

The Land Rights of Women in Deuteronomy

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Land Rights of Women in Deuteronomy continues work in my recently published *Social World of Deuteronomy: a new feminist commentary*.¹ Women are pivotal in determining the status of elite males, not only because they bear their heirs, but also because they endow them with land use rights.²

¹ Don C. Benjamin, *The Social World of Deuteronomy: A New Feminist Commentary* (Eugene OR: Wipf & Stock, 2015).

² The status of men and women in Enlightenment cultures today has little to do with the land they own or their children. The existentialist philosophies of Soren Kierkegaard (1813-1855), Friedrich Nietzsche (1844-1900), Jean-Paul Sartre (1905-1980), and Albert Camus (1913-1960) created cultures of individual independence and the importance of self-reliance. Today, even men and women with land and children believe that they must define their own status without relying on their land rights and their children to do it for them. For Roland T. Boer, *The Sacred Economy of Ancient Israel* (Louisville KY: Westminster John Knox, 2015) 48 legal instructions in the Bible reflect an ...*imaginary resolution of a real contradiction*. They describe, not an existing social world, but the world which elite males want to create. Therefore, reading legal instructions against the grain reveals the real social world of women which elite males are trying to change. Most studies of Deuteronomy listen primarily to its

My thesis here is that although elite males designated heirs to their land use rights, to exercise these rights heirs were required to marry women whom YHWH and their tribes or states recognized as holding legal title to those rights.³

Recently, Steve Wiggins invited me to edit the *Oxford University Press Handbook of Deuteronomy*. The handbook contains thirty-some 7000-word chapters by scholars from Europe and the Americas. This article models the format for that handbook explaining who began the conversation, what is the status of the conversation, and what is trending in the conversation.

PART ONE

Who Began the Conversation?

LAND RIGHTS IN EARLY HUMAN COMMUNITIES

In *Discourse on the Origin and Basis of Inequality Among Men* (1754)

Jean-Jacques Rousseau (1712-1778) argued that early humans possessed a natural goodness uncorrupted by competition for land. Early humans used land, but they did not own it.

powerful male voices. Here feminist criticism operates within the larger concerns of liberation theology, and listen not only to the voices of daughters, mothers, wives, and widows, but also to the voices of children, the ill, the disabled, liminal people, slaves, prisoners, outsiders, livestock, and nature about whom male voices are speaking. Using parallel traditions from the world of the Bible as well as archaeology and anthropology helps to better understand and appreciate not only how elite males portray the powerless, but also more about the daily lives of the poor themselves.

³ *Ratum* or *ratified* and *consummatum* or *consummated* in Roman Law. <http://canonlawmadeeasy.com/2013/12/19/canon-law-and-consummating-a-marriage/> The *Treaty Clause* in the Constitution of the United States (Article II, Section 2, clause 2) establishes a similar two-step process. Presidents -- like fathers -- are responsible for negotiating treaties, but Senators -- like mothers of households -- are responsible for ratifying them.

LAND RIGHTS IN EARLY ISRAEL

In *Tribes of Yahweh: A Sociology of the Religion of Liberated Israel, 1250-1050 BCE* (1979) Norman K. Gottwald reconstructed the social world of early Israel (1200-1000 BCE) as an essentially egalitarian village culture like the communities envisioned by Rousseau and using a model borrowed from Karl Marx (1818-1883).⁴ *YHWH Alone* – a signature motif in Deuteronomy (Deut 4:1-40; 6:4-25) may affirm that only YHWH – and not the Hebrews -- has *ownership rights* to land in this Israel.⁵ The Hebrews, however, were not landless *pastoral nomads* as Julius Wellhausen (1844-1918) and W.R. Smith (1846-1894) argued.⁶ They were landed *transhumant* peoples as George E. Mendenhall (1916-2016) and Gottwald demonstrated.⁷ Hebrew farmers migrated into the hills north of Jerusalem with new technologies like iron tipped plows, slaked lime cisterns and terraced farm plots. Hebrew herders

⁴ Norman K. Gottwald, *The Tribes of Yahweh: A Sociology of the Religion of Liberated Israel 1250-1050 BC* (Maryknoll: Orbis, 1979). The most significant impact of Gottwald's work was to encourage the use of the social sciences to achieve a more accurate understanding and appreciations of ancient Israel and its biblical traditions. For Gottwald social scientific criticism visualized the Hebrews in all the dimensions of their lives and, not simply, in the religious and political dimensions which were the primary focus of scholars before him. He also had an impact on the interpretation of the Bible in and outside communities of faith.⁴ His work inspired literary, cultural, ideological, and feminist studies with liberation and political theologies, and made the Bible a resource for engagement with on-going social, political, and religious issues and conflicts in the 20th century.

⁵ Alternative interpretations of *YHWH Alone* consider it a Hebrews battle cry or an expression of Hebrew monotheism unique in the Near East. See: Don C. Benjamin, *The Social World of Deuteronomy: A New Feminist Commentary* (Eugene OR: Wipf & Stock, 2015)., 265

⁶ Julius Wellhausen et al., *Prolegomena to the History of Israel: With a Reprint of the Article "Israel" from the Encyclopaedia Britannica* (Edinburgh: A & C Black, 1885). William Robertson Smith, Stanley Arthur Cook and James Muilenberg, *Lectures on the Religion of the Semites: The Fundamental Institutions*, 3rd ed. (New York: KTAV, 1969 [1889]).

⁷ George E. Mendenhall, *The Tenth Generation: The Origins of the Biblical Tradition* (Baltimore: John Hopkins Univ Pr, 1973). Gottwald, *The Tribes of Yahweh: A Sociology of the Religion of Liberated Israel 1250-1050 BC*, 294

migrated to water for their animals during the dry season. Hebrew metalworkers migrated from iron ore quarries to villages where they found work.

The base community in transhumant cultures is the *household* (Hebrew: *beth* 'ab). Land is the foundation of their economy.⁸ These households created power-sharing or *allocative* structures to distribute and care for their land.⁹ The most common structure for power-sharing between households is the exogamous *clan*.¹⁰ To gain land rights, households negotiate marriage covenants only with households of other clans. These exogamous marriages were financially high-risk, high-yield investments.¹¹

The Hebrews, however, did not create exogamous clans, because YHWH endowed their households with enough land (Hebrew: *nahala*) to meet their needs in perpetuity. Instead they negotiated endogamous marriage covenants

⁸ *Household* better translates *beth* 'ab than *family* with its assumption today of kinship between individuals. Roland T. Boer, *The Sacred Economy of Ancient Israel* (Louisville KY: Westminster John Knox, 2015), 1-8.

