

Marriage and Divorce in Ancient Egypt and Ancient Iraq (Mesopotamia): A comparative Study

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Abstract

Marriage and divorce are one of the most important topics affected at the social life of any civilization. It is one of the things that organizes the relationship between men, women and children and affected on the family relationship. Therefore, this study aimed to study marriage and divorce in the ancient Egyptian civilization and comparing it with one of its contemporary civilizations (ancient Iraq), it aims also to clarify the effect of customs, traditions, and different laws on marriage and divorce in both civilizations. The study examined the role of the family in the society in both civilizations, marriage and its ceremonies, marriage contracts, and marital rights that women enjoyed in both civilizations, polygamy and its causes, as well as divorce and its causes, and its results. The research reached some results, for example, that marriage was one of the relationships that are determined and organized by customs and traditions at ancient Egypt, but it was organized at Mesopotamia by their ancient legislations which were influenced also by their customs and traditions. And these rules and customs in Egypt and Iraq have similarities at times and differed at other times, besides to the different geographical environment in which each people lived and interacted with.

Keywords: Marriage, Divorce, Ancient, Egypt, Iraq.

Previous studies

numerous studies interested in the subject of marriage and divorce in ancient Egypt as well as in ancient Iraq, but there is no study interested in comparing these relations in both civilizations, as some of the studies dealt with the marriage and the divorce in ancient Egypt like the following studies:

صالح، عبد العزيز (١٩٨٨)، الأسرة المصرية في عصورها القديمة، القاهرة؛ هندوسة، تحفة (١٩٧٣)، الزواج والطلاق وحقوق الزوجة والأولاد في مصر القديمة، جامعة القاهرة، كلية الآداب، (رسالة دكتوراة).

Baber, R.E. (1935). Marriage and Family Life in Ancient Egypt. *Social Forces*, 13(3), (Mar.); Bardis, P.D., (1966). Marriage and Family Customs in Ancient Egypt: An Interdisciplinary Study: Part I. *Social Science*, 41(4); Dickerman, I. (1894). The Condition Woman in Ancient Egypt', *JAGS* 26; Middleton R. (1962). Brother-Sister and Father-Daughter Marriage in Ancient Egypt", *American Sociological Association*, 27(5); Pestman, P.W. (1961), *Marriage and matrimonial property in Ancient Egypt*. Leiden; Toivari-Viitala, Jaana, (2013), Marriage and Divorce. In Frood E. and Wendrich W. (eds.), *UCLA Encyclopaedia of Egyptology*, Los Angeles.

The Studies about marriage and divorce in Mesopotamia (Ancient Iraq) are following Studies

- الهاشمي رضا جواد، (١٩٧١). نظام العائلة في العهد البابلي القديم، بغداد؛ بدرالدين، أحمد (١٩٧٩). مكانة المرأة في القوانين العراقية القديمة، تونس؛ بيتر، مونيك (١٩٧٩)، المرأة عبر التاريخ، بيروت؛ الجميلي، احمد حسين احمد (٢٠١٥)، دور المرأة في الحضارة العراقية القديمة، مجلة جامعة الانبار للعلوم الانسانية، بيروت؛ سليم، أحمد أمين (١٩٨٥)، الأسرة في العراق القديم، بيروت؛ عبدالعال، عكاشة العطار وإبراهيم، أحمد هاشم (٢٠١٠)، حقوق المرأة في الشرائع العراقية القديمة، بغداد؛ عبد كسار، أكرم محمد (٢٠١٤)، المجتمع في العراق القديم، مجلة كلية التربية

واسط، العدد الخامس عشر، بغداد؛ عقراوي، ثلماستيان (١٩٧٨)، المرأة دورها ومكانتها في حضارة وادي الرافدين، بغداد.

Kramer, S.N. (1963). *The Sumerians: Their History, Culture, and Character*, Chicago; Stol, M. (1995), Women in Mesopotamia, *JESHO* 38(2); Westbrook, R. (1946). Adultery in Ancient Near eastern Laws. *Revue Biblique*, 97(4).

These previous studies displayed the marriage and the divorce of each civilization separately, so this study aims to study the marriage and the divorce in both civilizations and the influence of the customs, traditions and laws of each civilization on these relationships.

Family in Ancient Egypt

The family in ancient Egypt represented the strong foundation that preserves the community's security and its stability, so the Ancient Egyptians stressed the necessity of the marriage, and they scorned the unmarried one. The Ancient Egyptians urged their sons to marry and to get many children, and it is emphasized from the ancient Egyptian literature which ensured the importance of the marriage, the wise men have always urged the maintenance of family bonding and the family warmth. The love and affection were clearly shown through the statues and the scenes recorded on the walls of the tombs, (Baber, 1935).

