

# “Who Am I to Judge?”



Homosexuality and the Catholic Church

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**DE GRUYTER**

ISBN 978-3-11-070502-7

e-ISBN (PDF) 978-3-11-070518-8

e-ISBN (EPUB) 978-3-11-070525-6

**Library of Congress Control Number: 2021943329**

**Bibliographic information published by the Deutsche Nationalbibliothek**

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at <http://dnb.dnb.de>.

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Cover image: Nacho Caballero / iStock / Getty Images Plus (Rainbow); franckreporter / iStock / Getty Images Plus (St. Peter, Rom)

Title of the original publication: "Wer bin ich, ihn zu verurteilen?" Homosexualität und katholische Kirche, edited by Stephan Goertz © 2015 Verlag Herder GmbH, Freiburg im Breisgau  
Printing and binding: CPI books GmbH, Leck

[www.degruyter.com](http://www.degruyter.com)

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Stephan Goertz

## “Who Am I to Judge?”

### An Overview of the Context and the Themes of the Contributions

In the liberal societies of the West, the idea of the universality of certain inalienable human rights has led to a historically unique process of emancipating sexual minorities and democratizing a variety of relationship structures. Globally, we see the ongoing decriminalization and depathologization of homosexuality, which began after World War II. While everyday discrimination is still widespread, it is increasingly losing its cultural legitimacy. At the same time, in some parts of the world, lesbian and gay people continue to face oppression and repression.

In the teaching and practice of the Catholic Church, however, same-sex sexuality remains grounds for exclusion. Magisterium documents disapprove of homosexual relationships in principle. Since there is no analogy between such relationships and marriage between a man and a woman, the blessing of homosexual unions is rejected as illicit, on the grounds that the Catholic Church has no authority to alter God’s plans for men and women.<sup>1</sup> In essence, the devaluation and exclusion of homosexuality hinges on the conviction that same-sex sexuality operates outside the bounds of God’s intended order of creation. Thus for Catholic moral teaching, homosexual orientation is and remains a problem.

This consistently negative view of homosexuality means that many homosexuals do not experience the Catholic Church as a place where they feel that their sexual orientation and partnerships are accepted or their identity is recognized. The Church explicitly opposes discrimination against homosexuals because this violates their dignity as persons. At the same time, however, it denies them the opportunity to practice their sexuality responsibly and lovingly. Church teaching has been caught in this dichotomy ever since 1986, when the Congregation for the Doctrine of the Faith in Rome first addressed the question of homosexuality in greater detail.<sup>2</sup>

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1 Congregation for the Doctrine of the Faith, “Responsum to a dubium regarding the blessing of the unions of persons of the same sex” (February 22, 2021), [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20210222\\_responsum-dubium-unioni\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20210222_responsum-dubium-unioni_en.html) (accessed May 21, 2021).

2 Congregation for the Doctrine of the Faith, “Letter to the Bishops of the Catholic Church on the Pastoral Care for Homosexual Persons. *Homosexualis problema*,” AAS 79 (1987): 543–554.

The evaluation of homosexuality and homosexual partnerships is developing into a crucial test for the Catholic Church, as has also been the case in other Christian churches and denominations.<sup>3</sup> For some, the negative evaluation of homosexuality is a necessary consequence of church tradition; for others, it is an outrage against Christian principles of justice. The issue of the treatment of sexual minorities alienates many believers from their Church. This is not simply a Western issue, as is often assumed. Lesbian and gay people are also fighting for their emancipation and their rights for example in Africa and in many Eastern European countries. We should begin by attending to their experiences, and we should not simply be satisfied with the statement that homosexuality is incompatible with certain cultures or religious traditions.<sup>4</sup> Tradition should not be sacred to us for its own sake, but the human person, human dignity, and human rights should be.

The present volume is envisioned as a contribution to the ongoing self-reflection on the Catholic view of homosexuality. This effort can only succeed if we face up to the prejudices inherent in the classical Catholic evaluation of homosexuality, opening this perspective to interrogation from a human sciences perspective as well as to theological criticism. In 2013, after decades of gridlock in this area, Pope Francis raised hopes for a new Catholic attitude toward homosexuals with just a few sentences. In an interview, the pontiff said:

In Buenos Aires I received letters from homosexual persons who are “socially wounded” because they always feel condemned by the Church. But the Church does not want that. On the flight back from Rio de Janeiro, I said that if a homosexual person has good will and seeks God, I am not the one to judge him. In this way, I said what is written in the Catechism. [...] God has set us free in creation: there must be no spiritual interference in personal life.<sup>5</sup>

Does this indicate a learning curve – a shift from the “casting off” way of thinking to the “reinstating” way of thinking, which Francis has spoken of so forcefully

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<sup>3</sup> Cf. Jeffrey S. Siker, ed., *Homosexuality and Religion. An Encyclopedia* (Westport/London: Greenwood Publishing Group, 2007).

<sup>4</sup> See, for example, Makau Mutua, “Sexual Orientation and Human Rights: Putting Homophobia on Trial,” in *African Sexualities. A Reader*, ed. Sylvia Tamale (Nairobi/Cape Town/Oxford: Pambazuka Press, 2011), 452–462.

<sup>5</sup> Antonio Spadaro, *Das Interview mit Papst Franziskus*, ed. Andreas R. Batlogg (Freiburg im Breisgau: Herder, 2013), 49–50. The precise words which the Pope spoke on the return flight from Brazil on July 28, 2013 were: “If someone is gay and is searching for the Lord and has good will, then who am I to judge him (*ma chi sono io per giudicarla*)?” See [http://www.vatican.va/content/francesco/en/speeches/2013/july/documents/papa-francesco\\_20130728\\_gmg-conferenza-stampa.html](http://www.vatican.va/content/francesco/en/speeches/2013/july/documents/papa-francesco_20130728_gmg-conferenza-stampa.html) (accessed March 22, 2021).

ly?<sup>6</sup> At the same time – and this is what makes his statement about the Catholic position so difficult – the Pope, as a “son of the Church”<sup>7</sup>, repeatedly refers to the Catechism, in which the condemnation of homosexual behavior stands alongside the criticism of discrimination. Should the homosexual person be protected from moral disgrace (“Who am I to judge him?”), while their sexuality and relationships are not? After all, despite the Catechism’s assertion to the contrary, do we not see the old discriminatory prejudices against homosexuals’ moral integrity lurking behind the Vatican’s reservations regarding the ordination of homosexual candidates for the priesthood?<sup>8</sup> Violence against homosexual people has many faces. It can also be symbolic, denying them the opportunity to live out their sexuality in a humane manner. The “casting off” way of thinking will not change as long as the Church’s moral teaching continues to view homosexual behavior as sin. At the present moment, it is impossible to know whether or not the Catholic Church will revise its teaching on this point. This assessment, given in the German-language first edition of this volume, is still valid.<sup>9</sup>

For all the controversy over the moral evaluation of homosexuality, we may be able to establish a theological consensus on the principles that could lead us to an ethically justified position. I would like to mention the following six principles, and at the same time to briefly introduce the contributions in this book.

First, according to the wishes of the most recent Council, the Bible – “the soul of all theology”<sup>10</sup> – should take its rightful, primary place in moral theology. This is not to be understood as a call for a direct biblical justification of our ethics. Moral norms must be justified on the basis of human reason. Christian ethics is confronted with the question of whether historically developed and time-tested moral standards can be biblically supported (not justified!). To put it succinct-

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6 Holy Mass with the New Cardinals, Homily of His Holiness Pope Francis, Vatican Basilica, February 15, 2015, [http://www.vatican.va/content/francesco/en/homilies/2015/documents/papa-francesco\\_20150215\\_omelia-nuovi-cardinali.html](http://www.vatican.va/content/francesco/en/homilies/2015/documents/papa-francesco_20150215_omelia-nuovi-cardinali.html) (accessed March 22, 2021).

7 Antonio Spadaro, *Das Interview mit Papst Franziskus*, 51.

8 Congregation for the Clergy, *The Gift of the Priestly Vocation: Ratio Fundamentalis Institutionis Sacerdotalis* (Rome: Vatican, 2016), nos. 199–201, <http://www.clerus.va/content/dam/clerus/Ratio%20Fundamentalis/The%20Gift%20of%20the%20Priestly%20Vocation.pdf> (accessed April 21, 2021).

9 Stephan Goertz, ed., *“Wer bin ich, ihn zu verurteilen?” Homosexualität und katholische Kirche* (Katholizismus im Umbruch 3; Freiburg im Breisgau: Herder, 2015).

10 Second Vatican Council, *Decree on Priestly Training: Optatam totius* (Rome: Vatican, 1965), no. 16, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_decree\\_19651028\\_optatam-totius\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19651028_optatam-totius_en.html) (accessed April 21, 2021).

ly: it is not the Bible that interprets morality, but morality that interprets the Bible.<sup>11</sup>

The Old and New Testament biblical passages that are often used as the ground upon which to condemn homosexuality must be examined exegetically prior to any ethical critique (see the contributions by Thomas Hieke and Michael Theobald). It is precisely the high theological esteem in which we hold Scripture that requires us to approach the texts with hermeneutical care. In doing so, it becomes apparent that the biblical authors, while condemning certain same-sex sexual acts from their respective points of view and in confrontation with their cultural and religious environments, are by no means generally concerned with homosexuality as we understand it today. The exegetical deconstruction of the idea that the Bible unequivocally condemns homosexuality has a liberating effect on the Christian approach to sexual minorities. An analysis of the concepts of purity evident in the book of Leviticus, the narrative of Sodom, and the Letter to the Romans shows that these sometimes drastic biblical condemnations cannot constitute a sufficient basis for a present-day evaluation of homosexuality. This insight is not fundamentally new<sup>12</sup>, but it is still often ignored today.

Second, in making any ethical judgment, the Catholic Church expects that the earthly realities God created should be appreciated in their own right, “with their own stability, truth, [and] goodness.”<sup>13</sup> The “rightful independence of science” must be respected.<sup>14</sup> This also applies to the understanding of what has been called homosexuality for almost one hundred and fifty years. A Catholic sexology would therefore contradict the Catholic self-understanding. Therefore, this volume gives expert voices from sexual medicine and the social sciences their say. On the one hand, these experts demonstrate that homosexuality should be understood as a variant of sexual orientation and relational capacity (see Hartmut Bosinski’s contribution), and on the other hand, they show that social evaluations of homosexuality still oscillate between discrimination and acceptance (see Melanie Caroline Steffens and Claudia Niedlich’s contribution). Religious convictions play a significant role in these processes.

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11 Cf. Christof Breitsameter and Stephan Goertz, eds., *Bibel und Moral – ethische und exegetische Zugänge* (Jahrbuch für Moralthologie 2; Freiburg im Breisgau: Herder, 2018).

12 Cf. Herman van de Spijker, *Die gleichgeschlechtliche Zuneigung* (Freiburg im Breisgau: Walter-Verlag, 1968); Martti Nissinen, *Homoeroticism in the biblical World: A Historical Perspective* (Minneapolis: Fortress, 1998).

13 Second Vatican Council, *Pastoral Constitution on the Church in the Modern World: Gaudium et spes* (Rome: Vatican, 1965), no. 36, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_cons\\_19651207\\_gaudium-et-spes\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html) (accessed April 21, 2021).

14 Ibid.



Third, fundamental theological issues arise in the debate over the Christian evaluation of homosexuality. Some still claim that homosexuality contradicts not only biblical directives, but also the order of creation and thus God’s will and God’s law. Moreover, only marriage between a man and a woman can be considered sacred. But how can we recognize and verify God’s will? What do we mean theologically when we speak of a sacrament in the context of partnership? What would a theology grounded on the foundation of the freedom of God and of humankind mean for the topic of homosexuality? These questions relate to the theology of creation and its impact on a wide range of ethical issues (see Magnus Striet’s contribution).

