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INSTITUTIONAL, COMMUNAL, AND INDIVIDUAL
OWNERSHIP OR POSSESSION OF ARABLE LAND
IN ANCIENT MESOPOTAMIA FROM THE
END OF THE FOURTH TO THE
END OF THE FIRST MILLENNIUM B.C.

JOHANNES M. RENGER*

INTRODUCTION

Mesopotamian society and its economy are based on agriculture with integrated animal husbandry. The manufacture of crafted goods and their distribution and allocation play only a subsidiary role. This is the prevailing paradigm for the entire history of ancient Mesopotamia. Since arable land is the most decisive productive factor in a society based on agriculture, the form of control of the arable land, i.e., the system or regime of land tenure, is of utmost importance with regard to the social fabric of such society. Specific land tenure regimes not only are determined by ecological or natural factors, but also are profoundly shaped by social forces. Social and ecological factors are interdependent and interacting. As for ancient Mesopotamia, we are able to observe land tenure systems in varying degrees of accurateness from the end of the fourth millennium B.C. until Late Achaemenid times towards the end of the first millennium B.C.¹

When discussing the various forms of ownership of landed property, one has to consider the embeddedness of such ownership within a given society and its economy. Particular forms of ownership reflect not only a legal, but also a social as well as an economic reality. This is what we understand under a land tenure system or regime. Land tenure is a function of the social and economic conditions governing a society. Land tenure has to be seen vis-à-vis the persons and institutions that determine the structure of a society. Thus, for example, if

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1. For a general outline of Mesopotamian history, society, and economy see Postgate, J.N., *Early Mesopotamia: Society and Economy at the Dawn of History*, London/New York 1992; Nissen, H.J., *The Early History of the Ancient Near East 9000-2000 B.C.*, Chicago 1988; Steinkeller, P., in Freedman, D.N., et. al., *The Anchor Bible Dictionary* vol. 4 (New York 1992), pp. 714-777; Renger, J., *On Economic Structures in Ancient Mesopotamia*, *Orientalia* N.S. 63 (1994), pp. 157-208. A short annotated bibliographical outline concerning land tenure in Ancient Mesopotamia is provided by Foster, B.R., *Journal of the American Oriental Society* 114 (1994), pp. 442-445.

we consider individual private ownership of arable land, we should ask ourselves how these owners of the means of production, that is, men of private means, could fit into the overall structure of a given society and into its social and economic institutions.

It is the aim of this Article to survey land tenure regimes in Mesopotamia, that is, Babylonia in the south of modern Iraq, encompassing the alluvial plain from Baghdad down to the Persian Gulf as well as Assyria in the northeast of Iraq. Agriculture in the alluvial plain is only possible through artificial irrigation, whereas rain-fed or dry-farming agriculture is dominant in Assyria. These distinct natural conditions resulted in different land tenure systems. We observe—as expressed in the title of this Article—different forms of institutional, collective or corporative, and individual ownership of arable land, as well as other forms of entitlement to possession of arable land, like various forms of tenancy and holding-use rights connected with service obligations toward a higher authority. In addition, it will be shown how different forms of land tenure are characteristic or dominant in particular regions and times during nearly three thousand years of Mesopotamian history. It is the dominance of a particular form of land tenure prevailing at a given time that is important and thus determines the social and economic fabric of a distinct historical period. The mere existence of one or the other form of land tenure in quantitatively negligible proportions, therefore, is not sufficient as a criterion to describe the economic and social reality of a given period of Mesopotamian history. This Article will further refer to the legal forms in which land tenure systems become manifest. This includes the description of particular legal practices instrumental to acquire or transfer ownership or titles of possession of landed property.

The sources from which we draw our knowledge are documents written on clay and sometimes on stone. They are written in cuneiform—first in Sumerian, a language of unknown affiliation—and used since the end of the fourth millennium B.C. for drawing up legal and administrative documents. Later, from about the twenty-fourth century B.C. until Seleucid times, Akkadian, the Semitic language prevailing in Assyria and Babylonia, gradually became the language of the contracts not only in Mesopotamia, but also in other regions of the Ancient Near East. The texts that are most informative with regard to the prevailing land tenure regimes in Mesopotamia are foremost legal

and administrative documents, letters,² and compilations of laws, among them the famous Laws of Hammurabi of Babylon (1792-1750 B.C.).³ For nearly one hundred years, all of these documents have been used by scholars of the legal and social systems of the Ancient Near East in order to base upon them theories of property rights, land tenure regimes, and social structure in general.

LAND TENURE IN ANCIENT MESOPOTAMIA: A HISTORICAL PERSPECTIVE

Before Writing—Village Communities and Urban Settlements

Artificial irrigation in the Mesopotamian alluvial plain could be managed locally as long as social organization was determined by rural or village communities. The rural community and its segments, i.e., families, were the basic productive units in a system of subsistence agriculture. To the degree that collective efforts were necessary to organize, build, and maintain an irrigation system, the collective body undertaking this task became a decisive factor with regard to control of and access to water and the arable land irrigated with it.

The necessity to organize irrigation on a regional level arose only when village communities gave way to more complex forms of social organization, for instance, when "political" entities arose, i.e., forms of an "early state." Conflicts between neighboring territorial entities or "states" concerning access to irrigation water finally resulted in a system that helped to arbitrate in cases of opposing interests and conflicts. But more important was the constructive effect of this system: individual territorial entities or states found ways to organize, build, and maintain interregional irrigation systems. Such large-scale irrigation systems constituted the backbone of a highly productive and complex agriculture, the complexity of which can be detected in the written records from southern Mesopotamia from about the middle of the third millennium B.C. until the end of the first millennium B.C. and beyond.

2. No comprehensive or representative compilation of legal and administrative documents in English translation is available at present. For translations of selected documents from a single period of Mesopotamian history, see Postgate, J.N., *Fifty Neo-Assyrian Legal Documents*, Warminster 1976.

For letters, see Michalowski, P., *Letters from Early Mesopotamia*, Atlanta 1993; Oppenheim, A.L., *Letters from Mesopotamia*, Chicago 1967.

3. For an English translation of Mesopotamian laws, see Roth, M.T., *Law Collections from Mesopotamia and Asia Minor* (= *Writings from the Ancient World* 6, Atlanta 1995). For the convenience of nonspecialist readers, references to textual sources are given via secondary literature and translations wherever feasible.

This Article is not the place to hypothesize about the genesis of urban settlements of some size and the accompanying emergence of large institutional households within them. The records, both written and archaeological, indicate that large institutional households decisively determined the social and economic reality in southern Mesopotamia, i.e., Babylonia, at least since the latter part of the fourth and the beginning of the third millennium B.C. Their relation to the village communities in the rural hinterland with which they had coexisted for quite some time is still a matter of debate.

From 3200-2500 B.C.—Evidence from Texts

When irrigation management became the concern of the “state” or its institutions, a conflict arose between central powers and local or village communities. As a result, control over the arable land shifted gradually to the institutions of the territorial entities that organized, built, and maintained the irrigation system. Between 2800 B.C. and about 2400 B.C., the remnants of the village community system were gradually absorbed by these large institutional households. This development is indicated by settlement patterns that were established through archaeological surface surveys.⁴ Between circa 3300 and 2400 B.C., the number of small rural settlements gradually declined, while urban settlements increased considerably in size. Many questions regarding the eventual disappearance of the village community system still remain unanswered at present. Much of the interpretation offered henceforth in this Article is based on the evolutionary model just outlined.

Written records and excavations provide evidence for the existence of large institutional households at the end of the fourth millennium B.C. What archaeologists describe as public buildings of considerable size are most likely the architectural manifestations of such large institutional households (*oikoi*). The size and complexity of their operations are reflected in numerous administrative records from two major urban settlements, that is, Uruk and Jemdet Nasr (whose ancient name is still not known)—the former in the southernmost and the latter in the northern part of the alluvial plain.⁵ Especially informative for the purpose of this Article are a few documents that deal with the management of fields by institutional households.

4. Nissen, *op. cit.* (footnote 1), fig. 22.

5. These tablets represent the beginning of writing. For details, see Nissen, H.J. et al., *Archaic Bookkeeping and Writing: Early Writing and Techniques of Economic Administration in the Ancient Near East*, Chicago 1993.

The largest area recorded among the several documents from Uruk dealing with fields amounts to approximately 952 hectares. An administrative document from Jemdet Nasr is concerned with an area of approximately 2,120 hectares of arable land.⁶ Another document from Uruk, which is only partly preserved, records at least 720,000 liters of emmer that was harvested on several plots of fields that should at least measure around 600 hectares.⁷

In addition to the documents recording diverse operations pertaining to the management of large institutional households in Uruk and Jemdet Nasr at the turn from the fourth to third millennium B.C., a unique body of texts is able to shed some light on the land tenure regime during the third millennium B.C. These texts are written on stone, i.e., on tablets, plaques, stele, statues, etc. They all mention measured areas of fields. Because of the similarities in form (written on stone) and in content (dealing with fields) that they share with land grant documents of the second half of the second millennium B.C. (called *kudurru* "boundary stone" in Akkadian), they have been labeled *ancient kudurru* by I.J. Gelb, who has been instrumental for their critical edition.⁸ Their interpretation is still hampered by paleographical, grammatical, and lexical difficulties, as well as by the fact that many of them are only preserved in a fragmentary state.⁹ Among the fifty-seven specimens known thus far, we can distinguish an older group of eleven specimens dated by their editors to around 3000 B.C.¹⁰ and four specimens dated to around 2800/2700 B.C.¹¹ from a younger one that stretches from around 2600 until around 2250 B.C. As for their geographical distribution, the following seems relevant in the present context: most of the specimens of the older group are of unknown provenience. Among the younger group, several specimens were excavated in Girsu/Lagash in the southern part of the alluvial

6. Green, M.W., and Nissen, H.J., *Zeichenliste der archaischen Texte aus Uruk*, Berlin 1987, pl. 58 W. 19726, a rev.; Englund, R.K., and Grégoire, J.-P., *The Proto-Cuneiform Texts from Jemdet Nasr*, Berlin 1991, No. 1.

7. Damerow, P., Englund, R.K., Nissen, H.J., *Spektrum der Wissenschaft*, March 1988, p. 47 fig. 1.

8. Gelb, I.J., et al., *Earliest Land Tenure Systems in the Near East: Ancient Kudurru*, Chicago 1991, p. 1f.

9. See Glassner, J.-J., *La gestion de la terre en Mésopotamie selon le témoignage des kudurru anciens*, *Bibliotheca Orientalis* 52 (1995), pp. 5-24, and especially p. 6 for a detailed discussion of these difficulties.

10. Gelb, et al., *op. cit.* (footnote 8), Nos. 1-11. R. Englund, in personal communication, suggests that these specimens are to be dated to around 2800/2700 B.C. for paleographical reasons.

11. Gelb, et al., *op. cit.* (footnote 8), Nos. 12, 13, 18, 19.

plain.¹² They all date between circa 2600 and 2350 B.C. Other specimens come from Adab and Nippur,¹³ as well as from Sippar and other cities farther to the north.

At the beginning of the texts, the older group lists fields with totals ranging in size between approximately 32 and 65 hectares (twice each) up to 160, 350, 430, and 670 hectares. The fields are qualified with a sign group that might be interpreted as "(fields) for sustenance" or that refers otherwise to an administrative qualification of the fields in question.¹⁴ Additional qualifications indicate that these fields seem to be connected to institutional (i.e., temple) households. The texts further mention personal names without revealing anything about their function vis-à-vis the fields listed.

Among the specimens of the younger group one finds a number of exemplars that are well preserved and reasonably easy to understand. They consist of several individual sections that all have the same structure. In their simplest form, they consist of the following elements: a field's measured area, weighed amounts of silver or copper, and the name of a single person, but more often several persons. A more elaborate form qualifies the weighed amounts of silver, copper or other commodities with the word *šám*, which is used in the sense of "equivalent" or "price" in sale contracts that are dated a few centuries hence (circa 2250 B.C. and later).¹⁵ An even more detailed form runs as follows:

x area of "field", situated in the *Flur* (= irrigation district) NN (or otherwise qualified in administrative or terms of possession); x silver (in weighed amounts) / and sometimes commodities were given / brought / weighed out to or eaten by (a) named person(s) (i.e., the person[s] relinquishing their right[s] to the field); such and such named persons were witnesses (and received in some cases payments in kind); (the) oil was spread out at the side (of the field?— [referring to a symbolic act accompanying and perhaps validating the transaction]); this "transaction" (literally "this word", i.e., the

12. Gelb, et al., *op. cit.* (footnote 8), Nos. 19a, 19b, 20-24.

13. Gelb, et al., *op. cit.* (footnote 8), Nos. 25-30, 30a, 30b, 30c (Nippur), 31-33 (Adab).

14. DUG+SILÁ, see also the discussion in Gelb, et al., *op. cit.* (footnote 8), p. 28ff. To interpret the sign group as a verbal expression, e.g. "to alienate" or the like, appears not plausible on the basis of the structure of the texts. More preferable is the interpretation offered by Glassner, J.-J., *loc. cit.* (footnote 9), p. 18 ("DUG+SILÁ dirait le statut juridique que ces terres acquièrent dès lors qu'elles sont devenues les biens d'un temple.").

