

## Womb leasing in ancient Iraq (analytical study for a legal code from the law of Lipt-Ishtar)

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### ABSTRACT

One of the most important problems that facing the society at that time was the problem of sterility and inability to have children ; a large number of couples they were sterile and were not destined to have children normally .

Because of the importance and seriousness of this issue and its great role to survival and sustainability of the ancient Iraqi families , which it depends entirely on the children who play their role in supporting their families ; therefore the ancient iraqi legislator strive for creating suitable solution for this issue ; and this solution represent by sterility, which called in sumerian language ( NAM.IBILA ) opposite by akkadian (mārūtīm) .

Despite the great benefit that achieved by adoption , , some Mesopotamian sterile peoples, attempt to found another solutions guarantee them a children from their own blood .

According to this study we think there is a number of Mesopotamian sterile people went towards a different type of women which mentioned under the Sumerian term (KAR.KID), opposite by Akkadian (harimtum), which mean " prostitute " where she has practiced a new profession we called " womb leasing " or "Alternative Pregnancy" .

**Keywords: Womb leasing; sterility; adoption.**

### تأجير الرحم في العراق القديم (دراسة تحليلية لمادة قانونية من قانون لبت عشتار)

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الخلاصة:

كان من بين اهم المشاكل التي واجهت المجتمع آنذاك مشكلة العقم وعدم القدرة على الانجاب ؛ فقد كان عدد كبير من الأزواج يعانون من العقم ولم يكن مقدراً لهم أن يُنجبوا الاولاد بصورة طبيعية ولأهمية هذا الموضوع وخطورته ودوره الكبير في بقاء وديمومة الاسرة العراقية القديمة لكونها تعتمد كلياً على الابناء الذين يقومون بدورهم في أعالة ذويهم ؛ فقد عمد المشرع لأيجاد الحلول المناسبة له ؛ وقد تمثل ذلك بالتبني الذي أطلق عليه بالسومرية (NAM.IBILA) ويرادفه بالاكدي (mārūtīm)<sup>1</sup> ، الامر الذي دفع الكثير من الأزواج الذين لم ينجحوا في الانجاب للحصول على الاطفال عن طريق التبني . فضلاً عن ذلك نحن نعتقد أن هناك عدداً ليس بالقليل من الرجال سعوا للحصول على الاولاد دون أن يتزوجوا من امرأة ثانية على زوجاتهم اللاتي قمن على خدمتهم وسعين جاهدات لأن ينجبن لهم الاولاد ولكن لم يُقدر لهن ذلك ؛ فكما توجه البعض منهم صوب التبني ؛ فقد توجه اخرون صوب عدد من النساء ألولادات اللواتي كُن بحكم الاجيرات أو الممتهنات لأجارة الارحام لينجبن لهم الأولاد ، وهذه من الامور التي مازال معمولاً بها حتى يومنا هذا ويطلق عليه في الوقت الحاضر (أجارة الرحم أو الحمل البديل) وبالانكليزية (surrogacy) .

الكلمات المفتاحية: تأجير الرحم؛ العقم؛ التبني.

## **Introduction:**

Mesopotamia is a cradle of civilizations and a nucleus which emanate from it the foundations that the ancient human societies have emerged on it. On his land, the first signs of agriculture emerged, which were then one of the greatest revolutions that transferred people from the age of gathering foods to its production. This agricultural revolution encouraged and paved the way for established settlements and villages which was the nucleus of the great cities that were carrying all the elements of civilization; it contributed to transfer the society to a broad horizon which resulting to a great developments such as the first types of regulations and laws that governed and proceeded the society in accordance the rules which enacted and initiated to regulate the affairs of its members.

The ancient Iraqi laws dealt with many aspects which related to organized the life of families and individuals in the community , as well as the legislator devoted many doors to diagnose the social problems that facing them and find the legal solutions that contribute to solve it , and prevent the society from collapsing and dissolution, and that what we called the (personal status law ).

One of the most important problems that facing the society at that time was the problem of sterility and inability to have children ; a large number of couples they were sterile and were not destined to have children normally .

Because of the importance and seriousness of this issue and its great role to survival and sustainability of the ancient Iraqi families , which it depends entirely on the children who play their role in supporting their families ; therefore the ancient iraqi legislator strive for creating suitable solution for this issue ; and this solution represent by "adoption" , which called in sumerian language ( NAM.IBILA ) opposite by akkadian (mārūtīm) .

