



Social Justice in the Israelite Law Codes

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Social justice is a topic of great concern in the church today. The subject has obvious roots in the Old Testament prophetic books, and proponents of justice often refer to those sources. However, the biblical base for this concern is broader than the prophetic writings. Social justice is also a frequent topic in the wisdom literature¹ and in the law codes. This essay will analyze the references to this subject in the legal codes and thereby broaden the base of biblical support for this matter of ethical importance.

I. SOCIAL SETTING

The analysis will be clarified if a few preliminary matters are considered first. One is the social setting of the statements about justice in the codes. Past research on this question has led to one basic item of agreement and opposite, subsequent conclusions. Most interpreters are agreed that Israel received its concern for social justice from the Near Eastern cultures surrounding it.² In fact, the protection of the poor, widows, and the fatherless was a common Near Eastern policy. It was prevalent in Mesopotamia from Sumerian times,³ throughout Egyptian history,⁴ and at Ugarit.⁵ However, it is difficult to know how to relate

¹Cf. Bruce V. Malchow, "Social Justice in the Wisdom Literature," *Biblical Theology Bulletin* 12 (1982) 120-124.

²F. Charles Fensham, "Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature," *Journal of Near Eastern Studies* 21 (1962) 129; H. Eberhard von Waldow, "Social Responsibility and Social Structure in Early Israel," *Catholic Biblical Quarterly* 32 (1970) 184-185; Harriet Havice, "The Concern for the Widow and the Fatherless in the Ancient Near East" (unpublished Ph.D. dissertation; New Haven: Yale University, 1979).

³Samuel Kramer, *The Sumerians* (Chicago: University of Chicago, 1963) 264; Fensham, "Widow, Orphan," 130-131.

⁴*Ancient Near Eastern Texts Relating to the Old Testament*, ed. J. B. Pritchard (3rd ed.; Princeton: Princeton University, 1969) 407-410, 412-419, 421-424, 441-444.

⁵*Ibid.*, 149, 151.

this fact to the references to social justice in Israelite law codes. What Near Eastern literature and Israelite codes have in common is their content. The forms through which the content is conveyed differ. Near Eastern literature normally expresses its concern for the deprived in forms like confessions, instructions, and hymn-petitions, rather than through legal statements.⁶ Another problem is raised by the social setting of the Near Eastern references. They are regularly based on a royally dominated social structure. Do the Israelite laws derive from the same setting?

A few scholars believe that they do. These authors contend that the parts of Israelite legal codes dealing with justice for the oppressed were added during the monarchic period.⁷ Injustice was not a particular problem for Israel until that time. There is general agreement that this was the period when sharp differences in social class arose. The contrast with the past was even greater if the theories of Norman Gottwald are correct. According to him, Israel formed its tribal confederacy on the basis of social and economic equality. The confederacy was a conscious reaction to the former social position of most Israelites who had been the oppressed under the Canaanite city-state system. However, Israel's monarchy reintroduced social and economic disparity into the land.⁸ Regardless of the soundness of Gottwald's theories, it is clear that the monarchy at least intensified this disparity. Harriet Havice explains that then laws were created on the basis of Near Eastern wisdom instructions about the underprivileged.⁹ Thus, she explains the similar content but different forms of Near Eastern and Israelite statements on justice.

However, many scholars disagree with this view. They believe that at least some of these laws derive from the early, tribal period of Israel's history.¹⁰ H. E. von Waldow explains the similar content of Near Eastern and Israelite statements by showing that the substance of some Near Eastern and Israelite writings both originated among ancient, Semitic clans.¹¹ Moreover, he demonstrates that there was always a need for some laws on social justice, because there were always some in Israel who were not economically secure, namely, the sojourner, widow, and fatherless child. He partially agrees with the first group of scholars by saying that some laws on the deprived were added to the codes when extremes of poverty and wealth developed under the monarchy.¹² So it is likely that the laws being analyzed in this article developed during a long period of Israel's history extending from its beginnings to the monarchic period. The laws arose from quite different social settings, including an early period of relative equality and a late period of great economic disparity.

⁶H. Havice, "Concern for the Widow," 12, 173.

⁷C. Fensham, "Widow, Orphan," 137-139; H. Havice, "Concern for the Widow," 206.

⁸Norman K. Gottwald, *The Tribes of Yahweh* (Maryknoll: Orbis, 1979).

⁹H. Havice, "Concern for the Widow," 204.

