The Hierarchy of Estates in Land and Naboth’s Vineyard

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Abstract

According to 1 Kgs 21:1–16, following Naboth’s refusal to sell Ahab his vineyard, Jezebel arranged for the execution of Naboth on false charges, paving the way for Ahab to take possession of Naboth’s land. Commentators have long puzzled over the legal basis of this land transaction. Some posit that Ahab was a distant relative of Naboth entitled to redeem ancestral property following Naboth’s death, others that Ahab held the royal right to seize land at will. The narrative, however, supports neither reading. I propose that Ahab’s acquisition of Naboth’s vineyard is better understood in light of anthropologist Max Gluckman’s work on the hierarchy of estates in land. I trace the relevance of Gluckman’s thesis to several ancient Near Eastern land transaction texts and to 1 Kgs 21:1–16. Naboth was publicly shown to have failed in his duty to honor those with administrative rights in land. He thus forfeited his rights to that land and his vineyard reverted to the king.
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According to 1 Kgs 21:1–16, king Ahab of Israel offered to purchase the vineyard of Naboth the Jezreelite, who refused to sell it. Ahab’s wife Jezebel arranged for the execution of Naboth on false charges, paving the way for Ahab to take possession of Naboth’s land.1 An alternative tradition in 2 Kgs 9:25–26 stresses Naboth’s bloody murder in connection with other narrative themes, as noted below. First Kings 21:1–16, however, emphasizes land. The story describes in vivid terms Naboth’s refusal to dispose of his property by placing in his mouth the protestation, “Yahweh forbid that I should sell the inheritance of my ancestors to you!” But scholars have struggled to understand the story’s assumptions about land rights, leading to proposals that contradict the narrative logic of the episode. I suggest that the portrayal of royal and non-royal power over land in 1 Kgs 21:1–16 is best understood within the framework of what anthropologist Max Gluckman termed the “hierarchy of estates” in land.2 According to Gluckman, more than one individual or group at different levels in a tribally-based society can hold different kinds of rights in the same piece of land. At every level of the hierarchy, rights entail and are contingent upon responsibilities. These themes are borne out in the textual evidence for ancient Near Eastern land rights and they help to clarify the conflict over land described in 1 Kgs 21:1–16.

Such a proposal has interpretive advantages over approaches to 1 Kgs 21:1–16 that do not adequately account for the legal and anthropological basis of land rights assumed by the narrative. Several commentators, for example, have analyzed the story in light of the warning against royal power in 1 Sam 8:14, “He will seize your choice fields, vineyards, and olive groves, and give them to his courtiers.”3 Such power over land is in turn understood

3. Martin Rehm, Das zweite Buch der Könige: ein Kommentar (Würzburg: Echter Verlag, 1982), 209; Carey Walsh, The Fruit of the Vine: Viticulture in Ancient Israel (HSM 60; Winona Lake, IN: Eisenbrauns, 2000),

Ancient Near Eastern royal power over land, however, has been exaggerated in some contexts. Even a king as wealthy and powerful as the Egyptian pharaoh Akhenaten found it necessary in his so-called “Earlier Proclamation,” to declare that the land on which he had founded a temple and administrative center for his god the Aten had not previously been owned by god nor king, nor had it been used for cultivation. Rather, the land had been found by him, “widowed.” Whether or not one is inclined to believe his claims here, his language suggests that royal power over land in the ancient Near East was not absolute but required diplomacy and negotiation.

Auxiliary power in Kgs 21:1–16 is likewise limited. The portrayal of Ahab’s sulking rests on the assumption that Naboth’s refusal cannot be trumped by monarchic right (v.4). Such an interpretive approach, then, does not fit the narrative logic of the episode.