Therefore many barren couples were prompted to get children by adoption , the ancient cuneiform texts and laws provided us with many references about adoption operation, and set a number of legal and financial conditions that guarantee the rights of all contracting parties, so it is possible for a barren woman who cannot give birth to a adopted child after agreeing with his real parents for a certain amount of money as well as fixing a number of legal obligations between them , which were important to the second party (real parents)<sup>1</sup>, the adopter must provide nursing for the adopted child if he was an infant, and he must recognize him as his real son , even if he will get another children in the future Whether from his own blood or by adoption .

One of the cuneiform texts from the old Babylonian period was mentioned that the two parties agreed that if the adoptive parents have children in the future, the adopted child remains their elder brother, and this means acknowledgment of his right and precedence as being the eldest son , because of its great impact during the division the inheritance, where the elder brother choose the best share <sup>2</sup>.

There are many reasons behind resorting large number of families towards adoption (religious, economic, social); adoption was not monopolized for the families that did not have children but even the families which posses their own blood children <sup>3</sup> .

If we highlight on the liguistic and literary heritage for the Sumerian and Akkadian , specially the proverbs which considerd as a main part of their cultural , we will confirm the truth of what we mentioned before ; for example there is a Sumerian proverb said (when you add a hand to another hand, the man house will build)<sup>4</sup>. Such as the Akkadian proverb (that weak man eats by the his child fee)<sup>5</sup>.

However, although the adoption process has solved a major problem for the community and the sterility women , but they faced another problems, one of it was the nature of the societal view for adoption, cause the most of the adopted children was either a slaves or a foundlings or a destitute families and this will be an obstacle conected with them throughout their life .

As well as the cases of disguise between the adopted child and the adopters , where the cuneiform texts mentioned many cases in which one of the parties disguises ot the another, where the son ( the adopted ) says to one of his parents ( the adopters ) " you are not my father / mother " <sup>6</sup>, or one of the parents says to their son "you are not our son"<sup>7</sup> and this is possible because the adopted person is not from the same blood of the adopters , aswell as they are not linked with the association of true parenthood .

Despite the great benefit that achieved by adoption , regardless of what we have mentioned above about the positive and negative aspects of adoption , some of Mesopotamian sterile peoples, attempt to found another solutions and alternatives that prevent them from adoption and guarantee them a children from their own blood .

Although the cuneiform texts and laws did not mention anything about this alternative ; but through highlighting and the careful analyzing for a number of legal codes from the laws of Lipt Ishtar and Hammurabi ; we found a number of semiotic signs which confirm existence alternative to adoption , and the most important thing in this signs is the contradiction with the logic and the societal customs and traditions that prevailed in Mesopotamia. where imposed the reader to think hardly for the true purpose behind it , and seeking for its essence .

According to this study we think there is a number of Mesopotamian sterile people went towards a different type of women which mentioned under the Sumerian term (KAR.KID), opposite by Akkadian (harimtum), which mean " prostitute " <sup>8</sup> where she has practiced a new profession we called " womb leasing " or "Alternative Pregnancy" .

First of all , Before we begin to analyzing these legal codes , we must first highlight a number of questions that will help us to elaborate and understand how to separate between the titles which possess more than meaning to distiguated the real point ,then to explain the vague things which involved in such topics.

- What is the definition of prostitution ?
- What is society's view of prostitution ?
- What the term KAR.KID represents ?

#### **Definition of Prostitution:**

Prostitution has defined by more than one definition , and all of it agreed that it was an illegal act , as follows:

- "Every sexual contact has fallen with out marriage and nor the right hand possess (as handmaidens) <sup>9</sup>
- Prostitution is sexual relationships for a fee.<sup>10</sup>
- Prostitution is an abomination for women.<sup>11</sup>
- Prostitution is illegal sexual relationships of men and women for money or for love and sexual pleasure .<sup>12</sup>

### **Community attitude from Prostitution:**

A number of researchers pointed out that prostitution is the oldest profession in history<sup>13</sup>, and it has more than type and each type of has a reasons that helped it to emerge , as it follows

- commercial prostitution adopted by a person who employing a number of women in a bar or brothel , and main purpose behind it is to profit money .
- debtors prostitution , for a women who fallen under the burden of debtions , which leads them to sell themselves 14; and this will led them to practice the prostitution to pay back their debts
- poverty prostitution for a women who cannot provide a living for herself and her family .
- Slave prostitution to liberated from the slavery .<sup>15</sup>

