

NELCO
NELCO Legal Scholarship Repository

New York University Public Law and Legal Theory
Working Papers

New York University School of Law

4-1-2010

Patriarchy: The Political Theory of Family Authority in the Book of Genesis

Geoffrey P. Miller

New York University, geoffrey.miller@nyu.edu

Follow this and additional works at: http://lsr.nellco.org/nyu_plltwp

 Part of the [Arts and Entertainment Commons](#), [Constitutional Law Commons](#), [Jurisprudence Commons](#), [Legal History, Theory and Process Commons](#), and the [Religion Law Commons](#)

Recommended Citation

Miller, Geoffrey P., "Patriarchy: The Political Theory of Family Authority in the Book of Genesis" (2010). *New York University Public Law and Legal Theory Working Papers*. Paper 189.

http://lsr.nellco.org/nyu_plltwp/189

This Article is brought to you for free and open access by the New York University School of Law at NELLCO Legal Scholarship Repository. It has been accepted for inclusion in New York University Public Law and Legal Theory Working Papers by an authorized administrator of NELLCO Legal Scholarship Repository. For more information, please contact tracy.thompson@nellco.org.

Patriarchy: The Political Theory of Family Authority in the Book of Genesis

Geoffrey P. Miller
New York University (NYU) - School of Law

Abstract: This paper extends on prior work analyzing political theory in the Hebrew Bible. The Garden of Eden story offers a prolegomenon, presenting a developed utopian argument and sketching out other bases for political authority. The narratives of the Dark Age, the Flood, Noah's covenant and the Tower of Babel argue that government and law are essential for human flourishing. The Bible next takes up the topic of authority in families. The book of Genesis endorses a strong form of patriarchal authority but also recognizes limits to that authority based on kinship, release, abandonment, higher authority, and power. It privileges the norm of primogeniture but also recognizes that a patriarch may prefer a younger son or give equal status to all his children. The political theory contained in the book of Genesis compares favorably with family-based theories of authority found in the later Western tradition.

* * *

This article analyzes the stories of the Hebrew patriarchs (and matriarchs) in the book of Genesis. I argue that these narratives form part of an extended analysis of political ideas – a political philosophy – which rivals in sophistication, and probably predates, the theories developed by Plato and Aristotle in the Greek world. As outlined in prior work, the Garden of Eden story serves as a prolegomenon to the Bible's political theory and also offers an impressive analysis of the question of political obligation – why people are required to obey their political rulers. The stories of the Dark Age after the

expulsion of Adam and Eve from the garden address the question of anarchy: whether it is possible for human beings to lead a good and decent life in the absence of government and law (the author's answer is no).¹ Having established that government and law are necessary for any reasonably decent human society, the author asks how these institutions should best be structured. He begins with authority in families. This is an appropriate starting point because family authority is a precursor to all other forms of obligation: it is where government starts in the experience of human beings and is also the authority that remains when more abstract forms of power disappear.

As is typical with the author's methodology, the new subject is signaled by a change in setup. The stories of the Dark Age display a nearly complete absence of familial authority. Aside from the biological fact of parenthood, Adam and Eve play no role in the story of Cain and Abel. They do not accompany their children to make offerings to God. They do not advise Cain on the proper offering or warn him against displeasing God. They do not help him cope with his disappointment when his offering is rejected. They do not recognize that Cain is in a murderous rage or try to prevent him from acting on his emotions. They do not warn Abel to watch out for his brother and do not prevent Cain from luring Abel into the field. They do not file a missing-persons report when Abel disappears. Nor do they stand by Cain during his trial or plead for mercy at his sentencing. They are simply not there for their children.

The lack of parental presence is not limited to the relations between Adam and Eve and their children. The same absence pervades all of the Dark Age texts. Before the time of Noah there are no stories of fathers or mothers either disciplining or helping their

¹ I use the term "author" as a conventional way of denoting the creator of the biblical narratives without implying anything in particular about the identity of this source.

children. Lamech makes his bloodcurdling vow to his wives only (Gen 4:23). When the sons of God take the daughters of men for wives, the women's fathers do not step forward to protect them (Gen 6:1–2). Punishment in the Dark Age is specific to the transgressor and does not extend to his children: Cain is doomed to be a wanderer on the earth, but his son is allowed to establish a city (Gen 4:17).²

The first description of any sort of mutually supportive relationship between parents and children is the story of Noah and his family, the transitional figures between the Dark Age and the new world after the flood. And it is with Noah that the author takes up the question of authority in families—an authority that I will refer to as “patriarchy,” keeping in mind that I used the term descriptively rather than normatively, and also that social and political norms of today, which condemn patriarchal power, were not present to the same extent in ancient times.

Ham's Indiscretion

Noah becomes a tiller of soil.³ He plants a vineyard, gets drunk, and lies “uncovered” in his tent, passed out from the effects of the wine (Gen 9:21). Ham sees the nakedness of his father and tells his brothers about it. Shem and Japheth take a garment, lay it across their shoulders, and walk backward to place it over their father's body (Gen 9:23). Noah awakes and finds out what Ham has done to him. He proceeds to administer blessings on Japheth and Shem and a curse on Ham's son Canaan (Gen 9:25–27).

² The text is unclear as to whether Cain or his son will inhabit the city, but the context suggests the latter.

³ According to the text, Noah is the first to take up that occupation—a somewhat odd comment given that Cain had also “worked the soil” during the Dark Age (Gen 4:2). The author's disregard for consistency reflects the radical separation between the Dark Age and the new era. When the author says that Noah was the first tiller of the soil, he means that Noah was the first *in the relevant context*, the new world that came into existence after the flood. Everything that happened before has been blotted out.

What should we make of Ham's mysterious conduct toward his father? Why does he observe his father's nakedness? What is so bad about what he does? Why do his brothers feel it necessary to engage in the elaborate dance of walking backward with a garment? Why does Noah curse Canaan, Ham's son, even though Canaan has had no role in his father's misconduct?

As in other cases, the first step in analyzing these questions is to examine the setup:

1. Noah and his family have descended from Mount Ararat. The author, however, does not tell us exactly where they go. Given that he knows how to be specific about locations, this omission is not accidental. By placing the action in an undisclosed place, the author universalizes the message, arguing that the text is valid for all places on earth.

2. The same effect is achieved by framing the story at an early time in the post-flood world, a moment when the new primal family is still together. This detail asserts that the message of the text is universal in terms of coverage, since all human beings descend from Noah and his children.

3. The *dramatis personae* of this narrative are also significant. The only characters are Noah, Ham, Shem, and Japheth. Although women are around, none appears in this narrative; the author prunes the cast to the minimum necessary to make his points. The textual focus on Noah and his sons suggests that the purpose of the setup is to examine relationships between and among fathers and their male offspring.

* * *

The author uses this setup to stress two basic points.

