

## Are there two types of men in Leviticus 20:13?

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**Abstract:** The law of Leviticus 20:13 contains a curious non-symmetry: “a man [*’ish*, שׂוֹרֵשׁ] may not lie with a male [*zakar*, זָכָר]”. If the purpose of the law was to forbid sexual activity between two people of the same sex, we would expect two identical terms for “man” to emphasise their similarity. The paper looks at two possible ways to account for this non-symmetry: it may be due to merging legislation from two sources, or the two terms may be synonymous. While surveying the concept of homoerotic inclination in the large corpus of Akkadian texts, the cognate term *zikaru* is found in two of these texts where its meaning of “male” implied heteroerotic inclination. If this meaning existed also in Hebrew, the two types of male who must not lie together may refer to “any male” (*’ish*) and a “heteroerotic male” (*zakar*). In this case, sexual activity between two homoerotically inclined males may still be regarded as immoral, but it was a capital crime only if a heteroerotic male was involved. The possibility of this interpretation means it is no longer certain that Leviticus condemned all homoerotic activity.

**Keywords:** Leviticus, homosexuality, Akkadian, *zakar*.

### Introduction

Leviticus 18:22 says “You shall not lie with a male [*zakar*] as with a woman”, though the version in Leviticus 20:13 is significantly more detailed: “If a man [*’ish*] lies with a male [*zakar*] as with a woman, both of them have committed an abomination [*to’evah*, תּוֹעֵבָה]; they shall surely be put to death; their blood is upon them”. This second version includes two words used for man, *’ish* and *zakar*. The Septuagint translation of Leviticus 18:22 and 20:13 reflects this distinction by translating *zakar* as *arsenos* (ἄρσενος from ἄρσην) rather than using the more common words *anthrōpos* (ἄνθρωπος) or *anēr* (ἀνὴρ).

This becomes important for New Testament interpretation because the phrase in 20:13, *arsenos koitēn* (ἄρσενος κοίτην, “male-bedding”) is the most likely origin for the word *arsenokoites* (ἄρσενοκοίτης)<sup>1</sup> that is used in passages forbidding homoerotic activity (1Cor. 6:9; 1Tim. 1:10). The word *arsenokoites* is unknown outside the New Testament and Christian literature<sup>2</sup> and although it was common to link two Greek words together in this way, and several similarly linked words are found in Greek literature,<sup>3</sup> this particular combination had not been attested elsewhere. Even if this form was not inspired by Leviticus 20:13, and its absence in surviving literature was merely an accident of history, its use in the NT would still be significant, because no Greek Jew or Christian would fail to make the link between this word and the text of Leviticus 20:13.

<sup>1</sup> This point was convincingly made by Robin Scroggs in *The New Testament and Homosexuality* (1983 ed., Philadelphia: Fortress, 1946): 85 and was definitively developed by David F. Wright in “Translating ARSE-NOKOITAI (1 Cor 6:9, 1 Tim 1:10)” (*Vigiliae Christianae*, 41, 1987): 396-398.

<sup>2</sup> Other passages may refer to homosexuality (e.g. Rom. 1:24-27; Rev. 22:15) but these two passages specifically forbid it. The exact nature of what is forbidden is of course widely debated.

<sup>3</sup> Examples cited by Wright in “Translating ARSE-NOKOITAI” include: *doulokoitēs* (“slave bedding”), *mētrokoitēs* (“mother bedding”), *polykoitos* (“many bedding”), *androkoitēs* (“man bedding”), and *arsenomiktēs* (male mixing) – the last two indicating homosexual activity.

Ancient Jewish interpreters were uniformly opposed to homoerotic practice, and they regarded these laws in Leviticus as a reference to this,<sup>4</sup> though we do not know the nuances of how they interpreted Leviticus 20:13. In particular, with regard to this present paper, we do not know if they recognised different categories of male in this verse.<sup>5</sup> This means that whatever was being forbidden in the New Testament is based on what was being forbidden in Leviticus. This paper will not examine the New Testament usage, but it is mentioned here to indicate the wider implications of understanding the meaning of this law in Leviticus.

Terms such as ‘homosexual’, ‘heterosexual’ and ‘orientation’ are avoided when discussing the ancient world, because that would imply concepts inherent in a modern world view. Instead, this paper uses ‘homoerotic’, ‘heteroerotic’, and ‘inclination’ in order to refer to tendencies in behaviour without any consideration of whether these result from choice or inherent desire.

The question this paper addresses is the reason for employing two different words for “man” in Leviticus 20.13, seeing as this undermines the force of a ruling that you should not lie with someone of the same sex. Three possible explanations will be examined: first, that the textual development of the prohibition caused *’ish* and *zakar* to occur together; secondly, that the two words are synonymous in this context; thirdly, that the two words refer to two types of men. Ancient literature is then surveyed to discover if the concept of men with homoerotic inclinations existed at the time.

## Development of the lists in Leviticus

The first possibility is that the ruling in Leviticus 20:13 is an amalgamation of wording from two different sources. The two rulings occur in two similar lists which will be referred to here as List 1 (Lev. 18:17-23) and List 2 (Lev. 20:10-21). The word *’ish* occurs in the opening formula of almost every ruling in List 2, so it is possible that it incorporated a ruling (such as that in List 1 at 18:22) which already referred to *zakar*. In this case there would be no significance behind the juxtaposition of these two different words for “man”, except to indicate a different origin for the two portions of the ruling.

To investigate this, we need to compare the lists to find clues about their development. Both lists contain almost the same prohibitions: men may not have sexual relationships with wives of their father, of uncles, of sons, of brothers or of neighbours; nor with their sisters, wife’s mother or daughter, menstruating woman, males or animals. These rulings occur in different orders, and with different forms and formulae. The only prohibitions not found in both lists concerns a granddaughter and a sister of a living wife (Lev. 18:10, 17, 18).

Both lists have some glaring omissions: a man is not prohibited from his daughter and women are not prohibited from another woman.<sup>6</sup> In both lists, women are only specifically addressed when forbidding sex with animals. Perhaps it was assumed that men would always initiate a relationship

<sup>4</sup> Philo *Abr.* 1.135-136; Josephus *Ant.* 1.200-201 & *C.Ap.* 2.199-273; Aristaeas 1.152; 2 *Enoch* 10.4; 34.1-2; *Sib. Or.* 2.73; 3.596; 4.34; 5.166; *T. Levi* 17.11; *T. Benj.* 9.1; *T. Ash.* 7.1; *T. Naph.* 3.3-5; *Jub.* 2.5; 22.22; *Ps.-Phoc* 188-192;

<sup>5</sup> Josephus appears to claim that this verse refers to “a male with a male” (ἄρρενας ἀρρένων – *C.Ap.* 2.199) which may mean that his copy of the LXX used *arsen* twice. However, in the same section, he quotes a Bible verse that says “A woman is inferior to her husband in all things” (2.201), so he wasn’t averse to constructing texts for apologetic reasons.

<sup>6</sup> Bernadette Brooten assumes this was because only penetration was prohibited – see *Love Between Women: Early Christian Responses to Female Homoeroticism* (Chicago: University of Chicago Press, 1996): 61-62. However, the lack of an exhaustive list makes it unsafe to base conclusions on this absence.

with a woman, so for most relationships only the men needed to be given a prohibition. But a relationship with an animal could be initiated by a woman, so this required a specific prohibition.

