

"... (HE/THEY) SHALL BE PUT TO DEATH" LIVE-PRESERVING DIVINE THREATS IN OLD TESTAMENT LAW

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One of the main concerns in discussing law and liberty is to distinguish clearly between divine and human regulations in the scriptures. Blurring the boundary line is dangerous. Persons or groups who use divine sanctions or try to execute divine justice soon will consider themselves vice-regents of God himself. They create theocratic systems claiming to know the absolute values and to administer the purest set of rules without failing. This attitude implies, on the other hand, a superior insight into the nature of evil and a divine commission to eradicate all evildoers. In this fashion theocratic groups or societies inevitably turn totalitarian. In other words, drawing divine sanctions into human law, making legal procedure a vehicle for establishing absolute justice, must result in a total loss of freedom.

For quite a while scholarly research on OT Law has focused on what seemed to be authoritative, "apodictic" traits of the old biblical stipulations. Albrecht Alt inaugurated this evaluation in 1934 by publishing his famous essay on the "Origins of Israelite Law."¹ The scholarly world virtually in unison accepted his description of divine (and genuinely Israelite) Law as being most of all "untamed and aggressively" potent,² "neglecting all personal facets of guilt,"³ "related to the absolute will of Yahweh, therefore administering only the most rigid punishment,"⁴ "categorical," "determined," and "unconditional." Nobody seemed to feel offended by the violence of these concepts and their totalitarian consequences.⁵ Nobody questioned the notion of God behind such affirmations of unmercifulness. And, in fact, nobody ever scrutinized the origins of Alt's ideas about "apodictic," (i.e. authoritarian law) in the political environment of the Weimar Republic and the beginning of the "Third Reich."⁶ Apparently, the absoluteness and relentless power of divine Law and punishment suited well our Christian understanding of law and order. At least in Germany there have been periodic publications which wholeheartedly follow Alt's lead or even elaborate his martial and androcentric views.⁷

One more point should be stressed from the outset. As Christians and interpreters of the scriptures, we know that ancient and modern world views and societal structures differ in fundamental ways. It is my understanding of biblical ex-

egesis that we are challenged to analyze to the best of our knowledge and capacities the patterns of ancient ordering and evaluating. Thus, hopefully, we will learn to understand why our spiritual ancestors arranged their own system of values and why they considered determined rules to be protected by divine sanction. On our side of the picture the recognition of ancient sanctions and their relationship to the old reality certainly will help us to analyze critically our present-day value systems and take a Christian stand in regard to the essentials of human life today. We cannot afford to loose any more time in determining which patterns of behavior should be banned on this planet and which "virtues" are to be taught to the young generation.

THE EVIDENCE OF THE OLD TESTAMENT

In the light of new research on Ancient Israelite as well as Ancient Near Eastern law, ethics, and cultic institutions, and in the light of changing cultural and scholarly patterns of thinking,⁸ we have to investigate from scratch the nature of biblical Law and ethos. Very probably we will encounter new dimensions of the old and hallowed tradition brought down to us from our spiritual ancestors.

Beginning with Hermann Gunkel, Hugo Gressmann, and Albrecht Alt, form-critical investigations, augmented and refined by socio-historical analyses, have in fact provided the means of differentiating between quite distinct origins and functions of biblical stipulations.⁹ Our task is first to study and understand the individual areas of regulating and protecting life and second to interpret the mixture of legal and ethical forms, functions, and life-settings in later collections and codes of rules.

Threats of capital punishment

Let us look first at those provisions which stipulate social and cultic behavior by declaring aberrations unconditionally to be liable to capital punishment: "He (they) shall be put to death." (NRSV; in Hebrew the passive verb is reinforced by an absolute infinitive: "... shall certainly be killed.") Such stipulations occur in certain clusters, and with the fact that they show a poetic density of expression which we are not able to recreate in our languages, enough evidence exists to consider them a separate genre of rules. Two main examples must suffice for our purposes.

Within the "Covenant Code" of Exodus 21-23,¹⁰ which comprises legal as well as exhortatory materials, several death stipulations appear in reference to various sins: Whoever strikes a person mortally, whoever strikes father or mother, whoever kidnaps a person, whoever curses father or mother, whoever lies with an animal shall be put to death (Exod 21:12, 15, 16, 17; 22:19). The last mentioned line, furthermore, is sandwiched between two prescriptions of similar content and purpose, though using slightly different language: "You shall not permit a sorcerer to live" (Exod 22:18) and "Whoever sacrifices to any god, other than the Lord alone, shall be devoted to destruction" (Exod 22:20). All these phrases give the impression of being rather archaic, rigid, primitive social rules. They do not specify any details of misconduct, nor particulars of juridical procedure, nor even

the agents of the measures proposed. Who is going to put a possible delinquent to death and by what means? The passive mode of the verb draws a tight curtain before our eyes: Whoever engages in one of the mentioned crimes "shall be killed!" And although the "Covenant Code" in general is stylized as a communication of Yahweh to his people, or to Moses respectively,¹¹ the structure and composition of the chapters concerned¹² and the unevenness of the redactional framework suggests that agents of the death stipulations originally were anonymous. The most likely reason for abstaining from naming responsible parties surely was that there was no necessity to do so. The death provisions functioned in a determined and well-known way. We will inquire about these circumstances later.

Before doing so, we should look at Leviticus 20, a chapter of the so-called "Holiness Code" which coincides in content very closely with Leviticus 18. Both texts deal with sexual aberrations. Chapter 18 contains strict prohibitions of the type "You shall not cohabit with your female relatives," occasionally voicing strong disapproval in terms of shame, disgust, and defilement (Lev 18:6-23).¹³ For some reason chapter 20 repeats these rules and rearranges them, but uses the language of death stipulations: "A man who commits adultery with the wife of his neighbor shall be put to death"; "A man who lies with the wife of his father has uncovered the nakedness of his father. Both [culprits] shall be put to death" (Lev 20:10-11). There is a cluster of six stipulations of the type "They shall be put to death" referring to illicit sexual intercourse of various kinds (Lev 20:10-16). On account of the death formula we should add to them two more provisions: "A man ... who gives any of his children to Molech shall be put to death" (Lev 20:2) and the prohibition of cursing father or mother, already known from Exodus 21:17, in Leviticus 20:9. Interestingly, chapter 20 also contains a series of further stipulations, which are not formulated according to the pattern "shall be put to death," but use closely related expressions such as "shall be cut off" (vv. 17 and 18), "shall bear his iniquity" (vv. 17, 19, and 20), "shall be [or: die] childless" (vv. 20 and 21). This may seem all the more strange, as the stipulations concerned for the most part belong to the same group of rules which are tightly knit together in Leviticus 18:6-18 (illicit sexual relations among family members). Some of them in fact are put into the death-threat category (Lev 20:11-12). What is really going on in these lists of abominable acts which so violently and mercilessly are being dealt with as destroying human community?