1. The story establishes the *importance of patriarchal authority*. This topic is already addressed in the idealized setting of the garden of Eden, where God's role as the progenitor of Adam and Eve is one basis for his right to exercise authority over them. Here, the author expands the point in the context of the real world. Ham's offense (seeing his naked father) is an insult to Noah's patriarchal role.⁴ The act transgresses an intimacy boundary between father and son and defiles the perpetrator, even if performed inadvertently.⁵ The severity of Ham's punishment is a measure of the importance the author attributes to paternal status: the son is sanctioned for even looking at his father's unclothed body.⁶ Appropriately, given Ham's offense, the penalty is administered against

⁴ See Calum Carmichael, "Incest in the Bible," *CKLR* 71 (1995–1996): 123–47, here 133 n. 23 (Ham's conduct represents "disrespect of a progenitor's status"). Rabbinic commentary is attuned to the basic point: the rabbis suggested that Ham had castrated his father, an interpretation that is consistent in spirit with the idea that Ham's offense was disrespect for patriarchal authority. See Albert I. Baumgarten, "Myth and Midrash: Genesis 9:20–29," in *Christianity, Judaism, and Other Greco-Roman Cults: Studies for Morton Smith at Sixty* (ed. Jacob Neusner et al.; Leiden: Brill, 1975), 55–71.

⁵ In this respect the Ham-Noah narrative has affinities with other biblical texts that establish boundaries that may not be crossed without defilement. Such boundaries can be violated by exposure alone, without sexual contact and without intent to harm: hence the rule in Exod against exposing one's genitals while walking up steps to the altar. Exod 20:26. The notion that exposing nakedness can be defiling is found in contemporary Roma society, where a woman can render someone ritually unclean by lifting her skirt. See Calum Carmichael, "Gypsy Law and Jewish Law," *AJCL* 45 (1997): 269–89, here 284. Carmichael argues, however, that there are no known parallels in the ancient Near East for a taboo against seeing a naked parent. Carmichael, "Incest in the Bible," 133 n. 23.

⁶ The disparity between punishment and crime has led some commentators to conclude that Ham must have done more than just look: he must have *molested* his father. E.g., Robert A. J. Gagnon, *The Bible and Homosexual Practice: Texts and Hermeneutics* (Nashville: Abingdon, 2001), 63–71; Anthony Phillips, "Uncovering the Father's Skirt," *VT* 30 (1980): 38–43. As von Rad prudishly puts it, "possibly the narrator suppressed something even more repulsive than mere looking." Von Rad, *Genesis*, 133. See also John Sietze Bergsma and Scott Walker Hahn, "Noah's Nakedness and the Curse on Canaan (Genesis 9:20–27)," *JBL* 124 (2005): 25–40, here 26–27 (arguing that the incest was maternal rather than paternal). This debate raises difficult questions of interpretation.

Several considerations support the view that Ham's only offense was to see his father naked. Ham tells his brothers about what has happened, something he is unlikely to have done in the case of a sexual touching. The author is not afraid to use unambiguous terms for sexual contact, including homosexual and incestuous acts: the men of Sodom demand sex with Lot's (male) guests (Gen 19:5), and Lot's daughters "lie with" their father (Gen 19:32). Given that the author is not above speaking frankly, why would he resort to euphemism in the Ham story? Moreover, the Bible does not always give a sexual spin to the idea of uncovering nakedness. Exod 20:26 declares that one should not "go up to my altar on steps, lest your nakedness be exposed on it." The allusion is to a wardrobe malfunction involving the skirts worn by men in biblical times. There is nothing sexual about this usage.

Ham's own patriarchal claims: his descendant (Canaan) is cursed. Shem and Japheth, who restore their father's dignity, are rewarded with superior patriarchal rights.⁷ Noah, the patriarch, gets to decide the punishment—appropriately, given that the offense is to Noah's patriarchal claims.⁸ Overall, the narrative endorses a strong norm of patriarchal authority by protecting the father's dignitary rights vis-à-vis his sons.⁹

However, the molestation theory also finds support. Elsewhere in the Bible the idea of uncovering nakedness is a term for sexual misconduct (e.g. Lev 18:6–24). The notion that Ham molested his father is consistent with the detail that Noah seems to have some physical indication of Ham's transgression. See Phillips, "Uncovering the Father's Skirt," 41 (since the text records Noah as knowing what his son had done to him, "we should perhaps understand this incident as more than an immodest looking at his drunken and naked father but rather as his actual seduction while unconscious—an act so abhorrent that the author is unwilling to spell it out"). The molestation account also helps explain the detail that while Ham committed the offense, the punishment is administered against his son Canaan. The allusion here is to an act of incest that taints the children of the union. Ham cannot produce offspring from a connection with his father, but the author nevertheless may attribute an inherited defect to his descendants: the children, not the parent, manifest the taint of an incestuous relationship. But see Carmichael, "Incest in the Bible," 126 (arguing that the ancients did not know of physical problems in the offspring of incestuous unions).

In a situation like this, where the narrative admits two interpretations, it is tempting to resolve the ambiguity by attributing only one meaning: either the author was engaging in a euphemism or he meant what he said. Alternatively, perhaps the author was simply a bad writer and failed to convey his message clearly. Or maybe two sources are involved: one holding that Ham only saw his father naked, the other accusing Ham of molestation. But it is also possible—and simpler—to posit a single author who makes deliberate use of ambiguity. By keeping both interpretations open, the author can present parallel narratives of Ham's offense: (a) the voyeuristic account, which emphasizes the importance of patriarchal authority; and (b) the molestation account, which subordinates the Canaanites to other ethnic groups.

⁷ Their strategy of looking away from the forbidden vision is echoed in Exod 33:17–23, where Moses and God negotiate a means by which Moses gets to see part of God's body. God says he will place Moses in the cleft of a rock (to obscure his line of sight) and then will block Moses' view with his hand. When God takes his hand away, Moses can see God's back, without any risk of inadvertent exposure to God's face. In the Ham story, Shem and Japheth adopt a parallel strategy of turning their own backs to their father.

⁸ Noah is not responsible for failing to cover himself or for whatever may have happened afterwards, because he is unconscious. Noah is not even to blame for getting drunk: since this was the first time anyone had tasted wine, he had no way to know the effects. Even if Noah does suffer some stigma from Ham's act, Shem and Japheth symbolically reverse the taint by walking backward and covering their father with a garment. But see Devora Steinmetz, "Vineyard, Farm and Garden: The Drunkenness of Noah in the Context of Primeval History," *JBL* 113 (1994): 193–207 (concluding that Noah bears some of the blame).

⁹ The author's description of patriarchal authority would have found confirmation in the audience's life experience. Few people of the times would have disagreed with the importance of honoring one's father and mother, the rights of parents to insist on filial obedience, or the duty of parents to correct and rectify improper behavior by children. The pervasive nature of parental authority in the culture of ancient Israel is illustrated by the frequent occurrence of these concepts in the biblical laws and Wisdom books. The fifth commandment requires children to "honor your father and your mother" (Exod 20:12; Deut 5:16). Other laws prohibit children from attacking (Exod 21:15), cursing (Exod 21:17; Lev 20:9), or dishonoring (Deut 27:16) a parent. Prov warns against cursing a parent (20:20), robbing a parent (19:26; 28:24), mocking or disobeying a parent (30:17), driving a mother out of the house (19:26), despising a mother when she is old (23:22), or disgracing or grieving a parent (10:1; 17:25; 19:13; 28:7). Children are admonished to listen to

2. After Noah realizes what Ham has done to him, he says, “God enlarge Japheth’s territory, and may Japheth live in the tents of Shem; and may Canaan be the slave of Japheth” (Gen 9:27). Noah appears to be administering a blessing to Japheth, but the real beneficiary is Shem. The blessing subordinates Canaan to Japheth but also subordinates Japheth to Shem by declaring that Japheth shall dwell in the tents of Shem. Shem thus receives the lion’s share of the blessing, leaving Japheth as a resident alien when living in his brother’s household.

