

Civil Liberties under Israelite and Mesopotamian Kings*

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Because perceptions of civil liberties vary from age to age and from place to place, it is not an easy task to establish exactly what civil liberties denote. For example, whereas in modern societies slavery is considered repugnant and illegal, most ancient societies accepted it as a normal institution. Or again, many of the liberties embodied in the American Bill of Rights, or as defined by the American Civil Liberties Union (such as freedom of association, speech, press, religion etc.), are not held to be automatic rights of citizens in other parts of the world. Hence it is not possible to give a definition of civil liberties which would cover all societies, and certainly not ancient cultures. While there may be some essential liberties, such as right to life, protection from unlawful imprisonment, etc., which one can reasonably expect to find in every society, ancient or modern, we believe that each society must be examined separately as regards its distinctive civil liberties.

Our purpose here is to investigate how citizens of ancient Israel and Mesopotamia fared under their rulers with respect to certain civil liberties. The particular liberties we shall examine are those which arise from the two well-known cases of royal abuse in ancient Israel, namely the Ahab-Naboth incident and the David-Bathsheba affair. We shall be interested in seeing if there are parallel cases recorded in Mesopotamia, and how a Mesopotamian ruler might be expected to act under similar circumstances. It is our belief that these two cases portray most vividly the attitude of the monarchy towards the rights of their subjects to their property and

*This article is dedicated to my teacher Professor Jacob Weingreen on the occasion of his retirement from a lifetime of service at Trinity College, Dublin, Ireland.

Most of Professor Weingreen's life has been spent, in one form or another, labouring on behalf of his fellow human beings. His concern for the dignity of man has been foremost in his actions and teachings. In his classes he has always been fond of pointing out the deep respect for human rights which was inherent in ancient Israelite society. It is fitting then that, in devoting this paper in his honor, we should discuss certain aspects of civil liberties in ancient Israel and Mesopotamia.

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persons. They indicate that in both Israel and Mesopotamia kings were not absolute monarchs¹ who could act tyrannically with the property and personages of their subjects.² On the contrary, they were subject to the discipline of law and had to respect the rights of the individuals.³

The Ahab-Naboth incident in 1 Kings 21 is a fine illustration that kings in Israel were not exempt from civil law.⁴ If they wished to acquire property from their subjects they had to purchase it. Thus David bought the threshing floor from Arawnah (2 Sam. 24:24), and Omri bought the hill Samaria from Shemer (1 Kgs. 16:24). Israelite kings could not force a man to sell or exchange his property, and could not interfere with the right of a man to hold on to his patrimonial estate as Naboth wished to do.⁵ To preserve appearances of legality Ahab and Jezebel had to resort to false accusations in order to obtain Naboth's vineyard. They had him convicted of blasphemy and his property consequently appropriated by the crown.⁶ The severe denunciation of Ahab by the prophet Elijah also emphasized the fact that the Israelite king was subject to the law.⁷

In Mesopotamia, too, kings were not exempt from civil law. This fact is not at all surprising if we bear in mind the legal system in Mesopotamia and the place of the king within that system. Law played a major role in Mesopotamian society.⁸ We have at our disposal tens of thousands of documents dealing with all types of legal contracts.⁹ There is no reason to assume that the

1 R. Labat, *Le caractère religieux de la royauté assyro-babylonienne* (Paris, 1939), 25, 361. E. A. Speiser constantly stressed this point in his many articles on Israelite and Mesopotamian society, some of which have been conveniently assembled and published by J. J. Finkelstein & M. Greenberg in *Oriental and Biblical Studies: Collected Writings of E. A. Speiser* (Philadelphia, 1967), 190, 528, 561, etc.; see also Speiser in *Cuneiform Studies and the History of Civilization, Proceedings of the American Philosophical Society 107/6* (Philadelphia, 1963), 537.

2 Contrast the situation in Egypt where the king was a god and had absolute power over the land of Egypt and its inhabitants. See H. Frankfort, *Kingship and the Gods* (Chicago, 1948), 51; J. A. Wilson, *The Culture of Ancient Egypt* (Phoenix ed.: Chicago, 1956), 49-50.