¹⁰Martin Noth, *The Laws in the Pentateuch and Other Studies* (Philadelphia: Fortress, 1966) 33, 60; Erhard Gerstenberger, *Wesen und Herkunft des "apodiktischen Rechts"* (WMANT 20; Neukirchen: Neukirchener Verlag, 1965); H. E. von Waldow, "Social Responsibility," 184-185.

¹¹H. E. von Waldow, "Social Responsibility," 184-185.

¹²*Ibid.*, 194-199.

II. THE DEPRIVED

Another preliminary matter of importance is the identification of the objects of social concern in the law codes. Who were the deprived in Israel? One group was the poor. There are several different words for them in the codes. The terms generally used are *'ānî*, *dal*, and *'ebyôn*. All of these words refer to those in want, lacking enough for their material needs. In addition, particularly the first two terms are used for people who have become poor through injustice. *'ānî* basically means "afflicted, bowed down." It refers to someone whose power has been lessened through an external force. Most often this means a person who has been wrongfully impoverished.¹³ *Dal* primarily has the sense of "being low." It applies to those whose prosperity has been reduced and who lack physical and psychological strength. The *dal* is poor due to being

unjustly deprived.¹⁴ *'ebyôn* is often used for the very poor who are reduced to begging.¹⁵ This term frequently occurs in lines paralleling those mentioning the *'ānī* or *dal*, so that *'ebyôn* borrows their sense of unjust impoverishment.

Another group of people who are repeatedly singled out in the codes as objects for social justice are widows and fatherless children. In that society they needed the protection and economic support of an adult male. A widow might receive this from her husband's family through the practice of levirate marriage. She could also return to her own family. But if neither recourse were open to her, she and her children faced the prospect of exploitation and want.¹⁶

The final category of deprived people mentioned in the laws are the sojourners. They lived in communities not their own but had privileges and responsibilities there. They had a status between that of a native and a foreigner. In the early law codes they were often the indigenous population of Canaan that had been partially assimilated into Israel. In the late Holiness Code they were naturalized aliens, proselytes.¹⁷ In most periods their position was somewhat insecure, and they consequently often suffered from poverty.

III. THE NATURE OF THE LAW CODES

Finally, a statement of assumptions about the nature of the law codes will clarify the following analysis of their injunctions regarding these deprived people. Although a few of these laws occur in other legal parts of the Pentateuch, most of them are in the three basic codes. The oldest is the Book of the Covenant (Exod 20:22-23:33) which originated at the time of the tribal confederacy and reflects the agricultural life of that period. The second is the Deuteronomic Code (Deut 12-26). An oral form of this material was probably originally used as part

¹³C. U. Wolf, "Poor," *Interpreter's Dictionary of the Bible*, ed. George Buttrick (4 vols.; Nashville: Abingdon, 1962) 3.843; A. Kuschke, "Arm und reich im AT," *Zeitschrift für die alttestamentliche Wissenschaft* 57(1939) 49.

¹⁴C. U. Wolf, "Poor," 843; H.-J. Fabry, "Dal," *Theological Dictionary of the Old Testament*, ed. J. Botterweck and H. Ringgren (12 vols.; Grand Rapids: Eerdmans, 1978) 3.220.

¹⁵Ernst Bammel, "Ptōchos," *Theological Dictionary of the New Testament*, ed. Gerhard Kittel and Gerhard Friedrich (10 vols.; Grand Rapids: Eerdmans, 1968) 6.888-889.

¹⁶C. Fensham, "Widow, Orphan," 136-137; Harry Hoffner, "'*Almānāh*," *TDOT* 1.288, 291.

¹⁷T. Mauch, "Sojourner," *IDB* 4.397-398.

of the covenant renewal ceremony at shechem. After the destruction of the Northern Kingdom in 722 B.C.E., these laws were taken to Jerusalem where they were adapted to circumstances there and put into written form. This code seems dependent on the earlier Book of the Covenant. The final collection is the Holiness Code (Lev 17-26). These laws were gathered by priests in the Jerusalem temple and reduced to writing shortly before or after the destruction of that city in 586 B.C.E.

There is a development of concern for justice to the oppressed in the evolution of these codes. The Book of the Covenant has some striking statements on this subject, but their number is small. There is a great increase in the number of such laws in the Deuteronomic Code. The Holiness Code has a significant amount of these injunctions, but their total is smaller than that of the previous collection. Also, Leviticus 25 has the only noticeably new thoughts on the topic. Thus, the first and last collections will provide some important data for this investigation, but the

Deuteronomic Code will furnish the most.

