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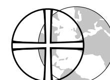

What Biblical Scholars Wish Pastors Would Start or Stop Doing about Ethical Issues in the Old Testament[1]

TERENCE E. FRETHEIM

How should the Old Testament be approached in matters moral? In addressing this question, pastors often neglect Old Testament scholarship, and understandably so. Much biblical scholarship is narrowly historical-critical and does not seek to draw out the ethical-theological dimensions of the text. Consequently, it takes much time and effort for pastors to wade through the technical details to discern the ethical implications. Old Testament scholars could make their material more "friendly" to readers interested in such questions.

Several other factors are at work in the neglect of the Old Testament by pastors as they seek to address moral issues. I list several of them, which overlap:

1. Our world raises many ethical issues that the Bible does not reference.
2. Scripture works with many perspectives that have little if any pertinence to today's world, from the treatment of women and slaves to severe punishments.

[1]The original form of this paper was addressed to Christian ethicists at the Society of Christian Ethics session, Society of Biblical Literature, Atlanta, November 2010.

The Old Testament needs to be brought to bear on matters of morality and ethics in Christian conversations, but often such use is difficult or less than fruitful for a variety of reasons. Here is a "wish list" that attempts to work toward improvement of that state of affairs.

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3. The Old Testament especially is thought to be problematic ethically (e.g., its violence; its presentation of God) and hence is less helpful than the New Testament, though New Testament violence finally exceeds that of the Old Testament (especially, *eternal* violence—the gnashing of teeth in the fires of hell for all eternity, e.g., Matt 25:30; see Rev 14).
4. Questions arise about the authority and consequent use of the Bible. Biblical texts are often cited as authoritative for a given ethical issue—and, all too often, that is the end of the conversation. It should be noted that a distinction between the authority of the Bible and the authority of a particular interpretation of the Bible is often not as crisp as it should be.
5. Ethical differences among Christians are often sharp. The Bible is a significant contributor to this contentiousness, so many stay away from it. It is not enough simply to appeal to the believing community, for differences among believing communities are immense. At the same time, such differences on the same topics are also often evident among non-Christians.

In view of these factors, I address six "wishes" for a pastor's use of the Bible as a resource in working with ethical issues. Other "wishes" could certainly be added.

1. I wish for greater concern regarding the creation-based character of Old Testament law.

As B. D. Napier stated long ago: "Hebrew Law, in its present total impression, has its clearest roots in [Israel's] creation-faith."[2] Law is integral to God's work in creation, and it is formulated in the creation accounts both as positive command (Gen 1:28) and as prohibition (Gen 2:16–17). That law is presented in both creation accounts suggests a long-standing linkage of law to creational reflection in Israel (though historical issues are uncertain).[3] At least canonically, law is recognized as a pre-sin reality, part of God's "good, but not perfect" creation.[4] To obey the law is to be in tune with God's creation. And so, before there is any talk about the elect people of God, before there is any reference to God's redemptive work, before there is any appeal to Sinai, sharply drawn ethical considerations are brought forward. Canonically, the law is given a *universal frame of reference*. Other pre-Sinai narratives are also revealing of creational law. For example, no explicit law regarding murder had been given, but human beings like Cain are held accountable (made explicit in Gen 9:1–7). Or, in the story of Sodom and Gomorrah, Abraham appeals to a creational moral standard that holds even God accountable (Gen 18:25).[5]

[2]B. D. Napier, "Community under Law: On Hebrew Law and Its Theological Presuppositions," *Interpretation* 7 (1953) 413. For my own work in this area, see Terence E. Fretheim, *God and World in the Old Testament: A Relational Theology of Creation* (Nashville: Abingdon, 2005), specifically the chapter on "Creation and Law," 133–156.

[3]For a brief discussion of the historical origins of Israel's creation-faith, see Fretheim, *God and World*, xiv–xvi.

[4]For this language, see Terence E. Fretheim, *Creation Untamed: The Bible, God, and Natural Disasters* (Grand Rapids: Baker, 2010) esp. chap. 1.

