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The Origin of Prostitution in Ancient Mesopotamia

Gerda Lerner

"Prostitution, often known as the world's oldest profession, can be traced throughout recorded history." Thus the common wisdom holds, making prostitution appear as a "natural" by-product of human social formation, needing no explanation. Other experts disagree. "Prostitution," as we are told in the *Encyclopaedia Britannica*, "has not, so far as is known, been a cultural universal. In sexually permissive societies it is often rare because it is unnecessary, whereas in other societies it has been largely suppressed." In his magisterial treatment of the history of prostitution, the German physician Iwan Bloch informs us that it develops as a by-product of the regulation of sexuality: "Prostitution appears among primitive people wherever free sexual intercourse is curtailed or limited. It is nothing else than a substitute for a new form of primitive promiscuity."¹

While this is undoubtedly true, it does not explain under what conditions prostitution arises and becomes institutionalized in a given society. It

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1. *Encyclopedia Americana* (1982), s.v. "prostitution"; *Encyclopedia Britannica*, 15th ed., s.v. "prostitution"; Iwan Bloch, *Die Prostitution* (Berlin: L. Marcies, 1912), pp. 170–71 (my translation).

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also ignores the commercial aspect of prostitution by treating it as though it were simply a variant form of sexual arrangement among consenting parties. Bloch accepts the existence of a "natural" state of promiscuity, which is later supplanted by various forms of structured marriage. This nineteenth-century theory, as elaborated by J. J. Bachofen and the American ethnologist Lewis Henry Morgan, formed the foundation of Friedrich Engels's analysis, which has influenced so much of modern feminist theory:

Hetaerism derives quite directly from group marriage, from the ceremonial surrender by which women purchased the right of chastity. Surrender for money was at first a religious act; it took place in the temple of the goddess of love, and the money originally went into the temple treasury. . . . Among other peoples hetaerism derives from the sexual freedom allowed girls before marriage. . . . With the rise of the inequality of property . . . wage labor appears sporadically side by side with slave labor, and at the same time, as its necessary correlate, the professional prostitution of free women side by side with the forced surrender of the slave. . . . For hetaerism is as much a social institution as any other; it continues the old sexual freedom—to the advantage of the men.

A few pages later Engels refers to prostitution as "the complement" of monogamous marriage and predicts its demise "with the transformation of the means of production into social property."²

Even as we dismiss Engels's patent Victorian bias in expecting women to be desirous of exercising their "right to chastity," we must note his insight that the origin of prostitution derives both from changing attitudes toward sexuality and from certain religious beliefs, and that changes in economic and social conditions at the time of the institutionalization of private property and of slavery affected sexual relations. No matter how many flaws and errors in scientific evidence one can show in Engels's work, he was the first to alert us to these connections and to see the essential nexus of social and sexual relations. With his formulation of the analogy between the coexistence of free and slave labor and the coexistence of the "professional prostitution of free women side by side with the forced surrender of the slave," he has pointed us toward a redefinition of the concept of "class" for men and women that he himself unfortunately ignored in his subsequent work.

To understand the historic development of prostitution we need to follow Engels's lead and examine its relationship to the sexual regulation

2. Friedrich Engels, *The Origin of the Family, Private Property, and the State* (New York: International Publishers, 1972), pp. 129–30, 138–39. Engels's reference to temple prostitution is based on his uncritical acceptance of the account of the Greek writer, Herodotus.

of all women in archaic states and its relationship to the enslavement of females. But first we must deal with the most widely accepted explanation of the origin of prostitution, namely, that it derives from “temple prostitution.”

It is unfortunate that most authorities use the same term to cover a broad range of behavior and activities and to encompass at least two forms of organized prostitution—religious and commercial—which occur in archaic states. We are told, for example, that in Mesopotamian society (and elsewhere) sacred prostitution, which characterized ancient fertility cults and goddess worship, led to commercial prostitution.³

The sequence is at best doubtful. The use of the term “sacred prostitution” for any and all sexual practices connected with temple service keeps us from understanding the meaning such practices had for contemporaries. I will therefore distinguish between “cultic sexual service” and “prostitution,” by which I mean commercial prostitution only.

Cultic sexual service by men and women may date back to the Neolithic age and to various cults of the Mother-Goddess or of the so-called Great Goddess in her many manifestations.⁴ The archeological evidence of the existence of female figurines, with emphasized breasts, hips, and buttocks, is abundant all over Europe, the Mediterranean, and Eastern Asia. In many places such figurines were found in what archeologists have interpreted as shrines, but there is no way of our knowing in what manner these figurines were used or worshiped. Nor will we ever know.

In contrast, we have ample historically valid evidence—linguistic, literary, pictorial, and legal—from which we can reconstruct the worship of female goddesses and the lives and activities of priestesses in Ancient Mesopotamia and in the Neo-Babylonian period.

