prohibitions he takes for granted. Paul does not specifically accuse his audience, or warn them, of the gravest of offences that he lays at the feet of humanity as a whole, such as murder (Rom 1:29; see also Rom 13:9) or disrespect towards parents (Rom 1:30). In 1 Corinthians, Paul rather accuses some among his audience to have been guilty of the sexual transgressions when he concludes his list by stating that “this is what some of you used to be” (1 Cor 6:11), whereas in Galatians, he warns his audience not to engage in such acts (Gal 5:21). Rather than designating such sexual transgressions as especially egregious, Paul may well have had more hope that those he portrays as sexually deviant would repent, rather than the hardened murderers.

<sup>43</sup> As has often been remarked, Paul’s argument here mirrors Philo on homosexuality and natural law, as well as the denunciation of female homosexuality by the anonymous Jewish author of the *Sentences of Pseudo-Phokylides*; see e.g. Bernadette J. Brooten, *Love between Women: Early Christian Responses to Female Homoeroticism* (Chicago: University of Chicago Press, 1996), 61–72 and the further comments in note 153 below. On natural law see also 68 (chapter 1) above and note 57 below.

<sup>44</sup> See Wehnert, *Die Reinheit des “christlichen Gottesvolkes” aus Juden und Heiden*, 239–45. Note that the concept of the “uncovering of nakedness” is partially preserved in all late antique translations of Leviticus 18 into Greek, Latin, Aramaic, and Syriac, which speak of uncovering either the “nakedness” or “shame,” when discussing improper sexual relations. The Syriac tradition, for example, renders the Hebrew concept of the “uncovering of nakedness” as the “uncovering of shame,” *imglyw pwsy*; see e.g. the *Peshitta* of Lev 18:6 and Sebastian P. Brock and George Kiraz, *Ephrem the Syrian: Selected Poems* (Provo: Brigham Young University Press, 2006), 241e (text 19 (Nis.1) 9, line 7).

<sup>45</sup> Bruce Malina, “Does Porneia Mean Fornication?,” *Novum Testamentum* 14 (1972): 10–17; also note the objections by Joseph Jensen, “Does Porneia Mean Fornication? A Critique of Bruce Malina,” *Novum Testamentum* 20 (1978): 161–84; and the overview in Loader, *The New Testament on Sexuality*, 152–233. More recently, Kyle Harper correctly concluded that “the word *πορνεία* so effectively and so dramatically condensed the differences between pre-Christian and Christian sexuality that it requires some effort to re-enter the sexual culture of the Mediterranean at a time when sexual norms were

of a man's relations with the spouse of his deceased father, prohibited in Lev 18:8 and 20:11, as *porneia* in 1 Cor 5:1. Paul's focus on Leviticus 18 is corroborated by his denunciation of sex between men in Rom 1:27 and 1 Cor 6:9–10. In all this, Paul's usage of language is typical: as Wehnert illustrates in his discussion of Malina, texts as diverse as the Dead Sea Scrolls, the Targumim, and several Greek apocrypha designate any forbidden sexual relations as *porneia* or, respectively, as its rabbinic Hebrew equivalent, *znwt*.<sup>46</sup> Crucially, even the rabbis label both incestuous and extra-marital sexual relations as *znwt*, effectively using the term as fully equivalent to the biblical "uncovering of nakedness" (without, however, abandoning usage of the latter term for the former).<sup>47</sup>

The usage of the term *porneia* in the historical Paul can thus guide our reading of Acts precisely because it corresponds to such a wide web of other attestations. The Decree of the Apostles, in Acts 15:20, to reiterate, demands that "those gentiles who are turning to God," should abstain (*tou apechesthai*) from the pollutions (*tôn alisgēmatōn*) caused by idols (*tôn eidōlōn*) and by illicit sexual intercourse (*kai tēs porneias*) and by things strangled (*kai tou pniktou*) and by blood (*kai tou haimatos*).<sup>48</sup> Based on the usage of the term *porneia* in Paul and other sources, we can therefore conclude that the prohibition here is based on the *gerim* laws of Leviticus 18, an argument strengthened by the evidence for the prohibitions of impure foods discussed in Chapter 1, and of incest, which we will discuss in Chapter 3. In short, we can understand the prohibition of "meat sacrificed to idols," "blood," "strangled things," and "illicit sexual intercourse" in the Decree of the Apostles, as a full and unreserved endorsement of the extension of the laws for the *gerim* in Leviticus 17 and 18, to all gentile believers in Jesus.

As in the case of food laws, the importance of the *gerim* laws for Acts can be corroborated not only by the parallel example of Paul, which predates Acts, but also, if less directly, by that of the Tannaitic rabbis, whose earliest written records were composed in the late third or early fourth century CE. When defining the laws for the Noahides, the Tosephta specifies that "the uncovering of nakedness (*gylwy 'rywt*)" is among the prohibitions that apply to them, as we have seen in Chapter 1.<sup>49</sup> The mention of "uncovering of nakedness" is repeated in the list's

immanent in patterns of social reproduction," see Harper, "Porneia: The Making of a Christian Sexual Norm," *Journal of Biblical Literature* 131 (2011): 383. Unfortunately, Harper dismisses the close relationship between Leviticus 18 and the term *porneia* and, seemingly unaware of Wehnert's seminal work, equally proves dismissive of the logic behind the Decree of the Apostles as "notoriously unclear"; see *ibid.*, 376.

<sup>46</sup> See Wehnert, *Die Reinheit des "christlichen Gottesvolkes" aus Juden und Heiden*, 232–33.

<sup>47</sup> See Mishna *Yevamoth* 9:5 and *Ketuvot* 5:1, and see note 76 (Chapter 1) above as well as pp. 69–71 above and p. 151 below.

<sup>48</sup> Also note the parallels in Acts 15:29 and 21:25, along with the grammatical possibilities of the list discussed in note 55 (Chapter 1) above. Meiser rightly notes that the Church Fathers hardly evoke the Decree of the Apostles when legislation on *porneia*, see Meiser, "Texttraditionen des Aposteldekrets," 382.

<sup>49</sup> See Zuckerman, *Tosephta*, 473, and pp. 66–77 above.

later rabbinic later parallels and clearly draws on the Hebrew Bible's gentile purity regulations, especially those in Genesis and Leviticus.<sup>50</sup>

As discussed, in contrast to the New Testament texts, in prohibiting “the spilling of blood” (*shpykwt dmym*), “the uncovering of nakedness” (*gylwy 'rywt*), and “theft” (*gzl*), the rabbinic Tosephta uses the very terms we find in Gen 9:6, Lev 18:6, and Lev 19:13; its prohibition of “blasphemy” is equally reminiscent of the prohibition addressed to the *gerim* in Lev 24:16. Within its rabbinic context, the specific terminology makes it all but certain that the prohibition here includes all types of the “uncovering of nakedness” mentioned in Leviticus 18, including incest, adultery, sex between men, and sex during a woman's menses—just as they are most likely included in the definition of *porneia*, or illicit sexual intercourse, in Paul's letters and in Acts. Moreover, several rabbinic sources confirm the obvious reading of the term “uncovering of nakedness,” as referring to the whole of Leviticus 18 and adjacent biblical texts. In its lexically astute expansive reading of the term, the ensuing rabbinic understanding of *gerim* laws concerning sexual transgressions as binding to all gentiles offers an even closer parallel to the understanding of these laws in the Decree of the Apostles than was the case regarding food laws, where the Christian interpretation proved stricter than the rabbinic one. Moreover, like Paul and many latter Christians, the rabbis, in the Talmudic period at the latest, also condemn sex between women, though unlike Paul, they do not regard it as a crime per se, possibly providing an important legal precedent for the Qur'an's nuanced view on the matter.<sup>51</sup>

In short, when it comes to the sexual transgressions that would, according to Leviticus 18, cause prohibited impurity, we will see that late antique Jews and Christians concurred on the applicability of many of these laws to gentiles. Yet late antique Jews and Christians strongly diverged on the matter of regulated sexual impurity according to Leviticus 15. The rabbis did not consider gentiles to be susceptible to sexual impurity and some Church Fathers likewise dismissed the notion as irrelevant or even harmful for Christians. Yet most early Christians paid special attention to the menstrual purity of women while some went even further and endorsed part of the Levitical regulations regarding washing after intercourse and before ritual—the very stance we will equally find in the Qur'an.<sup>52</sup>

<sup>50</sup> See note 72 (Chapter 1) above.

<sup>51</sup> For the ways in which the rabbis specify “the uncovering of nakedness” according to Leviticus 18 see note 76 (Chapter 1) above; on the concept as such see also pp. 239–46 below. On rabbinic views on male and especially on female “homosexuality,” see e.g. Admiel Kosman and Anat Sharbat, “Two Women Who Were Sporting with Each Other: A Reexamination of the Halakhic Approaches to Lesbianism as a Touchstone for Homosexuality in General,” in *Hebrew Union College Annual* 75 (2004): 37–74 and Daniel Boyarin, “Are There Any Jews in ‘The History of Sexuality?’” *Journal of the History of Sexuality* 5 (1995): 333–55; see also note 153 below.

<sup>52</sup> The rabbinic attitude toward regulated sexual purity for gentiles is simple: in their view, gentile semen does not defile. As Hayes aptly summarizes, “[i]f a Gentile woman discharged semen from an Israelite, it is unclean. If an Israelite woman discharged semen from a Gentile, it is clean” (m. *Miq* 8:4). In other words, the Israelite semen retains its defiling capacity within a gentile woman, whereas the

## Appreciative Attitudes towards Sexual Purity

In the following, I will seek to illustrate that Christians also based their regulations concerning illicit sexual intercourse on the gentile purity regulations found in Leviticus 18, just like they did with the laws concerning food in Leviticus 17. I argue that we should consider the practices of nascent Islam, first and foremost, in the context of late antique Eastern Christian law—without, of course, dismissing rabbinic and general Near Eastern practices, as well as the scant evidence coming from pre-Islamic Arabia, cultures which equally shaped the nascent Qur’anic community.

Illicit sexual intercourse, or *porneia*, and its prohibition may seem almost too central and too broad a topic to discuss chronologically in a meaningful way; its symbolic centrality to late antique Jewish, Christian, and Islamic legal culture may be second only to that of idol worship. Furthermore, the study of sexual laws faces the problem of understanding the general nature of such norms throughout the ancient Near East. Unsurprisingly, the prohibition, or at least the disapproval, of some of the sexual practices classified as illicit sexual intercourse in Leviticus 18, was widespread in both the Graeco-Roman and Persian worlds. The four prohibitions against adultery (at least in the sense of intercourse with another man’s wife), bestiality, sex during a woman’s menses, along with some aspects of sex between men, were part of an ancient moral *koine* that surpassed and encompassed the laws found in the Hebrew Bible.<sup>53</sup> Yet the disapproval or even the prohibition of a practice, on the one hand, and an understanding of it as forming part of a discrete set of divine laws for gentiles, on the other, are not the same thing. The specificity of the laws in question, as well as the recurrent reference to Leviticus in late antique Christian texts, allow us to be fairly confident that we are dealing with a well-defined normative tradition, from the Bible to the Qur’an. Inversely, a comprehensive study of all sexual laws endorsed by late antique Christians runs the risk of confirming the obvious, namely, that the Qur’an assumes continuity with the Bible, and thus with Judaism and Christianity. There is no need here to reconsider the canonical status of the Decree of the Apostles in various strands of Christianity, which includes the general prohibition of illicit

gentile semen does not acquire the capacity to defile within an Israelite woman. See Hayes, *Gentile Impurities*, 111. We will therefore largely disregard the rabbinic evidence regarding regulated sexual impurity. Moreover, we should note that the rabbis did, comparatively, place a lesser discursive emphasis on the type of regulated impurity contracted through sexual intercourse, i.e. especially the emission of semen by Jews (see e.g. the discussion in Bavli *Berakhot* 21a–22b). In contrast, they dedicated considerably more attention to the issue of regulated impurity of a woman during and after her menses; see esp. the tractates *Nidah* in the Mishna, the Tosephta, and the Talmudim. On the issue of menstrual purity in rabbinic and Christian thought see e.g. Shai Secunda, *The Talmud’s Red Fence: Menstrual Impurity and Difference in Babylonian Judaism and Its Sasanian Context* (Oxford: Oxford University Press, 2020); and Fonrobert, *Menstrual Purity*; see also my notes in Zellentin, *The Qur’an’s Legal Culture*, esp. 90–93.

<sup>53</sup> See note 3 above; on the wide spread of incest regulations see also pp. 222–23 below.

sexual intercourse, yet an example will show that some Christians shared the rabbi's arguable sense of the Levitical origin of the sexual laws that are applicable to gentiles.<sup>54</sup>

Of special relevance here is the testimony of the Apostolic Constitutions, a popular if ultimately non-canonical tradition that originated in the fourth century CE. In 6:12, the Constitutions endorse the decree and explicitly identify it with the laws given to Noah and other figures living before the law:

Therefore I decree that we should not trouble (*mē parenochlein*) those from among the gentiles who turn to God, but ordain for them (*all' episteilai autois*) that they abstain from the pollutions caused by the gentiles (*tōn alisgēmatōn tōn ethnōn*), and by what is sacrificed to idols (*eidōlothytou*), and by illicit sexual intercourse (*porneias*) and by blood (*haimatos*), and by strangled things (*pniktou*), for these were given to the ancients before the law as natural (*tois pro tou nomou physikois*): Enos, Enoch, Noah, Melchizedek, Job, and any others that were among them.<sup>55</sup>

The Apostolic Constitutions, a text originally composed in Greek and in circulation throughout Christendom in a variety of languages, recasts the laws given to Noah within a new framework.<sup>56</sup> While keeping and amending the original language of purity employed in the Acts of the Apostles, that is by evoking the “pollutions caused by the gentiles,” the text fuses the well-established Hellenistic concept of “natural” law in juxtaposition to the *nomos* of the Torah as expressed in its regulations on prohibited sexual impurity—an implicit fusion of natural

<sup>54</sup> On the general endorsement of the Decree of the Apostles in late antique Christianity see pp. 77–81 above.

<sup>55</sup> Apostolic Constitutions 6:12 (82–7); see Marcel Metzger, *Les constitutions apostoliques*, vol. 2, 332–34.

<sup>56</sup> On the mitigated relevance of the Apostolic Constitution for the Qur'an, especially when compared with the Didascalia Apostolorum, see Zellentin, *The Qur'an's Legal Culture*, 46–47, note 57. Anton Baumstark argues that part of the Apostolic Constitutions is actually of Egyptian origin; see Baumstark, “Aegyptischer oder antiochenischer Liturgietypus in AK I–VII?,” *Oriens Christianus* 7 (1907): 388–407; Baumstark's arguments for an Egyptian setting are accepted by Stephen Gero, “The So-Called Ointment Prayer in the Coptic Version of the Didache: A Re-Evaluation,” *The Harvard Theological Review* 70 (1977): esp. 73 and 81. On the distinctly “gentile” identity of the Apostolic Constitutions, see F. Jacob Eliza Boddens Hosang, *Establishing Boundaries: Christian–Jewish Relations in Early Council Texts and the Writings of Church Fathers* (Leiden: Brill, 2010), 118–22, and Michele Murray, “Christian Identity in the Apostolic Constitutions: Some Observations,” in *Identity and Interaction in the Ancient Mediterranean: Jews, Christians and Others: Essays in Honour of Stephen G. Wilson*, ed. Zeba A. Crook and Philip A. Harland (Sheffield: Sheffield Phoenix Press, 2007), 179–94. On the Apostolic Constitutions and their fate in Eastern and Western churches more broadly, see Hubert Kaufhold, “Sources of Canon Law in the Eastern Churches,” 266–70; and Heinz Ohme, “Sources of the Greek Canon Law to the Quinisext Council (691/2),” 28–33; Frances Margaret Young, “The Apostolic Constitutions: A Methodological Case-Study,” in *Studia Patristica, Volume XXXVI: Papers Presented at the Thirteenth International Conference on Patristic Studies Held in Oxford 1999. Critica et Philologica, Nachleben, First Two Centuries, Tertullian to Arnobius, Egypt before Nicaea, Athanasius and His Opponents*, ed. Maurice F. Wiles et al. (Leuven: Peeters, 2001), 105–15; for further bibliography see Zellentin, *The Qur'an's Legal Culture*, 48 note 58.



and positive law, which we also find in the West and the East Syrian traditions, and in the Qur'an.<sup>57</sup> The Apostolic Constitutions thereby emphatically endorse the Decree of the Apostles and its notion of prohibited impurity, all the while ignoring the notion of regulated sexual impurity. Most churches enforced the respective laws by strict sanctions, ranging from penitence to excommunication; for adulterers, the punishment could include obligatory divorce as well as being prohibited from remarrying for a certain period of time, or even permanently.<sup>58</sup> In contrast to the evidence regarding the “dismissive” attitude towards the Decree of the Apostles’ food laws that we could detect when it came to a few Church Fathers (as laid out in Chapter 1 above), all church authorities “appreciated” the list of sexual transgressions applied to the *gerim* in the Hebrew Bible, often citing Leviticus 18 or 20 directly.<sup>59</sup> There is thus no “dismissive” attitude towards prohibited sexual impurity of which I am aware. In the case of sexual transgressions, however, their “appreciation” sometimes consisted of reinterpreting them as

<sup>57</sup> The development of the concept of natural law in Greco-Roman philosophical discourse has recently been summarized by Hayes (*What's Divine about Divine Law*, 60–89); on natural law in the Bible see *ibid.*, 24–31 and 38–39 as well as the philosophical approach taken by Matthew Levering, “God and Natural Law: Reflections on Genesis 22,” in *The Threads of Natural Law: Unravelling a Philosophical Tradition*, ed. Francisco José Contreras (Dordrecht: Springer, 2013), 65–84. A good summary of the patristic view of natural law can be found in Norman Doe (ed.), *Christianity and Natural Law: An Introduction* (Cambridge: Cambridge University Press, 2017), esp. 1–57; Matthew Levering, “Christians and Natural Law,” in *Natural Law: A Jewish, Christian, and Islamic Dialogue*, ed. Anver M. Emon, Matthew Levering, and David Novak (Oxford: Oxford University Press, 2014), 66–111; see also Jonathan Yates, “The Use of *Rom.* 2:14–15 in the Christian Latin Tradition ca. 365–ca. 411—Augustine Excepted,” in *Studia Patristica Vol. XLIV: Papers Presented at the Fifteenth International Conference on Patristic Studies Held in Oxford 2007*, ed. Averil Cameron, Markus Vinzent, et al. (Leuven: Peters, 2010), 213–26; and William A. Banner, “Origen and the Tradition of Natural Law Concepts,” *Dumbarton Oaks Papers* 8 (1954): 49–82. Taliaferro rightfully emphasizes the importance of Tertullian in the Christian turn to natural law; see Taliaferro, *The Possibility of Religious Freedom*, 104–27. For a good summary of the notion of natural law in its classical Greek philosophical context see e.g. Ross Corbett, “The Question of Natural Law in Aristotle,” *History of Political Thought* 30 (2009): 229–50. I am not aware of any treatments of the notion of natural law in Syriac Christianity with the noteworthy exceptions of Saqib Hussain, *Wisdom in the Qur'an* and Julien Decharneux, “The Natural Theology of the Qur'an and Its Late Antique Christian Background: A Preliminary Outline,” in *New Perspectives and Contexts in the Study of Islamic Origins*, ed. Mette Bjerregaard Mortensen et al. (Berlin: De Gruyter, 2021), 177–99; Decharneux seems unaware of my respective reading of Ephrem in Zellentin, “Gentile Purity Law from the Bible to the Qur'an,” 133–39. On Paul and Philo see also note 43 above.

<sup>58</sup> On Christian punishments for adultery, see pp. 156 and 195–99 below. The actual punishments vary very widely, based on geographical, cultural, and chronological factors; a full consideration transcends the limits of the present study; see e.g. Alexis Torrance, *Repentance in Late Antiquity: Eastern Asceticism and the Framing of the Christian Life c. 400–650 CE* (Oxford: Oxford University Press, 2013), 197–208; Joseph Grotz, *Die Entstehung des Bußstufenwesens in der vornicänischen Kirche* (Freiburg im Breisgau: Herder, 1955); and G. Wagner, “Bußdisziplin in der Tradition des Ostens,” in *Liturgie et rémission des péchés: Conférences Saint-Serge, XXe Semaine d'études liturgiques: Paris, 2–5 juillet 1973* (Rome: Edizioni Liturgiche, 1975), 251–64, and see pp. 199–201 below. An exemplary list of punishments for sexual crimes in the West Syrian tradition can be found in the fourth-century *Synod of Ancyra*, usually the exclusion from the community for a set number of years; see can. 11, 16, 17, 20, 21, and 24. The Synod, as mentioned above, has also been included in the Western Syrian tradition as can. 10, 15, 16, 19, 20, and 24, with some variance in severity and formulation; see Vööbus, *The Synodicon in the West Syrian Tradition I*, 97–101 and note 32 above as well as p. 79 above.

<sup>59</sup> See pp. 77–105 above.



infractions of natural law along with their resulting minimal expansion—for instance by prohibiting believing gentiles from marrying pagans or heretics as falling into the category of “giving one’s seed to Molech” according to Lev 18:21, or by prohibiting sex between women as analogous to sex between men. Such slight expansions of the list of transgressions that seem to fall under *prohibited* sexual impurity, however, can be demarcated from those Christian authorities who expanded the sexual purity rules to include cases of *regulated* sexual impurity pertaining to marital sexual intercourse, the menstrual cycle, or post-partum bleeding. The “appreciative” late antique attitude towards prohibited sexual impurity, we will see, displays a remarkable focus on sexual intercourse between men as constitutional for the construction of its own heteronormative perspective and as essential to its integration of the concept of natural law.

Among the clearest examples detailing the relevance of Leviticus for its sexual laws in the Greek tradition we can again place the Apostolic Constitutions, which, we have seen, understand the Decree of the Apostles’ definition of prohibited sexual impurity as tantamount to natural law. We can now further consider how, in Apostolic Constitutions 6:28, this text links its sexual laws not only to the decree and to natural law but also to a number of other biblical sources, especially Leviticus 18 and 20:

All these things are forbidden by the laws (*tois nomois*); for thus say the (divine) pronouncements (*ta logia*): *You shall not lie with mankind as with womankind* (cf. Lev 18:22). *For such a one is accursed, and you shall stone them with stones: they have wrought abomination* (cf. Lev 20:13). *Every one that lies with a beast, slay him: he has wrought wickedness in his people* (cf. Exod 22:18, Lev 18:23 and 20:15). *And if anyone defiles a married woman, slay them both: they have wrought wickedness; they are guilty; let them die* (Deut 22:22)... These things the laws have forbidden, but they have honoured marriage, and have called it blessed, since God has blessed what joined male and female together (cf. Gen 2:24).<sup>60</sup>

The Apostolic Constitutions endorse most of the sexual laws given in Leviticus 18 here, prohibiting sex between men, bestiality, and adultery, now understood as sex between anyone other than a husband and wife. Yet in a way that is typical for late antique Christian legal hermeneutics, the text paraphrases legal obligations originally given to Israelites alone, such as Deut 22:22, and expands them to humanity as a whole. In line with this ethnically undifferentiated reading of the Bible’s sexual laws, the immediate prequel of the passage just cited, Apostolic Constitutions 6:28, conceptualizes the sexual laws regarding sex between men and bestiality as part of natural law. Based on the long-standing Christian reading

<sup>60</sup> Apostolic Constitutions 6:28 (26–40); see Metzger, *Les constitutions apostoliques*, vol. 2, 384. See also Apostolic Constitutions 8:32 on fornication.

of Gen 2:24 (which we will revisit in Chapter 4; see pp. 227–30 below), the Constitutions differentiate between these “unnatural” transgressions and the “natural” one of adultery, as follows:

If, therefore, the difference of sexes was made by the will of God for the generation of multitudes, then must the conjunction of male and female be also acceptable to His mind. But we do not say so of that mixture that is contrary to nature (*para physin bdeluktē mixis*), or of any unlawful practice (*hē paranomos praxis*); for such are enmity to God. For the sin of Sodom is contrary to nature (*para physin estin*), as is also that with brute beasts. But against the law (*paranomon*) are adultery (*moicheia*) and *porneia* (here, likely “intercourse with a prostitute”); the one whereof is impiety (*asebēmata*), the other injustice (*adikia*), and, in a word, no other than a great sin. But neither sort of them is without its punishment in its own proper way. For the first ones (i.e. those engaging in sex between men and bestiality) attempt the dissolution of the world (*dialysin kosmou*), and endeavour to make the natural course of things (*ta kata physin*) to change for one that is unnatural (*para physin*); but those of the second sort (i.e. the adulterers) are unjust by corrupting others’ marriages, and dividing into two what God has made one (cf. Gen 2:24, Matt 19:6 and parallels), rendering the children suspected, and exposing the true husband to the snares of others. And intercourse with a prostitute (*porneia*) is the destruction of one’s own flesh, not being made use of for the procreation of children, but entirely for the sake of pleasure, which is a mark of incontinency, and not a sign of virtue.<sup>61</sup>

Once again focusing on sex between men and adultery (here still exclusively from a male perspective), the Apostolic Constitutions use the Pauline phrasing, which originally described sex between women as “unnatural” (*para physin*; see Rom 1:26) and apply it to sex between men. This usage of Paul, unsurprisingly, can be found in the works of many other Greek and Latinate patristic authorities who, like Paul himself, explicitly evoke the concept of prohibited “impurity” precisely when pairing it with the concept of natural law.<sup>62</sup> In its juxtaposition of natural and unnatural, however, the Apostolic Constitutions now display a more narrow usage of the term *porneia*, which here likely designates the “natural” transgression of intercourse with a prostitute. Standing in line with the tradition of Leviticus 18, the Apostolic Constitutions thus develop their own exegetical and hermeneutical framework through which they explain these laws in terms of both natural and positive law.

<sup>61</sup> Apostolic Constitutions 6:28 (9–25); see Metzger, *Les constitutions apostoliques*, vol. 2, 382–84. The notions of “natural” and “unnatural” are important throughout the Apostolic Constitutions; see also *ibid.*, 1:3 and 50, 2:14 and 44, 3:9 and 11, 6:11 and 27, and 7:2 and 40.

<sup>62</sup> See e.g. Tertullian, *De Corona* 6; Clement of Alexandria, *Paedagogus* 1:10; Jerome, *Letter 69* (To Oceanus) 3; John Chrysostom, *Homily 26 on First Corinthians* (on 1 Cor 11:15); and Augustine, *The City of God* 23; Augustine, *On Grace and Free Will* 42 (XXI); *Against the Pagans* 1:26; see also note 42 above.

The trend to fuse natural and positive law displayed in the Greek and Latin tradition, both in Paul and in the Apostolic Constitutions, also informed writings in the West and East Syrian traditions. For example, in his *First Hymn on Virginity* (3), Ephrem, the fourth-century Church Father revered throughout Syriac Christianity, sees humans as guided either by Scripture or by nature:

Scripture (*ktb*<sup>7</sup>) that teaches, nature (*kyn*<sup>7</sup>) that proclaims: both admonish man.  
 Set between the two is his iniquity,  
 so that nature (*kyn*<sup>7</sup>) admonishes him if it led one to sin without the law  
 and Scripture (*ktb*<sup>7</sup>) will rebuke him if it led one to sin of the law.<sup>63</sup>

Here, Ephrem applies the widespread image of a twofold revelation, through nature and through Scripture, which we find throughout Syriac literature (and centrally in the Qur'an), to a binary, yet unified concept of law. A more specific application of the similar twofold concept of law to cases of sexual transgression, and again a clear focus on sex between men, can be found in the writings of the sixth-century CE East Syrian *Catholicos* Mar Aba. In his treatise on Leviticus 18, he also classifies sex between males and with animals as “unnatural” (*dl' bkyn*<sup>7</sup>), and as breaking the rules that had governed all creatures since the dawn of creation (*mn brshyt*), classifying the breach as contravening natural law—all the while making it obvious that the respective prohibition in Lev 18:22 applies fully to his community.<sup>64</sup> Just like the Apostolic Constitutions, Mar Aba then cites Paul's description of sex between women as “unnatural,” and applies it to sex between men as well. And just like the Apostolic Constitutions, Mar Aba then blames the Sodomites for introducing the practice and breaking with the natural law that had prevailed since the time of creation.<sup>65</sup> Mar Aba's testimony, along with that of the Apostolic Constitutions, then, shows how some strands of late antique Christianity took the legal prescriptions of Leviticus 18, along with the discourse on prohibited impurity, as acutely relevant for themselves.

<sup>63</sup> Text according to Edmund Beck, *Des heiligen Ephraem des Syrers Hymnen de Virginitate* [Textus] (Louvain: Secrétariat du CorpusSCO, 1962), vol. I, 2; translation according to Kathleen E. McVey, *Ephrem the Syrian: Hymns* (New York: Paulist Press, 1989), 262. The juxtaposition of nature and Scripture can be found elsewhere in Ephrem, as Beck remarks; see e.g. *de Fide* 65:2, *de Paradiso* 5:2, *Contra Haereses* 28:11f and *Prose Refutations of Mani, Marcion and Bardaisan* 2:171f. A comparable attitude towards divine and natural law can already be found in Aphrahat; see e.g. Adam Isaac Lehto, *Divine Law, Asceticism, and Gender in Aphrahat's "Demonstrations," with a Complete Annotated Translation of the Text and Comprehensive Syriac Glossary* (PhD. diss., University of Toronto, 2003). Overall, the study of concepts of law in the Syriac tradition remains underdeveloped, yet see now Decharneux, “The Natural Theology of the Qur'an and Its Late Antique Christian Background,” 177–99.

<sup>64</sup> See Eduard Sachau, *Syrische Rechtsbücher. Dritter Band: Corpus juris des persischen Erzbischofs Jesubocht. Erbrecht oder Canones des persischen Erzbischofs Simeon. Eherecht des Patriarchen Mâr Abhâ: Aus der römischen Handschrift* (Berlin: Georg Reimer, 1914), 258 (my translation); see also *ibid.* 280–82.

<sup>65</sup> Sachau, *Syrische Rechtsbücher*, 280–82.

The same attitude, again with a focus on sex between men as central category in the construction of prohibited sexual impurity, can also be found in the West Syrian tradition, which equally expands the focus of its laws beyond those given to the *gerim*. The Didascalia Apostolorum, for instance, warns that

he who covets the wife of his companion, or his servant, or his maidservant, is already an adulterer and a thief and is condemned by the defilement as are they who lie with a man (*bṯm'wt' ʿyk shkby ʿm dkr'*) by our lord and teacher Jesus Christ.<sup>66</sup>

The Didascalia's testimony once again shows how important the language of prohibited sexual impurity proves for late antique Christian discourse, and how pervasively the focus on sex between men permeates late antique Christian law. The passage, moreover, neatly illustrates how the Didascalia, along with many other Christian writings, combines the language of Leviticus 18, which included laws given to the *gerim*, with the laws of the Decalogue.<sup>67</sup> This text understands the Decalogue as fully applicable to its own "Israelite" Christian community in a way that prepares the legal attitude of the Qur'an—which, of course, delineates itself from the Jews and Christians of its time, whom it in turn describes as self-identified Israelites.<sup>68</sup> With this in mind, we can turn to those Christians who obeyed laws pertaining to regulated sexual impurity laws according to Leviticus 15 in addition to those universally perceived as causing prohibited impurity if transgressed according to Leviticus 18.

### The Expansive Attitude towards Sexual Purity

The record regarding the expansive attitude towards sexual gentile purity is as uneven as the one regarding the expansive attitude towards the food laws of the Decree of the Apostles we have discussed in Chapter 1. As in that case, we see a

<sup>66</sup> Didascalia Apostolorum I, ch. 1; see Vööbus, *The Didascalia Apostolorum in Syriac I*, 12.

<sup>67</sup> In detail, coveting another man's wife, adultery, and theft are prohibitions the Bible includes in the Decalogue (which the Didascalia sees as applicable to its congregation), yet the Decalogue does not mention impurity or sex between men (see Exod 20:1–17 and Deut 5:4–21). Theft, adultery, and sex between men, in turn, are part of the prohibitions we find in the Holiness School, with the last two prohibitions addressed explicitly to both *gerim* and Israelites, as laid out above (see pp. 67–73). By combining and subsuming all transgressions under the category of prohibited impurity, the Didascalia clearly indicates its keen awareness and endorsement of the central legal relevance of Leviticus 18 for its audience. See also note 142 (Chapter 1) above.

<sup>68</sup> On the Didascalia's multi-ethnic Israelite self-identity see notes 151 and 152 (Chapter 1) above; on the importance of the Decalogue for the Didascalia and the Qur'an see Zellentin, *The Qur'an's Legal Culture*, 55–76. The present volume focuses on food laws and the broader prohibitions of sexual misconduct, indicated as "blood," "strangled things," and "porneia" in the Decree of the Apostles, since the Decree's parallel prohibition of idolatry, murder, and adultery proper equally appears in the Decalogue and would therefore offer a less clear-cut historical legal trajectory.

stark discrepancy between the centrality of the patristic polemics against the expansive attitude, on the one hand, and the paucity of primary sources attesting to it, on the other. Again, I will argue that we should consider conceiving of the expansive attitude as the default one for many Christians in many communities across the Near East, whose heritage came under broad attack from church authorities only in the fourth century CE.

We will start our survey by considering the valuable evidence furnished by the Apostolic Constitutions and the *Didascalia Apostolorum* in their ostentatiously negative stance towards the expansive attitude. The attacks on the observation of regulated menstrual purity laws we find in these writings allow us to upscale the weight of the few sources of those writings that explicitly endorse such practices. Then, we will consider further instances advocating concern for regulated impurity, especially the intertwined observances of washing after sexual intercourse and before prayer. The pervasive polemics of the opponents of these practices will again help us contextualize the bits of preserved evidence from those Christians who endorsed them. When it comes to both regulated menstrual and sexual purity more broadly, we will be able to observe two key points. First, many of the very same sources that showed an appreciative or expansive attitude towards the gentile food laws equally follow this approach when it comes to sexual purity. Second, also in the case of sexual purity it is again the expansive attitude that most closely prepares the Qur'an's point of departure, which again integrates the observances in its own distinct legal framework.

The laws of the Apostolic Constitutions, to begin with, in 6:28, uphold the law given to gentiles in Lev 18:19 not to engage in sexual intercourse during a woman's menses, yet reinterpret both the menses itself and abstinence from intercourse during this period not in terms of impurity but within the terms of nature and hygiene:

Therefore, neither is the natural purification (*hē physikē katharsis*) abominable before God (*bdeluktē Theō*), Who has ordered it to happen to women within the space of thirty days for their advantage and healthful state, who do less move about, and keep usually at home in the house. Nay, moreover, even in the Gospel, when the woman with the flow of blood (*haimorroousēs*) touched the saving hem of the Lord's garment in hope of being healed, He was not angry at her, nor did complain of her at all; but, on the contrary, He healed her, saying, "Your faith has saved you" (Matt 9:22). When the natural things (*physikōn*, i.e. the menses) do appear in the wives, let not their husbands approach them, out of foresight for those (children) to be begotten (*pronoias heneken tōn gennōmenōn*); for the Law (*ho nomos*) has forbidden it, for it says: "You shall not come near your wife when she is in her separation" (see Lev 18:19 and Ezek 18:6).<sup>69</sup>

<sup>69</sup> Apostolic Constitutions 6:28 (48–59); see Metzger, *Les constitutions apostoliques*, vol. 2, 386.

The Apostolic Constitutions prohibit intercourse during menstruation in line with Lev 18:19, yet they reinterpret the prohibition in a way similar to Augustine's justification for the prohibition of carrion (see pp. 83–4 above). Citing "medical" considerations, the fear is expressed that conception during menstruation would somehow affect the child, likely by leading to it being born with some sort of deformity. This view of the biblical prohibition of sex during a woman's menses is broadly attested in late antique Jewish and Christian sources, including by authors who endorse the notion of regulated sexual impurity.<sup>70</sup> (The same idea may well guide the respective concerns of the Qur'an.) At the same time, the Apostolic Constitutions assure women that their condition is not one of regulated impurity at all: uniquely, the text refers to the menses as a "natural purification" (*physikē katharsis*), that is as a discharge of impure matter, and the case for the women's state of purity is again argued by referring both to nature and the Gospels, by way of the famous case of the haemorrhaging woman touching Jesus (who, according to Lev 15:25–30, would confer regulated impurity to anyone touching her, just as a woman during her menses).<sup>71</sup> We can thus see that the Apostolic Constitutions endorse the law of Leviticus prohibiting sexual intercourse during the menses, yet, in their reinterpretation of the prohibition, come close to rejecting even the notion of prohibited sexual impurity.<sup>72</sup>

<sup>70</sup> Jerome, for instance, when commenting on the prohibition of sexual intercourse during the menses in Ezek 18:5–6, holds that a child conceived during menstruation will be physically deformed, a view shared by many other sources; see Jerome, *Commentary on Ezekiel* 18:6 (PL 25:1173/CCSL 25:235); see also Evyatar Marienberg, "Qui coierit cum muliere in fluxu menstruo... interficientur ambo (Lev 20:18): The Biblical Prohibition of Sexual Relation with a Menstruant in the Eyes of Some Medieval Christian Theologians," in *Shoshannat Yaakov: Jewish and Iranian Studies in Honor of Yaakov Elman*, ed. Shai Secunda and Steven Fine (Brill: Leiden, 2012), 271–84 and Evyatar Marienberg, *Niddah: Lorsque les juifs conceptualisent la menstruation* (Paris: Les Belles Lettres, 2003), 114–16. The *Clementine Homilies* (19:23), a tradition that clearly endorses the notion of regulated sexual impurity, equally held that conception during the menses is harmful for a child; see Nicole Kelley, "The Theological Significance of Physical Deformity in the Pseudo-Clementine Homilies," *Perspectives in Religious Studies* 34 (2007): 77–90. On the further background of the patristic attitude see also Jennifer Schultz, "Doctors, Philosophers, and Christian Fathers on Menstrual Blood," in *Wholly Woman, Holy Blood: A Feminist Critique of Purity and Impurity*, ed. Kristin De Troyer et al. (Harrisburg: Continuum, 2003), 97–116. According to Ottavia Niccoli, the Christian association of conception during menstruation and the deformation of a child goes back to a scribal error in the fourth century; see Niccoli, "'Menstruum Quasi Monstruum': Parti mostroosi e tabu' mestruale nel '500," *Quaderni storici* 15 (1980): 10.

<sup>71</sup> The Gospel story about Jesus and the haemorrhaging woman likely affirmed the notion of regulated impurity, as it was understood by other late antique Christians (on which more below): in Matthew, the woman is portrayed as touching merely the *hem* of Jesus' clothing rather than his flesh, and in all versions the message seems to be the subsumption of purity under messianism rather than its abolition; see Matthew Thiessen, *Jesus and the Forces of Death*, 69–96; Thomas Kazen, "Jesus and the Zavah: Implications for Interpreting Mark," in *Purity, Holiness, and Identity in Judaism and Christianity: Essays in Memory of Susan Haber*, ed. Carl S. Ehrlich et al. (Tübingen: Mohr Siebeck, 2013), 112–43; see already Susan Haber, "A Woman's Touch: Feminist Encounters with the Hemorrhaging Woman in Mark 5.24–34," *Journal for the Study of the New Testament* 26 (2003): 171–92.

<sup>72</sup> There is, to the best of my knowledge, no late antique document that would allow intercourse during the menses; on one difficult passage that would suggest so in the Syriac Didascalia—in stark tension with the reminder of the document and the Latin version throughout—see note 92 below.

What triggered, we may ask, such a far-reaching reinterpretation of the biblical record if not the widespread view among many Christians that the menses indeed *did* confer impurity upon a woman? Whereas the Apostolic Constitutions represent but a small part of late antique Christianity and were not universally accepted, the text is testimony to a rejection of the concept of regulated sexual impurity among the elite as much as it may attest to the concept's endorsement among simple believers.<sup>73</sup> A similar strategy of upholding biblical law, all the while polemicizing against its ritual significance, can be found throughout early Christianity—the spread and vehemence of these polemics as such attest more to the vitality of the object of criticism than scholarship tends to acknowledge. I have previously discussed the testimony of the *Didascalia Apostolorum*, another text illustrative of the appreciative attitude towards the concept of prohibited sexual impurity that dismisses the notion of regulated sexual impurity as strongly as the Apostolic Constitutions do. The *Didascalia*, like the Apostolic Constitutions, upholds the sexual regulations for gentiles found in Leviticus 17 and 18, all the while polemicizing against the concept of regulated sexual purity and its enduring attractiveness to many within the text's community.<sup>74</sup>

An older version of the *Didascalia Apostolorum* forms the basis of the Apostolic Constitutions, and the historical textual link may somewhat lessen the weight of the additional evidence they can provide. However, the same strategy of upholding the law for gentiles and of simultaneously dismissing the notion of regulated impurity as such, can be found across Christianity. In addition to the two apostolic writs, one Greek and one Syriac, Augustine serves as an example. The Latin Father, when commenting on Lev 18:19, observes that “although he (i.e. Moses) has already sufficiently forbidden this (i.e. intercourse during a woman's menses, a reference to Lev 15:19), he repeats the prohibition here, lest he seem to have spoken figuratively.”<sup>75</sup> In this case and elsewhere, Augustine endorses the regulations attested in Leviticus 18 and repeated in Ezekiel 18 as being legally valid for gentiles, all the while de-emphasizing their implications for regulated sexual impurity, adding, much as the Apostolic Constitutions, “In this matter, nature is not condemned, but rather the danger that can arise for the conception of offspring.”<sup>76</sup> Augustine thus also negatively attests the object of his polemic,

<sup>73</sup> On the circulation of the Apostolic Constitutions see note 56 above; on the concept of the “simple believers” see note 88 (Chapter 1) above.

<sup>74</sup> See Zellentin, *The Qur'an's Legal Culture*, 77–126.

<sup>75</sup> Augustine, *Quaestiones in Levitico* in 64 (PL 34:64 and CCSL 33: 219); my gratitude to Thomas O'Loughlin for pointing me to this source.

<sup>76</sup> Augustine, *Quaestiones in Levitico* in 64 (PL 34:64 and CCSL 33: 219). When commenting on Ezekiel, Augustine likewise argues that the commandments listed in Ezek 18:1–32 “are not to be taken in a metaphorical sense” and thereby remain somehow valid for Christians—the list explicitly includes intercourse during a woman's menstruation; see Augustine, *On Merit and the Forgiveness of Sins, and the Baptism of Infants* III.12 (21); see Roland Teske, *Augustine: Answer to the Pelagians* (New York: New City Press, 1997), vol. I, 134. Augustine here comments on 1 Cor 7:14, and understands Paul's “sanctification” as abstinence during the menses. Augustine hastens to add “that there is no other valid means



namely that other Christians likely saw the menses as conferring regulated impurity, just as some of his contemporaries still followed the biblical procedures of slaughtering hares and birds (see pp. 84–5 above).

Whereas no individual passage would be conclusive, I hold that in their conjunction, the evidence offered by the polemics *against* the observation of regulated sexual impurity laws, as in the case of an expansive notion of food laws, across the patristic record, suggests nothing less than that many Christians understood law for gentiles as including such observances. It seems plausible that there were many active members within the Church Fathers' own communities who shared such a view. Before turning to those texts that provide the necessary positive evidence to confirm such a hypothesis, we should briefly pause and try to understand the nature of the late antique patristic polemics against regulated sexual impurity observations, whose echo, in my view, determines the scholarly failure to grasp their importance in antiquity to this day.

The Apostolic Constitutions once again offer a typical argument. They strongly dismiss the notion of their opponents, namely that a woman should abstain from receiving the Eucharist during her menses. Without infringing on the prohibition against intercourse during the menses based on Lev 18:19, the Constitutions reject the link other Christians presumably made between the menses and regulated sexual impurity, thereby applying the laws given to the Israelites in Leviticus 15 to their own gentile communities. Yet while the observances that form the subject of the text's polemic are likely accurately depicted, the Constitutions reduce the theological implications of these observances to absurdity by conflating concerns of prohibited and regulated sexual impurity. According to the text, its opponents allegedly saw periods of regulated sexual impurity as incompatible with the presence of the Holy Spirit:

For if you think, O woman, when you are seven days in your separation (*en aphedrō*), that you are void of the Holy Spirit, then if you should die suddenly you will depart void of the Spirit, and without assured hope in God; or else you must imagine that the Spirit always is inseparable from you, as not being in a place. But you stand in need of prayer and the Eucharist, and the coming of the Holy Ghost, as having been guilty of no fault in this matter. For lawful mixture (i.e. marital intercourse, *nomimos mixis*), childbearing (*lechos*), the menstrual purification (*haimatos phora*), or nocturnal pollution (*oneirōxis mianai*) cannot defile the nature of a human (*mianai dynatai anthrōpou physin*) or separate the

of making Christians and remitting sins, except by men becoming believers through the sacrament according to the institution of Christ and the Church" (ibid.), making it clear that the observance of the law is not a precondition to salvation as such. Note that Augustine, throughout his *Quaestiones*, shows detailed interest both in matters of regulated and prohibited impurity, setting him apart from some of the polemicists of his time who seem to conflate the concepts for the sake of their arguments, as we will see below. On the validity of Ezekiel 18 in Christian law see also notes 70 above and 92 below.

Holy Spirit from him. Nothing but impiety (*asebeia*) and unlawful practice (*paranomos praxis*) can do that.<sup>77</sup>

The Apostolic Constitutions address a belief reportedly held by members of its community that is paralleled in the Didascalia Apostolorum. The Holy Spirit, these Christians are depicted as believing, would not reside in them during times of regulated impurity: a woman during her menses or after childbearing, a couple after lawful sexual intercourse, or a man after a nocturnal emission of semen would, in the alleged view, be devoid of the Spirit. Against such views, the Apostolic Constitutions argue that only impiety and unlawful practice would rid a Christian of the Spirit's presence. The polemics of the Apostolic Constitutions should neither be taken at face value nor be fully dismissed as mere heresiological fancy, as Charlotte Fonrobert has noted in a line of argument I find thoroughly persuasive.<sup>78</sup> There were indeed many Christians who did observe the very laws pertaining to *regulated* sexual impurity here condemned, and who would have abstained from communal prayer and the Eucharist in this period. These people would also agree with the Apostolic Constitutions that only *prohibited* impurity would "defile the nature of a human being," thereby ridding them of the Spirit's presence. Yet their observances were based on the distinction between regulated and prohibited sexual impurity, the two concepts whose fusion, in the polemical view of the Apostolic Constitutions, makes the observance or regulated sexual impurity seem patently absurd.

As we will be able to confirm when analysing "the other side" of this argument, the Apostolic Constitutions, in their polemics, employ a technique that is well-nigh universal across those late antique Christian authorities whose *appreciative* attitude towards rules governing *prohibited* sexual impurity coincides with a dismissal of the *expansive* attitude towards *regulated* sexual impurity. Such authorities, namely, in a first step conflate the two distinct types of impurity we find in the Hebrew Bible—prohibited and regulated impurity in my wording, or moral

<sup>77</sup> Apostolic Constitutions 6:27 (10–19); see Metzger, *Les constitutions apostoliques*, vol. 2, 378. For the parallel text in the Didascalia Apostolorum ch. 26 see Vööbus, *The Didascalia Apostolorum in Syriac II*, 256; on the passage see also Fonrobert, *Menstrual Purity*, 174–79.

<sup>78</sup> See Fonrobert, *Menstrual Purity*, 174–79; Fonrobert discusses a passage in the Didascalia Apostolorum ch. 26; see Vööbus, *The Didascalia Apostolorum in Syriac II*, 256, which constitutes a very close parallel to Apostolic Constitutions 6:27, 10–19. On the limited yet defensible usage of the heresiological data found in texts such as the Didascalia Apostolorum see Zellentin, *The Qur'an's Legal Culture*, 80 and Eduard Iricinschi and Holger Zellentin, "Making Selves and Marking Others: Identity and Late Antique Heresiologies," in *Heresy and Identity in Late Antiquity*, ed. Iricinschi and Zellentin (Tübingen: Mohr Siebeck, 2008), 1–27. We should, however, note that the incompatibility of regulated impurity and spiritual beings should not be dismissed out of hand. It did, for example, emerge as an important matter in medieval Islamic theology. Al-Suyūṭī, for instance, relates a report by al-Ṭabarānī, ascribed to Ibn 'Abbās, stating that "the Messenger of God (God bless him and grant him salvation) said: Angels do not remain in the presence of someone in a state of major ritual impurity (*al-junub*)," Al-Suyūṭī, *al-Ḥabā'ik*, 158–59, §592, cited according to Stephen R. Burge, "Impurity / Danger!" *Islamic Law and Society* 17 (2010): 322.

and ritual impurity in the terms of Klawans—and then proceeded to portray their opponents, who endorse both types of impurity as two distinct categories, as if they shared precisely this conflation. All late antique Christians, in other words, would agree that “impiety and unlawful practice” cause impurity, just as the Apostolic Constitutions would have it, and all Christians agreed that such impurity—the *prohibited* type—is incompatible with the presence of the Holy Spirit. The point of dispute, by contrast, was merely whether or not another type of impurity—the *regulated* type—was still incumbent upon Jews to avoid, and whether its observance had ever been ordained by God for gentiles. Hence, the rhetorical fusion of Jewish and gentile law—often employed in parallel with the rhetorical fusion of regulated and prohibited impurity observances—equally becomes a handy device for those who rejected any aspect of the expansive attitude towards the Decree of the Apostles. The success of the heresiological strategies is patent in the inability, to this day, of Western culture—including in its academic iteration—fully to comprehend Jewish and Islamic discourses that maintain such a double ethno-legal distinction. This failure is accompanied by the historical confusion, exacerbated by the concept of “Judaio-Christianity” (to which we will briefly return in the Epilogue), regarding the wide chronological and geographical spread of those Christians who continued to observe laws pertaining to regulated sexual impurity, up to the times of the Qur’an and beyond.

Importantly, in addition to the pervasive polemics, there is just enough direct positive evidence that many late antique Christians advocated an expansive attitude towards sexual impurity that included both prohibited and regulated sexual impurity laws. In these texts, nothing at all suggests that these Christians would have seen themselves as devoid of the Spirit after marital sexual intercourse or, for a woman, during her menses. The double endorsement, for gentiles, of prohibited and regulated impurity rules concerning the menses we have seen as plausibly based on Leviticus thus obviously marked late antique Christianity. Believers, we will see, purified themselves before prayer or the Eucharist, and women did abstain from such rites during their menses. Yet as far as we can tell, they, unlike their opponents, held that regulated sexual impurity remained fully distinct from the prohibited type, which, according to all parties, would lead to the departure of the Holy Spirit.<sup>79</sup> It is by no means clear if, and if so, when and where, a dismissal of the expansive attitude towards sexual impurity became the majority view within Christianity. On the contrary, there are a fair number of early Christian testimonies that show deep concern regarding regulated sexual impurity. The most significant witnesses to this trend come from the Church of Alexandria.

For Alexandrian Christians, who upheld an expansive attitude towards the notion of sexual impurity, the Eucharist had come to substitute the Temple sacrifices,

<sup>79</sup> See Fonrobert’s broader discussion in eadem, *Menstrual Purity*, 160–210.

and the restrictions on entering the Temple now governed the partaking of the Eucharist in Christian liturgy.<sup>80</sup> In an important letter, Dionysius, a third-century bishop of Alexandria and a student of Origen, states the following:

Concerning women in their menstrual separation (*en aphedrō*), whether it is right for them in such a condition to enter the house of God, I think it unnecessary even to inquire. For I think that they, being believing and pious, would not dare in such condition either to approach the holy table or to touch the body and blood of Christ. For even the woman who had the twelve-year discharge (*rhysin*) and was eager for a cure touched not him but only the hem [of his garment]. It is unobjectionable to pray in any state and to remember the Lord in any condition and to beseech him to obtain aid, but he who is not completely pure in both soul and body (*katharos kai psuchē kai sōmati*) shall be prevented from approaching the Holy and the Holy of Holies.<sup>81</sup>

In this letter, Dionysius declares women during their menstruation to be ineligible to enter the church and approach the altar, here described in terms of the Jerusalem Temple. Dionysius' view, and even his use of the example of the "woman with the flow of blood" (see Matt 9:22), endorses the notion of regulated sexual impurity and contrasts with the perspective we saw in the Apostolic Constitutions. Whereas the latter text emphasizes that Christ did not berate the woman for touching him, and that he therefore saw her as being pure, the bishop emphasizes that the woman touched only the hem of Jesus' garment, since she knew that she was impure.<sup>82</sup> Dionysius then goes on to discuss his view, which he shared with his teacher, Origen, that sexual intercourse and nocturnal seminal emissions engender regulated impurity, indicating his broad understanding of the *Israelite* purity laws found in Leviticus as being applicable to his gentile audience.<sup>83</sup> In applying the laws of Leviticus 15 to his gentile audience, he represents the

<sup>80</sup> For a broader overview of the ritual status of women in late antique Christianity see Eva M. Synek, "„Wer aber nicht völlig rein ist, an Seele und Leib...“: Reinheitstabus im Orthodoxen Kirchenrecht (Egling an der Paar: Kovar, 2006), esp. 36–106; Fonrobert, *Menstrual Purity*, 160–209; Shaye Cohen, "Menstruants and the Sacred in Judaism and Christianity," 273–99 (esp. 287–90 on Alexandria) and Wendebourg, "Die alttestamentlichen Reinheitsgesetze," 149–70. On abstinence from the Eucharist during the menses and can. 6–7 of Timotheus of Alexandria (381 CE); see Périclès-Pierre Joannou, *Discipline générale antique (IVe–IXes.)* (Grottaferrata-Rome: S. Nilo, 1964), vol. II, 243–44 and the Canons of Hippolytus (see Wilhelm Riedel ed. and trans., *Die Kirchenrechtsquellen des Patriarchats Alexandria* (Leipzig: Deichert, 1900), 209), cited by Sr. Vassa Larin, "Ritual Impurity," 275–92. See also Tomson, "Jewish Purity Laws," 73–91, and Zellentin, *The Qur'ān's Legal Culture*, 93 note 23, and see note 86 below.

<sup>81</sup> PG 10:1281, translation according to Charles Lett Feltoe (ed.), *The Letters and Other Remains of Dionysius of Alexandria* (Cambridge: University Press, 1904), 102–3, on the significance and the source of Dionysius see Cohen, "Menstruants and the Sacred in Judaism and Christianity," 287–90.

<sup>82</sup> On the story of the haemorrhaging woman in Matthew and its parallels see note 71 above.

<sup>83</sup> On Origen's views see e.g. *Theol. Selecta in Ezechielem* 13: 816:54; on Origen's view that sexual intercourse renders unfit for receiving the Eucharist see David G. Hunter, "The Reception and Interpretation of Paul in Late Antiquity: 1 Corinthians 7 and the Ascetic Debates," in *The Reception*

point of view so clearly dismissed in the Apostolic Constitutions and other apostolic and patristic sources we saw above. Yet neither in Dionysius' nor in Origen's view would the state of regulated impurity be incompatible with the presence of the Holy Spirit as such—even if a partial withdrawal remains conceivable.

Dionysius is by far not alone in his expansive attitude towards regulated sexual impurity. In addition to the audiences reprimanded in the later Apostolic Constitutions and the Didascalia Apostolorum, numerous early church canons, especially those from Alexandria, prohibit women not only from engaging in sexual intercourse during their menses but also from partaking of the Eucharist.<sup>84</sup> Whereas the ritual uncleanness of a woman during menstruation and post-partum bleeding is not explicitly extended to the *gerim* in Lev 12:2–8 and in Leviticus 15, Christians did have good reason to understand these laws as compulsory. Mary's impurity after childbirth, as recorded in Luke 2:22–40, as well as in the strong emphasis placed on menstrual purity in the widely received Protoevangelium of James, both had a strong impact on many Christian communities.<sup>85</sup> Despite the quibbles of some important Church Fathers, the respective regulations remained central to the Eastern and Western Churches until the seventh century CE and beyond. Pope Gregory the Great, for example, who lived just before the emergence of the Qur'anic community, apparently used his power in the Roman Church to encourage Christian women on the British Isles not to enter church during their menses, or after childbirth, and the latter rule was observed until well into the twentieth century.<sup>86</sup>

*and Interpretation of the Bible in Late Antiquity*, ed. Lorenzo DiTommaso et al. (Leiden: Brill, 2008), 176–9; see also Henri Crouzel, *Virginité et mariage selon Origène* (Paris: Desclée de Brouwer, 1963), 55. The rabbis were equally concerned with nocturnal pollution; see Marjorie Lehman, "Rabbinic Masculinities: Reading the "Ba'al Keri" in Tractate Yoma," *Jewish Studies Quarterly* 22 (2015): 109–36.

<sup>84</sup> A similar view can be found, for example, in Timothy of Alexandria, *Canonical Replies* 6 and 7; for further sources see note 80 above. See already Arthur Marmorstein, "Judaism and Christianity in the Middle of the Third Century," *Hebrew Union College Annual* 10 (1935): 230 [8] and Marmorstein, *Religionsgeschichtliche Studien* (Skotschau: Marmorstein, 1910), vol. I, 26–35.

<sup>85</sup> On purity in the Protoevangelium of James see esp. Lily Vuong, *Gender and Purity in the Protevangelium of James* (Tübingen: Mohr Siebeck, 2013), 108–48.

<sup>86</sup> Gregory essentially leaves the observance of female purity (and many other rules) to the believers to decide; see Marienberg, "Qui coerit cum muliere in fluxu menstru... interficientur ambo (Lev 20:18)," 275–80; on Gregory see also pp. 228–29 below. Exclusion of women from the church after childbirth, we should note, despite the dismissal of medieval authorities, was maintained or at least memorized in some Eastern and even Western congregations well into modernity. See Aquinas, *Summa Theologica* II.80.7 and Supplement, 64:3, which engages the rulings of Jerome and Augustine. On the Western tradition of the purification of women in the middle ages and even beyond see e.g. Paula M. Reider, *On the Purification of Women: Churching in Northern France (1100–1500)* (New York: Palgrave Macmillan, 2006) and David Cressy, "Purification, Thanksgiving and the Churching of Women in Post-Reformation England," *Past and Present* 141 (1993): 106–46. The marginality of Anglia and Arabia should not distract us, a recent study has shown remarkable geographically comparable parallels, see Andrew Marsham, "Bede, Ibn Ishāq, and the Idols: Narratives of Conversion at Late Antique Edges," *Travaux et Mémoires* 26 (2022), forthcoming. While the Qur'an is silent on the topic of impurity after childbirth, it became an important issue in later Islamic law; see Ana Davitashvili, *Die hūr 'in im Koran und in der frühislamischen Exegese* (PhD diss., University of

The most conspicuous aspect of expansive Christian attitudes towards Israelite sexual purity laws may be that of washing after intercourse, again originally prescribed to Israelites, but not to the *gerim*, in Lev 15:16–18. As in the case of regulated impurity during the menses, in order to assess how widespread the practice of washing after sexual intercourse was among late antique Christians, a close reading of a few instances of the polemics *against* such practices proves instructive.

As briefly mentioned in Chapter 1, Epiphanius of Salamis, writing in the late fourth century CE, denounces practices very much akin to those endorsed in the Clementine Homilies and attributes them to the “Ebionites” and the “Nazoreans” of Palestine, a claim whose historicity needs to be questioned despite his knowledge of local affairs.<sup>87</sup> According to an oft-quoted passage in Epiphanius, for instance, the fictional heresiarch Ebion

added the rule... that a man must immerse himself in water every day he has been with a woman, after he leaves her, any water he can find, the sea or other. Moreover, if he meets anyone while returning from his plunge and immersion in the water, he runs back again for another immersion, often with his clothes on, too!<sup>88</sup>

Likewise, Epiphanius describes a likely invented group called the “Ebionites” as “defiled themselves” since they “often have much to do with sex,” adding that “they use the water lavishly for their own reassurance, and think that they have purification through immersions.”<sup>89</sup> Epiphanius’ slurs should not be used to write church history, and the very existence of the groups he describes—at least as ecclesiastical organizations clearly separated from the Jesus movement more broadly—can be doubted, as already noted. Inversely, if we take into account a large number of comparable accounts, we may arrive at the conclusion that the practices, if not the groups, in Epiphanius’ focus were widely endorsed in his time. This is especially likely since other Christian texts attribute very similar practices of washing after sexual intercourse not to demonized outsiders, but to misguided members of their own congregation.

The Didascalia Apostolorum, again providing an example of a similar attitude, dismisses any restrictions from participation in the liturgy based on the menstrual cycle along with washing after sexual intercourse:<sup>90</sup>

Bamberg, 2021), and Haggai Mazuz, “Islamic Laws of Lochia,” *Journal Asiatique* 303 (2015): 239–46; postbiblical Jewish and Christian law is not engaged here.

<sup>87</sup> On Epiphanius’ testimony on the alleged group of Ebionites see Chapter 1, note 146 above.

<sup>88</sup> Epiphanius of Salamis, *The Panarion*, II, 30:2:3, translation according to Frank Williams, *The Panarion of Epiphanius of Salamis: Book I (Sects 1–46)* (Leiden: Brill, 1994), 120.

<sup>89</sup> Epiphanius of Salamis, *The Panarion*, II, 30:21:2; translation according to Williams, *The Panarion of Epiphanius of Salamis*, 136.

<sup>90</sup> Didascalia Apostolorum ch. 26, Vööbus, *The Didascalia Apostolorum in Syriac II*, 262.21–263.2.

On this account, a woman (*'ntt'*) when she is in the way of women, and a man when an issue (*dwb'*) comes forth from him, and a man and his wife when they have intercourse and rise up one from another—without restraint, without bathing (*shyn*), let them assemble (*ntknshwn*, i.e. for prayer) for they are pure (*ddkyn*).

In addition to insisting that women are always pure, regardless of their menstrual state or of when they last engaged in sexual intercourse with their husbands, the Didascalia Apostolorum dismisses the need to bathe before assembling for prayer. The text does not negate the notion of prohibited impurity regulations, as we have seen above, and cites the interdiction of “illicit sexual intercourse” (*znywt'*) formulated by the Decree of the Apostles.<sup>91</sup> As we have seen repeatedly, the Didascalia Apostolorum understood these interdictions in the context of the “uncleanness” of Leviticus 18. Likewise, both the Latin and the Syriac versions of the Didascalia understand prohibited sexual relations as including intercourse during menstruation, in line with Leviticus 18, which both the Latin and the Syriac texts affirm explicitly.<sup>92</sup> Yet just like the Apostolic Constitutions, the Didascalia Apostolorum rejects an expansive understanding of sexual purity laws found in the Hebrew Bible, not without ridicule, as it states elsewhere in chapter 26:

Be thus minded therefore concerning everyone, concerning those who observe issues and the intercourse of marriage; indeed, all these observances are foolish and harmful. For if, when a man shall leave intercourse, or flux come out from him, he must be bathed, let him also wash his mattress—and he will have this travail and unceasing vexation: he will be bathing and he will be washing his clothes and his mattress, and he will not be able to do anything else... on this account, beloved, flee and stay away from observances which are such.<sup>93</sup>

As in the case of Epiphanius, it is tempting to read these statements merely as evidence of mere heresiology. Yet the Didascalia's focus on the members of its own community is remarkable: at least in its compositional context, the Christians addressed by the Didascalia Apostolorum would have likely been able to verify if some of the congregants, or at least some other Christian communities, were in

<sup>91</sup> Didascalia Apostolorum ch. 26, Vööbus, *The Didascalia Apostolorum in Syriac II*, 236.9–10, 237.3–4.

<sup>92</sup> The Didascalia Apostolorum, citing Ezekiel 18, at one point endorses the prohibition to approach (*ntqrb*) one's wife during her menses, using a term that denotes engaging in intercourse (Didascalia Apostolorum ch. 6, Vööbus, *The Didascalia Apostolorum in Syriac I*, 67.11). Later, however, in a passage in which the Latin Didascalia Apostolorum forcefully repeats this prohibition (see Connolly, *Didascalia Apostolorum*, 255), the Syriac text explicitly exhorts husbands to “cleave” (*nqpy*) to their wives during menstruation (ch. 26, *ibid.*, 262.13); for a discussion see already Zellentin, *The Qur'an's Legal Culture*, 91–92 note 12.

<sup>93</sup> Didascalia Apostolorum ch. 26, Vööbus, *The Didascalia Apostolorum in Syriac II*, 259.8–261.1.



the habit of observing the practice of ritual washing after sexual intercourse as stated in Leviticus 15. Hence, it would seem that those believers addressed by the Didascalia understood not only Leviticus 17 and 18 but also parts of Leviticus 15, as applicable to all believers. They endorsed a Christian sense of ritual purity that was based on their understanding of the church as the temple and of the female, as well as the male body, as being susceptible to regulated impurity, thereby displaying an expansive attitude towards sexual impurity regulations.

Yet what are we to do with the evidence of the Apostolic Constitutions or the Didascalia Apostolorum, whose long gestation period and difficulty to locate make them susceptible to a broad range of readings? If the dispute to which they refer actually took place, how would we be able to confirm when and where? I suggest a simple answer to this question: washing after sexual intercourse and before prayer was not an uncommon practice throughout all strands of Christianity, at least up to the fourth century. It is hard to overemphasize how widely the discussion of regulated sexual impurity permeated early Christian discourse, as we can see if we combine the voices of the Church Fathers endorsing this practice with those who keep denigrating it.

The appreciative and the expansive attitudes towards such practices, moreover, often intersected, just as they intersected in the dispute between the Didascalia Apostolorum and members of its congregation. To give but one such mixed example, as we saw above, the Apostolic Constitutions generally denigrate the expansive attitude and appeared to be at odds with its purity-observant audience. However, the Apostolic Constitutions themselves offer support for both sides of the debate. At one point, the text, as it has been transmitted, seems to reject the necessity of washing after sexual intercourse, stating that a man and a woman who “company together (*synerchomenoi*) in lawful marriage, and rise from one another, may pray without any observations, and without washing are clean (*mē lousamenoi katharoi eisin*).”<sup>94</sup> Elsewhere, however, the same text exhorts its audience to wash *before* prayer in general, leaving no doubt about the significance of the order: “let the believers, whether men or women when they rise from sleep, before they go to work, when they have washed themselves (*nipsamenoi*), pray.”<sup>95</sup> The discrepancy between the two passages points towards two divergent streams in Christian thought on washing, which can be found intertwined throughout early Christianity.<sup>96</sup>

<sup>94</sup> Apostolic Constitutions 6:29 (17–20), see Metzger, *Les constitutions apostoliques*, vol. 2, 388.

<sup>95</sup> Apostolic Constitutions 8:32 (54–5), see Metzger, *Les constitutions apostoliques*, vol. 3, 240.

<sup>96</sup> Note that Tertullian, *On Prayer* 13, while speaking out against ritual washing, allows for washing after any interaction with humans (*conversationis humanae*); see Ernest Evans, *Tertullian's Tract on the Prayer: The Latin Text, with Critical Notes, an English Translation, an Introduction and Explanatory Observations* (Cambridge: Cambridge University Press, 1953), 18–19. My reading of the term “human conversation” as a euphemism for sexual intercourse in Zellentin, “Judaean-Christian Legal Culture and the Qur’an” 117–59, is probably erroneous, as already noted in Zellentin, *Gentile Purity Law*, 192. On washing in the churches see also Johannes Zellinger, *Bad und Bäder in der altchristlichen Kirche*:

How pervasive was the practice of washing after sexual intercourse, and before prayer, throughout late antique Christianity? Did authorities such as those who composed the *Didascalia Apostolorum* or the *Apostolic Constitutions* prevail over those who endorsed a sense of regulated sexual purity? Three final examples—Gregory the Great, John Chrysostom, and Eusebius—will illustrate that the debate remained central not only in the Syriac but also in the Latin and Greek churches.

First, Pope Gregory the Great, writing in the Latin West in the sixth century CE, considered the menses and post-partum bleeding as akin to any other form of human suffering. Conversely, he finds it quite reasonable that women would refrain from entering church after giving birth to a child or during menstruation, and he equally, in a measured and independent way, approved washing after sexual intercourse, after involuntary emission of semen, and before prayer. Notably, Gregory endorsed the enactment of these rules governing regulated impurity at the same time as dismissing their necessity.<sup>97</sup>

Second, addressing his audience in fifth-century Constantinople, John Chrysostom seeks to dismiss such regulated sexual purity observances as “Jewish,” all the while giving us good evidence that his audience, like Gregory the Great, maintained the very rituals that vexed the Church Father:

Whosoever comes from the bed (*apo koitēs*), it is said, is not clean (*ouk esti katharos*). Those things are not polluted (*bdelura*) which arise from nature (*ta apo physeōs*), O ungrateful and senseless Jew, but those which arise from choice. For if marriage is honourable and pure (*katharos*), why indeed, do you think that one is even polluted (*miainesthai*) by it?<sup>98</sup>

Chrysostom contrasts his dismissal of the necessity of washing after intercourse with conventional practice, with what “is said,” then denouncing the rule, in his typical manner, as a Jewish one.<sup>99</sup> Importantly, Chrysostom here rhetorically

*Eine Studie über Christentum und Antike* (Munich: Max Hueber, 1928), 101–4 and Wendebourg, “Die alttestamentlichen Reinheitsgesetze,” 164.

<sup>97</sup> Gregory the Great, *Registrum Epistolarum* XI, Letter 64 (to Augustine), esp. questions 8 to 11. See Betram Colgrave and Roger Aubrey Baskerville Mynors, eds, *Bede's Ecclesiastical History of the English People* (Oxford: Oxford University Press, 1969), 89–99. On the relevance and authenticity of the text see Marienberg, “*Qui coierit cum muliere in fluxu menstruo . . . interficientur ambo* (Lev 20:18),” 277–80; Rob Meens, “Ritual Purity and the Influence of Gregory the great in the Early Middle Ages,” in *Unity and Diversity in the Church*, ed. Robert N. Swanson (Oxford: Blackwell, 1996), 31–43 and Meens, “Questioning Ritual Purity: The Influence of Gregory the Great's Answers to Augustine's Queries about Childbirth, Menstruation, and Sexuality,” in *St. Augustine and the Conversion of England*, ed. Richard Gameson (Stroud: Sutton, 1999), 174–86; see also note 86 above.

<sup>98</sup> See John Chrysostom, *Homily on Hebrews* 33 (PG 63: 227D–228, 1–6); see also David C. Ford, *Women and Men in the Early Church: The Full View of St John Chrysostom* (South Canaan: St. Tikhon's Seminary Press, 1995), 57.

<sup>99</sup> On Chrysostom's anti-Jewish rhetoric, which was aimed at his gentile congregants at least as much as at actual Jews, see Robert L. Wilken, *John Chrysostom and the Jews: Rhetoric and Reality in the Late 4th Century* (Berkeley: University of California Press, 1983).

ignores the ways in which the observances in question were likely understood by his audience as constituting part of not only the Jewish but also of the gentile legal obligations. Once more, despite his dismissal of regulated sexual purity, the Archbishop of Constantinople gives us a glimpse of the practices of his constituency which, just as the congregants of the Apostolic Constitutions and the Didascalia Apostolorum, seem very much to have purified themselves after sexual intercourse. As he explicates elsewhere, in another passage that rhetorically fuses regulated and prohibited sexual impurity only to reject the former concept in the name of the latter one,

And while you, fresh from the company (*synousias*) of your own wife, do not dare to pray, although this is no blame at all (*oude enklēma touto*), do you lift up your hands, fresh from reviling and insult (*loidorias ōn kai hubreōs*), which brings after it no less than hell, before you have well purified yourself (*prin ē katharai sauton kalōs*)? And how do you not shudder? Tell me. Have you not heard Paul, saying, “Marriage is honourable, and the bed undefiled (*hē koitē amiantos*)?” (see Heb 13:4). But if on rising from the undefiled bed (*tēs amiantou koitēs*), you dare not draw near in prayer, how do you, coming from the bed of the devil, call on that awful and terrible name?<sup>100</sup>

Chrysostom, like the Apostolic Constitutions, refuses to recognize the distinction between regulated and prohibited impurity. He portrays the imperatives of the former type as somehow tantamount to committing sins that would lead to the latter type.<sup>101</sup>

The divergent attitudes found throughout early Christianity, which alternately appreciate, expand, or reject regulated impurity concerns in connection with the menses and with sexual intercourse, mark the parallel divide between

<sup>100</sup> John Chrysostom, *Homily in Mathew* 51, MPG 58, 516, 34–44. Elsewhere, Chrysostom, much like the Apostolic Constitutions and the Didascalia Apostolorum, fuses the concepts of prohibited and regulated impurity in order entirely to dislodge the latter: “You see how many varieties of uncleanness (*akatharsion*) there are. She after the marriage-bed (*apo lechous*) is unclean. How, tell me? Did not He make sperm and procreation? Why then is the woman unclean, unless something further was intimated? . . . For if she is unclean who has had sexual intercourse (*tē heautou plēsiazēin*), much more she who has committed fornication. . . . And many kinds of uncleanness would be found, if it were necessary to recount them all. But these things are not now required (*apaitoumetha*) of us. But all is transferred to the soul” (Chrysostom, *Commentary on the Epistle to Titus*, Homily 2, MPG 62:681, 22–36; see already pp. 81–82 above). Chrysostom portrays the pursuit of what I have described as regulated sexual impurity concerns as threatening to undermine those seeking to avoid prohibited sexual impurity without ever acknowledging the difference between the two types of impurity. He then implies that only the latter matters for “the soul,” beating down a straw figure he himself had set up. His vehemence, as in the case of the Apostolic Constitutions and the Didascalia Apostolorum, attests just as much to his own views as to the divergence of the prevailing attitudes of his contemporaries.

<sup>101</sup> Chrysostom’s understanding of prohibited impurity, it would seem, has as much in common with Pauline language as the latter has with the *gerim* laws of the Hebrew Bible; on “reviling” in 1 Cor 5:11 see note 39 above.

Chrysostom and his audience. Such passages are regularly read as indicating that Christians did not observe purity regulations, yet the passage, in my view, attests the opposite just as well: Here and in many other parts of the early Christian church, it seems that congregations were well attuned to many aspects of regulated sexual impurity, whereas part of the leadership vehemently opposed it, or at least sought to reinterpret it. Christians in his congregation, Chrysostom states, would not pray after marital sexual intercourse. Elsewhere, he accuses some of the members of his congregation to “wash themselves in the evening and enter the churches (*kata tēn hesperan . . . louomenoi eisiasin eis tēn ekklēsiān*)” despite the countless sins he accuses them of having committed during the day. Chrysostom, once again, polemically confuses prohibited and regulated impurity concerns in a way that was shared by many of his patristic contemporaries, whereas many simple believers—as well as the Qur’an—distinguished between the two types of impurity.<sup>102</sup> Yet his rhetorical flourish would not have been effective had it not partially been based on fact—members of his congregation *did* wash, just as many of those Christians whom the Didascalia Apostolorum, the Apostolic Constitution, and so many other sources address. Chrysostom’s dismissal of washing, in other words, attests as much to his congregation’s expansive attitude as to his own rejection thereof.

