

Examination of the Accused Bride in 4Q159: Forensic Medicine at Qumran

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The focus of this article is a text from Qumran that requires the examination of a bride who is accused of premarital intercourse. The text is an adaptation of the Biblical law in Deut. 22:13–22. According to the law in Deuteronomy, if a newly-married man claims that he found his bride not to be a virgin, her parents must rebut the charge by producing a bloodstained garment or bedcloth proving that her hymen had been broken at the consummation of the marriage:

The girl's father and mother shall produce the evidence of the girl's virginity before the elders of the town at the gate. And the girl's father shall say to the elders, "I gave this man my daughter to wife, but he has taken an aversion to her; so he has made up charges, saying, 'I did not find your daughter a virgin.' But here is the evidence of my daughter's virginity!" And they shall spread out the cloth before the elders of the town (Deut. 22:15–17; New JPS translation).

Although bloodstained cloths and garments are widely used to prove the virginity of brides in the Middle East and elsewhere,¹ such evidence is notoriously unreliable. It was already recognized in Talmudic times that the absence of blood is no proof of premarital intercourse, since a girl's hymen may have been broken or stretched by vigorous activity or injury.² It was likewise recognized that bloodstains are not

It is a great personal pleasure for me to take part in this volume honoring my teacher and friend, Prof. Yochanan Muffs. Yochanan was my teacher at Camp Ramah in Wisconsin in the 1950s and later at the Jewish Theological Seminary. It was he who first introduced me to the fascinating world of Biblical scholarship, and his model that led me to choose the field as my life's work. I cannot imagine a more exciting, encouraging teacher or a more sensitive, profound expositor of the Bible and cognate literature. The succeeding years have brought continued manifestations of his extraordinary scholarly and personal qualities. Nothing could please me more than to acknowledge my debt to him and to join in this expression of good wishes.

1. S. R. Driver, *Deuteronomy*, 3rd ed., ICC (Edinburgh, 1902; reprint: 1960), 255; E. Westermarck, *Marriage Ceremonies in Morocco* (London, 1914), 159, 228, and passim (see index s.v. "Virginity, marks of the bride's"); H. Granqvist, *Marriage Conditions in a Palestinian Village* (Helsingfors, 1931–1935), 2:127–30; J. J. Meyer, *Sexual Life in Ancient India* (New York, 1930), 1:43, n. 1. The practice figures in the recent movie *Wedding in Galilee* about an Arab village in Israel. For the practice among Jews in Talmudic through modern times see TB *Ketubbot* 16b (מפה של בתולים); Mid. *Tanḥuma*, Korah, sec. 9; Karaite sources cited by M. Malul, "SUSAPINNU. The Mesopotamian Paranymp and His Role," *JESHO* 32 (1989), 264; *EJ* 11:1045; I. Ben-Ami and D. Noy, eds., *Studies in Marriage Customs*, Folklore Research Center Studies 4 (Jerusalem, 1974), 54, 174, 260, 262 (ref. courtesy of my colleague, Prof. Dan Ben-Amos).

2. Talmudic sources mention this, as well as the fact that the hymen may not always be perforated or bleed on first intercourse. See J. Preuss, *Biblical and Talmudic Medicine*, trans. F. Rosner (New York, 1978), 477, 479; cf. W. J. Sweeney III, *Woman's Doctor* (New York, 1973), 260.

proof of virginity, since the evidence can be falsified by the bride at the time of consummation or later by her parents, who keep the cloth afterwards in case it is required as evidence.³ Talmudic sources report that in some places companions (שושבינין) of the bride and groom would frisk them both as they entered the nuptial chamber to make certain that she did not bring an already stained cloth with her or that he did not bring a clean cloth to switch with the legitimately stained one in order to destroy the evidence of virginity in case he should later decide to bring false charges.⁴

The inadequacy of the cloth as evidence is reflected in the halakhah, which holds that in fact the case must be resolved by witnesses. As read by the halakhah, Deut. 22:13–22 refers to a case where the new husband claims that, finding no evidence of virginity, he investigated and learned from others that his fiancée had engaged in sexual relations after becoming engaged to him. He must produce two witnesses who saw her sin, and her parents can disprove the charge only by producing other witnesses who counter the husband's, thus laying out the facts "like a cloth."⁵ This forced interpretation is testimony to the impracticability of the law as stated in Deuteronomy.