The ancient Babylonians thought of the gods and goddesses as actually dwelling in the temple, not as symbolically represented there. The staff of the temple, the various ranks of priests and priestesses, artisans, workmen, and slaves, all labored to care for and feed the gods as they might have labored to care for and feed a lord. Daily, the meals were carefully prepared and set out for the god, his bed was prepared, music

3. *Encyclopaedia Britannica*, 15th ed., s.v. “prostitution”; *Encyclopedia Americana* (1982), s.v. “prostitution”; Vern Bullough and Bonnie Bullough, *The History of Prostitution: An Illustrated Social History* (New York: Crown Publishers, 1978), pp. 19–20; Bloch, 1:70–71; F. Henriques, *Prostitution and Society* (London: McGibbon & Kee, 1962), chap. 1; William Sanger, *A History of Prostitution* (New York: Medical Publishing Co., 1858), pp. 40–41; Geoffrey May, “Prostitution,” *Encyclopedia of the Social Sciences* (New York: Macmillan Co., 1934), 13:553–59; Max Ebert, *Reallexicon der Vorgeschichte* (Berlin: Walter de Gruyter & Co., 1926), 5:323; Erich Ebeling and Bruno Meissner, “Geschlechtsmoral” and “Hierodulen,” in *Reallexicon der Assyriologie* (Berlin: Walter de Gruyter & Co., 1971), 4:223, 391–93.

4. Marija Alseikaite Gimbutas, *Goddesses and Gods of Old Europe* (Berkeley and Los Angeles: University of California Press, 1982); Edwin O. James, *The Cult of the Mother Goddess: An Archeological and Documentary Study* (London: Thames & Hudson, 1959).

was played for his entertainment. For people who regarded fertility as sacred and essential to their own survival, the caring for the gods included, in some cases, offering them sexual services.⁵ Thus, a separate class of temple prostitutes developed. What seems to have happened was that sexual activity for and in behalf of the god or goddesses was considered beneficial to the people and sacred. The practices varied with the gods, the different places, and different periods. There was also, especially in the later period, commercial prostitution, which flourished near or within the temple. Again, modern scholars have been confusing the issue by referring to all of this activity as prostitution and by using the term "hierodule" without distinction for various types of women engaging in cultic or commercial sexual activity.⁶ It is only since 1956, when the first volume of the *Chicago Assyrian Dictionary* appeared, that it is possible to make more accurate use of the terms and distinguish, as the Babylonians did, different types of temple servants.

There is historic evidence of religious leadership by royal women. Two of these were Queen Baranamtarra (ca. 2350 B.C.) and her successor Queen Shagshag of Lagash. Both were the wives of kings and as such were in charge of the economic administration of the temple of the goddess Bau, as the king was in charge of the temple of the chief male god.⁷

In the Old Babylonian period, the daughters of kings and rulers were appointed as high priestesses of the Moon-God or of the Goddess Ishtar. The *en* or *entu* priestesses were the counterparts of male high priests. They wore distinctive clothing, a cap with raised rim, a folded garment, jewelry, and a staff, the same insignia and garments worn by the ruler. They lived inside the sacred shrine, had charge of temple management and affairs, performed ritual and ceremonial functions, and were usually unmarried. The *nin-dingir* priestess in ancient Sumer had a similar role. Assyriologists believe that it is this class of women who annually participated in the Sacred Marriage, impersonating or representing the goddess.

The basis for the ritual of the Sacred Marriage was the belief that fertility of the land and of people depended on the celebration of the sexual power of the fertility goddess. It is likely that this rite originated in the Sumerian city of Uruk, which was dedicated to the Goddess Inanna, earlier than 3000 B.C. The Sacred Marriage was that of the Goddess

5. A. Leo Oppenheim, *Ancient Mesopotamia: Portrait of a Dead Civilization* (Chicago: University of Chicago Press, 1964), pp. 187–92.

6. Vern L. Bullough makes this same observation in "Attitudes toward Deviant Sex in Ancient Mesopotamia," in *Sex, Society and History*, ed. Vern L. Bullough (New York: Science History Publishers, 1976), pp. 17–36 (see esp. pp. 22–23).

7. P. Anton Deimel, *Sumerische Tempelwirtschaft zur Zeit Urukaginas und seiner Vorgänger* (Rome: Pontifical Biblical Institute, 1931), pp. 75–112; I. M. Diakonoff, ed., *Ancient Mesopotamia: Socio-Economic History: A Collection of Studies by Soviet Scholars* (Moscow: Nauka, 1969), pp. 93–95.

Inanna and either the high priest, representing the god, or the king, identified with the God Dumuzi.⁸ In one typical poem, the encounter is initiated by the goddess, who expresses her eagerness for union with her lover. After their union, the land blossoms forth: "Plants rose high by his side, / Grains rose high by his side. . . ." The goddess, happy and satisfied, promises to bless the house of her husband, the shepherd/king: "My husband, the goodly storehouse, the holy stall, / I Inanna, will preserve you for, / I will watch over your 'house of life.'"⁹

The annual symbolic reenactment of this mythical union was a public celebration considered essential to the well-being of the community. It was the occasion of a joyous celebration, which may have involved sexual activity on the part of the worshipers in and around the temple grounds. It is important for us to understand that contemporaries regarded this occasion as sacred, as mythically significant for the well-being of the community, and that they regarded the king and the priestess with reverence and honored them for performing this "sacred" service.

The Sacred Marriage was performed in the temples of various fertility goddesses for nearly two thousand years. The young God-lover or son of the goddess was known as Tammuz, Attis, Adonis, Baal, and Osiris in various languages. In some of these rituals, the sacred union was preceded by the death of the young god, symbolizing a season of drought or infertility which ended only by his resurrection through his union with the goddess. It was she who could make him alive, who could make him king, and who could empower him to make the land fertile. Rich sexual imagery with its joyous worship of sexuality and fertility permeated poetry and myth and found expression in statuary and sculpture. Rites similar to the Sacred Marriage also flourished in classical Greece and pre-Christian Rome.¹⁰

While most of the information about *en* priestesses comes from the Old Babylonian period, there are many references to *nin-dingir* priestesses in the Neo-Babylonian period in Ur and Girsu. In the age of Hammurabi (1792–1750 B.C.) such priestesses could live outside the cloister, but their reputations were carefully guarded.¹¹

Next in rank to the *en* and *nin-dingir* came the *naditum* priestesses.

