Between Clan and King: The Episode of the Wise Woman of Tekoa Reconsidered (2 Sam 14:2–24)

Dylan R. Johnson

New York University

drj259@nyu.edu

Abstract

The brief episode of the wise woman from Tekoa (2 Sam 14:2-24) recounts a legal ruse that Joab and an unnamed Tekoaite woman present before David. The narrative plot plays on the authority of local and royal courts, leading some scholars to read this text as a description judicial authority transitioning from the local sphere to the center, as early Israel evolved from an acephalous tribal society to a nascent kingdom. In this study, I challenge the historical reliability of this narrative and the notion that expanded royal judicial authority undermined of local legal authority. Through a comparative approach to legal history, I propose that the biblical text presumes a judicial practice known as *subsidiarity*, whereby the royal judiciary only intervened when litigants deemed local custom insufficient.

Keywords

Hebrew Bible – woman of Tekoa – משפחה – biblical law – 2 Samuel – ancient Near Eastern law

Introduction

The judicial responsibility of ancient Near Eastern kings to the weakest members of society—typified by the orphan and the widow—stretches back to the earliest cuneiform legal

documents,[1] though this rhetorical tradition probably reaches even further back into prehistory.[2] According to this rhetoric, the gods gave these kings uncanny—even divine—wisdom in all legal matters,[3] allowing them to perceive and preserve the natural state of justice that maintained civilization and the cosmos. It is no surprise, therefore, to find the same rhetoric in the biblical narratives recounting David's many successes and failures as he and his progeny struggle to maintain control over the kingdoms of Israel and Judah. One such incident occurs towards the beginning of Absalom's rebellion, during Absalom's self-imposed exile at Geshur after he had killed his brother Amnon (2 Sam 13:38).[4] David's general Joab convinces a "wise woman" (אשה חכמה) from the town of Tekoa to petition the king with a legal case that serves as a thinly-veiled analogy to the current situation between David and his son Absalom—although this fact entirely escapes David himself.[5] The story of the Wise

[1] The earliest references to the king's legal responsibilities towards the orphan and the widow appear in the Presargonic inscriptions of UruKAgina, in his so-called reforms: "UruKAgina instituted their liberty, he cause this declaration to be sealed by Ningirsu, that he would not deliver the widow (nu-ma-kuš$_2$) and the orphan (nu-sig$_2$) to the rich man" (nu-sig$_2$ nu-ma-kuš$_2$ lu$_2$-a$_2$-tuk nu-na-ga$_2$-ga$_2$-a ^{d}nin-gir-su-da uru-KA-gi-na-ke$_4$ inim-bi ka-e-da-keš$_2$) (Ukg. 4 xii 23-28 [=Ukg. 5 xi 30-35]). See the translation in Jerold Cooper, *Sumerian and Akkadian Royal Inscriptions I: Presargonic Inscriptions* (New Haven, Connecticut : The American Oriental Society, 1986), 70-88. With the advent of the law code genre in the 2nd millennium BCE, the widow and the orphan again appear in the Laws of Ur-Namma (=LU) (A iv 162-164, C ii 30-32), whereas the Laws of Hammurabi **(**=LH) speak generically of the "weak/wronged person" (*ḫablum*) (Epilogue xlvii 59-78). Lineation for LU and LH follows Martha Roth, *Law Collections from Mesopotamia and Asia Minor*, 2nd ed., SBLWAW 6 (Atlanta, GA: Scholars Press, 1997). For further information on this motif, see F. Charles Fensham, "Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature," *JNES* 21 (1962): 129-39.

[2] Raymond Westbrook, "The Early History of Law: A Theoretical Essay," in *Ex Orient Lex: Near Eastern Influence on Ancient Greek and Roman Law*, eds. Deborah Lyons and Kurt Raaflaub (Baltimore: Johns Hopkins University Press, 2015), 227. Reprint from *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte (Romanistische Abteilung)* 127 (2010): 1-13.

