Hittite and Hebrew Levirate Marriage

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Abstract:
This article deals with levirate marriage, i.e. the legal obligation of the widow to marry her brother-in-law, an institute well-known from the Jewish law. However, the article does not concentrate on contemporary levirate, but rather its oldest regulation in Hebrew law, whereas the aim is also finding its source of inspiration. In the article, the author points out the similarities between the family law of the Hebrews and the Hittites, clearly apparent also in the case of levirate marriage regulation. Except of the description of the respective institute in Hittite and Hebrew societies, the author also reflects on importance of levirate marriage for the ancient society and its legal consequences.

Keywords: levirate marriage; Hittites; Hebrews; law; marriage; family; widow; inheritance

DOI: 10.14712/2464689X.2025.17

1. Introduction – Hittite Influences on the Hebrews

This article concentrates on the issue of levirate marriage, i.e. obligation of a widow to marry her brother-in-law, an institute well-known from the Bible.[1] However, the obligation of levirate marriage is valid part of the Jewish law until today, causing, as a matter of course, many issues in the modern society. The following paper concentrates only on ancient institute of levirate marriage and its aim is not only to describe the levirate marriage, but,

[1] This text represents amended part of the thesis "Levirátní manželství v židovské společnosti – inspirační zdroje, kořeny a vybrané aspekty vývoje" [Levirate Marriage in Jewish Society – Inspiration Sources, Roots and Selected Aspects of Development] written by the author under the lead of Mr. Mgr. Jiří Janáč, Ph.D., and defended at the Institute of Global History at the Faculty of Arts of Charles University in the 2022.

in particular, to understand its significance for the ancient society.[2] At its very beginning however, the article does not refers to Hebrew levirate, but rather surprisingly on the regulation of this institute in Hittite society.[3] In fact, the author intends not only to describe Hebrew levirate, but also to find its likely source, from which it permeated into Hebrew legal order. Why should we start with Hittites, if references to levirate marriage may be also found in e.g. Assyria or Ugarit? The reason is that after more detailed analysis of legal orders of these countries, it is clear that none of them includes the regulation usable for comparison. Middle Assyrian Laws include in its Section 43 similar, but not identical situation, when father can, in the case of passing of his engaged son, marry the fiancée off to any of his other sons (if he is older than 10). This however, does not represent typical levirate marriage, but rather enforcement of father's will in the issue of future marriages of his sons.[4] On the other hand, the situation of the widowed woman is regulated in detail by other Sections, in particular Section 46, emphasizing in particular the future economical existence of the widow and this Section *de facto* establishes the person responsible for her provision in the future, whereas the circle refers to her sons, or as the case may be, sons from her previous husband with some other woman. However, we find no obligation of levirate marriage there.[5] Ugarit only sketches similar situation in merely one documents, namely the Malediction of king Arihalbu. In this document, the king strictly bans the future marriage of his widow, who should have belonged to his brother after king's death. However, with regard to poor source pool it is impossible to prove, if the document refers to general praxis or exclusively the endeavor to keep the succession to the throne in only one family line.[6]

Subsequently, it is the Hittite levirate marriage to show most similar characteristics. However, how could the levirate marriage spread from the Hittites to the Hebrews, if the legal regulation analyzed does not even pertains to the same time period? Does any connection amongst these two nations exist at all? It is true, that the main source of recognition of levirate marriage by the Hebrews, i.e. the Deuteronomy, is usually dated back to 7th century BC, whereas the Hittite Empire as a state did not exist anymore for a long time, as it ended as soon as around the 1200 BC.[7] Not even the location, i.e. the area occupied

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2 The issue of levirate marriage in State of Israel today, was elaborated by the author in the second part of her above mentioned thesis.

3 The author already shortly dealt with the regulation of this institute in Hittite and Hebrew law, in connection with the inheritance law, in the article KNOLLOVÁ, M. Vybrané aspekty dědického práva u Chetitů. *Právněhistorické studie*, 2016, Vol. 46, No. 1, pp. 8–10.

4 Section 53 ROTH, M. T. (ed.). Middle Assyrian Laws (hereinafter referred to as MAL), in: ROTH, M. T. (ed.). *Law Collection from Mesopotamia and Asia Minor*. 2nd edition. Atlanta: Scholar Press, 1997, p. 169. In this context please compare Section 30 regulating similar situation, when the father of deceased engaged son decides on his replacement for the future marriage by his other son. See MAL, p. 164.

5 Provision only refers to the option of husband's sons to marry the widow, however purely on their free will. Section 46 MAL, pp. 171–172.

6 The issues is analyzed in more detail in LEGGETT, D. A. *The Levirate and Goel Institutions in the Old Testament with Special Attention to the Book of Ruth*. Cherry Hill (NJ): Mack Publishing Company, 1974, pp. 25ff.

7 The Empire was destroyed as a result of the invasion of the so-called Sea Peoples, its fall is symbolically linked to the conquest of the capital city of Hattusa which occurred around 1200 BC. COLLINS, B. J. *The Hittites and their World*. Leiden – Boston: Brill, 2008, p. 78. The remains of the city of Hattusa are located in Central Anatolia in present-day Turkye near the city of Boğazkale (Çorum Province).

by both nations, collides. On the other hand though, there are several same characteristics shared by both societies missing in the case of other ancient civilizations, and cultural contact amongst these two nations was proved.[8] In fact, time to time theories sparkle, that the Hebrew nation itself was partially formed by Hittites, or, as the case may be, by its remnants after the fall of this civilization.[9]

However, the issue of the origins of the Hebrew nation is not completely clear. As stated by David Diringer, scientists very often avoid this issue.[10] At present day, there are two different theories. If we use the Bible as the basis, then the first biblical patriarch is Abraham, whose original homeland is considered to be the Mesopotamian city of Ur.[11] In this regard, David Diringer points out that with regard to the likely dating of Abraham's departure (i.e. the beginning of the 2nd millennium BC) we have to revise the traditional idea of a primitive nomad who only knows life in the desert; on the contrary, in this case it would be a person coming from an advanced civilization.[12] Tablets found in the city of Mari,[13] which was one of the most important cities in the region at the time, provided evidence that the ancestors of the Hebrews living in northern Mesopotamia were surrounded by Hurrian and Amorite culture. In connection with the journey to Canaan the contacts with Hittite descendants seem to be probable. Even in the Genesis, in the section concerning the death of Abraham's wife Sarah and her burial, the whole matter is discussed with the Hittites, in whose territory Abraham wants to bury Sarah.[14]

In connection with the roots of the Hebrews, we also have to mention the archaeological research underway in Israel, which brings a completely different interpretation of the origin of the Hebrew nation. Pursuant to Israel Finkelstein and Neil Asher Silberman most Hebrews did not come from outside, but were themselves originally Canaanites and therefore no violent conquest of Canaan ever happened.[15] In such circumstances, where would the Hittite influence come from? A significant aspect is the fact that, whether the first or

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8 After the fall of the Hittite Empire, the surviving population often migrated to the Syro-Palestine region, where they lived in direct contact with the Semitic population, see BURIAN, J. – OLIVA, P. *Civilizace starověkého středomoří I. díl*. Praha: Arista Books – Maitrea – Arista, 2015, p. 159.