The author uses this setup to frame the issue of *succession*—the question of how patriarchal power passes across the generations. The fate of Ham codes the father’s right to disinherit a son for disrespecting the father’s status. Noah’s blessings on Shem and Japheth deal with other cases. These two are essentially identical. They act together to restore their father’s dignity by walking backward in lockstep. We don’t know which of them had the idea or who took the lead. They function as a team—a detail underscored by the fact that they are connected by a garment. Given that Shem and Japheth are equally praiseworthy, why does Shem receive the greatest reward? The only answer is that Shem is older. The blessing of Noah thus codes a principle of primogeniture: as between equally deserving sons, the elder is favored in inheritance rights.¹⁰ The rule, however, is only a tie-breaker. The author does not explore what happens when the younger son

the instructions of their parents (1:8; 2:1–5; 3:1–2; 4:1–2, 10, 20–22; 5:1–2; 6:20–23; 8:32–33; 13:1; 19:27; 23:22) and to gratify their parents by displaying righteous behavior (23:15–16, 24–25). Parents, for their part, are admonished to discipline their children (13:24; 19:18; 29:15, 17) and to leave an inheritance for their grandchildren (13:22). For discussion of the fifth commandment and related texts, see David Daube, “On the Fifth Commandment,” in *Law and Wisdom in the Bible* (vol. 2 of *David Daube’s Gifford Lectures*; ed. Calum Carmichael; West Conshohocken, Pa.: Templeton Foundation Press, 2010), 3–25.

¹⁰ Most commentators consider the rule of primogeniture to be a fundamental norm of biblical times. See, e.g., von Rad, *Genesis*, 416 (the privilege of the firstborn is “absolutely uncontested in the ancient orient”). For a challenge to that view, see Frederick E. Greenspahn, *When Brothers Dwell Together: The Preeminence of Younger Siblings in the Hebrew Bible* (New York: Oxford University Press, 1994).

might be the worthier. He therefore sets up the problem treated in the rest of the book of Genesis: the complex and difficult application of the “iron law of primogeniture”¹¹ to a world where younger sons often surpass their brothers.

The Patriarchal Age

The author now moves to the Patriarchal Age—the era of Abraham, Isaac, Jacob, and Jacob’s children. This change in setting affects the frame of analysis. We saw that in earlier texts the author used the context of a primal history as a means for constructing models of human society that could be used to investigate questions of political theory. By setting these stories in earliest times, the author achieves both simplicity of analysis and universality of application.

The setting of the Patriarchal Age alters both these conditions. Simplicity is compromised when the history moves to the age of the patriarchs. The author needs to take account of Canaanites, Egyptians, Hittites, Arameans, Ammonites, Moabites, Midianites, Edomites, and so on. In describing the Israelites’ interactions with these peoples, the author loses some of the ability to analyze problems within an elementary model. Universality is also affected in this new setting by virtue of the fact that the stories of the patriarchs are not applicable to everyone. God’s covenant with Noah was a covenant with all humanity; his covenant with Abraham impacts only Abraham and his descendants.

Notwithstanding these changes, the author maintains an impressive analytical precision in the stories of the Patriarchal Age. What this new setting sacrifices in universality it gains in specificity: issues are not resolved in ways that apply to the entire

¹¹ Alter, *The Art of Biblical Narrative*, 6.

world, but they are treated in ways that apply to that portion of the world in which the author is most interested: the society of ancient Israel. The author, moreover, argues for the broader relevance of his investigations. The family of Abraham is only one family among many, but it is also a special one: it is uniquely favored by God and destined to be a blessing for “all peoples on earth” (Gen 12:3).

The author also deals effectively with the problem of complexity. By focusing on a single family and introducing other characters only when their presence will advance an important narrative aim, the author is able to maintain something of the simplicity of the models of social relations from the primal age. Because the focus is on the family and on family relationships, moreover, these narratives provide a vehicle for the investigation of patriarchal authority. The texts now to be discussed address in greater detail the two issues already introduced in the story of Noah and Ham: the scope of patriarchal authority and the question of succession.

The Scope of Patriarchal Authority

The story of the binding of Isaac (the Akedah; Gen 22:1–19) bears on the scope of patriarchal authority. God tells Abraham to “take your son, your only son, whom you love—Isaac—and go to the region of Moriah. Sacrifice him there as a burnt offering on a mountain I will show you” (Gen 22:2). Abraham does not question this apparently arbitrary command, even though it calls for him to sacrifice his beloved son and his only hope for progeny with Sarah. He dutifully travels to the place God has chosen. Isaac notices that his father has gathered up the accoutrements for a sacrifice and presciently asks, “Where is the lamb for the burnt offering?” (Gen 22:7). Abraham’s response—that God will supply the lamb—apparently satisfies Isaac, even though stray lambs were

probably uncommon in those parts. Isaac passively allows his father to tie him up and put him on the altar (Gen 22:9). Isaac makes no protest even when his father takes out his knife and prepares to kill him. His life is spared only when God stays Abraham's hand and supplies a ram as a substitute (Gen 22:12–13).

This story has been analyzed from so many perspectives that it seems like overkill to offer another interpretation to the sacrificial fires of critical inquiry. Much praised for its literary depth,¹² an inspiration for artists such as Kierkegaard, Rembrandt, and Chagall, a fertile subject of psychological and theological analysis, this text is nearly inexhaustible as a resource for interpretation. Clearly, as many have noted, the text relates in some way to the institution of child sacrifice, perhaps as an explanation for why the practice was abandoned. Part of the story appears concerned with rules for cultic observance.¹³ It may also promote an otherwise obscure holy place.¹⁴ For present purposes, however, our focus is on the meaning of this text for political theory.

The Akedah story illustrates and approves a conspicuous example of good filial behavior. Isaac understands the threat he faces and has the physical and intellectual capacity to defend himself, but he still allows his father to tie him up and prepare to kill him. Few children would do as much. Isaac is richly rewarded for his virtue by becoming a God-favored ancestor of the Israelite people. What appears at first to diminish Isaac's patriarchal status (by killing him before he has had any children) ends up enhancing it (by making him a progenitor of a great nation). The text thus endorses a strong form of

¹² See, e.g., von Rad, *Genesis*, 233.

¹³ See Geoffrey P. Miller, "Ritual and Regulation: A Legal-Economic Analysis of Selected Biblical Texts," *JLS* 22 (1993): 477–501.

¹⁴ See George W. Coats, "Abraham's Sacrifice of Faith: A Form-Critical Study of Genesis 22," *Int* 27 (1973): 389–401.

patriarchal authority under which sons are obligated to obey their fathers, without question, even when the father's behavior seems irrational or life-threatening.

