

Shoshannat Yaakov

Jewish and Iranian Studies in Honor
of Yaakov Elman

Edited by

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QUI COIERIT CUM MULIERE IN FLUXU MENSTRUO . . .
INTERFICIENTUR AMBO (LEV 20:18): THE BIBLICAL PROHIBITION OF
SEXUAL RELATIONS WITH A MENSTRUANT IN THE EYES
OF SOME MEDIEVAL CHRISTIAN THEOLOGIANs

Evyatar Marienberg

What attitudes did medieval Christian theologians have towards the prohibition in Leviticus of sexual relations with a menstruating woman? This article will try to answer this question.¹ The medieval texts presented here are but a selection. Nevertheless, to some degree it seems that this selection represents the common opinion which one finds in medieval literature. It will be suggested that the prohibition posed a challenge to many medieval Christian authors, probably because it was a case in which various aesthetic, medical, and theological concepts were not necessarily in harmony and, if followed separately, might lead to different practical conclusions. This study can also help illuminate medieval Christian attitudes towards other biblical rules and prohibitions as well, even though, or maybe particularly because, many of them were considered by medieval Christian authors to be significantly less complex.

1. *The Source: The Prohibition in the Bible*

The act of having sexual relations with a woman while she is menstruating is mentioned three times in Leviticus. In chapter fifteen, although the act is not said to be forbidden, it is nevertheless said to be defiling, and one that might lead to death, if the impure person “defiles” the tabernacle, apparently by approaching it:

When a woman has a discharge, [if] her discharge in her body is blood, she shall continue in her menstrual impurity for seven days; and whoever touches her shall be impure until evening. Everything also on which she lies

¹ As we all know, Professor Elman, to whom this volume is dedicated, is one of those scholars who is interested in and publishes on a wide variety of topics—biblical exegesis and cultures with which Jews had significant exchanges, are among his favorites. This small article, dealing with medieval Christian biblical exegesis, is a small token of appreciation to not only a great scholar, but also to one of the kindest people I know.

during her menstrual impurity shall be impure, and everything on which she sits shall be impure. Anyone who touches her bed shall wash his clothes and bathe in water and be impure until evening. Whoever touches any thing on which she sits shall wash his clothes and bathe in water and be impure until evening. Whether it be on the bed or on the thing on which she is sitting, when he touches it, he shall be impure until evening. If a man actually lies with her so that her menstrual impurity is on him, he shall be impure seven days, and every bed on which he lies shall be impure. [...] Thus you shall keep the children of Israel separated from their impurities, so that they will not die in their impurities by their defiling My tabernacle that is among them. (Lev 15:19–24, 31)²

Three chapters later, another verse explicitly prohibits such relations: “You shall not approach a woman to uncover her nakedness during her menstrual impurity” (Lev 18:19). Two chapters later the subject is mentioned again. This time the text defines the sanction reserved for the transgressors: “And if a man lies with a menstruating woman and uncovers her nakedness, he has laid bare her flow, and she has exposed the flow of her blood; thus both of them shall be cut off from among their people” (Lev 20:18).

Another biblical text, not from the Pentateuch but from Ezekiel, mentions this prohibition, which is almost hidden in a text of a very different style:

But if a man is righteous and practices justice and righteousness, and does not eat at the mountain shrines or lift up his eyes to the idols of the house of Israel, does not defile his neighbor's wife and does not approach a woman during her menstrual period, does not oppress anyone, [but] restores to the debtor his pledge, does not commit robbery, [but] gives his bread to the hungry and covers the naked with clothing, if he does not lend money on interest or take increase, if he keeps his hand from iniquity and executes true justice between man and man, if he walks in My statutes and My ordinances so as to deal faithfully—he is righteous and will surely live, declares the Lord God. (Ezek 18:5–9)

2. *The Question: The Validity of the Prohibition for Christians*

Should the menstrual prohibition be kept literally by Christians? Medieval Christian authors often argued that only Old Testament prohibitions related to morality are binding for Christians, for example the prohibitions

² All biblical quotations are according to the *New American Standard Bible* (Anaheim, Cal.: Foundation Publications, 1997) with some modifications.

of killing or stealing, but not those which do not have an apparent moral value, for example the biblical dietary laws. After the coming of Christ and the establishment of the New Law, the prohibitions of the Old Testament are no longer necessary, at least not literally. Is the menstrual prohibition still binding? Is it related to morality? If the texts in Leviticus are at least ambiguous regarding this last question, the text in Ezekiel is much more explicit. It places the question of relations with a menstruant together with several unquestionably morality-related behaviors. No Christian author could have said that a man who does not have relations with his neighbor's wife, does not oppress anyone, or does not lend money on interest is not to be praised. Could they single out the avoidance of relations with a menstruating woman as different from everything else that is mentioned in the same list? In the following pages we will explore these questions in some Christian writings from the third to the thirteenth century.

