DEFENDING *RIHTHÆMED*: THE NORMALIZING OF MARITAL SEXUALITY IN THE ANGLO-SAXON PENITENTIALS

Abstract: This paper is a semantic and social study of marital sexuality in Anglo-Saxon England. By contextualizing the sexual vocabulary of the Old English penitentials it demonstrates that marriage was sexualized both linguistically and culturally. The essay also reveals how marriage intersected with social expectations that related to gender and procreation. The pastoral-judicial context of the penitentials is explored and, as a consequence, the argument is made that the repeated invoking by priests of penitential codes reinforced a binding, discursive authority on matters of sexuality. **Keywords:** adultery, bigamy, gender, impotence, lawful sexual union, marriage, penitentials, procreation, sex, sexuality, unlawful sexual union.

Resumen: Este artículo es un estudio semántico y social de la sexualidad marital en la Inglaterra anglosajona. Contextualizando el vocabulario sexual de los penitenciales en inglés antiguo, se demuestra que el matrimonio estaba sexualizado tanto lingüística como culturalmente. Este ensayo también revela cómo el matrimonio está entreverado de espectativas sociales en relación con el género y la procreación. Se explora el contexto pastoral-judicial de los penitenciales y, en consecuencia, se argumenta que la invocación repetida de los códigos penitenciales por parte de los sacerdotes reforzaban una autoridad obligatoria y discursiva en cuestiones de sexualidad. **Palabras clave:** adulterio, bigamia, género, impotencia, unión sexual legítima, matrimonio, penitenciales, procreación, sexo, sexualidad, unión sexual ilegítima.

1 INTRODUCTION

ECCLESIASTICAL INSTRUCTIONS RELATING TO SEXUAL matters formed part of a pastoral agenda in late Anglo-Saxon England.[1] This is evident when we examine the vernacular Anglo-Saxon penitentials.[2] These texts, priests' handbooks

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[1] A good starting point for scholarship on sex and sexuality in Anglo-Saxon England is Pasternack and Weston (2004); a number of the essays explore the intersection of gender and sexuality in Anglo-Saxon culture. An excellent thematic study of sex and marriage in the Middle Ages, including the Anglo-Saxon period, is provided by McCarthy (2004b). For medieval source material on gender and sexuality, see Brożyna (2005); Bullough & Brundage (1996); and McCarthy (2004a).

[2] My research on penitential tradition is heavily indebted to the pioneering work of Allen J. Frantzen, whose monograph *The Literature of Penance in Anglo-Saxon England* (1983) is an essential read for anyone wishing to study the vernacular penitentials. Also helpful and relevant to the Anglo-Saxon period are two more recent essays by Catherine Cubitt (2006) and Rob Meens (2006).

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for confession, deal explicitly with sex, incorporating canons specific both to marriage and to what might be termed deviant or dissident sexual expression. The focus of this essay is the former; specifically, I argue that penitential literature was a vehicle for normalizing marital sexuality. To support this claim, this essay offers a cultural reading of the sexual vocabulary within the vernacular penitentials, for it is through the language of sex that an ideology of sex is framed, and through which a more nuanced understanding of the place of marriage in Anglo-Saxon society is obtained.

Recent scholarship has addressed the issue of whether we can speak of *normal* medieval sexuality or, more specifically, whether "heteronormativity" should be assumed for the medieval period. Karma Lochrie contends that sexual "norms" are specific to modern statistics, and therefore the concept of "heteronormativity" was not available to the medieval world (Lochrie 2005). There is not space in this essay to address this issue in any great detail; nevertheless, the analysis that follows suggests a broader understanding and use of *normal* and related words (Monk 2012: 88–98). Thus, in discussing how the Anglo-Saxon penitentials normalize certain sexual behaviours, this is not my invocation of statistical norms but an argument in favour of contemporaneous cultural expectations relating to sex. It is not the case, however, that the penitentials directly stipulate that which is normal; rather, they assume a single, normative sexual condition by means of their disapprobation of improper, *unriht*, sexual behaviours and states. In other words, in the defence of *rihthæmed*—proper or lawful sexual union—the penitentials can be read as the Church's attempt to nurture a sexual norm.[3]

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[3] The deverbal noun *hæmed* (sexual union), which derives from *hæman* (to have sex[ual intercourse]) is dealt with at length by Andreas Fischer in his study of Old English vocabulary relating to marriage (1986: 68–75). I examine below the immediate context of its use in the penitentials, and in doing so also address Fischer's reading. All translations of Old English are my own, unless otherwise indicated.

2 Penitentials: as regulation and as lived experience

The *scriftboc*, the penitential or handbook of penance, was a vital part of an early medieval priest's ministerial equipment, and as such it connected the judicial and educational roles of a priest (Frantzen 1983: 151).[4] It was a tool for determining the degree of fasting, or other penance, necessitated by particular sins (Payer 1984: 9).[5] As the Blickling homilist shows, priests were to carry on the tradition of teaching the flock from "heora scrift-bec" ("their penitentials"), thus providing instruction on how to confess sins correctly. Furthermore, the onus for confession lay with the priest, for, as the homilist argues, sins were so various and some "swiþe unsyferlice" ("so very filthy") that without the priest asking, the sinner would avoid telling his sins (Morris 1967: 43). The introduction to the *Old English Penitential* captures the importance and seriousness of the confessor's role:

> Hyt gebyreð þæt se sacerd smeage synfullra manna bote
> be bisceopes dome, ꞇ ne wandige he na, ne for ricum
> ne for heanum, þæt he him tæce swa seo boc him tæcð,
> forþan se hælend cwæð gif se sacerd nolde þam synfullan
> his synna bote tæcean, þæt he eft þa sawle æt him secan
> wolde. (Frantzen 2012: SXY41.01.01)[6]

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[4] For evidence relating to the teaching of penance, see Frantzen (1983: 151–174).

[5] Pierre J. Payer's study offers a detailed survey and analysis of the sexual contents of Welsh, Irish, Anglo-Saxon and Frankish penitential texts written in Latin prior to 813; and it identifies penitential material incorporated into later collections of ecclesiastical law up to the twelfth century. Another key study on Latin penitentials in Europe is by Sarah Hamilton (2001).

[6] Frantzen's *Database* includes the texts for all manuscript witnesses of the vernacular penitentials. The Old English text I provide within this essay is based on his editions. Frantzen's titles for the texts and his "tagging system" are preserved. If the canon appears in more than one manuscript, this is indicated by multiple sigla (capital letters). A quotation is from the first manuscript listed; it should be assumed that, unless otherwise stated, the text in the other versions is very similar.

> It is fitting that the priest deliberate on the penance of sinful men according to the judgment of the bishop, and he never hesitate, neither for the rich nor the poor; that he teach as the book teaches him, because the Saviour says if the priest would not teach the sinful one penance for his sins, then thereafter he would seek the soul from him.

Sins of all types are covered by the canons of the various penitentials, and sexual sins make up a significant proportion of their content. There are five extant vernacular penitential texts, one containing instructions on how to receive penitents, and four that are essentially lists of tariffs for the various sins.[7] The range of penance is from a few days' fasting for relatively minor offences to lifetime banishment from Christian communion for particularly heinous crimes. Tariffs for sexual sins fit right across this spectrum. Collectively, they can be understood as reinforcing the Church's perspective on sexual intercourse, namely that the purpose or natural orientation of sex was reproduction within the confines of marriage. This perspective, together with the belief that sexual intercourse was only permissible in legitimate marriage, is described by Pierre J. Payer as "an unstated theological assumption throughout the patristic and medieval periods" (1993: 4). Such an ecclesiastical premise, though not enunciated explicitly, helps us to understand why the Anglo-Saxon penitentials are so prescriptive on sexual matters, even when relating to sex within marriage. It is clear that the Church did not consider marital relations to be legitimate *per se* but, rather, sex had to be performed in the right or proper manner.[8] Thus, conjugal privileges or rights are tightly regulated in the penitentials, impinging on what might be

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[7] Frantzen, in his *Database*, provides a description and manuscript history for each text. The texts are: *Old English Introduction*; *Canons of Theodore*; *Scriftboc*; *Old English Penitential*; and *Old English Handbook*.

[8] The idea of sex "in the proper manner" is expressed in the later Synod of Angers (c. 1217). This is cited by Payer (2009: 4).

considered today as matters of personal preference, such as sexual positions, forms of intercourse and the frequency of sex.