8. For discussion of the Sacred Marriage, see Samuel Noah Kramer, *The Sacred Marriage Rite: Aspects of Faith, Myth and Ritual in Ancient Sumer* (Bloomington: Indiana University Press, 1969), p. 59; Thorkild Jacobsen, "Toward the Image of Tammuz," in *Toward the Image of Tammuz and Other Essays on Mesopotamian History and Culture*, ed. William L. Moran (Cambridge, Mass.: Harvard University Press, 1970), pp. 73–101; Judith Ochshorn, *The Female Experience and the Nature of the Divine* (Bloomington: Indiana University Press, 1981), p. 124. See also W. G. Lambert, "Morals in Ancient Mesopotamia," "Ex Oriente Lux" *Jaarbericht, Vooraziatisch Egypt Genootschap*, no. 15 (1957–58), pp. 184–96, esp. 195.

9. Kramer, p. 59.

10. Jacobsen, pp. 73–101.

11. My comments about the female cultic servants are mostly based on the thorough study by Johannes Renger, "Untersuchungen zum Priestertum in der altbabylonischen

The word *naditum* means "left fallow," which is consistent with the evidence that they were forbidden childbearing.¹² We know a good deal about the *naditum* priestesses of the God Shamash and the God Marduk during the first dynasty of Babylon. They came from the upper levels of society; a few were kings' daughters, most were daughters of high bureaucrats, scribes, doctors, or priests. *Naditum* of the God Shamash entered a cloister at a young age and stayed unmarried. The cloister in which they lived with their servants consisted of a large complex of individual buildings within the temple. The cloister in the temple of the town of Sippar has been shown by excavation to have also contained a library and school and a graveyard.¹³ The cloister housed up to two hundred priestesses at a time, but the number of *naditum* gradually declined after the age of Hammurabi.¹⁴

Naditum brought rich dowries to the temple at the time of their dedication to the god. On their death, these dowries reverted to their families of birth. They could use these dowries as capital for business transactions and for loaning out money at interest, and they could leave the cloister in order to take care of their various business concerns. *Naditum* sold land, slaves, and houses; made loans and gifts; and managed herds and fields. We know the names of 185 female scribes who served in the temple of Sippar.¹⁵ From the proceeds of their business transactions the *naditum* regularly made offerings to the gods on festival days. Since they could not have children, *naditum* often adopted children to care for them in old age. Unlike other women of their time, they could will their property to female heirs, who, most likely, were family members also serving as priestesses.

Naditum of the God Marduk were uncloistered and could marry but

Zeit," *Zeitschrift für Assyriologie und Vorderasiatische Archeologie*, Neue Folge, 24th ed. (Berlin: Walter de Gruyter & Co., 1967), 1:110–88.

12. G. R. Driver and John C. Miles, *The Babylonian Laws*, 2 vols. (London: Oxford University Press, 1952). Driver and Miles think that the *naditum*, although unmarried, may not have made a vow of chastity, "for it is likely that she was in some temples, as for instance, those of Ishtar, a sacral prostitute" (1:366).

13. *Ibid.*, 1:359.

14. The most complete study of these women is Rivkah Harris, *Ancient Sippar: A Demographic Study of an Old-Babylonian City (1894–1595 B.C.)* (Istanbul: Historisch-Archeologisch Instituut, 1975), esp. p. 304 on their numbers. See also Renger, pp. 156–68. Renger, Driver and Miles, and Benno Landsberger, E. Reiner, and M. Civil (*Materials for the Sumerian Lexicon 12* [Rome: Pontifical Biblical Institute, 1969]) regard the *naditum* as priestesses, but Harris sees no evidence of their performing any religious function. She says their position was that of "daughter-in-law to the God Shamash and his bride Aja." As such they performed all the customary ritual services of daughters-in-law. Harris regards their function as "cultic" in that their lives were dedicated to the service of the god (pp. 308–9).

15. Harris, p. 285.

were not allowed to have children. It is this group of women which is particularly the subject of regulation in the Codex Hammurabi (hereafter referred to as CH). A *naditum* could provide children for her husband by giving him a slave woman or a low-ranking temple servant called *sugitum* as a concubine or second wife. Hammurabic law elaborately provides for the inheritance rights of such children, which may indicate the importance of the *naditum* in the social order. It could also indicate that their social position had become somewhat precarious during Hammurabi's reign or that it was undergoing some kind of change. The latter fact may explain the inclusion of CH 110, which metes out the death penalty for an uncloistered *naditum* who enters an ale house or runs such an establishment. If the "ale house" implies, as the commentator seems to think, a brothel or an inn frequented by prostitutes, the obvious meaning of the law is that a *naditum* is forbidden all association with such a place. She must not only live respectably but must also guard her reputation so as to be above reproach.¹⁶ The need for recording such a law may indicate a looseness of morals among the cultic servants. It also indicates, as we will discuss below, an increased desire on the part of the lawmakers (or of the compilers of laws) to draw clear lines of distinction between respectable and nonrespectable women.