The "life setting" of the death stipulations

Genres of literature which are so clearly identifiable in their formal and formulaic structure as the "death stipulations" portrayed above must have their own and specific "life-setting" and possibly their own history of development. To begin with a more general statement, which delimitates somewhat the area in which we may look for the right home of our phrases, in my opinion, the "death stipulations" have nothing to do with common law, neither in our modern understanding nor in ancient terms. Law, even in the Ancient Near East and in the OT, was the effort to keep in order communal affairs by implementing due process for solving extant problems. That means for ancient village societies that family heads got together to talk and bargain according to established rules about all cas-

es and conflicts of common interest, just as Boaz and his competitor do in Ruth 4. The court of elders in the city gate is—as far as OT social groups are concerned—the model of due process. Under the monarchy in Israel and Judah we may be sure that a royal court in certain cases was asked to interfere and by itself strove to enlarge also its juridical power (cf. 2 Sam 14:4-11; 15:1-6; 1Kgs 21; Ps 72).¹⁴ The essence of court procedure in the village gate as well as before the king was investigation of each individual case, be it civil or criminal, and judgment in accordance with the *mores* of the particular social group or society. Death stipulations, however, allow neither for investigation nor for judgment. Therefore, they cannot possibly be part of juridical procedure. They cannot serve as orientation for court trials of any kind. Courts need formalized laws which substantially are nothing else but abstract examples of older trials. They need to admit different dimensions of each case and, consequently, specific sentences. Note the complicated regulations in regard to the “goring ox” in Exodus 21:28-32 which include two main rulings, in case an ox kills an adult man or woman, with a possible subdivision of the second stance, and in case the one killed was a child or slave. Also, “laws” in the Bible and the whole Ancient Near East¹⁵ really never were complete “codes of law” but only collections of precedents and abstract cases, which were, in fact, open for new decisions.¹⁶

On the other hand, we may exclude the possibility that death stipulations in the OT originally developed in sapiential or educative processes. Proverbs and certain reflective narratives are likely to be rooted in settings which were geared to accommodate or integrate youngsters into society. Formal instruction also belonged to this type of literature, including prohibitions and commandments orienting daily social behavior. Thus the great majority of “ethical” prohibitions in the OT probably have grown out of elementary instruction of the younger generation by the older one. Three prescripts were central pillars of all wholesome social life: You shall not kill, you shall not commit adultery, you shall not steal (Exod 20:13-15). These needed to be communicated to the inexperienced child and remembered by anybody who wanted to be a member of a social group. In the same way, many other “ethical” and “social,” even “cultic” precepts were being administered to the younger generation. But death stipulations hardly were appropriate to serve as social and ethical instruction, although intimidation of children sometimes (in any case, irresponsibly so, in my opinion) is used for educational purposes.¹⁷ Still, the language, contents, and purpose of the death stipulation seem to point to another place of origin within societal institutions.

Solemn and stereotyped death threats to prevent violations of certain spheres or realms of life originally are a matter of religion and cult. Basic arrangements of society and fundamentals of world order are to be protected in a way which transcends the capacities of legal institutions. Highest values of a given social grouping are being fenced off against possible profanation. At stake are sexual zones, the integrity of persons, the authority of parents, and respect toward the benevolent Holy One. (Note the prohibition of black magic in Exod 22:18!) In short, fundamentals of faith, life and social organization, which surpass or underlie all activities and cannot be defended properly by legal procedure in the courts, receive the forceful protection of—presumably—divine sanction.

Are we entitled to suppose divine authority behind this merciless threat of

death which enforces basic commandments? The passive verbs alone do not tell us anything about the way those injunctions are thought to function. But we have at least one excellent narrative account showing all the necessary details. Yahweh Elohim issues a strict prohibition for Adam and Eve against eating the fruits "of the tree of the knowledge of good and evil, for in the day that you eat of it you shall die"(Gen 2:17). The formulation essentially coincides with the death threats of the stipulations in Exodus 21 and Leviticus 20. Divine authority is upholding a fundamental requirement for human conduct over against God (lowliness, cf. Gen 11; the book of Job etc.). But this is not being done in legal terms. The announcement of the death penalty is not a legal sanction at all. Without comment it is transposed into other types of punishment, as the divine guardian of the established order sees fit (Gen 3:14-18, 21-24). Divine reaction expressly includes measures for the preservation of life (Gen 3:21—he "made for Adam and his wife garments of skin") and certainly does not exclude the blessings of daily life, despite all the troubles with working the ground and childbirth. This primordial narration is a wonderful example of how divine threats are to function. They protect a given order and thus promote life. Threat of destruction is not a legal sanction, calling for a lawsuit, but a signal of warning, alerting people to the horrible consequences which are inherent in misconduct.

In the same vein the marking of boundaries around Mount Sinai in Exodus 19:10-24, done under the threat of annihilation (v.12: "Whoever touches the mountain shall be put to death"; cf. vv.13, 21, 22, and 24), may be understood as a providential protection of life in the face of the Holy of Holies.

Possible Exceptions?

Three passages in the Pentateuch seem to contradict the findings above by suggesting a legal use of formula "he shall be put to death." Twice we have a full account about culprits who trespassed divine Law during the wilderness period. One of the sinners, while engaged in a fight with a companion, uttered a curse against Yahweh. After receiving a clarifying oracle from God, the community is directed to stone to death the one who cursed (Lev 24:10-22). The other instance is that of a man who ignored the death threat which protects the Holy Sabbath (Exod 31:12-17; Num 15:32-36). He too was stoned to death. Both narratives seek to explain the origin of their particular prescription. (In Lev 24 the ruling against cursing God, preserved in Exod 22:28, apparently is complemented and a second death injunction is added; note that Lev 24:17 repeats Exod 21:12: "Whoever kills a human being shall be put to death.") They are etiological stories which do not tell very much about legal practices. Yet, we may surmise, that individuals and groups off and on did succumb to the temptation to implement the divine will, annihilating culprits and opponents because of their trespasses. Arbitrary executions of this kind, however, have nothing to do with legal procedure or due process of law. This is true also in extreme cases, when self-ordained executors of the divine will establish themselves in special courts, as was done, for example, in the time of the Inquisition. Organized arbitrariness under the cover of religion, however, is diametrically opposed to legal institutions and law.

