

RAW MATERIAL

Studies in Biblical Sexuality

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Chapter 10

Procreation Values

Polygamy and Levirate Marriage

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Polygamy

Abraham is promised that his descendants would be like the dust of the earth (Genesis 13:16). He is told his descendants would be like the stars of the heavens (15:5). He is told that these descendants would inherit the land where he wanders. And he has no children. Sarah remains barren.

So Sarah reaches for the standard remedy in such situations. She has her husband impregnate her servant, Hagar, and the servant's son is to be the heir. Jacob, grandson of Abraham, would have the same solution pressed on him by his two wives, Leah and Rachel. First barren Rachel has her husband impregnate her servant Bilhah, then competitive Leah, who is not barren, still has Jacob impregnate her servant Zilpah. Somehow these concubine children are not quite satisfying, but at least the concubines do produce children, and that is very important to these wives.

The book of Genesis describes these polygamous families, but it does not support using servants as reproductive concubines. The language of Genesis 2:24 implies monogamy, and the narrative of Genesis takes a critical view of the rivalries in the households of Abraham and Jacob. Genesis 2:24 is not supportive of polygamy, and procreation is not presented as a marital value in Genesis 2. When we meet the first polygamist in Genesis, he is boasting of his achievement as the second murderer (4:19, 23-24). In contrast Genesis 1:28 commands the newly created humans to "be fruitful and multiply, fill the earth," a command repeated following the flood (9:1,7). Newly created animals receive similar commands (1:22). However the drive to reproduce is not upheld uniformly throughout Genesis, and dissatisfaction with polygamy remains a consistent undercurrent.

In Genesis 22:2,12 Isaac is described as Abraham's "only" son, even though Ishmael played an important role in the previous chapter. Redaction might explain the "only" by positing a source tradition which did not know Ishmael. However, that merely moves the problem to the redacted text before us which juxtaposes Ishmael with Isaac, the "only" son. The hypothetical redactor apparently had no problem with Isaac being the "only" son and presses the issue on us. Besides, we have no clear evidence that the source for chapter 22 did not know about Ishmael.

The problem of the “only” son is an old one with its own history (Amit 2003, pp 6-8).

We might explain the text by translating “only” as “special” or “primary” and allow for the existence of Ishmael. Even so, only Isaac is recognized as Abraham’s son though he is neither the first nor the only son. If polygamy is about reproduction and inheritance, chapter 22 questions its legitimacy. Sarah was the first wife, thus only her son is Abraham’s “true” son.

Rivalry seems common in polygamous families in the Bible, as if each wife had a separate family in spite of a common father. Within a polygamous family brotherhood is specified through the mother (e.g. Gen 27:29; 43:29; Deut 13:7 [MT]; Jud 8:19; Ps 50:20; 69:9), a cultural habit which probably had its roots in polygamy. This specificity by the mother is found in other ancient Semitic sources (Levinson). In spite of Leviticus 18, marriage between half-siblings seems to have been acceptable (Gen 20:12; 2 Sam 13:12-13). These half-siblings shared the same father but had different mothers, and perhaps they did not feel the incest taboo because of the separation within the family. It seems that children of separate mothers were raised separately, as if in separate families. Even Leviticus 18:9 and 20:17 found it necessary to specify sibling status separately for a common father or a common mother. The Joseph story may be read as an attempt to make one family out of the diverse and competing families of Leah and Rachel. The distinction of mothers and its familial disjunction may lie behind Isaac’s identification as Abraham’s “only” son.

Elkanah’s beloved wife Hannah was barren, like Sarah and Rachel, so he has a second wife to provide him with children. Barren Hannah is taunted by overbearing Penninah, like Sarah with Hagar, and Hannah is miserable. Hannah visits the Tabernacle and vows her firstborn to the Lord should God open her womb (1 Sam 1:11). In another culture such a vow might be fulfilled by sacrificing the child, but in this case the firstborn is brought to the Tabernacle to be its servant and a servant of the Most High God. That firstborn is the prophet Samuel, and after fulfilling her vow Hannah bears other children and is satisfied. But first were the years of barrenness which caused her husband to marry a second wife, one less beloved but more reproductive.