Kulmashitum and *qadishtum* were lower-ranking temple servants, usually mentioned together in the texts. The distinction between them is not well understood. Their inheritance rights are specified in CH 181, according to which they are entitled to one-third of their inheritance out of the paternal estate if they were not given a dowry upon entering temple service. But they only hold use rights in their portion of the inheritance as long as they live. Their inheritance belonged to their brothers.¹⁷ Driver and Miles interpret the fact that the inheritance of these temple servants reverts to their brothers as indicating that they were not expected to produce children. This supposition seems contradicted by the evidence from a number of sources that *qadishtum* not infrequently served as paid wet nurses and must, therefore, themselves have had children. They may have lived outside the cloister and married after they had spent a certain period of time in temple service. Or they may have been prostitutes while in the temple service. If so, their employment by wealthy people as wet

16. Driver and Miles, 2:45, 1:205–6. It also illustrates, incidentally, that contemporaries regarded cultic sexual services rendered by priestesses in quite a different light from commercial prostitution. Renger comments as follows on this passage: "The interests of the state, as expressed in legal practice and in the Codex Hammurabi, were directed toward guaranteeing the financial independence of a *naditum* in order to avoid that she would turn to prostitution due to her insufficient income. That is also why she lived in the *gagum* [cloister]" (p. 156; my translation).

17. Driver and Miles, 2:73, 369–70. The authors translate *kulmashitum* as "hierodule" and *qadishtum* as "votaress."

nurses would indicate that their social role was not held in contempt. To make matters even more confusing, there are texts in which the Goddess Ishtar is herself called a *qadishtu*.¹⁸

There are two other "historic" accounts of sexual activities in and around the Babylonian temples, both of which have unduly influenced modern historians. One was written by the Greek historian Herodotus in the fifth century B.C. and purports to describe religious prostitution in the temple of the Goddess Mylitta; the other was written by the Roman traveler Strabo some four hundred years later, confirming Herodotus. Here is Herodotus's account:

Every woman born in the country must once in her life go and sit down in the precinct of Venus [Mylitta], and there consort with a stranger. . . . A woman who has once taken her seat is not allowed to return home till one of the strangers throws a silver coin into her lap, and takes her with him beyond the holy ground. . . . The silver coin may be of any size. . . . The woman goes with the first man who throws her money, and rejects no one. When she has gone with him, and so satisfied the goddess, she returns home, and from that time forth no gift however great will prevail with her. Such of the women . . . who are ugly have to stay a long time before they can fulfill the law. Some have waited three or four years in the precinct.¹⁹

There is no confirmation besides Strabo's for this story, and there are no known "laws" regulating or even referring to this practice. Herodotus may have mistaken the activities of prostitutes around the temple for a rite involving every Assyrian virgin.

Another of Herodotus's stories, told to him by Babylonian priests, seems to have more historic foundation. It described a high tower in the temple of Marduk, at the top of which the high priestess dwelt in a room with a couch, in which she was nightly visited by the god. The story somewhat parallels a historic account, dating from the first millennium B.C., which describes how the Neo-Babylonian King Nabu-naid dedicated his daughter as high priestess of the Moongod Sin. He surrounded the building in which she lived with a high wall and furnished it with orna-

18. Harris, p. 327. Some Orientalists make no distinction between these two kinds of temple servants and translate both as "hierodule" and describe them as being engaged in "sacred prostitution." Driver and Miles point out that there is no evidence for or against this interpretation, but there are cases when the Goddess Ishtar herself has been referred to as a *qadishtum* (2:369–70). For examples of differing translations of the word *qadishtu*, see Paul Koschaker, *Rechtsvergleichende Studien zur Gesetzgebung Hammurapis, Königs von Babylon* (Leipzig: Veit & Co., 1917), p. 189; Driver and Miles, 1:369.

19. Herodotus, *The History of Herodotus*, trans. George Rawlinson (London and Toronto: J. M. Dent, 1910), 1:102.

ments and fine furniture. This description would be consistent with what we know of the living conditions of some of the royal high priestesses and with the belief that the god visited them nightly, just as he nightly ate the meals prepared for him. Herodotus cites this as an example of "temple prostitution," and modern historians of prostitution repeat the tale after him, treating his accounts as facts. I interpret the function of the priestess as a significant example of sacral sexual service, which may have been actually carried out or may have been symbolically reenacted.²⁰

From the conflicting interpretations of the evidence we have about the activities of women in temple service, it is difficult to arrive at an understanding of these women's social role. What earlier was a purely religious cultic function may have become corrupted at a time when commercial prostitution already flourished in the temple precincts. Sexual intercourse performed for strangers in the temple to honor the fertility and sexual power of the goddess may customarily have been rewarded by a donation to the temple. Worshipers regularly brought offerings of food, oil, wine, and precious goods to the temple to honor the deities and in the hope of thus advancing their own cause. It is conceivable that this practice corrupted some of the temple servants, tempting them to keep all or some of these gifts for their own profit. Priests may also have encouraged or permitted the use of slave women and the lower class of temple servants as commercial prostitutes in order to enrich the temple.

Two other classes of female temple servants can be briefly noted. One was the group of *secretu*, mentioned in the Codex Hammurabi in connection with inheritance laws. They were women of high rank, who probably lived cloistered.²¹ Finally, there was a class of *harimtu*, who were prostitutes attached to the temple. These may have been daughters of slave women, and they were under the supervision of a minor temple official. It is unclear whether such women were considered to belong to the temple harem. Given that the Sippar texts list only eleven such women, it seems likely that they were slave women owned by priests or priestesses. These slaves' commercial earnings, like those of other slave workers, were turned over to their owners, who may then have given these sums to the temple.