Despite that the ancient Iraqi legislator had mentioned the Prostitution ; and showed us the attitude of the society and the law towards it , and the types of punishments imposed on the perpetrators of this sin , but we found in some cases that the ancient laws (Uru inimgina, Urnamu, Lipit Ishtar, Ashnuna, Hammurabi, Middle Assyrian laws); did not hold them accountable for the act of adultery<sup>16</sup>, probably because legislator want to maintain the centrality and balancity in society ; where he did not punished the women who engaged in prostitution by thier own will , because they worked in isolated place , dedicated to such activities , and the pioneers only those who wanted to practice prostitution without prejudice to the safety of society.

But concerning the normal people , regardless of their social status ; he punished them in order to prevent them from repeating this shameful act ; where the gods refused and despised those who commit it and punished them<sup>17</sup>.

The cuneiform writings refer to the king Uruinimgina the governor of lagash<sup>18</sup> ; where he faced at beginning of his reign , the phenomenon of polygamy in the community of lagash , because of decreasing the numbers of men among women as a result of wars , where most of men killed or fall into captivity ,or even because of divorces , where they usually divorce their wives in secret, in order to avoid paying fines for divorce<sup>19</sup> ; as well as in case were the husbands abandoned their wives<sup>20</sup> , or even because of the migration of men from the city<sup>21</sup>.

Although the phenomenon of polygamy did not represent the adultery , and the woman who married two men was not an prostitute, cause she married in accordance the law that prevailed at that time, but because of the seriousness of this phenomenon and the consequent disintegration of families and losses of genealogys<sup>22</sup>, the ruling authority rejected this situation cause they feared for the families and society from collapsing .<sup>23</sup>

Therefore the King Uruinimgina and as a precautionary step to eradicating this phenomenon peoceeded immediately to enacted a number of deter laws for the woman who marries more than man , where she will stoned till dieing , also she will defaming inside the court of Lagash that established at that time<sup>24</sup>,as well as he canceled the tax that imposed on divorcing because he believed it was a main reason behind the deterioration of the situation<sup>25</sup>.

Regarding the King Urnammu, the establishment of the third dynasty of Ur (2113-2095 BC)<sup>26</sup>, the legislator of the oldest law that discovered in the cities of southern Iraq<sup>27</sup> . His law containd many codes about the personal status law , where the codes (4-5) deal with the crime of adultery<sup>28</sup>,and the punishments imposed on it<sup>29</sup>.

The fourth code

" a married woman who seduces a man with her beauties and committing the crime of adultery "30.

In this case, the law gave the husband the right to kill his wife for being guilty 31 , but there is no punishment for the man "adulterer"32 who was seduced with the beauties of this deceptively woman 33 .

The fifth code states :

If a man rape a slavegirl and removes her virginity forcibly .The law imposed him to pay five shekels of silver to her master 34 ; as a compensation 35 .

The code (27) states :

(If a man gives the daughter of a man a dowry , but another man abducted her and took her despite her rejection (removes her virginity forcibly) without the consent of her father, this will be a case of (murdering ) , and abductor must die)36 .

This code shows that the abduction of a woman which on a verge of marriage and raping her is a crime such as the crime of murder 37 , therefor the legislator punish those who try to carry this crime by death 38 .

The code (29) states :

(If a legitimate wife caught in the lap of another man , she must die and not survive) 39 .

This code shows that the wife who desecrated the honor of her husband , do not deserve life, and the law dealt with her firmly and punish her by death. 40

Concerning the law of Hammurabi, the sixth king of the first dynasty of Babylon 41 , which ruled within the (1792-1750 BC)42; where was written down in the latest years of his reign 43 ; and as in the other previous laws , the king Hammurabi dealt with all cases of rape and adultery firmly , and even the cases of false accusations , where it was rampant in ancient Babylonian society 44 .

We found that the legislations of this law was varied , and one of its divisions was the codes of ( personal status )45 .

Where the legislater shown us a number of adultery cases that he dealt with , such as the adultery of the spouses as in the code (127, 133) , and the cases of incest as in the codes (154-158) .