3 Speiser, *Oriental and Biblical Studies*, 320, 528, 560; idem in B. Mazar, ed., *The World History of the Jewish People* (Tel-Aviv, 1971), 3:283.

4 J. Pedersen, *Israel: Its Life and Culture* (Reprint: Copenhagen & London, 1947), III-IV:68; S. Szikszai in *The Interpreter's Dictionary of the Bible* (Nashville, 1962), 3:13.

5 Pedersen, *Israel: Its Life and Culture* (Reprint: Copenhagen & London, 1954), I-II:82; T. H. Robinson in H. H. Rowley, ed., *The Old Testament and Modern Study* (Reprint: Oxford, 1961), 367.

6 F. I. Andersen has expressed reservations concerning the reversion of the estate of a wrongdoer to the crown (*JBL* 85 [1966], 46-47, but a similar example is afforded by the Alalah texts: "Abra became a criminal (*bēl masikti*), and, as his punishment, he was executed, and his estate was forfeited to the palace (*ana ēkalli irub*)" (Wiseman, *Alalakh*, #17:7-11). Cf. S. E. Loewenstamm, *IEJ* 6 (1956), 224-25; D. J. Wiseman in D. Winton Thomas, ed., *Archaeology and Old Testament Study* (Oxford, 1967), 128.

7 Pedersen, *Israel*, III-IV:68; Szikszai, *Interpreter's Dictionary*, 3:13.

8 For an up-to-date survey see S. M. Paul, *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law* (Leiden, 1970), 3-10, and the article "Cuneiform Law" by J. J. Finkelstein in *Encyclopaedia Judaica* (Jerusalem, 1971), 16:1505f-1505k.

9 A. L. Oppenheim in K. Polanyi, C. M. Arensberg, H. W. Pearson, eds., *Trade and Market in the Early Empires* (Glencoe, Ill., 1957), 27; J. J. Finkelstein in *Encyclopaedia Biblica* (Jerusalem, 1968), 5:589 [in Hebrew]. Speiser has suggested that the principal reason for this volume was the rigid requirement of proof of ownership in a society with a strong developed sense of private property (*Oriental and Biblical Studies*, 527-28; cf. also *ibid.*, 191, 542).

king did not have to go through the legal formalities just like any other citizen.¹⁰ Although he occasionally made a compilation of precedents—the so-called codes of law¹¹—the king himself was subject to law because he was not considered to be the source of law.¹² Nor indeed were the gods thought to be the source of law either. Shamash, the patron god of justice, was not the originator of justice but only its divine custodian.¹³ The final source of law was thus above the gods as well as men.¹⁴

The law was conceived as impersonal and timeless, and as the embodiment of cosmic truths (*kīnātu*).¹⁵ It was Shamash who granted the king the right to the perception of these truths by which he could establish justice (*mīšaru*) in his realm.¹⁶ So Hammurapi declares in the epilogue of his Code: “I, Hammurapi, the just king (*šar mīšarim*) to whom Shamash has granted (the perception of) truths (*kīnātim*).”¹⁷ The king was the servant of the gods and as such responsible to them both for the enactment and administration of law.¹⁸ It was his duty, as elsewhere in the ancient Near East, to be a just king (*šar mīšarim*),¹⁹ to appoint judges,²⁰ and to make the law function equitably.²¹ In fact most Mesopotamian kings were personally concerned with the dis-

10 Speiser, *ibid.*, 320.

11 As is well-known, the collection of precedents promulgated by the kings of Ur (Laws of Ur-Nammu, 21st century), Isin (Laws of Lipit-Ishtar, c. 1950), Eshnunna (Laws of Eshnunna, c. 1800), and Babylon (Laws of Hammurapi, 1792-1750) were not codes of law: “they made no attempt to provide universal criteria of culpability, nor were they cited, or even necessarily followed, in the determination of lawsuits” (W. W. Hallo in *Encyclopaedia Judaica*, 16:1505b).

