



The Subversion of **שָׁלַח**-Divorce in the Hebrew Bible

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Abstract: This essay examines how **שָׂנֵא** (“to hate”), **עָזַב** (“to abandon”), **שָׁרַשׁ** (“to cast out”), and **שָׁלַח** (“to send away”) are employed in the Hebrew Bible to denote and connote “divorce.” While the patriarchal values and practices are hard to miss, this essay finds the usages of **שָׁלַח** outside of Pentateuch, in particular in Isaiah 50, Jeremiah 3 and Malachi 2, subversive with respect to the typically negative representation of women. The metaphoric feature and signification of **שָׁלַח** should not be overlooked and reduced. As such this essay urges caution in citing the “divorce” imagery in the Hebrew Bible as the support and rationale for one’s agenda.

Keywords: Ancient Near East, metaphor, divorce, marriage, law

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The Hebrew Bible uses several terms to signify “divorce”: **שָׂנֵא** (“to hate”), **עָזַב** (“to leave” or “to abandon”), **שָׁרַשׁ** (“to cast out”), **שָׁלַח** (“to send away”),¹ as well as the *verba solemnia* “She is not my wife, and I am not her husband” (RSV) in

¹ Yair Zakovitch, “The Woman’s Rights in the Biblical Law of Divorce,” in *The Jewish Law Annual*, vol. 4, ed. Bernard S. Jackson (Leiden: Brill, 1981), 28–46.



Hosea 2:2.¹ In the light of the notion of marriage found in the Ancient Near Eastern (hereafter, ANE) texts, in particular the *Laws of Eshnunna* (“the earliest extant of the Akkadian-language collection of laws” and contains “great similarities in content with the other known law collections, especially with the Laws of Hammurabi”)² (see the Appendix), this essay argues that while these terms certainly point to patriarchal values and practices, the portrayal of הַלְּצֵד–divorce as the right of man in the Pentateuch was intriguingly subverted in Isaiah 50, Jeremiah 3 and Malachi 2.³ This subversion shows that we cannot make simple correlations of relationship between husband-wife and God-humans.

The Importance of Diversity and Contextuality

Since different words are used for “divorce,” it is important that we do not conflate or flatten the nuances among these words into just one term, “divorce.” If all these words merely refer to divorce in a general sense, we would not have so many words for divorce. By simply translating all these different Hebrew words as divorce, we may not do justice to the texts. Worse, we may have even ignored and erased the harm implied in such divorce contexts when we adopt the relatively neutral word “divorce,” at least in many parts of the world today. Worst, if we do not highlight the connotations of these Hebrew words in the biblical texts,

¹ All the Bible quotations are from Revised Standard Version, unless stated otherwise. If we search for the English words related to the word “divorce” in the Hebrew Bible, we will find nineteen occurrences. For instance, the word “divorce” appears nine times (out of fifteen times, if we include the New Testament—Mat 1:19; 5:31; 19:3, 7, 8; Mar 10:2, 3, 4; 1Co 7:11, 12, 13 and 27—and Sirach 7:26), i.e., Deu 22:19, 29; 24:1, 3; Eze 10:3, 19; Isa 50:1; Jer 3:8; and Mal 2:16. The word “divorced” appears eight times (out of eleven times, if we include Mat 5:32; 19:9; Luk 16:8; and Sirach 28:15), i.e., Lev 21:7, 14; 22:13; Num 30:9–10; Deu 24:4; 1Ch 8:8; Isa 50:1; and Jer 3:8. The word “divorces” appears twice (out of seven times, if we include Mat 5:31, 32; 19:9; Mar 10:11, 12; and Luk 16:8), i.e., Deu 24:3 and Jer 3:1.

² Martha Roth, “The Laws of Eshnunna,” in *The Context of Scripture*, 4 vols. Vol. 2, ed. William W. Hallo et al (New York: Brill, 1997–2002): 332.

³ Here, I am not suggesting a diachronic study of הַלְּצֵד in these different texts of different times. I am mainly interested in how different texts use the term.



believers who treat the Bible as Scripture (that is, as the Word-to-live-by) can naively apply such images to their own situation and, consequently, cause unnecessary damage to themselves and others. In this essay, therefore, we will consider the contexts of these words and the images that they try to evoke or convey to the audience, however it is defined.¹ At the same time, we need to be aware that texts do not just reflect or represent the (real) situation; they also reinforce and reproduce the situation inscribed in the texts to a point that they shape the audience's worldview.

Hence, it is crucial for us to bear in mind that all interpretations are contextual. As all interpreters—then and now—are temporally and spatially conditioned, our perception and understanding of God are also thus delimited. To say that a certain understanding is the one and only true understanding is to deny our delimitation, as if our understanding is universal. This is *not* to say that the Scripture is not sacred. On the contrary, precisely because we recognize the sacredness of the text and the continual revelation of the living God through the Scripture, we realize that God is still speaking to each of our situation today. But without paying attention to our current context, how can we be sensitive to how God speaks to us? As the Hebrew Bible authors and redactors sought to seek God's face in their situations, we too today, in each of our new situations, seek to see how God works in our situations so that we can in turn work with God and with others in a more collaborative manner.

¹ For example, at the most basic level, we can assume the reader to be the ideal reader (the one assumed by the original author, if such identity can be constructed at all for the Hebrew Bible) or the actual reader. However, given the many overlapping stages of redactions, the identities of the ideal and actual readers become too complicated to sort out. The situation becomes even more complex when we consider the current reader's interpretation of the text, as reader-response criticism and ideological criticism have emphatically pointed out. For details, see Renita J. Weems, *Battled Love: Marriage, Sex, and Violence in the Hebrew Prophets* (Minneapolis: Fortress, 1995), 35–44.



A Brief Overview: A Patriarchal Domination?