For a fuller account of the rights and obligations of patriarchy, however, the author must do more than provide a shining example of good filial conduct; he must also illustrate and sanction bad conduct. Genesis 35:22 deals with one type of misconduct. It reports that Reuben, Jacob's firstborn son, "went in and slept with his father's concubine Bilhah, and Israel [Jacob] heard of it." Sleeping with a father's concubine is an insult to patriarchal authority. It transgresses intimacy boundaries that protect the father's privileged status. One might have expected that the author would do more with this story, which appears to report a fundamental breach of propriety and a serious insult to the father's honor. Yet the matter is apparently dropped: Jacob seems to do nothing to chastise or rebuke Reuben. But Reuben gets his reward eventually. Jacob's last will and testament addresses the legacy to Reuben and does so in harsh terms: "Reuben, you are my firstborn, my might, the first sign of my strength, excelling in honor, excelling in power. Turbulent as the waters, you will no longer excel, *for you went up onto your father's bed, onto my couch and defiled it*" (Gen 49:3-4). The audience would have understood that this legacy came to pass: the tribe of Reuben does not become preeminent in ancient Israel. The message is straightforward: the father's patriarchal rights must under no circumstance be invaded by a son. The consequences of such an invasion are severely stigmatizing and may result in the son's losing the rights of primogeniture to which he would otherwise be entitled.

The story of Dinah and Shechem, in Gen 34, describes another form of filial default. Shechem, the prince of a city, sees Jacob's daughter Dinah, desires her, and has

sex with her (Gen 34:2). The story is ambiguous as to whether the sex was a rape or consensual. Regardless, Shechem falls for the girl and asks his father Hamor to get her for a wife (Gen 34:4). Hamor visits Jacob to seek consent to the union—an act that would have reflected considerable deference since Hamor was the ruler of an important city and Jacob only the head of a clan of nomadic wanderers (Gen 34:6). Jacob refuses to make any decision until his sons have returned from the field (Gen 34:5). When Jacob's sons learn what has happened, they are upset at what they consider to be a defilement of their sister (Gen 34:7). Hamor offers a deal: the two groups—his city and Jacob's clan—can intermarry, enjoy commercial relations, and settle down in harmony (Gen 34:8–10).

Jacob's sons answer that they will consent to the marriage only if the men of Hamor's city agree to be circumcised (Gen 34:15–16). The men obediently undergo the procedure (Gen 34:20–24). On the third day, while the Shechemites are recovering, Dinah's brothers Simeon and Levi sweep into town, kill all the men, and retrieve their sister. Thereafter all the sons of Jacob despoil the city (Gen 34:25–29). Jacob is unhappy to learn of these events. He tells Simeon and Levi, “You have brought trouble on me by making me obnoxious to the Canaanites and Perizzites, the people living in this land. We are few in number, and if they join forces against me and attack me, I and my household will be destroyed” (Gen 34:30). Later, when Jacob makes his will, he remembers his anger at Simeon and Levi: “Simeon and Levi are brothers—their swords are weapons of violence. Let me not enter their council, let me not join their assembly, for they have killed men in their anger and hamstringed oxen as they pleased. Cursed be their anger, so fierce, and their fury, so cruel! I will scatter them in Jacob and disperse them in Israel” (Gen 49:5–7). The audience would have understood that this legacy also came to pass:

the tribe of Simeon was subsumed within Judah and that of Levi was denied any ancestral territory at all.

The situation here is more complicated than that described in the narrative about Reuben and Bilhah (and perhaps for this reason receives greater attention). Consider the role of Jacob. Although he is typically a dominating figure in the biblical narrative, here he is passive. Jacob learns about Dinah's problem while his sons are away. One might have thought he would not need to consult his children on a matter such as this. But instead of acting, he waits for his sons to return. When Hamor and Shechem appear to parlay, they don't speak to Jacob privately. They address themselves to father and sons together. Instead of Jacob taking the lead in the negotiations, his sons make the proposal that the men of the city be circumcised. Later, Simeon and Levi arrogate to themselves the decision to attack the town, and the other brothers proceed to loot it—all without Jacob's consent. He finds out what happened later, presumably when the sons return.

The setup raises the question of how a child should behave in representing a father in a situation where the father has entrusted the child with a measure of the father's authority. The text disapproves of children who harm their father's interests. Jacob's children should have known better than to deal deceitfully with the Shechemites, and Simeon and Levi should have obtained their father's consent before they attacked the town. The harm to Jacob's patriarchal authority is twofold: the sons' failure to act as faithful agents of their father is itself a form of disrespect, and the consequences of their actions—harming the reputation of Jacob's clan—results in a diminution of the father's power.

While the narrative disapproves of Simeon and Levi, and to a lesser extent the other brothers, Jacob himself is not entirely immune from criticism. The problem is due as much to Jacob's passivity as to his children's impulsiveness and aggression. Jacob should not have abdicated his responsibility by leaving the matter up to his sons. The text thus conveys a message for fathers as well: they should affirmatively exercise their patriarchal powers rather than allow their children to act in a role that they are not suited to fulfill.¹⁵

Kinship Boundaries

The texts just discussed define the nature of the father's patriarchal authority, emphasizing the breadth of his power as well as his duty to exercise that power appropriately. These texts illustrate a patriarch's prerogatives within the relationship of father and son. In that context, there is no doubt that patriarchal authority exists; the relevant questions are the nature and extent of the associated rights and duties. But patriarchal authority can exist in other kinship relations. The author recognizes this fact and systematically explores three situations in which patriarchal authority may be claimed outside the parent-child relationship: siblings, collateral relatives, and in-laws.

1. The Bible often depicts relations between brothers as contentious, and the bone of contention is usually the question of authority: who among brothers will lead the

¹⁵ The story of Shechem and Dinah, in a sense, is a mirror image of the Akedah narrative. In the former story, the child, Isaac, acts as the passive and trusting instrument of a father who makes all the decisions. In the later story, it is Jacob, the father, who is passive and who allows his sons to take the lead—a privilege that they abuse. In the Akedah story, the son's subordination to his father and the father's exercise of patriarchal authority seem to threaten the institution of patriarchy but in the end reinforce it. In the story of Shechem and Dinah, the sons' actions appear designed to protect patriarchy by maintaining family honor but actually jeopardize patriarchal authority by subjecting Jacob and his house to the threat of destruction.

family in the next generation?¹⁶ The author recognizes the conflict but announces a clear rule to resolve it: the son designated by the father enjoys the legal authority to rule over his brothers. This authority continues even after the death of the father. When Isaac tells Jacob, “Be lord over your brothers, and may the sons of your mother bow down to you,” the devise of patriarchal power is intended to be effective after Isaac’s death (Gen 27:29). When Jacob tells Judah that “your father’s sons will bow down to you,” the intent is the same: to convey an authority that will be binding after Jacob’s death (Gen 49:8).

2. The next issue is whether patriarchal authority extends to subsequent generations. This is a fundamental issue for the analysis of patriarchy because if authority passes through the generations, patriarchy could be the basis for full-scale political power. As time passes, family connections weaken and the claim of patriarchal authority becomes similar to the claim of a king to rule over his subjects. Some later thinkers—Robert Filmer being the leading example—took this position, arguing that the kings of their day exercised patriarchal authority passed through the generations by descent or grant.¹⁷ The Bible, however, is more cautious about the extension of patriarchal power to later generations.