[5]See Fretheim, *God and World*, 135–144. An important, though neglected, study on this matter is James K. Bruckner, *Implied Law in the Abraham Narrative: A Literary and Theological Analysis* (Sheffield: Sheffield Academic Press, 2001).

The law is given in creation because God is concerned about the best possible life for all God's creatures. At least three particular motivations may be given: (a) To keep cosmic order and social order integrated in a harmonious way. For example, human sin can negatively affect the natural order so that it ceases to serve life in the way that God intended (see, e.g., Hos 4:1–3). (b) To make clear that all individuals and communities are accountable to law; human beings are not free of law just because they do not belong to the chosen people. For example, more than thirty oracles against the nations in prophetic literature hold them accountable (e.g., Amos 1–2). (c) To serve the proper development of God's good but not perfect creation (see Job 38–41). The law is given for the sake of a stable, flourishing, and life-enhancing *creational* community.

It might be noted that in the common focus on love of neighbor we could become anthropocentric in our ethical concerns. What about the good of the larger creation?

Law, then, is not a new reality at Sinai. Rather, Sinai is a fuller particularization of the law given in creation, specifying how the chosen community can take on its God-given creational responsibilities for the sake of life in view of new times and places. Israel, like the first human beings, is caught up by God in a vocation that involves the becoming of the creation. To obey Sinai law is to live in harmony with God's intentions for the creation.

It might be noted that in the common focus on love of neighbor we could become anthropocentric in our ethical concerns. What about the good of the larger creation? Or, note that the Ten Commandments exhibit no special concern for the environment; yet, the Old Testament has many such reflections, grounded in creational law (e.g., Deut 11:10–12). Sometimes, I hear in ethical reflection a remarkable emphasis on motivation centered in God's redemptive work. For example, God has acted redemptively on our behalf; that should motivate comparable action on behalf of the other. But I ask: Can such reflection lead to a "soteriological reductionism" that downplays the work of God in creation, which also provides motivation and energizes ethical reflection? To be sure, what God has done in redemption provides high levels of motivation—but, to engage in what activity?[6] The creational context for law is a crucial foundation for filling out responses to that question.

It is not my purpose in this paper to discuss the significance of law given in creation for reflections on "natural law."[7] But in such discussions, it is important to note that the law is presented in the Bible as an ongoing gift of God in creation and not as a

[6]It should be noted that creation theology is a prevailing theme in the book of *Exodus* in both narrative and law; see Terence E. Fretheim, *Exodus* (Louisville: John Knox, 1991), for references to many texts.

[7]See Bruckner, *Implied Law*, and John Barton, *Understanding Old Testament Ethics: Approaches and Explorations* (Louisville: Westminster/John Knox, 2003). For a perspective from an ethicist, see Gary Simpson's recent article, "'Written on their hearts': Thinking with Luther about Scripture, Natural Law, and the Moral Life," *Word & World* 30/4 (2010) 419–428.

static reality. And that biblical reality needs more careful consideration. God's creation embodies a moral order that is part of the fabric of all existence and is appealed to in many contexts apart from the particular moral traditions of God's revelation to Israel.

2. I wish for more interest in the interweaving of law and narrative in the Pentateuch and the implications for understanding law.[8]

Elucidating Israel's story/narrative has been an important development in thinking about the Old Testament as an ethical resource.[9] In addition, however, it is important to note that narrative is interwoven with law in the Pentateuch. From Exod 12 on, the rhythm of genres is that of story-law-story-law, etc. (with varying degrees of intensity). God's law is not drawn into a code; it is integrated with the story of God's gracious activity. Law is presented as intersecting with lives filled with contingency and change, with complexity and ambiguity. Hence, Israel's law is not understood to be a static reality, intended to remain the same for all times and places. Indeed, the formulations of Israel's law take ever new experience into account while remaining constant in their objective: the best life for all. This literary reality is a profound witness to the fact that Israel understands *law as process* rather than as a fixed entity.[10] It needs to be emphasized that law and narrative are integrated in the Pentateuch. Neither law nor narrative in itself is sufficient.

