

FRANCESCO COCCO

# Women in the Wilderness

*Forschungen  
zum Alten Testament*

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**Mohr Siebeck**

# Forschungen zum Alten Testament

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Francesco Cocco

# Women in the Wilderness

The “Female Legislation” of the Book of Numbers  
(Num 5,11–31; 27,1–11; 30,2–17)

Mohr Siebeck

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ISBN 978-3-16-158856-3 / eISBN 978-3-16-158857-0

DOI 10.1628/978-3-16-158857-0

ISSN 1611-4914 / eISSN 2568-8367 (Forschungen zum Alten Testament)

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliographie; detailed bibliographic data are available at <http://dnb.dnb.de>.

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The book was typeset by satz&sonders in Dülmen, printed on non-aging paper by Gulde Druck in Tübingen, and bound by Buchbinderei Spinner in Ottersweier.

Printed in Germany.

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## Introduction

Not everyone is worthy of the divine numbering, but those who ought to be comprised within the number of God are designated by certain privileges. Now this book that is inscribed “of Numbers”, contains clear proof of this fact. *It reports that by God’s command women are not summoned to the numbering.* Doubtless this is due to the obstacle of feminine weakness. Nor is any slave summoned, insofar as they are ignoble in life and character. Nor is any Egyptian counted, of this who had been mixed in [with the people], for the obvious reason that they were foreign-born and barbarians. But only Israelites are counted, not all of them, but those “from twenty years old and upwards”. And it is not merely the consideration of age that is taken into account, but it is asked if he shows a strength that is adequate for war. For it is indicated through the word of God that “everyone that goes forth in power is numbered”. So, it is not solely age, but power too that is required of the Israelites. Those who are of a young age are not numbered, nor are they considered suitable for the divine reckoning, unless they happen to be firstborn or descend from priestly or Levitical stock. These alone among the young men are summoned to be the numbering. *But absolutely no female is summoned.*<sup>1</sup>

Origen’s opening words in his first homily on the book of Numbers enter immediately into the heart of his comment on the text of the census in Num 1,1–4, illustrating the peculiar characteristics of the list contained there. Then, on closer examination, it becomes clear that, in introducing his own interpretation of this pericope, the great Alexandrian exegete is faced with a task that is difficult, to say the least, that of accounting for the rationale governing the composition of the list of those who were numbered.

What strikes the reader most is that Origen’s comment on the first census in the book of Numbers begins in a way that is apophatic, so to speak: rather than speak of those who have been included in the list, the author dwells on the mention of those who have been excluded from this catalogue. In doing this, through a kind of heterogony of ends, Origen concludes by devoting the first place to women, even if, formally, he lists

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<sup>1</sup>ORIGEN, *Homilies on Numbers*, I, 1.1 (translation by T.P. Scheck).



them among those who do not figure in the “divine numbering”; and it is to women themselves – through a clear thematic inclusion – that he assigns the close of the first part of this homily, establishing in peremptory terms their inadequacy to form part of the divine numbers: “Feminarum vero nulla prorsus adducitur”.

If anyone who has had the task of reading – entirely and unabridged – this peculiar “fourth fifth” of the Torah which is the book of Numbers is convinced by Origen’s words that “there is no space for any woman among the divine numbers”, he will be rather surprised to encounter a good three chapters of this biblical book given over to the treatment of questions which have none other than women as the leading figures. To continue the play on words which is concealed behind the title of this book, there are women in the desert.<sup>2</sup> Absolutely! This is precisely the reason why I have decided to devote an entire monograph to the study of the legislation which the book of Numbers dedicates to the treatment and resolution of legal issues that have women as their leading figures.

Anticipating in summary the issues we are going to analyse, we could add that the leading place enjoyed by women in these biblical texts is quite peculiar, to some extent *bon gré mal gré*. In fact, to all appearances, the three literary traditions of a legal nature which are the object of our investigation do not seem to enhance the autonomy, freedom, self-determination or whatever other synonym can be married conceptually with the idea of the leading role of women. Nevertheless, beyond appearances, an in-depth study of the texts in question may lead to a broader, even unexpected, reading of these three literary traditions which are the product of the skilful amalgamation of narrative and legislative material that is so characteristic of the Torah in general and the book of Numbers in particular.

In fact, it is only on the surface that the three texts we are going to analyse appear to be linked simply by the fact of having women as their leading figures. The exegetical analysis will reveal clearly that there is a much more significant common trait, a *fil rouge* which perfectly unites three traditions which are quite distinct and separate in the overall structure of the book: I am referring to the legislator’s attempt to provide a law which acts as both a protection and a guarantee for women. It is quite clear that such a protection and guarantee has to be set in its proper context and so understood without violent anachronism. However, although

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<sup>2</sup>In Hebrew, the expression “women in the wilderness” would be נָשִׁים בַּמִּדְבָּר, thus directly evoking the Hebrew title of the book of Numbers (בְּמִדְבָּר).

it could appear partial and very limited, it is the signal of a particular care which biblical legislation reserves for women in a cultural environment which is not embarrassed to describe them as the total property of men.

We enter now into the details of the subjects which we are going to tackle in this book. A closer look at the passage studied in the first chapter (Num 5,11–31) reveals that it presents in some detail the sinister hues of a ritual which we would not hesitate to describe as grim to which a woman suspected of adultery by a husband, seized with the disease of jealousy, has to be subjected. It is precisely because of these characteristics, so unusual as to be even bizarre, that this is a text which has long attracted the commentators' attention. The latter are basically divided between those who interpret the text as a rather classic example of the imprecatory oath and those who detect there the typical characteristics of that extrajudicial process which is known as the ordeal or divine judgement.