⁹ *Ibid.*, 94-102

¹⁰ A clan is also called a *gens* or *sib*. See: Lewis Henry Morgan, *Consanguinity and Affinity of the Human Family* (District of Columbia: Smithsonian Institution, 1868). Just as kinship labels defined the authority delegated to members of households, kinship labels also defined the authority delegated to members of clans, but the labels were more sociological than biological. Hebrew clans were also teaching institutions. Human or animal ancestors defined the identity of clans by teaching them a unique strategy for survival. Biblical ancestor stories celebrate this identity which informs every aspect of a household's daily life. Endogamous marriages bring together households which tell the same stories, share the same world view, and carry out their chores in the same way. Households could identify their wells, springs, farms, orchards, pastures, cemeteries and sanctuaries and ancestor stories -- especially those with genealogies -- document their rights to those lands.

¹¹ When Moses arrives at a well in Midian marriageable women are drawing water (Exod 2:11-25). Some herders try to rape them to lay claim to their land use rights (Gen 16:16). Because Moses defends them, he is allowed to marry Zipporah, who gives Moses land rights for the herds of her household, and is a witness that he is *not guilty* of murdering the Egyptian overseer (Exod 11:4—12:51).

to preserve their lands.¹² The most common insider marriages were negotiated between the households of two covenant partners -- traditionally translated *brothers* -- who were not necessarily blood relatives. The bride and the groom were *cousins* by covenant (Gen 11:29; 24; 27:46–28:2). The risks were small and, in general, so were the yields.¹³

Nonetheless, some insider marriages were taboo: widowed mothers, fathers' wives, sisters, granddaughters, aunts, daughters-in-law, or sisters-in-law (Lev 18:6–18).¹⁴ Marriages with taboo women whose land use rights were already delegated to other members of the clan only challenged the land rights of other elite males.

Carol L. Meyers in *Rediscovering Eve: Ancient Israelite Women in Context* (2013) further explains the value of insider marriages:

The justification for prohibiting foreign wives in Exodus 34:16 is that it will prevent the worship of foreign gods. This religious reason should be understood in broader terms, with foreign religion standing for the cultural patterns of another people. Endogamous marriages — in which wives shared the same cultures as their husbands — perhaps better served community needs. Such brides would be well versed in the ...social customs and technologies necessary for household life, an important consideration in the precarious environment of the farming communities of the biblical period. Thus, marrying an Israelite

¹² Harold C. Forshey, *The Hebrew Root NHL and its Semitic Cognates* (Cambridge MA: Harvard University, 1973).; Gerhard von Rad, "The Promised Land and Yahweh's Land in the Hexateuch," in *The Problem of the Hexateuch and Other Essays*, ed. K.C. Hanson, trans. E.W.T. Dicken (Minneapolis: Fortress, 2005 {1943}).

¹³ Ethnographies often provide detailed descriptions of the role of the clan in determining who may marry whom, without explaining the role which the land rights of women play in these marriages. Marriages in traditional cultures are always more a matter of economics than romance. Clans permit and prohibit marriages to manage the distribution of the land rights of wives to their husbands.

¹⁴ For Boer, *The Sacred Economy of Ancient Israel*, 88-94, this rationale also prohibits sexual relations with female animals -- because instructions on bestiality appear in the same lists with teachings on taboo women.

woman was a likely strategy for survival, not an expression of cultural disdain.¹⁵

The tribe was another power-sharing structure which spread risks to land posed by natural or human disasters.¹⁶ The daughters of Zelophehad, for example, ask Moses to allow them to exercise their land rights independently in one tradition (Num 27: 1-11), and the households of their husbands and of their father ask Moses who should be the legal guardians of these women when they marry or when they die in another (Num 36: 1-13). Moses designates the tribe to resolve the first dispute; the village households to resolve the second.¹⁷ The dispute is not about whether women have land rights, but about safeguarding the land rights of households whether they are exercised by men or women.

¹⁵ For Carol L. Meyers, *Rediscovering Eve: Ancient Israelite Women in Context* (Oxford: Oxford University Press, 2013):....*none of the biblical statements against intermarriage (like Genesis 24:3 or Nehemiah 13:25-27) are absolute prohibitions; they are concerned only with marrying members of local populations. After all, several prominent biblical figures — both women (such as Bathsheba and Esther) and men (such as Moses, David, and Solomon) — have foreign spouses.*

¹⁶ For Gottwald, tribes are divided into *mishpahah*) – ...*a smaller unit than the tribe, but larger than a household* (Hebrew: *beth* ‘*ab*). The members of this *mishpahah* lived together in a village, clan or extended family. Gottwald translates *mishpahah* as ...*a protective association of extended families. This typological social-evolutionary assessment is, of course, not to be construed as a rigid description of an iron law of evolutionary stages through which every society must pass. The Hebrew words for tribe (Hebrew: shevet; matteh) mean mace – a symbol of its military authority to protect land rights from outsiders, or a staff symbolizing its legal authority to resolve land disputes between insiders.* Gottwald, *The Tribes of Yahweh: A Sociology of the Religion of Liberated Israel 1250-1050 BC*, 265-267

¹⁷ Gottwald suggests that originally the fathers of the households of the village had jurisdiction in both cases. Theoretically, fathers could not transfer land to outsiders until they adopted these outsiders into their households as insiders. Covenants in the *Mari Archives* describe the process for adoptions (Akkadian: *tuppi mārūti, tuppi ahatuti*). Practically, not all covenants transferring land from insiders to outsiders describe the adoption of the outsiders to make them eligible to inherit the land. The *Stories of David’s Successor* (2 Sam 9:1--20:26+1 Kgs 1:1—11:43) describe David buying land from the household of Araunah, but Araunah does not adopt David as his heir (2 Sam 24:18-25). Similarly, Solomon gives Hiram, ruler of Tyre, the Hebrew villages in the Carmel Mountains without adopting him (1 Kgs 9:10-14).

Similarly, in a *Trial of Absalom* (2 Sam 13:1—14:33), David hears a dispute between two unmarried brothers or two married brothers without heirs. The ...*wise woman* (2 Kgs 14:2) is their mother – or a prophet advocating for the land rights of their mother just as Nathan in a *Trial of David* (2 Sam 10:1—12:31) advocates for the land rights – coded as *a little ewe sheep* – of the widow Bathsheba.¹⁸

LAND RIGHTS AS A COVENANT BLESSING

Gerhard von Rad (1901-1971) in *Problem of the Hexateuch* (1966) demonstrated the importance of land in the *Covenant between YHWH and Israel* (Deut 4:44—31:29).¹⁹ For him the Yahwist traditions (J) were based on land rights in an ancient profession of faith (Greek: *kerygma*).²⁰ When households pilgrimaged to the *maqom* sanctuary, they presented a sample of

¹⁸Ibid., 285-287. See also: Paula S. Hiebert, "'Whence Shall Help Come to Me?' the Biblical Widow," in *Gender and Difference in Ancient Israel*, ed. Peggy L. Day (Minneapolis: Fortress, 1989a), 125-141. Naomi Steinberg, "Romancing the Widow: The Economic Distinctions between the 'Almana, the 'Issa-'Almana and the 'Eset-Hammet," in *God's Word for our World*, eds. J. Harold Ellens and others (New York NY: Clark, 2004), 327-346. The trial assumes that the mother of their household has land rights, but cannot exercise them herself, nor – if both eligible heirs are dead – can a legal guardian father another heir with her. She is an *'eset-hammet* widow. Their husbands -- like Er, Onan (Gen 38), Elimelech, Mahlon and Chilion (Ruth 1) – either died before fathering heirs or the heirs themselves died (2 Kgs 14:1-24). *Instructions on Appointing Heirs* (Deut 21:15-17) teach fathers of households how to resolve such disputes. In the case before David, however, one litigant has killed the other, better translated ...*over the land* than ...*in the field* (Deut 21: 14:6). Therefore, the surviving heir is guilty of murder, and the principle of proportionality requires he be executed. One kills the other, and then, if his brother is executed for the crime will leave the mother a widow without support.