3. I wish for more attention to the fact that in Exodus through Deuteronomy the entire narrative context for law is wilderness wandering or journey.

Wilderness wandering is an image for the basic character of Old Testament law. Law is presented as a dimension of a *journey*, a journey in relationship with God. It turns out to be a journey for both God and Israel.

On the one hand, the law provides something of a compass for wandering in the wilderness. On the other hand, the contingencies of wilderness wandering keep the law from becoming absolutized in a once-for-all content. Law, in and of itself, tends to promote a myth of certainty, suggesting that God's will for every aspect of life is the same in every time and place. Actual life, however, especially when seen from the perspective of a wilderness journey, is filled with changing circumstances, in which nothing on the ship of life seems to be tied down. Such a journey means that new laws will be needed and older laws will need to be revised or put on the back shelf. God will have new words to speak in view of life's ongoing twists and turns. And so, new laws and new formulations thereof emerge periodically as new situations develop for the journeying community (see Exod 15:25b–26; 16; 18:13–27; Num 15; 18–19; 27–36; Deut 12–28).[11] The community is on the move; the law will not stand still any more than this community will. The laws emerge over a time that is repre-

[8]For greater detail, see Fretheim, *Exodus*, 201–207.

[9]See, e.g., Stanley Hauerwas, *Peaceable Kingdom: A Primer in Christian Ethics* (Notre Dame: University of Notre Dame Press, 1983) 24–34.

[10]For a list of implications of the law/narrative mixture of genres, see Terence E. Fretheim, *The Pentateuch* (Nashville: Abingdon, 1996) 124–125.

[11]Note that Deuteronomy reflects later Israelite institutions, such as prophecy (Deut 13:1; 18:15) and kingship (Deut 17:14).

sented as forty years, but that time is actually emblematic of many generations; the whole of Israel's life is imaged in these wilderness wandering texts. "Journey" is both literal and metaphoric. Pentateuchal law thus emerges from within the matrix of life on a journey.

The relationship between laws in Exodus and Deuteronomy regarding the same issues is also revealing of this ongoing development of Israel's law in the wilderness. Some nineteen or more statutes from Exod 21–23 are recast in Deuteronomy.[12] For example, the laws concerning slaves in Exod 21:1–11 have been revised in Deut 15:12–18. See also the important revision of the Ten Commandments in Deut 5, compared with Exod 20 (note, e.g., the switch of "house" and "wife" in the ninth and tenth commandments, where "wife" is no longer on a list of property—a significant shift—and "neighbor" is no longer only male). If the Ten Commandments were written today, they would need to look somewhat different; and such changes would stand in the legal tradition of the Old Testament itself and be informed by Old Testament texts to some degree (e.g., those concerned with environmental matters).

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Such texts are a canonical witness to law on the move. Old law and new law remain side by side in the Pentateuch—not unlike a modern lawyer's library—as a canonical witness to the process of unfolding law. The differences are not considered a threat to the law's integrity (or biblical authority). There is no apparent interest in ironing out internal tensions in these laws. Hence, development in the law is just as canonical (or authoritative) as individual laws or the body of law as a whole. Instead of a timeless law, the text witnesses to a developing process in which experience in every sphere of life is drawn into the orbit of law (cf. tax laws today). The ongoing formulation of new or revised laws is in tune with God's intention, though that should happen only after a thorough examination of the old. How to sort out constancy and change is, of course, a big question. But the reality of it in the biblical witness is of great importance.

