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Sexual Property and the Personhood of Women in the Old Testament, New Testament and the Mishnah

Laura Sauder

Intern, Grace Lutheran Church

Winnipeg, MB

As Elizabeth Cady Stanton argued with the publication of *The Woman's Bible* in 1895, “the biblical text is androcentric and ... men have put their stamp on biblical revelation. The Bible is not just interpreted from a male perspective ... [r]ather, it is manmade because it is written by men and is the expression of a patriarchal culture.”¹ This has been a crucial insight for (feminist) biblical scholars who have followed since, seeking to uncover the stories and perspectives of women from within these male-centred texts.

Recognizing that there are many different strands of composition within the biblical texts (both those that challenge and those that support the patriarchal norm), this paper will focus on the themes of women as sexual property and women's personhood. In this pursuit, one of the important questions to keep in mind is whether those texts on this topic are descriptive or prescriptive. Because the biblical texts were written from male perspectives we must question whether what is attested about the lives of women reflects their lived reality or rather the desired male reality.

Speaking to her work with early Christianity, Elizabeth Schüssler Fiorenza writes, “androcentric texts and documents do not mirror historical reality, report historical facts, or tell us how it actually was ... our early Christian sources are theological interpretations, argumentations, projections, and selections rooted in a patriarchal culture. Such texts must be evaluated historically in terms of their own time and culture and assessed theologically in terms of a feminist scale of values.”² This dynamic will be crucial to keep in mind as we look at some of the specific biblical and Mishnaic passages that address women as sexual property. What do these texts mean for Christian and Jewish women today seeking to live faithfully? What do these texts tell us about the theological framework of the communities from which they arose?

Sexual Property, Personhood, and the Old Testament

Phyllis Bird writes, “the Israelite family was in all periods a male-headed household, in which descent and transmission of property (in particular, the patrimonial land, ‘inheritance’) were reckoned through males.”³ One of the significant consequences of this social arrangement is that women were “to some extent either aliens or transients within

their family of residence.”⁴ As in many patriarchal cultures, women’s realm was in the home and men’s was in public. However, men were given legal authority over women even in the family. In general, the Israelite woman’s legal status placed her in a subordinate position to the man and placed limitations on her rights. For example, in the Decalogue, although it can be assumed that women were included in the community that was being addressed women are not addressed explicitly. As Bird writes, women are hidden “as legal persons behind the male citizen or husband addressed by the law.”⁵

Perhaps one of the most challenging aspects of the Torah as it is presented in the Old Testament is that women are counted among a man’s possessions along with children, slaves, and livestock (e.g., Exodus 20:17; Deuteronomy 5:21). According to Bird, however, women were not in fact considered “property” in spite of passages such as these. In support of her conclusion, there are examples within the Pentateuch that address “women’s rights” (e.g., Exodus 21:10; Numbers 27:1-11; 30:2-17). In these passages, women are treated as persons in regards to a wife’s right to maintenance, a daughter’s right to inheritance in the absence of sons, and “the varying capacity of daughters, wives, and unattached women to make binding religious vows.”⁶ It can also be argued that patriarchy is not part of God’s creation in Genesis; rather women and men are created as equals.⁷ And yet, in spite of these positive examples, the presentation of women in the Old Testament is still very much as subordinate to men.

L. William Countryman also argues that women are viewed as sexual property in the Old Testament. He writes that “the principle of respect for sexual property, rooted in the institution of the household or family,”⁸ was prevalent in antiquity. Like Bird, Countryman affirms the “alien” or “transient” status of women. He writes, “Normally, [a woman] was transferred to the household of a husband at about the time of puberty, and from this time onward she lived in a kind of familial limbo, being a full member of neither household.”⁹ He argues that Old Testament views on adultery, incest and prostitution provide evidence for the status of women as sexual property.

Countryman uses an example from Job to illustrate women’s status as sexual property. In Job 31, “Job invokes on himself a series of curses in conditional form: if I have committed such-and-such sin, may some appropriate punishment befall me.”¹⁰ One of these curses involves a reference to adultery. Job cries, “If my heart has been enticed by a woman, and I have lain in wait at my neighbour’s door; then let my wife grind for another, and let other men kneel over her” (Job 31:9-10). From a modern perspective it does not appear that the punishment necessarily fits the crime. Why should Job’s wife be punished for his sin? According to Countryman, this is because “the wife was a form of property; adultery was violation of the property of another and should therefore be punished with violation of one’s own.”¹¹ Countryman claims that it is this connection with sexual property that places adultery in proximity to theft within the Ten Commandments¹² (e.g., Exodus 20:14-15).

Sexual Property, Personhood, and the New Testament

The New Testament provides us with another perspective of women as sexual property although not unrelated to that of the Old Testament. In the Synoptic Gospels, “one of the striking features of Jesus’ teaching ... is the way in which he distanced himself from family and household.”¹³ According to Rosemary Radford Ruether, Jesus’ teachings can in fact be characterised as “antifamily.”¹⁴ For example, not only does Jesus renounce his own family (e.g., Mark 3:31, 33-35) but calls his disciples to renounce theirs as well (e.g., Matthew 8:21-22; 4:21-22). This “antifamily” stance replaces the patriarchal household with a new community not based on blood ties or property. Although not aimed solely at women, these antifamily teachings have interesting repercussions for the status of women.