In briefly reviewing the relatively straightforward usages of שָׂנֵא (“to hate”) and עָזַב (“to abandon”), we will devote more space to the discussion of גָּרַשׁ (“to cast out”) and שָׁלַח (“to send away”). In the divorce context, the biblical texts related to שָׂנֵא are Deuteronomy 24:3; Judges 14:16, 15:2; 2 Samuel 13:15; Jeremiah 12:8; etc. (cf. Gen 29:31, 33; Deu 21:15–17; Pro 30:23). The term suggests “a distancing from the hated person, that person’s removal from the surroundings of the person who hates.”¹ In fact, the expressions of “I hate my husband” and “I hate my wife” are *verba solemnia* for divorce, as we find in ANE (e.g., Old Babylonian; Neo-Assyrian; etc.) and Egyptian documents.² The Elephantine family archive also speaks of “money of hatred” as the divorce money (e.g., “Anani hating his wife, Yehoyishma”).³ While this essay concerns not with the causes and notion of this “hatred” (i.e., Deu 24:1–4), “it becomes clear that such ‘hate’ refers not to a simple emotional state, but rather a whole complex of factors leading to divorce”⁴ to the point that even the presence or things related to the hated person are hated as well. Hence, it is not surprising that one has to שָׁלַח (to send away) and עָזַב (to abandon) the hated person (e.g., Malachi 2:16)! Thus when we come to עָזַב (to abandon), found in Isaiah 54:6, 62:12; Jeremiah 12:7, etc., the wife is the one who is abandoned and rejected. E. Gerstenberger comments that עָזַב implies “a person or a being conceived with personal characteristics removes itself from an object, dissolving thereby its connections with that object,” which “involves less the physical movement away than the establishment of a completely new condition.”⁵ In other words, עָזַב connotes “spatial-geographical context,” “social sphere,” and

¹ E. Lipiński, “שָׂנֵא,” *TDOT* 14:164.

² Lipiński, “שָׂנֵא,” *TDOT* 14:168–172.

³ Lipiński, “שָׂנֵא,” *TDOT* 14:170.

⁴ Lipiński, “שָׂנֵא,” *TDOT* 14:171.

⁵ Both quotes come from E. Gerstenberger, “עָזַב,” *TDOT* 10:586.



“emotional elements.”¹ Notice that all these divorce-related words “assume the passivity of woman,” women had no agency.² As women had no say in the marriage process, they also had no say in the matter of divorce, albeit some condition did grant the possibility of a divorce when the wife was not provided daily provision by the husband (cf. Exo 21:10–11).

Next, let us examine *קָרַח* (“to cast out”). Words related to *קָרַח* appear forty-nine times in the Hebrew Bible. Out of these occurrences, six verses are in the context of divorce, which we will examine one by one below: Genesis 21:10; Leviticus 21:7, 14 and 22:13; Numbers 30:10, and Ezekiel 44:22. The rest of the verses where *קָרַח* appears are mainly related to either Pharaoh cast out the Hebrews (Exo 6:1, 10:11, 11:1, 23:39) or God (or angels or the hornets) cast out the inhabitants of Canaan as the Israelites entered the land (Exo 23:28–31, 33:2, 34:11; Deu 33:27; Jos 24:12, 18; Jdg 2:3; Psa 78:55, 80:9; etc.). In most of these instances, the element of violence is involved. In fact, the feminine noun derived from *קָרַח*, *קָרַחָה*, also means violence, in addition to expulsion, as *BDB* (Brown-Driver-Briggs) listed. Here, the cause of cast out is often tied to oppression, wickedness and hatred (Jos 24:12, 18; Jdg 2:3, 6:9, 11:7; Ezk 31:11; etc.). The consequences of such a cast out are the loss of inheritance of God (1Sa 26:19), possession (2Ch 20:11), and priesthood (1Ki 2:27). Hence being cast out is either a form of punishment (for non-Israelites) or a form of separation and purification (for Israelites) so that people may realize their wrongs and return to God.

Among verses that employ the word *קָרַח*, Judges 11:7 and Hosea 9:15 also use *שָׂנְאָה* (to hate). “Because of all their wickedness in Gilgal, I hated them there. Because of their sinful deeds, I will drive them out of my house. I will no longer love them; all their leaders are rebellious” (Hos 9:15). As the language of “I hate you” is a *verba solemnia* for divorce, the words of “hate”, “cast out” and “love” in

¹ Gerstenberger, “קָרַח,” *TDOT* 10:589.

² Zakovitch, “The Woman’s Rights in the Biblical Law of Divorce,” 34.



Hosea 9:15 may show a formal break of relationship between God and the Israelites because of the latter's wickedness, sinful deeds and rebellions. As such, the casting out of Israelites from the house of God is another prominent expression in the case of divorce.

Now, let us examine the first instance of גָּרַשׁ (to cast out) that is related to the divorce context. In Genesis 21:10, once Sarah bore Isaac, she told Abraham to cast out (גָּרַשׁ -- *piel* imperative) Hagar the Egyptian slave girl and Ishmael, lest Ishmael inherited from Abraham and caused Isaac to inherit less. As Abraham sent Hagar away (וַיִּשְׁלַחְהָ), including Ishmael, he only gave them a little provision. The story then tells us how dire the situation was. Hagar and Ishmael almost died in the wilderness! This sending away reflects the economic and emotional stress and threat. It shows that the first wife, once she gave birth to a son, had more power than the second wife. It also implies that inheritance dispute could be a cause of divorce; and the fate of the second wife, who is a "foreigner," is not guaranteed even though she gave birth to a son. The language of sending way is not without cruelty as security and protection are not provided for both the wife and her children.

In the second instance, Leviticus 21:7 tells us that the priests "shall not take (לָקַח) a woman who is a זִנָּה or polluted; nor shall they take (לָקַח) a woman put away from (גָּרוּשָׁה--*qal* passive participle feminine singular) her husband; for he is holy to his God." Likewise, the high priest "shall not take (לָקַח) a widow, or one put away, or a polluted one, a harlot, but he shall take (לָקַח) a virgin of his own people for a wife" (Lev 21:14). In other words, for the priest, the purity level of a divorced wife is the same as that of a widow, a polluted one and a harlot! However, the husband who divorced his wife was not ascribed to such derogatory and denigrating language and value. The text does not tell us how the divorced wife would survive. While Deuteronomy 24:1-4 states that in the case of divorce, the husband must write a divorce certificate (סֵפֶר כְּרִיתוּת) for the wife so that she can



get remarried and that both she and her new husband are protected by the law,¹ such generous and unique right was found nowhere in ANE sources, since it could easily become an abuse, as David Instone-Brewer noted.²

The last place in Leviticus that mentions גְרוּשָׁה is 22:13, “But a priest’s daughter, when she is a widow, or put away (גְרוּשָׁה), and has no seed, and has turned back to her father’s house, as in her youth, she shall eat of her father’s bread. But no אָבִי shall eat of it.” Another place that put widow and the divorced wife together is Numbers 30:9, “And as to the vow of a widow, or her that is divorced (גְרוּשָׁה), all that she has bound on her soul shall be established on her.” Such a binding force of the vow to God, however, can be nullified if the husband overheard it and forbade it. Again, we see the unfavorable situation of a woman without a husband. Being cast out by the husband, the wife had even less security and protection.