Polygamy is not about lust, it is about reproduction. Augustine defended polygamy among the patriarchs by claiming that they had a mandate to fill the earth and provide Jesus with a genealogy (*Bono Conj.* 21.25). Later, in the reigns of David, Solomon and their successors, polygamy was also politics. Many of those royal marriages were political alliances, both with

foreign rulers and with internal tribal leaders. No nation has just one political ally and no royal family has only one allied aristocratic house, so no royal marriage in this culture could avoid polygamy. Many of these royal marriages were also fertile, so the concubines are not needed for reproduction. Royal wives were duty, and royal concubines were for carnal gratification.

Levirate Marriage

When a married man dies childless it is the responsibility of his brother or other near relative to form a levirate marriage with the widow to produce an heir for the dead relative. The woman is very interested in the process, for her social standing and self-respect are at stake. If she produces no heir, her status within her husband's family is compromised severely. Should the relative refuse to do his duty she has the right of publicly humiliating him by removing his sandal and spitting in his face (Deut 25:5-10). If the widow cannot obtain her levirate rights, she re-enters the marriage market without her virginity.

Like polygamy, levirate marriage is all about reproduction. In the genealogy of Matthew 1:2-16 four female ancestors are mentioned, and two of them levirate wives, Tamar and Ruth. And the book of Ruth references her levirate predecessor, Tamar.

Tamar's story is told in Genesis 38, a crossroads of sexual law in the book of Genesis (Miller 2000a). Judah marries a Canaanite woman, already an unacceptable type of marriage, and has three sons. He marries off Er, the eldest son, to another Canaanite woman, Tamar. Er dies childless and Onan, the second son, is sent in to perform the levirate duty. But Onan decides he does not want his son to bear his brother's name so he practices contraception by withdrawing, leaving Tamar childless still. For his deceptive and dishonorable actions Onan dies. In the law of Moses Onan would merely be disgraced publicly by Tamar, but because of his deception, or other reasons not stated, God decides Onan's actions deserve the death penalty.

Judah has just lost two of his sons to this Canaanite *femme fatale*, and he is not about to lose his third son as well. Like Onan Judah practices deception, so he tells Tamar to wait until the youngest is older. Though Tamar returns to her father's house a widow, she remains under marriage contract to Judah's family, and therefore under his control. This marriage contract remains active throughout the story.

Eventually Tamar realizes that Judah will never make good on the second levirate marriage and she hears that his wife has died. Knowing her father-in-law and his weaknesses,

Tamar decides she must waylay him sexually. But she also knows that he would never knowingly have sex with his son's widow. In some Near Eastern cultures the father-in-law was considered a levirate relative,¹ and Tamar seems to think Judah can fulfill the levirate obligation. She snares him by veiling herself, apparently a cue which indicates that she is a prostitute. She is careful to take from Judah identifying items by which she can prove his paternity. Not only is she concerned for the legitimacy of her child by Judah, but also for her own life, for Judah still has the right to execute her for adultery. In other words, the marriage contract is still in force.

As Tamar expected, Judah orders her execution for adultery and Tamar provides proof that her unborn child is by Judah. In the end Judah has to admit that Tamar is more righteous than he. Judah will not have sex with Tamar again, for he considers his liaison with his son's widow to be incest. However, he recognizes her offspring, which turn out to be twins, as legitimate heirs. So Tamar the Canaanite is ancestress of the tribe of Judah and a heroine of the tribes of Israel.

The story of Tamar, with its variety of sexual elements, was probably meant to be read with an eye to the comic elements. In this story the leading male, Judah, is a man of lusts. He marries a Canaanite, marries his son to a Canaanite, and readily lays with a Canaanite prostitute. His lusts are well known to his daughter-in-law, a Canaanite who shows herself more righteous and more concerned for the heritage of Israel than the patriarch of the royal tribe. These incongruities are basic to the flavor of the story.

