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## **Social Thought in the Old Testament**

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*Bertram Hessler, O.F.M*

## SOCIAL THOUGHT IN THE OLD TESTAMENT

IN THOSE dark days when "extermination of Jewish life was threatened and largely carried out," the distinguished theologian Leo Baeck posed, first in his old home and then in the concentration camp, the question of Jewish existence. He tried to answer it with the words of Isaiah: "The people whom I formed for myself, that they should announce my praise" (43:21). For him, Israel's existence is that of a witness: In and through her the mystery of God, of His covenant and of His law, should be manifest to all men. According to the divine plan of salvation, her role is to show forth the meaning of history and thus to be the people, the prototype, of mankind. For the outstanding element of the divine order manifest in Israel is the emphasis on social and human values. Indeed, according to Baeck, this emphasis is not only an element, but the very essence of Israel's religion: Where the rights of person and of people are not held sacred, there is no piety.<sup>1</sup>

To show, then, the path of justice, and hence of history, is Israel's mission, a mission that has made her troublesome at times to other nations; still, Baeck maintains, she has kept to her path. This call to justice found the prophets ready. "They pounded into the ears of the great and the wealthy, into the ears of the greedy, that God is the Master of the land, the Judge of all, the Guardian of human rights."<sup>2</sup> Beyond the present, they carried the concept of justice into the future: There will be a time of justice, for thus it must be. The people of history, Israel is the messianic people.<sup>3</sup>

With these stirring thoughts of Baeck as background, I should like to examine the social legislation of the Old Testament.

1. See Leo Baeck, *Dieses Volk. Jüdische Existenz* (Frankfurt: Europäische Verlagsanstalt, 1955), pp. 36, 65-67.

2. *Ibid.*, p. 71.

3. See *ibid.*, p. 73.



## THE FOUNDATIONS

## THE COVENANT OF SINAI

MARTIN NOTH has pointed out that the various laws of the Old Testament presuppose an already existing order, an order which they did not create, but were meant to preserve from destruction.<sup>4</sup> Without doubt, this order was the Covenant of Sinai. The most significant laws, Noth concludes, belong to the period before Israel became a state, while those of later times are neither numerous nor important.<sup>5</sup> Her history began not with the deliverance from the house of bondage, not even with the exodus, but with the saving event of Sinai. Through it alone the twelve tribes were made the people uniquely and particularly of God. From it alone social thought in Israel derived its singular and striking character. As Martin Buber sees it, the sacred event of deliverance foretold the sacred event of Sinai. The first was for the sake of the latter.<sup>6</sup> Nowhere is this more clearly expressed than in the "eagle metaphor":

You have seen for yourselves how I treated the Egyptians and how I bore you up on eagle wings and brought you here to myself. Therefore, if you hearken to my voice and keep my covenant, you shall be my special possession, dearer to me than all other people, though all the earth is mine. You shall be to me a kingdom of priests, a holy nation. (Ex 19:4-6)

In Buber's interpretation of the two events: When Yahweh delivered Israel, He acted as leader; when He made His covenant with her, He revealed Himself as sovereign.<sup>7</sup>

In the saving event of Sinai, the Lord established His lasting right to rule the tribes He had singled out from among the nations and called to follow Him. By grace, then, Israel became a kingdom of priests, a holy people. For Buber the momentous phrase "kingdom of priests" means that she was called to be a royal circle of "aides-de-camp," surrounding and serving Yahweh, a holy body of people set aside for Him.<sup>8</sup> Thus understood, the designation of Israel as Yahweh's

4. See Martin Noth, "Die Gesetze im Pentateuch. Ihre Voraussetzungen und ihr Sinn," *Schriften der Königsberger Gelehrten Gesellschaft*, XVII, 2 (Halle: Max Niemeyer, 1940), p. 56.

5. See *ibid.*, p. 137.

6. See Martin Buber, *The Prophetic Faith* (New York: Macmillan, 1949),

p. 47.

7. See *ibid.*, p. 48.

8. See *ibid.*

kingdom within a creation subject to His rule, yet seeking to evade it, prefaces well the legislation to come. Till then, Israel had lived in Egypt, the house of servitude, under an alien ruler, under an alien law. Having freed her from this bondage, Yahweh gave her her own law, enabling her to live in freedom, gave her His law, making her subject to Him alone.

The awareness of this vocation resounds mightily in Israel's old songs. The last verse of the victory song, for instance, sings: "The Lord shall reign for ever and ever" (Ex 15:18). Again, Balaam's oracle proclaims:

*The Lord, his God, is with him;  
with him is the triumph of his King.*  
(Num 23:21)

So does the song of Moses:

*A law He gave to us;  
He made the community of Jacob His domain,  
and He became King of His darling,  
When the chiefs of the people assembled  
and the tribes of Israel came together.*  
(Deut 33:4-5)

It is doubtful whether Buber exhausts the meaning of "kingdom of priests" when he sees priests as "the foremost ones at the king's hand." We must, I think, with Hubert Junker understand "kingdom of priests" in the light of the parallel term "holy nation."<sup>9</sup> In the Old Testament, "holiness" means not only "being set aside" for God, not only "being consecrated to His service," but also a purity given to hallowed persons and things, a quality kindred to the divine nature, the one Source of holiness. Since nothing unholy can stand before the holy God, holiness is a fundamental requisite for the priest. The simultaneous use of "holy nation" and "kingdom of priests" shows that Israel's priestly character, too, is conceived as one of singular holiness enabling her to approach God. But according to Old Testament thought, to approach God is to serve Him—the priest's special privilege and duty. Thus Israel received her priestly character in order to render Him that particular service which she alone among the nations