Church tradition sees itself as a living transmission of the word of God into new situations and contexts. In the process, “there is a growth in the understanding of the realities and the words which have been handed down. This happens through the contemplation and study made by believers.”<sup>15</sup> Thus *the tradition* is not simply identical with *traditions*. If it becomes apparent that interpretations have developed and practices have become established in the tradition which have led or continue to lead to the exclusion or persecution of homosexuals – those who, in the past, were called “sodomites” – then these traditions are no longer morally binding for us today.

Fourth, the teaching office of the Catholic Church “is not above the word of God, but serves it, teaching only what has been handed on.”<sup>16</sup> The Christian heart of the word of God is believed to be God’s self-revelation in Jesus Christ, in whom God, as the Council writes, “out of the abundance of His love speaks to men as friends.”<sup>17</sup> This revelation presupposes freedom on the part of human beings. God desires a lively response, not a dead echo. The credibility of the Christian message, and thus also of doctrinal documents, depends on this respect for human maturity. If the faithful receive the Christian testimony on the basis of their own independent insight, then it acquires a special, binding theological force. Many church statements on homosexuality fail to achieve this independent reception of faith based on insight. The assumption is that this has to do with the documents’ selective reception of scientific and theological insights, and their associated lack of persuasive argumentation (see my contribution). The resentment of same-sex love has become a theological offense today.

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<sup>15</sup> Second Vatican Council, *Dogmatic Constitution on Divine Revelation: Dei Verbum* (Rome: Vatican, 1965), no. 8, [https://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19651118\\_dei-verbum\\_en.html](https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651118_dei-verbum_en.html) (accessed April 21, 2021).

<sup>16</sup> *Ibid.*, no. 10.

<sup>17</sup> *Ibid.*, no. 2.

Fifth, as a fundamental principle for sexual morality, the Council has formulated the idea that sexuality should be “expressed in a manner which is truly human.”<sup>18</sup> But what does this principle mean concretely? And does it only apply to sex between a man and a woman? Can homosexual behavior also be understood as behavior in which partners complement each other in love and interact in a just way? These questions relate to the theological idea of complementarity and its revision (see Todd A. Salzman’s and Michael G. Lawler’s contribution)?

Sixth, in addition to these exegetical, human scientific, theological, and ethical considerations on the status of same-sex relationships, we should not overlook two specific, controversial questions that affect the Church and the broader public in various countries. Christian ethics has always been interested in such concrete questions. The first concerns same-sex partnerships (see Konrad Hilpert’s contribution). What is the relationship between such partnerships and marriage between a man and a woman? Which legal form is appropriate for same-sex relationships, so as not to discriminate against homosexuals and at the same time to take into account the specificity of such partnerships? Finally, the question of how to evaluate same-sex parenthood regularly leads to disputes (see Gerhard Marschütz’s contribution). Do such family structures constitute a threat to the child’s welfare? What ethically relevant findings might help shed light on these discussions?

Finally, I would like to express my gratitude to Alice Meroz, our editor at De Gruyter, without whose knowledgeable and prudent guidance this project could not have been realized. I am no less indebted to the expertise of our translator, Alissa Jones Nelson, for her excellent work on the texts. I would also like to thank Herder publishing house in Freiburg for making this English-language edition possible. For their meticulous management of and care for these contributions – which have been updated, revised, and partly rewritten for this edition – I offer my sincere gratitude to the staff at the Chair of Moral Theology in Mainz: Katharina Deutschle, Dr. Stephanie Höllinger, Franziska Rauh, and Johanna Schmitt.

Mainz, May 29, 2021

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<sup>18</sup> Second Vatican Council, *Gaudium et spes*, no. 49.

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## **Exegetical Substantiation**



Thomas Hieke

# Does the Old Testament Recognize and Condemn Homosexuality?

*You shall not lie with a male as with a woman;  
it is an abomination.*  
– Leviticus 18:22<sup>1</sup>

## 1 Task and Hermeneutics

Does the Old Testament have a concept of homosexuality? And if so, does it condemn homosexuality? The answer to both of these questions is a resounding “No.” This may be surprising, especially when we consider the verse quoted above, Leviticus 18:22. Is this not a perfectly clear, plainly formulated, categorical rejection of homosexual practices? Nevertheless, it is scholarship’s task to take a closer look at supposedly self-evident facts and to put them to the test. The alleged certainty that Holy Scripture – or more precisely, the Hebrew Bible or the Old Testament<sup>2</sup> – condemns same-sex sexual acts in every respect also shapes the Roman Catholic Church’s current teachings on homosexuality, as articulated in the Catechism, for example (on which see below). In the Second Vatican Council’s Dogmatic Constitution on Divine Revelation (*Dei Verbum*, 1965), the same Roman Catholic Church calls on biblical scholars to “carefully investigate what meaning the sacred writers really intended, and what God wanted to manifest by means of their words.”<sup>3</sup> In what follows, I aim to fulfill this task. For this purpose, we first need to clarify certain preconditions and terminology. Then it will be worthwhile to explore the ancient Near Eastern environment that provides the context for Israel’s Holy Scriptures, which Christians have adopted as

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<sup>1</sup> Unless otherwise noted, all biblical references are taken from the New Revised Standard Version (NRSV).

<sup>2</sup> The term Old Testament already implies the Christian reception of Israel’s Bible (the Hebrew Bible) as the first part of the Christian Bible. Nevertheless, Christianity also views the “Old Testament” as having its very own message, “an intrinsic word with intrinsic value.” See Erich Zenger and Christian Frevel, “Heilige Schrift der Juden und der Christen,” in *Einleitung in das Alte Testament*, ed. Christian Frevel et al. (Stuttgart: Verlag W. Kohlhammer, 2015), 20.

<sup>3</sup> Second Vatican Council, *Dogmatic Constitution on Divine Revelation: Dei verbum* (Rome: Vatican, 1965), no. 12, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19651118\\_dei-verbum\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651118_dei-verbum_en.html) (accessed April 21, 2021).

their “Old Testament.” On this basis, and against their historical background and the social framework of the time, I will analyze the “legal” provisions in the book of Leviticus, together with certain narrative texts. The results of this exploration raise the question of whether the Roman Catholic Church’s handling of the Holy Scriptures in its Catechism is appropriate. In the concluding section, I would like to comment on this position as a biblical scholar.

Before we begin, a few hermeneutical clarifications are necessary. One cannot write “neutrally” on the topic of homosexuality, even if one tries to maintain a scholarly distance.<sup>4</sup> The subsequent remarks are not intended to conceal a “hidden agenda” under a scientific cloak, so I would like to clarify my position in advance: I consider any ostracization or disparagement of homosexuality and homosexual persons to be inhumane and also a violation of basic human rights and human dignity. Supposedly religiously motivated campaigns against homosexual people and their expressions of sexual love constitute manifestations of a hollow homophobia, which is merely concealed by alleged Christian, Jewish, or Muslim traditions. My aim is to show that the Hebrew Bible or the Old Testament cannot and must not be used to support a homophobic agenda. This raises the second hermeneutical problem: a direct “application” of the biblical texts to today’s questions of sexual morality is impossible. When such applications are made regardless, it is most often with the intent to support preconceived, usually homophobic views with “proof texts” from the “Holy Scriptures” – texts that have been detached from their literary and socio-historical contexts. This process is highly selective: those texts which fit the preconceived worldview are “taken literally,” while other passages are ignored. In contrast, the scriptural hermeneutics I apply in this contribution take the Old Testament seriously as Holy Scripture, insofar as the focus is always directed toward the overall context and the historical background of the text. The extent to which this provides impetus for today’s sexual-ethical debates is another matter – one which can only be approached in an interdisciplinary manner.

## 2 Prerequisites and Terminology

The conception of what homosexuality really is has undergone quite significant changes in recent decades, as a result of findings in both the human and the so-

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<sup>4</sup> As James E. Harding’s *The Love of David and Jonathan. Ideology, Text, Reception* (BibleWorld; Sheffield: Equinox, 2013) convincingly shows with regard to the David and Jonathan story and its interpretation; cf. also Martti Nissinen, *Homoeroticism in the Biblical World: A Historical Perspective* (Minneapolis: Fortress Press, 1998), 6.

cial sciences. We must take this into account in two respects. On the one hand, we must recognize the considerable time it takes for scientific insights to penetrate the general consciousness among broader segments of the population and to provoke changes in mentalities and moral attitudes in that sphere – here, one must reckon not in terms of years, but in terms of generations. On the other hand, maintaining an outdated view of a certain phenomenon that is no longer tenable according to scientific standards cannot be used as a basis on which to argue for adherence to moral and/or ethical norms. The moral judgment and ethical normalization of human sexuality is thus inextricably linked to that which characterizes this particular human sexuality. When this link is broken, an institution or a society may try to regulate a phenomenon that exists only in its imagination, and not in reality – in such cases, the established rules inevitably forfeit their relevance, and in the worst-case scenario, the norm-setting community loses its credibility.

To avoid falling into this trap in what follows, and to ensure that the term homosexuality is used to describe the reality that actually stands behind it (according to the current state of the field in the human and social sciences), I must briefly state that homosexuality is neither a (mental) illness that can be treated, nor a voluntary deviation from essentially heterosexual behavior. The individual discovers same-sex sexual orientation in the course of their personal development, and like any other sexual orientation, this must be integrated into a coherent concept of life (an identity).<sup>5</sup> Sexuality should never be reduced merely to the sexual act, but should be understood as a multi-dimensional phenomenon, which on the one hand is interconnected with the community in which the individual lives (i. e., social dimensions), and on the other hand is connected to the individual's personality (character) as a whole (i. e., psychological dimensions). Thus homosexuality as we understand it today includes – as does heterosexuality, naturally – questions of partnership, responsibility for the other person(s) and to the larger community (family, group, society), accountability, emotionality, respect, and much more. If these aspects are ignored, or if the term homosexuality is limited to same-sex sexual acts (among men) – in the following sections, the term homosexuality will be deliberately rendered in quotation marks when it is intended to represent such one-sided views – then it would be better not to speak of “homosexuality” at all, but rather of anal sexual intercourse among men, for which there can be many reasons.<sup>6</sup>

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<sup>5</sup> See, for example, Nissinen, *Homoeroticism*, 10, as well as his remarks in chapter 1.

<sup>6</sup> Nissinen suggests using the term homoeroticism as a broader term for same-sex practices undertaken for any reason; this term could then include the phenomena described in ancient texts,

### 3 “Homosexuality” in Ancient Israel’s Cultural Context

In the light of the above clarification of terms, we can safely assert that antiquity had neither a concept nor a concrete understanding of homosexuality as an aspect of an individual’s personality in which sexuality and identity are integrated.<sup>7</sup> The general understanding of sexuality has changed considerably since then.<sup>8</sup> One aspect of this is the fact that in antiquity, public and private spheres were not as strictly separated as they are today, and thus sexual acts were more often judged with reference to their social dimension than with reference to the act itself.<sup>9</sup> Thus same-sex anal intercourse between men (“penetration”) is almost never seen as an expression of a love relationship, but rather as a demonstration of power (sometimes associated with explicit violence) which the “superior,” penetrating man exercises over the “inferior,” penetrated man, who takes

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to which the narrower term homosexuality – when linked to its contemporary understandings – cannot usually be applied. See Nissinen, *Homoeroticism*, 17.

7 See also Thomas Römer, “Homosexuality in the Hebrew Bible? Some Thoughts on Lev 18 and 20; Gen 19 and the David-Jonathan Narrative,” in *Ahavah. Die Liebe Gottes im Alten Testament*, ed. Manfred Oeming (Leipzig: Evangelische Verlagsanstalt, 2018), 213–231.

8 For an overview, see Nissinen, *Homoeroticism*, 35; Martti Nissinen, “Are There Homosexuals in Mesopotamian Literature?” *Journal of the American Oriental Society* 130 (2010): 73–77. See also Stefan Scholz, “Homosexualität (NT),” *Das wissenschaftliche Bibellexikon im Internet*, September 2012, Punkt 3.4.4., <https://www.bibelwissenschaft.de/stichwort/46910/> (accessed August 25, 2020). One aspect of this is that female homosexuality plays almost no role. The reasons for this become clear in the subsequent discussion: female homosexuality is not about penetration, nor is it about questions of superiority or inferiority, nor “honor” or “shame,” nor action and military might. This eliminates women from the few contexts in which same-sex acts among men are spoken of at all. On this point, Nissinen’s (*Homoeroticism*, 43) comments on the Hebrew Bible are relevant: “The Holiness Code never mentions women’s homoeroticism, nor does the Hebrew Bible anywhere.”