The adaptation of this law found at Qumran represents a pre-rabbinic attempt to employ other means to resolve the case. The text, 4Q159, is a fragmentary collection of laws paraphrasing and modifying a number of Biblical laws. Lines 8–10 of the text read as follows:⁶

[כי יוצי איש שם רע על בתולת ישראל אם ב]יום] קחתו אותה יואמר ובקרהו]

3. The possibility that the bride used blood from a bird is mentioned in TY *Ketubbot* 1:1, 25a tenth line from end; 4:4, 28c line 7. Abarbanel and Luzzatto also mention the possibility of deception; פירוש שד"ל על . . . דין יצחק אברבנל (Jerusalem, 1979), 209c; P. Schlesinger, ed., חמשה חומשי תורה (Tel Aviv, 1965), 542.

4. TB *Ketubbot* 12a; see the commentaries of Rashi and Meiri (בית הבחירה על מסכת כתובות), ed. A. Sofer [Jerusalem, 1947], 55–56; and Steinsaltz's marginal note s.v. משמש; TY *Ketubbot* 1:1, 25a; T. *Ketubbot* 1:4ff. Ploss and Bartels cite a south Russian practice of strip-searching the bride to be sure she is not attempting to feign virginity; H. Ploss and M. Bartels, *Das Weib in der Natur- und Voelkerkunde*, 11th ed., ed. F. F. von Reizenstein (Berlin, 1927), 2:51. For the Near Eastern background and parallels to the שושבינין, see M. Malul, "SUSAPINNU," 241–78; השושבינין בטקס הנישואין; עיון במקורותיו של מוסד חברתי עתיק יומין (forthcoming).

5. *Sifre Deut.* secs. 235–37; TB *Ketubbot* 11b, 46a; Maimonides, *Mishneh Torah*, Hilkhot Na'arah Betulah, 3:6, 12. The Septuagint, Vulgate, and Peshitta read in v. 20: "But if the charge proves true and (evidence of) virginity was not found in her." According to Rofé, this is in the spirit of the halakhic view that conviction does not depend on the cloth alone; A. Rofé, מבוא לספר דברים (Jerusalem, 1988), 149, n. 27. Josephus, *Ant.* 4:246, speaks vaguely of "what evidence [the husband] may have."

An interesting defense of the literal interpretation of the cloth is offered by Luzzatto, who suggests that the Torah intentionally relies on the cloth, despite its inconclusiveness, in order to protect non-virgin brides from excessive punishment. In his view, although the Torah does not require judicial punishment of girls who lose their virginity before engagement (Exod. 22:15–16; Deut. 22:28–29), popular sentiment would have demanded the execution of those who had done so and concealed the fact. Hence, he holds, the law is designed to discourage husbands from bringing charges by warning them that they would be unable to prove the charges and would then be punished for making them; Luzzatto (n. 3 above), 542.

6. 4Q159, fragments 2–4, lines 8–10 (from J. M. Allegro, with the collaboration of A. A. Anderson, Qumran Cave 4/I (4Q158–4Q186), *DJD* 5 (Oxford, 1968), 8 and pl. II; corrected readings from

נאמנות ואם לוא כחש עליה והומתה ואם ב[שקר] ענה בה ונענש שני מינים [ולוא]
ישלח כול ימיו . . .

If a man defames an Israelite virgin, if he speaks out on [the day] he marries her, trustworthy [. . .] shall examine⁷ her/it, and if he has not lied about her, she shall be executed. But if he testified against her false[ly], he shall be fined two minas [. . .] and he may [not] divorce (her) for his entire life. . . .

The key question raised by the Qumran text is who or what is examined and by whom. The feminine adjective נאמנות following the lacuna indicates that the examiners are women. Several later parallels make it virtually certain that what they examine is the bride herself. Hence, the original reading of the text was probably נאמנות נשים ובקרה, "trustworthy women shall examine her."

