

9 Divorce

An agreement between two parties to marry was an arrangement with financial implications. It follows that a subsequent divorce would also have serious financial consequences. That is why, directly after discussing marriage, we now begin to consider divorce. In many ways divorce mirrors marriage, as we have seen when examining marriages based on parity between equal partners.

The subject of divorce is mentioned as early as the time of the rulers of the Sumerian city of Lagash (2500–2300 BC). In his Reforms the city ruler Urukagina wished to correct two abuses in the divorce procedures of his time:¹

If a man was divorcing his wife, the city ruler would take five shekels of silver for himself and the grand vizier one shekel of silver for himself.

If a man poured *kohl* on the head, the city ruler would take five shekels of silver for himself and the chief adjutant would take one shekel of silver for himself.

We can say nothing further about these abuses, except that evidently high officials lined their own pockets by laying down their own fees, and that divorce and the act of pouring on *kohl* (perhaps marking a betrothal) were apparently public events.²

Some documents recording lawsuits from the Ur III period (2100–2000 BC) also deal with cases of divorce, and there also it must have been a public event.³ The verb ‘to leave’ is used to mean that the man had initiated a separation, in the same way as with Urukagina. If he ‘left’ without a reason then he had to pay ‘divorce money’, usually sixty shekels of silver, the equivalent of one mina. According to the laws of Ur-Nammu,

If a man divorces from his first-ranking wife, then he shall pay a mina of silver (§9).

Two laws about separating from a widow follow. The basic fine was a half-mina of silver (§10), but in certain circumstances the fine could be waived.

If a man lay in the bosom of a widow without a written contract, then he shall not pay any silver (§11).

¹ H. Steible, FAOS 5/I (1982) 316 Ukg. 6 ii 15–21; J. S. Cooper, SARI I (1986) 76 f.; M. Lambert, RA 50 (1956) 174 f. § 18; B. Hruška, ArOr 41 (1973) 119, Aussagen III 20–21.

² Pouring *kohl* (šembī dé) could refer to an embellishment at the betrothal, according to Cooper, 77 n. 5.

³ A. Falkenstein, NSGU I (1956) 107–109.

9.1 In Babylonia

Later, in the Old Babylonian period, we see that the details were more complicated. Some come from passages about divorce in a ‘Textbook for Lawyers’, a text full of standard legal phrases, with the Sumerian formula in the left column and a corresponding Akkadian translation in the right.⁴

If a wife hates her husband and says to him, ‘You are not my husband’, then they shall throw her in the river.

If a husband says to his wife, ‘You are not my wife’, then he shall pay thirty shekels of silver.

The verb ‘to hate’ in Akkadian can be understood as a technical term meaning ‘to divorce’. A fuller expression, ‘to hate and to leave’, is found in texts from Alalah. In Hebrew and Aramaic the meaning of the verb may have been similar. In the Bible a verse referring to a man who loves his first wife but hates his second wife could be understood to mean that he puts the second wife in second place (Deuteronomy 21:15). Modern Bible translations often avoid ‘hated’ in favour of milder translations (RSV: ‘disliked’; REB: ‘unloved’). The verb seems not to imply any strong emotion but only disinclination. He simply does not find her nice and no longer cares about her.⁵

In the laws of Hammurabi the meaning of the verb ‘to hate’ was somewhat different again. From a legal point of view it specifically described a subjective feeling for which there was no objective reason. This meaning is also alluded to in Deuteronomy when dealing with a woman who is divorced twice. On the first occasion her husband had reason to divorce her. But her second husband ‘hated’ her, though he had no reason for divorcing her except generally disliking her (Deuteronomy 24:1–4).⁶ Later the verb came to be used for ‘to divorce from’. It is used in this way in Aramaic contracts from the Elephantine community in Egypt, where the term ‘the silver of hating’ was used for the fine payable on divorce.⁷

The ‘Textbook for Lawyers’ gives a surprisingly severe punishment for a woman, death by drowning. This punishment may also be stipulated in contracts, in case a marriage ends with divorce, as well as its variant, ‘they shall throw her from the tower’. Since the subject of the verb is impersonal we assume that it was not the husband but people from the community who carried out this punish-

⁴ B. Landsberger, MSL 1 (1937) 103 Tafel VII iv 1–12.

⁵ C. Locher, *Die Ehre einer Frau*, 296–299. He contrasts ‘to hate’ with ‘to love’ in CT 45 86.

⁶ Explained by R. Westbrook, OBML, 81a; and in more detail in Scripta Hierosolymitana 31 (1986) 399–402 (= *Writings R. Westbrook II* [2009] 399 ff.).

⁷ Locher, 297 n. 225 f. The well-known example in Aramaic is AP 15:23; see ANET (1969) 223.

ment. It is probable that the community also decided on the method of execution. A broken betrothal also led to the involvement of ‘the local district’ (*bābtu*).⁸

But we never read anywhere that these punishments were actually carried out. So today’s legal historians prefer to take a more humane view and question if the punishments were ever any more than threats.⁹ In the laws of Hammurabi (§§ 129; 133b; 143) the same punishment is prescribed for an adulterous woman, so it is suggested that drowning was threatened only in cases of adultery.¹⁰ R. Westbrook, describing the measure as ‘draconian’, says:

The use of a special mode of death in the contractual penalties looks like a deliberate attempt to equate divorce with adultery.¹¹

Perhaps any Babylonian husband whose wife wanted a divorce would naturally suspect infidelity, or at least a desire for infidelity. You can almost hear him thinking, ‘Why else would she want to leave me unless there was someone else?’ For a divorced woman to go back to live alone in her community would hardly have been possible. This suggestion is supported by occasions in Neo-Babylonian documents when the punishment was execution with ‘the iron dagger’, to be discussed later. P. Koschaker’s idea that the scribe perhaps carelessly copied this old formula¹² more or less fits with what Westbrook says in his book about marriage in the Akkadian-speaking North:

It may even be that divorce by the wife was unheard of and unthinkable in their practice.¹³

No woman could initiate proceedings for divorce or separation.

This was also the basic reasoning of D. Nörr, in a relatively unknown article devoted to the question of whether the woman had the right to divorce.¹⁴ According to Nörr she did not have that right, and this was also the case in all early systems of justice. In the contracts we find either that there was no mention of the possibility of divorce, or if the possibility was recognised it was immediately rejected by stating that draconian punishments would ensue. With regard to this second possibility Nörr adds that there was a fundamental option of rec-

⁸ On the ‘district’ see Locher, 300–303.

⁹ A. van Praag, *Droit matrimonial*, 197, bottom.

¹⁰ Falkenstein, NSGU I, 109 n. 6; M. San Nicolò, art. ‘Ehebruch’, RIA II (1938) 300a.

¹¹ OBML, 83b.

¹² JCS 5 (1951) 118.

¹³ OBML, 84a.

¹⁴ D. Nörr in *Studi in onore di Emilio Betti* III (1962) 505–526.

ognising a state of formal separation, established by the wife stating, ‘You are not my husband’. This was a point of particular importance for Nörr, who was a lawyer,¹⁵ and his view is supported by contracts in which equal punishments are prescribed for a husband and a wife who divorce. It represents a further step towards a woman having the right to divorce, and in such a situation she enjoyed the same right as the man, identified in Chapter 7 as a ‘marriage with parity’. We can see that there was a range of judgements in cases of divorce, demonstrating that a marriage with parity enables a free agreement between both parties to sort out the possible consequences of a divorce.