Findings discussed thus far show, then, that by the middle of the first millennium B.C., if not earlier, there were two kinds of sexual activities carried on in or near the temples: sexual rites that were part of the religious ritual and commercial prostitution. Temples, like medieval churches, served as centers for a wide range of commercial activities. Male and female prostitutes were visible around the temples because that is where the potential customers were. There was probably a geographic

20. Driver and Miles, 1:361–62.

21. Ibid., 1:368–69.

connection between temple and commercial prostitution. The causal connection taken for granted by historians, namely, that commercial prostitution developed out of temple prostitution, seems far less obvious than has generally been assumed.

Some linguistic evidence sheds light on the actual development of prostitution. The Sumerian word for female prostitute, *kar.kid*, occurs in the earliest lists of professions dating back to ca. 2400 B.C. Since it appears right after *nam.lukur*, which means “*naditu*-ship,” one can assume its connection with temple service. It is of interest that the term *kur-garru*, a male prostitute or transvestite entertainer, appears on the same list but together with entertainers. This linkage results from a practice connected with the cult of Ishtar, in which transvestites performed acts using knives. On the same list we find the following female occupations: lady doctor, scribe, barber, cook. Obviously, prostitution, while it is a very old profession, is not the oldest.²² Prostitutes continue to appear on several later lists of professions in the Middle Babylonian period. On a seventh-century B.C. list there appear a variety of female entertainers, as well as transvestites, along with a midwife, nurse, sorceress, wet nurse, and “a gray-haired old lady.” Prostitutes are listed again as *kar.kid* and by the Akkadian term *harimtu*. It is very interesting that among the twenty-five scribes on this list, there is no female scribe and that the doctors include no female doctors.²³

The earliest references on clay tablet texts connect *harimtu* with taverns. There is a sentence that reads, “When I sit in the entrance of the tavern, I, Ishtar, am a loving *harimtu*.”²⁴ These and other references have led to the association of Ishtar with taverns and with both ritual and commercial prostitution.

The existence of various occupational groups connected both with cultic sexual service and with commercial prostitution tells us little about the meaning these occupations held to contemporaries. We can try to learn something about that by looking at the earliest known poetic myth, *The Epic of Gilgamesh*. The poem, which describes the exploits of a legendary god/king, who may actually have lived at the beginning of the third millennium B.C., has survived in several versions, the most complete of which is the Akkadian version, apparently based on earlier Sumerian tales written during the first millennium B.C. In the poem, Gilgamesh’s aggres-

22. Old Babylonian Proto-Lu list, in Landsberger, Reiner, and Civil, pp. 58–59. I am greatly indebted to Dr. Anne D. Kilmer of the Department of Near Eastern Studies, University of California, Berkeley, for her help in pointing out these lists to me and translating them.

23. Ibid., Canonical Series *lu-sha*, pp. 104–5.

24. *The Assyrian Dictionary of the Oriental Institute of the University of Chicago* (Chicago: Oriental Institute, 1968), 6:101–2.

sive behavior has displeased his subjects and the gods: "Day and night [is unbridled his arrogance]. . . . / Gilgamesh leaves not the maid to [her mother], / the warrior's daughter, the noble spouse!"²⁵

The gods create a man, "his double" Enkidu, to contend with Gilgamesh. Enkidu lives in harmony with the animals in the woods: "He knows neither people nor land." After Enkidu is discovered by a hunter and flees, the hunter seeks counsel as to how to tame him. He is told to get a *harimtu*. The hunter brings her to the woods, tells her what to do: "and he [Enkidu] possessed her ripeness. / She was not bashful as she welcomed his ardor. / She laid aside her cloth and he rested upon her. / She treated him, the savage, to a woman's task, / as his love was drawn unto her."

After mating with her for six days, Enkidu finds that the wild beasts are afraid of him: "He now had [wi]sdom, [br]oader understanding." The harlot advises him: "Come, let me lead thee [to] ramparted Uruk, / To the holy temple, abode of Anu and Ishtar, / Where lives Gilgamesh."²⁶ Enkidu agrees and the harlot leads him to Gilgamesh, whose best friend he becomes.

In this myth the temple harlot is an accepted part of society. Her role is honorable; in fact, it is she who is chosen to civilize the wild man. The assumption here is that sexuality is civilizing, pleasing to the gods. The harlot does "a woman's task"; thus she is not set off from other women because of her occupation. She possesses a kind of wisdom, which tames the wild man. He follows her lead into the city of civilization.

According to another *Gilgamesh* fragment, which has only recently been published, Enkidu later regrets his entry into civilization. He curses the hunter and the *harimtu* for having removed him from his former life of freedom in nature. He speaks an elaborate curse against the *harimtu*: "I will curse you with a great curse . . . / you shall not build a house for your debauch / you shall not enter the tavern of girls. . . . May waste places be your couch, / May the shadow of the town-wall be your stand / May thorn and bramble skin your feet / May drunkard and toper alike slap your cheek."²⁷ The nature of this curse tells us that the *harimtu* who mated with Enkidu lived an easier and better life than the harlot who has her stand at the town wall and is abused by her drunken customers. This would confirm the distinction we made earlier between the women engaged in various forms of sacral sexual service and commercial prostitutes. Such a distinction was more likely to have existed in the earlier period than later.

