

Course Reading

Frymer-Kensky, Tikva Simone. "Anatolia and the Levant: Israel." In *A History of Ancient Near Eastern Law*, edited by Raymond Westbrook, 975-1046 (selection: 1007-1019). Leiden: Brill, 2003.

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4.5.4.3 According to the Book of the Covenant, if a man sells his daughter as an *'amah*, she goes out if the master, acquiring another wife, does not provide her with her wifely allotment. But she does not go out as slaves do, after six years (Exod. 21:7). Deuteronomy calls for the parallel release of male or female Hebrew slaves (Deut. 15:12). The difference may be the disappearance of sale-marriage, in which the *'amah* would want a permanent arrangement.³⁹

4.5.4.4 A slave who entered into slavery single leaves single. If he entered as a married man, his wife goes out with him (Exod. 21:3). If the master gave him a wife and she gave birth to sons or daughters, the woman and the children belong to the master and the man goes out alone (Exod. 21:4). At the Jubilee, both a slave and his children go free (Lev. 25:40–42).

If the slave chooses not to go free because of love of his master or his children, he can become his permanent slave (*[wa]ʿabado leʿolam*) by undergoing a public ritual in which he stands before the door or doorposts “before God” (probably a divine symbol) and his master pierces his ears with an awl. (Exod. 21:5–6; Deut. 15:16). Deuteronomy, which restricts ritual to a central sanctuary, simply calls for piercing the ear into the door.

4.5.4.5 Leviticus calls for Hebrew slaves to go out at the Jubilee and return to their own families (Lev. 25:10). At that time, the slave and his children are also freed. The relationship of this release to the seventh year is not clear. It may be that slaves went out in the seventh year of their slavery, but if a Jubilee should arrive in the meantime, it would also release them.

4.5.4.6 Foreign slaves bought from the surrounding nations or from foreigners living in Israel do not go out: they are inherited as property (Lev. 25:44–46).

4.5.4.7 A slave goes free if the owner injures his eye or tooth and probably by extension, any loss of limb (Exod. 21:26–27).

³⁹ For female slaves, see most recently Turnham, “Male and Female Slaves . . .”; Carolyn Pressler, “Wives and Daughters . . .”; and Westbrook, “Female Slave.”

4.5.4.8 A slave could also be freed by running away. According to Deuteronomy, a runaway slave is not to be returned to its master. He should be sheltered if he wishes or allowed to go free, and he must not be taken advantage of (Deut. 23:16–17). This provision is strikingly different from the laws of slavery in the surrounding nations and is explained as due to Israel’s own history as slaves. It would have the effect of turning slavery into a voluntary institution.

5. FAMILY⁴⁰

5.1 *Marriage*

5.1.1 The man “takes” a wife. The father of the man may negotiate the marriage, as with Shechem (Gen. 34). Judah left home and arranged his own marriage; later, he arranged his sons’ marriages (Gen. 38). The girl’s father had the right to give his daughter to whomever he chose.

5.1.1.1 The father of the girl negotiated a bride-price with the groom or groom’s father, with an expected amount the baseline, the *mohar habbetulot*, set at fifty shekels, but with no upper limit. Normally, the bride-price consisted of silver or goods, but it could be services. Othniel acquired Achsah by conquering Kiryath-Sefer (Judg. 1:11–13); David refused Saul’s offer of Merob for his fighting the Philistines (1 Sam. 18:17–19), but accepted Saul’s offer of Michal for a bride-price of a hundred Philistine foreskins (1 Sam. 18:25), giving him one hundred (2 Sam. 3:14 and the Septuagint of 1 Sam. 18:27) or two hundred (1 Sam. 18:27). Jacob worked seven years for Rachel and Leah respectively (Gen. 29:16–28).

5.1.1.2 The payment of the bride-price might be marked by a banquet (Judg. 14); after the payment, the girl is “betrothed.” She owes fidelity and is subject to rules of adultery (Deut. 22:25–26).