Lastly, the form of the commands dealing with the deprived in all of these codes is usually apodictic law, simple statements commanding or forbidding certain behavior. These laws are often interspersed with motivating comments, but it is generally agreed that these motivations are secondary additions.¹⁸

IV. SOCIAL JUSTICE

The commands prohibit oppressive actions and call for positive deeds toward the deprived. A few of the prohibitions oppose mistreatment generally. Exodus 22:21 and 23:9 forbid oppressing the sojourner and 22:22, the widow and fatherless. Deuteronomy 10:19 makes the command about the sojourner more far-reaching by converting it into a positive injunction. The reader is to love the sojourners, not merely refrain from mistreating them. Leviticus 19:33-34 contains both thoughts and adds that Israel should look upon the sojourner as one of themselves and love him or her as much as oneself. Leviticus 24:22 further specifies that sojourners and natives are to be governed by one law. Thus, these commands reveal high ethical sensitivity in not only providing total justice for people easily misused, but also in calling for equality with and love toward them.

Next, the laws become specific in forbidding actions which would deprive the poor.- Exodus 22:26 discusses pledges, material objects given as collateral for loans. It insists that garments given in pledge are to be returned before sundown. Without a cloak a poor person would have no covering for the night. The Deuteronomic Code extends this law. It simply prohibits the use of a widow's garment as a pledge (Deut 24:17). The code also forbids a creditor to go into a debtor's house to fetch a pledge (24:10-11). The debtor's dignity is preserved since the debtor is allowed to choose an appropriate object and bring it out. The laws on interest similarly protect the deprived. In the Book of the Covenant Israel is not permitted to collect interest from the poor who borrow (Exod 22:25). The term used probably signifies interest paid in advance.¹⁹ Deuteronomy's ad-

¹⁸H. Havice, "Concern for the Widow," 202.

¹⁹G. Barrois, "Debt, Debtor," *IDB* 1.809.

dition to this law does not affect the needy particularly, since it merely prohibits interest toward any Israelite, but permits it toward foreigners (23:19-20). But the Holiness Code increases the protection of the deprived by forbidding that they repay interest with a loan (*tarbî*) as well as paying it in advance (Lev 25:35-37). The safety which such laws provided the poor becomes clearer when it is observed that the interest charged in the Near East sometimes was as high as one-third or one-half of the original loan.²⁰

The laws on measure likewise prevented the needy from being deprived. The Deuteronomic Code called for just measures of weight and quantity (25:13-15). The Holiness Code added length and liquid quantity to be sure that all possibilities would be covered (Lev 19:35-36). Similar protection was offered by Deuteronomy's injunction against moving a landmark at the border of a neighbor's property (19:14; 27:17). Moreover, Deuteronomy commanded that poor, hired servants be paid their wages on the day they were earned (24:14-15). And the Holiness Code regulated the treatment of needy Israelites who sold themselves into

another's service (Lev 25:39-43). The latter was not to bully them. Those who sold themselves were to be treated as hired servants and not as slaves, for they were Yahweh's slaves and no one else's.

The largest number of laws censoring action that impoverished the poor had to do with injustice in the lawcourt. Exodus 23:6 forbade perverting justice against the poor and was apparently addressed to judges.²¹ Deuteronomy 24:17 gave the same command about the sojourner and fatherless, and 27:19 pronounced a curse on those transgressing this command toward these two types of individuals or the widow. Other laws became more specific in delineating the types of behavior which produced injustice. According to the present text of Exodus 23:3, judges were not to be partial to the poor in their suits. It is surprising that the earliest, written law on partiality would oppose favoring the poor since it was more common that judges were partial to the rich. Consequently some have suggested that the present text is incorrect and that the passage originally opposed favoring the great (*gādōl*), rather than the poor (*dal*).²² But in any case, subsequent injunctions outlawed partiality toward either group (Deut 1:17; Lev 19:15). Also, some prohibitions spoke against bribes (Exod 23:8; Deut 16:19), since they were an evident cause of favoritism.

Another type of unjust court behavior decried was false witnessing (Exod 23:1-2). The Deuteronomic Code expanded the original law on this subject at length (19:15-21). For one thing, Deuteronomy protected the accused by mandating that more than one witness give evidence. Furthermore, it pronounced that the penalty for false witnessing would be the same as that which threatened the defendant. And it stated that Israel was not to pity one giving false testimony. This command enhances the heinousness of the crime over the original injunction in Exodus against being a false witness. Deuteronomy does

²⁰Ibid.

²¹J. W. McKay, "Exodus xxiii 1-3, 6-8: A Decalogue for the Administration of Justice in the City Gate," *Vetus Testamentum* 21 (1971) 324; Brevard Childs, *The Book of Exodus* (OTL; Philadelphia: Westminster, 1974) 482.

