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THE SPECTACLE OF THE SOTAH: A RABBINIC PERSPECTIVE ON JUSTICE AND PUNISHMENT IN M. SOT 1

by

ANDREW DURDIN

Under the Direction of Kathryn McClymond

ABSTRACT

The first chapter of Mishnah tractate Sotah (m. Sot) records rabbinic elaboration and interpretation on the *sotah* ritual contained in the Hebrew Bible, Numbers 5:11-31. Specifically, the nine *mishnayoth* that compose m. Sot 1 discuss the circumstances for invoking the trial of the "bitter waters" and the overall treatment of the suspected wife during the trial. This paper argues that, when read together, m. Sot 1 describes an entire economy of justice and punishment that must be imposed on a wife who is merely suspected of adultery, quite apart from whether she is—or is not—guilty of adultery. Through a close reading of m. Sot 1 and by examining the current gender discourse surrounding this text, this paper maintains that the rabbis sought to justify and explain these aspects of the *sotah* ritual by elaborating their understanding of suspicion and drawing them under a larger conception of measure for measure justice.

INDEX WORDS: *Sotah*, Mishnah, Rabbinic interpretation, Economy of justice and punishment, Adultery, Suspicion, Rabbinic interpretation, Gender

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April 2007

To my family

ראו בגוים והביטו והתמהו תמהו כי-פעל פעל בימיכם לא תאמינו כי יספר

Habakkuk 1:5

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Abbreviations

M. Sot	Mishnah Tractate Sotah
Num.	Numbers

The Spectacle of the Sotah: A Rabbinic Perspective on Justice and Punishment in M. Sot 1

Andrew Durdin

"…the ritual that produced the truth went side by side with the ritual that imposed the punishment."

- Michel Foucault

The first chapter of Mishnah tractate Sotah (m. Sot 1) is a fascinating study in the art of rabbinic interpretation and elaboration. The text consists of nine *mishnayoth*, concerned with elaborating the details of Numbers 5:11-31, the trial of the wife suspected of adultery (the *sotah*).[1] Primarily the text of m. Sot 1 is concerned with the circumstances for invoking the trial of the "bitter waters" and with the overall treatment of the suspected wife during the trial. However, despite the rabbis' close adherence to the text of the biblical account, their interpretation of this text often imparts novel significance to the terms and situations within the biblical account. Often these interpretive novelties are delicate, maintaining a term from the biblical account, but giving it a new meaning. Other times they are quite obvious in interpretive originality, with the insertion of a scene or situation not present in the biblical account. Thus m. Sot 1 is a study in interpretation in which the rabbinic strategy of interpretation both sticks closely to the text of Num. 5:11-31 as well as expands the same text. This has the effect of the

[1] The name *sotah* is derived from Num. 5:12 based on the root שטה, "to stray." *Sotah* has become the term used to describe the wife suspected of adultery and the trial she is subjected to as laid out in Numbers 5:11-31.

rabbis maintaining the sacred text, but at the same time giving different emphases than what is present within the Bible.

This paper is interested in this dual rabbinic approach of interpretation in terms of reiteration and innovation in m. Sot 1. Specifically, this paper will examine the dominant topics of m. Sot 1: the circumstances for invoking the trial of the "bitter waters" as well the overall treatment of the wife during the trial. Both of these features find grounding in the biblical account. However, the rabbis' choice to discuss and elaborate on these features together characterizes these features in a quite different way than in the biblical text. This paper will argue that the interpretive strategies of the rabbis in m. Sot 1 describe an entire economy of justice and punishment surrounding the concepts of suspicion and measure for measure in reference to the suspected wife, quite apart from a concern for whether or not she is guilty of adultery. The rabbis portray what Moshe Halbertal has referred to as an "objective basis for suspicion" in which the woman's suspicious behavior becomes verifiable and therefore the ground on which her punishment of public humiliation is justified.[2] Moreover, the rabbinic explanation draws the public events of her treatment into a larger paradigm of justice in which her actions are a direct corollary to her treatment: measure for measure. By raising suspicion the woman has socially confused her relation to any one man and such social confusion is punished by public humiliation. This humiliation is justified by God's mode of justice as presented in scripture, which metes out punishment according to the nature of the transgression. The issue of adultery is (for the most part) not the dominant question in m. Sot 1, whereas the issue of suspicion becomes vitally important.

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[2] Halbertal, *Interpretive Revolutions in the Making: Values as Interpretive Considerations in Midreshi Halakah*, 110.

The first section of this essay will introduce and orient the text of m. Sot 1 and bring out the rabbinic discourse on suspicion, punishment and justice. Section one will orient m. Sot 1 within its larger tractate and order in the Mishnah. Moreover, it will offer a careful exegesis of the nine *mishnayoth* that constitute m. Sot 1. The notion of economy comes to the fore in the second section as a means of explaining the rabbinic discourse in m. Sot 1. The term "economy" in this paper will refer to a system of interacting harmonious elements. This term is employed to highlight the interpretive activities of the rabbis in m. Sot 1 who weave together their interpretations and elaborations from the biblical account of *sotah* with other textual traditions and the broader judicial ideology of measure for measure in order to present their understanding of the circumstances for the trial and the treatment of the woman.

Section three presents the theoretical significance of this reading of m. Sot 1 and addresses recent scholarship that has surrounded m. Sot in terms of gender. Indeed, gender has been the predominant lens through which m. Sot 1 has been approached of late. This paper will argue that the discourses on gender that have arisen around this passage, although helpful, have eclipsed and/or ignored the rabbinic concern with justice and punishment. Often, scholars have interpreted the text of m. Sot 1 from a larger concern for theorizing gender in rabbinic writings. The result has been a revealing and concealing of the text; based on various assumptions of rabbinic gender theory aspects of the text have become important while others have been ignored. This paper develops its reading of m. Sot 1 by examining all nine *mishnayoth* that constitute the chapter. Thus the assertion that m. Sot 1 describes an economy of justice and punishment comes from a "holistic" reading of the text.[3] Yet, by engaging feminist scholarship

[3] By "holistic" I mean reading together the nine *mishnayoth* that have delimited m. Sot 1 as found in *M.S. Kaufman* and *M.S. Parma*. This will stand in contrast to the way in which current

this paper will not only bring to the fore an economy of justice and punishment but argue that this economy was motivated by the rabbis actively trying to justify a ritual which they found out of sync with their familiar standards of justice. Thus the rabbinic attention given to suspicion and the elaboration of measure for measure in m. Sot 1 utilizes the suspected wife as an occasion for developing their ideas of punishment and justice in order to positively justify the punishment of the woman.

II.

The topic of the *sotah* has been a recurrent interest within both rabbinic and non-rabbinic writings.[4] The earliest record of the *sotah* ritual is contained within the Hebrew Bible, Numbers 5:11-31. The biblical account serves as the basis for the rabbinic tradition of interpreting the rite. Within rabbinic literature the exposition of the *sotah* ritual appears frequently. Its presentation in the Mishnah (220 CE) is the earliest rabbinic interpretation of the rite. The framers of the Mishnah organized an entire tractate around the rabbinic teachings concerning the *sotah*. M. Sotah is oriented more broadly within Seder Nashim (Order of Women), which is the third of six divisions that compose the Mishnah. Seder Nashim consists of seven tractates, the fifth of which is m. Sot. This organizational grid in which m. Sot is embedded was carried over into organization of the Tosefta as well as the Palestinian and Babylonian Talmuds. Thus each of these later rabbinic texts, redacted between the third and fifth century, follows the organizational

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scholarship has read m. Sot 1. Gender scholars have selected texts in order to support their theory rather than reading the text within the context of the whole chapter.

[4] Specifically, Philo discusses the ritual in *The Special Laws*, 3:52-63; Josephus gives a version in *Jewish Antiquities* 3:270-273. Moreover, references to the rite are found also within the Targumim (the Aramaic translation of the Hebrew Bible) and Septuagint (a collection of Greek translations of the Bible). Both contain a translation of Numbers 5:11-31.

schema of the Mishnah and not only deals with the *sotah* ritual but devotes an entire tractate to the issue.[5]

This paper is interested primarily in the Mishnaic account (specifically m. Sot 1) of the *sotah* ritual. However, since the foundational text for the rabbis in the Mishnah was the biblical account of the *sotah*, a brief rehearsal of Numbers 5:11-31 is in order.

Numbers 5:11-31 states:

The Lord spoke to Moses, saying: Speak to the Israelite people and say to them: If any man's wife has gone astray and broken faith with him in that a man has had carnal relations with her unbeknownst to her husband, and she keeps secret the fact that she has defiled herself without being forced, and there is no witness against her—but a fit of jealousy comes over him and he is wrought up about the wife who has defiled herself; or if a fit of jealousy comes over one and he is wrought up about his wife although she has not defiled herself—the man shall bring his wife to a priest. And he shall bring as an offering for her one tenth of an *ephah* of barley flour. No oil shall be poured upon it and no frankincense shall be laid upon it, for it is a meal offering of jealousy, a meal offering of remembrance which recalls wrongdoing.

The priest shall bring her forward and have her stand before the Lord. The priest shall take sacral water in an earthen vessel and, taking some of the earth which is on the floor of the Tabernacle, the priest shall put it into the water. After he has made the woman stand before the Lord, the priest shall bear the woman's head and place upon her hands the meal offering of remembrance, which is a meal offering of jealousy. And in

[5] Other rabbinic writings that include interpretations of the *sotah* ritual include the *halakhic midrashim* of Sifre Numbers and Sifre Zutta and the *aggadic midrashim* of Tanhuma-Yelamdenu and Numbers Rabbah.

the priest's hands shall be the water of bitterness that induces the spell. The priest shall adjure the woman, saying to her, "If no man has lain with you, if you have not gone astray in defilement while married to your husband, be immune to harm from this water of bitterness that induces the spell. But if you have gone astray while married to your husband and have defiled yourself, if a man other than your husband has had carnal relations with you"—here the priest shall administer the curse of adjuration to the woman, as the priest goes on to say to the woman—"may the Lord make you a curse and an imprecation among your people, as the Lord causes your thigh to sag and your belly to distend; may this water that induces the spell enter your body, causing the belly to distend and the thigh to sag." And the woman shall say, "Amen, amen!"

The priest shall put these curses down in writing and rub it off into the water of bitterness. He is to make the woman drink the water of bitterness that induces the spell, so that the spell-inducing water may enter into her to bring on bitterness. Then the priest shall take from the woman's hand the meal offering of jealousy, elevate the meal offering before the Lord, and present it on the altar. The priest shall scoop out of the meal offering a token part of it and turn it into smoke on the altar. Last, he shall make the woman drink the water.

Once he has made her drink the water—if she has defiled herself by breaking faith with her husband, the spell-inducing waters shall enter into her and bring on bitterness, so that her belly shall distend and her thigh shall sag; and the woman shall become a curse among her people. But if the woman was not defiled herself and is pure, she shall be unharmed and able to retain seed.

> This is the ritual in cases of jealousy, when a woman goes astray while married to her husband and defiles herself, or when a fit of jealousy comes over a man and he is wrought up over his wife; the woman shall be made to stand before the Lord and the priest shall carry out all this ritual with her. The man shall be clear of guilt; but the woman shall suffer for her guilt.[6]

According to the biblical text, a spirit of jealousy (קנא) comes upon a man whose wife may or may not have strayed from him. The husband suspects that his wife has committed adultery, yet the alleged act was done in secret (סתר) and there are no witnesses. The husband brings his wife before a priest, along with an appropriate offering. The priest brings the woman before the Lord, mixes holy water with earth from the Tabernacle floor. The priest tells her that God will make her a curse and an imprecation among her people if she is guilty. If she is innocent she will be immune to the effects of the water-mixture, but if she is guilty it will make her unable to bear children. These words are written on a scroll and dissolved into the water-mixture. The woman then drinks this concoction and the offering is presented before the Lord. If she is defiled she faces the above consequences; if she is clean she is acquitted and able to bear children.

The recent scholarship on Num. 5:11-31 has been quite thorough and dealt with literary issues of structure and integrity of the text as well as anthropological issues concerning the meaning of the ritual.[7] However, the purpose of laying out the biblical record of *sotah* in this

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[6] Translation is taken from the *Hebrew-English Tanak*, Philadelphia: Jewish Publication Society, 1999.