Yet scholars who acknowledge the text’s assumptions about the limitations of royal power over land, face a further interpretive problem: on what legal basis should the property of Naboth come into Ahab’s possession after Naboth’s death? One solution has been to posit that Ahab was a distant relative of Naboth, from the tribe of Issachar and perhaps even from...
Jezreel itself. As a distant relative of the deceased Ahab would have been entitled to redeem the land. In fact, this suggestion was already made in the Talmud (b. Sanh. 48b; t. Sanh 4.6). But there is nothing in the text to indicate such a relationship. In fact, the rhetorical force of Naboth's appeal to his ancestors rests on the assumption that he and Ahab do not share the same lineage. A second solution has been to suggest that a very specific legal charge was brought against Naboth during the mock trial: he had agreed to sell the land to Ahab under oath but had subsequently rescinded the offer. The proposal has a certain explanatory power, but goes far beyond the available evidence. The narrator lists the charge simply as “blessing,” i.e., cursing, God and king. In the narrative logic of the episode, the substance of the charge is less important than the parties involved. Problems therefore remain in understanding the portrayal of royal and non-royal power over land in 1 Kgs 21:1–16. These difficulties are resolved, I propose, by a more careful consideration of the hierarchy of estates in land outlined by Max Gluckman.

A Story about Land

While the date of composition of 1 Kgs 21:1–16 and the redactional history of the surrounding narrative remain debated, it is clear that the text emphasizes land as it develops the tradition about Naboth's death. Two explanations of Naboth's death are preserved in

the Book of Kings. According to one of these traditions, 2 Kgs 9:25–26, Jehu justified his sacrilegious disposal of the body of king Joram, son of Ahab, by citing a prophetic word that he had overheard, “I swear, as surely as I saw the blood of Naboth and the blood of his sons last night—utterance of Yahweh—I will requite you in this plot (נחל), according to Yahweh’s word” (v.26) The brief mention here of Naboth, blood, and a plot of land is cryptic. The events alluded to remain unclear. The verse shares common themes with the events surrounding Naboth’s vineyard in 1 Kgs 21:1–16. However, there are significant differences between the two texts, suggesting that they represent two separate accounts.

According to 1 Kgs 21, Naboth owned a “vineyard,” (כרם), ownership of that vineyard was the focus of his dispute with Ahab, the crime related to Naboth and his fathers, and his
execution was public. On the other hand, 2 Kgs 9:25–26 mentions only a plot of ground belonging to Naboth (נחלתו שדה נבות), that plot served merely as the location for the bloody crime committed by Ahab—note the use of the deictic, “this plot”—and was not the focus of the dispute itself, the crime was against Naboth and his sons, and his murder took place during the secrecy of night. Although they share similar themes, then, 2 Kgs 9:25–26 reflects an alternative Naboth tradition to that found in 1 Kgs 21:1–16. The logic of 2 Kgs 9:25–26 is that of the lex talionis, an eye for an eye, in which punishment matched crime. This Naboth tradition assumes that Naboth and his sons had been murdered by Ahab but no motive is given for the crime, merely its stark reality. It was the blood of Naboth that required vengeance, not his land. First Kings 21:1–16, contains a different Naboth tradition that emphasizes instead the vineyard, Naboth’s ancestral inheritance. In other words, 1 Kgs 21:1–16 developed the tradition about Naboth’s death at the hands of Ahab in a particular direction, one that emphasized conflict over land. The importance of land in the episode is signaled from the start by the introduction of the vineyard before any of the characters.\(^{14}\)

The conflict over land is sharply painted.\(^{15}\) For Ahab, the vineyard is purchasable. Naboth, however, regards the offer to purchase his land as an insult. His oath vehemently expresses his indignation, “Yahweh forbid that I should sell the inheritance of my fathers to you!” His refusal to sell the land is not based on purchase price, nor personal dislike for Ahab, nor the fact that he would no longer be able to make a living from the land—Ahab, according to the narrative, offers a fair price and replacement land with greater agricultural potential.\(^ {16}\) Naboth’s objection lies not in such trivial matters but in the fact that the land

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was not merely a vineyard but his ancestral inheritance. In fact, as noted by Yair Zakovitch, the narrative has hinted in this direction from the outset with its redundancy: “a vineyard belonging to Naboth the Jezreelite at Jezreel.” The double reference to Jezreel is the first clue that Naboth’s property holds special significance for him, being located at his ancestral town. Ahab’s recounting of the incident to Jezebel is telling. According to the narrative, Ahab reports to Jezebel that Naboth refused him with the words, “I will not sell my vineyard to you.” But the the narrative has just indicated twice that Naboth refused him with the words, “my ancestral inheritance.” The characters, in other words, do not conceive of the land in the same terms, and their opposing perspectives on the land’s significance are at the center of the dramatic tension here.

