

**DISEMPOWERMENT OF AND VIOLENCE AGAINST WOMEN:
OLD TESTAMENT PERSPECTIVES**

Thesis
by

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University of Pretoria

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DECLARATION

I, **Christo Doniwen Pietersen** declare that this thesis entitled: *“Disempowerment of and Violence against Women: Old Testament Perspectives”*, hereby submitted to the University of Pretoria for the degree of Doctor of Philosophy, has not been submitted by me for a degree at any other university. I further declare that this project is my own work based on my research of the Old Testament and the Ancient Near East, as well as of the South African legal and social framework. All resources used and quoted are all fully referenced in the appropriate way and full acknowledgements are given based on the requirements of the University of Pretoria.

C.D. PIETERSEN

August 2020

DEDICATION

I dedicate this study to my loving and most beautiful wife, Claudia Pietersen, and my affectionate children, Madison and Gemma Pietersen.

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I wish to acknowledge the following persons who made this journey possible:

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ABSTRACT

The threats facing women with regards to disempowerment and violence against them are ubiquitous, but not invincible. This study has shown that while ANE societies, which include Egypt, Babylon, Assyria and Israel, and contemporary South Africa have some positive cultural values, the subordination of women persists. Even though there is heightened awareness of gender-based violence in the South African context, the efforts to lessen these hardships for women are still too feeble. This is due to a complex cultural milieu and other problems, such as the appeasement of the values embedded in a patriarchal society.

Pentateuchal texts show us that similar challenges existed for women in ancient biblical times. The Hebrew Bible portrays many unfavourable incidences where women were disenfranchised and, in some cases, abused. Examples of care and appreciation for women, who are equally made in the image of God, are at times conspicuously absent. In view of these observations, this study proposes a Biblically-Informed Eclectic Intervention Network Theology (BEINT) model that reinterprets ancient historical texts to address the disempowerment of and violence against women. This care approach would go some way to counter the negative treatment of women in South Africa, including in places of worship.

The uniqueness of the BEINT model is that it identifies the needs of hurting women and directs them to the organisations that may provide them with help and healing. Many women experiencing abuse often have no idea of the organisations or ministries that are able to offer BEINT care. The network provided by this model is likely to enhance the efforts of existing organisations that offer help to victims of gender-based violence. While ambitious in nature, this biblically-informed, care approach could address the challenges of South African women

who are disempowered for cultural, economic and spiritual reasons. Because they are locally based and biblically informed, religious institutions are well positioned and have the potential to be a major resource that can be harnessed in the fight against the disempowerment of and violence towards women.

LANGUAGE EDITOR'S DECLARATION

Word Count

I, Katherine Graham, hereby declare that I have edited and proofread this dissertation by **Christo Doniwen Pietersen**, entitled *Disempowerment of and Violence against Women: Old Testament Perspectives*, for conventions of language, spelling and grammar.

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K.B. Graham

17 November 2020

LIST OF ABBREVIATIONS

AB	Anchor Bible
ANE	Ancient Near East
BCE	Before Common Era
BDB	Brown-Driver-Briggs Hebrew and English Lexicon
CC	Covenant Code
CE	Common Era
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
Cf	Compare
Clem	Clement
DC	Deuteronomy Code
DVA	Domestic Violence Act (1998)
Ed or Eds	Editor or Editors
HC	Hammurabi Code
HC	Holiness Code
NPF	National Policy Framework
OT	Old Testament
SAPS	South African Police Services
SORMA	Criminal Law (Sexual Offences and Related Matters) Amendment Act (2007)
V/ VV	Verse and Verses
VAW	Violence Against Women
WHO	World Health Organisation
NICD	National Institute for Communicable Diseases

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CHAPTER 1: INTRODUCTION

1. Relevance

The plight of women has received increased global attention. This kind of coverage “pay[s] greater attention to the experience of women and to ensure their inclusion in our global society” (Ní Aoláin, Cahn, Haynes & Valji 2018:xxxv). However, violence against women still remains a worldwide problem (World Health Organisation 2019:11). In a global study, Gottemoeller et al. (1999:01) estimated that between 10% and 50% of women, depending on their country of origin, had been beaten by their partners. Indeed, wife beating is common in countries all over the world (Warner 2012:123; Booyens & Bezuidenhout 2018:331).

Warmer (2012:123) in Human Rights Watch (1999:12) reported that in some countries, 61% of women have been beaten with a weapon. Preller (2015:3) asserts “that South Africa has one of the highest incidences of domestic violence in the world. Domestic violence is the most common and widespread human rights abuse in South Africa. Every day women are murdered, physically and sexually assaulted, threatened and humiliated by their partners within their own homes”. Pillay & Nxumalo (2020:1) assert, “The reality is that the majority of women in South Africa live in abusive relationships” (Bezuidenhout & Klopper 2011:233).

The Domestic Violence Act (Act 116 of 1996) recognises that domestic violence is “a serious evil; that there is a high incidence of domestic violence within South African society; the victims of domestic violence are among the most vulnerable members of society; it takes on many forms and it may be committed in a wide range of domestic relationships; and that the remedies currently available to the victim have proved to be ineffective”.

Crime impacts the most vulnerable in society, which often are women. Gartner & McCarthy (2014:60) postulate that domestic violence is like “sexual violence” – it is “an enactment of the relationship between dominance and sexuality, as well as a means of enforcing gender differentiation and inequality”.

The denigrated status of women in South Africa makes society unequal because it borrows from entrenched cultural prejudices. Similarly, patriarchy or male-centredness was systemic and structural in many Ancient Near East (ANE) societies, including Israel. On the one hand, some Old Testament women were glorified, as seen in this example: “as land is ploughed to increase productivity, so also the woman (Ex 21:2-11¹)” (Mellor 1997:01). On the other hand, women were debased, as evidenced when a father hands over his virgin daughter to a mob in order to escape death (Judg 19:24-25)².

Raymond Person (2010:6) states that “research interprets the meaning of the data, which leads to a resolution of the problem, thus supporting and not supporting the hypothesis and/or providing an answer to the question that began the research circle”. This research aims to explore the violence against women in the Pentateuchal legal codes (Covenant, Deuteronomic and Holiness Codes), as well as the Code of Hammurabi, so as to better understand and deal with this scourge in South Africa.

¹Land and women are exploited by the patriarchy and powerful nations.

² “Look, here is my virgin daughter...I will bring her out to you now, and you can use her and do to her whatever you wish...”

The research outcomes will be beneficial to South African communities in general, but to faith communities in particular. Furthermore, the findings of the research aim to contribute to existing policies and procedures on violence against women in both the spheres of faith-based communities and government. Students can also use the research findings for further study.

2. Background

The background to this study emanates from the conviction that human beings are made in the image of God and therefore human dignity is a right. Nation-building should strive towards the reduction of inequality and other forms of social oppression (Bartol & Bartol 2014:449). This conviction takes its cue from the biblical statement in Genesis 1:26-28³. This research contends that issues such as violence against women, gender inequality and oppression of women can no longer be left in the hands of officials and lawmakers alone. Old Testament theology (socio-historicity) will be a helpful study guide, particularly as the aforementioned issues pertain to the South African discourse. I am convinced that the book of Deuteronomy (Deuteronomic/deuteronomistic law) has an intrinsic role to play to make these vital connections. This is done with the hope that this research will contribute positively to the discourse on the oppression of women in South Africa.

3. Problem statement

Violence against women is increasing daily and it has become a part of the reality that many women all over the world face, particularly in South Africa (Bezuidenhout 2013:118). It is

³ “Then God said, ‘Let us make man in our image, in our likeness, and let them rule over the fish of the sea and the birds of the air, over the livestock, over all the earth, and over all the creatures that move along the ground.’ So God created man in his own image, in the image of God he created him; male and female he created them. God blessed them and said to them, ‘Be fruitful and increase in number; fill the earth and subdue it. Rule over the fish of the sea and the birds of the air and over every living creature that moves on the ground’.”

worth stating that men are frequently victims of domestic violence, too. However, the purpose of this research is to focus on women in South Africa and on the parallels in Deuteronomy (Deuteronomic/deuteronomistic laws) and other Hebrew legal codes, such as the Covenant Code, so that it foregrounds “the exegetical results in the analysis of the literary relations between the Covenant Code and the book of Deuteronomy” (Otto 2013:238). There are various problems with the policing of domestic violence, which are outlined in Chapter 4 and which have necessitated this research (Bartol & Bartol 2017:367).

3.1 Introduction

Problems relating to violence against women in South Africa include a variety of criminal activities which vary from human trafficking, assault, rape, alcohol abuse, pornography, sexual assault, attempted murder and assault. The manifestations of these in society are manifold, but I would posit that the reason why this problem is so complex to understand is because it is often dismissed by stakeholders because of its sheer prevalence (Baumann 2000:ix; Gartner & McCarthy 2014:59).

This study intends to investigate violence in the Old Testament, which includes surveying ANE cultures to see if any links exist between that culture and the South African context. It will examine the inter-connections between disempowerment and violence against women as they relate to issues of law, land and gender discrimination in Deuteronomy (Deuteronomic/deuteronomistic laws) and compare them with the South African context.

3.2 Research question(s)

Walliman (2009:24) states that the research questions should frame the research. The following broad questions are asked:

- How is violence against women propounded in the Ancient Near East and Pentateuchal codes?
- What insights can the framework of the Old Testament offer to gain new perspectives on the disempowerment of and violence against women and women's rights?
- What are the specific challenges women in South Africa face with regards to disempowerment and violence?
- What strategies could serve as barrier for combating violence against women?
- How do we synthesise the results with recommendations?

4. Literature review

To achieve the above-mentioned objectives, ANE literature, including the Code of Hammurabi from Babylon, as well as the Pentateuchal codes – Covenant, Deuteronomy (Deuteronomic/deuteronomistic laws) and the Holiness Codes – have been critically examined in various key areas.

4.1 Women and law in Israel and ANE contexts

In Ancient Mesopotamia, labour came to be divided not only along the lines of gender, but according to a strict hierarchy based upon military power and religious authority. Rohrllich (1980:98) describes state formation in Mesopotamia as “a complex interaction among the processes of class stratification, militarism, patriarchy, and political consolidation”.

The predominant pattern of social organisation that emerged in the sedentary, agricultural communities of ancient Mesopotamia was steeped in patriarchy, where female sexual and reproductive liberty was subdued. The basis of the patriarchal socio-political structure was the legitimisation of the patriarchal family (Lerner 1986:54). The elite classes, namely the priests

and warriors, manipulated religious ideologies to legitimise their claims to power. The religious ideology was similarly manipulated to legitimise the domination of male deities over female deities, and therefore of human males over females (Rohrlick 1986:85-87).

As the early civilisations of Mesopotamia became increasingly urbanised, they established institutions which served to put women in an inferior social class. Women as a whole were doubly disadvantaged by the ideologies propagated by the ruling elite, since women were subject to the constraints imposed by both class and gender. While women of the higher classes were subordinate to all men, women of the lowest class (slaves) were subordinate not only to all men, but also to all free women (Lerner 1986:95-96).

The cultures of the ancient Mesopotamian societies of Babylon and Assyria formalised the subordination of women. The religions and laws developed by these civilisations prevented females from asserting control over their reproductive function in society. The social institutions developed in these cultures reduced the social power available to women (Hammack 2007:1). The codified laws of these societies effectively compartmentalised female sexuality and commodified female reproductive capacity, which were crucial steps in the subjugation of women. The social institutions of marriage and religion served to reinforce the cultural definition of normal, acceptable sexual activity and in the process relegated women's sexuality solely to the realm of reproduction. By formalising patriarchal inheritance rights and reducing women's control over their own procreative power, women were confined to the private sphere of life; their influence and prestige were made ineffective (Hammack 2007:5).

When Israel as a nation first began settling permanently (i.e. moving from a nomadic to a sedentary life), new and different social institutions developed in response to the altered cultural climate. These cultural changes greatly contributed to male dominance and female subordination. As a settled way of life began to permeate their nation, the social structure of Israelite culture was significantly and permanently changed. Probably Israel too, like the Mesopotamian Law Codes (Middle Assyrian Laws, Code of Hammurabi and Eshnunna Laws) opted for female subordination, which can be seen in their law system, especially the Covenant Code (Casuistic Law). In the Covenant Code, males and females for the most part are subjected to a different set of rules. It enforces the degradation of women and inscribes male power. The legal terminology used when dealing with women and their sexuality is concerned far more with property than with gender (Mathew 2018:10).

Both Israel and Judah shifted their stand drastically during the eighth century BCE. It was a period when the Jewish nation underwent great socio-political changes due to the presence of colonial powers like Assyria and Babylon. On the one hand, both Israel and Judah were advancing to a higher economic position, whereas on the other hand, the Assyrian king was moving forward to conquer other nations. Israel and Judah tried to compete, perhaps mimicking⁴ the ideologies, politics and cultures of the colonial powers (Bhabha 1994:85-92). It was a time when Israel and Judah reached a climax politically and economically. However, the religious and moral decay can be seen during this period. Land accumulation, extraction of taxes, building projects, enhancing military power, trades and commerce and various other

⁴ Israel as a nation was perhaps influenced by the impact of other colonial powers, which resulted in her mimicking the ideologies of those colonial powers (Bhabha 2005:125-133).

practices of a colonial nation entered into the life of Israel and Judah. According to Premnath (2003:20-42), the Israelite state got shifted from an agrarian economy to a market economy.

As a result, a great gap in economic terms was created between the rich and the poor, for which prophets like Isaiah, Amos and Hosea attacked the ruling classes. These prophets denounced the upper classes represented by the landlords, officials, military men and merchants for drifting away from the way of Yahweh and corrupting the judicial system (Muthunayagom 2000:123-124). They condemned the people's materialism and greed, which was a threat both to religious and ethical values.

Injustice was meted out by the powerful towards the weak in society. In order to increase wealth, some laws were perhaps misused and altered, which in turn benefited the elite. In this way, they could exploit the marginalised in society. These characteristics of colonialism not only entered into the socio-political and religious life of Israel and Judah, but also into their legal system. Hence, the Covenant Code, which can be located in this period, was not in favour of the weak, especially women.

4.2 Laws in ancient times (circa 950 BCE)

Law played a crucial role throughout the Ancient Near East. Throughout Mesopotamia, it was the father in families and male members in society who made all the important decisions. Women were classified as lower than men. Each had a different standing in law. The man was vested with authority and the woman with purity. Women were supposed to stay at home and to take care of children and household activities. They had the additional responsibility to pray for their family. A wealthy family sent one daughter to a cloister to pray on behalf of the other members of the household. She could marry, but not bear children. She could, however, marry her deceased sister's husband in order to provide offspring (Stol 1995:490-491).

The rights of a woman were nowhere near to that of a man. It was not so in the early Neolithic period (3900–1700 BCE). During this time, women enjoyed relative freedom. On the one hand, the law offered women protection from patriarchal abuse, but on the other hand, women were categorised as moveable property. The law simultaneously restricted the husband on the use of a bride price, but also stipulated that in the case of a divorce, wives were to be sent back with the bride price without any additional compensation. If a husband was found guilty of infidelity, he had to pay back the bride price, and if the guilt lay with the wife, either her position would be demeaned to that of a maidservant or she would be drowned (CH §141-§143) (Walton 2009:185-186). In this respect, women were treated in a similar way to slaves, in that they had no voice. The following section deals briefly with the position of women through their life stages in the ANE.

4.3 Women and family

The family in ancient times (Assyria, Babylon and Israel) was patriarchal in nature (Bottero 1976:91-132; Edzard 1967:50-90). As the kings ruled the state, so the father dominated the household. The father was addressed as the owner of his wife or wives and children. In some places, particularly in Assyria and Israel, the father was given absolute authority and legal rights. This autonomy paved the way for him to treat his wives and children as he wished. However, in a country like Babylonia, power vested with the father, but within defined limits (Mendelsohn 1984:24). Women were treated as property to bear children, and they had to take care of household activities.

The hierarchical order could be seen throughout the Ancient Near East, where the rulers dictated the day-to-day affairs of the empire. In the family, men had authority over female members of the household. In this hierarchical order, the voice and rights of women were

minimal. In order to make the hierarchical system stronger, it is likely that legislation was introduced. This legislation to a large extent supported the hierarchical system. Though in superficial readings, the laws might sound like protecting the weaker sections of society from the powerful, in reality the weak were treated as property to be controlled and utilised both in the area of politics and economics (Mathew 2018:20).

4.4 Women and land

Since ancient times, the identification of woman with the earth has been basic to the popular cultural discourse. In many cultures, the earth is addressed as female. Agriculture was a common occupation throughout the Ancient Near East. In order to increase productivity or wealth, the accumulation of land was needed. To take care of agriculture, more people were needed. To achieve this, women were targeted. Women became the means to increase the population and, after the adoption of agriculture, its labour force. Hence, like agriculture, the subordination of women occurred independently in numerous societies and civilisations (Rohrlick 1980:98).

Agriculture proved to be an invaluable development, allowing humans to manipulate their environment, whereas female subordination proved to be an invaluable organisational tool for the complex societies, which resulted from an agricultural way of life (Mathew 2013:69). Accordingly, agriculture and female subordination are intimately linked, providing humanity with a dangerous mixture of advantage and detriment. Women and land became the most essential means of production in an agricultural society (Hammack 2007:1-8).

Israel's ancestors lived in tents and moved from place to place (Gen 13:3; 18:1ff; 31:25, 33f). They were stockbreeders and lived as semi-nomads. Then came the transition from semi-

nomadic to sedentary life. With the settlement, the Israelites turned into farmers and villagers. Colony came into existence and relations with neighbouring nations gradually became stronger. The territorial context was superimposed and the clan structure was suppressed. Hence Israel, having achieved a settled way of life, became influenced by the thinking of the Ancient Near East. This cultural change brought about by agriculture greatly contributed to male dominance and female subordination. As agriculture permeated her way of life, the social fabric of Israelite culture was drastically and permanently altered. The sedentary and settled lifestyle that accompanied agriculture resulted in the dominance of a new and different means of social organisation. This may be the reason for the subordinate position of women in the law system of Ancient Israel, especially the Book of the Covenant Code⁵, as it falls in the same period.

This negative approach towards land and woman can be seen throughout the Hebrew Bible, especially the prophetic books. For instance, when Israel commits sin, the prophet communicates the word of God by comparing the land to a woman, making reference to her sexuality (Is 1:8; 3:16).

4.5 Women and law in Israel

Women were regarded as property in a number of instances in the biblical law codes.

⁵ A closer reading of the Covenant Code with the codes of the neighbouring nations (Code of Hammurabi, Middle Assyrian law codes, Laws of Eshnunna) reveals a that the law, though it originated during the pre-monarchic period, and developed through the monarchy period, had its final form in 8th century BCE (Bottero 1976:91-132). The reason behind this is that Israel, being a newly formed nation, was influenced by the policies of the neighbouring nations. The 8th century was also a period when Israel became politically and economically sound. It appears that Israel mimicked the culture and practices of neighbouring nations. This change of lifestyles probably affected the laws of Israel. The gap between the rich and the poor increased. Gender discrimination then resulted, which can be seen in the legal codes.

4.5.1 Women as property in the Decalogue

The tenth commandment makes it clear that “you shall not covet⁶ your neighbour’s house; you shall not covet your neighbour’s wife, or his manservant, or his maidservant, or his ox, or his ass, or anything that is thy neighbour’s” (Ex 20:17). It is to be noted that the wife is placed as equivalent to the belongings of the owner. In other words, the wife is considered as a piece of property.

If we compare the tenth commandment with the parallel commandment in Deuteronomy (Deut 5: 21), differences can be seen in the case of wife. In Exodus the word “covet” is used for house, wife, male or female servant, ox or donkey or any possession, whereas in Deuteronomy the word “covet” is used only for wife. For others, the word “desire” is employed. In Deuteronomy “the wife” has primary importance and all other assets are supplementary, which shows that women are full and equal partners to their husbands and had rights in society. It is not so in Exodus (20:17), where the place of “wife” is counted along with servant, ox, donkey and other belongings.

4.5.2 Women as property in slave law

All the three biblical codes support the institution of slavery. The harshest among them is the Covenant Code. The Holiness Code is much closer and runs parallel to the Deuteronomic Code.

⁶ The exact meaning of “covet” is a subject of dispute. The word “covet” could mean a “wrongful attitude, desire, or to yearn for or lust after someone or something specifically for one’s use or gratification”. It could also mean “position of power and unfair rivalry to acquire other’s property” (Mathew 2013:178-179).

In the Exodus Code (Ex 21), freedom is reserved for male slaves, whereas in the Deuteronomic Code (Deut 15), freedom applies to both male and female slaves. In the case of the latter, the freedom granted to male and female slaves is on humanitarian grounds and has strong moral and ethical aspects. The owner is expected to provide for them liberally in order to ensure that they may not re-enter into slavery. Moreover, the law clearly reminds the Israelite community about their past and cites the reason for the freedom of slaves (Deut 15:15). The Covenant Code gives no room for liberty. Though the male slave can go free in the seventh year, there is no guarantee that he will be able to live an independent life, as he is sent away empty handed. The Holiness Code, on the other hand, ensures freedom in a different way (jubilee year), which is closer to the Deuteronomic Code. The understanding of “your brother/fellow countryman” is not just for kinsman, but also any fellow Israelite. The Holiness Code, like the Deuteronomic Code, instructs the owner to treat the impoverished individual favourably and with an open heart (Lev 25:43). They are to be treated not as a slave, but rather as a hired man. However, it clearly differentiates between Hebrew slaves and non-Hebrew slaves.

In Exodus 21:2–11, the slave owner was permitted to give a woman to his male slave as a wife. The purpose behind this law is to have sons and daughters for the owner. After six years, the male slave would leave his owner, but his wife and children would remain (Walton 2009:185). In all these laws, the consent of the woman was not taken into account.

4.5.3 Women as property in the laws of restitution

Exodus 22:1–17 deals with protection of property and restitution. All these laws are casuistic in style. The text states: “If a man steals an ox or a sheep and slaughters it or sells it, he must pay back five head of cattle for the ox and four sheep for the sheep”. Furthermore, it adds: “If

a man seduces a virgin who is not pledged to be married and sleeps with her, he must pay the bride price and she shall be his wife. If her father absolutely refuses to give her to him, he must still pay the bride price for virgins.” In both these cases, the payment would be in compensation for the damage to the owner’s property (Walton 2009:186). There is no indication that the suffered woman was consulted in the decision making.

4.6 Women and law: patriarchal and colonial ideology

The pertinent question which needs to be addressed is: Was the subordination of women in Israel and the Ancient Near East patriarchal or colonial or both? The majority of the law “addresses the community through its male members”⁷. The Pentateuchal law codes (Covenant, Deuteronomic/deuteronomistic and the Holiness codes) in general treat women as property: they are always subject to the authority of male members of society. The Covenant Code is much harsher towards women, where they have no right of freedom and are controlled by their male counterparts. The Deuteronomic Code and the Holiness Code to a large extent provide freedom to women. The Covenant Code appears to be in line with Exodus.⁸

Many South African laws are in many ways patriarchal⁹ and in many instances colonial¹⁰ in their approach. This is captured in the following quote by Moseitse (1998:97) “Our society ... is a patriarchy. The fact is evident if one recalls that the military, industry, technology,

⁷ Some of the references in apodictic laws are Ex 20:19, 22:22-24, 31. In almost all the laws, the full membership is limited to males, in which only a male is considered as a responsible person and all others were regarded as dependents or household property.

⁸ For e.g. Ex 21:7-11 c.f. Code of Hammurabi 147, 159; Ex 21:22-27 Ex 22:16-17. These texts highlight that women are not emancipated.

⁹ Although both men and women participate in day-to-day affairs in South Africa, the patriarchal system is “controlled by men and promotes male privilege by being male dominated, male identified and male centered. The core values of the society are the core values of male members, focusing on what men do.”

¹⁰ Colonialism bears some resemblance to the patriarchal approach, but surpasses it by imposing rules over the powerless through legislation.

universities, science, political offices, finances – in short, every avenue of power within the society, including the coercive force of the police, is entirely in male hands.” Women are constantly addressed and treated as property similar to slaves.

The rights and dignity of women in the Ancient Near East were similarly at a low level, both in social and religious spheres. They were directly controlled by male members of society. A woman’s sexuality belonged exclusively to her husband. If she failed to bear a child, he could marry another wife. The wife, in order to safeguard her life and to prevent her husband from remarrying, was forced to hand over a maid to her husband. The law was silent, however, if the problem of infertility lay with the husband. Women were generally treated as chattel to be bought and sold. The identity of women was limited to that of a daughter to a father, a wife to a husband, a maid to a mistress. In short, women were ignored, despised and subverted.

Adeyemo (2006:230) is convinced that ANE laws, including the Covenant Code, are in favour of the rich and the powerful. In order to amass wealth and maintain superiority over other nations, women were subjugated. Land was considered more important than them and it became an integral part in the life of their agricultural society. In order to increase their labour force, women became a tool. In case of war, women taken as captives were carried off by their enemies, mainly for sexual reasons and to procreate descendants for the triumphant nations. The unprecedented political and economic importance of other colonial powers affected the very fabric of Israelite society, which can be seen in the legal code. The legal code, which is supposed to bring justice and welfare to all, became a tool for injustice, serving the interests of the elite at the expense of the powerless. Israel, perhaps in order to compete with other nations, mimicked the social departmentalisation of her neighbours.

In particular, the Book of the Covenant Code must be deconstructed. It was adapted from the political, cultural and religious practices of neighbouring nations in order to build a new voice to uplift women and the marginalised from the clutches of patriarchy and colonialism. Despite this aim, the denigration of women is still found in the Book of the Covenant Code and it remains an issue that the church needs to address (Scheffler 2014:579).

4.7 Personal reflection

Though South Africans live in an age where globalisation is at its peak, the injustice done to women is disproportionately high. This creates disorder and imbalance in society. The colonial mindset we have inherited also disturbs a sense of social harmony. As the recent Fees Must Fall student movement has demonstrated, what is needed is to decolonise the patriarchal framework developed through colonising women, land and nature. Woman and her expertise with nature ought to be recognised by the so-called super powers (Shiva 1988:24). As the prophet Micah (Mic 6:6-8) raises the question: “What does the Lord require?” The same question must be addressed to us, especially in our theological community, as we are the custodians of the Scriptures and the cosmos. Truth, love and justice, both in our attitude towards land and women, are what is needed at this time. If not, there will be disorder and chaos, which will ultimately end up in anarchy.

God is the one who subverts the imperialistic order in favour of the marginalised. He is not a respecter of persons, but looks on all as equals before him, irrespective of their class, colour or gender. God, who curtailed the power of Pharaoh over Israel, expects the people of Israel to serve each other. Unfortunately, the Book of the Covenant Code supports the vested interest of those who oppress the marginalised (Ex 21:2-11). When we compare the Deuteronomic Code (Deut 15:12-18) with the Book of the Covenant Code, we see that the former favours the whole

strata of society irrespective of who they are. It safeguards the poor, weak, marginalised and defenceless (Mathew 2016:53–57). There is no separation of welfare and freedom based on class or gender.

According to the text, God, who created humankind (male and female) in His image, wanted both sexes to treat each other as equal partners (Gen 1:26–28), but over the course of time, Israel came under the influence of her neighbouring nations and in order to compete with them, borrowed their culture and practices. The wealth and productivity of the land became the burden of women. The same situation can be seen worldwide (Thompson 1992:61–62). Hence, the law needs to be revisited, taking the full strata of society into consideration. A balanced law can produce a healthy community.

5. Aim and objectives

The aim of this research is as follows:

- To analyse disempowerment of and violence against women in the Ancient Near East and the Pentateuchal codes (Covenant, Deuteronomic/deuteronomistic and the Holiness codes) and to contextualise the relevance of this theme in the South African environment.

The objectives of this research are:

- To outline the problem statement, why the problem exists, what has been done about it so far and discuss the purpose of the research.
- To explore the rich literature of the Pentateuchal codes (Covenant, Deuteronomic/deuteronomistic and the Holiness codes), as well as the Code of

Hammurabi, on the disempowerment of women to determine what similarities exist compared to the negative attitudes prevailing in South Africa towards women today.

- To focus on recent theories that view violence against women as a hermeneutical framework portrayed in the Old Testament.
- To assess violence against women in South African communities.
- To locate political power, paternal power and perhaps even divine power that prompted the disempowerment of and violence against women in the Old Testament.
- To highlight the views of the role players involved in policing domestic violence and the current strategies in place, as well as anecdotal experiences. The strength and weaknesses of current practices will be assessed.
- To synthesise the findings of the study and to apply it to the research problem and hypothesis.

6. Methodology

This is both a literature and exegetical study. It combines a number of methods to facilitate a better understanding of disempowerment of and violence against women in Deuteronomy (Deuteronomic/deuteronomistic) and the Ancient Near East. These include; (1) Intratextual analysis; this analysis studies all the textual relations contained in a specific text. It provides a more holistic view of the text. A combination of both synchronic and diachronic approaches to the text will help in this process because the two approaches inform each other (Groenewald 2005:553; Lotman 1972:81-91), (2) Intertextual analysis; this analysis makes the connection between a specific text and other similar texts. In a biblical context, the question is asked whether a specific text shows any connection to other biblical or non-biblical text(s), and (3) Extratextual analysis; this analysis concentrates on the historical, social, political, cultural and economic milieu in which a specific text developed and started (Prinsloo 2008:52).

The interpretation the Ancient Near East texts and Pentateuchal codes (Covenant, Deuteronomic/Deuteronomistic and Holiness codes) is an extensive exercise that grounds this study in the above-mentioned methodology. This study has also included to some extent a gendered Old Testament feminist approach (Kirk-Duggan 2012:261–265). A major benefit of combining approaches is that it offers the researcher a more complete or holistic understanding of the nature of the problem across different texts (Vos 1996:40; Human 1999:364). An analysis of disempowerment of and violence against women on the basis of these three levels, namely intra-, inter-, and extratextual levels, is given. It will provide a more comprehensive understanding of the comparative similarities between different OT texts and the problematic narrative of disempowerment of and violence against women in South African today.

In the theological interpretation of this study, the exegetical method proposed by Gorman in *Elements of Biblical Exegesis* (2001) will be applied:

The careful historical, literary and theological analysis of a text ... [and] deliberate, word-by-word and phrase-by-phrase consideration of all the parts of a text in order to understand it as a whole ... Exegesis is therefore an investigation ... of the many dimensions, or textures, of a particular text (Gorman 2001:8-9).

In exegesis, I attempted to overcome the barrier posed by my position as a third party to the text – I acknowledge that I am not the authors nor original recipients, and so I am required to gain insight and understanding into a foreign sender and recipient (Hayes & Holladay 2007:5).

As Groenewald (2007:1017) notes, the methodology of exegesis is by no means universally accepted and is still a subject of debate. Nonetheless, the synchronistic approach of socio-rhetorical criticism (Gorman 2001:12) is preferred for this study, bearing in mind that

synchronic and diachronic approaches are not mutually exclusive, but each, in fact, informs the other (Groenewald 2007:1028).

King & Stager explain the need for these various approaches and critical methods as follows (2001:3): “In many ways, the Bible resembles a highly stratified tell that gradually accumulated, layer upon layer, tradition upon tradition, through the ages. In some cases, materials from earlier strata were reused and reshaped into new and different figurations and contexts.”

7. Hypothesis

The hypothesis of this thesis has demonstrated that men have subjugated women since the dawn of recorded time (including ANE societies such as Egypt, Babylon, Assyria and Israel). This can be dated back to the earliest civilisations. The subordination of women in Ancient Israel will be used as a lens to show the disempowerment of and violence against women in a very patriarchal society, that may have negatively influenced South African culture in how women are treated. Based on these findings, this study will propose a theology of BEINT (Biblically-Informed Eclectic Intervention Network Theology) as a solution for the seemingly insurmountable problem of disempowerment experienced by women. This biblically-informed, concerted approach engages the challenges faced by women and rescue them from cultural, economic and spiritual disempowerment, including gender-based violence in South Africa. Lastly, this has shown that religious organisations and biblical-informed institutions ought to be major resource centres, as they are in a good position to utilise their interpretations of ancient cultures in the fight against disempowerment of and violence against women.

8. Chapter division

Chapter divisions give insight into the foundational framework of this study.

Chapter 1: Introduction

This chapter outlines the problem statement, why the problem exists, what has been done about it so far and the purpose of the research. The aims and objectives of this study have been outlined, enabling clear and directed research. As this study will make use of both an exegetical method and a literature study, significant explanation is provided on the exegetical method to be employed. Following a brief statement of the hypothesis, a chapter division and orthographical remarks are included in this chapter.

Chapter 2: Ancient Near East and Pentateuchal codes

This chapter explores the rich literature of the Ancient Near Eastern societies and the Pentateuchal codes in the treatment of women. This study contends that there are strong links between the disempowerment of and violence against women in ANE societies and the Pentateuchal codes. This finding is foregrounded in both the outlines of a survey from ANE and Pentateuchal code scholars, as well a survey from scholars in the feminist movement.

Chapter 3: Relationship between legal codes and Hebrew Bible

This chapter locates political power, paternal power and perhaps even divine power that prompted disempowerment and violence against women in the wider Old Testament framework. Gqola (2010:66) suggests that “the grip of violence is tightening around our collective necks” and that if we do not break the grip, we will suffocate and die.

It will also include an outline of views on both the literary and hermeneutical theory of the Old Testament itself and other modern exegetical perspectives concerning the disempowerment of

and violence against women. This forms the most reliable foundation for a modern interpretation of this study because of the legal history of the Hebrew Bible (Otto 2013:238).

Chapter 4: Violence against women – A South African portrait

This chapter focuses on violence perpetrated against women in South Africa. According to Thompson (1992:65), the real problem is that throughout the history of human culture and society, females have been dominated by males in almost every aspect of life¹¹, with only a few notable exceptions.

This chapter will highlight the views of the role players involved in policing domestic violence and the current strategies in place, as well as anecdotal experiences. The strength and weaknesses of current practices will be assessed.

Chapter 5: Synthesis

The final chapter makes recommendations that could help combat violence in South Africa by underscoring the skewed lens of the ANE and Pentateuchal code contexts. The synthesis includes data derived from the literature review and other resources that have been used in the research process. All of this will provide insight to make recommendations regarding the conclusion and findings.

¹¹ In Hebrew Scripture, there are scores of references to women being treated as inferior to men (Gen 2:7; 3:16; 16: 2; 19: 8; 21: 10; Ex 1:15–16; 20–21; 22:16–17; 23: 17; Lev 12: 1–5; 18:20; 27: 6; Num 3:15; 5: 11–31; 27: 8–11)

9. Orthography and terminology

The research guidelines that were followed for this study were provided and endorsed by the Faculty of Theology at the University of Pretoria. Furthermore, readers are generally encouraged to understand the terminology below in order for meaning to become more clear.

9.1 Orthography

The biblical quotations applied in this research will be taken from the New International Version (NIV) Bible Translation. This includes references for biblical abbreviations. Other Hebrew resources, such as the Biblia Hebraica Stuttgartensia (BHS), as well as the Septuaginta (LXX) for any Greek inserted texts, will come from Novum Testamentum

Graece's 27th edition (NA27).

Throughout this work, headings, sub-headings, bibliography nouns and verbs will start with capital letters and prepositions. In addition, definite articles will also be written in small letters and footnotes will be applied. With regards to the referencing style, this research will make use of the Harvard referencing system.

9.2 Terminology

Terminologies used in this research are as follows:

Ancient Near East: The Ancient Near East is used in this study as a general term that “embraces both an enormous geographical territory and a long chronological span. Many different peoples lived in this area of more than three million square miles that included a variety of ecological environments – alluvial plains of river valleys, coastal regions, high mountain steppes, deserts and oases. The combination of so many different living conditions

and ethnic groups produced the rich and complex cultures that today we call the Ancient Near East” (Benzel et al 2010:9).

Biblically-Informed Eclectic Intervention Network Theological (BEINT): The approach is governed by a biblical Christian view of justice, the gospel of the grace of God and the value placed on human life.

Covenant: a formal relationship that does not occur naturally. It includes a joint-solemn commitment, it guarantees promises or obligations undertaken by one or both parties, and it is sealed with an oath (Williamson 2007:154).

COVID19: A severe acute respiratory disease (NICD 2020:1). According to Pillay & Nxumalo (2020:2) a sharp spike in violence against women during the first nine weeks of the lockdown was evident as a result of the pressures of COVID19 and isolation regulations.

Disempowerment: Disempowerment of women in both the ANE and contemporary South African contexts may be classified into two main categories: those the ANE and South African culture condemns and others which a patriarchal society may be forced to accept and approve of. Attention in this study is given to the kind of disempowerment which the ANE and South African cultures ought to condemn when it comes to the negative treatment of women.

Deuteronomistic History: Begins with the book Deuteronomy and ends with 2 Kings (Römer 2009:8). I understand the whole as Deuteronomistic. But the Deuteronomic Law/History as the book of Deuteronomy (Walker 2015:5).

Domestic violence: Domestic violence is the pattern of abusive behaviour in which a partner harms the other person in the relationship in order to obtain or maintain power and control over

them (Domestic Violence Act 116 of 1998). The act was introduced in 1998 with the purpose of affording women protection from domestic violence. It created obligations on law-enforcement bodies such as the South African Police Service to protect victims of domestic abuse.

Extratextual analysis: This analysis concentrates on the historical, social, political, cultural and economic milieu in which a specific text developed and started.

Feminist interpretation: In the 1970s, Christian feminism started as a movement that has had a vital impact on the church. Christian feminists challenged Scripture and the biblical interpretation with regards to women's roles in both church and society (Ackermann 1993:23; Miller-McLemore 1999:79 and Jones 2000:6).

Intertextual analysis: This analysis makes the connection between a specific text and other similar texts. In a biblical context, the question is asked whether a specific text shows any connection to other biblical or non-biblical texts.

Intratextual analysis: This analysis studies all the textual relations inside a specific text. It provides a more holistic view of the text.

Mediterranean world: The Mediterranean world for the purpose of this study means the peoples, lands or cultures bordering the Mediterranean Sea (Webster 2003: electronic edition).

Pandemic: A worldwide spread of a new disease in which most people do not have immunity (WHO 2010:1). Cyril Ramaphosa noted with disgust that South Africa was facing the gravest of threats from a pandemic of a different kind, where violent men were taking advantage of the COVID-19-induced lockdown to abuse women and children (Pillay & Nxumalo 2020:2).

Patriarchy: The word comes from the Greek words *patēr* and *archē* (William 1994:209). The meaning rendered here is for a father to rule and dominate his household. It also implies a male-dominated system which is prejudiced against, subordinates and exploits women (Bhasin 1993:3).

Pentateuchal codes: These include the Covenant, Deuteronomic/Deuteronomistic and Holiness codes that demonstrate disempowerment of and violence against women.

Rape: An act that requires forcible sex from an unwilling person (Scholz 2005:36-37). In the Old Testament, rape is considered to be forcible sex between a man and a female ward of non-consenting male guardians, who either are the victim's father or her brother (Gravette 2004:73; Gadotti 2009:81).

Reception: Noth's theory was influential but came under some criticism in the 60's and 70's.

Socio-economic equality: Includes two phenomena. These are (1) unequal opportunity when it comes to making meaningful contributions based on people's social identity, e.g. race, ethnic and or based on gender etc. And or (2) it refers to a situation where one has had an equal opportunity to make contributions but is not rewarded equally because one belongs to particular socio-economic group than one's counterparts (Modise & Mtshiselwa 2013:3). Both these facets are in view in the arguments of this thesis.

Violence: This can be defined as any use of psychological, physical and sexual force, actual or threatened, in an intimate relationship. An intimate relationship can be defined as a current or

former spouse or dating partner. Violence is used to intimidate, humiliate or frighten victims or to make them feel powerless (Krug et al 2002:89).

Women's lived experience: Women's lived experience in the ANE and the Pentateuchal codes can be described as the "Wild West". It is a world of bloody violence in which women are the playthings of men. Throughout ANE, Pentateuchal texts and the South African context, women are constantly violated, subjugated and exploited by men. Just as Israel is often likened to a bride in biblical texts (Isa. 62), so too can we read a metaphor into the way that women are treated. The bride (women) are not honoured by patriarchal societies, including Ancient Israel and present-day South Africa.

In Judges 1:12, Caleb makes a promise that whoever routs Kiriath Sepher will win the hand of his daughter in marriage. His daughter Aksah is astute and tells her intended to ask for a field as a dowry. Her father gives them desert land 'the Negev/Negeb' (non-productive land). To this end Aksah has to then ask her father for the water springs too. The father who should protect and care for his daughter shows no concern for her future well-being. Additionally, the man who wins her hand in marriage is her uncle, and the promise made prior to the war should not have been honoured on this occasion.

However, even such deplorable treatment cannot compare to the epilogue's treatment of the concubine of the Ephramite man. In an allusion to the experience of Lot in Sodom and Gemorrah, we see a traveller set upon by townsfolk with evil intentions. In the story of Lot, the travellers are rescued by angels, but in Judges, the men fearing for their lives offer their attackers first the host's daughter and then the traveller's concubine. She is subsequently gang raped and left for dead on the door-step. The Ephramite's response to her treatment is appalling.

First, he tells her to get up, and then upon discovering her to be dead, he cuts her into 12 pieces (denying her a decent burial), dishonouring her even in death.

Likewise the treatment of women raises its ugly head again in the form of another promise designed to curse the tribe of Benjamin. Each tribe promised that they would not allow their daughters to marry a Benjamite, having presumably killed all of the women along with the children as they sacked the Benjaminite cities. Upon realising that one of the tribes would die out, Israel decided to attack and capture foreign women for the Benjamite.

The life of women in South Africa is also interspersed with difficult encounters emanating from cultural, traditional and at times religious factors which, taken together, create innumerable challenges for women. These challenges were foregrounded by the sharp spike in violence against women during the first nine weeks of the lockdown which began on 27 March 2020 as a result of the COVID-19 pandemic. During this time, about 400 women were killed at the hands of men, most of whom were their intimate partners (Pillay & Nxumalo 2020:1).

Women are simply not honoured nor respected for their innate human dignity.

YHWH: It is the transliteration of the Hebrew יהוה representing the national God of Israel, Yahweh. Alternative tetragrammatons include YHVH, JHVH and JHWH.

Bible book abbreviations are:

Gen: Genesis	Ps: Psalms
Ex: Exodus	Prov: Proverbs
Lev: Leviticus	Isa: Isaiah
Num: Numbers	Jer: Jeremiah
Deut: Deuteronomy	Ezek: Ezekiel
Josh: Joshua	Dan: Daniel
Judg: Judges	Hos: Hosea
1-2 Sam: 1–2 Samuel	Joel: Joel
1-2 Kgs: 1–2 Kings	Amos: Amos
1-2 Chr: 1–2 Chronicles	Mic: Micah
Ezra: Ezra	Hab: Habakkuk
Neh: Nehemiah	Zeph: Zephaniah
Job: Job	Zech: Zechariah

CHAPTER 2: ANCIENT NEAR EAST AND PENTATEUCHAL LEGAL CODES

2.1 Introduction

The Pentateuch is the most unified and coherent set of documents that has great credibility insofar as it discloses the inner workings of Ancient Near East (Clines 1995:189). The Pentateuch speaks to the theme of this research in three ways, namely what characters reveal about female disempowerment and violence against women, what narrators reveal about it and what the narrator chooses to depict about the treatment of women in general (Clines 1995:187).