[7] The secondary scholarship on Numbers 5:11-31 has been extensive, far too extensive to be listed wholly here. Some of the notable scholarship includes, H.C. Brichto, "The Case of the Sota and a Reconsideration of Biblical Law."; Michael Fishbane, "Accusation of Adultery: A Study of Law and Scribal Practices in Numbers 5:11-31."; Tikva Frymer-Kensky, "The Strange Case of the Suspected Sotah."; Baruch Levine, *Numbers 1-20: A New Translation with*

paper is in order to bring into relief the Mishnaic interpretation of the ritual. The rabbis begin with the biblical text. However, the rabbinic teaching recorded in the Mishnah elaborates on, interprets, and transforms many of the features in the biblical account.

The text of m. Sot is constituted by nine chapters that are primarily halakhic—legal material; however it also contains aggadic—non-legal, homiletic—material, more in fact, than many other tractates in the Mishnah. Overall, m. Sot sticks very close with the biblical text on which it is based. However, it does offer interpretation and elaboration, some of which is subtle and some of which quite obvious. It deals with the circumstances of the trial, the wife's offering, the writing and taking of the oath, and the presentation of the offering. Moreover, the text provides long lists of exemptions of women who will not drink, as well as deliberation on the number and nature of witnesses required to make a woman drink.

M. Sotah also deals with issues that have seemingly little to do with the *sotah* ritual. The actual *sotah* ritual is only discussed in m. Sot 1-6. Yet, even within theses chapters there are often seemingly unrelated issues discussed (m. Sot 3:8, 5:2-5). M. Sotah 7:2-9:8 is structured around the issues of oaths said in the holy tongue. The list of oaths that can be said in any tongue is given in m. Sot 7:1 (including the *sotah* ritual), and the list of oaths in the holy tongue in m. Sot 7:2. The list in m. Sot 7:2 governs the topics for discussion until m. Sot 9:8. Each item listed in m. Sot 7:2 is subsequently discussed in m. Sot 7:3-9:8. There is a slight deviation in the discussions of oaths in the holy tongue and the list of oaths in the holy tongue in m. Sot 7:2. In the list, the pericope of the heifer is listed before the message of the anointed for battle.[8] Yet, in

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Introduction and Commentary; Jacob Milgrom, "The Case of the Suspected Adulteress, Numbers 5:11-31: Redaction and Meaning."

[8] The pericope of the heifer is recorded in Deuteronomy 21:1-9. When a slain person is found in a field and it is unknown who slew him, the elders and judges will go out and measure which city is closest to the slain person. From that city an un-worked heifer is taken to valley where they

the subsequent discussion the order is reversed. M. Sotah 8 discusses the message of the anointed for battle, and the pericope of the heifer is taken up at the beginning of m. Sot 9. This is an interesting literary structural note, because the pericope of the heifer serves as a transition back to a brief mention of the *sotah* ritual, which has not been discussed since m. Sot 6.[9] The return of the *sotah* ritual in m. Sot 9:9 records the abolition of the rite by R. Yohanan ben Zakkai. It is a brief reference and serves as a transition into a discussion of the decline that has occurred upon the death of the great sages and the destruction of the Temple.[10]

M. Sotah 1 is composed of nine *mishnayoth* that are concerned with the circumstances for invoking the trial and the woman's treatment during the trial. M. Sotah 1 can be divided into at least three sections: the legal procedures concerning the invocation of the trial (1:1-3), the treatment of the woman during the trial (1:4-6), and an explanation of her treatment in terms of measure for measure (1:7-9).

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break its neck. An oath is then said in order to atone for the unknown homicide that guilt will not fall on the people. The pericope of the heifer is often discussed in conjunction with *sotah* because of certain perceived similarities: the uncertainty involved in both as well as the oath recorded in each text (see the secondary literature cited above). The message of the anointed for battle comes from Deuteronomy 20:1-4. Before Israel goes to battle the priest is to stand before the people and admonish them to be courageous because it is God that fights for them. Thus they are not to be afraid even though their enemy is numerous and strong.

[9] The structure of this transition in m. Sot 9:9 is the parallel language used in describing the pericope of the heifer and then the *sotah:*

> "When murderers increased in number, [the ritual of] breaking the neck was nullified…. When adulterers increased in number, [the ritual of] the bitter waters stopped…"(m. Sot 9:9).

The rabbis apparently saw these rites as related insofar as the rites were abolished when the vices they sought to handle became to numerous.

[10] For more issues concerning redaction and transmission of m. Sotah, see Chanock Albeck's standard non-critical edition of the Mishnah *Shishah Sidrei Mishnah*, 6v., Jerusalem and Tel Aviv, 1957-1959, with brief introductions and annotations for each tractate. Also Hans Bietenhard has published a critical edition of Mishnah Sotah, *Die Mischna: Text, Übersetzung und ausführliche Erklärung: Sota*, ed. and trans, Berlin, 1956. Stemberger and Strack allude to m. Sot 9 in dealing with overall redactional issues in the Mishnah, G. Stemberger, *Introduction to the Talmud and Midrash*, vol. 2nd ed, Edinburgh: 1996, 133-134.

M. Sotah 1:1 introduces three key concepts: the husband's jealousy (warning); a secondary requirement for a man to make his wife drink; and the requirement of witnesses for both stages:

א

המקנא לאשתו רבי אליעזר אומר מקנא לה על פי שנים ומשקה פי עד אחד
או על פי עצמו רבי יהושע אומר מקנא לה על פי שנים ומשקה על פי שלים:[11]

1

The man who expresses jealousy to his wife—Rabbi Eliezer says: He expresses jealousy to her before two witnesses, and makes her drink on the witness of one or on his own witness. Rabbi Joshua says: He expresses jealousy to her before two witnesses and makes her drink on the testimony of two witnesses.

The development of the husband's jealousy, the secondary requirement, and witnesses take place within a recorded debate between Rabbi Eliezer and Rabbi Joshua who disagree over the number of witnesses necessary for a man to make his wife drink. They do, however, agree that two witnesses are needed for a husband to express his jealousy to his wife. The framework of this debate on how suspicion is expressed rests on a desire for proper procedure, which concerns a particular number of witnesses. This is a departure from the biblical text in which there are no witnesses required for invoking the trial; only the husband's jealousy is required. Scholars have pointed to the shift in the usage of the root קנא (jealousy, suspicion, warning) from

[11] All translations of m. Sot 1 are the authors own.

the biblical "spirit of jealousy" (רוח קאנה) to the procedural expression of a warning before witnesses. Jealousy becomes an act of expression not an emotional response. The innovation of this shift from biblical usage to Mishnaic usages is considered "astonishing" by Judith Hauptman who states, "this series of events is a far cry from the Torah's mere fit of jealousy."[12] Moshe Halbertal identifies the shift in Mishnaic usage of קנא as "not a description of the mood of the husband, but a detailed legal proceeding of warning."[13] There is no mention of jealousy "coming over" the husband within the Mishnah as there is in the biblical text. Jealousy is assumed and the text is concerned with the proper, legally binding expression of this jealousy. The presence of jealousy in the husband is no longer the unilateral initiation of the bitter waters. Rather, there must be an expression of jealousy as a warning to his wife before two witnesses and only then (as will be seen) if she violates the warning can she be made to drink.

These procedural issues are elaborated further in m. Sot 1:2:

ב

כיצד מקנא לה אמר לה בפני שנים אל תדברי עם איש פלוני ודברה עמו עדין היא מתרת לביתה ומתרת לאכול בתרומה נכנסה עמו לבית הסתר ושהתה עמו כדי טמאה אסורה לביתה ואסורה לאכול בתרומה ואם מת הולצת ולא מתיבמת:

[12] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 17-18.
[13] Halbertal, *Interpretive Revolutions in the Making: Values as Interpretive Considerations in Midreshi Halakah*, 94-97.

2

How does he express jealousy to her? If he said to her in front of two witnesses, "Do not speak with So-and-so," and she spoke with him, she is still permitted to her husband and is permitted to eat the *terumah*. If she entered with him into a secret house and stayed with him in order to become defiled, she is forbidden to her husband and to eat the *terumah*, and if he dies, she must perform *halitzah* and does not enter levirate marriage.

The issue in m. Sot 1:1 is that a husband must express his jealousy a certain way, m. Sot 1:2 answers the question of how one expresses this jealous warning. In m. Sot 1:2 the husband's warning made before two witnesses states to the wife not to speak with a particular man in question. Yet, if she does speak to this man there are no legal ramifications or changes to the woman's status. Although not definitive, one might speculate that the rabbis were putting a safe distance between the wife and the man she is warned not to speak with so as to protect against the possibility of impropriety. The husband's warning does not forbid all types of activity between his wife and the man in question. Speaking with this man still allows the wife to her husband and, if a wife of a priest, to eat *terumah* (the priest's due). Indeed, this initial interdiction against speaking to him seems to be a safety measure. The husband's warning is violated if she secludes (root סתר) herself with this man long enough for sexual contact to take place. The witnessed violation is sufficient for making her drink the "bitter waters." This is where Rabbi Eliezer and Rabbi Joshua disagree in m. Sot 1:1. The former says only one witness is necessary to verify she secluded herself (which could be the husband's own testimony) and the latter says that there must be two witnesses that she ignored his warning and secluded herself.

סתר, like קנא is used differently within this *mishnah* than in the biblical account. In the Bible, סתר identifies one of several activities that create suspicion regarding the woman's status as clean or defiled: a man lies with her, it is hidden from her husband, it is done in secret, she is defiled, and there is no witness. In m. Sot 1:2 סתר is defined as the witnessed seclusion of the wife with the man she was warned not to speak with. Halbertal has argued that the Mishnaic usage of סתר transforms the term from an antecedent action of the husband's consequent jealousy, to a requisite condition required for the ordeal.[14] This novel interpretation of סתר allows for a witnessed seclusion. It cannot provide evidence of defilement; there are merely witnesses that the wife has contravened her husband's warning. What is witnessed is the seclusion, not the actual act of adultery *in flagrante delicto* (indeed such an act is described as witnessing "the painting stick inserted into the tube," Makkot 7a). In the case of witnessed seclusion a woman is forbidden (אסורה) to her husband and forbidden to eat *terumah*. Moreover, if her husband dies then she is subjected to *halitzah* and does not enter into levirate marriage.

Bonna Devora Haberman has noted the play on the word בית (house), which refers to the husband in this particular *mishnah*.[15] There is a movement between houses recorded in this passage, and as such a movement between men: the husband to the lover. The woman who is married to a particular man is thus part of his house (בית), and if she merely speaks to the man in question after her husband's warning she is still permitted to her house (בית), her spouse. However, if she secludes herself with this man in בית הסתר, literally "a house of secret", then she is forbidden to enter her house. The movement between houses, and by extension, men are present in subsequent *mishnayot* as well.

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[14] Ibid., 96.
[15] Haberman, "The Suspected Adulterous: A Study of Textual Embodiment," 29.

M. Sotah 1:3 begins by listing the women who are forbidden from eating the *terumah*:

ג

ואלו אסורות מלאכול בתרומה האומרת טמאה אני לך ושבאו עדים שהִיא טמאה
והאומרת איני שותה ושבעלה אינו רוצה להשקותה ושבעלה בח עליה בדרך
כיצד הוא עושה לה מוליכה לבית דין שבאותו המקום ומוסרין לו שני תלמידי
חכמים שמא יבוא עליה בדרך רבי יהודה אומר בעלה נאמן לה:

3

These are the women who are forbidden to eat *terumah*: The one who says, “I am impure to you”; the one about whom witnesses have come to say that she is impure; the one who says, “I will not drink,” the one whose husband does not want her to drink, and the one whose husband has sexual relations with her on the way. How does he act toward her? He takes her to his local court and they give to him two students of the sages in case he has sexual relations with her on the way. Rabbi Judah says her husband is trustworthy concerning her.

In all of the above five cases the trial may not take place and by implication the marriage must be ended. In the first four situations it is because the woman's infidelity must be assumed to have been proven. In the fifth case the husband has compromised himself; it has been shown by testimony that the woman has secluded herself and thus she is forbidden to her husband, and yet he has copulated with her anyway. In the third situation, the woman's refusal to take the test perhaps is indicative of her guilt.

