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DEPARTMENT  
OF HISTORY

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# **The Jewish Exegetical History of Deuteronomy 22:5: Required Gender Separation or Prohibited Cross-Dressing?**

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August, 2002

A thesis submitted to the Faculty of Graduate Studies and Research  
in partial fulfillment of the requirements of the degree of Master of Arts.

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## Abstract

Deuteronomy 22:5 has sparked much interest and wonder for both readers and interpreters of the Bible, throughout Jewish history. Divided into three parts, the verse reads as follows: “A woman should not have *keli gever* (man’s apparel, utensil or tool) on her; a man should not wear *simlat isha* (a woman’s dress, robe, mantle, tunic); anyone who does these things is an abomination to the Lord your God.” Each part of the verse has raised questions among exegetes, like how to define its key terms *simlat isha* and *keli gever* and what is the nature of the abomination. This thesis explores the responses to these questions through a presentation of the Jewish exegetical history of Deut. 22:5 from biblical times to the present. It demonstrates how the interpretations of this verse varied the application of the biblical law derived from it and thereby affected and altered dress codes, interactions, behaviours, and daily habits of Jewish men and women throughout history.



## Résumé

A travers l'histoire juive, le cinquième verset du chapitre 22 du Deutéronome a été une source d'étonnement et de beaucoup d'intérêt et chez les lecteurs et chez les exégètes de la Bible. Le verset qui a une structure tripartite se lit comme suit :

« Une femme ne doit pas porter le costume d'un homme [*keli guever* = vêtement, ustensil ou outil], ni un homme s'habiller d'un vêtement de femme [*simlat ichah* = robe, manteau ou tunique]; car l'Éternel, ton Dieu, a en horreur quiconque agit ainsi. » Chaque partie du verset soulève des questions chez les exégètes. Comment définir les termes clés de « *simlat ichah* » et « *keli guever* » ? Comment qualifier cette « horreur » ? Cette thèse examine les réponses à ces questions grâce à une présentation de l'histoire de l'exégèse juive du Deutéronome 22:5 depuis l'époque biblique jusqu'à nos jours. Elle démontre comment les diverses interprétations de ce verset ont influencé la loi d'origine biblique, dont le verset est la source, affectant et changeant à la fois codes vestimentaires, interrelations, conduites et la vie quotidienne des Juives et des Juifs à travers l'histoire.

## Introduction

לא יהיה כלי גבר על אשה ולא ילבש גבר שמלת אשה כי תועבת ה' אלקיך כל עשה אלה

The creation of a normative legal order based on the Bible has required that Bible interpreters through the ages engage in detailed analysis, interpretation, and application of the text. The primary purpose of this study is an analysis of the interpretation of Deuteronomy 22:5 from the biblical period to the present and the description of its application to establish that legal norm. Since the characteristics, behaviours, dress and roles of men and women continue to change, the commandments in Deut. 22:5 are as relevant today as they were in the biblical period, at least for adherents who appeal to the Bible and its interpretations to guide their lives, although social custom may alter the applications.

### A. The Text of Deuteronomy 22:5

#### *1. The Biblical Context*

Deut. 22:5 states that “a כלי גבר [man’s apparel, utensil or tool] should not be on a woman, and a man should not wear שמלת אשה [a woman’s dress],<sup>1</sup> for

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<sup>1</sup> As will be demonstrated below, the meaning of the terms כלי גבר and שמלת אשה constitutes a significant ambiguity in the verse and the impetus for the majority of interpretations. For this reason, I will utilize the Hebrew terms, untranslated, when the definitions are uncertain, and I will include the English equivalents that reflect each particular interpretation as I analyze the exegetical texts. In my translation of the verse here, I have provided only a simple translation of the words in these terms without addressing their meaning and intention in the verse as a whole.

anyone who does these things is an abomination to the Lord your God.”<sup>2</sup> This law is set among a group of miscellaneous laws, the majority of which relate to civil and domestic life. The following outline of the laws surrounding Deut. 22:5 demonstrates the challenge faced by scholars in using literary context to help give contemporary legal meaning to the verse in question:

1. Deut. 22:1-3 describe the laws concerning the returning of lost animals, garments and other objects.
2. Deut. 22:4 prescribes assisting fallen animals.
3. Deut. 22:6-7 prohibit capturing a mother bird along with her young.
4. Deut. 22:8 commands one to build a parapet on the roof of one's home.
5. Deut. 22:9-11 prohibit certain mixtures such as seed combinations, animals in plowing, and combinations of wool and linen in one's garments.
6. Deut. 22:12 commands one to make tassels on the four corners of one's garment.

Because these laws have no apparent conceptual connection, among themselves or with Deut. 22:5, the question arises as to what common theme has linked them in this passage. Some writers have suggested that Deut. 22:5 might be connected to #1, 5 and 6 through the common garment theme or through the theme of forbidden mixtures, such as certain garment combinations (#5) or the capturing of a mother bird along with her young (#3).<sup>3</sup> Calum Carmichael connects #1, 2 and 3 with Deut. 22:5 through what he perceives as the Bible's concern for people who may attach themselves to possessions that do not belong to them. He also explains that the language prohibiting an individual “to hide himself” with respect to helping animals is carried over into the transvestite law.<sup>4</sup> Carmichael views this section as a group of laws that are important at a time of war but also relevant during a time of

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<sup>2</sup> All translations are my own, unless indicated otherwise.

<sup>3</sup> Jeffrey Tigay, *The JPS Torah Commentary: Deuteronomy* (Philadelphia: The Jewish Publication Society, 1996) 446-459.

<sup>4</sup> Calum M. Carmichael, *Law and Narrative in the Bible* (Ithaca: Cornell University Press, 1974) 160-163.

peace.<sup>5</sup> Despite possible connections between Deut. 22:5 and one or more of the verses in its scriptural context, these proposed common themes do not include all the verses in this section of the text. Furthermore, Deut. 22:5 itself contains a number of textual ambiguities that render its interpretation and hence its contribution to this total passage difficult to ascertain.

## 2. The Verse

Deut. 22:5 can be divided into three parts:

- a) A woman should not have כלי גבר on her;
- b) A man should not wear שמלת אישה;
- c) Anyone who does either a) or b) is an abomination to the Lord your God.

Two seemingly connected prohibitions, one for each gender, are followed by the single consequence — to be abhorrent or abominable in God's eyes. However, the exact requirements of these prohibitions remain ambiguous. The word כלי can have several meanings, such as a tool, weapon, utensil, and clothing. Thus, the use of this term in relation to a woman can vary considerably. For example, is this prohibition limited to a woman's use of weaponry reserved for male soldiers in war, or is it a more general reference to any form of garment worn by men at any time? In contrast, the term שמלת אישה is relatively clear, and at first glance refers to a

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<sup>4</sup> Calum M. Carmichael, *Law and Narrative in the Bible* (Ithaca: Cornell University Press, 1974) 160-163.

<sup>5</sup> Calum M. Carmichael, "A Time for War and a Time for Peace: The Influence of the Distinction upon some Legal and Literary Material" in *Studies in Jewish Legal History*, ed. by Bernard S. Jackson (London: Jewish Chronicle Publications, 1974) 50-53. Also see this text for further analysis of Carmichael's transvestite and war oriented interpretation of Deut. 22:5. He explains that the military background of the prohibition is based on the term כלי גבר, where the verse is addressing a

woman's dress. However, does "dress" imply only a one piece flowing robe, as its English definitions, or women's attire in general (analogous to כְּלִי גִבּוֹר), possibly including such adornments as cosmetics and jewellery? Furthermore, the juxtaposition of the prohibitions for men and women creates additional ambiguity. The presentation of the verse suggests that the prohibition לֹא יִהְיֶה כְּלִי גִבּוֹר עַל אִשָּׁה is parallel and equivalent to the prohibition וְלֹא יִלְבַּשׁ גִּבּוֹר שְׂמֹלֶת אִשָּׁה. However, the use of different verbs (יִלְבַּשׁ and יִהְיֶה) and the difficulties with the terms explained above implies that they are not intended to be synonymous but rather intimate varying connotations. Do the many more possible definitions of כְּלִי suggest that the more general term presents women with more restrictions? Finally the nature of the abomination is unclear. Are the actions the verse proscribes abominable in and of themselves, or do they lead to the abomination, which is infact something else?

Throughout history, Jewish Bible interpreters have heard the cry of the verse's uncertainties and have responded with a rich tradition of interpretation, translation, analysis and development; the verse's meaning and application continue to be debated even today. This thesis will present Jewish interpretations of Deut. 22:5 as they were expressed since biblical times and will discuss the explanations offered by many others—ancient translators, talmudic sages, medieval scholars, modern rabbis and feminist writers. Each section will begin with a brief description of the text or a short biographical summary of the exegete and his or her surroundings. This will provide a context for each source and allow for a better understanding of the verse's interpretations.

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concern for women who wear a man's weapon and sneak into the army for sexual purposes, or for men who dress like women, during wartime, for homosexual activity.

Dating most sources from the biblical period (and some from later periods) with any degree of exactness is very difficult. As a result, the sequence of sources below is only somewhat chronological, and their dating is only an approximation. Furthermore, drawing definite conclusions with respect to the relative dating of various exegetical texts and the probable paths of borrowing and interdependence is not always possible.

## **B. Initial Interpretations**

### *1. In the Bible*

Biblical verses in one book of the Bible are at times alluded to in other parts of the Bible. This inner-biblical interpretation can offer insight into the understanding and application of the verse by the early Israelites.<sup>6</sup>

Deut. 22:5 is not mentioned explicitly in any other biblical book. As a result, how the Israelites initially understood and followed the prohibitions commanded in the verse is difficult to determine. Some later Jewish interpreters refer to the biblical example of Yael in the book of Judges as an illustration of a woman abiding by one of the commandments in the verse. In the narrative, Yael kills Sisera with a tent peg as opposed to a real weapon (i.e., Sisera's), and some rabbis claim that this is an example of the prohibition of a woman's using a *כלי גבר*, defined in this case as a man's weapon.<sup>7</sup> Despite this association made by later rabbis, the biblical narrative does not make any explicit and obvious reference to the laws of Deut. 22:5. As this is the only possible allusion to the verse, how the laws

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<sup>6</sup> Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon Press, 1988).

<sup>7</sup> To be analyzed below, see Targum Pseudo-Jonathan Chapter IIB.4.

affected daily Israelite life and how the verse was understood and applied in biblical times is not clear.

## 2. *Hittite Parallels and Magical Interpretations*

Extra-biblical sources from the ancient Near East can provide insight into the historical reality that may have inspired the laws in Deut. 22:5. One Babylonian aphorism states, “an Amorite says to his wife: ‘You be the man, I will be the woman...I become a man...female.’”<sup>8</sup> Some scholars suggest this source may point to an Amorite practice of cross-dressing, although they admit that such an interpretation is not the only possible explanation of the text.<sup>9</sup> The term “abomination” is commonly used in Scripture to characterize cultic practices prohibited to Israelites.<sup>10</sup> If Deut. 22:5 is regarded as an early response to transvestite practice—that were performed for any religious reason—one might regard it as a response to idolatrous practices of the surrounding cultures and from which the Israelites were to refrain.

Further insight into the reality of transvestism is found in other early but not immediately related texts. According to Plutarch, for example, on the island of Cos priests of Hercules dressed as women, and men who participated in the vernal mysteries of the god did likewise in Rome. Another example is ascribed to Tacitus, who relates that the priest of the Nahanarvals, an ancient German tribe, was

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<sup>8</sup> The ellipses reflect blank or illegible spaces in the text.

<sup>9</sup> W.G. Lambert, *Babylonian Wisdom Literature* (Oxford: At the Clarendon Press, 1960) 225-231; Moshe Weinfeld, *Deuteronomy and the Deuteronomistic School* (Oxford: Clarendon Press, 1972) 269; Tigay 200.

<sup>10</sup> E.g., Lev. 18:30; Deut. 7:25-26; 12:31; 32:16; II Kings 16:3; 21:2; Isa. 41:24; 44:19; Ezek. 7:20, etc.

Further insight into the reality of transvestism is found in other early but not immediately related texts. According to Plutarch, for example, on the island of Cos priests of Hercules dressed as women, and men who participated in the vernal mysteries of the god did likewise in Rome. Another example is ascribed to Tacitus, who relates that the priest of the Nahanarvals, an ancient German tribe, was customarily arrayed like a woman. If cross-dressing was also a popular practice among people in the ancient Near East, and if it was done for cultic or magical purposes, Deut. 22:5 can be understood as a polemic against it.<sup>11</sup>

Hittite texts contain examples of the magical use of symbols for masculinity or femininity which, when applied to or removed from a barren patient while reciting a magic spell, would restore fertility. Hoffner explains that such practices were widespread in the ancient Near East and in all places where belief in magic was alive. He adds that little evidence exists for such practices in ancient Canaan or in the Hebrew Bible.<sup>12</sup> Nevertheless, Hittite texts demonstrate that sexual symbols were used frequently for magical purposes. Men are often depicted with a bow and arrow, while women are depicted with a spindle or a mirror. In the following example, Hoffner explains the actual Hittite practice of utilizing these symbols:

Take from their men masculinity, prowess, robust health, swords (?), battle-axes, bows, arrows, and dagger(s)! And bring them to Hatti! Place in their hands the spindle and mirror of a woman! Dress them as women! Put on their (heads) the *kuressar* (a kind

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<sup>11</sup> Theodor H. Gaster, *Myth, Legend, and Custom in the Old Testament* (New York: Harper & Row, 1969) 316-319.

<sup>12</sup> Harry A. Hoffner, Jr., "Symbols for Masculinity and Femininity: Their use in Ancient Near Eastern Sympathetic Rituals," *Journal of Biblical Literature* vol. LXXXV (1996) 327-328.



אשה. This practice of mixing the “tools” of the sexes for magical use is a possible example of the polemic to which the Bible is responding in the verse.<sup>14</sup>

The ambiguities reflected in the verse show difficulty in understanding its practice and application. Extra-biblical sources offer possible reasons for this specific prohibition as well as possible insight into the original meaning of the terms שכלת אשה and כלי גבר. The following chapters will continue to explore these terms, how they were understood and how the laws were applied.

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<sup>14</sup> In medieval times women were advised to wear an article of her husband’s clothing—such as his doublet, trousers or belt—in order to ease labour pains. This magical use of clothing of the opposite gender may offer additional support for the above theory. Joshua Trachtenberg, *Jewish Magic and Superstition: A Study of Folk Religion* (New York: Atheneum, 1997) 169.

## Chapter I: Pre-Rabbinic Interpretations

### A. Introduction

Early translations of the Bible (into Greek, Aramaic, Latin and Syriac) can offer instructive insight into how biblical verses were understood and interpreted in ancient times. Despite the appellation of these works as “translations,” they are not limited to a literal rendering of the text from one language to another, but in fact include a great deal of interpretation and explication.

Additional ancient writings such as the Dead Sea Scrolls, Philo and Josephus reflect how the biblical verses were possibly applied among ancient Jewish sects. This chapter will begin with the *Septuagint*'s rendition of the verse and continue with an exploration of the Dead Sea Scrolls, Philo and Josephus. The subsequent chapter will examine rabbinic interpretations of Deut. 22:5.

### B. Ancient Texts

#### 1. *Septuagint*

The *Septuagint* is the first extant translation of the Torah. The completion of this Greek rendition is commonly dated to the first half of the third century B.C.E. The legend about the origin of the *Septuagint* in the Letter of Aristeas explains that Ptolemy II Philadelphus of Egypt (285-246 B.C.E) called upon seventy-two elders from Jerusalem to translate the Pentateuch into Greek individually in separate

rooms. The elders presented indistinguishable translations and were praised for their work. A Greek version of the Bible met the needs of the Jewish community of Alexandria already under the influence of Hellenistic culture and using Greek as its *lingua franca*.<sup>15</sup>

The Septuagint translates the key terms of Deut. 22:5, כְּלִי גִבּוֹר and שְׂמֹלֶת אִשָּׁה, into Greek equivalents that maintain the ambiguity found in the Hebrew. The term σκεύη (translating כְּלִי) can refer to equipment, attire, dress, or an implement of any kind, and στολήν γυναικείαν (translating שְׂמֹלֶת אִשָּׁה) can refer to a garment, robe, dress, or equipment.<sup>16</sup> The passage is as follows:

σκεύη [weapons, apparel etc.] of a man shall not be on a woman, neither shall a man put on στολήν γυναικείαν [a female garment, equipment etc.], for every one that does these things is an abomination to the Lord your God.<sup>17</sup>

The fact that the Greek term used for כְּלִי גִבּוֹר appears in other places of the *Septuagint* and refers specifically to weapons of war may suggest that the intended meaning in the chosen Greek translation is one of armament. However, like the Bible, the Greek version has maintained a highly literal translation of the verse and employed words that represent a variety of interpretations; like the Hebrew, it does not offer further clarification of the specific prohibitions of Deut. 22:5.

<sup>15</sup> Karen H. Jobes and Moises Silva, *Invitation to the Septuagint* (Grand Rapids Michigan: Baker Book House Company and Carlisle, Cumbria: Paternoster Press, 2000) 18-27.

<sup>16</sup> Alfred Rahlfs, ed., *Septuaginta* 8<sup>th</sup> edition (Werkstätten, Germany: Württembergische Bibelanstalt Stuttgart, 1965) 326; J. Lust, E. Eynikel, and K. Haupie, eds., *A Greek-English Lexicon of the Septuagint* Part II (Stuttgart: Deutsche Bibelgesellschaft, 1996).

<sup>17</sup> John William Wevers, *Notes on the Greek Text of Deuteronomy* (Atlanta, Georgia: Scholars Press, 1995) 350-351; Lancelot Charles Lee Brenton, *The Septuagint Version of the Old Testament, According to the Vatican Text*, vol. 1 (London: Samuel Bagster and Sons, 1844) 214; and W. Schwarz, "Discussions on the Origin of the Septuagint," in *Studies in the Septuagint: Origins, Recensions, and Interpretations* (New York: Ktav Publishing House, Inc., 1974) 110-115.

## 2. *The Dead Sea Scrolls: 4Q159 Frags. 2-4*

Years of continuous debate have generated the basic consensus that the scrolls originally belonged to a Jewish community living in the area of Qumran from the second century B.C.E to the first century C.E. The scrolls are understood to be part of their sacred writings, hidden in caves, possibly to protect them from being destroyed. The complete verse of Deut. 22:5, practically identical to the MT, was discovered in two sources in Cave Four at Qumran. The first is a fragment of the verse as it appears in the Torah today, with two additions to the word עֵשָׂה. This text, 4QPaleoDeut, adds a *vav* after the *ayin* and has a circle above the *heh*.<sup>18</sup> While these differences are essential for the history of the Bible text, they confirm the content of the MT of Deut. 22:5 and do not alter the meaning of the verse.

The second source, 4Q159 fragments 2-4, provides important insight into this Jewish community's understanding of the verse and the possible obligations it placed upon the people during the end of the Second Temple period. The text was found among a group of fragments that later became categorized as a group of ordinances, halakhic writings or commentaries on biblical law. The unknown author of these ordinances clarified certain biblical laws by eliminating the ambiguities and presenting them in a clearer and more easily followed form.<sup>19</sup> These legal writings are generally considered to be different and more stringent than the Pharisaic halakhic writings.<sup>20</sup>

<sup>18</sup> Patrick W. Skehan, Eugene Ulrich, and Judith S. Sanderson, *Discoveries in the Judaean Desert* · IX, vol. V, (Oxford: Clarendon Press, 1985) 1-13 and 131-143.

<sup>19</sup> Geza Vermes, *The Complete Dead Sea Scrolls in English* (Allen Lane: The Penguin Press, 1997) 204-207.

<sup>20</sup> Elisha Qimron and John Strugnell, *Discoveries in the Judaean Desert* · X, vol. 5 (Oxford: Clarendon Press, 1994) 196-199.

In this Qumran text, Deut. 22:5 is set among a group of general ordinances that differ from the verses that surround Deut. 22:5 in the Bible. The Scroll precedes Deut. 22:5 with a prohibition of selling an Israelite slave (connected to Lev. 25: 39-46) and with an obligation to use a council of twelve in judging a capital offence. Following Deut. 22:5, the text presents a charge made by a husband against his wife that she was not a virgin when he married her (cf. Deut. 22:13-21). In contrast, Deut. 22:5 in the Bible is preceded by a law concerning the returning of lost animals and a law dealing with assisting fallen animals, and it is followed by the prohibition of capturing a mother bird along with her young. Only later, in Deut. 22:13-21, does the Bible discuss what a man must do if he suspects that his wife is not a virgin. The different order of the ordinances in the Dead Sea scroll is potentially significant but of uncertain intention. Neither arrangement presents a logical sequence of laws, and both texts have been classified as general ordinances or miscellaneous laws with minimal connections elsewhere that can account for their contexts.