5.1.1.3 The actual marriage began when the groom claimed his bride (Gen. 29:21), an occasion that may also have been marked by

⁴⁰ See Frymer-Kensky, “The Family in the Hebrew Bible”; Pressler, *Deuteronomic Family Laws . . .*; Rofé, “Family and Sex Laws . . .”; Westbrook, *Property and the Family . . .*

a banquet, given by the girl's father (Gen. 29:22). The groom took the bride home to his tent (Gen. 24:67), room (Judg. 15:1) or *huppah* (Josh. 2:16; Ps. 19:6). In the early days, in extraordinary circumstances, the bridegroom might live in his father-in-law's household, like Jacob with Laban. Much more commonly, the woman came to her husband's house within his father's household cluster.

5.1.1.4 The Near Eastern custom of giving the bride-price to the married daughter is the background of Rachel and Leah's complaint that their father ate up their bride-price (Gen. 31:14–16). Achsah complains that her father gave her away as dry land. He then gave her a field with springs as a marital gift (Judg. 1:14–15).

5.1.1.5 Much more rarely, texts mention a dowry, *šilluhim*. Pharaoh conquered Gezer and gave it to Solomon for his daughter (1 Kings 9:16); Micah tells Lachish to do the same for the king of Israel (Mic. 1:14). Laban gave his daughters maidservants as their dowry (Gen. 29:24, 29); Hagar, Sarai's maid, may have come to her in the same way. Comparison with Near Eastern texts indicates that dowries would often contain ordinary household goods with which to set up a household.⁴¹

5.1.1.6 Two laws discuss the treatment of unfree women acquired as wives in divergent ways.⁴²

- a) The *'amah* of the Book of the Covenant (Exod. 21:7–10) is an Israelite woman sold for this status by her father. If the buyer has designated her for his son, she is treated like any other daughter-in-law, becomes a wife, and is not freed in the seventh year. If the man for whom she was acquired as a wife did not want her, he could "redeem her" to another family but he could not sell her, for his not marrying her was considered a betrayal. If he married another woman, he had to keep providing for his *'amah*; if not, she would go free. The debt for which her father may have sold her is cancelled, but she would not get back any monetary payment to her father, for it was not considered a bride-price. Deuteronomy explicitly frees both male and female Hebrew slaves in the seventh

⁴¹ See Westbrook, *Property and the Family* . . . , 142–64. Westbrook points to second millennium parallels to the sovereign king or group being the party to whom the land is transferred and then given to the purchaser.

⁴² For female slaves and the captive bride, see most recently Pressler, "Wives and Daughters . . ."; Washington, "Lest he die in Battle . . ."; Westbrook, "Female Slave."

year, an indication that there were no more *'amah* arrangements for acquiring wives.

- b) Deuteronomy provides for capturing a wife in war (Deut. 21:10–14). Brought home, she was to perform transition rituals—shaving her head, cutting her fingernails, and changing her clothes. She was also to "mourn her father and her mother" for a month, after which her captor could consummate the marriage. As with the *'amah* of Exodus, the captive bride could not be treated as an ordinary slave and sold. Changing his mind was considered abuse, and if he did not want her, she would go free.

5.1.1.7 A man might try to bypass the father and acquire a wife by sleeping with her. When Shechem did this, he tried to make amends by offering a very high bride-price, but her brothers killed him and his town (Gen. 34). The Book of the Covenant demands that the seducer pay the regular virgin's bride-price. It allows the father to take it and not give him the girl (Exod. 22:16–17), whereas Deuteronomy makes the father give him the girl (Deut. 22:28–29). In effect, it allows couples to "elope." The man still has to pay the full bride-price, and he is never allowed to divorce.

5.1.2 Polygyny

Most men would have only one wife. However, Jacob married the sisters Leah and Rachel, and Elkanah was married to two women (1 Sam. 1:1–8). Classical biblical law does not permit marriage to sisters (Lev. 18:18) but allows polygyny. Deuteronomy considers the man who was married to one woman whom he favored and one whom he did not, but the law is only about the first-born, not about why he married more than one wife. There is no way of knowing how common polygyny might have been.

5.1.3 The wife owed her husband exclusive fidelity. She also owed him her presence. When the *pilegeš* (a secondary form of wife that we normally translate "concubine") left her husband to go back to her father's house, she was considered faithless (*wattizneh 'alaw*). When he went to get her back after four months, however, it is not in a punitive mode, and he "speaks to her heart" to have her come back (Judg. 19:2–4).