3. *Third to Fourth Centuries: The Prohibition in the Didascalia, in a Decretal Attributed to Clement of Rome, and in the Apostolic Constitutions*

The *Didascalia*, a work from third century Syria, is probably the most radical Christian attempt to catalog the menstrual prohibition as outdated. This work had been written by an author knowledgeable in Jewish sources, addressing, among others, Jews who had recently adopted the Christian faith and practices, but who still continued to observe some Jewish rituals. This is what the author has to say regarding our subject:

Do not load yourselves again with something that our Lord and Savior has taken away from you. And do not observe these things, nor think that it is uncleanness; and do not restrain yourselves because of them, and do not seek sprinklings, or baptisms, or purifications for these things. [...] also you shall not separate those (women) who are in the habit. For she also who had the flow of blood when she touched the border of our Savior's cloak, was not censured but was esteemed worthy for the forgiveness of all her sins.³ And when (your wives have) those issues which are according to nature, take care that, as is right, you cleave to them, for you know that they are your members, and love them as your soul—as it is written in the twelve prophets, (in) Malachi who was called the Angel: “The Lord has been a witness between you and the wife of your youth, against whom you have dealt treacherously, though she is your companion and your wife by covenant

³ The text refers to the story in Matt 9:20, Mark 5:27, Luke 8:44.

[...] do not deal treacherously against the wife of your youth.”⁴ On this account, a woman when she is in the way of women, and a man when an issue comes forth from him, and a man and his wife when they have conjugal intercourse and rise up one from another—let them assemble without restraint, without bathing, for they are clean.⁵

The text unambiguously declares that at least some kind of physical contact is permitted between man and woman during menstruation. It is hard to know exactly what the author means by “as is right, you (men) cleave to them (women),” but it might very well mean full sexual relations. After the Christian baptism there is no more impurity, and menstruation, a normal issue of blood, should not be considered as an obstacle to a union between spouses, a union praised, according to the author of this text, by the prophet Malachi.

This work is *sui generis*. I am not aware of any other Christian text with such a permissive attitude. It is exceptional even when compared to other texts from approximately the same time and area. In a decree attributed to Clement of Rome,⁶ but which is probably also from Syria and composed in the third century,⁷ one finds a clear prohibition of such relations, based on the “Law of God”:

I speak about the care of the chastity, the sorts of which are numerous. First of all, as each observes it, it is forbidden to unite to the menstruating woman. God’s Law, indeed, made it detestable. If the Law had not warned

⁴ See Mal 2:14–15. The name “Malachi” means “my angel” in Hebrew.

⁵ *Didascalia*, chap. 26. Translation from Arthur Vööbus, *The Didascalia Apostolorum in Syriac*, (Corpus Scriptorum Christianorum Orientalium 401–2; Louvain: Secrétariat du Corpus, 1979), 2:243–244. On this text see also Charlotte Fonrobert, “The Woman with a Blood-Flow (Mark 5:25–34) Revisited: Menstrual Laws and Jewish Culture in Christian Feminist Hermeneutics,” in *Early Christian Interpretation of the Scriptures of Israel: Investigations and Proposals* (eds. Craig A. Evans and James A. Sanders; Journal for the Study of the New Testament Supplement Series 148; Studies in Scripture in Early Judaism and Christianity 5; Sheffield: Sheffield Academic Press, 1997), 121–140; *idem*, “When Women Walk in the Way of Their Fathers: On Gendering the Rabbinic Claim for Authority,” *Journal of the History of Sexuality* 10:3–4 (2001): 413–415.

⁶ The title “Fourth Pope” which is sometimes given to Clement of Rome is simplistic. At best, he was one of the first leaders of the Church of Rome in the last two decades of the first century. See Michel-Yves Perrin, “La papauté héritière de saint Pierre et de la romanité 30–604 ap. J.-C.,” in *Histoire de la Papauté* (ed. Yves-Marie Hilaire; Paris: Tallandier, 1996), 30–32. For a lengthier (although dated) discussion on Clement see J.B. Lightfoot, *The Apostolic Fathers, Part I: S. Clement of Rome* (London: Macmillan, 1890), 1–103.

