

## ANIMADVERSIONES

### Defilement of Virgins in Biblical Law and the Case of Dinah (Genesis 34)<sup>(1)</sup>

A study of defilement in Biblical law and Biblical legal practice results in the surprising conclusion that a virgin or, for that matter, any woman who is not married or betrothed, cannot be defiled by illicit sexual intercourse. Biblical Israel, in fact, apparently shared the values of the ancient Near East — Sumerians, Babylonians, Hittites and Assyrians in this matter<sup>(2)</sup>.

Let me recall the consequences of illicit sexual intercourse with an unmarried or unengaged girl, a virgin, in Biblical law. If a man seduced a girl, he must now 'seduce' her father and gain his permission to marry her (Exod 22,15-16). If a man raped a girl — since he took her by force, he is forced to keep her as a wife and is not permitted to divorce her (Deut 22,28-29). In both cases, of course, the bride-price, the *mōhar*, must be paid. Both of these cases are characterized by a kind of 'mirror punishment' which results in humorous retaliation: you convinced the girl, now convince the father; you forced the girl, now you will be forced to keep her as a wife. The feelings of the girl are given little consideration. However, the point that interests us here is the gravity of the offence: it is not a capital crime; reparation can be made.

The case of married or engaged women is very different. Illicit intercourse under these circumstances is a capital offence, as is made clear by the Deuteronomic laws (Deut 22,22-27). This alone is defined as adultery (זנות) in Biblical law and Biblical milieu at large (Lev 20,10; Hos 4, 14; Prov 6,24-35), and this is maintained by Jewish law<sup>(3)</sup>. In this context, in some sources, we find the term 'to defile' (לְטַמֵּא: *vide infra*) or 'to become defiled' (לְטַמְּאָה: Lev 18, 20). The term טָמֵא with reference to illicit intercourse positively belongs to Priestly diction. In the Priestly law about the suspected wife (אשה סוּפָה: Num 5,11-31) it is used no less than seven times (vv.

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<sup>(2)</sup> Cf. my "Family and Sex Laws in Deuteronomy and the Book of the Covenant", *Henoch* 9 (1987) 131-158, reprinted in A. ROFÉ, *Deuteronomy. Issues and Interpretation* (London 2002) 169-192. Of the literature cited there, I would privilege: J.J. FINKELSTEIN, "Sex Offences in Sumerian Laws", *JAOS* 86 (1966) 355-372. For more recent discussions see: R. WESTBROOK, *Old Babylonian Marriage Law* (ArOF, Beiheft 23, Horn 1988); S. GREENGUS, "Redefining 'Inchoate Marriage' in Old Babylonian Contexts", *Riches Hidden in Secret Places. ANE Studies in Memory of Th. Jacobsen* (ed. Tz. ABUSH) (Winona Lake, IN 2002) 123-139.

<sup>(3)</sup> The case of the unchaste bride to be stoned at the gate of her father's house (Deut 22, 20-21) is, on the face of it, an exception. I have argued elsewhere (see preceding note) that those verses do not represent Biblical legal practice, but the unrealistic demands of a fanatical Deuteronomic reformer.

13.14.14.19.20.27.28). As one might expect, it is also found in Ezekiel (18,6.11.15; 22,11; 33,26). In both sources, Ezekiel and the Priestly Document, *ḥṣṣ* is applied to married women only. The metaphor of Aholah and Aholibah in Ezekiel 23 is most instructive in this regard. Again and again, the prophet recounts that the two women have been defiled by intercourse with Assyrians and Babylonians (vv. 7.13.17). However, he maintains that they had already fornicated in Egypt (v. 3). Here the root *ḥṣṣ* does not feature. A plausible explanation for this is that the fornication in Egypt preceded the “marriage” to the Lord, and the girls did not, therefore, incur defilement; the intercourse with Assyrians and Babylonians occurred after the “marriage” and, therefore, involved defilement. It is remarkable that Ezekiel, despite his strong vehemence towards the sisters and his obscene language, nevertheless remains faithful to the proper terminology<sup>(4)</sup>.