The codes (132,131,127)

dealt with indictments and its put an end to those who attempt to accuse a married woman falsely with adultery . Were the code (127) states the following:

(If a man causes to point the slander finger at another man's wife, but he has not been proven, they should whip him in front of the judges and shave half of his head , and his brow shall be marked ). 46

As well as, the code (131) states:

If a husband accused his wife, but he has not been proven, she must take an oath by the gods life, regarding to her innocence, then she return to her home. 47

The Code (132) states as follows:

If a man causes to point the slander finger at another man's wife, but they did not catch her while she commit adultery with the second man , she must throw herself into the river (to prove her innocence) for her husband.<sup>48</sup>

Code (129) states as follows :

If a man's wife caught while she lying with another man, they must tied them together and throw them into the river .If the husband wanna keep his wife's life, the king will keeps the life of his servant ( the other man) <sup>49</sup>; we found in this code , a reference to the gravity of this crime, which the legislator did not tolerated, and punished who commit it by death .

Also the code (133)

punished the infidel wife by throwing her in the water, if it is proven that she entered at a house of a foreign man , while her husband were in captivity , despite that her husband has left her enough supplies to support her during his absence <sup>50</sup>. For the law and the people ; entering her to a house of another man indicates that she has married him , despite that she already a wife of another man <sup>51</sup>.

This will appear to the legislator as infidels because it fall under the sin of polygamy for women ؛ because that her absent husband did not divorce her , and she still under his custody, especially he has left her enough supplies to support her and her children<sup>52</sup> , therefor the legislator sentenced her by death.<sup>53</sup>

The code (130) stipulates that:

If a man surprised (raped), another man's wife, which she did not yet recognize any man . Also she still living in her father's house, and lying in her lap, then they arrested him (during this time) , this man will be killed and they release the woman <sup>54</sup>.

Concerning the code (128) :

it leaves no doubt ,that the community rejects the adultery , categorically , and leaves no loophole which can legalized the cases of adultery through it . (If a man takes a wife , and does not write her contract (marriage contract) , this woman is not a legitimate wife ) .

We note here that the legislator stated that the man had been officially married . But he did not confirmed his marriage contract , then the marriage considered invalid and illegal, also the woman is not his wife . Where the marriage contract is considered as the main legal condition to guarantee the rights of spouses <sup>55</sup>, were they will registered all the details in a written contract and witnessed by many witnesses <sup>56</sup>.

Concerning the codes (142 / 143)

the ruling authority has taken upon itself the responsibility to carry out the punishment of the adulterous wife, by throw her in to the river , if she is asked to be divorced from her husband ,after being caught practicing adultery , as well as , in case that the city administration confirmed through the monitoring process , that the suspected wife was ( unstable , and staying out of the house most of time , then that will led to ruin her home and degrade her husband).

This code showing us that the State considered that the matter between the spouses had become ended, and husband could not forgive his wife , therefor the city administration spent great effort to monitoring the suspected wife , just to prove her deviation or not , because the ruling authority was feared that the society would be influenced by the bad behavior of the adulterous woman .

Regarding to the incest , the ancient iraqi legislator has paid on it a lot of attention, cause its one of the dangerous broplim which face the community , and distort the constants which can not be touched

#### Where the code (154)

deals with the adultery of the father with his daughter as it follow : (If a man slept with his daughter, they must expel that man from the city) <sup>57</sup> .

#### While the code (155)

refers to the adultery between the father and his son's wife, which states the following: (If a man has chose a bride for his son, and his son has (carnally ) known her , then the father lies in her bosom , and they catch him , they shall bind him (the father) and cast him in to the river )<sup>58</sup> .

#### Whereas Article 157

sets out the punishment of a man who commits adultery with his mother , it stipulates the following: If a man lies in his mother's bosom, (after the death), his father , they shall burn both of them <sup>59</sup> .

#### The code (158) stipulates the following:

If a man (after the) death of his father, is caught in the bosom of his chief wife who is the mother sons , that man must be expelled from his paternal estate <sup>60</sup> .

From what we mentioned above , we realized that the ancient Iraqi society ,refused the action of adultery , even they imposed the most severe puneshments , "death" for every person who attempts to contaminate the reputation of any woman and accused her with adultery , because this charge would destroy the family and society.

#### **The Sumerian term KAR.KID:**

Concerning the Sumerian term (KAR.KID), opposite by Akkadian (harimtum), it's a term that refer to the "prostituts". The most important thing in this term , it was not only refer to the prostitutes who commit adultery with the public, but also went beyond this to be a popular title for a large number of women, whether they engaged in prostitution or not ; where this term dealt with the sensible side rather than the tangible one .