To this end, Clines posits:

“The Pentateuch... has its own truth and its own credibility even when it recounts events we perhaps do not think actually happened, like a snake talking or a universal flood. Like a novel, it reports the inner thoughts of its characters, which no one else could ever have heard, and it recounts the dialogue of persons whose actual words had been long since forgotten when the author was writing. But like a novel, it transports its readers through space and time, makes them witnesses to the behaviours and changing motivations of its characters, and, on the whole, avoids the didactic and dogmatic, insisting that its readers judge for themselves the persons and acts they encounter in its pages” (Clines 1995:189).

It is on this basis that the researcher assumes the authenticity of events, discussions and legislation surrounding the ANE and Pentateuchal contexts as valuable in analysing the attitudes and treatment of women (Collins 2004:2). These corpora of laws include the Code of

Hammurabi, the Covenant Code, Deuteronomic Code) and the Holiness Code. These laws shed light on women, both by what they say and by what they omit. The categories they reveal are telling because they speak to how women were ill-treated, but they are useful in assigning a date to their composition as well, which allows the 21st century reader to understand the plight of women and also the development in the thinking of Ancient Israelites. It becomes immediately apparent that there is a difference between the separate laws (Car 2010:28; Barton 1992:163-164 and Klingbeil 2003:401), whether similar situations are under discussion or whether it is a new law (Suelzer 1964:122–137). However, it becomes obvious that these different bodies of law are the result of distinct traditions, separated by time and geography (Hayes & Holladay 2007:127). It is also important to note that dates given by scholars for the compilation of these laws vary, but there is agreement that the earliest and the latest compilations are separated by hundreds of years (De Vaux 1961:143).

All the legislative traditions of the Pentateuch are contained under the three codes: the Book of the Covenant (Ex 20-23), Deuteronomic Code (Deut 5–28) and the Holiness Code (Lev 17–26). The earliest laws in the Pentateuch are excerpts of earlier sources, such as the Code of Hammurabi (Silver 1961:86). According to Harper (1904), “The monument on which the Code of Hammurabi is engraved was found in December 1901 and in January 1902 on the acropolis of Susa by a French expedition sent out by the French government under the director general, Monsieur de Morgan” (Harper 1904:xi). To gain a proper understanding of female disempowerment and violence against them, these laws have to be placed in their proper historical context. However, the setting itself is somewhat conjectural and to some degree its veracity is not of utmost importance – even a rough approximation will serve to illustrate how women were treated at the time (Taylor 1957:9–24). For example, scholars agree that the Book

of the Covenant (from the Elohist tradition) is much older than the Deuteronomistic Code or the later parts of the Holiness Code.

2.2 Idiosyncrasy of law codes

The covenant bond between Israel and Yahweh is what distinguished it from other neighbouring nations, extending even to Hebrew legislation (Mendenhall 1955:148). Other nations had a god as a father or protector, but the strength of this bond in no way approached the covenant bond the Israelites had with Yahweh. Israel's covenant was natural and necessary and not one of free choice (Suelzer 1964:119). Yahweh had chosen the Israelite nation for this purpose and had given them prerequisites by which they should abide. De Vaux (1961:147) proposes, "This concept of law as a direct revelation understanding of God is peculiar to Israel; all the corpora, except the addresses of Moses in the Deuteronomistic Code, are presented as utterances of Yahweh."

Laws such as adultery, a fault among Israelites and non-Israelites alike, exemplify a concept of law which distinguishes Israel from other nations. For example, in Assyria, adultery was a private fault and the husband was entitled to settle the matter with the guilty couple as he saw fit (Pritchard 1950:181). With Babylonian law, adultery was also a private matter, but it was under public jurisdiction; "The affair went to the king who could forgive the wife, provided her husband consented to spare her" (Pritchard 1950:171). In Hittite law, the public process attained full development. If both parties were guilty of adultery, the husband "led the way to the gate of the palace and proposed either death or pardon, and it was the king who decided their fate" (Kornfeld 1957:922). On the other hand, in Israelite law, adultery was usually punished by death for both parties, the reason being that they were polluting the nation. The originality of the Old Testament legislation consisted in the fact that adultery was considered

less of a violation of the rights of the husband than as a religious and moral fault which offended Yahweh and stained his covenant people (De Vaux 1961:149; Kornfeld 1957:922). This meant that rather than leave the condemnation and execution in the hands of the outraged husband (which was the case in Assyrian and Hittite law), God himself and the community became the judges of the wife's offence.

2.3 Code of Hammurabi (1792–1750 BC)

2.3.1 Introduction

Throughout the course of history, there have been many disputes about the credibility and authority of the Torah and whether it was written by Moses or not (Block 2012:29–30). Scholars such as Julius Wellhausen (1844–1918) [Nicholson 1967:i] introduced the documentary hypothesis¹² which suggested that the Pentateuch was not entirely written by Moses¹³; rather, post-Mosaic authors contributed to writing the narratives and parallels within

¹² Documentary hypothesis: “The book of Deuteronomy presents itself as the record of a series of addresses delivered orally by Moses to his countrymen on the verge of crossing over into the Promised Land, and immediately committed to writing (31:9). However, in accordance with Ancient Near Eastern literary conventions, strictly speaking the book as we have it is anonymous. We may speculate when the individual speeches of Moses were combined, arranged, and linked with their present narrative stitching. Within the book we observe a series of features that suggest Moses was not responsible for the final form of the book: (1) references to Moses in third person in the narrative stitching at the boundaries of the respective speeches, and in the formulaic introductions to the blessing fragments in chapter 33; (2) details that reflect a context later than the speeches themselves (post-Mosaic); (3) the language of Deuteronomy” (Block 2012:30).

¹³ “Despite the literary attribution of the text to Moses as its speaker, from the vantage point of modern biblical scholarship, Deuteronomy more likely arose in its present form at a later period of Israelite history. The main sections of the book fit best in the 7th century BCE as the composition of educated scribes associated with Jerusalem's royal court. It has been long recognised that there are very striking similarities between the distinctive religious and legal requirements of Deuteronomy and the account of the major religious reform carried out by King Josiah in 622 BCE. That reform had been inspired by the discovery in the Temple of a “scroll of the Teaching” (Hebrew “torah”) (2 Kgs 22.8). Josiah's reform restricted all sacrificial worship of God to Jerusalem and removed foreign elements from the system of worship (technically, the “cult”); it culminated in the celebration of the first nationally centralised Passover at the Temple in Jerusalem (2 Kgs 22–23). So strongly do these royal initiatives correspond to the distinctive requirements of Deuteronomy,

the Torah. Consequently, the denial of the authenticity of Mosaic authorship has been an ongoing discussion within the field of Old Testament studies (Römer 2009:08). It is vital to recognise that since the Mosaic laws found throughout the Torah hold divine authority within Jewish traditions, academics and theological scholars have investigated whether or not these laws have been reiterated or overtaken from other religious documents and political authorities. Within this discourse, scholars have argued that most of the Mosaic laws share many similarities with the Code of Hammurabi, a set of laws established by a Babylonian king called Hammurabi who ruled over a large region of Mesopotamia 300 years before Moses was born (Wright 2009:6–7; Van de Mieroop 2005:101). This debate about the authenticity of the Mosaic texts began a few years after the Code of Hammurabi was discovered in Susa in 1901 and 1902 (Wright 2009:7; Charpin 2012:1–2).

According to Slanski (2012:98), Assyriologists state that during the reign of Hammurabi, there was a triumph of Semitic authority due to his conquests and destructions of anti-Semitic states. The Code of Hammurabi, found in Susa, is one of the most ancient writings within Ancient Near East culture (Slanski 2012:98).

that scholars have long identified the “scroll of the Teaching” discovered in Josiah’s Temple as Deuteronomy, and thus have assigned the book a 7th-century date” (Levinson). “Critical scholars generally agree that on the one hand, Deuteronomy either provides the occasion or is the result of the Josianic reform, and on the other hand that the speeches in Deuteronomy are pseudepigraphic, being fictionally attributed to Moses to lend weight to the voice of the parties whose interests are represented in the book. Whether they attribute the bulk of Deuteronomy to country Levites writing shortly before 701 BCE, prophetic circles of northern Israel, or sages in the Jerusalem court, many interpret the book as a sort of manifesto, written in support of Josiah’s efforts to centralise the religion of Israel in Jerusalem” (Block 2012:27–28). It was W.M.L. de Wette in 1805 who first suggested that Deuteronomy was the book discovered in the temple during the reign of Josiah (622 BCE). The result was a widely carried out reform of worship, including the destruction of the sanctuary at Bethel and many other “high places” that remained from the Canaanites (Clements 1997:70).

Many of the laws of Hammurabi, however, share a resemblance with the Mosaic Law or Holiness Code within the Hebrew Bible (Stackert 2014:50). Though Hammurabi received his code from the sun god Shamash (Van de Mieroop 2005:99) and Moses from the one God of the Israelites (Otto 2011:689), Yahweh, both of these codes share similarities, not only within the laws, but also in the proclamations of their deities (Wolff 1999:38). An example of this can be found in the prologue to the Code of Hammurabi, which states,

“When Anu the Sublime, king of the Anunaki, and Bel, the lord of heaven and earth, who decreed the fate of the land, assigned to Marduk, the over-ruling son of Ea, god of righteousness, dominion over earthly man, and made him great among the Igigi, they called Babylon by his illustrious name, made it great on earth, and founded an everlasting kingdom in it, whose foundations are laid so solidly as those of heaven and earth; then Anu and Bel called by name me, Hammurabi, the exalted prince, who feared God, to bring about the rule of righteousness in the land, to destroy the wicked and the evil doers; so that the strong should not harm the weak; so that I should rule over the black-headed people like Shamash, and enlighten the land, to further the well-being of mankind” (Berlin 2004:6-7).

A similar passage to this appears in the Covenant Code¹⁴ of Exodus 34:6–35, in which Yahweh proclaims his divine authority to Moses:

¹⁴ A covenant is: a formal relationship that does not occur naturally. It includes a joint-solemn commitment, it guarantees promises or obligations undertaken by one or both parties, and it is sealed with an oath (cf. Williamson 2007). “The treaty structure of the covenant was a reminder to the people of their liberty in this world and of their total commitment to God. They had been in bondage, vassals to the worldly power in Egypt, but God’s intervention in history at the Exodus had freed the Israelites from that human vassaldom; in the encounter with God at Horeb, they had submitted to a new vassaldom under God. In the old servitude, Israel had served a worldly master and had no freedom to worship God (Ex 8:1); in the new covenant, Israel had freedom to worship God and was servant to no worldly state. The domination of Egypt had been exchanged for the Kingship of God (Ex 15:18), who had broken the fetters of the old bondage.” (Craigie 1976:38).

The LORD, the LORD, the compassionate and gracious God, slow to anger, abounding in love and faithfulness, maintaining love to thousands, and forgiving wickedness, rebellion and sin. Yet he does not leave the guilty unpunished; he punishes the children and their children for the sin of the parents to the third and fourth generation. Moses bowed to the ground at once and worshipped. “Lord,” he said, “if I have found favour in your eyes, then let the Lord go with us. Although this is a stiff-necked people, forgive our wickedness and our sin, and take us as your inheritance” (Berlin 2004:8).

These two proclamations display similarities – they both recognise a divine authority and express that the justice of God should prevail among the chosen people, who are the black-headed people in the Code of Hammurabi and the Israelites in the Covenant Code.

2.3.2 Code of Hammurabi – historical setting

The Code of Hammurabi is dated from 1772–1750 BCE. The king of Hammurabi composed this code. A Babylonian king was in charge of the land (Edwards 1971:16). He is known for his forceful application of the law of Hammurabi in Babylon. From historical accounts, the code of Hammurabi was discovered on a stele in 1901 CE. Its discovery has revealed a lot about the way of life in ANE times (Edwards 1971:109; Charpin 2012:9).

The Code of Hammurabi can be divided into 12 sections, with units that consists of 282–300 laws (Boadt 1984:187). The code relates to customary law (civil, administrative and criminal issues), of which the disempowerment of and violence against women features prominently (Harper 1904:xxi). These laws, which were inscribed on a basalt stele, were probably erected at Sippar, city of the sun god Shamash, god of justice. They were considered to have authority within the ANE society of the time. Although there is not sufficient proof, scholars agree on the fact that the laws of Hammurabi were referred to during trials and were considered an

authority since the actions people took were not meant to conflict with these laws (Wright 2009:241). It is vital to recognise that not only was the military and political reign of Hammurabi considered a legacy within the ANE, so too were these laws applied to Babylonian legal issues long after his demise (Slanski 2012:103).

2.3.3 Women's status in society

There are approximately three hundred laws regulating society in Hammurabi's Code, circa 1750 BCE. Interspersed in these codes are incidents and conditions relating to the treatment of women. There were earlier legal codes, but Hammurabi put together this uniform legal code for the entire Babylonian empire. This system of legal codes was unequalled until the Romans developed theirs nearly 1 500 years later. Hammurabi was praised by his subjects at the promulgation of this code: "He established justice in the land." The two most famous principles underlying the code are "eye for an eye and a tooth for a tooth" (the so-called retributive principle) and "Let the buyer beware" (Wright 2009:428). The code has definite class guidelines for nobles, commoners and slaves. Great emphasis was placed on the protection and maintenance of the family. Over a quarter of the law codes have a direct or an indirect influence on women. Some of the areas of interest to women are adultery, divorce, rape and business transactions. These law codes, however, do not refer to specific events, but we can use them as indicators for circumstances involving women (Westbrook 2003:3379).

2.3.4 Women's role in the family

Marriages were arranged by the prospective groom and father of the future bride, a practice that continued for thousands of years in most ANE cultures (Greniman 2001:84). Both a bridal gift and a dowry were part of the marriage. The groom-to-be offered the father a bridal gift, usually money. If the man and his bridal gift were acceptable, then the father provided his daughter with a dowry, which belonged to her after the wedding ceremony, although the

husband usually administered it. Afterwards a contract was made by the woman's father and engraved on a tablet, with the bride and groom signing it with their cylinder seals. This contract spelled out the duties of each spouse and the penalties the husband was liable for if he decided to divorce his wife. Either party could break off the arrangement; the prospective groom would then have to forfeit the bridal gift money, while if the bride changed her mind, the groom could recover twice the amount he paid. If the woman was still very young, she would either live with her father or her father-in-law. Once she and her husband came of age, they would set up their own house (Phillips 2002:84).

The actual wedding was a time of rejoicing and celebration, lasting for days or even weeks. During the ceremony itself, the bride wore a veil, but once married she did not. By the time of the Assyrians, their law codes (circa 1076 BCE) mandated that married women must wear a veil in public and no veiling for prostitutes. After sexual intercourse, the bloody sheet was displayed to prove the bride's virginity, an extremely important condition for marriages (Von Rad 1963:326).

The husband legally could have a second wife, a concubine and slaves for a variety of reasons, including satisfying his sexual desires and to ensure descendants if his wife was barren or ill. It was the childless wife's responsibility to provide a concubine for her husband so that he could have children. This "other woman" served also as a slave or servant for the wife. Examples of this practice are in the Hebrew Bible and were undoubtedly part of the indigenous culture of the ANE (Younger 2002:360). There is also evidence that, if the concubine gave birth to a son, her status was raised, and even the potential for her freedom. Polygamy was an option for the rich. We see examples of polyandry (a wife taking two or more husbands) circa 2350 BCE, but rulers generally condemned the practice and sought its extirpation. Another interesting custom was called a levirate marriage. When a husband died, his eldest brother married his widow to keep the dowry and property in the family. Following the wedding

ceremony, the brother was legally recognised as the head of the family, with absolute power over his household. Another custom at the time which disempowered women related to the repaying of debt. To honour a debt, a husband could pawn or sell his wife and children into slavery for up to three years.

2.3.5 Women and polygamy

A woman was allowed to adopt another as her sister and have that woman marry her husband. Polygamy was only allowed when it was between sisters. This rule could be bypassed by adopting someone into sisterhood. This kept the children within the bloodline, allowing both wives to fulfill the role of mother in a symbolic genetic similarity. Otherwise, concubine slave girls were used as surrogates (Westbrook 2003:385). This afforded the concubine an opportunity for upward mobility, as well as providing the wife with security.

The subsequent wife would gain some prestige, but she nevertheless remained a slave. This paradoxical idea suggests that, while becoming a concubine to the mistress's husband was a form of upward social mobility, it was not a way to escape slavery. While she remained a slave in her master's household, bearing children for her master and mistress afforded her some security in that she couldn't be sold or separated from her children. These children also had the good fortune of not living the same life of drudgery as their slave mother.

The discrepancy between how men and women were treated as a result of infidelity (Westbrook 2003:386) is one of many examples of the disempowerment of women in ANE times. This gender imbalance is clearly seen in the example of how the children of prostitutes were treated. The question of how a prostitute's offspring would know who their true father was attests to the real fear that men had concerning their adulterous wives. Inheritance was an important legal

question and how property and assets were divided between the heirs is dealt with extensively in the Code of Hammurabi (Westbrook 2003:395). When the paternity of a child was in question, their right to inheritance was nullified. Therefore, a child of a prostitute approaching a man and demanding inheritance to his property, especially when the paternity couldn't be verified due to the mother's profession, was considered an insult to the man and his legitimate children. Such a child did not get an inheritance.

2.3.6 Women and child bearing

The expected life course for a woman along all social strata was to be a wife and a mother. Proof of the importance of the role of women as mothers is extremely evident in the vast array of laws dealing with maternity (Harris 2000:25). This expectation on a woman was so great that many rules and stipulations were created to deal with a variety of scenarios:

“If a man strikes a daughter of a man (mārat awīlim) and he causes her to miscarry her foetus, he shall weigh out ten shekels of silver for her foetus.

If that woman dies, they shall kill his daughter” (Hammurabi 209–210).

This law shows there was value placed on a woman's body for her childbearing capabilities, with a premium to be paid if she was unable to provide her husband with children. On the other hand, evidence of women's other responsibilities in her household aren't dealt with in the law code, but in literature and myth, suggesting that it wasn't commonplace for a woman to neglect these roles. Whereas childbirth may have been a physical impossibility, other roles were a spiritual expectation and an ideal to strive for (Harris 2000:25).

2.3.7 Women and marriage

The concept of becoming a wife is synonymous with the intention to bear her husband children. The incredible importance of a woman's fertility and childbearing ability can be gleaned through statistics regarding the average age of marriage for women and men. While men typically married later in life, aged between 26 and 32 years, women typically married between 14 and 20 years old (Harris 2000:26). This age range reflects adolescence and the reproductive peak of a woman's life, suggesting the relation between the beginning of menstruation and the ability to conceive with marriage. Essentially, without the intention to begin a family, marriage wasn't viable. In fact, marriage before a girl was developmentally ready to conceive was considered inappropriate and vulgar. A Sumerian proverb dictates: "I will not marry a wife who is only three years old as the donkey does!" (Kramer 1989:129), indicating a taboo against marriage when a girl was too young.



Figure 1: Babylonian Marriage Market by Edwin Long, 1875 CE, Royal Holloway College, London¹⁵.

¹⁵ See Braingotts 2014. Available at <https://www.ancient.eu/image/2638/babylonian-marriage-market/> [Accessed on 31 March 2020]

Reproductive maturity, therefore, was essential to marriage eligibility and a woman's role as a wife. A wife's ability to produce children for her husband is also attested to in many laws of the Code of Hammurabi. For example:

“If a man marries a woman and she bears him no sons, if then this woman dies, if the “purchase price” which he had paid into the house of his father-in-law is repaid to him, her husband shall have no claim upon the dowry of this woman; it belongs to her father's house” (Hammurabi 163).

2.3.8 Women disempowered

Divorce for the husband was relatively easy. He merely had to declare that his wife was barren, spent too much money or ridiculed him. For the wife to seek a divorce was a deadly gamble. The Code of Hammurabi provided that she submit to an investigation: “If she has been discreet and has no vice and her husband has gone out and has greatly belittled her, she shall take her marriage portion and go off to her father's house. But if she has been found indiscreet and has gone out, ruined her house, belittled her husband, she shall be drowned” (Hammurabi 129). This same punishment was meted out to the wife if she was convicted of adultery: “If the wife of a man has been caught while lying with another man, they shall bind them and throw them into the water”(Hammurabi 129). A husband could save his wife from drowning if he obtained a pardon for her from the king. Even if she had not been caught in the act, the husband had the right to accuse his wife of adultery. The wife could then go before the city council, who would investigate the charge. If she was found innocent, she could then take her dowry and leave her husband.

Extant evidence from ANE societies indicates that women were knowledgeable about contraceptive and birth-control measures, including abortions and infanticide. Infanticide, which continued for centuries, was deemed to be abandonment (Stol 2016:152). There were even treatments for infertility and prenatal care. During the labour process, a variety of magical and efficacious methods were employed. Motherhood brought an added security to wives, but this was true only if they had sons, not daughters. A wife was still considered barren if she had daughters, but no sons. As in most other ancient cultures, the son was expected to support his parents in their old age and to perform the proper rites after their death. After giving birth, the mother was declared ritually unclean for thirty days¹⁶. Death in childbirth and infant mortality were two constant dangers for women. During her monthly period, she was considered ritually unclean and it was believed that she contaminated everything she touched, including the bread she made.

One of the customary *leitmotifs* in the ANE culture was society's responsibility for taking care of poor widows and orphans. This responsibility was fiercely advocated and rulers were expected to show compassion through charitable acts. It was the sons who inherited from their father's estate, not the dead man's widow, but he could leave some of his property for her maintenance (Hammurabi 166). This token provision was formalised over the centuries to be one-third, but not nearly what it is today in the South African context (Adeyemo 1996:799).

¹⁶ The Lord said to Moses, "Say to the Israelites: 'A woman who becomes pregnant and gives birth to a son will be ceremonially unclean for seven days, just as she is unclean during her monthly period. On the eighth day, the boy is to be circumcised. Then the woman must wait thirty-three days to be purified from her bleeding. She must not touch anything sacred or go to the sanctuary until the days of her purification are over. If she gives birth to a daughter, for two weeks the woman will be unclean, as during her period. Then she must wait sixty-six days to be purified from her bleeding. When the days of her purification for a son or daughter are over, she is to bring to the priest at the entrance to the tent of meeting a year-old lamb for a burnt offering and a young pigeon or a dove for a sin offering. He shall offer them before the Lord to make atonement for her, and then she will be ceremonially clean from her flow of blood. These are the regulations for the woman who gives birth to a boy or a girl. But if she cannot afford a lamb, she is to bring two doves or two young pigeons, one for a burnt offering and the other for a sin offering. In this way, the priest will make atonement for her, and she will be clean.'" (Lev 12 NIV).

2.4 Decalogue and covenant

Israelite traditions are closely linked with her covenant history (De Vaux 1961:147). For example, when Moses gave the Decalogue to the people, Yahweh established a covenant with his people (Stuart 2006:439)¹⁷, where specified rules and laws were established. This is the reason that Smith concludes: “So dependent is legislation on the alliance with Yahweh that biblical law cannot be interpreted apart from the covenant, which is its foundation and support” (Smith 1960:8–14).

The Decalogue is part of the earliest material that is contained in the Pentateuch (Rowley 1951:118). From this core corpus emerged all other legislative materials and later commentaries and further interpretations (Alexander 2003:95). Alexander (2003:62) states: “There is at the present moment no consensus whatever about when, how, and through whom the Pentateuch reached its present form, and opinions about dates of composition of its various parts differ by more than five hundred years”. Subsequent accretions in dealing with the Pentateuch resulted from attempts to deal with historical and cultural positions which can have generational application, which this study is also attempting to do (Suelzer 1964:102).

2.5 Excursus: Chronicles

Kalimi (2005:1-5) lays out the Chronicler’s source options methodically. He begins by noting that fully half of Chronicles is paralleled in Samuel-Kings. In other words connecting texts in Chronicles with the rest of the Pentateuch, Joshua, Ruth, Psalms, and Ezra-Nehemiah. That the

¹⁷ The covenant between Yahweh and Israel speaks to a larger body of text that can be placed within the framework of the Hebrew Bible. Furthermore, it is important to read text referring to Yahweh’s covenant with Israel ought to be read with a synchronic approach so that one is able to make logical and scientific conclusions as from Exodus 20:1-17 right through to the end of Leviticus 27:34 (Stuart 2006:439-440).

Pentateuch and the former prophets were written before Chronicles is a matter of scholarly unanimity (Kalimi 2005:3). Thus there are two options regarding Chronicles relationship with Samuel-Kings: 1) The Chronicler had direct access to Samuel-Kings, or 2) The Chronicler and the author of Samuel- Kings both had access to a third common source, “Q”. This prompts a second level in the decision tree. Differences in parallel texts can be explained by either: 1) Deliberate manipulation of Samuel-Kings or 2) Alternative uses of Q.

Option 2 on both levels won wide support in the 19th century. However, there are a number of credible reasons why it has since been rejected (Kalimi 2005:4). Firstly, those who promoted it were at times guilty of circular reasoning i.e. Chronicles is reliable because it was based on reliable sources, whose reliability is evidenced in the reliability of Chronicles (cf. Klein 2012:30- 31). Second, a great deal of time and social upheaval separated Chronicles from the hypothetical Q, and it is unlikely that the latter would have survived. Third, word for word parallels make the probability that the Chronicler ignored an existing historiography negligible. In fact, for the most part, parallel texts connect seamlessly with those omitted from Samuel-Kings. Fourth, textual errors, redundant expressions and the marks of redaction in texts from Samuel-Kings all reappear in Chronicles. Fifth, the Chronicler often assumes knowledge of texts from Samuel-Kings that he has omitted. Finally, texts in Chronicles are at times related chiastically to those in Samuel-Kings.

De Wette, Graf and Wellhausen were the first to promote option 1 (i.e. direct access to Samuel-Kings, albeit occasionally in versions other than the MT) and it is undoubtedly the current consensus view¹⁸.

This consensus has not gone unchallenged. Building on Auld's hypothesis, Person (2010:167) argues that the Deuteronomic (Dtr) and Chronistic (Chr) historiographies both emanated during the Persian period from competing scribal schools who had access to the same exilic source. He also introduces the element of oral tradition, which accommodates considerable multiformity and implies that the two accounts do not necessarily represent divergent theologies. However, Person's theory is based on a dating of Dtr in the Persian period and examples of theological "agreement" between the two accounts, both of which are highly implausible (Klein 2012:1). Thus, the weight of evidence supports the consensus view that the Chronicler had direct access to Samuel-Kings and other biblical sources.

That said, when considering variances between the texts, it is significant that at times he worked from versions other than the MT. Before the Qumran discoveries a far higher percentage of changes, even those of minute detail, were assumed to be tendentiously motivated. However, when it became clear that 4QSam^a often shared a reading with 1 Chronicles and the LXX of Samuel, while disagreeing with the MT of Samuel, it followed that the Chronicler did not work from the MT of Samuel. The implication was a greater proportion of variances related to text version rather than *tendenz*. Even so, this manuscript complication is largely confined to material drawn from Samuel, as the Chronicler used the same text-type as the MT for Kings

¹⁸ See Williamson 2007:19; McConville 1984:2–4; Braun 1986:xxiii; Dillard & Longman 1994:172; Japhet 1997:7ff.,505; McKenzie 2004:35–36; Knoppers 2004:66–68; Klein 2006:30; Tiño 2010:30; Schweitzer 2011:124).

(McKenzie 2004:38). In fact, Kalimi (2005:6) observes a growing consensus that views the great majority of variances as the outcome of the Chronicler's deliberate intervention while still allowing for the possibility of variances related to text version. He goes on to caution, however, that the Chronicler as historian was a creative artist who manipulated his sources not only for the purposes of exegesis, but also according to his literary, linguistic and stylistic tastes (Kalimi 2005:7).

The Chronicler used a wide range of biblical sources, with a high degree of sophistication (McKenzie 2004:39). Indeed, he was "the Master of his sources" (Williamson 2007:23) and he used them with purpose. Unearthing that purpose, slowly and carefully, is a central motivation for this study.

A disclaimer is required however on the Chronicler's use of extra-biblical sources. To some extent, the question is thrust upon the readers of the text itself. There are fourteen source citations in Chronicles that have parallels in Kings, and two independent citations. Thirteen of the fourteen citations are in the same place as their parallel texts in Kings suggesting a strong dependence on that source (Klein 2006:39–40). A number of scholars have interpreted the citations merely as a reference back to Dtr, for the sake of adding authenticity (McKenzie 2004:40; Klein 2006:42). There are a range of alternative interpretations, but they rely more heavily on speculation (Klein 2006:41–42). Did the Chronicler then rely on sources that are not cited? It is probable in the case of the detailed genealogical (1 Chron 2-8), census (1 Chron 5-7) and personnel data (McKenzie, 2004:41; Klein, 2006:43), but given the absence of any extant evidence, it is perhaps, like Braun (1986:xxiii), worth maintaining a healthy dose of agnosticism. In any event, given the strong dominance of Kings as a source of influence, the issue is unlikely to affect this study.

2.6 Covenant Code (Ex 19–24)

2.6.1 Introduction

The Covenant Code in the Hebrew Bible displays aspects such as scope and antiquity, so that it contains a legislative framework from Exodus 19–24. This consensus among scholars puts the code in good standing to reveal how women were treated in Ancient Israel. It also helps the reader to distinguish the influence other cultures in the Ancient Near East had on Israel. This distinction is important, as Watts affirms:

“Ancient Israel occupied territory on the cross-roads between the centres of Ancient Near Eastern and Mediterranean cultures; and there is ample evidence of external influence on its cultural forms. It is, therefore, highly implausible to suggest that Israel’s religious customs developed in isolation and repristinated early human ritual practices. Israel’s offering practices match well with those of cultures in the second millennium BCE” (Watts 2013:274).

The reader will appreciate this influence. That is not to say that any negative treatment of women reflected in the Covenant Code is excusable. However, the investigation is significant because it shows Israel’s culpability in allowing the negative treatment of women to persist against the backdrop of Yahweh’s covenant, which stipulated that women be treated with dignity and respect.

Legislation in Exodus pertaining to women is conspicuously sparse. At one time, the sexual laws of Leviticus 20 followed Exodus 22:16, but it is also possible that the silence attests to the great age of the code, since the older the legislation, the less interference there is in familial

matters, which included violence against women (De Vaux 1961:143). The latter position is probable when one takes into account that the Israelites were in a transitional stage: newly arrived from Egypt, they were forced to respond to issues that had not arisen before and formulate decisions (Wilson 2006:20).

2.6.2 Covenant Code – historical setting

The Covenant Code (Ex 20–23), can be dated¹⁹ to the 9th or 10th century BCE (Suelzer 1964:125; Hess 2007:290 and Wilson 2006:20–21)²⁰. The diverse elements contained in the Covenant Code include the penal code. Lewy (1955:33) posits that the Covenant Code is “apodictic, succinct and rigorous, and thus conspicuously different from the civil code in which it is embedded” (1955:31). The apodictic penal code stems from Moses, while the civil code reflects a more settled population and may be from the period of the Judges²¹. Lewy (1934:31) and Hess (2007:290) agree with this. Suelzer²² (1964) too strongly concurs based on the following assertion:

¹⁹ This date can be pushed further back due to the discovery of Mesopotamian codes, as well as a better understanding of internal evidence.

²⁰ These scholars base their view on the phrase, “house of the Lord”. This could be an indication that refers to Solomon’s temple.

²¹ According to the internal data of the book of Judges, the time period that best fits both the chronological data and the ideological material is an early date when Israel did not enjoy unity and there was an internal struggle between loose confederations of tribes acting with relative independence from each other. These characteristics fit very well with the early reign of David, possibly while in Hebron during the time of civil war with the north, especially the house of Saul (Diffey 2013:109). The ideology of the book indicates a negative attitude toward the tribe of Benjamin, and this is not the tribe from which a king would be expected. As Peterson notes, “The political upheaval that the civil war would have engendered would have required some form of diplomatic appeal between the two sides; a reality alluded to in 2 Samuel 3:14–17. Judges thus became a propagandistic tractate promoting a unified nation under Davidic rule” (Peterson 2007:07). This is why it is compelling to believe that the civil code reflects a settled Judges population.

²² See Eissfeldt (1965:218). He cites several different opinions regarding the chronological, as well as the geographical setting. For Eissfeldt, “both its legal precepts and also its cultic and ethical commands readily permit the assumption that it came into being in the first centuries after Israel’s conquest of the land and that it must in any case be older than Deuteronomy”.

“Despite the varying facets of the code, all the sources involved represent the same type of society: somewhat primitive, strongly familial, with vaguely defined political powers and strong religious traditions. Some parts imply a nomadic or pastoral society; others, agricultural. The combination indicates that the code was drawn up in the transitional period when the Israelites passed from semi-nomadic to sedentary life in the early days of the tribal amphictyony” (Suelzer 1964:126).

The Covenant Code may have come from an older society (Wilson 2006:20; Ska 2006:140; Wright 2009:3 and Gertz et al 2012:184). However, it must be said that it is very complicated and in many ways has evolved through an editorial process (Wilson 2006:20). If one considers the editorial process, the Covenant Code forms part of the non-P source, whereas the J source seems to be the older designation from which the Covenant Code is derived (Ska 2006:140). It is noteworthy too to see the calibre of scholars²³ who are all in agreement that the Covenant Code is the oldest of all the biblical codes. However, there is a different school of scholars²⁴ led by Durham (1998:317–318) that the date of the Covenant Code could be more defined. This group is represented by the following statement:

“What the Book of the Covenant does present is a wide-ranging collection of laws, drawn no doubt from Canaanite-Mesopotamian and perhaps also Egyptian and Hittite and any other available reservoirs, set deliberately into the narrative of Yahweh’s Advent and Israel’s response at Sinai. Whatever the respective origins of the individual laws, whatever the history of the sub-collections and layers that lie behind the collection in its present form, the Book of the Covenant must be understood primarily as an

²³ I would agree with the following school, Ska (2006:140), Wilson (2006:20), Wright (2009:3), and Gertz et al. (2012:184) on the date of the Covenant Code.

²⁴ See Doorly (2002:10-11) for an exhaustive lists of these scholars.

integral part of the Sinai narrative of the coming of Yahweh and the birth of Israel” (Durham 1998:317–318).

As the oldest law code, the Covenant Code provides great insight on the type of society Israel was. One is also able to deduce the fact that laws such as slavery (Childs 1974:458)²⁵ and the disempowerment of women were part of this code and are not held in high esteem. These laws include the negative treatment of women.

2.6.3 Women treated as property

The wording of Exodus 20:17 is significant in that it illuminates how women were treated as property: “You shall not covet your neighbour’s house; you shall not covet your neighbour’s wife”. The tenth commandment sheds light on the prevailing attitudes towards women at that time. The word “house” in this commandment²⁶ means more than a dwelling place; it includes the man’s family and belongings – that is, everything under his roof (Noth 1981:166; Cassiday-Shaw 2002:59–71). This means that the husband is the *ba’al* or “master” of his wife in the same way that he is *ba’al*²⁷ of his house or field (De Vaux 1961:26). This contributed to the disempowerment of women because it meant that a woman had no real say in how she lived her life as far as her husband was concerned. Explicitly, women were regarded as property. Verse 17b²⁸ is a paraphrase of what goes before and includes all of the man’s possessions,

²⁵ Childs (1974:458) highlights the example of Exodus 21:2–11 as the parallel to the slave law in Deuteronomy 15:12–18. He concludes that based on *terminus a quo* grounds, the Covenant Code is earlier.

²⁶ I interpret it this way because the intended number ten excludes the possibility of verse 17b being another commandment. Also the brevity of the commandments prohibits the whole of verse 17 from being the original tenth commandment.

²⁷ See De Vaux (1961:26). He explains that “to marry a wife” is expressed by the verb *ba’al*, the root meaning of which is “to be master”.

²⁸ “You shall not covet your neighbour’s wife, or his manservant, or his maidservant, or his ox, or his ass, or anything that is your neighbour’s” (Ex 20:17).

beginning with the wife, who was regarded by the Old Testament law of marriage as the possession of the husband, along with his servants, maids, his ox and his ass (Noth 1981:166; Roberts 2008:18–24).

2.6.4 Women in bondage

Mendelsohn (1948:190-195) notes a woman slave received different treatment than her male counterpart, according to Exodus 21:2–12: “‘When you buy a Hebrew slave, he shall serve six years, and in the seventh he shall go out free, for nothing’ (v.2), but in v.7: ‘When he sells his daughter as a slave, she shall not go out as the male slaves’” (De Vaux 1961:86).

This is a clear illustration of biased treatment that reflects a negative perception of women because female slaves could not leave after six years as her male counterparts could. Furthermore, the forceful behaviour of men towards women is seen when one takes the translation²⁹ of “slave” to mean “concubine”, once again indicating that women were little more than property. It also speaks to the fact that women were seen as a possession, while men were seen as persons. This idea of women as property and men as persons is very plausible because this section of the law is one of the oldest sections of the Covenant Code (Rylaarsdam 1952:844). Moreover, if the Hebrew possesses a wife on her entry into slavery, he may take her with him upon leaving (Ex 21:3); if the master gives him a wife during the period of slavery, however, the wife along with any children born to him remain the property of the master upon his release as a slave (Ex 21:4). Interestingly, the children follow the mother³⁰ and not the father (Stalker 1962:229). In this case, the marriage bond of the slave couple assumes less priority.

²⁹ See Rylaarsdam (1952:996) on Exodus: *The Interpreter’s Bible* takes this view.

³⁰ The idea of the mother’s relationship to her family was regarded as nothing compared to the father’s in society (Stalker 1962:229).

As a result, both genders are disempowered in some sense, but the woman more so because she is considered as property and less of a person than her husband.

2.6.5 Women's rights violated

In Exodus 22:16–17 of the Covenant Code, we see that a female slave, unless she came into the family through marriage, was treated as price possession (Noth 1981:179). This is illustrated as follows:

“If a man seduces a virgin who is not betrothed, and lies with her, he shall give the marriage present for her father, and make her his wife. If her father utterly refuses to give her to him, he shall pay money equivalent to the marriage present for virgins” (Ex 22:16–17).

These verses are part of a longer section (Ex 22:1–17) which deals with cases of damage to property, including cattle theft. Since the woman was considered the father's property, the offender must pay the usual bridal price whether he received her or not (Kornfeld 1957:919). This is indicative of robbing women of their rights and definably reduces her status to that of a commodity. She was treated as damaged property because she belonged to her father (Rylaarsdam 1952:1005). Here the concern of violation of rights is given priority to the owner or father rather than to the woman. Consequently, it permits violence against her if she refused to take part in this arrangement.

2.7 Deuteronomic/deuteronomistic Code

2.7.1 Introduction

The Deuteronomic Code is a reinterpretation of the Covenant Code (Le Roux 2005:17; Otto 2011:687). From the Hebrew, the book title for Deuteronomy is taken from the opening phrase *Eleh ha- debarim*, whereas the Greek translation for the book means “the second giving of the law”.³¹

A great length of time had lapsed between formulating the laws of the Covenant Code and those of Deuteronomy. It was time for change; new factors arose concerning the Israelites’ social, economic and religious milieu (Otto 2000:24-29). The code of Deuteronomy³² was written at a time when a new interpretation of existing laws was necessary (Lewy 1934:218).

³¹ Both the Greek appellation of the book, “To deuteronomion (hence Latin Deuteronomium)” and the Hebrew appellation, “Mishneh Torah” (based on Deut. 17:18; Josh 8:32) mean repeated law or second law and allude to the fact that Deuteronomy is a revised repetition of a large part of the law and history of the Tetrateuch (the first four books); compare Nahmanides to Deut. 1:1 and Ibn Ezra to Deut. 1:5 (Weinfeld 1995:1).

³² Theology of Deuteronomy and Jeremiah: Mowinckel is believed to have influenced the conversation concerning editorial and reductionistic work in the book of Jeremiah (Thompson 1980:35). However, his work is also believed to have built on Duhm’s foundation (Holladay 1984: 213). These were both attempting to offer a solution to the problematic composition of Jeremiah (Holladay 1984:213). Mowinckel categorised the different passages in Jeremiah in three types, namely A – Jeremiah’s oracles; B –Biographies on Jeremiah by Baruch, and C – prose discourses or sermons (Thompson 1980:35-36). Mowinckel attributed type C to Deuteronomic editors and also said that these passages were influenced by the theological emphasis of Deuteronomy (Thompson 1980:35, 37). The resemblances in language between the books fuelled this suggestion (Thompson 1980:37). As already noted, Hyatt (1984:120) accrued the resemblances to the similarities in the historical circumstances for the two books. Hyatt’s thought was also held by Holladay (1984:228), who said that when a scribe was being trained into his duty, it was required that this was done in a way that exemplified the prose of his period. Therefore, “Jeremiah’s dictation to Baruch... would inevitably conform to some degree at least to the conventions of ‘sixth-century scribal style’” (Holladay 1984:228). This is quite a persuasive argument and hard to discard. What makes it unconvincing, though, is Hyatt’s (1984:120) conclusion that the two books are opposed to each other. Jeremiah was more focused on preaching against the deteriorating ethics of his time (Jer 4.22), yet the reformers of the temple cult do not seem like opposition. But just as Holladay (1966:26) suggests, I also believe that Jeremiah’s attitude towards the Deuteronomic

In contrast to the preceding Covenant Code, the Deuteronomic Code was more advanced. Levy (1934:97) posits that:

scroll should be understood through his emphasis upon the words of God. Even though the reform had already run its course by the time Jeremiah began to preach, his focus was not on the reform as a political-religious movement, but rather on the word of God and whether the people were obedient to Him (Holladay 1966:26). In other words, Jeremiah's ministry should "be understood as a faithful living out in his day of God's word" (1966:27). This is what was expected of Israel as a covenant people. Childs' understanding is similar. He (1979:346) says that "the events of Israel's history – the hardness of the people, the wickedness of the king, the rise of Nebuchadnezzar – led to the prophet's reshaping of his message in the light of Scripture". And I doubt whether a change in the message amounted to a difference in theological focus. The prophet Jeremiah and the reform had a message for Israel, the covenant people of God. Therefore, whatever Jeremiah's purpose was as a prophet, it was not opposed to the temple cult theology in Deuteronomy, and likewise, his fundamental goal could not have been divorced from the bigger purpose of all prophets, which was to challenge and call God's people back to their covenant obligations. Cazelles makes another worthwhile comment. He (1984:108) said that in that period, politics and religion were the same, which created an assumption that Jeremiah and the reformers may have had in mind a politico-religious programme having a very clear cultic dimension. This did not mean that Jeremiah intended to merge the political and religious offices; however, in his preaching of the new covenant (Jer 31.32), Jeremiah was demonstrating his understanding that political reform is incapable of transforming the heart and the only hope for humanity was the assurance of the divine plan of salvation (Cazelles 1984:111). Jeremiah just realised that "his task was to elaborate the law to the Israelites for the sake of their conversion, which is something that had appeared more improbable each day" (Cazelles 1984:110). In all these references, as Thompson (1980:47) suggests, the question that should be asked is whether these editors represent Jeremiah's original message or whether there is such a high degree of distortion in them as to obscure Jeremiah's teaching. Just as the Deuteronomists faithfully recorded God's message through the prophet Jeremiah, the word that he preached that was greatly relevant during his time was the same word of God "that was applicable to people in the post-587 BC years" (Thompson 1980:49). In conclusion, it seems that the argument which positions Deuteronomy and Jeremiah as opposing can be found wanting. However, we have discovered that the prophet was able to build ethical principles from the reforms which were intended to challenge his people during a chaotic time of political and social immorality. Therefore I believe that the religious position of Jeremiah is compatible with the reformation of Josiah, except that it was now a question of the new covenant through which "God exercises His power to transform the hearer" (Shead 2012:183) and helps this transformed person to live faithfully in obedience to his word. But would the people of God remain faithful to him, if we consider that Moses was long dead before the Israelites entered the Promised Land (Deut. 1.37)? How would these sinful and stiff-necked people uphold the expectations of the covenant? If the dominant problem in Deuteronomy is the immoral and idolatrous effect of other nations on Israel, how would they fight this battle, given that they faced the same situation when Israel entered Canaan (Deut. 18.9–13)? I am convinced that Moses had an answer to these questions before he died. And these answers can be seen in Deuteronomy, just as the book of Jeremiah portrays him as a true prophet like Moses.