[3] In his famous stele, Hammurabi claims: "I am Hammurabi king of justice, to whom Šamaš has gifted (insight into) justice" (*ḫa-am-mu-ra-pi$_2$* LUGAL *mi-ša-ri-im ša* ^{d}UTU *ki-na-tim iš-ru-uk-šum a-na-ku*) (LH Epilogue xlviii 95). After Solomon's famous judgment, the people declare that "the wisdom of god is in him to execute justice" (חכמת אלהים בקרבו לעשות משפט) (1 Kgs 3:28). In the text at the center of this study (2 Sam 14), the Tekoaite woman claims: "like a messenger of God, so is my lord the king to discern (lit. hear) good and evil" (כי כמלאך האלהים כן אדני המלך לשמע הטוב והרע) (v. 17), and later, "my lord is wise, like the wisdom of a messenger of God to know everything on earth" (אדני חכם כחכמת מלאך האלהים לדעת את כל אשר בארץ) (v. 20).

[4] On the historical significance of this locality, see Walter Dietrich, "David, Amnon und Abschalom (2 Sam 13): Literarische, textliche und historische Erwägungen zu den ambivalenten Beziehungen eines Vaters zu seinen Söhnen," *Textus* 23 (2007): 134-142.

[5] On the literary and sociological significance of the woman's "wisdom" (חכמה), see George G. Nicol, "The Wisdom of Joab and the Wise Woman of Tekoa" *Studia Theologica* 36 (1982): 97-104. However, see the

Woman of Tekoa belongs to what previous scholars have broadly called "juridical parables,"[6] though the content of this story shares specific themes and language with two narratives of women surreptitiously persuading David or Joab against particularly wicked actions: the wise woman of Abel Beth-Maacah (2 Sam 20) and the parable of Abigail (1 Sam 25). These texts pose perplexing questions for the study of biblical genre, but I will focus on the content of the episode of Wise Woman from Tekoa alone. In particular, I ask: what this text can tell historians about the relationships between local and royal spheres of judicial authority?

The case that Joab and the Tekoaite woman present to David is a literary mosaic that draws on the traditional stock of royal judicial rhetoric and legal scenarios known from biblical and Near Eastern law collections and cuneiform trial documents. The case is complex from a legal standpoint, touching on the issues of fratricide, death as the result of a fight, blood vengeance, and inheritance. The circumstances of the case are contradictory, leading both David and the reader to consider the tension between customary rules of law and true justice—something that plagues law courts today. Importantly, the case reaches David in the form of an appeal, as the woman's clan (משפחה) has already decided to execute her son. Thus, the woman asks David to reconsider legal custom and overturn the decision of her clan. Although this text serves a clear narrative function in the context of Absalom's rebellion, it nonetheless has a great deal to say about law, justice, and legal authority.

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ardent criticism of Nicol's interpretation in Claudia V. Camp, "The Wise Woman of 2 Samuel: A Role Model for Women in Early Israel?," *CBQ* 43 (1981): 14-29. See also Ehud Ben Zvi, "Memories of Female (and Male) Sages in Late Persian/Early Hellenistic Yehud: Considerations Informed by Social Memory and Current Cross- and Trans-Disciplinary Trends in the Study of Wisdom," forthcoming.

[6] Uriel Simon, "The Poor Man's Ewe-Lamb: An Example of a Juridical Parable," *Biblica* 48/2 (1967): 207-242; Larrry Lyke, *King David and the Wise Woman of Tekoa: The Resonance of Tradition in Parabolic Narrative*, eds. David J. A. Clines and Philip R. Davies, JSOTSupp 255 (Sheffield: Sheffield Academic Press, 1997).

The Widow's Plea: A Case of Excusable Fratricide?

