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PRIMOGENITURE IN THE BIBLE

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of the requirements for Ordination

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DIGEST

This thesis examines the role of primogeniture in the Bible. One expects to see the firstborn becoming the principal heir because of the legislation of Deuteronomy 21:15-17. This expectation stands in contrast to what happens; in one narrative after another the son who becomes the chief heir is someone other than the son born first.

The study examines this problem by using the Bible as the foundation. This biblical data then is supplemented by comparable material from both the Ancient Near East and the rabbinic world (midrash, commentaries, and halakhah where applicable). The non-biblical sources serve to broaden the picture which is often stated quite succinctly in the Bible.

In order to work with the biblical data it was necessary first to examine genealogy and how it is described in the Bible. We learned that the dynamics of genealogy were more varied than normally considered. Assumptions as to who the firstborn is may be gratuitous; it is not necessarily the first name in a list. Neither is the child named as the link for any specific generation in a linear genealogy automatically the firstborn. Furthermore, women are found within the genealogies, albeit in a more limited role than that of men.

What results is the recognition of the fact that there is no "norm" but a range within which inheritance operates. The expectation was for the firstborn son to inherit. But other factors

could alter that process. In some instances the role of the "firstborn" was divided among several children. In polygamous marriages the child's mother could be a factor in determining which of several children became the heir. The heir's fitness or even his own marriage could influence the choice. Sometimes "divine election" itself — or as a model — affected the selection of the heir. Daughters, too, could share in the inheritance. Ultimately, it seems, the father had the right to select whichever son he wished and Deuteronomy 21:15-17 came to state that this prerogative would no longer be valid.

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INTRODUCTION

In this thesis we have examined the role of primogeniture in the Bible. We were led to consideration of this question because of an apparent "conflict" in the biblical text. In Deuteronomy 21:15-17 we learn that the בְּכֹרֶת , the son who is to receive preferential inheritance emolument and authority, is to be the man's son who was born first of all chronologically. Yet we have seen different patterns occurring, especially in the narratives, e.g. in Genesis, where a younger brother often assumes this position.

The statement of Deuteronomy 21:15-17 has led to several assumptions about life portrayed in the Bible. Based on it the assumption has arisen that primogeniture was the norm. Also, it has been assumed that primogeniture must operate in the precise pattern outlined in these verses in Deuteronomy. We question the validity of these assumptions for why is it necessary to assume that primogeniture was the norm and that the narratives are deviant? Was there only one option? Could not, for example, Genesis reflect a norm which was ultimately superceded? Or, could primogeniture be in force unless the father decided to do otherwise?

To answer these questions we first must turn to the text of the Bible itself for data. In particular, we looked at the genealogies per se and the genealogical narratives. We recognized the necessity to let the text speak for itself without reading into it any presuppositions.

In the process we have isolated four terms understanding of which proved crucial to our investigation. We then were able to formulate definitions of these critical words based on their usage in the text. Our conclusions, then, are founded upon the meanings of *אָבִי*, *אָבִי רַחֵם*, *אָבִיךָ*, and *אָבִיךָ*. In addition, we realized that while the statuses of *אָבִי* and *אָבִי רַחֵם* at times coalesce, this is not automatic; the implications of this are important.

The results which emerged provided not the rule but a range, the "outer bounds." We saw that many options exist. Our understanding of these was enhanced by material contained in Ancient Near Eastern texts as well as rabbinic sources — midrashim, commentaries, even halakhah where applicable. Often the Bible gives a clue using just a word or two. We were able to "flesh out" some of these skeletons from details provided from these other sources. We are aware that, while these can cast a light on the workings of these situations, they are not necessarily descriptions of what the Bible is describing. We are also aware that rabbinic midrashim and commentaries are nothing more than midrashim and commentaries. Yet their value is great because the rabbis were careful, penetrating readers of text, readers who asked critical questions of these texts and their problems. Their insights offer a powerful vehicle for seeing the subtleties within the text.

What are our findings? In terms of genealogy we examined the problem of which child is the *אָבִי* when the text presents a list

of children, we investigated the relationship of the order of names in a list of siblings to the order of their birth, and we looked at the nature of the inclusion of women in the text. We also recognized that genealogy plays several different roles in the biblical text; it may provide "yichus" based on the chain of relationships it presents, show the importance of an individual's ancestors, or grant merit to ancestors because of the person at the "current end" of the chain. This last function should not be overlooked!

We shall argue that women had some legal rights, especially in regard to inheritance. Both the Bible as well as Ancient Near Eastern texts present women inheriting. Although the episode of the "Daughters of Zelophehad" portrays a picture of inheritance to daughters only when there are no sons, we see a different pattern where Job's daughters inherit together with his sons.

Taking these as a whole, we argue that, although primogeniture could generally be expected to prevail, there are eight other factors which can "alter" this expectation. These are: the threefold nature of the birthright; the relationship to the mother involved; in the case of polygamy, the status or rank of the mother and the nature of the "marriage" tie to the father; the propriety of the heir's marriage; the heir's fitness; the adjustments necessitated when daughters are involved; the discretion which was accorded a father in designating a firstborn; and, the model of "divine election." In other words, the status of heir could evolve

from either of two factors, the "ranking" of the wife or the state of being born first.

Finally, a word about translations. Unless indicated otherwise, translations from the Bible are those of the new Jewish Publication Society editions, the Babylonian Talmud and Midrash Rabbah translations are those of the Soncino texts, and Ramban is Charles B. Chavel's translation (Shilo Publisher). All other translations are our own.

CHAPTER ONE
THE NATURE OF GENEALOGICAL MATERIAL

The genealogical material in the Bible has generally been accepted as a means for reconstructing (the) actual history which lies beneath the biblical accounts. In evaluating these genealogies, certain assumptions have been made and then, relying upon these assumptions, interpretation of the text as historical data follows. The assumptions which have been basic in assessing the genealogies include the belief that the names given are those of sons (unless specifically designated as daughters), that the order of the names enumerated is that of the order of birth of the children, and that, when the Bible presents a linear genealogy, the list portrays the line of the firstborn son in each generation. In addition, this material is often treated as if it existed over a period of time in an unaltered and inviolate state. From these presuppositions has evolved an elaborate theology and understanding of the Bible.

While it is likely that these assumptions are valid in the overwhelming majority of cases, they are not necessary and essential components of a biblical genealogy. The biblical text itself, in fact, provides clear examples of "contradictory" data if these norms are superimposed upon the text. Since the Bible is not aware of such contradictions, it seems more reasonable for us to reassess our understanding of the material in order to see how we

might avoid these discrepancies. In general, we find that dropping the presuppositions will eliminate many problems. In other words, when the text is allowed to speak simply for itself, the message often makes sense without a need for external harmonization. In the following discussion we offer a detailed look at the above assumptions.

THE "LINE OF THE FIRSTBORN"

The first assumption which we must examine is the assumption that, when a linear genealogy is presented, each individual is the firstborn son. This fact is generally taken for granted in the discussions of the genealogies and yet in no instance has the biblical text ever made such a claim!

The fluidity which occurs in the biblical genealogies as well as in genealogies in general argues strongly against accepting a rigid principle of the sort that linear genealogical details go only from firstborn to firstborn and are cited each generation. Fluidity involves names being added to the list or subtracted as the individual's importance or lack thereof requires. In addition, individuals within a genealogy may "shift" in relationships (i.e. a distant relation becoming a "brother," a "grandson" becoming a "son," etc.) as their role among a family unit increases or decreases. Another common change within genealogical material, especially over an extended span of time, is that of "telescoping," the term which refers to the dropping from a genealogy of the

names which are less important so that the genealogy provides a "generation-to-generation" list of the prominent members of that line.

Confirmation of our suspicion that it is a gratuitous assumption that the linear genealogies detail the firstborn sons comes from a reading of Genesis 4-5. In chapter 4 we learn of the birth of Cain and Abel to Adam and Eve; Cain's subsequent slaying of Abel results in God's driving Cain out. As that chapter concludes Adam and Eve have a son as a "replacement" for Abel, viz. Seth (v. Genesis 4:25). The aforementioned episode very clearly outlines the order of birth as Cain, then Abel ("She then bore his brother Abel," Genesis 4:2), and next Seth ("she...named him Seth, meaning, 'God has provided me with another offspring in place of Abel,'" Genesis 4:25).

Adam's line follows in chapter 5: "This is the record of Adam's line....When Adam had lived 130 years, he begot a son...Seth. After the birth of Seth, Adam lived 800 years and begot sons and daughters....When Seth had lived 105 years, he begot Enosh...." (Genesis 5:1-6). Because of its form, this latter passage has been treated as a typical example of a catalogue of "firstborn sons" who bridge the generations. An example of this pervasive tendency is Wilson's description which talks about "the pattern established in the genealogy,...where only the firstborn son [emphasis added] is mentioned by name....in fact...the genealogy's function...is to trace a list of firstborn sons."¹

What makes this assertion on Wilson's part all the more striking is a second statement which appears only a few pages later:

...P has made a major change in the kinship tie linking Adam and Seth. According to P's genealogical narrative, Seth is clearly the firstborn son of Adam. This statement is in direct conflict with J's narrative, which just as clearly indicates that Cain was Adam's first son and that Seth was born at a later time...²

Wilson's expectation of genealogies consisting of a line of firstborn sons has catapulted him into the midst of a contradiction, i.e. how Seth can be the firstborn when born after Cain and Abel. Wilson grapples with this issue, attempting to validate his presupposition by declaring, "The entire linear genealogy thus deals with the transmission of the divine image and the blessing through a series of firstborn sons."³ But he has reached that position by following circular reasoning in which he assumes that the sons in a linear genealogy are firstborn and then concludes, "The entire linear genealogy thus deals with the transmission...through a series of firstborn sons." Yet he also shows that he recognizes that that assumption is inaccurate, both as already indicated and again as displayed in a further statement:

...the reasons for some of the genealogical fluidity that we have noted become clear. When P faced the problem of tracing the transmission of the divine image and the blessing from Adam to Noah, the Yahwist's narrative presented him with three possibilities. First, he could have traced the blessing through Adam's son Abel. This

possibility was ruled out, however, by the narrative in 4:1-16 that recounts Abel's early death. A second option was to trace the blessing through Adam's firstborn son, Cain. This option was rejected for theological reasons, for J clearly connects the Cainite line with the growth of evil. According to J, Cain is cursed (4:11-12), and this fact discouraged P from tracing the blessing through him. Only Seth remained as the genealogical link through whom the blessing could have been transmitted. The Priestly Writer therefore added his genealogical material to the brief Sethite genealogy found in 4:25-26. Because P was interested only in the line through which the blessing was transmitted, he omitted names not connected with that line, and because he viewed the blessing as transmitted through firstborn sons, he was required to portray Seth as Adam's firstborn. In this way he created the contradictions between Gen. 4 and 5 that we have already noted....⁴

Wilson cannot extricate himself from the assumption of a firstborn lineage which created the contradiction in the first place. His explanation of "the line of blessing" is interesting but finds no support within the text itself. Cassuto avoids the contradiction by excepting the Adam-Seth link from the general pattern, yet he still maintains firstborn sons as the prevailing pattern:

Of each one of the founding fathers of the world mentioned in the section, we are given the following details: his name; his age at the birth of his eldest son (or, in the case of Adam, his most important son relative to the history of mankind and the preservation of the human species); the name of this son; the number of years he lived after the son's birth; a general intimation that he had other sons and daughters; his age at the time of his death. Noah, however, is an exception, for mention is made not only of his first-born but of all his

three sons, the rest being given later. For the other patriarchs, the text employs an unvarying formula — unvarying, that is, in its essential form, but not in all particulars....⁵

It may be presumptuous of us to contradict scholars like Cassuto and Wilson for relying upon this proposition, yet we must insist on the following methodological rule: if there is a clear-cut proof in even one example that a generalisation is not valid, then we cannot assume that the generalisation holds in cases for which we have no other evidence, be it corroborating or contradictory. We know that Seth is at best the third child rather than the firstborn. That knowledge invalidates our reliance upon an automatic and unifying factor in linear genealogies.

If we allow ourselves to be free of this assumption, which has held nearly universal acceptance vis-à-vis the composition of linear genealogies, we could offer another view. The "error" which has caused the idea of "firstborn sons" to enter the picture is one of perspective; that is founded upon the notion that the importance of the genealogy stems from the previous generations. While acknowledging "yichus" because of ancestry is one function of a genealogy as we noted above, it is not the only role which the genealogy is serving. The focus of genealogies may well be on the other end of the line, i.e., the descendent.⁶ If we wish to trace Noah's relationship to Adam, there is only one possible route, Noah's father, that individual's father, and so forth, until it reaches Adam. That means that the order of an individual's

birth is incidental to his inclusion or exclusion from the list. What determines inclusion is the linkage itself! The lists reflect specific chains of father-son-grandson, etc.

This idea is not new; the rabbis had achieved an understanding of the value and purpose of the genealogies as the midrash indicates:

R. Berekiah b. R. Simon said in R. Nehemiah's name: This may be illustrated by a king who was passing from place to place, when a gem fell from his head. Whereupon the king halted and stationed his retinue there, gathered the sand in piles and brought sieves. He sifted the first pile but did not find it; the second but did not find it; but in the third he found it. Said they: "The king has found his pearl." Similarly, the Holy One, blessed be He, said to Abraham: "What need had I to trace the descent of Shem, Arpachshad, Shelah, Eber, Peleg, Reu, Serug, Nahor, and Terah? Was it not on thy account?"⁷ Thus it is written, And foundest his heart [Abraham's] faithful before Thee (Nehemiah IX,8). In like manner God said to David: "What need had I to trace the descent of Perez, Hezron, Ram, Aminadab, Nachshon, Shalmon, Boaz, Obed, and Jesse? Was it not on thy account?"⁸

Our recognition that Seth does not fit the assumed pattern of firstborn son is not the only argument against this assumption of "firstborn lineage." We find another example when Genesis deals with Shem's descendants. Genesis 10:22 states: "The descendants of Shem: Elam, Asshur, Arpachshad, Lud, and Aram." When the linear genealogy which takes the generations from Shem to Abraham appears, it gives the line as follows: "This is the line of Shem. Shem was 100 years old when he begot Arpachshad, two years after the Flood. After the birth of Arpachshad, Shem lived 500 years and

begot sons and daughters. When Arpachshad had lived 35 years, he begot Shelah...." (Genesis 11:10-12). Arpachshad may or may not have been Shem's firstborn but, taken together, these two passages do not give a unified view of that fact.

TEXT ORDER AND BIRTH ORDER

The case of Arpachshad gives us good reason to question the assumption that the order in which the Bible lists names is identical to the order of birth of these individuals. This fact is nowhere stated in the Bible but has served as a working hypothesis for interpreting the text. Close examination of the text reveals that this is not necessarily so.

Let us first examine the case for Noah's three sons. We learn in Genesis 5:32 and 6:10 that Noah begot "Shem, Ham, and Japheth." As Noah's story unfolds, however, Ham is subsequently identified as the youngest (Genesis 9:24) and Japheth as the eldest (Genesis 10:21). That contradicts Genesis 5:32 and 6:10 if we assume that the phraseology "Shem, Ham, and Japheth" signifies the order of birth. Given these two possibilities, we need to decide which we should accept as the actual order.

Cassuto's addressing of this question in detail indicates the extent and ramifications of this difficulty. In commenting on Genesis 9:24, "his youngest son," Cassuto states:

The commentators have found this detail very difficult, for in general it would seem that the usual order in which the sons were listed in the Bible — Shem, Ham and Japheth — represent the order of seniority of the three brothers, and accordingly Ham was the middle one; and if Scripture wished to indicate another order, this was not the proper place to do so incidentally. Various suggestions have been put forward to resolve the difficulty, but none is satisfactory. The interpretation of the word qātān [literally, "small," "young"] in a comparative sense, that is, younger than Shem (Septuagint; Vulgate) does not conform to Hebrew usage; to give it the connotation of "unworthy" (Bereshith Rabbah XXXVI 7; see Rashi) does not accord with the simple meaning of the text; the conjecture that the reference here is to the youngest son of Ham, that is, to Canaan (Ibn Ezra and others) is based on a misunderstanding of the real meaning of the narrative...; the theory that the verse emanates from a different source from that which gave the order as Shem, Ham and Japheth (the view of many modern exegetes) does not solve the problem in the existing text. Other suggested explanations are even more difficult.

But if we study the passage carefully, and particularly if we do not separate this story from the other parts of the section, the difficulty falls away. First of all it should be noted that the order in which the names of the brothers are mentioned does not establish the order of their birth. It is written, for example, in Gen. xxv:9: Isaac and Ishmael his sons buried him, although Ishmael was born before Isaac. Similarly, in the list of Jacob's sons given at the beginning of Exodus, the brothers are not enumerated in the order of their birth, but the sons of the wives precede the sons of the handmaids. In the continuation of our section — actually in the genealogy of Noah's sons — Japheth comes first and thereafter Ham and at the end Shem (the reason for this we shall see later). We

thus observe that there are different methods of drawing up lists; and one of them may be governed by the general usage of the language, which prefers to place short words before long ones....This may account for the normal Biblical order, Shem, Ham and Japheth, but this sequence does not imply that Shem was the oldest and Japheth the youngest of them. The order of their birth the Torah tells us by a combination of various data. Further on (x 21), Shem is described as "the brother of Japheth the eldest," which, as I shall explain ad locum, is a term commonly used in the ancient system of fratriarchy or headship of the brother, which required the brothers to be designated in relation to their first-born brother. This passage, therefore establishes that Japheth was the eldest and our verse, which calls Ham "the youngest son of Noah," informs us that Ham was the third and that Shem was consequently the second. As for the argument, mentioned earlier, that this was not the right place to give this information casually, it may be answered that possibly the word haggātān [rendered: "the youngest"] whose primary meaning is certainly "the least in years," contains also another nuance (which midrashic exegesis treated as the principal sense), to wit, an allusion to his moral degradation; and it was fitting that precisely in the story of the incident that shows Ham's turpitude, reference should be made to the fact that he was "the least" of the brothers.

The reason for the text's subsequent elaboration of progeny in an order which differs from the birth order of the ancestors is a logical one. As Cassuto points out, by having Ham's progeny enumerated after Japheth's, that leaves Shem for the end. Despite the fact that Shem was the middle son in birth order, Shem is the son of Noah who is the ancestor of the people of Israel.

Consequently, Shem's descendants will be central to the narrative that follows for which reason it makes better sense to leave that description for the last of the three brothers.¹⁰

Cassuto's argument for penetrating the facts which the Bible conveys about the relationship refers to aggadic handlings of this question. We find that the rabbis shared our concern that the text's message be clearly understood, and, in the process of this, the rabbis indicate that they indeed recognized that the mere order of names is insufficient for mandating the order of birth.

The priority of Shem or Japheth is the question involved in two sections of Genesis Rabbah. In the first we learn:

Shem, Ham, and Japheth. Surely Japheth was the eldest? [Shem, however, is written] first because he was [more] righteous [than the others]; also, because he was born circumcised, the Holy One, blessed be He, set His name particularly upon him; [other reasons for his priority are that] Abraham was to arise from him, he was the minister in the High Priesthood, and because the Temple would be built in his territory. The sons of Huta said: [Shem is written first] because the Holy One, blessed be He, suspended [punishment] for the generations from the Flood until the Separation according to the numerical value of his name, viz. three hundred and forty years.¹¹

One of the reasons offered here is precisely that which we noted above in the determining factor of which son is the one included in a linear genealogy. Because Abraham descends not from Japheth or Ham, Shem must be the son who serves as the link from Noah to Abraham. Shem's inclusion in the linear genealogy follows

as a logical conclusion of this, and, as this midrash indicates, some of Abraham's merit accrues to Shem and results in his name being handled with prominence and more respect than his two brothers!

The rabbis, like modern readers, see an ambiguity in Genesis 10:21 where the adjective "haggadol" may indicate grammatically that either Shem or Japheth is the eldest. They settle upon Japheth in Genesis Rabbah following a mathematical analysis:

And unto Shem, the father of all the children of Eber, the elder brother of Japheth, to him also were children born. We do not know from this verse whether Shem or Japheth was the elder. But since it is written, Now these are the generations of Shem. Shem was a hundred years old, and begot Arpachshad two years after the flood (Gen. xi, 10), it follows that Japheth was the elder.¹²

The logic upon which this conclusion is founded is given in more detail in Sanhedrin where it is used as an analogy to the suggestion that Abraham was the youngest of his brothers. Here we learn:

In proof of this contention, it is written, And Noah was five hundred years old, and Noah begot Shem, Ham and Japheth; hence [if the order is according to age], Shem was at least a year older than Ham, and Ham a year older than Japheth, so that Shem was two years older than Japheth. Now, it is written, And Noah was six hundred years old when the flood of water was upon the earth (Gen. 7:6); and it is written, These are the generations of Shem, Shem was a hundred years old, and begat Arphaxad two years after the flood. (Gen. 11:10) But was he a hundred years old? He must have been a

hundred and two years old? Hence thou must say that they are enumerated in order of wisdom [not age];...

R. Kahana said: I repeated this discussion before R. Zebid of Nahardea. Thereupon he said to me: You deduce [that the order is according to wisdom] from these verses, but we deduce it from the following: Unto Shem also, the father of all the children of Eber, the brother of Japheth the elder, even unto him were children born (Gen. 10:21): this means¹³ that he was the eldest of the brothers.

These clearcut examples of names occurring in an order which differs from the order of birth requires us to abstain from concluding that "text order" in itself is a proof of "birth order." Once we have conceded this fact, we begin to notice that this is not an infrequent possibility, namely, that the order of names in the list does not convey the order of the individuals' birth.

The linear genealogies in Genesis 1-10 follow a pattern — the individual is connected with a child, an age at the birth of the child, a life-span, and the confirmation that there were other children. That pattern broke down when Noah's three children Shem, Ham, and Japheth were introduced. We notice an analagous superimposition upon the formula in Genesis 11:26 where Terah's three sons are named, i.e. Abram, Nahor, and Haran. Of course that "breakdown" can convey many different meanings. One purpose may be simply to inform us that this link in the generational chain is one of "intrinsic and outstanding significance."¹⁴ We are struck by the similarity to the way in which the text identifies Noah's offspring. Such a parallel may also force us to question how deep

the analogy extends. More specifically, if Shem is not Noah's firstborn, might it not be possible that neither is Abram Terah's firstborn? The rabbis deal with that question which is one that Cassuto, in our opinion, dismisses a little too readily in his discussion of "Abram" in Genesis 11:26. There Cassuto asserts: "It is not explicitly stated that he was the first-born, but since Scripture contains no contrary indication such as we found in the case of Shem the son of Noah, we may conclude that the Bible intends us to understand that he was first-born..."¹⁵ We must remember that Bible has not explicitly or implicitly identified any of these genealogical segments as enshrining the firstborn.

So the rabbis do raise the speculation that Abram was not the firstborn. The discussion of the Levites serving to redeem the firstborn of Israel serves as a springboard for some comments about various ancestors and their firstborn status or lack thereof. The rabbis state that Shem passed on the functioning like a priest to Abraham. "But was Abraham a firstborn? The fact is that because he was a righteous man, the birthright was transferred to him, and he offered sacrifices..."¹⁶

The same question is raised — and likewise remains unanswered — in a discussion whose purpose is to determine the age at which earlier generations could beget children. In mentioning Genesis 11:27 ("Terah begat Abram, Nahor and Haran") we read: "Now Abraham must have been [at least] one year older than Nahor, and Nahor one year older than Haran; hence Abraham was two years older than

Haran....But why so: perhaps Abram was the youngest of the brethren, the Writ giving them in order of wisdom?"¹⁷ The portion uses as "proof of the contention" the reasoning cited above about Shem.

Suffice it to say that the very fact that the rabbis are permitted the possibility of exploring this notion — albeit at a speculative level, without corroboration, and left unresolved — indicates to us that the rule we find so readily accepted, i.e. "text order" is "birth order," is not operational in their world as an inflexible mandate. Note that the rabbis cannot "prove" that Abraham is the youngest but neither can they marshal evidence to show that he is incontrovertibly the oldest. The fact is that there is no proof of either in the text. We, therefore, are not at liberty to base conclusions upon an assumption — for Abraham or any other individuals — that the first mentioned is the firstborn unless Bible supplies that piece of information!

We can adduce another proof of uncertainty in the list of Jacob's sons. We find that there are occasions in which the order in which the children are listed varies. Obviously the cause of the variance is unique to the names and situation involved. What we may conclude is the fact that this freedom of arrangement would not exist if order conveyed one, specific meaning. The order in which Jacob's children are cited frequently changes. Within the book of Genesis, three different lists appear:

GENESIS 29:31- 30:24: 35:18	GENESIS 49	GENESIS 35:23- 26 [identical to EXODUS 1:2-4]
Reuben	Reuben	Reuben
Simeon	Simeon	Simeon
Levi	Levi	Levi
Judah	Judah	Judah
Dan	Zebulun	Issachar
Naphtali	Issachar	Zebulun
Gad	Dan	Joseph
Asher	Gad	Benjamin
Issachar	Asher	Dan
Zebulun	Naphtali	Naphtali
[Dinah]		
Joseph	Joseph	Gad
[Benjamin]	Benjamin	Asher

The context of the first version (Genesis 29:31-30:24, 35:18) indicates that that is the actual order of birth. Had we not known that, either of the other lists might have been accepted as conveying that fact if we were relying upon the presupposition which binds birth order to narrative order. The listing of Jacob's children, then, serves as a patent confirmation that one would err if one were to follow the assumption of narrative order blindly.

Change in the order of names occurs in many other passages

which we shall not discuss in detail. Cf: Genesis 25:9 and First Chronicles 1:28 where the order is "Isaac and Ishmael" to the order known from the extended narrative of Genesis. Likewise, Genesis 48:1 "Manasseh and Ephraim" but Genesis 48:5 "Ephraim and Manasseh." (Many citations could be given for this example because these names commonly occur in both orders!) From Genesis 46:11, Exodus 6:16, Numbers 3:17 and 26:57 we expect the order "Gershon, Kohath, and Merari" but find them discussed in the order "Kohathites," "Gershonites," and "Merarites" in both Joshua 21:1-8 and Joshua 21:9-39.

Sometimes we notice a shift in order which results in chiasmus. E.g. I Chronicles 2:43-44: "The sons of Hebron: Korah, Tappuah, Rekem, and Shema. Shema begot Raham...and Rekem begot Shammai." Similarly in I Chronicles 4:5-7: "Ashur...had two wives, Helah and Naarah; Naarah bore him...The sons of Helah..."

We find more rearranging when dealing with the descendants of Manasseh. Deuteronomy 3:14 indicates the assignment of a territory to the half-tribe of Jair while Machir the firstborn (according to Joshua 17:1) receives its portion in the following verse (3:15). Within the extended genealogy of Manasseh we find another switch in order in the names of Shemida and Hephher (as well as finding a name which appears in two different forms):

NUMBERS 26:29-33

Manasseh

JOSHUA 17:1-2

Manasseh

Machir	Machir
Gilead	Gilead
Iezer	Abiezer
Helek	Helek
Asriel	Asriel
Shechem	Shechem
Shemida	Hepher
Hepher	Shemida

The sons of Saul also are subject to changes in order (as well as problems with the names):

I SAMUEL 14:49-51	I SAMUEL 31:2	I CHRONICLES 8:33	I CHRONICLES 10:2
Jonathan	Jonathan	Jonathan	Jonathan
Ishvi	Abinadab	Malchi-shua	Abinadab
Malchi-shua	Malchi-shua	Abinadab	Malchi-shua
		Eshbaal	

Last, we draw notice to I Chronicles 2:3ff. The first two verses of I Chronicles 2 list the twelve sons of Israel in an order which reflect in part their birth order, in part the mothers, and in part an unexplained dynamic. Verse 3 picks up the family with an extended genealogy beginning, "The sons of Judah..." In his note on that verse in the Soncino text of Chronicles (on page 9), I. W. Slotki justifies the order with the comment: "Judah, being the most

important tribe, is described first."

We find additional examples of ambiguity or error in potentially contradicting narratives. An example of this is the description of the birth of Moses in Exodus 2:1-4:

A certain man of the house of Levi went and married a Levite woman. The woman conceived and bore a son; when she saw how beautiful he was, she hid him for three months. When she could hide him no longer, she got a wicker basket for him and calked it with bitumen and pitch. She put the child into it and placed it among the reeds by the bank of the Nile. And his sister stationed herself at a distance, to learn what would befall him.

Ostensibly this description depicts Moses as the second child, the other one being an older sister. In contrast to this we find later in Exodus: "Amram took to wife his father's sister Jochebed, and she bore him Aaron and Moses..." (Exodus 6:20). "Moses was eighty years old and Aaron eighty-three, when they made their demand on Pharaoh." (Exodus 7:7)

The same kind of situation occurs in connection with the birth of Solomon. After the description of the death of the child whom David had by Bathsheba, we learn: "David consoled his wife Bathsheba; he went to her and lay with her. She bore a son and she named him Solomon." (II Samuel 12:24) A logical inference from this verse is that Solomon was the second-born child of this union and the oldest surviving one. In contrast, we learn in First Chronicles 3:5: "These were born to him in Jerusalem: Shimea, Shobab, Nathan, and Solomon, four by Bath-shua daughter of

Ammiel..." We are not helped by the parallel account in Second Samuel 5:14 which does not state the name[s] of the mother[s]. Do these last two verses mean that Solomon had three older surviving brothers? His birth order is not clear from the text when we combine the information of all three sources.

The above examples are sufficient to show that we cannot mechanically equate the order of names in the text with birth order. Perhaps even more compelling is the "positive" evidence we often find in passages which include descriptive words which signify birth order, i.e. words such as אֲתֵּיבָהּ לְפָנֶיךָ ["according to order of birth"] or specific numerals. Biblical style is one of economy; words are not included at whim but because they convey precise meaning. That being the case, we must assume that these words are not superfluous but an intrinsic part of the message. The authors of the Bible themselves seem to have been fully aware that order of birth could be misinterpreted unless plainly given. With that in mind we see in Genesis 25:13: "These are the names of the sons of Ishmael, by their names, in order of their birth (אֲתֵּיבָהּ לְפָנֶיךָ) : Nebaioth, the first-born of Ishmael (בְּכֹרִית נְבִיאוֹת), Kedar, Adbeel, Mibsam, Mishma, Dumah, Massa, Hadad, Tema, Jetur, Naphish, and Kedmah." Consider, also, II Samuel 3:2-5:

Sons were born to David in Hebron: His firstborn (אֲבִיגַיִל) was Amnon by Ahinoam of Jezreel; his second (אֲבִיגַיִל) was Chileab, by Abigail wife of Nabal the Carmelite; the third (אֲבִיגַיִל) was Absalom son of Maacah, daughter of King Talmai of Geshur; the fourth (אֲבִיגַיִל) was Adonijah son of Haggith; the fifth

(שֶׁפְּתִיָּה) was Shephatiah son of Abital; and the sixth (יִתְרֵא) was Ithream, by David's wife Eglah.¹⁸ These were born to David in Hebron.