The following testimony of Eusebius gives us further evidence that the observance of washing before prayer was the default Christian position up to the fourth century, as seems increasingly likely in my view. In his *Ecclesiastical History*, he describes the ritual washing necessary to enter the recently constructed basilica in Tyre:

(39) But when one comes within the gates he does not permit him to enter the sanctuary immediately, with impure and unwashed feet (*anagnois kai aniptoīs posin*); but leaving as large a space as possible between the temple and the outer entrance, . . . (40) he has placed symbols of sacred purifications (*hierōn . . . katharsion . . . symbola*), setting up fountains opposite the temple which furnish an abundance of water (*pollō tō cheumati tou namatos*). This is the first halting-place of those who enter.<sup>103</sup>

In the Hebrew Bible, it is the priests who had to wash their hands and feet before entering the sanctuary (see Exod 30:20–21), a practice equally endorsed by the

<sup>102</sup> See Chrysostom, *Commentary on Second Timothy*, Homily 6, MPG 65:635, 21; for a similar fusion of ritual and prohibited impurity in the case of Syriac polemics against heretics see Christine Shepardson, “Anxious Vigilance: Heresy and Ritual Pollution in John of Tella and Severus of Antioch,” *Hugoye: Journal of Syriac Studies* 24 (2021): 3–34.

<sup>103</sup> Eusebius, *Historia Ecclesiastica* 10.4, cited according to Gustave Bardy, *Eusèbe de Césarée. Histoire ecclésiastique* (Paris: Éditions du Cerf, 1967), vol. III, ad. loc.

rabbis.<sup>104</sup> For the Christians of Tyre, the rule was binding at least regarding the feet; the Church Father accepts and reinterprets it. Eusebius describes the purification of the feet, bearing witness to the use of “real” water, at the same time as insisting that we are only dealing with a *symbolic* action. In this, the situation in Tyre, and the way in which Eusebius depicts it, epitomizes what was perhaps the mainstream Christian attitude towards ritual purity. While some Church Fathers vehemently opposed the mere notion of ritual observance, most Christians, it seems, generally accepted practices of ritual purification, but occasionally left their original scriptural context behind. Christians thus tended to accept, expand, specify, and occasionally deny the biblical rules, and similar practices survived well into the middle ages, and even far beyond. The combination of positive and negative evidence from Western Rome, from Eastern Rome, from Syria, and from Mesopotamia allows us to conclude that this dispute marked all of Christianity at least up to the fourth century. The evidence of Gregory the Great and other later texts that maintain a focus on washing past the fourth century will allow us to conclude that the practices endured well into qur’anic times, which in turn enables us to use the Qur’an itself again as evidence for this continuity of practice.

Whereas the Church Fathers carefully studied the rulings contributed by the Holiness School in the same way as those who formulated the Decree of the Apostles likely did, the Fathers did so within a different hermeneutical framework. Crucially, the careful differentiation between Israelite and gentile law in Leviticus that had shaped early Christian sexual purity discourse had in many quarters been “forgotten.” This was the case especially for those whom the confused amalgamation of Israelite and gentile law offered an angle of attack against the expansive tradition of understanding the latter as if it were the same as the former. The very core of the gentile purity regulations, in line with the appreciative attitude towards the Decree of the Apostles, was largely left intact regarding sex, as well as food, and in many ways, these regulations appear to have developed further in certain times and at certain places. Yet along with the emphatic endorsement of rules pertaining to prohibited sexual impurity, some Church Fathers strongly dismissed those rules that regard regulated sexual impurity.

It is noteworthy that even recent studies that are perceptive to the purity concerns pursued by many late antique Christians do not quite grasp the biblical differentiation between Israelite and gentile law that had marked the Decree of the Apostles as much as the rabbinic movement and continued to resonate, albeit

<sup>104</sup> The tannaitic rabbis insist on the washing of hands and feet before entering the Sanctuary (see e.g. Mishna *Kelim* 1:9), whereas later rabbinic tradition urges the washing of hands, feet, and face on the eve of Shabbat (see e.g. Bavli Shabbat 25b), which the Qur’an makes obligatory before prayer; see Zellentin, *The Qur’an’s Legal Culture*, 104. On the washing of hands in Christianity and in rabbinic literature more broadly see Yair Furstenberg, “Defilement Penetrating the Body: A New Understanding of Contamination in Mark 7.15,” *New Testament Studies* 54 (2008): 176–200.

less clearly, in late antique exegesis. In his fine study on ritual observances of the Church Fathers, Tomson, for instance, concludes the following:

In the context of their liturgy, the ancient Christian fathers both kept reading the Scriptures of Israel and acknowledged the observance of certain purity rules in the church. . . . But in their exegesis, they declared that Jesus had abolished the purity laws as practiced by the Jews. If this is not hypocritical, at the very least it is contradictory.<sup>105</sup>

Evyatar Marienberg likewise complains that the Church Fathers' "logic is lacking."<sup>106</sup> Both scholars may describe the mainstream Christian attitude correctly, yet they might have come to a more differentiated conclusion had they considered the development of the Christian tradition, at whose core we find the gentile purity regulations as stipulated in Genesis, Leviticus, and Ezekiel, and endorsed in Acts.

It would perhaps be misguided to blame modern scholars or late antique Christians for the observable confusion on the matter. The *gerim* laws at the very basis of this dispute never gave any guidance on the extent to which the laws of Leviticus 15 applied to non-Israelites, and the Decree of the Apostles simply sidelines the vexing issue of regulated gentile purity. A world in which many Christian communities consisted entirely of gentile members had not been perceived by the authors of the Decree of the Apostles, who therefore thought it sufficient to sketch gentile law, taking the backdrop of Jewish observances for granted. Late antique Christians had thus very good reasons to endorse dismissive, appreciative, or expansive attitudes towards the matter, depending on their specific contexts, all of which differed from the circumstances at the turn of the second century CE. Any "contradiction," or "lack of logic," as perceived by Tomson and Marienberg, thus appears first and foremost to modern readers. I would seek to resolve this tension by observing the following:

- the Hebrew Bible had indeed spelled out a set of purity laws for non-Israelites living in the Holy Land,
- this biblical law is echoed in early rabbinic and Christian attempts to formulate law for all gentiles, respectively for all those gentiles who followed Christ, and
- this biblical law continued to determine late antique Christian attitudes at least towards prohibited impurity even when the strict differentiation between two sets of laws, Jewish and gentile, waned in most Christian communities in the course of the centuries along with the recognition of the ongoing validity

<sup>105</sup> Tomson, "Jewish Purity Laws," 77–78.

<sup>106</sup> Marienberg, "*Qui coierit cum muliere in fluxu menstruo... interficientur ambo* (Lev 20:18)," 284.

of Jewish law after the coming of Christ. Throughout late antiquity, however, these communities maintained their full endorsement of gentile biblical law.

The increasing distance of the Church Fathers from the biblical hermeneutics underlying the Acts of the Apostles eventually obfuscated the Christian tradition of biblical law—both emanating from the Old and from the New Testament—to such a degree that the legal developments presented in this volume were forgotten in the Christian middle ages. As a result, the idea of positive biblical Christian law for gentiles, in the Western tradition, is limited to an adapted version of the Decalogue.

The tension within the Christian hermeneutics noted by Tomson and Marienberg, in other words, resulted from the legacy of the gentile purity laws in a new context. The legal hermeneutics underlying these laws' respective original settings, both in the Hebrew Bible and in the Acts of the Apostles, had already assumed rather than formulated a more complete system, a system that had subsequently been disputed and eventually forgotten. There are, however, two Jesus-focused texts that do maintain a legally decisive distinction between Jews and gentiles, along with differentiated sets of rules pertaining to prohibited and to regulated sexual impurity: the Clementine Homilies and the Qur'an. The former text is thus of disproportionate historical importance for its conservatism, maintaining the double distinction that had marked the Acts of the Apostles, well into the fourth or fifth century. The latter text, whose historical importance as the Islamic Scripture is evident, is equally of historical importance for late antique Christianity, since it shows that an ethno-legal divide similar to the one that marked nascent and much of late antique Christianity had thrived up to the turn of the seventh century CE. Configured somewhat differently, this parallel divide forms the basis also of the Qur'an's view of the divide between Israelites and (plausibly Ishmaelite) gentiles, and between prohibited and regulated forms of impurity. A closer look at the Clementine Homilies will therefore allow us to assess the Qur'an's continuities not so much with this peculiar text's legal and ethnic provisions, but with the expansive Christian attitude towards sexual purity law more broadly, which happens to be best preserved in the late apostolic Homilies.

The Clementine Homilies, we have seen in Chapter 1, offered the most conclusive evidence for the Qur'an's legal point of departure regarding food. Literary affinities between the Homilies and the Qur'an are scarce, yet the former text constitutes a key witness to many of the actual practices endorsed by the latter. To reiterate, the Homilies, whose preserved text was edited in the fourth or fifth century CE, approve of the gentile dietary requirements found in Leviticus, and place additional emphasis on gentile purity. They apparently distinguish between Jewish requirements—encompassing their version of the entire Torah—and gentile ones—the expanded reading of the Decree of the Apostles. The text, we will see, once again offers the most important *positive* evidence for the expansive attitude towards regulated impurity that proves crucial for the Qur'an. Significantly,



the Homilies' requirements for gentile sexual purity stand in line not only with the injunctions given to the *gerim* in Leviticus 18 but also with the injunctions to wash and observe menstrual purity in Leviticus 15. We had already noted that the Homilies summarize God's commandments to the gentiles in the words of the apostle Peter, as including the requirements "not to live any longer impurely (*mē akathartōs bioun*), to wash after lying with a woman (*apo koitēs gynaikos louesthai*); that they (i.e. the women) observe the menses (*aphedron phylassein*)."<sup>107</sup> We will now probe the meaning of this brief instruction within the context of the Homilies' broader sense of regulated sexual purity for gentiles.

The biblical understanding of gentile purity, as part of the Israelite collective purity system, was focused on the land and on its Sanctuary. The Homilies, by contrast, do not regard the instructions regarding the Sanctuary to be part of the Torah and transform the biblical purity laws into a system focusing on the gentile individual.<sup>108</sup> Instead of purity in the service of the holiness of land or place, the text understands ritual purity in the framework of a demonology, as we have briefly seen in the previous chapter (see pp. 95–98 above). A closer look at the Homilies' demonology helps understand the ways in which they distinguish between prohibited and regulated impurity, again preparing the Qur'an's comparable attitude by channelling the biblical distinction in a particular way. Demons, namely, can attack humans only if these first contract *prohibited* impurity by consuming impure food or through sexual conduct. After the flood, God is portrayed as explaining this fact to those demons who are given a stay until the end of times:

But if any of those who worship Me go astray, either committing adultery (*ē moicheusamenoī*), or practicing magic, or living impurely (*akathartōs*), or doing any other of the things which are not well-pleasing to Me, then they will have to suffer something at your (sc. the demon's) hands or those of others, according to My order. But upon them, when they repent, I, judging of their repentance, whether it be worthy of pardon or not, shall give sentence . . . . But you (sc. the believers) ought to know that the demons have no power over anyone, unless first he be their table-companion; since not even their chief can do anything contrary to the law imposed upon them by God.<sup>109</sup>

<sup>107</sup> *Clementine Homilies* 7:8, translation according to Roberts and Donaldson, *The Clementine Homilies*, 134, Greek according to Rehm, *Die Pseudoklementinen I*, 120; see also 7:4 and 8:19, and see pp. 92–93 above.

<sup>108</sup> The *Clementine Homilies*, for instance in their third chapter, consider commandments concerning sacrifice a satanic interpolation of Scripture; see e.g. Carlson, *Jewish-Christian Interpretation of the Pentateuch in the Pseudo-Clementine Homilies*, 51–77; on the falsification of Scripture see note 141 (Chapter 1) above.

<sup>109</sup> *Clementine Homilies* 8:19–20, translation according to Roberts and Donaldson, *The Clementine Homilies*, 145–46, Greek according to Rehm, *Die Pseudoklementinen I*, 129.

Purity, in the view of the Clementine Homilies, is first and foremost the absence of prohibited impurity, which is necessary in order to fend off the evil spirits, who are allowed to attack only once someone willingly brings impurity over him- or herself. The demons, in turn, seek to inhabit human bodies in their desire to partake in the joys of idolatry or illicit sexual intercourse:

But the reason why the demons (*daimonas*), delight in entering into men's bodies is this. Being spirits, and having desires after meats and drinks (*brōta kai pota*), and sexual intercourse (*synousian*), but not being able to partake of these by reason of their being spirits (*pneumata*), and wanting organs fitted for their enjoyment, they enter into the bodies of men, in order that, getting organs to minister to them, they may obtain the things that they wish, whether it be meat, by means of men's teeth, or sexual intercourse (*synousias*), by means of the genitalia (*aidoiōn*).<sup>110</sup>

In line with the broad Christian tradition associating illicit sexual intercourse with satanic impulses, this passage describes the demons' appetites in human terms. A linkage between demons and carnal desires is established in different ways also in the rabbinic concept of the "evil inclination," the *yetser ha-ra*, to which we will briefly return in Chapter 4.<sup>111</sup> The Homilies do not restrict the fulfillment of the demons' appetites as occurring merely through sacrificial meat and

<sup>110</sup> *Clementine Homilies* 9:10, translation according to Roberts and Donaldson, *The Clementine Homilies*, 153, Greek according to Rehm, *Die Pseudoklementinen I*, 135. "Drink" (*pota*) designates alcoholic beverages in this context; drinking of non-alcoholic beverages and "giving drink to the thirsty" are obviously endorsed by the *Clementine Homilies*; see e.g. 3:36, 69, and 11:4. Another passage illustrating the Homilies' association of wine, uncleanness, and demons is the following: "For the exhalation of blood, and the libation of wine (*hē tōn oinōn spondē*), satisfies even these unclean spirits (*ta akatharta pneumata*), which lurk within you and cause you to take pleasure in the things that are transacted there, and in dreams surround you with false phantasies, and punish you with myriads of diseases"; *Clementine Homilies* 11:15, translation according to Roberts and Donaldson, *The Clementine Homilies*, 180, Greek text according to Rehm, *Die Pseudoklementinen I*, 161–62.

<sup>111</sup> Attributing erotic desires to the demons is a widespread conception in the Christian conception of the figure of Satan as the tempter. To give but one example, the Didascalia Apostolorum likewise states that "all these lusts (*rgygt'*) are from the evil one (*mn bysh'*)," Didascalia Apostolorum I, ch. 1, see Vööbus, *The Didascalia Apostolorum in Syriac I*, 12. While Satan's role as a tempter is central to many late antique Christian genres such as the accounts of the fall or the tribulation of the saints, it is not absent from the rabbinic worldview. While evil, for the rabbis, is generally innate to humanity, there are many instances in which Satan appears as a tempter, and occasionally so in order to arouse illicit erotic desires. Examples for this include *Kiddushin* 81a, where the evil inclination leaves famous rabbis just in time before Satan, in the shape of a woman, can lure them, or *Sanhedrin* 107a, where Satan tricks David into perceiving Bathsheba while bathing. For an illuminating study of the topos of temptation in the Syriac and in the rabbinic world, and a convincing reading of the rabbinic evil inclination as an internalized form of demonic forces see James Aitken, Hector M. Patmore, and Ishay Rosen-Zvi (eds.), *The Evil Inclination in Early Judaism and Christianity* (Cambridge: Cambridge University Press, 2021); Ishay Rosen-Zvi, *Demonic Desires: "Yetzer Hara" and the Problem of Evil in Late Antiquity* (Philadelphia: University of Pennsylvania Press, 2011), 102–19; see also Yishai Kiel, *Sexuality in the Babylonian Talmud, Christian and Sasanian Contexts in Late Antiquity* (Cambridge: Cambridge University Press, 2016) and Shlomo Naeh, "Freedom and Celibacy: A Talmudic Variation on Tales of Temptation and Fall in Genesis and its Syrian Background," in *The Book of Genesis in*

drink: they seem to be partaking in and enjoying all the meat one eats and all the wine one drinks, as well as sexual intercourse, regardless of whether it is licit or illicit. Yet only illicit pleasures would have allowed the demons to inhabit the body in the first place, and the illicit sexual activities mentioned in the text are evidently based on Leviticus 18: in addition to intercourse with a woman during her menses, in the passage above, the text singles out incest, sex between men, adultery, and bestiality as vices promoted by Greek mythology.<sup>112</sup> It should be added that the patriarchs are cleared of any such behaviour: the text denounces the biblical tradition that Noah became drunk on his own wine as a satanic falsification of Scripture, allowed by God to be entered into some texts, along with the instructions regarding the sanctuary, only to test the mettle of true believers.<sup>113</sup>

In addition to the text's endorsement of the notion of *prohibited* impurity and its full, if unsurprising, validation of the sexual laws of Leviticus 18, the text also lists ritual washing after intercourse, "to wash after lying with a woman (*apo koitēs gynaikos louesthai*)," as an aspect of *regulated* impurity to be observed by gentiles. Gentiles, to reiterate, are not mentioned in the purity regulations concerning sexual intercourse and the menses in Leviticus 15. In addition, the Homilies suggest that washing is especially necessary before prayer—the text repeatedly portrays Peter's respective ritual observance.<sup>114</sup> Peter is Jewish and therefore bound by the entirety of the Mosaic Law, according to Acts and according to the Homilies. Yet the repeated portrayal of his complete immersion, and the text's pervasive praise of purity and washing, along with its exhortations against impurity and filth, make it quite likely that the text equally followed the tradition of requiring washing before prayer we attested in many Christian communities, as spelled out above. In addition, the Homilies' third requirement for gentiles "to be immersed (*baptisthēnai*) for the remission of sins (*eis aphesin hamartiōn*)," should be understood in both the context of "Christian" baptism and in the context of "Jewish" ritual immersion. The Homilies here endorse the notion that a singular immersion in water after repenting enacts the removal of previous sins that had led to prohibited impurity, while quotidian washing removes aspects of regulated impurity as contracted, for example, through sexual intercourse.<sup>115</sup>

*Jewish and Oriental Christian Interpretation*, ed. Judith Frishman et al. (Louvain: Peeters, 1997), 73–90. On demons see also note 142 (Chapter 1) above.

<sup>112</sup> See e.g. *Clementine Homilies* 4.16 and esp. 5:12–14 for the polemic against the role of sex between men and boys, incest, adultery, and bestiality in Greek mythology; see also Cornelia B. Horn, "The Pseudo-Clementine Homilies on the Challenges of the Conversion of Families," in *The Pseudo-Clementines*, ed. Jan N. Bremmer (Louvain: Peeters, 2010), 170–90.

<sup>113</sup> The issue of sex between men, duly considered by the Bible as well as the rabbis, is thereby reconceived as a Greek rather than a Canaanite practice; see p. 99 above. On the topic of the sinlessness of the patriarchs and the falsification of Scripture in the *Clementine Homilies* see pp. 97–99 and esp. note 141 (chapter one) above.

<sup>114</sup> See *Clementine Homilies* 10:1, 11:1, and 14:3, see also 8:2, 9:23, and 10:26.

<sup>115</sup> For rabbinic views on immersion see e.g. Mishna *Berakhot* 3:4–6 and *Keritot* 2:1; see also note 193 below.

The Homilies thus formulate a distinct theology of sexual purity, which incorporates the prohibition of sex during a woman's menses—in line with Leviticus 18—along with Jewish and Christian aspects of atoning baptism, all of which are equally contextualized in the Middle-Platonist goal of purifying the body along with the soul. The following passage connects these themes explicitly:

Therefore approach, be ye righteous or unrighteous. For if you are righteous, immersion (*baptisthēnai*) alone is lacking in order to gain salvation. But if you are unrighteous, come to be immersed (*tō baptisthēnai*) for the remission of the sins formerly committed in ignorance... However, it is necessary to add something to these things which has not community with man but is peculiar to the worship of God (*thrēskeias theou*). I mean purification (*kathareuein*), not approaching to a man's own wife when she is in separation (*en aphedrōouse*), for so the law of God commands. But what? If purity (*to kathareuein*) be not added to the service of God (*tē tou theou thrēskeia*), you would roll pleasantly like the dung-flies. Wherefore as man, having something more than the irrational animals, namely, rationality, purify (*katharate*) your hearts from evil by heavenly reasoning (*ouraniō... logismō*), and wash (*plynate*) your bodies in the bath (*loutrō*). For purification (*to kathareuein*) according to the truth is not that the purity (*katharseōs*) of the body precedes that of the heart, but that purity (*to katharion*) follows goodness.<sup>116</sup>

The Homilies here present baptism as leading to salvation by removing prohibited impurity, and continuous washing as a purity regulation leading to the double purification of body and mind (or “heart,” in its Greco-Semitic jargon). Surprisingly, the Clementine Homilies associate prohibited and regulated impurity to a degree, in a way that is reminiscent of the patristic polemics we have seen. They explain sexual intercourse during a woman's menses not so much as a grave transgression, akin to adultery, that is as a case of prohibited impurity, but as an issue seeming to resemble regulated impurity or even mere cleanliness, in contradistinction not to the Canaanites but to dung-flies. In this, the Homilies echo the fusion of the two biblical types of impurity we have seen in the voice of their detractors such as the Apostolic Constitutions, the Didascalia Apostolorum, or John Chrysostom—with the key difference, of course, that both notions of impurity are endorsed as operative and even essential legal categories for gentiles. In distinguishing between baptism, on the one hand, and washing after sexual intercourse and before prayer, the Homilies offer a key witness to the ongoing vitality not only of the respective practices in the Jesus movement of the fourth and fifth centuries

<sup>116</sup> *Clementine Homilies* 11:27–28, translation according to Roberts and Donaldson, *The Clementine Homilies*, 186, Greek according to Rehm, *Die Pseudoklementinen I*, 167–68; see also 11:30. Whereas the text clearly designates abstinence during the menses as part of God's law, it describes ritual washing merely as part of worship; how far this difference is legally meaningful is hard to determine.

but also of the discourse built on the dual endorsement of the concepts both of regulated and prohibited impurity. The Homilies, thus, fall within at least three identifiable frameworks in which their expansive view of regulated impurity can be placed: their biblical grounding, their Jewish and Christian baptismal theology, as well as in their Middle-Platonist context.

To conclude our survey of late antique Christian rulings on prohibited and regulated sexual impurity, we can see that the development of the gentile purity regulations, which Acts based on Leviticus, can be traced throughout late antiquity. All Christians agreed on safeguarding themselves against prohibited sexual impurity. Some Church Fathers abandoned and polemicized against or at least de-emphasized the observance of regulated impurity and a large number of Christians seem to have generally maintained them quietly. One legal strand of the Jesus movement—unlikely to be embodied in a separate community, yet intellectually traceable from Origen and Dionysius of Alexandria to the Clementine Homilies—expanded the gentile sexual purity rules by including practices of regulated sexual impurity. These observances came under pressure from some Church Fathers especially in the fourth century, yet they seem to have persisted in Christian communities at least up to the time of the Qur'an. I hold that we should count the vehement discourse against washing after sexual intercourse and before prayer we saw above as part of the evidence that these practices were attractive to many Christians. If so, then the evidence for the geographically widely spread persistence of an expansive attitude towards the Decree of the Apostles up to the fourth century CE is relatively obvious. The evidence past the fourth century CE, in contrast, is restricted, at least if we exclude much of the Aksumite evidence. The importance, in turn, of the Clementine Homilies, becomes clear, both in the context of their composition and in the context of their reception history. We can trace the reception history of the Homilies from Rome to Syria or even to Mesopotamia, and from Ethiopia to North Africa, showcasing how widespread their approach towards the Decree of the Apostles continued to be.<sup>117</sup> While these witnesses constitute evidence for understanding the practices the Qur'an takes for granted, we will see that the Qur'an itself, along with texts such as the letter of Gregory the Great, constitutes important evidence for the persistence of a Christian endorsement of regulated impurity laws up to the seventh century and often to this day.

We have seen that Epiphanius, the Apostolic Constitutions and the *Didascalia Apostolorum*, and Church Fathers such as Chrysostom and Augustine, denounced the established Christian observance of regulated sexual impurity laws within their communities. They thereby reflected the wide historical spread of these observances in the fourth century along with their opposition to them. Why,

<sup>117</sup> On the case of the Aksumite practices, see pages 102–5 above; on the circulation of the Clementine Homilies and related texts see note 129 (Chapter 1) above.

then, have historians been so reluctant to connect the dots pointing to the ongoing importance of Christian notions? It can certainly be said that we often mistake patristic polemics for historical fact, yet that does not explain the extent of our likely misreading. It is the heresiological tradition itself that in my mind casts a far longer shadow over the historical memory of Christian notions of ritual purity than some may suspect. The heresiologists' effective creation of a concept of heretical Christian groups, namely, has prevented us from seeing that the practices attributed to these groups were real, yet hardly marginal, and certainly not "heretical," if measured by their widely attested observance within so many Christian communities. The very specific endorsement of the notion of regulated impurity after sexual intercourse in the testimony from Alexandria, from Tyre, from Rome we have seen above, and its detailed rejection in Constantinople, in the Latin and the Syriac versions of the *Didascalia Apostolorum*, and also in the *Apostolic Constitutions*, corroborate a widespread practice reaching from Rome to Syria, and from Mesopotamia to Ethiopia. We can thus locate the practice of gentile purity regulations around all of Arabia as perhaps almost universally followed up to the fourth century, and at least as still widespread enough up to the seventh century and beyond for the Qur'an to present these laws as commonly observed. As in the case of food, our picture of late antique practices is deepened and broadened if we take the qur'anic evidence into account in our quest not only to define plausible Arabian attitudes towards gentile purity in the seventh century CE but also when seeking to comprehend the late antique Christian record itself, based on the limited sources we have.

### **Sexual Purity Regulations in the Meccan Qur'an**

The final two sections of this chapter will focus on sexual purity regulations in the Qur'an. I will again follow the traditional separation between a Meccan and a Medinan layer of the Qur'an as a general reading guide to the text, remaining to be corroborated by further philological criticism. ("Meccan Qur'an" is here used as a shorthand for the "Meccan layers of the Qur'an.") The view of sex expressed in the (later) Medinan surahs, and the terminology employed here, by and large, builds on that expressed in the (earlier) Meccan surahs. That being said, we will see that, paralleling the case of food laws, the Medinan surahs of the Qur'an display a far more developed set of legal rulings on sexual conduct than the Meccan ones, and that the emerging language of Islamic sexual purity begins to be more fully developed only here.

As in the case of idolatry and bloodshed discussed in Chapter 1, I will argue that the Qur'an eventually imposes a set of regulations on its community that obviously stands in line with the Decalogue, which plays a mostly symbolic role in the formation of qur'anic law. More specifically, the Qur'an also especially

stands in line with the long legal history that saw Leviticus 18 as applicable to gentiles, again with significant modifications.<sup>118</sup> As in the case of the food laws expressed in Genesis 9 and Leviticus 17, as endorsed by the Decree of the Apostles, the Qur'an stands in broad continuity with the Christian attitudes towards gentile sexual purity I depicted as the appreciative and the expansive ones. It imposes all those biblical laws pertaining to *prohibited* sexual impurity on its community and, in line with the Jewish and the Christian tradition, slightly expands the original list to include an interdiction of marriage with pagans (stipulating the terms of marriage with Jews and Christians along the way). In parallel with the Qur'an's rejection of pagan Meccan food laws, its endorsement of biblical sexual impurity regulations likely constitutes a departure from many aspects of pagan Arabian sexual norms.

We will see how the Qur'an develops its own unique system of regulated impurity based on the confluence of biblical and Christian practices with ancient South Arabian customs as evidenced by a sizeable epigraphical record. The Qur'an fully endorses the applicability of *regulated* sexual impurity for its non-Israelite community, here parting ways with the rabbis and those Christian authorities who saw this type of purity as pertaining to Israelites alone, or, respectively, as abrogated. As in the case of its food laws, the Qur'an's sexual purity laws thus stand closest not to the appreciative but to the expansive Christian attitude towards sexual purity. It shares an endorsement of rules governing regulated sexual impurity with the authors of the Clementine Homilies centuries before its time or with its near contemporary, Gregory the Great. What the Qur'an enjoins on its community is expressed with terms and concepts that have a long record in pagan Arabian culture. At the same time, we find very similar rulings attested throughout Christianity, either directly by a handful of sources or vehemently rejected by authorities such as Epiphanius of Salamis, John Chrysostom, Augustine, the Apostolic Constitutions, the Didascalia Apostolorum, and so many other texts that had berated their congregants for endorsing them. If we allow for a disinterested look at the entirety of the evidence, the Qur'an's testimony in Western Arabia at the turn of the seventh century would thus add to the picture that regulated sexual impurity may once have been a concern throughout Christendom. It remained so at least in the more conservative Christian communities, or at least among the more conservative members of many churches. The fact that the Qur'an emphatically endorses such practices in a region where they had deep roots to begin with is hardly surprising and allows to move towards a broader thesis on broader notions of purity in the Islamic Scripture.<sup>119</sup>

<sup>118</sup> On sexual laws in the Decalogue see note 67 above, on the importance of the Decalogue for the Christian tradition and for the Qur'an see note 149 (Chapter 1) above.

<sup>119</sup> Needless to say, the Aksumite evidence would strongly support the sense that regulated sexual impurity was taken for granted by many Christians in the environs of the nascent Islamic community should its practices be late antique; on the relevance of the Aksumite evidence and the difficulties pertaining to its dating see pp. 102–5 above.



In line with the Clementine Homilies and with many other Christians across many linguistic, ethnic, and chronological boundaries (whose practices I sought to reconstruct by considering the chagrin of some of their shepherds), the Qur'an therefore takes an expansive view of "gentile"—or, perhaps more precisely, Ishmaelite—purity and impurity. It thus continues the hermeneutical process that began in the Holiness School: it reduces ambiguity and specifies rules regarding prohibited impurity, mainly stemming from Leviticus 18, in direct or indirect oral dialogue with Leviticus and its late antique jurisprudential history, and it does so by expanding rules regarding regulated sexual impurity to gentiles that may initially have been addressed to Israelites alone, especially those in Leviticus 15. As in the case of food laws, however, the Qur'an's regulations concerning sexual *purity* indicates closer continuities with a Christian legal tradition than its laws pertaining to *sanctity* within the Meccan sanctuary and during the pilgrimage towards it, which should be understood within a more locally confined Arabian context—a topic touched upon above to which we will return in Chapter 4.<sup>120</sup>

The relationship between the Meccan Qur'an and the biblical and late antique purity regulations are perhaps best illustrated by beginning with the question of if and especially how the Qur'an conceives of illicit sexual intercourse. In previous traditions, I had argued, we should, by and large, understand the term *porneia*, from the Acts of the Apostles throughout Christianity, and including the concept of *znywt'* in the Syriac tradition, along with the concept of *znwt* in early rabbinic literature, in roughly the same way as late antique Jews and Christians understood them: as including the entirety of the transgressions singled out in Leviticus 18 as "the uncovering of nakedness," with some minor expansions. The Qur'an similarly prohibits specific forms of incest in close dialogue with Leviticus 18 (to which we will turn in Chapter 3), and it prohibits sexual intercourse during the menses, adultery, marriage to idolaters, and sex between men and, arguably, between women, remaining silent, like many late antique texts, only on the topic of bestiality.<sup>121</sup> This relatively far-reaching overlap regarding the gentile sexual purity laws of Leviticus and the Qur'an is noteworthy in and of itself. As is the case with purity laws governing food and incest, moreover, I will seek to illustrate that the nascent Muslim community, particularly so in Medina, was finely attuned to the Jewish and especially to the Christian understandings of prohibited and regulated impurity. Once again, it seems justified to describe this tradition as the Qur'an's legal point of departure.

We have seen that most Christian texts, with important exceptions, presuppose rather than list the individual laws pertaining to prohibited sexual impurity as

<sup>120</sup> On the Meccan sanctuary and pilgrim sanctity see pp. 120–22 above as well as pp. 308–11 below.

<sup>121</sup> On bestiality in the late antique tradition see notes 13, 32, and 112 above and 147 below. The topic of bestiality is duly discussed in the Islamic legal tradition, see Bousquet, *L'Ethique sexuelle de l'Islam*, 57.

enfolded in the concept of illicit sexual intercourse. The Qur'an seems to employ a similar overarching concept of "sexual transgression." Although aspects of this concept are occasionally spelled out, the attempt to gain a better grasp of its terminology demands some comparative philology. The Arabic term *zinā*, to begin with, is a lexical cognate to Hebrew *znwt*, Aramaic *znwt'*, and Syriac *znywt'*, which, we have seen, can designate "illicit sexual intercourse" more broadly, or "fornication" as well as "intercourse with a prostitute" and "prostitution" more specifically. In the Qur'an, however, *zinā* does not necessarily denote the broad catalogue of sexual transgressions mentioned in Leviticus 18. The Meccan Qur'an uses the term in an open way that cannot be determined with full certainty; here, it could encompass a broad range of sexual transgressions. We will find, however, that the Medinan Qur'an uses *zinā* in a way that suggests that it denotes "fornication" in a slightly wider sense, namely, heterosexual intercourse between a man and a woman not married to each other, regardless of their marital status otherwise—a transgression under which, we will see, the Qur'an *also* seems to subsume adultery. In this case, the Qur'an does *not* follow the widespread (if not categorical) Jewish and especially Greek Christian precedent to distinguish between adultery (*moicheia*) and fornication (*porneia*), which we encountered above.<sup>122</sup> It is likely, yet not certain, that the Meccan usage of *zinā* implies the same meaning of "fornication" that we can perceive in the Medinan surahs. Yet even without a conclusive definition of the term's meaning, the way in which the Meccan Qur'an uses the term *zinā* shows many signs of its continuity with late antique sexual purity discourse.

In addition to and sometimes along with *zinā*, the Qur'an uses the far wider term *fāḥisha/fāḥshā'*, which, I hold, *can* denote *all* forms of sexual transgression, both in the Meccan and the Medinan surahs. It is this latter term that thereby constitutes a far closer parallel in meaning to the Jewish and Christian concepts of "illicit sexual intercourse" designated—especially by the tradition of Christian implementation of the Decree of the Apostles—as *porneia* in the Greek, as *fornicatio* in Latin, and as *znywt'* in the Syriac. Hence, the Qur'an's usage of both terms, of *zinā* as "fornication" and of *fāḥisha/fāḥshā'* as "sexual transgression" more broadly, stands in direct continuity with many of the legal and cultural norms attached to the notion of illicit sexual intercourse throughout late antiquity.

<sup>122</sup> See pp. 149–51 and esp. note 45 above and pp. 181–206 below. The jurisprudential schools of classical Islam include a variety of transgressions under the term *zinā*; most agree on its meaning to include both fornication and adultery. Previous Western commentators have, to the best of my knowledge, not assessed the meaning of the *zinā* in its late antique context; see e.g. Nadia Abu-Zahra, "Adultery and Fornication," in *Encyclopaedia of the Qur'an*, ed. Jane Dammen McAuliffe (Leiden: Brill, 2001), vol. I, 28–30; and Josef Schacht, "Zinā," in *Encyclopaedia of Islam*, 1st ed., ed. Martinus Th. Houtsma et al. (Leiden: Brill, 1913–36), vol. IV, 1227–28. For a valuable inquiry into the early Islamic context see now Ersilia Francesca, "'Put the Ocean between Them': Fornication as Permanent Impediment to Marriage in early Ibādī Islam," *Jerusalem Studies in Arabic and Islam* 50 (2021): 101–38.

The root *z-n-y* occurs only twice in the Meccan surahs. It once appears as a noun in Q 17:32: “Do not approach fornication (*al-zinā*). It is indeed *fāḥisha* and an evil way.” The same root then is used as a third-person masculine plural imperfect verb in form I in Q 25:68, a verse which praises “[t]hose who do not invoke another god besides God, and do not kill a soul God has made inviolable, except with due cause, and do not commit fornication (*yaznūna*). Whoever does that shall encounter its retribution” (unless they repent; see v. 70). In neither occurrence does the context help us determine its meaning directly; yet both passages are revealing if read in their larger qur’anic and late antique contexts.

In Q 17:32, to begin with, *zinā* is qualified as a *fāḥisha*, a “sexual transgression,” and the latter term allows us to draw some conclusions about the former one as well. It is the term *fāḥisha*, or its cognate *faḥshāʾ*, that describes a broad variety of sexual transgressions in other Meccan surahs, including the attempt to seduce Josef in Q 12:24 by a woman married to someone else, as well as sex between men in Q 7:80, Q 27:54, and Q 29:28 (to which we will return). Committing *fāḥisha/ faḥshāʾ*, moreover, is, in Q 7:28, at least juxtaposed if not discursively related to the (non-sexual) sin of Adam and his wife, which, in Q 7:27 led Satan to “strip them of their garments to show them their nakedness” (or “their evil,” *yanziʿu ʿanhumā libāsahumā li-yuriyahumā sawʿatihimā*). This last passage is the closest the Qur’an comes to engaging the biblical *term* designating all major sexual transgressions, the “uncovering of nakedness”—which is not very close at all.<sup>123</sup> Whereas the term may be absent, however, the *concept* seems very relevant, since the Qur’an plausibly uses its own term *fāḥisha* and *faḥshāʾ* in a way that denotes all forms of sexual transgression, akin to “uncovering of nakedness” in the Bible and “illicit sexual intercourse” in Jewish and Christian discourse, designated by Hebrew *znwt*, Greek *porneia*, Aramaic *znwtʿ*, and Syriac *znywtʿ* in its broad meaning. The same meaning of *fāḥisha* and *faḥshāʾ* seems to be maintained in the Meccan and Medinan parts of the Qur’an, as we will see when turning to the respective evidence.<sup>124</sup>

<sup>123</sup> The Qur’an uses the noun *sawʿāt*, which likely denotes “nakedness,” or possibly “evil” exclusively in the context of the story of Adam and his wife; see Q 7:20, 22, and 26–27, as well as Q 20:121. In addition, the Qur’an does employ the Arabic term *ʿawra* in Q 24:31 to designate the genitals, and in Q 24:58, less clearly, to designate “nakedness,” more generally. However, while the term *ʿawra* in Q 33:13 also shares the connotation of a place being exposed to danger with its Hebrew cognate, *ʿerwāh* (see pp. 240–41 below), the Qur’an never speaks of the “uncovering of nakedness.” On *fāḥishah/ faḥshāʾ* and Satan see also Q 24:19 and 21 and the following note. On the biblical imagery of the nakedness of Adam and his wife in its late antique and qur’anic context see Zellentin, “Triological Anthropology,” 82–85 and 111–14. On Q 24:31 see also note 86 (Chapter 3) below.

<sup>124</sup> The following Meccan passages employ the noun *fāḥishah* or *faḥshāʾ*: in Q 6:151, it occurs within list of pre- and proscriptions; in Q 7:27–28, it is associated with Satan; in Q 7:33, it is associated with “sin” (*al-ithm*) and “aggression” (*al-baghy*), as well as with associationism; in Q 7:80, it describes the act intended by Lot’s people (see below); in Q 12:24, it describes adultery through seduction; in Q 16:90, it occurs in a list next to “wrong” (*al-munkar*); in Q 17:32, it is associated with *zinā*; in Q 24:19 and 21, it is associated with “wrong” (*al-munkar*) and with Satan (see note 139 below); in Q 29:45, it occurs next to “wrong” (*al-munkar*); in Q 27:54 and in Q 29:28, it describes the act intended by Lot’s

I thus hold that the conceptual affinity between the Qur'anic terms *fāḥīsha/fahshā'*, "sexual transgression," on the one hand, and the broad biblical, rabbinic, and especially Christian notion of "illicit sexual intercourse," on the other, points to a specifically shared discourse on prohibited sexual impurity. In addition to the more tenuous case of Q 7:27–28, the Qur'an often explicitly associates *fāḥīsha/fahshā'* with Satan, thus evoking the late antique association of illicit sexual intercourse and the devil as we have seen, for instance, in the demons' desire for illicit sexual intercourse found throughout late antique Judaism and, especially, Christianity.<sup>125</sup> The Qur'an's conceptuality of "sexual transgression" is thus a distinct Arabic one that, even if somewhat broader, remains in close dialogue with the concept of "the uncovering of nakedness" in the Bible and stands even closer to the Christian iteration of this notion as "illicit sexual intercourse." It is against this background of their continuity with late antique sexual purity regulations that we can contextualize the two most telling Meccan usages of the term *zinā* in Q 17 *Sūrat al-Isrā'* and in Q 25 *Sūrat al-Furqān*, as well as the two important Meccan employments of the term *fāḥīsha/fahshā'* to describe sex between males.

In both the Meccan passages in which it occurs, *zinā* is forbidden in an immediate and in a larger context of lists of other precepts that are reminiscent of the specific rules found in the biblical gentile laws of Genesis 9 and of the Holiness School and their late antique reception history. In Q 17 *Sūrat al-Isrā'*, *zinā* is proscribed just before the prohibition of murder (Q 17:32–33), in a longer list that closes with a prohibition of *shirk*, "associationism," that is of associating another deity or divine persona with God (Q 17:39; the Qur'an refers to persons guilty *shirk* as "associators").<sup>126</sup> In Q 25 *Sūrat al-Furqān*, the prohibition "not to engage

people (see again below); in Q 42:37 and in Q 53:32, it is associated with "major occurrences of sin" (*kabā'ira l-ithm*). The term, if specified, is thus consistently associated with sexual transgressions enticed by Satan. On the nouns *fāḥīshah* and *fahshā'* in the Qur'an see pp. 184–218 below; for a brief discussion see also Izutsu, *Ethico-Religious Concepts in the Qur'an*, 233–34. Another term in the Meccan Qur'an that describes a sexual transgression is *baghy* in Q 19:20 and 28, where Mary is cleared of the charge. The simplest reading of the term in this case, here, and in the Medinan passage Q 24:33, is that it designates "prostitution," not least because of the long-standing accusations against Mary reflected in Christian and Jewish sources; see e.g. Peter Schäfer, *Jesus in the Talmud* (Princeton: Princeton University Press, 2007), 112–14.

<sup>125</sup> On the association of illicit sex and demonic desires in Jewish and Christian late antiquity see note 111 above; on the similar association in the Meccan Qur'an see the previous note; on the Medinan evidence see note 139 below. Moreover, we should note that the Hebrew and Aramaic root *p-h-sh*, which is etymologically related to *f-h-sh*, can designate the act of "tearing off," evoking the notion of "uncovering"; see e.g. Tosephta *Yebamoth* 14:10 and Bavli *Yebamoth* 122b; see also Marcus Jastrow, *A Dictionary of the Targumim, Talmud Babli and Yerushalmi, and the Midrashic Literature* (New York: Judaica Press, 1996 [1926]), 1245. The Hebrew and Aramaic root *p-h-sh*, however, is not the usual one used to "uncover" (cf. *p-sh-t*); the link between this root and *fāḥīshah/fahshā'* is therefore tenuous at best. On the relevance of Aramaic for Qur'anic Arabic see also note 209 (Chapter 1) above.

<sup>126</sup> *Shirk*, often translated as "polytheism," should rather be understood as "associationism" since it includes not only idolatry but also heresies, especially such as pagan, Jewish, and Christian forms of monotheism perceived as impure; see Zellentin, "*Aḥbār and Ruhbān*," 284, note 18, with references to recent scholarship; see also Izutsu, *Ethico-Religious Concepts in the Qur'an*, 130–33 and note 57 (Chapter 4) below. Sinai intriguingly posits a Jewish conceptual context; see Sinai, *Key Terms of the*

in *zinā*” (*wa-lā yaznūna*), the second of the two relevant passages, is equally given in the immediate context of the prohibition of associationism and murder (Q 25:68). The Meccan Qur’an’s joint prohibition of murder, associationism, and *zinā* thus evokes the biblical association of murder, idolatry, and the “uncovering of nakedness” through which Leviticus 17 and 18 expand the commandments given to Noah in Genesis 9. The Qur’an’s joint prohibition of the three acts also reminds us of the prohibition of “blood,” idol meat, and illicit sexual intercourse in the Decree of the Apostles that shaped the late antique Christian tradition.<sup>127</sup> Hence, while only the Medinan evidence allows us to understand the term *zinā* more concretely in terms of “fornication” broadly defined, the specific immediate affinity of murder, associationism, and *zinā* in the Meccan Qur’an points to the moral universe shared with the Christian as well as with the rabbinic tradition.

The larger context corroborates this impression. Both times *zinā* is prohibited in the Meccan Qur’an, the immediate clusters are embedded in a wider cluster of precepts which I have previously argued reflect the broader legal culture shared especially with Syriac Christianity. In Q 25 *Sūrat al-Furqān*, the prohibition of *zinā*, polytheism, and murder is preceded by a list of virtues, such as to be humble and peaceful (Q 25:63), to hold nightly vigils (verse 64), to supplicate God to avoid hell (verses 65–66), and to engage in charity (verse 67); it is succeeded by an exhortation to repent (verses 70–71), the prohibition of false testimony and of heeding to gossip (verse 72), a reminder to heed God’s signs (verse 73), to take comfort in one’s family and one’s role among the godwary (verse 74), and the promise of paradise (verses 75–76). A parallel list of precepts, in this case with *zinā* and murder near its centre, can be found in Q 17 *Sūrat al-Isrā’*, and a related one in Q 6 *Sūrat al-An’ām* (here, significantly, with the term *fāḥisha* taking the place of *zinā*).<sup>128</sup> All three lists are reminiscent of the legal discourse in the Syriac

*Qur’an*, s.v. *ashraka*. Note also that the root *sh-r-k* occurs in ancient South Arabian epigraphy, where it can denote “sharing out” or “apportioning,” especially in the sense of share-cropping; see Copeland Biella, *Dictionary of Old South Arabic*, 526; and see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=šrk> (accessed 5 March 2021).

<sup>127</sup> The same prohibitions, of course, feature among the rabbinic regulations for gentiles. In addition, we should note that the rabbis understand the sins of murder, idolatry, and the “uncovering of nakedness” as especially egregious, necessitating that Jews must at all times suffer martyrdom rather than acquiesce in being forced into committing any of them; see Tosephta *Sanhedrin* 15:17, Bavli *Sanhedrin* 74a and *Ketubot* 19a; for a discussion of the rabbinic maxim see e.g. Aryeh Cohen, “Towards an Erotics of Martyrdom,” *Journal of Jewish Thought and Philosophy* 7 (1998): 227–56.

<sup>128</sup> In *Sūrat al-Isrā’*, the injunction not to commit *zinā* (*wa-lā yaznūna*) and murder in Q 17:32–33 is preceded by an exhortation to be neither wasteful nor stingy (verse 29), a promise that God will provide for his servants (verse 30), and the prohibition to murder children for fear of penury (Q 17:31); it is succeeded by a reminder to deal justly with orphans’ property and fulfil all contracts (Q 17:34), obey exact measures (Q 17:35), not to rely on hearsay (Q 17:36), not to be exultant (Q 17:37), a summary (Q 17:38), and the prohibition of idolatry (Q 17:39). The presumably late Meccan Surah Q 6, *Sūrat al-An’ām* places not *zinā* but *fāḥishah* in a similar list (the term we saw as qualifying *zinā* in Q 17:33); Q 6:151 namely prohibits “fornication” (*fāḥishah*) in the context of proscribing associationism, prescribing honour to parents, prohibiting the killing of children for the fear of penury, and murder, closely evoking the similar lists in Q 17 and Q 25.

tradition, especially as offered by the Didascalia Apostolorum, as I have argued previously, thereby pointing again to the specific late antique context of the Qur'an's sexual purity regulations.<sup>129</sup>

Yet whereas the Qur'an shares its moral symbolism to a degree with the rabbinic and especially with the Christian tradition, it is evident that its literary presentation is unmistakably its own: the entire catalogue in *Sūrat al-Furqān*, for example, functions as a dramatic coda to the surah as a whole, and it is structurally set apart through a literary frame of its own that emphasizes "peace" in the here and in the hereafter.<sup>130</sup> The structural framework achieved by an opening and a closing, and by its central positioning of three specific crimes, dovetails with the extra emphasis the text places on the triple prohibition of murder, associationism, and *zinā*: whoever commits any of these three sins can expect that the punishment will be "doubled for him on the Day of Resurrection," lest they repent (Q 25:68).<sup>131</sup> Hence, it is unsurprising that the Qur'an would prohibit *zinā* more specifically and sexual transgressions more broadly, yet we can equally conclude that it does so in dialogue with the Syriac Christian legal tradition and possibly also with the rabbinic one, all the while placing the Jewish and the Christian legal culture into a literary and legal framework entirely of its own.

Overall, however, in the prohibitions of sexual transgressions in the Meccan as well as in the Medinan layers of Qur'an, two topics—prohibited sexual impurity and natural law—have not yet been addressed. These are especially important as we saw these to be so prominently discussed in the Apostolic Constitutions and throughout the East and West Syrian Christian traditions. The Qur'an's language describing sexual misconduct, in a first reading, does not seem to explicate the issue of *prohibited* impurity. This fact, however, may owe more to our wanting grasp of the Qur'an's association of any type of sin with prohibited impurity; a central theme we will revisit in more detail in Chapter 4. Here, I will hold that the association of sexual transgressions with Satan, and of Satan with prohibited impurity per se, very well places any sexual transgressions squarely within the realm of prohibited impurity. (Regulated impurity, by contrast, must not be confused with this matter.) The Qur'an, moreover, does not explicitly evoke the

<sup>129</sup> See Zellentin, *The Qur'an's Legal Culture*, 55–76.

<sup>130</sup> The list in *Sūrat al-Furqān*, indeed, opens by stating that the true servants of God are wont to "say peace" (*qālū salāman*) even to the "ignorant" (*al-jāhilūna*, Q 25:63), and in turn closes by describing their reward in paradise, where they will be "met with greetings and peace" (*wa-yulaqqawna fihā taḥiyyatan wa-salāman*, Q 25:75). On the use of such *inclusios* in *Sūrat al-Baqara* see Nevin Reda, *The Al-Baqara Crescendo: Understanding the Qur'an's Style, Narrative Structure, and Running Themes* (Montréal: McGill–Queen's University Press, 2017).

<sup>131</sup> The warning that fornication will lead to punishment on the day of judgement, unsurprisingly, is equally widespread in Christian literature. The Didascalia Apostolorum, to give but one example, warns that one should marry young, "lest in their youth by the vehemence of youthfulness they commit fornication like the heathen (*'yk hnp'*), and you have to give an account to the Lord God in the day of judgement (*bywm' ddyn'*"); see Didascalia Apostolorum, ch. 22, see Vööbus, *The Didascalia Apostolorum in Syriac II*, 220.8–10.



concept of natural law, yet clearly shares, especially with the Syriac tradition, a sense of a dual revelation.<sup>132</sup> Whereas the evidence is circumstantial also in this case, I hold that the Qur'an shares the tendency of Christian texts to place the issue of sex between men in a category of its own. It may even describe it, in its own way, as "unnatural," in this respect mirroring the legal category of "natural law" not in abstract but in concrete terms, as expressed for instance in the Apostolic Constitutions and by Mar Aba, as we have seen above (see pp. 156–57). The Qur'an, namely, depicts the instances of "Lot's people" in a way that is very similar to how Jews and especially Christians had understood the story of the Sodomites, that is as condemning any form of sex between men, consensual or not, and as a story depicting a transgression against a central tenet of nature itself.

We have seen that the biblical prohibition of sex between men, just like the remainder of the gentile purity laws, finds at least its symbolical framework in the story of Noah in Genesis 9. (Here, Ham's failure to "cover his father's nakedness" led to the curse of his son Canaan and thereby of the Sodomites, who are part of Canaan's offspring and accused of attempted male rape in Gen 19:5, just as the Canaanites are accused of practising sex between men in Leviticus 18; see pp. 131–35 above.) The Qur'an, while sharing the story known from Genesis 19 and the proscription of sex between men found in Lev 18:22, integrates the ethnic politics of the biblical story into its own prophetic framework, in which prophets are sent to their own people.<sup>133</sup> The Canaanite Sodomites of the Bible, hence, become Lot's "brothers," as he indeed calls them figuratively in Genesis 19.<sup>134</sup> In its narrative about Lot's people and their punishment, I have argued elsewhere, the Meccan Qur'an, moreover, reflects a retelling of various Palestinian rabbinic traditions.<sup>135</sup> The way in which sex between men is condemned, for instance in Q 7 *Sūrat al-A'raf* 80–81, however, may stand closer to the Christian tradition of understanding Lot than it does to the biblical or the rabbinic one:

<sup>132</sup> See Decharneux, "The Natural Theology of the Qur'an and Its Late Antique Christian Background," 177–99; I have not been able to consult Ulrika Mårtensson, *Divine Covenant: Science and Concepts of Natural Law in the Qur'an and Islamic Disciplines* (Sheffield: Equinox, 2022).

<sup>133</sup> On the Qur'an's prophetology see note 168 (Chapter 1) above.

<sup>134</sup> Lot calls the Sodomites "my brothers" (*ahay*) in Gen 19:7. The Bible, however, depicts Lot, like Abraham, as a descendant of Terah and thereby of Shem, not of Ham. While the figurative use of the term "my brothers" in such a situation is not unique (cf. Gen 29:4), one cannot dismiss Lot's ironic allusion to the curse of Ham as a slave "to his brothers" (*lā'ehāyiw*) in Gen 9:25: he is addressing the people as brothers who were cursed to be slaves to his own tribe; cf. David M. Goldenberg, *The Curse of Ham: Race and Slavery in Early Judaism, Christianity, and Islam* (Princeton: Princeton University Press, 2009), esp. 141–77.

<sup>135</sup> See Zellentin, "The Synchronic and the Diachronic Qur'an," esp. 138–55; for further insights (and some important corrections to my own study) see also Joseph Witztum, "Thrice Upon a Time: Abraham's Guests and the Study of Intra-Qur'anic Parallels," in *The Qur'an's Reformation of Judaism and Christianity: Return to the Origins*, ed. Holger Zellentin (Abingdon: Routledge, 2019), 277–302.



80 And Lot, when he said to his people, “Do you commit a sexual transgression (*a-ta'tūna l-fāḥishata*) in which no one has preceded you (pl.) from among the worlds” (*mina l-'ālamīn*)?

81 Indeed you come to men lustfully (*shahwatan*) instead of women! Rather, you are a profligate lot.

Lot's accusation in Q 7:80, which is repeated in Q 29:28 almost verbatim and slightly differently in Q 27:54, frames the actions of Lot's people as a “sexual transgression,” *fāḥisha*, which I suggested above to designate a broad category of sexual sins akin to “the uncovering of nakedness” according to Leviticus 18. We should note that the Meccan Qur'an uses the very common root *'-t-y* (form I) to designate the “committing” of a “sexual transgression” only in the three cases where it describes sex between men; the Medinan Qur'an, in a reading I will suggest, equally applies this root to “sexual transgressions” that include sex between men.

Whereas other readings certainly are possible, I would hold that the Qur'an's notion that sex between men among Lot's people is “unprecedented” most closely recalls the Christian notion of sex between men as “unnatural,” a concept largely absent from rabbinic thought.<sup>136</sup> We have seen this widespread Christian idea summarized by the Apostolic Constitutions, which claim that “the sin of Sodom is contrary to nature (*para physin estin*),” and that those engaging in sex between men “attempt the dissolution of the world (*dialusin kosmou*), and endeavour to make the natural course of things (*ta kata physin*) to change for one that is unnatural (*para physin*).”<sup>137</sup> Likewise, Mar Aba, in his treatise on Leviticus 18, classified sex between males and with animals as “unnatural” (*dl' bkyn*), and as breaking the rules that had governed all creatures *since the dawn of creation (mn brshyt)*.<sup>138</sup> In its evocation of the lack of precedent for sex between men, the Qur'an may therefore best be understood as accusing them of breaking the immutable rules of nature, again pointing to a broad cultural (yet not a literary) continuity especially with the Christian tradition.

Regardless of this last instance, we can place the prohibition of illicit sexual intercourse voiced in the Meccan surahs in the framework of the Christian reception of *prohibited* sexual impurity. The Meccan Qur'an, in other words, endorses the respective prohibitions of Leviticus 18, and integrates them in its legal and prophetological narrative without further specifying their nature or possible actions against those transgressing them. What is absent in the Meccan surahs is any reference to *regulated* sexual impurity—this can only be found in the Medinan

<sup>136</sup> While rabbinic Judaism prevaricates on the question whether or not one should suspect Jews to incline towards sex between men, they suspect gentiles of doing so; the rabbis in general hardly espouse the idea of natural law, including on this matter; see e.g. Mishna *Kiddushin* 4:14 and Bavli *Kiddushin* 82a, and pp. 68–69 and 154–55 above as well as esp. note 57 above.

<sup>137</sup> Apostolic Constitutions 6:28 (12); Metzger, *Les constitutions apostoliques*, vol. 2, 382.

<sup>138</sup> Sachau, *Syrische Rechtsbücher*, 258, my translation and emphasis. We will return to Mar Aba in more detail in the third chapter.

surahs, along with a further elaboration on the sexual impurity laws which once again point to their biblical origin along with their rabbinic and especially their Christian reception history.

### Sexual Purity in the Medinan Qur'an

The Medinan layers of the Qur'an—here summarily referred to as “the Medinan Qur'an”—offer a much more comprehensive approach to sexual purity and impurity, all the while continuing to develop the discourse of the Meccan Qur'an—as well as showing signs of a further elaboration of the late antique rabbinic and especially Christian traditions. We will first consider the legislation on sexual transgressions depicted as *fāḥishah/fahshā'*, “sexual transgression,” and *zinā*, likely defined as “fornication” in a broad sense, in the Medinan surahs, and then move towards the symbolic framework within which the Qur'an perceives of prohibited and regulated sexual impurity.

Two Medinan verses, Q 2:169 and Q 2:268, to begin with, associate *fahshā'* with Satan's temptation. According to Q 2:169, “[Satan] only prompts you to evil and sexual transgression (*ya'murukum bi-l-sū'i wa-l-fahshā'i*), and that you attribute to God what you do not know.” Likewise, Q 2:268 states that “Satan frightens you of poverty and commands you to sexual transgression (*wa-ya'murukum bi-l-fahshā'i*). But God promises you His forgiveness and grace, and God is Bounteous, Knowing.” Both verses stand in line with the Meccan and the Christian tradition, thereby linking prohibited sexual impurity to the Qur'an's discourse on sin as the very type of satanic defilement which we will fully consider in Chapter 4.<sup>139</sup>

In a few cases, the Medinan surahs of the Qur'an, just like in the Meccan ones, use the nouns *fāḥishah* and *fahshā'* to describe a range of sexual transgressions that are left unspecified, corresponding to the broad biblical notion of the “uncovering of nakedness” according to Leviticus 18 in its Jewish and Christian reading.<sup>140</sup>

<sup>139</sup> See Q 7:27–28, Q 24:19 and 21. In Q 2:169, moreover, *fahshā'* is associated with “evil” (*sū*); on the related noun *sawāt*, nakedness, and its late antique context see note 123 above, see also Q 4:17 below. On the nouns *fāḥishah* and *fahshā'* in the Meccan Qur'an see pp. 185–86 above; on the association of Satan and sexual temptation in late ancient Judaism and Christianity see pp. 177–78 above.

<sup>140</sup> One exemplary unspecified occurrence of *fāḥishah* in the Medinan Qur'an occurs in Q 65:1, where the term describes a sexual act by a woman immediately after her divorce. (The Qur'an's specific rulings on marriage and divorce cannot be treated here, yet will receive further attention in Chapter 3.) The Bible permits divorce (see e.g. Lev 21:7 and 14; 22:13, and Deut 22:19 and 29), and the rabbis build on the biblical rulings (see esp. the tractate *Gittin* in the Mishna, Tosephta, and the Talmudim). The Christian tradition by and large rejects the biblical rules on divorce, yet the “Matthean exception” in Matt 19:9 has guided respective church law in the case of adultery; on this exception and the many other possible reasons that would allow Byzantine and Syriac-speaking Christians to divorce see Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 84–122. The Qur'an's laws, set out especially in Q 2:226–41 and in Q 65:1–7, have only marginal overlaps with the rabbinic rulings, such as the three-month waiting period specified in Mishna *Yevamoth* 4:10. On marriage and divorce in classical Islam see Arthur Gribetz, *Strange Bedfellows: Mut'at al-nisā' and mut'at al-hajj. A Study Based*

Some of the occurrences of the term, however, allow for a more specific definition of what it signifies, and which late antique traditions it presupposes, if one allows for a close philological and historical analysis. A first notable occurrence, Q 4:15–18, describes the “committing” of a *fāḥisha*, an unspecified sexual act committed by women or by men:

15 And those (*wa-llāti*, f., pl.) who commit a sexual transgression (*yaʿtina l-fāḥishata*, f., pl.), from among your women (*min nisāʾikum*), produce against them four witnesses from yourselves, and if they testify, detain them in houses until death takes them (*yatawaffāhunna l-mawtu*), or God decrees a path for them.

16 And those two (*wa-lladhāni*, m.) who commit it (*yaʿtiyānihā*, i.e. such a sexual transgression), from among you (*minkum*, m.), make them both suffer (*fa-ādḥūhumā*); but if they repent (*fa-in tābā*) and reform, let both of them alone. Indeed, God is clement, merciful (*allāha kāna tawwāban raḥīman*).

17 Repentance before God is only for those who commit evil out of ignorance (*yaʿmalūna l-sūʿa bi-jahālatin*), then repent promptly (*yatūbūna min qarībin*). It is such whose repentance God will accept (*yatūbu llāhu ʿalayhim*), and God is knowing, wise.

18 But repentance is not for those (*wa-laysati l-tawbatu li-lladhīna*) who go on committing misdeeds (*yaʿmalūna l-sayyiʿāti*): when death approaches any of them, he says, “I repent now (*innī tubtu l-āna*).” Nor is it for those who die while they are faithless. For such We have prepared a painful punishment.

The “sexual transgression” committed by women in the first case, in Q 4:15, can be deduced by the one committed by the two people in the second one, in Q 4:16, and vice versa. The verses shed light on each other based on their structural parallelism, resulting in two possible interpretations:

- Verses 15–18 clearly describe the same sexual transgression, as indicated by the suffix *-hā* (“those two that commit *it*,” my emphasis) in verse 16, which refers to the term *fāḥisha*, “sexual transgression” in verse 15. This invites the audience to understand the two verses alongside each other as depicting two diverging instances of the same sexual transgression.
- The respective opening phrases of the two verses highlight their intended parallelism and indicate a split along gender lines. The opening of verse 15,

*on* Sunnī and Shīʿī Sources of tafsīr, ḥadīth and fiqh (Berlin: Klaus Schwarz, 1994); as well as Judith E. Tucker, *Women, Family, and Gender in Islamic Law* (New York: Cambridge University Press, 2008), 41–50; and see already Sara Kohn, *Die Eheschliessung im Koran* (London: S. Austin & Sons, 1934); Samuel Bialoblocki, *Materialien zum islamischen und jüdischen Eherecht: Mit einer Einleitung über jüdische Einflüsse auf den Ḥadīth* (Gießen: Alfred Töpelmann, 1928), 48–54; and Geiger, *Was hat Mohammed aus dem Judenthume aufgenommen?*, 88.

“those that commit a sexual transgression from among your women (*min nisā'ikum*),” qualifies both verses’ audience as male. The phrase “from your women” is paralleled by and thereby juxtaposed to the opening of verse 16, “those two that commit it from among you (*minkum*).” How one constructs this juxtaposition determines the nature of the sexual transgression.

- The phrase describing the transgressing couple “from among you” in verse 16, that is from among the male audience, could indicate a gender contrast to those “from among your women” in verse 15, and the two transgressors in verse 16 would be male. If so, then the two verses juxtapose an unspecified number of female offenders in verse 15 and a dual of male offenders in verse 16; the sexual transgression would be same-sex intercourse among women or men, respectively. This reading would offer a clear legal rationale for the diverging types of sanctions along gender lines: women are to be confined, whereas the two men are to be made to suffer (*fa-ādihūmā*, a difficult term we will revisit on pp. 305–6 below).
- Alternatively, the two offenders “from among you” in verse 16 could depict a man and a woman; the sexual transgression would be fornication more broadly or adultery more specifically (as we will discuss below). In this case, the juxtaposition between the two verses indicates an additional sanction for women. Confinement according to verse 15 would be imposed in addition to the suffering to be caused to an offending woman, and to her paramour, according to verse 16.

The Qur’an’s wording here does not, in my view, allow us to decide conclusively which of the two interpretations is the correct one. If same-sex intercourse were the issue, we would need to explain the shift from the plural to the dual between verses 15 and 16; if it is fornication, then the roundabout way in which double sanctions are imposed on offending women would need to be explained.<sup>141</sup> That the passage Q 4:15–18 proscribes and sanctions sex between two (or more) women in verse 15 and sex between two men in verse 16 is attested by a minority within

<sup>141</sup> While the occurrence of the dual male pronoun *alladhāni* in Q 4:16 is unique in the Qur’an, and the corresponding dual female form *allatāni* is not used at all here, we should resist any arguments from paucity or silence in the matter. Hence, if the male dual form, “those two,” *alladhāni*, in Q 4:16 depicts two males and the matter at hand is same-sex intercourse, then the change from an unspecified number of women in verse 15 to two men in verse 16, i.e. from a plural to a dual, should be understood in light of similar occurrences of plural next to dual forms elsewhere in the Qur’an (see e.g. Q 21:78 and Q 26:15). Inversely, if “those two” in Q 4:16 describes a man and a woman guilty of fornication, then we should understand the usage here in light of other Qur’anic usages of the dual for mixed couples (as for Adam and Eve in Q 7:19). My reading of this passage owes much to discussions with and assistance from Karen Bauer, Marijn van Putten, and Hythem Sydky; the present reading reflects a broadening of my reading when compared to the narrower interpretation (focused on the interpretation of the verses as sanctioning same-sex intercourse) offered in Zellentin, “Gentile Purity Law from the Bible to the Qur’an,” 160–63. I have not been able to engage the respective discussion in Karen Bauer and Firaz Hamza, *Women, Households and the Hereafter in the Qur’an* (Oxford: Oxford University Press/Institute of Ismaili Studies, forthcoming).

the Islamic legal tradition, whereas the majority understands the transgression to be adultery.<sup>142</sup> Intriguingly, a broader contextualization of the verses, within the Qur'an and in late antique law, could be marshalled for both possibilities. We will first consider same-sex intercourse and then fornication as possible readings.

From an inner-Qur'anic point of view, a proscription of same-sex intercourse would stand in line with the Meccan passages depicting the intent of Lot's people in Q 7:80, Q 27:54, and Q 29:28, as discussed above. It is noteworthy, moreover, that just as these Meccan passages, Q 4:15 and 16 employ the verb *'-t-y* (form I) to describe the act committed, even if the commonality of the verb somewhat lessens the salience of this fact.<sup>143</sup> There are, moreover, contextual historical reasons to support the reading of Q 4:15 and 16 as adjudicating same-sex intercourse between women and men, respectively. The verses' discussion of repentance, mercy, and sinners who repent on their deathbed in Q 4:15–18, namely, are broadly, yet perceptibly, reminiscent of Byzantine and especially of related Syriac Christian discourse on the subject matter of sex between men. This affinity is perhaps best epitomized by procedures pertaining to sex between men found in Justinian's *Novels*, which in turn are closely related to in the *Canons of Ancyra* and to monastic sources; the issue of sex between women is discussed less prominently by Jewish and Christian authors. Whereas the evidence here is again but cumulative, the legal and literary affinities between the Qur'an and these sources are noteworthy both in the individual instances and in their sum.

The key theme of the passage Q 4:15–18, as so often in the Qur'an, is repentance. The root *t-w-b* occurs six times in verses 16–18, making it manifest that only those sinners who repent immediately have reason to anticipate that God will accept them, while those who hold on and continue their practices until their deathbed do not. If Q 4:15–18 depicts same-sex intercourse, then its topics of sex between men, repentance, mercy, and the formal investigation of the matter can be compared fruitfully with the penitential prescriptions for those found guilty of sex between men in Justinian's *Novels*.

<sup>142</sup> To the best of my knowledge, the interpretation of the verse as proscribing sex between women and men, respectively, was first endorsed by Abū Muslim al-Īṣfahānī (d. 934 CE); the majority of exegetes understand the verse as proscribing adultery, yet the alternative reading is equally recorded, e.g., in al-Zamakhsharī (d. 1144), and endorsed, at least when it comes to sex between men, e.g., in important works such as *Tafsīr al-Jalālayn*. On male and female homoeroticism in pre-Islamic Arabic poetry and on the contentious history of interpretation of the verse see e.g. Pavel Pavlovitch, "The Islamic Penalty for Adultery in the Third Century AH and Al-Shāfi'ī's *Risāla*," *Bulletin of the School of Oriental and African Studies* 75 (2012): 473–97; Joseph Lowry, *Early Islamic Legal Theory: The *Risāla* of Muḥammad Ibn Idrīs Al-Shāfi'ī* (Leiden: Brill, 2007), 93–103; Rainer Nabelek, "Sexualität und Sexualhygiene im Islam" (Dr. sc. med. diss., Humboldt University, Berlin, 1990), 278–84 and 304–6, and Robert Roberts, *The Social Laws of the Quran: Considered and Compared with Those of the Hebrew and Other Ancient Codes* (London: Williams and Norgate, 1925), 37.

<sup>143</sup> In the Meccan Qur'an, the root *'-t-y*, when used to designate a sexual transgression, is only used to describe the intended acts of Lot's people, namely in Q 7:80, Q 27:54, and Q 29:28. In the Medinan Qur'an, the root is equally used to describe other unspecified illicit sexual acts in Q 4:19 and 25, as well as in Q 33:30 and in Q 65:1.

Sex between men had already been prohibited explicitly by Justinian and was apparently punished with severe measures (see Novel 77). The publication of the new Novel 141 followed a major earthquake in 577 CE, which was interpreted as a divine collective punishment for sex between men (a common theme in both Jewish and Christian sources). Justinian now offered a road to divine pardon for those who, just as in the Qur'an, repented and reformed.<sup>144</sup> The wording of Novel 141, and its repeated emphasis on repentance and God's mercy, shows several instances of affinity with the Qur'an's legislation just discussed:

Taught by the divine scriptures (*ek tōn theiōn graphōn*), we know what just punishment God inflicted in the past on the inhabitants of Sodom for their lust for this form of intercourse, such that that land is still being consumed with unquenchable fire; in this way, God is educating us to set our face against this unholy practice. We know, again, what the divine apostle (*ho theios apostolos*) says on such matters, and what the laws of the realm (*hoi tēs politeias . . . nomoi*) explicitly declare; thus, all should hold fast to the fear of God, and refrain from such an impious and unholy practice, one not to be found committed even among unreasoning creatures. . . . [T]hose who have fallen into this corrupt state are not merely to cease from it in future but are to repent (*metanoēsai*) as they should and prostrate themselves before God. They are also to report their diseased condition to the most blessed patriarch, receive a method of treatment, and, as the scripture text has it, bear fruit of repentance (*metanoias*), to the end that the merciful God (*ho philanthrōpos theos*), in the abundance of his acts of compassion (*kata ton plouton tōn idiōn oiktirmōn*), may find us, too, deserving of his mercy (*axiōsē philanthrōpias*); and that we may all give him thanks for the salvation of those who repent (*epi tē tōn metanoountōn sōtēria*), against whom we have even now commanded the authorities to take proceedings in the service of God, who is justly angry with us. . . . We call upon God, in his mercy (*ton philanthrōpon theon*), to bring to repentance (*houtō metanoēsai*) those who have wallowed in such filth with this impious practice, so that no further occasion may be given us for punitive action. We further proclaim to one and all of those with such sin on their conscience that if they do not cease from it . . . they will

<sup>144</sup> On the relevance of Justinian's *Novels* for the Qur'an see Mischa Meier, "The Roman Context of Early Islam," *Millennium* 17 (2020): 265–302; David Powers, "The Qur'an and Its Legal Environment," in *Deconstructing Islamic Studies*, ed. Majid Daneshgar and Aaron W. Hughes (Boston: Harvard University Press/Mizan), 9–32; Juan Cole, "Muhammad and Justinian: Roman Legal Traditions and the Qur'an," *Journal of Near Eastern Studies* 79 (2020): 183–96; as well as Patricia Crone, "The Quranic Mushrikūn and the Resurrection (Part II)," *Bulletin of the School of Oriental and African Studies* 76 (2013): 1–20; and Crone, *Roman, Provincial and Islamic Law: The Origins of the Islamic Patronate* (Cambridge: Cambridge University Press, 1987), esp. 87; we will return to this topic in Chapters 3 and 4. Note that Justinian had clear political motivations for his punitive actions against allegedly homosexual bishops, as argued by Peter Sarris, *Economy and Society in the Age of Justinian* (Cambridge: Cambridge University Press, 2006), 217–18.

bring more painful punishments on themselves, as being deserving of no forgiveness (*syngnōmēs*) in future.<sup>145</sup>

Unsurprisingly, the Novel first evokes the memory of Sodom, which leads to the connection of male homosexual intercourse and earthquakes in the first place; it then points to the fact that both Paul's writings (as discussed above on p. 148) and Eastern Roman law prohibit such acts. The Novel's parallels with qur'anic law are as apparent as the differences prevailing between the corpora. In both the Qur'an and Justinian's Novel,

- the sinners are to be punished as well as encouraged to repent promptly;
- if they do so, according to both legal traditions, their repentance will be accepted by God and by the community; punishment is suspended both now and in the hereafter;
- both texts emphasize that only sincere reform will be accepted;
- and both texts put great emphasis on the fact that repentance must be *immediate*—any deferment will lead to eternal and apparently earthly punishment;
- both texts, moreover, repeat the term and concept of “repentance” along with God's mercy.

The themes of punishment and repentance are pervasive, yet the legal specificities, at least in my view, highlight the more than perfunctory procedural affinity between the texts. Differences, at the same time, abound. Besides the very different language and literary style, the Christian Novel, given in Constantinople in March of 559, offers just the one chance. The Christian transgressors, moreover, must confess to the patriarch in a specific liturgical setting. The qur'anic law, by contrast, is formulated in a broader way, and limits the chance of repentance only in relationship to the individual himself. Should the qur'anic law indeed address the issue of sex between men, we can thus, in a first instance, point to a close Christian parallel that offers a rather similar combination of an exhortation to repent with a promise of forgiveness and a severe threat for those who fail to comply.

