

Biblical Law

Codes and Collections

Primary Reading: Exodus 19–24.

The Nature of Biblical Law

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

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

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

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

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

Revelation (chap. 19)
Decalogue (20:1–14)
Revelation (20:15–18)
Laws (20:19–23:33)
Revelation (chap. 24)

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

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

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

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

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

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

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

The Decalogue

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

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

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

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

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

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

Exodus 20:8–11

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

Deuteronomy 5:12–15

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

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

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

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

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

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

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

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

The Covenant Collection

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

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

You shall not tolerate a sorceress.
Whoever lies with a beast shall be put to death.
Whoever sacrifices to a god other than the Lord alone shall be proscribed.

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

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

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

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

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

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

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

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

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

The Goring Ox

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

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

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

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

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

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

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

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

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

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

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

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

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

From the Goring Ox to Biblical "Law" in General

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

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

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

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

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

9

“Incense Is Offensive to Me”

The Cult in Ancient Israel

Primary Reading: Leviticus 16.

Ritual Within the Bible

Religious ritual has an ambiguous place within modern life.¹ It is often critiqued as an archaic remnant of earlier practices, which should be replaced by more abstract forms of religion.²

This antipathy toward ritual is reflected in the work of many biblical scholars, especially those influenced by the work of the great German scholar Julius Wellhausen, who systematized much of biblical scholarship toward the end of the nineteenth century.³ He viewed the history of biblical religion as a devolution, in which free expression of religion, reflected in the early sources, was gradually replaced—most especially in the Priestly Source—by fixed ritual. In this view, the prophets, some of whom are seen as hostile toward ritual, are viewed as the apex of biblical religion. It was not unusual, for example, for scholars to highlight the centrality of texts such as Isaiah 1:10–17:

(10) Hear the word of the Lord, / You chieftains of Sodom; / Give ear to our God’s instruction, / You folk of Gomorrah! / (11) “What need have I of all your sacrifices?” / Says the Lord. / “I am sated with burnt offerings of rams, / And suet of fatlings, / And blood of bulls; / And I have no delight / In lambs and he-goats. / (12) That you come to appear before Me— / Who asked that of you? / Trample My courts (13) no more; / Bringing oblations is futile, / Incense is offensive to Me. / New moon and sabbath, / Proclaiming of solemnities, / Assemblies with iniquity, / I cannot abide. / (14) Your new moons and fixed seasons / Fill Me with loathing; / They are become a burden to Me, / I cannot endure