“The difference between the two codes is based on different social and cultural conditions. The rebellious son who was a drunkard and glutton, and the daughter who was mistreated in her father’s house, reflect a society economically more advanced than the one in which children beat or curse their parents. In a more advanced society, adultery is more frequent than witchcraft or copulation with animals” (Levy 1934:97).

The aforementioned conditions are not far-fetched because as societies develop, so too do the laws that represent their values, enabling them to resolve complex matters. Human beings evolve and become more complex in order to legislate their values as a society. Furthermore, this theory seems valid because De Vaux (1961:144) argues that the societal laws of Elisha needed a facelift after the initial authorship of the Covenant Code, so that the Deuteronomic Code became known as the “second law” (Bosman 1991:197–202).

2.7.2 Deuteronomic Code – historical setting

According to Otto (2019:3), the book of Deuteronomy was written during the late post-exilic period around the seventh century BCE. This was a time when a great deal of revision took place.

Otto’s view is very convincing, which is informed by his theory about the reinterpretation of past centuries: *Wirkungsgeschichte*. Otto applies this to Moses, who is reinterpreting the book of Deuteronomy. This means that Moses’ exegesis was reinterpreted in new contexts, new periods and new situations. New permutations and meanings were discovered over time as Moses interacted with his context (Le Roux 2019:3). An example of this is the Mount Sinai scene where laws were given to Israel, but invariably were written about 40 years later in the plains of Moab because the situation, place and period had changed. New meaning had to be

created in how the laws developed with the people (Otto 2000:43-83). This is in direct opposition to Noth's theory that the Deuteronomic history includes Deuteronomy right through to the books of Kings. However, if Noth's theory were to be really tested, he would need to detach Deuteronomy from the Pentateuch. According to Otto (2012:133–137), whose views I am in agreement with, this would mean that Noth would need to argue away the reinterpretation of the Sinai Torah, which is rather difficult to do. Therefore, Deuteronomic/deuteronomistic history belongs to the literary history of the Pentateuch and should be treated as such for Deuteronomy to make sense.

Marsman (2003:33) affirms that Deuteronomic/deuteronomistic history should be seen as part of the Pentateuch (Otto 2011:678-688). A fuller understanding of the attitudes of female disempowerment and violence against women will become apparent because of the striking similarities between the Pentateuchal and the ANE texts. Although there are similarities and differences in these texts related to how women were treated, one also needs to affirm that “individual cultures of the Ancient Near East were not solitary functioning systems, like islands, but subject to mutual influence” (Marsman 2003:33). Van der Toorn (1996:4) calls this phenomenon “cultural continuum”. This idea is helpful because it sheds light on the societal attitudes towards women in history.

2.7.3 Women treated as property

Societal attitudes towards women in the Deuteronomic Code are similar in comparison to its legislative framework found in the Covenant Code. An excellent case to prove this is found in the tenth commandment (Ex 20:17 and Deut 5:21). Women in the Exodus context are included under the larger heading corpus, whereas Deuteronomy completely reverses the order: “Neither shall you covet your neighbour's wife; and you shall not desire your neighbour's house, his

field, or his manservant, or his maidservant, his ox, or his ass, or anything that is your neighbour's." It would seem as if the wife comes first, and is a class by herself, and then comes a man's property. This does not excuse the disempowerment of women, but it's important to note that the emphasis has changed. As Wright (1952:368) declares, "Deuteronomy interprets house as including only domestic property, so that the wife is not listed as one among other items in the household."

2.7.4 Women in bondage

The position of the slave woman in Deuteronomy 15:12–18³³ has markedly improved from Exodus 21:2–11³⁴. This is evident in the text of Exodus, where broad provisions are made for the release of the slave (v.2), while Deuteronomy makes an addition: "If your brother, Hebrew man, or a Hebrew woman³⁵ is sold to you, he shall serve you six years, and in the seventh year

³³ "If any of your people – Hebrew men or women – sell themselves to you and serve you six years, in the seventh year you must let them go free. And when you release them, do not send them away empty-handed. Supply them liberally from your flock, your threshing floor and your wine press. Give to them as the Lord your God has blessed you. Remember that you were slaves in Egypt and the Lord your God redeemed you. That is why I give you this command today. But if your servant says to you, "I do not want to leave you," because he loves you and your family and is well off with you, then take an awl and push it through his earlobe into the door, and he will become your servant for life. Do the same for your female servant. Do not consider it a hardship to set your servant free because their service to you these six years has been worth twice as much as that of a hired hand. And the Lord your God will bless you in everything you do."

³⁴ "If you buy a Hebrew servant, he is to serve you for six years. But in the seventh year, he shall go free, without paying anything. If he comes alone, he is to go free alone; but if he has a wife when he comes, she is to go with him. If his master gives him a wife and she bears him sons or daughters, the woman and her children shall belong to her master, and only the man shall go free. "But if the servant declares, 'I love my master and my wife and children and do not want to go free,' then his master must take him before the judges. He shall take him to the door or the doorpost and pierce his ear with an awl. Then he will be his servant for life. "If a man sells his daughter as a servant, she is not to go free as male servants do. If she does not please the master who has selected her for himself, he must let her be redeemed. He has no right to sell her to foreigners because he has broken faith with her. If he selects her for his son, he must grant her the rights of a daughter. If he marries another woman, he must not deprive the first one of her food, clothing and marital rights. If he does not provide her with these three things, she is to go free, without any payment of money.

³⁵ My emphasis.

you shall let him go free from you” (Deut 15:12). The difference here is that the law suggests that a female slave was to receive the same treatment as a male slave, although in practice this was probably not the case.

The regulations regarding a wife and family of a slave in Exodus 21:2–4 are disregarded in Deuteronomy (De Vaux 1961:86). This means that by the time Deuteronomy was composed, slave concubines were less prevalent. Wright (1952:368) is convinced that this might be because of the Deuteronomic philanthropic spirit³⁶ (Deut 15:13)³⁷. Even though the philanthropic spirit might have existed, it still does not prove that the disempowerment of and violence against women had abruptly ceased.

Although this “unprecedented” concern for the slave is based on Yahweh’s treatment of Israel when they were enslaved in Egypt, this “unprecedented” concern shows that Israel may have expressed second thoughts about the absolute control exerted by one person over another (Wright 1952:430). However, the revolution against slavery in Israel was a slow progression and certainly the disempowered status of women did not change overnight. As Driver (1961:83) asserts, in the complex Deuteronomic society, “the power of a father over his daughter was no longer so absolute as it had been in more primitive times” and yet women were still placed “in an unequal position” (Driver 1961:430).

³⁶ See Driver (1916:183), who is not entirely convinced of Wright’s view when he says, “The slave is to be provided for generously out of the master’s flocks and supplies, since the Lord provided liberally for Israel when he led her out of Egypt.”

³⁷ Deut 15:13 “Not to let him go empty handed” is the phrase this might be based on.

2.7.5 Women's rights violated

Female disempowerment is further in evidence in fathers' attitudes towards their daughters. A father, it seems, could renounce his authority over his unbetrothed daughter by deciding that the man who seizes her and lies with her had the right to marry her (Deut. 22:28–29). The daughter's sexual rights were not even taken into consideration (Driver 1916:83). Although in the Exodus context, the man was required to pay the *mohar* price³⁸, the father took away the daughter's right to choose by deciding on her behalf. This is a violation of women's rights, even when Deuteronomy suggests that the seducer of the woman was forced to take her as his wife. This arrangement proves that a woman's rights shifted from the father to another man and not to herself (Driver 1916:258, De Vaux 1961:36). The same attitude is displayed when the erring man had to forfeit his right to divorce his wife during the rest of his life. In this instance, the woman fared better, but the disempowerment of women was still present in a society³⁹ like Israel where female divorcees (Marsman 2003:34–35) had no rights socially as well as economically (Smith 1950:276–278).

Some laws in Deuteronomy even deferred the right of young girls to decide to keep their virginity or not (Lewy 1934:95). These would include Deuteronomy 21:10–14:

³⁸ It is the price for a bride – an unspecified amount stated in Exodus 22:16–17.

³⁹ See Marsman (2003:35) for a list of scholars, including Claude Schaeffer, Jean Nougayrol and Eleanor Amico who postulate that the position of women in Syro-Palestine, especially Ugarit, was better than the position of women in Mesopotamia. In Syro-Palestine itself, the position of women in Ugarit was portrayed as better than the position of women in Ancient Israel. This is an indictment on Israel because it creates the impression that in a polytheistic society like Ugarit, women are more favoured than in the society of Israel, where monotheism took priority.

“When you go to war against your enemies and the Lord your God delivers them into your hands and you take captives, if you notice among the captives a beautiful woman and are attracted to her, you may take her as your wife. Bring her into your home and have her shave her head, trim her nails and put aside the clothes she was wearing when captured. After she has lived in your house and mourned her father and mother for a full month, then you may go to her and be her husband and she shall be your wife. If you are not pleased with her, let her go wherever she wishes. You must not sell her or treat her as a slave, since you have dishonoured her” (Deut 21:10-14).

These laws include women that were taken captive and were treated as though their sexual rights⁴⁰ had nothing to do with human dignity. This heightened the ruthless treatment of women in general. Furthermore, according to Driver (1961:255), such treatment is a demonstration of a “violent and primitive-minded people”. Such is the case in Deuteronomy 22:13–21: “If a man takes a wife and, after sleeping with her, dislikes her and slanders her and gives her a bad name, saying, ‘I married this woman, but when I approached her, I did not find proof of her virginity,’ then the young woman’s father and mother shall bring to the town elders at the gate proof that she was a virgin. Her father will say to the elders, ‘I gave my daughter in marriage to this man, but he dislikes her. Now he has slandered her and said, “I did not find your daughter to be a virgin.”’ But here is the proof of my daughter’s virginity.’ Then her parents shall display the cloth before the elders of the town, and the elders shall take the man and punish him. They shall fine him a hundred shekels^[a] of silver and give them to the young woman’s father because

⁴⁰ The custom of looking for virginity in a newly-married woman is a procedure of a primitive-minded people – if she does not possess sexual purity, she is stoned for having wrought folly in Israel. The phrase “folly in Israel” implies the sense of a national ideal or a national conscience that is indicative of violence towards and disempowerment of women (Smith 1950:263).

this man has given an Israelite virgin a bad name. She shall continue to be his wife; he must not divorce her as long as he lives. If, however, the charge is true and no proof of the young woman's virginity can be found, she shall be brought to the door of her father's house and there the men of her town shall stone her to death. She has done an outrageous thing in Israel by being promiscuous while still in her father's house. You must purge the evil from among you." According to Smith (1950:263), this kind of behaviour is similar to Semitic customs to which Hebrews added their own interpretation. Whether Smith's finding is true or not, it is clear that Israelite society was characterised as hostile to female empowerment.

Another peculiar law in the Deuteronomic Code is found in chapter 22:23–27, which is apparent further in the exegetical section of this study. Nonetheless, the story illustrates how society was ordered hierarchically to determine how women were treated. For example, if a man seduced a betrothed virgin in the city (vv. 23–24), both the man and woman were stoned. However, if a man seduced a betrothed virgin in the open country where there are no witnesses, only the man was to be stoned (v. 25). The reason given was that although she cried for help, there was no one⁴¹ to rescue her (v.27).

Although in this instance, the man was blamed for raping a virgin, in other texts it is evident that women were treated unequally to men. A woman's position and liberation were not considered important in Ancient Israel. The aforementioned texts in Deuteronomy make it apparent how women were oppressed and exploited. It is reasonable to conclude that women were disempowered and violated due to the patriarchal nature of Israelite society.

⁴¹ See Smith (1950:267) who suggests that the country may have been wide and probably in its earlier sense was uncultivated and therefore uninhibited.

2.7.6 Women and divorce

In the legislation of Deuteronomy 21:10–14, women are treated somewhat differently, especially when it comes to divorce. But it is remarkable that even when a woman takes a month to herself before her captor in war “may go in to her and be her husband” (v.13), she is still at the mercy of the captor’s family and their “primitive” disempowered environment (Driver 1961:245). Furthermore, if⁴²the husband is happy after he has taken her sexual rights, he may not treat her as a slave, nor may he sell her for money. This law in Deuteronomy was the enactment of captive marriages in Israel. This law failed to benefit women, neither did it protect women from victimisation (Neufeld 1944:78). It certainly opened the gate to her husband to bring about disempowerment and violence against her if he was displeased with her. Thus her legal marital status depended on nothing but pure chance. Deuteronomy 24:1–4 explains the consequences to divorce⁴³. However, men may still find “some indecency in her” (De Vaux 1961:34). The law suggests that when it came to women and their marital rights, only the authoritative figures in the family and society were important. Those authoritative figures were men.

The last law to be considered in Deuteronomy is in chapter 24:5, which is analogous to 20:5–7 (Driver 1961:273). This law states that:

⁴² My emphasis.

⁴³ There may be a wide range of interpretations here, but I am convinced of Driver and De Vaux’s view that the “rigorist school of Hillel is in agreement that any reason, however trivial, such as the charge that a wife had cooked a dish badly, or merely that the husband preferred another woman, was good enough for a divorce”. However, the Shammai school of rabbis would say otherwise. They would argue that only adultery and misconduct were grounds for divorce.

“When a man is newly married, he shall not go out with the army or be charged with any business; he shall be free at home one year, to be happy with his wife whom he has taken” (Deut 24:5)

This law may have been an attempt at stabilise marriage by safeguarding what is usually the most difficult period of adjustment in the marriage of a young couple (Mendelsohn 1959:40). However, only the husband is allowed some kind of dispensation, while the wife is not. She is required to avail herself to strengthen their marriage without due consideration of what her needs might be, resulting in subservience and dependency on her husband.

2.8 Holiness Code (Lev 16-26)

2.8.1 Introduction

Otto (2011:689) suggests that the Holiness Code is the mediated source between “the Book of the Covenant, the Decalogue, P and the Deuteronomic law”. The Holiness Code is the latest of the three codices and is a difficult code to interpret regarding the disempowerment of and violence against women. Van Seters (1999) postulates:

“Some of the laws have to do with cultic and priestly regulations (Leviticus 17; 21-22; 24:1–9) and with festivals (Leviticus 23). Others deal with sexual mores (Leviticus 18) and with a mixture of requirements and offences, both religious and ethical (Leviticus 19-20; 24:10–23). There are also laws legislating sabbatical and jubilee years, having to do with relief from debts (Leviticus 25).

This leads to a final discourse containing promises of blessing and threats of

punishment, and concluding with the prospect of hope beyond the predicted judgement in the exile (Lev 26)” (Van Seters 1999:203).

There seems to be no relevant material which is similar to pertinent legislation in both the Covenant Code and the Deuteronomic Code. So what does the Holiness Code say about women?

Practically, it is more interested in the series of sexual prohibitions contained in Leviticus 18:6–23⁴⁴ and 20:10–21⁴⁵. Then there is the latter part of this code that literally duplicates many of

⁴⁴ “No one is to approach any close relative to have sexual relations. I am the Lord. Do not dishonour your father by having sexual relations with your mother. She is your mother; do not have relations with her. Do not have sexual relations with your father’s wife; that would dishonour your father. Do not have sexual relations with your sister, either your father’s daughter or your mother’s daughter, whether she was born in the same home or elsewhere. Do not have sexual relations with your son’s daughter or your daughter’s daughter; that would dishonour you. Do not have sexual relations with the daughter of your father’s wife, born to your father; she is your sister. Do not have sexual relations with your father’s sister; she is your father’s close relative. Do not have sexual relations with your mother’s sister, because she is your mother’s close relative. Do not dishonour your father’s brother by approaching his wife to have sexual relations; she is your aunt. Do not have sexual relations with your daughter-in-law. She is your son’s wife; do not have relations with her. Do not have sexual relations with your brother’s wife; that would dishonour your brother. Do not have sexual relations with both a woman and her daughter. Do not have sexual relations with either her son’s daughter or her daughter’s daughter; they are her close relatives. That is wickedness. Do not take your wife’s sister as a rival wife and have sexual relations with her while your wife is living. Do not approach a woman to have sexual relations during the uncleanness of her monthly period. Do not have sexual relations with your neighbour’s wife and defile yourself with her. Do not give any of your children to be sacrificed to Molek, for you must not profane the name of your God. I am the Lord. Do not have sexual relations with a man as one does with a woman; that is detestable. Do not have sexual relations with an animal and defile yourself with it. A woman must not present herself to an animal to have sexual relations with it; that is a perversion.

⁴⁵ If a man commits adultery with another man’s wife – with the wife of his neighbour – both the adulterer and the adulteress are to be put to death. If a man has sexual relations with his father’s wife, he has dishonoured his father. Both the man and the woman are to be put to death; their blood will be on their own heads. If a man has sexual relations with his daughter-in-law, both of them are to be put to death. What they have done is a perversion; their blood will be on their own heads. If a man has sexual relations with a man as one does with a woman, both of them have done what is detestable. They are to be put to death; their blood will be on their own heads. If a man marries both a woman and her mother, it is wicked. Both he and they must be burned in the fire, so that no wickedness will be among you. If a man has sexual relations with an animal, he is to be put to death, and you must kill the animal. If a woman approaches an animal to have sexual relations with

the prohibitions that are found in the aforementioned sections. Subsequently, the dating and historical context of this code is rather difficult (Noth 1981:147). There is, however, a wider relationship that exists between this code and the Deuteronomic/Deuteronomistic Code (cf. 22:30; 27:22–23). Mace (1953:198) suspects that this may be because of the “one flesh” idea of marriage which took root in Israel was instructed by Yahweh. Therefore, the relationship between these two codes are analogous to that of the covenant of blood⁴⁶. Consequently, affinity as well as consanguinity came to be regarded as impediments to marriage (De Vaux 1961:31).

There is a striking innovation in Leviticus 19:3: “Each of you must respect your mother and father, and you must observe my Sabbaths. I am the Lord your God.” It may look as if the theme of disempowerment of women is being countered because contrary to the order in both Exodus (Covenant Code) and Deuteronomy (Deuteronomic/Deuteronomistic Code). Here the mother is being emphasised over the father (Noth 1981:170; Lewy 1934:48–50⁴⁷). This may

it, kill both the woman and the animal. They are to be put to death; their blood will be on their own heads. If a man marries his sister, the daughter of either his father or his mother, and they have sexual relations, it is a disgrace. They are to be publicly removed from their people. He has dishonoured his sister and will be held responsible. If a man has sexual relations with a woman during her monthly period, he has exposed the source of her flow, and she has also uncovered it. Both of them are to be cut off from their people. Do not have sexual relations with the sister of either your mother or your father, for that would dishonour a close relative; both of you would be held responsible. If a man has sexual relations with his aunt, he has dishonoured his uncle. They will be held responsible; they will die childless. If a man marries his brother’s wife, it is an act of impurity; he has dishonoured his brother. They will be childless.”

⁴⁶ See Nihan (2007:150). Nihan explains this to be the blood that is shed for sacrifices made in Leviticus 1–7 and foregrounds this on the interpolation between Exodus 40 and Leviticus 8. The substantiation for this interpolation idea, especially concerning Leviticus 1–3, is heightened in the offering of the first ram that was used as a burnt offering in Exodus 40:18–19 and similarly in Leviticus 8:18–21. These then become important links because of the instruction recorded in Leviticus 1:3–13 regarding the burnt offering of animals large and small.

⁴⁷ This interpretation is feminine in some way because it is based on Leviticus 19. Lewy believes the prophetess Huldah gave the sermon on the ten commandments.

indicate a realisation of the mother's importance,⁴⁸ but the mere mention does not address the underlining negative treatment of women.

The link between the Covenant Code and the Deuteronomic/Deuteronomistic Code concerning the negative treatment of women is to be found in the layered evolution of the Holiness Code. Therefore, although it may seem that only parts of the Holiness Code mention or allude to the disempowerment of and violence against women, even these brief allusions are striking. For example, fornication is prohibited in the Hebrew Bible. Moreover, Leviticus 18 (cf. 20), describes incest as a great shame. It also declares in verse 17 that sexual relations with a woman and her daughter is both a shame and wickedness (Demarest 1990:211). This gives the impression that men who indulge in irresponsible sexual behaviour may dishonour the whole family, but leave the women they have harmed the worst off, with long-lasting scars physically, mentally and emotionally.

2.8.2 Holiness Code – historical setting

The Holiness Code is derived from Exodus 25 and the Priestly Code (P) (Collins 2004:139). The date of the Holiness Code can be placed around the composition of the P material. Any material other than this is not the focus of this thesis. I will discuss the Holiness Code and its date briefly. It is generally accepted that the Holiness Code came about around the late-exilic and post-exilic period (Rooker 2000:42; Gardiner 2008:4–5).

⁴⁸ Noth (1962:170) suggests that the possibility of this can be ascribed to the loosening of the family structure in connection with the end of pre-exilic Israel.

Ever since August Klostermann (1877) referred to Leviticus as the Holiness Code, many have disputed⁴⁹ the date and composition of this code (Noodtzij 1982:7).

The context probably involves the question of how and when the H material was added to the P material (Nihan 2007:396; Milgrom 2000:1338). According to Otto (2011:321), the compilation of the Holiness Code is that the P material seems quite different from Numbers and Genesis, even though superficially they may appear similar. Otto's contribution here is valuable because there are ideas and themes in Numbers and Genesis that do not fit with the P material, such as the military organisation of Israel. Instead, with Numbers and Genesis being part of the P material, it would seem as though the P material has a significant place in the Mount Sinai priestly account (Römer 2019:4).

I concur with Nihan (2007:548) who asserts that Leviticus 17-26 can be dated to the late-exilic and post-exilic period. Römer (2019:3-4) believes that contributions by Otto (2011:339) lead to clarity in understanding Leviticus 17–26. This is not an independent law code, but certainly a code that fits in the late post-priestly composition of the Pentateuch. This makes sense within the framework of the date explained above.

However, it is worth conceding that the interpolation theory applied to the Holiness Code makes every date argument complicated. To summarise very briefly on the current debate about the dating of the Holiness Code, see the table below for a helpful reflection.

⁴⁹ This was the case for the longest part of the 20th century. The dispute surrounds the fact that Leviticus 17–27 forms part of a separate block of material (Collins 2004:148). Those who argue that this block of material originates outside the P source are scholars such as Graf, Kuenen and Wellhausen (Nihan 2007:395).

Possible dates	Debate around scholars
Mosaic authorship and of 2 nd millennium BCE	Constitute the fundamentalist view
Pre-exilic date	Milgrom, Wenham, Knohl, Baruch, Wright, Joosten
Late-exilic and post-exilic date	Wellhausen, Documentary Hypothesis (majority view) – Otto, Nihan, Hieke, Feinstein, Meyer (I also ascribe to this view)
Persian period 4 th century BCE	Blenkinsopp, Crüsemann, Watts, Lemche.

Figure. 2: Debate surrounding the date of scholars

This study ascribes the Holiness Code as being the youngest code of the aforementioned codices. It is the youngest Code between the Hammurabi, Covenant and the Deuteronomic Codes, but there is a development in thought over the three contexts. This is why I have settled on the late-exilic and post-exilic date to avoid any undue confusion (Nihan 2007:562 –564).

The Holiness Code is concerned about people’s thoughts and behaviour, family, business relations and worship. “You shall be holy, for I, your God (Yahweh) am holy” (Lev 9:2). This extends to families and communities, including very particularly the treatment of women when it comes to sexual ethics and gender roles⁵⁰.

⁵⁰ The nature of Yahweh's purposes for creation are pressing, because this determines how one views the worshipping life of the church. The interplay between Christianity and culture, hinges on how one views the eschatological trajectory of the scriptures. David Van Druen (2010:13) criticizes the view that Christian worship and building the kingdom of God includes redeeming legitimate cultural activities. He also refutes the claim that "redemption is God's work of restoration, empowering human beings to pick up again the task of the first human beings, and

2.8.3 Women and marriage

There seems to be a greater esteem for marriage in Leviticus than in the other codes. It may have taken this position from the commandment against adultery. In both the Covenant Code (Ex 20:14) and the Deuteronomic/deuteronomistic Code (Deut. 5:18), the condemnation of adultery is placed between the prohibitions of murder and stealing. This indicates that these offences are acts perpetrated against one's neighbour and "neighbour" includes one's wife. The category is deliberately very broad, so that the disempowerment of and violence against women are avoided. However, that avoidance can be ascribed to how internalised it had already become (Westbrook 1988:103).

to develop human culture as they were originally intended to do" (Van Drunen 2010: 13.) He does not believe that mandate of Genesis 1:26-28 should inform the worshipping task of the church, because he claims that it has been accomplished by Christ. In other words he denies that the task of the church includes transforming cultural institutions in order that they reflect the inherent order Yahweh intends for his creation. These critiques stem from his view that neither macroeconomics, ecology, state sanctioned human rights, nor politics or any other cultural activity are to be seen as part of the worshipping life of the church. Van Drunen (2010:14) himself describes the accusations levelled against his so called 'two -kingdoms' world view, which his opponents say is characterized as he puts it by "unwarranted dualism, secularism, moral neutrality in social life or even the denial of Christ's universal kingship." (Van Drunen 2010:15) He claims that God is not redeeming the cultural activities and institutions of this world, but rather that he is preserving them through the covenant that he made with all living Creatures (Gen. 8:20- 9:17). He says that although cultural institutions and activities are honourable, they are only for temporary and provisional causes and therefore Christians are not to see these as the worshipping task of the church (Van Drunen 2010:15). Hence he rejects what he calls the neo- Calvinist approaches in two books which he's sees as representative of the neo- Calvinist dogma, namely Albert Wolters's *creation regained* and Cornelius Plantinga's *Engaging God's world* (Van Drunen 2010:17). These works claim firstly that grace restores nature through redemption in Christ, and secondly that God is the sovereign who orders all reality, and thirdly that the original cultural mandate has ongoing relevance. For so called 'Neo Calvinists,' redemption is necessarily restoration or recreation, based on God's purposes for creation, by which he takes creation to its consummate goal. In other words in Neo Calvinist eschatology, God does not start over anew, he accomplishes his original plan.

Leviticus 18:20 states: “Do not have sexual relations with your neighbour’s wife and defile yourself with her.” This regulation is placed among the sins against marriage because it makes a person “unclean” (De Vaux 1961:36). This is another way of saying that the religious injunction against adultery was linked to women since their status in society was diminished. Because they were bound up in marriage, they could not get out if they wanted to.

2.8.4 Women and sexual perversions

Laws on sexual perversions in general, but relating to women in particular, were prohibited in Leviticus. However, there are indications in the phrase “do not become like other nations” that Israel may have borrowed this behaviour from Canaan. Nevertheless, the regulation was clear: “Do not defile yourselves in any of these ways, because this is how the nations that I am going to drive out before you became defiled. Even the land was defiled; so I punished it for its sin, and the land vomited out its inhabitants. But you must keep my decrees and my laws. The native-born and the foreigners residing among you must not do any of these detestable things, for all these things were done by the people who lived in the land before you, and the land became defiled. And if you defile the land, it will vomit you out as it vomited out the nations that were before you. Everyone who does any of these detestable things – such persons must be cut off from their people” (Lev 18:24–29). Hartley (1992:298) points out that these laws were given to protect women against sexual violence because Israel treated women with aggression because of the influence of the Canaanites.

Gerstenberger (1996:255) notes that historically, the Canaanites and other nations had an influence on Israel. These nations included inter alia the Hittites, Perizzites, Amorites and Jebusites. Violations regarding violence against women, according to Leviticus 18, resulted in banishment and separation from society and the land. This is how serious the consequences

were of violating women. This gives an indication that these kinds of acts were serious enough to meet punishment (Milgrom 2001:1572). Violence against women defiled Yahweh's people, especially if they were of a sexual nature (Hartley 1992:298). Israelites were easily influenced because they also searched for what their neighbours wanted from the land and their people. Polytheistic nations like the Hittites, Perizzites, Amorites and Jebusites purged their people very regularly to ensure fertility rites in their agriculture, animal flocks and their family households (Hartley 1992:298).

2.8.5 Women and punishment

When women were treated with disdain and sexually abused, this immorality resulted in “nauseated” consequences for the land (Hartley 1992:299). The sexual sin of abuse and mistreatment of women is an “axiom” that runs through the whole of the Pentateuch. However, nowhere else does the punishment of sexual abuse pollute the land more than in the Holiness Code (Milgrom 2001:1572). Hartley (1992:298) explains that it is Yahweh who ultimately carries out the punishment and purges the land of the violators of his commandments.

Scholars agree that those who violate God's laws contained in the Holiness Code would be severely punished. This included Israelites forfeiting their rights in the land of their heritage. This threat of being cut off from Israel runs through the book of Leviticus.

2.9 Survey of scholarship regarding law collection

To gain a better understanding of the topic, I have surveyed the following scholars and their views on the Pentateuchal codes. My choice to include some and exclude others is based on which scholars I believe are the most influential related to the topic.

2.9.1 George S Duncan

Duncan (1904:272) explains the relationship between biblical law and Babylonian law and emphasised the similarities between the above codes. He posited very confidently that some of the laws in the Babylonian codes could be traced back to biblical law (Duncan 1904:272). He affirmed that if one compares the Babylonian codes with the Covenant Code, the Deuteronomic Code and the Holiness Code, especially as they relate to subservient laws on women, a close resemblance emerges⁵¹(Duncan 1904:272– 276). Duncan advocates that the resemblance between these laws is not merely accidental; rather it displays a dependence of one set of laws on the other (Duncan 1904:276). This could be because the biblical codes may have depended on the Code of Hammurabi, as the latter was the earliest in its composition. Duncan’s assertions are based on Abraham, who might have been in contact with the Babylonian laws in Ur and carried them with him to Palestine. This happened because Babylonian culture had strongly permeated Palestine from 3 800 to 1 400 BCE (Duncan 1904:277). Duncan concludes that the Israelites might have been in contact with other law codes when they resided in Egypt. Similarly, the Israelites might have come in contact with these laws in Palestine after the desert wandering and after their experience living in Egypt. Duncan (1904:277-278) asserts:

“The Amarna tablets have shown that the Babylonian culture was deeply rooted in Palestine before the Israelites entered it. This is possible because the Canaanites were already familiar with Code of Hammurabi and were using them before the Israelites arrived in Palestine. This suggests that the Israelites might have taken over the laws

⁵¹ See the following passages as examples of this: Exodus 21:2–11 cf. Hammurabi Code 117–119, Exodus 21:15 cf. Hammurabi Code 195; Exodus 21:16 cf. Hammurabi Code 14; Exodus 21:18–19 cf. Hammurabi Code 206; Exodus 21:28–32 cf. Hammurabi Code 250–252; Exodus 22:2–4 cf. Hammurabi Code 22, 8; Exodus 22:5 cf. Hammurabi Code 57.

from them. As time went on, the laws might have been changed and many new ones might have been added” (Duncan 1904:277-278).

Duncan concludes that the Israelites definitely appropriated the culture and civilisation of the Canaanites among whom they settled, just as they did with the Babylonians. The latter also appropriated all that was good in the Sumerian culture and became in time masters of the ancient world. I support this finding because it is likely that just as the Babylonians would have adapted the older legal codes to control their civilisation, Israel would have done the same to suit their own time and context. This is probably the best explanation for the many resemblances in form and subject matter between Israel’s legal codes and those of surrounding nations relating to the disempowerment of and violence against women.

2.9.2 Leroy Waterman

Similarly to Duncan, Waterman (1921:36) emphasises the resemblance between the Code of Hammurabi and the biblical codes. According to Waterman (1921:35–36), the compilations of the biblical codes were a result of the “infiltration and amalgamation” from Babylonian law which would have influenced pre-Semitic law. This means that if Waterman’s (1921:37) assumptions are correct, the Code of Hammurabi would have been accessible to people like the Canaanites since the language of Babylonia was like English to the 21st century generation. That is to say, the language of Babylonia was the standardised “international diplomatic” language and was used in the ancient world even before Israel entered Canaan. Waterman (1921:36) asserts that most of the biblical codes in their earliest forms might have grown out of Canaanite case laws since there was no cultural break between Canaanite and Israelite civilisation. If this viewpoint is correct, it explains why large-scale similarities exist between

Babylonian and Hebrew law codes (Waterman 1921:40). For Waterman, the similarities far outweigh the differences. He attributes the differences to the small-scale differences in civilisation (Waterman 1921:46). What underlines Waterman's viewpoint here is the fact that he argues for oral development of the laws of Hammurabi in Canaan (Waterman 1921:52). Lastly, even though Waterman argues for resemblance between the Code of Hammurabi and the biblical codes, he also firmly believes that the biblical codes were written by the "finger" of Yahweh (Waterman 1921:54).

2.9.3 Joseph H. Hertz

Hertz succeeded Waterman by almost a decade, yet there is little difference in opinion between them, only a very slight variation in emphasis. For Hertz (1928:213), the relationship between the Code of Hammurabi and the biblical codes is the "amalgamation" and "adaptation" of law codes that came much earlier. The older law codes gave the very framework for the newer codes, such as the Code of Hammurabi and the biblical codes. Additionally, Hertz (1928:214) makes the point that the Code of Hammurabi in particular made use of this technique of "amalgamation" and "adaptation" in its composition, whereas the biblical codes did not make use of this to a large extent. He says:

"Although, there appear some instances of analogies and resemblances between the Code of Hammurabi and biblical codes, there is no feature in biblical codes that can be definitely singled out as derived from the Code of Hammurabi. Thus, biblical codes are not indebted to the Code of Hammurabi. This is because there are no Babylonian loan words in its legal terminology. Again, Israel and Babylon had no related habits of life, similar social conditions or similar economic society. Israel was nomadic, rural and

primitive, whereas Babylon had an intricate, highly industrialised, commercial city-civilisation” (Hertz 1928:214).

Hertz asserts that there is no way that Israel could have copied directly from Babylonian law. In Hertz’s assessment, he ties the relationship between the Code of Hammurabi and the biblical codes merely indirectly. He is convinced that the Code of Hammurabi is definitely not the source of the biblical codes. He concedes that these may have included derogative views of women (Hertz 1928:216). However, I am not convinced that he deals adequately with the abuse of women in the common law texts, which include the laws earlier than the Code of Hammurabi and the biblical codes. Hertz maintains that the resemblances between the two laws are due to the common laws that permeated the ancient world at the time of the composition of these laws.

2.9.4 Hans J. Boecker

Boecker (1980:154) declares that there is no direct dependence of the biblical codes on the Code of Hammurabi. He says this despite the similarities in form and partly in content. For Boecker, the number of differences are too numerous to believe that there is a direct appropriation of Babylonian law. Boecker (1980:154) further claims there is no scientific proof of any direct literary dependence on the older law codes, for example, the Sumerian codes, in the formulation of both the Code of Hammurabi and the biblical codes. Boecker advocates that the laws in the biblical codes are pieces put together from the Canaanite oral tradition. For this reason, he believes that some similarities may exist between the biblical codes and the Code of Hammurabi and that they are different because of the presence of different theological concepts in each of them. The main reason for these differences is that there is a different concept of kingship in both the biblical codes and the Code of Hammurabi (Boecker 1980:27). His convincing view is underlined by the fact that, unlike in the Code of Hammurabi where the

laws were promulgated by Hammurabi, the Babylonian king of the time, the laws in the biblical codes were authorised by Yahweh as God-king over Israel. Thus, the right to making legislation lies solely with Yahweh (Boecker 1980:40). This implies that any laws that demonstrate disempowerment of and violence against women can be ascribed to Yahweh. This is not entirely convincing because Yahweh's foundational creation nexus was that men and women were created equal in his own image (Gen 1:27).

2.9.5 Jochen J Finkelstein

For Finkelstein (1981:16), the reason why similarities exist between the biblical codes and the Code of Hammurabi are because they originate from the same shared tradition of Ancient Near Eastern law codes. Finkelstein asserts that all these legal codes represent a single tradition (Finkelstein 1981:16). In comparing the law of Eshnunna (circa 1920 BCE) with the Code of Hammurabi, it becomes apparent that these texts testify to word-for-word equivalents (Finkelstein 1981:17). But for Finkelstein, it is not enough to say that they are copies of one another. The reason for this is that he holds the differences in high esteem. These differences are significant in the substantial legal prescription and in the expansiveness or economy of expression with respect to the legal position on women. Nevertheless, his view is reasonable because the range of topics in these codes remains relatively uniform throughout the tradition. The employed phraseology is completely homogeneous. Consequently, Finkelstein (1981:18) raises the question of whether the compiler of the Code of Hammurabi had direct access to the law of Eshnunna. Whether one can conclusively answer this question or not, Finkelstein's (1981:18) conclusion is too weighty to ignore because the aforementioned codes (Code of Hammurabi and the law of Eshnunna) are based in essence on the same "corpus of prototypical material".

When it comes to the biblical codes, Finkelstein's (1981:20) view is that there is a resemblance to the Code of Hammurabi and other ANE codes (e.g. the Code of Lipit-Ishtar⁵², the Code of Eshnunna⁵³ and Hittite law⁵⁴). These similarities in form cannot be explained as merely coincidental. He bases his view on a scientific analysis of the laws related to the goring ox in the Code of Eshnunna (53–55), the Code of Hammurabi (250–252) and the Covenant Code (Exod 21:28–36). Finkelstein postulates that these three law codes are very similar in “diction and formulation”. However, in his explanation of the relationship between these legal codes, he denies that this similarity is a result of oral tradition. In fact, he rejects oral tradition outright. He rather suggests (1981:20-21) that his premise is based on an organic linkage between them:

Thus, the relationship between them is not the matter of independent developments, but of a single, organically interrelated, literary tradition. All these law codes might have depended on the same literary tradition.

Finkelstein attributes this whole literary development to what he calls the “Mesopotamian prototypes”. This hypothesis is convincing because the biblical codes depended heavily on the Mesopotamian literary tradition. This tradition existed long before the formal documentation of different laws. As it relates to women, this tradition would have been underdeveloped because women were not very highly regarded in Mesopotamian culture.

⁵² See Roth (2000:23) who suggests that this code was compiled circa 1930 BCE in Sumerian.

⁵³ See Boecker (1980:60) who suggests that this code was compiled circa 1920 BCE in Akkadian.

⁵⁴ See Roth (2000:215) who suggests that this law was compiled between 1650–1500 BCE in the Hittite language.

2.9.6 John H Walton

Walton (1990:90) is very interested in the functions of the biblical codes and the Code of Hammurabi. He began the school of thought that dismissed the similarities between the two codes because he was convinced that these similarities are largely unaccounted for, while the differences are substantial (Walton 1990:90). With regards to the two codes' content, civil and criminal laws are standard in both. However, Walton would like the reader to believe that biblical law is superficial on civil laws, including how women were treated, but it placed huge emphasis on religious laws, which are less concerned with women in society. He says (1990:91):

While it is obvious that sometimes both cover similar topics using similar wording, but most often, the penalties in these similar topics show different elements of concern, even when the formulation of problem is the same.

Walton is convinced that Mesopotamian law has very little “apodictic formulation”. That is to say, both the biblical codes and the Code of Hammurabi function as fundamentally “admonitory”. Demonstrating elements like the adherence to contractual obligations are therefore important. However, I disagree with Walton to some extent because if one considers the whole biblical law, it seems to project morality, which is very prescriptive because the Israelite God, Yahweh, wants adherence based on his covenant and his holiness. In contrast, Mesopotamian law has the intention of furthering justice as its goal, so as to satisfy the gods, who are mainly male (Walton 1990:91).

2.9.7 David P. Wright

Wright (2009:8) claims that the relationship between the Code of Hammurabi and the biblical codes can clearly be seen in the similarities they share. Wright (2009:8) explains that the structure of both the Code of Hammurabi and the biblical codes (Covenant, Deuteronomic/Deuteronomistic and Holiness Codes) are A-B-A. This means that these codes have prologue-casuistic and laws-epilogue in common. He says (2009:14):

The fourteen laws in the central casuistic laws of the two codes correspond and have close associations. In addition, their outer apodictic laws have close thematic associations. The casuistic laws in both law codes display the same or nearly the same topical order.

Wright's (2009:346) comparison expresses a strong "thematic and linguistic" pattern in these laws. His conclusion supports the theory of direct dependence of biblical codes on the Code of Hammurabi (Wright 2009:3):

The biblical codes are directly, primarily, and throughout dependent upon the Code of Hammurabi. They imitated the structure of the Code of Hammurabi and drew upon its content to create the central casuistic laws of Exodus 21:22–22:19, as well as the outer sections of apodictic law in Exodus 20:23–26 (along with the introduction of 21:1) and 22:20–23:19.

I am convinced of Wright's (2009:346) view, which posits that the biblical codes drew primarily and directly upon the Code of Hammurabi for their entire composition⁵⁵. This makes sense when one considers that the negative way Israel treated women was inherited from other nations, which does not excuse their actions, but nevertheless helps one understand the social milieu which influenced their behaviour.

2.9.8 Bruce Wells

Wells (2006:89) reacted strongly to Wright's argument that the biblical codes are "directly, primarily, and throughout dependent upon the Code of Hammurabi". He is convinced that Wright's conclusions are "misguided". Wells (2006:89) notes that there is a difference between the biblical codes and the Code of Hammurabi regarding (1) resemblance, (2) similarities, (3) correspondence and (4) identicalness: in total, four different types of connections. First, resemblance: according to Wells (2006:89), this resemblance describes a "type of connection that occurs when there is no direct or close match between a law in biblical codes and the other text, but the content of the latter deals with a theme that could conceivably be related to the theme of biblical codes law". Second, similarities: Wells (2006:89) refers to similarities as "the instances when there is more of a close match in terms of theme or topic than in the case of a resemblance, but when the details of the two sets of material are substantively different". Third, correspondence: Wells (2006:89) asserts that the "material that matches is quite close with only minor differences". And fourth, identicalness: Wells (2006:89) describes this as the "type that occurs when the match is so close that the two sets of material can be understood as identical or nearly identical in both theme and substance". What does this mean? It means that Wells

⁵⁵ See Wright (2009:346) suggests that "composition took place in the Neo-Assyrian period, between 740 and 640 BCE".

thinks that if one considers the relationship between the biblical codes and the Code of Hammurabi on the treatment of women, diffusion takes place. Wells believes that although Wright might be correct in finding connections between the two codes, certain anomalies are present, such as the disempowerment of women, which was more explicit in the Ancient Near East world (Wells 2006:115–117).

2.9.9 Raymond Westbrook

Westbrook (2009:24) provides a summary of different models that have been constructed to explain “the relationship between biblical law and the cuneiform codes”. These models include (1) the evolutionary model, (2) the literary model, and (3) the middle approach.

The first model has to do with the emphases on the independent development of laws in early Israel. The casuistic form and some content of Israelite law derived from the influence of other nations (Westbrook 2009:24). The complication with this model and its findings is that it does not take into consideration the strong affinities the form and content of the biblical casuistic laws have with earlier cuneiform codes.

If one evaluates the second model, the literary model, it suggests a much closer dependence on texts like the Code of Hammurabi, which were copied and mimicked by Israelite scribes. The impediment with this second model is the way in which Israelite scribes would have drawn on the known codes. This would have required a well organised library for societal use (Westbrook 2009:24).

