

12 Incest

12.1 Promiscuity

Our discussion now proceeds to the subject of incest, a practice known from the earliest history of mankind, when the hordes of people abandoned themselves to promiscuity. At any rate this was asserted in the nineteenth century, and Karl Marx adopted the idea.¹ Out of this wild mess there slowly developed polygamy, and from this came strictly monogamous marriage. As well as polygamy some claim to have found polyandry, both in very old historical sources and present-day societies. Arabists who have studied that problem² suggest that modern communities feel this gives a measure of freedom to monogamous marriage.³ Older sources, such as Strabo, Chinese travelers, and the commentator Al-Buḥārī, speak of polyandry particularly in South Arabia (Arabia Felix). Strabo states,

One woman is for everyone, and the man who comes in first, after first leaving his staff in front of the door, has intercourse (XIV. 4.25).

That this actually happened is confirmed by an inscription from South Arabia in which two men thank the god Almaqa for the five boys and the one girl whom they fathered by the same woman. This is not the only text with similar content to have been found there.⁴ In some Roman inscriptions two men and a woman are said to make a vow to each other.⁵

For our purposes it is interesting to note that the Sumerian city ruler Urukagina prohibited polyandry under the reforms he conducted in ca. 2320 BC. The relevant texts are difficult to translate, but the passage which interests us can be translated as follows:⁶

1 Friedrich Engels, *The Origin of the Family, Private Property, and the State: in the light of the researches of Lewis H. Morgan* (1884).

2 J. Henninger, 'Neuere Forschungen zum Problem der Polyandrie in Arabien', in: *Meqor Hajjim. Festschrift für Georg Molin* (1983) 127–153. See the earlier article from 1954, 'Polyandrie im vorislamischen Arabien', in: Henninger, *Arabica Varia* (1989) 305–338; see also Hortense Reintjes, *Die soziale Stellung der Frau bei den nordarabischen Beduinen* (1975) 48–52.

3 L. Vajda in Henninger (1983) 128.

4 W. W. Müller, 'Sabaäische Texte zur Polyandrie', *Neue Ephemeris für die Semitische Epigraphik* 2 (1974) 125–138.

5 J.-J. Glassner, *CRRAI* 47/1 (2002) 161f.

6 Ukg. 6 iii 14–24 ('Plaque Ovale'), as translated by J. S. Cooper, *Sumerian and Akkadian royal inscriptions I. Presargonic inscriptions* (1986) 27. See B. Hruška, *ArOr* 41 (1973) 121f., *Aussage* III 28.

If a woman speaks ... disrespectfully to a man, that woman's mouth is crushed with a fired brick, and the fired brick is displayed at the city-gate. Women of former times each married two men, but women of today have been made to give up that crime.

Every translation of this passage is different, but the words 'the women of that time had two husbands' were certainly there, even though the rest is uncertain.⁷ It is generally accepted that the abuse referred to was polyandry. W. von Soden suggested that the high taxes on marriage at that time prevented the women from formally divorcing, so in practice they lived with another man as divorcees.⁸ That is certainly one opinion, but an alternative is to understand the word *za.áš.da* not as 'abuse' but as 'debtor's bondage'. If so it means that because of debts the woman had fallen into the power of the second man, the creditor.⁹ C. Wilcke thinks that the situation concerned a widow who remarried and thus had had two husbands in total.¹⁰ In any event the rights of the woman were restricted. J.-J. Glassner thought of the abuse as being connected with the *ius primae noctis*, meaning that the woman had sexual intercourse with two men, one after the other. He also thought that adultery may have been permitted.¹¹

We arrive on firmer ground when we see how the king of the Hittites expected his vassal to behave towards one of his daughters. Huqqana, an important tribal chieftain in a relatively small community without its own king in the mountains of Armenia, had been given a daughter of the Hittite king, so that the good ties between them would be more firmly established. That could have been the end of the matter, but subsequently there are some established rules in the relevant document about how Hittite women should be treated. These rules were to apply in this instance.¹²

This sister, whom I, My Majesty, have given to you in marriage, has many sisters from her own family and her clan. They belong to your clan (?) because you have received their sister. For the land of the Hittites it is an important rule that a brother does not take his sister or

7 B. R. Foster, *JESHO* 24 (1981) 233.

8 Hruška, 122, referring to W. von Soden in *Propyläen Weltgeschichte* I (1961) 546; J. Bauer, *Annäherungen* 1 (OBO 160/1) (1998) 557. Contra: H. Steible, *FAOS* 5/II (1982) 163.