¹⁹Zafrira Ben-Barak, "Meribaal and the System of Land Grants in Ancient Israel," *Biblica* 62, no. 1 (1981, 1981), 73-91.; Geoffrey Robert Boyle, "Standing on the Brink of the Jordan: Eschatological Intention in Deuteronomy," *Concordia Theological Quarterly* 76, no. 1-2 (/1, 2012), 19-35.

²⁰Zakovitch, "My Father Was a Wandering Aramean' (Deuteronomy 26:5) Or 'Edom Served My Father?"; Steiner, "The 'Aramean' of Deuteronomy 26:5"; Daviau, Wevers and Weigl, eds., *The World of the Aramaeans*, 3 vols. Therefore . . . *my ancestors were starving in Aram west of the Euphrates River* (26:5 DCB) better translates their profession of faith than . . . *Jacob was a wandering Aramean* (NRSV) or . . . *Jacob was ready to perish* (KJV).

the produce of their land — prepared by women who held title to the use rights for that land — as a down payment on the honor they owed to YHWH, a father who delivered them from landless slavery, and a mother who fed them with the bounty of the land.²¹ Nonetheless, von Rad emphasized how difficult it was for the people of YHWH to pay the honor required to maintain their land rights. Consequently, the Yahwist traditions sentence the people of YHWH to forfeit their land to outsiders.²²

Walter Brueggemann in *The Land: Place as Gift, Promise, and Challenge in Biblical Faith* (1977) used the sociologies of Peter L. Berger in *The Sacred Canopy* (1967) and Lewis Mumford (1895-1990) in *The Condition of Man* (1944) to demonstrate that biblical theology should focus not on YHWH or on the people of YHWH, but on YHWH and the people of YHWH *in the land*.²³ He reconstructed a theology *en route from the desert to the land* developed in Genesis, Exodus, Leviticus, Numbers and Deuteronomy; a theology *in the land* in Samuel-Kings, Hosea and Jeremiah, and a theology *en route from Babylon*

²¹ For Gerhard von Rad, "The Problem of the Hexateuch," in *The Problem of the Hexateuch and Other Essays*, trans. E.E. Trueman Dicken (London: Oliver and Boyd., 1966). the Yahwist traditions reminded the Hebrews: that *...not only had the promise to give Israel the land of Canaan been fulfilled, but that subsequently God visibly continued his providential care for Israel. As father YHWH is divine patron of history, and as mother divine patron of nature.*

²² Although land is a major theme in the Yahwist traditions for von Rad, subsequent scholars were quick to point out that no Yahwist traditions about the settlement of the land are, in fact, preserved in the Bible.

²³ Walter Brueggemann, *The Land: Place as Gift, Promise, and Challenge to Biblical Faith* (Minneapolis: Fortress, 1977). Peter L. Berger, *The Sacred Canopy: Elements of a Sociological Theory of Religion* (New York: Random House, 1967).; Peter L. Berger, *Invitation to Sociology; a Humanistic Perspective* (Garden City NY: Doubleday, 1963).; Peter L. Berger and Thomas Luckmann, *the Social Construction of Reality: A Treatise in the Sociology of Knowledge* (New York City NY: Random House, 1966).; Lewis Mumford, *Technics and Civilization* (San Diego CA: Harcourt Brace, 1934).; Lewis Mumford, *The Condition of Man* (San Diego CA: Harcourt Brace, 1944).

back to the land developed in Leviticus, Isaiah, Jeremiah, Ezekiel and Ezra-Nehemiah.²⁴

Moshe Weinfeld (1925-2009) in *Deuteronomy and the Deuteronomic School* (1972) applied the assumptions of Rousseau to Deuteronomy. Because the *Deuteronomic Code* (Deut 11:31—25:19) contained instructions on interest free loans (Deut 23:19–20; 24:17–18), feeding travelers and widows (Deut 23:24–25; 24:19–22) and charitable giving (Deut 26:1–15), Weinfeld considered it a teaching tradition envisioning a society without competition for land -- parallel to the *Teachings of Amen-em-ope* in Egypt, the *Teachings of Ahiqar* in Mesopotamia, or the book of Proverbs in Israel.²⁵

PART TWO

What is the Status of the Conversation?

WOMEN ACQUIRE LAND USE RIGHTS IN THEIR DOWRIES

For Naomi Steinberg in *Romancing the Widow: The Economic Distinctions between the 'Almana, the 'Issa-'Almana and the 'Eset-Hammet* (2004):

...the preferred marriage pattern is between spouses descended from the same patrilineage, with the couple residing patrilocally, and both... bringing property to the conjugal fund on which the marriage is based.

²⁴ Curiously, neither von Rad nor Brueggemann addressed the theological justification for expelling the indigenous peoples of Syria-Palestine from their land, or why, only when the people of Judah had no land during their exile first from Israel, and later from Judah, did they produce some of the most significant theological traditions like the Torah and the *Deuteronomistic History*. Finally, neither investigated how land rights -- or the land rights of women -- in the social worlds where their theologies developed -- functioned.

²⁵ Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon Press, 1972). In this Deuteronomy women had no land rights, but, like other powerless members of households, should be treated humanely. Although in the Israel and Judah where Deuteronomy developed, there were land rights, Deuteronomy identifies those without land rights in this new world order as representatives of the visions of those first Hebrews to whom YHWH promised land.

A woman who brings property to the marriage... has rights in the marriage which make the marriage more difficult to dissolve, which guarantee her male offspring inheritance rights to their father's estate and which entitle her to be labeled a primary wife. The existence of a bridal dowry guarantees the woman economic rights that protect her against her husband's dissolution of the marriage, particularly when she has borne a male child to her husband.²⁶

Although elite males generally designated their own first born, natural, male children as heirs, they could also designate unmarried daughters (Num 27:1-11; 36:2-12; Josh 17:3-6) or males who were only their children by covenant (Gen 15:2).²⁷

Women received land rights as dowries (1 Kgs 9:16; Mic 1:14). The father of Achsah (Josh 15:18-19; Judg 1:13-15), Pharaoh (1 Kgs 9:16), Job and

²⁶ Naomi Steinberg, "Romancing the Widow: The Economic Distinctions between the 'Almana, the 'Issa-'Almana and the 'Eset-Hammet," in *God's Word for our World*, ed. J Harold Ellens and others (New York NY: Clark, 2004d)329-330.