Israel remembers the earlier pre-state period as a time when husbands had enormous powers over wives and fathers over sons (see 5.2.2 below). The husband could "share his wife to spare his life":

Abraham and Isaac passed their wives off as their sisters (Gen. 12, 20, 26); Lot and the Ephraimite host offered daughters to the mob; and the Levite gave them his *pileges* (Judg. 19:25). Ordinary adultery rules were suspended when the husband “shared” his wife in an emergency: the Levite was ready to take his *pileges* and go the next morning. He did not consider the event the end of his marriage until he realized that she was dead (Judg. 19:28).

5.1.4 Divorce

Divorce is not mentioned in the Book of the Covenant, which has almost no marital law. Deuteronomy assumes divorce and a bill of divorce (*seper keritût*). Jeremiah predicts that adulteress Israel will get a bill of divorce (Jer. 3:8) and Deutero-Isaiah points to its absence as a sign that Israel has not really been divorced (Isa. 50:1–2).

5.1.4.1 Deuteronomy mentions two reasons for divorce: the husband may find something wrong (*erwat dabar*) with his wife or he might “hate” her. The law, which is about remarriage, provides no details, but it would seem that in divorce for cause, the husband would keep her dowry and her bride-price; if he divorced her without cause, because he simply “hated” her, she would leave with her dowry and bride-price (Deut. 24:1–3).

5.1.4.2 Deuteronomy denies men the right to divorce their wives in certain circumstances:

- (a) A man who falsely accused his bride of not being a virgin (Deut. 22:19).
- (b) A man who seduces an unbetrothed virgin pays the bride-price and cannot divorce her (Deut. 22:29). He abused her (*innah*) by not marrying her properly.⁴³

5.1.5 Remarriage

A man may not remarry a wife whom he divorced after she was divorced or widowed by a second husband.⁴⁴ Deuteronomy does not allow a man to remarry his wife after he divorced her for cause

(*erwat dabar*), she married another man, and she became free again when the second husband died or divorced her without cause (“he hated her”): she has been defiled (*huffamma’ah*) and it would be an abomination (*to’ebah*: Deut. 24:1–4). The reason for this particular prohibition may be economic—a husband, having kept her first dowry and bride-price when he divorced her for cause, should not be allowed to then acquire her second dowry and bride-price, which she kept when widowed or divorced without cause. The abomination and defilement language point to a prohibition of all such cases of remarriage, a view expressed by Jeremiah, who asks whether a first husband can remarry his ex-wife after an intervening marriage to another husband and answers that such action would pollute the land (Jer. 3:1).

5.1.6 Levirate⁴⁵

If brothers were still living together and one of them died without children, his brother would sleep with his brother’s widow in order to engender a child who would carry on the dead man’s name and claim his inheritance (Deut. 25:5–6). Even though sleeping with one’s sister-in-law is a forbidden relationship, incest rules were suspended for the levirate.

5.1.6.1 The levirate is an important plot element in the story of Tamar and Judah (Gen. 38). When Tamar’s husband Er died, her father-in-law commanded his second son, Onan, to perform the levirate. This involved considerable economic sacrifice by Onan. If only two sons remained at the time of Jacob’s death, his estate would be divided into three portions, and as eldest, he would get a double share, or two thirds of his father’s estate. However, if he engendered an heir for Er, that boy would inherit his father’s double share, or one half of Jacob’s estate, and Onan would receive only one quarter. Onan was not willing to damage his economic future and would withdraw his semen at ejaculation (*coitus interruptus*) to prevent conception. For this, God killed him. Judah should then have given his third son, Shelah, to Tamar, or, since his son was young, should have performed the levirate himself. He, however, was afraid that Tamar was a fatal bride, and so he lied when he told her to wait

⁴³ The action of the man is often translated as “rape”, but the law lacks the word “overpower” that the rape law just before it uses (Deut. 22:25).

⁴⁴ For different interpretations, see Otto, “Wiederherstellung . . .”; Pressler, *Deuteronomie Family Laws . . .*, 44–62; Westbrook, “Restoration of Marriage . . .”