The penitentials were a vehicle for teaching and preaching a more nuanced doctrine of sexual decorum than was available through liturgical services generally. The capacity therein for the regulation of sexual behaviour is more readily appreciated if we conceive of the vernacular penitentials as texts situated at the intersection with confessional oral experience. On this matter, Allen J. Frantzen employs the model of "confession as narrative" in his discussion of the "literariness" of the penitentials. His theoretical framework promotes a more productive way of looking at these texts, and is particularly useful in opening up their sexual dicta to scrutiny (1991: 3–4).[9] "Confession as narrative" shifts the emphasis away from perceiving the penitentials solely as texts, enabling us to engage with the lived experience of confession. As part of his model, Frantzen explains how penitential "texts depend on agents (confessors and sinners) for production"— production being defined as "what happened when written texts came to life"—and therefore they are "reproduced in specific social circumstances." As a consequence, the "oral context" of confession is projected by the penitential texts, and therefore the tradition of penance "is engaged in concrete circumstances" (Frantzen 1991: 5). This oral context is especially noticeable when one considers the introductory material of penitentials, as found in the *Old English Introduction* (Frantzen 2012: SNX31.01.01–10.01 and SN32.01.01–03.01).[10] Here, there is a mixture of formula, where the priest engages the penitent in a dialogue and catechism, and "open" communication, where the sinner is invited to specify his

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[9] Frantzen's essay (1991) is reproduced in his *Database* (see "Background;" accessed 27.04.12), and constitutes the introduction to his 1991 *La littérature de la pénitence dans l'Angleterre anglo-saxonne* (Fribourg, Éditions Universitaires), a translation by Michel Lejeune of Frantzen's *Literature of Penance* (1983).

[10] Manuscript N omits 31.05.01 and 31.10.01.

particular sins, to provide "personal details and circumstances" (Frantzen 1991: 6).

Frantzen's emphasis concerning the orality of penitential texts centres on the "communication systems within which the texts functioned," and he explains that these systems exist on "two levels: the oral, interpersonal encounter (in confession) and the written act of manuscript transmission." The intersection of the two levels is described as follows:

> Private confession was an event that the priest and the penitent *re-enacted*—that is, *voiced*—according to a form controlled by a document that was itself based on previous confessions (and, of course, on other documentary sources, including scriptural commentary and homilies). (Frantzen 1991: 6)[11]

The concept of the private confessional dialogue as a re-enactment or voicing helps us to perceive that the written directions about confession are not solely a "how to" manual for priest and penitent, but are, in effect, the documenting of confessional experience as repeated performance. They are the textual expression of the cultural reiteration of a penitential tradition, a systematic process engaged in by an incalculable number of individual priests and penitents. Frantzen reasonably postulates that the confessional interchange, the oral context of the penitentials, may have contributed to the modification or "fixing" of penitential texts, so that these texts "reflected, in reduced form only, the event in which they originated" (1991: 5). Furthermore, the textuality of the penitentials—their manuscript forms—implies an accumulative, discursive and binding power. Their recording, copying, adapting and compiling reinforced their status as dicta and tradition, in a similar way to how Anglo-Saxon law was formed on precedent, and lawmakers built on the work of their predecessors (Wormald

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[11] My own emphases.

1999).[12] As Frantzen states, "[t]he texts narrated a tradition of authority and precedent, maintaining the continuity of the codes and their influence" (1991: 4).

If, then, we read confession as a re-enacting of an oral-textual event, an occasion where the priest and penitent "voiced" a predetermined discourse "according to a form controlled by a document that itself was based on previous confession," then the penitentials not only reassign the tariffs of penance, but they re-present this oral-textual lived experience. Therefore, they can be understood as cultural reiteration. In other words, as confessors and sinners re-perform the "narrative" of confession, the recitation of established formulae, outlined in the penitentials, continuously restates and reinforces the practice of confession as both lawful and traditional. Moreover, the details of the canons on sex become associated with established "truths". That penitentials represent something more than just texts, that they are the intersection of the systems of communication that produced oral confession—a repeated, lived experience—suggests that the sexual dicta in the penitentials should be viewed as part of that lived reality.

It is this essay's contention that the ongoing repetition of specific sexual proscriptions would have served as a cultural re-iteration of the Church's narrow perspective on sex; and thus the disseminating of penitential content had the capacity to normalize certain sexual behaviour, whilst at the same time to stigmatize "deviant" sexuality. This notion of cultural re-iteration draws upon work by Judith Butler, especially her concept of "binding power" through "citational legacy." Butler argues that "it is through the invocation of convention that the speech act of [a] judge derives its binding power" (1993: 225). Though Butler's work does not deal

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[12] For a detailed analysis of the development of legislative texts from Alfred to Cnut, see chapter 5. As an example of precedent, Wormald observes concerning Cnut's code that it "was above all a tribute to the legislative achievements of kings since Alfred. Almost all their major interests were reflected. Much of their work was quoted" (1999: 355).

directly with the medieval period, what she is stating here relates to the principle of how textual authority is established through its reiteration and repeated citation. This principle is in evidence in relation to the sexual dicta of the Anglo-Saxon penitential. The performing of confession and penance incorporated a reiteration of a textual formula in the form of the confessional dialogue. Furthermore, it might be argued that the repeated invoking by priests of penitential codes reiterated and reinforced a binding, discursive authority on matters of sexuality.

To summarize, the regulating of sexual behaviour may be seen as one part of an overall programme of "educating and reforming the laity" (Frantzen 1983: 151). The fact that moral education and confession went hand in hand, and that educating the flock was a fundamental function of the work of the priest as confessor, is captured well in Wulfstan's homily, *Sermo ad Populum*:

> Utan gyman þæt we urne cristendom clænlice gehealdan ⁊ aweorpan alcne hæðendom ⁊ habban rihtne geleafan, ⁊ lufian cyricsocne dæges ⁊ nihtes oft ⁊ gelome, ⁊ *libban þam life þe scrift us wisige*. (Bethurum 1971: 229)[13]

> Let us take heed to hold cleanly our Christianity, and to cast out all heathendom and hold the right faith, and to love the refuge of the church day and night, often and regularly, and *to live that life to which the confessor would direct us.*

3 *ÆFTER GECYNDE*: GENDER AND MARITAL SEX

The view of lawful sex fostered by the Anglo-Saxon Church conforms to an originary, procreative and hence gendered paradigm. Though this is never explicitly rehearsed in the penitentials, and though permitted sexual behaviours within marriage are not delineated, it is evident from an analysis of the diction relating to sexual sins that the proper function of gender is at the centre of approved sexuality.

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[13] My own emphasis.

In the Anglo-Saxon period, gender was understood as something definable "æfter gecynde" ("according to nature;" Cameron *et al.* 2003).[14] Helpful for understanding this fundamental point is Ælfric's *Grammar*, which offers the following on the designation of male and female: "[Æ]fter gecynde syndon twa cyn on namum, masculinum and femininum, þæt is, werlic and wiflic" ("According to nature, there are two kinds in name, *masculinum* and *femininum*, that is, male and female;" Zupitza & Gneuss 1966: 18.5). Here, a binary model of gender is presented as a given of nature, part of "the established order of things" (Cameron *et al.* 2003),[15] and thus intrinsic to "natural law."[16] Male and female are, in this definition, the primary genders of nature, states conforming to the originary, biblical narrative of creation. Payer, in discussing later medieval views of original gender difference, observes that "gender differentiation would seem to have been intended as a natural feature of the original human condition" (1993: 21). This too appears to be the primary understanding of gender expressed by the Anglo-Saxon Church.[17] In her study of virginity and misogyny in late Anglo-

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[14] *gecynd*, 2a, "in accordance with nature" for "æfter gecynd and þurh gecynd."

[15] *gecynd*, 2.

[16] Though "nature" is the most suitable translation for *gecynd*, the full range of meaning is broad and nuanced; it is not, however, within the scope of this essay to dwell on this in any detail. However, it is helpful to appreciate that *gecynd* is often used to connote a shared or universal innateness, the condition or state of being that all are born into as part of the continuum of life from creation; the related adjectives and adverbs, correspondingly, to the attribute or manner expected due to this (Monk 2012: 87–100). Hugh White analyses the medieval Latin discourse on nature, especially in response to Ulpian's "natural law" model, from which "comes the union of male and female, which we call marriage, [and] the procreation of children and their bringing up" (White 2000: 20–21).

[17] I do not wish to over-simplify medieval views of gender, as if there was a uniform gender system across the medieval period. For an excellent study of sex difference in later medieval culture, especially as influenced by medieval discourses of medical and natural philosophy, see Cadden (1993).

Saxon England, for example, Catherine Cubitt demonstrates that gender difference was part of the "highly developed sense of social order" propagated via the writings of Ælfric and Wulfstan (2000: 21).