12 W. F. Leemans, in J. A. Ankum, R. Feenstra, W. F. Leemans, eds., *Symbolae Iuridicae et Historicae Martino David Dedicatae* (Leiden, 1968), 2:107; Speiser, *Oriental and Biblical Studies*, 319, 528, *idem*, *World History*, 3:283. Contrast the situation in Egypt where there was no room for impersonal law; see Wilson, *Culture of Ancient Egypt*, 50; Frankfort, *Kingship*, 51; Speiser, *Oriental and Biblical Studies*, 193; *idem*, *Cuneiform Studies*, 540.

13 In the Yaḥḏun-Lim Foundation inscription Shamash is called “the king of the heaven and the nether-world, the magistrate of gods and men, whose nature is (the dispensation of) justice (*mēšarum*) and to whom (the perception of) truths (*kīnātum*) has been bestowed” (*Syria* 32 [1955], 12:1-6).

14 Speiser, *Cuneiform Studies*, 537; M. Greenberg in M. Haran, ed., *Yehezkel Kaufmann Jubilee Volume* (Jerusalem, 1960), 9; Paul, *Studies*, 6.

15 Speiser, *Oriental and Biblical Studies*, 191, 319; *idem*, *Cuneiform Studies*, 537-38; Finkelstein, *Encyclopaedia Biblica*, V:589.

16 Finkelstein apud Greenberg, *Kaufmann Volume*, 9, n. 7. The Akkadian phrase for law *kittu* (pl. *kīnātu*) *u* *mīšaru* stands for something like “impersonal and immutable order tempered with equity and fairness” (Speiser, *Oriental and Biblical Studies*, 550).

17 CH xxv:95-98 (Epilogue).

18 Leemans, *Symbolae David*, 2:107-8; Speiser, *Oriental and Biblical Studies*, 191, 278, 528, 538, 560; *idem*, *Cuneiform Studies*, 537.

19 Finkelstein, *Encyclopaedia Judaica*, 16:1505j. The title *šar mīšarim* was used by Hammurapi, Assurbanipal, Nebuchadnezzar II and others, see M. J. Seux, *Épithètes royales akkadiennes et sumériennes* (Paris, 1967), 316-17, and literature cited there.

20 Hallo, *Encyclopaedia Judaica*, 16:1505b.

21 Finkelstein, *Encyclopaedia Biblica*, V:589; Speiser, *Oriental and Biblical Studies*, 318, 321; Frankfort, *Kingship*, 239, 278.

pensation of justice.²²

So because he was theoretically accountable to outside powers the king himself was subject to the discipline of law.²³ In practice royal power was held in check not only by this conception of law but also, at various times, by an assembly of/or elders,²⁴ by a city,²⁵ and even by a priesthood.²⁶ The net result was that the king's subjects were protected against autocracy,²⁷ and that they had the comfort and assurance of certain inalienable rights, one of which was the right to hold property.²⁸

The king was not, as has sometimes been alleged, the owner of all the land of his kingdom,²⁹ nor could he unlawfully expropriate property of his citizens.³⁰ He had to buy land just like any other citizen.³¹ Our evidence comes from Mesopotamia proper and from Alalah and Ugarit,

22 Leemans, *Symbolae David*, 2:128. Even the powerful Sargonid Assurbanipal acted as chief judge; see C. H. W. Johns, *Assyrian Deeds and Documents* (Cambridge, 1901), 3:335. Not only did they make compilations of precedents (see above), adjudicate cases, etc., but it was the custom of kings in the south (Babylonia) to issue royal edicts at regular intervals. These edicts, called *mīšarum*-acts, contained stipulations concerning remission of debts, release of pledges, etc.; see Finkelstein in H. G. Güterbock & Th. Jacobsen, eds., *Studies in Honor of Benno Landsberger* . . . AS 16 (Chicago, 1965), 233–46.