²⁷ Cultures designate heirs either by birth order or by competence. The word *heir*, traditionally translated *first born son* (NRSV), better recognizes that not all heirs were designated by birth order. Technically, *first born son* is not so much a description of birth order as it is a title given to heirs, who may not even be sons, but also daughters, brothers or uncles (Num 27:1-11). References to designating women as heirs also appear in the *Code of Ur-Nammu and Shulgi* and the *Code of Lipit-Ishtar*. See also: Tamara Cohn Eskenazi, "Out from the Shadows : Biblical Women in the Postexilic Era," *Journal for the Study of the Old Testament*, no. 54 (06/01, 1992), 25-43.; Armin Lange, "Your Daughters do Not Give to their Sons and their Daughters do Not Take for Your Sons (Ezra 9,12). Teil 2, Intermarriage in Ezra 9-10 and in the Pre-Maccabean Dead Sea Scrolls," *Biblische Notizen*, no. 139 (01/01, 2008), 79-98.; Arthur J. Wolak, "Ezra's Radical Solution to Judean Assimilation," *Jewish Bible Quarterly* 40, no. 2 (04/01, 2012), 93-104.; A. P. Brown, "Point of View in the Book of Ezra," *Bibliotheca Sacra* 162, no. 647 (07/01, 2005), 310-330.; Tamara Cohn Eskenazi and Kent Harold Richards, eds., *Second Temple Studies, Vol 2 : Temple Community in the Persian Period* (Sheffield: Journal for the Study of the Old Testament, 1994).; Daniel Smith-Christopher, "The Mixed Marriage Crisis in Ezra 9-10 and Nehemiah 13 : A Study of the Sociology of Post-Exilic Judaeian Community," in *Second Temple Studies, Vol. 2: Temple Community in the Persian Period*, eds. Tamara Cohn Eskenazi and Kent Harold Richards (Sheffield: Journal for the Study of the Old Testament, 1994), 243-265.; Carol L. Meyers, *Rediscovering Eve: Ancient Israelite Women in Context* (Oxford: Oxford University Press, 2013), 200-201.

the father of Babatha -- whose legal documents were recovered by Yigal Yadin²⁸ -- all include land rights in the dowries of their daughters.²⁹ *Instructions on Female Prisoners* (Deut 21:10–14), for example, teach elite males how to conduct an irreversible ritual of initiation to change the status of female prisoners so that they can delegate the land use rights of their households of origin to the warriors who have taken them prisoner.³⁰ Similarly, *Instructions on Re-marriage* (Deut 24:1–4) teach elite males not to acquire land rights more than once from the same woman. Here the first husband divorced his wife for cause and therefore she forfeited her land use rights to him in perpetuity (1 Sam 12:5; 29:3–8; 2 Kgs 17:4). The second husband divorced the same woman without cause, and she received rights to his land as compensation. Her first husband may not re-marry her to acquire these rights as well.

²⁸ Magen Broshi, "Agriculture and Economy in Roman Palestine : Seven Notes on the Babatha Archive," *Israel Exploration Journal* 42, no. 3-4 (1992), 230-240. Jacobine G. Oudshoorn, *The Relationship between Roman and Local Law in the Babatha and Salome Komaise Archives: General Analysis and Three Case Studies on Law of Succession, Guardianship, and Marriage*, Vol. 69 (Leiden ; Boston: Brill, 2007).; Ranon Katzoff and David M. Schaps, *Law in the Documents of the Judaean Desert*, Vol. 96 (Leiden ; Boston: Brill, 2005). Yigael Yadin, *The Finds from the Bar Kokhba Period in the Cave of Letters* (Jerusalem: Israel Exploration Society, 1963).

²⁹ Fathers could also include moveable or liquid assets like slaves (Gen 24: 53-61; 29:24-29); clothes (Ezek 16:10-12) and jewelry (Prov 31:10-31) in their daughters' dowries.

³⁰ Generally, Deuteronomy teaches that marriage between insider males and outsider females threatens the social status of elite males. These instructions take exception. Even if the marriages are subsequently terminated, the women retain their land use rights. Raymond Westbrook and Bruce Wells, *Everyday Law in Biblical Israel: An Introduction* (Louisville: Westminster John Knox, 2009), 99.. Raymond Westbrook, "The Prohibition on Restoration of Marriage in Deuteronomy 24:1-4," in *Studies in Bible 1986*, ed. Sara Japhet (Jerusalem: Magnes, 1986), 387-405.; J. C. Laney, "Deuteronomy 24:1-4 and the Issue of Divorce," *Bibliotheca Sacra* 149, no. 593 (01/01, 1992), 3-15.; Anthony Garrett, "A New Understanding of the Divorce and Remarriage Legislation in Deuteronomy 24:1-4," *Jewish Bible Quarterly* 39, no. 4 (10/01, 2011), 245-250.

WOMEN DELEGATE THEIR LAND RIGHTS TO HUSBANDS, HEIRS OR GUARDIANS

When elite males died without heirs, their tribes appointed *legal guardians* (Hebrew: *yabam, go'el*; Lat: *levir*) – awkwardly translated *brothers in law* or *redeemers* -- to exercise the land rights of their widows.³¹ Some guardians only managed the land; others also fathered heirs with the widows.³²

Carolyn Pressler in *The View of Women found in the Deuteronomic Family Laws* (1993) demonstrates that few traditions describe these widows as *childless*, because their defining characteristic is that they were *without husbands, heirs or guardians*.³³ A function of *levirate marriage* is to limit the number of women exercising their land rights independently. Therefore, the primary intention of *Instructions on Widows* (Deut 25:5-10) is to provide them with elite males to whom to delegate their land rights.

The research of Steinberg on the sixty-some occurrences of the word *widow* demonstrated a clear connection between widows and land rights.³⁴

³¹ Tribes could not intervene in the internal affairs of households unless the father died, the household had no heir and the legal guardian lived in the same village (Gen 38:1-30; Lev 25:25-38; Deut 25:5-10; Jer 32:6-44).

³² *Hittite Laws* and *Middle Assyrian Laws* (A art 33) establish parallel, but not identical, instructions for legal guardians.

³³ Carolyn Pressler, *The View of Women found in the Deuteronomic Family Laws* (Berlin: De Gruyter, 1993)63-74; 340-341.