9 For example, in the case of regulations on opposite-sex relationships, the focus was on the question of whether the child who could potentially result from such a relationship would grow up in “well-ordered” circumstances and be entitled to a share of the inheritance, or whether the social fabric of society would be unbalanced as a result of the child’s birth. Furthermore, it was also a question of financial and property laws, as well as of the “honor” and “disgrace” (i.e., the social reputation) of the man or the family as a whole. This can be seen, for example, in the biblical prohibitions on incest in Lev 18 and 20; cf. Thomas Hieke, *Levitikus 16–27* (HThKAT; Freiburg im Breisgau: Herder, 2014), 653–654.



on the gender-stereotypical role of the woman. The following sections offer some examples of this.<sup>10</sup>

### 3.1 The Ancient Near East

Very few relevant records from the Hittite civilization (second millennium BCE) exist. Of all the numerous Hittite ritual regulations in the Ḫattusa cuneiform archive, only two are pertinent to our discussion here.

The first concerns Anniwiyani, who recorded two rites on a tablet (CTH 393), one of which describes how she performs the ritual of two tutelary deities (𐎠LAMMA *lulimi*- [“LAMMA the effeminate”] and 𐎠LAMMA *innarawant*- [“LAMMA the manly”]). This ritual was presumably performed when a man had “suffered” the passive role in a homoerotic sexual encounter, and it was intended to restore the penetrated man’s “masculinity” and to ensure fertility (especially the bearing of male offspring). If this interpretation of the ritual is correct, then male anal intercourse is not a homosexual act as we understand it today, but rather a practice which aims to humiliate the penetrated man as “inferior.” When the community in which the man lives learns of this act, a satisfactory performance of the aforementioned ritual is necessary to restore his original social status and to cleanse the community after this “attack.”<sup>11</sup> In general, the Hittites clearly condemned incest and zoophilia (sexual intercourse with animals), but they did not comment on same-sex (“homosexual”) intercourse in legal texts. Presumably the latter was not tolerated as “normal behavior,” but a deviation from the norm was also not considered terribly serious – no prohibition was formulated; instead, a purification rite for the penetrated man was established.<sup>12</sup> The problem with the penetrated man’s passivity here is that he engages in behavior that runs counter to his social role as an active warrior: he behaves not as a fighter, but rather like a woman who stays home during war, while the man who performs the penetra-

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<sup>10</sup> The number of references is very small in comparison to other topics we find in ancient sources. I would like to sincerely thank my colleague Doris Prechel (Mainz) for her valuable suggestions in the field of ancient Near Eastern literature.

<sup>11</sup> Cf. Ilan Peled, “Expelling the Demon of Effeminacy: Anniwiyani’s Ritual and the Question of Homosexuality in Hittite Thought,” *Journal of Ancient Near Eastern Religions* 10, no. 1 (2010): 69–81, esp. 76. On CTH 393, see also <D. Bawanypeck (ed.), [hethiter.net/](http://hethiter.net/): CTH 393 (INTR 2016–03–31)> (introduction; copy the “citatio” between < > to your web browser; see *translatio* for a German translation).

<sup>12</sup> Cf. Peled, “Expelling,” 77.

tion is active and does exactly what is expected of a warrior. Therefore this is not an issue of sexual morality, but rather a conflict of social roles.

Second, although Paskuwatti's Ritual (CTH 406) was previously interpreted as a ritual intended to overcome sexual impotence, a more recent analysis follows a similar vein to the ritual outlined above: in this new perspective, the ritual aims to "heal" the "patient's" passive homosexual inclination. The process of stepping into the role which cultural tradition ascribes to women, by allowing oneself to be penetrated by a man, must be reversed so that the individual can once again be considered an actively aggressive, dominant male.<sup>13</sup> Again, this is not a question of sexuality in the context of partnership, but rather a social-behavioral role – one which is not permitted to a man, or which is seen as deficient and pathological. The "patient" is "missing something" – namely, reproductive success and sexual desire for the other (female) sex – and the ritual is supposed to cure him of this "disease." In addition to the "disturbed" distribution of social roles, another main reason why homosexual sexual behavior is taboo and must be "cured" is that it does not produce offspring.<sup>14</sup> Finally, we must bear in mind that the interpretation of the ritual text I have just described is merely a suggestion, and it is impossible to achieve any greater certainty about the exact meaning and social background of the actions described.

Mesopotamian literature pays some attention to the relationship between Gilgamesh and Enkidu. Scholarly research disputes whether theirs is a "homosexual" relationship or the ideal image of a deep "male friendship."<sup>15</sup> In general,

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**13** Cf. Jared L. Miller, "Paskuwatti's Ritual: Remedy for Impotence or Antidote to Homosexuality?" *Journal of Ancient Near Eastern Religions* 10, no. 1 (2010): 83–89, esp. 85. On CTH 406, see also <A. Mouton (ed.), [hethiter.net/](http://hethiter.net/); CTH 406 (INTR 2017–01–12)> (introduction; see *translatio* for a French translation).

**14** Cf. Miller, "Paskuwatti's Ritual," 87.

**15** On this topic, see Jerrold S. Cooper, "Buddies in Babylonia: Gilgamesh, Enkidu, and Mesopotamian Homosexuality," in *Riches Hidden in Secret Places: Ancient Near Eastern Studies in Memory of Thorkild Jacobsen*, ed. Tzvi Abusch (Winona Lake: Eisenbrauns, 2002), 73–85; see also Nissinen, *Homoeroticism*, 20–24. In his critical edition of the Babylonian Epic of Gilgamesh, A. R. George interprets the corresponding lines (96–99) on Tablet XII of the Akkadian version in the sense of a memory of a pleasurable experience of anal intercourse between Gilgamesh and Enkidu, and thus assumes a "homosexual" relationship between the two (see also the explanations on pp. 529 and 903; Tablet XII is an appendix to the eleven-tablet epic and consists of the Akkadian translation of the Sumerian text "Bilgames and the Underworld"). However, since both "heroes" in the epic narrative also have explicit sexual relations with women (particularly Enkidu, who only turns from a wild animal into a human by means of his sexual encounter with the prostitute Šamhat), the sexual pleasure of the two friends is only one narrative facet of their close friendship. See Andrew R. George, *The Babylonian Gilgamesh Epic: Intro-*

however, “homosexuality” does not seem to have been a significant issue or problem in Mesopotamia.<sup>16</sup> Among the Mesopotamian omen texts from the first millennium BCE, known as the *šumma ālu*, tablets 103 and 104 address human sexuality. The first clause in each sentence (*protasis*) describes a certain behavior, and the second clause (*apodosis*) describes a subsequent fate. These tablets do not address regulations for sexual intercourse, but rather constitute an “observation of nature” (in analogy, for example, to the practice of divination based on reading the entrails, and particularly the livers of sacrificial animals) by which one hoped to gain insight into the future. An example related to male sexuality is the following: “If a man ejaculates in his dream and is spattered with his semen – that man will find riches; he will have financial gain.”<sup>17</sup> In the same context, the following omen appears quite unusual: “If a man has anal sex with his peer – that man will be foremost among his brothers and colleagues.”<sup>18</sup> This paradox is typical of the omen texts: he who penetrates his peer from behind is placed ahead of him in the social order. Same-sex intercourse among men who are on the same social level is seen as a sign of particular self-assertion.<sup>19</sup> Thus the omen texts are not instructions for action: the magic “works” only as long as the people concerned have no knowledge of the context. As soon as one’s own behavior is calculated to achieve the outcome described as positive, the text no longer acts as an omen (another paradox). More important than the positive information are the apotropaic rituals associated with the negative outcome, which seek to avert the evil foretold by means of simple acts.

In the Middle Assyrian Laws, two provisions (MAL A 19 and MAL A 20) address same-sex intercourse among (socially equal) men, but 19 concerns a false accusation (a partner is falsely called a “prostitute”), while 20 takes up the issue

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*duction, Critical Edition and Cuneiform Texts* (Oxford: Oxford University Press, 2003); see also Nissinen, *Homoeroticism*, 24.

**16** Cf. Cooper, “Buddies in Babylonia,” 82; see also Jean Bottéro and Herbert Petschow, “Homosexualität,” in *Reallexikon der Assyriologie und Vorderasiatischen Archäologie*, vol. 4, ed. Erich Ebeling, Ernst F. Weidner, and Dietz Otto Edzard (Berlin: De Gruyter, 1972–1975), 459–468.

**17** Cf. Ann Kessler Guinan, “Erotomancy: Scripting the Erotic,” in *Sex and Gender in the Ancient Near East. Proceedings of the 47th Rencontre Assyriologique Internationale, Helsinki, July 2–6, 2001*, ed. Simo Parpola and Robert M. Whiting (Helsinki: Helsinki University Press, 2002), 185–201, 188; see also Nissinen, *Homoeroticism*, 27f.; Idan Dershowitz, “Revealing Nakedness and Concealing Homosexual Intercourse. Legal and Lexical Evolution in Leviticus 18,” *Hebrew Bible and Ancient Israel* 6 (2017): 510–526, esp. 522.

**18** Cf. Guinan, “Erotomancy,” 189.

**19** Cf. Cooper, “Buddies in Babylonia,” 82, with a reference to p. 74 of an older essay by Thorkild Jacobsen, “How Did Gilgamesh Oppress Uruk?” *Acta Orientalia* 8 (1930): 62–74.

of rape.<sup>20</sup> “Homosexuality” as such is not condemned, although this is a controversial point even among scholars.<sup>21</sup> The problem here, as in the Greek thinking of the time, is that only a certain type of same-sex intercourse among men is criminalized: while active “homosexual” anal intercourse with male prostitutes or slaves was not a problem, it was socially unacceptable for a man to actively anally penetrate a citizen who was equal to him without his consent (!), because the latter constituted a deliberate act of humiliation.<sup>22</sup> Such an act endangers the complex social fabric of reciprocal relationships. Those who passively allowed this to happen to them without resisting thereby forfeited their civil rights.<sup>23</sup>

While the conditions in Assyria and Greece were very different, their attitudes toward homosexual acts are quite comparable: it is shameful to be penetrated by a man of equal status, and it is an act of assault to penetrate a fellow citizen. The omen quoted above also aligns with this: whoever penetrates a man of equal status proves himself to be assertive because he can humiliate others and no one opposes him.<sup>24</sup> None of this has anything to do with homosexuality in today’s sense. Martti Nissinen summarizes his findings on Mesopotamian literature as follows:

So are there homosexuals in Mesopotamian literature? This is ultimately something that can only be decided by the community using the category of homosexuality. If love between people of same sex, sexual coercion, random homoerotic encounters, and a gender-neutral sexual role are not considered expressions of homosexuality, as I believe they are not, then the answer is inevitably “no.” Perhaps the most important outcome of the above discussion is how little sense it makes to strain “homosexual” lumps out of the gravy of ancient literature, even when this is done in order to find out how the modern concept of homosexuality works in texts to whose authors the whole concept was unknown.<sup>25</sup>

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**20** See, for example, Nissinen, *Homoeroticism*, 25.

**21** Cf. Cooper, “Buddies in Babylonia,” 83.

**22** On this topic, see also Nissinen, *Homoeroticism*, 26–27, with further examples of anal penetration as an act of violence used to humiliate one’s inferiors.

**23** Cf. Cooper, “Buddies in Babylonia,” 84, with reference to Kenneth Dover, *Greek Homosexuality* (London: Duckworth, 1978), 103; see also Nissinen, *Homoeroticism*, 57–69; cf. Scholz, “Homosexualität (NT),” Punkt 3.2.

