

Course Reading

Matthews, Victor H. "Honor and Shame in Gender-Related Legal Situations in the Hebrew Bible." In *Gender and Law in the Hebrew Bible and the Ancient Near East*, edited by Victor H. Matthews, Bernard M. Levinson and Tikva Frymer-Kensky, 97-112. Sheffield: Sheffield Academic Press, 1998.

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Conclusion

The laws of Deuteronomy and the Dinah story illustrate the complex role of gender in the honor of the family and its limitations. In the biblical family, generation superseded gender. Wives were subordinate to husbands, and girls might be under the control of their brothers, but both daughters and sons were subordinate to both mother and father. Abandonment of these obligations endangered the family's position in the community. In Genesis, in the days before the state, families acted to ensure their own honor: when Dinah dishonored Jacob, the brothers took over to recoup their honor and in the process, Jacob claims, further dishonored him by their behavior. In the more established days of Deuteronomy, the public had an interest in preserving the rights of parents over children and (upon cue from the parents) acted as a unity to restore the honor of the family by executing the offending children. In all these instances, gender does not influence the relationship between the parents, the children and the community. But gender defines the very nature of the obligation of the children. Boys were obligated to be disciplined, act properly, and not squander the family wealth. Girls were certainly not allowed to be drunk or disorderly, but they had the special obligation to stay chaste until marriage as virgins.²²

22. For the connection between stoning and hierarchy, see J.J. Finkelstein, *The Ox that Gored* (Transactions of the American Philosophical Society NS, 71.2; Philadelphia: American Philosophical Society, 1981).

HONOR AND SHAME IN GENDER-RELATED LEGAL SITUATIONS IN THE HEBREW BIBLE

Victor H. Matthews

When the Book of Deuteronomy (Deut. 12–26) and other legal codes in the Bible refer to women and deal with women's issues, they are seldom interested simply in regulating physical relationships between men and women. Rather, these codes are concerned with more sweeping issues of social justice and the equitable distribution of goods and services through the maintenance of a strong subsistence economy.¹ In addition, the legal vocabulary used when dealing with women and with sexuality is concerned far more with property than with gender and sexual contact. For traditional societies, such as the one that is portrayed in the Bible, social justice and sexual conduct are the basis of morality. Consequently, teachings dealing with virginity, marriage, divorce, infidelity, adultery, promiscuity, and rape are not only concerned with the sexual relationships of individuals or couples, but also with the social and economic relationships between the households in the village as a whole.²

When a marriage occurred, this event ratified an important political and economic covenant between the bride's household and the household of her husband.³ The precise economic significance of a particular

1. D.C. Benjamin, *Deuteronomy and City Life* (Lanham, MD: University Press of America, 1983), pp. 12-18.

2. R. Gordis, 'Love, Marriage, and Business in the Book of Ruth: A Chapter in Hebrew Customary Law', in H.N. Bream, *et al.* (eds.), *A Light unto My Path: Old Testament Studies in Honor of Jacob M. Myers* (Gettysburg Theological Studies, 4; Philadelphia: Temple University Press, 1974), pp. 241-64, and C.L. Meyers, *Discovering Eve: Ancient Israelite Women in Context* (New York: Oxford University Press, 1988), pp. 123-24.

3. C.R. Fontaine, 'The Sage in Family and Tribe', in J. Gammie and L. Perdue (eds.), *The Sage in Israel and the Ancient Near East* (Winona Lake, IN:

sexual relationship was indicated by the various titles that households bestowed on women (harlot, concubine, wife, virgin, queen). The rendering of these titles in English today carries almost no economic connotations, but, they may carry unnecessarily negative moral overtones. Each title is not so much an indication of the ethical behavior of a particular woman but rather of the economic and social relationship between her household and the household of her husband.

Shaming as a Means of Social Control

The biblical text is a product of a 'tradition-oriented' society, which places a great deal of value on honorable behavior. Codes of correct behavior are the measure of honor or dishonor. Thus shame, guilt and embarrassment, which are the personal reflections of improper behavior, are based on social experience. They are reinforced by rituals and shared attitudes, and are a product of group processes endowed with the power of coercion.⁴ Shame and shaming is less likely to be concealed in traditional societies than in modern ones.⁵ They also function as a means of social modification through the imposition of legal measures and procedures. When the shaming mechanism fails to suffice, harsher measures are then prescribed by law to ensure social order.

Every member of a household, which was the primary social unit in ancient Israelite society, had an obligatory social role to uphold the honor of the household through his or her speech and actions. If a member of the household performs or is about to perform some action that would reflect badly on the household, it is the responsibility of every other member to attempt to prevent a repetition of the dishonorable action or to convince the deviant to reconsider his or her action(s) and come back into compliance with honorable behavior. In addition,

Eisenbrauns, 1990), p. 162, and G. Lerner, *The Creation of Patriarchy* (New York: Oxford University Press, 1986), pp. 67-68.

4. S.E. Cahill, 'Embarrassability and Public Civility: Another view of a Much Maligned Emotion', unpublished paper presented to the 1992 Annual Meeting of the Midwest Sociological Society, pp. 3-5, and E. Goffman, *Relations in Public: Microstudies of the Public Order* (New York: Basic Books, 1971).