25. "The Epic of Gilgamesh," in *Ancient Near Eastern Texts Relating to the Old Testament*, ed. James B. Pritchard (Princeton, N.J.: Princeton University Press, 1955), p. 74.

26. *Ibid.*, pp. 74–75.

27. J. Gadd, "Some Contributions to the Gilgamesh Epic," *Iraq* 28, pt. 2 (Autumn 1966): 105–21, esp. 108.

It is likely that commercial prostitution derived directly from the enslavement of women and the consolidation and formation of classes. Military conquest led, in the third millennium B.C., to the enslavement and sexual abuse of captive women. As slavery became an established institution, slave owners rented out their female slaves as prostitutes, and some masters set up commercial brothels staffed by slaves. The ready availability of captive women for private sexual use and the need of kings and chiefs, frequently themselves usurpers of authority, to establish legitimacy by displaying their wealth in the form of servants and concubines led to the establishment of harems. These, in turn, became symbols of power to be emulated by aristocrats, bureaucrats, and wealthy men.²⁸

Another source for commercial prostitution was the pauperization of farmers and their increasing dependence on loans in order to survive periods of famine, which led to debt slavery. Children of both sexes were given up for debt pledges or sold for "adoption." Out of such practices, the prostitution of female family members for the benefit of the head of the family could readily develop. Women might end up as prostitutes because their parents had to sell them into slavery or because their impoverished husbands might so use them. Or they might become self-employed as a last alternative to enslavement. With luck, they might in this profession be upwardly mobile through becoming concubines. By the middle of the second millennium B.C., prostitution was well established as a likely occupation for the daughters of the poor.

As the sexual regulation of women of the propertied class became more firmly entrenched, the virginity of respectable daughters became a financial asset for the family. Thus, commercial prostitution came to be seen as a social necessity for meeting the sexual needs of men. What remained problematic was how to distinguish clearly and permanently between respectable and nonrespectable women. Perhaps another problem which needed solution was how to discourage men from associating socially with women now defined as "nonrespectable." Both purposes were served by the enactment of Middle Assyrian Law (MAL) 40.

Before proceeding to an analysis of the law, we need to understand that Assyrian society was more militaristic, and its law code was generally harsher, than that of Babylonia. It is therefore difficult to say how representative this single law is of practices in other Mesopotamian societies. While there is no similar law to be found in the other surviving legal compilations, Assyriologists generally assume that a common body of legal concepts prevailed in the region for nearly two thousand years. Other regulations of female sexuality also show similarities among the

28. For a detailed treatment of the subject, see Gerda Lerner, "Women and Slavery," *Slavery and Abolition: A Journal of Comparative Studies* 4, no. 3 (December 1983): 173–98.

various law codes; thus one can assume that MAL 40 was representative. Most importantly, the practice of veiling, on which it legislates, has been so ubiquitous and lasted for so many millennia into this century, that one can justify the assumption that we are here dealing with the earliest known example of such a regulation, which was practiced in many other societies as well.²⁹

Middle Assyrian Law 40 reads as follows:

Neither (wives) of (seigniors) nor (widows) nor (Assyrian women) who go out on the street may have their heads uncovered. The daughters of a seignior . . . whether it is a shawl or a robe or a mantle, must veil themselves. . . . When they go out on the street alone, they must veil themselves. A concubine who goes out on the street with her mistress must veil herself. A sacred prostitute whom a man married must veil herself on the street, but one whom a man did not marry must have her head uncovered on the street; she must not veil herself. A harlot must not veil herself; her head must be uncovered.³⁰

The law also specifies that a slave girl must not veil herself. The veil, the symbol and emblem of the married woman, is here elevated to a distinguishing mark and its wearing made a privilege. Yet the list seems curious. Veiling does not seem to distinguish the free from the unfree, nor the upper class from the lower. Harlots and unmarried sacred prostitutes may be free women, yet they are grouped with slaves. A slave concubine may be veiled if accompanied by her mistress, but even a freeborn concubine may not be veiled if she walks out alone. On closer examination we can see that the distinction between the women is based on their sexual activities. Domestic women, sexually serving one man and under his protection, are here designated as “respectable” by being veiled; women not under one man’s protection and sexual control are designated as “public women,” hence unveiled.

If the law did no more than setting down these rules it would represent a historical watershed for women: the legal classification of women according to their sexual activities. But the law goes further by specifying the punishment for violators: “He who has seen a harlot veiled must arrest her, produce witnesses (and) bring her to the palace tribunal; they shall not take her jewelry away (but) the one who arrested her may take

29. My interpretation of the Middle Assyrian Laws (MAL) is based on extensive reading in all the various extant translations of Mesopotamian law compilation. For MAL I have read “The Middle Assyrian Laws,” trans. Theophile J. Meek, in Pritchard, ed.; D. D. Luckenbill and F. W. Geers, trans., in J. M. Powis Smith, *The Origin and History of Hebrew Law* (Chicago: University of Chicago Press, 1931); and G. R. Driver and J. C. Miles, *The Assyrian Laws* (Oxford: Clarendon Press, 1935). All textual quotes are from Driver and Miles.

30. All quotations below of MAL 40 are from Pritchard, ed., p. 183.

her clothing; they shall flog her fifty (times) with staves (and) pour pitch on her head.”

