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Law in the Medinan Qur'an:

The Case of Biblical Incest Law and its Qur'anic Reiteration*

Sidney Griffith accurately remarked that “the Bible is at the same time everywhere and nowhere in the Arabic Qur'an”.¹ The Qur'an's Bible, which can and cannot be found in nearly every sura, is the one that circulated throughout the diverse cultures that made up Arabia at the turn of the seventh century CE.² The present essay is a prolegomenon to the dual hypothesis that, first, late antique Biblical law, at the time of the Qur'anic Prophet, permeated many aspects of Jewish, Christian, and gentile Arabian legal culture, and, secondly, that Biblical law, in its late antique Arabian form, is at the same time everywhere and nowhere in the legal culture of the Medinan Qur'an.

While it may take many years to prove or disprove these two partially co-dependent hypotheses, the present essay will seek to illustrate their plausibility through the example of the laws found in the Qur'an's legislation on prohibited marriages (in Q 4:22–23). I will argue that in the case of incest law, the nature and order of the Qur'anic prohibitions suggests

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¹ See Sidney Griffith, *The Bible in Arabic: The Scriptures of the “People of the Book” in the Language of Islam* (Princeton: Princeton University Press, 2013), 2 and also 66.

² 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. On the scarcity of any pre-Qur'anic literary documents in Arabic, see Griffith, *The Bible in Arabic*, 43, n. 103, and 109–111, and M. C. A. Macdonald (ed.), *The Development of Arabic as a Written Language* (Oxford: Archaeopress, 2010).

that the Islamic scripture integrates and updates a similar catalogue preserved in the Hebrew one (in Leviticus 18:6–18), all the while largely preserving its original order, as the following preliminary and simplified juxtaposition illustrates. According to both texts, a man is prohibited from marrying the following women:

Qur'an	Bible
father's wife	
mother	
daughter	<i>implicit</i>
sister	
<i>implicit</i>	granddaughter
paternal aunt	
maternal aunt	
-	uncle's wife
<i>see below</i>	son's wife
-	brother's wife
niece	-
mother through nursing	-
sister through nursing	-
mother and daughter	
son's wife	<i>see above</i>
two sisters	

The overlap in the actual laws in the Bible and in the Qur'an, as well as their sequence, is extensive. Both passages were understood to begin with the same two categories, both end with the same category, and of the total of eight shared categories (rendered in bold) seven are presented in the same overall order, proceeding (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 prohibition of the son's wife placed later in one text than the other. The overlap, of course, equally emphasises the differences (rendered in italics): the Qur'an does not adopt the Biblical prohibitions for a man to marry the former wife of a brother or an uncle; it adds the prohibition of a niece as well as of a mother or sister acquired through co-lactation; and it eases several Biblical prohibitions regarding a man's marriage to the former wife of his father, to his stepdaughter, and to the sister of his wife, as we will see in detail below.

This essay will seek to contextualise the overlap as well as the discrepancies in law and order by considering both the Hebrew Bible (henceforth often simply “the 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. The first part, titled “Consanguinity, Affinity, and Exemptions: Major Trends in Christian Marriage Law”, will introduce the conceptual and theoretical underpinning of my research, with special emphasis on the work of the anthropologist Françoise Héritier and her critics. This part will focus on the Christian understanding of Biblical incest laws in light of the concept of affinity, which is central in Roman and West Syrian law but less emphasised in Biblical, rabbinic, and East Syrian incest law. The second part will present the Biblical list of prohibited relations in Leviticus 18:6–18, whose operative legal principles can likewise be unearthed through a careful literary study. 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 as on the protection of the rights of legal personae such as God, a man’s father and mother, his closest male relatives, and his wife. The third part will introduce the Qur’an’s list of prohibited sexual relations in Q 4 Sūrat al-Nisā’, vv. 22–23. I argue that a detailed literary analysis can unearth the text’s operative legal principles, which include but downplay the Roman and West Syrian notion of kinship based on affinity. At the same time, the passage offers exemptions for some previously contracted affinal marriages that the Qur’an declares illegitimate; such exemptions are similar to those found in East Syrian law. The fourth part, “A Legal and Literary Comparison between the Qur’an and the Bible”, offers the central claim of my essay, that the content and the arrangement of the actual incest prohibitions in the two codes show such similarity that we must understand Qur’anic law in this particular case as integrating and updating Biblical law. Having established the general continuity of Qur’anic and Biblical laws against incest, we will then go on to consider the important discrepancies between the two law codes, both in content and form. The comparison will show that the Qur’an expands the Biblical incest prohibition in dialogue with late Roman and West Syrian Christian laws against consanguineous and affinal marriages, and that, in dialogue with the East Syrian tradition, it simultaneously *annuls, eases, or limits* in scope all those Biblical prohibitions that correspond to the Christian notion of affinity. Finally, my conclusion emphasises 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 triangulation of the legal evidence found, first, in the Hebrew Bible, secondly, in the Bible's late antique Jewish and Christian reception history, and thirdly, in the Qur'an and in the early Islamic legal tradition thereby allows us to contextualise the Qur'an within the posited framework of a Biblicised Arabian legal culture. It is the Qur'an's reiteration of this legal culture that will in turn explain why and how such Biblical law is at the same time everywhere and nowhere in the Arabic Qur'an.

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 special focus on Christian law, will prove essential for our understanding of the Qur'an's respective operative legal principles. For this essay, I will first define "marriage" as any potentially permanent and societally sanctioned contract of mutual obligations between a free man and a free woman that authorises sexual intercourse. Along with late antique Jews and Christians, I will thus consider the Biblical prohibitions of intercourse as if they were prohibitions of marriage. In order to streamline my argument, I generally exclude all considerations of extra-matrimonial sexual relations along with other thorny issues such as financial aspects of marriage, divorce, same-sex marriage, marriage with or among slaves, temporary marriage, prostitution, or the analysis of marriage as slavery, worthwhile as these topics may be.

Secondly, prohibitions of *consanguineous* sexual relations – that is, between blood relations, such as between parents and children or between siblings – are well-nigh universal, informing, for example, the civil law of Greece and of imperial Rome as much as the Code of Hammurabi and other Ancient Near Eastern laws, and likely also those of pre-Islamic Arabia.³ The most obvious point of contact between Christian and Qur'anic law, to

³ On the prohibition of consanguineous relations in the Ancient Near East, e.g., in the Code of Hammurabi, in the Hittite Laws, and in the Middle Assyrian Laws, see Marten Stol, *Women in the Ancient Near East* (Berlin: De Gruyter, 2016), 268–274, and already Jonathan R. Ziskind, "Legal Rules on Incest in the Ancient Near East", *Revue internationale des droits de l'antiquité*, 3e série, 79 (1988); Harry A. Hoffner, "Incest, Sodomy and Bestiality in the Ancient Near East", in *Orient and Occident: Essays Presented to Cyrus H. Gordon on the Occasion of his Sixty-Fifth Birthday*, ed. Harry A. Hoffner (Neukirchen-Vluyn: Neukirchener Verlag, 1973), 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 nn. 31, 78, and 110 below. For the seemingly exceptional case of Roman Egypt, see Sabine R. Huebner, "'Brother-Sister' Marriage in Roman Egypt: A Curiosity

the exclusion of Biblical and Jewish law, can be found in the prohibition of a particular consanguineous relationship of the third degree, the so-called “avuncular” marriage between an uncle and his niece. The rabbis, and especially those in Babylonia, did not problematise this permitted Biblical consanguineous relationship in the slightest,⁴ and the East Syrian tradition did not initially outlaw it either.⁵ In this sense, the Babylonian Talmud, as well as East Syrian law, may be said to reflect, to a degree, the more lenient Zoroastrian attitude towards close-kin marriages, in contrast to Byzantine Christian or even Palestinian rabbinic culture.⁶ Roman Christian law has long shown contempt for avuncular marriages, which were outlawed in the Eastern Roman Empire and in the West Syrian church in the fifth century CE (even though some exceptions were made); similar prohibitions would

of Humankind or a Widespread Family Strategy?”, *Journal of Roman Studies* 97 (2007). 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), 133–136; see already William Robertson Smith, *Kinship and Marriage in Early Arabia* (London: Adam and Charles Black, 1907), 191–216, and Julius Wellhausen, “Die Ehe bei den Arabern”, *Nachrichten der königlichen Akademie der Wissenschaften und der Georg-Augustus Universität zu Göttingen* 11 (1893). Sara Kohn’s otherwise very thorough study does not discuss impediments to marriage, see Kohn, “Die Eheschließung im Koran” (PhD diss., University of Amsterdam, 1934).

⁴ See, e.g., Bavli *Yevamot* 62b–63a on the praise for a man who marries his sister’s daughter; see also Eliezer Segal, “Sarah and Iscah: Method and Message in Midrashic Tradition”, *The Jewish Quarterly Review* 82 (1992). Ricks rightly points out that the issue of avuncular marriage may well have been a point of contention within Second Temple Judaism; see Ricks, “Kinship Bars to Marriage”, 131. On Babylonian Talmudic views on incest more broadly, see especially Yishai Kiel, *Sexuality in the Babylonian Talmud: Christian and Sasanian Contexts in Late Antiquity* (Cambridge: Cambridge University Press, 2016), especially 245–260, 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).

⁵ The most important East Syrian source that discusses uncle-niece marriage is that of the sixth century *catholicos* Mar Aba, to whom we shall 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 Jean-Baptiste Chabot (ed. and trans.), *Synodicon orientale ou recueil de synodes nestoriens* (Paris: Imprimerie Nationale, 1902), 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.

⁶ 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. Maria Macuch, Dieter Weber, and Desmond Durkin-Meisterernst (Wiesbaden: Harrassowitz, 2010); 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”, *Archív Orientální* 39 (1971).

eventually also be taken for granted in East Syrian Christian law of the Islamicate period.⁷ While a broader inquiry into the subject matter is necessary, we will see that the Qur'an, in its respective prohibition of a man's marriage to his brother's or sister's daughter, seems to move away from Biblical precedent and closer to the stricter approach towards consanguinity that we can find in both Latin and Greek Roman Christian and West Syrian law.

Yet what, exactly, is the problem with sexual relations between consanguineous humans, or "incest" in Roman parlance? The debate has occupied the humanities, the social sciences, and medicine for a long time. In many ways, the quest to understand the origins of incest prohibitions 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., biologically based) feature of humans, and according to whom aversion to incest increases with co-residence. While some aspects of Freud's theory continue to attract followers, the views of Westermarck have been confirmed by recent social scientific data.⁸ What unites both sides of the debate, however, is a general focus on

⁷ See Justinian Code 5:8:2; see also O. 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). The practice of avuncular marriage was prohibited in the late fifth century, under the Emperor Zeon; see Judith Evans Grubbs, *Women and the Law in the Roman Empire: A Sourcebook on Marriage, Divorce and Widowhood* (Abingdon: Routledge, 2002), 137–138 and 161; cf. Simon Corcoran, "The Sins of the Fathers: A Neglected Constitution of Diocletian on Incest", *The Journal of Legal History* 21 (2000). There were, of course, exceptions to the prohibition, such as Heraclius's marriage to his sister's daughter Martina in the early seventh century, 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. Matthias Morgenstern, Christian Boudignon, and Christiane Tietz (Göttingen: Vandenhoeck & Ruprecht, 2011). Avuncular marriage was prohibited in the West Syrian tradition already under Raboula; see Athanase Hage, *Les empêchements de mariage en droit canonique oriental: étude historico-canonique* (Beirut: n.p., 1954), 198–199, and Jean Dauvillier and Carlo De Clercq, *Le mariage en droit canonique oriental* (Paris: Recueil de Sirey, 1936), 127–129. On the later prohibition of avuncular marriage in Islamicate East Syrian law, for example in the law books of Isho'bokht, Timothy, and Isho'barnun, see De Clercq, *Le mariage*, as well as Weitz, *Between Christ and Caliph: Law, Marriage, and Christian Community in Early Islam* (Philadelphia: University of Pennsylvania Press, 2018), 155–171.

⁸ See, e.g., Alan H. Bittles, *Consanguinity in Context* (Cambridge: Cambridge University Press, 2012); Debra Lieberman, Daniel M. T. Fessler, and Adam Smith, "The Relationship Between Familial Resemblance and Sexual Attraction: An Update on Westermarck, Freud, and the Incest Taboo", *Personality and Social Psychology Bulletin* 37 (2011); 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:

the prohibition of consanguineous relations rather than on a prohibition of relations based on *affinity*, that is, kinship entailed by marriage, such as the marriage of a man to his wife's sister or the marriage 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 incest prohibitions based on affinity, shifting the concept in a way that is as simple as it is brilliant. The conventional way defines affinity as the relationship between ego and the blood relatives of ego's spouse or between ego and his own blood relatives' spouses.⁹ Héritier, by 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".¹⁰ In other words, rather than focusing on ego, Héritier shows 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 the individual who stands in a consanguineous relationship with another one of ego's (current or former) spouses.

The most obvious case of an affinal marriage thus defined would be a woman who survives, or is divorced by, a husband and then marries a blood relative of that man; according to Héritier, it is the relationship that is thereby established between the wife's two husbands, who are also blood relatives, that constitutes the crux of the matter. Sidestepping the debate between Freudians and followers of Westermarck, Héritier goes as far as positing that "incest of the second type [i.e., incest based on affinity] is likely at the conceptual origin of the incest prohibition as we know it, that of the first type [i.e., incest based on consanguinity], not the reverse".¹¹ Héritier, in this last claim, may take her insights

Stanford University Press, 2005). The classical work of George Peter Murdock, *Social Structure* (London: Collier-Macmillan, 1949), remains relevant.

⁹ The term "ego", in what follows, describes the individual in relation to which consanguineous or affinal relations will be calculated; "ego's spouses" are thus always of the sex opposite to that of "ego".

¹⁰ 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, of course, 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 and Héritier's conception is at least primarily a shift in focus, not in the relation itself.

¹¹ See Héritier, *Two Sisters and their Mother*, 13. Héritier suggests understanding incest prohibitions 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 (Héritier, *Two Sisters and their Mother*, 11). This theory may hold

far further than the evidence allows, and the broader anthropological claims that she derived from it have rightfully been criticised by scholars such as Maurice Godelier and Bernard Vernier.¹² Likewise, the mirrored perspective of marriage regulations often tends to dissimulate the differences in agency assigned to the two genders: a focus on 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 rather than the other way around. Regardless, Hérítier's study certainly broadens the narrower focus on consanguineous relations that marks most socio-biological studies of incest, and her redefinition of affinity, as well as the door she opens to the mirroring of prohibitions, as we will see, 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 prohibitions of affinity, or, in her words, on prohibitions of "same-sex blood relatives ... [to] share the same sexual partner", which I will rephrase, in light of our focus on marriage, as "consanguinity among ego's spouses". I will follow Hérítier's critics, however, in rejecting her tendency to see prohibitions of affinity-based incest as widespread in the past.¹³ The following – very incomplete – history of "Abrahamic" incest law will argue against the centrality of affinity as an operative legal category in Biblical law. At the same time as seeking 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 "affinity" as such. I hold that in the Bible it is difficult to distinguish between, on the one hand, prohibitions based on the consideration

for cases in which two consanguineous males would have sexual intercourse with one woman, as is the case for the strict prohibition of a son marrying his stepmother in various ancient and Late Ancient Near and Middle Eastern cultures that we will discuss 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 case of a man who marries two sisters, which we will equally consider below. Hérítier's focus on bodily fluids is hence not as helpful as her redefinition of affinity; for further criticism of her work see also the next note.

¹² Maurice Godelier has presented a complex and nuanced anthropological reading of incest prohibitions based both on affinity and consanguinity, whose value resides precisely in refuting Hérítier all the while providing answers to the questions she has raised; see Godelier, *The Metamorphoses of Kinship* (London: Verso, 2011 [2004]). The criticism of Bernard Vernier, though of somewhat singular purpose, persuasively points to the many pitfalls of Hérítier's arguments; among his many publications dedicated to refuting Hérítier, see 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), and Vernier, "Théorie de l'inceste et construction d'objet: Françoise Hérítier, la Grèce antique et les Hittites", *Annales: Histoire, Sciences Sociales* 51 (1996).

¹³ Hérítier, *Two Sisters and their Mother*, 27–125.

of affinity proper – based on concerns about consanguinity among ego’s spouses – and, on the other hand, prohibitions that serve the protection of the rights of ego’s blood relations or of ego’s wife.

As we will see, the Hebrew Bible likely bases all of its incest laws that involve affinity primarily on consideration of the rights of either a man’s close relatives (such as his father and mother, his uncle, his brother, or his son) or of his wife. The ensuing restrictions against this man’s marriage to a former wife of one of his relatives (his stepmother, his uncle’s wife, his sister-in-law, and his daughter-in-law), on the one hand, or to a relative of his wife (his sister-in-law and his stepdaughter), on the other, happen to coincide with prohibitions that seem to be based on affinity, since, in our contemporary anthropological view, affinity would define his relationship to the 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 incest laws not relating 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 his own wife, rather than the issue of affinity-based incest, i.e., consanguinity among ego’s spouses. This situation changed dramatically only with the advent of Christianity.

In marked contrast to the Biblical record, to be considered below, most Christians from the Latin West to the Syriac Near East – with the partial exception of the East Syrian tradition, to which we will return – had a very broad and expansive notion of marriage prohibitions based on affinity. No matter what other cultural factors informed the exegetical considerations of the church fathers, it is clear that the strict Christian prohibition of consanguinity among 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, namely, understood Genesis 2:24 – “therefore a man leaves his father and his mother and clings to his wife, and they become one flesh (*wəhāyū ləḅāsār eḥād*)” – to indicate that marriages are, at least in theory, non-dissolvable, and, more importantly for our concern, that the spouses are understood as truly “one flesh”: in case of being widowed or divorced, or the marriage being resolved in any way, they are barred from marriage to a close relative of their former spouse because they themselves are now considered as quasi-

consanguineous with their family-in-law.¹⁴ When Hérítier dismisses the Christian legislation as a post-facto rationalisation 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.¹⁵ A brief look at three Christian views – one example from the beginning of Late Antiquity, and one Western and one Eastern example from the end of this period – illustrates the distinctive Christian approaches to affinity that will prepare our reading of both the Bible and of the Qur’an.

