

Which Relatives Are You Prohibited from



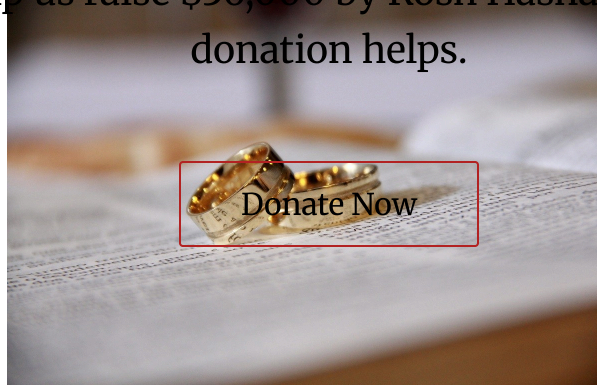
Leviticus' list of permitted relatives for marriage was not as strict as it is today. For its time, Western society was not so great, the rabbis did so only because of the modern-day rabbinic Judaism with more relatives permitted for marriage than most western societies.

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Prof. Rabbi Marty Lockshin

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The taboo against incest is not an outgrowth of biology. In the world of non-human mammals, it is not uncommon for a male to engage in sexual activity with its mother or sister.^[1] People who work with animals are not disgusted by such mating patterns, and the Talmud even permits Jews to mate a male animal with any female of its species, even its mother: מותר פרי עם אם, “[mating] the produce with its mother is permissible.”^[2] Human incest, however, is frowned upon today as it has been for millennia.

Ancient Near Eastern Context

Discussing the biblical incest laws, Baruch Levine, Professor (Emeritus) of Bible at NYU writes, “The prohibition of incest reflects the almost universal, natural feelings of a person towards those with whom he has been reared.”^[3] Nevertheless, not all cultures in the ancient Near East had incest laws; even among the majority that did, the exact list of who was forbidden varied.^[4] The Laws of Hammurabi and the Hittite Laws prohibit only a handful of consanguines (blood relatives) and affines (relatives by marriage).

Admittedly, the Bible (Leviticus 18:17) prohibits a man from having sex with his brother-in-law (consanguine), and a woman from having sex with a brother-in-law (affine) is sinful, even though the Bible does not explicitly mention incest laws in the Torah Collection. Thus, law

Even so, it is striking that the Bible's incest collection had lists as extensive as those of Leviticus 18 and 20, detailing so many forbidden relationships.^[5] Moreover, Leviticus claims that these prohibitions differentiate Israelites from their Canaanite and Egyptian neighbors.

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Not only that, the prohibited incestuous relationships in Leviticus 18 and 20 also appear to be more extensive than the prohibitions in other biblical books. For example, the laws from Deuteronomy (22:13-17) and Jacob marrying two sisters (19:21-30)^[7] Traditionalists explain this difference by arguing that before the revelation at Sinai, Israelites were only required to refrain from the shorter list of incestuous relations that rabbinic tradition associated with Noahide Law.^[8] Moderns, however, assume that these differences reflect changes in Israelite incest law over time.^[9]

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Rabbinic Expansions of Incest Restrictions: Mostly Theoretical

The post-biblical rabbis added restrictions to the ones that were mentioned in Leviticus. For example, Moses Maimonides, following earlier Talmudic law,^[10] writes in his *Mishneh Torah* (*Nashim*, “Laws of *Ishshut*,” 1:6):

יש נשים אחרות שאסורות מפני הקבלה ואיסורן מדברי סופרים והן הנקראות שניות מפני שהן שניות לעריות וכל אחת מהן נקראת שנייה, ועשרים נשים הן

There are other women who are forbidden based on tradition or on the words of the Sages, and they are called second-level relatives, since they are secondary to the main forbidden relations. Each one of them is called a “secondary” and they are twenty women [in total].

