

The Ancestors as Heroes

Primary Reading: Genesis 12–50 (esp. chaps. 12, 20, 26, 37).

Patriarchal History?

The Book of Genesis is often divided into two parts: chapters 1–11, Universal Myth; and chapters 12–50, Patriarchal History. To the extent that names help us shape how we read units, these names (as well as these divisions) are both problematic.

The appellation “Universal Myth” is the less problematic of the two. By and large, the first eleven chapters of Genesis should be viewed as myths in the sense I described in chapter 6. They are stories dealing with issues of collective importance, and should not be seen as science, natural history, or history. Most of the stories deal with universal concerns. This is certainly the case for the initial stories, as I showed in chapter 6, but it is also true of most of the later stories. Genesis 10 is a long, segmented genealogy¹ that deals with the relationships among the earth’s various peoples. Likewise, 11:1–9 contains the well-known Tower of Babel story, which ends: “and from there the LORD scattered them over the face of the whole earth”—it is hard to imagine a more universal story! This universal setting makes sense, since the first eleven chapters of Genesis may be read as a dialogue between “crime and punishment,”² or more specifically, as successive failed attempts by God to create an obedient humankind: the Eden generation disobeys, the flood generation disobeys, and finally the generation of the Tower of Babel disobeys. These failures justify the choosing of Abraham in chapter 12.³

Yet Abraham, or Abram, as he is first called, is not first introduced in Genesis 12. Rather, he is introduced in the genealogy in 11:26: “When Terah had lived 70 years, he begot Abram, Nahor, and Haran.” In fact, one version of Abram’s migration from Mesopotamia is preserved in verse 31: “Terah took his son Abram, his grandson Lot the son of Haran, and his daughter-in-law Sarai, the wife of his son Abram, and they set out together from Ur of the Chaldeans

for the land of Canaan; but when they had come as far as Haran, they settled there.” Thus 12:1, “The LORD said to Abram, ‘Go forth from your native land and from your father’s house to the land that I will show you,’” is not the beginning of a new story.

Furthermore, though much in chapters 1–11 is universal in outlook, not all of the material may be characterized that way. Genesis 2:1–3 describes the origin of the Shabbat, which is a uniquely Israelite institution, as “a sign for all time between Me and the people of Israel” (Exod. 31:17). Thus, this supposedly universal introduction includes elements of particularity—which is not surprising, given that Israelites wrote these stories for an Israelite audience.

The term “Patriarchal History” is doubly problematic as it is applied to chapters 12–50: they are neither “patriarchal” nor are they “history” in the commonly understood sense of the word. The Matriarchs play a major role in many of these stories.⁴ In Genesis 27, it is Rebekah who makes sure that the right son (Jacob, not Esau) receives the blessing from Isaac. In 25:22, when she feels the two children struggling in her womb, she directly inquires of the LORD, and is answered directly (v. 23). Tamar in Genesis 38 is another strong woman, outsmarting her father-in-law, Judah. She is not condemned by the text; in fact Judah recognizes that “She is more right than I” (38:26), and she is rewarded with children. Her first born son, Perez, is the ancestor of David. She is even named in a blessing in Ruth 4:12: “may your house be like the house of Perez whom Tamar bore to Judah.” Thus, although the Patriarchs outnumber the Matriarchs in terms of verses, and although the society depicted is by and large patriarchal (that is, the main locus of power is in the men),⁵ this unit should not be called “*Patriarchal History*.”

Meanwhile, “history” is notoriously hard to define. It is often understood as an account of what actually took place.⁶ Such accounts can never be identical to the events themselves, yet we typically judge historians by how closely their account mirrors or maps those events—by what they add, omit, or twist. “History” in this sense hardly applies to the narratives in Genesis 12–50. There is no reason to believe that its authors were trying to relate exactly what happened, or even what they believed to be historically true. The stories were composed much later than the events they depict, for they reflect the background of that later period.⁷ For these reasons, I avoid the term “Patriarchal History.”

Role Models?

The stories of Genesis 12–50 are often understood to be presenting the ancestors as paradigmatic figures, as role models whose behavior should be emulated

by the community. Probably this way of reading the stories is very old, for it is customary to view ancestors in this idealized fashion. However, these stories were likely not understood this way during the biblical period.

The biblical text corroborates this claim. It contains more than a hundred references to Abraham and Jacob outside of Genesis. (Isaac is hardly mentioned, just as he is hardly mentioned in Genesis.) For example, after Israel sins, Moses prays to God, asking him to remember Abraham, Isaac, and Jacob (see, e.g., Exod. 32:13; Deut. 9:27). However, never once does Moses tell the Israelites to remember the Patriarchs and to emulate their behavior. Even Isaiah 51:2, an exilic prophetic text that opens “Look back to Abraham your father / And to Sarah who brought you forth,” does not continue by saying that you should follow their actions. Prophetic literature and Psalms offer many opportunities to encourage the people to emulate their ancestors, but this is *never done once*, implying that they were not viewed as role models in the biblical period.

In fact, a reading of the stories about the ancestors without the presumption that they are role models suggests that they have quite a few warts. This is clearest with Jacob, whose whole life is suffused with trickery. His brother, Esau, is quite correct when he remarks, “Was he, then, named Jacob that he might supplant me these two times? First he took away my birthright and now he has taken away my blessing!” (Gen. 27:36), punning on the connection between the words *bekhorah* (בְּכוֹרָה, “birthright”) and *berakhah* (בְּרָכָה, “blessing”). The entire life story of Jacob could be read as a type of morality tale: trick others and you shall be tricked.⁸ He tricks his brother, and then leads a life of being tricked by others, including his wife (31:19–32) and his children (chap. 37). This is a group of stories from which ancient Israelites might have learned about the dangers of trickery, as well as the divine concern bestowed on their ancestor named Israel or Jacob, but it does not illustrate a paradigm that should be emulated.