The third model attempts to find the middle ground between the above approaches, hence a middle approach. This approach allows for the law codes to be ascribed as part of an intellectual

tradition, “partly oral and partly written”, which would have spread by dissemination from Mesopotamia onwards. This means that the biblical codes, to some extent, followed the path taken by cuneiform legal documents, while continuing in practice to interact with unique Israelite law. This makes provision for the biblical codes to have drawn from both local and regional legal traditions (Westbrook 2009:24).

2.9.10 Eckart Otto

Otto (2009:2) notes that the first edition of Deuteronomy was directly influenced by the Assyrian Vassal Treaty terminology, and especially by the Loyalty oath of Essarhaddon from 672 BCE. He demonstrates that the initial compilation of Deuteronomy came from the Assyrian Vassal Treaty, as a basis for the Yahwistic relationship and worship within Israelite society. Otto (2009:168) also outlines how the authors of Deuteronomy borrowed not only the words of Assyria, but also their ideology, although not in its purest form. That is to say, Deuteronomy was so constructed that the authors understood it in an improper way, so that they could show that Israel had one suzerain to whom it owed absolute loyalty. This lord is not the Assyrian king but Yahweh, who governs the Israelite nation. In his belief that the Deuteronomic Code and the Assyrian Vassal treaties are very close in composition, Otto (2009:228), in my view, forms part of the critical scholarship that belongs to the most important Old Testament discoveries.

Furthermore, Otto (1996:115) when it comes to the Covenant Code views it as a source that served its time during pre-exilic period. He posits “If the laws of the Covenant Code were supplemented in Deuteronomy, this did not mean that the Covenant Code was no longer valid. To the contrary, the Covenant Code became part of the Sinai pericope after its revision by Deuteronomy, and as such, a direct revelation, whereas Deuteronomy functioned merely as its

repetition as witnessed by Moses in the plain of Moab. There are hints suggesting that revision of the Covenant Code did not invalidate the older law, but rather a complementary relationship between the two sets of laws is demonstrable. Deut 19:2-13,* e.g., revised the laws of homicide in Exod 21:12-14” (Otto 1996:115). It is the researcher’s view that Otto’s argument here seems to be convincing based on the fact that the composer of Deuteronomy in its pre-exilic form would not have had any framework of knowledge with regards to Mosaic mediation in terms of revelation, and also no revelation of the Horeb experience would have been known to such a person.

2.9.11 Thomas Römer

Römer (2015:3) outlines his position, which I consider as an important point of departure in relation to the Hebrew Bible and the ANE law codes in general. If one reads the Hebrew Bible closely, it may reveal that Yahwistic control over the universe was the only dominant rule in the Ancient Near Eastern world, and that other gods like Marduk claimed world dominion. I believe that this may raise a host of questions regarding the development of the hypothesis of Yahwistic law found in the Hebrew Bible. According to Römer (2015:3), Yahweh shared worship among other gods and goddesses, including Asherah (a woman goddess). However, in the time of King Josiah (circa 640–609 BC), his public servants who advocated religious reform also decided to prohibit the worship of Asherah. The authors of the second book of Kings tell in detail how King Josiah:

...brought out the Asherah image from the temple of Yahweh outside of Jerusalem to the Wadi of the Kidron and burnt it there; then he pulverised it to dust and threw its dust upon the tombs of the children of the people (2 Kings 23:6) (Römer 2015:3).

Some may believe that this act of monotheistic worship points to the disempowerment of women because the negative treatment of the goddess Asherah may have signalled the negative treatment of women in general during this time.

Scholars have always attempted to explain the relationship between the Code of Hammurabi and the biblical codes, as well as their parallels to other ancient law codes. A survey of the aforementioned scholars has revealed the explications of the relationship between the Code of Hammurabi and the biblical codes. I have noted in my examination of scholars, such as Duncan, Waterman, Finkelstein and Wright, how they emphasise similarities between the two texts and conclude that the biblical codes (the Covenant, Deuteronomic/deuteronomistic and Holiness Codes) drew directly from the Code of Hammurabi. In my assessment, this means that the biblical codes are merely a product of their environment. Scholars such as Herzt, Boecker, Walton and Wells may emphasise the differences between the Code of Hammurabi and the biblical codes and conclude that these codes only express an indirect relationship. There does exist a group of scholars, represented mainly by Westbrook, who are convinced of the “middle approach”.

The brief scholarly overview has demonstrated that there is a relationship between biblical law codes and the Code of Hammurabi in terms of their context, form, grammar, content and structure, thus making it easy to extrapolate the theme of disempowerment of and violence against women contained in these texts. I will attempt to clarify the relationship between the two texts by examining the similarities and differences they display in their social, economic, religious and ideological stances relating to the negative attitude towards women.

2.10 Sexual violence against women

Sexual violence in the Code of Hammurabi and the other biblical codes allowed women to be raped (Scholz 2005:36). The greatest travesty of justice in the biblical codes is the instance of women as victims of rape being killed for the crime of their perpetrators. In the Code of Hammurabi, for instance, a virgin who was raped was considered blameless, while a married woman who was raped was considered complicit and both she and her rapist would be punished by drowning. Similarly, in Deuteronomy 22:29, both the man and married woman found committing adultery were punished by stoning them to death, regardless if the woman had been raped or not.

Both legal codes exemplify a scant disregard for women's dignity and heightened the trauma of rape by telling women they were not in charge of their own bodies or, indeed, their own lives. In comparing the Deuteronomic Code with the Code of Hammurabi, it becomes obvious that women suffering abuse were an afterthought in the minds of legislators who were meant to protect them from violence (Clements 1994:4).

2.10.1 Women and rape

Several laws of the Code of Hammurabi relate to forced sexual intercourse or rape. The most significant is law 130. It reads: "If a seignior found the betrothed wife of another seignior, who had no intercourse with a male and was still living in her father's house, and he has lain in her bosom and they have caught him, that seignior shall be put to death, while that woman shall go free" (Pritchard 1969:171). There are more instances of rape in the Code of Hammurabi, as seen in law 154 that states: "If a seignior has had intercourse with his daughter, they shall make that seignior leave the city" (Westbrook 1990:9). Common in both these cases is the fact that women were not empowered to find some kind of retribution for the violent crimes they

suffered. It is cruel that ANE societies condoned the mistreatment of women because it speaks to the patriarchal society that informed such behaviour, where women were almost held responsible for such crimes.

Westbrook gives the sense that patriarchy has always been a human invention. Gorham (2007) indicates, "...by implication; if patriarchy is a social construction[as seen in the Code of Hammurabi and the biblical codes]⁵⁶, then the violence that results from it becomes more problematic and less easy to dismiss as 'human nature' (Gorham 2007:3). I agree with Gormham because patriarchy has never been interrupted: it continues even now in the 21st century.

2.10.2 Women and abuse

The abuse of women in the Ancient Near East came in many forms, including deportations.⁵⁷ This happened particularly in the neo-Babylon period⁵⁸. These acts were interpreted as war plunder, in which it was a regular custom to plunder countries of their valuable resources. However, the victor's spoils were not enough to satiate their greed. The victor showed abuse towards those left desolate by war. Of particular interest were women (Muscarella 1989:32–34; Clancier 2014:26). This war strategy was a tactic to show the overwhelming triumph of the victor, but it was an abuse particularly against women to subjugate them and socialise them into a new patriarchal society. Assyrian monarchs in the 19th century BCE made this kind of abuse look like child's play, according to Clancier (2014:25), who mentions the "tortures

⁵⁶ Emphasis is mine.

⁵⁷ See Melville (1999:19) for a clear overview of this question in the neo-Assyrian period. He argues that it is an "object of extensive debate among Assyriologists. The literature on this subject is particularly abundant and continues to grow. Disagreement in the first place centres on the validity of using the term 'harem', which some reject while others accept with caveats."

⁵⁸ See 2 Kings 24 and Jeremiah 52.

inflicted on those unlucky enough to fall into the hands of their troops”. He adds, “To hasten the fall of towns, prisoners were thus impaled or skinned alive under the ramparts, severed heads were stacked into pyramids, and so on” (Clancier 2014:25). To abuse women in this way seems to suggest that the aggression society took on was one that valued violence more than political sensibility. Women who suffered most in war were those who suffered double abuse by upsetting their social structures, as well as violent torture at the hands of men.

2.10.3 Women and domestic violence

The overarching language pertaining to the Covenant Code (including the Ten Commandments⁵⁹) is that of divine control and majesty attributed to Yahweh in worship. However, it also brought to bear jealousy and gender inequality in Israelite social structures (Ellens 2008:170-171). This discourse seems to have had good intentions in setting boundaries in order to make Israel responsible and aware of their commitments to each other. Unfortunately, in its application, the inequality between partners was often abused by men in the household (Brown 1993:76–93). Israelites, mostly men, took a didactic law from Yahweh

⁵⁹ See, Ex 20:1–17 “And God spoke all these words: I am the Lord your God, who brought you out of Egypt, out of the land of slavery. You shall have no other gods before me. You shall not make for yourself an image in the form of anything in heaven above or on the earth beneath or in the waters below. ⁵ You shall not bow down to them or worship them; for I, the Lord your God, am a jealous God, punishing the children for the sin of the parents to the third and fourth generation of those who hate me, ⁶ but showing love to a thousand generations of those who love me and keep my commandments. You shall not misuse the name of the Lord your God, for the Lord will not hold anyone guiltless who misuses his name. Remember the Sabbath day by keeping it holy. ⁹ Six days you shall labour and do all your work, ¹⁰ but the seventh day is a sabbath to the Lord your God. On it you shall not do any work, neither you, nor your son or daughter, nor your male or female servant, nor your animals, nor any foreigner residing in your towns. ¹¹ For in six days the Lord made the heavens and the earth, the sea, and all that is in them, but he rested on the seventh day. Therefore the Lord blessed the Sabbath day and made it holy. Honour your father and your mother, so that you may live long in the land the Lord your God is giving you. You shall not murder. You shall not commit adultery. You shall not steal. You shall not give false testimony against your neighbour. You shall not covet your neighbour’s house. You shall not covet your neighbour’s wife, or his male or female servant, his ox or donkey, or anything that belongs to your neighbour.”

to oppress their partners and to perpetrate violence against them. Men ignored the sexual freedom of women in order to assert their authority for their own benefit, rather than treating women as equal partners. The way this played out is seen in the way sexual rights were established. Miller (1990:88–89) illustrates this point by mentioning the law that states if a man had sexual intercourse with anyone other than his spouse, he possessed a different social standing compared to that of a woman found guilty of the same crime. He further notes that society viewed his actions in light of his wife’s inability to bring forth offspring for the family in order to carry on his name. In this regard, women were seen to be deliberately acting to hurt the family. Such a tradition therefore reduced women to be the property of men for “baby-making”. The kind of society that allows this practice is one that is steeped in patriarchy and needs to protect the paternity of marital offspring. Such a society should treat women fairly by empowering them to positively contribute to the needs of their family. Furthermore, the Covenant Code highlights a society rife with sexism and double standards. Male adultery does not include a man having sex with a prostitute or with an unmarried woman, or having multiple wives and concubines or secondary wives, while women did not have the same sexual freedom accorded to men (Mann 1995:80–83). My assessment is that women were treated as downtrodden; they were powerless to stop inequality and violence against them. This mistreatment of women is evident as early as the Code of Hammurabi until the youngest biblical code, the Holiness Code. This would indicate that the abusive treatment of women was uninterrupted from the earliest to the latest ANE legal codes.

The historical critical interpretation of the disempowerment of and violence against women in the ANE and the Pentateuchal codes is objective and very clear. This has been discussed. What the source analysis ignores to some extent, however, is that women’s views about this topic are

absent. I will therefore utilise a particular womanist-gendered lens to understand the mistreatment of women from within the work of the feminist scholars below.

2.11 Feminist movement

The feminist movement had its roots in the campaign for suffrage in Europe and North America in the 19th century, but a second wave emerged in the 1960s and 1970s. Among biblical scholars, this movement was meant to protest against the unequal yoke that women bore in interpreting the Bible, particularly but not exclusively, the Old Testament (Pierce & Groothuis 2004:17). Feminists sought to commit themselves socially and politically to the liberation of women, so that sexist behaviour, as seen in texts such as the Covenant, Deuteronomic/Deuteronomistic and the Holiness Codes, would be challenged and critically engaged (Ackermann 1993:23–24; Miller-McLemore 1999:79 and Jones 2000:6).

The feminist movement has always challenged patriarchy and its abuses, including violence towards and the disempowerment of women. It is therefore appropriate to examine this school of thought in the work of prominent feminist writers. As with the previous list, I was not able to include all the feminist biblical scholars I would have liked, but have chosen to focus on those whose work I believe was the most influential related to my research.

2.11.1 Phyllis Tribble

Tribble's academic work in this regard is *Texts of Terror*, in which she claims that the Bible is not a safe space for women. For her, there exists an intersection between violence as seen in the ancient biblical law codes and the kind of violence present in modern society. I agree with this view. It is almost as if these two contexts are carbon copies of each other. Tribble writes:

“To hear this⁶⁰ story is to inhabit a world of unrelenting terror that refuses to let us pass by on the other side” (Trible 1984:65).

Moreover, Trible (1984) adds that the stories of women in Judges echo terror. She compares hearing and telling the narratives of Judges to wrestling with demons in the night without a compassionate God to provide a way out. Like many other feminist interpreters, Trible affirms that the book of Judges portrays a picture in which women are victims of male abuse, violence and oppression (Trible 1984:4). In *Texts of Terror*, she aims at telling what she calls “sad stories of Scripture, those biblical narratives of terror generated against women”. I am convinced that these horrible portrayals are exactly what Trible refers to them as, “sad and terror stories”. She makes the 21st century reader aware of this abuse against women, but laments that the historical account does not help us interpret this behaviour.

2.11.2 Elisabeth Schüssler-Fiorenza

For Schüssler-Fiorenza (1984), texts like the biblical law codes need to be treated with a hermeneutic of suspicion. This is to highlight one’s awareness of how biblical texts are androcentric and serve patriarchal functions when it comes to how women are treated. Furthermore, a hermeneutic of suspicion also helps to question where one comes from in terms of framework when reading texts such as those that speak about the disempowerment of and violence against women (Schüssler-Fiorenza 1984:17). Schüssler-Fiorenza goes on to say that women need to rediscover how Christianity ought to be liberating their rights and freedom, instead of subjugating them. She also outlines four categories for reading Scripture as a feminist:

⁶⁰ Read the Judges 19-21 account

She writes:

“A hermeneutics of *suspicion* – Scripture’s patriarchal authors should be analysed with critical response thereto, a hermeneutics of *remembrance* – to reconstruct women’s history in Scripture that was concealed by male historical consciousness, a hermeneutics of *proclamation* – to assess and to evaluate Scripture theologically in order to point out its oppressive effect on women, and a hermeneutics of *actualisation* to recall, to embody and to celebrate women in the Bible’s achievements, suffering and struggles” (Schüssler-Fiorenza 2001:174-190).

I mention these points on Schüssler-Fiorenza’s alternative model of interpretation because this model unearths, brings understanding and undergirds the disempowerment of all women, past and present. Schüssler-Fiorenza succinctly fuses hermeneutics and social theory to make religious people aware of women’s oppression, while simultaneously promoting women’s heritage through applied social ethics.

2.11.3 Cheryl Exum

As seen in the biblical law codes, women were marginalised and disempowered in Ancient Israel. Very helpfully then is what the starting point ought to be when reading these texts, acknowledging that women were denied equality in social status even when they fuelled economic and agricultural growth. For Exum, feminist criticism is exposing the methods men used in ancient societies to justify their relentless control and abuse of women. She contends:

“Although it is only one stage in the process by which men have established hegemony over women, the biblical period represents an important stage, for

perhaps no other document has been so instrumental as the Bible in shaping Western Culture and in influencing ideas about the place of women and about the relationship of the sexes. Indeed, because its influence has been so extensive and because it continues to play an important role for many people, women and men, the Bible needs to be approached from a critical feminist perspective” (Exum 2007:66).

Exum is resolute in her view that the Bible has been written for men by men. That is to say, the Bible does not really consider the plight of women and the negative attitudes men have towards women. Further, she declares that the trends in the history of biblical interpretation have always been set by men (Exum 2007:67). Whether one agree with this statement or not, feminism is a relatively recent movement to address the imbalance of men’s power and rights over those of women.

Exum very poignantly expresses the following:

“If the Bible presents us with men’s views of women – what men thought women were like, or what they wished them to be – the feminist critic must ask how, if at all, a woman’s perspective can be discovered in, or read into, this androcentric literature. As long as we remain within the androcentric ideology of the Biblical text – that is, as long as we accept the male-centred world view that is inscribed in the biblical literature – we can do no more than describe ancient men’s view of women. Many feminist critics thus find it necessary to step outside the ideology of the biblical texts and raise questions not simply about what the text says about women, but also about what it does not say – questions about its

underlying assumptions about gender roles, about its motivation for portraying women in a particular way, about what it conceals and unintentionally reveals about the fact of women's suppression" (Exum 2007:67).

In evaluating Exum, it is clear that she is against a male-dominated world view. I find her postulation that the Bible has been written by men for men difficult to ignore.

In another study, entitled *The Hand that Rocks the Cradle* (2003), Exum argues that men control "symbolic production" when it comes to the making of history (Exum 2013:130). I agree with her assumption because the biblical law codes, and certainly most of the Old Testament, reveals that most of the authors were male, with very few female writers. However, a small number of female authors wrote about their experiences in a considerable number of ANE languages about the traditions and social practices of their time.

2.11.4 Gale Yee

In Yee's mind, feminism is critically engaging with biblical texts from a gendered lens. For example, Yee (1995:87) explains that violence against women is often seen as part of a society's moral decay. She suggests that men "fear women and their sexuality", so that when violence is perpetrated against them, men are able to control them better (Yee 1995:87). She asserts that whenever one encounters violence against women, it is a sign of a tactic put in place by men to subjugate women and further patriarchal society that benefits men only (Yee 1995:79). This is portrayed vividly for Yee in the Levite's *pilgeš* rape scene in Judges 19–21. It is noted in that story that all the characters have names, except the unknown woman who is brutally raped. Her name is unimportant and her status is insignificant because she is considered "disposable". With no explicit title in the Hebrew language other than *pilgeš*, she is presumably

a woman with no rights and no dignity, even though she was created in the image of God. Yee declares that an:

“Intrinsic analysis, acutely aware of absences in the text [like her name], notices furthermore that there is no textual mention of a primary wife. This absence provides the first clue to the Levite’s character and Israel’s patrilineal ideology, where men typically marry and have sons to carry on the family name, the Levite apparently eschews a primary wife and uses his secondary wife for sexual gratification” (Yee 2007:152).

In the examination of Yee’s position, it is clear that the kind of portrayal seen in Judges 19 with the “unnamed” concubine was not uncommon in a patriarchal culture like Israel. It is an indictment on the male hegemony that kept women subservient to the point of denied speech, expression and ultimately existence.

2.11.5 Koala Jones-Warsaw

Jones-Warsaw firmly states that the central aim for the feminist interpretation of law codes in the Old Testament is the power struggle of men. Men were generally granted the greatest rights, such as wealth, birth order, age and tribal affiliation, while in comparison women’s rights and privileges were given to them under the status of their patrons who exerted authority over them (Jones-Warsaw 1993:172–173). The law codes and the Scriptures ought to promote humanity and the dignity of women. However, Jones-Warsaw (2000:6) suggests it to be otherwise. In her book *Feminist Theory and Christian Theology*, she states that feminist interpretations have to speak to humanity and its development. She is concerned equally with the well-being of women and men (Jones-Warsaw 2000:6). Liberation for women should not be accomplished at the expense of “good” men. Jones-Warsaw stands for women, but she also seems to highlight the

plight of “good men”. She wants the dichotomy of “wicked men versus innocent women” to be understood within the larger society where the dichotomy is reversed (Jones-Warsaw 2000:179–181).

While I agree with Warsaw on her stance to give women equal rights and privileges, I disagree with her critique when she says the plight of women should not come at the expense of men. It seems like an unrealistic ideal to depend on the survival and wholeness of women and men on a system like patriarchy, which men largely benefit from. It would make more sense that on a social level, the disempowerment of and violence against women is set against a backdrop of systematic laws, misuse of power by men, rules, injustice and legislative rhetoric that is designed to intentionally keep the reins on women.

2.11.6 Katharine Dood Sakenfeld

Sakenfeld (1985:55) explains that feminism ought to be seen as a prophetic judgement against patriarchy, so that the contemporary culture of oppression is lifted and that those who prolong it may be called to repentance. Her argument is based on how sociology, anthropology and literary criticism have parted ways in their application of methods of engagement. She holds the view that feminist scholars have great confidence decrying how oppressive biblical texts and law codes are, so that abuse under patriarchy is undeniable in the fields of sociology and anthropology. For Sakenfeld, women’s lives are important and they matter (Sakenfeld 1985:11).

2.11.7 Susan Niditch

Niditch (2008:103) believes that the book of Judges is ambivalent toward the empowerment of women. She notes that the reason for this is because Yahweh alone was meant to be regarded as king, rather than corrupt human rulers (Niditch 2008:103). Consequently, Niditch

(2008:190-191) postulates that violence in Hebrew societies was the order of the day. She expounds that stories in Hebrew societies reached from tales right through to recreation (Niditch 2008:190). This includes violence of civil war, violence against visitors and violence against women. Sexual ethics seem to be a major theme of her writings, as well as men's power to subdue women. She almost implicitly attributes Israel's violent demeanour to their God, Yahweh (Niditch 1993:152). More noticeable for Niditch (2008:193) is how men abused and allowed other men to rape women and children in the book of Judges in order to keep women subdued. Niditch explains that the violence perpetrated by men against women is chaotic in a society where wholeness and peace were God's founding principles (Niditch 2008:211).

Niditch's view here is helpful from a sociological and anthropological standpoint in order to help women see their worth against the oppressive domination of men. I also agree with her that maybe God was silent on female abuse and therefore reinforced men's violent behaviour towards women. I take this from the book of Judges when God allowed corrupt human leaders to rule and not deal with immoral acts against women, such as the rape and murder of the Levite's concubine. Martin Luther King Jr's saying is also helpful in making this point: "There comes a time when silence is betrayal." This means when you don't speak up, you become part of the problem. In Israel's case, God in the Hebrew Bible and in the Book of Judges in particular, certainly did not come to the aid of women. It would seem that for a long time, he remained silent in the face of disempowerment of and violence against women.

2.11.8 Gerda Lerner

The feminist biblical interpretative enterprise is summarised succinctly in terms of the wording set out by Lerner (1993), who argues that: "Generation after generation, in the face of recurrent discontinuities, women thought their way around and out under patriarchal thought" (Lerner

1993:166). Women have always endured amidst the weight of oppression that carries over to every generation, the weight of patriarchal control where the authority and humanity of women were diminished. However, they always seem to rise to the top. This hopeful inclination of Lerner comes from her outstanding work on patriarchy, where she explains that nowhere in human history have women ever overthrown men. She adds that patriarchy in the Old Testament was ingrained into society over years (Lerner 1986:54). It was the kind of social conditioning that saw women being portrayed as “deviant, incomplete and emotionally dependent” on men (Lerner 1993:3). She believes that patriarchy in a society like Israel’s determines a woman’s position, as seen in the story of the Levite’s concubine in Judges 19, and also explains her experience of social power.

In my assessment of Lerner, I see patriarchy to be destructive to women’s consciousness and very real potential power that they could bring to the development of society. God, after all, did not solely give men dominance over his creation, but women as well. Women are also empowered to regulate the world; in some cases, they do so much better than men. Women have rights over their own reproduction. This is an ideal we can strive for and it is why Lerner’s hopeful rhetoric is aspiring.

In this section, I showed that historically and otherwise, the problem surrounding violence against women was evident in Israelite society. Furthermore, studies regarding violence against women have in some cases been used as a tool to circumvent a patriarchal society.

The aforementioned scholars from the feminist movement discussed patriarchy and masculinity that directly links the Old Testament with female disempowerment. Through their writings, feminists have shown that we do indeed need a revolutionary way of thinking about patriarchy because it encodes the disempowerment of and violence against women.

2.12 Synthesis

There is a trend to how women were treated in the ANE. There was definitely a negative progression in the treatment of women. That progression is evident in the law codes regarding disempowerment of and violence against women. The law codes reveal that women were generally treated as property, the property of men in particular. It is clear that the disempowerment of and violence against women was a deliberate process that first took place in popular culture of the ANE and then was solidified in different laws, including Israelite law.

The above discussion has demonstrated how the process of law (biblical laws and the earliest ANE laws, such as the Code of Hammurabi), which includes subservient laws about women, came into existence from popular culture to oral and written law. The brief scholastic review showed that a relationship does exist between the earlier codes, such as the Code of Hammurabi, and the Pentateuchal codes.

This chapter has shown that women are disempowered and violence against them permeates from the historical accounts of ANE and Mesopotamian cultures. Unquestionably, Israel borrowed from these cultures in an attempt to silence the voice and lived experience of women. From the persecuted women in the Code of Hammurabi right through to the Holiness Codes of Israel, we see accounts of nameless concubines who suffer sexual violence at the hands of a patriarchal society, slave women who are punished for being victims of disempowerment in the Ancient Israelite economy and endless women who are abused in their homes without severe punishment to their perpetrators. This is the reality of women in the ANE (Trible 1984:66). I would agree with Kirk-Duggan (2012) who asserts, “We need to hear women’s

voices, and make sure that alternate perspectives that included women's views in the story are lifted from the text" (Kirk-Duggan 2012:84).

CHAPTER 3: RELATIONSHIP BETWEEN LEGAL CODES AND HEBREW BIBLE

3.1 Introduction

This chapter explores the similarities and differences of Ancient Near Eastern societies and Pentateuchal codes to extrapolate links to a modern society such as South Africa. This study contends that there are strong links between the disempowerment of and violence against women in Deuteronomy⁶¹ and the Code of Hammurabi as it relates to South Africa. I would argue that the only way to loosen the grip of violence against women is to address the underlying problem.

3.2 Similarities and differences between legal codes

Before analysing the similarities and differences between the Code of Hammurabi and the biblical laws (also known as Mosaic Law), I must first distinguish between the various codes within Mosaic Law, namely the Covenant Code (as seen in Ex 21–23), the Deuteronomic/deuteronomistic Code (as seen in Deut 12–26) and the Holiness Code (as seen in Leviticus 17–26). The Covenant Code is the second of the law codes given by God to Moses on Mount Sinai and is an ideological work which seeks to counter foreign hegemony (Wright 2009:241). The Deuteronomic/deuteronomistic Code sets out the rules which Israel is to follow in their conduct and worship of God, including the Ten Commandments, while the Holiness

⁶¹ Deuteronomy 17:18: When he takes the throne of his kingdom, he is to write for himself on a scroll a copy of this law, i.e. “covenant renewal document”. Moses summoned all Israel and said: “Hear, Israel, the decrees and laws I declare in your hearing today. Learn them and be sure to follow them. 2 The Lord our God made a covenant with us at Horeb. 3 It was not with our ancestors that the Lord made this covenant, but with us, with all of us who are alive here today. (Deut 5:1–3)

Code is so called because of its repeated use of the word “holy” and is seen as distinct from the rest of the book of Leviticus (Otto 1996:114).

Apart from the similarities within the proclamation of God in both sources, other similarities lie within laws regarding punishment for adultery and stealing, as well as laws regarding retaliation. A striking parallel found between the Code of Hammurabi and the Deuteronomic/deuteronomistic Code concerns *lex talionis*. In the Code of Hammurabi (laws 196–197), it states, “If a free person puts out the eye of another free person, that person’s eye shall be put out. If a free person breaks the bone of another free person, that person’s bone shall be broken” (Wright 2009:14). Similarly, regarding retaliation within the Mosaic Law, it states, “Your eye shall not pity: life *shall be* for life, eye for eye, tooth for tooth, hand for hand, foot for foot” (Deut 19:21). Although many of the Mosaic Laws are found within the book of Deuteronomy, a similar law regarding *lex talionis* is found in the Holiness Code in the book of Leviticus: “Anyone who injures their neighbour is to be injured in the same manner. Fracture for fracture, eye for eye, tooth for tooth. The one who has inflicted the injury must suffer the same injury” (Lev 24:19–20). This law is shared between both sources due to it being a common ANE law concerned with the theme of justice and self-defence. Both sources indicate that the laws brought forth by the Code of Hammurabi and the Mosaic Law are based on justice and moral norms, rather than pacifism (Wright 2009:15).

Many of the laws in these codes share common elements regarding punishments and how they should be executed. However, the Mosaic Law tends to be more explicit. Hence, this common ground is suggested to be one of the reasons why the author(s)/composers/editors of the Mosaic Code might have taken some laws from the Code of Hammurabi, as well as some other

unknown sources in order to compile the Mosaic laws. Wright (2009:16) argues that the chronological order of the Mosaic laws are based on the Code of Hammurabi. One justification he uses for this is that the Mosaic laws do not arise from any court proceedings or from everyday Judean legal practices. It is important to recognise the order of the laws in both the Mosaic Code and the Code of Hammurabi, since most of the laws follow the same order. For example the sequences are normally found in the laws regarding the punishment for certain crimes, such as the similarities of the order and punishment for robbery (Wright 2003:241). In the Code of Hammurabi (laws 21–23), it states, “If a man digs into a house, they shall kill him in front of that breach and hang him up. If a man commits robbery and is seized, that man shall be put to death. If the robber is not seized, the robbed man shall declare his lost property before the god and the city and the governor in whose locale and district the robbery occurred shall replace for him his lost property” (Wright 2003:241). Similarly, the ruling on whether or not the robber should be seized appears in the Covenant Code, which states, “If the thief is seized while tunnelling and the sun has risen on him, there is blood guilt in that case. He must make restitution; if he lacks the means, he shall be sold for theft” (Exod 21:1–2).

Wright (2003:241) concludes that these specific laws within the Mosaic Law have been added from the Code of Hammurabi, with the possibility of other burglary laws within the Mosaic Code being copied from other unknown sources. Many reasons come into play as to why there are parallels between the Law of Moses and of Hammurabi. Scholars have theorised on this relationship (Wright 2003:242). The documentary hypothesis plays a key role in affirming the assumption that the Hebrew Bible was composed by post-Mosaic authors who have possibly added parallels from other sources. This is proven through the process of the development of

the Hebrew Bible and how it went through revisions before becoming authoritative by the second century BCE (Brettler 2005:277–278).

A theory advanced by Cook (1903:38) is that since the Code of Hammurabi originated from Babylon, it is logical that it may have been embedded within Mosaic Law due to the Babylonian exile in 597 BCE. Cook (1903:84) suggests that this may have been one of the main reasons why the Israelites may have copied the Babylonian laws and attributed them to the Law of Moses. Although there are many similarities between both legal codes, it is equally important to recognise the differences between them. Indeed, that is why some scholars advocate the idea of the sole authorship by Moses of the Torah, the first five books of the Old Testament (Cook 1903:38).

According to Wolf (1999:08), the primary distinction between the Mosaic Code and the Code of Hammurabi are Moses and Hammurabi themselves, even though most scholars agree that the Mosaic Law was not written by only one person. Although both codes shared laws based on ANE themes and traditions, Moses and Hammurabi had different theological viewpoints. The Babylonians worshipped many gods, but recognised the dominance of the sun god Shamash, which is evident in the Code of Hammurabi. In contrast, the Hebrews worshipped a single deity, whom they referred to as Yahweh.

Apart from their different theologies, both sources contain other differences, such as the explicit violence expressed in some laws in the Code of Hammurabi, compared to the more restrained Mosaic Law. One of the major differences between the two legal codes concerns marriage, specifically the rulings on inheritance. The books of Deuteronomy and Leviticus

clearly outline the laws regarding inheritance and property rights in marriage (Wolf 1999:10). Unlike the customs of the Babylonians, who did not hold marriage in high esteem⁶², the Israelites believed that observing and obeying laws regarding marriage and property rights had a positive just and social effect, although ultimately these laws would adversely affect the standing of women in ANE society.

3.3 Comparison of legal codes

I will now consider the Code of Hammurabi within the context of women and ANE society. A significant difference between the legal codes of Moses and Hammurabi is that the laws of Hammurabi, which advocate justice, tend to be more explicit. Within the Hebrew Bible, the Mosaic laws promote justice through mercy. However, as described in the Code of Hammurabi, the penalties for inefficiency, particularly in disempowering women, were severe. For example, in law 109 of the Code of Hammurabi, the ale wife would be sentenced to death if she failed to turn in those who committed felony and visited her house. Furthermore, even the builders of the house would be sentenced to death if the house they built collapsed and killed the house owner (Wolf 1999:10). No such law is found within the Hebrew Bible due to the different social constructs that resided in Palestine in the 18th Century BCE, although in Deuteronomy a harsh punishment is meted out for the unfaithful son and sexual offences are punished by stoning offenders to death (Westbrook 2003:361). This illustrates that Babylon was governed by laws concerning social justice, while the Israelites were governed by laws concerning not only justice, but also compassion, due God's mercy (Wolf 1999:11). This is shown within the Hebrew Bible where God speaks to His people: "If you take your neighbour's garment in

⁶² The people of Yahweh sought his blessing for disobeying marital laws; offenders tried to appease Yahweh in worship with great zeal and emotion when they divorced Hebrew women (Wickham 2009:153).

pledge, you must return it to him before the sun sets; it is his only clothing, the sole covering for his skin. In what else shall he sleep? Therefore, if he cries out to Me, I will pay heed, for I am compassionate” (Ex 22:26). In the Code of Hammurabi, the concept of the god Shamash’s compassion and mercy is rarely found within laws; rather Hammurabi himself states at the end of his legal code that anyone who changes his laws will encounter his curse (Wolf 1999:10). Though these differences are limited, it is evident that the Code of Hammurabi cannot be considered a moral or humanitarian legal code since it seeks to establish justice through the execution of harsh punishments with minimal intervention from Shamash. However, the Law of Moses focuses more on moral codes. These laws are shown to be observed by the Hebrews with caution due to an awareness of God’s justice, as well as His mercy and compassion⁶³ (Wright 2009:14; Berlin 2004:34).

3.3.1 Societal norms relating to women

Without doubt, there are many connections and parallels between the Code of Hammurabi and the Mosaic Law in the structural sequence, as well as the content of the laws. Both legal codes share similarities regarding political and social issues related to the crime and punishment of men and women. Scholars have presented many theories to indicate how the Hebrew Bible includes laws which may have been taken from Hammurabi (Morrow 2013:309–331; Wright 2009:220–244). Some have advocated against the authorship of Moses⁶⁴ (Archer 1998:173;

⁶³ The Lord passed before him and proclaimed, “The Lord, the Lord, a God merciful and gracious, slow to anger, and abounding in steadfast love and faithfulness, keeping steadfast love for thousands,[a] forgiving iniquity and transgression and sin, but who will by no means clear the guilty, visiting the iniquity of the fathers on the children and the children’s children, to the third and the fourth generation.” And Moses quickly bowed his head toward the earth and worshipped (Exodus 34:6–8).

⁶⁴ “It is helpful to consider a number of objections to Mosaic authorship held by JEDP or documentary hypothesis theorists:

Objection No 1: Why are there multiple names for God, if a single author composed the Pentateuch?

Claim: JEDP theorists note multiple names for God in the Hebrew text. For instance, in Genesis 1:1–2:3, the author uses the term “Elohim” for God, while Genesis 2:4 introduces the term “Yahweh”. Critics argue that a later author/editor came across two creation stories, and he spliced them together. One is from the Elohist (or “E”) source, and the other is from the Yahwist (or “J”) source.

Response: The term Elohim refers to God as Creator, while Yahweh refers to him as Covenant-Maker (see this usage in Ex. 6:3). Some interpreters see Genesis 1 as referring to physical creation, while Genesis 2 focuses on spiritual creation. Others regard Genesis 1 as the big picture of the cosmos, and Genesis 2 as a “zoom in” on the human race – the centre of God’s creation. When dealing with the cosmos, God has one name, but when dealing with humans, he has another. These are not contradictory accounts; they are complementary accounts. In the same way, the NT authors call Jesus both “Saviour” and “Lord.” But few would see these titles as evidence of dual authorship. This claim assumes that one author cannot use two different words to describe God. And yet we would never place this arbitrary criterion on any other kind of literature. Consider C. S. Lewis as an example. He wrote juvenile books for children, educational books in philosophy, devotional Christian literature and poetry. If we applied this criterion to Lewis’s works, we might divide his writing into four separate writing communities – the Juvenile Source, the Educational Source, the Devotional Source, and the Poetry Source (or JEDP). While this is clearly questionable, this methodology is similar to the subjective nature of the JEDP theory. The use of two different names does not prove two separate authors: it proves that one author had two separate purposes. Different contexts require different names. Moreover, Moses wrote over the course of four decades in different contexts to different people for different purposes. Would any author maintain the same style over 40 years of writing?

Objection No 2: How could Moses record his own death in Deuteronomy 34?

Claim: Critics point out that Moses could not have written all of the Pentateuch, because the end of Deuteronomy (chapter 34) records his death.

Response: This is not a new objection. Readers of the Bible have made this observation for millennia. Proponents of Mosaic authorship have always assumed that a later author added this final chapter after Moses died. Because the book of Joshua is a clear continuation of the story, it is argued that Joshua probably wrote Moses’ obituary. Likewise, the prophet after Joshua probably wrote his obituary. Admitting that the last chapter was a later addition is different than saying that all the chapters were later additions or redactions. This objection really throws the proverbial baby out with the bathwater. We cannot judge the theory of Mosaic authorship based on the last chapter of the Pentateuch. Instead, we need to base our judgement on all of the collective chapters combined.

Objection No 3: Why are later names used if Mosaic authorship is true?

Claim: In certain points of the Pentateuch, later names are used in the text. For instance, the city of Dan (Gen. 14:14), the city of Bethel (Gen. 28:19) and the names of Israelite kings (Gen. 36:31) are all anachronistic titles: these titles did not exist at the time. These places were named with these titles later in history. Critics argue that this proves post-exilic authorship.

Response: It is perfectly appropriate for a later author to update the name of a land or people. This would be similar to a historian using a modern name for a city, rather than using its ancient name. Put another way, why would later generations still refer to these territories with their ancient names, rather than their current names? Using antiquated names would be intentionally difficult for a contemporary audience to understand. Moreover, it makes more sense that later authors would change the names of a few cities rather than later authors knowing elements of history, culture, and archaeology, as critics claim. A later author might change a name retrospectively, but how could he know history retrospectively hundreds or thousands of years after the events in question?

Objection No 4: How could Moses write this before the monarchy (Gen. 36:31)?

Anderson 1966:79) and others have credited his authorship⁶⁵, while also arguing that those parallels found in the Hebrew Bible are a product of the Babylonian exile, as well as the role that post-Mosaic authors had in formalising it (Otto 1993:3–22; Finckelstein 1981:2 and

Claim: This passage refers to a time “before any king ruled over the Israelites”. But critics argue that this was written 500 years before Israel became a monarchy. If this is truly Mosaic authorship, how could the author have known about the future kingship in Israel?

Response: This is another case of an anti-supernatural bias. If God exists, then he can know and impart the future to finite human beings through supernatural revelation. Moreover, God had made promises to Abraham (Gen. 17:16) and Jacob (Gen. 25:23; 35:11) about kings being among their descendants. Since Moses knew these promises, he was aware that a king would come in Israel’s future. This is why God gave Moses laws for the future king (Deut. 17:14–15). Clearly, God had promised the Jews land and a nation. It only made sense to see the need for a future king as well. In this passage above, Moses was comparing and contrasting Israel’s future kingdom with Edom’s. He was demonstrating that Israel would overcome Edom.

Objection No 5: How could camels exist at this time (Gen. 12:14–17; 24:63; 30:43)?

Claim: Critics claim that camels were not domesticated during this time (2 000 BCE). In fact, they claim that they were not domesticated until 1 000 BCE.

Response: This is an argument consisting of silence. Even if we did have a record of domesticated camels, we would not necessarily expect to find the answer because our knowledge of 4 000 years ago is fragmentary. However, remarkably, we do have records of domesticated camels during (and even before) this period of history. K.A. Kitchen writes, “There is both philological and archaeological evidence for knowledge and use of this animal [the camel] in the early second millennium BCE and even earlier”(Kitchen 2003:80).

Objection No 6: Were the Philistines around at this time or not (Gen. 21:32–34; 26:1–18)?

Claim: Critics note that the Philistine nation did not exist until the 12th century BCE. This, they charge, is an anachronism on behalf of the author.

Response: The author of Genesis does not claim that the Philistine nation was large (as it was in the 12th century BCE or later). Instead, the Philistines were most likely a small tribe at this time. We detect this from the text in Genesis 21:25, where the Philistine king (Abimelech) is intimidated by Abraham and his tribe of a couple of hundred men. Moreover, these passages only mention Gerar, which was the smallest of the Philistine city-states. The bigger city-states are not mentioned (e.g. Ashdod, Ashkelon, Ekron, Gath, and Gaza – Josh. 13:3; 1 Sam. 6:17). Moreover, Kitchen notes, “We know so little about the Aegean peoples as compared with those of the rest of the Ancient Near East in the second millennium BCE that it is premature to deny outright the possible existence of Philistines in the Aegean area before 1200 BCE” (Kitchen 2003:79).

Objection No 7: We don’t know some of the other authors of Scripture, so Mosaic authorship isn’t an important issue.

Claim: The author of the book of Hebrews is unknown to us. However, we can still take truth from this book, as God’s inspired Word. From this, some argue that knowing the true authorship of the Pentateuch is equally unimportant.

Response: These are not analogous because the author of Hebrews is unknown, while the author of the Pentateuch is clearly stated. The books claim to be written by Moses and the NT authors affirm this claim. “There is a big difference between an anonymous author and a pseudepigraphical author” (Mortenson & Hodge 2016:3).

⁶⁵ Scholars defending the Mosaic authorship include Green, W.H 1895, James Orr, J 1906, Gleason L. Archer, G.L 1964, Dyson, R.A & MacKenzie, R.A.F 1953: 61–66, Steinmann, J 1958: 81 ff.

Westbrook 2008:91–118). However, the differences between the Law of Moses and the Code of Hammurabi show the contrasting religious approaches within Babylonian and Hebrew societies. Although the top relief of the stone stele of the Code of Hammurabi features a picture of the god of justice, Shamash, giving a sceptre and ring to King Hammurabi, in the laws themselves there does not appear to be divine intervention. It is evident that the laws mostly focus on social norms which have to do with justice and punishment, while the Law of Moses relies heavily on the justice and mercy of God in applying these laws. Nonetheless, scholars such as Cook (1903:207) and Wright (2009:224) agree on the fact that the similarities between these two legal codes outweigh the differences. For this reason, I am convinced that the Mosaic Law and the Code of Hammurabi are two monumental ancient texts which governed societies efficiently based on the social constructs of that time period. They therefore left a legacy for the studies of Ancient Israelite history.

How did society look in the ANE around 4000–3500 BCE when its population increased significantly enough to become an urban society and civilisation? The farmers who flocked there, drawn as they were to the rich alluvial soil created by the flooding of the Tigris and Euphrates Rivers, did not find it an easy place to settle in like ancient Egypt because the flooding was unpredictable. This region received no rainfall for eight months of the year and then received torrential spring showers that produced flooding of such magnitude that irrigation with canals was essential. Especially conducive to farming, the soil was neither rocky nor tree-laden. Cooperation with people on either side of the Tigris and Euphrates Rivers was needed to build canals, which then allowed the people to produce enough excess crops to sell. This enabled some of the farmers to venture into the production of goods that could be exchanged

for food, and so the artisan crafts developed. Out of this organised labour structure, questions began to arise concerning women and what place they occupied in society.