In a discussion of Jesus’ teachings on divorce, Countryman argues, “Jesus altered marriage and family life in a highly significant way through his prohibition of divorce.”¹⁵ In Matthew 19, Jesus is asked by the Pharisees whether it is lawful for a man to divorce his wife for any cause (v. 3). Jesus’ response to this is no. He states that when a man and a woman marry “they are no longer two, but one flesh” (v. 6). What is so radical about this statement is that it goes against the accepted view of marriage in which a woman can be divorced by her husband because by cultural norms she was not in fact considered to be her husband’s kin. Jesus’ understanding of “one flesh” is, according to Countryman, “full kinship.”¹⁶ And so, Jesus’ “prohibition of divorce ... which may appear, from a modern perspective, to protect the family, were actually undermining it in its ancient form.”¹⁷ Furthermore, in making this pronouncement about divorce, Jesus affirms women’s personhood.

The Pauline writings offer us somewhat of a mixed bag in regards to the status of women. On the one hand, the Pauline writings present us with examples of women in leadership roles in the early church (e.g., Philippians 4:2-3; Romans 16:1) and argue for the full equality of women with men through baptism (Galatians 3:28). Many of the early Christian missionaries worked in male-female partnerships. As Schüssler Fiorenza notes, in this capacity “their traditional status and role as wives does not come to the fore, but rather their commitment to partnership in the work of the gospel.”¹⁸ In light of these examples, what do we then make of the times when Paul asserts the subordinate status of women?

Although Paul was radically egalitarian in some respects, he was also somewhat uncritical of contemporary family life (perhaps due to the fact that he believed in Christ’s imminent return). As Countryman writes, “Paul does defend the areas of equality, marital and sacral, and insists that the goals of the household must yield to the imminence of God’s Reign. He does not, however, draw the conclusion that the household itself had to be reshaped.”¹⁹ It is interesting to note that when Paul uses the same “equality in baptism” formula from Galatians 3:28 in other writings he omits the reference to male and female

(e.g., 1 Corinthians 12:12-13; Colossians 3:11). And in Ephesians 5 and Colossians 3, although Paul calls on husbands to be loving towards their wives he also explicitly advises women to be subordinate to their husbands. Finally, in 1 Corinthians 11, Paul makes a rather convoluted argument about why it is that women may prophesy in the community but only if they cover their heads (vv. 3-16).

This counter-testimony in the Pauline writings only serves to illustrate the difficulty of living out Jesus' radical message of equality within a patriarchal culture. So while it may be impossible to draw clear-cut conclusions on the status of women in the New Testament, we can affirm that the view of women as sexual property and as subordinate to men continued in early Christianity to some degree (and certainly more so as the Jesus movement became institutionalized over the following decades and centuries).

Sexual Property, Personhood, and the Mishnah

As a movement contemporary with early Christianity it is both helpful and insightful to take a brief look at the presentation of women within the tradition of Rabbinic Judaism, as recorded in the Mishnah (the oral Torah). As with the biblical texts, the Mishnah is a text that is particularly concerned with taxonomy (that is "with placing everything in an appropriate slot") and is an androcentric text in which the Jewish male is viewed as normative.²⁰ If the male is viewed as normative then the woman is viewed as a deviation from the norm because women are seen to be like men in some ways and unlike men in others. It is this ambiguous characterization that permits women to be viewed as both the property of men (as chattel) in the Mishnah but also at times and under certain circumstances as persons with legal rights. Interestingly, there is a pattern to this differential treatment in status. Wegner writes, "whenever some man has a proprietary interest in the sexual and reproductive function of a specified girl or woman, the Mishnah's framers treat the woman as that man's chattel in all matter that affect his ownership of her sexuality."²¹ A brief exploration of the status of the wife in the Mishnah will help shed some light on this dynamic of person or chattel in relation to sexuality.

Wegner points out that the Mishnah views marriage as the acquisition of a wife for the male. She writes, "the procedure for acquiring a wife ... treats marriage as the formal sale and purchase of a woman's sexual function – a commercial transaction in which a man pays for the bride's virginity just as for any other object of value."²² Wegner highlights the "unilateral espousal ceremony" in which the man recites a formal declaration but the woman makes no reply (M. Qid. 2:3) as but one example of the wife as chattel.²³ But Wegner also provides Mishnaic examples that establish certain rights for a wife. For example, there are tractates that clearly define a woman's matrimonial duties (M. Ket. 5:5, 9). In these tractates, "the sages spell out the nature and quantity of the wife's domestic

chores and the economic workload.” This acknowledges that women are “not to perform any kind of labor at the master’s whim.”²⁴ However, even in light of Mishnaic laws that uphold aspects of a woman’s personhood, Wegner is quick to acknowledge that “the personhood of the wife always remains less than that of her husband.”²⁵

