

Chapter 63

How the (Criminal) Women Were Punished in the Ancient Mesopotamia and Anatolia?

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INTRODUCTION

The concept of crime and punishment of women existed in the early cuneiform legacy texts at the Ancient Mesopotamia and Anatolia. We understood that the legacy texts had standard expression “*If a woman/ a man commits that crime, she/he will be punished by that punishment*” (Roth & Hoffner & Michalowski, 1997,24,72; Tosun & Yalvaç, 1989, Imparati, 1992). In this expression we got some titles of women, such as “*esīrtum, aššatum, šiništum*”, it shows that there were a sex discrimination in the crime and punishments in the cuneiform legacy texts. Even if a woman or a man committed the same crime, they received different punishments.

The Ancient societies viewed women as father’s daughter or husband’s wife. It was expected from the woman to take care of their families, giving birth, raise children, cook, clean and weaving. It looks like the Sumerian women had more rights than they did in the later Akkadian, Babylonian, Assyrian times. For men, divorce was easy. A husband could divorce a wife if she was childless. While women were expected to be monogamous, husbands could visit prostitutes or take concubines. The cuneiform legacy texts provide information regarding the character of the Ancient societies in many ways. Thanks to the laws, today, we understand the Ancient society’s values, structure and priorities. In this study, we will only focus on the women’s punishment that was given by the cuneiform legacy texts.

Mesopotamia—the land between the rivers—is the Classical name for the ancient land that lies along the Tigris and Euphrates. Most of it is now within present-day Iraq. First cuneiform legacy text comes from the Ancient Mesopotamian civilizations in the Ancient Near East. When the Sumerians invented the writing system, they also wrote their verbal social regulations as the law system. Before the written law regulations, no debt, there was a verbal rules in the societies of Mesopotamia. Verbal rules became written rules after the written system was invented. In addition, Mesopotamian law system impressed the Hittite’s and Israel’s law regulations as a form and content (Tosun, 1973, 562; Bilgiç, 1963, 116). Because of the Anatolian civilizations learnt the written system more late than the Mesopotamian civilizations, their written rules also emerged more late than the Mesopotamia. Even though the Mesopotamian law system impressed the Hittites, it is interesting that Hittites didn’t give punishments “*eye for an eye/ tooth for a tooth*” like the Mesopotamian rulers (Akurgal, 1998, 115). Our main materials based on the cuneiform legacy texts which have been written as Sumerian and Akkadian for Mesopotamian’s woman rights and punishments (Tosun & Yalvaç, 1989) and the Hittite law records for Anatolia (Imparati, 1992; Hoffner, 1997). In addition we will focus on the modern publications regarding our topic and make final analysis

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regarding the women's status.

We will follow the chronology of the cuneiform legacy texts by the methodological way. In short, we will deal with the Sumerian and Akkadian legacy texts which provide information regarding the women's crime and punishments as follows and we will examine in the Hittite laws for Anatolia.

Sumerian Legacy Texts	Akkadian Legacy Texts
Urukagina	Ešnunna
Ur-Nammu	Hammurabi
Ana-İttišu	Middle Assyrian

1. WOMEN'S PUNISHMENTS IN THE ANCIENT MESOPOTAMIAN LAWS

Ur-Nammu (c.2112-2095 BC.), King of the Third Dynasty of Ur, is known as the ruler who composed the first law in Mesopotamia. An earlier law known as the Urukagina commissioned a set of reforms that can be viewed as a precursor to the Mesopotamian laws. Urukagina was the first reformer in Mesopotamia. Because of that, Ur-Nammu laws are considered the oldest one as a law code. Ešnunna's laws (c.1800 BC) were much like previous laws but more detailed; Hammurabi's law collection (c.1750 BC.) was the largest example from the Mesopotamia. It was also different from previous laws as none of them went into such great details as Hammurabi. In addition, it was one of the best surviving examples of the law that was written on the stele. It contained 282 different articles in around 4000 lines of text describing these articles. After Hammurabi, we can see the Middle Assyrian laws (c.1050 BC.) which were regarding the women's punishments. (For details see Roth, 2014, 148-158) Ana-İttušu was the lexical series from the library of Ashurbanipal (seventh century). It contains many legal issues and we will mention some of them here.(For details see Westbrook a, 2003, 10)

All Mesopotamian laws begin with a prologue and end with an epilogue which provides justification for the king's power. The kings rule and administer justice on behalf of the gods. For example, Hammurabi declared himself as selected by the gods (generally, sun-god Šamaš) to be provider of justice for his country. Because of that, if the person doesn't follow the rules, they could also be punished from the gods, not only by the laws.