³⁴ Cheryl B. Anderson, *Women, Ideology and Violence: Critical Theory and the Construction of Gender in the Book of the Covenant and the Deuteronomic Law* (London: T&T Clark International, 2004).; Harold V. Bennett, *Injustice made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel* (Grand Rapids: Eerdmans, 2002).; Frank Charles Fensham, "Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature," *Journal of Near Eastern Studies* 21, no. 1 (1962), 129-139.; Frank S. Frick, "Widows in the Hebrew Bible : A Transactional Approach," in *Feminist Companion to Exodus and Deuteronomy*, ed. Athalaya Brenner (Sheffield: Sheffield Academic, 1994), 139-151.; Tikva Frymer-Kensky, *Reading the Women of the Bible: A New Interpretation of their Stories* (New York: Schocken, 2002).; Paula S. Hiebert, ""Whence Shall Help Come to Me?" the Biblical Widow," in *Gender and Difference in Ancient Israel*, ed. Peggy L. Day (Minneapolis: Fortress, 1989), 125-141.; Douglas A. Knight, *Law, Power, and Justice in Ancient Israel* (Louisville: Westminster

...the common denominator in understanding widowhood in biblical Israel revolved around the existence or absence of ancestral land. ...without the inheritance of landed property there is no rationale for a relative of the deceased to father a child for the widow. At the time such a child is born, rights to the patrimony of the deceased are vested in the infant heir.³⁵

Widows, orphans, outsiders and Levites are not related by their gender or by their poverty (Hebrew: *'ebyon*, *'ani*), but their lack of land rights. *'Iššâ-'almānâ* widows -- like a woman from Tekoa (2 Sam 14:5), a queen mother from Tyre (1 Kgs 7:14), the mother of Jeroboam (1 Kgs 11:26) and a woman from Zeraphath (1 Kgs 17:8-24) -- delegate their land rights to heirs who *honor* or support them with commissions. *'Almānâ* widows have no land rights and no one to support them (Deut 14:28-29; 24:19-21; 26:12-13).³⁶ *'Eset-hammet* widows have land rights, but no heirs, and therefore, like *almana* widows, no one to support them.³⁷

WOMEN EXERCISE THEIR LAND RIGHTS INDEPENDENTLY

John Knox, 2011); Norbert Lohfink, "Poverty in the Laws of the Ancient Near East and of the Bible," *Theological Studies* 52, no. 1 (1991), 34-50.; Mark Sneed, "Israelite Concern for the Alien, Orphan, and Widow : Altruism Or Ideology?" *Zeitschrift Für Die Alttestamentliche Wissenschaft* 111, no. 4 (01/01, 1999), 498-507.; Karel van der Toorn, "Torn between Vice and Virtue: Stereotypes of the Widow in Israel and Mesopotamia," in *Female Stereotypes in Religious Traditions*, eds. R. Kloppenborg and W.J. Hanegraaff (Leiden: E.J. Brill, 1995), 1-13.

³⁵ Naomi Steinberg, "Romancing the Widow: The Economic Distinctions between the *'Almana*, the *'Issa-'Almana* and the *'Eset-Hammet*," in *God's Word for our World*, ed. J Harold Ellens and others (New York NY: Clark, 2004c)331. Raymond Westbrook, *Property and the Family in Biblical Law* (Sheffield: JSOT Press, 1991a) 58-67.

³⁶ Zipporah G. Glass, "Land, Slave Labor and Law : Engaging Ancient Israel's Economy," *Journal for the Study of the Old Testament*, no. 91 (2000), 27-39.

³⁷ Paula S. Hiebert, "'Whence Shall Help Come to Me?' the Biblical Widow," in *Gender and Difference in Ancient Israel*, ed. Peggy L. Day (Minneapolis: Fortress, 1989a), 125-141. Their husbands -- like Er, Onan (Gen 38), Elimelech, Mahlon and Chilion (Ruth 1) -- died before fathering heirs.

Some women did not delegate their land rights.³⁸ For Paula S. Hiebert in *Whence Shall Help Come to Me? the Biblical Widow* (1989) widows in Mesopotamia could only exercise their rights independently on land included in their dowries.³⁹

Ulla Jeyes in *The Naditu Women of Sippar* (1983) demonstrates that they also exercised their land rights independently.⁴⁰ They could marry, but only after negotiating covenants with surrogate women to bear children for their husbands who could not designate any of these children as heirs to the land rights of their *naditu* wives.⁴¹

Bernard F. Batto in *Land Tenure and Women at Mari* (1980) demonstrated that elite women at Nuzi (Iraq) and Mari (Syria) held title to land both independently and with partners. Some partners were insiders, some outsiders; some were men, some women.

Within the private sector, evidence for women possessing property in their own name is scanty but not surprising ...[because] few documents from the private sector have been

³⁸ Although Steinberg considers *A Hymn to the Wise Woman* (Prov 31:10-31), an example of a woman exercising land rights independently, the protagonist is, more likely, not human, but divine. Nonetheless, this anthropomorphism may, in fact, be based on actual human female behavior of independent land ownership.

³⁹ Paula S. Hiebert, "'Whence Shall Help Come to Me?' the Biblical Widow," in *Gender and Difference in Ancient Israel*, ed. Peggy L. Day (Minneapolis: Fortress, 1989b), 125-141. Karel van der Toorn, "Torn between Vice and Virtue: Stereotypes of the Widow in Israel and Mesopotamia," in *Female Stereotypes in Religious Traditions*, eds. R Kloppenborg and W J Hanegraaff (Leiden: E.J. Brill, 1995), 1-13. J. H. Otwell, *And Sarah Laughed: The Status of Women in the Old Testament* (Philadelphia: Westminster, 1977).

⁴⁰ Ulla Jeyes, "The Naditu Women of Sippar," in *Images of Women in Antiquity* (Detroit, Mich: Wayne State Univ Pr, 1983), 260-272.

⁴¹ The *Elephantine Letters* also indicate that the wives of the soldiers from Judah stationed on the island could exercise their land rights independently. For Susan Ackerman, *Warrior, Dancer, Seductress, Queen: Women in Judges and Biblical Israel* (New York NY: Doubleday, 1998)236. the Bible uses the Hebrew word *pileges* for both *secondary wives* and for *concubines* who provided sexual pleasure for elite males, but had no legal status as wives. More likely, all *pileges* women were wives, but without land rights.

found at Mari. No contracts for the sale of land involving women have been preserved. However, there is no reason to believe women did not engage in such activities.... [One tablet (VIII 84)] contains the judgment of the governor in a case of litigation between the man Dada and the women Naratum. the resolution of the case is enlightening: Dada and Naratum were to divide their community of property (*bitilunu*), thus confirming the legal capacity of women to possess property....⁴²

PART THREE

What is Trending in the Conversation?

Some interpretations of the land rights of women in Deuteronomy trending now return to models proposed earlier; some challenge long standing traditions of interpretation.

DEUTERONOMY IS A STUDY OF THE LAW, NOT A CODE OF LAW

Bruce Wells in his on-going studies of Near Eastern trials, notes that transcripts do not cite precedents even when precedents clearly exist. He suggests that traditions like the *Code of Hammurabi* and Deuteronomy, long identified as *law codes*, do not pass laws to govern a society, but rather analyze, explain, and classify laws to inspire their audiences to be law-abiding. They parallel Mesopotamian studies of astronomy, mathematics, and medicine.⁴³

⁴² Bernard F. Batto, "Land Tenure and Women at Mari," *Journal of the Economic and Social History of the Orient* 23, no. 3 (1980), 210.