⁴⁵ See Pressler, *Deuteronomie Family Laws . . .*, 63–74; Westbrook, *Property and the Family . . .*, 69–89.

in her father's house until Shelah would grow up. When Tamar realized what had happened, she disguised herself as a prostitute in order to trick Judah into performing the levirate. Judah was ready to execute the pregnant Tamar for faithlessness, but realizing that the child was his, he declared her more in the right than he and brought her into his house. He never slept with her again, as the levirate is copulation until conception, not marriage. As may have happened in other levirates, the children may have inherited their father's share, but they were (also) considered Judah's children.

5.1.6.2 Deuteronomy provides for a ritual of release in which a widow and her brother-in-law declared that he did not want to marry her in front of the elders at the gate. She would take his sandal off his foot, spit in his face, and declare, "Thus shall be done to the man who will not build up his brother's house." He then became known as the "house of the removed sandal" (Deut. 25:7-10). The humiliating nature of this ritual indicates that it was intended to shame men into performing the levirate rather than undergo the ritual.⁴⁶

5.2 Children⁴⁷

In the biblical family, generation prevails over gender. Both parents have authority over their children.

5.2.1 Honor father and mother is one of the Ten Commandments. Treating the father or mother without honor earns a communal curse (Deut. 27:16). A child who struck either father or mother incurred bloodguilt and was to be executed (Exod. 21:15), as was a child who cursed a parent (Exod. 21:17; Lev. 20:9).

5.2.1.1 A son was not to humiliate his father by sleeping with his wife (Deut. 23:1). Translators often state "former wife," but the law refers to any wife other than the mother. The man who lies with his father's wife, thus stripping him bare, earns the communal curse in Deuteronomy 27:20. Several stories indicate that sons could convey the message that their father's authority was superseded by asking for or taking his wives. Jacob's son Reuben slept with Jacob's

consort Bilhah (Gen. 35:22), and the story of Absalom's revolt includes an incident in which David left ten concubines to guard the harem when he fled the city (2 Sam. 15:16). Absalom's counselor Ahitophel suggested that he sleep with the concubines "so that Israel will hear that you have contempt for your father," and Absalom did so publicly (2 Sam. 16:21-22). When David reconquered Jerusalem, he supported the concubines in detention but did not sleep with them, making them virtual widows until their death (1 Sam. 20:3). The concubine ploy was tried again by David's son Adonijah, who asked Bathsheba to ask Solomon for Abishag for wife (1 Kings 2:17). When she did, Solomon took an oath to kill Adonijah and did (1 Kings 2:17-25).

5.2.1.2 A son could dishonor his father by being a *nabal*, one who willfully ignored Israel's rules of propriety (Prov. 15:20), and by being a glutton and drunkard (Deut. 21:18-23).⁴⁸ A daughter could dishonor her father by not being chaste.⁴⁹ A girl accused and convicted of not being a virgin at marriage is stoned at her father's door because "she committed an abomination by being faithless to her father's house" (Deut. 22:20-21).

5.2.2 Israel remembers a time in which parental rights over children were absolute, even including the right to kill one's child, as with the Binding of Isaac (Gen. 22) or the sacrifice of Jephthah's daughter (Judg. 11), or Judah's decree of execution of his daughter-in-law Tamar (Gen. 38:24). The father in the old days might also make his daughter a prostitute (Lev. 19:29).

5.2.2.1 Father's Rights

Israel's classical law regulates and limits the rights of the father. Leviticus decrees that a father cannot turn his daughter into a prostitute (Lev. 19:29), and Deuteronomy limits the father's ability to control his children, limiting choice by legal decree and transferring the authority to execute to a council of elders.

- (a) First-born son. Genesis reflects Near Eastern law in which fathers could designate a son as first-born. Isaac on his deathbed had a favored blessing to give a son (Gen. 27); Joseph dreamed that he would be the dominant son; his father's gift of a special robe indicated the same (Gen. 27). Deuteronomy prohibits a man from

⁴⁶ In post-biblical times, however, the humiliating aspect was lost and men were encouraged by law to perform the ritual, known as *halisah*, in order to release the women to marry again.