The conclusion of this observation is that the defilement of a woman by sexual intercourse is not a primitive, instinctive concept, but rather a sophisticated, legalistic one. The legal status, not the alleged chastity of a woman, determines the possibility of her being defiled by sexual contact.

This conclusion is confirmed by the law in Deut 24, 1-4. The woman who returns to her former husband after a second marriage is declared as being defiled: *ḥṣṣ*. For what reason? She has not been defiled by the second marriage. It is her return to the first husband that *a posteriori* causes the second marriage to be considered an act of defilement<sup>(5)</sup>. This is an outstanding instance of the extent to which the concept of *ḥṣṣ* has been manipulated!

In the story of Dinah in Genesis 34, we realize at once the extent to which it contradicts the Biblical legal notions and practice. It is stated no less than three times (vv. 5.13.27) that Dinah was defiled by Shechem or the Shechemites — indeed a quite exceptional change from the Biblical milieu as assessed above<sup>(6)</sup>. Furthermore, the punishment inflicted upon Shechem and his kinsmen — execution by sword — conforms with the alleged gravity of the offense, that here would not allow atonement by compensation. How can we account for this discrepancy?

Genesis 34 itself, however, harbors an internal inconsistency. Simeon and Levi perpetrated the murder of the Shechemites and were accordingly scolded by Jacob (vv. 25-26. 30-31). But what was the attitude of the other brothers? According to vv. 27-28 they took part in the massacre, a fact that concurs with their indignation upon hearing of Dinah’s rape (vv. 5. 7)<sup>(7)</sup> and with the

<sup>(4)</sup> On the other hand, I have found no explanation for the fact that the verb *ḥṣṣ* is not used in the description of the sinful woman Jerusalem in Ezekiel 16.

<sup>(5)</sup> Cf. R.D. NELSON, *Deuteronomy. A Commentary* (OTL; Louisville, KY 2002) 289: “Would a return to her first marriage retroactively convert her second one into an adulterous relationship?” Further opinions on this matter are quoted by Nelson, *ibid.* Further instances in which the verb *ḥṣṣ* is used in a secondary artificial sense ‘to declare impure’ are in Leviticus 13 (v. 44 and *passim*) and Isa 30, 22.

<sup>(6)</sup> This point has apparently been overlooked by Klawans and Hayes; cf. J. Klawans, *Impurity and Sin in Ancient Judaism* (New York 2000) 23; Ch.E. Hayes, *Gentile Impurities and Jewish Identities* (New York 2002) 24.

<sup>(7)</sup> But was there really a rape? This has recently been contested by Bechtel and Gruber; cf. L.M. Bechtel, “What if Dinah is not Raped? (Genesis 34)”, *JSTOT* 62 (1994) 19-36; M.I. Gruber, “A Re-examination of the Charges against Shechem Son of Hamor”, *Beit Mikra* 44 (1998/9) 119-127 (Hebrew). Acceptedly, the root ‘*nh. in pi’el*, when applied

description of their reply to Hamor's proposal as a deceit (מִרְמָה v. 13)<sup>(8)</sup>. Why, then, did they go scot free? This tension within the story has been resolved about 125 years ago by Abraham Kuenen, by distinguishing between two layers of narrative: the older one attributed the vengeance on Shechem to Simeon and Levi alone, while the recent layer considered the offence to be a dreadful act and therefore summoned as castigators the entire clan of Jacob<sup>(9)</sup>. It goes without saying that this later writer is the one who concocted the term 'defilement' for Shechem's abduction of Dinah.

