



Jehovah's CODE OF CIVIL

by John W. Welch

VIRTUALLY EVERYONE IS FAMILIAR WITH THE TEN COMMANDMENTS. THEY CAN BE FOUND IN EXODUS 20. RIGHT AFTER THOSE COMMANDMENTS, IN EXODUS 21–23, STANDS A LESSER-KNOWN BODY OF LAWS. THAT SET OF LAWS IS KNOWN AMONG BIBLICAL SCHOLARS AS THE COVENANT CODE, ALTHOUGH IT IS NOT A “CODE” IN ANY MODERN SENSE OF CODIFICATION. THE WIDELY INVOKED TEN COMMANDMENTS, WHICH INTRODUCE THE COVENANT CODE, ARE WRITTEN IN THE DISTINCTIVE “THOU SHALT NOT” FORM. HEBREW SENTENCES THAT BEGIN IN THIS WAY ARE DESCRIBED AS “APODICTIC” LAWS. SUCH PROHIBITIONS ARE THOUGHT TO BE OF ELEVATED IMPORTANCE. THEY SURPASS IN GENERALITY AND FORCEFULNESS OTHER PROVISIONS IN BIBLICAL LAW, SUCH AS THOSE THAT ARE WRITTEN IN SENTENCES THAT BEGIN “IF A MAN,” AND THUS PERTAIN MORE TO INDIVIDUAL CASES OR PARTICULAR SITUATIONS.¹

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JUSTICE



Few people notice, however, that the Covenant Code is not only introduced by the familiar list of 10 apodictic commandments, but it also concludes with another series of “thou shalt not” prohibitions. This concluding set of laws can easily be called Jehovah’s code of civil justice. One Old Testament scholar, J. W. McKay, has called this second set of commandments a “decalogue for the administration of justice.”² Others agree that, behind or alongside the series of judicial rules found in Exodus 23, there once stood in ancient Israel other similar sets of instructions that were given to, or expected of, all who participated in the legal process.³ Frank Crüseman has stated that “like no other texts, the instructions regarding behavior in a trial, which we find in [Exodus 23:1–2, 7–8], give us a picture of legal procedure during the monarchic period,” from about 1000 to 600 B.C. in ancient Israel.⁴

I believe that these judicial commandments in Exodus 23 still offer important guidance to lawyers and litigants today. These commandments establish standards of behavior for judges and officials involved in the legal system. These rules also apply to plaintiffs and witnesses who appear in court. Nowhere else in scripture or in ancient law codes can one find a comparable cluster of mandates for judges and lawyers stated so succinctly. This body of ethical requirements is the earliest code of professional responsibility in legal history. Notwithstanding their antiquity, the principles of justice and righteousness embodied in this code of judicial conduct remain applicable today.

Jehovah’s Judicial Code in Context

McKay’s insightful article focuses on what he counts as 10 judicial commandments in Exodus 23:1–3 and 6–8. In actuality, if one begins counting at Exodus 22:18, the last columns of the Covenant Code contain not just 9 or 10 prohibitions but 24 “thou shalt not” expressions.⁵ In Hebrew these 24 statements are grammatically distinctive and readily identifiable, all beginning with the word *lo*, literally “don’t!” These lines can be translated, for example, as “Don’t allow!” “Don’t vex!” “Don’t deny!” “Don’t take!” Grammatically, these apodictic prohibitions function much like the German expression “Nicht rauchen!” (“No smoking!”). Because all 24 of these imperatives in Exodus 22 and

23 are equal in form, McKay’s analysis should be expanded so that the central 10 judicial commandments are read in their full literary context. The 10 injunctions that precede the “judicial decalogue” and the four prohibitions that come after it provide the social and religious bookends that surround Jehovah’s code of civil justice. The 24 apodictic injunctions in Exodus 22–23 can thus be divided into three sets: Sets A, B, and C.