3.1 *Beyond the wedding*

The penitential instructions regarding marital intercourse reinforced the Church's position on gender. All sexual behaviour within a lawful marriage had to have the potential for reproduction for it to be considered proper. Thus sexual function within marriage was tightly bound to the reproductive roles of mother and father, as can be seen from penitential pronouncements against non-reproductive sex, discussed in more detail below. What is apparent, too, is that sexual intercourse served as a fundamental characteristic, a religio-cultural signifier, of marriage. This is evident in canons that permit a wife to abandon her husband on grounds of impotence, also discussed below. It is thus implicit in the penitentials that a married couple is characterized by its *active* sexual behaviour, and thus the basis of a sexualized state or identity is formed. Furthermore, the gendered status of each individual within that state is underpinned by its integral reproductive, and hence sexual, function.

In linguistic terms, the penitential known as *Scriftboc* differentiates between the act of marrying (the wedding ceremony) and the durative state of being married. The former is contextually linked to the uniting of husband and wife by a priest, and also to the public sanctioning of that action; for the latter, the emphasis falls on the sexualized status of those who are married. In a canon referring to the wedding ceremony, the priest, who presides "in þære ærestan geðeodnysse weres ʒ wifes" ("in the first joining of man and woman"), is required to sing mass and to bless "þa gesamnunga" ("the unions"), so that, subsequently, couples may offer almsgiving to the church, pray, fast for forty nights and after that attend the Eucharist (Frantzen 2012: X09.05.01).

From the context, there is no direct semantic association with the sexual in the employment of *geðeodnes* ("a joining," or

"marriage") (Fischer 1986: 104–105) and *gesamnung* ("union"). The former derives from the verb *ðeodan* ("to join, attach"), which has a very broad use, but which in the semantic field of marriage connotes "to join in marriage;" though it is not a native marriage word but a loan-translation from Latin (Fischer 1986: 102–104).[18] Thus the noun *geðeodnes* in *Scriftboc* connotes the joining of man and woman in marriage. Likewise, the latter noun, derived from the verb *gesamnian* ("to unite, join"), and here being used as a variation of *geðeodnes*, has no immediate sexual connotation, though its use in this passage might be said to anticipate the sexual aspect of a marital union.[19] According to *Scriftboc*, this particular joining or union is not a private coming together, but one performed openly through the services of a priest. Furthermore, as a reciprocation of the public sanctioning of their union, the married couple are required to approach the congregation with almsgiving, further demonstrating the societal importance of their newly acquired, wedded state.[20]

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[18] Fischer, however, does note that there are two instances (out of seventeen occurrences) in the Old English corpus where *geðeodan* is used with reference to sexual intercourse, though the example he gives from Bede shows that the verb is not used in isolation to mean this but, rather, is qualified by "in lichoman gegadrunge" ("in union of the body").

[19] I say this because the related verb, *gesamnian* is used later to indicate the joining together in sexual intercourse (Frantzen 2012: XS11.05.01). See Fischer's discussion of *gesamnian* (1986: 97–98).

[20] It seems likely that the blessing of the priest takes place in front of a congregation as it is associated with his singing of mass. Furthermore, the subsequent statement "and heo æfter þon hie ahebban, þæt he cyrican secan, mid ælmessan" ("and after that [i. e. the blessing], they themselves are to rise, so that they approach the congregation with almsgiving") may suggest that the couple are kneeling before the priest and before the congregation, and hence inside the church where a ministering priest would naturally be located. This canon seems to anticipate later medieval laws requiring all marriages to be performed by a priest in a church in order to be considered legal (McCarthy 2004b: 19–50).

The *Old English Penitential*, though it differs from *Scriftboc* by stipulating that the Eucharist is taken sooner, similarly emphasizes the public significance of the marriage, but it also indicates the non-sexual state of the initial ceremonial union:

> Be ðam hu gesynhiwan heora ðeawas healdan sculon for gode: Halige gewritu tæcað hwæt æghwylcum geleaffullum were to donne is, þonne he his riht æwe ærest ham bringeð; þæt is æfter boca tæcinge þæt heo ðreora daga ⁊ nihta fyrst heora clænnyssa healdan sculon, ⁊ ðonne on þone þriddan dæg heora mæssan gestandan ⁊ hi butu husel niman, ⁊ syððan heora gesinscipe healdan for gode ⁊ for worulde swa heora þearf sy. (Frantzen 2012: X42.21.00–01; SY42.21.01)

> Concerning how a wedded couple shall observe their customs before God: Holy books teach what every believing man is to do, when he first brings his lawful wife home; that is, following the teaching of the Bible, that they shall first hold their cleanness three days and nights, and then on the third day are to be present for mass and are to take the Eucharist vessel, and afterwards are to observe their marriage before God and before the world as is their necessity.

It is noteworthy that the couple are required to abstain from sexual intercourse (or, euphemistically, "hold their cleanness") for the first three days following the wedding—which, here, incorporates the act of the man bringing home his wife. This stipulation of sexual abstinence underscores the non-sexualized state of marriage as a ceremony. This appears to run counter to the Germanic cultural tradition whereby the wedding day incorporated the "wedding night"—sexual intercourse—which "marked the beginning of the state of marriage" (Fischer 1986: 22). Furthermore, it is a modification of early canon law, which only required one night's sexual abstinence (Cross & Hamer 1999: 91 [59]). The penitential canon has no parallel in Halitgar's Penitential, the continental Latin source for much of the *Old English Penitential*, and thus it

would seem to represent an indigenous perspective of marriage.[21] Through the reiterating but modifying of the tradition of sexual abstinence following a wedding, we are probably witnessing a particular Anglo-Saxon ecclesiastical point of view on this matter, an attempt to emphasize the wedding as spiritual and holy. The requirement for initial sexual abstinence is relinquished once mass is attended and the Eucharist is shared with the congregation; then the couple are free to "observe their marriage" before God and everyone else. Though not explicitly stated, this would include the freedom to have sexual intercourse, "as is their necessity." It is, however, pertinent that this canon implies that the condition of being married continued as a publicly performed state even once private sexual intercourse was permitted. It might be said that the sexual aspect of marriage was observed "before the world" in that the local community had evidence of the couple's conjugality in the form of children being born to them. Indeed, sexual fecundity was a corollary of marriage: not only were husband and wife permitted to have sexual intercourse, but it was also expected of them.

The restrictions on marital sex in the penitentials reveal how, linguistically, sexual intercourse is integral to the lived experiences of those in a marital union. The *Scriftboc* is useful for illustrating this point:

> Þa þe on rihtum hæmede beoð, þrym nihton ær þam feowertiges nihta fæstene, hig ne gesamnigen hig, ⁊ swa þæt feowertig nihta ealle oþ þa nigoðan niht in eastron. (Frantzen 2012: SXII.05.01)

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[21] The *Old English Penitential* significantly modifies the material from Halitgar's Penitential (Schmitz 1898: 275–300) concerning sexual abstinence in marriage. The latter stipulates abstention for three days prior to each communion, which is not included in the Old English canon. Material included in *Old English Penitential* but not in Halitgar's work includes not only the stipulation to abstain from sex for three days after the wedding, but also the requirement to abstain every Wednesday night, Friday night and Sunday night. Cf. Frantzen 2012: XYS42.21.01–02 with Schmitz 1898: 284 (4.24).

> Those who are in a lawful sexual union: the three nights
> before the forty nights of fasting, they may not join
> themselves [in sexual intercourse], and likewise the whole
> forty nights until the ninth night in Easter.

It is important to note the use of the prepositional phrase "on
rihtum hæmede" to signify the condition of *being* married.[22]
It may be translated as "in a lawful marriage."[23] However, the
noun *hæmed* derives from *hæman* which, as Andreas Fischer
shows, predominantly means "to have sexual intercourse" (1986:
63–68).[24] *Hæman* is used throughout *Scriftboc* and the other
penitentials to refer explicitly to the act of sexual intercourse,
either licit or illicit; it is never used in the sense of "to marry."
An obvious example of its associations with lawful intercourse
is found in the following canon in *Scriftboc*: "Ceorl gif he mid
his agenum wife hæme, þwea hine ær he on cyrcean ga" ("A man,
if he should have sex with his own wife, should cleanse himself

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[22] MS X uses the preposition *in*.

[23] Frantzen gives "in lawful union" (Frantzen 2012: S11.05.01).

