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The Old Testament and Homosexuality: A Critical Review of the Case Made by Phyllis Bird

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Phyllis Bird's essay, "The Bible in Christian Ethical Deliberation concerning Homosexuality: Old Testament Contributions,"[1] represents one of the two best treatments on the OT and homosexuality currently available from a proponent of homosexual unions.[2] Nevertheless, there are a number of serious problems with Bird's analysis of the OT witness. I will begin with an overview of her article and then enter into a critical appraisal of her main arguments.

An Overview of Bird's Article

Bird begins her essay by cautioning against viewing the Bible as "final revelation." The Scriptures, she contends, have a privileged position in the church's deliberations but as "a conversation partner, not an oracle." In their "irreducible pluralism" they "point beyond time, but always and only as a product of the cultures out of which they speak."[3]

She then limits her treatment of OT texts with explicit references to homosexual behavior to four: the narrative texts in Gen 19:1-29 (Sodom) and Judg 19:22-24 (the Levite at Gibeah) and the legal texts in Lev 18:22 and 20:13.[4] As I see it, Bird gives two related reasons why these anti-"homosex" texts[5] cannot serve as ethical guides for today.

The first reason shares in common a difficulty with what Bird sees as the entire OT view of sexuality: "It is precisely the OT's disinterest in affective bonds and the quality of relationships that makes the Bible's

[1]In: *Homosexuality, Science, and the "Plain Sense" of Scripture*, ed. D. Balch, 2000, 142-76; hereafter: "OT Contributions."

[2]The other major work is: M. Nissinen, *Homoeroticism in the Biblical World: A Historical Perspective*, 1998, 19-56; hereafter: *Homoeroticism*. Cf. my critique of Nissinen throughout my book, *The Bible and Homosexual Practice: Texts and Hermeneutics*, 2001 (see index).

[3]"OT Contributions," 143-46.

[4]Ibid., 146-53.

[5]My term.

pronouncements on prohibited sexual unions problematic as guides to **[368]** contemporary sexual ethics."[6] She argues that the stories of Sodom (Gen 19) and the Levite at Gibeah (Judg 19) show "ancient Israelites had no experience or conception of male homoerotic relations as consensual or expressive of a committed relationship." The sex proscriptions in Lev 18 and 20 are primarily "nonrational and preethical," insofar as they focus on matters of defilement and do not take into consideration "questions of age, initiative, or consent."

The second reason is that these texts are motivated by an irrational male fear of "transgression of gender roles," specifically of men taking on the submissive role of the passive partner. Creation and nature arguments play no role in Lev 18:22 and 20:13. Reproductive issues are at best secondary. This explains why lesbian relations go unmentioned in the Holiness Code: "If the primary issue in the condemnation of homosexual acts is male honor, then female homoeroticism is of no interest or concern."[7]

If these four texts "betray a worldview and a theology that is both inconceivable and unacceptable to most Western Christians,"[8] where then can we go in the OT for help in understanding modern human sexuality? According to Bird, the Genesis creation accounts cannot help, not only because they too "are products of an ancient patriarchal society," but also because they are purely descriptive, not prescriptive. We are better off if we take our cue from OT wisdom literature, which directs us to science and individual experience. Bird acknowledges that "neither science nor experience has achieved a consensus" concerning homosexuality. However, using the wilderness wanderings of Israel as her model, she concludes by exhorting the church "to encourage responsible experiments with alternative practices" rather than to cling to the bondages of the past.[9]

Affective Bonds and Quality of Relationship Issues

Bird argues, in part, that the OT view of man-male intercourse is nonrational and preethical because, like the biblical view of sexuality generally, it does not take into account "affective bonds" (i.e., the loving

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[6]Ibid., 146 n. 6; cf. pp. 154, 162. Bird concedes that Jonathan's love for David "does not belong to the OT's understanding of homosexual relations, which is interested only in acts, not affections." The last observation is strange given that there is absolutely nothing about Jonathan's and David's "affections" for each other, let alone "acts," that can be reasonably construed as homoerotic. Cf. Gagnon, *The Bible and Homosexual Practice*, 146-54.

[7]"OT Contributions," 146 n. 6, 148, 152, 154, 157.

[8]Ibid., 155.

[9]Ibid., 165-70.

[369] disposition of participants) and “the quality of the relationship.” In short, Bird has a problem with prohibitions of consensual sex that are categorical, absolute, or “objective.”[10] However, Bird’s own perspective raises problems.

First, one may question whether the OT is entirely disinterested in affective heterosexual bonds. Granted, arranged marriages were more the fashion then than they are now in the Western world.[11] Even so, one finds indications that affective bonds were not discounted altogether, as one might expect from long-term sexual unions; and the quality of relationships was certainly important. A conspicuous case in point is that an entire work in the OT canon is dedicated to the celebration of romantic heterosexual love, the Song of Solomon.[12]

Genesis 2:18-24 also speaks to quality of relationship issues. It portrays a man’s wife as his “counterpart,” “helper,” and very “flesh,” and requires a transfer of primary covenant loyalty from the man’s parents to his wife. What a man does to his wife, he does to his own body.[13] Alluding to Gen 2:24, Mal 2:14-16 calls upon men to recognize that divorcing “the wife of your youth” is tantamount to offending against one’s own life, for God made them one.[14]

In addition, even though Isaac’s marriage was arranged, the text states clearly that when Rebekah became his wife Isaac “loved her” and “was comforted after his mother’s death” (Gen 24:67). Jacob worked fourteen years for Laban in order to be allowed to marry the woman of his dreams, Rachel (Gen 29). Deuteronomic law specified that a newly married man “shall be free at home one year, to be happy with the wife whom he has married” (24:5). Proverbs 5:15-20 extols the pleasures of being forever “intoxicated” by a wife’s love. Granted, the attention to affective bonds in the OT is lopsidedly, though not exclusively, focused on men. Yet, by the same token, the focus of the Levitical proscriptions and the Sodom and Gibeah narratives is also on male-male relationships. Affective bonds were considered for men in heterosexual unions and yet still treated as irrelevant for a proscription of homosexual behavior.

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[10]Ibid., 146 n. 6, 154, 162, 166-68.

[11]It would arrogant of us not to recognize that the Western world’s obsession with individual sexual self-fulfillment and romantic infatuation has its own drawbacks. Chief among them is putting the needs of the self over the needs of the other.

[12]For a caution against treating this text as an affirmation of premarital sexual relations, see my article “Are There Universally Valid Sex Precepts?,” *HBT* 24 (2002), 109.

[13]The point is echoed in Eph 5:28-29, which exhorts husbands to “love their wives as their own bodies. He who loves his own wife loves himself.”

[14]For Gen 2:23-24 and Mal 2:14-16, see: G. P. Hugenberger, *Marriage as a Covenant: Biblical Law and Ethics as Developed from Malachi*, VTSup 52, 1994, 124-67, 340-43.

[370] Furthermore, the "affective bond" in heterosexual marriage is acknowledged by New Testament writers, Paul included, without any corresponding diminution of hostility to same-sex intercourse. In fact, Paul gives significant attention to the affections and sexual needs of the wife in marriage (1 Cor 7:2-5,12-13). Yet far from inducing a more open attitude toward homoerotic behavior, Paul's movement toward equalizing of affective bonds and of obligation between the sexes manifests itself in an explicit, corresponding prohibition of female-female intercourse in Rom 1:26. Bird's attempt to discount the OT witness against same-sex intercourse, based on inattention to affective bonds in sexual relationships generally, is unconvincing.

Second, Bird's supposition does not help to explain the OT's contrasting valuation of heterosexual and homosexual bonds. It is better to say that the OT shows some interest in affective bonds but that the prerequisites for marriage must first be met. Homosexual unions do not meet an other-sex prerequisite so the quality of individual homoerotic relationships is irrelevant. What Bird designates as a distinguishing mark of ritual purity—failure to consider the loving disposition of the participants—is in fact sometimes shared by morals-based legislation.

Third, contemporary Western society does not take into account the affective bonds and the quality of relationships for adult incestuous unions, sexual unions involving more than two persons, and sexual unions in which one participant is under the "magical age" of 16 (or 14 or 18), to say nothing of bestiality. Most universities and professional societies have also adopted strict prohibitions against relationships in which one party is in a position of institutional power over the other—even when the subordinate initiates the relationship. In the absence of proof that the aforementioned relationships always produce scientifically measurable harm to all participants in all circumstances, are we being nonrational and preethical in "objectifying" such unions with categorical prohibitions that discount matters of consent, initiative, and affective bonds? If not, then Bird has little grounds for dismissing out of hand the Bible's focus on homosexual acts rather than homosexual affections. Bird's case against the Bible's position on same-sex intercourse is a case against any structural prerequisites for sexual relationships.