Nörr suggests regarding them merely as set phrases. Although he offers no proof for this,¹⁶ he provides a new explanation of §§ 141–143 of the laws of Hammurabi, which seem to offer support. For Hammurabi the basic principle was that a woman had no right to divorce, but the king could exercise discretion. According to § 142 if the wife had behaved well and her husband had behaved badly the community (*bābtu*) could grant the woman permission to divorce. We shall deal with these laws more closely later when discussing motives for divorce.

The idea that throwing someone into the water referred to a woman stepping into the river to undergo judgement by the river god in an ordeal is attractive but unlikely.¹⁷

We conclude that we have to take the clause at its face value, without proposing some unusual situations or adducing arguments from a historical background. It is not for nothing that exactly this formula stands in the ‘Handbook for Lawyers’, and it is reminiscent of punishments in contracts threatening to sell the woman as a slave if the question of divorce arises.¹⁸ It is clear that the woman in these cases had been entirely subordinated. This makes Koschaker think that these must have been marriages with *manus*, reasoning that if the ‘purchased’ goods just walked away, the ‘buyer’ would have suffered ‘loss’. Note that both the punishments referred to above are recorded even for religious women, although their position was surely higher than purchased goods.¹⁹

A text from early Old Babylonian Sippar concerning a woman and the possibility of divorcing threatens that she will be ‘pushed from the tower’. That particular woman appears formerly to have been a slave but, after having been adopted by a man and a woman (a nun), she was given in marriage. Her position would

¹⁵ Nörr, 513 f.

¹⁶ Nörr, 519.

¹⁷ B. Groneberg, NABU 1989/73; S. Lafont, *Femmes* (1999) 48–55.

¹⁸ BE 6/2 48; PBS 8/2 252; cf. CH § 141.

¹⁹ Noted by Westbrook, OBML, 83a, about the three texts CT 2 44, BAP 89, TCL I 61 (see Chapter 5); see also Nörr, 516, 519.

certainly have been subordinate, and the bride-price for her, forty shekels of silver and a slave, was unusually high. This text was mentioned earlier in Chapter 5 concerning the second wife. There was no way of allowing her to get it into her head to depart.²⁰ Such a punishment may have applied only if the woman did not enjoy a completely free status. Possibly it is true that in older times this was the law applicable to all women, which would be supported by the occurrence of the phrases ‘they will throw her in the river’ or ‘they will push her from the tower’, indicating the public nature of the ritual.²¹ One short text recounts how a betrothed man demands his bride-price back from his father-in-law, telling him,

I will not marry your daughter. Tie her up and throw her in the river.²²

This seems like exaggeration. He seems to have been indirectly accusing his betrothed of adultery by demanding this punishment.

In the scribal schools boys learned to write correct legal formulas for marriages without parity and for other arrangements. One clay tablet from a school has a series of model contracts including a marriage contract containing the clause that the man and the woman alike had to pay one mina of silver if one were to say, ‘You are not my wife’, or the other, ‘You are not my husband’.²³ That contract was drawn up in Sumerian, and it is assumed that marriages with parity were preferred in the south.²⁴

Demonstrating the fact of a divorce could be linked with making a formal gesture. In the Sumerian period a woman who wanted nothing more to do with her marriage ‘brushed her marriage with a garment’ to be free of it. There were also other circumstances in which a person ‘brushed with a garment’.²⁵ In later texts from the second millennium, in the countries surrounding Mesopotamia, in the ‘periphery’, a woman would leave her garments on a bench and depart. This is clearly a symbolic act, a gesture to contrast with the veiling at the beginning

20 VAS 8 4–5 with M. Stol, *Studies A. Skaist* (2012) 157 f.

21 B. Groneberg proposed to see in ‘the tower’ the family or clan, meaning that the woman was expelled by her kinfolk; Groneberg in: Th. Späth, B. Wagner-Hasel, *Frauenwelten in der Antike* (2000) 9, cf. 3 (‘the tower’ has this meaning in Nuzi). However, ‘tower’ never has this meaning in Old Babylonian.

22 D. I. Owen, R. Westbrook, *ZA* 82 (1992) 205 FLP 1340:35–39; with S. Lafont, *Femmes* (1999) 57 f., and D. Charpin in: F. Joannès, *Rendre la justice en Mésopotamie* (2000) 92 f. no. 48.

23 H. Neumann, ‘Prozeßführung im Edubba’a. Zu einigen Aspekten der Aneignung juristischer Kenntnisse im Rahmen des Curriculums babylonischer Schreiberbildung’, *ZABR* 10 (2004) 71–92.

24 C. Wilcke in: B. Hrouda, *Isin-Išān-Baḫriyāt* III (1987) 104, 106 IB 1515+ i 8–15.

25 Sum. túg úr; NSGU I, 108, cf. 79; H. Petschow, in art. ‘Gewand’, *RIA* III (1957) 321b.

of the marriage.²⁶ In the Old Babylonian period and later we find various references to ‘cutting through the hem’ (*sissikta batāqu*), a ceremonial act performed appropriately in public. In one case the original witnesses to the marriage were present for the occasion.²⁷ It was the man who made the cut and one assumes in general that in so doing he renounced any claim he had on the woman.²⁸ Koschaker sees here a change of status, though this is unlikely.²⁹ Westbrook thinks that in the Old Babylonian texts this act was performed only in special circumstances, in particular when the man was allowed to retain the dowry. He reached this conclusion because he wanted to distinguish between the declaration ‘You are not my wife/husband’, the *verba solemnia*, and the act of cutting.³⁰ The handbooks containing legal formulas concerning marriage do not mention the *verba solemnia*. All we find is,

He began to hate her; he has cut off her hem; he has weighed out the divorce money; and he has tied it up in her lap; he has made her leave the house.³¹

The magical rite intended to ‘divorce’ a patient from a disease described at the end of Chapter 2 imitates this procedure for a divorce.

This brings us to the divorce money (*uzubbū*), a noun occurring in Sumerian and Akkadian texts derived from the verb ‘to leave’ (*ezēbu*). This was the most important compensation for the woman and the amount was determined according to the contract. Occasionally alimony was mentioned.³² The man had to pay divorce money if he had said ‘You are not my wife’ without good reason. The amount to be paid is of significance. Two or three times in the Ur III period we see one mina of silver (sixty shekels) mentioned, but one text has forty shekels and another ten shekels.³³ The laws of Ur-Nammu from that period fix an amount of ‘sixty shekels if a man is leaving his first-ranking wife; thirty shekels if he is leaving a widow’ (§9–10). In a lawsuit one ‘deserted’ woman who demanded

²⁶ K. van der Toorn, *Family religion in Babylonia, Syria, and Israel* (1996) 45–47.

²⁷ J. J. Finkelstein, *WdO* 8 (1976) 237; *CT* 45 86. Now also in *ARM* 10 33:24, with *MARI* 3 (1984) 170 n. 56: ‘He cut off my hem in the presence of kings’.

²⁸ M. Malul, *Studies in Mesopotamian legal symbolism* (1988) 197–208; cf. *RIA* III (1957) 321a. For the passages see R. Westbrook, *A history of Ancient Near Eastern law* I (2003) 388 n. 82.

²⁹ *JCS* 5 (1951) 115b.

³⁰ *OBML*, 69 f., contra K. R. Veenhof; for his reaction see *Festschrift B. Kienast* (2003) 702 f.

³¹ *MSL* 1 (1937) 99 *Tafel* VII ii 49–iii 3; cf. M. T. Roth, *Law collections from Mesopotamia and Asia Minor* (1979) 50, *SLHF* iv 12–16.

³² For a survey of the options see Westbrook, 78. Alimony: 79b; see note 40.

