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Kinship and Prohibited Marriages in Baroque Germany: Divergent Strategies among Jewish and Christian Populations

By David Warren Sabean

This paper will examine the different manners in which Christian and Jewish communities in seventeenth-century Central Europe confronted a particular problem: that of defining both incest and prohibited forms of marital union. Centred around forbidden marriages, the tensions within each community suggest a range of spiritual, intellectual, social, and political relationships providing different points of communal contact transacted within complex layers of meaning. In one way or another, almost every consideration of incest in the seventeenth century dealt with Leviticus 18:6, which established a prohibition on marriage with "near kin". Christian scholars frequently went to rabbinical or Karaite sources to help interpret the text, and to find their way among the intricate problems involved in practically applying Mosaic law in German territories.

In European law codes and in canon law, marriage rules regarding admissible and advisable alliances were always expressed negatively. People were not told whom they *ought* to marry or have sexual relations with but with whom they were *not* permitted to do so. These rules had great importance for the sorts of permissible alliance, the structure and dynamics of kinship relations, and the nature of interactions among families. Fears concerning incest were always part of larger issues of kinship, and changes in kinship and incest prohibitions were closely coordinated. The following discussion is concerned with both kinship structures and incest and will necessarily treat aspects of seventeenth-century familial and social organisation among both Jews and Christians. But for the sake of establishing a context, it is best to first consider a fundamental shift, appearing to begin just before the middle of the eighteenth century, in definitions of incest and the way alliances were formed. The shift was reflected in a widespread system of endogamous marriage, particularly manifest in a rising incidence of marriages among cousins but also in various forms of marriage-exchange between allied families over many generations.

Maintained in full force until the late decades of the nineteenth century, this development would itself begin to wane in the 1920s. But it is fairly safe to say that before 1740, marriages among blood kin were infrequent in all Western European coun-

tries.[1] Protestant church law forbade marriages between second cousins and Catholic church law among third cousins.[2] All states provided for dispensations, but at least in the early part of the seventeenth century most Protestant establishments had a bad conscience about allowing exceptions to the rules; and after the Council of Trent Catholics were quite reluctant to provide dispensations, even for the aristocracies of Spain, France, and Italy. After 1740, the trickle of dispensations grew into a stream, followed towards the end of the century by an opening of the sluice gates. In the southern German Protestant village of Neckarhausen, there were no marriages between consanguineous kin before 1740, but by 1850 almost fifty percent of all marriages were with close kin.[3] Statistics that can be gathered for most Western European countries confirm the same phenomenon, although the overall upward trend disguises sharp differences in behaviour by occupation, class, and locality.[4] This shift from an absolute prohibition of close consanguineous marriages to states and churches collaborating with them needs explanation; it should in any event be pointed out that while the new kinds of marriages had political consequences, the restructuring of social relations came from society, not from the state. The consequences were enormous, and historians are just beginning to map the phenomenon and explore its meanings.[5] What is relevant in the present context is that the nineteenth-century system of kinship throws the quite different kin structures of the seventeenth century into comparative relief.

The first problem to be considered in this regard involves the consequences of both endogamy and exogamy in the nineteenth century. It is important to note that marriage with a blood relative such as a cousin repeats an alliance already struck in a previous generation. Marrying a second cousin brings together two generations later a pair of families already joined through a marriage, while marrying a first cousin repeats the marriage of the parental generation. This period, when consanguineous marriages were becoming a frequent choice for families, was marked by a strong stress on the development of patrilineal relationships and a cultivation of identity with a patriline. During the first half of the nineteenth century aristocratic and middle-class families created festivals of all kinds to bring the offspring of a *Stammvater* together periodically, and by the 1870s and 1880s many such patrilineal

[1]The most important work on this subject is presently being done by Jean-Marie Gouesse. See 'Mariages de proches parents (xvie–xxe siècle), Esquisse d'une conjuncture', in *Le modèle familial européen: Normes, déviances, contrôle du pouvoir*. Actes des sémenaires organisés par l'école française de Rome, vol. 90, Rome 1986, pp. 31–61; 'L'endogamie familiale dans l'europe catholique au xviiie siècle: première approche', in *Mélanges de l'école française de Rome. Moyen âge, Temps modernes*, vol. 89 (1977), pp. 95–116. See also Carl Henry Alström, 'First-Cousin Marriages in Sweden 1750–1844 and a Study of the Population Movement in Some Swedish Subpopulations from the Genetic-Statistical Viewpoint: A Preliminary Report', in *Acta Genetica* 8 (1958), pp. 295–369.
[2]Már Jónsson, 'Incest and the Word of God: Early Sixteenth Century Protestant Disputes', in *Archiv für Reformationsgeschichte* 85 (1994), pp. 96–119; David Warren Sabean, *Kinship in Neckarhausen*, Cambridge 1998, pp. 63–89.
[3]Sabean, *Kinship*, p. 430.
[4]Sabean, *Kinship*, pp. 428–441. Very useful is Jacqueline Bourgoin and Vu Tien Khang, 'Quelques aspects de l'histoire génétique de quartre villages pyrénéens depuis 1740', in *Population* 33 (1978), pp. 633–659.
[5]See the important work of Gérard Delille, *Famille et propriété dans le royaume de Naples (xve–xixe siécle)*, Bibliothèque des écoles françaises d'Athènes et de Rome, vol. 259, Rome-Paris 1985.