If the prohibitions of Deut. 22:5 were considered a capital offence, one could connect its laws to the obligation in 4Q159 to use a council of twelve for cases of capital offence, as an abomination to God could be categorized as a capital offence. Furthermore, the close placement of Deut. 22:5 with the ordinance involving an accusation of adultery may intimate later interpretations of the verse that explain adulterous acts arising from cross-dressing and thereby mingling with the opposite sex. From this, it can be inferred that this interpretation already existed at Qumran.

In addition to the contextual changes found in this text, the author of 4Q159 Frags 2-4 altered the original verse, most likely for the purpose of clarification. The following is a translation of the Hebrew fragment:

Let not a man's garb [כלי גבר] be on [יהיו] a woman.  
 Every [...] be covered with a woman's mantles [אשה  
 שמלות], and<sup>21</sup> let him not [ואל] be dressed in a  
 woman's tunic [כתונת אשה], for such is an  
 abomination.<sup>22</sup>

The singular of the female prohibition found in the MT is altered to a plural (יהיו to יהיה). This change might suggest that the author understood the term כלי גבר to be plural in nature or wished to represent the multiple meanings this term can hold; however this small textual change can also be a simple scribal error or normative variant. The author offers no further clarification as to his understanding of כלי גבר, and it remains as ambiguous as it is in the biblical verse. The section of the passage that addresses שמלת אשה is divided into two prohibitions: it forbids males (1) to be covered with a woman's mantles (שמלות אשה)<sup>23</sup> and (2) to be dressed in a woman's tunic (כתונת אשה). This expansion offers a clearer definition of the male prohibition and may have clarified the connotation of the biblical שמלת אשה for the Jews of Qumran.

<sup>21</sup> In Allegro's translation "but" appears instead of "and", but it seems to assume a certain interpretation of the verse that is not possible due to the [...] section.

<sup>22</sup> Bracketed ellipses [...] indicate missing words. John M. Allegro, *Discoveries in the Judaean Desert of Jordan*, vol. 5 (Oxford: Clarendon Press) 8.

<sup>23</sup> The text is actually missing the word that suggests that a "woman's mantles" is prohibited or permitted for men to wear, but due to a second male prohibition (a woman's tunic) that directly follows the commandment of a woman's mantles, and the language of ואל, concluding that the ordinance details two prohibitions based on שמלת אשה is a strong possibility.

### 3. Philo: *On the Virtues*

Philo of Alexandria (20 B.C.E to 45 C.E) believed in the importance of the literal meaning of the Bible, but he applied an allegorical interpretation when it was not possible or desirable to understand something literally. His work reflects an explanation of the Torah in light of the Greek thought in which he was immersed.<sup>24</sup> Finally, Philo was considered a moralist who revealed ethical teachings from the Torah.

Philo's writings do not specifically address Deut. 22:5, but in virtue's #19-21 he presents his attitude on the subject of the uniqueness of men and women and their dress habits, which alludes to Deut. 22:5. In *On the Virtues* Philo discusses the following three topics: Courage or Manliness, Humanity, and Repentance and Nobility. Deut. 22:5 appears in the first section—courage—which according to Philo, is an essential trait in the law forbidding men to wear a woman's dress.<sup>25</sup> Furthermore, in virtue #19, Philo states his position regarding the different roles designated to men and women in society, which is the civil life for men, and the domestic life for women. In #20 and 21, he stresses the importance for men and women to dress in their appropriate attire and to wear nothing that would be worn by the opposite sex. The language Philo uses to express the prohibitions in his virtues #18-21 is very similar to the language and interpretations of Deut. 22:5. In virtues #18-21, Philo suggests that, when a man retains his proper dress-code and does not assume the dress of a woman, he will be able to retain his manly courage;

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<sup>24</sup> P.R. Ackroyd and C.F. Evans, eds., *The Cambridge History of the Bible*, vol. 1 (Cambridge: University Press, 1970) 379-386.

<sup>25</sup> Philo, *On the Virtues*, trans. F.H. Colson, vol. 8 (Cambridge, Massachusetts: Harvard University Press, 1989) 158-161.

immediately thereafter, Philo proceeds with a discussion of courage in a time of war. He lists individuals who are not to be enrolled in the army, such as the cowardly; he is possibly referring to men who dress as women in the previous section as exemplifying such cowardliness. The following is part of his ethical teaching based on Deut. 22:5:

These were such as dealt with habits of life and dress and any similar matters. It considered that in such matters the true man should maintain his masculinity, particularly in his clothes...In the same way he trained the woman to decency of adornment and forbade her to assume the dress of a man, with the further object of guarding against the mannish-woman as much as the womanish-man.<sup>26</sup>

Philo's extreme opinion regarding the importance of retaining the unique attributes of men and women seems, to a certain degree, to arise from his understanding of and support for a highly literal interpretation of Deut. 22:5. In short, women are forbidden to dress in the clothing of men and men in the clothing of women. Yet Philo extends it further to a separation in the "habits of life" and "similar matters," broadening the meaning of Deut. 22:5 and its practical applications. The virtue taught by Philo extends to one's role in family and society, as he strongly believed in the importance of keeping the distinctions between man and woman both active and visible. This is best stated when Philo relates his understanding of the reasons behind these prohibitions, as explained above, namely that there is a need to guard "against the mannish-woman and the womanish man," with the hope of preserving the natural God-given uniqueness. This is an example of an ethical lesson that Philo derives from the Bible.

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<sup>26</sup> Philo 175.



#### 4. Josephus: *Jewish Antiquities*

Josephus Flavius was born into a priestly family in Judea in 37 C.E. and died in 100 C.E. He was a commander in the war against Rome (66-74 C.E.). At that time he changed allegiances and eventually became an accepted member of Roman society. Unlike the Dead Sea Scrolls, written for a Jewish audience, Josephus' *Jewish Antiquities* were written *circa* 93-94 C.E. in Greek for a Roman audience. *Antiquities* is an historical and philosophical guideline to the history of the Jewish people from their early beginnings and was a fundamental source for Roman understanding of the Jewish people.<sup>27</sup> The work is an essential resource for the interpretation and use of the biblical text during and after the Second Temple period.

A reference to Deut. 22:5 appears in Book IV of *Antiquities*. Unlike the eclectic context of Deut. 22:5, Josephus addresses the issues of cross-dressing in a specific context of war. In sections 293-301, he summarizes the laws Moses handed down to the Israelites regarding times of war. In the final verse he states: "Be careful in battles that a woman not wear a man's [σκευη] clothing nor a man wear a [στολη γυναικεία] woman's garment."<sup>28</sup>

Josephus renders יָבֵשׁ into the Greek σκευη, which is the plural form of the word used in the *Septuagint* (σκεύη), and it can refer to implements, such as military accoutrements or equipment, as well as dress. Josephus may have interpreted this

<sup>27</sup> Louis H. Feldman, *Flavius Josephus Translation and Commentary*, vol. 3 (Leiden: E.J. Brill, 1996) XIII-XXXVI.

<sup>28</sup> Feldman 464; Josephus, *Jewish Antiquities*, trans. J. Thackeray and Ralph Marcus, vol. 2 (Leiden: Brill, 2000) 147.

verse knowing that the *Septuagint* had explained כְּלִי גֶבֶר as weapon related.<sup>29</sup> Josephus was directly involved in numerous battles in his lifetime and thus may have personally witnessed the potential problems implied by Deut. 22:5. His concerns might have included women sneaking into war zones dressed as men to be prostitutes or women assuming combat positions while wearing men's weapons.

### C. Conclusion

Menachem Brayer in discussing Josephus and Philo's reference to Deut. 22:5 states that "sexual disguise in apparel was seen by Philo and Josephus as a degrading and cowardly technique of warfare, as practiced by Yohanan of Gush-Halav, who indulged in sexual transvestism for military debaucheries during the Roman occupation."<sup>30</sup> The contexts in which Philo and Josephus address cross-dressing suggest that the prohibitions in Deut. 22:5 concern wartime. However, both authors' rendering of כְּלִי גֶבֶר and שְׂמַלְת אִשָּׁה maintain the ambiguity of the biblical terms, so they can refer to weaponry as well as dress and in Philo, even behaviour. This context of war thus offers a clue into the practical understanding and application of the verse in the early centuries of the Common Era. Similarly in the halakhic writing from Qumran the context of an adultery accusation and capital offence suggests possible scenarios in which cross-dressing required regulation.

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<sup>29</sup> Feldman, *Flavius* 464. Some rabbinic traditional interpretations also understand כְּלִי גֶבֶר as weaponry; because they developed contemporaneously to Josephus, these texts may have influenced him as well.

<sup>30</sup> Menachem M. Brayer, *The Jewish Woman in Rabbinic Literature* (Hoboken, New Jersey: Ktav Publishing, 1986) 174. Josephus Flavius, *The Works of Josephus*, trans. William Whiston (Peabody, Massachusetts: Hendrickson Publishers, 1987) 123.

Finally, the *Septuagint* presents a simple translation of the biblical text maintaining the ambiguity of the terms and the enigmatic context.

## Chapter II: Rabbinic Literature

### A. Introduction

The targumim, midrashim and talmudim are the focus of this chapter. These rabbinic texts interpret Deut. 22:5 differently from the texts discussed in the previous chapter and they formed the base for the majority of interpretations of this verse from this period onwards.

### B. Targumim

Targumim are translations of the Bible that were used in the synagogue for liturgical purposes and by students studying the Bible.<sup>31</sup> They were developed as early as the Second Temple period in response to the increasing number of Jews who spoke and wrote Aramaic.<sup>32</sup> Fragments of targumim on Job and Leviticus found at Qumran support a date of c. 70 C.E., however several targumim to be explored below date as late as the 8<sup>th</sup> century C.E.<sup>33</sup> In general, dating of the targumim is a much debated scholarly issue. For the purposes of this thesis, the dates follow the more current discussions in the literature.

Each of the targumim examined in this chapter approaches Deut. 22:5 differently; each has a separate style of translation or interpretation, and some are

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<sup>31</sup> Philip S. Alexander, "Jewish Aramaic Translations of Hebrew Scriptures," *Mikra* (Van Gorcum: Fortress Press, 1990) 242-253.

<sup>32</sup> Abraham Tal, "The Samaritan Targum of the Pentateuch," *Mikra* (Van Gorcum: Fortress Press, 1990) 189.

<sup>33</sup> Alexander 242-253.

more literal than others. This chapter will not present the targumim in chronological order but rather will explore the literal and non-literal nature of each passage.

### 1. *Targum Neophyti*

*Targum Neophyti* is a Palestinian targum. Scholars have disagreed about its date, offering suggestions from before the Common Era to the 9<sup>th</sup> century C.E. The text contains some aggadic material, and those who consider the rabbinic literature found within *Neophyti* to be later additions to the text prefer an early date of the 2<sup>nd</sup> century C.E. or even before the Common Era.<sup>34</sup>

*Neophyti* translates Deut. 22:5 as follows:

A woman shall not wear the armour of a man, nor shall a man put on a woman's garment; for whoever does these things is detestable and abominable before the Lord your God.<sup>35</sup>

The term כלי גבר is translated as מני זיינה דגבר, which means a man's weapon or armour, and שמלת אשה is translated as לבוש דאתה, which means a woman's garment or clothing.<sup>36</sup> Both translations clarify the ambiguities in the Hebrew terms by choosing one of several possible meanings. As seen above with respect to Philo and Josephus, the reference to weapons and armour supports a practical application of this prohibition. Interestingly, *Neophyti* has specified the type of "male utensil" (כלי גבר) that is forbidden to women (i.e., armour) but generalized שמלת אשה to include all forms of female clothing, and not just a dress. The question then arises

<sup>34</sup> Jan Mulder and Harry Sysling, eds., *Mikra* (Van Gorcum: Fortress Press, 1990) 218.

<sup>35</sup> *Targum Neofiti 1: Deuteronomy*, trans. Martin McNamara (Collegeville, Minn: Liturgical Press, 1997) 106-107.

<sup>36</sup> Levy, vol. 2, 257; Alejandro Diez Macho, *Neophyti 1: Targum Palestinense MS De La Biblioteca Vaticana, Deuteronomio*, vol. 5 (Madrid: Condejo Superior de Investigaciones Cientificas, 1978) 185; McNamara 106-107.

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<sup>35</sup> *Targum Neofiti 1: Deuteronomy*, trans. Martin McNamara (Collegeville, Minn: Liturgical Press, 1997) 106-107.

<sup>36</sup> Levy, vol. 2, 257; Alejandro Diez Macho, *Neophyti 1: Targum Palestinense MS De La Biblioteca Vaticana, Deuteronomio*, vol. 5 (Madrid: Condejo Superior de Investigaciones Cientificas, 1978) 185; McNamara 106-107.

translation of the text, but it does contain a relatively small amount of aggadic material, concentrated particularly in poetic passages or in metaphors, and to a lesser extent in the interpretation of biblical laws. The identity of the author of Targum Onkelos is uncertain. The Babylonian Talmud (Meg 3a) states that Onkelos the proselyte authored the Aramaic translation of the Torah (BT Meg 3a), while the parallel in the Jerusalem Talmud (JT Meg 71c) reports that Aquilas the proselyte translated the Pentateuch into Greek. Some claim that the Babylonian attribution to Onkelos is a variation of the Palestinian teaching about Aquilas that the Babylonians erroneously attributed their anonymous Aramaic translation of the Torah to Onkelos. In any case, this Aramaic targum dates to at least the talmudic period, and the traditionally accepted designation is Onkelos.<sup>41</sup>

Onkelos translates Deut. 22:5 as follows:

The armament (תקון זין דגבר) of a man shall not be on a woman, and a man shall not adorn himself with a woman's adornment/equipment/ornament (איתא בתקוני); for anyone who does these things is remote (מרחק) before the Lord your God.<sup>42</sup>

Like *Neophyti*, *Onkelos* translates כלי גבר as תקון זין דגבר "a man's armament."

While the Aramaic words are not identical, the military connotation is the same.

Regarding שמלת אישה, *Onkelos'* use of תקוני איתא, "a woman's ornament, adornment or equipment," maintains the ambiguity of the biblical phrase.

Like *Neophyti*, Targum Onkelos includes קדם "in front of" the Lord your God. Onkelos presents a translation of Deut. 22:5 that generally maintains the

<sup>41</sup> Alexander 217-218. See for further analysis of the correct attribution of this Aramaic targum.

<sup>42</sup> My own translation with the use of Targum Onkelos, *Chevruta Lelomed CD Rom: The Responsa Project* and J.W. Etheridge, *The Targums of Onkelos and Jonathan Ben Uzziel on the Pentateuch with the Fragments of the Jerusalem Targum* (New York: Ktav Publishing House, 1968) 522.

literal meaning of the verse. The rendering of כלי גבר as something related to weapons repeats a theme seen in earlier texts and suggests once again that what identified men's כלי was armour.

### 3. Samaritan Targum

Though not a rabbinic text, the *Samaritan Targum* written around the 3<sup>rd</sup> century of the Common Era, has been included here together with the other targumim. Only a limited number of manuscripts are extant today, and even these are fragmentary.<sup>43</sup>

Deut. 22:5 is translated as follows:

There shall not be a man's כלי (vessel, utensil or garment) on a woman, and a man shall not wear a woman's תכמית אתה (garment or clothing), for anyone who does these things is an abomination to the Lord your God.<sup>44</sup>

In this passage כלי גבר is translated as כלי גבר, which, like the Hebrew, can mean a man's vessel, utensil or garment. The translation of שמלת אשה as תכמית אתה defines the male prohibition against feminine dress as women's ornament, jewellery or make-up. The choice of תכמית אתה, as opposed to שמלת אתה, or an Aramaic word that is closer to clothing or garment, reflects a Samaritan interpretation of the man's prohibition that alters the connotation of dress (שמלה) from clothing to female accessories.<sup>45</sup> Unlike the targumim examined above, the Samaritan clarifies the possible ambiguity of שמלת אשה but does not allude to armour for כלי גבר.

<sup>43</sup> Abraham Tal, "The Samaritan Targum of the Pentateuch," *Mikra* (Van Gorcum: Fortress Press, 1990) 189-202.

<sup>44</sup> Avraham Tal, *HaTargum HaShomroni LaTorah* (Tel-Aviv: Tel-Aviv University, 1980) 363.

<sup>45</sup> Tal, *HaTargum* 363.



Nonetheless, the translation remains close to a literal sense of the biblical verse, a characteristic for which the Samaritan Targum is known.<sup>46</sup>

#### 4. *Targum Pseudo-Jonathan*

The title of this targum—Pseudo-Jonathan—is a misnomer that is a result of mistakenly calling the abbreviation T"Y *Targum Yonatan* instead of its correct title, *Targum Yerushalmi*. Pseudo-Jonathan is a Palestinian targum that was redacted before the seventh century C.E., and it contains more aggadic material than the targumim examined above.<sup>47</sup> The following extract is Pseudo-Jonathan's translation for Deut. 22:5:

Neither fringed robes nor tephillin which are the ornaments of a man [גוללין דציצית דהינן תיקוני גבר] shall be upon a woman; neither shall a man shave his pubic hair [בי שיחיא] in order to appear as a woman, for every one who does these things is remote and abominable before the Lord thy God.<sup>48</sup>

This targum translates כלי גבר as “fringed robes” and “phylacteries.” These translations, which refer to religious symbols of the traditionally male realm differ, significantly from previous translations that related to weaponry or general clothing. By going out of its way to introduce a notion not in the text, PJ intimates strongly that differing roles and religious obligations for men and women within society should be upheld.

<sup>46</sup> Tal, *HaTargum* 36. Overall the *Samaritan Targum* consists of a literal word for word (one Aramaic word for every Hebrew word) translation, but at times deviates from the literal sense of the text (i.e., by applying midrashic interpretations.) Tal, “The Samaritan Targum of the Pentateuch” 189-202.

<sup>47</sup> Alexander 219.

<sup>48</sup> *Pseudo-Jonathan*, ed. Moses Ginsburg, ed. (Hildesheim, New York: G. Olms, reprint 1971) 337-338.

The translation of שמלת אשה in this targum prohibits men from cutting their pubic hair. This understanding of שמלת אשה also appears in talmudic sources discussed below. Pseudo-Jonathan qualifies that this hair cutting is prohibited, if its purpose is to appear like a woman; thus, one must question whether cutting this hair is forbidden if one does *not* intend to appear as a woman, but perhaps if one is ill or contracts a skin condition.

This Targum's rendering of the key biblical terms, כלי גבר and שמלת אשה, differs quite significantly from the translations discussed above. The translation of שמלת אשה in particular extends far beyond the connotation of dress and clothing or even feminine accessories and implies female behaviour and aesthetic practices. In contrast, Targum Jonathan's translation of Judges 5:25-26 refers to Deut. 22:5 in discussing Yael's choice of a tent-pin over Sisera's weapon in order to avoid using כלי גבר. In contrast to PJ, Targum Jonathan considers כלי גבר to be a man's weapon as opposed to fringed robes and phylacteries. This difference is one example that supports the fact that כלי גבר is ambiguous and was subject to various interpretations, perhaps depending on a particular context. The implications of prohibiting women from traditionally male religious practices and prohibiting men from cutting their hair to appear as women will be discussed in more detail in subsequent chapters.

The targumim examined here represent different interpretive traditions with respect to Deut. 22:5 and appear to be a resource for other interpretations. The main variance among these texts continues to be the meaning of כלי גבר and שמלת אשה. While both Neophyti and Onkelos understand כלי גבר as weapons and armour, they

differ significantly in their translation of שמלת אשה. Neophyti explains שמלת אשה to refer specifically to clothing, whereas Onkelos takes the biblical term to mean ornaments, adornments and equipment. In contrast, the translation of כלי גבר in the Samaritan Targum is not limited to armour but can mean utensils, vessels or garments. However its translation of שמלת אשה refers specifically to ornaments, jewellery and make-up. Obviously Pseudo-Jonathan stands out among these translations of Deut. 22:5. While *tefillin* and fringed robes could be considered men's utensils and clothing, their religious nature and the prohibition of hair cutting for שמלת אשה tread far from the literal meaning of the verse.