The rationale of the second writer has been detected by A. Kuenen in his aforementioned article of 1880. I will restate it here, complementing it with the observations concerning ancient Israelite family law which opened the present essay. The notion of the defilement of Dinah did not originate in Israelite family law. It came, rather, from a different sphere and rests upon the idea of *טְמֵאת נַיִם הָאָרֶץ* — impurity of the nations of the land (Ezra 6, 21). This is a concept that came to the fore in the Restoration Community of the Fifth century BCE when intermarriage was forbidden because 'the nations of the lands have made the land of Israel impure (נִדָּה) with their abominations (בְּתוֹעֲבוֹתֵיהֶם) which they, in their impurity (בְּטִמְאֻתָם), filled it from one end to the other' (Ezra 9,11-12)<sup>(10)</sup>.

As far as I can see, this is the beginning of the concept of the impurity of the Gentiles (טְמֵאת הַגֵּוֹיִם) which became dominant in the Jewish Second Commonwealth<sup>(11)</sup>. If we pay close attention to the diction, noting the affinity of Ezra 9, 11 with Ezek 36,16-18, it seems that this is rooted in the concept of impurity of idolatry which contaminated its worshippers<sup>(12)</sup>. In any case, it

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to intercourse, does not necessarily mean 'to ravish'; cf. Deut 22. 24. The meaning 'to subdue', well attested in the political sphere (cf. 2 Sam 7, 10 and the Mesha Stone lines 5.6), if applied to sex, would describe the act in a male chauvinistic manner. The story of Dinah is (intentionally?) vague about what actually happened in Shechem's chamber. The view that Dinah was not raped has been accepted by Joseph Fleishman who made it a starting point for his hypothesis (implausible in my view) that Genesis 34 reflects the custom of 'abduction marriage'; cf. J. FLEISHMAN, "Socio-Legal Aspects of Genesis 34", *Shnaton* 12 (2002) 141-155 (Hebrew).

<sup>(8)</sup> The ingenious proposal of Ramban (Rabbinic Bible, *HakKeter*, Ramat Gan 1993) *ad loc* followed by S.D. LUZZATTO (*Il Pentateuco, volgarizzato e commentato*, op. post., Padova 1871) *ad loc* that reduced the 'deceit' to their demanding from the Shechemites unacceptable terms (circumcision) does not do full justice to the final motivation clause, "who (or: because they) had defiled their sister Dinah".

<sup>(9)</sup> A. KUENEN, "Beitraege zur Hexateuchkritik: VI. Dina und Sichem (Gen. 34)" (1880), in his: *Gesammelte Abhandlungen zur Biblischen Wissenschaft* (Freiburg i.B. – Leipzig 1894) 255-276. The gist of his conclusions has been unintentionally repeated by J. VAN SETERS, "The Silence of Dinah (Genesis 34)", *Jacob. Commentaire à plusieurs voix de Gen 25–36. Mélanges offerts à A. de Pury* (Genève 2001) 239-247.

<sup>(10)</sup> The impurity of gentiles is already expressed in Isa 52,1.11. If the verses belong to Deutero-Isaiah, would they attest to the origin of the concept in the Babylonian exile? Mary Douglas noted how far Ezra's ideology differs from the priestly notions of impurity. However, she considered the priestly legislation in the matter as a reaction to Ezra's tentative reforms; see her: "Responding to Ezra: the Priests and the Foreign Wives", *Biblical Interpretation* 10 (2002) 1-23.

<sup>(11)</sup> Cf. G. ALON, "Gentile Impurity", *Tarbiz* 8 (1937) 137-161 (Hebrew); Engl. Transl. by I. Abrahams: "The Levitical Uncleaness of Gentiles", in: G. ALON, *Jews, Judaism and the Classical World* (Jerusalem 1977) 146-189.

<sup>(12)</sup> Cf. further Lev 19, 31, Jer 2, 7-8; Ezek 5, 11; 22, 3-4; 23, 30.

stands to reason that the idea of the defilement of Dinah owes its origin to the Jewish concept of impurity of the nations which became an accepted tenet at the beginning of the Second Commonwealth<sup>(13)</sup>.

These observations can assist the critic in tracing the literary history of Genesis 34. It is possible to discern two phases, perhaps even layers, in the formation of this story<sup>(14)</sup>.

