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# FRATRIARCHY IN THE OLD TESTAMENT

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IN a brilliant monograph, Professor Paul Koschaker has identified and described fratriarchy, a hitherto unrecognized social factor in the ancient East.<sup>1</sup> His evidence is culled mainly from the cuneiform documents of the Hittites from Hayasha, of the Hurrians from Arrapha and Nuzi, and of the Elamites from Susa. The first two groups of documents date from the second half of the second millennium B. C. and correspond roughly to the El-Amarna Age. The Susan records are contemporary with the first dynasty of Babylon (early part of second millennium B. C.).

Koschaker has not included biblical material. In this paper I present a preliminary account of my observations on the fratriarchal elements in the Old Testament, hoping that jurists and Bible scholars will take up the study of this new and promising phase of society reflected in the Hebrew Scriptures.

A relationship called *ahhûtu* "brotherhood," as against *mârûtu*<sup>2</sup> "sonship" and *abbûtu*<sup>3</sup> "parentship," occurs in the tablets from Nuzi<sup>4</sup> and Susa<sup>5</sup> and a man could adopt another into this state

<sup>1</sup> "Fratriarchat Hausgemeinschaft und Mutterrecht in Keilschriftrechten," *Zeitschrift für Assyriologie*, N. F. VII, 1933, pp. 1-89.

<sup>2</sup> The largest group of *mârûtu* documents from Nuzi are in E. Chiera, *Inheritance Texts*, vol. I of *Publications of the Baghdad School (American Schools of Oriental Research)*, Paris, 1927.

<sup>3</sup> See text 67<sub>37</sub> in Chiera, *Harvard Semitic Series*, V, 1929. The term also occurs in the "Voculaires de Ras-Shamra" published by F. Thureau-Dangin, *Syria*, XII, 1931, p. 236.

<sup>4</sup> See Koschaker, "Neue keilschriftliche Rechtsurkunden aus der El-Amarna-Zeit," *Abhandlungen der philologisch-historischen Klasse der sächsischen Akademie der Wissenschaften*, XXXIX, no. 5, Leipzig, 1928, pp. 88-91.

<sup>5</sup> Cf. V. Scheil, *Actes juridiques susiens*, *Mémoires de la Mission Archéologique de Perse*, XXIII, Paris, 1932, text 286<sub>b</sub>, pp. 154-155. The first juridical treatment of the subject is by E. Cuq, *Revue d'Assyriologie*, XXVIII, 1931, pp. 51-53.

of "brotherhood." Similarly, in Nuzi, women were sometimes adopted into the corresponding state of *ahātātū* "sistership."<sup>6</sup> Thus fraternal jurisdiction was a distinct institution, of which the ancients were aware and for which they had an accepted legal terminology.

Patriarchy, matriarchy<sup>7</sup>, and fraternal jurisdiction are not mutually exclusive. In a patriarchal form of society where polygyny is practised, a measure of matriarchy is bound to appear, since a man's children will naturally be grouped according to their mothers. Thus we find the division of Jacob's progeny into the Rachel and Leah tribes. Then again, if one of the sons, such as the first-born, is to succeed his father as patriarch, he will, as a matter of course, assume some degree of authority over his brothers, and hence fraternal jurisdiction. That patriarchal and fraternal jurisdiction were sometimes combined is shown by I Ch. 26 11: "All the children and brethren of Hosah were thirteen."

There are several pairs of proper names suggesting that the place of the brother in the Hebrew family was comparable to that of father:

אחיהוד (Nu. 34 27)	&	אביהוד (I Ch. 8 3)
אחטוב <sup>8</sup> (I Sam. 22 9)	&	אביטוב (I Ch. 8 11)
אחיה <sup>9</sup> (I Ch. 2 25)	&	אביה (II Ch. 29 1)
אחיסלך <sup>10</sup> (Ps. 52 2)	&	אביסלך (Gn. 20 2)

<sup>6</sup> Chiera, *Inheritance Texts*, no. 78 and *Harvard Semitic Series*, V, no. 26 deal with *ahātātū*.