15. For the meaning "equivalent" for *šám*, see Glassner, J.-J., Aspects du don, de l'échange et formes d'appropriation du sol dans la Mésopotamie du III^e millénaire, avant la fondation de l'empire d'Ur, *Journal Asiatique* 273 (1985), pp. 11-59. With good reason, *gána.šám.a* is understood by Foster, B.R., Administration and Use of Institutional Land in Sargonic Sumer, Copenhagen 1982, p. 58, in the sense of "leased" field in contrast to sustenance fields; but see, however, Gelb, et al., *op. cit.* (footnote 8), p. 26, who take the term in the sense of "purchased land."

document?) left the house [of the person giving up the field?]); such and such named persons, the farmers [i.e., agricultural specialists being usually part of the professional staff of large institutional households] sat on the side (of the field) [perhaps representing vested interests on part of an institutional household(?)].¹⁶

Some points remain to be considered. First of all, the documents of the younger group discussed each record several individual transactions. It is reasonable to assume, then, that they were concluded individually and at different times. What unites them in formal terms is the fact that they all were eventually written on a stone object that served as a kind of *Sammelurkunde*.¹⁷ Since at the same time similar transactions were recorded on clay tablets, one may further assume that the individual transactions were first recorded on clay tablets and only later committed to writing on a representative object of stone. They are, however, not legal instruments in a narrow sense, that is, sale contracts. To record the acquisition or transfer of landed property on stone objects, as opposed to clay tablets, is a unique phenomenon during the third millennium B.C. and later from the second half of the second millennium onwards. What actually led to it remains enigmatic. An answer has to take into account the different types of stone objects upon which these transactions were recorded: There are small tablets made of stone that look like clay tablets in shape and size. These represent the oldest specimens. But there are also large tablets of squarish size that are a few centuries younger and that also have the shape and appearance of a clay tablet. In addition, one has to consider a variety of statuettes of human figures, objects of diverse shapes, and objects, small and large, sculptured in relief with figurative scenes. The recording of the transactions concerning arable land added to the object are only one aspect determining its function, its *raison d'être*. Wherever the excavation records provide adequate information, they state that the specimens were found in temples, but for what specific purpose were they deposited in a temple?

The size of the plots that were the object of the transactions in the younger group of stone documents (*kudurrus*) is usually rather small. Many of the plots measure less than 6.35 hectares (1 *bûr*), which, a few hundred years later, was the average size of a sustenance field for

16. Gelb, et al., *op. cit.* (footnote 8), p. 199f, referring to Nos. 14-15 (paraphrasing the author's translation).

17. The German *Sammelurkunde* is here used for lack of a fitting English expression. The term refers to a document that records several individual legal transactions concluded at various times. It may serve as an instrument of publicity or of proof in case of legal disputes at a later date.

a person of low status. The plot size was considered to be sufficient to guarantee the subsistence of a family of five to six or seven persons. In any case, these plots do not constitute landholdings of an extraordinary size. These figures stand in contrast to those attested in the above mentioned older group of *kudurrus*.

The transactions regularly involve a plurality of persons giving up fields. Whenever a recipient of fields is mentioned, it is only a single person. This person is normally a member of the ruling elite or a functionary of an institutional household.¹⁸ Thus, when no recipient or "buyer" is explicitly named in a document, we may further argue that here, too, a single "buyer" was party to the transactions recorded on the document. The nature of the document and its actual position or deposition in a particular place may have given the context to identify the "buyer" beyond doubt. Another point worth consideration is, according to two of the documents,¹⁹ the participation of the same group of named farmers, representing perhaps vested interests of an institutional household, in several of the individual transactions. This is also true for a number of the witnesses. One may then assume that the social and economic context within which these transactions took place was institutional households on the one side and unspecified groups of persons on the other side. At least in some cases, it appears as if the sellers are or represent family groups.²⁰

In two specimens,²¹ perhaps from the city of Isin, many of the fields are qualified as "field of the ox-house(hold)," "field of the reed-worker's" viz. "field of the potter's house(hold)." Thus, if this interpretation proves to be correct, it would imply that the fields in question may have been connected in some way to an institutional household. Those relinquishing their rights to fields may not have had exclusive ownership rights to these fields, and the participation of the farmers may thus have pertained to the peculiar or specific nature of such rights. But, not inconceivably, another explanation could be that the qualifications of the fields just discussed represent the name of a large tract of land within which the field was situated, i.e., a kind of *Flurname*. In the latter case, nothing can be gained in terms of the legal status of the fields.

18. Cf. Gelb, et al., *op. cit.* (footnote 8), Nos. 20-23.

19. Gelb, et al., *op. cit.* (footnote 8), Nos. 14-15.

20. See, e.g., Gelb, et al., *op. cit.* (footnote 8), Nos. 22-23, p. 16.

21. Gelb, et al., *op. cit.* (footnote 8), Nos. 14-15.

The transactions recorded in these stone documents have usually been understood as records of sale transactions.²² Such an interpretation rests upon the occurrence of the noun *šám*, qualifying silver, copper, or other commodities given to the persons relinquishing their rights to a field as “equivalent” or “price” and of the verb *šám* as “to buy” on the basis of later usage. There is a general agreement that, at least from about 2350 B.C., the verb *šám* not only has the unequivocal meaning of “to buy,” but also implies the notion of ownership being transferred through an act of buying or selling. Is it a sale to be understood in terms familiar to us? Does the concept of sale imply a notion of property or ownership characteristic of Roman or continental European law? All of these questions have not been addressed sufficiently so far. Thus, it seems prudent to be cautious when interpreting these early documents as outright evidence for private individual property.

Accepting the interpretation of the transactions discussed so far as sales, another related body of texts has to be considered. From around 2600 B.C. onward, transactions like those written on stone documents were also recorded in increasing numbers on clay tablets. Most of them come from the city of Šuruppak (modern Fara). In contrast to the stone documents, the clay tablets record not only the alienation of fields, but also the alienation of houses, but not of orchards. These documents are much more uniform in their formulary than in the formulary found in the stone documents, which may be due to the fact that they were all written in one location and during a rather limited span of time. All use the word *šám* as a noun (for “equivalent”) as well as an operative verb (for “to buy”). In contrast to the transactions recorded on stone documents, the transactions recorded on clay tablets are always carried out by a single “seller,” and the “buyer” is explicitly recorded by name and designated as such. In addition, the documents usually have a date formula. Another group of clay tablets, recording sales of fields, orchards, houses, and persons, come from the city of Girsu. Their formulary is similar to the Fara formulary.²³

When evaluating the evidence presented, one should be aware at the outset that the records providing the evidence for our knowledge about ownership or property rights as well as the reconstruction of the

22. Gelb, et al., *op. cit.* (footnote 8), p. 31, discussing in detail the different possibilities of interpretation from outright sale, following a traditionally held opinion, to rather cautious remarks.

23. Gelb, et al., *op. cit.* (footnote 8), p. 205.

land tenure system in the Mesopotamian alluvial plain from the beginning of the third millennium until around 2400 B.C. are not too numerous, are spread over several hundred years, and originate in various places across the alluvial plain of Mesopotamia and adjacent regions. The differences in content and the formularies just described must not necessarily or exclusively be seen as developmental stages, but may be explained in other terms, such as by the expression of regional customs or the very fact that they were written on stone. But it does not appear feasible at present to draw an entirely conclusive picture that would do justice to all of those differences. What can be stated, nevertheless, is that institutional households of considerable complexity and size are well attested. They may have gained in importance in the course of the third millennium. They seem to have controlled sizable portions of the arable land, but other noninstitutional forms of use and control of arable land are attested, too. Nothing is known, however, of the exact quantitative relation between land held and controlled by institutional households and land held by other segments of the society. An educated guess points, however, toward a quantitative superiority of arable land held by institutional households. Such a guess agrees with the archaeological evidence indicating a trend of increasing land consolidation in the hands of urban institutions, a trend that reached its peak at the very end of the third millennium B.C.

Thus, the alienation or sale of arable land as recorded on stone documents or clay tablets can be seen as a reflection of land consolidation in the hands of members of the ruling elite or of the institutional households for which they most likely acted. This land consolidation is the cause of the gradual disappearance of the village community system.²⁴ Also, the form of land tenure outside the institutional households is a matter of conjecture. Based upon comparative evidence, one may assume collective control of the arable land as the most plausible form of such land tenure. It is to be considered as a manifestation of the village community system. There is some evidence that collective control or property of arable land was based on kinship or family relations around 2450 B.C. in Girsu in the southern part of the alluvial plain. For community control of arable land, there is, so far, no evidence in the records. Individual private property in the exclusive sense of mature Roman or continental European law cannot be detected in the sources.

24. See Nissen, *op. cit.* (footnote 1), fig. 22.

The Late Early Dynastic Period

Institutional households (*oikoi*) were a basic structural element of early Mesopotamian society and economy. We encounter them first in the form of temple households until the twenty-fourth century B.C. The underlying concept was that the supreme god of the central urban settlement of a territorial entity or state was the ruler of its territory. The human ruler of the state was considered the god's deputy (*vicarius*) on earth. In this capacity he headed the household of the god, i.e., the temple household. The arable land in a given state was part of the divine patrimonium and as such was administered by the god's deputy. The spouse of the main god, as well as the children of the divine couple, had their own temples, including agricultural domains of substantial size. Still other gods within the state were hierarchically and genealogically linked with the main god. The main god was the head of the pantheon of such territorial entity. Accordingly, all individual divine or temple households were subordinated to his household. Consequently, the ruler, as the main god's deputy, governed all divine households and their agricultural domains.²⁵ Each household was self-sustaining and, therefore, an autarkic economic unit (*oikos*). Only a very few goods had to be brought in from outside the household: tin and copper for producing bronze, gold and silver for manufacturing prestigious objects, timber for prestigious building activities, and a variety of precious and other stones for crafting statues, cult objects, cylinder seals, and jewelry. All of these raw materials came from outside Mesopotamia.

Most of the population, by now divested of its economic basis, i.e., the arable land in the village community, was integrated into the institutional households and their economy. Thus, the majority of the people were, as members of these households, patrimonial subjects. They represented the labor force that was necessary to guarantee the material reproduction of the individual household units and consequently of the entire society. Agricultural production and animal husbandry were collectively undertaken within these institutional households. Their results were centrally collected, stored, and then redistributed to the members of the households in the form of daily, monthly, or annual rations. We thus speak, in the terms of Karl Polanyi, of a redistributive economy.²⁶

25. Steinkeller, *op. cit.* (footnote 1), p. 725.

26. Polanyi, K., *The Livelihood of Man*, New York 1977, p. 40ff.

A society organized and structured in the way just described leaves little, or at least not much, room for individual agricultural production. Consequently, individual ownership of arable land was extremely restricted in quantitative terms. Thus, it was negligible as a determining factor of the land tenure regime and the economy of the late Early Dynastic period.

The basic structural elements of the *oikos*-economy, described for the late Early Dynastic period, can already be observed in the earliest written documents from Uruk and Jemdet Nasr from the end of the fourth and the very beginning of the third millennium B.C.

The Sargonic or Old Akkadian Period, 2334-2154 B.C.

Around 2334 B.C., the political landscape on the Mesopotamian alluvial plain changed substantially with the arrival of a new dynasty of Semitic rulers. Derived from the name of their capital city Akkad, it is called the Akkad dynasty. Already, its first ruler Sargon created a large territorial state encompassing the entire alluvial plain from around present-day Baghdad and the adjacent region beyond the Tigris along the Diyala river in the north down to the shores of the Persian Gulf. The formation of this state was the result of force. After the conquest of the entire land, Sargon drastically reorganized its political structure. As indicated above, the rulers of the individual territorial states administered the territory of their state as deputies or *vicars* (*Ensi* in Sumerian) of the supreme god of the territorial pantheon. Their political legitimation resulted from their office that was, at the same time, administrative and cultic. In order to establish firmly their domination over these territorial states, Sargon and his successors had to divest the previous territorial rulers (*Ensis*) of both functions. The administrative functions of the territorial rulers—vis-à-vis the divine patrimonium, i.e., the control of the arable land—were now entrusted to subordinate functionaries of Sargon and his successors. As far as the cultic functions of the *Ensis* were concerned, the Akkad rulers created a new class of high priests. So far, members of the local elite traditionally occupied all high cultic offices in their respective territorial states. To leave this system unchanged would have meant that a member of the local elite appointed to high cultic office could have automatically claimed legitimacy also as administrative and political head of the territorial state. In order to avoid this and to strengthen his control over the conquered territories, Sargon and his successors appointed members of their own family for these high cul-

tic positions. The supreme ruler himself, however, did not content himself with the role of the deputy or *vicar* of the gods with regard to the divine patrimonium. The rulers of Akkad assumed the title "god of his land" thus expressing that they considered themselves to be the sole lords of all the arable land that was previously under the control of the temple households. The rulers of the Akkad dynasty thus assumed a position that so far had been the exclusive privilege of the gods.²⁷

The drastic change regarding the ideology of the land tenure regime under the rulers of the Akkad dynasty reflects factual and ideological conditions prevailing in the northern parts of the alluvial plain. They were now imposed on its southern part. Recognizing this, we have before us a characteristic, structural element determining the development of Mesopotamian society and economy far into the first half of the second millennium B.C. Very often the dichotomy between north and south has not been sufficiently taken into consideration. This is to a large degree the result of the uneven distribution of our written evidence during subsequent periods of Mesopotamian history.

Large institutional holdings are attested from the area of the southern cities of Girsu and Umma and their territories. As far as one can see, these holdings were held and administered by an official of the king.²⁸ Originally, they may have belonged to temple estates or domains that were expropriated by Sargon or one of his successors. Texts from two other sites, Awal in the Diyala region and Gazur in the north near present-day Kerkuk, likewise reflect the operations of institutional households that seem to be part of the royal patrimonium.

A number of legal documents record the transfer of ownership rights to fields between individuals. These documents have been taken as evidence for the existence of individual private ownership of fields during the Sargonic period. This may well be so. The parties to these assumed transfers of ownership rights to fields are single individuals. This may be taken as an indication for transactions between private individuals and henceforth as proof for the existence of private individual ownership of fields during the Sargonic period. One, however, may look at a few details more closely. The documents in question do not come from controlled excavations but were bought on the antiquities market. Nevertheless, their provenience seems to be ascer-

27. The argument follows, in part, the reasoning of Nissen, *op. cit.* (footnote 1), p. 172ff.

28. See, for example, Foster, *op. cit.* (footnote 15) for a detailed discussion of the available textual material; Westenholz, A., *Archiv für Orientforschung* 31 (1984), p. 80f.

tained on the basis of internal criteria. According to them, they originate in the cities of Isin, Nippur, and Kish. Insofar, they should not be compared without some qualification with the evidence from the southernmost part of the alluvial plain, i.e., the territories of Lagash/Girsu and Umma. The documents from these two areas have yielded evidence for large institutional landholdings, but none for individual private ownership of fields, as long as one accepts the absence of documents recording the transfer of fields as sufficient proof. It appears, then, as a probable assumption that these differences apparent in the written documentation just presented are a reflection of regional traits in the land tenure regime. In other words, we may well have before us a manifestation of a structural difference between the southernmost part of the alluvial plain and the areas to the north of it: there exists a preponderance of large institutional landholdings, i.e., fields, but no attestation for private individual ownership of fields in the southernmost part of the alluvial plain, but both forms of ownership, institutional as well as individual, exist in the areas stretching northwards from Isin and Nippur. It seems appropriate to point out that a few centuries later during the eighteenth century B.C., the same pattern can be observed: many field sale contracts from Isin, Nippur, Kish, and other northern cities, but practically none from the region to the south of them.