The affinity between qur'anic and Christian law in this respect comes to the fore in even sharper relief if we consider one of the sources of the Justinian *Novels*, namely the ecclesiastical rulings on bestiality and sex in the *Canons of Ancyra*, especially in their Western Syriac iteration dating from the turn of the sixth

<sup>145</sup> Justinian's *Novels* 141, translation according to David J. D. Miller and Peter Sarris, *The Novels of Justinian: A Complete Annotated English Translation* (Cambridge: Cambridge University Press, 2018), 930; Greek text cited according to Wilhelm Kroll and Rudolf Schöll, *Corpus iuris civilis* (Berlin: Weidmann, 1968), vol. III, 703–4.



century CE.<sup>146</sup> These canons permanently exclude from physically entering the church two categories of men depicted as the most extreme of sinners, namely those found guilty of bestiality and those engaging in sex “with men” (*m dkr*), especially so if their acts are ongoing.<sup>147</sup> In this canon’s preceding ruling, we learn that those guilty of bestiality, and of sex with males according to the Syriac and the earliest Latin translation, have to be in penance (*btybwt*) for fifteen or twenty-five years, or, if they are older, until just before the end of their lives, when they can again receive the Eucharist (a harsh penalty otherwise only reserved for murderers).<sup>148</sup> For the younger sinners, “their life in penitence (*dbtybwt*)” shall be examined and according to this shall be made worthy of compassion (*lmrhmnwt*); and if there are persons insatiable in sin of this kind, their penitence (*tybwt*) shall be prolonged.<sup>149</sup>

This canon is, again, quite different from the Qur’an’s ruling: it includes the discussion of bestiality alongside that of sex between men, and it proposes starkly different punishments, especially so when *excluding* male believers from the church until the end of their lives. Yet the communal focus of the *Canons*, as well as their legal open-endedness and of course their Syriac terminology, stand closer to the Qur’an than even Justinian’s *Novels*. This relationship between the ruling on sex between men in the *Canons* and in the ruling in Q 4 *Sūrat al-Nisā’* becomes discernible if one compares the two texts in light of their thematic and literary affinities more closely.

The language used in the West Syriac versions of the *Canons of Ancyra* and in the Qur’an points only to broad affinity, yet it is noteworthy that the (widespread) themes of penitence and mercy, described in the Syriac text with the Syriac *twb* and *rh̄m*, are described in Q 4:16 with the (exceedingly common) Arabic roots *t-w-b* and *r-ḥ-m*.<sup>150</sup> The shared topic of sex between men, which is the most likely

<sup>146</sup> On this literature in general and the *Canons of Ancyra* in the Greek and Syriac tradition see notes 32 and 58 above.

<sup>147</sup> Canons of Ancyra, can. 16, see Vööbus, *The Synodicon in the West Syrian Tradition I*, 98. Note that the corresponding can. 17 in the Greek version and an earlier Syriac translation does not mention sex between males explicitly (it rather speaks of “irrational acts”), yet the West Syriac tradition and the earliest Latin translation include it; see Friedrich Schulthess, *Die syrischen Kanones der Synoden von Nicaea bis Chalcedon* (Berlin: Weidmannsche Buchhandlung, 1908), 40; *Isidori antiqua* in Cuthbert Hamilton Turner, *Ecclesiae Occidentalis Monumenta Iuris Antiquissima* (Oxford: Clarendon Press, 1907), vol. II.1, 92–94, lines 6–12; and Parvis, *Marcellus of Ancyra and the Last Years of the Arian Controversy*, 26–27. The ones guilty of bestiality and sex between men have to pray among the *hiemantes*, those who are, like lepers, barred from entering the church.

<sup>148</sup> Canons of Ancyra, can. 15, can. 16 in the Greek version; see Vööbus, *The Synodicon in the West Syrian Tradition I*, 98; and *Isidori antiqua* in Turner, *Ecclesiae Occidentalis Monumenta Iuris Antiquissima*, vol II.1, 92–4, lines 6–12; on murders, see can. 22 in the Syriac and can. 22 in the Greek version.

<sup>149</sup> Canons of Ancyra, can. 15, can. 16 in the Greek version; see Vööbus, *The Synodicon in the West Syrian Tradition I*, 98; on murders, see can. 22, can. 22 in the Greek version.

<sup>150</sup> The Qur’an does not seem to reflect the wording of the text of the Syriac canon in a direct way, yet it is clear that the Arabic root *t-w-b* in the sense of “repentance” (as opposed to the Arabic root *th-w-b* in the sense of “return”) is a loanword from Aramaic; see also Sinai, *Key Terms of the Qur’an*, s.v.

target of the Qur'an's legislation, would also be unsurprising; we have seen it discussed throughout late antiquity and in the Meccan Qur'an. Yet the way in which the Qur'an presents its rulings still suggests that the *Canons*, along with Eastern Roman law, allow us to reconstruct the context of the nascent Muslim community's legal practice to some degree. If both the Canon and the Qur'an deal with the issue of sex between men within the community, we should note that they do so by addressing a closely connected set of topics:

- both lay out a procedure of examination;
- both discuss acceptable ways of penance'
- and both address the topic of ongoing sinners.<sup>151</sup>

Likewise, the Qur'an's explicit denial of mercy for those, in Q 4:18 who, "when death approaches any of them, he says, 'I repent now,'" clearly engages, and, arguably, rejects, widespread Christian and rabbinic teachings on repentance *in extremis*. In the Christian monastic tradition, for example, we find many prominent narratives of sexual sinners who repent just before their death, thereby having fully earned their salvation; the Babylonian rabbis, in their own right, shared such stories about those who gained salvation in one hour.<sup>152</sup> The Qur'an's rejection of sexual sinners repenting only when death approaches them in the Medinan verse Q 4:17, therefore, is also best understood as being addressed to an audience familiar with the open attitude towards repentance *in extremis* we find in Christian and in rabbinic culture—an attitude the Qur'an repeatedly and explicitly rejects.

*tāba* and *al-rahmān*. On the limited use of etymological comparisons for historical analysis in qur'anic studies see e.g. Zellentín, *The Qur'an's Legal Culture*, 32–41 and note 209 (Chapter 1) above.

<sup>151</sup> Such a procedure, as well as restitution for it, is also mentioned in Q 5:95, a passage with close parallels in East Syrian law; see pp. 233–34 below.

<sup>152</sup> As Nicolai Sinai has demonstrated, the Meccan Qur'an already rejects the late antique tradition of repentance *in extremis* in its depiction of Pharaoh's death, see Sinai, "Pharaoh's Submission to God in the Qur'an and in Rabbinic Literature: A Case Study in Qur'anic Intertextuality," in *The Qur'an's Reformation of Judaism and Christianity: Return to the Origins*, ed. Holger Zellentín (Abingdon: Routledge, 2019), 235–60. See also, e.g. the rabbinic story about Eleazar B. Dordya "who did not pass over any harlot in the world without having sex with her," which incidentally uses Hebrew roots for "mercy" and "repentance" (*sh-w-b* and *r-h-m*) that are cognate to the Syriac and Arabic roots we have seen in the two passages discussed (*twb* and *rh̄m*). After unsuccessfully asking the mountains and the stars to "plead for mercy for me" (*bqshw 'ly rh̄mym*), Eleazar weeps until he dies. He is welcomed in the world to come, and even called "Rabbi," as the story concludes: "repentants (*b'ly tshwbh*)" are not only accepted, they are even called "Rabbi." See Bavli *Avodah Zarah* 17a and the parallel story of Paesia the prostitute as told by John the Dwarf in the *Apophthegmata Patrum* (PG 65:220); for a vivid discussion of these sources, the translation here cited and further scholarship see Michal Bar-Asher Siegal, *Early Christian Monastic Literature and the Babylonian Talmud* (Cambridge: Cambridge University Press, 2013), 170–99. For the central Christian notions of repentance see also note 58 above; for a note on the Syriac reception history of the *Apophthegmata Patrum* see Zellentín, "Review of Early Christian Monastic Literature and the Babylonian Talmud, by Michal Bar-Asher Siegal," *Studies in Jewish-Christian Relations* 10 (2015).

We should note that Christian law focuses on male homosexual intercourse much more than on that of females, and the Qur'an's combined treatment of both would remind us of Paul's rather unique focus on both genders more so than on any Christian legal ruling of which I am aware. The fusion, or at least the juxtaposition, of laws governing male and female homosexuality, in other words, is the exception rather than the norm, and the Qur'an's joint treatment of both would point to its attempt to increase legal applicability between the sexes—another feature of Byzantine legal culture, as I will argue in Chapter 3. There is, however, one pre-qur'anic precedent for both a more detailed engagement of female sexual intercourse and for its legal differentiation from male homosexual intercourse, and this is a Jewish one. The Babylonian Talmud, in *Yevamoth* 76a, based on earlier Palestinian rabbinic discourse, teaches that “women who rub each other” (*nshym hmswllwt zw bzw*) do not render either one an “adulteress” (*zwnh*), but declare that she is merely guilty of “lasciviousness” (*pryšwt*;<sup>153</sup> see also Bavli *Shabbat* 65a–b). The Qur'an, if it indeed addresses both male and female homosexual intercourse and administers different punishments for both, would thus stand both in a Jewish and in a Christian legal tradition, yet shows no signs of “dependency” on either.<sup>153</sup>

Alternatively, Q 4:15–18 could be understood as depicting fornication or adultery. The plural feminine pronoun *wa-llātī*, “and those women,” that opens verse 15, for example, finds a parallel in Q 4:34, where it describes rebellious or flirtatious wives more generally. Likewise, the appearance of “four witnesses” in verse 15 and in Q 24:4–5, a passage legislating the punishment for adultery to which we will presently turn, would equally support a reading of the transgression as a heterosexual one. Likewise, the Qur'an's alternative punishment for women, confinement of houses until death, or until God presents another path, could be understood within Jewish and especially Christian precedent.

Confinement until death, on the one hand, constitutes a rabbinic punishment for repeat offenders of any kind.<sup>154</sup> On the other hand, confinement is a practice equally attested in Roman law, yet it is once again Justinian who instituted lifelong confinement to monasteries as a punishment for a variety of transgressions, as Juan Cole has pointed out to me in private communication.<sup>155</sup> Some

<sup>153</sup> As mentioned in note 43 above, despite the early reference by Paul in Rom 1:26, most Christian authors ignored the issue of sex between women, with some monastic documents, such as the letter of Paul of Hellas, offering important exceptions. As for the rabbis, an earlier passage in Sifra *Aharei Mot* 9:8 according to the edition of Weiß, *Sifra debe Rab*, 85b refers to marriage between women alongside marriages between men as one of the prohibited practices that had been common among the Egyptians, likely implying but in no way highlighting an assumed prohibition of sex between women; see Boyarin, “Are There Any Jews in ‘The History of Sexuality?’” 339–40 and, positing an early prohibition *pace* Boyarin, Kosman, and Sharbat, “Two Women Who Were Sporting with Each Other,” 52–61, see also note 51 above. The Qur'an's inclusion of women in its legal purview is prominent throughout the Medinan Surahs; see e.g. Zellentin, *The Qur'an's Legal Culture*, 32–41 on Q 24:31 and pp. 251 and 328 below.

<sup>154</sup> On confinement in the rabbinic tradition see Mishna *Sanhedrin* 9:5 and Bavli *Sanhedrin* 81b.

<sup>155</sup> Roman law did of course make use of prisons, yet these mostly served to detain a suspect until their case was tried. The origin in Roman thought on educative or punitive functions of confinement,

forms of confinement, pertaining to those guilty of games of chance or illicit sexual intercourse, apply to clerics only, yet there are two sexual prohibitions that are addressed to laity for which the punishment is detention in a monastery.<sup>156</sup>

- Both men and women who break of a marriage for unacceptable reasons are to be confined for life (*Novel* 117 ch. 13, 127 ch. 4, and 134 ch. 11.1); should husband and wife want to reunite, they are allowed to do so and the penalty is lifted (*Novel* 134 ch. 3).
- Women guilty of adultery, after suffering “the appropriate punishments” (*tais prosēkousais poinais*), likely confiscation of funds, are to be confined to monasteries either until their husbands take them back, within a period of two years, or until they die, should the husband fail to do so (134 ch. 10.1; see also ch. 12).<sup>157</sup>

Here, neither the Christian nor the Jewish precedent seem to be immediate, yet may help to contextualize the Qur’an’s ruling. The rabbinic confinement, unlike the Qur’an, constitutes a general punishment and does not allow for a reversal, yet it does imagine confinement in “houses,” akin to the qur’anic ruling to confine the women in question to “houses” in Q 4:15. The Eastern Roman confinements, more closely related to the Qur’an, specifically address the cases of male and especially female adultery, and shorten or even suspend the life term in case the couple reunites, a ruling akin to the Qur’an’s instruction to “detain them in houses until death takes them (*yatawaffāhunna l-mawtu*), or God decrees a path for them,” in the same qur’anic verse.

An inner-qur’anic contextualization, along with a reading of the Qur’an within the broader Jewish and Christian legal tradition, thus offers additional reasons for reading *fāḥisha* in Q 4:15–18 either as depicting same-sex intercourse or as fornication. The case, again, allows us to avoid the temptation of depicting the Qur’an

while not without precedent, can be attributed to Christian imperial and ecclesiastical reforms of the sixth century, as argued by Julia Hillner, *Prison, Punishment and Penance in Late Antiquity* (Cambridge: Cambridge University Press, 2015), esp. 279–341.

<sup>156</sup> A bishop caught playing, or attending, a game of chance, for example, is to be confined to a monastery for a period of three years (*Novel* 123 ch. 10); a bishop who is ejected from a city and dares to re-enter said city is to be confined for life (123 ch. 11), as is a monk who returns to secular life (123 ch. 42). As for sexual transgressions, deaconesses who are suspected to live with a man are confined for life (123 ch. 30), as are nuns, deaconesses, or canonesses who engage in consensual or non-consensual sexual intercourse (123 ch. 43). A similar punishment is already suggested in the fourth century *Council of Toledo* (can. 7), another instance in which the Justinian *Novels* implement ecclesiastical law. The relevance of some of these Christian sources for contextualizing Q 4:15 is pointed out by Walter Young, *Stoning and Hand-Amputation: The Pre-Islamic Origins of the hadd Penalties for zinā and sariqa* (Master’s Thesis, McGill University, 2005), 206. On games of chance in the Qur’an see also pp. 126 above and 210 below.

<sup>157</sup> Justinian’s *Novels* 134 ch. 10.1, cited according to Kroll and Schöll, *Corpus iuris civilis*, vol. III, 685.14–15. Note that women suspected of any crime are to be confined during the time of the investigations (*Novel* 134 ch. 9.1).

as dependent on any specific legal strand of Christian legal culture. Rather, all these literary remains should exclusively be understood as allowing us to grasp how legal discourses that were embodied both in practice and in literary form partially overlap, like a multitude of incompletely overlapping circles. While I have emphasized the primary importance for Christian legal culture in order to contextualize the Qur'an, it would be a grave mistake to omit the Jewish record. Neither the rabbinic nor the Christian rulings, in turn, fully contextualize the Qur'an, yet both show that once again, the Qur'an carves out a unique legal position that has precedence in both Jewish and Christian late antique law—even in cases where such a contextualization does not offer a conclusive reading.

The passage, moreover, shows how intimately the Qur'an stands in dialogue with late antique understandings of Leviticus 18 in general and of the prohibitions of fornication, of adultery, and of sex between males more specifically. The case would thus suggest an even closer legal affinity, when compared to the Meccan material, of the Medinan term *fāḥisha*, on the one hand, and of the broad biblical concept of “uncovering of nakedness” in its rabbinic and Christian understanding as including all forms of sexual transgression (as Hebrew *znyt*, Greek *porneia*, Aramaic *znyt*, and Syriac *znywt*), on the other. The Qur'an's rulings on sexual regulations, once again, engages discernible late antique traditions, without being bound by precedent.

Further occurrences of the term *fāḥisha* in the Medinan Qur'an can equally be found in *Sūrat al-Nisā'* and show similar legal independence all the while remaining alert to biblical, rabbinic, and Christian paradigms:

- The direct sequel of the passage discussed, in Q 4:19, for instance, uses the term *fāḥisha* to describe an unspecified sexual transgression by a believer's wife. The ruling's immediate legal context is the prohibition of “inheriting” women forcibly, akin to the issue of a forced Levirate marriage in rabbinic Judaism (on which more below).<sup>158</sup>
- Q 4:22 designates a man's marriage to the former wife of a man's father as *fāḥisha*, reflecting the similar rule in Lev 18:8 and 20:11 alongside its rich late antique history of legal implementation (as well as, incidentally, Paul's outrage over exactly this matter, which Paul called *porneia*), a case to which we will turn in the next chapter.<sup>159</sup>
- The final ruling on *fāḥisha* in *Sūrat al-Nisā'* occurs in Q 4:25, where it describes an unspecified sexual act committed by married slave women. The ruling of reducing the punishment for married slave women guilty of *fāḥisha*

<sup>158</sup> On the practice of Levirate marriage in biblical and rabbinic culture see e.g. Dvora E. Weisberg, *Levirate Marriage and the Family in Ancient Judaism* (Waltham: Brandeis University Press: 2009); for the central role of the echoes of Levirate marriage in Jewish and Christian incest law see pp. 231–33 (Chapter 3) below.

<sup>159</sup> See p. 146 above and chapter four below.

by half corresponds inversely to another case, the one doubling the punishment for the wives of the prophet equally guilty of *fāḥisha* in Q 33:30. Both these rules have limited biblical (and rabbinic) precedent, and again depart from it. The exceptional, and milder, punishment of a married female slave is akin to, yet different from, the biblical case of a man having sex with a betrothed slave woman, which is discussed in Lev 19:20–22. The exceptional, in this case harsher, punishment for the wives of the prophet is akin to, yet different from, the exceptional punishment of the daughter of a priest found guilty of adultery in Lev 21:9. Neither case, in my view, is applied in Jewish or Christian law; if anything, an inverse tendency of easing the punishment in line with status can be detected here.<sup>160</sup>

In all these cases, we can discern a biblical, Christian, or rabbinic precedent to the Qur'an's rulings, yet we can equally see again and again that the Qur'an is in no way constrained by previous law. My repeated insistence on this point is not merely perfunctory: rather, when reading any later text in light of its continuities with earlier law or literature, I hold that one can barely overemphasize the ways in which the later text develops its ruling and narratives as applicable to the specific issues facing a later community, in this case the nascent Islamic one.

The second term to be considered in light of the Qur'an's ways of dealing with the late antique heritage of Leviticus 18 is the concept of *zinā*, which, we have seen, may well designate fornication in a broad sense that includes adultery, but is used in the Meccan surahs in a way that eschews a clear definition. The term root *z-n-y* appears in two Medinan passages. The first one is no more specific than the Meccan instances: in Q 60:12, the prophet is instructed to accept into the community believing women who turn to him, and to plead for them to God, yet only under the condition that they “do not to engage in *zinā*” (*wa-lā yaznīna*) and abstain from a list of other transgressions closely resembling those found in Q 17:29–33 and Q 25:63–67, which we have discussed in the Qur'anic and late antique context above.<sup>161</sup> The usage of the term *zinā* in Q 60:12 does not allow us to determine its meaning, yet, importantly, it suggests that these women are in need of protection and therefore not currently under the oversight of a husband.

Q 24 *Sūrat Al-Nūr* is somewhat more specific, and a contextual reading leads us closer to a working definition of the term: here, we learn about an act of *zinā* committed concurrently by a female and a male person:

<sup>160</sup> In the Bible, the man who had sex with a female slave betrothed to another man merely has to bring a guilt offering according to Lev 19:20; the regular punishment for sex with a betrothed woman is death according to Deut 22:24. The daughter of a priest found guilty of adultery is burned to death according to Lev 21:9; see also Bavli *Sanhedrin* 66b. According to the Babylonian Talmud, for instance, a rabbinic scholar is merely ostracized where normally excommunication would be appropriate, see e.g. Bavli *Mo'ed Qatan* 17a; on the Roman record see e.g. Hillner, *Prison, Punishment and Penance in Late Antiquity*, 233.

<sup>161</sup> See pp. 187–88 above.

- 2 As for the *zāniya* and the *zānī*,  
strike each of them a hundred lashes,  
and let not pity for them overcome you in God's law,  
if you believe in God and the Last Day,  
and let their punishment be witnessed by a group of the believers.
- 3 The *zānī* shall not marry anyone but a *zāniya* or an associator,  
and the *zāniya* shall be married by none except a *zānī* or an associator,  
and that is forbidden to the believers.
- 4 As for those who accuse honourable women and do not bring four witnesses,  
strike them with eighty lashes, and never accept any testimony from them after  
that, and they are transgressors,
- 5 excepting those who repent after that and reform, for God is indeed all-  
forgiving, all-merciful.

Once again, I hold that the Qur'an's law is here removed from, yet still in dialogue with, the Bible and with the Christian and the rabbinic traditions. To begin with the punishment itself, lashes are the default non-capital punishment in the rabbinic tradition. The qur'anic punishments of one hundred lashes in Q 24:2 for *zinā* and of eighty lashes for the false accusation of women in Q 24:4 both exceed the biblical limit of forty lashes (see Deut 25:3), as well as the rabbinic one of 39 (see Mishna *Makkot* 3:10). The Mishna, however, allows for exceptions: the punishment for a false witness, as proposed by Rabbi Meir, is eighty lashes, as in the Qur'an (see Mishna *Makkot* 1:3).<sup>162</sup>

Second, it would seem that the *zānī* and the *zāniya* have had extramarital heterosexual intercourse: "fornication," in the broad sense, which would fall within the Christian understanding of sexual intercourse as permissible only within wedlock, to which the rabbis were also partial (as outlined on pp. 149–50 above). The general prohibition for members of the qur'anic community to marry either a *zānī* or a *zāniya* in the passage under consideration, in Q 24:3, hence, indicates that either one or both of the two accused of a transgression will be unmarried in the future or will have been in the first place. The Qur'an's indeterminacy here suggests that their transgression could fall either under the wider category of "fornication," or under the more specific category of "adultery" in the Christian sense as involving at least one participant married to somebody else. In effect, I

<sup>162</sup> Further studies may well establish whether the rabbis discuss female sexual transgression in general in more detail than Christian sources; see e.g. Bavli *Sanhedrin* 50b–52b and *Menahot* 60b. Moreover, the rabbis greatly expand on the biblical precepts regarding the *Sotah*, the suspected adulteress, according to Num 5:11–31; see the tractate *Sotah* in the Mishna, Tosephta, and the Talmudim. The issue of the *Sotah* ritual, in turn, the ordeal for the suspected adulteress, finds a starkly different procedural parallel in the Qur'an's subsequent ruling of wives accused by their husbands in Q 24:6–10.



hold that the Qur'an's indeterminacy is merely a tromp-oeil that results from the distinction between the two categories in late antique legal discourse.

Such an understanding of the term *zinā* as describing a broad category that includes both "fornication" and "adultery" would correspond to a variety of other rulings in the Qur'an.

- In Q 4 *Sūrat al-Nisā*' 24–25, the Medinan Qur'an (after a long list of forbidden relations more intimately connected to the incest regulations of Lev 18:6–18) decrees that sexual intercourse is permissible only within wedlock, which was not necessarily the case in pre-Islamic Arabia or in the Hebrew Bible. Joseph Witztum has, moreover, shown that this passage also suggests that members of the community are only allowed to marry "chaste" women, those who never engaged in extramarital sex, a finding in line with the passage's reading here proposed.<sup>163</sup>
- The fact that the women in Q 60:12 (discussed above), who must not engage in *zinā*, are also not under the protection of a husband, as indicated above, would corroborate a broad understanding of their crime as any extramarital sexual intercourse of unmarried people.
- A similar insistence of sexual intercourse only within wedlock or bondage will be corroborated by the discussion of Q 5:5 below.

While *zinā* thus very likely includes cases of adultery, I hold that we should equally understand it as designating fornication in general.

Despite its departure from late antique usage, the late antique legal context of the Qur'an's prohibition, along with parallel legislation in the Qur'an regarding marriage to associators, both support this possibility. In the Hebrew Bible, it was unlawful for the high priest to marry a *zōnāh*, a prostitute, or a *ḥālālāh*, a Hebrew term describing a woman, even unmarried, who had extramarital sex of any kind (see Lev 21:14). This rule was followed by the rabbis, for priests, as well as by most Christian groups, for clergy.<sup>164</sup> Some Christian communities, however, based on

<sup>163</sup> Joseph Witztum, "Q 4:24 Revisited," *Islamic Law and Society* 16 (2009): 1–33, and Harald Motzki, "Wal-muḥsanātu mina n-nisā'i illā mā malakat aimānukum (Koran 4:24) und die koranische Sexualethik," *Der Islam* 63 (1986): 192–218. See also Joseph Henninger, "Polyandrie im vorislamischen Arabien," *Anthropos* 49 (1954): 314–22; as well as Julius Wellhausen, "Die Ehe bei den Arabern," *Nachrichten der Königlichen Gesellschaft der Wissenschaften und der Georg-Augusts-Universität zu Göttingen* 11 (1893): 431–81.

<sup>164</sup> According to the rabbis, a woman who has sex with a man other than her husband, if he is a priest, must divorce him even if she is not found guilty for her act, as in the case of rape or mistaken identity; see e.g. Bavli *Yebamoth* 56b; see also *Yevamoth* 61b and *Kiddushin* 77a–78a; for a similar Christian rule pertaining to clergy see e.g. Justinian's Novel 6:1:4 or the sixth-century East Syrian Synod of Isho'yahb I in Jean Baptiste Chabot, *Synodicon orientale ou recueil de synodes nestoriens* (Paris: Imprimerie Nationale, 1902), 156–7 (Syriac) and 416–17 (French); see also Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 96–7. Note that the Qur'an does not prohibit a *zānī* and a *zāniya* to marry each other even if their act involved each other; this would depart from the Christian and rabbinic ruling that the convicted adulteress is not allowed to marry the man with

Roman law and on Matthew's equation of marriage of an adulteress with adultery (see Matt 19:9 and 5:32), also demanded that a woman be divorced in case she was found guilty of adultery, and displayed a range of restrictions on her later remarriage: both the Greek and the Syriac Fathers held a variety of positions prohibiting marriage with either a man or a woman guilty of adultery, either for a period of repentance or perpetually. We can thereby see that the Qur'an's prohibition for believers to marry a *zānī* or a *zāniya*, a male or female fornicator/adulterer, stands in continuity with aspects of rabbinic and especially of Christian law.<sup>165</sup> This parallel invites us to explore the possibility that the Qur'an, just like Jews and Christians, presupposes the demand of divorce in all cases of adultery. Such a reading was not espoused by later Islamic legal traditions, yet is suggested not only by the Jewish and Christian precedent but also by the parallel case of the prohibition of marriage to an associator in the Qur'an, e.g. in Q 24:3.

The Qur'an's prohibition of believers to marry a *zānī* or a *zāniya* in Q 24:3, we have seen, is paralleled by the prohibition for them to marry associators. This law brings us back again to the late antique Christian understanding of Lev 18:21. The Peshitta, along with the Didascalia Apostolorum and many other Jewish and Christian witnesses, already read the prohibition to "pass one's seed to Molech" in Lev 18:21 as a prohibition of marrying idolatrous foreigners (a reading, if not necessarily a rule, specifically rejected by the rabbis). In line with this interpretation, Christians have largely prohibited any marriage between a member of their community and those perceived as idolatrous, or even those perceived as heretical, unless they converted (see pp. 139–43 above). The Qur'an equally prohibits marriage to those it designates as associators, and it takes the prohibition even further in the case of "unbelief": Q 60:10 gives three respective instructions:

- Believers should not send those women who have embraced faith and have thus come as emigrants (*muhājirātin*, plausibly fleeing from Mecca to Medina,) back to the unbelievers (*ilā l-kuffāri*).<sup>166</sup>

whom she had adulterous sex; see Mishna *Sotah* 5:1 and Bavli *Sotah* 26b; for Christian sources see the following note.

<sup>165</sup> See the comments on the Roman and Syriac iterations of the *Lex Julia de adulteriis coercendis* in Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 191–92; see also Hage, *Les empêchements de mariage en droit canonique oriental*, 73–74. The case for the related affinity between Christian and some strands of Islamic law regarding marriage to adulterers has been made by Joseph Schacht in his "Adultery as an Impediment to Marriage in Islamic and in Canon Law," *Archives d'Histoire du Droit Oriental et Revue Internationale des Droits de l'Antiquité* 1 (1952): 105–23; see also Schacht, "Foreign Elements in Ancient Islamic Law," *Journal of Comparative Legislation and International Law* 32 (1950): 16–17. While Schacht discusses the pertinent Qur'anic basis of the law only in passing, this omission is remedied in Francesca, "Put the Ocean between Them," 101–10.

<sup>166</sup> The root *h-j-r* is commonly understood in the sense of "dissociation," "avoidance," and thereby, in form III, with "emigration." The South Arabian inscriptions along with a similar meaning in Ge'ez, however, where the root is only attested as a noun, rather suggest that the root denotes "city dwellers"; see Ambros, *A Concise Dictionary of Koranic Arabic*, 278 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=hgr> (accessed 5 March 2021). This hardly effects the

- These women are now unlawful for their former husbands, and these unbelieving husbands are unlawful for them (*lā hunna ḥillun lahum wa-lā hum yaḥillūna lahunna*).
- Likewise, unbelieving women (*al-kawāfir*) should be divorced.

I would argue that if unbelief is a reason for what seems like a mandatory divorce, according to Q 60:10, then extramarital sex may well be reason for such a mandatory divorce in Q 24:2–5 as well. This would point to the possibility that either the *zānī* or the *zāniya*, or both, may well have been married to someone else at the time of being found guilty. Their prohibition to marry a member of the qur’anic community does not indicate that they were necessarily unmarried at the moment of having unlawful sexual intercourse, but that they will be, once convicted. While this reading is admittedly no more than a plausible construal, both the Christian precedent and the arguable parallel regarding the mandatory divorce in case of one partner’s unbelief suggest that the Qur’an’s concept of *zinā* does not generally distinguish between fornication and adultery: the term seems to designate both since the act itself invalidates any marriage to another person.

Intriguingly, parallel passages elsewhere in the Medinan Qur’an, most explicitly so in *Sūrat al-Baqara*, legislate against marriage to an associator just before another central precept known from Lev 18:19, that of intercourse during the menses, which may indicate that the Qur’an here again remains in dialogue with biblical and late antique legislation on prohibited sexual impurity:

Q 2:221 Do not marry (m., pl.) female associators (f., *al-mushrikāt*) until they embrace faith (*ḥattā yu’minna*).

And a believing slave girl (*wa-la-amatun mu’minatun*) is better than a female associator (f., *min mushrikatin*),

though she (i.e. the female associator) should please you (m., pl.).

And do not [let your women] marry (m., pl.) associators (*al-mushrikīn*) until they embrace faith (*ḥattā yu’minū*).

And a believing slave (*wa-la-‘abdun mu’minun*) is better than an associator (*min mushrikin*),

though he should please you (m., pl.)

Those summon to the Fire,

but God invites to paradise and pardon,

plausibility of the traditional Islamic narrative describing the emigration from one city to another, most likely from Mecca to Medina.

by His will,  
 and He clarifies His signs for the people  
 so that they may take admonition.  
 Q 2:222 They ask you concerning the menses (*'ani l-maḥīḍi*).  
 Say, "It is a suffering" (*huwa adhan*)  
 So keep away from women during the menses (*fa-'tazilū l-nisā'a fī l-maḥīḍi*),  
 And do not approach them (*taqrabūhunna*)  
 till they are pure (*ḥattā yaḥurnna*)  
 And when they become pure (*taṭahharna*),  
 go into them where God has commanded you.  
 Indeed, God loves the penitent  
 and He loves those who keep pure (*al-mutaṭahhirin*).  
 Q 2:223 Your women are a tilth (*ḥarth*) for you,  
 so come to your tilth (*fa-<sup>2</sup>tū ḥarthakum*) however you like,  
 and send ahead for your souls,  
 and be Godwary,  
 and know that you will encounter Him;  
 and give good news to the faithful.

In order to assess the compositional logic behind the fusion of the themes of intermarriage and sex during the menses, a brief consideration of the legal and literary context of this passage is paramount. The Qur'an's prohibition of intermarriage with associators in Q 2:221 is addressed to men and pertains both to the men themselves and to the women under their authority. Just as the prohibition concerning *zinā* we have seen in the Meccan passages Q 17:29–33 and Q 25:63–67, the rules about intermarriage and sexual intercourse during the menses in Q 2:221–22 are promulgated in a broader *legal* context, which in turn overlaps with its *literary* surrounding in a variety of ways.<sup>167</sup>

In contrast to the Meccan legal passages, however, it is far more difficult to determine the compositional unit in which we find Q 2:221–22. Marianna Klar's recent study of *Sūrat al-Baqara* has established the ways in which considerations of rhyme must equally be taken into account when seeking to appreciate the surah's complex synchronic and diachronic history. This caveat invites us to focus only on the most immediate literary context of Q 2:221–22 as defined by rhyme,

<sup>167</sup> On Q 17:29–33 and Q 25:63–7 see pp. 187–88 and 202 above.

which is constituted by the largely legally focused segment Q 2:214–32.<sup>168</sup> Within this segment, we can detect a compositional principle that occurs in Q 2:215–23: here, six times, the audience asks a specific question (*wa-yas'alūnaka*), and six times, the prophet is instructed to speak (*qul*) to them; he then provides the answer to their question. I therefore suggest using the passage as a snapshot of the immediate context of Q 2:221–22, which allows an efficient contextualization without necessitating a more in-depth engagement with the surah's compositional features.

The question posed to the prophet indicates the increased status of the Qur'an's prophetic leader in Medina, which is reflected in the legal focus of *Sūrat al-Baqara* itself. While the same setting, with the audience inquiring and the prophet answering, already occurs in Meccan surahs (see, e.g. in Q 17:85 and Q 20:105), the topics there deal not with law but with broader questions of theology and eschatology. (Such inquiries also continue in this surah, see Q 2:186.) The legal inquiries in Q 2:215–23 can thus be attributed to the prophet's growing responsibilities, which go hand in hand with a growing distance from late antique Jewish and Christian legal precedents.<sup>169</sup> We have seen a similar question asked to the prophet in Q 5:4 (see p. 122 above); the question here equally indicated the audience's sensibilities for the established rulings of late antique gentile law.

Given the sixfold verbatim repetition in the description of the legal scenario, we can thus take the passage as a literarily cohesive context that lets us guide our understanding of the laws put forth within it. The cohesion of the passage is admittedly limited: not every topic that is mentioned is introduced in response to a question, and in one verse (219), two questions are asked and answered. Yet even without a closer study of the passage, a consideration of the topics that occur illuminates the laws on illicit sexual intercourse:

<sup>168</sup> See Marianna Klar, "Text-Critical Approaches to Sura Structure: Combining Synchronicity with Diachronicity in *Sūrat al-Baqara*. Part One," *Journal of Qur'anic Studies* 19 (2017): esp. 21, and Klar, "Text-Critical Approaches to Sura Structure: Combining Synchronicity with Diachronicity in *Sūrat al-Baqara*. Part Two," *Journal of Qur'anic Studies* 19 (2017): esp. 82; see now also Klar, "A Preliminary Catalogue of Qur'anic saĵ Techniques: Beat Patterning and Parallelism as a Structuring Device," in *Structural Dividers in the Qur'an*, ed. Klar (London: Routledge, 2021), 181–231. Klar surveys several previous literary studies of the Surah and points to the importance of paying close attention to the diachronic process of composition and to the rhyme of words in *faṣīla* position, thereby expanding the horizon of previous studies that were defined more narrowly by either thematic and literary or by a diachronic focus. Q 2:223 has been included in the segment since it maintains the focus on marital intercourse in verse 222. The segment Q 2:215–23 should not be considered as a separate unit; rather, it posits the smallest immediate segment surrounding verses 221 and 222 that can be identified without broaching the difficult question of its relationship to the larger unit(s) in which we find it. The passage then continues with rules concerning oaths (Q 2:224–25), and divorce and remarriage (Q 2:226–32), which I hope future studies will address; on divorce also notes 140 and 164 above.

<sup>169</sup> On the role of the Qur'an's prophet as a communal leader see most recently Nicolai Sinai, "Muḥammad as an Episcopal Figure," *Arabica* 65 (2018): 1–30 and Sinai, *The Qur'an*, 40–58; on the dialogue with the community see also Mehdi Azaiez, *Le contre-discours coranique* (Berlin: De Gruyter, 2015), esp. 78–108 and 297–300 and my comments in *Qur'an Seminar Commentary: A Collaborative Study of 50 Qur'anic Passages*, ed. Mehdi Azaiez, Gabriel Reynolds, et al. (Berlin: De Gruyter, 2016), 130–32.

- In verse Q 2:215, the audience asks about charity, including for orphans.
- Verse 216–18 discuss warfare; in verse 217, the audience asks about warfare in the holy months (*al-shahri l-ḥarām*), which is discouraged—but “fighting” (*qitālun*) is allowed if the enemy keeps one “from God’s way” (*‘an sabili llāhi*), or from “the sacred place of prostration” (*wa-l-masjidi l-ḥarāmi*).
- In verse 219, the audience asks once about wine and a game of chance (*al-maysir*) and again about charity.
- In verse 220, the audience again asks directly about orphans.
- Verse 221 discusses intermarriage.
- In verse 222, the prophet’s interlocutors are portrayed as asking about intercourse during menses.
- Verse 223 affirms the permissibility of marital intercourse however a man desires, as long as purity permits.

The literary format of the passage points to the demands of an independent community, whose rules governing warfare go beyond those of the Meccan Qur’an as well as beyond the rules of previous Christian legislation such as, say, the Didascalia Apostolorum, which was equally not composed under self-rule.<sup>170</sup> The broader context of *Sūrat al-Baqara*, in turn, evokes Israelite kingship and especially Israelite warfare (i.e. fighting “in the way of God,” *fi sabili llāhi*, Q 2:246) as a legal precedent for its own military struggles, in a way that is unique to the Qur’an (Q 2:246–51).<sup>171</sup> Importantly, the Qur’an’s attention to the particular Arabian tradition of holiness in the context of the sacred places of prostration and to warfare during the holy months reflects the acute relevance of pagan Arabian practices even for the Medinan surahs and only contains faint echoes of the biblical concerns for the Israelite sanctuary.<sup>172</sup> The Qur’an decisively rejects some pagan Arabian practices seen as idolatrous, such as the game of chance, *al-maysir* (see also Q 5:90). We have seen that such games are similarly outlawed in aspects of Byzantine Christian law (see pp. 200–1 above), and the rabbis tended to

<sup>170</sup> Non-Chalcedonian Syriac Christians in Eastern Rome always held a precarious status; on their fate under the Sasanian Empire see now Richard Payne, *A State of Mixture: Christians, Zoroastrians, and Iranian Political Culture in Late Antiquity* (Berkeley: University of California Press, 2015).

<sup>171</sup> The affinity of the Qur’an to Byzantine uses of the history of Israelite kings has, to the best of my knowledge, not yet been sufficiently explored. On the possible Aksumite context see pp. 102–5 above, and see now also Sinai, “Muḥammad as an Episcopal Figure,” esp. 23–24; Ghaffar, *Der Koran in seinem religions- und weltgeschichtlichen Kontext*; and Thomas Sizgorich, *Violence and Belief in Late Antiquity: Militant Devotion in Christianity and Islam* (Philadelphia: University of Pennsylvania Press, 2008), esp. 46–80. On the Israelite self-understanding in Medina see the helpful (if idiosyncratically titled) article by Devin Stewart, “Understanding the Quran in English: Notes on Translation, Form, and Prophetic Typology,” in *Diversity in Language: Contrastive Studies in English and Arabic Theoretical and Applied Linguistics*, ed. Zeinab Ibrahim et al. (Cairo: The American University in Cairo Press, 2000), 31–48.

<sup>172</sup> On the holiness of the Sanctuary and pilgrim sanctity in the Hebrew Bible and in the Qur’an see pp. 120–22 above as well as 308–15 below.

censure gambling as well.<sup>173</sup> The practice here outlawed most likely involved the division of the meat of a slaughtered animal, a widely attested ancient Near Eastern practice equally attested as a specifically pagan Arabian practice.<sup>174</sup> The qur'anic passage's pagan Arabian context, hence, becomes manifest both in what it endorses and in what it rejects. At the same time, its combined focus on charity, the care for orphans, the issue of the permissibility of alcohol, sexual intercourse in general, and intercourse during a woman's menses, is most comparable to the concerns we find in late antique Christian texts such as the *Didascalia Apostolorum*.<sup>175</sup> It is therefore in the dual context of Arabian paganism, on the one hand, and of the biblical tradition especially in its Christian interpretation, on the other, that we should approach the passage's discourse on sexual purity.

A few remarks on the linguistic evidence will allow for a further cultural analysis. As Süleyman Dost has recently shown in a consequential study building on the work of Joseph Halévy and Jacques Ryckman, much of the qur'anic vocabulary relating sexual purity stands fully in line with pagan Arabian epigraphy from northern Yemen, dating to the turn of the first millennium.<sup>176</sup> In Q 2:222, the Qur'an uses the roots *t-h-r*, "purity," *q-r-b*, "to approach (sexually)," and *h-y-d*, relating to the menses. These roots all point to the Qur'an's cultural affinity to both the biblical tradition and to its continuity with its pagan Arabian context:

- The Qur'an, in Q 2:222, uses the root *t-h-r* to indicate absence of the women's regulated impurity. We already encountered the same root in the Hebrew of Leviticus 15 and 17. The root is also common in Jewish Babylonian Aramaic, and it occurs in ancient Safaitic and South Arabian epigraphy from the turn of the first millennium, where it also denotes the absence of regulated impurity.<sup>177</sup> As we will consider in more detail in

<sup>173</sup> For the negative attitude of Jews and Christians towards gambling see esp. Joshua Schwartz, "Jews at the Dice Table: Gambling in Ancient Jewish Society Revisited," in *Envisioning Judaism: Studies in Honor of Peter Schäfer on the Occasion of His Seventieth Birthday*, ed. Ra'anan Boustán et al. (Tübingen: Mohr Siebeck, 2013), 129–45 as well as Schwartz, "Gambling in Ancient Jewish Society and in the Graeco-Roman World," in *Jews in a Graeco-Roman World*, ed. Martin Goodman (Oxford: Clarendon Press, 1998), 145–65.

<sup>174</sup> On the issue of games of chance in ancient Near Eastern and pagan Arabian culture see e.g. Nadia Jamil, "Playing for Time," 48–90; on the distinct yet related issue of divining arrows see also note 211 (Chapter 1) above as well as p. 296 below.

<sup>175</sup> On this biblical context see Zellentin, *The Qur'an's Legal Culture*, esp. 55–76.

<sup>176</sup> See Dost, "Language of Ritual Purity in the Qur'an and in Old South Arabian," 162–5; on Halévy and Ryckman see note 182 below.

<sup>177</sup> On the root *t-h-r* in Safaitic see Al-Jallad, *The Religion and Rituals of the Nomads of Pre-Islamic Arabia*, 44–6; on South Arabian epigraphy see Dost, "Language of Ritual Purity in the Qur'an and in Old South Arabian" esp. 44–46; Mohammed Maraqtén, "The Pilgrimage to the Awām-Temple/Mahram Bilqis, Ma'rib, Yemen," in *South Arabian Long-Distance Trade in Antiquity: "Out of Arabia"*, ed. George Hatke and Ronald Ruzicka (Newcastle upon Tyne: Cambridge Scholars Press, 2021), 447–48; as well as Copeland Biella, *Dictionary of Old South Arabic*, 216. While Aramaic tends to use the root *d-k-y* (a close cognate of qur'anic *z-k-y*) in place of *t-h-r*, the Babylonian Talmud commonly



Chapter 4, the Qur'an predominantly uses the root *t-h-r* to designate the absence of *prohibited* impurity, as indicated in the same verse by the usage of the same root in the term *al-mutaṭahhirīn*, "those who keep pure." As in the Bible, the disregard for regulated impurity leads to the contraction of prohibited impurity.

- Likewise, the verb used in Q 2:222 when ordering the believers to "not approach (pl.) them," *taqrabūhunna*, that is one's wives during the menses, is equally reminiscent of the similarly phrased biblical prohibition "do not approach (sg.)," *lō' tiqrab*, that is a woman during her menses (Lev 18:19). The same usage is preserved in the Aramaic renderings of the law such as *l' ttqrb*, in the Peshitta, or in the rendering of Ezek 18:18 such as *l' ntqrb* in the Didascalia Apostolorum.<sup>178</sup> The root *q-r-b* is also attested in South Arabian epigraphy in this sense, where it can likewise denote illicit sexual intercourse, including during the menses.<sup>179</sup>
- The term used in the epigraphy to designate woman's menses is expressed by the root *h-y-d*, the very root the Qur'an uses to describe the menses in Q 2:222 (*al-mahīd*, which also occurs in Q 65:4).<sup>180</sup> The root *h-y-d*, to the best of my knowledge, does *not* occur in either biblical Hebrew or Aramaic.

These brief considerations have little value in themselves, but point to a broader conundrum in the study of the Qur'an. On the one hand, we have seen how centrally the prohibition of intercourse during the menses features in Christian law throughout late antiquity, and how unambiguously the law was endorsed.<sup>181</sup> In light of the close affinity of the Qur'an's laws pertaining to prohibited impurity regarding both food and sex, one would therefore be tempted to contextualize its purity discourse within the biblical tradition. On the other hand, Joseph Halévy and Jacques Ryckman long ago have shown the affinities of biblical and ancient South Arabian purity laws, which in turn help us contextualize the Qur'an.<sup>182</sup> The

employs the root *t-h-r* to indicate purity, see Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Ramat Gan: Bar Ilan University Press, 2002), 494, and cf. Zellentin, *The Qur'an's Legal Culture*, 101, and see Sinai, *Key Terms of the Qur'an*, s.v. *zakāh* and *ṭahara*.

<sup>178</sup> Didascalia Apostolorum, ch. 6, Vööbus, *The Didascalia Apostolorum in Syriac I*, 67.

<sup>179</sup> On the root *q-r-b* in ancient South Arabian epigraphy see Copeland Biella, *Dictionary of Old South Arabic*, 465–66; for further occurrences of the root see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=qrb> (accessed 5 March 2021).

<sup>180</sup> Dost, "Language of Ritual Purity in the Qur'an and in Old South Arabian," 162–4, as well as Mohammed Maraqtan, "Women's Inscriptions Recently Discovered by the AFSM at the Awām Temple/ Maḥram Bilqīs in Marib, Yemen," *Proceedings of the Seminar for Arabian Studies* 38 (2008): 231–50; see also Copeland Biella, *Dictionary of Old South Arabic*, 174; for further occurrences of the root *h-y-d* see also <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=hyd> (accessed 5 March 2021), and see already Wellhausen, *Reste arabischen Heidentums*, 170.

<sup>181</sup> See pp. 152–81 above.

<sup>182</sup> Ryckmans, "Rites du paganisme de l'Arabie méridionale avant l'islam," 128–34, partially based on Joseph Halévy, "Ex-voto sabéens relatifs aux purifications," *Revue Sémitique* 7 (1899): 267–78. Raffaele Pettazzoni has placed the findings of Ryckmans and Halévy in a broader ancient Near Eastern context. By triangulating the data of Babylonian and Egyptian confessional materials with the South Arabian

record of a considerable number of penitentiary votive offerings point to a system of sexual purity, practised at the turn of the first millennium, whose affinity with biblical sexual purity laws goes very far, even if neither the biblical nor the epigraphic record allows for a deep anthropological reading. It is, in my view, a futile exercise to try to conceive of the Qur'an's laws pertaining to regulated sexual impurity as closer either in relation to biblical, Jewish, and Christian traditions, or to pagan Arabian ones, since all four are related.<sup>183</sup> It is thus the context provided by the Qur'an that should guide our cultural analysis, and this context highlights pagan Arabian practices next to biblical and especially Christian ones that were addressed to gentiles.

We should, therefore, see the Qur'an's discourse on purity in dialogue with Christians inclining towards an expansive attitude towards the Decree of the Apostles at precisely the moment in which the nascent Muslim community begins to emancipate itself from the pagan Arabian context, in the realm of politics, of religious symbolism, and of law. Consideration of the segment Q 2:215–23 thus shows that the Medinan Qur'an introduces the sexual purity laws regarding intermarriage and intercourse during the menses in a way which reflects their biblical context in three ways:<sup>184</sup>

- First, the qur'anic laws are embedded in a broader discursive context that includes the aspect of warfare and a broad array of other legal concerns, signalling the self-understanding of the embattled Medinan community as reliving a situation closely resembling, if distinct from that of the ancient Israelites.
- Second, the laws follow the Christian tradition in their emphasis on topics such as charity, care for orphans, and sexual purity, highlighting the

ones, he has—in my view, plausibly—surmised that the formal and semantic affinities between the confessions across cultures should be understood in light of their common origin in Babylonia, whereas the South Arabian particularities should be understood in light of the local incense trade that required extra care to be taken with regards to the observance of ritual purity; see Pettazzoni, *La Confessione dei Peccati. Parte Seconda. Volume Secondo: Egitto–Babilonia–Israele–Arabia Meridionale* (Bologna: Nicola Zanichelli, 1935), 324–47.

<sup>183</sup> We have seen the extension of these laws to gentiles in the Christian tradition, plausibly with a basis in the biblical *gerim* laws; on rabbinic attitudes towards *Israelite* sexual purity, which does not extend to gentiles, see note 52 above. It should be noted that my findings do not stand in any meaningful continuity with Haggai Mazuz, “Menstruation and Differentiation: How Muslims Differentiated Themselves from Jews regarding the Laws of Menstruation,” *Der Islam* 87 (2012): 204–23.

<sup>184</sup> I hope that future studies will address the important distinction between marriage to free and slave women equally treated in Q 2:221; we should note that the distinction was essential both in Christian law and in ancient Near Eastern law as well; see e.g. Justinian's Novel 78 and appendix 7.15 and the helpful summaries already in Hage, *Les empêchements de mariage en droit canonique oriental*, 257–62; and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 183–84 and see p. 250 below. On the Jewish and Christian attitudes towards slavery see Catherine Hezser, *Jewish Slavery in Antiquity* (Oxford: Oxford University Press, 2005); see also Jennifer Glancy, *Slavery in Early Christianity* (Minneapolis: Fortress Press, 2006) and Majied Robinson, *Marriage in the Tribe of Muhammad: A Statistical Study of Early Arabic Genealogical Literature* (Berlin: De Gruyter, 2020), esp. 148–78.

relevance of prohibited and regulated sexual purity concerns, including menstrual purity, not only among Israelites but among all believers.

- Third, we have seen the late antique legal discourse that connects the prohibition of intercourse during the menses in Lev 18:19, on the one hand, with the prohibition of intermarriage, on the other. Jews and Christians understood Lev 18:21, the prohibition of sacrifice of one's offspring to Molech, as a prohibition of intermarriage with idolaters (especially so in the readings of Jubilees and the Peshitta, equally attested to by the rabbis, see pp. 129–43 above). Even if the compositional history of Q 2:215–23 may someday complicate our understanding of the passage, the *joint* occurrence of the laws against *intermarriage* and against *intercourse during the menses* thus remains remarkable (even if only the latter prohibition, but not the former, is introduced by a question from the audience). From a biblical and late antique perspective, however, the juxtaposition of the two prohibitions—albeit it in inverted order—in Q 2:221 and 222 is hardly surprising since it follows the biblical paradigm established in Leviticus 18.<sup>185</sup>

The Qur'anic law's biblical context is thus prevalent in a variety of ways. The Qur'an, at the same time, expresses its laws pertaining to regulated sexual impurity in ways that follow established usage in ancient pagan Arabic culture—the very culture from which it so sharply departs when it comes to prohibited impurity.

We will conclude this chapter by turning to one further case that equally combines ancient Arabian epigraphy with the prevalence of the biblical tradition towards regulated sexual impurity in the Medinan community, which can be seen in the requirement for ritual washing. Q 5 *Sūrat al-Mā'ida* 5–7, a passage partially reminiscent of Q 4:24–25 as well as of Q 4:43, constitutes the immediate sequel to the passage finalizing the Qur'anic food laws as discussed on pp. 122–28 above. Here, the Qur'an updates Jewish and Christian rules of food and intermarriage before legislating on the necessity to wash after sexual intercourse and before prayer:

Q 5:5 Today, all the good things (*al-ṭayyibāt*) have been made lawful to you:  
—the food of those who were given the Book is lawful to you,  
and your food is lawful to them—  
and the chaste ones from among believing women (*wa-l-muḥṣanātu mina l-mu'mināti*),  
and chaste women (*wa-l-muḥṣanāt*) of those who were given the Book before you,

<sup>185</sup> The Qur'an's fourfold emphasis on marriage with a “believing” woman in Q 2:221, moreover, recalls the formulation in the Peshitta, barring marriage for a woman with men “who are strange to us in faith (*dnwkryyn ln bhlmmwt*)”; see Didascalia Apostolorum, ch. 3, Vööbus, *The Didascalia Apostolorum in Syriac I*, 51.

when you have given them their dowries,  
 being chaste (m., pl., *muḥṣinīn*),  
 not promiscuous (*ghayra musāfihīna*, m., pl.), nor taking paramours (*wa-lā muttakhidhīakhdānin*).

Should anyone renounce his faith,  
 his work shall fail, and he will be among the losers in the Hereafter.

Q 5:6 O you (pl.) who have faith!

When you stand up for prayer (*qumtum ila l-ṣalāti*),  
 wash (*fa-ghsilū*) your faces  
 and your hands up to the elbows,  
 and wipe (*wa-msahū*) a part of your heads  
 and (wipe or wash) your feet,  
 up to the ankles.

If you are impure (*junub*), purify yourselves (*fa-ṭṭahharū*).

But if you are sick, or on a journey,  
 or any of you has come from the privy,  
 or you have touched women (*aw lāmastumu l-nisāʿa*),  
 and you cannot find water,  
 then make ablutions (*fa-tayammamū*) with good ground (*ṣaʿīdan ṭayyiban*)  
 and wipe a part of your faces and your hands with it.

God does not want  
 to put you to hardship,  
 but He wants to purify you (*yurīdu yuṭahhirakum*),  
 and to complete His blessings upon you  
 so that you may give thanks.

Q 5:7 Remember God's blessing upon you  
 and His covenant with which He has bound you  
 when you said, "We hear and obey" (*samiʿnā wa-aṭaʿnā*)  
 and be wary of God.

Indeed, God knows best what is in the breasts.

It may, in the present case, be forgivable to forego a literary analysis of the passage (beyond the remarks made on its prequel in Chapter 2; see pp. 122–28 above). Essential for our purposes are merely the four ways in which the Qurʾan *jointly* places its food laws as well as its sexual purity laws within a biblical context, much as the Decree of the Apostles and its Christian interpreters have done before:

- In verse Q 5:5, the Qur'an first declares the compatibility of Jewish, Christian, and its own regulations pertaining to food, positing the full overlap of God's instructions for the respective groups (rather than their actual practice), as we have seen above (see p. 118 above).
- In the same verse, it also declares Jewish and Christian women to be eligible for marriage with members of its own community, in line with its prohibition to marry pagans as indicated above (see pp. 205–7).
- In verse Q 5:6, the Qur'an implicitly yet perceivably embeds the legal material in a literary framework highlighting the roles of Jesus and Moses. God's desire "to purify you (*yutaḥhirakum*)" without necessitating "hardship" evokes the Qur'an's and indeed the Christian view that Jesus "relieves them (i.e. the Israelites) of their burdens and shackles that were upon them" (Q 7:157).<sup>186</sup>
- Finally, the entire passage under consideration concludes with an evocation of the Israelite covenant "with which He has bound you when you said, 'We hear and obey'" (*sami'nā wa-aṭa'nā*, Q 5:7), a phrase that the Qur'an elsewhere connects with the Israelites and with Moses, yet here applies to its own community.<sup>187</sup>

The Qur'an thus highlights the "biblical" context of its purity rules pertaining both to sexuality and to food. The Qur'an's respective discourse stands, as it always tends to do, in consonance with its actual rulings, which are all of identifiable "biblical" origin. Just as the prequel, the verses Q 5:5–7 endorse and develop aspects of sexual purity regulations found among those Christians who displayed an expansive attitude towards the Decree of the Apostles: those Christians who applied the purity laws of Leviticus 15, 17, and 18, concerning food, intermarriage, and washing after sexual intercourse and before prayer, to gentiles. Yet the ancient South Arabian epigraphic evidence once again allows us to situate the Qur'an at the confluence of biblical and pagan Arabian traditions:

- Q 5:5 emphasizes that all "good things" (*al-ṭayyibāt*) are lawful for the believers, whereas verse 6 permits the use of "good ground" (*ṣa'īd ṭayyib*) in order to cleanse oneself. We have already discussed the semantic field of the root ṭ-y-b in Chapter 1 above; the ancient South Arabian epigraphic record here pinpointed to the meaning of the "wholesomeness" of food (see pp. 126–27). At the same time, the eventual restrictions on food place the verse in line

<sup>186</sup> See Zellentin, *The Qur'an's Legal Culture*, 139; Witztum, "The Syriac Milieu of the Quran," 275–76; and Joseph E. Lowry, "When Less Is More: Law and Commandment in Sūrat al-An'ām," *Journal of Qur'anic Studies* 9 (2007): 22–42.

<sup>187</sup> The "Israelite" resonances of this verse become clear when comparing the concluding line of Q 5:7 with Q 4:46 and Q 2:93 but see also Q 2:285. See Zellentin, *The Qur'an's Legal Culture*, 37, and see already Speyer, *Biblische Erzählungen im Quran*, 301–2.

with the appreciative and expansive Christian tradition of interpreting the Decree of the Apostles.

- The verse Q 5:5, as already mentioned, allows male members of the qur'anic community to marry "believing" women, a law that corresponds to the inverse legislation in Q 2:221, in Q 24:2–5, and in Q 60:10, prohibiting marriage to associators or unbelievers. In prohibiting such marriages, we have seen, the Qur'an again evokes both rabbinic and Christian marriage law, which prohibits Jews and Christians from marrying pagans in line with Lev 18:21. Yet neither rabbis nor Christians allowed for any exceptions: for the former, any gentile, regardless of religious practice, was prohibited for Jews, and for most Christians, Jews as well as Christians considered "heretics" unlawful to marry.<sup>188</sup> The Qur'an, by contrast, allows believing men to marry Jewish and Christian women, as long as they are *muḥṣanāt* (Q 5:5). The root of this contested term is again well attested in ancient South Arabian epigraphy, where it can designate enslaved women; in the Qur'an it likely describes women who do not engage in extra-marital intercourse.<sup>189</sup>
- By omitting a reverse dispensation, the Qur'an prohibits even "believing" Jewish and Christian men to marry women within its own community. The Qur'an, in this case setting its (limited) strive towards "gender balance" in matrimony aside, thus partially supersedes both Jewish and Christian law. In allowing male members of its community to marry Jewish and Christian women, but not the women within the community to marry Jewish and Christian men, the Qur'an defines a middle path between the Jewish and Christian strictness on the matter, on the one hand, and, on the other, its own sense that true Jews, true Christians, and true believers would belong to the same group. In this, it enacts the idea of the qur'anic community constituting a "middle nation" (*ummatan wasaṭan*, Q 2:143).<sup>190</sup>
- In the present formulation, we should note that the prohibition for members of the community to be "promiscuous," *musāfiḥīna* (m. pl.), uses the rare root *s-f-ḥ* (which is used in a similar sense only in Q 4:24–25). Importantly, the same root describes the prohibition of "spilled blood" in Q 6:145, symbolically connecting the discourse of purity of sex and food, which equally marks the expansive Christian notion of gentile purity. Inversely, the root's

<sup>188</sup> See pp. 134–39 above.

<sup>189</sup> In ancient South Arabian inscriptions, the root *ḥ-ṣ-n* denotes those under one's protection or slaves; see Copeland Biella, *Dictionary of Old South Arabic*, 183, and for further occurrences see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ḥṣn> (accessed 5 March 2021); for a broader discussion of the passage see Witztum, "Q 4:24 Revisited," 1–33; and Motzki, "Wal-muḥṣanātu mina n-nisā'i illā mā malakat aimānukum (Koran 4:24)," 192–218. On the matter of marriage to slave women see note 184 above.

<sup>190</sup> On the legal context of this famous passage see e.g. Shaddel, "Qur'anic *ummi*"; Zellentin, *The Qur'an's Legal Culture*, 179–80, as well as notes 163 and 171 (Chapter 1) above. On gender balance and imbalance in marriage law see esp. pp. 224–42 below.

usage in ancient South Arabian epigraphy attests only its meaning in the sense of “pouring out,” and does not easily allow for a connection with pagan Arabian types of spousal arrangements the Qur’an may reject.<sup>191</sup>

- The requirement to wash before prayer (*ṣalāt*) and after sexual intercourse (or defecation, on which more below) in Q 5:6 stands in line with the broad Christian trend to wash before prayer, for which we have seen abundant positive and negative evidence throughout late ancient Christianity (see esp. pp. 152–81 above).<sup>192</sup> The particular washing of faces, hands, part of the head, and feet, as commanded in Q 5:6, was emphasized in rabbinic ritual in a comparable (yet slightly diverging) way, whereas the washing of hands, of feet, or of the entire body before prayer was equally practised by Christians—and denounced by some Church Fathers—in North Africa, in Constantinople, in Tyre, and in Rome.<sup>193</sup> At the same time, Dost notes the ancient South Arabian inscriptions equally use the root *gh-s-l* to describe ritual washing necessary to regain sexual purity, the very root the Qur’an uses for the same purpose in Q 5:6 and in a parallel verse in Q 4:43 (to which we will turn in Chapter 4).<sup>194</sup> In light of the further affinities between the Qur’an and pagan Arabian culture when it comes to the vocabulary employed to regulate sexual purity, this usage again positions the Qur’an at the confluence of pagan Arabia, biblical, and especially the expansive Christian traditions pertaining to regulated sexual impurity.
- The command to “purify yourselves” (*fa-ṭṭahharū*, Q 5:6) uses the same root *ṭ-h-r* we already encountered in Q 2:222. The language of regulated sexual purity in the present passage is also marked by the fact that God “wants to purify you” (*yurīdu yuṭahhirakum*). The Qur’an’s language here corresponds to

<sup>191</sup> See esp. pp. 172–73 above; note that both Q 4:25 and Q 5:5 uniquely use the term *akhdān*, par-amours, further emphasizing their interrelation and the Qur’an’s break with pagan Arabian culture; on pagan Arabian sexual mores see Angelika Neuwirth, “A ‘Religious Transformation in Late Antiquity’—From Tribal Genealogy to Divine Covenant: Qur’anic Refigurations of Pagan-Arab Ideals Based on Biblical Models,” in *The Qur’an’s Reformation of Judaism and Christianity: Return to the Origins*, ed. Holger Zellentin (Abingdon: Routledge, 2019), 63–91; on the root *s-f-ḥ* see also note 178 (Chapter 1) above.

<sup>192</sup> The root *ṣ-l-w*, moreover, has long been placed in the context of Jewish and Christian forms of Aramaic, see e.g. Ambros, *A Concise Dictionary of Koranic Arabic*, 163; and Zellentin, *The Qur’an’s Legal Culture*, 59–60.

<sup>193</sup> See pp. 152–81 above; on rabbinic practice see notes 104 and 115 above. See the classical study by Arent Jan Wensinck, “Die Entstehung der Muslimischen Reinheitsgesetzgebung,” *Der Islam* 5 (1914): 62–80, who focuses on the rules of classical Islam in light of the rabbinic tradition, as well as the criticism by Hava Lazarus-Yafeh, “Some Differences between Judaism and Islam as Two Religions of Law,” *Religion* 14 (1984): 175–91; for my own views see Zellentin, *The Qur’an’s Legal Culture*, 144–45.

<sup>194</sup> On the root *gh-s-l* in South Arabian epigraphy see Dost, “Language of Ritual Purity in the Qur’an and in Old South Arabian,” 158–164 and Copeland Biella, *Dictionary of Old South Arabic*, 396; for further occurrences of the root see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ḡsl> (accessed 5 March 2021). Note that the use of the roots *gh-s-l*, *m-s-h*, *y-m-m*, and *j-n-b*, in their meanings here, are unique to Q 5:6 and its parallel in Q 4:43; cf. e.g. Q 4:31, Q 7:136, Q 16:36, Q 20:39, Q 22:30, and Q 28:11; on Q 4:43 see also Sinai, *Key Terms of the Qur’an*, s.v. *ṭahara* and Geiger, *Was hat Mohammed aus dem Judenthume aufgenommen?*, 86.



both biblical and pagan Arabian vocabulary, yet its keen emphasis on regulated sexual purity arguably stands in especially close relationship to the view recorded in the Clementine Homilies, that “purification (*kathareuein*)...is peculiar to the worship of God” (*thrēskeias theou*); see pp. 179–80 above.

- As has long been noted, the requirement to wash after using the privy and the permission to use sand instead of water if necessary can equally be found in the rabbinic tradition. In addition, the admissibility of emergency baptism with sand is recorded in monastic literature from the early seventh century CE.<sup>195</sup>

To conclude, the Qur’an’s categories largely coincide with those Christians who emphasize the importance of avoiding regulated sexual impurity, in their expansive attitude towards the Decree of the Apostles. The Islamic Scripture formulates its own unique system of Islamic sexual purity regulations in close dialogue with a plethora of Jewish and especially Christian practices and narratives common throughout the Near East, yet it expresses this system by using epigraphically well-attested Arabian terms. Likewise, the Qur’an is nowhere in any obvious way bound by precedent, highlighting its categorical subsumption of its engagement with Jewish, Christian, and pagan Arabian practice under the demands of its prophetology. This process results in the religious distinctness of the Islamic reiteration of the laws for the gentiles we find in the Hebrew Bible, more specifically as defined by their late antique reception history.

We do not know how the pagan Arabian vocabulary attested in the ancient South Arabian inscriptions reached the Qur’anic community. Yet in the parallel cases of *prohibited* impurity caused by food and by rejected types of sexual intercourse, it is quite evidently the Qur’an itself that reflects the prophet’s attempt at reforming the practices of its contemporaries. If this evidence may be used as a guide, perhaps along with the stringency of the Qur’an’s biblicization of this material, then I, for one, would rather err on the side of according it too much rather than too little agency in reshaping the vernacular of regulated Arabian sexual impurity. With this in mind, we can now turn to the second part of the Qur’an’s rulings on sexual purity as defined by the laws on incest.

<sup>195</sup> The Babylonian Talmud upholds a reported Palestinian tradition that after relieving oneself, washing of hands is sufficient before reciting the Shema, and “if one has no water (*mym*) for washing his hands, he can rub (*mqnh ydyw*) his hands with earth or with a pebble or with sawdust (*b’pr wbsrwr wbqsmyt*) (Bavli *Berakhot* 15a)”; see Zellentin, *The Qur’an’s Legal Culture*, 104–5, and Geiger, *Was hat Mohammed aus dem Judenthume aufgenommen?*, 86. In addition, Mark Hoover has pointed out to me that the validity of emergency baptism with sand is controversially discussed and accepted by some Christian authorities in John Moschos’ *Spiritual Meadow* 176, a text contemporary to the Meccan phase of the Qur’anic community.

# 3

## The Poetics of Incest Law

### Leviticus 18:6–18 to Q 4 *Sūrat al-Nisā*’ 22–23\*

So far, we have considered the Qur’an’s food laws, as well as its laws on sexual transgressions and many of the legal narratives that convey the background and authority of these laws. These all stand in line with a concrete and demonstrable rabbinic and especially Christian tradition that endorses the concept of biblical laws for gentiles. Generally, however, it is not so much the particular biblical or late antique texts that form the Qur’an’s point of departure, but the putative living legal culture of Arabian Christians and Jews—even if we have to rely on texts, and moreover on non-Arabian texts, to reconstruct a glimpse of this culture. The case of incest law, which equally forms part of the Bible’s *gerim* laws in Leviticus 18, forms an exception to this preponderance of practices over concrete literary text that emerged from the study thus far. In the case of incest law, namely, the actual biblical text—again most likely orally transmitted—may play a more important role for the formulation of qur’anic law. At the same time, the Qur’an’s laws of milk kinship, which it connects with the biblical tradition of incest law, seems to form a part of Arabian culture that is not attested anywhere else in pre-Islamic law, pointing, once again, to the unique Arabian nature of many aspects of qur’anic law.

At the example of the laws found in the Qur’an’s legislation on prohibited marriages (in Q 4 *Sūrat al-Nisā*’ 22–23), I will argue that the nature and order of the qur’anic prohibitions integrates and updates a catalogue similar to the one preserved as part of the Hebrew Bible’s laws also applicable to the *gerim*, in Lev 18:6–18. This latter passage, in the Bible, immediately precedes the laws on other types of sexual transgressions we have treated in the previous chapter. The present chapter, along with Chapter 4, thus supports my suggestion that the very core of qur’anic law is based on the *gerim* laws of Leviticus 17 and 18 as reflected in rabbinic and especially in Christian understanding of these laws, along with the double prohibition of blood in Genesis 9, as basis for God’s laws for gentiles. Obeying the laws of incest as such was not under dispute in late antiquity: all agreed that such unions would lead to prohibited impurity. The case of incest, however, allows us to probe deeper into the cultural and legal relationship of the Qur’an to the Bible, and to the Bible’s late antique reception in Judaism and, once

\* This chapter is based on Zellentin, “Law in the Medinan Qur’ān.”

again, especially in Christianity. The case of incest law, we will see, shows much closer formal and literary correspondences between the Bible and the Qur’an, which in turn allows us to highlight the Qur’an’s unique perspective regarding these matters.

The Qur’an’s incest laws, first of all, largely preserves the Bible’s original order, as the following preliminary and simplified juxtaposition illustrates. According to both texts, a man is prohibited from marrying particular women (as indicated in Table 3.1). The overlap between the actual laws in the Bible and the Qur’an, as well as the order in which they are presented, is extensive. Both passages were understood as beginning with the same two categories, both end with the same category, and of a total of eight shared categories (rendered in boldface), seven are presented in the same overall order, proceeding (in the Bible’s late antique understanding) from stepmother, to mother, sister, paternal aunt, maternal aunt, mother and daughter, and finally, to two sisters, with only the prohibition against marrying a son’s wife placed earlier in one text and later in the other (rendered, along with two cases of implicit prohibitions, in italics). The overlap, of course, also emphasizes the differences between the biblical laws and the Qur’an: the

**Table 3.1** Women a man is prohibited to marry, according to the Qur’an and the Bible

Qur’an	Bible
<b>father’s wife</b>	
<b>mother</b>	
daughter	<i>implicit</i>
<b>sister</b>	
<i>implicit</i>	granddaughter
<b>paternal aunt</b>	
<b>maternal aunt</b>	
–	uncle’s wife
<i>see below</i>	<b>son’s wife</b>
–	brother’s wife
niece	–
milk mother	–
milk sister	–
<b>mother and daughter</b>	
<b>son’s wife</b>	<i>see above</i>
<b>two sisters</b>	

Qur'an does not adopt the biblical prohibition against a man marrying the former wife of his brother or uncle, it additionally prohibits him from marrying his niece, a milk mother, or sister, and it lessens several biblical prohibitions against a man marrying a former wife of his father's, his stepdaughter, and his wife's sister, as we will see in detail below.

This chapter will seek to contextualize the overlap alongside the discrepancies in law and order by considering both the Hebrew Bible and the Qur'an in their respective cultural contexts, with special emphasis on the latter's participation in late antique legal culture. It will proceed in five interrelated steps. Its first section, entitled "Consanguinity, Affinity, and Exemptions: Major Trends in Christian Marriage Law," will introduce the conceptual and theoretical underpinning of my research, with particular emphasis on the work of the anthropologist Françoise Héritier and her critics. This section will focus on the Christian understanding of biblical laws against incest in light of the concept of affinity—relationships through marriage—which is central to Roman and West Syrian law but emphasized less in biblical, rabbinic, and East Syrian law against incest. The second section, titled "The Bible's List of Prohibited Relationships," will present the biblical list of prohibited relations from Lev 18:6–18, whose operative legal principles can likewise be unearthed through a careful literary study of the passage's literary structure. In dialogue with the biblical scholar Madeline Gay McClenney-Sadler, whose findings I simplify, I hold that the Bible's prohibitions are not based so much on the notion of affinity but on the protection of the rights of legal personae such as God, a man's parents, his closest male relatives, and his wife. The third section, titled "The Qur'an's List of Prohibited Relations," will introduce the Qur'an's list of prohibited sexual relations in Q 4:22–23. I argue that the text's operative legal principles, which include but downplay the Roman and West Syrian notion of kinship on the grounds of affinity, can be uncovered through detailed literary analysis. The passage at the same time offers exemptions for some previously contracted marriages between affinal kin the Qur'an declares illegitimate; such exemptions are similar to those found in Eastern Roman and East Syrian law. The fourth section, "A Legal and Literary Comparison of the Qur'an and the Bible," presents the central claim of this chapter, that the content and arrangement of the actual prohibition of incest in the two lists of incest laws shows such similarity that we must understand qur'anic law as integrating and updating biblical law. Having established the general continuity of qur'anic with biblical laws against incest, we will then go on to consider the significant discrepancies between the two lists of laws, both in terms of content and form. The comparison will show that the Qur'an expands the biblical prohibition of incest in dialogue with late Roman and West Syrian Christian laws against consanguineous marriages and those between affinal kin, all the while, here standing closer to the East Syrian tradition, *annulling*, *lessening*, or *limiting* in scope all those biblical prohibitions that correspond to the postbiblical Christian notion of affinity. Finally, my

conclusion, “The Qur’an’s Reiteration of Biblical Law in Light of Late Antique Culture,” emphasizes that the Qur’an’s reiteration of biblical law not only stands in continuity with many aspects of late antique law (itself often based on aspects of the Bible) but also does so in a way that is aligned with its own legal proclivities. The link between the legal evidence found, first, in the *gerim* laws of the Hebrew Bible, second, in the Bible’s late antique Jewish and especially Christian reception history, and, third, in the Qur’an, thereby allows us to contextualize the Qur’an within the proposed framework of gentile biblical law.