As will emerge more clearly from the examination of the individual positions which acts as a *status quaestionis* at the beginning of the chapter, the impression that can be gained from a careful assessment of the individual elements that compose the pericope is that our text constitutes a skilful development of both these components. In this way, Num 5,11–31 reveals itself to be the product of a redactional process which has given life to a process which contemplates – simultaneously – both an assumption of responsibility on the part of the woman who has been charged, expressed by means of the imprecatory oath, and also the supreme and decisive intervention on the part of YHWH, which is expressed through the effects of the potion which the woman is ordered to drink. In my opinion, the decisive nature of this divine intervention allows the entire process to be shaped as an ordeal proper. The comparison with analogous practices in the Ancient Near East and attested in various ways, especially in the legal literature relating to this geographical and cultural area, will help us to understand better the nature of the particular contribution which the biblical tradition offers in this connection.

For its part, the text studied in the second chapter (Num 27,1–11) deals with the problem that daughters are considerably discriminated against in comparison with their brothers when it comes to the paternal inheritance. The first thing striking the reader is that the question tackled in this pericope arises as a merely private matter, with specific leading figures and quite clear contours in a real family story, namely, that of a descendant of Manasseh, Zelophehad. However, the question raised to Moses by Zelophehad's daughters reveals exceptional characteristics right from the beginning: indeed, Moses seems unable to resolve it since he

adjourns the case presented by the five daughters to the direct judgement of YHWH. It is precisely the supreme voice of God which arrives at a judgement broadly favourable to the women protagonists, recognising the validity of the issue raised by them and guaranteeing that their request be accepted by the people of Israel.

From the narrative point of view, this summary can undeniably be considered as the conclusion of the matter relating to the family of Zelophead: in fact, the initial problem could be said to be definitively resolved by the direct intervention of YHWH who ratifies the legitimacy of the five daughters' request. However, what strikes the reader is that the divine speech does not finish in v. 7, which contains the assurance that the paternal inheritance will not be dispersed among the tribes, but continues and is transformed into a general precept which is valid for all the children of Israel. Basically, what we have here is the transformation of a particular case into a general law which is going to form a substantial enrichment of the biblical legislation relating to paternal inheritance.

Finally, the third pericope (Num 30,2–17) reports the many variables affecting the validity of vows made by women, examining the different circumstances in depth. This legal provision takes its cue from the general precept regarding vows and promises freely made before YHWH, strictly confirming their irrevocability according to the text of Deut 23,19.22–24. Starting from there, Num 30,4 introduces what is presented as a series of circumstances which are actually different from the general precept. However, they are set out in such a way that they can only be understood as exceptions which – far from denying it – confirm the rule contained in the deuteronomic precept. These circumstances which differ from the precept of the general validity of vows have as their common denominator the fact that they concern only the vows uttered by women. Moreover, all share the fact that the woman pronouncing the vow is under the protection of a man: first the father and then the husband.

A superficial reading could indicate that what we have here is a provision that is decidedly discriminatory towards women insofar as it sets a significant limitation on their ability to utter vows, subjecting it, in fact, to the approval of the man under whose authority the woman is placed at that moment. However, the interpretation that will emerge from the exegetical analysis suggests the possibility of an alternative way to read our pericope. Albeit in the awareness of the undeniable inequality of the conditions of women with respect to men, product of the socio-cultural conventions of the time in which the biblical tradition was consolidated,

it is possible to interpret the provision of Num 30,2–17 as an attempt to protect women. This protection takes practical form in the intention to free the woman herself from a burden – deriving from her uttering of the vow – which, according to the circumstances, could be shown to be unsustainable for the woman's conditions of life in that kind of society.

This summary anticipation of the content of the legislative texts which will be examined in this book contains a clue which, in my view, is of primary importance.

Although each has its own specific nature relating to the case in question, the three pericopes which we are going to read actually bear an analogous function insofar as they are presented as real supplements to the previous legislation in the Pentateuch. In particular, Num 5,11–31 complements the legislation on adultery, proposing a solution to be followed in cases in which the crime is only suspected and not well known; for its part, Num 27,1–11 is presented as a supplement to the laws regulating the paternal inheritance, introducing a substantial novelty relating to the case of the absence of male heirs; finally, Num 30,2–17 extends the law concerning vows, defining clearly the range of validity of vows uttered by women. All this undoubtedly contributes to reinforcing the idea that, as a whole, the book of Numbers can be considered as a basic block in the definitive shape of the legislative heritage enclosed in the Torah.<sup>3</sup>

A final word on the methodology we are going to follow in presenting the analysis of the pericopes we are studying. Faithful to an approach inspired by interdisciplinary criteria, my exegesis will try to make use of the best contributions of both the synchronic and diachronic methods. Therefore, the analysis of each of the passages will begin from the text *prout iacet*, opening itself up gradually to considerations of a diachronic character relating to the origin as well as to the history of the literary evolution of the individual traditions, in constant dialogue with the thematically analogous evidence found in the Ancient Near East.

With this introduction, it only remains for me to hope that those who have the patience to read these pages will enjoy a pleasant journey accompanied by the “women in the desert”.