Of the twenty-one extant sale documents that concern the transfer of fields from one single person to another from Nippur, Isin, and Kish and that are written on clay, in contrast to the so-called *kudurrus* written on stone, fourteen provide data on the size of the fields in question. Among the documents are several *Sammelurkunden*. A total of thirty-six data on field sizes are available.²⁹ The size of the plots ranges between 0.5 and 1.45 hectares (ten cases), 1.75 and 2.8 hectares (seventeen cases), 3.35 and 4.23 hectares (three cases), 6.35 and 8.5 hectares (four cases), and 25.4 and 63.5 hectares (one case each). One should note that the majority of the plots are not sufficient to feed a family of five to six or seven persons for a year. Also, there exists a general pattern, according to which the average size of individual alienated field plots increases from south to north, and the same is true for the total acreage acquired in each of the stone documents (*Sammelurkunden*).³⁰ Since the archival context of the texts remains

29. Among the documents, a single one lists a total of twenty transactions pertaining to fields and twelve to orchards. The mean size in this document is ostensibly larger than in the other thirteen documents.

30. See Gelb, et al., *op. cit.* (footnote 8), p. 25.

obscure, the evidence they provide is isolated and therefore hardly representative. For instance, we are unable to say much about the persons involved and their position within the social fabric, i.e., their possible connections to administrative structures or institutional households.

It has repeatedly been observed that the palace played a dominant role with regard to institutional land holdings in the northern part of the alluvial plain, in contrast to the south where temple households determined the pattern of institutional land tenure. One may therefore ask for the cause of this significant dichotomy. Could it be that the characteristic difference in the religious concepts of the Sumerian population in the south in contrast to those of the Semitic population in the north is responsible? A prevailing trait of Sumerian religious concepts or thought is that of a city-god(ess) who is bound to his city—and to no other city. Semitic religious concepts are determined by astral deities. They are the dominant divine powers who are not bound to any one place, which is natural for a nomadic population with its migratory way of life. Thus, the local manifestation of the deities worshipped by a Semitic population is less important, resulting in less imposing structures like temples and their economic institutions. In addition, the Semitic population of the north apparently still had ties to their nomadic past and to its characteristic social and political organization; there the sheikh was the dominant figure. Even after having settled more or less permanently in the alluvial plain and having turned into an agricultural society, the Semites seem to have retained these patterns of organization. Thus, the sheikh became king. His position as a landholder most likely derived from his position as head of a clan whose collective landholdings he controlled. Further land consolidation, in the course of which the village community system gradually lost its strength, bolstered the king's position as the dominant landholder in the north.

In the Sumerian south, however, a different tradition prevailed. Very early in the fourth millennium B.C., but not exactly to grasp, communal identity found its visible manifestation in the religious institutions of the respective urban settlements and thus gave birth to the temple as the focal point of the entire society. Only in the further course of history, that is in the middle of the third millennium B.C., one detects signs of an attempt to separate political power from the institution "temple" and to establish a separate institution "palace." As indicated above, the eventual separation still had to wait for a few more centuries. Until then, the role of temple households in the south

of the Mesopotamian alluvial plain, as the dominant factor in agricultural landholdings and as agricultural producer, prevailed more or less unchallenged.

The Ur III Period

When the south again became the hub of political developments around 2100 B.C., we observe a shift back to the system already in existence before the Akkad dynasty. More than 35,000 published administrative and legal documents as well as letters, not to speak of approximately 100,000 texts lying unpublished in Museums and other collections, help us to understand Mesopotamian society and economy during the Third Dynasty of Ur (2113-2004 B.C.). Its rulers governed Mesopotamia from the shores of the Persian Gulf up to the area of present-day Baghdad and farther north along the Tigris river to the area around Mossul in northern Iraq. The documents in question nearly exclusively come from places in the very south of Mesopotamia. Therefore, very little can be said about the northern parts of the realm.

The land tenure system during the Third Dynasty of Ur in southern Mesopotamia can be described as follows: the arable land previously taken away from the temple households by the Akkad rulers was again put under their control. An inscription attributed to the first ruler of the Third Dynasty of Ur, Urnammu (2113-2094 B.C.), of which only a copy from the eighteenth century B.C. survives,³¹ tells us that all land within the boundaries of individual territorial entities was given back to their respective supreme gods, i.e., their temple households. What this text states is corroborated by a plethora of legal and administrative texts from the time of the Third Dynasty of Ur itself.

Under the overall control of the rulers of Ur, institutionally held arable land was mostly managed by temple households in the individual states of the realm. The city ruler of an individual state administered the temple households within his jurisdiction, but was ultimately responsible to his patrimonial overlord, the king of Ur. Of the arable land managed by the temples, and in some instances by palace-households, three types of fields are distinguished by the relevant administrative records: "Ox fields" (i.e., the domain land cultivated by the temple households), sustenance fields given to individual members of the respective households (patrimonial subjects), and rental fields

31. Kraus, F.R., *Die Provinzen des neusumerischen Reiches von Ur*, *Zeitschrift für Assyriologie und Vorderasiatische Archäologie* 51 (1955), pp. 46-50.

(rented out mostly to members of the elite). Individual temple domains ranged in size between 50 and 200 hectares each.³² The management and the actual cultivation was the task of a hierarchically and functionally organized staff.³³ According to a representative administrative document, the percentage relation between the different types of fields is as follows: "ox fields," sixty-seven percent; sustenance fields, twenty-five percent; and rental fields, eight percent.³⁴ It appears not unreasonable to assume a similar situation for the twenty-fifth/twenty-fourth centuries B.C.

Of foremost importance, with regard to the question of how much of the arable land was managed and cultivated by temple domains, are several administrative documents from the central archives of the state or province of Lagash/Girsu in the south of the realm. They refer to territorial subdivisions of that state and record the estimated and anticipated harvest from large plots of institutional land compared with actual yields. Some of these documents refer to a single year; others refer to more than one year, even up to a period of ten years. The amount of arable land recorded ranges from about 200 to more than 500 square kilometers in a single document.³⁵ We have to compare these figures with the entire area of the whole state of Lagash of perhaps 1,000 to 1,300 square kilometers. This area includes, as far as we can determine, large stretches that were covered by swamps and other areas not suitable for agriculture. The conclusion to be drawn appears to be clear: there is not much room for individual agricultural production and private individual ownership of fields.

The evidence just presented agrees with what is recorded in other administrative documents. According to them, very large numbers of people were employed by institutional households. For some of them, one thousand or more persons are listed in personnel rosters. In one particular case, the amount of barley available for the alimentionation of household dependents was enough to feed more than 12,000 persons

32. This statement is largely based upon the documentation from the texts recovered from the ancient site of Girsu. See Postgate, *op. cit.* (footnote 1), p. 186.

33. Gelb, I.J., Household and Family in Early Mesopotamia, in: Lipinski, E., ed., *State and Temple Economy in the Ancient Near East* vol. 1 (= *Orientalia Lovaniensia Analecta*, vol. 5, Leuven 1979), p. 11ff. with charts I and II; Gégouire, J.-P., *Archives administratives sumériennes*, Paris 1970, p. xvf.

34. Cf. Postgate, *op. cit.* (footnote 1), p. 186.

35. Cf. Renger, *loc. cit.* (footnote 1), p. 178f. with fn. 48; Gelb, I.J., Ebla and Lagash: Environmental Contrast, in: Weiss, H., ed., *The Origins of Cities in Dry-Farming Syria and Mesopotamia in the Third Millennium B.C.*, Guilford, CT 1986, p. 159f.

for an entire year.³⁶ The alimentation of patrimonial subjects serving as ordinary laborers was provided in the form of daily rations. They had a nutritional value just sufficient to guarantee their physical reproduction. Persons of higher rank received rations much larger.³⁷ These rations were certainly meant to provide also for family members and servant personnel within their individual households. Besides the alimentation in the form of rations in kind, certain persons serving within institutional households were given plots of fields either to provide entirely for their sustenance or just supplement their rations. Those receiving such sustenance fields did not become owners. The fields remained under the strict control of the institutional household. They were subject to regular reassignment, mainly because they had to be left fallow every other year. The size of the plots assigned individually depended upon status. The more important a person, the larger the sustenance field provided. Lower-ranking personnel received plots of about one and a half hectares, certainly enough to sustain, together with regular rations received, a family of five to six or seven persons during an entire year.

In consideration of the facts just presented and the conclusions drawn from them, one has to discuss the controversially debated question of individual private ownership of fields during the Third Dynasty of Ur.³⁸ In contrast to previous periods of Mesopotamian history, not a single sales contract pertaining to fields is attested for the time of the Third Dynasty of Ur, according to a recently published critical edition³⁹ of all sales documents known so far from this period. Only houses, house plots, orchards, and persons are the subject of such contracts.⁴⁰ Field lease contracts between individuals are the subject of a study by H. Neumann.⁴¹ His basic assumption is that whenever such contracts do not qualify the lessor as acting for an institutional household, he is the owner of the leased field. But he points out that several of them involve sustenance fields, i.e., fields that were held under an

36. Grégoire, *op. cit.* (footnote 33), p. 233 with reference to CT 7 pl. 8 BM 12926.

37. For details of the ration system, see Waetzoldt, H., Compensation of Craft Workers and Officials in the Ur III Period, in: Powell, M.A., ed., *Labor in the Ancient Near East*, New Haven 1987, pp. 117-141.

38. Cf. Neumann, H., Zum Problem des privaten Bodeneigentums in Mesopotamien (3.Jt. v.u.Z.), in: Brentjes, B., ed., *Das Grundeigentum in Mesopotamien (= Jahrbuch für Wirtschaftsgeschichte, Sonderband 1987, Berlin 1988)*, pp. 29-48.

39. Steinkeller, P., *Sale Documents of the Ur-III-Period*, Stuttgart 1989.

40. See the tabulation in Gelb, et al., *op. cit.* (footnote 8), p. 265ff.

41. Neumann, H., Zum Problem der privaten Feldpacht in neusumerischer Zeit, in: Zablocka, J. and Zawadzki, S., eds., *Šulmu IV: Everyday Life in Ancient Near East*, Poznań 1993, pp. 222-233.

entitlement other than strict ownership. In the case of others, the legal nature of entitlement to the field is not mentioned in the contract.

It remains doubtful whether these contracts and those where the name of the lessor cannot explicitly be linked to an institutional household should be used as evidence for private ownership of fields. After all, throughout the entire history of Mesopotamia, sustenance fields and huge plots of fields leased by entrepreneurs from palace or temple were subleased by them to sharecroppers and other tenant farmers. Moreover, in contracts between institutional households and individuals, the person representing the household is in most cases not designated as such. In other words, the existence of rental contracts does not necessarily prove that the fields involved were owned by those leasing them to others. Falkenstein has pointed out that the absence of fields, in contrast to houses and persons, given as pledges provides a strong argument for the nonexistence of private ownership of fields during the time of the Third Dynasty of Ur. Because, if a field given as a pledge should serve its purpose adequately, there should be no interference through rights on the field by a third party. The person pledging his field should be the exclusive owner. If not, that is, if the field is leased or is a sustenance field, one should expect the owner's or holder's consent noted or made otherwise apparent in the document recording the pledge.

There exists still another body of legal documents relevant for the question of land tenure, especially for the question of whether fields were owned by individuals and whether they could be alienated. These are records documenting court procedures.⁴² Among the cases brought before the judges and decided by them, not a single case pertaining to a field can be found. It was the combined negative evidence derived from documents pertaining to sales, field-leases, pledges, and court procedures that led A. Falkenstein, by way of an *argumentum e silentio*, to the conclusion that no individual private ownership of fields existed during the time of the Third Dynasty of Ur. Falkenstein's only fault, perhaps, was that he did not point out clearly enough that his conclusions were only valid for the southernmost part of the realm. Other scholars have interpreted this "negative" evidence differently. Steinkeller, following Gelb, thinks that the transfer of arable land (fields) was "forbidden" during that period.⁴³ Powell,

42. Falkenstein, A., *Die neusumerischen Gerichtsurkunden*, München 1956.

43. Gelb, et al., *op. cit.* (footnote 8), p. 26.

in response to this conclusion, finds it not convincing, without being able to offer a solution of his own.⁴⁴ As will be shown later in this Article, Falkenstein's interpretation of the evidence still seems to be the interpretation that best suits the evidence.⁴⁵

"AN ALTERNATIVE TO PRIVATE PROPERTY"⁴⁶—THE
MESOPOTAMIAN VARIANT

The discussion concerning land tenure in the early history of Mesopotamia has for a long time focused on the question of private individual or collective ownership of arable land versus ownership of arable land by the king or temples. Much of the controversy is due to the uneven distribution of the sources; heuristic problems with regard to their interpretation; and, closely connected with the latter, ingrained convictions about the role of private property throughout mankind's history or preconceived ideas about the development of Mesopotamian society. This controversy concerning the existence or nonexistence of private individual ownership of arable land in different periods of Mesopotamian history is not solely a matter of interpreting the available written documentation "correctly." Rather, the ensuing debate shows signs of a deep-rooted conviction about an *a priori* superiority of private individual property versus other forms of ownership, i.e., collective ownership by village communities or the ownership by the "state." It appears as if most of those participating in the debate are not aware of the historic controversy fought out between Henry Sumner Maine and Denis Fustel de Coulanges over the same issues more than a hundred years ago.⁴⁷ The debate concerning the role of private individual ownership of arable land is also part of an ongoing controversy about the distinct characteristics of an ancient economy versus those of modern, market-oriented economies. It is the question of ancient versus modern,⁴⁸ already the focal point in the so-called "Buecher-Meyer controversy."