### C. Midrashim

Midrash is literature attributed to the rabbis of the mishnaic-talmudic era that relates to the Bible according to a lengthy program of rules or practices of interpretation. Its goals are to expound, expand, apply and glorify the Bible. Midrashim are highly sensitive to anomalies or irritants in the Bible text, and isolate or create linguistic or contextual ambiguities that allow the text to assume many meanings not in keeping with a literal understanding of a word or passage's historical context.<sup>49</sup> The two midrashic sources that deal extensively with Deut. 22:5 are *Sifre* and *Midrash Tannaim*, *Midrash Mishlei* also correlates כלי גבר with כלי זיין, but the comment is inconsequential and therefore is not addressed in this section. Almost all midrashim are from Palestine, in origin.<sup>50</sup>

<sup>49</sup> Barry Levy, personal e-mail, 9 July 2002.

<sup>50</sup> H.L. Strack and Gunter Stemberger, *Introduction to the Talmud and Midrash*, ed. and trans. Markus Bockmuehl (Minneapolis: Fortress Press, 1992) 237-240.

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### *1. Sifre on Deuteronomy*

*Sifre* on Deuteronomy is an exegetical midrash on that book. It consists of both aggadic midrashim (paragraphs 1-54 and 304-57) and halakhic midrashim (paragraphs 55-303). It is dated to the late third century and is not ascribed to one single author but to a combination of named and unnamed rabbis.<sup>51</sup>

*Sifre* on Deuteronomy addresses the halakhic application of Deut. 22:5 in paragraph 226. First, the midrash emphasizes that the essence of the prohibition in the verse is not limited to dressing in the clothing of the opposite sex. Rather it prohibits women from dressing like a man *in order to* go among them and act abominably. The midrash defines cross-dressing as forbidding women from wearing כלי לבנים (probably white coloured garments), and men from wearing ציבורים (coloured garments). This specification seems to imply that in rabbinic times women's clothing was multi-coloured and men wore only white. One could wonder also whether this represents a societal dress code, or whether women's clothing is defined as being more elaborate, and therefore multi-coloured, and men's dress was simpler and thus was identified as being white.<sup>52</sup>

Second, R. Eliezer ben Jacob asks the following two questions:

<sup>50</sup> H.L.Strack and Gunter Stemberger, *Introduction to the Talmud and Midrash*, ed. and trans. Markus Bockmuehl (Minneapolis: Fortress Press, 1992) 237-240.

<sup>51</sup> Strack and Stemberger 270-273.

<sup>52</sup> Eliezer Finkelstein, ed., *Sifre al Sefer Devarim*. Published by The Jewish Theological Seminary of America (New York: Stroock Publication Fund, 1969) 258.

- 1) What source prohibits women from arming themselves and going out to battle?
- 2) What source prohibits men from wearing women's finery or jewellery (תכשיטי נשים)?

He offers Deut. 22:5 as the answer to both questions. The midrash does not define the difficult Hebrew terms specifically, but the questions clearly demonstrate that, according to R. Eliezer, כלי גבר refers to weapons and war and שמלת אשה includes both clothing and feminine accessories. This understanding of כלי גבר and שמלת אשה is reminiscent of some of the earlier translations and interpretations.

Finally, the midrash addresses the end of Deut. 22:5 – “because anyone who does this is an abomination to the Lord your God” (תועבת ה' אלקיך כל עשה אלה). It provides five names for an individual who disobeys the commandments in the verse: expelled, abominated, despised, loathsome, and perverted (חרם, תועבה, הרם, משוקץ ועול). The midrash's need to emphasize the negative attributes of this person is similar to the addition of “detestable” (שנאוי) in the *Neophyti* translation of this part of the verse. The numerous synonyms and the midrash's goal to edify the masses reveal the seriousness of such actions.<sup>53</sup>

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<sup>53</sup> Finkelstein 258.

## 2. *Midrash Tannaim*

*Midrash Tannaim*, also known as *Mekhilta on Deuteronomy*, is a halakhic midrash, but its date and the precise extent of the revisions and redactions it underwent are unknown.<sup>54</sup>

The text quotes the beginning of Deut. 22:5 - לא יהיה כלי גבר על אשה – and R. Yishmael's interpretation. He explains that Scripture states that a man should not dress like a woman to teach us “to refrain from ugly deeds and their like.” R. Yishmael believes that cross-dressing may lead to confusion and improper actions in front of or with the opposite sex, behavior he deems sinful. In his effort to stress the importance of abiding by the prohibitions in Deut. 22:5 to avoid these sins, R. Yishmael clarifies exactly what is understood by female and male dress:

...[T]herefore, the man should not adorn himself with a woman's ornaments and a woman should not adorn herself in a man's ornaments, and she should not wear a coloured undershirt or a cloak (טלית) of armor<sup>55</sup>

Essentially, he defines both כלי גבר and שמלת אשה as referring to תכשיטים (ornaments or decorations) for men and women, and he states explicitly that men should not wear “garments of shape or form” and women should not wear “cloaks of armour.”<sup>56</sup> These specifications further demonstrate what constituted male and female “dress,” as well as the vast possibilities for interpretation within these terms.

A second comment on Deut. 22:5 in this same passage presents a straightforward interpretation of the verse. The midrash asks what Scripture teaches

<sup>54</sup> Strack and Stemberger 270, 275-278.

<sup>55</sup> David Zvi Hoffmann, *Midrash Tannaim Al Sefer Devarim*, vol 2 (Tel-Aviv, Israel: Netzach, 1961) 134-135.

from the lemma *לֹא יִהְיֶה כָּלִי גִבּוֹר עַל*, and it responds that a woman should not dress in white clothing (*לְבָנִים כָּלִי*) and a man should not cover himself “in colours” (*צִבְעוֹנִין*). This understanding of gender specific dress was seen above in *Sifre* as well. The midrash cites the consequence of dressing like the opposite sex – *כִּי – תוֹעֵבַת ה’ אֶלְקִיד* – and explains that cross-dressing is an abomination, because it is an action that leads one to sin. The passage summarizes quite succinctly that a woman should not wear what a man wears, so that she cannot walk among men, and a man should not cover himself or adorn himself in women’s ornaments (*תְּכֵשִׁיטִי*), so that he cannot walk among women. The implication is that covertly associating with the opposite sex will lead to sin. While “what a man wears” remains vague, women’s dress once again specifically includes female ornamentation, be that jewellery, cosmetics or other types of accessories.

In the final part of this passage, R. Eliezer asks for the source from which one learns that a woman cannot wear *כָּלִי זִיָּין* (armour, men’s weapons) and go out to war; the answer is *לֹא יִהְיֶה כָּלִי גִבּוֹר עַל אִשָּׁה*. He then requests the source from which one learns that a man is forbidden from dressing in women’s ornaments; the answer is *שְׂמַלַת אִשָּׁה וְלֹא יִלְבַּשׁ גִּבּוֹר*. These questions and sources attributed to Rabbi Eliezer are the same found in *Sifre* above. The interpretations of *כָּלִי גִבּוֹר* and *שְׂמַלַת אִשָּׁה* within them have been encountered in other texts previously examined, and they continue to be central understandings of Deut. 22:5 throughout the history of its interpretation.<sup>57</sup>

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<sup>56</sup> Hoffmann 134-135.

<sup>57</sup> Hoffmann 134-135



One additional question is posed in *Midrash Tannaim* – how does one know that a man cannot dress as a woman even in face of gentiles and robbers? The lemma אֵלֶּקֶךָ ה' כִּי תוֹעֵבֶת ה' teaches that cross-dressing is forbidden even for the purpose of protection and would be considered an abomination.<sup>58</sup> This qualification that even in face of danger such cross-dressing is reprehensible demonstrates the severity with which such behaviour was regarded. In later texts to be examined below, this issue will be debated and reassessed, and in some instances, cross-dressing will be permitted.

#### **D. The Babylonian Talmud**

The final redaction of the *Babylonian Talmud* took place *circa* the eighth century in Babylonia, although much of the material it contains is older.<sup>59</sup> Its content is centred on—but is not limited to—debates and discussions regarding the meaning and application of the Mishnah. Although the Talmud is not a work of Bible exegesis, the rabbis often identified and developed a biblical verse that they understood to be the base of an oral precept found in the Mishnah. The impact of the Talmud extended far beyond the Babylonian Jewish community of that time, and it eventually became the main source and basis for all Jewish law.<sup>60</sup> Consequently, it presents the essential foundation for the Jewish exegetical development of Deut. 22:5 from the early rabbinic period to the present.

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<sup>58</sup> Hoffmann 34-135.

<sup>59</sup> Strack and Stemberger 214.

<sup>60</sup> Strack and Stemberger 214-215.

The talmudic passages that refer to Deut. 22:5 are in *Nazir* 59a, *Shabbat* 94b, and *Makkoth* 20b. Each seeks to explicate the legal implications of the verse for the individual, and in so doing focuses on the many ambiguities in Deut. 22:5. They all connect a prohibition to remove hair from certain parts of the body to the ordinances in the verse.

### 1. *BT Nazir* 59a

The relevant passage in *Nazir* (58b-59a) contains a discussion regarding removing hair from the male armpits and pubic area. Two versions of an argument regarding the consequence of removing this hair are presented. The first reads as follows:

R. Hiyya Bar Abba, citing R. Johanan said: One who removes [the hair of] the armpits or of the private parts is to be scourged. An objection was raised. [It has been taught:] Removal of hair is not [forbidden] by the Torah, but only by the Soferim? What he too meant by scourging is [scourging inflicted] by the Rabbis.<sup>61</sup>

In this excerpt, R. Johanan's penalty of whipping for removing armpit and pubic hair raises a difficulty, because flogging was the punishment for biblical injunctions and removal of armpit and pubic hair was not expressly forbidden in the Torah. The passage explains that R. Johanan was referring to flogging that would be imposed by the rabbis specifically for the transgression of a non-biblical law.

The second version of the argument states:

Others say [that the above argument took the following form]. R. Hiyya b. Abba, citing R. Johanan,

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<sup>61</sup> *Hebrew-English Edition of the Babylonian Talmud, Nazir*, trans. B.D. Klien (London: Soncino Press) 117.

said: One who removes [the hair of] the armpits or the private parts is to be scourged because of [infringing the prohibition] *neither shall a man put on a woman's garment* (Deut.22: 5). An objection was raised. [We have been taught:] Removal of hair is not [forbidden] by the Torah, but only by the Soferim? - That statement [of R. Johanan] agrees with the following Tanna. For it has been taught: One who removes [the hair of] the armpits or the private parts infringes the prohibition, *neither shall a man put on a woman's garment* (Deut. 22:5).<sup>62</sup>

This part of the text links the transgression of hair removal to Deut. 22:5.

Once again, R. Johanan deems scourging the appropriate penalty for removing armpit and pubic hair. In this version, however, he explains that the penalty is valid because removing armpit and pubic hair infringes on the prohibition from Deut. 22:5 לא ילבוש גבר שמלת אשה. R. Johanan suggests by this association that shaving armpit and pubic hair was a female practice only, which falls within Scripture's intended meaning of "feminine dress."

The same objection is offered that hair removal is not expressly forbidden in the Torah, and therefore, flogging is not a valid punishment. A mishnaic source is brought in R. Johanan's defence, which also sees לא ילבוש גבר שמלת אשה as the source for prohibiting hair removal from the armpits and pubic area. Scourging is thus a justified penalty because hair removal, through interpretation, can be seen as a biblical injunction. Since the objection raised in the second version of the argument suggests that, for some, Deut. 22:5 is not the source prohibiting hair removal, the talmudic passage continues to examine what other interpretation arose from the biblical verse:

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<sup>62</sup> Hebrew-English Edition of the Babylonian Talmud, Nazir 117.

What interpretation does the first Tanna put on [the verse] ‘*neither shall a man put on a woman’s garment*’? - He requires it for the following that has been taught: Why does Scripture say, *A woman shall not wear that which pertaineth unto a man* [etc.]? If merely [to teach] that a man should not put on a woman’s garment, nor a woman a man’s garment, behold it says [of this action] this is *an abomination* (Deut. 22:5) and there is no abomination here! It must therefore mean that a man should not put on a woman’s garment and mix with women, nor a woman a man’s garment and mix with men.<sup>63</sup>

Like one of the interpretations in *Midrash Tannaim*, this excerpt explains that the words “this is an abomination,” at the end of Deut. 22:5, signify that simply donning clothing of the opposite sex is not the issue with which Scripture is concerned. Rather, the verse means that men and women should not wear each other’s garments for the purpose of mixing with the opposite sex. In other words, for the Tanna who raised the objection to R. Johanan in the second version of the argument above, the intention of Deut. 22:5 was not to teach that armpit and pubic hair removal is forbidden, but to discourage frivolous mixing of the sexes.

Finally, Nazir 59a includes the two questions posed by R. Eliezer already seen in *Sifre* and *Midrash Tannaim* above:

R. Eliezer b. Jacob says: How do we know that a woman should not go to war bearing arms? Scripture says, ‘*A woman shall not wear that which pertaineth to a man.*’ [The words] ‘*Neither shall a man put on a woman’s garment,*’ [signify] that a man is not to use cosmetics as women do.

The appearance of this same passage in three rabbinic texts suggests that the interpretations of *כלי גבר* and *שמלת אישה* as armour and cosmetics respectively were well-known and possibly the practical application of Deut. 22:5 at the time. The

<sup>63</sup> Hebrew-English Edition of the Babylonian Talmud, Nazir 117.

talmudic extract as a whole both presents Deut. 22:5 as a source for a seemingly unrelated prohibition and offers several interpretations for the ambiguous terms – *שמלת אישה* and *כלי גבר*. While none of the explanations is unique to the Talmud, they portray the more common concerns with the verse and form the basis for later exegesis.

## 2. *BT Shabbat 94b*

The discussion of Deut. 22:5 in this tractate follows a mishnah that prohibits cutting nails, plucking facial hair, braiding hair and applying make-up on the Sabbath. The Gemara dissects each prohibition to expose, in complete detail, all aspects of these injunctions and at what point a man or woman is guilty of transgression.

Regarding plucking hair, the rabbis argue how much hair must be plucked in order to be guilty of transgressing the Sabbath. While they agree that “a full scissors’ edge [of hair]” renders a man culpable, they disagree as to how many hairs constitute this measurement: Rab Judah claims two hairs and R. Eliezer says one.

The passage then states the following:

But the Sages agree with R. Eliezer in the case of one who picks out white hairs from black ones, that he is culpable even for one; and this is interdicted even on weekdays, for it is said, *neither shall a man put on a woman’s garment*.<sup>64</sup>

This excerpt reports that, in the case of plucking out white hairs from among black ones, Rabbi Eliezer’s opinion that plucking even one hair transgresses the Sabbath

is accepted. Deut. 22:5 is cited as the reason for which this particular injunction is extended to the entire week. According to Rashi, removing white hair from black implies working to look younger (and hence is forbidden on the Sabbath). One can infer from this that “looking younger” was considered a feminine concern; an interpretation of שמלת אישה as feminine behaviour thus prohibits men from removing their white hairs on any day of the week.

While the common interpretations of שמלת אישה as garment or ornamentation are not offered, the use of Deut. 22:5 in this text extends its meaning and application to include any action considered female in nature. Whether the concern of the rabbis is still frivolous mixing of the sexes, as suggested in earlier texts, or simply preventing effeminate behaviour is unclear.

### 3. BT Makkoth 20b

The passage in Makkoth that cites Deut. 22:5 is essentially identical to the text in Shabbat. It too discusses how many hairs constitute a “scissor-nip,” and Rab Judah and R. Eliezer’s opinions of two and one respectively are provided. The text then reads:

Yet the Sages concede to R. Eliezer where one picks out white hair from the black that he is liable even for one, and this thing is forbidden even on weekdays, because it [comes under what] is said, *And man shall not put on a woman’s garment.*<sup>65</sup>

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<sup>64</sup> *Hebrew-English Edition of the Babylonian Talmud, Shabbath*, vol 2, trans. H. Freedman ( London, Jerusalem and New York: Soncino Press, 1960) 94b.

<sup>65</sup> *Hebrew-English Edition of the Babylonian Talmud, Makkoth*, trans. Dayan H.M. Lazarus (London: Soncino Press, 1987) 40.

## Chapter III: Medieval and Early Post-Medieval Exegesis

### A. Introduction

The medieval and early post-medieval period is a complex historical era to describe succinctly. It encompasses several centuries, numerous Diaspora communities in a vast geographical area, different, often changing, ruling powers, and varying degrees of non-Jewish cultural influences. Moreover, the works produced in this time are heterogeneous in genre and subject. They include Bible interpretations, legal codes, philosophical writings, and liturgical poetry. Many writers, thinkers, and exegetes each had multiple interests and styles of scholarship, and their erudition extended beyond Jewish learning to the study of languages, physics, astronomy and math.

This chapter will examine the interpretation of Deut. 22:5 in a diverse collection of works from this period. For each text, the genre of the work as well as its author and the historical, geographical, religious, and cultural contexts in which he wrote will be considered.

### B. Saadia Gaon

Saadia was born in 892 in the village of Diyaz in the district of Fayyum in Upper Egypt. Little is known about his early education and family, but according to

a fragment of text discovered in the Cairo Geniza, he moved to Palestine around the age of 23, travelled around the area, and finally settled in Sura, Babylonia, where, in 926, he was appointed Gaon.<sup>66</sup>

Saadia produced a number of works in Hebrew philology, liturgy, halakha, calendar and chronology, philosophy and polemics. These include his commentary on the Bible and his translation of the Bible into Arabic, which he wrote in order to make Scripture accessible to the masses of Jews in Egypt and other localities under Muslim rule. As well, in many of his teachings and writings, Saadia attempted to counteract the growing influence of Karaism and its opposition to rabbinic Judaism by both teaching about rabbinic practices and laws and responding to its challengers.<sup>67</sup> Saadia's understanding of Deut. 22:5 appears in his Bible commentary on Deuteronomy. He addresses the ambiguity in the terms כלי גבר and שמלת אשה by providing brief definitions:

כלי: כלים. שמלת אשה: עדי הנשים<sup>68</sup>

Saadia explains the term כלי as vessels or tools, and שמלת אשה as women's ornaments and other similar items. In contrast to earlier interpretations in which the ambiguous terms of the verse were given specific connotations (like armour or jewellery), Saadia's use of plural definitions for the singular terms extends the scope of possible meanings and thus complicates its specific legal application. By providing the plural of כלי, כלים, as his definition of this term, Saadia identifies the

<sup>66</sup> A Gaon was the formal title for the head of a Jewish academy in Babylonia. Jews of the seventh through eleventh centuries (approximately) recognized the geonim as the highest authority of learning. See: "Gaon," *Encyclopaedia Judaica*, vol. 7 (Jerusalem: Keter Publishing House Ltd., 1972) 315-324.

<sup>67</sup> Henry Malter, *Saadia Gaon: His life and Works* (New York: Hermon Press, 1969) 22-68 and 137-146. This is best seen in Saadia's defence of Rabbinic Judaism against Karaism.

<sup>68</sup> *Torat Chaim Chumas Devarim* (Jerusalem, Israel: Mossad Harav Kook, 1993) 188.



connection between these words for the reader and demonstrates the numerous possibilities that can be incorporated in this restriction. Similarly, his definition of *שמלת אשה* as the plural *הנשים עדיי* intimates that Scripture intended to prohibit more than literally and only a woman's dress is forbidden to men. Because the purpose of Saadiah's work is interpreting the Bible (and not a legal treatise), these simple definitions offer synonyms that maintain the ambiguity of the verse but clarify the actual words employed by Scripture.

### C. Rashi: Rabbi Shlomo Yitzhaki

Rashi lived from 1040 to 1105 in Northern France and is the best-known and most influential Jewish exegete of all time. His commentaries on the Bible and the Babylonian Talmud have offered students and scholars alike, an essential aid in understanding the often-complex meanings of these texts.<sup>69</sup> His Bible commentary, in particular, is well known for its frequent employment of two exegetical methodologies, *peshat* and *derash*. These genres of interpretation can mean different things to different writers and interpreters, but generally, they refer to a literal or contextual meaning of the text (*peshat*) and a more non-literal approach (*derash*). For centuries, scholars and exegetes have analysed Rashi's comments in order to define Rashi's understanding and usage of these terms and to identify clear patterns in the commentary that fit with these definitions. Ultimately, Rashi may have striven to include comments that were either *פשוטו של מקרא*

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<sup>69</sup> Nahum M. Sarna, *Studies in Biblical Interpretation* (Philadelphia: The Jewish Publication Society, 2000) 127-138.

or אנדה המישבת דברי המקרא דבר דבור על אפניו, as he states in Gen. 3:8; however, which comments fit into which category, and when and if Rashi chose to deviate from this paradigm, is subject to debate.<sup>70</sup>

Rashi's comment on Deut. 22:5 incorporates some of the discussion in the rabbinic sources examined above. Rashi explains that לא יהיה כלי גבר על אשה prohibits women from appearing similar to men and going among them, because mingling with the opposite sex can only lead to lewd behaviour. This comment appeared previously in both *Sifrei* and Tractate Nazir, and thus, displays Rashi's use of rabbinic interpretations within his own. One might suggest that Rashi preferred these comments over those that sought to identify what exactly was included in the term כלי גבר (such as armour) because by maintaining its ambiguity he clarifies the essential meaning of the verse and remains close to contextual intention of the text.