[24] Fischer notes that it is commonly accepted that *hæman* (and the whole family
of *hæm*-words) derives ultimately from the stem *ham*, meaning "home;" and thus
hæman must have initially had the meaning "to take home," though this is not
attested to in Old English. The etymology suggests that *hæman* took on the
specialized meaning of "to take the bride home on the wedding day," though,
again, this sense is not directly attested to in Old English (cf. Lehmann 1986: 170
[H14: *haims*]). Although the uses of *hæman* in the Old English corpus indicate
that the literal meaning "to take home" is lost, there are a handful of cases where
"to marry" is signified. (Cf. the phrase in the *Canons of Theodore*: *bringe wif ham*
("bring home a wife"), which refers to illicit marriage/intercourse by a priest or
deacon; Frantzen 2012: BY69.01.01.) This usage, however, represents less than
ten percent of all recorded instances, and the remaining examples, as Fischer
identifies, all mean to "to have sexual intercourse," and therefore, as Fischer notes,
it is clear that "'to marry' should be set up as a separate meaning" (Fischer 1986:
63–75, esp. 67, n. 129). We should observe, too, Julie Coleman's reference to the
"physical connotations" of *hæman* in the context of marriage terms, which would
suggest that, even where "marry" is a reasonable rendering of *hæman*, the sexual
associations are not absent (Coleman 2000: 113).

before going to church;" Frantzen 2012: SX12.01.01). The meaning of *hæman* is clarified, in the context of illicit intercourse, in a heading to one of the canons of the *Old English Penitential*, where the Latin *cohit* ("has sexual intercourse") is given as the gloss for "hæmð" in the manuscript Oxford, Bodleian Library, Junius 121 (Frantzen 2012: X42.06.00). This particular canon discusses men defiling themselves with animals or with young men, as well as sex between adult men, and thus the sense "marries" is inappropriate.[25] The semantic association between verb and deverbal noun can thus be understood to accentuate the sexual aspect of *rihthæmed* as found in the *Scriftboc* canon under consideration. Thus the translation "marriage" does not capture the sexual element that is integral to the Old English meaning of *hæmed*. My own choice of "sexual union" preserves that sexual element whilst allowing for a range of meanings both relating to lawful and illicit sexual union. The phrase "þa þe on rihtum hæmede" may therefore be rendered better as "Those in a lawful (or, proper) sexual union" or, perhaps,

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[25] In his *Database*, Frantzen generally translates *hæman* as "fornicate," even though a more obvious OE word for "fornicate" is *forlicgan*. This sometimes presents problems of interpretation, such as in the canon against having sex on a Sunday in the Canons of Theodore which gives just three days of fasting for this sin: "Se ðe hæme on sunnandæge bidde him æt gode forgifenesse ⁊ fæste iii dagas" ("Whoever has sex on a Sunday, he must beg forgiveness for himself from God and fast 3 days; Frantzen 2012: YB66.01.01). This minimal tariff of penance does not correspond to the fairly lengthy periods of fasting for fornication elsewhere in penitential literature. It is logical, therefore, that the canon concerns *marital* sex on a Sunday (that is, sex within a lawful union, but performed at the wrong time), rather than against fornication (sex outside of marriage) on a Sunday. Therefore, "has sex" is a more appropriate translation than Frantzen's "fornicates." Though I do not wish to assign a single definition for *hæman*, "to have sex" avoids misunderstanding its semantic range in penitential diction, where it is used neutrally to describe both unlawful and lawful sex. In discussing sex words, and with particular reference to *hæman*, Coleman (1992: 94) observes the "later moral distinction being imposed upon the language" in standard Old English dictionaries.

"Those in lawful intercourse," though the latter is somewhat archaic.[26]

The association of sexual intercourse with *hæmed* is made clear elsewhere in the Old English corpus. In his *Catholic Homilies*, Ælfric states that "mægþhad [...] biþ forloren on hæmede" ("virginity is lost in [a] sexual union;" Godden 1979: 5.76–77); and in his *Lives of Saints* he observes, regarding the marriage of Æthelthryth, that God did not wish "þæt hire mægðhad wurde mid hæmede adylegod ac heold hi on clænnysse" ("that her virginity should be destroyed through [a] sexual union but he kept her purity;" Skeat 1966: 432–433).[27] The correlation of *hæmed* and sex is evident in two of the Exeter Riddles, 20 and 42. In the former, which exploits the phallic symbolism of the "sword," Mercedes Salvador-Bello observes the "literal reference to sex" in the proclamation by the riddle's subject that "Ic wiþ bryde ne mot / hæmed habban" ("with a bride I cannot have a sexual union"). In the latter riddle, she notes the "direct allusion to sex" in the use of the compound *hæmedlac* (sexual play/sex-play), used to describe the coupling of the two creatures that results in the female becoming pregnant (2011: 368–369).[28]

In discussing *hæmed*, Margaret Clunies Ross argues that in its earliest forms, in Anglo-Saxon laws, it had "the paramount sense

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[26] Fischer's analysis of the semantic range of *hæmed* is, I would suggest, somewhat problematic in the context of this essay (1986: 68–75); indeed, he acknowledges the "semantic problems associated with [*hæmed*]" (1986: 63). The semantic range within his study is directly that of engagement, weddings and marriage; so, inevitably, his discussion of *hæmed* is tightly focused around marriage. However, he does discuss its basic neutral meaning of "(legal and illegal) intercourse" (1986: 72–75). My particular problem with Fischer's analysis is the choice of the ModEng word "marriage" as a meaning in certain contexts, for it produces a somewhat circular presumption of a direct correspondence between OE *hæmed* and ModEng "marriage." Marriage maybe what is implied in certain contexts, but the word "marriage" does not convey the sexual nuance of *hæmed*.

[27] Skeat euphemistically translates "mid hæmede" as "through cohabitation."

[28] My thanks to Mercedes Salvador-Bello for allowing me to see her article ahead of publication.

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of sexual intercourse within the male partner's home (*hām*) *as the establishing feature of a relationship*, legitimate or illegitimate" (1985: 21–22).[29] Her point that *hæmed* directly relates to a relationship definable by sexual intercourse is apposite. In the context of the penitentials, the fact that *hæmed* is modified by both *riht* and *unriht* demonstrates that by itself, it is a neutral term, connoting simply a sexual union or relationship, without any reference to its legitimacy. Though Clunies Ross asserts that the association of *hæmed* with both lawful and unlawful sexual relationships "must have rendered the word highly unsuitable" in the propounding of "legal marriage as an institution sanctioned by God," it appears, however, that the compounding of *hæmed* with *riht* was all that was required to make it a useful word to denote the state of being married. Furthermore, in the penitential context of regulating sexual behaviour, it is most appropriate that marriage was not disassociated from its sexual meaning. The use of *rihthæmed* with its explicit sexual associations demonstrates that there existed a discrete notion of what it meant to *be* married as opposed to the ceremonial joining together indicated by the non-sexual words *geðeodnes* ("joining") and *gesamnung* ("union").

4 DEFINING THE IMPROPER; NORMALIZING THE PROPER

The phrase "nydinga nymð to unrihthæmede" ("forcibly takes into an unlawful sexual union") is used in the second book of the *Old English Penitential* to describe an abduction of a woman into a sexual union against her will—an attempt by a man to obtain a wife by force through rape (Frantzen 2012: X42.13.00–01; SY42.13.01; Monk 2012: 56, n. 176).[30] The phrase "for unrihtum hæmede" ("for an unlawful [or, improper] sexual union/for unlawful intercourse")

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[29] My own emphasis.

[30] The canon is also repeated in three manuscript witnesses of the *Old English Handbook* (Frantzen 2012: DBC54.21.01). Shari Horner makes a case for *hæmed* and *hæman* being used to signify forced sex in Alfred's laws (2004: 157–160).

is used in the canon heading that follows to describe a steward's enticement of his master's wife "fram his hlaforde" ("from his lord"), probably indicating that the wife abandons her husband for this new union (Frantzen 2012: X42.14.00; Monk 2012: 56, n. 177). Later in the same penitential, the taking of a nun as wife is given as an example of the "unrihtum hæmede" concerning which St Gregory wrote (Frantzen 2012: X42.19.00–01; SY42.19.01). That sexual unions are improper or unlawful allows for a reading of early medieval sexuality that moves beyond the idea that sex is only ever represented as acts. The positing of *riht* and *unriht* in relation to sexual unions, and not simply to sexual acts, signifies an attempt by the Church to confer either approval or disapprobation upon sexual relationships; and thus the parties to such unions become more than mere juridical subjects of forbidden or permitted acts; they become the bearers of a culturally determined state.[31] Repeated over time, through the enactment of pastoral and confessional duties, written and verbalized judgements concerning proper and improper unions normalize the *rihthæmed*, the lawful state of the reproductive female and male. Thus, having "proper" sex within a "proper" union could have been understood as a performance of status and, consequently, a configuring of identity.