On Omissions in Bird's Text Selection

Bird rightly acknowledges that the "paucity of reference [to homosexual practice in the OT] may not simply be equated either with ignorance or tolerance."[15] Indeed, one can go further than Bird and say that **[371]** the inferential evidence, when combined with the explicit texts and compared with other ancient Near Eastern parallels, provides strong documentation for a strong consensus witness in the Bible against homosexual behavior.[16]

Moreover, *pace* Bird, texts that speak more or less explicitly against homosexual practice are not restricted to the Sodom and Gibeah narratives and the Levitical prohibitions. Strangely, although Bird subsequently treats the "homosexual cult prostitute" texts and refers to Deuteronomistic revulsion for the homoerotic associations of such figures, she does not list these texts among the "Old Testament texts with explicit references to homosexual behavior."[17]

Two OT texts that go unmentioned in Bird's essay should have been introduced into the discussion: Gen 9:20-27 (the story of Ham's act against Noah) and Ezek 16:49-50 (Ezekiel's interpretation of the Sodom story; cf. 18:12). Both of them are of critical importance for a proper reading of the Sodom narrative.

There are strong grounds for understanding Gen 9:20-27, Ham's sin of "seeing the nakedness of his father" Noah, as a reference to incestuous, male-male rape.[18] The other main interpretation, that Ham's offense was voyeurism, does not do justice to the statement that Noah "came to know what his youngest son had *done* to him" (9:24). Nor does it explain adequately the severity of the curse and its placement on Ham's seed, Canaan. The subtext appears to play on related senses of "seed." As punishment for the misuse of Ham's seed (sperm), his seed (descendant) Canaan is cursed. A literal interpretation of the phrase "seeing the nakedness of" also ignores the fact that this expression is used elsewhere with reference to sexual intercourse (Lev 20:17; similarly, "uncover the nakedness of" throughout Lev 18 and 20). Relevant here too is the background story of incestuous homosexual rape in the Egyptian myth of Horus and Seth. A number of scholars have accepted the rape interpretation.[19] Nor is this an entirely modern view. The Babylonian Talmud records a debate ca. 225 C.E. between two rabbis about the meaning of "had done to him" in Gen 9:24: one suggesting castration, the other homosexual relations (*Sanh.* 70a).

Acknowledging the dimension of same-sex intercourse in the Ham episode is important for two reasons. First, those who argue that **[372]**

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[15]"OT Contributions," 147.

[16]Cf. Gagnon, *The Bible and Homosexual Practice*, 432-33, 437-39.

[17]The latter are discussed on pp. 146-53, the former on pp. 170-73 (cf. 158-61, 174-76).

[18]See Gagnon, *The Bible and Homosexual Practice*, 63-71; Nissinen, *Homoeroticism*, 52-53; Donald J. Wold, *Out of Order: Homosexuality in the Bible and the Ancient Near East*, 1998, 69-76.

[19]See Gagnon, *The Bible and Homosexual Practice*, 65 n. 63 (including H. Gunkel and G. von Rad).

biblical stories about same-sex rape have no relevance for church deliberations on committed homosexual unions have a problem as regards this story. Genesis 9:20-27 is a "kitchen sink" story whose purpose is to show how truly bad the ancestor of the Canaanites was by multiplying heinous offenses: not just rape but also a case of incest and of male-male intercourse, and the worst combination of these possible, namely, penetration of one's own father. No one would argue that, if this story refers to Ham's rape of his father, it has no implications for committed *incestuous* unions. By what logic, then, can one assert that the story has no implications for committed homosexual unions? Second, there is an ideational link between the Ham episode and the sex laws in Lev 18. Both texts attribute the fate of the Canaanites in Canaan to egregious sexual practices. Since the practices in Lev 18—among which incest and man-male intercourse are prominently featured[20]—do not refer exclusively to coercive acts, it is unlikely that the Yahwist's indictment of Ham's actions are limited to coercive forms of incest and coercive male-male sex. The legislators of the Holiness Code treated the male-male intercourse of the Canaanites as wrong, even when consensual. Undoubtedly, then, the Yahwist did the same in a text with similar themes. At least there is no strong argument for suggesting otherwise. That, in turn, increases the likelihood that the Yahwist's other story of same-sex sexual assault, Sodom, also indicts male-male intercourse per se, not just a coercive form.

Ezekiel 16:49-50 buttresses this interpretation of the Sodom story.[21] The text states that one of the sins of Sodom was that she "committed an abomination before me and I removed them when I saw it." Most interpreters have argued that the reference to "abomination" (*tôʿebâ*) is a collective singular for the previously described offenses of "pride" and failure to "take hold of the hand of the poor and needy."[22] This is not likely. Ezekiel 18:10-13 concludes a list of offenses with the words "he committed all these abominations." One of the eight elements in the list, occurring in the seventh position is "he commits an abomination." This offense is distinguished from "oppresses the poor and needy" (the third element on the list), making it unlikely that "abomination" in Ezek 16:49-50 is to be identified with the preceding mention of the failure to help the poor and needy. The interchange of the singular and plural uses of *tôʿebâ* is precisely what we find in Lev 18:22 and 18:26-30, where the singular occurrence

[20]Incest laws are dealt with extensively in 18:6-18, while man-male intercourse is the only type of immorality to be tagged explicitly with the label "abomination" before the summary in 18:24-30.

[21]Gagnon, *The Bible and Homosexual Practice*, 79-85.

[22]An exception is Moshe Greenberg, *Ezekiel 1-20*, AB, 1983, 289.

[373] refers to homosexual intercourse. Most likely, then, "abomination" in Ezek 16:49-50 is employed as a metonym for an act regarded as so heinous that it was described by oblique reference (cf. the obliqueness of the story of Ham and of the Levite's recounting of the mob's actions in Judg 20:5).

That this is the correct interpretation of Ezek 16:49-50 is confirmed by several other considerations. (1) The lists of evil actions in Ezek 18:5-18 bear strong linguistic and thematic echoes with the Holiness Code (most scholars see some sort of relationship between Ezekiel and the laws found in the Holiness Code). (2) The phrase in Lev 20:13 is nearly an exact match with Ezek 18:12: "they committed an abomination." (3) The two other singular uses of *tôʿebâ* in Ezekiel (20:11; 33:26), like all the occurrences of *tôʿebâ* in Leviticus (singular and plural), refer to sexual sins as well. What this means is that the earliest extant, extended elaboration of the Sodom episode—apart from, perhaps, the Deuteronomistic story of the Levite at Gibeah—appears to have interpreted one of the major offenses of Sodom in the light of a broad legal prohibition against homosexual intercourse, drawn either from the Holiness Code itself or a precursor tradition. If Ezekiel interpreted the Sodom narrative through the lens of Lev 18:22 or something like it, then it is obvious that Ezekiel regarded the male-on-male dimension of the sex act to be a significant compounding factor in defining the wickedness of Sodom, in addition to the dimensions of coercion and inhospitality to strangers.

Bird on Homosexual Cult Prostitution

In a previous article Bird had been fairly adamant in denying the existence of homosexual cult prostitution in the ancient Near East generally and Israel specifically.[23] In two appendices to this new article she appears to backpedal a bit on that position, apparently in light of Nissinen's work.[24] She still maintains that, as regards male cult personnel devoted to the goddess Inanna/Ishtar (variously named *assinnu*, *kurgarrû*, *kulu'u*, and *sinnišānu*), "there is no clear evidence for sexual activity *as a part of their cultic role*."[25] Yet she now concedes that these cult personnel imitated, in their dress, "the androgynous nature of the goddess" Inanna/Ishtar and did engage in same-sex intercourse, from time to time, next door to the temple "under the patronage of Ishtar" **[374]** and "as a votary of the goddess,"

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[23]"The End of the Male Cult Prostitute," in *Congress Volume Cambridge 1995*, ed. J. A. Emerton, VTSup 66, 1997, 37-80. As we shall see below, the title's announcement was premature.

[24]"OT Contributions," 170-76 (cf. 158-61); Nissinen, *Homoeroticism*, 28-34.