The lack of a law concerning daughters may be explained by the principle of *a fortiori* (arguing “from lesser to greater”). That is, if a daughter-in-law is prohibited, this implies that someone closer would also be prohibited. This was an accepted way for interpreting OT laws. For example, the right of an ox to benefit from its labour was assumed to apply to any worker of higher status – an interpretation found in rabbinic rulings and in the NT.<sup>7</sup> Modern law codes similarly define an offense by the least-serious example. For instance, “battery” is usually defined as “touching in an inappropriate or unwanted way” because by implication this includes everything worse than that.

The two lists have different styles: the first is apodictic (i.e. “You shall not do this”) and the second is casuistic (i.e. “If you do this, the punishment is that.”). The penalties in List 2 are always equal for both parties. In most cases this is death – by stoning for Molech worship, burning for wife’s mother or daughter and undefined execution for others. The lesser (though serious) punishment of childlessness for taking a brother’s wife or uncle’s wife may be due to the fact that this relationship is allowed in levirate marriages, after she is widowed.<sup>8</sup>

Both lists have the same overall structure:

- a general introduction (18:6; 20:9)
- a main body of prohibitions that employ a standard form (18:7-19; 20:10-16)
- an appendix of prohibitions that employ less standard forms (18:8-23; 20:17-21)

The introduction to List 1 (at 18:6) is the general command: do not uncover the nakedness of a close relative. List 2 starts at 20:9 with the phrase *’ish ’ish* (אִישׁ אִישׁ, “Any man...”) – an opening formula that is found at the start of other sections of law in Leviticus and Numbers<sup>9</sup> – and concerns cursing a father or mother. These appear to be unrelated, though 20:9 may be influenced by the opening command of List 1 (18:7) which also concerns a father and mother.

The standard form in List 1 always starts: *’erwat ... lo tegalleh* (לֹא תגַלֶּה ... עֲרֹוֹת) – “Do not uncover the nakedness of ...”, with the name of a different relative each time. The standard form of List 2 starts with *’ish ’asher yishkav* (אִישׁ אֲשֶׁר יִשְׁכַּב, “A man who lies with...”, i.e. “If a man lies with...”), though sometimes another verb is used.

Both lists have an appendix of prohibitions that do not follow their standard form so carefully. The four items in the appendix of List 1 (18:20-23) not only lack the standard phrase about “nakedness” (*’erwat*), but do not include the word anywhere. By contrast, the five items in the appendix of List 2 (20:17-21) all include the word “nakedness”.

Similarly the prohibitions in the appendix of List 1 have all been recast as apodictic instead of casuistic, though they retain the verb *shekhovet* “lie with” that is used in the body of List 2. Also, the derogatory terms that characterise the body of List 2 are present in the appendix of List 1: Molech is *chalal* (“profanity”, 18:21; 20:2); lying with a male is *to’evah* (“abomination”, 18:22; 20:15); lying with an animal is *tevel* (“perversion”, 18:23; related to a daughter-in-law in 20:12). In contrast, the body of List 1 only once includes this kind of derogatory term (*zimmah* in v.17).

<sup>7</sup> See *m. B.Mesi’a* 7.2; 1Cor. 9:9; 1Tim. 5:18

<sup>8</sup> Although this is only found in Deut. 25:5, it coheres with other law codes, and the similar custom found in Hittite laws suggest this was a widespread practice.

<sup>9</sup> Lev. 15:2-33; 17:3-7, 8-14; 20:2-5; 22:4-16; 22:18-25; 24:15-22; Num. 5:12-31; 9:10-13

<u>Leviticus 18:7-23 (apodictic)</u>	<u>Leviticus 20:10-21 (casuistic)</u>
6. <b><u>nakedness</u></b> of any close relative	9. Any man <i>cursing</i> parents
7. <b><u>nakedness</u></b> of mother	10. Man's <i>adultery</i> with neighbour's wife
8. <b><u>nakedness</u></b> of father's wife	11. Man <i>lying</i> with father's wife
9. <b><u>nakedness</u></b> of half-sister	
10. <b><u>nakedness</u></b> of grand-daughter	
11. <b><u>nakedness</u></b> of step-sister	
12f. <b><u>nakedness</u></b> of paternal aunt	
<b><u>nakedness</u></b> of maternal aunt	
14. <b><u>nakedness</u></b> of uncle's wife	12. Man <i>lying</i> with daughter-in-law = <i>perversion</i> ( <i>tevel</i> )
15. <b><u>nakedness</u></b> of daughter-in-law	13. Man <i>lying</i> with a male
16. <b><u>nakedness</u></b> of brother's wife	14. Man <i>taking</i> his wife's mother (or step-daughter) = <i>depravity</i> ( <i>zimmah</i> )
17. <b><u>nakedness</u></b> of step-daughter	
<b><u>nakedness</u></b> of step-grand-daughter (or wife's mother/grandmother) = <i>depravity</i> ( <i>zimmah</i> )	
18. <b><u>nakedness</u></b> of wife's sister	15f. Man <i>lying</i> with an animal = <i>abomination</i> ( <i>to'evah</i> ) Woman <i>approaches</i> an animal
19. <b><u>nakedness</u></b> of menstruating woman	
[==== Appendix ====]	[==== Appendix ====]
20. <i>lying</i> with neighbour's wife	17. Man <i>taking</i> his half-sister = <b><u>nakedness</u></b> = <i>disgrace</i> ( <i>chesed</i> )
21. <i>giving</i> children to Molech = <i>profanity</i> ( <i>chahal</i> )	18. Man <i>lying</i> with menstruant = <b><u>nakedness</u></b>
22. <i>lying</i> with a male = <i>abomination</i> ( <i>to'evah</i> )	19. <b><u>nakedness</u></b> of maternal aunt Or paternal aunt
23. <i>lying</i> with an animal woman lie with an animal = <i>perversion</i> ( <i>tevel</i> )	20. Man <i>lying</i> with uncle's wife = <b><u>nakedness</u></b>
	21. Man <i>taking</i> brother's wife = <b><u>nakedness</u></b> = <i>unclean</i> ( <i>niddah</i> )

Features of List 1 are marked as **bold underlined** and features of List 2 are marked as ***bold italic***.

There are four indications that the appendices were added from the other list when these two lists were harmonised with each other. First, each appendix consists only of items that are present in the body of the other list. Second, the prohibitions in the appendixes were recast to fit into the form of the list they were being added to, but do not follow that form exactly. Thirdly, the prohibitions in the appendixes retained some features of the list from which they were copied. As mentioned above, the word "nakedness" is always in the body of List 1, and occurs in each item in the appendix of List 2 – in contrast to the body of List 2 and appendix of List 1 which never use this word. Similarly, the derogatory terms which are common in List 2 are also found in the appendix of List 1 but rarely in the body of List 1 or the appendix of List 2.

The most significant indication is the fourth: the order of items in the appendix reflects their order in the body of the other list, both for List 1 (18:20, 22, 23 = 20:10, 13, 16) and List 2 (20:17, 19, 20, 21 = 18:9, 13, 14, 16),<sup>10</sup> though the orders of items in the body of the lists are completely different. All this suggests that the lists were harmonised by comparing with the other, then adding any missing items in the order they were found in the other list.

