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THE POSITION OF WOMEN IN ANCIENT BABYLONIA AND ISRAEL (I.)[1]

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THE Eastern woman is to the modern European mind a picture of degradation, shut up in the harem, the slave of her husband. Although her position is and remains one of the darkest pages in the history of Eastern peoples, yet her lot has not always been so unfavorable.

In very remote antiquity conditions were totally different. In the third millennium before the Christian era, the women in Ancient Babylonia enjoyed great independence and high esteem; many an ideal of the modern emancipation of women had even then been realized.

The Babylonian Semites (the Accadians, as they called themselves) took their civilization, their religious conceptions, their views of life, their writing and art, from the ancient *Sumerians,* a cultivated and peaceful nation of non-Semitic origin. Among this, the most ancient civilized people of the world, the women were free and honored, — a fact of which the inscriptions afford ample proof.

From these inscriptions appears, in the first place, the remarkable significance and power of the female deities, which we may of course consider as a reflection of earthly conditions. About 2600 B.C. the priestly ruler *Gudea* reigned in southern Babylonia. He was a very religious man in his way, and beautified his capital of Lagash by building numerous temples. The principal deity of the town excepted, he invoked especially female divinities, and consecrated his temples to them. The female element played first fiddle in this pantheon, as can be easily proved from some of the names and epithets [2] : *Ninharsag,* the ruler, who

[1] The first part of this article in briefer form appeared in Dutch in the periodical Nieuwe Theologische Studiën (J. B. Wolters, Groningen), vol. i. (1918) pp. 161–168.

[2] Cf. F. Thureau-Dangin, Die Sumerischen und Akkadischen Königsinschriften (1907), pp. 67, 75, 79, 83, and esp. pp. 91–93.

rises in great splendor over the town, the mother of her children, Gudea's dictatress; *Nintud,* the mother of the gods; *Inninna,* the mistress of the land, and *Ninmar,* her principal daughter; *Ba'u,* the gracious lady, daughter of Heaven, ruler of the holy city, dispenser of abounding mercy, who determines the fate of man, rules her city, and in the purity of her heart has elected her favorite, Gudea. Further her daughter, *Gatumdug,* daughter of the clear sky, the most honored deity in heaven, who awakens the country to life, the queen, the mother, the giver of good advice, the foundress of Lagash.

"The people on whom thou fixest thy glance, possesses abundant strength; the life of the pious man whom thou beholdest, is lengthened. I have no mother, thou art my mother; I have no father, thou art my father; thou hast borne me in the sanctuary. My goddess *Gatumdug,* thou knowest all that is good . . . thou causest the breath of life to dwell in me. Under thy protection and under thy shadow, I shall worship thee."

Whoever speaks in this strain of the celestial female, must needs honor the earthly one. This too finds unconscious utterance in Gudea's imagery: "Like a child that loves its mother so he loved his city of Lagash," he says of himself (*loc. cit.,* p. 103). In another passage (p. 125) he speaks of the mother of a sick boy, who refreshes her son with a healing drink: a metaphor of the peace and rest reigning in the city on the occasion of the consecration of a temple. And more than once he declares, that he is the protector of the widow and the fatherless against the rich and powerful.

"Honor thy father and thy mother!" This "honor thy mother" is emphatically enforced in a lengthy passage with moral prescriptions, published in 1913 by Professor Zimmern: "Thou shalt lend thy ear to the word of thy mother as to the word of thy god. Do not wound the heart of thy eldest sister, but attend to her words!"[1]

[1] H. Zimmern, Sumerische Kultlieder, vol. ii. (=Vorderasiatische Schriftdenkmäler, vol. x.) No. 204, Rev. 1, 4. Cf. A. Jeremias, Handbuch der altorientalischen Geisteskultur (1913), p. 335.