Women in Ancient Egypt:

The woman in ancient Egypt perform many basic works and missions like men, as she worked hard in the agricultural field and the farms. She works as priestess, musician, mourner, and as a midwife. It was considered the companion to her husband and used to help him in managing the affairs of the home. She considered the main pillar for the stability of the home. she used to wake up early in the morning to prepare breakfast for her husband and children. The husband's task was to go out early in the morning to practice his craft to provide a livelihood for his family, while the wife had to organize her home, create happiness and luxury for her family, and raise her children. She washes clothes, cleans the house; she accompanies her husband in the field helping him, and sometimes she was skilled at spinning threads and weaving clothes, in addition to many other activities. She was excellent also in some cases in buying and selling. her husband deals with her as an equal partner (Robins, 1993)

The Terms used to describe the Process of Marriage in Ancient Egypt:

The Ancient Egyptian expressed the Relationship of Marriage with moral and material Expressions like *grgpr* "Establishe a house", *mni* "join someone", *irhmt* "take a Wife", *hmsirm* "dwell with", *mri* " love or wish " (حندوسة، ١٩٧٣)

Marriage in Ancient Egypt:

Marriage was one of the Relationships that are determined and organized by Customs and Traditions, and the Wise Men warned in their Advices their sons from the Disgraceful Relationships and urged them to marry at an early age like Ptah-Hotep who advised his Son saying, "*If you want your friendship to remain in a house you visit, beware of mixing with Women because that is a shameful Behavior*". (Reynolds, 1914)

Many wise Men urged their Sons to take care of their Wives, like the Words of Ptah-Hotep to his son saying ", "*If you want wisdom, love your wife, take care of her, so she will take care of your home, feed her, clothe her, embrace her , urge her showing her love to you, bring happiness to her heart. she is the gift of the gods, feel its pain before she complains, as she is the mother of your children, if you make her happy, she will happy them, and if you care her, she will care your children, you are responsible for it in front of the great god, you chose it before the god, whom you swore in front of his shrine to be her brother, father, and partner*, (حندوسة، ١٩٧٣) while the wise man called Ani advised the men saying "*Do not dominate your wife in her house, when you*

know she is active in the marital home; don't say to her: "where is it? get it!" when she has put it in its right place, observe her in silence, so you will recognize her skill" (Banschikova, 2006)

Concerning to the offer of marriage, it was often the father who received the marriage request for his daughter, and sometimes there was a kind of social tolerance, as the girl could marry one of her father's followers, or the boy could marry the daughter of his maid servant or daughter of his nurse in the case of the love and the admiration between them, but in the contrary, there are strict families that do not accept this kind of social tolerance, and the father preferred his daughter's husband to be of the same profession or craft. (Ferreira, 2004)

While concerning the marriage to the foreigners, the Egyptian women rarely marry foreigners and non-Egyptians, despite this type of marriage appeared among the kings from the princesses of other countries in order to consolidate diplomatic relations between the two countries (صالح، ١٩٨٨)

Marriage to relatives

The ancient Egyptian was inclined to marry from relatives, in order to preserve the family properties and to strengthen the uterine connections, as well as to respect the customs and the traditions, but if they were not relatives, she should be at least known among the people of her town, and this is evident from the advice of the wiseman recorded at Boulaq papyrus when he said, "*despise the woman who has a bad reputation in her town, and do not look at her when she passes. Do not try to contact her or sleep with her*". (Reynolds, 1914).

Sometimes the kings married their sisters in order to preserve the royal blood and to facilitate the royal succession to the throne (Dickerman, 1894), and the marriage of the sister-brothers' cases are limited to the kings during Pharaonic Period, but during the Roman Period the brother-sister marriage spread among the commoners (Middelton, 1962)

Age of marriage:

The ancient Egyptian have preferred the early marriage to the bride, it was between fourteen and twelve years, and the standard age for the groom was about twenty, and that was to have children at an early age. It was obvious from the words of the wise man Shashanqi from the Late Period, who advised his son to get married early and said to him, "*take a wife for yourself when you are twenty, so that you can get children in your youth*" (حنوسة، ١٩٧٣)

Marriage contracts

It is believed that marriage at first was performed orally, that the two partners agree to the marriage in the presence of relatives and acquaintances of the two parties, then marriage documentation usually appeared with contracts to ensure the rights of the wife and her children, and the bride's guardian (her father in usual) was acting on her in documenting the marriage contract. Her acceptance was mentioned in the text of the contract and the husband's pledge to spend on her and her children and the right of her children to inherit after his death, as it is stated in papyrus of Kahuni (Pestman, 1961)

In the contracts, the financial compensation granted to the wife, in the case of the divorce, shall also be recognized. The contracts are attested in the presence of the relatives and the acquaintances, and the number of witnesses differed on the contract, as one of the contracts found in Thebes, only three witnesses were found, while in another contracts the number of the witnesses was sixteen. The first marriage contract that appeared until now was from the twenty-sixth dynasty. and it is uncertain if there was a period of engagement or whether the father of the bride who conducted all the negotiations of the marriage instead of her. (Ferreira, 2004)