It is also possible to make some less firm deductions about the development of these lists. Similarities between the bodies of the two lists may suggest they both developed from an identical shorter list. The bodies of List 1 and List 2 have considerable overlap: half of the six items in List 2 are also found in List 1, and these are in the same order. This may indicate that these three prohibitions formed the common origin of both lists. These three involve: step-mother, daughter-in-law and mother plus daughter. The derogatory term ‘depravity’ (*zimmah*) occurs at the end this original list, which would explain the presence of this single derogatory term in the body of List 1.

It is likely that List 1 was finished later than List 2. It has a couple of extra commands that both have the appearance of later additions: 18:10 looks like an expansion of verse 9, and 18:18 is right at the end of the original list. Also, it appears that the harmonisation of List 1 occurred at a relatively late stage, because it has incorporated the command concerning Molech. This command is not really part of List 2 (20:9-21), but occurs in an independent passage to which this list became attached (20:1-8). The later editors of List 1 appear to have been influenced by the proximity of the Molech verses, and perhaps also by the relationship of Molech worship to fertility, especially as the penalties included childlessness (20:20-21). This suggests that List 2 had already become attached to the preceding tradition when the harmonisation occurred.

There is some evidence that the body of List 2 preserves the earliest form and order of these lists. Burnside has pointed out that List 2 presents an escalating series of aberrations from the norm, starting with "adultery" and gradually moving into less likely scenarios.<sup>11</sup> This implies that the core sinfulness of lying with a man consists of being unfaithful to an existing relationship. He argues that because marriages were likely to occur before puberty, homoerotic inclinations were unlikely to be discovered before marriage. This means that any homoerotic acts would occur after marriage and so they would be equivalent to adultery.

All this suggests that the earliest form of the prohibition concerning lying with a male is the casuistic form at Leviticus 20:13 which was later copied into the appendix at 18:22 and changed to the apodictic form of that list. This change involved removing the punishment, and the opening formula “If a man [*ish*]...”. The other features of List 2 were retained, i.e., the verb “lie with” (*shakav*) and the derogatory designation, which in this case is “abomination” (*to‘evah*). That is, the changes occur as:

Lev. 20:13: ~~If a man lies with a male as lying with as woman, they both committed an abomination; they certainly will die; their blood is upon them.~~

Lev. 18:22: You shall not lie with a male as lying with a woman; it is an abomination.

This relationship helps to explain the striking similarities and also the differences between the two commands concerning lying with males. It explains their significantly similar wording: *eth-zakar*

<sup>10</sup> The second item in the first appendix (re Molech) comes from the passage before the second list (i.e. 18:21 = 20:2); this may have influenced the second item in the second appendix (18:19 = 20:18) which is also out of order.

<sup>11</sup> Jonathan Burnside, *God, Justice, and Society: Aspects of Law and Legality in the Bible*. (Oxford: OUP, 2010): 361-4.

(אֶת־זָכָר, “with a male”), *mishkevey 'ishah* (מִשְׁכְּבֵי אִשָּׁה, “the lying of a woman”) and *to'evah* (תּוֹעֵבָה, “abomination”).

However, this developmental history does not explain the presence of *'ish* in juxtaposition to *zakar*. If the lists were merged as their final form suggests, the earlier version of the prohibition is the form found in List 2, which was incorporated into the appendix of List 1. This means that the original ruling already referred to both *'ish* and *zakar*.

In poetry or narrative, two closely related words may be employed for elegant variation, but in legal texts it is important to maintain the same vocabulary for the same referent. This analysis has failed to find that this difference was caused by development within the text, so we must look elsewhere for the origin or significance of these two terms for ‘man’.

### Biblical Hebrew usage of these two terms

The Hebrew Bible uses a handful of words for “man”, the most common of which are *'ish* and *'adam* (אָדָם) which account for 85% of all occurrences, leaving 10% for *zakar* and 5% for a few less common words such as *geber* (גִּבּוֹר). The particular nuance of *zakar* was maleness in contrast to femaleness. This is evident from the fact that it occurs alongside *neqevah* (“female” 15 times), in the context of circumcision (9 times), for firstborn males (6 times), male sacrifices (9 times), male priests (5 times), males listed in genealogies (23 times), and for males having sex with women (4 times). There is no occurrence of *zakar* in the Hebrew Bible where the maleness of the individual is not significant.

Allan Millard has suggested that *zakar* may indicate “male of any age”, in distinction to *'ish* which is normally used only for adult men, so that the force of law is to prohibit pederasty as well as same-sex activity between adults.<sup>13</sup> This is an intriguing possibility. The term *zakar* is used of children as well as men, while the term *'ish* is rarely used of children. However, *zakar* is used of children only when there is a clear emphasis on maleness – i.e. with regard to circumcision, redeeming male children, the different periods of separation after delivering male and female babies, and birth of a boy rather than girl.<sup>14</sup> When used outside of such contexts, the assumption is that *zakar* refers to adults. For example, the command “Take a census... every male (*zakar*), head by head” (Num. 1:2) resulted in a list of people who are “twenty years old and upward, all who were able to go to war” (Num. 1:20). In contrast, when male babies had to be included in the lists of Levites, this had to be specified because it would not be assumed: “List the sons of Levi... every male (*zakar*) from a month old and upward you shall list” (Num. 3:15). This assumption of adulthood is also seen in the war against Midian when they were ordered to kill “every male” (*zakar*, Num. 31:7); they killed only adults and “took captive the women of Midian and their little ones” (v.9). Moses later said that they should also kill the women and male children (vv.14-17) but this should be regarded as a sepa-

<sup>12</sup> Num. 31:17, 18, 35; Judg. 21:12 have the noun *mishkav* which becomes “lying” and “lain” in ESV and other similarly verbatim translations.

<sup>13</sup> Private communication.

<sup>14</sup> For circumcision, see Gen. 17:10, 12, 23; Exod. 12:48. For redeeming firstborn and other males, see Exod. 13:15; Lev. 27:5,6; Num. 3:15, 22, 28, 34, 39, 40, 43; 26:62; most of these refer to the counting of Levites males who redeemed the firstborn males of Israel, and priestly families continued this practice of including children among their counts of males – see 2Chr. 31:16. For different periods of separation after birth, see Lev. 12:2,7. For birth of a boy rather than girl, see Isa. 66:7; Jer. 20:15. It is also used for young animals, but only when emphasising their maleness, for offerings where a female animal was not appropriate: Exod. 12:5; 13:12; Lev. 1:3, 10; Deut. 15:19; Mal. 1:14.

rate command, because Moses could not have used *zakar* to refer to women as well as male children. So although *zakar* can be used for children as well as adults, the assumption is that it refers to adults unless the contexts specifies children. Actually, the term *'ish* is similar, in that it normally refers to adults but can include children, e.g.: "... nor shall children be put to death because of their fathers' sins. Each one [*'ish*] shall be put to death for his own sin." (Deut. 24:16 // 2Kgs. 14:6 // 2Chr. 25:4). Therefore both terms refer to adults unless children are specified.