<sup>7</sup> See V. Aptowitz, "Spuren des Matriarchats im jüdischen Schrifttum", *Hebrew Union College Annual*, IV, 1927, pp. 207-240 and V, 1928, pp. 261-297; J. Morgenstern, "Beena Marriage in Ancient Israel and its Historical Implications," *ZAW*, N.F. VI, 1929, pp. 91-110 with additional notes in VIII, 1931, pp. 46-58.

<sup>8</sup> Cf. the Babylonian name *A-ḫu-ūdbum*, "Brother-is-good"; H. Ranke, *Early Babylonian Personal Names*, Philadelphia, 1905, pp. 63b-64a. The Septuagint rendering, Αχιτωβ, as well as the Babylonian parallel, point to the reading, אַחִיטוֹב, against the Massoretic vocalization אַחִיטוֹב.

<sup>9</sup> Cf. Babylonian *A-ḫi-ia*, Ranke, *op. cit.*, p. 62b.

<sup>10</sup> This name appears on a steatite scarab found at Lachish, dating from about 700 B. C.; see *Illustrated London News*, August 10th, 1935, p. 242. For the Assyrian, Punic and Nabatean names corresponding to אחיסלך, see K. Tallqvist, *Assyrian personal Names*, *Acta Societatis Scientiarum Fennicae*, XLIII, Helsingfors, 1914, p. 17a.

אחינדב	(I Kg. 4 14)	&	אחינדב	(I Kg. 4 11)
אחינעם	(I Sam. 14 50)	&	אחינעם	(Ju. 4 6)
אחינעור	(I Ch. 12 3)	&	אחינעור	(Josh. 17 2)
אחינעם <sup>11</sup>	(Nu. 26 38)	&	אחינעם	(Ps. 106 17)
יאח	(II Ch. 29 12)	&	יאח	(II Sam. 23 18)

There are quite a few other names partly composed of אח "brother":

אחאב <sup>12</sup>	(I Kg. 16 28)	אחינ	(I Ch. 7 19)
אחומי <sup>13</sup>	(I Ch. 4 2)	אחימך	(Ex. 31 6)
אחיאם <sup>14</sup>	(II Sam. 23 33)	אחיקם	(II Kg. 22 12)
אחי <sup>15</sup>	(II Sam. 6 3)	אחידע	(Nu. 1 15)
אחיהר	(I Ch. 8 7)	אחישחר(ו)	(I Ch. 7 10)
אחילוד	(II Sam. 8 16)	אחישר(ו)	(I Kg. 4 6)
אחימות <sup>16</sup>	(I Ch. 6 10)	אחיתפל	(II Sam. 15 12)
אחימן <sup>17</sup>	(Nu. 13 22)	אחלב	(Ju. 1 31)
אחימעץ	(I Sam. 14 50)	אחלי <sup>18</sup>	(I Ch. 2 31)

From these names and especially those like אחימעץ בן-אחימעץ (I Sam. 14 50) and אחימלך בן-אחטוב (I Sam. 22 9), where אח-names are used in successive generations, it is clear that the Hebrews were quite "brother conscious."

In evaluating onomastic evidence, it must be remembered that a name may be a survival, applied without consideration of its original meaning. Therefore, deductions from the meaning of a name need not be valid for the age in which the name first appears in literary sources, but for some earlier period. Never-

<sup>11</sup> "Brother-is-exalted." חירם, the name of the king of Tyre, is the same name with aphaeresis of the first syllable.

<sup>12</sup> Cf. the neo-Babylonian name *Aḫ-abi-ia*, K. Tallqvist, *Neubabylonisches Namenbuch, Acta Soc. Sc. Fen.*, XXXII, 1906, p. 3a. See also W. Robertson Smith, *Kinship and Marriage in Early Arabia*, Cambridge, 1885, pp. 157 ff.

<sup>13</sup> Cf. *A-ḫu-ma-a*, Tallqvist, *Neubabyl. Namen.*, p. 4b.

<sup>14</sup> According to the derivation suggested by M. Noth (*Die israelitischen Personennamen*, Stuttgart, 1928, p. 192), this name means "Bruder hat sich als Herscher gezeigt," which is of interest in the light of the present paper.

<sup>15</sup> Noth, *op. cit.*, p. 222, interprets אחיו and אחין as names given with reference to elder brothers.

<sup>16</sup> Cf. *A-ḫi-me-ti*, Tallqvist, *Assyr. per. Names*, p. 17a.