The list of exemptions in m. Sot 1:3 is best understood against the backdrop of other lists of exempt women in m. Sot as well as concomitant *ketubbah* (marriage contract) issues. The initial reference to the priest's due suggests that this list is intended just for women who are married to priests. However, Lisa Grushcow has argued, "the continuation of the mishnah—which describes what is to happen when the woman and her husband set out for Jerusalem for the ritual—suggests that the list describes all women who are disqualified from the ordeal, and permanently lose the privileges of their marriage by being divorced."[16]

M. Sotah 4:1 lists women whose marriages have not been fully authenticated and whose marriages were not legitimate in the first place. The women here receive neither their *ketubbah* nor drink the "bitter waters." M. Sotah 4:2 describes women exempted by their own statement and action. This *mishnah* mirrors closely the language in m. Sot 1:3. If a woman confesses her defilement, witnesses testify to her defilement, or she refuses to drink then she is divorced without her *ketubbah*. If her husband will not force her to drink or engages in sexual activity with her on the way to Jerusalem, she is divorced but receives her *ketubbah*. The first scenario concerns her self-testimony and actions and the second involves her husband's actions toward her. In both cases divorce is the result, yet her *ketubbah* is collected in the latter circumstance and forfeited in the former. The parallel language in m. Sot 1:3 is connected with issues of exemptions and the *ketubbah*. The wife of a priest cannot eat *terumah* if she falls into either the former or latter category of self-testimony or her husband's actions. These exemptions in m. Sot 1:3 cash out some of the important implications of jealousy and seclusion asserted in the previous two *mishnayoth*. Judith Romney-Wegner pays close attention to the passages concerned with exemption from the trial and the *ketubbah* as well as the statues for witnesses in m. Sot 1:1-

[16] Grushcow, *Writing the Wayward Wife*, 49.

2. She asserts the rabbis created a formal system of warning (m. Sot 1:1-2) in order to allow a husband to divorce his wife without paying her *ketubbah*. This of course would be due to her in a normal divorce.

Romney-Wegner writes:

> The Mishnah framers, great respecters of private property, forbid the husband to withhold the marriage settlement without due process; he must produce witnesses…. This preliminary precaution permits him later to use these witnesses to divorce his wife without returning her marriage portion.[17]

Romney-Wegner argues that insofar as the wife is her husband's property she can be subjected to the trial. However, insofar as she is a property owner because of her *ketubbah*, there must be due process involved.

M. 6:1 and 6:2 are also enlightening with respect to m. Sot 1:3, specifically in reference to the various consequences of different kinds of testimony for a woman who has been warned but has secluded herself. The quality of the evidence is discussed in these *mishnayoth*. M. Sotah 6:1 discusses in what manner the husband hears that his wife has violated his warning. If a man expresses his suspicion to his wife and she has secluded herself, if he hears evidence of her defilement—even if he hears it from a flying bird,[18] according to Rabbi Eliezer, and even if he hears it according to the women who spin by moonlight,[19] according to Rabbi Joshua—he is to divorce her, and give her her *ketubbah*. There is a reference here to m. Sot 1:1 in the continued

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[17] Romney-Wegner, *Chattel or Person? : The Status of Women in the Mishnah*, 91-93.
[18] Miriam Peskowitz describes "the flying bird" as "an unnamed, transient source." Peskowitz, "Spinning Tales: On Reading Gender and Otherness in Tannaitic Texts," 107.
[19] Utilizing the image of "women who spin" in m. Sot 1:6, Peskowitz discusses how the rabbis construct a view of women as "other." Characterizing women as "other" places the suspected wife in an unusual position. The *sotah* in rabbinic interpretations is an "other within others." Peskowitz juxtaposes the *sotah* with the women who spin. See this paper's discussion of Peskowitz, p. 40. Ibid., 106-112 and Peskowitz, *Rabbis, Gender, and History,* 131-139.

disagreement of Rabbi Eliezer and Rabbi Joshua in matters regarding the *sotah*. M. Sotah 1:1 indicated that Rabbi Eliezer was much less strict regarding the acceptability of testimony in regards to the husband's jealousy and wife's seclusion and that Rabbi Joshua was much stricter. This is also reflected in the present *mishnah*. Rabbi Eliezer is of the opinion that a husband is required to divorce his wife if, after having warned her, he hears a mere rumor (a little bird told me) that she had consorted with the previously identified man. Rabbi Joshua requires much more than an unsubstantiated rumor; he requires the woman's behavior to be the persistent subject of gossip among the local women.

M. Sotah 6:2 discusses various types of credible witnesses concerning the wife's behavior. If one witness testifies to her defilement—even a male or female slave—she does not drink and is disqualified from her *ketubbah*. If the wife's defilement is witnessed by a female relative (e.g. co-wife, mother-in-law) then the suspected wife does not drink but is not disqualified form her *ketubbah*. From these various sources it becomes clear that the testimony of a slave can prevent a woman from collecting her *ketubbah*, but the testimony of the relatives cannot.

The overall issue brought to light by m. Sot 1:3 and the surrounding relevant passages dealing with exemptions and the *ketubbah* of the suspected wife is that the *sotah* ritual will only take place if there is no evidence that wife has been defiled. Beyond her witnessed seclusion there must be complete uncertainty as to her status; "doubt must exist, beyond a reasonable doubt."[20] If evidence that casts light on her status becomes available then the trial is cancelled; the ritual of the *sotah* only takes place in circumstances of complete uncertainty.

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[20] Grushcow, *Writing the Wayward Wife: Rabbinic Interpretations of Sotah*, 50.

These developments concerning exemptions and *ketubbah* are often understood as positive for the accused woman and are read as mechanisms of protection.[21] The limitations on the trial seem to check the unilateral power given to male jealousy in the biblical account. The exemptions do seem to limit the applicability of the trial. However, it is not clear that this was intended to protect women. The loss of the *ketubbah* was a serious hardship for a divorced woman. Michael Satlow has pointed out that rabbinic laws of adultery, which involve divorce and loss of the *ketubbah*, took the place of capital punishment with the divorced woman receiving a functionally equivalent punishment as the proven adulteress.[22]

Moreover, Grushcow has pointed out that m. Sot 4:5 is a layer of interpretation that doesn't seem concerned with limitation of the trial.[23] This *mishnah* states the wife of a husband who is deaf, insane or imprisoned could be warned by the court instead of the husband. Yet, the text maintains this warning is not intended to make her drink, but rather to disqualify her from her *ketubbah*. R. Yose, however, seems to qualify this statement by asserting that in the case of imprisonment the husband, when freed, can make her drink. The implication here being that the court's warning does function to make her drink, because the freed husband can make her drink without first expressing his jealousy. Grushcow comments, "This mishnah shows that one effect of the evolution of the husband's jealousy into a formal warning is an opening for judicial involvement. In some cases, this results in an extension of jealousy's reach."[24] Both Satlow and Grushcow's observations should caution one towards accepting the thesis that the legal procedures in m. Sot 1:1-3 are intended to protect women.

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[21] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 18; Haberman, "The Suspected Adulterous: A Study of Textual Embodiment," 23.
[22] Satlow, *Tasting the Dish: Rabbinic Rhetorics of Sexuality*, 182.
[23] Grushcow, *Writing the Wayward Wife: Rabbinic Interpretations of Sotah*, 50-51.
[24] Ibid., 51.

The second part of m. Sot 1:3 picks up on the issue of the woman's forbidden status to the husband that has been ascribed to her based on her witnessed seclusion. The question stated is, "How does he act towards her?" He takes her to the local court where two rabbinic scholars are assigned to escort the couple to Jerusalem so they will not engage in sexual activity on the way. This enforced prohibition of a husband and wife serves to assert the uncertainty of her status. It is not clear that she is presumed guilty. She has been witnessed secluding herself, but she has not been witnessed being defiled. Because of such uncertainty there must be a prohibition lest she is defiled and her husband has contact with an unclean woman. Furthermore, the image of a house emerges again, this time as the local court (לבית דין שבאותו המקום). She has left her husband's house and been witnessed entering a secret house with another man. This has made her relation to any one house, i.e. man, uncertain. Thus she is taken to the local court where they are escorted to another house, the Temple (בית דין הגדול) in Jerusalem where her ambiguous connection to these men will be determined. The final aspect of m. Sot 1:3 is the opinion of Rabbi Judah who sees the imposition of the local court as unnecessary and asserts the husband should be trusted regarding his behavior toward her on the way to Jerusalem.

M. Sotah 1:1-3 deals specifically with the interpretation of the biblical terms, קנא and סתר and the addition of witnesses to the circumstances for the trial. It is the interpretation of these terms that controls the creation of the various legal procedures recorded in these passages. The procedures for bringing a wife to trial become twofold in m. Sot 1:1-2, as opposed to the biblical text where the husband's jealousy is the unilateral invocator of the trial. The respective interpretations of the terms קנא and סתר correspond to the creation of different procedural levels for initiating the trial, both of which now require witnesses. In other words, the rabbis develop the biblical circumstances for the trial into a two-pronged legal procedure through interpretation

of these terms and the addition of witnesses. קנא becomes interpreted as the expression of jealousy whereas סתר is interpreted as the wife violating his warning. M. Sotah 1:3 records the first of a fuller set of exemptions and issues concerning *ketubbah* (See m. Sot 4 and 6) that tease out the implications of m. Sot 1:1-2 which forbid the wife to her husband. In the latter part of m. Sot 1:3 the separation between the husband and wife (m. Sot 1:2) is legally enforced by the local court.

M. Sotah 1:4 contains an adjuration not found in the biblical text, in which the Great Court urges the woman to confess:

ד

הין מעלין אותה לבית דין הגדול שבירושלים ומאימין עליה כדרך שמאימין
על עדי נפשות ואומרים לה בתי הרבה יין הרבה שחוק עושה הרבה
ילדות עושה הרבה שכנים הרעים עושים עשי לשמו הגדול שנכתב בקדשה
שלא ימחה על המים ואומרים לפניה דברים שאינה כדאי לשמען היא וכל
משפחת בית אביה

4

They would bring her up to the Great court in Jerusalem, and would admonished her in the manner that they admonish witnesses in capital cases, and they would say to her: “Daughter of mine, much wine causes [sin], much levity causes [sin], much childishness causes [sin], many neighbors cause [sin], do [act] for his great name that will be written in holiness, that it should

not be erased by the water." And they would say before her things that she is not worthy to hear, she and the whole family of her father's house.

In Num. 5:12 the husband who is jealous of his wife is to take her before a priest. In m. Sot 1 the rabbis insert an adjuration in between the formal procedures of m. Sot 1:1-3 and the entrance of the priest in m. Sot 1:5-6. M. Sotah 1:3 ends with the enforced separation by the local court between the husband and wife on their trip to Jerusalem. M. Sotah 1:4 picks up in Jerusalem as she is taken before the Great Court which admonishes her. She is interrogated as one is in a capital case. This draws out a very serious relationship. M. Sanhedrin 4:5 offers a glimpse into the interrogation of a witness in a capital case (עדי נפשות). It is an overall admonishment that the witness gives reliable testimony regarding a capital crime. In m. Sot 1:4, the wife is admonished by the court to confess her wrongdoing. The court seems to say that sin is understandable given the circumstances and she is admonished to confess so that the divine name will not be dissolved into the water.[25] She is then told things which neither she nor her father's house are fit to hear. Confession leads to an immediate aborting of the trial. As illustrated in m. Sot 1:3 and its parallel passages, any sort of behavior that casts a reasonable doubt on uncertainty immediately cancels the trial.

The wife who maintains her innocence in the face of the court's private interrogation is moved to the public arena where the priest imposes on her a humiliating public shaming, an ordeal in and of itself. This is recorded in m. Sot 1:5-6. Haberman has commented, of these

[25] Adriana Destro draws out anthropological implications of using the divine name in the ordeal, and the desire to avoid dissolving it in the water. Destro, *The Law of Jealousy: Anthropolgy of Sotah*, 80.

mishnayoth, "the composure of the mishnaic text ruptures abruptly into violent eroticism."[26] Satlow has also referred to this text as a "rhetoric of violence and humiliation."[27]

ה

אם אמרה טמאה אני שוברת כתבתה ויוצאת ואם אמרה טהורה אני מעלין אותה לשער המזרח שעל פתח שער נקנור ששם משקין את הסוטות ומטהרין את היולדות ומטהרין את המצרעים וכהן אוחז בבגדיה אם נקרעו נקרעו אם נפרמו נפרמו עד שהוא מגלה את לבה וסותר את שערה רבי יהודה אומר אם היה לבה נאה לא היה מגלהו ואם היה שערה נאה לא היה סותרו

5

If she said, "I am defiled," she renounces her *ketubbah* and would leave. If she says, "I am pure," they would bring her up to the eastern gate that is at the entrance to Nicanor's Gate, where they make the suspected wives drink, and purify women after childbirth, and purify lepers. And a priest takes hold of her clothes—if they are ripped they are ripped, and if they are torn they are torn—until he exposes her chest and loosens her hair. R. Judah says: If her chest was beautiful he did not expose it. If her hair was beautiful he did not loosen it.

ו

היתה מתכסה בלבנים מכסה בשחורים היו עליה כלי זהב וקטליות נזמים

[26] Haberman, "The Suspected Adulterous: A Study of Textual Embodiment," 24.
[27] Satlow, *Tasting the Dish: Rabbinic Rhetorics of Sexuality*, 176.

