



CENTER FOR
**HELLENIC
STUDIES**
HARVARD UNIVERSITY

Women and Property

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Introduction

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Scholars in the two disciplines of Classics and Ancient Near Eastern Studies have recently focused a great deal of attention on the economic roles of women in the societies that they each study. In societies that are generally labeled “patriarchal,” and whose wealth was essentially derived from agriculture, the control and use of property was a determining factor in the maintenance of hierarchical, legal, and ideological structures in general. It therefore provides a perspective through which gender relations within an ancient society may fruitfully be explored.

Research in each of these disciplines has proceeded more or less independently, despite the fact that they apply similar new approaches to ancient economic behavior. Both are concerned to explore its ideological underpinnings as well its tangible effects, by taking into account legal, material, mythic and literary evidence. Both increasingly make use of cross-cultural comparison. They rely, however, mainly on the work of anthropologists working in traditional societies today. Comparisons between the ancient societies of the Mediterranean and Near East have rarely been undertaken, notwithstanding the fact that they were geographically contiguous, in part contemporaneous, and had strong cultural and economic links.

The collection of papers published in this volume derive from a colloquium held at the Center for Hellenic Studies in August 2003, which brought together scholars of ancient Greece, the Levant, Egypt, and Mesopotamia in order to initiate cross-cultural study and cross-disciplinary exchange. The discussion focused on free women as active participants in the control of property and examined three main aspects of the relationship between women and property:

1. how a society represents to itself the relationship, e.g., through literature and art;
2. what structures exist to control the relationship, e.g., legal, social, economic;
3. what are the material manifestations of the relationship, e.g., through grave goods, dedications, dowry lists.

The papers published in this collection represent both the contributions to and the fruits of that discussion. Several of these papers take as their focus the representation of women in relation to property in various culturally central texts. Hans van Wees traces the influence of gender ideology on women’s property-holding from the Homeric period to Classical Athens, while Deborah Lyons does the same for the question of women and exchange. Cheryl Cox compares the assumptions about women and property in the Athenian court orations and in the works of the playwright Menander. Naomi Steinberg looks at how the terminology of the Hebrew Bible distinguishes between categories of

widow according to their economic status. Lin Foxhall details the laws and customs governing female inheritance at Athens.

A second group of papers concentrates more particularly on laws and legal documents. Sophie Lafont surveys the legal structures governing women's property in the Middle Assyrian Laws and private legal documents. Cornelia Wunsch considers the same in the marriage and inheritance documents of the Neo-Babylonian period, while Annalisa Azzoni focuses on similar documents from Persian-period Egypt, especially the Aramaic archives from the Persian garrison at Elephantine. Stephan Link analyzes the treatment of female inheritance in the Great Law Code of Gortyn, while Stephen Hodkinson reconstructs from the fragmentary references available the extent and nature of women's property at Sparta. Raymond Westbrook considers the nature of Penelope's dowry against the background of legal evidence from the ancient Near East.

A third group of papers relies mainly on various types of material evidence. Betsy Bryan considers the special case of the "God's Wife of Amun" – a royal priestess in first-millennium Egypt with extensive property holdings. Stefania Mazzoni and Susan Langdon both examine the evidence from grave goods in the Early Iron Age, Mazzoni from the Syro-Hittite sphere and Langdon from Greece. Diane Harris-Cline looks at the inventories in Greek inscriptions of goods dedicated by women to sanctuaries.

The papers cover a period from the Late Bronze Age (ca. 1500 BCE) to the beginning of the Hellenistic Period (323 BCE). Of necessity, the Near Eastern contributions cover a much longer time-span and a far wider range of societies, from Egypt to Assyria. The Near Eastern societies, however, share many basic structures, especially as far as women's property rights are concerned, nor is there any fundamental break in continuity between the second and first millennium. They may therefore be usefully juxtaposed with Greek societies of the first millennium, not only where there is direct synchronism. Indeed, placing the Greek evidence against the much broader canvas of the Near East may provide a different perspective on the data from both areas.

The societies of the ancient Near East typically present women as having a passive relationship towards property. They may enjoy its benefits, as consumers and as wearers of apparel and jewelry, but the control, management and exploitation of capital assets is essentially a male preserve, as is their transmission from generation to generation. The female contact with the domain of property comes about principally through the dowry.