3.3.2 Economic measures relating to women

Women could own, purchase and inherit property in the ANE. However, the application of the prevailing laws mostly curbed this from happening (Gardner 1951:57–58). Women worked in a wide variety of occupations, including food and cloth production, temple complexes and slavery based on their social status. Interestingly, different deities either gave way to further development in this area or they inhibited development.

3.3.2.1 Industry

Heimpel (2003:284) highlights that it was the men who were dispatching and rationing the supply provided by the women. While the manufacture of state products was left to the skills of women, men were involved in higher-level administrative tasks. Though the system wouldn't work without the skilled labour of women, men were given the more esteemed tasks.

This labour division potentially stemmed from the fact that while textile workers were women working outside of the home, they were still physically working inside, while men were working outdoors. The tasks of women, like weaving and milling, are all secondary processing tasks of agricultural products. Men then brought their produce inside to a woman's domain to be processed, before the men once again dominated the tasks of distributing the produce. Though these women were outside of their homes, a woman's sphere of influence was considered indoors, although exceptions of course occurred. The woman's "place" remained consistent, despite the change in environment from the household to a professional sphere (Heimpel 2003:284).

Just as men worked at activities held in the realm of female expertise, in times of need women undertook strenuous tasks in male-dominated arenas. In this case, a third class of labourers can be suggested, separate from the part-time workers and the state-owned labourers. Though labour was likely only enforced on the male heads of households, women may have worked en masse in agricultural or heavy-labour settings because their households needed the extra income. Though these women entered non-typical labour situations, they certainly didn't lose their feminine identity. Even though they were the exception, these women were nonetheless still able to rear their children successfully and assist their families financially (Lafont 2013:1).

3.3.2.2 Agriculture

The mention of women and children being part of the workforce notes this exception to the rule, showing both that these workers were not usually part of the agricultural labour force and that the governor gathered the greatest numbers possible for service to his king. As with workers in the textile industry, women were able to bring their children to work. Furthermore, this female activity proves that not only men were involved in agriculture and that women didn't confine themselves to secondary tasks alone, such as the grinding of grain. However, it is worth noting that because women were often referred to as a special case in the labour setting, this was a unique circumstance of desperation and not a common occurrence (Heimpel 2003:416).

According to Heimpel (2003:421), "women and children were working alongside men to fill a mountainside canal with water, so that it would be impassable by the invasion of the locusts, as well as working to kill as many of them as they could physically". The texts once again refer to a situational case, as opposed to a consistent labour force. While the dire situation of locusts prompted the need for all hands to help, it is likely that prominent and wealthy women did not

participate in the tasks of lower-class men” (Heimpel 2003:421). No doubt this could be avoided by a woman of the upper class paying someone of lower social standing to substitute her.

The state’s labour force included three groups of women: part-time hires working for extra rations, state-owned workers and women whose families joined their husbands. Though poorer, lower-class women who took these jobs comprised a large and essential part of the state’s economic workforce. The jobs these women performed involved domestic skills that the state required them to fulfil (Ceecilia & Owen 1991:306).

Notably, although the production of beer and the processing of grain was a feminine task within the home, the Old Babylonian period represents a transitional epoch for women outside of the home. Professional female brewers were known as *sirāšītu* (Ceecilia & Owen 1991:306).

Male brewers were also common; in fact, brewing commercially appeared to have been a male endeavour, at least from the Ur III period. During the Old Babylonian period, men became the primary brewers outside of the home, while female brewing ceased to be an occupation (Harris 2000:106). This is an interesting transition because brewing had been a task traditionally performed by women in the household under the guidance of a feminine deity. Indeed, other female deities morphed into gods as different jobs became more male orientated. An example is the early goddess of pottery, Ninurra, who eventually became absorbed into the god Enki. This change reflects the transformation of pottery from a household task into a specialised craft undertaken by male artisans (Frymer-Kensky 1993:35). When brewing left the household and

became a commercial endeavour, it was taken over by men, but the task remained in the home as a female responsibility. Thus Ninkasi remained a woman and in charge of the activity.

3.3.2.3 Entertainment

The Code of Hammurabi designates a class of women who were too pure for taverns and who should not be dealing with the likes of tavern keepers. Though taverns must have been considered by their patrons as enjoyable establishments, the government certainly viewed them in a different light. The law states that, “If a *naditu* or an *ugbaltu* who does not reside within the cloister should open a tavern or enter a tavern for some beer, they shall burn that woman” (Frymer-Kensky 1993:103). While taverns were a place of drinking and merriment, and likely prostitution, they were not appropriate places for religiously pure women to frequent, women who held themselves to different standards and expectations than lower-class women. The punishment was extremely severe on the priestess who failed to maintain her religious obligations. Entering a den of drinking and promiscuity certainly falls into this category. While religiously, the activities of consuming alcohol and fornication weren’t considered sinful, as goddesses celebrate both of these actions, the higher-class priestesses had different standards to uphold (Frymer-Kensky 1993:110).

A separate law deals with the types of patrons that taverns typically served. The law demands the cooperation of tavern keepers, whose establishments were likely frequented by the types of vagabonds that prohibited the high priestesses from enjoying tavern life. The Code of Hammurabi (109) states: “If there should be a woman innkeeper in whose house criminals congregate, and she does not seize those criminals and lead them off to the palace authorities, that woman innkeeper shall be killed.” The law suggests that criminals visited taverns frequently enough to cause problems (Lion & Michel 2016:109). The responsibility given to

tavern keepers to help catch criminals is telling of their managerial role. While these types of people may visit their establishments, the tavern keepers were expected to maintain the sanctity of their homes and were given the respect and responsibility of this task in their own domain.

3.3.2.4 Upper-class women

Davis (2000:213) posits that upper-class women were in the highest status professions. Being a priestess was the most prestigious position for women, which meant that they were the chief attendants to the gods and goddesses. Enheduanna (circa 2300 BCE) was the earliest known priestess and one of the most famous women in ancient history (Kramer 1989:330). She was the high priestess of Inanna, the goddess of love and war, and the moon god Nanna and she lived in the Sumerian city-state of Ur. While she was appointed by her father, the ruler Sargon the Great, her ability and administration of her duties was excellent (Harris 2000:98). As chief priestess, she presided over a huge temple complex, including a library, granaries, schools, hostels and a large tract of land. The stepped mud-brick pyramidal structures were called ziggurats and could be as big as cathedrals (Mark 2020:1). For instance, the temple in the city-state of Lagash (circa 3000 BCE) provided daily bread and ale for more than 1 200 people. The temple to Nanna at Ur is extant. One of the chief priestess's duties was to communicate the deity's wishes to humans by way of omens (Mark 2020:1). These omens could be found in the shape of the liver in sacrificed sheep. Failure to revere and propitiate the deities could bring catastrophes like floods, drought, pestilence and enemy raids.⁶⁶

It was Enheduanna's devotion and composition of hymns to Inanna that has brought her lasting fame (Hallo & Van Dijk 1968:232). In Enheduanna's eulogies of Inanna, she described her as equal in rank to the deity An, who became head of the Sumerian pantheon sometime in the third millennium BCE, supplanting Inanna. Enheduanna wrote 42 hymns to Inanna:

⁶⁶ See Mark J.L (2020) Available at: <https://www.ancient.eu/Enheduanna/> [Accessed on 28 April 2020]

Temple Hymn 7

The Kesh Temple Of Ninhursag

“The lofty high-lying Kesh
in all heaven and earth
you are the form-shaping place
spreading fear like a great poisonous snake

O Lady of the Mountains
Ninhursag’s house
built on a terrifying site

O Kesh
like holy Aratta
inside is a womb dark and deep
your outside towers over all

Imposing one
great lion of the wild lands
stalking the high plains
great mountain
incantations fixed you in place

Inside the light is dim
even moonlight (Nanna’s light) does not enter
only Nintur Lady Birth
makes it beautiful

O house of Kesh
the brick of birthgiving
your temple tower
adorned with a lapis lazuli crown

Your princess
Princess of Silence
unfailing great Lady of Heaven
when she speaks heaven shakes
open-mouthed she roars”

Aruru
sister of Enlil
O house of Kesh
has built this house on your radiant site
and placed her seat upon your dais” (Rothenberg 2020:1–6 poems).

Temple Hymn 15

The Gishbanda Temple Of Ningishzida

“Ancient place
set deep in the mountain
artfully

Dark shrine
frightening and red place
safely placed in a field
no one can fathom your mighty hair-raising path

Gishbanda
the neck-stock
the fine-eyed net
the foot-shackling netherworld knot
your restored high wall is massive
like a trap

Your inside
the place where the sun rises
yields widespread abundance

Your prince
the pure-handed
shita priest of Inanna
heaven’s holy one

Lord Ningishzida
his thick and beautiful hair
falls down his back

O Gishbanda
has built this house on your radiant site
and placed his seat upon your dais” (Rothenberg 2020:1–6 poems).

Temple Hymn 17

The Badtibira Temple Of Dumuzi Emush

“O house

Jewelled lapis herbs fleck the shining bed
heart-soothing place of the Lady of the Steppe

Emush
brickwork glistening and pure
its burnished clay placed firmly on the earth

Your sky-rising wall sprawls over the high plain

for the one who tends the ewes
and over the Arali House for the shepherd

Your prince
radiant one of the Holy Woman
a lion pacing the steppe back and forth
the wonder-causing pure breasted one
the lord
spouse of pure Inanna

Dumuzi
master of the Emush
O Badtibira (fortress of the coppersmith)
has built this house on your radiant site
and placed his seat upon your dais” (Rothenberg 2020: 1–6 poems).

Temple Hymn 20

The Lagash Temple Of Ningirsu Eninnu

“Eninnu
right arm of thick-necked Lagash in Sumer
with heavy-cloud bird Anzu’s eyes
that scan insurgent mountains

Ningirsu’s crowd-flattener blade a menace to all lands
battle arm
blasting storm drenching everyone
battle arm
all the great gods
the Annuna
grant again and again

So from your skin of bricks
on the rim of the holy hill
green as mountains
you determine fates

A holy whirlpool spins in your river
blowing whirlwinds spawn from your glance

At the gate facing the Holy City
they pour wine into fine stone vessels of An
out under the sky

What comes in cannot be equalled
what goes out never ceases

At the fiery face of the Shugalam gate
its radiant brilliance the fate-cutting site
Lord Ningirsu besieges with hair-raising fear

All the Annuna appear at your great wine festival

Your prince furious storm wind
destroyer of rebel cities
your king
angry bull flaunting his brawn
savage lion that makes heads shake

Warrior the lord of lords who plots schemes
king of kings who mounts victories
mighty one, great hero in battle has no rival

Son of Enlil
lord Ningirsu
O Eninnu
has built this house on your radiant site
and established his seat upon your throne” (Rothenberg 2020:1–6 poems)..

Temple Hymn 22

The Sirara Temple Of Nanshe

“O house you wild cow
there to conjure signs from divination

you arise, splendid to behold
bedecked for your princess

Sirara
great and princely place
you dream-opener
highly prized in the shrine

Your lady Nanshe

A great storm
strong dark water

Born on the shore of the sea
laughing in the sea foam
playing in the waves

Divine Nanshe

mighty Lady
O house of Sirara
has built this house on your radiant site
and placed her seat upon your dais” (Rothenberg 2020:1–6 poems).

Temple Hymn 26

The Zabalam Temple Of Inanna

“O house wrapped in beams of light
wearing shining stone jewels
wakening great awe

Sanctuary of pure Inanna
where divine powers the true me spread wide

Zabalam
shrine of the shining mountain
shrine that welcomes the morning light
she makes resound with desire

the Holy Woman grounds your hallowed chamber
with desire

Your queen
Inanna of the sheepfold
that singular woman
the unique one

who speaks hateful words to the wicked
who moves among the bright shining things
who goes against rebel lands

And at twilight makes the firmament beautiful
all on her own

Great daughter of Suen
pure Inanna

O house of Zabalam
has built this house on your radiant site
and placed her seat upon your dais” (Rothenberg 2020:1–6 poems⁶⁷).

⁶⁷ See Rothenberg (2020). Available at: <https://jacket2.org/commentary/enheduanna-2300-bce-seven-sumerian-temple-hymns> [Accessed on 28 April 2020]

In her *Exaltation of Inanna*, Enheduanna relates how Inanna rescued the tree of life (like the biblical tree of knowledge) from the world flood and planted it in her garden. As the first known author by name, her poetry was copied and studied, greatly influencing the development of literature in the Ancient Near East. There was a special dialect called “language of upper-class women” used for speeches of women and goddesses in various genres, including love poetry. Ten royal priestesses followed Enheduanna over the next five hundred years, with each holding office for life like their predecessor. Written tablets exist recording the commercial activities of the priestesses, indicating their business acumen (Gardner 1951:53–54).

There were other types of priestesses and religiously connected upper-class women, indicating the complexity of the religious practices of this Sumerian culture (Meyers 1991:39–51). It was also mainly upper-class women who composed music, used in the dances and songs performed at the religious temples. There were several communities of celibate women in the ANE, but we do not know what their religious function was. Some of these women could marry, but still wanted to maintain their virginity (Stol 2016:73). There is an indication that poor widows gave their children to the temples to save them from starvation. Other children, including orphans, might have become slaves at these religious sites (Davis 2000:213). In 2 Sam 16:21–23, we see the classical case of King David’s son Absalom, who used sex against his father to lay claim to his throne. More astounding than this, however, is the fact that the author of this story keeps the women in this story nameless. Moreover, Amnon, David’s other son, seeks to rape his sister Tamar by trickery (2 Sam 13:2) because he is compelled to satisfy his lust. Cline (1995:214) suggest that this kind of perfunctory and political abuse of women speaks to, “Masculinity being a social construct, the product of historical processes, as much a human construct as the pyramids of pewter” (Cline 1995:214). This is heightened by how men were seen as self-reliant and autonomous, while women were powerless.

3.3.2.5 Lower-class women

Lower-status women wove⁶⁸ wool into cloth for sale in textile production (Ackerman 2003:193). Apprenticeship programmes were available for them. It was the women of the highest status who were supervisors and business owners in these trades (Dever 2012:142). The textile industry was a major source of wealth in the ANE, but little of this benefit was enjoyed by lower-class women (Trible 1984:100–101).

Weaving was a job compatible with child care as it could be interrupted when necessary to tend to children's needs. The perfume industry was another important employer of women in the ANE. Some lower-class women were experts at originating recipes for perfume-making. The brewing and selling of beer and wine were activities also engaged in by lower-class women.

3.3.2.6 Outcasts

Women who did not fit in either the upper or lower class were considered as outcasts. Some of these women were forced into labour gangs to work on public projects. Others made prostitution their trade, dressing to attract male customers. Art renderings of these women were made (Dalley 1990:54). They were often portrayed as a woman leaning out of a window. Interestingly, there was no stigma attached to prostitution⁶⁹ in the ANE. Included in the written record of female professions was that of a prostitute (Stol 2016:421). The parents of a daughter could sell her into prostitution. Part of the temple complex included sacred prostitutes. While the exact purpose of sacred prostitution is obscure, it may well have had its origin in fertility rituals. Sacred prostitutes did not sell their sexual services, but represented the goddesses and their sexual union with the king to ensure the prosperity of the kingdom (Stol, 2016:400).

⁶⁸ “He also tore down the quarters of the male shrine prostitutes that were in the temple of the Lord, the quarters where women did weaving for Asherah” (2 Kgs 23:7 NIV).

⁶⁹ “If a father devotes a temple maid or temple virgin to God and gives her no present: if then the father dies, she shall receive the third of a child's portion from the inheritance of her father's house, and enjoy its usufruct so long as she lives. Her estate belongs to her brothers” (Hammurabi Code 181).

Dalley (1990:53–74) posits that prostitutes were mostly unmarried. A prostitute was referred to in relation to the other men in her life, namely her father and brothers. Just like other classes of unmarried women, such as high-class priestesses known as the *naditu*, the law code suggests that the prostitute could receive a dowry or gift from her father when she left home (Dalley 1990:55). This wasn't a dowry in the traditional sense; for priestesses, the term dowry fits because they become symbolically married to gods, while for prostitutes the term gift is more relevant because they weren't getting married. The Code of Hammurabi distinguishes between two cases where the father either gives away his daughter to be a temple maid with no gift or he gives her a gift, explicitly stating that she can do with as she pleases. If he made no gift, she forfeited some of her rights to her inheritance.

3.3.2.7 Aberrant sexual conduct

Another way most women were disempowered was the manner in which they were asked to conduct themselves sexually and how they were exploited on this basis.⁷⁰

Of the various laws against rape, all stated that the injured party was the husband or the father of the raped woman, not the victim herself. The victim was obliged to prove she had resisted rape by struggling or shouting, otherwise she was found guilty of fornication or adultery (Sol 2016:257). If the rape occurred in the countryside or another isolated place, then the rapist was guilty, not the victim (Harrill 2006:129).

⁷⁰ “Lugal-melam, the son of M., has seized Ku-Ninšubur, the slave-girl of Kuguzana, brought her to a storehouse and deflowered her. After he had deflowered her, Kuguzana, her owner, appeared in the assembly of Nippur and stood before them. He said, ‘L. has seized my slave-girl, brought her into the storehouse and deflowered her’. Lugal-melam appeared. He said, ‘I do not know his slave-girl. I have not deflowered her.’ His witnesses took the stand. They confirmed this. The assembly of Nippur appeared. They said, ‘Because he deflowered the slave-girl without (permission from) the owner, Lugal-melam must pay thirty shekels of silver to Kuguzana, her lord.’ The assembly have pronounced their verdict on this matter” (Finkelstein 1962:359).

Other areas concerned with sexual relations had to do with incest. The Code of Hammurabi punished incest between a mother and her son with death for both parties, but a father who committed incest with his daughter was only banished – a sure sign of double standards. These double standards in sexual relationships highlighted the deliberate disempowerment of women in ANE cultures (Gardner 1951:55–56).

3.4 Cultural activities and women

3.4.1 Introduction

Women's status and economic contribution continued to decline (1200–587 BCE). In the arena of cultural practices, it was no better. Cultures in the ANE allowed women freedom to some degree, but generally women were afforded less status than men. For Assyrians and New Babylonians, women definitely had less status. Women no longer could own property. All respectable women had to be veiled and secluded into harems, including queens. The crime of adultery had more severe repercussions for women. Under the Code of Hammurabi, a philandering wife could be let off if the husband chose to do so. If he sought to punish her, he could cut off her nose and mutilate her with castration and disfigurement of her face. Cutting off a wife's nose and castrating her was the epitome of violence and disempowerment of women in the ANE (Gardner 1951:57).

What was the cause of this steady decline in the treatment of women in the ANE (1200–587 BCE)? Garroway (2018:23) argues that as trade and wealth increased, patriarchal attitudes were reinforced. Increased warfare and permanent kingship, in which women did not participate, further alienated women from positions of power. As the population steadily grew, war and the struggle for political dominance perpetuated the need to protect one's property, including the desire to subdue women. In tandem with the structure of society, in the religious realm, male gods took over from the goddesses' more honoured position previously (Zevit 2001:122-149).

3.4.2 Domestic sphere

Understanding female disempowerment and the related social constructs has become the work of many scholars across academic disciplines. Ackerman (2003:189-197) and Meyers (2014:225-250) strongly suggest and I would agree that it has played a role in humanity's division of economy, labour and social morals as modern civilisation have borrowed practices from our earliest ANE human ancestors (Westbrook 2003:361).

While conceptions of masculinity and femininity would play an important role in understanding moral and social differences between the genders, it is the aim of this study to highlight these concepts in the Ancient Near East to underscore the theme of women being disempowered. While many scholars⁷¹ are working to alleviate the imbalance of information, there is still little definition of the implications of masculine and feminine traits (Westbrook 2003:362).

3.4.3 Religious sphere

Historically, the Jewish religion has ignored the existence of women in Iron Age Israel (circa 1200–587 BCE) [Nakhai 2019:1]. Israelite society was mostly built on the responsibilities that women assumed for maintaining religious rituals and traditions. Women essentially occupied fundamental roles in Israel's religious culture. These included roles that extended from the Jerusalem Temple to undertaking responsibility for clan-based and community-based religious rituals (Ahuvia and Gribetz 2018:9) and rites, such as pilgrimage, seasonal festivals, rites of military victory and rites of mourning (Nakhai 2015:176–193). In addition, they fulfilled essential roles within the sphere of domestic or household religion. At home, they provided

⁷¹ See Nakhai (2001:44); Meyers (2005); Ackerman (2003:37); Bellis (2007), etc.

healing for all family members, as well as care for women and babies throughout pregnancy, childbirth, and beyond (Dever 2012:142–205; Faust 2012:213–229). Even though goddesses were mythical, what they portrayed bears some historical relevance to women’s cultural status. “These portrayals of goddesses are the cultural projections of the whole society and reflect what the culture believed that women are and should be [seen as] divine modelling for their own roles in life” (Kensky 1994:14).

The ANE’s construction of religion served as a platform to provide people with purpose and understanding of their lives. In this way, it was a mirror to society itself. For instance, the goddess Ištar serves as a central model for womanhood, particularly because she encompasses the dual aspects of femininity; she is the prostitute and the wife (Kerensky 1994:57). She is therefore viewed in a positive light. However, negative actions and consequences infiltrated social attitudes at the time (circa 2000–1600 BCE) that disempowered women.

Women were, both legally and religiously, identified by their subordinate position to men. This standing was only avoided in very specific cases: when a woman was divorced or widowed, when women held specific jobs such as prostitutes, wet nurses or when a woman was dedicated in service to a god (Westbrook 2003:3379).

3.5 Mythology and women

3.5.1 Introduction

The myth *Enki and Inanna: The Organisation of the Earth* (circa 2112–2004 BCE) describes the process by which Enki distributed the responsibilities of different deities. According to the

myth, Enki assigns tasks to different gods and goddesses, and transitively to the men and women of the ANE (Harris 2000:19).

3.5.2 Shaping women

While the myth explains the origins of cultural activities, it mirrors the prevailing attitudes of society. Enki assigned masculine tasks such as building and shepherding to the gods, but to the goddesses, he assigns women's work. Women are described as disempowered and subordinate to the male-dominated cultural myths:

“He wove the *mug*-cloth, guided the *te*,
Enki perfected the woman's art.
For Enki the people...the...garment.
The one who is the dignity of the palace, the decorum of the king,
Uttu, the unfailing woman of silence,
Enki placed in charge of them” (Kramer 1989:53).

The above passage links the “woman's art” to weaving cloth, equating the two from the beginning of the universe. The goddess Uttu is described as “unfailing”, showing the tireless effort that a woman should put into her craft. Clothing her family was one of a woman's household obligations and doing so made her a good housewife.

A slightly humorous letter from Mari depicts just how reliant men were on women for their clothing. Though the letter reflects the circumstances of a wealthier family who valued status and fashion, it shows the mother's responsibility to her family. The school boy writes to his mother, complaining:

From year to year, the clothes of the (young) gentlemen here become better, but you let my clothes get worse... At a time when in our house wool is used up like bread, you have made me poor clothes... The son of Adad-iddinam, whose father is only an assistant to my father, has two new sets of clothes ... while you fuss about even a single set of clothes for me. In spite of the fact that you bore me and his mother only adopted him, his mother loves him, while you, you do not love me! (Harris 2000:19).

Though the boy's tone is jestful, it is clear that he is completely reliant on his mother to produce cloth and expects her to be skilled at the craft. He implies that she isn't a good mother because she isn't providing him with new clothing. Furthermore, he states that "wool is used up like bread", suggesting both that his mother processed the wool into cloth and that the family used lots of wool. Even though the boy was away from home, he asks for clothing to be sent to him, implying he can't procure it any other way. Production of cloth and clothing was an important task for mothers, assigned to women from the earliest ANE times⁷².

Likewise, the production of beer and bread came under the authority of goddesses. Though beer was an essential dietary staple throughout history, very limited documentation explains the activity, probably because its production was common knowledge. The process and

⁷² Circa 2000–1600 BCE: The background to women providing for their families is based on how the Babylonians used their captives to repopulate certain areas or to undertake building projects and increase economic productivity, but they allowed the captives from Israel to retain their sense of national identity and they gave them social and economic freedom. The Babylonians removed the elite of the land, leaving the enemy homeland without the resources and leadership to mount a rebellion, and they kept the displaced elite relatively happy but using their skills to benefit the Babylonian Empire. The Babylonians' strategy was to deport the leaders of nations and to school them in Babylonian ways (Hoerth 1991:390–391).

implements for producing beer are known primarily through a hymn and accompanying drinking song to the goddess of beer-making, Ninkasi. The hymn dedicates 35 of its 48 lines to describing the process Ninkasi takes as she brews beer, including soaking the malt, flavouring the beer with wine and honey, and placing the fermented beer into the collector vat. Ninkasi was specifically the goddess of beer-making, while another goddess was responsible for grain itself (Oppenheim 1964:73).

In the myth, *The Organisation of the Earth*, just as Enki assigned weaving to Uttu, he assigns grain to the goddess Ašnan. She is described as both “she who breeds copulation, vigour of the land” and “the good bread, bread of all the earth” (Kramer 1981:51). Ašnan is a clear metaphor for feminine fertility through the abundance of the earth. Bread and beer were important products that sustained the populations of the ancient world. The agricultural society of the Old Babylonian period (circa 2000–1600 BCE) meant that most men were not involved in the production of grains, primarily barley, because of its strong resistance to salt, as well as wheat (Mauer 1989:411).

The importance of the processing of grains by women into their end products of beer and bread⁷³ is known through various sources (Stol 2016:393), both in the household and in the tavern. Making sustainable products out of grain was essential to the sustenance of the ANE population and was the lifeblood of households.

⁷³ “The house where there is beer, it is her stand. The house where the cooking pot is, her jug is there. The house where there is food, she is the great cook” (Stol 2015:393).

The women's role of providing food was interpreted by Kramer (1959:119) as reflecting men's desire to subdue women. The following ancient proverb demonstrates how hopeless a man is without a wife to produce a meal and yet his attitude is disparaging. The husband says, "My wife is in the outdoor shrine, my mother is down by the river, and here I am starving of hunger" (Kramer 1959:120). The neglected husband relies on his wife or mother to provide him with food, and when they are busy with other tasks, he is left "starving" instead of feeding himself. The citation illuminates how even though a woman was mostly disempowered economically, she was still expected to provide for her family in an unrealistic way. Women were seldom respected for their contribution to society.

3.5.3 Conflict against women

The exclusion of state slaves from the household, so central to the concept of womanhood, indicates their outsider status. By disallowing these women to participate in normal familial structures, the Old Babylonian government dehumanised them. Though they participated in typical women's work, they were removed from the function of being a providing wife or daughter, and stood therefore outside the realm of womanhood. Only captives or exceedingly poor women would be involved in this type of labour, limiting the expression of femininity for these groups (Lafont 2013:2-3).

A note can be made about men working in the female-dominated industries of weaving and milling. Though administrative documents such as those from Ur III (circa 2112–2004) [Frayne 1997:90] suggests that a small percentage of men did work at weaving, many of them were in administrative or support positions. For example, at the "great mill" at Girsu, 364 female millers and only 56 male millers appear on a list of workers receiving grain rations. However, 132 additional men worked at the mill in various positions, such as scribes, porters, carpenters

and boat towers (Lafont 2013:3). The majority of the men working in the mill were employed as support staff. Though it is apparent that men worked at tasks that women specialised in, it is notable that most of the male workers were in superior positions. That is to say, society in ANE times was predisposed to disempower women and to favour men over women.

3.6 Old Testament and women

3.6.1 Introduction

Throughout the Old Testament (OT), there are several passages which highlight violence towards and the disempowerment of women. I have used the term “texts of terror” from Phyllis Trible (1978) to refer to passages where women suffer especially at the hands of men. Trible posits, “How the text speaks and what it says belong together in the discovery of what it is.” She believes that passages such as Deuteronomy 22:5 are regrettable and should be a cause for repentance in order to avoid them being repeated again (Trible 1978:9). However, some of these passages cannot be classified as “texts of terror”, even though on the surface they may appear to be just that.

The way I deal with Old Testament texts is holistic in that it includes a gendered Old Testament feminist lens (Kirk – Duggan 2012:261-265). However, a combinational approach is hugely beneficial because it offers the researcher a more complete or ‘holistic’ understanding of the nature of the problem of disempowerment of and violence of women in a more manner (Vos 1996:40; Human 1999:364). The combination will include three levels, of intra-, inter-, and extratextual methods. It will aid a modern South African interpreter like myself in reaching a more comprehensive understanding of the links between texts in different ANE contexts (including their social-historical contexts) and gaining clearer insight into the problematic narrative of the disempowerment of and violence against women in South Africa.

In the exegetical interpretation of this study the exegetical method proposed by Gorman in *Elements of Biblical Exegesis* (2001) will be applied:

“The careful historical, literary and theological analysis of a text ... [and] deliberate, word-by-word and phrase-by-phrase consideration of all the parts of a text in order to understand it as a whole ... Exegesis is therefore an investigation ... of the many dimensions, or textures, of a particular text.” (Gorman 2001:8-9)

In exegesis, I attempt to overcome the barrier posed by my position as a third party to the text – I acknowledge that I am not the authors nor original recipients, and so I am required to gain insight and understanding into a foreign sender and recipient (Hayes & Holladay 2007:5).

As Groenewald (2007:1017) notes, the methodology of exegesis is by no means universally accepted and is still a subject of debate. Nonetheless, the synchronistic approach of socio-rhetorical criticism (Gorman 2001:12) is preferred for this study, bearing in mind that synchronic and diachronic approaches are not mutually exclusive, but one, in fact, informs the another (Groenewald 2007:1028).

3.6.2 Genesis – women abused

The stories of virgins being offered to men in order to protect male guests are surely abhorrent to female readers (Gen 19:1–11, Judg 19:22–26). Sentiments are vividly felt when reading these passages. Younger (2002:360) comments that these stories show “the horrors of male power, brutality and triumphalism; of female helplessness, abuse and annihilation”. The story in Judges 19:22–26 is about male ownership of women’s bodies and control of women’s sexuality. These two accounts are too glaring to ignore, especially in the study of the biblical model of girls’ welfare (Younger 2002:360).

In these two stories of Genesis and Judges, the fathers followed cultural values by intending to protect their guests at the expense of their daughters' welfare (Bellis 2007:57-59). In Genesis 19:1–11, Lot offered hospitality to two visitors. The men of the city demanded Lot to bring the visitors out so that they may have homosexual sex with them. Lot offered his two virgin daughters instead. His visitors were angels and they rescued Lot by making the men blind, thereby sparing his daughters from the trauma of rape. In this account, divine intervention blinds the morally perverted men and Lot's daughters are rescued from impending abuse.

The second story is strange and complex (Judg 19:22–26). A concubine returned to her father. A Levite took his servant and followed her. Her father treated the son-in-law graciously, pleading with him to stay longer and enjoy fellowship together. On the way back, the Levite and his concubine arrived at Gibeah where an old man from Ephraim sheltered them for the night. As in the first account, the wicked men of the city came and demanded the host to bring out the Levite so that they may have sex with him. The host at first rebuked the gang. Then, in an alarming turn, he offered his virgin daughter and the Levite's concubine as a substitute. It is possible that the host thought that proper hospitality only applied to male guests (Younger 2002:357). When the men refused to listen, the Levite seized his concubine and handed her over to the gang. They raped her until dawn when she collapsed at the host's door. The Old Testament law concerning rape in an urban area (Judg 19-21) assumes that, if a woman screamed, she was considered innocent, but if she kept quiet, she was guilty (Younger 2002:357). If this concubine screamed, then the host, the Levite and his servant and the people of Gibeah who heard her and failed to rescue her were all guilty. Her master, the Levite, commanded her to get up because he was ready for his return journey. She did not answer. He picked her up and put her on his donkey and finished his journey home. When he arrived, he

took a knife and cut the concubine into twelve pieces and sent them to the twelve tribes of Israel.

My assessment of this vile act is that to many women, the rape and murder of the Levite's concubine in Judges 19 and her subsequent dismemberment is among the most horrifying of all biblical narratives, particularly since God appears to be blatantly silent about it. Moreover, typical scholarly efforts to explain this passage compound the horror because the atrocity of the rape is usually minimised and the character of God often distorted through attempts to find spiritual meaning in the wicked acts that permeate the book of Judges. Admittedly, Judges is a difficult book to interpret since the Lord appears to eschew commenting on any event beyond the statement, "In those days Israel had no king; everyone did as he saw fit" (Judg. 17:6). God's silence could be taken to mean that he endorses this brutal act. Put differently, the concubine's death signifies a tragic murder which brings into question God's attitude towards her and towards women in general.

However, if Judges is read afresh without the androcentric presupposition of a God-ordained inferiority of women, we discover that his silence is not the non-committal neutrality it appears to be. We discover that his silence shouts from the pages of Scripture as the sin against women that was set in motion in Genesis (3:12, 16) comes to a point of no return in Judges.

In analysing this decline in Israel's morality in the book of Judges, other OT passages in which God voices his disapproval should also be brought to bear, such as when Dan's idolatry angers God (Judg. 18) or in God's injunction not to take advantage of the widow or the fatherless (Deut. 5:6–7). God also threatens to punish Israel if they mistreat orphans, widows and aliens (Exod. 22:22–24). Eventually Israel's sin results in them being sent into exile (Zec. 7:8–14).

All of these texts refer to God's righteous indignation in response to wrongdoing and should be remembered in interpreting God's silence in Judges.

Davis's (2000:213) and Butler's (2009:427) comments on this account are controversial. They see the plight of the concubine as judgement for her harlotry. Is this the reason the Levite went to take the concubine from her parents so that she might meet this judgement? This would sound like it was a pre-planned arrangement, yet the Old Testament text does not suggest that at all. Both Davis's and Butler's comments display extreme male chauvinistic biases. Butler distances the guilt of this abuse from the men of Israel by focusing on the fact that the host and the Levite were from Ephraim (Judg 19:16, 18). In this case, it was culture that prevailed and not insight from the teaching of God's law, which the two men were supposed to know (Deut 23:21-23). It is likely that the concubine was still alive when the Levite cut her to pieces, even though Davis (2000:214) suggests that she was dead by the time the Levite arrived home.

Accounts given in the Old Testament by no means endorse wicked practices. Rather, these texts deserve credit for revealing the ghastly and uncalled for behaviour of fallen humanity in view of the holiness of God. Cases of murder, incest and deception are narratives of the moral ills of humanity and are in no way prescriptive of how readers of the Scriptures are to behave. In this case, while the host and Levite were caught in a difficult dilemma, their decision was deplorable, despite the pervasive influence of the surrounding culture. The reaction of the other Israelite tribes, though tardy, was highly commendable. By rallying against the men of Gibeah, the Israelites took a stand against the practices of evil and prevailed, even though in the end the action proved costly.

Based on the evidence of such controversial texts as the one above, the fact that women were mistreated and disempowered in the Old Testament context is indisputable. These negative

attitudes towards women will be seen by examining the differences in the laws of the Covenant Code. The following section will provide an exegetical outline, focusing primarily on Deuteronomy and how women were discriminated against by the clothes they were expected to wear.

Divine law played a key role in the life of Israel. It provided the framework for legal decisions. Though it is not complete, it enabled the executors to govern the daily life of Israel and unfavourably so when it concerned women.

3.6.3 Exodus – women enslaved

Egypt⁷⁴ began to falter after about 1785 BCE, with pharaohs rising and falling in quick succession. The instability weakened state apparatuses and Semitic chiefs gained a toehold in Lower Egypt. Records exist of a large number of Semitic slaves already resident in Egypt, even as far as Thebes, and perhaps they played a role in the rise of these chiefs. Somehow, during the mid-1600s BCE, they managed to overthrow their Egyptian rulers and take control of government. Thus, the 15th and 16th dynasties were known as the *Hyksos* Dynasties (*Hyksos* is a rendering of the Egyptian for “chiefs of foreign lands”). They established a new capital at Avaris in the Eastern Delta region, appointing Egyptian and Semitic officials to their administration. They held office for about a century, after which princes from Thebes managed

⁷⁴ Arguments for the Exodus: (1) circa 1270 BCE: One of the few names that we’re given in the Exodus story is that of the store city “Rameses”, which was built upon the ruins of the Hyksos capital, Avaris. It is most natural that the city built would have been named after the pharaoh. Rameses I reigned for a single year in the 1290s and Rameses II for about 60 years, beginning in the 1270s, (2) circa 1440 BCE: Those arguing for the earlier date assert that Rameses was seemingly a common enough name to have been used as a place name in Joseph’s time (Gen 47:11), so it is not necessary to suppose that the exodus took place during the reign of Pharaoh Rameses II in the 1270s BCE (Kitchen 2003:636).

to peg the Hyksos back into Avaris itself, and in the next generation, around 1550 BCE, to expel them completely.

Exodus 21:7 is about the selling of a daughter into slavery⁷⁵. Reading such a passage in contemporary times gives the impression that fathers were heartless in selling their daughters into slavery. It has been pointed out that a bad master could abuse a woman by treating her harshly or selling her to slave traders or even releasing her from servitude (Mitchell 2009:57). Given that the woman, who did not belong to a household, was vulnerable, it was not safe for her to go free (Ryken 2005:703). In line with this notion, Noth (1962:178) says the selling of a woman into slavery was done for business purposes. He explains that female slaves were not to be set free because they were regarded as possessions and not persons (Noth 1962:177). Similarly, Harrill (2006:129) says that the slave masters were in some cases like pimps. They promoted immorality and put make-up on these women when selling them to make them more appealing. Given this depiction, one wonders if Exodus 21:7 condones the selling of women.

Slavery in the context of Exodus 21:7 has to be understood in terms of Leah's and Rachel's maids (Ryken 2005:702). This slavery had, in some ways, a benevolent purpose. Selling one's daughter was done to improve her prospects in life⁷⁶. The selling was done in the form of arranged marriage. A poor man would sell his daughter to a rich man in anticipation that he would marry her and she would become a permanent member of his household. Meyers (2005:191) explains that slavery in Israel was a provision of a home to the destitute. Those who

⁷⁵ "If a man sells his daughter as a servant, she is not to go free as male servants do." (Ex 21:7; NIV)

⁷⁶ "If she does not please the master who has selected her for himself, [a] he must let her be redeemed. He has no right to sell her to foreigners, because he has broken faith with her. If he selects her for his son, he must grant her the rights of a daughter. If he marries another woman, he must not deprive the first one of her food, clothing and marital rights. If he does not provide her with these three things, she is to go free, without any payment of money." (Ex 21:8-11; NIV)

could not make a living on their own would ask wealthier people to take them into their homes where they could offer service in exchange for daily provision (Meyers 2005:191).

There were three protections which God's law gave to maidservants (2005:703). Firstly, if the master was not pleased with the maidservant, he was to return her to her family. The master was not allowed to sell the servant to slave traders. The family was allowed to buy her back. Secondly, if the master was so pleased with the maidservant that he wanted her to marry his son, she was granted the full rights of a daughter (Ex 31:9). In fact, the maidservant enjoyed the rights of a daughter even before she was married. She gained freedom through betrothal to the master's son. Noth (1962:179) and Meyer (2005:191) explain that the maidservant could marry either her master or his son. The slave was sold at a marriageable age.

Lastly, the master's male servant could also marry the maidservant (Mackay 2001:368). Whether the girl was taken to be a wife to her master, his son or his male servant, the bond involved was viewed as permanent. Even if the master married another wife, he was to provide food, shelter and marital rights to his first wife. If he was to fail in this regard, then the maidservant could be freed without paying ransom. These laws were put in place to protect maidservants from abusive masters (Ryken 2005:703).

3.6.4 Leviticus – women and cultic prostitution

The daughters of the priests faced tough punitive measures whenever they were promiscuous. A priest's daughter who became a prostitute was deprived of her proper burial rites (Lev 21:9). She was cremated to erase her memory from the people of Israel (Vasholz 2007:250). There were not any hopes of future prospects for her. Wenham (1979:291) explains that burning the corpse was an exemplary punishment to demonstrate that such pagan practices fell outside the worship of God. Tidball (2005:263) also highlights that the unchaste behaviour of a priest's

daughter was likely to underline the high standard required of a priest's family. The daughter's promiscuity would reflect badly on her father's priestly position. For that reason, she was not to receive mercy.

Rooker (2000:275) notes that a priest who stayed with such a daughter was to be disqualified from ministry. He further explains that this restriction on the priest's daughter was a warning against apostasy. Pagan worship was associated with cultic prostitution. Tidball (2005:263) explains that the full punishment was to stone her to death and then burn the corpse. This was done to remove the disgrace that she brought to the family. Snaith (1969:99) also added that the source of defilement must be destroyed without shedding blood, hence the burning to death.

Biblical injunctions against promiscuity among priests' daughters could be understood as being more lenient on boys than on girls. To some, it may appear as if the priests' sons could get away with promiscuous behaviour. However, the harsh punishment meted out to priests' daughters does not mean sons were exonerated if they too misbehaved. Gane (2004:375) argues that sons could profane their fathers just as daughters did (Lev 10:1–7; 1 Sam 2:12–17, 22–36, 8:1–3). A high standard of holiness was expected from every member of the priest's family. The burning of the priest's daughters relates to the judgement of Aaron's sons as well. They died by divine fire (Lev 10:2), just as a promiscuous priest's daughter was to be burnt. The issue here is not centred on daughters only, but on the priest's family as a whole. There were standards that were expected of a priest's wife as well (Lev 21:13). She was to be a virgin before she entered into marriage.

Another restriction placed on the priest's daughter was that if she married a stranger, she was not to eat an offering of the holy things (Lev 22:12–13). If she returned to her father as a divorcee or widow without a child, she could eat from the holy things. Wenham (1979:295)

explains that an unmarried daughter was her father's responsibility, but if married, the responsibility shifted to the husband. If she married a stranger, she ceased to be part of God's people and could not eat of the holy things. But if she failed to have children and was returned to her father, then she became the father's responsibility again. Snaith (1969:102) maintains that the children of the priest's daughter were the responsibility of their foreign father. If the children were of mixed blood, then they were strangers and could not partake of the holy things. It remained the foreign father's responsibility to care for his children.

3.6.5 Numbers – women and inheritance

According to OT texts, daughters were not equal with sons in terms of what they inherited when their father passed away. Snaith (1969:99) explains that Mosaic Law did not permit a daughter to stand on the same footing with her brothers in inheriting an estate from her father. If a man died, his estate would be given to his son and only if there was no son would it be given to a daughter or the deceased's brother. The wife would receive nothing. If an inheritance was given to a daughter, she had to marry a close relative, so that the inheritance would benefit her family.

An example of this can be seen in the story of Numbers 27:8–9 in which Zelophehad died without a son, leaving his five daughters to inherit his wealth. Dividing up the Promised Land was done according to the male heads of the 12 tribes of Israel (Gane 2004:740). Zelophehad's daughters asked to inherit their father's property (Num 27:1–4). Since they had no law concerning this, Moses inquired of the Lord. The Lord granted their petition (Josh 17: 1–6). The intervention of the Lord in the case of Zelophehad's daughters shows God's care and concern for girls and women. While it may be seen as discriminatory to offer the inheritance to sons first, there was a good reason for doing so. In Israel, men had the responsibility of

providing for women and children and for protecting them from enemies and adversaries (Deut 3:18–19). If men failed to perform this duty, then it became a moral transgression. The preference given to sons for the inheritance was not an oppression of daughters, but was an administrative structure to commit sons to take care of their sisters and mother.