First, a letter to Augustine of Canterbury, very likely written by pope Gregory the Great at the turn of the seventh century CE, acutely summarises much of the Christian tradition regarding 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” (Leviticus 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*, Genesis 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*).¹⁶

¹⁴ Among the studies on this Christian concept of “one flesh” see especially Walter Selb, “Zur Christianisierung des Eherechts”, in *Eherecht und Familiengut in Antike und Mittelalter*, ed. Dieter Simon (Berlin: De Gruyter, 2009 [1992]), and Jack Goody, *The Development of the Family and Marriage in Europe* (Cambridge: Cambridge University Press, 1983); see also n. 17 below. It goes without saying that Christian ambiguity vis-à-vis sexuality, divorce, remarriage (or “serial monogamy”) and especially asceticism equally were 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).

¹⁵ Hérítier, *Two Sisters and their Mother*, 14–15; for a profound criticism of her claim, see also Godelier, *The Metamorphoses of Kinship*, 319–390, and n. 11 above.

¹⁶ Gregory the Great, *Registrum Epistolarum* XI, Letter 64 (to Augustine), fifth question; see Betram Colgrave and Roger Aubrey Baskerville Mynors (eds), *Bede’s Ecclesiastical History of the English People* (Oxford: Oxford University Press, 1969), 84–85. On the relevance and authenticity of Gregory’s letter, see Evyatar Marienberg, “*Qui coierit cum muliere in fluxu menstruo... interficiuntur 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), and Rob Meens, “Ritual Purity and the Influence of

Gregory understands the first of the specific prohibitions of Leviticus 18, the prohibition of a “father’s nakedness” in Leviticus 18:7, as the prohibition for the son to marry his stepmother. This is a reasonable understanding of the passage, likely based on the parallel term of a “father’s nakedness” that describes the stepmother in Leviticus 20:11 (as equally pointed out by the rabbis of the Babylonian Talmud in Bavli *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 in terms of the “flesh” of Genesis 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* (Genesis 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* (εἰς σάρκα μίαν, Genesis 2:24). So they are no longer two, but one flesh (ὥστε οὐκέτι εἰσὶν δύο ἀλλὰ μία σὰρξ). 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 the Gospel of Matthew 19:3ff.) highlights the early Christian argument against divorce, yet it also had a momentous effect on the Christian view of consanguinity: just as Paul already regards the sexual union between two people as leading to their con-carnal existence based on Genesis 2:24, so too the church from early on regarded marriage, and the sexual intercourse sanctioned by it, as establishing a family relationship in many ways fully akin to that acquired by birth.¹⁷ “One flesh” thereby becomes the basis through which Roman and

Gregory the Great in the Early Middle Ages”, in *Unity and Diversity in the Church*, ed. Robert N. Swanson (Oxford: Blackwell, 1996).

¹⁷ Paul uses the image of “one flesh” as signifying the carnal union of the partners in sexual intercourse in 1 Corinthians 6:16 and 15:39; see also Ephesians 5:31 and Matthew 19:3–12. On the affinity of Pauline and Roman views of incest, see, e.g., 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).

West Syrian Christians radically expanded Biblical prohibitions of consanguinity among ego's spouses, leading them to establish full *gender balance* in their incest prohibitions.

Such 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, which, in Late Antiquity, generally coincided with a move away from the Biblical emphasis on the rights of specific legal persona. The proverb “what’s good for the goose is good for the gander” is a helpful mnemotechnical device here. Roman and West Syrian Christians nearly achieved gender balance in their incest prohibitions by applying two interrelated techniques: first, 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 to reformulate the Biblical prohibitions from both the male and the female perspective. While this first tendency did not affect the law itself, a second, more important 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, for example, the Biblical prohibition of consanguinity for a man to marry his aunt also implied the cognate prohibition for a woman to marry her uncle, which is not part of the Levitical (or the later rabbinic) laws of incest.¹⁸

In the following, I tacitly presuppose the gender imbalance created by the practice of polygyny both in the Bible and in the Qur’an, in so far as I assume that marriage prohibitions for men are always implied to apply to both simultaneous and consecutive marriages of a man to more than one woman, while marriage prohibitions to women are meant to apply only to consecutive marriages of a woman to more than one man, unless otherwise specified.¹⁹ Yet we must be careful not to overemphasise the imbalance found in the Bible and in the Qur’an, or the later Christian striving for gender balance in incest law. Two further

¹⁸ See Hage, *Les empêchements de mariage*, 206–222, and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 136–146.

¹⁹ As is well known, the Qur’an allows for polygyny, yet limits a man’s marriage to four women, just as the Babylonian rabbis generally advocated (see Q 4:3 and Bavli *Yevamot* 44a, yet see also *ibid*, 65a, and see already Samuel Bialoblocki, *Materialien zum islamischen und jüdischen Eherecht* [Gießen: Alfred Töpelman, 1928], 40). Polygyny was not necessarily common among rabbis, especially in Palestine, see Adiel Schremer, “How much Jewish Polygyny in Roman Palestine?”, *Proceedings of the American Academy for Jewish Research* 63 (2001). On polygyny in the East Syrian church, see n. 21 below. It is essential for this essay to note that in most cases, prohibitions that applied to polygynous marriages were also understood to apply to serially monogamous ones – unless otherwise specified, as in the case of a man’s marriage to two sisters.

examples of affinal Biblical prohibitions are essential test-cases for the later Christian tendency towards gender balance:

- According to Leviticus 18:18, a man may not marry his wife’s sister, yet the verse allows him to do so in case of his wife’s death.
- According to Leviticus 18:14, a man may not marry his brother’s wife. However, according to Deuteronomy 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.²⁰

Thus, the Bible adheres to a degree of gender balance in its affinal laws. The first prohibition, if mirrored, amounts to a case preventing two sisters consecutively to marry the same man; a case of second-degree consanguinity among female spouses. The exemption given upon the first sister’s death is a general one. The second case, if mirrored, emerges as the cognate case of the first one, preventing two brothers consecutively to marry the same woman; a case of second-degree consanguinity among 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 demise. The Bible here, on the one hand, balances the restrictions imposed upon both genders, and allows for its only two exemptions in a gender-balanced way: in both cases, the affinal relations become permissible upon the first spouse’s death. On the other hand, the Biblical exemptions are left in imbalance, regarding gender, due to the stricter laws regarding a brother’s wife. Christian law, in turn, established full gender balance regarding such cases in as far as Roman and West Syrian Christians abolished both exemptions, as indicated in the letter from Gregory the Great.

In order not to overemphasise this tendency towards gender balance in Christian law, a third and last East Syrian example, which is more lenient towards affinal relations, is of special

²⁰ The Bible here not only allows but strongly urges – yet stops short of requiring – a man to marry his deceased brother’s wife, 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 12–34: Zweiter Teilband: 23,16–34,12* (Freiburg im Breisgau: Herder, 2016), 1849–1855; see especially Dvora E. Weisberg, *Levirate Marriage and the Family in Ancient Judaism* (Waltham: Brandeis University Press, 2009), and Dale W. Manor, “A Brief History of Levirate Marriage as it Relates to the Bible”, *Near East Archaeological Society Bulletin* 20 (1982); see also Étan Levine, *Marital Relations in Ancient Judaism* (Wiesbaden: Harrassowitz, 2009), 34–37.

relevance. One clear exception to the key trend in Christianity towards gender balance is found in the East Syrian church, which found itself – not unlike the rabbis of Babylonia – living within the realm of Persian culture. The rather different Persian attitude towards affinity (let alone consanguinity), as mentioned above, may well be reflected in the widespread practice of various forms of close-kin marriage among East Syrian Christians, to which Richard Payne and Lev Weitz have drawn our attention.²¹

Crucially, this 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 Genesis 2:4, but to Leviticus 18, affirming its restrictions, and especially to Leviticus 18:16 (prohibiting 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"²² – the latter phrase being a reference to the levirate marriage.²³ Mar Aba's highlighting, in the sixth century, of the text of Leviticus as a legally binding document in its

²¹ On Zoroastrian attitudes towards close-kin marriage, see n. 6 above; on the interaction with Christianity, see Richard Payne, *A State of Mixture: Christians, Zoroastrians, and Iranian Political Culture in Late Antiquity* (Oakland: University of California Press, 2015), especially 108–117; 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, Mauro Maggi, and Elio Provasi (Wiesbaden: Dr. Ludwig Reichert Verlag, 2003); Hage, *Les empêchements de mariage*, 200; Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 127. Among the East Syrian practices, polygyny seems to have been common 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), and n. 23 below. Most Christians, finally, prohibited marriage to women perceived as religious outsiders, just as the Qur'an states in Q 2:221 and implies, e.g., in Q 4:25 and Q 5:5, see Holger Zellentin, "Gentile Purity Law from the Bible to the Qur'an: The Case of Sexual Purity and Illicit Intercourse", in *The Qur'an's Reformation of Judaism and Christianity: Return to the Origins*, ed. Holger Zellentin (Abingdon: Routledge, 2019).

²² 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 (ed.), *Syrische Rechtsbücher. Dritter Band: Corpus juris des persischen Erzbischofs Jesubocht. Erbrecht oder Canones des persischen Erzbischofs Simeon. Eherecht des Patriarchen Mār Abhā: Aus der römischen Handschrift* (Berlin: Georg Reimer, 1914), 258–285 (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*, 278–279) and recognises the notion of affinity indirectly and even cites Paul's reading of Genesis 2:4 in 1 Corinthians 6:16 (§ 10, see Sachau, *Syrische Rechtsbücher*, 276–277), yet he relegates it to the primary applicability of Leviticus 18 and does not generalise affinity or establish gender balance in the legislation; on the latter, see also nn. 25 and 29 below.

²³ On levirate marriage, see n. 20 above; on Mar Aba and his cultural and political context, see Payne, *A State of Mixture*, 108–117; Weitz, *Between Christ and Caliph*, 17–40 and 145–155; Hutter, "Mār Abā".

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.

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's response to practices of close-kin marriage among his flock was informed 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 that can be argued to constitute a form of widow-inheritance, to which we will return.²⁴ Yet precisely as part of his campaign to curb such unions, Mar Aba then formulates an exemption for cases in which a man has married the widow of his brother, the very case of the levirate marriage against which he also polemicises. Mar Aba's exemption, in turn, applies not in case where there is no male heir, as in the Bible, but rather if such marriages have been contracted before their prohibition was properly understood – i.e., before the believers were informed about their prohibition by Mar Aba. For clergy, Mar Aba offers a short period of one month up to one year during which the marriage must be dissolved; for regular believers, he decrees the following:

Regarding common believers (*'lmy' dyn mhyrn*) who without knowledge (*dbl' yd't'*) have united themselves (*'tthdw*) in this same sin of a partnership (*dšwtpwt'*) 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 ḥwrqn' 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' dkhn' 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 them, we decree (*gzrnn 'lyhwn*) that they both fast (*dnšwmwn*) – that is, the one who has taken the wife of his brother and she who has

²⁴ See Payne, *A State of Mixture*, especially 103–117, and Weitz, *Between Christ and Caliph*, 109–122; see also pp. xx–xx below.

formed a partnership (*d'štwtp̄t*) [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' dh̄tythwn*) they will give the strangers and the paupers (*l'ksny' wlm̄skn'*) of their city or their village a sufficient part of the inheritance they possess, and they will be forgiven (*wnth̄s' lhwn*).²⁵

While Mar Aba prohibits all those marriages listed in Leviticus 18, he does make an exception for a case in which the Bible itself allows for an exemption: the case of a man's marriage to his brother's wife, i.e., that of a woman's consecutive marriage to two brothers. In the East Syrian church, such unions leading to second-degree consanguinity among ego's spouses seem not to have been unusual, as Mar Aba himself indicates. Clergy had to dissolve the bonds quickly, yet an exception is made for laymen who have married their sisters-in-law: the couple is strongly encouraged, but not forced, to separate if their marriages has been contracted before they had been apprised 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 instead to repent and beg for forgiveness for their sin, which will be fully forgiven after one year (during which they do not seem to be 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 of affinal relations, thereby constituting an important comparative third for the Qur'an's tendency to adopt prohibitions against affinal relations alongside exemptions for their implementation.

The testimony of Mar Aba at the eastern end of the Christian world, alongside that of Gregory the Great at its western end, will, along with the evidence of late Roman law and the church councils, allow us to reconstruct the Christian understanding of prohibited relations at the end of Late Antiquity. This supplies important background for our understanding of the Biblical law and its Qur'anic reiteration, to which we will now turn.

²⁵ My translation based on Chabot, *Synodicon orientale*, 83–84 (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): 284–285 (Syriac) and 24–25 (French translation). In his treatise on Leviticus (§ 11), Mar Aba elaborates his dismissal of levirate marriage on the basis of the resurrection; see Sachau, *Syrische Rechtsbücher*, 278–281.

The Bible's List of Prohibited Relations

In Western academic research, the system of prohibited relations in the Hebrew Bible is far better studied than that of the Qur'an.²⁶ The principal passage is Leviticus 18:6–18, part of the so-called “Holiness Code”, which can be roughly dated to the seventh century BCE; related passages have been identified as post-exilic literary additions, or *Fortschreibung*.²⁷ 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 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.²⁸

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 daughter, Abraham and Sarah, or Judah and Tamar, a task McClenney-Sadler as well as others have sought to tackle with varying grades of success – including Mar Aba himself, who sanitises the narratives by sheer ingenuity.²⁹ These

²⁶ For a comprehensive commentary on Leviticus 18 and a review of recent literature, see Thomas Hieke, *Levitikus: Zweiter Teilband: 16–27* (Freiburg im Breisgau: Herder, 2014), 645–696. 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).

²⁷ Important parallels are Leviticus 20:11–21; Deuteronomy 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 12–34: Erster Teilband: 12,1–23,15* (Freiburg im Breisgau: Herder, 2016), 1725–1776, and Otto, *Deuteronomium 12–34: Zweiter Teilband, 1808–1864 and 1910–1958*.

²⁸ McClenney-Sadler, *Recovering the Daughter's Nakedness*, 4. Not all aspects of McClenney-Sadler's study are convincing. As was 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 Madeline Gay McClenney-Sadler, *Recovering the Daughter's Nakedness: A Formal Analysis of Israelite Kinship Terminology and the Internal Logic of Leviticus 18*”, *The Bible and Critical Theory* 4, no. 3 (2008).

²⁹ See, e.g., Mar Aba's comments on the cases of the transgressions by figures such as Reuben, Cain, and Seth in his treatise on Leviticus 18 (§§ 3–4); see Sachau, *Syrische Rechtsbücher*, 266–269; and see McClenney-Sadler, *Recovering the Daughter's Nakedness*, 76–102. I agree with McClenney-Sadler's

narratives, 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", i.e., from sin. The present essay will therefore not consider the patriarchal narratives.³⁰

A basic grasp of the Biblical passage of prohibited relations in Leviticus 18, and of the kinship hierarchy it reflects, will help us assess the many ways in which later Jews and Christians, and the Qur'an, have re-cast its wording and re-conceptualised 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 previous peoples, whom God has expelled from the Holy Land.
2. Vv. 6–18, the passage on which we will focus, cover the prohibited sexual relations of a man with close female family members.
3. These prohibitions are followed, in vv. 19–23, by prohibiting a man from having sexual relations with two types of women who are not close relations – i.e., with a

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 cases that explain the rationale for specific precepts governing social relations" (McClenney-Sadler, *Recovering the Daughter's Nakedness*, 76). Calum Carmichael, by contrast, sees the laws of Leviticus only in a responsive mode to the patriarchal narratives (see Carmichael, *Law, Legend, and Incest in the Bible* [Ithaca: Cornell University Press, 1997], especially 8 as well as 14–44), which seems too simplistic, as already pointed out by previous commentators; see Hieke, *Leviticus*, 666.

³⁰ The doctrine of the prophets' sinless behaviour developed in later Islam and throughout Islamicate literature, see especially Shahab Ahmed, *Before Orthodoxy: The Satanic Verses in Early Islam* (Cambridge, Massachusetts: 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). The "sanitisation" of patriarchal narratives was not uncommon in Syriac literature (see, e.g., Weitz, *Between Christ and Caliph*, 284–285), and may have reached its peak in traditions such as the Clementine Homilies before its endorsement in the Qur'an, which mainly omits any such narratives, as both Mehdi Shaddel and I myself argue in a joint study currently in preparation. The late antique rabbis were generally more open to recognising 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 once in Bavli *Sanhedrin* 19b and the methodologically related study by Segal, "Sarah and Iscah". On the narrative elements pertaining to the Qur'an's incest laws, see n. 100 below.

woman during her menstruation and with a neighbour's wife – as well as with men and with animals.³¹

4. Vv. 24–30, the conclusion of the passage, reminds the Israelites that any collective transgression of any of the preceding prohibitions, as well as the non-prosecution of individual transgressions thereof, will result in their collective defilement and ultimately lead to their expulsion from the land.

The Biblical passage on prohibited relations with close family relations, the chapter's second part, is thus clearly set apart from the chapter's main narrative frame, its first and fourth parts, which explicates God's commands to Moses. The second part is also, by its content, separated from the prohibition expressed in its immediate sequel, the third part, which only deals with generally prohibited sexual relations that are not determined by family relations. I have discussed the relationship between the Islamic scripture and this third part, Leviticus 18:19–23, elsewhere (with an emphasis on the passage's late antique reception history).³² We will thus focus exclusively on the Qur'an's relationship with Leviticus 18:6–18, the actual passage on prohibited relations.

The following rendering of Leviticus 18:6–18 offers a transliteration of the Hebrew text in the left column, and a translation based on the New Revised Standard Version, with some important modifications following the insights of Thomas Hieke and McClenney-Sadler, in the right column (Table 1).³³ Developing especially some of McClenney-Sadler's conclusions, I argue that we should understand the list not primarily as a prohibition of incest, which it certainly is, but rather also as a list of the sexual prohibitions based on the rights of several legal personae closely related to an Israelite man.³⁴ In anticipation of this argument, the four brackets to the left of the text indicate the passage's parts based on these four

³¹ Note that late antique Jews and Christians generally took the Biblical prohibition in Leviticus 18:21 not to sacrifice their children to Molech as a prohibition of intermarriage with pagans, a rule which is widespread in Syriac Christian circles and of course adopted by the Qur'an; see Zellentin, "The Case of Sexual Purity", see also Hage, *Les empêchements de mariage*, 88–92, and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 164–170. We should also note that the prohibition of sex with animals in Leviticus 18:23 has many parallels in Ancient Near Eastern law; it equally appears in the Hittite Laws, see Raymond Westbrook (ed.), *History of Ancient Near Eastern Law*, 2 vols (Leiden: Brill, 2003), vol. 1, 630.

³² See Zellentin, "The Case of Sexual Purity".