In some narratives the father makes it clear that he intends the authority or disability to apply to succeeding generations. Noah’s curse subordinating Canaan to Japheth and Shem is not personal to Canaan alone. Noah himself indicates his intent that the curse run with the generations: he administers the sanction not on Ham (who has committed the offense) but rather on Ham’s son Canaan, who is apparently innocent of

¹⁶ For analysis of the contentious relationships of siblings in the biblical narratives, see Greenspahn, *When Brothers Dwell Together*.

¹⁷ Filmer, *Patriarcha*.

misconduct (Gen 9:25–27). Jacob’s conveyance of patriarchal authority to Judah also runs with the generations—in this case, as a means for legitimating the authority of the line of David (Gen 49:10). In such cases the inheritor of patriarchal rights has the authority to rule over all lineal descendants of the original grantor. Even many generations later, the descendants of Shem have the right to rule over the descendants of Canaan and the descendants of Judah have the right to rule over the descendants of Judah’s brothers.

Patriarchal grants running with the generations are not universal in the Bible, however. Authority conveyed to a son can extend to the son’s brothers but not pass through the generations to nephews and later descendants. Consider in this regard the narrative of Lot and Abraham.¹⁸ Abraham is Lot’s uncle and also apparently the firstborn of his generation. We can assume that Abraham succeeded his father as patriarch and that in that capacity he exercised authority over Lot’s father. The question is whether Abraham’s power extends also to Lot, his nephew.

The Bible provides conflicting information on this question. Abraham travels from Haran to Canaan, thence into Egypt, and back again to Canaan, dragging Lot along each time (Gen 12:4–9; 13:1–4). Lot is always a passive figure in these narratives. Abraham gives Lot plenty of autonomy, but he seems to do so out of affection and generosity rather than obligation. This interpretation suggests that Abraham possesses patriarchal authority over his nephew. The message would appear to endorse an expansive theory under which holders of patriarchal rights can claim the right to rule over others in their extended families.

¹⁸ Larry R. Helyer, “The Separation of Abram and Lot: Its Significance in the Patriarchal Narratives,” *JSOT* 26 (1983): 77–88.

Yet the author also tells us that Abraham does not treat Lot as a subservient figure. Although Lot travels with Abraham, he has his own flocks, tents, possessions, and servants (Gen 13:5). Lot's herdsmen do not view themselves as subordinate to Abraham's: they quarrel on equal terms about access to grazing lands (Gen 13:7). The author does not present these attributes as controversial; he simply announces that Lot has property of his own. Lot defers to Abraham and follows his lead, but this is arguably a matter of respect and deference rather than a legal obligation. This interpretation suggests that Abraham does not possess patriarchal authority over Lot. The author does not resolve the question, thus indicating that a patriarch's power over his nephews and other collateral relations was an unresolved question in the society of his day.

3. The next question concerns authority conferred by marriage. To what extent, if any, does a father lose patriarchal rights over his daughter after her marriage or gain authority over her husband or any offspring of the marriage? This issue is explored in the narratives of Jacob and Laban. Genesis 29 describes how Jacob travels to Paddan-Aram and there encounters Rachel at a well. Rachel is the daughter of Laban, who is the brother of Jacob's mother Rebekah and therefore Jacob's uncle (Gen 24:29). Laban and Rebekah, in turn, are children of Bethuel, who is the youngest son of Abraham's younger brother Nahor (Gen 22:20–22; it gets complicated!). Laban finds out about Jacob's arrival and comes to meet him, exclaiming, "You are my own flesh and blood!" (Gen 29:14). The smitten Jacob proposes that he will work for Laban for seven years in exchange for Rachel (Gen 29:18). Laban agrees but substitutes Leah, his older daughter, in the wedding bed (Gen 29:22–23). Jacob is upset when he discovers the ploy, but Laban assuages him by offering Rachel as a second wife if Jacob agrees to work for seven more

years (Gen 29:27). While living in Laban's household, Jacob has children with Leah and Rachel and their servant women. Eventually Jacob demands to leave along with his clan. Laban again dissuades him by letting Jacob take a share of the increase of the flocks. Jacob manipulates the breeding so as to magnify his share and diminish Laban's (Gen 30:37–42). Laban cools toward Jacob when he realizes that the deal is not working out to his advantage (Gen 31:2). Recognizing Laban's change of attitude, Jacob departs along with his wives, children, concubines, and possessions as well as Laban's household gods (Gen 31:17–21).

This complex story is rich in competing claims to patriarchal authority. Jacob has strong claims vis-à-vis Laban. He is the husband of Laban's daughters and asserts the rights that follow from the marriages. Jacob also has potential ancestral claims against Laban: he can point to patriarchal rights descending from his great-grandfather Terah, which arguably give him authority over Laban, who is also Terah's great-grandson (and therefore Jacob's distant cousin) but with potentially inferior rights of descent. Rachel has absconded with Laban's household gods, an act that may convey patriarchal rights¹⁹ and that also may signify an intention to sever relations with a host. Jacob has abandoned Laban's household and struck out on his own, thus asserting independence from Laban's rule.

Laban also has a powerful case. He is older than Jacob and can claim rights on that account. He is the father of Jacob's wives and the grandfather of their children. He is hosting Jacob in his household. Laban asserts—apparently with some justification—that his household gods have been stolen and should be returned. And Laban can argue that

¹⁹ See Moshe Greenberg, "Another Look at Rachel's Theft of the Teraphim," *JBL* 81 (1962): 239–49 (suggesting that Rachel was following traditional custom rather than attempting to alter patriarchal rights).

whatever patriarchal rights Jacob might trace back to Terah were forfeited long ago. Thus, from Laban's perspective, Jacob and his family are subject to Laban's authority. Laban is clear on this point: "The women are *my* daughters, the children are *my* children, and the flocks are *my* flocks. All you see is *mine*" (Gen 31:43).

The author does not resolve these competing claims. His point is to explore the issues rather than to give a definitive answer to the questions raised. The narrative of Jacob and Laban insightfully captures the complex, contested, and uncertain boundaries of patriarchal authority over parties related to one another by marriage.

Transfer of Patriarchal Rights

Even when patriarchal claims otherwise exist, they can be sold, released, or abandoned.

1. The birthright story is an example of transfer by sale. Esau conveys his birthright to Jacob in exchange for food (Gen 25:29–34). Even though the price appears grossly inadequate, the author leaves no doubt that the deal is valid and binding from a legal point of view.²⁰

2. Patriarchal claims can be released by express mutual consent. After Jacob and his family escape from Laban's territory, Laban raises a posse and apprehends the fugitives in the hill country of Gilead (Gen 31:23). He searches Jacob's tents but cannot find his household gods because Rachel is sitting on them, using as a pretext for not rising the excuse that she is having her period (Gen 31:35). Laban claims that Jacob has stolen his property and daughters, but Jacob responds that he owes Laban nothing (Gen

²⁰ See Miller, "Contracts of Genesis," 15–45, here 23–27.