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<sup>3</sup>For the same reasons, Num 35,9–34 can certainly be added to the three texts studied in this monograph. I studied it in my previous monograph to which I refer: F. Cocco, *The Torah as a Place of Refuge. Biblical Criminal Law and the Book of Numbers* (Forschungen zum Alten Testament II 84; Tübingen 2016).



## Chapter I

### The bitter waters of jealousy

Num 5,11–31

*No son los celos señales de mucho amor, sino de mucha curiosidad impertinente; y si son señales de amor, es como la calentura en el hombre enfermo, que el tenerla es señal de tener vida, pero vida enferma y mal dispuesta; y así, el enamorado celoso tiene amor, mas es amor enfermo y mal acondicionado.<sup>1</sup>*

*O, beware, my lord, of jealousy;  
It is the green-eyed monster which doth mock  
The meat it feeds on; that cuckold lives in bliss  
Who, certain of his fate, loves not his wronger;  
But, O, what damned minutes tells he o'er  
Who dotes, yet doubts, suspects, yet strongly loves!<sup>2</sup>*

I have allowed two pens of the calibre of Miguel de Cervantes and William Shakespeare to introduce us to the study of the so-called “law of jealousy” because it is not a simple matter to express oneself on a subject which concerns everyone as protagonist both in an active and a passive sense. If it is true that every human relation is based on trust, then, *a fortiori*, it is true and valid for relations of an emotional kind to the extent to which they involve the inner being of those people who bind themselves to each other, accepting that they are no longer two entities but a single thing, to paraphrase what the book of Genesis says about the first human couple (cf. Gen 2,24).

In these kinds of relations, marriage represents the form that is stable and consecrated – in the widest sense that can be attributed to that term: in biblical language it is expressed and represented as בְּרִית, a pact which

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<sup>1</sup>CERVANTES, *La Galatea*, III.

<sup>2</sup>SHAKESPEARE, *The Tragedy of Othello, the Moor of Venice*, III, 3.

is solemn in character and tends to be irrevocable.<sup>3</sup> It is precisely these characteristics of stability, solemnity and irrevocability which make the marriage relation strongly exposed to jealousy since they imply the unique and exclusive nature of that relation. But we know: the flesh is weak...

Ancient literature abounds in stories connected with jealousy: it is enough to recall the vast mythology relating to Hera, the greatest female divinity on Olympus by virtue of her being the consort of Zeus. Precisely for this reason, she was also venerated as patron of married life. What mythology recounts of this goddess can be framed within the opposing passions which characterise her marriage union with the father of all the gods: love and jealousy. In lyrical tones, the *Iliad* describes the fervent amorous passion which is kindled in Zeus when he sees his wife shining on the summit of Ida; but, at the same time, and in greater detail, it reports various scenes of conflict between the two spouses, inflamed by the anger of Hera, who lived constantly in the torment of jealousy on account of the extra-marital escapades – real or presumed – of her husband, Zeus.<sup>4</sup>

As a literary work, the Bible is no exception in the panorama of ancient literature, and so it too is concerned with the phenomenon of jealousy in various modes and circumstances. It will be enough to cite the most emblematic case – as well as the first recorded in the text – which is undoubtedly the jealousy of Cain in his dealings with his brother, Abel (Gen 4,3–16); but the list could be continued with a mention of the jealousy of the brothers with regard to Joseph, Jacob's son (Gen 37,4); or of Miriam and Aaron with regard to Moses (Num 12,1–15); and that is just in the Pentateuch.

Within the various biblical texts which tackle the theme of jealousy in one way or another, there is one, however, which stands out in its peculiarity, especially in the eyes of the modern reader: it is a provision of a legal nature known as the “torah of jealousy”, which deals with the legal treatment of a husband's suspicion of infidelity on the part of his own wife, a suspicion which is not confirmed by evidence, either first-hand or

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<sup>3</sup>I use the expression “tends to be irrevocable” because, in fact, biblical law foresees the possibility of the divorce or repudiation of the wife by her husband, for a just reason. In the course of our study, we shall be able to resume and go further into the reasons – as social as they are religious – for the univocal character of the carrying out of repudiation or divorce, as also for other disciplines connected with marriage which are precisely the exclusive prerogative of the husband *vis à vis* the wife.

<sup>4</sup>Cf. HOMER, *The Iliad*, XIV, 152 ff. On jealousy in the Greek world, see D. KONSTAN, *The Emotions of Ancient Greek. Studies in Aristotle and Classical Literature* (Toronto – Buffalo, NY 2006) and, more recently, E. SANDERS, *Envy and Jealousy in Classical Athens. A Socio-Psychological Approach* (Oxford – New York 2014).

from a third party. It is precisely this pericope – Num 5,11–31 – which we are going to examine in this first chapter within the general frame of our study of the laws which the book of Numbers devotes to women.

As first step in our enquiry, we shall try to set the text concerning the “law of jealousy” within its context, going on to mark out its boundaries. Then we shall look at the internal structure of the pericope to see if it is possible to arrange it into further internal sections that enable us to understand it better. Finally, we shall enter into the heart of the exegetical analysis by examining the individual verses in order to have a better understanding of the history of the formation of the text as well as its purpose in its present literary form.