³³ For a detailed discussion of the passage see Hieke, *Leviticus*, 645–696, and McClenney-Sadler, *Recovering the Daughter's Nakedness*, 26–52.

³⁴ For McClenney-Sadler's slightly divergent categorisation, see n. 46 below.

personae, which the text explicates at all times (and which are rendered in italics): first, God; secondly, a man's father and mother (whose rights overlap with his own rights); thirdly, a man's three closest male relatives (his paternal uncle, his son, and his brother); and fourthly, a man's wife. The list addresses any male Israelite in the singular, as follows:

God	<p>’iš ’iš ’el- kāl- šə’ēr bəšārōw lō tīqrəbū ləḡallōwṭ ’erwāh ’ānī Yahweh ’erwaṭ ’ābīkā wə’erwaṭ ’imməkā lō təḡallēh</p> <p>’imməkā hī lō təḡalleh ’erwātāh</p> <p>’erwaṭ ’ēšet- ’ābīkā lō təḡallēh</p> <p>’erwaṭ ’ābīkā hī ’erwaṭ ’āhōwtkā bəṭ- ’ābīkā ’ōw bəṭ- ’immekā mōwledeṭ bayiṭ, ’ōw mōwledeṭ ḥūš lō təḡalleh ’erwātān.</p>	<p>⁶ No man shall approach the flesh of any blood relation to uncover nakedness: I am <i>the Lord</i>.</p> <p>⁷ The nakedness of <i>your father</i> and the nakedness of <i>your mother</i> you shall not uncover;³⁵ she is your mother, you shall not uncover her nakedness.</p> <p>⁸ The nakedness of <i>your father’s</i> wife you shall not uncover; she is the nakedness of <i>your father</i>.</p> <p>⁹ The nakedness of your sister, <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.³⁶</p>
Father and mother	<p>’erwaṭ bəṭ- bīnkā ’ōw bəṭ- bittəkā, lō təḡalleh ’erwātān</p> <p>kī ’erwātəkā hēnnāh. ’erwaṭ bəṭ- ’ēšet ’ābīkā mōwledeṭ ’ābīkā</p> <p>’āhōwtkā hī lō təḡalleh ’erwātāh.</p> <p>’erwaṭ ’āhōwt- ’ābīkā lō təḡallēh</p> <p>šə’ēr ’ābīkā hī ’erwaṭ ’āhōwt- ’imməkā lō təḡallēh</p> <p>kī- šə’ēr ’imməkā hī ’erwaṭ ’āhī- ’ābīkā lō təḡallēh</p>	<p>¹⁰ The nakedness of <i>your son’s</i> daughter or of <i>your daughter’s</i> daughter, you shall not uncover their nakedness, for they are <i>your own</i> nakedness.</p> <p>¹¹ The nakedness of <i>your father’s</i> wife’s daughter, begotten <i>by your father</i>, she is your sister, you shall not uncover her nakedness.³⁷</p> <p>¹² The nakedness of <i>your father’s</i> sister you shall not uncover; she is a blood relative of <i>your father</i>.</p> <p>¹³ The nakedness of <i>your mother’s</i> sister you shall not uncover, for she is a blood relative of <i>your mother</i>.</p> <p>¹⁴ The nakedness of <i>your father’s</i> brother you shall not uncover, you shall not approach <i>his</i> wife; she is your aunt.</p> <p>¹⁵ The nakedness of your daughter-in-law you shall not uncover: she is <i>your son’s</i> wife; you shall not uncover her nakedness.</p>
Closest male relatives	<p>’el- ’ištōw lō tīqrāb dōdātəkā hī ’erwaṭ kallātəkā lō təḡallēh</p> <p>’ēšet bīnkā hī lō təḡalleh ’erwātāh</p>	<p>¹⁵ The nakedness of your daughter-in-law you shall not uncover: she is <i>your son’s</i> wife; you shall not uncover her nakedness.</p>

³⁵ The *waw* before “mother” can be understood simply as conjunctive (“and”) or as explicative (“which is”); see Hieke, *Levitikus*, 649–650 and McClenney-Sadler, *Recovering the Daughter’s Nakedness*, 79–80. The same term, “his father’s nakedness” (’erwaṭ ’ābīw), however, equally appears in Leviticus 20:11, where “his father’s wife” (’ēšet ’ābīw) is thus described, a reading followed by late antique readers of the text, see p. xx above

³⁶ McClenney-Sadler persuasively argues that *bayiṭ* designates the lineage, translating the passage as a prohibition of a sister who is “kindred from within the lineage (*mōwledeṭ bayiṭ*, born to two people with lineal status ...) or a kindred from outside the lineage ... (*mōwledeṭ ... ḥūš*, 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), and also Hieke, *Levitikus*, 669–670.

³⁷ The case addresses an aspect not included in Leviticus 18:9, namely, that of a man’s relationship to a sister through a father and his concubine, see McClenney-Sadler, *Recovering the Daughter’s Nakedness*, 84–85.

<p>‘erwaṭ ʿēšet- ʾāḥīkā lō taḡallēh</p> <p>‘erwaṭ ʾāḥīkā hī</p> <p>‘erwaṭ ʾiššāh ūḇittāh lō taḡallēh</p> <p>ʿet- baṭ- bənāh waʿet- baṭ- bittāh lō ṭiqqah laḡallōwṭ ʿerwātāh</p> <p>Wife šaʾārāh hēnnāh zimmāh hī waʾiššāh ʾel- ʾāḥōtāh lō ṭiqqāh liṣrōr,</p> <p>laḡallōwṭ ʿerwātāh ʾālehā baḥayyehā</p>	<p>¹⁶ The nakedness of <i>your brother’s</i> wife you shall not uncover; she is <i>your brother’s</i> nakedness.</p> <p>¹⁷ The nakedness of <i>a wife</i>³⁸ and her daughter you shall not uncover, her son’s daughter or her daughter’s daughter you shall not take to uncover her nakedness; they are [<i>her</i>] blood relatives [f.]; it is depravity.</p> <p>¹⁸ And <i>a wife</i> to her sister as a rival you shall not take, uncovering her nakedness on her while she is still alive.</p>
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Table 1: Leviticus 18:6–18 (text and translation).

In order to understand the Biblical passage on prohibited close relationships, whose structure will be graphically depicted below (see Table 2, p. xx below), we must not forget that the terms and concepts for 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 Leviticus 18:6, describes which sexual unions would violate God’s “rights” immediately: ʾiš ʾiš ʾel- kāl- šaʾēr baśārōw lō ṭiqraḇū laḡallōwṭ ʿerwāh ʾānī Yahweh, “No man shall approach the flesh of any blood relation to uncover nakedness; I am the Lord”. Three key words that first appear in v. 6 configure the structure and meaning of the entire passage: ʿerwāh, g-l-h, and šaʾēr.

The noun ʿerwāh means “nakedness” and is a euphemism for sexuality or sexual vulnerability: 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 – the conjunction of the two terms is always negatively connoted.³⁹ The entire

³⁸ On this translation of ʾiššāh as “wife”, see McClenney-Sadler, *Recovering the Daughter’s Nakedness*, 86; Hieke, *Leviticus*, 650.

³⁹ A man’s ʿerwāh, “nakedness”, then, is primarily a description of undue access to his wife’s sexuality; illustrative passages are Genesis 42:9 and 12, which symbolically speak of the vulnerability of the land, as well as Exodus 20:26 and Exodus 16:37. Note also the related image in the prohibition: waḷō yaḡalleh kānāp ʾāḇīw, “not to uncover his father’s ‘wing’, or ‘extremity’”, in Deuteronomy 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

Biblical passage of prohibited relations is structured through the recurrent joint repetition of the verb *g-l-h*, “to uncover”, and of the noun *’erwāh*, “nakedness”; its focus on sexual intercourse – compared to the Qur’an’s apparent focus on marriage – is evident. The conjunction of “uncovering” and “nakedness” appears sixteen times in the passage, marking its thirteen categories of women explicitly prohibited to a man. Six are related by consanguinity: a mother, a sister (either a father’s daughter or a mother’s daughter), a granddaughter (either a son’s daughter or a daughter’s daughter), a paternal half-sister, a father’s sister, and a mother’s sister (with the paternal and maternal aunts constituting separate categories). Seven are related by the Bible’s notion of affinity, namely, the spouses of his male blood relatives (his father, his father’s brother, his son, his brother) or the female blood relatives of his spouse – a stepmother, a father’s brother’s wife, a daughter-in-law, a brother’s wife, a stepdaughter, a wife’s granddaughter (either her son’s daughter or her daughter’s daughter), and a wife’s sister. For almost all of the categories of prohibited women, the phrase “to uncover the nakedness” is used only once even when further specifications (such as a subdivision according to the gender of intermediate relatives) follow; the three exceptions are the prohibition of “father”, “mother”, and “daughter in-law”, where the term appears twice.⁴⁰

While the recurrence of the two first central words found in the opening verse Leviticus 18:6 (i.e., *’erwāh* and *g-l-h*) indicates and indeed forms the literary structure of the entire passage, it is the third key term in the verse, *šā’ēr*, “blood relations”, that allows us to

violated”; see McClenney-Sadler, *Recovering the Daughter’s Nakedness*, 80, and also Hieke, *Leviticus*, 649–650. On the semantically related issue of Ham’s failure to “cover” of Noah’s nakedness in Genesis 9, see also John S. Borgsma and Scott W. Hahr, “Noah’s Nakedness and Curse on Canaan (Genesis 9:20–27)”, *Journal of Biblical Literature* 124 (2005). 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 n. 86 below.

⁴⁰ The verb *lāḡallōwt* and the noun *’erwāh* thus appear at least once in every of the thirteen verses in the passage: the verb a total of 16 times, the noun 22 times. The 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), twice regarding a daughter in-law (v. 15) and twice regarding a stepdaughter (v. 16), clearly adding to the emphasis on these prohibitions. On the terms *lāḡallōwt* and *’erwāh*, see Hieke, *Leviticus*, 653–654. Note that previous commentators have identified the following chiasmic structure within v. 7: (a) *’erwat* *’immākā*, (b) *lō tāḡallēh*, (c) *’immākā hî*, (b’) *lō tāḡalleh*, (a’) *’erwātāh*; see the summary in Hieke, *Leviticus*, 668. While the repetition of the terms is clearly well structured, it is complexified (arguably to the level of obfuscation) by the introductory phrase *’erwat* *’ābīkā*, by the repetition of *’immākā*, as well as by the circumstantial *waw*. The repetition of terms, hence, follows a looser and more complex pattern both in v. 7 and 15 than the one for which the suggested chiasm would allow.

understand the operative legal and literary principles governing the sequence and partition of the entire list of prohibited relations. The term should be understood in light of the useful definition given in a different context, equally in the Holiness Code, as McClenney-Sadler has mentioned.⁴¹ Here, in Leviticus 21:2–3, the term *šā'êr* is rephrased in terms of those people who are *haqqārōb 'êlāw*, “the ones close to” a man. They are then listed as his mother (*'em*), his father (*'āb*), his son (*ben*), his daughter (*bat*), his brother (*'āh*), and his sister (*'āhōw*); all close relations of first and second degree are covered.⁴² The prohibition for a man to engage in sexual relations with “blood relations”, in Leviticus 18:6, which are *bāsārōw*, “his flesh”, then, constitutes a prohibition of sexual relations with a man’s primary female blood relations, which would violate “God’s rights” directly: his mother, his daughter, and his sister.⁴³ Having sex with one’s close kin, then, is clearly perceived as a sin against the divinity, as is common in Ancient Near Eastern law.⁴⁴ V. 6, accordingly, is the only verse to which the modern concept of “incest prohibition” could be applied more or less directly, in so far as these relations are arguably portrayed as constituting a wrong in and of themselves.

I fully agree with Vernier that the remainder of the passage is not organised and subdivided by any logic of affinity, the principle which Hérítier sees applied here. Rather, the evidence indicates that it is organised according to the three human personae – in addition to God’s rights – whose rights sexual unions with close relatives would violate, as McClenney-Sadler has indicated.⁴⁵ Conversely, we will hear clear 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, by contrast, portrays all such prohibited affinal relations as a wrong in and of itself, and as sins against none other than God. The Qur’an, finally, stands in continuity with the Biblical, the West Syrian, and the East Syrian model to

⁴¹ As McClenney-Sadler points out, the cognate of Hebrew *šā'êr* in classical Arabic is *thār* (“blood revenge”), which “makes it plausible to conclude that *šā'êr* conveys the notion that relatives idealised as a ‘part of oneself’ are prohibited as sexual partners”; *Recovering the Daughter’s Nakedness*, 79 (my transliteration), as well as Hieke, *Levitikus*, 667.

⁴² Note that in Leviticus 18:12–13, the father’s or mother’s sister is designated as the parent’s *šā'êr*, “blood relations”, as are a wife’s daughter and granddaughter by the female form *šā'ārāh* in Leviticus 18:17, on which see n. 47 below.

⁴³ See McClenney-Sadler, *Recovering the Daughter’s Nakedness*, 77–78.

⁴⁴ See, e.g., Westbrook, *History of Ancient Near Eastern Law*, vol. 1, 76.

⁴⁵ 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, “Françoise Hérítier et les interdits de la Bible”, 238. While Vernier’s criticism of Hérítier is valid, his own alternative reconstruction is problematic; see also Hieke, *Levitikus*, 669.

various degrees, and indeed develops a model of its own; we will return to this central question in detail.

How does the Bible, then, 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.⁴⁶ After the first part prohibiting consanguineous relations (in Leviticus 18:6), the passage's three further parts prohibit types of women with whom sexual relations would infringe on the rights of, first, a man's mother and father, second, of his closest male relatives, and, third, of his wife, as indicated by the 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 on the kin under the protection of his father or mother. A man would violate his father's rights by having sexual relations with his own mother (v. 7, arguably preceded by the stepmother), with any other of his father's primary or secondary wives other than his mother (v. 8), with his full or paternal sister of the 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 cases, "father" or "mother" are explicitly evoked.

⁴⁶ 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) the mother (v. 7a), (3) the 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). In my view, McClenney-Sadler's introduction of ego's paternal and maternal grandfather as personae (4) and (5) is unwarranted and distracts from the text's explicitly indicated order. (Her misreading here may or may not be influenced by her pursuit of reading the passage as if it were gender-balanced; see already n. 28 above.) Instead, I have suggested understanding the text as segmented according to the legal personae that are named in the passage itself, leading to the four-partite segmentation based on the rights of God (v. 6), the mother and father (vv. 7–13), close male relatives (vv. 14–16), and the wife (vv. 17–18). Whether or not one places the three close male relatives (in vv. 14–16) into separate groups, as McClenney-Sadler suggests, or into one group, as I have proposed, is of course a question of style rather than analysis. The differences of our readings are thus limited to Leviticus 18:7–13.

- 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 respectively violate the rights of his paternal uncle, of his son, or of his brother, as the text makes explicit (as again indicated by the italics above).
- The passage’s final part lists the rights of a man’s wife he would violate by having sexual relations with her daughter or granddaughter (v. 17) or with her sister (v. 18), which are depicted again as *šā’ārāh*, as 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 are her offspring from a previous relationship.⁴⁷ The text’s focus on the wife’s rights, in any case, is indicated by italics in the rendering above.

The only prohibition in which the Bible’s evocation of legal rights does not immediately seem to fall into the suggested partition and categorisation based on the legal personae whose rights are violated is the prohibition of a man’s granddaughter in v. 10. The phrase *kî ’erwāṭākā hēnnāh*, “for they [f.] are *your* nakedness” indicates that the nakedness of the daughters of a man’s son, or of his 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, of his own mother, and, for that matter, of his own son or daughter, one of whom is a parent of the respective grandchild.

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 text but inherent in

⁴⁷ According to the Masoretic text, the form of the word *šā’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 *šā’ēr* as established in Leviticus 21:2–3. Moreover, it has been suggested that the term may indeed designate a form of *šā’ēr* followed by a female possessive suffix; on the understanding of *šā’ārāh hēnnāh* as that wife’s blood relatives, see McClenney-Sadler, *Recovering the Daughter’s Nakedness*, 86, and Hieke, *Levitikus*, 650.

the hierarchies within a family, and inherent in the plurality of the various lineages through which the daughter of a man's male or female children can be conceptualised. Indeed, the passage addresses the ambiguity inherent in a man's granddaughter's status by classifying her in all three possible ways: by depicting her as his own "nakedness", by describing her as his children's daughter in the text, and by placing her within the passage's second part, introduced and constituted by persons protected through the rights of his own parents. We can thus conclude that the four proposed legal categories based on the protection of the rights of God and three types of human legal personae indeed form the passage's four main parts, which, in turn, seem 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 categorised according to her relationship to more than one legal persona. The same multiplicity of a woman's relationships is found throughout the Levitical passage, as indicated by its 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 usage of the personal pronoun "she", which appears after each but one prohibition, either in the singular (*hî*) or plural (*hênnāh*), or, twice, as a suffix (*-hā*), and always as part of an explanatory clause.⁴⁸ (The only verse that does not contain such an explanatory clause is Leviticus 18:9, which arguably anticipates v. 11.⁴⁹) These explanatory clauses are placed after the types of prohibited women, and fall in turn into four distinct sets that are spread out across the passage's four parts:

⁴⁸ Note that twice, in Leviticus 18:10 and 18:13, the explanatory clauses are explicitly introduced as such by the participle *kî*.

⁴⁹ There is only one case in which an explanatory clause does not follow immediately. Leviticus 18:9 introduces the prohibition of *'erwat 'āhōwtkā*, "the nakedness of your sister". The sister is then specified as *bat- 'ābikā 'ōw bat- 'immekā, mōwledet bayit 'ōw mōwledet hūs*, "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 (*'ōw*) a maternal half-sister, yet no immediate explanatory phrase follows. In v. 11, however, placed 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 mōwledet '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 *'āhōwtkā hî*, "she is your sister". On the legal context of the prohibition of the paternal sisters, see n. 37 above.

- In three cases (one of consanguinity and two of affinity), a woman is presented in terms of the “nakedness” of a man.⁵⁰
- The same usage 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”. The same woman, the father’s brother’s wife, however, is then specified as *dōdātākā hî*, “she is your aunt”, in the explanatory clause of v. 14, relating the father’s brother’s wife both to a 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 through affinity or consanguinity); it occurs a total of four times.⁵¹
- A third category of explanatory clauses uses the term *šā’ēr*, “blood relation”, discussed above, which occurs a total of three times.⁵² Note that in v. 17, in the description of one such “blood relation”, the pronoun *hî* is uniquely repeated, the second time as the referent of the *zimmāh* (f.), “depravity”, inherent in such a marriage of a man to his wife’s daughter or granddaughter.⁵³
- 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

⁵⁰ In Leviticus 18:10, as we have seen, a man’s granddaughters (through the 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 (*hî*, “she”) is singularly described as “the nakedness of your father”, and in v. 16, a brother’s wife (*hî*, “she”) is described as “your brother’s nakedness”.