9. Hubert Junker, "Das allgemeine Priestertum. I. Das allgemeine Priestertum des Volkes Israel nach Ex 19:6," *Trierer theologische Zeitschrift*, LVI (1947), 10-15.



was bidden to perform. This service was the divine worship regulated by law: not merely a cult, but a way of life, a life of obedience.<sup>10</sup>

Because at Sinai God claimed the twelve tribes, called them by grace to be His own people and demanded that they serve Him, Old Testament legislation differed substantially from all other oriental laws of antiquity.<sup>11</sup> They were all casuistic laws, or what Jirku calls "if-formulations." True, casuistic law was also part of the Old Testament; indeed, about half of the laws of the Book of the Covenant (Ex 20:23—23:19) were worded in this style. But what distinguished Israel's law from the laws of her neighbors was apodictic law: the "thou shalt" and the "you shall." Significantly, the casuistic law of the Old Testament applied to claims deriving from personal injury or property damage—concerns common to all men—while the apodictic law embraced the realms of life in which Israel had to establish her special religious and ethical calling. Thus it was closely linked to the Decalogue, the basic order of the people of the covenant. In the apodictic law of Israel there was at work a "still unbroken force that wished to subject to Yahweh's unconditional demand every province of life without exception, and therefore could not recognize any profane or neutral area."<sup>12</sup>

#### THE ORDER OF CREATION

Thus the first intent of Israel's social legislation was to establish God's order and not, as Leo Baeck sees it, to serve the realization of a truly human order. No doubt, the cradle of integral humanity is in Palestine and not in Greece,<sup>13</sup> but a true humanity becomes real only to the extent that God's reign becomes real; it can have no other solid foundation, it cannot unfold except in the amplitude of God's domain.

10. See *ibid.*, p. 14.

11. It is to the credit of Jirku, Jepsen, and Alt to have pointed out in their historical studies the singular character of the Old Testament legislation. See Anton Jirku, *Das weltliche Recht im Alten Testament* (Gütersloh: C. Bertelsmann, 1927); Alfred Jepsen, *Untersuchungen zum Bundesbuch* (Stuttgart: Kohlhammer, 1927); Albrecht Alt, "Die Ursprünge des israelitischen Rechts," *Berichte über die Verhandlungen der Sächsischen Akademie der Wissenschaften*, Phil.-histor. Klasse 86 (Leipzig: S. Hirzel, 1934), Heft I.

12. Alt, *op. cit.*, p. 60. For a thorough discussion of the various casuistic and apodictic law forms, see Walter Kornfeld, *Studien zum Heiligtumsgesetz* (Vienna: Herder, 1952), pp. 13–66.

13. See Michael Cardinal von Faulhaber, *Judaism, Christianity and Germany*, trans. George D. Smith (New York: Macmillan, 1934), p. 67.

Through the covenant legislation, God summoned Israel to surrender to Him as the deputy of all nations, to make His order more and more manifest in the world, and thus to show the nations the path along which He was calling them. There is something humanly incomprehensible about this summons. Throughout the entire biblical message, God's particular covenant with Israel at Sinai was not intended to be narrow, nationalistic; it had for its goal a covenant with all nations. The place the Pentateuch gives to the Sinaitic Covenant in the history of redemption shows it a milestone on the road to the re-establishment of God's reign and of the order of His creation upset by sin. Even at so decisive a turning point as the call of Abraham, where the universality of the "table of nations" (see Gen 10:1–32) seemingly narrows to the story of one man, the world-wide horizon of mankind becomes apparent (see Gen 12:3).

Israel was the mediator of salvation. From her came the Messiah, God's all-redeeming embrace. Through her was preserved, and passed on in writing to all the generations of men, the knowledge of God's salvific will from the very beginning of time; the joyful knowledge of the true worth of man, created in God's image; the knowledge of the equal dignity of man and woman, an idea inconceivable to ancient thought. Through her was preserved and passed on the knowledge of the equality of all human races—the biblical story of human beginnings, indeed the whole Old Testament, knows nothing of races inferior by nature and unworthy of human destiny. Here is an obvious difference from the haughtiness of Greece, which, in spite of its *humanitas*, never completely overthrew the separation between Greeks and barbarians, between men who "by nature" are masters and others who "by nature" are slaves. Israel's privilege lay in the economy of salvation, not in the realm of nature but in the order of grace. Hers was the transcendent knowledge of the task common to all men and nations before God: to make the world His world.

It is this knowledge of the fundamental order of creation that gives Israel's law its radiance, though it lacks the full brightness of an order undisturbed. The law of sin, at work in all human endeavor, wreaks havoc even here, as Christ expressly states: "Moses, by reason of the hardness of your heart, permitted you to put away your wives; but it was not so from the beginning" (Mt 19:8). Not until Christ came to fulfill the Law and to redeem the world, was the full brightness of



the order of creation to be restored. The work of Israel, God's servant of the Old Testament, was to find its consummation only in the work of the Messiah, God's Servant of the New.

### SOCIAL JUSTICE

THE social law of the Old Testament can be understood only in the light of God's saving act, of His choosing Israel and making His covenant with her. Social justice therefore begins with the Ten Commandments as the Magna Charta, Yahweh's royal proclamation, by which He brought under His dominion every province of Israel's life. In the commandments of the first table His total claim moves in concentric circles from the person of the invisible God to His visible "manifestations": His name, His day. The commandments of the second table move from creature to Creator, leading us before God's all-demanding majesty, as it speaks through our neighbor. They confront the rebellious self-assertion of our ego and repel its assaults in one sector after another: in life, marriage, property, honor, our neighbor's house. Safeguarding Yahweh's sacred reign within the people, they forbade the land to become the realm of self-sufficient, God-defying man.