Following Joab's instructions, the episode begins with the Tekoaite woman petitioning the king: "save me, Oh king!" (הושע המלך). She immediately identifies herself as a widow, invoking the king's judicial responsibility to this marginalized group, as it appears in royal ideology. Her anonymity further accentuates her typified feminine role as a widow, but her persuasive arguments shatters expectations of passivity—or perhaps reinforces expectations of her wisdom.[7] David has no choice but to hear her case. The woman explains that she had two sons who began to quarrel (נצה), and in the course of the fight one fatally struck the other because there was no one to separate them. Her clan arose in judgment and condemned her remaining son to death. In this brief description of events, the woman has included several important extenuating circumstances that immediately set this incident apart from a simple case of homicide, despite the clan's strict imposition of capital punishment.

First, the combatants are brothers, which has significant implications for the system of blood vengeance mentioned in v. 14. Who may fulfill the role of a *blood redeemer* is never explicitly defined in the Hebrew Bible, although priestly authors outlined an agnatic system for the redemption or inheritance of patrimonial property—brothers, uncles, cousins, or the nearest relative from the clan (משפחה) (Lev 25:48-49; Num 27:8-11). The obligation of the clan to exact vengeance and the right of the clan to lay claim to the patrimonial property of the

[7] Adele Reinhartz ("Anonymity and Character in the Books of Samuel," *Semeia* 63 (1993): 136-37.) asserted that the anonymity of the wise woman of Tekoa draws attention to her typified role as a widow, but it simultaneously presents them as unique, unusual, even atypical individuals. In contrast, Camp ("The Wise Women" 14) interpreted the Tekoaite woman and the wise woman of Able (2 Sam 20) as archetypes of a political role open to women in the premonarchic period. These stories preserve a memory of the institution of the "wise woman" that disappeared with the advent of the monarchy. While such an institution may well have existed in the local towns of Israel and Judah and inspired their use in these stories, Reinhartz' literary interpretation is preferable due to the sheer abundance of shared terms and expressions found in these two narratives.

widow—both defined through the institution of "redemption" (גאלה)—represent a conflict of interest in this case, as the widow herself alludes to (v. 7). Yet, it is not clear that this is a case of valid retributive justice. The institution of blood vengeance is described in the context of the Levitical cities of refuge in Num 35, Deut 19, and Josh 20.[8] All three agree that the system of blood vengeance is only applicable in cases of intentional homicide—if the killer acted without "intent" (בשגגה/בבל־דעת), they could flee to a city of refuge. By mentioning the fight, the widow implies that there was no such intent.

The context of a fight represents an extenuating factor that mitigates the severity of the punishment. The motif of fighting appears with relative frequency in Near Eastern legal collections, but in those corpora, fighting alone did not constitute a crime.[9] Rather, quarrels were contexts in which various types of offenses may occur, and the legal principle that made the fight a popular motif in Near Eastern law was the relationship between the context of violence and the intent of the perpetrator (*mens rea*).[10] In this way, the fight was the *locus classicus* for extenuating circumstances that impacted the sanctioning of certain offenses. The principle supposes that during a fight, the combatants exchange blows as well as injuries. These injuries are not the result of rational thought but are considered legally accidental. They may be subject to negligent fault, but not intentional injury or homicide—mitigating the

[8] The same issue appears in the Covenant Code (Ex 21:12-14), which allows for any killer who "did not lie in wait" (לא צדה) to flee to a "place" (מקום) where he or she may escape retributive justice—probably something like blood vengeance.

[9] See Jonathan R. Ziskind, "When Two Men Fight: Legal Implication of Brawling in the Ancient Near East," *Revue Internationale des droits de l'Antiquité* 44 (1997): 13-42.

[10] Parade examples within the Hebrew Bible for offences committed in the course of a fight include: injury requiring medical treatment (Ex 21:18-19; Deut 25:11); causing a woman to miscarry (Ex 21:22), and blasphemy (Lev 24:10-23). Crimes committed in the course of a fight also appear frequently in the Mesopotamian legal collections: LE §§47; LH §§206-208; MAL A §§8, 18-19; MAL N §§1-2; MAPD §§10-11, 21; HL §1-2. In the case of LH §§206-207, homicide between two members of the *awīlum*-class, committed in the course of a fight (*risbatim*), was sanctioned by a 30-shekel indemnity, equal to the sanction of the habitually goring ox in LH §251. Thus, the culpability of a man who kills another in a fight was equivalent to the criminal negligence of the owner of the habitually goring ox.