4. *I wish for more relational thinking about the God of the Old Testament and the impact of such thinking on ethical considerations.*

We have begun this conversation, but we must ask more directly about the God who leads Israel in the wilderness. What kind of God is this God? What is the nature of the relationship that Israel has with this God? If there is not a uniform

[12]See Gerhard von Rad, *Deuteronomy* (Philadelphia: Westminster, 1966) 13; Dale Patrick, *Old Testament Law* (Atlanta: John Knox, 1984) 97.

imaging of God in the Old Testament, is there a dominant portrayal, one that might even be called "confessional"? How confident can we be in our ability to distill such a view of God from these disparate texts, when they present us with such themes as holy war and violent judgment? One's consideration of biblical-ethical issues will vary depending on the most basic imaging of God that one brings to the conversation.[13]

Much effort has been expended on developing particular themes such as the character of God, the activity of God, the will of God. Less attention has been given to a more basic question: *the kind of God* with which these texts have to do. The classical understanding of God has been commonly assumed to be basic to biblical ethical-theological thought; but might such a perspective be too narrow and insufficiently attentive to biblical understandings? Issues of divine relationality, for one thing, need to be placed more up front in this discussion. How one understands Old Testament law will be sharply affected by the understanding of the God-human relationship that is brought to the table.

I return briefly to the theme of creation. I have sought to make the case that creation is good, not perfect.[14] God decided to create the world relationally or communally, rather than do it all by Godself, with all the uncertainties and messiness that such a decision entails. God determined to catch up the creatures, both human and nonhuman, in the creation of the world. The creation texts are a witness to God's interdependent way of working with the world.

> ***Human agency counts in the emergence and shape of ever-new law. Human beings are given important responsibilities in furthering the cause of justice and good order in Israel and the larger creation.***

This understanding of God's work in creation is important for one's assessment of law. Though the law is predominantly represented in the text as a word from God, its ongoing link to ever-changing life means that God takes into account the actions of the human (and nonhuman) community in the formulation of ever-new law. Hence, human agency counts in the emergence and shape of ever-new law. Human beings are thereby given important responsibilities in furthering the cause of justice and good order in Israel and the larger creation. Creation is on the move, and hence law also must be on the move, if it would be in tune with God's gracious, relational will for people in ever-new times and places. God is caught up in this story with God's people, because God honors relationships and values human contributions.

[13]James Gustafson states: "Scripture *alone* is never the final court of appeal for Christian ethics. Its understanding of God and his purposes…[and several other matters], however, do[es] provide the basic orientation toward particular judgments"; Gustafson, "The Place of Scripture in Christian Ethics," in *The Use of Scripture in Moral Theology*, ed. C. E. Curran and R. A. McCormick (New York: Paulist, 1984) 176.

[14]Fretheim, *Creation Untamed*, 9–37.

One implication of this interdependent relationship is that God revises God's own laws (which presumably God has a right to do!). Something like this must be said: God revises God in view of and for the sake of the changing community of God's people. Just because laws are from God does not make them unchangeable; the texts witness to a God who makes changes in the law. If these law texts had been all smoothed over and drawn into a single code, then they could be more easily defended as testimony to an unchanging law for which new times and places were irrelevant. The very textual roughness of the law material is an ongoing witness to the changing character of life and the changing character of the will of God as it relates to that life.

What if the word "relationship" were taken seriously? What might a genuine relationship with God entail?[15] As one example, God is both constant and changing. Ideally, is that not true of the nature of all interhuman relationships: constant in terms of, say, promises made, yet changing as the relationship develops over time? Of course, God will be faithful to promises made in a way that no human being can; God always wills the best; God's love will be there through thick and thin. God's core character will never change. At the same time, to remain true to these relational commitments—indeed, to remain true to God's own character—God must change in view of new times and places in and through which God's people are moving. God must change to remain true to who God is. And so God will, say, change the divine mind with respect to law in view of a variety of human responses.[16]

Some further reflections on the divine will may be helpful at this point. The law is a gracious gift of God. The law is offered—in Genesis as well as Exodus through Deuteronomy—for the sake of the life, health, and well-being of an ever-changing community and each individual therein. In the words of Deut 5:33, God gives the law "so that you may live, and that it may go well with you, and that you may live long in the land that you are to possess." To return to the image of wilderness: this image helps to lift up that which is basic for understanding the will of God for all relationships. God's law is constant in its objective: the best life for all. And that divine constancy will mean ongoing changes in the law in view of life's changes. And so God's will for God's people is not delivered in a once-and-for-all fashion; it is a dynamic reality, intersecting with life and all of its contingencies.[17]

This understanding of the will of God keeps the *personal and relational character* of the law front and center. Experience has shown how easy it is for law to be-

[15]For amplification of this thought, see Fretheim, *God and World*, 13–22.

