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The *jus primae noctis* as a male power display: A review of historic sources with evolutionary interpretation

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Abstract

The *jus primae noctis* was, in the European late medieval context, a widespread popular belief in an ancient privilege of the lord of the manor to share the wedding bed with his peasants' brides. Symbolic gestures, reflecting this belief, were developed by the lords and used as humiliating signs of superiority over the dependent peasants in the fifteenth century, a time of diminishing status differences. Actual intercourse in the exercise of the alleged right is difficult to prove, and there is no hard evidence to suggest that it ever actually happened. However, the symbolic gestures can be best interpreted as a male power display, with a basis in the psychology of coercive social dominance, male competition, and male desire for sexual variety. Several non-European cultures have accounts of a similar custom related to a young girl's first sexual intercourse: ritual defloration by chiefs, priests, or strangers. This non-European custom differs from the *jus primae noctis* in its proximate details, but seems from an ultimate point of view, to be in conformity with the European evidence. In this article the origin, development, and relationship of both customs are discussed and interpreted in light of recent evolutionary studies of primate behavior and sexual psychology. © 2000 Elsevier Science Inc. All rights reserved.

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The existence of a *jus primae noctis* in the Middle Ages was an eagerly disputed topic in the nineteenth century (Hanauer, 1893; Pfannenschmid, 1883; Schmidt, 1881, 1884; cf. Schmidt-Bleibtreu, 1988). Although most historians would agree today that there is no authentic proof of the actual exercise of the custom in the Middle Ages, disagreements persist concerning the origin, meaning, and development of a widespread popular belief in this alleged "right" and the existence of symbolic gestures associated with it (Barros, 1993; Boureau, 1995; Sorlin, 1987; Wettlaufer, 1994, 1999). These symbolic gestures have not yet

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been discussed in light of evolutionary studies of sexual psychology, although they seem to be of relevance to the reproductive prospects of dominant males, at least indirectly through the display of status.

In this article, I argue that (1) the right of the first night is a very old theme (topos) in Eurasian literature, reflecting the relationship between status and mating success; (2) in the later Middle Ages, a popular belief in the sexual privilege of a lord of the manor on the wedding night was used by some lords to display their superiority over their dependent peasants in a time of diminishing status differences; (3) ritual defloration, as seen in other cultures, very often was performed by persons of high status (chiefs, priests) and therefore fits into the picture of a strong and widespread relationship between despotism and differential reproduction in traditional societies; and (4) *jus primae noctis* and ritual defloration reflect a common underlying adaptive psychology that gave rise to these customs in human cultures.

1. The theme of the *jus primae noctis* in archaic and ancient literature

The *jus primae noctis* appears to be a very old cultural invention in Eurasia. The first explicit evidence can be found in the Gilgamesh Epic from the old Babylonian period (about 1900 BC). In this text, Gilgamesh, the tyrannical hero and ruler of Uruk, capital of Babylonia, is said to have enjoyed several privileges because of his outstanding position in the society of Uruk: “He cohabits with the betrothed bride—He first, The husband afterwards” (Tigay, 1982: 182. cf. von Soden, 1981: 104; Schott, 1988: 13–14, 27–28). This early literary text already contains the central idea of the *jus primae noctis*: one man’s privilege of sexual access to a woman before another man’s. Classical writers mention the right of the first night in the same context, describing it as a tyrannical privilege of despotic rulers. In his “Historiae” (4. book, § 168), Herodotus (450 BC) reports about the Lybian tribe of the Adyrmachidae, who are said to have the custom that all virgins who wanted to marry had to be brought to the king, who had the right to deflower them, first. A later scholar, Herakleides Pontikos (400 BC), gives an account of a tyrannical rule of the island Kephalonia, who claimed the first intercourse with brides on the island before they could marry (Herakleides Pontikos, parag. 32). Valerius Maximus (20 AD) mentions a similar custom that arose during the revolt of the slaves of Volsinii: no free man could marry a virgin who had not previously been deflowered by a slave (9. book, cap. 1, de luxuria et libidine, Exempla Externa, parag. 2.). Lactantius (300 AD) wrote about a very similar sexual privilege exercised by the emperor Maximin (†313 AD; cf. Moreau, 1954: 121). Furthermore, there is a Semitic literary tradition of the tyrannical right of the first night, which spread in Middle Eastern cultures. For example, in Talmudic and later in Midrashic sources, the Roman and Greek occupiers are said to have claimed this privilege (Patai, 1974: 177 f.). The use of the theme in literature to describe tyrannical and despotic rulers is persistent from classical times to the early Middle Ages. In the eighth century in the Annals of the monastery Clonmacnosie (Ireland), the Vikings are accused of demanding the right of the first night from Christian brides: “the cheefe Gouvernour of them should have the bestowing of any woman in the k’dom the first night after her marriage, so before her own husband should have carnal knowledge of her, to whom he pleased or keep her ... (Indecipherable. Part of page-end frayed) to himself by night, to satisfy his