The first set of 10 (Set A) is found at the end of Exodus 22. It deals mainly with the creation of a just society with loyalty and devotion to God. These commandments are addressed to all people of the covenant and set forth legal preconditions of social justice that should prevail among the people at large. These laws rule out such things as reaching decisions through irrational divination, mistreating or taking unfair advantage of people, showing disrespect to proper authority, being late, and scavenging damaged goods. These principles must be present amidst the population at large before justice can be rationally and practically achieved in any society. According to this set of rules, just and righteous people are to stay away from sorcery or divination: God, not some oracle or astrologer, is to be the source of true guidance and revelation.⁶ People in a just society must avoid taking advantage of the weak, the poor, or the vulnerable (widows, orphans, the impoverished, and people from other lands are specifically mentioned).⁷ People in a just society are to respect authority (God and leaders), discharge their obligations punctually, and behave generally in a civilized manner. The motive clause that stands at the conclusion of these provisions and explains the purpose behind them establishes the beneficial status that will come to those who keep these commandments: namely, “ye shall be holy [people]” (Exodus 22:31). The basis of a just society is found in the fair, respectful, and dignified conduct of the general populace. These 10 injunctions may be translated as follows:

SET A :: TEN COMMANDMENTS FOR SOCIAL JUSTICE AT LARGE

Thou shalt not allow a witch to live (22:18).
Thou shalt not vex or mistreat a resident alien (22:21).
Thou shalt not oppress a resident alien (22:21).
Thou shalt not afflict or take advantage of a widow or orphan (22:22).
Thou shalt not loan money (silver) to the needy (22:25).
Thou shalt not charge interest to the needy (22:25).
Thou shalt not revile or blaspheme God (22:28).
Thou shalt not curse a ruler over the people (22:28).
Thou shalt not delay to offer the first of thy ripe fruits (22:29).
Thou shalt not eat of torn flesh in the field (22:31).

The central body, or second set of 10 (Set B, McKay's 10), is found at the beginning of Exodus 23. It deals overtly with the operation of a just legal system. These 10 prohibitions are directed more specifically toward those involved personally in the administration of justice. Each of these 10 rules of professional conduct will be discussed in more detail below. In essence, they require that all people involved in the

legal process, especially those who act as judges, be honest, independent, impartial, careful, and compassionate. In particular, they must be beyond any reproach of spreading gossip or hearsay, colluding with the guilty, caving into group pressure, obstructing justice, favoring the rich, telling lies, killing the innocent, accepting bribes, or abusing their power over the vulnerable.

SET B :: THE TEN COMMANDMENTS OF JEHOVAH'S CODE OF LEGAL JUSTICE

Thou shalt not bring up a false rumor or report (23:1).
Thou shalt not be in cahoots with a wicked person as a false witness (23:1).
Thou shalt not follow the crowd with intent to do evil (23:2).
Thou shalt not speak against the majority with intent to pervert justice (23:2).
Thou shalt not be partial toward the poor in a lawsuit (23:3).
Thou shalt not deny justice to the poor in a lawsuit (23:6).
Thou shalt stay away from lies (23:7).⁸
Thou shalt not execute the innocent or righteous (23:7).
Thou shalt not take a bribe (23:8).
Thou shalt not oppress a resident alien (23:9).

The final group of "thou shalt not" provisions (Set C) concludes the Covenant Code, in Exodus 23:13, 18–19. These commandments pertain primarily to religious duties, shifting attention toward the fulfillment of obligations owed to God. These four commandments appear together with several positively stated rules. Specifically mentioned are working six days and resting on the Sabbath (Exodus 23:10–12), keeping three festival

days holy (Exodus 23:14–17), and offering sacrifice of the first fruits (Exodus 23:19). The four apodictic rules in this section prohibit a person (including those swearing legal oaths or giving witness testimony) from speaking in the name of any other gods and, for reasons that remain obscure, do not allow sacrifices to be offered in improper or unseemly fashions that mix categories, such as blood and bread or meat and milk.

SET C :: FOUR PROVISIONS FOR RITUAL JUSTICE

Thou shalt not invoke the name of other gods (23:13).
Thou shalt not speak the name of other gods (23:13).
Thou shalt not offer blood sacrifice together with leavened bread (23:18).
Thou shalt not seethe a kid in his mother's milk (23:19).