4.1 *Becoming an* æwbreca

It is necessary to examine the language of the penitentials in detail in order to detect the cultural nuances regarding illicit sexual unions. The following example from *Scriftboc* illustrates how the person who may be read simply as an "adulterer" should be read also as an untrustworthy law-breaker to be shunned by the community.

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[31] Cf. David Halperin's (2002: 24–47, here 27) analysis of Michel Foucault's (1998: 43) problematic discussion of the medieval discourse of sodomy as "a category of forbidden acts," the author of which "was nothing more than the juridical subject of them."

> Swa hwylc man swa forlæte his wif ⁊ hine to unrihthæmede
> þeodeð, fæste vii winter hearde fæstene oððe xv leohtlicor.
> (Frantzen 2012: XSY09.09.01)
>
> Whosoever may abandon his wife and subjects himself to
> an unlawful sexual union, should fast 7 years hard fasting
> or 15 lighter.

The phrase "hine to unrihthæmede þeodeð" ("joins/subjects
himself to an improper sexual union") means more than "commits
adultery," for the man is said to abandon or leave (*forlætan*) his
wife; he actively seeks and joins himself to another in a sexual
union. Though this canon may refer broadly to a man conducting
an adulterous affair or to cohabitation (whether with another
woman or another man), it most probably signifies the attempt
to establish another marriage, that is, a bigamous union; this
would be *unriht* in the sense of unlawful, as well as in the sense
of unrighteous, or improper. The seriousness of abandoning a
wife and attaching oneself to a new, but improper, sexual union
is reflected in the high tariff of seven years of penance. This is in
contrast to an earlier canon in *Scriftboc* which prescribes only one
year for a married layman committing what would seem to be a
single act of adultery, though, interestingly, the amount of penance
is increased to three years should the woman the man commits
adultery with subsequently become pregnant, and to the full seven
years should the man then become *hegsteald* ("unmarried"), which
seems to be referring to the man abandoning his lawful wife and
taking up with the new woman with whom he has fathered the
child (Frantzen 2012: SXY02.01.01–03).[32]

The *Old English Penitential* also refers to the unlawful
repudiation of a spouse—to what is tantamount to bigamy—

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[32] "Læwede man him wif agende gif he oþres ceorles wif wemme oþþe fæmnan,
fæste i winter; gif he bearn hæbbe fæste iii winter; gif he þonne hegsteald sy, fæste
vii winter; sume willað x" ("A layman, having a wife, if he defiles another churl's
wife or a virgin, should fast one year; if he should have a child [by her], he should
fast 3 years; if he then becomes unmarried, he should fast 7 years—some wish 10").

providing additional information that sheds further insight on the socio-cultural implications of improper sexual unions:

> Be þam men þe his æwe forlæt, ⁊ be þam wife þe hire wer forlæt ⁊ oðerne cyst: Se man þe his riht æwe forlæt ⁊ oðer wif nimð, he bið æwbreca; ne sylle him nan preost husl ne nan ðara gerihta þe cristenum men gebyreð, ⁊ gif him forðsið getimað, ne lecge hine man na mid cristenum mannum; ⁊ gyf wif hyre riht wer forlæt ⁊ ceosoð oðerne, beon heo þæs ylcan wyrðe þe her bufan segð; ⁊ þa magas þe æt þam dihte wæron ðolien þone ylcan dom, butan hi ær to bote gecyrron willon swa hire scrift him tæce (Frantzen 2012: X42.08.00–02; SY42.08.01–02).[33]

> Concerning a man who abandons his wife [or, marriage],[34] and concerning a woman who abandons her husband and chooses another: The man who abandons his lawful wife [or, marriage] and takes another woman, he is a vow-breaker. A priest should not give him the Eucharist or any of the rights that befit Christian men; and if death is brought to him, do not lay him as a man amongst Christian men. And if a woman abandons her lawful husband and chooses another, she is to be [judged] by the same value that is here stated above. And the kinsmen who were at this arrangement are to suffer the same judgment, unless they first desire to turn to repentance, just as their confessor shall teach them.

These canons immediately follow one concerning the man who "æwe brycð" ("breaks a marriage vow") and the woman who takes another man "ofer her riht hlaford" ("over her rightful lord;" Frantzen 2012: XSY42.07.01),[35] both of whom receive seven years fasting, corresponding to the penance in *Scriftboc* for the man who abandons his wife and takes another. Significantly, the

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[33] The same canons (without the heading) appear in the *Old English Handbook* (Frantzen 2012: DBC54.15.01–16.01).

[34] For a discussion of *æ* as "marriage," see Fischer (1986: 86–89).

[35] Cameron *et al.* 2003: *æ* 2. b: *æwe brecan*, "to break the marriage vow."

canons elaborate on adulterous unions by stressing that the illicit repudiation of the innocent spouse is in favour of another whom the offender has taken via an unlawful wedding arrangement, presided over by family members complicit in the illegal marriage of the guilty couple. This is referring to what today would be understood as bigamy.[36] The context here demonstrates that the noun *æwbreca* does not signify the modern "adulterer" in an exact way. The *æwbreca* here is the man who abandons his first wife, or *riht æwe* ("proper/lawful wife/union"), in order to take another in an unlawful ceremony arranged by the kinsfolk of the woman.[37] As is suggested by the literal meaning of *æwbreca* ("law-breaker"), the guilty person is connoted as one who breaks the law, indicating that the sense of "bigamist" is appropriate, rather than just "adulterer." This is further nuanced when one considers the semantic association between "law" and "marriage" in the word *æ*, the first unit of the compound *æwbreca*, which leads to the sense of "breaker of the marriage vow" (Fischer 1986: 87–90).[38]

The religious and social implications for those involved in the illicit union are profound: the guilty persons become outcasts in life and death; they are to be excommunicated, not even deserving of a burial amongst Christians. This latter point is in fact a rather emphatic elaboration of the source canon in Halitgar's Penitential, which the *Old English Penitential* loosely paraphrases (Schmitz 1898: 281 [4.11]). It is evident, therefore, that the man who, according to *Scriftboc*, subjects himself "to unrihthæmede" ("to

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[36] Surprisingly, Fischer does not address the concept of bigamy in his analysis of the stem *æw-*; he gives "adulterer" for *æwbreca* (1986: 84–95 [84]).

[37] Compare the anonymous law code *Wifmannes Beweddung*, which Wormald associates with Wulfstan's era, where once pre-nuptial agreements are made between the would-be husband and the would-be wife and her kin, her kin are subsequently to arrange her betrothal and marriage (Whitelock 1979: 467–468; Wormald 1999: 385–387).

[38] See also Cameron *et al.* 2003: *æ* 1: "law;" and *æ-breca, æ-bryca* 1: "breaker of the (marriage) vow, adulterer (ref. to men or women)."

an unlawful sexual union") is doing far more than committing an improper sexual act. In abandoning his wife and joining himself to an improper sexual union, he alters his standing before the Church and the community. His socio-sexual status is altered, for his actions make him an *æwbreca*, an impugned violator of vows, a law-breaker. Thus the priest who taught this from his *scriftboc* not only expressed an ideology of marriage centred on Christian morality but he underscored the legal and social contexts of matrimony.

4.2 *Being in an unlawful sexual union; framing an* unrihthæmed

A pair of canons in *Scriftboc*, that differ significantly from their probable source, also shed light on how sex was constructed as something more than an isolated act (or a series of acts), and that sexual unions were closely tied to social standing. These canons appear to contrast the discovery of a woman's status as illicitly married with a woman's deliberate forging, or framing, of an improper sexual union:

> Wif gyf sy on unrihtumhæmede, ꝺ hire wer mid hyre eardian nelle, ga heo on mynster gyf heo wille; gyf heo nelle, nime þone feorðan dæl þæs yfres. (Frantzen 2012: XSY16.05.01)
>
> A wife, if she should be in an improper [or, unlawful] sexual union, and her husband does not wish to dwell with her, she may go to a monastery if she wishes; if she does not wish this, she may take the fourth part of the property.

> Gyf hwylc wif sy þe unrihthæmed fremme, hyre wite sy in hyre weres handum. (Frantzen 2012: XSY16. 06.01)
>
> If there be any wife who effects an unlawful sexual union [or, commits unlawful intercourse], her punishment is in the hands of her husband.

