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, 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. It was likewise recognized that bloodstains are not

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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.


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. Roster (New York, 1978), 477, 478; 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. Talmudic sources report that in some places companions (רשביה) 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.

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.” 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:

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; יריוו רשלין על דרגך, פירות לקודש,NullException (Jerusalem, 1979), 208; P. Schlessinger, ed., יריוו רשלין על דרגך (Tel Aviv, 1965), 542.

4. TB Ketubbot 12a; see the commentaries of Rashi and Meiri (רשביה) to this tractate. See also 235–37; Maimonides, Mishneh Torah, Hilkhot Nashim 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 Rashi, accreted the spirit of the halakhic view that conviction does not depend on the cloth alone: A. Roffe, מנה למט וידריה (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 4/1 (4Q158–4Q186), DJD 5 (Oxford, 1968), 8 and pl. II; corrected readings from

If a man defames an Israel in his community, if he swears falsely, if he testifies against his fellow, if he does violence (her) for his entire life, the people of the Land are warned against him, his examiners are women. They examine the breasts and vagina. The first parallel is from Meiri, a fourteenth-century commentator, who mentions two great parallels to this: an unconstrained vaginal passage, and the unconfined vaginal passages are sometimes said to be constricted, can sometimes be produced fraudulently by inserting a sponge or by clamping or by rubbing the vulva, hymen, or part of the labia.

J. Strugnell, “Notes en marge,” RB 87 (1970), 178; and R. Weiss, Yisrael in the Bible, Studies in the Text and Language (1977), 118, 158. However, the parallel to which certainly a word missing (דינון) is added. Yerushalmi, and the Midrash.

8. Meiri, Meir, יריוו רשלין על דרגך.

9. These and other techniques are discussed in E. Schnecslieben in England and France, and Bartels, Das Weib in der hebräischen Sprache (Wiesbaden: Harrassowitz, 1984). These and other techniques, and in particular the vulva in order to make her appear to be Rutili, Opera Omnia 14 (Hildesheim: Georg Olms, 1968), 40–41, enough to translate the Greek text of Avicenna’s (Ibn Sina, Germany, 1200–1280). A careful
The bride at the time of conversion, or afterwards in case it is required, some places companions to them as they entered the nuptial chamber and placed the stained cloth with her or another repeatedly stained one in order not to bring false accusations in the halakah, which is the law.

As read by the halakah, the law claims that finding no other witnesses that his fiancée had been defiled. He must produce two witnesses to support the charge only by proving the facts “like a rabbit hutch” and the practicability of the law must be a pre-rabbinic attempt to regulate the laws. Lines 8–10

J. Strugnell, “Notes en marge du Volume V des ‘Discoveries in the Judean Desert of Jordan’,” RQ 26 (1970), 178, and R. Weiss, Review of JDJ 5, in: res oder 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 וּלְכֹלךְ and construes יָרָה as an adverbial accusative, “reliably,” modifying the verb. The Dead Sea Scriptures, 3d ed. (Garden City, NY, 1976), 93; cf. the one-letter restoration יָרָה propósito from מְלַלְלָה by Mr. Y. Buchenbaum of Jerusalem, cited by Ros, עָלָלָה, p. 138. However, the parenthesis is broken on the left edge of the final letter of יָרָה, and there is certainly a word missing (ןִשָּׁע) in the same spot one line below.

7. For this meaning of רָה, see M. Jastrow, A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature (repr.: New York, 1950), 1:B1.


9. These and other techniques are catalogued by E. Duehnau (pseud. of Iwan Bloch), Das Geschlechtsleben in England (Charlottenberg, 1901), 1:369–81 (mostly from European sources); Pless and Bartels, Das Weib in der Natur- und Völkerkunde, 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 Duehnau, similar practices were common in classical antiquity, but he cites no sources. Prof. Mirko Grmek of Paris kindly referred me to Galen’s Peri euruprōsin (De remedios para-ribilias) [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). Duehnau states that European writers on the subject all rely ultimately on Avicenna (Ibn Sina), the great Persian medical authority (980–1037), and Albertus Magnus (Germany, 1200–1280). A case in point is I. S. Sinibaldi, Geneanthropia (Frankfurt, 1669), 446–49.
quotes halakhic sources that hold that the companions (משותות) of the bride and groom could by themselves verify only that the bride had not produced bloodstains 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 рыцарные) 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 (“Erfahrenen Frauen, und zwar Frauen aus allen besseren Familien, müssen das Mädchen untersuchen”). 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.