In overview, these 24 "thou shalt not" injunctions set forth responsibilities toward one's neighbor, one's system of government, and one's God. From this overall arrangement one can readily see that Jehovah's code of justice operates on three levels: social, judicial, and religious. Without a sense of social justice among the populace at large, it is unlikely that any amount of legal enforcement will ever bring about a just society. Without a judicial system that functions with impeccable integrity, no collection of written norms will ever be implemented with justice or confidence. From the biblical perspective, without reverent and obedient devotion to God no people will be deeply committed and motivated to keep their laws, to become holy or gracious, as is God Himself.

Interestingly, Thomas Leclerc has found a similar threefold configuration in the construction of the book of Isaiah, confirming the depth of this conception of justice throughout both the law and the prophets in ancient Israel. As Leclerc shows, the concept of justice in Isaiah 1–39 is grounded in social settings, such as defending the weak, the widows and orphans, resident aliens, and the poor; in Isaiah 40–55, discussions of justice center on the procedural administration of justice; and in Isaiah 56–66, justice is associated with God and covenant obligations.⁹

Jehovah's Judicial Decalogue

For present legal purposes we may now focus specifically on the meaning of the commandments in Set B, the rules of conduct that the Bible directs especially toward judges and lawyers. Anyone involved in the legal process would do well to consider carefully the meaning of these 10 commandments in this code of civil justice.



① **Thou shalt not spread any false reports (Exodus 23:1).** Gossip and rumors almost always damage reputations and the standing of people in the community. Talebearing, which would include hearsay and gossip, are off-limits for all people who work in the justice system (see Leviticus 19:16). Lawyers are in a particularly strong position to have inside information and to have reason to accuse or to disparage their opponents. People who spend all day trying to judge cases, advocate causes, or criticize opponents must exert special efforts to stop judging others in ordinary social settings. Especially because judges and lawyers are often influential and powerful people in the community, rumors or false reports started by them are likely to be given higher credence than information coming from ordinary people. With this high degree of potency comes a high level of responsibility.

Thus the biblical code of legal conduct requires its agents to be especially scrupulous in respecting confidences, in guarding against the dissemination of false information, and in keeping confidences. The Hebrew speaks literally against “spreading” or “carrying” any false report: one should simply drop such matters. Particularly, one should not carry such things “up,” that is, to the temple or to the gates of the city where the town elders or courts of judgment typically met in ancient Israel (see Ruth 4:1; Jeremiah 26:10). The Septuagint Greek adds the connotation that one should not “accept” or “welcome” any such rumors either. The Hebrew *shema* (“report”) can refer to any hearing, report, rumor, news, evidence, or witness. Truth in all such reports is to be promoted. To be avoided is any that is *shav*: false, empty, lying, vain, worthless, destructive, or deceitful.

② **Thou shalt not be a malicious witness to help a wicked man (Exodus 23:1).** Righteous conduct is inimical to malicious prosecution. Suborned witnesses, revengeful plaintiffs, and compliant counsel who use the legal system to promote unjust causes wield power and manipulate the judicial process wrongfully. The legal system is a tool. Like any other tool, it can be used either to build up or to tear down. Those who sit in seats of power must be careful at all times to use that power to promote just and right causes. The Hebrew concept behind the word *maliciousness* in this context involves greedy desire, ill

will, exploitation of the socially helpless, or even hatred. Thus the meaning of the biblical text is that fallacious and overreaching use of the legal process is to be abhorred and that kindness must be consciously cultivated in a setting that is prone to breed hostility and bad blood.

③ **Thou shalt not follow the crowd in perverting justice (Exodus 23:2).** Judicial morals require individuals to stand up courageously for what is right, regardless of peer pressure or the prevailing consensus. The independent vote of Alma the Younger in favor of acquitting Abinadi in the Book of Mormon is a heroic example of one who did not follow the crowd (Mosiah 17:2). The pressures on judges and lawyers are no less potent today. One must guard against being intimidated. The Hebrew word for *follow* here includes the connotations of submitting to or answering to those who would pervert justice.

④ **Thou shalt not speak against the majority with intent to pervert justice (Exodus 23:2).** This is an interesting provision. Biblical justice requires people not only to oppose the majority when it is wrong but also to be careful not to speak out *against* the majority when the speaker intends to obstruct justice. Minority views need to be heard, but special interests can become just as tyrannical as majority domination, especially if their advocates lack the intent of doing principled justice or wish to pervert (literally to “turn aside”) the course of justice. Cooperation is crucial to civic-mindedness and collective well-being.