23 Speiser, *Cuneiform Studies*, 537; Finkelstein, *Encyclopaedia Biblica*, 5:589; Paul, *Studies*, 8.

24 For most recent discussions, see M. T. Larsen, *The Old Assyrian City-State and its Colonies* (Copenhagen, 1976), 161–91, 218, 220; and Hallo, *Encyclopaedia Judaica*, 16:1505a. There are many references to the role of an assembly in Sepsis's writings; see *Oriental and Biblical Studies*, 191, 279, 315–16, 529, 548, 560; and *World History*, 283.

25 For the Old Assyrian period, see Larsen, *City-State*, 160–61; and for the Neo-Assyrian period, A. L. Oppenheim in C. H. Kraeling & R. Adams, eds., *City Invincible* (Chicago, 1960), 79–80, and in I. M. Lapidus, ed., *Middle Eastern Cities* (Berkeley, 1969), 7. Oppenheim observes that the king had to respect the rights of citizens and the city, and that the inhabitants of certain cities enjoyed specific legal privileges (*kidinnūtu*). In fact, states Oppenheim, the stress placed on civic liberty, the pride in being a citizen of a city, is very characteristic of Mesopotamia.

26 Frankfort, *Kingship*, 259. In Neo-Assyrian times the king was the most important person in the cult. Most of the texts describe his acts, or at least acts in his presence. If the ceremonies described in the texts recurred every year they would have taken a vast toll of the king's time (G. van Driel, *The Cult of Aššur* [Assen, 1969], 170). In the numerous letters of the Sargonid kings, the king is constantly asking and receiving advice about the pleasure of the gods, the interpretation of which only "experts" were competent to judge: "To that extent, therefore, the king was subject to the discretion of the priests. The priests imposed upon him various expiatory rituals, often to his intense discomfort and even distaste" (Speiser, *Oriental and Biblical Studies*, 317, cf. 314). For some examples of these impositions, see ABL 370 (he has to spend seven days in a reed hut), ABL 553 (he has to wear clothes of a nurse and not eat cooked food), etc.

27 I. M. Diakonoff in I. M. Diakonoff, ed., *Ancient Mesopotamia* (Moscow, 1969), 185.

28 Speiser, *Oriental and Biblical Studies*, 528; idem, *Cuneiform Studies*, 537.

29 For Sumerian times, see most recently C. C. Lamberg-Karlovsky in D. Schmandt-Besserat, ed., *The Legacy of Sumer* (Malibu, 1976), 65; I. J. Gelb, *Encyclopaedia Judaica*, 16:1505c–1505d, and for Neo-Assyrian times, see the remarks of G. van Driel, *BO* 27 (1970), 175b; a contrary opinion is expressed, however, by J. N. Postgate in his *Taxation and Conscription in the Assyrian Empire* (Rome, 1974), 202; and Diakonoff, *Ancient Mesopotamia*, 219. For the peripheral areas, e.g., at Ugarit, see M. Heltzer, *The Rural Community in Ancient Ugarit* (Wiesbaden, 1976), 103, who observes that land purchases by a king would be inexplicable were the king the owner of all the land.

30 V. A. Jakobson in I. M. Diakonoff, ed., *Ancient Mesopotamia*, 294.

31 Diakonoff, *Ancient Mesopotamia*, 182; Speiser, *Oriental and Biblical Studies*, 528.

two areas strongly under the influence of Mesopotamian legal tradition.³²

From the Old Akkadian period the obelisk of Maništušu (2269–55) records a purchase by Maništušu of large tracts of land from private citizens.³³ It is important to note that the king did not confiscate the land, but acquired it legally by purchase.³⁴

At Alalah in the 18th century kings had to go through **the regular** formalities in purchasing land from private individuals.³⁵ Similarly, at Ugarit in the fourteenth and thirteenth centuries we have documents recording **land** purchases made by the royal family from private parties.³⁶ The texts indicate that the monarchs had to perform all the formalities required of any other citizen who purchased land.³⁷