9 Already Felix von Lyschan considered the Hebrews to be a nation composed of Hittites, Amorites, and Semitic nomads. LYSCHAN, F. von. Jews and Hittites. *Science*, 1894, Vol. NS 23, Issue 571, DOI: 10.1126 /science.ns-23.571.21, p. 21.

10 DIRINGER, D. The Origins of the Hebrew People. *Rivista degli studi orientali*, 1957, Vol. 32, Scritti in onore di Guiseppe Furlani: Part I, p. 301.

11 Gn 11,28 in: BIČ, M. et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 1. První kniha Mojžíšova – Genesis*. Praha: Kalich, 1968, pp. 85, 86–87. Beside the Czech ecumenical translation of the Bible, the following English modern translation was used as reference during the work PACKER, J. I. et al. (trans.). *The Holy Bible, English Standard Version (ESV)*, available at *ESV* [online]. 2001–2024 [cit. 2024-12-17]. Available at: <http://www.esv.org>. Archaeological site of an ancient city of Ur, today known as Tell el-Muqayyar, is located near the city of Nasiriyya (Dhi Qar Governorate) in southern Iraq.

12 DIRINGER, *op. cit.*, p. 304.

13 An ancient Sumerian city, the remains of which are now known as Tell Hariri are located in the neighborhood of Abu Kamal (Deir ez-Zor Governorate) in eastern Syria. In the 2015, it was one of the first archaeological sites to be severely damaged by ISIS members.

14 Gn 23,1–20 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 1*, p. 142.

15 FINKELSTEIN, I. – SILBERMAN, N. A. *The Bible Unearthed: Archaeology's New Vision of Ancient Israel and the Origin of Its Sacred Texts*. New York: Touchstone, 2002, p. 118; FINKELSTEIN, I. – SILBERMAN, N. A. *Objevování Bible. Svatá Písma Izraele ve světle moderní archeologie*. Praha: Vyšehrad, 2010, p. 113.

second option applies, the Hebrews cannot be considered a homogeneous racial or ethnic group.[16] Leaving aside contact with foreign cultures on the way to Canaan, this nation did not develop in isolation even in the land of Canaan itself. In this context, a significant role was played, for example, by intermarriages, despite the fact that the Deuteronomy forbids it: "When the Lord your God brings you into the land that you are entering to take possession of it, and clears away many nations before you, the Hittites, the Girgashites, the Amorites, the Canaanites, the Perizzites, the Hivites, and the Jebusites, seven nations more numerous and mightier than you, and when the Lord your God gives them over to you, and you defeat them, then you must devote them to complete destruction. You shall make no covenant with them and show no mercy to them. You shall not intermarry with them, giving your daughters to their sons or taking their daughters for your sons, for they would turn away your sons from following me, to serve other gods. Then the anger of the Lord would be kindled against you, and he would destroy you quickly."[17] However, in practice this provision was very often violated. This is evidenced in the Old Testament itself, for example, by the story of the Moabite women Orpah and Ruth[18]. The fact that this rule was violated across social classes is confirmed by the married life of King Solomon, who himself came from a mixed marriage. His mother was the Hittite Bathsheba and he himself apparently did not follow the biblical prohibition: "Now King Solomon loved many foreign women, along with the daughter of Pharaoh: Moabite, Ammonite, Edomite, Sidonian, and Hittite women, from the nations concerning which the Lord had said to the people of Israel, 'You shall not enter into marriage with them, neither shall they with you, for surely they will turn away your heart after their gods.'"[19] It should be added that, given the diversity of settlements in the ancient Middle East, enforcing the ban on intermarriage was rather a difficult task. However, since the main reason for this ban was the risk of conversion to another religion, it can be assumed that, on the contrary, the person's conversion to Judaism could have removed the obstacle and the marriage could have been concluded.[20] This is also consistent with the interpretation of biblical provisions as recorded both in the Talmud and in the younger rabbinic tradition.[21] Even if we leave the issue of intermarriages aside, it is more than clear that members of different nations coexisted in the given territory, influencing each other in many aspects of everyday life, including social, moral, and legal rules. The connection between the Hebrews and the Hittites is, in

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16 DIRINGER, *op. cit.*, p. 304.

17 Dt 7,1–11 in: BIČ, M. et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3. Čtvrtá a Pátá kniha Mojžíšova. Numeri – Deuteronomium*. Praha: Kalich, 1974, p. 210; PACKER, J. I. et al. (přel.), *op. cit.*

18 Sometimes we can find opinions, that the name Ruth could be derived from the name of the Hittite goddess Rutash, BIČ, M. et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 4. Jozue – Soudců – Rút*. Praha: Kalich, 1969, p. 212.

19 1Rg 11,1–13 in: BIČ, M. et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 6. Knihy královské a Druhá Paralipomenon*. Praha: Kalich, 1980, p. 90; PACKER, J. I. et al. (přel.), *op. cit*.

20 After all, according to the Bible, King Solomon was punished by the Lord primarily not for intermarriages, but for departing from the faith: "… his wives turned away his heart after other gods, and his heart was not wholly true to the Lord his God, as was the heart of David his father. For Solomon went after Ashtoreth the goddess of the Sidonians, and after Milcom the abomination of the Ammonites." 1Rg 11,4–6 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 6*, p. 91; PACKER, J. I. et al. (přel.), *op. cit*.

21 More details on the issue of conversion of Pharaoh's daughter, wife of King Solomon, see MAYER, D. *Konverze k judaismu v zrcadle židovské ústní tradice a historie*. Praha: Oikoymenh, 2010, pp. 52–53, also other examples available there.

addition to the aforementioned marriages, also evident from the similarities in Scripture, whereas scientists noticed this connection very soon after the decipherment of the Hittite language.[22] Finally, the connection is evident in legal sphere, where, especially in the area of family law, there are a number of similarities or, in some cases, complete coincidences.