Maimonides' list really contains more than twenty prohibitions as some of the twenty are actually references to more than one forbidden relative whom he groups together. For example, a man is forbidden to have relations with his mother's mother, and Maimonides clarifies that this also applies to her mother and that this prohibition extends indefinitely to all of his mother's female forebears.^[11]

Some of these rabbinic extensions fall in lacunae.^[12] For example, Leviticus 18:14 prohibits a man from having intercourse with his maternal uncle's wife. The rabbinic extension did not include the paternal uncle's wife (#8 on Maimonides' list). The prohibition on a man having intercourse with his wife's mother (#11 on Maimonides' list) was also not included. They only share the same generation.

Most of the extensions involve people who are two generations separated, which is not likely to occur, such as a man and his mother's mother, as mentioned above. Some of them involve people who are three generations apart, such as a man and his wife's great-grandmother. (This unlikely union counts as numbers 17, 18, 19 and 20 on Maimonides' list, since everyone has four grandparents.)

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None of the second-level prohibitions involves a man and a woman of the same generation (e.g., first cousins) and only the two "uncle's wife" extensions referred to above involve a man and a woman who are just one generation apart. In short, the expansions of the list by the Talmudic rabbis do not significantly restrict sexual behavior or marriage opportunities.

Karaite Expansions and New Restrictions

In contrast, in their early history, Karaite Jews, who do not accept the authority of Talmudic law, greatly extended the prohibition, including to unions that involve a man and a woman of the same generation.^[14] Much of the expansion came from the "catenary theory," or in Hebrew תורת הריקוב, "*torat ha-rikkuv*."^[15] As Leon Nemoy (1901–1998), a specialist on Karaism, explained:

The Karaite scholars of that period established the so-called *rikkuv* theory.... Exegetically and logically it was based on the assumption that man and wife form a unity of flesh (according to Gen. 2:24), from which it follows that persons related by marriage are also blood relations (*she'er*).... In this manner, the most distant relatives came to be included in the biblical term *she'er*.^[16]

According to this theory, blood relatives of one's spouse were considered to be one's own blood relatives, thus turning affines into consanguines, with all the implications. One example (of many): If man A is married to woman B, her siblings would be considered the man's siblings. As a result, the families

effectively merge, and natural siblings of man A are not allowed to marry the natural siblings of woman B.

Forbidding two brothers from marrying two sisters does serve some purpose in a society that practices *yibbum*, levirate marriage. For example, two brothers, A and B, are married to two sisters, respectively C and D. If A dies childless, B is required by Torah law to marry C (Deut 25:5). This would mean that B would be married to two sisters, C and D, a transgression of a different Torah law (Lev 18:18). The catenary theory as practiced in the early years of Karaite Judaism did away with the problem.^[17]

Nevertheless, the list of forbidden relationships was not the list of anyone to marry, as there was no one left for anyone to marry, and the possibility of disappearing altogether was annulled by the *rikkuv* theory, as N

This extreme theory of incest was rejected by Joseph b. Abraham ha-Kohen ha-Ro'eh al-Bašîr and his pupil Jeshua b. Judah, and was replaced by a less stringent law.^[18]

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Even after this 11th century Karaite reform, however, Karaite Judaism's list of

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In this and some other laws, the Karaites haven't returned Judaism to Torah law, but have developed Torah laws in surprising new directions based on an interpretive tradition that differs from that of the rabbanites. As Daniel Lasker writes,

Rabbanite and Karaite differences are mainly the result of divergent methods of interpreting the Bible. Each community has its own exegesis; each community has its own halakha.^[19]

Omissions from the Torah List of Restrictions

According to Leviticus 18:3, the Torah promotes a longer list of forbidden relationships as part of its rejection of the culture of Israel's neighbors. Nevertheless, some relationships that are standardly considered incestuous today, and in the past, are missing from the biblical lists.

First Cousins—In many cultures, ancient and modern, marriages between first cousins are forbidden. We know that already in pre-biblical times, at least some

Hittites forbade this union, as in the letter of the Hittite King, Suppiluliuma I, discussed above.

Today, more than half of the states in the United States restrict or entirely outlaw first cousin marriages.^[20] Both rabbanites and Karaites do permit cousin marriages, presumably because the Bible explicitly says that, at God's recommendation, Zelophehad's daughters married "the sons of their uncles" (Num 36:11)—their first cousins.