⁵¹ The same usage of a specific term for a female relationship is also found in Leviticus 18:7 (*’immākā hî*, “she is your mother”), v. 11 (*’āhōwtākā hî*, “she is your sister”), and, with a slight variation, in v. 15 (*’ēšet binkā hî*, “she is the wife of your son”); in this last case, the woman had been introduced with the specific term as *kallātākā*, “your daughter in-law”. In all these cases, the passage defines the multiple family relations of a man to the women in question.

⁵² In addition to Leviticus 18:6, the term *šā’ēr*, “blood relation,” can be found in Leviticus 18:12 and 18:13, describing paternal and maternal aunts (*šā’ēr ’ābīkā hî*, “she is the close relation of your father”, and *kī- šā’ēr ’immākā hî*, “she is the close relation of your mother”), as well as the daughter or granddaughters of a man’s wife (*šā’ārāh hēnnāh*, “they are [your wife’s] close relation”, in v. 17); on its meaning see pp. xx–xx above.

⁵³ Note that in Deuteronomy 27:20–23, the prohibitions to establish sexual relations with a father’s wife, an animal, a paternal or maternal sister, and a mother-in-law are given emphasis by including them within the twelve communal curses; a father’s wife is also singled out in Deuteronomy 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 as a “depravity” thus emphasises a different attitude than the one we find in Deuteronomy. The discrepancy between the two texts may well suggest that a man’s marriage to two sisters is singled out in Leviticus because it would have been more, rather than less, acceptable than the other incestuous unions; see the parallel case in the Qur’an in n. 105 below.

“uncovering” of one’s wife’s “nakedness” *‘ālehā baḥayyehā*, “on her in her lifetime”. Here, the place elsewhere taken by the pronoun *hî* is twice taken by the suffix *-hā*.

The three types of explanatory categories that use the pronoun *hî* – 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 *šā’êr*, “blood relation” – as well as the fourth category, which describes the nakedness of a man’s wife in self-referential terms, using the female suffix *-hā*, thus form a secondary literary structure that overlays the passage’s robust partition into four parts based on the four legal personae whose rights are protected. Here, the attribution of a woman as relating to more than one legal persona shows a secondary set of legal principles at work that structure the four main categories of prohibited women internally. In their conjunction, the two structural devices, which correspond to the two legal sets of principles – a woman’s prohibition based on the four main categories as well as relating her to herself or to other family members – create many of the passage’s repetitions that makes it seem both clearly structured according to its inherent legal categories at the same time as indicating the multifarious relationships by which a man relates to a woman.

While we will see that the Qur’anic passage of prohibited relations more fully integrates its legal categories and its stylistic devices in such a way that the latter reinforce the former, the passage in the Bible operates differently. The Biblical passage, to reiterate, is structured by its four main legal categories, which are formed by the operative legal principle at play rather than by its repetition of terms. These four categories are in turn sub-segmented by the recurrent repetition of explanatory clauses, each of which contains the phrase *laḡallōwt ‘erwāh*, “to uncover the nakedness”, as well as the female pronoun *hî* (or the respective suffix *-hā*). In addition to the two primary structural devices, based on legal categories and the repetition of the explanatory clauses containing the feminine pronoun (or suffix), there is a third structural device at play, which 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.

In addition to 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 on their own do not convey useful information about the passage’s

structure.⁵⁴ More significantly, perhaps, the repeated noun *ʾiš*, “man”, which introduces what no man shall do in v. 6, anticipates the sevenfold repetition of the cognate female noun *ʾiššāh*, “wife”,⁵⁵ which is most noticeable if the passage is recited orally – yet again without indicating a clear structure. The same can be said about the repetition of the words describing family relations (*ʾāb*, “father”, *ʾem*, “mother”, *ʾāḥōwṭ*, “sister”, *baṭ*, “daughter”, and *ben*, “son”), or the passage’s recurrent way of referring either to the prohibited women or to their relevant male relatives through whom they are defined by using the second person masculine singular possessive suffix, *-kā*.⁵⁶ These repetitions are merely repetitions: they do not create structure, and they are not independent of the first two organising principles at work. (For example, in the case of “father” and “mother”, the repetitions intersect and reinforce the second category of protected rights.) With regards to the literary quality inherent in the repetition of these terms in the Bible, we can conclude that the repetitions, while far from random, indeed do more than convey meaning. Considered 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 texts of Leviticus and creates a sense of cohesion within the passage dealing with prohibited relations, Leviticus 18:6–18, the second part of the chapter, which sets it apart from its other three parts.⁵⁷

⁵⁴ The verb *qrḇ*, “to approach”, which seems to indicate adulterous unions, is repeated once in the passage (in 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 (in vv. 9 and 11), in all cases describing a man’s sister. The verb *lqḥ*, “to take” (as a wife), occurs in vv. 17 and 18, describing cases in which a man is prohibited from marrying relations of his wife – marriages that are thereby described as conceivably within legal bounds, inversely pointing to the absence of a notion of prohibitions based on affinity perceived as consanguinity of ego’s spouses.

⁵⁵ The term *ʾiššāh*, “wife”, appears seven more times in the passage (in vv. 8, 11, and 14–18), describing the prohibition to a man of a number of certain women related through consanguinity or apparent “affinity”, yet without creating any perceivable structure. On its translation see n. 38 above.

⁵⁶ The noun *ʾāb*, “father”, occurs eight times (in vv. 7–9 and 11–14), the noun *ʾem*, “mother”, occurs five times (in vv. 7, 9, and 13), the noun *ʾāḥōwṭ*, “sister”, occurs five times (in vv. 9, 11–13, and 18), the noun *baṭ*, “daughter”, occurs ten times (in vv. 9–11 and 17), and finally the noun *ben*, “son”, occurs three times (in vv. 10, 15, and 17); the suffix *-kā* occurs 24 times in vv. 7–16.

⁵⁷ We can thus detect internal repetitions of terms as well as alliteration throughout the passage, as in the alliterations on *b* and of the immediate repetition of the terms *baṭ*, “daughter”, and *ben*, son in *baṭ- binḳā ʾōw baṭ- bittākā* (in Leviticus 18:10) or in *ʾeṭ- baṭ- bānāh wāʾeṭ- baṭ- bittāh* (in v. 17). Such alliterations are less common in the Qur’an, as we will see. Yet the Biblical passage, very much like the Qur’an, is marked by the repetition of key terms. Yet unlike the Qur’an’s passage on prohibited relations, which has a clearly perceivable structure that opens and closes with a clearly marked literary frame that in turn encloses a number of internal structural devices, the Bible’s passage on prohibited relations proceeds differently. It introduces most of its key terms in its opening passage as if they were a number of *leitmotifs* that are then repeated, in varying degrees, throughout the list of actual

A graphic representation of the Biblical passage and most of its literary features (Table 2, xx–xx 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 segmentation according to the rights of four legal personae, the secondary repetition of explanatory clauses, and the less focused repetition of further nouns and verbs. Specifically:

- 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 based on 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 additionally indicates, also in boldface, the repetitions of *’erwāh* and *g-l-h* and of the pronoun *hî* that show the text’s secondary structural device: in each of the repetitions, a woman’s nakedness is attributed to a variety of legal personae, as equally indicated by the explanatory phrases (which are marked as such in the left column).
- The right 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 column, along with the brackets to the left, will prove especially important for our comparison of Leviticus 18:6–18 with Q 4:22–23 by introducing an important 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 while the Bible applies the principle of consanguinity (implicit in its prohibition of *šā’ēr* relatives), there are no demonstrable traces of a broader concept of the prohibition of affinal relations in the Biblical passage, especially as conceptualised in terms of

prohibitions, yet without the creation of internal frames. Only the repetition of the phrase *lağallōwṭ’erwāh*, “to uncover the nakedness”, which is like a refrain that gives the passage a unique rhythm not untypical for the enumerations of prohibitions in Leviticus (see, e.g., the prohibition of certain animal foodstuff in Leviticus 11), actually constitutes structure.

the consanguinity of ego's spouses. The left column, however, shows which prohibitions the late antique Christian tradition, as well as arguably the Qur'an, would eventually reconceptualise as prohibitions based not on the rights of legal personae but on consanguineous and affinal relations. The brackets on the left, finally, indicate the passage's apparent order as it was arguably understood by Christian readers in terms of affinity and consanguinity, as will be discussed below.

Late antique legal principles	Leviticus 18: main structure	Repetition
1. Rights of God		
Introductory clause	⁶ 'iš 'iš 'el- kāl- šə'ēr bəsārōw lō tīqrābū laḡallōwṭ 'erwāh	nouns: 'iš (twice), šə'ēr, verb: q-r-b
God's authority	'ānī Yahweh	
2. Rights of father and mother		
Affinity: stepmother Consanguinity: mother	⁷ 'erwaṭ 'ābīkā wə'erwaṭ 'imməkā lō tḡallēh	noun: 'āb, noun: 'em
Explanatory clause	'imməkā hī lō tḡalleh 'erwātāh	noun: 'em
Affinity: father's wife	⁸ 'erwaṭ 'ēšet- 'ābīkā lō tḡallēh	noun: 'iššāh noun: 'āb
Explanatory clause	'erwaṭ 'ābīkā hī	noun: 'āb
Second degree consanguinity: paternal and maternal sister	⁹ 'erwaṭ 'āhōwṭkā baṭ- 'ābīkā 'ōw baṭ- 'imməkā mōwledeṭ bayit 'ōw mōwledeṭ hūš lō tḡalleh 'erwātān	nouns: 'āhōwṭ, baṭ (twice), 'āb, 'em, verb: y-l-d (twice)
Second degree consanguinity; extension to third generation: daughter of son or daughter	¹⁰ 'erwaṭ baṭ- bīnkā 'ōw baṭ- bittākā lō tḡalleh 'erwātān	nouns: baṭ (thrice), ben
Explanatory clause	kī 'erwātākā hēnnāh	
Second degree consanguinity: paternal sister (secondary lineage)	¹¹ 'erwaṭ baṭ- 'ēšet 'ābīkā mōwledeṭ 'ābīkā	nouns: baṭ, 'iššāh, 'āb (twice), verb: y-l-d
Explanatory clause	'āhōwṭkā hī lō tḡalleh 'erwātāh	noun: 'āhōwṭ
Third degree consanguinity: paternal aunt	¹² 'erwaṭ 'āhōwṭ- 'ābīkā lō tḡallēh	nouns: 'āhōwṭ, 'āb
Explanatory clause	šə'ēr 'ābīkā hī	nouns: šə'ēr, 'āb
Third degree consanguinity: maternal aunt	¹³ 'erwaṭ 'āhōwṭ- 'imməkā lō tḡallēh	nouns: 'āhōwṭ, 'em
Explanatory clause	kī- šə'ēr 'imməkā hī	nouns: šə'ēr, 'em
3. Rights of male relatives		
Affinity: uncle's wife	¹⁴ 'erwaṭ 'āhī- 'ābīkā lō tḡallēh 'el- 'išṭōw lō tīqrāb	nouns: 'āh, 'āb, 'iššāh, verb: q-r-b
Explanatory clause	dōdātākā hī	
Affinity: daughter-in-law	¹⁵ 'erwaṭ kallātākā lō tḡallēh	
Explanatory clause	'ēšet bīnkā hī lō tḡalleh 'erwātāh	nouns: 'iššāh, ben
Affinity: brother's wife	¹⁶ 'erwaṭ 'ēšet- 'āhīkā lō tḡallēh	nouns: 'iššāh, 'āh
Explanatory clause	'erwaṭ 'āhīkā hī	noun: 'āh
4. Rights of a wife		
Affinity: wife's daughter	¹⁷ 'erwaṭ 'iššāh ūbittāh lō tḡallēh	nouns: 'iššāh, baṭ
Affinity: wife's granddaughter	'et- baṭ- bānāh wə'et- baṭ- bittāh lō tīqqāh laḡallōwṭ 'erwātāh	nouns: baṭ (thrice), ben, verb: l-q-ḥ
Explanatory clause	ša'ārāh hēnnāh	noun: šə'ēr
God's view (harsh)	zimmāh hī	
Affinity: wife's sister	¹⁸ wə'iššāh 'el- 'āhōṭāh lō tīqqāh liṣrōr	nouns: 'iššāh, 'āhōwṭ, verb: l- q-ḥ
Explanatory clause	laḡallōwṭ 'erwātāh 'ālehā bəhāyehā	

Table 2: Leviticus 18:6–18 (late antique legal principles and literary structure).

The Qur'an's list of prohibited relations

Nearly all of the Qur'an's legal pronouncements belong to its Medinan suras (or, plausibly, to Medinan additions to Meccan suras); a more precise dating of the material than to the first half of the seventh century CE seems to me imprudent at this point.⁵⁸ The Qur'an's primary catalogue of women whom a man is not permitted to marry can be found in Q 4 Sūrat al-Nisā', vv. 22–23, which I will refer to as the Qur'anic passage on prohibited relations.⁵⁹ The chronological relationship of this passage to related ones is unclear, yet no ruling in the Qur'an stands in tension with it.⁶⁰ 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 co-lactation. At the same time, the passage is integrated within its immediate context as well as into the broader legal and narrative flow of the sura:

- The preceding verse, Q 4:19, which prohibits the addressees from “inheriting” women by force, is thematically related to the passage on prohibited relations beginning in v. 22, which opens by prohibiting a man from marrying, and, arguably, thereby from inheriting, women previously married to his father. We will see that v. 19 may indeed relate to the Qur'an's permission of some affinal marriages and to its rejection of both Christian and rabbinic legislation on the matter.⁶¹
- The intermediate vv. 20 and 21, moreover, treat another aspect of marriage law (concerning dowry).

⁵⁸ For a recent study on the chronology of Medinan food law, see Nicolai Sinai, “The Qur'an's Dietary Tetralogue: A Diachronic Reconstruction”, *Jerusalem Studies in Arabic and Islam* 46 (2019). 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).

⁵⁹ The most important studies on the Qur'an's prohibitions of close relations are Geert Jan van Gelder, *Close Relationships: Incest and Inbreeding in Classical Arabic Literature* (London: I.B. Tauris, 2005), especially 78–121, and Ricks, “Kinship Bars to Marriage in Jewish and Islamic Law”. Noteworthy classical studies include 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), 11–16, and Bialoblocki, *Materialien zum islamischen*, 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: A New Look at the Qur'an and the Genesis of Sharī'a”, *Islamic Law and Society* 16 (2009).

⁶⁰ It may well be that Q 4:22–23 postdates Q 24:31 as well as Q 33:4–5 and 33:50 (on which see nn. 81, 86, 100, and 107 below), yet considerations of chronology would unduly burden this essay further.

⁶¹ On the relevance of Q 4:19, see already Ricks, “Kinship Bars”, 129.

- Following the passage on prohibited relations in vv. 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 relations. This understanding would require some modification to my treatment of vv. 22–23 as a literary subunit. Joseph Witztum, however, building on the work of Harald Motzki, has in my view persuasively argued for an understanding of v. 24 as a new and independent sentence treating the eligibility of slave-women as spouses.⁶²
- The laws in v. 25, and the general legal views expressed in vv. 26–28, equally relate to matrimonial matters, leading to a change of subject (trade and wealth) in v. 29.

There is thus some ground to treat Q 4:22–23 as a subunit within a broader pericope related to matrimonial matters that starts with Q 4:19 and extends to 4:28. This understanding will be corroborated by the literary cohesion of the passage, which can be rendered as follows:

<p>²² <i>wa-lā tankihū mā nakaḥa ābā'ukum mina l-nisā'i illā mā qad salafa innahu kāna fāḥishatan wa-maqtan wa- sā'a sabīlā</i></p> <p>²³ <i>ḥurrimat 'alaykum ummahātukum wa-banātukum wa-akhawātukum wa-'ammātukum wa-khālātukum wa-banātu l-akhi wa-banātu l-ukhti</i></p> <p><i>wa-ummahātukum llātī arḍa'nakum wa-akhawātukum mina l-raḍā'ati wa-ummahātu nisā'ikum wa- rabā'ibukum llātī fī ḥujūrikum min nisā'ikum llātī dakhaltum bihinna fa-in lam takūnū dakhaltum bihinna fa-lā junāḥa 'alaykum wa-ḥalā'ilu abnā'ikum lladhīna min aṣlābikum</i></p>	<p>And do not marry women whom your fathers have married excluding what is already past. That is indeed an indecency, an outrage, and an evil course.</p> <p>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 and the mothers of your women and your stepdaughters who are under your care of the wives to whom you have gone in; but if you have not gone in to them, then there is no sin upon you; and the wives of your sons who are from your loins,</p>
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⁶² See Joseph Witztum, “Q 4:24 Revisited”, *Islamic Law and Society* 16 (2009), and Harald Motzki, “*Wal-muḥṣanātu mina n-nisā'i illā mā malakat aimānukum* (Koran 4:24) und die koranische Sexualethik”, *Der Islam* 63 (1986). We cannot here treat the important distinction between marriage to free and slave women, but we should note that the distinction was essential both in Christian law and in Ancient Near Eastern law as well; see the helpful summaries already in Hage, *Les empêchements de mariage*, 257–262, and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 183–184.

wa-an tajma'ū bayna l-ukhtayni

illā mā qad salafa

inna llāha kāna ghafūran raḥīmā

and that you should gather together two
sisters

excluding what is already past.

Indeed, God is forgiving, merciful.

I will argue that although the Qur'an, like before it the Hebrew Bible, tends to formulate its marriage prohibitions by addressing a male ego, it 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 reduces the Biblical cases of gender imbalance by expanding laws based on consanguinity and by reducing laws based on affinity. The Qur'an does not, of course, reach full gender balance or even demonstrably strive for it.

Taken together, Q 4:22–23 prohibit fourteen types of women to a man: five related by affinity (a stepmother, a mother-in-law, a stepdaughter, a daughter in-law, and a sister in-law), seven related by consanguinity (a mother, a daughter, a sister, a paternal and a maternal aunt, and a niece through brother or sister), and two by co-lactation (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 through lactation).⁶³ The Qur'an's formulations imply that prohibitions based on affinity exclude all cases of consanguinity: the law prohibiting a man from marrying any of his father's wives in Q 4:22, for example, implicitly excludes a man's biological mother, who is explicitly proscribed in the prohibitions based on consanguinity that open Q 4:23. In order to appreciate the actual laws in this passage, and their underlying legal principles them, let us start by engaging in a literary analysis of the passage.