It is assumed that the Hittite influence on the Hebrews was either direct as a result of the migration of the Anatolian population, or indirect, mediated by the inhabitants of northern Syria and their cultural heritage stemming from the so-called Neo-Hittite states.[23] Whether the Hittite inspirational influence on the Hebrew levirate marriage was strong or weak, the fact persists that contact between them occurred and was used by both nations. As already mentioned above, parallels are also evident in the family law of the Hittites and the Hebrews, as discussed further below.

2. Hittite Levirate Marriage

Levirate marriage in the Hittites society is recorded in the most important legal source available to us today, namely in the so-called Hittite Laws.[24] Specifically, we can find it in Section[25] 193: "If a man has a wife, and the man dies, his brother shall take his widow as wife. (If the brother dies,) his father shall take her. When afterwards his father dies, his (i.e. the father's) brother shall take the woman whom he had."[26] The somewhat laconic regulation, which practically only defines candidates for the position of husband of a widowed woman, does not tell us anything about the purpose of this provision, which is a style fully consistent with the ancient collections of legal provisions of the time.[27]

A fundamental question arising in this regard is the reason for existence of the levirate marriage, i.e. what was its significance and what benefits it brought to whom. In a society as militant as the Hittites, loss of a husband probably occurred with a relatively high frequency, and the idea is that the levirate marriage was intended to economically protect the widow and ensure her continued sustenance. In fact, this theory corresponds to patriarchal

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22 As soon as three years after the decipherment of Hittite language by Bedřich Hrozný, the first parallels were discovered suggesting the inspiration of the Hebrews from the Hittites. More details in this issue in RABIN, Ch. Hittite Words in Hebrew. *Orientalia*, 1963, Nova Series Vol. 32, No. 2, pp. 113–139.

23 HOFFNER, Jr., H. A. Hittite Tarpiš and Hebrew Terāphîm. *Journal of Near Eastern Studies*, 1968, Vol. 27, No. 1, p. 67. Neo-Hittite states is the term used for small state formations that arose on the ruins of the famous empire. More details on this issue in particular in BRYCE, T. *The World of the Neo-Hittite Kingdoms. A Political and Military History*. New York: Oxford University Press, 2012.

24 The origin of these laws, recorded on two tablets, dates back to time around the 15th–14th century BC, most often to the time of the reign of King Telipinu. Currently, we have many of translations into world languages (French, English, German, Russian, etc.) available. The oldest translation – into French – dates back to the 1922 and was made by Bedřich Hrozný, who deciphered the Hittite script. HROZNÝ, B. (ed.). *Code Hittite provenant de L'Asie mineure (vers 1350 av. J.-C.)*. Paris: Librairie orientaliste Paul Geuthner, 1922, 159 pp.

25 The division of the text of the Hittite Laws into individual paragraphs, as still used today, was created in the 1922 by Bedřich Hrozný as part of the first translation of their text.

26 HOFFNER, Jr., H. A. (ed.). *Hittite Laws*. In: ROTH, *op. cit.*, p. 236.

27 The exception in this regard are Egyptian laws, style of which was different and often directly stated the meaning of the respective provision. Compare, for example, Haremheb's Laws, in: BREASTED, J. H. (ed.). *Ancient Records of Egypt. Historical Documents from the earliest Times to the Persian Conquest: Volume III. The ninenteenth Dynasty*. Chicago: The University of Chicago Press, 1908, pp. 22ff; LEXA, F. (ed.). *Veřejný život ve starověkém Egyptě: II. doklady*. Praha: Nakladatelství Československé akademie věd, 1955, p. 73.

character of ancient societies, based on which it might be deduced that a widowed woman cannot live independently in a purely male world and it is necessary for her to live under the protection of a male relative who will accept responsibility for her and take care of all economic matters. However, this would be an overly simplified interpretation, and a deeper understanding requires a more detailed look at Hittite marriage and the position of women in the Hittite society.

The Hittite marriage is also regulated by the Hittite Laws, namely in Sections 27–37.[28] The Hittites knew two types of marriage. There was a classic type of marriage, where the woman left her father's house and moved to the house of her husband, who became the head of the newly formed family. In such a case, the marriage should ideally have been preceded by the engagement itself connected with the payment of a dowry called *kušata* by the groom,[29] and subsequently by the marriage connected with the payment of a dowry called *iwaru*[30] by the bride's father. Such property transfers, which seem illogically contradictory at first glance, certainly could not be mutually settled and each of them pursued its own purpose. A dowry called *kušata* may be understood (and its translated accordingly in certain sources) as "purchase price"[31] to be paid by the groom for his future wife. By paying, the groom formally confirmed his intent to conclude the marriage and importance of this act for both parties is confirmed by contractual penalties amounting up to the total amount paid (or even up to its double) in the case of cancellation of the engagement by one or other side.[32] A dowry called *iwaru*,[33] however, had completely different purpose. It represented the settlement share of the woman in her family property and after its payment, the woman was no longer entitled to any inheritance share in the case of her father's death. *Iwaru* was brought by the women into the marriage, however, it remained her own exclusive ownership, and the husband was only entitled to manage it.[34] In the case of woman's decease, *iwaru* pertained to descendants and only the in the case of childlessness, it did become property of the widowed man.[35]

In the second type of marriage, usually marked as *erẽbu*[36], the woman did not leave for her husband, but on the other way round, the husband came to his father-in-law's house.

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28 HOFFNER (ed.). *Hittite Laws*, pp. 220–222.

29 BRYCE, T. *Life and Society in the Hittite World*. Oxford: Oxford University Press, 2004, p. 120.

30 The term *iwaru* are similar to *šeriktum* in Babylonia and *širku* in Assyria. All these societies knew the institution of this dowry, which meant the settlement of daughter's share of her father's inheritance, which was subsequently intended for the next generation. NEUFELD, E. (ed.). *The Hittite Laws. Translated into English and Hebrew with Commentary*. London: Luzac & Co. Ltd., 1951, pp. 141.

31 Its amount was not precisely defined and it reflected the social status of both parties.

32 Compare Sections 29 and 30 of the Hittite Laws, HOFFNER (ed.). *Hittite Laws*, p. 221.

33 It didn't necessarily have to be a financial item; other way round, it was often in kind. One of its basic characteristic was mobility, often involving clothing, jewelry, furniture, kitchen utensils, or servants. In wealthier households, this could also include slaves and livestock. It did not include land as those were inly inheritable by sons. WESTBROOK, R. (ed.). *Property and the Family in Biblical Law*. *Journal for the Study of the Old Testament Supplement Series 113*. Worchester: Sheffield Academic Press, 1991, pp. 142–143.