5. T.J. Scheff and S.M. Retzinger, *Emotions and Violence: Shame and Rage in Destructive Conflicts* (Lexington, MA: D.C. Heath, 1991), pp. 4-6, argues that 'shame cultures' and 'guilt cultures' are not part of an evolutionary process from traditional to modern societies. Rather, 'in modern societies, references to shame still appear frequently but in a disguised form'.

each member must also protect the household's honor against insults by outsiders—both physical and verbal.

Aside from physical retorts in defense of the household, one of the principal methods used, short of legal remedies, is shaming speech. Unlike insults and taunts, which are components of aggressive behavior and may or may not be rationally based,⁶ shaming speech is a social control mechanism. It is designed, through reasoning or by employing a sort of 'vocabulary of embarrassment',⁷ to make the prodigal or the enemy rethink their plans or suppress their unacceptable speech. Shaming speech calls on each person to behave honorably, with carefully thought out actions, not in the manner of fools who act in the height of passion, without thinking.⁸ Generally, shaming speech will take the form of a wisdom argument, calling on traditional practice, social codes, and covenantal allegiance.⁹

Embarrassment or shaming can thus be conceived as a positive process, designed to maintain social order and personal civility.¹⁰ Its purpose, when used with a positive intent, is to elicit a reevaluation of actions, feelings, or behavior, and a conclusion of having done something wrong.¹¹ Thus Tamar's argument against Amnon's sexually

6. R.J. Felson, 'Shame, Anger, and Aggression', *Social Psychology Quarterly* 56 (1993), pp. 305-309, esp. p. 307.

7. E. Goffman, 'Embarrassment and Social Organization,' in *Interaction Rituals* (Garden City, NY: Anchor Books, 1967), pp. 99-112 describes 'incidents' of embarrassment that can cause flustering, loss of composure, hostility, or flight by persons who have committed a social error in their speech or behavior. Similar reactions can also occur among witnesses of this behavior if it is sufficiently embarrassing to them. Thus, much of our social behavior is geared either to avoiding socially unacceptable situations and actions or to suppressing our public reaction to them.

8. There are numerous examples in wisdom literature admonishing the wise to consider the implications of their words before they speak. For instance, the Assyrian sage Ahiqar says, 'Above all else, control your mouth. Do not repeat what you have heard. A human word is a bird. Once released, it can never be recaptured' (V.H. Matthews and D.C. Benjamin, *Old Testament Parallels: Laws and Stories from the Ancient Near East* [Mahwah, NJ: Paulist Press, 1991], p. 180). See also Prov. 26.2 and Sir. 27.4.

9. See my treatment of the story of David and Abigail in V.H. Matthews, 'Female Voices: Upholding the Honor of the Household', *BTB* 24 (1994), pp. 8-15, esp. p. 10.

10. Cahill, 'Embarrassability', p. 1.

11. M. Lewis, *Shame: the Exposed Self* (New York: The Free Press, 1992), p. 2.

aggressive proposal attempts to sketch out both 'proper' or 'wise' action and shameful or foolish behavior (2 Sam. 13.11-13).¹² Of course, shaming speech can also be used to harass and dominate someone else, but in those cases it is not based on upholding honorable behavior, and is better termed malicious speech or slander.¹³

On those occasions when it is necessary to embarrass a person publicly by using shaming speech, the argument must be publicly staged in order to draw on the energies and backing of a desired audience.¹⁴ The aim is the same as in the private setting, to sustain public order, and may be employed by either male or female characters. It should be noted that embarrassment, guilt, and shame all elicit similar behavior reactions and thus will not be greatly distinguished here.¹⁵ Shame can elicit the strongest reactions and is based on the most serious charges, but it, like the others, is intended as a form of behavioral modification.

One particularly good example of this type of public confrontation is found in the law in Deut. 25.5-10. Based on the necessity to ensure a consistent inheritance pattern from one generation to the next, the law of levirate obligation also placed a heavy burden on the levir. It was his responsibility to impregnate his deceased, male kin's wife so that she would produce an heir to the dead man's lands and property. However, this also produced a conflict of personal interest since the levir was therefore, intentionally, lessening his own opportunity to inherit this property.¹⁶

12. V.H. Matthews and D.C. Benjamin, 'Amnon and Tamar: a Matter of Honor (2 Sam. 13.1-38)', in G.D. Young *et al.* (eds.), *Interconnections: A Festschrift in Honor of Michael Astour* (Baltimore: CDL Press, 1997), pp. 339-66 and V.H. Matthews and D.C. Benjamin, *Social World of Ancient Israel, 1250-587 BCE* (Peabody, MA: Hendrickson, 1993), pp. 182-86.

13. This is not to be confused with the taunt, which is used in political and military situations to an enemy to force them to make a mistake. For examples of taunting, see Marduk's taunting of Tiamat (*Enuma Elish* 4.70-90; *ANET*, pp. 66-67) and the Jebusites' taunting of David as he besieges their city in 2 Sam. 5.6. Perhaps bridging the gap between these two types of speech is the statement by Nabal in 1 Sam. 25.10, which taunts David's messengers and also publicly belittles David as a 'nobody'.