While Q 4:23 has been called a "prosaic enumeration",⁶⁴ 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 a table (on p. xx below) may

⁶³ The Islamic tradition has, in my view correctly, identified the Qur'an's three categories of prohibited relations as based on affinity (*ṣihr*), consanguinity (*nasab*), and co-lactation (*raḍā'*); see van Gelder, *Close Relations*, 89 and 100. The present essay, hence, 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 long established in the Islamic tradition, all the while illuminating the specific historical and cultural nature and context of the Qur'an's incest laws.

⁶⁴ 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 n. 73 below).

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, most obviously, is constituted by 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 individual's joining the Qur'anic community, or both, cannot be determined.⁶⁵ The phrase occurs after the first and after the last prohibition in the subunit, i.e., the prohibition of a man's marriage to his father's former wives (v. 22) and the prohibition of a man's marriage to two sisters (v. 23). Both are relationships marked by affinity. The verbatim repetition of the exempting phrase highlights the function of the first and the last rule as the passage's boundary markers, and as the opening and closing of a literary frame that is reinforced by rhyme and by alliteration. The sentences that follow the exemptive clauses in this main opening and closing frame rhyme, as van Gelder has remarked (ending with *sabīlā* and *rahīmā*). 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.⁶⁶

The fact that the two exemptive phrases mark out prohibitions that fall within the concept of affinity suggests that the latter concept may well be one of the Qur'an's operative principles. At the same time, the Qur'an's repeated exemption for affinal marriages contracted in the past has traditionally been understood to indicate that the pre-Islamic

⁶⁵ Exemptions from previously committed offences, equally using 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 during the state of purity (on which more below), and Q 8:38 on past acts of violence based on 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.

⁶⁶ On the former observation, see van Gelder, *Close Relationships*, 85; I owe the latter one to one of the anonymous peer reviewers of this article. Overall, the Qur'anic passage uses alliteration more sparsely than the Bible (see n. 57 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.

Meccans did not prohibit a man from marrying his stepmother or two sisters at once.⁶⁷ As we will see, a comparable situation prevailed in East Syrian Christianity before the reforms of Mar Aba, who stipulated a similar exemption for a different kind of previously contracted affinal marriage: 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 (*nšwmwn*) for one year and give alms to the poor (*mšk'n*) before being forgiven.⁶⁸

This legal continuity may help us contextualise the Qur'anic laws. Unlike Mar Aba, 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 recognisable to the nascent Qur'anic community. For example, in Q 58:3–4, those who renege on a *ḡihār* divorce must either “free a slave” (*fa-tahrīru raqabatīn*), or should they not be able to afford this, “fast (*fa-šiyāmu*) for two successive months”; should they be unable to do so, they 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 *ḡihār* your mothers” (*wa-mā ja'ala azwājakumu llā'ī tuḡāhirūna minhunna ummahātikum*). The practice is thus condemned as an overly broad application of the rules governing incest law, the very subject equally regulated by Mar Aba.⁶⁹

⁶⁷ Van Gelder, *Close Relationships*, especially 98–99. A reference to the law given to previous generations is given in the subsequent verse Q 4:26, as one of the anonymous peer reviewers of this chapter has observed.

⁶⁸ See n. 25 above.

⁶⁹ The last point has been offered to me by one of the anonymous reviewers; Q 33:4 also links the case of *ḡihār* divorce to the rejection of full adoption (on which see n. 100 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 ritual purity (*wa-antum ḡurumun*) – in which God equally “has excused what is already past” (*'afā llāhu 'ammā salafa*) – the “expiation” or “atonement” (*jazā'*) for intentional present offences, “as judged by two fair men among you” (*yaḡkumu 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 šiyāman*)”. 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 are obviously commoners rather than priests, the Qur'an imposes *either* fasting *or* alms-giving

It is thus plausible, yet not certain, that the Qur'an would also allow for such a penance in the cases of previously contracted illegitimate affinal marriages, and permit them to continue. The alternative reading – namely, that the exemption merely annuls the punishment for the respective spouses – strikes me as inconsistent with the Qur'an's general attitude to past offences, as described above.⁷⁰ All we can state 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 in the Syriac tradition.

In addition to the Qur'an's prohibition of avuncular marriage and its use of the concept of affinity, its position on prohibited relations shares a third legal principle with Christian law absent in the Bible, namely, the availability of exemptions (of whatever kind) for past prohibited affinal marriages. In all three cases, the Qur'an's specific laws remain independent of the Christian legal precedent: while Mar Aba extended the exemption to a man who married his brother's former wife, the Qur'an abolishes this prohibition (more on both below) and instead extends the exemption to a man who married his father's previous wife and to a man who is 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

(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 remain 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). 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 Holger Zellentin, *The Qur'ān's Legal Culture: The Didascalia Apostolorum as a Point of Departure* (Tübingen: Mohr Siebeck, 2013), 59–66. On Q 5:95, see Zellentin, "Judaean-Christian Legal Culture and the Qur'ān: 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), 153–154. Note also the similarity of Arabic and Hebrew roots describing kinship in n. 87 below.

⁷⁰ The question whether the "exemption" offered by the Qur'an is an exemption from punishment, and whether it was intended that the new members of the Qur'anic community would maintain such relationships – as Mar Aba allowed his constituents to do – is a matter we cannot resolve here. We should note that both the Qur'an and Mar Aba emphasise the forgiveness that is available for the crime in question: the latter emphasises that "they will be forgiven" (*wntḥsw lhwn*; Chabot, *Synodicon orientale*, 84), and 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 would not only be required by the Qur'an's general tendency to forgive past offences of a new believer, but equally correspond to the Qur'an's general tendency to ease restrictions; see Joseph E. Lowry, "When Less is More: Law and Commandment in *Sūrat al-An'ām*", *Journal of Qur'anic Studies* 9, no. 2 (2007). 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.

the passage's prominent initial and final position, serve as the passage's main structural divider, and enclose a passage that shows a certain amount of stylistic coherence.

In addition to its delineation as a cohesive sub-passage within a broader legal context, Q 4:22–23 is structured through the measured repetition of verbs and nouns as well as through the prominent pairing of categories.⁷¹ To begin with a minor instance of such repetition, we can note that the passage employs three verbs that are repeated exactly once: *nakaḥa*, “to marry,” *dakhala*, “to have sexual intercourse”, and *raḍī'a*, “to nurse”. All three repeated verbs specify ways in which a man enters into a relation to a woman that renders her prohibited, like the women to whom he is related through consanguinity. These cases, in a representative manner, thus describe all the ways that result in marital taboos through principles other than consanguinity.⁷² Those unaware of the Qur'an's precise use of repetition may be tempted to dismiss the measured recurrence of these three verbs as coincidental. In fact, however, central evidence points in the opposite direction: it is *three* (or, in one important case, four) times that the passage uses the *three* terms originally describing the *three* categories of women related through 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's mother, his mothers through nursing, and the mothers of his wives;
- the term *bint*, “daughter”, is used three times in order to prohibit a man's 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's sister, his sister through nursing, and “two sisters”; the term appears once more in order to prohibit not another sister but the daughter of a man's sister.

⁷¹ On the importance of repetition and structure in the Qur'an, see Michel Cuypers, *The Composition of the Qur'an: Rhetorical Analysis*, trans. Patricia Kelly (London: Bloomsbury, 2016). See also the important caveats offered in Nicolai Sinai, “Going Round in Circles”, *Journal of Qur'anic Studies* 19, no. 2 (2017).

⁷² The passage opens, in Q 4:22, with a repetition of the verb *n-k-h*, which likely means “to marry”, yet may once have denoted sexual intercourse rather than marriage (see van Gelder, *Close Relations*, 88–89). This verb is set apart from the consummation of the marriage described later in the passage, in Q 4:23, again with a verb that is repeated once: *d-kh-l* 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 that is repeated once in the passage, also in v. 23, is *r-ḍ-*, “to nurse”. On co-lactation as establishing a relationship prohibiting marriages, see pp. xx–xx below.

Given that the Qur'an's audience would be 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 sub-division of the passage. I hold that Q 4:23 is constituted by a sequence comprised of four segments corresponding to four categories of prohibitions: (1) first- and second-degree consanguinity, (2) third-degree consanguinity, (3) co-lactation, and (4) affinity. Remarkably, as indicated in the table on p. xx 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 would ideally also turn to another formal device. Rhyme based on the rules of *saj'* may well be another literary and structural factor shaping the passage internally. Qur'anic scholarship, however, has not yet reached a workable consensus that would allow for a full analysis of the passage in terms of rhyme.⁷³ Instead, I note the unusually dense repetitions of the second person plural masculine possessive suffix (i.e., a form of *-kum*), which occurs seventeen times throughout the Qur'anic list (and thereby almost as often as the respective Hebrew second person masculine singular possessive suffix, *-kā*). Moreover, I note that the Qur'an combines the regular female plural ending (*-āt*) with the second person masculine possessive plural (leading to the word-ending *-ātukum*) in only seven out of its seventeen occurrences, and only in those passages of Q 4:23 that describe co-lactation and

⁷³ On the rules and complexities of *saj'* and its disputed relationship to Qur'anic verse, see now Marianna Klar, "A Preliminary Catalogue of Qur'anic *Saj'* Techniques: Beat Patterning, Parallelism, and Rhyme", in *Structural Dividers in the Qur'an*, ed. Marianna Klar (Abingdon: Routledge, 2020). While *saj'* is often translated as "rhyming prose", Stewart's suggested translation of the term as "accent poetry" may be more astute; see Devin Stewart, "Rhymed Prose", in *Encyclopaedia of the Qur'ān*, ed. Jane Dammen McAuliffe, 5 vols (Leiden: Brill, 2004), vol. 4, 476–484; Devin Stewart, "*Saj'* in the Qur'ān: Prosody and Structure", *Journal of Arabic Literature* 21 (1990). Stewart notes that of the 176 verses of Q 4, 143 rhyme; the main rhymes are *-īrā/-īmā*, *-īdā*, and *-ūn*; see Stewart, "*Saj'* in the Qur'ān", 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 "*Saj'* in the Qur'ān", 108 and 128. Note also the important insights on Qur'anic rhyme by Angelika Neuwirth; see, e.g., her *Studien zur Komposition der mekkanischen Suren* (Berlin: De Gruyter, 1980).

consanguinity. It thereby creates another, arguably less pronounced or secondary structural device that stylistically sets the concept of affinity, in the passage's treatment of which this ending never appears, apart from co-lactation and consanguinity. Hence, the segmentation of the passage based, on the one hand, on legal categories, and on the other hand, on stylistic devices, especially the fourfold repetition of "sister" and the arguably restricted use of the ending *-ātukum*, overlap. This overlap corroborates the posited four segments along with the notion that affinity, consanguinity, and co-lactation are indeed the passage's operative legal principles, which both govern and are constituted by the literary structure:

- (1) The verse opens with the three types of women that are most closely related through *first- and second-degree consanguinity*: a mother (*umm*), a daughter (*bint*), and a sister (*ukht*). In this first category, every female noun ends in *-ātukum*; the first segment then ends with the term "and your sisters" (*wa-akhawātukum*), in the plural.
- (2) The opening verse is followed by two pairs of close relations through *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. Like 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 is constituted by the "mother" (*umm*) and "sister" (*ukht*) a man can acquire through *co-lactation*; both female nouns again end in *-ātukum* and the entire category again in "your sisters" (*akhawātukum*), in the plural, as the final type. In this case alone, "sister", while designating the final prohibition within the section, is not the final word, since *ukht* is followed by the specification *mina l-radā'ati*, "through nursing".
- (4) The final category in 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 from v. 22, which describes another case 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 based on affinity. Next

comes one other type of such daughters gained through affinity: a man's daughters-in-law (*wa-ḥalā'ilu abnā'ikum*, "the wives of your sons"). The third type in this category is constituted by the sisters of a man's wife, a category that is equally acquired through affinity. 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 saw 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 organising principle of the individual prohibitions within the four segments. In Q 4:23, the four categories of (1) first- and second-degree consanguinity, (2) third-degree consanguinity, (3) co-lactation, and (4) affinity have been established. At first sight, this neat order seems disrupted if we read the passage in its entirety, along with Q 4:22, which starts with women married to a man's father – a case of affinity. In my view, the list follows a palpable organisational principle that combines the category and degree of proximity with a chiasmic literary framework created by the passage's chiasmic segmentation based on its legal principles. Hérítier's "mirrored" reconceptualisation of proximity necessitates a few mental permutations (pen and paper may help), yet its application rewards the effort by revealing the passage's deeper and strictly symmetrical ordering principles along with the limited gender balance that emerges when considering the gender cognate case for each of the Qur'an's laws.

The opening of the passage (in Q 4:22), to recall, prohibits a man from marrying his father's wife. While the catalogue is asymmetrically gendered and presented from a male perspective, we must note that the prohibition for a man to marry his father's wife points to a *limited* legal balance of gender regarding the prohibitions of affinal relations. In order to probe the Qur'an's operative legal principle, we must first consider this first law, the prohibition to marry *mā nakaḥa ābā'ukum mina l-nisā'i*, "women whom your fathers have married", within the mirrored perspective to which Hérítier has drawn our attention. The prohibition for a man to marry his father's ex-wives, namely, corresponds to the prohibition for a woman (consecutively) to marry two consanguineous males, i.e., a man and his son. When thus mirrored, Q 4:22 can be understood as cognate to the prohibition for a man (simultaneously or consecutively) to marry a woman and her daughter, as spelled out by the prohibition to marry *ummahātu nisā'ikum* about halfway through Q 4:23, indicating a certain

measure of gender balance. Both rulings can be considered as prohibitions of first-degree consanguinity among ego's spouses. As we will see, the sura, to varying degrees, restricts such marriages. At the same time, the remaining gender imbalance that marks the Qur'an's varying exemptions for affinity-based marriage prohibitions results in an effective restriction of the weight of the category of affinity.

Understanding the passage's first prohibition (in Q 4:22) as that of descending first-degree consanguinity among a woman's spouses, i.e., that a woman may not marry a man and his son (which we will designate as *a*), allows us to see how this prohibition structurally corresponds to the three laws that we find in the fourth category of prohibitions, based on affinity, towards the end of the verse Q 4:23, beginning with *wa-ummahātu nisā'ikum wa-rabā'ibukum*. The ascending prohibition in Q 4:23 of a man's marriage to a woman and her mother (*wa-ummahātu nisā'ikum*), which we will designate as *b*, constitutes our passage's second case of the prohibition of first-degree consanguinity among ego's spouses, evoking the same legal principle we encountered already in v. 22.⁷⁴ The Qur'an then immediately extends this second prohibition to the descending generation by forbidding a man from marrying a woman and her daughter (i.e., his stepdaughter, *wa-rabā'ibukumu llātī fī ḥujūrikum*); the Islamic scripture thus prohibits both ascending and descending consanguinity among a man's spouses. This last prohibition constitutes a cognate of *a*, according to Héritier's system: the descending prohibition for a woman to marry a man and his son in v. 22 is the gender cognate of the descending prohibition for a man to marry a woman and her daughter in v. 23, which we will thus designate as *a'*.⁷⁵

The next prohibition is that of a man's marriage to "the wives of your sons who are from your loins" (*wa-ḥalā'ilu abnā'ikum lladhīna min aṣṭābikum*).⁷⁶ If we mirror this law from

⁷⁴ The terms "ascending" and "ascendants" denotes all of the prior generations of either ego or ego's spouses, the term "descending" and "descendants" denotes all the subsequent generations of ego or ego's spouses.

⁷⁵ Intriguingly, the passage draws our attention to the logical correspondence of the three laws based on consanguinity among 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 passage). There are, then, three prohibition involving three *nisā'*, "wives": a man's father's wives, his wife's mother, and his wife's daughter, a three-fold repetition of a noun neatly corresponding to the three types of mothers, sisters, and daughters we have seen above.

⁷⁶ The word to describe a son's wives, *ḥalā'il*, is a *hapax legomenon*; see Gelder, *Close Relations*, 97; cf. David Powers's elaborate argument that the term constitutes a parallel of *kalāla* in Q 4:12.176; see David Powers, *Muḥammad is Not the Father of Any of Your Men: The Making of the Last Prophet*

a female point of view as the ascending prohibition for a woman consecutively to marry a man and his father, we can more easily see that it constitutes a fourth case of prohibited consanguinity among ego's spouses. This prohibition, in turn, is the gender cognate of *b*, the prohibition for a man to marry a woman and her mother, and will thus be designated as *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 represented by an ellipsis here, will be examined below.) In this structural formula, *a* and *a'* as well as *b* and *b'* are 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 marriage to a man and his son in v. 22 (= *a*) is followed, about halfway into v. 23, by that of a man's ascending marriage to a woman and her mother (= *b*), by the prohibition of a man's marriage to his stepdaughter, i.e., the descending marriage to a woman and her daughter (= *a'*), and by the prohibition of a woman's ascending marriage to a man and his father (= *b'*). The chiasmic sequence in the Qur'an's formulation of affinity here depicted suggests that the principle of consanguinity among ego's spouses is an operative legal principle guiding both the law itself and the organisation of the entire passage. I hold that Héritier's method of mirroring is the most straightforward way to unearth the internal structure of the Qur'an's laws prohibiting 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, in so far as the prohibition of consanguinity among a man's spouses is in some cases declared to be secondary to other considerations: the dispensation for marriages that were contracted prior to the promulgation of the Qur'an's laws on prohibited relations, or prior to a couple's conversion to Islam, applies only to two cases of affinity, that of a man's marriage to a former wife of his father in Q 4:22 (= *a*) and that of his simultaneous marriage to two sisters in v. 23, the last of its prohibitions (= *c*).

(Philadelphia: University of Pennsylvania Press, 2009). The traditional narratives depicting the Prophet as marrying the former wife of an adopted son, as depicted by Powers, would match rather well with the Qur'an's respective abolishment of the prohibition, but see Walid Saleh's trenchant criticism of Powers in "Review Article: *Muhammad is Not the Father of Any of Your Men: The Making of the Last Prophet*, by David S. Powers", *Comparative Islamic Studies* 6 (2010). On the specification of biological sons to the possible exclusion of adopted sons, see n. 100 below.

Mirroring both exemptions points to the Qur'an's gender imbalance regarding its affinal prohibitions.

