THE COMPLAINT OF LABAN'S DAUGHTERS

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When Jacob made up his mind to leave the house of his father-in-law and return to the land of Canaan, he called his wives out into the field and informed them of his intention. They expressed their approval and their willingness to go with him in these words: "Have we any longer a share or an inheritance in our father's house? Have we not been reckoned by him as foreign women? As a matter of fact (גֹּת), he has sold us; indeed he has eaten up our money. All the wealth that God has taken away from our father belongs to us and our children. Do what God has told you to do" (Genesis 31:14-16).

Commentators have often remarked that this statement gives us a valuable glimpse into the social ideals and customs of Old Testament times. That the picture presented reflects historical conditions


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we have no reason to doubt. For what period of history it is true, however, is another question. We must reckon with the possibility of what I may call retrojection, i.e., unconscious anachronism, naively attributing to the patriarchal period what was true of the writer's own day. Thus some writers have regarded our passage as showing that in the eighth century, when the E-document is supposed to have been written, the Israelites no longer recognized a father's right to the use of his daughter's bridal money. On the principle that ancient narratives in general are primary sources for the times in which they were written rather than the times of which they purport to tell, this is the only sound position to take, unless we have other evidence of the conditions portrayed for the period to which the story refers.

Such evidence is not wanting. Recent Old Testament scholarship exhibits a notable tendency to regard the stories of the patriarchs, and particularly the Jacob stories, as portraying faithfully the conditions of the pre-Mosaic period. Especially striking parallels have been found between these stories and the mixed culture of northern Mesopotamia in the Amarna period, as revealed by the now well known Nuzi documents. Now it happens that two or three of these points of contact are found in the very passage we are considering. An examination of them will help us to estimate the historical significance of the passage.

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8 Historians sometimes say that ancient writers have "projected" the customs and ideas of their own times into the earlier periods of which they tell. Since it is anomalous to speak of projecting backwards, I prefer to speak of "retrojection," and the term is a convenient one for this very familiar phenomenon.

8 The arguments of Rudolf and Volz have shown that it is very doubtful whether there ever was a separate E-document, but that point does not concern us here, nor does the date of composition of what in any case may be called E-material.

4 So Benzinger, Encycl. Bib. iii, col. 2943; cf. also the commentaries in loc. and DVW, note 100.

5 Cf., e.g., Albright, The Archaeology of Palestine and the Bible, 129-51; Graham and May, Culture and Conscience, 81-95.

6 For these parallels see particularly GPN, and with special reference to the Jacob story BASOR 66.25-7.

7 Since in this paper I have had to take positions on matters belonging to a field in which I can claim no competence, I submit by way of extenuation that I have endeavored to avoid error by consulting experts in that field. I wish to express here my indebtedness for such help to my colleagues.
The Complaint of Laban's Daughters

In the first place we may remark that Jacob's marriages conform closely in form to the errēbu-marriage of ancient Babylonia.\(^8\) Ordinarily the Babylonian family was thought of as continued by the male descendants. Wife and children therefore belonged to the husband's family. When there was no son, however, the family might be continued through a daughter by taking a husband for her into her father's family as an errēbu, comparable to the "visiting husband" among Palestinian peasants today.\(^9\) A similar arrangement appears in the Nuzi tablets.\(^10\) Two instances have been noted\(^11\) in which a man who has no son adopts a young man as his heir, at the same time giving him his daughter in marriage.\(^12\)

Several scholars see this type of marriage also in the Assyrian Code,\(^13\) which refers a number of times to wives living in their fathers' houses.\(^14\) Driver and Miles argue that these references do not necessarily imply a distinct form of marriage in which the wife remains in her father's house; what is meant may be simply that the woman has left her husband and returned to her own family, or that owing to special circumstances she has never left her child-

Professors Albrecht E. Goetze and Ferris J. Stephens. Of course they are not responsible for any errors I may have committed in spite of their assistance.

\(^8\) For a description of this type of marriage and references to the sources cf. DVW 4 f, 18 f, and notes 110-118. David notes the connection between Jacob's marriages and errēbu-marriage, as does also Gordon, BASOR 66. 26. A translation of the Sumerian Laws (ana ittiēbu series), containing the prescriptions with regard to errēbu-marriage, is given by Gressmann, Altoriental. Texte zum A. T., 2nd ed., pp. 410 f. A commentary by Landsberger has just been published by the Pontifical Biblical Institute in Rome.

\(^9\) Cf. GMC ii. 312 ff, where a case is cited in which a man came as herdsman to a girl's father, served for the daughter, and remained in the father's household, just as Jacob did.

\(^10\) DVW, note 121.

\(^11\) GTK, no. 51; HSS v, no. 67 (AASOR x, no. 2). The former of these two tablets is the one referring to the heir's possession of the household gods (see now Gordon, BASOR 66. 25 f). The other tablet also exhibits several parallels with the stories of the patriarchs.