14. H. Kuzmics, 'Embarrassment and Civilization: On Some Similarities and Differences in the Work of Goffman and Elias', *Theory, Culture and Society* 8.2 (1991), p. 3.

15. E. Bedford, 'Emotions and Statements About Them', in R. Harre (ed.), *The Social Construction of Emotions* (Oxford: Basil Blackwell, 1986), p. 21.

16. See Onan's resistance to his levirate obligation in Gen. 38.8-9.

Faced with the reality of this conflict of interest, the Deuteronomic loophole was created which allowed the levir to renounce his obligation publicly.¹⁷ To do so, however, required participation in a ritual in which the widow was allowed to shame him publicly, through speech and gesture.

This legal instruction, like the instructions on siege warfare in Deut. 20.10-20, is concerned with forms of recourse when 'the response is negative'.¹⁸ It is also one of the few instances in which a woman can label a man effectively and permanently stigmatize his 'name' as one who does not uphold his legal and family obligations to perpetuate the 'name' of her dead husband.¹⁹

What is particularly interesting, however, about the law of levirate obligation in Deuteronomy is that it does contain this loophole. Apparently, no such remedy was available to Tamar in Genesis 38 since she had to resort to subterfuge to obtain the desired result, a pregnancy.²⁰ This suggests a change in the binding nature of the levirate obligation by the time of the Deuteronomist. However, since the dating of these materials is uncertain, there may actually be other cultural factors at work in the Genesis narrative that require a different solution to Tamar's problem. In any case, the Deuteronomic legislation requires that no further penalty be imposed upon the levir for refusing to uphold his duties to the widow other than facing a prescribed form of ritualized public humiliation.²¹

While not all the ritual aspects of this ceremony are fully understood,²² it is clear that what has occurred transforms the status and

17. See the slightly altered use of this judicial procedure in the narrative in Ruth 4.1-11. In this case, the woman does not speak publicly, but is represented before the elders by Boaz. The exact chronology for the development of the levirate obligation is uncertain. The variations may be based on cultural-legal evolution or simply the difference between narrative form and legal pronouncement.

18. Benjamin, *Deuteronomy and City Life*, p. 244.

19. D. Daube, 'The Culture of Deuteronomy', *Orita* 3 (1969), p. 35.

20. G.W. Coats, 'Widow's Rights: A Crux in the Structure of Genesis 38', *CBQ* 34 (1972), pp. 461-66, esp. p. 464.

21. E.W. Davies, 'Inheritance Rights and the Hebrew Levirate Marriage, Part 2', *VT* 31.3 (1981), pp. 257-68, esp. p. 261.

22. See Davies, 'Inheritance Rights', pp. 262-63; E. Neufeld, *Ancient Hebrew Marriage Laws* (London: Longmans, Green & Co., 1944), pp. 42-43; and Benjamin, *Deuteronomy and City Life*, p. 254 for the symbolism of removing the sandal. Å. Viberg, *Symbols of Law: A Contextual Analysis of Legal Symbolic Acts in*

applies a new label to the levir. This may have actually been the lesser of two evils for the levir, if the law, as E.W. Davies suggests,²³ is designed to give him the opportunity to refuse the widow while retaining inheritance rights to the land of the deceased kinsman. To bear public humiliation and a pejorative title, while undesirable, may thus be balanced by the desire to keep one's inheritance rights intact.

Endangerment of the Household's Honor

In other cases in which individuals fail to uphold the honor of their household, shaming speech may be employed in addition to symbolic gestures and ritualized procedures. The instances involving women, which are clearly written from the male viewpoint, often center on the fact that the required bonding that should have taken place between a woman and her husband and his household is inadequate. Failure to demonstrate this loyalty results in a dysfunctional relationship, which is manifested by anger and alienation,²⁴ and in some cases in the imposition of barrenness as a punishment.²⁵

Numbers 5.11-31

In this legal situation, the wife is assumed by her husband to be unfaithful and to have had illicit intercourse, even though there are no witnesses. His right to punish her and bring her to trial is based on the marriage contract and the obligations that this document lays on her to remain loyal to his household.²⁶ Defilement, which serves as the

the Old Testament (ConBOT, 34; Stockholm: Almqvist & Wiksell, 1992), pp. 146-51 stresses that this is not a reciprocal act, nor is it an act of transference of the scandal (or of the widow) in either the Deuteronomic passage or in Ruth 4.8. He points, rightly, to the use of formal and informal language as the keys to legally binding the kinsman-redeemer.

23. Davies, 'Inheritance Rights', p. 263. A. Phillips, 'Another Example of Family Law', *VT* 30 (1980), p. 243, notes that the village elders had no power to impose their will on the levir since this was strictly a family matter. This most likely explains the eventual elimination of the practice of levirate marriage (Lev. 18.16; 20.21).

24. J. Bowlby, *Attachment and Loss. II. Separation: Anxiety and Anger* (New York: Basic Books, 1973).

25. See my discussion of enforced barrenness as a punishment in 'Female Voices: Upholding the Honor of the Household', *BTB* 24 (1994), pp. 13-14.