[16]One might profitably relate this issue to the use of *niham* (change of mind) with God as the subject (almost forty times in the Old Testament, e.g., Exod 32:14; Jonah 3:9–10). See Terence E. Fretheim, "The Repentance of God: A Key to Evaluating Old Testament God-Talk," *Horizons in Biblical Theology* 10 (1988) 47–70.

[17]A remarkable feature of Old Testament law is the admixture of civil, moral, and cultic laws (e.g., laws regarding murder; the honoring of parents; sabbath). For Israel, life could not be separated into such categories; the will of God had to do with every sphere of life. So, various types of law from diverse life settings have been integrated into a single fabric. What does this admixture say about the nature of law in these texts and how might that reality affect modern formulations?

come an impersonal matter, manifested especially in a debilitating legalism. It can become, as it were, a "law unto itself," unrelated to any specific giver, dissociated from the dynamic will of the one who stands behind its formulations, unrelated to life's changes. In the biblical texts, however, one is confronted with the giver of the law as one who is living, personally interacting with people through every step of their journey. Both law and narrative reveal a lively relationship between God and people. Relationship language is crucial here; God is one who gives the law as part of an existing interpersonal relationship, with all that the language of relationship entails.

5. I wish for greater recognition of the conservative nature of prophetic perspectives on social justice.

The prophetic word about social justice is often associated with liberal causes.[18] Indeed, the prophets are sometimes depicted as if they were free-floating radicals from the '60s! This may in part explain the not uncommon negative reaction to discussions of social justice and related sociopolitical considerations. In the face of such opinions, it must be emphasized that the prophets were fundamentally conservative (and public!) in their approach to these issues. The prophets discerned that social justice was a long-established value, richly embedded in the traditions they inherited, though often neglected. Generally speaking, the prophets were deeply indebted to their ethical and theological past, one key dimension of which had to do with social justice.[19] This point is made convincingly in a somewhat neglected article by James Barr:

> Certainly it is true that the prophets insisted on social justice, and they were not afraid in its name to challenge the established authorities of their time. But the prophets for the most part were not reformers, and they had no new insights into the working of society to offer. Theirs was not a novel analysis….On the contrary, in this respect *the social perspectives and perceptions of the prophets were essentially conservative*….Their message was not a new morality….In other words, the traditional liberal and reformist perception that the system is wrong and that the system has to be changed if justice is to be possible is lacking from the prophetic perspective. Practically never do we find the prophets putting forward any sort of practical suggestions for change in the structure of society.[20]

It is not that the prophets had nothing new to say about social justice, but their radicality consisted more in their rhetorical strategy than their ideas, in their

[18]See the fuller argument in Terence E. Fretheim, "The Prophets and Social Justice: A *Conservative* Agenda," *Word & World* 28/2 (2008) 159–168; Fretheim, "Interpreting the Prophets and Issues of Social Justice," in *The Bible and the American Future*, ed. Robert L. Jewett (Eugene, OR: Cascade, 2009) 92–107.

[19]The prophets seldom accuse Israel of breaking specific laws; rather, they "appeal to known norms of humane conduct, of 'justice and righteousness,' norms which are exemplified in the 'apodictic law,' but cannot be limited by it"; so Walter J. Houston, *Contending For Justice: Ideologies and Theologies of Social Justice in the Old Testament* (London: T&T Clark, 2006) 70–71.

[20]James Barr,"The Bible as a Political Document," *Bulletin of the John Rylands Library* 62 (1980) 278–279 (emphasis mine).

forceful and intense way of speaking older understandings into a new time and place, and by the remarkable way in which they got "in your face" with respect to long-standing communal commitments.