We find the same kind of pattern in I Samuel 14:49 where Saul's two daughters are identified as "Merab, the older (מֵרָב הַבְּתוּלָה), and Michal, the younger (מִיכָל הַבְּתוּלָה)."

A very simple principle emerges from this evidence: If the text intends to teach birth order, the Bible will state that information in unequivocal words, e.g. "in order of their birth," "firstborn," "second," etc. Unless that fact is stated, we must assume that the order stated may or may not be that of birth and thus cannot serve as conclusive evidence for that fact.

This evidence leads us to an important understanding of — and, consequently, ability to use — the biblical genealogies. While we are inclined to accept the fact that narrative order is identical to birth order, we cannot assume that identity when it is not known. Despite the fact that the two are likely to coincide, we can refute the identity in a number of instances. We are, therefore, unable to build any case based upon implicit birth order. We can use narrative order as the birth order only when the text clearly states that it is indicating birth order.

SONS ONLY?

The last general assumption which we wish to dislodge here is that the genealogies include sons only unless the verse cites a clear disclaimer to the contrary. Since we shall deal with this

question more fully in the next chapter which deals with a number of questions relating to "Women in Genealogy," here we shall examine a limited number of examples which prove that women may be included in genealogies without specification. First, we recall that First Chronicles 5:29 identifies: "The children of Amram: Aaron, Moses, and Miriam." Miriam is, we know, the sister of Moses and Aaron! In addition, we should note I Chronicles 2:31: "The sons of Appaim: Ishi. The sons of Ishi: Sheshan. The sons of Sheshan: Ahlai." But three verses later, in verse 34, we discover: "Sheshan had no sons, only daughters..." Therefore, Ahlai must be a daughter, not a son!

We need not rely upon implicit evidence for the inclusion of daughters among genealogies which do not specifically draw our attention to that fact. For, in Joshua 17:2 we are told: "...Those were the male descendants ($\rho' \eta \zeta \delta \eta$) of Manasseh son of Joseph, by their clans." Once again we recall that biblical style is one of economy and precision. Because of this tendency we must ask ourselves why the Bible would go out of its way to add the seemingly incidental note that these descendants were "male." If the fact that these all must be male were obvious, the text would have no need to indicate that these are only male descendants. This suggests to us that scholars may be too quick to make such an assumption. In fact, we are compelled by the implication which we draw from this statement to reach the conclusion that genealogies need not be listings only of the male descendants but may include

women, whether or not they are specifically cited as women.

By now it should be evident that the genealogical material in the Bible cannot be blindly evaluated by taking several gratuitous assumptions for granted. First, it is not necessary that linear genealogical tables go from firstborn to firstborn. We have seen that the Bible is interested in the concept of filiation and that the "starting point of this filiation" is the more recent member of the genealogy. In linear genealogies order of birth is incidental to filiation which is the $\gamma \rho' \theta$. Since this is so, the links can only be those of the successive parents, whether or not these individuals are firstborn. Likewise, we are not able mechanically to equate narrative order with birth order. When the order of birth is of consequence, the Bible unambiguously provides that information. Without that specific information we cannot make assumptions about the birth order. Finally, since we have seen that women may be "hidden away" in the genealogies, we are not at liberty to assume that all the individuals named in the genealogies are men unless otherwise noted. These new conclusions will serve as part of our working hypotheses while evaluating the data found in the genealogies.

FOOTNOTES

CHAPTER ONE

¹Robert R. Wilson, Genealogy and History in the Biblical World (New Haven: Yale University Press, 1977), p. 160.

²Ibid., p. 163.

³Ibid., p. 164.

⁴Ibid., pp. 164-165.

⁵U. Cassuto, A Commentary on the Book of Genesis (Jerusalem: The Magnes Press, The Hebrew University, 1961), Part I, pp. 251-252.

⁶Cf: "By virtue of its form a linear genealogy can have only one function: it can be used only to link the person or group using the genealogy with an earlier ancestor or group." Robert R. Wilson, "The Old Testament Genealogies in Recent Research," Journal of Biblical Literature 94 (1975): 180.

⁷I.e. Everything led up to Abraham.

⁸Genesis Rabbah XXXIX.10 (Soncino text, pp. 318-319).

⁹U. Cassuto, A Commentary on the Book of Genesis (Jerusalem: The Magnes Press, The Hebrew University, 1964), Part II, pp. 164-165.

¹⁰Ibid., p. 198.

¹¹Genesis Rabbah XXVI.3 (p. 211). Cf. Numbers Rabbah IV.8 (pp. 101-102) for a different discussion.

¹²Genesis Rabbah XXXVII.7 (p. 299).

¹³Sanhedrin 69b (p. 472).

¹⁴Cassuto, op. cit., Part II, pp. 266-267.

¹⁵Ibid., p. 267.

¹⁶Numbers Rabbah IV.8 (p. 102).

¹⁷Sanhedrin 69b (pp. 471-472).

¹⁸We find numerous other examples of this explicit

identification of birth order. Cf: I Chronicles 3:15: "The sons of Josiah: Johanan his firstborn (יְהוֹנָתָן), the second Jehoiakim (יְהוֹיָכִים), the third Zedekiah (זְדַבְיָה), the fourth Shallum (שְׁלֻמְיָה)."

I Chronicles 5:12: "Joel the chief (יֹאכָאֵל), and Shapham the second (שַׁפְּחָן)."

I Chronicles 8:1-2: "Benjamin begot Bela his firstborn (בְּלָא), Ashbel the second (אַשְׁבֶּל), Aharah the third (אַהֲרָה), Nohah the fourth (נוֹחָה), and Rapha the fifth (רָפָא)."

I Chronicles 8:39: "The sons of Eshek his brother: Ulam his firstborn (אֱלָם), Jeush the second (יֵשׁוּ), and Eliphelet the third (אֵלִיפַזֶּלֶת)."

I Chronicles 23:10-11: "And the sons of Shimei: Jahath, Zina, Jeush, and Beriah; these were the sons of Shimei-4. Jahath was the chief (יָהֹאֲתָן) and Zizah the second (זִיזָה), but Jeush and Beriah did not have many children, so they were enrolled together as a single clan."

I Chronicles 23:19-20: "The sons of Hebron: Jeriah the chief (יֵרֵיָה), Amariah the second (אֲמַרְיָה), Jahaziel the third (יָהֲזִיאֵל), and Jekameam (יֶכָמֵאָם). The sons of Uzziel: Micah the chief (מִיכָאֵל) and Isshiah the second (יִשָּׁיָה)."

I Chronicles 24:22-23: "Izharites: Shelomoth. The sons of Shelomoth: Jahath and Benai, Jeriah; the second (יֵרֵיָה), Amariah; the third (אֲמַרְיָה), Jahaziel; the fourth (יָהֲזִיאֵל), Jekameam."

I Chronicles 26:2-5: "Sons of Meshelemiah: Zechariah the firstborn (זְכַרְיָה), Jedaiel the second (יְדַיֵּאל), Zebediah the third (זְבֵדְיָה), Jathniel the fourth (יָתְנִיֵּאל), Elam the fifth (אֱלָם), Jehohanan the sixth (יְהוֹחָנָן), Elihoenai the seventh (אֱלִיהוֹנָי). Sons of Obed-edom: Shemaiah the firstborn (שֵׁמַיָּה), Jehozabad the second (יְהוֹזָבָד), Joah the third (יֹאחָז), Sacar the fourth (שָׂכָר), Nethanel the fifth (נֶתַנְאֵל), Ammiel the sixth (אֲמִיֵּאל), Issachar the seventh (יִשָּׂכָר), Peullethai the eighth (פְּעֻלְתַּי)..."

I Chronicles 26:10-11: "Hosah of the Merarites had sons: Shimri the chief (שִׁמְרִי) (he was not the firstborn [אֶל־בְּכֹרִית], but his father designated him chief [אֶל־רִאשִׁית]), Hilkiah the second (חִלְקִיָּה), Tebaliah the third (טִבְיָה), Zechariah the fourth (זְכַרְיָה)..."

CHAPTER TWO

WOMEN IN GENEALOGIES

In the course of assessing the genealogical material in the Bible we have encountered an intriguing question: How much of a role do women play in the biblical genealogies? What emphasizes the importance of this question is the working hypothesis which has long dominated the discussion of genealogical material in the Bible, an hypothesis which pictures women as being virtually absent from biblical genealogies. It has been taken for granted that on occasions women's names were included but that these individuals were then clearly identified as females and were usually reserved for the end of the list, after all the sons had been mentioned.

Yet in the preceding chapter we have given a brief preview of biblical citations which contradict the assumption that the genealogies are lists of sons only unless explicit reference is made to the inclusion of a woman. We have seen that I Chronicles 5:29 clearly includes Miriam with Aaron and Moses as children of Amram. Likewise, a child ("Ahlai") is mentioned for Sheshan in First Chronicles 2:31 whereas three verses later the Bible states unambiguously "Sheshan had no sons, only daughters." We have no choice but to recognize that Sheshan's offspring "Ahlai" is a daughter. The third reference which we noted in the previous chapter was the tantalizing inclusion of the word זָכָרִים - "males!" - to describe Manasseh's progeny as specified in Joshua 17:2. If

these were understood automatically to be men, what would have been the need to include the word "males"? That same question did, in fact, puzzle the biblical commentator as we find Metsudat David commenting on Joshua 17:2: "'Males.' Since it is said in this instance that women from the offspring of Manasseh also received inheritance, it is necessary to specify that this refers to the males in their family." Here there is a presumption that we must be clearly advised that this list did not include the women or else we would assume that women were included in it!

Having ascertained that biblical text may include women in the same manner as that in which it treats men (to wit, "Miriam" and "Ahlai") and that the Bible in some instances has the need to dispel a presumption that women have been included, we must now re-examine genealogical portions of the text with a view to the consequence of this fact. Since women may be included, the question arises, then, whether they have been included elsewhere without identifying comments! The difficulty in answering this question stems from the speculative nature of the investigation for, when there is no "identifying" comment such as "daughter of" or "sister of," the only evidence to evaluate is the name involved. Unfortunately, the analysis of names is only enough to give a possible answer, not a conclusive one, for, although we shall see that there are many names which may be those of women, they may yet prove also to be names of man.

Before we examine the names themselves, we shall first return

to the text and show that women who are plainly identifiable as women occur in greater numbers than we might have readily supposed. These women appear not only as daughter (and sisters) but even as mothers and "tribal" designations. Despite the fact that biblical commentators and later critics often try to "explain away" the women, their inclusion within the text seems well established.

We find women included among the lists of progeny as we saw earlier in Joshua 17:2, First Chronicles 2:31, 34-35, and First Chronicles 5:29. These examples by no means exhaust the list of daughters found within genealogical narratives. In addition, we note the following examples: Jacob has a daughter along with his twelve sons as we learn in Genesis 30:21 ("Lastly, she bore him a daughter, and named her Dinah") and find reiterated in Genesis 46:15 ("Those were the sons whom Leah bore to Jacob in Paddan-aram, in addition to his daughter Dinah.") Among the children of Anah are: "Dishon and Anah's daughter Oholibamah" (Genesis 36:25). The enumeration of Asher's sons (Genesis 46:17) concludes with "their sister Serah" (given, alternatively, in Numbers 26:46 "The name of Asher's daughter was Serah"). Even more astonishing is the realization that in the Book of Job only the daughters are identified of all the children born to Job after his difficulties; we read: "He [Job] also had seven sons and three daughters. The first he named Jemimah, the second Keziah, and the third Keren-happuch" (Job 42:13-14).

Indeed, in many passages we find that daughters (and sisters)

are often subsumed under the heading "sons of..." We read in Genesis 46:8, 15: "These are the names of the Israelites (בְּנֵי יִשְׂרָאֵל), Jacob and his descendants, who came to Egypt. Jacob's first-born Reuben...Those were the sons whom Leah bore to Jacob in Paddan-aram, in addition to his daughter Dinah (בְּנוֹת לֵאָה). Persons in all, male and female: 33." This passage continues with the offspring accountable to Zilpah so Genesis 46:17 adds: "Asher's sons (בְּנֵי אָשֶׁר): Imnah, Ishvah, Ishvi, and Beriah, and their sister Serah (וְשִׁרָּה אֲחִיתָּהּ)." Each of these passages provides a list of the individual children (literally, "sons" [בְּנֵי]) and, at its close, mentions the daughter. If we take the liberty to generalize from two illustrations, we would conclude that the terminology $X - \text{בְּנֵי}$ refers to the "children" and, consequently, may as easily include daughters as sons, since Genesis 46:8, 15 points out unambiguously that בְּנֵי יִשְׂרָאֵל includes a clearly labelled בְּנוֹת לֵאָה and sums up the entire group as בְּנֵי וּבָנוֹת יִשְׂרָאֵל. (Mathematically stated it says that: $\text{בְּנֵי} = \text{בְּנֵי} + \text{בָּנוֹת}$.) While Genesis 46:17 includes Asher's daughter in terms equally unambiguous, there has been no amplification of the word בְּנֵי to בְּנֵי וּבָנוֹת. Rather, the verse simply includes among the בְּנֵי the enumeration אֲחִיתָּהּ. Additional support for this understanding of the word בְּנֵי comes from the definition of בן in Brown-Driver-Briggs Dictionary on page 121, number 2, which states that it means "children (male and female)."

With these facts in mind we turn to Genesis 36:25 which states:

"The children of Anah ($\text{אֲנָח} - \text{בָּנָיו}$) were these: Dishon and Anah's daughter Oholibamah." We notice the parallelism of expression to the two references just examined. This may, in fact, be a third example of the same inclusive phraseology. However, this list is considerably shorter than either of the preceding passages, including only one son in addition to Oholibamah. The verse would read more smoothly if the last two words ($\text{אֲנָח} - \text{בָּנָיו}$) had been omitted, i.e. "The children of Anah were these: Dishon and Anah." It seems that "Anah's daughter" may be a gloss which entered the text as a reminder that the person so-mentioned was Anah's daughter since the expectation was for genealogies to be mostly male and the generic בָּנָיו (as opposed to $\text{בָּנָיו} - \text{בָּנוֹתָיו}$) introduces the two names which follow — both children of Anah. There would have been no difficulty in recognizing Oholibamah as Anah's daughter because that information has already been well established in Genesis 36:2.

This brings us to the logical next step, i.e. whether there are other passages within the Bible which include daughters among the "children" without singling them out at all. We suggest that this is indeed the case and would like to offer four citations where there is a high probability of this very pattern. We begin with a verse about which there is, in fact, little question that this is the case even though the Bible itself does no more to suggest the inclusion of a daughter than of a son! Genesis 11:29 states: "Abraham and Nahor took to themselves wives, the name of Abram's wife being Sarai and that of Nahor's wife Milcah, the daughter of

Haran, the father of Milcah and Iscah." It is generally accepted that the otherwise unknown Iscah is a girl even though nothing asserting such a fact is found in the verse to establish this identification. In fact, the problem which has been debated is who is Iscah in that she merits mention here. Rashi's suggestion (ad locum) is that Iscah is another name for Abraham's wife Sarah. Before making such a suggestion Rashi has already accepted the principle of the admissibility of women — without identification as women — or else his statement would be unsupportable!

Even more compelling evidence of non-identified females can be culled from the description in Genesis 22:20-23. There we learn of the children fathered by Abraham's brother Nahor. "Some time later, Abraham was told, 'Milcah too has borne children (מִלְכָּה) to your brother Nahor: Uz the first-born, and Buz his brother, and Kemuel the father of Aram; and Chesed, Hazo, Pildash, Jidlaph and Bethuel' — Bethuel being the father of Rebekah." Bethuel, we see here, has a child — Rebekah. It is, of course, anticipating the text but we know that Rebekah is a daughter of Bethuel. Yet we find no textual indication of that fact. In addition, the fact is omitted that Bethuel also does have a son — Laban — so the inclusion of Rebekah has not been mandated by the impossibility of naming a son.

The two examples of Genesis 11:29 and 22:20-23 are clear-cut and not subject to debate. The next two passages with which we shall deal are not so obvious but since Genesis 11:29 and 22:20-23 have prepared a foundation in which daughters may occur without an

accompanying "label" announcing their presence, we must ask whether other passages do the same. First, let us examine II Samuel 5:13-16:

David took more concubines and wives in Jerusalem, and more sons and daughters were born to David. These are the names of the children born to him in Jerusalem: Shammua, Shobab, Nathan, and Solomon; Ibhar, Elishua, Nepheg, and Japhia; Elishama, Eliada, and Eliphelet.

There is no specific name here which we wish to propose as being female. Rather, what has drawn us to this passage is the suggestion of verse 13 which refers to both sons and daughters. It is, we feel, consistent with this passage as well as biblical expression in general that there may be a daughter or daughters enumerated in this list of David's children. Which one(s) is she?

Finally, we turn to I Chronicles 3:17-18 which states: "the sons(בָּנָיו) of Jeconiah, the captive: Shealtiel his son, Malchiram, Pedaiah, Shenazzar, Jekamiah, Hoshana, and Nedabiah..." As is the case with II Samuel 5:13-16, here also we do not wish to identify specifically one child has a daughter. What is of significance is the fact that Shealtiel has been labelled בָּנָיו but no others. That leaves open, we feel, the possibility that some, if not all, of the others are daughters!

In the four passages just examined, Genesis 11:29 and 22:20-23, II Samuel 5:13-16, and I Chronicles 3:17-18, we have seen evidence which strengthens our suspicion that women are found within the genealogical narratives, whether or not they are identified as such.

If so, this is likely to occur in other places about which we have formed no a priori suspicions. Although this could be virtually any citation, later we shall suggest some specific names which lend themselves to that interpretation because of their form.

In addition to the inclusion of women as "offspring" in the genealogies, we find women who "define" the genealogy. Women serve this role in two capacities, either from their inclusion as "mother" (sometimes even without the additional identification of the father) or as the "source," i.e. the name, of the tribe or the more general lineage. We should not be surprised to have a mother's name included since, after all, polygamous marriage is common within the Bible.

We find such usage in reference to the various branches of the family to which Jacob's children belong. Because of Jacob's complex domestic relationships, his children belong to one of four categories, בְּנֵי יַעֲקֹב (Genesis 46:15), בְּנֵי לֵוִי (Genesis 46:18; cf. Genesis 37:2), בְּנֵי שִׁמְעוֹן (Genesis 46:19), or $\text{בְּנֵי יִשְׂשָׁכָר}$ (Genesis 46:25; cf. Genesis 37:2). We also find an echo of this in First Chronicles 7:13 which sums up a portion of the genealogical table with the phrase בְּנֵי יִשְׂרָאֵל .

The danger exists, of course, that we are overemphasizing the value of such information. If so, we stand in good rabbinic tradition because the midrash finds no difficulty in tracing lineage on the mother's side! The rabbis debate Elijah's ancestry in Genesis Rabbah 71:9:

...The rabbis debated: To which tribe did Elijah belong? R. Leazar said: To Benjamin, for it is written, "And Jaareshiah, and Elijah, and Zichri, were the sons of Jerobam...All these were the sons of Benjamin" (I Chronicles 8:27, 40). R. Nehorai said: To Gad, for it says, "And Elijah the Tishbite, who was of the settlers of Gilead, said" (I Kings 17:1)....On one occasion our Rabbis were debating about him [Elijah], some maintaining that he belonged to the tribe of Gad, others, to the tribe of Benjamin. Whereupon he came and stood before them and said, "Sirs, why do you debate about me? I am a descendant of Rachel." [I.e., of Benjamin.]¹

We find a similar discussion which seeks to determine whether Jonah is from Zebulun or Asher in Genesis Rabbah 98:11:

...[One Sabbath] R. Levi entered and lectured: Jonah [the prophet] was descended from Zebulun, as it is written, "And the third lot came up for the children of Zebulun..." (Joshua 19:10)... Then R. Johanan entered and lectured: Jonah was descended from Asher, for it is written, "Asher drove not out the inhabitants of Acco, nor the inhabitants of Zidon" (Judges 1:31); while it is written, "Arise, get thee to Zarephath, which belongeth to Zidon, and dwell there; behold I have commanded a widow there to sustain thee" (I Kings 17:9). [The following Sabbath] R. Levi said to R. Judah b. Nahman:...permit me to lecture. R. Levi then entered and said: Although R. Johanan taught us last Sabbath that Jonah was from Asher, in truth his father was from Zebulun while his mother was from Asher, for the verse "And his flank (yarkatho) shall be upon Zidon" means the thigh (yerek) whence he was sprung was from Zidon....

Perhaps more telling is the fact that we find numerous textual references to "female - נְקִיָּה " where we have been conditioned to expect the formula to be "male - זָכָר ." A number of these passages occur in Genesis 36 where the text is treating Esau's offspring by

his three wives. With that in mind, we read in Genesis 36:12 (cf: Genesis 36:16): "...Those were the descendants of Esau's wife Adah (אֲדָהּ יִשְׁמָעֵאל)." Following this (Genesis 36:13; cf: Genesis 36:17) we learn: "...Those were the descendants of Esau's wife Basemath (בַּסְמַת יִשְׁמָעֵאל)." An especially full expression of lineage occurs in introducing the enumeration of Oholibamah's progeny in Genesis 36:14: "And these were the sons of Esau's wife Oholibamah, (אֲחֻלִּיבָמָה יִשְׁמָעֵאל) daughter of Anah daughter of Zibeon: she bore to Esau Jeush, Jalam, and Korah." Indeed, had we not known better, we would have identified "the descendants of Adah," "the descendants of Basemath," and "the sons of Oholibamah" as listings of children by their fathers! We are spared that error by the very clear nature of Genesis 36. Since, however, Genesis 36 deals with a "sorting-out" of offspring problem which has been necessitated by Esau's multiplicity of wives, we might argue that this serves as an extenuating circumstance which compels the use of a formula normally reserved for the father to be used for the mother. However, Genesis 36 provides additional information which enables us to eliminate that possibility. As the chapter reaches its conclusion, the discussion has shifted to a description of clans. Among the clans we find "the clans Timna, [and] Oholibamah" (Genesis 36:40-41). Clans, we would have supposed, were even more likely to have been "masculine" — and that is the prevailing opinion. The comment of Ibn Ezra (ad Genesis 36:40) is one which runs as a refrain through the commentaries when names are involved. Ibn Ezra

states: "In this place it is masculine since we have many names which are both masculine and feminine and thus it is with Oholibamah." Given the context of the chapter, we find Ibn Ezra's comment a weak protest which attempts to negate the fact that women can define the clans. Furthermore, we find support for our suspicion in Genesis 36:18 which states clearly: "And these are the descendants of Esau's wife Oholibamah: the clans of Jeush, Jalam, and Korah; these are the clans of Esau's wife Oholibamah (¹ ² ³ ⁴ ⁵ ⁶ ⁷ ⁸ ⁹ ¹⁰ ¹¹ ¹² ¹³ ¹⁴ ¹⁵ ¹⁶ ¹⁷ ¹⁸ ¹⁹ ²⁰ ²¹ ²² ²³ ²⁴ ²⁵ ²⁶ ²⁷ ²⁸ ²⁹ ³⁰ ³¹ ³² ³³ ³⁴ ³⁵ ³⁶ ³⁷ ³⁸ ³⁹ ⁴⁰ ⁴¹ ⁴² ⁴³ ⁴⁴ ⁴⁵ ⁴⁶ ⁴⁷ ⁴⁸ ⁴⁹ ⁵⁰ ⁵¹ ⁵² ⁵³ ⁵⁴ ⁵⁵ ⁵⁶ ⁵⁷ ⁵⁸ ⁵⁹ ⁶⁰ ⁶¹ ⁶² ⁶³ ⁶⁴ ⁶⁵ ⁶⁶ ⁶⁷ ⁶⁸ ⁶⁹ ⁷⁰ ⁷¹ ⁷² ⁷³ ⁷⁴ ⁷⁵ ⁷⁶ ⁷⁷ ⁷⁸ ⁷⁹ ⁸⁰ ⁸¹ ⁸² ⁸³ ⁸⁴ ⁸⁵ ⁸⁶ ⁸⁷ ⁸⁸ ⁸⁹ ⁹⁰ ⁹¹ ⁹² ⁹³ ⁹⁴ ⁹⁵ ⁹⁶ ⁹⁷ ⁹⁸ ⁹⁹ ¹⁰⁰ ¹⁰¹ ¹⁰² ¹⁰³ ¹⁰⁴ ¹⁰⁵ ¹⁰⁶ ¹⁰⁷ ¹⁰⁸ ¹⁰⁹ ¹¹⁰ ¹¹¹ ¹¹² ¹¹³ ¹¹⁴ ¹¹⁵ ¹¹⁶ ¹¹⁷ ¹¹⁸ ¹¹⁹ ¹²⁰ ¹²¹ ¹²² ¹²³ ¹²⁴ ¹²⁵ ¹²⁶ ¹²⁷ ¹²⁸ ¹²⁹ ¹³⁰ ¹³¹ ¹³² ¹³³ ¹³⁴ ¹³⁵ ¹³⁶ ¹³⁷ ¹³⁸ ¹³⁹ ¹⁴⁰ ¹⁴¹ ¹⁴² ¹⁴³ ¹⁴⁴ ¹⁴⁵ ¹⁴⁶ ¹⁴⁷ ¹⁴⁸ ¹⁴⁹ ¹⁵⁰ ¹⁵¹ ¹⁵² ¹⁵³ ¹⁵⁴ ¹⁵⁵ ¹⁵⁶ ¹⁵⁷ ¹⁵⁸ ¹⁵⁹ ¹⁶⁰ ¹⁶¹ ¹⁶² ¹⁶³ ¹⁶⁴ ¹⁶⁵ ¹⁶⁶ ¹⁶⁷ ¹⁶⁸ ¹⁶⁹ ¹⁷⁰ ¹⁷¹ ¹⁷² ¹⁷³ ¹⁷⁴ ¹⁷⁵ ¹⁷⁶ ¹⁷⁷ ¹⁷⁸ ¹⁷⁹ ¹⁸⁰ ¹⁸¹ ¹⁸² ¹⁸³ ¹⁸⁴ ¹⁸⁵ ¹⁸⁶ ¹⁸⁷ ¹⁸⁸ ¹⁸⁹ ¹⁹⁰ ¹⁹¹ ¹⁹² ¹⁹³ ¹⁹⁴ ¹⁹⁵ ¹⁹⁶ ¹⁹⁷ ¹⁹⁸ ¹⁹⁹ ²⁰⁰ ²⁰¹ ²⁰² ²⁰³ ²⁰⁴ ²⁰⁵ ²⁰⁶ ²⁰⁷ ²⁰⁸ ²⁰⁹ ²¹⁰ ²¹¹ ²¹² ²¹³ ²¹⁴ ²¹⁵ ²¹⁶ ²¹⁷ ²¹⁸ ²¹⁹ ²²⁰ 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subtle. First, I Chronicles 2:21-23 informs us: "Afterward Hezron had relations with the daughter of Machir father of Gilead...and she bore him Segub; and Segub begot Jair...All these were the sons of Machir, the father of Gilead." We know that Jair is from the tribe of Judah from what we have learned in the preceding verses. (Hezron is Jair's grandfather and Hezron is the son of Judah's son Perez, I Chronicles 2:4, 5, 21, 22.) Jair's grandmother, on the other hand, was the daughter of Machir (I Chronicles 2:21). We see that Jair is from the tribe of Manasseh on his (grand)mother's side. In other words, Jair's tribal designation ("Manasseh") comes through the mother. We find confirmation of this evaluation in Radak's comment ad I Chronicles 4:23: "And when it says in Scripture 'of the tribe of Manasseh,' this comes from his mother's family, for his mother was the daughter of Machir the son of Manasseh."

A final example of the mother's determining of the lineage is found in Deuteronomy 26:5: "My father was a fugitive Aramean. He went down to Egypt with meager numbers..." This verse has been an elusive problem; while Abraham could have been termed an "Aramean" when he left Haran, Abraham was not a fugitive. Jacob, on the other hand, was a fugitive (—he fled, after all, from Laban—) but was not an Aramean.³ We wish to suggest that the difficulty resolves itself if the identification of "Aramean" has come through the mother. Jacob's mother Rebekah, we know, was from a place called alternatively "Paddan Aram" and "Aram-neharaim." Might his mother's origin be the source for the adjective "Aramean" used for Jacob?

The association of children with their mothers continues in two other ways. First, we have one example of an expression which seems generally reserved for a son's relationship to his father; First Chronicles 2:50 (also, 4:4) announces: "Hur the firstborn (רִאשֹׁן) of Ephrathah." Because the word firstborn occurs in the context of the legal-cultic nexus, it generally is found in a male context. Yet we have already been informed that Ephrath was one of the wives of Caleb and the mother of Hur (I Chronicles 2:19). We learn here, then, that even the word firstborn, a word which has a precise and limited meaning which we shall explore in a subsequent chapter, can be used to identify a son in terms of his mother rather than his father!

We shall conclude the examination of children who are identified in terms of their mothers with a rather extensive group. We are accustomed to find children described in the Bible as "Child-ben-Father." Yet this terminology is not limited to the child-father relationship but is found often linking the child and the mother (i.e. "Child-ben-Mother"). Additionally, just as the biblical text customarily informs us that a father begot a child, in an analagous fashion the Bible sometimes identifies the mother. References of this type occur in three basic patterns: an individual is called "Child-ben-Mother," the phraseology "woman conceived and/or gave birth," or, "the name of the mother [is]."

We might be puzzled by the inclusion of information about the mother in a society which put so much emphasis upon the males. We

shall see that it serves several different purposes. First of all, sometimes the mother gives "yichus" to the family, as is the case with Bethuel whose mother Milcah was a niece of Abraham or in the case of Zeruiah who was David's sister or half-sister. A second reason to inform us about the mother is that some women were important in their own right. In his comment on I Chronicles 7:18 Radak explains why the progeny of Hammolecheth is given: "Since she was an important woman it mentions her offspring." The third reason is one of necessity; the society described in the Bible is one in which men could have more than one wife and/or concubines. In these cases, it was useful to know which alliance produced the child(ren) in question. Finally, we wish to suggest a fourth reason which may be operative in some cases. It seems to us that the importance of males in genealogical and familial relationships may be overstated. The fact that women appear in a variety of ways contradicts the idea that men to the exclusion of women "controlled" the family relationships. Women, too, seem to play genealogical roles, even though they are cited less often than the men.⁴ We shall see in the specific examples which follow that all of these reasons share in influencing the expression of the "female-side" of lineage.

First, we find the expression "Child-ben-Mother" in numerous places. We have Bethuel son of Milcah (Genesis 24:15, 24) and "Eliphaz the son of Esau's wife Adah; Reuel, the son of Esau's wife Basemath" (Genesis 36:10). Frequent mention is made of Zeruiah's children (זְרוּיָהּ בְנֵיהָ), usually Joab but also Abishai and Asahel (I

Samuel 26:6, II Samuel 2:18, I Chronicles 11:6, 26:28, 27:24). Interestingly, in what may be a reversal of the mother's yichus accruing to the line, in II Samuel 17:25 Zeruiah is identified as the mother of Joab (אִמּוֹ יֹאָב)! Additional examples of the "Child-ben-Mother" formula are "The sons of the wife of Hodiah sister of Naham were the fathers of Keilah the Garmite and Eshtemoa the Maacathite" (I Chronicles 4:19) and "Zabad son of Shimeath the Ammonitess, and Jehozabad son of Shimrith the Moabite" (II Chronicles 24:26). One last example, cited above because of its unique form of expression is "Hur the firstborn of Ephrathah" (in I Chronicles 2:50 and 4:4).