\(^12\) The second of these tablets does not state that the bride is the daughter of the man who adopts the bridegroom, though David assumes this (loc. cit.), and Speiser regards it as probable (AASOR x, p. 22).

\(^13\) E.g. Koschaker (KQU 60 f; KF 85-7), San Nicolò (SBR 91-3), and David (DVW 19 and note 118). See also references cited DMAL 136 ff.

\(^14\) §§ 25, 26, 27, 32, 33, 36, 38.
hood home. That is possible, but unlikely. The law states (§ 38) that if a wife is divorced while living in her father’s house, her terḥatu or “bride-price” belongs to her and cannot be claimed by her husband. If this refers to particular circumstances rather than a distinct type of marriage, it implies that under other circumstances, i.e. if the wife were living with her husband, he might demand the return of the terḥatu. Flight to the paternal home would then be the recourse of any woman who feared that her husband might divorce her and reclaim her terḥatu. On the other hand, if the reference is to marriages of the errēbu-type, the law that the terḥatu belongs to the wife in case of divorce is equivalent to the provision of the Sumerian Laws that an errēbu-husband forfeits the terḥatu if he leaves his father-in-law’s house. San Nicolò maintains that this type of marriage was not only known in Assyria but was the characteristic form of Assyrian marriage in early times, and that the later Assyrian Laws betray an effort to subordinate it. The Hittite Code also (§ 27), as San Nicolò remarks, attests this form of marriage along with the more familiar type.

In view of all this material, so near at hand, it is no longer necessary to bring in from far-off Ceylon the analogy of “beena” (bina) marriage. The mot’a marriage of the Arabs is nearer home and may go back to very early origins. It is important to observe, how-

\[18\] DMAL 139-42. Cf. Mishna Pea. 8.1 for special provisions regarding a married woman living in her father’s house. The Nuzi tablets record cases of wives who have fled to their father’s houses, and whose husbands have taken court action to compel them to return (AASOR x, nos. 34 and 36; cf. GSW 161).

\[19\] I adopt this translation provisionally, pending discussion elsewhere of the nature of the terḥatu and the Hebrew mohar. For convenience I also use throughout this paper the form terḥatu, disregarding actual variations of orthography in the sources.

\[20\] The preceding law (§ 37) says that a man in divorcing his wife “may give her something” if he so chooses; otherwise “empty she shall go out.” This may be taken to imply that the terḥatu must be returned to the husband, though not necessarily, especially if the terḥatu has been retained by the wife’s father.

\[18\] V. s., note 8.

\[19\] SBR 91-3.

\[20\] Cf. especially J. Morgenstern, “Beena Marriage in Ancient Israel and its Historical Implications” (Zeitschr. für die alttest. Wissensch. 1929. 91-110; 1931. 46-8).

\[21\] SKM 76 ff.
ever, that the relation of Jacob to Laban’s family has nothing whatever to do with matriarchy. It belongs rather in the framework of errēbu-marriage, which is essentially a product of patriarchal society. The purpose of such a marriage is to provide male succession for a man who has no son, like Sheshan in the Old Testament, who obtained an heir through his daughter by marrying her to his slave.22

The case of Jacob, it is true, is complicated by the fact that in one verse (Gen. 31:1) “the sons of Laban” are referred to. Gordon offers a simple explanation: Jacob had been with Laban twenty years, and the sons had been born in the meantime, since his coming.23 In that case the question of Leah and Rachel, “Have we still any portion or inheritance in our father’s house?” (verse 14), means that before their brothers were born they could have expected an inheritance,24 but now the sons will inherit the estate. The daughters’ claim that everything which Jacob has won from Laban belongs to them and their children (verse 16) will then mean, “Since you have acquired all this, it now belongs to us and our children instead of our brothers, so that it is to our interest to go with you.” Commentators, however, remark that verse 1 is by common consent attributed to J, and in the E-strand of the story there is no indication that Laban had any heir apart from his daughters.25 If the sons may be left out of account as not belonging to the original story, the reason Rachel and Leah no longer expect an inheritance from their father will be that Jacob’s gains at Laban’s expense have left no estate for them to inherit. On that basis the statement that what Jacob has won belongs to them and

