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LEGAL SECTIONS OF THE PENTATEUCH



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ABSTRACT:

The book of Pentateuch in the Bible consists of varieties of literary materials. One such a material is the law section. In tracing out the origin and development of the law in Israel is an issue in the biblical scholarship which argues of the internal development and others for the external influence and/or combination of both. This article traces the origins of the Israelites law with its different forms and functions in secular and religious contexts. The integration of the secular and the religious law was done to bring the just society with

good governance.

KEYWORDS

Legal Assembly, Casuistic Law, Apodeictic Law, Covenant, Decalogue, Priestly Code, Holiness Code, Blessings.

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INTRODUCTION :

The daily life of the community functions with certain norms of the social precedents. A community which needs specific principles along with the individual regulations to determine the pattern of social life to define the norms to observe and safeguard the ordinances of the rules and regulations. It lives with the community and for the community for generations and centuries together which can also undergo changes and transformations with the results of the internal and external demands. This way the legal subject plays as a part of social and political structures of the community with its own credibility.

In the ancient Israelite's culture, the head of a particular family (and or clan), i.e., the 'father' was the sole authority for the legal system in the family or in the clan responsible for the confiscation of the injustice and establish justice. (E.g., Gen 16; Hagar, Sarah and Abraham narrative due to the birth and growth of the child Ishmael). He has the sole power to decide and not accountable to any one. It could also be seen in the Gen. 38, the head of the family exercise his authority and pronouncing even death with authority and makes appeal or pardon on behalf of the family/clan (vv. 24-25).

The elders of the city exercise of the judicial power by the clan. This clan organisation is reflected in the institution of the 'elders'. In Dt. 21:18-21, informs that the 'elders of the city' are given a case to decide.

This kind of family/clan justice had a transition to the local justice or the administration. The local administration had the sole legal authority. It is also called as the 'legal assembly', which usually meets at the gate to decide about a case and for further order. In this assembly, only the elders and the full citizens mean all the Israelite men who live in the place have had the right to speak and/or vote. All others such as women, children, slaves, and strangers who live in the locality temporarily, and who did not have full right as citizens were excluded.

In this process of legal system, there were procedure, accusation, defence, confession verdict and consequences all are part of this system. In this local legal formulations, the legal assembly functioned traditionally and passed on orally and then in written format.

The Pentateucal narratives consist of varieties of sections which are inserted into the larger sections of the Pentateuch. It has series of laws, books of laws and cultic ordinances which are of its importance. In this series, the laws are the Decalogue (Ex. 20:2-17, and/or Dt. 5:6-21); the books of the laws of the Book of the Covenant (Ex. 20:22-23:19); the Code of Holiness (Lev. 17-26) and Deuteronomy (Dt. 4:44-30:20), and among priestly cultic ordinances the law of sacrifice (Lev. 1-7) and the law of purity (Lev. 11-15). In this process, this paper would attempt to read the various legal sections in the Pentateucal narratives.

The Origin of the Law of Israelites

An introduction to the literary types of Israelite law can best be made by the example of the Book of the Covenant (Ex. 20:22-23:19 (33)). This is a legal case-book, which has been secondarily inserted into the Sinai account in the Book of Exodus. It takes its name from the book mentioned in Ex. 24:7. To clarify the terminology one must say here that a legal case-book is distinguished from a law code by the fact that the latter derives from a unitary law-giving mind, and in general deals with legal problems systematically, and also, with respect to the needs of its period, completely in a legal case-

book on the other hand we have a collection of the laws that are actually in force. The legal material so gathered can be in origin of different dates and places, and may belong to different legal forms. Consideration of the possibilities of conflict in an agricultural society would quickly show that in the Book of the Covenant we do not have a law code, but legal case-book.

Indeed the legal system which had become indigenous in Canaan since the Hyksos period, and which for its part reveals a relationship with other early oriental legal codes (Sumerian legal ordinances of Ur, Mari social contracts, Eshnunna and Isin, the Code of Hammurabi, Assyrian and Hittite law) is probably that which seems to have been taken over by the Israelites at the conquest together with the Canaanite civilization, and to have been adopted, at first as an oral tradition, into the local jurisdiction administered by the elders of the clan and the free men of the local community.