26. R. Westbrook, 'Adultery in Ancient Near Eastern Law', *RB* 97 (1990),

introduction to this chapter (dealing with lepers, and other unclean persons), is considered a breach of faith with God.²⁷ A protocol is established for restitution and decontamination which requires: (1) confession of sin, (2) full restitution, plus one-fifth more to the person wronged, or to God and the priests if the person wronged has no next of kin.

M. Fishbane has convincingly demonstrated the relationship between the legal situations in vv. 12-13 and v. 14.²⁸ Although both instances will result in the trial by ordeal,²⁹ they represent public 'knowledge' and private suspicion of adultery respectively. The actions taken by the husband are based on his unsubstantiated suspicions, described here as a 'spirit of jealousy' (v. 14).³⁰ It seems unlikely that these suspicions are simply another ploy, as in Deut. 22.13-14, for a man to set aside a wife who does not please him. More likely, there have been accusations made to him privately and rumor (represented by the statement in vv. 12-13) is beginning to bring public shame on his household.³¹ If a

pp. 542-80, esp. p. 557. See also A. Phillips, 'Another Look at Adultery', *JSOT* 20 (1981), p. 7.

27. See T. Frymer-Kensky's discussion of defilement as the key issue here in 'The Strange Case of the Suspected *SOTAH* (Numbers V 11-31)', *VT* 34 (1984), pp. 17-18.

28. M. Fishbane, 'Accusations of Adultery: A Study of Law and Scribal Practice in Numbers 5:11-31', *HUCA* 45 (1974), pp. 25-45, esp. pp. 35-39.

29. H.C. Brichto, 'The Case of the Sotah and a Reconsideration of Biblical Law', *HUCA* 46 (1975), pp. 55-70, esp. pp. 64-65, argues that this is not a trial by ordeal. He insists that it is merely 'an invocation of Deity to grant a sign of His verdict'. T. Frymer-Kensky, 'The Suspected *SOTAH*', p. 24, calls this a 'religious procedure' rather than a trial by ordeal on the basis of the delay involved in determining the guilt or innocence and the fact that God has taken over the role of sentencing judge from the courts. I can agree that a sign is expected, but it is the result of a physical test, utilizing ritual procedures, and an execration. As such it is best defined as an ordeal. Even though the potion may not be poison and the danger may be more psychological than real, the expectations of the participants is a transformation of the liquid into a potent force that will evidence the truth of the matter.

30. W. McKane, 'Poison, Trial by Ordeal and the Cup of Wrath', *VT* 30 (1980), pp. 474-92, posits that the woman is already pregnant and her husband's suspicions center around the child's actual paternity. Thus the potion is designed to affect the fetus. If it survives, then innocence and paternity are established. While the woman may in fact be pregnant, the lack of any mention of a fetus in the curse formula and the clearer implication of future sterility for the woman do not support this suggestion.

31. See LU 14 and LH 127. Roth, *Law Collections*. no. 18. 105

household could not protect its women, then it was declared insolvent or shamed and unable to fulfill its responsibilities to the community as a whole.³² Thus any hint of infidelity, however unsubstantiated, could have dangerous consequences for the entire household.

Promiscuity in the world of the Bible is not simply a lack of sexual discretion, but a symptom of the risks that a household is taking with its land and children. Husbands and fathers are responsible for the honor of their women, which is associated with sexual purity. Their own honor derives in large measure from the way they discharge this responsibility.³³ If fathers and husbands protect the women of their household, then they are known to have the ability to protect all its members.

The legal remedy in this case, necessitated by the lack of eye-witnesses,³⁴ is to resort to the use of a third-party mediator, the priest, and what appears to be a trial by ordeal. The ordeal is a judicial institution designed to resolve conflicts between households which could not be resolved by the elders in a village assembly, and to re-establish harmony within the village. Crimes that carried the death penalty, such as adultery, required that the plaintiff's charge be supported by the testimony of two eye-witnesses. Without two eye-witnesses, the plaintiff has no case to present to the village assembly and the potential threat to the entire community cannot be resolved (Num. 35.30; Deut. 19.15). The village assembly simply cannot function when there are no witnesses.³⁵ Since harmony in the village is essential for its economy to prosper, the intention of the ordeal is to help break a stalemate and allow God to make a decision between the households involved.

In the protocol for an ordeal, the defendant is exposed to a strenuous, potentially life-threatening experience.³⁶ If she survives, then the

32. M.J. Giovannini, 'Female Chastity Codes in the Circum-Mediterranean: Comparative Perspectives', in D.D. Gilmore (ed.), *Honor and Shame and the Unity of the Mediterranean* (Washington, DC: American Anthropological Association, 1987), p. 68.

33. J. Pitt-Rivers, 'Honour and Social Status', in J.G. Peristiany (ed.), *Honor and Shame: The Values of Mediterranean Society* (London: Weidenfeld & Nicolson, 1965), p. 78.

34. J. Milgrom, 'The Case of the Suspected Adulteress: Redaction and Meaning', in R.E. Friedman (ed.), *The Creation of Sacred Literature* (Near Eastern Studies, 22; Berkeley, CA: University of California Press, 1981), p. 74, notes the reiteration of this element four times in the indictment against the wife.