[25]"OT Contributions," 176 (my emphasis); also, p. 159.

perhaps for money.[26] Such admissions make it more difficult for her to deny categorically the real historical existence of the *q*^{e}*dešîm* as male cult prostitutes at different times in Israel's history (Deut 23:17-18; I Kgs 14:21-24; 15:12-14; 22:46; 23:7; Job 36:13-14).[27] At some points Bird seems to make such a denial—for example, asserting that "the biblical references are polemical constructs that exhibit no firsthand knowledge of the institution they condemn."[28] Yet at other points she appears to consider their historical existence a genuine possibility to be reckoned with.[29]

At any rate, as with her previous article, Bird at least concedes that *the Deuteronomistic Historian* identified the *q*^{e}*dešîm* with receptive male homosexual activity: "The interpretation of *qādeš*/*q*^{e}*dešîm* in DH as a class of male homosexual prostitutes misinterprets religious polemic as social history."[30] Since Bird's article purports to deal with the view on homosexual behavior espoused by biblical authors, her concession is sufficient to demonstrate that the framers of Deuteronomic law and the Deuteronomistic Historian regarded homosexual cult prostitution, particularly the receptive homoerotic aspect, as an "abomination" (Deut 23:18; I Kgs 14:24) and its practitioners as "dogs" (Deut 23:18). It will not do to argue that the author only opposed the aspect of cult prostitution, for homosexual cult prostitution in Mesopotamian society was regarded as the most acceptable form of same-sex intercourse, not the least acceptable. Moreover, Deut 23:17-18 does not use the especially derogatory term "dog" for the female heterosexual counterpart *q*^{e}*dešâ*. This is the same term used in Mesopotamian sources of the *assinnu*s and *kurgarrû*s, designating a repulsive form of feminized masculinity.[31]

Although Bird does not integrate her discussion of homosexual cult prostitutes with her discussion of the stories of Sodom and Gibeah, the discussion of the former has significant implications for discussion of the latter. If what the Deuteronomistic Historian found most offensive about the *q*^{e}*dešîm* was their *consensual* "male homosexual activity," then it is clear that what the Deuteronomistic Historian would have **[375]** found most

[26]Ibid., 159-60, 176.

[27]For arguments in favor of the historical existence of the male cult prostitution in Israel, see *The Bible and Homosexual Practice*, 100-110.

[28]"OT Contributions," 173; cf. also pp. 161, 172.

[29]"If [Deut 23:18 (Heb. 19)] provides evidence for an accepted (or at least tolerated) form of homosexual practice, then it is instructive that it is in the form of prostitution. . . . The male prostitute, like his female counterpart, provides a safe, though despised, object as one who stands outside the normal system of sexual honor" (ibid., 171).

[30]Ibid., 173. Cf. "The End of the Male Cult Prostitute," 75 (DH emphasized "the repugnant associations [of the *q*^{e}*dešîm*] with male homosexual activity").

[31]Cf. Nissinen, *Homoeroticism*, 28, 32, 147 n. 45.

offensive about the actions of the Gibeahites in Judg 19:22-25 was the attempt at “male homosexual activity.” In the view of the Deuteronomistic Historian, then, for a male to penetrate another male, irrespective of whether the act was coercive or consensual, was to treat the other male as though he were not a male but a female and thereby to dishonor and degrade the latter’s essential masculine identity. Since the story of the Levite at Gibeah bears a very close resemblance to the story of Sodom—at points there is even verbatim literary agreement—one would be hard-pressed to argue that the Yahwist, for his part, would have been appalled only with the coercive dimension of the homosexual activity of the Sodom story.

Bird on the Story of Sodom

In her analysis of the Sodom and Gibeah stories[32] Bird contends that while the story of Sodom “does not address the cases under consideration today,” “it can[not] be dismissed as testimony to the OT’s attitude toward homosexual activity.”[33] In both stories “it is the male object that makes the action offensive.” She speaks of “the clear message that male honor is threatened by homosexual intercourse and that it is valued even above a daughter’s virginity.”[34] Why then does she claim that the two stories do “not address the cases under consideration today”? She gives two reasons.

First, “the Israelite authors *could only conceive* of participation in male homoerotic acts as forced. . . . [A]ncient Israelites *had no experience or conception* of male homoerotic relations as consensual. . . .” This assumption is false, as I indicated in the discussion of the ideational nexus connecting the broad Levitical prohibitions of male same-sex intercourse with both the story of Ham and Ezekiel’s commentary on the Sodom story. Indeed, Bird apparently contradicts her own assumption, at least in part, when she acknowledges: “It is *not clear* whether [the Israelite authors] viewed homoerotic activity among the inhabitants of these wicked cities as consensual and habitual or only as perverse sport with visitors.” Also apparently contradictory is her admission that the Israelite authors “do appear to suggest . . . that no Israelite male would *consent* to engage in homoerotic relations—at least not as the passive partner.”[35] Such a statement presumes that Israelite males could at least conceive of the idea of consent and that they would have rejected even consensual relationships. Moreover,

[32]Contrast my own discussion in *The Bible and Homosexual Practice*, 71-78, 91-100.
[33]“OT Contributions,” 147.
[34]Ibid., 148.
[35]Ibid., emphases added, for all the above quotations.

the Deuteronomistic **[376]** texts referring to homosexual cult prostitution presume consensual homosexual activity.

The Middle Assyrian Laws (19 and 20, tablet A) and other ancient Near Eastern texts show both that consensual male homoerotic relationships were known and that the primary problem with male-male intercourse was its compromise of male gender identity (particularly of the penetrated partner).[36] Consent led to greater, not lesser, personal shame. Bird herself acknowledges as much when she notes that Mesopotamian “omens, myths, and proverbs suggest that occasional homoerotic contacts were tolerated, on a *consensual* or contractual basis. . . . They suggest . . . that the male who played the female role suffered social deprecation or belonged to a lower social class.”[37] Furthermore, in the Second Temple Period and beyond, all Jewish and Christian writers, so far as extant sources indicate, understood the Mosaic law to be opposed to all forms of same-sex intercourse, not just coercive ones. A number of early Jewish and Christian interpreters of the Sodom story (including Philo, Josephus, Jude, 2 Peter, some rabbinic texts) identified attempted homosexual intercourse per se as a key reason for Sodom’s destruction.[38]

Undoubtedly, then, for the authors and transmitters of these narratives the act of same-sex intercourse was by its very nature repulsive, whether consensual or coerced, just as consent did not materially change the evaluation of incest.[39] The difference between consensual and coerced homosexual intercourse was that in the former the participants willingly degraded themselves while in the latter one of the parties was forced into self-degradation.

Bird’s second reason for dismissing the relevance of these narratives for contemporary homosexual relationships is that the authors had no conception of “sexual acts, whether heterosexual or homosexual, . . . as a relationship between equals.” Since “the passive role is always defined as feminine. . . . involvement in homosexual acts in the passive role involves a threat to male identity.” There is some merit to this argument. Ancient Near Eastern texts dealing with same-sex male intercourse show particular concern for the feminization of males who allow themselves to be penetrated as though females. The Levitical laws also forbid a man from lying with a male “as though lying with a woman,” referring in the first instance to anal penetration of a male.

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[36]Gagnon, *The Bible and Homosexual Practice*, 44-56; Nissinen, *Homoeroticism*, 19-36, 144-52.
[37]“OT Contributions,” 159 (emphasis added).
[38]Gagnon, *The Bible and Homosexual Practice*, 87-91, 167, 172, 177.
[39]Apart, of course, from absolving the forced participant of criminal liability.

Yet it is not likely that, had the Israelites thought more in terms of "a relationship between equals" and viewed women more highly, they **[377]** might have had a more affirming view of same-sex intercourse. A marriage relationship conducted on the assumption of male-female equality does not erase the reality and significance of sexual differentiation.[40] If maintaining proper hierarchical roles had been the main concern of ancient Israelite society in proscribing male homosexual behavior, then one has to ask why Israelite society was more unequivocally opposed to male homosexual practice than other ancient Near Eastern cultures. Should we conclude that ancient Israelite society was the most misogynistic culture in the ancient Near East? Not likely. In Mesopotamian society, male homosexual behavior was regarded as an acceptable way of enforcing status differentiation among males, at least for the active partner; and males possessed by the goddess Inanna (Ishtar) could be excused for regularly playing the passive receptive role in same-sex intercourse. This is precisely what one would expect of a society where status differentiation was the key concern. But this is also what we do not find in the biblical record. Here it is evident that gender differentiation, not status differentiation, took precedence.