The ancient translations did not regard *'ish* and *zakar* as synonymous in Leviticus 20:13. All four families of Targum use *dekar* (דְּכַר) – the Aramaic equivalent of *zakar*.<sup>15</sup> The Syriac follows the pattern set by the Targums. The Septuagint translates the opening *'ish asher...* as *hos an* (ὅς ἄν..., "anyone who...") throughout this list. This is a perfectly good translation but unfortunately (for the sake of this study) it does not employ a word meaning "man". However, when it comes to translating *zakar* the Septuagint uses the relatively rare term *arsēn* (ἄρσην) which has a sense of "male" as opposed to "man".<sup>16</sup> The Vulgate followed this pattern by translating it *masculo*. It appears that all ancient translations wanted to reflect the meaning of *zakar* as distinctively referring to maleness.

## Referring to men and categories of males

A modern reader can too easily interpret this "maleness" as "heterosexuality" – the opposite of "homosexuality". However, these are a relatively modern concepts and there is no evidence that they were recognised in ancient Hebrew. These terms are credited to Karl-Maria Kertbeny, a late 19<sup>th</sup> century campaigner, and they were taken up by Richard von Krafft-Ebing who wrote the first psychiatric exploration of homosexuality.<sup>17</sup> The term "lesbian" didn't arise till the 20<sup>th</sup> century re-discovery that Sappho of Lesbos had written homoerotic poetry.<sup>18</sup> The creation of these terms enabled discussion of such topics which were virtually unknown in the previous societies. Nissinen pointed out that Hebrew has no terms equivalent to the modern words "homosexual" and "heterosexual" and argued that no ancient languages did.<sup>19</sup>

However, the lack of these precise terms in the ancient world is not a firm indicator that such categories were not recognised. English speakers recognise many categories for which there is not yet any agreed terminology. For example, the general category of "non-straight" is variously referred to as LGBT, GLBT, LGBT+ or LGBTQ, because our language does not yet have an agreed term. Bib-

<sup>15</sup> The Targums use *gevar* which is the normal Aramaic equivalent for *'ish* but for *zakar* they employ the phonetically similar *dekar* which carries the sense of "maleness".

<sup>16</sup> The Greek *arsēn* is much less common than the normal words for man, *anthropos* or *anēr* (ἄνθρωπος & ἀνὴρ) which occur just over 1400 and 1500 times each respectively in the Septuagint. In contrast *arsēn* occurs only 59 times, and in every case it implies the concept of "maleness".

<sup>17</sup> Richard von Krafft-Ebing, *Neue Forschungen auf dem Gebiet der Psychopathia sexualis, eine medicinisch-psychologische Studie* (Stuttgart: Verlag Von Ferdinand Enke, 1891).

<sup>18</sup> John Donne's 16<sup>th</sup> C poem "Sappho to Philaenis" suggests that her inclinations were always recognised by a few individuals, but this was not widely acknowledged till the 19<sup>th</sup> century.

<sup>19</sup> Martti Nissinen presents this argument in his introduction to *Homoeroticism in the Biblical World: A Historical Perspective*, trans. Kirsi Stjerna (Minneapolis: Augsburg Fortress Press, 2004): v-vi. Bill Loader, who has written eight books on sexuality in NT times, said: "But is it really true that some people are naturally homosexual? ... All who wrote and first heard the Bible simply assumed the answer was: no." (at <http://wwwstaff.murdoch.edu.au/~loader/homosexuality.html> accessed 15-Feb-2020). However he does acknowledge that some in the first century recognized a category of men who preferred sex with other men, in *The New Testament on Sexuality* (Grand Rapids, Eerdmans: 2012), 496.

lical Hebrew has a relatively small vocabulary of about 8000 words, but users of that language can still refer to categories or objects for no specific word existed. For example, there was no Hebrew word for “a non-virgin woman”, so this concept was expressed by using phrases such as “woman who has known a man by lying with him” (Num. 31:17; Judg. 21:11) or “a woman who has not been widowed, divorced, a prostitute or defiled” (Lev. 21:14). These phrases are clumsy and convoluted, but that did not prevent readers and their society from recognising them as a category.

Another way of coping with small vocabulary is to employ a single word for different meanings depending on context. For example, the English word “straight” means one thing when used with “gay” and another when used with “line”. Similarly, when the colloquial terms “blokes and gents” are used together they act as contrasts – low class and high class – but when either term is used on its own, it can both refer to any group of males. Similarly, when *zakar* is paired with *neqevah* (נְקִיבָה, “female”) it means “male” of any species, but when it is linked with “circumcision” it refers only to a male human.

Therefore, when interpreting Leviticus 20:13 we have to consider that *'ish* and *zakar* may differentiate different categories of men when they occur together, though they can refer to men in general when used on their own. It may be that when *zakar* occurred with *'ish* this emphasised his “maleness” in distinction to men in general – i.e. his heteroerotic inclination. It is likely that this meaning cannot be verified, but it is certainly possible to falsify it. If it can be shown that ancient society had no concept of non-masculine or homoerotic men, then this interpretation should be regarded as false.

Disproving the existence of concepts such as different types of sexuality is impractical in ancient Hebrew. Virtually the only texts in ancient Hebrew that have survived are in the Bible, and although the range of literature contained there is quite broad, the size of the corpus is fairly limited. Arguments from vocabulary are particularly difficult because about 19% of words occur only once, and commonly used words often have a variety of meanings that depend on the type of literature and the immediate context. For example, the common Hebrew noun *davar* (meaning “word”, “thing”, “decree”, “clause” etc.) is translated by 85 different English words even in the relatively word-for-word King James translation.

It therefore proves little if a concept such as homosexuality is absent in Hebrew sources, because the specific word may nevertheless have existed, or another common word may have had this meaning in specific contexts, but it just happened that there was no instance of this concept in the extant literature.

## **Akkadian literature**

Fortunately, this limitation is not the case with Akkadian because it has a much larger corpus and more varied literature which has been well studied. It includes poetry, historical narrative, mythologies, laws, correspondence, bureaucratic archives, commercial transactions and works from various religions. Akkadian was the *lingua franca* of the first millennium BCE, so its stories, laws and wisdom literature influenced the nations surrounding Israel. The language was historically related to Hebrew and, because of its international importance, it continued to influence Hebrew and related languages.

## **Vocabulary**

The newly completed *Assyrian Dictionary of the Oriental Institute of the University of Chicago (CAD)* covers the whole body of this literature, collating vocabulary in a detailed and relatively

standard way. It contains a few entries where its compilers felt that the language related to homosexual sexuality.<sup>20</sup>

- *nāku* is a verb meaning sexual activity, often shameful, illicit or forced, including that of a man “with a man” but also with women (see below).<sup>21</sup>
- *assinnu* refers to a type of cultic personage whom the goddess Ishtar “had changed from men into women”. This may mean being born this way like the first *assinnu*: “Ea in the wisdom of his heart created a male [*zikru* from *zikaru*].<sup>22</sup> He created ... an *assinnu*”.<sup>23</sup> The corresponding Sumerian is UR.SAL or “dog-woman” where “dog” may refer to a man in a derogatory sense (cf. Deut. 23:18).<sup>24</sup>
- *kurgarrû* referred to a cultic actor in the Ishtar myth. They are described as “neither male nor female” which “may indicate that they were transvestites”<sup>25</sup> (though no evidence is offered for this). Ishtar had the power over gender, so they may have been required to be made eunuchs. Lucian in the 2<sup>nd</sup> C CE collected and retold many stories of dubious worth, including a description of Ishtar devotees who castrated themselves in a frenzy then carried their gonads round the neighbourhood in order that women might donate female clothing to them.<sup>26</sup>

<sup>20</sup> CAD, ed. Martha T. Roth (Chicago: University Oriental Institute, 1964-2010). This data was obtained by searching for the terms “homosexual\*” (occurred in four entries), “heterosexual\*” (did not occur) and “transvestit\*” (occurred once). The fourth entry where “homosexual” occurred is *aḥu* “brother” (CAD 1.1: 203) where homosexuality is referred to tangentially.