penalty imposed. While the examples provided here stem from the ancient Near East, the extenuating principle of the fight is an extremely wide-ranging motif in the history of criminal law.[11]

Thus, the woman from Tekoa has pled a convincing case to David. The clan that sought the death of the surviving son had a clear conflict of interest: at least one of their members stood to benefit financially from the death of the woman's son. Moreover, this case was not subject to blood redemption because the fight represented an extenuating circumstance that evinced the son's lack of intent. Thus, David overturns the death sentence. Previous analyses of this text understood it to describe the transition of judicial authority from the local sphere to the center, as early Israel evolved from an "acephalous tribal society" to a nascent kingdom.[12] Aside from the uncertainties associated with reading this text as a reliable historical account of early Israel and its judicature, I challenge the notion that expanded royal judicial authority should have precipitated the diminishment of local courts.

Local Judicial Authority: The Town, the Elders, the Clan

[11] For example, in Roman law a death resulting from a fight (*rixa*) was considered accidental and punished with a milder penalty. See Borger, *Dictionary of Roman Law*, 686. The 17th century Dutch jurist Johannes Voet, whose commentary on the Digest of Justinian remains a source of South African law today, understood the extenuating principle of the fight in the following way: "It is undoubtedly true that when words are uttered in the course of a common brawl or scolding-match (*in rixâ*) where words of abuse and opprobrium are bandied about it would be practically futile for either party to institute an action…in cases of reciprocal injuries the parties have counter-actions against each other…in effect the two claims would neutralize each other. J. Voet, *The Roman and Roman-Dutch Law of Injuries*, trans. Melius de Villiers (London: William Clowes & Sons, 1899), 218.

[12] E. Bellefontaine, "Customary Law and Chieftainship: Judicial Aspects of 2 Samuel 14:4-21," *JSOT* 38 (1987): 47-72. In her analysis of the blood feud, Pamela Barmash ("Blood Feud and State Control: Differing Legal Institutions for the Remedy of Homicide during the Second and First Millennium B.C.E*.", JNES* 63 (2004): 183-99.) argued that in Israel, the institution of blood feud to set limits on the exaction of personal justice, whereas in Mesopotamia, the state controlled such excesses. She explained the difference between the two cultures as that of the urban-based society of Mesopotamia versus the rural-based society of Israel. This characterizes both Israel and Mesopotamia in monolithic and vague terms; as this text illustrates, the boundaries between private and public justice were often blurred and the institution of blood vengeance does not represent the only—or even the primary—legal remedy to homicide in ancient Israel. See Francesco Cocco, *The Torah as a Place of Refuge: Biblical Criminal Law and the Book of Numbers* (Tübingen: Mohr Siebeck, 2016), 34.

In her plea to David, the Tekoaite woman recounts how "the whole clan had risen up against her" (קמה כל־המשפחה על־שפחתך) and condemned her son to death. By surveying the attestations of the term "clan" in legal contexts,[13] it is clear that it had an interest in patrimonial property and the institution of blood vengeance. There is, however, no evidence that the clan served as an adjudicative body; its actions here and elsewhere seem to represent their customary rights to private justice (i.e., blood vengeance). Therefore, this text does not describe the modification of a judicial system from local forms of legal remedy to a judicial bureaucracy of a centralized state or chiefdom. Instead, it describes the complex mosaic of ancient legal procedure, where private and public forms of justice occurred in local and royal courts.