9 As suggested by J. S. Cooper in *Sumerian and Akkadian royal inscriptions* I, 77 f., n. 9; R. Westbrook, *WZKM* 86 (1996) 455.

10 C. Wilcke, *Early Ancient Near Eastern law* (2003) 59 f. He translates the beginning as follows: 'If a woman has uttered a curse against a man they shall shut her mouth with a brick' (53 n. 142).

11 Glassner in: B. S. Lesko, *Women's earliest records* (1989) 79 f., with comments by others on p. 91–94; *CRRAI* 47/1 (2002) 161b.

12 V. Haas, *Das Reich Urartu* (1986) 24; G. Beckman, *Hittite diplomatic texts*. Second edition (1999) 31 f. § 25–28; J. Klinger, *TUAT NF* 2 (2005) 107–112 § 29–32; Y. Cohen, *Taboos and prohibitions in Hittite society* (2002) 79–93.

his cousin. It is not allowed. Whoever does that in Hattuša shall not remain alive but shall be put to death. Because your country is unaware of this: it is there a right that a brother can take his own sister or cousin. In Hattuša it is not allowed. If a sister of your wife or a relative of the sister of your wife (?) or a cousin comes to your house, give her something to eat and drink. Eat and drink, both of you and have pleasure. But you may not desire to take her ...

Somewhat further on in the text, the suspicious king makes further demands.

Be careful with a woman in (my) palace. Whatever sort of woman she is, whether a free woman or the slave of a lady, you may not approach her and you may not come near her. Be careful with her. ... If you see a woman in the palace, jump far over to the side and give her plenty of room to pass ...

Then a nasty example from history is quoted.

Who was Mariya and why did he die? Did not the slave of a lady draw near, and did he not look at her? But the father of My Majesty saw it from his window and caught him and said, 'You there, why are you looking at her?' That was the reason he died. The man died because he only looked from afar. So be careful.

Yes, the Hittites were strict as regards incest and clauses § 189–196 in their law-book concern this specific subject.

12.2 Incest

For the Babylonians there were specific circumstances in which incest was prohibited.¹³ The laws of Hammurabi (§ 157) say that if a mother has sex with her son after the death of his father both will be burned to death, the ultimate punishment for Babylonians. The clause § 154, by contrast, says that if a father has sex with his daughter he will be banished from the city. G. Cardascia has noted how much more leniently the father was punished.¹⁴ He also points out that chapters of comparable laws in the Bible (Leviticus 18 and 20) do not deal at all with a relationship between a father and his daughter, suggesting that people originally took a rather relaxed attitude to that situation. In the same vein the ancient laws deal equally laxly with intercourse between an uncle and a niece, a father-in-law

¹³ See in general S. Lafont, *Femmes* (1999) 173–236.

¹⁴ G. Cardascia, 'Égalité et inégalité des sexes en matière d'atteinte aux mœurs dans le Proche-Orient ancien', *WdO* 11 (1980) 7–16; reprinted in *Hommage à Guillaume Cardascia* (Méditerranées no. 3) (1995) 197–207; see also *RIA* V/1–2 (1976) 144–150, 'Inzest'.

and a daughter-in-law, and a stepfather and a stepdaughter. In certain circumstances a son could marry the wife of his dead father if she was his stepmother, but he could not marry his father's first wife, his biological mother (Hammurabi § 158; Middle Assyrian laws § 46). While sexual relations between an aunt and her nephew were not allowed, there appeared to be no problem in allowing them between an uncle and his niece, showing that a man but not a woman could instigate the affair. This opens a new vista. It seems to reinforce the prejudiced attitude that a woman should always be passive. From this we can deduce that a man was allowed to have a relationship with a woman of lower standing, a younger woman or a second wife.