³³ *NSGU* I, 108. An Old Akkadian text mentions seven shekels as divorce money (*tak₄.a.kam*); *STTI* 169 ii 5–7.

ten shekels of silver promised that she would not ‘file a complaint’ against her ex-husband.³⁴ In Old Babylonian texts the word *uzubbû* is not usually stated but the amount to be paid is. The handbook for legal formulas mentions ‘half a mina’ or thirty shekels of silver.³⁵ The amounts in the contracts vary from ten to sixty shekels of silver.

One is inclined to relate the amount of the divorce money to that of the bride-price (*terhatu*).³⁶ For this it is relevant to refer to the Laws of Hammurabi:

If a man intends to divorce his first-ranking wife who did not bear him children, he shall give her silver as much as was her bride-price and restore to her the dowry that she brought from her father’s house, and he shall divorce her. If there is no bride-price, he shall give her 60 shekels of silver as divorce money. If he is a commoner, he shall give her 20 shekels of silver³⁷ (§§ 138–140).

The explanation of these laws by G. R. Driver and J. C. Miles is correct.³⁸ They suppose that a man leaves his wife ‘capriciously’, without any proper motive such as her being unable to have children. That man would lose the bride-price he had paid, as we see also in § 159. Here the settlement is made between the father of the bride and the man, as with an ‘inchoate marriage’, a betrothal.

§ 159. If a man, who has the marriage gift (*bibli*) brought to the house of his father-in-law and who gives the bride-price, has been looking lasciviously at another woman and has said to his father-in-law, ‘I will not marry your daughter’, the father of the daughter shall carry off whatever had been brought to him.

The legislator may have assumed that a bride-price of thirty shekels of silver had been paid, so a fine on divorce was similarly thirty shekels of silver. Law § 156 is also relevant, where a man had to pay thirty shekels of silver to the ‘daughter-in-law’ whom he had at home and with whom he had had intercourse. She had not yet had intercourse with his son.

The husband had to pay the fine in silver, but sometimes a more severe punishment was applied on divorce, when ‘he lost house, (field) and household chat-

³⁴ NSGU II no. 20; F. Joannès, *Rendre la justice en Mésopotamie* (2000) 47 no. 8; TUAT NF 1 (2004) 3.

³⁵ MSL 1 (1937) 103 Tafel VII iv 8–12.

³⁶ Cf. G. R. Driver, J. C. Miles, *The Babylonian Laws I* (1956) 297.

³⁷ In the light of §§ 9–10 of the laws of Ur-Nammu, one is inclined to translate in CH § 140 ‘If she is a commoner’ (*šumma muškēnet*). Then the parallelism is elegant: 60 shekels for the first-ranking woman, 20 for a second-ranking woman or a widow. However, in the Laws of Hammurabi only male common citizens are always featured as alternatives.

³⁸ *The Babylonian Laws I*, 296–298; cf. Westbrook, OBML, 71 f.

tels'.³⁹ Two well-known lawsuits state that the man must give 'alimony' to his divorced wife in the form of food and clothing, but the background to those cases is not known.⁴⁰

9.2 In Assyria

Evidence for divorce in the Old Assyrian period comes only in texts from the trading colony in Asia Minor.⁴¹ These seem to show that both Assyrian and foreign Anatolian partners had equal rights, at least according to what is stipulated in the contracts. For the neighbouring Hittites divorce was not difficult to arrange according to § 26 of the Hittite Laws.⁴² In Chapter 7 we saw the same parity in the Middle Assyrian period for marriages between equals: one of the parties had to pay thirty shekels of silver on divorce. An Old Assyrian contract stipulates twenty shekels of silver payable by one of the parties, and the man also promises not to marry a second wife.⁴³ The Old Assyrian word for divorce money is *ezibtu*, and it could, for example, amount to 6½, 15 or 60 shekels of silver.⁴⁴

However in one marriage contract we find a clause stating that, in the event of 'desertion', the offender must pay five minas of silver. That makes 300 shekels, and it would have been a considerable sum to have to pay. It is comparable to a fine to be discussed a little later, which was levied on someone coming back with further demands after a divorce had been officially concluded. The contract, in which Assur is referred to as 'the city' and Anatolia as 'the field', gives much useful detail about the case:⁴⁵

39 CT 2 44 (marriage with two sisters); PBS 8/2 155 (marriage with a widow with sons; both parties forfeit the house, the field and date-palm orchard); YOS 15 73 (plus 30 shekels silver).

40 Alimony: VAS 8 9–10; VAS 18 1 (belongs to VAS 18 101); Westbrook, OBML, 79b, 134 f.

41 K. R. Veenhof in: R. Westbrook, *A History of Ancient Near Eastern Law I* (2003) 453 f.

42 R. Haase, AOF 22 (1995) 279.

43 CCT 5 16a with K. Deller, Or. NS 27 (1958) 62 f., and P. Garelli, JSS 3 (1958) 300 f.

44 V. Donbaz, *Studies Tahsin Özgüç* (1989) 83–85; TuM NF 1 21e:8 (see CAD E 431a); cf. the 10 1/2 shekels in L. Matouš, ArOr 41 (1973) 309 I 513:7. EL 3 (= TCL 4 122) distinguishes the divorce money (no amount is mentioned) from the fine of 5 minas. For a survey see R. Rems, WZKM 86 (1996) 356–361. In TCL 1 242 each party pays 2 minas; TUAT Ergänzungsband (2001) 30 f.; see also C. Michel in J. G. Dercksen, *Anatolia and the Jazira during the Old Assyrian period* (2008) 222 (n. 71).

45 ICK I 3 with ANET (1969) 543.

L. married H., the daughter of E. In ‘the field’ he may not marry a second wife, but in the city he can marry a ‘holy woman’. If she (H.) has not given him heirs within two years, she shall herself buy a slave-girl and later, after this person has borne him a child, he (she?) may sell her wherever he (she) wants. If L. divorces her, he shall pay five minas of silver and if H. divorces him then she shall pay five minas of silver.

The names of four witnesses are at the end. The main characters are known from other documents. E. was an Anatolian who had married off his daughter to an Assyrian merchant. There are three letters referring to the woman H. as a married woman.⁴⁶ The amount to be paid on divorce was so high that it effectively acted as a prohibition. A man who married a widow would also expect a demand of five minas if he decided to divorce her. This was a high amount but here it can be regarded as a real punishment

I. married A. In ‘the field’ he shall not marry a second wife. If he (still) marries (her) and leaves her, then he shall pay five mina of silver’. (The text concludes with the names of three witnesses and the man’s seal impression).⁴⁷

It is noteworthy that many of the contracts applying to Anatolians, after stipulating the duty to pay, add the clause, ‘and on the plain (*edēnu*) they shall kill (*dāku*) him’.⁴⁸ Sometimes ‘to kill someone’ can be understood to mean ‘to beat someone up’. These are threats.

We now look at instances when a marriage had actually ended in divorce. In Old Assyrian texts there are two expressions for divorce, ‘to leave, desert’ (*ezēbu*) and ‘to separate’ (*parāsu N*). A few contracts concerning divorce show that in Assyria distinctive formulations could be used, as can be seen in the following example:⁴⁹

Ḫarnašarna and Ḫanaḫana (are) husband and wife. They have left each other. The one shall not come back (with a demand) to the other. Whoever does come back shall pay five minas of silver and on the plain they shall ‘kill’ him (names of witnesses).

⁴⁶ K. R. Veenhof in: H. J. Nissen, J. Renger, *Mesopotamien und seine Nachbarn* (1982) 150 f.; C. Michel, CMK (2001) 501 f.