31:438-42). Eventually Laban and Jacob work out a compromise, marked by a pillar and a heap of stones (Gen 31:45–54).

As relevant for present purposes, this narrative describes a mutual release of patriarchal claims. The boundary markers set up between the parties represent an agreement in which each party gives up claims against the other. Laban will assert no claim over Jacob's territories. Jacob gets to keep his wives, his concubines, his children, and his possessions. But Jacob also makes concessions. Jacob will assert no rights to Laban's territory, even though his long residence there and his marriage to Laban's daughters might give him some basis for such claims. He will not abuse or mistreat his wives, even though Laban will no longer be around to protect them (Gen 31:50). He will not take other wives and thus will not bring into the household any new women who might claim priority over Laban's daughters or any new heirs who might supplant Laban's grandchildren (Gen 31:50).

3. Patriarchal claims can be released without a formal agreement of the sort described in the Jacob-Laban story. Recall that Abraham and Lot are traveling together when a dispute breaks out among their herdsmen (Gen 13:7). The fight is over resources: because the households have grown large, the land is incapable of sustaining them all. Abraham allows Lot to separate from Abraham's household and, moreover, invites Lot to pick which lands to settle on. There is no formal agreement here—no negotiations, no claims to authority, no markers of territory, no mutual exchanges of oaths and promises, and no clauses invoking deities as witnesses, interpreters, or enforcers. In fact the author is careful to structure the narrative so there is not even a dispute between the principals: the fight breaks out between the herdsmen, but Abraham and Lot remain on congenial

terms. Abraham is acting proactively to settle a dispute before it arises. Nevertheless, the conduct and course of dealing of the parties indicate that Abraham is releasing any claims of patriarchal authority that he might have over Lot.

4. Patriarchal rights can be abandoned when a person permanently emigrates from the ancestral estate leaving family members behind. Genesis 11:10–26 give the generations of Shem, tracing an unbroken line to Terah. Terah, the oldest in his birth family, has three children: Abram [Abraham], Nahor, and Haran. Haran dies in Ur after becoming the father of Lot (Gen 11:28). Terah leaves Ur, taking along his son Abraham, Abraham’s wife Sarai [Sarah], and his grandson Lot (Gen 11:31). Other family members such as Lot’s mother or Abraham’s brother Nahor don’t come on the journey. The author suggests that when he left his ancestral home, Terah abandoned claims to authority over the family members left behind. The travelers settle in Haran (Gen 11:31). After the death of Terah, God tells Abraham to “go from your country, your people and your father’s household to the land I will show you” (Gen 12:1). Abraham dutifully departs, taking along Sarah and Lot (Gen 12:5–20; 13:1–4). Like his father before him, he abandons patriarchal claims over the family left behind.

5. Patriarchal rights can be abandoned when someone of inferior status departs from a patriarch’s household, indicating that he does not intend to return and the patriarch does not preserve his claim by pursuing the fugitive. Jacob, over whom Laban claims patriarchal authority, flees Laban’s household and sets out with his family and possessions for the land of Canaan (Gen 31:17–21). He clearly indicates that he does not intend to return—most importantly by taking along Laban’s purloined household gods. The next move is up to Laban. The text implies that Laban would have forfeited his

claims if he had simply stayed at home after learning of Jacob's departure. But Laban *does* pursue the fugitives and in fact catches up with them (Gen 31:23). The pursuit defeats any claim of abandonment.

6. Patriarchal rights can be abandoned when the patriarch voluntarily submits to the authority of a person with inferior status. The story of Jacob and Laban addresses this issue. Jacob, whose ancestry gives him patriarchal rights putatively superior to those of Laban, goes to live in Laban's household. Laban interprets this as a submission to his authority. His repeated attempts to induce Jacob to remain are efforts to reinforce this claim: he wants to assert the superior rights of a host. Jacob sees things differently: his sojourn with Laban is a matter of contract, not submission; and in fact Laban is richly rewarded because of Jacob's efforts and therefore has no right to complain. By highlighting the arguments on both sides, the author illustrates that claims of submission are often complex, ambiguous, and likely to give rise to disputes between competing claimants.

* * *

The effect of a transfer of patriarchal rights depends on the nature of the holder's authority. In the usual case, the patriarch can transfer both his own rights and those of his descendants. When Esau sells his birthright to Jacob, it is clear that he is also transferring rights of his posterity. After the transaction, Esau's children have no greater claim to the birthright than he does. The analogy, in English common law, is to the sale of land in fee simple absolute: the purchaser obtains title free and clear of any claims of the seller's heirs. In other cases, the patriarch lacks authority to act on behalf of anyone other than himself and therefore cannot transfer the rights of his heirs. These cases arise when the

original grant specifies that the rights are transferred to the entire line of descent rather than to the grantee personally. The analogy in English common law is the (now abolished) tenure in entail: the grantee had no authority to transfer the rights of his heirs. The story of Canaan is an example. Noah curses Canaan and subordinates him to both of Ham's brothers. Canaan's descendants migrate to the land of Canaan and establish themselves there before Abraham arrives (Gen 12:6). The descendants of Canaan might claim that the patriarchal rights conferred on Shem were abandoned when Shem and his descendants allowed them to move away and let many generations pass without attempting to enforce their rights. Yet the Bible does not recognize an abandonment of patriarchal rights in this case. The reason is that Noah's bequest runs with the generations: Canaan and all of his descendants are cursed and enslaved to Shem, Japheth, and their descendants. The patriarchs in the line of Shem do not have the power to abandon the claims of their posterity: they can only forego their own personal rights. For this reason the Israelites retain a valid claim to subjugate the Canaanites even though many generations have passed since the original grant.

The case of Judah is similar. Jacob's blessing confers on Judah the power to rule over his brothers (Gen 49:8). Yet for many years Judah and his descendants do not exercise this authority. Jacob's family goes down into Egypt; becomes enslaved by the Egyptians; escapes in an exodus led by Moses, a Levite; lives as independent tribes in the time of the judges; and submits to the kingship of Saul, a Benjaminite. It is not until the ascent of David that the patriarchal claims of Judah are reasserted. Yet the author makes it clear that Judah's claims have not been forfeited. The claims are not abandoned because Jacob's grant runs with the generations.

* * *

The story of Jacob and Esau combines several of the situations described above. After receiving the blessing of Isaac, Jacob flees at the suggestion of his mother, who fears that Esau will attempt to kill him (Gen 27:41–45). As far as Esau can observe, Jacob has permanently departed from his ancestral lands. Esau could reasonably interpret this as an abandonment of Jacob's claim to patriarchal rights vis-à-vis Esau.

Jacob, however, has arguments that he has not abandoned his rights. He did not intend to leave Canaan forever. Jacob was simply paying a visit to a relative at a time when it was inconvenient for him to be at home. His stay was extended due to extraneous factors, but he always intended to return. Jacob's rebuttal to Esau's claim of abandonment is strengthened by the fact that it was Esau himself who drove Jacob away. Esau would hardly be on a strong footing in holding Jacob responsible for circumstances that Esau himself had created.