The basic features of the dowry, common to all Near Eastern societies, are as follows. In contrast to male inheritance, it is (legally, if not socially) a voluntary gift from the head of household, generally the father, to his daughter, drawn upon the paternal estate, on the occasion of her marriage. It passes with her from the hands of her father into the hands of her husband, where it is subsumed into his assets. Ownership, however, remains with the wife, the husband having only a usufruct of the assets, which are regarded as fungible. Their value must be restored to the wife on dissolution of the marriage through death of the husband or divorce. She then remains owner of the property during her lifetime, after which they are reserved for her children.

This structure serves two different purposes: to provide for the woman's material welfare, especially if deprived of her husband's support, and to use the woman as a conduit in transferring paternal property to the next generation, namely the donor's

grandchildren. The tension between these two ends leads to enormous flexibility in the application of the dowry's general principles. In a sense, the dowry is only a matrix, the lineaments of which are subject to remarkable manipulation and variation in pursuit of pragmatic ends. Indeed, the spirit of pragmatism in the face of economic necessity extends not only to the dowry but to the role of women in relation to property overall. By various different devices, women may be allowed all the prerogatives of men in the ownership and management of property, albeit only in special circumstances and without changing the overall conception of gender roles.

The first indication of flexibility lies within the dowry itself. Occasionally, we find evidence that one part of it may be subject to different rules from the rest. Given various names – the “cash-box” (Neo-Babylonian), the “goods of a woman” (Egypt), variants on the semitic root *mlg* in various places – it represents the bride's trousseau. It is the equivalent of *phernē* in Greek, although not so strictly separated as the Greek trousseau from the dowry proper: it is sometimes included in lists of dowry property as if it were another item. The wife retains direct control over this property, which would not represent much of an encroachment upon the husband's prerogatives were it merely a matter of personal clothing or cosmetics, but which begins to have more serious consequences when it involves personal slaves, and becomes almost subversive when it consists of a cash fund, as with the Neo-Babylonian “cash-box,” or even land, as at Nuzi (Late Bronze Mesopotamia). As Wunsch points out, although the “cash-box” was a small part of the dowry, it could still amount to a substantial sum if the dowry were large enough, as was the case with certain wealthy merchant families.

A further aspect of the trousseau (revealed by Rabbinic jurisprudence, where the tradition continued) is that the wife bore all losses due to deterioration or destruction of the property, for example the death of a slave. The rest of the dowry, it will be remembered, was in the nature of a fund that had to be replenished by the husband (“iron sheep” in Talmudic parlance). This may account for a puzzling feature of the Elephantine dowry-lists: although we know from other sources that the women in question also owned land and slaves, only items of personal use and some kitchen utensils are listed, and these are given a monetary value. The possibility therefore arises that it is a tactic to convert the trousseau into regular dowry, and thus engage the husband's responsibility for their replacement.

Given that they could control their own trousseau, it is not surprising that there was no absolute bar on wives managing other dowry property. There is scattered evidence of wives being engaged in transactions such as sale and loan, with or without their husband's participation. Harris-Cline's distinction between positive and negative accounts of ownership is helpful in understanding the nature of this phenomenon. The potential duty of the husband or his heirs to restore the value of the dowry acted as a powerful incentive to include the wife in major decisions regarding the property, almost to the point of a veto. The level of concrete expression of the wife's negative right will have varied from society to society – in some remaining within the purely informal sphere of inner-family relations, in others being a formal prohibition on alienation, at least without the wife's participation, and in extreme form amounting to a sort of community of property between spouses, as Azzoni suggests for Elephantine.

By far the more usual case of a woman managing property independently was that of the widow (and to a lesser extent the divorced woman). Three possibilities are

mentioned in ANE sources for the fate of the widow: that she remain within her late husband's family, that she return to her father's family, or that she go wherever she pleases. Strenuous efforts are made in marriage settlements to ensure that the widow will not leave her late husband's house and thus force his family to refund her dowry. In a few specific cases, such as those referred to in the Middle Assyrian Laws (Lafont) or the biblical levirate law (Steinberg), the widow may even be obliged to remarry within her husband's family. Returning to the paternal home seems to have been a rarer option, applicable mainly to a young, childless widow or divorcée.