34 BRYCE, *Life and Society*, p. 120.

35 On the issue of dowry *iwaru* and inheritance law briefly in KNOLLOVÁ. *Vybrané aspekty*, pp. 5–6.

36 This name comes from the Akkadian term for "to enter". The marriage *erẽbu* is treated in more details also by Ephraïm Neufeld in his publication *Ancient Hebrew Marriage Laws. With specific references to general Semitic laws and customs*. London – New York – Toronto: Longmans, Green and Co., 1944, pp. 56ff.

The groom was *de facto* "adopted" in this way, and after the marriage he did not became the head of the family, as this title still pertained to his father-in-law. This type of marriage was probably used in families where male descendants were missing, and thus this marriage ensured the continuation of the family line and family name. In this case *kušata* was paid in reverse, i.e. it was the "purchase price" not for the bride, but for the groom. Even in this case, the wife received *iwaru* upon marriage, which, however, did not become the exclusive property of her husband even after her death, because if she died without children, *iwaru* was returned to the "father's house", i.e. to the father-in-law. The provision on disposing of the dowry is included in Section 27 of the Hittite Laws: "If a man takes his wife and leads [her] away to his house, he shall carry her dowry to his house. If the woman [dies] th[ere], they shall burn her personal possessions, and the man shall take her dowry. If she dies in her father's house, and there [are] children, the man shall not [tale] her dowry."[37]

If we get back to the original assumption of reasons for the existence of levirate marriage in the Hittite society – the protection of the widow and ensuring her continued sustenance – then the provision on the obligation of levirate marriage for this reason seems unlikely, moreover it applies for all cases without exception (without stipulating the possibility of its non-application). First of all, such an arrangement would not correspond to the fact that the Hittites (like the Assyrians or the Babylonians, for example) were not a society concerned with increased legal protection of the poor and needy, such as widows or orphans, in particular.[38] The second, more important, aspect is the possible legal and property situation of the widow. We often perceive the image of ancient women in a strongly subordinate position. However, in the case of most ancient societies, this is a myth. It is true that an ancient society was a society with a dominant position of men, which was accentuated in the area of state governance, in particular. In ancient times, we only encountered independent women on royal thrones very rarely and under truly exceptional circumstances, and women generally did not hold positions in the state administration. On the other hand, we can hardly omit strong political power of ancient queens, amongst whom the Hittite *tawananna*[39] was no exception. Amongst evidences of their ability to make independent decisions at the highest political level belong, for example, independent international correspondence they maintained not only with other queens, but also with the rulers themselves (whereas the letters show the equal status of the sender and the addressee),[40] or the option of delegating

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37 HOFFNER (ed.). *Hittite Laws*, p. 221. On the issue of dowry *kušata* and inheritance law briefly also KNOLLOVÁ. *Vybrané aspekty*, p. 6.

38 On the contrary, the protection of these persons is evident in the Hebrew law, for example. More details on this issue in HERTZ, J. H. Ancient Semitic Codes and the Mosaic Legislation. *Journal of Comparative Legislation and International Law*, 1928, Vol. 10, No. 4, p. 220.

39 The title is traditionally associated with the person of the king's wife. During the Old Kingdom, however, it was the title of the king's sister; only since the New Kingdom has the office been held by the monarch's wife, for life. BIN-NUN, S. R. *The Tawananna in the Hittite Kingdom*. Heidelberg: Carl Winter Universitätsverlag, 1975, pp. 160–161.

40 The international correspondence, including the correspondence of queens, was addressed in more details in HOFFNER, Jr., H. A. (ed.). *Letters from the Hittite Kingdom*. Atlanta: Society of Biblical Literature, 2009.

the sovereign's judicial authority to the queen.[41] However, not only the queen, but even a simple Hittite woman was in control of decisions about her own life, even if her decision conflicted with the interests of a man. This is proved by the possibility of a woman to initiate a divorce, as stated in the unfortunately only partially preserved provision of Section 26a of the Hittite Laws,[42] or the option of a mother disinheriting her son.[43] Although women did not rule the Hittite society, they could clearly act rather independently in its framework. From a legal perspective, a widowed woman did not necessarily need a man for her independent life. The question thus is, did she need him for economical reasons? When a Hittite woman became a widow, they usually managed their own property – the aforementioned *iwaru* (in the case of a classical marriage) – independently, without the need for a male guardian. Except of *iwaru* they could also participate, in certain extent, on the property of their deceased husband. Raymond Westbrook mentions a practice occurring in the ancient Middle East where a husband would give their wife a certain amount of property, which could even be land, as *donatio mortis causa*, and the wife would thus acquire it at the moment of their widowhood.[44] If the levirate marriage was not implemented, the woman would leave their husband's family not only with *iwaru*, but also with this property of their. Subsequently, the family of their deceased husband would have lost considerable property, and given the high probability of Hittite men dying in frequent armed clashes, each marriage could have been perceived as a potential economic loss for the family. However, the levirate marriage solved future problems and all economic values were preserved for the testator's family.[45]

From the above, it is clear that if the legislator had pursued the protection of the weak widow as their goal, they would probably have defined the levirate marriage differently. In particular, they would establish its application as an option, not an obligation, for all cases. Moreover, levirate marriage is not even limited to situations where the marriage would be childless. Some authors mention that the obligation to remarry could only apply to a widow of childbearing age,[46] but even in such a case it can be assumed that a woman who had already passed childbearing age usually did not leave her existing family, as she was tied to it (whether emotionally or simply by habit). At the same time, with increasing age, the possibility of returning to one's father's house or the prospect of remarriage

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41 The monarch, as the highest representative of the judicial power, presided over the royal court. Considering their other responsibilities they logically could not perform this function continuously themselves, and therefore delegated this authority. Officials with the authority to pass judgment on behalf of the king are referred to by the term *LÚDUGUD*. These were often members of the monarch's family, including the king's wife. For example, King Hattusili's wife Puduhepa became involved in this area soon after their marriage. BRYCE, *Life and Society*, p. 44.

42 The provision of the first part of Section 26a deals with divorce initiated by the woman and the second part with divorce initiated by the man, and primarily addresses the issue of property settlement. It contains a mention of the man's claim to offsprings and land, but also mentions the woman's right to a share of the property and also to the payment of additional property value, the amount of which depends on the number of offsprings born from the marriage. More on this issue in HOFFNER (ed.). *Hittite Laws*, p. 220.

43 HOFFNER (ed.). *Hittite Laws*, p. 234; KNOLLOVÁ. *Vybrané aspekty*, p. 7.

44 WESTBROOK (ed.). *Property and the Family*, p. 144.

45 HAASE, R. The Hittite Kingdom. In: WESTBROOK, R. (ed.). *A History of Ancient Near Eastern Law Volume One. Handbook of Oriental Studies. Section one, The Near and Middle East. Volume 72*. Leiden – Boston: Brill, 2003, p. 640.