### 1. The immediate context of the pericope and its boundaries

The passage with which we are concerned is found within a macro literary unit which can take on a certain interest in the general understanding of the book of Numbers as the first great legislative section which is found there: Numbers 5,1–6,27. This section is characterised by the presence of a series of laws and precepts which are not homogeneous with regard to their content, given that each of them disciplines and regulates realities and cases that are very different from one another.<sup>5</sup> In particular, the macro literary unit opens by listing laws which set forth the obligation to exclude impure people from the camp (5,1–4); it continues with some duties of the priests (vv. 5–10); it then records the so-called “law of jealousy”, which represents the immediate object of our study (vv. 11–31); then enumerates the rules governing the state of the Nazirite (6,1–21); and concludes with the priestly blessing (vv. 22–27).<sup>6</sup>

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<sup>5</sup>The lack of homogeneity in content in the literary unit should not represent a surprise for the regular reader of the book of Numbers. In fact, the fourth book of the Torah accustoms one quite quickly to the alternation of sections that are completely different among themselves, in such a way that the interminable lists which lie behind the Greek title of the book are followed – without any break in continuity – by vivid pages of narrative which, in their turn, give way to the technical and formal language of laws of a most disparate kind. This characteristic, peculiar to say the least, has resulted in the poor fortune of Numbers among the readers of the Bible in general and of the Pentateuch in particular, even if, recently, the trend seems to have changed and the exegetical studies of our book have increased a good deal. For a stimulating reading of this phenomenon (although its conclusions cannot wholly be shared), I refer to M. DOUGLAS, “The Glorious Book of Numbers”, *Jewish Studies Quarterly* 1 (1993) 193–216.

<sup>6</sup>For a summary but quite exhaustive presentation of Numbers 5, see B.A. LEVINE, *Numbers 1–20. A New Translation with Introduction and Commentary* (The Anchor Bible 4; New



Following a happy insight of some recent commentators on the book of Numbers, we can say that what enables us to consider this part of the text as unitary to some extent, despite the non-homogeneous nature of its contents, is the eminently religious nature of the precepts found there. If, in fact, taken individually, the precepts of Num 5,1–6,27 regulate aspects which do not have a direct connection among themselves, considered together, they are in the running to constitute one of the various legislative supplements which the book of Numbers offers to the previous legislation.<sup>7</sup>

This is indicated particularly in the first part of the section, that is, in Numbers 5, the chapter which contains the pericope which we are going to study (Num 5,11–31). J. Milgrom points out that, within this text, there is a highly recurrent verbal root which performs the double function of acting as the bond for the entire legal provision and of accounting for its position in its immediate context (that is, Numbers 5): this is the verb נָדַם which recurs a good seven times in different forms in our pericope.<sup>8</sup> The meaning of this verbal root (“to pollute”) justifies the presence of the “law of jealousy” in Num 5,11–31 on account of the thematic assonance of this regulation with the immediately previous provision: in fact, Num 5,1–4 speaks of the need to expel from the camp those who are affected with grave physical impurities while Num 5,5–10 lays down the punishment for those who render themselves impure through the sacrilegious use of things which are destined for YHWH.<sup>9</sup>

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York 1993) 181–182. On the content of the rest of the material in this legislative section of the book of Numbers (5,1–6,27), see: E. DIAMOND, “An Israelite Self-Offering in the Priestly Code: A New Perspective on the Nazirite”, *The Jewish Quarterly Review* 88 (1997) 1–18; I. KNOHL, “The Guilt Offering Law of the Holiness School (Num. V 5–8)”, *Vetus Testamentum* 54 (2004) 516–526; F. COCCO, *Il sorriso di Dio. Studio esegetico della “benedizione di San Francesco” (Num 6,24–26)* (Collana biblica; Bologna 2009).

<sup>7</sup>In particular, J. Milgrom reckons this section as an “insertion of several laws into the account of the preparations for the march through the wilderness. Their common denominator is the prevention and elimination of impurity from the camp of the Israelites lest the Lord abandon His sanctuary and people” (J. MILGROM, נִדְמָה/Numbers [The JPS Torah Commentary; Philadelphia, PA – New York 1990] 33). For his part, B. Levine states in this connection that one of the clear functions of the book of Numbers “is to serve as a repository of previously unrecorded priestly texts. In this way, the content of Numbers helps to complete the priestly agenda” (LEVINE, *Numbers 1–20*, 200). In connection with the arrangement of the legal material of the book of Numbers, I refer also to what I have maintained in COCCO, *Torah*, 41–44.

<sup>8</sup>To be precise, the verb occurs in Num 5,13.14(x2).20.27.28.29.

<sup>9</sup>Cf. MILGROM, *Numbers*, 351. The comment on the section in D.T. OLSON, *Numbers* (Interpretation. A Bible Commentary for Teaching and Preaching; Louisville, KY 1996) 30–43, runs along the same lines.

A further element which testifies in favour of the unitary nature of chapter 5 of the book of Numbers on the thematic level is obtained by comparing this text with some passages from the book of Leviticus: to be specific, Num 5,1–4 presents itself as a kind of amplification of what was already laid down by Leviticus 13–15 in connection with the impurity deriving from leprosy and from sexual diseases; Num 5,5–10 is meant to complement what has already been established by Lev 5,14–16; 20–26 relating to illicit embezzlement of a sacrilegious nature; and, finally, Num 5,11–31 is concerned with the theme of marital infidelity, suspected but not supported by firm evidence, intending thus to complete what Lev 20,10 had provided in cases of full-blown infidelity on the part of one of the spouses.