Buber sees in the Decalogue a threefold call: First, the life of the community was placed under God's lordship. Second, the law of the Sabbath and the commandment to honor one's parents summoned succeeding generations to His rule. Third, the frontiers of the community were set so that its members might live together, secure as God's domain.<sup>14</sup> Hence any impairment of Yahweh's claim harmed, even destroyed, the social order:

*Hear the word of the Lord, O people of Israel,  
for the Lord has a grievance against the inhabitants of the land:  
There is no fidelity, no mercy,  
no knowledge of God in the land.  
False swearing and lying, murder, stealing and adultery!  
In their lawlessness bloodshed follows bloodshed.  
Therefore the land mourns,  
and everything that dwells in it languishes.*

(Os 4:1-3)

14. See Martin Buber, *Moses* (Oxford: East and West Library, 1946), pp. 131-133.

When the Lord made Israel a people, this was a saving act toward the restoration of His kingship. Therefore, every member of this people was directed to serve Him as the King. No one was preferred because of human conditions, accidents of history—there was only the special grace of more or less intimate service. From the very beginning any class system was precluded. There were, on this plane, neither masters nor slaves, neither privileged nor underprivileged classes. We hear nothing of a special law for priest or noble. In contrast, the Code of Hammurabi and all the known codes of the ancient Orient consecrated a definite class system, distinguishing sharply between members of the court, priests, officials, free men, and slaves, even between the various occupations. So true is this that the principle of class distinction dominates the whole structure of the Code of Hammurabi. There the law on slaves has been put at the very end, indeed at the end of the law on property,<sup>15</sup> while Israel's law on slaves has been placed at the very beginning of the Book of the Covenant (see Ex 21:1-11).

### HUMAN RIGHTS

THE strength of the community of Israel was to be found, Buber points out, in four basic demands that underlay its structure: life, marriage, property, and honor.<sup>16</sup> Hence these demands were stated in terse language:

You shall not kill.  
You shall not commit adultery.  
You shall not steal.  
You shall not bear false witness against your neighbor.

(Ex 20:13-16)

But, as Buber remarks, these four commandments were not enough to preserve the community from destruction, since inner conflicts are apt to break out everywhere. They refer only to actions, to the active outburst of passions or hostile emotions invading the personal realm of neighbors; they do nothing to order attitudes that have not re-

15. See "The Code of Hammurabi," *Ancient Near Eastern Texts*, ed. James B. Pritchard (Princeton: Princeton University Press, 1950), pp. 166-167, nos. 15-20.

16. See Buber, *Moses*, p. 133.



vealed themselves in action. But there is an attitude fatal to harmony, even if it does not culminate in action; precisely its passive or semi-passive persistence makes it a danger that eats into the body of the community. It is envy.<sup>17</sup> Therefore another commandment was added, forbidding baneful desire, exhorting the children of Israel not to corrupt the life of the community through covetousness.

Here, above all, is evidence that the social legislation of the Old Testament goes far beyond the limits of law, that it widens into social ethics, for laws alone cannot guarantee the survival of a community. In the current of life they fail; even the most perfect legal structure cannot embrace and control life in its manifoldness. Conscience alone can accomplish this, a conscience aware of man's responsibility to God at all times and of his need to subordinate unreservedly his innermost striving to the Lord's total claim. In acknowledging the limits which He imposes on man's drive toward expansion, conscience learns to respect the rights of neighbor. Thus the Decalogue laid the foundation for the later positive expression of this demand, which Buber translates: "You shall love your neighbor, he is like you" (Lev 19:18).<sup>18</sup> Here the parallel ways of egotism and altruism were transcended. What was sought was a love of neighbor so intense that it reached the measure of self-love and thus overcame it. "You shall love your neighbor as yourself" means: "You shall put your neighbor in the place where your ego stands and so make him the center of your life." Here every single commandment of the second table of the Decalogue was linked to the rest and firmly grounded.<sup>19</sup>

Although the immediate objective of Israel's social legislation had to be restricted to the life of one nation, the commandment to love the neighbor attained supranational significance through Israel's character as servant. In the measure that Yahweh's claim widened from Israel to all mankind, so the area of love; thus Christ, envisioning the new people of God, Jews *and* Gentiles, proclaimed it in its universality and in unity with the great commandment of love:

*"Thou shalt love the Lord thy God  
with thy whole heart,*

17. See *ibid.*, pp. 133-134.

18. Martin Buber, *Die Schrift, III, Das Buch Er rief* (Berlin: Lambert Schneider, n.d.), p. 82.

19. Cf. Hellmuth Frey, *Das Buch der Verbindung Gottes mit seiner Gemeinde, Kapitel 19-24 des zweiten Buches Mose* (Stuttgart: Calwer Verlag, 1952), p. 62.

*and with thy whole soul,  
and with thy whole mind."*

*This is the greatest and the first commandment.*

*And the second is like it,*

*"Thou shalt love thy neighbor as thyself."*

*On these two commandments depend the whole*

*Law and the Prophets.*

(Mt 22:37-40)

#### THE SHIELDING OF GOD'S IMAGE

In removing the rights of slaves from the sphere of property law—for law serves first man, then things—God extended His protecting hand over the life of every Israelite, of every man. God's majesty is nowhere so vulnerable as in man, His unprotected image. Thus the Book of the Covenant barred most pointedly the willful trespassing on God's sanctuary, on the life of His image, barred, above all, harm to parents, whose face most clearly reflects God's countenance:

*Whoever strikes a man a mortal blow must be put to death. . . .*

*Whoever strikes his father or mother shall be put to death.*

*A kidnaper, whether he sells his victim or still has him when caught, shall be put to death.*

*Whoever curses his father or mother shall be put to death.*

(Ex 21:12-17)

Obviously, such acts as killing or kidnaping were capital crimes, but so were, according to the Book of the Covenant, the maltreatment and the mere cursing of a parent. For it is the parents who, through procreation, renew God's image in the world (see Gen 5:1-3). On the other hand, the Book of the Covenant rejected punishment that exceeded the limits of justice and thus invaded God's sanctuary. Unintentional manslaughter was distinguished from murder; the culprit was granted the right of asylum (see Ex 21:13).