Now, let's examine what kind of punishments women had in Ancient Mesopotamia.

1.1. DEATH PUNISHMENTS

1.1.1. Adultery

Committing adultery was common in the Ancient Mesopotamia. If a woman committed this crime, she had to go to the river for the "water ordeal" (Günbatti, 2000; Lafont 2005, 200-209). It is seen that process of the "water ordeal" was applied as a method of crime determination and punishment in Ancient Mesopotamia and Anatolian societies which are chains of the cuneiform law system. This method which is included in cuneiform law articles was generally accepted by Ancient societies related with the belief of holiness of water and that it reveals and cleans evil deeds; thereby rivers were attributed by the characteristics of God. It was The God of the river who determined the truth against aspersion and punish if the person was guilty. In this way the guilty person

was punished and the person who was suspected to commit an offense was thrown into the river in order to determine whether she/he was innocent or not. This method was clearly determined in the Mesopotamia law and continued in the Hittite society as a tradition (Duymuş Florioti&Demirci, 2013, 26). As a result, the person who went to the river, she/he mostly died.

According to the Ur-Nammu laws (article 7) (Roth, 2014, 148; Tosun&Yalvaç, 1989,41; Roth& Hoffner& Michalowski, 1997, 17) and Eşnunna laws (article 28) (Tosun&Yalvaç, 1989, 82; Roth, 2014, 151) if a married woman commits adultery she will definately be killed. According to the Hammurabi laws (article 129), the fornicatress and her co respondent has to go to the river or her legal husband will decide about her punishment (and then) the king will decide about his/co respondent's punishment. If her husband forgive her, the king will forgive him/co respondent (Versteeg, 2000, 36; Dinçol, 2003, 14; Tosun&Yalvaç, 1989, 198; Roth, 2014, 152). In Middle Assyrian laws, article 13, 14 and 15 were regarded with the fornicatress;

Article 13: *"If a woman leaves the house and goes to an other man's house, if that man knows that she is married and still if he accepts her and goes to bed with her, both of them will be killed."*

Article 14: *".....If a man doesn't know that she is married then he will be free, the fornicatress will have punishment by her husband..."*

Article 15: *"....If her husband find out that his wife deceive him with an other man, her husband can kill both of them, husband will not have any punishment"*(Westbrook b, 2003, 95; Tosun&Yalvaç, 1989, 247; Roth, 2014, 160-161).

It is interesting that if a co respondent (man) doesn't know that the woman is married, he will not have any punishment when he is together with her. In addition her husband will decide her destiny; she can be killed or forgiven by him.

1.1.2. Reject the Husband

In the cuneiform legacy texts we can see that the spouse could hate and reject eachother. According to the Ana-İttişu laws (Col.IV, Article 1): *"If a woman hates her husband and says you are not my husband anymore, she has to go to the river"*. But if a man says *"you are not my wife anymore"*, he will be punished financially but not killed (Tosun&Yalvaç, 1989, 48) According to the Hammurabi laws (article 142 and 143), if a woman is right about her husband, she can go back to her father's house with her dowry but if a man is right about his wife's bad behaviours then she has to go to the river (Tosun&Yalvaç, 1989, 199; Roth, 2014, 154; Bottero, 2005, 130).

1.1.3. Intentional Abortion

In the cuneiform legacy texts there is some articles regarding the intentional abortion. It is understood that it was a big crime for the women and they got a death punishment for it. Also, this kind of women were not buried that everybody could see their punishment. According to the Middle Assyrian laws (article 53):

"If a woman aborts, if it is proved, she will be killed and not buried" (Tosun&Yalvaç, 1989, 255; Roth, 2014, 169).