In addition to the content, a second element conferring homogeneity on the literary unit of Num 5,1–6,27 is the recurrence of a formal indicator generally considered typical of the priestly vocabulary: that is, the formula *וַיְדַבֵּר יְהוָה אֶל־מֹשֶׁה לֵאמֹר*, which introduces each and every precept which is laid down in this section.<sup>10</sup> As a result, as well as the disparity of content in relation to what precedes and what follows, which we have noted several times, this formal indicator can be used in order to isolate the pericope which is the immediate object of our study (Num 5,11–31), marking out its boundaries with regard to the rest of the juridical material contained in the macro unit. In fact, the introduction to the divine discourse contained in Num 5,11 is an unequivocal marker of the beginning of the legal provision described by the text itself as *תּוֹרַת הַקְּנִיאוֹת* (“law of jealousy”, v. 29). Nor is there any doubt about locating the conclusion of the pericope at v. 31 in that the following verse (Num 6,1) is easily identifiable as the trigger for a new legal provision from the recurrence of the introductory formula of the divine discourse which we have seen acting as a structural feature for the entire legal section of Num 5,1–6,27.

<sup>10</sup>The formula returns exactly in Num 5,1; 5,5; 5,11; 6,1; 6,22 and is considered in the same way as a *superscriptio* of a typically priestly character. On the specific nature of this introductory formula to divine discourses, cf. G.B. GRAY, *A Critical and Exegetical Commentary on Numbers* (International Critical Commentary; Edinburgh 1903) 39, and the related bibliographical references.

## 2. The internal unity of the pericope

If, for the reasons indicated just now, there is no real problem in identifying the textual boundaries of the law which records the ritual for the ordeal of jealousy, the question of the internal unity of the pericope reveals itself to be rather more delicate. This is not something that can be avoided in our exegetical analysis, seeing that it is the preliminary to any attempt at structuring the text: thus, we shall seek to throw light on the question beginning with an examination of the state of the question.

Already, the most ancient commentators on the book of Numbers marked the presence in the text of some features that led them to observe a certain lack of harmony within this legal provision, and this visible on various levels. In particular, the “suspicious” elements include some contradictions and repetitions of which the following are examples: at the end of v. 15, we find what look like two technical descriptions of the legal provision which is described, at one and the same time as “offering of jealousy” and “a commemorative offering to recall a fault”;<sup>11</sup> in v. 24, the law prescribes that the priest give the woman the water of the curse to drink, but the identical injunction is repeated at the end of v. 26 as if for the first time.<sup>12</sup>

These and other similar considerations encourage a reasonable number of exegetes to hold that the text which we have in front of us is the product of the conflation of at least two<sup>13</sup> different traditions. These can be distinguished to some extent both from a conceptual and formal point of view, even if they have been harmonised in a way that is acceptable, all things considered, in the final form of the text.<sup>14</sup> Other commentators, however, interpret the pericope in a unitary way, claiming that those

<sup>11</sup>Thus the text of Num 5,15b: כִּי־מִנְחַת קָנָאת הוּא מִנְחַת זְבוּרֹן מִזְבֵּחַת עֹון

<sup>12</sup>Cf. H. HOLZINGER, *Numeri* (Kurzer Hand-Commentar zum Alten Testament 4; Tübingen – Leipzig 1903) 19–23. Other repetitions and redundancies are signalled by M. WEINFELD, “Ordeal of Jealousy”, *Encyclopaedia Judaica*, XV (ed. M. BERENBAUM – F. SKOLNIK) (Detroit, MI 2007) 462–463.

<sup>13</sup>According to Martin Noth, the traditions which lie behind the final text of Num 5,11–31 could actually be three, although – he states – “in the present version of the procedure two or even three different kinds of divine judgment are so closely amalgamated that they can no longer, from the literary point of view, be separated” (M. NOTH, *Numbers. A Commentary* [The Old Testament Library; London 1968] 49). In the course of our examination of the various hypotheses, we shall have an opportunity to return to this proposal of Noth.

<sup>14</sup>Thus, although with different nuances in the formulation of the hypothesis on the formation of the text: J. WELLHAUSEN, *Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments* (Berlin 1963) 174; A. KUENEN, *A Historical-Critical Inquiry into the Origin and Composition of the Hexateuch (Pentateuch and the Book of Joshua). English Translation from the Dutch by P.H. Wicksteed* (Oxford 1886) 92–93; B. STADE,

factors which most tend to witness to incongruities in the text (especially the repetitions and disjunctions) are such only in appearance, and that, in reality, they are the product of mechanisms of literary composition well known and observable elsewhere in biblical prose.<sup>15</sup>

Given that it is difficult to deny the problematic nature attaching to this lack of unity in the pericope (on the surface level, if none other), with the aim of giving equal consideration to both the final text and to the stages of its composition, in our analysis of the passage we shall try to study carefully the arguments which lie behind the two opposed positions: that which holds that the present text is the result of the fusion of different traditions, a position which, for convenience we might describe as the “diachronic hypothesis” – well aware of the risk of excessive simplification involved in every operation of this kind; and that which, for symmetry in the argument, we might call the “holistic-synchronic hypothesis”, in that it favours the overall unitary nature of the pericope, attributing what others interpret as difficulties in the text to precise choices in the literary composition of the passage.