<sup>17</sup> Cf. *A-ḫi-ma-nu*, Tallqvist, *Assyr. per. Names*, p. 17a.

<sup>18</sup> Cf. *A-ḫu-la-a-a*, Ranke, *op. cit.*, p. 63a.

theless, fratronymy<sup>19</sup> does reflect contemporary usage. Of course, fratronymic appellations like "Lahmi brother of Goliath" (I Ch. 20 5), "Abishai brother of Joab" (II Sam. 23 18) and "Joel brother of Nathan" (I Ch. 11 38) do not necessarily imply fraternal organization, because the brothers are famous historical characters, whereas the fathers are not. However, this is not the case with "Sister of Tubal-cain, Naamah" (Gn. 4 22) nor yet with "Sister of Lotan, Timna" (Gn. 36 22). Similarly, names like "Caleb brother of Jerahmeel" (I Ch. 2 42), "Jada brother of Shammai" (I Ch. 2 32) and "Brother of Micah, Isshiah" (I Ch. 24 25) are clearly fratronymic, where younger children are designated as brothers or sisters of the first-born (for the primogeniture of Tubal-cain, Lotan, Jerahmeel, Shammai and Micah, see Gn. 4 22, 36 20, I Ch. 2 9, 28, 23 20).

The biblical narratives give us casual glimpses of fraternal authority. For example, when Rebekah is asked in marriage, her brother Laban plays the leading rôle in the affair (Gn. 24 29 ff.).<sup>20</sup> Shechem has to turn to Dinah's brothers as well as to her father, when he wants her as bride for his son, Hamor (Gn. 34 11). David represents his brother, and not his father, as summoning him to a sacrificial feast of the family (I Sam. 20 29).<sup>21</sup> It is also significant that when Abimelech makes a peace gift for the episode with Sarah, he presents it to Abraham as her brother rather than as her husband (Gn. 20 16).<sup>22</sup>

The respect paid to the fraternal by his brothers is shown in the blessings given by Isaac and Jacob. Isaac, while designating Jacob as fraternal, says: "Be a lord over thy brothers and let thy mother's sons bow down to thee" (Gn. 27 29), and then Esau is told: "Thou shalt serve thy brother" (Gn. 27 40). Similarly, Jacob appoints Judah as fraternal, saying: "O Judah,

<sup>19</sup> By fratronymy is meant the pattern "X brother of Y" as against "X son of Z."

<sup>20</sup> No mention of their father, Bethuel, occurs until v. 50 and at that it may well be an interpolation; see J. Skinner, *Genesis, Internat. Crit. Com.*, New York, 1910, p. 346.

<sup>21</sup> However, see Morgenstern, *op. cit.*, p. 93.

<sup>22</sup> נחתי אֵלַי כֶּסֶף לְאַחֵיךָ.

let thy brothers praise thee . . . let thy father's sons<sup>23</sup> bow down to thee" (Gn. 49 8).

Fratriarchal jurisdiction extends over the children of deceased brothers. Abraham takes charge of "Lot, the son of his brother" (Gn. 12 5), because Haran, Lot's father, was dead (Gn. 11 28). Also we find "the sons of Ahaziah's brothers serving Ahaziah" (II Ch. 22 8), since all of his forty-two brothers had been slain (II Kg. 10 14).

From Dt. 21 16 it appears that the Deuteronomic legislation was opposed to making a son, other than the first-born, the fratriarch (*qua* "heir").<sup>24</sup> However, that this law was not always observed in Israel is evident from I Ch. 26 10: "Shimri was the chief (*i. e.*, fratriarch), though not the first-born, for his father appointed him the chief."<sup>25</sup>

Fratriarchal terminology deserves more space than can be allotted to it in this preliminary discussion. The present account is limited to essentials. When the fratriarch is the first-born, the

<sup>23</sup> Power over the father's sons is more inclusive than that over the mother's sons (*cf.* Gn. 27 29 cited above).

<sup>24</sup> The law is that if a man has two wives, one a favorite and the other not, and the latter bears him his first son, that man shall not be allowed to appoint a son of the favorite wife as first-born to inherit the double share of his estate, which is the right of the real first-born.