Rephrasing Leviticus 21, Ezekiel 44:22 in the post-exilic period, also states that the priests “shall not take a widow, or a divorcee (גְרוּשָׁה), for wives for themselves; but they shall only take virgins of the seed of the house of Israel, or a widow who is the widow of a priest.” Here, the difference is that the priest, not just the high priest, is required to marry only virgins of the seed of the house of Israel. Another major adjustment is that a priest can marry a widow, provided she is the widow of a priest. This adjustment seems to reflect that “the mixture of species and social roles is anathema to Scripture”³ so that order, authority and power may remain within the line of the priestly class, as marriage is related to

¹ David Instone-Brewer, *Divorce and Marriage in the Bible: The Social and Literary Context* (Grand Rapids: Eerdmans, 2002), 20–33.

² Instone-Brewer, *Divorce and Marriage in the Bible*, 28.

³ Jacob Milgrom, *Leviticus 17–22: A New Translation with Introduction and Commentary*, Anchor Bible Series 3A (New York: Doubleday, 2000), 1571.



the matter of property and power. In the words of Mary Douglas, “Holiness requires that different classes should not be confused.”¹

From this brief study, we know that a divorced wife, in the case where *שָׁרֵץ* (to cast out) is used as a *qal* passive participle feminine noun, is grouped together with widow in most cases. Does this imply that the cultic, social and economic levels of a divorced wife are very similar to those of a widow, as both the widow and the divorced wife are without husbands?² The biblical texts that we examine seem to make such a connection. In fact, the Middle Assyrian Law A 33 seems to suggest so, “If her husband or father-in-law are dead and she has no sons, she is a widow. She shall go wherever she pleases.” This so-called release clause, “she shall go wherever she pleases,” according to Shalom E. Holtz, is the standard clause for termination of the marriage obligations, and the woman’s subsequent free status.”³ Here, it will not be insignificant, to see whether such connection is also established for other words—*שָׂנֵא* (to hate), *שָׁלַח* (to send away), and *עָזַב* (to abandon)—in their description of the divorced wife.

Lastly, let us examine the divorce context of *שָׁלַח*. The word *שָׁלַח* appears eleven times (i.e., Gen 21:14; Deu 21:14; 22:19, 29; 24:1, 3, 4; Isa 50:1; Jer 3:1, 8; and Mal 2:16; cf. 2Sa 3:16–17). Hossfeld-van der Velden points out that *שָׁלַח* “implies a complete separation” between “the dispatch of an object perceived as passive and of a (usually person) subject that actively executes a mission.”⁴ In

¹ Quoted from Milgrom, *Leviticus 17–22*, 1571; Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (London: Routledge, 2001), 54.

² It is also intriguing to see the noun *שָׂרֵץ* means “Common land, usually plural, and usually as attached to a city or town, esp. as surrounding Levitical cities; lands surrounding the holy city: *open land* or *space* about the temple; of (pasture-) lands in a district” as listed in *BDB*. This notion of common space perhaps indicates the space where cattle is driven (*שָׂרֵץ*) to.

³ Shalom E. Holtz, “‘To Go and Marry Any Man that You Please’: A Study of the Formulaic Antecedents of the Rabbinic Writ of Divorce,” *Journal of Near Eastern Studies* 60/4 (2001): 245.

⁴ Van der Velden further points out that “‘send a woman away’ in the sense of ‘dismiss from marriage,’ *שָׁלַח* must be considered a word unique to Northwest Semitic.” Hossfeld-van der Velden, “*שָׁלַח*,” *TDOT* 15: 51.



other words, the act of הָלַץ often entails the purpose to separate oneself from the object; and in the case of divorce, the person (often a female) whom one “hates.” The *piel* form of הָלַץ , moreover, indicates an impersonal distancing, a further alienation of the husband from the wife.

Since we have discussed Genesis 21 above, we turn to Deuteronomy 21:14 that speaks of a similar situation. An Israelite man can send his wife (captured in battle) away to wherever she wills ($\text{וְשָׁלַחָהּ לְנַפְשָׁהּ}$) when he no longer desires her. No reason is given to the sending away. The man is in charge. The fate of her children, if there were any, was not mentioned. The only condition is that when he sends her away at her desire, he cannot sell her because he has already humbled, humiliated or afflicted her (עָצִיבָהּ). We are not told what and how she would survive. While the rule “not to sell her” might be humane, but like Hagar, her future as a foreign woman in the midst of Israelites is now in serious jeopardy. We do not know whether she could return to her homeland. The divorce money, which the husband needs to pay, as we find in other ANE sources, is not mentioned probably because she was a captive. No impunity was exacted upon the husband either. No decree was drawn to protect the wife. Perhaps the only “positive” element found in this text is the phrase “sending her away at her desire,” which seems to suggest that she can remarry, as we see in Middle Assyrian Laws.¹

Concerning the divorce of Israelite women, we have several scenarios in Deuteronomy 22:25–29. If an Israelite raped a betrothed girl (meaning the bride price was already paid by the husband) in the open field, the man would be put to death because he had acted against her husband’s authority. If the rape happened in the city, however, both the rapist and the raped would be killed, as one would assume that the girl could have cried out, be heard and be rescued (according to Deuteronomy). Now, if the raped was a virgin (meaning, marriageable-age young

¹ Holtz, “To Go and Marry Any Man that You Please,” 244–245.



lady—בְּתוּלָה) and the act was discovered, then the rapist must give the girl's father fifty pieces of silver because he had humiliated or afflicted her. As a punishment (for the man or for the girl?), he must marry her and can never send her away—לֹא־יִשְׁלַחָהּ (cf. Deu 22:13–18 which talks about the husband's (false) accusation against his betrothed's virginity).¹ Several remarks can be made about this decree. First, it is curious that modern English translation renders בְּתוּלָה as virgin, even though the word then may not have our notion of “virgin” today. Second, how would anyone verify the girl was a בְּתוּלָה, if we were to translate it as a virgin as we understand the term today? Does the text actually suggest that the raped still needs to put up with such verification, after being harmed? Moreover, if somehow the raped was shown—who knows how!—to be not a virgin, then the honor of the girl's family could also be destroyed, not to mention the reduction of the bride price if she could get married later.² Third, who would want to be married to her rapist?³ The text, apparently, was only concerned with the economic welfare of the raped, or should we say, the honor of the girl's family, or to be even more specific, that of the father? What sort of worldview is being assumed in this kind of world?