22 1 Chron. 2:34f. David calls attention to Ezra 2:61 (Neh. 7:63), in which he sees an indication that in such marriages the husband took the name of his father-in-law (DVW, note 119). He also remarks that Ring (Israels Rechtsleben 15) and Lods (Israel 218) find this form of marriage in other biblical passages. Grandquist, in connection with the modern Palestinian custom (v. s.), refers to Samson’s marriage, Judges 14:19 (GMC ii. 313).
24 David argues that what is implied is that Jacob was Laban’s heir, because daughters could not inherit in Israel before the time of Numbers 27 (DVW, note 119). Gordon infers from Nuzian parallels that Laban had actually adopted Jacob (BASOR 66. 26). Procksch (in loc.) remarks, however, that in the ancient Aramaean Kulturkreis women may already have had such an independent position as is here presupposed. At Nuzi a daughter might inherit property when there was no son (GSW 150).
25 Cf., e.g., Skinner and Procksch in loc.
their children will mean, "Since what you have gained would have fallen to us anyway, we are justified in carrying it off with you." Jacob’s recital of grievances (vv. 36-42) does not include any reference to Laban’s sons as coming between him and the inheritance of the estate. But by either view of the reference to the sons the supposition that Jacob had entered Laban’s family as an errēbu provides an explanation for the stealth with which he departed, taking wives and children and flocks; 26 it explains also the indignant protest of Laban when he overtook them (verse 43) : "The girls are my daughters, and the children are my children, and the flocks are my flocks, and everything you see is mine." 27

Laban’s daughters complain that their father has treated them as "strangers" or "foreigners." One is reminded of the unenviable position of the "strange wife" among the fellāhin of Palestine today. A woman from a distant village is at a disadvantage in married life, because her father and brothers are not at hand to see that she receives fair treatment from her husband. 28 Laban, instead of being a protector to his daughters, has acted toward them as though they were outsiders; they can therefore count on nothing from him that would induce them to remain at home.

There are echoes of a similar conception in the cuneiform literature. An Assyrian document, for example, specifies that a certain man who is adopting a girl shall treat her "as his own daughter, as an Assyrian." 29 In like manner a Nuzian tablet of "daughter-ship and daughter-in-law-ship" states, "And Ḥanate shall treat Ḥalpapuṣa as a daughter of Arrapja; she shall not return her to (the status of) a slave-girl." 30 The implication of this and similar expressions is that a woman living among her own people receives and has a right to expect better treatment than one from another land and people, 31 just as the words of Leah and Rachel imply that

26 According to the Sumerian Laws (v. s., note 8), lines 40-46, an errēbu who left the house of his father-in-law forfeited the terhatu he had paid (DVW 19); of course he could not take his wife with him.

27 Gordon (v. s., note 24) takes this to mean that Laban had adopted Jacob, as in the Nuzi tablets referred to above (note 11), and therefore had patriarchal authority over him and his family. The inferior position of the errēbu-husband in the family provides a better explanation, though the situations assumed by both explanations have much in common.

28 GMC i. 94-6.

29 Cited without reference DMAL 166.

30 AASOR xvi, no. 42, line 21.

31 See further GSW 149 on the inferior status of foreign women at Nuzi
the treatment they have received is such as normally only foreign women would receive.

Laban's unnatural attitude is demonstrated by the fact that he has "sold" his daughters, they claim. Neubauer is quite right in saying that this passage does not prove the existence of marriage by purchase among the Israelites, since there would have been no point in complaining if it had been customary for fathers to sell their daughters. Perhaps there is some force also in the remark of Driver and Miles that we must not take too seriously a mere "angry outburst on the part of two indignant women," not to mention the fact that this is no stenographic report of an actual conversation. One may even say that mākar does not necessarily mean "sell." D. Winton Thomas has recently argued that the Hithpael of this verb in three of its four occurrences in the Old Testament and its single occurrence in Ben Sira means "act deceitfully," like the second stem of the cognate Arabic verb. On this basis one might take the Qal here (or, repointing, the Piel) to mean simply, "He has tricked us." The context, however, favors the usual translation. The most natural interpretation is that Laban had done something which made the marriage of his daughters in effect a mere sale of property.

What it was that he had done is stated in the next clause: he had "eaten" their "money" (t̄akal kaspēnu). In cuneiform documents the terhatu is often called simply the "money" (kaspū) of the bride. Many examples of this have been noted in the Nuzi tablets.

NBG 73, 205.

As David remarks, however, Neubauer goes too far in maintaining that the passage disproves the practice of marriage by purchase (DVW, note 100).

DMAL 142 n, 158 n.