46 For example NEUFELD (ed.). *The Hittite Laws*, p. 192.

seemed less likely. In summary, we can conclude that levirate marriage was probably an institution aimed primarily at protecting and preserving the integrity of ancestral property in the deceased man's family.

For the sake of completeness, it is necessary to briefly outline the nature of the Hittite perception of consanguineous marriages. Hittite law placed great emphasis on the family and precisely defined forbidden sexual relations within the family, which included not only relations between blood relatives, but also kinship that arose as a result of marriage. The importance connected with observing the rules regarding relationships between relatives is evident both in that incestuous relationships within the family are included among the few crimes for which the capital punishment was imposed and also in the detailed definitions of which relationships are prohibited.[47] In this respect, the identical legal regulation of the Hebrews is very interesting, as they also considered and still consider kinship to be an insurmountable barrier to marriage, which also includes not only blood kinship, but also kinship arising from marriage, for example, the relationship of a man with his stepmother or sister-in-law. Levirate marriage therefore not only permitted this very strictly forbidden union, but even mandated it by law.

3. Hebrew Levirate Marriage

Hebrew sources mention levirate marriage in several occasions. First of all, in the story of Judah and Tamar, then in the Book of Ruth, and the key provision is the Deuteronomy. The Deuteronomy provision is the only relevant source of information, since the stories of Judah and Tamar and Ruth and Boaz do not represent typical application of the levirate marriage. The Deuteronomy defines the levirate marriage as follows: "If brothers dwell together,[48] and one of them dies and has no son, the wife of the dead man shall not be married outside the family to a stranger. Her husband's brother shall go in to her and take her as his wife and perform the duty of a husband's brother to her. And the first son whom she bears shall succeed to the name of his dead brother, that his name may not be blotted out of Israel."[49] In this case, we see the official main reason for establishment of this institute expressed quite explicitly. The aim was to preserve the family line of the deceased, as the son born from the new marriage bears the name of the deceased and is legally and socially considered their own descendant. Preserving the family line also meant, through the sacrifice offeror's son, ensuring the maintenance of the cult of deceased ancestors,[50] or

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47 More details on this issue in KNOLLOVÁ, M. *Trestní právo starověkého Egypta a Chetitské říše. Komparativní studie*. Brno: Nakladatelství Václav Klemm, 2012, p. 38.

48 The wording "if brothers dwell together" – or, as the case may be, its interpretation – became the subject of further discussions. There are different opinions on whether this is a case where the patriarch of the family (i.e. the father-in-law of the woman in question) is still alive and the cohabitation is therefore based on the economic dependence of the sons, or whether the father is already deceased. On this issue for example in LEGGETT, *op. cit.*, pp. 42–48. According to Raymond Westbrook and Bruce Wells, this was a situation where the father of the family had already died, but the sons continued to live together and therefore no division of the inherited property occurred. WESTBROOK, R. – WELLS, B. *Everyday Law in Biblical Israel, An Introduction*. Louisville (Kentucky): Westminster John Knox Press, 2009, p. 63.

49 Dt 25,5–10 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, p. 285; PACKER, J. I. et al. (přel.), *op. cit*.

50 BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, p. 285.

the passing on of the Lord's promise, as mentioned in the story of Judah and Tamar.[51] In addition, the levirate marriage among the Hebrews is often justified by the need to provide for the widow of the deceased from an economic perspective. This is related, for example, to the opinion of Ephraïm Neufeld, who considers the material security of a childless widow to be the reason for levirate marriage, and bases his opinion on the exclusion of the widow from the inheritance of their husband, on the one hand, and on the obligation of the descendants to take care of the mother, on the other hand.[52] As with the Hittites, the Hebrews also applied the rule that if the levirate marriage was implemented, the brother-in-law became the sole heir of their deceased brother.[53] Although it might seem that the purpose of levirate marriage is clear here, a closer analysis may show us that it is not entirely unambiguous. First, let's briefly return to the other two biblical sources mentioned, the story of Judah and Tamar and Ruth and Boaz. In the story of Judah and Tamar, a levirate marriage occurs, but since Tamar soon becomes a widow again, the levirate marriage should have been implemented again. Tamar finally has the desired offspring, which according to the Deuteronomy is the main reason behind implementing the levirate marriage, but she will conceive it not from the arrangement with her brother-in-law, but by tricking her father-in-law, and this offspring is not even considered the son of her deceased husband. In certain scope, however, the question of the original inspiration for this institute arises here, because, as already mentioned, in the Hittite law, the father-in-law was also included in the circle of potential new spouses.[54] Even in the case of Ruth and Boaz, we do not see a typical Hebrew levirate marriage, as after the death of Ruth's husband, there is no brother who could step into the levirate marriage. Ruth is eventually married to a distant male relative of her deceased husband, who buys some of the family land and voluntarily accepts the liability to marry Ruth.[55] Here again, we see a certain parallel to the Hittite levirate marriage, despite the apparent effort to return Ruth and the ancestral property back to the deceased person's family.

According to the provisions of the Deuteronomy,[56] which is the main source for all subsequent periods and, moreover, for the present, the circle of potential grooms is significantly narrowed compared to the Hittite levirate marriage, namely exclusively to the widow's brother-in-law and, moreover, with the condition that it must be a case where they lived together. This formulation is based on the strong closeness of houses, in particular in the oldest period. The family is referred to as the "father's house", where the head of the family lives not only with the immediate family, including the wife (or wives, as marriage could be polygamous at this time) and minor children, but also with adult descendants with their families and possibly other relatives. By interpretation, a brother who lives

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51 Compare Gn 38 and the comment in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 1*, pp. 222–227, especially p. 224.

52 NEUFELD, E. *Ancient Hebrew Marriage Laws. With specific references to general Semitic laws and customs*. London – New York – Toronto: Longmans, Green and Co., 1944, pp. 29–30.

53 Eryl W. Davies states that after marriage, the man only became the administrator of the property for their future son and only if a son was not born from the marriage the property would pass to them. DAVIES, E. W. Inheritance Rights and the Hebrew Levirate Marriage: Part 2. *Vetus Testamentum*, 1981, Vol. 31, Fasc. 3, pp. 258–259.

54 Compare Gn 38, in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 1*, pp. 222–227.

55 BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 4*, pp. 224–227.

56 Dt 25,5–10 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, p. 285.

with others could be any brother who remained together within the family, or rather the house. Only those who left the house were excluded, which would indicate some kind of disagreement or even direct conflict with other family members (especially with the head of the house).