It was not required for the completion of the marriage that the contract be registered before, as in some cases it was accomplished after the occurrence of the marriage, so the basis for the

marriage was the acceptance and the mutual consent between the spouses and the announcement of the marriage between the two families and their acquaintances. (Ferreira, 2004)

The contract usually begins with the date of the marriage, then the contract mentions the name of the husband, his mother, his father, his job, the name of his bride, her mother and her father, then the husband announces what indicates his marriage saying, "*I have taken you as a wife, and for the children whom you give me all my property*", the contract includes also the mention of the dowry, which is a gift that the husband gives to his wife, it was in the form of a cash gift, or a specific weight of gold or silver, and it is accompanied by quantities of grains. it also includes a clause of what he will provide for her living needs. for example, "*I will give you enough beer, silver and oil for your food and drink every year. if I desert you, I will give you fifty pieces of silver and if I marry from another woman, I will give you a hundred pieces of silver.*" (Watterson, 1991).

In the contract, she mentions her right to divorce in specific cases, the contract also mentions the list of her luggage and furniture she brought, and she has the right to recover it in the event of separation, the contract is written by an official officer who writes his name and his father's name, besides to the signatures of the witnesses (Baber, 1935)

The material obligations of marriage:

the husband gave his bride a dower commensurate with her social level and she could receive it before marriage or receive it at a later time¹, especially if he divorced her, in addition to the compensation that he granted for her, and he determines it before marriage and usually it is ranged between half of the value of the dowry or ten times of the dowry.(Ferreira, 2004)

There was a gift was also given by the husband to the wife, it usually consisted of silver and sometimes a quantity of corn. The wife enjoyed her apparatus or the bride's wedding movables in the marital home and had the right to recover it in the event of divorce or if the husband died. some of the brides registered the list of movables and signed by the bride groom, and it is recognized until the present day among many Egyptian families who are trying to guarantee the rights of their daughters.in addition to many husbands assign part of their real estate property to their wives in the form of a gift, but it was not obligatory for them to do so (Watterson, 1991).

The parents of the bride used to give her a gift in the form of some money or silver and she has the right to run her property by herself or allow her husband to manage her property on her behalf. (Ferreira, 2004)

Wife's rights

The Egyptian woman and the wife in particular had a great grade of respect and rights, and many wise men urged their sons to treat the wife well. for example, Ptah-Hotep said in his advice to his son, "*love your wife with passion, feed her, clothe her, ointment is the remedy for her body, please her heart along her life with you.*"(Lichtheim 1973).

It is forbidden for the Husband to harm the wife physically or beat her, and if he abused her, she must complain to the judge, then he swears before the judge not to cause any harm to her again, and if he did it, he will be flogged a hundred strokes, and be deprived of everything that he acquired with her during their marital life, as it was stated in Ostrakon Varille and Ostrakon Bodl. "*I may receive one hundred strokes and I may be deprived of all things that I may obtain together with you*". (Watterson ,1991).

She had the right also to be divorced from him and to gain all her financial rights if he committed the adultery (Eyre, 1984), besides obtaining her moral rights, the wife would enjoy all her

¹ The Dowry is a *sp n s.hm.t* which the Husband give to his Wife or to her Father , it is usually consisting out of a sum of Money and also a quantity of corn, Pestman P.W. (1961), *Marriage and Matrimonial Property in Ancient Egypt*, Leiden , 108

material rights, and she inherits her husband in the third in the case of his death or if he divorce her, and she was sometimes granted from her husband gifts and donations, especially if he wanted to give her more than her portion in his estate, and she had the right to adopt, as well as the right to manage her property with complete independence if she had the ability to do it, and in some cases she trust her husband to manage her property .(Tyldesley 1995)

Wedding ceremony

There is no evidence for making any marriage ceremony in ancient Egypt. ((Ferreira, 2004).

Polygamy

The Egyptians were monogamous, but no Prohibition was placed on multiple marriages. polygamy was known but was uncommon. Law or customs and traditions in ancient Egypt did not criminalize the polygamy, and they did not encourage this custom except with little necessity, as they encouraged the stability of the family and the good treatment of the wife and co-operation in raising children· which required a lot of effort and attention(Baber, 1935)

It was known that kings have many wives and many concubines in order to ensure the birth of offspring and to secure the inheritance of the throne. as for the elite people used to marry one wife with many concubines, but some of them had more than one , but the preference and the control was for the first wife and her children (Cottrell, 1957), as she is called the mistress of the house (Bardis, 1966), while the middle class, most of them kept one wife, due to the lack of sufficient financial ability to spend on two wives or on concubines, while the commoners were unable to cost the living so they sufficed with one wife (Simpson, 1974), so the economic conditions were often the ones that reduced the polygamy cases.(Robins, 1993)