Most of the following references are cited by KF 17 n and GSW 157 n, but inasmuch as neither cites all of them or indicates both original publication and publication in transliteration, I repeat the list here: (1) GTK, no. 12, line 4 (v. i., note 80); (2) ib., no. 35, line 23; (3) HSS v, no. 17 (AASOR x, no. 30), line 20; (4) ib., no. 11 (AASOR x, no. 31), lines 6, 14, 27, 29; (5) ib., no. 16 (GNT, no. XVIII), line 11; (6) ib., no. 25 (AASOR x, no. 28), line 7; (7) ib., no. 80 (AASOR x, no. 26), lines 12, 30; (8) HSS ix, no. 145 (GNT, no. XXXIV), line 11; (9) CTC ix, no. 7 (KNR, no. 24), lines 9-12; (10) CEN i, no. 78 (KNR, no. 26), line 8. To these may now be added (11) AASOR xvi, no. 30, line 16; (12) ib., no. 54, line 6.
as well as in other cuneiform sources. In simple marriage contracts the girl’s “money” is given by the bridegroom to her father or guardian. When a girl is adopted by a person who thereby acquires the right to give her in marriage, her “money” is paid by her husband to the adoptive parent. Only once is the term applied to a sum of money given to the bride herself. Where the amount of the “money” is stated, whether in simple marriages or in adoptions, it is regularly forty shekels. Presumably, as has often been supposed, this “bride-price” is the “money” of Laban’s daughters. Jacob, of course, had paid for his wives by labor instead of money; we must suppose therefore that they considered themselves entitled to the equivalent of his labor in money, or at least to a part of it. Among the Palestinian fellāhin today the mahrr may be paid in money, goods, or service. At Nuzi also the terḥatu was not always paid in silver, nor does the use of the word kaspu necessarily imply this. Not only the noun is used in cuneiform documents in this way; the same verb also which we have in our Hebrew text appears sometimes together with this noun in the Nuzi tablets in connection with a father’s or guardian’s right to the bride’s terḥatu. Its meaning

Since kaspu in its quasi-technical sense occurs four times in no. 4 of this list and twice in no. 7, we have here actually 16 instances. No. 5, it must be admitted, may not be a marriage transaction.

E.g., in an Old Babylonian tablet the bride is said to have received (X) ḫiṭkil kaspim kasap (te)-ir-ḥa-za (SUA, no. 2, Schorr’s transliteration).

So note 36, no. 4, line 6, and nos. 6 and 12. In no. 2 and no. 4, lines 27 f., the kaspu is paid to the girl’s guardian, but the person who pays it is not specified.

Note 36, no. 4, lines 12 f., and no. 8. In no. 3, no. 7 line 30, and nos. 9 and 10 the adoptive parent receives the kaspu, but it is not explicitly stated that the husband pays it.

No. 7, line 12. See below, p. 275.

Nos. 6, 8, 12.

The use of ksp in Exodus 21: 35 may be noted in this connection.

Neubauer’s effort to show that Jacob’s labor was not the equivalent of a mohar (NBG 71 f) cannot be regarded as successful. David considers it a mohar (DVW 19). See also below, note 45.

GMC i. 9 n, 119.

GSW 156, GPN 3. Gordon remarks that in CEN iii, no. 297, line 25, kaspu is used of flocks. Cp. HSS v, no. 16 (GNT no. XVIII), line 11. See also Speiser, JAOS 52 (1932). 355 and note, for the various uses of kaspu in ditennūtu contracts.

Nos. 2, 4, and 9 of note 36, above.
in such cases has been taken to be "have the usufruct" of the sum in question. Thus Gordon maintains that the purpose of the kaspurhātu was to provide for the maintenance of the wife in case, being divorced or widowed, she returned to her father's house. Meanwhile (which ordinarily meant as long as he lived) he enjoyed the usufruct of it. This, Gordon thinks, is the meaning of akālu kaspa in the Nuzi documents. In the case of Jacob Gordon suggests that the kaspur of Laban's daughters consisted of flocks, and that Laban had appropriated the milk, wool, and natural increase.

But the words of Leah and Rachel imply more than that their father had used the income from the "money." The emphatic form of their statement (perfect tense with infinitive absolute) suggests that he had completely consumed the "money" itself. This accords both with the primary meaning of the verb and with its secondary applications to the devouring action of fire, sword, pestilence, and the like. As a matter of fact, it seems to me, this is also its real significance in the expression we have noted in the Nuzi tablets. In Old Assyrian (Cappadocian) documents the verb akālu is applied to the use of income from a sum of money, but in such cases the object of the verb is a noun referring to the income itself, not to the capital. For example, a letter published by Sidney Smith states that the writer is going to buy and send two talents of lead, and adds, "consume the profit from it." In a legal document, dealing with a suit arising from a narupp contract between a capitalist and the traveling merchant who acted as his agent, the decision is made to depend upon whether or not the agent and his representatives have "consumed" the "third" to which he was