⑤ **Thou shalt not be partial toward the poor in a lawsuit (KJV: Thou shalt not countenance the poor in his cause) (Exodus 23:3).** Since the beginning of civilization the rich have had easier access to the law. In addition, judges and lawyers are inclined to favor the rich for many reasons. The briefs of rich clients are usually better written than those of poor people. Thus the rich may appear more credible. The effects of this bias must be overcome (see, for example, commandment number 6). But that is not the focus of commandment number 5, which prohibits people from bending over too far in the opposite direction. The main question in interpreting this provision is, what does the Hebrew word *bidor* (“partial”) mean? What is it that a judge or lawyer should not do to the poor? This word may actually mean that one should not give “undue honor” to the poor. In other words, the text prohibits partiality of any kind, whether to the rich or to the poor. The Septuagint Greek goes so far as prohibiting the judge from showing too much mercy to the poor or from being swayed by pity.

⑥ **Thou shalt not deny justice to the poor in a lawsuit (KJV: Thou shalt not wrest the judgment of thy poor in his cause) (Exodus 23:6).** In this commandment readers must struggle with the meaning of the words *wrest* or *deny*. The Hebrew words here are broad in mean-

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ing and application. If a poor person asserts a claim of right, the legal process should not stand in the way; it should not make it difficult for a person to obtain the entitled benefit. The poor are granted several rights under biblical law: the right to glean in the fields of local farmers, the right to redeem sold property, the right to be given startup capital upon release from servitude, and other such rights. If a poor person comes forward and claims these benefits, the law should not stand in the way.

This commandment is related to the earlier commandment from the first set: “Thou shalt not take advantage of a widow or orphan” (Exodus 22:22). Justice in the biblical sense indeed is not blind. It makes a difference who the parties are. The weak need protection. Widows and orphans are especially vulnerable because they lack a husband or a father, who in biblical society would have advocated and defended their interests. Negotiating one’s way through the legal system requires knowledge and experience. In their loneliness widows and orphans are sometimes prone to making weak decisions; they may be in special need of counsel and advice. A football game between a championship college team and a regular high school team would be inherently unfair. Even though the football field was exactly the same size for both teams and even if the referees blew the whistle evenhandedly on both sides, their contest could in no way be thought of as a fair competition.

For the judicial code of the Bible, human law *should* be a respecter of persons, in the sense of looking out for the interests of others. Of us it is required to administer justice in a manner that is fair and equitable to the parties. Indeed, if lawyers and judges do not fashion justice in a fitting way, God will apply a fitting reciprocal punishment: “Your wives will become widows and your children orphans.” In the book of Mosiah, King Benjamin similarly required his people in a covenant context to give to the poor and the needy who ask for sustenance; if they did not, the reciprocal consequence would be that God would deny their petitions to him (Mosiah 4:22).

⑦ **Thou shalt stay away from lies** (Exodus 23:7). In the Ten Commandments one reads, “Thou shalt not bear false witness” (Exodus 20:16). When applicable to broad society, this means “Don’t lie.” But in a judicial context it requires judges and lawyers to stay away from any form of deception, misrepresentation, misleading omission, and perjury. Biblical law was especially hard on perjury. Deuteronomy 19:19 requires the judges to impose on a perjurer the following penalty: “Then shall ye do unto him, as he had thought to have done unto his brother.” In other words, in a capital case the penalty for perjury was death. Perjury is especially problematic because the legal process in ancient Israel involved God as a presence in the courtroom. Plaintiffs and witnesses verified their claims and assertions in the name of God. Defendants certified their innocence by solemn oaths and vows pledged before God or in His sanctuaries. Both taking the name of God in vain and swearing a false oath by the name of God were forms of blasphemy. Thus the Hebrew law requires the judge or participant to be “far away from, be distant from, to depart from, or to withdraw from” anything that approaches perjury. One should not even get close to this line.