The first phase belongs to the genre of clan-saga that extols the deeds of ancient clan leaders in the conquest of the land<sup>(15)</sup>. To this genre belong sparse notes in various books of the Hebrew Bible: Jacob who conquered Shechem (Gen 48,22), Machir, Yair and Nobah in Northern Transjordan (Num 32,39.41.42), Caleb and the region of Hebron (Josh 15,13-19) and Ephraim in the southern ridge of his mountains (1 Chr 7,20-24). By the same token, Simeon and Levi conquer Shechem. In the clan saga, the conquest is intertwined with family circumstances, such as marriage, bride-prize and dowry, progeny, birthright, inheritance and wills, bereavement of children, mourning and consolation. The Dinah episode presents an additional family event: the abduction and rescue of a sister. A common trait of the clan-sagas is their 'secular' outlook: human valor, not God, determines the course of events. This feature, again, appears in Genesis 34; in fact, it singles out this story from most patriarchal narratives.

The second phase is represented by the story of Dinah in its present form. Written, as we have seen, in postexilic times, the story reflects the outlook dominant in that period<sup>(16)</sup>. There is a profound antagonism between Jews and Gentiles which is cast back to the Patriarchal age. This pattern occurs in the *Book of Jubilees* and the *Testaments of the Twelve Patriarchs*<sup>(17)</sup>. The wars, however, merely reflect that embedded enmity; they do not lead to the occupation of the land and settlement therein.

The postexilic date of composition of Genesis 34 is corroborated by its

<sup>(13)</sup> Cf. R. David Qimhi (in the Rabbinical Bible) on v. 5: "She (scil. Dinah, A.R.) was polluted, because she had intercourse with an uncircumcised". The same explanation has time and again been offered in modern times; cf. B. JACOB, *Das erste Buch der Tora, Genesis, übersetzt und erklärt* (Berlin 1934) 655; S.M. OLYAN, *Rites and Rank. Hierarchy in Biblical Representations of Cult* (Princeton 2000) 49, 65; BECHTEL, "Dinah" and GRUBER, "Changes". Defilement by sexual intercourse with gentiles is the main idea of the restatement of the Dinah episode in the Book of Jubilees; cf. C. WERMAN, "Jubilees 30: Building a Paradigm for the Ban on Intermarriage", *HTR* 90 (1997) 1-22.

<sup>(14)</sup> Here, too, in the wake of KUENEN, "Dina". The determination of layers with alternative solutions can be found by E. BLUM, *Die Komposition der Vätergeschichte* (WMANT 57; Neukirchen 1984) 210-223; Y. ZAKOVITCH, "Assimilation in Biblical Narrative", *Empirical Models for Biblical Criticism* (ed. J.H. TIGAY) (Philadelphia 1985) 176-196, ad pp. 185-192, Ch. LEVIN, "Dina: Wenn die Schrift wider sich selbst lautet", in his: *Fortschreibungen* (BZAW 316; Berlin 2003) 49-59.

<sup>(15)</sup> Cf. A. ROFÉ, "Clan Sagas As a Source in Settlement Traditions", "A Wise and Discerning Mind". Essays in Honor of B.O. Long (eds. S.M. OLYAN – R.C. CULLEY) (Brown Judaic Studies 325; Providence, RI 2000) 391-203.

<sup>(16)</sup> Cf. also Y. AMIT, "Implicit Redaction and Latent Polemic in the Story of the Rape of Dinah" (Hebrew), *Texts, Temples and Traditions. A Tribute to M. Haran* (Winona Lake, IN 1996) 11\*-28\*; W.TH. IN DER SMITTEN, "Genesis 34 – Ausdruck der Volksmeinung", *BiOr* 30 (1973) 7-9; N. WYATT, "The Story of Dinah and Shechem", *UF* 22 (1990) 433-458.