⁴³ Bruce Wells, "What is Biblical Law? a Look at Pentateuchal Rules and Near Eastern Practice," *Catholic Biblical Quarterly* 70, no. 2 (04/01, 2008), 223-243. Bruce Wells, "Sex, Lies, and Virginal Rape: The Slandered Bride and False Accusation in Deuteronomy," *Journal of Biblical Literature* 124, no. 1 (03/01, 2005), 41-72. See also NEH study by Wells on Neo-Babylonian trial law and procedure: <http://www.sju.edu/~bwells/nbtp/index>.

Similarly, Roland T. Boer in *The Sacred Economy of Ancient Israel* (2015) considers Israel a *sacred* or ideal *allocative* or subsistence *economy* which survived repeated exploitation by *extractive* or surplus economies of outsiders like the Assyrians, Babylonians and Persians and of insiders like the household of David. Deuteronomy proposes such a *sacred economy* as a way of life. These trends reprise both von Rad, who considered Deuteronomy to be *parenesis* or *preached law*, and Weinfeld for whom it was more the *Teachings of Moses*, than a code of law.

SENTENCES IN DEUTERONOMY ARE MAXIMUM, NOT MANDATORY

In *Sex, Lies, and Virginal Rape: The Slandered Bride and False Accusation in Deuteronomy* (2005) Wells -- building on the work of Raymond Westbrook (1946-2009) -- analyzes a trial transcript (UET 5) which records that, after 10 years without consummating their marriage, the man Enlil-issu and the woman Ama-sukkal filed for divorce. Enlil-issu indicted Ama-sukkal for misrepresenting her eligibility for marriage; she indicted Enlil-issu for slander. The assembly of women which hears the case finds Ama-sukkal not-guilty and sentence Enlil-issu to consummate his marriage. He accepts the verdict, but asks the women to mitigate his sentence to a fine and jail time. This transcript demonstrates that sentences in legal instructions like those in Deuteronomy are negotiable; they establish a maximum, not mandatory, sentences. Assemblies are expected to punish defendants appropriately, not to mechanically impose a single sentence.

ASSEMBLIES OF WOMEN DEAL WITH LAND RIGHTS

A long-standing explanation for an assembly of women, rather than men, hearing cases of slandered brides is that having men conduct physical examinations of defendants to determine if their hymens are intact would be inappropriate. Likewise, traditional interpretations consider women like Amasukkal indicted for losing their virginity to be guilty of sexual promiscuity, whereas the connotations of *virginity* and *adultery* may have more to do with land use rights, than with the sexual rights. Therefore, since women hold legal title to land use rights, they would render more informed judgements on disputes over land rights of women.

Women appear as plaintiffs and defendants in Deuteronomy (Deut 22:13–22; 25:5–10), but not on assemblies. In a *Story of Boaz as a Legal Guardian* (Ruth 4:1–22), however, when Boaz wants authorization as the primary legal guardian of Ruth (NRSV: *next of kin*), he goes to an assembly of men (Ruth 4:1–12). When Ruth wants the authorization of their child as heir of household of Elimelech, she goes to an assembly of women (Ruth 4:12–18). The issue is not who fathered the child, or who was the child's legal mother, but rather to delegate the land use rights of Naomi, rather than of Ruth, to the biological son of Ruth and Boaz.

HONOR IS A COMMISSION PAID TO PROTECT LAND USE RIGHTS

Another trend views the intention of the humanitarian instructions in Deuteronomy as neither to teach elite males compassion, nor to challenge the land rights of those elite males, but rather to safeguard them.

For Douglas A. Knight in *Law, Power, and Justice in Ancient Israel* (2011) humanitarian traditions teach elite males how to manipulate the landless. Promising them imminent, but never realized, relief allowed elite males to continue to oppress the landless without fearing revolt.⁴⁴

For Mark Sneed in *Israelite Concern for the Alien, Orphan, and Widow: altruism or ideology?* (1999) humanitarian traditions teach elite males to honor their ancestors who were landless by showing compassion to the landless widows, orphans, outsiders, travelers and Levites who represented them and who also represented YHWH.⁴⁵ Elite males generally delegated other elite males -- like Sennacherib delegated his *rabshakeh* (2 Kgs 18:27–37; Isa 36:12–20) -- to collect commissions from their clients. Curiously, YHWH delegates the landless to collect commissions.

For Ronald Simkins in *The Widow and Orphan in the Political Economy of Ancient Israel* (2014) humanitarian traditions reinforce social institutions which create privilege for those with land rights and suffering for those

⁴⁴ Knight, *Law, Power, and Justice in Ancient Israel*. Bennett, *Injustice made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel*

⁴⁵ Sneed, *Israelite Concern for the Alien, Orphan, and Widow : Altruism Or Ideology?*, 498-507. David J. A. Clines, *Interested Parties: The Ideology of Writers and Readers of the Hebrew Bible* (Sheffield Academic Pr, 1995).

without.⁴⁶ Their intention was not compassion, but social stability. Land use rights remained in effect only if clients *honored* their patrons.⁴⁷

Honoring both fathers and mothers (Deut 5:7-21) not only teaches elite males that they have two parents deserving of verbal courtesy, but also that they must pay commissions on their herds and harvests to both the men who designated them as heirs, and the women who delegated them to exercise their use rights (Deut 10:12—11:32; 16:18—17:13; 22:1–12;

⁴⁶ Ronald A. Simkins, "The Widow and Orphan in the Political Economy of Ancient Israel," *Journal of Religion & Society* 10 (2014). For Simkins, practicing compassion to change oppressive social structures is a later development in faith communities which have received and reinterpreted these biblical traditions. Today traditions concerning the powerless no longer function within the social world of ancient Israel but in the social worlds of Jews, Christians and Muslims who understand them as proclaiming the preferential option for the poor. So their divine patrons ...*execute justice for the orphan and widow* (Deut 10:18), and call on Jews, Christians and Muslims today to reform unjust social institutions that create economic disparity.