Ill omens (*prodigia*) that presaged the fall of Babylon also take up this theme, such as when

a man approached his mother, or his sister, or his daughter, or his mother-in-law, or a bull approached an ass, or a fox approached a dog, or a dog approached a pig.¹⁵

These omens do not constitute morally reprehensible actions but are clearly to be regarded as unnatural occurrences.

Omens about human behaviour include references to incest, although unfortunately the texts are badly broken.

[If a man goes to his mother-in-law], he shall not [be] in a good mood.
 [If a man goes to the ... of his w]ife, his god and his goddess [...] shall not forgive him.
 If a man goes to the daughter of his brother, wherever he goes there will be shortages.¹⁶

In this case it was possible to take steps to avoid the consequence of one's action:

So that the (calamity) does not reach him, say 'God, my strength!' [and the (calamity) shall not approach him].
 If a man goes to the daughter of the daughter of his brother, he shall lay his hand on what is not his; he shall profit; his family will [be rich].¹⁷

In the last instance the thought is that he has violated another man's property but he was rewarded for doing so. We note that these omens refer to relationships with distant family members and the predictions were not always scathing; some

¹⁵ CT 29 48:14 f., following A. Guinan in: L. Ciralo, J. Seidel, *Magic and divination in the Ancient World* (2002) 36, 38.

¹⁶ KAL 1 107 no. 35 rev. 5, 7, 11.

¹⁷ CT 39 43:3–4 and 6, with duplicate KAL 1 no. 35 rev. 11–14 (from *Šumma ālu* Tablet 103); A. K. Guinan in: W. W. Hallo, *The Context of Scripture* I (1997) 425, nos. 47, 48.

are even favourable. A general remark: when the text says that the man ‘goes’ to the woman this is possibly just what it means to say, because in Akkadian a different verb, ‘to approach’, is used to indicate full sexual contact.

Liver omens sometimes suggest some irregularity in sexual relationships. One possibility was that the gall bladder could be ‘biting’ the liver, and that would be a sign that ‘a man has gone to his own daughter’ or ‘he has gone to his mother’. It is possible that the connection was made because of the assonance of the verb ‘to bite’ (*našāku*) with ‘to kiss’ (*našāqu*). Normally omens were concerned with what would happen in the future, but these relate an event that has already happened. Intercourse with animals or corpses is also mentioned, but this is outside our subject. It is thought that the liver inspection had to confirm an already existing suspicion.¹⁸ Intercourse with a mother or sister could be the cause of symptoms of illness. The diagnosis of an illness in the medical textbook makes it a punishment ascribed to the ‘hand’ of a god.

If his loins are ‘struck’, (it is) the Hand of Šulak; he has approached his sister; (or) the Hand of (the moon god) Sîn; it shall last a long time and he shall die.¹⁹

Dreams could be interpreted as predictions and those in which someone approached gods, priestesses, the queen, various men, a corpse, and wild animals were exhaustively discussed. We have only four fragments on this subject and it may be coincidental that close relatives hardly feature in them.²⁰ In another fragment anxious dreams were discussed and there we read about approaching ‘my mother who brought me into the world, my mother-in-law, my sister’.²¹ Recently a text was published with this group of predictions:

If he (in his dream) approaches a woman in the house of a god, then this man shall remain living to a great old age. If he approaches his mother, then he shall go in and out of the gate in good health. If he approaches his sister, then he shall become rich and important.²²

18 *Emar VI/4* 285 no. 669:60 f., following J.-M. Durand, L. Marti, *Journal asiatique* 292 (2004) 22 f.; see p. 5 for establishing proof of incest in the past. A new example is a man who has had intercourse with ‘his mother who (is still) bearing children (*wālitu*)’, CUSAS 18 (2013) 300 §11 line 6. See for this text M. Stol, ‘Masturbation in Babylonia’, in *Le Journal des Médecines cunéiformes* 24 (2014) 39 f.