The third apparent witness against our interpretation of death injunctions

is Numbers 35:16-34. Formally, the threat formula is employed four times (vv. 16, 17, 18, and 21), but the relevant phrases as well as the context in general lack all the precision, determination, absoluteness, and legal anonymity we found in the catalogues of Exodus 21 and Leviticus 20. Instead, the whole passage is very much concerned about details and possible variations of the one legal topic "murder." It provides main cases and exceptions, and names quite clearly the executors of the death-penalty, the kinsman responsible for taking revenge (vv. 19, 21, 25, and 27). In fact, the main part of the text, Numbers 35:16-29, is dealing only with murder-weapons, and the roles of avenger, community, and city of asylum. It does not deal with fundamental order of life and divine sanctions to preserve them.

Further evidence.

Two other important texts (Deut 27:15-26 and Ezek 18:5-13) undergird our thesis that there were spoken divine injunctions in Israel which were not legal in character but rather sought to let God take care of his own affairs (cf. Judg 6:30-32; 1 Kgs 18:30-40) or supervise in person the established order of things. Such injunctions commit transgressors to God's will.

Deuteronomy 27:15-26 contains 12 curses which were pronounced by Levites on Mount Ebal and which comprise an interesting sample of basic rules protected by divine sanction. After each pronouncement the community was to respond with "Amen." Quite often in the Hebrew scripture the curse word *arûr* is avoided when talking about curses. The very word is so powerful an injunction that it serves as a malediction which brings with it the forces of destruction. In this case the curse is put over the land to persecute and exterminate any evildoer described in the list. Cursed be anyone who makes an idol or casts an image, who dishonors father and mother, who moves a neighbor's boundary marker, who misleads a blind person on the road, who deprives the alien, the orphan, and the widow of justice, who lies with his father's wife, who lies with any animal, who lies with his sister, who lies with his mother-in-law, who strikes down a neighbor in secret, who takes a bribe to shed innocent blood, and who does not uphold the words of this Law.

With the severe sanctions placed on these forbidden actions, the authors of Deuteronomy 27 tried to combine what they thought were the most important prescriptions from various sources. The block of sexual deviations in Deuteronomy 27:20-23 corresponds almost exactly with and seems to be taken from Leviticus 20:11, 15, 17, and 14. This is the largest thematic block in the catalogue of curses. The rest come predominantly from social legislation in the Covenant Code, Deuteronomy, and the Holiness Codes: abusing weak persons like the blind, strangers, orphans, and widows (Deut 27:18-19; cf. Lev 19:4, 33f.; Exod 22:21-24; Deut 24:17f.), removing landmarks (Deut 27:17; cf. Prov 22:28; 23:10f.¹⁸), resorting to violence in human relations (Deut 27:24f.; cf. Exod 21:12, 15, where the same expression is used in death injunctions—the keyword being *makkeh*, "to slay"). People guilty of these sins are ostracized by the curse and thus committed to the judgment of God. The very first and last curses of the list (Deut 27:15 and 26) are reserved for central deuteronomic items: making images of God (cf. Deut 4:16, 23; 5:8; and 7:25) and adhering to the Law (cf. Deut 8:1f.; 10:12f.; 11:1f.; and

chapter 28, especially vv. 15f.). We may surmise, therefore, that the whole catalogue has been composed by deuteronomic authors. They pretended to give an exemplary selection of divine prescriptions to be kept in order to preserve the life, well-being, social justice, and harmony of the people.

The other text, Ezekiel 18:5-24, deals with the problem of individual justice and responsibility. In the present context we are concerned only with the conception of justice and "the just one" apparent in this passage. A person is not called "just" when he or she is legally unimpeachable. The concept of justice far transcends allegiance to legal norms. The basic rules mentioned in Ezekiel 18 include refraining from idolatry, adultery, sexual contact with a menstruant, oppressing and exploiting other people, taking interest, unjust actions of any kind and, positively, being charitable, executing justice and keeping the commandments of God. (See Ezek 18:6-9.) Most of the behavior and every single attitude required to live up to the commands cannot be enforced by law or police. But, at the same time, all these maxims are put under the supervision of God, exempted from legal procedure, and declared matters of life and death. (Note Ezek 18:13 regarding one who commits such injustices: "...shall he then live? He shall not. He has done all these abominable things; he shall surely die; his blood shall be upon himself.")

Death threats and community.

We have to return to the death injunctions, the ways they function, and their life-settings. In general, each social group with some continuity in time and membership cherishes basic values, even if unconsciously so. These fundamental orientations of the social group at certain junctures are defined, perhaps "catalogued," and they certainly need to be redefined in times of crisis or new identifications. Commonly, such basic principles are put under the auspices of higher powers: God or the gods want us to keep the rules. The higher powers guarantee the overall order indicated by the norms, and they protect it by lending their authority, power, and punishment as a threat to would-be transgressors. To violate the basic norms in effect means to destroy the community and bring about disaster to all participants. Therefore, divine threats of death against potential trespassers are counteracting likely catastrophes. Death injunctions or death threats alert to the gravity of transgression; they are intended to preserve the basis of human life, but they must not be understood in legal terms. They are not "law" in the exact sense of the term, but rather an anticipatory deterrent. "Case laws" refer to circumstances, situations, and deeds at hand and are intended to solve existing problems. Ethical norms spell out the guidelines for socially accepted future behavior. Divine death sanctions, as we can see in our OT examples, underline the most important ethical (and cultic) maxims. However, they do not count on any kind of juridical execution; rather, they leave it up to God alone to realize the threats or not, after someone violated the norm. But which social groups created the death injunctions?

Family and clan may have been active in formulating sanctions against destroying the common basis of life by, for example, attacking the leading figures of the small group.¹⁹ Precautions against provoking the wrath of the deity also must

have existed on the lowest level of social organization. The passive and anonymous voice of the prescriptions seems to be a heritage of very olden times, when death injunctions were whispered in awe by chiefs of intimate groups. Very probably, larger aggregates of people in village, city, tribe, or army sanctioned their specific principles and goals of life. Social justice looms large in their vision. Cultic concerns may have been the domain of sanctuaries and priesthods. Cursing the deity and defiling holy ground or installations almost universally have been matters of greatest danger for the community and the functionaries. The monarchical state valued very highly, among other things, the king and other national symbols. The idea would be unbearable that the anointed majesty could be slandered or cursed. For example, note in 2 Samuel 16:5-14 when Shimei cursed David when he had to flee Jerusalem because of his son's insurrection, Abishai said to David (v. 9), "Why should this dead dog curse my lord the king? Let me go over and take off his head." (Cf. 1 Sam 10:27; 11:12f.; and 2 Sam 6:20-23.) Interestingly enough, all the incidents cited do not end up with court trials against offenders but with divine revenge, even when there is a strong temptation on the part of some spectators to intervene personally.

The earlier levels of social organization are still visible to some extent in the Hebrew scriptures. But the final stage of our texts was reached only in the exilic-postexilic periods, and it is at this point we have to raise again our questions as to the function and life setting of divine death injunctions.