groups created legal associations, with by-laws, celebratory publications, and archival records.[6] Such consciously cultivated patrilines entered into reciprocal, repeated marriage alliances with each other, spanning several generations. Indeed, some alliances first put together in the mid eighteenth century lasted until the end of the nineteenth century. But shorter runs of two, three, and four generations were the norm.

Marriage, of course, was only one part of the phenomenon but of crucial structural importance, nevertheless. Once an alliance had been formed, exchanges of godparents, guardians, tutors, and names created opportunities for intensive contacts and integrative associational activities. An interrelated set of cousins or in-laws could meet on a weekly basis for coffee, dinner, or cultural activities. And as the children grew up, they formed strong bonds by experiencing vacations together and meeting in social gatherings. Frequently, further alliances were formed within such gatherings. And a young person could introduce his university friends into such circles, marriage choice thus eventually drawing close friendships and families together into tightly knit bonds. Biographies frequently attest to the manner in which a friend could thus be introduced to a partner, the children of these friends then again matrimonially cementing the alliance in the following generation.[7]

This form of repeated alliance linked kin endogamy with social endogamy, and the new marriage system was crucial for the construction of classes in the nineteenth century.[8] In other words, kin cultivated various social milieus in such a way as to train the coming generation in the art of "freely" choosing a suitable spouse – one with the same cultural level and social manners.[9] Conceivably, this served as a basis for a class-centred politics and cultivation of an art of social inclusion and exclusion – a dynamic of alliance and cultural formation offering women an arena for intense political activity.[10] Forming and reproducing class structures required marriage alliances to connect circuits of capital and create conduits along which mutual influence and concern could flow. Mutual care by allied families for the education and socialisation of the young was not the least important of these endogamous activities. Boys were sent to live with uncles and cousins while they went to school, or they were exchanged within branches of families to learn a trade or business. Girls went to live with and care for elderly members of the kin-group, married siblings or cousins with small children, or relatives living halfway across Europe.

One major aspect of the shift from exogamy to endogamy was a re-focussing of the dynamic of kinship relations away from a vertical towards a horizontal axis. One

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[6]For evidence to this effect, see *Deutsches Geschlechterbuch. Genealogisches Handbuch bürgerlicher Familien*, vol. 193, also published as *Westfälisches Geschlechterbuch*, vol. 7, prepared by Uta von Delius (Limburg an der Lahn 1987). See also Jürgen Kocka, 'Familie, Unternehmer und Kapitalismus: An Beispielen aus der frühen deutschen Industrialisierung', in *Zeitschrift für Unternehmergeschichte* 24 (1979), pp. 99–135, here p. 123; Rüdiger von Treskow, 'Adel in Preussen: Anpassung und Kontinuität einer Familie 1800–1918', in *Geschichte und Gesellschaft* 7 (1991), pp. 344–369, esp. pp. 358, 367–368.

[7]Evidence for all of this is provided in Sabean, *Kinship*, pp. 449–489.

[8]Both Delille, *Famille*, and Sabean, *Kinship* discuss how the new system of kinship influenced nineteenth-century class formation.

[9]In this regard, see Ernst Brandes, *Betrachtungen über das weibliche Geschlecht und dessen Ausbildung in dem geselligen Leben*, 3 vols., Hannover, 1802. See also Louise Otto, *Frauenleben im deutschen Reich. Erinnerungen aus der Vergangenheit mit Hinweis auf Gegenwart und Zukunft*, Leipzig 1876.

[10]See Sabean, *Kinship*, pp. 490–510.

example of this is the way godparentage functioned. In the seventeenth and early eighteenth centuries, godparents were chosen quite typically from wealthier families or those of higher status; sometimes two families could be tied together over several generations in a patron-client relationship. By the end of the eighteenth century, godparents came mainly from families of equal status, stress thus being placed on both sides of the alliance. A pair of cousins who married would choose their siblings or other cousins as godparents, creating an ever more intense set of interlocking horizontal relationships. It appears that the exogamic marriages typifying the earlier period were frequently based on asymmetrical principles, one of the marrying parties being wealthier or better placed than the other.[11] By 1800, considerable stress was being placed on equality and on couples bringing equal assets to the marriage. Christopher Johnson describes this development as a "horizontalisation" of kinship and social relationships.[12] It involved open networks of social equals supplanting a strongly hierarchical system of clientage and interlocking kinship groups based on affinal connections taking over from clan-like patrilineages grouped around the inheritance of property and succession to office.