Not only life but physical integrity as well was taken under God's holy jurisdiction. The Lord demanded restitution to and support of an injured person (see Ex 21:18-25), not only of a fellow countryman but of anyone, even a slave, because he too bears the likeness of God. Therefore He placed His hand on him and set him free. The owner of the slave had to withhold his hand (see Ex 21:26-27)—a revolutionary thought for the ancient Orient. Neither the Code of Hammurabi nor Hittite laws contained clauses protecting the slave. For



them he was merchandise, of which the master disposed as he saw fit. No law, no judge would have intervened if he had killed or maimed his slave. But according to Israel's law, any attack on the sacredness of life, even that of a thief, called down God's vengeance. If a thief, taken in the act, lost his life in the confusion of the night, his death was not considered murder. But if the sun had risen, the deed was murder and God punished the assault upon His sanctuary (see Ex 22:1-3).

#### THE LAW OF FREEDOM

True life is life in freedom. Therefore the Book of the Covenant begins with the inalienable law of freedom. Within the covenant nation no one could be reduced to slavery; at worst, the man who had fallen into debt might sell his labor and become like a tenant, but his service would be limited to seven years—analogueous to the sabbatical year. In any case it was to end with the year of jubilee (see Lev 25:40-54), when all bondage was dissolved by the saving act of the God of the Covenant (see Deut 15:12-18). Moreover, on his return to a life of freedom, means of subsistence had to be given to the released man. The kinsmen of Israel God shielded in a similar way. At least, such may be the explanation of the obscure term "Hebrew slave" (Ex 21:2). He too had to remain in bondage for only six years, in the seventh year the saving act of the God of Israel set him free.

Foreign slaves were permitted in Israel. For God did not completely abolish slavery, so deeply rooted in the social and economic conditions of those days. Nor did primitive Christianity start as a revolutionary social movement; it wore away slavery little by little through a new inner attitude (see 1 Cor 7:21, also St. Paul's letter to Philemon). But from the beginning, God did set limits to slavery among the chosen people. First, in extent: Slavery had to halt at the members of the Old Testament community, and escaped slaves, regardless of origin, could not be handed back to their masters (see Deut 23:16-17). According to Babylonian law, however, no favor could be shown to runaway slaves; refusal to return them meant death.<sup>20</sup> Second, in duration: For members of kindred tribes slavery was restricted to six years. Third, by the duty of compensation: A maltreated slave had to be set free (see Ex 21:26-27). Fourth, by the virtue of fidelity:

20. See "The Code of Hammurabi," *op. cit.*, pp. 166-167, nos. 15, 16, 19.

Respect of the divine order of marriage paved the way for a new spirit of love between master and slave, which might repair somewhat the social inequality and even make the slave, through his loyalty and devotion, a part of the family (see Ex 21:4-6). In the entire ancient Orient the master was the owner, *baal*, but in Israel he became *adon*, a title that bespeaks the king's relationship to his subjects, and God's to the children of His covenant.<sup>21</sup>

In some of these measures the covenant seems to have reached out beyond Israel toward all mankind, in its saving action already working for those not of Israel. This becomes even clearer in the law that protected a slave whose master destined her for marriage either to himself or to his son. If he later disowned her, God intervened, asserting His right to His child and removing her from the man who had repudiated her; she had to be released unconditionally (see Ex 21:7-11). Though the Lord did not suspend the existing social order, He voided the privileges abused by the mighty. He did not abandon His image to the strong man's whim.

#### THE ORDER OF LOVE

The family is the sacred realm of life-giving and life preservation, entrusted to the first human pair, for God said: "Be fruitful and multiply" (Gen 1:28). He proclaimed its sacredness anew in the commandment and promise of the covenant: "Honor your father and your mother, that you may have a long life in the land which the Lord, your God, is giving you" (Ex 20:12). By forbidding adultery and libidinous desire, He made this sacred province secure against outside assault, even elevating it to a dignity that mirrored His relationship to the chosen people (see Os 1:3; Is 54:4-17; Ez 16:1-8). Thus in the early days of the new community of God, St. Paul could speak of the Christlike glory of marriage: "Husbands, love your wives, just as Christ also loved the Church, and delivered Himself up for her" (Eph 5:25).

In marriage, as in the whole sacred community, there is sanctity of union—saving, bearing, helping one another toward the main purpose of creation, the realization of God's reign on earth: "It is not good that the man is alone; I will make him a helper like himself" (Gen 2:18). Here man the individual was bound to a "thou" in a relation-

21. See Frey, *op. cit.*, p. 82.



ship that is a symbol of his relationship to God. Here man the social being was placed in the community of divine service and worship. Spurning one's wife, Malachi later told his contemporaries, was a violation of covenant—not only of the marriage covenant, but of the covenant with God (see 2:14–16). Accordingly, the wife appeared as the vine, and her children as olive sprouts around her table (see Ps 127:3), not yet in the full brightness of salvation but rather in a light dimmed by sin, waiting to be restored. And Christ came to redeem the order of love, to surround the union of man and wife with a living hedge of protection (see Mt 5:27–32), to restore it to its paradisaical glory (see Mt 19:3–9).