⁴⁷ The research of James W. Flanagan (1935-2015) reached similar conclusions. Flanagan published his social-scientific study of the *Stories of David's Rise to Power* in Samuel-Kings as *David's Social Drama: a hologram of Israel's early Iron Age* (1988) using *Arabia Unified: a portrait of Ibn Saud* (1980) by Mohammed Almana as an ethnography. He argued that the unification of Arabia by Muhammad bin Abdulaziz Al Saud (1910-1988) and the unification of the villages of early Israel by the household of David (1000-925 BCE) followed the same sociological pattern. Mohammed Almana, *Arabia Unified: A Portrait of Ibn Saud* (1980; Hutchinson Benham, 1980b). James W. Flanagan, *David's Social Drama: A Hologram of Israel's Early Iron Age* (Sheffield: Almond Pr, 1988c). Almana had studied in India where he learned English, and served the Saudi household as a translator of Najdi – a language of peoples in remote areas of Saudi Arabia. Jörg Matthias Determann, *Historiography in Saudi Arabia: Globalization and the State in the Middle East* (London: I.B. Taurus, 2013). For example, David sat at the gate and Ibn Saud sat in *majlis* to hear petitions from their people. Resolving random conflicts between households offers hope to all the powerless, and prevents any unified threat by them to the land rights of the powerful. The lottery serves much the same purpose in the USA, by randomly endowing the working poor with wealth so that they will continue to tolerate the income inequality which capitalism creates. A *majlis* (English: *places to sit*) today can be a space where households gather, a public waiting room, a national assembly (<http://www.majlis.gov.mv/en/>), a department of social services, a learning circle (French: *salon*) or a women's rights organization (<http://www.majlisarts.com/>). In separate *majlis* men and women discuss current events, receive guests, socialize, recite populist poetry (Arabic: *Nabati*) protesting social injustice, sing folk songs, solve problems, pay condolences and celebrate weddings. At a traditional *majlis* the floor is covered with carpets and cushions (Arabic: *misnads, takiyya*), and there is a coffee pot (Arabic: *dalah*).

24:6).⁴⁸ The motivation: ...so that your days may be long and that it may go well with you in the land that YHWH, your divine patron, is giving you (Deut 5:16) is not just a promise of long life in a new homeland, but a reminder that land use rights will be rescinded if commissions are not paid. This legal process may reflect the *Instructions on Terminating Heirs* (Deut 21:18-21) where *son* (NRSV) does not refer to a minor child, but to an adult heir.⁴⁹ *Gluttony and drunkenness* are adult behaviors. *Stubborn and rebellious* heirs put their divinely given and limited land resources at risk by their over-indulgence.⁵⁰ Mothers and fathers must take joint action to terminate heirs who do not honor them. Both are to have them arrested, arraigned for trial and then testify against them. Fathers must rescind their ratification of the delinquents as heirs, and mothers their confirmation.

Instructions on Trespassing (Deut 19:14) warn elite males not to enlarge their land illegally by moving boundary markers.⁵¹ Trespassing not only

⁴⁸ Anselm C. Hagedorn, "Guarding the Parents' Honour--Deuteronomy 21.18-21," *Journal for the Study of the Old Testament*, no. 88 (06/01, 2000), 101-121."

⁴⁹ Ahaz of Judah acknowledges his covenant with Tiglath-Pileser III of Assyria, by saying: *I am your slave and your son* (2 Kgs 16:7).

⁵⁰ Fathers and mothers can not initiate a cause of action on a whim, but only when their heirs fail to *honor* them (Deut 5:7-21), which means heirs are not paying a commission on their land. Fathers and mothers must first have delinquent heirs flogged. Similarly, the *Code of Hammurabi* (arts 168-169) requires fathers to arraign their heirs for one serious offense before they can terminate them.

⁵¹ Boundary stones in Mesopotamia were oval or pillar shaped monuments, some two feet high, on which were recorded the land grants by royal patrons to their clients. Some households deposited their boundary stones in a sanctuary of their divine patron. Genesis describes Abraham and Sarah marking the boundaries of their land with stone altars (Gen 11:27—12:8). The altars at Bethel, Ai and Hebron form the triangle of the original land grant made by YHWH to their household. Divine patrons of households stood guard to protect boundary stones from poachers — a responsibility which Job charges YHWH with failing to fulfill (Job 24:2). See also: Lajos Takács, "Idol Stones as Boundary Markers," *Acta Ethnographica Academiae Scientiarum Hungaricae* 32, no. 1-4 (01/01, 1983), 103-122. Helene Basu, "Muslim Shrines as Boundary Markers of a Cult Region : The Network of Sidi Saints in

poaches land, but also indicts YHWH for not providing enough land for a household.⁵²

Instructions on Tithing (Deut 14:22-29) teach elite males to honor outsiders, Levites, widows and orphans with 10% of their herds and harvests every third year; *Instructions on Foraging* (Deut 23:24-25) teach them to honor travelers who gather food from their fields;⁵³ *Instructions on Gleaning* (Deut 24:19-21)⁵⁴ to honor widows who harvest their grain. These elite males were not practicing charity; they were paying commissions on their land use rights to YHWH, the patron of travelers, widows, outsiders, Levites and orphans.⁵⁵

Western India," in *Pilgrimage* (New Delhi: Inter-India Pubns, 1995), 157-169. Avraham Faust, "Trade, Ideology, and Boundary Maintenance in Iron Age Israelite Society," in *A Holy People: Jewish and Christian Perspectives on Religious Communal Identity*, eds. Marcel Poorthuis and Joshua Schwartz (Leiden: Brill, 2006), 17-35. Jennifer Bradbury, "The Homs Cairn Survey, 1st June-13th July 2008," *Palestine Exploration Quarterly* 141, no. 1 (03/01, 2009), 67-71. Gerald Lankester Harding, "The Cairn of Sa'd," in *Archaeology in the Levant: Essays for Kathleen Kenyon*, eds. P. R. S. Moorey and Peter Parr (Warminster: Aris & Phillips, 1978), 242-249.

⁵² Similar instructions appear in the *Teachings of Amenemope* (7:11-19).

⁵³ The practice reminds fathers that they are not owners, but only stewards of land owned by YHWH, their divine patron. As in the instructions for gathering *manna* bread, travelers are to gather only what they need. They are not to collect the entire harvest (Exod 16:4-5).

⁵⁴ These instructions also teach fathers that their grain, olive and grape harvests are not wages for which they have worked, but gifts that YHWH has given. Fathers acknowledged these gifts by returning a gleaning from the landowner's share to YHWH.

⁵⁵ In the *Stories of Jacob, Leah and Rachel* (Gen 27:1-40) Isaac designates Esau as his heir and tells him to honor him by preparing a meal. Rebekah here is not a woman smitten by love for her youngest child, but a land manager who astutely delegates her rights to the more competent son. Therefore, she helps Jacob to honor Isaac more generously than Esau.

Although both Esau and Jacob fulfill their responsibilities to *honor* their father and mother, in a *Trial of Ahab and Jezebel* (1 Kgs 21:1-29), Naboth does not. Therefore, Jezebel indicts Naboth for failing to honor Ahab and her with produce from his land. Consequently, Naboth is executed and his land rights revert to her.