Hierarchy of Estates in Land

The land conflict in 1 Kgs 21:1–16 is best understood against the background of the hierarchy of estates in land. In his famous study of legal concepts among the Lozi of Zambia, anthropologist Max Gluckman developed a theoretical model for understanding land rights in any tribally-based society. Early Western observers in Africa had drawn a sharp distinction between private and communal ownership of land and had concluded that land rights among African tribal groups were held communally. Building on the work of Bronislaw Malinowski into concepts of ownership among the indigenous population of the Trobriand Islands, Gluckman abandoned the analytical distinction between private and communal ownership of property. Instead, he emphasized the extent to which individuals

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18. Albrecht Alt had regarded the confrontation between Ahab and Naboth as founded on a misunderstanding: Ahab incorrectly assumed that the vineyard was part of Naboth’s private property rather than his ancestral inheritance (“Der Anteil des Koenigtums an der sozialen Entwicklung in den Reichen Israel und Juda” in Kleine Schriften zur Geschichte des Volkes Israel (3 vols; Munich: C. H. Beck, 1953–1959), 3:357 n1. Cf. the discussion of Alt’s treatment of this text in Bendor, Social Structure, 138.


20. The contrast is observed also in Rofé, “Vineyard of Naboth,” 91. Compare the elegant observations in Zakovitch, “Naboth’s Vineyard,” 384–92, esp. 388. Zakovitch goes one step further, suggesting that Naboth’s name is play on “my ancestral inheritance,” (Naboth’s Vineyard,” 387).


and groups at different levels in a tribally-based society held different kinds of rights in the same piece of land. In developing a taxonomy for such rights, he distinguished between estates of production and estates of administration. Among the Lozi, the king held the right to distribute large swaths of land to local leaders. However, the king's rights to such land are best understood as territoriality or sovereignty, rather than private ownership. His access to land for private use—what traditionally might be termed ownership—was restricted. Local elites had the right to assign plots of land to individual households, who had the right to cultivate the land and establish their households on it.

Relevant to our study of land rights in 1 Kgs 21:1–16 is Gluckman's further observation that rights entailed and were contingent upon responsibilities. Local households had the responsibility to render, depending on context, obedience, respect, support, or tribute to local elites and to the king. Failure to do so jeopardized their rights to land. Those with administrative rights were responsible for guaranteeing all members of the tribe access to land and for defending the rights of local households against trespassers. If leaders failed in such duties, the basis of their status became suspect and they became susceptible to replacement or overthrow. Although the king held administrative rights, he could not simply seize land in use by a local landholder. Rather, the land would only revert back up the hierarchy of estates with good reason, such as the death of a household head with no heir or failure of the household to fulfill the social obligations due superiors. For Gluckman, then, the nature of an individual's rights to land reflect social and political status within society. Rights are mediated through relationships, including the public performance of such relationships. Gluckman's thesis has been refined in various ways, yet his central observations on the hierarchy of estates in land has remained influential and it sheds light on land rights as portrayed in several texts from the ancient Near East and in 1 Kgs 21:1–16.

23. Gluckman points out that Robert H. Lowie had long argued that the distinction between private and communal ownership was a false one (Primitive Society [New York: Bonnie and Liveright, 1920], 210).