As older and anonymous traditions were collected and transmitted, those responsible for the early Jewish community resolutely put every inherited rule under the guardianship of Yahweh, the only and all-inclusive God. The passive articulations of sanctions, curses, and maledictions still are predominant. Rarely do the late redactors change the verbal expressions into phrases actively and directly involving Yahweh himself. It seems, that the archaic "shall be put to death" or "shall be cursed, cut off, shall bear their iniquity," etc. is consciously kept alive to resound the deadly, unfathomable forces of destruction which are set loose by hideous neglect of basic rules and limitations. Only in later redactional additions is Yahweh explicitly made the direct executor of the death penalty in case of wrongdoing. For example: "I myself will set my face against that man, and will cut him off from his people..." (Lev 20:3, 5, 6; cf. the passive even in redactional phrases like Lev 18:29). The same relationship prevails between passively formulated curses (Deut 27:15-26; 28:16-19) and phrases describing Yahweh as the avenger of transgression (such as in Deut 28:20f.; cf. also the related material in Lev 26—Yahweh is the explicit author of both blessings and curses). The passive, anonymous style apparently is the older one; direct discourse of Yahweh and direct death threat could well be younger formulations from an exilic background.

But who represented the voice of Yahweh in the exilic community? How did the death injunctions work at that time? The texts discussed are liturgical or homiletical in character. By no means do they belong to the court procedures in the city gate mentioned before. There is no evidence whatsoever even for a "temple court" which allegedly dealt only with sacred issues.²⁰ Decentralization of legal practice in Exodus 18 and centralization in Deuteronomy 17:8-13 do not prove a special jurisdiction in spiritual matters nor the application of any "death law." (The term is very unfortunate, misleading, and really not applicable).²¹ Which al-

ternatives can we imagine? Divine threats and sanctions in regard to preservation of basic norms had entered the Holy Scriptures. They were read in cultic rehearsals (cf. Deut 29:15-27; 2 Kgs 22:8-17; Neh 8:1-12; Jer 36:9-32). They were memorized and meditated upon. And, of course, the “words of the covenant” or the “words of cursing” respectively (cf. Deut 29: 19f.) were administered to the community in worship. Yahweh, however, the God of Israel, who had proven to be superior to all deities of the known world, was the real author and guardian of these injunctions. He would execute them, unhindered by human legal procedures, the way he would see fit to accomplish his life preserving plans for his people.

THEOLOGICAL EVALUATION

Textual analyses are no ends in themselves. They are, in my understanding, historical-critical assessments of what our spiritual ancestors thought and lived out in relation to God. We learn how they interpreted their own world, believing in the justice and love of Israel’s Redeemer, most of all in the difficult times of the Babylonian and Persian hegemony. Faith in God, as extant in the Hebrew scriptures, is in the first place a spiritual power grappling with the structures and incidents of everyday life in the dominated and dispersed Jewish communities of the sixth and fifth centuries. Secondly, the very struggle for spiritual and social survival is waged within the power structure of successive empires with their specific political, military, and economic mechanisms of domination and oppression. We know comparable situations all around the world. A limited number of very powerful industrialized states or alliances of states hold their sway over minor nations.²² These smaller nations in turn strive for independence and look at God and the world from a different angle than those in charge of world affairs.²³

In the centuries indicated Israel clearly was on the side of the tiny minority groups within enormous empires with all their ideological paraphernalia of superiority, justice, and god-likeness. And Israel, by faith alone, we might say, maintained her right to exist and her way of believing against all the odds of being swallowed by superior forces. As we reflect on Israel’s faith and our own stance, we have to keep in mind that Israel was powerless when confessing Yahweh, the supreme God. We today, on the contrary, for the most part are living (at least symbiotically) within the big powers of the present world, which makes a great difference also for talking about and to God.

Divine sanctions and social order.

Divine sanctions against potential evildoers, whether in Israel or elsewhere, are part and parcel of a given social order. Other efforts with the same intent include ethical instruction of the younger generation and juridical procedures. Ethos, Law, and “divine supervision” in fact are very much intertwined, as far as objectives and contents are concerned. But each of their relevant discourses, communicative situations, and people involved are different and by no means simply interchangeable. Therefore, we should avoid mixing separate areas and distinct institutions of world-ordering.

Ethical instruction, visible especially in exhortatory wisdom (cf. Prov 22:17-24:34 and Egyptian and Mesopotamian counsels of wisdom)²⁴ and the prohibitions of Israelite "Law" (the term itself inappropriate)²⁵ belong to educational procedures originally in family and clan situations. Young men (and women?) were being socialized in their environments by father, mother, and relatives. They needed to learn by practice and formal instruction about solidarity within the family, duties in relation to clan members and villagers, and precautions to be taken in human and divine relations. (Cf. the roles of father and mother in Prov 4:1f.; 5:20f. etc. and in prohibitions like Exod 20:12 and Lev 19:3.) Codes of behavior have to be internalized during the formative years of the individual. The young person has to know rights, duties, limitations, and opportunities within the network of human relationships, principally within one's immediate neighborhood. Whoever besides family may have been interested in educating young people in Israel (temple personnel, tribal chiefs, state leadership, army) we can only surmise. In general, socialization took place inside small, intimate groups in the country-side, i.e. in an agrarian environment (most "cities" were fortified villages).²⁶ Popular ethos, then, was the first pillar of world order in ancient Israel. As far as we are able to reconstruct it from older layers of the Pentateuch and from Proverbs and Psalms (and looking at analogies from the Ancient Near East as well as from tribal and agrarian societies of our own days), the basic orientation was social and religious. The concerns were to teach people how to function well in their own human environment and to relate well to the divine powers, doing nothing to offend, but rather securing blessing.

Since every human group knows about deviations from and ruptures of the wholesome order which everyone is obliged and agreed to follow, by necessity legal provisions must exist to regulate cases of claims and conflicts. Law in the strict sense always is looking at facts which need regulation in the light of the existing order. The extraordinary has to be integrated or corrected so it will fit the established social system. Law is not the order itself. Law is based on those principles which are fundamental to the community. Usually, it does not create a new order,²⁷ but tries to preserve the existing one. The village courts in Israel were the main instruments of executing law. They must have continued well into monarchic times and been revitalized after the exile, under foreign domination, when permission was issued to the conquered provinces by the central government to take care of their internal affairs. Court procedures may have varied from region to region, but their main characteristics are a common male responsibility for justice and order, and the effort of the judges to debate the problems at hand and solve them harmoniously in the light of basic ethical principles accepted by the group concerned.²⁸

Extant examples of legal maxims in the Hebrew scriptures include in the first place portions of the Covenant Code (e.g. Exod 21:2-22:16) as well as parts of Deuteronomy (e.g. chapters 21-24). These specimens of true case law coincide to a large extent with legal provisions known from Ancient Mesopotamia. Their "profane" attitudes and judgments are quite remarkable. There are no indications of original ties to Yahweh in the relevant texts, and references to deities or the divine or to sacral spheres or sanctuaries are at a minimum.²⁹ Rather, civil conflicts are being debated and resolved on the basis of equal rights (as far as free males

are concerned), payment of damages, pacification of hostile groups. Just like in neighboring cultures, Israel had a tradition of legal procedure geared to the necessities of everyday life, which was linked to religious beliefs, but was far from being sacralized in its rituals and rules. Even the late institution of a temple-bound court of appeals (Deut 17:8-13) was not able to do away the local courts. Only in dubious cases was the central authority called upon, and the verdict was not left to the priests alone but included the ominous "judge" (vv. 9 and 12), certainly a lay-person.