⁷ See Peter Brown, *The Body and Society: Men, Women, and Sexual Renunciation in Early Christianity* (New York: Columbia University Press, 1998), 196.

us of these things, we would have wallowed in the excrement like dogs (or: cantharides).⁸

A few decades after the composition of the *Didascalia*, it was already used by the *Apostolic Constitutions*.⁹ Like the *Didascalia*, the *Apostolic Constitutions* declares that women while menstruating should not be considered impure and should not refrain from the liturgy.¹⁰ Nevertheless, regarding our initial question, the text adopts a more ‘biblical’ stance, saying that the couple should not have sexual relations at that moment:

When the natural purgations do appear in the wives, let not their husbands approach them, out of regard to the children to be begotten; for the law has forbidden it, for it says: “You shall not approach a woman to uncover her nakedness during her menstrual impurity” (Lev 18:19). Nor, indeed, let them frequent their wives’ company when they are with child. For they do this not for the begetting of children, but for the sake of pleasure. Now a lover of God ought not to be a lover of pleasure.¹¹

This last text offers two reasons for the prohibition: out of concern for the “children to be begotten”; and because of the biblical text. Relations with pregnant women are forbidden because their aim is not procreative.

4. Fourth to Sixth Centuries:

Discussions by Jerome, Caesarius of Arles, and Gregory the Great

We will now move on to works of identifiable authors, starting in the fourth century. Among the Church Fathers, Jerome’s¹² approach to this prohibition remained an influential source for centuries. His comments refer to the text in Ezekiel we have mentioned earlier. For Jerome, the

⁸ A Latin translation appears in Clement of Rome, *Epistola IV* (PG 1:505): “[...] de castimoniae dico cautela, cujus species multae sunt. Sed primo, ut observet unusquisque, ne menstruatae mulieri misceatur; hoc enim execrabile ducit lex Dei. Quod si lex de his non admonuisset nos, ut catuli [/cantharides] libenter volveremur in stercore.” See also Jean-Louis Flandrin, *Un temps pour embrasser, Aux origines de la morale sexuelle occidentale (VI^e–XI^e siècle)* (Paris: Le Seuil, 1983), 75.

⁹ On this work see David A. Fiensy, *Prayers Alleged to be Jewish: An Examination of the Constitutiones Apostolorum* (Chico, Cal.: Scholars Press, 1985).

¹⁰ *Apostolic Constitutions* 4.27.

¹¹ *Apostolic Constitutions* 4.28. Text from *Ante-Nicene Fathers: Translations of The Writings of the Fathers Down to A.D. 325*, vol. 7 (eds. Alexander Roberts and James Donaldson; Edinburgh: T. & T. Clark 1868–73, repr., Grand Rapids, Mich.: Eerdmans 1965–70), 463. See also Marcel Metzger, *Les Constitutions Apostoliques (Sources Chrétiennes 329)*, Tome II, Livres III–VI (Paris: Les éditions du Cerf, 1986), 387.

¹² 345–c. 419.

main reason for the abstinence during menstruation is not because the Bible prohibits such relations, but because of the medical risk they entail. Relations at this time might create deformed children:

At this time, if a man has intercourse with a woman, it is said that the fetuses conceived from this union are leprous and hydrocephalic. The corrupted blood causes the bodies of both sexes to be either too small or too large.¹³

About a century and a half after Jerome, a strong condemnation of such relations appeared in the *Sermons to the People* written by Caesarius of Arles:¹⁴

Above all, no one should know his wife when Sunday or other feasts come around. Similar precautions should be taken as often as women menstruate, for the Prophet says: 'Do not approach a woman during her menstrual period.'¹⁵ If a man is aware that his wife is in this condition but refuses to control himself on a Sunday or feast, the children who are then conceived will be born as lepers, or epileptics, or perhaps even demoniacs. Lepers are all born, not of wise men who observe chastity on feasts and other days, but especially of farmers who do not know how to control themselves.¹⁶

¹³ St. Jerome, *Commentary on Ezekiel* 18:6 (PL 25:173 | CCSL 75:235): "Quo tempore si vir coierit cum muliere, dicuntur concepti foetus vitium seminis trahere : ita ut leprosi et elephantiaci ex hac conceptione nascentur, et foeda in utroque sexu corpora, parvitate vel enormitate membrorum, sanies corrupta degeneret." See also Jean-Louis Flandrin, *Un temps pour embrasser*, 74; James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago, 1987), 92, n. 59. On the possibility that Jerome learned from Jews that relations during menstruation might cause leprosy to the fetus, see Evyatar Marienberg, *Niddah: Lorsque les juifs conceptualisent la menstruation* (Paris: Les Belles Lettres, 2003), 113–120.

¹⁴ 470–543.

¹⁵ Caesarius refers apparently to Ezekiel 18:6. It is worth noting that in the massoretic text of Ezekiel, as well as in some editions of Jerome's Vulgate, the verb "approach" in this verse is in the third person: "The Righteous [...] does not] approach" (*accesseris*). In others, it is in the second person subjunctive functioning as imperative (*accesserit*).