When mirrored, prohibition *a*, for which a dispensation is possible, is that of a woman's marriage to her husband's son. In this case, the Qur'an thus allows first-degree consanguinity among ego's (male) spouses in a special circumstance. No such dispensation for previously contracted marriages is given for the gender cognate prohibition for a man to marry his wife's daughter, *a'*. The prohibition *a'*, however, is doubly restricted in a different way, by specifying that it only applies if the marriage to his wife has been consummated and if the daughter is *fī ḥujūrikum*, "under your [plural] care" (Q 4:23).⁷⁷ Even if Muslim jurists have read the restriction to stepdaughters under a man's care figuratively, the law as it is stated also restricts this prohibition of first-degree consanguinity among ego's (female) spouses. Since the principle of prohibitions based on co-residency 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.⁷⁸

Hence, there is one case of first-degree consanguinity among ego's male spouses and one case of first-degree consanguinity among ego's female spouses that would appear to be permissible in different circumstances. The Qur'an's application of the principle of affinity is thus palpable, yet its application is far less rigorous than in Roman and West Syrian Christian law, which generally demands the resolution of affinal marriages. In principle, yet not in specific law, the Qur'an thus stands closest to the limited application of the prohibition of

⁷⁷ On the meaning of *ḥujūr* and the root *ḥ-j-r* more generally, see van Gelder, *Close Relationships*, 96–97, and Arne A. Ambros with Stephan Procházka, *A Concise Dictionary of Koranic Arabic* (Wiesbaden: Reichert, 2004), 67.

⁷⁸ If the stepdaughter's residency is implied to follow from the question 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's marriage to 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 Harry A. Hoffner, *The Laws of the Hittites: A Critical Edition* (Leiden: Brill, 1997), 151. Conversely, the Hebrew Bible, in the case of a full or half-sister, seems to reject specifically such an exemption for a consanguineous relative who is no longer under the juridical responsibility of one parent even if she were to be *mōwledeṭ ḥūṣ*, i.e., "born outside" the lineage (Leviticus 18:9), likewise implying – yet not necessitating – external residence. On the metaphorical understanding of the restriction of daughters under a man's care, see van Gelder, *Close Relations*, 96–97; on the Biblical laws, see also nn. 35 and 49 above.

affinal relations, along with a clear focus on the Biblical formulation of the law, that we saw in East Syrian law.

The gender imbalance inherent in the exemptions for affinal relations also pertains to the final prohibition of Q 4:23, which concerns a man's marriage to two sisters (= c). Like the prohibition for a man to marry his father's former wife in Q 4:22 (= a), this prohibition is also restricted by an exemption for those marriages that have already been contracted in the past. The prohibition, in its mirrored form as the prohibition for a woman to marry her sister's husband, emerges as the only case of a prohibition of second-degree consanguinity among 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 may indicate:

- that a man is permanently prohibited from marrying two sisters under any circumstances, which is the case in Christian law (with exemptions only in East Syrian law);
- that the prohibition remains in force until his wife's death (even in case of a divorce), which is the case in the legislation of the Hebrew Bible (in Leviticus 18:18);
- or that the man is prohibited from marrying his wife's sister only as long as he is married to said wife, but that he may do so in the event of a divorce, which is the reading of the Qur'anic verse endorsed by the Islamic legal tradition.

The third interpretation corresponds to the traditional reading, which understands the verb "to gather together" as simultaneous marriage (thus allowing a man's consecutive marriage to two sisters who are both alive). This seems to me the one that is most finely attuned to the Qur'an's wording and to its proclivity to ease prohibitions based on affinity wherever possible.⁷⁹ No matter which of the three interpretations is the correct one, however, it is clear that the placement of the prohibition follows the Qur'an's internal logic of positioning the prohibitions of second-degree consanguinity after those of first-degree consanguinity; the ordering principle of decreasing degree of kinship is therefore also applied to the cases governing the relationship among ego's spouses. In the graphic representation of the

⁷⁹ On the Islamic interpretation of the law, see van Gelder, *Close Relations*, 98–102. Such a lenient understanding of the prohibition of marriage to two sisters would equally correspond to the Qur'an's general tendency to ease restrictions, see Lowry, "When Less is More".

passage's structure that is given below, the affinal prohibitions will thus be described as having the form $\alpha\text{-...-}b\text{-}\alpha'\text{-}b'\text{-}c$. Crucially, the exemptions for past actions and the ensuing clausulae with their verse-final rhyme create an additional link between a (in Q 4:22) and c (in v. 23), the first and the last prohibition of the entire list, which are thus rendered in bold. This frame reinforces the chiasmic structure of the entire passage.

The Qur'an's clear yet eventually limited gender balance in its rules regarding prohibitions based on affinity invites us to consider its fully realised gender balance when it comes to prohibitions based on consanguinity. The way in which these are presented in the first half of v. 23 – indicated by an ellipsis in the structural formula developed above – reveals a linear structure, which emerges most clearly when considering the laws governing all seven prohibitions of consanguinity jointly both in their stated and in their “mirrored” form:

- The first prohibition of v. 23 (*ḥurrimat 'alaykum ummahātukum*) prohibits a man from marrying his mother (or, in a mirrored way, a mother from marrying her son). I shall designate it as α .
- The next prohibition (*wa-banātukum*) prohibits a man from marrying his daughter, which, if mirrored, is the prohibition for a woman to marry her father. The prohibition, in this form, emerges as gender cognate to the previous prohibition of a man to marry his mother. I shall thus designate it as α' .
- The next prohibition (*wa-akhawātukum*) bars a man from marrying his sister, which I shall designate as β . The prohibition that emerges if we mirror this prohibition is the prohibition for a woman to marry her brother, which, in this unique case, is also the cognate to the explicit prohibition of a man to marry his sister. I will designate this implicit prohibition as β' . However, since β' remains implicit, I shall keep it in parentheses.
- The next two prohibitions, of a man's marriage to his paternal or maternal aunts (*wa-'ammātukum wa-khālātukum*; these are also found in the Bible), if mirrored, prohibit a woman's marriage to her nephew, i.e., the son of her brother or sister. We may designate both these prohibitions as γ^1 (son of brother) and γ^2 (son of sister).
- These two prohibition of a woman's marriage to her nephew through her brother, γ^1 , and through her sister, γ^2 , are the gender cognates for the next and

final prohibition based on consanguinity (which is absent in the Bible): the prohibition of a man's marriage to his niece through his brother or sister (*wa-banātu l-akhi wa-banātu l-ukhti*), which we can therefore designate as γ^1 (daughter of brother) and γ^2 (daughter of sister).⁸⁰

Just as the partially mirrored consideration of affinity allowed us to observe the chiasmic structure $\alpha\dots b-\alpha'-b'-c$, 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 illuminates its two dominant operative legal principles. As regards the laws of 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 equally applies to the prohibitions based on co-lactation. The latter prohibitions, moreover, speak of the men's "mother" and "sisters" whom they have acquired by virtue of being suckled, as if the Qur'an weighed these laws as equal, or at least as only secondary in weight, to those laws governing consanguinity. As a secondary stylistic device, the use of the composite word ending *-ātukum* exclusively for cases of consanguinity and co-lactation, as described above, would equally set these laws apart from those based on affinity. We will thus designate the prohibition based on co-lactation as (A) for a mother and (B) for a sister acquired by lactation. As regards the laws of affinity, their limited gender balance, coupled with gender-imbalanced exemptions, mark them as a secondary legal principle that is, in tightly defined specific cases, as open to suspension.⁸¹

⁸⁰ While other explanations could be given for the sequence of α , α' and β , it is the sequence of the last two sets of prohibitions, γ^1 and γ^2 (the effective prohibition for a woman to marry her nephew expressed as the prohibition for a man to marry his paternal or maternal aunts) followed by γ^1' and γ^2' (the explicit prohibition for a man to marry his nieces through brother or sister) which most clearly reveals the gender balance operative in the Qur'an's prohibitions of consanguineous marriages.

⁸¹ We should also note the limited affinity of Q 4:22–23 to the Qur'an's list, in Q 24:31, of men in front of whom a woman can unveil herself, which in Western scholarship has long ago been identified as specifying some of the men whom a woman cannot marry (see, e.g., Johann David Michaelis, *Mosaisches Recht*, 6 vols [Reutlingen: Johannes Grözinger, 1793], vol. 1, 201–202); see also van Gelder, *Close Relations*, 119–120. The passage permits women to unveil themselves in front of their husbands, in front of several male and female personae that are not related, as well as in front of the following consanguineous and affinal relations, which we already encountered, directly or in mirrored form (using the same symbols as in Q 4:22–23): a father (= α'), a husband's father (= b'), a son (= α), a husband's son (= a), a brother (= β), a brother's son (= γ^1), and a sister's son (= γ^2). In other words, the permission for a woman to unveil herself thus partially corresponds to the list of prohibited relations we have studied, which prohibits a man from marrying a daughter (= α'), a son's wife (= b'), a mother (= α), a father's wife (= a), a sister (= β), a paternal aunt (= γ^1), or a maternal aunt (= γ^2). The list in

In sum, the entire Qur'anic passage on prohibited relations moves:

- from one case of affinity (i.e., first-degree consanguinity among ego's spouses)
- to
- cases of first- and second-degree consanguinity to
- cases of third-degree consanguinity to
- cases of first- and second-degree co-lactation to
- further cases of affinity (i.e., several cases of first- and one case of second-degree consanguinity among ego's spouses).

The three types of prohibited marriage are presented in a consistent order based on three principles that apply to all types of prohibitions:

- 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 relatives through male relatives to relatives 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 relations will hopefully facilitate a comparison to the Biblical legislation on incest.⁸² The central column in Table 3

Q 24:31 thus forms the sequence $\alpha'-b'-\alpha-\beta-\gamma^1-\gamma^2$, which, despite its starkly different structure, partially corresponds to the prohibitions in Q 4:22–23. The comparison of the passages thus suggests that the Qur'an itself presents its prohibition from a male or female perspective, as appropriate, thereby displaying a technique cognate to Christian mirroring of prohibitions that is absent in the Hebrew Bible. However, while all prohibitions of 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 a woman and her mother (= b), a woman and her daughter (= α'), two sisters (= c), as well as his niece through brother (γ^1) or sister (γ^2). If the prohibitions of Q 4:22–23 were fully to govern the list in Q 24:31, a woman should thus be allowed to take off her veil in front of the man identified by mirroring the prohibitions: her daughter's husband (= b), her mother's husband (= α'), her sister's husband (= c) and paternal (= γ^1) or maternal uncle (= γ^2), as well as in front of her relatives through co-lactation. The discrepancies thus show the relative independence of both passages.

⁸² 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

reproduces the Qur’anic text, the left column shows the legal principles involved, and the right column introduces the stylistic devices, such as the repetition of phrases, of verbs, of nouns, and of the word-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 case of affinity (i.e., first-degree consanguinity among ego’s spouses), to cases of first- and second-degree consanguinity, to cases of third-degree consanguinity, to cases of co-lactation, and then to further cases of affinity (i.e., several cases of first- and one case of second-degree consanguinity among ego’s spouses). Each of these categories (except for the first one in Q 4:23) concludes with an occurrence of the noun, *ukht*, “sister”, in boldface. The brackets on the left side equally clarify the passage’s structure and segmentation based on legal principles. The brackets on the right 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 based on the limited occurrence of *-ātukum* (equally rendered in bold). The chiasmic structure governing the cases of affinity is indicated as $\alpha\text{-}b\text{-}\alpha'\text{-}b'\text{-}c$, while the linear structure governing consanguinity that is embedded within it is indicated as $\alpha\text{-}\alpha'\text{-}\beta\text{-}(\beta')\text{-}\gamma^1\text{-}\gamma^2\text{-}\gamma^{1'}\text{-}\gamma^{2'}$, followed by *A* and *B* for cases of co-lactation. The passages’ complete structure is $\alpha\text{-}\alpha'\text{-}\beta\text{-}(\beta')\text{-}\gamma^1\text{-}\gamma^2\text{-}\gamma^{1'}\text{-}\gamma^{2'}\text{-}A\text{-}B\text{-}b\text{-}\alpha'\text{-}b'\text{-}c$.

affinal case of a man’s marriage to his mother-in-law (to which we will return), and, on the other hand, to indicate the severity of further prohibitions, based on decreasing severity of the transgression for all cases thereafter. Such a linear reading would begin with the oedipal case of a man’s marriage to his mother as the worst case and incrementally progress to that of his simultaneous marriage to two sisters as the least grave transgression. While the Qur’an’s move from a stern warning at the beginning of Q 4:22 (“an indecency, an outrage, and an evil course”) to an emphasis on God’s forgiveness in v. 23 would corroborate such a reading, I suggest bracketing off this difficult question for the purpose of this essay. 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: 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).

Legal principle		Repetition
(a) Affinity (first-degree consanguinity among male spouses: a man and his son)	²² <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>innahū kāna fāḥishatan wa-maqtan wa-sā'a sabīlā</i>	verb: <i>kāna</i> , ending: <i>-ā</i>
(α) First-degree consanguinity: mothers	²³ <i>ḥurrimat 'alaikum 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	<i>wa-akhawātukum</i>	noun: <i>ukht</i> (end), ending: <i>-ātukum</i>
(γ ¹ and γ ²) Third-degree consanguinity: aunts	<i>wa-'ammātukum wa-khālātukum</i>	ending: <i>-ātukum</i> (twice)
(γ ^{1'} and γ ^{2'}) Third-degree consanguinity: nieces	<i>wa-banātu l-akhi wa-banātu l-ukht</i>	nouns: <i>bint</i> (twice), noun: <i>ukht</i> (end)
First- and second-degree kinship by co-lactation: mothers (A) and sisters (B) through nursing	<i>wa-ummahātukumu llātī arḍa'nakum wa-akhawātukum mina l-raḍā'a</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'ibukumu llātī fī ḥujūrikum min nisā'ikumu llātī dakhaltum bihinna</i>	nouns: <i>nisā'</i> (twice), <i>umm</i> , verb: <i>d-kh-l</i>
Exemption for marriages not consummated	<i>fa-in lam takūnū dakhaltum bihinna fa-lā junāḥa 'alaikum</i>	verb: <i>d-kh-l</i>
(b') Affinity (first-degree consanguinity among male spouses: a man and his father)	<i>wa-ḥalā'ilu abnā'ikumu lladhīna min aṣḥābikum</i>	
(c) Affinity (second-degree consanguinity among female spouses: two sisters)	<i>wa-an tajma'ū bayna l-ukhtayni</i>	noun: <i>ukht</i> (end)
Exemption for past action	<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>

-ātukum

Table 3: Q 4:22–23 (legal principles and literary structure).

A Legal and Literary Comparison between the Qur'an and the Bible

The analysis and graphic representation of the Bible's passage on prohibited relations allows for a structural comparison with its Qur'anic counterpart. In contrast to the considerations up to this point, which mainly sought to reconstruct the sense of the two texts as it appeared to their respective historical audiences in the seventh century BCE and CE, the following comparison may be only of indirect historical value. Rather, in illustrating the stark differences between the two codes in light of their similarities, the comparison prepares our understanding of the legal continuity and the legal 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 differences regarding their frame narrative and structure; second, their use of repetition; and third, their limited lexical affinity.

First, Leviticus 18 as a whole is structured through a clear opening and closing narrative frame; the passage offers only one exemption (for the case of a man's marriage to his sister's wife after her death, according to v. 18).⁸³ The Qur'an, by contrast, does not offer any narrative framework. Instead, it creates an opening and closing frame by repeating a legal provision that offers exemptions for past offences.⁸⁴ A faint literary similarity is therefore perceivable on the level of segmentation, yet the structural elements in the Bible and in the Qur'an operate very differently: the opening and closing frame in the Bible has a narrative form, and its legal passage is linear and based on protection of the rights of legal personae,

⁸³ As spelled out above, the Biblical passage on prohibited relations, Leviticus 18:6–18, falls into four distinct parts segmented by the protection of the rights of legal personae: vv. 6, 7–13, 14–16, and 17–18. A second exemption, the case of levirate marriage, is not part of the list of prohibited relations, as discussed on pp. xx above.

⁸⁴ The Qur'an's passage, to reiterate, has 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 relation, and, in Q 4:23, the prohibitions of first- and second-degree consanguineous relations, followed by third-degree consanguineous relations, relations through co-lactation, and relations of affinity, the end of which close the frame.

whereas the opening and closing frame in the Qur'an is constituted by legal material, which is primarily presented in a chiasmic structure based on legal categories.⁸⁵

Second, the Bible's passage is structured by the repetition of the term "uncovering of nakedness" in conjunction with an explanatory clause for nearly each prohibited relation, almost all of which contain exactly one female personal pronoun (or suffix). While the Aramaic, Greek, and Latin translations of the passage on forbidden relations tend to paraphrase the term "uncovering of nakedness", in one way or another, the Qur'an does not contain any clear echo of it.⁸⁶ In the use of repetition, however, one may well see a literary similarity. The Bible repeats key nouns and verbs as well as the Hebrew second person masculine singular possessive suffix *-kā* throughout. Similarly, the Qur'an repeats its main nouns and verbs and the second person masculine plural possessive suffix *-kum*. Moreover, while the Bible employs female pronouns (or suffixes) in each of its prohibitions with nuance and precision, 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 clear that the Qur'an engages in repetition less frequently than the Bible and does not offer any explanatory clauses, with the result that its formulation is pithier and its literary structure more palpable. In these cases, too, the differences between the passages seem to outweigh the similarities.

⁸⁵ A further similarity between the two texts could be seen in the two instances of commentary that occur in both codes. The Bible offers a summary statement evoking God's authority in its opening (in Leviticus 18:6). Towards the end of the passage, the Bible also once expresses a harsh view on a particular transgression (of marrying a woman and her daughter or granddaughter, in v. 17). The Qur'an, conversely, opens with a harsh statement regarding marriage to a father's wife in Q 4:22, and closes with an emphasis on God's mercy at the end of v. 23.

⁸⁶ On the meaning of the euphemistic phrase "uncovering of nakedness", see p. xx above. Its meaning is partially preserved in all late antique translations of Leviticus into Greek, Latin, Aramaic, and Syriac, which speak of uncovering either the "nakedness" or the "shame" when discussing improper sexual relations. The rabbis, in their discussions, employ the Hebrew term *lāḡallōwt* 'erwāh or one of its Aramaic equivalents for the discussion of incest, while Christians use a variety of different terms; see Zellentin, "The Case of Sexual Purity". The Qur'an does employ the Arabic term 'awra in Q 24:31 to designate the genitals, and in Q 24:58, less clearly, to designate "nakedness" more generally. However, while the term 'awra in Q 33:13 also shares with its Hebrew cognate 'erwāh the connotation of a place's exposure to danger, the Qur'an never speaks of the "uncovering of nakedness".