24. In refining Gluckman's thesis, Caroline Humphrey has usefully applied aspects of his approach to demonstrate the functioning of individual rights in Soviet collective farms, despite the rhetoric of communism (Marx Went Away—But Karl Stayed Behind [Updated edition of Karl Marx Collective: Economy, Society and Religion in a Siberian Collective Farm; Ann Arbor: The University of Michigan Press, 1998], 118–39). Parker Shipton has noted the extent to which rights to land among the Luo of East Africa vary with the agricultural and household life cycles—land used exclusively by an individual household during the growing season may be opened up at other times of the year for grazing by other households and family members may exploit the land in different ways depending on their age (Mortgaging the
Given the extent to which ancient Israel shared a common legal culture with its ancient Mediterranean neighbors, I wish to briefly demonstrate the relevance of Gluckman’s work to understanding the ancient Near Eastern evidence before returning to an analysis of 1 Kgs 21:1–16. A full exposition of systems of land tenure in the ancient Near East lies well beyond my goals here—the nature of land exploitation, whether by dry farming or irrigation, the extent of a military class who might have been rewarded with land, and the nature of the relationships between the royal administration, the temple, and social structures based on assumed kinship all played some role with respect to the nature of land rights. A few examples, however, illustrate the relevance of Gluckman’s model to widely
varying situations. I.M. Diakonoff showed that the earliest Mesopotamian land sale documents contain the names of relatives of the seller not merely as witnesses to the transaction but as recipients of payment.27 The seller, in other words, held one kind of right in the land while the seller’s relatives held another. Both received monetary compensation upon the sale of land, acknowledging their different rights. The parade example is the Obelisk of Maništušu, second king of the Akkad Dynasty founded by Sargon, which records his purchase of several fields. Ignace J. Gelb demonstrated that the ninety-eight sellers in the document far outnumbered the fields sold, suggesting that several individuals held rights in each parcel of land.28 Moreover, Gelb traced kinship lineages among the sellers and clarified the distinction between those “lords of the field,” who received the price, additional payments, and gifts, other “lords of the field,” who received the price and additional payment, but not gifts, and “brother-lords of the field,” who received nothing but were evidently named because their approval was required for the transaction. In Gluckman’s terms, the text witnesses to a hierarchy of estates in the fields being sold: while the primary seller had the right to use the land, an extended social group had administrative rights in the land and also required, some cases, compensation.

As a second example, consider a text from Late Bronze Age Emar that records the disposal of a building after the death of its heirless owner (RE 7).29 In place of the customary name of the seller, the text lists five “brothers,” with four different patronymics. Evidently, the term “brothers” here refers not to biological siblings of the deceased but to an extended social group who took responsibility for the building after the death of their kinsman, its former owner. They received payment for the building from the purchaser and list

29. For text and translation see Beckman, Texts from the Vicinity of Emar, 11–13.
themselves as legally liable should a future claimant appear. The text stipulates clear procedures should relatives of the deceased later make a claim against the building. The document addresses an unusual situation, bringing to the fore aspects of the land tenure system. It acknowledges different kinds of rights held by several individuals: the deceased, his “brothers,” the purchaser, and unknown relatives of the deceased. In Gluckman’s terms, on the death of a landowner with no heir the property reverted back up the hierarchy of estates and his “brothers” assumed the administrative right to dispose of the property.

Finally, to take an example more proximate to ancient Israel, Michael Heltzer has traced the relationship between rural land ownership and the royal administration at Ugarit. Two texts speak of ownership of land by a village, even of lands adjacent to another village (RS 16.170, RS 17.123). These texts include a judgment rendered by the Hittite overlord settling a dispute between the king of Ugarit and the king of Siyyounu over the lands surrounding one of these villages. The language of the text shows that the village—presumably represented by its tribal elders—local kings, and the Hittite suzerain all possessed various estates of administration in the same piece of land, though that land apparently continued to be used by local landholders. Raymond Westbrook, drawing especially on the work of G. Boyer, has highlighted the king’s role in certain private land transactions from Ugarit (e.g., RS 15.119). These suggest that in certain situations the king may have played some role in guaranteeing the permanent transfer of property, without being directly involved as buyer or seller—in Gluckman’s terms, the king’s rights of administration are evidenced here. The details of the system in any particular location and time period do not concern me here, but simply the observation that individuals and groups at various levels of society could hold different kinds of rights in the same land, as Gluckman’s work suggests.