וטבעות מעבירים ממנה כדי לנולה ואחר כך מביא חבל מצרי וקושרו למעלה מדדיה וכל הרוצה לראות בא לראות חוץ מעבדיה ושפחותיה מפני שלבה גס בהן וכל הנשים מתרות לראותה שנאמר ונוסרו כל הנשים ולא תעשינה

6

If she was dressed in white clothes, she is dressed in black ones. If she had upon her gold ornaments and necklaces, earrings, and rings, they remove them from her as to disgrace her. And after that he brings an Egyptian rope and ties it above her breasts. And everyone who wants to see comes and sees, except for her bondsmen and bondswomen, because she is haughty before them. And all the women are permitted to see her, as it is said*, And all the women will be warned not to imitate your lewdness* (Ez. 23:48).

The tone of these *mishnayoth* seems to depart from the more procedural, legal tone of m. Sot 1:1-3. This has led scholars to point to the hand of a redactor in placing this section after m. Sot 1:1-3. Jacob Neusner has emphasized the later work of the Ushans in m. Sot 1:5-6 whereas Hauptman has suggested that m. Sot 1:4-6 is an earlier text which is framed later by the more rational and procedural texts within m. Sot 1 that seem to limit the rite.

Num. 5:18 is elaborated on extensively within these *mishnayoth*, and contains considerable changes from the biblical text. Specifically, m. Sot 1:5-6 expand on the priest letting down the woman's hair and the trial becomes a public display. M. Sotah 1:5 begins where m. Sot 1:4 ends. If the suspected wife maintains her innocence, then she is moved from the private sphere of investigation to the public sphere of spectacle. M. Sotah 1:5 describes the tearing of the woman's garments and the loosening of her hair. M. Sotah 1:6 specifies the details

of her shaming: she is dressed in black, unadorned of all beautifying ornaments, and an Egyptian rope is tied around chest. Moreover, all are allowed to come and witness this scene (except her slaves). For women, the shamed wife becomes a non-verbal pedagogical device. They are to see her and not to follow in her actions. Satlow, Haberman, and Miriam Peskowitz have all commented on the significance of the shift to public display from the biblical text to the Mishnaic text and its significance of warning other women not to act as the suspected wife has.[28]

M. Sotah 1:7 offers another angle to the events described in m. Sot 1:5-6; it adds something like an explanation for the suspected woman's treatment:

ז

במדה שאדם מודד בה מודדין לו היא קשטה את עצמה לעברה המקום נולה
היא גלתה את עצמה לעברה המקום גלה עליה בירך התחילה בעברה תחלה
ואחר כך הבטן לפיכך תלקה הירך תחלה ואחר כך הבטן ושאר כל הגוף לו
פלט:

7

With the measure that a man measures, to him it is measured. She adorned herself for transgression, the Omnipresent disgraced her; she exposed herself for transgression, the Omnipresent exposed her. She began to transgress with her thigh, and then her belly; therefore the thigh is struck first, and then the belly, and the rest of the body does not escape.

[28] Satlow, *Tasting the Dish: Rabbinic Rhetorics of Sexuality*, 173; Haberman, "The Suspected Adulterous: A Study of Textual Embodiment," 24; Peskowitz, "Spinning Tales: On Reading Gender and Otherness in Tannaitic Texts," 110-111.

The rabbis tie together the previous *mishnahyoth* under the idea of measure for measure, and as such characterize them under a conception of justice: with the measure that a person measures, it will be measured to him. The issue of measure for measure can be categorized under broader rabbinic discussions of reward and punishment. The idea of punishment and reward fitting the offense is present in other rabbinic documents (Tosefta Sotah 3-4) as well as Philo (The Special Laws, 3:62), the Gospels (Matthew 7:2, Mark 4:24, Luke 6:38), and other ancient writings. The measure for measure principle is found in a numerous ancient discussions concerning justice.[29] Indeed, measure for measure in m. Sot 1 applies a logic by which one is rewarded and punished based on their actions. Measure for measure, as a particular conception of punishment and reward is a significant theme in rabbinic literature with the *sotah* frequently cited as the primary example.[30] The measure for measure principle is often used as an explanation for certain commandments. For example, Yohanan ben Zakkai makes a statement concerning the biblical law in which a slave who refuses to be freed has his ear pierced (Ex. 21:6): "His ear had heard, 'Thou shalt not steal,' yet he went and stole, therefore let it [his ear] of all his organs be pierced."[31]

Of interest here is that the rabbis of the Mishnah chose this particular characterization of justice to make sense of the suspected wife's violent treatment. First, God, and not the priest, is

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[29] Scholars have tended to look to various persecutions in order to explain the rabbis interest in reward and punishment. It is argued that the injustice of persecution prompted an interest in recompense in the world to come rather than in the present. It should be noted that in the case of the *sotah* the literature mentions only this-worldly consequences. See Sanders, *Paul and Palestinian Judaism*, 124-125, Urbach, *The Sages: Their Concepts and Beliefs*, 442, and Bonsirven, *Palestinian Judaism is the Time of Jesus Christ*, 109.

[30] Sanders, *Paul and Palestinian Judaism: A Comparison of Patterns of Religion*, 118; Urbach, *The Sages: Their Concepts and Beliefs*, 371-372, 438. Bonsirven, *Palestinian Judaism in the Time of Jesus Christ*, 110-111.

[31] Mekhilta Di-Nezikin 12. The translation is taken from Urbach, *The Sages: Their Concepts and Beliefs* 372, who cites this text at the beginning of his discussion on measure for measure.

identified as the primary actor in the woman's treatment. Second, her punishment in m. Sot 1:5-6 is explained as a direct parallel of her own actions; the punishment is proportional to her actions. These two points indicate the wife's situation, her treatment and punishment fall outside the regular standards for human decorum. Moreover, the exposition of measure for measure is rooted in scripture in m. Sot 1:8-9. The rabbis want their readers to see that this particular way of treating the wife suspected of adultery is rooted in a larger classification of divine justice that itself is found within the pages of scripture.

עברה "transgression," is used three times in m. Sot 1:7 to characterize the wife's activities. Once in reference to the woman's adornment, which is met by God disgracing her; once in reference to the woman's exposure of herself, which is met by God exposing her; and once in reference to the order in which she involved her thigh and belly in her putative sin, which will be met with divine punishment of these parts in the order they were used to transgress. Disgrace, exposure and the thigh and belly are all associated with her wrongdoing.

The structure of this *mishnah* is meant to explain and emphasize the order of her disgracing in m. Sot 1:5-6. The woman is first disgraced. The phrase "in order to disgrace her" (כדי לנולה) is indicated as the reason for the removal of her ornaments in m. Sot 1:6. In m. Sot 1:7, נולה is used to describe God's response to her. Second, the woman is exposed, which we see in her public display when her garments are ripped and hair loosened. Finally, her thigh and belly are afflicted, which is in reference to the ultimate punishment for women found guilty from drinking the waters in Num. 5:27. Thus these three aspects found in her punishment in m. Sot 1:5-6 are, according to the rabbis, in keeping with the principle of measure for measure.

Both m. Sot 1:8 and 1:9 expand and elaborate on the idea of measure for measure with examples from scripture. M. Sotah 1:8 cites two cases where the principle is applied to

punishment, and m. Sot 1:9 describes cases in which it is applied to reward. Grushcow has developed a useful chart for depicting these midrashic elaborations of the measure for measure in terms subject, action and result.[32]

Subject	**Action**	**Result**
Samson	Went after his eyes	Philistines gouged out his eyes
Absalom	Was proud of his hair; Had sex with his father's concubines; stole three hearts (from his father, the court, and Israel)	Was hung by his hair; Had ten javelins thrust into him; received three darts in his heart
Miriam	Waited for Moses one hour	The people waited for her seven days
Joseph	Buried his father	Moses took his bones
Moses	Took Joseph's bones	God buried him

The explanation of measure for measure shows a reciprocal logic. Not only is punishment meted out proportionally to one's actions, but blessing also is given to reward virtuous action. The primary discussion within m. Sot 1 provides a context in which punishment will be given to match the suspected wife's various actions even up to her conviction by the

[32] Grushcow, *Writing the Wayward Wife: Rabbinic Interpretations of Sotah*. 168.

waters. Yet, it is significant that m. Sot 1 includes both sides of the measure for measure logic of justice. Jacob Neusner has commented concerning this:

> Surely the entire procedure [the trial] seems unjust, and the promise of future offspring is hardly compensation for the public humiliation that the innocent wife must undergo. It is in the context of presenting that very law that the Mishnah systematically lays out the evidence that, especially here, justice prevails. They make the point that rules of justice prevail, with reward for goodness and punishment for evil the standard, in the household as in public life. And that means not only that the wicked woman is punished, but that the righteous one is rewarded. What scripture tacked on as an after thought becomes in the Mishnah and its companions a principal focus of exposition.[33]

Although the context of adultery and suspicion turn the reader's attention to measured punishment for certain actions, the rabbis do not want the reader to forget that there is a logic of justice that will prevail if indeed the woman is found innocent.

A total of three *mishnayoth* are dedicated to the topic of defining measure for measure in the case of the *sotah*. It is striking that the rabbis link their exposition of this principle with the graphic description of the woman's public humiliation. The explicit linking together of the explanation of measure for measure and the treatment of the wife seem to shape the overall tone of chapter.

The data of m. Sot 1 has thus been laid out. The nine *mishnayoth* that compose m. Sot 1 have been given a careful reading. The next section will be interested in the interpretation of this data. When read together, m. Sot 1 describes a whole economy of justice and punishment around the issue of suspicion in regards to the wife suspected of adultery. Moreover, this

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[33] Neusner, *Making God's Word Work: A Guide to the Mishnah,* 153.

economy of justice and punishment is described and imposed whether or not the wife is guilty of adultery.

III.

M. Sotah 2-6 deals with other elements of the trial, once again following very closely the biblical text. M. Sotah 2-3 specifically focuses a great deal of attention on the offering of the wife. In the biblical text the brief mention of the wife's treatment (loosening her hair) is contained within instructions for the offering (Num. 5:18). In m. Sot 1 the rabbis align the discussion of the wife's treatment from Num. 5:18 more closely with the circumstances for invoking the trial (Num. 5:11-15). Indeed, the rabbis reorganize the biblical text in a variety of ways, but this particular orientation of the treatment of the wife with the circumstances for the trial is of interest here. In the biblical text the circumstances for the trial (the husband's jealousy and the wife's secrecy) are clearly divisible from the trial itself; they create the underlying situation for which the trial must be carried out. They are the context setting up the description of the trial. There is a clear shift in the biblical text from the initial discussion of the husband's jealousy to the trial, "he [the husband] is to take his wife to a priest" (Num. 5:12). The primary character change from the husband to the priest emphasizes this shift; the husband initiates the trial whereas the priest carries it out. The initial reference to the loosening of the woman's hair takes place in Num. 5:18, well into the instructions for the offering and the trial. Yet, the rabbis place their deliberations on the circumstances of the trial with their elaborations on the treatment of the woman, taken from Num. 5:18. They seem to be directing attention and seeking to shift emphases. The woman's treatment they want to associate as significant in conjunction with their discussion of the invocative circumstances for the trial. The rabbis associate the loosening of the

hair (and its elaborations in m. Sot 1) less with the offering and more with the circumstance for the trial.

This is interesting because it puts us in a position to expose an entire economy of justice and punishment described by the rabbis in m. Sot 1 by their discussion of suspicion, seclusion and treatment of the wife. It became clear above that the latter *mishnayoth* of m. Sot 1 (i.e. m. Sot 1:5-9) seem to have an explicit continuity. Yet, the beginning *mishnayoth* have bearing on the rest of the chapter as well. Indeed, the record of the wife's treatment in m. Sot 1:4-6 is buttressed on both sides with significant and illuminating elaborations that describe the wife's treatment as punishment for creating suspicion and subsume her treatment under the standards of measure for measure. The issue of adultery is always a backdrop for the discussions of *sotah* by the rabbis. However, what is significant in m. Sot 1 is that the economy of justice and punishment is not primarily concerned with her ultimate innocence and guilt in terms of adultery. The primary concern is suspicion and the concomitant uncertainty. The economy in m. Sot 1 describes punishment that must be imposed on a merely suspect wife for creating suspicion and explains it under the terms of measure for measure. The issue of her innocence and guilt in terms of adultery is not the manifest concern and although her final judgment is anticipated it is by no means presumed. Punishment for suspicion is the controlling issue in the economy of m. Sot 1.

