A PRELIMINARY ECONOMIC ANALYSIS OF THE LAW OF MOSES ON BETROTHAL

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Abstract

The research examines the institution of engagement (*betrothal*) in biblical Israel through the lens of law and economics. Marriage functions as a fundamental legal and economic structure that historically develops through the engagement stage across different cultures. Ancient Near Eastern sources, such as the Lipit-Ishtar Code, the Code of Hammurabi, Hittite laws, and Egyptian contracts, included marriage and cohabitation rules; but Israelite law was the first to create a complete legal-theological framework for betrothal, which became legally enforceable through erusin/kiddushin. The system functioned as a quasi-marriage by imposing both legal and economic obligations and consequences upon couples even before they started cohabiting or engaging in sexual activities.

Despite its centrality, the economics of the law of Moses on engagement has received little scholarly attention. Existing research on the economics of marriage contracts, Judaism, and religiously embedded legal systems has tended to subsume (Mosaic) betrothal within marriage. However, the betrothal system of the Israelites presents a unique package of theological value, unequal commitment requirements, and

continues to serve as a symbolic model for Christian covenantal theology. A much more thorough analysis is clearly warranted. This research thus investigates Mosaic engagement as an independent institution through its own legal and economic logics.

The Pentateuch contains analytical sources that include Deuteronomy and Exodus, together with the Mishnah, which has specific sections in Kiddushin and Ketubot that detail betrothal procedures and initiation methods, dowry and bride-price systems, and marriage termination protocols. The research design combines historical-legal and textual analysis methods with studies of Ancient Near Eastern traditions and economic assessments of transaction costs, risk allocation, and incentive systems. The research then uses a micro-model to study legal framework impacts through a comparison of how Rule A requires a writ to end partnerships versus how Rule B allows partners to exit without a writ.

The conceptual analysis shows that Mosaic betrothal established an optimal system for risk sharing, cost reduction, and incentive alignment during the three stages of the process. The risks were spread out and the investments were small before the engagement, but during the engagement, legal lock-in shifted the risks to protect the vulnerable parties, and at marriage, the husband took on more economic responsibilities. The system also affects transaction costs, which increase exit barriers throughout time to curb opportunism while allowing early assessment activities. The incentive system required careful screening, signaling, and demonstrating their quality before proceeding into full marriage; this encourages couples to invest more during engagement, and higher commitment when they get married.

The formal model shows that Rule A (writ required) produces a superior social surplus than Rule B (cheap break) in all situations, especially when enforcement is strong and stigma is high. Rule A functions to protect vulnerable parties through three mechanisms, which include deterring opportunistic breaches, creating alignment between private and social incentives, and supporting higher ex ante investment. Under Rule B, the system allows privately profitable but socially inefficient breaches, since the weaker side faces most of the reputational and non-

monetary damages. The results demonstrate that rule enforcement stands as a crucial factor because poor enforcement of rules reduces the advantages of strict regulations while making the prohibition to breach potentially useless.

Additionally, this research introduces a simple game-theoretic framework to model the engagement and potential dissolution process as a two-stage game. The evaluation shows that Rule A's high exit costs result in higher pre-agreement investments from both parties and reduce the chance of opportunistic match termination, which leads to stable match equilibria. The second rule establishes such low exit costs that numerous private breaches become profitable even though they result in social inefficiency. The strategic dynamics demonstrate that Mosaic betrothal rules imposed costs of exit, which forced parties to choose solutions that benefited society while safeguarding vulnerable members.

This research acknowledges multiple constraints, which include parameter assumptions, enforcement context sensitivity, kin group external effects, and the omission of dynamic, intergenerational incentives. Future research will expand the textual database through the inclusion of Talmudic and Midrashic texts or Islamic and Roman sources to create a conceptual framework for classifying and comparing Mosaic betrothal with classical contractual categories. We will also improve its modeling through repeated-game and comparative methods.

In conclusion, Mosaic betrothal functions as a complex institutional framework that requires couples to enter binding marriage commitments before they can start enjoying the returns of their investment. By raising exit costs in stages, it reduced opportunism, protected weaker parties, and supported household and societal stability. Mosaic betrothal provisions present both the legal system of ancient Israel and the enduring underlying economic principles behind family formation and commitments in human societies.