⁴⁷ Fleishman, *Parent and Child* . . .

⁴⁸ Bellefontaine, "Rebellious Son . . ."

⁴⁹ Frymer-Kensky, "Virginity in the Bible."

making the first-born of his favored wife his first-born; instead, it demands that the first to be born be made the first-born (Deut. 21:15–17).

- (b) Giving the daughter in marriage. Deuteronomy requires a man to allow his daughter's seducer to pay the bride-price and marry her (Deut. 22:28–29). By contrast, Exodus allowed a father to accept the bride-price and refuse the girl (Exod. 22:16; see 8.3.2–8.3.3 below).
- (c) Life or death of son. Parents could no longer decree death for the child. Parents could denounce a totally recalcitrant, uncontrollable and disgraceful son before the elders and the elders would have the son stoned (Deut. 21:18–21).

5.2.3 Parents and children were not to be executed for each other's misdeeds (Deut. 24:16). The rule is cited by the Deuteronomic historian when King Amaziah slew the men who had killed his father but not their sons, "as it is written in the book of the law of Moses" (2 Kings 14:6).

5.2.3.1 The Book of Joshua records an early exception to this rule: Achan, convicted of violating the *herem* at Jericho, was stoned and then burnt together with his sons and daughters and his oxen and asses (Josh. 7:24–25). The reason is the nature of *herem*: the presence of a *herem* object turned the whole household into a *herem*. They were stoned for violation of the *herem* and were then burned to get rid of all traces of *herem* contamination.

5.2.3.2 The right to kill children for parental misdeeds is reserved to God, who is said to punish till the third or fourth generation (Exod. 20:5).

5.2.4 Birth

5.2.4.1 Surrogacy

As elsewhere in the ancient Near East, Israel knew of a custom in which a childless woman gave her husband a slave to conceive a child. One case, Hagar, did not work well, and the child was considered Hagar's rather than Sarai's (Gen. 16). In the other two cases, Bilhah the slave of Rachel and Zilpah the slave of Leah (Gen. 30:5, 8, 13) the child was both the slave's and the slave owner's.⁵⁰

⁵⁰ Frymer-Kensky, "Patriarchal Family Relationships . . ."

5.2.4.2 Having a child with a prostitute, a custom known from elsewhere in the ancient Near East, is recorded as the parentage of Jephthah (Judg. 11).

5.2.4.3 In both surrogacy and prostitute maternity, the child was considered legitimate if the father brought him home. Nevertheless, at Sarai's request (backed up by God), Abraham sent Hagar and Ishmael away, freeing them from slavery in the process, and Jephthah's brothers expelled him (Judg. 11:1–2).

5.2.4.4 Yet another rare way of acquiring children was adoption.⁵¹ No laws or narratives about adoption exist, but it served as the basis for the metaphorical relationship of God and Israel in Jeremiah (3:19) and of the relationship between God and David in Psalm 2. God's statement to David, "You are my son, today I give birth to you" (Ps. 2:7), and God's statement to foundling Jerusalem (Ezek. 16:6), "In your blood, live! In your blood, live!" may be ritual adoption formulae.⁵²

6. PROPERTY AND INHERITANCE

6.1 Tenure

The land of Israel belonged to God (Lev. 25:23), who transferred it to Israel in the time of Moses and Joshua. Each family received its portion when the land was divided by lots (Num. 26:52–54; 33:54; Josh. 13–22). Legal restrictions were imposed on the alienation of ancestral land outside the family and on exploitation of the land by its owner. During the monarchy, kings could grant land to their retainers (1 Sam. 8:14) but could reassign it if the donee was guilty of disloyalty (2 Sam. 9:9–10; 16:1–4; 19:25–30).⁵³

6.1.1 Restrictions on Alienation: Redemption and Jubilee⁵⁴

Leviticus 25 deals with successive stages of impoverishment. If a person was forced to sell his plot, the buyer had to allow for "redemption"

⁵¹ Bord, "L'adoption dans la bible . . ."

⁵² According to Malul, "Adoption . . ."