Regarding שמלת אשה, ולא ילבש גבר שמלת אשה, Rashi first offers a simple explanation, parallel to the first lemma, in which he affirms that men should not dress in שמלת אשה in order not to mingle with women. He then offers an alternative explanation, which is introduced with the words דבר אחר. Here, he refers to the comment from Tractate Nazir that prohibits men from removing their pubic and armpit hair. This comment offers a more specific definition of the term שמלת אשה, and one might infer that, although this interpretation appears to extend beyond the contextual

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<sup>70</sup> Gen. 3:8 portrays Adam and Eve as individuals who *heard* God moving in the area, and Rashi explains that despite the many Aggadic interpretations of this verse, he chose to present what the text says directly. The exact meaning of this Rashi has been subject to much debate, but according to Silberman, these phrases are translated as follows: "And they heard—There are many Midrashic explanations and our teachers have already collected them in their appropriate places in Bereshith Rabbah and in other Midrashim. I, however, am only concerned with the plain sense of Scripture and with such Aggadoth that explain the words of Scripture in a manner that fits in with them. And they heard—what did they hear? They heard the sound of the Holy One, blessed be He, as He walked in the garden (see Gen. R.19)..." A.M. Silberman and M. Rosenbaum, *Pentateuch with Rashi's Commentary*, Genesis (London: Shapiro, Vallentine & Co., 1929) 13-14.

meaning of the verse, Rashi believed it to be significant to the rabbinic tradition and perhaps to the legal application of the verse.

Finally, Rashi offers an interpretation for the lemma **כִּי תוֹעֵבָת**. He explains that the Torah is forbidding only a garment that could lead to an abomination. In other words, unlike previous interpretations examined above, Rashi is implying that specified the types of clothing of the opposite sex that were forbidden — such as white or multi-coloured clothing, armour, or *tefillin* — are limited to those that could lead to an abomination. This comment directly links the first part of the verse (the prohibitions for men and women) with the second (the abomination) and is very much oriented to the textual context. It differs significantly in tone from other interpretations, because it suggests that not all gender specific clothing worn by the opposite sex will lead to abomination. Previous comments seemed to imply that dressing in clothing of the opposite sex, no matter what it was, would lead to an abomination, and although Rashi repeats these interpretations with the first two lemmata, his terminology ...**לֹא אִסְרָה תוֹרָה אֵלָּא** is more lenient.

The legend that Rashi's daughters donned *tefillin* is interesting in light of Rashi's comment on this verse. In contrast to Targum Pseudo-Jonathan, who specifically forbade *tefillin* as **בְּלִי גִבּוֹר**, Rashi's interpretation of the verse as forbidding any garment that would, by nature, lead to licentiousness, would not include *tefillin*. The idea that Rashi's daughters donned this male “garment” and, at least in legend, were revered as pious demonstrates the shifting understandings and

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walked in the garden (see Gen. R.19)...” A.M. Silbermann and M. Rosenbaum, *Pentateuch with Rashi's Commentary*, Genesis (London: Shapiro, Vallentine & Co., 1929) 13-14.

applications of Deut. 22:5, as well as the consistency with which Rashi's comments may have fit with his family's practical application of the commandments.

#### **D. Rashbam: Rabbi Samuel ben Meir**

Rashbam (1080-1147) was a French Talmudist and exegete; he was also Rashi's grandson. In his Torah commentary, Rashbam refined his grandfather's exegetical focus on *peshat*, which included a substantial amount of *derash*, to a more absolute, consistent and direct use of *peshat* exegesis.<sup>71</sup>

In a brief comment on Deut. 22:5, Rashbam addresses the first part of the verse only: *לֹא יִהְיֶה כָּלִי גִבּוֹר עַל אִשָּׁה*. He explains that a woman is forbidden to wear *כלי גבר* to go among men and act promiscuously.<sup>72</sup> As with Rashi's comment, the issue of intention is important. Are women forbidden to dress in *כלי גבר* only if their intention is to mingle with men inappropriately, or is this prohibition made because such dressing will inevitably lead to lewd mingling with the opposite gender? In other words, can a woman wear *כלי גבר* if she wishes only to stay home? This qualification of the verse presented in both Rashbam and Rashi maintains an ambiguity towards its practical application. Rashbam does not define the term *כלי גבר*, nor does he offer an interpretation of the second part of the verse related to the prohibition for males.<sup>73</sup> The reader however is no closer to understanding what exactly is forbidden by the terms *כלי גבר* or *שמלת אישה*, or whether the personal intentions are relevant to the general circumstances.

<sup>71</sup> Martin I. Lockshin, ed. and Trans., *Rashbam's Commentary on Exodus: An Annotated Translation* (Atlanta, Georgia: Scholars Press, 1997) 1-4.

<sup>72</sup> *Torat Chaim Chumash Devarim* (Jerusalem, Israel: Mossad Harav Kook, 1993) 188.

<sup>73</sup> Either he felt these aspects of the verse to be clear, or perhaps he felt they were adequately explained in Rashi's commentary.

## E. Yehuda he-Hasid: Sefer Hasidim

R. Yehuda he-Hasid was born in Speyer in 1150 and died in Regensburg in 1217. He was one of the most important leaders of the Hasidei Ashkenaz (pietists of Germany) and a prominent halakhist and kabbalist. After the Second Crusade destroyed thousands of Jews in Germany, R. Yehuda he-Hasid presented the Jewish community of Regensburg with *Sefer Hasidim* to provide inspiration and guidance to those who had lived through these trying times. The work addresses many essential halakhic issues facing the community in a time of tragedy, death, destruction, and renewal.<sup>74</sup> As Jewish lives were threatened by their Christian neighbours, R. Yehuda he-Hasid's interpretation of Deut. 22:5 offers a response to the legal implications of the verse, obviously founded in the community's reality of danger and its capacity for survival. The issue of cross-dressing and his interpretation of Deut. 22:5 are explained in paragraph 200.

R. Yehuda he-Hasid begins with a citation of Psalm 119:126, "It is a time to act for the Lord" (עת לעשות לה'). This expression is often applied to Jewish law in difficult situations when an exception to the law is required. He continues by stating that even though the commandments in Deut. 22:5 forbid women and men from disguising themselves as the opposite gender, if an army is laying siege to the city or if women are in danger of being raped, the women are permitted to dress in men's clothing and even to carry a sword to protect themselves.<sup>75</sup>

<sup>74</sup> Yehudah he-Hasid, *Sefer Hasidim: The Book of the Pious*, trans. Avraham Yaakov Finkel (Northvale, New-Jersey: Jason Aronson Inc., 1997) xxxi,xxxvi.

<sup>75</sup> Yehudah he-Hasid, *Sefer Hasidim: The Book of the Pious*, 352; Yehuda he-Hasid, *Sefer Hasidim*, (Jerusalem: Rav Kook Publishing, 1969) 191-192.

In paragraph 201, R. Yehuda he-Hasid offers specific examples of how cross-dressing can provide protection. He tells of a woman who, while traveling with her husband, wore a fake beard of human hair to convince threatening men she was a man. Regarding young boys who are yet to grow a beard, Yehuda he-Hasid suggests they too can dress as the opposite sex, by wearing ladies' clothing (נשים) (בגדי) for protection or Christian clothing to mislead their enemies.<sup>76</sup> Exactly why a young boy would be safer disguised as a woman, while women were safer disguised as men, is not explained. However, R. Yehuda he-Hasid obviously supported the practise of cross-dressing for this purpose and did not view Deut. 22:5 as an insurmountable obstacle in its implementation.

R. Yehuda he-Hasid's interpretation of Deut. 22:5 does not differ from his predecessors'. He clearly understood כלי גבר as men's clothing and adornments, as well as armour, and שמלת אשה as women's clothing and adornments. His writing also suggests that, until the difficult times in which he and his community were living, the legal application of the verse encompassed the prohibition of disguising oneself as the opposite gender. R. Yehuda he-Hasid is unique in exempting his fellow Jews from the traditional limitations imposed by this verse and encouraging them to cross-dress in order to save their lives. In light of Rashi's comment, which suggests that only cross-dressing for licentious objectives is forbidden, one can see how R. Yehuda he-Hasid's seeming dismissal of the commandment without consequence might still assume different interpretive levels of the verse. In other words, simply because R. Yehuda he-Hasid as stated that the verse prohibits

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<sup>76</sup> Yehudah he-Hasid, *Sefer Hasidim: The Book of the Pious*, 352; Yehuda he-Hasid, *Sefer Hasidim*, 191-192.

dressing as the opposite gender and he is permitting it for protective purposes, does not mean that he has dismissed the other nuances intended in the verse's meaning related to lewdness and inappropriate sexual behaviour while dressed as the opposite gender. Under normal circumstances he may have considered these acts to be abominable. But his specific statements of permission along with examples of implementation confirm that the verse's application was limited and could be applied differently in different contexts.

## **F. Abraham Ibn Ezra**

Ibn Ezra (1092-1167) is best known for his commentary on the Bible. He was also well versed in a variety of other disciplines, including philosophy, grammar and astronomy, and some scholars believe he was trained as a physician.<sup>77</sup> He was born in Spain, spent the latter part of his life travelling, and he settled in Rome before he died. Although he did not write a commentary on every biblical book,<sup>78</sup> Ibn Ezra was the first Sephardi to write a complete Torah commentary in Hebrew. Because his travels took him to lands of Christendom where the Jews were not versed in Arabic - the language of his earlier writings - Hebrew was the obvious choice to disseminate his work among Northern Europe's Jewish communities.

Ibn Ezra's passion for the Hebrew language is demonstrated throughout his Torah commentary in the numerous interpretations that rely on grammatical analysis. His writings also reflect a deep respect for the sages generally, he

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<sup>77</sup> Sarna 139-159.

<sup>78</sup> Ibn Ezra's Torah commentaries are limited to the Torah, Isaiah, the Twelve Minor Prophets, Psalms, Job, the Five Megillot and Daniel. There is evidence that he wrote commentaries to other books, but none have survived.

disagrees with their interpretations only in non-halakhic matters. Like Saadya, Ibn Ezra strongly opposed the Karaites and his attacks against them appear frequently in his exegetical works.<sup>79</sup>

### *1. Torah Commentary*

Ibn Ezra's comment for Deut. 22:5 begins by explaining that the prohibition forbidding women to wear כלי גבר is connected to going out to war.<sup>80</sup> He elaborates that women were created only for bearing children; if a woman would go with men to war, she ultimately would defile herself with promiscuous behaviour.<sup>81</sup> The comment does not offer a specific definition of כלי גבר, and although a direct connection is made between the prohibition and war, it does not limit the meaning of the term to armaments alone. Rather, it suggests that anything that would allow a woman to go out to war disguised as a man is forbidden, and that perhaps the act of going to war itself is the כלי גבר from which women are prohibited.

Also noteworthy is Ibn Ezra's claim that woman's purpose in the world is solely for procreation. This statement reflects the reality of the past, in which woman's role was limited, and a woman's purity and her ability to bear legitimate children were hallowed matters of society. The passage does not address women's military or intellectual ability as compared to men, but rather explicates the essential yet differing roles each gender held in ancient communities and the reason Deut. 22:5 upholds this division along gender lines.

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<sup>79</sup> Sarna 139-159.

<sup>80</sup> *Torat Chaim Chumash Devarim* (Jerusalem, Israel: Mossad Harav Kook, 1993) 188.

<sup>81</sup> *Torat Chaim Chumash Devarim* 188.



The next phrase of Ibn Ezra's comment states that a similar reason is implied for the prohibition for men. One can assume that, in his brevity, Ibn Ezra is referring to the comparable idea that men who disguise themselves as women and mingle among them will ultimately behave licentiously. He then provides an example of a young man who could not yet grow a beard. Disguised as a woman, he could mingle among women and engage in lewd and illicit behaviour, and no man would know. This demonstrates again the care with which woman's virtue was protected.

Ibn Ezra continues with the observation that the verse teaches that the Israelites, as well as other peoples, had the custom of gender-specific clothing, each gender's garments being unique and easily distinguishable from the other. This conclusion can be drawn from the verse because, without gender-specific clothing, a prohibition against wearing each other's clothing would be nonsensical and inapplicable.

Finally, Ibn Ezra presents the opinion of "others" who understand the prohibition for men as forbidding sexual intercourse with women that is "not in the regular way." Ibn Ezra dismisses this interpretation and explains that God only abhors whoever changes God's work or creation. In other words, disguising oneself as the gender opposite to which one was created (by God) or improperly mixing the two genders whom God had separated would be considered an abomination, as the end of Deut. 22:5 proclaims for violators of the prohibitions detailed in the verse.

Hence, Ibn Ezra does not agree that this specific sexual behaviour is alluded to here, because the stated consequences would not suit this transgression.<sup>82</sup>

## 2. *Ibn Ezra's Yesod Mora'*

Ibn Ezra wrote his philosophical work *Yesod Mora'* in London in 1140, at the request of a scholar for whom he had written other books as well.<sup>83</sup> The purpose of the work is to explain the commandments, and Deut. 22:5 is discussed in chapter nine:

The reason for "A woman shall not wear that which pertaineth unto a man, neither shall a man put on a woman's garment." (Deut. 22:5) is that these actions contradict God's work. Scripture similarly states, "Ye shall keep my statutes" (Lev. 19:19). It therefore forbids the wearing of a garment made out of linen and wool.<sup>84</sup>

Like the interpretation in his Torah commentary, Ibn Ezra explains that the act of wearing the garments or ornaments of the opposite sex constitutes mixing two things that God intended to keep separate, thus contradicting God's work. He links this prohibition to the statute forbidding wearing a garment made out of linen and wool, because this seemingly inexplicable proscription against mixing different materials (as well as different breeds of animals) relates to this concept of repudiating God's work and altering His creation.

Because the goal of *Yesod Mora'* was the explication of the commandments and not the interpretation of the specific verses, Ibn Ezra does not offer definitions

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<sup>82</sup> *Torat Chaim Chumash Devarim* 188.

<sup>83</sup> Ibn Ezra, *The Secret of the Torah: Yesod Mora'*, trans. H. Norman Strickman (Northvale, New-Jersey: Jason Aronson Inc., 1995) 40.

<sup>84</sup> Ibn Ezra, *Yesod Mora'* 126.

of the difficult terms. Rather he demonstrates the general intention behind the prohibitions and where the concern expressed in them appears elsewhere in the Bible.

## G. Moses ben Maimon: Maimonides or Rambam

Maimonides was born in Spain in 1135 and died in Egypt in 1204. Throughout his life of travels, trials, persecutions and acceptance, he composed some of the most important Jewish writings on the Bible, the commandments, philosophy, Jewish law and medicine. Maimonides was a writer, scholar, and rabbi, and at the same time he practiced and taught medicine, in particular for the Sultan's court in Egypt. In the early 1170s, he was recognized as the "chief of the Jews" of Fostat.<sup>85</sup>

Maimonides believed strongly in the rationality of the commandments, and much of his work is concerned with their structured presentation. His *Mishneh Torah* is an organized and systematic codification of Jewish Law, *Sefer Hamitzvot* explains the reasons for the commandments; and *Guide for the Perplexed* offers further erudition to intellectuals who are additionally perplexed by their nuances. Discussion and interpretation of Deut. 22:5 appears in each of the three.

### 1. *Mishneh Torah: The Code of Jewish Jurisprudence*

The *Mishneh Torah* was completed by Maimonides in 1180 in Egypt. It contains fourteen books organized according to different categories of Jewish law,

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<sup>85</sup> Jacob S. Minkin, *The Teachings of Maimonides* (Northvale, New-Jersey: Jason Aronson Inc., 1987) 106-123 and 428-430; Colette Sirat, *A History of Jewish Philosophy in the Middle Ages* (Cambridge: Cambridge University Press, 1985) 157-179.

and its content is founded mostly on Talmudic and post-Talmudic halakhic literature.<sup>86</sup> In the introduction, Maimonides explains that recurrent political difficulties for the Jewish people hinder their ability to sustain and advance learning of Jewish law and traditions. Hence, he wrote this simplified and comprehensible version of the laws to enable Jews to continue studying and living a dedicated Jewish life. Maimonides' discussion of Deut. 22:5 appears in "Laws of Idolatry" 12:10.<sup>87</sup>

In this passage, Maimonides never cites the verse, but he explains the nuances intended in prohibiting men and women from cross-dressing. He begins by saying that a woman should not adorn herself with the adornments of men like placing a turban or a hat on her head or wearing armour, and similarly, she should not shave her head as men do. This extensive paraphrase of the biblical prohibition for women understands the term *כלי גבר* to include all aspects of male identification, be it head coverings, costume associated with male specific employment (like armour for war) or male grooming customs. Similarly, men are forbidden to adorn themselves with adornments of women, specifically wearing colored garments and gold ornaments. He qualifies that men are forbidden to wear these female adornments in geographic locations where it is customary for women only to wear them. His emphasis on following the local custom implies that one should always adhere to the custom of the place in which he/she is present at any given moment, and more significantly, that the biblical prohibitions are not limited to the items he

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<sup>86</sup> Minkin 428-430; Sirat 157-179.

<sup>87</sup> Maimonides also mentions Deut. 22:5 in *Hilkhot Tefilin U'Mezuzah V'Sefer Torah* 8:4, but the passage there does not contribute anything to the discussion surrounding the interpretation of the verse.

lists, but to the idea of wearing what customarily is associated with the opposite gender - with the recognition that customs are not uniform from place to place.<sup>88</sup> He adds that those who adorn themselves with adornments of the opposite gender will be punished.

Maimonides then continues with further examples of behaviour that constitute “female adornment” and are thus prohibited to men. He says a man who plucks white hairs from among his black ones, either from his head or his beard and even if he plucks only one hair, will be punished. Likewise, a man whose hair is black and he colours even one hair white will be punished. Both these examples indicate that vanity is a social custom associated with the female gender.

All the examples mentioned in this passage originated in earlier rabbinic interpretations and applications of the verse, and at their source seemed to offer definitive meanings for the terms *שמלת אשה* and *כלי גבר*. Maimonides’ inclusion of all the definitions as examples addresses the spirit of the verse’s intention and perhaps the reason for the ambiguity in the terminology. The placement of this discussion in *Hilkhot Avodat HaKokhavim* implies that Maimonides considered cross-dressing to fall within the category of idol-worship and thus the reason for its prohibition. As he frequently polemicized against paganism in his writings, perhaps he believed or knew the practice as customarily pagan and thus included it in this category.

Maimonides concludes this passage with an exception to these prohibitions – the *tumtum* (whose genitals are unknown or undeveloped) and the hermaphrodite

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<sup>88</sup> Moses Maimonides, *Mishneh Torah, Hilkhot Avodat HaKokhavim 12:10*, in *Bar-Ilan Chevruta HaLomed Cd Rom Project*.

(*androginus*) who has characteristics of both sexes. These individuals might not dress like a woman or shave like a man, but if they do either, they are not punished.<sup>89</sup> This recognition of the need to apply the law to one whose gender is ambiguous may arise from Maimonides' work as a physician or from an observable presence of individuals with these deformities in the community.

## 2. *Sefer HaMitzvot*

Maimonides originally wrote *Sefer HaMitzvot* as an introduction to his *Mishneh Torah*, and it details the 613 commandments, according to his own enumeration and interpretation and in response to similar endeavours with which he disagreed.<sup>90</sup> The following is Maimonides' counting and explanation of the commandments in Deut. 22:5:

### Negative Commandments 39 and 40

#### 39) Women wearing men's clothes or adornments

By this prohibition we are also forbidden to follow the customs of the heretics in respect of women wearing men's clothes or adornments. It is contained in His words (exalted be He), *A woman shall not wear that which pertaineth unto a man.* (Deut. 22:5.) Any woman who wears an adornment which is known in the place in question to be worn only by men is liable to whipping.<sup>91</sup>

#### 40) Men wearing women's clothes or adornments

<sup>89</sup> Moses Maimonides, *Mishneh Torah, Hilkhos Avodat HaKohanim* 12:10, in *Bar-Ilan Chevruta HaLomed Cd Rom Project*.

