Incest in Medieval Judaism

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II. Judaism

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The biblical term glūy ḫerav̄h (lit. uncovering nakedness), akin to the Latin term incestus, has a generic meaning that comprises a wide range of sexual misconducts such as homosexuality, bestiality, adultery, and intra-kin coupling. Only later, in talmudic literature, was the term glūy ḫarav̄h extended to include fornication and immodest dress.

This article is confined to incest in the narrow sense of sexual unions between kin members. Contrary to other types of incest, the licentiousness of this conduct is portrayed as a combination of the identical, i.e., sexual union between two persons who share a component that is essential to their being, whether tangible (sperm, breath, blood, bone, flesh, milk, etc.) or intangible (soul, name, etc.). Does this phenomenon epitomize the predicament of incest or is it only a definitional constituent of incest? This question hovers over the Jewish musings on close-kin marriages during the Middle Ages.

1. The Hermeneutical Challenge. The various reflections on the ban of close-kin marriages are revealed through legal discussions on illegal marriages and their aftermaths, alongside commentaries on the biblical laws of incest and the biblical stories that contain incestuous behavior. Such commentaries struggle with the fact that in several cases the behaviors of the patriarchs, and other significant figures, seem to contradict the laws of incest, detailed in Lev 18 and 20. Such are the stories of Lot’s daughters (procreation with their father; Gen 19:30–38), Abraham (marriage to his half-sister, Sarah; Gen 12:10–20, 20:12), Jacob (marriage to his first cousins, who are also sisters to each other; Gen 29:16–35), Nahor (marriage to his brother’s daughter; Gen 11:29), Judah (had intercourse with his daughter-in-law; Gen 38), Moses’ father, Amram (married his sister, Yoḥeh ; Gen 6:20), and David’s daughter, Tamar (conditioned her marriage to her half-brother, Amnon, upon the consent of their father; 2 Sam 13:12–13).

On the one hand, a prominent trend of interpretation did not obscure the intra-textual inconsistency between the legal instructions and the patriarchs’ exemplary stories, and thus did not avoid criticizing Jacob for marrying two sisters. Some teshuva, i.e., sexual union among two persons who share a component that is essential to their being, whether tangible (sperm, breath, blood, bone, flesh, milk, etc.) or intangible (soul, name, etc.). Does this phenomenon epitomize the predicament of incest or is it only a definitional constituent of incest? This question hovers over the Jewish musings on close-kin marriages during the Middle Ages.

On the other hand, some other commentators approached this tension apologetically. The possibility that Rachel and Leah were only half-sisters is mentioned as an optional interpretation that softens Jacob’s sin (this view is rejected by Abraham Ibn Ezra [1089–1164] in his commentary to Lev 18:18). Additionally, some scholars claimed for the exclusion of Jacob, and other patriarchs, from the levitical laws. Thus, e.g., Ibn Ezra and Nahmanides (1194–1270) argued that biblical incest laws were valid and applicable only within the Land of Israel, so being away from the territorial jurisdiction of the Land of Israel Jacob could legally marry two sisters, Abraham his stepsister and Amram his aunt (Ibn Ezra on Deut 31:16; Nahmanides on Lev 18:25). Similarly, Nahmanides provides another apologetic argument according to which Gentiles, as well as the pre-Sinai patriarchs, do not have kin ties and thus their marriages to relatives are not considered incest by all means (Nahmanides, Ḥiḍrūdūhim [Novellae] to Dĕr 98a based on the talmudic idea that God had dissolved kin ties among the Gentiles (i.e., made them “fatherless” based, in turn, on Ezek 23:20).

In the kabbalistic tradition Jacob’s marriages were not only excused, but rather justified based on the theories of perfection and emanation in which the patriarchs are viewed as representatives of the divine emanations (afriṭot) in their initial united perfection. Therefore, as Isaac the Blind (1160–1235) argued, incestuous unions became illicit only after the ontological ramification and they aim to ensure diversity in the world of separation. In a Provençal epistle (written 1250–75 and ascribed to Yehosḥel Gaon) it is claimed that in the messianic era close-kin unions will be again licit and demonstrative of unification and perfection (Idel: 152).

The Bible identifies incestuous acts as depravity and abomination (zimmah, tĕrav̄h), an infringement on the divine order of reality, a matter of defilement and impurity that might cause existential dangers and sufferings, as the Canaanites were vomited from the Land of Israel (see Lev 18:17, 24–30, 20:14). Nevertheless, biblical descriptions do not provide a clear explanation of these restrictions nor do they provide a clear account of the definition of kinship.

For some medieval thinkers, the combination of the identical is indeed the essential problem of close-kin marriages. Accordingly, much of their thought on incest is directed towards the fundamental principles that establish the relatedness of individuals and the practical implications of these principles. For others, the combination of the identical is not the cause of the prohibition, but rather its description. Close-kin marriages are therefore censured on the basis of the merits of exogamous marriages and the disadvantages of endogamy. Such accounts, therefore, address the morality of close-kin unions rather than the nature of kinship.
While Rabbanite commentators, who took for granted the talmudic conception of kinship, inclined to explain the prohibitions and their purposes, Karaite authorities, who celebrated scriptural reasoning, tended to approach the fundamentals of kinship and were much more open to legal modifications followed by perceptual changes.

2. Reasons for the Prohibition. The various explanations of the prohibition of close-kin marriages can be divided into several categories:

a) Consequential Reasons. These take account of views according to which endogamy is bad and exogamous marriages are desirable for moral or social reasons. This type of reasoning includes: (1) The “alliance theory,” i.e., the designation of the moral or religious merits of marrying distinct social groups. This type of reasoning is traceable to Philo’s Idea (Ibn Ezra, 1255–1340), point out the biological failure of close-kin unions: “Scripture outlawed such sexual union because the outcome of close-kin copulation is defective and so the [human] species will no longer exist” (Baḥya b. Asher, Commentary on the Torah 2:509).