Some Egyptologists like Budge believed that polygamy was very common.(Budge,1961), but it is certain that the priests married only one woman (El Amir, 1962) .Customs and traditions obligated the husband to justices between wives. The divorce was one of the things that cost the husband many material and social losses, which contributed to the reduction of polygamy, as it was the right of the first wife in ancient Egypt to write in her marriage's contract that the husband did not marry another woman, and if he did, she had the right to be divorced without any difficulties. and he should pay all her financial rights. (Bardis, 1966)

Divorce

Ancient Egyptian customs and traditions recognized many material obligations for the husband in case of divorcing his wife, in order to ensure family stability. in the case of the divorce, a third of the husband's wealth was granted to the wife, and the decision of the divorce was by the husband, but in some cases it was determined by the wife in the marriage contract, as she has the right to divorce herself, and she has the right in many times to resort to the court to separate from her husband in the case of the hatred and her unwillingness to live with him, and at that time she must return to him half of the dowry(Bardis, 1966), and she could not obtain one-third of the property occurred during their marriage. (Tyldesley 1995).

In the case of the divorce. the wife in general had the right to obtain one-third of the property occurred during their marriage, but in the case of committing a sin for example, adultery. she will be deprived from all her rights. The divorce was registered in a document to enable her to marry another man, and it was signed by four of the witnesses, and the divorce was done orally by saying I have abandoned you as a wife. this signed document declared her as a free to marry again. (Watterson ,1991).

In many cases the husband divorces his wife for many reasons such as her disability to give birth, the occurrence of marital infidelity or in other word the adultery² ((Tyldesley 1995). It occurred

²According to Diodorus Siculus the Nose of the Adulterous Woman could be cut off, while her Partner in this Crime was beaten in a severe manner by a thousand Blows of the Lash; see (Diodorus 1985, 78); C. J. Eyre(1984), "Crime

also because of the impossibility of living together due to the lack of the love and the affection and the existence of hatred between the spouses, the husband could also divorce his wife if she had a physical defects (Toivari-Viitala, 2013).

The family in ancient Iraq (Mesopotamia):

The family represented the basic unit in the structure of the society in ancient Iraq. The family usually consisted of the husband (the father), the wife (the mother) and their children, and may include the brothers and sisters of the husband in addition to his parents. The father or the husband who manage their affairs, and all powers are in his hands as he was the person responsible for supporting them with their needs. the respect and the obedience to the father was considered a sacred obligation for all members of the family, and the punishment for the disobedient son is the slavery, while the mother comes in the second degree of importance after the father, and her responsibility was limited in managing house affairs and raising children, and her authority over her children was great, especially for females, and this is illustrated by the Sumerian proverb (*obey your Mother's words as if it is a divine Mother*) (سليم، ١٩٨٥).

Woman in Mesopotamia:

The society in ancient Iraq appreciated the woman who gives birth to many children especially the male ones. Many of the legislation of ancient Iraq have come to define the duties of the wife towards her husband and also to limit his authority and abuse against her, as she has given the right to ask for divorce in certain cases. on the other hand she had an important role in the society, as the community permitted her to perform many basic works side by side to the man, as she worked effectively in fields and farms, (Kramer, 1963)and worked as priestesses to serve and manage temple, (باقر، ١٩٧٥) as well as cooks at the great palaces and as singers, she worked also as female musicians at the happy occasions, and mourners for funerals, as well as she was excellent in many professions and crafts such as textile and sewing clothes, and the preparation of perfumes, as well as the management of shops and commercial stores and bars, also worked in the field of medicine, and in the medical equipment (الهاشمي، ١٩٧١).

Terms describing marriage's process in ancient Iraq (Mesopotamia)

The Mesopotamian used some words to express marriage like *aḫāzum* (take or marry), *aššatami ḫuzma* (take a Wife or marry). (Black, George and Postgate, 2000)

Marriage in ancient Iraq:

Marriage in the ancient Iraqi society was a legitimate right for every adult human being, including slaves (after the approval of their master),some researchers thought that the age of the marriage was at sixteen years old, but there are no any a clear text referred to the exact age of marriage for men or women. it is well known also that the priestesses of the temples who devote their lives to serve the gods were prevented to marry (عبد كسار، ٢٠١٤).

