

INTRODUCING THE BOOK OF THE COVENANT

Overview

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I. Name of the Book of the Covenant

- A. The “Book of the Covenant” derives its name from Exodus 24:7, where it is said that Moses “took the Book of the Covenant [סֵפֶר הַבְּרִית, *sēpēr haberîṭ*] and read it in the hearing of the people.”
- B. After the Book of the Law was found in the temple by Hilkiah in the days of King Josiah (2 Kgs 22:8), the Book of the Covenant was also read and is referred to in 2 Kings 23:2, 21, and 2 Chronicles 34:30.

II. Scope of the Book of the Covenant

- A. Scholars usually identify the contents of the Book of the Covenant as extending from Exodus 20:22-23:33. This identification is not universal, however, because of uncertainties about how to regard the introductory narrative section in Exodus 20:22-26. Is it part of the legal material or not? Similar questions arise with the concluding narrative material beginning at Exodus 23:20. Does it extend to Exodus 23:33, or to Exodus 24:8, or to Exodus 24:18?
- B. The position taken here attempts to be sensitive to the layout of the laws, the placement of their narrative frames, and the alternation between law and narrative in Exodus. (See the “Law and Narrative in Exodus” handout). **The Book of the Covenant, then, spans Exodus 21:1-23:19. It is framed by the narrative introduction of Exodus 20:22-26, and the narrative conclusion of Exodus 23:20-24:11.**
- C. Joe M. Sprinkle writes, “Law and narrative must be read together in order to obtain the fullest and most accurate interpretation of both. The practice of many traditional exegetes and critical scholars of reading laws apart from their narrative context in the final form of the text distorts to some degree the meaning of both law and narrative.”¹
- D. Between the narrative frames of the Book of the Covenant are found many of the civil-judicial laws of the nation of Israel.

¹ Joe M. Sprinkle, *Biblical Law and Its Relevance: A Christian Understanding and Ethical Application for Today of the Mosaic Regulations* (Lanham, MD: University Press of America, 2006), 66.

III. Structure of the Book of the Covenant

- A. The Book of the Covenant has been the object of widespread criticism over the years. Its form, structure, sources, and editorial processes have all been called into question by scholars. Explanations offered for the seemingly random nature of the book have included scribal misadventure, editorial incompetence, indiscreet borrowing, and pious creativity to make ancient customs look like legal precedents.²
- B. Even biblical scholars of a more conservative bent have not always found flattering things to say about this part of Israel's legal corpus. Victor P. Hamilton, for example, finds it "difficult to conceive of these chapters as a gold mine for expository preaching."³ That is regrettable because the civil-judicial laws of Israel (which dominate the contents of the Book of the Covenant) contain some of the richest revelations of God and his ways found anywhere in the Pentateuch.
- C. Hamilton laments that "many Christians approach Chapters 21-23 of Exodus in the same way they eat fish. The bones are to be thrown away, and only the meat digested. To press the analogy, the Ten Commandments of Chapter 20 are the meat, the 'eternal word of God'; the following three chapters are the bones—the unedifying, the unpalatable, the anachronistic, and hence the disposable."⁴ Unfortunately, Hamilton goes on to say that it is "futile to look for some significance in the sequence of the laws."⁵
- D. Such a gloomy assessment, however, fails to take into account the recent progress in literary criticism—a discipline that has inadvertently undercut the documentary hypothesis while at the same time affirming the artistry, integrity, coherence, and intentionality of Exodus' final form, not to mention the Old Testament canon as a whole. While there is still some degree of subjectivity involved in recovering the intended literary architecture of a biblical book or passage, there continues to be a sharpening of the discipline and a harmonizing of structural analyses for myriad sections of Scripture. One such section where significant agreement has been reached is the Book of the Covenant.
- E. Expanding on the work of Dorsey, I have adopted the following literary structure to of the Book of the Covenant. It appears to be a rather tight, coherent, and uncontrived structure that can assist in the task of interpretation. Contrary to Hamilton, it is not futile to look for significance in the sequence of these laws after all. The laws are logically arranged so as to highlight the author's main concerns.

² Calum Carmichael is representative of today's school of higher criticism in the field of biblical law. Referring to "the sophisticated artifice of the biblical writers," he claims that while the Old Testament legal texts are a "very effective device for making the reader think that the law is as real as the history and the history is as real as the law . . . this presentation is a façade." See Calum Carmichael, *The Spirit of Biblical Law* (Athens, GA: The University of Georgia Press, 1996), 2.

³ Victor P. Hamilton, *Handbook on the Pentateuch: Genesis, Exodus, Leviticus, Numbers, Deuteronomy*, 2nd ed. (Grand Rapids: Baker Academic, 2005), 198.

⁴ Ibid.

⁵ Ibid., 199.