In later periods, more contemporaneous with the monarchy in Israel, we have many texts of royal grants of land and tax exemptions to private individuals.³⁸ It is possible that some of these grants may be simple sales of land by the king.³⁹ We do have some **evidence from** the Neo-Assyrian period that the king or member of the royal family purchased land using proper legal procedures.⁴⁰ Both the sister and maternal aunt of Esarhaddon (680–69) are parties in land purchases from private individuals.⁴¹ It is also thought probable that a text having to do with Adad-Nirari III (810–783), and thought to be a royal grant, may in fact represent a purchase of land.⁴² Most purchases by kings, however, were made through the medium of intermediaries.⁴³ For example, Rīmāni-Adad, the “chief charioteer” of Assurbanipal (668–27) is involved in many

32 The cultural unity of the area under Mesopotamian influence is well-known. Mesopotamian legal tradition spread to the Elamites, Hurrians, Hittites, and Syrians. The term “cuneiform law” is usually applied to legal material written in cuneiform script coming from these areas as well as from Mesopotamia proper; see Paul, *Studies*, 4; Finkelstein, *Encyclopedia Judaica*, 16:1505f.

33 MDP 2, 1–52.

34 Note the opening lines, *Maništušu šar Kiš išim* “Maništušu, king of Kish, purchased” (col. I:6-9), and see L. W. King, *A History of Sumer and Akkad* Reprint: N.Y., 1968), 207.

35 For examples, see Wiseman, *Alalah*, ##52–55.

36 For examples, see *Ug. V*, ##159–161; for others, see I. Mendelsohn, *BASOR* 143 (1956), 19, n. 9.

37 Heltzer, *Rural Community*, 103.

38 See now J. N. Postgate, *Neo-Assyrian Royal Grants and Decrees* (Rome, 1969); idem, *Taxation and Conscription in the Assyrian Empire* (Rome, 1974). The natural assumption is that the king actually presents land which had been under direct royal ownership to the beneficiary; see Postgate, *Taxation*, 238.

39 Postgate, *Neo-Assyrian Grants*, 2. Furthermore, the physical appearance of some of these tablets are identical in size with contemporary sale documents, see *ibid.*, 3.

40 The tendency to see Neo-Assyrian monarchs as despots (e.g., most recently, Larsen, *City-State*, 218), must be reconsidered in the light of the above discussion and by the fact that in the voluminous correspondence that we possess for this period—some 3500 letters and letter fragments, according to S. Parpola, *Letters from Assyrian Scholars to the Kings Esarhaddon and Assurbanipal*, *AOAT 5/1* (Neukirchen-Vluyn, 1970), vii there is no indication that the monarch is acting unfairly or arbitrarily on any matter. There is no case of a death sentence meted out by the king nor any reported terrorism; see A. L. Oppenheim, *Ancient Mesopotamia* (Chicago, 1964), 103.

41 *ADD* 804 (see Johns, *Assyrian Deeds*, 4:213); *ADD* 70 (see *ibid.*, 3:113).

42 Postgate, *Neo-Assyrian Royal Grants*, #5.

43 Johns, *Assyrian Deeds*, 2:80–83, #124.

purchases and sales on his master's behalf.⁴⁴ In one of his purchases, of a city and surroundings, the label reads "a sale to Assurbanipal."⁴⁵

These examples show us that the Mesopotamian citizen, and those under the influence of Mesopotamian legal tradition, enjoyed a strong measure of civil liberties with regard to land ownership so that the king could not increase his holdings by simple requisition or expropriation.

The David-Bathsheba affair (2 Sam. 11–12) shows quite clearly that in Israel a king was theoretically not above the moral law. He was not the absolute lord of the life of his subjects, and could not unilaterally take to himself what he desired.⁴⁶ This premise is illustrated by the fact that David had to resort to a subterfuge in dealing with Uriah,⁴⁷ showing that he felt bound to respect the rights of his subjects—even a non-Israelite—at least in appearances. Furthermore, when David was severely rebuked by the prophet Nathan for his disregard of the law he readily admitted his guilt. Some scholars, including Weingreen, feel that this breach of the moral law by David led to serious political repercussions.⁴⁸

We now have to consider whether we have in Mesopotamia an analogous case of a king being involved in an adulterous affair with the wife of a subject. That we are unable to find such a case in the extant documents is not altogether surprising, and we may surmise that, contrary to the opinion of some scholars,⁴⁹ such an event would have been unlikely for the following reasons.