⁴⁷ AKT I 76 with C. Michel in F. Briquel-Chatonnet, *Femmes* (2009) 256.

⁴⁸ R. Rems, WZKM 86 (1996) 359 f. For paying 1 mina and ‘killing’ see TCL 4 100 with ZA 82 (1992) 213.

⁴⁹ L. Matouš, *Kappadokische Keilschrifttafeln mit Siegeln aus den Sammlungen der Karlsuniversität in Prag* (1984) Nr. 36. For more see P. Garelli, *Les Assyriens en Cappadoce* (1963) 68 f., n. 2; V. Donbaz, *Studies Tahsin Özgüç* (1989) 80 f., 83–85.

Severe punishments were routinely recorded in these contracts, but it is not clear whether paying was an alternative to death.

There was always the likelihood of an Assyrian merchant divorcing an Anatolian woman. After residing in the colony for 15 or 20 years any merchant may want to go home to Assur.⁵⁰ Then the divorced partners were completely free.

She is allowed to go wherever she wants, either to an Anatolian, or to an (Assyrian) merchant. He is allowed to marry the wife of his heart.⁵¹

Any children could possibly be shared, with the woman receiving alimony for feeding them and bringing them up.⁵²

The record of a decision by the ‘management’ of a trade colony in a divorce suit between an Assyrian and an Anatolian woman is of interest.⁵³

The trading colony of Kaneš has pronounced a judgement, and Aššur-ammarum, the son of Ennum-Aššur, has left Zibezibe, the daughter of Aššur-beli; his wife. And Aššur-ammarum has given to Zibezibe, his wife, her divorce money. And Aššur-ammarum will (be able to) fetch his three sons. Zibezibe shall not come back at Aššur-ammarum or his three sons (date).

This shows that the woman could keep the sons until the husband had paid the divorce money, and then a public judgement was necessary. In the end the children went to their father. In a divorce between indigenous Anatolians, the children stayed with the mother.⁵⁴ It was sometimes difficult to divide up the chattels afterwards and there were lawsuits about this.⁵⁵

To conclude this section we cite a passage from an Old Assyrian letter about a marriage that was about to ‘break down’.⁵⁶ The woman lived in the colony and her husband in Assur. Her sister, a priestess, lived there too. In this letter to the woman the sister reports on the tense situation at home. On the envelope we read: ‘To Šalimma, the wife of Irma-Assur’. But in the letter she refrains from writing the man’s name, obliquely referring to ‘the man’.

50 Michel in: J. G. Dercksen, *Anatolia and the Jazira during the Old Assyrian period* (2008) 222–225.

51 H. Sever, *Studies S. Alp* (1992) 484:7–12, stresses the equal rights of the Anatolians.

52 K. R. Veenhof in: L. Marti, *La famille dans le Proche-Orient ancien* (2014) 347.

53 EL 276 (= J. Lewy, TuM NF 1 21e).

54 Rems, WZKM 86 (1996) 359.

55 Veenhof, *Archivum Anatolicum* 3 (1997) 379; TCL 4 100 with J. Hengstl, ZA 82 (1992) 212–220.

56 K. R. Veenhof, ‘Sisterly advice on an endangered marriage in an Old Assyrian letter’, *Studies R. D. Biggs* (2007) 285–303. We follow Veenhof’s translation of lines 27–49.

You have brought me into conflict with the man. He tells me: ‘Since, not being my slave woman (i.e. his second wife), she refuses to come here, you must not mention her name again to me (i.e. plead for her), or you will no longer be my sister (i.e. sister-in-law).’ Why are others ruling your children and your household, while you are staying there? Please, do not make your children perish, and do not estrange me from the man’s house. If you see a possibility to come, get ready and leave for here before the man gets different ideas ... Since you had not come, he felt very unhappy, and for five days did not leave his house. If you are looking for another husband, write me so; I wish to know it. If not, get ready and leave for here. If you do not come you will bring me into conflict with the man, and you will make your children perish, and I, I will never mention your name again; you will no longer be my sister, and you must not write to me anymore.

This is the end of the letter, and from it we learn that the person addressed was a free woman, not a subordinated second wife, and that either partner of the marriage was free to end it.

In general it can be seen that a woman had great, if not complete, freedom in Old Assyrian marriages. This more or less accords with the findings of E. Lipinski, who examined the extent to which a woman could take the initiative in divorce.⁵⁷ He considers the severe penalties of the Old Babylonian period, such as the woman being condemned to death, as ‘exceptional’. In contracts from the North and the North-West (from Assyria, Ḫana, Alalah, and those more recently found in Emar) he has discovered that the partners were equal. He lays some emphasis on the right of the woman to divorce if her husband should take a second wife, saying that ‘the husband’s entering into a bigamous marriage amounts to an initiative of divorce, with the consequent heavy financial arrangements at his charge, exactly as in the contracts from Elephantine.’⁵⁸ Indeed this is evident in the Aramaic contracts from Elephantine and also in Greek documents from Egypt from a later period. Lipinski concluded that the liberal marriage law in Elephantine and in late Egyptian society was not inherited from Egyptian culture itself but was imported from views in the Semitic world.⁵⁹

After this discussion of the apparently humane aspects of Assyrian marriage law, reading § 37 of the Middle Assyrian law-book comes as a shock:

57 E. Lipinski, ‘The wife’s right to divorce in the light of an Ancient Near Eastern tradition’, *Jewish Law Annual* IV (1981) 9–27.

58 Lipinski, 24. The wife in the Assyrian example from Kalḫu (referred to in his note 82: CTN II 247) is a princess, according to K. Deller, *NABU* 19991/105. Deller’s suggestion was rejected by S. Svärd, *Women and power in Neo-Assyrian palaces* (2015) 87 n. 418.

59 See also Lipinski, ‘Marriage and divorce in the Judaism of the Persian period’, *Transeuphratène* 4 (1991) 63–71, and his remarks in *BiOr* 68 (2011) 266 f.

If a man leaves his wife he shall give her in accordance with what he wishes. If he gives her nothing, in accordance with what he wishes, then she shall go away empty.

One gains the impression that this law was formulated to obviate the need to follow an established female-friendly practice, and the payment of divorce money which had existed should not necessarily become the norm. This law makes no mention of the dowry, which was possibly given back.

Two texts from Nuzi relate to an adopted woman who has been married off against her will. In the first, while in position at the city gate, she complains,

Why do you give me in marriage to M., a blind man? Let me leave M. and give me in marriage to A.

And that happens at the city gate. In the second text another woman declares, 'I hate my husband'. The marriage is then annulled and the bride-price returned. Nothing is known about the background.⁶⁰

In the Neo-Assyrian period the daughter of a high-ranking woman easily obtained her divorce. She simply demanded this in an agreement.⁶¹ A lawsuit from Assur indicates that a man seeking divorce had to agree on a settlement with his father-in-law, and neither of them could object to remarriage.⁶²

9.3 In the Neo-Babylonian period

Neo-Babylonian marriage contracts mention divorce only as a possibility for the husband. In this period the term used was *muššuru*, 'to allow (the woman) to go'. In some cases we find a powerful punishment prescribed when linked with adultery:

If the wife is found with another man, she shall die by the iron dagger. If the man allows her to go (*muššuru*) and wants to marry another woman in preference to her place, he shall pay her six minas of silver and she shall go to her father's house (or 'and he shall send her to her father's house').⁶³

⁶⁰ AASOR 16 no. 31 with W. Farber, ZA 75 (1985) 217, and IM 73254; N. Pfeiffer, SCCNH 18 (2009) 374 f.