3.6.6 Deuteronomy – women and inequality

I would like to examine Deuteronomy 22:5 to further analyse the disempowerment of women in the Old Testament. It states: “A woman shall not wear anything that pertains to a man, nor shall a man put on a woman’s garment, for all who do so are an abomination to the LORD your God.”

You [A woman] shall not...

לֹא-יִהְיֶה כְּלִי-גִבּוֹר עַל-אִשָּׁה

And neither...

וְלֹא-יִלְבַּשׁ גִּבּוֹר שְׂמֹלֶת אִשָּׁה

For detestable...

כִּי תוֹעֵבֶת יִהְיֶה אֲלֵהֶיךָ כָּל-עֲשֵׂיהָ אֵלֶּה: פ

There is a plethora of interpretations for this challenging text. Scholars⁷⁷ have tried to make sense of it in a number of different ways (Koehler 1999:879)⁷⁸. Some argue that this is a law against involvement in pagan practices; other scholars such as Vedeler⁷⁹ support transvestism, and indirectly homosexuality. I would like to argue that this text is a law against women being

⁷⁷ See Vine, E.W et al 1996, *Vine's Complete Expository Dictionary of Old and New Testament Words*, Nashville, T. Nelson, 1:38; Koehler L, et al 1999, *The Hebrew and Aramaic Lexicon of the Old Testament, electronic ed. Leiden*, New York, 519. For an alternative view, see Freedman, D.N 1996, *The Anchor Bible Dictionary*, New York, Doubleday, 232.

⁷⁸ See Koehler, L 1999, *The Hebrew and Aramaic Lexicon of the Old Testament*, Chicago, Moody Press.

⁷⁹ See Vedeler, H.T 2008, “Reconstructing Meaning in Deuteronomy 22:5: Gender, Society, and Transvestitism in Israel and the Ancient near East”, *Journal of Biblical Literature* 127, no. 3, 460–61.

equally and actively involved in Israelite society and in effect disempowered women. This chapter explores both why I have arrived at this conclusion and what is the rationale of this law.

By identifying elements of how women were disempowered in Deuteronomy in general and Deuteronomy 22:5 in particular, it is clear that different scholars use different approaches and come to different understandings of this corpus of literature. That is to say, plurality of different analyses is based on the ambiguous nature of both the text (Deut 22:5) and its context in the book of Deuteronomy and in the Hebrew Bible. These various approaches reflect the rich perspectives of scholars on how women were disempowered, requiring a more thorough exploration of the hidden motives within the Old Testament, including Deuteronomy 22:5.

3.6.7 Judges – woman sacrificed

The story of Jephthah's daughter in Judges 11:30–40 has been dubbed one of the “texts of terror” in the Old Testament on the girl child (Anon 2019). Many scholars⁸⁰ wonder about the meaning and purpose of this narrative. Much debate, however, is centred on whether Jephthah really offered his daughter as a burnt offering. According to Brown et al. (2000:231), Jephthah offered his daughter as a burnt offering as he had promised to the Lord. He uses verses 39 and 40 to support his argument. Verse 39 explains that she returned to her father, who acted according to his vow. Verse 40 states that the daughters of Israel went every year to lament the daughter of Jephthah the Gileadite for four days. Cundall (1968:148) contends that early

⁸⁰ See Klein (1989:84). Klein recognises that the author “invokes the major apostasy paradigm”, but she misses paradigmatic insights because she assigns Jephthah to “a combination major-minor pattern” (1989:83). Similarly, Block (1999:342) believes that the Jephthah narrative is “best interpreted in comparison with and in contrast to the notes on the ‘secondary governors’.” The argument for Jephthah being a minor judge is based on his position and the variance from the framework in his account.

commentators and historians concur that Jephthah offered his daughter as a burnt offering. Cundall (1968:149) goes on to say it was during the Middle Ages that people tried to find ways to explain what is stated in this passage.

The challenge presented by Jephthah's story is whether this could have been a command from the Lord or not, given the fact that human sacrifice was not a common phenomenon among the Israelites. Cundall (1968:148) proposes that Jephthah intended to give a human sacrifice, but not his daughter. Animals did not dwell in the house with people, so what did Jephthah expect to meet coming from the house? Some scholars say that he wanted to sacrifice one of his servants. Block (1999: 367) concurs with Cundall (1968:148) that Jephthah did not expect an animal to come out of his house. However, Younger (2002:263) denies that Jephthah intended to give a human sacrifice. He argues that a four-room house of that period contained a room for sheep or cattle that could be used for a burnt offering. However, he also agrees that Jephthah offered his daughter as a burnt offering.

According to Block (1999:367), Jephthah had adopted the pagan way of worship similar to the nations surrounding Israel. Butler (2009:287) agrees with Block that Jephthah was overtly pagan. Jephthah was pained by the fact that his daughter was his only child and she was a virgin. Younger (2002:262) concludes that "Jephthah delivers the Israelites from the Ammonites, who along with their neighbours sacrificed their children to their gods; then he sacrifices his daughter to Yahweh, who does not accept human sacrifice."

My assessment is that attitudes such as these have contributed to the misery and disempowerment experienced by countless unnamed and forgotten women throughout the world for many centuries. Jephthah's daughter may be unnamed, but it is important today and in the future that her story continues to be told and her death lamented on behalf of all women

whose unseen and unrecorded suffering at the hands of violent men has never been acknowledged.

There are problems with the notion that Jephthah had become like the idolatrous nations that surrounded Israel to such an extent that he sacrificed his daughter. The pattern of the book of Judges is that the judges were raised up to bring Israel back to God⁸¹. While the judges were far from faultless, their understanding of God was clearer than that of their countrymen, not to mention the surrounding nations. While Jephthah made a vow thoughtlessly, that does not mean he had become idolatrous, otherwise his purpose as a judge to deliver and restore Israel back to God would have been defeated.

Davis (2000:148) objects to the notion that Jephthah gave his daughter as a burnt offering. He says that the offering meant that she was set apart for the service of the Lord. He may have demanded that she led a celibate life at the worship sanctuary. Women served God at sanctuaries (Ex 38:8; 1 Sam 2:22, Lev 27:1–8), just as men could take vows to serve God (Davis 2000:149). The young women mourned for Jephthah's daughter's virginity, for she knew no man during the course of her life. Davis's position is in agreement with extra-biblical sources. Cohick (2009:51) explains that Pseudo-Philo provides Jephthah's daughter (Judg 11)

⁸¹ A 11 And the people of Israel did what was evil in the sight of the LORD and served the Baals.
B 12 And they abandoned the LORD, the God of their fathers, who had brought them out of the land of Egypt. They went after other gods, from among the gods of the peoples who were around them, and bowed down to them.
C And they provoked the LORD to anger.
D 13 They abandoned the LORD and
D' served the Baals and the Ashtaroth
C' 14 So the anger of the LORD was kindled against Israel,
B' and he gave them over to plunderers, who plundered them. And he sold them into the hand of their surrounding enemies, so that they could no longer withstand their enemies.
A' 15 Whenever they marched out, the hand of the LORD was against them for harm, as the LORD had warned, and as the LORD had sworn to them. And they were in terrible distress. (Pietersen 2018:32)

with a name, Seila, and with a mother and a nurse. When Seila came first, God declared that Jephthah's daughter would serve as a sacrifice, punishing Jephthah for his unwise holy vow. It is held in this position that Seila accepted being a sacrifice. Her father was to go ahead with his vow to God (Cohick 2009:52). In this regard, Seila represents the culture's highest ideal of godliness for women. She puts herself under God's design and man's plans. Cohick (2009:51) comments that the text becomes revolutionary in two ways. Seila compares positively with Isaac's acceptance of his role as a sacrifice (Gen 22:2). Secondly, the narrator praises her as demonstrating great wisdom, while her father is condemned for making an foolish vow.

While there has been much debate on this story even in feminist circles (Trible 1978:2)⁸², the account of Jephthah's daughter does not reveal how daughters were treated in general, but rather how ignorant and expedient decisions bring about unexpected consequences. Jephthah is at the centre throughout the story and not his daughter. What Jephthah did was not prescribed by God, but came from his own corrupt mind⁸³.

3.6.8 Female virginity in the Old Testament

Virginity was highly valued in Israel, according to Old Testament texts. Loss of virginity was referred to as being "humbled" (Davidson 2007:148). Von Rad (1963:326) explains that "humbled" means the moral and social debasing of a girl who has lost the expectation of a valid marriage. The family would be depressed about the loss of virginity of their daughter or sister if she was raped. Genesis 34:1–8 records Dinah's loss of virginity when she was raped by Shechem. Jacob was grieved by his daughter's loss of virginity (Gen 34:2). In like manner,

⁸² "sees the vow as manipulative and an act of unfaithfulness."

⁸³ See Amit, Y 1992, *The Book of Judges: The Art of Editing*, trans. J. Chipman, Leiden, 76–77, 85–92, emphasises Jephthah's egocentricity and the fact that he was always motivated by personal rather than national interests.

David was grieved by Amnon's violation of Tamar (2 Sam 13:1–21). In these contexts, fathers shared the shame when a daughter's virginity was violated⁸⁴.

Violating a girl's virginity was like violating the integrity of the wife of one's brother (Deut 22:23–24). For this reason, the punitive measures were sterner in a situation where the virgin was engaged to be married than if she wasn't. If the girl cried out for help, she would not be found guilty and only the rapist would be stoned to death. But if she kept quiet, both the rapist and the victim were to be stoned to death (Deut 22:21). The context for this scene was an urban area where others were likely to hear a cry for help.

Deuteronomy 22:25 has a different setting. The scene of the crime is a desolate place where no one could hear a cry for help. Verses 26–27 give legal justification for the verdict passed in verse 25. These two verses explain why in this case the raped girl should not be put to death.

In view of the value of virginity in this context, Deuteronomy 22:28–29 required that, if a man raped a girl, he had to marry her. However, the father needed to give consent whether his daughter could marry this man (Ex 22:16–17). (By contrast, in contemporary South African society, requiring that a girl marry her rapist can hardly be seen as acceptable. Deuteronomy 22:28–29 would appear to favour men of ill repute whose way to marriage was by causing pain to their future wives [Scholz 2005:36].)

It must be noted that Ancient Israel was different from our current South African context. Israel as a nation was like a family and the word "stranger" applied to those who were not part of Israel (Ex 12:43–48). Verses 28–29 refer to the case of a virgin who is not betrothed. The man

⁸⁴ See Calvin (2001:279). He explains that fathers needed to ensure that their daughters behaved themselves if they wanted to protect them from being disgraced. Hamilton (1995:356) adds that the result of Dinah's subjection to indignity by an outsider was that she became an outcast in Israel.

had to pay a penalty of fifty shekels of silver and marry his rape victim. It is not clear whether the victim was asked for her opinion on whether she would like to marry the rapist or not.

Phillips (2002:84) suggested that a girl who was not betrothed was considered property, hence the application of casuistic civil law precedents of property offences in the Covenant Code (Ex 22:15–16). He further explains that the girl was the property of her father to whom damages were to be paid for the loss of the bride's price, because his daughter was no longer a virgin. Phillips' position is problematic. These arrangements were on a relational and moral basis and were not commercial. The father was to continue supporting his daughter whose prospects of a good marriage had dwindled because of rape. As Merrill (1994:305) states, this girl was deprived of a normal happy marriage, hence a compensation of some kind was necessary. While some men may have used rape as a means to secure a prospective wife (as was the case with Shechem in Gen 34:1–8), this was not acceptable in Ancient Israel. Even though Thompson (1974:237) seems to sympathise with the rapist who was forced to marry the victim, he has to note that the situation was worse for the girl who may not have had any feelings for the rapist. In light of this, Deuteronomy 22:22–29 has to be viewed as a measure to protect the girl child from being abused and then ostracised after being violated (Deut 22:28–29; Ex 22:16–17).

3.7 Female perspective on Deuteronomy

3.7.1 Introduction

The book of Deuteronomy, also rendered as “Second Law”, relays Israel's covenant obligations and the potential blessings and curses which would follow their actions as God's chosen people. Deuteronomic history utilises this paradigm as it surveys the history of Israel. The main goal

of the writer(s) was to explain the cataclysmic events which had befallen the northern and southern kingdoms of Israel (Nicholson 1967:107). Throughout the accounts, nine main theological themes are emphasised: the sin of idolatry, cultic centrality, the Exodus and election, monotheism, the importance of loyalty to the covenant, the Promised Land, prophetic fulfilment, and the legitimacy of the Davidic dynasty (Weinfeld 1992:1). These are integrated into a narrative commentary analysis of the plight of Israel from the time of the conquest until the fall of both kingdoms.

Some of the elements addressed in this research are: To what extent are alien cultures and practices enmeshed in the Israelite legal system? Did the existing law codes change in the course of Israel's history? Did the changes occur due to repeated foreign invasions? Is the language of female subordination limited to forceful disempowerment or can it also be ascribed to divine compulsion?

A number of scholars have researched the Israelite law system⁸⁵. Their work includes shedding light on how women were treated in religious and other spheres of life. For example, Bird (1987:397–419) describes the disempowerment of women as the result of patrilineality and patriarchy. She therefore advocates a reconstruction of traditional historiography devoid of the above. Anderson (2004:11) raises two important questions: Did the laws serve a legal purpose? And can Ancient Israelite society be reconstructed from biblical laws? She answers these questions by employing gender and post-modern feminist legal theory. Emmerson (1989:371–394) emphasises the subordination of women in the Old Testament, arguing that women played

⁸⁵ See Weinfeld, (1972:282–297); Crüsemann, (1992:251–273); Otto, (2002:92–275); Washington (1997:234–363); Calhoun (1990:213); Meyers (1998:251–259); Butler (1990:140); Schüssler Florenza 1995:225–271); Renate (2014:423); Scholz (2013:10); Pressler (1993:79), etc.

a crucial role in the liberation and progression of Israel, but were not given due credit. Matthews (1998:15) analyses the divine law and indicates the negative attitudes towards women in the Deuteronomic Code. Habel (1995:277–291) advocates a sociological approach to analysing how the disempowerment of women can be read within the legal codes of Israel. His argument is to read the text by identifying with the oppressed group, so that apparent inconsistencies can become clear. Chirchigno's (1993:141) approach is more of a comparative analysis in order that the static and conservative nature of the revisions of these laws can be challenged because they are based on patrilineal and patriarchal ideology. Both these approaches bring out the discrepancy in the law codes and express their reservation against both class and gender discrimination.

Many other scholars have also contributed immensely to the understanding of the Israelite law system, such as Bernard Levinson (Levinson argues more specifically for revision and interpolation)⁸⁶. The contributions made by these scholars are immensely helpful to understand

⁸⁶ Levinson's (1991:101-106) revision and interpolation theory is set against the backdrop of Westbrook's (1988:36) argument: Is a synchronic approach better than a diachronic approach in analysing biblical laws? This is a helpful question to ask, especially for this study, because it is based on drawing out the lived experiences of women in books of the law such as Deuteronomy. But in terms of Levinson's theory, he catalogues places in biblical law (Ex. 21:16; 22:1ff.; etc.) which he thinks defy synchronic approaches to the law. This goes against Westbrook's theory. While I am able to acknowledge to some degree a general "cultural conservatism" in Ancient Near Eastern (ANE) laws, I do, however, believe that Westbrook has stretched the meaning of the word "static" in relation to Mosaic law. Having said this, Westbrook's observation of the "unchanging" character of ANE laws by associating them with "natural law" rather than with "positive law" is noteworthy. Driver (1901:iv-vii) finds modifications of the Covenant Code in Deuteronomy and the Holiness Code slave laws. Morrow (2007:84-89) claims that the paucity of second-person formulations in cuniform laws as compared with their relative frequency in the Covenant Code is evidence of modifications of ANE laws by the latter. Patrick (1999:130) sees discontinuity between the Covenant Code and ANE laws, pointing to ideological differences between the two. Paul and Finkelstein (1969:293) see these differences as evidence of development, as well as biblical law's second-person formulations. Finally, Otto (1990:283–287) denies the existence of a "static common law" by giving even more examples of reform between cuniform law collections and within the Covenant Code. This balanced view is difficult to ignore because Otto convincingly repudiates Westbrook's notion that talionic penalties could be commuted into monetary payment and vice versa.

the reasons behind the degradation of the weaker sections of society, including slaves and women.

The concern of this study, however, is to explore whether female disempowerment was exclusively due to the pagan ideology of Israel's neighbours or whether it had other dimensions to it, such as more powerful countries conquering Israel, including Babylon, who promulgated female subordination (Westbrook 1991:124). In the next chapter, I will also attempt to address the position of women in South Africa, so as to draw an inference between the two contexts.

To address these issues, this study draws on the insight of feminist readings, along with the work of other critics which supports the rights of the marginalised to life, equality and self-determination.

3.7.2 Setting the scene of Deuteronomy

It is generally agreed that the Deuteronomic/Deuteronomistic Code (Deut 12–26), though widely regarded as the “original” Deuteronomy and the oldest part of the book, is a product of

Josiah's reform (a view endorsed by Martin Noth and others⁸⁷). If we agree with this view⁸⁸, the political changes which occurred during that era (649–609 BCE) hold much significance. The law and the reformation had a strong bearing on the weakening and collapse of Assyrian control over Judah. For a century, Assyria ruled over Judah (736/733–630/622 BCE). Assyrian dominance over Judah can be seen from the Syro-Ephramite war (736–733 BCE) to Josiah's reforms (622 BCE). By the time Josiah came to the throne, the power of Assyria had declined,

⁸⁷ Deuteronomistic history begins with the book of Joshua and ends with 2 Kings. The actual book of Deuteronomy and the larger Deuteronomistic history are unquestionably related. Some scholars suggest they spring from the same tradition, which implies the book of Deuteronomy was not composed until at least around the time of King Josiah (649–609 BCE). Others believe Deuteronomy itself was formulated earlier and its rediscovery (2 Kings 22) spurred the arrangement of Israelite history, with Israel's covenant relationship with God in view. Still others believe the Book of the Law discovered in 2 Kings 22 was an earlier form of the book of Deuteronomy which underwent subsequent revisions. Determining the nature of the relationship is challenging, but it remains undeniable that the relationship exists. For the rest of this thesis, the assumption will be that at least some form of Deuteronomy pre-dated the compilation of the Deuteronomistic history (Walker 2015: 05).

⁸⁸ Romer (2009:8) and Otto (2009:319-340) suggest that there are two goals for the Deuteronomist to propagate an anti-Saul message, which I would agree with: first, it is to legitimise the Davidic, Judean lineage and, by extension, to support King Josiah. This makes much more sense with the dating issues discussed earlier. While some scholars, like Nicholson (1967:108–110), argue that Deuteronomy and the Deuteronomistic history spring from the same tradition, this is unlikely. It is much more reasonable to assume the authors would have used pre-existing documents to establish Josiah's legitimacy, not create new ones. This is stated in 2 Kings 23:25, "Before him, there was no king like him, who turned to the Lord with all his heart, with all his soul, and with all his might, according to all the law of Moses; nor did any like him arise after him." The culmination of the Deuteronomistic history occurs in King Josiah because it illustrates how Israel *should* have been governed all along (Noth 1981: 73–74). What follows the account of Josiah is the spiritual and material devolution of the kingdom of Judah, from Jehoahaz (23:31–35) and Jehoiakim (23:36–4:7) to Jehoiachin (24:8–17). Another persuasive line of evidence of the pro-Josiah agenda in Deuteronomistic history are the reforms made by Josiah which very closely match the commandments in Deuteronomy. Römer (2009:43) concludes by making the point that "their [the Deuteronomists'] literary activity must be linked in one way or another to the concerns of the royal court: it was not, therefore, a sophisticated exercise in history writing, but rather a literature of *propaganda*... to reinforce the legitimacy of Josiah, presenting him as the true successor of David" (Romer 2009:43). Still other responses have been made. For example, Gunn (1987 66–72) argues that the theory behind the Deuteronomistic history is a mistake and he expects that scholars will eventually consider the whole of Genesis to Kings to be one unit. The author of this work does not necessarily subscribe to Romer's and others' views. However, any response, whether evangelical or liberal, needs to take into consideration what can be learned from the aforementioned scholars who have made well-received theological contributions.

which probably was a major reason for reformation in Judah (cf. 2 Kgs 22–23). This development also paved the way for Judah to control her sister kingdom, Israel. The destruction of the sanctuary at Bethel and the suppression of its priesthood (2 Kings 23:15–20) is a clear reference to this. The rapid decay of the Assyrian world empire must have encouraged Josiah to throw off his vassalage and abandon the agreement made between him and the Assyrian king. Thus, Josiah took full advantage of the weakness of the Assyrian empire and brought unity in Israel by attaining a separate identity and freedom from external political, social and religious interference. This aspect of unity can be seen in the book of Deuteronomy. In the light of these political developments, we can better understand the laws of Deuteronomy and human rights (the right to food, equality and self-determination)⁸⁹. Unlike other legal codes, the laws

⁸⁹ In terms of the relationship between the prevailing political, social and religious ideologies, Miller (1990:48) forms an idiosyncratic relationship between obeying God (covenant with Yahweh) and obedience to God's law and the "gift of land". Claassens (2003:17) concurs with Miller (1990:48) by arguing that by keeping the law, the Israelites "will receive life" (Claassens 2003:17). Therefore, in the Deuteronomic context, obedience to God's law often leads to access to "God's gift of land" (Miller, 1990:44). In Deuteronomy, the land gift is not a surprise; it is the result of keeping the law. The opposite is true when it comes to land loss (cf. Brueggemann 2002:73). For Miller (1990:44), this "gift of land" has many benefits and desirable qualities embedded in it, including "brooks, fountains, springs flowing in the hills and valleys, wheat, barley, grapevines, fig trees, and pomegranates, olive oil and honey, such that nothing shall be lacking" (Miller 1990:44). What does this idea of obedience to Yahweh and his law have to do with human rights? It seems that by and large obedience to God and his law leads to "God's gift of land" and the gift of land means food security, whereby people shall "eat and be satisfied" and general human rights will be upheld. This brings some sense of joy and entrenched relationship with God. Eating, equality and self-determination as ways to "remember Yahweh" are emphasised in Deuteronomy, especially in chapters 6, 8, 14, 16 (Day 2014:89–90). Hence, Day (2014:96) argues that in Deuteronomy, "food is not the end in itself, it points to Yahweh and his relationship with his people". This means that in the Deuteronomic context, food security, equality and self-determination leads to cohesion between God and his people. Hence, Brueggemann (2002:50) argues that "memory" is the prime method of resisting the temptation to forget Yahweh due to the threat to food security and human rights, including those of women. In Deuteronomy 14, "eating before the Lord" also brings the idea of "sharing with others", such as "the Levite, sojourner, and orphan. Part of loving Yahweh involved sharing love and hospitality to others" (Day 2014:91). This means that "eating before the Lord" during feasts and festivals included ideas of sharing, solidarity and cohesion with others. In Deuteronomy 16, eating during the feast included "additional food others brought", such that "thanksgiving to Yahweh led to sharing in his abundant provision (of food) with others" (Day 2014:91, 94). This meant that cohesion with others was part of eating during feasts in Deuteronomy. Hence, Clements (1989:56) argues that "all Israelites are

of Deuteronomy are highly moralistic and humanitarian (Miller 1990:44; Day 2014:93 and McDonald 2008:84) They are deeply concerned with the notion of Israel being a chosen and redeemed nation and with the expectation that human beings should treat each other in the same gracious way that God has treated them. In contrast with other parallel codes, the laws give more importance to the overall cultural development of Israel.⁹⁰

Deuteronomy 12–26 forms the detailed law of the covenant. It deals with the religious life (unity and purity of Israel’s worship, sporadic obligations and institutions), political life (the responsibility of officials of the theocratic state towards their nation and vice versa) and social life (respect of individuals towards each other, particularly in the context of family relationships, humanitarian behaviour, first fruits and tithing). Because some of the laws correspond, for instance, with the Decalogue and slavery, it is argued by some scholars⁹¹ that the Deuteronomistic Code is a modification of the Exodus Code, while others⁹² believe that the Deuteronomistic Code harmonises the legislation of the Covenant and Holiness Codes.

encouraged to think of themselves as ‘brothers’ (Deut. 14:7, 15:2, 3). Cohesion with “brothers” was part of God’s provision of food in Deuteronomy.

⁹⁰ The law deals with the fundamental aspects of family life, such as the release of both male and female slaves at the end of every seven years (Deut 15:12–18), prohibition against selling a wife who had been chosen from among captives (Deut 21:14) and the protection of women in marriage (Deut 22:19) (see Clements 1989:85–93).

⁹¹ See MacKay (2001:341); Dozeman (2009:479); Marshall (2003:175); Waltke (1982:926); Edwards (2002:47); Wright (2004:334), etc. It would seem as though these scholars believe that by comparison, Exodus theology somehow finds its impetus in creation theology. Following the hermeneutic of Exodus 15 (from land to land) it would seem that Deuteronomistic theology is rightly rooted in the precedent set in Exodus. This would imply an opportunity for “modification”.

⁹² See Christensen (2001:239); McConville (2002:187), etc.

3.7.3 Deuteronomy 15:12-18

The slave law in Deuteronomy 15:12–18 is casuistic in style⁹³ and made up of two sections (vv.12–15a and vv.16–18). Verse 15b stands as the centre of the literary unit, emphasising the reason to redeem an indentured servant. Each of these sections has a law in casuistic form, followed by an exhortation (v.15 and v.18) (Mayes 1979:252).

The law in Deuteronomy advocates the release of all Israel's slaves after a period of six years, whereas the Exodus law seeks the contrary. Moreover, at the time of release, the owner must not send them away empty-handed, but must rather give them a generous provision. The people should show empathy to those who have been forced into servitude due to difficult circumstances (Matthews 1991:136–138). However, in spite of this provision, the slaves are free to remain with their masters for life. It totally contradicts the law of release in the Covenant Code (Ex 21:7–11). The comparison between Exodus and Deuteronomy are explored in the following section⁹⁴.

Deuteronomy 15:12-18⁹⁵ provides remission to those who have lost their freedom due to debt and poverty. It refers to debt slaves and not foreign slaves. After serving as a slave for six years,

⁹³Unlike the impersonal, which is typical in casuistic style, here it is rendered in the second-person singular form.

⁹⁴“When a man sells his daughter as a slave, she shall not be freed as male slaves are. If she proves to be displeasing to her master, who designated her for himself, he must let her be redeemed; he shall not have the right to sell her to outsiders, since he broke faith with her. And if he designated her for his son, he shall deal with her as is the practice with free maidens. If he marries another, he must not withhold from this one her food, her clothing or her shelter. If he fails her in these three ways, she shall go free, without payment.” (Ex 21:7-11)

⁹⁵“If any of your people – Hebrew men or women – sell themselves to you and serve you six years, in the seventh year you must let them go free. And when you release them, do not send them away empty-handed. Supply them liberally from your flock, your threshing floor and your wine press. Give to them as the Lord your God has blessed you. Remember that you were slaves in Egypt and the Lord your God redeemed you. That is why I give you this command today. But if your servant

the Hebrew man or woman must be freed in the seventh year and the owners were expected to provide for them liberally so that they could start a new and independent life (Deut 15:12-18). As the Lord God's sacrificial love was bestowed upon the people of Israel in Egypt when they were weak and enslaved, in like manner they were expected to deal with each other.

Unlike the Covenant Code, the uniqueness of the Deuteronomic Code is not just in its choice of words. For example, using the word "Hebrew" instead of "brother" (Deut 15:12) marks a radical change from the parallel law codes, especially the Covenant Code. Women are also given equal privilege with men in the release of slaves (Deut 15:12,17). These additions mark a significant step away from the Covenant Code. The Deuteronomic Code supersedes the Covenant Code by granting equal treatment to women (Tigay 1996:148). The position of equality clearly shows that the Deuteronomic Code springs from a more advanced society where the power of a father over his daughter was no longer supreme (Driver 1996:182–183). Accordingly, those obliged to be freed are referred to as "brother" or "sister", implying that there is no room for "power over others". This humanitarian approach is missing in Exodus 21:2–11. In Exodus, the female slave is given a lower status. For Baker (2007:01), a concubine is probably a slave. What is implicit in the Covenant Code becomes explicit in the Deuteronomic Code (Kline 1963:90).

says to you, "I do not want to leave you," because he loves you and your family and is well off with you, then take an awl and push it through his earlobe into the door, and he will become your servant for life. Do the same for your female servant. Do not consider it a hardship to set your servant free, because their service to you these six years has been worth twice as much as that of a hired hand. And the Lord your God will bless you in everything you do."

If a member of your community is sold to you must be understood in context (Deut 15:1–11). The reason for this sale would be due to a default in the repayment of debt. The way to substitute the debt was by servitude to the creditor for six years. These are not the six years of the sabbatical cycle, but rather six years following the sale. In the seventh year, the slaves were to be declared free.

You shall let him go free (Deut 15:12) is in line with the phrase *Let my people go* (Exod 5:1). This expression reveals a humanistic approach. In Exodus, the command given is, “He shall go out free” (v.2), whereas here in Deuteronomy, the owner was required to release his slave (Deut 15:18) (Weinfeld 1972:282–283). In verses 13–14 of Deuteronomy 15, the owner is asked to garland the slave, in other words, give him or her a necklace of flocks, grain and wine in abundance (Wright 2009:192–193). The understanding here is to bestow generously.

The Deuteronomic Code goes beyond the provision of Exodus 21:2–11⁹⁶. The obligation aspect is missing in the Covenant Code. Here the owner’s responsibility towards the slave is highlighted. The slave must not begin his freedom in a state of destitution and insecurity, but must rather enjoy full inclusion into society. The strong concern for the oppressed in this law can be clearly seen. It is a remarkable advance in social thinking. The principle of love for God and for one’s fellow man is vital to the covenant community (Wright 2009:192) and it is boldly demonstrated in this text, but Exodus 21:2–11 makes no provision for the released slaves.

⁹⁶ For Driver (1996:183), the regulation of slaves concerning the wife and family of a slave (21:3–4) is disregarded in Deuteronomy and is replaced by the provision aspect.

Therefore, I command you this word today (Deut 15:15): The word “today” is unique in the command of freeing the indentured servants. It stands exactly at the centre of the literary unit (between two sub-units: vv. 12–15a and 16–18). Here the call to remember was not merely a means to evoke sympathy or compassion for the slave, which would lead to generosity, but rather to acknowledge their past, when they themselves were slaves in Egypt (Deut 5:15, 16:12, 24:18, 22). The freedom from bondage in Egypt was not performed on merit, but rather because of God’s love towards them. The love of God is shown both by delivering them from the hand of Egypt and also by providing ample provision (cf. Ex 3:21–22 [you will not go empty-handed], 11:2, 12:25–27) (Merril 1994:245–246). In return, they should do no less to the manumitted slaves in the seventh year (Lemche 1975:137). A powerful motivating force is thus indicated. By comparing this passage with other codes, God’s concern for the poor is revealed. In Exodus, injustice is observed, especially towards the female slave (Chirichigno 1993:342–343). Here, the liberation of the male and the female slave is an act of love, whereas in Exodus, it is an act of cruelty. Total justice is seen when a person set free has some hope of success (Schenker 1998:27; Chirichigno 1993:335–336). If success is not achieved, their fate would be further slavery.

The law intends that freedom be given to all. But if a slave, in spite of receiving freedom, decides to stay with the owner, he or she shall be categorised as *perpetual slave* (Deut 15:16–17). The regulation and exhortation contained in vv.12–17 are applied equally to male and female slaves (v.17b), which are missing totally in Exodus 21. In the Exodus passage, the slaves are brought to God (household gods before whom the ceremony was performed), but Deuteronomy does not mention it. The reason why is that gods had been rendered illegal objects

under Josiah's reform (2 Kgs 23:24)⁹⁷. The pierced ears indicate the slave's legal position in society (Cairns 1994:151). It also symbolises their obligation to remain with their owner and serves as a mark of slavery.

Had the slaves given free service for six years, there would have been every possibility of selfishness and greed on the part of the owner. Accordingly, here the law indicates that the six years of service are worth the wages of a hired labourer (Childs 1974:14). The slaves had worked for no pay and the wages that would have been paid to an employee for the same labour were to be considered as full repayment for the debt that had caused the slavery in the first place (Craigie 1976:239). The law again cautions the owner, whom the slaves had served under due to their debt. The law urges that owners should not consider it as a hardship, but rather free their slaves with total willingness. The result is a blessing from God. This concept is totally absent in the Exodus passage.

The reason for this absence in Exodus is because Deuteronomy sets the scene regarding the core law in Exodus and reviews it in a more acceptable light. This is not a bad thing per se, because Israel's image as individuals, as well as their corporate image, are both important to balance. Therefore, instead of a Hebrew slave that the master must free, he is seen as a Hebrew brother, working for a fellow countryman, that is freed and compensated upon release, presumably so that he will not find himself immediately in straits and enslaved again. This

⁹⁷ The Deuteronomic legislator avoids the word "God", instead preferring the word "door" to highlight the "single sanctuary" practice which considered household gods as illegal objects under Josiah's reform, which is very plausible because of its legal nature (Cairns 1994:150).

must be done because of God, who blessed the master and freed the Israelites from Egyptian bondage, a major theme of Deuteronomy.

The law of slavery in Deuteronomy is sound, both theologically and economically. The economic feasibility to have a fresh start in life i.e. a historical and economic redemption (Exod 12:33–36) is given much emphasis. It recognises and respects the private life of the slave. The law regards the slave as a person who sells his or her service, and not his or her person. Unlike Exodus, there is no mention of the hidden agenda of the owner to increase his wealth by giving the slave a wife and at the end of six years retaining the wife and children. The slave now has a voice in the community and as a citizen, the slave enjoys the same rights as his or her master. The slave has not only the right to freedom, but can also stay with his or her family. In the Covenant Code, the slave has to decide whether he or she wants freedom or family, while in the Holiness Code, a slave's children can go with him or her, but the freedom of his wife is not mentioned (Meyers 1998:251). Justice and compassion to powerless members of the community are well addressed in this law.

3.7.4 Deuteronomy 16:11–14

Deuteronomy 16:1–17 deals with the three feasts of Israel. Within the series of festivals, vv1–8 (the Passover feast) is much discussed, as verse 3 seemingly contradicts⁹⁸ verse 8. It is generally argued among scholars that the two feasts, the Passover and the Feast of Unleavened Bread, have been combined (Mayes 1979:256). Deuteronomy 16 consists of the Passover with

⁹⁸ “Do not eat it with bread made with yeast, but for seven days eat unleavened bread, the bread of affliction, because you left Egypt in haste – so that all the days of your life, you may remember the time of your departure from Egypt” (Deut 16:3). “For six days eat unleavened bread and on the seventh day hold an assembly to the Lord your God and do no work” (Deut 16:8).

Unleavened Bread (1–8), the Feast of Weeks (9–12) and the Feast of Booths (13–15), followed by a summary (16–17). In celebrating these feasts, Yahweh expects his people to remember his faithfulness and to observe the feasts from generation to generation by involving “all members of the society” (11, 14). This passage is a Deuteronomic version, as it gives more importance to worship (the word “rejoice” is unique in Deuteronomy). With the exception of the Passover, the three feasts have an agricultural setting and belong to the period of the settlement (Cunliffe-Jones 1951:101).

The heart of the Passover festival is not merely to remember the salvific act of God and his blessing, but to have a fellowship meal involving “all members of the community”, regardless of their socio-economic status. The law here motivates the owner to extend the celebration to servants and other people connected to his family. Deuteronomy 16:9–17 explains in more detail about the Feast of Weeks and the Feast of Booths. Unlike the parallel passages in Exodus (23:14ff. and 34:18ff) and Leviticus (23:15–22, 33–44), the Deuteronomic passage differs in one respect. Neither of the two feasts in Deuteronomy is connected with salvation history (cf. Ex 23:15; 34: 18; Lev 23:42–43). In the Book of Leviticus, the dwelling in booths is designed to remind the people of Israel of their wandering in the desert.

The striking significance of the Deuteronomic Code lies not merely in Israel’s history, but rather in the involvement of each member of society in Israel (“Rejoice ... you and your sons and your daughters, your male and female slaves, the Levites, the strangers, the orphans and widows” – vv.11 and 14). In the parallel passages, only men were given this proper status as they were deemed “true” members of the covenant community. For the Deuteronomist, not only men were afforded this privilege, but everyone in the community, as the Israelites are

reminded that they were once in a similar dependent position (cf. 15:15) (Merril 1994:254). Deuteronomy 16:12 states the reason for such a stipulation: “Remember that you were a slave in Egypt.” For Deuteronomy, the reason for celebration is not merely to know how they escaped slavery, but indeed their experience of servitude in Egypt (Ex 23:14; Lev 23:43; Deut 16:12) (Mayes 1979:260). In Egypt, all faced the same hardships and received deliverance. In the same way, all members of society should participate in the feast.⁹⁹ Each member of the community had access and rights to enjoy the feast. The festivals were a time of rejoicing for all members of the community. The Deuteronomist creates empathy for the weak and marginalised, and creates a sense among them that they too are given rest to celebrate the redemptive act of God. Unlike the other codes, the celebration of the Passover gives new meaning to the community, emphasising the significance of each member, irrespective of their social standing or gender. This change is vital as it brings social bonding and renewal, as well as a deep conviction that all Israelites are part of the community of God.

This study’s interest is not to give a detailed account of all the issues presented in this chapter, but rather to exegete and read the text of Deuteronomy 22:5 in a feminist perspective, so as to deal with the oppression and disempowerment of women in Ancient Israel.

⁹⁹ I would argue that God’s deliverance of Israel included human agents. These agents were not only male members of society, but included women – for example, Miriam, who helped her brothers Moses and Aaron. In other words, the right to rejoice extended to all. Surprisingly, the other parallel codes centre solely around male members of society. Possibly, the Deuteronomist had this in mind when issuing this legislation.

3.8 The context of Deuteronomy 22

To explore Deuteronomy 22¹⁰⁰ within the context of the Deuteronomic/Deuteronomistic Code is to place the disempowerment of and violence against women into perspective. This exploration will reveal the author(s) and the date of the book. It will then look at the historical background of the year of remitting debts and releasing slaves. This will be done by looking at the ANE setting, the Israelite milieu and the context specific to Deuteronomy 22.

Craigie (1976:24) states that traditionally, the book is considered the work of Moses. That is understandable given that, as Leslie J Hoppe puts it, “Deuteronomy presents itself as Moses’ testament to Israel”. However, he argues that “while most interpreters recognise that ascribing the book to Moses is a theological device to legitimate its content, they have reached no consensus about the question of authorship. Priests, prophets, sages, and elders have all been suggested” (Hoppe 2000:342). Craigie (1976:7) add Levites in the list presented by Hoppe. With regard to the date, there is a similar degree of uncertainty. “Interpreters have supported pre-exilic, exilic, and post-exilic dates for its composition” (Hoppe 2000:342).

Hoppe concludes by asserting that many scholars opt for the seventh-century date, partly because of the book of law that was found in the temple in 2 Kings 23:1–3. This is the period that Wittenberg (2009:84–90) also argues for. It is difficult to place the Book of Deuteronomy with certainty in any of the suggested periods. Although the book found in the temple during

¹⁰⁰ The book of Deuteronomy explains Israel’s covenant obligations towards God as his chosen people. Deuteronomic History utilises this paradigm as it surveys the history of Israel and explores theological themes, such as monotheism, the importance of loyalty to the covenant, the Promised Land and the legitimacy of the Davidic dynasty (Weinfeld 1992:1). These are integrated into a narrative commentary analysis of the plight of Israel from the time of the conquest until the fall of both kingdoms.

the time of Josiah might have been written in an earlier period, disappeared, then rediscovered in the temple and perhaps developed years later, this study opts for the period of Josiah. Because of 2 Kings 23:1–3, I would intuit that the book which was found might have undergone editing during the period after it had been found.

By adopting this position, I accept Wittenberg’s argument that the authors might therefore be the people of the land who instated Josiah as king at the tender age of eight years. Let us proceed to the historical background of the year of remitting debts and releasing slaves, including the treatment of women.

The year of remitting debts and releasing slaves is not peculiar to Ancient Israel only, but is characteristic of the whole Ancient Near East. The sabbatical year tradition was generally established throughout the Ancient Near East (Biddle 2003:255). Mesopotamian monarchs often proclaimed “releases” which commemorated the beginnings of their reigns or other significant occasions. However, they were not expected to do so and the terms of the release were different (Biddle 2003:256). In the edict titled *An Edict of Ammi – Saduqa of Babylon* (1646 – 1626 BCE), which is a covenant code like that of Deuteronomy, the Babylonian king calls for leaving crops to grow freely and unharvested, so that they can be gathered by the poor and that women who were disempowered may have something to eat (Biddle 2003:256). In the edict, the king further remits the debts of tenants – farmers, shepherds, soldiers, fisherman and the *mushkenu* – an Akkadian term which designated a particular socio-economic class (Biddle 2003:256).

The edict further commands that “no one should make demands on the houses of the soldier, fisherman or the *mushkenu*” (Biddle 2003:256). This might refer to officials going to houses of those who have not paid their taxes or are indebted to the monarchy. The code therefore forbids creditors from pursuing the payment of debt after the decree has been issued (Walton 2009:185). In other ANE law codes, such as the Code of Hammurabi, the rulers, landowners, aristocracy, priests and military leaders benefited materially over the poor and disadvantaged, including women who were widows (Adeyemo 2006:230). This is indicative of the fact that, although the remitting of debts and releasing of slaves was widespread throughout the Ancient Near East, the law practised in Israel was distinct because it was not commissioned by man, but by God. In Canaan, the gods maintained the social, political and economic status quo (Hoppe 2004:9).

The Code of Hammurabi also contains several examples of governing the rate of interest, to the point that it even prescribes forfeiture of the investment should the creditor charge an interest rate of more than 20 percent (Walton 2009:185). Those who sought credit were usually farmers who experienced a bad harvest. As a result, they had to incur debt in order to provide food for the coming year and to have supplies for planting next year’s produce (Walton 2009:185). The continuation of this cycle would put the farmer in such debt that he would inevitably have to sell himself and his family into slavery (Walton 2009:185). Furthermore, the Code of Hammurabi also called for the freeing of children and women after being sold into slavery for three years (Walton 2009:186).

The economy of Ancient Israel was based on agriculture. An Israelite family would have a plot of land where they grew their crops and raised their livestock in order to provide the family

with food and clothing. This means that most Israelites before the monarchy were subsistence farmers (Hoppe 2004:8). They were able to grow just enough crops to feed themselves, their families and their livestock, and to provide seed grain for the following planting season. Also included in their crops was the portion they had to set aside for their tithes and sacrifices. These were intentional in order to secure a blessing from the Lord (Hoppe 2004:8). Given this way of life, occurrences such as drought meant that the farmer was in danger of famine since subsistence farming did not produce surpluses which could sustain the farmer through a challenging year.

This was not the only threat to productivity for an Israelite subsistence farmer. Illness and injury would occasionally prevent the farmer to work his fields and tend his flocks (Hoppe 2004:8). In such events, the agricultural yield would be low. The difficulties did not only emanate from the land but also from the socio-economic structures of Canaan. The city-state governments of Canaan taxed the peasants and the payment of these taxes took the form of labour – both obligatory and optional (Hoppe 2004:8). When peasants worked for the state on building projects or in the military, they were unable to work their land. Thus, the requirement for the peasants to give a particular portion of their harvest was a heavy weight since their farming did not produce the surpluses required for paying taxes (Hoppe 2004:9).