Most widows were independent, but as Steinberg notes, this was not necessarily an advantage. The ideal was for a single woman to seek the protection of a male, through marriage or family connection. A widow with children, however, and without a dowry, had little prospects. Steinberg argues that even if she could return to her own family, they were not obliged to take her in. The bulk of our sources come from the archives of propertied families, who have the resources to make provision for their female members. Only occasionally, as in the Nuzi archives, do we gain a glimpse of less fortunate women forced into a position of dependence upon a male relative, under an arrangement known as "sisterhood." The Hebrew Bible is unique in revealing the fate that property arrangements were intended to avoid. Steinberg's essay shows that there was even a terminological distinction between the widow with support – through property or family – and the destitute widow, the *almanah*.

Between the two extremes lay the widow with children and some property but no male protector. Of necessity, she became a manager and dealer, not only of her own property but also of her husband's estate as trustee for her children, until such time as she had adult sons who could relieve her of the burden. The bulk of attested transactions by sole women or by women together with their sons relate to widows in this condition. If their legal right to the property might sometimes be challenged by male relatives, their legal capacity to control it was unquestioned: neither the laws nor the customs of ANE societies were prepared to contradict the demands of economic necessity. In a sense, the relationship between a widow and her young but not yet mature sons was analogous to that of husband and wife over the latter's property: she sold or mortgaged family property, but included her sons as parties or witnesses, so as to forestall any claims that they might later raise against the buyer or creditor.

Moving beyond the dowry proper, another attestation of the flexible approach to the woman's role in regard to property was the use of private instruments such as the marriage contract, gift *inter vivos*, gift *mortis causa*, or testament, to endow women with extra rights. A daughter did not normally inherit along with her brothers, but the father could make her an heir by testament, and give her an equal share. The Middle Assyrian testament discussed by Lafont is but one example of this widespread practice. It should be noted that the father could not have done the same for a collateral male relative, e.g., a nephew, without adopting him; no such procedure was required for a daughter. Furthermore, a father could give his daughter a gift in addition to her dowry, as the examples adduced by Wunsch for the Neo-Babylonian period and by Azzoni for Elephantine show. In the case of the redoubtable Miphtahiah of Elephantine, the gift is a further attestation of her independence, being repayment for her support of her own father when he was in economic straits.

In the same way, husbands and wives did not in principle inherit from each other, but a husband could, and frequently did, make his wife a formal gift *mortis causa*, often after the marriage had produced issue. Both Lafont and Wunsch present examples of such instruments, which are widespread. Typically the gift is for life, after which it reverts to the natural male heirs, but a striking feature of this type of gift (occasionally shared by a special gift to a daughter) is the possibility of a clause giving the wife a power over the choice of beneficiary. The standard form of the clause reads “she may give it to the son who loves/supports her,” but there are examples of absolute discretion being granted: “where she pleases.” The consequence is that the normal devolution of the male estate is diverted, with a part going to one son in preference to the others, or in some cases even, it would appear, to an outsider.

Another extra gift comes from an unexpected source and undergoes an interesting transformation, which can be traced over several millennia. The bridewealth is a widely attested institution, going back to the third millennium. It was a common (but not essential) betrothal payment made by a groom to the bride’s father in return for the right to marry his daughter. By an old-established custom, however, the father could upon marriage return it to the husband as part of the dowry: in one example, the father literally tied it in his daughter’s hem. The results were paradoxical. On the one hand, if the wife died childless, it would not return to her father with the rest of the dowry. On the other, if the husband divorced her without cause, the wife could take it with her along with her dowry proper. It thus became associated with the amount of compensation payable by the husband to his wife for unjustified divorce. In the first millennium, bridewealth seems to be less in evidence, but at Elephantine, for example, still plays a role as a divorce penalty. Ultimately, in the Hellenistic Period, the payment became fictional, being replaced with an obligation by the husband, charged upon his assets, to pay the bride a certain sum in the event of divorce.

Finally the position of the heiress, that is, a daughter in a household which had produced no male heirs, was as much a problem in the ANE as in ancient Greece. Scattered references across three millennia show that the courts wavered in deciding whom to favor: the daughter or the deceased’s nearest male heirs, in principle his brothers. The law code of Lipit-Ishtar (southern Mesopotamia, 20th century BCE) categorically states that if a man dies without male offspring, his unmarried daughter shall be his heir, but later in the millennium we find anxious fathers expressly bequeathing a sole daughter the whole estate in a testament or even adopting a daughter as a son, in order to ward off the claims of her male relatives (see below). In the biblical account of the daughters of Zelophehad (5th century?), the latter died without sons, so his five daughters appear before Moses to claim his landed estate. So difficult is the problem that Moses submits it for oracular judgment, but even a divine pronouncement in the daughters’ favor (and its establishment as a precedent henceforth) did not put an end to the matter, since their uncles then complained to Moses of the potential loss to the family of the patrimony when the daughters eventually married. The compromise solution was for Zelophehad’s daughters to marry their cousins. The parallel to contemporary laws in Greece concerning the *epikleros/patroiokos* is not fortuitous.