²²Martin Noth, *Exodus, A Commentary* (OTL; Philadelphia: Westminster, 1962) 189.

not imagine that the reader would be guilty of such an act, only that he or she would have to react to it in another.²³

All of the prohibitions above, then, forbid behavior which would impoverish the deprived. There are also laws which call for positive acts toward them. Several of these commands have to do with giving to the poor in various ways. Deuteronomy 15:7-11 is an extended passage on this topic. The reader is instructed to lend a needy person whatever is required (15:8). Then the passage continues with repeated injunctions to give to such a person freely. The text is basically concerned with loans, but in some cases these are virtual gifts because they will be cancelled at the year of release which occurs every seven years. Likewise, Leviticus 25:35-37 commands the Israelites to strengthen those who become poor and reminds those who lend to the needy that there is to be no interest charged.

The laws insisting that farmers leave gleanings in the field were another method of giving to the poor (Deut 24:19-22; Lev 19:9-10; 23:22). The original reason for this custom was probably to leave an offering for the fertility spirits of the soil.²⁴ But all of the Israelite codes

convert that custom into a means of providing sustenance for the deprived. The rule of the Sabbath Year, that farmers leave their fields fallow every seventh year, was similar. The initial reason for this regulation was probably to return the land to its original state and to assert Yahweh's direct ownership of it.²⁵ But the earliest code, the Book of the Covenant, makes this practice away to feed the needy (Exod 23:10-11). In the Deuteronomic Code the procedure for observing the year has changed, but it has remained a method of helping the poor. Now there is no law mandating leaving the land fallow, but creditors are to dissolve all debts in the seventh year (Deut 15:1-3). By this time poor farmers would have suffered under the old rule. The monarchy placed such a heavy tax burden on them that they could not afford to lose a year of agriculture. The new law removed this problem and helped them by cancelling debts which they had accumulated.²⁶ The adaptation of the Sabbath Year regulation in the Holiness Code only minimally benefited the deprived (Lev 25:2-7). This code again made fallow land the object of this rule. The farmer's household was allowed to eat what grew of itself. But at least one group of needy were included among the beneficiaries, the sojourners.

The Deuteronomic Code developed still another means of providing charity for the poor. There was an annual tithe of agricultural produce used for cultic purposes (14:22-27). Every three years, this tithe was kept in the communities where it was grown and distributed to the needy (14:28-29).²⁷

In addition to the laws above which call for gifts to the deprived, there are other positive commands that produce greater equality between rich and poor in various ways. The Sabbath commandment in the Decalogue and the Book of the Covenant is one of these (Exod 20:10; 23:12; Deut 5:14). In the list of those who are to observe this day, the sojourner is explicitly mentioned. And Deuteronomy

²³Calum Carmichael, *The Laws of Deuteronomy* (Ithaca: Cornell University, 1974) 116.

²⁴Martin Noth, *Leviticus, A Commentary* (rev. ed.; OTL; Philadelphia: Westminster, 1977) 141.

²⁵*Ibid.*, 186.

²⁶Gerhard von Rad, *Deuteronomy, A Commentary* (OTL; Philadelphia: Westminster, 1966) 106.

²⁷H. Guthrie, "Tithe," *IDB* 4.654.

makes clear that the intention of this stipulation is that such designated people may have as much chance to rest as propertied Israelites. Likewise, the Deuteronomic Code specifically includes the sojourner, fatherless, and widow among those who may celebrate the feasts of weeks and booths (16:11, 14). They are equal to monied people in their right to enjoy the festivals.

Other commands provide for greater economic parity between rich and poor. Thus, a number of cultic laws permit needy people to bring less expensive sacrifices (Lev 12:8, 14:21-22). For example, there are three levels of guilt offerings depending on one's wealth: a lamb, two doves, and flour (5:7, 11). Also, the Holiness Code aimed at establishing widespread economic equality through the institution of the Jubilee Year, although scholars are disagreed about whether it was ever observed.²⁸ In any case, the intention of the regulation was that land sold would return to its original owners, and that Israelite bondservants would be released (Lev 25:10). Such a practice would have provided equity, since the poor would have gained property and freedom from service without price, at the expense of the rich.