The exodus helps chart a direction for this perspective. This divine deliverance is rooted deeply in the tradition ("the covenant with Abraham, Isaac, and Jacob," Exod 2:24).[21] When the Israelites "groaned under their slavery," God "remembered his covenant" (Exod 2:24–25; see 3:7–8). A key point emerges here with the covenant to which God will be faithful: "I will free you from the burdens of the Egyptians and deliver you from slavery to them" (Exod 6:6). God liberated the Israelites from sociopolitical bondage because God had *promised* to do so.[22]

For the sake of a broader public acceptance, is there a way in which the prophetic concern for social justice can be more clearly seen as a conservative cause?

This explicit link between divine promise and social justice should not be lost on modern readers. What God will do on behalf of an oppressed people is made a matter of divine promise. And God's deliverance of them is believed to be the fulfillment of such a promise. That this divine action is called "salvation" in Exod 15:2 should expand our understanding of what salvation is all about; in a given context, salvation may include a sociopolitical dimension.[23] What might it mean ethically and theologically that the language of salvation is associated with the practice of social justice? Might the *ongoing* practice of social justice be salvific in some basic sense? God's concern about matters of social justice was believed to be so strong and so pervasive that it was built into the very heart of the covenantal promises. And God was faithful to such promises. For the sake of a broader public acceptance, is there a way in which the prophetic concern for social justice can be more clearly seen as a conservative cause?

6. I wish for a greater value given to the energetic rhetoric of texts relating to ethical issues in law and prophecy, especially regarding the poor and the needy.

In both the law and the prophets, there is a rhetorical urgency regarding ethical matters, particularly on behalf of the poor and needy. Listen to these texts:

> Should you not know justice?—you who hate the good and love the evil, who tear the skin off my people, and the flesh off their bones; who eat the flesh of my people, flay their skin off them, break their bones in pieces, and chop them up like meat in a kettle, like flesh in a caldron. (Mic 3:1–3)

> You shall not abuse any widow or orphan. If you do abuse them, when they cry out

[21]Covenant in this context is equated with promise, an obligation that God takes upon the divine self. Unfortunately, much discussion seeking to relate the Pentateuch to the prophets considers only the Sinai covenant. To speak about divine liberation without promise is theologically shortsighted.

[22]See the divine promises throughout Genesis, e.g., 15:12–16; 46:3–4; 28:15; 17:6–8; also Deut 7:8.

[23]For detail, see Terence E. Fretheim, "Salvation in the Bible vs. Salvation in the Church," *Word & World* 13/4 (1993) 363–372.

> to me, I will surely heed their cry; my wrath will burn, and I will kill you. (Exod 22:22–24)

A rhetorical urgency and resolve permeates these texts, often in direct divine speech; it merits greater attention. Does this rhetorical energy call for imitation? Perhaps the rhetoric is outlandish or insufficiently nuanced, but I wonder. Our language is commonly (much) more cautious; there is a place for caution, but can we find a way to give voice to that divine urgency? Have we overreacted to the shrillness on so many ethical topics in our culture (admittedly, a real problem) that we give up the rhetorical playing field? Or, does such language come too close to home? Or, are we uncomfortable with the God language?

Listen to Abraham Heschel:

> [Our] sense of injustice is a poor analogy to God's sense of injustice. The exploitation of the poor is to us a misdemeanor; to God, it is a disaster. Our reaction is disapproval; God's reaction is something no language can convey. Is it a sign of cruelty that God's anger is aroused when the rights of the poor are violated, when widows and orphans are oppressed?[24]

The hortatory nature of many texts in both law and prophets (including major texts such as Lev 17–26 and Deuteronomy) calls for attention—quite apart from specific words they use or ideas they float. The prophets do take sides, without apology; the prophets critique affluence, without qualification; the prophets condemn the life of worship, mercilessly. We might well articulate a concern for social justice, but do we get the rhetoric right? Is our language sufficiently radical on behalf of the less fortunate? Can we capture these key biblical concerns for the disadvantaged with a proper rhetorical energy?

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[24]Abraham J. Heschel, *The Prophets* (New York: Harper & Row, 1962) 284–285.