ARRANGEMENT OF THE BOOK OF THE COVENANT (Exod 20:22-24:11)

Opening narrative frame (Exod 20:22-26)

- 1 Altar and sacrifice instructions for the upcoming treaty ceremony
- 2 Warning against worshipping false gods
- 3 God's name to be honored, leading to the Israelites being blessed
- 4 The people "see" (הָרָא) that God has no form when he speaks from "heaven" (שָׁמַיִם)
- 5 God speaks to the people of Israel, giving them his law
- 6 Restrictions given for ascending the altar

Section 1: Mostly casuistic (conditional/case) laws (Exod 21:1-22:27)

- A Kindness to servants (21:2-11)
 - B Capital offenses: "shall be put to death" (מָוֹת יוֹנָתָה) (21:12-17)
 - C Non-capital bodily assaults (21:18-27)
 - D Death or injury of person by animal (21:28-32)
 - E Loss of property due to accident (21:33-36)
 - E' Loss of property due to theft (22:1-9)
 - D' Death, injury, or loss of animal by person (22:10-15)
 - C' Non-capital bodily offense: seduction of virgin (22:16-17)
 - B' Capital offenses: "shall be put to death" (מָוֹת יוֹנָתָה) (22:18-20)
- A' Kindness to aliens, widows, orphans, poor (22:21-27)

Section 2: Mostly apodictic (imperative/absolute) laws (Exod 22:28-23:19)

- A Cultic duties to God: tribute from crops and herds (22:28-30)
 - B Do not eat meat torn by wild animals; leave for dogs; God provides (22:31)
 - C Justice, especially for the poor: "in his lawsuit" (בְּרִיבָהוּ) (23:1-3)
 - D Kindness to personal enemies (23:4-5)
 - C' Justice, especially for the poor: "in his lawsuit" (בְּרִיבָהוּ) (23:6-9)
 - B' Do not eat sabbatical year produce; leave for animals; God provides (23:10-12)
 - A' Cultic duties to God: tribute from crops and herds (23:13-19)

Closing narrative frame (Exod 23:20-24:11)

- 1' Altar built for, and sacrifices made at the treaty ceremony
- 2' Warning against worshipping false gods
- 3' God's name in the angel to be honored, leading to the Israelites being protected
- 4' The leaders "see" (הָרָא) God and something that looks clear as "heaven" (שָׁמַיִם)
- 5' The people of Israel speak to the Lord, promising obedience to God's law
- 6' Restrictions given for ascending Mount Sinai ⁶

⁶ Adapted and expanded from David A. Dorsey, *The Literary Structure of the Old Testament: A Commentary on Genesis-Malachi* (Grand Rapids: Baker Academic, 1999), 74.

III. Structure of the Book of the Covenant (Continued)

- F. On the first section of laws (Exod 21:1-22:27) as arranged in his own similar structure, Dorsey comments: “In even-numbered symmetries such as that of the first section, the outer units tend to carry the emphasis, and this appears to be true here. The legal cases at the center (involving loss of property, etc.) are less serious, and the cases become progressively more serious (such as capital offenses) as one works outward. Accordingly, the laws with greatest structural emphasis are those at the beginning and end—the laws about kindness to the disadvantaged and poor. This suggests that the treaty considers kindness to the poor and disadvantaged as an even more important issue than the capital offenses (which are treated in the second and next-to-last positions). This remarkable emphasis on kindness to the poor will be reiterated throughout the treaty.”⁷
- G. On the second section of laws (Exod 22:28-23:19) as arranged in his own similar structure, Dorsey observes: “In an odd-numbered chiasmus such as that in the second section, the highlighted position is either the center or, less often, the beginning and end. In this section the lengthy first and last units, which deal with Israel’s responsibilities to God, seem to have the greatest prominence. But the central unit also carries a natural emphasis, suggesting that kindness to personal enemies is viewed here as a key requirement. The repetition of the call to kindness to the poor in the matching units c and c’ serves to reinforce this theme.”⁸
- H. While it is difficult to see how unkindness to the disadvantaged could have been a *worse* crime than the capital offenses, Dorsey’s observations about the structural highlighting of these units are nevertheless valid. Perhaps the issue is not one of *importance* but one of *emphasis*. The giver of these laws clearly wants to communicate that he is deeply concerned about the quality of life for servants, aliens, widows, orphans, and the poor in Israel—a value that is totally out of sync with the rest of the ancient Near East. As Walter C. Kaiser, Jr. notes, “People, not property, were at the heart of Old Testament legislation.”⁹

IV. Background to the Book of the Covenant

The widespread social ills of the ancient Near East provide an illuminating background for many of laws in the Book of the Covenant. These social ills include the following seven areas of community blight:

- A. Slaves had no legal rights. Specifically, they were not treated humanely, they had no privileges in court, and they had very little hope of freedom.
- B. The powerless and disadvantaged were taken advantage of by the powerful and the rich. Widows, orphans, ethnic minorities, and the poor were especially vulnerable.
- C. The upper class (*awilum*) was favored in law over the lower class (*mushkenum*) and the slave class (*wardum*). Specifically, the lives, property, protections, and rights of the high class were assigned a higher value than the lower class.
- D. In a patriarchal society, women had few rights. Wives could be beaten and mutilated. Women could be bought and sold as prostitutes or slaves. They could be passed around as slave-wives. They were often sold to temples, palaces, and rich men to serve as prostitutes. Widows and female captives of war were especially vulnerable to mistreatment.

⁷ Dorsey, *Literary Structure of the Old Testament*, 73-74.

⁸ *Ibid.*, 74.

⁹ Kaiser, *Toward Old Testament Ethics*, 98.