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47 So GPN 3, where the parallel with our passage is pointed out.
48 Loc. cit.
50 (19) ni-ma-al-šu (20) a-kakāl.
51 Sayce, Babyloniaca iv, pp. 79 ff; cf. also Landsberger, Der Alte Orient xxiv, 4; Eisser and Lewy, MVAG xxxv, no. 328. I am indebted to Prof. Lewy for calling my attention to this material.
52 For a full discussion of this type of business relationship and of this tablet cf. Eisser and Lewy, op. cit., II (MVAG xxxvi), pp. 86 ff.
entitled as his commission.58 Other instances of the use of the verb in Cappadocian tablets for the consumption of sums of money are given by Eisser and Lewy.54 In all these cases it seems clear that akâlu does not mean "have the usufruct of," but "consume." 55 It may not be amiss to remark that Lewy describes the writers of these Cappadocian texts as Assyrianized West Semites, and that some of their personal names contain the element Laban.56 Before leaving this subject an interesting parallel from present-day Palestine may be noted. Miss Grandquist tells of a widow who took pains when she was married again to see that her bride-price came into her own possession, because, as she said, her father had "eaten" the bride-price of her first marriage.57

The simplest interpretation of the complaint of Laban's daughters in the light of this material would be that Laban had used up their "bride-price," whereas (by implication) he should have either given it to them or held it for them in trust, using at most the income derived from it. Gordon concedes the possibility of such an interpretation. Admitting that the passages in which the expression akâlu kaspa occurs are too few and inconclusive to substantiate fully his own view, he suggests that the terhatu, while originally intended for the wife's support in case of divorce or widowhood, may have tended to degenerate into a marriage-price retained by the guardian.58 Laban's conduct would then be an example of this tendency. By appropriating for himself what he should have held as a trust-fund he made his daughters' kaspu a mere purchase-price. Whether the terhatu had always been intended as such a trust-fund or whether this view of it was a relatively late development, our passage implies that Laban should not have "consumed" the "money."

55 According to Bezold, Babyl.-Assyr. Glossar, akâlu is sometimes used of a field, where of course it can only mean "have the usufruct of," not "consume." So now AASOR xvi, no. 69, line 10, eqa ša-a-šu ak-la-šu-mi. Where it is applied to a sum of money, however, it seems regularly to imply the use of the capital, not merely of the income. (I am assuming, of course, that the word usufruct refers to the use of the income only; the legal distinction between perfect and imperfect usufruct need not concern us.)
56 Revue de 1'histoire des religions, 1934, 39 ff.
57 GMC i. 128 (a footnote calls attention to the parallel with Gen. 31: 15).
58 GSW 157 n; BASOR 65. 31.
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A difficulty arises at this point. In the Nuzi tablets the words akalu kaspa do not refer to something which is condemned, as in our Hebrew text, but to an explicitly recognized right of the person who receives the kaspu. In one case a father, giving his daughter in adoption to another man, says to the adoptive father, “Give my daughter Ašte to wife either to your son or in the gate; her money I declare I have consumed.” 59 Apparently this means that the father acknowledges receipt of the full amount due from the man who is adopting his daughter, and thus renounces any claim upon her terhatu when she is married. Similarly another contract provides that a woman who adopts a girl shall give her in marriage, “and forty shekels of silver for her from her husband she shall receive and consume” 60; a little later in the same contract the mother says that she has “received and consumed” her daughter’s “money.” 60 A third tablet says simply that the woman who adopts the girl in question shall choose a husband for her and “consume” her “money.” 61

All three of these cases evidently involve a form of “adoption” as a business transaction by which an entrepreneur takes over a girl, paying to her parent in advance (at a discount, doubtless) what the latter would normally expect to receive as his daughter’s terhatu, and acquiring in return the right to give the girl in marriage and “receive and consume” her kaspu. 62 The expression akalu kaspa, be it noted, is applied both to the money given to the parent by the adoptive parent and to what is received by the latter from the husband. In both cases, if it be granted that akalu means “consume,” the person receiving the “money” is not expected to hold it as a trust-fund but may dispose of it at will as his own property.

Why then is the consumption of the kaspu condemned in the case of Laban? There are several possibilities. If the same customs obtained among the Aramaean ancestors of the Israelites as among the contemporary Nuzians, our Hebrew story must represent the point of view of later Israel, which no longer allowed the father to

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59 Note 36, no. 2, lines 23 f. Gadd translates a-ku-ul-mi “I have accepted.”
60 Note 36, no. 4, lines 14 f and 27 f. I assume that Eluanzu and Kanzu are the same (cf. Speiser’s note in loc.).
61 Note 36, no. 9, lines 9-12.
62 In other adoption contracts the adoptive parent pays nothing until the girl is married; in fact, the father or mother advances a sum of money for the girl’s dowry (see below, note 79).
"eat" the "money." 63 In that case the common view that the passage is retroactive 64 is confirmed and more precisely defined by the parallels from Nuzi. It may be, however, that what was regarded as legitimate at Nuzi was condemned by the Aramaeans. The charge that Laban treated his daughters like foreigners may then mean that he treated them as Hurrian fathers treated their daughters. If this be the true explanation, there is no retrojection in the passage. A third possibility is that the right to consume the kaspu was exceptional even at Nuzi, being allowed only under special circumstances (such as adoption) and when explicitly acknowledged in the contract.