The second category for indicating the mother is the statement that a woman conceived and/or gave birth. This terminology is used for Eve in reference to Cain, Abel, and Seth (Genesis 4:1-2, 25), the wives of Lamech, Adah and Zillah (Genesis 4:19-20, 22), and Milcah bearing Bethuel to Nahor (Genesis 24:47). In Genesis 36 we learn that Oholibamah bore Jeush, Jalam, and Korah (verse 5 and again in verse 14) and Timna bore Amalek to Eliphaz (verse 12). Likewise, Shua, the wife of Judah, conceived and gave birth to Er, Onan, and Shelah (Genesis 38:3-5). In detail the description of the children born to David in Hebron is given (II Samuel 3:2-5):

...His firstborn was Amnon, by Ahinoam of Jezreel; his second was Chileab, by Abigail wife of Nabal the Carmelite; the third was Absalom son of Maacah, daughter of King Talmai of Geshur; the fourth was Adonijah son of Haggith; the fifth was Shephthiah son of Abital; and the sixth was Ithream, by David's wife Eglah....

Likewise, we learn that Maacah gave birth to Segub (First Chronicles 2:21), Abijah to Ashur (I Chronicles 2:24), and Ashur's wife Naarah to Ahuzam, Hephher, Temeni, and Ahashtari and his wife Helah to Zareth, Zohar, and Ethnan (I Chronicles 4:5-7). In a sequence that remains confused we find a woman (not identified in the text) who gives birth to Miriam, Shammai, and Ishbah and that "his Judahite wife" (equally unclear) "bore Jered..., Heber..., and Jekuthiel..." (I Chronicles 4:17-18). Manasseh's Aramean concubine bore Asriel and Machir (I Chronicles 7:14), and "Maacah the wife of Machir bore a son, and she named him Peresh..." (I Chronicles 7:16). Hammolecheth (mentioned above with reference to Radak's remark ad locum) bore Ishdod, Abiezer, and Mahlah (I Chronicles 7:18). The last example we shall include is "He [Shaharaim] had sons by Hodesh his wife: Jobab, Zibia, Mesha, Malcam, Jeuz, Sachiah, and Mirmah.... He also begot by Hushim: Abitub and Elpaal" (First Chronicles 8:8-11).

The formula *וְאִשְׁתּוֹ* ("and his mother's name [is]") is a frequent part of the identification of the kings. Thus we find that Abijam's mother was Maacah (I Kings 15:2; alternatively given as "Micaiah" in II Chronicles 13:2), Asa's mother was Maacah (First Kings 15:10), and Rehoboam's mother was Naamah (Second Chronicles 12:13). Jehoshaphat's mother was Azubah (Second Chronicles 20:31), Ahaziah's mother Athliah (II Chronicles 22:2), Jehoash's - Zibiah (II Chronicles 24:1), Amaziah's - Jehoaddan (II

Chronicles 25:1), Uzziah's - Jecoliah (II Chronicles 26:3), Jotham's - Jerushah (II Chronicles 27:1), and Hezekiah's - Abijah (II Chronicles 29:1).

Women also appear in biblical genealogies in a variety of incidental references. In some cases the reasons for mentioning them are obvious whereas others are rather oblique. Examples of these miscellaneous references include: "And the sister of Tubal-cain was Naamah" (Genesis 4:22).⁵ Nahor's wife Milcah is identified as the daughter of Haran (Genesis 11:29). We learn that "Lotan's sister was Timna" (Genesis 36:22), "Anah's daughter Oholibamah" (Genesis 36:25) and the wife of Hadar, king of Pau, "was Mehetabel daughter of Matred daughter of Me-zahab" (Genesis 36:39). Sisters of some individuals are mentioned: Shelomith the sister of Meshullam and Hananiah (I Chronicles 3:19), Maacah, sister of Machir (I Chronicles 7:15), and Gilead's sister Hammolecheth (First Chronicles 7:18). Machir's wife was Maacah (I Chronicles 7:16). Ephraim's daughter was Sheerah (I Chronicles 7:24). Shua was the sister of Japhlet, Shomer, and Hotham (I Chronicles 7:32). Jehoshabeath was the daughter of King Jehoram and the wife of the priest Jehoiada as well as the sister of Ahaziah (Second Chronicles 22:11). Finally, we learn that the prophetess Huldah was the wife of Shallum (II Chronicles 34:2).

With all these examples of women included among the genealogical information, there can no longer be any question about the vital role that women play in genealogies. This prominence

raises a further question about "labelling"; is there a possibility that some unlabelled personal names are those of women rather than of men? This possibility is not an unlikely one for as we shall presently show there are personal names that are both "masculine" and "feminine."

One such name is מַאכָּה ("Maacah") which occurs many times within the text and which, to our good fortune, is usually accompanied by a word or phrase which indicates the sex of the individual involved. We have Maacah, the daughter of King Talmai of Geshur, who was the mother of Absalom, the third son born to David in Hebron (II Samuel 3:3; cf. I Chronicles 3:2). Among the royal family Maacah, daughter of Abishalom, was the mother of Abijam (I Kings 15:2, but the name of his mother is Micaiah, daughter of Uriel of Gibeah, in the parallel passage of II Chronicles 13:2). Asa's mother is also identified as Maacah, the daughter of Abishalom (I Kings 15:10 and II Chronicles 15:16. Perhaps she was Asa's "grandmother"?)⁶ We learn that Caleb had a concubine name Maacah (I Chronicles 2:48). Machir has both a sister (I Chronicles 7:15) and also a wife (I Chronicles 7:16) with the name of Maacah. Gibeon's father Jeiel had a wife called Maacah (I Chronicles 8:29 and 9:35). Finally, Rehoboam married Maacah the daughter of Absalom whom he loved more than all his wives and concubines (II Chronicles 11:20-22). What remains unspecified are six other occurrences of the name. In two of these it seems to refer to a place; we find "the King of Maacah" (מֶלֶךְ מַאכָּה, II Samuel 10:6) and "Eshtemoa the

Maacathite" (מַאֲכַתִּי), I Chronicles 4:19).⁷ Two other passages speak of the same individual, King Achish of Gath. King Achish is given the patronymic אֲחִישׁ-אֵל in I Kings 2:39 and אֲחִישׁ-אֵל in I Samuel 27:2. We feel that there are two possible explanations for the variance between אֲחִישׁ-אֵל and אֲחִישׁ-אֵל. Either these represent two slightly different records of the same tradition (which happens occasionally within the biblical text and is probable here) or these two names may be a pair of which one is masculine (אֲחִישׁ) and the other feminine (אֲחִישׁ). We learn of a Hanan אֲחִישׁ-אֵל in I Chronicles 11:43. Finally, Nahor and his concubine Reumah have a child named Maacah (Genesis 22:24). In those three instances where individuals are identified as אֲחִישׁ-אֵל / אֲחִישׁ-אֵל, the parent could represent either the mother or the father. While we have no indication that these refer to the mother, we should keep in mind the fact that Maacah frequently is a woman's name. (Of course, as the commentators state often, many names are used for both men and women.) As for the child of Nahor and Reumah, there is no indication of sex. Perhaps we should take note of the fact that Maacah is the fourth listed of their four children and we know that daughters frequently are given at the end of the list. What we can say about the name Maacah is that it is used far more as a woman's name than as a man's name. As a result, it is not unlikely to give a tentative feminine identification to all people called Maacah.⁸

Other names for which we have indication of their being used for people of both sexes include Abijah, Aiah, Micaiah, Ephah, and

Athaliah. Of these names, Abijah (אֲבִיָּה) occurs twice as a woman's name, five times as a man's name, and once, in the list of אֲבִיָּה אֲבִיָּה, ostensibly as a son but possibly also as a daughter. There is no question that Abijah, the wife of Hezron (I Chronicles 2:24), and Abijah, daughter of Zechariah and mother of Hezekiah (II Chronicles 29:1), must be women! Yet others named Abijah are clearly men; these include Rehoboam's son Abijah (labelled אֲבִיָּה in I Chronicles 3:10 and who became a chief, leader, and successor — אֲבִיָּה, אֶלְיָה — among his brothers as we read in II Chronicles 11:20, 22). Also in this category are Samuel's second son Abijah (for whom I Samuel 8:2 uses the masculine אֲבִיָּה; the correct reading in the parallel account of I Chronicles 6:13 is probably the masculine adjective אֲבִיָּה rather than the "name" אֲבִיָּה) and the Abijah on whom the eighth lot fell in I Chronicles 24:10. We have left one more Abijah, this one found among the אֲבִיָּה אֲבִיָּה in I Chronicles 7:8: "The sons of Becher: Zemirah, Joash, Eliezer, Elieonai, Omri, Jeremoth, Abijah, Anathoth, and Alemeth. All these were the sons of Becher." This last occurrence of Abijah cannot be conclusively identified as male or female. We shall return to several of the other names in I Chronicles 7:8 later for a number of them (Alemeth, Anathoth, Jeremoth, and Zemirah) are interesting; Anathoth and Alemeth are also place names (see Radak, *ad locum*) while others likewise "appear" feminine. If they are, then Abijah — which as we have already seen can be a woman's name — would be placed in a grouping of three other women's names which appear at the end of the list!

The name Aiah (אִיָּה) occurs in Genesis 36:24 as the name of a child of Zibeon and again in II Samuel 3:7 as the parent of Saul's concubine Rizpah. Neither citation specifically suggests that Aiah names a woman rather than a man. There is one fact that we should keep in mind; אִיָּה (cf. Leviticus 11:14) is a hawk or falcon — and is a feminine noun. While it is possible for a feminine noun to be used as a man's name, the intrinsic gender of the word itself raises for us the possibility that the name Aiah is feminine.

Another name which we find for both men and women is Micaiah (מִיכָאֵל). Micaiah is the daughter of Uriel of Gibeon and the mother of Abijah (II Chronicles 13:2). Micaiah also is an officer of Jehoshaphat (II Chronicles 17:7) and a prophet (II Chronicles 18:7-8, 18).

Ephah (אֶפְיָה) occurs twice. Once she is Caleb's concubine (I Chronicles 2:46). In the following verse (I Chronicles 2:47) Ephah is included among בְּנֵי אֶפְיָה. We have seen above that the heading בְּנֵי does not limit the children only to being sons, but, traditionally, Ephah has been considered a son of Jahdai.

Finally, we have the name Athaliah which appears in the two Hebrew forms אֶתְלִיָּה and אֶתְלִיָּה. Athaliah is the daughter of Omri and mother of Ahaziah in II Kings 8:26, II Chronicles 22:2, 22:10-12, 23:12-13, 24:7. (The form אֶתְלִיָּה is used in each of these except for II Chronicles 22:12 which says אֶתְלִיָּה.) Athaliah is listed among Jeroham's children (בְּנֵי יִרְחָם) in I Chronicles 8:27. As we have seen, such a list may include a daughter although

it is usually taken to be a listing of sons.

Other names appear to be "doublets," names from the same stem with a difference in the ending. What is striking about these pairs is that the "form" of one appears feminine. We find several of these "pairs" among lists of children: דָּבִיד and דָּבִידָּה (Genesis 46:17), רָחֵל and רָחֵלָּה (I Chronicles 7:20-21), לֵוִי and לֵוִיָּה (I Chronicles 4:16). We would propose that what these may represent, at least in some of these "doublets," are "brother-sister" combinations using a favoured name. This is not without parallel; Jacob has, after all, a son יִצְחָק and a daughter דְּבִירָּה ! Whereas some of these pairs may not represent a brother and a sister, one of these sons may be a woman.

Additional names which fit the "doublet" mold are names found in biblical passages not related to one another. We find דָּבִידָּה in I Chronicles 4:36 (cf: דָּבִיד of Genesis) and דָּבִידָּה in I Chronicles 7:10 and II Chronicles 18:10, 23 (cf: דָּבִיד of Genesis 9:18, 25-27). In what may be a "triplet" we have מִנְדֵּב (I Chronicles 24:22-23) and מִנְדֵּבָּה (II Chronicles 11:20); cf: מִנְדֵּבָּה , David's favourite son. Support for female identification of מִנְדֵּבָּה comes from I Chronicles 3:19 in which the list of Zerubbabel's children concludes: $\text{מִנְדֵּבָּה מִנְדֵּבָּה}$!⁹

There is one name, to which we referred above, which has no external markings as feminine other than its דָּה ending but has been generally accepted as feminine. This is דְּבִירָּה in Genesis 11:29.

Two additional names for which we feel that there is a strong

likelihood of their being women's names are מִיָּדָה (II Kings 22:14) and מִיָּדָה (I Chronicles 4:17). We know that, at least later, Tikvah is a woman's name. As for Miriam, we know that the Miriam of the family of Moses and Aaron is a woman. In the Chronicles passage we have no information about Miriam's sex. Radak's comment (ad locum) seems to be an attempt to reconcile the name Miriam with the generally prevailing notion that individuals in the Bible are men unless otherwise indicated: "Miriam is a son just like the others for many names are both masculine and feminine. For example, Abijah the wife of Hezron and Ephah the concubine of Caleb and many other names..." By now we have seen that the prevailing attitude that there is a limited appearance of women in the Bible can be assailed from several sides. Since that is so, Miriam in I Chronicles 4:17 is as likely to be a woman as a man!

Before we continue with other names that are possibly feminine, we wish to challenge the idea that Anah of Genesis 36 is a woman. This identification grew from a misunderstanding of Genesis 36:2:

... $\text{וְהָיָה אֲנָחִי בִּתּוּלָה}$... in which it was assumed to be a chain of individuals, i.e. "Oholibamah, daughter of Anah, daughter of Zibeon." We suggest that אֲנָחִי is a putative "granddaughter" and that

$\text{וְהָיָה אֲנָחִי בִּתּוּלָה}$ refers back to Oholibamah (who then is Zibeon's granddaughter") rather than to Anah. The textual variant found in the Samaritan, Septuagint, and Syriac texts is $\text{בִּתּוּלָה} / \text{בִּתּוּלָה}$. If we accept אֲנָחִי as the granddaughter of Anah we find that the textual variant preserves the same sense; Anah is Zibeon's son and

Oholibamah's father which means that Oholibamah is, consequently, Zibea's granddaughter. Furthermore, the additional information of Genesis 36:20, 24-25 confirms the likelihood that Anah is a man. We have no further passage to suggest that the name Anah can refer to a female.

At this point we would like to offer a list of names for which there is a possibility that the names are those of women. In most instances only the form supports this possibility. For a few there is some additional evidence which gives a little more probability to their being the name of a man or a woman in a specific passage.

These names are: אֲנָה (Genesis 10:27), אֲנָה (Genesis 25:14), אֲנָה (Genesis 36:13), אֲנָה ¹⁰ (Genesis 46:13), אֲנָה and אֲנָה (Genesis 46:17 = I Chronicles 7:30)¹¹ and אֲנָה II Samuel 4:2).¹² Other names are: אֲנָה (I Chronicles 3:20), אֲנָה (I Chronicles 4:4), אֲנָה (I Chronicles 4:8), אֲנָה (I Chronicles 4:11), אֲנָה (I Chronicles 4:12), אֲנָה (I Chronicles 4:13), אֲנָה (I Chronicles 4:14), אֲנָה (I Chronicles 4:15, 9:8), אֲנָה (I Chronicles 4:17),¹³ אֲנָה (I Chronicles 4:19),¹⁴ אֲנָה and אֲנָה (I Chronicles 4:20), אֲנָה , אֲנָה , אֲנָה (I Chronicles 4:21), אֲנָה (I Chronicles 5:5, 8:34-35, 9:40, 23:20, 24:24, and II Chronicles 34:20),¹⁵ אֲנָה (I Chronicles 5:6), אֲנָה (I Chronicles 6:27, 9:1, II Chronicles 29:12), אֲנָה , אֲנָה , אֲנָה (I Chronicles 7:8), and אֲנָה (I Chronicles 7:18).¹⁶ Also worth considering are: אֲנָה (I Chronicles 7:8) and אֲנָה (I Chronicles 25:4 and II Chronicles 31:13), אֲנָה (I Chronicles 7:23, 8:13), אֲנָה and אֲנָה .

(alternatively, רְחֵבֶר I Chronicles 7:34), מִנְרֵה (I Chronicles 7:36), שֵׁלֶה (I Chronicles 7:37), לִוְחֵה (I Chronicles 8:2),¹⁷ מִנְרֵה (I Chronicles 8:10), שֵׁלֶה (I Chronicles 8:16), זִלְאֵה (I Chronicles 8:18), מִנְרֵה (I Chronicles 8:32), and פִּלְאֵה and מִנְרֵה (I Chronicles 8:36; also I Chronicles 9:42). Still other names are: פִּלְאֵה (I Chronicles 9:7), זִלְאֵה (I Chronicles 9:12), שֵׁלֶה (I Chronicles 9:42), זִלְאֵה (I Chronicles 23:11), חִשְׁבֵּה (I Chronicles 24:13), גִּלְאֵה (I Chronicles 24:14), שֵׁלֶה , מִנְרֵה (I Chronicles 25:4), חִשְׁבֵּה (II Chronicles 31:13), and חִשְׁבֵּה (II Chronicles 34:22).

There remains one final interesting association of names and that is that names of people often "become" names of places. We see that for several women's names. Not only are there women named Maacah but it is also a place as we recognize in "the King of Maacah" (II Samuel 10:6) and "Eshtemoa the Maacathite" (I Chronicles 4:19). Shimeon's family dwelt in Bilhah among other places (I Chronicles 4:29). Rachel died on her way to Ephrah (Genesis 35:19) while Hezron died in Caleb-ephrahah (I Chronicles 2:24). With these known ties between women and places, we would like to suggest additional examples of the same phenomenon. The first is יֹכָתָן , Joktan's child (Genesis 10:29) and the land through which the River Pishon winds (Genesis 2:11). The last child of Ishmael in the list of Genesis 25:15 is יִשְׁמָאֵל , which is, of course, a direction in Genesis 28:14. Finally, two names in I Chronicles 7:18 are, according to Radak (*ad locum*), place names also. While Radak identifies these individuals as men, that may simply reflect

conventional thinking. According to Radak: "'The children of Becher...Anathoth': The city of Anathoth which is in the land of Benjamin is named Anathoth from the one who built it. This is like 'And he called the name of the city like the name of his son Enoch.' And Alemeth, likewise, is the name of an individual and the name of a city in the land of Benjamin..."

Based upon this broad range of data it seems a fair evaluation of the biblical narrative that women do figure in the genealogical accounts whether or not they are specifically identified as women. While there may have been a bias for males in genealogies, it did not result in an exclusion of women. In some instances we are able to identify women with certainty while in others it must remain only probable or possible that women are involved. In any event, women must be seen as a factor of more significance than heretofore supposed in the genealogical material.

FOOTNOTES

CHAPTER TWO

¹Genesis Rabbah, pp. 659-660.

²Ibid., pp. 959-960.

³Gunther Plaut, The Torah: A Modern Commentary (New York: Union of American Hebrew Congregations, 1981), p. 1512.

⁴Cf: Interpretor's Dictionary of the Bible, Volume 4, p. 956 ["Zeruiah" by D. Harvey]: "It may be that Zeruiah was an outstanding woman, or possibly that the ancient custom of tracing descent by the female line has been preserved in this case."

⁵There is a suggestion that she was Noah's wife. Cf. Genesis Rabbah XXIII.3, p. 194: "And the sister of Tubal-cain was Naamah. R. Abba b. Kahana said: Naamah was Noah's wife..."

⁶The word נִנְיָ can be used for granddaughter (i.e. נִנְיָ for נִנְיָ-נִנְיָ) just as the word נֶנֶךְ can mean grandson (i.e. נֶנֶךְ as נֶנֶךְ-נֶנֶךְ).

⁷We shall conclude this chapter with a discussion of the association of place names with names of women.

⁸The reading נִנְיָ-נִנְיָ in I Samuel 27:2 is problematic. There are no Hebrew textual variations which exist to harmonize the reading of I Samuel 27:2 with נִנְיָ-נִנְיָ in I Kings 2:39. (The Septuagint has Μαχά in I Kings 2:39 and Αμυχ in I Samuel 27:2 which does not help resolve the difficulties.) It would be possible to consider נִנְיָ as a defective or archaic writing for נִנְיָ (cf: נִנְיָ Deuteronomy 22:23, 28; נִנְיָ Genesis 24:14, 28, 55; 34:3, 12, Deuteronomy 22:15, 16, 21, 24, 25, 27, 29; נִנְיָ Genesis 24:16; נִנְיָ Deuteronomy 22:15, 16, 21, 24, 25, 27, 29; נִנְיָ Deuteronomy 22:26.) We have no suggestion for the inclusion of the vav.

⁹On the other hand, another apparent example of the same pattern is that of King Achish of Gath who is labelled נִנְיָ-נִנְיָ (I Kings 2:39) and alternatively נִנְיָ-נִנְיָ (I Samuel 27:2). As we suggested above, we feel that this is not the occurrence of a "doublet" but a variation within textual traditions. This differs from the "doublets" here indicated in that the "doublets" seem to refer to two (or more) individuals whereas King Achish נִנְיָ-נִנְיָ is the same individual as King Achish נִנְיָ-נִנְיָ . It is on that basis we reject this נִנְיָ-נִנְיָ as a "doublet." This does not preclude the possibility of those names occurring outside the Bible as a "doublet."

10 Cf: מִיִּלְכָּה, the name of one of the midwives, in Exodus 1:15.

11 These are perhaps men because the text refers to "their sister Serah."

12 Probably he is a man since he serves as the captain of the band of Saul's son.

13 Not to be confused with Ezra the scribe.

14 This is probably a man since the name is modified by the masculine adjective מְלִיץ.

15 This name is included notwithstanding the presence of the prophet since we saw that Micaiah (of which this may be a shortened form) is used for both men and women.

16 Mahlah is quite possibly a woman; cf. the name of one of the daughters of Zelophehad.

17 The adjective מְלִיץ suggests that this is a man.

Before we discuss the names, it is necessary for us to still allusion to the nature of the domestic inventory. The Bible and the Talmudic literature contain to which we shall refer subject matter general patterns of family law. What we have to learn positions and examples of specific situations. We can hope only to understand each episode in itself and, from these before mentioned, learn as follows: a range of possibilities about what is described "the story."

Besides, we would do well to note that the domestic inventory for the ancient world was not like the domestic inventory of today.

CHAPTER THREE

PRIMOGENITURE

We have now shown that we cannot blindly accept the heretofore generally acknowledged presuppositions about the genealogical material in the Bible. We cannot unilaterally take the order of names as indicative of the order of birth. Neither can we always assume that the first-named offspring is automatically the רִאשׁוֹן . Nor can we mechanically assume that an individual is male if no indication of sex is given. Accepting these limitations on the handling of the genealogical data in the Bible, we must re-examine what we do learn from the text. The raw material with which we must work is the genealogies and the terminology by which they are described. From these will emerge a picture of the role and scope of primogeniture in the Bible.

Before we define the terms, it is necessary for us to call attention to the nature of the documents involved. The Bible and the Ancient Near Eastern texts to which we shall refer seldom offer generalisations of family law. What we have in both instances are examples of specific situations. We can hope only to understand each episode in itself and, from these taken together, begin to delineate a range of possibilities which seems to describe "the norm."

Besides, we would do well to note this caveat. Documents in the ancient world are not like the documents with which we deal.

Whereas our society operates from the basis of written materials, this was not true for the societies depicted in the Bible and in the Ancient Near Eastern texts. The documents were basically "evidentiary," not "dispositive," i.e., they serve as additional proof that the transaction had taken place but do not enact that change.¹ That stance leads us to question how we should evaluate the material contained within these documents. We must consider the context in which they were written. We must also ask whether there would have been any point in writing down what was "the norm." If we answer that question in the negative, we need to keep open the possibility that our records present only the special cases, the unusual situations. We must keep this limiting aspect in mind as we evaluate the data.

TERMINOLOGY OF PRIMOGENITURE

In analyzing the concept of primogeniture in the Bible, we must examine several terms. Both the words *בכור* and *בכורה* occur in the description of narratives which relate to primogeniture. Another term which must be included is *בטרח*. If the word *בכור* is a term of primogeniture, we must ask what the meaning of its feminine counterpart *בכירה* is.

The word *בכור* generally conveys a very specific and precise point of information; the quintessential element of *בכור* indicates

a son who is the first-born offspring of his father. Several of the sources which best convey this meaning are verses which are particularly germane to our topic. Certainly the issue of chronological priority comes to the fore in Deuteronomy 21:15-17:

If a man has two wives, one loved and the other unloved, and both the loved and the unloved have borne him sons, but the first-born (בְּכֹרֶת) is the son of the unloved one — when he wills his property to his sons, he may not treat as first-born the son of the loved one in disregard of the son of the unloved one who is older. Instead, he must accept the first-born, the son of the unloved one, and allot to him a double portion of all he possesses; since he is the first fruit of his vigor (בְּכֹרֶת), the birthright is his due.

In this passage the concept בְּכֹרֶת is associated with בְּכֹרֶת ("the first fruit of [his] vigour"), an identification repeated in Genesis 49:3 ("...you are my first-born,/ My might and first fruit of my vigor,") as well as in Psalm 105:36 ("He struck down every firstborn in the land/ the first fruit of their vigor [בְּכֹרֶת]") and Psalm 68:51 ("He struck every firstborn in Egypt,/ the first fruits of their vigor [בְּכֹרֶת] in the tents of Ham").

While בְּכֹרֶת in places suggests more than just priority of birth (e.g. as indicated in Deuteronomy 21:17 where his due is בְּכֹרֶת / or the account of Genesis 27 of the blessing which Jacob gets instead of Esau), these seem to be prerogatives which accrue—or should accrue—to the individual from his status as בְּכֹרֶת . We learn from Reuben and Manasseh, however, that it is possible for the

prerogatives to be stripped away, leaving merely the status of being the first-born son.

Concerning Reuben's loss of privilege we find an allusion in Jacob's blessing in Genesis 49:3. This account is given more complete expression in I Chronicles 5:1-2:

The sons of Reuben the firstborn of Israel
(רֵאֵשִׁיטֹן - רֵאֵשִׁיטֹן). (He was the firstborn [רֵאֵשִׁיטֹן];
but when he defiled his father's bed, his
birthright was given to the sons of Joseph son of
Israel, even though they are not reckoned as
firstborn in regard to the genealogy; though
Judah became more powerful than his brothers and
a leader came from him, yet the birthright
belonged to Joseph.)²

A clear distinction is presented between Reuben's status of being firstborn (רֵאֵשִׁיטֹן) and the retention of the birthright (בְּכֹרֶטֶט).

Likewise, we learn that Ephraim is placed ahead of his older brother Manasseh when Jacob issues a deathbed blessing of his grandsons in Genesis 48:11-20. By crossing his hands and placing his right hand on Ephraim's head and his left hand on Manasseh's head, Jacob grants primacy to Ephraim, as the text concludes, "Thus he put Ephraim before Manasseh" (Genesis 48:20). Notwithstanding this, Manasseh retains the designation רֵאֵשִׁיטֹן (v. Joshua 17:1).

Not only does the separation of prerogative from status of רֵאֵשִׁיטֹן as firstborn occur in relation to Reuben and Manasseh, other remarks indicate that רֵאֵשִׁיטֹן connotes primarily an order of birth.

Particularly instructive is the parenthetical comment found in First Chronicles 26:10: "Hoash of the Merarites had sons: Shimri the chief (רֵאֵשִׁיטֹן) (he was not the firstborn, but his father

designated him chief [$\text{כִּי לֹא-כִּיָּה אֶבְרָהָם יִשְׂרָאֵל בְּכֹרֶת}]$

When these different statements are put together, the primary thrust of the word בְּכֹרֶת is as first-born son of the father and it is this aspect of being biologically first which is not assailed.³ While this status may lead to special privileges and rights, the word itself does not confer these prerogatives. As we see, these privileges may be withheld without causing the individual to lose his designated title בְּכֹרֶת and other terms like עֵלִי are introduced to refer to this fact.

Occasionally we find the term בְּכֹרֶת רַחֵם used in conjunction with בְּכֹרֶת . The term בְּכֹרֶת רַחֵם indicates order of birth in relation to the mother. It always identifies the first issue born by a woman while בְּכֹרֶת generally refers to the firstborn of a man and is a status which is complicated by being more than biological.

One of the terms to describe the privileges which may be obtained by a בְּכֹרֶת is possession of the בְּכֹרֶת , the "birthright." While the word בְּכֹרֶת designates the individual's status, בְּכֹרֶת refers to "prerogatives" which a select individual within the family held. As we learn in Deuteronomy 21:15-17 it indicates a right, a due ($\text{בְּכֹרֶת} \text{ (אֵלֶּכֶת)}$) which is connected to matters of inheritance ($\text{... אֵינִי מֵתִין לְבְּכֹרֶת} \text{)}$, typically, an additional share of the portion ($\text{בְּכֹרֶת} \text{ (אֵלֶּכֶת)}$).

The question of who will gain possession of the birthright is the subject of several narratives. The events described in Genesis 25:27-34 tell of Jacob purchasing the birthright from his brother

Esau who had possession of it by merit of his birth. We learn from I Chronicles 5:1-2 that Jacob "split up" the birthright with Joseph's progeny receiving the birthright per se, Judah's branch acquiring some leadership rights which usually went with the birthright, and Reuben retaining the irrefutable biological fact of being the firstborn. Taken together these three sections define a range in which the birthright automatically passes to the firstborn son to the other extreme of separation of the birthright and leadership rights from firstborn status. We shall examine the concept more fully below.

The last term which we shall examine is רִאשִׁיטָּה . This word is the feminine counterpart of the word רִאשִׁיטָּה . We find it describing Lot's daughter (Genesis 19:31-37), differentiating Leah from Rachel (Genesis 29:26), and, in a similar fashion, distinguishing Saul's elder daughter Merab from Michal (I Samuel 14:49). It corresponds to the basic level of רִאשִׁיטָּה , indicating which daughter is the biological firstborn. It does not have associated with it any special obligations or privileges in any of the six instances in which we find it occurring.

While we would not wish to belabour the point, we see, perhaps, in the biblical as well as the Ancient Near Eastern texts some vestigial traces of a "pecking order" among women. Laban tells Jacob that it is not the practice for the younger to be married before the elder (Genesis 29:26). We see a cruder example depicted in the tale about Lot's daughters (Genesis 19:31-37) for first the

elder daughter, and only afterward the younger daughter, lies with her father. We might speculate that aspects of day-to-day life did revolve around an ordering process; perhaps it is this kind of situation to which Genesis 43:33 alludes in the enigmatic description: "...they were seated by his direction, from the oldest in the order of his seniority to the youngest in the order of his youth..." In texts from the Ancient Near East a second wife may assume a relationship of a "younger sister" to the chief wife (the "elder sister"). Since the second wife was often from a lower social class (she could even be a slave!) than the primary wife, their status was not the same. We are not in a position to discern what differences existed for an elder sister or a younger sister but these oblique references suggest that at one time the word בְּרִיָּה may have indicated more than the bald fact that this was the firstborn daughter.