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“Beiträge zur Pentateuchkritik. 3. Die Eiferopferthora”, *Zeitschrift für die Alttestamentliche Wissenschaft* 1 (1895) 166–178; J.E. CARPENTER – G. HARFORD-BATTERSBY, *The Hexateuch According to the Revised Version. Vol. II: Text and Notes* (London 1900) 191–193; GRAY, *Numbers*, 49; C.F. KENT, *Israel’s Law and Legal Precedents. From the Days of Moses to the Closing of the Legal Canon* (The Student’s Old Testament 4; New York 1907) 109–110, 255–256; R. PRESS, “Das Ordal im alten Israel. I”, *Zeitschrift für die Alttestamentliche Wissenschaft* 51 (1933) 121–126. For a summary but fairly exhaustive presentation of the different positions relating to the stages of composition of the pericope, see P.J. BUDD, *Numbers* (Word Biblical Commentary 5; Waco, TX 1984) 62–64.

<sup>15</sup>So, for example, M. FISHBANE, “Accusations of Adultery: A Study of Law and Scribal Practice in Numbers 5:11–31”, *Hebrew Union College Annual* 45 (1974) 25–45; H.C. BRICHTO, “The Case of the ŠŌṬĀ and a Reconsideration of Biblical ‘Law’”, *Hebrew Union College Annual* 46 (1975) 55–70; W. MCKANE, “Poison, Trial by Ordeal and the Cup of Wrath”, *Vetus Testamentum* 30 (1980) 474–492; J. MILGROM, “The Case of the Suspected Adulteress, Numbers 5:11–31. Redaction and Meaning”, *The Creation of Sacred Literature. Composition and Redaction of the Biblical Text* (ed. R.E. FRIEDMAN) (University of California Publications: Near Eastern Studies 22; Berkeley – Los Angeles – London 1981) 69–75 (this same article – with slight modifications, additions or reworkings – has been published with the same title and under the form of an excursus in the commentary on the book of Numbers in the JPS series on pages 350–354); LEVINE, *Numbers 1–20*, 192–212; R.D. COLE, *Numbers* (The New American Commentary 3B; Nashville, TN 2000) 115, and, more recently, D.L. ELLENS, “Numbers 5.11–31: Valuing Male Suspicion”, *God’s Word for Our World. Biblical Studies in Honor of Simon John De Vries, I* (ed. J.H. ELLENS – D.L. ELLENS – R.P. KNIERIM – I. KALIMI) (London – New York 2004) 55–82.

## 2.1. “Diachronic” hypothesis: the pericope as the product of the conflation of different traditions

In an article in which he presented what he himself described as his “contributions to the criticism of the Pentateuch”, B. Stade carried out an analysis of the legislation contained in Num 5,11–31, dedicating a whole section under the title “Die Eiferopferthora”.<sup>16</sup> In his examination of this legislative text, he hypothesised and maintained that the difficulties emerging from the reading of the pericope in its present form are due to the conflation into a single literary tradition of two distinct archaic rituals.<sup>17</sup> On the basis of the same text, Stade named these rituals *הַזְבָּחוֹן הַזְּכוֹרֹן* (*the offering of memorial*) and *הַזְּבוּחַת הַקִּנְאָה* (*the offering of jealousy*), claiming that both would have been characterised by recourse to a trial by ordeal through a cereal offering. Precisely for this same twofold reason – that is, on the one hand, through their formal agreement, arising from the fact that both procedures suppose an ordeal, and, on the other hand, through the partial coincidence of content in that, in both cases, it is a cereal offering that is prescribed – the two rituals would have been fused into a single literary tradition by later redactors despite the fact that they refer to cases that are not wholly equivalent.

Through his analysis of the individual verses, the German exegete ended up in attributing to the first ritual (which he described as *הַזְּבוּחַת הַזְּכוֹרֹן*) vv. 11–13a.15–17.18b–19.22a.23–24.25b.-26.31; to the second ritual (which he called *הַזְּבוּחַת הַקִּנְאָה*) he assigned the remaining part of the text, namely, verses 29.13b.30a.14.30b.18a.21.22b.25a.27–28. The signs which refer to the redactional work to which the pericope is supposed to have been subjected can also be made out clearly – according to our scholar’s hypothesis – in the order which Stade assigned to each of the verses which, as can easily be observed, is different from the sequence present in the final form of the text.

<sup>16</sup>See: B. STADE, “Beiträge zur Pentateuchkritik”, *Zeitschrift für die Alttestamentliche Wissenschaft* 15 (1895) 157–178. Stade’s *Beiträge* were three in total: two present in the same number of the journal just cited (in addition to the one with which we are concerned, the previous contribution studied the text of the Tower of Babel with the title “Der Thurm zu Babel”, pp. 155–166), while the first – relating to the “mark” of Cain – was published in: ID., “Beiträge zur Pentateuchkritik. 1. Das Kainszeichen”, *Zeitschrift für die Alttestamentliche Wissenschaft* 14 (1894) 250–318.

<sup>17</sup>His actual words are: “So wird man auf die Vermutung geführt, dass zwei Darstellungen mit einander verschmolzen worden sind” (STADE, “Die Eiferopferthora”, 170). To be honest, in this he was the debtor of his predecessors, especially the already cited J. Wellhausen and A. Kuenen.

Stade's proposal was welcomed at first – at least in substance – by various other contemporary commentators who did not fail, however, to point out its limitations. This was the position of J.E. Carpenter and G. Harford-Battersby who, in their comments on the pericope, borrowed the bipartition of sources postulated by Stade, though providing it with some significant modifications. In particular, these scholars maintained that the two elements which had been fused in the present text of Num 5,11–31 were, respectively: a procedure of condemnation of a woman certainly guilty, indicated by them as “source A, offering of memorial”; and a trial by ordeal aimed at verifying the guilt or innocence of the woman. Until the moment of divine judgement, she remained only under suspicion. They defined this material as “source B, jealousy offering”.