### **Consanguinity, Affinity, and Exemptions: Major Trends in Christian Marriage Law**

Situating the terms *marriage*, as well as *consanguinity* and *affinity*, in a historical perspective, with a particular focus on Christian law, will prove essential for our understanding of the Qur’an’s respective operative legal principles. For this chapter, I will first define *marriage* as any potentially permanent and socially sanctioned contract of mutual obligations between a free man and a free woman that authorizes sexual intercourse between them. (Along with late antique Jews and Christians, I will thus consider the biblical prohibition of intercourse as if it were a prohibition of marriage.) In order to streamline my argument, I generally exclude all considerations of extramarital sexual relations along with other thorny issues such as the financial aspects of marriage, divorce, same-sex marriage, marriage with or between slaves, temporary marriage, prostitution, or the analysis of marriage as slavery, worthwhile as these topics may be.

Second, the prohibition of *consanguineous* sexual relations—that is, between blood relations, such as parents and children, or siblings—are well-nigh universal; informing, for example, the civil law of Greece and Imperial Rome, as much as the Laws of Hammurabi, and other ancient Near Eastern laws, and therefore probably also those of pre-Islamic Arabia.<sup>1</sup> Since there is universal agreement on the

<sup>1</sup> On the prohibition of consanguineous relations in the ancient Near East, e.g. in the Laws of Hammurabi, the Hittite Laws, and the Middle Assyrian Laws, see Marten Stol, *Women in the Ancient Near East* (Berlin: de Gruyter, 2016), 268–74 and Jonathan R. Ziskind, “Legal Rules on Incest in the Ancient Near East,” *Revue internationale des droits de l’antiquité* 3rd series 79 (1988): 79–109; Hoffner, “Incest, Sodomy and Bestiality in the Ancient Near East,” 81–90, as well as the classic study by Ephraim Neufeld, *Ancient Hebrew Marriage Laws with Special References to General Semitic Laws and Customs* (London: Longmans, Green and Co., 1944); see also notes 83 and 112 below. For the seemingly exceptional case of Roman Egypt, see Sabine R. Huebner, “‘Brother–Sister’ Marriage in Roman Egypt: A Curiosity of Humankind or a Widespread Family Strategy?,” *Journal of Roman Studies* 97 (2007): 21–49, see also note 4 below. On kinship bars in pre-Islamic Arabia see Stephen D. Ricks, “Kinship Bars to Marriage in Jewish and Islamic Law,” in *Studies in Islamic and Judaic Traditions: Papers Presented at the Institute for Islamic–Judaic Studies*, ed. Stephen D. Ricks and William M. Brinner (Atlanta: Scholars’ Press, 1986), 133–36; Henninger, “Polyandrie im vorislamischen Arabien”; William Robertson Smith, *Kinship and Marriage in Early Arabia* (London: Adam and Charles Black, 1907), 191–216; and Wellhausen, “Die Ehe bei den Arabern,” 431–81. Sara Kohn’s otherwise very thorough study does not discuss impediments to marriage; see eadem, *Die Eheschließung im Koran*.

prohibition of first- and second-degree incest prohibitions, the most obvious point at which to assess the contact between Christian and Qur'anic law, to the exclusion of biblical and Jewish law, can be found in the prohibition of a particular consanguineous relationship of the third degree, so-called "avuncular" marriage between an uncle and his niece. The rabbis, particularly those in Babylonia, did not problematize this consanguineous relationship, permitted by the Bible, in the slightest,<sup>2</sup> and East Syrian tradition did not initially outlaw it either.<sup>3</sup> In this sense, the Babylonian Talmud, along with East Syrian law, may be said to reflect, to a degree, the more lenient Zoroastrian attitude towards close-kin marriages, in contrast to Roman and West Syrian law.<sup>4</sup> Roman Christian law, by contrast, has long shown contempt for avuncular marriage, which was outlawed in the Eastern Roman Empire and West Syrian church in the fifth century CE (even though some exceptions were made); similar prohibitions would eventually also be considered as normative by East Syrian Christian law in the Islamicate period.<sup>5</sup>

<sup>2</sup> See, e.g. *Bavli Yevamot* 62b–63a, which, along with the early Palestinian rabbinic *Tosephta Kiddushin* 1:4, praises a man who marries his sister's daughter; see also Eliezer Segal, "Sarah and Ischah: Method and Message in Midrashic Tradition," *The Jewish Quarterly Review* 82 (1992): 417–29. On Babylonian Talmudic views of incest in general, see esp. Yishai Kiel, *Sexuality in the Babylonian Talmud: Christian and Sasanian Contexts in Late Antiquity* (Cambridge: Cambridge University Press, 2016), esp. 245–60; and Yaakov Elman, "'He in His Cloak and She in Her Cloak': Conflicting Images of Sexuality in Sasanian Mesopotamia," in *Discussing Cultural Influences: Text, Context, and Non-Text in Rabbinic Judaism*, ed. Rivka Ulmer (Lanham: University Press of America, 2007), 129–63.

<sup>3</sup> The most important East Syrian source that discusses uncle-niece marriage is that of the sixth-century CE *catholicos* Mar Aba, to whom we will turn below. In his third synodal letter, he writes that "the daughter of the brother or the daughter of a sister are not explained for us (*l' mprš'n ln*) in the scriptures" (my translation); see Chabot, *Synodicon orientale*, 83 (Syriac) and 337 (French translation). Lev Weitz, in my view, correctly understands the passage "to mean that scripture gives no indication of whether uncle-niece marriages are allowed or not, and that he therefore declines judgment himself"; see Weitz, *Syriac Christians in the Medieval Islamic World: Law, Family, and Society* (PhD diss., Princeton University, 2013), 173.

<sup>4</sup> On Zoroastrian attitudes towards close-kin marriage see Maria Macuch, "Incestuous Marriage in the Context of Sasanian Family Law," in *Ancient and Middle Iranian Studies*, ed. Macuch et al. (Wiesbaden: Harrassowitz, 2010), 133–48; Paul John Frandsen, *Incestuous and Close-Kin Marriage in Ancient Egypt and Persia: An Examination of the Evidence* (Copenhagen: Museum Tusulanum Press, 2009); and Mansour Shaki, "The Sasanian Matrimonial Relations," *Archiv Orientalní* 39 (1971): 322–45.

<sup>5</sup> See Justinian Code 5:8:2, see also David Wagschal, *Law and Legality in the Greek East: The Byzantine Canonical Tradition* (Oxford: Oxford University Press, 2015), esp. 223–74; Olivia F. Robinson, "Persons," in *A Companion to Justinian's Institutes*, ed. Ernest Metzger (Ithaca: Cornell University Press, 1998), 27–29 and Caroline Humfress, "Law and Legal Practices in the Age of Justinian," in *The Cambridge Companion to the Age of Justinian*, ed. Michael Maas (Cambridge: Cambridge University Press, 2005), 161–84. The practice of avuncular marriage was prohibited in the late fifth century CE, under the Emperor Zeno see Judith Evans Grubbs, *Women and the Law in the Roman Empire: A Sourcebook on Marriage, Divorce and Widowhood* (London: Routledge, 2002), 137–38 and 161; cf. Simon Corcoran, "The Sins of the Fathers: A Neglected Constitution of Diocletian on Incest," *The Journal of Legal History* 21 (2000): 1–34. There were exceptions to the prohibition, such as Heraclius' marriage to his sister's daughter Martina in the early seventh century CE, on which see Christian Boudignon, "Darf der Kaiser seine Nichte heiraten?" in *Männlich und weiblich schuf Er sie: Studien zur Genderkonstruktion und zum Eherecht in den Mittelmeerreligionen*, ed. Christian Boudignon et al. (Göttingen: Vandenhoeck & Ruprecht, 2011), 221–37. Avuncular marriage was prohibited in the West Syrian tradition even before Raboula; see Hage, *Les empêchements de mariage en*

There is, of course, Jewish precedent to the Qur'an's prohibition of avuncular marriages as well. Roman law in this case overlapped, or perhaps even inspired, the incest laws of many Jews in the Second Temple period, who outlawed avuncular marriage despite the lack of a biblical basis for this prohibition. The Damascus Document, a Palestinian text from the turn of the first century BCE, found at Qumran, for instance, states the following:

And the laws of forbidden degrees are written for males, but they equally apply to females (*wmshpt h'rywt lzkrym hw' ktwb wkhm hnshym*). And if the daughter of the brother (i.e. a niece) uncovers the nakedness of the brothers of her father (i.e. her uncles, *w'm tglh bt h'h 't 'r't 'hy 'byh*), she is (legally treated as) close kin (*why' sh'r*).<sup>6</sup>

The Damascus Document not only prohibits avuncular marriages, it equally does so based on a striving to understand the biblical laws as establishing full “gender balance,” a concept that will become most prevalent in the Roman and West Syriac Christian tradition, as we will discuss below. Since the Bible prohibits a man to marry his aunt, the text argues, a woman is likewise prohibited to marry her uncle—a reading that nicely falls in line with Roman marital proclivities. Yet despite this Jewish precedent, we will see that the Qur'an's prohibition of such marriages, and its own move towards gender balance, shares much more with Christian incest law, which may well in turn have been inspired by the very same Second Temple practices that mark the Damascus Document.

Yet what, exactly, is the problem with sexual relations between consanguineous humans, or *incest* in Roman parlance? The debate has occupied the humanities, social sciences, and medicine for a long time. In many ways, the quest to understand the origins of the prohibition of incest still pits “Freudians,” who argue that human beings are innately incestuous, against followers of Freud's contemporary Edvard Westermarck, who view the avoidance of incest as a natural (i.e. based on biology) feature of humans, and according to whom aversion to incest increases

*droit canonique oriental*, 198–99 and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 127–29. On the later prohibition of avuncular marriage in Islamicate East Syrian law, for instance in the law books of Isho'bokt, Timothy, and Isho'barnun, see *ibid.* as well as Weitz, *Between Christ and Caliph: Law, Marriage, and Christian Community in Early Islam* (Philadelphia: University of Pennsylvania Press, 2018), 155–71, and see note 1 above.

<sup>6</sup> CD-A V, 9–11, cited according to Devorah Dimant and Donald Parry, *Dead Sea Scrolls Handbook* (Leiden: Brill, 2014), 963; a similar prohibition is found in a number of Dead Sea Scrolls such as the Temple Scroll (66:16–17). On the incest laws in Second Temple Judaism see Aharon Shemesh, “The Laws of Incest in the Dead Sea Scrolls and the History of Halakha,” in *Halakhah in Light of Epigraphy*, ed. Albert Baumgarten, Hanan Eshel, Ranon Katzoff, and Shani Tzoref (Göttingen: Vandenhoeck & Ruprecht, 2011), 81–99; Loader, *The Dead Sea Scrolls on Sexuality*, 355–59; Loader, *Enoch, Levi, and Jubilees on Sexuality*, esp. 196–200; and Martha Himmelfarb, “Sexual Relations and Purity in the Temple Scroll and the Book of Jubilees,” *Dead Sea Discoveries* 6 (1999): 11–36.



with co-residence. While some aspects of Freud's theory continue to attract followers, Westermarck's views have recently been confirmed by social scientific data.<sup>7</sup> What unites both sides of the debate, however, is a general focus on the prohibition of consanguineous, rather than affinal, relations, that is kinship entailed by marriage, such as the marriage of a man to his wife's sister, or of a woman to her deceased husband's brother.

In contrast to the mainstream tendency to highlight prohibitions based on consanguinity, the anthropologist Françoise Héritier sought to define a "second type" of prohibition against incest on the grounds of affinity, shifting the concept in a way that is as simple as it is brilliant. The conventional concept defines affinity as the relationship between *ego* and the blood relatives of *ego's* spouse, or between *ego* and his own blood relatives' spouses.<sup>8</sup> Héritier, in contrast, puts the focus squarely on the consanguineous relationship inherent in both types of such affinal relations, as occurring "between same-sex blood relatives . . . who share the same sexual partner."<sup>9</sup> In other words, rather than focusing on *ego*, Héritier presents the affinal relationship, not from the perspective of *ego* but from what I will call a "mirrored" perspective: she describes the same affinal relationship from the perspective of an individual who is a blood relative of one of *ego's* (current or former) spouses.

The most obvious example of marriage between affinal kin thus defined would be of a woman who survives, or is divorced by, her husband and then marries a blood relative of his; according to Héritier, it is the relationship that is thereby established between the woman's two husbands, who are also blood relatives, which constitutes the crux of the matter. Sidestepping the debate between Freudians and followers of Westermarck, Héritier goes as far as to suggest that "incest of the second type [i.e. incest on the grounds of affinity] is likely at the conceptual origin of the prohibition of incest as we know it, that of the first type [i.e. incest on the grounds of consanguinity], not the reverse."<sup>10</sup> In this last claim, Héritier may take her insights far further than the evidence allows, and the

<sup>7</sup> See e.g. Alan H. Bittles, *Consanguinity in Context* (Cambridge: Cambridge University Press, 2012); Debra Lieberman et al., "The Relationship between Familial Resemblance and Sexual Attraction: An Update on Westermarck, Freud, and the Incest Taboo," *Personality and Social Psychology Bulletin* 37 (2011): 1229–32; and Arthur P. Wolf and William H. Durham, *Inbreeding, Incest, and the Incest Taboo: The State of Knowledge at the Turn of the Century* (Stanford: Stanford University Press, 2005). The classical work of George Peter Murdock, *Social Structure* (London: Collier-Macmillan, 1949), remains relevant.

<sup>8</sup> In the following, the term "ego" describes the individual in relation to which consanguineous or affinal relations will be calculated; "ego's spouses" are thus always of the same gender and opposite to that of "ego."

<sup>9</sup> Françoise Héritier, *Two Sisters and Their Mother: The Anthropology of Incest* (New York: Zone Books, 1999), 12. For all the cases under consideration in this article, affinity can be also conceived of in the "traditional" way in terms of *ego's* spouse's blood relatives, or in terms of *ego's* blood relatives' spouses. The difference between the traditional conception and Héritier's is at least primarily a shift in focus, not in the degree of relation itself.

<sup>10</sup> See Héritier, *Two Sisters and Their Mother*, 13. Héritier suggests understanding the prohibition of incest in terms of "regulating the circulation of fluids between bodies. The fundamental criterion of incest is the contact between identical bodily fluids," e.g. when the semen of a father and a son are perceived as mixing in the same female body (*ibid.*, 11). This theory may hold for cases in which two consanguineous

broader anthropological claims she derived from it have rightly been criticized by scholars such as Maurice Godelier and Bernard Vernier.<sup>11</sup> Likewise, the mirrored perspective of marriage regulations often tends to dissimulate the differences in agency assigned to the two genders: a focus on the consanguinity of a woman's spouses, for example, obscures the fact that in the Bible as well as in the Qur'an, it tends to be a man who marries a woman to whom he is related affinally, rather than the other way round. Regardless of this, Hérítier's study certainly broadens the narrower focus on consanguineous relations that marks most socio-biological studies of incest. As we will see, her redefinition of affinity and the door she opens to the mirroring of prohibitions is of great value for a study of the Qur'an in its biblical and late antique context.

I will therefore follow Hérítier in focusing on the prohibiting of affinal relationships, or, in her words, on the prohibition of "same-sex blood relatives... [from] shar[ing] the same sexual partner," which, in light of our focus on marriage, I will rephrase as "consanguinity between ego's spouses." I will follow Hérítier's critics, however, in rejecting her tendency to see prohibitions against incest on the grounds of affinity as having been widespread in the past.<sup>12</sup> The following—very incomplete—history of "Abrahamic" incest law will argue against the centrality of affinity as an operative legal category in biblical law. While I seek to incorporate some of Hérítier's insights, I will put a slightly different emphasis on the late and, in my view, Christian, development of law underlying the prohibition of affinal relationships as such. In the Bible, it is difficult to distinguish between prohibitions based on the consideration of affinity proper—those based on concerns about consanguinity between ego's spouses—and prohibitions that serve to protect the rights of ego's blood relations or wife. Yet in my view, the category of affinity as such does not operate here, whereas the protection of the rights of a man's male relatives and wives is a central concern.

The prohibition of affinal relationship will be a crucial piece of evidence when trying to situate the Qur'an's incest laws, on the one hand, vis-à-vis the Hebrew

males would have sexual intercourse with one woman, as is the case for the strict prohibition of a son from marrying his stepmother in various ancient and late ancient Near and Middle Eastern cultures, which will be discussed below. Yet of course no apparent transmission of fluids occurs when two consanguineous women were to have sex with the same male, as evidenced by the prohibited case of a man to marry two sisters, which will also be considered below. Hérítier's focus on bodily fluids is therefore not as helpful as her redefinition of affinity; for further criticism of her work see also the next note.

<sup>11</sup> Maurice Godelier has presented a complex and nuanced anthropological reading of the prohibition of incest on the grounds of both affinity and consanguinity, whose value resides precisely in refuting Hérítier, all the while providing answers to the questions she has raised; see Maurice Godelier, *The Metamorphoses of Kinship* (London: Verso, 2011; repr. London: Verso, 2004). Bernard Vernier's criticism, though somewhat singular in purpose, persuasively points to the many pitfalls of Hérítier's arguments; among his many publications dedicated to refuting Hérítier, see Bernard Vernier, *La prohibition de l'inceste: Critique de Françoise Hérítier* (Paris: L'Harmattan, 2009); see also Vernier, "Théorie de l'inceste et construction d'objet: Françoise Hérítier et les interdits de la Bible," *Social Anthropology* 4 (1996): 227–50 and Vernier, "Théorie de l'inceste et construction d'objet: Françoise Hérítier, la Grèce antique et les Hittites," *Annales: Histoire, Sciences Sociales* 51 (1996): 175–200.

<sup>12</sup> Hérítier, *Two Sisters and Their Mother*, 27–125.

Bible and rabbinic Judaism—which do not focus on affinal relationships—and, on the other, vis-à-vis Christian law—which places affinity front and centre. The Qur’an, once again, will be argued to stand closer to Christian than to biblical and rabbinic law also in the case of incest. The Hebrew Bible’s sense of consanguinity proper does not necessarily extend beyond the second degree. All rules beyond this are probably based on its consideration for the rights of either a man’s close male relatives, such as his parents, uncle, brother, and son, or on its consideration for the rights of his wife. The ensuing restrictions against a man’s marriage to a former wife of one of his male relatives (his stepmother, his uncle’s wife, his sister- or daughter-in-law), or to a relative of his wife (his sister-in-law and stepdaughter), happen to coincide with prohibitions that seem to be on the grounds of affinity, since, in our contemporary anthropological view, affinity would define his relationship to these prohibited women. We cannot, therefore, fully discount affinity proper as a secondary, concomitant part of the legal or socio-cultural principles operative in any of these ancient cultures. However, the primary legal category in biblical laws against incest that does not relate to consanguineous relationships seems to be the protection of the rights of a man’s male relatives, as well as of the rights of his mother or wife, rather than the issue of incest on the grounds of affinity, that is consanguinity between ego’s spouses.

In marked contrast to the biblical record, most Christians from the Latin West to the Syriac Near East—with the partial exception of the East Syrian tradition—had a very broad and expansive notion of prohibiting marriage on the grounds of affinity. No matter what other cultural factors informed the exegetical considerations of the Church Fathers, it is apparent that the strict Christian prohibition of consanguinity between ego’s spouses correlates with the Christian understanding of Leviticus 18 in light of the New Testament’s reading of the creation narrative. The Gospels and later Christian authorities understood Gen 2:24—“therefore a man leaves his father and his mother and clings to his wife, and they become one flesh (*wəhāyū ləbāšār ’ehād*)”—to indicate that marriages are, at least in theory, indissoluble, and, more importantly for our concerns, that spouses are truly understood as being “one flesh”: in the event of being widowed or divorced, or of the marriage being dissolved in any way, they are barred from marriage to a close relative of their former spouse because they themselves are now considered being in a quasi-consanguineous relationship with their in-laws.<sup>13</sup> When Héritier

<sup>13</sup> See already Mark 10; among the studies on this Christian concept of “one flesh” see esp. Walter Selb, “Zur Christianisierung des Eherechts,” in *Eherecht und Familiengut in Antike und Mittelalter*, ed. Dieter Simon (Berlin: de Gruyter, 2009; repr. Berlin: de Gruyter, 1992), 1–14 and Jack Goody, *The Development of the Family and Marriage in Europe* (Cambridge: Cambridge University Press, 1983); see also note 38 (Chapter 2) above. It goes without saying that Christian ambiguity vis-à-vis sexuality, divorce, remarriage (or “serial monogamy”), and particularly asceticism, were also part of the considerations guiding the church; see e.g. Peter Brown, *The Body and Society: Men, Women, and Sexual Renunciation in Early Christianity* (New York: Columbia University Press, 1988).

dismisses Christian legislation as a post-facto rationalization of deeper anthropological—and, apparently, meta-historical—principles at work, she conceals how squarely her insights into affinity describe a primarily Christian, rather than a universal, phenomenon.<sup>14</sup> A brief contextualization of the biblical roots of three rulings must suffice to illustrate the distinctive Christian approaches to affinity that will lay the groundwork for our reading of both the Bible and of the Qur'an. We will first consider a letter from Pope Gregory the Great, from the Western perimeter of the Qur'an's cultural context, which will allow us to consider some near-universal Christian tendencies regarding incest law. We will then move to an edict of the East Syrian *catholicos* Mar Abba, a Mesopotamian document from the Eastern perimeter of our considerations, which shows distinct differences from broader Christian trends. As a third and final step in defining Christian tendencies towards incest, we will then assess Mar Abba's edict's relationship to one of Justin's Novels, offering yet another point of reference in order to compare and contrast the Qur'an's incest laws.

First, a letter to Augustine of Canterbury, very likely written by Pope Gregory the Great at the turn of the seventh century CE (a text already discussed in Chapter 2, see p. 166 above), acutely summarizes much of the Christian tradition concerning affinity, and exemplifies a widespread exegetical, legal, and increasingly cultural attitude that prevailed throughout late antiquity and beyond:

It is a grave sin to marry one's stepmother, because it is written in the law, "you shall not uncover your father's nakedness" (Lev 18:7). Now the son cannot uncover his father's nakedness. Rather, it is written, "They two shall be one flesh" (*erunt duo in carne una*, Gen 2:24): he who presumes to uncover his stepmother's nakedness who was the flesh with his father (*quae una caro cum patre fuit*) at the same time uncovers his father's nakedness. So also is it forbidden to marry a brother's wife, because by a former union she had become one flesh with his brother (*caro fratris fuerit facta*).<sup>15</sup>

Gregory understands the first of the specific prohibitions of Leviticus 18, the prohibiting of a "father's nakedness" in Lev 18:7, as the prohibition against a son marrying his stepmother. This is a reasonable understanding of the passage, which is likely based on the parallel term of a "father's nakedness" that describes the stepmother in Lev 20:11 (as also pointed out by the rabbis of the Babylonian

<sup>14</sup> Héritier, *Two Sisters and Their Mother*, 14–15; for a profound criticism of her claim, see also Godelier, *The Metamorphoses of Kinship*, 319–90 and note 11 above.

<sup>15</sup> Gregory the Great, *Registrum Epistolarum* XI, Letter 64 (to Augustine), fifth question; see Colgrave and Mynors, *Bede's Ecclesiastical History of the English People*, 84–85. On the relevance and authenticity of Gregory's letter, see Marienberg, "Qui coierit cum muliere in fluxu menstruo... interficiuntur ambo (Lev 20:18)," 271–84 and Meens, "Ritual Purity and the Influence of Gregory the Great in the Early Middle Ages," 31–43.

Talmud in *Sanhedrin* 54a and 58b; we will return to the importance and meaning of “the father’s nakedness” below). In addition, Gregory understands the father’s or brother’s “nakedness” in Leviticus 18 as the “flesh” of Gen 2:24, summing up a widely held Christian notion of affinity that we can trace back to the Gospel of Mark 10:2–9:

Some Pharisees came, and to test [Jesus] they asked, “Is it lawful for a man to divorce his wife?” He answered them, “What did Moses command you?” They said, “Moses allowed a man to write a certificate of dismissal and to divorce her.” But Jesus said to them, “Because of your hardness of heart he wrote this commandment for you. But from the beginning of creation, *God made them male and female* (Gen 1:27). *For this reason, a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh* (*eis sarka mian*, Gen 2:24). So they are no longer two, but one flesh (*hōste ouketi eisin duo alla mia sarx*). Therefore, what God has joined together, let no one separate.”

The understanding of a man and woman as “one flesh,” in the Gospel of Mark (as well as in that of Matt 19:3) highlights the early Christian argument against divorce, yet it also had a momentous effect on the Christian view of consanguinity: just as Paul had already seen the sexual union between two people as leading to their con-carnal existence based on Gen 2:24, so did the church from early on see marriage, and the sexual intercourse sanctioned by it, as creating a family relationship in many ways fully akin to that established by birth.<sup>16</sup> As so often, there are precedents also of this reading of the Bible, along with the Christian rejection of polygyny, in the Dead Sea Scrolls.<sup>17</sup> Yet the primary conduit through which these exegetical tendencies were transmitted to the world of late antiquity was Christianity. Here, “one flesh” became the basis on which Roman and West Syrian Christians radically expanded biblical prohibitions against consanguinity between ego’s spouses, leading them to establish full *gender balance* in their prohibition of incest.

The Christian and ultimately qur’anic move towards gender balance in the prohibition of consanguineous and affinal relations is thus constituted by ensuring that each law for a male ego is also established and formulated for a female ego. The same process, in late antiquity, had generally coincided with a move away

<sup>16</sup> See note 38 (Chapter 2) above.

<sup>17</sup> The earliest attestation of the reading of Gen 2:24 as indicating the fusion of male and female spouse, to the best of my knowledge, occurs in the text titled *Musar LeMevin* found in Qumran (4Q416, 2 and 4Q418, 10), see Gabriel Barzilai, “Incidental Biblical Exegesis in the Qumran Scrolls and its Importance for the Study of the Second Temple Period,” *Dead Sea Discoveries* 14 (2007): 21–22; see also Lutz Doering, “Marriage and Creation in Mark 10 and CD 4–5,” in *Echoes from the Caves: Qumran and the New Testament*, ed. Florentino García Martínez (Leiden: Brill, 2009), 133–63 and see

from the biblical emphasis on the rights of specific legal persona. The proverb “what’s good for the goose is good for the gander” can serve as a helpful mnemonic device here: just as the Damascus Document and other Jewish texts from the Second Temple period, Roman and West Syrian Christians nearly achieved gender balance in their prohibition of incest. They did so, first, by outlawing polygyny and, second, by applying two interrelated techniques: they tended to “mirror” all prohibitions they found in the Hebrew Bible—in a way not unlike that described as marking Héritier’s approach—in order then to reformulate the biblical prohibitions from both male and female perspectives.

The mirroring in the formulation does not necessarily affect the law itself, yet a second, more consequential intervention did: Christians expanded each law by reading the biblical laws as if each of them implied a *gender cognate* prohibition by inverting not the perspective, but the gender of the prohibition itself. We have seen that for most Christians, just as for many Jews in the Second Temple period, for instance, the biblical prohibition against consanguinity, barring a man from marrying his aunt, also implied the cognate prohibition barring a woman from marrying her uncle, which is not part of the Levitical (or the later rabbinic) laws against incest.<sup>18</sup> Creating legal gender balance, of course, is not per se aimed to improve the status of women in any of the texts here discussed. We should note, however, that the Roman world of the sixth century saw a broad move towards strengthening of the rights of women, a tendency which was especially prominent in Justinian’s *Novels*. We have already encountered the importance of this late Roman legal collection for contextualizing some of the Qur’an’s legal tendencies in Chapter 2 (pp. 194–96 above); it will also help us situate the qur’anic incest laws along with its penal laws (see pp. 329–32 below).<sup>19</sup>

In the following, I tacitly presuppose the gender *imbalance* created by the practice of polygyny both in the Bible and in the Qur’an. I assume that marriage prohibitions for men are always implied as applying to both simultaneous and consecutive marriages of a man to more than one woman, while prohibitions for women are meant to apply only to consecutive marriages of a woman to more

already Frederick F. Bruce, *Biblical Exegesis in the Qumran Texts* (London: The Tyndale Press, 1960), 33.

<sup>18</sup> See p. 224 above; see also the further considerations by Hage, *Les empêchements de mariage*, 206–22 and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 136–46.

<sup>19</sup> On Justinian’s move towards social gender balance in his legislation, regarding a broad array of topics including, for example, inheritance and divorce law, see esp. Helmut Krumpholz, *Über sozial-staatliche Aspekte in der Novellengesetzgebung Justinians* (Bonn: Habelt, 1992), 162–204. The Qur’an’s laws, in my view, tend to participate in this tendency to strengthen women’s rights vis-à-vis established practices, yet this is an issue that demands an independent study. I do not quite agree with the conclusions of Karen Bauer, “The Male Is Not Like the Female (Q 3:36): The Question of Gender Egalitarianism in the Qur’an,” *Religion Compass* 3/4 (2009): 637–54; in private communication, Bauer has informed me that she has revised her respective stance as well, as expressed in Bauer and Hamza, *Women, Households and the Hereafter in the Qur’an* (forthcoming). For a broader considerations see now Celene Ibrahim, *Women and Gender in the Qur’an* (Oxford: Oxford University Press, 2020), as well as note 4 (Chapter 4) below.

than one man, unless otherwise specified.<sup>20</sup> Yet one should be careful not to over-emphasize the extent of the imbalance found in the Bible and Qur'an, or, inversely, the later Christian attempt to establish gender balance in the law against incest. Two of the biblical prohibitions against affinal relationships prove essential test cases for the later Christian tendency to establish gender balance:

- According to Lev 18:18, a man may not marry his wife's sister, yet the verse allows him to do so in the instance of his wife's death.
- According to Lev 18:14, a man may not marry his brother's wife. However, according to Deut 25:5–10, if a man who has resided jointly with his brother dies without an heir, then the surviving brother is asked to marry the widow, the case of Levirate marriage.<sup>21</sup>

We can see that, to a certain extent, the Bible already adheres to a degree of gender balance in its laws regarding affinal relationships. The first prohibition, if mirrored, amounts to preventing two sisters from consecutively marrying the same man: a case of second-degree consanguinity between female spouses. The exemption given upon the first sister's death is a general one. The second case, if mirrored, emerges as the cognate of the first one, preventing two brothers from consecutively marrying the same woman: an instance of second-degree consanguinity between male spouses. The second exemption, however, is far more restrictive than the first one, since the prohibition, which derives from the protection of the first brother's rights, endures past his demise, whereas the rights of the first sister expire with her death. The Bible here, on the one hand, effectively balances the restrictions imposed upon both genders, and allows for only two exemptions in a gender-balanced manner: in both cases, the affinal relations become permissible upon the death of the first spouse. On the other hand, however, the nature of the biblical exemptions is left unbalanced owing to the stricter laws concerning a brother's wife. Christian law, in turn, established full gender balance in such instances, in that Roman and West Syrian Christians abolished both exemptions, as the letter from Gregory the Great has already indicated.

<sup>20</sup> As is well known, the Qur'an permits polygyny, yet limits a man to having four wives at the same time, just as the Babylonian rabbis generally advocated (see Q 4:3 and *Bavli Yebamot* 44a, yet see also *ibid.*, 65a, and see already Bialoblocki, *Materialien zum islamischen und jüdischen Eherecht*, 40). Polygyny was not necessarily common among rabbis, particularly in Palestine; see Adiel Schremer, "How Much Jewish Polygyny in Roman Palestine?" *Proceedings—American Academy for Jewish Research* 63 (2001): 181–223. On polygyny in the East Syrian church, see note 22 below. It is essential for this chapter to note that, in most cases, prohibitions that applied to polygynous marriages were also understood as applying to serially monogamous ones—unless otherwise specified, as in the case of a man marrying two sisters.

<sup>21</sup> The Bible not only allows but strongly urges—yet stops short of requiring—a man to marry his deceased brother's wife here, thereby exempting the couple from the general prohibition. For a discussion of important studies on the issue of biblical Levirate marriage and its ancient Near Eastern context, see Eckart Otto, *Deuteronomium 23:16–34:12*, vol. II of Otto, *Deuteronomium 12–34* (Herders Theologischer Kommentar zum Alten Testament; Freiburg im Breisgau: Herder, 2017), 1849–55; see esp. Weisberg, *Levirate Marriage* and Dale W. Manor, "A Brief History of Levirate Marriage as It



With this, we can turn to the Eastern limits of the Christian cultures relevant for the Qur'an. One obvious example to the key trend in Christianity towards establishing gender balance, and the hesitancy it faced, can be found in the East Syrian church, which found itself—like the rabbis of Babylonia—living within the sphere of Persian culture. The rather different Persian attitude towards affinal (let alone consanguineous) relationships, as mentioned above, may well be reflected in the widespread practice of various forms of close-kin marriage, as well as forms of polygyny, among East Syrian Christians, to which Richard Payne and Lev Weitz have recently drawn our attention.<sup>22</sup>

Crucially, this “liberal” trend towards close-kin marriage in the East Syrian tradition was eventually challenged from within the church. In response to these practices, in the sixth century CE, the East Syrian *catholicos* Mar Aba turned not to Gen 2:4, but to Leviticus 18, affirming its restrictions, particularly those of Lev 18:16 (which prohibit sexual relations with the wife of one's brother), in order to proscribe a man's marriage to “the wife of his brother, like the Jews”<sup>23</sup>—the latter phrase being a reference to Levirate marriage.<sup>24</sup> Mar Aba's highlighting, in the sixth century CE, of the text of Leviticus as a legally binding document in its own right, is a crucial precedent for the similar turn to the Bible that, I argue, informs the Qur'an's related, yet distinct formulation of prohibited relations. Yet Mar Aba's prohibition simultaneously attests to the diverging practices of his constituents, for whom marriage to a brother's former wife does not seem to have been perceived as problematic—as will equally be the case for the Qur'an.

Relates to the Bible,” *Near East Archaeological Society Bulletin* 20 (1982): 33–53; cf. also Étan Levine, *Marital Relations in Ancient Judaism* (Wiesbaden: Harrassowitz, 2009), 34–37.

<sup>22</sup> On Zoroastrian attitudes towards close-kin marriage, see note 4 above; on the interaction with Christianity, see Payne, *A State of Mixture*, esp. 108–17; Weitz, *Between Christ and Caliph*, 17–40; Manfred Hutter, “Mār Abā and the Impact of Zoroastrianism on Christianity in the 6th Century,” in *Religious Themes and Texts of Pre-Islamic Iran*, ed. Carlo G. Cereti et al. (Wiesbaden: Dr. Ludwig Reichert Verlag, 2003), 167–73; and Hage, *Les empêchements de mariage*, 200; and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 127. Polygyny seems to have been common in East Syrian practice as well; see Lev Weitz, “Polygyny and East Syrian Law: Local Practices and Ecclesiastical Tradition,” in *The Late Antique World of Early Islam: Muslims among Christians and Jews in the East Mediterranean*, ed. Robert Hoyland (Princeton: Darwin Press, 2015), 157–91.

<sup>23</sup> For Mar Aba's letter, see Chabot, *Synodicon orientale*, 80 (Syriac) and 335 (French translation); see also Payne, *A State of Mixture*, 108. Mar Aba also wrote an important treatise on the meaning of Leviticus 18; see Eduard Sachau, *Syrische Rechtsbücher. Dritter Band: Corpus juris des persischen Erzbischofs Jesubocht. Erbrecht oder Canones des persischen Erzbischofs Simeon. Eherecht des Patriarchen Mār Abhâ: Aus der römischen Handschrift* (Berlin: Georg Reimer, 1914), 258–85 (Syriac with a German and, for the more salacious parts, Latin translation) and see Weitz, *Between Christ and Caliph*, 32. Mar Aba here prohibits Levirate marriage (§11; see Sachau, *Syrische Rechtsbücher*, 278–79), and recognizes the notion of affinity indirectly. He even cites Paul's reading of Gen 2:4 in 1 Cor 6:16 (§10, see *ibid.*, 276–77), yet he relegates it to the primary applicability of Leviticus 18 and does not generalize affinity or establish gender balance in the legislation.

<sup>24</sup> On Levirate marriage, see note 21 above; on Mar Aba and his cultural and political context, as well as the importance of Leviticus for this father, see Payne, *A State of Mixture*, 108–17; Weitz, *Between Christ and Caliph*, 17–40 and 145–55; and Hutter, “Mār Abā,” 167–73.

The practice of the East Syrian church will be of importance in one other way for those reiterations of scriptural law regarding which the Qur'an allows for exemptions. Mar Aba responds to instances of close-kin marriage amongst his flock, which was influenced not only by Persian attitudes towards consanguinity and affinity but also by the custom of *stūrīh* marriage, a type of proxy marriage between a widow and her deceased husband's next of kin, which can be argued as constituting a form of widow inheritance, to which we will return.<sup>25</sup> Yet, as part of his campaign to curb such unions, Mar Aba then formulates an exemption for instances in which a man has married the widow of his brother, the very case of Levirate marriage against which he also polemicizes. Mar Aba's exemption applies, in turn, not in instances where there is no male heir, as in the Bible, but rather if such marriages were contracted before their prohibition was properly understood—that is before believers were informed of their prohibition by Mar Aba. For clergy, Mar Aba offers a short period of between one month and a year, during which the marriage must be dissolved; for regular believers, he decrees the following:

Regarding common believers (*lmy' dyn mhymn'*) who without knowledge (*dbl' yd't'*) have united themselves (*'tthdw*) in this same sin of a partnership (*dshwtpwt'*) with the wife of a brother, because they thought that it would not be a sin for a man to take the wife of his brother, but that, contrarily, it would be a very good act, without knowledge (*bl' yd't'*) of the words of the divine books which they did not comprehend, regarding them, we decree the following law (*psqnn hwrqn' hkn*): one leaves them by their own wish to distance themselves by separation from this sin of an illegal marriage (*dzwwg' l' nmwsy'*), with the council and the instructions of the priests of the community (*bmlk' wbmrtynwt' dkh'n' d'dt'*), who are charged with directing them. And if this is difficult for them (*dmt'sq' lhwn*), and if they cannot leave [their wife] because of the great number of years that they have passed with them or because of the children that they have born, we decree for them (*gzrnn' lyhwn*) that they both fast (*dnšwmwn*)—that is, the one who has taken the wife of his brother and she who has formed a partnership (*d'shtwtpt*) [with her brother-in-law (*lybmh*)]—for one full year, they will pray and beseech God because of their follies (*sklwthwn*); and for expiation of their sins (*pwrqn' dhḥy'lyhwn*) they will give the strangers and paupers (*l'ksny' wlm'skn'*) of their city or village a sufficient part of the inheritance they possess, and they will be forgiven (*wntḥs' lhwn*).<sup>26</sup>

<sup>25</sup> See Payne, *A State of Mixture*, esp. 103–17 and Weitz, *Between Christ and Caliph*, 109–22; see also p. 279 below.

<sup>26</sup> My translation, according to Chabot, *Synodicon orientale*, 83–4 (Syriac) and 337 (French translation); see also François Nau, “Une ordonnance de Mar Aba, patriarche nestorien, relative aux empêchements de mariage,” *Le canoniste contemporain* 23 (1900): 284–85 (Syriac) and 24–25 (French translation). In his treatise on Leviticus (§11), Mar Aba elaborates his dismissal of Levirate marriage on the grounds of the resurrection; see Mar Aba in Sachau, *Syrische Rechtsbücher*, 278–81.

Mar Aba prohibits all those marriages listed in Leviticus 18, yet he does make an exception for a case in which the Bible itself allows an exemption to be made: the case of a man's marriage to his brother's widow, that is that of a woman's consecutive marriage to two brothers. In the East Syrian church, such unions leading to second-degree consanguinity between ego's spouses seem not to have been unusual, as Mar Aba himself indicates. While clergy had to dissolve such marriages quickly, an exception is made for regular believers who had married their sister-in-law: the couple is strongly encouraged, but not forced, to separate, if their marriages had been contracted before they had been made aware of the correct understanding of Scripture by Mar Aba's decree. If such believers do not wish to separate, and if such a separation would cause social or emotional hardship, Mar Aba allows them to repent and beg for forgiveness for their sin instead, which will be fully forgiven after one year (during which time they do not appear to have been excluded from any part of the cult). This exception is a testimony to the way in which the East Syrian tradition, even after Mar Aba's reforms, continued to resist the stricter Roman and West Syrian tendency towards enforcing all prohibitions against affinal relationships. It thereby constitutes an important further comparison for the Qur'an's tendency to adopt prohibitions against affinal relationships alongside exemptions for their implementation.

As a third and final example for Christian attitudes, I suggest briefly turning to the same Eastern Roman legal code that also informed our discussion of handling cases of sex between men in Chapter 2 (pp. 194–96) above. In a passage that, arguably, served as Mar Aba's *Vorlage*, Justinian's *Novels* stipulate the following regarding some incestuous marriages:

As for what is now in the past, though (*to de ge ēdē parōchēkos*), we are neither letting it pass altogether unpunished, nor bringing it entirely under severe displeasure. Should an illicit marriage that has taken place have been dissolved already, in whatever way, it is to be pardonable (*aneuthynos estō*); and should this law of ours find anyone in such a marriage, he is to have licence, within two years from whenever this law becomes public, to dismiss the wife thus linked with him, in such a way that she does not return to him any more...<sup>27</sup>

Justinian, just as Mar Aba, offers a pardon for past offences. For Justinian, unions that are already dissolved are altogether pardoned, and husbands who find themselves in an incestuous union at the time of the decree—given in March of

<sup>27</sup> See Justinian's Novel 12 ch. 3, cited according to Miller and Sarris, *The Novels of Justinian*, 169, Greek text cited according to Kroll and Schöll, *Corpus iuris civilis*, vol. III, 96.

535 CE—still have two years to repudiate their wives. Instead of fasting or the giving of alms, as Mar Aba had ordained for his congregants, the man in question in Justinian's Novel would have to forfeit a quarter of his property; the penalty for those who would not do so, by contrast, would be the confiscation of their entire property, and, depending on the case, even further punishment.

However, Justinian, very much like Mar Aba, also makes a provision for cases of hardship, in the Emperor's case in a separate Novel issued at an unknown date, yet obviously after the one just discussed. For the Jews of Tyre, namely, and only for those of the "third age," that is over 25 years of age, and in response to having "tearfully supplicated (*meta dakryōn hiketeusai*)" the local authorities "not to be compelled now to dismiss their wives, but to be allowed to keep them"; Justinian then allows them to "keep their cohabiting partners (*tas synoikousas*)" under the condition that the community pays ten pounds of gold.<sup>28</sup> It can be assumed that the Jewish men had contracted marriages that were allowed under Jewish, yet not under Imperial law, and that they had married either a niece or a sister of a former wife who had passed away. While it seems that these exemptions were only given to Jews, we have seen that they are equally applied to Christians in Mar Aba's edict. In a third and equally undated Novel, 154, Justinian then, tellingly, ordains especially severe punishments for the citizens of Osrhoene and Mesopotamia, who defy his previous edicts, an order which more than likely influenced Mar Aba's respective legislation directly, even if the latter had previously resisted the emperor's pressure on him.<sup>29</sup>

The development of Christian laws on incest towards greater gender balance in all incest prohibitions, and towards the concomitant emphasis on affinal prohibitions, can thus be found across the late antique world, from Western Rome to Sasanian Mesopotamia, along with local exemptions and a certain biblicalization of law. The testimonies of Mar Aba at the Eastern end of the Christian world and of Gregory the Great at its Western end, along with the evidence of Eastern Roman law and the church councils, allows us to sketch the Christian understanding of prohibited relationships at the end of late antiquity. This understanding will serve as a point of comparison when turning first to biblical law and then to its qur'anic reiteration.

<sup>28</sup> See Justinian's Novel 139 ch. 1, cited according to Miller and Sarris, *The Novels of Justinian*, 924; Greek text cited according to Kroll and Schöll, *Corpus iuris civilis*, vol. III, 700. Note that the Syro-Roman law book takes a more lenient approach: here, marriage to the former wife of a brother is prohibited, yet the penalty for contracting such marriage is merely ineligibility of children to inherit; one can even apply to the emperor for a permission of such marriage. See Walter Selb and Hubert Kaufhold, *Das Syrisch-Römische Rechtsbuch* (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 2002), 136–37; on the dating and relevance of the Syro-Roman Lawbook see *ibid.*, vol. I, 43–6 and see note 83 (Chapter 4) below.

<sup>29</sup> See note 24 above.

## The Bible's List of Prohibited Relationships

In Western academic research, the system of prohibited relationships in the Hebrew Bible is, unsurprisingly far better studied than that of the Qur'an.<sup>30</sup> The principal passage is Lev 18:6–18, part of the so-called “Holiness School,” which can be dated roughly to the seventh to fifth century BCE, which legislates on prohibited relations both to the Israelites and to the *gerim* as discussed in Chapter 2. Related passages have been identified as post-exilic literary additions, or *Fortschreibung*.<sup>31</sup> None of the studies I have consulted considers the ramification of the applicability of the biblical incest laws to *gerim*, yet the scholarship on understanding the biblical laws for Israelites remains highly pertinent to the present inquiry. The most helpful study of the key passage in Leviticus, in my view, is by Madeline Gay McClenney-Sadler, who concludes the following about the biblical passage's legal principles and literary composition:

At the very least, it should become clear that Lev 18 (1) has been masterfully arranged to reflect the operative kinship hierarchy of its period; and (2) is best understood in light of incest narratives which explicate incest regulations, mitigate the application of punitive laws or justify incest rules.<sup>32</sup>

In order fully to understand the laws put forth in Leviticus, in other words, one must assess it in light of the transgressions of these very same rules that are attributed, in the book of Genesis, to figures such as Lot and his daughters, Abraham and Sarah, or Judah and Tamar. McClenney-Sadler, as well many others since antiquity, have sought to tackle this task, with varying grades of success—precedents include Mar Aba himself, who sanitizes the narratives through sheer

<sup>30</sup> For a comprehensive commentary on Leviticus 18 and a review of recent literature, see Hieke, *Levitikus*, 645–96. Noteworthy studies include Madeline Gay McClenney-Sadler, *Recovering the Daughter's Nakedness: A Formal Analysis of Israelite Kinship Terminology and the Internal Logic of Leviticus 18* (New York: Bloomsbury, 2007); Ilona N. Rashkow, *Taboo or Not Taboo: Sexuality and Family in the Hebrew Bible* (Minneapolis: Fortress, 2000); and Athalya Brenner, *The Intercourse of Knowledge: On Gendering Desire and Sexuality in the Hebrew Bible* (Leiden: Brill, 1997).

<sup>31</sup> On the importance of the Holiness School as a whole for Jewish, Christian, and Qur'anic gentile purity legislation see chapters one and two. Important parallels to the incest prohibitions in Leviticus 18 are Lev 20:11–21, Deut 23:1 (or 22:30), 25:5–10, 27:20–26, and Amos 2:7; for a comprehensive commentary on the passages in Deuteronomy and a review of recent literature, see e.g. Eckart Otto, *Deuteronomium 12,1–23,15*, vol. I of Otto, *Deuteronomium 12–34* (Herders Theologischer Kommentar zum Alten Testament; Freiburg im Breisgau: Herder, 2016), 1725–76 and Otto, *Deuteronomium 23,16–34,12*, 1808–1864 and 1910–1958.

<sup>32</sup> McClenney-Sadler, *Recovering the Daughter's Nakedness*, 4. Not all aspects of McClenney-Sadler's study are convincing. As has been rightly noted by Kathryn Imray, McClenney-Sadler's “[a]ttempts to prove jural equality between men and women have resulted in occasional misreadings or forced readings of particular Pentateuchal texts”; see Imray, review of *Recovering the Daughter's Nakedness: A Formal Analysis of Israelite Kinship Terminology and the Internal Logic of Leviticus 18*, by Madeline Gay McClenney-Sadler, *The Bible and Critical Theory* 4 (2008): 57.3.

ingenuity.<sup>33</sup> These narratives about incest among the patriarchs and matriarchs, however, have played a limited role in the reception history of the Levitical laws, to the point that even the veracity of some of the stories was eventually challenged altogether in some strands of Christian late antique discourse. No echo of the incestuous limits explored in the patriarchal narratives can be found in the Qur'an, which does not mention, but, arguably, largely implements, the later Islamic concept of *'iṣmat al-anbiyā'*, the "protection of the prophets," that is from sin (later understood as their infallibility). The present essay will therefore not consider the patriarchal narratives, relevant as they may be, and focus on the legal passages alone.<sup>34</sup>

A basic grasp of the content of the biblical passage of prohibited relationships in Leviticus 18, and of the kinship hierarchy it reflects, however, will help us assess the many ways in which later Jews and Christians, and the Qur'an, have recast its wording and reconceptualized its prohibitions.

The chapter constituting Leviticus 18 falls into four parts:

1. A short *introduction* in vv. 1–5 indicates that God instructs Moses to inform the Israelites not to act in the same way as the Canaanites and Egyptians (see v. 3; the importance of Leviticus 18 for non-Israelites has been treated in the previous chapter of this study).
2. Vv. 6–18, the passage on which we will focus in the present chapter, covers the prohibited sexual relations between a man and his close female family members.
3. These prohibitions are followed, in vv. 19–23, by the prohibiting of a man from having sexual relations with two types of women who are not close

<sup>33</sup> See e.g. Mar Aba's comments on the cases of transgressions by figures such as Reuben, Cain, and Seth in his treatise on Leviticus 18 (§§3–4), see Sachau, *Syrische Rechtsbücher*, 266–69; and see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 76–102. I agree with McClenney-Sadler's view that "there is evidence that some laws and narratives were formulated in relation to each other and that some narratives operate as justification for specific biblical laws. Thus, narratives function as examples that explain the rationale for specific precepts governing social relations"; see *ibid.*, 76. In contrast, Calum Carmichael sees the laws of Leviticus only as a response to the patriarchal narratives (see Carmichael, *Law, Legend, and Incest in the Bible* (Ithaca: Cornell University Press, 1997), esp. 8, as well as 14–44), which seems too simplistic, as has already been pointed out by previous commentators; see Hieke, *Levitikus*, 666.

<sup>34</sup> On the doctrine of the prophet's sinless behaviour developed in later Islam and throughout Islamic literature, see especially Shahab Ahmed, *Before Orthodoxy: The Satanic Verses in Early Islam* (Cambridge: Harvard University Press, 2017) and Reuven Firestone, "Prophethood, Marriageable Consanguinity, and Text: The Problem of Abraham and Sarah's Kinship Relationship and the Response of Jewish and Islamic Exegesis," *The Jewish Quarterly Review* 83 (1993): 331–47. The "sanitization" of patriarchal narratives was not uncommon in Syriac literature (see e.g. Lev Weitz, *Between Christ and Caliph*, 284–85), and may have reached its peak in traditions such as the Clementine Homilies, before its endorsement in the Qur'an, which mainly omits such narratives, as both Mehdi Shaddel and I myself argue in a joint study currently in preparation. Late antique rabbis were generally more open to recognizing the sinful behaviour of the patriarchs, but also displayed tendencies to embellish their conduct; see, e.g. the talmudic claim that David never married two sisters at the same time in *Bavli Sanhedrin* 19b and the methodologically related study by Segal, "Sarah and Iscah," 417–29. The tendency in question to de-emphasize, deflect, or omit patriarchal sins is very widespread already in the Second Temple literature; see William Loader, *The Dead Sea Scrolls on Sexuality*, 354–56. On the narrative elements pertaining to the Qur'an's incest laws see note 104 below.

relations—that is with a woman during her menses and with a neighbour's wife—as well as with men and animals. The prohibition of passing one's children through the fire to Molech, later understood as a marriage with pagans, equally appears here; these regulations constitute the focus of the previous chapter.<sup>35</sup>

4. Vv. 24–30 constitute the *conclusion* of the passage, reminding the Israelites that any collective transgression of any of the preceding prohibitions, along with the failure to prosecute individual transgressions thereof, will result in their collective *defilement* and ultimately lead to their expulsion from the land. Next to Israelites, the passage here includes the non-Israelite “residents,” the *gerim*, in its legislation (v. 26) and reiterates that the crimes of the previous non-Israelite inhabitants of the land led to its defilement (v. 27; as discussed in the previous chapter).

The biblical passage on prohibited relationships between close family relations, the chapter's second part, is thus clearly set apart from the chapter's main narrative structure; its first and fourth part, which explicates God's commands to Moses. The contents of the second part also separate it from the prohibition expressed in what immediately follows it; the third part, which only deals with generally prohibited sexual relations that are *not* determined by family relations—it is thus on the second part that the current chapter will focus in order to complete the broader argument of acute relevance of the Bible's *gerim* laws for the legal prehistory of the Qur'an.

The rendering of Lev 18:6–18 in Table 3.2 offers a transliteration of the Hebrew text in the left-hand column, and a translation based on the New Revised Standard Version, with some significant modifications following the insights amassed by Thomas Hieke and McClenney-Sadler in the right-hand column.<sup>36</sup> Developing some of McClenney-Sadler's conclusions, in particular, I argue that we should understand the list *not* primarily as prohibiting the notion of incest, which it certainly does as well, but rather, as a list of sexual prohibitions on the grounds of the rights of several legal personae closely related to an Israelite man.<sup>37</sup> In anticipation of this argument, the four text boxes and brackets to the left of the text indicate the passage's parts based on these four personae, which the text explicates at all times (and which are rendered in italics): first, God; second, a man's father and mother (whose rights overlap with his own rights); third, a man's three closest male relatives (his paternal uncle, son, and brother); and fourth, a man's wife. The list addresses any male Israelite in the singular.

<sup>35</sup> See pp. 139–44 and 205–13 below.

<sup>36</sup> For a detailed discussion of the passage see Hieke, *Leviticus*, 645–96 and McClenney-Sadler, *Recovering the Daughter's Nakedness*, 26–52.

<sup>37</sup> For McClenney-Sadler's slightly divergent categorization see note 49 below.



Table 3.2 Leviticus 18:6–18: Text and translation

God	'iš 'iš 'el-kāl-šə 'er bəšārō lō 'tiqrābū ləgallōt 'erwāh	6. No man shall approach the flesh of any blood relation to uncover nakedness:
	'ānī Yahweh	I am <i>the Lord</i> .
Father and Mother	'erwat 'ābikā wə 'erwat 'imməkā lō' təgallēh	7. The nakedness of <i>your father</i> and the nakedness of <i>your mother</i> you shall not uncover; <sup>38</sup>
	'imməkā hī' lō' təgallēh 'erwāt-āh	she is <i>your mother</i> , you shall not uncover her nakedness.
	'erwat 'ēšet- 'ābikā lō' təgallēh	8. The nakedness of <i>your father's</i> wife you shall not uncover;
	'erwat 'ābikā hī'	she is the nakedness of <i>your father</i> .
	'erwat 'āhōtkā bat- 'ābikā 'ō bat- 'imməkā mōledet bayit, 'ō mōledet hūš lō' təgallēh 'erwātān.	9. The nakedness of <i>your sister</i> , <i>your father's</i> daughter or <i>your mother's</i> daughter, born within or without the lineage, you shall not uncover their nakedness. <sup>39</sup>
	'erwat bat-binkā 'ō bat-bittākā, lō' təgallēh 'erwātān	10. The nakedness of <i>your son's</i> daughter or of <i>your daughter's</i> daughter, you shall not uncover their nakedness,
	kī 'erwātākā hēnnāh.	for they are <i>your own</i> nakedness.
	'erwat bat- 'ēšet 'ābikā mōledet 'ābikā	11. The nakedness of <i>your father's</i> wife's daughter, begotten by <i>your father</i> ,
	'āhōtkā hī' lō' təgallēh 'erwāt-āh.	she is <i>your sister</i> , you shall not uncover her nakedness <sup>40</sup>
	'erwat 'āhōt- 'ābikā lō' təgallēh	12. The nakedness of <i>your father's</i> sister you shall not uncover;
šə 'er 'ābikā hī'	she is a blood relative of <i>your father</i> .	
Closest Male Relatives	'erwat 'āhōt- 'imməkā lō' təgallēh	13. The nakedness of <i>your mother's</i> sister you shall not uncover,
	kī-šə 'er 'imməkā hī'	for she is a blood relative of <i>your mother</i> .
	'erwat 'āhī- 'ābikā lō' təgallēh	14. The nakedness of <i>your father's</i> brother you shall not uncover,
	'el- 'išō lō' tiqrāb	you shall not approach <i>his</i> wife;
	dōdātākā hī'	she is <i>your aunt</i> .
	'erwat kallātākā lō' təgallēh	15. The nakedness of <i>your daughter-in-law</i> you shall not uncover:
	'ēšet binkā hī' lō' təgallēh 'erwāt-āh	she is <i>your son's</i> wife; you shall not uncover her nakedness.
	'erwat 'ēšet- 'āhikā lō' təgallēh	16. The nakedness of <i>your brother's</i> wife you shall not uncover;
	'erwat 'āhikā hī'	she is <i>your brother's</i> nakedness.
	'erwat 'iššāh ūbitt-āh lō' təgallēh	17. The nakedness of a <i>wife</i> <sup>41</sup> and her daughter you shall not uncover,
Wife	'et-bat-bən-āh wə 'et-bat-bitt-āh lō' tiqqāh ləgallōt	Her son's daughter or her daughter's daughter you shall not take to uncover her nakedness;
	'erwāt-āh	they are [ <i>her</i> ] blood relatives (f.);
	ša 'ārāh hēnnāh	it is depravity.
	zimmāh hī'	18. And a <i>wife</i> to her sister as a rival you shall not take, uncovering her nakedness on her while she is still alive.
	wə 'iššāh 'el- 'āhōt-āh lō' tiqqāh lišrōr,	
	ləgallōt 'erwāt-āh 'āley-hā bəhāyye-hā	

<sup>38</sup> The *waw* before “mother” can be understood simply as conjunctive (“and”), or as explicative (“which is”); see Hieke, *Leviticus*, 649–50 and McClenney-Sadler, *Recovering the Daughter's Nakedness*, 79–80. However, the same term, “his father's nakedness” (*'erwat 'ābīw*), also appears in Lev 20:11, where “his father's wife” (*ēšet 'ābīw*) is thus described, a reading followed by late antique readers of the text; see esp pp. 228–29 above.

<sup>39</sup> McClenney-Sadler persuasively argues that *bayit* designates the lineage and translates the passage as the prohibition of a sister, who is “kindred from within the lineage (*mōledet bayit*, born to two people with lineal status...) or a kindred from outside the lineage... (*mōledet... hūš*, born to a parent with lineal status and another person who no longer has jural responsibility for the sister and does not have claims on lineage membership)”; see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 83 (my transliteration); see also Hieke, *Leviticus*, 669–70.

<sup>40</sup> The example addresses an aspect not covered by Lev 18:9, namely that of a man's relationship to a sister by his father and a concubine; see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 84–85.

<sup>41</sup> On this translation of *'iššāh* as “wife,” see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 86; Hieke, *Leviticus*, 650.

In order to understand the biblical passage on prohibited close relationships, whose structure will be depicted graphically below (see Table 3.3, p. 248 below), we must not forget that the terms and concepts which describe sexuality and kinship in biblical Hebrew are at least as far removed from current English terms and notions as those of the Qur'an. It is, however, possible to approach the original meaning of the passage effectively by focusing on three key terms, all of which can be found in its opening sentence. This phrase, in Lev 18:6, describes which sexual unions would violate God's "rights" immediately: *'iš 'iš 'el-kāl-šā'er bāsārō lō' tiqrābū ləgallōt 'erwāh 'ānī Yahweh* "no man shall approach any blood relative of his flesh to uncover nakedness; I am the Lord." Three key terms that first appear in v. 6 configure the structure and meaning of the entire passage: *'erwāh*, *g-l-h*, and *šā'er*.

The noun *'erwāh*, to begin with, means *nakedness* and is a euphemism for sexuality or sexual vulnerability in general: a woman is herself sexually vulnerable, yet transgressive actions towards her sexuality can also infringe on the rights of some of her family members. Such actions are usually denoted by the verb *g-l-h* (*uncovering*), which, in conjunction with *nakedness*, is a well-documented euphemism for accessing a person's private parts by having *illicit* sexual intercourse with them—the conjunction of the two terms is always negative in its connotation, as we have already seen in Ham's failure to *cover* his father's nakedness in Chapter 2 (see pp. 130–33 above).<sup>42</sup> The entire biblical passage of prohibited relationships is structured by the recurrent repetition of both the verb *g-l-h* (*to uncover*), and the noun *'erwāh* (*nakedness*); its focus on sexual intercourse—compared to the Qur'an's apparent focus on marriage—is clear. The juxtaposition of *uncovering* and *nakedness* occurs sixteen times in the passage, marking thirteen categories of women with whom a man is explicitly prohibited from having sexual relations. Six are related by consanguinity: a mother, sister (either a father's or a mother's daughter), a granddaughter (either a son's or a daughter's daughter), a paternal half-sister, a father's sister, and a mother's sister (with paternal and maternal aunts constituting separate categories). Seven are related by affinity, namely, the spouses of a man's male blood relatives (his father, father's brother, son, and brother) or his spouse's female blood relatives: spouses of a male relative include

<sup>42</sup> A man's *'erwāh* (nakedness), then, is primarily a description of undue access to his wife's sexuality; illustrative passages are Gen 42:9 and 12, which symbolically speak of the vulnerability of the land, as well as Exod 20:26 and 16:37. Note also the related image in the prohibition: *wālō' yagalleh kənap 'ābīyw*, "not to uncover his father's 'wing,' or 'extremity,'" in Deut 23:1 (22:31). In McClenney-Sadler's helpful rendering, "uncovering the nakedness of y' refers to a sex act with person y and the motive clause 'it is the nakedness of x' refers to the party whose rights have been violated"; see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 80, and also Hieke, *Leviticus*, 649–50. On the semantically related issue of Ham's failure to "cover" Noah's nakedness in Genesis 9, see also John S. Bergsma and Scott W. Hahr, "Noah's Nakedness and the Curse on Canaan (Genesis 9:20–27)," *Journal of Biblical Literature* 124 (2005): 25–40. On the Qur'an's use of the Arabic term *'awra* in Q 33:13 (a cognate of Hebrew *'erwāh*), and on the renderings of the notion of the "uncovering of nakedness" throughout late antiquity, see pp. 69–71 above and 268 and note 123 below.

a stepmother, a father's brother's wife, a daughter-in-law, and a brother's wife; a spouse's female blood relatives include a stepdaughter, a wife's granddaughter (either her son's or her daughter's daughter), and a wife's sister. For almost each of the categories of prohibited women, the phrase "to uncover the nakedness" is used just once, even when further specifications (such as subdivision according to the gender of intermediate relatives) follow; the three exceptions to this are the prohibiting of doing so in relation to his *father* and *mother*, and to his *daughter-in-law*, where the term appears twice.<sup>43</sup>

While the recurrence of the first two central words found in the opening verse of Lev 18:6 (i.e. *ʿerwāh* and *g-l-h*) indicates and indeed forms the literary structure of the entire passage, it is the third key term in the verse, *šāʿēr* (blood relations), which allows us to understand the operative legal and literary principles governing the order and division of the entire list of prohibited relationships. The term should be understood in light of the useful definition given in a different context, equally in the Holiness School, as McClenney-Sadler has mentioned.<sup>44</sup> Here, in Lev 21:2–3, the term *šāʿēr* is rephrased in terms of those people who are *haqqārōb ʿēlāyw*, "the ones close to (a man)." They are then listed as his *mother* (*ʿēm*), *father* (*ʿāb*), *son* (*bēn*), *daughter* (*bat*), *brother* (*ʿāḥ*), and *sister* (*ʿāḥôt*); all close relations of first and second degree are covered.<sup>45</sup> The prohibiting of a man from engaging in sexual relations with "blood relations," who are *bašārō* (*his flesh*) in Lev 18:6, then, constitutes a prohibition of sexual relations with a man's primary female blood relations, which would directly violate "God's rights": his mother, daughter, and sister.<sup>46</sup> Having sex with one's close kin, then, is perceived as a sin against the Divinity, as is common in ancient Near Eastern law.<sup>47</sup> Accordingly, v. 6 is the only verse to which the modern concept of the "prohibition of incest" could

<sup>43</sup> The verb *lāgallôt* and the noun *ʿerwāh* thus appear at least once in each of the thirteen verses in the passage: the verb a total of 16 times, the noun 22 times. Repetitions of *nakedness* appear throughout many of the verses, yet those of the verb *uncovering* are more measured. The verb appears twice for actions infringing on the rights of a man's father and mother (in v. 7), and twice regarding a daughter-in-law (v. 15), clearly adding to the emphasis on these prohibitions. On the terms *lāgallôt* and *ʿerwāh*, see Hieke, *Levitikus*, 653–54. Note that previous commentators have identified a chiasmic structure within v. 7, (a): *ʿerwat ʿimmākā* (b): *lōʾ tēgallēh* (c): *ʿimmākā hīʾ* (bʾ): *lōʾ tēgalleh* (aʾ): *ʿerwāt-āh*; see the summary in Hieke, *Levitikus*, 668. While the repetition of the terms is well structured, it is complicated (arguably to an obfuscating degree) by the introductory phrase *ʿerwat ʿābikā*, by the repetition of *ʿimmākā*, as well as by the circumstantial *waw*. The repetition of terms subsequently follows a looser and more complex pattern in both vv. 7 and 15, than the one for which the suggested chiasm would allow.

<sup>44</sup> As McClenney-Sadler points out, the cognate of Hebrew *šāʿēr* in classical Arabic is *thār* (*blood revenge*), which "makes it plausible to conclude that *šāʿēr* conveys the notion that relatives idealized as a 'part of oneself' are prohibited as sexual partners"; see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 79 (my transliteration), as well as Hieke, *Levitikus*, 667.

<sup>45</sup> Note that in Lev 18:12–13, the father's or mother's sister is designated as the parent's *šāʿēr* (*blood relations*), as is a wife's daughter and granddaughter, by the female form *šāʿārāh* in Lev 18:17, on which see note 50 below.

<sup>46</sup> See McClenney-Sadler, *Recovering the Daughter's Nakedness*, 77–78.

<sup>47</sup> See e.g. Raymond Westbrook, "The Character of Ancient Near Eastern Law," in *A History of Ancient Near Eastern Law*, ed. Westbrook (Leiden: Brill, 2003), vol. I, 76.

be applied more or less directly, insofar as such relationships are portrayed as constituting a wrong in and of themselves.

I fully agree with Vernier, that the remainder of the passage is not organized and subdivided by any logic of affinity, the principle which Hérítier sees applied here. Rather, the evidence indicates that it is organized according to the three human personae—in addition to God's rights—whose rights would be violated by sexual unions with close relatives, as McClenney-Sadler has indicated.<sup>48</sup> Conversely, we will hear echoes of the biblical principle of the protection of legal personae, only in the canons of Mar Aba and, arguably, in rabbinic writings. Roman and West Syrian Christian law, in contrast, portrays all such prohibited affinal relationships as wrongs in and of themselves, and as sins against none other than God. The Qur'an, finally, stands in continuity with the biblical, West Syrian, and East Syrian models to various degrees, and indeed develops a model of its own, as we will see in due course.

How then does the Bible portray the wrong of sexual intercourse with prohibited affinal kin? If we bracket unnecessary distractions in McClenney Sadler's analysis, such as her introduction of grandparents into the text, the following logic emerges.<sup>49</sup> After the first part prohibiting consanguineous relationships (in Lev 18:6), the passage's three further parts prohibit certain types of women with whom sexual relations would infringe on the rights of: first, a man's mother and father; second, his closest male relatives; and, third, his wife, as indicated by brackets in the passage's rendering above; the single apparent irregularity in this otherwise stringent ordering principle occurs in v. 10:

- Vv. 7–13, the passage's second part, list the violations that a man would inflict upon the kin under the protection of his father or mother. A man

<sup>48</sup> Vernier equally holds that "les versets se suivent selon un ordre qui n'est pas arbitraire. Mais cet ordre...[n]e confirme en rien l'hypothèse de l'existence d'un inceste du deuxième type"; Vernier, "Théorie de l'inceste et construction d'objet," 238. While Vernier's criticism of Hérítier is valid, his own alternative reconstruction is problematic; see also Hieke, *Levitikus*, 669.

<sup>49</sup> McClenney-Sadler, holds that "[t]his internal logic is structurally represented in a hierarchical order beginning with the person whose rights and interests Ego is most duty bound to protect and ending with the person whose rights and interests Ego is least duty bound to protect" (McClenney-Sadler, *Recovering the Daughter's Nakedness*, 106). This may well be the case, yet I disagree with the proposed identification of some of the legal personae whose rights are protected. According to McClenney-Sadler, these are (1) God (v. 6), (2) mother (v. 7a), (3) father (vv. 7–11), (4) the father's father (v. 12), (5) the mother's father (v. 13), (6) the father's brother (v. 14), (7) son (v. 15), (8) brother (v. 16), and (9) wife (vv. 17–18, see *ibid.*). In my view, McClenney-Sadler's introduction of ego's paternal and maternal grandfathers as personae (3) and (4) is unwarranted and distracts from the order explicitly indicated by the text. (Her misreading here may or may not be influenced by her attempt to read the passage as if it were gender balanced; see already note 32 above.) Instead, I have suggested understanding the text as segmented according to the legal personae that are named in the passage itself, leading to a four-part segmentation on the basis of the rights of God (v. 6), mothers and fathers (vv. 7–13), close male relatives (vv. 14–16), and wives (vv. 17–18). Whether or not the three close male relatives (in vv. 14–16) are considered separately, as McClenney-Sadler suggests, or as one group, is, as I have proposed, of course a question of style rather than analysis, the differences between our readings being thus limited to Lev 18:7–13.

would violate his father's rights by having sexual relations with his own mother (v. 7, arguably preceded by his stepmother), with any of his father's other primary or secondary wives, other than his own mother (v. 8), with his full or paternal sister through his father's primary lineage (v. 9), with any sister through his father's secondary lineage (v. 11), or with his father's sister (v. 12). He would violate his mother's rights by having sexual relations with his own full or maternal sister (v. 9), or with his mother's sister (v. 13). In each of these examples, either his *father* or *mother* are explicitly evoked.

- The passage's third part lists the rights of the three closest male relatives a man would violate by having sexual relations with women to whom these male relatives are married. Having sexual relations with his father's brother's wife (v. 14), with his son's wife (v. 15), or with his brother's wife (v. 16) would violate the rights of his paternal uncle, son, or brother, respectively, as the text makes explicit (as again indicated by the italics in Table 3.2 above).
- The passage's final part lists the rights of a man's wife he would violate by having sexual relations with her daughter, granddaughter (v. 17), or sister (v. 18), which are depicted again as *ša'ārāh*, someone's *blood relatives*. It is more than likely that the passage here indicates that the prohibited women are the wife's blood relatives, and that the wife's daughter or granddaughter in question are her offspring from a previous relationship.<sup>50</sup> The text's focus on the wife's rights is, in either case, explicated (as indicated by italics in the rendering in Table 3.2 above).

The only prohibition in which the Bible's evocation of legal rights does not immediately seem to fall into the division and categorization suggested as being based on the legal personae whose rights are violated, is the prohibiting of a man's granddaughter in v. 10. The phrase *kī 'erwātākā hēnnāh*, "for they (f.) are *your nakedness*" (my emphasis) indicates that the nakedness of the daughters of a man's son, or daughter, constitutes his *own* sexual vulnerability, constituting an apparent irregularity in a passage otherwise coherent in its explicit reference to the vulnerability of a man's father and mother. Yet the fact that a man would compromise his own sexual vulnerability by having sexual relations with his granddaughter does not, of course, exclude such an act from equally breaching the rights of his own father, mother, and, for that matter, his own son or daughter, one of whom would be a parent of the grandchild in question.

In fact, it is only to be expected that the relationship of a man to his granddaughter would be classifiable multiple times; the ambiguity is not created by the

<sup>50</sup> According to the Masoretic Text, the form of the word *ša'ārāh* occurs uniquely in the female form. An understanding of the women thus designated as the man's own blood relatives is grammatically possible, yet incompatible with the meaning of the term *ša'er* as established in Lev 21:2–3. Moreover, it has been suggested that the term may indeed designate a form of *ša'er* followed by a female possessive suffix; on the understanding of *ša'ārāh hēnnāh* as that wife's blood relatives, see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 86, and Hieke, *Leviticus*, 650.

text but inherent to the hierarchies within a family, and in the plurality of the various lineages through which the daughter of a man's male or female children can be conceptualized. Indeed, The passage addresses the ambiguity resulting from the status of a man's granddaughter by classifying her in all three possible ways: depicting her as his own "nakedness," describing her as his children's daughter in the text, and by placing her within the passage's second part, introduced by and consisting of personae protected by the rights of his own parents. We can thus conclude that the four legal categories proposed, on the basis of protecting the rights of God and three types of human legal personae, do indeed form the passage's four main parts, which, in turn, seem to be internally consistent.

It is worthwhile to address the further literary qualities of the Bible's passage in order to prepare a legal and literary comparison with the Qur'an in the next section. In the Bible, in the description of the status of a man's granddaughter, she is categorized according to her relationship to more than one legal persona. The same multiplicity of a woman's relationships is found throughout the Levitical passage, established by a subtle balance between structure and wording. This multiplicity is most often indicated by the way in which the passage from Leviticus attributes a woman's "nakedness" to herself, to her husband, or to a close family member, along with its use of the personal pronoun "she," which appears after all but one prohibition, either in the singular (*hi'*) or plural (*hēnnāh*) or, on two occasions, as a suffix (*-hā*), and always as part of an explanatory clause.<sup>51</sup> (The only verse that does not contain such an explanatory clause is Lev 18:9, which, arguably, anticipates v. 11.<sup>52</sup>) These explanatory clauses are placed after the types of prohibited women, and in turn fall into four distinct sets that are spread out across the passage's four parts:

- In three cases (one of consanguinity and two of affinity), a woman is presented in terms of the "nakedness" of a man.<sup>53</sup>

<sup>51</sup> Note that twice, in Lev 18:10 and 18:13, the explanatory clauses are explicitly introduced as such by the participle *ki*.

<sup>52</sup> There is only one instance in which an explanatory clause does not follow immediately: Lev 18:9 introduces the prohibition of *'erwat 'āhōtkā*, "the nakedness of your sister." The sister is then specified as *bat-'ābikā 'ō bat-'immekā, mōledet bayit 'ō mōledet hūš*, "your father's daughter or your mother's daughter, whether born at home or born abroad." The text here specifies that the sister can be *either* a paternal or (*'ō*) a maternal half-sister, yet no immediate explanatory phrase follows. In v. 11, however, after the prohibition of a granddaughter in v. 10, the prohibition of a sister in fact continues by prohibiting the nakedness of *bat-'ēšet 'ābikā mōledet 'ābikā*, "the nakedness of your father's wife's daughter, begotten by your father" (presenting the passage's only rhyme, fittingly on *'ābikā*). This phrase is then followed by the explanatory clause *'āhōtkā hi'*, "she is your sister." On the legal context of the prohibition of paternal sisters, see note 39 above.