The brother-sister dyad occupied the core of the intense social intercourse among horizontally constructed kin groups. In Germany, one can see this phenomenon developing with sudden force in Goethe's generation; his relationship with his sister was so charged with meaning that twentieth-century observers have centred their commentaries on it around the theme of incest, extending the process to other well-known pairs of siblings.[13] It is the case that many nineteenth-century marriages between cousins or even – as we shall see – with a deceased wife's sister had earlier been seen as incestuous and had been correspondingly banned in canon and civil law. Incest was a much-examined topic in literature, jurisprudence, and theology in the period between 1740 and 1840; at least in the American and European literary imagination, the topic's focal point was persistently the problem of affection, love, and desire between brother and sister.[14] Among the many novelists, poets, and playwrights of the period to take up the incest theme were Chateaubriand and Goethe, Percy and Mary Shelley, and Herman Melville.

Two more or less random examples – one literary, the other from the correspondence of a Breton bourgeois family – can illustrate this development. On the one hand, in Mary Shelly's *Frankenstein*, the eponymous hero is engaged to his cousin, who has been raised with him in his parents' household. Because of the close rela-

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[11]Sabean, *Kinship*, pp. 23–26, 142–158, 238–255.

[12]Johnson's work on this topic is in progress.

[13]Compare Otto Rank, *The Incest Theme in Literature and Legend: Fundamentals of a Psychology of Literary Creation*, transl. by Gregory C. Richter, Baltimore 1992; Kurt Robert Eissler, *Goethe: A Psychological Study*, *1775–1786*, 2 vols., Detroit 1963; Ulrike Prokop, *Die Illusion vom grossen Paar*, 2 vols., Frankfurt am Main 1991; David Warren Sabean, 'Fanny and Felix Mendelssohn-Bartholdy and the Question of Incest', in *Musical Quarterly* 77 (1993), pp. 709–717.

[14]See Michael Titzmann, 'Literarische Strukturen und kulturelles Wissen: Das Beispiel inzestuöser Situationen in der Erzählliteratur der Goethezeit und ihre Funktionen im Denksystem der Epoche', in Jörg Schönert, Konstantin Imm, and Joachim Linder (eds.), *Erzählte Kriminalität. Zur Typologie und Funktion von narrativen Darstellungen in Strafrechtspflege, Publizistik und Literatur zwischen 1770 und 1920*, Studien und Texte zur Sozialgeschichte der Literatur, vol. 27, Tübingen 1991, pp. 229–281.

tionship to each other, described as one between brother and sister, everyone including themselves expects them to marry. On the other hand, in the extended correspondence from a large Breton bourgeois family network that Christopher Johnson is currently studying, one can observe the rise of close, erotically charged brother-sister ties providing a new important focal point for familial dynamics around the turn of the century, the language of cousinship here becoming conflated with the language of siblingship. One sister (whose letters of longing for her brother, according to Johnson, in fact border on the incestuous) writes to her brother about his impending marriage to their cousin: "habituated from your childhood to your *chérie* as a sister and she loving you as a brother, you have developed an affection that can only end with life itself". Later on in their marriage, the cousin/wife addresses her husband in her letters as "my friend, my spouse, my brother".[15]

The development outlined in these pages – and it would seem, one of the most important facets of social organisation – received very little sociological comment in the nineteenth and twentieth century. Starting with Lewis Henry Morgan, who founded the study of kinship through his work on American Indian tribes, most observers relegated cousin-marriage systems to the realm of the primitive.[16] Pioneering sociologist Georg Simmel took this approach in his essay treating the subject, despite the fact that in his own social milieu cousin marriage was a frequent phenomenon. And Max Weber ignored the issue altogether, even though he was married to his paternal first cousin.[17]

The Rothschild family constitutes a dramatic example of the development. Of fifty-six marriages entered into by descendants of Meyer Amschel in the nineteenth century, precisely half were between first cousins or uncles and nieces.[18] While it is the case that modern Judaism had never been marked by a prohibition on marrying cousins, for the Rothschild family, the practice was new.[19] And the form it took, intensive, repeated marriages with allied families as well as marriages into the family that connected its five branches in various European capitals, marked a new *politics* of consanguineous endogamy.[20] A prominent example of their unfolding in a German and non-Jewish context is offered by the Siemens family. With his marriages to two second cousins, Werner Siemens in fact consciously modelled his familial politics on those of the Rothschilds.[21] Together with his brother, he arranged adoptions

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[15]I am indebted to Christopher Johnson for these two citations.