Although the clan is not a local judicial body in this case, it is nonetheless connected to such institutions. The terms used to describe local authorities vary among the diverse literary traditions of the Hebrew Bible. For example, the Priestly traditions in Leviticus and Numbers that describe collective legal authorities before the foundation of the monarchies prefer the terms "heads of the patrimonial households" (ראשי בית אבות) or the "chiefs" (נשיאים). Outside of priestly texts, it was the town elders (זקני העיר) who performed the function of local judicial authorities, administering justice at the town gate. The town elders are particularly prevalent in Deuteronomy,[14] but their semi-formal judicial recurs throughout the Bible and stretches

[13] According to the (post[?])-priestly texts of Numbers, Joshua 13-21, and 1 Chr 6, the land of Canaan was allotted "according to the clans" (למשפחות) of the Israelite tribes, which establishes this social body as the key interest group in the ownership of real property. Contexts where the clan functions in a legal capacity include: the Sabbatical year laws (Lev 25:10), the agnatic rules of redemption (Lev 25:41-50), the agnatic rules of inheritance (Num 27:1-11; 36:1-12), and the beginning of the story of Ruth (Ruth 2:1-3). Although the legal rights of the clan almost certainly stretch far back into the pre-Israelite past, the system of land ownership and redemption centered on the clan belongs to a specific literary stratum, one with an interest in tribal boundaries.

[14] See Jeffrey Tigay, "The Role of the Elders in the Laws of Deuteronomy," in *A Common Cultural Heritage: Studies on Mesopotamia and the Biblical World in Honor of Barry L. Eichler* eds. Grant Frame, et al. (Bethesda, MD: CDL Press, 2011), 89-96.

back to much earlier cuneiform records, where the *šībūt āli*(*m*) appear frequently in the legal documentation.

The interaction between royal and local judicial authorities also occurs in the story of Naboth's vineyard (1 Kgs 21). In that narrative, Naboth the Jezreelite refuses Ahab's offer to purchase his vineyard, so Jezebel concocts a plan to falsely accuse Naboth of the crime of *lèse-majesté* (lit. "cursing God and king"), a heinous offense that would enable Ahab to execute Naboth and seize his property. Jezebel writes to the judicial authorities of Naboth's town—the "elders" (זקנים) and the "nobles" (הרים)—who enlist the help of two "worthless men" (בני־בליעל) to accuse Naboth. Naboth is convicted—presumably by the corrupt town officials—and executed outside of his city. Thus, even with an offense where the victim is the king himself, the local organs of justice possess the competence to try, convict, and execute the accused without any intervention by royal officials. If the town elders are able to adjudicate a case of *lèse-majesté* in this text,[15] by what right does the Tekoaite woman appeal to David? Is it simply by nature of her status as a widow that she can turn to the king? Even if it was futile, could Naboth have appealed to the king's mercy?

The King as Judge

The judicial prerogative of the Near Eastern king is abundantly evident in royal ideology, law collections, and practical legal documents. The divine wisdom of kings, which allows them to perceive justice, becomes a plot point in this story and other parables: the

[15] Tigay, "Role of the Elders," 94. A 15th century BCE text from Alalaḫ, AIT 17 (= ATmb 31.3), refers to the confiscation of property for the crime of *lèse-majesté*. For the most recent treatment of the text, see Christian Niedorf, *Die mittelbabylonischen Rechturkunden aus Alalaḫ (Schicht IV)*, AOAT 352 (Münster: Ugarit-Verlag, 2008), 248. Other biblical references to the crime of *lèse-majesté* include: Ex 22:27; Lev 24:10-23; Isa 8:21; and Job 2:9—though none mention that the penalty is the confiscation of property. Examples from cuneiform law include the Middle Assyrian Palace Decrees (=MAPD) §§10, 11, 17.

wisdom of David is "like the wisdom of a messenger of God to discern good and evil/know all things that are on the earth" (vv. 17, 20).[16] The Bible preserves some vestiges of royal judicial authority, such as the text currently under discussion, but this historical reality has become largely subsumed under the motif of Yahweh as king. Thus, there are only a handful of stories that describe the role of the king in the judicatures of Israel and Judah. In most cases, biblical texts use the legal rights of kings as a plot device to further a particular narrative or depict the nature of a particular character. Yet, biblical texts that explicitly address the judicial role of kings are equally problematic, as the ideological motivation of the scribes was not an objective description of the historical judicatures of Israel and Judah.