M. Sotah 1:1-3 revolves around the interpretation of קנא and סתר into a two-pronged procedure for objectively verifying suspicion. The interpretation of קנא and סתר correspond respectively to the expression of the husband's warning and the contravening of that warning by the wife; coupled with the addition of witnesses, this makes it possible to verify objectively that a woman has raised suspicion. She has been witnessed in seclusion, but not in the act of adultery. If she had been witnessed committing adultery, the law is clear in the consequences for such an

act. Deuteronomy 22:22 is especially clear in emphasizing the requirement of witnessing adultery and the consequences: if a man and woman are caught in the act of adultery, both are put to death. However, all that has been witnessed is seclusion for a period long enough for sex to occur. This is indicative of her violating her husband's warning and thus justifying his suspicion before others. She is therefore guilty, on the testimony of witnesses, of raising suspicion, but not of adultery. Indeed, the consequence for such an act is to have the trial of the "bitter waters" imposed. It is this trial that will decide if she has in fact committed adultery. However, between the raising of suspicion and the drinking of the waters she becomes dangerous in her uncertain status. It is not known if she is clean or unclean. Her guilt in raising suspicion and the uncertainty of her status is expressed in being forbidden to her husband in m. Sot 1:2 and having this forcefully maintained by the local court in m. Sot 1:3. Suspicion and uncertainty are closely linked concepts here.

The fact that she is now suspect points to the lack of any verifiable evidence with which to adjudicate whether or not she is an adulteress or not. Furthermore, as elucidated above, her status as suspect must be maintained without exception in order for the trial to occur. Any hint of evidence that casts light on her status as clean or unclean will immediately abort the trial. The rabbis are not falling prey to the fallacy of ignorance and nothing therefore can be said of her status. Contained in the guilt of suspicion is, by definition, uncertainty of her status as clean or defiled. Only suspicion is verified. It is the objective basis for suspicion that explains the severity of her treatment in m. Sot 1:4-6; she is being punished for raising suspicion.

To fully understand the implications of the suspicion described in m. Sot 1:1-3 we look to the theoretical assist provided by Jacob Neusner in his analysis of Seder Nashim. M. Sotah 1 is the first chapter of nine that compose Tractate Sotah, which is oriented in Seder Nashim (Order

of Women). Neusner's argument concerning this order is that Seder Nashim delimits a system by which the rabbis characterize the role of women within the Israelite social order. Women take on characterization in relationship to men. Women take on different characterization depending on what relationship they have in reference to a given man: a father or a husband. Neusner points out that these transfers are "interstitial" in that they deal with the interactions in which "a woman becomes, and ceases to be, holy to a particular man."[34] The content of the seven tractates that compose Seder Nashim deal with the orderly transfer of women between men and their change in position in society due to their change in relationship to a particular man.

Indeed, it is this interstitial aspect that makes these transfers dangerous not only to the male/female relationship, but also to society. The breakdown of a woman's relationship to a man creates social disorder. Furthermore, the actual transfer of a woman is a delicate point at which a breakdown seems more likely to occur. Thus the rabbis of the Mishnah give "a clearly defined and neatly conceived set of laws" that concerns the orderly transfer of women from "one domain, the father's, to another, the husband's, and back."[35] The transference of women revolves around marriage. Neusner identifies three transactions attested to within Seder Nashim: the beginning of marriage, the duration of marriage, and the end of marriage.

There is careful legislation offered in order to prevent an unexpected breech between man and woman. These considerations are of enough importance to merit their own order within the Mishnah. Given this context, how might one think about m. Sot 1? If the seven tractates of Seder Nashim deal with the various changing relationship of women to men, then m. Sot 1 is about the outright confusing of that relationship, specifically her relationship to her husband and the relationship between her and her putative lover. The various rules elaborated for the

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[34] Neusner, *Judaism, the Evidence of the Mishnah*, 109.
[35] Ibid., 138

transference of women in Seder Nashim are intended to keep connections between men and women intact, and when broken, it gives rules for how to proceed. Yet, what happens when this bond is neither clearly intact nor clearly broken? What happens when uncertainty arises concerning not only a woman's relationship to her husband but also to another man, a putative lover? Proof of adultery is grounds for divorce, yet there is no proof in this case. Given the rabbis premium for legislating on the meticulous details of a wide range of possible scenarios, this issue of uncertainty concerning the relationship of a woman and man presents a conceivable problem. M. Sotah 1 then is best understood as the rabbis' way of dealing with this issue of suspicion and uncertainty that has arisen due to lack of evidence concerning an alleged act of adultery.

Haberman's earlier discussion on the rabbinic play on the word "house" (בית) used to refer to the husband as well as the other man orients us towards understanding m. Sot 1 in this transactional perspective. M. Sotah 1:1-1:2 lay out procedures dealing with what to do if a man suspects his wife of leaving his house and secluding herself in the house of another man long enough to become defiled. The issue of uncertainty that surrounds the circumstances for enacting the trial can be understood to hinge on the woman's lack of clear definition to any one man's house. She has contravened the warning of her house (husband) and secluded herself in the house of another man. Both events have been witnessed, yet because the act of sex has not been witnessed, there is yet uncertainty and as such the trial must be invoked. The image of the woman shifting houses suggests her change of relationship to a man, but both relationships are uncertain. It is not clear if she has committed adultery and therefore terminated her connection with her husband. Yet there is no hard evidence that she has taken up relations with another man, simply witnessed seclusion.

The exemptions recorded in m. Sot 1:3 clarify under what circumstances she will *not* drink because her relationship to a man (a house), either husband or lover, has been clarified. When uncertainty is abolished then her *ketubbah* is decided and her marriage bond dissolved. She only drinks under strict conditions of complete uncertainty, where suspicion is dissolved. In the latter part of m. Sot 1:3 the separation between the husband and wife (m. Sot 1:2) is legally enforced by the local court. The woman has no clear connection to a house; therefore she is subject to the discipline and oversight of the local (court) and then the great house (The Temple, 1:4).

Thus the woman is brought to trial in a state of social confusion characterized by suspicion; she has no clear relationship to a man and as such no clear definition in Israelite society. The procedural elaborations in m. Sot 1:1-3 placed against the backdrop of the transactional paradigm of Seder Nashim makes it possible to gain perspective on the violent aspects of m. Sot 1 that occur in m. Sot 1:4-6. The woman is not clearly defined in relation to any one man. She exists between relationships to men; she is not clearly one man's wife or clearly the other man's lover. She lacks a fixed point for characterizing her role as a woman. The *sotah*, in this sense then, is for the rabbis a way of characterizing *that* which is unable to be characterized. Such a position is punishable by the rabbis. M. Sotah 1:4-6 describes this punishment. Yet, this punishment is imposed on the wife who is still only suspected. It is inflicted on her because she is suspected.

The reading above has laid out the features of the wife's public humiliation, and elaborated on the fact that in m. Sot 1 it takes on the form of teaching other women not to act as the suspected wife has. M. Sotah 1:1-3 offers an explanation for her treatment in terms of the severity of suspicion. Moreover, the explanation in m. Sot 1:7-9 offers reason for the wife's

treatment under the rubric of measure for measure. This was shown in the last section. Issues of suspicion and uncertainty also pervade and follow in the rabbinic formulation of measure for measure in m. Sot 1:7-9.

The disgracing and exposure of the woman are in keeping with what she has already done, namely raising suspicion by exposing herself to sin. These are thus present in her punishment recorded m. Sot 1:5-6. In the second half of m. Sot 1:7 the measure for measure principle is extended from present shaming to anticipating the ultimate punishment (belly and thigh) of a woman found unclean by the waters. We have established a parallel between the events of m. Sot 1:5-6 and the explanations provided in m. Sot 1:7 but there is no parallel event in reference to her thigh and belly in m. Sot 1:5-6. Measure for measure determines her treatment but can only anticipate what her treatment will be if found guilty. Her current treatment is in reference to her suspicion causing actions, not her status as guilty or innocent of adultery. The text does not assert her guilt it is rather anticipating how she will be treated if found guilty. Her current treatment only resonates with her verified suspicious behavior. Yet, the text does not want us to forget that adultery still creates the backdrop here. M. Sotah 1 brackets whether or not the wife is guilty of adultery, but it is still the issue that gives rise to these deliberations in the first place. If guilty of adultery the text reminds us by what standard of justice she will be judged: measure for measure.

Thus the economy of justice and punishment in m. Sot 1 revolves around the idea of suspicion quite apart from the wife's innocence or guilt as an adulteress. The issue at stake is punishing the woman who has verifiably aroused suspicion. The rabbis delimit carefully a procedure for objectively verifying suspicion, and offer a careful explanation of the treatment of the wife who has caused suspicion in terms of measure for measure. In fact, the treatment of the

wife exists in the middle between these two perspectives on justice and punishment for this reason. M. Sotah 1:1-3 offers the justification for punishment in m. Sot 1:4-6, and m. 1:7-9 offers and explanation under measure for measure justice. The theme of suspicion and its concomitant uncertainty run throughout, tying together these nine *mishnayoth* together.

IV.

For the scholar of religion it is important to establish connections within the data one is studying, but there must also be self-consciousness involved in how it relates to broader issues in the study of religion. The prominent discourses surrounding the text of m. Sot 1 have emerged within a larger feminist concern for gender in rabbinic literature. Specifically, these discourses have revolved around the legal procedures in m. Sot 1:1-3, providing various readings of their significance. However, what has not been done is to look at these procedures in explicit conjunction with the woman's treatment and measure for measure. The reading and interpretation given to m. Sot 1 above will, in this section, be compared with recent scholarship done on m. Sot 1 and issues in rabbinic gender ideology more broadly. When the reading of m. Sot 1 in this paper is offered into the recent discussion on this text it offers a perspective that has been eclipsed by feminist concerns for the legal procedures in m. Sot 1:1-3. When the issues of justice and punishment in m. Sot 1, presented in this paper, are taken to be important elements within the text, the emphases of m. Sot 1 must shift and broaden from the current points of interests discussed by gender scholars. This section will look at some of the more notable scholarship before giving special attention to Judith Hauptman's work on m. Sot 1 in terms of rabbinic justice.

While there has been considerable analysis of the *sotah* ritual as recorded in the biblical text (Num. 5:11-31), the analysis given to rabbinic interpretations of *sotah*, specifically in the Mishnah, has been limited. The majority of writing on this topic has been done in articles or as sections within larger works. Moreover, as previously mentioned, the primary lens of analysis is gender. To date, there are only two books that are devoted solely to rabbinic interpretations of the *sotah* rite, both of which do not focus on gender.[36]

In fact, gender scholarship within the Mishnah is a rather recent phenomenon. Neusner's paradigm concerning Seder Nashim is often credited with orienting scholarship on the Mishnah towards gender.[37] His transactional thesis, as laid out above, asserts the rabbis intended to control

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[36] Destro, *The Law of Jealousy: Anthropology of Sotah*, and Grushcow, *Writing the Wayward Wife: Rabbinic Interpretations of Sotah*. Neither of these books is solely dedicated to issues of gender. Destro's was the first book devoted entirely to the subject of *sotah*. Destro employs an anthropological approach to the *sotah* ritual specifically within the Bible, the Mishnah and the Talmud. She begins by finding the Mishnaic interpretation of *sotah* as unique. She writes, "The textual, scenic, and symbolic entirety of Sotah is brimming with transpositions and permutations of categories and principles which make it unique," 144. Utilizing her anthropological approach Destro elaborates on issues within the ritual itself, namely, the uncertainty surrounding the trial and danger posed to society by potential marital infidelity. Grushcow is by far the most comprehensive as well as the most recent published work on the text. Her analysis traces the development of rabbinic interpretations of *sotah* through the entire rabbinic corpus and within Hellenistic Jewish writings. She identifies her approach to the rabbinic texts as "synoptic." This approach rests on "broader theories of intertextuality and the connections that exist between rabbinic texts, on the basis of their shared biblical canon and rabbinic culture," 13. The rabbinic texts all "share" an interpretive culture and thus the similarities and differences that emerge are interesting despite the relationship of the texts to one another. Rather than simply relying on the on the biblical text, the Mishnah and the Talmud to illuminate the ritual, Grushcow places the Mishnah text within all the texts emerging from rabbinic culture and thus puts m. Sot in a position to be seen as an interesting development in the rabbinic transformation of the biblical text.