**24** Cf. Cooper, “Buddies in Babylonia,” 85.

**25** Nissinen, “Homosexuals,” 76.

### 3.2 Ancient Egypt

In pharaonic Egypt,<sup>26</sup> only a few sources attest to sexual acts between same-sex couples (men), and these are exclusively textual. Most of these testimonies are linked to the myth of Horus and Seth. These two gods quarrel over the succession to the throne: after Seth kills his brother Osiris, he claims Osiris's throne, as does Horus, Osiris's son. One of the incidents, which the ancient Egyptian religious texts often allude to, is the sexual act between the gods, by means of which Seth seeks to triumph over Horus.

The most detailed elaboration of this episode has been preserved in Papyrus Chester Beatty I, recto (ca. 1140 BCE), which describes how Seth penetrates the young Horus and subsequently reports this to the "great Ennead." The gods' reaction clarifies their appraisal of this event: they "cry out loud" and "spit out before Horus."<sup>27</sup> The semen – which is described elsewhere as a poison, which one does not want to have in one's body<sup>28</sup> – plays an important role in this story. Luckily, Horus is able to catch Seth's semen before it enters his body, without Seth noticing it. Furthermore, Isis succeeds in transferring her son Horus's semen to a lettuce plant, and Seth eats the plant. Since Horus's semen comes out of Seth's body in the presence of the Ennead of the gods, in response to the god Thot's invocation, Horus thus proves that Seth is in fact the inferior of the two.<sup>29</sup> Although Horus emerges victorious from this event, he is nevertheless defiled by the humiliation of having been penetrated (see the discussion of the Hittite purification rite above). Both his hand, with which he caught Seth's semen, and his phallus need purification: when Horus holds out Seth's collected semen to his mother Isis with the words: "Come and see what Seth did to me," she cries out, cuts off his defiled hand, throws it into the water, grows him a new one, and cleanses his phallus with "soothing oil."

An older, fragmented text (Papyrus Kahun VI, ca. 1800 BCE) also describes how Horus and his mother thwart Seth's plans.<sup>30</sup> Due to the fact that the papyrus

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<sup>26</sup> The section on ancient Egypt was written by the Egyptologist Dr. Andrea Klug (Mainz).

<sup>27</sup> Cf. Friedrich Junge, "Die Erzählung vom Streit der Götter Horus und Seth um die Herrschaft," in *Texte aus der Umwelt des Alten Testaments. Alte Folge*, vol. 3, ed. Otto Kaiser (Gütersloh: Gütersloher Verlagshaus Mohn, 1995), 930–950, esp. 944 f; Miriam Lichtheim, *Ancient Egyptian Literature, vol. II: The New Kingdom* (Berkeley/Los Angeles/London: University of California Press, 1976), 214–223, esp. 220.

<sup>28</sup> Cf. Wolfhart Westendorf, "Homosexualität," in *Lexikon der Ägyptologie*, vol. 2, ed. Wolfgang Helck (Wiesbaden: Harrassowitz Verlag, 1977), 1272.

<sup>29</sup> Cf. Junge, "Streit der Götter," 945.

<sup>30</sup> Cf. Frank Röpke, "Überlegungen zum 'Sitz im Leben' der Kahuner Homosexuellen Episode zwischen Horus und Seth (pKahun VI.12 = pUniversity College London 32158, rto.)," in *Das Er-*

is in bad condition, we can only guess at the context of the scene. Ostensibly on the basis of sexual desire, Seth compliments Horus on his “beautiful buttocks” and “broad thighs,” perhaps with the aim of disparaging his younger counterpart by assigning him female attributes. Against the background of the satirically constructed story in the Chester Beatty I papyrus, these statements may sound like sheer irony to our ears, as does Seth’s claim that for him, the act was “sweeter than the sky is high.” Before the act occurs, Horus tells his mother Isis that Seth is making sexual advances to him. She gives him three pieces of advice: 1) to keep away from Seth; 2) if this is not possible, to tell Seth that he is physically inferior to him and that such an act would be painful for him; 3) if the act cannot ultimately be prevented, to put his fingers between his buttocks during the course of it – again most probably with the aim of catching Seth’s semen. The remaining passages, which mention semen and the phallus, among other things, are barely intelligible. They appear to refer to another of Seth’s sexual advances to Horus, and in this way diverge from the version of the later papyrus, Chester Beatty I.<sup>31</sup>

These attestations indicate the one-sidedness of the sexual act, in contrast to the earliest evidence from the Pyramid Texts (PT 1036, ca. 2300 BCE), which speaks of reciprocity: “Seth shrieks (now) because of his testicles, after Horus has infused his semen into Seth’s anus, after Seth has infused his semen into Horus’s anus.”<sup>32</sup> But here again superiority is the decisive factor, albeit an alternating superiority in this case.

Although space does not allow me to go into further details, the above-mentioned main textual witnesses to the sexual act between the gods Horus and Seth show that this act – as already stated above with regard to the ancient Near East-

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*zählen in frühen Hochkulturen I. Der Fall Ägypten*, ed. Hubert Roeder (Munich: Fink, 2009), 239–290, esp. 249f., 288–290; cf. Richard B. Parkinson, “‘Homosexual’ Desire and Middle Kingdom Literature,” *The Journal of Egyptian Archaeology* 81 (1995): 57–76, esp. 70f.

**31** Cf. Röpke, “Überlegungen,” 249f. A passage in Papyrus Cairo JE 52000 (ca. 1290 BCE) also refers to the myth of Horus and Seth: it speaks of Seth’s semen leaving Horus’s belly again by means of a spell; cf. *ibid.*, 260f. Against the background of this evidence, and taking into account the textual remnants that precede the “homosexual episode” in the Kahun papyrus, Röpke arrives at a new interpretation of the Kahun text as a “magical”-therapeutic text connecting an abdominal infection (“poison in the abdomen”) with the mythological story of Horus and Seth (“semen in the abdomen”); cf. *ibid.*, 267.

**32** Simplified after Röpke’s translation in “Überlegungen,” 262. Röpke believes that the reciprocal penetration in the Pyramid Text spell has no reference to Horus and Seth’s disputes over the throne, which in his opinion were introduced only later. Instead he explains this reciprocity as “royal ideological dualism” in the context of a protective charm against snakebites; see *ibid.*, 263f.; cf. Parkinson, “‘Homosexual’ Desire,” 65.

ern texts – has nothing to do with same-sex love, but rather indicate that one of the participants proves his superiority over the other by penetrating him. Any evaluation implied in the episode, which is obviously shaped differently in the various textual accounts, can only ever be considered text-immanently and thus contextually, and must not be misinterpreted as a general attitude.<sup>33</sup>

One fragmented text, which can be assigned to the genre of literature, seems to be about same-sex love. In Papyrus Chassinat I (ca. 700 BCE), a king named Neferkare is said to have sneaked out of the palace night after night to spend four hours in the home of his general, Saset, where he did “what he wanted with him.”<sup>34</sup> Since this phrase is a euphemism for sexual intercourse, as confirmed by other parallels, the facts seem clear. However, because the text breaks off at this point, there are no explicit references to the detailed circumstances, the outcome, or the assessment of the encounter. The secrecy of the deed and the rumors swirling around it could suggest condemnation, and the document may be an effort to defame the king by telling this story.<sup>35</sup> On the other hand, there are convincing arguments that this episode is a parody of the repeated nightly union of the sun god Ra (= the king) and the god of the dead, Osiris (= the general), in the underworld,<sup>36</sup> which again qualifies this interpretation.

Among the religious texts, the first to mention is the evidence from the so-called Negative Confession in the Egyptian Book of the Dead (ca. 1500 BCE). In this declaration, which the deceased is to make in front of a tribunal of gods during the Judgment of the Dead, one of the wrongdoings that he assures them he has not committed is: “I have not penetrated (*nk*) a *nkk* (= a man on whom a sexual act is performed)” (BD, chapter 125b).<sup>37</sup> Thus we see that such an act clearly

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**33** Even if the reaction of the Ennead in the Chester Beatty I papyrus is intended to condemn Horus’s passive position, we cannot therefore automatically deduce that the act itself and the active part of the connection are generally considered “neutral”; cf. Westendorf, “Homosexualität,” 1272.

**34** Frank Kammerzell, “Von der Affäre um König Nafirku’ri’a und seinen General,” in *Texte aus der Umwelt des Alten Testaments. Alte Folge*, vol. 3, ed. Otto Kaiser (Gütersloh: Gütersloher Verlagshaus Mohn, 1995), 965–969, esp. 968 f. (Nafirku’ri’a Pijapij und Sisenet); Parkinson, “‘Homosexual’ Desire,” 71–74.

**35** See also Parkinson, “‘Homosexual’ Desire,” 72–73; Westendorf, “Homosexualität,” 1273.

**36** Cf. Jacobus van Dijk, “The Nocturnal Wanderings of King Neferkarē,” in *Hommages à Jean Leclant Vol. 4*, ed. Catherine Berger (LeCaire: Inst. Français d’Archéologie Orientale, 1994), 387–393.

**37** Cf. Parkinson, “‘Homosexual’ Desire,” 61–62. The repeatedly quoted phrase “I have not penetrated (*nk*) a *hm.t t̄y*,” which is also found in the Negative Confession, should be translated as “a man’s wife (= married woman)” rather than “a female man”; cf. Rainer Hannig, *Großes Handwörterbuch Ägyptisch-Deutsch (Marburger Edition)* (Kulturgeschichte der Antiken Welt 64; Mainz: von Zabern, 2006), 1016 f.

did not correspond to the official ideal, and thus not to the ancient Egyptian principle of Maat (cosmic order).<sup>38</sup> In the Coffin Texts (spell 635; CT VI, 258f–g; ca. 2000 BCE), we find the following passage: “(the god) Atum has no power over NN (= the name of the deceased). NN penetrates (*nks*) his anus (*ʕ.t*).”<sup>39</sup> This statement, which is difficult to interpret, can at least be understood to mean that the issue is once again the power one person exercised over another.

From the field of didactic literature, a passage in the thirty-second maxim of the Teaching of Ptahhotep (ca. 2000 BCE) must be consulted. Recent translations of the controversial phrase *jmj=k nk ḥm.t ḥrd* cast doubt on the interpretation as a fundamental rejection of a homosexual relationship.<sup>40</sup> In fact, it admonishes the recipient of the teaching not to engage in sexual contact with another person against his or her will: “You shall not copulate with a woman (or) a child (if) you have recognized the resistance to the seminal fluid (literally: water) on his (or her) forehead.”<sup>41</sup>

Evidence of a complaint against a man who “defiled” (*ḥʕ*) another man is preserved in Papyrus Turin 1887 (verso 3,4, ca. 1140 BCE).<sup>42</sup> However, there is no evidence for legal texts addressing the subject of “homosexuality,” nor is there textual or other evidence for female “homosexuality.” Moreover, the alleged pictorial evidence, which is repeatedly referenced, can be more convincingly explained in other ways.<sup>43</sup>

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**38** Cf. Parkinson, “‘Homosexual’ Desire,” 62.

**39** Cf. *ibid.*, 64.

**40** Cf., for example: “May you not have sex with a woman-boy;” Parkinson, “‘Homosexual’ Desire,” 68.

**41** Peter Dils, “Die Lehre des Ptahhotep, pPrise = pBN 186–194 (Ptahhotep, Version P),” *Thesaurus Linguae Aegyptiae*, <http://aaew.bbaw.de/tla/index.html> (accessed August 27, 2020). This version is perhaps preferable to the original proposal, “with a woman or a boy”; cf. Frank Kammerzell and María Isabel Toro Rueda, “Nicht der Homosexuelle ist pervers. Die Zweiunddreißigste Maxime der Lehre des Ptahhotep,” *Lingua Aegyptia* 22 (2003): 63–78, esp. 74.

**42** Cf. Parkinson, “‘Homosexual’ Desire,” 66; cf. Günter Vittmann, “Hieratic Texts,” in *The Elephantine Papyri in English: Three Millennia of Cross-cultural Continuity and Change*, ed. Bezaele Porten (Atlanta: Society of Biblical Literature, 2011), 63–78, esp. 56.