⁶¹ K. Radner, *Die neuassyrischen Privatrechtsurkunden* (1997) 159–161, 'Ehescheidung'.

⁶² Radner, 160 f., VAT 9745.

⁶³ Roth, *Babylonian marriage agreements*, 92 no. 26:10–15, with TUAT NF 1 (2004) 90 f., where Jews are mentioned; for a variant see Roth, 44 no. 5:10–16.

According to M. Roth the reference to the iron dagger indicates that the death penalty should be enforced relentlessly, whereas older law-books show that a man was entitled to forgive his wife for adultery and so she would be allowed to live. That concession is denied here. The iron dagger may refer to an official instrument of execution.⁶⁴ But in fact this is the only clause in Neo-Babylonian marriage contracts where it is implied that the woman took the initiative in seeking divorce. There is furthermore a parallelism in the clauses dealing with the man and the woman, for both mention ‘another person’ as a lover or as a wife. The petition for divorce arises because another person is implicated, because of infidelity. We cannot infer more from this parallelism than the inequality of the outcome. G. van Driel attempted to show that in texts where the dagger is mentioned, the women were of a lower social class: they had no dowry; one was an unmarried mother; they were often called ‘a girl (*nu’artu*)’, a term having the meaning of an unmarried woman (discussed in Chapter 1); the woman could possibly have been a prostitute.⁶⁵

Scholars stress that killing the woman should be contrasted with punishing the man with an immensely high fine, five or six minas of silver. Other cases of sky-high fines indicate that the risk of breaking a contract should be avoided at all costs, otherwise both parties would be irreparably ruined. Applying the death sentence to the wife could also be explained as ensuring that all children should be legitimate, and therefore she must never embark on casual affairs. In the Neo-Babylonian period people had become more aware of the question of having legitimate descent and heredity in families; some of them had an ancient pedigree.⁶⁶ It was a time when the ancestor of the family was always mentioned, sometimes specifying his profession, and so one understands why a legitimate birth could be contested.⁶⁷ If this was the motivation, we can accept that the threat of being executed with the dagger was very real. The high fine for the man was reasonable if it enabled the repudiated woman to receive a substantial sum of money to stay alive.⁶⁸

The threat of death by the dagger is reminiscent of the Old Babylonian punishment of throwing the woman in the river. In both cases the man’s punishment

⁶⁴ M. T. Roth, “‘She will die by the Iron Dagger’”. Adultery and Neo-Babylonian marriage’, *JESHO* 31 (1988) 186–206.

⁶⁵ G. van Driel in: M. Stol, S. P. Vleeming, *The care of the elderly in the Ancient Near East* (1998) 192f.

⁶⁶ C. Wunsch, *Urkunden zum Ehe-, Vermögens- und Erbrecht aus verschiedenen neubabylonischen Archiven* (2003) 3f., 6f.

⁶⁷ OIP 122 no. 36 with C. Waerzeggers, M. Jursa, *ZABR* 14 (2008) 10–13.

⁶⁸ K. Abraham, *AfO* 51 (2005–06) 203 n. 11.

was limited to paying the divorce money. The same questions we posed regarding the severe punishments documented for the Old Babylonian period now recur. Were these punishments actually enforced or were they threats based on a traditional formula? Whatever the answer, the evidence shows that Neo-Babylonian marriages were not with parity, for the wife was subject to more severe conditions than her husband.

The dagger has led P.-A. Beaulieu to a surprisingly different interpretation of the punishment. He prefers to translate the verbal form *ta-ma-ta* not as derived from ‘to die’ but from ‘to be cursed’. This means that as a consequence of her infidelity her punishment is that ‘she shall be cursed on the iron dagger’, for at that time people would swear on a dagger.⁶⁹

It would be interesting to know what happened in the Neo-Babylonian period when no third party was involved, when a man and woman simply stated that they wanted to terminate the marriage, a possibility not to be excluded. As to the iron dagger, we could adopt a similar sort of reasoning as with possible death by drowning in the Old Babylonian period, taking it as an exceptional circumstance, and for that reason envisaged in only some contracts.⁷⁰

Now we can check what happened in practice from a fragmentary text from the Persian period in the reign of Darius. It is the record of a lawsuit outlining the course of proceedings for a woman’s divorce. She reproached her husband that he had ‘given and eaten’ the dowry which she had received from her father (meaning that he had been a wastrel and ‘sold and spent’ it). All she had retained was the house and field and there were many creditors who had their eye on repossession. The man had told her, ‘There is nothing that I can give to the creditors or to you as food. Go wherever you like!’ Both of them went their own ways, but the problem for the woman was that she was no longer supported.⁷¹ In other texts protests were made against the way that the man had made attempts to use the dowry, for example by pawning it.⁷² In the discussion about the dowry in Chapter 3 we saw how a husband’s risky transactions could easily fritter it away.

⁶⁹ P.-A. Beaulieu, ‘Women in Neo-Babylonian society’, *Bulletin of the Canadian Society of Mesopotamian Studies* 26 (1993) 7–14, esp. 11a, with 14 n. 22.

⁷⁰ R. Yaron, *ZSS* 109 (1992) 76; see further Nörr and Westbrook.

⁷¹ C. Wunsch, *Urkunden* (2003) 32–39 no. 8.

⁷² Wunsch, 37 f.

9.4 In Syria

In Alalakh men and women were equally entitled to a divorce to end their marriage. 'If I. should hate N. and keep driving her away, she shall keep the bride-price of a 'young girl' (*nimusa ša SAL šuḫārti ikla*), take all that was granted to her (*wadduši*) from her father's house, and leave'. If 'the young girl' 'pulls his nose', she shall give back the bride-price, take all that she had brought there from her father's house, and what had been granted to her (*wadduši*), she shall take and leave.⁷³ For a wife 'to pull the nose' must have had roughly the same significance as for a husband 'to hate' her. It was probably a symbolic act which would lead to divorce. In nearby Emar divorce was as simple for the woman as for the man, with one or the other party paying sixty shekels of silver as divorce money.⁷⁴

9.5 Motives for divorce

One readily assumes that in a marriage with parity the husband or the wife could seek divorce without providing reasons. But this was not always the case, as can be seen from an Aramaic marriage contract with parity which ends with the stipulation '(there will be) no suit or process'.⁷⁵ Several motives for requesting divorce could be adduced.⁷⁶

Motives for the husband:

- the wife was not a virgin⁷⁷
- the wife had committed adultery⁷⁸
- the wife had refused to have intercourse⁷⁹
- the wife had contracted a serious illness; but then the wife's rights were protected, according the law-books, inasmuch she was allowed to continue to live in the house⁸⁰

⁷³ AT 92:6–14 with C. Niedorf, *Die mittelbabylonischen Rechtsurkunden aus Alalakh (Schicht IV)* (2008) 275–283 (33.2).

⁷⁴ *Emar VI/3* no. 124.

⁷⁵ AP 15, with Lipinski, 21 f.

⁷⁶ Cf. Locher, 286–289, 'Eheverfehlungen'.

⁷⁷ Falkenstein, NSGU I (1956) 108 f. (no. 205:21–25).

⁷⁸ Westbrook, OBML, 75–77.

⁷⁹ NSGU I, 109 (no. 22:9–11).

⁸⁰ NSGU II 8 f. no. 6 (á.zág); CH § 148 (*laḫbum*); CL § 28; Westbrook, OBML 77 f.; BE 6/1 59 (VAB 5 232 *kišitti ilim*), 'an attack by a god', and the judges permit her new husband to leave her. See Chapter 5, at the end.