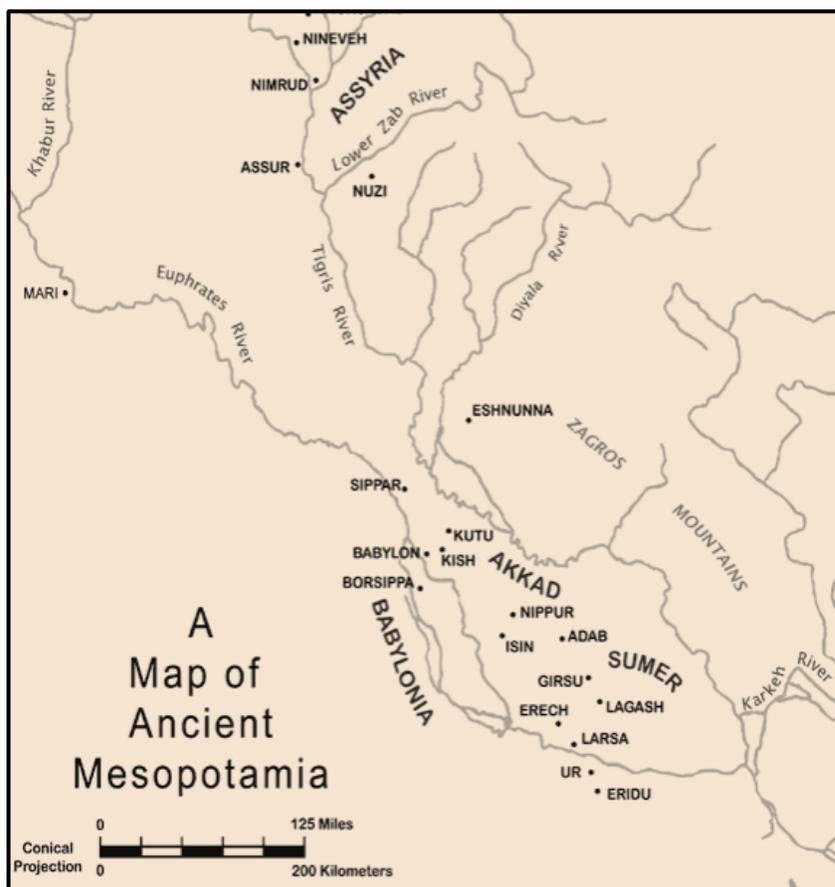
- E. Personal and property rights were commonly violated, with little provision for recourse or restitution. Personal responsibility was commonly avoided through bribery and lying. In fact, deceit was often condoned—sometimes even celebrated—when one’s enemies were successfully misled.
- F. Hatred and excessive retaliation against enemies was not only condoned but encouraged. Human life was often regarded as relatively cheap.
- G. Legal systems were filled with irrational, illogical laws, e.g., vicarious punishments for errant builders, rapists, etc.

These social ills help to explain some of the surprises and broad themes found in the Book of the Covenant, thus highlighting the gracious character and heartfelt concerns of the God who issues these laws to Israel. Various historical records and legal parallels from the period provide a reference point for comparison and contrast.

V. Parallels to the Book of the Covenant

The Old Testament laws are paralleled by extra-biblical cuneiform laws that were written during an earlier or similar time period. Biblical law has many of the same categories of legislation as these cuneiform laws.

Cuneiform is a type of writing using wedge-shaped instruments to form symbols. Sumerian (the oldest known written language), Akkadian (a Semitic language spoken in ancient Mesopotamia), and Hittite (a non-Semitic, Indo-European language) were all written in cuneiform.



Legal parallels include:

A. The Reforms of Uru'inimgina / Urukagina

Author: Uru'inimgina was a ruler in Lagash, a city-state in Mesopotamia

Date: ca. 2350 BC

Language: Sumerian

Contents: Various laws attempting to reform Sumerian culture, including limiting bureaucracy, cutting taxes, and restraining the influence of the rich and powerful

Source: The actual text has not been found but is surmised from other references that have been discovered, including several cones

Location: Found at Girsu, a city of ancient Sumer, 16 miles northwest of Lagash

Features: First known law code in recorded history

B. The Laws of Ur-Nammu (LU)

Author: Ur-Nammu was the founder of the Third Dynasty of Ur; it appears that he and/or his son Shulgi authorized the publication of these laws

Date: ca. 2100 BC (roughly the time of the biblical patriarchs)

Language: Sumerian

Contents: Prologue with 29 casuistic laws that have survived, some not translatable

Source: Two manuscripts found at Nippur and Ur

Location: Ur, a city in ancient Sumer, located in modern southern Iraq

Features: First extant law code in history; established the format that would characterize Mesopotamian law for centuries to come

C. The Laws of Lipit-Ishtar (LL)

Author: Lipit-Ishtar was the ruler of the Sumerian city, Isin, after the collapse of the Third Dynasty of Ur

Date: ca. 1925 BC

Contents: Prologue with 38 casuistic laws and an epilogue

Language: Sumerian

Source: At least a dozen manuscripts discovered, but some laws missing in gaps

Location: Nippur, a city in ancient Sumer, 100 miles northwest of Isin

Features: Laws used for school instruction for hundreds of years after his death; corpus addresses property, inheritance, slavery, taxes, bodily injury, family matters, etc.