Conditions would sometimes make it impossible for peasants to pay taxes. Consequently, they would become indebted to such an extent that they would be forced to sell their children into slavery. In other circumstances, they would sell their land to pay off their debt (Hoppe 2004:9). The landless peasants would then be reduced to poverty due to their lack of access to food

production. Thus, the city-states of Canaan were responsible for poverty creation in Canaan (Hoppe 2004:9-10).

In Israel, land was deemed to be a gift from God, an inheritance which the Lord God gave to his people as they entered the Promised Land. This land was also meant to be an inheritance for a family, clan or tribe which could be passed down to succeeding generations (Hoppe 2004:9). This status was threatened by the political, social and economic systems which the city-states of Canaan maintained. Some of the threats came through Israel's contact with minority Canaanite tribes which were not completely vanquished during Israel's conquest of the Promised Land. One of these nations which posed a real threat to Israel was the Philistines. From the eleventh century BCE, this group began to occupy the southern areas of the coastal plain. They also expanded eastwards and to the north into territories occupied by the Israelites (Hoppe 2004:10). This led Israel to believe that having a king with an army was essential to address this threat.

According to 1 Samuel 8:10–18, a monarchy is not what Israel needed. A monarchy is characterised by hierarchical structures which reinforce class structures, creating a status quo where “the rich rule over the poor, and the borrower is slave to the lender”. With the establishment of the monarchy, the land was no longer understood to be a gift from God, but the possession of the king. Peasants were only able to maintain their own land as long as they could pay their taxes (Hoppe 2004:11). If not, they lost their land to their creditors due to extortionately high interest rates, high taxes, and a crooked judicial and political system. The situation was further exacerbated by occurrences such as droughts, wars and sickness which potentially led to families entering into a cycle of debt (Hoppe 2004:12). This was due to the

fact that there were no controls, intervention or measures on lending and borrowing. Thus, the system could exploit the poor and vulnerable in society. The monarchical systems could not address the stark socio-economic inequality since it was the monarchical hierarchical structures which inherently maintained the status quo.

When Josiah's father died, he was only eight years old. Despite his young age, the people of the land made him king and for many years thereafter, all the power was in their hands (Wittenberg 2000:89). Describing them, Tatum (2000:1027), argues that they were the general citizenry that championed traditional Yahwism which guarded the syncretistic tendencies of the royalty. However, he notes a recurrent struggle in Judean history between the centralising policies of the Davidic monarchy and the traditional decentralised polity of the old tribal league (Tatum 2000:1028-1029).

Wittenberg (2009:89-90) posits that over thirty years later when Josiah was killed, this elite class of citizens still exerted influence. They made the younger son Jehoahaz king, passing over the elder son, Jehoiakim. They formed a coalition with the scribes and priests to plan further reforms. Deuteronomy is a foundational document of that reform party. Wittenberg argues that in Deuteronomy, the function of the law to constitute a society and give it an identity is discernible. He then remarks, "In contrast to all other Ancient Near Eastern peoples, society is not constituted around the monarchy, but around the people of Israel." In this scenario, a covenant was concluded between Yahweh and his people, rather than just with the priests and Levites. The reformers were therefore the free land-owning population of Judah who took control during the reign of the young Josiah. One of the themes of this time period is the ethic of brotherhood; the community of God relied on the concept of equality. Furthermore, the ideal

of the Deuteronomic reformers was: “One Yahweh – one place of worship – one people of God” (Wittenberg 2009:94).

Examining the full implications and meaning of the Deuteronomic legislation on the tithe, Wittenberg (2009:91) reveals information that is very relevant in examining Deuteronomy 22. He states that before the Deuteronomic legislation, the tithe was in the form of a state tax¹⁰¹. It was collected by the state. During the post-exilic period, the tithe was collected by the temple. However, in the Deuteronomic legislation, the tithe is consumed by the land owner who shares his wealth with the poor, which included women who were economically disempowered.

In Deuteronomy, the focus is on ordinary people, women and the poor. Even more interesting for the purposes of this discussion is the social reality that prevailed when the Deuteronomic reformers enacted their legislation. As Wittenberg argues:

The social crisis which had undermined the fabric of the free peasant community in Israel and Judah since the mid-eighth century [BCE] and which had called forth the prophetic indictments of Amos, Micah and Isaiah, had reached an advanced stage after a century of Assyrian domination at the beginning of the reign of Josiah. In this situation, the reformers were intent on finally putting a stop to the disastrous deterioration of the social situation of the poorer members of the peasant community (Wittenberg 2009:94).

¹⁰¹ “The tithe as a royal tax was not only used by the early monarchy under Solomon (it was one of the reasons for the early rebellions), but also much later” (Wittenberg 2009:91).

By examining the context of Israel in the book Deuteronomy, Wittenberg illustrates the implications and meaning of the legislation of the Deuteronomic reformers, which also gives background to Deuteronomy 22, which will be discussed in the next section.

First, the state tax is stopped and replaced by the tithe as envisaged by the Deuteronomic reformers. The tithe is redirected so that it benefits its owner, but this phenomenon is also attached to the worship of God. The primary beneficiary is extended by including Levites who do not have an inheritance. A further extension is instituted that every third year the tithe is distributed in the villages because some Israelites were not able to travel to the central place. In this case, the Levites, the resident aliens, the widows and the orphans were the chief beneficiaries.

In Wittenberg's (2009:95) words, "This extension shows a remarkable departure from the basic regulation, in that every third year, the tithe is to be paid directly to the socially deprived groups (i.e. those without landed property) in the gates of the towns as the places of public gatherings and local court proceedings." The reformers formed a social safety net. This provides some background to our focal text, Deuteronomy 22, although the main aim of this chapter is to place Deuteronomy 15 in context. This is done clearly by McConville when he asserts:

The laws of release are obviously closely related to the law of the tithe, which began to provide a structure in Israel for maintaining a balance and equity in society, and especially for giving access to the wealth of the land to those who had no property rights of their own. The laws of release now address the same issue from another angle (McConville 2002:257).

It is also proper to indicate here that this is what makes Deuteronomy 22 attractive for an analysis of the disempowerment of and violence against women in a South African socio-economic context. Let us now move onto the next section, which examines the relationship of the book Deuteronomy with chapter 22 in particular.

3.8.1 Analysis of Deuteronomy 22

Firstly, let's examine how the structure of this law discriminates against a woman in terms of the clothes she was allowed to wear, looking at the key words to understand their meaning better.

NASB	Hebrew	Strong's	Origin
"A woman	אִשָּׁה (i·shah,)	802 : woman, wife, female	from an unused word
shall not wear	יָהָיָה (yih·yeh)	1961 : to fall out, come to pass, become, be	a prim. Root
man's	גֵּבֶר (ge·ver)	1397 : man	from gabar
clothing.	כֶּלִי (che·li-)	3627 : an article, utensil, vessel	from kalah
Nor	לֹא (lo-)	3808 : not	a prim. Adverb
shall a man	גֵּבֶר (ge·ver)	1397 : man	from gabar
put	לָבַשׁ (yil·bash)	3847 : to put on, wear, clothe, be clothed	a prim. Root
on a woman's	אִשָּׁה (i·shah;)	802 : woman, wife, female	from an unused word
clothing;	שִׁמְלַת (sim·lat)	8071 : a wrapper, mantle	from an unused word

for whoever	כָּל־ (kol-)	3605 : the whole, all	from kalal
does	עָשָׂה (o·seh)	6213a : do, make	a prim. root
these things	אֵלֶּה: (el·leh.)	428 : these	a prim. pronoun
is an abomination	תּוֹעֵבָה (to·v·'a·vat)	8441 : abomination	from an unused word
to the LORD	(Yah·weh)	3068 : the proper name of the God of Israel	from havah
your God.	אֱלֹהֵיְךָ (e·lo·hei·cha)	430 : God, god	pl. of eloah

Figure. 3: Strong's Hebrew Concordance¹⁰²

On the surface, it would appear that the first part of the law deals with clothing, a prohibition for women to wear men's clothing and vice versa. Looking at various translations of Deuteronomy, it would appear that the law is about clothing, but the Hebrew text is more obscure and could be construed to be about the general disempowerment of women. In order to better grasp the details of this law, we have to examine certain key words.

Both the Hebrew word for wear (שָׁבַל) and for female garments (הַשָּׂא תִלְמַשׁ) make specific reference to clothing. שָׁבַל is regularly used to mean “the putting on of ordinary clothing”; it means “to put on a garment, to clothe oneself with” (Koehler 1999:519). And תִלְמַשׁ is an “outer garment, cloak, mantle” (Harris 2000:879). This meaning is reflected in the ESV translation: “nor shall a man put on a woman's cloak”. In conclusion, in the second sentence of the first part, we have a clear prohibition for men to wear women's outer garments.

¹⁰² See Strong's (2020) Available at <https://biblehub.com/hebrew/> [Accessed on 15 April 2020]

It is interesting that the verb is *to be* and not *to wear* as in other parts of the OT; this is why I've chosen the translation, "there should not be". And the word article/clothing (*che-li-*) that has as its counterpart "garment" in the second part of the sentence, is actually a very broad term. Harris (2000:879) defines it as, "A masculine noun indicating an article, a vessel, an instrument, a jewel. It has a broad inclusive sense and indicates useful objects of all kinds. The context must determine what object is indicated and for what task" (Barker 2003:508). From the context, it seems that "clothes" is the proper translation, but there is still a question that remains unanswered: Does the meaning of the Hebrew word "clothes" contribute towards a disempowering attitude towards women? The answer to that question is yes because of the distinction between what men should wear and what women should wear. In other words, men were seen to be more productive and more able to do economic and social tasks, while women were not.

Let us for a moment consider the word *che-li-*. From several dictionaries and lexicons, we discover the following: four (HAL, Gesenius, *A Concise Hebrew and Aramaic Lexicon of the Old Testament, Dictionary of Biblical Language with Semantic Domains*) contain the meaning "garment" and two (TWOT, BDB) don't. From the four lexicons that render "garment" as a possible translation for *che-li-*, every one of them, with the exception of HAL, use as proof only Deuteronomy 22:5. HAL mentions another verse, 1 Samuel 21:6: "Then David answered the priest, and said to him, 'Truly, women have been kept from us about three days since I came out. And the *vessels* of the young men are holy, and the bread is in effect common, even though it was sanctified in the vessel this day'" (NKJ, emphasis added). But here it is even less probable than in Deuteronomy 22:5 for *che-li-* to mean garments. Even the authors of HAL

mention that there is an alternative reading here of “body, which could definitely be interpreted as a negative consequence of female demeanour” (Koehler 1999:479). This means that beside Deuteronomy 22:5, we don’t know of any other place in the Old Testament where *che-li-* could refer to garments, but could also negatively describe what women’s place in society should be.

Now the question is: Is our interpretation justified on the basis of the next parallel sentence? There are scholars who perceive this problem and support other translations of *che-li-* (Ames 1997:57). On the basis of the broad meaning of *che-li-*, it seems that both possible translations fail to cover the entire semantic meaning of this word. HAL renders the following meanings for *che-li-*: (1) vessel, receptacle; (2) piece of equipment; (3) implement, instrument: (a) ornament, (b) garments, (c) weapons (Koehler 1999:479). I concur with Davidson, who supports a broader translation of Deuteronomy 22:5, which includes the disempowerment of women in relation to how their place and their bodies were defined by the patriarchal society (Davidson 2007:170). Clothes may be part of *che-li-*, but the text has in view more than clothes. It is “applicable to almost any article used or worn, e.g. weapons (Gen 27:3), jewels (Gen 24:53), ornaments (also household objects, implements and vessels), Leviticus 13:49 (a thing of skin), 1 Samuel 17:40 (a shepherd’s bag)” (Driver 1902:251).

A further pointer to the broadness of the word *che-li-* is the verb that it is used with in the first sentence. In this passage, the negative form of it appears: **היהי־אל** (shall not). It is a verb with a broad meaning. Stabnow (2004:88) researched the word’s negation with *lo* in Hebrew and came up with **היהי־אל**. He suggested several possible concepts that are conveyed through this construction: (1) the non-existence of something (in the future with the imperfect and in the past with the perfect aspect of the verb) (2) ownership or possession, (3) not being “on the

road”, (4) not being “with someone”, (5) not going “after someone”, (6) not being “in a group”, (7) not being “from a group”, (8) not being “from someone”, (9) and not being “like someone” (Stabnow 2004:89–95). He dealt with the usage of this construction in legal texts. Accordingly, Deuteronomy 22:5 forbids the existence of a *che-li- ge-ver* upon an *i-shah*. This can be an allusion to wearing something, but there is nothing that points directly to “wearing” here. It may be that the word refers to carrying a man’s tool. The next question is: Why does the author use these broad terms, *che-li- ge-ver* upon an *i-shah*, to describe what is forbidden for a woman to have upon her? He could have been more specific if he was only referring to clothes. I will revert to this question later.

There is another word in this first sentence of Deuteronomy 22:5 that can add nuanced meaning. It is the word for “man”, רבג, which is a rare word for man in the Old Testament (only 66 occurrences). In Deuteronomy, it is present only here. This word not only points to gender, but it emphasises something about the nature of man: firstly, it is about strength and secondly, it has a sexual meaning (Botterweck et al 2012: 377–378). Distinct from more general words for man, such as *ādām*, *iš*, *enôš* etc., this word specifically relates to man at the height of his powers (Harris 2000:148). It is important to note this difference, but it would be going too far to say that this is a different kind of man, a superior one (Kosmala 1969:162). רבג is used in the Exodus narrative twice in reference to the men of Israel coming out of Egypt (Ex 10:11; 12:37). There it is used to contrast men with women and children. It seems that in Deuteronomy 22:5, it has the same function. This is a more obvious feminist interpretation.

To sum up, we notice that, while the prohibition in the second sentence is clear and precise, in the first sentence the terms are broad. It is a prohibition for women that there should not be

anything on them that pertains to men's clothing. But more revealing is the blatant disregard for women to determine for themselves what ought to define them.

Of particular importance here is the construction הוהי תבעות. This word explains the gravity of breaking the law. How does this construction contribute to a better understanding of Deuteronomy 22:5? The meaning of תבעות is "abomination, abhorrence". In a broader sense, the word is used to identify anything offensive (Prov 8:7) (Barker 2003:183). TWOT points out the nature of the offence: it "may be of a physical, ritual or ethical nature and may be abhorred by God or man" (Harris 2000:977). Thus, the Old Testament can indicate that which is excluded by its very nature, that which seems dangerous or sinister, by *tô'ēbā* (Jenni & Westermann 1997:1429).

The construction הוהי תבעות appears only in Deuteronomy (eight times) and Proverbs (11 times). It "expresses the incompatibility of some things with Yahweh's nature (Jenni & Westermann 1997:1430). Davidson (2007:171) points out that תבעות is not only about cultural taboos, but as with Leviticus 18, it also refers to the violation of the creation order (Davidson 2007:171). Concluding our discussion about the Hebrew words used in Deuteronomy 22:5, I would argue for a more literal translation because it is less sinister and it aligns with the rest of the Hebrew Bible: "There is not to be a man's item on a woman, nor is a man to clothe himself in the garment of a woman, for an abomination to Yahweh your God is anyone doing these!" (Fox 1995:22).

3.8.2 Literary context

After looking carefully at the words of Deuteronomy 22:5, let's examine how the context sheds light on its meaning. Firstly, there are scholars who believe that context is of little importance

here (Vedeler 2008:460). And indeed at first glance it seems that the law is out of place. In Deuteronomy 22:1–12, we have the following laws: (1) law of respect for the property of one’s fellow man (v. 1–4), (2) Deuteronomy 22:5, (3) law on protecting birds’ nests (v. 6,7), (4) law on requiring parapets on homes (v. 8), laws concerning forbidden mixtures (v. 9–11), (5) law concerning clothes and clothing (v. 12) (Kaizer 1983:135).

After scrutinising the passage, certain connections become apparent. The position of Deuteronomy 22:5 “anticipates both the laws on forbidden mixtures in verses 8–11 and the laws on sexual behaviour between men and women in verses 13–30” (Hall 2000:230).

Kaufman (1979:136) highlights a small chiasmus that binds

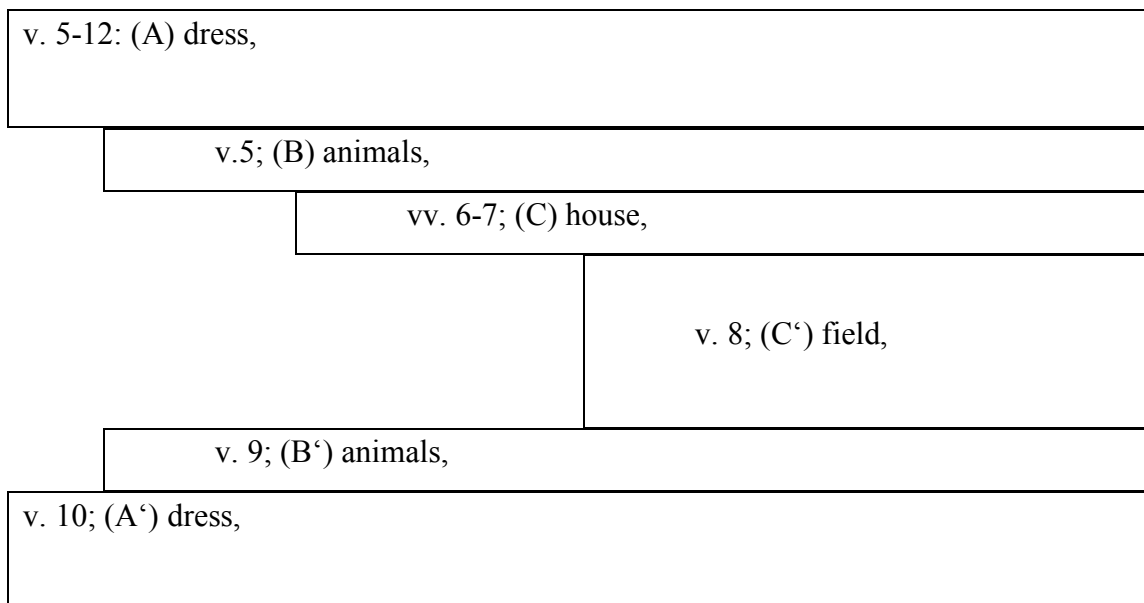


Figure. 4: Structure of Deuteronomy 22

This arrangement sets Deuteronomy 22:5 in chiastic parallel with the law concerning forbidden mixtures. How does this influence the interpretation of Deuteronomy 22:5? It would be helpful to understand the reason for the laws forbidding certain mixtures. There are three such laws,

namely: (1) sowing different kinds of seeds, (2) ploughing with different kinds of animals, (3) wearing clothes made from different kinds of threads (interestingly, this last one is in direct chiasmic parallel relationship with Deuteronomy 22:5). Houtman (1984:226–228) points out the reason for this law: “mixing of kinds has to be prevented because the order of the world must not be endangered” (Houtman 1984:226–228). He explains that the world was created by means of separation: “the world exists thanks to the separation of heaven and earth, the alternation of light and darkness, of heat and cold, of water and land, thanks to the difference between man and beast, thanks to the diversity of species (Houtman 1984:227). And he adds that “blurring separation and variety may induce a reversion of the cosmos to chaos and must therefore be prevented”. According to the context, it seems that Deuteronomy 22:5 prohibits the blurring of the distinction between man and woman, as God created them as different and distinct beings in the beginning.

3.8.3 Background

In Ancient Egypt, there are some recorded instances of cross-dressing. There were two pharaohs who chose to depict themselves with traits of the opposite sex. Pharaoh Hatshepsut (1478/72–1458 BCE) is one of them: “After seizing power, she had herself depicted with such male (and pharaonic) features as a beard, male kilt and crown” (Vedeler 2008:465). She did this without a clear reason because there were female pharaohs before her. Besides Hatshepsut, other transgender behaviour was displayed by Pharaoh Akhenaten, who was depicted with feminine hips, while his wife Nefertiti wore the crown which was only for pharaohs. The motivation behind Akhenaten’s behaviour remains unclear.

Similarly, in Mesopotamia, there was a group of temple personnel who were involved in cross-dressing. The male functionaries (termed *assinnu*, *kargarrû* or *kulu’u*) in the cult of Ištar used to “dress like women, wore female make-up and often carried the female symbol of the

(spinning) spindle” (Vedeler 2008:465). Furthermore, it seems “inescapable that these individuals did participate in ritual homosexual practices. It was considered that these functionaries were turned from men to women by the goddess Išhtar” (Davidson 2007:137).

In Canaan, there is one reference in *The Bow of Aqhad* to the Canaanite goddess Anath as one that “takes away men’s bow, that is, who changes men into women”. It was believed that the goddess transformed these men into homosexuals due to the similarity with the Mesopotamian statements about Išhtar. This seems to be the background of Deuteronomy 22:5. The law might have in view the male personnel in the cult of Išhtar. The cult of Išhtar is equal to the cult of Astarte/Ashera in Canaan. Despite the lack of substantial evidence, we can conclude that *assinnu* had its counterpart in the Canaanite religion (Davidson 2007:137–141).



Figure. 5: Inanna/Ishtar or Ereshkigal 1800–1750 BCE. British Museum, London¹⁰³

¹⁰³ See Dianna (2014). Available at <https://traveltoeat.com/ishtar-and-tammuz-ram-in-a-thicket/> [Accessed on 16 April 2020]

3.8.4 Different approaches to Deuteronomy 22

One of the most important questions related to the law of women not wearing men's clothes in Deuteronomy 22:5 relates to how it was rationalised. Why should women not wear anything that pertains to a man or vice versa? There is a long debate¹⁰⁴ among scholars about the reasons for this law and on several points they agree (Carmichael 1974:51).

One approach to Deuteronomy 22:5 is to translate *כִּלְיָ* as “weapon”; these scholars suggest that this text is a prohibition related to war. The law prohibits women from assuming and men from avoiding the role of warrior (Ames 1997:55).

There are scholars who believe that the law is prohibiting the involvement in a foreign cult (Payne 2001:125). They suggest that “women appeared in male garments and men in women's clothes when they worship their pagan deities. Yahweh wanted His people to be unique and to do nothing that was in any way connected with foreign religions” (Maxwell & Ogilvie 1987:241).

Another view is that Deuteronomy 22:5 is about a sexual perversion, such as homosexuality. Pickett (1985:10) suggests that Deuteronomy 22:5 appears to refer to the practice of transvestism as a not uncommon behavioural extension of homosexuality. Kensky (1989:96) presents the unique aversion of the Bible writers against homosexuality in the ANE context

¹⁰⁴ See Ames, (1997) *Women and War in the Hebrew Bible*, (Ph.D. dissertation, University of Denver, School of Theology, 1997), 55. See also Calum M. Carmichael, 1974, “A Time for War and a Time of Peace: The Influence of the Distinction upon Some Legal and Literary Material, in *Studies in Jewish Legal History: Essays in Honour of David Daub*, ed. B. S. Jackson, London, Jewish Chron. Pub.

and she adds, “Anything that smacks of homosexual blurring is similarly prohibited, such as cross-dressing” (Kensky 1989:96; Craigie 1976:288).

Some scholars take into consideration the second and third interpretation of “articles of clothes”, but they go further to advocate that the law forbids confusing the distinctions between men and women, distinctions that God gave at the creation (Cairns 1992:194).

Keil and Delitzsch (2002:945) comment on the rationale of the law: “The immediate design of this prohibition was not to prevent licentiousness or to oppose idolatrous practices ... but to maintain the sanctity of that distinction of the sexes which was established by the creation of man and woman, and in relation to which Israel was not to sin” (Keil & Delitzsch 2002:945).

The scholars who endorse the second interpretation do not give due consideration to the context of Deuteronomy 22:5. Here there is no reference to a cultic situation. The third interpretation is thoroughly questioned by Hoffner (1966:333): “There are more direct ways for referring to this practice [homosexuality], which are, in fact, employed elsewhere in the Old Testament” (Hoffner 1966:333). It seems that it ought to be more than a law against homosexuality. According to the context of Deuteronomy 22:5, it would appear that the main rationale for this law is indeed the blurring of the creation order. Davidson offers a well-balanced view: “Thus cross-dressing is morally/culturally repugnant to God not only because of its association with homosexuality and fertility cult rituals, but also... because it blurs the basic distinctions of gender duality (male and female) set forth in creation” (Davidson 2007:172).

Lange (2008:164) makes this point even clearer: “It is too narrow a view to regard it as a mere precaution against unchastity, and too wide as an opposition to practices at idolatrous festivals. The distinction between the sexes is natural and established by God in their creation, and any neglect or violation of that distinction, even in externals, not only leads to impurity, but involves the infraction of the laws of God.” Lange emphasises that the focus of this law is neither idolatrous festivals nor to prevent unchastity, but the issue at stake is the blurring of distinctions in external appearances between men and women.

In conclusion, I am convinced that a man ought to look like a man, and a woman ought to look like a woman (McGee 1991:139). Maxwell proposes that the law is against “the wearing of any item specifically intended for the opposite sex. The distinctives of each sex should be maintained and protected in regard to outward appearance” (Maxwell 2005:241). Furthermore, dress codes are used as a manifestation of underlying discriminatory attitudes and was often a way to control women by denying their personal autonomy. It must be said that where women are subjected to violence or are stigmatised for confronting the issue of controlling dress codes, patriarchal societies often lay the blame at the feet of victims. These attitudes are cycles embedded in the disempowerment of women.

3.8.5 Findings

In addressing the role clothes played in OT times, Gamberoni states, “If clothing does not establish the identity of an individual in human society, at least it plays an indispensable role in [signalling] this identity unmistakably” (Gamberoni 1995:468; Harris 2000:469). Clothes are also a means of communication as they signal something about the wearer.

Ames (1997:56) concurs: “On the symbolic level, clothing always serves as a means of visual communication. Thus, to dress the part is to assume the role, either intentionally or unintentionally. Clothing, one might say, is a fashionable form of synecdoche: the part represents the whole.” This implies that clothing allows people to change their appearance to look like the opposite sex in order to conceal their identity.

Let us now examine those items that were worn specifically by men and women and the identity they denoted in ANE times. This topic relates to my earlier unanswered question concerning the first part of Deuteronomy 22:5, namely, Why does the author use such broad terms to describe what is forbidden for a woman to wear?

I would suggest that clothing was not the only item that differentiated men from women in the Old Testament. This also pertains to sex roles of women and men. Other articles were worn by men of that time, such as weapons and tools. Perhaps there were other items worn by men of which we are not aware, such as particular adornments, but in this study, I will deal only weapons, tools and clothes.

Firstly, there were weapons that were worn and used only by men in Ancient Israel (Ames 1997:220). Secondly, there were tools and instruments used for work that were carried only by men, such as tools that Israel used in battle. Israel was an agricultural society (Jackson 2002:66-70) and men carried out tasks that required strength and hard work, in contrast with women who were centred on the family domicile. Because men’s work often involved strength, the expenditure of a great deal of energy in quick bursts requiring the use of large muscle groups and travelling away from home, they needed to carry tools for long distances for different types of work (Jackson 2002:107). These articles were particular to men. There is archaeological

evidence that Israelite men wore a belt around their waist to fasten on their skirt; besides this, the belt was used in order to hang on it “various articles, such as a sword, dagger, weights or valuables” (Wright 2007:18). Tools and different work instruments might be carried on this belt. These denoted man’s identity as a provider.

Clearly, there were differences in the clothes of men and women. The clothing worn by women was similar to that of men, except that they wore longer skirts and in all probability adorned themselves in a greater variety of garments if they possessed the means to purchase them. It seems that men wore a kind of short skirt in order to move more quickly while working.

So what was specifically worn by women? “Women’s activities seem to have been directed to domestic tasks and because of her duties, she was not seen in public wearing any clothes as men did” (Baten 2010:150). The biblical author mentions only תלמש, meaning “cloak”, as to what was specifically worn by women from roughly 2000 to 1600 BCE. But there were cloaks (תלמש) for men also. It seems that the cloak of a woman was different: it was made of “finer materials” and displayed more “vivid colours” and “distinctive embroidery” (Rodriquez 2014:225)

Because of their duty, men during the exilic period wore specific articles that differentiated them from women (namely, weapons, tools and clothes) and Deuteronomy 22:5 prohibits women to wear them. The reason for the broadness of the terms in the first part of Deuteronomy 22:5 could be that these articles would make women appear to be like men and the society of the Yahweh faith did not want people to blur these distinctions.

Regarding women, there are specific garments that differentiate them from men. In labelling the wearing of clothes of the opposite sex (for whatever non-sexual reason or however innocently done) as morally repugnant to God (הוהי תבעות), Deuteronomy seeks to assert that total fidelity to Yahweh extends even to the mundane world of dress.

3.9 Synthesis

The interpretation of Deuteronomy 22:5 points to the need for contemporary application, specifically where it pertains to customs and definitions of gender. The obscurity of the above text would imply that women were not able to make choices that would empower them within society and to enable them to worship Yahweh as his image bearers. The broadness of the text's interpretation allows the reader to reflect on the variety of possible meanings, but clearly the picture that emerges is one of disempowerment of women.

While the meaning may be uncertain, what is evident is the rationale behind the law. Rodriquez (2014:15) argues, "The distinction between male and female was established at creation when the human race was defined as 'male and female'. Anything that alters that distinction is rejected. [...] But the principle cannot be limited exclusively to that cultural [Ancient Israel] expression *because it is based on the order of creation.*"

Braun adds (2000:197), "Styles change from one time and place to another; it's impossible to dictate a specific dress code for all the rest of human history [or even in Old Testament times over 2 000 years] because implicit in that approach is to question the identity of women."

The culture we are living in today differs significantly from that of Old Testament times. Nevertheless, the fact that certain clothing which was determined by a patriarchal society is associated with female sexuality pertains to both the Ancient Israel and to modern times, and sadly, so too does a culture of disempowerment and violence towards women.

CHAPTER 4: VIOLENCE AGAINST WOMEN – A SOUTH AFRICAN PORTRAIT

4.1 Introduction

In 2019, South Africa erupted in angry protests after the rape and murder of a 19-year-old University of Cape Town student, Uyinene Mrwetyana, allegedly at the hands of a male postal worker (Adebayo 2019:1). Sadly, this incident was one of many. Statistics depict a bleak picture on gender-based violence in South Africa, with 56% of women falling victim to violent crime¹⁰⁵. The country's violent crime rate against women remains high in comparison with the rest of the world. For example, South Africa's female homicide rate in 2019 was five times the global rate¹⁰⁶. The numbers are ever increasing and yet violence against women is still regarded as a private affair, with only 3.9% of women reporting these crimes to the police¹⁰⁷.

Moreover, some critics claim that the South African Police Service's statistics are inadequate as they do not give an accurate depiction of the full scale of gender-based crimes (Mpani and Nsibande 2019:8). They claim that the reason the SAPS shies away from supplying more accurate figures regarding gender-based violence is that it would reflect badly on them and would be tantamount to an admission of guilt.

¹⁰⁵ See The National Strategic Plan on Gender-Based Violence Shadow Framework (2019:14).

¹⁰⁶ See The Civilian Secretariat for Police, 2019 White Paper on Safety and Security, Section 2.

¹⁰⁷ These are some of the stark findings of the Gauteng Gender Violence Indicators project study conducted by Gender Links (GL) and the Medical Research Council (MRC). The numbers cover the period March 2019 to January 2020.

Crime¹⁰⁸ brings fear, anger and hatred to communities. According to Treadwell (2013:07), crime is one of the obstacles in improving the quality of life and authorities have to take responsibility for community safety.

It is important that the SAPS and non-governmental organisations, such as Sonke Gender Justice (SDJ), People Opposing Women Abuse (POWA) and Men Engage Alliance, develop strategies to fight crime against women. The reduction of crime in South Africa can bring about positive change, such as job creation and economic growth, whereas a high crime rate against women reduces economic development and inhibits community safety.

To reduce violence against women, local communities must develop crime prevention programmes in an integrated way. This involves the application of multi-agency programmes that are aimed at reducing the threat posed by violence against women (Pheiffer 2013:14). The NCPS¹⁰⁹ is aimed at improving law enforcement by multi-departmental agencies to attend to the causes of crime against women. To achieve this, South African society as a whole must take ownership and acknowledge their responsibility to protect and care for women.

¹⁰⁸ “Violent crimes against women impacts on communities” (Treadwell 2013:07). Crime perpetrated against women is defined by Taye (2011:09) as emotional and physical abuse which makes women feel insecure about their safety. Davies, Croall & Tyrer (2010:40), on the other hand, define violence against women as any act or omission that is prescribed by criminal law and is punishable by the authorities through the criminal justice process. Although not all activities against women described by criminal law are regarded as crimes, behaviour which the community strongly disapproves of is often perceived as crime. These crimes may vary from region to region, according to different cultural norms. However, the concept of violence against women being different in terms of geography may be questionable and therefore needs uniform definition (Treadwell 2013:09).

¹⁰⁹ In 1996, the South African government launched the National Crime Prevention Strategy (NCPS) whose sole priority was to prevent the escalation of crime.

The following policies, legislation and working documents form a basis to assess South Africa's current position with regards to violent crime against women. They include the Constitution of the Republic of South Africa (Act 108 of 1996)¹¹⁰, South Africa's Domestic Violence Act (Act 116 of 1998)¹¹¹ and the White Paper on Safety and Security (WPSS) of 1998¹¹².

4.2 Fight against women abuse

“Participation means to take part, from generating ideas to planning, implementing and evaluating” (Pheiffer 2013:40). For crime prevention to be effective, the SAPS, the Community Police Forum (CPF), non-governmental organisations (NGOs), private security companies and other government departments need to work together (Netshitangani 2018:37). However, to date they have not properly participated in policing, partnerships and community crime

¹¹⁰ See Section 12(1) of the Constitution: “Everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either private or public sources.” This article prohibits violence in general, but in particular violence against women.

¹¹¹ “Intimate partner violence is one type of family violence dealt with by South Africa’s Domestic Violence Act (DVA), (Act No 116 of 1998). Relationships governed by the act include “engagement, dating or customary relationship, including an actual or perceived romantic, intimate or sexual relationship of any duration”, irrespective of whether these relationships are heterosexual or same-sex. The act also recognises that domestic relationships can exist between people who share a residence, but have no sexual or romantic relationship. This brings both housemates and students in residences within the ambit of the act’s protection.” This article defines domestic violence against women as including harassment, abuse of a physical, sexual, emotional, verbal and/or physical nature, stalking and intimidation, as well as any other form of controlling behaviour.

¹¹² The WPSS makes numerous specific references to the role of local authorities in crime prevention in the following ways: the internal prevention of crime, for example, by working with the local SAPS and CPFs in setting priorities; aligning resources and objectives within a crime prevention framework; ensuring that development projects take crime prevention principles into account; coordination of crime prevention initiatives operating within a municipal area to avoid duplication; effective enforcement of by-laws; effective traffic law enforcement; assisting victims of crime with information about the support services available to them; initiating targeted crime prevention programmes; and promoting crime prevention through multi-agency partnerships. This white paper relates to women in terms of government and local authorities including the police’s obligation to keep women safe in order to promote their economic development.

prevention strategies which concern women (Pheiffer 2013:41). Partnerships enhance responsibility, commitment and awareness¹¹³. The following aspects will be elaborated on in this study, namely crime, policing, partnership and community crime prevention.

4.2.1 Crime and women

Violence against women is evidenced in regional data as well. For example, over half the women in Gauteng (51.3%) have experienced some form of violence (emotional, economic, physical or sexual) from men in their lifetime and 75.5% of men in the province admit to perpetrating some form of violence against women. Emotional violence – a form of violence not well defined in domestic violence legislation and thus not well reflected in police data – is the most commonly reported form of violence, with 43.7% of women saying they experience it and 65.2% of men admitting to its perpetration. One in four women in Gauteng has experienced sexual violence in their lifetime. An even greater proportion of men (37.4%) disclosed perpetrating sexual violence (Krug et al 2002:10). Where violent behaviour against women occurs that is in breach of legislation or decisions made by courts of law, punishment must be swift and criminal proceedings should be expedited. The offender must be culpable and held responsible for the crime that he has committed.

Netshitangani (2018:66) posts that crime in general is caused by three factors, namely: the offender, the potential victim and the environment (Smit, Minnaar & Schneitler 2004:74). However, this should be elaborated on more specifically in policy documents¹¹⁴ for uniformity

¹¹³ A study done by Gender Links and the South African Medical Research Council in 2011 revealed that local, regional and national government have collaborated with NGOs, including religious groups, in addressing gender violence in all nine provinces. This was done by providing meaningful baseline data for measuring progress in achieving the SADC target of halving gender violence by 2019.

¹¹⁴ This falls outside the scope of this thesis, but may be included in later research.

in applying punishment for crimes perpetrated against women. In the Western Cape, for instance, the same Gender Links research revealed that perpetrators themselves are not aware of what constitutes violent crime against women (Netshitangani 2018:67). In order to address this issue, education about these crimes must precede the work of law enforcement agencies applying proper punishment.

4.2.2 Role of policing and women

Mudau (2008:29) defines policing as “the process of regulating safety, welfare and the morals of society”. “Policing is directed at the maintenance of order in conformity with the constitutional rights of individuals in a country” (Netshitangani 2018:67). According to Smit et al. (2004:11), policing is a set of processes with specific social functions in order to maintain social order, “which is guided by a legal framework” (Netshitangani 2018:67). In South Africa, “policing is not the responsibility of the SAPS alone” (Pheiffer 2013:42).

According to Pheiffer (2013:15), policing is an approach to community safety where there is a networking of service providers that interact to ensure the safety and security of communities. In a crime-riddled country like South Africa, it is vital for the abuse of women to become a high priority for the police. The SAPS must take into consideration the community’s harsh attitude towards women in executing their daily duties. “Policing can be effective if it is done through an integrated approach where crime-prevention responsibilities are shared” (Netshitangani 2018:67), with the community. This integrated approach could signal a downward trend in the violence seen recently against women (Pheiffer 2013:16), including high-profile cases such as Uyinene Mrwetyana and others like her.

4.2.3 Collaboration and women

Violence against women is a crime, but it is also a social matter which involves entire communities (Smit et al 2004:80-81). For crime prevention projects to succeed in curbing violence against women, there must be partnerships between the police and other role players. The South African Police Service Act (on CPFs of 1995)¹¹⁵ “makes provision for the development of a policing policy and to build partnerships with communities and civil society as far as violence against women is concerned” (Netshitangani 2018:68). Crime prevention around the abuse of women is therefore a joint responsibility shared by government departments, NGOs, community-based organisations and individuals.

Communities themselves also need to take responsibility for the safety of women. The benefits of police collaboration with communities and private and non-governmental organisations are:

- Increased awareness through campaigns
- Greater levels of trust
- Greater police visibility
- Better care of the vulnerable, including women (Netshitangani 2018:68).

¹¹⁵ “The SAPS Act provides for specific roles of the police in relation to community safety. These include: establishing and maintaining partnerships with the community; promoting communication with the community; enhancing cooperation on policing with the community; improving transparency and accountability to the community; improved partnership with the community; improved service delivery at all levels; and joint problem identification and problem solving” This article helps women in the development of a community where women live in a safe environment and have access to high-quality services in their communities, through integrated and coordinated multi-agency collaboration among organs of state and various communities.

However, according to Smith et al (2004:82), there seems to be a lack of partnership between the police and communities because partnerships are either broken or non-existent. This is an area that needs to be improved.

“At the crux of partnerships involving law enforcement agencies is the belief that reducing crime and disorder requires the coordinated, concentrated effort of individuals and organisations affected by and concerned with the problem of violence against women” (Skogan 2004:06; Netshitangani 2018:68). In “partnership policing, there must be active collaboration” in order to bring about lasting change so that women feel protected and valued in society (Pheiffer, 2013:17).

“Through partnerships, the skills and resources of the community are utilised for the benefit of all to reduce crime” (Netshitangani 2018:68-69), against women. “The SAPS and local communities have to build an atmosphere of trust” (Netshitangani 2018:69), to take responsibility for the safety of women. Where the “skills and resources of the community are not properly” (Netshitangani 2018:69) harnessed by law-enforcement agencies, violence against women stubbornly persists and the cycle of aggression continues.

4.2.4 Community arrests and women

Community crime prevention aimed at reducing violence against women ought to be a collaboration between the police and communities as a means to bring offenders to book (Mudau 2008:27). “Community crime prevention often takes the form of neighbourhood watches, which started as vigilantism” (Netshitangani 2018:69) during apartheid, based on the need for self-protection. “Its main emphasis is community awareness” and taking proactive

measures against any signs of abuse towards women (Netshitangani 2018:69). This strategy to reduce public fear of crime could be an effective means of developing local partnerships. However, according to Skogan (2004:06), violence against women can only be reduced if communities collaborate with the police and non-governmental organisations. Police agencies cannot deal with the issue of crime against women without the assistance of the community. When violent crime against women escalates, it is a sign that the community is fragmented and disorganised. The only way community crime prevention can work is through “residents forming patrols and neighbourhood watch groups” (Netshitangani 2018:69).

“Community policing is rooted in the law enforcement’s dependence on the public’s eyes, ears, information and influence to exert social control” (Miller, Hess & Orthmann 2014:79; Netshitangani 2018:69). The main activities of neighbourhood watches include, but are not limited to:

- Identifying crime hotspots
- Performing surveillance to identify suspicious activity
- “Finding solutions to crime problems”(Netshitangani 2018:69), and
- Establishing community patrols.

According to Krug et al (2002:11), the Gauteng Department of Community Safety “has taken the lead in community crime prevention by establishing a community patrol programme” (Netshitangani 2018:70), with the aim of tackling the spike in violence against women and children¹¹⁶.

¹¹⁶ Half the women in Gauteng have experienced GBV over their lifetime and 18.1% in the last year. One in four women in the province has experienced sexual violence in their lifetime and 7.8% in the last year. A greater proportion of men (37.4%) disclosed perpetrating sexual violence. Emotional violence was the most common form of abuse reported by women and disclosed by men,

Because crime against women “has many causes, solutions to combat it must be multifaceted and cannot be obtained by the police acting alone” (Pheiffer 2013:42; Netshitangani 2018:70). As a workable alternative, community crime prevention has many benefits for both the police and the community:

- creates joint problem-solving
- creates community education with regards to women’s rights
- creates community patrol programmes, and
- creates crime-prevention initiatives being taken by the local community (Netshitangani 2018:70)

4.3 Policy framework to protect women

There are different policy documents and legislation concerning violence against women and children presuppose government partnerships between the SAPS and other stakeholders. There are a number of legislative documents that will be discussed in this study, namely; the National Crime Prevention Strategy (NCPS) of 1996, Community Police Forums, the Constitution of the Republic of South Africa, 1996, and the South African Police Act (Act 68 of 1995).

4.3.1 National Crime Prevention Strategy (NCPS) – 1996

Smit et al. (2004:12) declares that, “the National Crime Prevention Strategy¹¹⁷ was formulated in May 1996 as a new anti-crime strategy for safety and security in South Africa. There was a

with 43.7% of women having experienced this abuse on one or more occasions and 65.2% of men disclosing perpetration. Physical violence was the second most common form of violence, with 33.1% of women saying this abuse had happened to them, while 13.2% reported it had occurred in the last year (Gender Links & South African Medical Research Council 2011:10-11).