¹⁶ "Ante omnia, quotiens dies dominicus aut aliae festiuitates veniunt, uxorem suam nulus agnoscat. Et quotiens fluxum sanguinis mulieres patiuntur, similiter observandum est, propter illud quod ait propheta : 'Ad mulierem menstruatam ne accesseris.' Nam qui uxorem suam in profluvio positam agnoverit, aut in die dominico aut in alia qualibet sollempnitate se continere noluerit, qui tunc concepti fuerint, aut leprosi aut epileptici aut forte etiam demoniosi nascuntur. Denique quicumque leprosi sunt, non de sapientibus hominibus, qui et in aliis diebus et in festiuitatibus castitatem custodiunt, sed maxime de rusticis, qui se continere non sapiunt, nasci solent." The Latin text appears in CCSL 103:199. The translation above is from *Saint Caesarius of Arles, Sermons, Vol. I* (trans. Sister Mary Magdeleine Mueller; Washington D.C.: Catholic University of America, 1956), 44:7:225. Although Mueller translates "quicumque" as "commonly," I have rendered it by the word "all." See also Césaire d'Arles, *Sermons au peuple* (sources Chrétiennes 243; trans. and ed. Marie-José Delage; Paris: Les Editions du Cerf, 1978), 44:3–8:338–341.

Like Jerome, Caesarius uses both biblical proofs as well as medical ones. Unlike Jerome, Caesarius seemed to be very certain in his assertion, and affirms that all (“*quicumque*”) malformed children are the result of a lack of abstinence during prescribed times. It seems that for both authors, the main reason why Christians should keep this law is medical. The fact that it appears in the Bible seems merely to serve as support.

By the turn of the sixth century, around the year 597, Augustine of Canterbury,¹⁷ the “Apostle of the English,” sent nine questions to Pope Gregory.¹⁸ The Pope, who had a close relationship with Augustine, sent back his answers.¹⁹ The eighth answer is directly related to our subject. Augustine asked if a menstruant is allowed to enter the church or take communion.²⁰ He did not ask whether a couple may have sexual relations during this time. Perhaps a negative answer seemed evident to him. In his answer, Gregory explicitly referred also to this unasked question:

[...] women are forbidden from intercourse with their husbands during their ordinary periods: so much so that the sacred law condemned to death anyone who approached a menstruous woman.²¹

¹⁷ Died c. 606.

¹⁸ Gregory the Great, c. 540–604.

¹⁹ The authenticity of these answers was already questioned in the eighth century by Boniface, who remarked that there is no registry of these answers in Rome. Nevertheless, as far as I know most scholars today no longer suspect their authenticity. On this question see Margaret Deanesly and Paul Grosjean, “The Canterbury Edition of the Answers of Pope Gregory I to St. Augustine,” *Journal of Ecclesiastical History* 10 (1959): 1–49; Margaret Deanesly, “The Capitular Text of the *Responsiones* of Pope Gregory I to St. Augustine,” *Journal of Ecclesiastical History* 12 (1961): 231–234. More recently, see the two excellent articles of Rob Meens, “Ritual Purity and the Influence of Gregory the Great in the Early Middle Ages,” in *Unity and Diversity in the Church* (ed. Robert N. Swanson; Oxford: Blackwell, 1996), 31–43, and idem, “Questioning Ritual Purity: The Influence of Gregory the Great’s Answers to Augustine’s Queries about Childbirth, Menstruation and Sexuality,” in *St Augustine and the Conversion of England* (ed. Richard Gameson; Stroud: Sutton, 1999), 174–186. Dyan Elliott hesitates about the authenticity of the questions, but does not provide any new elements. See Dyan Elliott, *Fallen Bodies: Pollution, Sexuality, and Demonology in the Middle Ages* (Philadelphia: University of Pennsylvania, 1999), 167, n. 14. For our discussion, the authenticity question is of a small importance, but since most scholarly works I consulted consider these answers as Gregory’s, I do the same.

²⁰ On Jewish attitudes regarding the permissibility of a menstruant to enter synagogues or see/touch the Torah scrolls see Evyatar Marienberg, “Menstruation in Sacred Spaces: Medieval and Early-Modern Jewish Women in the Synagogue,” *Nordisk Judaistik* 25:1 (2004): 7–16.

²¹ “[...] *cum in suetis menstruis detinentur, uiris suis misceri prohibentur, ita ut morte lex sacra feriat, siquis uir ad menstruatam mulierem accedat.*” Latin text and English translation from *Bede’s Ecclesiastical History of the English People* (trans. and eds. Bertram Colgrave and R.A.B. Mynors; Oxford: Oxford University, 1969), 1.27:91–93.