D. The Laws of Eshnunna (LE)

Author: Usually ascribed to Bilalama or Dadusha, but the text of the prologue is broken at the point where the ruler who issued these laws would be specified

Date: 1800 BC

Contents: Prologue with 61 laws

Language: Akkadian

Source: Two broken tablets and a student exercise copy

Location: Eshnunna, a city in ancient Sumer, near modern Baghdad

Features: Laws deal with tariffs, wages, family matters, slaves, bonds, theft, sexual offenses, bodily injury, the goring ox, etc.

E. The Laws of Hammurabi (LH)

Author: Hammurabi was the sixth king of Babylon, and the first king of the Babylonian Empire, which extended its control over Mesopotamia by winning a series of wars against its neighbors.

Date: ca. 1750 BC

Contents: Long prologue (boastful propaganda) with 282 casuistic laws and epilogue

Language: Akkadian

Source: A 7.5-ft. black stone stela, two stela fragments, and subsequent manuscripts

Location: Babylon, a city-state of ancient Mesopotamia, 55 miles south of modern Baghdad

Features: Longest and best organized of the Mesopotamian collections; addresses many of the same subjects as biblical law; the most famous extrabiblical law code



F. The Hittite Laws (HL)

Author: The Hittites were an ancient people at Hattusa, modern Turkey

Date: ca. 1650-1500 BC

Contents: 200 laws, approximately 100 on each of two tablets

Language: Hittite

Location: Asia Minor

Source: Two original tablets and subsequent copies; later copies show revisions

Features: Laws address eight topics: aggression and assault; marital relationships; obligations and service; assaults on property and theft; contracts and prices; religious matters; contracts and tariffs; and sexual relationships.

G. The Middle Assyrian Laws (MAL)

Author: Earliest copies date to the time of Tiglath-Pileser I of Assyria in the eleventh century, but they seem to be based on fourteenth century originals

Date: ca. 1300s BC

Contents: 116 casuistic laws preserved on 11 tablets

Language: Assyrian (a dialect of Akkadian)

Location: Assyria, a political state centered on the Upper Tigris River in Mesopotamia, located in modern Iraq

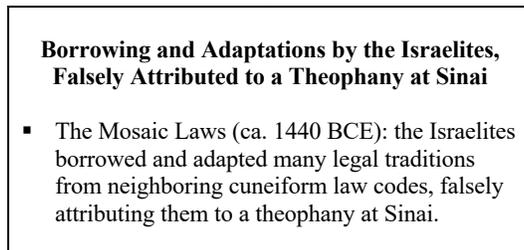
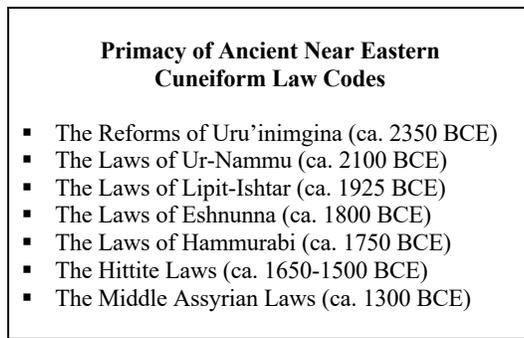
Source: Tablet copies and early fragments

Features: Penalties for violations often include bodily mutilations; notable for its repressive attitude toward women in society

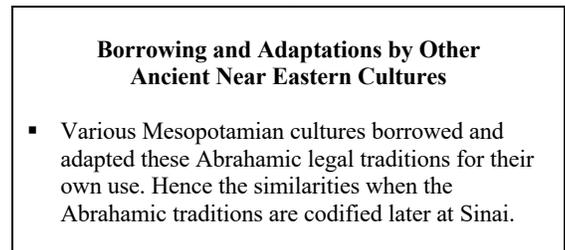
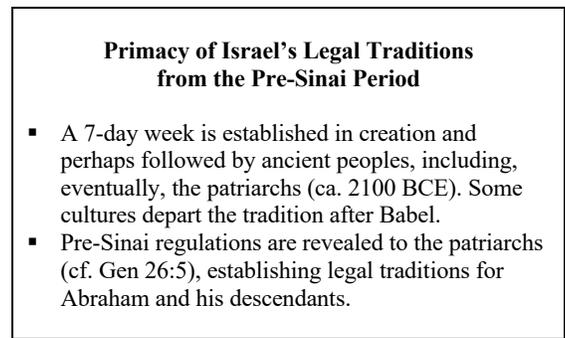
H. Handling the Parallels

1. It is interesting to note that Egypt seems to have preserved very little legal material in its annals. This phenomenon is likely due to the veneration of the pharaoh as semi-divine. His word was regarded as a divine decree; therefore, documented legal codes were largely unnecessary in Egypt.
2. On the other hand, the cuneiform law codes listed above reveal some significant points of comparison with biblical law—both in terms of the topics addressed and the rulings reached. Some have therefore concluded that the Israelites did not produce their own laws (or supernaturally receive them from God), but instead they borrowed heavily from their neighbors in order to establish their own. Such a conclusion, however, outruns the evidence. While there was certainly some cross-pollination going on, it is a matter of some debate as to who influenced whom. Additionally, there are significant points of contrast between cuneiform law and the Book of the Covenant.