**43** See, for example, the unusual depictions of Niankhhknum and Khnumhotep (ca. 2400 BCE), who are shown in their joint tomb at Saqqara in a close embrace, while depicted in other scenes with their wives, which rather suggests that they were probably twins; cf. Parkinson, “‘Homosexual’ Desire,” 62; see also Richard B. Parkinson, *Little Gay History. Desire and Diversity Across the World* (London: British Museum Press, 2013), 39. Some of the discussions about the interpretation of these representations in particular have been very emotional in recent years, but there is not space to discuss this in detail here. The most recent literature, including drawings and photographs of the relevant scenes from the tomb, is accessible via Beryl Büma and Martin Fitzen-



The few extant sources<sup>44</sup> – which are explored here by means of their principal exemplars – which tend to be discussed with reference to the topic of ancient Egyptian homosexuality have as little to do with homosexuality as we understand it today as do the ancient Near Eastern sources. They constitute evidence of same-sex sexual intercourse among men (gods as well as humans), probably exclusively with the aim of suppressing the inferior partner. No general evaluation of same-sex relationships can be derived from this.

## 4 The Regulations in the Book of Leviticus

As an ancient document, the Hebrew Bible has no explicit concept of homosexuality either.<sup>45</sup> “Homosexuality” in the sense of same-sex anal intercourse is addressed in only two places, and in the same context: in the book of Leviticus. The regulations in Leviticus chapters 18 and 20 do not constitute a comprehensive concept of human sexual orientation, nor do they reflect a sophisticated sexual morality. Rather, under specific historical, social, and cultural circumstances, they take aim at individual acts, which are rejected and outlawed. To some extent these acts are accompanied by sanctions, the meaning and feasibility of which may be deliberately obscure. More detailed justifications are not explicitly

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reiter, “‘Spielt das Lied der beiden göttlichen Brüder’: Erotische Ambiguität und ‘große Nähe’ zwischen Männern im Alten Reich,” *Studien zur altägyptischen Kultur* 44 (2015): 19–42. With regard to Büma and Fitzenreiter’s article, I would like to point out – after consulting new photographs, which Dr. Heimo Hohnneck (Mainz) has kindly made available to me – that the reading of a part of the inscription, which accompanies a scene with a harpist, as “the two divine brothers” (*sn.wj ntr.wj*) is in my opinion not correct, because there are in fact no dual strokes. Cf. the article by Hartwig Altenmüller, “Väter, Brüder und Götter – Bemerkungen zur Szene der Übergabe der Lotosblüte,” in *Zur Zierde gereicht ...*. *Festschrift Bettina Schmitz zum 60. Geburtstag am 24. Juli 2008*, ed. Antje Spiekermann (Hildesheim: Gerstenberg, 2008), 17–28, esp. 25–28, where he speaks of “the divine brother” (*sn ntrw*) and compares the inscription with texts found in other tombs.

**44** For a discussion of further evidence, cf. Parkinson, “‘Homosexual’ Desire”; see also Alessia Amenta, “Some Reflections on the ‘Homosexual’ Intercourse Between Horus and Seth,” *Göttinger Miszellen* 199 (2004): 7–21; Beate Schukraft, “Homosexualität im Alten Ägypten,” *Studien zur altägyptischen Kultur* 36 (2007): 297–331.

**45** The sources are very sparse and hardly allow one to draw any conclusions about the phenomenon of same-sex sexual behavior in ancient Israel; cf. Nissinen, *Homoeroticism*, 37. See also Innocent Himbaza, Adrian Schenker, and Jean-Baptiste Edart, *The Bible on the Question of Homosexuality* (Washington, DC: Catholic University of America Press, 2012), 5.

given, but these can be inferred from the order of the provisions, and thus from the context.<sup>46</sup>

The verse I cited at the beginning of this contribution, Leviticus 18:22, seems to prohibit “homosexual” acts between men with commendable clarity: “You shall not lie with a male as with a woman. It is an abomination.”<sup>47</sup> This supposedly categorical rejection would be unprecedented and exceptional against the ancient Near Eastern background I have outlined above,<sup>48</sup> and it also functions

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**46** For further details, see the commentary in Hieke, *Leviticus*, 645–697, 770–813; see also Römer, “Homosexuality,” 214–218.

**47** On the following, see the commentary in Hieke, *Leviticus*, 688–690, with further evidence from the secondary literature. The wording in Lev 18:22 is clearly intended to be understood as same-sex anal intercourse between men, with one of the partners taking the “underdog” (in both senses of the word!) role of the “woman” – that is to say, this wording also follows “classic” gender role stereotypes: “active masculine and passive feminine gender roles”; see Nissinen, *Homoeroticism*, 44. With Nissinen (*ibid.*), we note: “it was the act that was condemned, not same-sex desire, the existence of which is not even acknowledged.” Some scholars point out that these proscriptions were directed at the actions of the receptive rather than the penetrative party – that is, the text addresses the actions of the receptive party. See Jerome T. Walsh, “Leviticus 18:22 and 20:13: Who Is Doing What to Whom?” *JBL* 120 (2001): 201–209; George M. Hollenback, “Who Is Doing What to Whom Revisited: Another Look at Leviticus 18:22 and 20:13,” *JBL* 136 (2017): 529–537. Dershowitz (“Nakedness,” 510–520) suggests that Lev 18:14 originally read: “Do not uncover the nakedness of your father’s brother.” Hence this version prohibits a male same-sex relationship only if the partners are related by blood (in this case, between uncle and nephew). This wording would implicitly permit same-sex sexual intercourse among non-consanguineous males. A later redactor, however, edited the text according to the premises of the Holiness Code and changed the sense of the prohibition entirely by adding “do not approach his wife; she is your aunt.” Thus the prohibited sexual intercourse refers to the aunt. This addition obscured the prohibition of same-sex relations between consanguineous males, but the same editor wanted to prohibit male same-sex anal intercourse in general. In order to do so, he added Lev 18:22 and 20:13 (p. 516), and thus created something new in the context of the ancient Near East. See Bruce Wells, “On the Beds of a Woman: The Leviticus Texts on Same-Sex Relations Reconsidered,” in *Sexuality and Law in the Torah*, ed. Hilary Lipka and Bruce Wells (London: T & T Clark, 2020) 125–160, in which Wells argues that the phrase *miškabê ’iššâ* in Leviticus 18:22 refers to the sexual domain of a woman, which “means that the men with whom the law’s addressees may not have sex are qualified as males who are off limits by virtue of a relationship that they have with a particular woman. Sex with married men, therefore, would be forbidden as well as sex with any males who are under the guardianship of a woman within the community” (p. 158). Even according to this interpretation, Leviticus 18:22 and 20:13 do not refer to the modern concept of homosexuality.

**48** Dershowitz (“Nakedness,” 523–525) and Römer (“Homosexuality,” 217) point out that this prohibition might be due to the influence of Persian laws. In the Avesta, the holy book of Zoroastrianism, one finds a passage that demonstrates considerable similarities with Lev 18:22, declaring that a man who lies with mankind as a man lies with womankind is a Daêva or worshipper of the Daêvas (evil deities or demons); Vendidad/Videvdad 8:32. See the English translation

in this way only when the sentence is extracted from its context. However, such neglect of the literary context in which this “prohibition” is handed down is both impossible from the perspective of general biblical hermeneutical principles (see above) and detrimental to an adequate literary understanding of the text. It is precisely the context that provides the key to understanding the prohibition in Leviticus 18:22, and thus its purview as well. Leviticus 18:21, the verse which comes immediately before the verse in question, concerns the prohibition of “giving one of one’s descendants over to Molech” (my translation). This puzzling turn of phrase has often been and continues to be read as a prohibition on cultic child sacrifice. However, the context and the socio-historical situation of the post-exilic period (when the Persians ruled Judah/Jerusalem) as the text’s original setting seems to suggest a more appropriate alternative: the “Molech” prohibition is a cipher for prohibiting Israelites from offer their children to the foreign occupying power (the Persian king, in Hebrew: *melek*<sup>49</sup>). Thus the priestly authors of Leviticus forbid a lucrative form of collaboration with the occupiers, which – from the authors’ point of view – resulted in the loss of a young member of one’s own religious community: in other words, whoever “gave his child over to Moloch” made the child available to the Persian officials, effectively giving the child away, so that the child learned and adopted a foreign religion and was thus lost to one’s own community.<sup>50</sup>

The verse following Leviticus 18:22 addresses the prohibition on sexual intercourse with animals, for both men and women (Lev 18:23). Whether this was due to the fear of dangerous hybrids or demons is an open question. If one reads Leviticus 18:21–23 in context, then the common denominator is clear: these verses

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by James Darmesteter, *The Zend-Avesta* (SBE04; Oxford: Clarendon Press, 1880), <http://www.sacred-texts.com/zor/sbe04/sbe0414.htm> (accessed August 6, 2020).

<sup>49</sup> The Hebrew word for “king” has the same consonants as “Molech.”

<sup>50</sup> On this topic, see Hieke, *Leviticus*, 679–688; see also Thomas Hieke, “Das Verbot der Übergabe von Nachkommen an den ‘Molech’ in Lev 18 und 20. Ein neuer Deutungsversuch,” *Die Welt des Orients* 41 (2011): 147–167; and Thomas Hieke, “The Prohibition of Transferring an Offspring to ‘the Molech.’ No Child Sacrifice in Leviticus 18 and 20,” in *Writing a Commentary on Leviticus. Hermeneutics – Methodology – Themes*, ed. Christian Eberhart and Thomas Hieke (Göttingen: Vandenhoeck & Ruprecht, 2019), 171–199. If one subscribes to this interpretation, Nissinen’s somewhat dubious assumptions (*Homeroeticism*, 39–41) about a cultic-theological background to the prohibition of same-sex practices are also invalid. Jan Joosten (“A New Interpretation of Leviticus 18:22 [Par. 20:13] and Its Ethical Implications,” *The Journal of Theological Studies NS* 71 [2020]: 1–10, here 2 n. 4) states that the “implications of this prohibition [in Lev 18:21] are very unclear.” According to my interpretation of the entire section of Leviticus 18 mentioned in the publications above, all the prescriptions relate to one and the same plausible theme: the production and protection of the community’s offspring.

aim to prevent progeny being lost to one's own religious community, whether by child sacrifice (less likely) or by handing children over to the foreign occupying power (more likely); whether through engaging (exclusively) in same-sex anal intercourse among men; or whether through engaging (exclusively) in sexual intercourse with animals. In addition, and in the same vein, there is a prohibition against having sexual intercourse with a menstruating woman (Lev 18:19); in this case as well, procreation does not occur. Thus the goal of these prohibitions is to strengthen one's own community by having as many descendants as possible. For the very small community of YHWH worshippers in Jerusalem and the Persian province of Yehud in the historical epoch in which these texts were written, this was a question of survival. Thus there was no place for someone who evaded the duty to procreate and did not produce and raise offspring. In the overall context of the chapter, as well as in the specific socio-historical situation at the time of its composition, these verses made plausible sense. Since in this case the Bible was less interested in individual personal happiness or individual preferences than in the stability of the community, the text pronounces clear prohibitions in relation to a complex world.<sup>51</sup> Tensions between men as a result of disordered sexual activity should not be permitted to arise,<sup>52</sup> nor should male sexuality be unproductive.<sup>53</sup> All of this has little to do with the conditions in which we live today. Thus a direct transposition in the literal sense is impossible.<sup>54</sup> A categorical condemnation of homosexual practices or even inclinations

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51 See Himbaza, Schenker, and Edart, *Homosexuality*, 134–135.