We see this manifested in Gen 2-3 where the Yahwist treats as a pre-fall development the establishment of the institution of marriage as a one-flesh union (better, reunion) of complementary gendered beings, while relegating to God's curse at the fall the husband's rule over his wife (Gen 3:16).[41] The thinking of the authors of Scripture was apparently not in the first instance, "Men should not take on the role of women in sexual intercourse because women are inferior beings," but rather: "Men should not take on the role of women in sexual intercourse because God created distinct sexes and designed them for complementary sexual pairing."[42]

The church today might still feel a need to reformulate some aspects of Israelite thought to stress more the compromise of the *active* partner's gendered existence in a homosexual relationship and to give **[378]** equal

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[40]Indeed, in modern Western society 97-98% of all mate selection is determined on the basis of the sex of the partner (whether an other-sex partner or, for roughly 2%, a same-sex partner), before any other factors are taken into consideration and irrespective of whether the relationships will be egalitarian or hierarchical.

[41]The prohibition of cross-dressing in Deut 22:5 as an "abomination" also expresses greater concern for gender differentiation.

[42]Bird suggests that Lev 18:22 and 20:13 do not "echo the creation account" since they do not couple the term "male" (*zākār*) with the term "female" (*n^{e}qebâ*), as in Gen 1:27-28, but use instead the term "woman" (*'iššâ*) (ibid., 151). Her argument is not decisive. Surely the authors of the Levitical proscriptions did not regard the proscription as based on a social construct. Certainly, too, the following reference to bestiality has creation structures in view. Whether or not H knew P and J, it is likely that H operated with a similar cosmogonic account of human sexual origins.

attention to the problems of lesbian intercourse. The church follows such a procedure in other cases. For example, when discussing adultery the OT gives primary attention to the violation of male rights of possession. In the church we do not resolve the problem by throwing out adultery as a category of sinful sexual behavior. Rather, we stress the equal integrity of the woman's rights to a faithful monogamous husband.

Bird on Lev 18:22 and 20:13

The bulk of Bird's discussion of the explicit texts is predictably given over to Lev 18:22 and 20:13.[43] The main points of her argument are as follows.

- Bird contends that the two lists of sexual prohibitions in Lev 18 and 20 "point to changing views of sexual relations in response to changing social, political, and religious conditions." Leviticus 20 is a later composition reflecting increasing urbanization and "a more cosmopolitan milieu, including perhaps the experience of foreign domination under Assyrian and/or Babylonian rule."[44] If we find "a rethinking of categories and a reordering of priorities . . . even within the relatively homogeneous theological tradition represented by the Holiness Code," then Israelite laws were not static, eternal formulations but culturally-bound mechanisms for order.[45]

What can be said in response to Bird's claims? The development between Lev 18 and 20, if one exists,[46] is strikingly meager. All of the sexual offenses listed in 20:10-21 are cited in 18:6-23 and the few offenses that 20:10-21 omits from 18:6-23 may have little or nothing to do with any differences of opinion. Otherwise the only real differences between the two chapters are a reordering of the material and a more specific listing of penalties in ch. 20.[47] Of course, male-male intercourse is strongly proscribed in both chapters. **[379]**

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[43]Ibid., 149-54, and most of 155-64. Cf. Gagnon, *The Bible and Homosexual Practice*, 111-46.

[44]Ibid., 152, 155; cf. pp. 150-51.

[45]Ibid., 155.

[46]Cf. J. Milgrom, *Leviticus 17-22*, AB, 2000, 1765-1767.

[47]Leviticus 20:10-21 orders by severity of punishment. Leviticus 18:6-23 groups together incest laws before treating other sexual offenses. All the offenses in Lev 18 receive the same twofold punishment, cited in the conclusion in 18:24-30: a communal penalty of expulsion from the land and an individual penalty of being "cut off" (the *kareth* penalty). Milgrom argues that the latter refers to God's "termination of [the offender's] earthly line and excision from his clan in the afterlife" (ibid., 1582). Note that if there is development from ch. 18 to ch. 20 it is toward immediate action by the community.

- Bird states that both 18:22 and 20:13 "have entered the growing corpus of priestly law at a relatively late stage," presuming an exilic date. According to Bird, this points to "an attempt to redefine the boundaries of the community in terms of praxis rather than in geographical or ethnic terms."[48]

In response, it should be noted that the dating of the Holiness Code is a matter of some debate. Some (e.g., Milgrom, Knohl, Joosten) have given it a pre-exilic date, given the close links with Ezekiel. We noted above that Ezekiel probably relied on the Levitical proscriptions of same-sex intercourse or a precursor tradition; consequently, the proscriptions were unlikely to have been first formulated in the crucible of the Babylonian exile. Regardless of precise date,[49] all the evidence we have from other OT texts, both explicit and inferential, suggests uniformity on the question of proscribing male homoerotic behavior so far as the biblical authors were concerned.[50] Even if there were any connection between the formulation of these laws and an increasing threat of acculturation, all this need imply, as Bird herself admits, is that "male homosexual relations were [previously] rare, and abhorrent, in the tightly knit patriarchal village life of ancient Israel."[51]

- Bird's key argument for discounting the Levitical proscriptions of homosexual intercourse is that they represent "a nonrational and preethical judgment."[52] On what basis does she make this claim? (1) Leviticus 18:19-30 redounds with the "language of (ritual) uncleanness or defilement," which explains why sex with a menstruating woman and child sacrifice appear "in the same category of offenses as homosexual relations."[53] A problem for Bird is that 20:13 is, as she admits, "without clear cultic associations" and included "in the main series of sexual offenses."[54] (2) Leviticus 20 punishes both sexual partners irrespective of "age, initiative, or consent," "including the animal" that is used sexually.[55] The interest

[48]"OT Contributions," 149, 156.

[49]To be sure, Bird argues that it is "not essential" that one arrives at a precise date so long as one accepts that such laws emerged in the context of "a breakdown of an older, unwritten consensus and increased exposure to and/or involvement with alternative practices" (ibid., 155-56 n. 31). But, in fact, acceptance of such a thesis makes little difference unless Bird can also show that the laws against man-male intercourse represent a marked departure from earlier views—a point that she nowhere demonstrates.

[50]The only real point of disagreement would be on the question of penalty—the same point of fluctuation, and the only point of fluctuation, that we find when moving from OT to NT.

[51]Ibid., 156.

[52]Ibid., 157.

[53]Ibid., 150-51, 155. Bird makes a number of statements that I am not certain hold together in a coherent fashion (cf. pp. 151, 156, 160-61). How can Bird maintain both that the law against male-male intercourse was a reaction to pagan cult practices and that there were no models for such practices in the ancient Near East?

[54]Ibid., 154. Bird, however, attempts to snare 20:13 in the second and third reasons.

[55]Ibid.

> of the sexual laws in Lev 18 and 20 **[380]** "is solely in defining appropriate partners, not in the ethics of sexual relations and relationships."[56] (3) The designation "abomination" (*tôʿebâ*) "is not an ethical term, but a term of boundary marking. In its basic sense of taboo it describes a feeling of abhorrence or revulsion that requires or admits no rational explanation."[57]

On the first point regarding purity, a number of scholars of the Hebrew Bible who have worked extensively with purity law see a distinction between the sex laws in Lev 18 and 20 and typical ritual purity legislation. For example, Jacob Milgrom writes with respect to P (the Priestly Source) and H (the Holiness Code):

> Ritual impurity always allows for purification and atonement. But the sexual abominations of Lev 18 (and 20) are not expiable through ritual. . . . In sum, ritual impurity (P) is always subject to ritual purification, but no ritual remedy exists for moral impurity (H). . . . These radically differing concepts of *ṭumʾâ* 'impurity' is one of the terminological hallmarks that distinguish H from P. . . . H, however, is not negating P. . . Each source speaks of a different kind of impurity: in P, it is concrete, cultic—ritual impurity; in H, it is abstract, inexpungeable—moral impurity. . . . Indeed, intention plays no part whatsoever in [Lev] 15 [P]; whether advertent or inadvertent, they generate impurity. Chap. 20 [H], however, focusing solely on sexual intercourse, is limited to advertences.[58]

Jonathan Klawans not only makes a distinction between ritual impurity and moral impurity within the OT itself but also uses Lev 18 (esp. vv. 24-30) as the lead-off and primary example of a text that addresses moral, rather than ritual, impurity. He contrasts, for example, the moral impurity of sexual sins (Lev 18), idolatry (Lev 19:31; 20:1-3), and bloodshed (Num 35:33-34) with the ritual impurity of such things as childbirth, scale disease, genital discharges, the carcasses of certain impure animals, and human corpses (Lev 11-15 and Num 19). He sees five differences between ritual and moral impurity:

> (1) Whereas ritual impurity is generally not sinful [i.e., generally natural and more or less unavoidable], moral impurity is a direct consequence of grave sin. (2) Whereas ritual impurity often results in a contagious defilement, there is no contact-contagion associated with moral impurity. One need not bathe subsequent to direct or indirect contact with an idolater, a murderer, or an individual who committed a sexual sin. (3) Whereas ritual impurity results in an impermanent defilement, moral impurity leads to a long-lasting, if not permanent, degradation of the sinner and, eventually, of the land of Israel. (4)

[56]Ibid., 162.
[57]Ibid., 152.
[58]Milgrom, *Leviticus 17-22*, 1573-74, 1578, 1756.