Critical View



My View



3. According to Umberto Cassuto, there are three possible results when considering God's laws alongside the various other law codes of the ancient Near East:
- (1) God's laws will *confirm* certain aspects of the ancient Near Eastern legal tradition (e.g., Exod 21:16, 28-29).
 - (2) God's laws will *amend* certain aspects of the ancient Near Eastern legal tradition (e.g., Exod 21:15; cf. LH §195).
 - (3) God's laws will *contradict* certain aspects of the ancient Near Eastern legal tradition (e.g., Exod 22:25).¹⁰
4. Confirmations need not trouble the Christian, for Gentiles have always had the requirements of the law "written on their hearts" (Rom 2:15). More exciting for the believer, however, will be the amendments and contradictions of ancient law codes by God's laws, as the Hebrew Scriptures often serve as a corrective to local aberrant theology. It is here that the character, values, and ways of God will come into sharper focus for the Christian.
5. Moreover, Nahum M. Sarna argues that it is unwarranted to conclude that Hammurabi's laws were the direct inspiration for Israel's laws: "The talionic principle . . . is better explained as originating among the western Semites, who introduced it into Mesopotamia in the wake of their migrations to that region. In other words, it was already part of Israel's cultural heritage in pre-Exodus times."¹¹ The same is likely true for other pre-Sinai regulations as well. Israel's early (oral) legal tradition (cf. Gen 26:5) probably influenced the law codes of other cultures at least as much as their own was influenced.

¹⁰ Umberto Cassuto, *A Commentary on the Book of Exodus*, trans. Israel Abrahams, first English ed. (Jerusalem: Magnes Press at Hebrew University, 1967; reprint, Jerusalem: Ahva, 1997), 262.

¹¹ Nahum M. Sarna, *Exploring Exodus: The Origins of Biblical Israel* (New York: Schocken, 1996), 185.

6. Sprinkle concludes that the influence of cuneiform law on the biblical laws “should not be exaggerated. There is only one law in the entire Bible that finds an exact parallel in cuneiform laws. Furthermore, in many cases biblical laws reflect an ideology that differs fundamentally from the ideology reflected in cuneiform laws. These contrasts in ideology are just as instructive as the similarities in content categories.”¹²

VI. Surprises in the Book of the Covenant

The Book of the Covenant contains at least twelve significant and surprising departures from other law codes of the ancient Near East.¹³ An important theological insight can be deduced from each of these observations:

- A. The Book of the Covenant contains laws that are issued by the nation’s God, not by a human king (e.g., Exod 24:3-4, 7). Moreover, foreign law codes afforded kings an opportunity to showcase their wisdom; their desire to govern well was often secondary to their reputations.

Theological insight: That God himself issues these laws—with an expectation that they be obeyed—indicates his preference for ethical substance over legal symbolism, and personal authenticity over public showiness.

- B. The Book of the Covenant contains laws in which God himself is responsible for carrying out some of the penalties (e.g., Exod 22:22-24, 27, 23:7).

Theological insight: This surprise suggests that God is Israel’s king and wants to be intimately involved in his people’s lives. It also reveals some of the crimes that he regards as most insidious.

- C. The Book of the Covenant contains apodictic laws as well as casuistic laws (e.g., Exod 22:28-23:19).

Theological insight: This reality implies the existence of a transcendent morality underlying Israel’s case-by-case ethics as well as her absolute/imperative laws. It also communicates the authority of the lawgiver.

- D. The Book of the Covenant contains reasons or “motive clauses” for many of its laws (e.g., Exod 22:21, 27, 31, 23:7-12).

Theological insight: That God would provide a rationale for certain laws indicates the dignity he confers upon people as he seeks to motivate them with logical principles rather than mere dictatorial power. For a citizen to have access to the rationale behind a particular law gives him insight into the heart and mind of the lawgiver.

- E. The Book of the Covenant does not contain easier laws for the rich and powerful in Israel, contra the stratified treatment of the *awilum*, *mushkenum*, and *wardum* in Mesopotamian law (cf. Exod 21:26-27).

¹² Sprinkle, *Biblical Law and Its Relevance*, 47.

¹³ Adapted from Sarna, *Exploring Exodus*, 171-89, and David A. Dorsey, “Social Ills of the Ancient Near East and How the Old Testament Civil Laws Addressed Them” (classroom lecture notes, 555—*The Old Testament Law and the Christian*, Spring 2006, photocopy), 54.

Theological insight: This reality suggests that God does not assign value to his people based upon their socio-economic status. They are all equally important to him. If anything, God is especially concerned about the plight of the poor and the disadvantaged.

- F. The Book of the Covenant displays a surprising concern for the poor, the powerless, and the unprotected of society, such as widows, orphans, and aliens (e.g., Exod 22:21-26).

Theological insight: This concern is totally out of sync with the ancient Near East and reveals the heart of God toward such people.

- G. The Book of the Covenant displays a surprising concern for women and slaves (e.g., Exod 21:2-11, 20-21, 26-27, 22:16-17).

Theological insight: This phenomenon is unheard of in the ancient Near East and reveals the heart of God toward such people.

- H. The Book of the Covenant displays a surprising concern for one's personal enemies (e.g., Exod 23:4-5).

Theological insight: This surprise suggests the high value that God places upon reconciliation, interpersonal relationships, and one's inner thoughts.

- I. The Book of the Covenant eliminates a wide range of brutal, multiple, and vicarious punishments. Vengeance is de-escalated, and punishments fitting the crime (*lex talionis*) are instituted.