52 See, for example, Gérald Caron, “Le Lévitique condamnerait-il l’homosexualité? De l’exégèse à l’herméneutique,” *Studies in Religion/Sciences Religieuses* 38 (2009): 27–49, esp. 34. The protection of the communal order shaped by familial structures and laws is very important for the interpretation of Leviticus 18 and 20. Joosten (“New Interpretation,” 1–10) has argued convincingly in this direction. He demonstrates that the laws in Leviticus 18:22 and 20:13 prohibit homosexual intercourse involving a married man. One might debate the anachronistic use of the term homosexual here; I would rather suggest the neutral expression “same-sex.” Joosten leaves open the question of why Leviticus prohibits same-sex relations in which at least one partner is a married man. In sum, his suggestion fits quite well with my observations on the texts, as I have explained them above.

53 See also Himbaza, Schenker, and Edart, *Homosexuality*, 69–71 (A. Schenker).

54 See also the question in Jay Sklar’s article, “The Prohibitions against Homosexual Sex in Leviticus 18:22 and 20:13: Are They Relevant Today?” *Bulletin for Biblical Research* 28 (2018): 165–198. Sklar explores whether the prohibitions against homosexual sex in Leviticus 18:22 and 20:13 have ongoing relevance today. He begins by noting that the use of the term abomination in these verses does not settle the question. He then considers three different types of responses to the question: (1) the prohibitions do not apply today because Leviticus does not apply today; (2) the prohibitions do not apply today because the reason this activity was prohibited in Leviticus no longer applies today; or (3) the prohibitions do apply today because the rea-

is therefore also impossible to draw from this Bible verse (as well as its counterpart in Lev 20:13, on which see below).<sup>55</sup>

If we look at the conclusion of the verse in Leviticus 18:22, we see that same-sex anal intercourse is called an “abomination.” In the Bible (e. g., Deuteronomy, Proverbs), this term is used to condemn the worship of foreign gods, the practice of magic, the use of false weights in measurement, and similar social and cultic offenses. The argument is as follows: the condemned behavior does not please God and therefore triggers God’s wrath, and it is better to refrain from provoking God in this way. Thus it is not an issue of human judicial bodies or moral guardians being called to action; rather, it is a religious proscription of certain behavior, and it is left up to God to decide how to enact his wrath upon the person in question.<sup>56</sup> This textual nuance alone is sufficient to make it clear that the Bible can in no way be used to justify the criminal prosecution of homosexuals.<sup>57</sup>

Turning to Leviticus chapter 20, however, almost all the prohibitions in Leviticus 18 – most of which concern incestuous sexual unions – are linked with penalties. Leviticus 20:13 picks up Leviticus 18:22: “If a man lies with a male as with a woman, both of them have committed an abomination; they shall be put to death; their blood is upon them.” The assumption of an alleged “death penalty” goes back to a problematic mistranslation: the phrase “they shall be

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son this activity was prohibited in Leviticus still applies today. Thus Sklar puts to the test or even questions all the hermeneutical points of view that occur in discussions on these biblical passages today. The only point that ultimately remains to be made is that the book of Leviticus leans heavily on the gender roles evident in the creation story (Gen 1) and therefore retains its relevance on the basis of this biblical text. However, this raises two critical issues: First, the reference to Genesis 1 in Leviticus 18 and 20 is not very pronounced on a literary level; one might even say that it does not exist, at least not explicitly. Second, it is by no means proven that the statements about humankind’s manifestation in two sexes (or genders?) in Genesis 1 permit sexual relations exclusively between a man and a woman. This assumption is thus a *petitio principii*.

55 Cf. Hieke, *Levitikus*, 690. Markus Zehnder’s view – in “Homosexualität (AT),” *Das wissenschaftliche Bibellexikon im Internet*, March 2008, Punkt 3.5, <https://www.bibelwissenschaft.de/stichwort/21490/> (accessed September 1, 2020) – that the verses in Leviticus concern “all kinds of sexual acts, including those which, according to a modern definition, are performed in mutual love by equal, consenting partners” is tenable only if one completely disregards their literary context. Isolating verses in this way, however, is problematic from a biblical hermeneutical point of view.

56 Cf. Caron, “Le Lévitique,” 36.

57 In the long history of criminal punishment for homosexual behavior, the Bible has almost never been used as a legal argument. Justifications for such punishment have run along other lines, such as natural law, the common good, “public opinion,” or “common sense.”

put to death” must not simply be equated with a “death penalty.”<sup>58</sup> The terminology in Leviticus 18:22 (the word “abomination”) is more likely to call to mind God’s punishment than human jurisdiction. A detailed examination of the Hebrew phrase *mot yumat*, which should be translated “he will certainly be killed” (and also occurs in the plural), has shown that, despite its many attestations, a death penalty in the modern sense can never be presumed. In cases in which a human being kills another human being (manslaughter or murder), the legal instrument of blood vengeance takes effect: the closest relative of the slain or murdered person must kill the one who committed manslaughter or murder. The relative then goes unpunished, since the blood of the slain perpetrator is upon the perpetrator themselves (and no longer requires atonement), while the victim’s spilled blood has been atoned for. In all other cases, rather than expressing a penal provision, the phrase is parenetic – it constitutes an urgent exhortation.<sup>59</sup> Thus there is no human authority behind the passive voice, but rather God himself (*passivum divinum*). As a kind of divine punishment, God himself will call the perpetrator or perpetrators to account and will ensure their death – by whatever means. What we find in Leviticus 20:13 is one such urgent admonition, not a penal provision.<sup>60</sup> The behavior proscribed as an “abomination” (that which displeases God) in Leviticus 18:22 is subject to God’s punishment in Leviticus 20:13 and is thus presented with the greatest possible urgency (as are many other acts, incidentally) as something which absolutely must be avoided. Once again, it comes down to hermeneutics: while contemporary societies may share many of the incest prohibitions in Leviticus chapters 18 and 20 and we may see them similarly in our culture, this does not mean that the verses should be taken “literally,” with no hermeneutical mediation. Every Bible verse requires careful interpretation; it is only in the case of the skin diseases discussed in Leviticus 13 or the animal sacrifices in Leviticus 1–7 that it becomes more obvious that these texts are not to be understood “literally.” An appropriate hermeneutics must also take into account the conditions of life at the time the texts were written: a small religious community under foreign rule, with its identity under

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58 For further details on this topic, see Thomas Hieke, “Das Alte Testament und die Todesstrafe,” *Biblica* 85 (2004): 349–374. The term “death penalty,” as used by Nissinen (*Homoeroticism*, 37) and many others, is thus most likely misleading.

59 Nissinen (*Homoeroticism*, 37) states this explicitly: “In no way can the [holiness] code be likened to civil or criminal law in the modern sense of the word. It might instead be compared to a catechism that teaches Israelites, especially adult males, God’s will and, accordingly, the rules for just behavior.”

60 Cf. Himbaza, Schenker, and Edart, *Homosexuality*, 63: “The death penalty is used as a warning, not as a penal norm” (A. Schenker).

threat, was in urgent need of descendants, and under the guidance of its priestly theologians it strives to live rightly, to ensure stability and order. The circumstances of our lives today are completely different; it is no longer a matter of “descendants at any price,” and yet stability, reliability, order, loyalty, and responsibility are enduring values. A successful transformation of the biblical prohibition – one which takes the word of God in human words seriously, but not “literally”<sup>61</sup> – could go like this: the highest goal of the regulations in Leviticus 18–20 (and in the Torah more generally) is successful communal life (see the key verse in Lev 18:5), and every form of human sexual activity must take this into consideration. What best serves the cohesion, the peace, and the happiness of the individual and the community? Certainly not the homophobic terrorization of a minority which, in its specific sexual orientation and expression, cannot follow an imposed code of conduct. God’s commandment is not a one-size-fits-all solution that “applies” in the same way always and everywhere, regardless of different life circumstances; it is the word of the living God, which speaks to different readers in different historical periods from the same textual vantage point, and which intends to lead them down the path to true life. According to this principle, Leviticus 18:22 and 20:13 call for responsible sexuality, taking into account the broader community and the social dimensions of sex, but not for a rigid prohibition of all homosexual behavior.

Let us reflect once again on these passages in Leviticus with reference to the question in the title of this contribution: “Does the Old Testament recognize and condemn homosexuality?” On the basis of the text, we have established that there is no mention of homosexuality as we understand it today, but only of same-sex anal intercourse with the ejaculation of semen, and that such mentions occur in a context dominated by the principle that the community requires descendants. Thus the Hebrew Bible (or the “Old Testament,” if we want to emphasize the Christian perspective), as is the case across the whole of antiquity, does not recognize our contemporary concept of homosexuality and does not address the question of sexual identity or orientation. Therefore the Old Testament does not condemn homosexuality. What the text condemns are forms of sexual behavior that place one’s own pleasure and sexual satisfaction above the good of the community, or that disregard the social dimensions of human sexuality.<sup>62</sup>

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<sup>61</sup> See Pinchas Lapide’s well-known quotation: “There are basically only two ways of dealing with the Bible: one can take it literally, or one can take it seriously. The two together get along very poorly”; see Pinchas Lapide, *Ist die Bibel richtig übersetzt?* (Gütersloh: Gütersloher Verlagshaus Haus Mohn, 1987), 12.

<sup>62</sup> On this topic, see also Thomas Pola, “‘Und bei einem Manne sollst du nicht liegen, wie man bei einer Frau liegt: Ein Greuel ist es.’ Der literarische und sozialgeschichtliche Zusammenhang

In this sense, the Bible still has much to teach us in terms of sexual morality today.<sup>63</sup>

## 5 Narrative Passages in the Hebrew Bible

In the history of biblical interpretation, four narrative passages in the Hebrew Bible have been heavily associated with same-sex sexuality between men. Yet this much we can say in advance: none of them have anything to do with homosexuality in today's sense.<sup>64</sup>

For much of history, “homosexuality” – more specifically anal intercourse among men – has been referred to as “sodomy.”<sup>65</sup> This term is a reference to the story told in Genesis 19: Lot, living as a “stranger” in the city of Sodom, has taken into his home the two “messengers” (angels) sent by God to warn him of the city's destruction. In the evening, the men of Sodom ask Lot to bring out his guests so that they may “know them” (Gen 19:5). The Hebrew verb *yd'*, translated here as “to know,” can also refer to sexual intercourse (the expression in the Greek text of the Septuagint is analogous). However, sex is not the men of Sodom's primary concern, because when Lot monstrously offers his virgin daughters as sexual objects in place of his guests, this makes the mob even more aggressive: the men now want to gain access to Lot's guests by force; his daughters do not interest them. If one rejects the absurd notion that all the men of Sodom were homosexual,<sup>66</sup> then it is clear that their actual goal is not to enjoy same-sex sexual intercourse, but to violently humiliate the foreigner

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von Lev 18,22 und 20,13,” *Theologische Beiträge* 46 (2015): 218–230; Caron, “Le Lévitique,” 37–39.

<sup>63</sup> See also Erin Dufault-Hunter, “Sexual Ethics,” in *Dictionary of Scripture and Ethics*, ed. Joel B. Green (Grand Rapids: Baker Academic, 2011), 723–728, esp. 726 f.; Steffan Mathias, “Queering the Body. Un-Desiring Sex in Leviticus,” in *The Body in Biblical, Christian and Jewish Texts*, ed. Joan E. Taylor (London: Bloomsbury T & T Clark, 2014), 17–40.

<sup>64</sup> See Himbaza, Schenker, and Edart, *Homosexuality*, 42: “the reader can emphasize that the stories of Genesis 19 and Judges 19 denounce the violent nature of the intention of the inhabitants of Sodom and Gibeah, whereas in today's world homosexuality is seen in the context of mutual consent. On this precise point, the stories have nothing to say” (I. Himbaza).

<sup>65</sup> Today the term sodomy is often colloquially understood as referring to sexual acts with animals (bestiality, zoophilia). The connection between “homosexual” acts and the “sin of Sodom” has no basis in the biblical text, as can be shown, but has nevertheless led to many centuries in which the sinfulness of homosexuality was asserted and homosexuals were persecuted accordingly; cf. Nissinen, *Homoeroticism*, 45–46; Römer, “Homosexuality,” 218.

<sup>66</sup> See also Himbaza, Schenker, and Edart, *Homosexuality*, 10 (I. Himbaza).