The first parallel is found in the commentary of R. Menahem b. Solomon ha-Meiri, a fourteenth-century Provençal talmudist, on Tractate *Ketubbot*.⁸ Talmudic sources mention two grounds which might lead a groom to suspect his bride's virginity: her failure to bleed at consummation (דמים, "[lack of] blood") and an open, unconstricted vaginal passage (פתח פתוח, "an open door"). The Meiri notes that grooms are sometimes suspicious even if their brides bleed or their vaginal passages are constricted, ostensibly indicating virginity, since both of these effects can be produced fraudulently, as indicated in medical books of his time. Undoubtedly he has in mind such tricks as the bride producing blood by cutting herself or by inserting a sponge or a small pouch containing blood from fowl that bursts in the vagina during intercourse; narrowing the vaginal opening by inserting a tampon or by rubbing the vulva with an astringent such as alum; or having the broken hymen, or part of the labia, stitched together to produce both effects.⁹ The Meiri

J. Strugnell, "Notes en marge du Volume V des 'Discoveries in the Judaean Desert of Jordan'," *RQ* 26 (1970), 178, and R. Weiss, Review of *DJD* 5, in *קרית ספר* 45 (1970), 58 col. i (repr. in R. Weiss, *Studies in the Text and Language of the Bible* [Jerusalem, 1981]), 326 [in Hebrew]. T. H. Gaster assumes that there is no lacuna following ובקרה and construes נאמנות as an adverbial accusative, "reliably," modifying the verb; *The Dead Sea Scriptures*, 3d ed. (Garden City, NY, 1976), 93; cf. the one-letter restoration נאמנות [ו] ובקרה by Mr. Y. Buchsenbaum of Jerusalem, cited by Rofé, *מבוא לספר דברים*, 158. However, the parchment is broken on the left edge of the final letter of ובקרה, and there is certainly a word missing (ולוא) in the same spot one line below.

7. For this meaning of בקר, see M. Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (repr.: New York, 1950), 1:187.

8. Meiri, *בית הבחירה על מסכת כהובות*, ed. Sofer, 56, to TB *Ketubbot* 12a.

9. These and other techniques are catalogued by E. Duehren (pseud. of Iwan Bloch), *Das Geschlechtsleben in England* (Charlottenburg, 1901), 1:369–81 (mostly from European sources); Ploss and Bartels, *Das Weib in der Natur- und Voelkerkunde*, 2:48–51; see also Daisy H. Dwyer, *Images and Self-Images: Male and Female in Morocco* (New York, 1978), 64 (reference courtesy Dr. Rachel Wasserfall and Prof. Harvey Goldberg).

According to Duehren, similar practices were common in classical antiquity, but he cites no source. Prof. Mirko Grmek of Paris kindly referred me to Galen's *Peri euporiston* (*De remediis parabilibus*) [On Handy Medications] II, 26: 12 and 38, where various pastes are prescribed for application to the vulva in order to make raped and nonvirginal women seem like virgins; C. G. Kuhn, *Claudii Galeni, Opera Omnia* 14 (Hildesheim, 1965), 478, 485–86 (my colleague, Prof. Martin Ostwald, was kind enough to translate the Greek for me). Duehren states that European writers on the subject all rely ultimately on Avicenna (Ibn Sinaa), the great Persian medical authority (980–1037), and Albertus Magnus (Germany, 1200–1280). A case in point is I. B. Sinibaldus, *Geneanthropeia* (Frankfurt, 1669), 446–49,

quotes halakhic sources that hold that the companions (שושבינין) of the bride and groom could by themselves verify only that the bride had not produced blood-stains fraudulently, but that they had no way of determining whether or not her vaginal passage was narrowed fraudulently. He conjectures that in such a case the companions would have "respected women" (נשים חשובות) determine whether or not the bride had produced narrowness by fraud.

Two other parallels are attested in more recent times. According to A. Musil, among the fellahin of Transjordan in the nineteenth century, if a husband publicly accused his bride of not being a virgin, she would be examined by experienced women of the better families ("Erfahrene Frauen, und zwar Frauen aus allen besseren Familien, müssen das Mädchen untersuchen").¹⁰ In a twentieth century study of Morocco, D. W. Dwyer describes what might happen at a wedding if the groom

discovers that his putatively virginal bride is not a virgin. He might storm out of the bridal chamber and curse the bride and her family while pointing to the room, which a flock of women immediately enter. Thereupon the bride is immediately checked. Should her virginity still be in dispute, outside experts, old well-regarded women and/or Western-trained doctors, might be called in for their diagnoses.¹¹