Households honored their mothers and fathers even when they had entered the afterlife by caring for the land where they are buried and by celebrating life-giving rituals like *kispum* meals at their graves. The living also channeled fathers and mothers to honor them by seeking their advice in the afterlife, as they had done during their lives on the human plane. Saul meets a shaman from Endor at the tomb of Samuel (1 Sam 28:3-25) for whom she prepares an exquisite *kispum* meal to seek his advice for Saul. *Instructions on Prophets* (Deut 18:9-22) teach that only Moses and a prophet like Moses can speak for YHWH. These instructions may not be outlawing honoring mothers and fathers who have died, but only trying to channel mothers

Finally, *Instructions on Terminating Legal Guardians* (Deut 25:1-10) teach widows to remove the sandals of guardians who fail to father a child with them, and then spit on them symbolizing *coitus interruptus*.⁵⁷ The ritual cursed guardians with the same infertility that they had imposed upon the widows by depriving them of heirs who would honor them with commissions.

YHWH, LEADERS, WOMEN AND MEN HOLD DIFFERENT RIGHTS TO THE SAME LAND

W.F. Leemans (1927-1989),⁵⁸ Maria deJong Ellis⁵⁹ and Batto⁶⁰ shared the assumption was that only one elite held rights to each tract of land. Now in *Hierarchy of Estates in Land and Naboth's Vineyard* (2014) Stephen C. Russell uses the research of Bronislaw Malinkowski (1884-1942) to argue that different elites have different rights to same land. In ancient Israel, for example, YHWH held *ownership rights* to all land. Tribal leaders and state rulers had

and fathers to manipulate YHWH into changing the land rights of households on the human plane (Lev 19:26—20:27).

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⁵⁷ The foot is a penis, the sandal a vagina (Exod 4:25, Isa 6:2; 7:20), saliva is sperm. See also: Maurice H. Farbridge, *Studies in Biblical and Semitic Symbolism* (New York: E P Dutton, 1923), 274. The foot is a penis, the sandal a vagina (Exod 4:25, Isa 6:2; 7:20).

⁵⁸ Leemans identified grants to households in Babylon (2000-1600 BCE) who worked the land to feed and protect their members (Akkadian: *A.SA UKU*); grants to soldiers in payment for their service to the state (Akkadian: *ilkum*), and grants to households who worked the land for the state (Akkadian: *ana biltim naddnum*).

⁵⁹ Maria deJong Ellis in *Agriculture and the State in Ancient Mesopotamia* (1976) identified only land owned and worked by the state (Akkadian: *biltum*) and land grants made to households (Akkadian: *ilkum*). Sometimes households worked their own land; sometimes state laborers (French: *corvee*) worked their land in return for one-half to two thirds of the produce. Some land grants to households were absolute. The state gave up its right to work the land or tax its produce. Such *in perpetuum* grants could be passed on by fathers to their heirs (Akkadian: *egal wussurum*). Some land grants to households were conditional (Akkadian: *egal naddnum*).

⁶⁰ Bernard F. Batto "Land Tenure and Women at Mari." *Journal of the Economic and Social History of the Orient* 23, no. 3 (1980): 209-239 identified grants to households, tribes, and to states who had rights to *palace fields* (Akkadian: *eqel ekallim*).

administrative rights to protect land from misuse. Women held *land use rights* which they could either delegate to elite males, or exercise independently.⁶¹

LAND RIGHTS OF WOMEN RATHER THAN SEXUAL CONDUCT OR FAITH PRACTICE OF WOMEN

In conclusion, social world studies like T.R. Lemos – using the work of Jack Goody (1919-2015) -- in *Marriage Gifts and Social Change in Ancient Palestine: 1200 BCE to 200 CE* (2010) further clarify the economic rights of women.⁶² Although her research does not always support the conclusions drawn here, Lemos clearly demonstrates that *bride wealth* – the investment made by the household of the groom in the household of the bride, and *dowry* – the investment made by the household of the bride in the household of the groom, were the single most significant social institutions in Syria-Palestine for the distribution of wealth. To understand the economy of ancient Israel, in any period, it is necessary to understand land rights of women.

Such studies require that future interpretations of Deuteronomy, and other traditions like Ezra-Nehemiah, place more emphasis on the economic rights of women. The results can be promising. For example, the divorce and

⁶¹ Some biblical traditions (1 Sam 26:19; 2 Sam 20:19; 21:3 and 14:16) use *nahala* as ...*the land given to a household by YHWH*. In many Semitic languages *nahala* refers only to the ancestral land of households. In biblical traditions *nahala* describes both the land use rights granted to the Hebrews by YHWH, as well as the Hebrews as the *people of YHWH* (Deut 2:4, 4:20; 9:26, 29; 1 Kgs 8:51, 53). In some biblical traditions (1 Sam 26:19; 2 Sam 20:19; 21:3 and 14:16) *nahala* refers only to the land of households; in other *nahala* refers to the land YHWH gives, and the people YHWH sets free (Deut 2:4, 4:20; 9:26, 29; 1 Kgs 8:51, 53). See also: Bronislaw Malinkowski, *Crime and Custom in Savage Society* (London: K. Paul, Trench, Trubner & Co, 1926).; Stephen C. Russell, "Abraham's Purchase of Ephron's Land in Anthropological Perspective," *Biblical Interpretation* 21, no. 2 (2013), 153-170.; Stephen C. Russell, "The Hierarchy of Estates in Land and Naboth's Vineyard," *Journal for the Study of the Old Testament (Online)* 38, no. 4 (/6, 2014), 453-469.

⁶² T. M. Lemos, *Marriage Gifts and Social Change in Ancient Palestine, 1200 BCE to 200 CE* (Cambridge: Cambridge University Press, 2010).

remarriage policies enacted in Israel and Judah by Assyria, Babylon and Persia may have stripped women, who were covenant partners of the households of Omri or of David, of their land rights.⁶³ To retain their use rights elite males needed to divorce them, and marry women who were covenant partners of Assyria, Babylon or Persia. The issue was not simply faith practice or racial purity, but the land rights of women.

⁶³ When Assyria conquered Israel in 721 B.C.E., fathers were required to divorce their wives whose households of origin were covenant partners of the royal households who had declared Israel's independence from Assyria, and marry women from households who were loyal covenant partners of Assyria. After the Babylonians conquered Judah in 586 B.C.E. they implemented similar reforms. They deported the fathers whose wives were covenant partners with the households of David (Hebrew: *golah*), and redistributed land to fathers whose wives were not (Hebrew: *'am ha'aretz*). Finally, when the Persians began repatriating the households of David from Babylon to the province of Yehud in 538 B.C.E.,⁶³ Ezra (9:1—10:44) and Nehemiah (13:23-13) annulled the marriages of fathers whose wives were not covenant partners with the households of David. See also: Willa Mathis Johnson in *The Holy Seed has been Defiled: The Interethnic Marriage Dilemma in Ezra 9-10* (2011) who offers a parallel, but not identical, interpretation. Johnson agrees that only women approved by the Persian Empire can delegate their husbands land use rights in Yehud. She, however, assumes that the controversial marriages in Ezra are between Persian women and men of Judah. These marriages were economically motivated and were a means by which men who returned from exile gained access to land in Judah. The Persian motive was security. The Persian got military service from the men.

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