To illustrate this difficulty, it is pertinent to examine two biblical texts that describe the relationships between local and centralized forms of legal activity: Deut 16:18-17:13 and 2 Chr 19. Deuteronomy presents two judicial spheres: the local secular system that relies on witness testimony and competent legal experts (the שפטים and the שטרים), and the central sphere that has exclusive access to cultic or suprarational evidentiary procedure that the priesthood oversees. Yet, as Bernard Levinson has connivingly demonstrated, this perceived tension between local and central judicatures is a hermeneutical trope, and ultimately, an invention of Deuteronomy.[17] By denying the legitimacy of local cults—and the evidentiary

[16] The notion that the king possesses the wisdom of a lesser divine being is attested elsewhere (2 Sam 19:27). Nevertheless, this reference is reminiscent of the description of Solomon following his famous judgment, where "All Israel heard the judgment that the king rendered, and they stood in awe of the king, because they saw that the *wisdom of god* was in him to execute justice" (וישמעו כל ישראל את המשפט אשר שפט המלך ויראו מפני המלך כי ראו כי חכמת אלהים בקרבו לעשות משפט:) (1 Kgs 3:28). P. Kyle McCarter, Jr. (*II Samuel*, AB 9 Garden City, NY: Doubleday, 1984), 347.) rejects the idea that the royal ideology identified the king's superhuman wisdom, he sees this as "flattery not doctrine." Although this motif is a matter of perception (i.e., the author does not say that kings possess divine legal wisdom, characters perceive it), the author does not disabuse the reader of this idea.

[17] Bernard Levinson, *Deuteronomy and the Hermeneutics of Legal Innovation* (Oxford: Oxford University Press, 1997),131.

procedures tied to them—the authors of Deuteronomy had to create this stark contrast between local and central courts that had not existed before.

Similarly, the authors of 2 Chr 19 described King Jehoshaphat's appointment of judges (שפטים) in the fortified cities of Judah, whereas in Jerusalem he appointed Levites, priests, and heads of patrimonial households to adjudicate cases. The Chronicler goes one step further than the authors of Deuteronomy, placing "every case of Yahweh" (כל־דבר־יהוה) under the jurisdiction of the Chief Priest Amaraiah and "every case of the king" (כל־דבר־המלך) under the jurisdiction of Zebadaiah, the governor (הנגיד) of the king's household (v. 11).[18] The author of this text imagined a complex judicial hierarchy, perhaps one he or she was familiar with, but to what extent it accurately remembers the law courts of the monarchic period is highly questionable. The author fully accepts Deuteronomy's centralization as an historical reality, retrojecting it into the 9th century BCE. Yet, the Chronicler applies Deuteronomy's judicial reforms within the city of Jerusalem itself: imposing a separation between priestly and royal jurisdictions. Looking back to the narrative of Naboth's vineyard, also purported to take place in the 9th century BCE, there is no sign of the Chronicler's bureaucracy—though this story takes place in Israel rather than Judah. Although biblical narratives pose their own obstacles to reconstructing legal institutions and procedures, their primary motivations are not to recast power structures in idealized terms, as seen in the examples from Deuteronomy and Chronicles. For legal historians reading biblical narratives, authorial assumptions about how

[18] According to Georg Christian Macholz ("Zur Geschichte der Justizorganization in Juda," *ZAW* 84/3 (1972): 325-33), the distinction between the two types of cases appears to be based on evidentiary procedure: "cases of Yahweh" required suprarational investigation (the oath and the ordeal), whereas the cases of the king relied on statutory law () or witness testimony."

the law operated in ancient Israel and Judah are often far more useful than explicit statements about it.

Subsidiarity

The narrative of the Tekoaite woman relies on an implicit supposition about royal authority and its relationship to local forms of legal remedy, which it presents as a tension. This tension, as previous commentators have noted, is evident is David's atypical verdict:

1. David tells the woman to return home and he will render his verdict (v. 8).
2. Before departing, the woman informs David, "On me be the guilt, my lord O king, and on my father's house; let the king and his throne be guiltless" (v.9).
3. The king reassures the woman that he will enforce his decision, but the woman demands that the king swear an oath to prevent the blood redeemer from killing her son, which David obliges (vv. 10-11).
4. The woman then reveals the true purpose of the ruse (vv. 12-21): just as David has pardoned her son from unintentional fratricide, so too should he pardon his own son, Absalom.