The role of trustworthy women in a related matter is attested in a Hebrew certificate of accidental defloration (שטר מוכח עץ) written in Florence, Italy, in the sixteenth or seventeenth century.¹² The document attests to the fact that a three-year old girl broke her hymen in a fall from a chair. "Reliable, honest women" (נשים נאמנות וכשרות) witnessed the incident and so testified before the authorities who wrote the document and gave it to the girl's parents to save as evidence, when she marries, that her hymen was not broken by intercourse.¹³

who paraphrases Avicenna on the use of astringents by prostitutes and deceptive brides (Mr. Michael Klassen was kind enough to translate Sinibaldus for me). Galen, Avicenna, and perhaps Albertus must be the ultimate source for the Meiri's reference to medical books. For the use of astringents by English prostitutes to narrow the vaginal passage, see J. T. Henke, *Gutter Life and Language in the Early "Street" Literature of England* (West Cornwall, CT, 1988), 57f. s.v. "Clinker-devise" (reference courtesy of Mrs. Frankie Rubinstein).

The stitching of the labia is mentioned (from Persia) by Ploss and Bartels (see n. 4 above), 2:50 (source of information unclear; it is cited by Duehren, *Das Geschlechtsleben*, 370, n. 1, from an earlier edition of the same work). Hymenorrhaphy (stitching of the hymen) is still performed in various parts of the Mediterranean world. Gynecologists from Egypt and Greece have told me of the practice in both countries, and it is reportedly practiced in Italy and Japan as well; W. H. Masters, V. E. Johnson, and R. C. Kolodny, *Masters and Johnson on Sex and Human Loving* (Boston, 1986), 33; I have heard unconfirmed reports that it is done in Sicily and Spain. The practice is echoed in literature in "The Pretended Aunt," attributed to Cervantes, where the "niece" begs her "aunt" not to stitch her up yet again, and in the Spanish renaissance play "Celestina" (ca. 1525), where a madame is said to have "marred and made up again 100,000 maidenheads." See F. M. Duttonhofer, trans., *Muster-Novellen des . . . Cervantes* (Pforzheim, 1840) 3:154–55 (the passage does not appear in the English translations of Cervantes that I have consulted); Fernando de Rojas, *Celestina*, ed. D. S. Severin (Warminster, 1987), 45 (ref. courtesy Prof. Robert Melzi of Bala Cynwyd, Pennsylvania).

10. A. Musil, *Arabia Petraea* (Wien, 1908) 3:208.

11. Dwyer, *Images*, 63.

12. A. Rofé, "La fedè di castità di Ricci Nunes Franco," *AION* 47 (1987), 435–40.

13. A girl is examined by her mother and other women, according to a form for such cases given in תקן סופרים of R. Moses Almoslino of Salonika (ca. 1515–1580; published with glosses by R. Samuel Jaffe, Leghorn [Livorno], 1789), no. 32; cf. A. Gulak, *איצור השטרה* (Jerusalem, 1926), no. 400 (Italy).

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Precisely what the examiners would look for and what this would be thought to prove is not stated in the sources cited. An immediate examination and search might determine whether the bride had been sutured, inserted a tampon or a container of blood, had cut herself to produce blood, or perhaps whether she had used an astringent. If the bride did not bleed or have a narrow vaginal passage, examination could certainly determine whether or not her hymen was still intact and unstretched. What could be done with this evidence, however, is not certain. Much would depend on the sophistication of the examiners. There is a natural opening in all normal hymens, but its size varies. An intact hymen with a small opening would be strong evidence that the girl had never been penetrated, proving her still a virgin and indicating that even her husband had not penetrated her, perhaps because of impotence, possibly temporarily induced by anxiety. Fresh lacerations of the hymen would indicate that she had just been deflowered and that her husband was lying or, in his inexperience, didn't realize that he had deflowered her. But they would not necessarily prove that this had been the girl's first experience of intercourse. A large natural opening of the hymen, or a previous lover with a small penis, might have left her hymen intact after previous intercourse. In the opinion of modern medical practitioners, there is no absolutely certain way to prove that a recent act of coitus was not a girl's first.¹⁴ Nevertheless, examination of the bride is a far more reliable test than examining a cloth.

The consistent reference to trustworthy, well-regarded prominent women as examining accused brides, and as attesting to accidental damage to the hymen, in sources from Israel, Transjordan, Provence, Italy, and Morocco over a span of two millennia makes the restoration of נשים נאמנות in 4Q159 virtually certain. This document represents the earliest known attempt in Jewish law to deal with the accusation against a bride in a way that from a medical point of view is more reliable than examination of a garment or cloth—an early example of forensic medicine.¹⁵

1644; ref. courtesy Jonas C. Greenfield). "Women who examined the matter" are also relied upon in a similar certificate issued by the Islamic court of Aleppo in 1756, according to Abraham Marcus (private communication); three such documents are mentioned in his *The Middle East on the Eve of Modernity* (New York, 1989), 324 (ref. courtesy Frank Stewart).