lust” (MacPhilib, 1988: 103, n. 29; Trinity College, Dublin, Ms. 637). However, the same literary theme also could be used with no negative connotations to describe a hero. This is particularly the case in the Irish traditional epics of the high Middle Ages, which are related to early medieval Celtic customs. The Irish heroes of these epics are said to have enjoyed the privilege of the first night with the brides of their inferiors. These epics even speak of a kind of duty, which would point to a custom like ritual defloration in Celtic society, but our sources are too scarce to prove the true nature of these customs (Taín Bó Cuailnge, 1976: 26, note p. 292, cf. Arbois de Jubainville, 1905: 125–139; Hull, 1953: 128–131; Westermarck, 1921: 179–180; MacPhilib, 1988; Wettlaufer, 1999: 67–73).

In the later Middle Ages, from the fourteenth century onward, the idea of the right of the first night became very popular in literature. In a French epic named “Baudouin de Sebourc” of the so-called Second Crusaders Cycle (14th century), written in Northern France, a tyrannical lord claims the *jus primae noctis* unless the bride gives him a substantial part of her dowry (BNF [Bibliothèque Nationale de France], ms. fr. 12552, fol. 31v.; 38r-39r.; 39v-40r. Wettlaufer, 1999: 126–140). Female dowry had become the most important financial transaction associated with marriage in later medieval times because the European marriage customs had changed from brideprice to dowry (cf. Hughes 1978). Furthermore, it became related to female honor. A large dowry was seen as a sign of chastity. The partial deduction of this dowry by a despotic lord thus was perceived as an indirect attack on the bride’s chastity.

The epic of “Baudouin de Sebourc” seems to be the prototype for the later use of the theme in Western European literature. But it is not the first testimony of a relationship between a lord’s privilege and customary marriage payments. A hundred years earlier, in a poem written at the monastery of Mt. Saint Michel (Normandy, France), the right of the first night is connected with marriage payments related to the bride’s dowry (Boureau, 1995: 216–226; Hunger, 1908: Appendix between p. 32/33 [Facsimile]; Wettlaufer, 1999: 111–126). This poem reports a popular belief that, in ancient times, the lord had the right to share the newlywed bride’s bed, a right the lord would forfeit on receipt of a specific payment. We have good reason to assume that the relationship between European marriage payments of unfree people and the theme of the *jus primae noctis* goes back to the early medieval period and has its roots in the legal condition of unfree people in relation to Germanic marriage customs.

The Germanic *mundium* payment of the free bridegroom to his bride or her family implied the right to take possession of the bride by means of taking her home and having the first sexual intercourse with her. If an unfree man in the early Middle Ages wanted to marry a free woman, he not only had to ask his lord’s permission; it was also the lord who paid the *mundium* for the servant’s bride as a loan. The unfree man was not legally entitled to act independently from his lord, and by paying the *mundium*, the lord acquired not only a new subject and wife for his servant but also (in a very formal sense) the right to take the woman home and to perform the “Beilager,” a symbolic custom representing the first sexual intercourse with the bride. The Germanic “Beilager” was an important part of the Germanic marriage ritual that later was integrated into the ecclesiastical ritual of marriage (Wettlaufer, 1998: 81–127) (Fig. 1).