<sup>21</sup> CAD 11.1: 197-8

<sup>22</sup> Lapinkivi points out this could mean “word” from *zakāru* ‘to speak’. It is being used like the concept of *logos* to imply that the *assinnu* was a personification of Ea. See Pirjo Lapinkivi *The Neo-Assyrian Myth of Ištar’s Descent and Resurrection* (Neo-Assyrian Text Corpus Project 1; Foundation for Finnish Assyriological Research, State Archives of Assyria Cuneiform Texts 6; Winona: Eisenbrauns, 2010): 72, 78. Foster takes the middle road, regarding it as “a word” and translating it as “what is called for”, but recognizing that there is an intentional pun with *zikru* – see Benjamin R. Foster, *Before the Muses: An Anthology of Akkadian Literature* (3<sup>rd</sup> ed, Bethesda, MD: CDL Press, 2005): 502

<sup>23</sup> *Cuneiform Texts from Babylonian Tablets in the British Museum (CT)* (London: British Museum, 1896-) 15 46 r.12 cited in CAD 1.2:341.

<sup>24</sup> The meaning of *assinnu* has been much debated recently. Ilona Zsolnay argued that an *assinnu* was not homosexual or transgender in “The Misconstrued Role of the Assinnu in Ancient Near Eastern Prophecy.” in *Prophets Male and Female: Gender and Prophecy in the Hebrew Bible, the Eastern Mediterranean, and the Ancient Near East*, ed. Jonathan Stökl and Corrine L. Carvalho (*Ancient Israel and its Literature* 15. Atlanta: Society of Biblical Literature, 2013): 81-99. However, she used mainly sources from Mari, where the same word is used for prophets – as pointed out by Jonathan Stökl in “Gender ‘Ambiguity’ in Ancient Near Eastern Prophecy? A Reassessment of the Data behind a Popular Theory”, pp.59-79 in the same volume. There has been a concerted effort to deny sexual roles in ancient terminology, including *assinnu*. This is exemplified by Julia Assante, “Bad Girls and Kinky Boys? The Modern Prostituting of Ishtar, Her Clergy and Her Cults.” in *Tempelprostitution im Altertum: Fakten und Fiktion*, ed. Tanja S. Scheer (Berlin: Antike, 2009): 23-54 which concludes there is no evidence of transsexuals or homosexual activity in Assyria. Stephanie Lynn Budin similarly doubts that an *assinnu* had any homosexual cultic role – see *The Myth of Sacred Prostitution in Antiquity* (New York: CUP, 2008): 19. A more balanced survey is found in a recent paper by Ilan Peled: “*assinnu* and *kurgarrû* Revisited” (*Journal of Near Eastern Studies* 73, 2014, 283-297, University of Chicago). He concludes that “the *assinnu* was indeed an effeminate figure, whose most notable characteristic was being sexually penetrated during the performance of cultic rites” (p. 284).

<sup>25</sup> CAD 8:558-9

<sup>26</sup> Lucian *De Syria Dea* 50-51; cf. also 15, 22, 27, 43. Nissinen dismisses this as a source from the “third century C.E” (though Lucian died in 180 CE.). Lucian was a careful collector of ancient myths and cultic trivia, and is generally relied on for them, though he was also prone to exaggeration to entertain his readers –

- *kulu'u* refers to someone who is not masculine: “he is effeminate [*kullu'u*] not a he-man [*la zi-ka-ru šû* – i.e. he is not a *zikaru*].”<sup>27</sup> The term *kullu'u* can also be paralleled with a female prostitute as the male counterpart.<sup>28</sup> A synonym list explains *kulu'u* is the same as *assinnu* or *kurgarrû*.<sup>29</sup> This is confirmed by the fact that *assinnu* and *kulu'u* are interchangeable variants in versions of the text about Ea creating the first *assinnu* or *kulu'u* from a *zikaru*.<sup>30</sup>

Although this specific terminology existed, most references to homoerotic activity use more general vocabulary. Among the wide range and number of Akkadian texts, there are relatively few homoerotic references, though these are becoming well known due to studies like these. This paper will survey them briefly because they have already been covered by other studies.<sup>31</sup>

### Narrative literature

The epic of Gilgamesh is frequently cited as containing reference to a homoerotic relationship between king Gilgamesh and the wild man Enkidu. This is difficult to substantiate because the language is not sexually explicit. It merely says they loved each other, so like David and Jonathan's love, the meaning is debatable. However, in the context of the story an erotic element might be expected because his people arranged for him to meet handsome Enkidu in order to distract him from his overenthusiastic use of *droit du seigneur*. That is, they hoped to protect the city's virgins by distracting him in other directions. However the text never actually states that they had a sexual relationship.

### Legal literature

The Middle Assyrian laws originated in about the 14<sup>th</sup> century BCE though their earliest record is on tablets written about the 11<sup>th</sup> century and found at Assur. The section concerning sexual crimes has survived, and this includes two laws regarding homoerotic acts:<sup>32</sup>

A#19 If a man furtively spreads rumours about his comrade, saying, “Everyone has sex with him,” or in a quarrel in public says to him, “Everyone has sex with you,” and further, “I can prove the charges against you,” but he is unable to prove the charges and does not prove the charges, they shall strike that man 50 blows with rods; he shall perform the king's service for one full month; they shall cut off his beard; moreover, he shall pay 3600 shekels of lead.

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see *Homoeroticism* p.31. The castration theory for *assinnu* and *kurgarrû* is developed by Lapinkivi in *Neo-Assyrian Myth*, pp.72-79.

<sup>27</sup> 4R 34 No.2:21 cited in CAD 'z'.111

<sup>28</sup> See KAR 43:3 // 63:3 interpreted in Lapinkivi in *Neo-Assyrian Myth*, p.74.

<sup>29</sup> “Babylonian Texts from the Folios of Sidney Smith, Part Three: a Commentary on a Ritual of the Month Nisan” by A.R. George in *If a Man Builds a Joyful House: Assyriological Studies in Honor of Erle Verdun Leichty* ed. Ann Kessler Guinan et al., (*Cuneiform Monographs* 31, Leiden: Brill, 2006): 173-85, fn. 10, citing CT 18 5 K 4193 rev. 9–11 restored from LTBA 2 1 vi 45–9 // 2 380–3.

<sup>30</sup> Variant in Erich Ebeling, *Keilschrifttexte aus Assur religiösen Inhalts* (Leipzig, 1910) (KAR) l r.6 (Descent of Ishtar) cited in CAD 'a' p. 341. See the commentary in Lapinkivi *Neo-Assyrian Myth*, p.72. Also translated in Foster, B. R., *Before the Muses: An Anthology of Akkadian Literature*, (University of Maryland Press, 3rd ed., 2005): 498-505; see 502, n. 3.