There were, of course, others who might examine accused brides. Dwyer, *Images*, 63, notes the role of doctors in modern Morocco. In pre-modern times this role was performed by midwives; see Westermarck, *Marriage Ceremonies in Morocco*, 229f.; Marcus, *The Middle East*, 324; M. Friedman, ריבוי נשים בישראל (Tel Aviv, 1986), 169–70, 263. According to the Midrash Hagadol, Isaac himself examined Rebekah digitally before their marriage; *Midrash Hagadol* to Gen. 24:67, ed. M. Margulies (Jerusalem, 1967), 411; according to Pirke de-Rabbi Eliezer, chap. 16, p. 38a, the examination consisted of digital defloration (ref. courtesy my colleague, Prof. Judah Goldin). According to the apocryphal Book of James, secs. 19–20, Mary was likewise examined digitally for virginity by Salome; *New Testament Apocrypha*, ed. E. Hennecke & W. Schneemelcher, 385 (ref. courtesy Prof. Tikva Frymer-Kensky and my colleague Prof. Robert A. Kraft).

14. My thanks to the physicians I consulted on the subject: Drs. Panayotis Apostolides, Michael Ellis, Steven Sondheimer, Theodore Tapper, Robert Weinstein, and an Egyptian gynecologist who wishes to remain anonymous (the practice of hymenorrhaphy is illegal in Egypt).

15. Since the text indicates that this type of examination was known in pre-Talmudic times, the rabbis presumably knew of it and rejected it; cf. Preuss, *Biblical and Talmudic Medicine*, 477–78. The Talmud describes a test performed by Rabban Gamaliel III on a bride who did not bleed and claimed she was still a virgin because her husband never penetrated her, but the method is folkloristic rather than medical: the woman is seated on an open barrel of wine; if the aroma of the wine comes up through

POSTSCRIPT: Shortly before this article went to press I learned that the restoration proposed above is virtually confirmed by an unpublished passage of the *Damascus Document* from Qumran Cave 4. A section dealing with precautions to prevent the father of the bride from misleading her future husband contains the provision that under certain circumstances—apparently, if she has a bad reputation prior to marriage—a man should not marry a girl except after examination by נש[ים] נאמנות וירעות ברורת ממאמר המבקר, “trustworthy, knowledgeable women chosen on the instructions of the מבקר.” This passage, from the composite text of manuscript D prepared by J. T. Milik, was called to my attention by Elisha Qimron; Joseph M. Baumgarten kindly showed me the text and photographs of the pertinent fragments. For a brief description of this section of the text, see Baumgarten, “The Laws of the *Damascus Document* in Current Research,” in M. Broshi, *The Damascus Document Reconsidered* (Jerusalem: Israel Exploration Society and The Shrine of the Book, 1992), 54.

her mouth she is declared a non-virgin; if it does not come up, she is declared a virgin; TB *Ketubbot* 10b; cf. Preuss, *ibid.*, 478. Curiously, Maimonides mentions that the bride is examined in such a case (ברדיקן אורתה), but he does not specify the type of examination; *Mishneh Torah*, Hilkhot Ishut 11:12. According to the Maggid Mishneh, Maimonides thereby implies that other types of tests are also acceptable. Perhaps, as a physician, he means to leave room for direct examination of the bride as mentioned by the Meiri.

W. W. Hallo has argued that an Old Babylonian document (18th c. B.C.E.) reflects examination of an accused fiancée by female elders (or female witnesses; *šībātum* can mean either). See Hallo, “The Slandered Bride,” in R. D. Biggs and J. A. Brinkman, eds., *Studies Oppenheim* (Chicago, 1964), 95–105. Precisely what the woman was accused of is debated. Hallo’s interpretation has been challenged by Landsberger, “Jungfräulichkeit: Ein Beitrag zum Thema ‘Beilager und Eheschliessung,’” in J. A. Ankum et al., *Symbolae David* (Leiden, 1968), 2:90, n. 6; R. Westbrook, *Old Babylonian Marriage Law*, *AfO Beiheft* 23 (Horn, Austria, 1988), 44, n. 109; 116.