None of these possibilities can be excluded a priori, but there are certain facts which favor still another hypothesis. Perhaps the story of Laban represents, not a totally different custom from that of the Nuzians, but a somewhat more advanced stage in a social process which was under way at Nuzi also. What had originally been a payment to the bride's father or guardian, becoming his property with full right of consumption, was developing into a trust-fund for the benefit of the woman, through the growth of a feeling that the father should hold part if not all of it for this purpose or give it to the girl herself. Exactly this development has taken place in Moslem lands. Arab marriage still shows traces of an earlier form in which a man simply bought his wife from her father by the payment of a bride-price (mah\textsuperscript{r}). 65 At present, however, the mah\textsuperscript{r}, or a part of it, is commonly converted into jewelry or other personal or household goods and in this form is passed on by the father to the bride herself, becoming her property. 66 According to Berry, a fairly large mah\textsuperscript{r} is regarded as desirable among the Moslems of Palestine today because of the ease with which a husband may divorce his wife, both the portion given to the bride and

63 Substantially this explanation was given by Prof. Julius Lewy in discussing my paper at the Cleveland meeting of the American Oriental Society.
64 See above, note 2.
65 SKM 111 f. Writers on present-day marriage customs in Palestine and Syria take pains to show that the mah\textsuperscript{r} is not a purchase-price. That the pre-Islamic Arabs, however, did not practise marriage by purchase is another proposition. In the jahiliyyah many things were done which Islam condemns.
66 This is not always done by the fell\textsuperscript{ah}in, but, as I judge from conversations with Arabs, it is expected among the townspeople and the well-to-do families (cf. GMC i. 135; BCE 17-19, 23-5, 31-4).
the amount retained by her father being regarded as means of providing for her support in case of divorce.67

Evidence that such a tendency was actually at work at Nuzi was seen some years ago by Speiser 68 in this fact: several of the marriage and adoption contracts stipulate that a sum of money is to be, or has been, bound up in the girl’s qannu (variously translated “hem,” “girdle,” or “bundle”). One is reminded of the way in which the fellāḥah of Palestine still wears her bridal money in the form of a string of coins in her head-dress. Some of the tablets add that this money has been “released” to the girl.69 The same practice appears considerably earlier in Old Babylonian tablets of the period following that of Hammurabi; here the terḥatu itself is bound in the bride’s qannu and reverts to her husband if she dies.70 In the Nuzi texts it is not the terḥatu which is bound in the qannu but a sum known as the riḥtu, i.e. “reminder.” If the terḥatu, like the Arab mahr, was originally a bride-price, then the references to the qannu in the Nuzi tablets may reflect a process of emancipation analogous to that which the mahr has undergone. Such is Speiser’s interpretation.

If that be so, the Assyrian Code may exhibit a further stage of this process, as Koschaker 71 and Speiser 72 have supposed. The only law in this code which mentions the terḥatu at all (§ 38) states that a man who divorces a wife living in her father’s house may take back the “ornaments” he has given her, but the terḥatu “which he brought” belongs to her. If what is contemplated here is not, as we have previously seen reason to believe, a special form of marriage,73 but merely a particular set of circumstances, then we may say that under such circumstances (namely, when the wife has not left her father’s house or has returned to it) the terḥatu

67 BCE 33. Cf. also GMC ii. 13 n with regard to the ḥaqq muta’āḥhīr (postponed price), a portion of the mahr which is not paid unless the husband divorces the wife or dies, but is then given to her before his estate is divided.
68 AASOR x, pp. 22-4.
69 So HSS ix, no. 145 (GNT XXXIV); KNR no. 26; AASOR xvi, no. 15, line 15. (In the first instance Gordon translates “delivered.”)
70 SUA no. 209; KUH iii, nos. 10, 483 (in no. 9 the terḥatu goes to the bride’s father-in-law). SUA no. 2 simply says that the bride has received her terḥatu and is satisfied.
71 KQU 57.
72 AASOR x, p. 23.
73 See above, p. 261.
is the wife’s property. In other words, it has become a marriage-settlement instead of a bride-price. As a matter of fact, the conversion of the bride-price (if it was ever that) into a marriage-settlement had taken place very early among the Sumerians, as Koschaker has pointed out; the Code of Hammurabi, being under strong Semitic influence, seems to represent a relapse in the direction of marriage by purchase,74 but we have seen that Old Babylonian documents of a time only slightly later state that the *terḥatu* has been bound in the wife’s *qannu.*75