One of the most characteristic features of the Sumerian religion is the deification of kings. But not only in honor of kings and princes, but also in honor of their wives, were idols erected and fixed offerings paid.[1] The later Babylonians knew many tales of the powerful *Azag-Ba'u* (or *Kù-Ba'u*), a hostess of an inn, who became queen and was said to have founded the city and dynasty of Kish. These tales, however, are more or less legendary.[2]

From what has been said, it follows that women could hold sacerdotal dignities. On one of the oldest reliefs from Lagash, next to King *Ur-ninâ* is pictured his daughter in a rich priestly garment, and the prince royal and other princes come only after her. The princess evidently owes this place of honor to her priestly rank.[3] Four centuries later (about 2450 B.C.) King *Dungi* reigned in Ur (according to the Bible, Abraham's native town). The most important events of his long and prosperous reign are known to us from the date formulas of a large number of contemporary documents (mostly lists of the produce of corn and cattle). Each year is named after some important event that took place in it. Thus the twenty-eighth year of Dungi's reign is called "the year in which the king of Shushan married the king's daughter." The name of the fourteenth year, again, commemorates the fact that another daughter of the king was raised to the dignity of high priest.[4]

The legal position of the married woman is nowadays a matter of great historical interest. On this point our sources leave us not entirely in the dark. We may say with certainty that all data point to monogamy. As far as the present writer knows, not a single case of polygamy in the Sumerian period is mentioned anywhere. But it goes without saying that the state of affairs then was not always

[1] Cf. C. Frank, Studien zur babylonischen Religion, vol. i. (1911) p. 213; A. Jeremias, Handbuch, p. 175.

[2] Cf. A. Ungnad, Orientalistische Literaturzeitung, vol. xiv. (1911) col. 388 f.; A. Poebel, Historical Texts (1914), p. 129.

[3] Cf. L. W. King, History of Sumer and Akkad (1910), p. 112.

[4] F. Thureau-Dangin, *loc. cit.*, p. 230.

ideal. About 2900 B.C. *Urukagina* reigned in Lagash, one of the successors of the above-mentioned Ur-ninâ. From his inscriptions it appears, that he already felt the necessity of doing what the great lawgiver *Hammurapi*, who lived nine centuries later, did; viz. of giving a fixed form to the unwritten law by means of a written one, thus acting as a reformer of law and morals. One of the principal grievances was, that the priests and officials were always in pursuit of personal gain. If a man wanted to divorce his wife, the prince himself took five shekels of silver and the prime minister one shekel. Consequently divorce was comparatively easy to obtain, but it cost money. This state of things was put an end to by Urukagina, probably by simply prohibiting divorce. On the other hand, he imposed severe punishment on marital infidelity, probably banishment, perhaps even capital punishment.[1] Consequently a woman could no longer with impunity be united in wedlock with two men at the same time. A woman could therefore no longer contract a second marriage with her lover after a rash divorce from her first husband, so that two men might actually possess her, as had frequently been the case previously. One would like to know if the same strict law was valid also for the husband who after a rash divorce took a second wife. It is not impossible that the women are only mentioned by way of example, and that the same provision tacitly held good for the men.[2] But supposing that the punishment was meant for the woman alone, even then such stipulations in a law of 2900 B.C., making divorce difficult or impossible, are remarkable enough, if we take into consideration that in our days an Arabian repudiates his wife by pronouncing a formula, or a Jew by writing a bill of divorce.

[1] Thureau-Dangin, *loc. cit.*, p. 55, col. 3, line 14 *et seq.* This passage is not quite clear.

[2] We do not know Urukagina's law itself, but only short allusions to it in other inscriptions. The law itself must have been more circumstantial.

In another place Urukagina says,[1] that he had put an end to the violence of priests and officials, so that the priest could no longer force his way into the premises (lit. "the garden") of the poor man's mother to carry off the trees and fruit. In this case "mother" evidently stands for widow. Some lines further on we read: "The fatherless and the widow no longer suffer any wrong or injustice from the mighty." It is, however, remarkable that the premises (or "the garden") are still under the name of the mother and not under that of her son. This too points to the honored position of women with the old Sumerians.

"Ehret die Frauen!" This feeling comes out best when it expresses itself involuntarily. The ancient cuneiform writing is picture-writing. If the Sumerians wished to write the sign for "married couple," they placed the character for "wife" before the character for "husband," thus writing and saying "wife and husband," and not, as we do with less courtesy, "husband and wife." The same holds good for the sign for servants, written "maid and man-servant"; even here the character for maid-servant comes first. Even more striking is the following example: When the Sumerians wanted to express a conception in a higher degree (in the superlative degree, as it were), they provided the cuneiform character with three or four parallel lines. For instance, the sign for "man" provided with such lines means "king." Now the character for "lord, master" is a triangle, originally a circle; provided with such lines the same sign, however, means "lady, mistress." "With which sign I certainly am obtaining the sympathy of all my women-readers," says Professor Delitzsch in a pleasant and popular paper about the position of Woman in Ancient Babylonia, in which he mentions these particulars.[2]

The Sumerian Empire perished, not without wars, though not by a single great catastrophe. The heirs of the Sumer-

[1] F. Thureau-Dangin, *loc. cit.*, pp. 49, 53.