[37] "Jacob Neusner opened the door to gender analysis of the Mishnah with his assessment of the Mishnah's Order of Women as revolving around the Rabbis' need to control what they perceived as disruptive, anomalous women." Margalit, "Not by Her Mouth Do We Live: A Literary/Anthropological Reading Gender in Mishna Ketubot, Chapter One," 1; "Jacob Neusner was the first to engage in systematic reading of rabbinic texts from a feminist perspective." Hauptman, *Rereading the Rabbis: A Woman's Voice*, 12.

the shift of women as they took on and lost characterization in relation to a given man.[38] Although Neusner's thesis on Seder Nashim is credited with orienting subsequent scholarship on the Mishnah towards concerns of gender, it should be pointed out that he does not give m. Sot a sustained treatment within this paradigm. He locates m. Sot within his category of the duration of marriage. However, he does not deal with its location in this position with any kind of detail. The reader is left with a broad understanding of the transactional nature of Seder Nashim, with only a few scant references to m. Sot.[39] According to Neusner very little is novel in the Mishnaic interpretation of the biblical rite of *sotah*.

The paradigm laid out by Neusner, in which women are disruptive and in need of male control, cleared the way for Judith Romney-Wegner's pioneering work in Mishnaic gender studies, *Chattel or Person?* A small portion of the book is devoted to the *sotah* ritual. Romney-Wegner's central thesis is that within Mishnaic discourse the sages have an ambivalent attitude toward women, vacillating between treating them as *chattel* and persons. *Chattel* is defined as "an entity lacking powers, rights or duties under the law," whereas a person is someone possessing "the complex of legal entitlements and obligations that largely define an individual's status in society."[40] Romney-Wegner sees (along with Neusner) the central problematic of the rabbis as one of classification. Women present a problem in the rabbinic taxonomic project.

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[38] Neusner's paradigm can summed up as, "the goal and purpose of Mishnah's Division of Women [Seder Nashim] is to bring under control, and force into stasis, all the wild and unruly potentialities of female sexuality, with their dreadful threat of uncontrolled shifts in personal status and possession alike." Neusner, *Judaism, the Evidence of the Mishnah*, 138. The issue of female sexuality was not dealt with above but is an important perspective to keep in mind.
[39] In an earlier work in which he considers m. Sotah Neusner, states, "Sotah, for its part, shows us what a Mishnah tractate looks like when Mishnah has nothing important to say about a chosen topic." Neusner, "From Scripture to Mishnah: The Origins of Mishnah's Division of Women," 150.
[40] Romney-Wegner, *Chattel or Person?: The Status of Women in the Mishnah*., 6-7.

> To the Mishnah's framers, then, woman presents an anomaly, a "legal hybrid" that defies logical classification. She is "like" a man, hence a person, in some ways, and "not like" a man, hence a nonperson, in others…. Unwilling to recognize an intermediate category, [the rabbis] choose to split the woman into her "chattel" and "person" components, depending on context, and treat her accordingly…. The practical result, as we shall see, is that the sages sometimes treat women as the property of men—chattels possessing neither morality nor intellect—whereas at other times they view women as both moral and intelligent, hence as persons with legal rights, duties and powers.[41]

In terms of the *sotah*, Romney-Wegner argues that the woman is both *chattel* and person at the same time. A husband can discard his wife at any time (m. Gittin 9:10) but without good reason for doing so he must pay her her *ketubbah*. In the case of the *sotah*, a husband would perhaps want to divorce his wife for raising suspicion. Yet, there is no actual proof she is an adulterer. Romney-Wegner maintains that insofar as she is the sexual property of her husband and can be divorced at anytime, the woman is *chattel*. Yet, she is person in terms of her *ketubbah*, which gives her property rights. Romney-Wegner argues that this dualism is opposed to the taxonomic project of the rabbis. Romney-Wegner draws her discussion from m. Sot 1:1-3 where she asserts that the project of rabbis was to harmonize this dualism by adding witnesses to the trial which allowed a husband to divorce his wife without concrete proof of infidelity. At the same time though, exempt him from paying his wife her *ketubbah*.

Romney-Wegner asserts with her *chattel*/person dichotomy that the *sotah* is an anomaly (the section in which she deals with the *sotah* is entitled "Woman as Anomaly"). The suspected wife blurs the legal distinctions set up for divorce and *ketubbah*. Coupled with the reading

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[41] Ibid., 8.

offered above, utilizing Neusner's paradigm, this paper would assert that the "anomaly" of the *sotah* is at the very heart of her treatment in m. Sot 1:4-6. Moreover, her anomalous status stems from her suspicious behavior before witnesses. Romney-Wegner does not discuss the treatment of the woman specifically, but one might speculate given the considerations of this paper that the *chattel*/person distinction might have some bearing on her treatment.

It should be noticed that Romney-Wegner's analysis of m. Sot is merely one paragraph in a much larger section and chapter on anomalous women in the Mishnah. The *sotah* is by no means central in her work. Her treatment of m. Sot functions merely to illustrate her larger thesis on the *chattel*/person distinction she is seeking to draw concerning women's place in Mishnaic taxonomy. She is concerned with the Mishnah's representation of *sotah* only in so far as it provides evidence for her thesis.

Miriam Peskowitz brings postmodern issues of reading and culture to bear in rabbinic constructions of gender. She has dealt with the rabbinic interpretation of the *sotah* ritual in both an article and a book on rabbinic approaches to gender.[42] Utilizing the image of women who spin (m. Sot. 6:1), Peskowitz discusses how the rabbis construct a view of women as "other." Characterizing women as "other" places the suspected wife in an unusual position. The *sotah* in rabbinic interpretations is an "other within others."[43] Peskowitz juxtaposes the *sotah* with women who spin. In Peskowitz's view, m. Sot presents a "fantasy of the bound and controlled female body" in which women who spin "spin their own identities as trustworthy and reliable women…. Spinning shows the quality of their own characters…. Spinning displays their loyalty and respectability, their domesticity and thrift. It establishes them as reliable witnesses against

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[42] Peskowitz, "Spinning Tales: On Reading Gender and Otherness in Tannaitic Texts.", Peskowitz, *Spinning Fantasie: Rabbis, Gender, and History*.
[43] Peskowitz, "Spinning Tales: On Reading Gender and Otherness in Tannaitic Texts," 106.

another woman's transgression."[44] These women gossip under the moonlight about the *sotah* who is unlike these women and "embodies illicit female sexuality. The accused woman has not been fully contained by the constraints of marriage. She is the opposite of the gathered women: a rabbinic Other and their Other as well."[45]

The rabbinic conception of women is an "other" to men, yet within the category of women there is an "other," the *sotah*. The women who spin are the acceptable depiction of women and the *sotah* is not. Peskowitz asserts that women are not conceived monolithically but are divided into at least two categories in m. Sot. The primary distinction for Peskowitz is how each adheres to rabbinic sexual codes.[46] The women spinning are good, and in fact function to enforce the rabbinic system of sexual control. The *sotah* is bad and is the opposite of the spinners. In fact, the spinners play an important role in punishing the suspected wife.[47] The punishment of the *sotah*, although it is for the rabbis a "legal fiction," "warns other women to stay within the confines of culturally approved rules of sexual conduct….Thus, the *sotah* is created to represent illicit female sexuality and its consequences."[48]

In terms of m. Sot 1 the juxtaposition of women who spin with the *sotah* is important "in imagining the sotah's punishment."[49] Women police other women; the women who spin witness against the *sotah*. Peskowitz points out that women's power to police other women is limited due to a masculine bias against female testimony. Nonetheless, based on the testimony of these women, the *sotah* can be divorced, although she cannot lose her *ketubbah* on such testimony. Peskowitz does not go into any further detail concerning the woman's treatment, but does

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[44] ———, *Spinning Fantasies :Rabbis, Gender, and History*, 135.
[45] Ibid.
[46] Ibid., 136.
[47] Ibid.
[48] Peskowitz, "Spinning Tales: On Reading Gender and Otherness in Tannaitic Texts,"106.
[49] ———, *Spinning Fantasies :Rabbis, Gender, and History*, 136.

include the woman's treatment as an example of a tendency of "both feminist and nonfeminist scholars tendency to celebrate any inclusion of women and to make these inclusions into happy stories."[50] Yet, Peskowitz reminds her readers that the woman is subjected to "a public display… in tattered clothes and loose hair, which other women were encouraged to see. The accused woman has already been carefully transferred from her husband to the priests through the hands of several male officials. She has already been demeaned in nearly the worst ways that biblical, Jewish, and rabbinic texts imagine for women."[51] However, she does not elaborate and allows the image of women who spin to control her discussion and understanding of the *sotah's* treatment. It is worth noting that Peskowitz characterizes the woman's treatment as a punishment.

Peskowitz's scholarship is indeed insightful, and much like Romney-Wegner, understands the *sotah* as an uncomfortable category for the rabbis. However, Peskowitz envisions the rabbis using the *sotah* in order to bring into relief normative attitudes concerning women. They portray women as upholding their masculine social schema. The *sotah* is a foil for licit female sexuality. The actual text of the Mishnaic account of *sotah* is interesting to Peskowitz insofar as it supports her theory of gender and the rabbinic category of women, specifically the juxtaposition of women who spin versus the *sotah*. This guides her analysis of the text. As in Romney-Wegner the *sotah* is a secondary topic that contributes data to a much larger issue.

Rachel Biale deals with the biblical text concerning *sotah* in her text *Women and Jewish Law*. Her work is important, albeit brief, because she brings up two key issues concerning the woman in m. Sot 1. She first offers a psychological explanation of the ritual whereby the function of the rite is intended to elicit a confession of guilt by the woman. A second function

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[50] Ibid., 138.
[51] Ibid.

Biale outlines is the ritual as a mechanism of protection. By publicly clearing her of suspicion there is no lingering doubt concerning her purity. Her analysis deals mostly with the biblical text and the Talmudic discussion of *sotah* where she concludes that the *sotah* is simply an "academic" interest of the rabbis.[52]

Alice Bach shares a similar postmodern approach with Peskowitz but is more explicitly interested in the patriarchical context of the rite. Bach's analysis of the *sotah* is emblematic of "men's fear of women's sexuality," and, "the potency of male imaginings."[53] Bach spends most of her time analyzing the biblical text and criticizing previous scholars for not examining the patriarchical context in which the ritual is enacted. For Bach, "modern interpreters seem intent on mopping up the bitter waters and downplaying the deleterious effects on the suspected wife. In doing so, however, they do not recognize their own interest in normalizing the Sotah as a Jewish ritual."[54] When Bach turns to the rabbinic texts, she includes the accounts of the harshest treatment imposed on the woman, including the text from m. Sot 1. Bach conspicuously brings out the humiliation, public punishment, and violent sexual imagery in the rabbinic texts, but does not offer the more tempered surrounding texts into her work. This makes her work unfortunately one sided.

Bonna Devora Haberman offers an insightful approach to the *sotah* ritual.[55] She also sees aspects of m. Sot as a mechanism (see Biale) of protection against the "potential ravages of jealousy."[56] Primarily, Haberman characterizes the negative biblical and rabbinic attitudes

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[52] Biale, *Women and Jewish Law*, 187.
[53] Bach, "Good to the Last Drop : Viewing the Sotah (Numbers 5.11-31) as the Glass Half Empty and Wondering How to View It Half Full," 46, 52.
[54] Bach, "Good to the Last Drop : Viewing the Sotah (Numbers 5.11-31) as the Glass Half Empty and Wondering How to View It Half Full," 45.
[55] Haberman, "The Suspected Adulterous: A Study of Textual Embodiment."
[56] Ibid, 23.

toward women. Haberman focuses primarily on the subversive nature of the wife and her action of turning away. Employing "a multidisciplinary feminist exegetic method in the reading of biblical and rabbinic primary sources," Haberman offers an interpretation of this "extraordinary prescriptive tradition," that governs "the behavior of women" and "explores the psychoanalytic roots of the systemic objectification of woman in the construction of gender in Jewish textual culture and scholarship."[57] The *sotah's* actions expose male vulnerability and are "involved in a material process that literally and metaphorically undoes the claims to legitimacy of patriarchical, male power."[58] The *sotah* "articulates a threat of *eros*, of unbridled passion."[59] The *sotah* is the only one who knows what really happened and therefore challenges the dominance of male knowledge. By creating a space of uncertainty, she challenges and exerts power over the male-constructed paradigms of truth and verification. Haberman is also interested in the *sotah's* shaping of rabbinic gender roles.

Haberman includes more rabbinic texts than some, and as such is able to argue for specific legal and social controls present in m. Sot. She focuses her attention on the Mishnaic account almost solely in m. Sot 1:1-2. This reading is coupled with a psychoanalytic approach to the idea of suspected adultery. She argues that this is a crisis moment that is critical in defining male and female gender identity. Haberman focuses specifically on Mishnaic and biblical accounts of the *sotah* ritual. However, given theoretical starting point and the way she adumbrates her conclusions, she often seems to conflate these two sources. Haberman is sensitive to the shift in interpretation from the biblical account to the Mishnaic, but the nuances of the shift in interpretation take a back seat to her larger issues concerning the *sotah's*

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[57] Ibid., 13.
[58] Ibid., 30.
[59] Ibid., 37.

subversive implications.