(2) Some thinkers, such as Baḥya b. Asher (1255–1340), point out the biological failure of close-kin unions: “Scripture outlawed such sexual union because the outcome of close-kin copulation is defective and so the [human] species will no longer exist” (Baḥya b. Asher, Commentary on the Torah 2:509).

(4) In Anan’s (8th cent.) Book of Commandments, kinship is depicted as a corporal trait, embodied through procreation (Harkavy: 91–92). Therefore relatives are defined as individuals who share ancestral relations, either directly (parents, children, and siblings), or indirectly (stepsiblings who share the same parent or whose different parents have produced a child).

b) Theosophical Reasons. In various theosophical descriptions, mainly in kabbalistic writings, incest is a mythical phenomenon not necessarily negatively charged. In these writings, prohibitions on close-kin marriages are explained in relation to the notions of the divine emanations (sefirot) that symbolize familial relationships. Close-kin bans, therefore, demonstrate the gap between the heavenly and earthly worlds, and between divine and human behavior. The common dictum among the kabbalists “incestuous unions are a royal scepter” (taryot hen sharvito shel melekh) reflects the perception of incest as a heavenly prerogative, not to be imitated and practiced by human beings.

c) Agnostic Approaches. The Mishnah lists the laws of incest (forbidden unions) as one of three secret topics (street Torah), along with the account of Creation (ma’aleh nissim) and the account of the Chariot (ma’aleh merkahav), not to be taught regularly and not to be revealed to laypeople, who might misunderstand and misbehave (mHag 2:1). Nevertheless, several talmudic expressions approve the reasonableness of incest bans (Bam 67b). Against this background, some medieval thinkers treated incest regulations as laws that lack reason. Such agnostic legal reasoning is articulated through the terms gezrat melekh (lit. royal decree) and gezrat ha-karuv (lit. scriptural decree), both of which are ascribed occasionally by medieval authorities to the prohibitions of marrying close relatives. Conceptually, agnostic approaches to incest regulations appear in two versions—(1) The claim that some divine commandments intrinsically lack rationale (ontological agnosticism) or (2) that these commandments are principally intelligible, though in practice their rationale is unknown or incomprehensible (epistemological agnosticism). Some commentators argued for ontological agnosticism (Yaḥya b. Judah: 38) regarding the reasons of incest laws while others embraced epistemological agnosticism (Naḥamaides in his commentary on Lev 18:6).

3. The Karaite Understanding of Kinship. The definition of kinship and its conceptual components was a major theme in medieval Karaite thought. Karaite views on this topic show three stages of development:

(a) In Anan’s (8th cent.) Book of Commandments, kinship is depicted as a corporal trait, embodied through procreation (Harkavy: 91–92). Therefore relatives are defined as individuals who share ancestral relations, either directly (parents, children, and siblings), or indirectly (stepsiblings who share the same parent or whose different parents have produced a child).

(b) In the catenary theory (orat ha-rikkuv) that was embraced by Karaite authorities between the late 9th and the 11th centuries (among them Yaʿqūb al-Qirqisānī, Sahl b. Matsliḥah and Yefer b. Eli) kinship is conceptualized through the notion
of “joint selfhood.” According to this perception, relatives are parts of “one self” or in their terms – “one soul” (nefesh aḥat). Hence, kinship is portrayed as joint selfhood that links individuals collaterally, blood-relatives as well as relatives by marriage. In fact, the idea of kinship as “one soul” resonates with the principle of affinity in the ecclesiastical legal tradition in which the marital bond incorporates married individuals to become a unified and inseparable person – “one flesh” (une caro). Yet, while the ecclesiastical tradition stressed the corporal metamorphosis through marriage, the “catenaries’ underscored the spiritual aftermath of the marital union as a matter of identity and selfhood.

(c) Karaite jurists of the late 10th and 11th centuries (Joseph b. Abraham, also known as Yūsuf al-Baṣṭ (d. 1040) and Yeshu’ah b. Judah, also known as Abu al-Fara) Farkhan ibn Asad (11th cent.) refuted the catenary theory and the scriptural reasoning that launched the notion of joint selfhood (cf. Moses Bashyatsi (1537–55), Sefer Avaset 62). They reduced the extended range of prohibited relatives and established the biblical ban upon a structural rationale.

Instead of the notion of joint selfhood, they theorized kinship through the metaphor of a growing tree. The botanic image not only conceptualized kinship as organic lineage, but also explained the problem of incest with reference to the features of a growing tree; close-kin marriages in fact destroy the natural order of the family, its cohesiveness, structure, and hierarchies.

The image of a growing tree not only as a metonymy, but rather as a metaphor, affected dramatically the perceptions of kinship across religious and Scholastic traditions–Karaite and Rabbanite, Kabbalists and philosophers. Thus on the one hand Menahem Recanati (1250–1310) referred to close-kin unions as an organic problem, for “Relatives are branches… and they must be vitalized by different branches, otherwise they would dry out… [thus] the one who sleeps with a prohibited woman dries the branch” (Commentary to Lev 18:1), while Maimonides viewed it as a moral problem – “The occurrence of such an act between the root and the branch is an immense impertinence” (Guide 3.49). Following the metaphor and the emphasis on the linear structure of kinship, preference has been given to progeny over brotherhood – “[only] father and mother are termed roots… brother and sister are not natural relatives, only incidentally, for my father is my root and origin and my son is my branch and flower… so my father and mother are my genuine relatives and my brother and sister are relatives of relatives” (she’ere she’erim) (Markon: 70–71).

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