Except for stating that such an act is severely punishable according to the Bible, Gregory does not provide an additional reason to explain why this Old Testament law should be observed. It is interesting to note that just a few lines later, while affirming that a woman should not be excluded from the church during her period, he justifies it by, among other reasons, the following statement:

For as in the Old Testament it is the outward deeds that are observed, so in the New Testament careful heed is paid not so much to what is done outwardly as to what is thought inwardly, so that the punishment may be rendered on subtler grounds. For as the law forbids the eating of many things as unclean, nevertheless in the gospel the Lord said: "It is not what enters into the mouth that defiles the man, but what proceeds out of the mouth, this defiles the man" (Matt 15:11). [...] So the Apostle Paul also says: "To the pure, all things are pure; but to those who are defiled and unbelieving, nothing is pure" (Tit 1:15). [...] Therefore if no food is impure to him whose mind is pure, why should that which a pure-minded woman endures from natural causes be imputed to her as uncleanness?²²

Let us think again about Gregory's first declaration. Does the Hebrew Bible specify that the transgressor of this law should be put to death, *ut morte* in Gregory's words? In fact, not necessarily. The Bible uses a verb of the root 'k-r-t,' often justly translated as 'to cut off.' As we have shown elsewhere,²³ Jews generally interpreted this term as referring to a death punishment 'by the hands of Heaven' and not by a terrestrial court (unlike the one prescribed in many other types of transgressions). Did Christian authors make the same distinction? If the case of Gregory is representative, as it may seem to be, the answer might be negative. Like Gregory, many Christian authors speak of the sanction for this transgression as a death punishment, presumably carried out by the community. It seems this reading is influenced by the Vulgate:²⁴

²² "*Sicut enim in Testamento ueteri exteriora opera obseruantur, ita in Testamento nouo non tam quod exterius agitur quam id quod interius cogitatur sollicita intentione adtenditur, ut subtili sententia puniatur. Nam cum multa lex uelut inmunda manducare prohibeat, in euangelio tamen / Dominus dicit: 'Non quod intrat in os coinquinat hominem, sed quae exeunt de ore, illa sunt quae coinquinant hominem' [...]. Vnde Paulus quoque apostolus dicit: 'Omnia munda mundis, coinquinatis autem et infidelibus nihil est mundum' [...]. Si ergo ei cibus inmundus non est, cui mens inmundata non fuerit, cur, quod munda mente mulier ex natura patitur, ei in inmunditiam reputetur?*" Latin text and English translation from Colgrave ed., *Bede's Ecclesiastical History*, 1.27:94.

²³ See Marienberg, *Niddah*, 81–85.

²⁴ The verb used in the Septuagint is also "to cut off": "ἐξολεθρευθήσονται ἀμφοτέροι." See *Septuaginta id est Vetus Testamentum graece iuxta LXX interpretes* (ed. Alfred Rahlfs; Stuttgart: Deutsche Bibelgesellschaft, 1935).

Qui coierit cum muliere in fluxu menstruo et revelaverit turpitudinem eius ipsaque aperuerit fontem sanguinis sui interficientur ambo de medio populi sui. (Lev 20:18)²⁵

This version is less ambiguous than the Hebrew version. The verb “*interficere*” is clear: the sinners should be put to death. Often, even modern scholars ignore the ambiguity of the verse and the various possibilities of interpreting it. Payer, for example, says: “Another regulation directs that both [=man and woman who had relations during menses] be removed from the population and killed (Lev 20:18).”²⁶

One should be careful with such clear-cut (literally!) declarations. If for Christian readers the Bible condemns to death those who break the menstrual prohibition, for Jewish readers the punishment is severe, maybe even more so than a ‘simple’ death sentence, but it is not an execution. Having said that, Gregory the Great and other Christian authors, who have used the Vulgate, could justly say and believe that the Bible condemns the transgressors to death. For Gregory, due to his own conviction that a menstruating woman is not to be considered impure, it is impossible to justify a prohibition of sexual relations with her on the base of impurity considerations. Nevertheless, the severity of the punishment prescribed in the Bible is a reason by itself for Christians to observe this biblical prohibition.

More than two centuries after Gregory, Jonas of Orleans²⁷ provided a different, but not necessarily more conclusive, justification for the prohibition. Although his discussion is centered around the question of the entry of the menstruant to the church and not on the prohibition of sexual relations, it seems that he would have the same opinion regarding our subject. Having made it clear that the Christians were not bound by the rules of the Hebrews, Jonas notes that:

There are certain things that, the mystical sense withstanding, the Christian usage is to continue to observe according to the letter of the law, for the honesty and the purity of the body [...] And although these things, as the blessed pope Gregory teaches, are to be understood spiritually, it is not improper or contrary to the spiritual understanding, to observe them

²⁵ Text from *Biblia sacra iuxta Vulgatam versionem* (ed. Robertus Weber; Stuttgart: Deutsche Bibelgesellschaft, 1969).