Thus we meet with a secular process of law, deeply embedded, however, in religious faith. Proof is provided, among others, by the Ancient Near Eastern habit to "envelop" secular legal prescriptions with prologues and epilogues of fully religious character, as seen in the Code of Hammurabi, and reflected in the introductions and postscripts (curses!) of OT legal collections (cf. Lev 26; Deut 27). According to ancient theologians and communities God created the basic order of all life on earth. He also gave the fundamental rules for social organization and the particular laws to govern legal procedures. In addition, of course, he gave all good common sense to deal with human life: wisdom; insight; understanding; good measure; justice; and equity. This is the reason why the Law is considered to have been proclaimed by Yahweh himself on Mount Sinai, why due process of law is controlled by God in person (e.g. Exod 23:2-9; Ps 82:2-4; Prov 17:23), and why there are strong maledictions against perverters of Law (e.g. Deut 27:19).

Divine sanction and the supremacy of Yahweh.

We are back, then, to divine sanctions which protected the basic order of life in Israel, including common ethos and legal procedure. Historically speaking, this holds true for all stages of Israelite society, but in particular for the exilic and post-exilic communities. Most scholars agree, as indicated above, that faith in Yahweh alone (expressed, e.g., in the books Deuteronomy and Second Isaiah) came to its full expression only in exilic times and under the political condition of Babylonian rule. Only at this point did Yahweh become the sole guardian of order and law in Israel.³⁰ There was only one legitimate sanctuary left in Israel to perform sacrifices for Yahweh. The prescribed "order of God [is] founded upon the worship at the sole sanctuary which Yahweh elected"³¹ and all previous traditions of family, village, capital, and state are put under the ultimate authority of Israel's God. Outside the book of Deuteronomy Psalm 82 best articulates the lordship of Yahweh and his care for social justice:

God has taken his place in the divine council;
in the midst of the gods he holds judgment:
"How long will you judge unjustly
and show partiality to the wicked?
Give justice to the weak and the orphan;
maintain the right of the lowly and the destitute.
Rescue the weak and the needy;
deliver them from the hand of the wicked." (Ps 82:2-4)

Supremacy of Yahweh in all questions of world order does not mean that existing procedures and institutions were invalidated or taken over by priests. The

final point of reference, however, for all areas of life became “Yahweh alone.” Sociologically speaking this means that the exilic community identified itself by confession of faith (cf. Deut 6:4-9). Allegiance with Yahweh made someone a member of the community, and both the community and the individual were measured by their faithfulness in this relationship. The presence of the Lord was experienced in the first place by his spoken and written word (vv. 6-9) which became the visible criterion for any good order of life. The Word of God in those ancient days was administered by scribes, community leaders, and perhaps levites. The older hierarchy of priests receded, but did not disappear from the scene. In the two great layers of Hebrew tradition, the deuteronomic and the priestly, we very probably have traces of these most important streams of early Jewish tradition in Palestine and Babylonia. But their distinct heritage of rules and precepts has been mixed in central texts of the Hebrew Bible, for example in Leviticus 19, to form a kind of catechism.³² The scribes and interpreters of the scripture very likely were dominant even in priestly circles, since they saw their origin in Moses, while the priests were derived only from Aaron.

Thus we are confronted in most parts of the Hebrew scriptures with Yahweh’s exclusive rule in matters of world and social order. It is to be administered by scribes and priests and the community as a whole. An apt summary of the underlying ethical thinking is found in the statement: “You shall be holy; for I, Yahweh, your God am holy” (Lev 19:2). The world order proposed is particular to the specific community, is flexible and adaptable to new situations, is sustained and protected by Yahweh, and is universal because Yahweh is considered the exclusive God of all the world.

Primary spheres for doing the will of Yahweh.

Yahweh indeed sanctions the order he created. What is this order like and how is it implanted? Why does it need divine protection? The contents and dimensions of the order presupposed have to be gleaned from the texts. In principle, each single admonition or prescription which “proceeds out of the mouth of the Lord” (Deut 8:3) has its divine dignity and needs to be heeded. Jewish theologians up to this day work under this premise but admit ample debate about the meaning and range of the commandments. In practice, continual efforts were made to summarize and concentrate the will of Yahweh in handy lists or enumerations, an exegetical process already attested by the Biblical texts. The death injunctions and the curses discussed above are samples of such efforts. Other prominent examples are Exodus 34:17-26; Leviticus 19; Ezekiel 18; and the Decalogue itself (Exod 20:2-17; Deut 5:6-21). All these summaries, different as they are, seek to give essentials of correct behavior under the auspices of Yahweh himself. They do so by selecting certain provisions from different fields of human life as token rules to indicate divine reign.

Two distinct but interrelated spheres serve as the sources from which most commandments have been taken. One is, as stated above, the field of human relations, understandable in the light of Israel’s forlorn position as a defeated people under foreign domination. Social concern and justice like taking care of the poor and warding off violence were made the most urgent theological items, and nei-

ther Jewish nor Christian tradition ever since can evade the challenge of this heritage. The second is the notion that the divine sphere is pervading this human world, a conviction known of course millennia before it became a special Old Testament problem. Where and when did God’s presence have to be respected in a distinctive fashion? What were the criteria of the holy and the unclean? Apparently, sexual relations affected directly the sphere of the divine. The quest for social justice was pregnant, from the beginning, with the issue of personal freedom and individual autonomy. Awe toward the holy bore in itself the unresolved issue of humanity’s stance within and over against nature or creation itself. Thus, both fields of divine attention and ruling kept their importance until our own times.

An unchanging God in a changing world.