Tamar is a very active character in this story. As a female character and a Canaanite, her actions are directed toward providing descendants for Israel — male descendants. Levirate marriage seems to be directed toward male descendants, and in this case descendants for a foreign people as well. Although an Israelite reader might miss the irony of a woman working hard to provide for a man's lineage, or a Canaanite working hard to preserve a tribe of Israel, these ironies present themselves to the modern reader. Similar themes will be found in the story of Ruth.

Ruth, a Moabite woman, is the wife of a Judahite expatriate living in Moab. He dies and leaves Ruth a widow, along with her widowed sister-in-law and mother-in-law. The sister-in-law remains in Moab, but Ruth returns with Naomi to Judah, to the city of Bethlehem. There

¹ *Middle Assyrian Laws* 33; *Hittite Law Code* 193.

Naomi sets about to secure for Ruth a levirate husband. The most desirable relative is Boaz, a man who already has shown favor to Ruth. However, there is a closer relative with first claim to Ruth. It is Ruth who proposes the marriage to Boaz, but Boaz first must settle business with the closer relative.

In the city gate Boaz sits with the relative and discusses the levirate obligations including the problems of inheritance. Apparently levirate children have a stake in the inheritance of the biological father as well as the dead legal father, and the relative did not want his own inheritance compromised through the levirate marriage. So he exchanges with Boaz the sandal which indicates surrender of the levirate obligation. Both Onan and this unnamed relative were mindful of a portion of the levirate system of which we remain ignorant, something which would affect the inheritance of the levirate father.

In the blessing of the marriage between Ruth and Boaz, Tamar is invoked as an honored ancestress (Ruth 4:12). The book of Ruth is aware of the earlier story where a foreign woman married into the Chosen People, and then overcomes widowhood to become an important ancestress through the process of levirate marriage. Ruth is placed in the tradition of Tamar.

The book of Ruth is one of the few extended stories in the Hebrew Scriptures where women are the primary characters. Naomi and Ruth repeatedly initiate the acts which make up this story and at no point in the narrative do they fade into the background. But, in the end the whole point of the story remains male-centered. Naomi and Ruth are busy preserving the inheritance of their dead husbands, and their success is measured by Ruth bearing a boy. The story ends with genealogies stretching in both directions, toward the birth of David to Jesse (4:17) and then a more complete genealogy from Perez (son of Judah by Tamar) to David through Boaz (4:18-22). Ruth is not mentioned in either genealogy and Naomi is mentioned once before the first genealogy. Procreation values are all about the male line. Women are important, but mostly they remain in the background. The Book of Ruth is even more explicit than the story of Tamar in its emphasis on the male line and its de-emphasis on the female line. Ruth would have to wait more than a millennium before she would gain mention in a genealogy, Matthew's genealogy of Jesus.

Why is a sandal used for levirate transactions? It is probably related to a common euphemism for the male genitals, "feet." When the widow removes the sandal of the recalcitrant relative she is exposing him publicly, and possibly accusing him of being impotent. In Ruth,

when the relative passes the levirate duty to Boaz he also passes his sandal, possibly indicating that Boaz now has the right to place his “foot” in the relative’s sandal.

Two important questions cannot be answered from the information which we have. Once the widow has delivered a male heir for the dead husband, is she still to be sexually active with the relative, bearing further children to her dead husband, or would that be considered incest? And if the widow produces a daughter, do they try again until a son is born? Deuteronomy 25:6 specifies “firstborn” (בכור), but it is not clear whether this implies any further offspring, or whether a daughter can hold the position of “firstborn.”

Consider the daughters of Zelophehad (Num 27:1-11; 36:5-12). Their father has no son, but they are promised his inheritance. However, they must marry within their tribe and family because, it seems, their inheritance will pass into that of their husbands. Under these conditions if the birth of a daughter can fulfill the levirate obligation (should no son be forthcoming), then it seems the daughter’s inheritance would become her husband’s inheritance, so she would be as restricted as her widowed mother to marrying a close relative.