31. Cf. RS 16.276, according to which Niqmadu, king of Ugarit, gave the village of Ulhnapu to Kar-Kushu and Apapa, daughter of the king, along with its tithe. The text exempts Kar-Kushu from claims by the temple of Baal and its priests. On village tithes, cf. RS 10.044, which evidently records tithes of barley from several villages.
Particularly relevant to an analysis of 1 Kgs 21:1–16, is the application of Gluckman’s thesis to administrative confiscation of land in the ancient Near East. In a forthcoming work, Daniel Oden traces the possibility of royal or sacerdotal land confiscation in the ancient Near East, arguing that monarchies and temples could not simply seize land that belonged to private landholders. In the several texts Oden discusses, he finds in each case a reason for the retroversion of land to the crown. For example, a text from Emar, RE 16, describes Bulâlu’s purchase of ancestral property once owned by Amur-ša. Although the property sold adjoined Amur-ša’s and had been owned by him, the sale proper was conducted by “Ninurta and the elders of Emar,” who received payment for the land. The text is at pains to establish the legality of the transaction and so notes that the temple had assumed rights to the land because Amur-ša had committed, “a serious offense against his lord and the city of Emar.” The presence of this line in the text suggests that the elders and temple could not simply seize land at will but needed to justify such seizure. As suggested by Gluckman’s work, land could only revert back up the administrative hierarchy with good cause. The nature of Amur-ša’s offense is not specified, being immaterial. Its importance lies in the fact that it was against, “his lord and the city of Emar.” In failing to fulfill the social obligations due superiors, upon which his right to land depended, Amur-ša forfeited that right and a portion of his estate reverted to those who held administrative rights in the land. This retroversion of land up the hierarchy of estates because of failure to fulfill social obligations is also reflected in several other texts from Emar (RE 34, Emar 144, Emar 197), as well as texts from Ekalte (Ekalte 2), Alalakh (AT 17), Ugarit (RS 16.249), Assur (Middle Assyrian Laws B ii 22–26), and Babylon (contract from the reign of

34. For the text and its translation, see Beckman, Texts from the Vicinity of Emar, 29–30.
40. PRU III, 96–98.
41. Martha Roth, Law Collections from Mesopotamia and Asia Minor (2nd ed.; Atlanta: Scholars Press, 1997), 176.
Nebuchadnezzar II\textsuperscript{42}). In all of these texts, the mention of an offense committed by the landowner serves to establish the legal basis of the seizure. The offense is sometimes against the city, represented by its elders, sometimes against the deity, or sometimes against the monarch. The precise nature of the offense is not important and as such need not be specified. What the situations represented in these texts share in common is failure of the landowner to fulfill obligations due a social superior. The texts thus demonstrate the widespread ancient Near Eastern legal principle according to which land could revert up the hierarchy of estates with good cause.\textsuperscript{43}

### Ahab’s Acquisition of Naboth’s Land

Biblical texts concerning power over land and 1 Kings 21:1–16 in particular may be understood profitably against this broader background of ancient Near Eastern land rights as illumined by Max Gluckman’s work.\textsuperscript{44} Although Ahab as king may have enjoyed administrative rights in land akin to sovereignty or territoriality, he had no right to seize Naboth’s land at will. As such, he sought to entice Naboth into selling it by offering a generous price or land with greater agricultural potential. Naboth, however, had an