⁵³ See Ben-Barak, "Meribaal . . ."

⁵⁴ For an earlier comprehensive study, see North, *Jubilee . . .*; more recently, Westbrook, *Property and the Family . . .*, 36–68.

or buy-back (Lev. 25:23–24); and the “redeemer,” the nearest kin, was encouraged to buy the land back (Lev. 25:25). It would be best if the redeemer returned it to the original seller, but even if the redeemer kept the land, it would at least stay within the family.

6.1.1.1 Sales were not eternal, for the land would return to its original owners at the Jubilee, which was to be proclaimed every fifty years (Lev. 25). Sale prices were to reflect the number of years in which produce could be gathered before the Jubilee: the more remaining, the higher the price (Lev. 25:12–17).

6.1.1.2 The original seller had the right to buy the land back. Since the buy-back was closer to the Jubilee, and the buyer enjoyed harvests, the price would be less (Lev. 25:28).

6.1.1.3 Houses in walled cities could be sold forever and became the permanent possession of the buyer unless redeemed in the first year (Lev. 25:29–30). Houses in open villages and in Levitical cities were released at the Jubilee, but the unenclosed land around Levitical cities could not be sold (Lev. 25:31–34).

6.1.1.4 None of the narratives record a Jubilee. Redemption is known: Jeremiah’s cousin Hanamel asks him to buy his field in Anatot, “because yours is the rule of redemption to buy” (Jer. 32:7), adding “for yours is the rule of inheritance and yours is the redemption” (32:8). The closest relative, the one who would inherit the land in the absence of sons, is the one with the first responsibility to redeem land and is also given the right of first purchase. Little evidence for the Jubilee exists, but Mesopotamian evidence suggests that perhaps some sort of land restitution may have happened sporadically, at a royal decree. The Jubilee laws, like other Pentateuchal legislation, regularize the practice and remove it from royal control.

6.1.2 *Restitution of Abandoned Land*

6.1.2.1 Israel’s famines caused people to leave the land. Others worked their fields until they reclaimed them on return. Elisha warned the great woman of Shunem (2 Kings 8:1–6) to leave in anticipation of famine. When she returned seven years later, she came before the king “to cry for her house and for her land” (2 Kings 8:3). Her

case was not quite typical, for she came as the king was listening to Gehazi (Elisha’s servant) tell the story of Elisha’s bringing a dead boy back to life. Gehazi pointed her out as the mother of the boy, and the king sent an officer to restore to her both her land and the harvests harvested during her absence.

6.1.2.2 Returning after exile underlies the book of Ruth. Naomi came back when there was food, and during that harvest, she and Ruth survived by gleaning. After the harvest, Naomi wanted to sell her husband’s fields. Ruth offers herself to Naomi’s near kinsman, Boaz, who betroths her. He cannot purchase Naomi’s land until it is relinquished by the closest kinsman, who had the triple right of inheritance, redemption, and first purchase. Boaz convinces the kinsman to relinquish his right by proclaiming his own intention to beget an heir to that land with Ruth (reading with the Kethib).⁵⁵

6.1.3 *Restrictions on Exploitation*

6.1.3.1 *The Sabbatical Rules*

The land was to be fallow every seventh year (Exod. 23:11), both fields and vineyards (Lev. 25:2–4). During that year, one could gather from uncultivated land but not the incidental growth of fallow fields (Lev. 25:5–6); there, one should let the animals graze (Lev. 25:6). The harvest of the sixth year had to last until the harvest of the eighth year (Lev. 25:19–22). The rules of the Sabbatical year also applied to the Jubilee year (Lev. 25:11).

6.1.3.2 *Gleaning*

The edges of fields were not to be harvested, nor vineyards fully picked. Dropped fruit and produce was left for the poor and the resident alien (Lev. 19:9–10).

6.1.3.3 *‘orlah*

The first three years’ crop of a tree were not to be eaten. The fourth year’s fruit was for God, and only in the fifth year could the owner eat the yield (Lev. 19:23–24).

⁵⁵ There have been many different interpretations of the law in Ruth 4. See, e.g., Beattie, “Israelite Legal Practice”; Thompson, “Some Legal Problems . . .”; Westbrook, *Property and the Family* . . . , 69–89.