Marriage to relatives:

Marriage was permitted between the different classes of the society, in addition that the servants or the slaves could marry from the other classes, it was permitted to marry from the other nationalities as it was permitted for their kings, but for the marriage between the brother and his sister, none of the ancient codes allowed it, but the Assyrian legislation allowed the son to marry the widow of his father and they allowed the father to marry his son's widow, in contrast to Hammurabi's laws which prohibited this type of marriage (حسن، ٢٠٠١)

and Adultery in Ancient Egypt", *JEA* 70, 96; indeed that she will be deprived of all her material Rights; Pn. Galpaz-Feller(2004), "Private Lives and Public Censure: Adultery in Ancient Egypt and Biblical Israel", *NEA* 67, N°. 3, 157

Marriage contracts

Women had the right to express their opinion on marriage, by consent or rejection, editing the marriage contract was necessary to complete the marriage and to legitimate it, and it was obvious at the article no 128 of the Hammurabi's codes which stated that the marriage should have been attested by two witnesses, and confirmed by the consent of the parents which was necessary for the completion of marriage. (الأمين، ٢٠٠٧). The Contract also included the names of the bride and the groom, the gift or the dowry, names of the witnesses, the date, and the penalties imposed on the party who denies the marital relationship (عبدالعال، ٢٠٠٢). Marriage had a special sacredness on the society, so marital infidelity was considered a major crime, and laws punished the adulterous spouses with death (بدر الدين، ١٩٧٩).

Types of Marriage

There were three types of Marriage:

The first: the full or the complete marriage: it is the common and the familiar type. It begins with the agreement between the families of the boy and the girl, then conducting the ceremony of the engagement after which the marriage takes place and the girl moves to live in her groom's house (عقراوي، ١٩٧٨).

The second: It is called the incomplete or the postponed marriage. In this type the full agreement is completed between the families of the boy and the girl, and also the marriage contract between them is actually written and sometimes they celebrate the engagement ceremony, but they waited for a specific period to complete the actual implementation of the marriage, and that is for specific reasons mentioned in the marriage contract, such as the young age of the boy and the girl, or the young age of the girl in particular. (عبد كسار، ٢٠١٤)

The third: this type of marriage is completed without written marriage's contract. This form of marriage is done by a special agreement between the two parties (the man and the woman), whereby the woman goes to live in the man's house without registering this in a legal formal contract as in the previous two types, and it is usually conducted between the poor and the commoners, who are unable to bear the high costs of the marriage's ceremonies and its high expenses. In such type of marriage, the woman did not enjoy the same social status as the ordinary woman, and she will not get any financial rights if this relationship failed (الهاشمي، ١٩٧١)

Financial obligations related to marriage:

The marriage was associated with many material obligations that were in the form of providing the home in which the spouses would live alongside, in addition to other financial obligations such as *tergathum* or what is known as the dowry (it is amount of money which the father of the girl receives from the husband or his family, and in some times it was in the form of real estates, furniture, or slaves (حسن، ٢٠٠١), the financial obligations included *nodum* or (the sum of money what the husband pays to his wife in the form of movables and real estate (صوفي، ١٩٧٣). It included also *al dawta* (the gift that a girl gets from her Father when she marries and includes movables or real estate and she benefits from its rent, but she had not the right to sell it (حسن، ٢٠٠١)

Marital rights:

The Laws in ancient Iraq have given women additional rights and a distinct social status, as they have prevented or even completely prohibited violence against her, or being beaten, or insulted by men. So many laws punished men strictly for these practices, reaching in some cases by breaking the hands or poking eyes. These laws protected the woman from the husband's negligence of her dignity by marrying another woman or divorcing her whenever he wanted (الزناتي، ١٩٧٧). The laws in ancient Iraq encouraged the monogamy for men, except in especial cases, the most important of which is the wife's inability on childbearing or because she has an

Illness that cannot be cured. For the same reasons only the husband was granted the right to divorce his wife, but he was obligated in these cases to pay for his wife an amount of money sufficient to live in dignity, but if he divorced her without any cause, he should leave all his property for his wife and her children (عقراوي، ١٩٧٨).

The wife in specific circumstances had the right to request her divorce from her husband, such as his marital infidelity, his frequent absence from home for long periods (الزناتي، ١٩٧٧), his failure to support his family, insulting her, and neglecting his marital duties towards her.

The laws in ancient Iraq gave the woman her financial independent personality, since she had the right to own money, real estates, and slaves, and, she had the right to trade and lend money. She has the right to adopt children even if she was not married. it is also important to mention that the laws assured that the testimony of a woman before the courts was equal to that of a man (بيتر، ١٩٧٩)

The Engagement and its ceremonies:

The father of the boy who chooses the bride, his choice dependent on several things, including interests and the wealth, and the groom or his father was offering the bride gifts on the different occasions and festivals called (*tirhato*), and if the boy abandoned her, these gifts are not returned to him, but if she refused to marry him, she should return his gifts. also the father of the bride does not have the right to accept another fiancée for his daughter, but in the case of accepting another fiancé, he must return double of the gifts that his daughter took from her first fiancé, and this was approved by the laws of as Hnona, Ornamo, and Hammurabi.(جونز، ٢٠٠٣). The father of the bride is considered her agent, and after his death her mother played his role, while the priestesses and widows could marry without agent (سليم، ٢٠٠٢).

The engagement and the marriage ceremonies were achieved after choosing the appropriate girl, then the father had to provide the necessary dowry for the marriage of his son, while the girl's father had to provide special gifts and bride's devices for the marriage, the dowry and the marriage's gifts from both parties were proven in the marriage's contract.