¹ Instone-Brewer notes that “when a virgin was raped, the general ancient Near Eastern law was for her rapist to suffer the death penalty and for her to go unpunished. For example, the Laws of Eshnunna #26.” Instone-Brewer, *Divorce and Marriage in the Bible*, 27. “In the Middle Assyrian laws there is a laws that the rapist has to give up his own wife to be raped and he has to marry the raped virgin (if her father wishes it), as well as pay a bride-price for the virgin, and he may not divorce her” (27).

² Again, Instone-Brewer wrote, “The woman who is the victim is not punished, but her future is ruined. It was likely that she would remain unmarried or that she would be married with a much reduced bride-price.” Instone-Brewer, *Divorce and Marriage in the Bible*, 27.

³ It is interesting that Instone-Brewer wrote that such law was “a way of punishing the man for his crime while also providing financial security for the woman who might otherwise find it difficult to marry.” Instone-Brewer, *Divorce and Marriage in the Bible*, 23n9.



Even when we look at Deuteronomy 24:1–5 that talks about the bill of divorce¹—a feature unique among ANE sources²—though the husband *may* need to write a bill of divorce (סֵפֶר כְּרִיתָה)³ for the wife he is sending out (וַיִּשְׁלַחָהּ) of his house, he is not mandated to do so. The phrase “sending out of his house,” furthermore, suggests that the wife is no longer related to his house; how she would fare would in no way affect his honor. As we have seen in Deuteronomy 21, the reason for divorce is rather arbitrary, i.e., as long as the husband has found in her some indecency (עֲרוֹת דָּבָר), whatever it may mean!

While the first husband cannot marry her back—once she has remarried—the text does not tell us that he cannot remarry her if she remains single after the first divorce. The reason that the first husband cannot marry her back is that she has since then become defiled (חֲטָמָאָה), a term used in both moral and cultic purity. In fact, such remarriage is even described as an abomination (תּוֹעֵבָה), a rather strong term that seems to include all kinds of wickedness, perversions, schemes, and unholy mixtures (cf. Lev 18).⁴ Presumably such unholy mixtures are related to the mixture of seeds, which in turn can affect the right of inheritance and property of the children; besides cultic purity reason. Again, we see how divorce, like marriage, revolved around the authority, honor and property of men. The status of women only became a concern when it jeopardized the concerns of men.

¹ Wall points out that “the great halakic debate over divorce among the rabbis of Second Temple Judaism focuses on two OT texts: Gen 1:22–24 (with 1:27) and Deut. 24:1–4.” Robert W. Wall, “Divorce,” in *Anchor Bible Dictionary*, vol. 2, ed. David Noel Freedman, et al. (New York: Doubleday, 1992), 217.

² Ibid., 28–31. “The law of the divorce certificate marks a very distinctive difference between the Pentateuch and other ancient Near Eastern laws. It provided a clean and proper end to a broken marriage. In other ancient Near Eastern cultures, the man could neglect his wife and then reclaim her within five years, even if she had remarried in the meantime,” for example, the Middle Assyrian law #36. Ibid., 30.

³ The verbal noun of כָּרַת, according to Hasel, means “cut off” and “separation.” G. F. Hasel, “כָּרַת,” *TDOT* 7:343.

⁴ Generally translated as “abomination,” תּוֹעֵבָה is related to זָמָה (“wickedness” or “lewdness” found in 18:17, 19:29 and 20:14) and תְּבֵל (“mix” or “confusion” found in 18:23 and 20:12). As תּוֹעֵבָה in plural appears mostly in the peroration of Leviticus 18, it seems to suggest that תּוֹעֵבָה includes the meanings of זָמָה and תְּבֵל. Milgrom, *Leviticus 17–22*, 1581.



Now, such practice of giving the bill of divorce can be abused if the husband refuses to provide it. Without it, the divorced wife cannot get remarried as such act can be easily condemned as adultery, which is punishable by death.

A Subversive View?

In addition to Deuteronomy 24, Isaiah 50:1 and Jeremiah 3:8 also mention about סִפְרֵי כְרִיתָת where the verb שָׁלַח is used. But unlike what we have seen so far, here we have the image of God being the husband of the Israelites, in the language of marriage and divorce between people. For example, Isaiah 50:1 describes God as the husband who makes the marriage contract or “covenant” with the Israelites.¹

Thus says the LORD: “Where is your mother’s bill of divorce (כְּרִיתוֹת), with which I put her away (שָׁלַחְתִּיהָ)? Or which of my creditors is it to whom I have sold you? Behold, for your iniquities you were sold, and for your transgressions your mother was put away (שָׁלְחָה).

What a contrast to the Pentateuch! The “sending away” is not arbitrary, as we see in the Pentateuch. Was Isaiah chastising the Israelites for “sending away” their wives arbitrarily? If God (the husband) did not send away Israel (the wife) arbitrarily, how could Israelite men do that to their wives? Indeed, Isaiah makes it very clear that it was because of Israelite’s iniquities (עֲוֹן), transgressions and rebellions (פְּשָׁע) that they were sold and sent away. In other words, Israelite men, in particular the elites, were being hypocrites in their dealings with their wives and God! If God were to send them away like they sent away their wives, what

¹ Although Instone-Brewer listed the difference between marriage contract and covenant, he nonetheless conflates them into the same thing. Strictly speaking, the concept of covenant, which is not unlike a political treaty, was a later concept colored by much (Christian) theology. Instone-Brewer, *Divorce and Marriage in the Bible*, 1-19.



would have happened to them?¹ Was this part of the message that Isaiah was trying to indict the elites? According to *BDB*, *רָצָה* has the meanings of iniquity, guilt, punishment or consequence of iniquity. Etymologically, the word *רָצָה* probably connotes something “bent, twisted or deviated”² and is “a deeply religious term, almost always being used to indicate moral guilt or iniquity before God.”³ The word *עֲוֹן*, on the other hand, “signifies willful, knowledgeable violation of a norm or standard. Normally it would not refer merely to “a[n inadvertent] mistake,” as might be the case with *שָׁגָה*.⁴ The cause of divorce is thus attributed to two kinds of sins: twisted wrongs and guilt as well as willful rebellion against God.

The Israelite husbands, especially of the ruling class, who send their wives are now the wives themselves! This reversal of roles can be quite shocking as they now become the recipients of sending away, without support and sustenance. While this imagery may fit what the prophets spoke against Israel, we cannot help but to question such consistently negative imageries of women.⁵ In other words, in the effort to subvert and conscientize the role of men-women in the case of divorce, the fundamental issue of violence is re-inscribed upon the bodies of women. The image of women remains negative. This role reversal can perhaps

¹ Also, was *Isaiah* suggesting that the wives of the elites rebelled against them precisely because they were trying to resist the unreasonable and arbitrary treatment that they imposed upon them?