Uncle-Niece marriages are permitted in many cultures. In many countries, a man and his aunt or even his uncle and his niece may marry. In some countries, from having relations with their own relatives is considered a crime. In many religions do not permit such marriages. In some speaking countries, they are illegal.

In rabbinic law, however, a man and his sister's daughter permitted, though not as an ideal marriage (b. *Sanhedrin* 76b).

תנו רבנן: האוהב את שכניו, הנותן את ידו ליתום, והמשיא את בת אחותו, והמלווה סלע לעני, בשעת דחקו – עליו הכתוב אומר: "והייתו לך עינים" (Lev 19:17-18).
The rabbis taught: Whoever loves his neighbors, behaves kindly to relatives, marries his sister's daughter, and lends money to a poor person in a time of need, 36,000 angels will be his witnesses (Lev 19:17-18).
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58:9) "When you call, the LORD will answer."^[23]

Saul Lieberman, the great 20th century scholar of rabbinic Judaism, suggested that this encouragement should be understood as a polemic against sectarian Jews who forbade such unions:

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The rabbis often turn a permissible action into a *mitzvah* as a way of countering the claims of sectarians.^[24]

Whatever the reason, Rashbam (R. Samuel ben Meir, c. 1080–c. 1165), argued that this ideal applies also to marrying a brother's daughter—though ironically, his brother, Rabbenu Tam (R. Jacob ben Meir, 1100–1171), argued that a marriage between a man and his brother's daughter, אין עושה כל כך מצוה, "is not as meritorious."^[25]

An Ossified List

In short, with the exception of the slight expansions in the rabbinic period noted above, the list of forbidden relations in Judaism became ossified in the lists from Leviticus. As a consequence, the list in Leviticus, which in its ancient context was broader than those of most surrounding cultures, and was meant to demonstrate

Israel's "holiness" in contrast to its neighbors, has ended up being less restrictive than the prohibitions of many modern cultures.

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Footnote

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1. I am grateful to [redacted] for his [redacted] habits.
 2. B. Hullin 114b. See R. [redacted], s.v. אחי פרוה: יצא מן עם אמו.
 3. Baruch Levine, *Leviticus*, JPS Torah Commentary (Philadelphia: Jewish Publication Society, 1989), 254.
 4. See detailed discussion in Eve Levavi Feinstein, "Sexual Prohibitions in the Bible and the ANE: A Comparison," *TheTorah.com* (2018).

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5. Gordon Wenham writes in his *Commentary on Leviticus*: "The prevalence of the customs denounced here as Egyptian and Canaanite perversions is well attested in Scripture and in extra-biblical sources. In the Egyptian royal family, brothers married sisters. In the laws of Hammurabi and the Hittites, some of the incestuous relationships listed here, but by implication allowed other unions mentioned here." Wenham, *The Book of Leviticus*, New International Commentary on the Old Testament (Grand Rapids: Eerdmans, 1979), 251. Modern scholars discuss whether the term "uncovering the nakedness" (לגלות ערוה) is a euphemism for sexual intercourse or for marriage. To me it seems that both are included in the term.

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6. Tamar's words in 2 Sam 13:13 also imply that she assumed that such a marriage was permitted, though the text never clarifies whether she is correct.
7. The half-sister is prohibited in Lev 18:9 and 20:17; it is also prohibited in Deut 27:22, as part of Deuteronomy's much less extensive list. Marrying two sisters (when both are alive) is prohibited in Lev 18:18. Another example of a marriage that is narrated by the text with equanimity even though a later biblical text forbids it is Amram marrying his paternal aunt Yocheved (Exod 6:20), prohibited in Lev 18:12 and 20:19.
8. See, for example, Rashi's comment to Gen 20:12 where he explains that Abraham married his paternal half-sister because בת אב מותרת לבן נח, a Noahide man is permitted to marry his father's daughter (as long as the two of them do not have the same mother). See also similar arguments of Abarbanel (commentary to Lev 18) concerning the marriages of Jacob to two sisters, and of Amram to his aunt.