[2] Friedr. Delitzsch, Die Stellung der Frau in Altbabylonien. Velhagen und Klasings Monatshefte, July, 1916, pp. 365–372.

ians were the Semites, who had been settled in northern Babylonia for centuries, and who had been strengthened by kindred tribes from the West since 2300 B.C. The chief merit of the great king Hammurapi and his dynasty was that they preserved and assimilated Sumerian culture and spread it over the part of the world then known. All comparisons are imperfect. If, however, we take the liberty of comparing the ancient Sumerian Empire, characterized by its lack of political unity and its very high standard of civilization, with the classical period of the Greeks, then Hammurapi, the conqueror and propagator of this culture, deserves to be put on a level with Alexander the Great. And, centuries afterwards, the military people of the Assyrians assimilated this culture and thrust it with violence and clash of arms upon the world, thus showing themselves the Romans of Eastern antiquity.

In the period of Hammurapi (about 2000 B. C.) the free position of woman was maintained and established by law. The Code of Hammurapi grants women a very large number of rights and liberties.[1] Marriage is monogamous. Only when the wife is incurably sick (§ 148) or bears no children (§ 145) is the husband allowed to take a second wife.[2] This second wife, however, takes a subordinate position with regard to the first (§ 145). The childless wife may also give her maid-servant to her husband; in that case he loses the right to make a second marriage (§ 144). The maid-servant, however, who, because she has children, puts herself on a level with her mistress, is degraded to

[1] Cf. the English translation of the Code of Hammurapi by R. W. Rogers in his excellent work Cuneiform Parallels to the Old Testament (Oxford, 1912), pp. 395–465.

[2] § 137 does not contradict this statement, but must be explained from §§ 145 and 148. The lawgiver is thinking of two different cases: first, of the special case of a man who, in virtue of the two paragraphs just mentioned, has married a second wife; then of the ordinary monogamous marriage. As, however, two marriage contracts of the time of Hammurapi's father show (M. Schorr, Altbabylonische Rechtsurkunden, nos. 4 and 5), the earlier custom did not always correspond to this theory.

a slave again (§ 146).[1] A daughter when she marries or consecrates herself to the gods as "nun" receives a dowry which probably corresponded to her share of the inheritance. Should her father not have given her this, she inherits after his death just like the sons (cf. § 180). In marriage the wife retains the power over what she has brought with her; if she dies without children, the dowry returns to her family (§ 163); if she has children, only these, and not the children of a possible second marriage, have the right to it (§§ 167, 171). If the husband has not already given her at marriage a definite sum as wedding outfit, she at his death not only recovers her dowry, but inherits into the bargain just like one of her children; the widow has also the right to remain in the house of her deceased husband as long as she lives (§§ 171, 172). The husband has, to be sure, the right to repudiate his wife. But the law provided for the deserted woman so well in a financial respect (§§ 137–140), as in most cases to have a deterrent effect. There is, in fact, among the hundreds of private deeds extant from this period, only one of divorce.[2] But the wife too has, according to the Code of Hammurapi, the right to apply for divorce, if she can show that her husband neglects or ill-treats her (§ 142).

Involuntarily one compares such provisions with the conditions of our time. But the time which separates Hammurapi and us is forty centuries. And even he was not the founder but the inheritor of this ancient culture.

The stipulations of the Code of Hammurapi are supplemented and confirmed by numerous private documents (purchase-deeds, marriage contracts, annotations to lawsuits, etc.). On the basis of these documents a jurist, Professor Kohler, of the University of Berlin, is perfectly justified in stating emphatically: "Die Frauen haben volle Rechts- und Geschäftsfähigkeit: sie treten in Geschäften

[1] This decision gives the best explanation of the law assumed in Gen. xvi. (Sarah and Hagar).