<sup>90</sup> Minkin 429. Such as the work of Nachmanides on the commandments.

<sup>91</sup> Moses Maimonides, *The Commandments*, trans. Charles B. Chavel (London: Soncino Press, 1967) 38-39.

By this prohibition men also are forbidden to bedeck themselves with women's adornments. It is contained in His words (exalted be He), *Neither shall a man put on a woman's garment.* (Deut. 22:5) A man who puts on adornments or apparel known in the place in question to be worn exclusively by women is likewise punished by whipping.

You must know that this practice—that is to say, women bedecking themselves with men's adornments, or men bedecking themselves with women's adornments—is sometimes adopted for the purpose of arousing carnal desire, as is common among the nations, and sometimes for purposes of idol-worship, as is explained in the books devoted to the subject. It is also a common practice to stipulate, in connection with the making of certain talismans, that if the maker is a man, he should wear woman's apparel and adorn himself with gold, pearls and the like, and if the maker is a woman, she should wear armour and gird on weapons. This is well known to those who are expert in this matter.<sup>92</sup>

Maimonides defines the prohibitions of Deut. 22:5 and the terms כְּלֵי גִבּוֹר and שְׂמֵלֶת אִשָּׁה as gender-specific clothing and adornments. “Adornments” can include any form of jewellery, accessory, grooming custom or behaviour that is generally associated with one gender or the other. Maimonides states that such practise is “custom of the heretics” and is thus forbidden to Jews. This also confirms the reason for classifying these prohibitions in *Hilkhot Avodat HaKokhavim* in the *Mishneh Torah*.

Maimonides maintains his emphasis on the issue of differing customs in different places. He is specific in stating that a man or woman is to be punished if he or she has violated the gender dress code that is recognized in the place in which the individual is at that time. This recognizes that what was customarily a female

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<sup>92</sup> Maimonides, *The Commandments* 38-39.

adornment in some communities may have been a male one in another. His insistence on following the customs of the place where one is currently visiting or living, and not the customs of the place from which one came, reveals a true appreciation for the general spirit of the verse's intentions and for the ever-changing nature of fashion in general and in different geographic locations.

In the last passage, Maimonides explains possible intentions or reasons for disguising oneself as the opposite sex – namely, for lascivious behaviour or idol worship – which both obviously are forbidden to Jews. He also relates a custom among talisman-makers (seemingly pagan) who would adorn themselves in accessories of the opposite gender while casting the image. As Jews are forbidden from casting talismans, any appearance of cross-dressing would be suspect for idol-worship, and therefore, is also forbidden.

### *3. Guide for the Perplexed*

Maimonides completed the *Guide for the Perplexed* in 1190. It is a philosophical work that explores in greater depth the complexities and perplexities of the Bible - like biblical anthropomorphisms and parables - that often troubled religious, scholarly thinkers. Maimonides wrote the book in Arabic, and subsequently it was translated into numerous other languages. Its availability to so many communities throughout the diaspora reflects the sensation the work caused in the Jewish world. Maimonides faced much criticism and disagreement in addition to the acceptance his work finally attained.<sup>93</sup>

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<sup>93</sup> Minkin 106-123.



We have already explained in our great compilation (*Mishneh Torah, Abodah Zarah, XII 7*) that the shaving of *the corner of the head and of the corner of the beard* has been forbidden (Lev. 19:27) because it was a usage of idolatrous priests. This is also the prohibition of *mingled stuff* (Deut. 22: 11) for this too was a usage of these *priests* as they put together in their garments vegetal and animal substances bearing at the same time a seal made out of some mineral; you will find this set forth literally in their books.

This is also the reason for its dictum: *A woman shall not wear man's armor, neither shall a man put on a woman's garment.* (Deut. 22:5.) You will find in the book of Tumtum<sup>94</sup> (Cf. III 29) the commandment that a man should put on a woman's dyed garment when standing before [the planet] Venus and that a woman should put on a cuirass and arms when standing before Mars. In my opinion there is also another reason for this, namely, such a practice arouses desires and necessarily brings about various kinds of debauchery.<sup>95</sup>

In this section of the *Guide of the Perplexed*, Maimonides explains that the prohibition in Deut. 22: 5 is a response to one of the many practices performed by idol worshippers that mingle two groups of substances.<sup>96</sup> Maimonides' examples of idolatry allude to a similar issue in Ibn Ezra's explanation that cross-dressing is comparable to contradicting God's work, by combining that which He intended to keep separate. Maimonides states that the reason for the prohibition is to separate from pagan rituals. He adds that the laws in Deut. 22:5 are necessary to discourage inappropriate behaviour, as he claims such practice "brings about various kinds of debauchery."

<sup>94</sup> *Tumtum* is an individual of uncertain gender.

<sup>95</sup> Moses Maimonides. *The Guide of the Perplexed*, trans. Shlomo Pines (Chicago: University of Chicago Press, 1963) 544-545.

<sup>96</sup> Maimonides, *The Guide of the Perplexed* 521-522.

## H. *Sefer HaHinukh*

*Sefer HaHinukh* was compiled as a bar mitzvah gift from the author to his son. Like Maimonides' *Sefer HaMitzvot*, *Sefer HaHinukh* enumerates this author's list of the 613 commandments together with an explanation of each precept. The identity of the author and the date of the work's completion are much debated issues. Suggestions for the author include a student of the Rabbi Shlomo Ben 'Adreth or R. Pinchas haLevi of Barcelona, as well as the possibility that the author is "unknowable." The most accepted dating is the late 13<sup>th</sup> century.<sup>97</sup>

Two separate prohibitions are listed and explained regarding the commandments in Deut. 22:5. In the section regarding the first part of the verse – entitled "women should not adorn themselves in men's adornments" – the author explains that women are forbidden to dress in men's clothing and to gird themselves in men's armour. He derives the interpretation of weaponry from *Targum Onkelos* – who translates כלי נבר as תיקון זיין (armour or weapons), and he clarifies that women commonly do not use or wear men's weapons because they are completely exclusive to men and it is not ever a woman's "way" (דרך) to go out in armour. He adds that the law from the Torah proscribes women's wearing clothes that, in the place where they live, are traditionally worn by men – such as a turban or any other exclusively male adornment.<sup>98</sup>

The author then expounds upon the "roots of the commandment" by discussing the importance of removing all immorality from God's holy nation. He

<sup>97</sup> Pinchas HaLevi, *Sefer Hakhinukh*, trans. Charles Wengrov, vol. 5 (Jerusalem: Feldheim Publishers, 1991) ix-xxii and 172-177.

<sup>98</sup> The turban was the standard headgear for men in 13<sup>th</sup> century Barcelona, which was the era and locale of the author.

articulates his certainty that if the clothing of men and women were interchangeable, the genders would mingle together and “the land would be filled with lechery (זמה).”

He offers an additional explanation for the commandment - to distance the Jewish people from all aspects of idolatry—since cross-dressing was the way of idol-worshippers. He explains that after he wrote both interpretations, he found the same comments in Maimonides’ work. The author concludes this section with the following statement:<sup>99</sup>

This prohibition is activated in every place and every time, and a woman who transgresses this prohibition, and wears clothing that is specifically a man’s in that given time and place, is deserving of whiplashes.<sup>100</sup>

Regarding the prohibition for men in Deut. 22:5 – entitled “men should not adorn themselves in women’s adornments” - the author of *Sefer HaHinukh* begins by stating generally that men cannot wear women’s clothing. For the “roots of the commandment,” he refers the reader to the previous section (forbidding women from wearing men’s clothing). He explains, however, that the laws of the commandment are not limited to clothing alone. Rather men are also deserving of lashes should they behave in ways or adorn themselves with adornments that are typically female. The examples he provides, first seen in the Talmudic and Midrashic presentations on the verse, include plucking white hairs from black hairs on one’s head or from one’s beard and dying one’s hair as women colour their hair. He presents Onkelos’ translation of the lemma as a source for this interpretation of שמלת אשה – תיקוני אתתא (female adornments).

<sup>99</sup> *Sefer HaHinukh*, Part 2 (Jerusalem: Machon Yerushalayim, 1990) 822-823.

<sup>100</sup> *Sefer HaHinukh* 822-823.

Like Maimonides, the author then addresses the law's applicability to a *tumtum* or hermaphrodite ('*androginus*). He explains that these individuals do not cover their hair like women or shave like men, but if they do either of these gender specific actions, they are not punished. Likewise, should these individuals seemingly transgress any of the gender-specific stringencies placed upon them, they are not punished because of the doubt inherent in their gender. However, if they transgress a commandment in which men and women have equal responsibility, they are obviously equally accountable.

The author concludes, as he did in the previous section, with the statement that these prohibitions are not bound by a given time and place but are always prohibited to men; and whoever dresses like a woman or adorns himself in women's adornments shall be lashed.<sup>101</sup>

The definitions and interpretations offered in *Sefer HaHinukh* are consistent with earlier understandings of *כלי גבר* and *שמלת אשה*. However, the author of this work is unique in his presentation of the material, and specifically in his division of the material between comments on the meaning of the commandment and edifications on the "roots" or intentions of the commandments. His comments are very similar both in content and style to those of Maimonides and reflect the common genre of enumerating the 613 commandments and anthologizing their traditional interpretations, most likely under Maimonidean influence. His exacting and often harsh assertions regarding the punishing consequences of transgressing the commandments of Deut. 22:5 suggest that cross-dressing was a serious concern in his era.

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<sup>101</sup> *Sefer HaHinukh* 822-823.

## I. Bahya ben-Asher

Bahya ben-Asher lived in Spain in the 13<sup>th</sup> century. He was influenced greatly by Kabbala which he applied to his Bible interpretations. He described four approaches to exegesis – *peshat*, *derash*, philosophical and mystical – and he believed that the most complete interpretation should encompass all four. However, Bahya ben Asher demonstrated the most originality in his mystical approach to the text. He derived most of his other interpretations from earlier works of exegesis, and in particular, from Nachmanides and Rashi.<sup>102</sup>

Bahya's commentary on the first part of Deut. 22: 5 understands כלי נבר as armour or weaponry, and he explains that a woman is forbidden to wear armour in order to prevent her from going out to war and proffering an opportunity for promiscuous behaviour. Similarly, a man is prohibited from wearing שמלת אשה in order to prevent him from mingling with the women. Bahya claims that the promiscuous behaviour resulting from women going to war and the mingling of men with women is what is abominable to God. He supports this claim with a rabbinic interpretation of "an abomination to the Lord your God" that the phrase refers to the thing or action that brings one to abomination or inappropriate behaviour.

Bahya continues that the rabbis learned from Deut. 22:5 that men are forbidden to wear adornments that are exclusive to women. He suggests that looking in a mirror is an example of female "adornment," but he adds that the sages had to adapt this particular example because a scribe was permitted to look in the mirror to strengthen his eyesight, and one who is sick and weak and wants to check

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<sup>102</sup> Meyer Waxman, *A History of Jewish Literature*, vol. 2 (Cranbury, New Jersey: Thomas Yoseloff Publisher, 1960) 31-32.

the appearance of his face is also permitted. In neither of these cases is using a mirror a form of adornment, abominable behaviour, or temptation towards one's evil inclination.<sup>103</sup>

Finally, Bahya ben Asher cites two additional rabbinic interpretations related to the verse: the rabbinic statement that men who pluck white hairs from black ones are guilty of transgressing the commandment in Deut. 22:5, and the *derash* that Yael killed Sisera with a tent-peg instead of a "real" weapon, because she abided by the prohibition *לֹא יִהְיֶה כְּלִי גִבּוֹר עַל אִשָּׁה*.<sup>104</sup>

Bahya's collection of rabbinic interpretations of the different nuances of the verse offers no new understanding of the terms *כְּלִי גִבּוֹר* and *שְׂמֹלֶת אִשָּׁה*. His use of the example of the mirror as a female adornment expands upon the idea that "vanity" is a female trait that men should avoid. The demonstration of exceptions to the prohibition against using a mirror reflects the difficulty in establishing clearly defined boundaries between male and female dress and behaviour, and distinguishing between practical usage and inappropriate intention.

## J. Jacob ben Asher

Jacob ben Asher, better known as the Tur or the Baal HaTurim (after his most famous work on halakha: *Arba'ah Turim*) was born in Germany in 1269. In 1300 he moved to Spain where he lived and served as a judge until his death in 1343. Due to his multi-cultured background from Germany (Ashkenazic Jewish customs) to Spain (Sephardic customs), he was more versed in Jewish laws and

<sup>103</sup> Bahya Ben-Asher, *Sefer Rabbeinu Bahya al HaTorah*, part 5 (B'nei Brak, Israel: Tag, 1992) 118.

<sup>104</sup> Bahya Ben-Asher 118.

customs than other legalists. He wrote two Torah commentaries; the first is longer and more *peshat* in nature and the second is focussed on the *Gematria* (numerological meanings), midrashic and mystical meanings of the Torah.<sup>105</sup>

### 1. Torah Commentary

In his comment on Deut. 22:5, his numerological theory is applied as follows:

כלי תורה—In Gematria equals כלי גבר על אשה. An allusion [to the idea] that a man should not teach his daughter Torah.<sup>106</sup>

With numerological wordplays – whereby one word may acquire the meaning of a totally different word with the same numerological value – Jacob ben Asher's use of gematria in his Torah commentary exposes a new level of meaning in the text. Here, he equates the value of כלי גבר על אשה with the number value of כלי תורה (both 671), making it possible to interchange the two. This equation renders the meaning of Deut. 22:5 as: There shall not be a man's Torah (on a woman). Jacob ben Asher explains that this symbolism is a hint to men not to teach their daughters Torah, which he likely derived from the infamous Talmudic adage (Sot. 20a): He who teaches his daughter Torah is like teaching her תפלות (frivolity/obscenity).<sup>107</sup>

This interpretation is so different from any of the earlier interpretations of כלי גבר to appear farfetched. However, if one considers that the ambiguity of the phrase led to interpretations that forbade women from partaking in "male"

<sup>105</sup> Jacob ben Asher, *Perush ha-Tur ha-shalem al ha-Torah*, vol 1 (Jerusalem: Horev Publishing, 1998) 14-25.

<sup>106</sup> Jacob Ben Asher, "Peirush Baal HaTurim," *Humash Torat Elohim*, vol. 7 (Jerusalem: Mifcal Torah Meforeshet) 32-33.

<sup>107</sup> BT Sotah 20a.

meaning of Deut. 22:5 as: There shall not be a man's Torah (on a woman). Jacob ben Asher explains that this symbolism is a hint to men not to teach their daughters Torah, which he likely derived from the infamous Talmudic adage (Sot. 20a): He who teaches his daughter Torah is like teaching her תפלות (frivolity/obscenity).<sup>107</sup>

This interpretation is so different from any of the earlier interpretations of על אשה to appear farfetched. However, if one considers that the ambiguity of the phrase led to interpretations that forbade women from partaking in "male" behaviours, occupations and dress in the era in which the commentaries were written – such as going out to war or wearing armour – then, understanding על אשה as Torah study can also reflect the concern of Jacob ben Asher's era to continue to maintain clearly defined boundaries between male and female "behaviours," and to prohibit women from encroaching on the male domain of learning houses.

The commentary continues:

על אשה: [This phrase appears] twice in the Masorah: אם נפתח לבי על (Deut. 22:5) [and] על אשה (Job 31.9). This is what they say regarding arguing with a woman who wears גבר כלי so that she can be strong and for prostitution, as it is written: "If my heart is deceived by a woman or [if] I laid wait at my friend's door."<sup>108</sup>

Jacob ben Asher compares the two places in Tanakh in which the phrase על אשה appears, and intimates that the use of the phrase in Job, in the context of deception, resonates in the deception a woman intends when she wears גבר כלי. His use of the verb לזכש in this comment reflects the more common understanding of גבר כלי as

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<sup>107</sup> BT Sotah 20a.



male “clothing,” and not the behaviours or occupations suggested by his numerological interpretation. His remark that a woman would dress in כלי גבר in order “to be strong or for prostitution” alludes to both a concern that women should not upset the societal hierarchy, as well as to the earlier interpretations of cross-dressing leading undoubtedly to licentiousness.

Jacob ben Asher does not comment on the second part of the verse relating to שמלת אישה or on the third about abomination, nor does he explore the legal or moral implications of the obligation on the man in Deut. 22:5. Rather, he remains focused on “keeping women in their place” and alerting men to signs of deception. Issues related to legal applicability are discussed in his halakhic work presented below.

## 2. *Arba'ah Turim*

In Jacob ben Asher's code of law entitled *Arba'ah Turim*, he addresses the legal implications of Deut. 22:5 in light of the oral traditions and the community and period in which he lived and wrote, reflecting another facet of his exegesis on the verse.

The *Arba'ah Turim* is divided into four sections (or rows) that deal with different aspects of halakhah. Jacob ben Asher's comments on Deut. 22:5 are found in *Tur Yoreh De'ah*. This section deals with a variety of laws pertaining to such topics as ritual slaughter, the prohibition of mixing milk and meat, salting meat, and

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<sup>108</sup> Jacob Ben Asher, “Peirush Baal HaTurim” 32-33.

recognized persistently as female behaviours, and only such actions that were perceived to improve one's appearance were hence forbidden to men.

Jacob ben Asher continues that women should not wear clothing that is unique to men, nor should they shave as men do, in accordance with the custom of the place. In this halakhic work, his examples of *כלי גבר* delineate the practical applications of the prohibition for women and are reminiscent of Maimonides' caveat that fashion is mutable in time and place. Finally, he repeats some of the practical examples of

*שמלת אישה* seen in earlier exegetical texts. He explains that men are forbidden to wear women's clothing, to remove white hairs from black, and to use a mirror. Like Bahya ben Asher, he qualifies these prohibitions with the concession that using a mirror is permitted if it is not considered a woman's adornment (תכשיט).<sup>109</sup>

### K. Levi Ben Gershom: Gersonides or Ralbag

Ralbag lived from 1288 to 1344 in Southern France. His Torah commentary was unique due to two innovations. In contrast to the more common verse-by-verse running commentary, Ralbag's work followed a more topical organization. In units of a chapter or two, he would first clarify difficult words. Then he would paraphrase the unit in a way that reflected his interpretation, and finally, he would list *mitzvot* and other ethical lessons and ideas that could be derived from the exegete of the section. His second innovation was his attempt to derive rabbinic

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<sup>109</sup> Jacob ben Asher, *Tur Yoreh Deah*, (Jerusalem: Machon Yerushalayim, 1990) 450-454.

interpretations of laws according to methods of exegesis based on logic – which he considered to be more credible than the rabbinic methods.<sup>110</sup>

In his commentary on Deut. 22:5, Ralbag offers a simple paraphrase of each of the three parts of the verse and clarifies that against which the law is legislating. Regarding *בְּלִי גִבּוֹר עַל אִשָּׁה*, he explains that the verse warns women not to wear clothing, or the like, that is unique to men in order not to appear as a man to other men. This deception will bring prostitution and licentiousness, because women will be able to go among men and seduce and solicit them without their being detected. Similarly, men are forbidden to wear clothing and jewellery that are unique to women, because they would be able to mingle with women undetected, and the women would behave in a sexually inappropriate manner with the disguised men. Ralbag comments that the final phrase of the verse—*אֶלֶּכֶךְ ה' תִּזְעָב*—is referring to the promiscuity that will result from cross-dressing. The Torah thus forbids men and women to wear even one item unique to the opposite gender, so no one can mistake a man or woman for the other.<sup>111</sup> He considers the act of wearing clothing or adornments of the opposite sex to be prohibited in and of itself; even if a man or woman is alone, they should not dress in a way that, if in public, could be mistaken for the opposite gender.<sup>112</sup>

Ralbag concludes with examples of specific behaviours that are forbidden from the verse and that have appeared in earlier interpretations. A man is forbidden to dye his white hair or pluck white hairs from black ones, and a woman is

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<sup>110</sup> Greenstein 254-256.

<sup>111</sup> Ralbag. *Peirush HaTorah L'Rabbeinu Levi Ben Gershon*, vol. 5 (Jerusalem: Mossad HaRav Kook, 2000) 209.

<sup>112</sup> See *Midrash Tannaim* above.

forbidden to wear a man's hat or garb.<sup>113</sup> In other words, even if one's intentions were not to go among the opposite sex and act immorally, cross-dressing would not be permissible.