Whereas ritual impurity can be ameliorated by rites of purification, . . . moral purity is achieved by punishment, atonement, or, best of all, by refraining from committing morally impure acts in the first place. (5) . . . Although the term impure (טמא) is used in both contexts, the terms "abomination" (תועבה) and "pollute" (חנף) are used with regard to the sources of moral impurity, but not with regard to the sources of ritual impurity.[59]

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Klawans stresses that both ritual impurity and moral impurity are contagions but ritual impurity alone contaminates as a result of physical contact and is rectified largely by purification rites.[60]

To be sure, the law against having sex with a woman during her menstrual impurity is included among the sex laws of Lev 18 and 20. However, even this law may well have had in view morals- and nature-based considerations.[61] There are also good hermeneutical reasons for bracketing this law off from the others.[62]

In the end, there is a striking degree of correspondence between what H places under the rubric of defiling sexual practices and what we in contemporary society regard as immoral behavior. The Holiness Code employs the language of defilement as a way of buttressing its system of morality. By encouraging a fear of pollution and thus of God's wrath, the authors hoped to generate greater visceral revulsion toward certain acts, thereby making the commission of such acts more unthinkable and hence rarer. Such supplementing is especially important in instances where an act would otherwise go undetected or where existing societal sanctions have proven inadequate as a basis for deterrence.[63]

On the second point, namely an alleged penalization of rape victims and prepubescent children in Lev 20, it is hard to see how Bird can be right. Bird's case is simply a dubious argument from silence. The literary and historical contexts suggest an assumption of consent and deliberate intent on the part of the legislators. The refrain "their blood(guilt) [is/be] upon them" (Lev 20:11-13.16.27; cf. 20:9) suggests a measure of consent on the part of parties involved.[64] Admittedly, the formula is also used in the case of bestiality (20:15-16) but this can be explained in a number of ways that

[59]J. Klawans, *Impurity and Sin in Ancient Judaism*, 2000, 26; cf. pp. 41-42.

[60]Defilement of a raped woman refers at most to status degradation through loss of virginity, not to ritual contact-contagion or to moral culpability (cf. ibid., 34).

[61]Cf. Milgrom, *Leviticus 17-22*, 1550; Gagnon, *The Bible and Homosexual Practice*, 137-38.

[62]Cf. Gagnon, "Are There Universally Valid Sex Precepts?," 100-103.

[63]For a fuller discussion of purity matters in relation to Lev 18 and 20, see *The Bible and Homosexual Practice*, 125-28; my essay in: D. O. Via and R. A. J. Gagnon, *Homosexuality and the Bible: Two Views* (Minneapolis: Fortress, 2003), 66-68, 100-101 (with online notes); and my online "Rejoinder to Dan O. Via's Response," pp. 22-28 (http://www.robgagnon.net/2Views/homoViaRejoinder.pdf).

[64]Cf. 2 Sam 1:16; Ezek 18:13 (!); Matt 27:24. Cf. Milgrom, *Leviticus* 17-22, 1747, 1749; Gagnon, *The Bible and Homosexual Practice*, 123.

leaves intact the presumption of legitimate consent for human-human intercourse.[65] **[382]** The priestly distinction between sins which are “inadvertent” or “unintentional” and sins which are committed “high-handedly” or “deliberately” is well known and attests to levels of culpability based on deliberate moral intent.[66] Deuteronomy 22:23-27 penalizes an engaged virgin for having intercourse with another man but only if she fails to cry for help. Even the ordeal for a suspected adulteress in Num 5:11-31 has as its aim the detection of deliberate intent (albeit by divine means). The Middle Assyrian Laws punish only the rapist in a coerced act of male-male intercourse.[67] The clincher is that Ezekiel himself alluded to the prohibitions of male-male intercourse in the Holiness Code (or a precursor document) and he did so in a context that stressed that each person would be culpable only for the sin that he deliberately commits: “He has done all these abominations; he shall surely die; his blood be upon himself” (18:10-14). Thus there is little basis for assuming that Lev 18:22 and 20:13 penalize the victim in rape cases.

In addition, as noted above, it is perfectly understandable that the sex laws in Lev 18 and 20 do not take into account “quality of relationship” factors. It is not that issues of commitment and fidelity were irrelevant for ancient Israelites but rather that they came into play only after certain structural prerequisites were met. Incestuous relationships do not cease to be wrong when they entail a committed partnership between consenting adults; neither do homosexual unions.

As regards the use of the term “abomination” (*tôʿebâ*), a concordance check makes clear the high degree of continuity between the values of Israelite culture and contemporary church standards.[68] Yes, the term connotes extreme abhorrence or revulsion—quite simply, something that “Yahweh hates” (Deut 12:31; Prov 6:16). However, the notion that the term “admits no rational explanation” is false. Acts such as idolatry, witchcraft, adultery, incest, bestiality, child sacrifice, murder, oppressing the poor, and

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[65]For example, it is possible that in 20:16 the words “they shall be put to death, their blood(guilt) is upon them” refer only to the man in 20:15 and the woman in 20:16, not the animals. Or the animal may have been viewed as a willing participant, a moral agent in a limited sense (cf. Gen 6:7; 9:5; Exod 21:28-32; Jonah 3:7-8), especially in cases involving penetration of a woman. In addition, it may have been thought that once an animal mounted a human, it was more likely, through learned behavior, to mount humans in the future. A watered-down notion of intent or consent could have been justified on the grounds that animals were more expendable than humans.

[66]E.g., Lev 4:2.13-14.22-23.27-28; 5:2-5.15.17-18; 6:4; 22:14; Num 15:22-31; 35:15; Deut 4:42; 19:4; Josh 20:3.9.

[67]Nissinen, *Homoeroticism in the Biblical World*, 25-27; Gagnon, *The Bible and Homosexual Practice*, 45-47.

[68]*The Bible and Homosexual Practice*, 117-20.

robbery are all regarded as "abominable" by one or more biblical authors. Does Bird want to argue that these authors had no good reasons for their abhorrence (in effect: "I think idolatry, bestiality, etc. are abominable but I have no idea why")? In the case of **[383]** the proscription of homosexual intercourse, even Bird acknowledges an articulable reason behind the proscription:

> . . . homosexual activity carried a sense of male shame for the partner "forced" to assume the "female" role (or shamelessness for the male who assumed it voluntarily). . . . Behind the prohibition is, I think, a fear of deviation from the socially dominant pattern of male-female intercourse, a biologically favored pattern grounded in reproductive needs but by no means limited to them. . . . In the final analysis it is a matter of gender identity and roles, not sexuality.[69]

She may be off-target in defining the motivation for the proscription. But the motivation so defined does not count as irrational, if by irrational we mean something like being afraid of one's shadow.[70]

Bird's primary explanation for the proscription of male-male intercourse is misogyny. However, the maintenance of male dominance over women does not function well as the governing principle for the other sex laws in Lev 18:6-23. The incest laws in 18:6-18 seem to be at least as interested in putting limits on predatory male sexuality and protecting females as in asserting the authority of the paterfamilias. The bottom line appears to be a structural concern that a man not have sex with the "flesh of his flesh," that is, with a woman who is too much of a familial "same" (18:6). In effect, this is an argument from nature. Priority is given to a sufficient degree of differentiation at the level of kin relatedness. The sex laws that make up the next section of Lev 18 (vv. 18:19-23) also give priority to structuralist arguments from nature.

The two bracketing sets of laws—concerning menstrual sex (18:19) and bestiality (18:23)—have nothing to do with the maintenance of male hierarchical authority. Sex between a man and a menstruating woman produces a discordant mix of physiological functions. The man is trying to work the "field" by sowing "seed" when nature clearly signals a time for the "field" to lie fallow in order to renew itself. God has given the time of menstrual impurity so that a woman's body can rest from its weakness, free from male intrusion.