<sup>(17)</sup> Cf. J. KUGEL, "The Story of Dinah in the Testament of Levi", *HTR* 85 (1992) 1-34.

peculiar diction. In the first place, let us recall the marks of priestly style. Kuenen, again, pointed out the following items<sup>(18)</sup>: נשיא (v. 2), אהו nif. (v. 10), המול כל זכר (v. 15.22), שמע אל (v. 17.24), גמלים (v. 22), קנין, בהמה, מקנה, קנין, בהמה (v. 23), על החללים, בוז (v. 27); typical of P, moreover, is the fondness for detailing which sounds superfluous — “Dinah the daughter of Leah whom she bore to Jacob” (v. 1), see also the itemizing in vv. 28-29. Even the scholars that deny the recent composition of P must recognize that its impact on other works makes its first appearance in rather late compositions.

In addition, there are some clues as to late Biblical Hebrew. Dinah is repeatedly designated as a נַעֲרָה (vv. 3, twice. 12), but once she is called הילדה (v. 4). This seems to be a semantic blunder from the pen of an author that aimed at writing classical Hebrew: נַעֲרָה means ‘a child’ in classical Biblical Hebrew, but in the late books it can mean ‘young man’; so in Qoh 4,13 and Dan 1,4.10.13.15.17<sup>(19)</sup>. The same semantic shift occurred with a kindred noun: תינוקת, תינוק in Rabbinical Hebrew ‘a suckling’, but in time it acquired the meaning of ‘boy’, ‘girl’; even a married young woman could be called תינוקה in Hebrew, as well as נַעֲרָה in Aramaic<sup>(20)</sup>.

The verb איה (nif.), ‘to agree’, appears three times in our chapter (vv. 15.22.23). In the Bible, it appears only once more (2 Kgs 12,9). On the other hand, this verb is common in post-biblical literature: the Damascus Document (20,7) and the Mishnah (passim)<sup>(21)</sup>. These sparse indicia would not alone be enough to date the Dinah story in the postexilic age, but they conveniently join the argument from the history of Biblical law that submits evidence to the same effect.

The Dinah episode, a clan saga at first, was transformed into a paradigmatic narrative that conveys a message about intermarriage between the sons of Jacob and their neighbours<sup>(22)</sup>. This paradigm has two poles, a positive one and a negative one. At the positive pole, stand the children of Jacob who avenge the offence inflicted upon them. They foreshadow the Israelites of future generations, even those of the writer’s times. Shechem and the Hivvites, the inhabitants of the land, belong to the negative pole. They want to convert, accepting Jacob’s law, but for improper reasons: for sheer utility, as they covet the comely Dinah, and in addition, the belongings of the

<sup>(18)</sup> Cf. KUENEN, “Dina”, 269-270.

<sup>(19)</sup> *Yēladīm* appear in the story of Rēhab’am consultations, 1 Kgs 12,1.3b-16. In my opinion, this is a late exemplum, aiming at defending the wisdom of elderly people; cf. for the time being: A. ROFÉ, “Revealed Wisdom: From the Bible to Qumran”, *Sapiential Perspectives. Wisdom Literature in Light of the Dead Sea Scrolls* (eds. J.J. COLLINS ET AL.) (STDJ 51; Leiden 2004) 1-11, at pp. 7-8.

<sup>(20)</sup> Thus in b.BB 3b a Rabbinical legend makes use of this term in defining Miriam the Hasmonean, Herod’s wife.

<sup>(21)</sup> The verb is cognate to the Arabic ‘*ata* ‘to agree’; cf. W. GESENIUS, *Hebräisches und chaldäisches Handwörterbuch über das Alte Testament* (Leipzig 1828) s.v. איה; P. WECHTER, *Ibn Barun’s Arabic Works on Hebrew Grammar and Lexicography* (Philadelphia 1964) 94; L. KOEHLER – W. BAUMGARTNER, *The Hebrew and Aramaic Lexicon of the OT* (Leiden 1994) I, 26.