²⁶ Pierre J. Payer, *The Bridling of Desire: Views of Sex in the Later Middle Ages* (Toronto: University of Toronto, 1993), 106.

²⁷ Died c. 843.

literally, according to the usage of the ancient Christians, and because of what has just been said.²⁸

For Jonas, even if the 'true' meaning of these laws is the mystical one, in certain cases keeping these laws is not only not prohibited, but may even be praiseworthy. This may be the case especially if this is the tradition of the Christians, and if this observance goes along with the idea of keeping the body pure. But if the local tradition does not prescribe chastity during menstruation, can Christians lawfully have relations during menstruation? Jonas does not refer to this eventuality in his statement.

5. *Eleventh to Thirteenth Centuries: Gratian and Thomas Aquinas*

In the eleventh and twelfth centuries, one can find in various works statements that maintain that sexual relations with a menstruant are forbidden to Christians because the Bible prohibits them.²⁹ In the twelfth century, in one of the most important works of Canon Law, Gratian's *Decretum*, composed probably around 1140, a similar position can be found.³⁰ Is this justification sufficient? Again, why are some biblical laws like this one considered binding while so many others are not?

Thomas Aquinas³¹ was well aware of this theological question. He devoted a considerable section of his *Summa Theologica* to the analysis of this issue, beginning with a division of the precepts of the Old Law to three separate categories:

We must therefore distinguish three kinds of precept in the Old Law; viz. 'moral' precepts (*moralia*), which are dictated by the natural law; 'ceremonial' precepts (*ceremonialia*), which are determinations of the Divine worship;³² and 'judicial' precepts (*iudicialia*), which are determinations of the justice to be maintained among men.³³

²⁸ PL 106:187–188: “[...] quoniam spiritualis est, et spiritualiter legem intelligit et dijudicat, sunt tamen quaedam quae mos Christianus salvo mystico intellectu, ob honestatem munditiamque corporis, juxta legem hactenus servat [...] Et licet haec, ut beatus papa Gregorius docet, spiritualiter sint intelligenda, non est tamen indecens, nec inhonestum, nec spirituali intellectui contrarium, si juxta priseorum Christianorum usum ad litteram, propter id quod praemisum est, observentur.”

²⁹ See for example Yves of Chartres (c. 1040–1116), *Decretum* 9.119 (PL 161:688).

³⁰ Gratianus, *Decretum*, I, d. 5, c. 4 et *palea*, col. 8.

³¹ 1225–1274.

³² Thomas uses this definition and does not define the ceremonial precepts as “those for which there is no evident reason” in a direct opposition to Maimonides’ (1135–1204) opinion, which he explicitly mentions (q. 101, a. 1, objection 4).

³³ Thomas Aquinas, *Summa Theologica*, I^a–II^{ae}, q. 99, a. 4, response. See another explanation, at greater length in q. 104, a. 1: “*Et secundum hoc, oportet tria praecepta legis*

Having defined these different categories, Thomas asks himself if these precepts of the Old Law are binding. With regard to the *moralia*, his answer is positive. Despite the fact that not all the *moralia* seem to be, on the surface, reasonable and related to natural law, in fact, they are. Moreover, in some way or another, all moral precepts of the Old Law are included, according to Thomas, in the Decalogue.³⁴ Being prescribed directly by God, “The precepts of the Decalogue admit of no dispensation whatever.”³⁵

After explaining the status of the precepts from the first category, Thomas moves now to the second group, the *ceremonialia*. Did these laws cease at the coming of Christ? Yes, Thomas answers:

The ceremonies of the first-mentioned state (under the Old Law, before Christ), which foreshadowed the second (state, under the New Law, at the present time), and third (state, of the Blessed), had need to cease at the advent of the second state.³⁶

Can one observe these laws, at the present time, without committing a grave sin? No, answers Thomas. These precepts were for the Fathers, in their waiting for Christ to be born. Today, “just as it would be a mortal sin now for anyone, in making a profession of faith, to say that Christ is yet to be born [. . .] so too it would be a mortal sin now to observe those ceremonies which the fathers of old fulfilled with devotion and fidelity.”³⁷

Moral laws are therefore binding, and the ceremonial laws related to the divine worship but not dictated by the natural law, are abrogated. What about the third category, of the *iudicialia*? Are they still binding? No, answers Thomas, but their abrogation is not similar to the abrogation of the *ceremonialia*:

veteris ponere; scilicet moralia, quae sunt de dictamine legis naturae; caeremonialia, quae sunt determinationes cultus divini; et judicialia, quae sunt determinationes iustitiae inter homines observandae.” This and the following Latin quotations of Thomas are taken from St Thomas Aquinas, *Summa Theologiae*, vol. 29 (trans. and eds. David Bourke and Arthur Littledale; London: Blackfriars, 1963). The Latin text in this edition relies on the ‘Leonine’ edition from the 19th century. For the English translation I used a different edition: St Thomas Aquinas, *Summa Theologica, First Complete American Edition in Three Volumes*, vol. 3 (trans. Fathers of the English Dominican Province; New York: Benziger Brothers, 1948).