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[69]"OT Contributions," 157.

[70]Bird does refer to "a fear," but fears are not inherently irrational.

The prohibition of bestiality is not just about human dominance, let alone male dominance, over the animal kingdom. For since (as Bird and others argue) penetration is a symbol of dominance, a male human conceivably could penetrate a female animal and still demonstrate that dominance. Rather, the main issue is a "mixing" of two species that should never be mixed, as is evident both from the use of the term *tæbæl* (probably related to *bll* "mix, confuse") in 18:23 and from the prohibition of mixing different kinds in 19:19. The use of the term *tæbæl* in 20:12 for incest between a man and his daughter-in-law suggests, too, **[384]** that this concept of abhorrent "mixing" is not limited to the cases of bestiality and only one type of incest, but rather applies derivatively to the whole range of proscribed sexual acts in Lev 18 and 20.[71] As with the law against sex with a menstruating woman, an argument based on structures ordained in creation or nature lies in the background.

The prohibition of sex with a neighbor's wife in 18:20 is often cited as an example of male license since it says nothing about sex between a married man and women who are not the wives of other men. Nevertheless, the point of the law is to put at least some restrictions on male sexual activity, even as it implicitly rules out all sexual activity for wives outside of the marriage bond. In spite of the law's loophole for men, adultery can be viewed in the context of the surrounding sex laws as a bad "mixing," insofar as it disrupts the self-contained "one-flesh" union constituted by the sufficient complementary pairing of a man and a woman in the covenant of marriage.

The prohibition of child sacrifice in 18:21 is the only prohibition in Lev 18 that does not directly entail an act of illicit sexual intercourse. Consequently, it does not fit easily under the rubric of an affront to structural congruity given in creation or nature. The authors of Lev 20 appear to recognize this, for they separate the proscription of child sacrifice (vv. 2-5) from proscriptions of wrongful sexual intercourse (vv. 10-21). The law against child sacrifice in 18:21 bears a tangential, but real, relationship to the other proscribed sex acts in 18:19-20.22-23. Child sacrifice disrupts the natural productivity that lawful sexual unions are designed to promote ("be fruitful and multiply," Gen 1:28).

The prohibition of male-male intercourse in 18:22 fits nicely with an overall concern in Lev 18:6-23 for structural congruity given in creation or nature. Male-male intercourse involves a merger of two discomplementary

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[71]This observation undermines Bird's contention that the term *tæbæl* in 18:23 *contrasts* with the term "abomination" in 18:22 and the context of defilement in ch. 18 (natural order vs. social order; ibid., 157 n. 32). How can there be a contrast when the summary in 18:24-30 characterizes *all* the preceding sex acts in 18:6-23, including bestiality, as "abominations" by which people "defile" themselves?

sexual "sames" rather than two complementary sexual "others." Hence the wording of the prohibition: a man "shall not lie with a male as though lying with a woman." Why? A man does not represent a complete sexual whole. His sexual counterpart or complement is a woman, not another male. When he has sex with another male, he puts that male in the category of female so far as sexual intercourse is concerned. Such intercourse wrongly attempts to view a person of the same sex as a sexual "other half," when, in fact, that person is **[385]** incongruous in terms of anatomy, procreative potential, and an array of personality features.[72]

- Another factor that Bird argues limits the usefulness of Lev 18:22 and 20:13 is "their exclusively male orientation," suggested to her by the male address in 18:22 and absence of a prohibition of female-female intercourse.[73] "If the primary issue in the condemnation of homosexual acts is male honor, then female homoeroticism is of no interest or concern."[74]

In response, *all* the sexual laws in Lev 18 and 20 have a "male orientation" in that they address men in the second person.[75] The question is whether this observation should lead the church to (a) discard its opposition to incest, adultery, and bestiality or (b) merely round out the biblical prohibitions by adding a direct address to women. Why not just expand the prohibition of male-male intercourse to exclude female homoerotic behavior? Certainly this was the approach taken by Paul in Rom 1:24-27 in arguing that homoerotic intercourse was "dishonoring" or "degrading" to the bodies of males and females alike.

As for the absence of an explicit prohibition of same-sex female intercourse, arguments from silence are always tricky.[76] Bird's presumption that lesbian intercourse is left out because it does not threaten "male honor" does not explain why in the Greek and Roman world female homosexuality was often considered more appalling than male homosexuality—precisely because of the direct challenge it posed to male supremacy. Two other

[72]Bird and I are agreed that non-procreative sexual activity is not the main concern in the homosexuality prohibitions (ibid., 157-58; also, 166 n. 53). Contrast Milgrom (*Leviticus 17-22*, 1568; also, 1530-31, 1567-68, 1785-86), who also makes the far-fetched suggestion that Lev 18:22 and 20:13 proscribe only *incestuous* male-male intercourse *practiced in the Holy Land* (ibid., 1569, 1786-88, 1790).

[73]"OT Contributions," 154.

[74]Ibid., 152 (adopting Nissinen's view).

[75]The only exception, and that merely in part, is the semi-passive, third-person reference to a woman "not standing/appearing before an animal to lie with it" in 18:23b. The corresponding reference in 20:16 uses a slightly more active verb of "approaching."

[76]For example, if Rom 1:26 had not been preserved in the church, scholars might have concluded based on 1 Cor 6:9 and 1 Tim 1:10 (which proscribe only male homosexual intercourse) that Paul did not regard female homoerotic relations as morally repugnant.

explanations strike me as more likely: the absence of concrete cases of lesbianism in Israelite and/or Canaanite society (lesbian intercourse is scarcely mentioned in ancient Near Eastern texts); and the primacy of penetration for defining when sexual intercourse definitively takes place, obviously absent from lesbian eroticism.[77]

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Bird on the Genesis Creation Accounts

According to Bird, the creation accounts in Gen 1-3

> *assume* the common pattern of sexual relations between male and female as the basis for the reproduction of the human species—as of the animal species (Gen. 1:22, 27-28) . . . ; they further *assume* that the sexual drive that unites man and woman is the basis for marriage (Gen. 2:24). They do not *prescribe* any behavior or institution. They are etiologies, explaining why things are the way they are--and in Genesis 3 explaining why the woman is subordinate to the man (in ancient Israelite society), not why she *should* be.[78]

Bird is correct that etiologies "explain why things are the way they are." Yet, while etiologies need not have anything more than a descriptive function, some clearly do function prescriptively as well. For example, the story of God resting on the seventh day in Gen 2:2-3 explains *why* Israelites rest on the seventh day but it also clearly implies that they *should* rest on the seventh day. In this case, God's actions in primordial time provide a precedent for the way humans should behave.[79] Thus, too, God's creation of humankind "in his image, . . . male and female he created them" (1:27) leads to the *command* that humans are to "be fruitful and multiply," partly as a means to the end of exercising dominion over the creatures of the earth.

Genesis 1:27 clearly brings into close connection creation "in God's image" and creation as "male and female":

> And God created the *'ādām* (human, earthling) in his image,
> in the image of God he created it (or: him);
> male and female he created them.

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[77]This might reduce the penalty for lesbian behavior but it would hardly lead to its approval. For a fuller discussion, see *The Bible and Homosexual Practice,* 142-46.

[78]"OT Contributions," 167.

[79]As Brevard Childs notes, "an act in the past simply established a *precedent* which assumed an authority for later generations within a particular community" ("The Etiological Tale Re-examined," *VT* 24 [1974], 393).

It is true, as Bird notes, that animals too are differentiated into two sexes. But sexual differentiation in the case of the human creation participates in "the image of God." If sexual intercourse is to be had, then there are ways of having it that would efface God's image and ways that would enhance it. Humans are angled or faceted expressions of the image of God, "male and female." They have integrity or wholeness as God's image, independent of sexual activity. Yet, when they engage in sexual activity, they engage another in their sexual particularity, as only one incomplete part of a two-faceted sexual whole. Ignoring this particularity effaces that part of the divine image stamped on human sexuality. The Priestly writers viewed procreation as one dimension of male-female complementarity (1:28), though undoubtedly **[387]** as only one such dimension. It is not likely that P would have regarded an infertile male-female union as the moral equivalent of a homoerotic union. In fact, Jesus interpreted Gen 1:27 as the basis not merely for procreative acts but also for the entire holistic joining of two into "one flesh." Because Bird places so much emphasis on misogyny as a motivating factor for an other-sex requirement, it is important to note here that Gen 1:26-31 stresses male-female compatibility, not male dominance over women. Male and female are depicted as complementary expressions of the image of God. And both are called on to manage God's creation.