Unlike the Hittite levirate marriage system, the Hebrew levirate marriage explicitly states the reason for its existence, i.e. the preservation of the name of the deceased and the continuation of the family line. The child born to the brother-in-law and the widow was to bear the name of the deceased brother. Was it the name though that all this was about? What was the role of the property aspect, which seems to be the dominant motivation for the Hittite regulation? Like the Hittites, the society in this case was patriarchal, but even here this did not mean the lawlessness or servile status of women. As emphasized by Jiří Kašný: "Inequality arose primarily due to the privileged position of the husband, father, and head of the family, and it lead to the subordination of the wife, children, and slaves. This inequality made sense in the closeness of the relationships amongst individual family members and their mutual responsibility."[57] It is therefore clear that this inequality is not injustice, but it stems from traditional division of roles in ancient society. Hebrew woman was probably somewhat less independent than her Hittite counterpart, as evidenced by the possibility of divorce initiated only by a man, not also by a woman, as it was possible in the Hittite society.[58] However, Hebrew woman also held a respected place in the society, especially married women and even more strongly so for women – mothers. After all, the Ten Commandments themselves state: "Honor your father and your mother, …"[59] The position of women in society was also important from religious perspective; it was the mother who influenced their offspring on their path to faith, and Judaism itself is still inherited matrilineally, not patrilineally. Finally, a female daughter could also be their father's heir if they had no brothers.

If we focus on a financial situation of a married woman, then, similarly to other ancient societies, the conclusion of marriage was accompanied by the provision of a certain value by the groom to the bride's parents, something that could be simply described as a wedding gift or as the aforementioned "purchase price"[60], in this case referred to as *mhr* (*mahr*).[61] In contrast, biblical sources do not address the issue of dowry much. Raymond Westbrook justifies this situation not by the absence of this institute, but rather by the fact that it was such an established practice that it did not need to be explicitly stated.[62] At the same time,

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57 KAŠNÝ, J. *Právo v hebrejské Bibli*. Praha: Vyšehrad, 2017, p. 138.

58 Dt 24,1–4 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, p. 280.

59 Ex 20,12 in: BIČ, M. et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 2. Druhá a Třetí kniha Mojžíšova. Exodus – Leviticus*. Praha: Kalich, 1975, p. 114; PACKER et al. (přel.), *op. cit*.

60 The issue of the "purchase price" is discussed in detail by Tracy Maria Lemmos, for example, who also mentions the fact that this price was intended to compensate for the loss of the existing family, which, unlike the groom's family, does not strengthen its position with descendants from the marriage. LEMOS, T. M. *Marriage Gifts and Social Change in Ancient Palestine 1200 BCE to 200 CE*. Cambridge: Cambridge University Press, 2010, pp. 8–9.

61 KAŠNÝ, *op. cit*., p. 155.

62 WESTBROOK, R. (ed.). *Property and the Family*, pp. 142ff. This theory also corresponds to usual approach of ancient legislators, who did not include institutions firmly rooted in society in their legislative acts, but instead focused only on new or amended legal regulations. This approach seems rather distant to modern people, accustomed to complex codifications of entire areas, and in many cases it leads to lay condemnation of ancient legal systems based on preserved sources as being incomplete and insufficient.

he also refers to parts of the Bible where, according to him, the existence of dowry is implied. Specifically, he refers to passages in the Genesis concerning Jacob and his marriages: "Laban gave his female servant Zilpah to his daughter Leah to be her servant."[63] and "Laban gave his female servant Bilhah to his daughter Rachel to be her servant."[64] This is also related to the subsequent development of the biblical story, when Jacob leaves with his wives and children from Laban, and both of Laban's daughters (Jacob's wives) agree to leave, pointing out that they did not receive their inheritance: "Is there any portion or inheritance left to us in our father's house? (…) All the wealth that God has taken away from our father belongs to us and to our children."[65] Laban apparently did not consider it necessary to pay a dowry, considering the household had not yet been separated. In this respect, a parallel with the Hittite marriage type of *erēbu* could be offered to some extent, however, in this case it is not a type of union with permanent social and legal value, which is also evidenced by the fact that the purchase price for both daughters was paid by the groom to the bride's father (in this case in kind – Jacob provided seven years of his service for each wife). Moreover, after a certain period of time, Jacob leaves this union with his wives from his father-in-law's household. This implies that even in Hebrew society, there was the institution of a dowry, which usually consisted of movable items that the bride took to their new home, and in this way their share of the inheritance in their father's property was settled. It is therefore obvious that in the case of a man who deceased without descendants, the same problem could arise among the Hebrews as among the Hittites, i.e. the departure of a woman from the family could mean a significant loss of property for their husband's family. Apart from this aspect, the issue of settling the inheritance of a deceased man must also be considered. In the case of the death of a man with male descendant(s), the ideal option was for the inheritance to pass to the male descendant, with the firstborn being favored. If a man only had daughters, they could also inherit, but the condition was that they marry a member of the family. Such a situation is addressed in more detail in the fourth book of Moses (The Numbers) using the example of Zelophehad's daughters: "Let them marry whom they think best, only they shall marry within the clan of the tribe of their father. (…) And every daughter who possesses an inheritance in any tribe of the people of Israel shall be wife to one of the clan of the tribe of her father, (…)."[66] However, if a man died completely childless, the succession was as follows: in the absence of descendants, brothers inherited, in the absence of brothers, uncles inherited, in the absence of uncles, the closest relative from their family inherited: "If a man dies and has no son, then you shall transfer his inheritance to his daughter. And if he has no daughter, then you shall give his inheritance to his brothers. And if he has no brothers, then you shall give his inheritance to

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63 Gn 29,24 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 1*, p. 177; PACKER, J. I. et al. (přel.), *op. cit*.

64 Gn 29,29 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 1*, p. 177; PACKER, J. I. et al. (přel.), *op. cit*.

65 Gn 31,14–16 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 1*, p. 187; PACKER, J. I. et al. (přel.), *op. cit*.

66 Nm 36,1–13 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, p. 179; PACKER, J. I. et al. (přel.), *op. cit*. The expression "clan" is meant to be a member of the house: "But if they are married to any of the sons of the other tribes of the people of Israel, then their inheritance will be taken from the inheritance of our fathers and added to the inheritance of the tribe into which they marry." Nm 36,3 in BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, p. 179; PACKER, J. I. et al. (přel.), *op. cit*.

his father's brothers. And if his father has no brothers, then you shall give his inheritance to the nearest kinsman of his clan, and he shall possess it."[67] Based on this list we can deduce that crucial purpose was to maintain property within the family. It can be assumed that a patriarchal society, particularly linked to the indivisibility of land, with a clear preference for the eldest male offspring, used levirate marriage to address not only the potential loss of economic values belonging to the widow, but also any undesirable fragmentation of property, whereas it was preferred to preserve its integrity.