Israel's legislation was a shining appeal to mankind in that it knew nothing of woman's inferiority as a creature of God. On the contrary, the equality of man and woman is emphatically proclaimed in Gen 1:27, where it is stated that both, man and woman, were brought forth from the hand of God, and that both were created in His image. The biblical relationship between man and woman is not one of subordination, but of co-ordination, of complementing each other in the realization of God's reign on earth. Though the curse of original sin invaded their relationship, though woman was placed under the dominion of man (see Gen 3:16), though perfect unity was clouded by the toleration of polygamy, some of the glory of the original state remained, so that in Israel woman could never be reduced to the lowest level of degradation. In marriage the wife shared parental power with her husband; her pedagogic rights were equal to his, as was her authority over the servants. A member of God's people, she was, together with her husband, called to the worship of God, participating in the Passover and the Sabbath rites.<sup>22</sup> Though tied to some of the statutes of the ancient Orient, marriage in Israel was thus a sanctuary; like the Temple, it would be desecrated by the intrusion of strangers.

#### THE VALUE OF VIRGINITY

In Israel, the aura of motherhood was cast even over the future mother: the young maiden, the virgin. Here already was God's sacred province, here His protective enclosure. True, the Old Testament was unaware

22. See Ex 12:3; 20:9–11; Deut 14:26; 15:20; 16:14. See Walther Eichrodt, *Theologie des Alten Testaments* (Leipzig: J. C. Hinrich, 1933), I, 58.

of the enduring value of voluntary virginity in its undivided surrender and spiritual fruitfulness. Such awareness could come only with Christ; only through His incomprehensible mystery could the mystery of lasting virginity become comprehensible. Virginity was the radiance of Mary, His grace-filled Virgin Mother, but some of this radiance was already shed over the virgin of the Old Testament. Only a virgin could be the wife of a high priest (see Lev 21:13–15). Maidens, "playing on timbrels," walked in procession to praise Yahweh, the Lord of Israel (Ps 67:26). Jerusalem was honorably called "virgin daughter of Sion" (Is 37:22). And the Song of Songs, which hymns Yahweh's love for Israel and Israel's love for Yahweh under the image of bridal love, also hymns the purity of the future spouses before their union.

Israel's law was anxious to protect a maiden's virginity. Whoever seduced a virgin not betrothed had to give her a kind of dowry and take her to wife (see Ex 22:15–16). Whoever raped a maiden had to pay her father fifty shekels, keep her as his wife, and could never divorce her as long as he lived (see Deut 22:28–29). Inability to pay did not save the offender from punishment, for the judges could have him sold like a thief unable to pay his fine (see Deut 22:2); once sold into bondage, he had to serve as a slave for six years. A maiden's integrity was her glory; parents therefore watched with great care over their daughters (see Eccles 42:9–11). On the other hand, a husband who accused his wife unjustly of not having been a virgin when he married her was to be beaten, fined heavily, and deprived of the right to dismiss her (see Deut 22:13–19). All this was ordered that from the purity of the virgin the life of God's people should spring forth as from an uncontaminated well.

#### THE PROTECTION OF THE LAND

Individuals as well as communities need for their unfolding the breadth of freedom, but they must also be rooted in economic security. Hence the Lord took this need into His custody, giving it its proper place in the structure of values. Here again the legislation of the Old Testament differed basically from that of the ancient Orient. While the Code of Hammurabi made protection of wealth its center and imposed the death penalty for theft, the law of Israel, though not neglecting it, made that protection a secondary concern, as evidenced by



the relatively mild penalties laid down in the property laws of the Book of the Covenant (see Ex 21:33-37). In its ordering of values, Israel's legislation was guided by reverence for the dignity of the human person and of the community. Yet it was precisely this which gave property legislation an unprecedented binding force. As a matter of principle, each member of the covenant people shared in the gifts of the covenant, and no one had the right to exclude his brother from their enjoyment or to rob him of lawfully acquired goods. Violations of property were transgressions against this covenant of brothers, against the sacred realm of the God of the Covenant.

The most important possession was land. On it were based the existence and welfare of families, and thus of society; not only was it the mainstay of the commonweal, it was looked on as an earnest of a future share in the kingdom of the Anointed. Therefore, the God of the Covenant protected it; apodictically it is stated: "The land shall not be sold in perpetuity; for the land is mine, and you are but aliens who have become my tenants. Therefore, in every part of the country that you occupy, you must permit the land to be redeemed" (Lev 25:23-24). In the last analysis, all the land was Yahweh's property. He loaned it to the people. Each family was to have a fair share as a lasting heritage, so that its livelihood would remain assured. The moving of landmarks was therefore branded as an outrage (see Deut 19:14; 27:17). Medium and small properties, a peasant and a middle class: this was the ideal. And for each man to sit under his own vine and figtree was thought to be the greatest happiness (see 3 Kg 4:25; Mi 4:4). A latifundian economy, as it developed very early in Egypt and Babylon, could never have been in accord with the Law; only a fair distribution of the land, and not the accumulation of capital, was a rule fitting a people that was to live as a brotherhood.

To have roots in the covenant community meant to have roots in Yahweh's land. The Law therefore forcefully worked against uprooting through loss of one's own soil. The prohibition against exacting interest, also marked as an essential demand of the covenant by its apodictic form, was to prevent excessive mortgages on the land (see Deut 23:20-21). Under no circumstances was it to be sold. If nevertheless a man was compelled by poverty to sell a piece of land, he retained the inalienable right to repurchase or redeem it, at a just price, whenever he wished (see Lev 25:23-24). If he was unable to

do so, his kinsmen had to do it for him. In any case, all forfeited property had to be returned to its original owner in the jubilee year; rather, he had to receive it again as a loan from the Lord of the Covenant (see Lev 25:25-28). The same inalienable right to redeem and buy back pertained to property utilized for construction, to houses, but only in villages and in the cities of the Levites (see Lev 25:32-34). In the other cities, repurchase and redemption of sold houses were restricted to one year, after which time they became the permanent property of the buyer and could not be returned even in the jubilee year (see Lev 25:29-30). This limitation was probably necessary to keep trade and business conditions stable; still, it left sufficient room for redemption of forced emergency sales.