[16]See Martin Ottenheimer, 'Lewis Henry Morgan and the Prohibition of Cousin Marriage in the United States', in *Journal of Family History* 15 (1990), pp. 325–334. Both Morgan and his son were married to cousins.

[17]Georg Simmel, "Die Verwandtenehe", in *Aufsätze und Abhandlungen 1894–1900*, Frankfurt am Main 1992, pp. 9–36. Cf. Sabean, *Kinship*, pp. 447–448.

[18]See Frederic Morton, *The Rothschilds: A Family Portrait*, New York 1962, pp. 57–58.

[19]Cf. Alexander Dietz, *Stammbuch der Frankfurter Juden. Geschichtliche Mitteilungen über die frankfurter jüdischen Familien von 1349–1849*, Frankfurt am Main 1907. The genealogies are difficult to use, but I could find no evidence of repeated marriages with allied families from the sixteenth century. They begin to appear in the late eighteenth century.

[20]Jean Cavignac, *Les Israélites bordelais de 1780 à 1850. Autour de l'émancipation*, Paris 1991, pp. 275–81, discusses marriage strategies and gives examples of more characteristic rates of familial endogamy of approximately ten percent.

[21]Sabean, *Kinship*, p. 472.

of family members and marriages between family branches, and generally cultivat-
ed intense familial cohesion. And the Rhineland Remy family, with its entrepreneurs
and merchants in mining, steel, and iron, offers a somewhat less prominent example.
In five kinship diagrams presented in a recent genealogical study of the family, twen-
ty percent of the ninety-two marriages recorded since the founding generation
around 1700 involve both partners possessing the Remy surname. This does not
include all the cross-cousin marriages, marked by dissimilar surnames, linking the
Remy clan with allied families.[22]

Chronicling such major shifts in kinship patterns is one thing, determining why
they took place another. Commenting on Niall Ferguson's *House of Rothschild* in the
New York Review of Books, Robert Skidelsky observes that:

> Dispersed nations have always relied on strong and cohesive family structures to protect
> them from outright hostility and inadequate redress in their host countries. Their family
> circuits promoted exactly the business qualities – mutual trust, pooled resources, and
> information – so advantageous for cross-border trading operations, which were subject to
> large uncertainties.[…]Family networks, located in diasporas, helped to supply interna-
> tional credit facilities before the formal legal and institutional structures were put into
> place. They still do today in many of the emerging markets. In the development of the
> international economy, trust comes before the law, and kinship before the state.[23]

While oriented towards a specifically Jewish existential situation, these remarks also
illuminate a process that, from the late eighteenth century onwards, accompanied
the construction of industrial capitalism. When it comes to the question of kinship
patterns, one can thus contrast two different systems of exchange, one marking kin-
ship in the age of mercantilism, the other in the age of industrial capitalism. The for-
mer was built around clientage and a principle of vertical integration; it was an
inheritance-driven, lineage-based system designed to control access to property with-
in a more-or-less stable economy. The latter was built around class and a principle of
horizontal integration; it was no longer composed of clan-like groups but of flexibly
coordinated strata, oriented towards the dynamics of an expanding economy, capi-
tal accumulation, and mobility.

The new kinship system's logic can thus be defined as a shift from a concern with
caring for a patrimony to one with making strategic moves in a developing capitalist
economy and liberal state. In the seventeenth century, social dynamics had been
dominated by a desire to inherit, maintain, and pass on an estate, a monopoly, or a
craft. By the early nineteenth century, as a result of the shift from "corrupt" control
of office to the construction of regional élites, the rise of extensive land markets, and
the opening up of entrepreneurial opportunities, there was a re-centring of eco-
nomic and social activity away from the protective care of scarce or stable resources.

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[22]Brigitte Schröder, 'Der Weg zur Eisenbahnschiene. Geschichte der Familie Remy und ihre
wirtschaftliche und kulturelle Bedeutung', in *Deutsches Familienarchiv. Ein genealogisches Sammelwerk*, 91
(1986), pp. 3–158.

[23]Robert Skidelsky, 'Family Values' (a review of Niall Ferguson, *The House of Rothschild*: *The World's Banker,
1849–1900* and *The House of Rothschild*: *Money's Prophets, 1798–1848*), *The New York Review of Books*, vol. 46,
No. 20 (16 December 1999), pp. 24–29, here pp. 24–26.

Generating capital, obtaining access to credit, coordinating management skills, rescuing bankrupt families, and securing succession to office all took place in a reconfigured alliance-system. The logic of the Rothschilds' familial dynamics worked in similar ways throughout the larger German society, at least for property-holding social levels ranging from peasants to the petty bourgeois to Prussian *Junker*s. Still, for the Christian population negotiating a new economic and social order was a new phenomenon – thus, it would appear, marking a difference with the German Jews. In light of this difference, it is now useful to go back to the turn of the seventeenth century, in order to consider a striking question of incest confronting the Jewish community in Protestant Hildesheim.