THE "BIRTHRIGHT" — PREROGATIVES AND DUTIES

Biblical references to the birthright indicate that it consists of a three-fold nature (with components of biological priority, religious aspects, and leadership functions) and brings along with it special treatment vis-à-vis inheritance as something of a recompense for the responsibilities it entails. Despite the fact that acquisition of the birthright is a theme which recurs several

times in the text, its specific components are never described. We can learn its scope only from glimpses which are provided in several places. In this process of reconstruction we find especially instructive some of the Ancient Near Eastern texts which may lay out terms of contractual agreements or general policies which seem to parallel the range indicated by the biblical references to the birthright.

According to Deuteronomy 21:17 the firstborn is entitled to special consideration in the matter of inheritance — $\text{אֲדָמָה וְאֶבְרָכָה}$. There is some debate as to the meaning of this phrase, whether it is a double portion or two-thirds of the estate. Indeed, that specific issue is discussed in Baba Bathra 122b-123a⁴ where the question is raised whether, since the firstborn receives two-thirds when there are two sons, he would receive two-thirds (i.e. the same proportion) or a double-portion (i.e. two-sixths, the same additional proportion) in the case where there are five sons. Using the reasoning that Deuteronomy 21:16 would be redundant if it did not contribute something additional (i.e. emphasizing the sons), and adding to that the fact that Joseph receives $\text{אֲדָמָה וְאֶבְרָכָה}$ above the other brothers (Genesis 48:22) and that I Chronicles 5:2 states unequivocally that Joseph received the birthright, the conclusion is that the differential in inheritance for the firstborn is that of a double portion and not two-thirds of the estate. It is noted that in calculating this portion, the firstborn receives double only of present, not contingent assets.⁵

Corroborating the meaning "double portion" (as opposed to "two-thirds") both Targum Onkelos and Targum Jonathan render רְגֵלִים as רְגֵלִים ("two parts") and the Septuagint states διπλὰ ἀπὸ πάντων ("two-fold of all"). When Josephus mentions this custom, he, too, uses the terminology "double," stating: $\text{διπλοῦν τὸ μέρος τῆς πατρῴας αὐσίας}$ ("a double of his father's substance").⁶ Philo, likewise, explains the law διπλασίῳ ὁριστά ("is adjudged a double portion").⁷

Further indication that רְגֵלִים is a double portion rather than two-thirds can be seen in the Tosephta which describes a "conflict" between Isaac and Ishmael in terms of inheritance: "When Isaac was born, it was said: 'A son has been born to Abraham who will receive two portions (רְגֵלִים יְעֶזְרָא)' but Ishmael laughed and said, 'I am the firstborn and I shall receive two portions (רְגֵלִים יְעֶזְרָא בְּכֹרִית יְעֶזְרָא).'"⁸ This kind of identification is not just midrashic; Bechoroth 8:9 refers to the double portion as does the Yad, Nahalot 2:1, and Shulchan Aruch, Hoshen Mishpat 278:7.

In addition to the rabbinic interpretative view, there is even some implicit evidence in Genesis 48:5 which equates the privilege of the birthright as a double portion since Jacob "adopts" Joseph's two sons who will be his "no less than Reuben and Simeon."

We find a rich Ancient Near Eastern tradition in which the primacy of inheritance constitutes a double portion. Tablet B §1 of the Middle Assyrian Laws states: "[the eldest son] shall choose

(and) take two portions [as his share], and his brothers one after the other shall choose (and) take (their portions)." It continues with a delightful method for division of the cultivated land: "the youngest son shall divide into shares; the eldest son shall choose and take one portion and shall cast lots with his brothers for his second portion."⁹

Other texts which identify the firstborn's portion as a "double share" include Kirkuk texts published by E. A. Speiser,¹⁰ specifically, Text 1 (HSS V 60; Paradise C-4), 2 (HSS V 67; Breneman 101; Paradise C-5), 4 (HSS V 7), 8 (HSS V 21), 19 (HSS V 71; Paradise C-18), 21 (HSS V 72; Paradise C-19), and 37 (HSS V 46). C. J. Gadd¹¹ cites two texts which express an equation of a double share with principal inheritance rights; these are Text 5 (Paradise C-24) and 6. J. Marvin Breneman¹² includes the following texts which include this identification: 5 (HSS IX 24), 13 (HSS XIX 46), and 98 (HSS XIX 51; Paradise C-7). We also find this equation in these texts cited by Jonathan S. Paradise¹³: C-21 (HSS XIX 4), C-22 (HSS XIX 5), C-23 (HSS XIX 8), C-26 (HSS XIX 6), C-29 (HSS XIX 22), and C-30 (HSS XIX 37).

In a text from Mari we find one son who has been adopted and will remain primary heir regardless of subsequent sons acquired; his portion is a double share.¹⁴

Although the special inheritance later becomes fixed in Jewish law as a double portion, a division which has solid antecedents in both the Bible and the Ancient Near East, there is another tendency

which can be seen in the early materials. In some instances a select heir or heirs receive(s) "preferential treatment," e.g. special gifts, additional or prime inheritance, or first choice. We see an example of this in Genesis 37:3-4: "Now Israel loved Joseph best of all his sons, for he was the child of his old age; and he made him an ornamented tunic. And when his brothers saw that their father loved him more than any of his brothers, they hated him..."

Sometimes this preferential treatment reflects an "automatic" division rather than the results of favouritism. We find this in the Neo-Babylonian Laws §§8 and 15. The procedure described here grants sons of the later wife (one married after the first wife has died) one-third of the property while sons of the former wife get two-thirds of their father's property.¹⁵ Since it is polygamous, the differences could be due to the "status" of the wives.

In other instances the division becomes somewhat arbitrary. The Code of Hammurabi §170 grants inheritance rights to the sons of a slave-girl who has been legitimated but there is a proviso that the "chief heir" is the son of the first (actually, "chosen") wife. How the proportionate shares are determined is unspecified and it is unclear whether the order of division is governed by seniority or lot.¹⁶ Section 165 of the Code of Hammurabi states that a special gift to an heir who has "found favour" remains that heir's and the rest of the estate is divided proportionately.¹⁷

In texts from Nuzi on occasion the father specifies certain items for a son or sons and the remainder is divided equally. We

find this in Paradise Text C-12 (HSS XIII 465), C-20 (HSS XIV 108), and C-28 (HSS XIX 28). In the latter text, the gods go only to the "first-ranking son." A similar kind of division occurs also in Paradise Text C-27 (HSS XIX 7) with the addition of the widow serving as guardian during her lifetime. Also here some sons living outside the country are denied the privilege of receiving anything.¹⁸

One text from Nuzi shows an arrangement which is more unique. Speiser Text 7 (HSS V 65) is an adoption tablet in which the adopted son and a daughter receive equal portions. In addition, another son is adopted as a "second son."¹⁹

This range of ways to show preference makes it clear that setting a specific, unique pattern of inheritance for his family was within the province of a father. Another option was available to the father; children could inherit as "equals." That was, in fact, the normal pattern, equal inheritance without regard to which wife the mother was, in the Code of Hammurabi §167. This desire for equality was carried so far that if all sons except the young one have married, a "bridal gift" will be set aside for the young son and then the estate will be divided equally, according to the Code of Hammurabi §166.²⁰

Other texts in which sons share equally include Paradise C-14 (HSS XIX 17), C-15 (HSS XIX 18), C-16 (HSS XIX 19), and C-31 (HSS XIX 44). In Text C-13 (HSS XIX 1) two apparently adopted sons seem to share equally with a natural son. In an effort to prevent the

natural son from contesting this arrangement, the father made the natural son a witness!²¹ Similar to this last text is the intent of Gadd 51 in which the adopted son Wullu would inherit equally if there were a natural son. That natural son's only prerogative would be acquisition of the gods.²² A variation of equality in inheritance appears in Breneman Text 13 (HSS XIX 46). While the father grants his oldest son a double share, he adds that two specific grandsons will be equal heirs to this estate.²³ Finally, Speiser 23 (HSS V 74; Paradise C-48) provides equal inheritance, however it is the mother and not the father who has transacted this!²⁴

The evidence shows that at an early stage the father's right to set his own terms is natural.²⁵ If so, the range exhibited within inheritance options in the Ancient Near East would have been options for biblical times, even if some would have been less in favour than others.

The necessity for the chief heir to perform certain duties appears to be the rationale for his receiving extra inheritance. The Bible is basically silent about these obligations, showing only an occasional glimpse of what they may have been. If we may try to ascertain the motivation behind Reuben's action in Genesis 37:22 where he deters the brothers from killing Joseph, we would like to suggest that it reflects an added responsibility for the chief heir, a responsibility which thrusts him into the position of in loco parentis. Perhaps I Samuel 20:29 shows a remnant of this duty.

Here Jonathan explains David's absence by saying that David has asked to go to Bethlehem for "a family feast...my brother has summoned me to it...." It is not at all unlikely that part of this task involves the maintenance of the family's cult.²⁶ After all, the Levites as a class serve as a substitute for the firstborn son of each family. It may imply that, at one time, substantial family religious obligations existed. These must have been so serious that in several instances we see a second individual (אֶלְעָזָר) "waiting in the wings," as it were, in case he is needed to replace the chief heir!²⁷

A son also keeps his father's name alive, either by virtue of being the son or by setting up a monument; as Absalom says when he sets up the pillar called Absalom's Monument in the Valley of the King: "I have no son to keep my name alive."²⁸ We are reminded by Isaiah as well of this function of children to serve as memorials: "I will give them.../ A monument and a name/ Better than sons or daughters."²⁹

The last possible hint of the heir's obligation which the Bible provides consists of reverence paid to the dead. An heir burns incense for his ancestors and laments for them.³⁰ He also fills the grave with spices and makes a fire in their honour.³¹ However, it is not expressly stated that it is the heir's specific obligation to do this.

The contractual nature of the Ancient Near Eastern Texts provides, at least on some occasions, specific tasks the heir is

supposed to undertake. Adoption tablets are especially likely to include this information. Some simply state a generic function of serving the adoptive father.³² In one instance, a woman transacted the adoption; here the adoptee was to serve her.³³ Finally, some of these tablets required the adopted son to serve the widowed mother after the adoptive father's death.³⁴

Occasionally we find more specific acts mentioned. One adoptee is required to "provide for" his father.³⁵ Another is enjoined to honour his father.³⁶ Other tasks include bearing the feudal obligations and the *ilku* duties.³⁷ Providing food³⁸ and clothing³⁹ make up the essential tasks specified in many instances. Paradise Text C-9 is quite precise; each year the adoptee is required to provide five homers of barley, two homers of wheat, and one garment. Furthermore, these specific obligations can be required for the widowed mother; an adoptee can be expected to provide for his widowed mother food and drink,⁴⁰ maintain her in his home,⁴¹ and revere her.⁴²

Obligations did not cease with the death of the adopter. The adopted son was expected to bury his father,⁴³ to mourn for him,⁴⁴ or, more often, both to mourn and bury him.⁴⁵ One text stipulates that the adopted son is to mourn and bury his widowed mother when she dies.⁴⁶

A Ugaritic literary account of what a father could expect from his son appears several times in Aqht. It states the expectations as:

Who sets up his standing stela,
 In the sanctuary the inscription of his clan;
 Who sends out to the earth his incense,
 To the dust wine after him;
 Who heaps up the tablets(?) of his detractors,
 Who expells the d.'sy

Who takes his hand in drunkenness,
 Who carries him when sated with wine,
 Who eats his meal in Ba'al's house,
 His portion in Il's house;
 Who plasters his roof on the day of rain,
 Who washes his clothes on the day of mud.⁴⁷

When we consider as a whole the range of these examples of acts which we assume are undertaken by the chief heir, we see that they embrace all aspects of life. The heir becomes a functioning pater familias. It should come, perhaps, as no surprise that there is a provision in the Middle Assyrian Laws for the son who has taken his father's widow as a spouse.⁴⁸ After all, the obligations assumed by the heir put him in the position of acting in the stead of the individual whose heir he is. The possibility of the heir's marrying the surviving spouse serves to emphasize how completely the heir assumes the status of his father.⁴⁹

The duties which an heir provides for his father and his family display his initiative in two crucial areas, a religious functioning (family cult and sacrifices and proper actions for the dead) and the leadership of the family (maintaining the family's needs and leading them). Because of the biblical identification of the firstborn as God's and the concept of the firstborn son's representing a special strength (יְהוָה אֱלֹהֵינוּ) of the father, the normal pattern is that of primogeniture, where religious and family leadership pass to the

firstborn son. Given "normal" circumstances, all three elements, primacy in birth, religious leadership, and family headship, converge within one individual. As we shall examine in more detail below, not all situations are normal.

THE BIRTHRIGHT IN BIBLICAL NARRATIVE

Before we investigate the special circumstances which may create a "dislocation" of primogeniture, we shall look at some puzzling biblical episodes which surround the issue of the birthright. Esau seems to feel that Jacob has gained two prerogatives due him, the blessing and the birthright (Genesis 27:36). We might wonder how these two differ. Even more intriguing, we should question how one "sells a birthright." Another strange turn occurs when Jacob switches the order of his grandsons Manasseh and Ephraim; what was the grandfather's "authority" in such a circumstance?

Two well-known stories describe the "not-so-brotherly" relationship between Jacob and Esau. In the first, Jacob uses Esau's ravishing hunger to provide the opportunity to negotiate a business transaction for possession of the birthright (Genesis 25:29-34). On the second occasion Jacob, disguised as his brother Esau, rushes in ahead of Esau and tricks Isaac into conferring upon him the blessing which was to be Esau's (Genesis 27:1-46). We are left wondering in

what way the birthright of Genesis 25 differs from the blessing of Genesis 27. One possibility is, of course, that there is no difference, that they are the same, and the two different stories are the result of separate "traditions" which had arisen to explain how Jacob managed to upstage Esau.⁵⁰ Following this argument, when Genesis was compiled, both stories were included.

This explanation, however, makes a lie of Esau's outraged cry, "Was he then named Jacob that he might supplant me these two times? First he took away my birthright and now he has taken away my blessing!" (Genesis 27:36). While we acknowledge that this verse may be nothing more than a seam which pieces together a single patch from two unrelated stories, we feel that it is more likely to be a more intrinsic ingredient of the story. Esau cares about the blessing but not about the birthright. As firstborn, both are assumed to be Esau's. Because he has no use for the birthright (וְעָשָׂא בְרִית בֵּין עֵשָׂו וְיַעֲקֹב - Genesis 25:34), Esau readily accedes to Jacob's request to sell it. But the blessing — that is a different story. Esau recognizes in it a value, a benefit, and wants to retain it. When Esau learns that Jacob has already received the blessing, those are real tears Esau sheds (וַיִּשָּׂא עֵשָׂו וַיִּבְכֶּה - Genesis 27:34; וַיִּשָּׂא עֵשָׂו וַיִּבְכֶּה - Genesis 27:38).

What, we might wonder, would engender such a varying response on Esau's part. We would assert that, as has been suggested by others,⁵¹ the birthright and the blessing correspond to the dual

aspects of leadership an heir could assume, the birthright reflecting the religious domain and the blessing expressing the familial leadership, both economic and "political," which the heir undertook.

The identification of the blessing with the leadership role of an heir is no capricious association. Since a blessing contains the essence of the blessing's "domain," the very words of the blessing provide a clue as to its nature. Isaac blesses Jacob:

...See, the smell of my son
Is as the smell of the field
That the Lord has blessed.
May God give you
Of the dew of heaven and the fat of the earth,
Abundance of new grain and wine.
Let peoples serve you,
And nations bow to you;
Be master over your brothers,
And let your mother's sons bow to you.
Cursed by they who curse you,
Blessed they who bless you.⁵²

The first half of this blessing deals with economic prosperity, the material beneficence needed to maintain a family. The right mix of weather (אֶת־הַשֶּׁמֶשׁ וְהַגֶּשֶׁם) and fertile land conducive for crops (אֶת־הָאָרֶץ) is needed for producing a plentiful harvest (וְהָיָה לְךָ מִן־הָאֲדָמָה מִן־הַיֵּשֶׁבֶת וְהָיָה לְךָ מִן־הַיֵּשֶׁבֶת). With verse 29 the blessing shifts from the family's economic viability to the leadership role which devolves on the head. For this individual must be able to guide not only his family (וְהָיָה לְךָ מִן־הָאֲדָמָה מִן־הַיֵּשֶׁבֶת) but, when needed, deal with other peoples as well (וְהָיָה לְךָ מִן־הָאֲדָמָה מִן־הַיֵּשֶׁבֶת), always keeping his family intact. These are precisely the areas with which

Isaac's blessing of Jacob deals! But it goes even further than that; the specific terminology, the use of the word בְּכֹרֶת (verse 29) is instructive. We find that same word used in I Chronicles 5:2 when Judah is given the "leadership" prerogative of the birthright (בְּכֹרֶת בְּיָדָא דְּיִשְׂרָאֵל). Internal evidence within the biblical account itself, therefore, establishes an identification of the "blessing" with the leadership aspect of primogeniture.

When we examine the account of Jacob's purchase of the birthright, we must read almost between the lines to learn what the dynamics underlying this tale are. We submit that a foundation for the identification of birthright with religious obligations is contained within the Bible itself. First, we must keep in mind the linguistic connection of בְּכֹרֶת to בְּכֹרֶת; the birthright's innate connection with the firstborn is confirmed by the shared root. The concept of the special functioning of the firstborn is a major aspect of Torah in a very set area, namely, that of religion. The firstborn was to act as a priest on behalf of the family. When the Levites as a group become substitutes for the firstborn son of each family, the fact of the firstborn's a priori right to that obligation is never entirely obliterated. Rather, the father must pay a symbolic redemption for releasing that child from this religious obligation. The word בְּכֹרֶת should ab initio set an underlying statement of religious tie.⁵³ Beyond that, we see in Genesis 25:32 that the birthright brings no discernible benefit to the individual; Esau states "What good is this birthright to me!"

Religious leadership, unlike being the head of the family, carries with it no material gain. It may, in fact, disrupt this person's life. Here we find the midrash useful.⁵⁴ Malbim, in his comment on Genesis 25:29 states:

As the verse states, "and Jacob was cooking pottage," that the pottage which fed (the members of) the household was Jacob's pottage. Yet this was a responsibility which should have befallen Esau but he did not wish to busy himself in this for he was a "man of the field."

In particular, according to the Sages of Blessed Memory it was the meal made for the funeral of Abraham. But Esau did not feel grief over the death of his grandfather. He was merely coming from the field....

Whether or not the occasion described in Genesis 25 was that of Abraham's funeral, fulfillment of the duties incumbent in the birthright might conflict with Esau's preferred activity.⁵⁵ As if that inconvenience was not enough, the ultimate gain was nil since religious obligations bring no apparent recompense. The scorn (בְּאֵימָה) -verse 34) which Esau expresses for the birthright is a fitting reaction of an active man ("a skillful hunter, a man of the outdoors," verse 27) for the privilege of undertaking religious service.

Thus we have the distinction between the blessing (Genesis 27) and the birthright (Genesis 25) within the text. Esau returns from the field only to learn that Jacob has reached their father first. Isaac has already blessed Jacob and a blessing cannot be recalled ("...I blessed him; now he must remain blessed!" Genesis 27:33).

Esau is furious; he has been counting on the blessing. Thus Esau "burst into wild and bitter sobbing" (Genesis 27:34) and later "wept aloud" (Genesis 27:38). Esau has reason to be so shaken for the blessing brought leadership and, more importantly, wealth. The benefits of the blessing far outweigh any inconvenience. The birthright is just the opposite; it involves work without offering gain. Besides, what does a man of the outdoors care about religious heritage. It is all a bother and, consequently, the scorn, the contempt (Genesis 25:34), which Esau displays is an appropriate reaction.

The selling of the birthright raises other questions. How does one sell a birthright? In addition, perhaps we need to be as much disturbed by Jacob's "acquiring" of the birthright as we are by Esau's "contempt" for that very birthright.

The first concern is the possibility of selling a birthright. It is not the transfer of the birthright which strikes us as strange; as we shall see below, it is both common and explainable. What is remarkable is that here

primogeniture was treated like any merchandise, subject to purchase through an agreement between the parties concerned — the seller and the buyer....this transfer of the birthright from Esau to Jacob is conducted like an ordinary commercial transaction. Esau literally bartered away his birthright. Moreover, this transaction is assumed to be valid⁵⁶ even without his father's knowledge or sanction.

Precedent is often cited in Tablet N 204 from Nuzi:

On the day that they divide the grove

(that lies) on the road of the town of Lunti
 ...Tupkitilla shall give it to Kurpazah as his
 inheritance share. And Kurpazah has taken
 three sheep to Tupkitilla in exchange for his
 inheritance share.⁵⁷

This text is a brotherhood agreement between two individuals who are already brothers. In it they make a deal to exchange property. Although it is a rather obscure transaction, it appears that they are equalizing things. The problem is that this is not a parallel incident. Real property is exchanged here; the similarity to the Jacob-Esau transaction is that two brothers are involved.⁵⁸

Ramban struggles with the idea of the sale in his commentary on Genesis 25:31. He is troubled by the timing, i.e. how to interpret כִּי־יָמֻת . He states, "It would appear from the opinion of Onkelos that because the sale of the birthright was to take effect after the death of his father Isaac, he [Jacob] said, 'Sell me the birthright with the sale to take effect on whatever day [our father's death] may occur.'"⁵⁹ Later Ramban adds a second possible interpretation of Onkelos: "It is possible that Onkelos understood the word kayom (as the day) as if it were bayom (on the day). The verse would then be stating, 'Sell the birthright to me on the day it will come into your possession.'"⁶⁰

Malbim, like Ramban, is troubled by the timing, specifically the word כִּי־יָמֻת . His explanation of Genesis 25:31 follows a different tack. Malbim states: "After Jacob saw that the birthright was not becoming for Esau, he said, 'Sell me (your birthright) as this day,'" that is to say, according to how you

behave today that you are spurning the birthright and you do not (even) want it! Sell it to me!"

The source of trouble —for Ramban, for Malbim, for us— stems from the fact of conflicting opinions in the Talmud "whether or not a person can transfer title of something not yet in existence."⁶¹ Even those who maintain this may be done agree that what is transferred must come into existence in the "ordinary course of events."⁶² It was the negative view, however, which ultimately became the halakhah.⁶³ In the general realm of "sale" this action is somewhat questionable. When we go specifically to the realm of "succession," we learn that while an heir may not renounce his share by waiver (since one is unable to waive something not yet in one's possession), there is one exception. The birthright portion only may be waived by the firstborn.⁶⁴ We, therefore, find no clear statement as to the right or legality of this particular transaction since the "evidence" can maintain either side.

What we may evaluate is the "morality" of Jacob's act. Again the midrash is useful because it helps us to focus our attention on a vital aspect of the question. In a section of Malbim's comments on Genesis 25:29 not quoted above, we learn that Esau was tired when he came from the field "because he had murdered and robbed. So how could he be the sanctified one or the one who maintained the household?" Earlier Malbim explains Jacob's motivations as follows:

Jacob did not desire the birthright in order to inherit a double portion or because of the honour,

but he only wanted to inherit the religious blessings...in as much as he saw that Esau was not worthy of this since Esau distanced himself from the responsibilities which befell the firstborn and thus despised the birthright.

We shall cite in a later section other midrashim which continue in this vein. The rabbis wonder how Esau could have inherited the birthright and maintained the religious heritage of Abraham and Isaac. To them, his contempt for the birthright is a clear indication of how unfit Esau is. Given the lack of appropriateness in Esau's transmitting the religious heritage, a somewhat questionable legal transaction does not appear as so strong an indictment of Jacob. While the rabbis might have preferred that Jacob had used other means to acquire the birthright, they recognized the total unacceptability of Esau's retention of it.

The final unusual episode with which we shall deal briefly here occurs in Genesis 48, the scene in which Jacob places Ephraim before Manasseh in the blessing of his grandsons. One question which we ask of this text is whether anyone other than the father can confer the birthright. But we may respond to that with what is perhaps even a more appropriate question, whether anyone can confer a birthright or whether he can only violate it. Perhaps this section deals with the birthright in a very different way. The Bible does not reveal the "payoff" of the birthright for Ephraim. However, the rabbis understand verse 19 as indicating that Jacob gave the preferential blessing to Ephraim intentionally because Joshua would come from him; in this way the rabbis see a merit to

Ephraim's acquisition of the birthright. Jacob has reversed the order of his grandsons. But is that the point? What really happens here is that Joseph becomes "two" in relation to his brothers, for Jacob has "adopted" Joseph's first two sons Manasseh and Ephraim.⁶⁵ It is, as the text consciously tells us in summary, Joseph who has attained a double portion.⁶⁶ We find corroboration of this elevation of Joseph to the birthright in I Chronicles 5:1. It seems that what we have here is Jacob's somewhat subtle way of fulfilling the intention he has had for so long. When Joseph was a child, Jacob had shown favouritism to him. The brothers were understandably jealous and hurt but reacted out of all proportion in selling Joseph (Genesis 37)! Jacob learns something from this incident; the seeds of jealousy, bitterness, and mistrust still lie there. After Jacob's burial, the brothers become frightened:

They said, "What if Joseph seeks to pay us back for all the wrong that we did him!" So they sent this message to Joseph, "Before his death your father left this instruction: So shall you say to Joseph, 'Forgive, I urge you, the offense and guilt of your brothers who treated you so harshly.' Therefore, please forgive the offense..."⁶⁷

Jacob recognizes this latent animosity. Jacob has his way and gives Joseph the preferential inheritance but he does it in the guise of "adopting" Joseph's two sons. Jacob's blessing of Ephraim and Manasseh becomes almost a "red herring," diverting the other brothers' attention from the elevating of Joseph to the birthright which, by this action, has become a fait accompli!

"DISLOCATION" OF PRIMOGENITURE

We saw above that, given "normal" circumstances, all three aspects of inheritance — primacy of birth, religious functioning, and political leadership — converge and bring together with them the concomitant bonus of extra inheritance. When all is said and done, normal circumstances may not be so normal! It was the general expectation that the firstborn son would be the בְּכוֹרָה . It seems, however, that the בְּכוֹרָה could be of two different types, "with status" or "without status."

We define the בְּכוֹרָה as one "with status" if the individual born first attains the prerogatives as one would expect. Given the nature of the Bible, we may assume that this has happened in the large number of cases about which nothing is stated. One reason there was no need to make mention of this fact is that the general "package" of "firstborn-birthright-blessing" should be understood unless indication of something different is given. Besides, where this issue is immaterial to an individual's role in the Bible, there is no need to include this information.

We should take care to note a very important consequence of this observation. Given the nature of texts in the ancient world, i.e. that they serve as evidence of an act that has taken place but do not effect that change,⁶⁸ and given that one would automatically expect the normal course of action to be followed, a

disproportionately high number of the examples which we have show alteration of the "norm." We should not be surprised, then, that nearly all the prominent examples vary from this norm. Below we shall examine the specific factors which serve to modify the general principle with respect to Abel, Isaac, Jacob, Joseph, Judah, and Ephraim. What needs to be mentioned here is that these variations are worthy of mention in the Bible specifically because they are variations.

We have seen and noted above that Reuben and Manasseh retain the title רִאשׁוֹן while losing the blessing and/or birthright. Another instance cited above where the privileges which normally accompany the status of רִאשׁוֹן transfer to another is that of I Chronicles 26:10: "Hoash of the Merarites had sons: Shimri the chief (רִאשׁוֹן) (he was not the firstborn [רִאשׁוֹן], but his father designated him chief [רִאשׁוֹן])..." Because רִאשׁוֹן designates that biological factor, it does not pass to the individual who takes on the functional role of firstborn.

We learn that after Rehoboam married Mahalath and Abihail and after Abihail bears him three children, then he marries Maacah who bears four children, of whom the first is Abijah (II Chronicles 11:18-19). His love for Maacah causes Rehoboam to designate Abijah as "chief (רִאשׁוֹן) and leader (מֶלֶךְ) among his brothers, for he intended him to be his successor (יָרֵד אֵלָיו). The text of II Chronicles 11:22 uses chief and leader because it is clear from the text that Abijah is not the firstborn.

We should expect that Isshiah (I Chronicles 24:21) is a younger son raised to leadership seeing that he is identified by the word chief (רֹאשׁ). Other passages using the terminology רֹאשׁ include I Chronicles 23:10-11 of Jaheth and I Chronicles 23:19-20 of Jeriah and Micah.

Since the Bible usually distinguishes carefully by its terminology between the firstborn and another individual who assumes the functioning role of the firstborn, we are somewhat surprised to see the word רִאשׁוֹן used of an individual apparently not the firstborn in I Chronicles 3:15. Here we read: "The sons of Josiah: Johanan the firstborn (רִאשׁוֹן), the second Jehoiakim (שֵׁנִי),...." The other passages which speak of Josiah's sons, II Kings 23:30-36 and its parallel I Chronicles 3:15, talk of a Jehoahaz, not Johanan. Because we have no other indication in the text who Johanan may be, following Radak we may assume that Johanan is Jehoahaz.⁶⁹ But accepting the identity of Johanan as Jehoahaz leads us to a problem. It creates, to be blunt, a "misuse" of the word רִאשׁוֹן as we have defined it. We have stated that רִאשׁוֹן reflects a biological priority even when non-functional. What we learn about Josiah's sons contradicts our assertion. Jehoahaz (i.e. Johanan) becomes king in place of his father Josiah. When he becomes king he is 23 years old and he reigns three months. Then his brother Jehoiakim becomes king; Jehoiakim is 25 years old when he begins his reign.⁷⁰ In other words, Jehoiakim is approximately two years older than Jehoahaz/Johanan but Jehoiakim is called "the second" in

I Chronicles 3:15 while it designates his younger brother Jehoahaz/Johanan as "firstborn." Radak argues that indeed Jehoiakim is two years older than Jehoahaz but the term firstborn here refers to the fact that he became king first.⁷¹

While we would prefer to see the word *רִאשׁוֹן* used strictly without violation of its biological significance, we do not find the use of firstborn in I Chronicles 3:15 problematic enough to negate our definition. Tikva Frymer-Kensky has remarked about kinship terms that they are "not limited to biological referents, but rather define special juridical relationships that can be created artificially through various types of adoption and specification...."⁷² This seems to be an apt description of what happens in I Chronicles 3:15. Because Jehoahaz succeeds his father, he assumes the title that refers to that. In fact, it is worthwhile noting that *רִאשׁוֹן* refers to the relationship of the son to his father. The son's relationship to his brothers is not that of *רִאשׁוֹן* but *אֶחָיו*, in much the same way as *אֶחָיו*, *אֶחָיו*, and *אֶחָיו* represent an individual not the *רִאשׁוֹן* who assumes leadership.

DEUTERONOMY 21:15-17

We note with interest that only in one place does the Bible speak of the firstborn as *רִאשׁוֹן*, i.e. in Deuteronomy 21:15-17. Here we find the guidelines which govern the selection and special

treatment of the firstborn. As we discussed at length above, *אֶלֶף* ultimately comes to mean a double portion although we have noted that it may represent anything within a range from two-thirds to mere preferential treatment.