Even property donated to the Lord was returned to the original owner in the jubilee year, although he had to pay one fifth over and above the established price. If the donor had bought the field himself, it reverted not to him but directly to the original owner (see Lev 27:16-24). It cannot be determined to what extent these religious-social measures, which included remission of debts and release of Israelite slaves, were actually complied with; no records have come down to us. But it is certain that these laws were a constant appeal to conscience; they revealed social justice as a fundamental requirement of the covenant and nurtured a profound spirit of humanity—a spirit which respected the province of one's neighbor as the province of God.

#### THE RULE OF TRUTH

In bidding the community of Israel: "You shall not bear false witness against your neighbor" (Ex 20:16), Yahweh defended the good name of the neighbor. Claiming for Himself the area where the demons of falsehood, injustice, human respect, or mass psychology like to rule, He proclaimed the "proto-gospel of personal freedom."<sup>23</sup> Many are the temptations that beset a witness: There is the danger of irresponsibly repeating unchecked rumors, the evil work of anonymous powers that wish to poison the public mind or influence a verdict; the danger of getting involved in professional or business connections that rob the individual of his independent judgment and make him a tool of brutal force; the danger of following the lead of the majority or of

23. Faulhaber, *op. cit.*, p. 55.



setting class against class, preferring the strong to the weak or the weak to the strong. That everyone in Israel might resist these temptations, Yahweh commanded:

You shall not go about spreading slander among your kinsmen; nor shall you stand by idly when your neighbor's life is at stake.

Do not join the wicked in putting your hand, as an unjust witness, upon anyone.

Neither shall you allege the example of the many as an excuse for doing wrong, nor shall you, when testifying in a lawsuit, side with the many in perverting justice.

You shall not favor a poor man in his lawsuit.

Show neither partiality to the weak, nor deference to the mighty.

(Lev 19:16; Ex 23:1, 2, 3; Lev 19:15)

No less emphatically did the Lord warn against the dangers to which a judge is exposed. Indeed, the judge's part in the realization of God's just will among men, and thus in the shaping of public life, is much greater than that of a witness. Thus he must not yield to even the slightest pressure that might induce him to violate the rights of the poor or of the stranger: "You shall not deny one of your needy fellow men his rights in his lawsuit" (Ex 23:6). He must guard against the glittering deception of the lie: "You shall keep away from anything dishonest" (Ex 23:7). And behind the lie there waits the fiendish spirit that seeks the destruction of the innocent: "The innocent and the just you shall not put to death" (Ex 23:7). Since Yahweh lent the judge His authority, since the judge administered justice in the Lord's name, he was told to be on guard against bribery, open or concealed, since it would dim his clear vision for divine standards and blind him to God's just order: "Never take a bribe, for a bribe blinds even the most clear-sighted and twists the words even of the just" (Ex 23:8).

#### THE LAW OF MERCY

YAHWEH wanted His people to be safe against the tyranny of the crowd. Hence His stern demand that justice be done. Yet, inserted among the commandments for judge and witness is a rule of mercy with its profound motivation, Israel's merciful rescue from Egypt by Yahweh: "You shall not oppress an alien; you well know how it feels

to be an alien, since you were once aliens yourselves in the land of Egypt" (Ex 23:9). As Israel's national existence was founded on a divine act of mercy, so each individual life was to rest on acts of mercy, ever-continuing in Israel. The morality that was to determine Israel's life was to be a morality of compassion that would bring salvation to strangers in her midst, to strangers insecure and unsaved. "You know how it feels to be an alien" was the refrain that bound the many statutes together in a "code of saved men and servants of God, in a morality of captives of mercy."<sup>24</sup> As early as the Book of the Covenant, there was proclaimed a fourfold commandment of mercy, not only in precise apodictic form, but also strengthened by the threat of God's judgment:

You shall not molest or oppress an alien, for you were once aliens yourselves in the land of Egypt. You shall not wrong any widow or orphan. If ever you wrong them and they cry out to me, I will surely hear their cry. My wrath will flare up, and I will kill you with the sword; then your own wives will be widows, and your children orphans.

If you lend money to one of your poor neighbors among my people, you shall not act like an extortioner toward him by demanding interest from him. If you take your neighbor's cloak as a pledge, you shall return it to him before sunset; for this cloak of his is the only covering he has for his body. What else has he to sleep in? If he cries out to me, I will hear him; for I am compassionate.

(Ex 22:20-26)

The law of mercy embraced still others in need of saving love:

When you reap the harvest of your land, you shall not be so thorough that you reap the field to its very edge, nor shall you glean the stray ears of grain. Likewise, you shall not pick your vineyard bare, nor gather up the grapes that have fallen. These things you shall leave for the poor and the alien. I, the Lord, am your God.

(Lev 19:9-10)

The mercy commanded by Yahweh was wedded to justice. Hence the law continues:

You shall not steal.

You shall not lie or speak falsely to one another.

You shall not swear falsely by my name, thus profaning the name of your God.

(Lev 19:11-12)

24. Frey, *op. cit.*, p. 94.



The hired worker whose daily wages were his only subsistence was also included in this rule of mercy: "You shall not withhold overnight the wages of your day laborer" (Lev 19:13), not even in order to compel him to return to work. The rigor of this command made Cardinal Faulhaber exclaim: "Like a beacon these words on the rights of labor send out their light from the mountain of biblical antiquity. . . . In an age and at a stage of civilization in which labor was everywhere else branded with the mark of slavery, the Book of books recognizes the ethical value of labor."<sup>25</sup>

Beyond the poor and needy, the laborer and alien, the law of mercy comprised all who were helpless, the physically handicapped, for instance: "You shall not curse the deaf, or put a stumbling block in front of the blind" (Lev 19:14). Even the absent and helpless enemy was placed under it: "When you come upon your enemy's ox or ass going astray, see to it that it is returned to him. When you notice the ass of one who hates you lying prostrate under its burden, by no means desert him; help him, rather, to raise it up" (Ex 23:4-5).