Here, what began as a minor, seemingly petty regulation of morality, is suddenly regarded as a major offense against the state. Witnesses must be secured; the accused must be brought before a “palace tribunal,” that is, a court. The harlot’s jewelry is left to her, presumably because it is the tool of her trade, but her punishment is harsh. It is also highly symbolic: covering her head with pitch gives her the only kind of “veil” to which her lowly state entitles her. Practically speaking, it also must have rendered her unfit for earning her living; removing the pitch would necessitate shaving her head and would thus disfigure her for a long time.

The law goes on to specify the punishment for a slave girl who is caught wearing a veil: she shall have her clothes taken away and have her ears cut off. One can only speculate on the meaning of the difference in punishment meted out to the harlot and the slave girl. Is having one’s ears cut off a lesser punishment than being beaten fifty stripes with staves? Is it harsher? If so, does it reflect the usual assumption of Mesopotamian law that the lowest-ranking person should suffer the most stringent punishment? In that case, does it tell us that a harlot has higher status than a slave? Apparently so.

The most interesting aspect of the law, however, concerns the punishment meted out to the person (the man) who fails to report a violation of the veiling law: “If a seignior has seen a harlot veiled and has let (her) go without bringing her to the palace tribunal they shall flog that seignior fifty (times) with staves; they shall pierce his ears, thread (them) with a cord, (and) tie (it) at his back, (and) he shall do the work of the king for one full month.”

The punishment for the man who does not denounce a veiled slave girl is the same, except that he shall also have his clothes taken from him by “his prosecutor.” Driver and Miles, in their commentary on Assyrian law, explain that there is no corresponding law in the Babylonian law codes. They explain the meaning of the man’s punishment: having his ears pierced and a cord passed through them makes him appear to be bridled, “perhaps so that he may be led through the streets and exposed to public ridicule.”³¹ They conclude that the law

serves to distinguish ladies and other respectable women from harlots and slave girls. Further, while the law inflicts no penalty on a respectable woman who omits to wear the veil, it takes every possible means to prevent the wrongful assumption of it. . . . Wearing the veil is a privilege of the upper classes which the law is determined for

31. Driver and Miles, *Assyrian Laws*, p. 134.

some reason or other to maintain. It is conceivable that it may have been some sort of extension of the usage of the harem whereby a woman who is enclosed in private must also be enclosed in public.³²

This analysis is astute, yet the authors admit that the purpose of the law is to them "obscure."

Quite to the contrary, the purpose of the law is devastatingly clear. We note that the state intervenes in prescribing the dress of women by passing the law and by requiring the bringing of the offender before a court, the calling of witnesses, and the use of a prosecutor. We note also that, unlike the other crimes described in these laws, a woman's crime of "unauthorized veiling" or "passing herself off as being respectable" is an offense so great that its enforcement is made mandatory by savage punishment of any sympathetic and noncompliant men. We note also that the punishment is public: whipping, stripping naked in the street, being paraded in the street. Thus the matter of classifying women into respectable and nonrespectable has become an affair of the state.

Middle Assyrian Law 40 institutionalizes a ranking order for women: at the top, the married lady or her unmarried daughter; beneath her, but still counted among the respectable, the married concubine, whether freeborn or slave or temple prostitute; at the bottom, clearly marked off as not respectable, the unmarried temple prostitute, the harlot, and the slave woman.

The listing of the unmarried temple prostitute, presumably the *kulmashitum* and *qadishtum*, on the same level as a commercial harlot, the *harimtu*, and the temple harlot of slave origin is a distinct declassing of the former. The sacral nature of sexual temple service is no longer the decisive factor; more and more the temple prostitute is regarded the same way as the commercial prostitute.

Why did the law apply with greater severity to slave girls than to prostitutes? Slave girls were already distinguishable from free women by their hairstyle and possibly by a brand on their forehead. The most obvious reason would be that veiling might hide such identifying marks and thus allow a slave woman to "pass" as free. But the law also seeks to distinguish sharply between the slave woman and the slave concubine. The latter, when accompanied by her mistress, that is by the first wife of the master, was to be treated as a respectable woman. In such a case her servile status would be clearly indicated, as we know from previously cited cases, by her walking behind her mistress, possibly carrying the mistress's stool or other belongings. Other slave women in the household who were not concubines would be identifiable in the street by not being veiled and thus revealing their slave marks. The immediate result of MAL 40 would

32. Ibid.

be to allow the slave concubine a publicly recognized status different from that of the ordinary slave woman in the household. This conforms to the various other legal and social practices, which place concubines in a social position intermediate between slave women and free wives.

The punishment meted out to men who were insufficiently vigilant in denouncing and persecuting women violators has other interesting implications. For one, it shows us that enforcement was a problem. If all men, or even most of them, had been eager and willing to enforce the law against women who violated it, no punishment would be needed against men who failed to do so. Did men think the law irrelevant? Did men of the lower classes think the law represented only the interest of upper-class men, and were they therefore lax in their cooperation?³³ We may never know the answer to these questions, but the fact that enforcement of the veiling law met resistance indicates that it must have been problematic, for a time at least, for those who wished to see it enforced. Clearly, those who wished to see the law enforced regarded it as important to the interests of the state, which would mean of elite propertied men, bureaucrats, and possibly the class of temple officials.