When legal documents covering a period stretching from the first half of the second until the second half of the first millennium became

44. Powell, M.A., *Elusive Eden: Private Property at the Dawn of History*, *Journal of Cuneiform Studies* 46 (1994), p. 102.

45. See text accompanying notes 49-52.

46. Grossi, P., *An Alternative to Private Property*, Chicago 1981.

47. The debate is well described by Grossi, *op. cit.* (footnote 46), pp. 27-118.

48. Renger, J., *Patterns of Non-Institutional Trade and Non-Commercial Exchange in Ancient Mesopotamia at the Beginning of the Second Millennium B.C.*, in: Archi, A., ed., *Circulation of Goods in Non-Palatial Context in the Ancient Near East (= Incunabula Graeca 82, Rome 1984)*, p. 42.

known in large numbers at the end of the nineteenth century A.D., they left no doubt that in ancient Mesopotamia landed property could be bought and sold. The situation changed when more and more evidence pertaining to the late third millennium (twenty-first century B.C.) became available. In these texts the alienation of landed property (fields) was not visible. Together with a general theory about the social structure of Mesopotamian society during the third millennium B.C., it was stated that individual property of fields did not exist at this time because all arable land belonged to the "state" or the temples. In particular, this position was based on certain statements to this effect contained in royal inscriptions (twenty-fourth century B.C.). On the combined evidence of these royal statements and of a large body of administrative texts and on the lack of sale contracts and other legal documents pertaining to fields among the written records from the time of the Third Dynasty of Ur (circa 2100-2000 B.C.), A. Falkenstein has succinctly formulated this position.⁴⁹ Other scholars, especially I.J. Gelb,⁵⁰ have denied the correctness of his interpretation of the sources, and therefore of the validity of the concept of "temple city" (*cit  temple*). The term "temple city" has been often misunderstood in the sense of a theocratic regime.⁵¹ This was not what Falkenstein intended to express. What he described, in rather positivistic terms and without much insistence on theoretical aspects, is more or less congruent with the *oikos* concept, i.e., the concept of institutional households as described earlier in this Article. Falkenstein correctly recognized that agricultural production in the very south of the Mesopotamian alluvial plain during the late Early Dynastic period (ED III—twenty-fifth/twenty-fourth centuries B.C.) as well as during the time of the Third Dynasty of Ur (twenty-first century B.C.) was mainly organized by the temple households of a city or city-state—not by the palace, and therefore the term temple city.

Gelb adduced evidence that seemed to prove his diverging point of view. The documents to which he referred come from earlier periods of Mesopotamian history, i.e., from the beginning of the third mil-

49. Falkenstein, A., *La cit  temple sum rienne*, Cahiers d'Histoire Mondiale 1 (1954), pp. 784-814 (Engl. transl.: Ellis, M.deJ., *The Sumerian Temple City*, Los Angeles 1974); Schneider, A., *Die Anf nge der Kulturwirtschaft—Die Sumerische Tempelstadt*, Essen 1920.

50. Gelb, I.J., *On The Alleged Temple and State Economies in Ancient Mesopotamia*, in: *Studi in Onore di Edoardo Volterra*, vol. 6, Milano 1969, pp. 137-154; Gelb, I.J., *op. cit.* (footnote 33), pp. 68-71.

51. This implicitly underlies the statement of Postgate, *op. cit.* (footnote 1), p. 109, describing the idea of the temple city as an extreme view that he sees now discredited. But this is acceptable only if the concept "temple city" is seen in the very narrow sense of theocratic rule.

lennium until the twenty-third century B.C. Published only recently in a critical edition,⁵² these documents indeed attest the alienation or "sale" of landed property during these centuries. Gelb recognized that in many instances the fields or orchards, being the subject of the deed, belonged to groups of persons or family clans. Insofar, ownership seems to have been collective rather than individual.

Mesopotamian sources clearly distinguish between three types of real estate: arable land (fields), orchards, and houses or house plots.⁵³ In other words, we have before us a distinction between intramural and extramural real estate. Much of the discussion reported is thus in part hampered by the fact that this distinction has not been carefully taken into consideration. There exists another aspect that has not been fully appreciated in the debate: the evolutionary tendency by that individual as well as collective land tenure gradually disappeared. At the end of this process of land consolidation in the twenty-first century B.C., institutional households nearly exclusively controlled all of the arable land. The population was integrated more or less totally into these households.

SOME REMARKS ON THE FORMULARY OF LEGAL DOCUMENTS AND THEIR LEGAL NATURE

The documentation used in this Article consists mainly of two types of documents: administrative and legal documents. Administrative documents were dominant in the earlier parts of Mesopotamian history. The invention of writing at the end of the fourth millennium B.C. was prompted by the need to administer and record the economic operations of a large institutional household. This gave birth to the administrative document. Such documents were drawn up by the scribes of large institutional households to keep track of their daily, monthly, and annual operations. For different administrative uses, the scribes had developed in the course of time a strict terminology and also particular physical forms of the tablets. The documents were dated by day, month, and year. The administrators responsible for a certain transaction had to seal the tablet recording their action. For purposes of control, they were kept in archives for a number of years. Within the archives, they were either shelved or put into containers, each labeled indicating its content.

52. Gelb, et al., *op. cit.* (footnote 8).

53. See Renger, J., *Das Privateigentum an der Feldflur in der altbabylonischen Zeit*, in: Brentjes, *op. cit.* (footnote 38), especially p. 52.

Legal documents play an especially important role in recognizing and defining forms of ownership of arable land and systems of land tenure. Since arable land can, in principle, be sold, inherited, given as a gift or as a dowry, leased, or pledged, the respective legal institutes like sale, lease, etc., and the legal documents in which a particular transaction becomes manifest serve as evidence for the different forms of entitlement to a plot of arable land.

It appears useful to outline in short some of the salient points characteristic for legal documents in the realm of cuneiform law. The term "cuneiform law" refers to all of those systems of law throughout the Ancient Near East where cuneiform writing and the concomitant use of the clay tablet as writing material are attested. Although most of the obligatory elements that constitute a legal document are present all over the Ancient Near East from Levant in the west to Susiana and beyond in the east, the following remarks are focused on the evidence from ancient Mesopotamia.

The decisive and elementary difference between a legal and an administrative document is the presence or the absence of witnesses named in a document. Legal documents list the witnesses in whose presence a contract was concluded. As perhaps most everywhere, Mesopotamian legal documents also employ a specific formulary—the actual form of it depending on the nature of the transaction to be recorded and particular stipulations deemed essential by the parties to a transaction.

The oldest documents, we might call legal in a very general sense because they refer to legal matters, are some of the stone documents pertaining to the alienation of fields around 2600 B.C., which were already discussed above at some length. Their formulary displays many variations. But, more importantly, elements we consider essential for a sale document might even be lacking: most of these stone documents recording the alienation or "sale" of arable land do not name the recipient or "buyer"!⁵⁴ More consistent in their formulary are the legal documents written on clay tablets from the same time. This also holds true for subsequent centuries including the time of the Third Dynasty of Ur.

As an example, sale contracts from the time of the Third Dynasty of Ur display the following elements—some of them obligatory, others not. In addition to an operative section, which contains the object of the transaction with its physical and legal description, its

54. See, e.g., Gelb, et al., *op. cit.* (footnote 8), Nos. 14-15.

equivalent (price), the names of buyer(s) and seller(s), and the operative verbs for buying and for taking into possession, the documents continue with a great number of additional clauses recording the complete payment of the price, the completion of the deed, the symbolic act of having the slave, the object of the sale, pass over a pestle, and the delivery of the object. In addition, one finds no-contest, eviction, and delinquency clauses that were confirmed by an oath. Furthermore, the documents can name a guarantor, a weigher of silver (i.e., of the purchase price), an authorizing official of the palace, and the scribe who wrote the document. The document must name the witnesses in whose presence the deed was concluded and an oath was taken. Also mentioned are the location of the transaction and the date when the document was written. The document is sealed by those relinquishing a right.⁵⁵

A definitive and rigid formulary for all types of legal transactions developed during the Old Babylonian period (circa 2000-1600 B.C.), but there are regional differences. Legal formularies were part of the curriculum of the Babylonian school where scribes were educated. Originally, representative contracts were used in the training of scribes. But soon one developed a collection of formulae, a kind of form book. The constitutive formulae of different types of contracts were listed in all possible variations. Of the collection, consisting of seven tablets, more than 1,600 of its original 1,800 lines are preserved.⁵⁶

In the following periods of Mesopotamian history and of its legal institutions and practices, no substantial change has taken place as far as the general characteristics, nature, and function of legal documents are concerned. There are, quite naturally, marked regional and temporal differences.

In order to gauge the nature and function of Mesopotamian legal documents, one has to return again to the stone documents from the third millennium B.C., documenting the transfer of arable land (fields). As already stated, they regularly record several individual transactions concerning fields. In this and in one more respect, they are distinct from the legal documents written on clay tablets, which are first attested around 2600 B.C.: the legal documents written on clay tablets

55. Steinkeller, *op. cit.* (footnote 39).

56. Landsberger, B., *Die Serie ana itišu* (= Materialien zum Sumerischen Lexikon, vol. 1), Rome 1937.

record in general only one transaction, and they also document the transfer or alienation of houses and later also of orchards and persons.

Since the stone documents record several transactions on a single object, which thus has the character of a *Sammelurkunde*,⁵⁷ one may assume that the individual transactions were concluded at different times prior to the moment at which they were inscribed on stone. This certainly also applies to a number of clay tablets that record several individual transactions, each pertaining to the alienation of fields or orchards. A most exceptional case is a document from Isin from the time of the Akkad dynasty on which twenty field and twelve orchard sales are recorded. But there exist a few more documents from the same period that record more than one sale transaction. The stone objects or documents, as well as the clay tablets, are not legal instruments in our sense, but they were written simply to serve as a kind of internal or private documentation of the buyer. A person who acquired several field plots over a period of time would find it prudent to put all his relevant transactions upon one single tablet, a *Sammelurkunde*, for his perusal.

As for the legal nature or function of the stone objects or documents, only guesses are possible. One may assume that the stone objects or documents had a specific significance that is distinct from the *Sammelurkunden* written on clay. Perhaps their purpose was to give the transactions recorded upon them publicity, since these stone objects were deposited in public places. This seems to be indicated in most of those instances where excavation records are available. They state that the objects come from temples. It is not clear whether these individual transactions found an independent or separate expression or manifestation in a clay tablet or whether the record on stone refers to a transaction that was concluded without being committed to writing on a clay tablet at the time the transaction took place.

There is ample evidence throughout Mesopotamian legal history that legal transactions were concluded in this way, that is, without leaving a trace in the form of a legal document. Symbolic acts performed in the presence of witnesses gave the act its binding force. A written document was not necessary. All this comes as no surprise in a society in which literacy was restricted to a small segment of the population. Legal documents repeatedly refer to symbolic acts performed in the course of concluding a legal agreement or contract. In many cases, the clauses reporting such symbolic acts were obligatory

57. For *Sammelurkunde*, see footnote 17.

elements of the legal document. There seems to be no doubt that the symbolic act itself represented a constitutive element of the legal transaction. Without it the transaction did not become effective.

Characteristic of Mesopotamian legal documents is the fact that they do not constitute the deed nor create an obligation. They do not have dispositive force. Mesopotamian legal documents are written in the past tense. They report in the form of a protocol about a transaction that has already taken place.

In particular, sales documents are clearly divided into two parts: a report about the sales transaction and a report about a sworn agreement between the parties concerning any future action or nonaction (no-contest clauses, etc.). If the tablet reports a deed already concluded, the nature or function of such written document becomes apparent. It can only serve as an instrument of evidence in case of a dispute. The written document, however, was not the only source or exclusively permissible source of evidence. The judge could call the witnesses in whose presence the deed was concluded, and an oath of no-contest was sworn. He could decide on their testimony alone. The written record then had only a subsidiary function.

If a tablet is to serve as an instrument of evidence, its authenticity has to be beyond doubt. Originally, that is, from the time of the Third Dynasty of Ur onwards, the ensuing problem was solved by placing the tablet within an envelope of clay on which the entire text of the document itself was repeated and by impressing seals on the surface of the envelope. In the first millennium B.C., it became customary to issue identical copies of the contract, which were sealed and given to the parties to the contract. Whenever a dispute over the deed arose, the unbroken envelope containing the tablet or identical copies of the contract would be presented to the judge. He would then call the witnesses named in the contract and decide the case on their testimony and other available instruments of evidence.

During the Old Babylonian period (circa 2000-1600 B.C.), a ruling is issued by a judge or judges at the end of litigation. The parties involved in the litigation accept the ruling and take an oath before witnesses and the judge(s) not to dispute the ruling henceforth. But, if they should, they agree to pay a penalty. A document is issued in which the agreement, the swearing of the oath and the no-contest clause, including the stipulation for a penalty payment, are recorded. The document also names the witnesses and the judge(s). Witnesses, judge(s), and the parties seal the tablet.

It appears that during the preceding period, the time of the Third Dynasty of Ur, the decision by the judges had a binding force upon the parties. The reason might be that the court procedures took place within a closed household, and the parties involved, as patrimonial subjects, were therefore subject to the ruling by the judges who were either judges of a temple household or judges of the palace household.⁵⁸

LAND TENURE IN THE SECOND AND FIRST MILLENNIA

The Old Babylonian Period—Period of Transition

The downfall of the Third Dynasty of Ur at the very end of the third millennium was the result of several events and factors. A new dynasty, the Dynasty of Isin, named after its capital city Isin, assumed power. Its rulers were of nomadic origin, that is, of tribal groups called Amorites. The spoken idiom of the Amorites belongs to the family of Semitic languages. Coming from the Syrian steppe northwest of Mesopotamia, they had gradually penetrated the Mesopotamian alluvial plain and other areas of the Near East for a considerable span of time. The land tenure system prevailing in the south of the alluvial plain under the Third Dynasty of Ur did not change immediately. With the beginning of the nineteenth century B.C., an ever increasing number of legal and administrative texts from the northern part of the alluvial plain became available. They show signs of a different system of land tenure. Thus, we are able to compare the prevailing land tenure systems in these two regions.