It is obvious that, in view of the historical course Israel took, rules which envisage nomadic conditions of society are to be regarded as older than those which can only be understood from the conditions of a settled society. The creations of a legal and of a social history of Israel accordingly go hand in hand. A short legal sentence is older than a longer one, one restricted to a concrete case older than a generalizing one, and a pure literary type older than a mixed literary type. In this area too, the development proceeded from oral tradition to fixing in writing, from individual saying to a short series and from a short to a longer series, and from the formation of series to the compilation of a legal case-book.

Date of the Legal Materials

There is no consensus about when and in what concrete situation the collection of casuistic laws transmitted in the Book of the Covenant, and finally the whole of the material united here, was written down. Opinions vary between a dating in the period of the Judges and the Kings. All that is agreed is that the Book of the Covenant represents an earlier stage of the formation of the law than Deuteronomy. The first portion of the Hebrew Bible to reach completed form as a definite collection was the Law, encompassing Genesis through Deuteronomy.

Casuistic Law

The first one who has done in depth study on the Israelite Law is A. Alt, 'The Origins of Israelite Law' (1934). O. Kaiser quotes A. Alt distinguished two types of law such as 'apodictic' and 'casuistic' laws. The former type of laws which are purely originated in and through Israelites and the latter is mostly adopted from the Canaanite and other law traditions.

The mark of the casuistic legal form is that, in the protasis of the sentence, the legal instance is introduced by a *yki* (if), and the treatment it is given is set out in the apodosis. Subsidiary instances are attached to the treatment of the main case with an *!ai* (if). This form is found in the Book of the Covenant in Ex. 21:2-22:17, apart from a few sentences in 21:12-17. An examination of the contents makes it clear that the decisions on the law on slaves, physical injuries and offences against property were intended to regulate the common life of towns. The casuistically formulated legal sentences or *-!ytipc]mi* (*mispatim*, cf. Ex. 21:1) which are handed down in the Old Testament from verdicts which were reconciled with one another in the course of arbitration by the elders of the tribe.

The characteristic of 'casuistic' legal form which always begins with a 'when' clause. 'The

description of the case, the definition of the situation, different possibilities are outlined; sometimes these results in very complicated sentences. They often contain a main case, which in Hebrew is introduced with *yki* (suppose that, when), and one or more subsidiary cases, introduced by *!ai* (if, suppose, Eg., Ex. 22:6f.).

Apodeictic Law

The second main legal formulations are apodeictic legal genre. The distinctions are made between casuistic legal genre by the apodeictic laws which are formulated in an unconditioned means. The characteristic of apodeictic laws as Alt regards it as 'related exclusively to the Israelite nation and the religion of YHWH; it was set forth at the sacral act of the renewal of the covenant between YHWH and Israel, which took place every seven years at the Feast of Tabernacles.

Further, R. Rendtroff, quotes Alt discussed this theory intensively. It is impossible to talk in terms of a uniform genre of apodeictic law. The legal formulations brought together by Alt differ widely in genre and *Sitz im Leben*. The basic difference from casuistic legal statements is that they do not analyse a case and lay down the legal consequences, but lay down the legal consequences for offences against a particular injunction even before a particular situation arises.

The Book of the Covenant

There is an opinion that, the Book of the Covenant would not have preceded the people of Israel cultivated the land, but it lacks in the political state of organisation. This makes the Biblical scholars to date as premonarchical period, which was a practice in the local community by the elders.

Otto Kaiser considers the following three motives for fixing the legal material in writing:

- 1.The task of bringing unity to the law when there are divergent understandings of the law within one community;
- 2.The task of preserving legal usage in the face of collapse or of a break in tradition within a community, and
- 3.As an aid to the memory.

It is obvious that, the third possibility is particularly likely in the case of a developed and complicated legal tradition, but this does not exclude the earlier writing down of paradigmatic series of laws.

The Book of the Covenant and Deuteronomy (Ex. 21:2-22:16; Dt. 15:12-18; 22:18-29). Their subject matter includes the laws concerning slaves, homicide, personal injury, damage to cattle and fields, misappropriation of deposits and marriage law.

The Decalogue

The great deal of question about the origin and date of the Decalogue continues to be the special interest among the Biblical scholars.

The main issue in work on the Decalogue in the present day are:

1. the question whether it belongs to one of the Pentateuch source (E);
2. the reconstruction of its original form;
3. the question of the originality of its composition, and
4. of its setting in life.