It is the inalienable responsibility of all Christians—exegetes, theologians, communities, women and men—to ponder the will of God and the essentials of world order for our own times in the light of past witnesses of faith. Taking on this responsibility, we have to acknowledge the lapse of time since the Hebrew scriptures were written and the cultural, social, and scientific changes that have occurred in history. Every single word written down in the scriptures comes to us from distant times and environments. The transmission of the messages of faith, as we noticed quite clearly, bears the marks of social, political, and cultural changes. There is no eternally fixed or frozen word, and if there were we would not be able to understand it. This implies that we have to listen to the voices of our spiritual ancestors, but in seeking the right decisions and articulations of our faith we have to heed as well our present day calamities and hopes, social and economic structures, and cultural as well as political organizations. There are certain anthropological continuums in human history, to be sure. Human anguish and joy seem to have comparable dimensions across all cultures and throughout history. But these lines of continuity, reinforced by a steady stream of interpretation of scriptures, are embedded in the contingencies of ever changing concrete societies and historical and religious situations. We often insist that God remains the same in a changing world. This is quite true, but if human beings are constantly on the move they also will experience God at different points of their pilgrimage and under different angles.

Theology, in consequence, needs to work with new situations and actual conceptualizations of the divine.

Where are we, then, in relation to our Hebrew witnesses of old? How should we describe our hermeneutic stance at the end of the second Christian millennium? I shall confine myself to signaling a few basic changes:

1. The advent of Jesus Christ brought about a deep eschatologization of hopes and consequent rethinking of institutional justice.
2. Greek and Roman traditions contributed their systematic logic to the concepts of world order and social organization.
3. Biblical concerns, the Reformation, and the Enlightenment created the modern concept of individual liberty unrestrained by communal authority.

4. Technical civilization is responsible for the globalization of industry and commerce, mass-communication, the vertical growth of productivity, knowledge, and power.
5. Patriarchal and monarchic social structures have given way in occidental cultures to more or less democratic systems of government, which emphasize common responsibility.

Each of these fields of change contains a host of factors to be considered in our theological evaluation of law and liberty for our times. Even the basic values of modern societies need to be redefined so that they may be put under supreme precaution and jurisdiction.

The needs of our world.

Latin American theologians have taught me that evaluation of one's own world is indispensable for doing theology. (This implies, of course, an honest estimation of the determinants of one's own thinking). They frequently ask for the "most salient features in our world"³³ which have to be reckoned with when starting to talk about God and God's will for us. This openness towards the needs of our world is perhaps the most fundamental Christian commandment, the very heart of the liberating offer and commission of love by God. Jesus himself defied those faithful who neglected the necessities of the people in favor of dogmatics and orthodoxy. To ask for the "main factors" in our world which are important for theological thinking will lead to controversial assessments, to be sure. Yet, the question must be posed, because it is utterly irresponsible exclusively to turn our backs on present day affairs and meditate only on the ancient past. These salient features, after all, are markers of world order and signals of ruptures and breakdowns, where life needs urgently to be protected by God because humans are unable to take care of themselves and the world. The following, in my estimation, are the salient features of today's world.

First, the biblical vision of one world under one basic law of survival for all has been fulfilled only in our century. Six billion human beings are crammed together in one tiny boat, our blue planet in this solar system. (Nobody yet knows how many like boats are floating in the universe.) Whatever one person or one particular group in the boat is doing affects all the rest of the journey and the passengers. Therefore a close collaboration of the whole crew is absolutely necessary, if the boat is to be kept afloat. Taking into account all the beautiful insights about oneness and equality among human beings inherent in the biblical tradition of both testaments we may come to an early conclusion: no one person, group, nation, race, gender, or religion on the boat is "more equal" than the others. Consequently, the rules to be laid down in a worldwide process of reflection³⁴ are to be designed in regard to all humanity. The main criterion of world order is the survival of creation as a whole, and this criterion coincides with what Christians know about God's love for this world. Particular interests of persons, groups, nations, and religions cannot possibly be made the highest standard or value which should govern our lives. We all know quite well that this kind of universalism is nearly impossible to achieve among plain human beings. Therefore, the one world under

one God is just as utopian as it was in Isaiah 2 and Micah 4, or, for that matter, as in the eschatological or apocalyptic visions of the apocryphal and NT scriptures. The decisive difference between then and now is that utopia today is our only way of survival.

Second, instead of emphasizing the wonderful success story of modern technology and economy, thus howling with the wolves as is being done in most official discourse, liberated Christians very likely will also reflect upon the dark sides of the present world situation, that is, the dangers threatening creation. Injustice prevails in that millions of human beings are denied the chances of a decent living (jobs, education, health, and housing). The mechanisms of the free market exclude increasing numbers of the world population from gaining their sustenance, while at the same time the accumulation of wealth in middle and upper classes and, most of all, in heavily industrialized countries is accelerating. I speak from my own experiences in a Third World Country, but the same phenomena, even if in lesser degrees, can be studied within rich societies. Poverty is grasping for ever larger segments of all societies. Latin American theologians³⁵ are talking about a new phase in social stratification after the collapse of the socialist systems. Now, they maintain, the industrialized countries no longer exercise economic exploitation of the poor, using them as cheap and underpaid laborers to create goods for the wealthy. Worse than that, the industrialized societies do not need so many people any more as are asking for jobs in their factories and companies. They push them aside and beyond the margin of society, ignore them, and let them die. These theologians claim there is a strategy of exclusion, rather than one of oppression. There is nothing but contempt and neglect for the poor, who are compared with lazy and dangerous crocodiles by some. There is a cynical readiness on the part of the wealthy to sacrifice millions of human beings for their own profit.

We may perhaps add from our own experiences that the density of population and anonymity of life are significant factors in our world which threaten personal freedom and dignity. Countless people are being affected directly by decisions taken in far away centers of power. The problem, however, seems not to be so much big government, but big business which follows only the laws of profit to the destruction of human dignity and brotherhood and sisterhood. Similar problems were already addressed by OT witnesses under different social systems (cf. Deut 15:4: "There should be no poor among you"; Amos 2:6f.: "... they sell the righteous for silver, and the needy for a pair of sandals—they who trample the head of the poor into the dust of the earth, and push the afflicted out of the way..."; Isa 5:8: "Woe to those who join house to house, who add field to field, until there is no more room, and you are made to dwell alone in the midst of the land"). Unending wars between factions and nations can be seen as a direct consequence of unjust distribution of chances around the globe.