Here we also have to mention the fact that in many cases, the levirate marriage could have been advantageous for the widow themselves, as they were not one of the heirs of their husband's property[68] and their own property could, but did not have to, ensure them independent existence.[69] However, as Raymond Westbrook also points out, the creation of this somewhat complicated institute solely for the purpose of providing for sustenance of a widow seems somewhat reckless.[70]

4. Is It Possible to Avoid Levirate Marriage?

The provision on levirate marriage proved to be rather limiting soon after its inception, and therefore the Hebrews almost immediately developed an institution called *halizah*, which allowed for its rejection. Therefore, also *halizah* is regulated in the Deuteronomy: "And if the man does not wish to take his brother's wife, then his brother's wife shall go up to the gate to the elders and say, 'My husband's brother refuses to perpetuate his brother's name in Israel; he will not perform the duty of a husband's brother to me.' Then the elders of his city shall call him and speak to him, and if he persists, saying, 'I do not wish to take her,' then his brother's wife shall go up to him in the presence of the elders and pull his sandal off his foot and spit in his face. And she shall answer and say, 'So shall it be done to the man who does not build up his brother's house.' And the name of his house shall be called in Israel, 'The house of him who had his sandal pulled off.'"[71] As is evident from this provision, *halizah* requires the initiative of the woman, who could be motivated by either a desire to remarry, on the one hand, or, on the other hand, by definitively estranged themselves from their deceased husband's family. Without the *halizah* ceremony, a woman remained legally bound to their deceased husband's family. Subsequently, they could not remarry or return to their father's house. The decision not to conclude a levirate marriage then pertained to the man in question, who was to enter into the union, because without their active involvement, the *halizah* could not occur. Since the original intention was

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67 Nm 27,8–11 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, pp. 145–146; PACKER, J. I. et al. (přel.), *op. cit*. Also in this case the term "clan" is meant to be a member of the house, compare previous reference.

68 DAVIES, *op. cit.*, p. 139.

69 To the issue of economic status of a widows in more detail see for example STEINBERG, N. Romancing the Widow: The Economic Distinctions between the´almānâ, the ´iššâ-´almānâ and the ´ēšet-hammēt. In: WESTBROOK, R. – LYONS, D. (eds.). *Women and Property in Ancient Near Eastern and Mediterranean Societies. Special issue. Classics@1, Issue 2*. Washington DC: Center for Hellenic Studies Harvard University, 2003 [online]. 8. 2003 [cit. 2021-01-21]. Available at: <https://classics-at.chs.harvard.edu/volume/classics1-issue-2-women-and-property/>.

70 WESTBROOK (ed.). *Property and the Family*, p. 72.

71 Dt 25,7–10 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, pp. 285–286; PACKER, J. I. et al. (přel.), *op. cit*.

undoubtedly primarily to implement a levirate marriage, the option of avoiding it was not easy for the parties involved and certainly not pleasant. The act of refusal itself (referred to by the term *halizah*) required a public demonstration of refusal on the side of the man before the highest local authority, and at the same time it meant undergoing a humiliating process in which they were publicly shamed. In order for the person in question to undergo such a ritual, they probably had to be very strongly motivated, and it can be assumed that the *halizah* was used only in cases of necessity, which certainly corresponded to the original intention when established. The overall style of the text, as well as the course of the refusal of the levirate marriage itself,[72] is at first glance designed to be as unpleasant and humiliating as possible for the man who refuses to marry, in particular the part where the widow takes off man's shoe,[73] spits in their face, and utters a prescribed formula. According to some interpretations, the procedure itself was so unpleasant that the man in question preferred to enter into a levirate marriage to avoid the ceremony.[74] If the *halizah* ceremony was performed, the obligation to enter into a levirate marriage was definitively abolished and the woman was legally free.

5. Final Comparison

In connection with the above, it should be added that some authors consider the cited biblical sources regarding levirate marriage to be developmental stages of levirate marriage. According to them, its oldest type is represented by the story of Judah and Tamar, the fact they derive from the broader form of levirate marriage, which applied not only to brothers-in-law, but also to other male relatives. They consider the provisions of the Deuteronomy to represent the next phase, and the story of Ruth and Boaz to be the youngest, according to which the levirate marriage is essentially only recommended and no longer carries the threat of the stigma of shame.[75] If we accept the hypothesis that the institute of levirate marriage was adopted into Hebrew society and its law from the Hittite law, this theory seems logical, also based on expanded circle of candidates for the implementation of levirate marriage, which is also found in Hittite version. On the contrary, the theory about the "most modern" biblical version of levirate marriage captured in the story of Ruth and Boaz does not seem very likely, as *halizah*, regardless of its dishonorable procedure, did not disappear in biblical times; on the contrary, it exists in the same unchanged form to this day. The story of Ruth and Boaz also represents a very unusual kind of levirate marriage, as

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72 The ceremony procedure is described by for example GREENSTONE, J. H. Halizah. In: *JewishEncyclopedia.com. The unedited full-text of the 1906 Jewish Encyklopedia* [online]. 2021 [cit. 2024-11-11]. Available at: <http://www.jewishencyclopedia.com/articles/7105-halizah>.

73 According to some authors, a shoe shall represent a kind of embodiment of the deceased person's property, and taking it off means the waiver of such ownership. More on this issue as well as more details on the importance of shoe in the Bible CHINITZ, J. The Role of the Shoe in the Bible. *Jewish Bible Quarterly*, 2007, Vol. 35, No. 1. In: *Jewish Bible Quarterly* [online]. 2022 [cit. 2024-11-11]. Available at: <http://jbq.jewishbible.org/assets/Uploads/351/351_shoe2.pdf>, pp. 41–46.

74 With regard to this issue compare MAIMONIDES, M. *The Guide for the Perplexed*. Ed. FRIEDLÄNDER, M. 2nd edition. London: George Routledge & Sons – New York: E. P. Dutton & Co, 1904. In: *Seforim* [online]. 5. 9. 2004 [cit. 2024-11-11]. Available at: <http://www.teachittome.com/seforim2/seforim/the_guide_for_the_perplexed.pdf>.

75 For example in WEISBERG, D. E., *Levirate Marriage and the Family in Ancient Judaism*. Waltham – Hanover – London – Lebanon (NH): Brandeis University Press, 2009, p. 33.