The clause "wif gyf sy on unrihtum hæmede" ("if a wife be in an unlawful sexual union") does not straightforwardly translate "mulier si adultera est" ("if a woman is an adulteress"), the corresponding Latin clause in the canon from Theodore's

Penitential, the probable source of this pair of Old English canons.[39] The vernacular places the woman *on* ("in/within") an improper sexual union, whereas the Latin presents the woman herself as violator, using the noun for adulteress. In the vernacular text, the same prepositional construction, *on hæmede*, is employed as was earlier used in the description of the couple who "are in a lawful sexual union." Thus, a similar rendering is appropriate here. Therefore, specifically, the wife is in an unlawful sexual union, rather than being an adulteress. The mood suggested by the subjunctive allows for a reading beyond a simple reference to a wife committing adultery against her husband; it permits the interpretation that the wife is in an unlawful union *with her husband*—this being due, for example, to their marriage breaking the Church's rules on consanguinity. We are reminded of the possibility of such irregular marriages taking place—even with the blessing of a priest—in the concluding statement of the late Anglo-Saxon, anonymous law code *Wifmannes Beweddung*, where the warning is given: "It is also well to take care that one knows that they [the bride and bridegroom] are not too closely related, lest one afterwards put asunder what was previously wrongly joined together" (Whitelock 1979: 486). An example of an irregular union is presented in a pair of canons from the *Old English Penitential* (repeated in the *Old English Handbook*) where a wife "nimð hire to gemæccan" ("takes to herself as husband") the brother of her first husband. The stipulation is made that the couple in this "manfullan sinscipe" ("sinful marriage") should be separated and both should atone earnestly (Frantzen 2012: SXY42.11.01–02 and DBC18.01–19.01).[40] In such a case, where ecclesiastical intervention is advocated, it is quite possible that the woman did not understand

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[39] The *Scriftboc* author has significantly reworked two canons from Theodore's Penitential (Haddan & Stubbs 1871: 2.12.10–11). For a discussion of the differences between the vernacular and the Latin, see Monk (2012: 60–61).

[40] McCarthy provides an overview of the Church's view of marriage and kinship (2004b: 126–132).

the impropriety of marrying her dead husband's brother; similarly, the *Scriftboc* canon in question may also be referring to a woman having her unlawful union brought to her (and her husband's) attention. If read accordingly, the *Scriftboc* canon implies the discovery or realization of an improper marriage, rather than a deliberate act of adultery by the wife. The consequence of this, should the husband end the union, is that the woman is either free to join a monastery or to take with her a portion of the marital property. Importantly, the vernacular text diametrically deviates from the Latin in permitting the woman to keep a proportion of her marital property even if she does not wish to enter a monastery, reinforcing the perspective that this particular canon offers a deliberate amendment of the Latin source.[41] As such, it may represent an indigenous or localized perspective on irregular marriages. In its relative leniency of allowing the wife to keep some of the marital property, we observe the Anglo-Saxon Church's pragmatic approach towards certain irregular marriages, something not generally witnessed in penitential dictates on adultery, nor in Anglo-Saxon laws concerning adultery.[42]

The second of the pair of canons from *Scriftboc* appears to contrast the discovery of irregular marriage with the deliberate conducting of an adulterous union on the part of a wife. The canon makes it clear that a wife is subject to her husband's law and that her fate is in his hands if she deviates sexually. It should be noted that there is no mention of the possibility of reconciliation, as found in Theodore's Penitential. It is difficult to determine whether this means reconciliation was considered undesirable, or simply that reconciling with one's adulterous wife was an unspoken given, though Jerome's statement concerning the stupidity of maintaining an adulterous wife, which is preserved in

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[41] See above, n. 39.

[42] Note especially II Cnut 53, which states that a husband is to have all that the adulterous wife owns, and she is to lose her nose and ears (Whitelock 1979: 463).

Wulfstan's canon law collection, may suggest the former (Cross & Hamer 1999: 104–105 [92]).

What is of interest linguistically in this canon is the use of the verb *fremman* in relation to *unrihthæmed* as a contrast to the state of *being in* such a union in the previous canon. *Fremman* connotes a very active sense of "to act" or "do;" "perform" and "effect" are alternative renderings (Cameron *et al.* 2003).[43] Usually, in the context of crime or sin, it carries the meaning of "perpetrate" or "commit," as can be seen from its use with the noun *morþor* ("murder;" Cameron *et al.* 2003).[44] A fair translation of "unrihthæmed fremme" would therefore be "commit unlawful intercourse." However, more seems to be indicated than simply that a woman commits adultery; the fact that the guilty woman's future is to be determined by her husband strongly suggests that female adultery is here conceived as an affront to masculinity—to the husband's gendered role of father and virile male. The use of *fremman* in connection with *unrihthæmed* may also suggest that the adulterous wife actively effects, advances or frames an improper sexual union and, as a consequence, undermines the *rihthæmed* or lawful sexual union in which the couple have been in up until this point. Leaving the punishment or penalty of the wife to the judgement of her wronged husband, this canon allows him to defend his own gendered position should he choose to divorce her and remarry.

This analysis of marital sexuality in the vernacular penitentials demonstrates that it is necessary to carefully consider—or reconsider—the way sex was framed in the Anglo-Saxon period. It is easy to dismiss the canons on marriage as straightforwardly condemning sexual acts outside of marriage, but it is evident that so much of marital sexuality was inherently connected to social status, something made clearer only when we consider the details

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[43] *fremman*, 3.

[44] *fremman*, 3. a. ; 3. a. iv. *morþor fremman*.

and nuances of the vernacular lexis. That Anglo-Saxon persons could subject or attach themselves to an *unrihthæmed*, or could be said to be in or within one, or effect or perpetrate such a sexual state, has interesting implications in terms of contemporaneous cultural perceptions of identity. The language used in these canons demonstrates that sexual intercourse was not seen solely as an isolated act. People are not said merely to have illicit sex, but they become identifiable as belonging to an improper union. In the examples above, the diction alludes to cultural movement: a person may shift from a *riht* sexual state to an *unriht* one; or they may awaken to the improper state of their sexual union. Thus the context of sexual acts determines the status of the union they are performed in. Who one was and with whom one had sex determined the social standing of one's sexual coupling. That this is so is further demonstrated in penitential canons addressing those who should have been celibate.

4.3 Hæmedþing*: a sexual union of sorts*

In the following example from the fourth book of the *Old English Penitential*, the word that signifies the sexual status of an ordained man who has returned to his former spouse is significant:

> Gif hwylc gehadod man, bisceop oþþe mæssepreost oþþe munuc oþþe diacon, his gemæccan hæfde ær he gehadod wære, ⁊ þa for godes lufan hig forlet ⁊ to hade feng, ⁊ hig þonne eft syþþan togædere hwyrfdon þurh *hæmedþing*, fæste ælc be his endebyrdnysse, swa hit bufan awriten ys be manslihte. (Frantzen 2012: SXB44.04.01)

> If any ordained man, bishop or mass-priest or monk or deacon, had his mate before he was ordained, and then for the love of God abandoned her and took orders, and they then afterwards returned again together through **a** *sexual association*, let each fast according to his rank, as it is written above for manslaughter.[45]

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[45] Emphasis mine.

The Church allowed the repudiation of a spouse in order to enter the monastic life. This course of action represented a permanent ending of the marriage with no possibility of sexual reconciliation. Thus, the denunciation of the sexual re-union of an ordained man and his former wife is unequivocally condemnatory in tone, the seriousness of such behaviour being equated, in penance terms, to manslaughter. The act or, more precisely, the condition of returning together sexually is described as *hæmedþing*, a difficult word to translate exactly, though it most literally means "sexual *thing*."[46] The Old English word *þing* has a broad use. It can mean an act or deed, but it can also signify a condition or set of circumstances (Bosworth & Toller 1882–1898: 1060–61; Clark Hall 1960: 360). These latter definitions underpin the meaning of *hæmedþing* as used in this context. It is, after all, a case of the guilty man exchanging one condition or set of circumstances for another: the disavowal of the celibacy of his holy orders (his *had*, or "hood") for the sake of reinstituting the original sexual condition of marriage. In the corresponding canon of the *Old English Handbook,* the description of the sin is: "þurh hæmedþingc h[e] eft underfenge" ("through a sexual thing he should again receive [her];" Frantzen 2012: DBC54.28.01).[47] The use of the verb *underfon*, here, links *hæmedþing* to something beyond a single act or deed, for it connotes the reception, or accepting of the former wife, taking her *eft* ("once more") as his sexual partner. Their re-union, from the Church's perspective, could not be considered as *rihthæmed*, regardless of it originally being so; it was, however, a sexual union of sorts, a sexual *thing*. A comparable canon is found in Halitgar's Penitential, though not in the section normally considered the source for the *Old English Penitential* (Schmitz 1898: 294 [6.8]). Here, though, the

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[46] "Carnal intercourse, venery, matrimony" (Bosworth and Toller 1882–1898: 500); "coition, cohabitation [...] marriage" (Clark Hall 1960: 165). Fischer explains it can be taken to mean "illegal marriage" (1986: 73).