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In 1595, all the Jewish families were expelled from Hildesheim because the community's leader, Nathan Schay, and another community member had married their deceased wives' sisters.[24] In 1601, they were allowed back into the city on payment of a considerable fine. The issues in the expulsion went considerably beyond the accusation of incest, involving political machinations of the previous and present *Bürgermeister*, conflicts between the local guilds and the Jews, and constitutional struggles between the city, the emperor, and Electoral Bavaria. But whatever the contributing forces and hidden issues, the ostensible cause for expulsion was in fact the issue of a prohibited marriage, and the city superintendent, Tilemann Heshusius, led a popular attack on the local Jews because of the spiritual danger and divine threat to the local community posed by the marriage; as indicated, he saw to it that not only the culprits themselves but Hildesheim's entire Jewish population were expelled. It is important to note that such draconian measures were not inflicted on the Jewish population alone: in 1597 a Christian couple was exiled for contracting the same kind of marriage.

There appear to be no other instances of a conflict between German Jews and Christians over marriage with the sister of one's former wife. At the same time, this particular conflict was referred to continuously well into the eighteenth century. Superintendent Heshusius initiated such literature with a tract about the affair that became widely cited.[25] In many ways the tract was well-suited to the church's rhetoric of the period, which drew heavily on the episode in the book of Leviticus (18:28) where the Canaanites are expelled from their land for impurity resulting from violation of the incest rules. All of the Protestant ecclesiastical ordinances had threatened divine punishment for violation of the laws prohibiting marriage or intercourse with close kin, and Heshusius introduced his tract with dire warnings of plagues to be sent

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[24]See Peter Aufgebauer, *Die Geschichte der Juden in der Stadt Hildesheim im Mittelalter und in der frühen Neuzeit*, Schriftenreihe des Stadtarchivs und der Stadtbibliothek Hildesheim, vol. 12, Hildesheim 1984. An interesting source is *Joachim Brandis' des Jüngeren Diarium, ergänzt aus Tilo Brandis' Annalen 1528–1609* (ed. by Max Buhlers), Hildesheim 1902.

[25]Tilemann Heshusius, *Von Eheverlübnissen und verbotenen Gradibus. Wie nahe und fern der Verwandtnis ein Christ mit gutem Gewissen Freyen möge*, Erfurt 1603.

by God.[26] A major task of preaching was to warn the population against committing *Blutschande* unknowingly, the preacher thus making a point reiterated continuously from the pulpit, namely that the sins of one individual could bring God's wrath on the whole community. None of this was understood to be a matter of personal consequence alone. In Heshusius's interpretation of the Leviticus text, sexual relations with a close relative through marriage are understood to be as polluting as those with a relative through blood. Sexual relations with either one's own sister or the sister of one's wife were forbidden as a *Blutschande* polluting the entire land.

At the Fourth Lateran Council in 1215, the church had established clear rules forbidding marriages with relatives extending to third cousins. It also forbade remarriage with a spouse's kin extending to the same degree – without an ecclesiastical dispensation, a man could not marry his deceased wife's third cousin. When Luther considered the prohibitions, he insisted on relying strictly on the list offered in Leviticus, suggesting that the extension of prohibitions was a papal method of collecting income through the sale of dispensations. But the legal faculty at Wittenberg and most of the other reformers were more conservative and soon reinstated marriage prohibitions of the sort found in canon law, if not to the same extent.[27]

Most of the Protestant Ecclesiastical ordinances issued between the 1560s and 1580s prohibited marriages with second cousins and second cousins of the deceased wife.[28] A variety of principles were proposed and various reasons offered for going beyond the Mosaic rules. In general, Roman legal notions regarding degree of relation were imported to argue that other relations standing in an analogous position to those forbidden should be added to the list. If marrying a father's sister was forbidden, then a brother's daughter was to be as well. Citing rabbinical authority, Protestant commentators now extended the list to take in such persons, the idea apparently being to demarcate the really incestuous unions with a sort of buffer zone, keeping individuals far away from an illicit intercourse displeasing to God and threatening to the community.[29]

The Protestant commentators were most keen to call upon the principle of parental respect to justify prohibitions precluding marriage with any parent or relative in a parental position, such as the father's or mother's sister and the wife's mother. The problem was how to extend this idea to siblings or to the brother's wife or wife's sister. Over the course of the seventeenth century, notions of blood became central to the argument, the above-mentioned prohibition in Leviticus 18:6 on mar-

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[26]There was an epidemic in Hildesheim in 1597, leading to the deaths of approximately 4,000 people (between a fourth and a third of the population). No text appears extant suggesting that the Jewish "incest" was linked to the plague, but later in 1609, Jews were blamed for precipitating disease, although the reference does not suggest in what manner. See Anton Rexhausen, *Die rechtliche und wirtschaftliche Lage der Juden im Hochstift Hildesheim*, Hildesheim 1914, p. 56. An issue meriting further exploration is the degree to which Jews and Christians in Hildesheim were thought of as in some way part of the same community. Symbolically the threat of communal punishment for sin could link Christians and Jews. But if Christians could not be punished by God for the sins of Jews in their midst, then the two communities were in fact sundered.