The ceremonies and the celebrations of the engagement took place in the girl's house. The fiancé should prepare his fiancée with precious clothes and ornaments, and he bears the expenses of the ceremony, including food and beverages and the rest of the other supplies such as perfumes and incense. The ceremony is done by pouring the fiancée oil and the sacred fragrance that brings from the temple on top of his fiancée, pouring some red wine on her feet to announce the engagement formally by one of the priests of the temple (Stol, 1995)

Marriage ceremony:

It is important to mention that the marriage was seen as a relation between two families, so in the event of the death of one of the fiancées, their brothers or sisters had the right to associate with the other partner after the consent of the two parties with the same dowry and the previous gifts of the last fiancé. the fiancé had the right to engage the sister of his fiancée after her death. and in this case her father could not refuse, and if he did, he should give back all gifts which were given to the fiancée. (باقر، ١٩٨٠).

On the day of the wedding, other ceremonies are held inside the temple performed by a high priest, the couple should swear in the name of the god to love each other, after offering sacrifices and some offerings to obtain the approval and blessing of the god for the new family. the rituals included the recitation of types of religious hymns, then they play certain musical pieces performed on guitars by some priestesses. Finally, the bride moves to her husband's house (عقراوي، ١٩٧٨).

Polygamy

The legislations at ancient Iraq referred that the man should marry only one woman except in special cases, the most important of which is her inability to have children or because she suffers from an illness that cannot be cured, and in this case the first wife is the dominant and has the first word in the home, or he can divorce her and marries another one. in some cases when the wife is not able to give birth, he can take one of the slaves to have children, or adopt a child and consider him as a son for him (الجميلی، ٢٠١٥)

In the event of the wife's death, the husband had the right to marry a second woman. and in the case of the husband's death, the wife also had the right to marry after him, and if she had children from the first husband, the judges' consent had to be taken in that, as they took a written pledge from the mother and her new husband obliged them to take care of the children and deal in a good way with them, and to preserve their money inherited from their deceased father until they grow up, but if she have not any children, she had the right to marry without obtaining that approval, but in the Assyrian laws the widow was obliged to marry the brother or the father of her deceased husband (Stol, 1995)

The codes in Mesopotamia differed in their consideration towards polygamy, some of them prohibited it like codes of Ashnouna , others like codes of Libteshtar considered it legal without any restrictions, and there are those who are permitted it with some restrictions like that of Hammurabi as the husband had the right in some cases to marry another one like her illness with a disease that cannot be cured (حسن، ٢٠٠١).

The divorce

Divorce was known in the Mesopotamian society, but it was undesirable, so they imposed taxes on the husband who divorce his wife (Finegan, 1959: 24), and it was specified in certain cases, most of which were mentioned in old laws, like that of Hammurabi. it is noted that laws did not equate between the husband and the wife in using the right to divorce, as the husband could divorce his wife at any time when he want that. the wife can use the right to divorce only in specific cases and through the judiciary (حسن، ٢٠٠١). The usual causes which urged men to divorce their wives were:

- Her inability to gives birth to a child or if She had an incurable disease and in these cases the husband is required to pay for her an amount of money that is sufficient for her to live in dignity or to provide her with all expenses for the remainder of her life as it is stated in article 148 of the Hammurabi Law (سليم، ٢٠٠٢)
- The husband was also given the right to divorce his wife in the event that she did not accomplish her marital duties, and in this case she had not the right to gain any of her financial rights, especially if she had bad reputation, she would have been punished as in the article n° 143 of the Hammurabi Law which stated that if the wife is not a proper house wife and disregard her husband, she should be thrown into the river. and if she failed to achieve her duty to in arranging the house, raising her children, and leaving her home in the absence of the husband without getting his permission, and in these cases she would not get any of her financial rights after divorce (Stol, 1995)
- The husband was also given the right to divorce his wife if marital infidelity was proven on her, and he was exempt from paying any financial compensation, and he may not divorce her and take her as a servant only to serve him, and in some cases she was punished by strangling with her partner or by throwing into the river, but in some cases the husband might forgive his guilty wife, but it should to refer that the laws in ancient Iraq punished the adulterous wife by drowning (Westbrook, 1946), while the adulterous husband was not punished in the same

grade, as the laws gave only the wife the right to desert him and to get all her financial rights after the divorce. (Reynolds, 1914)

On the other hand, the wife also had the right to request her divorce from her husband in the following cases:

- When he committed marital infidelity. (عقراوى، ١٩٧٨)
- The frequent absence of the husband from the house for long periods, and this type was called quantitative divorce and the law gives the wife the right to marry another one, as article no 36 of the Assyrian legislation stated, and in the case of the husband's absence for more than five years, the wife was given the *caramel* plate and has the right to marry in the sixth year, and if the first husband returns and justifies his absence, he may take back his wife, presenting the second husband an alternative to his wife. but in the case that the husband was a prisoner of war, the wife must remain his wife without marrying another one for two years (الزناتى، ١٩٧٧).
- His failure to support his family (بدر الدين، ١٩٧٩)
- Reducing her importance and insulting her, and neglecting his marital duties towards his wife (عقراوي، ١٩٧٨)

Most of the laws were aimed at respecting the position and the rights of the wife, but some Assyrian texts assured that divorce was according to the decision of the husband, as he had the right to divorce his wife whenever he wanted without any reason and without committing any offense to mention (arbitrary divorce). as the article no 37 of the nine Assyrian legislative panels states that (*if the husband divorces his wife, if he wants to give her rights, he will give her and if he does not want to give her something, he will let her go without giving her anything* (العطار، ٢٠١٠)

Marriage and divorce in the Mesopotamian laws and codes

Ashnouna Codes: The articles of this law dealt with the rights of the first wife in front of the second wife, it states also the right for a wife to marry another man if she lost her husband in the war, especially if she does not have an economic resources, but if her lost husband return, he has the right to restore his wife, and if the man betrays his country and fled his wife has the right to marry another man, and if he return back he had not the right to restore her. Another article stated that if a man divorces his wife after she gives birth to children from him and takes a second wife, he will be expelled from his home. Another article stated the importance of the marriage's contracts and the approval of the parents of the daughter. (الهاشمى، ١٩٧١)

The Code of lebt Eshtar equated between men and women in social responsibility, and it discussed the rights of the sick woman and the incapacitated woman, as the husband is forbidden to divorce them, the law also did not distinguish between the children of the first and second men's wives in inheritance, and the second wife must respect the first wife, and it did not distinguish between boys and girls, and the participation of his children from the maid servants in the inheritance if he confesses that they were his children (حسين، ٢٠١٥).

Codes of Hammurabi included women's rights, as the articles 127 to 184 are reserved for women as she has the right to litigate, carry out commercial work and assume administrative positions, and there are many legal articles that deal with the marriage and the divorce and obliging the husband to keep the sick wife. the codes of Hammurabi stated also that the sermon of the engagement is held in agreement with the parents of both parties. the article no 128 of the Hammurabi's codes stated that the marriage should have been attested by two witnesses, confirmed by the consent of the parents which was necessary for the completion of marriage. (الأمين، ٢٠٠٧)

Conclusion

We can conclude from the Research the following results:

- The stability of the society depended on the family bonding in ancient Egypt and also in ancient Iraq (Mesopotamia), so the family represented the strong foundation that preserves the society's security, stability, and happiness, so the ancient Egyptians and Mesopotamian emphasized the importance of the marriage.
- The customs, the traditions, proverbs, and laws in both civilizations have always urged the maintenance of the family bonding, family warmth, love and affection which were clearly shown through the statues and scenes recorded on the walls of the ancient Egyptian tombs.
- Marriage was one of the relationships that are determined and organized by customs and traditions at ancient Egypt, but it was organized at Mesopotamia by their ancient legislations which were influenced also by their customs and traditions. The different geographical environment in which each people lived and interacted with also affected on these social relations.
- The family in both civilizations usually consisted of the husband (the father), the wife (the mother) and their children, and may include the brothers and sisters of the husband and his parents. the father (husband) was standing at the head of the family and all powers are in his hands, as he run its main affairs with the help of his companion (wife)who used to help her husband in managing the affairs of the home. she had to organize her home, create happiness and luxury for her family, and take care of raising her children.
- The woman in both civilizations enjoyed an important position, as she occupied a high position in the society as she was not only a wife who cared for her husband and reared her children, but also she was permitted to perform many basic works side by side to the man, as she worked effectively in the fields and farms, and worked as priestesses ,singers, female musicians and mourners for funerals, as well as she was excellent in many professions and crafts such as textile and sewing clothes. She was excellent in buying and selling, they also performed other work outside the home, such as writing and medicine.
- The parent's consent was necessary for the legality of marriage in both civilizations
- The sister's brother marriage was forbidden in both civilizations, but in ancient Egypt this type of marriage was limited to kings in order to preserve the royal blood and to facilitate the royal succession to the throne and during the roman period the brother–sister marriage spread among the commoners.
- Customs and traditions in both countries agreed on the possibility of marriage between individuals of different social classes, as a servant can marry a free woman, and a free man can marry a maidservant, and their children in such cases were dealt as free children.
- The kings of the two civilizations could have married foreign princesses to facilitate the diplomatic relations with the other countries, but the Egyptian women never marry foreigners or non-Egyptians, in contrast to the Mesopotamian woman who may marry to a foreigner one because of the different geographical environment, different customs and traditions, besides that the old Iraq included different races and tribes for their expansion in trade and conquests which affected in their social relationships.
- The marriage in both countries was also linked to many payments and Ggifts, some of which related to the husband and his family, and some on the wife and her family as a contribution from them to the new home.
- In both countries, women had the right to express their opinion on marriage, by consent or rejection.