Many kinds of women where included under this term despite they were not prostitutes, but contrarily, some of them had a high and prestigious position in the ancient Iraqi society, such as the priestesses who were represent the higher social ranks .

Where,the Semitic word harimtum, usually translated as "prostitute," was often written with or close to the titles of female cultic personnel . As a result those women became "tainted"<sup>61</sup> , and thus all the female cultic titles were translated as "sacred or temple prostitute"<sup>62</sup> .

As well as, the cuneiform sources showed us that the kings were boasted to consecrate their daughters and sisters as priestesses to served the God. Concerning the great priestess Nin.Dingir / entu , " "Lady deity" or "Lady who Is Goddess" "<sup>63</sup> , though she was the most chaste and pure women in the ancient societies ; and according to the Mesopotamian law codes, had to adhere to "strict ethical standards"<sup>64</sup> , where she was the great priestess of the god which chosen by the omen<sup>65</sup> , as well as her pure lineage that back to the ruling dynasties ; but despite all that she was one of the women whose name was preceded by the Sumerian term "KAR.KID" .The main reason behind that , just because she has participated in the rituals of the secret marriage ; which we thought it's depend just on the simulation sexual intimations , without the real act of the sexual contact .

Whatever else she was, she was not a prostitute. For a certain period, the "Sacred Marriage" was an important fertility ritual in Mesopotamia<sup>66</sup> . As a result of the king's participation, whatever form it took, he became Inanna's consort, sharing "her invaluable fertility power and potency. Where the epic of Atrahasis mentioned the conversation that took place between the god Enki and Atrahasis , when he taught him the way to reducing the population<sup>67</sup> ; as it mentioned at the Akkadian phrase :

- li-ib-ši-ma i-na ni-iš pa-ši-it-tu
- li-iš-ba-at še-er-ra i-na bi-ir-ku a-li-it-ti
- šu-uk-ni u<sub>3</sub>-uk-ba-ak-ka-ti e-ne-ti u<sub>3</sub> e-gi-ši a-ti
- lu-u<sub>2</sub> ik-ki-bu ši-na-ma a-la-da-am pu-ur-si

That means " Let there be among the peoples the Pašittu-demon, To snatch the baby from the lap of her who bore it. ( and ) Establish Ugbabtu-women, Entu-women, and igišitu-women, And let them be taboo and so stop childbirth."<sup>68</sup> .

It can also be said "put instead of them the priestesses of ugbakkâti,ênti and egisiati because sex is forbidden for them "<sup>69</sup> .

This will refutes the doubts and the false accusation ,which made the ENTU priestesse as a tool or a means to satisfy the temple's sexual purposes ; while cuneiform sources showed us that she was living in a houses known by chastity and purity ,subjected her to a strict ethical conditions As well as ,the same thing with the priestesse of "LUKUR / naditu" , the priestesses were high-status women who were expected to be chaste <sup>70</sup> , and also belonged to the royal and noble families of high social prestige in society<sup>71</sup> , also she represented a symbol for chastity and purity .

Where some cuneiform sources mentioned that some of naditu priestesses had entered the temple since their childhood ; to prevent them from mingling with people and to give the god and the temple pure priestesses that not defiled by sins.

As well as the cuneiform sources did not tell us what happened in the temple's ritual bedroom, not even whether the participants were human beings or statues<sup>72</sup> , also it's never mentioned any evidence to confirm that their duties included the sexual activities for the ritual of the sacred marriage <sup>73</sup> ; on the contrary, this type of priestesses was destined for them to preserve their purity and virginity; probably because the ritual of the temple " ritual of the sacred marriage " , require the virgins priestesses who are not stained with sins , and they did not have sexual relationships with any man .

Moreover , the codex of Hammurabi gave the naditu priestess the right to marry and have a family , provided that she did not give birth. But she can offer her maid or even inferior priestess to her husband as a bride to have children .



It can be said that this marriage was formal and not like the common marriage ; and this was evident from the fact that she did not give her husband a children, but she offered her maid as a wife to her husband to give him the children, and in some cases she resort to adopt a child , and usually she adopted a girl .