Michael Satlow's book on rabbinic rhetorics of sexuality deals with various interpretations of the *sotah* in rabbinic texts. Satlow identifies three major themes on the topic: public display, humiliation and shaming, and measure for measure. Once again though, his considerations are intended for some larger issue: sexuality and the rhetoric surrounding various rabbinic texts on sexuality. This limits his attention to the *sotah* ritual. He is important though because he is one of the few scholars to have brought up these issues in a gender context.

Several features can be observed from this brief look at recent scholarship on m. Sot 1. M. Sotah 1 has been most frequently used in gender analysis as a mere contributive perspective to some larger paradigm on gender. Most of the scholars who have treated the ritual from a gender perspective have used m. Sot 1 as supporting evidence, clustered with other passages, to argue some broader thesis concerning gender construction within rabbinic literature. Gender scholarship has often considered this text in the context of other discussions, but has not understood the text in its own right. There has been no sustained analysis of m. Sot 1 on its own. This paper has sought to engage this text and offer a careful reading of m. Sot 1 in its own right.

Specifically, a common thread within current gender discourse has been the odd characterization of the *sotah* in the rabbinic understanding of women. The suspected wife is seen as an "anomaly" as well as an "other." However, even these characterizations lead to different ways this classification is important. For Romney-Wegner the *sotah* as "anomaly" is a hybrid in need of rabbinic harmonization with the their taxonomic project; for Peskowitz the *sotah* as "other" is a tool the rabbis use to enforce licit female sexuality. The reading offered in this paper engages this theme of the *sotah* as an uncomfortable category for the rabbis. The larger schema of Seder Nashim serves as the larger paradigm and verifiable suspicion serves to characterize the

suspected woman in an "anomalous" or "other" position. Within the text of m. Sot 1 the *sotah* appears in a confused relation to any particular man. This paper has argued that this confused position of the woman establishes the grounds for her punishment and treatment; there is direct relation between her witnessed suspicion (m. Sot 1:1-3) and her public humiliation (m. Sot 1:4-6).

The scholarship discussed above tends to stay at the front end of m. Sot 1, discussing the legal procedures developed by the rabbis. There has been a great deal of interest in how the addition of witnesses to the circumstances for the trial modifies the ritual. The wife's treatment (m. Sot 1:4-6), when discussed is not explicitly connected to the legal procedures in m. Sot 1:1-3 as this paper has argued. Bach and Haberman discuss them in terms of the particular feminist theory they bring to bear on the text in order to expose the negative dynamics of rabbinic patriarchy. Bach deals specifically with the violent aspects of the rabbinic accounts of *sotah*, but does so to the expense of surrounding texts. Satlow deals with the issues of public humiliation, and measure for measure but once again, only insofar as it contributes to his thesis on sexual rhetorics.

The gender scholarship dealing with m. Sot 1 has provided various readings of the legal procedures in m. Sot 1:1-3 and has understood the significance of them in various ways. None of these readings have explicitly linked the procedures with the other aspects of the text (1:4-6 and 1:7-9) in m. Sot 1. The lack of holism in reading m. Sot 1 may in fact account in one respect for the variant readings and understandings of m. Sot 1:1-3. Another factor present in the different reading is the various theoretical approaches brought to bear by scholars. This paper has offered a reading of all nine *mishnayoth* of m. Sot 1 and has argued that the legal procedures in m. Sot 1:1-3 establish the justification for the treatment of the woman in m. Sot 1:4-6 which is

explained in m. Sot 1:7-9. Thus m. Sot 1:1-3 is part of a larger economy of justice and punishment in m. Sot 1. It should be pointed out that although there has not been this sense of holism in reading m. Sot 1, these comments should not be taken as a wholly negative criticism. Indeed, the gender scholarship already done has emphasized the *sotah's* uncomfortable position in rabbinic understanding. Again this has been characterized various ways but the reading offered in this paper picks up on this in terms of suspicion and the confused position in which it places the woman.

Judith Hauptman's work on m. Sot 1 demands special attention and offers another perspective through which the reading in this paper can engage the current scholarly conversation in reference to m. Sot 1. Her work casts the rabbinic focus on *sotah* and its broader significance in a slightly different way than previous scholarship. She does this by utilizing justice and morality as operative lenses for understanding m. Sot 1. This paper is of course interested in her understanding of justice.

Hauptman's treatment of the *sotah* ritual, in the context of the whole of m. Sot, has paid the most attention to the innovations of the Mishnaic text in characterizing the ritual. She maintains the emphasis on the legal procedures but reads them in conjunction with the treatment of the woman and sees the rabbinic elaborations as indicative of their awareness of justice and morality. Moreover, she self-consciously identifies her study of m. Sot as "holistic" and casts the *sotah* ritual in much more positive light (as opposed to Haberman and Bach) by utilizing the categories of justice and morality.[60]

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[60] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 27.

Contra Neusner, Hauptman comments, "Sotah is probably the most revolutionary tractate in the Division of Women."[61] Hauptman argues that this revolutionary character of m. Sot comes from the transformation of the biblical text within the text of the Mishnah. In her book, *Rereading the Rabbis* she outlines these textual innovations as 1) the delimitation of the ordeal by the application of legal standards and restrictions; 2) the concept of merit deferring punishment; and 3) the testing of the suspected lover. Moreover, she argues that the humiliating, violent and public events recorded in the text are an earlier text that is framed by a later text in order to register the growing rabbinic dissatisfaction with the rite.

Hauptman begins by acknowledging that m. Sot is "a tractate at war with itself."[62] There are tensions within the tractate that are indicative of a rabbinic premium placed on justice and morality. Hauptman comments on the "schizophrenic" nature of m. Sot:

> At the same time that it [m. Sotah] regards the suspected adulteress with contempt, it sets up legal procedures that virtually guaranteed that the ordeal of the bitter waters will never be implemented, or if implemented, that its results will be ambiguous and hence useless.[63]

From examining the text of m. Sot, Hauptman argues that the primary goal of the rabbis was "to eliminate a practice that confounded their notions of justice and morality."[64] The nature of the biblical ordeal was out of sync with the protocols for justice given in the Torah. The *sotah* ritual depended not on judges and testimony but rather on the water and direct divine adjudication. The rabbis sought to bring the rite into line with the standards of justice in Torah (as the rabbis

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[61] Judith Hauptman, "Feminist Perspectives on Rabbinic Texts," 48.
[62] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 15.
[63] Ibid.
[64] Ibid.

understood them), but ultimately rejected the rite as unjust, as is evident from the recording of its explicit abolition (m. Sot 9:9).

Hauptman maintains further that in m. Sot 1 the violent aspects of the text (m. Sot 1:4-6) are intentionally framed by the more procedural and rational passages (m. Sot 1:1-3, m. Sot 1:7-9) to illustrate the rabbis' discontent with the treatment of the woman. However, what motivated this discontent, according to Hauptman, was not "embarrassment over what they perceived as a primitive, barbaric rite within the Jewish legal system."[65] Rather, the rabbis were concerned with the ritual's "immorality and discriminatory nature."[66] The rabbis "pursued with a passion" issues of justice, and the legal procedures and restrictions developed in m. Sot are intended to protect the woman by "sharply reducing the number of instances in which a man could subject his wife to the ordeal of the bitter waters."[67] The rabbis realized that the unilateral power given to the husband's jealousy in the biblical text led to unfair treatment of women. Thus, interpreting the ritual in order that it conform to usual standards of justice also allowed the rabbis to alleviate the plight of the woman and create more equitable treatment. Hauptman argues that the concerns of justice and fair treatment of women are "essentially the same."[68]

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[65] Ibid.

[66] Hauptman argues that if the concern was embarrassment over barbarism "they [the Rabbis] would not have made reference… to the paramour's punishment and to the husband's possible spotty past vitiating the results of the test, both of which address the specifically moral problems created by the ritual…. That latter aspect [barbarism] they almost seem to relish." Hauptman, *Rereading the Rabbis: A Woman's Perspective*, 19. The reference is to m. Sot 5:1 in which the text states that not only do the waters "enter" the woman and test her but they also test the paramour. "This symmetry suggests that the Rabbis found it morally unacceptable for only one of the two partners in crime to be punished. If she has sinned and is consequently harmed seriously by the waters, then he, too, who would never be charged, should and will, they assert, suffer a similar punishment," 25.

[67] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 18.

[68] Ibid.

Given this paper's reading of the whole of m. Sot 1 and the premium placed on justice and punishment, Hauptman's argument deserves careful attention. Her vision of rabbinic justice in reference to m. Sot 1 is coupled with the rabbis' desire to create more equitable treatment for women. However, this paper has coupled justice with punishing the woman who has created grounds for suspicion; the justice of measure for measure is intended to justify her public treatment. As previously mentioned, Hauptman's analysis is indeed holistic in that she gives a careful reading to aspects of the text that other scholars have not. Defining m. Sot initially in terms of "tensions" is a useful starting point and leads Hauptman not to ignore elements of the text in order to explain them all neatly. In terms of m. Sot 1, her discourse takes up the emphasis on the legal procedure in m. Sot 1:1-3 prominent in other scholarship. However as she introduces the theme of justice into the conversation she is able to reframe the conversation in a much more novel and positive ways than previous readings do. The legal elaborations and treatment of the woman point to a rabbinic struggle with the ritual itself and its logic of justice and morality. The rabbis are struggling with what they perceive as unfair treatment of the woman. The interpretations of m. Sot broadly, and m. Sot 1 specifically, are intended to alleviate the plight of the woman. Issues of justice and morality provide Hauptman with an interpretive lens that depicts the rabbis struggle to make sense of a ritual out of line with their normal standards of justice. For Hauptman, justice is a consistent concern of the rabbis. In reference to the *sotah*, justice *is* alleviating her unjust treatment.

This paper has asserted that justice is indeed an important category for understanding m. Sot 1. In fact, we can agree with Hauptman that the rabbis are engaged to some degree in trying to conform the *sotah* ritual to more familiar standards of justice. Hauptman points to the rabbinic play on the biblical roots קנא and סתר as an initial attempt at conformity: "Upset that

this section deviates from the standard procedures of justice, they [the rabbis] attempt to make it conform."[69] The rabbinic expansion of the biblical text into an expression of a warning by the husband as well as the wife secluding herself with a questionable man both require two witnesses. This is quite consonant with the legal standards in the Torah. Although not explicitly mentioned by Hauptman, one might also point to the insertion of the court into the discussion of the *sotah* ritual. In the biblical text the wife moves from the husband expressing his jealousy to the priest. In m. Sot 1:3-4 there is the presence of both the local and Great court before she goes before the priest. This would satisfy Hauptman's requirement for justice being "dispensed in the court room, by judges."[70] Moreover, m. Sot 1:7-9, as has been shown thoroughly above, is a standard for justice with which the rabbis want us to associate the *sotah* ritual. Hauptman refers generally to the standards of justice laid out in the Torah, but the rabbis are quite clear just what dimensions of justice from the Torah they want to employ in explaining the woman's treatment: measure for measure. Indeed, they draw attention to examples from scripture in elaborating measure for measure (m. Sot 1:8-9). There is no need, in reading m. Sot 1, to appeal to some outside standard of justice or some technical way the rabbis' understand justice in the Torah. Indeed, the standard for justice is spelled out in m. Sot 1:7, framing and justifying the treatment of the woman.

There is also a difference in Hauptman's account of why the rabbis were so concerned with justice and the motivation presented in this paper. Hauptman argues that a concern for justice (and morality) illustrates a rabbinic dissatisfaction with the woman's treatment in m. Sot 1, whereas this paper asserts that a concern for justice motivated rabbinic efforts to explain and justify this aspect of the biblical ritual. This paper has argued that the nine *mishnayoth* of m. Sot

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[69] Ibid.
[70] Ibid.

1, when read together, create an economy of justice and punishment in which suspicion is the justification for the woman's punishment and measure for measure explains her punishment. The rabbis choose the justice of measure for measure to give an explanation for her public humiliation, not to protest her humiliation. The rabbis were expounding the biblical text in terms of suspicion and measure for measure, conforming the text to a particular standard of justice. However, there is no hint that they did so in order to register discontent. As noted above, the rabbis perceived a lack of justice surrounding the biblical account of this ritual and took steps to create more tangible judicial parameters for the *sotah*. However, the establishment of legal procedures surrounding the *sotah* was constructive; they provided a legal grounding that the ritual theretofore had not possessed. Hauptman is correct that the biblical account of *sotah* does not conform to the normal judicial standards of Torah, and this motivated the rabbinic interpretation in m. Sot 1; they wanted the circumstances for the trial and the treatment of the woman to conform to more usual standards of justice, specifically measure for measure. This is a sufficient motivation, and there is no evidence for the motivation of protest attested to by Hauptman.