The essence of Deuteronomy 21:15-17 comes something like a dash of cold water when it appears in the text. Up to that point nearly all the genealogies have depicted the younger child upstaging the older. Certainly this inversion of younger and elder forms a leitmotif within the patriarchal family. There may be many more examples of it which have escaped our attention unnoticed because of the common assumption — which we showed above was not valid — that linear genealogies go from firstborn to firstborn. This sudden statement of a working principle so out of consonance with the previous portion of the text makes us pause; our first question is how the patriarchs could have "violated" so clear an injunction. It would be wrong for us to stop with that question. Instead we should continue one step further and ask whether the patriarchs did violate that law.

It comes as no surprise that we are not the first to raise this important question. Ramban's discussion of Genesis 25:34 leads him to consider this very problem. Ramban states:

It is possible that the law of double portion to which the firstborn is entitled according to statutes of the Torah was not in effect in ancient times. [At that time the birthright] was only a matter of inheriting the pre-eminence of the father and his authority so that he [the firstborn] would receive honor and distinction in relation to his younger brother. It is for this reason that Esau

said to Isaac, "I am thy son, thy firstborn," meaning to say that he is the firstborn who deserves to be blessed. Similarly, [Joseph said to his father, Jacob], "For this is the firstborn; put thy hand upon his head," thereby meaning that Jacob should give him precedence in the blessing. Perhaps the firstborn also took slightly more of the inheritance since the law of double portion is an innovation of the statutes of the Torah.⁷³

In that comment Ramban offers two possibilities, one that the law came into effect only after the time of the patriarchs, and the second that the law set an amount where previously the firstborn only received more. Since we have discussed the meaning of *אֶלֶף* at length, it is Ramban's first supposition which we wish to examine.

While the traditional view of Bible asserts that there is no "first or last," i.e. no sequence of time, in the text, it also maintains that all the laws are fulfilled by the patriarchs even though not stated until after their lifetimes. That stance results from a theological conviction that Judaism remains unchanging in its halakhah and, as a result, it is impossible for the initiators of the religion not to follow any rule which is part of the halakhah. We suggest that the text itself does not set up these guidelines for the patriarchs and, in fact, they do not always follow them.

For a moment let us divert our attention and examine a series of regulations in Leviticus. Leviticus 18:18 admonishes: "Do not marry a woman as a rival to her sister and uncover her nakedness in the other's lifetime." In Leviticus 20:17 we learn: "If a man marries his sister, the daughter of either his father or his mother,

so that he sees her nakedness and she sees his nakedness, it is a reproach; they shall be excommunicated in the sight of their kinsfolk." Finally, we read in Leviticus 20:19: "You shall not uncover the nakedness of your mother's sister or of your father's sister for that is laying bare one's own flesh; they shall bear their guilt." Leviticus 18:18 notwithstanding, Jacob marries Leah and Rachel, undeniably sisters. Abraham's wife Sarah, despite Leviticus 20:17, is his sister, as he explains it to Abimelech in Genesis 20:12: "...she is in truth my sister, my father's daughter though not my mother's..." And, in Exodus 6:20 we find the genealogy of Moses and Aaron stated as follows: "Amram took to wife his father's sister Jochebed, and she bore him Aaron and Moses..." That relationship is precisely one of those prohibited in Leviticus 20:19 — and, even so, we all know the yichus which accrues to the descendants of Moses and, especially, Aaron. There is no attempt on the part of the biblical text to cover up or to gloss over what appear as blatant transgressions of permitted relationships. Neither apology nor excuse for a violation is even hinted at in any of these situations. We doubt that the text would be silent at the expense of showing that Abraham, Jacob, or Amram did not follow these important regulations concerning proper marriages. As a result, it seems logical to us that these rules evolved subsequent to their lifetimes. In other words, what they did was perfectly permissible at the time in which they did it. These rules in Leviticus appear to tell us that no longer can they engage in such

relationships.

That brings us to Deuteronomy 21:15-17, particularly verse 16 which announces: "When he wills his property to his sons, he may not treat as first-born the son of the loved one in disregard of the son of the unloved one who is older." As soon as we hear this Jacob's family situation comes to mind. Jacob has two wives, one favoured (Rachel) and one not favoured (Leah). Jacob has sons by both of these wives. When the time comes for Jacob to apportion his estate, Reuben (the acknowledged firstborn) is demoted in honour and prestige to Joseph. This, as we saw above, is stated in two different ways. It results from Jacob's making Joseph's two sons "heirs" in Genesis 48. Also, a very open expression of it is found in I Chronicles 5:1-2. In either event, Jacob fits the specifications enumerated here and, just as clearly, Jacob does what is proscribed. While we may feel some anger at Jacob for the obvious favouritism with which he treats some of his children, our disgust does not come from his "violation" of this ruling in Deuteronomy. That act on his part is part and parcel of his way of life and a natural expression of how he has always acted. As in the case of the "violation" of forbidden relationships, the text does not criticize Jacob for this act. The reason for this lack of criticism seems obvious; Jacob's action antedates the decree.

The midrash on Deuteronomy 21:15-17 deals with several problems. As we saw above, it concerns itself with understanding the amount which the firstborn receives as inheritance. Without

mentioning specific individuals or situations, the midrash attempts to clarify the language involved and, thereby, indicates that for the rabbis it is not so much a general principle which is involved but a specific situation. Like so many of the biblical "laws," what we have here, according to the rabbis, is not as much a code as it is a "case law." Both Sifre and Midrash Haggadol on Deuteronomy 21:15-17 examine the word wives in verse 15. They assert that it is only applicable to women who have the legal status of a wife (ע'ל ט'ל ט'ל), specifically excluding the handmaid or the foreigner. Under this definition the offspring of Hagar (an Egyptian) and Bilhah and Zilpah (handmaids) would never qualify as firstborn if the wife had a son. While the patriarchs specifically were not subject to this rule as we have just discussed, the rabbis do show us that although a man might have a variety of licit relationships with women, they were not all of the same quality.

Other observations which the rabbis make in these two midrashim are that it is not enough to have two wives; one must be preferred to the other. It adds that it speaks only of sons. Daughters, in the absence of sons, share equally. Daughters among sons are not included.⁷⁴ There is no modification permitted; the father cannot raise another to firstborn status. Also, the text refers to the father's firstborn, not the mother's first child. Finally, Midrash Haggadol does admit that the Torah does grant a father permission to give inheritance to whomever he wishes, as long as the individual fits the appropriate category, e.g. a son among sons, a daughter

among daughters, but not another man in place of a daughter or a daughter in place of a son. It continues by adding that the distinction is between the ability and the permissibility; he may do it but the individual will not be promoted to firstborn by this act for he does not have permission to lessen the firstborn's status in the process.

We suspect that some of the midrashic observations are prompted by the stories of what the patriarchs did. It is, after all, very natural to formulate rules as a response to something which has been done which is not desirable to be repeated. The ruling of Deuteronomy 21:15-17 may fit exactly that pattern. It states that what our ancestors have done is valid; it fit their time. No longer, however, is it acceptable to select a chief heir who is not the firstborn.

SPECIAL NATURE OF THE FIRSTBORN

Why, we might wonder, is the firstborn special? What is it that sets a firstborn apart from the other children? There are several ways in which the firstborn is special. In view of the fact that procreation is a part of marriage, it is the birth of the first child which, as it were, "validates" the union. If that seems overstated, we need only recall that the rabbis decreed that a husband is supposed to divorce his wife if they have no children

after ten years of marriage.

The Bible also provides reasons for singling out the firstborn. The first, in general, is the best. In terms of a son, the firstborn represents יְקָר שְׂעוֹ , the "best" of the father's creative power, as we saw above.⁷⁵ In addition, the Bible states another reason for the Lord's selection of the firstborn: "For every first-born is Mine: at the time that I smote every first-born in the land of Egypt, I consecrated every first-born in Israel, man and beast, to Myself, to be Mine, the Lord's" (Numbers 8:13).⁷⁶ The link which binds the firstborn of Israel to God is the fact that it was the firstborn in Egypt who were killed and the firstborn of Israel who were saved simultaneously.⁷⁷

For a variety of reasons, then, the firstborn acquires a sanctity; he belongs to the Lord.⁷⁸ Ultimately, the Levites replace the firstborn. The Bible mentions this "replacement" several times but does not give reasons for it.⁷⁹ One of the verbs the Bible uses for the special link to both the firstborn and the Levites is עָפַר . Given this concept of sanctity we are not surprised to find the midrash identifying the special nature of the firstborn in that the firstborn originally offered the sacrifices to the Lord. However, in the midrash the reason for replacement of the firstborn by the Levites is no longer the slaying of the firstborn. Rather, it is more closely related to their special function. Because they worshipped the Golden Calf, the Levites replace them.⁸⁰ In replacing the firstborn, the Levites do not obliterate

all memory of the sanctity of the firstborn since it is necessary for the father to "redeem" his firstborn son.⁸¹ And so it is that the aura of sanctity never totally devolves from the firstborn.

Even rabbinic law recognizes the status of firstborn, (firstborn to inheritance),⁸² which entitles him to a greater share in his father's estate. As we saw above, this greater share is fixed at double that of the other heirs.⁸³ Nor is the father permitted to deprive the firstborn of his prerogative. The father's only means of altering this at all is by making gifts, an action which is valid although "the spirit of the sages takes no delight" in this.⁸⁴ The firstborn is, on the other hand, allowed to waive his right to the extra portion since he is also liable for a double share of his father's debt.⁸⁵

MEDIATING FACTORS

The question remains, given these parametres, under what circumstances we find other factors mediating the expected pattern. Upon a close examination of the Bible we observe that extenuating reasons for disregarding "normal primogeniture" are numerous. They stem from the threefold nature of the birthright, the relationship to the mother involved, the status or rank of the mother and the nature of the "marriage" tie to the father, the propriety of the heir's marriage, the heir's "fitness," the adjustments necessitated

when daughters are involved, the discretion which was accorded to a father in designating a firstborn, and the model of "divine election."

1. THREEFOLD NATURE OF THE BIRTHRIGHT

One way in which primogeniture is "dislocated" is by "unravelling the package" which combines firstborn status (in reference to genealogy) with the birthright (and its religious obligations) and the leadership role within the family. We saw above that this is what happens to Reuben who retains the title of firstborn in the genealogy but yields the birthright to Joseph and the political authority of the family to Judah. The justification for this comes from the fact that Reuben lay with Bilhah,⁸⁶ at least as Jacob explains this in the Bible. The rabbis offer another explanation for Joseph's attaining the birthright; the birthright, they point out based on Genesis 37:2, was to come from Rachel's line because of Rachel's modesty.⁸⁷

This, however, is not the only instance of the breakdown of the primogeniture into its component pieces. Jacob and Esau, through their private arrangement in the last part of Genesis 25, split up the birthright and the blessing. Only through Jacob's guile and Isaac's error (Genesis 27) did these two aspects converge upon Jacob. However, according to the midrash, it was hard for the Holy

One, Blessed be He, to uproot the chain of genealogy.⁸⁸ Esau is the son whom Isaac called to come for the blessing.⁸⁹ Other cases of the firstborn retaining his status as such in the genealogy even though a brother has acquired more prominence include Aaron (firstborn) and Moses (prominence) and Japheth (firstborn) and Shem (prominence).⁹⁰

2. RELATIONSHIP TO THE MOTHER INVOLVED

In our definition of the word ^{אֶלְכָן} we asserted that the word signifies the firstborn son of the father and that ^{אֶלְכָן} identifies the mother's first issue. In a monogamous marriage these two states are likely to coincide, unless one of the individuals has been married before. While they are wont to coalesce, the firstborn and the first issue need not be the same individual, especially in a polygamous marriage. In view of this fact we would like to raise a question in relation to a second possibility for the alteration of the predicted pattern of primogeniture: Is it a presumption that the firstborn of the Bible must be the firstborn of the father or is there a possibility that he may be the mother's firstborn (i.e., the individual usually designated the first issue of the womb)?

M. Tsevat states in his discussion of the word ^{אֶלְכָן} :

In the laws of Exodus and Numbers, especially in texts that treat human and animal firstborn together, and in Ezk. 20:26 the expression peter (rechem), "one who

opens (the womb)," is used frequently. This phrase defines the firstborn with reference to his mother. However, this definition could not have been the predominant one. Not only did it stand in opposition to the emphatic patriarchal character of the Israelite family but also it would have seriously damaged the idea and legal custom of primogeniture, especially in the case of contemporary (occasional) polygamy. Israel adhered to the laws of ⁹¹primogeniture through the father....

We must respectfully disagree with two elements of this explanation. First of all, as we demonstrated above in chapters one and two, women figure more predominantly in the Bible than is generally recognized. Their inclusion and mention within a number of the genealogies indicates the status a woman could attain. Thus, to speak of "the emphatic patriarchal character of the Israelite family" may be an overstatement of the situation. Even more difficult is the assertion "it would have seriously damaged the idea and legal custom of primogeniture, especially in the case of contemporary (occasional) polygamy." It was precisely in the situations of polygamy where the question of the mother is the vital issue, the determining factor! While the relationship to the father generally is the defining relationship, the mother's role, particularly in polygamous relationships, should not be discounted a priori.

Support for this argument can be found in the biblical text which looks to the conjunction of first of both father and mother in defining the child sacred to the Lord. Often in this context the

Bible uses both the word בְּכֹרֶת and the word בְּכֹרֶת . Where these two intersect we find the son who belongs to the Lord. In fact, the statement of God's "ownership" of these individuals virtually defines the firstborn as the one who is the first issue of the womb.⁹²

The commentary indicates that an understanding of the biblical level recognizes an interplay of "firstborn of the mother" with "firstborn of the father." Ramban comments on Exodus 12:30:

In line with the plain meaning of Scripture the firstborn that died in Egypt were the firstborn of their mothers, and this is why He sanctified in their place "all the firstborn, whatsoever openeth the womb among the children of Israel, both of man and of beast" [Exodus 13:3]. "The firstborn of Pharaoh that sat on his throne" [Exodus 13:29] was the firstborn to his mother... But in accordance with the opinion of our Rabbis [who say that the firstborn of a father also died], we shall explain that in Egypt, He smote all their firstborn. That is to say, the firstborn of the father, since he is the first-fruit of his strength, and the firstborn of the mother, since he opened the womb, and also the chief person in the house. Yet it was His desire to sanctify in Israel in⁹³ their place only the firstborn of the mother...

As the Bible displays, generally the concern is with the father's firstborn. When it deals with the firstborn of a mother, there is a specific purpose. The text wants to stress the child's sanctity (as in Exodus 34:19). There is a desire to emphasize that the child is not the father's firstborn (as in I Chronicles 2:50). Or it underscores the status of the mother at the time of the child's birth (as in Deuteronomy 25:6).⁹⁴ We may assume that when

the firstborn of the mother is mentioned in the Bible, it is to make a special point and, therefore, we should not gloss over that additional information.

We are not required to read midrashim and commentaries to find what may seem an anomalous status, the firstborn of the mother, described as *בְּכוֹר לְאִמּוֹ* and not as *בְּכֹר יְחִיד*. Caleb's family is rather complicated because of his several wives and concubines, each of whom had children. One son Hur has the mother Ephrath. We know from the context that Hur is not Caleb's firstborn and several verses later Meshah specifically is designated as Caleb's firstborn.⁹⁵ No sooner is Caleb's firstborn Meshah specified than we learn that Hur is "the firstborn of Ephrathah" (*יְחִיד אֶפְרַתָּה*).⁹⁶

Once we have seen the usage of *בְּכוֹר לְאִמּוֹ*, i.e. *בְּכוֹר לְאִמּוֹ*, we note that it is not as uncommon as we might have supposed. In labelling Hur as his mother's firstborn a whole new category of identification has opened up. Keeping this in mind we read Deuteronomy 21:15-17 with a fresh eye. Is this not what the Deuteronomy text is describing, the firstborn of the mother, only without using the "technical" terminology! This understanding seems to have been an intuitive understanding of these verses which the midrash must dispel, otherwise we would not expect Midrash Haggadol to state that "since he is the first-fruit of his vigour" means "the husband's and not the wife's vigour." The midrash continues: "The rabbis taught that the first fruit of his vigour is the firstborn in

terms of inheritance and not the first issue of the womb...."⁹⁷
 As is so often the case, what is denied may give us insight into what has gained common acceptance. Unless people were at times interpreting this as the mother's firstborn as well as the father's firstborn, the midrash surely would not have introduced this possibility with its statement "it is not the mother's first issue!"

Other midrashim speak more directly of a mother's firstborn. Kasher cites Midrash Agadah on Deuteronomy 21:17 in reference to the "extra portion" Jacob gives Joseph in Genesis 48:22. The midrash in putting examples to the abstract situation of the Deuteronomy section, speaks of the son of the unpreferred wife, "this is Reuben who was the firstborn of Leah (רֵאשִׁית לֵאָה)." ⁹⁸ Another midrashic usage of the mother's firstborn occurs in the Yalkut Shimoni. Jacob has vowed to God that he would tithe, giving one-tenth of everything if God really "comes through for him" (Genesis 28:20-22). When Jacob struggles with the individual at the Jabbok, Jacob is reminded that he has not tithed among his sons. "So Jacob set aside the four firstborn of their four mothers (אֲנָחִיט אֶת רֵאשִׁית בְּנוֹתַי לְאֶרְבָּעָן)" and tithed one of those left. ⁹⁹

The term רֵאשִׁית אִמִּי gains acceptance as a legal category in addition to being midrashically valid. In talking about the additional amount of inheritance which the firstborn receives, the Tur states: "The firstborn receives a double portion only of his father's assets and not of his mother's. Even if he is the firstborn of both his mother and his father (רֵאשִׁית אִמִּי וְאָבִי),

he and the other heir[s] divide the mother's equally."¹⁰⁰

Sometimes the midrashic recognition of the status of firstborn depending on the mother is somewhat "freer." We learn that the response to Jacob's supposed comment to Reuben "...the birthright should have been thine, priesthood thine, and royalty thine...." is R. Aha's comment:

"The birthright was not thine [in the first place, said Jacob to Reuben] — did then Jacob go to Laban for any save Rachel? and when I was with thy mother, surely I should have been with Rachel instead. Now the birthright has been returned to its [rightful] owner."¹⁰¹

Implicit within this rather cruel comment to Reuben is the understanding that the status of "first" to Jacob involves first to Jacob and the appropriate wife Rachel. In other words, the determining factor is "firstborn of the mother."

Polygamy may no longer be our custom but the traditional Jewish practice preserves the necessity of the firstborn — in terms of the cult, that is — being firstborn to the mother. The ceremony of pidyon haben is required of a son who is the first issue of the mother; the child is quite literally קִדְּוָה בְּטָרְחָהּ. If a man has more than one wife, the first issue of each wife must be redeemed if a son. The order of birth vis-à-vis the mother is ¹⁰²equally important as that vis-à-vis the father.

In the light of the role which Bible permits for the firstborn of the mother, let us turn our attention to Deuteronomy 25:6 which gives the rule for the levirate marriage. It states: "The first

son that she bears shall be accounted to the dead brother, that his name may not be blotted out in Israel." Obviously the child is able to commemorate the deceased's family line because he is fathered by another male of that family. But the Hebrew does not express it in that way. The verse does not use the terminology *וַיֵּלֶד* ("he begot"), a word no stranger to the Torah text. Rather it expresses the action in terms of the woman: *וַיֵּלֶד בְּרִיָּה* — the first son that she bears. The link in continuity is expressed in terms of the mother; it is the firstborn which the mother bears. In effect, the biblical expression of the levirate relationship is expressed in terms of the firstborn of the mother!

3. STATUS OR RANK OF THE MOTHER

AND NATURE OF HER "MARRIAGE" TIE TO THE FATHER

Since the fact of being firstborn to the mother can be the determining factor in selection of a child as chief heir, a third category emerges in the "dislocation" of primogeniture, that is, the "status" or "rank" of the mother and the nature of the "marriage" tie to the child's father. Of course, this factor pertains only to polygamous marriages. In the instance of a polygamous marriage it happens that the father sometimes selects a son as his heir who is not his own firstborn but may be the mother's firstborn. When this occurs, the decision usually stems from an apperceived notion of

"rank" or "status" accruing to the mother on the part of the father.

Having said that, we must make it clear that in biblical terminology a wife is a wife; no "status" is specified. We see one general guideline (Exodus 21:10) for the man who marries more than one woman: "If he marries another, he must not withhold from this one her food, her clothing, or her conjugal rights." That seems to define the relationship due a wife. Indeed, even when a slave girl is taken as a wife, no lower status is indicated.¹⁰³ From the nature of the narratives, however, we see treatment which indicates otherwise.

In fact, a polygamous marriage often gives rise to dissension and conflict for one wife ends up as the favoured wife. When special preference is shown to one wife, rivalry between wives inevitably follows. We see that situation occurring between Sarah and Hagar (Genesis 16:4-6)¹⁰⁴ resulting ultimately in Hagar's expulsion (Genesis 21:9-21). Rachel and Leah, also, are well aware of how they rate. Because Jacob loves Rachel more than Leah, the Lord intervenes and Leah conceives while Rachel remains barren. This, in turn, causes Rachel to become envious of Leah (Genesis 29:30-31, 30:1). It happened also with Hannah who was Elkanah's favourite even though she was barren. Peninnah taunted her because of this. Especially instructive is the way that the Bible states this: "Moreover, her rival, to make her miserable, would taunt her that the Lord had closed her womb" (I Samuel 1:4-8).¹⁰⁵

The rivalry with the conflict which it engenders may continue

beyond the wives to their children. We see a "pecking order" emerge in which Jacob rates Rachel above Leah and both above the two maids. The children follow the "ranking" of their respective mothers.¹⁰⁶

While the Bible never "officially" ranks the wives, the evidence from the Ancient Near East suggests that wives in Babylonia may have been ranked since some texts refer to wives as sisters, one as the "elder sister" and the second as a "younger sister."

Additional "confirmation" of ranking wives may be seen in the Code of Hammurabi §158 which states: "If a man after (the death of) his father is caught in the bosom of his chief wife who is the mother of sons, that man shall be expelled from (his) paternal estate."¹⁰⁶

Thus, while wives in the Bible may be equal, we see that both the treatment itself as the Bible describes it evaluated in conjunction with the practice in the Ancient Near East allows for the possibility that wives could be ranked. When this happens, it seems to depend upon the mother's "status." And the mother's "status" reflects one of several factors; status may result from the mother's family (i.e. her "yichus") or the husband's particular love for her above the other wife (or wives). "Status" also arises from the relationship of "wife" to husband being better than that of "concubine" to husband.

Thompson points out that in the Near Eastern texts:

In those cases where the children are from different wives, elder children of a secondary wife may well have only a secondary right to the inheritance — or perhaps no right at all,...but this is based, not so much on the powers of discretion held by

the father, as by the status of the wife as established in the marriage contract, and the question of whether the children by the secondary wife have been made legitimate.¹⁰⁸

The mother's status exerts a very real influence on the role her children play according to Thompson. We see this exemplified in the conditions stated in Gadd Text 12 and JEN 204. In Gadd 12 the children of this one wife alone enjoy the right of succession, even if a second wife is taken before they are born. Likewise, only the sons of the primary wife share in the inheritance according to JEN 204.

a. "CHILDLESS" WIVES

Generally when a man has more than one wife, there is a specific reason, often the fact that the first wife is barren. In that instance — because of the necessity of having children to perpetuate his name and take care of burial and mourning rites — a man has several options. He can marry another wife, take a concubine (possibly his wife's handmaid), or adopt children. We shall see that the majority of the Near Eastern texts contain a clause forbidding the taking of another wife when his wife has produced children and/or sons. We do have one text, however, Gadd 12 (Breneman Text 6), which states that if the wife has borne sons and he takes a second wife, the sons of the first wife inherit all. It specifies that the sons of the second will not be joint

heirs.¹⁰⁹ This freedom to marry another wife when he already has sons is by no means common within the texts which we have.

In the Bible we see that Abraham resorts to taking Hagar as wife or concubine¹¹⁰ to have a son because Sarah has remained barren (Genesis 16:1-4). Jacob does the same thing but in differing circumstances.

Sarah tell Abraham to "Consort with my maid; perhaps I shall have a son through her" (Genesis 16:2). This is similar to Rachel's request of Jacob in Genesis 30:3: "Here is my maid Bilhah. Consort with her, that she may bear on my knees and that through her I too may have children."¹¹¹ We see in the way that both Sarah and Rachel phrase their requests, that the child to be born is considered theirs. That is, they are really speaking of "surrogate motherhood" more than the taking of another wife. This understanding of the situation is corroborated additionally in Genesis 30:9 which tells us: "When Leah saw that she had stopped bearing, she took her maid Zilpah and gave her to Jacob as concubine." Not surprisingly, then, Hagar is in Sarah's control; Abraham tells Sarah in Genesis 16:6: "Your maid is in your hands. Deal with her as you think right." Sarah's "authority" in this matter ultimately (Genesis 21:10-14) leads to Abraham's casting out Hagar and Ishmael. Here the biblical incident contradicts the Near Eastern practice for the Code of Hammurabi §146 states:

If a man has married a priestess and she has given a slave-girl to her husband and she bears sons, (if) thereafter that slave-girl goes about making herself equal to her

mistress, because she has borne sons her mistress shall not sell her; she may put the mark (of a slave) on her and may count her with the slave girls.¹¹²

But perhaps the contradiction is not so blatant as it first appears. In many of the Near Eastern texts to which we shall refer below, the contract contains a clause which protects the (primary) wife's children as chief or sole heirs in the presence of additional children by other mothers. We have no marriage contract for Abraham and Sarah but the expulsion of Hagar and Ishmael brings about the same results as such a contracted clause does.

We see several patterns emerging in the texts from the Ancient Near East. In general, if the wife bears children, the husband may not take a concubine. Another common clause states that her children only and not the concubine's will inherit.¹¹³ In some instances children by another woman seem to have inheritance rights.¹¹⁴ Finally, sometimes a clause will forbid the wife the authority to mistreat the concubine's children.¹¹⁵

It is quite common to find a marriage contract stipulating that if the wife bears children, the husband may not take a concubine or another wife. Some of the texts with that proviso include: Speiser Text 2 (HSS V 67; Breneman 101; Paradise C-5); Breneman Text 1 (HSS XIX 84), Breneman 2 (JEN 435),¹¹⁶ Breneman 4 (HSS XIX 85)¹¹⁷, Breneman 5 (HSS IX 24), Breneman 8 (HSS XIX 78), Breneman 9 (HSS V 80), Paradise C-7 (HSS XIX 51), Paradise C-32 (HSS XIX 2). Breneman Text 11 (AASOR XVI 55) forbids the taking of any other wife in

addition to this wife.

In those situations where both the wife and concubine have provided children, it is common to see the wife's children protected as sole heirs. We find that in: Speiser 2 (HSS V 67); Breneman 101; Paradise C-5) and Gadd 12 (Breneman 6). These contrast to other situations where other children seem to become heirs. For example, Breneman 1 (HSS XIX 84) states that the wife's brother shall take the wife back if the husband adopts another son as older son. The clause does not forbid this act but stipulates what will result from it. In Breneman 4 (HSS XIX 85) there is the unusual situation of a divorce clause at the end of a marriage contract. It appears that the husband is divorcing his former wife and excluding her sons from inheritance in this way. Another unusual situation is described in Breneman 5 (HSS IX 24) in which the wife's children are designated heirs with her oldest son being his oldest son and remaining sons (were these from a previous marriage or in the event that he might remarry after her death?) would inherit according to their rank.

Occasionally the contract addresses the relationship between the wife and the children of a concubine. Speiser Text 2 (HSS V 67; Breneman 101; Paradise C-5) protects any children of a concubine from being sent away but does give the wife control over them. A Neo-Assyrian text from Nimrud, c. 648 B.C.E, regards the children of a maid as her own children. The wife, for her part, may not mistreat the handmaid. This particular text is quite similar to the

situation of Abraham, Sarah, and Hagar.¹¹⁸

Adoption of children presents an alternative solution for a childless couple. In this instance, two possibilities exist. The adopted son may have a status different than that of the natural son or they may share equally. Generally in the Ancient Near East, the natural son becomes chief heir regardless of chronological age.¹¹⁹ On some occasions they share equally; one notable example of this is Gadd 51 (Breneman 104; Paradise C-8) where the adopted son is married to the adoptive father's daughter. In the event of the birth of a natural son, they are to divide the estate equally, with the only difference being that the natural son takes the gods. In a rare case, there is a possibility of a man adopting a son as older son to the natural son. Should he do so, Breneman Text 1 (HSS XIX 84) indicates that the brother who gave the wife in marriage will then take her away.¹²⁰

b. LEVIRATE MARRIAGE

The Bible deals with another situation which parallels that of the "childless wife." When a man has not produced a child and he dies, his widow, according to the rules of the Levirate marriage in Deuteronomy 25:5-7, will be married to the late husband's brother and "the first son that she bears shall be accounted to the dead brother." Here the situation of the childless wife is exacerbated by the man's untimely death. The resulting course of action

reflects two possibilities. It may be a remnant preserving an old rite of inheritance in which the man's wives were inherited along with his other possessions by his heir(s).¹²¹ Or the institution of the Levirate marriage may have arisen to address the need for the man to have an heir. It is the latter alternative which the situation in the Bible reflects. The method of solving the problem is somewhat analgous to a man having children considered his wife's through her maid.¹²² Here, the wife bears a son "credited" to her late husband which is fathered by the nearest possible person to the deceased.¹²³ So the problem of childlessness can be solved by having a child "by proxy" for the man just as it can be done for the barren woman.

c. CONCUBINES

Concubines are accepted in both the biblical and Near Eastern sources. In some cases they serve the specific role of providing an offspring for a childless man. In other instances they co-exist alongside a wife (or wives) who has produced children. For example, Abraham has concubines according to Genesis 25:6. Who these are is not entirely clear; it may include Hagar. Although Keturah is called a wife in Genesis 25:1, she is identified as a concubine in I Chronicles 1:32. David has both wives and concubines (II Samuel 19:6-7) but it is ten concubines whom he leaves in charge of the palace when fleeing from Absalom (II Samuel 15:16). These are the

concubines with whom Absalom has intercourse to announce to all the world the stand he has taken against his father (II Samuel 16:21-22).

The existence of concubines alongside wives makes it difficult to distinguish precisely how these two differ. Epstein suggests that a concubine is a wife of inferior rank yet still a wife in the legal sense.¹²⁴ The question is raised in Sanhedrin 21a: "What are 'wives' and what are 'concubines'? — Rab Judah said in Rab's name: Wives have 'kethubah' and 'kiddushin'; concubines have neither."¹²⁵ In the Jerusalem Talmud Kethuboth 29d the question is asked:

What is the difference between a wife and a concubine? R. Meir said that a wife has a kethubah but a concubine does not have a kethubah. R. Judah says that each has a kethubah. A wife has a kethubah with the conditional clauses; a concubine has a kethubah without [the protection of] the conditional clauses. R. Judah speaks in the name of Rab....