- the wife had uttered slander (?)⁸¹
- the wife was lying and bullying⁸²
- the wife was a gadabout and had belittled her husband, she was bent on her own gain, and ‘scattered the house’ (Laws of Hammurabi § 141, § 143)⁸³

Motives for the wife:

- the husband had refused to have intercourse (?)⁸⁴
- the husband was a gadabout and had belittled the wife (Laws of Hammurabi § 142)
- the husband was guilty of ill-treatment (?)⁸⁵
- the husband had committed a crime⁸⁶
- the husband had been absent for a prolonged period (a recurring theme in the law-books).⁸⁷

9.5.1 Ill-treatment by the husband and impudence by the wife

The consequences for a husband who had abused his wife can be illustrated by a letter sent to the queen a city state.

Do not keep on writing about B. That woman does not want to stay here with (her) husband. Let her take her children and go to the house of her brother-in-law (*yabamu*) (...). A., her husband, keeps on ill-treating her (*buzzu'u*) and I am concerned about her complaints. This woman is dear to me.⁸⁸

81 BE 6/2 58:4 (*māgirtum*; Locher, 254).

82 C. Michel in: J. G. Dercksen, *Anatolia and the Jazira during the Old Assyrian period* (2008) 223 n. 76, 77.

83 CH § 141 with S. Greengus, HUCA 40–41 (1969–70) 38 n. 11. This behaviour fits that of a gadabout; I do not agree with interpreting *wašiat* as ‘(she) decides to leave (the house)’, in Westbrook, OBML, 76b.

84 W. W. Hallo and others reject this interpretation of BE 6/2 58:7, defended by Locher, 255 f. (*nu-un'-zu-ša-ma ù bu-zu-úh-ša*). The half-Sumerian nu.un.zu-ša is very uncertain, but note the similar nu.mu.un.zu.na in TIM 4 48:7, Locher, 195. An alternative will be given in note 89.

85 NSGU II 267 no. 169 with Greengus, JAOS 89 (1969) 532 n. 142. The complaints by princess Kīrūm in Mari, in Chapter 23, are also apposite here.

86 M. Jursa, RA 91 (1997) 134–145, with L. Barberon, RHD 81 (2003) 5 (OB); AT 17 with W. W. Hallo, *The Context of Scripture III* (2002) 251 (Alalah).

87 OBML, 86–88.

88 OBTR 143.

A lawsuit from Nippur refers to E., a husband accused of ill-treatment and of something else also.⁸⁹ So far that word cannot be translated, though it is stated that the old women would have to examine this case.

The bronze weapon of (the god) Ninurta took its position in the city district and its old women took their positions. But they could not establish that A. had spoken insults against E. They did establish that E. had done ... to her and had treated her badly. Afterwards E. spoke as follows: 'Even if you should pin even more on me than now, I will not marry her. And even if they hang me, I will pay the silver.'

One assumes that the insults to the woman were the basis of her accusations and that they appeared to be true. Some interpret 'done ... to her' as unacceptable intercourse, which is why the old women were detailed to conduct an internal inspection (*inspectio ventris*). That was a fantasy favourably entertained by some pre-war specialists in cuneiform law, the *Keilschriftrechtforscher*, but the word may simply be a more general word for 'to harass', and the old women were involved because they were familiar with the domestic situation. There was no hesitation by the husband admitting what he had done. He wanted at all costs to end the betrothal or the marriage. They had agreed on a marriage with parity, on her initiative, but he had now become dissatisfied with that arrangement, so he was willing to pay the divorce money required.

In one particular Old Assyrian marriage contract the couple preferred to allow their marriage to continue, even if circumstances arose that would normally lead to divorce.

Ili-bani: his wife is Tataya. If he should treat her badly, he may not leave her; he shall pay thirty shekels of silver to Tataya. If she becomes too saucy (?) and he has 'seen' her (like this), then she may not leave him; Tataya shall pay thirty shekels of silver to Ili-bani.⁹⁰

The ill-treatment was certainly related to domestic violence. The sauciness of the wife could have been literally translated as 'he receives *šillatu*'. In Babylonian this expression means 'to receive an insult', but in Assyrian it appears to refer to a physical act. The context suggests that whatever she did she was behaving impudently. Because the two families involved in this marriage also had financial obligations to each other divorce was unthinkable.⁹¹

⁸⁹ BE 6/2 58 with W. W. Hallo, *Origins* (1996) 247–250; *The Context of Scripture* III (2002) 269 ('slandering and abusing her'); S. Lafont, *Femmes* (1999) 253–256, 497 f.; J. J. Finkelstein, WdO 8 (1976) 239 n. 4. They derive *nu-un³-zu-ša* in line 7 from an Akkadian verb like *nuzzû*; CAD N/2 357b. Another opinion in note 84.

⁹⁰ K. R. Veenhof, *Archivum Anatolicum* 3 (1997) 358 f.

⁹¹ Veenhof, 357–381.

Another Old Assyrian text provides for a husband who might ‘become extravagant’ (*šamāḥu*) and leave his wife. If so, he would have to pay sixty shekels of silver. If the wife should become impudent she would then have to leave the house after having had her toggle-pin pulled off. From this it can be seen that for a woman to wear a toggle-pin, which her husband had fastened on her breast, marked her as his wife.⁹²

9.5.2 Gadabouts

In Hammurabi § 141 the wife ‘who is bent on gadding about’ is heading for abandoning her husband through her behaviour. Such ‘gadding about’ does not imply loose morals (as perhaps is the case in the following sections) but financial misconduct.⁹³

§ 141. If the wife of a man who is residing in the man’s house should decide to leave, and she appropriates goods, ‘squanders’ her household, or belittles her husband, they (perhaps the city district) shall charge and convict her; and (1) if her husband should declare his intention to divorce her, then he shall divorce her; neither her travel expenses (?), nor her divorce money, nor anything else shall be given to her. (2) If her husband should declare his intention not to divorce her, then her husband may marry another woman and that (first) woman shall reside in her husband’s house as a slave-woman.

Because this is not a formal divorce the punishment is not so severe. The two following paragraphs concern a woman who divorced formally. She ‘hated’ her husband and made the formal statement, ‘You are no longer married to me’. § 142 concerns the man who is a gadabout,⁹⁴ and § 143 the woman.⁹⁵

If a woman ‘hates’ her husband, and declares, ‘You will no longer be married to me’, her circumstances shall be investigated by the authorities of her city district; and if she is circumspect (*naṣrat*) and without fault, but her husband is a gadabout and belittles her greatly, that woman will not be subject to any penalty; she shall take her dowry and she shall depart for her father’s house.

If she is not circumspect but is a gadabout, ‘squanders’ her household, and belittles her husband, they shall cast that woman into the water (§§ 142–143).

⁹² B. Kienast, AOF 35 (2008) 46–48; for the toggle-pin see pp. 48 and 51 (AKT 3 51:10 f.).

⁹³ OBML, 76 f.; Locher, 284 f.

⁹⁴ A. Tosato, *Il matrimonio israelitico* (1982) 194 f., ‘to respect’ [note 11: attested in KAJ 7, TIM 4 45], pointed out that ‘fearing’ each other in Middle Assyrian contracts must indicate normal and decent behaviour by the couple, in contrast to that of a gadabout.

⁹⁵ In detail Locher, 290–303.

The wife who ‘hates’ her husband is simply one who wants to leave him without any valid reason for divorce. Everything points to the fact that §§ 141–143 concerned a married woman living in the house of her husband. In her comprehensive argument about these laws S. Lafont showed along other lines that here indeed a married woman was the party in question.⁹⁶ As is usual with divorce, we see that it was ‘the district’ which made its own judgement. The wife’s punishment in § 141 was one of humiliation, she became a slave, but in § 143 she faced a death sentence because she had not been circumspect.