Nonetheless, the paradigm of male control was still a potent one, to which the above instances represented only marginal exceptions. To allow women to hold their own in the realm of male property-holding, resort might be had to a final artifice: the legal

fiction of male gender. Thus we find the *paterfamilias* in various societies of the Late Bronze Age adopting a daughter as a son, or making her “male and female,” or making his wife after his death into “mother and father.” These devices served certain special purposes: to ward off predations upon an heiress’s estate by uncles acting as guardians; to give a daughter ownership of the principle residence with its household gods and thus the power to continue the family cult, normally a male reserve; to maintain the family estate undivided during the widow’s lifetime.

Thus far we have been discussing exceptions made for ordinary women, if at times from the wealthy elite. A different type of exception existed by reason of public office. For women this meant only priestesses or members of the royal family. The God’s Wife of Amun is remarkable not only for the legal fictions surrounding the office – the fiction of being a penniless orphan, the adoption of the successor by the incumbent, and male filiation – but also because she held property in two capacities. She appears to have had control of both her personal property, which was considerable, since she was also a member of the royal family, and of the endowment that accompanied the priesthood, which was managed by a steward. On adopting her successor, the incumbent made her heir to both types of property. Of course, it may be argued that the twin features of royalty and priesthood created a singularity of status that would find no reflection in ordinary society, but at least as far as the royal factor is concerned, a remarkable parallel shows how royal privileges could be emulated lower down the social scale.

In Mesopotamia of the Old Babylonian period (19th to 16th centuries BCE) a class of religious women existed consisting of several categories, ranging from a high priestess (*entum*) to devotees who are best described as nuns (*naditum*). Of the latter, those devoted to the sun-god Shamash did not marry, but entered a cloister where, like the God’s Wife of Amun, they were deemed to be a wife of the god (his second wife, the first being divine). They received a dowry from their family and in some cases were extremely wealthy. Nonetheless, they were drawn from all classes of free citizens, and there were even cases of destitute *naditums*. Their natural heirs were their brothers, but it was a frequent practice for a *naditum* to adopt a younger *naditum*, preferably her niece, as her heir.

The Laws of Hammurabi regulate control of the *naditum*’s (and other such priestesses’) dowry, and in doing so exemplify the combination of conventional attitudes and pragmatism that we have identified in ANE societies. Exploitation of the *naditum*’s land is given to her brothers, but should they fail to pay her an adequate pension from the proceeds, she may wrest it from their control and give it instead to a farmer as tenant, in return for maintenance (§178). She may not, however, alienate the land, which is reserved for her brothers as her heirs. In practice, we find *naditums* engaging in extensive real estate transactions, buying and selling, lending and borrowing against the security of land, and even having themselves adopted and installed as heiress by another *naditum* in return for payment of her debts.

In summary, the societies of the Ancient Near East were patriarchal in nature and in consequence shared a basic assumption of male control over property. Nonetheless, in practice, for pragmatic reasons, the guiding principles were relaxed, to satisfy economic necessity, family interests, sentiments of affection, religious imperatives, and recognition of elite status. The degree and focus of relaxation varies from society to society, with the wealthy widow Miphtahiah at Elephantine showing the extent to which a woman could

exploit her personal circumstances to gain far more equitable terms in her marriage settlement and a free hand in the control of her own property.

Against this background, the situation in Greece, which is dominated by the evidence from Classical Athens, may be reconsidered. The total disempowerment of Athenian women is, we suggest, neither a normative condition, nor a straightforward development through urbanization from a more primitive Homeric society. After all, the ANE societies had been urbanized for thousands of years. As Link and Hodkinson have shown, far less stringent rules applied at Gortyn and Sparta, and indeed in other places where some indication has been preserved, such as Delphi. Perhaps classical Athens should therefore be seen as merely the extreme end of a spectrum, where it was seen fit to privilege the role of the woman as a mere conduit of family property over other possibilities that were available. At the other end of the spectrum lie cities like Sparta, where as Hodkinson demonstrates, royal women engaged in a use of property – horse-breeding and -racing – that was regarded as quintessentially male, and were emulated by other women from the non-royal elite. Even at Athens, the nature of our informants – advocates and philosophers – may have distorted the picture somewhat. Priestesses have the same dual property rights that we have seen in Egypt: as Harris-Cline notes, they could acquire property as payment for the exercise of their office and they had the authority to use funds for purchases to equip the sanctuary and the festivals. Ordinary women had control of their *phernē*, which may not always have been as minimal as it appears, and it is difficult to see why, as Cox posits, a large dowry would ensure an Athenian woman's important role in the decisions of the marital household, if the woman were no more than a passive conduit in the transfer of that property from her father to her husband.