35. Benjamin, *Deuteronomy and City Life*, pp. 198-210, 297-98.

36. See the use of the ordeal as a judicial procedure in LH 2 (sorcery) and as a

Divine Assembly has cleared her of the charges made against her and the honor of her household is reaffirmed. If she does not, then her household is shamed. An ordeal was thus a legally constructed 'day of judgment' (Deut. 32.34-36; Pss. 18.7; 32.6; Job 21.30).

The somewhat peculiar procedure in Num. 5.16-28 hinges on a potion that invokes God's judgment on the woman.³⁷ It is not a poison and most likely does not contain any drug that would induce an abortion.³⁸ It functions almost as a prop to empower the ritual of execration³⁹ and is coupled with an oath first spoken by the priest and then repeated by the woman. Certainly, there is an element of shaming involved in having to participate in this ritual and in speaking these words. However, such a public ritual, like a purgative oath,⁴⁰ has a positive function as well, to remove all doubt of guilt or suspicion.

The fact that it involves elements of the ordeal rather than just a formal oath 'before God'⁴¹ suggests a blending of judicial procedures to satisfy a case that otherwise could not be proven and would continue to damage a household's reputation. This is why Karel van der Toorn describes the procedure as a 'drinking trial' and compares it to the drink concocted by Moses using the dust from the destroyed Golden Calf

form of oath taking 'before the god' in LH 9, 20, 23, 103, 106, 107, 120, 126, and Exod. 22.10-11. For a discussion of the various forms of the ordeal, see T.S. Frymer-Kensky, *The Judicial Ordeal in the Ancient Near East* (Ann Arbor, MI: University Microfilms, 1977), pp. 11-16.

37. See J. Milgrom, 'On the Suspected Adulteress (Numbers V 11-31)', VT 35 (1985), pp. 368-69 for an analysis of the potion and ritual procedures.

38. See D. Pardee's discussion of a Ugaritic text in 'MARIM in Numbers V', VT 35 (1985), pp. 112-13, which clarifies the term *marim* in this passage. It is apparently a term that means both 'bitterness' and 'illness'. Thus the result of drinking this bitter potion would be the fomenting of an illness in the guilty party. Milgrom, 'The Case of the Suspected Adulteress', pp. 73-75, and 'On the Suspected Adulteress', p. 368, suggests that the potential threat of sterility, coupled with the assumption of God's certainly to act in the face of the ritual and curse, is sufficient cause for her to confess her guilt, if there is any. For the opinion that the potion does contain a poison, see McKane, 'Poison', pp. 477-87.

39. See Jeremiah's use of a pot in his execration ritual in Jer. 19.1-13. This sense of purpose for the potion is also found in Num. 5.23-24 in the combination of writing and drinking that enacts the curse.

40. Frymer-Kensky, 'The Suspected SOTAH', p. 24. See Job's 'oath of clearance', in Job 31.

41. As is the case in LH 131 (Roth, *Law Collections*, p. 106).

(Exod.32.20). In both cases, their guilt would be revealed by what was otherwise a non-lethal potion.⁴²

The closest cuneiform parallel to the Biblical example in Numbers 5 is found in Code of Hammurabi (LH) 131 and 132 (Roth, *Law Collections*, p. 106). In these legal statements, the wife has either been 'accused' (LH 131) or 'charged' (LH 132) with adultery, although there are no witnesses. In the first case, which involves an accusation by the husband, the woman simply has to swear an oath 'in the name of the god' and can then return home. She endangers herself by using the name of the god⁴³ and pledges in public ceremony that she has upheld her loyalty to her husband's household. However, no more immediately life threatening act is required because, as in Num. 5.14, the issue is one between husband and wife and does not require the participation of the community or the courts.

The more serious nature of the legal procedure described in LH 132, like that in Num. 5.12-13, suggests that the woman has been denounced publicly by others and more stringent measures are required to lift the veil of shame that has been drawn across her household. She must submit to the river ordeal 'to exonerate her husband'.⁴⁴ Should she survive and be proven guiltless by the Divine Assembly, she may return to her former status (as in LH 131) and, based on Middle Assyrian Laws

42. K. van der Toorn, 'Ordeal', in ABD, V, p. 40. See other examples of drinking trials in T.S. Frymer-Kensky, 'Suprational Procedures in Elam and Nuzi', in D.I. Owen and M.A. Morrison (eds.), *Studies on the Civilization and Culture of Nuzi and the Hurrians* (Winona Lake, IN: Eisenbrauns, 1981), pp. 115-31, and J.M. Sasson, 'Numbers 5 and the "Waters of Judgment"', *BZ* 16 (1972), pp. 249-51.

43. See the curse formulas found in such treaties as that between Rameses II and Hattusilis III (*ANET*, pp. 199-201), and in the seriousness with which Jephthah and his daughter took the fulfilment of his oath in Judg. 11.30-40. T.R. Ashley, *The Book of Numbers* (Grand Rapids, MI: Eerdmans, 1993), pp. 124-25, rightly emphasizes the implicit danger to the woman due to the use of the oath and the potion.