Boaz does not meet the requirement of "kinship" for levirate marriage, even in its broader Hittite form. On the contrary, I believe that it can be understood as ultimate confirmation of correctness of the levirate marriage as such, or rather of its purpose – here too the family and family property were preserved, and if Boaz did so on his own initiative, then all the more so should those required to do so by the provisions of the Deuteronomy. Unfortunately, other parts of the Bible mention the levirate marriage very laconically, and literature from the period of the Second Temple practically does not mention it at all. The issue of levirate marriage is only further developed in later rabbinic literature.

To fully understand the obligation to enter into a levirate marriage, it is necessary to emphasize again that in Hebrew society we find a strict prohibition on marriages amongst relatives, not only in blood line, but also in the case of kinship established by marriage: "You shall not uncover the nakedness of your father, which is the nakedness of your mother; she is your mother, you shall not uncover her nakedness. You shall not uncover the nakedness of your father's wife; it is your father's nakedness. (…) You shall not uncover the nakedness of your father's wife's daughter, (…). You shall not uncover the nakedness of your daughter-in-law; (…) You shall not uncover the nakedness of your brother's wife; (…)."[76] The punishment for violating these rules was excommunication from society: "For everyone who does any of these abominations, the persons who do them shall be cut off from among their people."[77] As already mentioned in the previous section, such unions were strictly forbidden even by the Hittites: "If a man sins with his stepmother, (there shall be) no punishment; but if his father is alive, (it is) an abomination."[78] "If a man sleeps with the wife of his brother, and his brother is alive, it is an abomination. If a man has taken a free women and also has intercourse with her daughter, it is an abomination. If he has taken her daughter and then has intercourse with her mother or her sister, it is an abomination."[79] The punishment for breaking the rules in the Hebrew society is excommunication, a punishment considered comparable to the death penalty in the ancient world.[80] In the case of the Hittite society, the authors of translations of their legal provision also completely agree regarding the issue of capital punishment.[81] This theory is also confirmed by another

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76 Lv 18, 6–18 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 2*, pp. 299–300; PACKER, J. I. et al. (přel.), *op. cit*.

77 Lv 18,29 in: BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 2*, p. 300; PACKER, J. I. et al. (přel.), *op. cit*.

78 Section 190 of the Hittite Laws, in: NEUFELD (ed.). *The Hittite Laws*, p. 54.

79 Section 195 of the Hittite Laws, in: NEUFELD (ed.). *The Hittite Laws*, p. 56.

80 The author also addressed the issue of impact of excommunication sentence on the convict's subsequent life in UHLÍŘOVÁ, M., Punishments Connected with Person of Offender in Selected Countries of Ancient World. *Journal on European History of Law*, 2011, Vol. 2, No. 2, pp. 108–109.

81 In the translation by Bedřich Hrozný and the above-quoted translation by Ephraïm Neufeld, the punishment is not directly defined, or rather Bedřich Hrozný translates it as "punition (a lieu)", i.e. "the punishment will apply", and Ephraïm Neufeld quotes the version "(it is) an abomination". Albrecht Goetze in his translation then clearly speaks about the capital punishment: "it is a capital crime". Section 189 of the Hittite Laws, in: HROZNÝ (ed.), *op. cit.*, p. 147; NEUFELD (ed.). *The Hittite Laws*, p. 54; GOETZE, A. (ed.). The Hittite Laws. In: PRICHARD, J. B. (ed.). *Ancient Near Eastern Texts, Relating to the Old Testament*. 3rd edition. Princeton (NJ): Princeton University Press, 1992, p. 196. The original text includes the Hittite expression *hu-u-ur-ki-il*, which translates to abomination, horror, or indignation. Even without an explicit establishment of punishment, according to Ephraïm Neufeld, the use of this expression in a legal provision had the meaning of the capital punishment. NEUFELD (ed.). *The Hittite Laws*, p. 189.

Hittite source – excerpts from a treaty concluded between the Hittite king Suppiluliuma I of Hatti and the king Huqqana of Hayasa, where the King Huqqana is strongly advised about Hittite morality: "But for Hatti it is an important custom that a brother does not take his sister or female cousin (sexually). It is not permitted. In Hatti whoever commits such an act does not remain alive but is put to death here. (…) And if on occasion a sister of your wife, or the wife of a brother, or a female cousin comes to you, give her something to eat and drink. Both of you eat, drink, and make merry! But you shall not desire to take her (sexually). It is not permitted, and people are put to death as a result of that act."[82] In both the Hittite and the Hebrew societies, it was possible to overcome the above obstacle in the case of levirate marriage, when a strict prohibition actually turned into a legal obligation. Thus, Hittite and Hebrew family law indeed showed a great degree of identical elements,[83] actually too great for us to be able to convincingly claim that their development took place in complete isolation without any connection and that the resulting similarity is merely coincidental.

Despite the common basis, it is clear that even though the Hebrews incorporated levirate marriage into their legal system, they did not follow exactly the same path as the Hittites. The differences occurring in the application of this institute are based on the overall differences in the organization of both societies as such, primarily on the very close connection of houses in the Hebrew society, when these units together formed a significant social and economic unity. Nevertheless, in both cases – that is, for both nations – it can be said that the opinion regarding the importance of levirate marriage as a material security for widows no longer fully holds true for either of them. Although the other reasons mentioned here also played a role in the application of levirate marriage (preserving the family line, economic security for the widow), it can be summarized that both the Hittites and the Hebrews introduced the institution of levirate marriage into their legal systems for the same purpose, i.e. primarily to maintain economic values in a single entity within the man's family.

While the Hittite Empire collapsed too soon for us to be able to follow the further development of the levirate marriage or its abolition, in the case of the Hebrews, and subsequently Jewish law, the situation is completely different. As a part of the Torah, the levirate marriage is an irrevocable and unchangeable provision and is therefore an integral part of Jewish law to this day. The ancient institute reflecting the needs of a house-based society became increasingly problematic over time and continues to cause disputes and controversy to this day.

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82 Articles 25 and 26 of the Treaty between Suppiluliuma I of Hatti and Huqqana of Hayasa, in: BECKMAN, G. (ed.). *Hittite Diplomatic Texts. SBL Writings from the Ancient World Series Volume 7*. 2nd edition. Atlanta: Scholars Press, 1999, pp. 31–32.

83 Another example could be the assessment of rape, where for both nations the place where the violence occurred was crucial to the issue of criminal liability of a woman. In both legal systems, if the crime occurred in a house or in a city, then, given that the person in question could have called for help, the death penalty was imposed on both. On the contrary, if the crime occurred in a field or in the mountains, i.e. outside a house or city, only the man was to be punished with death. Compare Dt 22,13–23,1 (BIČ et al. (trans.). *Starý zákon. Překlad s výkladem. Svazek 3*, pp. 272–273) and Section 197 of the Hittite Laws (in GOETZE (ed.), *op. cit.*, p. 196).