However, actual intercourse between lord and bride was never part of the (legal) marriage procedure. The lord obtained no marital rights from his role as procurator for the unfree servant bridegroom, but simply the right to have his loan for the *mundium* repaid. This repay-



Fig. 1. Nuptial blessing of the wedding bed in the 15th century. (From Bringéus, N.A. *Livets Högtider*, Stockholm, 1987, p. 153.)

ment was due when the couple's own daughters married. Later, different marriage payments were merged and fused together and changed their function, but the idea of a lord's privilege on the first night apparently remained connected to these payments. This new explanation of the relation between medieval marriage payments and the literary theme of the right of the first night sheds some light on the obscure origin of a widespread popular belief during the European Middle Ages that such a right had formerly existed and was strongly connected to customary payments or fines like *merchet*, *amobr*, *cullage*, and *vadimonium* (cf. Wettlaufer, 1999: 105–195).

2. The *jus primae noctis* as a power display in the late Middle Ages

We have quite a few examples showing how the popular belief in a former *jus primae noctis* influenced social relations between lords and peasants in Switzerland, France, and Catalonia in the fifteenth and sixteenth centuries. One of these stems from a Swiss village in the vicinity of Zurich. In a customal from about 1400 A.D., the rights of the inhabitants of Maur were itemized by the local "Meier," a representative of the lord of Maur, which at that time was the convent of Zurich. "Item, who wants to enter the holy state of marriage in the village and court of Maur, whoever he may be, shall hand over the woman to Us for the first night or he may buy her out, as it is custom and tradition and written in the old customals. If he doesn't do so, he must pay a fine of 30 pennies" (STAZ [Staatsarchiv des Kantons Zürich]).

Urkunden Stadt und Land Nr. 2563; copy of the 15th century, cf. Wettlaufer, 1999: 251). One hundred fifty years later, the text had been slightly altered: in the 1543 version, written by a successor of the first editor, one reads "... and when the wedding starts, the bridegroom shall allow the sergeant to lie with his bride for the first night, or he shall buy her off with 5 pounds and 4 pennies" (STAZ C. I 2562, [1543 AD], cf. Wettlaufer, 1999: 255).

The amount of money mentioned in both texts was affordable for a peasant, and although customals generally reflect the lord's claims about their rights over the people under their jurisdiction, these rights nevertheless must have been accepted by the peasants. Such texts were read aloud in front of the assembled village and everybody had to agree with them. In a recent work on the subject, Boureau (1995: 174) explains the medieval evidence for the *jus primae noctis* as a kind of popular joke that originated in the late Middle Ages from a complex rhetorical role inversion in the medieval village community. However, this interpretation is not supported by the historical sources (Wettlaufer, 1996: 42–46); the customals instead demonstrate a shared belief in the authenticity of the *jus primae noctis* for the fifteenth and sixteenth centuries, and are not consistent with the lords' joking about certain taxes, as Boureau argued on the basis of some French examples (Boureau, 1995: 123). Another argument favoring my interpretation is that, during that period, the popular belief in the right of the first night led to remarkable symbolic gestures connected to the marriage of unfree people. These gestures can be derived from the wedding customs of the late medieval period, which symbolically were very rich.

The best example of these symbolic gestures stems from the Catalonian Pyrenees. At the end of the fifteenth century, Catalonia witnessed the only successful peasant revolt of the Middle Ages. The background of this struggle for freedom was a conflict between the lords and the "pagesos del remensas" (Freedman, 1993: 39–54). This was a class of unfree peasants forced to pay certain humiliating taxes to their lords. In a text of mediation between the two parties, the peasants accused the lords of practicing symbolic acts on the wedding night to demonstrate their power and lordship. It is said that they climbed on the bed with the bride and passed over her. Furthermore, the lords were accused of having abused these symbolic acts for purpose of sexual harassment. The lords, on the other hand, denied all this, but at the same time promised to abolish all such coercive customs. (Hinojosa, 1905: 367, with reference to Bibliotheca del Escorial. Mss. ij d 15, fol. 27-31v° [1], cf. Schmidt-Bleibtreu, 1988: 170, n. 52; Freedman, 1991: 178–253). The central idea of this text is further supported by several other texts from this region (Wettlaufer, 1994: 284–285; Wettlaufer, 1999: 281–292).