² K. Koch, “*רָצָה*,” *TDOT* 10:549.

³ Robin C. Cover, “Sin, Sinners (OT),” in *Anchor Bible Dictionary*, Vol. 6, ed. David N. Freedman et al (New York: Doubleday, 1992), 32.

⁴ *שָׁגָה* “frequently expresses the ethical failure of one person to perform a duty or common courtesy for another, as in the failure of a vassal to pay tribute to his overlord... [theologically *שָׁגָה*] comes into play when the offense is committed against God, or when failure (even unconscious, inadvertent, or unavoidable) takes place in the sphere of the cult.” Cover, “Sin, Sinners (OT),” 32–34.

⁵ Ben Zvi, for example, argues that such imagery of relationship between husband and wife, among many other types of relationships, was most apt to describe “the nature and story of their relationship with YHWH” in the way that people can naturally understand and be shocked by. Ehud Ben Zvi, “Observations on the Marital Metaphor of YHWH and Israel in Its Ancient Israelite Context: General Considerations and Particular Imagers in Hosea 1.2,” *Journal for the Study of the Old Testament* 28.3 (2004): 363–384.



heighten the deleterious outcome of divorce, but the imageries can further convey, establish and cement a skewed and distorted social construct of women. They may even suggest that *only* women are capable of such troubling sins and wrongdoings, as if men were insusceptible. It is thus problematic that the prophets simply transfer their social construct of women into their understanding of relationship between God and them.¹ Moreover, such a one-to-one correspondence can give God a bad name as well.

If the Deuteronomistic History was finalized in post-exilic period and if Isaiah and Jeremiah were also finalized during this time, one wonders to what extent that these imageries of women (in)formed their perception of women. Yet, in the midst of this negative portrayal of women, Isaiah 50 insinuates God's hidden desire to deliver and take back his wayward wife, Israel, a shocking and contradictory image to the sense and sensibility of the time regarding divorce, as spelt out in Deuteronomy. Moreover, the "sending away" of Israel was not done arbitrarily. It was done for purification and later reunion purpose; a feature not found in the Pentateuch. By taking back the "sinful" wife who has married with other gods, God is willing to pollute and defile God-self, an act considered abominating. This echo but subversion of Deuteronomy 24:1-5 becomes more explicit in Jeremiah 3.

When we turn to Jeremiah 3:1—"If a man divorces his wife (יִשְׁלַח אִישׁ אֶת-אִשְׁתּוֹ) and she goes from him (וְהִלְכָה מֵאִתּוֹ) and becomes another man's wife, will he return to her? Would not that land be greatly polluted? You have played the harlot with many lovers; and would you return to me?" says the LORD—we find that these

¹ Yee uses the mode of production, a Marxist language, as her interpretive lens to explore the ideology behind the marriage metaphor for the relationship between God and Israelites. By portraying the ruling class in the imagery of an adulterous woman, Hosea went on to shock and condemn the elites in a manner understood by the society regarding such relationship. Gale A. Yee, "She is Not My Wife and I Am Not Her Husband" A Materialist Analysis of Hosea 1-2," *Biblical Interpretation* 9/4 (2001): 345-383.



questions are rhetorical because God actually wants Israel to return! In the context of divorce where protection and security were not provided, how would the divorced wife survive? Could we attack her for defiling herself with other men? Moreover, is remarrying an act of idolatry, or worse, defilement? Deuteronomy 24:1-5 does not seem to make such a conclusion.

Therefore, the imagery of a divorced wife lying with different men, as a metaphor for idolatry, is very different from the case of the divorced wife. It is dangerous for us to conflate the imagery of a divorced wife with harlotry; after all, it is the man, according to the Pentateuch, who sends out his wife, with no reasons specified! In other words, we cannot compare the divorce of God-Israelites with the divorce of husband-wife.

If we were to make such a comparison, how do we make sense of God's saying to the prophet at Jeremiah 3:12, "Go, and proclaim these words toward the north, and say, 'Return, faithless Israel, says the LORD. I will not look on you in anger, for I am merciful, says the LORD; I will not be angry for ever'"? Indeed, Jeremiah 3:13 continues, "Only acknowledge your guilt (עֲוֹן), that you rebelled against (פָּשַׁעְתָּ) the LORD your God and scattered your favors among strangers under every green tree, and that you have not obeyed my voice, says the LORD." At Jeremiah 3:8, even after sending Israel away (שָׁלַחְתִּיהָ) with a bill of divorce (סֵפֶר כְּרִיחָת), God still wants to *take* or marry Israel back. This reverse image and expectation of Jeremiah 3:1 is not insignificant as we would anticipate God not doing so after sending Israel away with the bill of divorce! Yet, God did. Notice also at Jeremiah 3:1, it was the husband who sent the wife away returned to her (הִיָּשׁוּב אֵלֶיהָ עוֹד). This phrase is quite interesting. We would assume that the wife returning to the husband, not the other way around! Can this be a hint that Jeremiah was trying to tell the audience that what followed would not be what they expected?

What we have seen so far in the usage of שָׁלַח is that we need to make a distinction between human divorce and God-human divorce. While, unfortunately,



in God-human divorce, the negative imagery of women was always deployed, the divorce was not done arbitrarily. Such a metaphor for Israel was used because of Israel's iniquities and willful rebellion against God. Now, in light of these wicked qualities ascribed to Israel, can we also attribute such characteristics to women? In other words, if we are to transfer such qualities onto women, we need to first of all, pause and ask whether women have such privilege and power to do these wicked deeds. If women were portrayed as the passive recipients of the husband's arbitrary divorce and if women were regarded as the property of men and under the domain of men, then could such women have the power to do these wicked deeds as if they were autonomous agents? If the answer is a definite no, then can we conclude and perpetuate these negative descriptions of women? In addition, the fact that Jeremiah 3:1ff echoes Deuteronomy 24:1-5, and yet, contradicts the latter shows that we cannot make a direct comparison between human divorce and God-human divorce. Any justification of human divorce in the language of negative portrayal of women, based upon God-human divorce, must account for the conflicts and discrepancies mentioned above.