44. Fishbane, 'Accusations of Adultery', pp. 38-39, suggests that an oath may have originally preceded the river ordeal, but has since been dropped from the legal statement in the Code of Hammurabi. He points to a Middle Assyrian text (VAT 9962), which includes a threefold procedure (drink, swear, be pure/innocent) which corresponds to the events of Num. 5.11-31. Frymer-Kensky, 'The Suspected SOTAH', p. 17 n. 11, disputes the possible parallel with LH 132, seeing the biblical procedures initiated only by the 'husband's jealousy'.

17-18, any accusers will be dealt with either through fines or physical punishment.⁴⁵

This post-ordeal fine in the Middle Assyrian laws suggests that even the charge against her requires restitution. The false accuser must, as in the case in Num. 5.5-10, make restitution to the wronged party, the woman's husband. The doubt placed against his honor is satisfied by the ordeal, but full payment must also be made by the false accuser in order to prevent rampant use of slander or malicious speech as a means of injuring a household's reputation.⁴⁶

The sense of guilt and the need to clear away a blot on her husband's reputation may also be the basis for the actions in Num. 5.15. Although the required offering that the husband brings to the priest is said to be for the wife, it appears that it also serves to help relieve the husband's anxiety by bringing the shame ('iniquity') forward, rather than letting it mentally consume him and undermine the honor and effectiveness of his household.

The statement at the end of the legal passage (Num. 5.31), which exonerates the husband from any 'iniquity' for having brought his wife to trial, speaks again to the issue of the husband's marital rights. Certainly, it would have been better if he had not had to participate in a public demonstration. H.C. Brichto suggests this may have even been an element of protection for the wife in this drama since it required the husband to 'put up or shut up'.⁴⁷ However, the balancing act between upholding the honor of the household and the public embarrassment occasioned by the trial may have forced the issue in much the same way that it does in the case of the 'rebellious son' in Deut. 21.18-21.⁴⁸ It also provides some measure of protection for the woman from mob violence or some unsanctioned 'kangaroo court'.⁴⁹ The community is

45. See MAL A.17-18 (Roth, *Law Collections*, p. 159) for use of the River Ordeal by the accuser and the imposition of corporal punishment and a huge fine (3,600 shekels of lead) on the false accuser.

46. See LU 10-11 (Roth, *Law Collections*, p. 18) for another example of heavy fines imposed after a river ordeal proved the accused innocent. Deut. 19.16-19 also provides strict punishment against 'a malicious witness'.

47. Brichto 'The Case of the SOTA', p. 67.

48. See V.H. Matthews and D.C. Benjamin, 'The Stubborn and the Fool', *TBT* 29.4 (1991), pp. 222-26, and *The Social World of Ancient Israel*, pp. 149-50.

49. Milgrom, 'The Case of the Suspected Adulteress', pp. 74-75.

thus restrained from direct action since the woman's punishment will come directly from God.⁵⁰

The Case of the Suspect Virgin

Female virginity is the legal guarantee of land and children for a household in the world of the Bible.⁵¹ Consequently, households guard their female virgins until they can be married so that their economic status will remain intact.⁵² A lack of virginity due to rape or promiscuity threatens a household's social status and precludes future transactions.⁵³

The virginity of a bride is an indication that the household of her father is stable. Her fertility represents the mutually beneficial character of their covenant. The assumption is that the marriage will produce land and children for both households. Plus, the certification that she has been protected from violation is an assurance for her husband that his semen will not be mixed with that of any other man. This is the mark of a proper marriage.⁵⁴

Thus a good example demonstrating the role that maintaining honor plays in the village setting is found in the case of the suspect virgin in Deut. 22.13-21. The charge made against the bride in this passage is that she has not proven herself to be a virgin because during initial intercourse the bleeding associated with the breaking of the hymen has not occurred. The husband has stated publicly that she is not what he contracted for when he arranged the marriage with her father. He subsequently 'brings an evil name upon her' (v. 14), which both labels her as one who 'plays the harlot' (v. 21) and charges her family with breach of contract and outright fraud.

In making this accusation, the husband proves that, for whatever reason, he has become disenchanted with his bride after the marriage has

50. J. Milgrom, *The JPS Torah Commentary: Numbers* (Philadelphia: Jewish Publication Society, 1990), p. 43.

51. Giovannini, 'Female Chastity Codes', pp. 67-68.

52. J. Goody, *Production and Reproduction* (Cambridge: Cambridge University Press, 1976), p. 14, and J. Schneider, 'Of Vigilance and Virgins: Honor and Shame and Access to Resources in Mediterranean Societies', *Ethnology* 10 (1971), pp. 20-21.