The same is true of Abraham. Nowhere does the text of Genesis or any other biblical text suggest that each Israelite should be prepared to sacrifice his child, as Abraham was in chapter 22. In fact, that story in its current form suggests that the purpose of this test was to reward Abraham by promising that his descendants would become numerous and conquer the land of Israel, thereby becoming a source of blessing for others (22:17–18).⁹

Several other actions performed by Abraham do not provide suitable models for emulation. For example, in Genesis 12, fairly early in the narrative when he and his wife are still called Abram and Sarai, Abram passes her off as his sister, so that he will not be killed (12:10–20). Sarai is taken into the royal harem (v. 15) as Pharaoh’s wife (v. 19)! Abram is indeed saved, but at Sarai’s expense. This is not paradigmatic, righteous behavior.

Many early postbiblical retellings of this story, written after the idea devel-

oped that the Patriarchs should be viewed as role models, respond to the moral problem that these stories present.¹⁰ Jubilees, a pseudepigraphic work¹¹ from the second pre-Christian century, notes twice in retelling Genesis 12 that Sarai was taken “by force” (13:11–13). The great Hellenistic Jewish scholar Philo commented that Sarai “who in a foreign country was at the mercy of a licentious and cruel-hearted despot and had not one to protect her—for her husband was helpless . . .” (*On Abraham*, 94–95). In the Genesis Apocryphon, a greatly expanded retelling of Genesis in Aramaic found among the Dead Sea Scrolls (20:10) and in the medieval Midrash Tanchuma (*Lekh Lekhah* 5), Abram is depicted as weeping, rather than callously passing his wife off. In each of these retellings, Abraham’s role is rewritten so that he is a victim of circumstances.

The Legends of the Jews, a compilation by Louis Ginzberg of rabbinic sources from the postbiblical period through the medieval period, shows a similar tendency. Drawing from a variety of postbiblical sources, this is how Ginzberg retells part of the story of Genesis 12:10–20:¹²

On his journey from Canaan to Egypt, Abraham first observed the beauty of Sarah. Chaste as he was, he had never before looked at her, but now, when they were wading through a stream, he saw the reflection of her beauty in the water like the brilliance of the sun. Wherefore he spoke to her thus, “The Egyptians are very sensual, and I will put thee in a casket that no harm befall me on account of thee.” At the Egyptian boundary, the tax collectors asked him about the contents of the casket, and Abraham told them he had barley in it. “No,” they said, “it contains wheat.” “Very well,” replied Abraham, “I am prepared to pay the tax on wheat.” The officers then hazarded the guess, “It contains pepper!” Abraham agreed to pay the tax on pepper, and when they charged him with concealing gold in the casket, he did not refuse to pay the tax on gold, and finally on precious stones. Seeing that he demurred to no charge, however high, the tax collectors, made thoroughly suspicious, insisted upon his unfastening the casket and letting them examine the contents. When it was forced open, the whole of Egypt was resplendent with the beauty of Sarah. In comparison with her, all other beauties were like apes compared with men. She excelled Eve herself. The servants of Pharaoh outbid one another in seeking to obtain possession of her, though they were of opinion that so radiant a beauty ought not to remain the property of a private individual. They reported the matter to the king, and Pharaoh sent a powerful armed force to bring Sarah to the palace, and so bewitched was he by her charms that those who had

brought him the news of her coming into Egypt were loaded down with bountiful gifts.

This account (or more correctly combination of accounts) “cleans up” the image of Abraham. So do similar sources that insist, contrary to what the biblical text implies, that each time Pharaoh attempted to consummate the relationship, an angel protecting Sarai struck him.¹³ (A much earlier retelling of the story by Josephus suggests: “But God thwarted his [Pharaoh’s] criminal passion by an outbreak of disease and political disturbance.”¹⁴) These various retellings, which embellish the biblical text, highlight for us the questionable behavior of the biblical Abraham, further suggesting that he, along with the other ancestors of Genesis, are not intended as role models.

The Ancestors as Symbols¹⁵

Given that Genesis was written over a long time period by different authors, we may not expect all of the ancestral stories to share the same goal. For example, in Genesis 14 Abram is presented as a great warrior,¹⁶ an image that is not shared with the rest of Abraham material—this presents a single, particular view of Abraham in ancient Israel, which was preserved in the biblical text. Thus, the search for a single explanation for all of these ancestral stories is futile. In fact, it is likely that many of them were reworked as they were transmitted, and their original purpose or purposes were obscured in the process. However, in some cases, their goals remain visible.

Some of the stories in Genesis are symbolic, where the ancestor represents Israel as a whole, or a group within Israel. This is evident in the story we examined above, Genesis 12:10–20:

There was a famine in the land, and Abram went down to Egypt to sojourn there, for the famine was severe in the land. As he was about to enter Egypt, he said to his wife Sarai, “I know what a beautiful woman you are. If the Egyptians see you, and think, ‘She is his wife,’ they will kill me and let you live. Please say that you are my sister, that it may go well with me because of you, and that I may remain alive thanks to you.” When Abram entered Egypt, the Egyptians saw how very beautiful the woman was. Pharaoh’s courtiers saw her and praised her to Pharaoh, and the woman was taken into Pharaoh’s palace. And because of her, it went well with Abram; he acquired sheep, oxen, asses, male and female slaves, she-asses, and camels. But the Lord afflicted Pharaoh

and his household with mighty plagues on account of Sarai, the wife of Abram. Pharaoh sent for Abram and said, “What is this you have done to me! Why did you not tell me that she was your wife? Why did you say, ‘She is my sister,’ so that I took her as my wife? Now, here is your wife; take her and begone!” And Pharaoh put men in charge of him, and they sent him off with his wife and all that he possessed.

This story has been the subject of much study because it is repeated again in Genesis, in chapters 20 (with Abraham and Sarah) and 26 (with Isaac and Rebekah).¹⁷ The differences among the three versions are significant, and yield important information concerning how stories were told and retold in ancient Israel, and how variants of the same story might have developed over time. This comparison also highlights elements that are unique to each story.

Several features stick out in the Genesis 12 version: Abram, motivated by a famine, specifically goes to Egypt; through deceit he is enriched there; and he is eventually expelled. It is quite odd that despite Pharaoh’s apparent anger at Abram, Abram gets to keep the various possessions that Pharaoh had given him.