<sup>(22)</sup> For a similar message in a paradigmatic narrative, cf. A. ROFÉ, “An Enquiry into the Betrothal of Rebekah, *Die Hebräische Bibel und ihre zweifache Nachgeschichte*. Fs. für R. Rendtorff (Neukirchen 1990) 27-39; ID., “The Vineyard of Naboth: The Origin and Message of the Story”, *VT* 38 (1988) 89-104.

Jacobites (v. 23). Whom do they represent? Most plausibly — the inhabitants of Shechem in the writer's time. If he could, he would have brought upon them the destiny of Shechem ben Hamor! Fortunately for them (and for him) he had not the power to do so, and besides, the Persian authorities would not have permitted it.

Questions remain unsolved and new ones arise. If this presentation is correct, how can it be that Genesis 34 has been included in the Samaritan Pentateuch and faithfully translated in their Targum<sup>(23)</sup>? How could these sources have accepted such a piece of anti-Samaritan polemic<sup>(24)</sup>? Two concomitant explanations may answer this query. First, one has to take into account the attribution of the Torah to Moses, a concept already dominant by the end of Persian period. This idea not only lent an aureole of sanctity to the entire Pentateuch, but also hindered the easy identification of personalities from ancient times with present ones; Shechem the Hivvite is a contemporary of Jacob, nothing more and nothing less. In addition, the perception that the Hivvites of Shechem are but an allonym for the Samaritans rests on the acceptance of the story about their foreign extraction as told in 2 Kgs 17,24-33 (cf Ezra 4,2). The Samaritans, however, denied the veracity of those stories and traced their origin to the Josephite tribes and to Levi. They could not, therefore, see the relevance of the Dinah story to their own situation.

The story of Dinah, a clan saga from ancient (pre-monarchic?) times, was reshaped as a paradigmatic narrative which conveyed an up-to-date message to the people of the post-exilic stage. In this, it joins a number of other stories, embedded in the Pentateuch and the Former Prophets, whose time of composition and ideas have, for too long, remained unrecognized<sup>(25)</sup>. The present essay, I hope, has contributed to the understanding of this class of narratives.

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<sup>(23)</sup> Cf. A. TAL, *The Samaritan Targum of the Pentateuch. A Critical Edition, Part I: Genesis and Exodus* (Tel Aviv 1980) 138-142.

<sup>(24)</sup> The question has been discussed by M. MOR, "Theodotos, the Epos of Shechem and the Samaritans: A New Interpretation" (Hebrew), *The Jews in the Hellenistic-Roman World. Studies in Memory of M. Stern* (ed. I.M. GAFNI ET AL.) (Jerusalem 1996) 345-359.

<sup>(25)</sup> In addition to the references in n. 22, cf. A. ROFÉ, "The Battle of David and Goliath: Folklore, Theology, Eschatology", *Judaic Perspectives on Ancient Israel* (ed. J. NEUSNER ET AL.) (Philadelphia 1987) 117-151; R. GOLDSTEIN, "Joshua 22:9-34: A Priestly Narrative from the Second Temple Period", *Shnaton* 13 (2002) 43-81 (Hebrew), viii-ix (English Abstract).

## SUMMARY

Seduction or rape of a virgin in the Biblical milieu did not signify her being defiled. The Hebrew verb *ṭimme'* (to defile) applied to married or betrothed women only. The case of Dinah is an exception. In Genesis 34, it is stated three times that Jacob's daughter was defiled by Shechem (vv. 5.13.27). A plausible explanation of this state of affairs is that Genesis 34 reflects the late, postexilic notion that the idolatrous gentiles are impure which implies the prohibition of intermarriage and intercourse with them (Ezra 9, 11-12). The concept of the impurity of idolaters persisted in post-biblical literature. Thus, the assertion that Dinah was defiled by Shechem betrays a late date of composition in respect of this story. This confirms Kuenen's hypothesis that Genesis 34 in its present form is a late chapter, containing an anti-Samaritan polemic which originated in the Restoration Community of the Fifth-Fourth centuries BCE.