53. A. Schlegel, 'Status, Property, and the Value of Virginity', *American Ethnologist* 18.4 (1991), p. 724.

54. C. Delaney, 'Seeds of Honor, Fields of Shame', in Gilmore (ed.), *Honor and Shame and the Unity of the Mediterranean*, pp. 41-42.

been consummated. Such a public posture by the husband may have been designed to pressure the parents to settle with him privately.⁵⁵ However, since the charge is one that could eventually result in the death penalty, the law may have been designed to prevent such slanderous talk.⁵⁶

Once it has become a public matter, however, it is then the responsibility of her parents to produce the 'tokens of her virginity' (namely, the blood-stained sheets)⁵⁷ and show them to the elders at the city gate. The very existence of these tokens suggests that there existed a 'ritual of examination' on the wedding night that required the bridegroom or perhaps an objective witness such as a midwife to present the physical evidence to the in-laws.⁵⁸

As can be seen in this instance, one of the principal uses of labeling is simply to call someone a name. In cases of malicious speech, its intent is either to slander or to cause an injury. Malicious speech is designed to evoke a reaction of public condemnation from a defined audience that will transform the targeted individual into what they have been called and thus change their status downward.⁵⁹ Once the name

55. A. Phillips, 'Some Aspects of Family Law in Pre-Exilic Israel', *VT* 23 (1973), pp. 349-61, argues that cases of divorce are strictly family matters and are not to be taken to the courts. The husband in this case, however, has made his accusations public rather than confining them to familial chambers. The result is the possible charge of adultery, if she had had relations during the time that the couple were betrothed, or fraud, if the father was attempting to pass his deflowered daughter off as a virgin. On this latter point, see Phillips, 'Another Example of Family Law', p. 242.

56. See the discussion of which party is the plaintiff in this case in C. Pressler, *The View of Women Found in the Deuteronomistic Family Laws* (Berlin: W. de Gruyter, 1993), pp. 23-24. Her conclusion that it is the parents of the slandered bride who are pressing the case fits well with an honor-restoring procedure.

57. See G.J. Wenham, 'Betulah "A Girl of Marriageable Age"', *VT* 22 (1972), pp. 326-48, for a discussion of this legal episode as an example of adultery in which the 'first night' evidence is lacking because she is not menstruating and thus has had relations and is pregnant prior to marriage. Phillips, 'Another Look at Adultery', p. 8, also points to the possibility of the wife's pre-nuptial pregnancy.

58. Benjamin, *Deuteronomy and City Life*, p. 227, and Giovannini, 'Female Chastity Codes', p. 61. Phillips, 'Another Look at Adultery', p. 22 n. 27, rightly compares this ritual of examination with the waiting period prescribed in Talmudic law (*b. Yeb.* 35a) before a second marriage can be consummated or before an unmarried woman who has had intercourse can marry.

59. E. Goode, 'On Behalf of Labeling Theory', *Social Problems* 22 (1975),

has been applied, it is even possible to lower the labeled person's status legally by employing a 'public status-degradation ceremony'.⁶⁰ This drama is performed for the benefit of the audience as much as it is for the individual involved.⁶¹ A modern example would be a criminal trial with all the protocol of the courtroom to identify for the public the defendant, the charges being made, and the sentence for crimes committed.⁶²

The husband's slanderous talk has degraded his wife before a select audience. Now it becomes the turn of the parents to answer this slander and, if possible, reverse the procedure by presenting evidence that will either clear or condemn their household of fraud. In this way they attempt to deflect his labeling of their daughter and the potential legal ramifications of a charge of misrepresentation. Thus in addition to the physical evidence, a statement is made by the father of the suspect virgin (Deut. 22.16-17) that could be identified as a form of shaming speech since it (1) repeats the scandalous charges made against the daughter, and (2) provides an opportunity for the husband to repent his statement.

If they do in fact have the garments as proof, then the husband is whipped and fined a hundred shekels of silver 'because he has brought an evil name upon a virgin of Israel', and he is restricted from ever divorcing her (v. 19). Such a punishment provides an equitable restitution since it requires public shaming of the husband⁶³ and a secure economic future for the bride. Simple dissatisfaction with one's bride is

pp. 570-83, esp. p. 577. One example of this practice would be Jezebel's designation of Jehu as a 'Zimri' (i.e. a 'traitor' who has betrayed his master the king) in 2 Kgs 9.31.

60. H. Garfinkel, 'Conditions of Successful Degradation Ceremonies', *American Journal of Sociology* 61 (1950), pp. 420-24. See Matthews and Benjamin, 'The Stubborn and the Fool', pp. 222-26 on the case of the rebellious son in Deut. 21.18-21.

61. E. Goode, *Deviant Behavior* (Englewood Cliffs, NJ: Prentice-Hall, 3rd edn, 1990), p. 61, and K.T. Erikson, 'Notes on the Sociology of Deviance', *Social Problems* 9 (1962), pp. 307-14.

62. E.M. Schur, *Labeling Deviant Behavior: Its Sociological Implications* (New York: Harper & Row, 1971), p. 52.

63. Note the parallel with the name given the unfaithful levir in Deut. 25.10. In both cases the man involved will take away from the public ceremony a reputation of false dealing.

therefore, by statute, not a grounds for divorce in Israelite law.⁶⁴ Furthermore, the honor and legal rights of inheritance of the woman and her children are protected against slanderous or unjustified statements.⁶⁵

It should be noted that in this procedure the woman is never questioned and the physical evidence is the sole determinant of guilt or innocence. The elders are not judges. They are merely the administrators of the public trust and of the social contract that binds them together. The 'instruction' embodied in this text is designed to maintain social standards of conduct and prevent fraud on the part of either the husband or the father of the bride. Furthermore, the instruction here would mandate that material evidence be kept in order to prevent such accusations.