When told in this outline form, it is evident that story is a “pre-telling” of the later story of Israel in Egypt. According to the Joseph story, Israel (the person and the nation) ends up in Egypt due to a famine. (Contrast this with Genesis 20, which is set in Gerar.) There the Israelites are ultimately enriched when they ask their Egyptian neighbors to “borrow” silver and gold objects and garments (Exod. 3:22; 11:2; 12:35). The Israelites are ultimately expelled (Exod. 12:31–32). The connection between Genesis 12:10–20 and the Exodus story is sealed by the word *nega'im* (נִּגְעִים), “plagues” in Genesis 12:17 and again in Exodus 11:1 (of the plagues brought against Pharaoh).

The connections between these two stories were recognized in classical Jewish sources. Genesis Rabbah, an early rabbinic midrash (a type of Bible commentary), notes certain verbal similarities between our unit and later Torah texts: it introduces these observations by observing that “God said to Abraham our father, ‘Go and prepare the path for your children’” (Genesis Rabbah 40:6). The medieval commentator Nachmanides, active in the thirteenth century, noted various thematic connections between these stories, and concludes by noting, “Absolutely everything that happened to the father happened to the children” (commentary on Gen. 12:10). For these scholars, history—or more precisely, certain elements of history—is cyclical,¹⁸ and thus what happens once “helps” an event happen again. Modern biblical scholarship understands the same data differently—it assumes that an author prefigures later events by composing a story with the same elements but setting it at an earlier time. This highlights the importance of that later event. Here, the Exodus motif, one of the most central

motifs of the entire Bible, is prefigured—this may be seen as a type of fulfillment of Deuteronomy 16:3, which enjoins that the Exodus should be recalled “as long as you live.” Deuteronomy in particular does this by connecting various laws to the Exodus.¹⁹ The centrality of the Exodus is also emphasized by placing it at the very beginning of the ancestral stories, in Genesis 12:10–20.

It is difficult to know how an ancient Israelite would have “read” Genesis 12:10–20, because, as is the case for biblical texts in general, it does not contain a genre label. We might distinguish various texts that present the past with such labels as “true history,” “symbolic history,” “historical fiction,” or “light entertainment set in the past.” Using various internal and external clues, we may sometimes surmise to which category a particular text belongs. In the case of Genesis 12:10–20, an overabundance of clues associating this passage with the Exodus would have suggested to the ancient Israelite that it is symbolic. Rather than depicting real events, it was meant to bolster the importance of the Exodus, and to support a view of providence that suggests a deity who protects his people—who goes down with them into exile, but also returns with them from there (see Gen. 46:4).

Genesis 12:10–20 is not unique as a symbolic text. Others may be identified by significant similarities between the text in Genesis and later texts or events, or when oddities in the text are best explained by observing that a story in Genesis is following the script of another story. These criteria are somewhat subjective, and isolating these symbolic stories can be difficult, especially because the Bible preserves for us only a small part of the traditions of ancient Israel. Other stories may quite possibly be symbolic, but we can no longer recognize what they are patterned after. For this reason we cannot say how many or what proportion of the ancestral stories in Genesis are symbolic.

The Joseph Story

In many ways, the Joseph story is different from many of the other stories in Genesis. Although there are a small number of inconsistencies within this story, such as whether Joseph was sold to the Midianites (37:28a, 36) or Ishmaelites (37:25–27, 28b), these are rather inconsequential when compared to contradictions in earlier sections of Genesis. Even chapter 38, the story of Judah and Tamar, which interrupts the flow of the Joseph story, is well integrated into the larger story through use of theme and vocabulary.²⁰ There is a sense of drama and deep interest in what we would call human psychology throughout the story. Genesis 37–50 incorporates a variety of traditions; it was not the work of a single author. However, it does not contain the usual sources found in Genesis

(J, E, P), and it contains many fewer contradictions than the previous part of the book. For these reasons, several scholars understand the story as a separate novella;²¹ in any case, we may certainly speak of the Joseph story.

Several elements of the Joseph story are clearly symbolic. For example, a significant theme of this story is the conflict among the brothers (especially Joseph and Judah), which mirrors the conflicts of the divided monarchy (see “Israel’s History as Seen from the Inside” in chapter 4). The story explains why Judah became the most important tribe among the children of Leah. In fact, much of the Joseph story can be understood as the narrative elaboration of an idea found in 1 Chronicles:

(5:1) The sons of Reuben the first-born of Israel. He was the first-born; but when he defiled his father’s bed, his birthright was given to the sons of Joseph son of Israel, so he is not reckoned as first-born in the genealogy; (2) though Judah became more powerful than his brothers and a leader came from him, yet the birthright belonged to Joseph.

In other words, the story describes the relationships among Reuben, Judah, and Joseph, which actually represent the later relationships among subgroups of Israel.

In genealogical lists, being firstborn often represents being the most powerful.²² Thus, it is necessary to explain how this role moved from (the tribe of) Reuben to Judah. This is accomplished to some extent before the Joseph story begins, but is continued in the Joseph story. The beginning of Genesis 35:22 notes, “While Israel stayed in that land, Reuben went and lay with Bilhah, his father’s concubine; and Israel found out”; according to 49:4, this disqualified Reuben from leadership. Similarly, the next two children, Simeon and Levi, are disqualified because they massacred a Canaanite city (chap. 34; see 49:5–7). Thus, before the Joseph story starts, Judah, the fourth-born son, is left as the dominant brother.²³

This theme of who deserves the right of the firstborn is played out almost from the opening of the Joseph story. Reuben is unsuccessful in saving Joseph (Gen. 37:21–22, 29–30), while Judah’s plan succeeds (vv. 26–27). The prominent role of Judah is then reflected in Genesis 38, which has as its focus Judah and his family. Later in the story, after the brothers have returned from Egypt while leaving Simeon behind as a hostage, Reuben offers to return to Egypt with Benjamin, but Jacob refuses (42:37–38). A few verses later, Judah makes a similar offer (38:8–14), and this time Jacob accedes to the offer. In both of these places, Judah plays the role of leader, of firstborn, instead of Reuben. The position that Judah’s descendent King David will play is sanctioned through these

details of the story, as well as others that place Judah in a position of leadership (see 44:16–34; 46:28). The Joseph story can also be viewed symbolically as a struggle between the house of Judah, representing the Davidic monarchy, and the house of Joseph, representing the northern kingdom. The story accurately reflects the fact that the northern kingdom (“Joseph”) was much larger in area, and more powerful militarily, than Judah to the south.