⑧ **Thou shalt not execute the innocent or righteous** (Exodus 23:7). Biblical law requires a righteous legal system to take precautions to prevent the miscarriage of justice. The innocent, literally

“those who are free from liability,” are explicitly entitled to protection. The judicial system must particularly see that those people are never executed. Those who break this commandment are themselves guilty of a serious infraction of the law, not just an excusable or unfortunate error (see Deuteronomy 19:16–21).

⑨ **Thou shalt not take a bribe** (KJV “gift”) (Exodus 23:8). Any kind of bribery or financial influence on judicial decision should be eschewed. Jewish law went so far as to prohibit any judge from accepting money from any party to a lawsuit—whether before, during, or after the lawsuit. Even an expectation that a wealthy or influential person might sometime in the future give favors to a judge in return for a favorable verdict or judgment was eschewed under Jewish law. The biblical code prohibits even a *shachad* (“gift” or “donation”) of any kind to or for the benefit of judges. Undue influence in the judicial process need not be as blatant as Zeezrom’s six *onti* (“reward”) offered to Alma and Amulek if they would reverse their indictments against the city of Ammonihah and reverse their religious position. Any such influence, according to the biblical command, will “twist, pervert, or overturn” the words of even an otherwise righteous man.

⑩ **Thou shalt not mistreat a resident alien or oppress him** (Exodus 23:9). The biblical code of legal conduct repeats the requirement that the legal system not be used to take advantage of foreigners living in the land. This point, which was made applicable to the general population in Set A, is directed also at those involved in the administration of justice—for good reason. Oppression of people from other lands is especially easy because of

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language barriers and the lack of familiarity with local judicial and governmental systems. Biblical law makes this mistreatment of foreigners especially odious and abhorrent because the people of Israel themselves were foreigners who were oppressed in a distant land. The law requires all participants in the judicial process to empathize with these disadvantaged parties, and just as God was kind to Israel in liberating them from bondage, so it is becoming of all lawyers to emulate this divine characteristic in promoting fairness in the interest of resident aliens.

For all their shortcomings and other failings, ancient Israel apparently honored these rules of judicial conduct in practice as well as in theory. Scholars strongly suspect that behind or alongside the series of judicial rules in Exodus 22–23 there once stood in ancient Israel specific sets of instructions that were given to or expected of those who participated in the legal process.¹⁰ We see evidence of this in several places. Judges in Israel were charged with the duty of judging righteously according to these rules of conduct. In 2 Chronicles 19:7, 9, King Jehoshaphat installed judges and sent them to do justice. As he did so he reportedly “charged them” to avoid “iniquity” or any perversion of justice, “respect of persons” or improper partiality, and “taking of gifts” or bribes.

Similar reflections of this judicial code of conduct are found in several other places in the Old Testament. Classic formulations of judicial ethics are found in Deuteronomy: “Judge righteously between every man and his brother, and the stranger that is with him. Ye shall not respect persons in judgment; but ye shall hear the small as well as the great; ye shall not be afraid of [or be intimidated by] the face of man” (Deuteronomy 1:16–17); “Judge the people with just judgment. Thou shalt not wrest [stretch, pervert] judgment; thou shalt not respect persons, neither take a gift” (Deuteronomy 16:18–19); “They shall justify the righteous, and condemn the wicked” (Deuteronomy 25:1).

The violation of these rules of professional conduct would call down the wrath of divine disapproval and justice. Amos 5:12 reads, “For I know your manifold transgressions and your mighty sins: they afflict the just, they take a bribe, and they turn aside the poor in the gate from their right.” The prophet Zechariah demanded, “Execute the judgment of truth

and peace in your gates: and let none of you imagine evil in your hearts against his neighbor; and love no false oath: for all these are things that I hate, saith the Lord” (Zechariah 8:16–17). For this reason “the fear of the Lord” is listed in Psalm 19 among the defining, operative components of Hebrew law, namely, the Torah, the testimony, the statutes, the commandments, and the judgments of the Lord altogether (Psalms 19:7–10).