<sup>53</sup> In Lev 18:10, as we have seen, a man's granddaughters (by a son or daughter) are referred to as a man's own nakedness (*'erwātākā hēnnāh*, "they are your nakedness"). In v. 8, a father's wife (*hi'*, "she") is singularly described as "the nakedness of your father," and in v. 16, a brother's wife (*hi'*, "she") is depicted as "your brother's nakedness."

- The same application of “a man’s nakedness” also occurs in v. 14, where a father’s brother’s wife is introduced as the nakedness of “your father’s brother.” However, the same woman, the father’s brother’s wife, is then specified as *dōdātākā hī* “she is your aunt,” in the explanatory clause of v. 14, relating the father’s brother’s wife both to the man’s uncle and to himself. This usage exemplifies the second type of explanatory clause, in which a specific technical term describes a man’s relation to a woman (again either by affinity or by consanguinity); it occurs a total of four times.<sup>54</sup>
- A third category of explanatory clauses uses the term *šā’ēr* (*blood relation*), discussed above, which occurs a total of three times.<sup>55</sup> Note that in v. 17, in the description of one such *blood relation*, the pronoun *hī* is repeated once, the second time referring to the *zimmāh* (*depravity*, f.), inherent in a man marrying his wife’s daughter or granddaughter.<sup>56</sup>
- A final category of explanatory clause, which stands on its own, is found in v. 18, where a woman’s sister is referred to as a “rival,” and the action depicted as the “uncovering” of one’s wife’s “nakedness” *‘āley-hā bəḥayye-hā*, “on her in her lifetime.” Here, the position elsewhere taken by the pronoun *hī* is twice taken by the suffix *-hā*.

A secondary, four-partite literary structure thus overlays the passage’s robust division into four parts on the basis of the four legal personae whose rights are protected. This secondary structure is constituted by the three types of explanatory categories that do use the pronoun *hī*—describing a woman’s relationship to a man either through his male relatives, through the use of specific technical terms, or by classifying them as a *šā’ēr* (*a blood relation*)—as well as by the fourth category, which describes the nakedness of a man’s wife in self-referential terms, using the female suffix *-hā*. Here, the attribution of a woman as relating to more

<sup>54</sup> The same use of a specific term for a female relationship is also found in Lev 18:7 (*‘immākā hī*, “she is your mother”), v. 11 (*‘āḥōtkā hī*, “she is your sister”), and, with a slight variation, in v. 15 (*‘ēšet binkā hī*, “she is the wife of your son”); in this last instance, the woman is introduced with the specific term as *kallātākā*, “your daughter-in-law.” In all these examples, the passage defines the multiple family relations of a man to the women in question.

<sup>55</sup> In addition to Lev 18:6, the term *šā’ēr* (*blood relation*) can be found in Lev 18:12 and 18:13, describing both paternal and maternal aunts (*šā’ēr ‘ābikā hī*, “she is the close relation of your father,” and *kī- šā’ēr ‘immākā hī*, “she is the close relation of your mother”), as well as the daughters or granddaughters of a man’s wife (*šā’ārāh hēmmāh*, “they are [your wife’s] close relation,” in v. 17); on its meaning see p. 241 above.

<sup>56</sup> Note that in Deut 27:20–23, the prohibition against establishing sexual relations with a father’s wife, an animal, a paternal or maternal sister, and a mother-in-law is emphasized by its inclusion within the twelve communal curses; a father’s wife is also singled out in Deut 23:1. In neither passage is the prohibition of simultaneous marriage to two sisters mentioned; the fact that Leviticus 18, in v. 17, highlights such a union by designating it a “depravity” thus emphasizes a different attitude to the one we find in Deuteronomy. The discrepancy between the two texts may well suggest that marrying two sisters is singled out in Leviticus because it would have been more, rather than less, acceptable, than other incestuous unions to the implied audience; see the parallel case in the Qur’an singling out marriage to a father’s former wife (p. 277 and note 87 below).



than one legal persona shows a secondary set of legal principles at work, which structures the four main categories of prohibited women internally. In their conjunction, the two structural devices, which correspond to the two legal sets of principles—the prohibiting of a woman on the basis of the four main categories, as well as in relation to herself, or to other family members—create many of the passage’s repetitions. These repetitions, in turn, structure the passage according to its inherent legal categories, at the same time as indicating the multifarious relationships through which a man is related to a woman.

We will see that the qur’anic passage of prohibited relations more fully integrates its legal categories and stylistic devices in such a way that the latter reinforces the former, yet the passage in the Bible operates differently. The biblical passage is structured by its four main legal categories, which are based on the operative legal principle at work, rather than by its repetition of certain terms. These four categories are in turn subdivided by the recurrent repetition of explanatory clauses, which each contain the phrase *lagallôt ‘erwāh*, “to uncover the nakedness,” along with the female pronoun *hi’* (or the respective suffix *-hā*). In addition to the two primary structural devices, on the basis of legal categories, and the repetition of the explanatory clauses containing the feminine pronoun (or suffix), there is a third structural device at work here. This device is less clear-cut and harder to perceive than the ones discussed above, and partially intersects with the preceding ones: the biblical passage is as replete with repetitions as we will find the Qur’an to be.

Along with the repeated nouns, pronouns, and verbs discussed so far, we should note that the passage repeats certain verbs that are employed with great legal precision, yet these repetitions do not, on their own, convey useful information about the passage’s structure.<sup>57</sup> More significantly perhaps, the repeated noun *ʾiš* (*man*), which introduces what no man may do in v. 6, anticipates the sevenfold repetition of the cognate female noun *ʾiššāh* (*wife*),<sup>58</sup> which is most noticeable if the passage is recited orally—yet again without indicating a clear structure. The same may be said about the repetition of the words describing family relations: *ʾāb* (*father*), *ʾēm* (*mother*), *ʾāḥôt* (*sister*), *bat* (*daughter*), and *bēn* (*son*), or the passage’s recurrent way of referring either to the prohibited women or to

<sup>57</sup> The root *q-r-b* (*to approach*), which appears to indicate adulterous unions, is repeated once in the passage (vv. 6 and 14; on the meaning of the verb see McClenney-Sadler, *Recovering the Daughter’s Nakedness*, 85). The verb *yld* (*to be born, or to be begotten*), is repeated three times (vv. 9 and 11), in all cases describing a man’s sister. The root *l-q-ḥ* (*to take as a wife*) occurs in vv. 17 and 18, to describe instances in which a man is prohibited from marrying his wife’s relations—marriages that are thereby described as conceivably being within the bounds of legality, inversely highlighting the absence of the notion that prohibitions on the grounds of affinity were perceived as consanguinity between ego’s spouses.

<sup>58</sup> The term *ʾiššāh* (*wife*) appears seven more times in the passage (vv. 8, 11, and 14–18), describing the prohibiting of a number of certain women related by consanguinity or apparent “affinity,” to a man, yet without creating any perceivable structure. On its translation see note 41 above.

their relevant male relatives through whom they are defined, by using the second-person masculine singular possessive suffix, *-kā*.<sup>59</sup> These repetitions are merely repetitions: they do not create a structure, and they are not independent of the first two organizing principles at work. (For example, in the case of *father* and *mother*, the repetitions intersect and reinforce the second category of protected rights.) With regard to the literary quality inherent in the repetition of these terms in the Bible, we can conclude that these repetitions, while far from random, do indeed do more than just convey meaning. From a stylistic perspective alone, the recurrent usage of these terms endows the passage with a quality of poetic reiteration and legal urgency. This is typical for the text of Leviticus and creates a sense of cohesion within the passage dealing with prohibited relations, Lev 18:6–18, the second part of the chapter, which sets it apart from its other three parts.<sup>60</sup>

A graphic representation of the biblical passage and most of its literary features (Table 3.3, below) will conclude this section and help pave the way for a comparison with the qur'anic passage analysed below. The table depicts the three literary devices that determine the passage's structure: the primary division according to the rights of four legal personae, the secondary repetition of explanatory clauses, and the less focused repetition of further nouns and verbs:

- The central column represents the biblical text in italics, indicating the passage's primary structural device: the four parts as established by the Bible's primary structure on the basis of the protection of the rights of four legal personae, proceeding from God to father and mother, to close male relatives, to a man's wife (which are set in boldface; the four parts are also delineated by double lines).
- The central column, also indicates, again in boldface, the repetitions of *'erwāh* and *g-l-h* and of the pronoun *hī'*, that show the text's secondary structural device: in each of the repetitions, a woman's nakedness is

<sup>59</sup> The noun *'āb* (*father*) occurs eight times (vv. 7–9 and 11–14); *'em* (*mother*) five times (vv. 7, 9, and 13), *'āhōwāt* (*sister*) five times (vv. 9, 11–13, and 18), *bat* (*daughter*) ten times (vv. 9–11 and 17), and finally, *ben* (*son*) three times (vv. 10, 15, and 17); the suffix *-kā* occurs twenty-four times in vv. 7–16.

<sup>60</sup> We can thus detect internal repetitions of terms, as well as alliteration throughout the passage, as in the alliterations of "b" and the immediate repetition of the terms *bat* (*daughter*), and *ben* (*son*), in *bat- binkā 'ōw bat- bittākā* (in Lev 18:10) or in *'et- bat- bānāh wā'et- bat- bittāh* (in v. 17). Such alliterations are less common in the Qur'an, as we will see. The biblical passage, very much like the Qur'an, is marked by the repetition of key terms. Yet, the Qur'an's passage on prohibited relationships has a perceivable structure, opening and closing with a clearly marked literary frame, which, in turn, encloses several internal structural devices. The Bible's passage on prohibited relationships proceeds differently. The Bible introduces most of its key terms in the opening passage as if they were a number of leit-motifs that are then repeated, to varying degrees, throughout the list of actual prohibitions, merely reinforcing the established internal frame. Only the repetition of the phrase *lā'gallōwt 'erwāh*, "to uncover the nakedness," which acts as a refrain, gives the passage a unique rhythm, as is not untypical of the enumerations of prohibitions in Leviticus (see e.g. the prohibition of certain animal foodstuffs in Leviticus 11). Yet such repetitions lack the densely composed literary structure we can witness elsewhere in the Bible and in the Qur'an.

**Table 3.3** Leviticus 18:6–18: Late antique legal principles and literary structure

Late Antique Legal Principles	Lev 18: Main Structure	Repetition
Introductory clause	<b>1. Rights of God</b> 6. 'iš 'iš 'el-kāl-šə'er basārō lō' tiqrābū <b>lōgallōt 'erwāh</b>	noun ('iš, twice) noun (šə'er) verb (q-r-b)
God's authority	'ā ni Yahweh	
Affinity: stepmother Consanguinity: mother	<b>2. Rights of father and mother</b> 7. 'erwat 'ābikā <b>wə'erwat 'immokā lō' tōgallēh</b>	noun ('āb) noun ('ēm)
Explanatory clause	'immokā hī' lō' tōgallēh 'erwāt-āh	noun ('ēm)
Affinity: father's wife	8. 'erwat 'ēšet-'ābikā lō' tōgallēh	noun ('iššāh) noun ('āb)
Explanatory clause	'erwat 'ābikā hī'	noun ('āb)
Second degree consanguinity: paternal and maternal sister	9. 'erwat 'āhōtkā bat-'ābikā 'ōbat-'immekā mōledet bayit 'ō mōledet hūš <b>lō' tōgallēh 'erwātān</b>	noun ('āhōt) noun (bat, twice) noun ('āb) noun ('ēm) verb (y-l-d, twice)
Second degree consanguinity; extension to third generation: daughter of son or daughter	10. 'erwat bat-binkā 'ō bat-bittakā <b>lō' tōgallēh 'erwātān</b>	noun (bat, thrice) noun (bēn)
Explanatory clause	ki 'erwātōkā <b>hēmmāh</b>	
Second degree consanguinity: paternal sister (secondary lineage)	11. 'erwat bat-'ēšet 'ābikā mōledet 'ābikā	noun (bat) noun ('iššāh) noun ('āb, twice) verb (y-l-d)
Explanatory clause	'āhōtkā hī' <b>lō' tōgallēh 'erwāt-āh</b>	noun ('āhōt)
Third degree consanguinity: paternal aunt	12. 'erwat 'āhōt-'ābikā lō' tōgallēh	noun ('āhōt) noun ('āb)
Explanatory clause	šə'er 'ābikā hī'	noun (šə'er) noun ('āb)
Third degree consanguinity: maternal aunt	13. 'erwat 'āhōt-'immokā lō' tōgallēh	noun ('āhōt) noun ('ēm)
Explanatory clause	ki-šə'er 'immokā hī'	Noun (šə'er) noun ('ēm)
Affinity: uncle's wife	<b>3. Rights of male relatives</b> 14. 'erwat 'āhī-'ābikā lō' tōgallēh 'el-'išto lō' tiqrāb	noun ('āh) noun ('āb) noun ('iššāh) verb (q-r-b)
Explanatory clause	dōdātōkā hī'	
Affinity: daughter-in-law	15. 'erwat kallātōkā lō' tōgallēh	
Explanatory clause	'ēšet binkā hī' <b>lō' tōgallēh 'erwāt-āh</b>	noun ('iššāh) noun (bēn)
Affinity: brother's wife	16. 'erwat 'ēšet-'āhikā lō' tōgallēh	noun ('iššāh) noun ('āh)
Explanatory clause	'erwat 'āhikā hī'	noun ('āh)
Affinity: wife's daughter	<b>4. Rights of a wife</b> 17. 'erwat 'iššāh ūbitt-āh lō' tōgallēh	noun ('iššāh) noun (bat)
Affinity: wife's granddaughter	'et-bat-bēn-āh wə'et-bat-bitt-āh lō' tiqqāh <b>lōgallōt 'erwāt-āh</b>	noun (bat, thrice) noun (bēn) verb (l-q-h)
Explanatory clause	šə'ārāh <b>hēmmāh</b>	noun (šə'er)
God's view (harsh)	<b>zimmāh hī'</b>	pronoun (hī')
Affinity: wife's sister	18. wə'iššāh 'el-'āhōt-āh lō'tiqqāh lišrōr	noun ('iššāh) noun ('āhōt) verb (l-q-h)
Explanatory clause	<b>lōgallōt 'erwāt-āh 'āley-hā bəhāyye-hā</b>	

attributed to a variety of legal personae, as is also indicated by the explanatory phrases (which are marked as such in the left-hand column).

- The right-hand column identifies the repetition of the passage's other key nouns and verbs, which indicate the less prominent repetition of other verbs and nouns (which intersects with the first two structural devices).

- The left-hand column, along with the brackets to the left, will prove especially important for our comparison of Lev 18:6–18 with Q 4:22–23 by introducing a significant aspect of the Bible’s reception history. It indicates how the legal principles of consanguinity and affinity were mapped onto the biblical prohibitions by its late antique readers and practitioners.

We have seen that whereas the Bible applies the principle of consanguinity (implicit in its prohibition of *šāʿer* relatives), there are no demonstrable traces of a broader concept of the prohibition of affinal relationships in the biblical passage, particularly as conceptualized in terms of the consanguinity of ego’s spouses. The left-hand column of Table 3.3, however, shows which prohibitions the late antique Christian tradition, as well as, arguably, the Qur’an, would eventually reconceptualize, based not on the rights of legal personae but on consanguineous and affinal relations. Finally, the brackets on the left indicate the passage’s apparent order, as it was understood by Christian readers in terms of affinity and consanguinity, as we will discuss.

### The Qur’an’s List of Prohibited Relations

The Qur’an’s primary catalogue of women whom a man is not permitted to marry can be found in the Medinan passage Q 4 *Sūrat al-Nisāʾ*, vv. 22–23, which I will refer to as the qur’anic passage on prohibited relationships.<sup>61</sup> The chronological relationship of this passage to related ones is unclear, yet no ruling in the Qur’an stands in tension with it.<sup>62</sup> As in the Bible, the literary approach to this passage will move from context to content. The passage is set apart from its context as a thematic unit, by its focus on prohibiting men, in the plural, from marrying certain women to whom they are related by affinity, consanguinity, or through milk kinship. The passage is also integrated within its immediate context, as well as into the broader legal and narrative flow of the fourth surah.

- The preceding verse Q 4:19, which prohibits the addressees from “inheriting” women by force, is thematically related to the passage on prohibited relationships beginning in Q 4:22, which opens by prohibiting a man from

<sup>61</sup> The most important studies on the Qur’an’s prohibitions of close relations are those of Geert Jan van Gelder, *Close Relationships: Incest and Inbreeding in Classical Arabic Literature* (London: I.B. Tauris, 2005), esp. 78–121 and Ricks, “Kinship Bars,” 123–43. Noteworthy classical studies include Roberts, *The Social Laws of the Quran*, 11–16 and Bialoblocki, *Materialien zum islamischen und jüdischen Eherecht*, 37–41. On the case of adoption and marriage see also Powers, *Muhammad is Not the Father of Any of Your Men*; on later Islamic law, see Wael B. Hallaq, “Groundwork of the Moral Law,” 239–79.

<sup>62</sup> It may well be that Q 4:22–23 postdates Q 24:31 as well as Q 33:4–5 and Q 33:50 (on which see notes 70, 86 and 110 below), yet considerations of chronology would unduly burden this chapter further.

marrying, and, arguably, thereby from inheriting, women who were previously married to his father. We will see that v. 19 may indeed relate to the Qur'an's permitting of some marriages between affinal kin and its rejection of both Christian and rabbinic legislation on the matter.<sup>63</sup>

- The intermediate verses Q 4:20 and 21, moreover, discuss another aspect of marriage law (concerning dowry).
- Following the passage on prohibited relationships in Q 4:22–23, the subsequent instructions regarding marriage in v. 24 have often been understood as a logical and even grammatical continuation of the list of prohibited relationships. This understanding would require some modification of my analysis of vv. 22–23 as a literary subunit. Building on the work of Harald Motzki, Joseph Witztum has, however, in my view, persuasively argued for an understanding of Q 4:24 as a new and independent sentence dealing with the eligibility of slave women to be spouses.<sup>64</sup>
- The laws in Q 4:25, and the general legal views expressed in vv. 26–28, also relate to matrimonial matters, leading to a change of subject (trade and wealth) in v. 29.

There are thus some grounds on which Q 4:22–23 should be treated as a subunit within a broader pericope relating to matrimonial matters that starts with Q 4:19 and extends to v. 28. This understanding will be corroborated by the literary cohesion of the passage, which can be rendered as follows:

<sup>22</sup> *wa-lā tankihū mā nakaḥa ābā'ukum  
mina l-nisā'i*

*illā mā qad salafa*

*innahu kāna fāḥishatan wa-maqtan  
wa-sā'a sabilā*

<sup>23</sup> *ḥurrimat 'alaykum ummahātukum*

*wa-banātukum wa-akhawātukum*

*wa-'ammātukum wa-khālātukum*

*wa-banātu l-akhi wa-banātu l-ukhti*

*wa-ummahātukumū llātī arḍa'nakum  
wa-akhawātukum mina l-raḍā'ati*

And do not marry those whom your fathers  
have married from among the women  
excluding what is already past.

That is indeed a sexual transgression, an  
outrage, and an evil course.

Forbidden to you are your mothers  
and your daughters and your sisters  
and your paternal and your maternal aunts  
and the daughters of your brother and the  
daughters of your sister

and your mothers who have nursed you and  
your sisters through nursing

<sup>63</sup> On the relevance of Q 4:19, see already Ricks, "Kinship Bars," 129.

<sup>64</sup> See Witztum, "Q 4:24 Revisited," 1–33 and Motzki, "Wal-muḥsanātu mina n-nisā'i illā mā malakat aimānukum (Koran 4:24)," 192–218. On the distinction between marriage to free and slave women see note 184 (Chapter 2) above. I have not been able to consider the contributions made by Bauer and Hamza, *Women, Households and the Hereafter in the Qur'an* on the matter. Bauer has informed me in private communication that they consider much of the opening of Q 4, and in many ways the Qur'an more broadly, to be addressed to the *pater familias*, the male head of the household, who needs to regulate his own behaviour as well as that of his proteges. This strikes me as a very reasonable line of approach and may well showcase further parallels with similarly addressed biblical legislation; I hope future studies will address this important discussion.

<i>wa-ummaḥātu nisā'ikum wa-rabā'ibukumū llātī fī ḥujūrikum</i>	and the mothers of your women and your stepdaughters, who are under your care,
<i>min nisā'ikumū llātī dakhaltum bihinna</i>	of the wives to whom you have gone in;
<i>fa-in lam takūnū dakhaltum bihinna</i>	but if you have not gone into them, then
<i>fa-lā junāḥa 'alaykum</i>	there is no sin upon you;
<i>wa-ḥalā'ilu abnā'ikumū lladhīna min aṣlābikum</i>	and the wives of your sons who are from your loins,
<i>wa-an tajma'ū bayna l-ukhtayni</i>	and that you should gather together two sisters
<i>illā mā qad salafa</i>	excluding what is already past.
<i>inna llāha kāna ghaḥfūran raḥīmā</i>	Indeed, God is forgiving, merciful.

We can first note that the Qur'an, just like the Hebrew Bible before it, yet unlike Christian law, tends to formulate its prohibitions against certain unions by addressing a male ego. I will, however, argue that the Qur'an, unlike the Hebrew Bible in the reading suggested above, more fully reflects prohibitions based on the establishment of gender cognate rules that we have encountered in Christian law. That is to say, the Qur'an places itself in a precise biblical tradition of incest laws, which it evokes both by literary and by legal continuity. At the same time, it reduces biblical instances of gender imbalance by expanding laws on the basis of consanguinity and by limiting laws based on affinity. The Qur'an does not, of course, attain full gender balance; it is therefore the cultural context alone that highlights its participation in this important late antique legal phenomenon.

Taken together, Q 4:22–23 prohibit fourteen types of women to a man: five related by affinity—a stepmother, mother-in-law, stepdaughter, daughter-in-law, and sister-in-law—and seven by consanguinity—a mother, daughter, sister, paternal or maternal aunt, and a niece through a brother or sister—and two through milk kinship—one's wet-nurse, who has become one's "mother through nursing" and one's wet-nurse's daughter (without distinguishing between the nurse's physical daughter and a woman who is considered to be her daughter by virtue of having been nursed by her).<sup>65</sup> The Qur'an's formulations imply that prohibitions on the grounds of affinity exclude all cases of consanguinity: the law prohibiting a man from marrying any of his father's wives in Q 4:22, for instance, implicitly excludes a man's biological mother, who is explicitly proscribed in the prohibitions on the grounds of consanguinity that open Q 4:23. In order to appreciate

<sup>65</sup> The Islamic tradition has, in my view, correctly identified the Qur'an's three categories of prohibited relationships as being based on the grounds of *affinity* (*ṣihr*), *consanguinity* (*nasab*), and *milk kinship* (*radā'*); see van Gelder, *Close Relationships*, 89 and 100. The present chapter thus presents an example in which a "qur'anist" approach—based on a literary analysis of the text in light of biblical and late antique law—corroborates and complexifies an aspect that has long been established in the Islamic tradition, all the while illuminating the specific historical and cultural nature and context of the Qur'an's laws against incest, a case that parallels the reading of Q 4:15–18 in Chapter 2 (see pp. 193–94) above.

the actual laws in this passage, and their underlying legal principles, let us start by engaging in a literary analysis of the passage.

While Q 4:23 has been called a “prosaic enumeration,”<sup>66</sup> I will argue that the passage’s abundant literary characteristics should guide our understanding of its inner logic and operative principles. The graphic depiction of these principles in Table 3.4 (on p. 266 below) may help clarify the following analysis, whose attempt to capture the Qur’an’s nuance requires a certain measure of complexity. In my view, the two verses, Q 4:22–23, constitute not only a thematic but also a clearly structured *literary* subunit whose inner workings are communicated to the audience by several stylistic devices that mutually reinforce one another.

The passage’s opening and closing frame consists, most obviously, of the repetition of the unique phrase *illā mā qad salafa*, “excluding what is already past,” in the Qur’an typically a reference to past legal offences. Whether it denotes offences committed by individuals before the promulgation of a specific law, or prior to these individuals’ conversion to the qur’anic religion, or both, cannot be determined.<sup>67</sup> The phrase occurs after the first and last prohibitions given in the subunit, that is the prohibiting of a man from marrying his father’s former wives (v. 22) or of two sisters (v. 23). Both are relationships marked by affinity. The verbatim repetition of the wording of the exemption highlights the function of both the first and last rules as the passage’s boundary markers, and as the opening and closing of a literary framework that is reinforced by rhyme and by alliteration. The sentences that follow the exemption clauses in this main opening and closing structure rhyme, as van Gelder has remarked (ending with *sabīlā* and *raḥīmā*). The frame, moreover, is strengthened by the move from a prohibition marked by patrilineal ascent to descent, from “your fathers” (*ābā’ukum*) in the first prohibition in v. 22 to “your sons” (*abnā’ikum*) in the penultimate prohibition in v. 23, a logical progression equally marked by the two terms’ alliterative affinity.<sup>68</sup>

The fact that the two exemption phrases mark out prohibitions that fall under the category of affinity suggests that the latter concept may well be one of the Qur’an’s operative principles. The Qur’an’s repeated exemption for marriages between affinal kin, which have already been contracted, has traditionally been understood to indicate that the pre-Islamic Meccans did not prohibit a man from

<sup>66</sup> Van Gelder notes that “one is reluctant to call such a prosaic enumeration [as Q 4:23] a verse”; see van Gelder, *Close Relationships*, 89. He does, however, note that vv. 22 and 23 rhyme (yet see note 77 below).

<sup>67</sup> Exemptions for previously committed offences, which also employ formulations including the third-person perfect verb *salafa*, which describes an event that has “passed,” occur elsewhere in the Qur’an; see e.g. Q 2:275 on interest collected in the past, Q 5:95 on past hunting offences committed during a state of purity (on which more below), and Q 8:38 on past acts of violence on the grounds of unbelief; yet see the different usage of the same term in Q 10:30 and Q 69:24, which deal with the human past on the day of resurrection or in paradise.

<sup>68</sup> On the former observation see van Gelder, *Close Relationships*, 85. Overall, the qur’anic passage uses alliteration more sparsely than the Bible (see note 60 above); a further qur’anic example may notably be the emphasis on *s-a-a* in *sā’a sabīlā* in Q 4:22, further strengthening the opening of the literary frame.



marrying his stepmother or being married to two sisters at the same time.<sup>69</sup> As we have seen above, a comparable situation prevailed in East Syrian Christianity before the reforms of Mar Aba, who stipulated a similar exemption for a different kind of marriage between affinal kin, which had already been contracted: a man who had married his brother's former wife could remain married, receiving atonement through fasting if a separation would prove too painful. Such a couple would, under the guidance of a priestly council, fast (*nṣwmwn*) for one year and give alms to the poor (*mṣkn*) before being forgiven. Likewise, the Jews of Tyre under Justinian were faced with a situation that would prohibit certain affinal relationships that had been legal under Jewish law, yet could redeem themselves by paying a hefty penalty, as discussed on pp. 232–35 above.

This legal continuity may help us contextualize the qur'anic laws. Unlike Mar Aba or Justinian, the Qur'an does not specify that the couples in question are expected to do penance for a certain period of time. Yet other qur'anic passages suggest that the mechanisms of penance that were common in the Syriac world would have been recognizable to the nascent qur'anic community. For example, in Q 58:3–4, those who renege on a *zihār* divorce—apparently an Arabian form of divorce that declares the former spouse to be a quasi-relative that a man would therefore be prohibited to remarry—must either “free a slave” (*fa-taḥrīru raqābatin*) or, should they not be able to afford this, “fast (*fa-ṣiyāmu*) for two successive months”; should they be unable to do so they then must “feed sixty needy persons (*miskīn*).” Here, the procedure of penance itself—as well as the language used to describe it—is similar to that imposed by Mar Aba: the sinners atone by fasting or by feeding the poor. Importantly, the Qur'an elsewhere, in Q 33:4, denigrates this type of divorce, stating that God “has not made your wives whom you repudiate by *zihār* your mothers” (*wa-mā ja'ala azwājakumu llā'ī tuzāhirūna minhunna ummahātikum*). The practice is thus condemned as an overly broad application of the Arabian rules governing incest law which the Qur'an rejects based on biblical law—the very same code employed by Mar Aba in his quest against Persian customs among his Christian audience.<sup>70</sup>

<sup>69</sup> Van Gelder, *Close Relationships*, esp. 98–99. A reference to the law for previous generations is given in the subsequent verse Q 4:26.

<sup>70</sup> Q 33:4 also links the case of *zihār* divorce to the rejection of full adoption (on which see note 104 below). Further instructions governing atonement point to further affinities with East Syrian practice. In the different legal context in Q 5:95, for example, that of hunting with intent (*muta'ammidan*) while in the state of sanctity (*wa-antum ḥurumun*), in which God equally “has excused what is already past” (*'afā llāhu 'ammā salāfa*), the “expiation” or “atonement” (*jazā'*) for intentional present offences, “as judged by two fair men among you” (*yaḥkumu bihi dhawā 'adlin minkum*), will be “an offering brought to the Ka'ba, or an atonement (*kaffāra*) by feeding needy persons (*masākīn*), or its equivalent in fasting (*aw 'adlu dhālika ṣiyāman*).” While the penance at hand has nothing to do with incest law and is imposed for intentional present rather than past offences (which are already forgiven), the penance here also includes the guidance of a council, as in the Qur'an. The affinity only goes so far: the judges in the Qur'an obviously are commoners rather than priests, the Qur'an imposes *either* fasting or alms-giving (as well as the option of a sacrifice) rather than both fasting and alms-giving, the penance in the Qur'an is immediate rather than lasting for a year, and so on. Yet the legal mechanism as such

The passage on the penance for *zihār* divorce (Q 58:3–4) illustrates well how the Qur'an develops ideas at the confluence of pagan Arabian, biblical, and Christian legal culture. On the one hand, the sizable body of ancient South Arabian epigraphy discussed in the previous chapter, which here also closely matches the Qur'anic vocabulary, illustrates how those guilty of transgressions—most of them neglections of sexual purity, some having to do with infractions of the sacred (*h-r-m*)<sup>71</sup> or the sacred hunt (*ṣ-y-d*)<sup>72</sup>—regularly paid fines to the local shrine as an “expiation” (*k-f-r*).<sup>73</sup> On the other hand, the Qur'an's broadening of the modes of atonement, as well as the language used to describe it, are quite akin to what Mar Aba imposes on his community: under the guidance of a council, the sinners were to atone by fasting or feeding the poor. As in the cases of food laws and sexual purity, the Qur'an thus combines the cultural codes known from ancient South Arabia with that of the biblical and especially the Christian tradition, here especially as reflected in its Syriac and Byzantine iteration.

To return to the case of some incestuous marriages, it is thus plausible, yet not certain, that the Qur'an also allows for such penance in the case of illegitimate marriages between affinal kin which had already been contracted in the past. It likewise may permit them to remain married to each other, as Mar Abba and Justin equally do, for the latter at least in the case of the Jews of Tyre. The alternative reading of the Qur'anic law, namely that the exemptions merely annul the punishment for the respective spouses, would stand closer to Justinian's initial ruling, and correspond to the harsh treatment of the citizens of Mesopotamia and Osrhoene in his final one. Yet such harshness strikes me as inconsistent with the Qur'an's general attitude to past offences, as described above.<sup>74</sup> All we can state

remains similar. On penance see also Q 2:271 (on keeping charity secret); Q 5:45 (on giving up retribution); and Q 5:89 (on the breaking of oaths) and see note 74 and p. 291 below. On the shared Syriac and Arabic vocabulary regarding fasting (*ṣwm*) and the poor (*mšk'n'/masākīn*), as well as on the broader mechanism of atonement behind them shared by the Qur'an and Syriac Christian culture, see Zellentin, *The Qur'an's Legal Culture*, 59–66. On Q 5:95, see Zellentin, “Judaic-Christian Legal Culture and the Qur'an,” 153–54. Note also the similarity of Arabic and Hebrew roots describing kinship in in note 92 below.

<sup>71</sup> See the discussion of the root on pp. 307–9 below.

<sup>72</sup> See notes 197 and 213 (Chapter 1) above.

<sup>73</sup> See Copeland Biella, *Dictionary of Old South Arabic*, 250; for further occurrences of the root *k-f-r* see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=kfr> (accessed 5 March 2021) and see Sinai, *Key Terms of the Qur'an*, s.v. *kaffara*.

<sup>74</sup> The question whether the “exemption” offered by the Qur'an is an exemption from punishment, or whether it was intended that the respective members of its community would be allowed to maintain such relationships—as Mar Aba allowed his constituents to do, and as Justinian allowed to Jews of Tyre—is a matter that cannot be resolved here. We should note that both the Qur'an and Mar Aba emphasize the forgiveness that is available for the sin in question: while the latter emphasizes that “they will be forgiven” (*wnthsw lhw'n*, Chabot, *Synodicon orientale*, 84), the former evokes the fact that God is “forgiving, merciful” (*ghafūran raḥīmā*, Q 4:23). While such terms are common in the Qur'an and do not allow for any legal conclusions, a lenient reading of the verse is not only required owing to the Qur'an's general tendency to forgive a new believer's past offences but also corresponds to the

with certainty, is that the Qur'anic reiteration of biblical law, in its own distinctive way, uses legal categories and forms of expiation that are also known from Syriac and the Eastern Roman legal tradition.

In any case, in addition to the Qur'an's prohibition of avuncular marriage and its use of the concept of affinity, we can see that its stance on prohibited relationships shares a third legal principle with Christian law, which is absent in the Bible, consisting of the availability of exemptions (of whatever kind) for previously prohibited marriages between affinal kin. In all three instances, the Qur'an's specific laws remain independent of the Christian legal precedent: whereas Mar Aba, and plausibly also Justinian, extended the exemption to a man who married his brother's former wife, the Qur'an does not record such a prohibition (more on both below) at all and instead extends the exemption to a man who had married his father's former wife and to a man who was currently married to two sisters. To reiterate, the latter two prohibitions, which the Qur'an highlights, both by employing the same exemptive phrase and by placing them in the passage's prominent initial and final positions, serve as the passage's main structural dividers, and enclose a passage that offers stringent stylistic coherence.

In addition to its delineation as a cohesive sub-passage within a broader legal context, Q 4:22–23 is also structured by the measured repetition of verbs and nouns, as well as the prominent pairing of categories.<sup>75</sup> To begin with a minor example of such repetition, note that the passage employs three verbs that are each repeated just once: *nakaḥa* (to marry), *dakhala* (to have sexual intercourse), and *raḍī'a* (to nurse). All three repeated verbs specify ways in which a man could enter into a relationship with a woman that would render her as prohibited to him as those to whom he is related by consanguinity. These examples, in a representative manner, thus describe all the ways that result in marital taboos on principles other than consanguinity.<sup>76</sup> Those unaware of the Qur'an's precise use of

Qur'an's general tendency to limit restrictions. On other instances of penance in the Qur'an see note 70 above, on Qur'anic legal lenience in general see Lowry, "When Less Is More," 22–42. Traditional Islamic law, of course, took a much sterner attitude vis-à-vis both types of close relationships for which the exemptions are given; see van Gelder, *Close Relationships*, and 84–93 and 98–99.

<sup>75</sup> On the importance of repetition and structure in the Qur'an, see Michel Cuyppers, *The Composition of the Qur'an: Rhetorical Analysis* (London: Bloomsbury, 2016). See also the important caveats offered in Nicolai Sinai, "Going Round in Circles," review of *The Composition of the Qur'an: Rhetorical Analysis*, by Michel Cuyppers, and *Structure and Qur'anic Interpretation: A Study of Symmetry and Coherence in Islam's Holy Text*, by Raymond Farrin, *Journal of Qur'anic Studies* 19 (2017): 106–22; for my own thoughts see Holger Zellentini, "Beyond Ring Composition: A Comparison of Formal Features in Sūrat al-'Alaq (Q 96) and Bavli Bava Batra 8a," in *Structural Dividers in the Qur'an*, ed. Marianna Klar (Abingdon: Routledge, 2021), 54–91, and see note 87 below.

<sup>76</sup> The passage opens, in Q 4:22, with a repetition of the verb *nakaḥa*, which probably means *to marry*; yet may once have denoted sexual intercourse rather than marriage (see van Gelder, *Close Relationships*, 88–89). This verb is set apart from the consummation of marriage that is described later in the passage, in Q 4:23, again with a verb that is repeated once: *dakhala* is a common root in the Qur'an that generally means *to enter*, yet in this context alone, has a sexual denotation. The third verb

repetition may be tempted to dismiss the measured recurrence of these three verbs as coincidental, yet compelling evidence suggests the opposite: *three* (or, in one important example, four) times the passage uses the *three* terms originally describing the *three* categories of women related by first- and second-degree consanguinity, *umm* (*mother*), *bint* (*daughter*), and *ukht* (*sister*), prohibiting the following women:

- the term *umm* (*mother*) is used three times in order to prohibit a man from marrying his mother, his milk mother, and his wives' mothers;
- the term *bint* (*daughter*) is used three times in order to prohibit a man from marrying his daughters, his brother's daughters, and his sister's daughters;
- and the term *ukht* (*sister*) is used three times in order to prohibit a man from marrying his sister, his milk sister, and two sisters; the term appears once more in order to prohibit him from marrying not another type of sister but his sister's daughter.

Given that the Qur'an's audience would have been finely attuned to meaning generated through repetition, such symmetric occurrences of verbs, nouns, and categories can hardly be dismissed as coincidental. Crucially, the one slight irregularity in the threefold repetition of these basic nouns describing forbidden female relations, the fourfold repetition of the term *ukht* (*sister*) to describe not a sister but a sister's daughter, plays a central role in the legal subdivision of the entire passage. I hold that Q 4:23 consists of a sequence comprised of four segments corresponding to four categories of prohibitions: (1) first- and second-degree consanguinity, (2) third-degree consanguinity, (3) milk kinship, and (4) affinity. Remarkably, as indicated in Table 3.4 on p. 266 below, the description of the final type of woman in each of the four resulting segments of v. 23 contains the noun *sister* (*ukht*), pointing to a deliberate literary composition, that uses this noun to demarcate the end of each category. We can thus discern a rationale for the fourfold, rather than threefold, use of the term *ukht*.

In order to appreciate the thematic and structural segmentation of the passage in its entirety, we ideally need to turn to another formal device as well. Rhyme based on the rules of *saj'* may well be another literary and structural factor shaping the passage internally. However, qur'anic scholarship has not yet reached a workable consensus that would allow for a full analysis of the passage in terms of rhyme.<sup>77</sup> Instead, I note the unusually dense repetitions of the second-person

that is repeated once in the passage, also in v. 23, is *radī'a* (*to nurse*). On relationships established by milk kinship leading to prohibited marriages, see pp. 279–81 below.

<sup>77</sup> On the rules and complexities of *saj'* and its disputed relationship to qur'anic verse see now Klar, "A Preliminary Catalogue of Qur'anic *saj'* Techniques," 181–231. While *saj'* is often translated as *rhythmic prose*, Stewart's suggested translation of the term as "accent poetry" may be more astute; see Stewart, "Rhymed Prose," in *Encyclopaedia of the Qur'ān*, ed. Jane Dammen McAuliffe (Leiden: Brill,

plural masculine possessive suffix (i.e. a form of *-kum*), which occurs seventeen times (and thereby almost as often as the respective Hebrew second-person masculine singular possessive suffix, *-kā* in the related Biblical passage). Moreover, I note that the Qur'an combines the regular female plural ending (*-āt*) with the second-person masculine possessive plural (leading to the ending *-ātukum*), in only seven of its seventeen occurrences, and only in those passages of Q 4:23 that describe milk kinship and consanguinity. It thereby creates another, arguably less pronounced or secondary structural device that stylistically sets the concepts of milk kinship and consanguinity apart from that of affinity, in the treatment of which this ending never appears. Hence, the segmentations of the passage based, on the one hand, on legal categories, and, on the other hand, on stylistic devices, overlap with each other, especially with the fourfold repetition of *sister* and the restricted use of the ending *-ātukum*. This overlap corroborates the proposed four segments along with the notion that affinity, consanguinity, and milk kinship are indeed the passage's operative legal principles, which both govern and are constituted by the literary structure:

1. The verse Q 4:23 opens with the three types of women, who are most closely related by *first- and second-degree consanguinity*: a mother (*umm*), daughter (*bint*), and sister (*ukht*). In this first category, every female noun ends in *-ātukum*; the first segment then ends with the term "and your sisters" (*wakhawātukum*), in the plural.
2. This is then followed by two pairs of close relations by *third-degree consanguinity*: aunts and nieces. The Arabic expressions for paternal and maternal aunts also end in *-ātukum*. The second pair in this category prohibits the daughter (*bint*) of a man's brother (*akh*) or sister to him. As in the preceding segment, this category ends with *sister* (*ukht*); the word is now used in the singular rather than the plural.
3. The next category consists of milk *mothers* (*umm*) and *sisters* (*ukht*); both female nouns and the entire category of "your sisters" (*akhawātukum*), in the plural, again end in *-ātukum*, as the final type does. In this case alone, while designating the final prohibition within the section, *sister*, is not the final word, since *ukht* is followed by the specification *mina l-raḍā'ati*, "through nursing."

2004), vol. IV:476–84; Stewart, "Saj' in the Qur'an: Prosody and Structure," *Journal of Arabic Literature* 21 (1990): 101–39. Stewart notes that of the 176 verses of Q 4, 143 rhyme; the main rhymes are *-irā/īmā*, *-idā*, and *-ūn*; see *ibid.*, 135. I am not aware of any recent study of the rhymes internal to qur'anic verses (i.e. *tarṣī'*); see already Stewart's comments in Stewart, "Saj' in the Qur'an," 108 and 128. Also note the important insights on qur'anic rhyme by Angelika Neuwirth; see, e.g. Neuwirth, *Studien zur Komposition der mekkanischen Suren* (Berlin: De Gruyter, 1980).

4. The final category within Q 4:23 is that of *affinity*, in which the combination of the regular female plural with the second-person plural masculine possessive suffix does not occur at all. (It is also absent in v. 22, which describes another example of affinity.) The category contains three types of women. The first consists of the mother (*umm*) and daughter of a man's wife (using the technical term *rabā'ibukum*, "your stepdaughters"), two prohibitions on the grounds of affinity. Next comes another type of such daughters acquired through affinal relations: a man's daughters-in-law (*wa-ḥalā'īlu abnā'ikum*, "the wives of your sons"). The last type in this category is that of a man's wives' sisters, who are also acquired through affinal relations. The end of this fourth category of prohibitions is again marked by the use of the term *ukht* (*sister*, now in the dual, *ukhtayn*), which we find in a final position in each of the previous three categories.

It is in light of the literary structure of the passage that we ought to consider the further organizing principle of the individual prohibitions within the four segments. Within Q 4:23, the four categories of (1) first- and second-degree consanguinity, (2) third-degree consanguinity, (3) milk kinship, and (4) affinity have been established. At first sight, this neat order appears to be disrupted if we read the qur'anic passage on prohibited relationships in its entirety, along with Q 4:22, which starts with the women married to a man's father—a case of affinity. In fact, the list follows a palpable organizational principle that combines the category and degree of proximity with a chiasmic literary framework created by the passage's segmentation on the basis of its legal principles.<sup>78</sup> Héritier's "mirrored" reconceptualization of proximity necessitates a few mental permutations (pen and paper may help), yet its application is worth the effort, by revealing the passage's deeper and strictly symmetrical principles of order(ing), along with the limited gender balance that emerges when considering the gender cognate for each of the Qur'an's laws.

To recapitulate, the opening of the passage (in Q 4:22) prohibits a man from marrying his father's wife. Whereas the catalogue is asymmetrically gendered and presented from a male perspective, we must note that the prohibition of a man from marrying his father's wife points to a *limited* legal balance of gender regarding the prohibiting of affinal relations. In order to probe the Qur'an's operative legal principle, we must first consider this initial law, the prohibition against marrying *mā nakaha ābā'ukum mina l-nisā'i*, "those whom your fathers had married, from among the women," within the mirrored perspective to which Héritier has drawn our attention. The prohibiting of a man from marrying his father's previous wives amounts to the prohibiting of a woman from (consecutively) marrying two consanguineous males, that is a man and his son. Thus depicted,

<sup>78</sup> Such overlaying literary structures are common in the Qur'an, see e.g. Nevin Reda, "The Poetics of Sūrat Al 'Imrān's Narrative Structure (Q 3)," in *Structural Dividers in the Qur'an*, ed. Marianna Klar (London: Routledge, 2021), 27–53, as well as Zellentin, "Beyond Ring Composition," see also notes 75 above and 87 below.

Q 4:22 can be understood as a cognate to the prohibition against a man (simultaneously or consecutively) marrying a woman and her daughter, which is indeed spelled out by the prohibition against marrying *ummahātu nisā'ikum*, “the mothers of your wives,” about halfway through Q 4:23, indicating a certain degree of gender balance. Both rulings amount to a prohibition against first-degree consanguinity between ego’s spouses. We will see that the surah, to varying degrees, restricts such marriages. Yet the remaining gender imbalance that marks the Qur’an’s varying exemptions for marriages prohibited on the grounds of affinity amounts to an effective balancing of the weight of the category of affinity in between the Hebrew Bible, where it operates only indirectly if at all, and Christian law, where it is a central legal principle.

Understanding the passage’s first prohibition (in Q 4:22) as that of descending first-degree consanguinity between a woman’s spouses, that is a woman marrying a man and his son (which we will designate as *a*), allows us to see how this prohibition structurally corresponds to the three laws we find in the fourth category of prohibitions, on the grounds of affinity, towards the end of the verse Q 4:23, beginning with *wa-ummahātu nisā'ikum wa-rabā'ibukum*.<sup>79</sup> The ascending prohibition in Q 4:23 against a man marrying both a woman and her mother (*wa-ummahātu nisā'ikum*), which we will designate *b*, constitutes our passage’s second instance of the prohibition of first-degree consanguinity between ego’s spouses, evoking the same legal principle we have already encountered in v. 22. The Qur’an then immediately extends this second prohibition to the descending generation by forbidding a man from marrying both a woman and her daughter (i.e. his stepdaughter, *wa-rabā'ibukumu llātī fi ḥujūrikum*); the Islamic Scripture thus prohibits both ascending and descending consanguinity between a man’s spouses. This last prohibition constitutes a cognate of *a*, according to Héritier’s system: the descending prohibition against a woman marrying both a man and his son in v. 22 is the gender cognate of the descending prohibition against a man marrying both a woman and her daughter in v. 23, which we will thus designate *a'*.<sup>80</sup>

The next prohibition is that against a man marrying “the wives of your sons who are from your loins” (*wa-ḥalā'ilu abnā'ikumū lladhīna min aṣṭābikum*).<sup>81</sup> If we mirror this law from a female point of view, as the ascending prohibition against a

<sup>79</sup> The terms *ascending* and *ascendants* denote all of the prior generations of either ego or ego’s spouses, and the terms *descending* and *descendants* denote all the subsequent generations of ego or ego’s spouses.

<sup>80</sup> Intriguingly, the passage draws our attention to the logical correspondence of the three laws concerning consanguinity between ego’s spouses by repeating a key word: *nisā'* (*women*) occurs once in the passage’s first prohibition (in Q 4:22) and twice in the present one (in v. 23; these are the only three occurrences of this noun in the entire qur’anic passage on prohibited relationships). There are, then, three prohibitions involving three *nisā'* (*wives*): a man’s father’s wives, his wife’s mother, and his wife’s daughters, a threefold repetition of a noun that neatly corresponds to the three types of mothers, sisters, and daughters we have seen above.

<sup>81</sup> The word used to describe a son’s wives, *ḥalā'il*, is a *hapax legomenon*; see van Gelder, *Close Relationships*, 97; cf. David Powers’ elaborate argument regarding the allegedly parallel term *kalāla* in Q 4:12 and 176; see Powers, *Muḥammad Is Not the Father of Any of Your Men: The Making of the Last Prophet* (Philadelphia: University of Pennsylvania Press, 2009), but see Walid Saleh’s trenchant criticism in Saleh, review of *Muḥammad Is Not the Father of Any of Your Men: The Making of the Last*



woman consecutively marrying both a man and his father, we can more easily see that it constitutes a fourth instance of prohibited consanguinity between ego's spouses. This prohibition, is, in turn, the gender cognate of *b*, the prohibition against a man marrying both a woman and her mother and will thus be designated *b'*.

We can now appreciate the neat chiasmic structure of the laws pertaining to affinal relations across Q 4:22–23, which may be represented as *a*...*b*-*a'*-*b'*. (The first half or so of v. 23, which is tentatively represented by an ellipsis here, will be examined below.) In this structural formula, *a* and *a'*, as well as *b* and *b'*, form gender cognates of each other, and *a* and *b'*, as well as *b* and *a'*, constitute the descending and ascending versions of the same laws: the prohibition of a woman's descending, consecutive marriage to a man and then his son in v. 22 (= *a*), is followed, about halfway into Q 4:23, by that of a man's consecutive marriage to a woman and then her mother (= *b*), by prohibiting a man from marrying his step-daughter, that is consecutive marriage to a woman and then her daughter (= *a'*), and by the prohibition of a woman's consecutive marriage to a man and then his father (= *b'*). The chiasmic sequence in the Qur'an's formulation of affinity depicted here suggests that the principle of *consanguinity between ego's spouses* is an operative legal principle that guides both the law itself and the organization of the entire passage. I hold that Héritier's method of mirroring is the most straightforward way to uncover the internal structure of the Qur'an's laws prohibiting relationships on the grounds of affinity. Inversely, an attempt to dismiss Héritier's insights, would, in my view, necessitate a much more cumbersome way of describing exactly the same affinal relations from a male point of view.

At the same time, however, the Qur'an limits the force of this principle of affinity in a way that displays gender imbalance. The dispensation for marriages that were contracted prior to the promulgation of the Qur'an's laws on prohibited relationships, or prior to a couple's conversion to Islam, first of all, applies only to two cases of affinity, that of a man's marriage to a former wife of his father's in Q 4:22 (= *a*) and that of his simultaneous marriage to two sisters in v. 23, the last of its prohibitions (= *c*). Mirroring both exemptions points to the Qur'an's gender imbalance regarding its prohibitions against affinal relationships. When mirrored, prohibition *a*, for which a dispensation (or at least the exemption from penalties) is possible, is that of a woman marrying her husband's son. In this case, the Qur'an thus *may* allow first-degree consanguinity between a female ego's male spouses under special circumstances. No such dispensation for marriages previously contracted is given for the gender cognate prohibition against a man marrying his wife's daughter, *a'*.

The prohibition *a'*, is, however, doubly restricted in a different way, by the specification that it only applies if the marriage to his wife has been consummated

and if the daughter is *fi ḥujūrikum*, “under your [plural] care” (Q 4:23).<sup>82</sup> Even if later Islamic jurists read the restriction of stepdaughters under a man’s care figuratively, the law as it is stated also limits the applicability of this injunction to an instance of first-degree consanguinity between ego’s (female) spouses. Since the principle of prohibitions based on co-residence is well established in ancient Near Eastern law, it appears that a man may well marry his stepdaughter, if she is not under his care.<sup>83</sup>

Hence, there is one case of first-degree consanguinity between a female ego’s male spouses and one of first-degree consanguinity between a male ego’s female spouses that would appear to be permissible in different circumstances, in a gender imbalanced way. The Qur’an’s application of the principle of affinity is thus palpable, yet its application may be far less rigorous than in Roman and West Syrian Christian law, which generally demanded the dissolution of marriages between affinal kin, with exceptions granted only for the Jews of Tyre. In principle, yet not in specific law, the Qur’an thus stands closest to the limited application of prohibiting affinal relationships, along with a focus on the biblical formulation of the law, that we have seen in East Syrian law, where exemptions are broader.

The gender imbalance inherent in the exemptions for affinal relationships also pertains to the final prohibition of Q 4:23, which concerns a man marrying two sisters (= *c*). Like the prohibition against a man marrying his father’s former wife in Q 4:22 (= *a*), this prohibition is also limited by an exemption for those marriages already contracted. The prohibition, in its mirrored form, as the prohibition against a woman marrying her sister’s husband, emerges as the only example of the prohibition of second-degree consanguinity between ego’s spouses. The Qur’an’s formulation *wa-an tajma’ū bayna l-ukhtayn*, “and that you should gather together two sisters,” is open to three interpretations. It could indicate that

- a man is permanently prohibited from marrying two sisters under any circumstances, which is the case in Christian law (with very limited exemptions under Julian and broader ones only in East Syrian law);

<sup>82</sup> On the meaning of *ḥujūr* and the root *ḥ-j-r* more generally, see van Gelder, *Close Relationships*, 96–97, and Ambros, *A Concise Dictionary of Koranic Arabic*, 67; note that the root *ḥ-j-r* is broadly attested in in South Arabian epigraphy with precisely the meaning of “protection”; see Copeland Biella, *Dictionary of Old South Arabic*, 166–67 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=hgr> (accessed March 2021).

<sup>83</sup> If the stepdaughter’s residency is implied to follow from the question of under whose care she is, which is not certain, then we can identify two important ancient Near Eastern parallels to the Qur’an’s ruling regarding a man marrying both a mother and her daughter. Hittite Law takes residency into account when stipulating the parallel, yet different prohibition of a man’s affinal relations with “two sisters and their mother”; casual sexual relations (yet not marriage), are permitted if the mother and the sisters do not reside together; see §191 as edited and translated by Hoffner, *The Laws of the Hittites*, 151. Inversely, the Hebrew Bible seems specifically to reject such an exemption for a consanguineous relative, as in the example of a full or half-sister, who is no longer under the juridical responsibility of one parent, even if she were to be *mōwledet ḥūš*, i.e. “born outside” the lineage (Lev 18:9), likewise

- the prohibition remains in force until his wife's death (even in instance of a divorce), which is the case in the legislation of the Hebrew Bible (in Lev 18:18);
- or, that the man is only prohibited from marrying his wife's sister as long as he is married to the said wife, but he may do so in the instance not only of her death but also in the instance of a divorce, which is the reading of the qur'anic verse endorsed by Islamic legal tradition.

The final, traditional reading, which understands the verb "to gather together" as referring to *simultaneous* marriage (thus allowing a man to marry two sisters who are both alive, consecutively), seems to me the one that is most finely attuned to the Qur'an's wording and its proclivity to ease prohibitions on the grounds of affinity wherever possible.<sup>84</sup> If so, then this interdiction of affinity is simultaneously governed by the Qur'an's endorsement of polygyny; the gender imbalance here is caused by the fact that the gender cognate prohibition (*simultaneous* marriage of a woman to two brothers) is pre-empted by the rejection of polyandry. The Qur'an seems to permit a man consecutively to marry two sisters, and a woman consecutively to marry two brothers—the case to which we will briefly return.

No matter which of the three readings of the prohibition for a man to marry two sisters is the correct one, it is clear that its placing follows the Qur'an's internal logic of positioning the interdiction against second-degree consanguinity after those of first-degree consanguinity; the ordering principle of decreasing degrees of kinship is therefore also applied to those cases governing the relationships between ego's spouses. In the graphic representation of the passage's structure that is given below (in Table 3.4, see p. 266), affinal prohibitions will thus be described as having the form *a-...-b-a'-b'-c*. Crucially, with their verse-end rhyme, the exemptions for past actions and ensuing clausulae create an additional link between *a* (in Q 4:22) and *c* (in v. 23), the first and last prohibitions in the entire list, which are thus rendered in boldface. This framework reinforces the whole passage's chiasmic structure.

The Qur'an's obvious, yet eventually limited, gender balance, with its rules regarding prohibitions on the grounds of affinity, invites us to consider its fully realized gender balance when it comes to prohibitions on the grounds of consanguinity. The way in which these are presented in the first half of v. 23—indicated

implying—yet not necessitating—external residence, see note 39 above. On the metaphorical understanding of the restriction of daughters under a man's care, see van Gelder, *Close Relationships*, 96–97.

<sup>84</sup> On the Islamic interpretation of the law see van Gelder, *Close Relationships*, 98–102. Such a lenient understanding of the prohibition against marrying two sisters would also correspond to the Qur'an's general tendency to lessen restrictions; see Lowry, "When Less Is More," 22–42. Intriguingly, the Qur'an's understanding of the prohibition as ending with separation (rather than death) appears to have been pre-empted in unrelated Jewish and Christian late antique interpretations of the biblical

by an ellipsis in the structural formula so far developed—reveals a linear structure, which emerges most clearly when the laws governing all seven prohibitions against consanguinity are considered together, both in their stated and “mirrored” forms:

- The first prohibition of v. 23 (*ḥurrimat ‘alaykum ummahātukum*) bans a man from marrying his mother, or, in a mirrored way, a mother from marrying her son. I shall designate it as Greek  $\alpha$ .
- The next prohibition (*wa-banātukum*) bans a man from marrying his daughter, which, if mirrored, prohibits a woman from marrying her father. The prohibition, in this form, emerges as the gender cognate of the previous prohibition of a man from marrying his mother. I shall thus designate it as  $\alpha'$ .
- The next prohibition (*wa-akhawātukum*) bars a man from marrying his sister, which I shall designate as  $\beta$ . The injunction that emerges if we mirror this prohibition of a man from marrying his sister, the prohibition of a woman from marrying her brother, in this unique case, is also the cognate of the explicit interdiction for a man to marry his sister. I will designate this implicit prohibition as Greek  $\beta'$ . However, since  $\beta'$  remains implicit, I shall keep it in parentheses.
- The next two prohibitions, against a man marrying his paternal or maternal aunts (*wa-ammātukum wa-khālātukum*; these are also found in the Bible), if mirrored, forbids a woman to marrying her nephew, that is the son of her brother or sister. We may designate both these prohibitions as Greek  $\gamma^1$  (son of brother) and  $\gamma^2$  (son of sister).
- These two prohibitions against a woman marrying her nephew by her brother,  $\gamma^1$ , and by her sister,  $\gamma^2$ , are the gender cognates for the next and final prohibition on the grounds of consanguinity (which is absent in the Bible): the interdiction for a man to marry his niece by his brother or sister (*wa-banātu l-akhi wa-banātu l-ukhti*), which we can therefore designate as  $\gamma^{1'}$  (daughter of brother) and  $\gamma^{2'}$  (daughter of sister).<sup>85</sup>

Just as the partially mirrored consideration of affinity allowed us to observe the chiasmic structure *a...b-a'-b'-c*, so the similar consideration of consanguinity at the beginning of v. 23, indicated by an ellipsis, displays the linear structure  $\alpha-\alpha'-\beta-(\beta')-\gamma^1-\gamma^2-\gamma^{1'}-\gamma^{2'}$ . This again illustrates how the passage's literary structure

law, suggesting that a similar understanding may well have been current in pre-Islamic Arabian law. The respective evidence would need to be addressed in a future study.

<sup>85</sup> While other explanations could be given for the sequence  $\alpha$ ,  $\alpha'$ , and  $\beta$ , it is the order of the last two sets of prohibitions,  $\gamma^1$  and  $\gamma^2$  (the effective prohibition against a woman marrying her nephew, expressed as the prohibition against a man marrying his paternal or maternal aunts) followed by  $\gamma^{1'}$

illuminates its two dominant operative legal principles. Concerning the laws against consanguinity, their complete gender balance, and a lack of any exemptions mark consanguinity as the passage's primary legal principle. The same lack of exemptions also applies to prohibitions on the grounds of milk kinship. The latter prohibitions, moreover, speak of the men's "mother" and "sisters" whom they have acquired by virtue of being milk siblings, as if the Qur'an weighed these laws as equal to, or at least as secondary only to, those laws governing consanguinity. As a secondary stylistic tool, the use of the composite word ending *-ātukum*, only for cases of consanguinity and milk kinship, as described above, also sets these laws apart from those established on the grounds of affinity. We will thus designate the prohibition on the grounds of milk kinship as (A) for a milk mother, who had acted as ego's wet-nurse and (B) for a milk sister, acquired by virtue of having been fed by the same wet-nurse as ego. Regarding the laws of affinity, their limited gender balance, coupled with gender-imbalanced exemptions, mark them out as a secondary legal principle that, in narrowly defined specific cases, remains open to suspension.<sup>86</sup>

In sum, the entire qur'anic passage on prohibited relationships moves

- from one example of affinity (i.e. first-degree consanguinity between ego's spouses), to
- examples of first- and second-degree consanguinity, to
- examples of third-degree consanguinity, to

and  $\gamma^2$ ' (the explicit prohibition against a man marrying his nieces by his brother or sister), that most clearly reveals the gender balance operative in the Qur'an's prohibition of consanguineous marriages.

<sup>86</sup> We should also note the limited affinity of Q 4:22–23 to the Qur'an's list of men, in front of whom a woman may unveil herself in Q 24:31, which Western scholarship long ago identified as specifying some of the men whom a woman cannot marry (see e.g. Johann David Michaelis, *Mosaisches Recht* (Reutlingen: Johannes Grözinger, 1793), vol. I, 201–2); see also van Gelder, *Close Relationships*, 119–20. The passage permits women to unveil themselves in front of their husbands, in front of several male and female personae who are not related to them, as well as in front of the following consanguineous and affinal kin whom we have already encountered, either directly or in a mirrored form (using the same symbols as in Q 4:22–23): a father (=  $\alpha$ ), a husband's father (=  $b'$ ), a son (=  $\alpha$ ), a husband's son (=  $a$ ), a brother (=  $\beta$ ), a brother's son (=  $\gamma^1$ ), and a sister's son (=  $\gamma^2$ ). In other words, the persons in front of whom a woman is permitted to unveil herself, thus partially corresponds to the list of prohibited relationships we have studied, which prohibits a man from marrying a daughter (=  $\alpha$ ), a son's wife (=  $b'$ ), a mother (=  $\alpha$ ), a father's wife (=  $a$ ), a sister (=  $\beta$ ), a paternal aunt (=  $\gamma^1$ ), or a maternal aunt (=  $\gamma^2$ ). The list in Q 24:31 thus forms the sequence  $\alpha'-b'-\alpha-a-\beta-\gamma^1-\gamma^2$ , which, despite its starkly different structure, partially corresponds to the prohibitions in Q 4:22–23. A comparison of the passages thus suggests that the Qur'an itself presents its prohibition, as appropriate, from a male or female point of view, thereby displaying a technique cognate to Christian mirroring of prohibitions, that is absent in the Hebrew Bible. However, while all the prohibitions in Q 24:31 also appear in Q 4:22–23, the latter passage includes four prohibitions that are not reflected in the former: a man is not allowed to marry both a woman and her mother (=  $b$ ), a woman and her daughter (=  $a$ ), two sisters (=  $c$ ), as well as his niece by a brother (=  $\gamma^1$ ) or sister (=  $\gamma^2$ ). If the prohibitions in Q 4:22–23 were to govern the list in Q 24:31 fully, a woman should thus be allowed to take her veil off in front of the men identified by mirroring the prohibitions: her daughter's husband (=  $b$ ), her mother's husband (=  $a$ ), her sister's husband (=  $c$ ) and a paternal (=  $\gamma^1$ ) or maternal uncle (=  $\gamma^2$ ), as well as in

- examples of first- and second-degree milk kinship, to
- further examples of affinity (i.e. first- and one example of second-degree consanguinity) between ego's spouses.

The three types of prohibited marriage are presented in a consistent order based on three principles that apply to all prohibited types of marriage:

- they are formulated from a male point of view, regardless of the degree of their implicit gender balance;
- they move from first- to second- to third-degree consanguinity either between ego's spouses or between ego and his/her own spouse;
- they move from relations through male relatives to relations through female relatives (e.g. from paternal to maternal aunts);
- and they move down through the generations (e.g. from the prohibition of a father's wife to that of a son's wife).

The following graphic summary of the Qur'an's prohibited relationships will hopefully facilitate a comparison with biblical and late antique Christian law.<sup>87</sup> The central column in Table 3.4 reproduces the qur'anic text, the left-hand column shows the legal principles involved, and the right-hand column introduces the stylistic devices employed, such as the repetition of phrases, verbs, nouns, and an ending based on the combination of the regular female plural with the second-person plural masculine possessive suffix (i.e. *-ātukum*). Double horizontal lines indicate the sequential shift of categories, from one example of affinity (i.e. first-degree consanguinity between ego's spouses) to examples of first- and second-degree consanguinity, to examples of third-degree consanguinity, examples of milk kinship, and then further examples of affinity (i.e. first- and one example of second-degree consanguinity between ego's spouses). Each of these categories (except for the first one in Q 4:23) concludes with the noun *ukht* (*sister*) in boldface. The brackets on the left-hand side also clarify the passage's structure and segmentation based on legal principles. The brackets on the

front of milk brothers, yet these are not mentioned. These discrepancies thus show the relative independence of both passages. On the term *'awra* in Q 24:31 see also note 123 (Chapter 2) above.

<sup>87</sup> An argument could surely be made that the Qur'an's combination of a chiasmic structure with a linear one is motivated by the intent, on the one hand, to showcase the perhaps common, yet after all only affinal, example of a man marrying his mother-in-law (to which we will return), and, on the other hand, to indicate the severity of further prohibitions—based on the decreasing severity of the transgression for all subsequent cases. Such a linear reading would begin with the oedipal example of a man marrying his mother, as the worst-case scenario, to that of simultaneously marrying two sisters, as the least grave transgression. While the Qur'an's move from a stern warning at the beginning ("sexual transgression, an outrage, and an evil course" in Q 4:22) to an emphasis on God's forgiveness in v. 23 would corroborate such a reading, I suggest bracketing off this difficult question for the purposes of this chapter. It is important to note that the Qur'an, not unlike the Bible and forms of Jewish and Christian late antique literature, often employs a series of overlaying structural devices, as I have argued in Zellentin, "Beyond Ring Composition," yet see notes 75 and 78 above.

**Table 3.4** Q 4:22–23: Legal principles and literary structure

Legal principle		Repetition
(a) Affinity (first-degree consanguinity between male spouses: a man and his son)	<sup>22</sup> <i>wa-lā tankihū mā nakaḥa ābā'ukum mina l-nisā'i</i>	verb ( <i>n-k-ḥ</i> , twice) noun ( <i>nisā'</i> )
Exemption for past actions	<i>illā mā qad salafa</i>	entire phrase
God's view (harsh)	<i>innahu kāna fāḥishatan wa-maqtan wa-sā'a sabilā</i>	verb ( <i>kāna</i> ) ending ( <i>-ā</i> )
(α) First-degree consanguinity: mothers	<sup>23</sup> <i>ḥurrimat 'alaykum ummahātukum</i>	noun ( <i>umm</i> ) ending ( <i>-ātukum</i> )
(α') First-degree consanguinity: daughters	<i>wa-banātukum</i>	noun ( <i>bint</i> ) ending ( <i>-ātukum</i> )
(β) Second-degree consanguinity: sisters	<b><i>wa-akhawātukum</i></b>	noun ( <i>ukht</i> , end) ending ( <i>-ātukum</i> )
(γ <sup>1</sup> and γ <sup>2</sup> ) Third-degree consanguinity: aunts	<i>wa-'ammātukum wa-khālātukum</i>	ending ( <i>-ātukum</i> , twice)
(γ <sup>1</sup> and γ <sup>2</sup> ) Third-degree consanguinity: nieces	<i>wa-banātu l-akhi wa-banātu l-ukht</i>	noun ( <i>bint</i> , twice) noun ( <i>ukht</i> , end)
First- and second-degree kinship by nursing: mothers (A) and sisters (B) through nursing	<i>wa-ummahātukumū llāti arḍa'nakum wa-akhawātukum mina l-raḍā'ati</i>	noun ( <i>umm</i> ) verb ( <i>r-ḍ-</i> , twice) ending ( <i>-ātukum</i> , twice) noun ( <i>ukht</i> , end)
(b) and (a') Affinity (first-degree consanguinity among female spouses: a woman and her mother and a woman and her daughter)	<i>wa-ummahātu nisā'ikum wa-rabā'ibukumū llāti fi ḥujūrikum min nisā'ikumū llāti dakhaltum bihinna</i>	noun ( <i>nisā'</i> , twice) noun ( <i>umm</i> ) verb ( <i>d-kh-l</i> )
Exemption for marriages not consummated	<i>fa-in lam takūnū dakhaltum bihinna fa-lā junāḥa 'alaykum</i>	verb ( <i>d-kh-l</i> )
(b) Affinity (first-degree consanguinity between male spouses: a man and his father)	<i>wa-ḥalā'ilu abnā'ikumū lladhīna min aṣṭābikum</i>	
(c) Affinity (second-degree consanguinity between female spouses: two sisters)	<i>wa-an tajma'ū bayna l-ukhtayni</i>	noun ( <i>ukht</i> , end)
Exemption for past actions	<i>illā mā qad salafa</i>	entire phrase
God's view (lenient)	<i>inna llāha kāna ghafūran raḥīmā</i>	verb ( <i>kāna</i> ) ending ( <i>-ā</i> )

right-hand side show the passage's overlapping, yet slightly different, structure and segmentation based on the repetition of the exempting phrase at the beginning and end of the passage, and the limited occurrence of *-ātukum* (also rendered in boldface). The chastic structure governing instances of affinity is indicated by *a-b-a'-b'-c*, while the linear structure governing consanguinity, which is embedded within it, is indicated by  $\alpha-\alpha'-\beta-(\beta')-\gamma^1-\gamma^2-\gamma^1'-\gamma^2'$ , followed by *A* and *B* for examples of milk kinship. The passage's full structure is *a-α-α'-β-(β')-γ<sup>1</sup>-γ<sup>2</sup>-γ<sup>1</sup>'-γ<sup>2</sup>'-A-B-b-a'-b'-c*.



## A Legal and Literary Comparison of the Qur'an and the Bible

The analysis and graphic representation of the Bible's passage on prohibited relationships allows for a structural comparison with its qur'anic counterpart. In contrast to the considerations taken into account up to this point, which mainly sought to reconstruct the senses of the two texts as they appeared to their respective historical audiences in the seventh centuries BCE and CE, the following comparison may be only of indirect historical value. Rather, in illustrating the stark differences between the two lists of laws, in light of their similarities, such a comparison prepares the way for our understanding of the legal continuity and changes that occurred in the roughly fourteen hundred years that separate them. Before analysing the Qur'an's integration of biblical law in the light of late antique legal culture, however, I propose a preliminary direct juxtaposition between the two Scriptures in light of three interrelated topics: first, their different framing narratives and structures; second, their use of repetition; and third, their limited lexical affinity.

First, as a whole, Leviticus 18 is structured by a patent opening and closing narrative framework; the passage offers only one exemption (in the instance of a man's marriage to his wife's sister after her death in v. 18).<sup>88</sup> The Qur'an, in contrast, does not offer any narrative framework. Instead, it creates an opening and closing framework by repeating a legal provision that offers exemptions for past offences.<sup>89</sup> A faint literary similarity is therefore discernible at the level of segmentation, yet the structural elements operate very differently in the Bible and Qur'an. The opening and closing framework in the Bible takes a narrative form, and its legal passage is linear and structured around the protection of the rights of legal personae. The opening and closing framework in the Qur'an, by contrast, consists of legal material, which is primarily presented in a chiasmic structure on the basis of legal categories.<sup>90</sup>

<sup>88</sup> As laid out above, the biblical passage on prohibited relations, Lev 18:6–18, falls into four distinct parts based on the protection of the rights of different legal personae: vv. 6, 7–13, 14–16, and 17–18. A second exemption, in the case of Levirate marriage, is not part of the list of prohibited relationships, as discussed on pp. 231–33 above.

<sup>89</sup> The Qur'an's passage, to reiterate, falls into five parts, as indicated by word endings and the repetition of the term *ukht* (*sister*): the opening in Q 4:22, which prohibits an affinal relationship, and, in Q 4:23, the prohibitions of first- and second-degree consanguineous relationships, followed by third-degree consanguineous relationships, milk kin, and relationships on the grounds of affinity; see pp. 257–58 above.

<sup>90</sup> Further similarity between the two texts can be seen in the two instances of commentary that occur in both lists of laws. The Bible offers a summary statement evoking God's authority in its opening (in Lev 18:6). Towards the end of the passage, the Bible also once expresses a harsh view of a particular transgression (that of marrying both a woman and her daughter or granddaughter, in v. 17). The Qur'an, inversely, opens with a harsh statement regarding marrying a father's wife in Q 4:22, and closes with an emphasis on God's mercy at the end of v. 23.

Second, the Bible's passage is structured by the repetition of the term "uncovering of nakedness" in conjunction with an explanatory clause for almost all prohibited relations, almost all of which include the female personal pronoun (or suffix). While the Aramaic, Greek, and Latin translations of the passage on forbidden relationships tend to paraphrase the term "uncovering of nakedness," in one way or another, the Qur'an does not contain any readily perceived echo of it.<sup>91</sup> In the use of repetition, however, a literary similarity may well be seen. The Bible is replete with repetitions of key nouns and verbs and repeats the Hebrew second-person masculine singular possessive suffix *-kā* throughout. The Qur'an also repeats its main nouns and verbs, along with the second-person masculine plural possessive suffix *-kum*. Moreover, whereas the Bible shows a carefully constructed use of female pronouns (or suffixes) in each of its prohibitions, the Qur'an, in turn, carefully employs the repetition of one key word, *sister*, as well as the combination of the regular female plural with the second-person masculine possessive suffix in word endings (i.e. *-ātukum*), as illustrated above. Despite these general similarities, it is obvious that Qur'an makes far less use of repetition than the Bible and does not offer any explanatory clauses, leading to a much more concise formulation and a more palpable literary structure. Concerning the use of repetitions, the differences thus also appear to outweigh the similarities between passages.

Third, both passages offer a limited amount of further lexical affinity regarding terms used to refer to family members.<sup>92</sup> Yet such rudimentary overlaps are only to be expected in a passage on prohibited family relationships.<sup>93</sup> It is, rather, the far-reaching alterity of the vocabulary when it comes to further verbs and nouns that points to a third difference between the passage in the Qur'an and that in the Bible. In addition to the absence of the notion of the "uncovering of nakedness" in the Qur'an, it is quite obvious that there is very little lexical or even conceptual similarity between the two passages, wherever the choice of words is wider. This is particularly evident in the divergence between the Bible's general focus on sexual intercourse and the Qur'an's formulation of the prohibition of incest within the category of institutionalized marriage.