However, reading the story as *only* a political allegory is erroneous. In antiquity, as in modern times, literary works were often written for more than one purpose. As already noted, the author or compiler of the Joseph story had an unusually strong dramatic sense, and was quite interested in human psychology. This may already be seen from the introduction to the story, which shows a keen interest in the various relationships between a father and sets of children from various wives. It notes details that are typically omitted in biblical stories, such as the age of the protagonist (Joseph is 17 years old, according to Gen. 37:2), and other mundane information, like Joseph spending his time with the concubine’s children (v. 2). Thus, from its very beginning, the story sets up a problem—how will a young child, the son of the dead favored wife, fare, especially since he seems to be associating with the less powerful children?

Like many good stories, the introduction to the Joseph story leaves many questions unanswered. How are we to understand Joseph? Is he a spoiled brat who takes advantage of his situation as favored son, or is he naive? What about Jacob? Why, for example, does he send Joseph out after his brothers (Gen. 37:13)—is he trying to teach Joseph a lesson, or is he oblivious to the dynamic among the brothers? Many more such questions are at the surface here, suggesting that it would be a simplification to read this story *only* as a political allegory.

An Obstacle Story?

In addition to looking at the meaning of individual stories, it is possible to see if they have been combined into a meaningful whole. The stories of Abraham’s family may be read from beginning to end as a somewhat smooth narrative beginning with the promise of the land in Genesis 12, and ending with a recapitulation of that promise in the final chapter, in 50:24, by the dying Joseph: “I am about to die. God will surely take notice of you and bring you up from this land to the land that He promised on oath to Abraham, to Isaac, and to Jacob.”

One scholar has suggested that much of the material in this large section may be read as an obstacle story. That is, it opens with the promise of land and progeny to Abraham and his descendents, and then in great detail, time after

time, notes various obstacles that prevent this promise from being fulfilled.²⁴ The Abraham story, for example, may be outlined as follows: Abraham is given a grand promise with two main parts: land, and the progeny to fill it (Gen. 12:1–3). He successfully migrates to Canaan and walks throughout the land (12:4–9). Yet as soon as he has done so, he needs to leave due to famine; in the process, he is worried about being killed, and his wife, through whom he must bear progeny, is taken into Pharaoh’s harem. Since he is childless, one might think that Lot, his nephew, would be his heir. However, when given the choice, Lot chooses not the land of Canaan but the plain of the Jordan (chap. 13). Lot is ultimately captured in war, and Abraham the warrior recovers him. In the process, King Melchizedek of Salem makes a generous offer to Abraham, who certainly could have attained some territory, but Abraham refuses (chap. 14). The covenant is renewed through a detailed ceremony (chap. 15). Since Sarai, Abram’s wife, has not conceived, Sarai suggests that Abram take Hagar as a wife, so he might have an heir. No sooner does he do this than she conceives and is banished by Sarai to the wilderness, undermining the possibility that Abram’s heir problem will be solved. The covenant is renewed and circumcision is mandated (chap. 17). (Genesis 18–19 is about Sodom, forming an interlude.) Sarah is taken by Abimelech of Gerar, again making us wonder how an heir to Abraham will be produced (chap. 20). Finally, the heir, Isaac, is born (21:1), so it is safe to banish Ishmael, the “backup heir” (chap. 21). No sooner does Isaac grow up a bit, than God asks Abraham: “Take your son, your only son, whom you love, Isaac, and offer him up . . .” (22:2); Abraham agrees, and is ready to kill his heir (chap. 22). Finally, Abraham makes a real estate transaction—but purchases only a cave for burial purposes (chap. 23).

By the time we get to Genesis 24, Abraham is elderly, has a single child to carry on the promise, and has no more of the land than a burial plot. Obstacle after obstacle has been put in his place—foreign kings who desire the wife who will produce the heir, banished children, almost sacrificed children, great wars, etc. This pattern can be seen as continuing throughout Genesis—it is especially evident in the fights that Jacob has with his twin Esau. Thus, it would seem quite appropriate to view Genesis 12–50 as one big obstacle story.

However, amid the various obstacles, the covenantal promise is repeated time and time again. The emphasis should not be on the obstacles, but on the constantly renewed promise. Even after the most difficult experiences, such as the binding of Isaac, the covenantal promise is renewed (Gen. 22:15–18). Even at the very end of the book, when the Israelites are in Egypt, with no immediate hope of returning to Israel, this promise is repeated: “God will surely take notice of you and bring you up from this land to the land that He promised on oath to

Abraham, to Isaac, and to Jacob” (50:24). In sum, the structure of Genesis 12–50 suggests that it should not be read as straightforward history, interested in the past for its own sake. Instead, this portion of the book functions as a myth of encouragement—it might seem impossible for the promise to be fulfilled, yet the promise is renewed time after time. It suggests that the fulfillment of the promise, the divine blessing, is right around the corner—a suggestion that would have been most welcome to readers of this text as a whole. Patterns in both individual stories, and in the stories as they have been combined, suggest that this material was not written in order to represent what actually happened, but rather, on the level of mythological material, to deal with such fundamental questions as: Why do we own this land? How should we react in the face of adversity?

Biblical Law

Codes and Collections

Primary Reading: Exodus 19–24.

The Nature of Biblical Law

Law should be the easiest genre to “read” and understand. We do not have an everyday acquaintance with prophecy, and historical texts play only a minor role in the contemporary United States, but we all encounter laws on a daily basis. Legal battles are often the subject of news headlines. We deal with laws when we are served with tickets for parking or traffic violations, when we buy houses or rent apartments, when we write our wills. Because law is a basic part of our lives, most Americans have some familiarity with the legal system and its underpinnings.

This familiarity, which on the surface makes biblical law easier to understand than other genres, is more of an impediment than a help. Though biblical law looks much like our own laws, in terms of its underpinnings and function it is fundamentally different.

The most significant difference between modern law and biblical law is its imputed author: Exodus claims that the origin of its laws is divine. The Decalogue (the “Ten Commandments”)¹ is presented as unmediated revelation by God to all Israel; it is introduced by “God spoke all these words, saying . . .” (20:1). The laws that follow the Decalogue in 20:20²–23:19 are presented as God’s revelation to Moses that Moses is supposed to relay to Israel, “The LORD said to Moses: Thus shall you say to the Israelites . . .” (20:19). Thus, all of the laws incorporated in chapters 19–24 are presented as divine law.