[2] M. Schorr, Altbabylonische Rechtsurkunden (Vorderasiatische Bibliothek, vol. v. [1913]) No. 7.

auf ohne Vormund, und auch die Ehefrauen-ohne Mitwirkung ihres Ehegatten."[1] We have documents to prove that the women in Babylonia had full right and liberty to buy and sell, to barter and lend, to make debts and assume them, to hire and let, to farm and rent, to make donations and wills.

The priestesses of the sun-god in particular, who inhabited a quarter of their own in the town of Sippar, had great liberty and financial independence. But married women too were quite free in the disposal of their fortunes and dowries, and acted at their own risk and cost without the cognizance of their husbands. In legal documents we meet the names of women as plaintiffs and defendants, as witnesses sealing documents with seals of their own and taking the oaths required by the law. There were even cases in which a woman appeared in the official position of scrivener, or, as we should say, of notary public (Nos. 593 and 689[2]); in one of these the name of the female notary is found on the list of the judges who pronounced judgment.[3] Among the numerous deeds (all in cuneiform writing engraved in clay) the authentic minutes of a lawsuit have been preserved, in which a woman lodged a complaint against her own husband, asserting that he had put in an unjust claim to the possession of a slave. The court of justice decided that the slave was the property of the plaintiff. This decision was based on the testimony of the slave. In another case, however, (No. 1195), four sisters lose an action brought against their eldest brother to obtain the inheritance of a deceased uncle; whereas in No. 704 a sister wins a suit against her three brothers.

[1] J. Kohler and A. Ungnad, Hammurabis Gesetz, vol. iii. (1909) p. 224. Cf. Schorr, *loc. cit.*, p. 4. S. Daiches, Altbabylonische Rechtsurkunden (Leipz. Semitist. Studien, vol. i. no. 2 [1903]), p. 8: "Die Frauen hatten das gleiche Recht wie die Männer, Häuser, Felder, Sklaven, u.s.w., zu besitzen und Handel zu treiben."

[2] The numbers refer to the above-mentioned work by Kohler (Peiser and Ungnad), where, in vols. iii.–v., no less than 1,410 of these deeds have been translated into German by A. Ungnad.

[3] Cf. Schorr, *loc. cit.*, No. 288.

Our researches become especially interesting when the documents supplement each other, of which the following offers a striking example. No. 777 contains a marriage contract: the bride (her name is *Ama-Sukkal*) has a dowry of nineteen shekels of silver. This money remains her property, except when she divorces her husband or runs away from him. If, however, the husband divorces her, he must pay her half a mina, i.e. thirty shekels (of silver), besides. The small fragment No. 993 is about the same persons; it is probably a promissory note dated four years after the marriage. According to this document the husband (evidently behind his wife's back) has traded with the nineteen shekels of her dowry and five shekels of his own. The venture turns out badly; again six years later he fails. The creditor lodges his complaint; the wife, however, defends her right to the dowry. A fragment of the authentic record of this lawsuit has come down to us (vol. v., No. 1200). The wife produces witnesses (female witnesses, observe) to prove that she has never authorized her husband to touch her fortune. The defendant is obliged to confess his dishonesty, and is put in prison.

One more example (No. 714). A man has divorced his wife, which was not possible without a lawsuit (No. 739 contains the deeds of a similar lawsuit). On the occasion of this divorce he has to sign a statement that he will not lay claim to the fortune of his divorced wife. Nevertheless, twenty years later, after her death, he lays claim to a female slave who had been the property of his divorced wife but had been bequeathed by the latter to her (and his) daughter on condition that the daughter should provide for her mother as long as she lived. Now the father goes to court with his own daughter about the possession of that slave. The court, however, disallows his claims, on the ground of the deed of separation issued twenty years before.

The women have "volle Rechts- und Geschäftsfähigkeit." To a certain extent this holds good for all the periods of Babylonian history, but not without restriction. Fifteen

hundred years after the period of Hammurapi (in the Chaldean and Persian periods, 6th and 5th centuries B.C.), women had no longer, for instance, the right to appear as independent witnesses before a court of justice, nor did they take the oath. In those cases where their consent was required to make a contract or when their evidence was wanted before a court of justice, their names are mentioned in the documents with the words "in the presence of this one or this other."[1] This is a small but suggestive difference.

The position of the Babylonian woman, like that of the Eastern woman in general, did not improve in course of time; it deteriorated.

[1] Schorr, *loc. cit.*, p. xxxv, note 3; Daiches, *loc. cit.*, p. 19.