Lot, together with his suspicious guests. In keeping with the ancient Near Eastern parallels outlined above, anal penetration is a means to the end of humiliation; the object is not to obtain pleasure or to satisfy one's sex drive, but rather to suppress foreigners with violence.<sup>67</sup> Thus the sin committed by the men of Sodom is not their supposed homosexuality, but their attempt to violently refuse the foreigners' right to hospitality and to oppress them. The angels' supernatural powers prevent the worst from happening.

Moreover, in early reception history, the story is not understood as addressing homosexuality. Instead, "Sodom" stands for sinful behavior in general (e.g., exploiting the poor or committing violence, as in Ezekiel 16:49).<sup>68</sup> On the other hand, Josephus, in the context of his Hellenistic background, likens the men of Sodom's desire to pederasty: "But the Sodomites, on seeing these young men of remarkably fair appearance whom Lot had taken under his roof, were bent only on violence and outrage to their youthful beauty" (*Ant.* 1.200).<sup>69</sup> In *Contra Apionem* 2.199, Josephus sees same-sex sexual intercourse between men as a vice among other peoples – one which has nothing to do with the Jewish people, among whom such activity is punishable by death. Josephus regards same-sex anal intercourse among men as *para physin* ("against nature") (*C. Ap.* 2.273). Philo also lists same-sex intercourse among men, effeminacy, and the slide into indulgence and luxury among the Sodomites' vices.<sup>70</sup> In this way, Josephus and Philo also oppose pederasty – a practice which was accepted in their Hellenistic and Roman environments.<sup>71</sup> However, Philo in particular is not concerned with adults making rational decisions about their sexual orientation or preferences, but always with passion's unbridled addiction to sexual gratification (which is usually also encouraged by the consumption of alcoholic beverages, such as the wine at the symposium) – that is, with a complete loss of control. Philo shows no sign of reflecting on the possibility that sober people with a clear sense of reality could have a same-sex sexual orientation. Like all Jewish authors of his time, he assumes that there are two sexes (Gen 1:27) and that any deviation

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<sup>67</sup> Zehnder ("Homosexualität [AT]," Punkt 4.1) confirms this view, but notes that sexual desire must be added as a "secondary element" if rape is to function in this context.

<sup>68</sup> Cf. Nissinen, *Homoeroticism*, 46–47.

<sup>69</sup> See also Nissinen (*Homoeroticism*, 93), who points out the significance of the fact that, in retelling the parallel story in Judges 19, Josephus glosses over the Benjaminites' "homosexual" attack (Judg 19:22, see below).

<sup>70</sup> Cf. Nissinen, *Homoeroticism*, 94–95; see also William R. G. Loader, *Making Sense of Sex: Attitudes Towards Sexuality in Early Jewish and Christian Literature* (Grand Rapids: William B. Eerdmans, 2013), 134.

<sup>71</sup> Cf. Loader, *Making Sense*, 132–140, with further examples from early Jewish and early Christian literature.

from heterosexual practices is a deliberate denial and perversion of this “reality.”<sup>72</sup>

In the same way as the Sodomites, “a perverse lot” (NRSV) or “a bunch of scoundrels” (NABRE) in the Benjamite city of Gibeah (Judg 19:22) demand that a guest be brought out to them so that they can “know” him. Here again, the sexual element of “to know” is implied, and again this has nothing to do with homosexuality: the men want to humiliate the guest (and thus his host) by means of anal penetration.<sup>73</sup> In this case the guest offers them his concubine, and the mob is satisfied with raping her all night long. The woman does not survive this. The narrative text condemns this atrocious outrage perpetrated by the Benjamites in the strongest possible terms (Judg 19:30), and in its aftermath a bloody civil war ensues (Judg 20–21). The narrative constellation is somewhat different from the one in Genesis 19, but there is nothing to be gleaned from either narrative on the topic of homosexuality beyond the ancient Near Eastern perspective I have already outlined.<sup>74</sup>

Some interpreters identify a “homosexual” component in the incident involving Ham and his father Noah (Gen 9:20–27), but this is absurd: Ham sees his father Noah lying drunk and naked outside his tent after drinking the first wine ever made. Instead of covering him, Ham tells his brothers about the incident, and they then cover Noah with their faces averted. Yet if one reads the text closely and considers its context, Ham’s “offense” does not consist in any sexual act he commits,<sup>75</sup> but rather in the fact that Ham has not rendered the respect of the younger toward the elder which is necessary for social cohesion.<sup>76</sup>

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72 Cf. *ibid.*, 135; Josephus sees this quite similarly.

73 See also Himbaza, Schenker, and Edart, *Homosexuality*, 18 (I. Himbaza).

74 See also Nissinen, *Homoeroticism*, 49–52; and similarly Jeffrey S. Siker, “Homosexuality,” in *Dictionary of Scripture and Ethics*, ed. Joel B. Green (Grand Rapids: Baker Academic, 2011), 371–374, here 371: “Certainly, homosexual rape is condemned, but it seems quite a step to condemn all forms of homosexual expression on the basis of this passage about sexual violence. ... [M]any ethicists and biblical scholars do not view Gen. 19 as having probative value for the debate over homosexuality in the modern world.” Furthermore, Himbaza, Schenker, and Edart (*Homosexuality*, 22) argue that “we should not read into these stories homosexuality as it is known today. In these texts, there is no question of persons having a marked or exclusive attraction to members of the same sex. As we have stressed, we cannot call all of the inhabitants of Sodom homosexuals. Nor can we call the wicked men of Gibeah homosexuals either, since they raped a woman at some length. In these texts, homosexuality is limited to a one-time episode. It is not understood as a desire or as a constitutive feature of the psyche” (I. Himbaza). On Genesis 19 and Judges 19, see also Römer, “Homosexuality,” 218–221.

75 This contradicts Nissinen’s assumption in *Homoeroticism*, 52. Nissinen presumes that Ham intended to humiliate his father by means of a same-sex sexual act (analogously to the ancient Egyptian myth of Horus and Seth, for example). On the other hand, on the basis of certain phras-

Thus we are left with David and Jonathan, the two childhood friends (1 Sam 18–20; 2 Sam 1:26). The literature already written about them could fill entire bookshelves.<sup>77</sup> In their search for positive expressions of homoerotic relationships in the Bible, people have often pointed to the friendship between David and Jonathan, especially the phrase in David's lament for Saul and Jonathan in 2 Samuel 1:26: "I am distressed for you, my brother Jonathan; greatly beloved were you to me; your love to me was wonderful, passing the love of women." In this lament, the deep friendship between David and Saul's son Jonathan is expressed poetically, as it had already been presented in 1 Samuel 18:1–4:

<sup>1</sup> When David had finished speaking to Saul, the soul of Jonathan was bound to the soul of David, and Jonathan loved him as his own soul. <sup>2</sup> Saul took him that day and would not let him return to his father's house. <sup>3</sup> Then Jonathan made a covenant with David, because he loved him as his own soul. <sup>4</sup> Jonathan stripped himself of the robe that he was wearing, and gave it to David, and his armor, and even his sword and his bow and his belt.

These are signs of affection and friendship, but they are also politically symbolic, and the phrase "he [Jonathan] loved him [David] as his own soul" is literally realized in the further course of the narrative: when Jonathan's father Saul begins to hate and persecute David, Jonathan holds on to his friendship with David at the risk of his own life, warns David of his father's plans, and supports David whenever and however he can.<sup>78</sup> In a dramatic farewell scene, they both

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es in the story, John Sietze Bergsma and Scott Walker Hahn ("Noah's Nakedness and the Curse on Canaan," *Journal of Biblical Literature* 124, no. 1 [2005]: 25–40, esp. 39f.) identify an act of heterosexual incest between Ham and his mother, Noah's wife, which results in the birth of Canaan, whom Noah eventually also curses. Whether the text really supports these interpretations is an open question. In any case, a homosexual inclination on Ham's part is not the issue here. **76** Cf. Thomas Hieke, *Die Genealogien der Genesis* (HBS 39; Freiburg im Breisgau: Herder, 2003), 95.

**77** Cf. Harding, *Love*, passim, esp. 51–121, in which the various proposals from past decades are presented and critically analyzed with regard to their respective ideological positioning; see also the selection of literature in Zehnder, "Homosexualität (AT)." Römer ("Homosexuality," 221–228) presents an interesting comparison of the David and Jonathan story with the friendship between Gilgamesh and Enkidu. The similarities might indicate that "the relationship between David and Jonathan looks more like a love story than a reading of 1 Samuel may suggest at first glance" (p. 227).

**78** As Zehnder ("Homosexualität (AT)," Punkt 5.3) shows, this talk of love and covenant can have "theological and political overtones" in both the David and Jonathan story and its broader context. 1 Samuel 18:16 also tells us that "all Israel and Judah loved David."

weep over their distressing situation and kiss each other (1 Sam 20:41).<sup>79</sup> Shortly before this, Saul himself had reproached his son Jonathan for having “chosen the son of Jesse” (David), to his own shame and the shame of his mother’s nakedness (1 Sam 20:30). It is possible that Saul’s outburst is the narrator’s attempt to suggest that David and Jonathan’s extremely close friendship transcended what was typical of male friendships – just as David transcended boundaries and conventions in other areas and distinguished himself as exceptional in many ways. Thus one must admit that the Jonathan–David narrative does intend to give very particular weight to this male relationship, placing it among the many “unusual” things David did and accomplished. Precisely for this reason, however, it is rather unlikely that the narrative really has a homosexual relationship in mind.<sup>80</sup> In David’s case, one would have to assume that he was “bisexual” in today’s sense, because he had many (perhaps too many) women in his life, as becomes quite clear. David’s relationship with Uriah’s wife (Bathsheba) will have a decisively negative effect on his career. However, no text has been handed down in which Jonathan makes a statement comparable to David’s statement in his prayer of lamentation (2 Sam 1:16), and there is no indication of homosexual activity on Jonathan’s part: “Nothing indicates that David and Jonathan slept together ‘as one sleeps with a woman.’”<sup>81</sup> There may be many reasons why David preferred Jonathan’s love to that of women, but these can hardly be sexual, because it is not evident that David experienced less sexual pleasure with women. Perhaps it is the “wonderful” equality in his relationship with Jonathan, in which there is no “active” or “passive” role (unlike in the classical gender stereotypes of the man–woman relationship, in which – incidentally – the woman’s “inferiority” in Gen 3:16 is interpreted as punishment and as a diminution of her existence, but not as the original will of the creator). Perhaps the story intends to suggest that there is still a little “paradise” in everyday life – and that the wonderful friendship between David and Jonathan is one example of this. The fact that readers of both sexes still wish to see the relationship between the two as a homosexual one is due to the openness of the text itself,<sup>82</sup>

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<sup>79</sup> Kissing as such is not an indication of a homoerotic relationship. It may refer to the installation of the future king, as we see in 1 Samuel 10:1. Cf. Zehnder, “Homosexualität (AT),” Punkt 5.2; Harding, *Love*, 107.

<sup>80</sup> See also Himbaza, Schenker, and Edart, *Homosexuality*, 41 (I. Himbaza).

<sup>81</sup> Nissinen, *Homoeroticism*, 55. Josephus also makes no mention of a sexual component in his retelling of David and Jonathan’s relationship (*Antiquitates* 6.206, 241, 275–276; 7, 5.111); cf. Loader, *Making Sense*, 135–136.