The structure of this portion of Exodus emphasizes that the laws it incorporates are God’s laws by opening with a description of the revelation (chap. 19), which is followed by the Decalogue (20:1–14), which is followed by a descrip-

tion of the revelation (20:15–18), which is followed by a group of laws (20:19–23:33), which is followed by a final description of the revelation (chap. 24). This creates a double-decker sandwich, highlighting the significance of the law as divine revelation.

Revelation (chap. 19)

Decalogue (20:1–14)

Revelation (20:15–18)

Laws (20:19–23:33)

Revelation (chap. 24)

This structure corresponds to explicit statements about the divine origin of the law, which may seem like overkill. All of this may have been necessary, however, because this conception is one of the few in which the Bible was unique within its ancient Near Eastern context.³ Elsewhere, it was not the deity but the king who established law and propagated legal collections. For example, the prologue to the famous Laws of Hammurabi⁴ concludes: “When the god Marduk commanded me to provide just ways for the people of the land [in order to attain] appropriate behavior, I established truth and justice as the declaration of the land, I enhanced the well-being of the people. At that time: If a man accuses another man and charges him with homicide . . .”⁵ The same idea is reinforced in the epilogue that follows the laws: “These are the just decisions which Hammurabi, the able king, has established . . .”⁶ Still later, Hammurabi calls himself “king of justice, to whom the god Shimachu has granted [insight into] the truth. My pronouncements are choice . . .”⁷

Thus, in broadest strokes, the organization of Exodus 19–24 is similar to that of Hammurabi—they both have narrative material surrounding laws. However, in the law collection of Hammurabi, the surrounding material makes it clear that these laws originate from the human king, while God as King was understood to be the lawgiver in Israel.⁸ This explains why, in contrast to surrounding societies, the Bible portrays kings as playing a relatively minor role in the creation of law, and according to some, even in the administration of justice.⁹

The fact that the Bible understands God to be the lawgiver also explains an oddity of the biblical law collections: the way in which they combine (what we would call) religious law and (what we would call) secular law, including criminal law and torts. For example, the Decalogue says both “You shall have no other gods besides Me” (Exod. 20:3) and “You shall not steal” (20:13). The law collection that follows in Exodus contains laws about goring oxen (21:28–32) as well as pilgrimage festivals (23:14–17). Such “religious laws” and “secular laws” are often mixed together in adjacent verses (e.g., 23:1–4).

Sometimes the Bible, in its structure, distinguishes between religious law—laws regulating how God should be worshipped—and interpersonal law. The Decalogue, for example, is divided into two sections: religious law, then interpersonal law. Yet, even here, a law that we would consider interpersonal, honoring one's parents, is given a religious justification: “. . . that you may long endure on the land that the LORD your God is assigning to you” (Exod. 20:12).¹⁰ Exodus 22:20–23 is similar:

You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt. You shall not ill-treat any widow or orphan. If you do mistreat them, I will heed their outcry as soon as they cry out to Me, and My anger shall blaze forth and I will put you to the sword, and your own wives shall become widows and your children orphans.

The notion that the biblical authors understood all law as divine law¹¹ shows up most clearly when comparing laws of adultery in the ancient Near East with those in the Bible. Adultery in the ancient Near East was typically treated as an offense against the wronged husband. In certain cases, the offended husband had a role in determining the punishment of his wife and her paramour—“he shall treat her as he wishes.”¹² Though one biblical text seems to be familiar with this notion (Prov. 6:34–35, which is outside the Torah),¹³ all biblical legal texts insist on absolute punishment—nothing is left up to the husband's discretion. This perspective is also found outside of legal texts; it may be seen, for example, in Joseph's answer to Potiphar's wife when she tries to seduce him: “How then could I do this most wicked thing, and sin before God?” (Gen. 39:9). Adultery here is not understood as a crime against the wronged husband, but as a “sin before God,” who is understood to be the source of law.

The uniqueness of the Bible's conception explains why the Bible depicts revelation in such detail. It also accounts for an unusual number and diversity of sources that attempt to explain this event. All of these, in turn, help us see the underlying diversity of understandings of God, and of revelation itself, that existed within ancient Israel.¹⁴ For example, most of the sources emphasize that Moses alone had close access to God, and that the process of revelation was dangerous, yet Exodus 24:9–11 notes: “Then Moses and Aaron, Nadab and Abihu, and seventy elders of Israel ascended; and they saw the God of Israel. . . . Yet He did not raise His hand against the leaders of the Israelites; they beheld God, and they ate and drank.” Because the idea of divinely revealed law was so unique to ancient Israel, an unusually large number of diverse sources attempt to explain this event.¹⁵

The Decalogue

As noted earlier, the first set of laws contained within this corpus is the Decalogue, in Exodus 20:2–14. The usual name for this selection, “the Ten Commandments,” is not attested in the Bible—and is inaccurate. The first statement in the Decalogue reads: “I the LORD am your God who brought you out of the land of Egypt, the house of bondage” (20:2); this is certainly not a commandment. The term “Decalogue,” from the Greek *deca* (ten) *logos* (words), is superior. That Greek term is ancient—used in the Septuagint (the Greek translation of the Bible begun in Alexandria in the third pre-Christian century) to render *aseret ha-devarim* (עֶשְׂרֵת הַדְּבָרִים; Exod. 34:28; Deut. 4:13, 10:4). The word *davar* (דָּבָר;), singular of *devarim* (דְּבָרִים), is one of the most common biblical nouns; typically it means “thing” or “word.” (Given the importance of the Decalogue, its name in rabbinic tradition shifted slightly and not surprisingly to *aseret ha-dibrot* [עֶשְׂרֵת הַדְּבָרוֹת], which means specifically “the ten divine utterances.”)