How was a man to know whether the veiled woman he saw in the street was entitled to her veil? This is puzzling. It would surely be difficult, if not impossible, to distinguish one veiled woman from another, if we assume the veil covered not only her face and head, but her figure as well.³⁴ The prohibition could therefore not have applied to total strangers. Most likely, it applied only to women who were accompanied by men. A man walking in the street with a veiled woman would presumably know her social standing. If she were veiled without being entitled to that privilege, he could be held responsible under the law. At first glance the occurrence of such an incident—a man walking in the street with a veiled harlot or slave girl—seems so farfetched, one must wonder about the need to have a law forbidding it.

But what if the intent of the law were to discourage, even forbid, men from casually and publicly associating with prostitutes and slave women? The effect of such a law would then be to lower the social standing of these women and restrict their activities to purely commercial sexual services. The law might then represent an early instance of the many laws passed over the millennia regulating prostitution. Such laws always have fallen with unequal severity upon the prostitute and her customer. Having to appear in public unveiled would at once identify a woman as a prostitute

33. Pritchard translates *awilum* as "seignior," but other translators use the term "burgher" and indicate it might mean "noble" as well. Thus, both upper- and middle-class men of property might have been included in the term.

34. We may leave unquestioned the implied assumption that every man would know, if he saw them unveiled, who were the harlots and who were the respectable women.

and mark her off from respectable women. It would also make a man's association with a prostitute an activity clearly distinguishable from his social contact with respectable women.

It is noteworthy that MAL 40 provides punishment only for declassed women and nonconforming men. Why are there no punishments provided for women who fail to denounce violators of the veiling law? Mesopotamian law held women fully accountable for their deeds in other cases. Was it assumed that respectable women would need no incentive for cooperating with the law because it was in their interest to discourage men of their class from associating with declassed women? Or did the law represent the response of upper-class persons of both sexes against lower-class persons who attempted to blur class distinctions among women? The possibility that upper-class women had an interest in this legislation can neither be discounted nor proven. What is clear is that the severity and public nature of the punishment made state intervention into private morality the dominant feature of the law.

Class formation demands visible means of distinguishing those belonging to different classes. Clothing, ornaments or their absence, and, in the case of slaves, visible marks of status occur in all societies which make such distinctions important. It is not greatly significant whether MAL 40 initiated such a practice regarding women or whether it is simply the earliest example for which we have historical evidence. What is important is to examine the way in which class distinctions were institutionalized for women and to distinguish it from the way in which this was done for men. The veiled wife, concubine, or virgin daughter was visibly identifiable by any man as being under the protection of another man. As such she was marked off as inviolate and inviolable. Conversely, the unveiled woman was clearly marked off as unprotected and therefore fair game for any man. This pattern of enforced visible discrimination recurs throughout historical time in the myriad of regulations that place "disreputable women" in certain districts or certain houses marked with clearly identifiable signs or that force them to register with the authorities and carry identification cards. Similarly, the way in which the unprotected slave girl is distinguished from the concubine will recur in many variations. One of them is the custom in the United States, during slavery times and after, of segregated eating facilities for black and white—except for those black people clearly identifiable as servants. Thus, black nurses and child minders may appear in segregated places with their white charges; black valets may accompany their masters.

Men take their place in the class hierarchy based on their occupations or on their fathers' social status. Their class position may be expressed by the usual outward signs—clothing, residential location, ornaments, or their absence. For women, from MAL 40 forward, class distinctions are

based on their relationship—or absence of such—to a man who protects them and on their sexual activities. The division of women into “respectable women,” who are protected by their men, and “disreputable women,” who are out in the street unprotected by men and free to sell their services, has been the basic class division for women. It has marked off the limited privileges of upper-class women against the economic and sexual oppression of lower-class women and has divided women one from the other. Historically, it has impeded cross-class alliances among women and obstructed the formation of feminist consciousness.

* * *

The Codex Hammurabi marks the beginning of the institutionalization of the patriarchal family as an aspect of state power. It reflected a class society in which women's status depended on the male family head's social status and property. Without her volition or action, the wife of an impoverished burgher could, by a change of his status, be turned from a respectable woman into a debt slave or a prostitute. On the other hand, a married woman's sexual behavior, such as adultery, or an unmarried woman's loss of chastity could declass her in a way in which no man could be declassified by his sexual activity. Women's class status is always differently defined from that of men of their class, from that period to the present.

From the Old Babylonian period to the time when the husband has power of life or death over the adulterous wife there have been great changes also in the authority of kings and rulers over the lives of men and women. The patriarchal head of the family at the time of Hammurabi was still somewhat restrained in his power over his wife by kinship obligations to the male head of the wife's family. By the time of the Middle Assyrian Laws he is restrained mostly by the power of the state. Fathers, empowered to treat the virginity of their daughters as a family property asset, represent an authority as absolute as that of the king. Children reared and socialized within such authority will grow into the kinds of citizens needed in an absolutist kingship. The king's power was secured by men as absolutely dependent on and subservient to him as their families were dependent on and subservient to them. The archaic state was shaped and developed in the form of patriarchy.

As such, hierarchy and class privilege were organic to its functioning. Thus, a harlot who presumed to appear veiled on the streets was as great a threat to the social order as was the mutinous soldier or slave. The virginity of daughters and the monogamous faithfulness of wives have become important features of the social order. With MAL 40 the state has assumed the control of female sexuality, which had previously been left to individual heads of families or to kin groups. From the middle of the

second millennium B.C. on, from public veiling to the regulation by the state of birth control and abortion, the sexual control of women has been an essential feature of patriarchal power.

The sexual regulation of women underlies the formation of classes and is one of the foundations upon which the state rests.

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