<sup>82</sup> Cf. the detailed discussion in Harding, *Love*, 122–273.

which does not place strict limits on the recipient's imagination.<sup>83</sup> The different ways of reading and interpreting the relationship between David and Jonathan are part of the process in which the modern conception of homosexuality itself came into being. Today it is almost impossible to read the texts that speak of the love between David and Jonathan without gaining at least a vague impression of a homoerotic or even a homosexual relationship.<sup>84</sup>

## 6 On the Treatment of the Old Testament Passages in Contemporary Catechism

The biblical passages discussed above are also referred to in statements the Roman Catholic Church has made on the subject of homosexuality. I will examine this treatment of the relevant Old Testament passages with reference to the Catechism of the Catholic Church (also called the "World Catechism") by way of example.<sup>85</sup>

The Catechism discusses homosexuality in the second section of Article 6 on the "Sixth Commandment," under the heading "Vocation to Chastity," numbers 2357 to 2359, and in number 2396 of the final section of the article, titled "In Brief." In number 2396, "homosexual practices" are described as "sins gravely contrary to chastity," along with masturbation, fornication (by which the text means extramarital sex), and pornography. Number 2357 takes a more differentiated approach: here the variety of forms homosexuality has taken historically are acknowledged, and its "psychological genesis" is presented as "largely unexplained." Then comes the scriptural argument: "Basing itself on Sacred Scripture, which presents homosexual acts as acts of grave depravity [cf. Gen

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**83** The David and Jonathan episode cannot be invoked as a narrative in which we find a "biblical legitimation" of homoerotic and homosexual practices, thus cancelling out Leviticus 18:22 and 20:13, as it were. It would be hermeneutically misguided to play the texts off against each other in this way. Nevertheless, some exegetes are palpably interested in identifying a homosexual relationship in this narrative, with the ultimate aim of using this as "biblical evidence" to condone homosexual practices; cf. the summary in Harding, *Love*, 403, and also 100. In this way, biblical texts are misused as alleged "evidence" to support one's own interests. But the same kind of abuse of the text takes place when Leviticus 18:22 and 20:13 are detached from their context and their social history, and interpreted as "absolute truths" which support a rigid sexual morality.

**84** Cf. Harding, *Love*, 403–404.

**85** Catechism of the Catholic Church (Rome: Vatican, 1993; rev. 1997), [http://www.vatican.va/archive/ENG0015/\\_INDEX.HTM](http://www.vatican.va/archive/ENG0015/_INDEX.HTM) (accessed April 21, 2021).

19:1–29; Rom 1:24–27; 1 Cor 6:10; 1 Tim 1:10], tradition has always declared that ‘homosexual acts are intrinsically disordered’.<sup>86</sup> However, as I have shown above, the passage cited (Gen 19:1–29) does not address homosexuality, but rather the Sodomites’ attempt to humiliate Lot’s foreign guests by means of anal penetration, thus demonstrating their superiority through rape. That such an approach should be rejected is beyond question. Yet the biblical passage is not a suitable basis on which to infer that the Holy Scriptures describe homosexuality as an “act of grave depravity.” Therefore this claim in the Catechism is false; the Old Testament has no knowledge of the modern concept of homosexuality. The passages in the Torah (Lev 18:22 and 20:13) which are more relevant to the Catechism’s argumentation are not mentioned. But in these cases as well, and again as I have shown above, we cannot derive any condemnation of homosexuality in the modern sense. The rest of the Catechism’s argument for the rejection of homosexual practices is based on natural law. Number 2358 admonishes all Catholics: “Every sign of unjust discrimination in their regard should be avoided.” Yet the Catechism itself practices unjust discrimination by declaring in the same paragraph that the homosexual inclination is “objectively disordered.” Moreover, number 2359 states, “Homosexual persons are called to chastity,” and hence to abstain completely from sexual activity. This statement has no reference to and no basis in the Bible, and it deeply contradicts human experience.

The 2006 statement of the United States Conference of Catholic Bishops (USCCB), entitled *Ministry to Persons with a Homosexual Inclination: Guidelines for Pastoral Care*, intends “to provide basic guidelines for pastoral ministry to persons with a homosexual inclination or tendency.”<sup>87</sup> The statement clearly rejects as unjust any attempt to make such persons objects of scorn, hatred, or even violence. However, the text also reduces sexuality as such (i.e., all human sexuality) to a very limited spectrum:

By its very nature, the sexual act finds its proper fulfillment in the marital bond. Any sexual act that takes place outside the bond of marriage does not fulfill the proper ends of human sexuality. Such an act is not directed toward the expression of marital love with an open-

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**86** Here the Catechism quotes from Congregation of the Doctrine of the Faith, *Persona Humana: Declaration on Certain Questions of Sexual Ethics* (Rome: Vatican, 1975), no. 8, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19751229\\_persona-humana\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19751229_persona-humana_en.html) (accessed April 21, 2021).

**87** United States Conference of Catholic Bishops, *Ministry to Persons with a Homosexual Inclination: Guidelines for Pastoral Care* (Washington, DC: USCCB, 2006), 1, <https://www.usccb.org/issues-and-action/human-life-and-dignity/homosexuality/upload/ministry-persons-homosexual-inclination-2006.pdf> (accessed April 21, 2021).

ness to new life. It is disordered in that it is not in accord with this twofold end and is thus morally wrong.<sup>88</sup>

This approach makes things easy and complicated at the same time. It is easy in the sense that this statement prohibits any acts or expressions of sexuality apart from sexual intercourse between a married couple for the purpose of conceiving offspring. Yet it is complicated in the sense that this idea flies in the face of the lived experience of most human beings. One may ask whether wrenching the ideal and the reality so far apart is justified or wise.

The USCCB statement refers to the Old Testament on page 4: “Whenever homosexual acts are mentioned in the Old Testament, it is clear that they are disapproved of, as contrary to the will of God.” Here the guidelines quote Genesis 19:1–19 and Leviticus 18:22 and 20:13 in the footnote. As I have demonstrated above, these passages do not refer to “homosexual acts” in the proper, modern sense. In Genesis 19:1–19, the Sodomites seek to humiliate Lot’s guests – and thus the stranger Lot himself – by perpetrating violent acts. This chapter is about xenophobia and violence, and it is obvious that God disapproves of violent acts committed against foreigners. However, homosexuality in the contemporary, modern understanding is characterized by mutual consent and mutual love, as any human sexuality should be. Quoting Genesis 19 in the current debate about homosexuality and the Church constitutes terrible discrimination against people with a homosexual inclination, because it implicitly assumes that such people are prone to violence and oppression. As an Old Testament scholar and an advocate for the true word of God, I strongly recommend that Genesis 19 no longer be associated with the issue of homosexuality.

The Leviticus passages originate in the context of a community under threat and in urgent need of offspring; such a community cannot permit any sexual practices that do not result in new life (that is, progeny) and that might disturb the fragile order of a small society under the pressure of cultural change. Quoting Leviticus 18 and 20 in the current debate about homosexuality presupposes that we live in a period in which we are urgently dependent on the birth of more children, and in which cultural diversity is interpreted as a threat. Again, this flies in the face of most lived human experience. Today, there is no lack of human offspring on the planet, and cultural diversity is an enrichment. It is a hermeneutical flaw to isolate a biblical verse from its context and its socio-cultural setting. Such a practice can lead to absurd results. This way of referring to the Bible would necessitate the excommunication of all tattooed Catholics, since

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<sup>88</sup> *Ibid.*, p. 3–4.

Leviticus 19:28 reads: “Do not lacerate your bodies for the dead, and do not tattoo yourselves.”<sup>89</sup> Hence the references to the Old Testament in the USCCB statement are unacceptable. For further details on the references to the New Testament, the reader may consult Michael Theobald’s contribution in this volume.

It is commendable that the USCCB statement praises training in virtue and the ideal of chastity. However, any virtue that derives from a necessity is no virtue at all, and any chastity that emerges from an untenable predicament is a displacement that might result in psychological harm (or in the abuse of power). If a person with a homosexual inclination freely chooses a life of sexual abstinence (chastity), then this choice deserves our deepest respect. However, it is highly unrealistic to demand such a high virtue of *all* human beings with a homosexual inclination. It is simply not fair that the Church demands such a high ideal from so many people when it knows they will fail. Striving for holiness and referring to several passages from Leviticus (11:44–45; 19:2; 20:7, 26) does not help in this case: once again, the verses are isolated from their context and setting, and the identification of holiness with sexual chastity devalues the concept of holiness. Holiness involves much, much more than one’s sexual practices. It has to do with fairness in business; paying fair wages; transforming economic and social structures to prevent people from falling into poverty; providing equal opportunities for all human beings, regardless of their race, color, ethnic provenance, age, sex, or sexual orientation; and much more. In its entirety, Leviticus 19 provides only a few examples of what holiness is all about.

In sum, the Old Testament does not support the Church’s current teaching on homosexuality, and thus we need an open, worldwide discussion of this issue. Alternatively, perhaps it would be even better to say nothing about this particular issue at all. It would suffice to urge Catholics to enact their sexuality in a reasonable and responsible way, with high respect for their partner, with consideration for the needs and structures of their social framework (family, community, state, church), and with mutual love and mutual consent. This is in fact what the Old Testament teaches.

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<sup>89</sup> Quoted from the New American Bible (rev. ed.; Washington, DC: The United States Conference of Catholic Bishops, 2011). The footnote to this verse reads: “This prohibition probably refers only to the common ancient Near Eastern practice of branding a slave with its owner’s name as well as branding the devotees of a god with its name.” Here the editors correctly stress the verse’s socio-cultural background. This methodological practice should be applied to all biblical verses, and hence also to Leviticus 18:22 and 20:13.



## 7 Concluding Statement

Does the Old Testament recognize and condemn homosexuality? Our scholarly review of the texts has confirmed the double negative answer to this question which I provided at the beginning of this contribution. Indeed, the following points hold true for all of antiquity: (1) today's differentiated concept of homosexuality as a multi-dimensional phenomenon and an integrated component of one's personality was not understood in this way, and (2) the subject had nowhere near the significance it has in today's culture. Likewise, the Hebrew Bible – or in Christian reception, the Old Testament – has no concept of homosexuality in the sense in which we understand it today.<sup>90</sup> Only a very few passages provide any starting points for this debate. In the Torah, Leviticus 18:22 and 20:13 refer to a specific socio-historical situation and, in their context, address the pressing need for procreation. Without their literary and social contexts, these provisions hang in midair; therefore, for both literary and theological reasons, they must not be considered in isolation.<sup>91</sup> The narrative texts that describe the Sodomites (Gen 19) and “Gibeah's shameful deed” (Judg 19) do not address homosexuality, but rather the perpetration of male violence against inferior foreigners without regard for the law of hospitality. Anal penetration as a sign of humiliation is also evident in Israel's environment. The story of Noah and his son Ham (Gen 9:20–27) is about young people displaying a lack of respect for their elders; the presumption that (homo)sexual acts took place is not necessary to understand this text. Finally, the narrative passages describing David and Jonathan's relationship are left open and therefore often serve as a projection screen for the reader's desire to find a homoerotic or homosexual relationship between men in the Bible. The text itself by no means compels the reader to situate their friendship in the sexual realm, but it is open to this interpretation.<sup>92</sup>

Thus as a biblical scholar, I can state with confidence that a rejection of homosexuality as we understand it today finds no justification in the Old Testa-

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<sup>90</sup> See also Robert Karl Gnuse, *Trajectories of Justice. What the Bible Says about Slaves, Women, and Homosexuality* (Eugene: Wipf and Stock, 2015), 117–141; Himbaza, Schenker, and Edart, *Homosexuality*, 132. Römer (“Homosexuality,” 228) concludes: “No text of the Hebrew Bible (and also no text of the New Testament) speaks about homosexuality as a social phenomenon to describe loving and sexual same sex relations. As a result one has to seriously question the use of different biblical texts in contemporary and ecclesial debates.”

<sup>91</sup> Siker (“Homosexuality,” 372) rightly and rhetorically asks: “Are modern people of faith to pick and choose among the various Levitical prohibitions and punishments? If so, on what basis?”

<sup>92</sup> Cf. Harding, *Love*, 228; Römer, “Homosexuality,” 228.

ment.<sup>93</sup> The argument that homosexually inclined people should be condemned to abstinence cannot be derived from the Old Testament. Social discrimination against or state criminal prosecution of such people constitutes a lack of mercy and a crime against human dignity – as the Roman Catholic Church’s Catechism also clearly states.

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<sup>93</sup> Cf. also Caron, “Le Lévitique,” 45.

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