³⁴ *Idem*, q. 100, a. 3, response.

³⁵ *Idem*, q. 100, a. 8, response: “*Et ideo praecepta decalogi sunt omnino indispensabilia.*”

³⁶ *Idem*, q. 103, a. 3, response: “*Pari igitur ratione, caeremoniae primi status, per quas figurabatur et secundus et tertius, veniente secundo statu, cessare debuerunt.*”

³⁷ *Idem*, q. 103, a. 4, response: “*Sicut igitur peccaret mortaliter qui nunc, suam fidem protestando, diceret Christum nasciturum, quod antiqui pie et veraciter dicebant; ita etiam peccaret mortaliter, si quis nunc caeremonias observaret, quas antiqui pie et fideliter observabant.*”

The judicial precepts did not bind forever, but were annulled by the coming of Christ: yet not in the same way as the ceremonial precepts. For the ceremonial precepts were annulled so far as to be not only 'dead,' but also deadly to those who observe them since the coming of Christ, especially since the promulgation of the Gospel. On the other hand, the judicial precepts are dead indeed, because they have no binding force: but they are not deadly. For if a sovereign were to order these judicial precepts to be observed in his kingdom, he would not sin: unless perchance they were observed, or ordered to be observed, as though they derived their binding force through being institutions of the Old Law: for it would be a deadly sin to intend to observe them thus.³⁸

Where should one place the law that we are interested in, the prohibition of relations with a menstruant? According to Thomas' system, three options are to be considered: (1) that this law is a part of the *moralia*, and therefore is still binding; (2) that this law is a part of the *ceremonialia*, and therefore abolished; and (3) that this law is a part of the *iudicialia*, and therefore not binding because of its inclusion in the Old Law, but maybe binding because of its being prescribed again by a sovereign.

In his *Summa Theologica*, Thomas did not go into details defining the status of each law. Nevertheless, he refers to the law that interests us in his previously definitive work, the *Scriptum super libros Sententiarum Petri Lombardi*, published circa 1256.³⁹ In his commentary on the fourth book of the *Sentences* of Peter Lombard,⁴⁰ we find the following:

To the second question it ought to be said that according to the (old) law it was forbidden to approach a menstruant for a twofold reason; both on account of uncleanness and on account of the harm which frequently follows in the offspring of this kind of comingling. And from which (i.e., based on this knowledge), (we address) the first (point): the rule was ceremonial;

³⁸ Idem, q. 104, a. 3, response: "*Dicendum quod judicialia praecepta non habuerunt perpetuam obligationem, sed sunt evacuata per adventum Christi: aliter tamen quam caeremonialia. Nam caeremonialia adeo sunt evacuata ut non solum sint mortua, sed etiam mortifera observantibus post Christum, maxime post Evangelium divulgatum. Praecepta autem judicialia sunt quidem mortua, quia non habent vim obligandi: non tamen sunt mortifera. Quia si quis princeps ordinaret in regno suo illa judicialia observari, non peccaret: nisi forte hoc modo observarentur, vel observari mandarentur, tamquam habentia vim obligandi ex veteris legis institutione. Talis enim intentio observandi esset mortifera.*"

³⁹ For a translation of some sections of this work see Thomas Aquinas, *On Love and Charity: Readings from the 'Commentary on the Sentences of Peter Lombard'* (eds. Peter A. Kwasniewski et al.; Washington D.C.: Catholic University of America, 2008). See an extended introduction to this book on the web at <http://cuapress.cua.edu/res/docs/thomasaquinas-suppmaterials.pdf>, especially 4–12. For a bibliography of other scholarly introductions to this work by the young Thomas see the first footnote in this introduction.