V. MOTIVATION

Thus, the Israelite law codes show a great deal of concern with the plight of the deprived. The laws attempt to rectify this problem by preventing mistreatment of the poor and by mandating improvement of their lot through giving and equalizing wealth and privileges. The codes also provide secondary motivation to stimulate people to obey these regulations. One group of incentives appeals to retribution. Some of them threaten disaster for disobedience (Deut 15:9; 24:15). Exodus 22:23-24 is one of the most explicit and warns that Yahweh will hear the cry of the afflicted widow or orphan and kill their oppressor. Numerous retribution passages promise blessings for obedience. Most of them occur in Deuteronomy and predict the typical Deuteronomic blessings of possession of Canaan with success and long life there (e.g., 15:10; 16:20; 25:15). Referring to retribution as a motivation has both negative and positive implications. The negative aspect is that such an incentive sometimes attempts to force people into obedience through the fear of disaster or the hope for blessing. Thus it does not value highly people's willingness to respond to God. On the other hand, at times there is an element of realism in appealing to retribution. Certain moral acts do lead to negative or positive results.

Another group of motivations refers to God's authority. Deuteronomy 25:16 simply states that those who use dishonest weights are an abomination to Yahweh—with the implication that readers would not choose his abhorrence. The rest of the uses of this kind of incentive are in the Holiness Code. Israel is to observe the Jubilee Year and not sell property permanently because the land belongs to God (Lev 25:23). Israelites are not to be sold as slaves because they are Yahweh's slaves (25:42). And the most frequent way in which this code appeals to God's authority is merely to conclude a law with the words, "I am

²⁸J. Morgenstern, "Jubilee. Year of," *IDB* 2.1002; A. van Selms, "Jubilee, Year of," *IDB Supplementary Volume*, ed. Keith Crim (Nashville: Abingdon, 1976) 497.

Yahweh your God" (e.g., 19:10; 23:22). Basing a command on his authority calls upon the relationship that exists between him and the Israelites. If they have learned through experience to trust him, they will realize that a command he gives is for the best, and they will respond to it positively. This kind of motivation takes seriously their freedom to obey or disobey and expresses the confidence that they will respond positively because of their closeness to God.²⁹

Other types of motivations also show a high regard for the ethical sensitivity of their readers. Some of these incentives call upon the Israelites' compassion or reasonableness. So Exodus 22:27 urges them to return garments taken in pledge before sundown because such clothing is the poor's only covering for the night. Employers are to pay workers on the day they earn their wages because laborers are poor and rely on earnings for their livelihood (Deut 24:15). Exodus 23:8 shows that it is not reasonable to take a bribe because it blinds clearsighted judges and perverts the words of those in the right. And readers are to give freely to the deprived because there will always be a need for such charity. The poor will never cease to exist in Israel (Deut 15:11).

Another kind of motivation which also recognizes people's willingness to make responsible choices appeals to Israel's experience in the exodus. Many of these clauses exhort readers to pity the deprived because in Egypt the Israelites learned how the needy feel. These statements remind readers that they were sojourners (e.g., Exod 23:9; Lev 19:34) or slaves (e.g.,

Deut 16:12; 24:22) in Egypt. Other clauses urge obedience because God brought Israel out of Egypt in the exodus (e.g., Deut 5:15; 24:18; Lev 25:38). The point of these assertions is that readers are to care for the weak out of gratitude for God's deliverance.

A final type of positive motive calls upon people to give such care because of the way that God reacts to the deprived. People are to imitate God's feelings and actions toward the needy. Exodus 22:27 exhorts readers to be compassionate to the poor because Yahweh is compassionate. And Deuteronomy 10:17-18 develops this concept in detail. Yahweh is not partial and takes no bribe. He acts justly for the fatherless and widow. He loves and gives food and clothing to the sojourner. Deuteronomy 10:19 makes the point of this description explicit. Readers are to love the sojourner. The whole passage is an appeal to imitate God in his love, charity, and just acts toward the poor.

It is apparent, then, that the Israelite law codes are a fertile source of thought about social justice. They have much to contribute to the current concern with this subject. They picture methods by which the Israelites tried to aid the deprived. Underlying specific approaches were broader attempts to prevent unjust acts, to stimulate giving, and at least partially to equalize the position of the rich and poor. Each of these attempts is suggestive of comparable modern measures. And particularly the motivations used in the codes which recognized people's willingness to make responsible decisions have counterparts today. Christians will respond to appeals to recognize God's authority, to have compassion, to act out of gratitude to God's saving actions toward them, and to imitate God's concern for the weak. Thus, the ancient legal codes of the Pentateuch can assist the modern church in its attempt to bring justice to the poor.

²⁹Claus Westermann, *Creation* (Philadelphia: Fortress, 1974) 89-91.