<sup>91</sup> On the meaning of the euphemistic phrase "uncovering of nakedness" in the Hebrew Bible and in rabbinic and Christian discourse, see pp. 69–71, 150–51 and 185 above; on possible Qur'anic echoes see note 123 (Chapter 2) above.

<sup>92</sup> Further common Semitic roots that can be found in both the Qur'an and the Bible's passage on prohibited relations are *mother* (*umm/ʿem*) and *father* (*ab/āb*), *sister* (*ukht/ʿāḥôt*) and *brother* (*akh/ʿāḥ*), *daughter* (*bint/bat*), and *son* (*ibn/ben*), as well as *woman* (Arabic *imraʿa*, whose plural form *nisāʾ* is a cognate of Hebrew sg. *ʾiššāh* and pl. *nāšim*). The overlap of the vocabulary of the Qur'an's passage on prohibited relations with the Hebrew Bible is in this case similar when compared with the Qur'an's respective overlap with any of the Bible's Aramaic renderings. See already the comments of Powers, *Muḥammad Is Not the Father of Any of Your Men*, 45–46, note 81 above, and note 104 below.

<sup>93</sup> We can see a similar overlap between the basic legal vocabulary shared by the Qur'an and biblical culture of late antiquity; in this instance as well, the overlap in and of itself is only significant within the broader shared legal framework; see also p. 253 on the affinity of legal terminology shared by Mar Aba and the Qur'an and see again Zellentin, *The Qur'an's Legal Culture*, 59–66.

The literary affinities between the passages are therefore weak. It would be misleading, however, to take this first impression as the final one, as becomes apparent when the nature and order of the two passages' actual prohibitions, whose overlap is depicted graphically in Table 3.5 below (see p. 271–72), is taken into consideration. Let us consider the categories of prohibited women, the actual order in which they are presented, particularly the seven instances in which they converge after brief divergences in both texts.

(1), (2) and (3): The Qur'an begins its list with the prohibiting of a father's wife, followed by that of a mother. The Bible only forbids the father's wife explicitly in Lev 18:8, after summarily prohibiting *šā'er* (*blood relations*) in v. 6 and after prohibiting the "nakedness of the father" and "mother" in v. 7. In both cases, however, the Qur'an's understanding of the interdictions follows late antique readings of the Bible. First, we should note that Lev 18:6 was not understood as a separate injunction by the Bible's late antique Christian audience. Based on the parallel prohibition of a "father's nakedness" as referring to a stepmother in Lev 10:11, v. 7 was in turn understood as the prohibiting of a father's wife, a reading we encountered in Gregory the Great and in the Babylonian Talmud (see pp. 228–29 above). In the first two examples, therefore, the Qur'an may be said to follow fully the order we have observed in the Bible of interdicting first the stepmother and then the mother. While the Qur'an proceeds further down the generations within its clear order of degrees of consanguinity by prohibiting daughters, the Bible probably implies and therefore evidently omits this proscription here. Yet both texts again converge for a third time in their prohibiting of sisters.

(4) and (5): Whereas only the Bible then moves down to the third generation by forbidding granddaughters, both texts again converge a fourth and fifth time in their prohibiting of first paternal, and then maternal aunts.<sup>94</sup>

(6) and (7): The two lists then diverge in a variety of ways (to which we will return). Yet both passages again converge by interdicting three categories of women: the Qur'an again descends through the generations by prohibiting a mother and daughter, a son's wife, and two sisters, whereas the Bible, which is organized more loosely, prohibits the same three categories in a slightly different order: first, a son's wife, then a mother and daughter, and then two sisters. These three categories of women are thus the same, and the different order in which they appear (excluding intervening categories), is marked by only one transposition: while the interdiction of a son's wife occurs early on in the Bible, both the

<sup>94</sup> The absence of an explicit reference to the third generation is a stylistic difference that is not legally significant; the term *fathers* seems to include forefathers, as can be seen in e.g. Q 2:133. Islamic exegetes correctly understood the Qur'an's prohibitions to include all ascendants and descendants; see van Gelder, *Close Relationships*, 90.

Qur'an and the Bible twice converge a sixth and seventh time by first prohibiting a "mother and daughter," and, crucially, by ending with the same prohibition of "two sisters."

The legal and literary differences between the two texts merit our fullest attention. Yet they should be considered in light of the sevenfold convergence in law and ordering between the two lists of laws, which were briefly noted at the beginning of this chapter. The tabular comparison in Table 3.5 may help in visualizing the striking overlap that, in my view, can hardly be explained by universal prohibitions against incest, or loosely related Near and Middle Eastern cultural heritage. In Table 3.5 (on p. 271–72 below), the two middle columns represent the Qur'an's and the Bible's list of prohibited relationships, both in a slightly simplified form (by eliminating partial redundancies, and by following the Bible's late antique understanding as first prohibiting stepmothers). The entries in boldface represent the convergence in explicit, or perceived late antique, legal overlap between the Qur'an and the Bible, italics represent implicit overlap, and dashes an absence of overlap. The left-hand column illustrates the Qur'an's underlying legal principles. The right-hand column, in preparation for the next section, is dedicated to the Bible's legal principles, as they were perceived by late antique Christians, in terms of consanguinity and affinity, both in the way in which they are recorded and, in italics, in the way in which Christians tended to mirror these prohibitions, as explained above. The simultaneous presentation of the biblical text and its Christian reception history demonstrates the way in which the Qur'an stands in continuity with both the biblical text and the way in which it was understood in Christian tradition.

As can now be seen, the overlap between the actual laws in the Bible and those in the Qur'an, as well as the order in which they are presented, is far-reaching. Both passages were understood as beginning with the same two categories, both end with the same category, and among the total of eight shared categories, both present a list of seven of the same prohibited categories in the same overall order. They proceed (in the Bible's late antique understanding) from stepmother, to mother, to sister, to paternal aunt, to maternal aunt, to mother and daughter, and finally to two sisters, with only the prohibiting of a son's wife occurring either earlier or later in the text—in a way that follows the Qur'an's own internal rules of moving from first- to second-degree consanguinity between ego's spouses.

The differences between the intermediate prohibitions in the two passages, in my view, make the seven consecutive convergences in order even more remarkable and indicate what the Qur'an so often makes explicit. It considers its laws by and large to stand in continuity with "biblical," that is God-given, positive law, which may well have corresponded to a large degree with the law practised by its Medinan audience. Moreover, it generally considers differences between its own laws and those of the Jews and Christians to be a case of updating, rather than

**Table 3.5** Order of prohibitions and legal principles in the Qur'an and the (late antique) Bible

Qur'anic legal principle	Qur'an	Bible	Late antique legal principle
affinity ( <i>first-degree consanguinity among male spouses</i> )	father's wife		affinity ( <i>first-degree consanguinity among male spouses</i> ) <sup>95</sup>
first-degree consanguinity	mother		first-degree consanguinity
first-degree consanguinity	daughter	<i>implicit</i>	first-degree consanguinity
second-degree consanguinity	sister		second-degree consanguinity
third-degree consanguinity	<i>implicit</i>	granddaughter	third-degree consanguinity
third-degree consanguinity	paternal aunt		third-degree consanguinity
third-degree consanguinity	maternal aunt		third-degree consanguinity
–	–	uncle's wife	affinity ( <i>third-degree consanguinity among male spouses</i> ) <sup>96</sup>
<i>see below</i>	<i>see below</i>	son's wife	affinity ( <i>first-degree consanguinity among male spouses</i> ) <sup>97</sup>
–	–	brother's wife	affinity ( <i>second-degree consanguinity among male spouses</i> ) <sup>98</sup>
third-degree consanguinity	niece	–	–
first-degree kinship through nursing	mother through nursing	–	–
second-degree kinship through nursing	sister through nursing	–	–

*Continued*

<sup>95</sup> The similar prohibition against a man marrying *'ēšet-ābikā*, “your father's wife,” in v. 8, originally classified as part of protecting the father's rights, was understood by late antique Christians as a law prohibiting affinity corresponding, if mirrored, to the prohibition against a woman *consecutively* marrying a man and his son.

<sup>96</sup> The Bible here classifies this prohibition as protecting the rights of a close male relative: a man's father's brother. The law has been understood by Christians as prohibiting affinity, or inversely, as expanding the prohibition of consanguinity between spouses to include one instance of third-degree consanguinity: by prohibiting a man from marrying *dōdātākā*, “your aunt,” who is described as the wife of *'āhī-ābikā*, “your father's brother” (in v. 14), the Bible effectively prohibits a woman from marrying a man and his nephew consecutively, an instance of third-degree consanguinity between spouses.

<sup>97</sup> The prohibition against a man marrying *kallātākā* “your daughter-in-law,” or *'ēšet binkā*, “the wife of your son,” which is noted in v. 15, protects the rights of another close male relative: a man's son. Understood by Christians as a prohibition on the grounds of affinity, it corresponds to the prohibition against a woman consecutively marrying a man and his father (two spouses related by first-degree consanguinity).

<sup>98</sup> The Bible here protects the rights of a third close male relative: a man's brother. The law has been understood by Christians as a prohibition of second-degree consanguinity between spouses, which, unlike that of the Qur'an, would then apply to both genders: the Bible prohibits a woman from consecutively marrying a man and his brother, just as it will prohibit a man from marrying both a woman and her sister.

Table 3.5 Continued

Qur'anic legal principle	Qur'an	Bible	Late antique legal principle
affinity ( <i>first-degree consanguinity among female spouses</i> )	<b>mother and daughter</b>		affinity ( <i>first-degree consanguinity among female spouses</i> ) <sup>99</sup>
affinity ( <i>first-degree consanguinity among male spouses</i> )	<b>sons' wife</b>	<i>see above</i>	<i>see above</i>
affinity ( <i>second-degree consanguinity among female spouses</i> )	<b>two sisters</b>		affinity ( <i>second-degree consanguinity between female spouses</i> ) <sup>100</sup>

replacing, laws, as practised by these two groups of “Israelites.”<sup>101</sup> In other words, the many legal and literary differences between the two passages and the fact that the two texts’ operative legal principles diverge to a large degree should be understood in the context of the similarity of the actual prohibitions and of the order in which they are presented. We are dealing with an updated version of what the Qur’an presents as the qur’anic reiteration of biblical law. We have no way of knowing the exact type of biblical law circulating in Arabia. Yet there is no reason to assume that the type of biblical law with which the nascent Islamic community was familiar dramatically differed from the very laws Mar Aba imposed on his East Syrian community, in the century preceding the qur’anic prophet, and from the laws which Gregory the Great seems to have used in his letter to Augustine of Canterbury just before the time the Qur’an’s laws were first promulgated. In all three cases, we are likely dealing with local interpretations of biblical law. In this sense, the incest laws show one of the most direct paths from the laws of the Bible to those that form the basis of the Qur’an, yet even here both late antique Jewish and especially Christian heritage are as palpable as the Qur’an’s own robust modifications.

<sup>99</sup> The Bible, in prohibiting a man from marrying both a woman and her daughter, originally sets out to protect the rights of a wife. Understood in terms of affinity, the prohibition against a man marrying *ʾiṣṣāh ūbitt-āh*, “a woman and her daughter,” has been viewed by Christians as an example of first-degree consanguinity between spouses. The Bible only implicitly refers to the similar prohibition against a man marrying both a woman and her mother, which we saw in the Qur’an. Instead of ascending, the Bible transcribes the prohibition as descending through the generations and does prohibit a man from marrying *bat-bən-āh wəʿet-bat-bitt-āh*, “the daughter of your son and the daughter of your daughter” (v. 17). In light of prohibiting a man’s grandchildren to him (in v. 10), which has already been formulated, this effective prohibition against a man marrying both a woman and her granddaughter was understood by Christians as a prohibition of second-degree consanguinity between spouses (which is likely also assumed in the Qur’an).

<sup>100</sup> The final prohibition in the Bible, *ʾiṣṣāh ʿel-ʾāḥōt-āh lōʾ tiqqāh liṣrōr*, “do not take a woman to her sister as a rival,” was originally intended to protect the rights of a wife. It was understood by Christians in terms of affinity, and inversely, as the prohibition of second-degree consanguinity between spouses, corresponding to the prohibition against a man taking both a woman and her sister as wives in the Qur’an.

<sup>101</sup> See, e.g. Q 5:48 and p. 109 above.

Reaching the threshold of plausibility that we are dealing with two versions of the same list of incest laws may be the most important contribution of this chapter. If it has indeed been reached, then a comparison between the Bible and the Qur'an becomes a historically more meaningful exercise, allowing us to assess both continuities and discontinuities between the two corpora. Our legal and literary comparison suggests that the Qur'an does not reformulate any of the words of the Bible in a straightforward way. Beyond maintaining much of the legal content and ordering, and reflecting a few key words or word clusters, the former bears hardly any trace of allusion or similarity to the literary form of the latter. In this sense, it remains correct to maintain that specific forms of biblical law can be found almost nowhere in the Qur'an. The most attractive hypothesis to explain the legal continuity despite stylistic differences, is, in my view, that the Qur'an formulates its own list of laws in dialogue with the "living" Bible of its time. This living Bible consisted of the legal practices, discourse, and perhaps occasionally biblical, exegetical, and legal texts used by Jews and Christians, which constituted Arabian, or even Medinan legal culture at the turn of the seventh century CE. Such continuity of practice and discourse, with few textual echoes, corroborates the findings of the first two chapters, along with previous studies, regarding the Qur'an's continuity with Christian legal culture more generally.<sup>102</sup> A direct comparison of the Bible with the Qur'an thus not only demonstrates the continuity of law but also reveals the changes that were introduced either by pre-Islamic Arabian legal culture or by the Qur'an's own reiteration thereof.

The crucial task of differentiating between pre-qur'anic and qur'anic changes to the way in which the Bible's incest laws were upheld in Arabia—if indeed the differences were meaningful—remains one to be tackled in the future. Yet, in the present study, I hold that the cohesion and precision of the Qur'an's updating of biblical law indicates a pointed intervention into traditional Arabian practice that occurred in intimate dialogue with both the Christian and the Jewish legal and exegetical tradition. Be that as it may, we can preliminarily summarize first the literary and second the legal effects of the Qur'an's reiteration of the biblical laws. The key literary differences are the following:

- A rephrasing of the biblical law incest laws in a different and arguably more condensed literary format, which includes multiple literary structures.
- A tightening of the argument by removing the Bible's explanatory clauses, along with the explicit extension of the prohibition to include a man's granddaughter and the granddaughter of his wife (which we saw in Lev 18:10 and 18:17).
- An expansion explicating two prohibitions that are only implied in the Bible: the prohibiting of a man from marrying his own daughter and his wife's

<sup>102</sup> Chapter 4 further reconfirms these findings.



mother. In both cases, the Qur'an's formulation is parallel to Christian iterations of the biblical incest laws.

- The explicit specification that the prohibiting of stepdaughters only applies to those daughters *min nisā'ikumū llātī dakhaltum bihinna*, "of the wives with whom you have had intercourse." A similar distinction, which is somewhat analogous to that between a betrothal and consummation of a marriage, seems to have been implied in Near Eastern law.<sup>103</sup>
- A repositioning of the prohibition of a son's wife within the now consistent category of forbidden first-degree consanguinity between ego's spouses, along with the specification that only the wives of related sons, who are *min ašlābikum*, "from your loins," are proscribed. The Qur'an here leaves implicit what the Bible still needed to explicate, namely, that marriage to half-sisters is as illegal as marriage to full sisters. In establishing biological paternity as a precondition for the law's applicability, the specification of the wives of a man's own sons as being "from your loins" fulfils the same function (in a different example of a prohibited relationship) as the specification in the Bible that highlights the prohibiting of paternal sisters through a concubine, those *mōledet 'ābikā*, "begotten by your father" (Lev 18:11), which also establishes a father's paternity.<sup>104</sup>

These literary differences do not necessarily entail any change in legal practice (and have actually been proven to not have been the case in later Islamic and Jewish tradition).<sup>105</sup> If anything, the Qur'an's more succinct formulation may well suggest that there was more of a consensus among its audience that half-siblings, as well as further-removed ancestors and descendants, were equally prohibited than we might assume existed among the Bible's audience. (The Bible, in other words, may well have been largely successful here, making such specifications

<sup>103</sup> We should also note that the Laws of Hammurabi (§§155–56) draw a similar distinction between consummated and unconsummated marriages in the case of a man who has intercourse with his daughter-in-law: if the father has sex with the daughter-in-law before his son does so, the man has to repay her dowry and pay her a fine; she is free to marry whomever she wants. If, however, the man has sex with the daughter-in-law after his son has done so, the man is to be executed. See H.-Dieter Viel, *The New Complete Code of Hammurabi* (New York: University Press of America, 2002), 557–60 (cuneiform) and 564 (translation); see also Raymond Westbrook, "Mesopotamia: Old Babylonian Period," in Westbrook, *A History of Ancient Near Eastern Law* (Leiden: Brill, 2003), vol. I, 419.

<sup>104</sup> As van Gelder has already recognized, the reason the Qur'an specifies the otherwise implied fact of the physical bond between the man and his son may have to do with the case of the prophet's marriage to the former wife of an adopted son (van Gelder, *Close Relationships*, 97). This argument is further developed in Powers, *Muhammad Is Not the Father of Any of Your Men*; see esp. 35–71, yet see note 81 above. Q 33:37 allows at least the prophet to marry *azwāj ad'iyā'ihim*, usually translated as "the wives of their adopted sons." The precise rules of adoption, presupposed and challenged in the Qur'an, appear to me to need further study; see also Robinson, "Persons," 23–37; Hage, *Les empêchements de mariage*, 223–34; Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 153; Powers, *Muhammad Is Not the Father of Any of Your Men*, esp. 11–34; and van Gelder, *Close Relationships*, 97.

<sup>105</sup> See Ricks, "Kinship Bars," esp. 136.

unnecessary.) In contrast, the comparison between the two passages, if they are understood as standing in broad continuity with each other, also shows that there are seven consequential legal differences between the two list of laws as they have been preserved:

- The Qur'an adds a prohibition against a man marrying his niece.
- It adds the category of milk kinship.
- It omits and thereby annuls the prohibition against a man marrying the former wife of his brother (which the Bible proscribes in Lev 18:16).
- It omits and thereby annuls the prohibition against a man marrying the former wife of his uncle (which the Bible proscribes in Lev 18:14).
- The Qur'an, furthermore, instates clemency for a man marrying his father's former wife in the case of marriages previously contracted, by excluding *mā qad salafa*, "what is past."
- It limits the scope of a man's marriage to his stepdaughter by restricting it to cases in which his marriage to the stepdaughter's mother has been consummated and in which the stepdaughter is *fi hujūrikum*, "under your care."
- Finally, it also lifts and limits the scope of the prohibition against a man marrying his wife's sister more than the Bible does, first by again exempting unions previously contracted (by again excluding *mā qad salafa* "what is past"), and second by omitting and thereby annulling the stipulation that the prohibition only expires with the death of the wife in question.

Some of the differences between qur'anic and biblical law—both in itself and in the ways in which it is expressed—may be explicable in light of the endurance of certain principles of ancient Near Eastern law throughout late antiquity. Yet the relevance of these examples is hard to demonstrate. In contrast, further literary differences between the Bible and the Qur'an may best be understood in light of the latter's own stylistic prerogatives that are part of its reiteration of biblical law, as laid out above. The seven momentous legal differences between the two lists of laws can likewise best be understood from the way in which the Qur'an stands in dialogue with its own socio-historical late antique context. I have argued that this is the case for the Qur'an's expansion of the prohibition against marriage on the grounds of consanguinity to include avuncular marriages, which were outlawed in some Jewish texts from the Second Temple period, as well as in Eastern Roman and West Syrian law. In my view, such a reflection of a Christian legal principle can also be found in a more complicated form, in five of the six remaining divergences, in which the Qur'an reflects a general application of the principle of affinity, which we find throughout Christian law. Crucially, the Qur'an generally applies this principle in a way that *limits* precisely those prohibitions that Christians tended to *expand* and apply strictly, thereby reflecting greater affinity to the East Syrian Christian model.

## The Qur'an's Reiteration of Biblical Law in Light of Late Antique Legal Culture

The evidence is quite clear: late Roman and West Syrian Christians continuously expanded the concept of prohibited relationships, which, in the medieval Latin West, eventually extended to include affinal relations of the seventh degree.<sup>106</sup> In contrast, the East Syrian church implemented the Levitical prohibitions according to their exact wording. Yet it did so only in the sixth century CE, plausibly through some Roman prodding, and even then allowed unions, contracted before the promulgation of Mar Aba's decrees, between a man and his brother's wives, to remain intact. The Qur'anic reiteration of biblical law can therefore be seen as both reflecting Christian law, as well as diametrically opposing the strict and expansive late Roman and West Syrian Christian views on affinity, in the respective five instances where the Qur'an diverges from the Bible.

First, late Roman and West Syrian Christians permanently prohibited marriage to a wife's sister, not just until the death of the wife in question, thereby making the prohibition—which is explicitly understood in terms of affinity, that is second-degree consanguinity between ego's spouses—stricter than in the Bible. The Qur'an retains the biblical prohibition in this instance, all the while indicating through its literary structure that it understands the prohibition in terms of affinity. In its application of the law, however, the Islamic Scripture updates biblical along with Christian law in two divergent ways. It includes, in its list of prohibitions, *wa-an tajma'ū bayna l-ukhtayn*, “and that you [plural] should gather together two sisters” (Q 4:23). As argued above, the Qur'an's emphasis on the present state, inherent in the verb *jama'a*, “to gather,” implies a prohibition only against simultaneous marriage. It thereby lessens the biblical prohibition against marrying two sisters by allowing marriage to a wife's sister immediately after divorcing the wife in question—thus before her death (see p. 245 above). It therefore implements and limits the biblical law and moves away from Christian law on the matter. Most significantly, the Qur'an now also applies the dispensation for marriages previously contracted between a man and a former wife of his father's, or two sisters simultaneously, to the nascent Qur'anic community. It excludes *mā qad salafa*, “what is in the past” (Q 4:23), from its own rulings and applies a legal principle similar to that encountered in the East Syrian canons of Mar Aba (here applied in the case of a woman's consecutive marriage to two brothers we have seen above), as well as plausibly in Justin's Novel regarding the Jews of Tyre.

<sup>106</sup> See Goody, *The Development of the Family*, 134–46 and James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 163; note that the Greek and Western Syriac churches also treated baptismal relations as creating an impediment to marriage; see e.g. Justinian Code 5:4:20 and Jacob of Edessa, *Canones* 71; see also Godelier, *The Metamorphoses of Kinship*, 330–31, Hage, *Les empêchements de mariage*, 235–55; and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 146–52 and note 114 below.

Second, Christians stressed the unforgivable nature of the offence of marrying one's father's former wives, which was understood as the first of the biblical prohibitions; many Christians vigorously implemented the respective biblical prohibition, in continuity with some Jewish traditions from the Second Temple period. Like the Christians, the Qur'an, in Q 4:22 also appears to single out such a union when describing it as *fāḥishatan wa-maqtan wa-sā'a sabīlā*, "sexual transgression, an outrage, and an evil course" (we discussed in the term *fāḥisha/fāḥshā*, "sexual transgression," detail in the previous chapter).<sup>107</sup> At the same time, however, we have seen that in this case, the Qur'an also excludes *mā qad salaf*, "what is in the past" (Q 4:22), from its own rulings. The two apparently divergent attitudes that mark the Qur'an's application of biblical law do not necessarily stand in tension with one another: if, for example, such unions were common among part of the audience, then the Qur'an's combination of tolerance towards such unions contracted in the past, with increased effort to suppress future ones, would appear to be a coherent approach, not unlike the one we saw in Justinian's evolving attitude.<sup>108</sup>

Third, Christians, including the East Syrian church (with possible exemptions), eventually abandoned the exception inherent in the concept of Levirate marriage entirely, thereby permanently prohibiting a man from marrying his brother's former wife. They explained the prohibition in terms of the inverted relationship, as that of a woman's marriage to a brother of a former husband of hers. In this case too, the Qur'an moves away from Christian law, and annuls the prohibition of a brother's wife altogether. This shows that, despite the palpable presence of the principle of affinity, the Qur'an only applies it in instances of first-degree consanguinity between ego's spouses. The argument here is partially one based on silence, yet the close correspondence between the lists of prohibited relationships in the Bible and Qur'an, as outlined above, enables us to draw conclusions from this legal shift: the permitting of a man to marry a former wife of his brother's after divorce, if mirrored, emerges as the permission of a woman to marry two brothers consecutively. This ruling constitutes the gender cognate of permitting a man to marry two sisters consecutively, which the Qur'an also allows. The Islamic Scripture thus moderates biblical law and moves towards gender balance by abolishing restrictions—an inversion of the Christian principle of establishing balance by expanding them.

<sup>107</sup> This passage gave rise to the later Islamic notion of a man's marriage to his mother-in-law as a *nikāḥ al-maqt* (*hateful marriage*); see van Gelder, *Close Relationships*, 85. On the special relevance of the prohibition to marry a father's former wife in Jubilees and Paul see p. 146 above.

<sup>108</sup> More concretely, and more speculatively, even if the Qur'an's Medinan audience would not have allowed unions such as that between a man and his stepmother, it is possible that they would have been allowed among the Meccan emigrants, or other groups whom the Qur'an probably addresses. The issue shows the difficulties of any attempt to derive pre-Islamic Arabian law from the Qur'an directly, see also 279–81 below.

Fourth, the same legal divergence between biblical and qur'anic law can be observed in one other case, in which the Qur'an annuls a prohibition on the grounds of affinity: the prohibiting of a man from marrying a wife of his uncle, a proscription against third-degree consanguinity between ego's spouses stipulated in Lev 18:14. The Qur'an annuls the prohibition against marrying an uncle's wife through mere omission and, despite the issue of arguing *e silentio*, allows us to grasp its simultaneous application and diminution of affinity as a legal principle. The Qur'an's annulment of a law on the grounds of affinity also leads to gender balance in this instance but differently from the way in which Christian expansion of the same law also achieved gender balance: for Christians, prohibiting a man from marrying a former wife of his uncle's implied the cognate prohibition against a woman marrying a former husband of her aunt's; for the Qur'an, both unions are unproblematic.

Finally, Christian law also forbids a man to marry his stepdaughter, a proscription against first-degree consanguinity between ego's spouses corresponding to Lev 18:17. Here, the Qur'an limits the extent of the law: doing so is only interdicted if the woman in question is *fī ḥujūrikum*, "under your [plural] care" (Q 4:23). While the usage of the root *ḥ-j-r*, which also seems to connote a house's inner chambers (see Q 49:4), here constitutes a topical *hapax legomenon*, its attestation in ancient South Arabian epigraphy strongly indicates the general sense of guardianship, as we have seen above. The Qur'an's law nevertheless limits the prohibition even against one instance of first-degree consanguinity between ego's spouses.<sup>109</sup>

The comparison of Christian and qur'anic law thus highlights the following fact. Of the six proscriptions in the Bible, which Christians understood in terms of affinity—the interdiction of the former wife of a father, uncle, son, or brother, and of the daughter or sister of a wife—only the prohibition of a daughter-in-law is fully restated in the Islamic Scripture.

It is the Qur'an's application and limiting of one legal principle—the case of the second type of incest, on the grounds of affinity—through which five of the seven legal differences between the Bible and the Qur'an can be explained. However, it can also be argued that the Qur'an positively reflects the East Syrian lenience regarding a woman's consecutive marriage to two brothers, which also marks Justinian's attitude towards the Jews of Tyre. Likewise, the Qur'an positively reflects the expansion of one prohibition on the grounds of consanguinity, that of avuncular marriages that we have seen in late some Jewish texts from the Second Temple period, and more importantly in the late Roman and West Syrian Christian tradition.<sup>110</sup> The result is a list of prohibited relationships that reflects a

<sup>109</sup> On the root *ḥ-j-r* see note 82 above; on the possibly related principle of co-residency in Hittite Law see note 83 above.

<sup>110</sup> The permission given to the prophet in Q 33:50 to marry any of his first cousins is fully in line with the prohibitions given in Q 4:22–23. Likewise, the Hebrew Bible, the rabbis, and Mar Aba do not take issue with first-cousin marriage (on the later East Syrian prohibition of first-cousin marriage see Weitz, *Between Christ and Caliph*, 145–55). We should note that the permitting of first-cousin marriage

slightly more gender-balanced approach than the one we find in the biblical list of laws, yet is slightly less balanced than the approach we find in Christian law. This raises the question whether it is a coincidence that the Qur'an applies, yet simultaneously limits, the very same legal principle of affinity, which became a central one in Christian law.

Let me conclude this chapter with two brief notes, on the role of rabbinic law, on the example of milk kinship. First, a focus on the Christian understanding of biblical law should not be construed as arguing for the irrelevance of rabbinic law in the context of nascent Qur'anic law. There is, furthermore, one instance in which Qur'anic law could plausibly respond more directly to rabbinic law. The rabbis, namely, continued to allow Levirate marriage, and they understood the central phrase in Deut 25:5, "her husband's brother shall go into her" (*yābām-āh yābō' 'āleyhā*), as permission to force a Levirate marriage upon a woman "against her will" (*'l krḥh*, see Bavli *Yevamot* 8b). The Qur'an, in Q 4:19, just before the passage on prohibited relationships, states that "it is not lawful for you [plural] to inherit women (*an tarithū l-nisā'a*) unwillingly (*karhan*)."<sup>111</sup> This passage has correctly been understood as a ban of any form of widow inheritance, a tradition widely practised in the ancient Near East.<sup>112</sup> Yet amidst this broader ban on widow inheritance, I would venture to highlight the Babylonian rabbinic understanding of biblical Levirate marriage as of special importance for the Qur'an. In its emphasis on the permissibility of forcing a woman to marry her brother-in-law in certain circumstances, in other words, the most immediate legal concern of the Medinan Qur'an's reiteration of biblical law may, in this case, well be the rabbinic practice it rejects.<sup>113</sup>

contrasts with the prohibition of it in the Theodosian Code (3:12), yet it correlates with the subsequent permitting of it in later Byzantine law, as expressed in the Justinian Code (5:4:19), as well as with the different attitudes in the Eastern Roman provinces; see Denis Feissel, "Deux épigrammes d'Apamène et l'éloge de l'endogamie dans une famille syrienne du VI<sup>e</sup> siècle," in *AETOS: Studies in Honour of Cyril Mango Presented to Him on April 14, 1998*, ed. Ihor Sevcenko and Irmgard Hutter (Berlin: De Gruyter, 1998), esp. 132–36; see also Robinson, "Persons," 28; first-cousin marriage generally remained prohibited in Latin Christendom; see e.g. Gregory, *Registrum Epistolarum* XI, Letter 64 (to Augustine), fifth question; see Colgrave and Mynors, *Bede's Ecclesiastical History of the English People*, 84–85.

<sup>111</sup> On the passage see already p. 231 above; for the term *karhan*, "unwillingly," see Ambros, *A Concise Dictionary*, 238.

<sup>112</sup> The Hittite Laws, for example, state in §192 that "if a man dies, to a woman, his partner shall take his wife"; §193 then continues to specify that "if a man has a wife, and the man dies, his brother shall take his widow as a wife. (If the brother dies), the father shall take her. If his father dies afterwards, his (i.e. the father's) brother shall take the woman whom he had"; see Hoffner, *The Laws of the Hittites*, 152. Hoffner argues reasonably that since "§192 precedes §193, if a man predeceased his wife and he had a partner... that partner had first claim on the widow... If no business partner existed, the provisions of §193 came into effect" (in the best copy of the text); see *ibid.*, 226; see also Weisberg, *Levirate Marriage*, 4; for another ancient Near Eastern example, in addition to the Hittite Laws, see e.g. the legislation in the *Middle Assyrian Law Code* §30, §32, §38, §43, §46, and §193; for a text and translation see Stol, *Women in the Ancient Near East*, 662–81. For attestations of this practice in the Islamic tradition see Robertson Smith, *Kinship and Marriage in Early Arabia*, 104–12.

<sup>113</sup> Since the Qur'an annulled any restrictions on a man marrying his brother's former wife, the biblical restrictions regarding Levirate marriage were moot. The only aspect of Levirate marriage that could possibly apply to the nascent Qur'anic community is specifically the possibility of forcing

Second, the case of affinity on the grounds of milk kinship constitutes the one difference between the Qur'an's list of prohibited relationships and the Bible's, that does not, in one way or another, reflect the laws or legal principles extensively discussed by pre-Islamic Church Fathers and rabbis. As a practice long considered unknown outside Arabia, the prohibition of marriage on the grounds of milk kinship has long aroused the interest of traditional Islamic scholars, and could not be ascertained to pertain to late antique Jewish or Christian legal culture outside Arabia.<sup>114</sup> By contrast, we should note that the root *r-d-ʿ*, which the Qur'an uses to depict milk kinship, is attested as designating nursing infants in ancient South Arabian epigraphy, which makes an endemic Arabian context for the law even more plausible.<sup>115</sup> This, in turn, allows us better to understand how the Qur'an recasts the biblical list of prohibited relationships by firmly integrating the prohibition against consanguineous relationships established through milk kinship, within the framework of its understanding of biblical law. As importantly, however, we should note that Cynthia R. Chapman has recently pointed to the prevalence of the long-overlooked concept milk-kinship also in Biblical culture,

a woman to marry a close relative of her (late) husband. This is an option that the *Bavli* maintains, and, in my preliminary reading, this is precisely what the Qur'an annuls here; the general prohibition against widow inheritance follows. I hope future studies will corroborate this reading at a later stage. On the Islamic understanding of the prohibition expressed in Q 4:19, see van Gelder, *Close Relationships*, 84.

<sup>114</sup> See van Gelder, *Close Relationships*, 93–96; see also Ricks, “Kinship Bars,” 133–36; Thierry Bianquis, “The Family in Arab Islam,” in *A History of the Family*, ed. André Burguière et al. (Cambridge: Cambridge University Press: 1996), vol. I, 601–47; and Hérítier, *Two Sisters and Their Mother*, 73–77. Hage, alongside Dauvillier and De Clercq, notes that the Coptic along with the West Syrian and Armenian churches did consider milk kinship as establishing a prohibited relationship comparable to consanguinity; while this is likely an Islamicate development, a pre-qur'anic practice may also be possible; see Hage, *Les empêchements de mariage en droit canonique oriental*, 84–5; and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 156–57. The belief that “human nature can be altered according to the food a person eats,” and especially by breastmilk, was a prominent metaphor in Christian theology; see e.g. John David Pennima, “Fed to Perfection: Mother’s Milk, Roman Family Values, and the Transformation of the Soul in Gregory of Nyssa,” *Church History* 84 (2015): 495; a similar link is indicated by Digest 40.2.13. A more direct legal parallel could be established between the Christian prohibition of marriage to one’s godparents, resulting in baptismal parenthood, and the qur’anic law against marrying a nurse; see e.g. Ruth Macrides, “The Byzantine Godfather,” *Byzantine and Modern Greek Studies* 12 (1987): 139–62 and note 106 above. For the later Islamic development of the law, see Peter Parkes, “Fostering Fealty: A Comparative Analysis of Tributary Allegiances of Adoptive Kinship,” *Comparative Studies in Society and History* 45 (2003): 746–51; Avner Giladi, *Infants, Parents and Wet Nurses: Medieval Islamic Views on Breastfeeding and Their Social Implications* (Leiden: Brill, 1999), esp. 68–116 and Soraya Altorki, “Milk-Kinship in Arab Society: An Unexplored Problem in the Ethnography of Marriage,” *Ethnology* 19 (1980): 233–44.

<sup>115</sup> The root *r-d-ʿ* is attested in a Yemenite inscription depicting a Sabean military expedition first translated and discussed by Nikolaus Rhodokanakis. The inscription differentiates between captured children (*ʿıld*), on the one hand, and suckling infants (*rdʿ*) who were captured with their mothers, on the other; see Rhodokanakis, *Altsabäische Texte* (Vienna and Lipsia: Hölder-Pichler-Tempsky, 1927), 28 (translation) and 52 (discussion) as well as Tafel 1 (reproduction). I have not been able to consult Alfred Felix Landon Beeston, *Sabaean Inscriptions* (PhD diss., University of Oxford, 1937), 54 where the same root is equally discussed; see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=rdʿ> (accessed 10 March 2021). The same root is equally attested in pre-Islamic Arabic poetry (see e.g. Robertson Smith, *Kinship and Marriage in Early Arabia*, 48).



whereas Abed el-Rahman Tayyara and Peter Webb have revived the related discussion of matrilineality in Arabian society.<sup>116</sup> The biblical material, admittedly, does not relate the notion of milk-kinship to marriage restrictions. The step from the biblical concept of milk-siblinghood to its integration into the Qur'an's updating of biblical incest laws, however, is a small one. It would thus seem that once again, biblical law is everywhere and nowhere in the Qur'an.

In light of the evidence considered thus far, we can therefore conclude that the Qur'an's legal framework stands in a general and specific continuity with biblical laws for non-Israelites, especially as promulgated in Genesis 9 and in Leviticus 17 and 18. The Islamic Scripture predicates its own veracity on a double claim of continuity that broadly reflects the findings here. God, in this narrative, first gave the Torah to Moses, and then the gospel to Jesus, "confirming what was before it of the Torah (*wa-muṣaddiqan li-mā bayna yadayhi mina l-tawrāti*)." He then revealed the Qur'an as a "Scripture which confirms [the Scripture of Moses] in the Arabic language (*wa-hādihā kitābun muṣaddiqun lisānan 'arabiyyan*," Q 46:12). The history of biblical, Jewish, Christian, and Qur'anic law here presented shows a dynamic development that was marked both by continuity and by change. The analysis suggests that the Qur'an's theological claim for continuity can, to a degree, historically be corroborated, especially if one understands it in line with the appreciative and expansive attitude Decree of the Apostles endorsed by many late antique Christians. Moreover, one should consider the Decree in turn as affirming continuity with the laws given to humanity in Genesis and those given to the *gerim* in Leviticus. Such a conclusion, however, equally must highlight the ongoing developments that led to the interpretation of these laws in starkly diverse cultural environments. Just as Qur'anic law reconsiders the validity of specific biblical, Jewish, and especially Christian provisions, so did Jews and Christians apply the law they had received to new circumstances. The affinity between Jewish, Christian, and Qur'anic approaches to gentile law, however, shows a hitherto unnoticed general continuity—as well as topical difference—between the three Abrahamic traditions. With this in mind, I would like to summarize and reconsider the ways in which the notions of regulated and prohibited impurity guide the legal cultures here considered, and how these notions of purity and impurity inform their respective attitude to the punishment of transgressors.

<sup>116</sup> See Cynthia R. Chapman, *The House of the Mother: The Social Roles of Maternal Kin in Biblical Hebrew Narrative and Poetry* (New Haven: Yale University Press, 2016), 125-49. William Montgomery Watt's speculation that the laws governing prohibitions on the grounds of milk kinship are in effect residues of a matrilineal pre-Islamic society were, in his time, not based on clear evidence; see Watt, *Muhammad at Medina* (Oxford: Oxford University Press, 1956), 281. Note, however, that the issue of matrilineality as such has recently been revived by Abed el-Rahman Tayyara, "Matrilineal Lineages as a Signifier of Social Links in the Context of Badr and Uḥud," in *Arabic Belles Lettres*, ed. Joseph E. Lowry and Shawkat M. Toorawa (Atlanta: Lockwood Press, 2019), 19-38 and Webb, *Imagining the Arabs*, esp. 194-204.

## Purity and Punishment in the Qur'an

This book's ten theses on law as literature have already been presented at its outset. In lieu of a conclusion, this chapter will synthesize this study's findings from the point of view of their implications for the interrelated subjects of *purity* and this-worldly *punishment*, which we will consider in three steps. First, we will briefly consider some of the Qur'an's notions of purity and impurity, along with the adjacent issue of sacredness. Establishing the Islamic Scripture's concepts of purity and of the holy will allow for a broader comparison of similar notions in the Hebrew Bible and in various streams within the Jewish and Christian traditions. Second, we will revisit Christian and especially rabbinic takes on the biblical concept of "impurity of the land"—which proved essential for the biblical concept of prohibited impurity—in order to advance for understanding the respective qur'anic notion of "impurity of the land." Third, a comparative consideration of the few qur'anic modes of this-worldly punishment will allow for a comparison with biblical, Jewish, as well as especially late Roman Christian practices, leading us to a concluding assessment of the role that purity plays in the various penal codes.

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### Purity and Holiness

Throughout this volume, we have seen how the notions of prohibited and regulated impurity—defined, in critical dialogue with Klawans' concept of moral and ritual impurity on pp. 36–41 above—were applied, in continuous and in diverging ways, in the Bible and in late antique Judaism and Christianity. The concept of prohibited impurity is pervasive throughout Jewish and especially Christian regulations pertaining to sexual prohibitions and, with a few exceptions, also to food laws. We could also detect a closer legal and conceptual affinity between the appreciative and expansive attitude towards the Decree of the Apostles, on the one hand, and the Qur'an, on the other, when it comes to prohibited impurity caused both by food and by sexual prohibitions. We did, moreover, encounter an even closer affinity regarding the case of regulated sexual impurity: whereas the rabbis and many church fathers reject the applicability of this category for gentiles, if not for humanity as a whole after the coming of Christ, sexual purity regulations were intensely debated and widely endorsed by many—though not

necessarily the majority of—Christians throughout the centuries. Accordingly, the two biblical types of impurity in several instances formed the discursive and practical foundation upon which the Qur'an places the further development of its own legal system. In the case of prohibited impurity contracted through food or sex, the Qur'an stands in explicit discontinuity with pagan Arabian practice. The case of regulated sexual impurity, by contrast, showed a remarkable affinity between biblical, Christian, pagan Arabian, and qur'anic concepts and language.

In order to demonstrate the development of concrete laws and the legal narratives connected with them, however, I have thus far deferred presenting the Qur'an's notions of purity and impurity in a more systematic way. A fuller anthropological inquiry into such a system would require an independent study, and may overburden the present volume's focus on the concrete legal traditions. Nevertheless, a preliminary sketch will allow us better to understand the types of impurity that we can trace from the Bible to the Qur'an. I will therefore argue that the Qur'an takes both notions of impurity, the prohibited and the regulated type, for granted, without spelling out their meaning in a comprehensive way.

At this point, I would beg those of my readers who are familiar with the Qur'an, or with Islamic law more generally, to forgive the ways in which aspects of the following summary may, at times, seem both simplistic and obvious. Instead of focusing on what is well known to anyone familiar with the Qur'an, I invite these readers to reconsider their own expertise in light of the descriptive precision and the room for a comparative approach that emerges when considering the Qur'an in light of the "biblical" conceptuality and vocabulary here utilized—along with the obvious limits of such a comparison. At the same time, I would ask those readers less familiar with the qur'anic terminology to indulge me in the consideration of a few key concepts in the Arabic original that will guide the following discussion in a more pronounced way than has been the case throughout this volume. The key terms are those of *najas* and *rijs*, traditionally translated as denoting the "impure," the roots *ṭ-h-r* and *z-k-w/y*, designating "purity," the root *ḥ-r-m*, designating either a "prohibition" or "sanctity," and the crimes depicted as causing *fasād fi l-arḍ*, "corruption in the land." Given the paucity of previous Western academic studies on the topic of qur'anic purity and impurity, I will present the facts without undue complications and thus refrain from developing the diachronic aspects of qur'anic purity rules beyond the most obvious remarks on the matter.<sup>1</sup>

<sup>1</sup> While the study of purity as an anthropological category has continued to develop since the days of Mary Douglas, neither qur'anic nor Islamic purity systems have thus far received due Western academic attention. The following works are noteworthy exceptions: Ana Davitashvili, "The Inner-Qur'anic Development of the Images of Women in Paradise: From the *ḥūr 'īn* to Believing Women," *Journal of the International Qur'anic Studies Association* (forthcoming); A. Kevin Reinhart, "Impurity/No Danger," *History of Religions* 30 (1990): 1–24; Joseph E. Lowry, "Ritual Purity," in *Encyclopaedia of the Qur'an*, ed. Jane Dammen McAuliffe (Leiden: Brill, 2001), vol. V, 498–508; Katz, *Body of Text*; Zeev Maghen, "First Blood: Purity, Edibility, and the Independence of Islamic Jurisprudence," *Der Islam* 81

Qur'anic Arabic, much like biblical and postbiblical Hebrew, along with Jewish and Christian forms of Aramaic, does not, in the manner of most Western languages, juxtapose the states of "purity" and "impurity" as polar opposites of each other. The concepts of both prohibited and regulated impurity, on the one hand, and their absence, on the other, will therefore need to be examined separately. We will see that the Qur'an differentiates between the two types of impurity as much as the Bible, and that it equally demands the *joint* absence of both, again pointing to a degree of continuity between the two concepts. We will therefore first probe the meaning of the main qur'anic terms denoting purity, and then inquire into diverging forms of impurity. A clear differentiation between the prohibited and the regulated type of impurity, we will see, is only possible when purity is absent.

Our first and most important task will be to establish whether or not the Qur'an operates with the notion of prohibited impurity as first defined in the case of the Hebrew Bible (see pp. 46–50 above). The continuity of the Islamic Scripture with the specific legal requirements established for non-Israelites by the Decree of the Apostles would suggest such a notion. As we have seen in Chapter 1 above, the Acts of the Apostles seems to recast the biblical laws for the *gerim*, the non-Israelite residents of the Holy Land who had to obey laws governing both prohibited and regulated impurity, in a way that emphasizes the former without excluding the latter. Here and in the Christian tradition more broadly, idol worship, the consumption of blood and of improperly slaughtered meat, as well as sexual transgressions, are all depicted as causing prohibited impurity. Especially in the expansive interpretation of the Decree of the Apostles, this state is seen as being of satanic origin, and the definition of what causes it is slightly broadened. The Qur'an's own concepts have much in common with this strand of the Christian tradition, yet it expresses them in "clear Arabic" terms, as we have seen throughout this volume.

The key root combinations used to describe purity in the Qur'an are *t-h-r* and *z-k-w/y*. As indicated in Chapter 2, the former root is well attested both in the Hebrew Bible and in ancient South Arabian epigraphy from the turn of the first millennium, where it denotes the absence of *regulated* sexual impurity. It can have such a meaning in the Qur'an, as we have seen in Q 2:222 and Q 5:6 (on which

(2004): 49–95; Richard Gauvain, "Ritual Rewards: A Consideration of Three Recent Approaches to Sunni Purity Law," *Islamic Law and Society* 12 (2005): 333–93 and Freidenreich, "Holiness and Impurity." Classical studies include Rivlin, *Gesetz im Koran*, 83–90 and Wensinck, "Die Entstehung der Muslimischen Reinheitsgesetzgebung"; for further works see Maghen, "First Blood," 53–57. The most acute discussion of both the sources and the secondary scholarship remains Freidenreich, "Holiness and Impurity," who is to be credited with identifying what he calls a "framework of common typology" between the biblical and the qur'anic purity models (*ibid.*, 5); absent here is the role of late antique Christians as providing the missing link between the Bible and the Qur'an suggested in the present volume. I have not been able to include the further nuance to the debate on qur'anic purity that marks the forthcoming work of Bauer and Hamza, *Women, Households and the Hereafter in the Qur'an*; in an oral communication, Bauer has indicated to me that we should understand qur'anic purity on a sliding scale rather than in a binary way, in concurrence with my arguments on pp. 302–3 below.

more below), yet by and large, we will see that in the Qur'an *ṭ-h-r* denotes the absence of *prohibited* impurity of any kind. The qur'anic root *z-k-w/y* shares with *ṭ-h-r* the semantic field of designating the absence of prohibited impurity of any kind; *z-k-w/y*, inversely, never indicates the absence of regulated, that is *sexual* impurity. By contrast, it can describe the charitable contribution called *zakāt*; as it does in thirty-two out of the root's fifty-nine occurrences in the Qur'an. The root is, to the best of my knowledge, *not* attested in the ancient South Arabian epigraphical record, yet it has a close cognate especially in Christian Syriac literature.<sup>2</sup>

A detailed study remains beyond the purview of the present chapter, yet the following brief overview allows us to state that in general, the Qur'an sees the purity described by both roots *z-k-w/y* and *ṭ-h-r* as diametrically juxtaposed to satanic evil, following the long-established biblical and especially late antique Christian paradigm. Purity in the Qur'an, hence, is first and foremost the absence of prohibited impurity. Paradigmatically, Q 24:21 sates the following:

O you who have faith!

Do not follow in Satan's footsteps (*khuṭuwāti l-shayṭān*).

Whoever follows in Satan's footsteps (*khuṭuwāti l-shayṭān*),

he indeed commands sexual transgression (*al-faḥshā'*) and sin (*al-munkar*).

Were it not for God's grace and His mercy upon you,

not one of you would ever be pure (*mā zakā minkum min aḥadin 'abadan*).

But God purifies whomever He wishes (*wa-lākinna llāha yuzakkī man yashā'u*),

and God is Hearing, Knowing.

The Qur'an here portrays purity primarily as God's protection from or removal of sin, and sin in turn as of satanic origin. Significantly, Q 24:21 uses the root *z-k-w/y* to describe the purity from satanic evil, whereas another the crucial passage, Q 8:11, on which more below, uses the root *ṭ-h-r* to indicate the removal of satanic activity.

It is thus already evident that the Qur'an does not always categorically distinguish between *z-k-w/y* and *ṭ-h-r*, and that both roots primarily denote the absence of prohibited impurity: whereas the former root is used to announce Jesus as a

<sup>2</sup> On the root *dh-k-y/w*, which I consider as unrelated to *z-k-w/y*, see note 207 (Chapter 1) above. For qur'anic *z-k-w/y* see Ambros, *A Concise Dictionary of Koranic Arabic*, 121. The Syriac root *d-k-y*, just like its Hebrew cognate *z-k-y*, can denote the absence or the removal of both prohibited and regulated impurity; see Sokoloff, *A Syriac Lexicon*, 301. In both Palestinian and Babylonian Jewish Aramaic, however, the root *d-k-y* almost exclusively indicates the absence or removal only of regulated impurity, see Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period* (Ramat-Gan: Bar Ilan University Press/Baltimore and London: The Johns Hopkins University Press, 2002), 149 and Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*, 337.

“pure son” in the Meccan passage Q 19:19, the latter one describes Jesus’ purity “from the unbelievers,” in the Medinan passage Q 3:55 (see also Q 3:42 on Mary). In addition, both roots can describe purity achieved through sexual propriety. We have just seen this with *z-k-w/y* in Q 24:12, where purity indicates the absence of *fahshāʾ*, sexual transgression, a notion discussed at length in Chapter 2; the same two terms are used to refer to the absence of prohibited sexual impurity in Q 53:32. Likewise, the root *t-h-r* describes the absence of prohibited sexual impurity in Q 33:33 (on which more below) and in Q 33:53; with a reference to Lot’s family (see p. 194 above) in Q 7:82, Q 11:78, and Q 27:56. Importantly, Q 2:232 uses *both* roots *t-h-r* and *z-k-w/y* to describes sexual propriety during divorce proceedings, whereas *z-k-w/y* alone denotes sexual propriety in Q 24:28 and 30. Even the purity of food in Q 18:19 should be understood as purity from religious deviation.<sup>3</sup>

We can thus state that both roots *generally* describe the absence of sin (for such a broader use of *t-h-r* see also Q 5:41 and Q 74:4; for *z-k-w/y* see Q 2:174, Q 3:77, Q 4:49, Q 18:74, Q 20:76, Q 35:18, Q 79:18, Q 80:3, 7, Q 87:14, and Q 91:9). Most consequentially perhaps, it is evident that charity as such can purify from sin, something that becomes clear in Q 9:103, which again uses both roots *t-h-r* and *z-k-w/y*. Purification through charity is equally denoted in Q 58:12 (with *t-h-r*) and in Q 92:18 (with *z-k-w/y*). Yet despite this broad affinity, we should note that the Qurʾan idiomatically maintains an arguable distinction between the two roots.

I would, for example, argue that the Qurʾan, both in Meccan and in Medinan verses, predominantly uses *z-k-w/y* when describing the ways in which revelation or, by extension, the divine messengers who have purveyed it, purify humans from sin. Formulations include some statements in which either the enactment or the internalization of revelation purifies, and others in which the revelation itself purifies, leaving the positive response to it implicit, as can, for example be seen in Q 2:129, Q 2:151, Q 3:164, Q 20:76, Q 35:18, Q 62:2, and Q 91:9.

By contrast, the Qurʾan, both in Meccan and in Medinan verses predominantly tend to use the root *t-h-r* to depict things of heavenly origins, such as heavenly water (Q 25:48), heavenly drink (Q 76:21), or Scripture (*ṣuḥuf*, Q 80:13–14 and Q 98:2), or heavenly residents, such as those who touch Scripture (Q 56:79) or the heavenly spouses in Q 2:25, Q 3:15, and Q 4:57.<sup>4</sup> Likewise, the Medinan sources

<sup>3</sup> In Q 18, the companions of the cave avoid the religious deviation of their compatriots (see vv. 14–16). When they awake, they send one of them to the city in order to procure “the purest food” (*azkā ṭaʾāman*) which he can obtain (v. 19); they fear to be stoned or forced “into their,” i.e. their compatriots’ false “creed” (*aw yuʾidūkum fī millatihim*, v. 20). The context here strongly suggests that we are dealing with their attempt to avoid the food’s contamination with prohibited impurity caused by religious errors, be it idol worship, improper slaughter, or the consumption of prohibited animals.

<sup>4</sup> My findings here are in general agreement with the analysis in Davitashvili, “The Inner-Qurʾanic Development of Women in Paradise”; and see also Davitashvili, “Die hūr ʾin im Koran und in der frühislamischen Exegese” (forthcoming). The heavenly spouses awaiting the believers, moreover, are repeatedly described as “pure,” or “purified” (Q 2:25, Q 3:15, and Q 4:57). According to Davitashvili, these heavenly spouses are, on the one hand, connected with other relevant figures such as the so-called *houris* (see Q 44:54, Q 52:20, Q 55:72, and Q 56:22), but may equally depict morally impeccable

predominantly use the root *t-h-r* to designate the purity of worship proper. Examples here include the purity of the Ka'ba (Q 2:125, Q 22:26) and of those praying in mosques (Q 9:108). In the case of houses of prayer, it is most likely prohibited impurity through idolatry or similar offences that need to be purified. In Q 9:108, it is obvious that the condition of the pure worshippers contrasts with the sinfulness of characters depicted as sinful in the surrounding passage 9:107–9; the same impression emerges from the depiction of those committing *shirk* as impure in Q 9:28, as we will presently discuss. In Q 22:26, likewise, God instructs Abraham with the words: “Do not associate anything with me (*an lā tushrik bi shay'an*), and purify My House (*wa-ṭahhir baytiya*) for those who go around it and those who stand and those who bow and prostrate.” The verse's linkage here makes it probable, yet not necessary, that the “purification” concerns the removal of the prohibited impurity caused by *shirk*—even if, in the Qur'an's view, the Ka'ba was founded as a monotheistic shrine, it accuses the Meccans of having perverted its use.<sup>5</sup> Regardless of these variations, it is thus obvious that “purity,” expressed either by the root *z-k-w/y* or by the root *t-h-r*, primarily designates the absence of prohibited rather than regulated impurity.

Yet regulated impurity does, of course, figure in the Qur'an, albeit less prominently. The only occasions leading the believers to contract *regulated* impurity, to reiterate, are constituted by the instructions in the Medinan surahs that require washing: sexual intercourse, defecation, as well as, for women, the menses. Most consequentially, the Qur'an exclusively uses the root *t-h-r* to designate the removal of such regulated impurity, as in Q 5:6. By employing the same root to indicate the absence of both regulated and prohibited forms of impurity, it suggests a rapprochement of both types of impurity. The association of purity and “repentance” in Q 2:222, we will see, may even indicate a degree of co-dependence: while avoiding prohibited impurity is essential, regulated impurity, though marginal by the standard of verses dedicated to it, is by no means negligible for the believers. Broadly speaking, then, the Medinan surahs, much like late antique Christianity, stand in perceivable discontinuity with biblical and ancient Arabian

earthly spouses. In either case, they are typified by the absence of prohibited impurity (since they are, e.g. of “modest gaze”; see Q 37:48–49, Q 38:52, and Q 55:56). They are obviously *also* free from some forms of regulated impurity (since they have, for example, not been touched by humans or jinn, see Q 55:56), yet this hardly seems to be the Qur'an's point here, as Davitashvili persuasively argues in *ibid.* On the virgins of paradise see moreover Edmund Beck, “Eine christliche Parallele zu den Paradiesjungfrauen des Korans,” *Orientalia christiana periodica* 14 (1948): 398–405; Beck, “Les hours du Coran et Ephrem le Syrien,” *Mideo* 6 (1959–61): 405–8; Josef Horowitz, *Das koranische Paradies* (Jerusalem: The Hebrew University, 1923), and Stefan Wild, “Lost in Philology? The Virgins of Paradise and the Luxenberg Hypothesis,” in *The Qur'an in Context: Historical and Literary Investigations into the Qur'anic Milieu*, ed. Angelika Neuwirth et al. (Leiden: Brill, 2010), 625–48; on gender in the Qur'an see also note 19 (Chapter 3) above.

<sup>5</sup> In Q 2:127, the “purification” of the house, by contrast, is not explicitly linked with the avoidance of *shirk* (see note 126, Chapter 2, above); on the Qur'an's association of the Sacred Mosque with both Abraham and Ishmael see e.g. Joseph Witztum, “The Foundations of the House (Q 2: 127),” *Bulletin of the School of Oriental and African Studies* 72 (2009): 25–40.



notions of regulated impurity of objects, which is never clearly attested in the Qur'an. Moreover, the Qur'an stands in broad continuity with those late antique Christians endorsing an expansive attitude towards the Decree of the Apostles who would have incorporated regulated impurity concerns of the body in their practice.

It is difficult or even impossible to determine whether the absence of the notion of regulated impurity can always be assumed throughout the Meccan period. Nothing in the Qur'an denies the possibility that the emergent qur'anic community could have observed local Meccan rules governing regulated impurity from the outset. These local rules could have partially or even fully overlapped with biblical ones, as the overlap between biblical and epigraphically attested Southern Arabian practices do. However, the Qur'an's initially dismissive attitude towards Meccan food laws, followed by an introduction of food laws broadly in line with the expansive Christian attitude towards the Degree of the Apostles, as discussed in Chapter 2 (see pp. 110–28 above), indicates that we cannot simply posit such continuity. Two early Meccan passages that could be read as pertaining to cases of regulated impurity here serve as a test case. It is, in my view, most likely that both passages largely if not entirely focus on prohibited impurity, relegating a focus on the regulated type to the very margins of early qur'anic discourse if not beyond them.

First, Q 56:78–79 informs of the restricted access to the heavenly *kitāb makhnūn*, the “preserved Scripture,” stipulating that “only the pure touch it” (*lā yamassuhu 'illā l-muṭahharūna*).<sup>6</sup> We cannot fully exclude the possibility that those pure ones who touch Scripture in heaven would be defined as free of regulated impurity, yet this is highly unlikely. In addition, even if the passage is too succinct to determine its full meaning, it seems much more likely that the “purity” here demanded of those heavenly beings is based on the absence of prohibited impurity, and thereby on their sinlessness. Adam and his partner, after all, were expelled from the garden after they sinned, just as Iblis was cast out after his rebellion against God—a theme that is palpable both in the Syriac tradition and in the Qur'an.<sup>7</sup>

<sup>6</sup> The verse could equally be read as extending to physical copies of the revealed Qur'an, which is, arguably, at least implicitly referenced in verse Q 56:77. Reading the imperfect verb *massa* here as indicating a general rule, however, would add a second putative layer to the interpretation of a verse focusing on the depiction of an established heavenly rather than a prescriptive earthly reality, and I would therefore suggest bracketing off this line of inquiry for the present purposes. On the verb's meaning see Ambrose, *A Concise Dictionary of Koranic Arabic*, 255–56.

<sup>7</sup> Davitashvili persuasively argues that the issue of regulated impurity plays no role in the qur'anic paradise even if its denizens dispose of resurrected bodies, and likewise points to the fact that the Qur'an assumes that humans were free from prohibited impurity before Adam sinned; see Davitashvili, “The Inner-Qur'anic Development of Women in Paradise.” Analogously, regulated impurity would apply even less to non-human beings.

A second early Meccan passage, Q 74:1–5, can and has been understood as indicating regulated impurity in more concretely this-worldly terms. The well-known verses instruct the prophet with the following words:

Q 74:1 O you wrapped up in your mantle (*yā-ayyūha l-muddaththir*)

Q 74:2 Rise up and warn

Q 74:3 Magnify your Lord

Q 74:4 and your cloak, purify (*wa-thiyābaka fa-ṭahhir*)

Q 74:5 and from punishment move away (*wa-l-rujza fa-hjur*).

Despite the lack of any evidence in the manuscripts or in the reading traditions, many interpreters here understand the term *rujz* in verse 5 as indicating some unspecified sense of “impurity,” likely based on a posited conflation of this term with *rijs* “impurity.” Such a conjectural reading was likely triggered by the instruction to “purify” the cloak in verse 4, and perhaps also by the biblical discourse on the susceptibility of clothing to regulated impurity.<sup>8</sup> Moreover, the commandment to “purify the cloak” in verse 4 could arguably be understood as an echo of pagan Arabian purity paradigms that are epigraphically attested: as we have discussed in Chapter 2, entering a temple with a weapon or clothing sullied with blood is evidently associated with impurity, and impurity through sexual discharge is equally a prominent theme here.<sup>9</sup> It is thus not impossible, once more, that the early Meccan surahs maintain either a biblical or a pagan Arabian notion of regulated impurity of an object, in this case a cloak. Yet this is again an implausible reading, since the respective biblical commandment faded in the Jewish tradition after the destruction of the Temple, and was never enacted in any form of Christianity of which I am aware. The verse, inversely, may well illustrate that it can at times be important to read the Qur’an precisely not in a biblical or pagan Arabian but in a postbiblical Jewish and especially Christian context, as the qur’anic passage’s context itself confirms.

The purification of clothing as a depiction of sinlessness, namely, is well attested in Jewish and Christian discourse. While the Babylonian Talmud indeed states hyperbolically that a Torah scholar on whose garment a stain is found is liable to receive the death penalty (Bavli *Shabbat* 114a), the far more prevalent opinion is that the cleanliness of clothing is merely a metaphor of sinlessness. Based on the biblical instruction to always maintain one’s clothing’s whiteness in Qohelet 9:8,

<sup>8</sup> On the susceptibility of clothing to regulated impurity in the Hebrew Bible, see esp. p. 138 above.

<sup>9</sup> See pp. 210–12 above as well as note 35 (Chapter 1) above and 20 below; a case of an impure cloak is mentioned in the Sabeian inscription Haram 35 = R 395689 as discussed by Peter Stein, “Materialien zur sabäischen Dialektologie: Das Problem des amiritischen (‘haramischen’) Dialektes,” *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 157 (2007): 40 and see note 35 (Chapter 1) above.

for instance, the Targum instructs the believers to “keep your covering white from the impurity of sin” (*yhwwn kswtk hywryyn mkl sw’bwt ḥwbt*), a view equally echoed in Bavli *Shabbat* 154a and *Qohelet Rabbah* 9:8.<sup>10</sup> The connection of the purity and whiteness of clothing and sinlessness is indeed pervasive in early as well as in rabbinic Judaism, and especially in Christianity, where, channelled by the pervasive respective imagery in the book of Revelation, it takes a central place in the Syriac tradition. I therefore concur in principle with Jan M. F. van Reeth, who places Q 74:1–5 in the Syriac tradition and emphasizes both succession and sinlessness as the key symbols associated with the prophet’s mantle.<sup>11</sup> Yet sinlessness is surely far more central here than succession, and the discourse is broadly attested across the Syriac Christian tradition. As Hannah M. Hunt points out, in this tradition, “[t]he robe of flesh is sullied through the Fall, and the ritual of baptism cleanses both it and the whole person of Adam,” and therefore humanity.<sup>12</sup> As pointedly expressed by the fifth-century East Syrian father Narsai, the Spirit “cleanses iniquity from the intentions (*mrq ‘wl’ mn ḥshb*), and men cast off garments of iniquity (*nhṭ’ d’wl’*), and don truth (*wlbshyn qwsht*).”<sup>13</sup> The purification of clothing, in late antiquity, thus primarily describes not the cleansing from blood or semen, but the rejection of sin, and the command to the prophet to “purify his cloak” in Q 74:4 seems to be first and foremost an instruction to eschew evil, as can be corroborated by the verse’s context.

The term *rujz* in Q 74:5, namely, is not a consonantal variant of the term *rijs*, denoting a prohibited “impurity” so grave that God alone can remove it as we will see, but a vocalization variant of *rijz*,<sup>14</sup> which simply denotes the “punishment” for those who do not repent.<sup>15</sup> The passage, in other words, does instruct the prophet to remove prohibited impurity from his cloak and thereby from his soul,

<sup>10</sup> The Targumic passage to which Ana Davitashvili has drawn my attention is cited according to Madeleine Taradach and Joan Ferrer, *Un Targum de Qohélet: Editio principes du LMS. M-2 de Salamanca. Texte araméen, traduction et commentaire critique* (Geneva: Labor et Fides, 1998), 53 and 122, where the rabbinic parallels are indicated.

<sup>11</sup> Jan M. F. van Reeth, “La robe blanche des Serviteurs de Dieu: ‘Adi b. Zayd, le Coran, Bardésane et al-Muqanna’,” in *L’Ésotérisme shi’ite: ses racines et ses prolongements/Shi’i Esotericism: Its Roots and Developments*, ed. Mohammed Ali Amir-Moezzi (Turnhout: Brepols, 2016), esp. 256–64.

<sup>12</sup> Hannah M. Hunt, “‘Clothed in the Body’: The Garment of Flesh and the Garment of Glory in Syrian Religious Anthropology,” *Studia Patristica* 64 (2013): 173; see also Sebastian P. Brock, “The Robe of Glory: A Biblical Image in the Syriac Tradition,” *The Way* 39 (1999): 247–59. In the Qur’an, righteousness as such takes the place of baptism.

<sup>13</sup> See Narsai, “Memra on the Church and on the Priesthood,” cited according to Alphonse Mingana, *Narsai doctoris syri homiliae et carmina* (Mosul: Fraternity of Preachers, 1905), vol. II, 148, translation based on R. Hugh Connolly, *The Liturgical Homilies of Narsai Translated into English, with an Introduction* (Cambridge: Cambridge University Press, 1909), 64; my gratitude to Ana Davitashvili for drawing my attention to this source.

<sup>14</sup> The fact that *rujz* is a mere reading equivalent of *rijz* is suggested for instance by Abū al-Faḥ Ṭhman Ibn Jinnī, *Al-Muḥtasab fi tabyīn wujūh shawādhḥ al-qirā’at wa-l-iḍāḥ ‘anhā*, ed. Muḥammad ‘Aṭā (Beirut: Dār al-Kutub al-‘Ilmiyya, 1998), 275, to which Marijn van Putten has drawn my attention; the same conclusion is drawn by Sinai, *Key Terms of the Qur’an*, s.v. *rijz/rujz*.

<sup>15</sup> The Qur’anic root *r-j-z* is a close cognate of Syriac *r-g-z*, which denotes “punishment,” as Joseph Witztum as recently demonstrated; see Witztum, “Entrails and Divine Wrath: Two Qur’anic Words in Light of Parallel Aramaic Texts,” *Le Muséon* 133 (2020): 461–66; Witztum’s reading is confirmed by Sinai, *Key Terms of the Qur’an*, s.v. *rijz/rujz*.

but it does so by calling him to repent and to instruct his compatriots to do the same. The impending “punishment” evoked in verse 5, hence, is presaged by the command, to the prophet, to act as a warner in verse 3, introducing the topic of eschatological punishment that is the content of much of the remainder of the surah, esp. verses 8–56. Hence, as in the previous example, we cannot disprove the possibility that the “purification” of the prophet’s cloak reflects an echo of biblical or pagan Arabian notions of regulated impurity of objects. Yet again, the historical as well as the literary context strongly suggests that these topics are hardly, or not at all, in the passage’s purview: rather, we are here dealing at least primarily with the avoidance of prohibited impurity caused by sin alone also in Q 74.

If prohibited impurity is caused by sin—an idea we will find throughout the Qur’an—then purity can inversely be obtained by various forms of piety that would remove prohibited impurity, at least to a degree. “He who gives his wealth to purify himself (*alladhī yu’tī mālahu yatazakkā*)”, we learn in Q 92:18, will be spared the fire. This verse is fully in line with the qur’anic ways of atonement through ascetic means or charity as discussed on pp. 253–54 above. Whereas institutionalized forms of penance—in this case with biblical, ancient South Arabian, Jewish, and Christian parallels—where largely designated as *kaffara*, the Qur’an repeatedly emphasizes that repentance, prayer, and charity, especially the giving of the *zakāt* (see e.g. Q 9:103, Q 33:53, Q 58:12, and Q 92:18) equally purify, a widespread notion throughout late antiquity.<sup>16</sup> Unlike Christians, of course, the Qur’an does not ritualize repentance by way of baptism (see p. 39, 62, 93–4 and 178–80 above). Moreover, in the Qur’an, much as in the Jewish and Christian tradition, humans can never gain salvation merely by repenting; rather, it is bestowed by the interplay of piety with God’s grace—with the caveat that the former already presupposes the latter, which, moreover, always maintains its ultimacy.

It is thus ultimately not the human but God who purifies, as well expressed in Joseph Lowry’s brief discussion of the matter: “He [i.e. God] does this to whom he will (... 4:49; 24:21), though he also sends messengers to purify persons, especially in conjunction with the teaching of ‘the book... and wisdom’ (... 2:129 and 151; 3:164 and 62:2). Conversely, God disdains to purify those who break their troth (... 3:77; cf. 2:174).”<sup>17</sup> Hence, it is ultimately God Himself who administers purity, yet again He tends to do so with the active collaboration of the believers who do what is right and keep away from sin.

With a better sense of the Qur’an’s notion of purity as constituted by the likely absence of concept of regulated impurity throughout the Meccan passages and the explicit introduction of the concept in the Medinan Qur’an, we can

<sup>16</sup> For a discussion and examples of the purificatory power of charity see Oliver, *Torah Praxis after 70 CE*, 313–14.

<sup>17</sup> Lowry, “Ritual Purity,” 500. On the interplay of piety and grace see also Gabriel Said Reynolds, *Allah: God in the Qur’an* (New Haven: Yale University Press, 2020), 91–133.

now turn in more detail to the way the Qur'an describes prohibited impurity. We will first consider the Medinan and then the Meccan surahs, before concluding with an assessment of regulated sexual impurity that appears only in Medinan surahs. A first term to consider, *najas*, illustrates the difficulty of probing the qur'anic concepts of impurity along with ways in which that difficulty may be surmountable. The Medinan verse Q 9:28, namely, continues the surah's invective against those residents of Mecca whom it accuses of *shirk*, "associationism," that is of associating another deity or divine persona with God.<sup>18</sup> It decrees the following:

Q 9:28 O you who have faith!

The associators (*mushrikūn*) are indeed *najas*:

so let them not approach the Holy Mosque (*al-masjida al-ḥarām*) after this year.

Should you fear poverty,

God will enrich you out of His bounty, if He wishes.

Indeed God is Knowing, Wise.

The verse excludes those whom it accuses of associating God with other divine powers from entering the holy sanctuary (to which we will presently turn). It depicts them as *najas*, which became the central term depicting impurity in classical Islam.<sup>19</sup> While the single occurrence of the term *najas* in the Qur'an is far from unambiguous, I suggest that one understand it as denoting those who have contracted *prohibited* impurity, in this case through beliefs and practices that fall short of the Qur'an's definition of monotheism.

If Q 9:28, in other words, refers to the impurity of the associators, then it is this impurity that makes it impermissible for them to enter the sanctuary. It may again be conceivable that the action that rendered the prophet's opponents impure and ineligible to enter the sanctuary was their disobedience with regard to the prerogatives of regulated impurity, yet the categorical nature and permanency of the exclusion make this unlikely. Indeed, reading *najas* to denote *prohibited* impurity would be the most obvious reading of the verse, since its most likely causes are theological errors of the associators. If so, the Qur'an's notion of *najas* would constitute a close parallel to, and plausibly a transposition of, the biblical concept of prohibited impurity as defined by Klawans. Those who are defiled by sinful actions, such as idolatry, in the Hebrew Bible, are barred from entering the Holy Land, and those who are defiled by sinful actions, such as committing *shirk*, in the Qur'an, would be barred from entering the Holy Sanctuary.

<sup>18</sup> On the ancient South Arabian meaning of the root *sh-r-k*, including the notion of "apportioning" and "share-cropping," and on the meaning of *shirk* in the Qur'an see note 126 (Chapter 2) above.

<sup>19</sup> For references see the works noted in note 1 above.

A comparative etymological consideration, however, complicates the evidence, indicating that the indiscriminate use of biblical and South Arabian evidence can at times obfuscate the Qur'an's usage of words rather than clarifying it. The cognate of the Arabic root *n-j-s* in biblical Hebrew, the root *n-g-sh*, can signify gaining access to the holy (see e.g. 1 Sam 14:38 and Jer 30:21), a meaning that is obviously related to the qur'anic usage of the term *najas* as restricting precisely such access. We do find a far closer cognate in the term's usage as it is attested in South Arabian inscriptions, where it denotes a type of impurity that is incompatible with visiting a holy site. As Süleyman Dost has recently shown in his consequential study already discussed in Chapter 2, two Sabean penitentiary inscriptions dating to the turn of the first millennium that were found in Jawf, in northern Yemen, and a further one of unknown provenance, demonstrate that the root *n-g-s*, in Middle Sabean, most likely indicates a state of impurity incompatible with entering a sanctuary. Yet in these cases, we are obviously dealing with *regulated* impurity, more precisely with a system of regulated impurity that bears close resemblance to the biblical one, as Halévy and Ryckmans have shown long ago (see the discussion on pp. 211–12 above). Only one of the inscriptions furnished by Dost is fully legible; here the term *najas* denotes the impurity of weaponry caused by blood that has stained a man's clothing. Yet related inscriptions amply illustrate that the same rules governing this case also govern a variety of cases in which the emission of semen caused regulated impurity.<sup>20</sup> In light of the epigraphical evidence, hence, an understanding of the term *najas* in terms of regulated impurity would be plausible. In the case of Q 9:28, however, understanding the term *najas* in terms of prohibited impurity makes most sense, as argued above. Attributing a modicum of linguistic agency to the qur'anic usage (or perceivably to Hejazi usage) may help solve this conundrum.