This conflicting and subversive usage of *שָׁלַח* climaxes at Malachi 2:11-16. Here, we find that God repeatedly told Judah not to be treacherous (*בָּגַד*) and made abomination (*תּוֹעֵבָה*) to pollute (*הִלֵּל*) the holy place of God. One of the abominations that Judah did was that it ruled over and married the daughter of a foreign god. In other words, Judah seemed to have abandoned God for another god. God became the object that Judah sent away as it lorded over and married another god (Mal 2:11). Now, if we look at the words related to *בָּגַד*, we will find that they appear at Malachi 2:10, 11, 14, 15, and 16, which *BDB* defines *בָּגַד* as to “act or deal treacherously, faithlessly, deceitfully, in the marriage relation, in matters of property or right, in covenants, in word and in general conduct.”

Hence, at Malachi 2:10, the prophet rebuked the people, in particular the priests (cf. Mal 2:1), for treating each other treacherously. At verse 11, the prophet



accused Judah for treating God treacherously. Furthermore, at verses 14–16, the prophet condemned and forbade the husband from treating his wife treacherously. In other words, by using words related to בָּגַד, the prophet relates such treachery committed by people against God as a treachery a husband did to his wife of youth! And if we were to make a one-to-one correlation between God-Israel and husband-wife, then perhaps we can push the envelope further to say that, in this case, God seems to be the mistreated wife and Israel the treacherous husband! Just as the husband was warned not to treat his wife treacherously, Israel was also warned not to continue treating God treacherously.

Perhaps many will shy away and annoyed by this kind of one-to-one referencing as it suggests that God is the mistreated wife, but this is exactly the point. If we are uncomfortable with such one-to-one correspondence, then how can we still simply say that God is the husband and Israel is the wife, especially when we attribute all the negative imageries upon the wife? But, as many have pointed out that the relationship between God-Israel and husband-wife is a metaphorical language, then metaphor cannot be pinpointed as referring to this or that identity.¹ To do so is to kill the metaphor, and hence, misinterpret the passages.²

In the context of divorce, Malachi 2:16—“For I hate (שָׂנֵא)³ divorce (פְּרִי־שְׁלֵחַ),’ says the LORD the God of Israel, ‘and covering one’s garment with violence,’ says the LORD of hosts. ‘So take heed to yourselves and do not be treacherous’”—

¹ Mary Gerhart, and Allan Melvin Russell, *The Creation of Scientific and Religious Understanding*. Foreword by Paul Ricoeur (Fort Worth: Texas Christian University Press, 1984).

² Jacques Derrida, “The Retrait of Metaphor” (translated by F. Gasdner), in *The Derrida Reader: Writing Performances*, ed. J. Wolfreys, 102–129 (Edinburgh: Edinburgh University Press, 1998).

³ The word שָׂנֵא is another technical term used to describe divorce. For instance, Deu 24:3 talks about how the husband hated his wife, gave her a bill of divorce and sent her out of his house (cf. Jdg 14:15, 15:2; 2Sa 13:15; Jer 12:8). Lipiński, “שָׂנֵא,” *TDOT* 14:168–172.



is perhaps the only text in the Hebrew Bible that explicitly forbids divorce and regards it as a treacherous deed committed by the man. Notice that the focus here is the husband, not the wife. It is the husband who is portrayed negatively, not the wife. Another subversive usage of the word הִלָּךְ in the context of divorce. It is also worth noting that, according to the rabbis of Second Temple Judaism,¹ the other text that may invoke such injunction is Genesis 2:22–24. But notice again, the focus here is the man, not the woman. It is the man who will leave his father and mother and be united to his wife; not the other way around! We will recall Jeremiah 3:1 which says that it is the husband who returns to his wife again.

Conclusion

The usages of שָׂנֵא (“to hate”), עָזַב (“to leave” or “to abandon”), שָׁרַף (“to cast out”), and הִלָּךְ (“to send away,” as appears in the Pentateuch) show the inequality and maltreatment of wives in a patriarchal society as the husband seemed to be able to divorce his wife without any specific reasons. The wives, on the other hand, were represented as the passive recipients of such action. This portrayal tells us the power relation in the society where women were considered as property of men, in the sense that they were the extension of self of the paterfamilias. The dire condition of the material and emotional aspects of the sent-away wives and children was not a concern to the authors.

Such awareness can perhaps be heightened when the roles of husband and wife were reversed, when the ruling class was depicted as the wayward wife who repeatedly and willfully “sinned” against God and the land. This role reversal was even ascribed to God who was maltreated by Judah. While the men were criticized in Malachi for being treacherous to God and to their wives, the negative imageries of women were nonetheless the prevalent mode of representation of evilness and wickedness. Perhaps the main lesson that we can glean from this study is that such

¹ Wall, “Divorce,” in *Anchor Bible Dictionary*, 2:217.



negative representation of women must be treated as a metaphor, though a rather unfortunate metaphor that seems to have re-inscribed, re-produced and perpetuated the negative portrayals of women in our society.

Appendix

This Appendix aims to highlight how marriage was construed and constructed in ANE, in particular in the *Laws of Eshnunna* (hereafter, LE).¹ This review provides a brief background to our discussion of various representations of “divorce” in the Hebrew Bible. To be aware of our contextual presuppositions, we will first look at the notion of marriage in the U.S. as a point of departure for our review.

Marriage, according to *Random House’s Webster Dictionary*, is a “social institution under which a man and woman establish their decision to live as husband and wife by legal commitments, religious ceremonies, etc.”² Marriage, however, can also refer to “a relationship in which two people have pledged themselves to each other in the manner of a husband and wife, without legal sanction (e.g., trial marriage; homosexual marriage).”³ In other words, “any close or intimate associate or union”⁴ can constitute a marriage, albeit the state may not recognize its legal validity. *Black’s Law Dictionary*, therefore, defines marriage in

¹ In general, our resources and notion of ANE marriage come from marriage contracts and family archives in the patriarchal societies then. Marten Stol, “Women in Mesopotamia,” *Journal of the Economic and Social History of the Orient*, vol. 38, no. 2 (1995): 123–125. This essay assumes that marriage was a “given” social institution and hence does not address the issues of its origin related to the so-called “sacred marriage” between deity-deity or deity-human as a potential model for between human-human.

² In other words, marriage is “the state, condition, or relationship of being married,” usually after “legal or religious ceremony that formalizes the decision of a man and woman to live as husband and wife, including the accompanying social festivities.” “Marriage,” in *Random House Webster’s Unabridged Dictionary*, 2nd ed. (New York: Random House, 2001), 1179.

³ *Random House Webster’s Unabridged Dictionary*, 1179.