Third, individual and society have grown into a different relationship than we meet in antiquity. The Bible, in spite of all germinal traces of growing individuality, presupposes very tight familial networks which encompass and nourish personal lives and ambitions. Small wonder, because the mode of living and working in mostly agrarian environments was communal from the cradle to the grave and in everyday occupations. To exist in splendid isolation from family or

clan was nearly impossible. In modern industrial societies, on the contrary, the need is for independent singles who are flexible and versatile and fully dedicated to their specific job situation. Family often has been a stumbling block for careers, especially for women. Small wonder again, with family structures on a rapid decline that estimation of women's roles has been degraded. Individuality, on the other hand, and especially male individuality, has been hailed as the supreme value. The world is being constructed around the (male) ego. *Cogito ergo sum* (R. Descartes) has become the key of interpretation for all being.³⁶ The freedom of the individual sometimes has turned into the obsession to be absolutely autonomous, no longer dependent on anything, even to create one's own, quasi autistic world, thus becoming the creator himself.³⁷

In the same vein along with the enthroning of the (male) individual, the ancient and essentially familial and agrarian dichotomy between the sexes has been overcome. Human beings are defined (at least in theory) neutrally. Self became like self, person equals person in a homogeneous, industrial society.³⁸ The spheres of maleness and femaleness and the production of life no longer serve as the master keys for interpreting the world.³⁹ They are replaced by neutral indexes of gross national production. The myth of fertility has been substituted by the myth of technical productivity.

There has been gross discrimination against women since antiquity both in the Greek as well as the oriental cultures. But the advent of the industrial age with its destruction of the mythical, sexually oriented world by and large dispossessed women of their "inalienable rights" as human beings. Only gradually, beginning in the late 19th century in the USA where the spark of individual freedom had already put fire to racial barriers, women began to fight for their independence from male dominance. Together with other liberation movements around the world feminism is counteracting massive forces of oppression and dehumanization.

This is happening, in my understanding, on the basis of modern individualistic values, but in full accordance with old, biblical demands for justice and equality.

Fourth, our ecological conscience has grown late, perhaps too late to save the planet. People were so much fascinated by technological progress that they did not realize the fundamental changes in thinking and ways of life under industrial conditions, and they closed their eyes for a good while to pollution and abuse of natural resources. Whoever enjoys the freedom of driving a car hates to think about its evil consequences for coming generations. Thus humanity as a whole, but with marked preponderance of industrialized nations, is guilty of having brought the good creation of God to the brink of annihilation. The damage to atmosphere, soil, water and to living beings of all species (extinction of thousands of kinds!) seems to be irreparable. How do we want to stand before the creator with this record of mismanagement of nature? Is there something fundamentally wrong with human government on earth? (Cf. Gen 1:26, 28: "Let them have dominion"; also Ps 8).

Our Hebrew ancestors had no idea of ecological crisis, although they could have known a little already because of the devastation of Palestinian forests in the second and first millennia B.C. They did not have eyes to see the situation and we cannot blame them for it. But times have changed radically, and our eyes

have been opened to the consequences of technical civilization. Now, the only question is how we will react. Do we consider universal destruction of natural environments one of the major facts for theological reflection? Is it a fact of similar gravity as the injustice of poverty, discrimination, or male dominion? Or should we get away altogether from negative assessments of the state of this world and rather sing hymns to the perfect creation of God which is still visible here and there?

FINAL REFLECTIONS

What are the areas and issues today where God would take a stand and articulate strong threats in order to protect life on earth? Can we imagine death injunctions in our time, under the conditions of this world, which would alert human beings to fundamental and unbearable aberrations? Do we need, before even entering the discussion of law, due process of law, and ethical orientations for youngsters, something like a sample catalogue of outlawed behavior for all mankind? Humanity so far has precariously consented to a declaration of human rights. By implication, these rights in favor of the individual person regardless of gender, race, religion, political convictions, or physical state already try to ward off some violations of human integrity. The "Universal Declaration of Human Rights" by the United Nations in 1948 and successive international and national conventions have been a great accomplishment, without any doubt. Ongoing conflicts and deteriorating conditions of life for large social groups in almost all continents lead to grave questions.

Does the United Nations possess sufficient moral and legal authority to implement human rights? Could Christian churches or world religions possibly invoke the name of God to guarantee the declared rights and update them as misery, wars, violations, and discriminations increase around the globe? The problem of putting into practice guaranteed rights is not a new one, to be sure. Even the death injunctions and curses of the Hebrew scriptures did not work automatically. So we join our OT witnesses asking, what can be done to preserve essential conditions of human rights and survival on our planet so much threatened by suicidal behavior? Should we gear the maxims of survival, as humanity will discover them, to symbols of utter danger or hope for the future? Is there a divine authority respected by all people or are we to begin within Christian ranks to grapple with a catalogue of universal precautions against self-annihilation?

The basic rights of the individual in our world need badly to be protected. Each person is entitled to articulate him or herself, to live up to individual convictions, and to use his or her freedom. Are these spiritual, intellectual, and moral guarantees sufficient? Do we have to reconsider the catalogues at hand perhaps to include the right to work for just remuneration and to take part in the educative, medical, and cultural facilities of society at large? What about demanding a basic income for everyone which permits a human standard of living? And why not enlarge the protected area beyond the individual to ethnic and cultural minorities (many of which have been wiped out by Christian civilization)?

Finally, we think about the presence of God not only with the human beings but possibly with rivers, mountains, beasts, and plants (cf. Hos 2:18: "covenant...with the wild animals") on this wonderful planet. Everything we see and

feel has been created by God and should be protected for its own sake. Is it not true that Christian faith has quite often been extremely self-centered. Thus, creation has been alienated from our conscience, and we do not feel pains when trees die from pollution or animal species disappear for good from the face of the earth. Are we able to love the created world and feel part of it? Furthermore, can we still restrict the presence of the Lord, in a priestly fashion, to sacred precincts? Are we not to follow the lead of other writers and Jesus himself who declared the people and all creation holy? Is there no urgent necessity to put God's world on top of the list of protected items?

NOTES

1. Albrecht Alt, "Die Ursprünge des israelitischen Rechts (1934)," in his *Kleine Schriften zur Geschichte des Volkes Israel* (Munich: 1953), I, 278-332.

2. Ibid., 331.

3. Ibid., 305.

4. Ibid., 313.

5. Bernhard M. Levinson derives the powerful language from Neo-Assyrian royal texts. See his "But You Shall Surely Kill Him!" in *Bundesdokument und Gesetz*, ed. G. Braulik (Freiburg: 1995), 37-63.

6. I must confess that my early criticism of Albrecht Alt was primarily directed against his notion of "singularity, uniqueness" of Israelite Law. See Erhard S. Gerstenberger, *Wesen und Herkunft des "apodiktischen Rechts"* (Neukirchen-Vluyn: 1965). Only recently, alerted by a lawyer friend, it dawned on me, that Alt's "life-setting" at Leipzig, Germany, might have something to do with his views on Israelite Law. (He held the chair of OT at the university in Leipzig from 1922 to 1956.) See also Erhard S. Gerstenberger, "'Apodiktisches' Recht? 'Todes' Recht?" in *Gottes Recht als Lebensraum*, ed. P. Mommer et al. (Neukirchen-Vluyn: 1993), 7-20.