Among the legal documents that dated from 1900 B.C. onward and that originated in the north, we find numerous documents recording the sale of fields by private individuals to other private individuals. This type of documentation continues through the very end of the seventeenth century B.C. But the situation in the southern part of the alluvial plain is more or less identical with that of the time of the Third Dynasty of Ur. In the Old Babylonian period, private ownership of arable land plays no role, or at least not a measurable role, in the southern part of the alluvial plain of Mesopotamia, thus indicating a continuation of the system prevailing during the time of the Third Dynasty of Ur. This statement is based on the assumption that the non-existence of documents recording the sale of fields among private individuals or of other relevant documents (division of paternal es-

58. Falkenstein, *op. cit.* (footnote 42), vol. 1, pp. 33ff, 74ff.

tates mentioning fields as part of the inheritance, fields given as pledges, etc.) is sufficient proof that there was no private ownership of fields.

The most telling evidence for observing the land tenure system in the southern part of the Mesopotamian alluvial plain comes from the first half of the eighteenth century B.C. We know of about 250 sale contracts from three cities in that area: Ur, Larsa, and Kutalla.⁵⁹ Most of them concern houses and orchards. Not quite ten percent deal with fields. But, looking closer, those concerning fields pertain to very small plots, marginal land, or a combination of both. Thus, quantitatively, the recorded sales of fields play a rather negligible role. Corroboration can be found by analyzing the available legal documents recording the division of paternal estates among brothers after their father's death. As far as our evidence goes, in four cases fields are mentioned, but only in two instances the reference is unequivocal; in the other two we are dealing either with a sustenance field or with an orchard. Of greater significance is a group of documents recording the subsequent divisions of a family estate throughout three generations. The family involved belongs to the urban elite of one of these cities, Larsa, and it is, to judge from the assets divided among the heirs, a very rich family, but no field is mentioned among the assets divided—only houses and orchards, i.e., intramural real estate.

Information on land tenure and questions concerning ownership can be gained from contracts pertaining to the lease of fields and the use of fields as pledges. A considerable number of field lease contracts from places in the south of the Mesopotamian alluvial plain is known. In particular, many of the contracts from Ur qualify the fields leased by one individual to another as sustenance fields. Thus, for reasons unknown to us, a holder of such field apparently preferred to lease his sustenance field to a tenant farmer. I.M. Diakonoff refers to field lease contracts from Ur where groups of men, usually no less than eight, whom he considers as members of extended families, appear as lessors of a field. From the fact that they act as lessors, Diakonoff infers that they enjoyed full property rights.⁶⁰ It seems, however, more probable that they are simply holders of a sustenance field given to them as a "professional" group.⁶¹ Not qualifying a field in lease

59. For details, cf. Renger, *loc. cit.* (footnote 53), p. 53ff; also Renger, *loc. cit.* (footnote 1), p. 186.

60. Diakonoff, I.M., *Extended Families in Old Babylonian Ur*, ZA 75 (1985), p. 48.

61. Butz, K., *Fischabgabe und Feldabgabe in Fischen und Vogelnamen Nanna—Tempel in Ur in altbabylonischer Zeit?*, Archiv für Orientforschung 26 (1978/79), pp. 30-44.

contracts from other southern cities with regard to its tenure status does not necessarily imply that these fields were privately owned. It is quite possible that the custom to qualify sustenance fields as such in the contracts from Ur might well be a peculiarity of the legal formulary used at Ur. To make a case for private ownership of fields on the basis of the differences in the formulary of the field lease contracts, one would need strong corroborative evidence from other types of documentation alluding to the existence of individual private ownership of fields in this region.

Another rather strong indicator for the existence or nonexistence of private ownership of fields is the use or nonuse of fields as pledges. The evidence from the south of the Mesopotamian alluvial plain, mainly from the cities of Ur, Larsa, and Kutalla, shows houses, orchards, and persons, but not fields, pledged to secure a loan. If a field given as a pledge should serve its purpose adequately, there should be no interference through rights on the field claimed by a third party. The person pledging his field should be the exclusive owner. If not, one should expect the owner's consent noted in the document recording the pledge. Thus, on the combined evidence derived from the very few sale contracts, the near absence of fields in documents recording the division of paternal estates and the evidence adduced from the discussion of field lease contracts and pledges, it appears to be a reasonable conclusion that private individual ownership of fields in the area covered by these documents existed only to a very limited extent. Especially, the near absence of fields in documents recording the division of paternal estates and of fields pledged in debt notes and other relevant contracts is a most significant argument.

It might be of interest to consider briefly the legal implications pertaining to the sale of urban real estate, i.e., houses or house plots. Evidence can be adduced from a good number of sale contracts dealing with houses and house lots from the two southern cities of Kutalla and Ur. These contracts list among the witnesses in each instance an official who apparently represented vested interests of the city as a corporate entity or of the "state" or otherwise had to insure that restrictions imposed upon the sale of houses were observed when such transactions took place. But there was presumably another reason of an entirely different nature that hindered the unrestricted sale of houses within a city.⁶² As we know from the city of Ur, the excavators

62. Renger, *loc. cit.* (footnote 53), p. 58.

found ancestral tombs or burials underneath most private houses. It is easy to conceive that it was mandatory for a family to hold on to its house since only there was it possible to take care of the necessary obligations for the dead.

It remains to be asked whether agricultural production was still in the hands of large institutional households as was the case during the Third Dynasty of Ur. We certainly know of large agricultural domains. The relevant texts come from the city of Ur, which again was the capital city, but now from the time of the Dynasty of Larsa under King Rimsin. It seems, however, that these domains were mostly not part of temple households, but were administered by the palace.⁶³ What escapes us, however, is the quantitative proportion of these domains vis-à-vis the total agricultural production within Rimsin's realm. From his inscriptions, we know that he made a great effort to reorganize the irrigation system in the southernmost part of the alluvial plain.⁶⁴ It is only reasonable to assume that this gave him control over substantial tracts of newly created arable land. Similar is the situation after Hammurabi's conquest of the Mesopotamian south, i.e., the kingdom of Larsa, and the final elimination of Rimsin, his archrival for the domination of Mesopotamia. The underlying reason for the conflict between Hammurabi and Rimsin was the access to and the use of the waters of the Euphrates. Hammurabi, following the strategy of his father and predecessor, Sinmuballit, gradually cut off the water supply for the territory of Larsa. Rimsin tried to alleviate the situation by drawing on the waters of the Tigris. Apparently, this helped him only temporarily. Finally, it seems, Hammurabi cut off the Euphrates diverting its waters into a huge natural depression southwest of Isin, thus giving the final blow to Rimsin. After the conquest in 1763 B.C., Hammurabi brought the Euphrates back to its original course, thus providing agricultural land to all those who had been displaced by his stratagem.⁶⁵

As for arable land controlled by the palace, the contemporary legal and administrative documents originating within the palace administration—legal and administrative documents as well as letters—distinguish three types of arable land: sustenance fields, fields leased

63. For a discussion of the dominant role of the palace and temple with regard to agricultural production in the city of Ur, see van de Mieroop, M., *Society and Enterprise in Old Babylonian Ur*, Berlin 1992, p. 169ff.; see further Walters, S.D., *Water for Larsa: An Old Babylonian Archive Dealing with Irrigation*, New Haven 1970.

64. Renger, J., *Rivers, Watercourses and Irrigation Ditches*, in: *Irrigation and Cultivation in Mesopotamia, Part II* (= *Bulletin of Sumerian Agriculture* vol. 5, Cambridge 1990), pp. 34-36.

65. Renger, J., *Zur Lokalisierung von Karkar*, *Archiv für Orientforschung* 23 (1971), p. 75ff.

to agricultural entrepreneurs or to tenant farmers, and fields that were held at the disposal of the palace and cultivated by its own agricultural staff and that served as reserve land to be used for the two former types of entitlements.⁶⁶ Whatever was not assigned as a sustenance field or leased in small lots to tenant farmers was turned over to agricultural entrepreneurs. Such fields could be as large as circa 3,400 hectares.⁶⁷ The entrepreneurs even received seed grain and fodder for plow animals and silver to hire the labor force necessary to cultivate the fields. It seems that these contracts were of an annual nature.

A group of about seventy very fragmentary texts from the city of Uruk corroborates the general conclusions drawn from texts originating in other cities in the south of the alluvial plain, that is, in particular from Larsa and Ur. The texts from Uruk indicate that in the second half of the nineteenth century B.C., a substantial, if not the largest, part of the arable land in the kingdom of Uruk was controlled or administered by the palace.⁶⁸

In other areas belonging to the realm of the Isin and the Larsa dynasties, large institutional households are attested during the twentieth and nineteenth centuries B.C. We do not know much about their agricultural holdings, but we are well informed about other economic activities, especially about the animal husbandry of the temple household of the god Enlil at Nippur.⁶⁹ But sale contracts attest the existence of individual private ownership of fields side by side with institutional landholdings.

Besides taking place on agricultural domains of some size and being administered by the palace, agricultural production took place on small individual lots. These lots were either given as tenant fields or as sustenance fields. It appears that the majority of the population worked for their subsistence under these two forms of land tenure.

66. Renger, *loc. cit.* (footnote 53), pp. 52-55.

67. Kraus, F.R., *Briefe aus dem Archive des Šamaš-hāzir* (= *Altbabylonische Briefe Heft 5*, Leiden 1968), No. 23.

68. Renger, J., *Zu den Besitzverhältnissen am Ackerland im altbabylonischen Uruk: Bemerkungen zu den Texten aus dem Archiv W 20038, 1-59*, *Altorientalische Forschungen* 22 (1995), pp. 157-159.

69. The god Enlil was the paramount deity of the Babylonian pantheon, and Nippur was his main place of veneration. For the economy of his temple household, see Robertson, J.F., *Redistributive Economies in Ancient Mesopotamian Society: A Case Study from Isin-Larsa Period Nippur*, University Microfilms, Ann Arbor 1981; *idem*, *The Internal Political and Economic Structure of Old Babylonian Nippur: The Guennakkum and his "House"*, *Journal of Cuneiform Studies*, 36 (1984), pp. 145-190, especially pp. 165-168; *idem*, *The Temple Economy of Old Babylonian Nippur: The Evidence for Centralized Management*, in: Ellis, M. deJ., *Nippur at the Centennial: Papers Read at the 35^e Rencontre Assyriologique Internationale*, Philadelphia 1988, pp. 177-188.

The quantitative distribution between tenancy and sustenance fields remains unknown. The sole obligation for a tenant farmer was the production of barley for the needs of the palace. In return for the alimentation sustenance fields provided, the holders of such fields were obliged to render *corvée* service, which was military and nonmilitary. The latter consisted of building and maintaining the irrigation system, as well as of constructing public buildings, such as fortifications, palace buildings, etc. The sustenance fields assigned to a single person of low rank usually had a size of approximately 6.35 hectares. From such field an average family of at least six to seven persons had to be fed. Sustenance fields were not only given to low ranking subjects of the king, but also to those of higher rank. The assignment of such fields could be withdrawn when it seemed more expedient to remunerate a person in the form of rations given in kind. Sustenance fields could be leased by their holders to other persons. Depending on the provisions of the lease contract, they received a field rent that was half or one-third of the harvest. Sustenance fields passed on from father to son—the latter being obliged to serve in the same capacity as his father. The holders of such sustenance fields often claimed a right of continued or even permanent possession; the obligation to render service for the ruler in return was self-understood. Sustenance fields could generally not be sold. Since in general the sale of sustenance fields was prohibited, cases where the sale of such field is mentioned may constitute extraordinary circumstances. What they were remains unknown since the documents do not specify the underlying circumstances of such sale, but one may speculate that these documents reflect cases of sale of usufruct.⁷⁰

The documentation pertaining to the land tenure system in the southernmost part of the Mesopotamian alluvial plain shows no detectable difference between the rule of the Larsa dynasty under King Rimsin (1822-1763 B.C.) and the rule of Hammurabi after he had conquered the south in 1763 B.C. Not only was arable land cultivated directly by the palace or other institutional households, but also large portions of the arable land were farmed individually by holders of sustenance or tenancy fields. Privately owned fields, however, are only scarcely attested.

In the year 1894 B.C., Sumuabum, a nomadic sheikh of Amorite origin, became ruler of Babylon in the north of the Mesopotamian alluvial plain. With him began the rule of the First Dynasty of Baby-

70. Renger, *loc. cit.* (footnote 53), p. 54.

lon. Sumuabum and his successors very rapidly extended their realm over most parts of northern Mesopotamia. Finally, all of Mesopotamia, the lands beyond the Tigris and northwards along the Euphrates were conquered by Hammurabi (1792-1750 B.C.).