With the commandment of mercy, Yahweh extended His mighty arm to claim as His own the sphere that selfishness and exploitation try to make theirs. He destroyed a social order, so prevalent in this world, composed of some enjoying many privileges and of others lacking the defense of the law. Indeed, He lifted the unprotected and oppressed to a status that brought them under His special guardianship. Though He did not dissolve the tensions between rich and poor, inevitable in an unsaved world, He tempered them by reminding His people of His past saving act and of the one to come. He permitted these tensions to stand among His people as a reminder of His salvation, as a touchstone and challenge for rich and poor—but above all for the rich. The man of wealth was not to withhold the overflow of his barn and wine press from the God of the Covenant, nor from his less affluent fellow who, the rich man ought never to forget, is God's image. All, whether members of His people or not, were to be God's companions, guests at His table, partakers of the land's harvest. Therefore the harvester was reminded not to gather every last grain or grape, rather to leave them for God's friends, the alien, the orphan, the widow:

25. Faulhaber, *op. cit.*, p. 57.

When you reap the harvest in your field and overlook a sheaf there, you shall not go back to get it; let it be for the alien, the orphan, or the widow, that the Lord, your God, may bless you in all your undertakings. When you knock down the fruit of your olive trees, you shall not go over the branches a second time; let what remains be for the alien, the orphan, and the widow. When you pick your grapes, you shall not go over the vineyard a second time; let what remains be for the alien, the orphan, and the widow. For remember that you were once slaves in Egypt; that is why I command you to observe this rule.

(Deut 24:19-22)

Again, tithes had to be paid for the poor every third year; great and small landowners had to deposit a tenth of their produce at their doors for the Levites who owned no land, as well as for widows, orphans, and aliens (see Deut 14:28-29). As guests of the Lord, the needy were to share in the family's meal, to make merry with all the people during the feast of Weeks and that of Booths (see Deut 16:9-15), to eat from the thanksgiving table at the time of the harvest (see Deut 26:1-11). They were to be the Lord's guests particularly in the sabbatical year, when He prepared His table for rich and poor alike—a foreshadowing of the glorious restoration of the eschatological age when God's merciful reign will bring perfect happiness to the redeemed—for in the sabbatical year the order of paradise, the order of the communion of saints, was to be in force even in this eon and in this world, if only for one year (see Lev 25:6).

#### SOCIAL KINGSHIP

SINCE social justice was Yahweh's way for Israel, the law of kings, too, was subordinate to the concept of the covenant and thus to the social life of the people. The internal tensions, especially in the influential religious circles, which led to the introduction of kingship in Israel are the theme of the First Book of Samuel. It was Samuel, God's advocate, who at His command introduced kingship, but at the same time subjected it to the basic prerequisites of the covenant. Having defined the king's task as that of a servant of the people of Yahweh, he defied the first king, Saul, because of the latter's self-righteous ways. He confronted Saul with the choice of salvation or doom for the



royal house, depending on the king's obedience or disobedience to the Covenant God and to His demands as laid down in the law of the covenant. Again and again the succeeding prophets tried to recall the kings to their allegiance to the God of the people and fought them in a battle of life and death. The Books of Kings bear witness to this struggle.

The law of kings (Deut 17:14-20) was based entirely on the theocratic concept that Samuel had laid down before Saul. It was intended to counteract the inclination, so common among rulers of the ancient Orient, toward that despotism against which Samuel had warned his brethren in such terrifying words (see 1 Kg 8:11-18). Without hesitation, we may take it to be the same law of kings that Samuel placed before the Lord (see 1 Kg 10:25). The royal throne was a place not for alien usurpers, but for members of the covenant people, chosen by the Lord: "You shall set that man over you as your king whom the Lord, your God, chooses. He whom you set over you as king must be your kinsman; a foreigner, who is no kin of yours, you may not set over you" (Deut 17:15). The royal office did not provide its holder with a license to satisfy his selfish desires; he was given God's law, the Magna Charta of the covenant, for daily study and for humble service to the brethren of the covenant. Israel, the holy and royal people of God, was to be his dominant thought, in the loyalty to which lay the only security for the duration of his dynasty and for the existence of the people. As Eichrodt remarks:

The demand of the people for definite and insurmountable limits to the king's power found its unmistakable expression in the law of kings in Deuteronomy. . . . An institution taken for granted in all oriental states was thus emphatically rejected in Israel, apparently because it was contrary to the general sense of justice. To have known the law rooted in the will of their God created a solidarity before which all royal lust for power had to capitulate. Again it becomes evident how much moral strength was engendered by Israel's faith in God, a faith that united all her people as "brethren," and how deeply the experience of Yahweh as the One who is good must have been anchored within the people.<sup>26</sup>

26. Eichrodt, *op. cit.*, p. 37.

## TOWARD THE FUTURE

THERE is evident in Israel's social legislation a drive and direction toward the future. The road from the Book of the Covenant over Leviticus to Deuteronomy is that of an ever-clearer unfolding of true humanity as the redemptive revelation of God's royal reign. To the extent that the people made room for Him in their midst, His kindness and love of man (cf. Tit 3:4) became visible and operative. Archaeology has opened the ancient Orient to us in large measure and has given us an insight into the social structure of its Semitic and non-Semitic peoples. In contrast to Israel's legislation, the laws of the other nations show a highly developed juridical technique. They also differ from it by a frightening spirit. What inspired them was not the unfolding of a true humanity, but the development of civilization in the interest of a single privileged and secure ruling class. Those who did not belong to it were considered things, were placed under property law, enjoyed security only as means contributing to civilization—not as men among men.