<sup>31</sup> Nissinen *Homoeroticism*: 19-36; Robert A.J. Gagnon *The Bible and Homosexual Practice: Texts and Hermeneutics*. (Nashville: Abingdon Press, 2001): 44-51.

<sup>32</sup> Translations by Marth Roth, incorporating the more literal options offered in the footnotes, from *The Context of Scripture: Canonical Compositions, Monumental Inscriptions and Archival Documents from the Biblical World*, ed. William W. Hallo, (Leiden, New York: Brill, 2003) II: 355 (hereafter COS), translating:

A#19 *ina šalte ana panī ERĪ N.MEŠ iqbiaššu mā it-ti-ni-ku-ka ...*

A#20 *šumma a 'ilu tappāšu i-ni-ik ubta'erus ukta'inuš i-ni-ik-ku-ú-uš ana ša rēšen utarruš*

A#20 If a man has sex with his comrade and they prove the charges against him and find him guilty, they shall have sex with him and they shall turn him into a eunuch.

These commands, like many in the Middle Assyrian code and other ancient Near Eastern codes, have a casuistic form similar to those in Leviticus 20: If someone does this then that should happen. A few linguistic notes: "Cutting off [the beard]" (*igaddimuš*) is not likely to be a euphemism for castration because that punishment is expressed clearly in different terms in #20 and also in #15 as a punishment for adultery; it is more likely to be a way to impose shame. The verb translated "have sex with" is the general verb for illicit or forced sex (*nâku*, see above). The term translated "man" (*a 7lu*, an Assyrian form of *amîlu*) refers to men in general, and "comrade" (*tappâšu* from *tappû*) is a term for a colleague or someone of equal status.

Law #19 is straightforward: it prohibits slandering someone by saying that many people have had sex with him. The wording is almost identical to the preceding law #18 which prohibits slandering a comrade by saying "Everyone has sex with your wife". Neither of these two laws involves a charge against the person who is slandered: he is not held guilty for his wife's immorality nor for having sex with other men (if either of these rumours are indeed true). This lack of criminal charge is confirmed by the fact that no punishment is stated if it were proved to be true. The crime is slander – i.e. an unproved statement that brings shame on the comrade. Therefore, this law assumes that homoerotic activity was not illegal, though it also assumes that it was regarded as shameful, particularly if it was something done regularly or promiscuously (with "everyone").

The meaning of law #20 has been disputed. Some regard this as a law against all homoerotic activity, particularly between equals because the verb *nâku* refers to consensual sex unless there is an additional indication that violence occurs. Others point out that *nâku* is often used for violent sex, so this could be a law against homoerotic rape.<sup>33</sup> The fact that only one person is punished, and that he is punished by being raped himself before being castrated, gives weight to the conclusion that this outlaws homoerotic rape. This concurs with the previous law which implied that consensual homoerotic activity was legal, though it was normally despised.

These laws are interesting for illustrating the structure and cultural context of Leviticus. They mirror the structure of the version in Leviticus 20, which has a similar introductory formula ("If a man...") and include a punishment along with the law. Whether or not they mirror the cultural context depends on the interpretation of the Levitical laws. If Leviticus outlaws all homoerotic activity, then Israel has a much stricter policy than this Middle Assyrian law. However, if Leviticus only punishes homoerotic activity with a heteroerotically inclined male, then these two law codes share some principles, though Leviticus is still stricter. The principle in Akkadian law is that no man should be forced to take part in homoerotic sexual activity, though Leviticus would outlaw *any* homoerotic activity if this is contrary to someone's normal inclinations.

Regarding the main question – whether or not Assyrian society contained a category of men who normally take part in homoerotic behaviour – these laws are ambivalent. It is clear that it was considered shameful to take part regularly in homoerotic activity, because Law A#19 assumes this kind of accusation was slanderous, and this category of people was at least purported to exist as a despised minority, but it is not certain that they *did* exist. However, it is clear that this category of men was recognised.

<sup>33</sup> See the discussion in Nissinen *Homoeroticism* p.146, Fn.32.

### Moral (or omen) literature

At first sight the *Šumma ālu* is certainly not moral literature: it is a series of omens that help predict the future. However, these omens are based on personal behaviour, in the form of: ‘if you do *this*, then good things will result, but if you do *that* then bad things will result’; so it gives us an insight into what was regarded as morally good and morally bad. The oracles that relate to homoerotic behaviour are:<sup>34</sup>

#1 If a man copulates [*itehhe*] with his equal [*mehrišu*] from the rear, he becomes the leader among his peers and brothers.

#2 If a man copulates with an *assinnu*, a hard destiny will leave him (?).

#3 If a man copulates with a *gerseqqu* [courtier?], terrors will possess him for a whole year but then they will leave him.

#4 If a man copulates with a house-born slave [*dusmu*], a hard destiny will befall on him.

This is a small selection from a vast array of different actions that range from picking your nose to displaying an erection in the street. Altogether they form a curious collection of apparently conflicting omens which may refer to actual acts, or events that occur in dreams.<sup>35</sup> While it may not be safe to apply logic to omens in the same way that one might expect logic in laws, a pattern is nevertheless visible. In general, acceptable or brave behaviour leads to good outcomes and reprehensible behaviour leads to bad outcomes.

This selection all involve “approaching” (*tehu*) – a common euphemism for proposing and carrying out a sexual encounter – so it is translated here as “copulates with”. The first was with someone of equal social status, #3 with someone of higher status and #4 with someone of lower status. Only the first of these results in a good outcome. We might theorise that this is because an encounter with someone of equal status is likely to be consensual. The encounter with someone of higher status might be regarded as forced, because it would be assumed that they would not want to be demeaned in this way; and the slave can be assumed to be an unwilling victim.

The translation of the second omen is uncertain, so we cannot be sure whether the outcome is good or bad. An *assinnu* (as mentioned above and explored below) was a male cultic individual whose sexual identity may have been changed through castration or who can behave and dress as a woman. In this case it might be regarded as normal or even pious for a man to have sexual relations with an *assinnu*, so one would expect a good outcome. On the other hand, it might have been regarded as high-handed and impious – we do not know enough to be sure. Either way, the actual or represented sexuality of an *assinnu* is clearly relevant; else the law would have named a more general cultic worker rather than this specific role.

In these omen texts the status of the individuals are important. These omens make best sense if we understand that penetration was regarded as demeaning and forced penetration was illegal. Therefore, penetrating his peers shows that he can dominate them (#1), but penetrating someone of higher status is wrong (because they are unlikely to want this) (#3) while penetrating someone of lower status is ‘merely’ morally reprehensible (because they may not want it, but have no right to object). The translation of #2 is uncertain – it either weakly condemns or it tacitly approves of sexual activity with this cultic individual who apparently has an ambiguous or ambivalent sexual inclination.

<sup>34</sup> Translation of CT 39 44-45 in Nissinen *Homoeroticism* p.27. The numbering does not relate to the original or its translation but has been added here for convenience of discussion. Another omen is sometimes cited where one tablet (K1944) includes the word *assinnu* but other versions of it divide this word into two.

<sup>35</sup> This is the assumption by Artemidorus’ *Interpretation of Dreams* written a millennium later.