Third, both passages offer a limited measure of further lexical affinity regarding terms for family members.⁸⁷ Yet such rudimentary overlaps are only to be expected in a passage on prohibited family relations.⁸⁸ It is, rather, the far-reaching alterity of vocabulary regarding any 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 obvious that there is little lexical or even conceptual similarity between the two passages wherever the choice of words is wider. This is especially clear in the divergence between the Bible's general focus on sexual intercourse and the Qur'an's formulation of the incest prohibitions within the category of institutionalised marriage.

The literary affinities between the passages, hence, are weak. It would be misleading, however, to take this first impression as a final one, as becomes clear when we consider the overlap between the nature and order of the prohibitions in the two passages, as depicted graphically in Table 4 below (see p. xx). Let us consider the categories of prohibited women, their order, and especially their seven moments of convergence after brief divergences in both texts.

(1) and (2): The Qur'an begins its list with the prohibition of a father's wife, followed by that of the mother. The Bible prohibits the father's wife explicitly only in Leviticus 18:8, after summarily prohibiting *šā'ēr*, "blood relations" in v. 6 and after the prohibition of the "nakedness of the father" and of the mother in v. 7. In both cases, however, the Qur'an's understanding of the prohibitions follows late antique readings of the Bible. First, we should note that Leviticus 18:6 was not understood as a separate prohibition by the late antique Christian audience of the Bible. V. 7, in turn, based on the parallel prohibition of a "father's nakedness" as designating a stepmother in Leviticus 10:11, was understood as the prohibition of a father's wife, a reading we encountered in Gregory the Great and in the Babylonian

⁸⁷ Further common Semitic roots that can be found both in the Qur'an and in the Bible's passage of prohibited relations are "mother" (*umm/ʿem*) and "father" (*ab/āb*), sister (*ukht/ʿahōwt*) and brother (*akh/āh*), 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. *nāšīm*). See already the comments of Powers, *Muhammad is Not the Father of Any of Your Men*, 45–46; and see n. 69 as well as the case of the daughter-in-law see also n. 76 above.

⁸⁸ We can see a similar overlap in the basic legal vocabulary shared by the Qur'an and the Biblical culture of Late Antiquity; in this case as well, the overlap in and of itself is only significant within the broader shared legal framework. See also p. xx 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.

Talmud (see p. xx below). In the first two cases, hence, the Qur'an can be said fully to follow the Bible's perceived sequence of prohibiting first the stepmother and then the mother.

(3): Whereas the Qur'an proceeds further down the generations within its clear order of degrees of consanguinity by prohibiting the daughter, the Bible likely implies and evidently omits this prohibition here. Yet both texts again converge a third time in the prohibition of the sister.

(4) and (5): Whereas only the Bible then moves down to the third generation by prohibiting the granddaughter, both texts again converge a fourth and fifth time in the prohibition of first the paternal and then the maternal aunt.⁸⁹

(6) and (7): The two lists then diverge in a variety of ways (to which we shall return). Yet both passages again converge by prohibiting three categories of women: the Qur'an again descends through the generations by prohibiting mother and daughter, a son's wife, and two sisters, whereas the Bible, ordered in a looser way, prohibits the same three categories in a slightly different order: first, a son's wife, then mother and daughter, and then two sisters. These three categories of women are thus the same, and the difference in their order (bracketing off intervening categories), is marked by only one transposition: while the prohibition of the son's wife occurs early in the Bible, both the Qur'an and the Bible twice converge a sixth and seventh time in first prohibiting "mother and daughter", and, crucially, in ending with the same prohibition of "two sisters".

The legal and literary divergences between the two texts merit our fullest attention. Yet they should be considered in light of the sevenfold convergence in law and sequence between the two codes that has been briefly noted at the beginning of this chapter. The following tabular comparison may help in visualising the striking overlap that, in my view, can hardly be explained by universal incest prohibitions or loosely related Near and Middle Eastern cultural heritage. In Table, the two middle columns represent the Qur'an's and the Bible's list of prohibited relations, both in a slightly simplified form (by eliminating partial redundancies, and by following the Bible's late antique understanding as first prohibiting the

⁸⁹ The absence of an explicit mention of the third generation is a difference in style that is not legally significant; the term "fathers" seems to include forefathers as can be seen, e.g., in Q 2:133. Islamic exegetes rightfully understood all ascendants and descendants to be included in the Qur'an's prohibitions; see van Gelder, *Close Relationships*, 90.

stepmother). The entries in boldface represent the convergence in explicit or perceived overlap between the Qur'an and the Bible, italics represent implicit legal overlap, and dashes a lack of legal overlap. The left column illustrates the Qur'an's underlying legal principles. The right 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 of its Christian reception history shows the way in which the Qur'an stands in continuity with both the Biblical text and with the way in which it was understood by the Christian tradition.

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>) ⁹⁰
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>) ⁹¹
<i>see below</i>	<i>see below</i>	son's wife	affinity (<i>first-degree consanguinity among male spouses</i>) ⁹²
-	-	brother's wife	affinity (<i>second-degree consanguinity among male spouses</i>) ⁹³
third-degree consanguinity	niece	-	-
first-degree kinship through lactation	mother through nursing	-	-
second-degree kinship through co-lactation	sister through nursing	-	-
affinity (<i>first-degree consanguinity among ego's spouses</i>)	mother and daughter		affinity (<i>first-degree consanguinity among female spouses</i>) ⁹⁴

⁹⁰ The similar prohibition for a man to marry *'ēšet-`ābîkā*, “your father’s wife”, in v. 8, originally classified as part of the protection of the father’s rights, was understood by late antique Christians as a law prohibiting affinity corresponding to the inverted prohibition for a woman *consecutively* to marry a man and his son.

⁹¹ 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 among spouses to include one case of the third degree: by prohibiting a man to marry *dōdātākā*, “your aunt”, who is described as the wife of *'āhî-`ābîkā*, “your father’s brother” (in v. 14), the Bible effectively prohibits a woman *consecutively* to marry *a man and his nephew*, a case of third-degree consanguinity among spouses.

⁹² The prohibition for a man to marry *kallātākā* “your daughter-in-law” or *'ēšet bînkā*, “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 of affinity, it corresponds to the prohibition for a woman *consecutively* to marry a man and his father, two spouses related by first-degree consanguinity. On the case of adopted sons, see n. 100 below.

⁹³ 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 among the spouses which, unlike that of the Qur’an, would then apply to both genders: the Bible prohibits a woman *consecutively* to marry *a man and his brother*, just as it will prohibit a man to marry a woman and her sister.

⁹⁴ The Bible, in prohibiting a man to marry a woman and her daughter, originally protects the rights of a wife. Understood in terms of affinity, the prohibition for a man to marry *'iššāh ubittāh*, “a woman and her daughter” has been understood by Christians as a case of first-degree consanguinity among the spouses. The Bible, of course, only implicitly prohibits the similar prohibition for a man to marry a

affinity (<i>first-degree consanguinity among male spouses</i>)	son's wife	<i>see above</i>	affinity (<i>first-degree consanguinity among female spouses</i>) ⁹⁵
affinity (<i>Second-degree consanguinity among female spouses</i>)	two sisters		affinity (<i>second-degree consanguinity among female spouses</i>) ⁹⁶

Table 4: The sequence and legal principles in the Qur'an and the (late antique) Bible.

As can now be seen, the overlap in the actual laws in the Bible and in the Qur'an, as well as their sequence, 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, proceeding (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 prohibition of the son's wife placed 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 among ego's spouses.

The differences between the intermediate prohibitions in the two passages, in my view, make the seven consecutive convergences of order even more remarkable and indicates what the Qur'an so often makes explicit: that it considers its laws by and large to stand in continuity with "Biblical", i.e., God-given positive law, which overlaps to a large degree with the law practised by its Medinan audience, and that it considers differences between its own laws and those of the Jews and Christians in terms of updating rather than replacing laws as practised among these two groups of "Israelites".⁹⁷ In other words, I hold that our comparison, especially in the light of the many legal and literary differences between the two passages and in light of the fact that the two texts' operative legal principles diverge to a large

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 prohibits a man to marry *baṭ- bənāh wə'et- baṭ- bittāh*, "the daughter of your son and the daughter of your daughter" (v. 17). In light of the already formulated prohibition of a man's grandchildren (in v. 10), this effective prohibition for a man to marry a woman and her granddaughter was understood by Christians as a prohibition of second-degree consanguinity among the spouses (which is likely assumed in the Qur'an).

⁹⁵ See n. 92 above.

⁹⁶ The final prohibition in the Bible, *'iššāh 'el-'āḥōtāh lō tiqqāḥ liṣrōr*, "do not take a woman to her sister as a rival", originally protects the rights of a wife. It was understood by Christians in terms of affinity, and inversely as the prohibition of second-degree consanguinity among the spouses, corresponding to the prohibition for a man to take a woman and her sister in the Qur'an.

⁹⁷ See, e.g., Q 5:48 and Zellentin, *The Qur'an's Legal Culture*, 138.

degree, suggests that we should understand the similarity of the actual prohibitions and of their sequence in the way in which the Qur'an invites us to understand them. The similarities, in my view, point to the fact that we are dealing, in the Qur'anic passage of prohibited relations, with an updated version of what the Qur'an presents as its reiteration of the *same* Biblical law code that Mar Aba imposed on his East Syrian community in the century preceding the Qur'anic Prophet, and the same law code that Gregory the Great used in his letter to Augustine of Canterbury at the time the Qur'an's laws were first promulgated. In this sense, Biblical law can be seen in the Medinan Qur'an, at least in this instance, lending credence to my claim that it can be found everywhere in the legal strata of the Islamic scripture.

Reaching the threshold of plausibility that we are indeed dealing with two versions of the same law code 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 its order, and reflecting a few key words or word clusters, the former text 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 amidst stylistic difference, in my view, is that the Qur'an formulates its own legal code in dialogue with the "living" Bible of its time, which was constituted by the legal practices, the legal discourses, and perhaps occasionally the Biblical, exegetical, and legal texts of 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, along with only a few textual echoes, corroborates my previous findings regarding the Qur'an's continuity with Christian legal culture more broadly.⁹⁸ A direct comparison of the Bible with the Qur'an, hence, shows not only 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.

While the crucial task of differentiating between pre-Qur'anic and Qur'anic changes of the Bible's "Arabian" code – if indeed the differences were meaningful – remains to be

⁹⁸ See Zellentin, *The Qur'an's Legal Culture*, especially 39–41.

addressed in the future, I hold that the cohesion and precision of Qur'an's updating of Biblical law indicates a pointed intervention in a dialogue with both the Christian and the Jewish legal and exegetical tradition. Be that as it may, we can preliminarily summarise first the literary and second the legal effects of the Qur'an's reiteration of the Biblical code. The key literary differences are the following:

- A rephrasing of the Biblical law-code in a different and arguably more condensed literary format that includes several overlying literary frames.
- A tightening of the argument by removal of the Bible's explanatory clauses along with the explicit extension of the prohibition to a man's granddaughter and to the granddaughter of his wife (as in Leviticus 18:10 and 18:17).
- An expansion explicating two prohibitions that are implied in the Bible: the prohibition of a man's marriage to his own daughter and to his wife's mother. In both cases, the Qur'an's formulation is parallel to Christian iterations of the Biblical code.
- The explicit specification that the prohibition of stepdaughters applies only to those daughters *min nisā'ikumū llātī dakhaltum bihinna*, "of the wives with whom you have had intercourse". A similar distinction that is broadly analogous to that between a betrothal and the consummation of the marriage seems implied in Near Eastern law.⁹⁹
- A repositioning of the prohibition of a son's wife within the now consistent category of the prohibition of first-degree consanguinity among ego's spouses, along with the specification that only the wives of sons who are *min ašlābikum*, "from your loins", are prohibited. In establishing biological paternity as a precondition for the law's applicability, the Qur'an's specification of the wives of a man's own son's as "from your loins", at the same time, echoes a different case of

⁹⁹ We should also note that the Code of Hammurabi, in §§ 155–156, stipulates 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 whom she wants. If, however, the man has sex with the daughter-in-law after his son has done so, the man is executed. See H.-Dieter Viel, *The New Complete Code of Hammurabi* (New York: University Press of America, 2002), 557–560 (cuneiform) and 564 (translation); see also Westbrook, *History of Ancient Near Eastern Law*, vol. 1, 419.

a prohibited relation in the Bible. Here, the prohibition of paternal sisters through a concubine, those *mōwledeṭ ʿābīkā*, “begotten by your father” (Leviticus 18:11), equally establishes the father’s paternity. Regarding the prohibition of paternal sisters alongside full sisters, conversely, the Qur’an here leaves implicit what the Bible still needed to make explicit.¹⁰⁰

These literary differences do not necessarily entail any change of law (and actually have proven not to do so in later Islamic and Jewish tradition).¹⁰¹ If anything, the Qur’an’s

¹⁰⁰ As van Gelder has already recognised, 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; see van Gelder, *Close Relationships*, 97. This argument is further developed in Powers, *Muḥammad is Not the Father of Any of Your Men*, see especially 35–71, yet see n. 76 above. Q 33:37 allows at least the Prophet to be wedded to *azwāj ad’iyā’ihim*, which is usually translated as “the wives of their adopted sons”. While the precise rules of adoption presupposed and challenged in the Qur’an appears to me to stand in need of further study, it seems clear that the term *da’iyy* refers to sons “called after” yet not begotten by the male acting as their fathers, and therefore constitutes the type of sons that are precisely not “from your loins” in Q 4:22. Marriage to the wives of adopted sons is thus permissible both according to Q 33:37 and 4:22. In Q 33:4–5, however, the Qur’an seems to question the entire concept of adoption, stating that God has not “made your adopted sons (*ad’iyā’akum*) your sons”, and commanding to “call them after their [biological] fathers”, a ruling in line with the rejection of *ḡihār* divorce as specified in Q 33:4 (see n. 69 above). Powers provides a useful overview of the broader Near Eastern context of laws of adoption, see idem, *Muḥammad is Not the Father of Any of Your Men*, 11–23. In addition, the Qur’an’s censoring of calling a son after his adoptive father may perhaps best be understood in light of the Talmudic tradition that enjoins people that the children one rears and educates should be *nqr’w ʿl šmw*, “called [plural] by his name”, i.e., precisely not by the name of their natural but of their adoptive father (Bavli *Sanhedrin* 19b; my emphasis). If this ruling implies that the Qur’an thereby exempts all kin related through adoption from the rules governing the prohibition of close relations – which is the way in which Q 33:4 is usually, and in my view correctly, understood – then this ruling would constitute a case in which the Qur’anic reiteration of scripture would partially align with and partially depart from rabbinic law, which, despite enjoining people to call a son by his adoptive father’s name, generally did not recognise any legal status of adoption; see James M. Scott, *Adoption as Sons of God: An Exegetical Investigation into the Background of ΥΙΟΘΕΣΙΑ in the Pauline Corpus* (Tübingen: Mohr Siebeck, 1992), especially 61–120; a broader study of rabbinic attitudes remains a desideratum. Such an argument from silence, however, does not bear much weight. Intriguingly, while the Qur’an encourages a man to marry the orphan girls he has raised in certain circumstances (Q 4:3), late Roman law strongly upheld the prohibitions of marriage of parents with their adoptive children. Other marriages emanating from adoption, however, were made possible after a child’s emancipation, see especially Justinian Code 1:10:1, 2.3.5; see also *Didascalia Apostolorum* 17 in Arthur Vööbus (ed. and trans.), *The Didascalia Apostolorum in Syriac* (Louvain: Secrétariat du CorpusSCO, 1979), 184, which encourages marriage between adopted and natural children. See also O. F. Robinson, “Persons”, 23–37; Hage, *Les empêchements de mariage*, 223–234; Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 153; Powers, *Muḥammad is Not the Father of Any of Your Men*, especially 11–34; van Gelder, *Close Relationships*, 97; n. 76 above.

¹⁰¹ See Ricks, “Kinship Bars to Marriage in Jewish and Islamic Law”, especially 136.

pithier formulation may well suggest that there was more of a consensus among its audience that half-siblings as well as further ascendants and descendants were equally prohibited than we may assume to have existed among the Bible's audience. (The Bible, in other words, may well have largely carried the day here, making such specifications unnecessary.) By contrast, the comparison between the two passages, if understood as standing in broad continuity, also shows that there are seven consequential legal differences between the two codes as they were preserved:

- The Qur'an adds the prohibition of marriage of a man to his niece.
- It adds the category of kinship gained through lactation.
- It omits and thereby annuls the prohibition of marriage of a man to the former wife of his brother (which the Bible proscribed in Leviticus 18:16).
- It omits and thereby annuls the prohibition of marriage of a man to the former wife of his uncle (which the Bible proscribed in Leviticus 18:14).
- The Qur'an, furthermore, instates clemency for a man's marriage to his father's former wife for previously contracted marriages, by excluding *mā qad salafa*, "what is already 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 *fī ḥujūrikum*, "under your [plural] care".
- Finally, it also eases and limits the scope of the prohibition for a man to marry his wife's sister further than the Bible does, first again by exempting previously contracted unions (again by excluding *mā qad salafa*, "what is already past") and secondly by omitting and thereby annulling the stipulation that the prohibition only expires with the wife's death.

Some of the differences between Qur'anic and Biblical law – both in law 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. Further literary differences between the Bible and the Qur'an, by contrast, 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 consequential legal differences between the two codes, likewise, are best understood in 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 of consanguinity to include avuncular marriages, which were equally outlawed in late Roman and West Syrian law. In my view, such a reflection of a Christian legal principle, yet in a more complicated way, can also be found 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 eases precisely those prohibitions that Christians tended to expand and apply strictly, thereby reflecting closer affinity to the East Syrian Christian example.

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 relations, which, in the medieval Latin West, eventually reached the prohibition of affinity up to the seventh degree.¹⁰² The East Syrian church, by contrast, implemented the Levitical prohibitions as they are phrased, and did so only in the sixth century, and even then allowed unions between a man and his brother's wives contracted before the promulgation of Mar Aba's decrees to remain intact. The Qur'anic reiteration of Biblical law, hence, can 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 cases where the Qur'an diverges from the Bible.