In the first place all the known Mesopotamian legal compilations treat consensive adultery most severely,⁵⁰ and there is no reason to believe that the king was not bound by these laws. It is interesting that although the punishment for adultery in both Israel and Mesopotamia was death, the sentence could be mitigated. Nathan announced that David would not die as Yahweh had decided to forgive him (2 Sam. 12:13). In Mesopotamia a husband could mitigate the sentence against his wife if he so desired.⁵¹ Adultery was not considered a capital case, like murder or sorcery, in which the state would commence proceedings. It was thought to be a civil invasion of the husband's domain, and it was up to him to take as serious or as lenient a view of the matter as he choose; in practice the tendency was towards leniency.⁵²

44 Ibid., 82; 3:83, #467.

45 ADD 856; see Johns, *Assyrian Deeds*, 4:103.

46 Szikszai, *Interpreter's Dictionary*, 3:13;

47 For the folktale aspects of this part of the story, see T. H. Gaster, *Myth, Legend, and Custom in the Old Testament* (N.Y. & Evanston, 1969), 478.

48 E.g., the defection of the people in Absalom's rebellion (2 Sam. 15) and in Adonijah's revolt (1 Kings 1), E. R. Dalglish, *Psalms Fifty-One in the Light of Ancient Near Eastern Patternism* (Leiden, 1962), 211, n. 7; J. Weingreen, *VT* 19 (1969), 263–66, reprinted in idem, *From Bible to Mishna* (Manchester & N.Y., 1976), 72–75.

49 E.g., T. H. Robinson, *A History of Israel* (Reprint: Oxford, 1951), 225; R. A. Carlson, *David the Chosen King* (Uppsala, 1964), 147.

50 See the list of pertinent texts conveniently assembled by J. J. Finkelstein in *JAOS* 86 (1966), 366.

51 E.g., Code of Hammurapi #129; Middle Assyrian Laws #14–16; Hittite Laws #198. Note that Israelite law does not permit mitigation by a husband as adultery is seen as a wrong not only against the husband, it is a sin against God, an absolute wrong (Greenberg, *Kaufmann Volume*, 12).

52 Finkelstein, *JAOS* 86, 372.

Secondly, from a practical point of view, it would have been extremely unlikely since the Mesopotamian king, being the representative of the gods on earth,⁵³ was very closely guarded making any casual social intercourse almost impossible.⁵⁴ At the time of the Neo-Assyrian Sargonids not even the crown prince could be granted an audience without permission.⁵⁵ Furthermore, from what we learn from the Middle Assyrian Laws a married woman had to comport herself modestly in public by wearing a veil,⁵⁶ hence presumably out of sight of peering eyes.⁵⁷

Thirdly, it is also unlikely that a king would have had anything to do with the married women of his subjects. Most Mesopotamian kings had large harems which were constantly being augmented. From what we know of the composition of these harems it was apparent that they consisted of various types of women arranged according to rank.⁵⁸ There were the chief wives (*aššat šarri*), the palace wives (*sinnišātu ša ēkalli*), lesser women (*sinnišātu māṭāti*), etc. There is no indication that these women were formerly married or widows. It is believed that the second group was composed of daughters of friendly rulers and conquered enemies as well as of Assyrian women of non-royal blood.⁵⁹ Presumably the first group were women of royal blood or from noble families. Herodotus mentions that Persian kings could only marry women from one of seven noble families.⁶⁰ However, the storyteller of the book of Esther does not limit Xerxes in his choice of brides, since Esther, the Jewess, was chosen queen after a kingdom-wide search. We may observe at this point that the David-Bathsheba affair took place at an early state of Israel's monarchy before the trappings of kingship, especially that of the harem, had been fully developed.⁶¹ Under Solomon the harem grew considerably larger (note the incredible number of women said to be in Solomon's harem in Kgs. 11:3 so that later kings most likely had no need of recourse to married women outside the harem).