6.2 *Inheritance*

Sons inherit from their father. If there are no sons, then the man's brother inherits; if no brothers, an uncle, and if no uncles, another kinsman (Num. 27:11). In certain circumstances, daughters could inherit (see 6.3.3 below). The heirs divided the estate among themselves, until which point they held it in common ownership.⁵⁶

6.2.1 Several passages refer to a man's giving directions to his household in anticipation of his death (2 Sam. 17:23; 2 Kings 20:1; Isa. 38:1). This was an opportunity for a man to give gifts in anticipation of death (such as to his wife), to issue orders about the usufruct of his property, and, in the early days, to designate his *bekor*, his "first-born." Later, it was an opportunity to dictate inheritance (Ben Sira 3:24).

6.2.2 The *bekor*, the chief heir or "first-born," received a double share in the paternal inheritance (Deut. 21:17).⁵⁷ The first-born son was presumed to be the *bekor*, the chief heir, but the stories of Isaac's blessing (Gen. 27), and of Jacob blessing his grandchildren (Gen. 48:12–22) show that in the ancestral period, Israel shared the Near Eastern custom of giving a man discretion to choose who would be the "first-born."

Jacob's preferential treatment of Joseph and Joseph's dreams indicate that a man could prefer the first-born of his favorite wife over the first-born of any other wife. Deuteronomy takes away the discretion of the father to do so, demanding that the first to be born be appointed the first-born (Deut. 21:15–16).

6.2.3 *Epiklarate*

Daughters inherit from their sonless father. A legal storyette relates that the five daughters of Zelophehad appeared before the congregation to ask to inherit from their father, maintaining that their father's name should not be lost since he had not participated in the Korah rebellion. God then creates the law of inheritance: sons inherit; if there are no sons, daughters; if no daughters, a brother;

⁵⁶ See Kitz, "Undivided Inheritance . . ."

⁵⁷ This is by far the most likely meaning of *pi šenayim*. However, two-thirds has also been suggested. See Davies, "The Meaning of *pi š'nayim* . . ."

if no brothers, an uncle (Num. 27:1–11). A separate storyette relates that the clan heads of the tribe to which the daughters of Zelophehad belonged were concerned that the women might marry members of other tribes, with the result that the land that they inherited would pass to those tribes. At the Lord's bidding, Moses decreed that any daughter who inherits land must marry a man from her father's tribe (Num. 36:1–9).

6.3 *Widows*

The degree to which a widow had a claim to her dead husband's land is a matter of some dispute.⁵⁸ Sons, or daughters in the absence of sons, may have taken possession after their father's death and supported their mother with the proceeds, or they may not have taken possession until after their mother's death. No statements suggest that widows inherit. If there were no children, and she was still young enough to bear, she might be reattached by the levirate. In the absence of a levirate, a male relative was expected to inherit, but a widow may have retained rights to the harvests (usufruct) without the right to alienate the land. In the Book of Ruth, Naomi had the right to sell her husband's land (or the rights to its harvests), with the nearest kin having the right of first purchase. One way this could happen would be if the husband gave his wife the land before he died, but the Book of Ruth gives no hint that this was the case.

6.3.1 One of the two surviving legal ostraca from ancient Israel is a petition written by a childless widow to the local authority pleading for him to give her a field "about which he spoke to Amasyahu." The text mentions "my husband," Amasyahu, and "his brother," with no indication whether two or three men are involved or whether the field the official gave to "his brother" is the same as the patrimony (*naḥalah*) that she is requesting. The original editors of the ostrakon suggest that she is asking him to disregard the law, but commentators have argued that widows may have been given the use (if not the title) of some of their dead husbands' property.⁵⁹

⁵⁸ Osgood, "Women and the Inheritance of Land . . ."

⁵⁹ For this issue, see Bons, "Konnte eine Witwe . . .?"; Wagenaar, "'Give in the Hand . . .'" Wagenaar suggests that the ostrakon refers to one field: the official had promised her husband land which he gave to her husband's brother. In this case, the land had not even been the husband's, and there is no real case of inheritance.