## Religious literature

The relevant religious literature concerns the cult of Ishtar who was worshipped also as the Greek Astate (Ἀστάρτη) and the biblical Ashtoreth.<sup>36</sup> Her major myth concerned a descent to the underworld to confront her sister Ereshkigal who then imprisoned her. This caused a time of weeping on earth because in her absence no animals or humans became pregnant. So, in order to get her released, the god Ea created an *assinnu* to seduce Ereshkigal and to get her to swear a favour for him. When the favour he requested turned out to be Ishtar's release, she saw that she had been tricked because she had to grant it against her wishes; so in revenge she cursed the *assinnu* to a life on the margins of society.

Translations tend to be as inscrutable as the original which relies greatly on wordplay. The following excerpt is based on Stephanie Dalley's helpful translation with additional explanations in square brackets based mainly on her footnotes:

Ea, in his wise heart, created a male [*zikru* from *zikaru*].  
 He created Good-looks [Asu-shu-namir meaning "his appearance is bright"] the playboy [*assinnu*]  
 "Come Good-looks, set your face towards the gate of Kurnugi [the underworld land of no return]  
 The seven gates of Kernugi shall be opened before you.  
 Ereshkigal shall look at you and be glad to see you.  
 When she is relaxed, her mood will lighten  
 Get her to swear the oath by the great gods [to give you whatever you request].  
 Raise your head [from your posture of begging a favour and] pay attention to the waterskin [i.e. Ishtar's corpse],<sup>37</sup>  
 Saying, "Hey, my lady, let them give me the waterskin, that I may drink water from it."  
 When Ereshkigal heard this [request, and realized she'd been tricked],  
 She struck her thigh and bit her finger.  
 "You have made a request of me that should not have been made!  
 Come, Good-looks, I shall curse you with a great curse.  
 I shall decree for you a fate that shall never be forgotten  
 Bread (gleaned [?]) from the city's ploughs shall be your food,  
 The city drains shall be your only drinking place,  
 The shade of a city wall your only standing place,  
 Threshold steps your only sitting place,  
 The drunkard and the thirsty shall slap your cheek."

This vignette appears to be an origin-story for the *assinnu*.<sup>38</sup> The first *assinnu* was created by Ea from a masculine-man (a *zikaru*) whom he turned into a sexual plaything to entice and trick the goddess Ereshkigal. In revenge, she cursed him, and by implication all those like him, to become the dregs of society. The has sexual connotations – ploughing was a euphemism for penetration,<sup>39</sup> so feeding from ploughs and drinking from drains may refer to demeaning sexual acts. Standing by the walls and sitting outside doorways may refer to the waiting places of prostitutes; and the last line implies that they attended parties where they were abused. All this may of course be reading

<sup>36</sup> In 1Kgs 11.5, 13; also 2Kgs 23.13 – עֲשֵׂתָרֶת. This was probably deliberately mis-pointed with the vowels of *bosheth* ("shame")

<sup>37</sup> In the Sumerian version, Ea tells him to sprinkle a life-giving plant and water on Ishtar who has been hung on a nail to become as desiccated as a waterskin. See Lapinkivi, *Neo-Assyrian Myth*, pp.72, 83.

<sup>38</sup> So William R. Sladek, *Inanna's Descent to the Netherworld* (PhD diss., Johns Hopkins University: University Microfilms. Ann Arbor, MI. 1974): 41-42 according to Nissinen *Homoeroticism*: 32.

<sup>39</sup> So Nissinen *Homoeroticism*: 32f; Lapinkivi in *Neo-Assyrian Myth*: 84.

too deeply, though the surrounding poetry is equally full of this kind of wordplay and double meaning.

An *assinnu* belonged to a class of society that was generally demeaned, and yet this story gave them a noble origin and an important role in the Ishtar cult, because their founder saved the world by helping to rescue Ishtar. It appears that this role was replayed in Ishtar's annual commemorative festival, because *assinnu* is listed among the musicians and other cult actors who are also called *kurgarrû*.

It is not clear what exactly an *assinnu* was. Perhaps they were castrated, or perhaps they were merely pretty boys, or men who shaved their hair. The fact that Ea created the first one to be sexually alluring for a goddess implies that they were not castrated. From the subsequent curse, we may infer that they were male sex workers.

In religious literature an *assinnu* played a role in the cult, but it is likely that they are related to the *assinnu* of normal society. Though generally despised as sex workers, it seems they gained status by having an honourable role in this cult. This coheres with what we have found in legal and omen literature. In the omens, an *assinnu* was a kind of man that someone might penetrate. And in the legal literature, allowing oneself to be penetrated by many people was shameful, like being an *assinnu*.

### Correspondence

Thousands of letters have survived, both official and personal. One letter which has significance for this investigation falls between these categories. It is a diplomatic letter from the current Babylonian king (possibly Ninurta-nādin-šumi) to an Assyrian prince whose rivalry with his brother had caused a civil war. According to the Assyrian King Lists they both reigned “briefly”, first Ninurta-tukulti-Ashur then his brother Mutakkil-Nusku who “fought him”.<sup>40</sup> One of the causes of the rift mentioned in this letter was the insult: *kulu 'u la zikaru šû* – “he [is] an effeminate, not a masculine-man”.<sup>41</sup>

This was clearly an inflammatory insult, because it was regarded as the cause of a civil war, and the precise wording of the letter was quoted so that the reader would realise how serious the insult was. It compared him to the *kulu 'u* which is a synonym for *assinnu* – the male sex workers cursed to live on the shameful edges of society.

### Akkadian expressions of sexual categories

Putting together this and the other indications from legal, omen and cultic literature, it appears that the Akkadian language was certainly capable of describing homoerotic activities and attitudes towards them. This was enabled to some extent by the existence of the specialist terms *assinnu*, *kurgarrû* and *kulu 'u*. There is still a great deal of debate about the meaning of these overlapping and related terms.<sup>42</sup> However, there is convergence on the view that they were male cultic actors in the Ishtar festival playing a female or sexually ambiguous role, though as individuals outside the cult

<sup>40</sup> COS 1.465a

<sup>41</sup> It is not clear whether this insult was made by Ninurta-tukulti-Ashur or his brother Mutakkil-Nusku. The article at <http://en.wikipedia.org/wiki/Ninurta-tukulti-Ashur> (accessed 14-Jun-2016) attempts to unravel the correspondence. For the wider correspondence see Albert Kirk Grayson, *Assyrian Royal Inscriptions Vol.1 (Records of the Ancient Near East, ed Hans Goedicke, Wiesbaden: Otto Harrassowitz, 1972): 143-146*; this letter is #934-8; 4R 34 No.2:21 cited in CAD 'z'.111.

<sup>42</sup> See the bibliography at note 23.

they are despised by society. According to their origin myth they were capable of seducing a goddess, so Lucian's account of them carrying their gonads round their neck is likely to be late fanciful imagination. These various details cohere when they are regarded as male sex workers who once a year played an important role in at Ishtar's annual re-enactment festival.