¹¹⁷ See Anon (2019), *Policy Framework to address Gender- Based Violence in the Post-School Education and Training System*. [Online] Available at:

<http://www.dhet.gov.za/SiteAssets/2019015%20GBV%20Policy%20and%20Strategy%20Frame>

change in emphasis from an exclusive focus on law enforcement to one of crime prevention” (Netshitangani 2018:72).

The main aims of the NCPS are as follows:

- To improve collaboration between the government, communities and other stakeholders in order to reduce the crime rate in South Africa (Netshitangani 2018:73), especially crime against the most vulnerable in society, such as women and children. In other words, the SAPS, municipalities, local communities, NGOs and the private sector must form partnerships that are aimed at the reduction of crime.
- To improve cooperation and coordination among criminal justice departments by organising monthly meetings between the SAPS, the Department of Justice and the Department of Correctional Services to discuss crime prevention (Netshitangani 2018:72).
- To design and implement effective crime-prevention strategies. Many crime-prevention strategies fail because the police are acting alone without the help of the community, which results in them obtaining incomplete information surrounding cases of violence perpetrated against women (Netshitangani 2018:73)
- To enhance the involvement of civil society in crime prevention. Communities must be involved in crime prevention and should be responsible for their safety¹¹⁸.

[work%20for%20the%20PSET%20Sector%20Ver%204%20For%20public%20comments.pdf](#)
[Accessed on 8 April 2020]

¹¹⁸ Soul City (2015): *Understanding Policy and Gender-Based Violence in South Africa – A literature review*. [Online] Available at

<https://www.soulcity.org.za/campaigns/gbv/resources/understanding-gender-policy-and-gender-based-violence-in-south-africa-a-literature-review> [Accessed on 9 April 2020]

The NCPS states that the above strategies should be inter-ministerial; policy direction and monitoring should be undertaken with the input of the Departments of Safety and Security, Correctional Services, Defence, Justice and Intelligence¹¹⁹.

4.3.2 Community Police Forums

The early years of democratic South Africa were seminal in many respects. Multiracial democracy brought with it sea changes in many sectors of society, including policing. A new Constitution (Act 108 of 1996) and Bill of Rights (found in chapter two of the Constitution) were introduced. “The old Police Act 7 of 1958 was reviewed and a new Police Act (Act 68 of 1995) was passed. The Community Police Forums and Boards were established by section 19 of the South African Police Service Act (Act 68 of 1995)¹²⁰. In terms of Section 19, provincial commissioners were empowered to establish CPFs at police stations in each province to assist the SAPS in crime-prevention initiatives” (Netshitangani 2018:74). This included innovative plans to stop the abusive culture against women in South Africa.

In terms of the SAPS Act, the provincial commissioner may delegate the function of crime against women to station commanders. It is then the responsibility of station commanders to establish Community Police Forums. The act stipulates that the SAPS must therefore establish and “maintain partnerships within communities with the purpose of promoting joint problem identification and problem solving” (Roelofse 2007:79; Netshitangani 2018:72). This

¹¹⁹ See Community Safety Forums Policy, *Civilian secretariat for police: community safety forums policy*. [Online] Available at: http://www.policesecretariat.gov.za/downloads/policies/community_policing.pdf [Accessed 10 April 2020]

¹²⁰ See National Government Plan, *National gender-based violence & femicide strategic plan 2020–2030*. [Online] Available at https://www.gov.za/sites/default/files/gcis_document/201909/nspongbvfdraft.pdf [Accessed on 13 April 2020]

collaboration has the potential to result in a rapid decrease in female abuse in vulnerable communities.

Pheiffer (2013:60) interprets the objectives of police collaboration as mobilising and empowering communities in the following ways:

- “Identifying crime hotspots and crime patterns
- Communicating with the police regarding crime prevention issues
- Participating in anti-crime priorities and problem-solving, and
- Taking part in developing and planning crime-prevention projects” (Netshitangani 2018:75).

If the relationship between the police and the community is not well managed, it may result in cases being poorly handled and ultimately remaining unresolved. This can occur where there is a lack of awareness and therefore no joint identification of crime hotspots by both the SAPS and local communities. Scarce resources remain a real challenge in creating lasting partnerships in crime prevention that will be able to tackle the increase in gender violence. From a historical perspective, it should be noted that many communities today still struggle to trust the police because during apartheid, the police was viewed as the arm of state-sponsored violence against the oppressed.

4.3.3 Constitution of the Republic of South Africa (Act 108 of 1996)

“The enactment of the new Constitution provided a framework for the establishment of community structure through the CPFs, police accountability and civilian oversight of the SAPS. In terms of Section 205 of the Constitution of the Republic of South Africa, 1996, the

objectives of the SAPS are established as follows” (Netshitangani 2018:70-71), according to the National Gender-Based Violence & Femicide Strategic Plan, 2019:

- “To prevent, combat and to investigate crime” for the benefit of all South Africans
- “To protect and secure the inhabitants of the Republic of South Africa and their properties” (Netshitangani 2018:70). The SAPS must protect all people, but especially vulnerable people, such as women, children and those with disabilities against abuse, violence and criminality.
- “To uphold and enforce the law”(Netshitangani 2018:70). The SAPS must execute the law to the satisfaction of all communities. However, without the involvement of communities as the active partner in preventing crime, the abuse of women, children and people with disabilities will not be sufficiently reduced.

Although the Constitution makes specific provisions for the protection of women, if the SAPS and other crime-prevention organisations do not enforce them, violence against women may continue to increase. According Krog et al (2019:13), violence against women is still regarded as a private affair, with only 3.9% of women reporting this crime to the police because of the stigma of singling out men whom they know personally, usually their boyfriends or husbands. For many women, there is often a sense of despondency or that the system is weighted against them and that the police will do little to help them even if they do report the abuse.

4.3.4 South African Police Service Act (Act 68 of 1995)¹²¹

According to Smit et al (2004:12), the South African Police Service Act, Act 68 of 1995, provides for the establishment, organisation, regulation and control of the South African Police Service. Chapter 5, Section 13, deals with the powers and duties of members of the SAPS in relation to women. It describes them as follows:

- “To uphold and safeguard the rights of every person” (Netshitangani 2018:72), including women.
- To show respect and compassion for victims of crime, especially women.
- SAPS must respect and treat women in a dignified way. Women who are victims of abuse and violence, for instance, should not be interviewed in front of suspected perpetrators.

Section 13 (7) of the South African Police Service Act (Act 68 of 1995) discusses the authority that must be given to the provincial commissioner to cordon off and search a crime area. Section 13 (8) of the same act assigns the authority to hold a roadblock to the station commander.

Chapter 7 (Sections 18, 19, 20, 21, 22 and 23) refers to the objectives of Community Police Forums and how their boards should be established. This chapter focuses on the establishment and maintenance of partnerships between the SAPS and the community, improving transparency and service delivery within the SAPS and promoting communication and

¹²¹ Government Gazette: Republic of South Africa. [Online] Available at https://www.gov.za/sites/default/files/gcis_document/201409/a22011.pdf [Accessed on 5 April 2020]

cooperation between the police and local communities. In terms of Section 19, the focus of the SAPS should be on meeting community needs, allowing communities to be directly involved in crime prevention (Smit et al. 2004:13–14; Netshitangani 2018:71-72).

The SAPS Act 68 of 1995 is the state’s response to the cry of civil society for a safe country where women, children and gender non-conforming individuals are celebrated and valued, and in which gender-based violence and femicide will not be tolerated.

4.3.5 National Development Plan (2030)

The visionary National Development Plan (2030) was formulated “to ensure a decent life for all South Africans by eliminating poverty and reducing inequality” (Netshitangani 2018:76), including racial, income and gender inequality. The elements of this improved standard of life are identified as follows:

- Better housing, water, electricity and proper sanitation. By ensuring all South Africans have access to decent housing, water, electricity and sanitation, crime and other social problems like the abuse of women and children will, as a consequence, be reduced.
- Better safety and improved security, which will similarly effect a reduction of crime. However, it is not clear whether the NDP will result in a material improvement in gender-based violence, as the SAPS are not invited to take part in the Integrated Development Plan (IDP) meetings (Netshitangani 2018:76).
- High-end quality education and development of skills. By providing better education and developing the skills of women, crimes against them are expected to automatically be reduced.

- Safer and more reliable public transport, which the NDP anticipates will reduce the incidence of robbery and rape, as women will not have to wait unattended for long periods at taxi ranks and bus stations.

4.3.6 Community Safety Forums Policy (2012)

A policy such as “the Community Safety Forums Policy of 2012, is regulated by the Constitution of the Republic of South Africa Act, Act 108 of 1996 (in terms of chapter three in Section 41(1) (a) to (h)). The main objective of the Community Safety Forums (CSFs)” (Netshitangani 2018:77), is to coordinate crime prevention partnerships between state organs and civil society to address the root causes of crime. Government departments, the private sector and communities are invited to take part in Community Safety Forums.

The functions of the Community Safety Forums are as follows:

- “Create community initiatives and promote the development of communities by ensuring a safer environment and access to high-quality services¹²²” (Netshitangani 2018:77).
- Foster people and resources to create a safer community. Each CSF should mobilise the community against crime. However, many communities in South Africa are not properly mobilised since the CSF is not yet an effective agent in combatting crime, including gender-based violence.

¹²² Community policing on a community participation level through the establishment of CPFs at all SAPS stations have not been run well. It is therefore critical for community participation in local crime prevention such as both identifying and ending crime problems and hotspots to keep women and children safe in South African communities (Landman and Lieberman 2005:21).

- To focus on activities that address the root causes of crime. There is a lack of involvement by communities in South Africa regarding crime-prevention issues relating to women.

CSFs is to ensure that communities take responsibility for crime prevention in their neighbourhoods, which in turn will create the right environment for society in general and women in particular to flourish.

4.3.7 Civilian Secretariat of the South African Police Service Act (Act 2 of 2011)

SAPS and local communities must bridge the gulf between them by building partnerships with other stakeholders to be able to prevent crime and other social challenges. This act helps these bodies to come together and work together in the following way:

- To prevent, combat and investigate crime through the efforts of the police
- To protect and secure the inhabitants of South Africa and their property
- To uphold and enforce the law, and
- To create a safe and secure environment for all people in South Africa.

In order for abuse against women to end, the destructive culture of violence against women as a means of solving conflicts domestically and socially must be exposed and condemned (Minnaar 2009:20-25).

4.4 Theological approaches to solving violence against women

The investigation surrounding the disempowerment of and violence against women attempts to investigate how both culture and the Old Testament, as well as law enforcement bodies deal with the ability to care for victims and to help change the attitudes and actions of perpetrators of these crimes. It has been noted that the state's response to violence against women is limited to enforcing laws, especially when the necessary collaborative efforts from communities do not exist. However, if these two elements do not intersect, violence against women will only be sustained and legitimised. As an alternative, a biblical church approach will be investigated and offered as the preferred source from which recommendations will be obtained. This will then not only serve as a framework from which an alternative approach to curbing violence against women may be drawn, but will also become part of an integrated platform from which law enforcement bodies can undergird their attempts to prevent these crimes.

Scripture and the biblical interpretation with regards to women in the Old Testament yield insights as to how women were disempowered (Pierce & Groothuis 2004:17). In the Hebrew Bible, women were generally treated as property. For example, in case law:

“If a man has two wives, the one loved and the other unloved, and both the loved and the unloved have born him sons, if the first-born son belongs to the unloved, then it shall be in the day he wills what he has to his sons, he cannot make the son of the loved the firstborn before the son of the unloved, who is the firstborn. But he shall acknowledge the firstborn, the son of the unloved, by giving him a double portion of all that he has, for he is the beginning of his strength; to him belongs the right of the firstborn.” Deuteronomy 21:15-17

As such, women were often used as bargaining tools in negotiations, for labour, sexual gratification and to reproduce families. It was often the case that women had no say with regards to how they were treated socially or domestically. In fact, a woman's social status was often determined by a man's willingness to marry her (Nadar 2006:78).

In acknowledging this legacy and in seeking to change the prevailing attitude towards women in South Africa, a theological perspective should be welcomed. McClure (2012:269) states that "a form of religious engagement aimed at integrating theory, theology and practice within the context of a faith community" is necessary in order to bring healing to women who have fallen victim to abuse. As well as healing, this approach includes guiding people on issues related to sin, suffering, healthy Christian doctrine, understanding that men and women are created in God's image, nurturing a balanced view of Scripture and formulating liberating gender-inclusive language (Van Arkel 2000:148). These modes all contribute to enabling a healthy, empowering attitude towards women to prevail in order to curb violence against them.

4.4.1 Sin to empower women

Graham (2012:196) posits "that sin offers religious sanction for the subordination of women". Rather than blame women for marriages that have failed, the church needs to communicate a care approach to women who are victims of disempowerment and violence. This should be applied specifically in the context of marriages, so that women are not subjugated and made to feel inferior to men.

A divorced woman who suffered abuse should not be forced to acknowledge a share in the guilt of a marriage that has broken down. The teaching on sin in this regard often requires men and women to repent of the failure of keeping their marriage vows. This expectation of acknowledgment of sin has dire consequences for victims of intimate partner violence within

marriage. It communicates that they have contributed to the abuse or caused the abuse, and should therefore be repentant. It also communicates that leaving the marriage is seeking their own will instead of the will of God. This law of expectation of “a share in the sin” and due repentance may cause victims to stay in an abusive situation. This understanding of sin does not contribute to the goal of liberating women in abusive relationships. Instead, it keeps them trapped in the abuse. Such an interpretation of sin can be regarded as offering “religious sanction for the subordination of women” (Graham 2012:196).

“The pragmatic focus on the consequences of the church’s proclamation and practice is also a major contribution” to female subordination in marriage (Gorsuch 2001:32). This pragmatic focus has contributed to the use of the language of sin and guilt in relation to abused women, and as a result highlights the issue of structural sin rooted in society. To liberate women from the constraints of power in social structures, drawing on the teaching of sin seems questionable (Klaasen 2018:127). Divorce, as a means of escaping the destructive abuse of physical power, should rather be seen as “the vision of the good” (Gorsuch 2001:32 Klaasen 2018:127).

If faith-based organisations who are custodians of Scripture are to have a lasting effect in shifting negative attitudes towards women, they need to engage with and reconstruct the disempowerment practices that expect women to confess their perceived “sin” of divorce. The church needs to reconsider its understanding of sin with regards to divorce in the context of violence against women (Miller-McLemore 1999:80).

4.4.2 Suffering to empower women

Van Arkel (2000:146) states that “the attentiveness of feminists and womanists to the dynamic of suffering caused by the hierarchical ordering of relationships” has made “an enormous impact on theology”(Klaasen 2018:124). The theology of suffering is an integral part of the

Hebrew Bible. The idea of suffering is also a central theme to the experience of women facing violence in South African society. Women who are subjected to violence in marriage are often encouraged by faith-based organisations to stay in these abusive relationships and to endure suffering as a sign of obedience to God (Jones 2000:10). This is often met with feelings of helplessness and indignation. As a result, this approach often causes victims to remain silent about their abuse (Cornelius 2013:187).

These attitudes in the church need to be interrogated and dispelled by the care approach. Furthermore, faith-based organisations should critically engage with the theology of suffering, as well as its insistence on the preference of the permanency and preservation of marriage. In order to help women who are disempowered and abused, faith-based organisations should promulgate in society “a suffering theology that affects lives” (Ford 2007:2; Klaasen 2018:126).

Du Plessis (2015:5) asserts that the theology of suffering must appropriate a sense of care to vulnerable and abused women. This may include a deliberate and clear reframing of the permanency of marriage where one partner is physically, emotionally or verbally abusing the other.

4.4.3 Christian doctrine to empower women

Doctrine with regards to the Hebrew Bible and violence against women can be linked. Watson (2002:34) points out that the concept of maleness is prominent in traditional Judaism. This is manifest in the maleness of God. God’s characteristics are often viewed as essentially male and nothing else. His more feminine characteristics, such as his love and care for his creation, are not emphasised. As a result, men in society often exert a “God complex” in relation to women.

This then creates a platform for men to disparage women and for women in turn to feel disempowered.

In response to this, Watson (2002:35) recommends that faith-based organisations promote “a theology of healthy liberation”. This should allow women to connect with Yahweh’s other characteristics that are not exclusively male. Bennet Moore (2002:84) states that Christ “proclaimed the love of God for the least and renounced systems of domination,” including women, as “they are amongst the least in this world”. I would argue that all doctrinal teachings about God ought to be liberating towards women and should be understood as a “theological discourse that challenges structural changes in church and society” (Klaasen 2018:123). This would enable women to experience the compassion and love of God and for them to feel appreciated and celebrated in church and in society.

Yahweh in the Hebrew Bible ought to be seen as a “revolutionary of equality” (Furlan 2009:242, 243). As faith-based communities, our interactions with the Hebrew Bible must encourage us to uphold women’s dignity and revive respect for them in the minds of men.

Communities ought to live by the true attitude of God towards women, taking particular cognisance of his interaction with them and his attempts to establish the dignity and equality of women. This hermeneutical engagement with the biblical text will uncover the “original Christian doctrine” based on the attitude of Jesus, who “not only preaches and protects and nurtures gender equality or life in equal respect and solidarity, but sets it as an imperative and the core of all interpersonal relationships” (Furlan 2009:245). This would enable women to feel included in the formation of church doctrine.

In order to assert the principle of care for women and to curb the disempowerment of and violence against women, the church needs to embrace a feminist hermeneutic. By doing so, it will ultimately help liberate women from destructive power structures in society and address the issue of violence against them. It will also enable women to resist the oppression they may be suffering in abusive relationships and to feel empowered to make a difference in their lives.

4.4.4 Women and men and the image of God

To empower women is to engage with the image of God due to the theological understanding that humanity is made in the image of God. This is a golden thread in the Hebrew Bible. The image of God that is held by individuals will determine the image they have of themselves and of others. Society as it is today has gone the other way. The over-emphasis of masculinity to the detriment of femininity in relation to God's nature has only served to men's advantage.

Society derives its dynamics of power, domination and control from an understanding of the masculine construct. This power is mostly exercised over women, given the gender hierarchy of the superiority of men over women (Klopper 2002:245). When the power of men is challenged within society, either by external threats such as unemployment or by the dehumanising influence of racism, it often results in violence against women as an attempt to reassert male dominance and power.

Masculinity comes in the form of images of God as king, judge, ruler and warrior, which all portray the concept of male superiority, power, domination and control in the Hebrew Bible. The almost exclusively male images ascribed to God imply that men are more like God or closer to God's image (Klopper 2002:426).

In the patriarchal images ascribed to God from the ANE context of the Bible, God is portrayed as all-powerful, authoritarian, dominant and in control. It is these perceived characteristics that men ascribe to in their quest for masculinity, to be like God and to maintain their superiority. Vulnerability is seen as a weakness, falling into the realm of what it means to be a woman (Rakoczy 2000:15). What is most important and expected from society is to give the impression of strength (Anderson 2016:40).

To counter these ideas in the church and ultimately in society, the notion of vulnerability in relation to God should be investigated. Anderson (2016:41) argues that the belief is often insisted upon that God is exclusively powerful. The concept of God as being vulnerable and “susceptible to being wounded” (Klaasen 2018:121) is described by Anderson as “too much divine weakness for some believers”. This concept of an all-powerful God “allows men to preserve their presumption of power and privilege and circumvent the world’s suffering or their personal vulnerability” (Klaasen 2018:121-122), especially towards women.

Faith-based organisations should engage with the paradoxical notion of the power and vulnerability of God. A reconstructed image of God which displays both his male and female characteristics would enable men and women to rediscover their humanity in a different light. Rather than projecting a traditional patriarchal image of God in society, the church should emphasise that both men and women are vulnerable beings. The beauty of this may result in responsible care for others in the form of healing, liberating, guiding and transforming, not only victims, but also perpetrators of abuse.

4.4.5 Balanced view on the Old Testament

The majority of contemporary South African society does not view the Old Testament in the Hebrew Bible favourably. This is because of unhelpful gender-biased interpretations of biblical

texts, especially those related to women. This attitude sets a patriarchal tone as to how women are treated by society (Furlan 2009:238).

Watson (2002:10) may offer a solution by stating that the “constant and dynamic engagement with all its [Old Testament]¹²³ aspects” will allow faith-based organisations to engage in a feminist hermeneutical process of a critical and constructive reading of Scripture. This process involves reading the text with an awareness of its context and interpreting it in the light of women’s experiences (Watson 2002:10, 5).

Disempowerment of women, and the language surrounding it, ought not to limit a womanist approach to hermeneutics. Bennet Moore (2002:65) speaks specifically about the use of language in biblical translations. It is her understanding that what can be done to change the linguistic sexism in biblical translations is limited. The use of gender-inclusive language in biblical translations is an extremely necessary action to help society place a higher value on women. This will enable the humanity of women as full members of the Christian church and of society as a whole to stand out (Watson 2002:5).

A necessary challenge faced by the church is to engage with, deconstruct and re-interpret Scriptures that may serve to perpetuate and justify the oppression of women through violent abuse (Cornelius 2013:189).

In order to do this, I would suggest that churches focus on re-interpreting Scriptures that bear the hallmarks of the patriarchal nature of ANE culture in which they are steeped. These problematic texts should be challenged, particularly in the South African context where the disempowerment of and violence against women are almost condoned and the abuse

¹²³ My insertion.

experienced by women is normative (Petersen 2009:451). Furthermore, faith-based communities ought to embark on equipping their theological leaders to critically engage with texts that appear to justify the subordination of women. It is only then that responsible care can be established to help suffering and wounded women in the church.

4.4.6 Liberating, gender-inclusive language

Language can be a defining feature for society and how women in general are treated (Neuger 1996:94). Neuger (1996:95) asserts that if the language of the faith practice does not indicate the experience of women in society, it will not operate in the best interest of women (Neuger 1996:95).

Language constitutes people and social discourses. As human beings, we are all to some extent controlled by ways of thinking and doing based on social discourses. This includes the worship that exists in faith-based communities, but if society is able to recognise that “sexist language constructs women ... [as] powerless in the face of social injustices such as domestic violence” (Landman 2006:278; Klaasen 2018:112), it might go some way to improving the agency of women.

Critique and reconstruction always go hand in hand. Feminist theology suggests the development of new patterns of practices in ministry, such as religious language that is inclusive of women (Graham 2012:198). Landman (2006:285) asserts that liturgical language that embodies justice towards women is needed. In order to shape a different consciousness in relation to how women are perceived in society, it is my view that faith-based communities must transform the language of their liturgies, as well as the interpretation of key Old Testament texts.

Rakoczy (2003:43) reiterates this by recommending “the use of inclusive language as a practical suggestion to prevent violence against women” (Klaasen 2018:113). As a society steeped in violence and abuse against women, it would be responsible to illustrate care towards victims of violence. In order to do this, the reconstruction of language is critical in faith-based communities to become more gender inclusive.

4.4.7 Biblically-Informed Eclectic Intervention Network Theology (BEINT)

In order to counter the prevailing negative attitudes towards women, both in society and within the church, I propose adopting a Biblically-Informed Eclectic Intervention Network Theology (BEINT). This approach would communicate care and concern for women, while addressing their unique needs and the historical prejudice and injustices that they have endured. The BEINT method would offer a different interpretation of historical evidence, acknowledging the legacy of inequality between men and women, as seen in Chapters 2 and 3 in the Pentateuchal Law Codes (Covenant, Deuteronomic/deuteronomistic law and the Holiness Codes) and the wider OT framework.

The BEINT method would make use of a wide variety of diverse groups joining the church in defending women and upholding their rights. It proposes intervention where women are being abused by their partners, rather than enduring suffering for the sake of preserving their marriage. It envisions a network of like-minded organisations working with the police to deliberately prevent gender-based violence.

Underpinning the BEINT approach is the belief that the church has a fundamental role to play in uplifting women in society. Through a different understanding of theology, difficult passages, such as the Levite and his concubine in Judges 19, could be reinterpreted in such a

way as to mitigate against the damaging effects these texts have had in reinforcing cultural stereotypes that women's lives are expendable. By recognising rather than denying gender prejudice in the Old Testament, the church can offer helpful alternatives and find ways to honour and esteem women.

A Biblically-Informed Eclectic Intervention Network Theology recognises that churches and other religious institutions are well positioned as they are locally based and biblically informed and that they have the potential to be a major resource that can be harnessed in the fight against violence and disempowerment of women.

4.5 Synthesis

In this chapter, the impact of violence against women was discussed, incorporating the South African government's response to it in terms of legislation and policing strategies, as well as the need for greater participation of communities to combat gender-related crimes. The care approach of the church as the custodians of the Hebrew Bible was also highlighted. Even though a church-based care approach may be limited, it still has the potential to support the efforts of law-enforcement agencies. When women in communities do not feel safe and fear violence at the hands of men, they are forced to resort to the state to provide protection (Pheiffer 2013:14; Mudau 2008:09). Crime, including crime against women, draws on insecurities about the level of safety and well-being in communities. It cannot be prevented or eliminated by the police alone, but by the concerted collaboration of the private sector, NGOs, faith-based organisations like churches and the community itself.

CHAPTER 5: SYNTHESIS

5.1 Introduction

This chapter provides an evaluative summary of the preceding four chapters. Recommendations are provided at the end to improve the role of the church and society in uplifting women in contemporary South Africa by using a Biblically-Informed Eclectic Intervention Network Theology.

The life of women in South Africa is interspersed with difficult encounters emanating from cultural, traditional and at times religious factors which, taken together, create innumerable challenges for women. These challenges were foregrounded by the sharp spike in violence against women during the first nine weeks of the lockdown which began on 27 March 2020 as a result of the COVID-19 pandemic. During this time, about 400 women were killed at the hands of men, most of whom were their intimate partners (Pillay & Nxumalo 2020:1). President Cyril Ramaphosa noted with disgust that South Africa was facing the gravest of threats from a pandemic of a different kind, where violent men were taking advantage of the lockdown to abuse women and children. Furthermore, Ramaphosa declared that 51% of South African women had experienced violence over the past year (Pillay & Nxumalo 2020:2), placing South Africa among a list of countries with the highest levels of intimate partner violence in the world (Warner 2012:123; Booyens & Bezuidenhout 2018:331).

The focus of this study is a biblical recognition and response to the repressive issues of disempowerment and violence against women in South Africa. What women experienced as repressive disempowerment and violence in ANE times as seen in various Pentateuchal Codes (Covenant, Deuteronomic/deuteronomistic law and the Holiness Codes), as well as the Code

of Hammurabi, is also common to women in the South African context in that they have little control over their lived experience. This study has shown that violence and disempowerment of women is a phenomenon that has persisted over the ages and finds manifold expression. In South Africa, where women are negatively impacted by gender-based violence and discrimination, a lack of clear policy directive means that any inhumane treatment of women does not always result in severe punishment. Notwithstanding the fact that women are equal to men and made in the image of Yahweh, South African women are often neglected, abandoned and lack sufficient legal status, as a result of which society loses out on the immense value that they could potentially bring.

The most common disempowerment and violence perpetrated against women in South Africa has been sexual harassment and abuse, cultural and religious oppression, poverty and early marriage (Chadzuka 2008:39). Poverty, in particular, has made women suffer more than men. In South Africa, Prinsloo (2008:305) highlights shocking reports that indicate that there are dangerously high levels of sexual harassment of women in South Africa. In many instances, women tend to endure and at times succumb to persistent pestering from male perpetrators. This kind of harassment translates into emotional trauma and a loss of dignity and respect on the part of women. Even though gender discrimination is a global phenomenon, I have chosen to focus on the South African context in order to apply a biblically-informed theology to the unique challenge's women encounter.

5.2 Problem setting

Based on the reflection of the treatment of women in a broad range of texts, the researcher has concluded that violence against women is increasing and has become a part of the daily reality that many women face, particularly in South Africa (Bezuidenhout 2013:118). It is worth

stating that men are frequently victims of domestic violence, too. However, that is not the subject of this study.

This research has shown that the cultural and socio-historical contexts within the ANE milieu and that of women in South Africa are significantly different. Nevertheless, the feminist movement has shown that women in South Africa definitely share a kind of a lived experience that is similar to women reflected in the ANE and the Pentateuch (Hammurabi, Covenant, Deuteronomic/deuteronomistic law and the Holiness Codes).

Schüssler-Florenza (2001:211) affirms this by stating that socio-political systems of dominion in which elite, educated, propertied men hold power over women are disempowering. Similarly, ANE literature foregrounds “the exegetical results in the analysis of the literary relations between the ANE, Pentateuch and South African societies” (Otto 2013:238). The various problems with the policing of domestic violence which necessitates this research have been outlined in chapter 4.

Texts from the ANE and Pentateuchal Codes have been used and are still being wrongly interpreted to limit, disempower and even perpetrate violence against women in contemporary South Africa. This is problematic because it has resulted in how society interprets the role and contributions of women in society and in the country’s economic development (Rackczy 2004:11). This has often left women to perceive that they are sub-human and are inferior to men. Women to a large extent, and in media are not valued very highly in South African society, this has subliminally contributed to gender-based violence.

Violence against women in South Africa covers a multitude of criminal activities, including:

- human trafficking;
- assault;
- rape;
- alcohol abuse;
- pornography;
- sexual assault, and
- attempted murder.

Most of this abuse stems from society not being able to recognise the problem and from the fact that power structures are inherently unequal and unempowering towards women. The causes behind the abuse are complex and multi-faceted, but I would posit that the reason why it is so easily dismissed by stakeholders is due to its sheer prevalence.

This study's investigation has created an opportunity for role players in South African to see their blind spots in how women are being ill-treated. It is the researcher's conviction that as long as the problem exists, society can do something about it. In the words of Claassens (2016:69-70), "women can be empowered by recognising the ideological power and force of patriarchal societies and how it keeps women feeling inferior to men". I agree that this problem is not new, nor should it be taken lightly. Both the government, the church, society and other civic organisations have an important role to play in creating an enabling environment for women to take up their rightful place in society.

5.3 Aims and objectives

The study set out to establish the following:

Aims:

- To prove that the disempowerment of and violence against women in ANE societies (such as Egypt, Babylon, Assyria and Israel) reflected in the Pentateuchal law codes (Covenant, Deuteronomic/deuteronomistic and the Holiness Codes), as well as the Code of Hammurabi, were very real cultural realities.
- To frame these negative lived experiences of women in the ANE and the Pentateuch within a South African portrait and contextualise the relevance of this theme.
- To classify the discriminatory challenges facing women in South Africa – in other words, abuse which society either condemns, accommodates or approves of. In all of these classifications, it was shown that women still suffer the effects of disempowerment and of violence against them.
- To ascertain the notable efforts taking place in South Africa to alleviate the hardships faced by women.
- To seek a more comprehensive intervention around the social and spiritual challenges of women in South Africa.

Objectives:

The problem statement outlined how women were disempowered and had violence perpetrated against them in the earliest ANE societies. Through the contextual reading and engaging with the Pentateuchal Codes (Covenant, Deuteronomic/deuteronomistic law and the Holiness

Codes), as well as the Code of Hammurabi, on the attitudes towards women, this researcher set out to determine the following:

- Why the problem existed, what the prevailing attitudes in these societies were and to what extent they were addressed.
- To what extent women were disempowered using hermeneutical (diachronic and synchronic) approaches to the Old Testament, as well as contributions by feminist scholars.
- Whether a link exists between the treatment of women in Old Testament times and in contemporary South Africa.
- What differences exist between the experiential worlds of women in the ANE and women in the current South African context, including the individual challenges and struggles they face.
- To what extent these distinguishing factors hindered women in the past and still hinder them today from attaining their full potential in life.
- To locate women's lived experiences within the political, paternal and perhaps divine power that prompted disempowerment and violence against women in the Old Testament.
- How ancient societies created and justified laws to marginalise women and whether this practice still continues in South Africa today.
- To highlight the views of the role players involved in policing domestic violence and to assess the strength and weaknesses of current practices.
- To create findings through the literature review and the scholarly survey, including the feminist movement.

5.4 Methodology

In the investigation of disempowerment of and violence against women, I have interacted with literature, such as books, journals and electronic information, about the challenging background faced by women in Ancient Near Eastern societies, and compared it with the current South African context. I drew on literature and scholarship from the ANE and the Pentateuchal Codes (Covenant, Deuteronomic/deuteronomistic law and the Holiness Codes), as well as the Code of Hammurabi, so as to engage with ideas that are based on women's lived experiences.

I also investigated the biblical portrait of women's welfare from the Hebrew Bible. I have studied selected Bible passages (Gen 2:7; 3:16; 16:2; 19:8; 21:10; Ex 1:15-16; 20-21; 22:16-17; 23:17; Lev 12:1-5; 18:20; 27:6; Num 3:15; 5:11-31; 27:8-11; Deut 15; 22:5; Judg 19:22-26) in the Old Testament and the Code of Hammurabi (CH 103; 109; 129; 163; 166; 206-209). Part of the OT discussion is to exegete a text that involves asking questions. It became clear that some of these questions are deeply rooted in complex societies and could not be resolved immediately (Gorman 2001:9-10). The unresolved questions have formed the basis for further study.

My approach was taken from Groenewald's (2005:552) who understands the diachronic determined synchrony in the reading of texts to be important in order to uncover the historical and literary meaning (Human 1999:358). This synchrony indicates that the study of Hebrew in the Old Testament is both synchronic or static, as well as diachronic or dynamic.

In the formulation of a solution inspired by a biblical model of intervention, I have highlighted my proposed model based on my understanding of the South African context. I have

foregrounded disempowerment and violence as challenges against women in the ANE, the Pentateuchal Codes and the Hebrew Bible.

5.5 Chapter outline

This research study set out to explore the rich literature of the ANE and to discover why violence against women persists today and to what extent it was inspired by societies in the past.

Chapter 1 outlined the problem statement, why the problem exists, what has been done about it and the purpose of the research. The aims and objectives of the study were also outlined and an explanation of the exegetical method was given. This chapter also includes the hypothesis, a chapter division and orthographical remarks.

Chapter 2 explored the literature of Ancient Near Eastern societies and the Pentateuchal Codes (Covenant, Deuteronomic/deuteronomistic law and the Holiness Codes), as well as the Code of Hammurabi, in the general treatment of women. Drawing on the work of ANE, Pentateuchal Codes and feminist scholars, this chapter contended that there are strong similarities between the disempowerment of and violence against women in ANE societies and the Pentateuchal Codes.

Chapter 3 located political power, paternal power and perhaps even divine power that prompted disempowerment and violence against women in the wider OT framework. Gqola's (2010:66) suggestion was explored that "the grip of violence is tightening around our [ANE and South African contexts] collective necks". It also included an outline of views on both the literary and hermeneutical theory of the Old Testament itself and other modern exegetical perspectives concerning the mistreatment of women.

Chapter 4 focused on violence perpetrated against women in the South Africa portrait. Thompson (1992:65) contributed to this study in order to gain clarity of the extent of a very real problem: throughout human history, women have been dominated by men in almost every aspect of life. This chapter also highlighted the views of the role players involved in policing domestic violence and the current strategies in place, as well as anecdotal experiences. The strength and weaknesses of current practices were assessed.

Chapter 5 reflects a synthesis of insights gained from the preceding chapters around the theme of disempowerment of and violence against women in the Old Testament. This chapter reviewed the objectives of this study using the research methods set out in the introduction. It also made recommendations in the form of a biblical model that could help combat abuse against women in South Africa by highlighting the abominable treatment of women in the ANE and Pentateuchal Codes (Covenant, Deuteronomic/deuteronomistic law and the Holiness Codes). The synthesis included data derived from the literature review of ANE, Pentateuchal and feminist research on OT perspectives, which lends itself to further study.

5.6 Outline of research results

Throughout this research, the disempowerment of and violence against women was read in the context of the ANE, Pentateuchal Codes, the rest of the Old Testament and the contemporary South African context. Consequently, the following primary results and theological findings have been arrived at:

- Although both men and women were created in the image of Yahweh (Gen 1:26–28), Israel's negative attitude towards women was remarkably similar to that of its neighbours, particularly Mesopotamia. Israel was meant to be set apart as distinct from

the nations around her and ideally should have aimed to reduce social oppression and inequality, but instead she chose to diminish the value of women and their role in society.

- In terms of how marriages were established in Ancient Israel, women were equal, but not in application. Just as the laws of Babylon and Assyria formalised the subordination of women, similarly women in Israel were subjected to patriarchal control through marriage, reducing their influence and prestige (Ex 21:2-12).

A woman in Old Testament times was either owned by her father before marriage or by her husband after paying the bridal price. If the marriage didn't work out, the father did not usually intervene as he considered his daughter the property of her husband, for example "If a man seduces a virgin who is not betrothed, and lies with her, he shall give the marriage present for her father, and make her his wife. If her father utterly refuses to give her to him, he shall pay money equivalent to the marriage present for virgins" (Ex 22:16-17). This cultural norm ties in strongly with the lived experience of many South African women, particularly as the *lobola* system is still observed by many. For countless African women whose marriages fail, the wife then becomes the responsibility of the former husband's family, who may only wish to help her if she has male children.

- In OT times, both wives and female slaves were valued mainly for their procreative abilities, a practice which diminished their esteem if they could not produce male heirs (Ex 21:2-11).
- Women weren't allowed to wear men's clothes. The broadness of the interpretation of Deuteronomy 22:5 allowed for a number of negative gender stereotypes and illustrated how even in the banal matter of clothing women were disempowered.

- Women's lives were expendable. This is evident in the account of the Levite's concubine in Judges 19:22–26, where a Levite staying overnight in Gibeah offers his concubine to a mob of lustful men. She was repeatedly raped and died on the return journey home.
- Agriculture and female subordination were intimately linked in the ANE. Even when women ran their agricultural homesteads efficiently, men received all the credit for their labour (Is 1:8; 3:16).
- Upper-class women were treated better than lower-class women in OT times, a reality that is mirrored in contemporary South African where the treatment of women is often linked to race and social status. For example in the Code of Hammurabi “If a *naditu* (monarch women) or an *ugbaltu* (priestly women slave) who does not reside within the cloister should open a tavern or enter a tavern for some beer, they shall burn that woman” (Code of Hammurabi 103).
- The theme of violence against women demonstrates that even though OT times were significantly different from the South African context, both societies nevertheless have patriarchal tendencies. These societies, both old and new, share a common culture of disempowerment of and violence against women.
- The interpretation of Deuteronomy 22:5 points to the need for contemporary application, specifically where it pertains to customs and definitions of gender. The obscurity of the above text would imply that women were not able to make choices that would empower them within society and to enable them to worship Yahweh as image bearers. The broadness of the text's interpretation allows the reader to reflect on the variety of possible meanings, but clearly the picture that emerges is one of disempowerment of women.

- In keeping with the prejudice against women in the ANE and Old Testament, negative attitudes towards women still prevail in contemporary South Africa. Due to cultural and at times religious influences, many men view themselves as superior to women. This is reflected in alarming statistics related to gender-based violence, with over half the women in Gauteng (51.3%) reporting some form of violence (emotional, economic, physical or sexual) from men in their lifetime and 75.5% of men in the province admitting to perpetrating some form of violence against women.
- Violence against women is a crime, but it is also a social matter which involves community participation. For crime prevention projects to succeed in curbing violence against women, there must be partnerships between the police and other role players, including NGOs and the private sector.
- The church needs to reform its approach so that victims of intimate partner violence are not made to feel guilty about violating their marriage vows in seeking divorce. Rather than blame women for failed marriages, the church needs to communicate a care approach to women who are victims of disempowerment and violence.
- To uplift women and improve their status in society, I propose the church should employ a Biblically-Informed Eclectic Intervention Network Theology (BEINT). While ambitious in its aims and not adequate enough to deal with the structural and systemic nature of entrenched patriarchalism, BEINT would go some way to righting the wrongs of the past. This care approach includes tackling the disenfranchisement of women, both in ANE times and the present, including vigorous discussions surrounding difficult texts in the Old Testament, such as Judges 19.
- By embracing diverse voices and a wide range of viewpoints, the BEINT strategy would see the church working together with civil society in defending the rights of

women and ensuring they are protected, cared for and able to obtain the necessary healing from the wounds of the past.

5.7 Hypothesis

Since the time when ancient civilisations such as Egypt, Babylon, Assyria and Israel flourished, men have subjugated and oppressed women. The subordination of women in Ancient Israel was used as a case study to show the disempowerment of and violence against women in a very patriarchal society. Similar to the vast gender inequality which existed in surrounding nations, Israel also developed a culture of discriminating against women, which will be compared to the current South African context of violence against women.

Based on these findings, this study has proposed the following:

- The use of a Biblically-Informed Eclectic Intervention Network Theology (BEINT) as a solution for the problem statement indicated in this thesis. This biblically-informed, concerted approach would engage with the disenfranchisement of women and help to improve their lot from a cultural, economic and spiritual perspective. While acknowledging that this model may seem overly idealistic, I believe it would go some way to alleviating alleviating the suffering and pain inflicted on women. Of course, no intervention will succeed or be sustainable unless some of the systemic and structural issues of patriarchy are first addressed, but these are beyond the scope of this study. Perhaps a full, satisfactory and adequate solution lies beyond biblical studies, theology and pastoral care.

- The use of churches and faith-based organisations as major resource centres, as they are locally based and ideally positioned to care for vulnerable women in the communities they serve.
- Appropriating effective ways to uplift women by addressing the prejudice and oppression they have been subjected to for centuries – from the first records of ancient civilisations, such as Egypt, Babylon, Assyria and Israel – until today. By acknowledging the gender imbalance that existed in Ancient Israel and that is evidenced in both the Pentateuchal Law Codes (Covenant, Deuteronomic/deuteronomistic law and the Holiness Codes) and the OT in general, the church should place a spotlight on those men who adopt the same negative attitudes today as an excuse to perpetrate crimes against women in South Africa.

5.8 Limitations of study

The researcher acknowledges the factors that may have biased his research. These include the following:

- I have been influenced by the negative experience of how my denomination has positioned itself ecumenically in not taking more of an active stance in valuing women in ministry.
- I acknowledge that this study focuses primarily on the disempowerment of and violence against women and not against men. However, I am also keenly aware that within the South African context, domestic violence against women is overwhelming prevalent.
- I am a man and in a historical context like South Africa where women are violently abused by men, readers of this study may find it difficult to objectively wrestle with some of the ideas presented here.

- I realise I am biased by my belief that God has only one character, although I am aware that many scholars would argue that God's character, as presented in the Old Testament, is multifaceted based on the many theological schools of thought – Priestly, non-Priestly, Deuteronomistic, Chronicler's, and so on. I concede that at times some of their theological standpoints are not even reconcilable.
- I acknowledge that even within the church, there is a lack of consensus regarding what constitutes women's rights. The differences show up when addressing reform issues in areas such as reproductive rights, domestic violence, maternity leave, equal pay, equal female representation in church and society, equal access to offices and positions of power and privilege, women's domestic responsibilities, women's right to education, to work, to vote, to own property and to control the size of their families. Greater cohesion among different factions in the church is needed in order for these issues to be grappled with in society and for an adequate solution regarding gender equality to be arrived at.

5.8 Recommendation for further study

The potential exists for religious institutions to rewrite South Africa's history by changing how they interpret ANE and Old Testament cultural sources, so as to actively participate in abating the life-endangering challenges facing women. To this end, Deist (1994:29) declares: "The South African experience points to the critical importance of a heavy emphasis on reader-oriented hermeneutical approaches and the creation of a critical consciousness of the historicity of any piece of literature and any form of interpretation, and therefore on the ethics of interpretation."

I would recommend that both the church and society in South Africa actively engage with the interpretation of difficult historical texts. This is likely to be more comprehensive than the endeavours, albeit noble, of social activist groups because it will take into account the spiritual dimension from which both South African culture and religious movements derive justification for the exploitation of women.

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