Ralbag's interpretation of Deut. 22:5 is clear and logical, and he expresses strongly the need to abide by the prohibitions to avoid highly destructive results. He does not provide specific definitions for the terms *כלי גבר* and *שמלת אשה*, but rather assumes their meaning in his treatment of the verse. His inclusion of rabbinic exegesis with explanatory paraphrases and with ethical and moral incentives displays Ralbag's innovative style of interpretation, his respect for and acceptance of rabbinic laws, and his attempt to convey to his readers the rational and logical exegeses behind their applications.

### **L. Don Isaac Abrabanel**

Isaac ben Judah Abrabanel (1437-1508) was born in Portugal and lived in Italy at the time of the expulsion of the Jews in 1492. His family was very influential in the Iberian Peninsula, and like his father, Abrabanel served in the royal court of King Alfonso V and was both financially and politically successful. Upon expulsion from Spain, Abrabanel travelled through Italy and Greece, settling finally in Venice. He was educated in traditional Jewish texts, as philosophy, and classical literature.<sup>114</sup> He wrote commentaries on the Torah, Prophets and Daniel. His commentaries are lengthy, they encompass an anthology of medieval

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<sup>113</sup> Ralbag 209.

<sup>114</sup> B. Netanyahu, *Don Isaac Abravanel*, (Philadelphia: The Jewish Publication Society of America, 1968) 3, 35.

interpretations, and each book is preceded by an introduction outlining the exegetical questions that arise from the biblical text.

Abrabanel criticizes writers who rely too heavily on a midrashic approach to the text and aims to offer interpretations that do not contradict human reason. He is a fundamental supporter of Maimonides and refers to him often; with few exceptions, he consistently agrees with Maimonides' opinions. He also cites secular and Christian sources in his interpretations, and the majority of his commentaries were translated into Latin and thus influenced Christian exegesis that followed him.<sup>115</sup> Abrabanel attempted to present the most literal and true meaning of Scripture in a systematic and scientific way, and his inclusion of ideas from a variety of sources is characteristic of the shift in Jewish Bible scholarship from the medieval period to the Renaissance.<sup>116</sup>

Abrabanel's comment on Deut. 22:5 begins by explaining what this verse adds to the numerous laws against forbidden sexual relations and sexual immorality detailed elsewhere in the Torah.<sup>117</sup> He suggests its intention is to warn men and women against pretending to be wise and attempting to circumvent the laws by disguising themselves as the opposite gender. He then describes two scenarios in which cross-dressing aids and abets the perpetrator to transgress. A married woman who wishes to engage in sexual relations with her beloved (presumably not her husband) could dress in her husband's clothes and seek out her lover as a man looking for his friend, without being noticed. Similarly, a man who seeks

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<sup>115</sup> M. Greenberg, *Parshanut Ha-Miqra Ha-Yehudit* (Jerusalem: Mossad Bialik, 1983) 96-98.

<sup>116</sup> Greenberg 96-98.

<sup>117</sup> Leviticus 18.

homosexual relations could disguise himself as a woman in order to appear attractive to male prostitutes.<sup>118</sup>

Both adultery and homosexuality are expressly forbidden in the Bible, and while Abrabanel's connecting the verse's meaning to lascivious behaviour is not a new interpretation, he is the first to specify the kinds of sexual immorality that could arise from cross-dressing. In addition, no previous exegete questioned the role of this verse in light of the other prohibitions related to sexual behaviours. For Abrabanel, the connection between Deut. 22:5 and inappropriate sexual behaviour is more a matter of fact than of interpretation, and only once one assumes this fact, does the question of how the prohibitions in this verse contribute to the larger picture of biblical law arise.

Abrabanel is also the first exegete in this study to associate homosexual behaviour with cross-dressing. One can safely assume that homosexuality and cross-dressing were an issue of concern in earlier generations, however perhaps the more open social and philosophical climate of the Renaissance permitted and contributed to a more visible cognizance of this behaviour and the candour with which to address it.

Abrabanel admits that the verse's warning against improper sexual behaviour is not a new commandment, but he explains that the verse emphasizes that men should be recognized for their masculinity and women for their femininity. Like earlier exegetes, he believes that the abomination mentioned at the end of the

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<sup>118</sup>Don Yitzhak Abravanel. *Peirush al HaTorah*, vol 4-5 (Jerusalem: B'nei Arbael. 1964) 206.

verse does not refer to the clothing itself, but to the inappropriate sexual relations that will arise from misusing it.<sup>119</sup>

Finally, Abrabanel offers an explanation as to why this verse is proximate to the commandment for carrying. He suggests that just as כלי גבר and men's adornments and behaviours are forbidden to women, so too are women's clothing, jewelry and "ways" forbidden to men. He claims that women are known for not assisting in carrying and unloading and the like. Therefore, men are forbidden to behave like women "whose ways are not to throw a brother a bone to help him." Rather they should "gird up their loins like men" and offer assistance to whoever needs it, for "why should they sit idle as if mourning when a brother is struggling?"

Abrabanel's opinion of women in this last comment is harsh. He views them as inherently lazy and selfish, and he intimates that men are forbidden from being like women in order to adhere to a higher level of humanity. Unlike earlier concessions that assume what constitutes male and female behaviour and dress to vary in different times and places, Abrabanel believes that gender behaviour is congenital. His concern is not that women might encroach on male domain (as Jacob ben Asher did), but that men would not live up to their gender's better nature.

From an exegetical perspective he continues to demonstrate an appreciation for the biblical text as a whole and the potential significance of the specific location of the verse in relation to the issues that surround it. Unlike other exegetical texts, he does not include common rabbinic interpretations of כלי גבר and שמלת אשה, nor does he address these terms specifically. His style and approach to the verse and its issues are more holistic than previous interpretations, and he assumes a more

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<sup>119</sup> Abravanel 206.

general understanding of the ambiguous terms in order to engage the verse's exegetical issues in a larger context.

## M. Isaiah Horowitz

Isaiah Horowitz (1570-1626) was born in Prague and moved to Poland early in his life. He studied under Meir of Lublin and Solomon b. Judah of Cracow, among others. He held positions as *av bet din* in various major centers, such as Frankfort am, until the expulsion of the Jews. At that time he returned to Prague, where he served as a rabbi. He later settled in Jerusalem, where he served as rabbi for the Ashkenazi community.<sup>120</sup>

Horowitz was an ardent student of kabbalah and was convinced of the importance of revealing the teachings of the *Zohar*. He preferred the approach of kabbalists like Nahmanides, over that of rationalists like as Maimonides. His most famous work is the *Shnei Luhot Habrit*, which he completed in Israel. Originally Horowitz intended it to be an ethical will for his family, but later he gave permission to his children to make it accessible for others. In it, he combines halakhah and kabbalah in order to provide his generation, and future ones, with essential ethical guidelines. For the most part, his legal rulings follow those of Moses Isserles and Solomon Luria.<sup>121</sup>

Horowitz's *Shnei Luhot Habrit*, is divided into two parts. The first, *Derekh Hayim*, discusses laws according to the order of the festivals. The second, *Luhot ha-Berit*, is a summary of the 613 commandments according to their biblical

<sup>120</sup> Eugene Newman, *Life and Teachings of Isaiah Horowitz* (London, England: G. J. George & Co. Ltd., 1972) 16-19. For further information on debated date of birth see p. 68.

<sup>121</sup> Newman 76, 121, 141-147.



sequence. Deut. 22:5 is addressed in this second section.<sup>122</sup> Horowitz divides the prohibitions in the verse into two separate commandments. In reverse order from the biblical presentation, he first explains the prohibition for men as a command not to wear women's jewellery. He then interprets the prohibition for women as forbidding them from wearing men's jewellery or clothing, such as a uniform.<sup>123</sup>

Horowitz's interpretations are short, simple and straightforward, and they directly address the meaning of the terms *כלי גבר* and *שמלת אישה*. Unlike the majority of other commentators, he does not discuss the feared consequences these prohibitions prevent or the nature of the abominable behaviour that might ensue should the commandments be transgressed.<sup>124</sup>

## N. Joseph Caro and Moses Isserles

Joseph ben Ephraim Caro was born in Spain in 1488. After the expulsions of Jews from Spain (1492) and Portugal (1497), Caro and his family settled in Turkey. He left for Safed in 1536 and ultimately became one of the leading scholars of this mystical center; he died there in 1575.

Although Caro is best known for his authoritative code of Jewish law - the *Shulhan Arukh* - it was considered by Caro himself to be merely "a digest" of his more significant opus, the *Beit Yosef*. The *Beit Yosef* is a commentary on Jacob ben Asher's halakhic code *Arba'ah Turim*, which Caro wrote in order to trace laws from their sources through development to a decisive ruling. The *Shulhan Arukh* (The Set Table) condenses the material of *Beit Yosef* succinctly and clearly. Like

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<sup>122</sup> Newman 74.

<sup>123</sup> Isaiah Horowitz, *Shnei Luhot Habrit* (Jerusalem: Publishers of the Shla's work, 1959) 205.

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This presentation of Jewish laws and customs of the Sephardi world had no equal for the Ashkenazim at the time and therefore, Moses Isserles (born in Cracow in 1520) wrote glosses to the *Shulhan Arukh*, thereby filling in the gaps pertaining to Ashkenazi tradition. Eventually, these glosses, known as “Glosses of the Rema,” were published together with Caro’s *Shulhan Arukh*, and thus they are treated together here.

Like Jacob ben Asher’s *Arba’ah Turim*, Joseph Caro lists the laws pertaining to Deut. 22:5 in *Yoreh Deah*, section 182, entitled *Hilkhot Lo Yilbash* –  
דברים

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<sup>125</sup> Jane S. Gerber, *The Jews of Spain A History of the Sephardic Experience* (New York: The Free Press, 1992) 159.

thus permitted to do so—by explaining that if a man removes all the hair from his body he is permitted to also remove armpit and pubic hair, despite the general prohibition against doing this.<sup>126</sup>

The second prohibition Caro details forbids a woman to wear the adornments of a man, such as a hat or haircut. The third forbids a man to wear a woman's adornments, such as coloured clothing or gold, in places where only women do so. Isserles emphasizes that men should not wear any one of these "female" things, and he specifically forbids a *tumtum* or hemaphrodite from dressing like a woman—which is in striking contrast to earlier interpretations which exempt these individuals from such prohibitions.

Finally, Caro's fourth, fifth and sixth prohibitions emulate those of Jacob ben Asher as well as earlier sources: he forbids men to pluck grey hairs from black, dye their hair, and look in mirrors.<sup>127</sup>

The prohibition against cross-dressing is an accepted interpretation of the commandments in Deut. 22:5, regardless of what constitutes *כלי גבר* and *שמלת אשה*. However, both Joseph Caro and Moses Isserles permit a male or female to wear the clothing of the opposite sex on Purim for a joyous holiday. The latter does warn that there are those who do not permit this, even on Purim, but he concedes that the custom is to allow this behaviour. The comments of both scholars address the practical implications of the laws, as they codified them from the verse, in light of traditional customs. Their comments also support the common interpretations of the verse that forbade cross-dressing for the purpose of mingling with the opposite

<sup>126</sup> Joseph Caro and Moses Isserles, *Shulhan Arukh Yoreh De'ah* (New York: M.P. Press Inc., 1975) 251-255.

<sup>127</sup> Caro and Isserles 251-255.

sex, which would result in promiscuous behaviour. When the prohibitions in Deut. 22:5 are interpreted in a context of licentious behaviour only, cross-dressing on Purim for fun is no longer a violation of the law.

## O. Conclusion

Medieval Bible exegesis on Deut. 22:5 is rich with new ideas, examples and presentations of the verse's meaning. The various interpretations arise from a multitude of exegetical genres whose objectives included the *peshat* of the biblical text, a moral and ethical guide to Jewish life, the practical application of Jewish law, and the enumeration, codification and cogitation of the 613 commandments. Many of the interpretations of the ambiguous *כלי גבר* and *שמלת אשה* repeat the basic definitions offered by earlier sources, such as armour or clothing, as well as the more general nuances of male and female "adornments" and "behaviours."

A common view among the exegetes is that promiscuous behaviour is the abominable consequence of cross-dressing, from which the Israelite people are prohibited. This notion is not new to the medieval period but is an overwhelmingly repetitive theme throughout the interpretive history of Deut. 22:5, which almost every exegete repeats in some form. Maimonides identified cross-dressing as the behaviour of idolaters, and thus, tantamount to idolatry, and obviously an abomination, and Abrabanel was unique in directly and candidly addressing the issue of homosexual relations as a potential result of cross-dressing.

Yehudah he-Hasid agreed with a militaristic interpretation of cross-dressing, but he stressed that in times of danger a woman was permitted to bear arms, and that

both men and women were permitted to cross-dress to protect themselves from danger. His practical application of the law in a specific context demonstrated a bold but important position in a tragic period of Jewish history. Similarly, Caro and Isserles interpreted the verse's laws in accordance with their predecessors, agreeing that men and women were forbidden from donning clothing, accessories or behaviours that disguised them as the opposite gender. But they too saw room for exceptions—on Purim—when the traditional custom is to dress up as another. As well, the medieval exegesis of Deut. 22:5 also explored the issue of intention, as some writers began to consider the circumstances under which cross-dressing may be beneficial or, at the very least, not a direct path to prostitution and licentious behaviour.

This chapter demonstrated a consideration for changing fashions and varying customs for male and female dress in different geographic locations. In the continuing development of exegetical methods, the significance of the verse's location within the biblical text as well as its contribution to biblical law are addressed here as well. Finally, the interpretations of *כלי גבר* and *שמלת אשה* and the male and female “ways” to which they refer provided a blunt display of medieval attitudes towards women and their role in medieval society.

## Chapter IV: Pre-Modern and Modern Bible Interpretations

### A. Introduction

The commentaries in this chapter date from the 18<sup>th</sup> century through the 20<sup>th</sup> c. They were written in Europe and in America, in Ladino, Hebrew, German and English, and they reflect different genres of exegetical writing including anthologies of earlier interpretations, Bible commentaries, and halakhic explication. Their interpretations of Deut. 22:5 reveal shifting trends in biblical exegesis, as well as concerns for the applicability of biblical law in a modern society with changing rules, roles and fashions.

### B. Jacob Culi: *Me'am Lo'ez*

Jacob Culi was born in Jerusalem in 1689 and was raised by his grandfather, Rabbi Moshe ibn Chaviv, one of the Jewish leaders in Jerusalem. He moved to Constantinople in 1714, with the hope of publishing his grandfather's important rabbinic writings. Upon arrival, he was shocked by the state of the Jewish community in Constantinople, which had suffered greatly in the aftermath of Shabbetai Tzvi's false messianism. The Jews in the city were barely educated, did not know Hebrew, and their extent of observance consisted of attending synagogue.

Culi became a teacher and writer, and eventually composed his exegetical work *Me'am Lo'ez*.<sup>128</sup>

*Me'am Lo'ez* is an extensive commentary on the Bible written in Ladino. It is a well-organized, encyclopaedic work on the Bible that systematically presents a wide range of interpretations that had been written until Culi's time. He compiled the work for the average Jew, during a period in which he witnessed a decrease in religious knowledge and observance, and it contributed to an increase in Torah and piety. Culi died before he could complete his commentary on the last three books of the Torah. After his death, other writers combined the manuscript Culi left with their own work and completed the series, which bears in his name. The commentary on Deut. 22:5 is in one of these volumes that was written after Culi's death by Isaac Behar Argueti. It brings together comments from *Sefer HaHinukh*, *Guide of the Perplexed*, *Targum Pseudo-Jonathan*, Nazir 59a and Shabbat 94b:

The *Sefer HaHinukh* explains that these practices are prohibited because they could lead to immorality. Rambam's *Guide of the Perplexed* (III: 37) adds that idolaters also follow these rites.

The scope of the prohibition implied by this verse extends beyond clothing. Nazir 59a forbids women from carrying weapons. *Targum Yonathan* uses it as the reason to prohibit women from wearing *tefillin* or *tzizit*.

Shabbat 94b explains that this prohibition includes all cosmetic practices followed by the opposite sex. Hence, men may not dye their hair or pluck grey hairs from their beards. Nazir 59a prohibits men from

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<sup>128</sup> Yaakov Culi, *The Torah Anthology MeAm Loez*, trans. Aryeh Kaplan, vol. 1 (Jerusalem: Moznaim Publishing Corporation, 1978) xv-xxvi.

shaving the hair of certain parts of the body on this basis.<sup>129</sup>

While the work does not add any original information to the verse's interpretation, its presentation of a variety of early interpretations offers the reader a refreshing, organized and clear vision of the different nuances extrapolated from the text and a better sense of the evolving implications and applications of the commandment.

### C. Meir Leibush ben Yechiel Michael: Malbim

Meir Loeb ben Yehiel Michael, or Malbim (1809-1879), spent much of his life as a defender of Orthodox Judaism against the rising tide of Jewish Reform. He was a passionate and active champion for the importance of strengthening the belief in and practice of the oral laws. His primary objective in writing a commentary on the Bible was to show a direct connection between the written and oral law. His interpretations focused on explaining the language of the Bible, the significance of every word and the meaning of every sentence.<sup>130</sup> He completed his commentary on the entire Bible in less than thirty years.

Malbim's interpretation of Deut. 22:5 appears in his Torah commentary, entitled *Ha-Torah VeHamizva*.<sup>131</sup> His discussion consists mostly of paraphrasing the rabbinic discourse in Nazir 59a. He begins by citing the first rabbi in the Mishna who equates the meaning of כלי with that of שומלה, signifying that the

<sup>129</sup> Shmuel Yerushalmi. *MeAm Loez*, trans. Eliyahu Touger, vol. 18 (New-York: Moznaim Publishing Corporation, 1978) 26-27.

<sup>130</sup> Meir Leibush ben Yehiel Michael, *Malbim on Mishley*, trans. Charles Wengrov (Jerusalem: Feldheim Publishers, 1982) 7-8.

<sup>131</sup> Meir Leibush ben Yehiel Michael, *Malbim Commentary on the Torah*, trans. Zvi Faier, vol 1 (Jerusalem: Hillel Press, 1978) vii.



prohibition against men and women dressing in the belongings of the opposite sex applies only if doing so will lead one gender to mix with the other. He then cites R. Eliezer ben Ya'akov who, according to Malbim, differentiates between the two prohibitions based on the specific language used to express them. The woman is prohibited to don armour, derived from the words *כלי גבר* and *גבר*, which Malbim sees as referring to *מלחמה גבור כלי* or “gear of a war hero,” and from the verse’s use of *לא יהיה* instead of *לא ילבש*.<sup>132</sup> The man is commanded not to adorn himself with women’s ornaments. According to Malbim, R. Eliezer understands *שמלת* in *שמלת אשה* as referring to important clothing that is made to adorn the woman, like in Deut. 21:13 where *שמלת שביה* refers to a captive’s “garb” and not specifically a “dress.”<sup>133</sup>

In the remaining passage, Malbim briefly summarizes additional interpretations of the verse that have been presented in previous exegeses. He suggests that, in accordance with the objection of a Beraita on Nazir 59a, R. Eliezer ben Ya'akov also did not believe a man who shaved his armpits only (but not his pubic hair) should be lashed (because of the dictum of (*שמלת אשה*)). He then refers to Targum Onkelos, Targum Jonathan and Midrash Mishley, which all interpret *כלי גבר* as armour, and specifically, in the latter two sources, to Yael and the explanation for why she used a tent peg (rather than a conventional “male” weapon) to kill Sisera. Finally, he reviews the interpretation in Targum Pseudo Jonathan of *כלי גבר* as *tzitzit* and *tefillin*.

<sup>132</sup> Meir Leibush ben Yechiel Michel, *Ha-Torah VeHamizva*, Sefer Devarim (New-York: E. Grossman’s Publishing House, 1989) 296-297.

<sup>133</sup> והסירה את שמלת שביה מעליה וישבה בביתך ובכתה את אביה ואת אמה ירח ימים ואחר כן תבוא אליה ובעלתה והיתה לך לאשה.

Meir Leibush ben Yechiel Michel, *Ha-Torah VeHamizva*, Deut. 21:13.

Malbim does not add any new thoughts to the interpretation of Deut. 22:5 or the meaning of כְּלִי גִבּוֹר and שְׂמֹלֶת אִשָּׁה. His presentation of rabbinic comments demonstrates a preference for the definition of armour for כְּלִי גִבּוֹר, but his discussion may simply reflect the commonality with which armour was suggested throughout the verse's exegetical development.