7. Cf. Hermann Schulz, *Das Todesrecht im Alten Testament* (Berlin: 1969); Jörn Halbe, *Das Privilegrecht Jahwes* (Göttingen: 1975); Hans Jochen Boecker, *Recht und Gesetz im Alten Testament und im Alten Orient*, 2d ed. (Neukirchen-Vluyn: 1984); and to a lesser degree Eckart Otto, *Theologische Ethik des Alten Testaments* (Stuttgart: 1994).

8. Behind patterns of thinking, of course, we notice serious shifts and rifts in social and political structures, the most noticeable are liberation movements in the so-called Third World and among women.

9. Cf. W. Malcolm Clark, "Law," in *Old Testament Form Criticism*, ed. John H. Hayes (San Antonio: 1974), 99-139.

10. Recent studies of this important body of texts include Shalom M. Paul, *Studies in the Book of the Covenant* (Leiden 1970); Ludger Schwienhorst-Schonberger, *Das Bundesbuch* (Berlin: 1990).

11. Exod 20:1: "Then God spoke all these words"; Exod 20:22: "The Lord said to Moses: Thus you shall say to the Israelites...."

12. There is a significant body of objective, non-directive "case law" in Exod 21:1-22:16 combined with segments of exhortations (or parenetical discourse) in Exod 21:13f.; 22:17-23:13. There seems to be an older superscription incorporated in Exod 21:1: "These are the ordinances."

13. Cf. Erhard S. Gerstenberger, *Das Dritte Buch Mose? Leviticus* (Göttingen: 1993), to be published in English translation by Westminster/John Knox Press in the Old Testament Library.

14. Cf. Hermann Niehr, *Rechtsprechung in Israel* (Stuttgart: 1987).

15. It is really fascinating to study the so-called "law codes" discovered in Mesopotamian sites, beginning with the stela of King Hammurabi of Babylonia. Cf. also the Hittite laws in James B. Pritchard, *Ancient Near Eastern Texts*, 3d ed. (Princeton: 1969); and Boecker, cited in n. 7. As a rule, Ancient Near Eastern laws are very much comparable with Israelite (biblical) collections of case law ("casuistic law").

16. The debate about the nature of extant "collections of case laws" in the Bible and the Ancient Near East apparently goes in the direction of de-emphasizing the systematic and integral

aspects, cf. Frank Crusemann, *Die Tora* (München: 1992). An English translation will be published by Fortress Press.

17. The precept "Whoever curses his father or his mother shall be put to death" (Exod 21:17; Lev 20:9) indeed is feasible as a threat to children in order to enforce loyalty or obedience. Cf. the brutal language of Prov 30:17: "The eye that mocks a father and scorns to obey a mother will be picked out by the ravens of the valley and eaten by the vultures." (Cf. also Prov 20:20; 30:11).

18. Significantly, this prescript has not been transmitted otherwise in the Pentateuch. Deut 27 apparently draws on oral sources. Even in the wisdom tradition God is seen to be the protector of the poor: "Do not remove an ancient landmark or enter the fields of the fatherless; for their redeemer is strong; he will plead their cause against you" (Prov 23:10f.).

19. Sexual taboos, for example, were in all likelihood destined to protect the forces of fertility so important for the survival of family and clan groups.

20. Thus Hermann Schulz, *Das Todesrecht im Alten Testament* (Berlin: 1969).

21. Coined by Schulz; the label is still being used, cf. notes 6 and 7.

22. The mentality and politics of domination have been aptly characterized by J. William Fulbright, *The Arrogance of Power* (New York: Random House, 1963).

23. Literature which comes from oppressed groups and nations abounds even in our cultures; unfortunately it finds little resonance. See e.g., Frantz Fanon, *Die Verdammten dieser Erde* (Frankfurt: 1981); Albert Tévoédjré, *Armut—Reichtum der Völker* (Wuppertal: 1980); Josué de Castro, *Geographia de fome* (Rio de Janeiro: 1980); Moema Viezzer, "Se me deixam falar," São Paulo: 1979.

24. Cf. Nili Shupak, *Where Can Wisdom Be Found* (Fribourg: 1993).

25. Cf. Gerstenberger, *Wesen und Herkunft des "apodiktischen Rechts"* and "'Apodiktisches' Recht? 'Todes' Recht?"

26. Cf. Volkmar Fritz, *Die Stadt im alten Israel* (München: 1990).

27. Of course, absolute governments always have implanted their laws on their subjects. Israel, from its roots, has been quite democratic and naturally opposed to arbitrary rule. (Cf. e.g. Judg 9:8-15, the tale of Jotham). On the other hand, with regard to the reform edicts of Josiah (2 Kgs 23: 1-24), does their promulgation by the king turn them into tyrannic law?

28. Cf. again Niehr.

29. In the Covenant Code there appears one hint with *ʾēlōhîm*, who is situated at the doorpost of a house (Exod 21,6), that is, the house-god of the family, and in Mesopotamian law we find provisions for administering the ordeal in difficult criminal cases. Cf. Exod 22:7, 9 ("come before God"), 11 ("oath before Yahweh").

30. Otto, 180-192, to cite one expert who slightly differs from the dating proposed above, correlates the reform of Josiah with the new theological consciousness of Israel. The oldest deuteronomistic layer counteracts tendencies of social disintegration and desacralization with the confession of Yahweh's supreme government.

31. Otto, 192.

32. Cf. Georg Braulik, "Die dekalogische Redaktion der deuteronomischen Gesetze," in *Bundesdokument und Gesetz*, ed. Georg Braulik (Freiburg: 1995), 1-25; Gerstenberger, *Leviticus*, 1993.

33. The expression is favored, e.g., by Hugo Assmann, *Crítica à lógica da exclusão* (São-Paulo: 1994).

34. The conciliatory process which was seeking "Justice, Peace, and the Preservation of Creation" has been a beginning of this kind of effort. Also, the conference on World Religions in Chicago in 1994 focused on the quest for a common world order.

35. E.g., Leonardo and Clodovis Boff, Pablo Richard, Hugo Assmann, Milton Schwantes, Walter Altmann, Helder Camara, Pedro Casaldaliga, Gustavo Gutierrez and many others.

36. A modern critic of this development is Emmanuel Levinas, *Die Spur des Anderen* (Freiburg: 1987); idem, *Humanismus des anderen Menschen* (Hamburg: 1989).

37. Cf. Horst Eberhard Richter, *Der Gotteskomplex* (Hamburg: 1979).

38. Cf. Elisabeth Badinter, *Ich bin Du* (München: 1988).

39. For the ancient world cf. Erhard S. Gerstenberger, *Jahwe—ein patriarchaler Gott?* (Stuttgart: 1988, English translation forthcoming by Fortress Press); and Carol Meyers, *Discovering Eve* (Oxford: 1988).