The Tekoaite woman's remark in v. 9 has caused the most difficulty for commentators on this text. The traditional interpretation of this clause understands the woman's words as an assurance that her household, not David's, accepted any adverse consequences arising from the verdict.[19] Others have seen the woman's statement as an admission of guilt and a plea for

[19] See the summary in A. Schultz, *Das zweite Buch Samuel* EHAT 8/2 (Münster: Aschendorf, 1920); Peter A. Ackroyd, *The Second Book of Samuel* CBC (Cambridge: Cambridge University Press, 1977). Slightly nuancing this interpretation, August Klostermann (*Die Bücher Samuelis und der Könige ausgelegt* (Nördlingen: C. H. Beck, 1887), 424, n. 3.) claimed the woman was accepting legal responsibility for her son's crime. Others see the verse as a Deuteronomistic addition, designed to protect the House of David from incriminating itself in the analogous situation with Absalom. See R. Bickert, "Die List Joabs und der Sinneswandel Davids: Eine *dtr*

clemency.[20] Thus, David's decision would represent an example of an exclusive legal right of kings to annul a capital sentence: the royal prerogative of mercy.[21] The closest parallel to the woman's plea comes from the Parable of Abigail (1 Sam 25:24), when she tells David that the "guilt" (העון) is on her.[22] In that episode, however, the woman accepts responsibility for her husband's wrongdoing and pleads for David's forgiveness—she does not exonerate the king and his throne from guilt as seen in this case. These explanations fail to explain the central problem with this clause: what risk or responsibility did David and his throne assume in pardoning the woman's son?

Attempting to explain this question, previous scholars have understood the woman's remark in terms of "[David's] usurpation of the power of the local community."[23] To their minds, this usurpation goes hand-in-hand with David's abrogation of the customary rights of the blood redeemer. This interpretation examines this case and this clause in broad terms, perhaps too broad. David represents the emergence of a centralized state, whereas the clan represents the deteriorating authority of local officials. However, even with the highly

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bearbeitete Einschaltung in die Thronfolgeerzählung: 2 Sam. xiv 2-22," in *Studies in the Historical Books of the Old Testament*, ed. J. A. Emerton, VTSupp 30 (Leiden: Brill, 1979), 35; McCarter, *II Samuel*, 348. Chaim Gevaryahu ("The Return of the Exile to God's Estate in the Parable of the Wise Woman of Tekoa," *Beth Mikra* 36 (1969): 10-33. [Hebrew]) argued that the clause indicated David and his throne's responsibility to protect the surviving son. Yet, this does not explain why the woman would absolve David of this obligation, especially in light of the oath she asks him to swear in v. 11.

[20] Jacob Hoftijzer, "David and the Tekoaite Woman," *VT* 20/4 (1970): 424-26.

[21] Raymond Westbrook, "A Matter of Life and Death," in *Law from the Tigris to the Tiber: The Writings of Raymond Westbrook*, eds. Bruce Wells and F. Rachel Magdalene (Winona Lake, IN: Eisenbrauns, 2009) 2:251-64. Reprint from *JANES* 25 (1997): 61-70; Sophie Démare-Lafont ("Codification et subsidiarité dans les droits du Proche-Orient ancien," in *La codification des lois dans l'antiquité: Actes du colloque de Strasbourg 27-29 novembre 1997*, ed. Edmond Lévy, Travaux du Centre de recherche sur le Proche-Orient et la Grèce antiques 16 (Paris: Boccard, 2000), 52-3) identified the royal pardon (*le droit de grâce*) as an exclusive competence of the king that emanated from the divine source of his power. The king's exclusive authority over life and death was an exception to the rule of subsidiarity. However, Démare-Lafont noted that the king's authority only covered "non-familial crimes," which the case of the Tekoaite woman clearly represents. Therefore, the same dynamics that define other cases in the system of subsidiarity are at play in this text.