Speiser’s view is not universally accepted. Gordon has pointed out that while the amount of the *qannu*-money and the amount paid to the guardian vary, their total is quite regularly forty shekels. The constancy of this total explains the designation of the *qannu*-money as the “remainder” (*riḥtu*), i.e. the difference between the amount paid to the guardian and forty shekels.76 Gordon infers that the *riḥtu* and the *terḥatu* together formed a sum intended to provide for the wife in case of divorce or widowhood, the total amount required for this purpose being fixed by law or custom, while the portions contributed by the father and the husband respectively were variable.77 According to this interpretation the wife always got forty shekels, part being provided by the husband and held in trust by the father (with right of usufruct), while the “remainder” was given to her by her father. The net cost of the whole transaction for the father (aside from his right of usufruct) was therefore the amount of the *riḥtu*. The cost for the husband was 40 minus the *riḥtu*. If this view be correct, the *qannu-riḥtu* was really a dowry, as indeed it appears to be designated in one tablet.78 In favor of this also is the fact that wherever the person who binds the *riḥtu* in the *qannu* is indicated it is always the father or guardian. Sometimes, indeed, the father or mother binds the money in the girl’s *qannu* before any marriage is arranged; this happens in cases of adoption, where it is provided that the future husband shall pay forty shekels to the adoptive parent, and the

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74 KRS 197.  
75 See above, p. 271.  
76 The word is not used exclusively in this way: in HSS v, no. 11 (AASOR x, no. 31), line 27, the *riḥtu* appears to belong to the adoptive parent (unless *sā ana ʾMa-at-ka-šar* means “who belongs to Matkašar”).  
77 GSW 157.  
78 HSS v, no. 80 (AASOR x, no. 28); see below, p. 275.
latter shall return to the father or mother the amount of forty shekels minus the *gannu*-money.\textsuperscript{79}

Gordon's theory is open to certain objections. Why the amount provided for the wife should be fixed, while the portions contributed by the husband and the parent respectively varied within this amount, is hard to see. That the sums given should vary according to the wealth of the parties concerned and the age and desirability of the girl is comprehensible, but one would then expect that the total provision for her also should be variable. Apart from a priori considerations, we know that the bridegroom was often, if not regularly, expected to pay forty shekels. One tablet mentions the amount of forty shekels as "the price of a daughter of Arrapha."\textsuperscript{80}

In a marriage-contract of the simplest kind\textsuperscript{81} a man declares that he has given his sister in marriage to a man named Ŵurazzi and adds, "and from Ŵurazzi forty shekels of silver for my sister\textsuperscript{82} Belit-Akkadi-Ummi I have received and am paid." In still another case a man who adopts a girl as daughter-in-law in order to marry her to his own son pays forty shekels of silver as her *kaspu*.\textsuperscript{83} On the basis of Gordon's theory we should have to suppose that where the husband pays the full forty shekels there is no *gannu*-rihtu payment from the father. If the husband, on the other hand, gave no *terḥatu*, the father would presumably be obliged to provide the whole sum. This, in fact, is what Gordon assumes, for he states that if Jacob had paid nothing at all for his wives, Laban should have given a dowry equal to the normal amount of the bride-price plus the dowry.\textsuperscript{84} Since the sources furnish no example of such a case, the assumption is at least open to question. In any case, the fact that the husband so often pays the full amount remains an obstacle in the way of Gordon's theory. It is hardly likely that some fathers would give nothing at all if others gave the greater part or all of the forty shekels.

\textsuperscript{79} So, with some variations, nos. 8 and 10 of note 36, above, and AASOR xvi, no. 55.

\textsuperscript{80} Note 36, no. 1 (Gadd's transliteration): 40 SU *kaspa ša mārat ar-ra-\textsuperscript{ab}-be. Gadd's translation, "40 SU of silver for a girl of Arrapha," misses the point and does not fit the rest of the sentence.

\textsuperscript{81} Note 36, no. 6, lines 7-10.

\textsuperscript{82} Or "40 shekels, the *kaspu* of my sister" (40 SU *kaspu ša a-ḫa-ti-ia").

\textsuperscript{83} HSS v, no. 79 (AASOR x, no. 25).

\textsuperscript{84} GPN 3 n.
Another explanation has been suggested to me by Prof. Goetze.85 Originally the terḥatu, amounting normally to forty shekels, was paid by the husband to the father and became the latter's property. It was also customary for the father to give his daughter a dowry, the amount being something less than that of the terḥatu. In the course of time these two payments were combined. Instead of giving forty shekels to the father, the husband now paid merely the excess of this amount over the amount of the dowry and bound the "remainder" in the bride's qannu. The father thus made no actual gift directly to the bride but allowed what he would have given to be deducted from the amount he received from the bridegroom. The term terḥatu was now used for the sum actually paid to the father instead of the full amount. To "eat up the money" then meant to take the full amount, not allowing the wife any rīḥtu.