#### **D. Naftali Tzvi Yehuda Berlin: The Netziv**

The Netziv (1816 - 1893) was head of the yeshiva in Volozhin for the greater part of his life, and his disciples became the founders of some of the most important East-European yeshivot of the 19<sup>th</sup> and 20<sup>th</sup> centuries, including Mir and Slobodka. He wrote many important works on Torah and halakha, and he considered the study of Bible along with the traditional interpretations necessary for his students - especially when the study of oral law was the central and possibly the single area of study focused on by yeshiva students.<sup>134</sup>

The Netziv's interpretation of Deut. 22:5 is in *Ha'ameq Davar*, and it reveals a keen insight into human nature and behaviour. He explains that the verse actually encompasses four warnings in the two prohibitions, and that the language Rashi uses in his commentary reflects the different nuance in each prohibition very precisely. He demonstrates that, for the first prohibition, Rashi writes that a woman should not resemble a man "in order" (כְּדִי) to mingle with men, but, for the second prohibition, Rashi writes only "to go to sit among women," and does not use the word כְּדִי. This difference in Rashi's interpretation addresses the key variance in the

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<sup>134</sup> Zvi Kaplan, "Berlin, Naphtali Zevi Judah," *Encyclopaedia Judaica*, vol. 4 (Jerusalem, Israel: Keter Publishing House Ltd., 1971) 660-662.

two prohibitions. Men and women are different from each other both innately and in customary manners, like clothing. Changes in one's "nature" are impossible to effect instantaneously, except habits that have become "second nature;" but, customs regarding clothing can be changed immediately. The Netziv believes that Scripture is warning each gender against both assuming innate behaviours and disguising him or herself with customary ones.<sup>135</sup>

For changes in gender "nature," the prohibition against כלי גבר implies, for example, that innately a woman cannot gird a sword, unless she accustoms herself to this behaviour over a length of time. Therefore, she might prepare herself for this behaviour, so that afterwards, she can change her clothing and walk among men undetected by her actions. Similarly, the same prohibition of כלי גבר warns men against learning the nature of women to adorn themselves, in order to be able subsequently to disguise themselves in women's clothing.

The second prohibition of שמלת אשה also encompasses two warnings. The Netziv argues that a man who dons an outer garment that covers his entire body (called a שמלה) would not be detected by others by the innate female behaviours to which he has not yet been accustomed. Wearing this garment would only be useful for the time in which he wishes to mingle among women, and thus wearing such a garment is prohibited. Similarly, women are forbidden from donning a garment that would permit them to mingle among men even before they have learned the male nature.<sup>136</sup>

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<sup>135</sup> Jacob Ben Asher, "Peirush Baal HaTurim," *Humash Torat Elohim*, vol 7 (Jerusalem: Mifal Torah Meforeshet, 1937) 183-185.

<sup>136</sup> Jacob Ben Asher, "Peirush Baal HaTurim," 183-185.

The Netziv is unique in his understanding of each prohibition as encompassing different aspects of cross-dressing and as applying to both men and women. Ultimately, he agrees with his predecessors that the verse's objective is to prevent each gender's licentious behaviour, should they mingle with the opposite sex undetected. However, his attention to the specific details by which one disguises him or herself as the other and the difficulties in imitating innate behaviour reveal a practical consideration of the issues related to cross-dressing. His interpretation of Rashi's use of כְּדִי attributes new meaning and intention to Rashi's commentary that is not obvious from Rashi himself, and it may suggest that the Netziv felt he needed traditional support for his interpretation, which differed, if not radically then substantially from the traditional definitions of כְּדִי גִבּוֹר and שְׂמֵלֶת אִשָּׁה that applied each term to each gender respectively.

### **E. Samson Raphael Hirsch**

Samson Raphael Hirsch (1808-1888) was born in Hamburg, Germany. He received a traditional religious education in Frankfurt am and was a student of classical languages, history and philosophy at the University of Bonn. This balance of traditional and secular living, education and knowledge characterizes the developing "Neo-Orthodoxy" that was emerging in the German Jewish community.<sup>137</sup>

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<sup>137</sup> Noah H. Rosenbloom, *Tradition in an Age of Reform: The Religious Philosophy of Samson Raphael Hirsch* (Philadelphia: The Jewish Publication Society of America, 1976) ix-xiv.

## 1. *Torah Commentary*

Hirsch composed a literal German translation of the Bible, together with a commentary on the text. He believed that the Bible speaks to the intellect and the heart of an individual and that it is filled with divine rules for the people of Israel at all times and in all places. Consequently, and perhaps due to the growing popularity of the Reform movement in his lifetime, Hirsch's commentary does not examine the Bible historically or contextually.<sup>138</sup>

Hirsch's interpretation of Deut. 22:5 begins with a review of the different opinions offered in Nazir 59a. He states that, according to one opinion, the Torah forbids cross-dressing only for licentious objectives. In contrast, R. Eliezer ben Jacob's opinion, which was accepted as the law, defines כלי גבר as armour and שמלת אשה as female adornments. Women are not permitted to go out to war in armour, and men are not permitted to decorate themselves, as do women.<sup>139</sup> Hirsch continues to explain that the Torah is not forbidding simply concealing one's true gender in clothing of the other. Rather, the Torah prohibits each gender from what is innately exclusive to the opposite gender. A man should not attend to the exterior appearance of his body in the way that fits with "female nature." Similarly, a woman should not appear in work that is suited to "male nature." Hirsch points out that the interpretation of כלי גבר in Nazir does not state only that a woman should not go out in armour, but rather that a woman should not go out in armour *to war*. He concludes therefore that שמלת אשה prohibits any form of skin or hair care by

<sup>138</sup> Rosenbloom ix-xiv; Katz 507-515.

<sup>139</sup> *The Pentateuch: Translated and Explained by Samson Raphael Hirsch*, 2<sup>nd</sup> Edition, vol. 5 (Gateshead, England: Judaica Press, 1976) 427-428.

men—including make-up, hair colouring, and excessive “looking at oneself” in the mirror—in addition to women’s clothing and adornments.<sup>140</sup>

Hirsch’s comment resembles that of the Netziv in his concern for each gender’s innate behaviours and abilities. Like Malbim, Hirsch bases his discussion on the talmudic passage that addresses the verse, and he considers its opinions as the true basis for any further interpretation.

## 2. *Horeb*

*Horeb* is Hirsch’s work on practical Jewish observances, which presents Jewish law in an explanatory fashion. In light of the emancipation of European Jewry and the French Revolution, Hirsch wrote this book with the hope of re-awakening many lost Jewish souls, especially those attracted by the Reform movement. In explaining the laws, Hirsch emphasized their divine origins and their eternal and timeless importance.<sup>141</sup> “Hair Trimming and Clothing” is the title of *Horeb*’s chapter 64, which deals directly with the interpretation of Deut. 22:5. Hirsch begins with a warning:

Nothing is more important for a man than to be continuously aware of the fact that the body, like his spirit, is a creation divinely consecrated which is to be mastered and educated by the spirit.

He explains that men forget this often and quickly, especially if they are strongly influenced by the importance society assigns to transforming one’s external body

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<sup>140</sup> *The Pentateuch: Translated and Explained by Samson Raphael Hirsch* 432.

<sup>141</sup> Samson Raphael Hirsch, *Horeb*, trans. Dayan Dr I. Grunfeld, vol.1 (London: The Soncino Press, 1962) xix-xxxiv.

and dress in accordance with its trends and etiquette. Alluding to Deut. 22:5, he states,

Do not forget, when you decorate yourself, and also when you clothe yourself, that you decorate and clothe the Divinely consecrated body, and do not by decoration and clothing impair the higher order which God has set for your external appearance.<sup>142</sup>

Hirsch thus emphasizes the divine essence of humankind's bodies, as well as the divine nature of the commandments that dictate what is appropriate for humankind and what is abominable or corrupt. Through decoration and clothing, man has the ability to change his external presentation and deny, cover and confuse the person that God created. The prohibitions in Deut. 22:5 against mixing men and women's outer-wear—whatever the specific definitions might be—warn against rejecting the divine contribution to one's personhood.

Hirsch continues with a discussion of hair removal and the prohibition for men against removing hair with a razor, while scissors are permitted in some instances. The passage pertains to Lev. 19:27 and the commandment not to "round off" the corners of one's head and beard hair. However, as some earlier interpretations included hair removal (specifically, armpit and pubic hair) as part of *שמל"ת אישה*, later halakhic discussions have forbidden men from using the same instrument a woman would use to remove hair, and therefore, Hirsch may view a connection to Deut. 22:5 in this section as well.<sup>143</sup>

Hirsch concludes this chapter with the following:

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<sup>142</sup> Samson Raphael Hirsch, *Horeb*, vol.2, 304-305.

<sup>143</sup> See *Shulhan Arukh: Yoreh Deah* 182 above.

God has divided the sexes, giving each specific tasks in the fulfillment of life. Both tasks, if fulfilled in purity, are equally sublime, equally holy. He also divided them in their external appearance, in order that moral purity should be upheld. And you should also preserve the different outward appearance of the sexes, as willed by God. The woman should appear as woman, the man as man. No man may wear that which propriety and custom have introduced for women only, in clothing, attire, ornament and bodily decoration; and the same applies *vice versa*. The wise **ד"ר** (cautionary enactment) of our Sages also forbids men excessive care for physical beauty and delicacy, skin and body cultivation, which is customary for women only, even if this has no influence upon external cultivation (Y.D. 182.)<sup>144</sup>

In this paragraph, Hirsch presents a direct explanation for the commandment in Deut. 22:5, as well as other verses that prohibit the mixing of forbidden things and demand purity and morality. He emphasizes the importance of preserving the outer appearance given by God, of keeping men and women distinct, and of becoming what God created them to be. He comments that the verse prohibits men and women from wearing that which "propriety and custom" allocate to male or female alone. He concludes with the "cautionary enactment" that the rabbis added to this verse, which is the prohibition for men to be overly involved with their external beautification, because this is the custom for women alone.

In Chapter 67 of Horeb, "Guarding Against Immorality," Hirsch discusses the issue of immorality in relation to God, Torah and a person's life. As Deut. 22:5 ends with the words, **כי תועבת ה' אלקיך כל עשה אלה** ("for whoever does these things is abhorrent to the Lord your God"), Hirsch addresses this verse here (with abominable acts) as well:

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<sup>144</sup> Samson Raphael Hirsch, *Horeb*, vol.2, 305.



The most beautiful ornament of woman is modesty and moral purity. This should also be apparent in her attire, in her demeanour. The purpose of your clothing should not be to make yourself noticeable, but modest covering; your demeanour and glance should be modest. A married woman should not be seen with her hair uncovered.<sup>145</sup>

He stresses the importance of women wearing proper attire by explaining the importance of clothing—as a modest covering—and not for other immodest reasons, some of which have been explained regarding Deut. 22:5.

## F. Solomon Ganzfried

Solomon Ganzfried lived from 1804 to 1886. In 1870 he composed the *Kitzur Shulhan Arukh*. The goal of this work was to offer a simplified presentation of Jewish law to the masses of Jews who desired to live in accordance with halakha but were not educated enough to study Jewish law from such works as the Talmud, the *Mishneh Torah*, the *Tur* or the *Shulhan Arukh*. The *Kitzur Shulhan Arukh* is an abridged and modified version of Joseph Caro's *Shulhan Arukh*.<sup>146</sup>

Ganzfried does not refer to Deut. 22:5 directly in the *Kitzur Shulahan Arukh*, although chapter three, “On Dressing and Deportment,” emphasizes that one should not dress like the idolaters. This might be part of his interpretation of Deut. 22:5: that dressing with the clothing or adornment of the opposite sex is something done by the idolaters, a reflection of Maimonides. Chapter 9, “The Tzitzit” also makes no mention of the possible prohibition against women donning *tzizit*, which is the opinion of those that follow Targum Pseudo-Jonathan's interpretation of Deut. 22: 5

<sup>145</sup> Samson Raphael Hirsch, *Horeb*, vol. 2, 311.

<sup>146</sup> Solomon Ganzfried, *Kitzur Shulchan Arukh* (Code of Jewish Law.), trans. Hyman E. Goldin, vol. 1 (New York: Hebrew Publishing Company, 1961) 1-3.

("Neither fringed robes nor *tephillin* which are the ornaments of a man shall be upon a woman").

### G. Baruch Halevi Epstein

Baruch Halevi Epstein was born in Bobruisk, Russia in 1860, and he studied with both his father, Rabbi Jehiel Michal Epstein, and his uncle, the Netziv. He chose to work in a bank rather than as a professional rabbi, and he devoted the rest of his time to his own studies. His extensive knowledge of both the written and oral law is best portrayed in his compilation of rabbinic interpretations that relate to biblical verses in his work *Torah Temima*. Like previous books written on the Torah, one of the central goals of this work was to show that the two Laws (written and oral) are inseparable, as can be inferred from the title: *Torah Temimah*<sup>147</sup>, "The Complete Torah."

In his analysis of Deut. 22:5, Epstein questions how the simple act of wearing the clothing of the opposite sex warrants the prohibition in the verse? According to him, the term *תועבה* (abomination) seems exaggerated for someone who simply adorns clothing of another gender. He then presents the talmudic interpretation of the verse that explains the abominable act as dressing as the opposite sex and "going to sit among them," which can potentially lead to promiscuity (Nazir 59a).

In the remaining passages of the commentary on Deut. 22:5, Epstein presents various talmudic sources that address the ambiguous terms of the verse. He

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<sup>147</sup> Baruch Halevi Epstein, *My Uncle the Netziv*, trans. Moshe Donbey (Jerusalem: Targum Press, 1988) 219-223.

cites R. Eliezer's comment (in Nazir), which presents Deut. 22:5 as the Scriptural reference from which women are forbidden to bear arms. Regarding שמלת אישה, Epstein provides three different talmudic interpretations:

- 1) According to Shabbat 94b, man is forbidden from plucking white hairs from among black ones.
- 2) According to R. Eliezer in Nazir 59a, a man should not adorn himself in a woman's apparel.
- 3) Also according to Nazir 59a, a man is forbidden from removing the hair of his armpits or of his genital region.<sup>148</sup>

His opening question regarding the verse's intended meaning in the term תועבה and the subsequent talmudic comments guides the reader to recognize the centrality of the Oral Law and the impossibility of separating it from the Written.

## H. David Zvi Hoffmann

David Zvi Hoffmann was born in 1843 in Verbo (Slovakia). In Pressburg in 1863, when he was a student of Rabbi Abraham Samuel Benjamin Schreiber, he began his secular education, concentrating on philology and mathematics. Hoffmann wrote extensively on the Bible and Jewish law, and he was well known for his refutation of the Documentary Hypothesis,<sup>149</sup> as well as his profound

<sup>148</sup> Baruch Halevi Epstein, *Torah Temimah: Hamisha Humshey Torah, Sefer Devarim* (Tel-Aviv, Israel: Am Olam, 1969) 150-151; Baruch Halevi Epstein, *The Essential Torah Temimah, Devarim*, trans. Shraga Silverstein (Jerusalem/New-York: Feldheim Publishers, 1989) 225.

<sup>149</sup> The Documentary Hypothesis is a theory formulated by Julius Wellhausen (1844-1918), which splits the Torah up into four different documents that have four different sources. The theory claims that each writer produced a different section of the Bible, represented by one of the following names: J (Jehova), E (Elohim), P (Priestly), and D (Deuteronomy). Ernest Nicholson, *The Pentateuch in the Twentieth Century: the Legacy of Julius Wellhausen* (Oxford: Clarendon Press, 1998) 3-15.

religiosity and his strength in studying, teaching and advising others on Jewish law. He died on November 20th, 1921.<sup>150</sup>

Hoffmann's comment on Deut. 22:5 attempts to make sense of Deut. 22:5's context. He explains that the failure to protect the natural way of things, as God created them, will lead to abominations. Therefore the sin itself is called an abomination, for the sin is the mixing of God's creations and natural order. In addition, he explains that this "mixture" (that is, man and woman not maintaining their respective distinctions) is prohibited with stronger language than other mixtures in nature (such as seed combinations, and combinations of wool and linen in one's garments, in v. 9), because humans possess wisdom, and, unlike other divine creations, they can make mindful decisions to maintain God's distinctions.<sup>151</sup>

## I. Joseph Herman Hertz

Joseph Hertz was born in 1872 in Slovakia, but at a young age he moved to New York, where he became the first graduate of the Jewish Theological Seminary. Initially, the Seminary was established to counteract the fast growing Reform movement; its position as the leading institution of Conservative Judaism followed later. Hertz held rabbinical positions in Syracuse, Johannesburg (South Africa), and later in New York City.<sup>152</sup> In his commentary on the Bible, he has the following remarks on Deut. 22:5:

An interchange of attire between man and woman  
would promote immodesty and, in consequence,

<sup>150</sup> Carla Sulzbach, *David Zvi Hoffmann's Die Wichtigsten Instanzen gegen die Graf-Wellhausensch Hypothese* (Montreal: McGill University, 1996) 3-8.

<sup>151</sup> David Zvi Hoffmann, *Sefer Devarim*, vol. 2 (Tel-Aviv, Israel: Hotsa'at Netzach, 1961) 428-429.

<sup>152</sup> Joseph H. Hertz, *Affirmations of Judaism*, 1<sup>st</sup> edition (London: The Soncino Press, 1975) 3-15.

immorality. This law is probably directed against rites in Syrian heathenism, which included exchange of garments by the sexes and led to gross impurities.<sup>153</sup>

Remarkably, even in 20<sup>th</sup>-century North American society, the earliest and most popularly accepted understandings of the verse, according to Hertz, are still applicable. He presumes that Deut. 22:5 is interpreted as a prohibition for men and women against wearing each other's attire. He does not address the difficulties and ambiguities one faces in the verse's interpretation but comments directly on the results of this interchange of clothing. He explains the potential for sin as a two-step process: first, cross-dressing will lead to immodesty; second, immodesty will result in immorality. Immodest behaviour (i.e., going and sitting among the opposite sex) has been described as early as talmudic times, but Hertz does not specify the type of immodest behaviour that would lead one dressed in the attire of the opposite sex to immoral actions.

As did a few earlier interpretations (e.g., Maimonides), Hertz explains this commandment as a response to the practices of other nations. Specifically, he provides the example of a Syrian heathen or pagan rite of exchanging garments of the opposite genders, which he explains, led to "gross impurities." Exactly what Hertz is referring to is unclear, but the sources presented in the "Hittite and Magical Interpretations" section mention a practice of wearing garments of the opposite sex, for magical purposes, to be involved in forbidden sexual relations, or for other reasons.

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<sup>153</sup> Joseph H. Hertz, *The Pentateuch and the Haftorahs* (London, Soncino Press, 1938) 843.

## J. Moses Feinstein

Moses Feinstein was born on the seventh of Adar 5655, March 3, 1895; as a result, he was named after the biblical Moses, who, according to rabbinic traditions, was born on that date in the Hebrew calendar. Born into a well-educated rabbinic family in Uzda, Belorussia, Feinstein's writings and teachings, as well as the quality of personal interactions throughout his life, reflect a well-educated religious Jew who had a keen and insightful understanding and appreciation for the modern world and its relationship to a traditional one. He died in New York in 1986.<sup>154</sup>

The vast amount of legal Jewish responsa regarding the law in Deut. 22:5 extends beyond the commentaries on which this study focuses. They deal with topics ranging from the permissibility for Jewish women to wear pants, to carrying guns for protection in Judea and Samaria. The latter issue is especially difficult because of centuries of very specific interpretations of Deut. 22:5 that prohibit women from wearing armour and going out to war.<sup>155</sup>

Feinstein wrote a responsum to the specific question of whether women living in Gush Etzion region and similar areas – where their lives may be threatened by neighbouring Arab villagers – can carry guns for self-protection. The question directs Feinstein to analyze a variety of sources that interpret the term כְּלֵי גִבּוֹר, many of which are discussed throughout this thesis. On one hand, he acknowledges that this might be a case of פְּקוּדָה נִפְשָׁא, a situation in which one's life is threatened, and therefore, a woman absolutely would be permitted to carry a weapon. On the

<sup>154</sup> Norma Baumel Joseph, "Feinstein Moses" in *American National Biography*, ed. John A. Garrity and Mark C. Carnes, vol. 7 (New-York: Oxford University Press, 1999) 794-795.