By the time Jacob returns from his sojourn with Laban, Esau has also moved away. Esau's apparently permanent departure from the ancestral home, and Jacob's failure to pursue him when he left, might be a basis for a claim on the part of Esau that Jacob has forfeited his patriarchal rights vis-à-vis Esau by not asserting them in a timely fashion. Yet Jacob had good reason for not tracking Esau down: he was away on business. When Jacob returns from Laban's household, he promptly heads for Esau's new home—a dangerous detour that represents an effort by Jacob to reassert patriarchal authority by establishing that he has indeed pursued Esau at the first practical opportunity. Esau certainly appears to read Jacob's approach in this light, since he sets out to meet his brother in a most threatening way, with four hundred men at his side (Gen

32:6). Possibly Jacob underestimated how strong Esau had become in the years they had been apart. More likely, Jacob had advance knowledge of Esau's power and never expected to overmaster him. His goal was rather to engage in the symbolic act of pursuing Esau in order to rebut Esau's claim that Jacob had abandoned his patriarchal authority. Even if Esau refused to submit to Jacob's rule—as Jacob no doubt expected he would—Jacob's venture into Edom would preserve his claim.

When the two finally meet, Jacob offers appeasement gifts and flatters Esau with unctuous language more appropriate to a courtier than a patriarch (Gen 32:3–21; 33:1–16). After a little coaxing, Esau accepts the gifts (Gen 33:11). Jacob's gifts refer back to the story of the sale of the birthright: the richness of the offerings freely accepted symbolically remediates for the inadequacy of the consideration taken under duress the first time around. Esau's acceptance of the gifts provides Jacob with an argument that his brother recognizes the legal consequences of the sale of the birthright and releases any residual claims of patriarchal authority over Jacob.

The next stage is an attempt by Esau to induce Jacob to submit to his authority. Esau invites Jacob to visit him, but the invitation, even if extended with neutral language, feels like a command, given the circumstances under which it is extended (Gen 33:12). Pretending to be friendly, the parties negotiate about travel arrangements. Esau offers to accompany Jacob (Gen 33:12), a gesture that is superficially polite but that also carries a not-so-subtle assertion of dominance. Jacob, always the clever one, makes the excuse that he might fall behind, thus setting the stage for an escape (Gen 33:13–14). Esau offers to leave some men with Jacob's group—ostensibly another act of politeness but actually an effort to keep tabs on Jacob (Gen 33:15). Jacob once again demurs on the grounds that he

does not need the help (Gen 33:15). Jacob tarries until Esau's party is out of sight and then slips away, never completing the visit (Gen 33:16–17). Jacob's departure accomplishes a dual purpose. It prevents Esau from arguing that Jacob abandoned his patriarchal claims against Esau by submitting to Esau's authority, since Jacob did not submit. Equally importantly, it allows Jacob to argue that Esau has abandoned his claims against Jacob because Esau did not pursue when Jacob left Esau's territory.

Higher Authority

Patriarchal rights may be limited by *higher authority*. For this point we reconsider the binding of Isaac. We previously observed that the Akedah story serves, in part, to endorse a strong form of patriarchal power: Isaac is praised as an exemplar of filial obedience. While Isaac is an important figure in the story, however, the main focus is on his father. Isaac's obedience to his father is lauded, but it is Abraham's obedience to God that receives most of the praise. Abraham dutifully follows God's instructions to sacrifice his son, even though no reason is given for the command and no plausible reason could even be imagined.

The figure of Abraham in the Akedah story serves to code a limit on patriarchal power. God's command, as Abraham hears it, is anything but supportive of patriarchal rights. God tells Abraham to blot out his own legacy. Yet the author endorses the command as proper and legitimate and praises Abraham for obeying it. The message, from the standpoint of political theory, is that patriarchal power is limited by higher authority. The text resolves the tension between patriarchal claims and higher authority by asserting that Abraham's legacy is *strengthened*, not harmed, by his willingness to sacrifice it: God promises to "bless you and make your descendants as numerous as the

stars in the sky and as the sand on the seashore ... because you have obeyed me” (Gen 22:17–18). The text thus argues that the heads of families should obey the commands of higher authority because doing so will enhance their patriarchal power in the long run. The narrative suggests that the power of family heads is limited by the authority of the state, so that they must obey the commands of the king even if they are asked to do something they consider antithetical to their patriarchal privileges or duties.

Nullification

Even if patriarchal claims are preserved, they may be *unenforceable*. The proof-text is the story of Jacob and Esau. When Isaac discovers that he has been defrauded as to the object of his blessing, he recognizes that he cannot take it back. Nevertheless Isaac foretells that Esau will “throw [Jacob’s] yoke from off your neck” (Gen 27:40). The idea is that although Esau is legally obligated to abide by Jacob’s rule, he has the raw power to breach that obligation. In fact Esau consistently acts according to a rule of power that does not respect the legal niceties. Even though he does not dispute the legality of Isaac’s blessing, he vows to kill his brother as soon as the ceremonies of mourning permit (Gen 27:41). When Jacob returns from his sojourn with Laban, Esau continues to behave according to the principle of might-makes-right. He sets out to meet Jacob with force and then intimidates him with thinly veiled threats (Gen 33). This episode recognizes that legal claims to authority can be nullified by brute force. And although superior power does not extinguish the legal claim—at least so long as the proprietor makes the requisite efforts to enforce it—the holder of patriarchal rights may have no power to convert his claims into reality.

Succession

The texts just discussed describe the nature, scope, and limits of patriarchal power. We now turn to the question of *succession*: how is patriarchal authority passed across the generations? Like the Bible's treatment of patriarchal authority, the analysis of succession is subtle, nuanced, and sensitive to the realities of power as well as the claims of theory.

1. Issues of succession are explored in the story of Jacob and Esau. Isaac's wife Rebekah becomes pregnant and senses a jostling in her belly (Gen 25:22). God explains that "two nations are in your womb, and two peoples from within you will be separated; one people will be stronger than the other, and the older will serve the younger" (Gen 25:23). Esau is born with Jacob, the younger twin, grasping at his heel (Gen 25:26). The twins differ in physique and temperament. Jacob is beloved by his mother and Esau by his father.

When the twins are grown, Esau returns from hunting and discovers Jacob cooking up some stew. Apparently famished, he demands some of the food (Gen 25:30). Jacob refuses to share his meal until Esau sells him his birthright (Gen 25:31). Esau says, "I am about to die, what good is the birthright to me?" (Gen 25:32). On Jacob's insistence, Esau swears an oath before taking the food (Gen 25:33). So, the author concludes, "Esau despised his birthright" (Gen 25:34).

This setup presents the issue of succession in clear relief. Jacob and Esau are brothers, each with a potential claim to patriarchal rights. Esau is the elder, but only by seconds, making his priority under the rule of primogeniture almost arbitrary. The order of birth is also not necessarily natural. Rebekah's uterine discomfort and God's diagnosis of her symptoms implies that the twins were fighting in the womb. The narrative suggests

that Jacob might have been the firstborn by nature had Esau, the hardier of the twins, not elbowed him aside. The detail of Jacob clutching at Esau's heel indicates that the struggle for priority will continue once the children are born—as indeed it does. Esau's ruddy appearance is also important. From a political point of view, it associates Esau with the red soil of Edom. From the standpoint of theory, this detail enhances the poignancy of the succession problem. The narrative leaves no doubt that Esau is the firstborn: his coloration and body hair are so remarkable that all of the witnesses would easily identify which child was which—thus precluding an easy avoidance of the problem of succession by claiming ambiguity as to birth order. The marked differences in physique and character also establish that the choice of an heir is important: history would have been different if Isaac's estate had been conveyed to Esau rather than to Jacob.