Tal Ilan’s work on the legal status of women in Second Temple Judaism affirms Wegner’s conclusions. Ilan argues that in the view of the authors of the Talmud “Jewish women are not full members of the Jewish nation.”²⁶ Looking at the different arguments presented in the Mishnah by the opposing schools of Beit Shammai and Beit Hillel on the topic of women, Ilan argues that although Beit Shammai’s stance is traditionally viewed as being more strict than that of Beit Hillel’s, in fact, the strictness of Beit Shammai upholds the personhood of women by “somewhat minimizing the double standard which other Jewish groups employed in their ordering of the lives of men and women.”²⁷ She argues that Beit Shammai supported women’s property rights, viewed marriage as a serious matter rather than a whim, took a stricter view on the question of sexual conduct, and in all cases, held the same expectations of women as of men.

Concluding Reflections

It is apparent that in all of these texts, there is no one view of the status of women but rather many (and often competing) views. At times women are viewed as objects of sexual property and at others as persons in their own right. It is important to acknowledge that this ambiguous legacy is one that is jointly inherited by both Christianity and Judaism. The status of women as subordinate to men is a challenge we continue to face in our communities.

In the introduction we raised the question of whether these passages regarding women are to be viewed as prescriptive or descriptive. Schüssler Fiorenza argues that as androcentric texts they are most likely not descriptive of the reality of women’s lives. She writes, “the formal canons of codified patriarchal law are generally more restrictive than the actual interaction and relationship of women and men and the social reality which they govern.”²⁸ The fact that we have examples from all three texts that portray women both as persons and as property would support this conclusion. That is not to say, however, that the patriarchal views which undergird these texts did not have real significance for the daily lives of women.

Related to this inquiry is then the question of the theological significance of this portrayal of women. Are women treated as subordinate because it was divinely ordained or is this subordinate status a human creation? There are those who would argue that the subordination of women is part of the orders of creation; however, a solid argument can be made from scripture that this is not in fact the case. Phyllis Trible’s exegesis of the creation

narratives in Genesis demonstrates that God's intention in creation was for the equality of both men and women.²⁹ For Christians there is also Jesus' appeal to these creation narratives in his argument against a man's right to dismiss his wife at any whim, stressing the equality and mutuality of a marriage relationship (Matthew 19:1-12). These passages would appear to support a view that it is God's intention for our human relationships to be characterised by mutuality and equality, not by domination and subordination.

Recognizing and acknowledging the diverging witnesses within these sacred texts is an important step towards understanding the competing dynamics at work within our own culture in regards to how it is that women and men are to relate. The Bible is indeed an androcentric text with strands that present women as sexual property, but as feminist scholarship has shown this is not the only strand (although it may be quite dominant). As such, it remains important work to continue reclaiming these strands that affirm the personhood of women.

Endnotes

- 1 Elizabeth Schüssler Fiorenza. *In Memory of Her* (New York: Crossroad Publishing Company, 1983), p. 13.
- 2 *Ibid.*, p. 60.
- 3 Phyllis A. Bird. *Missing Persons and Mistaken Identities: Women and Gender in Ancient Israel* (Minneapolis: Fortress Press, 1997), p. 55.
- 4 *Ibid.*
- 5 *Ibid.*, p. 64.
- 6 Judith Romney Wegner. *Chattel or Person? The Status of Women in the Mishnah* (New York: Oxford University Press, 1988), p. 13.
- 7 Phyllis Trible. *God and the Rhetoric of Sexuality* (Philadelphia: Fortress Press, 1978).
- 8 L. William Countryman. *Dirt, Greed, & Sex: Sexual Ethics in the New Testament and Their Implications for Today* (Minneapolis: Fortress Press, 2007), p. 144.
- 9 *Ibid.*, p. 148.
- 10 *Ibid.*, p. 145.
- 11 *Ibid.*, p. 146.
- 12 *Ibid.*, p. 153.
- 13 *Ibid.*, p. 164.
- 14 Rosemary Radford Ruether. *Christianity and the Making of the Modern Family* (Boston: Beacon Press, 2000), p. 25.
- 15 Countryman, p. 169.
- 16 *Ibid.*, p. 170.
- 17 *Ibid.*, p. 172.
- 18 Schüssler Fiorenza, p. 173.

- 19 Countryman, p. 210.
- 20 Wegner, p. 5.
- 21 *Ibid.*, p. 19.
- 22 *Ibid.*, p. 42.
- 23 *Ibid.*, p. 44.
- 24 *Ibid.*, p. 76.
- 25 *Ibid.*, p. 79.
- 26 Tal Ilan, *Integrating Women into Second Temple History* (Peabody: Hendrickson, 2001), p. 1.
- 27 *Ibid.*, p. 63.
- 28 Schüssler Fiorenza, pp. 108-109.
- 29 This exegetical work can be found in *God and the Rhetoric of Sexuality* (Philadelphia: Fortress Press, 1978; reprinted 1983).