[27]See Jónsson, 'Incest', pp. 102–105, 115–118.

[28]For the details, see Sabean, *Kinship*, pp. 63–89.

[29]Cf. 'Incest', in *Jewish Encyclopedia* vol. 6, (New York-London, 1916), p. 572.

rying "near kin" now being understood as covering all close blood-relations. However, it would seem difficult to extend that principle to the Biblical passage's prohibition on marrying the wife of one's brother (verse 16), and understanding the prohibition on marrying one's wife's sister (verse 18) in such a context would seem even more difficult. In fact, the latter passage is clearly centred on the possibility of being simultaneously married to a pair of sisters, the broader problem it addresses thus being polygyny. At the same time the levirate, i.e. marriage with the deceased brother's wife if he has produced no heir, is in fact commanded in Deuteronomy (25:5).

Lutheran scholars thus argued that although both kinds of marriage were to be understood in the context of polygyny, marriage with the brother's wife was absolutely forbidden in the text. In addition, by extension of the logic of degrees, marriage with the wife's sister was to be forbidden as well – the ban being supported by an increasingly entrenched tenet that a brother's wife or a wife's sister was in fact a blood relative, by virtue of the principle enunciated in Genesis 2:24 that a man and wife become one flesh.[30] Mainly relying on Galenic medicine, proponents of the tenet pointed out that in intercourse a man and woman exchanged seed – considered to be a form of blood – thus becoming single flesh. Two brothers or two sisters were one flesh by generation, a man consequently being connected to his brother's wife or wife's sister by a blood tie. A great deal of effort was put into parsing the Hebrew term *sheer basar* in Leviticus 18:6 – "flesh of flesh", translated into Latin as *caro carnis*, into English as "near kin", and by Luther into German as *nächste Blutsfreundin*.[31]

In the course of the seventeenth century, this entire effort increasingly focussed on the question of the wife's sister. Many couples who wished to enter into such alliances were refused permission to marry, and huge battles of the books surrounding marriages of two German princes highlighted the issue even further.[32] At the start of the eighteenth century, the marriage of a theologian with his wife's sister once more brought enormous controversy to the issue. The conservative theologian and church superintendent Friedrich Kettner argued that a husband and wife were one flesh, not morally or by legal fiction but by an *actus physicus*. Siblings were one flesh physically ("*hoc est per naturam, per nativitatem, per generationem, nicht moraliter oder per legam*").[33] "A brother can say to another, or a sister to the other, *vere* and *proprie*, you are my flesh and blood, and a sister to her brother-in-law [*Schwester Mann*], your wife, whom you have married, is my flesh and blood, and I am therefore your *proxima carnis*, and as a

[30]The argument was similar to that of the Karaites, who also forbade relatives of a deceased spouse as marriage partners. See 'Karaites', in *Encyclopedia Judaica* (Jerusalem 1971), vol. 10, p. 780. John Selden discussed Karaite hermeneutics at length, making that corpus of ideas well known among Christian scholars; see *idem, On Jewish Marriage Law: The Uxor Hebraica* (transl. by Jonathan R. Siskind), Leiden 1991, pp. 40–52.

[31]This history has been compiled from many sources. A useful introduction to this arcane field is Karl August Moriz Schlegel, *Kritische und systematische Darstellung der verbotenen Grade der Verwandtschaft und Schwägerschaft bey Heyrathen*, Hannover 1802.

[32]The chief texts are cited in Schlegel, *Darstellung*, p. 100.

[33]Friedrich Ernst Kettner, *Des Hoch-Ehrwürdigen Ministerii zu Frankfurt an Mayn. Zu Lübeck/ Hamburg/ Lüneb. und Hildesheim/ wie auch Hr. D. Opitii, Hr. Dassovii und Hr. Casparis Neumanni Judicia und Responsa von der Ehe mit des Weibes Schwester*, Quedlinburg, n.d., p. 70.

result you cannot come to me as *ad proximam carnis* and marry me."[34] In this context, Friedrich Kettner refers explicitly to the Hildesheim incident, where because of a marriage with a wife's sister "God had granted his mercy" to have the Jews expelled from the city.[35]