The merest glance at the laws on slavery and crime in the Code of Hammurabi proves that, even where humanity shows through, it does so in a very broken light. True, in its epilogue the Code of Hammurabi expresses the hope that "the strong might not oppress the weak, that justice might be dealt the orphan [and] the widow";<sup>27</sup> true, the Code protects the free laborer and tradesman against exploitation by means of fixed wages,<sup>28</sup> but this hope and protection spring from a commercial point of view. Especially in the criminal law, class justice prevailed. Encroachment on a poor man's rights was punished less severely than encroachment on those of the rich. If, for instance, someone broke a nobleman's bone, his was broken too, while for the same injury to a commoner he only had to pay one mina of silver. Real regard and care for the poor and weak were unknown to the Code of Hammurabi.

Israel's criminal law was guided solely by the thought of Yahweh's reign. Punishment was meted out according to the extent of willful, presumptuous trespassing on His dominion. Israel's law against desecration of the Sabbath, blasphemy, adultery, kidnaping, offenses

27. "The Code of Hammurabi," *op. cit.*, xxiv, p. 178.

28. See *ibid.*, pp. 176-177, nos. 251, 258, 261, 273.



against parents, was of great harshness. Still, we must agree with Cardinal Faulhaber:

The ancient Babylonian code contains penalties which are blood-curdling in their ferocity: False witnesses in a court of justice and theft are punished with death. Undutiful children have their tongues cut out, and other frightful mutilations are practiced besides. . . . The doctor who bungles an operation has his hand chopped off. In such penalties the tiger-claws of paganism can be seen.<sup>29</sup>

If Israel's social legislation is compared with that of her neighbors, its singularity is inescapable. In his now famous Advent Sermons, with which he opposed the anti-Semitic fury of Nazism during that era of disgrace in German history, Cardinal Faulhaber exclaimed:

This wealth of thought is so unique among the civilized nations of antiquity that we are bound to say: People of Israel, this did not grow in your garden of your own planting. This condemnation of usurious land-grabbing, this war against the oppression of the indebted farmer, this prohibition of usury—is not the product of your spirit. Those who do not believe in inspiration, who do not regard these books as the word of God and as divine revelation, must see in the people of Israel a super-people. There is no alternative. Either we believe in the inspiration of the sacred books, or we must say to the Jewish people: "You are the most gifted people in the world's history, the people of genius."<sup>30</sup>

Israel's social legislation was more than an expression of her own spirit, for its humanity was deeper than that which man attains when left to himself. That the justice and mercy of Israel's law were a summons from God, and not merely the sign of human genius, of Israel's own talent, was made evident by that constant war the prophets fought against the hydra of inhumanity rising more and more menacingly from within the people. The way to which Israel was called by the Lord was one of free decision, and therefore one threatened by failure and by judgment. To the degree that Canaan with its orgiastic, intoxicating cults came between Israel and her Lord and that the stern, demanding God of Sinai was pushed into the background, loyalty, faith, compassion, mercy disappeared (see Os 4:1-4). To the extent that human egotism conquered many hearts, crowding out God,

29. Faulhaber, *op. cit.*, p. 61; "The Code of Hammurabi," *op. cit.*, pp. 166, 175, nos. 3, 4, 192-195, 218.

30. Faulhaber, *op. cit.*, pp. 68-69, slightly altered to conform to German text.

the foundation of human order crumbled as well, and Israel's way became a road to disaster.

"No doubt, there have always been greedy, avaricious and envious men in Israel . . ." writes Leo Baeck. "But seen as a whole, there is here a readiness to assume social responsibility, a readiness stronger than elsewhere and a responsibility that follows principles and ways different from those of other nations."<sup>31</sup> Unfortunately, Baeck's view is not quite in keeping with scriptural evidence. Martin Buber, however, is right when he declares that time and again God had to bring Israel to judgment because of her offenses against His will.

He wished them to be a people for Him, His "firstborn son" to be "the first fruits of His harvest," the harvest called mankind. . . . [But they withdrew] their whole politico-communal life . . . from the divine leading. In place of the brotherhood which God's command imposed upon His people, a self-seeking band, shrewd only for their own profit, corrupt and cruel, crushed all in their path. At the hour when the poor man, enslaved to them for an unpaid pair of shoes (Am 2:6; cf. 8:6), already lies in the dust, they still kick his head, the head covered with dust (Am 2:7). The common decay of the popular body of necessity involves the decay and deterioration of the service of God. . . . [In Israel's thought] righteousness flows down from heaven, and bids fair to flood the face of the earth by means of the man-from-the-earth, the people-from-the-earth; like water, in spite of all the breakings and divisions brought about by its meetings with things finite and limited, righteousness rushes forth continually as a mighty stream. The human people shrink, however, from the divine flood, they refuse to let it spring forth into life, and so the waters are heaped up until they tumble down and destroy, and justice is turned into judgment.<sup>32</sup>

But even in the midst of judgment, Israel is yet a witness to this truth: Authentic humanity is the flowering of God's work in His people. This gospel of a humanity founded on God the prophetic word carried into a future more open to hope. Servants of the One Servant, the prophets prepared the way for the nations to have a part in the order Israel cherished. Justice and mercy, Yahweh's gift to His people, were to become His gift to every man.

31. Baeck, *op. cit.*, p. 164.

32. Buber, *The Prophetic Faith*, pp. 99, 102, slightly altered to conform to German text.