Many of the Biblical scholars think due its content and composition post to the Deuteronomistic period. Otto Kaiser agrees with those scholars who regard the Decalogue as Deuteronomistic.

The fact that in Israel and in Judaism the fiction of Moses' mediation of the law in force or claiming validity was held to so persistently, shows that there was a desire to regard all later extensions of the law as in agreement with the Sinai covenant mediated by Moses in the earliest days of Israel. 'All the civil and religious ordinances of the Book of the Covenant and the Holiness Code, as well as the priestly ordinances, had been given to Moses at Horeb for the people to observe 'in the land which I give them to possess' (Ex. 5:31).'

The title Decalogue has the equivalent Latin term 'Decalogue' has traditionally been applied to the list of Exodus 20/Deuteronomy 5. Biblical scholars often distinguish the Exodus 20/Deuteronomy 5 list from the Exodus 34 list on the basis of content by referring to the former as the Ethical Decalogue and the latter as the Ritual Decalogue.

Law Relating to Death

Kaiser quotes Alt, claimed that, this kind of form as apodictic is found in 21:12, 15-17 and 22:18. Its distinguishing feature is that the state of affairs given in a participial sentence is followed by a declaration of the death penalty. 21:15-17 show that the declaration of the penalty originally had the stereotyped form 'he shall be put to death' (Ex. 31:12-17; Lev. 20; 24:10-23 and 27:29). Alt clearly felt the apodictic force of death and curse and accordingly included these sentences, together with the series of curses in Dt. 27, within apodictic law. Others saw in them an apodictic reshaping of originally casuistic legal sentences. Schulz on the other hand assumes that the death and curse is not a statement of legal consequences but a declaration that the man has lost his right to life and is given over to death.

As the different laws are described, the penalty announced is death. In this process, it also holds various statements of apodeictic law which occur in the various collections of legal texts in the Old Testament. The stereotyped formula 'He shall surely die.' (Ex. 21:12, 15-17 etc.). In addition to the series of crimes worthy of death, Alt also produced a series of crimes to be cursed, all of which are given with the same term 'be cursed' (Dt. 27). Here one can also see very clearly how close apodeictic law is to the sacral and cultic sphere: the pronouncement of the curse involves the deity, and conversely, it is cultic matters which have the weight of the curse behind them. (Dt. 27:15).

Curse and Law

Alt included the series of curses in Dt. 27:15-26 in apodictic law. Having in view the cultic situation presupposed in Dt. 27, he appealed to Dt. 31:10 ff., to postulate the existence of a feast of the renewal of the covenant, taking place every seven years on the occasion of the Feast of Tabernacles of

Shechem. This festival would have been connected with the reading of apodictic series of laws such as the series of curses in Dt. 27:15 ff., or of the Decalogue (Ex. 20:2-17). It is best to divide up the problems raised here into three groups of questions:

- 1.The question whether, it is possible to include series of curses, and so also the liturgical single curse, among the legal forms;
- 2.The question of the date and earlier history of the Decalogue, and
- 3.The question of the connections between covenant and law, and between cult and law.

The Israelite curse formula is originally grew up in the setting of the nomadic clans, and served for 'the solemn excommunication of an individual who is hostile to and damages the community', and which for this reason was, it is conjectured, used primarily as an exclusion formula by the head of the family or of the tribe. (Gen. 9:25; Josh. 9:23). It can ,therefore, be attributed to inter-tribal law.

Covenant and Law

One of the most difficult problems in the Old Testament is to see the relation between covenant and law, and cult and law. Von Rad in his 'Form-critical Problem of the Hexateuch has pointed out that the structure of the Sinai pericope in the Book of Exodus and the structure of the Sinai pericope in the Book of Exodus and the structure of Deuteronomy have in common that in each case an exhortation is followed by a recital of the law, commitment to covenant and conclusion of covenant, or blessings and curses.

In the Sinai pericope (Ex. 19-24 and 32-34) however J seems only to have told of theophany and sacrifice, E of theophany and a meal. On this view it was only when, following on from the Deuteronomist's understanding of covenant were identified in the work of the Deuteronomist or in the Deuteronomic and Deuteronomistic movement that the corresponding expansions of the Sinai pericope were made.