Other references to homoerotic activities employ less specialised terminology. Men "approached" (*teḥû*) other men just as they "approached" women, which in both cases implied the sex act as well as solicitation. When it was necessary to be specific, an omen adds that the man approached "from the rear" and the legal texts refer to one who "has sex" (*nâku*) – a word which usually implied shameful or violent sex. It appears that society generally despised people who regularly engaged in homoerotic acts, because laws were needed to protect against this charge which was considered slanderous if untrue. This shows that people thought that homoerotic behaviour characterized the consistent behaviour of certain individuals – i.e. that there was a group in society who regularly took part in homoerotic activity, and who were generally despised by others. We can agree that this is not proof that such a group existed, but it at least shows they were *thought* to exist and most people regarded them as a category of person distinct from themselves.

Some have dismissed this evidence and concluded that ancient cultures knew nothing about homoerotic inclination or individuals who preferred homoerotic activity. Julia Assante and Stephanie Lynn Budin argued not only that there is no evidence of homoerotic activity in Assyria, but also that no prostitution existed in Assyrian society or in any ancient religion.<sup>43</sup> Nissinen follows a more balanced approach when he doubts that people in ancient cultures had concepts equivalent to modern "homosexuality" or "sexual orientation", but he agrees that "Persons with such preferences do appear in ancient sources, and their existence was noted and commented on by their contemporaries."<sup>44</sup>

It is therefore reasonable to conclude that certain individuals were known to engage regularly in homoerotic activity. These men, who were despised for having sex with men and who may (or may not) have had feminine traits, were labelled as *assinnu* or *kulu'u*. The opposite group are characterised by the term *zikaru* which is contrasted with *kulu'u* in the prince's letter, and in the Ishtar myth a *zikaru* was changed by Ea into a *kulu'u* or *assinnu* (in different versions).

## Implications for the meaning of Leviticus 20:13

This survey set out to discover whether literature or laws in the first millennium BCE could refer meaningfully to a category of men who took part in exclusively heteroerotic activities in distinction to others who took part in homoerotic activity. Assyrian literature has been found to contain evidence that these categories did exist, though there is still much uncertainty about the exact meaning of different terms used.

One surprising outcome of this survey is the close affinity in usage between the Akkadian *zikaru* and Hebrew *zakar*. The *Akkadian Lexical Companion to Biblical Hebrew*, which highlights words and phrases that are mirrored in both languages, cites the Akkadian phrase *zikarim u sinništīm*

<sup>43</sup> Julia Assante summarises her work "The *kar.kid/[kh]arimtu*, Prostitute or Single Woman? A Reconsideration of the Evidence," *Ugarit-Forschungen*; 30:5-96 as showing that "*kar.kid* and *hamrimtu* do not mean prostitute. "Mesopotamia had no such terminology, if only because prostitution was not recognized as a profession." – see "Bad Girls and Kinky Boys", 31f. Stephanie Lynn Budin comes to similar conclusions in *The Myth of Sacred Prostitution*, 19.

<sup>44</sup> Nissinen *Homoeroticism*, 12, exploring problems about using terms such as "homosexuality" in a long section (pp.10-17)

(“male and female”) as equivalent to the Hebrew phrase *zakar u-neqevah* (זָכָר וּנְקֵבָה).<sup>45</sup> In both languages these words refer to a “masculine man”, and in Akkadian it can also indicate a distinction from a homoerotically inclined man. The recorded insult “he is effeminate [*kullu 'u*], not a he-man [*la zikaru*]” ends with a phrase remarkably similar to the Hebrew *lo zakar* (לֹא זָכָר, “not male”).<sup>46</sup>

If the Hebrew word *zakar*, like the Akkadian word *zikaru*, carried the sense of “heteroerotic” in some contexts, this would have implications for the meaning of Leviticus 18:22 and 20:13. In this case these laws would prohibit any man from sleeping with a man of heteroerotic inclination. The law in 18:22 is a simple statement of this, and the longer version in 20:13 includes a punishment as well as adding a contrast with the general term for a man (*'ish*). This excludes the situation where two men of homoerotic inclination slept together; they would not be punished under this law, though this law does not commend or condone such activity. It would probably be regarded as shameful though not punishable - like they regarded the use of a cultic prostitute (קַדְשָׁה, *qedeshah*, see e.g. Gen. 38:21-22).

This interpretation would fit the context of these lists which prohibit practices liable to break up a marriage. If a married man has a sexual relationship with another man, it is punished like adultery. Homoerotically inclined males are likely to be unmarried or they may be divorced from their childhood brides, so this activity would not break up a marriage. This does of course assume the existence of such men, for which there is no evidence in the Hebrew Bible outside these verses, and they are mentioned only rarely in Akkadian literature. On the other hand, there is also no other evidence in the Hebrew Bible outside these verses that sexually active homoerotically inclined males *were* subject to a death penalty. Everything depends on interpreting these two verses in context.

### An uncertain conclusion

We are left with a problem and a possible, though unproven, solution. The problem is that Leviticus 20:13 employs two non-synonymous words for “man”. The history of this legislation, as found in the structure of the text, does not explain the presence of two different terms. Even if each had come from separate sources that were merged in the final form, the editor would be aware that in legislation, differences in terminology normally indicate differences in meaning. Therefore, it is difficult to interpret this legislation as meaning: “a man may not sleep with [an identical type of] man”. The ancient translations and a few modern ones<sup>47</sup> recognised this issue by translating the two Hebrew words differently.

Because of the paucity of data, we cannot be sure if this distinction between *'ish* and *zakar* relates to sexuality. It may, for example, relate to marriage status, so that the law would mean that no man may sleep with an unmarried man.<sup>48</sup> Or the distinction may refer to age (as Alan Millard argued), so

<sup>45</sup> Hayim Tawil, *An Akkadian lexical companion to biblical Hebrew: etymological-semantic and idiomatic equivalents with supplement on biblical Aramaic* (KTAV Publishing House, 2009; 2017 printing): 92.

<sup>46</sup> This specific negation of *zakar* does not actually occur in the Hebrew Bible. This word order is not common because in Hebrew a verb normally occurs between the *lo* and a noun. However, there are instances of equivalent phrases using more common words for “man”: *lo' 'ish* (לֹא אִישׁ, Num. 23:1) and *lo' 'adam* (לֹא אָדָם, 1Sam. 15:29).

<sup>47</sup> Distinctive terms such as “man” and “male” are used in Bibles such as NASB, ESV, RSV, and NET. This distinction is reflected in Targums, Syriac, Septuagint (to some extent), and Vulgate – as detailed above.

<sup>48</sup> This is similar to a rabbinic ruling at in *Mishnah Kiddushin* 4.13b-14a (4.12-13 in some editions), so it is possible that this was how it was interpreted in later Judaism – see my “Evidence of Non-Heterosexual Inclinations in First Century Judaism” in *Marriage, Family and Relationships: Biblical, doctrinal and contempo-*

that the law would mean that no man may sleep with another man-or-boy. These alternatives are interesting possibilities, but they have no support in the usage of *zakar* in Hebrew nor in cognate languages. However, there is evidence (though not enough to be certain), that Leviticus 20:13 forbids any man from sleeping with a heteroerotically inclined man.

In the end, personal or doctrinal agendas are likely to determine the conclusion. Those who wish to strengthen prohibitions of modern homosexual practice and those who want the opposite, can give weight to one part of the evidence or the other. The proper conclusion from this study is that we cannot be certain what this law meant. The existence of the problem is clear, but the solution is not. In view of the present situation, where dogmatic interpretations of these passages may have ruinous consequences for many individuals, this uncertainty is important, and should not be ignored.