The role of trustworthy women in a related matter is attested in a Hebrew certificate of accidental defloration (킬ון זר) written in Florence, Italy, in the sixteenth or seventeenth century. The document attests to the fact that a three-year-old girl broke her hymen in a fall from chair. “Reliable, honest women” (נשים נאמנות כשרות) 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.

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 Meiir'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 Robinstein).

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 Duhrsen, 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, E. E. Johnson, and R. C. Kolodny, Masters and Johnson on Sex and Human Loving (Boston, 1986). 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. Duttenhofer, trans., Mysteri Novellens 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).

11. Dwyer, Images, 63.
13. A girl is examined by her mother and other women, according to a form for such cases given in תקן מים of R. Moses Almosolino of Salonika (ca. 1515–1580; published with glosses by R. Samuel Jaffe, Leghorn [Livorno], 1789), no. 32; cf. A. Gulak, ימי תקן מים (Jerusalem, 1926), no. 400 (Ital.

Precisely what the test to prove is not stated in the text; it might determine whether the owner of blood, had cut himself on an astringent. If the bishop's determination could certainly be stretched. What could it be? It would depend on the source of the hymen hymns, but there would be strong evidence for a virgin and indicating that of impotence, pore the hymen would indicate that she was lying or, in his instance, they would not necessarily have intercourse. A large number of modern medical professionals a recent act of coitus was, and this is a far more reliable test.

The consistent reference to examining accused brides for a similar certificate issued by the court (see private communication); three: أيض (New York, 1989), 324.

There were, of course, the role of doctors in modern and Westernmarck, Marriage Ceremonies in Israel (Tel Aviv: מיכון ותפיש חוק), 1962; examined Rebekah digitally (Jerusalem, 1967), 411; according to the records that consisted of digital defloration in the codex Palimpsest of the Book of of James, secs. 1, 7, and Testament Apocrypha, ed. E. M. Cats (New York, 1977), 17. Thanks to Dr. Kinsky and my colleague Prof.

14. My thanks to the photogra phers, Steven Sontheimer, The photo was to remain anonymous (the photo is). It is not known whether Jules Bissel grew knew of a test performed on a girl was still a virgin because his profession was medical: the woman is seeing
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 astrigent. 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. 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 חניכת הבנה 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.

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, הרמים של פרחים (Tel Aviv, 1986), 169–70. 263. According to the Midrash Hagadot, Isaac himself examined Rebekah digitally before their marriage; Midrash Hagadot 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 aposychal Book of James, secs. 19–20, Mary was likewise examined digitally for virginity by Salome; New Testament Apocrypha, ed. E. Hennenck & 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 trustworthy, knowledgeable women chosen on the instructions of the "mas'mul." 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. Preisach, ibid., 478. Curiously, Maimonides mentions that the bride is examined in such a case (אשת-Smith), 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; θηρίων 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), 290, n. 6; R. Westbrook, Old Babylonian Marriage Law, AFO Beiheft 23 (Horn, Austria, 1988), 44, n. 109; 116.

Covenant

The Hittites, as is well known, had a relatively unique covenantal treaty. This consisted of the following elements: (1) a preliminary section of engagement, (2) a formal treaty text, (3) a list of legal sanctions to be applied in the event of breach, (4) a list of rights and obligations of the partners, (5) a list of blessings and curses, and (6) blessings and curses on the gods who had witnessed the treaty. The treaty was formed at the time of the deposition of the parties and the provision of duplicate copies.

The Egyptians, who had contact with the Hittites dominated by the Hittites dominated by the Hurrians, did not have a formal treaty when establishing the loyalty oaths of vassals, but they did have treaties. It seems that Egyptian treaties did not develop any kind of negotiated formula, and it seems that the imposition of loyalty was insured.

The Assyrians in their treaties seemed to continue the Hittite tradition: (a) It did not contain a list of rights and obligations with the tribe of Kešet, (b) it did not contain a list of sanctions, and (c) it did not contain a list of blessings and curses. It served as a kind of apology, a ceremonial act on one hand, and omitted to state the essence of the act on the other, part of the covenantal structure.