According to R. Meir a concubine has no dowry, no guarantees from her husband, and no covenant of marriage obligations. R. Judah's description grants that a concubine may bring a dowry and, if so, her husband must guarantee it but he is not subject to duties, e.g. provision for her during her lifetime or safeguarding the interests of her children. Unfortunately, these concerns of the rabbis do not enlighten us to the biblical distinction between a wife and a concubine.

No clearcut answer to the problem of how offspring of

concubines are treated in the matter of inheritance can be provided for the Bible or the Ancient Near East. Rather, we find a range of responses to this dilemma. In biblical accounts sons of concubines may be included or excluded in inheritance and/or participation in the family. It also sometimes happens that the child will take matters into his own hands and include himself despite the will of his brothers. Abraham deprives his other sons from equal inheritance with Isaac by banishing Ishmael and by "pensioning off" the children of his concubines. However, while on the surface this treatment implies that concubines' sons are not able to inherit equally, we may also read these two narratives in a different way. Sarah tells Abraham in Genesis 21:10: "Cast out that slavewoman and her son, for the son of that slave shall not share in the inheritance with my son Isaac."¹²⁶ Might we infer from that verse that, if Ishmael had not been sent away, he would have inherited equally with Isaac? Later (Genesis 25:5-6) we learn: "Abraham willed all that he owned to Isaac; but to Abraham's sons by concubines Abraham gave gifts while he was still living, and he sent them away from his son Isaac eastward..." Does this tell us that these children were entitled to a share in the inheritance and that Abraham protected what he wanted to give Isaac by making the division and settling with the other children before his death?

In Judges 8:30-31 Abimelech, the son of a concubine, asserts his claim to inherit against the claims of his father's wives. We see in Judges 9:1-6 that Abimelech does succeed in usurping this

power which he desires. The situation in the case of Jephthah (Judges 11:1-11) again depicts a child who is considered an outsider by the sons of Gilead's wife. In fact, they drive Jephthah out with the words: "You shall have no share in our father's property, for you are the son of an outsider." Later Jephthah's talents are needed to aid in fighting the Ammonites. He agrees to return only if he becomes the commander. Because of their need, the elders agree to his demand and Jephthah get his way just short of resorting to violence. In regard to Jephthah, we must ask the same question that we did of Abraham's treatment of Ishmael and the concubines' sons. Judges 11:2 has the brothers say to Jephthah: "You shall have no share in our father's property, for you are the son of an outsider." The Bible does not state what is obvious. If a concubine's son regularly did not share in his father's estate, what was the need for this statement? Can we conclude from this verse that the son of a concubine regularly inherits from his father unless specifically excluded by the father or even the other heirs if they are powerful enough?

In other places does the text imply that offspring of a concubine are regularly included in their father's family? We learn in Genesis 36:12 that Amalek is the son of Eliphaz by a concubine. Yet he is included within the list of offspring. When this genealogy is repeated in I Chronicles 1:36, the fact that his mother is a concubine is no longer mentioned. Machir father of Gilead is the child of a concubine in the description of I Chronicles 7:14.

When the genealogy is given in Numbers 27:1, this is not included. Neither is Zelophehad's right for inheritance treated in any different way than anyone else's in Numbers 27:1-11 even though his connection to the family stems, at one level, from a concubine.

Yet other biblical references suggests that the children of a concubine are of inferior rank to the "real" children. The division which Jacob makes of his children in Numbers 33:2 and 6 indicates that Bilhah's and Zilpah's children rate last in his eyes. I Chronicles 2:46 and 48 specify certain of Caleb's children as his children by concubines while I Chronicles 3:9, which follows a listing of David's sons by his wives, adds the concluding note: "All were David's sons, besides the sons of the concubines..." We see in the Bible a range of treatment of children of concubines, from that of the equal enfranchisement, participation, and inheritance within the family to that of total exclusion, or, at least, the attempt to do so.

Discretion is granted the father to determine whether or not to include concubines' offspring in the inheritance. In the Middle Assyrian Law §41 (Tablet A) a father may acknowledge his concubine publicly, in which case her sons share in the property, or not acknowledge her. However, even if he has not acknowledged her, if his wife has no sons, the concubine's children become his sons and share in the inheritance.¹²⁷ According to the Code of Hammurabi §§170-171, if he acknowledges the sons of a slave-girl, they inherit but if he has not done so, they do not inherit from his estate.¹²⁸

Breneman Text 101 (HSS V 67; Paradise C-5) gives inheritance rights to the concubine's children in the event that the main wife does not produce children.¹²⁹ The terms of JEN 666 indicate that the concubine's child does not inherit.

d. SLAVES AND THEIR CHILDREN

The problem of distinguishing between a slave-girl and a concubine is somewhat like the difficulty in differentiating between a concubine and a wife. The categories are not entirely clear and the textual evidence tends to overlap. The range for the rights of children of a slave-girl is the same range as it is for children of a concubine. In fact, several of the citations in the preceding paragraph may refer to slaves and not to concubines; these are the Code of Hammurabi §§170-171 and HSS V 67 (Breneman 101; Paradise C-5). In addition, the Code of Hammurabi §§144-145 addresses the question whether a man married to a priestess who has provided a slave-girl may also marry a lay-sister. If the slave-girl bears him sons, he may not marry the lay-sister; if, however, the slave-girl has not given him sons, he may marry the lay sister.¹³⁰ This distinction seems to imply that in situations where children are borne "by proxy," the slave-girl's sons are the heirs and that is the reason he is not to marry a lay-sister when the slave-girl has given birth to his sons.

The Code of Lipit-Ishtar, paragraph 25, states that if a man

has children by both his wife and a slave and he has given freedom to the slave and her children, the former slave's children do not share in the master's estate.¹³¹

For the Bible also, because the status of Hagar is not clear, what we have said above about her and Ishmael's right of inheritance may be what happens in the case of a slave's children. That same difficulty faces us also in regard to Bilhah and Zilpah. We know that each was a handmaid of one of Jacob's wives but do not know whether their station was elevated by their relationship with Jacob. Josephus calls them "in no way slaves but subordinates"¹³² while Philo identifies them as concubines.¹³³ Depending upon what their status really was, it is possible that what we said about their children really represents but one example of treatment of a slave's offspring.

Other biblical information germane to this problem is found in Genesis 15:2-4 and Proverbs 17:2. Abraham's lament in this passage in Genesis is that his heir will be his chief slave because he has no child of his own. Apparently the idea of a slave from one's household inheriting was not startling. Abraham is disappointed that he has no son to be his heir, but there seems to be a known alternative available. If one's slave could inherit, how much the more a child who was one's own by a slave! Another expression of the same situation is that of Proverbs 17:2: "A capable servant will dominate an incompetent son/ And share the inheritance with the brothers." Not only was Abraham conceding that his slave would

be his heir (Genesis 15:2-4) but Ziba becomes heir to Mephibosheth's estate (II Samuel 16:4) and Sheshan marries his daughter Ahlai to Jarha his slave and through this pair Sheshan's line continues (I Chronicles 2:31, 34-35).

Yet later, when the halakhah of inheritance is finally worked out, the offspring of a bondswoman does not inherit. We find that outlined in Mishnah Yebamoth 2:5 where a child born to a Jewish man and a bondswoman is not considered his son. The Shulchan Aruch, Hoshen Mishpat 276:6, is even more to the point; it states, "...his son by a slave...does not inherit at all."

4. PROPRIETY OF THE HEIR'S MARRIAGE

Primogeniture could be "dislocated" for a fourth reason, the fact that the apparent heir does not make an "appropriate" marriage. Women are critical to the "ideal" relational system of the patriarchs. Much depends upon the heir marrying from the "proper stock." As Prewitt indicates: "...the inheritance of political authority within the Terahite line by Isaac and Jacob is right, for the Terahite system stressed in the sources of Abrahamic genealogy drawn together by the redactor of Genesis is based in proper marriages (i.e. those appropriate with respect to kinship alliance)."¹³⁴ We see that about Ishmael the Bible states (Genesis 21:21): "...his mother got a wife for him from the land of

Egypt." Isaac's wife, in contrast, comes from Abraham's family. The statement about the acceptability of Esau's wives is quite explicit. Genesis 26:34-35 states: "When Esau was not forty years old, he took to wife Judith daughter of Beerli the Hittite, and Basemath daughter of Elon the Hittite; and they were a source of bitterness to Isaac and Rebekah." Jacob is prevented from making this same error. As Rebekah tells Isaac when she wants to help Jacob flee from Esau: "I am disgusted with my life because of the Hittite women. If Jacob marries a Hittite woman like these, from among the native women, what good will life be to me?" (Genesis 27:46). Thus Jacob goes to Paddan-aram to marry wives from his mother's family. At last (Genesis 28:6-9) Esau realizes how abhorrent his wives are to his parents "so Esau went to Ishmael and took to wife, in addition to the wives he had, Mahalath the daughter of Ishmael..." It is too late; Jacob's choice of an appropriate wife has already helped him to become the chief heir.

5. FITNESS OF THE HEIR

The fitness of the son to be heir serves as a fifth reason for causing a shift from the firstborn to the right of inheritance by another son. We saw above how that figured into the predominance of Jacob over Esau. We shall see other examples below in our examination of specific instances of inversion of the birthright.

Here we wish to note a general statement of this principle which Philo makes:

...But of his [Abraham's] many sons, only one was appointed to inherit the patrimony. All the rest failed to show sound judgment and as they reproduced nothing of their father's qualities, were excluded from the home and denied any part in the grandeur of their noble birth.

Again, the one who was approved as heir begot two twins, who had no resemblance to each other, either in body or disposition... For the younger was obedient to both his parents and won such favour that God, too, joined in praising him, but the elder was disobedient, indulging without restraint... he surrendered his birth-right to his junior, then, at once, repenting of the surrender, sought his brother's life, and all his concern was to act in such a way as would cause grief to his parents. Therefore, for the younger they prayed that he should be blessed above all others, all which prayers God confirmed... As it was,...he brought heavy reproaches upon himself and his descendants, so that his life so little worth living stands recorded as the clearest proof that to those who are unworthy¹³⁵ of nobility, nobility is of no value.

Notwithstanding the fact that Philo has his own bias and point to make, he makes a convincing argument that fitness was critical for the heir.

6. ADJUSTMENTS NECESSITATED WHEN DAUGHTERS ARE INVOLVED

A sixth cause for variation in primogeniture occurs when women are involved. Women were not so negligible in the ancient world as is generally considered. They had a variety of legal rights, especially within the family. Women's legal rights are more prominent in the Ancient Near Eastern texts than in the Bible. We saw in previous chapters the role which women played within the genealogical material. The expressed rights in the Bible are few beyond that. Exodus 21:10 assigns the minimal rights due a woman within marriage as food, clothing, and conjugal rights. We do not often see women in key roles, initiating actions or making decisions. Sarah's fundamental role in the expulsion of Hagar is one notable exception. Also, "hidden away" in the genealogy in I Chronicles 2:31-35 is Sheshan's daughter Ahlai who is his heir. In actuality, women appear as prominently in the Bible as "property"; we have seen above how the heir or presumptive heir emphasizes his status by taking possession of his father's wife or concubine. This view of women as needing to be taken care of is maintained as we see in Mishnah Kethuboth 11:1 where a widow receives support from her sons.

a. WOMEN'S LEGAL RIGHTS IN THE ANCIENT NEAR EAST

In contrast to the slim amount of biblical evidence depicting the legal role of women and their legal rights, the Near Eastern

texts show women being active in many different phases of legal activity. The knowledge of any woman holding property would of itself be proof that women had legal rights. What we have is a plethora of material attesting to women's status. We suggest that although the biblical text does not contain such evidence, it is likely that biblical women had some of these same options which simply are not part of the information preserved by the Bible text.

In Near Eastern texts women inherit property, make wills, even buy and sell property. They also serve as guardians and adopt children. The woman's ownership of property is, to a degree, "oblique," for her ownership usually is more like what we might describe as a "life interest." She may receive the usufruct from the property or may own it during her lifetime but usually it passes to her sons. She may have a say in how her sons divide it but sometimes that is even arranged for her. The portion the woman has may be merely her dowry or it may also be part or all of her husband's estate.¹³⁶ Some tablets even leave everything to the wife alone, apparently on this same basis.¹³⁷

Often women also have the right to assign property left to them. Women sometimes have the option to distribute what they receive (either in part or in toto) to the son whom they choose.¹³⁸ Less often her power extends to the right to assign her estate to whomever pleases her.¹³⁹ One tablet even permits the widow to disinherit a son who disobeys her.¹⁴⁰ Another tablet is especially interesting because it states that a woman (the

widow?) shall not make joint heir another son in addition to [PN] and in addition to Taduni. She shall not give anything to anyone."¹⁴¹ The only reason to make such a statement would be that she would otherwise have been entitled to do both of those things!

We see some women adopting and distributing property. In Gadd 9 (Paradise C-52) a palace handmaid adopts a son and give him all. Paradise Text C-51 (HSS XIX 38) is a tablet in which a woman adopts a daughter, gives this daughter four servant lads, and releases their mother and sisters. Women also negotiated three other tablets. Speiser 23 (HSS V 74; Paradise C-48) is a wife's "tablet of settlement" upon two sons. The two remaining are wills in which women leave things to their children.¹⁴² Four tablets have women transacting sale adoptions.¹⁴³ One tablet stipulates that if a woman's daughter dies, she is to provide another wife for her son-in-law.¹⁴⁴ In still another tablet a woman gives her daughter as a wife.¹⁴⁵

Women are often appointed in wills to serve as guardians. Two wills from the same family stipulate that the daughter will serve as guardian of the sons.¹⁴⁶ One testator appoints his mother to serve as guardian of his sons.¹⁴⁷ Finally, a number of tablets designate the wife as guardian of the sons or the sons and the property.¹⁴⁸

We even find that a man may give something to the wife whom he divorces (Middle Assyrian Laws, A §37) and is required to do so in

the time of the Code of Hammurabi (§137) if she has borne sons.

b. DOWRY AS INHERITANCE FOR DAUGHTERS

Women have other very clear inheritance rights. Whatever the composition of the family, each daughter is entitled to a dowry. In a family without sons the Bible grants the daughters the privilege of inheriting the estate.

Because ancient society in general is protective of women, there is a need to take care of the women. This involves maintaining them until the time of their marriage and, at that time, providing them with a dowry which is fitting of the family's station.¹⁴⁹ This arrangement serves to make a daughter's dowry something of a "pre-mortem inheritance to the bride." Not only does the dowry serve as a "token" of female inheritance rights by giving the daughter a share in her father's estate, it comes out of the estate before the sons divide it. If there are unmarried daughters, dowries are first set aside for them. In the Mishnah, in addition, the estate is responsible for maintaining these daughters until such a time as they are married.¹⁵⁰ Thus, a daughter's dowry and maintenance are, in effect, preferential. Beyond that, the dowry remains the property of the wife (with the husband serving only as its administrator) and, at the time of the wife's death, it passes to the couple's children.¹⁵¹

The later halakhic laws make it clear that the dowry is a

crucial obligation. Kethuboth 108b states:

Mishnah. Admon laid down seven rulings:
 —If a man dies and leaves sons and daughters,
 if the estate is large, the sons inherit it and
 the daughters are maintained [from it] and if
 the estate is small, the daughters are
 maintained from it, and the sons can go begging.
 Admon said, "Am I to be the loser because I am
 a male!" ^{R.} Gamaliel said: Admon's view has my
 approval. ¹⁵²

The institution of the dowry grants women a share in their father's estate although they generally receive it while he is still alive.

In cases where the estate is small and/or the number of daughters is large, little may remain for the sons after this obligation has been fulfilled.

There are occasions when the daughter inherits directly from her father. When the family has daughters only but no sons, the women become heirs to their father's estate. There is some evidence to show that daughters can also inherit even when there are sons as well.

At least in the Code of Hammurabi there is a clearly stated link between dowry and a daughter's inheriting from her father's estate. The pertinent sections of the Code are §§180-184. The first three of these deal with a daughter who is a priestess. If her father has not given her a dowry, she is entitled to one share of his estate; she enjoys the usufruct and, at her death, it passes to her brothers (§180). If her father has offered her as a priestess but not bestowed the dowry, she receives one-third of the estate and, at her death, it becomes her brothers' (§181). When the

daughter is the Priestess of Marduk of Babylon, she receives one-third of the estate which she may give to whomever she pleases (§182). The remaining two sections pertain to a daughter who is a lay-sister. If she has been given a dowry, she receives nothing from the estate (§183), whereas, if she has been given neither dowry nor husband, her brothers bestow her dowry "according to the capacity of the estate" and give her to a husband (§184). We may note with interest that this stipulation to provide a dowry "according to the capacity of the estate" is the same provision as the rabbinic law entails.

C. DAUGHTERS INHERITING FROM THE ESTATE

In the Bible we find a situation where inheritance is not attached to dowry. Sometimes it happens that a father has only daughters and no sons. This is true in the case of the "Daughters of Zelophehad" in Numbers 27:1-8 and 36:1-9 and the resolution becomes the model for dealing with this situation. As shares of land are being apportioned, these five daughters raise their problem. Since their father has died and there are no sons, his name will be lost unless the daughters can have a holding among their father's kinsmen. For that reason they request a share. Moses answers them with the affirmation that their plea is just and that they will get their father's share. At a later juncture one of the family heads in their clan, the Josephite tribe, complains that

should these daughters marry men from another tribe, their portion will be transferred to that other tribe, diminishing the amount of land the Josephite tribe contains. Moses acknowledges that this plea also is just. Therefore, the daughters must marry within their tribe. In fact, no inheritance is to pass from one tribe to another; every daughter who inherits a share must marry within her tribe.

With this process it becomes possible for daughters to inherit from their fathers. We see in the Bible at least one other instance of this situation and its orderly resolve; I Chronicles 23:20 states: "Eleazar died having no sons but only daughters; the sons of Kish, their kinsmen, married them." Sheshan (in I Chronicles 2:31, 34-35) does virtually the same thing. By adopting Jarha whom he then marries to his daughter, Sheshan insures that both his daughter and her husband are part of his tribe, thereby maintaining the tribal relationship and preventing alienation of his property. Apparently this same system evolves in the Ancient Near East also. In Sumer, a daughter can inherit where there is no male descendant in the family but she is obliged to marry a man with a certain affinity to her father.¹⁵³

It is difficult to explain how the Bible had to legislate what is already common in the Ancient Near East. Yet that is what the episode with the "Daughters of Zelophehad" does. Perhaps there was a fusion of two societies, one where women could inherit and another where they could not.

The halakhic practice maintains this pattern for a long time. A daughter inherits only when there are no sons.¹⁵⁴ Philo explains that men naturally take precedence and thus should in the case of succeeding to property. However, if the daughters have not received their dowries, Philo states that they should share equally with the men. When these daughters marry, he adds that they should do so within their tribe in order not to alienate the property.¹⁵⁵ We shall see that the halakhic practice has now changed and that within the Bible sons and daughters inherit together in Job's family but, before we turn to these, let us examine what happens as women inherit following the model of the daughters of Zelophehad.

When daughters inherit, they do so equally, without a firstborn receiving a preferential portion. The midrash attributes this fact to the formulation for the preferential portion in Deuteronomy 21:15. Since the verse states "sons" (בָּנִים) and not "daughters," when daughters inherit, they divide the estate evenly, without a firstborn.¹⁵⁶ That may represent the way division is made but does not explain why the method of division differs from that of sons. Drive and Miles relate a plausible suggestion why women generally are not the principal heirs in Babylonia. It may be true for Israel, too. They state:

...[Koschaker] infers that the heir is the person who maintains the ancestral cult and in this sense continues the name of the family and the personality of the deceased, and it is essential to his argument that women are incapable of participating in this cult. It must, however, be pointed out that in ancient Babylonia women seem not to have been entirely

excluded from participation in the rites
connected with the ancestral cult...¹⁵⁷

In any event, while in Israel daughters inherit as equals, we see many incidents of women inheriting in the Ancient Near East being sui generis. In Speiser Text 2 (HSS V 67; Breneman 101; Paradise C-5) if there are no sons, the daughter receives one portion.¹⁵⁸ The daughter, in the event of no sons, receives only specified articles in Paradise C-3 (HSS XIX 20). Paradise C-46 (JEN V 43) makes daughters in the plural the heirs (but mentions only one); it contains some gaps but it may even give the "gods of the first rank" to the daughter(s). An interpretation of the Yale Babylonian Collection Text 5142 is that in this will the father makes his daughters legally sons and wills them his land and property.¹⁵⁹

We see a different approach in Breneman Text 86 (HSS XIX 79): "Thus says Paikku, whatever from the midst of my daughter comes out, whether son or daughter, the houses are theirs..." In this way the daughter becomes almost a "conduit" to pass on the property; she enables her father to continue his line with — hopefully — a male in a subsequent generation. Thus the inheriting daughter serves as a channel for transmitting the inheritance in a direct line to a descendant of the head of the house (i.e. from father to daughter to inheriting grandsons).¹⁶⁰

There are biblical examples of a similar process also. In II Samuel 21:8 sons of two of Saul's daughters are counted as Saul's

issue. We learn in Ezra 2:61 (which is identical to Nehemiah 7:63): "Of the sons of the priests, the sons of Habaiah, the sons of Hakhoz, the sons of Barzillai who had married a daughter of Barzillai and had taken his name..."

Another approach is to adopt the son-in-law as son. Sheshan does this in I Chronicles 2:34-35. By doing this it keeps property from passing ultimately from the mother's line to the father's lineage.¹⁶¹ So even when a man lacks male heirs, it is possible for his line to be continued through his daughters.

But we see also that the presence of sons in the family does not necessarily eliminate the rights of daughters to inherit property in Near Eastern law. We have several texts which grant inheritance to daughters along with sons. Paradise C-37 (JEN V 444) apportions some things to the son and other things to the daughters. In Paradise C-47 (HSS XIX 21) daughters receive specific property as a kitru gift.¹⁶² An adopted son is married to the adopter's daughter and the two become joint heirs in Paradise C-7 (HSS XIX 51). However, they are not necessarily equal heirs. If there is no natural son, the adopted son will be chief heir. In Paradise C-13 (HSS XIX 1) a daughter is the principal heir and shares equally with two adopted and one natural son. Finally, an adopted son and his daughter receive equal portions of the adoptive father's estate according to Speiser Text 7 (HSS V 65). In addition, another individual was adopted as "second son."

Daughters inheriting together with sons is not limited to the

Ancient Near East but also occurs in the Bible. The most prominent example is that of Job's daughters. Job 42:15 states: "Their father gave them estates together with their brothers."¹⁶³ In a commentary on that verse we read: "The law in Num. xxvii. 1-11 allowed daughters to inherit only when there was no son. Job went beyond the ancient law...."¹⁶⁴ On the surface that seems to be true but perhaps this is an occasion when things are not what they seem. First of all, as we suggested above, perhaps daughters could also inherit in Israel even when there were sons, a situation for which we have a surfeit of evidence in the Near Eastern texts. Another possibility is "that 'sons' (Bab. *mānū*) and 'brothers' (Bab. *ahhū*) are general terms importing persons of both sexes. If that were so, daughters would clearly have a right to inherit with sons."¹⁶⁵ Driver and Miles make this comment about the Babylonian accounts but it is equally plausible for biblical dictates also. The only way Hebrew has to state children, i.e. both sons and daughters, is with the masculine word *בָּנִים* ; in Chapter One above we saw that *בָּנִים* includes sons and daughters in the genealogies. The same meaning holds true for *אֲחֵי* which can be brothers or brothers-and-sisters. Thus when the Bible speaks of *בָּנִים* inheriting from their fathers, there is a possibility that this includes daughters as well. In the case of the Levirate we know that, according to the rabbis, a daughter suffices to fulfil the stipulation *אֶל-אֶחָיו* . Might this even be the situation which has prompted the comment in the midrash "sons...and not

daughters."¹⁶⁶

The fact that Job's action of including his daughters with his sons in the inheritance is accepted without any comment which attempts to "explain it away" suggests that Job did not violate any injunction. The audience of Job seems to have understood it as it stands and see it as of one piece with the other biblical literature of which it is part. The first evidence we have of Job's having crossed the bounds of the permissible comes in The Testament of Job which tries to harmonize the book of Job and the law as it came to be understood from Numbers 27:8 (that only sons inherit).¹⁶⁷

This incident in Job is not the only indication in the Bible of women inheriting when they have brothers. What else could Rachel and Leah mean when they ask, "Have we still a share in the inheritance of our father's house?" in Genesis 31:14? Does this explain Achsah's conversation with her father Caleb in Joshua 15:18-19?

When she came [to him], she induced him to ask her father for some property. She dismounted from her donkey, and Caleb asked her, "What is the matter?" She replied: "Give me a present; for you have given me away as Negeb-land; so give me springs of water." And he gave her Upper and Lower Gulloth.

The practice in Ashkenazi communities in post-Talmudic times is to give the daughter one-half of a son's share, *על חצי בן*.¹⁶⁸ That may have been an innovation or may reflect a situation which was already occurring. We see that in the Islamic law of inheritance the practice is also to give the woman half of the share

of a man in a comparable position.¹⁶⁹

The inheritance rights of women vary; they minimally get a dowry but on other occasions receive additional inheritance shares like their brothers. It does belie the evidence to deny that women in general had inheritance rights.

7. DISCRETION WHICH A FATHER HAS TO DESIGNATE THE "FIRSTBORN"

A seventh cause of "dislocation" of primogeniture stems from the discretion which is accorded the father in designation of the heir. As we shall see, this discretion may be "absolute" or "justified" depending upon the circumstances of the individual situation; it is a part of the patria potestas to exercise this right. We saw above in our discussion of Deuteronomy 21:15-17 that the purpose of this passage is to reduce the father's authority in precisely this realm.

In the Ancient Near East it appears that the father's right to designate the level of "heirship" of an individual son is total and unlimited. We find the father making these designations among natural as well as adopted sons. A number of texts show the father either designating or confirming the designation of the individual son who has attained the status of "eldest son."¹⁷⁰ Sometimes, rather than indicating which individual will be the "eldest son," the father only signifies which wife's child will have this

status.¹⁷¹ Since one text speaks of what will happen if the man adopts a son as the "older son," we infer that this can be done.¹⁷² Another text stipulates that a woman may not designate another son to be joint heir with two others.¹⁷³

In transacting an adoption it is normal for the father to indicate where the adopted individual will rank in the inheritance. Usually an adopted son faces a proviso that he will be displaced as eldest son if a natural son is born subsequently.¹⁷⁴ On a few occasions the adopted sons will be treated as equals of any natural sons who may be born.¹⁷⁵ One tablet which describes the settlement of the father's estate states that a son of his who has received property from the testator's brother will NOT become a joint heir with the other brothers.¹⁷⁶ The normal course in the Ancient Near East seems to be that of the father's unquestioned role in designating a child's inheritance rank.

a. SUCCESSION OF THE KINGSHIP

The succession of the kingship in Israel seems to belong, at least to a large degree, to the king. It seems likely that if no compelling reason exists to the contrary, the oldest son does follow his father on the throne. But a variety of factors can change that situation. A king, like any other father, may select the son of his choice. Or, when there is more than one wife, a favoured child among the wives or concubines may be selected. Sometimes God's

choice is the influential factor.

The presumption of the kingship going to the firstborn as a general rule may be implied in the description of II Chronicles 21:3: "Their father gave them many gifts...but he gave the kingdom to Jehoram because he was the firstborn." Yet, while on the one hand this verse links succession to the throne with the state of being born first, it also may indicate that this in itself is not enough but appointment to the kingship is required in addition.

The evidence differs in I Kings 1:20 where Bathsheba tells David: "And so the eyes of all Israel are upon you, O lord king, to tell them who shall succeed my lord king on the throne." This verse suggests that the king's power to decide is absolute and authoritative, unrestricted and unchallenged, without the need for any basis. Indeed, we suggest that these two extremens set the range for the practice. If the firstborn is suitable, he likely will succeed his father as king. Yet, the king may, for no reason or his own reasons, select any heir. Connected to any of these options also is the possibility of God's (ostensible) role in the selection, as the ultimate choice may be attributed to God. In addition, sometimes the people enthrone the king.

Two examples of the people's involvement in the selection of the next king can be found in Jehoahaz (II Kings 23:30 = II Chronicles 36:1) and Ahaziah (II Chronicles 22:1). Interestingly, it states: "The inhabitants of Jerusalem made Ahaziah, his youngest son, king in his stead, because all the older ones had been killed

by the troops that penetrated the camp with the Arabs." Although the people choose Ahaziah, they do so following the rule-of-thumb that the eldest (or here, the eldest surviving) son follows his father as king. Jehoahaz, on the other hand, is younger than his brother Jehoiakim.¹⁷⁷

A father's choice of his successor can become more complicated when he has more than one wife. A favoured wife or concubine's influence may catapult her son ahead of others normally "in line" to rule. David's selection of Solomon arises from his promise to Bathsheba, a promise which he has to make good when Adonijah attempts prematurely to seize the crown. David is appraised of the situation by Bathsheba with a not-so-gentle reminder: "My lord, you yourself swore to your maidservant by the Lord: 'Your son Solomon shall succeed me as king, and he shall sit upon my throne'" (I Kings 1:17). David agrees to keep his word and responds to her (I Kings 1:30): "The oath I swore to you by the Lord, the God of Israel, that your son Solomon should succeed me as king and that he would sit upon my throne in my stead, I will fulfill this very day." Solomon becomes king even though he is one of David's younger children.¹⁷⁸

Rehoboam's choice of Abijah as his successor arises from his love of Maacah more than all his other wives. We learn in II Chronicles 11:18-22 (but not in the account in I Kings 14:31-15:2): "Rehoboam loved Maacah...more than his other wives and concubines... Rehoboam designated Abijah son of Maacah as chief (עֶלְיוֹן) and

leader among his brothers ($\text{לְרִאשׁוֹנֵי אֶחָיו}$), for he intended him to be his successor." We note in the words which the Bible uses to express this elevation the same terminology which we saw in the elevation of a younger son to the familial leadership normally held by the firstborn; it states that Abijah is "chief" and "leader among his brothers." This is not likely to be a serendipitous choice of words but rather the expression of a very subtle underlying message that Abijah's rise to power was not the normal pattern.

Lying somewhere between the right of the king to select his heir and that of the people to do so is the episode in II Kings 10:3 where Jehu challenges the rulers to appoint the best of the princes as their king. Obviously here the criterion is his being "best."

God's role in some of the choices is used to explain why certain individuals become king. Before Jehu has established his authority militarily, he is told (II Kings 9:6): "Thus said the Lord, the God of Israel: I anoint you king over the people of the Lord, over Israel."