⁴ *Random House Webster’s Unabridged Dictionary*, 1179. This notion is also found in some ANE documents.



the U.S. as (1) “the legal union of a couple as husband and wife,”¹ which satisfies the following requirements: “(1) both parties legally capable of contracting to marry, (2) the mutual consent or agreement, and (3) an actual contracting in the form prescribed by law.”² This emphasis on the legal aspect of marriage is underlined because it “has important consequences in many areas of the law, such as torts, criminal law, evidence, debtor-creditor relations, property, and contracts.”³ Within this legal definition, the husband “is a married man; a man who has a lawful wife living,”⁴ and the wife is “a married woman; a woman who has a lawful husband living.”⁵ Family, then, is (1) “a group of persons connected by blood, by affinity, or by law, especially within two or three generations” or (2) “a group consisting of parents and their children,” or (3) “a group of persons who live together and have a shared commitment to a domestic relationship” (e.g., blended family, extended family; immediate family; intact family).⁶ The notion of male and female “equality”⁷ and hence mutual consent without the must permission of the parents is expectedly absent in most ANE documents. Equally missing or less emphasized in Western modern marriage is ANE concerns with

¹ “Marriage,” in *Black’s Law Dictionary*, 8th ed., ed. Bryan A. Garner (St. Paul: West, 2004), 992. *Black’s Law Dictionary* also recognizes “a marriage entered into in a secret way, as one solemnized by an unauthorized person or without all required formalities” (e.g., common-law marriage, confidential marriage, consensual marriage, covenant marriage, same sex marriage, etc.) (992–995).

² *Black’s Law Dictionary*, 992. Hence, marriage contract is defined as “a form of mutual consent required for a matrimonial relationship to exist according to the law of the place where the consent takes place” (347).

³ *Black’s Law Dictionary*, 347.

⁴ *Black’s Law Dictionary*, 758. “Etymologically, the word signified the *house bond*, the man who, according to Saxon ideas and institutions, held around him the family, for which he was legally responsible” (758).

⁵ *Black’s Law Dictionary*, 1628.

⁶ All the quotes come from *Black’s Law Dictionary*, 637.

⁷ While “equality” in ANE marriage contracts was very rare, the Elephantine community seems to have more such cases, albeit we can argue about the dating of such documents in Egypt, ANE and the Hebrew Bible whether such notion was early or later redaction. I wrote “equality” as the modern world, sadly enough, has yet treated women and men equally.



various material transactions (e.g., bride price or bride wealth and dowry),¹ property and inheritance allotment, negotiations about different ramifications related to procreation and barrenness, etc. Nonetheless, the legal rights and economic concern in marriage are more or less highlighted in both Western modern and ANE understanding of marriage,² although these issues tend to be subsumed under the romance elements in the West.³

In contrast with the U.S. modern marriage, ANE marriage was about “a man, the groom, enters into a family relationship with a male person in the other family. The future wife is the passive object of this transaction. The woman acquires the status ‘wife’ already at the moment of paying the brideprice.”⁴ In the Nuzi documents, moreover, “the bride’s status as ‘wife’ usually depended upon whether or not she bore children.”⁵ Once the wife has given birth to a child, she becomes “a respected person... and cannot be divorced easily” as we see in the

¹ Bride price or *terhatum* was the money or materials given by the groom to the father of the bride for marriage. Dowry was the money or materials given by the father of the bride to the bride. Bride wealth was practiced earlier in the Sumerian time where “large gift of foodstuffs” for wedding banquet in addition to money were given to the father of the bride. Stol, “Women in Mesopotamia,” 126. Also, Samuel Greengus, “Old Babylonian Marriage Ceremonies and Rites,” *Journal of Cuneiform Studies* 20, no. 2 (1966): 55–72. Notably, the practice of bride price was not found in Egypt. Edwin M. Yamauchi, “Cultural Aspects of Marriage in the Ancient World,” *Bibliotheca Sacra* 135 (1978): 243.

² One only needs to look at the issues raised in the case of divorce or marriage dissolution, which according to Black’s definition entails both spouses signing “a separation agreement that deal with (1) the issue of alimony (providing either some or none), and (2) if there are children, the issues of support, custody, and visitation.” *Black’s Law Dictionary*, 507.

³ The romance notion, however, was also present in ANE documents and the Hebrew Bible, as Nissinen and Carr pointed out. Martti Nissinen, “Love Lyrics of Nabû and Tašmetu: An Assyrian Song of Songs,” in “*Und Mose schrieb dieses Lied auf.*” Studien zum Alten Testament und zum Alten Orient, ed. Manfred Dietrich and Ingo Kottsieper (Münster: Ugarit-Verlag, 1998), 586–634; David M. Carr, *The Erotic Word: Sexuality, Spirituality, and the Bible* (New York: Oxford University Press, 2003).

⁴ Stol, “Women in Mesopotamia,” 125.

⁵ Jonathan Paradise, “Marriage Contracts of Free Persons at Nuzi,” *Journal of Cuneiform Studies* 39, no. 1 (Spring, 1987): 8.



LE,¹ especially if we can assume that the “main purpose of marriage is the perpetuation of the family. [Hence] To a wife who fulfills this purpose the law accords special protection.”² Given the heavy emphasis around the issues of bride price or bride wealth, some scholars even suggest that marriage was a “sale,” where “there are instances where the Babylonian word for brideprice (*terhatum*) means no more than ‘price for a woman.’”³

Besides these prominent concerns surrounding bride price and dowry before, during and after marriage was conducted (i.e., what to do with them when spouse(s) died or divorced or the husband had another wife or concubine), ANE marriage usually happened without the bride’s consent, not to mention that the bride was much younger than the groom, with her age between fourteen-twenty years old while the groom around thirty years old.⁴ And as Samuel Greengus has pointed, most ANE marriage binding agreements (*riksatum*) were done through the performance of symbolic rites or the recitation of *verba solemnia*.⁵ Written contracts, on the other hand, were usually undertaken in special circumstances

¹ Stol, “Women in Mesopotamia,” 129.

² Reuven Yaron, “Matrimonial Mishaps in Eshnunna,” *Journal of Semitic Studies* 8, no. 1 (Spring, 1963): 9. Here, Yaron is quoting Albrecht Goetze, *The Laws of Eshnunna*, Annual of the American Schools of Oriental Research, XXXI (New York: American Schools of Oriental Research, 1956), to support his argument.