Theological insight: This approach reflects the justice, patience, and equanimity of God.

- J. The Book of the Covenant eliminates the death penalty for offenses involving property, reserving it only for the most heinous violations of human life and a small number of scandalous sexual and cultic offenses. Furthermore, the Book of the Covenant is the first ancient law code to eliminate financial settlements for premeditated murder.

Theological insight: These departures from common procedure reveal the high value that God places upon human life.

- K. The Book of the Covenant contains laws that are shorter, paradigmatic, less cumbersome, and often dependent on conscience for their obedience.

Theological insight: This surprise suggests that God wants his people to be joyful and free while displaying personal integrity and taking responsibility for their actions.

- L. The Book of the Covenant is "holistic" in that it is concerned with all aspects of life, not simply secular, legal matters.

Theological insight: This reality again suggests that God wants to be intimately involved in the totality of his people's lives.

To reiterate, Sarna suggests that the laws in the Book of the Covenant are intended to be obeyed by the people, not merely admired.¹⁴ God's laws are first communicated orally and then written down for implementation, contra the Laws of Hammurabi, which were inscribed primarily as a witness to the king's

¹⁴ See Sarna, *Exploring Exodus*, 140-44.

wisdom, values, and social ideals.¹⁵ Against this backdrop, the Book of the Covenant is decidedly applicational, not theoretical.

VII. Themes in the Book of the Covenant

When taken as a unit, the laws in the Book of the Covenant yield nine broad themes that reveal the gracious heart of the God who gives them. Each of these themes can be substantiated by various laws from the Book of the Covenant, as well as parallel and related laws from the remainder of Israel's legal corpus.

A. The laws in the Book of the Covenant place an extremely high value on human life.

1. These laws include:
 - (a) The penalty for intentional, premeditated homicide (Exod 21:12-14)
 - (b) The penalty for injuring a pregnant woman and causing her to give birth prematurely (Exod 21:22)
 - (c) The prohibition against killing a thief (Exod 22:2-3a)
 - (d) The recourse and restitution for death by a goring ox (Exod 21:28-32)
2. In addition to their parallels throughout the Pentateuch, to these laws we may add:
 - (a) The procedure for unsolved murder (Deut 21:1-9)
 - (b) The prohibition against human sacrifice (Lev 18:21; Deut 12:31, 19:10)

B. The laws in the Book of the Covenant place a remarkably high value on women.

1. These laws include:
 - (a) The regulations expressly protecting both men and women (Exod 21:20, 22, 26-29, 31-32; cf. Exod 20:10, 12, 21:15, 17)
 - (b) The protection of the engaged female debt-slave (Exod 21:7-11)
 - (c) The protection of a young woman who has been seduced (Exod 22:16-17)
 - (d) The protection of the widow and her children (Exod 22:22-24)
2. In addition to their parallels throughout the Pentateuch, to these laws we may add:
 - (a) The protection of women from incest (Lev 18:6-18)
 - (b) The protection of women from forced prostitution (Lev 19:29; Deut 23:17-18)
 - (c) The protection of female prisoners of war (Deut 21:10-14)
 - (d) The protection of an unloved wife (Deut 21:15-17)

¹⁵ Ibid.

- (e) The protection of a slandered wife (Deut 22:13-19)
- (f) The protection of a wife accused of unfaithfulness (Num 5:11-31)
- (g) The protection of women from rape (Deut 22:25-27)
- (h) The protection of a newly married woman whose husband is a soldier (Deut 24:5)
- (i) The support of a childless widow by a near relative (Deut 25:5-10)
- (j) The prohibition against having sexual relations with a woman during her menstrual period (Lev 18:19, 20:18)

C. The laws in the Book of the Covenant place a notably high value on other vulnerable and disadvantaged members of society.

1. These laws include:
 - (a) The protection and support of slaves/servants (Exod 21:2-11, 20-21, 26-27; cf. Exod 20:10)
 - (b) The protection and support of ethnic minorities living in the land (Exod 22:21-24, 23:9; cf. Exod 20:10, 23:12)
 - (b) The protection and support of widows and orphans (Exod 22:22-24)
 - (c) The protection and support of the poor (Exod 22:25, 23:3, 6, 11)
 - (d) The protection and support of the elderly (Exod 21:15, 17; cf. Exod 20:12)
2. In addition to their parallels throughout the Pentateuch, to these laws we may add:
 - (a) The protection of persons with physical handicaps (Lev 19:14)

D. The laws in the Book of the Covenant guard the sanctity of marriage and human sexuality.

1. These laws include:
 - (a) The prohibition against seducing a woman (Exod 22:16-17)
 - (b) The prohibition against bestiality (Exod 22:19)
2. In addition to their parallels throughout the Pentateuch, to these laws we may add:
 - (a) The prohibition against adultery (Lev 18:20, 20:10; Deut 22:22-24; cf. Exod 20:14)
 - (b) The prohibition of a second marriage by an ex-husband (Deut 24:1-4)
 - (c) The prohibition against rape (Deut 22:25-27)
 - (d) The prohibition against incest (Lev 18:6-18)
 - (e) The prohibition against homosexuality (Lev 18:22, 20:13)

- (f) The prohibition against prostitution (Lev 19:29, Deut 23:17-19)
- (g) The protection of a wife from being slandered by her husband and divorced (Deut 22:13-19)
- (h) The protection of a wife accused of infidelity (Num 5:11-31)
- (i) And the protection of a newly married couple from military service (Deut 24:5)

E. The laws in the Book of the Covenant provide fair and reasonable penalties and compensation in the cases of bodily assaults, injuries, and death.