Both of the commonly used terms, Decalogue and the Ten Commandments, follow the tradition of Exodus and Deuteronomy in insisting that this text must be divided into ten sections. This most likely reflects a notion of ten as a number expressing perfection. Yet, the Decalogue comprises as many as thirteen separate statements:

1. (v. 2) I the LORD am your God who brought you out of the land of Egypt . . .
2. (v. 3) You shall have no other gods besides Me.
3. (v. 4) You shall not make for yourself a sculptured image . . .
4. (v. 5) You shall not bow down to them or serve them.
5. (v. 7) You shall not swear falsely by the name of the Lord your God . . .
6. (v. 8) Remember the sabbath day and keep it holy
7. (v. 12) Honor your father and your mother . . .
8. (v. 13) You shall not murder.
9. (v. 13) You shall not commit adultery.
10. (v. 13) You shall not steal.
11. (v. 13) You shall not bear false witness against your neighbor.
12. (v. 14) You shall not covet your neighbor’s house.
13. (v. 14) You shall not covet your neighbor’s wife . . .

Already the ancients knew of different traditions about how to group these thirteen pieces together to form “ten” statements.¹⁶ Classical Jewish and

Christian understandings differed significantly.¹⁷ For instance, Christians have normally taken them as “ten *commandments*,” relegating verse 2, “I am the LORD” to an unnumbered introduction, while rabbinic tradition as a rule counts this as the first divine utterance. Thus, within Jewish contexts, the term Decalogue, which is more inclusive of all the verses, is the more appropriate term.

The Decalogue is the only collection of law that, according to biblical tradition, God revealed to *all* Israel without an intermediary. (Indeed, this helps to account for its significance within biblical and later religious traditions. In the Bible itself, it is not marked as the center of or source for all the other biblical laws, as sometimes claimed in Jewish tradition.) Critical biblical scholarship has attempted to produce an earlier proto-Decalogue, which is much shorter, and where the utterances tend to be similar in form and length to the group in v. 13: “You shall not murder. You shall not commit adultery. You shall not steal.”¹⁸ Such reconstructions are conjectural. Yet clearly the Decalogue existed in several forms in ancient Israel. The version in Deuteronomy 5 differs from that in Exodus 20 in both small and large ways.¹⁹ For example, a totally different reason is given in Deuteronomy for why the Sabbath should be observed, and that text introduces the Sabbath injunction using a different verb, as may be seen from the following juxtaposition:

Exodus 20:8–11

Remember the sabbath day and keep it holy. Six days you shall labor and do all your work, but the seventh day is a sabbath of the LORD your God: you shall not do any work—you, your son or daughter, your male or female slave, or your cattle, or the stranger who is within your settlements. For in six days the LORD made heaven and earth and sea, and all that is in them, and He rested on the seventh day; therefore the LORD blessed the sabbath day and hallowed it.

Deuteronomy 5:12–15

Observe the sabbath day and keep it holy, as the LORD your God has commanded you. Six days you shall labor and do all your work, but the seventh day is a sabbath of the LORD your God; you shall not do any work—you, your son or your daughter, your male or female slave, your ox or your ass, or any of your cattle, or the stranger in your settlements, so that your male and female slave may rest as you do. Remember that you were a slave in the land of Egypt and the LORD your God freed you from there with a mighty hand and an outstretched arm; therefore the LORD your God has commanded you to observe the sabbath day.

On a more minor level, Exodus and Deuteronomy use different words, that likely have different nuances, for the prohibition against false testimony; Exod. 20:13 uses the noun *shaker* (שָׁקֵר, “false”), while Deuteronomy 5:17 uses *shav* (שָׁוֵא, “vain”). In addition to the differences seen between Exodus and Deuteronomy, several biblical and early postbiblical sources quote the three short injunctions (“You shall not murder. You shall not commit adultery. You shall not steal”) in a different order from the one preserved in both Exodus and Deuteronomy. For example, Jeremiah 7:9 asks rhetorically, “Will you steal and murder and commit adultery?” while ancient sources ranging from Philo to the Christians’ New Testament (Rom. 13:9) know of the order “adultery . . . murder . . . steal.”²⁰

Though minor variations may exist in reasons given, in terms used, in syntax, or in the order of various injunctions, the basic injunctions are always the same. Are the differences then trivial? No, because they exist in the single biblical text that is supposed to contain *the unmediated word of God*. They teach us that the ancients did not transmit biblical texts like we transmit modern texts, using photocopiers and “cut-and-paste” word-processing programs. Rather, all biblical texts changed during their transmission. They were updated, expanded, and made to fit their broader context.²¹ If this happened to the Decalogue—which is ascribed directly to God—then it certainly happened to other texts, which would have been even more fluid.²² In any case, the many versions show that Exodus 20:2–14 cannot simply be seen as *the* words that God spoke on Sinai.

Another piece of evidence suggests that the Decalogue should not be upheld as *the* central biblical text. The Decalogue states why one should not bow down or serve other gods:

For I the Lord your God am an impassioned God, visiting the guilt of the parents upon the children, upon the third and upon the fourth generations of those who reject Me, but showing kindness to the thousandth generation of those who love Me and keep My commandments (Exod. 20:5–6).

This notion of intergenerational punishment is expressed elsewhere in the Bible (see especially Exod. 34:6–7), and is illustrated, for example, when God “transfers” David’s sin to the child of his adulterous affair with Bathsheba, and that child dies (2 Sam. 12:13–14).²³ Yet, this idea—unambiguously stated “by God” in the Decalogue—is disputed by other biblical sources, including Ezekiel 18, which states decisively: “the person who sins, only he shall die” (v. 4). Deuteronomy 7:9–10 is even more striking, quoting from this injunction in the Decalogue only to argue against it: “Know, therefore, that only the LORD your

God is God, the steadfast God who keeps His covenant faithfully to the thousandth generation of those who love Him and keep His commandments, but who instantly requites with destruction those who reject Him—never slow with those who reject Him, but requiting them instantly.”²⁴ This polemic indicates that those who constituted biblical Israel did not all agree with the Decalogue’s theology. In short, the Decalogue does not possess absolute authority, not even in the Bible itself.

There is a great deal that we do not know about the Decalogue. We cannot determine its original form, although we are sure that it is not currently in that form.²⁵ We cannot pinpoint when, where, and how it became viewed so centrally in Israel—quoted in various prophetic and other texts.²⁶ Nor can we easily discern its function (although we can rule it out as a collection of laws, since it contains no sanctions for violating particular norms). Despite these great uncertainties, it occupies a strikingly central position within Jewish, Christian, and indeed all of Western civilization.