When comparing § 142 and § 143, we note the wife’s explicit attitude of ‘hatred’ and her formal utterance that ‘You will no longer be married to me’. This last phrase corresponds to those in contracts saying ‘You are not my husband’, with the consequence of death by drowning. Possibly Hammurabi agreed to this severe punishment only if the wife’s utterance could be linked with her not being regarded as a ‘circumspect’ person, restricting the death penalty to such a special case. In § 142 the wife is given the possibility of divorcing from a bad man, in which a humane approach towards reform can be seen.⁹⁷ All in all this is a fine example of Hammurabi expressing his dissatisfaction with the cruelty of a traditional law and attempting wise mediation. According to D. Nörr it did not work, for in his opinion the woman had no right to initiate divorce until the Neo-Babylonian period.⁹⁸

It is worth noting that one reason a wife could give for requesting divorce was that she had been ‘greatly’ (*magal*) belittled by her husband (§ 142), while it was sufficient for a husband more simply to claim to have been belittled by his wife, without adding ‘greatly’ (§ 143).

An example of a man who left his family is found in a text from Mari.⁹⁹ This was the musician Lipit-Enlil, whose father was also a musician, and who was employed at the palace of King Samsi-Addu. He had fled to Mari, to the palace of the viceroy, Yasmaḥ-Addu, accompanied by a colleague and bringing his instrument with him. Yasmaḥ-Addu was commissioned to arrest them and send them back, but the viceroy appears to have been disinclined to do that. Possibly he enjoyed hearing the music at court, for we know he was someone who liked the good life (see further Chapter 23, about the court of Mari). In Mari Lipit-Enlil had

⁹⁶ S. Lafont, *Femmes* (1999) 48–55. Thus also M. Malul, Or. NS 60 (1991) 282, contra Westbrook.

⁹⁷ D. Nörr made a similar observation; see Locher, 275; R. Yaron, ZSS 109 (1992) 77. Locher criticises the thesis that the formula ‘You are not my husband’ in the contracts has a meaning identical with ‘I will not marry (you)’ in § 142 (Locher, 310).

⁹⁸ Nörr’s judgment of Assyrian texts is simplistic, for we now have more evidence.

⁹⁹ N. Ziegler, *Florilegium Marianum* IX (2007) 158 ff. no. 36, with p. 233–236.

complained that ‘My people are detaining me’, and Yasmaḥ-Addu heard the reaction of his chief of music, who told him:

For the past four years he was able to support his people and (then) he got up and left. I have brought his wife and children to the palace and up to the present they have received regular rations of barley, oil and wool. Lipit-Enlil (once) had entrusted himself to (our) protection and I took him on (then) and gave him a house and the wife of the musician A. (i.e., his widow). He used up everything I gave him and he has got up and fled. I have summoned his wife in the presence of the messenger of my lord and asked, ‘Where are the slaves, the cattle and sheep which your husband left with you?’ She replied, ‘He left absolutely nothing with me.’ Out of respect for my lord I am sending here his wife, so that my lord can question her about what he left her.

This man was clearly something of a Bohemian, an artiste who went his own unique way. In a later document we read that he worked in the palace administration – he had a child at that time.

9.5.3 Misconduct by the woman

There were several ways in which women’s misbehaviour is described, one of which is ‘scattering the household’. In a Sumerian letter a woman protests that she has certainly not done this.¹⁰⁰ According to a Sumerian proverb,

A wasteful woman who lives in the house is worse than all the demonic illnesses (SP 1.154).

Another wise saying was,

A woman with her own possessions lets the house go to rack and ruin.¹⁰¹

In an Old Babylonian letter we read of a mother and her son who are both described as scatterers:

The scatterer B. (...) has scattered the ingredients for the beer brewery. Yes, she has made your ‘neck hit the ground’. Her son had already been a ‘scatterer’ like this and he squandered the wool.¹⁰²

100 D.I. Owen in: *Studies Cyrus H. Gordon* (1980) 197–199; W. W. Hallo, *The Context of Scripture III* (2002) 295; TUAT NF 3 (2006) 15–17.

101 B. Alster, *Wisdom of ancient Sumer* (2005) 93 Instr. Šur. 220; TUAT III/1 (1990) 64:221.

102 AbB 7 187.

Adultery combined with theft was of course absolutely deplorable, a subject reserved for Chapter 10, where a relevant lawsuit will be discussed.

Perhaps the most heinous crime was murder. In the report of a lawsuit in the city of Nippur, about a man who had been killed by a gang of three, the wife of the murdered man concealed the crime by failing to report it. According to customary law this was as bad an offence as the murder itself. These were the established facts and the case then proceeded to another stage. The king sent the case to the city assembly, where two different opinions were expressed. Three members of the assembly proposed that it was the woman who had in effect killed her husband by keeping quiet. They then added, ‘What has she, a woman, done to deserve to be put to death now?’ But most members of the assembly pointed out further information established as fact, that the problem began because she had belittled her husband, and his ‘enemy’ became aware of it. This raised the question, ‘Why did she not keep her mouth shut about him?’. They thought that she was more culpable than the murderers themselves. They were of the opinion that a woman like that who had a low opinion of her husband would give information to his enemies for them to strike him. Here we have two conflicting views, the moderate standpoint of the minority and the hard line taken by the majority. That it was common at the time to begin legal discussions with opposing viewpoints can sometimes be seen in the law-books. The polarised opinions in this particular lawsuit became so well-known that it featured in the syllabus of the scribal schools, with several copies of the text having been found.¹⁰³ It is possible that § 153 of Hammurabi is a sequel to this case:

If a man’s wife has her husband killed on account of (her relationship with) another male, they shall impale that woman.

This situation can be linked to a prediction in one of the liver omens, which says, ‘The wife of the man shall have her husband murdered’, and since the person who requested the prediction of the liver omen was in fact the said husband, he must have been completely taken aback.¹⁰⁴

103 Th. Jacobsen, ‘An ancient Mesopotamian trial for homicide’, in: Jacobsen, *Toward the image of Tammuz and other essays on Mesopotamian history and culture* (1970) 193–214; W. H. Ph. Römer, ZAW 95 (1983) 332f.; Locher, *Die Ehre einer Frau*, 102–104. Much has been written about this murder more recently, including M. T. Roth in: V. H. Matthews, *Gender and law in the Hebrew Bible and the Ancient Near East* (1998) 175–181; H. Neumann, ZABR 10 (2004) 79–82. We follow the new interpretation by R. Westbrook, *Studies Joan Goodnick Westenholz* (2010) 195–200.

104 J. Nougayrol, RA 63 (1969) 150, on 25.

A marriage would end more or less automatically when the wife was found to have been guilty of adultery. She was put to death, with no mention of a formal divorce. It was therefore superfluous for such a clause to be put into marriage contracts. The duty to be faithful was self-evident. Even so, in Neo-Babylonian contracts the possibility of adultery is envisaged, as we have seen above.

As soon as there were children it became much harder for a man to leave his wife without reason. It is sufficient here to cite one of the laws of Ešnunna, even though the final sentence cannot be restored with confidence.¹⁰⁵

If a man sired children but divorces his wife and then marries another, he shall be expelled from the house and any possessions there may be, and he shall go after the one whom he loves (?). [His wife] shall succeed to the house (§59).