1. These laws include:

- (a) The general guideline—and limited retribution—for bodily assaults, i.e., “eye for eye, tooth for tooth” (Exod 21:23-25)
- (b) The ruling for injury in a brawl (Exod 21:19)
- (c) The ruling for injury of a slave by the master (Exod 21:26-27)
- (d) Varied penalties for murder depending on the circumstances, such as:
 - (1) Premeditated homicide (Exod 21:12-14)
 - (2) Intentional homicide but in the heat of a brawl (Exod 21:20; implied in Exod 21:19)
 - (3) Accidental homicide due to carelessness (Exod 21:29-32)

2. In addition to their parallels throughout the Pentateuch, to these laws we may add:

- (a) The penalty for a purely accidental murder (Deut 19:4-7)

F. The laws in the Book of the Covenant provide fair and reasonable penalties and compensation in the cases of theft, damage, or loss of property.

1. These laws include:

- (a) The ruling for the death of an animal because of an uncovered pit (Exod 21:33-34)
- (b) The ruling for the death of someone’s animal by another person’s goring ox (Exod 21:35-36)
- (c) The rulings for various types of theft (Exod 22:1-4, 7, 9)
- (d) The ruling for damage of crops by the grazing of livestock or by fire (Exod 22:5-6)
- (e) The ruling for the loss of an animal during safekeeping (Exod 22:10-13)
- (f) The ruling for the loss of borrowed and hired animals (Exod 22:14-15).

G. The laws in the Book of the Covenant provide penalties and compensations that are fair to victims and also provide a way for guilty parties to pay their debt to society and be restored.

1. These laws include:
 - (a) The rulings for a thief (Exod 22:1-4)
 - (b) The ruling for a young man who seduces a young girl (Exod 22:16-17)
 - (c) The ruling for a man whose goring ox kills another man's ox (Exod 21:36)
 - (d) The ruling for a man who injures another man in a brawl (Exod 21:18-19)

H. The laws in the Book of the Covenant provide for the appropriate treatment of animals.

1. These laws include:
 - (a) The care of animals (Exod 23:12; cf. Exod 20:10)
 - (b) The protection of animals (Exod 22:19, 23:19b)
2. Additional parallels can be found throughout the Pentateuch (Exod 34:26b; Lev 18:23; 20:15-16; Deut 14:21d).

I. The laws in the Book of the Covenant place a high value on human freedom.

1. These laws include:
 - (a) The procedure for freeing debt-slaves after six years of service (Exod 21:2-6)
 - (b) The laws that preserve and protect the dignity of servants/slaves as they work toward and anticipate their release (Exod 21:2-11, 20-21, 26-27; cf. Exod 20:10).
2. In addition to their parallels throughout the Pentateuch, to these laws we may add:
 - (a) The protection of freedom for runaway slaves (Deut 23:15-16)
 - (b) The penalty for kidnapping (Deut 24:7)
 - (c) Paying for the release of Hebrew debt-slaves sold to outsiders (Lev 25:47-55)

VIII. Punishments in the Book of the Covenant

Modern readers of the Book of the Covenant are sometimes put off by the recurring phrase, “he shall be put to death” (ESV) or “must be put to death” (NIV) for certain crimes. The Hebrew expression *מוֹת יָמוּת* literally means, “dying he will die.” Related expressions in the law are equally disturbing to some people, as the mandate for capital punishment in some cases seems, by today’s standards, to exceed the crime. Several factors can be cited to mitigate such concerns:

A. Some scholars argue that the death sentence was not automatic in every case to which it could apply.

1. Sprinkle, for example, takes the phrase מָוֹת יוֹמָת to mean, “he *may* be put to death.”¹⁶ Those who follow this line of reasoning usually suggest that when presented casuistically, מָוֹת יוֹמָת conveys the sense of “a crime *worthy* of death.” That is, the Israelites understood the expression to mean a *maximum* sentence, not a *required* sentence.
2. Kaiser concurs and notes that all capital punishment statements in the legal corpus would allow for monetary resolutions, except those addressing premeditated murder.¹⁷ The implication is that judges or magistrates could work out lesser penalties agreeable to the victim’s family (e.g., caning, flogging, etc.).
3. The case of intentional, premeditated murder, however, always required the death penalty. It was absolutely forbidden in Israel to plan someone’s death and then carry it out. To do so was to forfeit one’s own life.¹⁸ The reason for the ultimate penalty in this case is that human beings are made in the image of God. To kill a person is “tantamount to killing God in effigy.”¹⁹

B. Given this understanding, even the *lex talionis* of Exodus 21:23-25 would not necessarily require a commensurate disfigurement in every case.