The Priestly Code and Holiness Code

Holiness demands Separation. Just as God at creation separated the day from the night, the waters above the firmament from the waters below, the seas from the day land, and days of labour from the day of rest, so God blessed the seventh day and 'set it apart' (Gen. 2:3). By way of anticipation of the Summary of this book, the separated and consecrated time of the Sabbath holds the promise of furnishing clues for recovering the biblical as well as the priestly understanding of holiness.

The statutes and ordinances correspond to the words and ordinances of the Book of the Covenant and the 'word' of the Holiness Code (Lev. 17:2), both of which begin with regulations about the alter. The Book of the Covenant requires that an earthen or unhewn stone alter be erected wherever God has revealed himself, and all sacrifices are to be made on it (Ex. 20:24).

According to the TO itself, there were two levels of cultic officials from the time of Moses. Aaron and his sons were set apart to the full priesthood (Ex. 28 f.) and the 'tribe of Levi' given to them to perform subordinate cultic duties (Num. 3:5 ff.). Since Aaron is also a member of the tribe of Levi, this is in effect a division of the tribe into a superior and an inferior order, priests and Levites.

Blessings

Although it does not belong to the legal categories proper, a mention must be made of the nature of blessings. According to Schottroff in nomadic society it originally had the social function of giving a share in the salvation which was to be found within the common life of the clan, or of establishing this salvation. It is possible therefore to assume that, it had its original setting in life in greetings on arrival (cf. Gen. 14:19 f., I Sam. 25:14; Ruth 2:40, and on departure (Gen. 24:60; 28:1; II Sam. 13:25). With such an origin, the role of the blessing in the cult, as it appears in Num. 6:22 ff., in Deuteronomy (cf. E.g., Dt. 28:1 ff.), and especially in the Psalms (cf. E.g., Ps. 24:5; 134:3) can readily be explained. In the cult the priest, as representative of Yahweh, promises to those who for their part maintain communion with God the salvation contained in such communion.

CONCLUSION

Attempts have been made to explain Israel's uniqueness, especially in its laws of interest, in terms of sociological factors. It is certainly true that in foreign religions the law is also invested with the authority of the national god. The Code of Hammurabi for instance, is explicitly referred, both at the beginning and the end, to the will of Shamash. In the law itself the deity is silent and the human lawgiver takes the centre of the stage; the Code is expressly described at the beginning and the end as the King's own work. In Israel, by contrast, the mutual involvement of religion, law and morality is still experienced with vivid immediacy.

The demonstration of the distinctive character and of the original setting in life of the casuistic law may be regarded as an assured result of scholarship. The three forms claimed by Alt to be apodictic, the prohibitive, the death sentences and the legal curses, on the other hand, are to be regarded as each independent and separate literary categories. It cannot be said that, these are genuinely Israelite forms. Form and content must be dealt with separately in this connection. Final judgements have not yet been passed on the relationship between covenant and law, and between cult and law. The aim of a coherent history of law in Israel has not yet been achieved by Scholarship. The progression of the law could be seen in the Israelites' law which had its root in the family head and moved forward to the structural institution. The Israelite religion was part of the law. Of course, the secular and the religious laws are integral part of the Israelites' religion. This integration is made by the priests for the better functions of the society.

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9. Kaiser, O., Introduction to the Old Testament, Presentation of its Results and Problems, 1975, p. 57.
10. Kaiser, O., Introduction to the Old Testament, Presentation of its Results and Problems, 1975, p. 61-62. Its tendency towards generalizing and to broadening of meaning together with its formal lack of unity reveals it to be a late comer, for which an original short form cannot be presupposed. In accordance with the particular character of faith in Yahweh, it must be allowed that the beginnings of law connected with Yahweh reach back into the Mosaic period. At the same time, law was never regarded by the ancients as only a matter of human discretion, because the social and moral ordering of the world was regarded as institution of God or of the gods.
11. Schofield, J.N., Law, Prophets and Writings, 1969, p. 78.
12. Gottwald, N.K., The Hebrew Bible – A socio-Literary Introduction, 1989, p.208. Characteristic of the Decalogue form is that it is composed of brief negative commands or prohibitions, without any provision of punishment for violating them. Two of the commands in the Ethical Decalogue are positively formulated, as are half of the commands in the Ritual Decalogue, but it is likely that in their original form all the Decalogue stipulations were negatively formulated.
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