[22] Graeme Auld, *1 &2 Samuel*, OT Library (Louisville, KY: Westminster John Knox Press, 2011), 492; Georg Hentschel, "Die weise Frau von Tekoa (2 Sam 14,1-14)," *BZAW* 331 (2003): 71, n.38.

[23] Bellefontaine, "Customary Law and Chieftainship," 61.

centralized legal bureaucracy of the Old Babylonian kingdom, local judges, officials, and tribunals resolved the vast majority of legal conflicts.

In my opinion, the entire case, and the enigmatic remark of the Tekoaite woman to David, allude to a latent procedural principle known as subsidiarity. The term ***subsidiarity*** stems from the Canonical Law of the European Middle Ages and it describes the "withdrawal of the highest [judicial] level to the benefit of the local standard when the latter appears [sufficient] to solve a juridical question."[24] Thus, subsidiarity describes an approach that moves from the bottom-up, privileging the smaller, more immediate legal entity over the larger one. Moreover, subsidiarity places the individual at the center of the judicial process, rather than statutory law or local custom. For pragmatic reasons, local custom was the primary means of conflict resolution; but if individuals had the means to bring their case to provincial or royal courts, they could choose to do so. Thus, these courts were authoritative organs that individuals could turn to, but they were not obliged to do so. The legal flexibility available to individuals is abundantly clear in Near Eastern contract law, where the contracting parties routinely drafted stipulations that ignored or abrogated both statutory law (in legal cultures that possessed law collections) as well as customary law. The legal authority of the king was not necessarily in permanent effect in the ancient Near East, it had to be invoked.

Returning to the interpretive crux of v. 9, it is important to point out that the term עון can designate the crime committed, the legal responsibility for the crime, and the corresponding punishment for the crime. In this context, I believe the woman is referring to

[24] Démare-Lafont, "Codification et subsidiarité," 49. In his analysis of the overall picture of the royal judicature, Georg Christian Macholz ("Die Stellung des Königs in der israelitischen Gerichtsverfassung," *ZAW* 84/2 (1972): 164.) remarked that there was no biblical evidence for the universal jurisdictional competence of the king, but he could claim such authority when the local methods of conflict resolution (*Ortsgerichtsbarkeit*) were unavailable.

punishment for the crime. David has granted the woman's son mercy from capital punishment, but the son is still culpable for negligent homicide—as the parallel cuneiform laws demonstrated. This represents the woman's admission of guilt and acceptance of the sanction,[25] but to the lesser sentence that David—not the clan—will impose. The adjective נקי has a similar sematic range, designating innocence as well as exemption from punishment—similar but not synonymous meanings.[26] The woman is still trying to convince David to impose a lighter sentence, informing him that she and her household will bear any indemnity or sanction imposed and that the king and the throne is not liable to pay any indemnity to the clan. She is giving David options.

Conclusion

In conclusion, the case of the wise woman from Tekoa says a great deal about law and legal procedure in ancient Israel and Judah. However, it does not describe the encroachment of a centralized state on the traditional legal prerogatives of local authorities. Instead, it illustrates how the two legal spheres operated in tandem. The narrative serves as a redemptive moment for David, his innate, semi-divine wisdom allows him to differentiate between the letter of the law and true justice. Just as the clan had ignored extenuating circumstances in the woman's case, so too had David overlooked the justification of Absalom. The Tekoaite woman certainly fulfills the role of an אשה חכמה, invoking her right to the king's law in a system of legal subsidiarity, and successfully pleading her case.

[25] Therefore, I agree with part of Hoftijzer's conclusion ("David and the Tekoaite Woman," 426.).

[26] For example, in the famous example of the goring ox (Ex 21:28), the ox that has gored a man to death must be killed and its flesh not eaten, but its owner—having no prior knowledge about the legal risk the ox posed—was exempt from any sort of sanction (נקי).