<sup>25</sup> The preference of Isaac over Ishmael, of Jacob over Esau and of Ephraim over Manasseh has suggested to some scholars that ultimogeniture may have prevailed in ancient Israel. Similarly, David, who was the youngest of his brothers, became king and Solomon, who succeeded him, was preferred to David's older sons. J. G. Frazer (*Folk-lore in the Old Testament*, London, 1919, I, pp. 429 ff.), who makes quite a case for ultimogeniture, believes it natural in a primitive, nomadic form of society for the older sons to strike out for themselves, as they grow up, leaving none but the youngest to care for the parents and the property of the latter. Advocates of the theory of ultimogeniture assume that when the Bible narratives were written, the authors, who lived when primogeniture was the rule, sought out extenuating circumstances to explain away the practice of ultimogeniture. In a private conversation, from which I profited greatly, Dr. Morgenstern has informed me that he considers the entire theory of ultimogeniture in the O.T. untenable. Perhaps the alleged examples of ultimogeniture are nothing more than isolated cases of fathers preferring younger children. Indeed, a father might prefer a son who was neither the first-born nor youngest, but one in between, as in the case of Judah (Gn. 49 8).

term בכור is generally used, though the Chronicler frequently uses ראש in the sense of fratriarch (I Ch. 12 3, 9; 16 5, 23 11, 17, 19, 20 *et passim*). We have already noted I Ch. 26 10, where ראש, "fratriarch", appears in contradistinction to בכור "first-born." An older term for fratriarch is גביר (literally "lord") in Gn. 27 29 (attributed to E). Perhaps the expression האח הגדול had this technical meaning too.<sup>26</sup>

It is necessary to turn to Akkadian literature for further light on the terminology. The ordinary word for "heir" is *aplu*, though *māru rabū*, "the great son",<sup>27</sup> also occurs. Sometimes two brothers share the fratriarchate, and while the one is *primus inter pares*, the other is called a *talīmu* brother. Then comes the "vice-fratriarch," whose title is *terdennu*.<sup>28</sup> A still younger brother may be termed *aḫu šeḫru*, "the little brother." The most instructive passage, in this connection, occurs in an inscription of Ashurbanipal<sup>29</sup>: *I lu isu šamaš-šum-ukīn aḫi-ia ta-li-me*

<sup>26</sup> E. g., Shem is called אחי יפת הגדול, "the elder brother of Japheth" (Gn. 10 21). It should also be observed that in II Ch. 31 12, ניר, appears as a synonym for ראש.

<sup>27</sup> Common in the Nuzi tablets; e. g., Chiera, *Har. Sem. Ser.*, V, text 21 6. The Hurrian loan-word *ewuru*, as in text 60 13, is used synonymously.

<sup>28</sup> The root of *terdennu* (variants are *tardīnnu*, *turtānu*, *tartānu*) is *redū*, "to follow." Its development into the meaning "second" is paralleled by *secundus*, from *sequor*, "to follow". Though seldom found as a numeral in Akkadian (for *terdennūtu* as a numeral in the Nuzi tablets, see *Revue d'Assyriologie*, XXXI, 1934, pp. 58–59), *terdennu* was borrowed into Aramaic as the feminine of the numeral "two," תרחין, from which a masculine, תרין, was made. The linguistically proper Aramaic root appears in the ordinal תרין,

which is common in Aramaic dialects (M. Margolis, *Manuel of the Aramaic Language of the Babylonian Talmud*, Munich, 1910, p. 33; G. Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 2 ed., Leipzig, 1905, p. 132; T. Nöldeke, *Mandäische Grammatik*, Halle, 1878, p. 191), though rarer in Syriac (Nöldeke, *Kurzgefasste syrische Grammatik*, 2 ed., 1898, p. 95). The explanation generally held that תרין is dissimilated from תרין\* (Brockelmann, *Grundriss*, I, Berlin, 1908, p. 230, §84m2\*) has been proved incorrect by A. Ungnad (*ZAW*, XLI, 1923, p. 205).

<sup>29</sup> Ashurbanipal is of course the fratriarch. It is interesting to note that his name, *Aššur-bānī-apal*, means "Ashur creates an heir (*aplu*)." Cf. מראך בלארן (Is. 39 1), which in Akkadian is *Marduk-apal-iddina*, "Marduk has given an heir."