This is the only medieval testimony indicating anything like actual sexual relations between the lords and the peasant brides in the context of the right of the first night, and the evidence concerns only sexual harassment, not sexual intercourse. We can infer from this example that in the late medieval period, a time when socioeconomic status differences were diminishing, the lords used the *jus primae noctis* as a sign of superiority over their dependent and unfree peasants. In this context, the function of rape as a means of humiliating the husband or male relatives of a raped women should not be underestimated (cf. Devereux, 1978: 185 ff; Duerr, 1993: 428 ff). The symbolic use of the "right" was known in several European regions; in France, for example, the lord could put a naked leg onto the bride's bed (*droit de cuissage*). In this respect, the *jus primae noctis* in the later Middle Ages was "real," even

though there is not a single proven case of actual sexual relations between bride and lord in the name of this “right.”

3. Ritual defloration

Ethnographic evidence of ritual defloration is quite different from the Eurasian literary theme and popular tradition of the Middle Ages described earlier. Medieval and early modern travel accounts from India and South American offer reports of prenuptial deflorations by the mother (Marcireau, 1971: 110), an idol (Barbosa, 1866: 96), a chief, a priest, or a stranger to “open” the bride for first sexual intercourse with her bridegroom. Very often this defloration ritual was connected to superstition and fear of hymeneal blood. In these cultural backgrounds, with their own traditions and taboos, defloration was described as a dangerous duty rather than a privilege or a right.

Fig. 2 is taken from an early impression of the travels of John of Mandeville, the most widely read fictional travel account of the Middle Ages. It illustrates a narrative about “a strange custom on an oriental island,” which can be identified as a ritual defloration: “Then you come to an island where is the custom, if one takes a wife, he does not sleep with her as the first man, but there are poor servants who do this and take the girls virginity, and for doing so the servants are paid ... The vagina of the daughters is sorcered and poisoned, that it is dangerous to sleep with a daughter for the first time, but later on it is not dangerous at all” (Paris, BNF Rés O² f 13 [2] ed. Strasbourg 1484 [in German] by Otto von Diemerigen, cf. Bremer and Ridder, 1991: 362).

Although this example shows clearly the typical superstition of hymeneal blood fear con-



Fig. 2. Picture of ritual defloration in the travel book of Mandeville, ed. 1484, book 4, chapter 7, fol. 8v.

nected to the defloration of a girl, it is not representative of the majority of the ethnographic evidence because the defloration is performed by a “poor servant.” Most examples from India and South American involve chiefs and priests performing that service on brides or young girls. One good example of the custom executed by chiefs stems from Hawaii: “With many of the families, who were admitted to the royal court because of blood relationship, the virginity of the daughters was strictly guarded and when a girl became of a marriageable age and was spoken for as a wife, she was taken to the chief who would remove her virginity ‘Na ke ali’i e moe mua’ (For the chief to sleep with her for the first time). After that she was free to be married. Should an offspring result from this union with the chief, the husband would be proud of and make much of that child because the baby was the offspring of his ‘Ali’i’” (Craighill Handy and Kawena Pukui, 1972). In India, Brahmins often are described as having performed this ritual. Hamilton (1727: 308), for example, writes in his “A New Account of the East Indies”: “when the Zamorin marries, he must not cohabit with his bride till the Nambudri, or chief priest, has enjoyed her, and he, if he pleases, may have three nights of her company, because the first fruits of her nuptials must be an holy oblation to the god she worships. And some of the nobles are so complaisant as to allow the clergy the same tribute, but the common people cannot have that compliment paid to them, but are forced to supply the priests’ places themselves” (cf. Mandelslo, 1727: 166, 267; Thurston and Rangachari, 1909: 326; Westermarck, 1921: 171–172.)