9. E.g. Levine, *ibid*.

10. See e.g. b. *Yevamot* 21a.

11. וזו אין לה הפסק . . . עד מעלה מעלה היא אסורה.

12. The apparent lacuna that seems most troubling is the lack of an explicit prohibition against sexual activity between a father and his daughter. The best answer to this problem is to note that, practically speaking, this lacuna is not real since the Bible specifically says (Lev 18:17):

עֲרוֹת אִשָּׁה וּבִתָּהּ לֹא תִגְלֶה Do not uncover the nakedness of a woman and her daughter

This verse effectively makes it forbidden for a man to have sexual relations either with his daughter or with his mother-in-law. Other explanations have been offered for this lacuna. See, for example, Nathan R. Zisken, "Sexual Relations Between a Father and His Daughter," *Sefer ha-hinukh* (1996): 126; Eve J. Isaac, "Incest in the Bible," *Journal of Biblical Literature* 115 (1996): 126.

13. This expansion of the prohibition to include a man's father's maternal half-brother's wife. See *Sefer ha-hinukh*, Issurei bi'ah 2:2.

14. I am grateful to Professor Daniel Lasker for sharing information about Karaite law. For his own discussion of this topic on this site, see the [personal status](#) section in Daniel Lasker, "Do you value academic biblical scholarship?" *TheTorah.com* (2017).

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15. For more detail on forbidden relations in early Karaite Judaism, see Leon Nemoy, "Two Controversial Points in the Karaite Law of Incest," *Hebrew Union College Annual* 49 (1978): 247–65; Nemoy, *Karaite Anthology: Excerpts from the Early Literature* (New Haven: Yale University Press, 1952), 123–32; Aviram Ravitzky, תורת ההיגיון ותורת ההכרה במתודולוגיה ההלכתית, *AJS Review* 41.2 (November 2017), 1–32.

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16. Leon Nemoy, "Karaites," *Encyclopedia Judaica*, 2nd ed., 11:799. For more details on what relations are considered incest in Karaite Judaism, see the continuation of the *EJ* article. See also *Sefer ha-hinukh ma'ayan Hayyim* (Ashdod, 1996) by the former chief rabbi of the Karaites, Hayyim ha-levi.

17. Contemporary Karaites permit these marriages. Rabbanite Judaism always allowed such marriages, but some of the most complicated discussions in the tractate of the Talmud that deals with levirate marriage, *Yevamot*, revolve around this and similar problems. See e.g. Mishnah *Yevamot* chapter 3 and the Talmudic discussions.

18. Nemoy, "Karaites," 799.

19. Lasker, "Biblical Exegesis as a Source of Jewish Pluralism."

20. See <https://www.cousincouples.com/?page=states>.

21. See for example the list of [forbidden marriages](#) in the Anglican Church's *Book of Common Prayer*.

22. In fact, a court in the United States recently shocked many people by ruling that the marriage of a man to his half-sister's daughter was legal. See, "[Marriage between uncle and niece is ruled legal by New York Court](#)," *The Telegraph*, October 29, 2014.

23. See also b. *Yevamot* 62b and *Derekh Eretz* 16–17.

24. רגיל הוא שחז"ל הופכים רשות למצוה להוציא מלבן של מינן. *Tosefta ki-feshutah*, vol. 8, *Qiddushin* (New York: Jewish Theological Society of America, 1973), 915.

25. See *Tosafot Yevamot* 62b, s.v. *vehachose et bat aphoto*; *Tosafot Yevamot* 99a, s.v. *safeq eshet ahiv*. The question for the Tosafists is only whether such a union is as desirable as the union between a man and his wife. The question is whether such a union is permissible.



Under the leadership of Rabbi Yehoshua Feiler, a leading scholar and his rabbinic community, he studied in Yeshivat Merkaz HaRav Kook. Among Leach's publications is his four-volume translation and annotation of Rashbam's commentary on the Torah.

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