From a number of cities on the alluvial plain and within the territory of the First Dynasty of Babylon we possess large numbers of legal and administrative documents as well as letters. The land tenure system that emerges from these texts is different from that just described for the south. Among the legal documents are about 800 sale contracts pertaining to houses, orchards, and fields. A very considerable part deals with the sale of fields from one private individual to another. In addition, inheritance documents indicate that fields were passed on from one generation to the next. Moreover, individuals leased fields from or to other individuals and also gave fields as pledges in order to secure a debt or a loan. The formulary of the relevant contracts does not indicate that third parties possessed rights or claims on the fields given as pledges. We may accept this as evidence that the fields pledged were privately owned. There can be no doubt, therefore, that the alienation of fields was a characteristic element of the land tenure system in the northern part of the alluvial plain. But, despite such clear evidence for private ownership of arable land and a general possibility to sell or buy it, reservations have been formulated. E. Stone⁷¹ has stressed quite recently and with good arguments that severe restrictions imposed by custom and economic necessity made it nearly impossible to sell certain kinds of real estate, mainly arable land, outside one's own family.⁷²

Besides on small individually owned fields, agricultural production also took place on sustenance fields and on fields leased by the palace to tenant farmers. Evidence for fields managed and cultivated by the palace through its own personnel, however, is scanty. The texts available do not permit quantitative statements regarding the percentage proportions between arable land cultivated by the palace with its own staff, sustenance or leased fields, and privately owned fields. It is only possible to offer an assumption based on circumstantial evidence: total private individual ownership of arable land was restricted in size. Those parts of the arable land that were either under direct (i.e., pal-

71. Nippur Neighborhoods, Chicago 1987, pp. 13-28.

72. Renger, *loc. cit.* (footnote 53), p. 58; Obermark, P.R., review to: Stone, E.C., and Owen, D.I., Adoption in Old Babylonian Nippur and the Archive of Mannum-mesu-lissur, *Archiv für Orientforschung* 40/41 (1993/94), p. 108; N. Yoffee, Aspects of Mesopotamian Land Sales, *American Anthropologist* 90 (1988), pp. 120-123, 127 (pertaining mainly to house plots).

ace domains) or under indirect (i.e., sustenance and leased fields) control of the palace constituted the larger part of the arable land. This assumption is based on the fact that the irrigation system necessary to provide the land with water was built, maintained, and managed by the palace or other public institutions. Their key role in the realm of water management subsequently gave them dominance over the land thus made available for agricultural purposes. It remains to be shown how private individual field owners found access to the irrigation system and, if they did so, whether and how they had to "pay" for the water they were drawing. So far, we do not know of any field tax, water tax, or other dues that could be connected with the use of water rights during the Old Babylonian period.

The persons settled on newly created agricultural land were put there on the basis of lease contracts between them and the palace. The exclusive obligation of such tenant farmers was the production of barley to serve the needs of the palace. Special arrangements in lease contracts and the stipulations found in Sections 42-47 of the Laws of Hammurabi took cognizance of the fact that newly created agricultural land did not produce well during the first three years of cultivation. Especially, the Laws of Hammurabi show that these field lease contracts were forced upon farmers. One would assume that anybody accepting the burden of making a barren field productive would not have to be coerced by stipulating severe fines to fulfill his contractual duties. Such coercion makes sense only when the farmer was accepting the lease contract under pressure.

Land Tenure in Babylonia (Mesopotamian Alluvial Plain) from the Fifteenth until the Twelfth Century B.C.

It is more difficult to draw a coherent picture of the prevailing land tenure system or systems for the following periods of Mesopotamian history. As far as the situation on the alluvial plain is concerned, written records for the time from the end of the First Dynasty of Babylon in 1595 B.C. until the beginning of the sixth century B.C. are rare compared with the periods before. Either they are not yet published in sufficient numbers, which holds true for the second half of the second millennium B.C., or they do not exist, which is the case for the first half of the first millennium B.C. Only with the beginning of the Chaldean dynasty and especially the time of Nebukadrezzar II (604-562 B.C.), its second ruler, does the flow of relevant documents become

substantial again. The documentation extends well into the time when the Achaemenids ruled Babylon.

The period following the end of the First Dynasty of Babylon is characterized by a drastic change in the political landscape on the Mesopotamian alluvial plain, that is, in Babylonia. A new elite class, the Kassites, coming from the mountainous regions east of Mesopotamia, filled the power vacuum left after the sack of Babylon in 1595 B.C. Our knowledge concerning land tenure during the centuries to follow has to rely more or less exclusively on a unique type of documents called *kudurru* in Akkadian, to be translated as "boundary stones."⁷³ *Kudurru*s record land grants of substantial size to an elite section of the society and in some instances to important temples of Babylonia. The term "boundary stone" is not quite correct, since the *kudurru*s were apparently placed in temples as public documents. The areas granted to individuals ranged in size between 80 and 1000 hectares, the average being approximately 250 hectares. Of much larger size were royal grants to two of the major Babylonian temples: 5600 hectares (56 square kilometers) to the Marduk temple in Babylon and the astounding grant of 525 square kilometers to the Eanna Temple in Uruk.⁷⁴ In some cases, the reasons for such land grants were mentioned in the document, i.e., extraordinary service of the grantee to the king. The land was subject to levies, dues, and services to the king. As far as one can see, much of the land granted was situated outside of Babylonia proper, mostly in the southern parts of the trans-Tigris

73. King, L.W., *Babylonian Boundary-Stones and Memorial-Tablets in the British Museum*, London 1912. For a succinct outline, see Brinkman, J.A., *Reallexikon der Assyriologie*, vol. 6, Berlin 1980-1983, p. 272f., s.v. *kudurru*; also Oelsner, J., *Landvergabe im kassitischen Babylonien*, in: *Societies and Languages of the Ancient Near East: Studies in Honor of I.M. Diakonoff*, Warminster 1982, pp. 279-283; and *idem*, *Organisation des gesellschaftlichen Lebens im kassitischen und nachkassitischen Babylonien*, *Archiv für Orientforschung*, Beiheft 19 (1982), p. 406f.

74. Scheil, V., *Textes Élamites-Sémitiques (= Délégation en Perse, Mémoires*, vol. 2, Paris 1900), p. 86 line 14; Ungnad, A., *Schenkungsurkunde des Kurigalzu mâr Kadašman-Harbe*, *Archiv für Keilschriftforschung* 1 (1923), p. 19f. Both land grants are repeatedly cited to illustrate quantitative aspects of land tenure in Kassite and Neo-Babylonian times, e.g., Sommerfeld, W., *Der Kurigalzu-Text MAH 15922*, *Archiv für Orientforschung* 32 (1985), p. 20; Oelsner, *loc. cit.* (footnote 73), p. 280; Brinkman, *loc. cit.* (footnote 73). There are, however, some metrological problems that affect, in particular, the latter. According to a reevaluation of the metrology of surface measurements, it must be assumed that the area mentioned as donation of Kurigalzu to the Eanna temple in Uruk is not 525 square kilometers, but circa 17,500 square kilometers! Since both texts are late copies, written several hundred years after the purported grant, it seems quite plausible to consider them as cases of a *donatio Constantini* (cf. Powell, M.A., *Metrological Notes on the Esagila Tablet and Related Matters*, *Zeitschrift für Assyriologie und Vorderasiatische Archäologie* 72 (1982), p. 112). Nevertheless, they reflect claims of the time when the pious frauds have been formulated.

region. As for the core area of Babylonia itself, documentation that would allow conclusive statements is, as of yet, less than scanty.

Besides by the king and the big temples, arable land was owned by private and corporate groups, i.e., families or clans. The origin of the respective ownership rights and their percentage of relations to each other still remain obscure. We may assume that the ruling Kassite dynasty (fifteenth/twelfth centuries B.C.) took over the palace land of the First Dynasty of Babylon and the land in the south alluvial plain, which was ruled since the end of the eighteenth century B.C. by the so-called Dynasty of the Sealand. In addition, the Kassite rulers acquired arable land mainly in two ways: by conquest in the outlying areas of Babylonia and by irrigation of land previously not under cultivation. Clans and tribal groups came into possession of arable land by sheer pressure upon the population of the core area. Private individuals, members of the royal family, and high officials of the realm owed their estates to royal grants. The landed property of the temples may have had three origins: land owned by them since times immemorial, royal land grants of considerable size, and land taken over from an indebted and impoverished rural population.⁷⁵

*Land Tenure in Dry-Farming Areas:
The Kingdom of Arrapkhe (Circa 1450-1350 B.C.)*

From the middle of the second millennium B.C., regions outside the Mesopotamian alluvial plain come into our field of vision. The importance of this evidence lies in the fact that these areas are regions where rain-fed agriculture is dominant. We are dealing with two areas on the upper Tigris. One is situated east of the Tigris around present-day Kerkuk, the other west of the Tigris—the former being the kingdom of Arrapkhe, the latter being the kingdom of Assur or Assyria.

The kingdom of Arrapkhe was dominated by an ethnic elite bearing Hurrian names. Most likely they spoke in their daily dealings their Hurrian idiom,⁷⁶ but used Akkadian, the Semitic language of Babylonia, for their written records. Among the legal documents excavated in great numbers in the ancient city of Nuzi near the king-

75. See, e.g., Lackenbacher, S., *Vente de terres a un < Sandabakku > sous la II^e dynastie d'Isin*, *Revue d'Assyriologie* 77 (1983), pp. 143-154, for a document, dated to the year 1033 B.C. that records the purchase of land by the governor of the city of Nippur. The reason for the seller to sell is a debt incurred vis-à-vis the buyer. Since the latter is the governor of Nippur, he may perhaps have acted in an official position, not as a private individual.

76. Hurrian, the language of the population of the kingdom of Arrapkhe, is of unknown affiliation.

dom's capital, Arrapkhe, are quite a number of documents that deal with the alienation of fields.⁷⁷ They are, however, peculiar in nature insofar as they do not follow the general formulaic pattern of sale documents known from the Mesopotamian alluvial plain. They are formulated in the guise of an adoption contract. Paul Koschaker, the eminent jurist, was the first to recognize their true nature: as often observed in agricultural economies, times of drought or other natural disasters brought a farmer into a situation where he had first to obtain consumptive loans to feed himself and his family until the next harvest.⁷⁸ The ensuing indebtedness soon led to pressure by the creditor usually resulting in the loss of the family field in order to pay the debt. In the kingdom of Arrapkhe, it was obviously not possible to sell or otherwise alienate arable land to a person outside one's own family. Thus, the repayment of a debt was difficult. The solution to solve this impasse was an adoption contract by which the debtor adopted the creditor; as part of the agreement, the creditor (adoptee = "buyer") received his inheritance in advance in the form of the debtor's (adopter's = seller's) field. The corvée owed to the king and attached to the land remained, however, with the seller! One may speculate about the origin of the ban of selling one's family field to an outsider. Since across the Tigris in Assur, under similar natural conditions, different solutions prevailed, one has argued that the peculiarities of Nuzi had their origin in customs typical for the Hurrian population.

Land Tenure in Dry-Farming Areas: The Middle Assyrian State and Empire (Fourteenth to Eleventh Century B.C.)

Until the middle of the fourteenth century B.C., the city of Assur, situated on the west bank of the Tigris and approximately 130 kilometers south of Mossul, was the capital city of a small territorial state. Beginning with King Assur-uballit I (1363-1328 B.C.), it became the center of the gradually growing territorial state Assyria. About another one hundred years hence, Assyria was one of the major Near Eastern powers. The dominant role of Assyria lasted, including periods of diminished strength, until the reign of Tiglatpileser I (1114-1076

77. See Zaccagnini, C., *Land Tenure and Transfer of Land at Nuzi (XV-XIV Century B.C.)*, in: Khalidi, T., ed., *Land Tenure and Social Transformation in the Middle East*, American University Beirut, Beirut 1984, pp. 79-98; Jankowska, N.B., *Asshur, Mitanni, and Arrapkhe*, in: Diakonoff, I.M., ed., *Early Antiquity*, Chicago 1991, pp. 245-248; Eichler, B.L., *Indenture at Nuzi*, New Haven 1973.

78. For details, see Eichler, *op. cit.* (footnote 77).

B.C.). This entire period is commonly called the Middle Assyrian period.

The land tenure system during the Middle Assyrian period can be reconstructed from a number of documents, recording the alienation of fields, excavated at Assur, the capital of Assyria at that time, and from stipulations made in Tablet B of the Middle Assyrian Law Book.⁷⁹ Several scholars have dealt with the evidence contained in these sources.⁸⁰ It is not clear whether they refer just to the area immediately surrounding the city of Assur. Be that as it may, we encounter a system of village communities in which the arable land seems to have been under the collective control of the community, exercised by its elders. Apparently, the land was divided into two sectors, one of which was left fallow in alternating years. Each member of the village community, or better each head of family, was entitled to a share in the communal land. The shares most likely were redistributed annually to the members of the community.

The transfer of such plots or shares of arable land from one individual to another is attested by legal documents using the terminology of a sales document. This very fact indicates that the original land tenure system, characteristic of a village community, was undergoing a change prompted by forces and circumstances from inside as well as outside the village community. It seems that those named as buyers were outsiders or members of the community who had become important and wealthy through their service in the palace organization. There is reason to assume that we are not dealing with acts of selling and buying fields ensuing the transfer of ownership, but only with the acquisition of the right to usufruct on the respective plot. Nevertheless, there exists enough evidence to indicate a trend: those acquiring the rights to usufruct on arable land in the village communities around Assur obviously did so in several village communities. Among them, we find several persons, well known from loan contracts, to be creditors. One may surmise that their acquisitions are the result of indebtedness of individual community members or families who had to give up their shares in order to pay their debts. Those acquiring rights to usufruct represent a new social group of well-to-do families, an upper class basing their social status and economic potential on their attach-

79. For a translation of the Middle Assyrian Law Book, see Roth, *op. cit.* (footnote 3).

80. See most recently Freydank, H., Zu den Grundeigentumsverhältnissen in der mittelas-syrischen Zeit, in: Brentjes, *op. cit.* (footnote 38), pp. 79-88.

ment to the palace and on their rural landholdings.⁸¹ Their future role within the Assyrian society remains an open question due to a near total absence of written documentation for the next three centuries, until the eighth century B.C.

One acting to alienate his land, i.e., the share to which a member of the village community was entitled, had to have the consent of the village community representatives. We also know of the role of the king in such proceedings. Such involvement of the king resulted from the fact that he was entitled to dues and services, which were, so it seems, originally attached to the arable land. In the process of a gradual impoverishment of the rural population, however, the services remained with the poor landholders who had lost their land. Now they were landless, without means of supporting themselves and, in addition, obliged to *corvée*. They may have survived for a while as sharecroppers on land acquired by their creditors, but the trends and rules of rural impoverishment eventually seized them again. They lost their freedom and fell into bondage, assuming the status of bondsmen or *glebae adscriptae*. This marks the beginning of a social change of dramatic consequences—the results of which become apparent in the documentation of the following centuries.