Although reliable information about sexual customs generally is difficult to obtain, the independent reported instances from travel accounts and different ethnographers seem to indicate that the custom prevailed in several cultures. Today it is extinct. There are no ethnographic accounts for recent tribes or cultures; Gough (1955: 45) reports that the tali-rite, which is related to ritual defloration, died out around 1935 in southern India [Malabar Coast]. (For further reports on ritual defloration, see Ploss and Bartels, 1908: 402–406; 1927, Vol. 1: 762, 765; Vol. 2: 43, 140; Briffault, 1927, Vol. 1: 708, Vol. 3: 216 ff; 1929: 44–45; Crawley, 1927: 65 ff; Goodland, 1931: 686 (Index: Defloration, Ritual); Lodge, 1941: 95, n. 1; Gordon, 1946: 21–27; Gordon, 1950; Scott, 1953: 143–145; Thompson, 1955: 360–361 [T161/F547.1.1.]; Jameson, 1950: 564; Hammel, 1968: 33–34; Cazeneuve, 1957: 127–128; Yalman, 1963: 25–58; Pollak-Eltz, 1967: 259; Marcireau, 1971: 109 ff; Reminick, 1976: 751–763; Ross, 1994; Wettlaufer, 1999: 313–321; cf. an interesting Japanese work on the subject: Nikaido, 1989 [Chin. transl.]).

The different findings concerning the use of the *jus primae noctis* in literature, European history, and non-European cultures can be summarized as follows:

- In Eurasian literature, the right of the first night is the privilege of a powerful man to have the first sexual intercourse with the bride of another. This archaic theme was perpetuated through the Middle Ages and probably became connected to marriage fines because of the particularities and traditions of Germanic marriage customs for unfree people.
- For the late medieval European period, we can speak of the right of the first night as a widespread popular belief in an ancient privilege of the lord of the manor to share a bed with the bride on her wedding night. In some places, symbolic gestures reflecting this belief were developed by the lords and used as a sign of superiority over the dependent peasants in a time of diminishing status differences.

- For other non-European cultures, we should speak of “ritual defloration” rather than a “right of the first night.” This custom was part of the preparation of girls for the wedding night and first sexual intercourse with their bridegrooms, and often was connected to transition rites at or before puberty. In most of these cultures, the ritual was performed by a chief or priest, or manually by the girl’s mother.

4. An evolutionary psychological interpretation of the *jus primae noctis* and ritual defloration

Taking into account the historical and ethnographic evidence about *jus primae noctis* and ritual defloration, one may ask whether these customs had any historical impact on the mating and/or reproductive success of dominant males. The data collected so far on the late medieval *jus primae noctis* suggest that there was no direct effect, because the popular belief in this “right” expressed itself in symbolic gestures rather than in actual sexual intercourse. This is not to say that medieval lords never exploited their high status for sexual advantages. Certainly, the lords of the early and high Middle Ages frequently used their power to attain more matings through polygyny and slavery (Karras, 1994: 16–29; Betzig, 1995; Obermeier, 1996: 132–141; Wettlaufer, 1999: 106, note 138). However, such abuse of power is not related to the literary theme of *jus primae noctis*. Going back further into the past, we have no reliable sources of information about the actual occurrence and significance of the custom. Although available data do not permit one to “count babies” (cf. Crawford, 1993: 183–186; Symons, 1992: 137–159), one can nevertheless try to trace the “adaptive” origin of the literary theme *jus primae noctis* in European culture and estimate the importance of the symbolic gestures connected to this belief as a male power display. Moreover, we can compare the European *jus primae noctis* to the custom of ritual defloration in other cultures in light of our knowledge about adaptive behavior and evolutionary psychology, and look for the mechanisms that gave rise to these similar customs in very different societies.

Power display behavior in primate groups is very important for the achievement and maintenance of status (de Waal, 1990: 188–190). In “Chimpanzee Politics,” de Waal writes, “When I am observing the Arnhem chimpanzees I sometimes feel I am studying Freud’s primal horde; as if a time machine has taken me back to prehistoric times, so that I can observe the village life of our ancestors. They still accept the droit du seigneur, one of the forgotten products of western culture. When Yeroen was the alpha male, he alone was responsible for about three-quarters of all matings. Not counting sexual intercourse with young females (who arouse less rivalry), his share was almost 100%. Sex was his monopoly in the group” (de Waal, 1990: 167–168).