1.1.4. Magician

Ancient societies believed in power of magic and got afraid from its influence. Because of that the magic and magician were forbidden by the laws. In the Middle Assyrian laws (article 47):

“Whoever does a magic, woman or man.....she/he will be killed” (Westbrook b, 2003, 93; Tosun&Yalvaç, 1989, 254; Roth, 2014, 168)

1.1.5. Stealing

Stealing was the big problem in the Ancient Mesopotamia and Anatolia, like nowadays. While the thief got the death punishment in Assyria, she/he punished financially in the Hittites (Kinal, 1982, 437-438). In addition, the person who accepted the stolen objects was also killed in Assyria (Middle Assyrian laws, article 3) (Roth, 2014, 159; Tosun&Yalvaç, 1989, 246). There was no sex discrimination regarding the stealing in the cuneiform legacy texts.

1.1.6. Killing the Husband

This interesting crime was only in the Hammurabi laws (article 153):

“If a woman kills her husband (by herself or anotherone) for the other/second man, she will be impaled.” (Roth, 2014, 155; Tosun & Yalvaç, 1989, 200).

1.2. MUTILATION PUNISHMENTS

There was commonly an *“eye for an eye/tooth for a tooth”* punishments in the Ancient Mesopotamian laws. Because of that, we can see that the mutilation punishments were more often given in Mesopotamia than Anatolia. In Hittites, it was rarely given to the independent person; generally the slaves got it (Alp, 1947, 479-480).

1.2.1. Adultery

As we showed above, the fornicatress got mostly death punishments by the cuneiform legacy texts. Also, the husband could decide about his wife's final. In Middle Assyrian laws (article 15), if the husband wanted, he could cut off his wife's nose and make her co respondent eunuch (Bottero, 2005, 130; Roth, 2014, 161; Tosun&Yalvaç, 1989, 248) The husband could do whatever he wants to them.

1.2.2. Damage to Man

According to the Middle Assyrian laws (article 8):

“...If a woman damages the man's oophoron, her (one) finger will be cut off from her hand. If the doctor can't cure it and also second oophoron got damaged then her both xxxx will be scoop out”. (xxxx must be her breast or eyes) (Tosun&Yalvaç, 1989, 247 and footnote 283; Roth, 2014, 160)

1.2.3. Stealing

According to the Middle Assyrian laws (article 4):

“If a woman steal something, her ears will be cut off. The person who accepted the stolen objects, her/his ears and nose will be cut off.” (Tosun&Yalvaç, 1989, 246; Roth, 2014, 159).

1.2.4. Wet-Nursing

Wet-nursing was common in Ancient Babylonian/ Mesopotamia. According to the Hammurabi laws (article 194):

“If a woman got a baby for wet-nursing and the baby became death in her arms.....her one breast will be cut off” (Dinçol, 2003, 36).

1.3. THE OTHER CRIMES OF WOMEN

1.3.1. Audaciously Speaking

Audaciously speaking was also interesting crime for the slave women in Ancient Mesopotamia. According to the Ur-Nammu laws (article 22);

“If a slave woman behaves like a woman who is the owner of house, if she speaks audaciously to her owners, her mouth will be scoured with the salt.” (Versteeg, 2000, 9-22; Tosun&Yalvaç, 1989, 42)

1.3.2. Beating

According to the Middle Assyrian laws (article 7):

“If a woman beats a man, she will be punished financially and whipped in 20 times”. (Tosun&Yalvaç, 1989, 247; Roth, 2014, 160)

1.3.3. (Not) Veiling

In the Middle Assyrian laws, the status and roles of women were being increasingly limited. Indeed, the status of women under the Middle Assyrian laws was far lower than in other Ancient Near Eastern societies and legal systems. Men veiled women and segregated them from the world outside the household (Tetlow, 2004, 141). According to the laws, (articles 40 and 41) (Roth, 2014, 165-166):

“If a woman is married she has to veil when she goes out”. If not, she will be caned (fifty stripes) and have pitch poured on her head”.

In marriage, the husband veils her fiance front of the witnessess and then she became his wife. It shows that the veiling means the woman has a husband. (Tosun&Yalvaç, 1989, 253). If a woman was a slave or prostitute, they can't veil in anywhere. If they do, their ears will be cut off (Dinçol, 2003, 38).