The most likely scenario seems to be that the Qur'an's depiction of the associators as *najas* in effect constitutes a radical reinterpretation of indigenous Arabian notions of purity. Describing the prophet's opponents with a term that they knew well as denoting someone or something temporarily impure would have been an effective way to describe a perceived intellectual or spiritual impurity in bodily terms—a usage of the notion of “impurity” we have already encountered in late antique Christian polemics as well (see pp. 168–72 above). The single occurrence of *najas* in the Qur'an on its own does not ultimately allow us to corroborate this suggestion with regard to Q 9:28; the word's meaning, after all, may have changed long before the prophet's time. It is, however, plausible that the Qur'an in effect *introduced* a far-reaching distinction between prohibited and regulated impurity

<sup>20</sup> See Dost, “Language of Ritual Purity in the Qur'an and in Old South Arabian,” 159–65; see also Copeland Biella, *Dictionary of Old South Arabic*, 293; for further materials see also <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ngs> (accessed 5 March 2021) and see Sinai, *Key Terms of the Qur'an*, s.v. *ṭahara*.

into Meccan discourse, as can be illustrated when taking a second term into consideration: *rijs*. Whereas no readily perceived etymology for this term has been established, I am inclined to follow Freidenreich's remark that the root *r-j-s* is closely related to the root *n-j-s*; moreover, the alternation of the consonants "r" and "n" is well attested in a number of languages, as Marijn von Putten informed me in private communication.<sup>21</sup> Positing the equivalence of the two Qur'anic terms remains mere speculation, yet I hold that broader philological considerations show that Q 9:28 in effect employs the term *najas* as if it were an adjectival form of *rijs*, which I hold in turn to denote prohibited impurity. A brief survey of the occurrences of the term *rijs* in the Qur'an shows that it describes prohibited impurity in terms that possibly maintain a degree of terminological continuity with Arabian precedent while marking the departure from ancient pagan Arabian notions of morality. The Qur'an's terminology designating impurity, in other words, stands far closer to Arabian than to biblical usage, yet its notions share more with the Hebrew Bible and with its Jewish and especially Christian interpretation, thereby suggesting a pointed shift in discourse.

The Qur'an identifies sin and Satan as the most egregious sources of a condition designated as *rijs*, a term whose understanding as "filth" or "impurity" is accepted in the few discussions of the matter in scholarship, just as it had been in the Islamic tradition.<sup>22</sup> I will endorse this translation with some qualifications, and argue that we should first understand *rijs* broadly in terms of "prohibited impurity," in line with the biblical tradition and especially the Christian interpretation linking it to demonic forces. *Rijs*, we will see, can depict concrete matter such as foodstuff or idols, and it can be applied to people, such as those refusing to participate in *jihād*. More specifically, *rijs* designates a condition of the human mind that leads to, or results from engaging in sinful behaviour—in Lowry's perceptive words, anything that "interfere(s) with receptivity to Islam."<sup>23</sup> A more pointed definition may hit the mark even closer.

The term *rijs*, namely, conveys the entirety of the Qur'an's definition of prohibited impurity: it can describe both a person's propensity to commit a sin and the result of this action. Whereas no English equivalent exists, the term is thus

<sup>21</sup> See Freidenreich, "Holiness and Impurity," 16 note 22, pointing out that classical Islamic historiography also treats the two roots as quasi-identical. Unlike *n-g-s*, the root *r-g-s* is not attested in ancient South Arabian epigraphy to the best of my knowledge; on the occurrence of Qur'anic *rijs* in early Arabic poetry see note 24 below. The root's absence from the epigraphical record, along with the lack of any cognates in other Semitic languages, increases the probability of the hypothetical etymological equivalence of Qur'anic *n-j-s* and *r-j-s*.

<sup>22</sup> See e.g. Ambros, *A Concise Dictionary of Koranic Arabic*, 108; Freidenreich, "Holiness and Impurity," 14–16; and Rivlin, *Gesetz im Koran*, 66–67; see also Kevin A. Reinhart, "Contamination," in *Encyclopaedia of the Qur'an*, ed. McAuliffe, vol. I, 410–12; on the discussions in the Islamic tradition see e.g. Katz, *Body of Text*, 145–206. The following discussion owes much to the comments offered by the members of the QuCIP research team, and especially to Sinai, *Key Terms of the Qur'an*, s.v. *rijz/rujz*.

<sup>23</sup> Lowry, "Ritual Purity," 503.



perhaps best rendered as the mental condition, the item, or the person that functions as an “agent of evil.” It functions quite similarly in early classical Arabic poetry.<sup>24</sup> A more detailed study could more fruitfully compare and contrast the Qur'an's notion of prohibited impurity and specifically of *rijs* to the rabbinic concept of the “evil inclination” and especially to Christian notions of prohibited impurity; I will presently point to the Qur'an's distinct difference from the former, rabbinic, and its relative affinity with the latter, Christian, concept. The following brief considerations of the qur'anic evidence alone, I hope, will already show that the Qur'an shares and develops elements of both traditions, with the key difference that it presents God as a far more active participant in the human struggle against evil than either the Jewish or the Christian tradition.

The lack of any other derivatives of the word *r-j-s* in the Qur'an, which occurs a total of nine or ten times in the Qur'an (in the late Meccan passages Q 6:125, Q 7:71, and Q 10:100 and in the Medinan passages Q 5:90, Q 6:145, Q 9:95, 125, Q 22:30, and Q 33:33, as well as in Q 8:11 according to some manuscripts), and the absence of any apparent cognates in related Semitic languages necessitate a detailed analysis. We will thus first establish the link between *rijs* and demonic forces, a connection so crucial for Christian views of prohibited impurity. Subsequently, we will explore the Qur'an's juxtaposition of *rijs* with “purity.” The qur'anic evidence may be succinct, yet it is clear: since the removal of *rijs* is administered by God directly and described as leading to “purity” (designated with the root *t-h-r*), we can ultimately establish the concept of “prohibited impurity” as operative in the Qur'an. This will subsequently equally allow for a careful delineation of prohibited from regulated forms of impurity in the Qur'an. Crucially, however, a connection between both types of impurity remains in their absence: God wants the believers to be pure of either type, and neglecting the demands of regulated impurity would likely lead to the prohibited type, as it does in the Bible.

The satanic origin of *rijs*, to begin with, is spelled out in Q 5:90–92, the well-known—and relatively late—Medinan passage prohibiting wine and a variety of divinatory and idolatrous practices briefly mentioned on p. 126 above:

<sup>24</sup> The term *rijs* occurs, e.g. once in a polemical poem by Ḥassān b. Thābit to which Saqib Hussain has drawn my attention; here, *rijs* is paralleled with *fujūr* “wickedness” (compare Q 91:8 and see Muḥammad Abū Zayd al-Qurashī, *Jamharat ash'ār al-'Arab*, ed. 'A. M. al-Bajāwī (Cairo: Dār Nahḍat Miṣr, 1967), 28). Relevant for our inquiry is an equally polemical poem by al-Jarīr, which associates the term *rijs* with those who knowingly commit “evil” (*al-khabīth*; compare e.g. Q 3:179), equating the departure of such sinners with a city's *ṭahūr*, used in the sense of “purification” (compare Q 25:48 and Q 76:21; see Jarīr ibn 'Aṭīyyah and Hammām Ibn-Ġalīb al-Farazdaq, *Kitāb al-naqā'id: Naqā'id Jarīr wa al-Farazdaq* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1998), 285, as quoted by Sahar Ishtiaque Ullah, “Postclassical Poetics: The Role of the Amatory Prelude for the Medieval Islamic Republic of Letters,” *The Cambridge Journal of Postcolonial Literary Inquiry* 3 (2016): 222). The term *rijs* thus clearly denotes prohibited impurity contracted through sin in these verses as well; “agent of evil” and “filth” would equally be valid renderings.

Q 5:90 O you who have faith!

Wine, gambling, sacrificial stones, and divining arrows (*al-khamru wa-l-maysiru wa-l-anṣābu wa-l-azlāmu*)

is only *rijs* of Satan's doing (*rijsun min 'amali l-shayṭāni*),

so avoid it (*fa-jtanibūhu*), so that you may be felicitous.

Q 5:91 Satan only seeks to cast enmity and hatred among you

through wine and gambling (*fī l-khamri wa-l-maysiri*),

and to hinder you from the remembrance of God and from prayer.

Will you, then, relinquish?

Q 5:92 And obey God and obey the Apostle, and beware,

but if you turn your backs,

then know that Our apostle's duty is only to communicate in clear terms

We should, first of all, understand both the nouns employed and the actions associated with them as the passage's focus: the Qur'an thus depicts the actions of drinking wine, playing games of chance, worshipping idols, and engaging in divination through arrows as tantamount to Satan's doing, even if the action is executed by a human. More specifically, we should note that among these four actions, the subsequent verse 91 only highlights the effects of wine and gambling. These, it is said, cause "enmity and hatred" among the believers, and interfere with their religious obligations, thus handing Satan an indirect victory. Sacrificial stones (*anṣāb*) and divining arrows (*azlām*), by contrast, already constitute the worship of Satan, and there is no need to warn about the Devil's snares.<sup>25</sup>

Other passages corroborate the connection between *rijs* and the demonic, perceived of in terms of Satan or idolatry. Q 6:145, likely a Medinan verse as discussed in some detail above, urges believers to avoid "carrion or spilt blood or the flesh of swine—for that is indeed *rijs*—or an impiety offered to other than God." We have seen above that *rijs* here describes carrion, spilt blood, and pork (see pp. 111–13). Understanding *rijs* as agent of satanic evil here stands in line with the Christian reinterpretation of prohibited impurity: as we have seen, the consumption of carrion or blood is equated with idol worship already in the Alexandrian Christian tradition (see pp. 86–98 above). Likewise, the Medinan verse Q 22:30

<sup>25</sup> On the idolatrous nature of arrows see note 211 (Chapter 1) and note 174 (Chapter 2) above. An alternative reading would describe only the actual products, such as wine, sacrificial stones, and divining arrows, as *rijs*; the inclusion of the action, however, is suggested by the parallel formulation in Q 28:15. Here, a repentant Moses describes the *act* of his killing of an Egyptian equally as "from Satan's doing" (*min 'amali l-shayṭāni*). Note that the root 'm-l is equally well attested in ancient South Arabian epigraphy, where it broadly designates "actions"; see Copeland Biella, *Dictionary of Old South Arabic*, 371 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ml> (accessed 5 March 2021). On sacrificial stones see also notes 178 and 210 (Chapter 1) above.

exhorts the believers to eat only permitted livestock, and “avoid the *rijs* of idols” (*fa-jtanibū l-rijsa mina l-awthāni*). Moreover, according to some important qur’anic manuscripts, Q 8:11, to which we will return in detail below, speaks of God “removing Satan’s *rijs*” (*wa-yudhhiba ‘ankum rijsa l-shayṭāni*) from the believers. The link between idolatry and *rijs* is equally established in Q 7:71, which responds to the defence of idolatry of the people of ‘Ād as ancestrally justified by stating that “the *rijs* and wrath from your Lord has fallen on you” (*qad waqa’a ‘alaykum min rabbikum rijsun wa-ghaḍabun*). In this verse, *rijs* thus functions as an agent of evil that prevents the people of ‘Ād from accepting the admonition of Hūd, the prophet sent to them, thereby persisting in idolatry.<sup>26</sup>

There can thus be no doubt about the connection of *rijs* and the demonic, the agent of evil that is brought about by Satan. *Rijs*, in these verses, is inherently satanic, “of Satan’s doing” (*rijsun min ‘amali l-shayṭāni*), as Q 5:90 has it. At the same time, however, Q 7:71 also makes it obvious that *rijs* is administered by God, from whom it has fallen on the people of ‘Ād. The fact that God’s will may involve the works of Satan should not come as any surprise; it is rather consistent with the qur’anic view that God granted permission to Satan to mislead humans. Satan, in other words, does his part, yet it is ultimately God who places *rijs*—the propensity to sin—on humans, as we have already seen in Q 7:71. Q 7:61–65 demonstrates that Satan may try to mislead any human, whereas he has no authority over God’s servants, implying that God protects them from Satan.

Two further verses emphasize God’s administration of *rijs*. According to Q 10:100, “No soul may have faith except by God’s leave, and He lays *rijs* on those who do not apply reason (*‘alā lladhīna lā ya’qilūn*).” More explicitly yet, Q 6:125 states that “whomever God wants to guide (*fa-man yuridi llāhu an yahdiyahu*),

<sup>26</sup> Some scholars have understood Q 7:71 as suggesting of a fusion of the Qur’anic words *rijs* and *rijs*, a view already attested by Ibn Jinnī; see Jinnī, *al-Muḥtasab*, 275, to which Marijn van Putten has drawn my attention. As noted on pp. 290–91 above, however, a consistent reading of qur’anic root *r-j-z* as “punishment” is preferable. This is also the case regarding Q 7:71 where Witztum himself follows Paret and suggests that the juxtaposition of divine *rijs* and *ghaḍab*, “wrath,” reflects a conflation of the words *rijs* and *rijs*; see Witztum, “Entrails and Divine Wrath,” 461 note 36. One could even strengthen this reading by pointing out that the verb governing the use of *rijs* in Q 7:71, *waqa’a*, is used in the same *surah*, in Q 7:134, to describe the *rijs*, “punishment,” that befell the Egyptians as one of the plagues. Yet while these arguments may initially stand to reason, they cannot be decisive, since the Qur’an’s usage of the term *ghaḍab*, when used with reference to God, very often depicts the type of wrath that has not yet led to punishment; see the usage in Q 1:7, Q 2:90, Q 4:93, Q 48:6, Q 8:16, Q 16:106, Q 42:16, Q 58:14, and Q 60:13, but cf. the more ambiguous occurrences in Q 2:61, Q 3:112, Q 5:60, Q 7:152, and 154, and Q 20:81 and 86 concerning the Israelites, whose covenant determines a delay of punishment through destruction (and cf. Q 24:9). The juxtaposition of *ghaḍab* and *rijs* in Q 7:71 therefore reads as well when understanding the latter term to indicate that God, in his wrath, has merely placed *rijs* as a propensity to sin onto the people of ‘Ād; the very fact that they are alive indicates that punishment has not yet reached them. All manuscripts of Q 7:71 collected at the Corpus Coranicum website, moreover, clearly spell out *rijs* (see <https://corpuscoranicum.de/handschriften/index/sure/7/vers/71/handschrift/1245> accessed 11 March 2021)—in contradistinction to the situation in Q 8:11, to which we will presently turn. Regardless, the close connection, in the Qur’an, between any agent of evil—depicted by *rijs*—and the punishment for it—sometimes depicted by *rijs*—would explain the possible cross-contamination of both very similar sounding words.

He opens his breast to *islām*, and whomever He wants to lead astray (*wa-man yurid an yuḏillahu*), He makes his breast narrow and straitened as if he were climbing to a height. Thus does God lay *rijs* on those who do not have faith.” Both Q 10:100 and Q 6:125 are fully in line with the Qur’an’s consistent soteriology and depict the capacity for a human to believe in His revelation as ultimately given or withheld by God. Yet the human propensity to believe simultaneously occurs in accordance with a person’s *intellectual* predisposition, here once designated with the root *‘-q-l*, and once with the image of a person’s breast. Both verses thus describe the *linkage* between God withholding the capacity to believe, on the one hand, and the human’s own agency, on the other, in terms of *rijs*—as agent of evil.

*Rijs* thus leads people to sin, yet it also constitutes the result of sin. The Medinan passage Q 9:125 explicates this circularity in terms of the human heart: “as for those in whose heart is a sickness (*alladhina fi qulūbihim maraḏun*), it only adds *rijs* to their *rijs*, and they die while they are faithless.” If *rijs* engenders *rijs*, then a person’s propensity for doing evil only grows. Accordingly, Q 9:95 effectively portrays those denizens of Medina and those Bedouins who refused to fight in the path of God and his prophet, but took a false oath asserting the contrary, as *rijs*—the only passage that uses the term to describe humans in their entirety, and evidently a Medinan development of the term’s earlier, Meccan meaning. The Qur’an’s usage of the term *rijs* is thus very broad. It describes the Devil’s snares, such as wine and games, it describes the propensity to sin, or its results, and it can describe people depicted as sinful. What holds these usages together, however, is that the effect of *rijs* only takes effect when humans partake of it, as we have seen above. Either wrought by Satan or administered by God directly, *rijs* only becomes effective when causing a human’s intellectual faculty, his or her heart and breast, to lean towards sin. This tendency, in turn, will lead to the person’s utter destruction: he or she becomes an agent of evil.

With a clearer sense of the nature of *rijs*, we can turn to the most urgent object of the present inquiry, namely the qur’anic juxtaposition of *rijs* and purity that occurs in only one or two qur’anic verses. It is these occurrences that allow us to conceive of *rijs* not only as agent of evil but also as prohibited impurity. First, in the Medinan passage Q 33:33, the text addresses prophet’s wives as follows:

Stay (f. pl.) in your houses and do not display your finery of ignorance.

Maintain the prayer and pay the *zakāt*

and obey God and His Apostle.

Indeed God wants to remove all *rijs* from you (m. pl. *innamā yurīdu llāhu li-yudhhiba ‘ankumu l-rijsa*), O People of the Household,

and to purify you entirely (*wa-yuṭahhirakum taḥīran*).

This passage presupposes the same model of “collaboration” between God and the believers we have already seen above: God “wants to take *rijs* away from you” (f., pl., *yurīdu llāhu li-yudhhiba ‘ankumu l-rijsa*) and He wants to “purify you” (*wa-yuṭahhirakum taḥhīran*). Yet it is the believers—in this case the prophet’s wives—who must act piously and avoid transgression in the first place, namely by staying in their houses and not displaying themselves, by maintaining prayer and *zakāt*, and by obeying God and His messenger.<sup>27</sup> Here, *rijs* thus equally denotes any agent of evil that may previously have resided among the believers. The result of piety in this case, however, is purity, denoted by the root *ṭ-h-r* as noted above, since a person committed to good deeds will benefit from purification just as much as a person committed to sin will increase *rijs*. The passage thus allows us to conceive of *rijs* as prohibited impurity, a reading corroborated in one final occurrence of the term—which does require some philological groundwork.

The same juxtaposition between *rijs* and purity may equally be found in the Medinan passage Q 8:11. The text of ‘Aṣim as transmitted by Ḥafṣ, along with most qur’anic manuscripts, in the following passage, relates a battle scene in which the believers found new courage, addressing the believers as follows:<sup>28</sup>

When He covered you with secure drowsiness from Him (*al-nu’āsa amanatan minhu*),

and He sent down water from the sky to purify you with it (*wa-yunazzilu ‘alaykum mina l-samā’i mā’an li-yuṭahhirakum bihi*),

and to take away from you the *rijz* of Satan (*wa-yudhhiba ‘ankum rijza l-shayṭāni*),

and to fortify your hearts (*wa-li-yarbiṭa ‘alā qulūbikum*),

and to make the feet steady with it.

The passage evokes a scene in which the believers apparently took flight in battle. When God sent down heavenly water that purified the believers (cf. Q 25:8) from a substance or condition called *rijz*, thereby fortifying their hearts and steadying

<sup>27</sup> The shift from the second-person feminine to the second-person masculine in the verse likely describes a shift from the particular, the women in “the Household,” to the more general, that is, to all its members. On the disputed notion of the “people of the household,” see, for example, Moshé Sharon, “People of the House,” in: *Encyclopaedia of the Qur’an*, vol. 4, 43–4.

<sup>28</sup> The traditional spelling of Q 8:11, *rijz*, is preserved in the following manuscripts published by Corpus Coranicum: see <https://corpuscoranicum.de/handschriften/index/sure/8/vers/11> (accessed 11 March 2021): Baltimore, The Walters Art Museum: W.552; Berlin, Staatsbibliothek: Wetzstein II 1913 (Ahlwardt 305) and Wetzstein II 1956 (Ahlwardt 318); Cambridge, Cambridge University Library: Add. 1125; Istanbul, Topkapı Sarayı Müzesi: M 1 (as documented in the Gotthelf-Bergsträßer-Archiv); Meknes, private codex of ‘Abdarrahmān b. Zidān (equally documented in the Gotthelf-Bergsträßer-Archiv); Cairo, *al-Maktaba al-Markaziyya li-l-Makhtūṭāt al-Islāmiyya*: great Qur’an codex; London, British Library: Or. 2165; Paris, Bibliothèque nationale de France: Arabe 328 and 352 (h); Rampur Raza Library: Qur’anic codex No. 1; Sanaa, *Dār al-makhtūṭāt*: DAM 01-25.1 and DAM 01-29.1.

their feet, he apparently calmed them from fear: it is in this sense that we should understand the term “secure,” or perhaps “reassuring drowsiness” (cf. Q 3:154). This presents a philological puzzle. The term *rijz* manifestly denotes “punishment,” as noted above, and is thus used in all other qur’anic occurrences.<sup>29</sup> It is difficult, in my view, to conceive of the phrase *rijz l-shayṭān* as indicating a “punishment of Satan” that frightened the believers. To the best of my knowledge, nowhere does the Qur’an depict Satan as meting out this-worldly punishments.

Inversely, association of Satan and the demonic constitutes an essential aspect of the meaning of the term *rijs*, as illustrated above. Refusal to fight in the path of God and his messenger, of course, is a great sin in the Qur’an, and attributing the believers’ quavering in Q 8:11 to sin falls within the broader qur’anic paradigms.<sup>30</sup> As we have seen above, such a refusal leads the Qur’an elsewhere to depict those denizens of Medina and the Bedouins who refuse to fight as agents of evil themselves, calling them *rijs* (see Q 9:95). The term *rijz* in Q 8:11 therefore surprises, and one should take note that three Umayyad manuscripts that have preserved the passage here indeed depict God as taking away the *rijs al-shayṭān* from the believers, whereas another one shows a “correction” from an original *rijs* to *rijz*.<sup>31</sup> Significantly, the same variant is contained in the non-canonical reading traditions.<sup>32</sup> The verb governing the action in Q 8:11, moreover, God’s “taking away” *rijz*, is form IV *adhhaba* (as *yudhhiba*), the same one we just saw in Q 33:33, which depicts God as “taking away” the impurity, *rijs*, from the “People of the Household,” here equally concatenated with “purification” of “you,” using the same form *yutahhirakum*. It thus seems exceedingly likely that *rijs al-shayṭān*,

<sup>29</sup> See notes 15 and 26 above.

<sup>30</sup> See e.g. Q 9:38–57 and Sinai, *The Qur’an*, 188–96.

<sup>31</sup> The variant of Q 8:11 preserving *rijs* is attested in three manuscripts published by corpuscoranicum.de (see the previous note): the most important witness may be the late *hijāzi* (I) manuscript Marcel 9 (the *Codex Amrensis 1*, see folio 1v, line 7), held by the Russian National Library in Saint Petersburg; the page in question is published as facsimile with a transliteration by Éléonore Cellard, *Codex Amrensis 1* (Documenta Coranica 1; Leiden: Brill, 2018), 317–18; on the early and conservative nature of the manuscript see *ibid.*, 15–16 as well as Francois Déroche, *Qur’ān’s of the Umayyads: An Overview* (Brill: Leiden, 2014), 59–61. A second witness is a late *hijāzi* manuscript that verges towards the Kufic script, namely Arabe 330 (g) (see folio 59v line 9), held by the Bibliothèque nationale de France in Paris; available online at <https://gallica.bnf.fr/ark:/12148/btv1b8415208w/f126.item> (accessed 11 March 2021), and described by François Déroche, *Manuel de codicologie des manuscrits en écriture arabe, Deuxième Partie: Manuscrits Musulmans* (Paris: Bibliothèque Nationale, 1983), vol. I, 145–46 and in Déroche, *Qur’ān’s of the Umayyads*, 75–76. A third witness is the *kūfi* (B I a) mss Arabe 331 (see folio 15r line 8), equally held by the Bibliothèque nationale de France in Paris; available online at <https://gallica.bnf.fr/ark:/12148/btv1b84152099/f37.item> (accessed 11 March 2021), and described by Déroche, *Manuel de codicologie des manuscrits en écriture arabe*, vol. 1, 67, see also Déroche, *Qur’ān’s of the Umayyads*, 63. It is worth noting that the manuscripts Marcel 9 as well as Arabe 330 and 331 all come from the mosque of ‘Amr ibn al-‘Āṣ in Fuṣṭāt, Egypt, as Hythem Sidky notes in Sidky, “On the Regionality of Qur’anic Codices,” *Journal of the International Qur’anic Studies Association* 5 (2020): 133–210. In private communication Sidky has equally shared with me the case of mss MIA 24145, held at the Museum Islamic Art in Egypt, where an original spelling *rijs* is “corrected” to *rijz* in line with the majority reading.

<sup>32</sup> See the illuminating discussion in Ibn Jinnī, who remarks that Abū ‘Āliyah Rufay’ b. Mihrān al-Riyāhī, here reads “*rijsa l-shayṭāni* with the letter *sīn*,” which Ibn Jinnī then associates with pork; see Jinnī, *al-Muḥtasab*, 275, to which Marijn van Putten has drawn my attention; see also Sinai, *Key Terms of the Qur’an*, s.v. *rijz/rujz*.



“the filth of Satan” or the “satanic agent of evil,” would be what the prophet had uttered here.

It is very likely that the Uthmanic prototype had the spelling *rijz*. The philological reasons for the reading of *rijs* instead of *rijz* in Q 8:11 prove nothing but the fact that the latter reading constitutes the *lectio difficilior* and that the former one therefore may well have been a “correction” undertaken by a few copyists. Regardless, I hold that the evidence overwhelmingly suggests that the pre-Uthmanic prototype of Q 8:11 read *rijs* instead of *rijz*, which would allow us to include it in the present discussion of the notion of prohibited impurity in the Qur’an. If so, Q 8:11 constitutes the second proof-text allowing us to construe *rijs* as in contrast to “purity,” and thereby as a form of prohibited impurity of satanic origin.

This is not the place to discuss the Qur’an’s theodicy, yet we should note that God’s interference in a human’s decision to obey or disobey God’s command, already sketched by Lowry with respect to purity, is widespread in the biblical tradition. Many of the occurrences involve a reference to the biblical notion that God “hardened the heart” of an individual or of a group because of a sin already committed, which then leads to the committal of further sin, Pharaoh constituting the most famous example.<sup>33</sup> The Qur’an, in the Medinan passage Q 9:125 already cited above, uses the image of the diseased heart in order to explicate the circularity of sin: “as for those in whose heart is a sickness (*alladhīna fī qulūbihim maraḍun*), it only adds *rijs* to their *rijs*, and they die while they are faithless.”<sup>34</sup> This line of reasoning concurs with God’s actions as described in the Bible and with much of the Jewish and Christian tradition, yet resembles perhaps most closely the ways in which the Clementine Homilies describe the effects of sinning on a human being: here, we have seen that one’s sin leads to the person’s infestation by demons, urging him or her on to continue in their action (see pp. 95–8, Chapter 2 above).

At this point, it may be useful to contrast the Qur’an’s view with the way in which the rabbis equally see the “evil inclination” both as a result of demonic forces and as innate to *all* human beings, who perpetually must wage war against it by repentance and good deeds. As Ishay Rosen-Zvi has illustrated, the rabbinic notion, in turn, had developed in dialogue with the Alexandrian patristic tradition discussed above.<sup>35</sup> When the Qur’an, by contrast, describes *God* as causing

<sup>33</sup> For the biblical notion see Jonathan Grossman, “The Structural Paradigm of the Ten Plagues: Narrative and the Hardening of Pharaoh’s Heart,” *Vetus Testamentum* 64 (2014): 588–610; for late antique interpretations of the paradigm see e.g. Claire Mathews McGinnis, “The Hardening of Pharaoh’s Heart in Christian and Jewish Interpretation,” *Journal of Theological Interpretation* 6 (2012): 43–64.

<sup>34</sup> While expressions relating to the heart abound in Jewish and Christian literature, the image of the heart’s “sickness” is much rarer; see e.g. Jer 8:18, as discussed in *Eichah Rabbah*, Petichta, 32. The Qur’anic root used to describe the heart’s disease, *m-r-ḍ*, is well attested in ancient South Arabian epigraphy, yet not with respect to the heart; see Copeland Biella, *Dictionary of Old South Arabic*, 284; for further occurrences of the root *m-r-ḍ* see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=mrḍ> (accessed 5 March 2021), and see also Sinai, *Key Terms of the Qur’an*, s.v. *qasā*.

<sup>35</sup> See Rosen-Zvi, *Demonic Desires*, esp. 36–43. As Isaac Oliver has pointed out to me in private communication, we have at least one example of God creating humanity with an evil heart in a Jewish



each human either to succumb to the demonic or to open his or her heart and breast to faith and virtue, we can suggest that the text here once again very likely stands in a particular biblical tradition, yet shares more with the Christian than with the rabbinic approach. Key differences—for example, regarding baptism—abound, but it is also obvious that only the Christian tradition, in line with the Qur'an, posits clear rules governing the possibility of, and the need for, removing the demonic from the human altogether. The diverging role of the demonic in the rabbinic tradition, in other words, seems to indicate that such a full removal is neither possible nor necessary. These questions, however, would need to be investigated in much greater detail than here possible.

The term *rijs* may thus designate the most egregious cases of prohibited impurity, yet it would seem unwise to exclude *any* aspect of sin from threatening a believer's purity.<sup>36</sup> Rather, consideration of the entirety of the Qur'an's notions of sin and impurity strongly suggests that, unless one repents according to the severity of one's error, the breaking of *any* aspect of what God *prohibits*—in turn usually expressed through the verbs *ḥarrama* or *nahā/yanhā*—can cause prohibited impurity, even where the Qur'an's vocabulary does not explicate this fact.<sup>37</sup> A case in point may be the portrayal of Satan as tempting humans: sin as such, according to verses such as Q 2:169, 268 and 275, Q 4:118–19, Q 7:27 and 200, or Q 24:21, is satanic, and therefore causes prohibited impurity. Yet if, tendentially, any transgression of the divine word causes prohibited impurity, then the term *rijs* may simply be one of degree: it is, perhaps, some of the most egregious of the sins that are thus designated, akin to the Hebrew Bible's term *tô'ēbāh*, "abomination."<sup>38</sup> The consumption of carrion, spilt blood, and the flesh of swine in Q 6:145 (see

text, namely in 4 Ezra; see Jason M. Zurawski, "Rethinking the Divide between 4 Ezra and 2 Baruch: Getting to the (Evil) Heart of the Matter," in *Wisdom Poured Out Like Water: Studies on Jewish and Christian Antiquity in Honor of Gabriele Boccaccini's 60th Birthday*, ed. J. Harold Ellens et al. (Berlin: De Gruyter, 2018), 177–92.

<sup>36</sup> There are a number of other qur'anic roots denoting sinful behaviour that may equally connote an aspect of defilement, such as *kh-b-th*, *s-w-*, *sh-r-r*, *gh-w-y*, and *n-k-r*, a broader lexical study would be needed to establish these terms' respective qur'anic and post-qur'anic meanings; for a first survey see Izutsu, *Ethico-Religious Concepts in the Qur'an*, 203–49.

<sup>37</sup> Wellhausen has suggested that the distinction between "permitted" and "prohibited" actions was more central than that between "clean" and "unclean"; see Wellhausen, *Reste arabischen Heidentums*, 168. In order to assess this claim and its explanatory potential for the qur'anic vocabulary, the suggested additional distinction between prohibited and regulated impurity would seem obligatory and a diachronic study of these terms would be necessary; Rivlin, *Gesetz im Koran*, 83–90, offers a sound basis for such an endeavour.

<sup>38</sup> On the biblical term *tô'ēbāh* see note 29 (Chapter 1) above; on the distinction between major sins "major occurrences of sin" (*kabā'ira l-ithm*) and minor ones (*al-lamam*) in Q 53:35 see already note 124 (Chapter 2) above. Note that the root *l-m-m* may well be attested in ancient South Arabian epigraphy, and while there is some doubt expressed in some of the publications we should note that Jamme reads the verb as "to rectify, to consolidate what was disordered, or unsettled"; see Albert Jamme, "Inscriptions Related to the House Yafash in Timna," in *Archaeological Discoveries in South Arabia*, ed. Richard LeBaron Bowen and Frank. P. Albright (Baltimore: The Johns Hopkins University Press, 1958), 184, note 21, but cf. <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=lmm> (accessed 11 March 2021).

pp. 111–15) thus *all* are portrayed as causing *rijs*, prohibited impurity, in the same way that wine, gambling, idols, and divining arrows do in Q 5:90. There is no indication anywhere in the Qur'an that prohibited impurity in the Qur'an can be transmitted. Would a pig or a sheep dying on its own in a holy precinct, or a person entering said precinct with garments soiled by blood or semen, in any way pollute the *space*? I would hold not, just as I found it unlikely—though not impossible—that the washing of the garment, rather than the avoidance of sin, is decreed on the prophet in Q 74:1–5. We can only speculate about the respective attitudes among the nascent Islamic community, yet we can state that the qur'anic text does not seem to refer to any aspect of God's creation as intrinsically impure for its community. The Qur'an keeps its focus on its instructions that the believers must avoid any *act* that would cause prohibited impurity.

Prohibited impurity is thus caused by an inappropriate action or by the failure to act appropriately. The Qur'an, accordingly, twice uses the root *j-n-b* in form VIII as designating “avoidance,” in the sense of distancing oneself from Satan's *rijs* (Q 5:90 and in Q 22:30). While the same Arabic root *j-n-b* is used elsewhere in a nominal form equally to designate regulated impurity (see Q 4:43 and Q 5:6), its primary meaning in forms I and VIII is the “avoidance” of major sins, especially that of idolatry and sexual transgressions (see e.g. Q 4:31, Q 14:35, Q 16:36, Q 39:17, Q 42:37, and Q 53:32; note also the “avoidance” of hellfire in Q 92:17 and the “avoidance” of the Qur'an in Q 87:11).

Having established a better sense of the qur'anic notions of prohibited impurity and its absence, we can now turn to the notion of regulated sexual impurity. Chapter 2 has addressed the affinity of the qur'anic requirements for washing after sexual intercourse or defecation and before prayer. Relying on Dost's recent study of the qur'anic vocabulary in light of Sabean epigraphy, we may highlight the affinity of the qur'anic rulings both with biblical and especially Christian practices, on the one hand, and with ancient South Arabian customs, on the other (see pp. 103–7 above). The Qur'an, we will see, depicts prohibited and regulated impurity in distinct terms, yet fuses the concept of their absence, a state to which it simply refers as “purity.”

This sort of language does not, however, imply any difficulty in distinguishing between prohibited and regulated impurity in the Qur'an. The absence of clear treatments of the subject matter, however, is akin to the scholarly failure fully to comprehend the respective purity systems governing the Hebrew Bible and the New Testament, a problem which has been partially rectified only in the past two decades. In accordance with these findings, we will see that the Qur'an's triangular model—juxtaposing a differentiated type of prohibited and regulated impurity with only one overarching concept of purity—is most similar to Christian notions of purity in line with the expansive attitude towards the Decree of the Apostles. The Qur'an's stance is quite distinct from those rabbis and Church Fathers who do not consider gentiles as susceptible to regulated impurity at all.

As we have already seen, the first of the two roots we have encountered that describe the absence of prohibited impurity is *t-h-r*. The form II verb of this root denotes “to purify” and indicates the absence of both prohibited and regulated impurity resulting from the bodily functions. Absence of regulated impurity, by contrast, is not described by the second aforementioned root *z-k-w/y*, which designates purification from prohibited impurity alone. As in the case of prohibited impurity, defining impurity first and purity as the absence thereof may prove most efficient also when approaching regulated impurity. This type of impurity, in the Qur’an, is caused by the bodily functions, mainly sexual intercourse, a woman’s menses, defecation, and plausibly urination. The previous chapter briefly discussed the state of regulated impurity designated as *junub* (Q 4:43 and Q 5:6, on which see pp. 213–18 above). Whereas the term’s root *j-n-b*, designating “to keep away from” or “to avoid,” is the same that designates the believers’ “keeping away” from prohibited impurity as well (see above and cf. Q 28:11), the usages of the specific term *junub* in both its occurrences strongly suggest that we are here dealing with a technical term indicating the state of regulated impurity alone. In both passages, this type of impurity must be removed before prayer, and the way it is contracted includes, but is not necessarily restricted to, legitimate sexual intercourse and relieving oneself.<sup>39</sup> In light of the close affinity of Qur’anic with both ancient South Arabian and biblical notions of regulated sexual impurity, it is important to note that the Qur’anic term *junub* has no obvious equivalent in either corpus.<sup>40</sup>

Such regulated impurity is then removed by washing, preferably with water, otherwise with “clean” sand (see p. 218 above). It is evident that Q 5:6 constitutes a modification of Q 4:43; the latter passage allows for but does not require a differentiation between *junub* impurity and, plausibly, the impurity caused by defecation.<sup>41</sup> Moreover, Q 5:6 demands washing before prayer and specifies that this must occur through washing of “your faces, your hands up to the elbows,” and the wiping of “a part of your heads” as well as the wiping or washing of “your feet, up to the ankles.” The Qur’an, therefore, does not associate the state of *junub* with

<sup>39</sup> Freidenreich rightly notes that the command “to avoid,” *ijtanaba*, the *rijs* of the Devil, in Q 5:90, “links discourse about *rijs* to discourse about the *junub*”; see Freidenreich, “Holiness and Impurity,” 14. Yet this etymological “linkage” should only be considered in light of the differentiation between prohibited and regulated impurity here suggested.

<sup>40</sup> On the root *j-n-b* as designating “avoidance” and “keeping away from,” see Ambros, *A Concise Dictionary of Qur’anic Arabic*, 62; the meaning of the root in Qur’anic is thus quite close to its cognate in biblical Hebrew and Aramaic; see e.g. 2 Sam 19:4. While the root is equally attested in ancient South Arabian epigraphy, its meaning here is most likely “to accompany” or “to battle”; see Copeland Biella, *Dictionary of Old South Arabic*, 73 as well as <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=gnb>.

<sup>41</sup> The traditional Islamic understanding of the passage as equally regulating the “approach” to mosques, as well as the differentiation between impurity through sexual intercourse and relieving oneself, along with the diverging washing rituals, is compatible with but cannot be unambiguously derived from the two passages at hand and will therefore be bracketed off for the current discussion; see note 1 above for scholarship on the matter.

any type of sin. Inversely, however, verse Q 5:6 juxtaposes the state of *junub* with “purity,” in the same way in which the Qur’an pervasively juxtaposes prohibited impurity, on the one hand, with the absence therefrom, on the other. The verse designates purity from *junub* by using the root *ṭ-h-r*, and we learn that God “wants to purify” (*yurīdu li-yuṭahhirakum*) the believers also from *junub* impurity, just as we learned above, in Q 33:33, that God “wants to take away from you” (*yurīdu llāhu li-yudhhiba ‘ankum*) prohibited *rijs* impurity from which He wants to “purify you entirely” (*wa-yuṭahhirakum taṭhīran*). Hence, while the Qur’an differentiates between prohibited and regulated *impurity*, its differentiation between the two corresponding types of *purity* from both is much less pronounced.

In addition to sexual intercourse and relieving oneself, regulated impurity is equally caused by a bodily function, namely by a woman’s menses (*al-mahīd*, Q 2:222, see also Q 65:4 and, again, pp. 213–18 above), during which sexual intercourse is prohibited. While the transgression of this prohibition would, in turn, very likely result in *prohibited* impurity caused by sin, the Qur’an, again, does not state that the regulated impurity caused by the menses itself would in any way relate to prohibited impurity. When it comes to the *absence* of regulated impurity caused by the menses, however, the Qur’an again describes the resulting purity in terms that equally evoke the absence of prohibited impurity, especially in three ways:

- Most significantly, Q 2:222 emphasizes that “God loves those who repent and he loves those who purify” (*allāha yuḥibbu l-tawwābīna wa-yuḥibbu l-mutaṭahhirīn*), associating “repentance” from sin and from menstrual regulated impurity with each other at least on a symbolical level.
- Moreover, as in the case of purity from *junub*, the same verse Q 2:222 three times uses the root *ṭ-h-r* that elsewhere describes the absence of prohibited impurity, first in declaring God’s love for those who purify and then again when referring to women at the end of their menses (“until they are pure,” *ḥattā yaṭhurna*; “once they are purified,” *fa-idhā taṭahharna*).
- It should also be noted that Q 2:222 uses the (not uncommon) root <sup>ʿ</sup>*dh-y* in order to describe the menses as a “suffering” (*adhā*); in one passage, the same root designates the “suffering” to be inflicted upon those guilty of a sexual transgression (see Q 4:16, on which see pp. 192–202 above). It is not evident just how the menses would constitute a “suffering”; in the Qur’an, the root <sup>ʿ</sup>*dh-y* covers a range of meanings including verbal injury (see e.g. Q 3:195, Q 6:34, Q 7:129, and Q 9:6), suffering from disease and inclement weather (Q 2:196 and Q 4:102), and, depending on one’s reading of Q 4:16, physical suffering (yet note the juxtaposition of the roots <sup>ʿ</sup>*dh-y* and *ḍ-r-r*, denoting lasting harm, in Q 3:111). “Disease” or “natural suffering” is perhaps the most obvious reading when it comes to the menses, especially since such an understanding is shared by Gregory the Great (see p. 170 above). The broader context of Q 2:222, along with the epigraphic record, moreover,

may well indicate that the Qur'an shares the common late antique concerns for the health of the offspring conceived during the menses we have encountered above (see p. 160). The subsequent verse, Q 2:223, namely, twice describes wives as the "tilth" (*ḥarth*) of their husbands. A private Sabean dedicatory inscription to the god Ta'lab, conversely, uses the same word *adhā* when petitioning the deity to protect "the fine crops from their fields (*mshmyhmw*)... against any cold season, sufferings (*w'dhym*), sorcery and from every insect pest." If wives, in the Qur'an, are thus metaphorically conceived of in agricultural terms as a "tilth," then the "suffering" caused by the menses may equally need to be understood in agricultural terms as "suffering" of the crops that the husband is about to sow, that is to the children.<sup>42</sup>

The "suffering" caused by the menses, hence, may equally include medical considerations that reach further than either prohibited or regulated impurity, in keeping with Jewish and Christian medical considerations. Regardless of this delicate question, it would thus seem that the Qur'an's differentiation between prohibited and regulated impurity caused by the bodily functions is clear-cut at all times, yet it equally emerges that God *simultaneously* demands purity from both types of possible defilement. Its distinct usage of the roots *z-k-w/y*, denoting the absence of prohibited impurity, and of the root *ṭ-h-r*, denoting the absence of either prohibited or regulated impurity, shows a conceptual differentiation; the same holds true for the usage of the root *j-n-b*, on the one hand, denoting distance from prohibited impurity, and, on the other hand, the specific term *junub*, denoting regulated impurity alone. The believers, at least in the state of prayer, must safeguard from both prohibited and regulated impurity with equal rigour, finding themselves operating within two distinct yet closely related symbolical discourses that reinforce each other.

The Qur'an's concept of "holiness" or "sanctity"—two terms I will use interchangeably—parallels its purity discourse revolving around sin and the bodily functions, and therefore needs to be addressed at this point. I have sought to illustrate that, on the one hand, both in the Hebrew Bible and in the Qur'an, purity is a precondition of sanctity that is conceptually distinguishable from it. The Qur'anic

<sup>42</sup> The dedicatory inscription has been published and translated by Mohammad Maraqtan, "Two New Sabaic Inscriptions: The Construction of a Building and the Offering of a Right Hand," in *Arabian and Islamic Studies: A Collection of Papers in Honour of Mikhail Borisovich Piotrovsky on the Occasion of His 70th Birthday*, ed. Alexander V. Sedov (Moscow: State Museum of Oriental Studies/Institute of Oriental Studies, 2014), 149–50; Maraqtan translates "sufferings" as "damage." See also see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=2dy> (accessed 5 March 2021). Comparable beliefs that conception during the menses may harm offspring seem equally attested in Arabic poetry as briefly argued by Rainer Nabelek, *Sexualität und Sexualhygiene im Islam* (Dr sc. med. dissertation, Humboldt University, Berlin, 1990), 147–48 and 233–34. My reading here is the result of discussions with Karen Bauer and Ana Davitashvili, and owes much to the latter's insights as expressed in Davitashvili, *Die ḥūr 'in im Koran und in der frühislamischen Exegese* (PhD diss., University of Bamberg, 2021), 179 n. 636.

notion of sanctity, on the other hand, is much more closely intertwined with established Arabian practices, and any study solely focusing on the concept's biblical aspects is fundamentally misguided.<sup>43</sup> One reason for this discrepancy in continuity is readily apparent. Rabbinic Judaism and especially the broad range of Christian traditions offer a robust conduit for practices and discourses about purity that connects the Qur'an to its biblical foundation throughout the late antique period. When it comes to the concept of holiness that governs the Hebrew Bible, however, we are dealing with a far more variegated transmission history, and thereby a far more diffuse point of departure for the nascent Islamic community.

The definition of the Qur'anic concept of holiness must therefore clearly be delimited from the biblical notion of a holiness that "sets apart" either a nation or the Temple. The Qur'an preserves the sense of Israel's election, yet it does not conceive of any nation as holy per se. Accordingly, the Qur'an only rarely uses the root *q-d-s*, a close Arabic cognate to the Hebrew and Aramaic root *q-d-sh*: in the Qur'an, the root appears exclusively in contexts with close affinity to the Israelite tradition, once with reference to God, and a few more times to describe the Holy Spirit and, importantly, to denote the Holiness of the Land of Israel and of the valley of Tuwā.<sup>44</sup> Instead, the Qur'an, when depicting sanctity, mainly employs the root *ḥ-r-m*, which can denote either a general divine prohibition, as we have seen above, or a set of prohibitions pertaining to a sacred place, time, or state. Both the roots *q-d-s* and *ḥ-r-m* are amply attested in ancient South Arabian epigraphy, and in this case—in contrast to the hybridization of biblical and Arabian notions in the case of purity—the Qur'an's choice of vocabulary points to the near exclusively traditional Arabian nature of the Qur'an's notion of sanctity that will emerge in the following. Depending on the context, I translate the root *ḥ-r-m* thus conventionally either as indicating the "forbidden" or as indicating the "sacred" that implies a set of prohibitions, depending on the context.<sup>45</sup> After a

<sup>43</sup> On biblical notions of holiness see e.g. Jacob Milgrom, *Leviticus 1–16: A New Translation with Introduction and Commentary* (New York: Doubleday, 1991); on its ongoing relevance in later periods see e.g. Martha Himmelfarb, *A Kingdom of Priests: Ancestry and Merit in Ancient Judaism* (Philadelphia: University of Pennsylvania Press, 2006), esp. 85–114 and Daniel Weiss, "Christians as Levites: Rethinking Early Christian Attitudes toward War and Bloodshed via Origen, Tertullian, and Augustine," *Harvard Theological Review* 112 (2019): 491–516.

<sup>44</sup> On the Israelite's election see note 75 below. On God's holiness in Q 2:30 see below; the valley of Tuwā, visited by Moses, is designated as "holy" in Q 20:12 and in Q 79:15–18, and the Land of Israel is so declared in Q 5:21–26. On the epigraphic attestation of the root *q-d-s* in ancient South Arabian epigraphy, mainly in a Christian context, see Copeland Biella, *Dictionary of Old South Arabic*, 447; for further occurrences see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=qds> (accessed 5 March 2021). The limited continuity of biblical and Qur'anic notions of holiness has recently been touched upon by Marc Durie in his *The Qur'an and Its Biblical Reflexes*, 180–82; see also Sinai, *Key Terms of the Qur'an*, s.v. *qaddasa*.

<sup>45</sup> The root *ḥ-r-m* as designating "the sacred" is widely attested across the pre-Islamic Arabic Peninsula; see e.g. John F. Healey, "Fines and Curses: Law and Religion among the Nabataeans and Their Neighbours," in *Law and Religion in the Eastern Mediterranean: From Antiquity to Early Islam*, ed. Anselm C. Hagedorn and Reinhard G. Kratz (Oxford: Oxford University Press, 2013), 174; Sultan



very brief portrayal of the Qur'an's notion of holiness, we will proceed rudimentarily to clarify the differences between biblical, Jewish, and Christian notions of sanctity, on the one hand, and the qur'anic one, on the other. The question how far the anthropological implications of the Western terms "holy" and "sanctified" do justice to the qur'anic concepts at all is a matter I will leave for others to explore.

In brief, the Qur'an offers three intertwined sets of regulations describing a believer's comportment in (or near) *al-masjid al-ḥarām*, the "Holy Mosque," during "the Holy Month," *al-shahr al-ḥarām*, and when he finds himself on his way as a pilgrim and has to assume a state of "pilgrim-sanctity" called *ḥurum* (in the plural adjective form in which it exclusively appears).<sup>46</sup> As we have already seen in Chapters 2 (see pp. 120–22) above, the state of pilgrim sanctity shows some conceptual and verbal moments of affinity with the qur'anic notion of purity. Whereas additional comparative studies are necessary, the following considerations are solely meant to point out that the Qur'an's purity system as a whole—including both prohibited and regulated impurity—has far more affinity with biblical precedent than with its respective system of sanctity—despite modest aspects of a biblicization that we find in the system of sanctity as well.<sup>47</sup>

In addition to a number of passages in other surahs, the qur'anic legislation regarding sanctity is laid out jointly in a long passage (including several digressions) in *Sūrat al-Baqara* Q 2:190–218, with significant additions in *Sūrat al-Ḥajj* Q 22:26–37. The main prohibition connected to the Sacred Mosque is that of

Maani and Mahdi Alzoubi, "Thamudic Inscriptions from Wādī Samarmada," *Arabica* 61 (2013): 7–8; Harry Munt, *The Holy City of Medina: Sacred Space in Early Islamic Arabia* (Cambridge: Cambridge University Press, 2014), 16–41; and see note 48 below. For a discussion of the term in the Qur'an see also Izutsu, *Ethico-Religious Concepts in the Qur'an*, 237–40; for the South Arabian epigraphy see Copeland Biella, *Dictionary of Old South Arabic*, 189 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ḥrm> (accessed 5 March 2021), see also Sinai, *Key Terms of the Qur'an*, s.v. *ḥarrama*. The Qur'an's usage of the root is very distinct from the cognate biblical word *herem*, which equally designates the state of "prohibition" of a person, a group, or objects and places, yet often designates a divine ban to interact with the prohibition's object, often resulting in the command to kill humans or destroy property; see e.g. Arie Versluis, "Devotion and/or Destruction? The Meaning and Function of חרם in the Old Testament," *Zeitschrift für die Alttestamentliche Wissenschaft* 128 (2016): 233–46. The respective rabbinic word *herem*, on the one hand, equally designates an excommunication or the setting aside for destruction, yet, on the other hand, can also designate the setting aside for priests or the Temple, thus standing closer to the qur'anic usage without offering much help for the present discussion; see e.g. Ishay Rosen-Zvi, "Rereading 'herem': Destruction of Idolatry in Tannaitic Literature," in *The Gift of the Land and the Fate of the Canaanites in Jewish Thought*, ed. Katell Berthelot, Joseph E. David, and Marc Hirshman (New York: Oxford University Press, 2014), 50–65.

<sup>46</sup> The qur'anic laws for the pilgrimage are addressed mainly to a male audience, but do not in any general way exclude women, and were never thus understood; see e.g. Asma Sayeed, "Women and the Hajj" in *The Hajj: Pilgrimage in Islam*, ed. Eric Tagliacozzo and Shawkat M. Toorawa (Cambridge: Cambridge University Press, 2016), 65–86.

<sup>47</sup> The literature on the central Islamic ritual of the pilgrimage is vast; see e.g. note 200 (Chapter 1) above. Note that the specifications pertaining both to sanctity and to regulated impurity emerge in the Medinan surahs; a chronological inquiry would clearly lend more granularity to the following rudimentary remarks.



“fighting” (*qātala*) or “killing” (*qatala*) in its environs, unless in retribution for attacks in this area (Q 2:191; for barring access to the sacred mosque see Q 2:217, Q 5:2, Q 8:34, and Q 22:25; the unbelievers, in turn, are denied access in Q 9:28 and Q 48:25–27). Likewise, the main prohibition connected to the Sacred Months is that of fighting, unless in retribution for attacks or from expulsion from the Sacred Mosque (Q 2: 217, see also Q 9:5 and 36), within due restraint (Q 5:2). The Sacred Months are often presented jointly with references to Ramadan and to the pilgrimage(s), none of which need to be treated here in any detail. Suffice it to say that some of the Sacred Months are undoubtedly connected to rituals of pilgrimage, among them those associated with the state of pilgrim-sanctity. During the pilgrimage to the Sacred Mosque, one must abstain from shaving (*wa-lā taḥliqū ruʿūsakum*), from sexual intercourse, from transgressions, and from disputes (*fa-lā rafatha wa-lā fusūqa wa-lā jidāla*, Q 2:196–97), and one must abstain from “hunting” (*iṣṭāda*, Q 5:1–2) or “killing game” (*lā taqtulū l-ṣayda*, Q 5:95); “the game of the sea” and seafood in general, by contrast, are allowed in this period (Q 5:96). In addition to the killing of game, killing during warfare or for general retributory purposes is equally prohibited for the pilgrim in as far as the event takes place during the sacred month(s), with the exceptions specified above (allowing retaliatory warfare and retribution for killings incurred during this period). Many of the regulations are equally attested in ancient South Arabian pilgrimages, including sacred months set aside for pilgrimage that involves sacrifice as well as restrictions on hunting, on sexual intercourse, on fighting, and disputes.<sup>48</sup>

The qurʾanic concept of sanctity is thus patently distinct from its system of purity, yet the two concepts also show some affinity. The absence of regulated impurity is obviously implied in many of the rituals in the Sanctuary, yet we should note that as a matter of language, the Qurʾan does not, in general, emphasize the need for *purity* in relation to the set of observations regarding the Sacred Mosque, the Sacred Months, and the state of pilgrimage. In the use of the root *ḥ-r-m* to designate a sacred precinct, period, or state of a believer, however, the qurʾanic vocabulary does present itself again as commanding a broad semantic field. The same root *ḥ-r-m* can equally designate a specific prohibition whose transgression would result in prohibited impurity, as we have seen above. The duality of the root, I would hold again, does not cause any confusion for the actual practice, since its meaning is at all times governed by context, in a way that allows

<sup>48</sup> The Qurʾan’s instructions for the pilgrimage, including the use of some vocabulary, is broadly paralleled in ancient South and North Arabian epigraphy, as we have seen in notes 200 (Chapter 1) and 177 (Chapter 2) above; see also note 57 below. As Suleyman Dost has shared with me in private communication, the parallels between the Qurʾan and the epigraphy may be most broadly attested in the case of the extensive rules governing the pilgrimage to Itwat (today Jabal Riyām, north of Sanaʾa), a text discussed by Mahmud al-Ghul and A. F. L. Beeston, “The Pilgrimage at Itwat,” *Proceedings of the Seminar for Arabian Studies* 1984 (14): 33–38, published at [http://dasi.cnr.it/index.php?id=dasi\\_prj\\_epi&prjId=1&navId=211,279,720&recId=7497&vM=yes](http://dasi.cnr.it/index.php?id=dasi_prj_epi&prjId=1&navId=211,279,720&recId=7497&vM=yes) (accessed 3 September 2021). On abstinence from sexual intercourse during the Hajj in classical Islam see also Gribetz, *Strange Bedfellows*.

one generally to distinguish between a general prohibition and the prohibitions particular to the sacred. On the most basic level, it can moreover be assumed that the violation of commandments pertaining to holiness would also constitute a case of prohibited impurity (as we have seen in the Bible), yet not necessarily vice versa. Yet beyond this putative case there are, again, three concrete ways in which we can surmise a clear-cut differentiation between sanctity, on the one hand, and the avoidance of both prohibited and regulated impurity, on the other—even when the infraction of the former may seem to have implications for the latter.

- First, Abraham “purified” (*tahhara*) the sanctuary, according to Q 22:26. The Qur’an here likely implies that Abraham’s actions pertain to the prohibited impurity caused by local practices of associating God with any alleged partners, as I have argued above (see also Q 9:108 and the linkage of *shirk* and impurity in esp. Q 9:28). God’s house, as a sacred shrine, thus demands purity from both prohibited impurity and, along with any house of prayer, from regulated impurity, as we have seen above. It would thus seem that the biblicization of the Sacred Mosque, in which the Qur’an participates by associating—plausibly based on Arabian tradition—first with Abraham and then also with Ishmael, *does* combine purity language with the demands of sacredness.<sup>49</sup> Yet the two notions remain separable concepts: the Holy Sanctuary should be both holy and pure, in the sense that neither prohibited nor regulated impurity should be allowed within it. Yet the place’s *sanctity* is nowhere portrayed as in any way contingent on any form of *purity* or vice versa.
- Likewise, the prohibition shedding any blood during the pilgrimage—by killing humans or by killing game—would manifestly jeopardize a person’s pilgrim sanctity and thereby lead to prohibited impurity. Elsewhere, the unrighteous spilling of any blood is construed in stark contrast to the angels’ sanctification of God: the angels, after all, contrast their own “sanctification” of God (*wa-naḥnu . . . nuqaddisu laka*) to the “corruption” in the land and the “bloodshed” to be caused by Adam’s offspring (*a-taj’alu fihā man yufsidu fihā wa-yasfiku l-dimā’a*, Q 2:30). Yet the incompatibility of holiness and prohibited impurity again does not imply the fusion of the two notions. Likewise, in contrast to the rabbinic notion that contact with the improper slaughter of an animal, or contact with corpse-blood, may cause regulated impurity for a Jew, the Qur’an does not indicate that such concerns govern its respective ruling for the believers.<sup>50</sup> As in the case of an animal mangled

<sup>49</sup> On the purity of mosques and their users see notes 5 and 41 above. On the Qur’an’s association of the Sacred Mosque with both Abraham and Ishmael see e.g. Joseph Witztum, “The Foundations of the House (Q 2: 127),” *Bulletin of the School of Oriental and African Studies* 72 (2009): 25–40.

<sup>50</sup> See e.g. Mishna *Chulin* 6:2 and *Ohalot* 2:2; see also Vered Noam, “Corpse-Blood Impurity: A Lost Biblical Reading?,” *Journal of Biblical Literature* 128 (2009): 243–51.

by a beast of prey in Q 5:3, there is no indication, in the Qur'an, that spilling the blood of any being would lead to *regulated* impurity, as it can do in the Hebrew Bible. Rather, the specific qur'anic prohibition of killing beast or man while in the state of sanctity focuses on the sacredness of time and place—prohibited impurity would only be a result of transgression, and regulated impurity is not a relevant concept here.

- Not only the ending of lives, but also engendering offspring is prohibited during the pilgrimage. Abstinence from sexual intercourse in the state of pilgrim-sanctity could again be argued to constitute a means of obviating regulated sexual impurity, pointing to a conceivable point of contact between sanctity and purity (even if this is not the case regarding those who relieve themselves). The Israelites, to be sure, had to abstain from intercourse during their pilgrimages in order to avoid defiling the Temple by contracting regulated impurity.<sup>51</sup> Furthermore, if we understand the prohibition of sexual intercourse during the pilgrimage alongside the parallel prohibitions to have intercourse during the daylight hours of Ramadan or while one secludes oneself “in devotion in mosques” (*wa-antum 'ākifūna fī l-masājidi*, Q 2:187), we can see the Qur'an's tendency to separate the sacred from sexual activity more broadly. (It does not mention the case of a woman entering her menstrual cycle before or during the pilgrimage.) Yet again, despite the pleasing biblical parallel, the fact that sexual activity may impinge on sanctity does not allow us to deduce that the Qur'an's primary focus here would be on the avoidance of regulated impurity within a sacred space, which it assumes anyhow. Rather, the fact that intercourse is prohibited during the entirety of the Hajj strongly suggests that this rule owes more to the Qur'an's ascetic impulses, as well as to its traditional Arabian context.<sup>52</sup> There is then, once again, no need to associate sanctity with purity as contingent on each other, and good reason to separate the two concepts as parallel and often concomitant yet distinct.

Overall, the Qur'an's regulation for pilgrim sanctity may thus designate a state of holiness that moves humans closer to the state of the angels, undefiled by bloodshed (see e.g. Q 2:30) and even by disputation, and abstaining from earthly pleasures.

<sup>51</sup> Israelites, and plausibly *gerim*, would need to abstain from sexual intercourse when bringing their sacrifice during the pilgrimage festivals to the Temple in Jerusalem, as required by the commandment to “celebrate three pilgrimage festivals per year” (*šālōš rəgālīm tāhōg li baššānāh*, Exod 23:14), which crystallized as Pesach, Shavuot, and Sukkot. Moreover, the Hebrew Bible requires sexual abstinence during God's revelation at Mount Sinai (Exod 19:15), during battle (Deut 23:10–11), and even during important errands (1 Sam 21:5), as well as before possible contact with the Ark of the Covenant (2 Sam 11:9–13); on the biblical pilgrimage see also note 198 (Chapter 1) above.

<sup>52</sup> On the qur'anic penchant towards asceticism see e.g. Johanne Christiansen, “Stay up during the night, except for a little’ (Q 73:2): The Qur'anic Vigils as Ascetic Training Programs,” *Religion* 49 (2019): 614–35; on the Arabian context see especially note 48 above.

A brief reconsideration of our findings thus far allows us to assess the affinity and the differences between biblical and qur'anic notions of purity and holiness, thereby setting the stage for an evaluation of late antique Jewish and especially Christian models as shaping the legal landscape which the Qur'an addresses and develops.

- Prohibited impurity, in the Hebrew Bible as in the Qur'an, is caused by a variety of sins. Whereas the types of sins that cause impurity differ between the Scriptures, the most egregious of sins are defined in comparable ways, with important distinctions: chief of all bloodshed, idolatry, and sexual transgressions. Some of the strongest triggers of such impurity are described as causing *rijs* in the Qur'an and as *tô'ebâh* in the Hebrew Bible. Significantly, in the Hebrew Bible, these central transgressions defile not only the sinner but also the Holy Land, leading to the expulsion of the community that would not abstain from or severely sanction such sins. The Qur'an, we have seen, shares the notion of a Holy Land on which the Israelites had sinned, and it shares the notion of prohibited impurity. These facts invite a reconsideration of the qur'anic notion of the "corruption in the land" and of its forms of punishment, to which we will presently turn.
- The second type of impurity we find in the Hebrew Bible, regulated impurity, in contrast to prohibited impurity, can in some cases be contagious upon contact (in a variety of degrees). Many of the biblical laws pertaining to regulated impurity are geared toward protecting the Israelite sanctuary from defilement. The Qur'an evokes both the Israelite sanctuary and the Arabian one, and it applies two forms of regulated impurity (*junub*) to its community that we equally find in the Bible, caused by having sexual intercourse, or for a woman, by entering the menstrual cycle. The Qur'an thus shares the biblical notion of regulated impurity, yet by disconnecting it from the central sanctuaries it both curtails and broadens this notion. There are many ways through which a non-Israelite can contract regulated impurity in the Hebrew Bible that are not mentioned at all in the Qur'an, such as burying one's dead or producing the ashes for the red heifer. Defecation, by contrast, does not cause impurity according to the Hebrew Bible, and does not require purification; only during a holy war must excrement be buried outside the camp in which God himself is said to reside (Deut 23:13–15). The Qur'an, however, considers defecation as within the purview of regulated impurity, as we have seen above (see p. 287 and 304).
- In parallel to these two overlaying purity systems—governing prohibited and regulated impurities—that shape both the Hebrew Bible and the Qur'an in their own distinct ways, some general affinities between the Qur'an's state of pilgrim sanctity and biblical regulations could be identified. For example, the Hebrew Bible, in parallel to the Qur'an's prohibition of sexual intercourse

while observing pilgrim sanctity, requires sexual abstinence during the pilgrimage festivals to the Temple in Jerusalem. Yet beyond the very notion of pilgrimage, the biblical precedent is of little help when seeking to understand the qur'anic Hajj.

- Finally, the qur'anic prohibition to shave when in the state of pilgrim sanctity finds a vague parallel in the biblical rite of the Nazirite, a status of holiness that includes abstinence from shaving, from the consumption of any grape-product, and from contracting corpse-impurity for a set period, at the end of which a sacrifice must be offered at the Jerusalem Temple, according to Num 6:1–21. Yet again, the parallels—shaving, a pilgrimage, a sacrifice—are too vague to compare them in a way that would allow us to understand the qur'anic notions more clearly.

The comparison between the biblical and the qur'anic system of purity and sanctity shows both the strengths and the limits of any attempt to read the latter Scripture in light of the former.<sup>53</sup> We should not seek to yoke the biblical concepts of holy warrior, pilgrim, or Nazir into a forced comparison with the qur'anic notion of pilgrim sanctity. Instead, the comparison between the Scriptures highlights in this case their divergent theology that governs their conception of the world. In a first approach, I would hazard to suggest that according to the Hebrew Bible, God chooses spatially and temporally to heighten His revelatory presence, whereas according to the Qur'an, God's ubiquity, while anchored in some aspects of the biblical notions, is perpetually assumed. Whereas such a summary highlights the dire need for more sophisticated comparative approaches, it suffices for the present purpose of setting the concept of sanctity aside for our legal considerations of prohibited and regulated impurity.<sup>54</sup>

<sup>53</sup> In addition not the divergence between sanctity in the Bible and in the Qur'an, we should note that the former tends to juxtapose the holy with the profane, whereas the later does not in as far as I can tell. Perhaps it is the fact that God's presence in the Qur'an is conceived in such a ubiquitous way—e.g. as nearer to every believer than their jugular vein (Q 50:16, see also Q 2:186)—that it obviates the need for defining the absence of the sacred, even as an antithesis to that which would *not* pertain to the Sacred Months, to the Sacred Mosque, or to the state of pilgrim sanctity. This is not to claim that it would not be useful to consider the anthropological distinction between sacred and profane also in the Qur'an. A good starting point is the comment by Aslam Farouk-Alli that Islamic sacredness is the product of what he calls "cultural labour and not something inherent," a phrase that, even if oversimplified, points to the clear contrasts between qur'anic and biblical concepts of the sacred; see Farouk-Alli, "A Qur'anic Perspective and Analysis of the Concept of Sacred Space in Islam," *Journal for the Study of Religion* 15 (2002): 63.

<sup>54</sup> This is, again, not to claim that any comparison of aspects of the Qur'an's notion of holiness with those of the Bible would not be fruitful, e.g. when it comes to the Holy Sanctuary itself or to Holy War: the Qur'an may well bibliicize the Meccan sanctuary, as we have seen above, and it even may construct it in contradistinction from the Israelite one (see e.g. Angelika Neuwirth, *Scripture, Poetry and the Making of a Community*, 216–52); it also develops its own concept of *jihād* based on aspects of the Hebrew Bible's respective discourse (see e.g. Sinai, *The Qur'an*, 188–96). All these topical comparisons can be very enlightening; I merely claim that we must emphasize that the underlying categories of sacredness fundamentally differ between the two Scriptures.

I propose a very simple historical reason for the starkness of the conceptual differences between the Hebrew Bible and the Qur'anic views of sanctity: none of the Israelite festivals had been celebrated as a pilgrimage since the destruction of the Temple, and the respective rabbinic regulations had transformed them into community-based festivals that were celebrated in local homes and synagogues, in a way that bore little resemblance to the biblical festivals they commemorated.<sup>55</sup> Jerusalem, of course, may have been a central point of reference for the worldview of the Qur'anic community, and countering its standing may well have informed the Qur'an's endorsement of the Meccan Hajj, as we will presently discuss. Christians, indeed, did undertake pilgrimages, including those to Jerusalem, yet operated with distinct notions of temporal, spatial, and corporal sanctity.<sup>56</sup> It therefore seems best to understand the Qur'anic concept of sanctity in terms of local West Arabian custom, which in turn had continued to thrive. The Qur'an's affinity to the regulations of the Hebrew Bible, in this case, are superficial and best conceived of as the result of both traditions' rootedness in a broad ancient Near Eastern heritage, as the result of the Qur'an's biculturalization of distinct aspects of the Hajj, or as a combination of both of these two factors.<sup>57</sup>

<sup>55</sup> While each of the biblical pilgrimage festivals became known as *ḥajj* in rabbinic Hebrew, a plausible cognate to the Arabic term *ḥajj* used in the Qur'an, the Arabic term is plausibly already attested in Safaitic inscriptions; see e.g. Al-Jallad, *The Religion and Rituals of the Nomads of Pre-Islamic Arabia*, esp. 41–43; Michael C. A. Macdonald, "References to Sī' in the Safaitic Inscriptions," in *Hauran II. Les installations de Sī' 8: du santuaire à l'établissement viticole*, ed. Jacqueline Dentzer-Feydy, Jean-Marie Dentzer, and Pierre-Marie Blanc (Beirut: Institut Français d'Archéologie du Proche-Orient, 2003), vol. I, 278; Mahdi Alzoubi, "New Safaitic Inscriptions from Ghadir Abū-Ṭarfa/Jordan," *Acta Orientalia Academiae Scientiarum Hungaricae* 66 (2013): 419–20; Ryckmans, "Rites du paganisme de l'Arabie méridionale," 133; and Harry Munt, "Pilgrimage in Pre-Islamic Arabia and Late Antiquity," in *The Hajj: Pilgrimage in Islam*, ed. Eric Tagliacozzo and Shawkat M. Toorawa (Cambridge: Cambridge University Press, 2015), 23–25. For South Arabian pilgrimages see e.g. Maraqtan, "The Pilgrimage to the Awām-Temple/Maḥram Bilqīs, Ma'rib, Yemen," 430–62; Mounir Arabach and Jérémie Schiettecatte (eds.), *Pre-Islamic South Arabia and Its Neighbours: New Developments of Research. Proceedings of the 17th Rencontres Sabéennes Held in Paris, 6–8 June 2013* (Oxford: Archaeopress, 2015), 107–33, and see note 48 as well as pages 102–5 above on the biblical festivals in Ethiopia.

<sup>56</sup> See e.g. Michele Voltaggio, "'Xenodochia' and 'Hospitia' in Sixth-Century Jerusalem: Indicators for the Byzantine Pilgrimage to the Holy Places," *Zeitschrift des Deutschen Palästina-Vereins* 127 (2011): 197–210; Brouria Bitton-Ashkelony, *Encountering the Sacred: The Debate on Christian Pilgrimage in Late Antiquity* (Oakland: University of California Press, 2005), esp. 184–203, and John Wilkinson, *Jerusalem Pilgrims before the Crusades* (Warminster: Aris & Phillips, 1977).

<sup>57</sup> I agree with Gerald Hawting and others that the Meccans were likely henotheists; see Hawting, *The Idea of Idolatry and the Emergence of Islam* (Cambridge: Cambridge University Press, 1999); see now also Valentina Grasso, "The Gods of the Qur'an: The Rise of Hījāzī Henotheism during Late Antiquity," *New Perspectives and Contexts in the Study of Islamic Origins*, ed. Mette Bjerregaard Mortensen et al. (Berlin: De Gruyter, 2021), 297–324, and see note 126 (Chapter 2) above. It is thus plausible that aspects of the Hajj would have appeared as "biculturalized" even before the time of the prophet. Yet the clear continuity between pagan Arabian and Islamic aspects of the Hajj (on which more below) suggest a more stable set of cultural practices, making it in turn quite likely—though hard to prove that the biculturalized aspects of the Hajj that are reflected in the Qur'an likely occurred during the prophet's own lifetime. On the broader ancient Near Eastern context of the Hajj see e.g. Joy McCriston, *Pilgrimage and Household in the Ancient Near East* (Cambridge: Cambridge University Press, 2011), esp. 85–134 and Munt, "Pilgrimage in Pre-Islamic Arabia and Late Antiquity," 13–30; see also the important remarks by Neuwirth in "A 'Religious Transformation in Late Antiquity,'" 63–91.

The practical relevance of the biblical notions of the Holy Land, the Sanctuary, and the pilgrimages began to decline with the destruction of the Temple and with the ensuing diaspora of Jews, at least from the Judean heartland (with important exceptions chronicled in rabbinic literature and other sources). By contrast, we have seen that the embodied biblical discourse on *purity* remained constitutive of both Jewish and Christian practice throughout late antiquity in a variety of ways, and also shows close affinity to pre-Islamic Arabian practice. It is thus not surprising that the affinities between the relevant notions of purity in the Qur'an and in the Hebrew Bible are far stronger than in the case of sacredness and the pilgrimage, and that here, the comparison proves far more fertile, pointing to a much more concrete continuity.

Yet even the Qur'an's basic juxtaposition of prohibited and regulated impurity as laid out above is only broadly comparable to that of the Hebrew Bible: both Scriptures differentiate between prohibited and regulated impurity, both Scriptures consider prohibited as well as aspects of regulated impurity to apply to Israelites and non-Israelites alike, and both Scriptures demand that the congregation remove both types of impurity before approaching the presence of God—by entering the Israelite sanctuary or by praying, respectively. Yet beyond these basic affinities, differences abound. In order to understand the continuity between the Hebrew Bible and the Qur'an wherever they diverge, it was necessary to consider not only ancient Arabian and biblical practice but also late antique Judaism and Christianity. Throughout this volume, especially those Christians who entertained a broad conception of regulated impurity in regard to non-Israelites have proven helpful for our understanding of the Qur'an. The only way to contextualize the Qur'an is thus always to hear it in continuity and in contradistinction to both of the traditions which it so often evokes, and a brief summary of rabbinic and Christian concepts of purity may be useful at the present.