The New Testament and Beyond

The New Testament has little to say on levirate marriage, even though Tamar and Ruth are mentioned in Matthew’s genealogy (1:3,5). First, procreation and (worldly) inheritance are not New Testament points of interest. Also the practice probably was rather rare by that time. In Romans 7:1-3, Paul assumes that marriage ends with the death of one spouse, in stark contrast to the story of Tamar. As Paul is addressing Jews as well as gentiles, Romans 7 implies that levirate marriage was not practiced by Jews in his day, and 1st Century Jews treated levirate marriage as something no longer practiced.

The only New Testament treatment of levirate marriage is in a riddle posed to Jesus.

Jesus was asked about a levirate marriage which sounds hypothetical though it is presented as history. It was a trick question and an unlikely situation. There were seven brothers. The first died childless and his widow was passed to the next, who also died childless, and to the next, who died, etc. The widow was last to die (Matt 22:23-33; Mark 12:18-27; Luke 20:27-39). The riddle was, whose wife would she be in the resurrection, for she had seven husbands all related to each other? It is an interesting question telling us something about the questioners, for the questioners, who did not believe in the resurrection, had a few simple

assumptions about belief in the resurrection. They assumed that resurrected people who will never die still need to have sex and reproduce. They assumed that marriage bonds remain in force following the resurrection — not a bad assumption as widows were not free to remarry just anyone, but were required to remarry within the family to a levirate. In other words, marriage outlasts, “Till death do us part.” They oddly assumed that the first marriage contract was somehow muddied by further levirate marriages — when the sole reason the widow married the brothers was to provide an heir for her first husband, the one whose name was on her marriage contract and whose inheritance they were trying to continue. Even when the widow was down to the last brother, she was still trying to fulfill her marriage contract to the eldest brother by bearing him a son through his younger brother.

One more thing. The opponents of Jesus assumed that by creating a dilemma they somehow had disproved something. This is not an intelligent form of argument. It is the equivalent of asking, “If the earth is round why don’t people on the other side fall off?” Intellectual dilemmas may be puzzles to be solved, but they are not arguments which can disprove anything. The questioners are portrayed as hecklers and the gospel writers did not want them taken seriously.

This odd and hypothetical levirate case is the only New Testament treatment of levirate marriage outside the genealogies of Jesus. In other Jewish literature of the period, Josephus, Philo, the Pseudepigrapha, the Dead Sea Scrolls, etc., levirate marriage is almost completely ignored. Though Josephus does give the story of Ruth (Ant 5.9), he skips the story of Tamar completely, probably because it had a number of embarrassing elements. Jubilees does give the full story of Tamar.

Philo’s treatment of Tamar is especially interesting. Philo ignores Deuteronomy 25:5-10, although he exposit many other laws from Moses, and never mentions Ruth. In his understanding of Tamar he departs from the Biblical story significantly, removing levirate marriage from the story. He calls Tamar the “bride of Judah” (*Leg All* 22 / 74) and a virgin (*De Cong Q* 23 / 124). She is described as having “Divine impregnation” and “virtuous seed” (*Quod Deus* 39 / 136-137), or simply “Divine seed” (*De Mut* 23 / 134-135). Most important, she did not know who the father was, for as with Moses, so also her eyes were veiled from seeing her Divine impregnator (who apparently was not Judah). Apparently for Philo, neither Er nor Onan violated her virginity, and even Judah did not do so, but rather, as a virgin, she received Divine

impregnation. This is a rather stunning concept. Alternatively, Judah was her “divine” impregnator who, acting in the place of God, required Tamar veiling herself to receive him. Even so, apparently there was no incest, as her marriage to Er and Onan was not consummated. But Philo’s approach, which avoids most of the embarrassing elements of Genesis 38, also seems to be unique and idiosyncratic.

It seems likely the practice of Levirate marriage was quite rare by the time the New Testament was written.

The practice of levirate marriage is very rare in Judaism today, and has been so for a long time. The law allows for the ritual of *halitsa*, from the verb *הָלַח*, “to remove” (a shoe/sandal). This ritual is based on Deuteronomy 25:5-10 and has become the normal practice when there is a childless widow within an observant family. Even more than polygamy, levirate marriage is a practice bound to its ancient cultural context and foreign to most later contexts.