This interpretation allows for the fact that the terḥatu plus the rīḥtu amounts to forty shekels. What is constant, however, is the amount for which the husband is responsible, the amount received by the father and the amount of the qannu-rīḥtu-dowry being variable. The objections to Gordon's theory are thus avoided. New questions, however, are raised by this explanation. The assumption that the husband gives the qannu-rīḥtu to the wife runs counter to the fact that in the sources it is the father who declares that he has done this or will do it. The answer to this objection may be that while the husband makes the actual payment to the wife, he does not determine the size of it, nor does it affect the total amount for which he is responsible, whereas the father or guardian determines how large the qannu-rīḥtu shall be and by virtue of accepting a correspondingly reduced amount himself remains the real giver of what the bride receives. Accordingly it is he who makes the declaration, thus giving in effect a quittance for the amounts due both to him and to his daughter. Or it may be that the husband paid the forty shekels to the father, and the latter himself took from it the amount of the dowry he wished to give his daughter. In this case the only difference between Goetze's and Speiser's theories is that by the former the rīḥtu replaced an earlier dowry, whereas Speiser's view implies either that there had been no dowry before the rīḥtu-practice arose or else that the dowry remained a separate matter and was still given in addition to the rīḥtu.

85 In a private communication.
The word *mulugu*, commonly translated "dowry," has been noted in one tablet. The syntax of the passage is not certain, but the meaning appears to be that the *riḥtu* is bound in the *qannu* for a *mulugu*. Both at Nuzi and elsewhere *mulugu* regularly means a gift from a father to his daughter. This gives us no basis for determining the origin and nature of the *riḥtu*, however. By any of the theories we have noted the *riḥtu* may be called a dowry, since it is given to the bride by her father or guardian, whatever its origin.

In the Old Testament there are references not only to the *mohar* given by the husband but also to a gift from the father to his daughter. The Hebrew name for this is *sillūḥim*. Dussaud maintains that it was given, as the name suggests, when the bride was sent away from her father's house, and that Laban, by keeping his daughters and Jacob with him, was evading the necessity of making this parting gift. This interpretation rests upon the theory that Israelite marriage was essentially an alliance between two families through the union of the young couple, the transaction being closed by an exchange of gifts. Dussaud regards the *sillūḥim* as the "compensation" for the *mohar*, and vice versa. The result of Laban's failure to give the *sillūḥim* and let his daughters go, he infers, was that Jacob's labor was not a true *mohar* but a mere purchase-price, since there was no "compensation"; hence the charge of the daughters that their father had sold them. But we have seen that Jacob's remaining in Laban's house corresponds to a recognized form of marriage in the ancient Near East; this part of Dussaud's explanation therefore falls to the ground. It still remains possible, of course, that, as both Dussaud and Goetze suppose, Laban had not only retained the *mohar* but had also failed to give the *sillūḥim*. There is nothing to suggest this, however, in the language attributed to Leah and Rachel. The maids given by Laban to his daughters may in fact represent the *sillūḥim* or part of it.

Gordon's and Goetze's interpretations of the *riḥtu* differ alike

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88 Note 36, no. 7.
90 For references and discussion of the term cf. KRS 175; KF 20 n; AASOR x. 24; GSW 157 f; BASOR 65. 30.
91 Gen. 29: 24, 29.
from Speiser’s in that they involve a dowry given independently by the father as an element in the transaction. Both, moreover, identify this dowry with the *riḥtu*, the difference being that Gordon thinks the husband paid less than forty shekels and the father provided the “remainder,” whereas Goetze believes the husband paid the full amount, giving part of it to the father and the “remainder” to the bride, so that the father only gave the dowry indirectly. Speisers’ theory makes the whole matter a development in the conception and use of the *terḥatu* itself, in such fashion that a part of the *terḥatu*, and ultimately all of it, was converted into a dowry through being passed on by the father to his daughter, as in Islam.

On the whole, while the facts at our disposal hardly permit a conclusive demonstration, the choice would seem to lie between the theories of Speiser and Goetze. Of the two I am inclined to regard the former as more probable. For our present purpose, fortunately, a final decision on this point is not necessary. Whether the bride-price and dowry, originally independent, had been combined in a single transaction, or the bride-price itself was on the way to be converted into a dowry, it is clear that in the mixed Hurrian and Semitic culture of northeastern Mesopotamia, at about the time in which Laban and Jacob are supposed to have lived, a part of the money paid by a bridegroom for his bride was commonly delivered to the girl instead of being regarded as her father’s property. It follows that the evident reference to some such custom in the complaint of Laban’s daughters need not be thought of as a retrojection of later Israelite ideas. Indeed, the close relationship in terminology between this passage and the Nuzi documents strongly suggests an underlying relationship in tradition and social practice.