[47] The original manuscript reads "hi" ("they"); however, this is not in agreement with the verb "underfenge," which is singular subjunctive.

euphemistic "iterum cognoverit" ("has again become acquainted with") is used to refer to the sexual re-union. Obviously, the Old English term is far more direct in indicating the nature of the union as sexual but, additionally, the use of a noun (*hæmedþing*) rather than a verb (*hæman*) emphasizes that the vernacular canon is signifying a relationship and not just an act. Similarly, *hæmedþing* is also the word used in the *Old English Penitential* to describe the forbidden sexual relationship subsequent to clerical marriage (Frantzen 2012: XSY43.01.01), as well as the word used for the improper sexual relationship *pursued* (OE *drifan*) by a bishop and other clerics (Frantzen 2012: YSXB44.03.01). Thus the pursuit of forbidden sexual unions, or illicit marriages, by clerics—not just acts of momentary weakness—is what is reflected in the use of *hæmedþing* in these contexts.[48]

It becomes apparent, from the foregoing, that both proper and improper unions—lawful marriage and illicit cohabitation—are conceived as sexualized, making sexual intercourse fundamental to these states. Thus married couples in a *rihthæmed* are identifiable by sexual activeness; Old English vocabulary allows for a presumption of marriage as a sexualized condition.[49] This is more than simply a linguistic construct, however, and that this is the case can be determined when we consider penitential canons that touch on matters of sexual reproduction. In examining dicta that discuss both sexual impotence and modes of non-reproductive sex, we gain insight into what Conor McCarthy calls "ideological suggestions as to what marriage is." The regulating of intimate sexual behaviour, of personal choices of sexual expression, represents the defining "boundaries" that "determine practice" within marriage (2004b: 4).

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[48] It should be noted too that in a heading in one manuscript version of *Scriftboc*, *hæmedþing* is used to describe heathen marriages (Frantzen 2012: S06.01.00).

[49] Compare the two *hæm*-stem words signifying married persons, *hæmedceorl* ("married man") and *hæmedwif* ("married woman") (Fischer 1986: 68, n. 130).

4.4 *Impotence and sexual "deviance" in marriage*

The Anglo-Saxon penitentials are surprisingly forthright in their defence of the right of a wife to have sexual intercourse with her husband, which we should probably interpret as her right to bear a child. Though childless marriage undoubtedly existed in Anglo-Saxon England, and though it is possible that celibate marriages were practiced by some, the penitentials provide us with insight into cultural expectation regarding childbearing. Notable is the canon in *Scriftboc* which stipulates that the inability of the husband to perform sexually frees the wife to find another husband:

> Wer and wif gif heo geþeoded beoð and se wer wið her hæman ne mæge, þæt wif hine mot forlætan and hire oðerne niman, gif on þone ceorl cuð bið. (Frantzen 2012: YSX12.07.01)

> Husband and wife, if they are joined but the man is not able to have sex with her, the wife may abandon him and take for herself another, if that is known about the man.

This canon, lacking any mention of a tariff of penance, is revealing for what it promotes ideologically concerning marriage. It demonstrates that even though a husband and wife are *geþeoded* ("joined") through the ceremony of marriage, they are not considered to be in a viable union if the husband is incapable of sexual intercourse. The fact that the word *hæmed* is not used to describe such a relationship is pertinent;[50] the marriage is in effect void, unviable as a sexual union, and consequently as a reproductive unit. The impotence of the husband can be read as nullifying the function of gender, which according to Christian teaching formed the foundation of marriage.[51] Since the originary,

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[50] It is significant that *hæmed* is not used either to describe the marriages of the virgin spouses in Ælfric's *Lives of Saints*; see Upchurch (2007: 55, 73 & 90).

[51] See Christ's words on the forming of male and female as the basis of the "one flesh" of marriage: Mark 10:6–8; Matthew 19:4–5. See also the discussion of Christ's words in a canon concerning legitimate marriage from Wulfstan's canon law collection (Cross & Hamer 1999: 147–149 [130]).

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reproductive function of male gender is absent, the wife is free to leave her husband, should she wish this, and to take another as a lawful husband. Thus her potential gendered role of wife-mother is preserved. Furthermore, if we deploy Frantzen's model of confession as narrative, such judgements concerning impotence, wherever taught by priests using their penitentials and whenever the provision for remarriage was invoked by a woman, give evidence of a societal querying of an impotent man's gendered status. Even though the prevailing understanding was that God created male and female, the frailty evident in impotence meant that gendered identities were vulnerable to cultural judgements and re-evaluation.

The importance of sexual reproduction in marriage is further highlighted by those canons that prohibit certain forms of conjugal sex. It is noteworthy that both oral and anal sex warrant lengthy penances, as can be seen from the following two canons in *Scriftboc*:

> Swa hwylc man swa on muð sæd forlæteð, fæste VII winter (Frantzen 2012: YXS02. 04. 01;
> Whoever releases seed into the mouth should fast 7 years.

> [G]if he on hire bæcþerm hæme, fæste X winter (Frantzen 2012: SX15. 02. 02
> If he has sex in her rectum, he should fast 10 years

The first of these canons concerns fellatio, but it does not specify who the recipient of the male's semen is. It could be referring to a same-sex act or a male-female act, including fellatio between married couples. The emphasis is on the ejaculative aspect of the act, the emitting of *sæd* into the mouth rather than into the vagina. As a non-reproductive form of intercourse, fellatio necessitates a particularly severe penance of seven years. The *Canons of Theodore*, in a parallel canon, notes that it had been judged by someone that penance should be for the rest of the sinner's life, and it also states that fellatio is "wyrreste" ("worst," meaning the worst evil; Frantzen 2012: SB75.03.01). What appears from the Church's perspective to have been most objectionable about fellatio, and

this would have been most pertinent to marital sex, is that it represented an abuse of the gendered and reproductive function of sex and the sexual state of *rihthæmed*.

The second of the *Scriftboc* canons is specifically referring to anal intercourse *within* marriage, for it is a continuation of a canon that explicitly pertains to a husband and his wife, and which states: "Man gif he hindan hæme mid his wife, fæste XL nihta" ("A man, if he should have sex with his wife from behind, should fast 40 nights;" Frantzen 2012: SX15.02.01). A comparison of the two statements is informative. The man who has vaginal intercourse from the rear is committing a relatively minor offence, for he is given just forty days of penance, whereas the man having sex "on hire bæcþerm," that is, in his wife's rectum (literally, "in her back-gut"), warrants a penance of ten years, one of the most severe tariffs in the whole of the penitential. This severity was likely due to anal sex representing the same abuse of gendered sexual function as was discernible in fellatio. Neither form of sexual intercourse was viable as an act of potential reproduction; neither was compatible with the gendered roles of father and mother. We cannot presume that married couples would have known instinctively that practicing oral and anal sex was forbidden by the Church. It is quite possible that either practice may have been viewed and performed by some as a form of contraception.[52] Unless we are to assume that priests publicly preached to their congregations concerning oral and anal sex—something unlikely in view of concerns over introducing dissident ideas—it is likely that confession was the vehicle for teaching these matters. If we consider the lived experience of confession, suggested by Frantzen's model of the penitentials as an oral-textual intersection, then we are enabled to perceive the Anglo-Saxon Church creating and reiterating boundaries for marriage, but not just in a broad, general way, but rather, specifically, in a way that attempted to define for

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[52] John Noonan (1986) provides a detailed study of contraception in the medieval period (and beyond).

individuals a proper view of marital intimacy. Each time a priest questioned a person about his or her marital customs, there was the potential to inculcate a particular perspective on sex. Indeed, at a micro-level, the Church was, to draw upon McCarthy once more, over-determining marriage and sex (2004b: 4).

4.5 *Misappropriating Semen*

A further canon in *Scriftboc* highlights the sinfulness of the misappropriation of male *sæd* or semen. The abuse of the gendered procreativity of a couple's *rihthæmed* is what appears here to warrant a fairly severe tariff:

> Wif seo ðe mencgð weres sæd on hire mete and ðone þigeð, þæt heo þam wæpnedmen sy ðe leofre, fæste III winter. (Frantzen 2012: XSY14.08.01)
>
> A woman [or, wife] who mixes a man's [or, husband's] semen into her food and consumes it, that she becomes more pleasing to the virile man, should fast 3 years.