A divorced woman who had not been the guilty party could remarry,¹⁰⁶ as can be seen in a particularly interesting circumstance described in a letter.¹⁰⁷

Since his mother was divorced, another man had married her, and in the house of her later husband she gave birth, and she swore thus: 'It is truly to you that I have borne him'.

The woman is apparently emphasising that the child was fathered by him. Later in the letter a slave is mentioned and then a saying is quoted: 'A father with sons does not adopt a slave'. Possibly it is the legitimacy of the newborn that is at stake, for as the son he would later be responsible for caring for his father.

9.6 Predictions

Snakes were sometimes seen at a house, and this was considered to be an omen, a portent of divorce. The particular behaviour of the snake was a sign of the seriousness of the prediction, the mildest indicating some irritation between husband and wife: 'If a snake hangs above the entrance of the outer door, vexation between man and wife'.¹⁰⁸ More seriously, if a snake were to fall down, land between the husband and wife, and then escape, then divorce or even death was predicted. A snake simply appearing near a husband and a wife together was another omen predicting divorce, as when a snake was seen when the couple

105 With R. S. Falkowitz, RA 72 (1978) 79 f.; Westbrook, OBML, 72–74.

106 R. Yaron, ZSS 109 (1992) 69 f.

107 AbB 14 207, cf. M. T. Roth in *Studies B. L. Eichler* (2011) 77–88.

108 S. M. Freedman, *If a city is set on a height* II (2006) 124 rev. 3 f.

were talking, which signified that ‘they will separate and leave’.¹⁰⁹ A further step takes us to other ominous reptiles.

If a woman sees a lizard which a snake is carrying, then the woman will be married to the husband of a friend. If a man sees a lizard which a snake is carrying, then the man shall marry another woman.¹¹⁰

In both omens it is the man who takes the initiative.

Part of the text known as *Šumma ālu*, a handbook of predictions, is also concerned with divorce. In the second half of one of the chapters various forms of human behaviour are correlated with predictions of divorce. The first half of the chapter is about sexual behaviour and the second half about behaviour during the divorce process.¹¹¹ The situations as described are taken from real life and are most informative. Although the predictions seem curious today they are thought-provoking and show how various situations were assessed, as can be seen from this translation:

If a man leaves his (first) wife (*hīrtu*), lifelong discomfort; always quarrelling for him; his days will be short.

If *ditto*, and he regularly gives her food, people will listen to what he says.

If *ditto*, and she stays living in his house, he will have constipation (?) (*kiširti bilti*).

If *ditto*, and he comes back to her, he shall die in about a year.

If *ditto*, and he keeps on looking for her inheritance, he will have piercing pain.

If *ditto*, and another man marries her, he shall bear the punishment of the god.

If *ditto*, and he strangles her, he shall be burnt to death.

If *ditto*, and he attacks her with sorcery, the weapon of the god shall remove him.

If *ditto*, and he shows her in the people’s assembly (?), the god shall not accept his prayer with raised hands.

If *ditto*, and he marries the wife of another man who is (still) alive, he shall die from the oppression of the god.

If *ditto*, and he has affairs, hunger shall seize him.

If *ditto*, and he marries the wife of a man who is (already) dead, his handiwork (?) shall not succeed.

If *ditto*, and he slanders (her), (the god) Ninurta besieges him.

If *ditto*, and he acts annoyingly, his heir shall not rescue his family.

The text continues with omens about a man who disliked his wife. This he demonstrated by annoying her, letting her starve, after she dies marrying another

¹⁰⁹ Freedman, 38 ff. Tablet 23:29–34; also Tablet 23:112–115 (p. 48) for more cases.

¹¹⁰ Freedman, 170 Tablet 32:51 f.

¹¹¹ CT 39 45:39–52. See for the first half A. Guinan, *Phoenix* 25 (1979) 68–81.

woman, causing her death, abandoning her repeatedly, three times or even as many as eight times.

A few times remarriage by the man or the woman is here an option. We learn from the Sumerian laws of Ur-Nammu that a divorced woman had to wait six months before she could be married.

If a man has married a wife and he divorces his wife, (only) after she has waited six months, the woman can marry the husband of her heart.

M. Civil comments: ‘The purpose of the law is to ensure that she is not pregnant by the former husband, and that he cannot lose a son.’¹¹²

9.7 Reconciliation

There was general unease when a man and woman became estranged and separated and people felt it would naturally lead to disaster. That is why among the rituals against bad omens we find some intended to bring reconciliation. They were known under the title, ‘Releasing, to make a man and wife who are distant approach one another’.¹¹³ These rituals could apply to any people who had lost one another, but priority is given to divorced couples. Such a ritual for the sun god was carried out in a remote location after having brushed the area clean. A linen cloth was hung between the man and the woman (perhaps a symbol of their separation), and then three pots were broken. A prayer to the gods Šamaš (the sun god) and Marduk was recited three times, in which the gods were praised because they ‘bring together the scattered people, they let those approach each other who were at a distance’; they were praised also for bringing fugitives, hostages, and captives back to their city, and for giving a young man to a young woman. Two other noteworthy sentences in the prayer are ‘Leading back the deserted wife to her husband, O Šamaš and Marduk, depends on you’, and ‘Purge out the sadness from our hearts and give us to each other; make our life long’. After the prayer the hems of the garments of the husband and the wife were tied together and then a concluding formula was declaimed:

The married couple have been led back together; the two married partners led back to their people; the deserted ones; the hostages; the kidnapped; the distant; and the absent.

112 M. Civil, CUSAS 17 (2011) 249 §B7, with p. 270; C. Wilcke, *Festschrift J. Krecher* (2014) 555f. (§b7), with p. 512f.

113 S. M. Maul, *Zukunftsbewältigung* (1994) 409–414.

Finally we draw attention to two magic rituals a woman could use to bring her ‘enraged’ husband back to her. With the first one she would utter a prayer to the goddess Ištar, ‘she who shames the wise women, makes resentful women loving, and sends the enraged husband back to his in-laws’.¹¹⁴ With the second she would ask ‘that I might not sleep (alone)’, and ‘that I might be loved’. She accompanied these utterances with a symbolic gesture holding a little boat made of iron in one hand and a magnetic stone (perhaps haematite) in the other, which would naturally be attracted to each other.¹¹⁵ A Sumerian incantation from an earlier period requires the man to form two sets of seven clay pellets. After moistening the pellets he throws them between the woman’s breasts, and then ‘the wife will come to you’.¹¹⁶

To end this chapter on divorce I quote a Sumerian proverb which echoes ones of today. The saying,

He wed for his pleasure; when he thought about it, he divorced (SP 2.124)

may be compared to ‘Marry in haste, repent at leisure!’, or ‘Heiraten in Eile, bereut man mit Weile’, or ‘T is haest getrouwt, dat lange rouwt’.¹¹⁷

114 STT 2 257 with W. Farber, ‘Ištar und die Ehekrise’, *Festschrift B. Groneberg* (2010) 73–85. Cf. T. Abusch, *Babylonian Witchcraft Literature* (1987) 132 n. 95; E. Reiner, *JNES* 26 (1967) 192; translated by J. Scurlock in Chavalas, *Women*, 108 f., K. van der Toorn, *From her cradle to her grave* (1994) 74.

115 V. Scheil, *RA* 18 (1921) 21 ff. no. 17 with CAD M/1 142a (the little boat). Cf. M. J. Geller in: S. Parpola, *CRRAI* 47/1 (2002) 132 n. 23 f.; translation by Scurlock, 109.

116 N. Wasserman, *Festschrift B. Groneberg* (2010) 333.

117 G. van Tussenbroek, *Amsterdam in 1597* (2009) 133.