The issue of whether Jews were subject to the laws of the surrounding community remained unresolved throughout the seventeenth century. One exemplary text treating the controversy is Johann Jacob Schudt's *Jüdische Merckwürdigkeiten*, published in 1714. Schudt notes that in Frankfurt and Hamburg, the Christian magistrates have allowed Jews to maintain their own marriage laws, although he indicates that at least in Holland they are required to register their marriages with the civic authorities. As for marriage with a deceased wife's sister, he indicates that among the Christians it is very difficult to obtain permission, whereas the Jews do so frequently despite Leviticus 18:18. They interpret the text, he indicates, to mean that marrying the wife's sister during the wife's lifetime is forbidden, but that after her death it is allowable. Citing various authors, Schudt continues by suggesting that such marriages should not be hindered. Yet in explaining why they remain forbidden for Christians in Frankfurt, he uses a telling phrase: marriage with the wife's sister is one degree closer "in blood" (*in Geblüth*) than with the wife's sister's daughter (which was also forbidden). Schudt here defines an in-law relationship as a blood relationship. Again citing the Hildesheim example, he argues that Jews should be given no more freedom in this matter than Christians.[36] While by this time his actual purpose seems to be to press for Christians to have more freedom in this respect, he nevertheless seems uneasy with the idea: the Jews, he suggests, go as near *ins Geblüth* as they can, uncles even marrying their nieces.[37]

The sharp seventeenth-century controversy over marriages with the deceased wife's sister seldom offers insight into the source of the cultural unease that the union seems to have generated. The possibility of marrying into the same family a second time resulted from a long, slow process of legal change during the next century. By 1800, most German states allowed such marriages; in France they were first allowed

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[34]Friedrich Ernst Kettner, *Grundliche Untersuchung der hochangelegenen und bißher vielfältig bestrittenen Gewissensfrage: Ob jemand seines verstorbenen Weibes leibliche Schwester nach Geist- und Weltlichen Rechten heyrathen darff?*, Quedlinburg 1707, p. 64. This text contains a detailed list of all the seventeenth-century controversies regarding its titular question up to that point.

[35]Kettner, *Untersuchung*, p. 57.

[36]Johann Jacob Schudt, *Jüdische Merckwürdigkeiten vorstellende was sich curieuses und denkwürdiges in den neuern Zeiten bey einigen Jahr-hunderten mit denen in all IV. Theile der Welt/ sonderlich durch Teutschland/ zerstreuten Juden zugetragen*, Frankfurt am Main and Leipzig, 1714, part 1, pp. 240–242, part 2, pp. 220–221. For his part, Hildesheim's *Bürgermeister* Brandis had been arguing that as a protected population, Jews were allowed to pursue their marriage customs, and that throughout the empire, wherever Jews were allowed to by the Christian authorities, they often married their deceased wives' sisters. In fact, when the first such marriage took place in Hildesheim in 1591, neither the superintendent nor the clergy raised objections. It only became an issue when the subsequent superintendent, Heshusius, preached against it. See Brandis, *Diarium*, p. 396. Wilhelm Güde, *Die rechtlich Stellung der Juden in den Schriften deutscher Juristen des 16. und 17. Jahrhunderts*, Sigmaringen 1981, pp. 52–53, does not specifically discuss marriage laws, but cites many contemporary authorities who argued that Jews were subject to common (Roman) law and to the laws of the state where they resided.

[37]Cf. Samuel Krauß, 'Die Ehe zwishen Onkel und Nichte', in *Studies in Jewish Literature*, Issued in Honour of Professor Kaufmann Kohler, Berlin 1913, pp. 165–175.

during the Revolution, then disallowed in the Restoration, and finally made legal again during the 1820s. In England they were made illegal during the 1840s, evoking considerable debate.[38] For the most part, the texts that we have on the issue are by theologians and jurists and seldom go beyond the technical issues to address social problems and cultural concerns.

Just why marrying the deceased wife's sister was placed under the sign of incest for so long can only be surmised at this point. A strong possibility would seem to be connected with the fact that seventeenth-century families were increasingly organised around the devolution of closed estates. This was a period when entails were proliferating and strictly enforced, access to office, merchant monopolies, estates and farms were becoming ever more strictly regulated by inheritance, and families were organising themselves around patrimonies. Vertical relationships predominated, and the symbolics of blood emphasised lineage, house, and "race". Family members were hierarchised by strict rules of inheritance, and they became interested parties in family estates through the large number of services they accorded each other; they served as guardians for children, curators for widows, tutors and legal representatives for married and single women, administrators of estates, executors of wills, and underwriters and guarantors of loans and contracts. Allied family members – those connected through marriage – were called upon to exercise the same functions, but they were even more important as associated but not "interested" parties. By marriage they were brought into functions based on good will, and they could fill important roles of trust precisely because they had no expectations of inheritance or succession. Men were expected to take on significant supportive functions for their wives' consanguineous kin. A sister-in-law truly became a sister, meaning that through the anarchic presence of passion, marriage or sexual relations with her would have altered the framework of rights and duties regulated by law.