The Covenant Collection

The legal collection that follows the Decalogue is often named the “Covenant Code.”²⁷ Unlike the Decalogue, it appears in only one version. Furthermore, it is presented as mediated revelation that Moses is supposed to “set before” the Israelites (Exod. 21:1). It derives its name from Exodus 24:7, “Then he [Moses] took *sefer ha-berit* (סֵפֶר הַבְּרִית, “the record of the covenant”) and read it aloud to the people. And they said, ‘All that the LORD has spoken we will faithfully do!’” What the term “record of the covenant” refers to in this context is uncertain, but by convention biblical scholars use that name to describe all of the preceding laws found in Exodus 20:19–23:33.

An even better designation than “the Covenant Code” would be “the Covenant Collection.” Codes are typically meant to be complete, and are organized for use by the courts. The material in Exodus 20:19–23:33 is neither. It contains, for example, no material on how individuals married or divorced, nor how shepherds fulfilled their obligations to flock owners (see Gen. 31:38–39), two areas of widespread concern in antiquity. Moreover, some parts, such as 22:17–19, are organized by punishment:

You shall not tolerate a sorceress.

Whoever lies with a beast shall be put to death.

Whoever sacrifices to a god other than the Lord alone shall be proscribed.

(See also 21:15–17.) Such a system of organization would be cumbersome for lawyers and judges. In fact, because no Near Eastern culture appears to have had codes in the later Roman sense, it is best to speak in general of “collections.”²⁸

The diversity of materials found in Exodus 20:19–23:33 further suggest that it should not be read as a code. Most of the laws are couched in conditional terms: *ki* (כִּי, “If/When . . . then”). For example: “If a man seduces a virgin for whom the bride-price has not been paid, and lies with her, *then* he must make her his wife by payment of a bride-price. If her father refuses to give her to him, *then* he must still weigh out silver in accordance with the bride-price for virgins” (22:15–16, transl. adapted). This is called “casuistic” law. It is the main form of law known from the ancient Near East.²⁹ Other injunctions in this collection are couched in absolute terms, as in the Decalogue. One example of absolute (or “apodictic”) law is “Whoever lies with a beast shall be put to death” (22:18). Apodictic law is hardly found in other ancient Near Eastern collections. The mixing of apodictic and casuistic law sets the Bible apart from other ancient Near Eastern legal texts.

At the same time, the Bible appears to share with other ancient Near Eastern law collections the character of not being a code intended for court use. Consider what appear to be impractical or impossible laws. For example, law 218 of Hammurabi reads:

If a physician performs major surgery with a bronze lancet upon a member of the upper class and thus causes the person’s death, or opens the temple of a person of the upper class and thus blinds that person’s eye, they shall cut off his hand.³⁰

In such a world, no physician would opt to serve the upper class. Laws 229–30 read:

If a builder constructs a house for a man but does not make his work sound, and the house that he constructs collapses and causes the death of the householder, that builder shall be killed. If it should cause the death of the son of the householder, they shall kill a son of that builder.³¹

This law presents practical problems of a different type: What if a childless contractor kills the son of the householder?

Thus, although Hammurabi is longer, more comprehensive, and more logically ordered than the Covenant Collection—that is, although it looks more like a legal code—it too should be seen as a collection. Some of its laws may reflect the norms of the law courts in Hammurabi’s period, but others, such as the laws just quoted, are most likely “theoretical law.” Such laws express the ideals of a

particular reformer within a society. Thus, law 218 expresses the notion that physicians are not supposed to harm their patients, even accidentally, while law 230 expresses the seriousness with which ancient contractors were supposed to work.

The Goring Ox

Unfortunately, we can no longer know which laws recorded in the Laws of Hammurabi were real, and which were ideal—there is no textual distinction between them. Nevertheless, all such laws may be examined to reveal how they reflect the norms (both real and ideal) of the legists who edited them. The same is true of biblical law. In the rest of this chapter I will attempt to tease out some norms that are woven into the Covenant Collection in Exodus. For the time being, I will narrow my focus to a single topic: a goring ox.

The passage in question is Exodus 21:28–32, which states:

When an ox gores a man or a woman to death, the ox shall be stoned and its flesh shall not be eaten, but the owner of the ox is not to be punished. If, however, that ox has been in the habit of goring, and its owner, though warned, has failed to guard it, and it kills a man or a woman—the ox shall be stoned and its owner, too, shall be put to death. If ransom is laid upon him, he³² must pay whatever is laid upon him to redeem his life. So, too, if it gores a minor, male or female, the owner shall be dealt with according to the same rule. But if the ox gores a slave, male or female, he shall pay thirty shekels of silver to the master, and the ox shall be stoned.

This law, or more properly, these laws, deal with the following four cases: (1) unexpected goring by an ox; (2) goring by a habitual gorer; (3) goring of a minor; (4) goring of a slave. Especially given that oxen do not typically gore people, the similarities in structure and even wording between the laws in Exodus and Hammurabi 250–52 are very striking. Hammurabi reads:

(250) If an ox gores a man while it is passing through the street, that case has no basis for a claim. (251) If a man's ox is a known gorer, and the authorities of his city quarter notify him that it is a known gorer, but he does not blunt its horns or control his ox, and that ox gores to death a member of the upper class, he [the owner] shall give thirty shekels of silver. (252) If it is a man's slave [who is fatally gored], he shall give twenty shekels of silver.³³

Though we are uncertain of the date of the Covenant Collection, it is certainly several centuries later than the eighteenth-century-B.C.E. Laws of Hammurabi. Although the “main copy” of these laws was inscribed on a basalt stele in Babylon, later removed to Elam (and now found at the Louvre), we know that the Laws of Hammurabi became part of the Mesopotamian scribal tradition, and were copied for several centuries.³⁴ Given the many similarities between the way this law is expressed in Exodus and Hammurabi, it is highly likely that the author of this section of the Covenant Collection knew the laws as they appeared in Hammurabi, perhaps via an intermediary source, and revised them to fit Israelite norms. Thus, although the similarities between the earlier Babylonian and later Israelite law are striking, the differences are even more telling. They can be analyzed to uncover the manner in which the Israelite legislator changed his source to convey different principles.³⁵

Both collections deal with homicide caused by a person’s benign animal. In modern terms, it is equivalent to a person driving a car that seemed to be in perfect running order but suddenly lost its brakes, so that the driver could not avoid hitting and killing a pedestrian. Given that not even negligence was involved, the owner of the ox is not held responsible in either ancient culture for the death. Yet, biblical law contains an additional provision absent from Hammurabi: “the ox shall be stoned and its flesh shall not be eaten.” This is a significant economic loss for the owner of the ox—it would be the equivalent of insisting that the car that accidentally killed someone be brought to a “car cruncher” and flattened. The stoning of the ox most likely reflects a peculiarly Israelite idea, that the ox has perpetrated a boundary violation by committing a human homicide. As such, it became taboo, and it must be killed, and its owner is deprived of the normal benefit derived from a dead ox—its use as food.