Koschaker (*Fratriarchat*, pp. 60 ff.) demonstrates fratriarchal succession among the Elamite kings and refers to parallels among the patris of Eshnunna

ana šarru-ut mā<sup>u</sup>kar-<sup>u</sup>du<sup>n</sup>-ia-[áš] ú-šad-gi-la pa-nu-uš-šu  
 I <sup>u</sup>aššur-mu-kin-palē<sup>meš</sup>-ia ahi-ia tar-din-ni ana amē<sup>u</sup>urigallātu<sup>u</sup>  
 ug-tal-lib ina pān <sup>u</sup>[ ] I <sup>u</sup>aššur-e-til-šamē-ersiti-balliṣu ahi-ia  
 šihri ana amē<sup>u</sup>urigallātu<sup>u</sup> ina pān <sup>u</sup>sin a-šib <sup>u</sup>harrāni ug-tal-lib.<sup>30</sup>  
 "As for Shamash-shum-ukin, my *talīmu* brother, I appointed  
 him (lit., I made his face behold) to the kingship of Kardunia[sh];  
 as for Ashur-mukin-pale, my *terdennu* brother, I designated him  
 for the *urigallu* priesthood before [Ashur?]; as for Ashur-etil-  
 shame-ersiti-ballissu, my younger brother, I designated him  
 for the *urigallu* priesthood before the Moon-god, who dwells  
 in Harran."

I am not aware of any convincing parallel in the Bible to the *aḫu talīmu*. However, there are analogues to the *terdennu* and possibly to the *aḫu šehru*.

Commonly none of the brothers is given a fratriarchal title in the Old Testament (see Gn. 6 10, I Ch. 1 1 ff.). Then again, only the first-born may be accorded his title, while the rest are merely listed by name (e. g., I Ch. 1 28). Sometimes the brothers are assigned numbers according to seniority: "Ezer is the fratriarch (ראש), Obadiah the second, Eliab the third, Mashmannah the fourth, Jeremiah<sup>31</sup> the fifth, Attai the sixth, Eliel the seventh, Johanan the eighth, Elzabad the ninth, Jeremiah<sup>32</sup> the tenth, Machbannai the eleventh" (I Ch. 12 9-13). However, it is significant that the second son is sometimes given the title of מִשְׁנֵה "second in rank (or command)." Thus in I Sam. 8 2 is the statement: "the name of his first-born is Joel, and the name of his מִשְׁנֵה, Abijah"; cf. I Sam. 17 13: "Eliab, the

(Tell Asmar) and other Sumero-Akkadian rulers. Professor J. A. Montgomery calls my attention to the succession of brothers among the Sassanian kings; see G. Rawlinson, *Seventh Great Oriental Monarchy*, London, 1876, p. 657. Succession in Israel was definitely from father to son (II Ch. 21 3). As for the incident of Nebuchadnezzar placing Zedekiah on the throne of Judah to succeed Jehoiachin, the Chronicler's version that Jehoiachin was Zedekiah's brother (II Ch. 36 10) is faulty. He was his uncle, as stated in II Kg. 24 17.

<sup>30</sup> Cited from M. Streck, *Vorderasiatische Bibliothek*, VII, part 2, Leipzig, 1916, p. 250. The only change made is *tar-din-ni*, for which Streck reads *ḫud-din-ni*. The cuneiform sign in question has the value *tar* or *ḫud*, but there is no doubt that *tar* is required here.

<sup>31</sup> ירמיה.

<sup>32</sup> ירמיהו.

first-born, and his *מְשֻׁנָּה*, Abinadab"; I Ch. 5 12: "Joel is the *רֵאשׁ* and his *מְשֻׁנָּה* is Zechariah." *מְשֻׁנָּה* in the sense of "second in command" is well attested in Est. 10 3, where Mordechai is called the *מְשֻׁנָּה* "second in command," "right hand man" or "vizier" of king Ahasuerus (*cf.* also 2 Ch. 27 7).<sup>33</sup> (It is interesting to note that the Akkadian *terdennu* may also be applied to the king's right hand man, and as such it appears as the loan-word *חרתן* in Is. 20 1.) I propose the identification of *מְשֻׁנָּה* with *terdennu* in the technical sense of vice-fratriarch.