Genesis 2:18-24 brings the male-female requirement into even sharper relief than Genesis 1:26-28.

> [18]And Yahweh God said, "It is not good for the *'ādām* to be alone; I will make for him a helper as his counterpart" . . . .
>
> [21]And Yahweh God caused a deep sleep to fall upon the *'ādām*, and he slept; and he took one of his sides (or: ribs) and closed up its place with flesh. [22]And Yahweh God built the side (or: rib, *ṣelā'*) that he had taken from the *'ādām* into a woman and brought her to the *'ādām*. [23]And the *'ādām* said,
>
> "This at last is bone from my bones and flesh from my flesh;
> to this one shall be given the name 'woman' (*'iššâ*),
> for from man (*'îš*) this one was taken."
>
> [24]Therefore a man (*'îš*) shall leave his father and his mother and become attached (or: joined, united) to his woman/wife (*'iššâ*) and they (or: the two) shall become one flesh.

What is the image here? The term *ṣelā'* is traditionally rendered "rib." Cognate words in other ancient Semitic languages indicate this is a plausible translation here, but so too is "side."[80] Indeed, as Heinz-Josef Fabry notes in

[80]Ugaritic *ṣlʿ*, "rib," Akk. *ṣēlu*, "rib, side," Syr. *ʾelʿā* and Eth. *seˡlē*, "plank," Arb. *dilaʿ*, "rib, side," and *dilʿ*, "ridge, flank (of a mountain)." Ultimate derivation may be from a Canaanite loanword that found its way into Late Egyptian, *ḏrʿt*, "plank, board" or something similar (of cedar). *HALOT*; H.-J. Fabry, צֵלָע,

TWAT: “Sicher aber ist, wenn *ṣelāʿ* „Rippe“ bedeutet, dann nur hier [in Gen 2:21-22]! Diese semantische Singularität gebietet die Ausschau nach einer anderen Lösung.”[81] In 2 Sam 16:13 the word refers to the “side” or “flank” of a hill or mountain. Elsewhere its meaning aggregates around the generic sense of “side” in connection with various parts of sacral architecture.[82] The Septuagint commonly renders *ṣelāʿ* with πλευρά (including Gen 2:21-22), a term that **[388]** occasionally means “rib” but usually “side” (LSJ).[83] Fabry suggests that the Yahwist uses *ṣelāʿ* in Gen 2:21-22 to designate “einen (knochernen) Körperteil des Menschen” with an ambiguous word that, at the same time, evokes associations with “für Bestand und Funktion entscheidende Seitenteile des Heiligtums. . . . theologisch soll sie den Menschen darstellen, der nur als Mann und Frau seine ihm schöpfungsgemäße vollendete Funktionsfähigkeit erhält, der als Mann und Frau zum Tempel Gottes bestimmt ist.”[84] While the connection with the temple is intriguing, there is, *pace* Fabry, no reason to restrict the meaning to a specific bony body part. The formula in Gen 2:23a, “This at last is bone from my bones and flesh from my flesh,” suggests both bone and flesh pulled from the earthling. “Side” seems a plausible meaning. It is in this sense that Rabbi Samuel bar Naḥman (third century C.E.) apparently took the term: “When God created Adam, he created him facing both ways; then he sawed him in two and made two backs, one for each figure” (*Genesis Rabbah* 8.1).[85]

The image presented in Gen 2:21-22 appears to be that of an originally binary human, or one sexually undifferentiated, who is split down the side to form two sexually differentiated counterparts. Marriage is pictured as a

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TWAT 6:1060. Fabry remarks: “Die Grundbedeutung des Wortes ist im Hebr. nicht klar. . . . Auch die wenigen altoriental. Belege im Ugar. . . ., im Akk. . . ., Syr. . . ., Äth. . . . helfen kaum weiter.” (ibid.).

[81] Ibid., 1061.

[82] Cf. ibid., 1062-64; *HALOT*.

[83] In the LXX the word usually has the sense of “side”; cf. Jdt 6:6; Sir 42:5. “Sides” or “ribs” is possible for Sir 30:12; “rib” or “tusk” for Dan 7:5. The most important occurrence is 4 Macc 18:7, which alludes to Gen 2:21-22. A mother tells her seven sons that she protected her virginity by not going outside her father’s house: “I guarded the built-up *pleura*.” Most render “rib” but that begs the question (cf. 4 Macc 6:6; 11:19); similarly, *Apoc. Mos*. 29:10; 42:1. In the NT the word is used of the piercing of Jesus’ “side” (John 20:20.25.27; Matt 27:49 v.l.) and of an angel’s waking of Peter by striking him on the “side” (Acts 12:7).

[84] Fabry, צֵלָע, *TWAT* 6:1062.

[85] Philo of Alexandria discusses the creation of woman in these terms: “Love . . . brings together and fits into one the divided halves, as it were, of a single living creature” (*Creation* 152). His discussion of Gen 2:21-22 in *Alleg. Interp.* 2.19-21 appears to take as its starting point the meaning of “side,” even if it ends in an allegorical interpretation: “And which *side* did he take? For we may assume that only two are indicated. . . . Did he take the left or the right (side)?” A Greek fragment of the *Book of Jubilees* refers ambiguously to God taking “a certain part of the side (μέρος τι τῆς πλευρᾶς) of Adam” to form Eve (3:5).

reconstitution of the two constituent parts, male and female, that were the products of the splitting.

In this depiction same-sex erotic unions are precluded as a matter of course. Why? The reason is that the only differentiation created by the splitting is the two sexes, male and female. Accordingly, the most essential requirement of human sexual relations—the only one that restores the original sexual unity—is that there be a male and a female to effect this *re*-union. "Becoming one flesh" is not just about intimacy, **[389]** romance, raising a family, and generally sharing one's life with another in a lifelong union. Yes, it is those things but it is also more: It is about *re*uniting male and female into a sexual whole. This reunion cannot come about artificially, that is, through the contorted gender nonconformity of one or the other partner. Rather, it transpires truly, by means of the remerging of the divided constituent parts: essential male and essential female. Neither party need, or can, compromise gender integrity to effect the reunion. God specifically designed men and women for a holistic fittedness in terms of anatomy, physiology, distinctive stimulation patterns, and relational expectations. A same-sex sexual partner does not supply the missing sexual complement, no matter how hard he or she tries. Authorization of homoerotic unions requires a different kind of creation account—something like the story of human origins spun by Aristophanes in Plato's *Symposium* (189C-193D), in which an original male-male, female-female, and male-female are each split down the side and thereafter long for the other half.[86] As with Gen 1:26-28, Gen 2:18-24 is not a text about keeping women down. Adam yearns to rejoin, in one-flesh union, with his other half, his sexual "counterpart" and "helper."

It is hard to believe that the Yahwist, who emphasizes in the stories of Ham and Sodom the shame of men being lain with as though a woman, would have viewed Gen 2:18-25 as void of any proscriptive implications for same-sex intercourse. Moreover, it is strange that Bird, who operates out of the Christian tradition, should regard Gen 1-2 as merely descriptive when Jesus himself clearly interpreted Gen 1:27 ("*male* and *female* he made them") and 2:24 ("therefore a *man* . . . shall become joined to his *woman* and they will become one flesh") as having normative and prescriptive significance for matters of human sexuality. Paul too had the same creation texts in view when he spoke against same-sex intercourse.[87]

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[86]For text and commentary see Gagnon, *The Bible and Homosexual Practice*, 353-54.

[87]On the creation texts and their use by Jesus and Paul, see further my discussion in: *The Bible and Homosexual Practice*, 56-62, 193-96, 289-93; *Homosexuality and the Bible*, 61-62; "Does the Bible Regard Same-Sex Intercourse as Intrinsically Sinful?" in *Christian Sexuality*, ed. R. E. Saltzman, 2003, 106-55, esp. pp. 111-29, 132; and "A Comprehensive and Critical Review Essay of *Homosexuality, Science, and the 'Plain Sense' of Scripture*, Part 2, *HBT* 25 (2003), 207-13, 243-46.

Bird on Wisdom Tradition and Appeals to Nature, Science, and Experience

Bird argues that appeals to experience and science are justified by the Bible itself, especially by "the wisdom literature, which affirms wisdom as a path to piety and observes creation . . . for signs of the **[390]** nature and designs of God." "The book of Job offers a model for affirming the integrity of individual experience," while Qohelet (Ecclesiastes) "demonstrates the Bible's openness to the skeptic." "Experience must be allowed to speak"; indeed, "it must be aided in gaining a hearing when it is unpopular, unorthodox, or has been suppressed." Yet it must also be tested to see whether it is conducive to "health and wholeness."[88]

Again there are numerous problems with Bird's argument.