The postulated motive for a woman ingesting a man's semen is clearly expressed: she intends to consume it in order to become more sexually desirable to the man, emphasized by the shift in diction from *wer* (man) to *wæpnedman* (virile man).[53] *Wif* and *wer* can be read either as "woman" and "man" or "wife" and "husband," and so the canon addresses the possibility of the *marital* misuse of a husband's semen, the harvesting of it by the wife in order to use it subsequently as some kind of aphrodisiac. The husband receives no tariff of penance, thus the emphasis is on female culpability and female sexual desire. It would seem, therefore, that an inherent perception within this canon is that the husband is not party to the wife's action, that the harvesting and consumption of semen are enacted surreptitiously. Though the method of obtaining the semen is not explained, if it were understood that the wife harvests semen after sexual intercourse with her husband, then the idea that

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[53] See Andy Orchard's definition of *wæpnedmen* as "virile man" (2007: 349).

she is denigrating her husband's gendered role of father and her own as mother is apparent. In that case, the act of sexual intercourse with her husband becomes a deception, even though it may have been performed in the "proper manner;" and in its re-appropriation as a vehicle for excessive female sexual desire, it is severed from its approved, normalized significance of gendered procreativity.

5 Conclusions: Anglo-Saxon sexuality

When we read about sex in the Anglo-Saxon penitentials, it becomes clear that from an ecclesiastical perspective sexual intercourse between a man and a woman is never perceived simply as an instinctive act, for it is always interpreted and judged according to the context within which it is performed. Thus having sex illicitly or improperly (*unrihtlice hæman*) is referred to; proper and improper sexual unions (*rihthæmed* and *unrihthæmed*) are pronounced upon; and the irregular sexual association (*hæmedþing*) is condemned.

The penitentials, though in no sense liberal in their ideology of marriage, are, nevertheless, pragmatic about marital sex: sex existed but it needed to be governed. Thus in the context of marriage, the penitentials should be seen as enabling the ecclesiastical regulation of a presumed, sexually active majority. Though probably rare, there may have been married couples in Anglo-Saxon England that entered a celibate "chaste marriage" (McGlynn & Moll 1996);[54] famously, Æthelthryth reportedly preserved her virginity through multiple marriages (Skeat 1966: 432–40);[55] and, too, it is probable that couples may have eventually ceased to be sexually active. However, these marriages are not the focus of the penitentials.

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[54] McCarthy observes that "although the Church allowed married chastity, it did not necessarily encourage it in practice" (2004b: 116).

[55] Dyan Elliott (1993: 74–93) discusses virginal marriage in the context of Anglo-Saxon hagiography.

Though, of course, the penitential restrictions on marital sex held the potential to minimize the sexual activity of married couples (Brundage 1987: 154–161; Flandrin 1983: 41–54, 58), the details of the canons demonstrate that sex was not solely represented within a context of constraint and proscription. The linguistic analysis presented here has demonstrated that sexual intercourse is actually represented as a fundamental characteristic of marriage; it is implicit in the penitentials that a married couple is a sexually active couple. Furthermore, there is in evidence a cultural expectation of a "fruitful" sexual relationship, as demonstrated in the analysis of those canons that defend the gendered roles of mother and father. Thus the penitentials reiterate and reinforce the Christian ideology of marriage as a sexual union based on the creation model of male and female. In their defence of the *rihthæmed*, the penitentials became the vehicle for (re)formulating a normal, or expected sexuality.

Patristic teaching concerning the validity and purpose of sex—that sex is to be performed only in a lawful marriage and with the sole purpose of procreation—is also defended throughout the penitentials. Though, of course, sex in marriage is hardly an innovation of these vernacular texts, we should not assume that the Anglo-Saxon Church was simply promoting what everybody already knew or believed about marriage and sex. It is clear from reading the vernacular penitentials, that many canons on marital sex can be traced to earlier Latin penitentials or other ecclesiastical texts, as well as to the Old and New Testaments. However, it is a narrow view that assumes that pre-existing pronouncements on sex were always definitive. Rather, statements affecting the intimate lives of people had to be reiterated in order to preserve their fundamental authority; and the evidence discussed here shows that also, at times, former pronouncements were adapted or reinterpreted for indigenous concerns. Furthermore, the way the ideology of marital sexuality is framed within the vernacular often provides us with a more nuanced understanding of how

the Anglo-Saxon Church operated its educational and regulatory processes relating to sex. Drawing once again on Frantzen's model of the oral-textual nature of the penitentials, we can read the vernacular penitential canons as an engagement with the lived confessional experiences of actual people, and, moreover, as the Church's ongoing reiteration of normative values that served to construct a sexual model for men and women.

Taken together, the linguistic sexual integrality and the implied, gendered reproductive function of *rihthæmed*, as used in the penitentials, is suggestive of a notion of medieval sexuality, that is, of some kind of sexual identity. We should not discount the cultural significance of the choice and use of the noun *hæmed* that so readily conveys the sexual aspect of marriage ahead of other qualities we might associate with marriage. As has been demonstrated, whereas the marriage ceremony was a necessary precursor to the state of being married, it was the presumed sexual activeness of the couple that defined the approved union; and it is this defining that offers the modern reader a perspective of the Anglo-Saxon married couple as something akin to a sexual identity and not solely as a social category. It is true that this identity is discursively projected; it is not necessarily personally expressed or perceived, something we may associate with modern ideas of sexuality or sexual identity. It is not, therefore, a sexual identity definable in terms of sexual orientation. Neither is it, arguably, an individual identity, but rather it is one that exists only when *wif* and *wæpned* come together in a proper sexual union.[56]

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[56] Scholarship relating to sexual identity/identities in Anglo-Saxon texts has rarely focused on marital sexuality. For example, Frantzen, R. D. Fulk and David Clark all discuss the *bædling*, the "sexual type" referred to in the *Canons of Theodore* in the context of inter-male sex (Frantzen 1998: 163–167, 173–175; Fulk 2004; Clark 2009: 54–67). Halperin analyses, in the context of the history of homosexuality, some of the limits of definition associated with the notion of pre-modern sexual identities (2002: 32–44).

Nevertheless, it is important to readdress perceptions of medieval sexuality as expressed in recent scholarship, especially in view of Payer's statement that "[t]he concept of sex or sexuality *as an integral dimension of human persons*, as an object of concern, discourse, truth, and knowledge, did not emerge until well after the Middle Ages" (Payer 1993: 14).[57] Payer is here referring to Michel Foucault's thesis about the development of the history of sexuality in the West (Foucault 1998), and, specifically, to what he reads as Foucault's "claim about the relatively late date for the invention of sex and sexuality" (Payer 1993: 14).[58] Payer's argument that sex(uality) is never a discrete "object of study" may be valid in the context of his area of study, namely Latin academic and theological writings of the later Middle Ages. His premise for this perspective is that there is a distinct absence of medieval Latin vocabulary for sex and sexuality, and this, he argues, "points to the absence of corresponding concepts" (Payer 1993: 14–15). The analysis in this essay of the use of Old English *hæmed* and related words does, however, indicate that the Anglo-Saxons had a vocabulary that revealed the availability of the concept of sex as a way of life, as custom, as an expectation, and not solely as the biological act of intercourse. Sex, as revealed in the penitentials, intersects with notions of status, with the religious demarcation of culturally performed conditions, states that were lawful or illicit, proper or improper. Furthermore, as we have seen, the dissemination of sexual instruction, made possible by the enacting of the priestly roles of confessor and teacher, was part of an ecclesiastical agenda to educate and reform the laity. Thus, when reading the penitential dicta on sex, it is important that we do not simply view them as

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[57] My emphasis.

[58] As Clark points out, Foucault's discussion of the creation of a nineteenth-century discourse of sexual identity is often over-simplified: "Foucault does not actually claim to be describing what 'real people' were like or what they did, but more specifically the way their acts were discussed and put into discourse" (Clark 2009: 10).

lists of sinful acts with their corresponding tariffs of penance, but rather observe the evidence for contemporaneous reiteration and reinforcing of a binding, discursive authority on matters of sexuality. It is not my intention here to advocate for the Anglo-Saxon world, or the medieval period more generally, a modern definition and understanding of sexuality. Nevertheless, Payer's idea that "[s]ex as a human dimension was not thought about or talked about" (Payer 1993: 14) in the medieval period is not so readily apparent when one considers the Anglo-Saxon vernacular terms that embrace sexual behaviour, and the penitential context within which these are used.[59] An awareness of the integrality of sexual function in the noun *hæmed* and related compound words should serve to elucidate the medieval history of sexuality, as it builds our appreciation of an Anglo-Saxon lexis that allowed for a concept of culturally-determined states definable, or identifiable, by sex.

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[59] My semantic analysis of sexual vocabulary in relation to marriage is by no means exhaustive here. For example, I have not addressed the use of words used with the stems *gemeng-*, *gemæn-* and *gemæc-*, all of which have the sense of "sexual intercourse" but are in certain contexts also used to refer to marriage. See Fischer (1986: 106–110).

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