Therefore, the legal provisions thought to be lying behind the origin of the two sources would be substantially different: in the first case, the woman is simply suspected whereas, in the second, she is considered guilty, although without the support of first-hand evidence deriving directly from testimony (which is why recourse is made to the divine resolution through the ordeal). According to Carpenter and Harford-Battersby, these different procedures were fused with the aim of providing the legislator with a twofold view of the accused woman: “[...] In one scheme it is proposed to ascertain whether she is innocent or guilty: in the other her guilt needs no demonstration, but only draws down on her the priestly doom”.<sup>18</sup> In particular, “source A” would be represented by vv. 11–13a.13c.15.18.21.23–24.27b.25b–26a.31; while the remaining verses, vv. 29.13b.30a.14b.30b.16–17.19.22.25a.26b–27a.28, would be attributed to “source B”.<sup>19</sup>

For his part, G.B. Gray considered Stade's analysis of the text “unconvincing”, only then to find that he had to conclude that the contradiction which makes itself especially clear in a passage of our pericope – namely, Num 5,24–27 –, concerning the moment when the woman has to drink the potion,<sup>20</sup> cannot be resolved without accepting Stade's thesis; alternatively, one has to consider v. 24 as an addition and so expunge it from the text in order to maintain its coherence.

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<sup>18</sup>CARPENTER – G. HARFORD-BATTERSBY, *Hexateuch*, 191.

<sup>19</sup>Cf. CARPENTER – G. HARFORD-BATTERSBY, *Hexateuch*, 191–192.

<sup>20</sup>In particular, the information contained in v. 24 would contradict that in v. 26, as we shall see more clearly in the following when we comment on the individual verses.

On the other hand, Gray also criticised the modified version of Stade's thesis proposed by Carpenter and Harford-Battersby, contending that the key point of their hypothesis – namely, that the law of Num 5,11–31 contains “two views of the incriminated woman” – is incoherent since both the *sources* (and not only “source A”, as claimed by Carpenter and Harford-Battersby) record a procedure intended to clarify a case – that of betrayal by the woman – which is not certain but simply suspected or assumed; hence the recourse to the ordeal provided for both cases. In fact, if it were not simply a matter of a suspicion but of a formal accusation supported by testimony, then the punishment would be quite different on the basis of the legislation provided elsewhere in connection with adultery caught in the act.<sup>21</sup>

H. Holzinger's criticism appears not only more moderate but also more proactive with regard to the impasse in which one risks finding oneself following Gray's observations – however plausible – on the hypotheses of his predecessors. According to Holzinger, our text is the result of the combination of two ordeal rituals: the first would provide for the imploring of divine help through the cereal offering and involves as an ominous consequence a curse in the event that the offerer (here, the suspected woman) turns out to be guilty; the second would consist in the preparation of a potion to be administered to the suspected woman who would have to drink it after uttering an incantation. Holzinger assigns the respective verses to each of these rituals, except for the introduction of vv. 12b–14.15aa, which he considers common to both, and other verses which he holds to be redactional.<sup>22</sup>

J.A. Bewer<sup>23</sup> also joined his voice to the debate on the redactional history of Num 5,11–31, starting out from the theses of the exegetes who preceded him<sup>24</sup> and putting forward his own theories for the understanding of the formation of the text. Although appreciating the step forward in the literary criticism of the pericope represented by Holzinger's ana-

<sup>21</sup>Cf. G.B. GRAY, “Jealousy, Ordeal of”, *Encyclopædia Biblica. A Critical Dictionary of the Literary, Political and Religious History, the Archaeology, Geography and Natural History of the Bible*, II (ed. T.K. CHEYNE – J.S. BLACK) (London 1903) 2343.

<sup>22</sup>For the details of the hypothesis, see HOLZINGER, *Numeri*, 20. His theory is adopted and borrowed in substance by R. RENDTORFF, *Die Gesetze in der Priesterschrift. Eine gattungsgeschichtliche Untersuchung* (Forschungen zur Religion und Literatur des Alten und Neuen Testaments. Neue Folge 44; Göttingen 1954) 62–63.

<sup>23</sup>J.A. BEWER, “The Ordeal in Num., Chap. 5”, *The American Journal of Semitic Languages and Literatures* 30 (1913) 36–47.

<sup>24</sup>In particular, he employs the analyses of Carpenter and Harford-Battersby as his starting point.

lysis, Bewer claimed that “he has not succeeded in solving the puzzle entirely”,<sup>25</sup> to the extent that the first ritual – that classified by Holzinger as “A” – does not represent a real ordeal. In fact, Bewer observed that the cereal offering did not act as a means of clearing up the guilt (or not) of the suspected woman for the simple reason that the Old Testament does not know of any sacrifice – of whatever kind – which performs the function of an ordeal.<sup>26</sup> The sacrificial element represented by the cereal offering would, therefore, be the result of a latter addition to the ritual of the ordeal the key element of which would be, rather, the incantation joined to the curse: with its evocative power, this element was able to set in motion the power of God directly, thus guaranteeing a solution to the problem of the identification (or not) of the suspect’s guilt.