⁴⁰ c. 1100–c. 1160.

yet with respect to the second (point) it was moral: because when there is a marriage, it is principally established for the good of the offspring. Every use of marriage, upon which the good of the offspring depends, is ordered. And therefore this rule is binding also under the new law due to the second reason, although not on account of the first. Notwithstanding, the menstrual flow can be natural or unnatural. Indeed, it is natural when, of course, women suffer at fixed times, when they are healthy. But it is unnatural when the flow of blood is suffered inordinately, as though continuous, from some disorder. Therefore, according to the new law it is not forbidden to approach a menstruating woman during an unnatural menstrual flow: both due to her infirmity, since a woman in such a state cannot conceive, and also because such a flow is continual and of long duration; whence it would be fitting that a man abstain constantly (thus not a legitimate option). But when a woman naturally suffers the flow of her menses, she can become pregnant; and again such a flow does not endure except for a short while, whence it is forbidden to approach such a woman, and likewise it is forbidden for a woman in such flow to seek the marriage debt.⁴¹

Thomas' solution is nothing short of brilliant. Combining medical concepts with moral ones, he succeeds in giving a convincing explanation (of course, if one accepts the medical concepts of that time) why relations with a menstruant are immoral, and therefore should be avoided. At the same time, this prohibition is not related to any 'esthetic' repulsion. And if the bleeding is continuous, relations are permitted; a decision that

⁴¹ Aquinas, *Super Sententiarum*, lib. 4, d. 32, q. 1, a. 2, s. 2: "*Solutio II: Ad secundam quaestionem dicendum, quod accedere ad menstruatam in lege prohibitum erat duplici ratione; tum propter immunditiam; tum propter nocumentum quod in prole ex huiusmodi commixtione frequenter sequebatur. Et quo ad primum, praeceptum erat caeremoniale, sed quantum ad secundum erat morale: quia cum matrimonium sit ad bonum prolis principaliter ordinatum, ordinatus est omnis matrimonii usus quo bonum prolis impenditur; et ideo hoc praeceptum obligat etiam in nova lege propter secundam rationem, etsi non propter primam. Fluxus tamen menstruorum potest esse naturalis et innaturalis. Naturalis quidem, quando scilicet mulieres patiuntur temporibus determinatis, quando sunt sanae. Innaturalis autem quando inordinate et quasi continue ex aliqua infirmitate fluxum sanguinis patiuntur. In fluxu ergo menstruorum innaturali non est prohibitum ad mulierem menstruatam accedere in lege nova: tum propter infirmitatem, quia mulier in tali statu concipere non potest; tum quia talis fluxus est perpetuus et diuturnus; unde oporteret quod vir perpetuo abstineret. Sed quando naturaliter mulier patitur fluxus menstruorum, potest concipere; et iterum talis fluxus non durat nisi ad modicum tempus. Unde prohibitum est ad talem accedere; et similiter prohibitum est mulieri in tali fluxu debitum petere.*" This text was used after Thomas' death, probably by Reginald of Piperno (c. 1230–c. 1290), a companion of Thomas, for the composition of the *Supplement* of the *Summa*, q. 64, a. 3. I would like to thank Michel Perrin (University of Rouen) for providing me with a useful Latin-Italian edition of this text. Sharon Wright's (St. Thomas More College, Saskatoon) assistance with the translation of this text and her thorough insights were extremely useful. I would like to thank her for her great help.

enables couples who deal with such problems to continue with a more or less normal marital life.

6. *Instead of a Conclusion*

While discussing practices of hand purification before liturgical celebrations mentioned by some Church Fathers, Peter Tomson writes the following:

In the context of their liturgy, the ancient Christian Fathers both kept reading the Scriptures of Israel and acknowledged the observance of certain purity rules in the Church, especially washing (hands) for prayer. But in their exegesis, they declared that Jesus had abolished the purity laws as practiced by the Jews. If this is not hypocritical, at the very least it is contradictory.⁴²

We have just explored a similar issue, and found a similar contradiction. Were the theologians hypocrites? I would not say that. I believe many of them realized that their logic is lacking, but they could not find a better explanation to reconcile their feeling that this specific prohibition should be kept with the general theological concept that after the coming of Christ purity rituals of the Old Testament are not binding. They also did not want to justify this prohibition with purely medical or esthetic arguments, perhaps because they realized that such arguments are more subjective than a ‘classical’ scholastic argument. Thomas Aquinas did manage to find a scholastic way by which he could justify the prohibition. The ‘Angelic Doctor’ succeeded in explaining why this Old Testament law should be kept, without any need to base this obligation on the questionable authority of the Old Testament in such matters or on subjective esthetical concepts. As for whether this encouraged more Christians to keep the prohibition—this will have to await future investigation.

⁴² Peter J. Tomson, “Jewish Purity Laws as Viewed by the Church Fathers and by the Early Followers of Jesus,” in *Purity and Holiness—The Heritage of Leviticus* (eds. M.J.H.M. Poorthuis & J. Schwartz; Leiden: Brill, 2000), 77–78.