First, late Roman and West Syrian Christians prohibited marriage to a wife's sister permanently, beyond the death of the wife, thereby making the prohibition – which is explicitly understood in terms of affinity, i.e., second-degree consanguinity among ego's spouses – more severe than in its Biblical formulation. Like the East Syrian Christians, the Qur'an maintains the Biblical prohibition in this case, although its literary structure indicates that it understands the prohibition in terms of affinity. In its application of the law, however, the Islamic scripture updates Biblical as well as Christian law in two divergent ways. It

¹⁰² See Goody, *The Development of the Family*, 134–146, 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 church also treated baptismal relations as a marriage impediment, see, e.g., Justinian Code 5:4:20 and Jacob of Edessa, *Canones* 71. See also Godelier, *The Metamorphoses of Kinship*, 330–331; Hage, *Les empêchements de mariage*, 235–255; Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 146–152.

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). It seems clear that the Qur'anic verb *jama'a*, “to gather”, implies a prohibition only of simultaneous marriage, thereby easing the Biblical prohibition of marriage to two sisters by allowing marriage to a wife's sister directly after divorcing the wife – already before her death. The Qur'an therefore implements and eases the Biblical law, moving in the opposite direction of Christian law on the matter.¹⁰³ Most importantly, the Qur'an now also applies to the nascent Qur'anic community the dispensation regarding previously contracted marriages of a man to the former wife of his father or to two sisters simultaneously, excluding from its own rulings *mā qad salafa*, “what is already past” (Q 4:23), applying a legal principle similar to the one we encountered in the East Syrian canons of Mar Aba (here applied to the case of a woman's consecutive marriage to two brothers we have seen above).

Secondly, Christians highlighted the unforgivable offence of marriage to a father's former wives, which was understood as the first of the Biblical prohibitions; many Christians maintained the respective Biblical prohibition with vigour. Like the Christians, the Qur'an also seems to single out such a union when describing it as *fāḥishatan wa-maqtan wa-sā'a sabīlā*, “an indecency, an outrage, and an evil course”.¹⁰⁴ At the same time, however, we have seen that the Qur'an also in this case excludes from its own rulings *mā qad salafa*, “what is already past” (Q 4:22). The two apparently divergent attitudes that mark the Qur'an's application of the 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 an increased effort of suppressing future ones is coherent.¹⁰⁵

Thirdly, Christians, including the East Syrian church (with possible exemptions), eventually abandoned the exception inherent in the concept of levirate marriage entirely, and

¹⁰³ Intriguingly, the Qur'an's understanding of the prohibition as ending with separation (rather than with death) is pre-empted in unrelated Jewish and Christian late antique interpretations of the Biblical law, suggesting that a similar understanding may well have been current in pre-Islamic Arabian law.

¹⁰⁴ This passage gave rise to the later Islamic notion describing a man's marriage to his mother-in-law as a *nikāḥ al-maqt*, “hateful marriage”; see van Gelder, *Close Relationships*, 85.

¹⁰⁵ More concretely, and more speculatively, even if the Qur'an's Medinan audience would not have allowed such unions between a man and his stepmother, it is possible that such unions would have been allowed among the Meccan emigrants or other groups to whom the Qur'an is likely addressed. The issue shows the difficulties of any attempt to derive pre-Islamic Arabian law from the Qur'an directly. See already n. 53 above.

thereby permanently prohibited a man's marriage to his brother's former wife, again explicating the prohibition in terms of the inverted relations as a woman's marriage to the brother of a former husband. In this case, too, the Qur'an moves in the opposite direction of Christian law, annulling the prohibition of a brother's wife altogether. This illustrates that despite the palpable presence of the principle of affinity, the Qur'an only applies it in cases of first-degree consanguinity among ego's spouses. While the argument here is partially one from silence, the close correspondence of the lists of prohibited relations in the Bible and in the Qur'an, as outlined above, enables us to draw conclusions from this legal shift: permitting a man to marry his brother's wife after divorce, if mirrored, emerges as the permission for a woman consecutively to marry two brothers. This ruling constitutes the gender cognate of the permission for a man consecutively to marry two sisters, which the Qur'an equally grants by softening the Biblical law and moving towards gender balance by abolishing restrictions – a clear inversion of the Christian principle of establishing balance by expanding, rather than abolishing, restrictions.

Fourthly, 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 based on affinity: the prohibition for a man to marry his uncle's wife, a proscription of third-degree consanguinity among ego's spouses stated in Leviticus 18:14. The Qur'an annuls the prohibition of an uncle's wife through mere omission, allowing us, despite the issue of arguing *e silentio*, to grasp its simultaneous application and diminution of affinity as a legal principle. Also in this case, the Qur'an's annulment of a law based on affinity leads to gender balance in a different way than the Christian expansion of the same law equally achieves gender balance: for Christians, the prohibition of a man's marriage to his uncle's wife implied the cognate prohibition for a woman to marry her aunt's husband, for the Qur'an, both unions are unproblematic.

Finally, Christian law also prohibited a man from marrying his stepdaughter, a proscription of first-degree consanguinity among ego's spouses corresponding to Leviticus 18:17. Here, the Qur'an eases the law: doing so is only prohibited if the woman in question is *fī ḥujūrikum*, "under your [plural] care" (Q 4:23). This instance of the root *ḥ-j-r*, which elsewhere seems to connote a house's inner chambers, is a topical *hapax legomenon* with the general sense of guardianship. Regardless, the law nevertheless clearly loosens the prohibition even of the one case of first-degree consanguinity among ego's spouses. This

amounts to a remarkable illustration of Westermarck's principle of co-residency as an inhibitor of sexual desire.¹⁰⁶

The comparison of Christian and Qur'anic law, hence, highlights that of the six prohibitions in the Bible that Christians have understood in terms of affinity – the prohibition of the former wife of a father, an uncle, a son, and a brother, and the prohibition 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 thus the Qur'an's application and easing of one legal principle – the case of incest of the second type, through affinity – through which five of the seven legal differences between the Bible and the Qur'an can be explained. At the same time, it is arguable that the Qur'an positively reflects the East Syrian lenience regarding a woman's consecutive marriage to two brothers. Likewise, the Qur'an positively reflects the late Roman and West Syrian Christian expansion of one prohibition based on consanguinity, that of avuncular marriage.¹⁰⁷ The result is a list of prohibited relations that reflects a slightly more gender-balanced approach than the one we find in the Biblical code, yet a slightly less balanced approach than the one we find in Christian law. This raises the question whether it can be coincidental that the Qur'an applies, yet simultaneously eases, the very same legal principle of affinity that became a central one in Christian law.

My answer to this question, a speculative one, must be understood in the broader context of the general continuity between Qur'anic and Christian law for which I have argued elsewhere. If the Qur'anic and Christian understanding of Biblical law are generally aligned,

¹⁰⁶ On the root *h-j-r*, see n. 77 above; on the possibly related principle of co-residency in Hittite law, see n. 78 above; on the theory of Westermarck, see n. 8 above.

¹⁰⁷ The permission given to the Prophet to marry any of his first cousins, in Q 33:50, 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 cousin marriage (on the later East Syrian prohibition of cousin marriage see Weitz, *Between Christ and Caliph*, 145–155). We should note that the permission to marry a cousin contrasts with the prohibition of first-cousin marriage in the Theodosian Code (3:12), yet it correlates with the subsequent permission to marry first cousins in later Byzantine law, as expressed in the Justinian Code (1:10:4), as well as with the different attitudes in the Eastern Roman provinces. See Feissel, "Deux épigrammes d'Apamène et l'éloge de l'endogamie dans une famille syrienne du VI^e siècle", in *Aetos: Studies in Honour of Cyril Mango, Presented to him on April 14, 1998*, ed. Ihor Ševčenko and Irmgard Hutter (Leipzig: B.G. Teubner, 1998), especially 132–136. See also O. F. Robinson, "Persons", 28. First-cousin marriage remained generally prohibited in Latin Christendom; see, e.g., Gregory, *Registrum Epistolarum* XI, Letter 64 (to Augustine), fifth question; Colgrave and Mynors, *Bede's Ecclesiastical History of the English People*, 84–85.

then any aspect of their dis-alignment becomes potentially relevant for the history of law. I would thus suggest that the Qur'an, in its formulation of prohibited relations, seeks to rein in some of the post-Biblical Christian additions to Biblical law, in line with its pursuit of a return to "Biblical" origins. Its formulation of the law-code from a male perspective, following Ancient Near Eastern models despite its gender-balanced impetus, may well be a stylistic implementation of the "originalist" legal hermeneutical principle. As is common in such cases – the Gospel of Matthew may serve as an example – the result arguably may be closer to the original than the current legal situation, yet new divergences emerge: the Qur'an's rules regarding affinity are laxer and simpler than those of the Bible, just as those of Christianity are stricter than those of Leviticus. In my view, the Qur'an's reiteration of Biblical law stands in dialogue with a broad variety of strands of Christian legal culture, and is guided by its focus on the Biblical code along with its general tendency to alleviate rather than aggravate the severity of law wherever possible.¹⁰⁸

Let me conclude this chapter with three brief notes on the role of rabbinic law, on the case of co-lactation, and on the broader contexts in which to place Qur'anic law. First, a focus on the Christian understanding of Biblical law should not be construed as arguing for the irrelevance for rabbinic law in the context of nascent Qur'anic law. There is, furthermore, one case in which Qur'anic law may well respond to rabbinic law more directly. The rabbis, namely, continued to allow levirate marriage, and they understood the central phrase in Deuteronomy 25:5, "her husband's brother shall go in to her" (*yəḇāmāh yāḇō 'ālehā*), as the permission to impose a levirate marriage upon a woman "against her will" (*'l krḥh*, see Bavli *Yevamot* 8b). The Qur'an, in Q 4:19, shortly before the passage on prohibited relations, states that "it is not lawful for you [plural] to inherit women (*an tarithū l-nisā'a*) unwillingly (*karhan*)".¹⁰⁹ This passage has correctly been understood as a ban of any form of widow inheritance, a widely practised institution in the Ancient Near East.¹¹⁰ Yet amidst this broader

¹⁰⁸ On the notion of "originalism" in late antique legal thought, 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; I have further developed the application of the concept to the Qur'an in Holger Zellentin, "Gentile Purity Law from the Bible to the Qur'an"; a number of further studies are in preparation. On the easing of Biblical law, see Zellentin, *The Qur'an's Legal Culture*, 102–103, as well as Lowry, "When Less is More".

¹⁰⁹ On the passage see already p. xx above; on the term *karhan*, "unwillingly", see, e.g., Q 9:53.

¹¹⁰ The Hittite Laws, for example, in § 192, state 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

ban of 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, it may well have been the most immediate legal concern of the Medinan Qur'anic reiteration of Biblical law.¹¹¹

Secondly, the case of affinity through co-lactation constitutes the one difference between the Qur'an's list of prohibited relations and that of the Bible that does not, in one way or another, reflect the laws or legal principles extensively discussed by church fathers and rabbis. As a practice largely unknown outside Arabia, the prohibition of marriage based on co-lactation has long aroused the interest of traditional Islamic scholars, and cannot be ascertained to pertain to late antique Jewish or Christian legal culture outside Arabia.¹¹² This, in turn, allows us to understand more clearly how the Qur'an recasts the Biblical list of prohibited relations by firmly integrating the prohibitions of consanguineous relations established through co-lactation within the framework of its understanding of Biblical law. The case of co-lactation thus represents a clear example of the Qur'an's re-casting of Arabian

take his widow as a wife. [If the brother dies], the father shall take her. When afterwards his father dies, his [i.e., the father's] brother shall take the woman whom he had"; see Hoffner, *The Laws of the Hittites*, 152. Hoffner reasonably argues that since in the best copy of the text "§ 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" (Hoffner, *The Laws of the Hittites*, 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*, 662–681.

¹¹¹ Since the Qur'an annulled any restrictions on a man's marriage to the former wife of his brother, 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 precisely the possibility to force a woman to marry a close relative of her husband. This is an option that the Bavli maintains, and, in my preliminary reading, this is precisely what the Qur'an here annuls; the general prohibition of widow inheritance, of course, follows. I hope to be able to 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.

¹¹² See van Gelder, *Closer Relations*, 93–96. See also Ricks, *Kinship Bars to Marriage*, 133–136; Thierry Bianquis, "The Family in Arab Islam", in *A History of the Family*, ed. André Burguière et al., 2 vols (Cambridge: Cambridge University Press, 1996), vol. 1; Héritier, *Two Sisters and the Mother*, 73–77. Hage, as well as Dauvillier and De Clercq, note that the Coptic as well as the West Syrian church (along with the Armenian church) did consider co-lactation to establish a prohibited relation 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*, 84–85, and Dauvillier and De Clercq, *Le mariage en droit canonique oriental*, 156–157. For the later Islamic development of the law, see Avner Giladi, *Infants, Parents and Wet Nurses: Medieval Islamic Views on Breastfeeding and their Social Implications* (Leiden: Brill 1999), especially 68–116.

legal culture in which this culture is precisely not related to any Biblical precedent. While the current chapter cannot add much to the understanding of the prohibition of kinship through co-lactation, the case shows that Biblical law may not be everywhere in pre-Qur'anic legal culture. Rather, the Arabic Qur'an, in turn, integrates such non-Biblical laws into its own legal paradigm.¹¹³

The third and last concluding note concerns the Qur'an's legal context more broadly. Qur'anic law is best understood in its continuity with late antique Arabian law – both in the ways in which it presents itself as part of it and in the ways in which it sets itself apart from it. Recent scholarship has re-evaluated the question which law, or which laws, exactly, informed Arabian legal culture at the turn of the seventh century: how Biblical was this law, how Jewish, how Christian, and how distinct from other parts of the ancient Near and Middle East?¹¹⁴ Any reconstruction of the legal narratives and practices that the Qur'an promulgates, or with which it assumes its audience to be familiar, in my view, must be understood in light of the multi-faceted, hybrid nature of Arabian law. In the absence of pre-Qur'anic legal sources relevant to the Hijāz, a reconstruction must move in circular ways. Our primary source remains the Qur'an itself, which indicates both its continuity with, and reform of, existing practice.¹¹⁵ We must then compare the hypothetical practices of the Qur'an's audience with five sets of other available data, each of which offers its own set of methodological challenges:

(1) Ancient Near and Middle Eastern law certainly informs much of Arabian legal culture, and we should understand any continuity of the Qur'an with the Bible within this broader framework. At the same time, a simple observation of the universally shared aspects of many of the Qur'an's prescriptions and proscriptions – e.g., on the purity of sexuality, food,

¹¹³ The speculations of W. Montgomery Watt regarding the laws governing the prohibitions based on co-lactation as residues of a matrilineal society are not based on clear evidence; see Watt, *Muhammad at Medina* (Oxford: Oxford University Press, 1956), 281.

¹¹⁴ My present findings do not confirm the views on the matter as expressed by Aziz Al-Azmeh, who, in my view, overemphasises the cultural distinctness of Arabia; 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, Johannes Stephan, and Monica Corrado (Leiden: Brill, 2018), and Al-Azmeh, *The Emergence of Islam in Late Antiquity: Allāh and his People* (Oxford: Oxford University Press, 2014). See now also Lena Salaymeh, *The Beginnings of Islamic Law: Late Antique Islamicate Legal Traditions* (Cambridge: Cambridge University Press, 2016), especially 101–103.

¹¹⁵ See n. 97 above.

or fighting – always runs the danger of drowning out the particularity of specifically shared legal traditions.

(2) The Hebrew Bible, in oral forms as well as in writing, circulated in Hebrew as well as in a considerable number of Aramaic and Syriac, Greek, Latin, and other translations throughout Late Antiquity, possibly including Arabic. Placing Qur’anic law within Jewish and Christian legal culture, in turn, necessitates comprehending the triangle of Biblical law in dialogue with its often polarised Jewish and Christian interpretations – yet the Biblical code itself often contains the keys to our understanding of later developments.

(3) The most pertinent legal context of the Qur’an, as I have previously argued, is thus to be found in the law and literature of late antique Christianity, as well as in 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 in the Byzantine Empire, we can in turn identify certain strands of Christianity and Judaism that were especially pertinent for the Qur’an. In my view, the legal culture of the rabbinic Jews of Palestine and of Babylonian, of Palestinian Christianity more broadly, and especially of some strands of West and East Syrian Christianity jointly form the primary context of the Qur’an’s integration of Biblical law. In the case of the prohibitions of incest, the late Roman and West Syrian stringency with a focus on affinity, along with East Syrian lenience with a focus on the code of Leviticus 18, are of special importance to the Qur’an’s legal context.

(4) The practices attributed to pre-Islamic Arabia in traditional Islamic sources, which have largely been bracketed off in this essay, undoubtedly preserve much pertinent cultural memory. 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, in the cases in which they did consult Jewish or Christian sources, were insufficiently familiar with earlier forms of Judaism and Christianity, and often extrapolated later developments into earlier periods. Much work remains to be done on this corpus, ideally in light of some of the present findings.

(5) The traditional Islamic exegetical interpretation of Qur’anic law, last but not least, has equally been excluded in the present study. Almost all of the secondary considerations of traditional Islamic scholarship, however, have shown that the “Qur’anist” approach here followed often furnishes a legal analysis that at least partially corroborates many of the valuable insights of the traditional legal exegetes, at the same time as complexifying them –

especially when it comes to the Qur’anic period itself. It is my hope that future studies will compare and contrast the present findings with the traditional legal positions of the *fuqahā’* in a systematic manner.

No matter what the merit of any specific argument in this chapter, I have attempted to establish that the Qur’an’s easing of incest law based on affinity, along with so many other examples, sits squarely on the fault-lines of the intense discussion of Biblical law that occurred among late antique church fathers and rabbis – without fully corresponding to *any* previous law-code, further illustrating how thoroughly the Qur’an reiterated Arabian Biblical law.

In my view, we should understand the Qur’an’s law fully in its late antique context, which is constituted of the triangle of the Ancient Near Eastern Biblical text along with its often polarised late antique Jewish and Christian interpretations. We do not have access to the precise Hijāzī discourse with which the Qur’an assumes its audience to be familiar, yet we can approach this discourse by expanding our comparison of the Biblical and the Qur’anic passage of prohibited relations to include, first, the Christian understandings of incest prohibitions, and then the rabbinic views. While casting the net so widely may be alarming for those who hold a positivist view of Arabian legal history, the presence of Jewish and Christian communities throughout Arabia, along with the Qur’an’s own affinity with the Biblical list of prohibited relations, gives us sufficient – if not unassailable – ground to hazard a broad comparative approach. The question is: should scholars treat the Qur’an as historical evidence for the Biblicisation of Arabian law?

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