Hauptman draws our attention to the arrangement of the text of m. Sot 1 to make her point concerning the dislike of the rabbis in regards to the *sotah*: "the ordeal [m. Sot 1:4-6] represents an older strand of material, very callous and offensive to women, which was later framed by more reasonable statements [m. Sot 1:1-3] that reflected a growing dissatisfaction with the ordeal."[71] She is correct that the text is arranged quite intentionally in m. Sot 1, and that bracketing earlier texts with later is a familiar technique used by tannaitic editors. This paper has argued that the text of m. Sot 1 is divisible into at least three sections. It is likely that these

[71] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 20.

divides indicate, as Hauptman suggests, separate textual traditions linked together by a redactor's hand. This is indeed the nature of the extant Mishnah—a redacted collection of rabbinic traditions from at least the first century. However, several things about Hauptman's particular suggestion concerning the motivation for redaction in this instance give pause for thought. First, it is unclear that the ordeal, the treatment of the woman (m. Sot 1:4-6), is an earlier section of material. Some scholars have maintained that the record of her treatment could be a later addition (see section above on m. Sot 1:5-6). Second, one wonders why the rabbis would include the account of the ordeal in the first place, given Hauptman's assertion that they found this aspect so distasteful. Why not simply leave it out?

M. Sotah 1:4-6 is an elaboration on a rather sparse verse in the biblical account (Num. 5:18). Specifically, the information in m. Sot 1:5-6 seems derived from Num. 5:18. M. Sotah 1:4 has no biblical parallel and is unique to rabbinic interpretations of the rite. At some point (earlier rather than later for Hauptman) a tradition developed around the idea of the woman's hair being loosened in the *sotah* ritual. This was developed into a rather violent and public display. Furthermore, at some point in the compilation of m. Sot the redactors found this tradition relevant to add to the text. Given Hauptman's suggestion though—the compliers of the Mishnah were sensitive to injustices toward women—why include this section? Why not simply exclude this section or at least edit it to mollify its vivid description? The description of her treatment is included in graphic detail. This seems an odd choice for inclusion in a text that sought to support more equal treatment of women. Hauptman places a great deal of explanatory power on the mere placement of sections of text to make a rather weighty point concerning women. It is indeed possible that the rabbis sought to make a point about treating women equally by placing the legal procedures of m. Sot 1 prior to her public punishment. However, one would expect at

least some explanation. The rabbis are not opposed to offering explicit explanations for the arrangement of materials and topics.[72]

Hauptman is not wrong in regards to the placement of the various sections of text in order to explain the woman's treatment. However, her account is not consonant with the text. This paper has argued that both m. Sot 1:1-3 and m. Sot 1:7-9 surround m. Sot 1:4-6 and expand the idea of suspicion and measure for measure into a whole economy of justice and punishment that *explains* the treatment of the woman, and does not, I would argue, register discomfort with her treatment. It is Hauptman's feminist presuppositions toward the situation of the woman that orients her discussion towards ideas of rabbinic dissatisfaction rather than positive elaboration in m. Sot 1. As previously mentioned, her treatment of the *sotah* appears in her larger work, *Rereading the Rabbis*; this title is indeed indicative of her exegesis of the *sotah* ritual. However, this is only the prefix of her title. The full title, *Rereading the Rabbis: A Woman's Voice*, orients us to understanding her motivations and presuppositions for rereading the rabbis. She writes concerning traditional readings of the rabbis:

> Until recently, it was almost exclusively men who poured over the Talmud and wrote commentaries on it. Women neither studied it nor played any role in interpreting it…. Today, with women's growing interest in their past and desire to use the past to reshape the present, these texts need to be looked at afresh.[73]

Hauptman's starting point is the characterization of women in the rabbinic texts. This is not a completely novel approach; several scholars have approached rabbinic texts with such a motivation (see the above survey of feminist scholarship). What makes Hauptman's approach interesting is her characterization of the characterization of women by scholars. In other words,

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[72] A classic example is found in the discussion of *sotah* in the Babylonian Talmud Sotah 2a.
[73] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 1.

Hauptman understands women's voices in rabbinic texts (as well as other ancient texts) to have been understood a particular way. Hauptman writes:

> I am troubled by the contemporary assumption that the presence of patriarchy necessarily precludes the possibility of those within it acting on women's behalf. When scholars find evidence of proto-feminist action, they consider it an aberration, the expression of a dissident voice. I am not so sure. It is also possible to conclude that absolute patriarchy is only a theoretical projection, a construct, not a reality.[74]

Hauptman is unwilling to accept a ubiquitous patriarchy in which there is no sympathy at all for women. She wants us to imagine the place of women in rabbinic texts as something more tempered.

> Recent research in the Bible and my own evaluation of the Talmud suggests that rabbinic society is more accurately characterized as a "benevolent patriarchy." Even though it placed men in charge of women, it also permitted men to make changes that benefited women.[75]

The rabbis were indeed a product of a patriarchical world, but for Hauptman, this does not curtail the emergence of a consciousness identifying the unfair treatment of women and the development of laws alleviating such inequalities. The rabbis as "benevolent patriarchs" should not be aligned with some sort modern feminist movement, but Hauptman's book is intended to show that given close attention to the text this "middle" position comes into view.

This context brings into relief Hauptman's feminist hermeneutic in reading m. Sot 1. The tensions in the juxtaposition of the sections in m. Sot 1 are indicative of the benevolent patriarchical attitudes of the rabbis. Her establishing question for elucidating m. Sot 1:4-6 points

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[74] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 5.
[75] Ibid.

to this: "How does this description [m. Sot 1:4-6] mesh the sympathetic treatment of women in the opening *mishnayoth* [m. Sot 1:1-3] of the tractate?"[76] The assumption is that the elaborations of m. Sot 1:1-3 are intended for the benefit of the woman, and thus m. Sot 1:4-6 is not. Given Hauptman's initial orientation to the text this contrast must be explained, and she proceeds to do so, as we have seen. Yet, it is not clear Hauptman is interpreting the text correctly though. The reading above raises questions of whether the legal procedures put in place for invoking the trial do in fact protect the woman. The rabbis seem concerned with limiting the applicability of the ritual, but this does not entail that they are concerned with protecting the woman from her husband's jealousy. Often a woman might find herself not having to drink, but also divorced and forfeiting her *ketubbah* based on the legal procedures of the rabbis.

Hauptman offers a useful analysis of m. Sot 1. She has shifted the emphasis away from simply reading the legal sections of m. Sot m. Sot 1:1-3. She has done what this paper has sought, in one respect, to do. She has explained the legal procedures in terms of the treatment of the woman; the rabbis add witnesses and additional layers—which conform to standards of justice in the Torah—to the circumstances of the trial in order to show how the treatment recorded in m. Sot 1:4-6 will be avoided because of the limitations of m. Sot 1:1-3. However, this paper has approached the text with a concern for justice but has emerged with somewhat different conclusions about its conjunction with m. Sot 1. The difference is how Hauptman conceives justice versus this paper's understanding of justice. As previously shown, Hauptman couples justice and alleviating the plight of women. Justice is, for Hauptman, the legal standards conforming to the Torah more broadly, and the only reason she can imagine for the rabbis to do so in the case of the *sotah* ritual is because of what they perceive as unjust treatment of the

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[76] Hauptman, *Rereading the Rabbis: A Woman's Voice*, 23.

woman. Justice as described in the text of m. Sot 1 is not so general as Hauptman would suggest. The rabbis provide in m. Sot 1:7-9 a concrete form of justice in measure for measure. This standard of justice is found in Torah, but is not limited to Torah. Moreover, this standard gives an explanation of m. Sot 1:4-6, the wife's treatment.

Hauptman's suggestion that the rabbis' reworking of the *sotah* is intended to alleviate the plight of women by illustrating her unjust treatment relies on various feminist biases that are illuminating but are by no means exhaustive in understanding the text. Her analysis draws attention to the possibility of a multivalent text in which the rabbis are actively engaged in their tradition. Yet, when we frame the text from a different perspective, different layers and emphases emerge. The rabbis are seeking to justify and explain (not abrogate) various elements of the *sotah* ritual. The wife has been warned by her husband, before witnesses, which has created suspicion in respect to her status as clean or unclean. This suspicion has confused her relationship to any one man and is a punishable offense. She is humiliated publicly and displayed as a warning for all women not to follow after her behavior. Suspicion is meant to justify her punishment. However, the rabbis do not stop there. Indeed, they see the need for more explanation. This public humiliation is explained by appeal to God's mode of justice in which he metes out punishment accordingly to the unique nature of the offense; the measure by which one measures, it is measured to him. The woman's activities in raising suspicion are seen to correspond to the various aspects of her humiliation. This does not seem to be dissatisfaction, rather the rabbis seem to be actively explaining and elaborating these points. By starting from a different perspective—a non-feminist perspective—the text of m. Sot 1 characterizes the rabbis elaborations as a constructive act of justifying punishment for raising suspicion, not a

deconstructive "arguing away" of a ritual that is incongruent with certain benevolent patriarchical values.

One might object at this point that this is being unfair to Hauptman's position. She is reading the whole of m. Sot and from this asserting her thesis of rabbinic dissatisfaction with the *sotah* ritual. I have read merely one chapter and from this reading critiqued her thesis; by calling into question her thesis when I have not done a close reading of the whole tractate may seem a bit premature. Not so. By calling into question her controlling lens for reading m. Sot, specifically by looking at m. Sot 1, calls into question a fundamental premise in accepting her overall conclusion for rabbinic dissatisfaction with the *sotah*. Her operative lens is that the rabbis were seeking to create justice by alleviating the unfair treatment of the woman. The reading of m. Sot 1 offered in this paper provides evidence that the rabbis were actively trying to transform the aspects of the ritual in m. Sot in order to conform it to a certain standard of justice. Yet, Hauptman maintains that the whole of m. Sot registers a growing discontent of the rabbis with the rite. However, we find no evidence of this in m. Sot 1, thus it must stop us from accepting Hauptman's thesis that m. Sot, as a whole, represents the rabbis discomfort with the *sotah* ritual. Indeed, this paper has dealt with but one chapter of m. Sot, but the findings are enough give hesitancy in accepting Hauptman's proposal.

V.

To conclude, this paper has sought to give a careful reading of the nine *mishnayoth* that compose m. Sot 1. From this reading has emerged an economy of justice and punishment in which the woman's verifiable suspicion is grounds for her punishment and measure for measure is utilized to explain this punishment. The rabbis interpreted various elements from the biblical

text and wove them into an intricate legal explanation for the suspected wife's public humiliation. When this reading is put into context with the current gender scholarship that has surrounded m. Sot 1 there is considerable room for dialogue. On the one hand, this reading furthers recent discussions in rabbinic gender discourse of the *sotah's* uncomfortable placement in the rabbinic mentality. On the other hand though, this reading develops themes (justice and punishment) that have generally not been present in the conversation. The reading offered in this paper has provided a close analysis of the text, a task not undertaken by many scholars of gender for whom m. Sot 1 is a mere piece of evidence for some larger paradigm concerning rabbinic gender.

The categories of punishment and justice emerge as important categories in this text in terms of the rabbis trying to justify this ritual based on familiar standards of justice. The question becomes, how, given the importance of justice and punishment in the rabbis' elaboration of m. Sot 1, is this text to be understood as contributing to gender scholarship? Hauptman offers an analysis of m. Sot 1 in terms of justice and morality. This is indeed a useful perspective. However, her feminist bias in regards to the equality of the woman prevents her from dealing fully with the contours of justice and punishment within the text. In order for m. Sot 1 to be further utilized in gender scholarship it must be re-described as a piece of evidence in order to take into account the rabbis' focus on justice and punishment as presented in this paper. The presence of the woman in the *sotah* ritual seems as though it would lend evidence to theories of gender in rabbinic literature. This may in fact be the case. However, this text is not just about a woman. This paper has shown that the woman serves as an occasion for rabbinic elaboration and interpretation in order to justify aspects of this biblical ritual and discuss their thoughts on justice and punishment in reference to the *sotah*. M. Sotah 1 must be re-described in order to

take into account the rabbinic elaborations of justice and punishment. Only then can m. Sot 1 be utilized in a consistent and interesting manner in rabbinic theories of gender. This will not only clarify m. Sot 1 but may indeed open new possibilities for discourse in theorizing gender in rabbinic writings.

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