- Editing marriage contract was necessary to complete the marriage in Mesopotamia as the marriage contract was required to legitimate the marriage and it should have been attested by two witnesses. The contract also included the names of the bride and the groom, the gift or the dowry, names of the witnesses, the date, and the penalties imposed on the party who denies the marital relationship.
- In ancient Egypt the marriage at first was performed orally, that the two partners agree to the marriage in the presence of relatives and acquaintances of the two parties, while in the Late Period marriage contracts appeared to ensure the rights of the wife and her children, her acceptance was mentioned in the text of the contract and the husband's pledge to spend on his wife and their children, and the right of her children to inherit him after his death. the number of witnesses differed on the contract, as a contract was found in Thebes, only three witnesses were found, while in another contract the number of the witnesses was sixteen. the first marriage contract that appeared until now was from the twenty-sixth dynasty. The contract usually begins with the date of the marriage, then the contract mentions the name of the husband, his mother, his father, his job, the name of his bride, her mother and her father, then the husband announces what indicates his marriage .
- The Egyptians were monogamous, and they did not encourage the polygamy except with little necessity, as they encouraged the stability of the family and the good treatment of the wife and the co-operation in raising children, which required a lot of effort and attention, and the economic conditions were often the ones that reduced the polygamy cases.
- The Divorce was one of the things that caused the many material and social losses for the husband, which contributed to the reduction of polygamy, as it was the right of the first wife in ancient Egypt to demand in her marriage contract that the husband did not marry another woman, and if he did. he should pay all her financial rights. while in Mesopotamia the codes differed in their consideration towards polygamy, some of them prohibited it like codes of Ashouna, others like codes of Libteshtar considered it legal without any restrictions, and there are those who permitted it with some restrictions like that of Hammurabi as the husband had the right in some cases to marry another one in the case of the bad manners of his wife, her inability to bear children, or her illness with a disease that cannot be cured
- Men in the Iraqi and Egyptian societies have tended to divorce their wives, sometimes for fair reasons and at other times unfairly, and divorce takes place according to special procedures.
- In ancient Iraq (Mesopotamia), the man who wanted to separate from his wife confirms his desire to divorce her officially at the court, divorce was known in the society of Mesopotamia, but it was undesirable, so, they imposed taxes on the husband who divorce his wife, and it was specified in certain cases, most of which were mentioned in old laws, like that of Hammurabi. the legality of divorce is stipulated that the marriage be recorded in a written contract confirmed by judges and attested by witnesses, but the wife can use the right to divorce only in specific cases and through the judiciary, while in ancient Egypt, the divorce was documented in a document to enable her to marry another man, and it was signed by four of the witnesses, but it was not recorded at the court. as the husband may divorce his wife orally, saying to her, i have deserted you as a wife, and you can take for yourself a husband.
- The ancient Egyptian customs and traditions recognized many material obligations for the husband in the event of divorce to ensure the family stability. in the event of the divorce, a third of the husband's wealth was granted to the wife, and the decision of the divorce was by the husband, but in some cases it was determined by the wife in the marriage contract, as she has the right to divorce herself, and she has the right in many times to resort to the court to

separate from her husband in the case of the hatred and at the lack of harmony between them, and at that time she must return to him half of the dowry. but if the man divorced his wife without committing a sin like adultery for example, she would have all her financial rights. The divorce took place in ancient Egypt and in ancient Iraq for many reasons such as her disability to give birth , the adultery, deserting the husband his wife for a long time , or the impossibility of living together due to the lack of love and affection, , reducing her importance and insulting her.

- In both countries, restrictions have been placed against every husband who wants to divorce his wife without any reason, including financial compensation that may lead the husband to give up all his property to his wife, as stated in the Ashuna law, or gives up only half of his Property without leaving His house, as stated in the Hammurabi legislation, while the Assyrian laws did not specify a certain amount, but they permitted the husband to divorce his wife when he want and if he wants to give her something, he will give, and if he doesn't want, he will not give her. while the man who wants to divorce his wife in ancient Egypt also has the same financial restrictions, which may reach him to give her five or ten times of her dowry, and from here the husband loses all and most of his wealth.
- there are cases in which a husband can divorce without paying anything to his wife in both countries, including: the wife's bad manners, her disability to give birth, the adultery.
- In return a woman can ask for separation, but in rare cases including her husband's bad manners, deserting her for a long time, reducing her importance and insulting her.
- The woman in ancient Egypt has the right in many times to resort to the court to separate from her husband in the case of the hatred and at the lack of harmony between them, and at that time she must return to him half of the dowry, in contrast to the wife in ancient Iraq if she requests divorce for this reason, she will be punished according to Hammurabi's law by throwing her into the river.

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