Having clarified this limitation in Holzinger’s position, Bewer went on to present his own hypothesis of the formation of the text. He started from the fact that ancient Israel had two ways of ascertaining the guilt (or not) of a woman suspected of adultery: the first consisted of an oath taken before the divinity; the second was an ordeal characterised by the taking of a potion held to be sacred.<sup>27</sup> There is no way of establishing which of

<sup>25</sup> BEWER, “Ordeal”, 39.

<sup>26</sup> According to Bewer, Holzinger’s reference to the episode of Cain and Abel (cf. Gen 4,4b.5a) would be inappropriate. The latter had adduced it as proof of the existence in the Hebrew Bible of an analogous recourse to sacrifice functioning as an ordeal. Thus, Bewer states: “Not only do we have no parallel in the Old Testament to a sacrifice that fulfils the function of an ordeal but, as far as I know, nowhere else either” (BEWER, “Ordeal”, 39).

<sup>27</sup> Bewer signalled an interesting Babylonian parallel to this Israelite custom, referring to two precepts in Hammurabi’s Code which record a similar procedure to the biblical one for the treatment of cases of suspected adultery. In fact, whereas the first parallel (§131) is identical since it lays down that the woman pronounce an oath in the name of the divinity, the second (§132) provides that the woman “shall throw herself into the (sacred) river” (BEWER, “Ordeal”, 40). Undeniably, this is an example of the ordeal, in that the outcome of the procedure establishes the guilt or not of the suspect; but the element in question can be considered only analogous and not completely correspondent, as in the previous example. J.M. Sasson reports that “the earliest attestation of river ordeal dates to the time, or slightly later, of Entema of Lagash (ca. 2460 B.C.)” (J.M. SASSON, “Numbers 5 and the ‘Waters of Judgement’”, *Biblische Zeitschrift* 16 [1972] 249). For other parallels with the Mesopotamian environment, see: G.R. DRIVER – J.C. MILES (ed.), *The Assyrian Laws* (Ancient Codes and Laws of the Near East 2; Oxford 1935) 86; S.N. KRAMER, “Ur-Nammu Law Code”, *Orientalia* 23 (1954) 48; G. DOSSIN, “L’ordalie à Mari”, *Comptes rendues des séances de l’Académie des Inscriptions et des Belles-Lettres* 102 (1958) 387–393; W.L. MORAN, “New Evidence from Mari on the History of Prophecy”, *Biblica* 50 (1969) 15–56, especially 50–52; J. MILGROM, “Excursus 9: Adultery in the Bible and in the Ancient Near East”, *Numbers*, 348–350; ID., “Excursus 8: The Judicial Ordeal”, *Numbers*, 346–348. Concerning the relationship between cultic acts and judicial procedures in the Ancient Near East, with parallel references to the Mesopotamian and biblical environments in the first millennium B.C., see B. WELLS, “The Cultic Versus the Forensic: Judahite and Mesopotamian Judicial Procedures in the



the two rituals is the more ancient or on the basis of what criterion one was chosen in preference to the other.<sup>28</sup>

The important factor for the reconstruction of the textual history of Num 5,11–31 is that, at a particular moment, the two procedures were fused in the redaction of a single law for reasons which, according to Bewer, can only be hypothesised: to this end, he proposed two possible solutions. The first holds that the fusion of the two traditions is responding to the wish of the final legislator to obtain a more secure verdict, because double-checked. On the other hand, the second interprets the work of the final redactors of the legislative text as the intention to involve YHWH more directly in the ordeal by water so as to remove the idea that this practice represented a magic procedure that was somehow self-sufficient and so independent of the divinity. Instead, with the oath, the latter was actively involved in the procedure.

Having tackled – and resolved, at least to his own satisfaction – the problem of the double nature of the ritual contained in Num 5,11–31, Bewer went on to consider the presence in our legislative text of the element which he held to be discordant with the context which is marked by procedures typical of the ordeal, namely the  $\text{𐤍𐤍𐤍𐤍}$ , the cereal offering. As we have already had the opportunity to see, it is precisely on this point that Bewer took the greatest distance from his predecessors who – Holzinger in particular – had speculated that the cereal offering represented the principal element of ritual “A” to the extent that it was this that provoked the divine intervention. According to Bewer, however, the cereal offering did not form part of the most ancient ritual: it was rather to be understood as a late insertion of a typically priestly character.

In confirmation of this theory, he cited two biblical passages: Ex 22,8–12, which records a series of occasions linked by recourse to YHWH’s intervention to settle disputes arising from an accusation of theft which is not supported by evidence that is juridically probative;<sup>29</sup>

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First Millennium B. C. E.”, *Journal of the American Oriental Society* 128 (2008) 205–232 (on p. 229, he refers directly to Num 5,11–31). Later in our study, we shall be able to return to the phenomenon of the ordeal in the Ancient Near East.

<sup>28</sup>Still according to Bewer (without, however, the support of documentary evidence), the criterion of judgement in Babylonia was the following: if the suspicion came from the woman’s husband, then the procedure was the oath before the divinity; if the woman was accused by others, the ordeal by water was adopted (BEWER, “Ordeal”, 40).

<sup>29</sup>This is the text of Ex 22,8–12: “<sup>8</sup>In every case of dishonest appropriation, whether it be about an ox, or a donkey, or a sheep, or a garment, or anything else that has disappeared, where another claims that the thing is his, the claim of both parties shall be brought before God; the one whom God convicts must make twofold restitution to the other. <sup>9</sup> When