We have seen already that Solomon's case has been strengthened by David's promise to the boy's mother Bathsheba. Solomon's legitimacy as king is presented as being "by the grace of God," not only by his supporters but also by his opponents. Adonijah, the disappointed "legitimate" successor of David, tells Bathsheba (I Kings 2:15): "You know that the kingship was rightly mine and that all Israel wanted me to reign. But the kingship passed on to my brother; it came to him by the will of the Lord." That is exactly

the approach that David takes, i.e. that God has chosen first of all David to rule and then Solomon to succeed him. Before his officers and other people of worth, David announces:

The Lord God of Israel chose me of all my father's house to be king over Israel forever. For he chose Judah to be ruler, and of the family of Judah, my father's house; and of my father's sons, He preferred to make me king over all Israel;¹⁷⁹ and of all my sons...He chose my son Solomon to sit on the throne of the kingdom of the Lord over Israel. He said to me, "It will be your son Solomon...for I have chosen him to be a son to Me, and I will be a father to him. I will establish his kingdom forever..." (I Chronicles 28:4-8)

David reiterates (I Chronicles 29:1): "God has chosen my son Solomon alone, an untried lad..." By showing the "divine right" to rule a father, could help substantiate and justify his personal choice for a successor.

b. IN ISRAEL: THE "LEAST" OF ALL

The Bible provides numerous illustrations of fathers using this freedom to select their heir, a freedom which seems to have existed regularly in the "good old days" before Deuteronomy 21:15-17 raised its ugly head. This expression of choice, the power of a father to pass over the child who seemingly stands next in line, is taken for granted in the Near East and by the kings of Israel. So, too, does it seem natural for the patriarchs.

As a matter of fact, in Israel the most unlikely sequence of

events transpires, for, in every generation, there seems to be a reversal of the expected norm. Even the ultimate selection of Israel, the "least" of the nations, stands out against the expected pattern. God Himself is upsetting the "norm"; this upsetting has divine sanction. After all, it is on Sinai, the lowest of the mountains, where God decides to give Torah.¹⁸⁰ God gives clear notice that the biggest, the most powerful, is not necessarily the best!

Abraham's clan responds by following this pattern. The son who becomes the pater familias is the son most suited to carry on the line with its attendant responsibility for transmitting the clan's unique religious belief — even when this results in bypassing the firstborn. It is within the realm of the father to speak the fate of his son and God goes along in this blessing.¹⁸¹ So Abraham's heir is Sarah's son and not Ishmael (Genesis 17:19-21), Jacob rather than Esau gains ascendancy (Genesis 25:23-34, 27:1-33), Jacob places Ephraim before Manasseh (Genesis 48:13-20), Reuben's demise is indicated by Joseph's and Judah's rise (Genesis 49:3-4; cf. I Chronicles 5:1-2). What is important is the individual involved.

Whereas the Bible gives recognition to the older through the use of words like firstborn and birthright, the message of the "story line" often contradicts that. It is not uncommon for a younger son to eclipse an elder son and, when this happens, it occurs without apology or comment but simply as "fact."

Gideon's reaction to being charged with leadership is one of surprise. At first he wonders how the Lord can be with them given what has occurred. When the reply is that Gideon should deliver Israel from the Midianites, Gideon responds: "'Please, my lord, how can I deliver Israel? Why, my clan is the humblest in Manasseh, and I am the youngest in my father's household.' The Lord replied, 'I will be with you...'" Gideon here acknowledges his standing; normal expectations have suggested that he is not the one who will become leader. This is so inconsequential a disability that the Lord's answer does not even address it.¹⁸²

Abimelech, in his ploy to attain power in Shechem, hires some "thugs" to kill his brothers. Of the seventy, only one survives. And who is he? Jotham, the youngest.¹⁸³

Saul's response to learning that he is to be made king is: "But I am only a Benjaminite, from the smallest of the tribes of Israel, and my clan is the least of all the clans of the tribe of Benjamin! Why do you say such things to me?"¹⁸⁴ Although in this instance Saul refers to his familial status and not his personal position, he draws attention to what would be expected. Obviously, it is no impediment; Samuel does not even answer Saul.

In these instances just cited we acknowledge that the motif of younger may be a literary element, a way of emphasizing humility.¹⁸⁵ Even if this is the case, symbolic language must fit the range of acceptability or the point will be missed. Therefore, the rabbis often question the text about the use of "younger" for

they recognize that the presumptive prominent individual is the elder. If someone else comes to the fore, there is a reason. It is this motivation which the midrash seeks to uncover. When they recognize that Japheth is older than Shem, it prompts a digression upon younger. Using the idea that Joktan (יֶקְטָן — which they construe as "minimising [יִקְטֵן] the importance of his affairs") is rewarded for that, they conclude that even a greater reward results from a great man's minimising his importance. That is how the midrash interprets Ephraim's being the younger; the word "יִקְטֵן" means that he minimised (יִקְטֵן) his importance. What did he thereby earn? He attained the birthright."¹⁸⁶ The same example in reverse (Ephraim, then Joktan) is repeated to help understand the implications of Jacob's act in Genesis 48.¹⁸⁷ In effect these midrashim raise the status of being younger from a liability to that of merit!

In addition, the Bible tells stories of humans; they are "real people" and, consequently, have their foibles. Any younger child (and a large share of the Bible's "audience" fits this category) has, at least on some occasions, seen his older brother or sister being something of a nuisance or bully. We find a hint of that in Eliab's treatment of David in I Samuel 17:28: "When Eliab, his oldest brother, heard him speaking to the men, Eliab became angry with David and said, 'Why did you come down here, and with whom did you leave those few sheep in the wilderness? I know your impudence and your impertinence...'" How these people must have cheered to

see that the younger does "have his day"!

c. CAIN AND ABEL

With the story of Adam's sons Cain and Abel we are, so to speak, "off and running" on a recurrent theme within Genesis, the ascendancy of the younger child. Without explanation the text announces that Abel's offering is acceptable and Cain's not. Much ink has been spilled in speculation of why this is so, but the answer to that question can never be sure. What is of interest is how this is interpreted. Ramban brings to bear the fact that Cain is the firstborn: "In my opinion the verse means: 'If you will mend your ways you will have your rightful superiority over your brother since you are the firstborn.'" ¹⁸⁸ In other words, all things being equal, Cain already has an extra "edge" since he is the firstborn. The implication of that is that Cain must have done something terrible to cause Abel to gain preference instead! Our first reaction is that this refers to the nature of the offering; Ibn Ezra, taking this tack, notes that Cain's offering seems not to be of prime fruit since firstfruits is mentioned only in connection to Abel's offering. ¹⁸⁹ Philo notes two charges against Cain, first that he made his offering not at once but "in the course of time," and, second, like Ibn Ezra, that he offered from the fruits and not from the "firstfruits." ¹⁹⁰ But it is Cain's character which ultimately becomes the determining factor for the

interpreters. Targum Pseudo-Jonathan depicts Cain's character by filling in the conversation between Cain and Abel which the Bible lacks. Cain does not show reverence for God but says, "There is no justice and there is no judge" ($\text{לֹא צֶדֶק וְלֹא שׁוֹפֵר} \dots$).¹⁹¹ Such a person is not likely to be the one chosen. Philo, too, notes differences in the characters of the two brothers, describing Abel as a "lover of God" but Cain as a "lover of self" for Cain's offering comes "after some days," not immediately, is "from the offerings" but not of the firstfruits, and is a "sacrifice" (meaning to Philo that he retains part) rather than a "gift" (in which case he would have given all of it).¹⁹² Cain's character also suffers derision by the rabbis in a way that has even less basis in the text. Cain is pictured as greedy; here, the unstated conversation of the Bible is "Come and let us divide the world [between us]." When that is done Cain devises a plan to obtain Abel's share also until, at last, he kills his brother. Greed is what motivates Cain here.¹⁹⁴ From the Bible we know only that God preferred the younger; the commentaries attempt to provide us with an acceptable justification for God's prejudice.

d. SHEM

Shem is the next outstanding example of a younger son who outshines his older brother. We saw above that the rabbis elaborate a series of reasons for the fact that the names of Noah's sons are

given in the order "Shem, Ham, and Japheth." They inform us that Shem is more righteous than his brothers, was born circumcised, he is Abraham's ancestor, he was a priest, the Temple is built in his territory, and the numerical value of his name (i.e. 340) is the number of years after the flood that the Lord suspended punishment from people. In other words, Shem's promotion is a result of his merit as a person and his "yichus" as Abraham's ancestor.

e. ISAAC

Even Abraham, as we saw in Chapter One, is questioned in terms of his firstborn status. However, when the Bible treats his son Isaac, there is no question that Isaac is not the firstborn son. Much of the biblical account of Abraham concerns his fruitless efforts to conceive a son by Sarah. In despair Abraham resigns himself to the fact that his slave Eliezer will become his heir but God reassures him that his heir shall be from his own seed.¹⁹⁶ Sarah's frustration results in her giving Hagar to Abraham so that she may have a son through her maid.¹⁹⁷ But this solution is not the best one, certainly not for Sarah and not even for God. God promises Abraham that he will have a son by Sarah and that it is with this son (to be named Isaac) that God will maintain the covenant.¹⁹⁸ In fact, God's command to Abraham treats Ishmael as if he does not exist since God calls Isaac Abraham's "only son."¹⁹⁹ The Bible puts the preferential treatment not into

Abraham's hands but God's. The midrash elaborates that attitude; in its interpretation of Genesis 25:5 ("Abraham willed all that he owned to Isaac") the midrash depicts Abraham as "begging the question" and refraining from blessing any of his children. It concludes with the comment: "After the death of Abraham, God blessed his son Isaac" (Genesis 25:1).²⁰⁰ According to the Bible, God not only blesses Isaac but also condones Sarah's hostility toward Ishmael²⁰¹ and God Himself tells Abraham to accede to Sarah's demand to expel Ishmael.²⁰²

We would like to suggest that God has even given Abraham the authority to do this on his own, if he were to choose to do so. In Genesis 12:2 the Lord tells Abraham, "you shall be a blessing." Rashi interprets this to mean that God tells Abraham: "Be the source of blessing." Rashi expounds this with the explanation, "And you will bless whomever you wish."²⁰³ In other words, Abraham has God's permission to select the child whom he will bless.

Abraham, however, has good ground on which to base his selection. Ishmael is depicted as "a wild ass of a man;/ His hand against everyone,/ And everyone's hand against him..."²⁰⁴ Abraham would be justified in passing over Ishmael. Despite this, Abraham does not ignore Ishmael or his other sons, even though he has the permission to do so. We learn that Abraham gave his other children gifts²⁰⁵ and God has already guaranteed Ishmael's inheritance in the promise to Abraham, "I will make a nation of him, too, for he is your seed."²⁰⁶ Thus, Isaac's elevation does not

come at the expense of Abraham's other children.

According to the Bible and the midrash Isaac's merit is that God has chosen him to be Abraham's heir. Abraham is, if anything, reluctant to show preference to Isaac. God's will prevails and it is Isaac who attains the birthright.

f. JACOB

Jacob's competition for authority with his brother Esau begins even before birth, in the womb. Rebekah finally conceives and then "the children struggled in her womb..."²⁰⁷ What was the struggle? Later Scripture states by way of explanation: "In the womb he [Jacob] tried to supplant his brother."²⁰⁸ The rabbis attempt to explain what the nature of these struggles were. Several suggestions result: they ran to slay one another, they annulled each other's laws, and Esau was antagonistic to Jacob even from this time.²⁰⁹ Rebekah, too, seeks an explanation; the Lord answers in an oracle that two nations will emerge and that they will vie for power. This struggle will result in the younger's predominance.²¹⁰

It would seem reasonable that, knowing which child will ultimately gain pre-eminence, this child would be the first one born. However, the oracle specifically states, "the older shall serve the younger." That is possible but not the expected, especially for the rabbis whose world is ruled by the dictate of

Deuteronomy 21:15-17 which denies approval for a father's capricious elevation of a child. So the rabbis try to find an explanation for this "turn" of events. One tale they weave is that of Jacob and Esau being tossed up and down in the womb like waves of an ocean; each kept asserting that he would be first to emerge. Finally, Esau claims that if Jacob does not permit Esau to be born first, he will kill his mother and emerge through the wall of the stomach. Jacob acquiesces at this point to save their mother.²¹¹

Rashi's account of Jacob's "upsetting" the order preserves a very different version. He compares the situation of the twins in the womb to that of two stones in a narrow-necked bottle. When one goes to dump the stones out, the last stone in will be the first stone out. Thus Esau emerges from the womb before Jacob who was first in formation and, consequently, the rightful firstborn.²¹²

The conflict continues, first as children when they battle over the birthright and then as adolescents when the time comes for Isaac to bless his heir.²¹³ Since we treated these episodes at length above, we shall not deal with them here. We note that in the account of Genesis 27 Jacob uses the title firstborn for himself. This term is not appropriate as we discussed earlier; that is, רִאשׁוֹן is used of the chronological firstborn rather than the one who assumes the prerogatives of the firstborn. The rabbis feel, as we do, somewhat uncomfortable with this use of the term by Jacob. They notice that in Genesis 27:19 Jacob's word firstborn like Esau's in Genesis 27:32 is spelled רִאשׁוֹן ; this inspires their comment: "The

word is $\gamma\theta\eta$ since he already has sold the birthright. Neither about Jacob nor about Esau is it stated $\gamma\theta\eta$ ($\gamma\theta\eta$).²¹⁴ In their minds each one at this point is a "quasi-firstborn."²¹⁵ Perhaps a comment about Isaac's violent reaction²¹⁶ to what he has done is germane to this same idea of "firstbornship" being in transition. The midrash notes that it is very difficult for the Holy One to upset the chain of genealogy. This is why, according to this account, that it is Esau and not Jacob whom Isaac summons to receive the blessing.²¹⁷

Other accounts explain Jacob's gaining of the firstborn's perquisites because of his proper motivation. The targum to the verse changes Jacob's action from that of guile to wisdom!²¹⁸ In addition, the midrash reminds us that the firstborn performed sacrifices before the building of the Temple. Accordingly, Jacob is appalled that his wicked brother will be doing that. It is for this reason that Jacob strives to obtain the birthright.²¹⁹

That is to say, rather than focusing on what Jacob has done to "upset" the order, the rabbis instead turn their attention to the "rightness" of his action. This appropriateness is maintained from several aspects. One approach is to show that Esau's basic nature is wicked. Esau is accused of sinning not just against his father but against his fathers; he also sinned against his mother.²²⁰

The rabbis add that it was Esau's evil deeds which caused him to forfeit his birthright.²²¹ In fact, on the day of Abraham's death Esau is accused of committing five sins; on that day he supposedly

dishonoured a maiden, murdered, denied God, denied the resurrection of the dead, and spurned the birthright!²²² Philo's discourse on virtue uses Esau as an example of an individual unfit to inherit the patrimony. Esau, Philo contends, is disobedient, indulgent, and wilful, bringing such reproaches on himself that he serves as a patent proof that for an individual unworthy of nobility, nobility has no value.²²³

Besides, the midrash informs us that Jacob and Esau divide the world between themselves while still in the womb. Since Esau denies the resurrection of the dead, he selects this world as his portion while Jacob chooses the world to come.²³⁴ Such a division places the birthright within Jacob's share. In addition, the distinction between the characters of these twins is apparent while they are yet unborn. A midrash tells us that the struggling which the Bible notes refers to the fact that, when Rebekah stood near schools or synagogues, Jacob struggled to emerge whereas Esau attempted to come out when she passed idolatrous temples.²³⁵

Still other midrashim speak specifically of Jacob's merit and the "rightness" of his receiving the blessing in place of his brother Esau. According to the rabbis, Esau is delayed in the hunt so that Jacob can receive the blessings. And, although Isaac feels some misgivings about what he has done, he soon realizes that he has acted correctly and acknowledges this by stating, "Rightly did I bless him" to which Scripture adds, "and he shall be blessed."²²⁶

The rabbis do not leave it at that level but go on to laud

Jacob. They call Jacob the "chosen one" of the Patriarchs²²⁷ and claim that Abraham is created and preserved only for Jacob's sake.²²⁸ Not only Abraham but heaven and earth as well are created only for the sake of Jacob.²²⁹ Elsewhere, all the successes of Israel in this world as well as the Torah which Israel performs are attributed to Jacob's merit.²³⁰

Even without any of the foregoing, Jacob is the one destined to be the continuation of Abraham's line because of divine choice. The oracle of Genesis 25:22-23 clearly announces before the birth of the boys that the younger will be "number one." In case we find that statement ambiguous, God proclaims: "Esau is Jacob's brother; yet I have accepted Jacob and have rejected Esau."²³¹ The rabbis continue the theme of Jacob's divine selection which the Bible has begun. God announces that Israel is His firstborn.²³² The Holy One gives His approval to Jacob's desire for the birthright according to the midrashic exposition of the verse in Job, "He withdraweth not His eyes from the righteous."²³³ In fact, the rabbis point out that it was God who prompted Isaac to bless Jacob.²³⁴ And so it would seem that when everything is evaluated, all the other justifications for Jacob's surpassing of his brother Esau represent the working out of the divine selection of Jacob!

g. JOSEPH

Joseph is his father's favourite so it comes as no surprise

that ultimately he attains one of the pieces of the birthright, i.e. the religious priority.²³⁵ In fact, clues that this will happen occur scattered throughout the narrative in the latter third of the Book of Genesis. Scripture gives a detailed account of the order and circumstances of birth of each of Jacob's sons and there is no doubt that Joseph is the eleventh son (twelfth child) born to Jacob.²³⁶ When the text gives the line (וְיִשְׂרָאֵל) of Jacob, however, it is quite noticeable that one and only one child — Joseph — is mentioned. Needless to say, that statement is indicative of Jacob's imputed "attitude" but does not accurately reflect the composition of the family. Because of this, Rashi feels compelled to comment on this unusual statement. After giving the literal interpretation of the verse, Rashi turns to the midrash which, he explains, regards all of Jacob's sons as secondary to Joseph for several reasons. First, it is only for Joseph's mother Rachel that Jacob works for Laban.²³⁸ Also, Joseph's face resembles Jacob's.²³⁹ In addition, what happened to Jacob happened to Joseph.²⁴⁰

Two more clues to Jacob's partiality follow in the next verse: "Now Israel loved Joseph best of all his sons, for he was the child of his old age; and he had made him an ornamented tunic."²⁴¹ Jacob's preference for Joseph is made plain and evident although the reason why does not seem entirely plausible; Benjamin is, after all, even more a child of Jacob's old age. The targum gives a different reason, instead of making Joseph a son of Jacob's old age, Joseph is

identified as being "wise."²⁴² Whatever the reason, Jacob's favouritism is reasserted by the special gift given to Joseph, the ornamented tunic. First of all, this elegant present reminds us of one of the ways a firstborn could be "compensated," i.e. with a preferential gift. Also, while the precise nature of this coat is not known, it is obviously something out of the ordinary. So this gift is but one more signal pointing to the eventual selection of Joseph to fulfill part of the role normally allotted to the firstborn.

In the blessing with which Jacob blesses each son in Genesis 49 only one blessing is entirely positive in tone, the one given to Joseph.²⁴³ That fits what become explicit in I Chronicles 5:1-2 where the birthright passes to Joseph from Reuben. Since it is only in I Chronicles 5:1-2 in which it is made explicit that the birthright is stripped from Reuben and divided between Joseph and Judah, we ask a valid question of the text if we question the veracity of this account. Support for the Chronicles reading comes in strong form in all three targumim to Genesis 49:3-4 where specific reference is made to the three extra portions which Reuben should have received because of his birth - the birthright, the high priesthood, and kingship. Instead, Reuben's actions with Jacob's wife causes these privileges to be given respectively to Joseph, Levi, and Judah.²⁴⁴

The extra portion of the birthright which Joseph receives in place of Reuben may be what is described in Genesis 48:22 where

Jacob announces: "And now, I give you one portion more than your brothers..."²⁴⁵ We read this verse in much the same way as Ramban, taking *paqel* to be an extra portion. Since this verse follows the story of Jacob's elevation of both Joseph's sons to the status of Jacob's own sons (which, as we suggested above, serves as a subtle way to "promote" Joseph into possession of a double portion), we would read this verse as a "summary" to the account of Genesis 48. Ramban suggests much the same thing:

"Moreover I have given to thee one portion above thy brethren." After he had blessed Joseph's children and made them two tribes, he returned to Joseph and said to him: "...I have already given you the one portion in my power to bestow —namely, the portion of the birthright—to be yours above that of your brothers,..." All this is a conciliation to Joseph and a manifestation of his love for him, for he informed him that he gave him the birthright, meaning that his sons will henceforth be blessed by becoming two tribes... Jacob thus told him: "I have done for you all the good which I was able to do for you as long as it was in my power to do it." Jacob's right in the Land was but one portion for he had no right to divest any of his sons of his inheritance. Only the birthright was his to give to whomever he pleased, and it was to Joseph that he gave it.²⁴⁶

Joseph's "acquisition" of the birthright is based on the fact that he is firstborn son of the wife (as indicated by Genesis 37:2: "This, then, is the line of Jacob. Joseph..."). This must be the reason why his father favours him and, given the opportunity which Reuben obligingly provides, grants Joseph "title" to the prerogative which Jacob has been giving Joseph throughout the boy's

life. Even though Jacob is entitled to act this way the midrash goes on to show that Joseph is also the child "fit" to be the next link in the chain of Abraham's family. One midrash on Genesis 48:22 tells that because Joseph buries Jacob, Jacob gives Joseph a place for his burial, i.e. the territory of Shechem.²⁴⁷ In addition, the grounds for Reuben's "disqualification" is his sexual offence; this is precisely what Joseph avoids in refusing the advances of the wife of Potiphar.²⁴⁸ Not only do Joseph's deeds entitle him to possess the birthright²⁴⁹ but he receives it against his will²⁵⁰ even as it is difficult for God to sanction this switch in possession of the birthright.²⁵¹ Joseph, like his father Jacob, deserves the birthright because they both are "absolutely righteous."²⁵² Although Jacob's right of discretion or the status of Joseph's mother suffices to give him legitimate claim to the birthright, the rabbis add evidence that Joseph actually deserves it as well.²⁵³

h. MANASSEH AND EPHRAIM

Jacob's blessing of Ephraim and Manasseh plays a dual role in the process of promotion of a younger child in place of the elder son. For, as we have already seen, Jacob's counting of these two sons of Joseph in the same way as he counts Reuben and Simeon surreptitiously gives Joseph a double portion. This serves by fiat to give Joseph the birthright. However, in the process of this act,

Jacob places the younger Ephraim before Manasseh.²⁵⁴ In a great twist of irony Joseph, who himself has profitted from paternal "promotion," is annoyed at Jacob's act. The justification for this act as stated in the Bible and the midrashim is not so much a justification as it is the enumeration of the ways in which Ephraim precedes or supercedes Manasseh in later history.²⁵⁵ The rabbis later try to "justify" this switch and Ephraim, as we saw above, is given honour for "minimising" himself.²⁵⁶ This seems to be a case solely of fatherly — or here, grandfatherly — preference!

i. REUBEN

Reuben represents a prime example of a son who has every expectation of becoming head of the family only to have the privileges and honour snatched from him! While there is no denying the fact that chronologically Reuben is first of all the sons, he loses the birthright to Joseph, the leadership to Judah, and, according to the rabbis, the priesthood to Levi. While signs must have been clear to him throughout his life — after all, how could he not have seen Jacob's partiality first for Joseph and, when it seemed that Joseph was dead, then Benjamin? — he must still have hoped that his "right" would prevail. We see him trying to fulfill the role of firstborn when his brothers wish to kill Joseph.²⁵⁷ The Bible gives scant notice of Reuben's downfall: "...Reuben went and lay with Bilhah, his father's concubine; and Israel found

out."²⁵⁸ For that reason, Jacob withdraws from him the benefits of being first born.²⁵⁹

There is some question as to exactly what Reuben has done. The Septuagint adds to Genesis 35:22: "and the thing appeared grievous before him." But the rabbis prefer the opposite point of view. Their explanation is that what Reuben has done is only move Jacob's couch from Bilhah's tent to Leah's!²⁶⁰

Because it is only in I Chronicles that the Bible actually enunciates Reuben's demotion, the question may be raised whether this is an error. Evidence which helps to verify this reading is the fact that the three targumim to Genesis 49:3-4 give similar information.²⁶¹ Here we have the details of the "breakup" of primogeniture rights — Reuben remains firstborn in terms of genealogy²⁶² with Jacob, Judah, and Levi each receiving other pieces of the primogeniture. When considered as a whole Reuben seems to suffer because of Jacob's special love for Rachel and, consequently, Joseph. This makes Reuben's one small error the grounds which Jacob needs to divide the birthright as he prefers.

j. JUDAH, MOSES, DAVID, SOLOMON

Joseph is not the only brother who profits from Reuben's misfortune; Judah, also, receives part of the honour. Judah's pre-eminence is the kingship; it is from his descendants that David arises.²⁶³ In addition, Judah's name gives the name by which the

tribes are called — *שְׁבִיבִי* ! Judah has earned this distinction, according to the midrash, because he saved Joseph from death at his brother's hands.²⁶⁴

Judah's sons Perez and Zerach follow this same pattern of younger upstaging the elder.²⁶⁵ In this instance no explanation is given; it is simply God's decision. It does contain a link of David (the youngest) from Perez the younger son of Judah a younger son of Jacob the younger son of Isaac.

Moses is the youngest child²⁶⁶ in his family and becomes the leader of the people. Moses' rise to prominence is accepted as right, not explained. Typical of the attitude towards his merit is a comment in the Talmud: "Blessed be the Merciful One who gave a threefold Torah to a threefold people through a thirdborn [Moses] on the third day in the third month."²⁶⁷

David is the youngest²⁶⁸ in his family but, as we have seen above in relation to the kingship, is selected by God. This is expressed not only in the historical narrative²⁶⁹ but also figuratively in Psalm 89:28: "I will appoint him [David] firstborn,/ highest of the kings of the earth." According to the words of consolation given to the moon to appease its sorrow at being smaller than the sun, its small stature is its merit just as it is for Jacob, Samuel, and David.²⁷⁰ And David, like a number of other "sevenths," is shown to be a special favourite.²⁷¹ For David God's selection of him makes him the unquestioned "firstborn, the highest of the kings of the earth"!

Solomon's promotion stems from two areas; Solomon is the son of David's favourite wife and Solomon is chosen also by God. It is difficult to put David's children into a definite order since they are enumerated wife by wife but, according to the account in I Chronicles 3:5, it seems that Solomon is the fourth (and youngest) son of David's children by Bath-shua. Besides, we know that all the children born in Hebron are older than Solomon. Certainly he is not "in line" for succeeding David; Adonijah works hard at trying to strengthen his own candidacy.²⁷² But David has sworn an oath to Bathsheba that Solomon will become the next king and he confirms his intention to fulfill this pledge.²⁷³ Immediately David has Solomon anointed king.²⁷⁴

When we read the reiteration of this incident in Chronicles, we find a new understanding of the "selection process." Here David speaks of God's choice first of David himself and then of Solomon. Solomon, David explains, has been chosen to sit on the throne, to build the Temple, and "to be a son" to the Lord who will, in turn, be "a father" to Solomon.²⁷⁵ This account attempts to show a rationale for Solomon's ascendancy which is more than David's particular love for one wife!

8. MODEL OF "DIVINE ELECTION"

This explanation of Solomon's promotion brings us to the eighth

cause for "dislocation" of primogeniture, namely, the model of divine election. This model itself functions on two levels, the election of Israel and the choice of specific individuals.

Throughout biblical history God, time after time, selects the individual who is special. Israel as a whole has also been selected.

We see divine interest in Noah,²⁷⁶ Shem,²⁷⁷ Abraham,²⁷⁸ Isaac,²⁷⁹ Jacob,²⁸⁰ Ephraim,²⁸¹ David,²⁸² and Solomon.²⁸³

While in some instances merit has been demonstrated, God's prerogative does not require merit. It is God's right to choose whom He will.

The other part of this model is that of God's selection of Israel. God's will, for whatever reason, is to select Israel for a special relationship. Israel is the Lord's "first-born son,"²⁸⁴ with a father-son relationship to the Lord and who receives a good inheritance.²⁸⁵ Just as God selects Israel to be special among His sons, a father sometimes does that among his own sons.

It is evident that many different factors combine in causing the elevation of a particular son to the honour and privileges normally accorded the firstborn. Sometimes merit is involved, sometimes divine preference, while on other occasions it is strictly partiality. Each situation must be evaluated on its own. Taken together, it shows that the situation expressed in the Bible reflects much variation and flux with no one rule governing every case.

FOOTNOTES

CHAPTER THREE

¹Samuel Greengus, "The Old Babylonian Marriage Contract," JAOS 89 (1969), p. 513.

²We have departed from the English of the JPS translation in verse 1 because it is, we feel, Joseph's sons, not Reuben, who are not called "firstborn" when the genealogy is presented. The Hebrew specifies no subject for the clause which follows the athnâhta. However, the most recent individual mentioned is Joseph's offspring. Besides, verse 3 resumes with the identification of Reuben as רְעֹובֵן בְּנוֹת. Additionally, none of the lists of the children of Jacob begins with Joseph's sons.

³A possible exception to this occurs in II Chronicles 36:2,5. For a discussion of this, see below.

⁴This is basically the same as Siphre to Deuteronomy, p. 250, and Midrash Haggadol, both on Deuteronomy 21:17.

⁵Siphre, *ibidem*. Also, v. Bekhoroth 8:9.

⁶Antiquities IV.viii.23.

⁷On the Special Laws, II, 133 (on Deuteronomy 21:15-17).

⁸Tosephta Sota 6:6.

⁹G.R. Driver and John C. Miles, The Assyrian Laws (Oxford: Clarendon Press. 1935), p. 427. The principle involved here is "cuius est divisio, alterius est electio." V. pp. 295-296. This is also cited in James P. Pritchard, editor, Ancient Near Eastern Texts Relating to the Old Testament (Princeton, New Jersey: Princeton University Press. 1969), p. 185, Tablet B, #1.

¹⁰E.A. Speiser, "New Kirkuk Documents Relating to Family Laws," AASOR X (1930), pp. 1-73.

¹¹C.J. Gadd, "Tablets from Kirkuk," RA XXIII (1926), pp. 49-161.

¹²J. Marvin Breneman, Nuzi Marriage Tablets (Ann Arbor, Michigan: University Microfilms. 1974 [Brandeis thesis, 1971]).

¹³Jonathan S. Paradise, Nuzi Inheritance Practices

(Ann Arbor, Michigan: University Microfilms. 1978 [University of Pennsylvania thesis, 1972]).

¹⁴Pritchard, op. cit., p. 545 #13.

¹⁵G.R. Driver and John C. Miles, The Babylonian Laws (Oxford: The Clarendon Press. 1956²), Volume II, pp. 341, 345-349.

¹⁶Ibid., Volume II, pp. 65-67; for commentary, see Volume I, pp. 350-351.

¹⁷Ibid., Volume II, p. 63.

¹⁸Paradise, op. cit.

¹⁹Speiser, op. cit., p. 38.

²⁰Driver and Miles, The Babylonian Laws, Volume II, pp. 63-65.

²¹Paradise, op. cit.

²²Gadd, op. cit.

²³Breneman, op. cit.

²⁴Speiser, op. cit.

²⁵During the course of time the father's freedom to set his own division for inheritance disappears. While Ancient Near Eastern and biblical society accept this prerogative for the father, by the rabbinic era there is a need to set the bonus for primogeniture at a double portion rather than two-thirds. The fact that the midrashim and Talmud investigate both "two-thirds" and "double portion" as the meaning of $\text{שְׁלֹשָׁה רְבָעִים}$ suggests that the father retains the right of discretion up to this period even if his authority has probably become less flexible by then.