Finally, and perhaps most significantly, is the fact that throughout the ancient Near East a married or betrothed woman was considered a man's property.⁶² In fact Nathan couched his

53 Labat, *Royauté*, 219f.

54 Ibid., 364.

55 See, e.g., *ABL* #1383.

56 Middle Assyrian Laws #40.

57 G. R. Driver and J. C. Miles note that lifting the veil in the presence of other men is a sign of immorality (*The Assyrian Laws* [Oxford, 1935], 134).

58 Our information comes chiefly from the Middle Assyrian palace edicts first published by E. Weidner in *Afo* 17 (1954–57), 257–93, and now translated by A. K. Grayson in his *Assyrian Royal Inscriptions* (Wiesbaden, 1972 & 1976), 1:##304–6, 335–41, 517, 681–83, 850–59, 905–12, 928, 989; 2:##184–93.

59 Weidner, *Afo* 17, 261.

60 Herodotus, *The Persian Wars*, 3:84; see T. H. Gaster, *Festivals of the Jewish Year* (New York: N.Y., 1964), 216; C. A. Moore, *Esther*, Anchor Bible 7B (New York, 1971), xlvi.

61 Although both Saul (2 Sam. 3:7; 12:8) and David (2 Sam. 3:2–5; 5:13; 11:27; 15:16; 16:21–22; 20:3) had small harems.

62 This is why “‘adultery’ in Mesopotamia—as elsewhere in the ancient Near East—can only be an offence by the wife against her husband; illicit sexual relations by a married man with another woman is not an offence of ‘adultery’ against the man’s own wife, but against the husband of the other woman” (Finkelstein, *JAOS* 86, 366, n. 34). Likewise, the rape of an unmarried woman was considered only an economic injury to the girl’s father or master where the victim was a slave girl, see *ibid.*, 367.

parable to David in 2 Sam. 12:1–4 in exactly this proprietary manner: the rich man (the king) had many sheep (harem, cf. “wives of your lord,” v.8), the poor man (Uriah) had only one lamb (Bathsheba).⁶³ David’s initial response is equally pecuniary: “he shall pay fourfold” (v. 6). Thus, since one of the inalienable rights of a Mesopotamian was that of holding property (and this right was strictly enforced through a network of legal machinery with written contracts and witnesses for every change in the property’s status), and since (as we have seen) the king himself was not exempt from going through the legal process in property transactions there is no reason to believe that he could, if he so desired, take possession of another man’s wife with impunity. So we may safely say that to both an Israelite and Mesopotamian citizen his home was his castle as far as interference from the king was concerned.⁶⁴

In conclusion we would like to observe that our discussion of these two civil liberties in ancient Israel and Mesopotamia provides further support for the late E. A. Speiser’s conviction that it was in the basic concepts of law and government that the ties between the Bible and Mesopotamia were especially prominent and significant.⁶⁵ In both Israel and Mesopotamia the law was impersonal and supreme: the king was its servant and not its source and master.⁶⁶ By restricting the authority of the ruler the rights of the individual in both societies were protected.⁶⁷ It was this outlook on life that made all the difference between civilization and barbarism.⁶⁸

63 As has been noted before, the parable is not a complete analogy to David’s crime: “it suggests neither adultery nor murder”; S. Goldman, *Samuel* Soncino ed. (London, 1951), 250; M. Sister, *Problems of Biblical Literature* (Tel-Aviv, 1956), 174 [in Hebrew].

64 Contrast the attitude in Egypt where one text (Papyrus Unas, 629) describes the blissful life of the deceased Pharaoh who will “at his pleasure take the wives away from their husbands”; A. Erman, *Life in Ancient Egypt* (Reissue: N.Y. & London, 1969), 155.

65 Speiser, *Cuneiform Studies*, 539; see also A. Skaist, *Encyclopaedia Judaica*, 16:1511.

66 Speiser, *Oriental and Biblical Studies*, 200.

67 *Ibid.*, 553.

68 *Idem*, *Cuneiform Studies*, 539.