Comparing the second case, the habitually goring ox, is even more instructive. For both ancient cultures, this is a case of negligence. In our culture, it is comparable to having your car fail an inspection because your brakes are faulty, being told not to drive anywhere without fixing them, and then driving away and killing a pedestrian because the brakes could not stop the car on time. Neither the action nor the choice of victim was premeditated, yet the killing could have been—and from the legislator’s perspectives, should have been—anticipated. For this reason, Hammurabi does not consider the owner of the ox guilty of first degree murder (a capital crime) or even manslaughter, yet the guilty party must pay a monetary fine of thirty silver shekels, most likely the economic value of an upper-class individual at that time.

In contrast, the Covenant Collection notes that if this habitually goring ox kills “a man or a woman—the ox shall be stoned and its owner, too, shall be put to death. If ransom is laid upon him, he must pay whatever is laid upon him to

redeem his life.” The stoning of the ox is expected, following the norms developed in the preceding case. Yet, the law suggests that negligence which causes another person’s death is so serious that the owner too deserves to be stoned. This conclusion is softened by allowing the owner to ransom himself, most likely by paying a fine to the family of the individual gored.³⁶ The initial suggestion that “its owner, too, shall be put to death” reflects a basic principle or postulate³⁷ of the Covenant Collection, and indeed of all of the biblical law collections: the fundamental value ascribed to human life. Thus, the person who accidentally and unintentionally but through negligence kills a human through an agent such as an ox, is deserving of death.

The subcase found in Exodus 21:31, “So, too, if it gores a minor, male or female, the owner shall be dealt with according to the same rule,” is absent from Hammurabi. This too is significant. Many of the laws in Hammurabi are class conscious, distinguishing among three groups: the upper class, commoners, and slaves. For example, laws 196–99 read:

If an upper-class person should blind the eye of another upper-class person, they shall blind his eye. If he should break the bone of another upper-class person, they shall break his bone. If he should blind the eye of a commoner or break the bone of a commoner, he shall weigh and deliver sixty shekels of silver. If he should blind the eye of the slave of an upper-class person, or break the bone of a slave of an upper-class person, he shall weigh and deliver one-half of his value [in silver].

Biblical legislators, including those who composed the Covenant Collection, accepted only part of this value system. As in Hammurabi, slaves are treated separately, since (in both cultures) the slave’s owner must be compensated for the economic loss.³⁸ (For the status of slaves in the Covenant Collection, see Exodus 21:20–21.) However, nowhere do biblical laws distinguish between classes of nonslaves, as in the Mesopotamian distinction between upper class and commoner. In fact, the best explanation for Exodus 21:31, “So, too, if it gores a minor, male or female, the owner shall be dealt with according to the same rule,” is that it is taking issue with the notion that (free) people should be treated differentially, based on their worth.

From the Goring Ox to Biblical “Law” in General

For reasons of space, I cannot treat here the many other laws contained in the Covenant Collection. (This book cannot substitute for a commentary, which explains each verse.) However, many of the above observations about the goring

ox law do hold true for other laws in the Covenant Collection. That is, many of those laws may be ideal, many are revisions of earlier Mesopotamian laws, but they avoid the sharp class distinctions seen in Mesopotamia.

Moreover, many of our observations concerning the status of the Covenant Collection are equally true of law elsewhere in the Bible. Consider the other legal collections: the Holiness Collection of Leviticus 17–26 and the Deuteronomic Law Collection in Deuteronomy 12–26. None of these is organized like a law code; none is comprehensive. They all contain repetitions of the same laws. Some of their laws, many scholars believe, are ideal rather than real: the Jubilee year (Leviticus 25); the *cheirem* (חָרַם, “proscription” or “ban”) of the Canaanites (Deut. 20:16–18); and others.³⁹ These features distinguish biblical law from law as we normally experience or understand it. Thus those “laws” may have functioned in ancient Israel differently than do today’s laws as they apply to our own lives.

Furthermore, if we look at all of these law collections together, we see another reason to be cautious when we speak of biblical “law.” As I will show in chapters 9 and 10, each of these collections comes from a different time period and reflects a different ideological perspective. (Although the date of the Covenant Collection is uncertain, it is likely the earliest of the three collections. In contrast to the others, it reflects a largely nonurban perspective.⁴⁰) When dealing with the same issue, the three collections often differ significantly. For example, Exodus and Deuteronomy recognize that an Israelite may enslave another Israelite “forever” (21:5–6 and 15:16–18, respectively), whereas Leviticus insists that Israelite slaves must be released every fiftieth year, explaining that “they are My servants, whom I freed from the land of Egypt; they may not give themselves over into servitude” (25:42; cf. vv. 39–43). Another example: Exodus calls its fall festival “the festival of ingathering” and notes that it should be commemorated “at the end of the year” for an unspecified period (23:16). Deuteronomy knows the same festival as the feast of booths (*sukkot*), commemorated for seven days (16:13–15). Leviticus describes a feast of booths that begins in the seventh month, and it is concluded by a solemn gathering on the *eighth* day (23:33–36)!

Such differences among the various legal corpora are the norm rather than the exception. Nevertheless, certain postulates seem to stand behind all biblical laws. They include an attitude toward human life that makes capital punishment less frequent in the Bible than in Hammurabi’s laws, and that shies away from vicarious punishment, that is, punishment for a crime committed by another family member.⁴¹ Nevertheless, the internal differences in detail are large and frequent enough to warrant avoiding sentences that begin, “Biblical law suggests . . .”