The rabbis, we have seen, did maintain and develop an elaborate system regulating purity and impurity for Jews. The purification from corpse-impurity became impossible at some point after the destruction of the Temple, yet the rabbis did their best to legislate all cases of regulated impurity that are mentioned in the Hebrew Bible. Crucially, the rabbis developed the notion of "purity" by and large only when dealing with *regulated* impurity, and in the later classical period, they eventually shifted their discourse away from the non-contagious type of prohibited impurity—without curtailing the content of the laws themselves. They legislated against sin in the most detailed of ways and most strongly endorsed precisely those laws as applicable to both Jews and gentiles that would, according to the Hebrew Bible, defile "the sinner, the sanctuary, and the land of Israel," as Jonathan Klawans puts it.<sup>58</sup> Rather than murder, commit idolatry, or commit a

<sup>58</sup> Klawans, *Impurity and Sin*, 119. The rabbinic attitude towards prohibited impurity was, arguably, prepared already by tendencies within Second Temple Judaism; see e.g. Klawans, *Impurity and Sin*,



grave sexual transgression, a Jew must choose martyrdom, and she must do so anywhere in the world (see p. 187 above). Yet only the early tannaitic rabbis continue to apply the biblical notion of prohibited impurity as defiling the land of Israel in a sustained way, and the issue became far less prevalent in later amoraic rabbinic Judaism.<sup>59</sup> At the same time, the early rabbinic concept of the capability of the “land of the gentiles” (*rts h<sup>c</sup>mym*) to transmit either regulated or prohibited impurity (mainly through assumed idol worship) slowly developed into a broader understanding that gentile lands themselves were inherent bearers of such impurity.<sup>60</sup>

Most of the rabbinic innovations regarding purity thus pertain to the regulated type, which they both delineated and developed in great detail. They ruled, for instance, that one should not pray the Shema<sup>c</sup> prayer while standing among faeces, yet they stated that defecation and urination do not render one impure—the Torah, after all, was *not* given to the angels.<sup>61</sup> Despite the notion that defecation does not render one impure, however, the early rabbis, in line with Exod 30:20–21, insist on the washing of hands and feet before entering the Sanctuary (see e.g. Mishna *Kelim* 1:9), and the later rabbinic tradition emphasizes the washing of hands, feet, and face (see e.g. Bavli *Shabbat* 25b), just like the Qur’an. The Babylonian Talmud, we have seen, eventually instituted the rule to wash one’s hands before prayer, and points to a reported Palestinian tradition with great relevance for the Qur’an: after relieving oneself, washing of hands is sufficient before reciting the Shema, and “if one has no water (*mym*) for washing his hands, he can rub his hands (*mqnḥ ydyw*) with earth or with a pebble or with sawdust (*b<sup>c</sup>pr wbsrwr wbqsmyt*)” (Bavli *Berakhot* 15a).<sup>62</sup> This passage is often invoked when

67–92; for the underlying legal hermeneutics see e.g. Jeffrey Rubenstein, “Nominalism and Realism Again,” *Dine Israel* 30 (2015): 79–120.

<sup>59</sup> Klawans notes that the early tannaitic rabbis of Palestine “introduce new sources of moral impurity and systematize its effect. But what remains striking is the similarity: in both the Hebrew Bible and the tannaitic sources, grave sins bring about a nonritual sort of defilement that... leads ultimately to the exile of the people from the land” (Klawans, *Impurity and Sin*, 119).

<sup>60</sup> See Mishna Toharot 4:5, Mishna *Nazir* 3:7, Yerushalmi *Shabbat* 1.4 (3d), Yerushalmi *Pesahim* 1.6 (27d), Bavli *Shabbat* 14b–15b, Bavli *Avodah Zarah* 8b, and Bavli *Gittin* 7b; see already Gedaliah Alon, *Jews, Judaism, and the Classical World: Studies in Jewish History in the Times of the Second Temple and Talmud* (Jerusalem: Magnes Press, 1977), 121–47, as well as the refutation of Alon in Klawans, *Impurity and Sin in Ancient Judaism*, 133–34.

<sup>61</sup> On purity and defecation in rabbinic law see Tosephta *Berakhot* 2:17, Mishna *Makhshirin* 6:7, see also Yerushalmi *Pessachim* 7:11 (35b) and Bavli *Yoma* 30a; see also Rachel R. Neis “‘Their Backs toward the Temple and Their Faces toward the East’: The Temple and Toilet Practices in Rabbinic Palestine and Babylonia,” *Journal of Judaism* 43 (2013): 1–41. On the important role of fecal matter for purity in Qumran see e.g. 1Q 33 (1QMilhamah) VII:5–7; note that the toilets are located at a remove from the New Jerusalem in 11Q 19 (11QTemple-a) XLVI:13–16, and see Josephus, *War* 2:147–49 as well as Jodi Magness, *The Archaeology of Qumran and the Dead Sea Scrolls* (Grand Rapids: Eerdmans, 2002), 105–30.

<sup>62</sup> See also Bavli *Berakhot* 60b and *Shabbat* 108b.

pointing to the Qur'an's affinity to rabbinic ritual *for Jews*, yet we have noted that a similar practice is attested in the Christian tradition as well (see p. 218 above).

Despite this continuity in certain points, however, the divergence between the qur'anic and the rabbinic purity systems is profound. For the rabbis, any such rulings on regulated impurity do *not* pertain to non-Israelites, a category into which the Qur'an emphatically places its non-Jewish believers. The rabbis, moreover, maintained and developed the biblical notion of a complex of *transmission* of regulated impurity, which sets their system apart from the qur'anic one, where transmission of impurity is not discussed. Inversely, the rabbis did not see any aspects of regulated impurity as applicable to non-Jews: they may have understood *most* of the rules the Hebrew Bible imposed on the biblical figure of the "resident" of the Holy Land as potentially applicable to all of humanity as argued in detail above (see pp. 67–74), yet they excluded or downplayed any laws pertaining to *regulated* impurity when it came to non-Jews. By contrast to the rabbinic notion, the impurity resulting from sin and especially the applicability of regulated impurity to gentiles are developments we mainly find in part of the Christian tradition. Christian concepts of regulated impurity, in addition to ancient Arabian practice, generally constitute the most relevant context of qur'anic law—without discounting the relevance of the rabbinic testimony.

A brief restatement of the ways in which Christians enacted the biblical purity laws originally imposed on the Holy Land's *gerim* points to the importance of one strand of the Christian tradition in channelling concerns for both prohibited and regulated impurity to the seventh century CE, thereby preparing the Qur'an's legal point of departure. The New Testament, most significantly, upholds the biblical notion of sin-impurity, and apparently expanded its applicability from the non-Israelite residents of the Holy Land to all those believers who wished to join the Jesus Movement. According to the Decree of the Apostles, these gentiles were to abstain from the pollutions caused by idols, by illicit sexual intercourse, by things strangled, and by blood (see Acts 15:20). Regarding both food and sex, the Christian traditions arguably offer a more robust continuity with the biblical *gerim* laws and thereby prepared the basis on which the Qur'an built its legal system more specifically than the rabbis did, as discussed in detail throughout this volume. Along with the New Testament, a broad range of Christian texts testify to the avoidance of impurities understood as a result of sin, such as murder, idolatry, and sexual transgression. Most Christians, moreover, understood the consumption of any type of blood and of improperly slaughtered meats as defiling. In addition, many—and, at least initially, locally perhaps even most—Christians strictly observed a variety of rules pertaining to regulated impurity that the Hebrew Bible had ordained on Israelites alone. Many Christian women abstained from prayer and the Eucharist during their menses and after childbirth because they saw themselves, or their male congregants saw them, as impure, and some Christians

washed after sexual intercourse and before prayer, as discussed in detail above. The expansive attitudes both towards food laws and towards regulated sexual impurity often converged, as testified by numerous patristic authors decrying such an attitude towards the Decree of the Apostles and by a few central texts endorsing it.

This expansive Christian tradition stands closest to the Qur'anic conception of purity. In this tradition, language used to describe prohibited and regulated defilement at times converges. Whereas the two types of impurity remain conceptually differentiated, God, with the collaboration of the believers, is portrayed as demanding the removal of both. In contradistinction to the system of the Hebrew Bible and the rabbinic tradition, however, there is no indication anywhere in this tradition that any aspect of impurity would be contagious. We have seen that aspects of this expansive attitude towards the Decree of the Apostles permeates all Christian cultures throughout the centuries, yet the words of the Clementine Homilies (already cited on p. 179 above) summarize the conceptuality very well:

However, it is necessary to add something to these things which has not community with man but is peculiar to the worship of God. I mean purification, not approaching to a man's own wife when she is in separation, for so the law of God commands. But what? If purity (*to kathareuein*) be not added to the service of God, you would roll pleasantly like the dung-flies. Wherefore as man, having something more than the irrational animals, namely, rationality, purify (*katharate*) your hearts from evil by heavenly reasoning (*ouraniō . . . logismō*), and wash your bodies in the bath. For purification (*to kathareuein*) according to the truth is not that the purity (*katharseōs*) of the body precedes that of the heart, but that purity (*to katharion*) follows goodness.<sup>63</sup>

The Clementine Homilies, to reiterate, may bundle together many strands of Christian thought, yet they constitute an idiosyncratic tradition whose *literary* nature has few demonstrable links to the Qur'an. Their relevance emerges only if we read this work, alongside a sizeable number of other texts, as an endorsement of many of those practices against which so many Church Fathers polemicized in many parts of the Near East throughout the centuries. This broadening of the evidence allows us to shift the focus from literature to law, and from polemics to practice, grasping a broad *legal* culture in which both late antique Christians and, arguably, the Qur'an participated.

The Qur'an thus displays a triangular approach to purity and impurity similar to the putative Christian one, marked by the conceptual distinction between prohibited and regulated impurity along with the notion that an integrated sense of "purity" as such is attained by the conceptually fused absence of both of its forms.

<sup>63</sup> *Clementine Homilies* 11:28, translation according to Roberts and Donaldson, *The Clementine Homilies*, 187, Greek according to Rehm, *Die Pseudoklementinen I*, 167–68, see also 11:19 and 30.

If this is correct, then it would seem that the Qur'an here again preserves an aspect of late antique Christian legal culture that would have stood close to or even constituted the mainstream of some Christian congregations in a broad number of places, at least in the early centuries, and plausibly locally up to the seventh century and beyond.

Given the evidence from Palestine and Rome, from Asia Minor and Mesopotamia, and from Ethiopia and Arabia itself that I have sought to assemble and reinterpret in the preceding pages, the question again arises whether one allows for the Qur'an to constitute a meaningful historical source for the history of rabbinic Judaism and especially of Christianity. The Qur'an may be a relatively late, local, and often external source for the Jewish and Christian tradition for sure, yet it is also a unique one whose role for determining prior discourse is twofold. The Qur'an, first, constitutes a turning point for many late antique developments that synthesized them in a way that in turn prepared classical Islamic discourse on the matter.<sup>64</sup> Yet the Qur'an is also a potential source for any historian seeking to ask new questions about late antiquity, some of which allow to reconsider the evidence in more efficient ways than has been the case. In order to answer any of these questions, of course, we have to turn to the late antique texts and documents themselves. When it comes to gentile law and to prohibited and regulated impurity, however, the inclusion of the Qur'an allows us to identify a concrete set of laws for non-Israelites in the Hebrew Bible and to understand how these laws shaped aspects of rabbinic Judaism and much of Christian legal thought.

### From the Holy Land's Defilement to Corruption in the Land

My argument for contextualizing the Qur'an within its particular Western Arabian milieu thus once again emphasizes its Christian context. Yet at no given moment should we neglect the importance of the rabbis as equally constitutive of preparing the oral discursive world into which the Qur'an speaks. The ways in which the Islamic Scripture recasts the biblical tradition that "blood pollutes the land (*kī haddām hū' yaḥānīp 'et-hā'āreṣ*)," and the biblical injunction that "you (sg.) shall not defile the land (*wāḏō' təṭammē' 'et-hā'āreṣ*)," which we have first encountered in Num 35:33 (see pp. 46–54 above), illustrate the Qur'an's way of dealing with the Bible not only directly or in its Christian interpretation but also with its rabbinic reading.<sup>65</sup> The proximity of the qur'anic notion of "corruption

<sup>64</sup> See e.g. Thomas Bauer, *Warum es kein islamisches Mittelalter gab: Das Erbe der Antike und der Orient* (Munich: Beck, 2018) and Garth Fowden, *Before and after Muhammad: The First Millennium Refocused* (Princeton: Princeton University Press, 2014).

<sup>65</sup> My understanding of the connection between the qur'anic concept of corruption in the land and the biblical and rabbinic notion of the Holy Land's pollution has been shaped by several discussions with Nicolai Sinai and the participants of the ERC project QuCIP (see <https://qucip.web.ox.ac.uk/>)

in”—not of—“the land” (*fasād fi l-ard*) to the respective biblical tradition equally points to the evident limits of the comparative approach, even if the root *f-s-d*, while occurring in North Arabian poetry, is not attested in South Arabian epigraphy.<sup>66</sup> After a consideration of the rabbinic evidence on the concept, we will segue into considering the cohesiveness and the cultural context of its intertwined systems of purity and punishments, the latter of which we have thus far only addressed partially.

We have seen above that the biblical topic of the defilement of the Holy Land is prominent in Second Temple literature, and that the rabbis, especially in the early tannaitic tradition, repeatedly note that “the spilling of blood . . . defiles the land” (*shpykwt dmym . . . mṭm’ ʾt h’rṣ*, see p. 75 above). For the rabbinic tradition, murder is thus the primary sin associated with the pollution of the Holy Land, from which the Israelites, like before them the Canaanites, would eventually be expelled if it is polluted. Yet we have equally seen that for the rabbis, any injustice, such as judicial malfeasance or the production of fraudulent measures, along with sexual transgressions, can equally pollute the land, and lead to the Israelites’ exile (again p. 75 above). The importance of the rabbinic tradition for the understanding the Qur’an’s usage of the term “corruption in the land” is thus already suggested by a parallelism not only of the concept of damage to or on the land on which a crime is committed but also to the particular crimes themselves. Among the offences that count as causing the land’s corruption in the Qur’an, namely, we find the failure to “observe fully the measure” (*ʿawfū l-kayla*) and to “weigh with an even balance” (*wa-zinū bi-l-qistāsi l-mustaqīmi*), or being one of those “who gives short measure” (*al-mukhsirīn*), “cheating people of their goods” (*wa-lā tabkhasū l-nāsa ašhyā’ahum*, Q 26:181–83; see also Q 7:85, Q 11:85). While the Qur’an’s emphasis on correct measures stands in a broad biblical tradition that is also shared by patristic sources, it is the rabbinic tradition alone that associates such financial crimes with harm done to the land.<sup>67</sup> A broader consideration of the crimes thus

home). Sinai’s *Key Terms of the Qur’an*, s.v. *ard* and *afsada*, equally informs some of the following considerations. For further considerations see also Holger Zellentin, “Zwischen Bibel und Byzanz: „Verderben auf der Erde” (*fasād fi l-ard*) und die koranische Strafgesetzgebung,” in *Normativität - Religion - Mobilität*, ed. Bernhard Anuth, Michael Droege, and Stephan Dusil (Tübingen: Mohr Siebeck), forthcoming.

<sup>66</sup> I have not been here to consider the root’s occurrence, most importantly with references to the *ḥarb al-fasād*, the “war of corruption,” notably in the poetry of Ḥātim aṭ-Ṭāʾiyy. I plan to correct this in Zellentin, “Zwischen Bibel und Byzanz,” forthcoming. Beeston’s reading of the root *f-s-d* in ancient South Arabian epigraphy has already been challenged by Copeland Biella, *Dictionary of Old South Arabic*, 406; the correction is confirmed in <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=fsd>. For the actual root *q-s-d*, denoting “highway robbery” or “rebellion,” see Biella, *ibid.*, 462 as well as <http://sabaweb.uni-jena.de/Sabaweb/Suche/SearchResultList?idSearchRoot=qsđ> (both online resources accessed 5 March 2021). Whether or not the absence of the root *f-s-d* in the South Arabian epigraphic record makes a Jewish Aramaic history of the root *pf-f-s-d* more likely is a debatable matter; see note 74 below.

<sup>67</sup> On the importance of just measures in the biblical Syriac Christian tradition for the Qur’an see Zellentin, *Qur’an’s Legal Culture*, esp. 68–74. The crime equally features as one of the “abominations” in the Hebrew Bible (see note 29 above), pointing to the rabbinic association of the land’s pollution with this category—a subject further developed in Zellentin, “Zwischen Bibel und Byzanz,” forthcoming.

designated confirms this remaining discursive affinity between the Qur'an and the rabbinic tradition and equally points to its limits.

In the Qur'an, the charge of "corruption" (*f-s-d*) in general, or "corruption in the land" (*fasād fi l-arḍ*) in particular, is used in connection with associationism (Q 7:85–86, Q 11:84–85, and Q 21:22) and disbelief (Q 23:71), as well as with fraud, socio-economic injustice, and highway robbery (Q 2:220, Q 7:85–86, Q 11:84–85, Q 12:73, Q 26:181–83, and Q 47:22). These charges with the exception of the typical qur'anic notion of "disbelief," match the rabbinic expansions of the biblical concept we have encountered above very closely.<sup>68</sup> Yet the Qur'an is by no means constrained by the rabbinic catalogue of transgressions that would pollute the land. For example, it associates warfare and causing corruption in a number of passages: Q 2:251 and Q 27:34 portray David's slaying of Goliath and the subsequent defeat of his army as a liberation from "corruption"; Q 2:205 associates the rule of disbelievers and the loss of crops and of animals, possibly through warfare, with "corruption" (cf. Deut 20:19; see also Q 7:56–58); there is, to the best of my knowledge, no rabbinic precedent for connecting these charges with the concept of the pollution of the land.

Two recent studies are noteworthy in this context. First, Juan Cole has argued that we should understand the root *fasād* at least in some qur'anic passages as indicating "brigandage, banditry or plunder"—a helpful notion which, however, obviously does not apply to some of the other qur'anic instances noted above, which focus on various types of non-violent economic and religious malfeasance.<sup>69</sup> The term's breadth of denotations suggests that it may be misguided to define it too narrowly, especially since occurrences of "corruption" in the Qur'an's past have a distinctly different flavour than those against which it legislates in its present. All of the latter cases, however, carry a threat to the social order and often have a component of *communal* or *tribal* unrest that leads to the loss of life, health, or property. Such corruption thus stands, to a degree, in contradistinction

<sup>68</sup> Q 29:30, which accuses Lot's people of corruption, may well indicate their sexual transgression, if threatening the angels with rape were meant. Note, however, that the preceding verse Q 29:29 accuses the same people of "cutting off the way," which I have elsewhere argued to denote "highway robbery," in line with rabbinic views that the Sodomites combined sexual violence with robbery; see Zellentin, "The Synchronic and the Diachronic Qur'an," 46, for further considerations see also Zellentin, "Zwischen Bibel und Byzanz," forthcoming.

<sup>69</sup> Cole, "Muhammad and Justinian," 191; Cole here highlights that Muqātil b. Sulaymān rendered the phrase "corruption in the land," in Q 5:33, as designating "killing and taking property"; see Muqātil b. Sulaymān, *Tafsīr*, ed. 'Abdallāh Maḥmūd Shihāta (Cairo: al-Hay'a al-Misriyya al-'Āmma li-l-Kitāb, 1980–87), III:402. Cole goes as far as arguing that the Greek term *lēsteia* constitutes an "equivalent" of the Arabic term *fasād* and holds that the Greek term encompasses "both meanings of brigandage and political rebellion" (ibid.). Both statements need some qualifications. First, the overlap between the Greek and the Arabic term is only very partial given the much broader qur'anic usages indicated above; the Greek term, for all its potential breadth, always designates violent acts. Second, the Greek term's metaphorical use as indicating various types of "rebellion" is well attested, yet both secondary to the meaning of brigandage and generally only found in a much earlier period—most examples for this usage pertain to the late Roman Republic and the early Empire (as indicated in Brent Shaw, "Bandits in the Roman Empire," *Past and Present* 105 (1984): 5–7) and therefore are of very limited relevance for late antique usage.

to individual cases of murder and manslaughter (and possibly bodily injury), and in contradistinction to non-violent “theft,” the punishment for which is legislated in Q 5:38 (on which more below). In this, the communal aspect of “corruption,” according to the Qur’an, corresponds well with the biblical sense of collective sin (or collective failure to punish an individual’s sin), and with the type of collective punishment that defines the notion of the pollution of the Holy Land through its denizens in the Bible. While both Scriptures accuse Israelites and other groups of corruption, both in their respective past and present, the key difference between the concepts in both Scriptures is that the qur’anic notion, unlike the broader biblical concept of the land’s “defilement” yet in line with Genesis 6, Jubilees and the Clementine Homilies, is not tied to any particular land.

More to the point, Nicolai Sinai has further clarified many of the theological implications of the qur’anic notion of the land’s corruption. By noting the contrast the Qur’an creates between the verbs *afsada*, “causing corruption,” and *aṣḥaḥa*, roughly translatable as “to put things right,” Sinai has shown that we should understand the notion of the land’s corruption as indicating the most fundamental of crimes, namely as detrimental to God’s creation as such. “God has placed humans in a habitat that is supremely good, yet human action may fall woefully short corresponding to this divinely set standard of perfection.” Sinai summarizes the Qur’an’s position, and it is precisely this shortfall through which humans cause “corruption in the land.” Public violence and other fundamental crimes, in other words, constitute an assault on God’s order itself.<sup>70</sup>

Yet what is “the land,” or “the earth,” that, in the Qur’an, can be corrupted? Just as the Hebrew term *hā’āreṣ* and its Aramaic cognates ʾr, in the Hebrew Bible and among its late antique translators and interpreters, the Arabic term *arḍ* can designate either “the earth,” as opposed to the sky, in general, or a particular place, such as especially the Holy Land (see Q 5:21). It has a very similar meaning that is broadly attested in South Arabian epigraphy.<sup>71</sup> A few examples clarify the breadth of the resulting concept of corruption in the land or earth. To begin with the creation, in Q 2 *Sūrat al-Baqara* 30, the passage briefly cited above for its evocation of God’s sanctity, the Qur’an *once* indeed links the “corruption in the land” with bloodshed:

<sup>70</sup> See Sinai, *Key Terms of the Qur’an*, s.v. *arḍ*. Cole has equally recognized that the crimes in question in the Qur’an constitute an assault on “the sovereign,” yet he then proceeds to misconstrue this sovereign in terms of Muhammad himself, which does not accurately reflect the qur’anic concept of prophethood; see Cole, “Muhammad and Justinian,” 188–93.

<sup>71</sup> See Ambros, *A Concise Dictionary of Koranic Arabic*, 21; Sokoloff, *A Syriac Lexicon*, 104; Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period*, 76–7; and Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*, 170–1; for the epigraphical record see Biella, *Dictionary of Old South Arabic*, 27; for further occurrences of the term *arḍ* see <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=ʾrd> (accessed 5 March 2021).



When your Lord said to the angels:

“Indeed I am going to set a viceroy in the land (*innī jā‘ilun fī l-arḍi khalīfatan*),”

they said, “Will You set in it someone who will cause corruption in it (*man yufsidu fihā*), and shed blood (*wa-yasfikū l-dimā‘a*),

while we glorify Your praise (*nusabbiḥu bi-ḥamdika*)

and sanctify you (*wa-nuqaddisu laka*)?”

He said, “Indeed I know what you do not know (*innī a‘lamu mā lā ta‘lamūna*).”

This intriguing passage constitutes, to the best of my knowledge, the only case in which the Qur’an links “bloodshed” with “corruption in the land,” or perhaps more accurately here “on earth” directly. This linkage repeatedly occurs in the Bible and in rabbinic literature, as noted above, again highlighting the importance of the respective literary affinity. Importantly, this passage also closely engages with the Syriac Christian and rabbinic traditions about the creation of human-kind. As previous studies by others and myself have argued, the angels’ objection to the creation of humanity in the rabbinic tradition, just as in the Qur’an, focuses precisely on the violence and injustice that humans will cause.<sup>72</sup>

A further connection between murder and its effect on the land, by the way of its soil, is equally indicated in another well-known tradition shared by the biblical book of Genesis and the Qur’an. In the Bible, the blood of the murdered Abel cries out to God from the soil (*adamah*), which is cursed, along with the murderer, for taking the victim’s blood, as indicated in Gen 4:10–11. The rabbis (in Mishna *Sanhedrin* 4:5) and the Qur’an (Q 5:32), in perhaps the closest case of continuity with the rabbinic interpretation of a biblical story, hold that any murder constitutes an attempt to eradicate all of humanity. The Qur’an, however, then turns the interpretation against the Israelites and accuses many of them of “committing excess in the land” (*fī l-arḍi la-musrifūna*). The charge echoes, on the one hand, the prohibition of killing “a soul and corrupting the land” (*nafsin aw fasādīn fī l-arḍi*) earlier in the same qur’anic verse, and, on the other, the biblical charge of the earth’s pollution in general and its “corruption” through Abel’s blood in particular.<sup>73</sup> Both Scriptures, connected in this case by the rabbinic tradition,

<sup>72</sup> The close affinity of this verse to Christian and especially Jewish literature has been highlighted both by Sinai, *The Qur’an*, 143–53 and by Zellentin, “Triological Anthropology,” esp. 85–98 and 125–29. In the rabbinic tradition, the angels accuse Adam being “full of lies” and causing violent “strife” (*q-t-t*), see 8:5 see *Midrash Bereshit Rabbah*, 60. Moreover, Süleyman Dost has recently pointed that according to the Book of Enoch, at some point before the flood, the angels Michael, Uriel, Raphael, and Gabriel “look down from heaven and see much blood being shed upon the earth” and “all lawlessness being wrought upon the earth” (Enoch 9:1ff.); the imagery may equally contribute to the Qur’an’s understanding of “corruption in the land”; see Dost, “An Arabian Qur’an,” 197.

<sup>73</sup> The passage Mishna *Sanhedrin* 4:5 is the locus classicus for any comparison of the Qur’an and the rabbinic tradition, which has been treated numerous times since Geiger, who was to the best of my

thus draw a comparable, if distinctly presented, relationship between killing and its negative effects on the land. This relationship posits that some crimes are so heinous that any attack on a single human corresponds to an attack not only on all of humanity, but also on God's entire creation and therefore on God Himself.

We thus have ample reason to consider the qur'anic concept of corruption in the land in light of, yet at the same time as clearly distinct from, the biblical notion of the land's pollution, which in both Scriptures and for the rabbis falls into the purview of prohibited impurity. Yet whereas the Bible explicates the issue of purity when referring to the Holy Land's defilement, the Arabic verb *afsada* itself does not address the issue of prohibited impurity. It is only when reading the term within the broader qur'anic context of the jeopardy that such "corruption" causes to God's creation, and within the broader qur'anic framework of the satanic impurity of sinfulness as posited above, that this aspect of the affinity between the harm done to or in the land in both Scriptures more fully emerges.<sup>74</sup>

There is one further conceptual confluence between the two Scriptures and the rabbis that we should consider when seeking to contextualize the qur'anic notion of corruption in the land, namely the case of the Holy Land. The Bible and the rabbis, we have seen above, connect the pollution of the Holy Land to the expulsion of its denizens; the Qur'an comes close to this concept when referring to the fate of the Jerusalem Temple and of the Israelites in the wake of its breaching.<sup>75</sup> When apparently evoking the memory of the Jerusalem Temple in Q 17 *Sūrat al-Isrā'*, the Qur'an portrays the Israelites' corruption in the Holy Land as the reason for their downfall:

knowledge the first drew attention to it (see Geiger, *Was hat Mohammed aus dem Judenthume aufgenommen*, 101–3). In an oral presentation, I have recently argued, however, that the later Palestinian renderings of the Mishna, such as *Avot de Rabbi Nathan A*, 31:6 (according to Ms. Oxford Heb c. 24) are of more direct relevance for the Qur'an than either the Mishna itself or its other midrashic and talmudic adaptations; Holger Zellentin, "The Qur'an and/on the Talmud," paper given during the conference *The Dynamics of Religious Interaction*, University of Cambridge, June 25, 2020.

<sup>74</sup> Etymology is again of limited help in this case. Ambros translates the Arabic verb *fasada*, in form I, as "to be or to become spoiled, corrupted or ruined," and form IV as "to act wickedly, by spoiling, corrupting and ruining"; see Ambros, *A Concise Dictionary*, 213; see also Sinai, *Key Terms of the Qur'an*, s.v. *ard*. The Arabic root's closest cognate seems to be the Palestinian and especially Babylonian Jewish Aramaic root *p-s-d*, which, likewise, tends to indicate that an object was spoiled, or that a person caused or suffered a loss, see Sokoloff, *A Dictionary of Jewish Palestinian Aramaic*, 439 and Sokoloff, *A Dictionary of Jewish Babylonian Aramaic*, 915–16. The Babylonian Talmud notably rules that a male gentile slave must not remain in the Holy Land if he refuses to become circumcised, otherwise he would cause "the loss of purities" (*hpsd thrwt*) that is of pure items, "in the land of Israel" (*b'rs ysr'l*, see Bavli *Yevamot* 48b)—yet the purity of the land itself is not portrayed as directly endangered. The root *p-s-d* is notably absent in Syriac, which, as Ana Davitashvili has pointed out to me, in turn uses the root *h-b-l* (shared with Hebrew and other forms of Aramaic) in order to express a notion of "corruption" quite similar to *fasada*; see Sokoloff, *A Syriac Lexicon*, 407–8.

<sup>75</sup> The Israelites are unique in the sacred history of the Qur'an in as far as they are not destroyed when they sin, as many other nations were, but instead given the chance to repent. On the Qur'an's respective understanding of Israel's election see e.g. Ghaffar, *Der Koran in seinem religions- und weltgeschichtlichen Kontext*, 18.

- Q 17:4 We revealed to the Sons of Israel in the Scripture: "Twice you will cause corruption in the land (*la-tufsidunna fī l-arḍi marratayni*), and you will reach great superiority" (*wa-la-ta'ulunna 'uluwwan kabīran*).
- Q 17:5 So when the first counsel (*wa'd*) came, We aroused against you Our servants possessing great might, and they ransacked [your] habitations, and the counsel (*wa'd*) was bound to be fulfilled.
- Q 17:6 Then We gave you back the turn [to prevail] over them, and We aided you with children and wealth, and made you greater in number,
- Q 17:7 [saying,] "If you do good, you will do good to your [own] souls, and if you do evil, it will be [evil] for them." So when the occasion for the last warning came (*fa-idhā jā'a wa'du l-ākhirati*), [the servants] will make your faces wretched, and enter the Sanctuary (*wa-li-yadkhulū l-masjida*) just as they entered it the first time, and utterly destroy whatever they come upon.

In this passage, the Israelites are accused of having wreaked "corruption in the land," and are reported to have suffered greatly for this sin. The "land" in question is the Holy Land, yet in contradistinction to the biblical and rabbinic tradition, the punishment for the Israelites is merely being vanquished. Their exile, while plausibly assumed, is not mentioned. It is difficult to assess whether the Qur'an here refers to the respective historical experiences of the Israelites in the seventh century BCE and in the first century CE, or whether it portrays the destruction of the Jerusalem Temple in the past as harbinger of current or imminent events, as Christians and rabbis had often done before. Zishan Ghaffar, for instance, has recently placed the qur'anic account of the destruction of the Temple in the context of the brief Sasanian conquest of Jerusalem in 614 CE, an interpretation which has much to commend it, even if further inquiries remain necessary.<sup>76</sup> In light of the Qur'an's view of Christians as Israelites, which has apparent affinities with Byzantine, Aksumite, and especially West Syrian self-identities (see pp. 102–9 above), it does not seem far-fetched for the Qur'an to construct the late Roman rule of Palestine as "Israelite." In the passage at hand, it thus makes perfect sense for the Qur'an to construe the Israelites' defeat by foreign forces as the direct

<sup>76</sup> See *ibid.*, 15–26; Angelika Neuwirth, "The Spiritual Meaning of Jerusalem in Islam," *City of the Great King: Jerusalem from David to the Present*, ed. Nitza Rosovsky (Cambridge, MA: Harvard University Press, 1996), 93–116; and see Heribert Busse, "The Destruction of the Temple and Its Reconstruction in the Light of Muslim Exegesis of Sūra 17:2–8," *Jerusalem Studies in Arabic and Islam* 20 (1996): 1–17. Note that the later command to the Israelites in the same surah, "take up residence in the land (*skunū l-arḍa*), and when the other counsel comes, We shall gather you in mixed company" (*fa-idhā jā'a wa'du l-ākhirati ji'nā bikum lafffan*, Q 17:104), seems to relate to the Israelites' initial departure towards the Holy Land, in which, in the Bible, a "mixed multitude" equally participated (see Exod 12:38). Note that this mixed multitude is viewed by some authorities with suspicion in rabbinic literature; see e.g. Talmud Bavli *Ta'anit* 29a and *Arakhin* 15b; the later rabbis eventually understood this multitude as *gerim* in the sense of converts to Judaism; see e.g. Tanhuma *Ki-Tisa* 20.

result of their sins, paralleling a major theme in biblical, rabbinic, and Christian literature.<sup>77</sup> At the same time as echoing the biblical and rabbinic tradition of the land's pollution, the Qur'an integrates the concept into its own ideational framework that sees the danger of "corruption" through prohibited impurity as universal and of acute relevance for its own West Arabian audience.

The Qur'an's notion of the corruption of the land, on the one hand, thus stands in demonstrable continuity both with the biblical symbolism that universal malice can pollute the entire earth (Genesis 6) and esp. that blood pollutes the Holy Land, and with the rabbinic understanding that other grave injustices have the same effect and may lead to the Israelites' exile. Yet, on the other hand, the Qur'an broadens its language to apply the notion of corruption not only to the Israelites and to the Holy Land—both of which it mentions in this context—but also to all humans, and to any land, again in line with Genesis 6. It even goes as far as placing the accusation of spreading "corruption in the land" in the mouth of Pharaoh when he accuses Moses of sedition (Q 40:26; see also Q 7:127). The Qur'an's understanding has thus moved very far from the narrower biblical sense that only bloodshed, idolatry, and sexual misconduct would defile the Holy Land, and, following and expanding the rabbis' previous reading, takes even the broader biblical imagery into new directions. Since sin as such defiles not the land but only the sinner in the Qur'an, it is in accord with its conceptuality that the biblical and rabbinic image of the pollution of the Holy Land in the Qur'an becomes the sinful and therefore impure corruption that a group of sinners commits *in* the land—or even in *any* land. One could argue that it thereby continues to enact the universalization of the biblical *gerim* laws to all humans, or at least to all believers in Christ, we had previously encountered in early rabbinic Judaism, and in the Acts of the Apostles, respectively. The qur'anic term "corruption in the land" thus integrates the notion of the "Earth's corruption" in Genesis 6 with the biblical and rabbinic concept of the Holy Land's "pollution" through grievous sins, referring to prohibited impurity incurred by widespread unchecked lawlessness.

The concept thus constitutes a good test case for both the value and the limits of reading the Qur'an within the framework offered by the Hebrew Bible and, in this case, the rabbinic tradition. Despite the close affinities, which illustrate the importance of the biblical and rabbinic context for many aspects of the Qur'an's conceptuality, it would seem unwise to understand the biblical or rabbinic precedent in order to constrain our understanding of what, exactly, the Qur'an designates by the term "corruption." This can only be pursued through a close study of the Arabic text itself. Its openness regarding its notion of corruption, it turns out,

<sup>77</sup> On the affinity of Josephus, Eusebius, and *Ekha Rabbah* on the destruction of the Temple see Holger Zellentin, "Jerusalem Fell After Betar: The Christian Josephus and Rabbinic Memory," in *Envisioning Judaism: Studies in Honor of Peter Schäfer on the Occasion of His Seventieth Birthday*, ed. Ra'anan Boustan et al. (Mohr Siebeck: Tübingen, 2013), vol. I, 319–67.

is programmatic, and owes more to its concepts of the perfection of the creation and of collective defilement through public sin in any land than to the protection of the Holy Land alone. The public and collective nature of such crimes, and their perceived danger to the nascent qur'anic community, also becomes apparent when considering the Qur'an's punishment for "corruption in the land" and other crimes, the consideration of which will conclude this chapter.

## Punishment

With the prohibitions and regulations based on the Bible's *gerim* laws constituting the focus of this volume, punishment for transgressions, that is for incurring prohibited impurity, allow for a concluding outlook on the legal developments leading up to the emerging qur'anic legal code. This-worldly punishment, it is true, plays only a minor role in the Qur'an. Here, the implementation of punishment for transgressions is often left to God Himself, who will exact it sometimes in this world, usually in the hereafter, and often in both realms. Yet the issue of punishment is important because it shows yet another way in which the Qur'an develops a biblical heritage that had been channelled by late antique Jews and again especially by Christians. As we have seen throughout this volume, it is the Medinan layer of the Qur'an in particular that specifies crimes worthy of earthly punishment at the hands of the congregation.

Thus far, we have discussed the punishments only for sexual transgressions: whereas the Qur'an's punishment for fornication in Q 24:2–5 could be placed only in a broad rabbinic and Christian context, as suggested on pp. 202–5 above, its punishment for either fornication or for male or female homosexual acts, according to the proposed alternative readings of Q 4:15–18, would stand in closer continuity with (the Canons of Ancyra and their integration into) the Justinian Code, as indicated on pp. 192–202. The Qur'an's lenient attitude towards some of the marriages it moves to declare as incestuous, in turn, found a close precedent in East Syrian law and again in the Justinian Code to which some of East Syrian law responded, allowing for a broad triangulation of the legal traditions as proposed on pp. 276–81 above. The Qur'an's attitude towards repentance through charity and prayer, we have seen, shows affinity to a broad range of Christian penitential practices. In addition to biblical and broader rabbinic and ecclesiastical traditions, the relevance of late Roman law for *specific* aspects of the Qur'an's legal framework has thus already become apparent. Importantly, it is punishments for those charged of "corruption in the land" that illustrate the relevance of biblical, rabbinic, and especially late Roman law as contributing to the Qur'an's legal point of departure.

When it comes to the punishment for one particular form of such "corruption," we should take note of Q 5:33, a verse following the story about the first murder in the history of humanity. Here, the Qur'an uses the narrative of the murder in

order to prepare one of its rare legal decrees, which further develops biblical, rabbinic, and in this case again especially Christian concepts of execution, amputation and exile appropriate forms of punishment:

Indeed the recompense of those who wage war against God and His Apostle, and strive to cause corruption in the land (*wa-yas'awna fī l-arḍi fasādan*), is that they shall be slain or crucified (*an yuqattalū au yuṣallabū*), or have their hands and feet cut off from opposite sides (*aw tuqaṭṭa'a aydihim wa-arjuluhum min khilāfin*) or be banished from the land (*aw yunfaw mina l-arḍi*). That is a disgrace for them in this world, and in the Hereafter there is a great punishment for them.

In the sequel, in Q 5:38, the Qur'an provides another instance in which it demands a specific earthly punishment, again through amputation:

As for the thief, man or woman (*wa-l-sāriqu wa-l-sāriqatu*) cut off their hands (*fā-qtā'ū aydiyahumā*) as a wage for what they have earned [That is] an exemplary punishment from God, and God is Mighty, Wise.

To begin with the punishment for a male or female thief, the instruction of “cutting off of their hands” (*fā-qtā'ū aydiyahumā*, in the dual) leaves open whether one or both hands are amputated. In any case, the punishment likely indicates a sort of talion, since the transgressor is to lose the body part most likely used to procure the stolen good. The punishment for causing “corruption in the land,” defined above as collective public injustice and especially violence, is much harsher. The three possible types of punishment seem again marked by talion, at least in a symbolical way. Since the “corrupters” (here likely including armed robbers) endangered or harmed life and limb of others “in the land,” and thereby disturbed the perfection of God's creation, their transgression is either revisited on their entire body—by execution, crucifixion, or cutting off of “hands and feet from opposite sides” (*tuqaṭṭa'a aydihim wa-arjuluhum min khilāfin*, thus likely only one of each in this case)—or leads to the banishment “from the land” (*mina l-arḍi*) on which they committed their crimes. The rule of talion, applied either in this world or in the hereafter, we should note, is a guiding principle of much of many ancient Near Eastern, biblical, Jewish as well as Christian traditions.<sup>78</sup>

<sup>78</sup> See e.g. Martha Himmelfarb, *Tours of Hell: An Apocalyptic Form in Jewish and Christian Literature* (Philadelphia: University of Pennsylvania Press, 1983), 68–105 and Westbrook, “The Character of Ancient Near Eastern Law,” 74–79.

Andrew Marsham, Andrew Young, and I myself have previously sought to contextualize the qur'anic punishment, and have, respectively, noted that amputation as a punishment is well attested in the Hebrew Bible, in rabbinic literature, and in late Roman practice.<sup>79</sup> One intriguing passage in 2 Sam 4:12, to which Young has drawn our attention, offers an intriguing parallel: here, after two officers break into an enemy's house in order to kill him, King David seeks to "remove them from the land" and orders his men to execute them, whereupon they "they cut off their hands and feet and hung them." While the narrative passage does not establish legal precedence per se and depicts a cumulative ad hoc punishment, it nevertheless offers one of the few plausible antecedents to the alternatives of exile, executing, crucifying, or cutting off of hand and feet in the Qur'an.<sup>80</sup> More relevant still, Juan Cole has recently analysed the implications of another late Roman ruling that shows even closer affinity to the qur'anic punishment for "corruption in the land." Justinian's *Novel*, namely, also governs punitive amputations.<sup>81</sup>

Intriguingly, Justinian's *Novel* is geared towards *limiting* this type of punishment, which the law assumes as previously applied. According to *Novel* 134.13, in cases that such punishment is merited, "only one hand shall be cut off" (*mian monēn cheira temnesthai*, my emphasis). While the *Novel* itself does not spell out what crimes deserve the death penalty or amputation, it seems among them we find those who "violently approach (*tous... biaios eperchomenous*) others, with or without weapons, indoors or on the highway or on the high seas."<sup>82</sup> Significantly, Justinian's *Novel* does not restrict the applicability of the punishment to brigandage or piracy, leaving ample room for its applicability. In contradistinction to such violent crimes, however, Justinian simultaneously decreed that for ordinary theft (*klopēs*), as defined by those not carrying arms, amputation or the death penalty are explicitly *interdicted*; such individuals must be punished otherwise (*all' heteros auton sōphronizesthai*).<sup>83</sup>

<sup>79</sup> See Young, "Stoning and Hand-Amputation," 173; Andrew Marsham, "Public Execution in the Umayyad Period: Early Islamic Punitive Practice and Its Late Antique Context," *Journal of Arabic and Islamic Studies* 11 (2011): 117; and Zellentin, *The Qur'an's Legal Culture*, 74–75 as well as Zellentin, "Zwischen Bibel und Byzanz," forthcoming.

<sup>80</sup> Note that the punishments of "hanging" and "crucifying" were often viewed as interchangeable, as most clearly apparent in the Jewish Aramaic usage of *ṣ-l-b* as well as in the Syriac usage of the root *z-q-p* for both forms of punishment; see Sokoloff, *A Syriac Lexicon*, 394–95 and note 88 below. Targum Jonathan, accordingly, renders the "hanging" in 2 Sam 4:12 with the root *ṣ-l-b* as well as the "killing" with *q-ṭ-l*, thereby offering a far-reaching lexical affinity with Q 5:33 as illustrated in Zellentin, "Zwischen Bibel und Byzanz," forthcoming.

<sup>81</sup> See Cole, "Muhammad and Justinian," esp. 188–93.

<sup>82</sup> Note, however, that in the case of notorious bandits, their public hanging in a place where they attacked their victims is advocated by Callistratus in Justinian's *Digestae* 48. 19.28.15, published in 533 CE; see Kathleen M. Coleman, "Fatal Charades: Roman Executions Staged as Mythological Enactments," *The Journal of Roman Studies* 80 (1990): 49. It is thus by no means certain that the punishments indicated by Justinian would in any way be a standardized punishment for brigandage.

<sup>83</sup> Justinian's *Novels* 134:13 was promulgated in 556 CE; cited according to Wilhelm Kroll and Rudolf Schöll, *Corpus iuris civilis* (Berlin: Weidmann, 1968), vol. III, 688.12–689.8; see also Miller and Sarris, *The Novels of Justinian*, 889–901. Note that the Syro-Roman Lawbook, likewise, imposes the penalty of



Significantly again, the same passage in Justinian's Novel prohibits the amputation of "both hands or feet" (*hekateras tas cheiras ē kai podas*, my emphasis) as punishment altogether. Depending on the severity of the crime, the culprit should instead be executed, "chastened" (*sōphronizesthai*), possibly fined and flogged, or "sent into exile" (*ē eis exorian pempesthai*). Given the paucity of Roman legal sources, it is difficult to assess the development of the pre-Justinian practice of punitive amputation in any detail. The Justinian Code (6.1.4) notes that it was Constantine who introduced the punishment of amputation, in his case that of a foot for fugitive slaves; the punishment, to the best of my knowledge, does not occur in classical Roman law. The affinities between the Qur'an and the Justinian types of punishment pointed out by Cole are indeed remarkable, and confirm a series of studies that have posited similar links.<sup>84</sup> Yet we should also emphasize that Eastern Roman law is only one of many contexts that determined the legal culture to which the Qur'an responds; overall, the practices of Syriac--speaking Christians, alongside those of the rabbis, as well as the biblical laws that provide the foundation for these practices, have proven far more prominent. Moreover, whereas the subject necessitates further study, we should also remember that amputation, exile, and execution were all part of the biblical penal system, as noted above (and see pp. 329–31).<sup>85</sup> I would therefore conclude that any study of

death for thieves who operate at night, especially those who are armed (# 76a), as well as for thieves of animals. Thieves who operate by daylight must pay a penalty (# 76a), just as those who accept stolen property (# 76e); exile is an alternative form of punishment (# 76f) here as well; cited according to Selb and Kaufhold, *Das Syrisch-Römische Rechtsbuch*, 95–97; see also note 28 (Chapter 3) above.

<sup>84</sup> The relevance of Justinian's *Novels* to contextualize the amputation of hands for thieves in the Qur'an was, to the best of my knowledge, first identified by Charles Mills, *An History of Muhammedanism* (London: Black, Parbury and Allen, 1817), 319–20; his insight is replicated (without reference) in a few later nineteenth-century works, such as Samuel Green, *The Life of Mahomet: Founder of the Religion of Islam, and of the Empire of the Saracenes* (London: T. Tegg, 1840), 179–80 and again in George Sale, *The Koran: Commonly Called The Alcoran of Muhammed* (London: Tegg, 1863), 100; a related suggestion can be found in R. S. Lopez, "Byzantine Law in the Seventh Century and Its Reception by the Germans and the Arabs," *Byzantion* 16 (1942–43): 445–61. Young notes the amputation of hands for theft in the later Byzantine *Ecloga* 107 (§11) yet also missed the Byzantine earlier sources; see Young, "Stoning and Hand-Amputation," 212. Further relevant publications include Lena Salaymeh, "Legal Traditions of the 'Near East': The Pre-Islamic Context," in *Routledge Handbook of Islamic Law*, ed. Khaled Abou El Fadl, Ahmad Atif Ahmad, and Said Fares Hassan (Abingdon: Routledge, 2021), 275–85; Meier, "The Roman Context of Early Islam"; Powers, "The Qur'an and Its Legal Environment"; Juan Cole, "Muhammad and Justinian"; Crone, "The Quranic Mushrikūn and the Resurrection (Part II)"; and Crone, *Roman, Provincial and Islamic Law*, esp. 87; see also note 144 (Chapter 2) above. Meier emphasizes what he calls the "liturgization" of politics he finds both in Eastern Roman and in early Islamic politics; Powers points to a close parallel to qur'anic inheritance law; Cole seeks to approach the self-identity of Muhammad and Justinian as sovereigns, and Crone points to the shared heresiology of the Qur'an and Justinian's *Novels* 146.2. Cf. also Ayman Daher, "The Shari'a: [sic!] Roman Law Wearing an Islamic Veil?" *Hirundo: The McGill Journal of Classical Studies* 3 (2005): 91–108, as well as Crone's and Nallino's rejection of Roman law as pertinent for early Islamic jurisprudence in Crone, *Roman, Provincial and Islamic Law: The Origins of the Islamic Patronate* (Cambridge: Cambridge University Press, 1987) and Carlo Alfonso Nallino, *Raccolta di scritti editi e inediti* (Rome: Istituto per l'Oriente, 1942), vol. IV, 85.

<sup>85</sup> Note also that the qur'anic term *yunfā...min*, "to be banished from," in Q 5:33 constitutes a *hapax legomenon*, a fact that often constitutes a soft marker for intertextuality; see e.g. pp. 113, 123–5 and 278 above.

qur'anic law must never leave the biblical primacy for its legal culture out of sight, even if it is also paramount to recognize the ways in which biblical law was preached, practised, and pondered by late antique Jews and Christians.

In other words, the fact that both qur'anic and late Roman jurists stand in continuity with the Hebrew Bible allows us to triangulate the evidence in order to sketch a broadly shared legal culture. In the case of punishments, as in so many others we have seen throughout this volume, it is once again Christian practice that has channelled the biblical tradition in a way that shows the closest affinities with the Qur'an's legal practice—and it is always the practice, and never any specific late antique text, that proves most relevant for the qur'anic community.<sup>86</sup> Justinian's intervention against the punishment of amputation of both hands, as well as against the death penalty or amputation of one hand for ordinary theft, occurred in the second half of the sixth century CE. This fact indicates that such punishments had previously been established in the Roman provinces, and thereby in the immediate vicinity of the Hejaz just before the time of the Qur'an. As importantly, we must not forget that the Qur'an yet again *distances* itself from the Roman punitive practices it partially shares, in very specific ways:

- The Qur'an shares with the Novels a concern for public violence, yet at the same time it places this concern in a more concrete *theological* double context of “those who wage war against God and His Apostle, and strive to cause corruption in the land.” The Qur'an thus fuses the notion of attempting to damage God's perfect creation with assaults on the prophet himself, a trait not discernible in this form in the late Roman legislation.<sup>87</sup>
- The Qur'an implements the same penalties of execution, amputation, and banishment that we find in late Roman law; in close parallel to Justinian, the Qur'an also does not allow for the amputation of *both* hands or *both* feet. Its punishment of the accused offenders “hands and feet cut off from opposite sides” would seem to sanction a strict application of the Roman rule.
- In contradistinction to Roman law, the Qur'an reinstates crucifixion as a punishment, which reportedly was abolished after Constantine out of piety in memory of Christ. In this, the Qur'an's ruling diverges from Roman practice in a way that aligns with its own theology, in which the crucifixion, or at

<sup>86</sup> The ways in which Roman Imperial law took many cues from Christian and ultimately biblical sources is well illustrated by the Justinian attitude to homosexuality and incest suggested in Chapters 2 and 3 above. Another good example in which a Roman Jew or Christian *did* point to, or create a rapprochement between, the law of the Hebrew Bible and classical Roman law is found in the puzzling *Compilatio*; see e.g. Robert M. Frakes, *Compiling the Collatio Legum Mosaicarum et Romanarum in Late Antiquity* (Oxford and New York: Oxford University Press, 2012). For the broader context of late Roman law see e.g. George Mousourakis, *The Historical and Institutional Context of Roman Law* (Abingdon: Routledge, 2015), esp. 349; 446.

<sup>87</sup> On the legal, societal, and theological context of Justinian's *Novels* see Sarris, *Economy and Society in the Age of Justinian*, as well as James Allen Stewart Evans, *The Age of Justinian: The Circumstances of Imperial Power* (London: Routledge, 1996), esp. 183–252.

least Jewish responsibility for it, is clearly denied (see Q 4:157–58), thereby removing the grounds on which Roman law had abolished the practice.<sup>88</sup>

- Finally, the ruling in Q 5:38 and its broader context strongly suggest that the verb *saraqā* indeed does denote furtive rather than violent armed theft, here aligning the Qur'an with the widespread respective distinction between robbery and non-violent theft.<sup>89</sup> The Qur'an, moreover, insists on amputation of limbs for furtive thieves, in line with the apparent pre-Justinian Roman legal practice, yet again in contradistinction to the respective amendment by Justinian.

Further studies on the matter may one day create a more robust framework against which to place the parallels between qur'anic law and the Christian iteration of biblical law. Yet in light of the present findings, we can already state that the long tradition of gentile law we first encountered in the Hebrew Bible's rulings for the *gerim* and subsequently in all forms of Judaism and Christianity shaped the legal as well as the literary universe in which the nascent Islamic community participated, and against which it set itself apart. Recognizing the importance of "gentile" law in the Hebrew Bible, at the margins of rabbinic discourse, and at the centre of Christian law throughout late antiquity, allows us to position the Qur'an much more carefully vis-à-vis its Jewish and Christian contemporaries, and vis-à-vis the Bible itself. The result of considering the complexities of law, and especially of law as literature, across the cultural and ethnic landscapes of antiquity enables us to see the Qur'an in much closer continuity with the practices and beliefs of its contemporaries. It is in light of this general continuity alone that I believe we can appreciate the Qur'an's specific divergences from the Jewish and the Christian tradition that set the qur'anic community apart from its contemporaries and thereby set in motion further legal developments that ultimately shaped classical Islam.

I hope that future research will be able to anchor the Qur'an so securely in its late antique context that the Qur'an itself will emerge as a benchmark against which we can establish the antiquity of further legal practices attributed to the

<sup>88</sup> For Roman crucifixion and its abolition see John Granger Cook, *Crucifixion in the Mediterranean World* (Tübingen: Mohr Siebeck, 2019), 398–417; for the practice in classical Islam, in continuity with earlier Roman practice and with the Qur'an, see e.g. Sean Anthony, *Crucifixion and Death as Spectacle: Umayyad Crucifixion in Its Late Antique Context* (Ann Arbor: Eisenbrauns, 2014) and Marsham, "Public Execution in the Umayyad Period," for the Qur'an's "biblicization" of punishments see also Zellentín, "Zwischen Bibel und Byzanz," forthcoming.

<sup>89</sup> This distinction is equally indicated by the Qur'an's specification to include female thieves, but not of any females who would "corrupt the land." The Qur'an emphasizes the aspect of stealth in its usage of the Arabic root *saraqā* in Q 15:18, as Cole points out; see Cole, "Muhammad and Justinian," 190–3. The Arabic root, moreover, is well attested in epigraphy and clearly denotes furtive acts rather than open raids; see e.g. M.C.A Macdonald, *Literacy and Identity in Pre-Islamic Arabia* (Abingdon: Routledge, 2008), 1–26 and David F. Graf and Michael P. O'Connor, "The Origin of the Term Saracen and the Rawwāfā Inscriptions," in *Byzantine Studies/Études byzantines* 4 (1977): 63, note 53, as well as Biella, *Dictionary of Old South Arabic*, 346 and <http://sabaweb.uni-jena.de/Sabaweb/Suche/Suche/SearchResultList?idSearchRoot=srq> (accessed 5 March 2021).

nascent Islamic community in later works. I would be delighted if such research were to render the present study obsolete, or at least subject to a full revision, in the near future. Yet I am also convinced that the fundamental continuity of law here illustrated will offer a more secure basis for such research, and perhaps even inspire scholars of Judaism and Christianity to revisit long-held assumptions about their objects of study. The field would be well served if it used the Qur'an as a historical source whose unique vantage allows one to reconsider many traits of late antiquity, a period which, in many ways, resembled the political and literary worldview of the Qur'an far more closely than scholarship has thus far recognized.

## An Outlook

In the preceding pages, I have sought to illustrate my proposal to rethink the way in which the Hebrew Bible, followed by late antique Jews and Christians and eventually by the Qur'an, relates "gentiles" to "the Law." While the definition of non-Israelite ethnicity developed over the centuries, the laws that were applied to them across the traditions varied far less than had previously been recognized. The foundation for these laws was created by the biblical Holiness School, which considered the gentile *gerim* as subject not only to the double prohibition of blood we find in Genesis but also to all its laws governing *prohibited* impurity, equally extending some of the rules pertaining to *regulated* impurity to them. This legal stance was espoused, to varying degrees, by late antique Jews and Christians, most of whom seem to have extended the *gerim* laws to non-Jews living outside the Holy Land, albeit with widely diverging emphases. The Decree of the Apostles endorses those laws governing prohibited impurity that pertain to food and sexual intercourse without affirming or dismissing the issue of regulated impurity, thus leaving much room for interpretation for later readers of the Bible. I have sought to classify the attitudes Christians displayed towards this decree as falling into three distinguishable categories. Only a very small minority of Church Fathers dismissed the Decree's validity altogether as historically contingent and obsolete. The eventual majority of Christian authorities, along with a plausible majority of "simple believers," fully appreciated the Decree and accepted its regulations regarding to *prohibited* impurity, simultaneously rejecting or at least downplaying the relevance of *regulated* impurity. Moreover, a sizeable minority of Christians, from the early church onwards and throughout late antiquity, applied the rules governing both prohibited and regulated impurity to gentiles, often expanding rules relating to both types. In dialogue with biblical law originally promulgated (mainly) for Israelites, these Christians maintained and updated legislation on foodstuff, on sexual activity, and on the menstrual cycle.

A parallel development, however, blurs the largely straightforward legal continuity that connect the Bible to the Qur'an by way of late antiquity. We have traced three ethnic conceptions that prepared the Qur'an's particular view on ethnicity and the resulting legal obligations. First, an incipient majority of Christians, whose dominance receded over the centuries, continued to differentiate between Jewish and gentile ethnicity and the respective legal obligations. Second, some Christians, mainly in the Greek- and Latin-speaking realms, subsumed Jewish under gentile ethnicity by dismissing the legal relevance of the former, casting the

church as beholden only to the gentile law of the Decree of the Apostles. Third, other Christians, mainly in the Syriac-speaking world, subsumed gentile under Israelite ethnicity by integrating the former into a melded church, a church that obeyed what they describe as the enduring divine law, only slightly, if at all, broader in scope than the Decree of the Apostles. This latter model may be the one that comes closest to dissolving the divide between Jewish and gentile ethnicity. Yet even here, the very modern notion of “Jewish-Christianity,” in as far as it operates beyond the recognition of the distinction between Jewish and non-Jewish ethnicity, seems unhelpful in the description of late antiquity and even more so when assessing the oral discourse of Western Arabia at the turn of the seventh century CE. The ethnic distinction between Jews and gentiles, by contrast, is foundational for my previous suggestions pertaining to the notion of “Judaean-Christian Legal Culture,” and may be essential in order to understand the legal foundation of most late antique cultures.

Such a distinction between Jews and gentiles remains a precondition to grasping yet a fourth conception of Israelite ethnicity, reconfiguring and combining aspects of all previous ones. The Qur’an, like the earliest Christians, maintains a legal divide between Israel and the nations. Along with parts of the Syriac (and Aksumite) churches, it considers Christians alongside Jews as Israelites, and it likewise reiterates and promulgates laws it understands as part of God’s enduring original law. Like Christians of the Latin- and Greek-speaking realms, finally, and along with other parts of the Syriac churches, the Qur’an defines itself as non-Israelite, preparing the path for later Islamic universalism, yet it uniquely expresses its “gentile” self-identity in line with Abraham’s son Ishmael.<sup>1</sup>

<sup>1</sup> I hope that the current study, as one of its side-effects, will contribute to making the “anachronistic, clumsy, fraught and contested category” of “Jewish Christianity” seem even more so. The quoted characterization of the notion of “Jewish Christianity” is that of Annette Yoshiko Reed, who valiantly defends the use of the notion as heuristic device in her recent introduction to Reed, *Jewish-Christianity*, xx. I fully concur with Reed that there currently still *can* be good reasons to retain the term “Jewish-Christian” in our vocabulary, and my arguments against it do not seek to diminish the central importance of the work of Reed and some of her predecessors. However, any consideration that encompasses both the New Testament writings and their later reception history, the notion of a “Jewish” form of Christianity set over against any other forms, invariably distracts from the innovative nature of later patristic notions of ethnicity when compared with their own scriptural sources. As for the Qur’an’s purported relationship to Jewish Christianity, see Jan M. F. Van Reeth, “Les courants ‘judéo-chrétiens’ et chrétiens orientaux de l’antiquité tardive,” in *Le coran des historiens*, ed. Mohammad Ali Amir-Moezzi and Guillaume Dye (Paris: Cerf, 2019), vol. I, 427–68 and Crone’s position as argued in Crone, “Jewish Christianity and the Qur’an”; see also the useful refutation in Sidney H. Griffith, “Jewish Christians and the Qur’an: The Transit of Religious Lore in Late Antique Arabia,” in *Jews and Syriac Christians*, ed. Aaron Michael Butts and Simcha Gross (Tübingen: Mohr Siebeck, 2020), 103–20, as well as the very useful volume edited by Francisco del Río Sánchez, *Jewish Christianity and the Origins of Islam* (Turnhout: Brepols, 2018). In my own studies on the matter, I had suggested, as a preliminary step towards abolishing the category of Jewish Christianity, that we move towards a definition of “Judaean-Christian Legal Culture” that is based precisely on the *dichotomy* of Jewish as opposed to gentile biblical law and on the respective sources’ concomitant endorsement of both; see Zellentin, “Judaean-Christian Legal Culture and the Qur’an.” Despite my best efforts, however, some readers, such as Crone herself, have placed my work in the context of the very mixed multitude of scholars purporting a “Jewish-Christian” context of the Qur’an (see Crone, “Jewish Christianity and the Qur’an,” 228). In the long term, I would therefore suggest we simply depict those forms of Christianity

Reconsidering late antiquity based on the three diverging Christian attitudes towards the Decree of the Apostles—dismissive, appreciative, and expansive—allows us to rethink some religious and legal tendencies within Christianity and beyond. Those Christians belonging to the assumed eventual majority, who simply appreciated the validity of the Decree of the Apostles all the while rejecting or at least downplaying the importance of regulated impurity, do not stand far from the rabbis' view of gentile law. As we have seen throughout this volume, the rabbis equally based their Noahide laws on the same biblical canon of *gerim* laws that Christians largely adopted. Like the eventual majority of Christians, the rabbis also reject the notion that regulated impurity would be a concept that ever applies to non-Jews. Going further still, the few Church Fathers who dismissed the Decree of the Apostles as binding and allowed the consumption of blood and carrion to gentile believers find themselves aligned with those rabbinic interpretations of the *gerim* laws that minimized even those restrictions. These rabbis allowed carrion and all but living blood to Noahides—with the notable difference from the “dismissive” Church Fathers that the rabbis arrived at such a ruling not by dismissal but by a restrictive interpretation that guided their endorsement of the respective biblical laws for gentiles. Those Christians, by contrast, who fully endorsed and expanded the notion of regulated impurity pertaining to food, sexual intercourse, and the menstrual cycle as applicable to gentiles, stand closest to the qur'anic legislation, and to the nascent Islamic sense of “gentile,” and plausibly Ishmaelite, purity and impurity.

Law thus functions as literature from the Bible to the Qur'an, and only in the careful analysis of both can we retrieve the world that has given rise to the Jewish, Christian, and Islamic communities we have studied. Whereas few would reject the notion that Jews and Christians broadly followed the wagon tracks left behind by their Israelite forefathers, departing from them in important ways, we may make a similar claim about qur'anic law. Sidney Griffith accurately remarked that “the Bible is at the same time everywhere and nowhere in the Arabic Qur'an.”<sup>2</sup> The Qur'an's Bible, which can and cannot be found in nearly every surah, is the one that circulated throughout the diverse cultures that made up Arabia at the turn of the seventh century C.E.<sup>3</sup> I would likewise suggest, first, that late antique biblical

that leave behind the legal and ethnic divide between Israelites and the nations simply as a “post-Jewish” forms of Christianity (which were not necessarily more anti-Jewish than “Israelite” forms of Christianity). There is, however, no need to overburden the present volume with these definitional matters.

<sup>2</sup> See Griffith, *The Bible in Arabic*, 2; see also 66.

<sup>3</sup> The Arabian Bible most likely circulated in oral form as well as possibly in writing, partially or possibly in its entirety, and in a variety of languages possibly including Arabic; see Sidney Griffith, “The Bible in the Qur'an; the Qur'an in the Bible: Scriptural Intertextuality in the Language of Islam,” in *Books and Readers in the Premodern World: Essays in Honor of Harry Gamble*, ed. Karl Shuve (Atlanta: SBL Press, 2018), 137–70; on the paucity of any pre-qur'anic literary documents in Arabic, see Griffith, *The Bible in Arabic*, 43, note 103, and 109–11, and Michael C. A. Macdonald (ed.), *The Development of Arabic as a Written Language* (Oxford: Archaeopress, 2010), and note 167 (Chapter 1) above.



law, at the time of the qur'anic prophet, permeated many aspects of Jewish, Christian, and pagan Arabian legal culture, and, second, that biblical law, in its late antique Arabian form, is at the same time everywhere and nowhere in the legal culture of the Qur'an.

Inverting this suggestion, I find it exceedingly difficult to identify aspects of qur'anic law that would *not* be permeated by biblical law. The case of the Meccan pilgrimage here stands out (see pp. 120–27 and 308–15 above), as does the inclusion of milk-siblings and nurses in the list of prohibited relations (see pp. 249–75). Both describe Arabian practices that have no direct relationship to the Hebrew Bible. Yet even here we have seen that the Qur'an conceives of aspects of the Hajj in biblical terms, and that its canon of prohibited relationships more broadly constitutes one of the passages that are most closely related to the respective biblical passage—either in its oral or in its written form. Whereas the present study has not touched upon central aspects of qur'anic laws such as the writing of loan agreements, inheritance law, divorce law, and the laws governing slavery, preliminary overviews of this material point in the same direction as my findings: the Qur'an, by and large, constitutes a “Scripture which confirms [the Scripture of Moses] in the Arabic language” (*wa-hādhā kitābun muṣaddiqun lisānan 'arabiyyan*, Q 46:12) in a far more precise sense than hitherto acknowledged. Yet divergences between biblical and qur'anic law can usually be understood in the context of the Bible's Jewish and especially Christian history of interpretation, in the context of local Arabian practice, or in the context of the Qur'an own stringent legal principles that always override any divergent tradition.<sup>4</sup>

The Qur'an's divergences from biblical law should always be placed within its dual discourse first of allowing for some legal divergence between communities (see Q 5:48), and second of seeking to return to the divine law it perceives of as the original one. I would thus suggest that the Qur'an understands its legal interventions as an attempt to rein in some of the perceived postbiblical Jewish and Christian additions to biblical law, conceived of as either misunderstanding or outright falsification. The question in how far it thereby reinstates biblical principles and in how far it expedites the further evolvement of law is a question that cannot fully be answered by the legal historian, since the Hebrew Bible itself offers many divergent legal tendencies. (Conservative legal scholars, by comparison, often drive legal developments forward as vigorously as their liberal peers precisely when seeking to restore what they conceive of as original principles.) I would

<sup>4</sup> In a study in preparation, I argue for the biblical, Jewish, and especially Christian context of all areas of Christian law, and seek to illustrate this claim with rabbinic and late Roman parallels including the Syro-Roman Lawbook, the *Sententiae Syriacae*, and a variety of West and East Syrian canons and patristic writings as well as Byzantine law as illuminating many aspects of qur'anic law. The study will be submitted to a collaborative volume edited by Marianna Klar and Nicolai Sinai and co-edited by Gabriel Reynolds and myself; it is due to appear with Princeton University Press with the title *Biblical Traditions in the Qur'an*.

therefore present the Qur'an's reiteration of biblical law as being in dialogue with a broad range of Jewish and especially Christian legal cultures, and as being guided by its focus on biblical law, along with its general tendency to alleviate, rather than aggravate, the severity of law wherever possible. The attempt to return to biblical origins, of course, is a hermeneutical tendency the Qur'an equally shares with important strands of Jewish and especially Christian thought throughout the centuries.<sup>5</sup>

To reiterate it rather once too often than not often enough, Qur'anic law has to be understood in terms of its continuity with late antique Arabian law—both in the way in which it presents itself as part of this tradition and in the way in which it sets itself apart from it. Recent debates have re-evaluated the question as to which laws shaped Arabian legal culture at the turn of the seventh century CE: how biblical, Jewish, or Christian was this law, and how distinct was it from law in other parts of the ancient Near and Middle East?<sup>6</sup> Any reconstruction of the legal narratives and practices which the Qur'an promulgates, or with which it assumes its audience is familiar, in my view, needs to be understood in light of the multifaceted, hybrid nature of Arabian law. In the absence of pre-Qur'anic literary legal sources relevant for the Hejaz, such attempts at reconstructing Arabian law must, by necessity, proceed circularly. Our primary source remains the Qur'an itself, which indicates both its continuity with, and reform of, existing practice. For future studies, I therefore suggest comparing the hypothetical practices of the Qur'an's audience with six sets of other available data, each of which offers its own set of methodological challenges:

- Ancient Near and Middle Eastern law definitely shaped much of Arabian legal culture more generally speaking, and any continuity of the Qur'an with the Bible has to be understood within this broader framework. However, the simple observation of the universally shared aspects of many of the Qur'an's pre- and proscriptions—say, on the purity of sexuality, of food, or of fighting—would run the danger of drowning out the particularity of legal traditions specifically shared by the Bible and the Qur'an.

<sup>5</sup> On the notion of “originalism” in late antique legal thought, see Zellentin, “Jesus and the Tradition of the Elders,” 379–403. On limiting biblical law see Zellentin, *The Qur'an's Legal Culture*, 102–3, as well as Lowry, “When Less Is More,” 22–42.

<sup>6</sup> My present findings do not confirm the views on the matter as expressed by Aziz Al-Azmeh, who, while offering important insights, over-corrects bias towards biblicalizing the Qur'an—problematic as it may be—and thereby overemphasizes the cultural distinctness of Arabia at the expense of the Qur'an's self-identity; see Al-Azmeh, “Implausibility and Probability in Studies of Paleo-Qur'anic Genesis,” in *Islam in der Moderne, Moderne im Islam. Festschrift für Reinhard Schulze zum 65. Geburtstag*, ed. Florian Zemmin et al. (Leiden: Brill, 2018), 15–40 and Al-Azmeh, *The Emergence of Islam in Late Antiquity*. See now also Lena Salaymeh, *The Beginnings of Islamic Law: Late Antique Islamicate Legal Traditions* (Cambridge: Cambridge University Press, 2016), esp. 101–3. On the Arabian and the late antique context of the Qur'an more broadly see note 164 (Chapter 1) above.

- Throughout late antiquity, the Hebrew Bible circulated orally and in writing, in Hebrew and in a considerable number of translations, renderings, and retellings, in Aramaic, Syriac, Ge'ez, Greek, Latin, and in other languages, likely including Arabic. Placing Qur'anic law within Jewish and Christian legal culture in turn necessitates comprehending the Qur'an both in dialogue with the often polarized Jewish and Christian traditions of biblical interpretations, and in dialogue with the biblical law itself, which often contains the keys to our understanding of later developments.
- As I have previously argued, the most pertinent legal context of the Qur'an is thus to be found in the law and literature of late antique Christianity, as well as rabbinic Judaism. While the forms of Judaism and Christianity that are reflected in the Qur'an were certainly different from those practised in the Sasanian Persian and Byzantine Empires, we can in turn identify certain strands of Christianity and Judaism that were particularly pertinent for the Qur'an. In my view, the legal culture of the rabbinic Jews of Palestine (more so than of Babylon), Eastern Roman Christianity more broadly, and particularly some strands of West (more so than East) Syrian Christianity together form the primary historical context of the Qur'an's integration of biblical law. Further studies may well expand this horizon to integrate Aksumite legal traditions.
- Recent discoveries (and rediscoveries) of ancient South Arabian epigraphical remains constitute a pivotal mechanism to balance the Qur'an's biblical with its pagan Arabian context. This holds true for all aspects of Qur'anic law, even and perhaps especially in those cases where ancient South Arabian practice was shaped by the same cultural forces reflected in the Hebrew Bible, as we have seen with regards to the notions of purity and sanctity.
- The practices attributed to pre-Islamic Arabia in traditional Islamic sources, which have largely been excluded from this volume, undoubtedly preserve many relevant cultural memories reflecting the nascent Islamic community. Yet these sources are often guided by exegetical and theological concerns that make it unclear to what extent they reflect pre-Islamic or Islamicate discourse. For example, the authors of this literature, when they did consult Jewish or Christian sources, were insufficiently familiar with earlier forms of Judaism and Christianity, and often extrapolated later Jewish and Christian developments into earlier periods. Much work remains to be done on this corpus, ideally in light of some of the present findings. In contradistinction to the most positivist strands of scholarship, however, I expect that many of the Islamic reports on the nascent Islamic community represent actual collective memory, and will one day also inform a historical-critical understanding of the prophet and his audience. The growing ancient South Arabian epigraphic evidence, for once, offers a good starting point for a reevaluation also of the Islamic evidence.

- The traditional Islamic exegetical interpretation of Qur'anic law, last but not least, has also been largely excluded from the present study. Almost all of the secondary considerations of traditional Islamic scholarship, have, however, shown that the “Qur'anist” approach followed here can lead to results that are at partially or even fully compatible with the traditional legal positions of the *fuqahā'*. Most of the proposed readings at least partially corroborate many traditional legal exegetes' valuable insights, simultaneously complexifying their relationship to the Qur'an.

At the same time, I would suggest that the wealth of excellent studies on the cultural contexts of nascent Islamic law—which often have considered many of the same legal traditions here belaboured—may well expand their respective approaches by taking the present findings into account. In other words, a diachronic historical study of Shari'a should consider the Qur'an not only as one of the fundamental sources for Islamic law that it undoubtedly constitutes but also as itself already conversant with aspects of ancient Arabian as well as Jewish, Christian, especially Byzantine and plausibly Aksumite, law—either directly or through prophetic sayings and legal precedent.<sup>7</sup>

Regardless of the merit of any specific argument in this volume, I have attempted to establish that the Qur'an's law stand in broad continuity with the laws given to non-Israelites in the Hebrew Bible, which late antique rabbis and Christians transformed into law valid for all of humanity, or for all gentile believers in Christ, respectively. This legal and literary continuity allows for a new perspective on the affinity between the Bible and the Qur'an, linked as they were by the biblical world of late antiquity.

<sup>7</sup> Recent studies on the matter include Hallaq, *The Origins and Evolution of Islamic Law*; Joseph Lowry, “Early Islamic Exegesis as Legal Theory: How Qur'anic Wisdom (Hikma) Became the Sunna of the Prophet,” in *Jewish Biblical Interpretation and Cultural Exchange*, ed. Natalie B. Dohrmann and David Stern (Philadelphia: University of Pennsylvania Press, 2008), 139–60; Francesca, “Put the Ocean between Them,” 101–38; Salaymeh, *The Beginnings of Islamic Law* and Behnam Sadeghi, *The Logic of Law Making in Islam: Women and Prayer in the Legal Tradition* (Cambridge: Cambridge University Press, 2013); note also the collection edited by Wael Hallaq, *The Formation of Islamic Law* (Abingdon: Routledge, 2014). Earlier studies of note include Gotthelf Bergsträsser, *Bergsträsser's Grundzüge des Islamischen Rechts* (Berlin: De Gruyter, 1935); Georges Henri Bousquet, “Le mystère de la formation et des origines du fiqh,” *Revue Algérienne, Tunisienne et Marocaine de Législation et de Jurisprudence* 63 (1947): 66–80; John Burton, *The Sources of Islamic Law: Islamic Theories of Abrogation* (Edinburgh: Edinburgh University Press, 1990); Agostino Cilardo, *Teorie sulle origini del diritto islamico* (Rome: Istituto per l'Oriente C. A. Nallino, 1990); Crone, *Roman, Provincial and Islamic Law*; and Yasin Dutton, *The Origins of Islamic Law: The Qur'an, the Muwaṭṭā' and Madinan Amal* (Richmond: Curzon, 1999).

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