19 TDP 108 iv 17 (where ‘the Hand of Sîn’ is inadvertently omitted); TDP 58 rev. 25 concerns the mother, but the tablet is broken and the symptoms are unknown.

20 A. L. Oppenheim, *The interpretation of dreams in the Ancient Near East* (1956) 333 f.; Iraq 31 (1969) 156 f., who failed to realise that UM means *teḥû*, ‘to approach erotically’.

21 S. A. L. Butler, *Mesopotamian concepts of dreams and dream rituals* (1998) 64:85 f.

22 E. Leichty, *Studies B. R. Foster* (2010) 226 rev. 14–16.

After that the tablet is broken. It is surprising that the prospects are so favourable. Possibly this is because dreams came from another world, happy and without misgivings.

In primaeval times Phoenician, Hittite and Greek myths relate how incest occurred among the gods. One clay tablet of a creation myth is full of occasions of incest, in a world of shepherds and farmers.²³ People had observed that promiscuity occurred in animal herds, an observation developed in a myth about the shepherd god Dumuzi and his sister. As Dumuzi converses with his sister, intent on seducing her, he points out to her how the animals behaved. But his sister did not understand, and then the text breaks off.²⁴ Earlier, in the chapter on rape, we referred to Sumerian myths where gods take daughters by violence or by seduction, and that can also be seen as incest. The god Enlil became 'impure' because of this and was banished from the city. That was what happened to the guilty father in the laws of Hammurabi (§150) and banishment meant that one became a pariah.²⁵

In the Arabic world marriage between two cousins is seen as ideal. The Patriarchs of the Bible also practised it. Isaac married his cousin Rebecca, and Jacob married two sisters, Leah and Rachel. On that occasion their father Laban is recorded as commenting, 'Since this is from the Lord, we can say nothing for or against it' (Genesis 24:50). In the Apocrypha we read an episode from the life of Tobit. He is supposed to have been in Mesopotamia in the eighth century BC and when he arrived in Media he was told by his father Raphael to marry Sarah, the daughter of his grandfather Raguel. Raphael tells him, 'I know that Raguel cannot withhold her from you or betroth her to another without incurring the death penalty according to the decree in the book of Moses' (Tobit 6:12). Even though Sarah was a blood relative of Tobit, the marriage does take place, and Raguel says to Tobit, 'Receive my daughter as your wedded wife in accordance with the law, the decree written in the book of Moses' (Tobit 7:13). In fact the law to which Sarah's father refers is not to be found in the laws of Moses. It seems that at that time endogamous marriage was part of the common law of the Hebrew tribes, and is now a strategy for Jews to survive in the diaspora.

From the evidence in archives of Babylonian families such marriages do not seem to have been popular, though they are found in the Neo-Babylonian period. No law was formulated, but the practice was seen as a method for families to

23 W. G. Lambert, 'The theogony of Dunnu', *Babylonian creation myths* (2013) 387–395.

24 Jacobsen, 24; S. N. Kramer, *JANES* 5 (1973) 248; B. Alster, *JCS* 27 (1975) 218f.; V. Haas, *Babylonischer Liebesgarten* (1999) 113.

25 A. Gadotti, *JAOS* 129 (2009) 80; S. Lafont, *Femmes* (1999) 184–186.

keep their capital intact. In one case, presumably to ensure that the family wealth was preserved, a girl marries one uncle after another on the instigation of her widowed mother.²⁶ More information about this subject will be found in Chapter 14 when we consider levirate marriage. Although it has long been thought that in this late period marriages were concluded between brothers and sisters, this is incorrect. The idea arose because there was some confusion about different people having identical names.²⁷

²⁶ C. Waerzeggers, 'Endogamy in Mesopotamia in the Neo-Babylonian period', in: *Festschrift Christopher Walker* (2002) 319–346.

²⁷ G. van Driel, *Phoenix* 31 (1985) 46; Waerzeggers, 320 f.