*Land Tenure in Dry-Farming Areas:
The Neo-Assyrian Empire (First Half of the First
Millennium)*

The land tenure system in Assyria in the first millennium B.C. is documented by quite a number of legal texts recording the alienation of arable land during the eighth and seventh centuries B.C. It has been pointed out that they reflect sporadic or isolated rather than statistically representative cases.⁸² Nevertheless, they corroborate what has been said above about the development and change of the land tenure system in Assyria at the end of the second millennium B.C. But it appears that we are confronted with a new phase of the development: the tracts of arable land alienated are large in size, and they now include rural settlements together with their inhabitants. In other

81. For a telling example of the involvement of elite families in rural administration, see Postgate, J.N., *The Archive of Urad-Serua and His Family: A Middle Assyrian Household in Government Service*, Rome 1988; cf. further the review by Cole, S., *Archiv Für Orientforschung*, 40/41 (1993/1994), p. 117ff.

82. For a succinct description of the data and the heuristic problems in interpreting the sources, see Fales, M., *A Survey of Neo-Assyrian Land Sales*, in: Khalidi, *op. cit.* (footnote 77), pp. 1-14.

words, manorial estates of substantial size owned or held by the grantees of the Assyrian empire determine the character and structure of the land tenure system. The most remarkable phenomenon is the status of the rural population within this system: the rural population is bound to the ground as *glebae adscriptae*. This is, of course, the result of a gradual impoverishment of small landowners or landholders—a development that began already during the Middle Assyrian period.

If one assumes a decisive role of manorial estates, one wonders about the role of the state, i.e., the king as landowner. As we know from some grants to high officials of the empire, the king must have had some arable land at his disposal even in the central areas of the empire, that is in Assyria proper. It has been surmised—with good reason—that this was more or less the personal estate of the king, not state land in the wider sense.⁸³ Revenue for the state did not come from agricultural production on royal domains, but was exerted in the form of dues and services and, to a large degree, by the destructive exploitation of conquered territories throughout the entire Near East. Originally, the manorial landowners were subject to dues and services to the state. In the course of time, they were rewarded with exemptions from such dues and services because of some personal and extraordinary service for the king.

Babylonia During the Second Half of the First Millennium B.C.

After the downfall in 612 B.C. of the Assyrian empire, which also dominated the Mesopotamian alluvial plain, i.e., Babylonia, during the seventh century B.C., a dynasty of Chaldean⁸⁴ ancestry (626-539 B.C.) ruled Babylonia, as the realm was now called. In 539 B.C., Babylonia fell prey to the conquest of the Persian dynasty of the Achaemenids under Cyrus II. Their rule lasted until 331 B.C. when Alexander the Great defeated the last Achaemenid ruler, Darius III.

From the end of the sixth century B.C., written records from Babylonia begin to appear again in considerable numbers. This certainly reflects a political and social consolidation due to the establishment of a powerful dynasty in Babylonia. Nearly 100,000 tablets still remain unpublished in museums and private collections; less than 10,000 are published and thus available for study. They come from different places such as Babylon, Sippar, Borsippa, and Dilbat in the north as well as from Ur and Uruk in the south. Most of them were

83. Fales, *loc. cit.* (footnote 82), p. 8.

84. The Chaldeans were a confederation of tribes settled in Babylonia for some centuries.

clandestinely excavated at the end of the last century. Vital information about their original setting is therefore lost. It is often difficult to reconstruct their archival context on the basis of findspots, but prosopographical data allow the reconstruction of dossiers of impressive size and content. The considerable amount of textual evidence permits insights into the land tenure system for a period of approximately two hundred years. An analysis, however, carefully distinguishing between the situation during the Chaldean dynasty and the Achaemenid period has so far only been achieved with regard to segments of the legal and social reality determining the land tenure systems.⁸⁵ The following remarks are therefore subject to refinement and corrections in the future.

Ownership, in the sense of exclusive dominion, of fields by private individuals is clearly visible in the textual evidence, as well as arable land under direct or indirect control of the temples or the king. It is impossible, however, to estimate accurately the respective percentage of arable land held by these three types of landowners. Individuals also had the usufruct of fields under entitlements other than exclusive ownership. Thus, arable land was held and cultivated by individuals as a leased field or in the form of a fief, granted by the palace or by temples in return for services to be rendered. The size and the duration of such entitlements were set down in the form of a contract or by decree or charter. They varied considerably according to the social status of tenant (farmer) or fief holder.

Privately and individually owned arable land was freely sold or bought. We do not know of any kind of restrictions decreed by the king with regard to the sale of arable land. It was possible to mortgage one's field.⁸⁶ Private individuals could also lease their fields to others. Smallholders apparently held or owned and cultivated fields ranging in size from half a hectare to several hectares.

The business activities of rich families are well attested. They acted as entrepreneurs or middlemen whose dealings were often connected with the economy of the big temples or the palace. Their activities included overland trade, the procurement of slaves, the in-

85. A general outline is given by Oelsner, J., *Grundbesitz/Grundeigentum im achämenidischen und seleukidischen Babylonien*, in: Brentjes, *op. cit.* (footnote 38), pp. 117-134. Cf. Joannès, F., *Textes économiques de la Babylonie récente*, Paris 1982.

86. Dandamaev, M.A., *Die Agrarbeziehungen im neubabylonischen Königreich*, in: Brentjes, *op. cit.* (footnote 38), p. 113; Ries, G., *Die neubabylonischen Bodenpachtformulare*, Berlin 1976, p. 44ff.

ternal distribution⁸⁷ of large amounts of agricultural products—including those from animal husbandry—and the manufacture of goods from such products. Many of these entrepreneurial activities were undertaken as joint ventures or partnerships (*harrānu*). It seems, however, that agricultural production was not one of the foremost aims of such partnerships: So far no document is known according to which fields owned privately were provided as “capital” by the partners to such ventures.⁸⁸ In all of their activities, the entrepreneurs did not rely on funds coming from third persons. In other words, there was no banking in ancient Mesopotamia,⁸⁹ despite repeated assertions to the contrary. The partners to a venture provided the necessary funding themselves. It is a different matter, however, when entrepreneurs acted as middlemen or managers of fields belonging to others, that is, fields held as fiefs or managed for institutional households, as will be discussed below.

Documents from the archives of a rich family of entrepreneurs, the Egibi family, record numerous field sales, but only a very few of the fields bought are larger than approximately 1.35 hectares (1 Kor). An exception is the sale of a rather large tract of arable land, measuring approximately thirty-two hectares.⁹⁰ Special stipulations in the contract, however, indicate that the sale was prompted by indebtedness on the part of the seller, who owed a large amount of silver to the temple of the god Marduk in Babylon. A document from the time of Nebukadrezzar records the exchange of two large tracts of arable land, measuring 180 hectares each.⁹¹

The same document also mentions other domains or large collective landholdings neighboring the domains affected by the exchange. Since all the land mentioned in the text is of substantial size, it seems as if the entire area in which these fields were situated was occupied by large estates, leaving not much room for small individual landholdings.

M.T. Roth has collected all the available data, mainly from the sixth and fifth centuries B.C., pertaining to real estate being part of

87. Wunsch, C., *Die Urkunden des babylonischen Geschäftsmannes Iddin-Marduk* (Cuneiform Monographs vol. 3, Groningen 1993), pp. 19-55.

88. Lanz, H., *Die neubabylonischen harrānu-Geschäftsunternehmen*, Berlin 1976.

89. Lanz, *op. cit.* (footnote 88), p. 143.

90. van Driel, G., *The Rise of the House of Egibi - Nabû-ahhi-iddina*, *Jaarbericht van het Voorzatisch-Egyptisch Genootschap Ex Oriente Lux*, 29 (1985/86), p. 62ff.

91. Bruschweiler, F., *Un échange de terrain entre Nabuchodonozor II et un inconnu dans la région de Sippar*, *Revue d'Assyriologie* 83 (1989), pp. 153-162.

dowries.⁹² These data show that elite families possessed arable land that they passed on in their families. The size of the plots mentioned in connection with dowries varies greatly. Among them one finds fields of substantial size, e.g., eighteen or thirty-six hectares, but most plots were much smaller.

The important question in this context is not so much whether there existed private individual ownership of arable land, but which quantitative role private ownership played. Especially, private individual ownership of substantial estates would be a decisive factor determining the social and political fabric during Chaldean and Achaemenid rule. The evidence to permit conclusions is still scanty. Judging from what we know of the history of sixth- and fifth-century B.C. Babylonia, there was no class of rich "burghers" or the like who exercised, on the basis of their individual and combined wealth, political influence. The elite families based their influence on the way they were integrated into the economic interests and activities of the big temples, as the determining "civic" institutions in the urban centers of Babylonia, and those of the ruling dynasties.⁹³

The best information from the Neo-Babylonian period, i.e., the sixth century B.C., is available for the land owned by a large temple estate in southern Babylonia, the Eanna temple in Uruk, biblical Erech. There is reason to generalize what is known about this temple estate with regard to other large temple estates, such as the temples Esagila in Babylon, Ezida in Borsippa, and Ebabbar in Sippar. It seems that all of these temples owned considerable amounts of arable land. From the administrative archives of the Eanna temple, sixteen documents have survived that record the land leased by the temple to entrepreneurs between 559 and 520 B.C. In five cases, the tracts of land involved measure just 312 hectares; in seven other instances, the size of the land ranges between 1,000 and 3,300 hectares. Two contracts refer to the same tract measuring 7,500 hectares of land leased by two entrepreneurs from the Eanna temple in Uruk in the years 555

92. Roth, M.T., *The Material Composition of the Neo-Babylonian Dowry*, *Archiv für Orientforschung* 36/37 (1989/90, publ. 1992), pp. 1-55.

93. Cf. Kümmel, W., *Familie, Beruf und Amt im spätbabylonischen Uruk. Prosographische Untersuchungen zu Berufsgruppen des 6. Jahrhunderts v. Chr. in Uruk*, Berlin 1979; Renger, J., *Notes on the Goldsmiths, Jewelers and Carpenters of Neobabylonian Eanna*, *Journal of the American Oriental Society* 91 (1971), pp. 494-501; van Driel, *loc. cit.* (footnote 90), p. 65.

and 546 B.C., respectively.⁹⁴ This exceeds by far the size of temple domains known from the time of the Third Dynasty of Ur.

How was it possible that temples could accumulate such extraordinary large holdings of arable land? The reason appears to be of a historical nature. For centuries, i.e., from the turn of the second to the first millennium B.C., the rulers of Babylon claimed dominion over all of Babylonia, that is, the entire Mesopotamian alluvial plain. But, in fact, they were not able to carry through their claim. The countryside was often penetrated, settled, and controlled by Aramean and Chaldean tribesmen. There existed a dichotomy between the rural population of the countryside and the urban population of the big cities like Uruk, Sippar, Babylon, Borsippa, or Dilbat.⁹⁵ The urban elite of these cities were the bearers of traditional Mesopotamian values, and they were, of course, those who occupied all high offices within the urban community.⁹⁶ In the absence of functioning institutions of a central government, the main temples of the big Babylonian cities filled a power vacuum. They became the focal points of all social and economic activities of the urban community. It is only natural that they acquired arable land in the areas surrounding a city whenever smallholders became indebted because of economic difficulties. Consequently, they integrated the destitute or landless persons into their economies, i.e., into their households. Thus, impoverished persons became oblates or bondsmen of the temples. They had lost their personal freedom short of becoming slaves in the narrow sense. These oblates then served as labor force within the temple economy, mainly as agricultural workers.

It was not thought to be expedient to have temple land managed and worked upon by the temple's own administrative and agricultural staff and its unskilled labor force. Therefore, large tracts of land were leased to entrepreneurs who were members of the urban elite. It seems that in some cases they were connected with the temple also in an administrative function. According to the agreement concerning 7,500 hectares of land belonging to the Eanna temple in Uruk men-

94. Cocquerillat, D., *Palmeraies et cultures de l'Eanna d'Uruk*, Berlin 1968, p. 37ff. and Tableau A; see also, *idem*, *Compléments aux "palmeraies et cultures de l'Eanna d'Uruk,"* III, *Revue d'Assyriologie* 78 (1984), pp. 147-155; Joannès, *op. cit.* (footnote 85), p. 126ff.

95. Here, the Akkadian language, in the form of its Babylonian dialect, was the language for administrative and legal records—despite the fact that Aramaic had already gained much influence as the spoken vernacular.

96. On the role of big families, see Frame, G., *Babylonia 689-627 B.C.: A Political History* (Uitgaven van het Nederlands Historisch-Archaeologisch Instituut te Istanbul, vol. 69, Leiden 1992), p. 228.

tioned above, two of these entrepreneurs acted jointly as lessees. General rules for land lease of such sizable proportions were laid down in a royal edict issued by Belsazar, the son of King Nabonidus.⁹⁷ Accordingly, the lessees in this particular case were supplied with a labor force of 400 agricultural workers, i.e., temple oblates, 400 plow oxen together with 100 heads of cattle as substitutes for plow oxen no longer able to work, as well as 300 kilograms of iron for strengthening the plows. The rental dues amounted to 4.5 million liters of first quality barley and 1.8 million liters of dates.⁹⁸ The barley paid as rent to the temple was enough to provide annual rations for nearly 7,500 adult male workers. The cultivation of such large tracts of land was not left entirely to the labor force provided to these entrepreneurial tenants by the temples. Part of the land leased was sublet in small parcels to landless individuals.