Whatever one may think of de Waal’s anthropomorphism, this passage illustrates the valid point that status is a crucial determinant of the reproductive prospects of primate males who live in groups with intrasexual competition. High status generally allows these alpha males more matings and therefore can help to increase reproductive success (Cowlshaw and Dunbar, 1991; Ellis, 1995). The display of dominance and related behavior therefore is directly adaptive (cf. Eibl-Eibesfeldt, 1992: 384). Moreover, the correlation between status and mating/reproductive success holds true for modern industrial societies, although the association with reproductive success is stronger in traditional societies (Pérusse, 1993; cf. Vining,

1986; Carey, 1993: 289; Irons, 1996; Betzig, 1997: 7–9). In this respect it is not astonishing that demonstration of rank and status is very common in human societies and can be found in various forms all over the world (Eibl-Eibesfeldt, 1986: 385–408).

The relation between status and mating/reproductive success mentioned earlier is institutionalized in human societies through the prevalence of polygyny of high-status persons in many cultures (Fox, 1986: 22–23; Betzig, 1986: 85–86). It also is visible in physiological adaptations. One important principle of primate mating systems is an association between sexual size dimorphism and the breeding system: in primates (as in ungulates and pinnipeds), the male-female size difference increases as harem size increases (Alexander, 1979). Human sexual size dimorphism indicates that human males are adapted to intrasexual aggressive competition and a mild degree of polygyny. Moreover, the ratio of testis weight to body size is associated with the prevalence of polyandrous mating by females and attendant sperm competition, and the human testis/body size ratio suggests that human males also are adapted to this form of male-male competition (Harcourt et al., 1981). The implication is that human evolution has entailed both overt and covert intrasexual competition among men. This chronic state of competition is responsible for the arbitrary use of power that leads to the widespread cross-cultural relationship between despotism and differential reproduction (Betzig, 1982, 1986, 1992a, 1992b, 1992c).

In this context, the literary theme of the *jus primae noctis* seems to be a metaphorical description of the relationship between status and mating success. Certainly the idea is a very human one, because it depends on the human abilities of language and symbolic reproduction of power. A man who claims to possess the *jus primae noctis* demonstrates his power through a privileged access to young women who are about to marry and to enter the reproductive phase of their lives. In this perspective, the historical evidence of the right of the first night can be seen in a different light than that cast by traditional interpretations. The sexual threat used by some lords, for example in Switzerland and Catalonia, was a symbolic demonstration of power, a male power display like that of many other male primates. Although there is no direct link between *jus primae noctis* and increased reproductive success, I propose that there was a strong indirect link: by means of this symbolic act, the lords tried to maintain their lordship or status and to continue to control the resources that were a prerequisite for their higher reproductive prospects. In this respect, the theme of the despotism of the first night in literature may reflect a very old Eurasian insight into the relationship between power and sexuality. In the European Renaissance, the theme aroused widespread interest and stimulated male sexual fantasies through the following centuries.

In the case of ritual defloration, our interpretation has to be different. Although customs differed among cultures, ritual defloration appears to be linked very closely to puberty and initiation rituals. A widespread proximate explanation for the prevalence of high-status persons carrying out the “duty” of ritual defloration is that they are of a particular strength and therefore have a stronger protection against the dangers of hymeneal blood (cf. Hertz, 1897: 115–163; Bishop, 1996: 22–23). From an ultimate point of view, one may wonder if these taboos and rituals were not invented by the religious leaders or chiefs themselves to provide them with a privilege of sexual access to young girls. But, in any case, the function of these rituals within the society seems to be very distinct from the Eurasian idea of *jus primae noctis* and does not, in my opinion, warrant a direct parallel interpretation.

Nevertheless, the evidence from both customs points to a cross-culturally shared psychological adaptation in men, to invent and to maintain cultural rules about privileged sexual access to women. In the case of ritual defloration, this aspect seems to be integrated into a larger framework of taboo and superstition, but the rule still is visible. Taking into account these adaptations, we can better understand why men of high status would be the ones to perform both the *jus primae noctis* and the defloration rituals.

Both customs are examples of rituals that show how adaptive psychological mechanisms from our primate heritage, such as seeking and maintaining status via power display and physiological adaptations to polygamous competition, can influence recent human culture and history (see Thornhill, 1992: 222; Tooby and Cosmides, 1989: 29–79). This suggests, in a more general sense, that cultural knowledge about social relations may be based to a considerable extent on insights (generally unconscious) into these adaptations.

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