This story of the birthright is problematic since it records one of the patriarchs behaving in a morally dubious manner. Esau was starving (or at least ravenously hungry), and all he wanted was some food. Jacob was arguably taking undue advantage of his brother's distress. Although theological explanations encounter trouble here, a political reading may take up the slack. From the standpoint of political theory, the story records an exception to the rule of primogeniture by recognizing that a child can alienate inheritance rights.²¹ The emphasis on the enforceability of the bargain works to discourage an elder child (or his heirs) from contesting the transfer, making the transaction more durable in the long run.

2. The story of the blessing of Isaac continues the analysis of primogeniture. Old and nearly blind, Isaac calls Esau and asks him to hunt some game for him to eat (Gen

²¹ Another purpose may be to encode a principle of customary law regarding the enforceability of contracts. See Miller, "Contracts of Genesis," 15–45, here 23–27

27:2–4). Rebekah overhears the conversation and concocts a plot to direct the inheritance to her favorite, Jacob. She cooks two kids from the flock, dresses Jacob in Esau's clothing, and puts the skin of the kids on his hands and neck (Gen 27:14–16). Jacob visits his father and pretends to be Esau (Gen 27:18–19). Isaac is suspicious but believes he is dealing with Esau after touching his hand and kissing him (Gen 27:22–27). Satisfied, Isaac conveys his estate to Jacob.

This text, if anything, is even more theologically problematic than the birthright story. Jacob's conspiracy with his mother is hard to condone, as are the lies that the two tell in order to carry out their plot. From the standpoint of political theory, however, the story can be interpreted as recognizing that patriarchal power can be conveyed by will provided that the testator undertakes the necessary formalities. The text claims that patriarchal rights can be devised to the younger child and that the conveyance, once made, cannot be withdrawn even on grounds of incompetence, mistake, or fraud.²²

3. Further information on inheritance rights is contained in the Joseph story. Jacob goes to Egypt with his sons and there encounters his long-lost son Joseph, who has risen in the Egyptian bureaucracy. Jacob falls ill and Joseph visits him, along with Joseph's sons Manasseh and Ephraim (Gen 48:1–2). Like his father during his final days, Jacob is nearly blind (Gen 48:10). Jacob tells Joseph to bring the boys close so that he can administer a blessing (Gen 48:9). Here the text becomes obsessed with stage directions. Joseph faces his father with his younger son Ephraim at his right hand and his older son Manasseh at his left (Gen 48:13). The ordering seems odd if Joseph wants to preserve primogeniture, since he is giving his more favored hand—the right—to the younger child.

²² See Miller, "Contracts of Genesis," 15–45, 27–31.

But the text explains the reason: Joseph is facing his father, so the child who is to Joseph's left will be to his father's right. Joseph's plan is that Jacob will place his right hand on Manasseh and his left hand on Ephraim—thus favoring the elder child. Jacob, however, recognizes the trick despite his poor eyesight (perhaps he remembers what he and his mother did to Isaac!). He crosses his hands, thus placing his right hand on Ephraim, the younger child (Gen 48:14). Joseph protests, "No, my father, this one is the firstborn; put your right hand on his head" (Gen 48:18). But Jacob refuses to switch.

Unlike other blessings in Genesis, Jacob's blessing does not empower either child to rule the other. Jacob's favor only relates to prosperity and influence. This is evident from the language of his blessing: "Bless *these boys*. May *they* be called by my name and the names of my fathers Abraham and Isaac, and may *they* increase greatly upon the earth" (Gen 48:16). The blessing gives both children equal patriarchal rights. This story refers to later history, when the tribes Ephraim and Manasseh would occupy adjoining territories in the northern kingdom, enjoying formally equal status, but where Ephraim would have greater wealth and influence. From the standpoint of political theory, the story asserts that the right of appointment enjoyed by the holder of the patriarchal right (here, Jacob) need not be exercised preferentially on behalf of either child: the patriarch can convey equal rights to several children.

A Summary

This article has explored the Bible's treatment of patriarchal authority, attending to two central issues: the nature and scope of such authority and the question of succession. On the first issue, the author asserts that holders of patriarchal rights have broad authority and that they are responsible to exercise their power appropriately as the

situation demands. At the same time, the author explores the boundaries of this power. Patriarchal authority is strongest in the case of the relationship of father and sons but becomes problematic in the case of siblings, later generations, collateral kin, and relatives by marriage. Patriarchal authority can be sold, released, abandoned, or trumped by higher authority. Even when patriarchal power exists, it may not be enforceable: claims of superior status sometimes confer no practical benefit because the subordinate party refuses to submit. As to succession, the Bible endorses the norm of primogeniture but recognizes that the patriarch may convey inheritance rights as he chooses, provided he undertakes the legally appropriate actions. Overall, the author recognizes that the priority of patriarchal claims is often contestable and that arguments over status draw from a variety of sources including birth order, family history, marital status, the language of contracts and testamentary acts, the age of the parties, their places of residence, their behavior toward one another, the passage of time, and the parties' power to enforce or reject putative legal claims.²³

²³ The author's account of patriarchal authority is more impressive, in some respects, than the treatments of the topic by later philosophers in the Western tradition. Robert Filmer, for example, draws a wooden and unrealistic equation between patriarchal authority and the authority claimed by the kings. The author of the biblical narratives is more subtle on this point; the connection between the patriarchs and the later kings of Israel is present in the narratives for those who wish to see it, but the author does not make too much of the matter. Like Filmer, the author of the biblical narratives traces the chain of patriarchal authority but also recognizes, to a much greater extent than Filmer, that the passage of authority can be broken, overridden, abandoned, and ignored. A reader of Filmer's book, moreover, would find little that resembled the way authority is constituted and transferred in actual families; the biblical author, in contrast, offers a psychologically sensitive account that resonates with how families operate even today.

The author's account of patriarchy is also in some respects more convincing than the views of opponents of patriarchal theory. Philosophers such as Locke, Grotius, and Rousseau acknowledged the reality of patriarchal power but sought to limit it to the context of actual families and resisted its use as a means for supporting claims of royal absolutism. Rousseau acknowledged that the family may be called the first model of political societies: the ruler corresponds to the father, and the people to the children. He argued, however, that children remain attached to the father only so long as they need him for their preservation. As soon as this need ceases, the natural bond is dissolved. Jean-Jacques Rousseau, *The Social Contract* (trans. Maurice Cranston; Harmondsworth, Eng.: Penguin Books, 1968; orig. publ. 1762). The biblical author offers a more subtle, as well as a more realistic, account of the psychological features of patriarchy: the natural love and affection that parents hold for their children, the wish of fathers to

perpetuate their names through their sons, and the wish of sons to live up to their fathers' expectations and to safeguard the family name and honor.