Therefore, we must distinguish that the term (KAR.KID) is not a specific title for the prostitution , but contrary it is a holistic title dealing with all semantics which interpreted as being a sexual nature , whether it included sex or its only a fertility simulation rituals , as is the case with the term "Art", which represents a comprehensive title of various patterns of art ; such as the acting , music , dancing , singing , literature, poetry, etc .

### **Analytical study of a legal code from the law of lipit Ishtar**

Before plunging into the details of this legal codes and proceed to analyze it, we would like to show that the ancient iraqi laws and even the cuneiform texts did not mention any explicit signal about this subject " womb leasing " , and our most information entirely based on analysis and extrapolation of a number of legal codes from the laws of lipit Ishtar and Hammurabi

The code (27) from the law of lipit Ishtar states :

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|--|--|
| 1. <i>TUKUM.BI LU<sub>2</sub>.U<sub>3</sub> DAM.A.NI</i> | 2. <i>DUMU NU.UN.ŠI.IN.TU.UD</i>                       |
| 3. <i>KAR.KID.DA TIL<sub>2</sub>.LA.A</i>                | 4. <i>DUMU IN.ŠI.IN.TU.UD</i>                          |
| 5. <i>KAR.KID.BA</i>                                     | 6. <i>ŠE.BA I<sub>3</sub>.BA SIG<sub>2</sub>.BA.NI</i> |
| 7. <i>IN.NA.AB.SUM.MU</i>                                | 8. <i>DUMU KAR.KID.DE<sub>3</sub></i>                  |
| 9. <i>IN.ŠI.IN.TU.UD.DA</i>                              | 10. <i>IBILA.NI I<sub>3</sub>.ME.EN</i>                |
| 11. <i>UD DAM.A.NI A.NA TI.LA.AŠ</i>                     | 12. <i>KAR.KID DAM.NI.TA DAM.RA</i>                    |
| 13. <i>E<sub>2</sub>.A NU.MU.UN.DA.AN.TUŠ</i>            |  |

If the man's wife does not born a boy (to her husband) but prostitute from the street, is born a boy to him , then he must provide that prostitute with grain, oil and clothing. The boy who born by the prostitute will be his heir, and as long as his wife is alive, the prostitute will not live at the house with his wife.

After highlighting this legal code we found that there are many references, some of which contradict with the legal codes from the same law and other laws too , as well, its contradict with usages, traditions and even with logic , and these contradictory things lead us to ask many questions , which will confirm the validity of this assumption or not , as follows :

- Why did the legislator not use the term of marriage (NAM.DAM.ŠE3) with the prostitute , like the rest of the cases which mentioned in the legal code from the same law such as the code (26). ?
- Why did the legislator mentioned that the woman who born the children for the man as a prostiute ; despite the community was rejecting the prostiution , as well as why he did not refer to the free woman or even the maid , ; is it possible that this prostiute will be a different kind of prostiutes ?
- How did this man know that prostitut was pregnant from him , although that she is a commodity , which anyone can get it , therefore she could be pregnant from anyone ; as well as the woman does not know about her pregnancy only after a period of time , and during this period she stilled practicing her profession with other men .
- Why did the legislator did not allowed the prostitut from entering the man's house as long as his wife is alive , but if she dies the prostitut will enter the house but not as his wife .

Concerning the first question , we note that the legislator did not use the term of marriage (NAM.DAM.ŠE3) in the case of the prostitute , while he use it in code (26) from the same law, when he marries his maid , as follows :

- |   |   |  |
|---|---|--|
| <b>1.[TUK]UM.BI [DAM].NI.TA</b>                 | <b>2.DAM.A.NI [BA].UG<sub>7</sub></b>                         | <b>3.[EG]IR</b>                                  |
| <b>DAM.A.NA.TA</b>                              | <b>4.GEME<sub>2</sub>.NI NAM.DAM.ŠE<sub>3</sub></b>           | <b>5.[BA.A]N.DU<sub>12</sub>.DU<sub>12</sub></b> |
| <b>6.DUMU DAM.NI.TA</b>                         | <b>7.[DAM.A.NA] IBI[LA.A.NI</b>                               | <b>8.I<sub>3</sub>.ME.EN]</b>                    |
| <b>9. DUMU GEME<sub>2</sub> LUGAL .A.NI.IR]</b> | <b>10.IN.ŠI.IN.TU.UD</b>                                      | <b>11.DUMU</b>                                   |
| <b>DUMU.GI<sub>7</sub>.GIN<sub>7</sub>.NAM</b>  | <b>12.E<sub>2</sub>A.NIIB<sub>2</sub>DUG<sub>3</sub>G[E].</b> |  |