\textsuperscript{44} Cf. Ben-Barak, “Confiscation of Lands,” 101–17; Raymond Westbrook, “Law in Kings,” in \textit{The Books of Kings: Sources, Composition, Historiography} (ed. André Lemaire and Baruch Halpern; ass. ed. Matthew J. Adams; VTSup 129; Leiden: Brill, 2010), 455. Gluckman’s model sheds light on several biblical texts. The narrative of Abraham’s purchase of Macpelah, for example, clearly distinguishes between estates of use and estates of administration. Although the story assumes that Abraham already knew which cave he desired to purchase, and which individual owned the cave, he approached the “Hittites” (הנדים) rather than Ephron and asked them to speak to Ephron on his behalf (Gen 23:8). While Ephron held rights of use in the land, it was only the “Hittites”—presumably, the text refers here to tribal elders—who held the administrative right to distribute the land to a foreigner. On this narrative see Brichto, “Kin, Cult, Land, and Afterlife,” 9–10; Westbrook, \textit{Property and the Family}, 27–34; [title of article on Gen 23 by author redacted for peer-review process]. The biblical right of redemption may also be understood in this sense—an individual household head held rights of use in the land while his nearest male relatives held the right of redemption in the same land (e.g., Lev 25:8–23; Jer 32:6–15; Ruth 2:20; 3:12–13; 4:1–9). On the ancient Near Eastern background of the year of release legislation in Lev 25, see Moshe Weinfeld, \textit{Social Justice in Ancient Israel and in the Ancient Near East} (Jerusalem: Magnes Press, 1991), 175–78. On the nature of the Jubilee legislation, see also Westbrook, \textit{Property and the Family}, 36–57; On the idealism of the Jubilee and its embodiment of themes from the Priestly system of thought, see Robert S. Kawashima, “The Jubilee Year and the Return of Cosmic Purity,” \textit{CBQ} 65 (2003): 370–89.
emotional attachment to the land and refused to sell. Ahab’s sulking following Naboth’s refusal to sell confirms that, in the narrative world of the text, he had no power to size Naboth’s land.

His wife Jezebel, understanding the political complexity of the situation, was prepared to exercise another kind of power, one with a particular strategic basis. According to the narrative, she followed an oddly circular route to secure Naboth’s death. Narratives about kings in Samuel–Kings suggest that Naboth’s death could have been arranged by the intervention of one of the military commanders of Ahab’s retinue—this may even be the situation assumed in the alternative tradition, 2 Kgs 9:21–26. But, as the evidence I have outlined above shows, Naboth’s death in itself was insufficient grounds for royal seizure of his land. Upon his death, his land would normally have passed to his children or to other relatives. The text therefore specifies that Jezebel arranged for a particular kind of death for Naboth. She wrote letters in the king’s name to the elders of Naboth’s town, Jezreel, and instructed them to charge Naboth with failure to fulfill his social obligation of respect to king and God. The trial took place in a public assembly. False witnesses accused Naboth of reviling king and god, and the complicit elders convicted him and arranged for his execution. The question of possible heirs who might inherit his vineyard are thus immaterial to the narrative in 1 Kgs 21:1–16. Naboth’s rights to the land entailed and were contingent upon social obligations. His conviction publicly demonstrated his failure to fulfill those obligations and ensured the reversion of his land up the hierarchy of estates. The same legal principle underlies David’s seizure of Mephiboseth’s land following his treason in 2 Sam.

47. See related comments in Westbrook’s critique of Rofé (“Law in Kings,” 450).
49. On the relationship between monarchic and local juridical authority in 1 Kgs 21, see Whitelam, Just King, 178–79; Baruch Halpern, The Constitution of the Monarchy in Israel (HSM 25; Atlanta: Scholars Press, 1981), 187–216, esp. 200; Westbrook, “Law in Kings,” 453. Note also Rofé’s hypothesis that Jezebel proclaimed a fast in order to suggest that a time of crisis was at hand, when sinners needed to be exposed and dealt with—cf. Achan in Josh 7, Jonah in Jonah 1, and Samuel’s judging of the people at Mizpah in 1 Sam 7:6 (“Vineyard of Naboth,” 92). On the occasion of the fast separating Naboth from the community, see Whitelam, Just King, 178–79.
Ahab was thus free to take private possession of the vineyard. The narrative logic of the episode thus coheres nicely with an understanding of ancient Near Eastern land rights that is informed by Max Gluckman’s work.

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