Conclusion

For those involved in the administration of justice under Hebrew law in biblical times, all this was serious business indeed. In these ancient roots can be found the direct ancestors of many of the requirements found in the modern code of professional responsibility that demands openness, truthfulness, fairness, diligence, competence, and avoidance of undue influence. Those roots are strong; in some ways they are even stronger than their manifestations in the modern code of professional conduct.

Every judicial system operates within a set of rules, regulations, and moral expectations. Sometimes these norms are set forth explicitly, other times they exist as general societal values. In the United States the concept of criminal justice is bound up with such legal values as affording due process, notice, the right to be heard, the opportunity to confront one’s accuser, the right to counsel, the privilege of appeal, and protection from double jeopardy. Going beyond the minimal requirements of civil justice, Elder Dallin H. Oaks has discussed the challenge of conducting litigation today “in the Lord’s way.”¹¹ Addressing those who would be plaintiffs in a lawsuit, Elder Oaks encourages people to remember to forgive, to pursue private settlement options, to eliminate revenge, to act to protect others, to consider the effect of civil action on those who are sued, and, in general, to think of one’s own responsibilities ahead of one’s rights. Although such modern value systems address the concerns of our day, they are still consonant with the ancient rules of judicial ethics that were embodied in Jehovah’s code of justice in Exodus 22–23.

In sum, one would hope that lawyers and judges in the modern world would find the biblical rules just as compelling as did the ancients. In requiring clear communication, honesty, fairness, diligence, competence, and

avoidance of bribes, modern rules of professional conduct still require many of the same virtues as did these ancient commandments. At the same time, Jehovah’s code of civil justice seems to go even farther in explicitly requiring participants in the judicial process to shun false rumors, to keep confidences, to avoid overreaching, to eschew ill will, to be courageously independent, not to be overzealous for a minority cause, to be affirmatively fair to those in need, to eradicate perjury, to be careful, and to accept no inappropriate personal benefits for the discharge of legal authority.

NOTES

- ① See generally Ze’ev W. Falk, *Hebrew Law in Biblical Times*, 2d ed. (Provo: Brigham Young University Press, 2001), 2–3; Dale Patrick, *Old Testament Law* (Atlanta: John Knox, 1985), 21–24, 38–40. Lists of apodictic laws also appear among the prohibitions in Exodus 34 and Leviticus 19.
- ② J. W. McKay, “Exodus 23:1–3, 6–8: A Decalogue for the Administration of Justice in the City Gate,” *Vetus Testamentum* 21 (1974): 311–25.
- ③ The similar views of S. R. Driver, Roland de Vaux, and others are discussed in McKay, “Exodus 23:1–3, 6–8,” 322–25.
- ④ Frank Crüseman, *The Torah: Theology and Social History of Old Testament Law* (Minneapolis: Fortress, 1996), 189.
- ⑤ The number 24 was a judicially significant number in ancient Egypt, Israel, and early Judaism, especially where judges appeared in panels of 24. “Number 24,” in John W. Welch, ed., *Reexploring the Book of Mormon* (Salt Lake City: Deseret Book, 1992), 272–74.
- ⑥ Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* (Jerusalem: Magnes, 1995), 20–23, 179–214.
- ⑦ See generally, Bruce V. Malchow, *Social Justice in the Hebrew Bible* (Collegeville, Minn.: Liturgical Press, 1996); Christiana van Houten, *The Alien in Israelite Law* (Sheffield: Sheffield Academic Press, 1991); Leon Epsztejn, *Social Justice in the Ancient Near East and the People of the Bible* (London: SCM, 1983).
- ⑧ In this one case the command is stated in the form of a positive command. McKay and others believe that it may have originally been expressed as a command not to listen to lies or to utter lies. In Exodus 20, two of the Ten Commandments are also formulated as positive commands: “Remember the sabbath day” and “Honour thy father and thy mother.”
- ⑨ Thomas L. Leclerc, *Yabweh Is Exalted in Justice: Solidarity and Conflict in Isaiah* (Minneapolis: Fortress, 2001).
- ⑩ See the suggestions of S. R. Driver, Roland de Vaux, and others discussed in McKay, “Exodus 23:1–3, 6–8,” 322–25.
- ⑪ Dallin H. Oaks, *The Lord’s Way* (Salt Lake City: Deseret Book, 1991), 155–88.