If his first wife dies and he marries his maid , then the son of his first wife will be his heir (the main heir ) , and the son of his maid will be equal to the free son , and they give him his share from the property. We find here that the legislator has used the act of marriage (NAM.DAM.ŠE3) to confirm the state of marriage between the man and his maid ; while he could take her without marrying because her being his maid (GEME<sub>2</sub>.NI) and this what the other legal codes show it ; however that she is a maid , but the law allowed the free man to marry her; as well as the law guaranteed her legitimate rights . therefor there is a huge different between the maid and the prostitute , where the law did not allowed the man to marry the prostitute .

Regarding to the code (27), which represents the theory of this article, the legislator never used the aforementioned marriage act, despite that the woman "prostitute" gave the man the children , and also entered at his house after the death of his first wife; perhaps because he want us to think that the whole process is purely a commercial operation between the man and the woman which falsely accused with "prostitution" .

Through the deep comparing between the legal codes of a different laws , we thought that this woman is not a "prostitute", but she was professional woman , worked as human incubator , where the sterile couple direct towards a professional woman which used to leasing her womb to carry the fetus instead of his sterile wife .

So we think that this woman has practiced a new profession that we called "Womb Leasing " or "Alternative Pregnancy". Therefore the legislator imposed the man to equip her with grains, oil and clothing, which are the basic necessities that a pregnant woman needs during her pregnancy; this obligation ends with the end of the pregnancy and childbearing; used to install and ensure wife's rights as stipulated by law . Moreover, the legislator did not give the men the right to marry an prostitutes .As well as he warned not to contact or dealing with them to protect the families and society from disintegration and collapse because the prostitutes is an undesirable entity in society; and the code (30) confirm this as it follows:

- |  |   |
|--|---|
| <b>1. TUKUM.BI GURUŠ DAM.DU<sub>12</sub></b>                     | <b>2. KAR.KID.DE<sub>3</sub></b>                    |
| <b>3. TIL<sub>2</sub>.LA.A IN.DU<sub>12</sub>.AM<sub>3</sub></b> | <b>4. KAR.KID.BI.IR</b>                             |
| <b>5. NU.UN.ŠI.GUR.RU.DA</b>                                     | <b>6. DI.KU.DE.NE IN.NA.AN.EŠ</b>                   |
| <b>7. EGIR.BI.TA</b>   | <b>8. DAM.NI.TA.DAM</b>                             |
| <b>9. DAM.A.NI BA.AN.TAG<sub>4</sub></b>                         | <b>10. KU<sub>3</sub> DAM.TAG<sub>4</sub>.A.NI</b>  |
| <b>11. U<sub>3</sub>.NA.AN.SUM KAR.KID</b>                       | <b>12. BI.NU.UN.DU<sub>12</sub>.DU<sub>12</sub></b> |

If a married man has a sexual relationship with a prostitute from the street , and the judges command him not to return for contact with her , but later he divorced his wife and paid her dowry, he will never marry the prostitute, (even that he divorced his wife) .

This is an explicit indication that the law prevent the men from marrying the prostitutes, and if we want to make a comparison between the code (30)and the code (27) that we mentioned before; we will find a huge difference in the legal material of the two codes .

Where the legislator in the code (30) prevent the man from marrying the prostitute or contact with her in any way ; even that he divorced his wife . While in the code (27), we notice the the legislator imposed the man to provide the prostitute ( the human incubator ) with grains, oil and clothing, because she need it during her pregnancy period , but also he did not use the act of marriage to confirm the case of marriage, despite that she gave the man the children .

In this case we will faced a great contradiction ; because the legislator in the code (27) imposed the man to offer the living requirements to the prostitute ; while in the code (30) , prevent him from marrying the prostitute , so the most important question her is ; what is the difference between the two prostitutes in these codes ?

Therefore we think that the legislator has used the term "KAR.KID" "prostitution",in the code (27) because he did not dealing with a virgin or even a widow , she was sitting in a house which has its own rules and regulations , with a responsible person, such as the head of family (father) in the case of free women or the master in the case of the slave girl (maid) ; but he dealt with a woman has an independent entity , who is not subject to the restrictions to which a free woman or maid are subject to it , also she responsible on herself and had the freedom to control on her lifestyle and her activities .