<sup>155</sup> Moshe Feinstein, *Sefer Igrot Moshe: Orakh Hayim*, part 4 (Bnei Brak: Yeshivat Ohel Yosef, 1980) 149-150.

other hand, he provides reasons for why it might not be considered פקוד נפש and thus delves deeper into an analysis of the sources on Deut. 22:5 in search of a solution to this problem. He discusses whether the prohibition of women wearing weapons (כלי גבר) is limited to decorative purposes or actually entering into war (quoting R. Eliezer and Maimonides among others). Feinstein explains that neither of these elements is problematic in this situation, because carrying a gun would not be for decorative purposes, nor would it appear to be for the purpose of going out to war. When men go out to war, they carry large guns, and nothing similar to the small pistols these women would carry. Furthermore, Feinstein explains that this is not a regular war, and these weapons would help protect women from the random acts of roadside violence. Moreover, in this "war," both men and women equally require the protection of the barrel of the gun. Therefore, Feinstein concludes that women in these threatening areas can carry small guns, despite a wealth of halakha that at first glance appears to interpret this as a prohibition; in this situation Feinstein deems it absolutely permissible.<sup>156</sup>

### K. Gunther Plaut

Gunther Plaut was born in 1912 in Germany and moved to the United States in 1935, where he served as the rabbi in various Reform congregations. In 1961, he became the rabbi of the Holy Blossom Temple in Toronto, where he remains to this day.<sup>157</sup> Recently, he published an official Reform commentary on the Pentateuch.

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<sup>156</sup> Moshe Feinstein 149-150.

<sup>157</sup> Edward L. Greenstein, "Gunther Plaut" *Encyclopaedia Judaica*, vol. 13 (Jerusalem: Keter Publishing House Ltd., 1971) 631.

Although his remarks on Deut. 22:5 are minimal, the comment is important since it represents the Reform movement in the modern period:

His translation of the verse:

A woman must not put on a man's apparel, nor shall a man wear woman's clothing; for whoever does these things is abhorrent to the Lord your God.

Commentary:

**Man's apparel.** The Hebrew is more general and says "man's gear." **Abhorrent.** The Hebrew term suggests that transvestism was considered not so much a sexual deviation as an idolatrous practice.<sup>158</sup>

Plaut's translation renders כְּלִי גִבּוֹר as man's apparel and שִׁמְלַת אִשָּׁה as woman's clothing. In his commentary, he clarifies that the Hebrew phrase for "man's apparel" is actually more general in its meaning and closer to "man's gear." This choice of the English word "gear" accurately reflects the ambiguity in the term כְּלִי. Plaut's use of "man's apparel" in his translation suggests that he deferred to a more popular understanding of the term, explaining the text through his translation, while his commentary demonstrates the true scope of what the term may encompass. He does not qualify his translation of שִׁמְלַת אִשָּׁה as "woman's clothing." One could argue that the Hebrew שִׁמְלָה does not present the same range of interpretations as כְּלִי and therefore does not require further elaboration, even though centuries of earlier exegetes viewed the term as incorporating more than simply clothing.

Like Maimonides, Hertz, and many others, Plaut suggests that the term "abhorrent" (תועבה) reflects idolatrous practice. More specifically, he interprets as

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<sup>158</sup> Gunther Plaut, *The Torah: A Modern Commentary* (New-York: Union of American Hebrew Congregations, 1981) 1485.



transvestism, the idolatrous practice that Deut. 22:5 prohibits. This interpretation, according to Plaut, stands in contrast to others who understand the prohibition of transvestism in the verse as a prohibition against certain sexual deviations. A common theme developing in the modern period suggests understanding the abomination as a prohibition against certain idolatrous practices in the ancient world in which the Bible arose.

### ***L. The Artscroll Humash: Stone Edition***

The commentary in the *Artscroll Humash: Stone Edition* is an anthology of talmudic and midrashic literature and the classic rabbinic commentators throughout. The work, edited by Nosson Scherman, includes his own choice of commentaries and personal additions. In the introduction to this translation and commentary, Scherman also explains that he does not cite each source completely, and that some of the interpretations that are not attributed to any one specific commentator are likely from a variety of sources that the editor condensed into one point.<sup>159</sup> Though it is popular throughout a wide spectrum of Orthodox Jews, the Artscroll commentary represents the interpretations and positions of a relatively right-wing Orthodox community. Its commentary on Deut. 22:5 is as follows:

**Male and female garb.** The Torah forbids men and women to adopt garb or other practices that are associated with the other sex. This is to avoid excessive mingling that can lead to promiscuity, and to preserve the normal and constructive differences between males and females. Thus, the Sages apply this prohibition to men who are excessively concerned with personal grooming and to women who wear battle dress (*Nazir 59a*;

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<sup>159</sup> Nosson Scherman, ed., *The Stone Edition Chumash* (New York: Mesora Publications, 1994) xiv.

see Ibn Ezra; Rambam, *Hilchot Avodah Zarah* 12:9-10.)<sup>160</sup>

Artscroll's edition, unlike other modern day commentaries, directly applies the historical Jewish interpretations to the obligations of its modern reader. In other words, the Artscroll audience is expected to understand their present day obligations in upholding the precepts of this biblical verse from the commentary offered. Instead of having one section on "practical halakha" and one section on pure Bible commentary, the Artscroll commentary combines the two. The author begins with a general interpretation of the verse explaining that Deut. 22:5 prohibits us from wearing clothing or behaving like the opposite sex. In presenting possible reasons for such a prohibition the author adds his own opinion regarding the importance of the commandments found in Deut. 22:5. He states that the normal differences between men and women are "constructive", emphasizing the importance in preserving them, and offering a reason for why such distinctions should be maintained.<sup>161</sup>

### **M. Jeffrey H. Tigay**

The Jewish Publication Society has published one of the most recent and extensive commentaries on the Torah, Jeffrey Tigay, who is responsible for the commentary on Deuteronomy, lists the various interpretations that have been offered, and addresses specifically why one must not wear clothing of the opposite sex:

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<sup>160</sup> Scherman 1050.

<sup>161</sup> Scherman 1050.

a) It is directed against an individual pretending to be a member of the opposite sex, for such behaviour would facilitate mingling and possibly lead to fornication.

b) Transvestism is abhorrent because it blurs the distinctiveness of man and woman, as created by God. Also because it is a form of “perverse sexual stimulation or homosexual role-playing.”

c) Such behaviour is part of pagan and magical practices.<sup>162</sup>

He then offers an interpretation for *לֹא יִהְיֶה כְּלִי גִבּוֹר עַל אִשָּׁה*, where he discusses the problem of translating *כְּלִי* as “apparel” and thereby harmonizes the first part of the verse with the second part, which deals directly with clothing (*שְׂמֹרָה*). Tigay explains that *כְּלִי* is translated as “apparel” because *כְּלִי* means “clothing” in rabbinic Hebrew, but it is not certain that *כְּלִי* has the same meaning in biblical Hebrew, where it usually means “implement, vessel,” or “weapon,” as defined by Onkelos and R. Eliezer b. Jacob.

Tigay’s comment offers, as well, the source from which and the reasons for which certain interpretations have persisted over the centuries. His concern for the scope of meaning attached to *כְּלִי גִבּוֹר* is reminiscent of Plaut’s preference for “man’s gear” as a more accurate reflection of the Hebrew. Tigay’s concern for the exact meaning of the terms and the exact intentions of the prohibitions in the biblical period results additionally in an analysis of both Onkelos’s early treatment of the verse and possibly parallel examples in surrounding cultures. For instance, he explains that, when a person who is apparently an Amorite, says to his wife, “You

<sup>162</sup>Jeffrey H. Tigay, *JPS Torah Commentary: Deuteronomy* (Philadelphia: The Jewish Publication Society, 1996) 200.

be the man and I'll be the woman," this may reflect a pagan or a magical act in that period.<sup>163</sup> Tigay's presentation of this Amorite example provides important insight into the biblical period and possibly a better understanding of the practices against which the verse was warning its Jewish readers.

Tigay concludes his comment with the halakhah that is derived from the verse:

The halakhah combines both views: women may not wear armor or clothing, hairdos, or other adornments that are characteristic of men, nor may men wear what is characteristic of women (what is characteristic of each sex is defined by local practice). \*

\*Maimonides, *Hilkhot 'Avodah Zarah* 12:10; idem, *Sefer Ha-Mitzvot*, neg.nos. 39-40; *Shulhan 'Arukh*, *Yoreh De'ah* 182.<sup>164</sup>

This summary of the final application of the verse's prohibitions generalizes and expands the terms' definitions and, like Maimonides' treatment acknowledges the fluidity of what constitutes male and female "dress" in time and place.

### **N. Etz Hayim Humash**

The *Etz Hayim Humash* is an English translation and commentary of the Torah and the Haftorot (weekly prophetic sections), and it includes a section on practical halakha (entitled: "*Halakhah L'Ma'Aseh*").<sup>165</sup> It was compiled under the auspices of the Conservative movement and marketed for its followers, as well as for students of biblical history and anthropology. The commentary on Deut. 22:5 is

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<sup>163</sup> Tigay 200.

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<sup>165</sup> See the following homepage of The United Synagogue for Conservative Judaism for further information on *Etz Hayim*; [http://www.uscj.org/item15\\_714.html](http://www.uscj.org/item15_714.html).

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<sup>165</sup> See the following homepage of The United Synagogue for Conservative Judaism for further information on *Etz Hayim*; [http://www.uscj.org/item15\\_714.html](http://www.uscj.org/item15_714.html).

by local practice, but he does not specifically identify women wearing pants or shorts as an example. The nature of female dress is a controversial and debateable issue in the Orthodox community, and Tigay's remarks avoid taking a position and offending one group or another.

## **O. Conclusion**

The modern period presents a new world of questions, challenges and interpretations of Deut. 22:5. Many of the interpretations, especially in the early part of this period, explain the meaning of the verse's interpretation as an attempt to retain the distinctive, God-given characteristics and roles of men and women. This reflects of a growing concern for the mixing of sexes, the fear of the ultimate disappearance or destruction of all such God-given characteristics, and perhaps the evolving role of women in society. Also in this period one finds a more critical approach to the interpretations of earlier periods, such as the Malbim's challenge to interpreting the word שמלה as jewellery. Anthologies of earlier interpretations were also common. Unlike other periods, the more critical thinkers of the twentieth century generally accept that the verse is a response to idolatrous practices. Throughout this period there remains a continual struggle to explain and to apply biblical prohibitions in a modern-day ever changing society.

## Chapter V: Feminist Literature

### A. Introduction

Although also a part of the modern period of exegesis, feminist scholarship on the Bible consists of a completely different approach and style. It searches for the women's voice in the text, which is often neglected by the majority of commentaries, most of whom have been men. More specifically, Jewish feminists seek to understand the implications of the Bible narrative and its history of interpretation for Jewish women today. The following section consists of three examples of feminist scholarship and how each deals with Deut. 22:5.

### B. Women's Bible Commentary

The *Women's Bible Commentary* is a comprehensive work of female scholarship. Tikva Frymer-Kensky, currently a professor of Hebrew Bible in the Divinity School at the University of Chicago, wrote the section on Deuteronomy, but most interestingly, the work does not comment on Deut. 22:5 at all. The reason for this is unclear, but perhaps the verse's ambiguous terms could not be resolved from a feminist perspective.<sup>168</sup>

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<sup>168</sup> Carol A. Newson and Sharon H. Ringe eds., *Women's Bible Commentary* (Louisville, Kentucky: Westminster John Knox Press, 1998)

### C. Ellen Frankel: The Five Books of Miriam

Ellen Frankel, a folklorist, writer, and scholar, was born into a Jewish family in New York in 1951. She wrote *The Five Books of Miriam* in response to the lack of a female voice that deals with the Five Books of Moses (The Torah), and she approaches them with a focus on what its verses mean to women. More specifically, she attempts to raise the voices of women in the Bible narrative.

A comment on Deut. 22:5 appears in a short section called “The Ban on Cross-Dressing.” In modern times, when “the lines of what is appropriate for men and women to wear are often blurred” and because on many occasions cross-dressing is accepted (i.e., Purim celebrations), Frankel considers one of the more common questions regarding the verse - why does the Torah call this act abhorrent? In the name of “the sages in our own time,” she answers this question — with an explanation of contemporary scholars, rabbis and teachers — that Deut. 22:5 labels cross-dressing abhorrent, because it was an idolatrous and cultic practice of the other nations. She supports this explanation with mention of the female goddesses, Diana and Artemis, who were known for their “antithetical aspects,” such as being both motherly and bloodthirsty. She also points out that Anat, a Canaanite goddess, acted like a man. Frankel suggests that the blurring of male and female places and clothing in society was common to the Near Eastern cultic culture and is likely the behaviour to which Deut. 22:5 might be responding. In addition, she equates this Near Eastern reality with our times to emphasize the verse’s continued applicability.<sup>169</sup>

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<sup>169</sup> Ellen Frankel, *The Five Books of Miriam* (New York: G.P. Putna’s Sons, 1996) 173.



Near Eastern reality with our times to emphasize the verse's continued applicability.<sup>169</sup>

### **D. Judith S. Antonelli: *In the Image of God***

Judith Antonelli is a religious Jewish feminist writer and freelance editor. Her academic background is in psychology, journalism and Women's Studies, and she has been immersed in Judaic Studies for many years. Her feminist side developed in the 1960's, but she began being an observant Jew only in the mid-1980s.<sup>170</sup> Antonelli's *In the Image of God* comments on and analyzes issues that are pertinent to women, following the order of the weekly Torah portions. She uses a wide range of sources, from traditional Jewish commentaries to anthropology, psychology, feminist history, and ancient religion. Antonelli deals directly with Deut. 22:5 beginning by defining many of the terms connected to the interpretation of the verse, cultic practices, transvestites, and androgynists. In response to the comment on Deut. 22:5, by Rashi who, according to her, claimed that women dressed up as men to consort with them for adulterous purposes, she responds furiously with the idea that women have dressed up as men in order to receive equal access to careers and not for the lascivious purposes, as Rashi proposes. While this argument might certainly apply to the eleventh-century France, Rashi did not suggest women actually disguised themselves to entice men, only that the verse proscribed such behaviour. Her refutation of Rashi on the assumption that his

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<sup>169</sup> Ellen Frankel, *The Five Books of Miriam* (New York: G.P. Putna's Sons, 1996) 173.

<sup>170</sup> Judith S. Antonelli, *In the Image of God* (Northvale, New-Jersey: Jason Aronson Inc., 1997) 559.

Antonelli does not understand the verse as barring women from a certain type of clothing (e.g., “comfortable pants”) or from masculine traits; rather, she says, “it is specifically prohibiting women from aping male might or macho bravado.” To support her point, she cites *Nazir* 59a, which interprets Deut. 22:5 as a prohibition for women to go out to war while bearing arms.<sup>172</sup>

She considers some of the different prohibitions mentioned by rabbis and Bible interpreters regarding this verse, but she objects to the idea that women wearing men’s pants for the purpose of comfort, and not for the purpose of trying to pose as a man, or wearing *tzitzit* made specifically for women, and she does not view these examples, among others, as transgressions of Deut. 22:5. To further support her argument, she points out that Rabbi Judah (the codifier of the Mishnah) obliged women to wear *tzitzit* and Rashi’s daughters wore *tefillin*. In accord with these claims, she believes that modern rabbis take a much stricter stance than their predecessors, and she seems disappointed with their interpretation of Deut. 22:5.<sup>173</sup>

## E. Conclusion

Feminist writings on Deut. 22:5 do not offer any new insight into the meaning of the verse’s prohibitions, but both Frankel and Antonelli address important issues related to women and Deut. 22:5. They present a variety of sources and provide an analysis of the interpretations of the verse. Like other modern thinkers, Frankel promotes the polemical interpretation of the verse and provides examples of female idols and practices to support her interpretation. Antonelli also

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<sup>172</sup> Antonelli 467-469.

<sup>173</sup> Antonelli 467-469.

addresses this issue, in addition to a variety of others. She responds with fury to Rashi, among others, in their assumption that women wear men's clothing for the purpose of acting promiscuously. She does not interpret the verse in accordance with the majority of Jewish interpretations but limits her interpretation to prohibiting women from "aping male might," as described above.

## Conclusion

At first glance, Deut. 22:5 appears to be a simple and straightforward legal text. The Hebrew is relatively easy, and its apparent meaning seems to prohibit men and women from wearing each other's garments. Doing so, the verse stipulates, is abhorrent to God. This study of the history of Jewish exegesis on the verse has demonstrated that Deut. 22:5 and the practice it proscribes are unclear, and its practical application is not at all straightforward.

In each historical period, the exegetes presented in the preceding pages grappled with the same essential difficulties: the definitions of the verse's key terms – *כלי גבר* and *שמלת אשה*, and the nature of the violation that renders its perpetrators abhorrent or abominable to God. In the varying interpretations of *כלי גבר* offered over the centuries, women were forbidden to wear white clothing, armour, *tzitzit* and *tefillin*, and to go out to war and to study Torah. Similarly, at various times, men's prohibition to dress in *שמלת אשה* included female accessories or ornamentation, jewellery, cosmetics and colourful clothing, as well as looking in mirrors, dying white hair black, or plucking out white hairs from black ones.

The nature of the forbidden actions and the label of abomination raised the question of whether cross-dressing was forbidden in and of itself, or whether one's intention in cross-dressing and the potential consequences that may result from such behaviour constituted the prohibition. Ibn Ezra, Ralbag and Hertz, for example, claimed that cross-dressing would undoubtedly lead to licentious behaviour, and

hence, was forbidden. Others, like Rashi, Malbim and Hirsch suggested that only when one cross-dresses *in order to* mingle with the opposite gender (which will obviously lead to lasciviousness) is it forbidden. Their comments intimate that intention was important when applying the meaning of the verse.

The handling of the ambiguities in the text often reflect customs of the societies from which the interpretations emerged, as well as earlier ones. Maimonides exemplifies this phenomenon best when he included many of the rabbinic definitions of *כלי גבר* and *שמלת אשה* as examples of male and female “dress” that are forbidden to the opposite sex, but adds that gender-specific dress is determined by the customs of each place and the prohibitions should be adapted accordingly.

The inclusion of various “male” or “female” behaviours and occupations among the prohibitions provide insight into the concerns and customs of the Jewish communities in different eras. The earlier interpreters, like Onkelos and Josephus, regarded armour and going out to war inherently as male forbidden to women, while Jacob ben Asher in the fourteenth century understood from the numerological wordplays of *כלי גבר* to mean that women were forbidden to study Torah. Prohibitions for men against plucking or dying hairs, or even looking in a mirror, reflect a timeless notion of vanity as a female characteristic that if engaged in by men, would lead to their moral decay. Abrabanel’s description of women as lazy and selfish, and thus his interpretation of the verse’s command that men refrain from female “dress” so they can fulfill their gender’s true potential, offers a glimpse into medieval attitudes towards male and female “nature” and roles in society.

Deut. 22:5 appears in the Torah portion **כי תצא** set among a group of verses that do not seem to have an obvious connection to each other. In fact the section of **כי תצא** as a whole (Deut. 21:10 – 25:19) incorporates a variety of seemingly unrelated, laws. Interestingly, the interpretations offered for Deut. 22:5 through the course of its Jewish exegetical history are reminiscent of many of the precepts found in this multifarious section of Pentateuch law. The beginning of **כי תצא** considers laws specific to times of war in its regulation of capturing women during battle; this recalls the militaristic interpretation of **כלי גבר**. Prohibited relations between men and women further on in **כי תצא** (Deut. 23-24) summon the many exegetical discussions of the nature of the abominable behaviour in Deut. 22:5. The prohibition of Deut. 23:18 forbidding men and women to act as cult prostitutes reflects the concern of many exegetes that cross-dressing would lead to forbidden sexual relations and that disguising oneself as the opposite gender emulated certain idolatrous practices. While the biblical context of Deut. 22:5 may not offer explicit appreciation for the verse's intended meaning and application, the common topics that arise in both the exegesis of the verse and in the Torah portion as a whole suggest that this enigmatic textual setting for Deut. 22:5 may have influenced the interpretations of Jewish exegetes throughout history.

An examination of the history of Jewish interpretation of Deut. 22:5 has demonstrated both extensive variance among the commentaries and as chronic repetition of the traditional rabbinic sources. Many modern scholars, for instance, rely almost exclusively on earlier interpretations, without following their example of applying the verse's meaning to contemporary customs and definitions of gender or

engaging those interpretations that no longer accurately reflect gender roles in society. This deficiency, however, illustrates the boundlessness and infinite scope of Bible exegesis. Each generation approaches the text with the interpretations of their ancestors and their own new experiences and attempts to clarify, ameliorate, extract, define and add meaning to the fundamental timelessness of the biblical text. The interpretations of the past provide both insight and a challenge for the scholars of the future. In each historical period, the exegesis of Deut. 22:5, addressed concerns of divine law and practical application for day-to-day living, in the context of a particular normative order, but, the multitude of interpretations does not offer the student of Bible a definitive resolution of the verse's ambiguities. Rather it offers a glimpse into the perpetual and eternal dynamic between man and woman and the Bible, the endless quest for truth, and its varying nature.

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