First, nowhere in the wisdom literature do we find justification for a massive overhaul of moral standards. Both Job and Ecclesiastes caution readers against making facile identifications between human suffering and sin, good behavior and reward. But neither advocates that basic moral standards, sexual or otherwise, should be radically reassessed. Both in their final canonical forms also end by reaffirming the rightness of God's judgments and commands. The book of Proverbs repeatedly urges readers to recognize the wisdom of keeping God's commandments and laws, including those regarding conventional sexual morality.

Second, the "experience" of biblical authors and of church leaders for almost two millennia has been decidedly against homosexual intercourse. This remains the dominant voice of experience in the worldwide church.

Third, creation and nature provide strong clues of the inherent discomplementarity of same-sex erotic unions. When we look to the way in which males and females are made, we are left wondering why God made so few provisions for same-sex intercourse, in terms of anatomy, procreative potential, and other complementary sexual features that are promising for healthy gender development and lifelong, monogamous sexual unions. What is well adjusted about erotic infatuation for one's own sex, for the body parts and other distinctive sex features that one shares with the object of erotic desire?

Fourth, as Bird herself admits, the case for homosexual behavior based on science and experience is at best inconclusive. The best scientific evidence suggests that environmental factors—including family and peer dynamics, geography, education, degree of cultural sanction, early sexual experimental,

[88]"OT Contributions," 168-69.

and incremental choices—play a significant, and perhaps dominant, role in the development of homosexuality. High rates of sexual promiscuity, short-term relationships, disease, depression, and other negative health effects cannot be blamed entirely, or even primarily, on societal homophobia.[89]

Fifth, based on Bird's reasoning, there will be a number of practitioners of deviant sexual behavior who will wonder why their experience **[391]** is not also being heard in the church—indeed, "aided in gaining a hearing" since they are "unpopular, unorthodox," and have been "suppressed." Here we can include persons who engage in consensual adult incest, plural marriage, and adult-adolescent or even adult-child sex. No doubt Bird would respond that such sexual behaviors are inherently harm-producing. But she cannot *prove* scientifically measurable harm to all participants in all circumstances. If Bird is to be consistent, she needs to be more open to hearing the testimony of such participants, "testimony that may not be dismissed as deformed . . . or as incompatible with Christian identity and silenced within the Christian community."[90]

Bird on the Authority of Scripture

Bird thinks that the Bible has some priority as "a foundational document." "But it is the starting point of the church's conversation, not the end, a conversation partner, not an oracle." Given the dearth of female voices in Scripture, Bird contends, "the testimony of Scripture may not be absolutized, or viewed as final revelation." The Bible does not contain "timeless rules or principles"; indeed, "the Bible is characterized by an irreducible pluralism." [91]

The problem is that Bird herself operates with "timeless rules or principles." One of these is the principle of women's equality and the attendant rules required to make such a principle a reality. Another is the right of homosexuals to engage in committed, adult-consensual relationships. Although Bird frames the homosexuality debate in the church today as a battle between naive proponents of "timeless rules or principles" and historically sensitive proponents of "changing social practices and values," the reality is that both sides occasionally appeal to timeless or absolute values that should trump prevailing cultural norms, subject to some historical contextualization. Of course, some biblical standards are time-

[89]*The Bible and Homosexual Practice*, 396-430, 452-60, 471-85; *Homosexuality and the Bible,* 103 (with online notes 146, 149, 151, 153, and 167).

[90]"OT Contributions," 169.

[91]Ibid., 143-45.

restricted and contingent. The witness of the early church to the Mosaic code provides ample evidence of this point. The real issue is whether <u>any</u> biblical (or non-biblical) values, principles, or rules carry transcultural, normative force. And if any do, then Bird has to reformulate the way in which she casts the debate.

Bird's ruling metaphor for the Bible's place in contemporary theological and ethical deliberation, the church's "conversation partner," will strike many as far too weak a formulation of biblical authority. A conversation partner does not issue commands or pretend to lay out the normative matrix for beliefs and practices. The Bible does. The Bible makes **[392]** demands on readers that far outstrip the role of a mere "conversation partner." To say this is not to ignore the continuing role of the Spirit in the church or the tensions that exist within the canon itself. But it does raise the question of where or with whom the burden of proof lies, and whether Scripture is just *a* primary resource for deliberation or *the* main resource.

Bird believes that even though "we are currently in a situation where neither science nor experience has achieved a consensus concerning the nature of homosexuality and its individual and social consequences," the church should take its cue from Israel's preparation during its wilderness wanderings: we should be about the business of "trying out new options." Those who oppose such "new options" are likened to the Israelites who preferred return to Egypt over venturing forth to the promised land.[92]

This application is a considerable stretch of the biblical text. Scripture does not present the exodus-wilderness-conquest experiences as a time for "trying out new options" in terms of Israel's theological and moral heritage. If that were the case, then the construction of the golden calf and the religious compromises with foreign wives should have been extolled as good first efforts. These narratives show great concern for fidelity to Israel's religious heritage in the face of pressures to conform to alien beliefs and practices—which concern also underlies Gen 9:20-27 (Ham); 19:4-11 (Sodom); and Lev 18:22 and 20:13.

Bird shows an aversion to seeking unity in the Christian Scriptures in any but the most vague of senses. Yet, despite her statement regarding the Bible's "irreducible pluralism," there is complete canonical unanimity on the importance of an other-sex prerequisite for wholeness in sexual relationships. There simply are no "dissident voices within the canon" on the subject. In the absence of conclusive evidence from science and experience, Bird contends that the church can only reach the "promised land" if it

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[92]Ibid., 169-70.

dismisses that unequivocal witness of Scripture. The burden of proof is on those who uphold the overwhelming witness of Scripture, not on those who oppose it. Under this premise it is difficult to see what kind of meaningful authority Scripture would have within the community of faith, irrespective of Bird's disclaimer that this "does not mean that the Scriptures lack authority."[93]

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Conclusion

Although Bird has made one of the best cases to date for how to read the OT in a manner sympathetic to same-sex intercourse, her arguments have been found significantly wanting in every major area of discussion: her contention that the Bible is interested only in acts, not affections; her restriction of "explicit" texts on homosexuality to the stories of Sodom and Gibeah and the laws in Lev 18:22 and 20:13; her attempt at disqualifying the relevance of Deuteronomic and Deuteronomistic texts on homosexual cult prostitution; her belief that the authors of the stories of Sodom and Gibeah could not conceive of consensual male homoerotic acts and were more interested in gender stratification than gender differentiation; her attempts at dismissing the Levitical proscriptions as nonrational and preethical; her argument that the creation accounts in Genesis lack any prescriptive implications for the heterosexual dimension of marriage; her appeal to the wisdom tradition as a basis for deviating from the united biblical witness; and her understanding of what biblical authority is and is not about. Given the deficiencies in her arguments, and given too that her essay is one of the best from a pro-"homosex" perspective, it would appear to be very difficult to discount in contemporary religious debate the OT's strong negative witness regarding homosexual behavior.

Abstract

Phyllis Bird's important article on the Old Testament's contributions to Christian ethical discussion of homosexuality argues that anti-homosex OT texts are based on an unacceptable worldview, given their disinterest in affective bonds and attention to male honor. This essay points to major problems with Bird's article. First, Bird fails to distinguish between affective

[93]Ibid., 145.

bonds, in which the OT shows a limited interest, and structural prerequisites for sexual activity. Second, Bird misconstrues the story of Sodom as indicting only coercive male-male intercourse by neglecting Gen 9:20-27 and Ezek 16:49-50, failing to connect Judg 19:22-25 and the *qᵉdešîm* texts, and misreading the effect of introducing such variables as consent and equality. Third, Bird's attempt at dismissing the Levitical prohibitions as nonrational and preethical falters because she miscasts Lev 18 and 20 as ritual purity legislation, errs in assuming punishment of coerced participants, and fails to recognize that Lev 18 and 20 give greater weight to structuralist arguments from nature than to unbridled male dominance. Fourth, Bird inaccurately portrays Gen 1:27 and 2:21-24 as void of proscriptive implications for same-sex intercourse. Fifth, Bird's appropriation of the wisdom tradition overlooks the many ways in which such this tradition speaks against her position. Sixth, despite Bird's claim to the contrary, her approach does not attribute meaningful authority to Scripture as Scripture.