As for *aḫu seḫru*, there is the possible parallel *האח הקטן* as in the name *עַתְנִיאל בֶּן-קֵנוֹ אַחֵי כָלֵב הַקָּטָן מִמֶּנּוּ*, "Othniel son of Kenaz, younger brother of Caleb" (Ju. 1 13, 3 9); *cf.* *הבן הקטן* as in II Ch. 21 17 *בְּנוֹ קָטָן בְּנוֹ יְהוֹאָחָז*, "Jehoahaz the youngest of his sons."

A discussion of the Old Testament fratriarchy would be incomplete without a word on levirate marriage (Gn. 38, Dt. 25 5–10<sup>33a</sup> and Ruth). Westermarck<sup>34</sup> and Koschaker<sup>35</sup> are certainly right in concluding that originally the wife, being her husband's property, was passed on, like the rest of his estate, to his heir. This theory is corroborated by a tablet from Nuzi, whereby a father buys a bride for one of his sons and stipulates that, if that son dies, she is to become the bride of another son of his.<sup>36</sup> This is levirate marriage in its crudest form. In the Old Testament, a secondary, sentimental and purely fictitious phase of levirate marriage, to wit, that of supplying the deceased with an heir, has evolved into its *raison d'être*. The whole institution,

<sup>33</sup> A. Ungnad, "Joseph, der Tartan des Pharaos," *ZAW*, XLI, 1923, pp. 204–207, demonstrates that Joseph's title of *מְשֻׁנָּה* (Gn. 41 43) is the equivalent of *חרתן*.

A similar terminology obtains for the priesthood, according to which a priest of the first rank is called *כהן הראש* and one of the second rank *כהן השני* (see Jer. 52 24).

<sup>33a</sup> President Morgenstern points out to me that fratriarchal organization may be reflected in the expression, "when brothers are dwelling together" (Dt. 25 5).

<sup>34</sup> *History of Human Marriage*, III, London, 1925, pp. 209 ff.

<sup>35</sup> *Fratriarchat*, p. 61.

<sup>36</sup> Text 441 in Chiera, *Mixed Texts, Publications of the Baghdad School*, V, Philadelphia, 1934.

which was originally the right of the *levir*, has developed into the widow's privilege.<sup>37</sup> But basically levirate marriage is fraternal.<sup>38</sup>

In Genesis, there are only three cases where a given father and mother, in antediluvian times, produce more than one specifically named child. Cain, Abel and Seth are born to Adam and Eve. The brother relationship of Abel to the first-born, Cain, is stressed (Gn. 4 2),<sup>39</sup> and after Abel is killed, Seth is born in his stead (Gn. 4 25). Then there are the two sons of Lamech and Ada: Jabal is the first-born and Jubal is definitely labeled "his brother" (Gn. 4 21). Finally there are the children of Lamech and Zillah, who are given as Tubal-cain "and the sister of Tubal-cain, Naamah" (Gn. 4 22). In all three cases, the second child is referred to *qua* brother or sister of the first-born. In postdiluvian times, patronymic names are the rule, though fratronymic names make an occasional appearance.<sup>40</sup> Though the prediluvian evidence is too meagre to warrant definite conclusions, it suggests that fraternal organization was more widespread in a very remote antiquity, pictured as before the Flood, than it was in later historic times.

It is unlikely that an exclusive fraternalism for any period is reflected in the Bible. All the fraternal elements in the Old Testament seem to be developments within patriarchy.

<sup>37</sup> As shown by the words of Judah: צדקה ממני (Gn. 38 26).

<sup>38</sup> I have referred to the literature on the Assyrian, Hittite and Elamite levirates in *Revue Biblique*, XLIV, 1935, p. 37. The fullest treatment and bibliography are given by Mittelman, *Der altisraelitische Levirat*, Leiden, 1934.

<sup>39</sup> וחסף ללדת אחיהבלי אחיהבלי.

<sup>40</sup> Combined fratronymic and patronymic names are found now and then: "Basemath daughter of Ishmael sister of Nebaioth" (Gn. 36 3), "Mahalath daughter of Ishmael, Abraham's son, sister of Nebaioth" (Gn. 28 9), "Rebekah daughter of Bethuel . . . sister of Laban" (Gn. 25 20) and "Ahijah son of Ahitub brother of Ichabod" (I Sam. 14 3).