Quantitative estimates should take into consideration the just mentioned agreement concerning 7,500 hectares (75 square kilometers) of land belonging to the Eanna temple at Uruk. If we assume an agricultural belt around a city like Uruk or Sippar measuring between five and six kilometers,⁹⁹ the entire area amounts to approximately 110 square kilometers. Going a step further, one might ask whether the seventy-five square kilometers constituted all the arable land belonging to the temple considering the sixteen pertinent agreements mentioned above. Even if one assumes that some of the contracts refer to the same tract of land leased in consecutive years by different entrepreneurs, it seems quite evident that a large, if not the largest, portion of arable land around Uruk was owned by the Eanna temple. One should note that in the nineteenth/eighteenth centuries B.C., i.e., during the Old Babylonian period, the entire territory of Uruk encompassed roughly 300 square kilometers.

Due to the nature of our sources—no royal archive has yet been excavated—we do not know much of royal or palace domains during the reign of the Chaldean dynasty or the Achaemenid rulers. So far, there exists only scanty evidence for “personal” domains of the king or members of the royal family.¹⁰⁰ But it would be wrong to conclude that royal property or arable land controlled by the king was a *quan-*

97. Cocquerillat, *op. cit.* (footnote 94), p. 37f.

98. Cocquerillat, *op. cit.* (footnote 94), p. 38f.

99. Dandamaev, *loc. cit.* (footnote 86), p. 111.

100. Dandamaev, *loc. cit.* (footnote 86), p. 112 with reference to Nbk 115. In general, Dandamaev has a tendency to deny that substantial landholdings were owned and managed by the palace or the royal family. It appears that this position must be modified.

tité negligible. Occasional discoveries tend to change our perception in an unexpected manner. According to a document published rather recently, King Nebukadnezzar II exchanged a large tract of arable land measuring 180 hectares against a tract of equal size, being only a portion of the domain of the owner (or holder) of an adjacent tract of land.¹⁰¹

Irrigation agriculture on the Mesopotamian alluvial plain depended upon the building and maintenance of the irrigation system. Archaeological surveys have shown large scale irrigation work undertaken during the time of the Chaldean dynasty and of the Achaemenids. The size of work done required centrally organized planning and execution. It is hard to imagine that this should have been done without the involvement of the king or his palace organization. The question arises in which way such royal involvement affected land tenure relations. As has been stated above, for earlier periods the palace has derived direct ownership rights from its canal building activities. It seems as if during the sixth and fifth centuries B.C., the palace exercised this control over the arable land in two ways. On one hand, the palace requested direct payment from those drawing water for irrigation purposes from the irrigation system.¹⁰² On the other hand, the palace granted or distributed arable land in the form of fiefs to dependents of the state. Drawing income from leasing water rights rather than from leasing fields is an expedient way to satisfy the fiscal needs of the realm. Since irrigation work had to be organized and managed by the royal administration anyway, such arrangement freed the royal administration from the additional need of agricultural production undertaken by its own work force. With regard to fiefs, the king exerted twofold revenue: first, from the water rights paid by the fief holders in order to be able to cultivate their land, and second, from the dues and services attached to the fief. There exists some evidence that temples were also entitled to dues from leasing water rights. One may assume that they derived their rights to such dues from canal building activities conducted under their own responsibility and by using their own material means. Historically, these rights may go back to times when the Babylonian monarchy was weak, that is, before the appearance of the Chaldean

101. Bruschweiler, *loc. cit.* (footnote 91), p. 154.

102. For late Achaemenid Nippur, see Stolper, M.W., *Entrepreneurs and Empire: The Murašû Archive, the Murašû Firm, and Persian Rule in Babylonia* (= *Uitgaven van het Nederlands Historisch-Archaeologisch Instituut te Istanbul* vol. 54, Leiden 1985), pp. 101, 132; the situation might be different for Uruk.

dynasty at the end of the seventh century B.C., and unable to take care of the irrigation system.

The existence of royal landholdings of substantial size is attested by quite large numbers of legal documents dealing with, or just mentioning, royal land distributed in the form of fiefs to royal servants or dependents of different social status.¹⁰³ Thus, the Achaemenid rulers of Babylonia apparently controlled considerable tracts of arable land. It remains enigmatic, so far, how they acquired the land that they granted as fiefs, unless we assume royal landholdings of considerable size already existed under the Chaldean dynasty despite some statements to the contrary.¹⁰⁴ After Darius I (521-486 B.C.) had firmly established his grip on the Achaemenid throne, he initiated a "sweeping administrative, legal and fiscal overhauling" of the Achaemenid empire.¹⁰⁵ It is possible that a drastic change of the land tenure system that has been assumed¹⁰⁶ for the beginning of the Achaemenid rule over Babylonia may have been part of this overhauling. It would make sense insofar as the measures taken by Darius were certainly also the result of a widespread insurrection by native forces in Babylonia in the year before he came to power. Nevertheless, nothing in our written records so far suggests a forceful expropriation of the temples or of private individuals through the Achaemenids.

The terminology describing a fief granted by the king indicates a variety of obligations towards the king to be born by the fief holder. Among them are fiefs that clearly refer to the nature of such obligations as military obligations. We can distinguish between fiefs called "bow fief," "horse fief," or "chariot fief," respectively. The grant of such fief required the holder of the fief to outfit or serve as an archer or to supply a horse or a chariot for the Persian army. Apparently, military obligations could be substituted by other services or even payments in kind or silver.¹⁰⁷ "Bow fiefs" were also granted by temples. It remains an open question whether there was a difference in the nature of obligations or encumbrances attached to such fief as compared with royal "bow fiefs." In addition, we do not know how such temple fiefs related quantitatively to royal fiefs.¹⁰⁸ Legal docu-

103. Ries, *op. cit.* (footnote 86), pp. 38-43.

104. Dandamaev, *loc. cit.* (footnote 86), p. 112 ("Der König besaß nur einen unbedeutenden Teil des Bodens").

105. Stolper, *op. cit.* (footnote 102), p. 8.

106. Ries, *op. cit.* (footnote 86), p. 40f. with fn. 289.

107. Ries, *op. cit.* (footnote 86), p. 40; The Assyrian Dictionary, vol. Q, p. 154f. s.v. *qaštu* in *bī qaštu*.

108. Ries, *op. cit.* (footnote 86), p. 40 with fn. 287.

ments show that “bow fiefs” could be leased from the fief holder. This is not attested for “horse” or “chariot fiefs.” All three types of fiefs could be given as pledges, that is, they could be mortgaged.¹⁰⁹ Nothing in the documents indicates that the king’s consent was necessary in these cases. When a fief was pledged, it was possible for the creditor to lease such fief to a third person. In other instances, the holder of the pledge (creditor) leased the fief to the fief holder (debtor) and had him cultivate it.

Another type of fief or land held in dependent tenure was called “hand land” (*bīt ritti*). Most occurrences are found in the archives of the Murašû-family from Nippur¹¹⁰ and date to late Achaemenid times, although a single reference is known from the third year of Nabonidus (i.e., 553 B.C.), last ruler of the Chaldean dynasty.¹¹¹ “Hand land” could be granted by the king as well as by a temple. The meaning of the term and thus the particular conditions under which such fief was held remain enigmatic. The texts do not mention encumbrances attached to “hand land,” and they seem to exclude the obligation to render military service. As observed with regard to “bow fiefs” and other “military” fiefs, “hand land” could be leased, but so far no text is known that tells us whether it could be mortgaged. One may assume that “hand land” was not alienable.

Besides individual fiefs, we know of collective fiefs, called “fifty-fiefs.” These units were supervised by a “commander-of-fifty.” Such fiefs are mostly attested by documents from the end of the eighth century B.C. until the time of Darius I.¹¹² According to some legal documents, the rights to a share of these fiefs could be inherited, divided, and perhaps even sold. References to these collective holdings are not found in the texts from the Murašû-archive (for which see below), which dates from late Achaemenid times. Fiefs were also granted to corporate groups of royal dependents organized by profession¹¹³ and called *haṭru*.¹¹⁴ The members of such groups received individual parcels of land that were passed on from father to son after the former’s death. The fief holders were obliged to render services for the king, to pay revenues. Among the fiefs organized within such corporate entities were the “bow fiefs” mentioned above. The *haṭrus*

109. Ries, *op. cit.* (footnote 86), pp. 41, 43.

110. Stolper, *op. cit.* (footnote 102), p. 25 with fn. 97 and p. 27 with fn. 105; also Joannès, *op. cit.* (footnote 85), p. 11ff.

111. Ries, *op. cit.* (footnote 86), p. 38 with fn. 273.

112. Ries, *op. cit.* (footnote 86), p. 42.

113. Stolper, *op. cit.* (footnote 102), 79ff.

114. Stolper, *op. cit.* (footnote 102), p. 70ff.

were supervised by foremen, but in some cases were also remotely controlled by members of the royal family¹¹⁵ to whose estates they were attached or by officers of the Achaemenid state.¹¹⁶

A family archive covering, in its main part, 454-414 B.C., i.e., the time of the reigns of Artaxerxes I and Darius II, offers the most interesting insight into the handling and management of royal fiefs during late Achaemenid times. The archive deals with the business activities of four generations of a family from the city of Nippur in central Babylonia. After the ancestral eponym of the family, the archive is labeled the Murašû archive. Since not much written documentation for this period exists from other cities in Babylonia, one may ask whether the conclusions drawn from the archive are representative for all of Babylonia. The few scattered cuneiform references from outside Nippur and sources originating from outside Babylonia may, however, lend credence to generalizations.¹¹⁷

The Murašû archive reveals a very complex picture of the land tenure system in late Achaemenid times. Most significant is the role played in terms of landholdings by the royal house and its members, the higher echelons of the royal satrapal administration, and of dependents of the king. Although it is impossible to make quantitative estimates with a sufficient degree of certainty, one cannot escape the conclusion that, also during Achaemenid times, arable land in Babylonia was controlled in large measure directly or indirectly by the king.¹¹⁸ Thus, it is by no means possible to assume a decisive role of arable land privately owned. Statements to the contrary are affected by a methodological pitfall: much of our archival evidence comes either from the realm of a few big temples or from the archives of entrepreneurial families. It is the evidence from the latter that is usually generalized—prompted in part by a certain preoccupation emphasizing the role of private property. To leave no doubts: there is certainly ample evidence for individual private ownership of arable land either of small plots or of accumulations of modest size in the hands of some rich families.¹¹⁹ But the question is how this type of

115. Stolper, *op. cit.* (footnote 102), p. 95f., with regard to prince Arabarios.

116. Stolper, *op. cit.* (footnote 102), p. 99f.

117. Stolper, *op. cit.* (footnote 102), pp. 101, 116; van Driel, G., The Murašûs in Context, *Journal of the Economic and Social History of the Orient* 32 (1989), pp. 203-229.

118. Stolper, *op. cit.* (footnote 102), pp. 68f., 100ff. Stolper's view is quite correctly rather different from that of Dandamaev, *loc. cit.* (footnote 86), who does not see royal land in significant measure in Achaemenid Babylonia.

119. See text accompanying notes 88-90.

land ownership affects the land tenure system as a whole in quantitative as well as in structural terms.

Members of the royal family, queens, crown princes, and other princes, held large estates throughout the Achaemenid empire. Not surprisingly, the fact is also reflected in the Murašû archive.¹²⁰ It seems that these estates or manors were not outright gifts but grants for the usufruct of royal property. Their management was, so it appears, intermingled with the management of other royal properties in Babylonia.

CONCLUSION

Characteristic structures of the land tenure system were discernible through a wealth of documentation consisting of legal and administrative texts as well as letters.¹²¹ Prominent among them were contracts recording the transfer of ownership or the right to usufruct of arable land (fields). There is a marked difference between an early period extending from the end of the fourth millennium B.C. until around 1900 B.C. and a later period extending until late Achaemenid times (fifth/fourth centuries B.C.). Natural conditions are responsible for two distinct agricultural regimes, i.e., irrigation agriculture in the Mesopotamian alluvial plain (Babylonia), versus rain-fed agriculture in Assyria in the northeast of modern-day Iraq. Resulting from these differences in the agricultural regime, we observe differences in the prevailing land tenure systems.

In Babylonia, "state" involvement in constructing, maintaining, and managing large-scale irrigation systems resulted in strict control of the arable land by the "state." This control was first exercised directly by cultivating the land, i.e., the agricultural production within a territorial entity was the task of its institutional households (*oikoi*). The population of such entity was integrated into these households as patrimonial subjects. Their alimentation was taken care of by distribution of daily or monthly rations in kind.

With the beginning of the second millennium B.C., we observe a gradual change from a redistributive system to a tributary system. The latter is characterized by agricultural production on plots of land of a size just sufficient to guarantee subsistence for the holder of such

120. Stolper, *op. cit.* (footnote 102), p. 53ff.

121. For a structural analysis taking into account the interaction between palace and family sectors, see Liverani, M., Land Tenure and Inheritance in the Ancient Near East: Interaction between "Palace" and "Family" Sectors, in: Khalidi, *op. cit.* (footnote 77), pp. 33-44.

field and his family. The fields were usually held as fiefs granted by the king with the attached obligation to render services to the "state." Slowly, through social differentiation and marked by gradual impoverishment of the lower echelons of society, individual entrepreneurial families, connected in their business activities with the economic activities of the "state" and the big temple estates, accumulated a considerable wealth. In the course of their business activities, they also acquired arable land, but it seems that whatever they brought into their possession was not enough to have a decisive impact on the structure and the character of the land tenure system as a whole. Thus, the end of Mesopotamian civilization under the Achaemenids is still characterized by a preponderance of royal and institutional landholdings of substantial size side by side with fiefs given to dependents of the "state." Typical of the economic system of the sixth and fifth centuries B.C. in Babylonia is the management of agricultural production through entrepreneurial middlemen and sharecroppers. Large private landholdings—apart from those in the hands of the royal house and its immediate dependents of high status—are not characteristic for the land tenure system in Babylonia in the second half of the first millennium B.C.

In the areas of rain-fed or dry-farming agriculture, i.e., in Assyria, village communities with collective control over the arable land existed far into the second half of the second millennium B.C. Only then collective ownership of arable land was gradually jeopardized by outside forces and gave way to large manorial estates typical for first millennium B.C. Assyria. The disintegration of village communities or family holdings of land in the area of rain-fed agriculture was possible because of a near total absence of royal intervention to stop such development.