Perhaps it was the very nature of Jewish economic and social dispersion throughout Central Europe, along with their activities in extensive networks of trade and finance, that made desirable the kinds of marriages German Christians feared. The challenge facing Jews was not so much placing children into prescribed niches through formal inheritance rules as steadily recreating reliable ties and moral commitments through family networks moving across Europe in kaleidoscope fashion. Repeated marriages between close kin or a second marriage into the same family helped cement reliable relationships.

The *Lebenserinnerungen* of Aaron Isaak may serve as an example here.[39] Reading through Isaak's text, one finds many examples of the ways both kinship networks and the politics of marriage alliance were used to establish and solidify relationships. Isaak ended up in Sweden, while his brothers settled in various German territories. They frequently travelled together, cared for each other's children, and invested in each other's enterprises. Isaak trained cousins for his business within his household and one cousin tutored his children. He had his son accompany his brother on a

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[38]H.S.Q. Henriques, *Jewish Marriages and English Law*, Oxford 1909, pp. 49–52, argues that Jews in England were bound by English law and therefore forbidden to enter into marriages between uncle and niece or with the wife's sister.

[39]Aaron Isaak, *Lebenserinnerungen* (ed. by Marie and Heinrich Simon), Berlin 1994.

business trip; that son would have married his uncle's daughter had it not been for his untimely death. Part of the arrangement for the marriage of Isaak's daughter was for his son-in-law to live and work with him. At one point he had a widowed son-in-law and daughter-in-law (who was also his brother's daughter) in his house, and he arranged a marriage between them. Isaak saw his son-in-law's sister's husband's son as a good prospect for another brother's daughter, who lived with him. That marriage also brought the young man into his household. He also arranged the marriage of another brother's daughter, whom he had raised, to his apprentice. The third wife (and cousin) of another of Isaac's brothers arranged for her daughter to marry that brother's step-son, both of them living in the same house with her parents, while Isaac paid for her dowry. These examples show a continuous solidification of family alliances through the cultivation of networks, with many of the chains of connection quite extended. One phenomenon seems persistently manifest, namely, the formation of households from complex groups of kin understood as each others' future marriage partners. People searched for partners among consanguineous kin (cousins, for example), but also along affinal chains, that is, among families linked through marriage (for instance a daughter's husband's sister's husband's son). Similarly, the response to a death was remarriage within this kin structure.

Glückl of Hameln's memoirs offer further insight into such familial arrangements.[40] Glückl's first husband arranged a marriage of a close associate to his brother's daughter. He also lent money to his wife's brother-in-law. He and Glückl married their daughter to her cousin, and Glückl arranged the marriage of her son to her sister's husband's brother's daughter. One son went to live with his father-in-law, who subsequently married his own son to Glückl's niece. At one point, Glückl indeed recorded a man's marriage to his deceased wife's sister, and she herself entered into a second marriage arranged by her son-in-law. Here as with Aaron Isaak, one finds family ties being strengthened and deepened through the arrangement of many marriages within affinal networks.

In view of all the available evidence, it appears that in the seventeenth century the Jewish community in Germany accepted marriages that were either prohibited (in the case of cousins) or seen as incestuous (in the case of a wife's sister) by the laws of all Christian states. These laws constructed a fairly large bulwark around what was considered a dangerous, polluting incestuous core; they mandated marriage into families one was not already allied with through blood or marriage. It was, however, quite possible for Christians to use longer affinal chains to find ways of creating cohesion, and there were therefore analogues to some of the marriage policies and patterns found in the memoirs of Aaron Isaak and Glückl.[41] It remains to be seen whether marriages between cousins were in fact frequent among Jews during the Baroque period – they were certainly not unknown. In the same period, Jews in any event often favoured marriage with the wife's sister – a form of marriage constituting a key problem for Christian theologians and jurists, and a choice sometimes sparking a corresponding consternation among German magistrates, professors, and

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[40]*The Memoirs of Glückel of Hameln* (transl. by Marvin Lowenthal), New York 1977.
[41]Sabean, *Kinship*, pp. 109–126, 399–407, 416–425.

literati. But as has been argued in these pages, over the course of the eighteenth century what was once seen as ill disciplined, incestuous, lustful, and polluting became a preferred form of alliance, both in Germany and indeed in most European states, England being an exception. With a new economy under construction, strategies of alliance that had long seemed urgent for Jews now pressed their logic upon Christians. The shift from marriage with strangers to marriage with friends, from alliances among non-equals to alliances with equals, and from an affinal politics based on the "other" to such a politics based on the "same", reflected a reordering of kinship relations that found both Christians and Jews intensely cultivating siblings and cousins and displaying a now-shared preference for the deceased wife's sister.