The question of just how much control women exercised over the property that was theirs at least in name, remains a difficult one. Three papers in this collection address this question from the point of view of material remains, coming to rather different conclusions. Langdon and Mazzoni consider parallel bodies of evidence – grave goods from two different parts of the ancient world. Mazzoni is more pessimistic about the possibility of reliably assigning gender to the objects found, although Langdon is also circumspect in noting the limits of the data. Nonetheless, she argues that the rich grave goods that can be associated with female burials suggest that women exercised greater control over prestige items than is often believed. Mazzoni, in contrast, concludes that grave goods serve as markers of class or status rather than gender. This is the crux of the problem, for if we interpret female grave goods – assuming we can identify them as such – as evidence of women's active control of property, do we perhaps give short shrift to the role of the survivors, rather than the deceased, in determining what would be placed in the tomb? That display was an important part of aristocratic funerals is clear from our sources, from the elaborate Homeric funerals to the attempts of Solon and other legislators to curb excesses by means of sumptuary laws. It has often been noted that one of the principal effects of this legislation was to limit the participation and visibility of women in funerary ritual. The problem, as Hodkinson's paper implies, may come down in part to the difficulty of determining which rights or privileges elite women enjoy *qua* women, and which are bestowed upon them as members of a privileged stratum of society.

The third paper with relevance to this question concerns not remains themselves but a written record of them. Harris-Cline details the records of women's dedications to the gods. She shows that the dedications show gifts of objects that range beyond the limits of women's personal property, and must have required the approval and participation of male relatives. Her conclusion that women were not in any true sense owners of the possessions they dedicated runs counter to that of Langdon (and also of Foxhall). Neither objects found in tombs, nor those enumerated in dedication lists can be compelled to speak to us and tell us owned them. There are a few exceptions. Langdon makes mention of a spindle whorl inscribed with a woman's name, from the Athenian Agora. We might also consider a sixth-century loom weight from the South Italian city of Siris, which reads "*Isodikēs emi*" – "I belong to Isodikē" (Jeffery 1990: 288 n. 1). These are precisely the kinds of items that would be figured among a woman's *phernē*, which as Foxhall notes, seems to have been considered the woman's personal property. While, as she observes, it could include items of real value, here that is not the case.

Finally, mention should be made of something that is not there, or at least not in evidence. The products of a woman's industry, in particular of weaving, are remarkable for their virtual absence from the ANE sources as a form of property. In the context of marriage, the only mention is of items of female apparel in dowry lists, without reference to their origin; in testaments, textiles are never mentioned. Nonetheless, there is ample archaeological evidence, notably in the form of loom weights, for the importance of weaving in the domestic context, while economic texts attest to the existence of almost industrial-scale weaving (by women) in royal and temple workshops.

The ANE situation is to be contrasted with the Greek sources, which provide ample evidence of both the economic and property aspects of women's work. It may be true that, as van Wees argues, at Athens the value of domestic women's weaving ultimately came to be usurped by luxury imports, but the predominance of clothing, including male clothing, noted by Harris-Cline in dedications by women at Brauron, suggests its continuing significance in the domestic economy. Their importance as property was in fact recognized at Gortyn, where the Great Code includes among the assets to be computed for the purposes of divorce and inheritance "half of what she has woven within." Moreover, the more common term for the trousseau in classical Athens was not *phernē*, but rather – as noted by Foxhall and Harris-Cline – *himatia kai chrusiē* ("clothing and gold [*i.e.* jewelry]"). These references put in a different light the portrayals of women on Iron Age Syro-Hittite funerary monuments with a distaff and spindle and a basket of wool, discussed by Mazzone. Perhaps we are underestimating the value of material that was literally in women's hands but which, like the cloth itself, has vanished virtually without trace.