For more confirming we notice that the legislator did not indicate that the man who wanted to have children may treat with an employer as if she was a public prostitute of the general prostitutes who reside in a brothel run by a responsible person , as well as he did not mentioned any mediator between them to facilitate this process, but he dealt with her exclusively , Therefore, because that the nature of this profession "womb leasing or alternative pregnancy" may included sexual contact with the men who wanted to have children ; this is what led the legislator to precede her name by the term (KAR.KID) "prostitute"

As with the case of the naditu priestess , which her name was precede with the same term (KAR.KID), despite that she only participated in the rituals of the secret marriage ; which depend just on the simulation sexual intimations , without the real act of the sexual contact .

We believe that quite a few sterile men have sought to get children without marrying a second woman on their wives who have trying hard to have children but have been unable to do so . Some of these men went towards adoption , and others have gone to a women who knwon by thier fertility , where they used to leasing thier wombs to the people who can not have children , and this is still in force to this day ; in this case , the sterile man will be ensure that he will get a child from his own blood .

The most important question which will help us to prove that this woman is not an prostitute , is how did this man knows that this prostitute becamed pregnant from him and did not from others; where this will be unbelievable and contradicts with logic, , especially since the prostitute is the property of the all, where it is like a commodity that anyone can get it .

As is known to all that in many cases, the prostitute may associated with many stranges men during the day. How can we believe that a man has contact with prostitute from the street , then after a period of time she told him that she had became a pregnant from him , even though the woman can not know anything about her pregnancy only after a period ; because the pregnancy does not happen overnight.

Where the science during the present time ; proved through the advanced pregnancy screening devices that the women can know about her pregnancy within a period of time between (7/10 days).

Regarding the women in ancient Mesopotamia ; certainly they will needs more time to know about thier pregnancy , especially that they rely on follow-up the symptoms of pregnancy that appear later and especially menopause, that means the woman may need about three or four weeks to know if she is pregnant .

During this relatively long period of time, this woman who professioned the prostitution will still practicing its work which basis on satisfying the sexual desires of men ; where that the nature of this profession attracts a large number of men and for a certain time , which is hardly more than a few minutes , a few hours, or even a night, if we want to exaggerate a little, Therefor and without doubt that she may have been pregnant by anyone who has sex with her , so it is very difficult for her to know when the pregnancy occurred or even the man that she became pregnant from him .

This can be possible if she had contacted with one man only ; and that mean she is not a prostitutes , or at least it's not like the rest of the prostitutes who concerned to satisfying the sexual desires of men .

It is also unreasonable that this man who has relationship with the prostitute from the street , believed her claims that she was pregnant from him just because she said that ; and immediately head for to equip her with the grains , oil and clothing , the requirements that she needs during her pregnancy, as if she were his wife , as well as he recognized her child as his own son, and named him as his legitimate heir.

This will not be happened unless he is confident that this woman did not connected with anyone else , as well as that the child from his own blood , because no one can obliged him to recognized this child , especially since no one can prove that this prostitute has been pregnant by him .

Therefor we think that this woman is not a prostitute , but she was a profesional woman ; worked as a human incubator , in order to have children to the people who were unable to have children normally .

### **Conclusions :**

- 1.The Sumerian term KAR.KID represent a popular title dealt with the prostitutes who commit adultery , and the women who not engaged in prostitution ; where this term dealt with the sensible side rather than the tangible one .
- 2.We believe that the ancient Iraqi legislature has succeeded in creating a new system ( Womb leasing ) , which helpt many families to obtain children from their own blood .
- 3.We thought that the motive behind this nwe system was linked with two main reasons

The first one was to protecting the families ties from breaking down if the sterile man decided to marry another woman , which will affect on the marital relations . so the new system enabled them to avoid these obstacles and getting children form thier own blood without marrying a second woman on their sterile wives .

The second one was to avoiding the problems resulting from adopting children who are not from their blood , such as the cases parental denials that accompanied many cases of adoption.As well as the bullying and persecution that will accompany the adopted child throughout his life .

4. The woman who mentioned in the code ( 27 ) was not the wife of the man because the legislator did not used the formula of marriage NAM.DAM.ŠE<sub>3</sub>.

5. The woman who mentioned in the code ( 27 ) is not a prostitute , but she was a profesional woman ; worked as a human incubator used to leasing her womb to carry the fetus instead of his sterile wife .

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