For the charge to be made and the parents to be unable to produce evidence of their daughter's virginity must have been an unusual situation considering the potential for harm involved here to the husband and the 'ritual of examination' mentioned above. Under this stricture, the woman, without the physical evidence to prove otherwise, is automatically assumed to be guilty and the social purging mechanism

64. The statute found in Deut. 24.1-4, which forms the legal basis for divorce, stipulates that the man has found 'something indecent' in his wife. While this is certainly open to interpretation (see the conflict between the schools of Hillel and Shime'i in *Git. 9.10* and *b. Git. 90a*, and the quoting of this verse in Mt. 5.31 and Mk 10.4), it seems likely that a matter of ritual impurity or evidence of infertility is the basis for the dissolution of the marriage (see P.C. Craigie, *The Book of Deuteronomy* [Grand Rapids, MI: Eerdmans, 1976], pp. 304-305). Compare the various grounds for divorce found in cuneiform law: LH 138 (Roth, *Law Collections*, p. 107)—wife has not borne children, but she is to receive the equivalent of her marriage price and her dowry; LH 141 (Roth, *Law Collections*, pp. 107-108)—woman leaves her husband to start a business and neglects her duties as a wife, may be divorced without payment of a settlement; MAL 24—woman divorced for deserting her husband and staying with another household; MAL 37—no grounds specified for divorce other than husband's decision and it is his option to pay her a settlement.

65. Note that the law of false accusation (Deut. 19.16-19) does not come into play in this situation. Pressler, *The View of Women*, pp. 24-25 n. 9 and p. 29, has convincingly argued that the husband is only guilty of slanderous statements, not formal accusation in a court of law. See on this issue, A. Phillips, *Ancient Israel's Criminal Law: A New Approach to the Decalogue* (Oxford: Basil Blackwell, 1970), p. 115 n. 28.

comes into play.⁶⁶ There is no alternative sentencing, no plea bargaining, no speech by a lawyer. She is simply taken to the door of her father's house and stoned to death.⁶⁷ She had dishonored her father and the community as a whole 'by playing the harlot in her father's house' (v. 21). In addition, her family has dishonored itself by contracting a marriage without acknowledging the fact that the young woman involved was not a virgin. Her execution at the door of her father's house marks this spot and this household as frauds, open to sanction by the community due to a breach of contract.

Conclusions

In those legal situations in which the honor of the household comes into question, primarily due to the uncertainty of chastity on the part of the wife, public demonstrations seem to be the best way to resolve the issue. Slander, rumor, and false labels can irreparably injure a household's reputation. Swift action is necessary to prevent a complete loss of credibility and ultimately the extinction of the household when no other family will contract marriages or do business with it. The cases described above provide a brief look at the way in which Israelite society attempted to deal with potential shaming of a household. While they may only represent hypothetical cases, the value of honorable association and the potential danger of shameful behavior are clearly delineated.

66. Phillips, *Ancient Israel's Criminal Law*, p. 116, and H. Reviv, *The Elders in Ancient Israel* (Jerusalem: Magnes Press, 1989), p. 63.

67. Thus the significance attached to her place of execution is fully commensurate with the crime. See V.H. Matthews, 'Entrance Ways and Threshing Floors: Legally Significant Sites in the Ancient Near East', *Fides et Historia* 19 (1987), 32. LH 227 (Roth, *Law Collections*, p. 124) also ties the place of execution to the site of fraud. In this case, a man who attempts to free a slave who does not belong to him by having his 'slave hairlock' shaved is to be hung 'in his own doorway'.

A RIPOSTE FORM IN THE SONG OF DEBORAH

Geoffrey P. Miller

The Song of Deborah in the Book of Judges records a stunning victory won by a coalition of Israelite tribes under Deborah and Barak over a powerful army led by the Canaanite Sisera (Judg. 5.1-31). The Song is widely viewed as among the most ancient of all the biblical material;¹ by its own terms, it describes a period early in the history of the Israelite occupation of the Promised Land, a time when, there being 'no king . . . in Israel' (Judg. 19.1), the common life of the tribes was organized under a loose confederacy under the guidance of 'judges'—inspired leaders who would rise up to rescue the Israelites when they faced aggression from other peoples. Deborah was one of these judges—and, unusually, a woman.

This paper analyzes the Song of Deborah as a riposte form in a literature influenced by norms of honor. A riposte was a form of retaliation against an insult circulated in the culture by a rival group. Characteristic of the riposte is the fact that the insult could not simply be denied or ignored, because its substance had achieved widespread credibility in the broader culture. The riposte deals with this problem by accepting part of a stereotype as true, but reversing the honor-value of the attribution and returning the insult, with interest, to the group from which it originated. Riposte forms can be found at several points in the early biblical texts, and thus may represent a rhetorical form that has not been fully recognized by critical analysis.²

This paper proposes that the Song of Deborah responds to a negative stereotype about the people of the hill country of Canaan (i.e. the Israelites) that may have enjoyed popularity among their city-dwelling

1. See, e.g., J. Alberto Soggin, *Judges: A Commentary* (Philadelphia: Westminster Press, 1981), p. 80.

2. For analysis of another biblical riposte, see G.P. Miller, 'Verbal Feud in the Hebrew Bible: Judg. 3:12-30 and 19-21', *JNES* 55 (1995), pp. 105-17.