1. The victim could demand something comparable—but not *more*—than the criminal took. He could say, for example, “Your punishment will be an eye’s *worth* or a tooth’s *worth* as defined by me,” and a financial settlement could be reached.
2. The power of the ultimatum belonged to the victim—limited, of course, by the terms of *lex talionis* and the supervision of the local judges. They could say, for example, “If you don’t compensate us with fourteen bulls, we will take out your eye.” Both the victim and the guilty party had options. As Schnittjer notes, *lex talionis* “was not meant to *require* vengeance but to *restrict* it.”²⁰
3. Furthermore, there is sufficient evidence to suggest that the introduction of *lex talionis* was a much needed improvement over previous law codes that were too lenient, not a retrogression in the concept of justice.²¹ The reason is that the rich could easily pay whatever fines had been attached to crimes involving bodily injury. Consequently, a person of means whose heart was set on harming others had very little incentive to restrain his rage. He could afford to be destructive. That is one reason ancient civilizations were often brutal. It is therefore naïve to suggest, as we sometimes hear, “If we practice an eye for an eye and a tooth for a tooth, soon the whole world will be blind and toothless.” The exact opposite was the case in the ancient Near East. The principle of *lex talionis* was a stroke of mercy from God, who wanted to put an end to people mutilating each other for a small fee.

C. It must also be remembered that the Book of the Covenant restricts the death penalty to the most heinous violations of human life and a small number of scandalous sexual and cultic

¹⁶ Joe M. Sprinkle, *The Book of the Covenant: A Literary Approach*, Journal for the Study of the Old Testament Supplement Series 174 (Sheffield: Sheffield Academic, 1994), 74. Emphasis mine.

¹⁷ Walter C. Kaiser, Jr., *Toward Old Testament Ethics* (Grand Rapids: Baker), 298.

¹⁸ King David’s avoidance of execution is the glaring exception (cf. 2 Sam 11:14-17; Ps 51).

¹⁹ Kaiser, *Old Testament Ethics*, 91.

²⁰ Schnittjer, *The Torah Story*, 252. Emphasis mine.

²¹ See Sarna, *Exploring Exodus*, 182-85.

offenses (e.g., Exod 21:12-17, 22:18-20).²² Such restraint stands in contrast to the surrounding cultures, which not only made a more cavalier use of the death penalty, but also sanctioned the practice of mandatory *vicarious* punishments.

1. In Middle Assyrian laws, for example, the rape of an unbetrothed virgin who lives in her father's house is punished by the ravishing of the rapist's *wife*, who also remains thereafter with the father of the victim.²³
2. Hammurabi decrees that if a man strikes a pregnant woman, causing her to miscarry and die, it is the assailant's *daughter* who is put to death.²⁴ If a builder erects a house that collapses, killing the owner's son, then the builder's *son*, not the builder, is put to death.²⁵ The practice of vicarious punishment is explicitly forbidden by God (cf. Deut 24:16).
3. By contrast, then, God's laws in the Book of the Covenant can be seen as fair, right, just, reasonable, and a major improvement over other law codes of the ancient Near East (cf. Deut 4:5-8). One could also argue, in response to the concerns of modern sensibilities, that it is not God's standards in ancient Israel that were too severe, but society's standards today that are too lenient.

IX. Reflections on the Book of the Covenant

1. The Book of the Covenant makes it clear that God treasures the people he has made, and he wants his followers to do the same. That he would invade the ruthless and depraved cultures of the ancient Near East with such an astounding self-revelation is a testament to his grace and magnanimity. Truly the author of life *cherishes* life.
2. One is reminded of the words of C. S. Lewis in his book *The Weight of Glory*, when he writes: "It is a serious thing to live in a society of possible gods and goddesses, to remember that the dullest and most uninteresting person you talk to may one day be a creature which, if you saw it now, you would strongly be tempted to worship, or else a horror and a corruption such as you meet now, if at all, only in a nightmare. All day long we are, in some degree, helping each other to one or other of these destinations. It is in the light of these overwhelming possibilities, it is with the awe and the circumspection proper to them, that we should conduct all our dealings with one another, all friendships, all loves, all play, all politics. There are no ordinary people. You have never talked to a mere mortal."²⁶
3. Indeed, the Book of the Covenant provides a deep and disarming gaze into the heart of God and his view toward humanity. To him we are *not* mere mortals. Hence the incredulity of David when he writes, "When I look at your heavens, the work of your fingers, the moon and the stars, which you have set in place, what is man that you are mindful of him, and the son of man that you care for him? Yet you have made him a little lower than the heavenly beings and crowned him with glory and honor" (Psalm 8:3-5).

²² For a list of the eighteen capital offenses in the Old Testament legal corpus, with references, see Kaiser, *Old Testament Ethics*, 298.

²³ As cited in Sarna, *Exploring Exodus*, 176.

²⁴ Ibid.

²⁵ Ibid.

²⁶ C. S. Lewis, *The Weight of Glory* (New York: HarperCollins, 1980), 45-46.

4. Such should be the Christian's amazement today, for when God became a member of the human race in the person of Jesus Christ, the revelation of how God regards humanity was showcased even further as it was fleshed out before our very eyes. When one considers how the Savior of the world treated the peoples of this earth—the women, the children, the widows, the servants, the foreigners, the high class, the low class, the Jews, the Gentiles, even to the point of dying for the most wretched of us—it becomes clear that the Son of God truly embodied the law of God. His followers, who are filled with the Holy Spirit and inscribed with the law of God on their hearts, are now privileged to go and do likewise.