2. WOMEN'S PUNISHMENTS IN THE ANCIENT ANATOLIA

We will focus on the Hittite laws for the Anatolian women's punishments. The Hittites were Indo-European people who migrated from the North into Asia Minor in the 3rd Millennium BCE (Tetlow, 2004, 177) and emerged as a major power in Anatolia in the 2nd Millennium BCE. They built their own empire and had laws, too. The laws were grouped in two series, each named after its opening words. Series One, consisting of laws 1-100, “*if a man*”; Series Two, consisting of laws 101-200, “*if a vine*” (Imparati, 1992; Roth&Hoffner&Michałowski, 1997, 215). Clay tablets containing a large collection of Hittite laws were found in royal archives in the Hittite capital, Hattusa. The four earliest known copies of the laws were from the Old Hittite period. Numerous other copies were found from the Middle and Late periods. The status of women, with the exception of some queens and women priests, was not very high in Hittite law and life. The primary roles of women were in marriage and family, the production of children and the administration of the household (Tetlow, 2004, 178-179). On the other hand, it is understood that the Hittite laws mostly gave financial punishment for the crimes.

2.1. Adultery

In Hittites, the man could have more than one woman but if a woman had more than one man she was punished by the laws (Doğan 2007, 97). (Hittite laws, article 197 and 198). In addition, where the man and woman became together was important according to the Hittite laws. For example, if they committed adultery in the house, the

woman was killed, not the man. But, if they committed adultery in the mountain, the man was killed, not the woman (Imparati, 1992, 181; Hoffner, 1997, 226). It is understood that if it happens in the house, the laws accepted it as “adultery”; but if it happens in the mountain, the laws accepted it as “violation” (Tsevat, 1975, 235). If the husband killed them, there was no any punishment for the husband. Also, the husband could forgive his wife as we saw also in the Mesopotamian laws (Imparati, 1992, 181; Tsevat, 1975, 235).

2.2. Intentional Abortion

It is understood that Hittite laws didn't give punishment to the woman who was pregnant. It punished financially to person who was the reason for the abortion. For Hittites, slaves were accepted as an half-person. Because of that, if the pregnant woman was the slave, punishment was the half-price of it (Turhan, 1932, 26; Doğan, 2007, 115).

2.3. Magician

In Hittites, the magician had the death punishment by the laws. It was not important magician's sex for the Hittites. Laws were concerned whether the magician was the independent person or the slave. If the magician was the independent person, she/he could be killed or exiled. If the slave, definitely will be killed (Kinal, 1982, 437)

CONCLUSIONS

It is understood that Ancient Mesopotamian and Anatolian societies used the cuneiform writing system to determine their verbal social rules as written. We can follow the women's punishment in the cuneiform legal texts from the Sumerian in Mesopotamia to Hittites in Anatolia. Most of the laws show that women had a lower rank than men in the society. It shows that there was a sex discrimination by giving punishment to the criminal people.

Women's Crime	Punishments	Cuneiform Legacy Texts
Adultery	Water Ordeal& Death&Mutilation	Ur-Nammu&Ešnunna&Hammurabi &Middle Assyrian&Hittite Laws
Reject the Husband	Water Ordeal	Ana-İttišu&Hammurabi Laws
Intentional Abortion	İmpale& to be not buried	Middle Assyrian Laws
Magician	Death Punishments	Middle Assyrian&Hittite Laws
Stealing	Death&Mutilation	Middle Assyrian&Hittite Laws
Killing the Husband	İmpale	Hammurabi Laws
Audaciously Speaking	Scour the mouth with the salt	Ur-Nammu Laws
Beating	Fine&Whipping	Middle Assyrian Laws
(Not) Veiling	Pitching on head& Tie ears behind the head	Middle Assyrian Laws

We can see this mostly in the Mesopotamian legacy texts. In contrast, in Hittites, the sex of the criminal people was not so important than their social statute. It was important if the criminal people were a slave or an independent person. Because of that Hittites gave punishment financially according to the criminal people's social status.

It is interesting to note that Mesopotamian punishments were mostly “eye for an eye/tooth for a tooth”. Especially, after Sumerian we can see more severe punishments in Mesopotamia. Indeed, the women’s situation changed and become considerable more restricted by the Middle Assyrian Laws.

What we understand from the legacy texts is that women had to be loyal to their husband, give birth, concern for the house and the kids. If not, they got different punishments by the laws. In short, we can see the Table as follows what kind of punishment women had in Ancient Mesopotamia and Anatolia (in the Hittites period).

Acknowledgement

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