³ Stol went on to say that “we have examples of marriages which actually are to a larger extent purchases of poor girls. The poorer the girl’s parents, the more marriage resembles a real sale.” Stol, “Women in Mesopotamia,” 127. When it comes to the Hebrew Bible, Yamauchi writes that the bride price in the marriage binding agreement “represented compensation rather than actual purchase.” Yamauchi, “Cultural Aspects of Marriage in the Ancient World,” 244.

⁴ Yamauchi, “Cultural Aspects of Marriage in the Ancient World,” 241–243. For implications of such age, see Roth’s insightful article, Martha T. Roth, “Age at Marriage and the Household: A Study of Neo-Babylonian and Neo-Assyrian Forms,” *Comparative Studies in Society and History* 29, no. 4 (Oct. 1987): 715–747.

⁵ Moreover, “symbolic rites are attested in divorce, manumission, sale, service contracts, surety, and in treaty formation, while *verba solemnia* are found in connection with adoption, divorce, and service contracts.” Samuel Greengus, “The Old Babylonian Marriage Contract,” *Journal of the American Oriental Society* 89, no. 3 (July–Sep., 1969): 515.



for a certain specific purposes. Now, with these characteristics in mind, we shall turn to the LE.

First of all, in the superscription of LE, King Dadusha—the successor to King Naram-Sin who turned Eshnunna (in the East of Babylon) into “one of the great military powers at the end of the nineteenth and the beginning of the eighteenth centuries BCE”¹—was the reputed king appointed to kingship in the days of gods Enlil and Ninazu. Right away, we see how political, economic and religious elements were meshed together in LE and it is within this framework that we look at the sections that deal with marriage issues, namely sections 17–18, 25–31, and 59.

Beginning with sections 17–18, we notice the class distinction in marriage, as it is written in section 17, “Should a member of the *awīlu*-class bring the bridewealth to the house of his father-in-law...” Moreover, continues section 17, “if either (the groom or bride then) should go to his or her fate, the silver shall revert to its original owner (i.e., the widower or his heir).”² Here, the LE does not tell us what would happen to the bride and what portion of financial support would she receive if the groom died. Even though we can assume that the bride had the dowry from her father or mother or brothers, we do not know whether the bride had any authority over the use of the dowry, especially if the one(s) who gave to her was still alive.³

Under the general rule of section 17, section 18 then stipulates that “if he marries her and she enters his house and then either the groom or the bride goes to his or her fate, he will not take out all that he had brought, but only its excess

¹ Roth, “The Laws of Eshnunna,” 232.

² Yaron points out that “the payment of the *terhatum* might take place a considerable time before the marriage was consummated.” Yaron, “Matrimonial Mishaps in Eshnunna,” 2.

³ For example, Martha T. Roth, *Babylonian Marriage Agreements 7th–3rd Centuries B.C.* Alter Orient und Altes Testament (Kevelaer: Butzon & Bercker; Neukirchen-Vluyn: Neukirchener Verlag, 1989), 5–6.



shall he take.”¹ Reviewing the translations by San Nicolo, Klima and Goetze, Reuven Yaron argues that based upon the *Laws of Hammurabi* section 164—“If his father-in-law should not return to him the bridewealth, he shall deduct the value of her bridewealth from her dowry and restore (the balance of) her dowry to her father’s house”—the subject “he” of the apodosis should refer to the father-in-law and not the husband (i.e., whatever he (the husband) had brought in he (the father-in-law) will not (have to) relinquish, and he will get what is in excess of it).² Depending on which translation we choose, the dowry might or might not be larger than the bride price, though in Old Babylonian period, dowry was usually more than the bride price.³ In any rate, this law reveals that the society was more concerned with the husband and seemed to suggest that fewer complications arose when the wife died.

Our next sections show that once the groom had given the bridewealth to the bride’s family, he then had the legal right over the bride. Hence, if the father-in-law refused to fulfill the promise, he would need to “return two-fold the bridewealth which he received” (section 25). During this “inchoate marriage” period, if someone else deflowered the bride to be, the criminal would be punishable by death (section 26). Such punishment, however, did not apply if the victim was a slave (section 31).

This issue of right is also highlighted in sections 27–28 which underscore the essentiality of nuptial feast and marriage contract as well as the consent of the bride’s family. According to LE, even if the bride had resided one full year in the

¹ The phrase “enter a house” may be a technical phrase for marriage, as was the case in Egypt. P. W. Pestman, *Marriage and Matrimonial Property in Ancient Egypt: A Contribution to Establishing the Legal Position of the Woman* (Lugdunum Batavorum: Brill, 1961), 10.

² Yaron, “Matrimonial Mishaps in Eshnunna,” 7. While Yaron’s interpretation portrays a relatively modern picture of LE, one wonders whether such portrayal was a bit too modern and humane, albeit Yaron argues for his case in terms of the *Laws of Hammurabi*.

³ Yamauchi, “Cultural Aspects of Marriage in the Ancient World,” 243.



groom's house, she was not considered a wife until he had concluded "the contract and the nuptial feast for her father and mother." Once she became a wife, if she was found with another man, she would then be put to death. According to this translation, nothing was said about the man-adulterer. Yaron, however, argues that based on the *Laws of Hammurabi*, "the punishment for adultery may be directed against the male offender. The woman may be left to the domestic jurisdiction of the husband or his father."¹ Sections 29–30 continue to stress the right of the husband over the wife: unless the husband was captured and did not leave the city on his own will, whenever he returned, he could still reclaim his wife even though she might have married and bore children to another man.

Now, if the wife had borne children to her husband and if he married again, LE ordered that he "be expelled from the house and any possessions there..." (section 59). Moreover, according to Yaron's analysis and reference to the *Laws of Hammurabi* (sections 137 and 177), the wife was even allowed to remarry after she had raised the children.² In other words, while LE was concerned with the welfare of the wife, LE wanted to make sure that the children were protected as well.

Given this brief reading of LE, we find that LE does not deal with the issue of adoption, which was prominent in the Nuzi documents. LE also does not list out different case scenarios concerning the issue of barrenness and divorce. Like other ANE marriage contracts, however, LE portrays for us a marriage centered on the issue of right and regulation of property. Whether marriage was instituted for the purpose of procreation, as was often assumed, LE does not provide any clear answer. LE also does not tell us whether women were treated as a property,

¹ Yaron, "Matrimonial Mishaps in Eshnunna," 9. Elsewhere in ANE laws state that even if the wife was under the husband's jurisdiction and hence might probably receive a more lenient punishment, the punishment meted out for the male offender, however, could not be more severe than that of the wife.

² Yaron, "Matrimonial Mishaps in Eshnunna," 13–16.



albeit they did not have much right in the marriage contract, except when they bore children.

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