²⁶Cf. Herbert C. Brichto, "Kin, Cult, Land and Afterlife — A Biblical Complex," HUCA XLIV (1973), pp. 1-54.

²⁷E.g., I Samuel 17:13, II Samuel 3:3, and I Chronicles 5:12.

²⁸II Samuel 18:18.

²⁹Isaiah 56:5.

³⁰Jeremiah 34:5.

³¹II Chronicles 16:14 and 21:19.

³²Breneman 97 (HSS XIX 45), 99 (HSS XIX 40), 100 (HSS V 57), 102 (JEN 572), 108 (HSS XIX 52); Paradise C-1 (HSS XIX 9), C-4 (HSS V 60), C-5 (HSS V 67), C-10 (JEN IV 410), and C-40 (HSS XIX 47).

³³Breneman 103 (HSS XIX 49).

³⁴Speiser 19 (HSS V 71); Paradise C-13 (HSS XIX 1), C-28 (HSS XIX 28), and C-32 (HSS XIX 2).

³⁵Paradise C-11 (HSS IX 22).

³⁶Breneman 106 (HSS XIX 39).

³⁷Paradise C-10 (JEN IV 410) and C-40 (HSS XIX 47).

³⁸Gadd 51 (Paradise C-8); Paradise C-9 (JEN I 59) and C-31 (HSS XIX 44).

³⁹Gadd 51 (Paradise C-8); Paradise C-4 (HSS V 60), C-9 (JEN I 59), and C-31 (HSS XIX 44).

⁴⁰Middle Assyrian Laws, Tablet A, §46; Paradise C-44 (HSS XIX 24).

⁴¹Middle Assyrian Laws, Tablet A, §46.

⁴²Gadd 9 (Paradise C-52).

⁴³Gadd 51 (Paradise C-8).

⁴⁴Paradise C-4 (JEN IV 410).

⁴⁵Gadd 9 (Paradise C-52); Breneman 106 (HSS XIX 39); Paradise C-9 (JEN I 59), and C-11 (HSS IX 22).

⁴⁶Paradise C-28 (HSS XIX 28).

⁴⁷A. van Selms, Marriage and Family Life in Ugaritic Literature (London: Luzac and Company, Ltd. 1954), p. 100.

⁴⁸Middle Assyrian Laws, Tablet A, §46.

⁴⁹We see this same thing happening in the Bible as well as in the Ancient Near Eastern texts. Reuben lies with Bilhah (Genesis 35:22), Abner with Rizpah (II Samuel 3:7), Nathan gives David control of his master's wives (II Samuel 12:8), Absalom sleeps with David's concubines (II Samuel 16:21-22), Adonijah requests

Abishag the Shunammite as wife (I Kings 2:21-22). In addition to the Middle Assyrian Laws, cf. The Code of Hammurabi §§157-158.

⁵⁰E.g. David Daube, Studies in Biblical Law (New York: KTAV, 1969), pp. 199-200.

⁵¹Herbert C. Brichto makes a very clear statement of this distinction in his article "Kin, Cult, Land and Afterlife — A Biblical Complex," (v. supra, note 26), p. 45, footnote 73:

It is well to shun the danger of overinterpretation. Yet if the double account of Jacob's acquisition of primogenitural rights reflects in one case the economic and in the other the religious aspect of primogeniture, the following is likely. Isaac's blessings in Gen. 27 relate (prophetically, of course, and in respect to the two sons' lines of descendants) to material prosperity and political dominance. This would point to the conclusion that the narrative in Gen. 25:27-34 relates to the prerogatives of the "firstborn" in the matter of religious or cultic precedence. Hence, what we are only able to guess at through the obscuring interposition of Time's veil would have been immediately intelligible to every Israelite: Esau's scorning of the birthright (v. 34: אֶשָׂא אֶת־הַיְּמִינִי וְאֶת־הַיְּמִינִי אֶת־הַיְּמִינִי is hyperbole, equal to our own, "I am dying of hunger;" in v. 30 Esau describes his state as merely exhaustion) constituted scorn for the role of the propagator of the religious tradition; he sold this prerogative for the proverbial "mess of pottage."

⁵²Genesis 27:27-29.

⁵³Malbim's comment on Genesis 25:29 reflects this fact. He states: "The significance of the birthright is that the firstborn was set apart for the service of the Lord while the rest of the sons were to engage in worldly affairs...." Cf. Rashi ad Genesis 35:23 and Numbers Rabbah 4:8 which talks about the firstborn offering sacrifices.

⁵⁴We realize that we must take care not to give midrash more weight than it can sustain. Midrash reflects the age of its author as much as, if not more than, the text it attempts to explicate. But at the very least the midrash represents a stimulating, careful reading of texts. In the midrash the rabbis

explore motivations and backgrounds, asking these important questions of the text.

⁵⁵Cf. Baba Bathra 16b and Pesikta Rabbati 12:4.

⁵⁶Reuben Ahroni, "Why Did Esau Spurn the Birthright?: A Study in Biblical Interpretation," Judaism 29 (1980), p. 324.

⁵⁷Cyrus H. Gordon, "Biblical Customs and the Nuzu Tablets," BA III (1940), p. 5. It has been cited by many others in this same context.

⁵⁸Thomas L. Thompson, The Historicity of the Patriarchal Narratives (Berlin: Walter de Gruyter, 1974), pp. 282-283.

⁵⁹Ramban ad Genesis 25:31 (Chavel, p. 318).

⁶⁰Ibid., p. 319.

⁶¹Menachem Elon, editor, The Principles of Jewish Law (Jerusalem: Keter Publishing House, 1975), column 213: "Sale."

⁶²Ibid., v. Baba Mezi'a 33b. (Soncino, p. 209).

⁶³Elon, ibidem, based on Yad, Mekhirah 22:5.

⁶⁴Elon, column 450 ("Succession") based on Tur, HM 278 and Shulchan Aruch Hoshen Mishpat 278:10.

⁶⁵This is not a technical adoption; Jacob's estate will include them like sons in terms of its division.

⁶⁶There is debate over Genesis 48:22 אֲנִי נָתַתִּי לְךָ אֶת אֶרֶץ מִצְרָיִם but "And now, I give you one portion more than to your brothers" is a likely possibility after examination of the targumim.

⁶⁷Genesis 50:15-17.

⁶⁸See above.

⁶⁹Radak ad I Chronicles 3:15.

⁷⁰V. II Kings 23:30-36 and its parallel II Chronicles 36:1-5.

⁷¹Radak ad I Chronicles 3:15. However, we note that this may represent a textual problem rather than a misuse of vocabulary.

⁷²Tikva Frymer-Kensky, "Patriarchal Family Relationships and Near Eastern Law," BA 44 (1981), p. 211.

⁷³Ramban ad Genesis 25:34 (Chavel, pp. 322-323).

⁷⁴The inheritance of daughters will be discussed below.

⁷⁵Also, cf. Exodus 13:2, 22:28-29, 34:19-20, and Deuteronomy 15:19.

⁷⁶Also, cf. Numbers 8:17: "For every first-born among the Israelites, man as well as beast, is Mine; I consecrated them to Myself at the time that I smote every first-born in the land of Egypt."

⁷⁷N.B. If the connection of the firstborn as God's own comes from the Tenth Plague, that sheds an interesting light on our discussion of Deuteronomy 21:15-17 in the preceding section. Because the patriarchs lived before that time, the special tie of the firstborn to God did not yet exist. This may have left a mark on the nature of the firstborn in general in pre-Exodus-from-Egypt days!

⁷⁸V. Exodus 13:1-12, Numbers 18:15; also, in terms of redemption: Exodus 13:13, 34:20; giving to the Lord — Exodus 22:28.

⁷⁹V. Numbers 3:11-13, 3:41, 3:45, 8:16-18.

⁸⁰V. Numbers Rabbah 4:8 and 6:2.

⁸¹V. Exodus 13:13, 34:20.

⁸²Bekoroth 8:1.

⁸³Baba Bathra 122b-123a.

⁸⁴Baba Bathra 133b.

⁸⁵Baba Bathra 124b.

⁸⁶Genesis 35:22; cf. Genesis 49:4 and I Chronicles 5:1-3. Cf., also, Rashi ad Genesis 35:23, Genesis Rabbah 98:4, Midrash Haggadol ad Genesis 35:22-23.

⁸⁷Baba Bathra 123a; also, Yalkut Shimoni 1076:5. Cf. Genesis Rabbah 98:4.

⁸⁸Tanchuma Buber, Toledoth 23; also Yalkut Shimoni

1076:5.

⁸⁹Note that Jacob is not called the "firstborn" except when he himself uses that identification while deceiving his father Isaac. Should we learn from this that, although Jacob acquires both the birthright and the blessing, even he cannot assume the status of firstborn? In fact, perhaps this explains why the order of the names at the burial of Isaac is Esau and Jacob (Genesis 35:29) whereas it is Isaac and Ishmael who bury Abraham (Genesis 25:9). After all, Ishmael's status as son of a woman not Abraham's wife is grounds for disqualification as firstborn according to the rabbis. (See above.)

⁹⁰Tanchuma Buber, Toledoth 23.

⁹¹M. Tsevat, "b^ekhôr" in Theological Dictionary of the Old Testament, ed. G. Johannes Botterweck and Helmer Ringgren, translator John T. Willis (Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1975) Volume II, p. 125 [III.2.b].

⁹²E.g. Exodus 13:2, 15 and Numbers 3:12, 8:16, 18:15.

⁹³Ramban ad Exodus 12:30 (Chavel, p. 146).

⁹⁴J. Milgrom, "First-born," in IDB Supplementary Volume, pp. 337-338.

⁹⁵V. I Chronicles 2:19-20, 42.

⁹⁶I Chronicles 2:50. This is repeated in I Chronicles 4:4.

⁹⁷Midrash Haggadol ad Deuteronomy 21:17.

⁹⁸M.M. Kasher, Torah Shelema (Jerusalem: Azriel, 1938), Volume 7, p. 1769, #142 (from Midrash Agadah).

⁹⁹Yalkut Shimoni, I, 132, ad Genesis 32:25-33.

¹⁰⁰Tur, Hoshen Mishpat 278.

¹⁰¹Genesis Rabbah 98:4 (Soncino, p. 949).

¹⁰²Bekoroth 46a and Yoreh Deah 305:17.

We know that one cannot redeem the son of a Cohen or Levite because their sons belong to the Lord. What is truly amazing is that, in terms of pidyon haben, the child is not redeemed also if the mother is bat Cohen or Levi. This preserves a role for women in the domain of "succession" which sees no parallel elsewhere in halakhic procedure!

¹⁰³Cf. Genesis 37:2 where Bilhah and Zilpah are called Jacob's wives ('אִלָּנָה 'עַל).

¹⁰⁴The precise relationship between Abraham and Hagar is unclear; is she a wife or a concubine? At least according to Genesis Rabbah 45:3, Sarah gave Hagar to Abraham to be a wife, but not a concubine.

¹⁰⁵This language (rival) also occurs in Genesis Rabbah 71:7 (Hebrew, 71:10).

¹⁰⁶In Genesis 31:4 Rachel's name precedes Leah's, implying a preferential order which becomes explicit in Genesis 33:1-2: "...He divided the children among Leah, Rachel, and the two maids, putting the maids and their children first, Leah and her children next, and Rachel and Joseph last." This order is reiterated in Genesis 33:6-7: "Then the maids, with their children, came forward and bowed low; Leah, too, with her children, came forward and bowed low; and lastly, Joseph and Rachel came forward and bowed low." Cf. also Genesis 37:3: "Now Israel loved Joseph best of all his sons..."

¹⁰⁷Driver and Miles, The Babylonian Laws, Volume II, p. 61.

¹⁰⁸Thompson, op. cit., pp. 288-289.

¹⁰⁹Gadd, op. cit, and Breneman, op. cit.

¹¹⁰As indicated above, the nature of the relationships is not stated explicitly.

¹¹¹Cf. Rashi ad Genesis 16:2 and 30:3; Genesis Rabbah 45:2 and 71:7 (Hebrew text, 71:10).

¹¹²Driver and Miles, The Babylonian Laws, Volume II, p. 55. Yet we have an Old Assyrian, 19th century B.C.E. marriage contract (ANET³, p. 543, #4) which seems to give the wife the right, if she wishes, to dispose of the slavewoman whenever it pleases after the slavewoman has produced a child.

¹¹³For texts, see the next paragraph.

Given the fact that most contracts preclude a concubine if the wife has given birth, this clause seems to address a situation as common in ancient times as it is now. "Adoption" many times serves as a "remedy" for infertility. When that happens, a situation like that of Abraham, Sarah, and Hagar results. This clause would protect the wife and her offspring even when they are younger than the concubine's children.

¹¹⁴For texts, see p. 109.

¹¹⁵For texts, see the bottom of p. 109.

¹¹⁶In regard to this text there is a lack of consensus in translation. Skaist translates the clause to say that he may not take a concubine while the CAD renders it that he cannot make her a concubine or a wife of a lower rank. See Breneman, *op. cit.*, pp. 32-35, for a discussion of the text. The translation of the CAD would allow for his taking an additional wife, so long as she remained the primary wife.

¹¹⁷This text may state that he cannot make her a concubine. Cf. the preceding footnote.

¹¹⁸Cited by John van Seters, "The Problem of Childlessness in Near Eastern Law and the Patriarchs of Israel," JBL 87 (1968), pp. 406-407.

¹¹⁹V. below.

¹²⁰The texts are from: Speiser, *op. cit.*, Gadd, *op. cit.*, Breneman, *op. cit.*, and Paradise, *op. cit.*

¹²¹Cf. Driver and Miles, The Middle Assyrian Laws, p. 415, Tablet A §46: "But if indeed among her sons (there is one) who has taken her (as his spouse), he [who takes] her (as his spouse) [shall] surely [provide her with food...]." Similarly, lying with a father's wife or concubine was regarded as an act of succession. Cf: Genesis 35:22, II Samuel 3:7, 12:8, 16:21, and I Kings 2:22.

¹²²I.e. as Hagar did for Sarah and Bilhah and Zilpah did for Rachel and Leah respectively.

¹²³We note, in fact, that it is not always the brother who fulfills this obligation. Judah does it for his son and Boaz is a more distant kinsman of Mahlon.

¹²⁴Louis M. Epstein, Marriage Laws in the Bible and the Talmud. Harvard Semitic Series Volume XII. (Cambridge: Harvard University Press. 1942), p. 45.

¹²⁵Sanhedrin 21a (Soncino, p. 114).

¹²⁶Also, Tosephta Sota 6:6.

¹²⁷Driver and Miles, The Assyrian Laws, pp. 409-411, Tablet A, §41.

¹²⁸Driver and Miles, The Babylonian Laws, Volume II, pp. 65-67.

¹²⁹Breneman, op. cit., and Paradise, op. cit.

¹³⁰Driver and Miles, The Babylonian Laws, Volume II, p. 57, §§ 144-145.

¹³¹Pritchard, op. cit., p. 160. Cf., however, paragraph 26 which is broken but which may state that, if he married the slave after the death of his wife, the slave's children do inherit.

¹³²Josephus, Antiquities I. xix.7.

¹³³Philo, Quod deus sit immutabilis 25:121.

¹³⁴Terry J. Prewitt, "Kinship Structures and the Genesis Genealogies," JNES 40 (1981), pp. 93-94.

¹³⁵Philo, "On the Virtues," paragraphs 207-210 in Philo, translated by F.H. Colson, Loeb Classical Library, Volume VIII (London: William Heinemann Ltd. 1939), pp. 291-293.

¹³⁶Cf. Middle Assyrian Laws A §26 and §29; Code of Hammurabi §§162, 167, 171, and 172; Neo-Babylonian Laws §13; Gadd 12 (Breneman 6); Paradise C-22 (HSS XIX 5), C-23 (HSS XIX 8), C-26 (HSS XIX 16), C-27 (HSS XIX 7), C-28 (HSS XIX 28), and C-34 (HSS XIX 10).

¹³⁷Paradise C-43 (HSS XIX 13), C-44 (HSS XIX 24), and C-45 (HSS XIX 25).

¹³⁸Cf: Code of Hammurabi §150, Speiser 19 (HSS V 71; Paradise C-18), Paradise C-25 (HSS V 73), C-32 (HSS XIX 2), and C-42 (HSS XIII 366 + addenda p. 102).

¹³⁹Cf: Code of Hammurabi §182 and Paradise C-41 (HSS V 70).

¹⁴⁰Cf: Paradise C-35 (HSS XIX 16). Also, Paradise C-16 (HSS XIX 19).

¹⁴¹V. Paradise C-39 (HSS XIX 23).

¹⁴²Paradise C-49 (HSS XIX 12) and Paradise C-50 (HSS XIX 34).

¹⁴³JEN 18, 31, 57, and 68.

¹⁴⁴Paradise C-32 (HSS XIX 2).

- ¹⁴⁵Breneman 103 (HSS XIX 49).
- ¹⁴⁶Breneman 107 (HSS XIX 37; Paradise C-30) and Paradise C-14 (HSS XIX 17).
- ¹⁴⁷Paradise C-15 (HSS XIX 18).
- ¹⁴⁸Paradise C-25 (HSS V 73), C-26 (HSS XIX 16), C-27 (HSS XIX 7), C-32 (HSS XIX 2), and C-33 (HSS XIX 3).
- ¹⁴⁹Shulchan Aruch Even Haezer 113:1 (based on Kethuboth 68a).
- ¹⁵⁰Mishnah Kethuboth 4:11. For the length of time maintenance is required, cf. Kethuboth 53b.
- ¹⁵¹See Katarzyna Grosz, "Dowry and Brideprice in Nuzi," in M.A. Morrison and D.I. Owens, editors, Studies on the Civilization and Culture of Nuzi and the Hurrians (Winona Lake, Indiana: Eisenbrauns. 1981), pp. 161-182.
- ¹⁵²Kethuboth 108b [=Mishnah Kethuboth 13:3] (Soncino, pp. 693-694). Cf. Shulchan Aruch, Even Haezer 112:11.
- ¹⁵³Zafrira Ben-Barak, "Inheritance by Daughters in the Ancient Near East," JSS XXV (1980), pp. 23-24.
- ¹⁵⁴Baba Bathra 110a-b. Cf. the story of Imma Shalom and R. Gemaliel in Shabbath 116a-b.
- ¹⁵⁵Philo, "The Special Laws," II. 124-126, in Philo, translated by F.H. Colson, Loeb Classical Library Volume VII (London: William Heinemann Ltd. 1937), pp. 381-383.
- ¹⁵⁶Siphre on Deuteronomy 21:15 and Midrash Haggadol on Deuteronomy 21:15. Cf. Shulchan Aruch, Even Haezer 112:18.
- ¹⁵⁷Driver and Miles, The Babylonian Laws, Volume I, p. 330.
- ¹⁵⁸Paradise translates it "total property" rather than "one portion."
- ¹⁵⁹In a review in a forthcoming volume of JAOS Samuel Greengus argues differently, that this is an error of marūtu (sonship) for martūtu (daughtership). He demonstrates that this is a common grammatical error in the Nuzi texts.
- ¹⁶⁰Ben-Barak, op. cit., pp. 32-33.

¹⁶¹Grosz, op. cit., pp. 166-167.

¹⁶²The CAD K, p. 468, defines it as a "preferential" share and this seems to imply that it is a legacy given in addition to the regular inheritance portion.

¹⁶³Cf: The 1917 JPS translation: "...their father gave them inheritance among their brethren."

¹⁶⁴Job, with translation and commentary by Victor E. Reichert (London: The Soncino Press. 1946), p. 222.

¹⁶⁵Driver and Miles, The Babylonian Laws, Volume I, p. 338.

¹⁶⁶Siphre ad Deuteronomy 21:15 and Midrash Haggadol ad Deuteronomy 21:15.

¹⁶⁷The Testament of Job 45-46.

¹⁶⁸Rema, Hoshen Mishpat 281:7.

¹⁶⁹J. Brugman, "The Islamic Law of Inheritance," in M. David, F.R. Kraus, P.W. Pestman, editors, Essays on Oriental Laws of Succession, Studia et Documenta ad Iura Orientis Antiqui Pertinentia, Volumen IX (Leiden: E.J. Brill. 1969), p. 85.

¹⁷⁰Paradise C-1 (HSS XIX 9), C-2 (HSS XIX 15), C-27 (HSS XIX 7), and C-29 (HSS XIX 22).

¹⁷¹Breneman Text 5 (HSS IX 24) and Paradise C-36 (HSS XIX 14).

¹⁷²Breneman Text 1 (HSS XIX 84).

¹⁷³Paradise C-39 (HSS XIX 23).

¹⁷⁴Speiser Text 1 (HSS V 60), 2 (HSS V 67; Paradise C-5), 4 (HSS V 7), Breneman 98 (HSS XIX 51; Paradise C-7), and Paradise C-6 (HSS XIX 50).

¹⁷⁵Gadd 51 (Paradise C-8) and Paradise C-31 (HSS XIX 44).

¹⁷⁶Speiser 21 (HSS V 72; Paradise C-19).

¹⁷⁷See above discussion of II Kings 23:30-36 and the order of Jehoahaz and Jehoiakim.

¹⁷⁸For at least a partial list and order of David's sons, v. II Samuel 3:2-5, 5:13-16, and I Chronicles 3:1-9.

¹⁷⁹Cf. I Samuel 16:1-13 for God's choosing of David.

¹⁸⁰V. Pesikta Rabbati 7:3, Midrash Tehillim 68:9, Megillah 29a.

¹⁸¹Cf. Siphre ad Numbers 6:27 where God says that the priests will use His name but it is God Who will do the blessing.

¹⁸²Judges 6:12-16.

¹⁸³Judges 9:5.

¹⁸⁴I Samuel 9:21.

¹⁸⁵Small size and young age are often connected to the concept of humility. That was true in the case of the midrashim (cited above) which refer to Sinai. That is the case of some other midrashim which follow.

¹⁸⁶Genesis Rabbah 37:7.

¹⁸⁷Genesis Rabbah 97.

¹⁸⁸Ramban ad Genesis 4:7 (Chavel, p. 88).

¹⁸⁹Ibn Ezra ad Genesis 4:3.

¹⁹⁰Philo, "The Sacrifices of Abel and Cain," XIII: 52-54, XX: 72-75.

¹⁹¹Targum Pseudo-Jonathan ad Genesis 4:8.

¹⁹²Philo, "Questions and Answers on Genesis," I. 59-62, especially §§ 60-62.

¹⁹³Exodus Rabbah 31:17.

¹⁹⁴Josephus, Antiquities I.ii.1.

¹⁹⁵V. Chapter One and, as cited there, Genesis Rabbah 26:3 and 37:7.

¹⁹⁶Genesis 15:2-4.

¹⁹⁷Genesis 16:1-3.

¹⁹⁸Genesis 17:15-21.

¹⁹⁹Genesis 22:2. Also, cf. Ramban ad Genesis 25:19 for this picture of Isaac as an only son:

"Abraham begot Isaac..." It is necessary that Scripture return to relate this since it said, "And these are the generations of Ishmael, Abraham's son." Now had it only said, "And these are the generations of Isaac, Abraham's son," it would appear that Scripture equated Ishmael and Isaac with respect to genealogy and distinction, all the more so since it mentioned the firstborn first. Furthermore it would have been fitting that it begin with Abraham and say, "These are the generations of Abraham." But Scripture did not wish to do this in order to avoid listing Ishmael and the children of Keturah. It is for this reason that Scripture returns and completes the verse by stating, "Abraham begot Isaac," as if to say that it is he [Isaac] alone who is Abraham's offspring. It is considered as if he [Abraham] did not beget anyone else, just as it says, "For in Isaac shall seed be called to thee." It is for this reason that it also says above, "And these are the generations of Ishmael, Abraham's son, whom Hagar the Egyptian, Sarah's handmaid, bore unto Abraham:" the phrase, "whom Hagar," etc., is for the honor of Isaac, as if to say that the genealogy of these generations is not traceable to Abraham, rather they are the children of the handmaid, even as it says, "And also of the son of the bondwoman will I make a nation." Scripture does also similarly in the book of Chronicles. At first it states: "The sons of Abraham: Isaac and Ishmael. These are the generations: the first born of Ishmael, Nebaoith." Then it mentions, "And the sons of Keturah, Abraham's concubine: she bore Zimran." Now it would have been logical to follow this by saying, "the sons of Isaac," but instead it reverts and begins: "And Abraham begot Isaac. The sons of Isaac: Esau, and Israel."

²⁰⁰Genesis Rabbah 61:6.

²⁰¹For Sarah's hostility, cf. Genesis 21:9-10, Ramban ad Genesis 21:9, Tosephta Sota 6:6, and Genesis Rabbah 63:11.

²⁰²Genesis 21:9-13.

- ²⁰³Rashi ad Genesis 12:2.
- ²⁰⁴Genesis 16:12.
- ²⁰⁵Genesis 25:7; cf. Genesis Rabbah 61:7.
- ²⁰⁶Genesis 21:13.
- ²⁰⁷Genesis 25:22.
- ²⁰⁸Hosea 12:4.
- ²⁰⁹Genesis Rabbah 63:6. Cf. Midrash Haggadol ad Genesis 25:22.
- ²¹⁰Genesis 25:23.
- ²¹¹Midrash Haggadol ad Genesis 25:22.
- ²¹²Rashi ad Genesis 25:26.
- ²¹³Genesis 25:27-34 and Genesis 27:1-45, respectively.
- ²¹⁴Cited in Kasher, Torah Shelemah, Volume 4, on Genesis 27:32, #145.
- ²¹⁵May we suggest that the sharing of the status which the rabbis find in the orthography seems to be an appropriate relationship for twins!
- ²¹⁶Genesis 27:33.
- ²¹⁷Tanchuma Buber Toledoth 23.
- ²¹⁸Targum Onkelos ad Genesis 27:35.
- ²¹⁹Genesis Rabbah 63:13. Cf: Numbers Rabbah 4:8 and 6:2.
- ²²⁰Pesikta Rabbati 12:4.
- ²²¹Pesikta Rabbati 12:5.
- ²²²Baba Bathra 16b.
- ²²³Philo, "On the Virtues," XXXVIII:208-210.
- ²²⁴Seder Eliyyahu Zuta, chapter 19 (Friedmann, Supplement, pp. 26-27).

225 Genesis Rabbah 63:6 and Midrash Haggadol ad Genesis 25:2.

226 Genesis Rabbah 67:2. Cf. Genesis Rabbah 67:12 which explains how Jacob "strengthens" his claim to the blessings.

227 Genesis Rabbah 76:1.

228 Genesis Rabbah 73:2.

229 Leviticus Rabbah 36:4.

230 Song of Songs Rabbah III.3.2.

231 Malachi 1:2-3.

232 Genesis Rabbah 63:8 and 14: a play on Jacob/Israel and Exodus 4:22.

233 Numbers Rabbah 6:2.

234 Genesis Rabbah 67:1.

235 See above for the elements which make up the birthright "package."

236 Genesis 29:31-30:14.

237 Rashi ad Genesis 37:2.

238 Cf: Genesis Rabbah 84:5 and 98:4. N.B. Judah quotes Jacob as saying: "As you know my wife ($\text{יָדָעָה$) bore me two sons" (Genesis 44:27).

239 Cf: Genesis Rabbah 84:8.

240 Cf: Genesis Rabbah 84:6.

241 Genesis 37:3.

242 Targum Onkelos ad Genesis 37:3.

243 Genesis 49:22-26.

244 Targum Onkelos ad Genesis 49:3-4, Targum Pseudo-Jonathan ad Genesis 49:3-4, and Targum Yerushalmi ad Genesis 49:3-4.

245 The meaning of this verse is not clear which the midrashic tradition shows in the wealth of interpretations. (For a

sample, see Kasher, Torah Shelemah, Volume 7, ad Genesis 48:22.) Cf. Genesis Rabbah 97:6. What can be discerned in this verse is, whether רֶגֶל is a portion or the geographical region, Joseph is receiving a preferential, additional "inheritance." This is precisely what the firstborn is supposed to receive!

²⁴⁶Ramban ad Genesis 48:22 (Chavel, pp. 578-579).

²⁴⁷Kasher, Torah Shelemah, Volume 7, ad Genesis 48:22, #144.

²⁴⁸Genesis Rabbah 87:5 (ad Genesis 39:8).

²⁴⁹Tanchuma Buber Tetze 10 and Pesikta Rabbati 12:5.

²⁵⁰Berakoth 7b.

²⁵¹Tanchuma Buber Toledoth 23.

²⁵²Numbers Rabbah 14:7.

²⁵³Is there perhaps a hint as well in the Bible of divine selection? Joseph is, after all, one of those privileged individuals who is blessed with the ability to interpret dreams (Genesis 37:5-10, 40:5-22, 41:1-32) and is wise enough to help Pharaoh shape policy (Genesis 41:33-40).

²⁵⁴Genesis 48:20.

²⁵⁵Genesis 48:19, Genesis Rabbah 97:6, and Pesikta Rabbati 3:1-2, 4-5.

²⁵⁶Genesis Rabbah 37:7 and Pesikta Rabbati 3:5.

²⁵⁷Genesis 37:21.

²⁵⁸Genesis 35:22.

²⁵⁹I Chronicles 5:1-2.

²⁶⁰Rashi ad Genesis 35:22 (citing Shabbath 55b); also Midrash Haggadol ad Genesis 35:22.

²⁶¹Targum Onkelos, Pseudo-Jonathan, and Yerushalmi ad Genesis 49:3-4, Rashi and Radak ad I Chronicles 5:1-3. Cf. Genesis 49:3-4. See also Baba Bathra 123a and Genesis Rabbah 97.

²⁶²Cf: Genesis Rabbah 82:11 (Hebrew, 82:12). Also, v. Rashi ad Genesis 35:22-23, Midrash Haggadol ad Genesis 35:22-23, Baba Bathra 123a, and Rashi and Radak ad I Chronicles 5:1-3.

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²⁶³Genesis Rabbah 84:17 and Genesis Rabbah New Version

²⁶⁴Genesis Rabbah New Version 97.

²⁶⁵Genesis 38:27-30.

²⁶⁶Exodus 7:7. Cf. Aboth d'Rabbi Nathan, chapter 27.

²⁶⁷Shabbath 88a (Soncino, pp. 416-417).

²⁶⁸I Samuel 16:11.

²⁶⁹I Samuel 16:1-13.

²⁷⁰Hullin 60b.

²⁷¹Leviticus Rabbah 29:11.

²⁷²I Kings 1:5-27.

²⁷³I Kings 1:30.

²⁷⁴I Kings 1:39.

²⁷⁵I Chronicles 28:4-8.

²⁷⁶Genesis 6:8.

²⁷⁷Genesis 9:26.

²⁷⁸Genesis 12:1-3, 18:18-19.

²⁷⁹Genesis 17:19-21.

²⁸⁰Genesis 25:23, 35:9-12.

²⁸¹Genesis 48:19.

²⁸²I Chronicles 28:4.

²⁸³I Kings 2:15.

²⁸⁴Exodus 4:22 and Psalm 89:28.

²⁸⁵Deuteronomy 14:1; cf. Psalm 2:7. Also, Jeremiah 3:19 and Exodus 6:8. Cf. also Deuteronomy 10:15.

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