

עץ חיים

ETZ HAYIM

TORAH AND COMMENTARY

THE RABBINICAL ASSEMBLY
THE UNITED SYNAGOGUE OF CONSERVATIVE JUDAISM



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21 These are the rules that you shall set before them:

כֹּא וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תִּשִּׂים
לפניהם:

THE BOOK OF THE COVENANT: THE LAWS (21:1–24:18)

These chapters, containing the first body of Torah legislation, are known in English as “The Book of the Covenant” (*seifer ha-b’rit*). The name is derived from 24:4,7, where we read that Moses wrote down the divine commands and then read aloud the covenant document to the people, who gave their assent. The Book of the Covenant has many similarities to other Near Eastern collections of law. The Israelite collection, however, is embedded in the Exodus narratives, which are crucial to its meaning and significance. The combination of civil, moral, and religious laws in a code is unique to the ancient Near East.

The Book of the Covenant falls into four distinct parts. The first part (21:2–22:16) deals with civil and criminal matters. The second part (22:17–23:19) treats a variety of topics, with special emphasis on humanitarian considerations. The third (23:20–33) affirms the divine promises to Israel and warns against the dangers of assimilation to paganism. The fourth part (chapter 24) concludes the Book of the Covenant with a description of how the document was ratified and an account of Moses ascending the mountain once again to receive the Decalogue incised in stone.

With this *parashah*, the tone of the Torah changes. Up to this point, it has been a narrative, with occasional references to laws such as those regarding circumcision and *Pesah*. Now, the emphasis is reversed. From here on, the Torah will present the rules by which the Israelites are to live, with occasional narrative breaks.

JUDICIAL RULINGS (21:1–22:16)

1. This verse serves as a heading for the entire section.

These are The Hebrew word *v’eileh* is literally “And these are.” The conjunction “and” indicates continuity. This connects the laws that follow with the preceding Decalogue, implicitly asserting that all are derived from the same source at Sinai.

rules The Hebrew word *mishpatim* originally referred to “specific judicial rulings” and then came to be used for enactments in general, authoritative statements of law regarding standards of conduct.

you shall set before them Knowledge of the law is to be the privilege and obligation of the entire people, not the prerogative of specialists or of an elite class.

The rules of forming a just society outlined at the beginning of this *parashah* follow the discussion about the design of the altar at the end of the previous one. “In time to come, when there will no longer be an altar, building a just society will be the equivalent of bringing sacrifices” (*Yalkut Sh. 1:271*). The laws of the Torah are not given in the names of kings or even in the name of Moses. They are religious and moral instructions given by God. Obeying the laws creates not only a harmonious society but a just and holy one. Violations are seen as offenses against God, not just against the violated person. Unlike the secular legal traditions of other societies, the laws of the Torah are cited not as the products of human wisdom and experience but as a reflection of divine principles built into the world. Thus the dignity of a human being is as much a permanent part of God’s Creation as the law of gravity.

“Outside of Israel, you would have to go to

three different addresses to get the material . . . in *Mishpatim*. The Torah combines law (as in the Code of Hammurabi), cultic instructions (as from a priestly manual), and moral exhortation (as found in wisdom literature). This is the only Near Eastern literature in which an amalgam of these three interests is found: law, cult and wisdom” (M. Greenberg). Judaism is based not only on the major pronouncements of the Decalogue but on the hundreds of minor ways in which we are called on to sanctify our relationships with other people. Ramban sees this *parashah* as an extension of the 10th commandment, “You shall not covet.” To obey that commandment properly, we need to know what we are entitled to and what belongs to our neighbor. Our standards for how we treat others must be based not on social-utilitarian concerns, the desire for an orderly society, but on the recognition of the image of God in every person and the presence of God in every relationship.

²When you acquire a Hebrew slave, he shall serve six years; in the seventh year he shall go free, without payment. ³If he came single, he shall leave single; if he had a wife, his wife shall leave with him. ⁴If his master gave him a wife, and she has borne him children, the wife and her children shall belong to the master, and he shall leave alone. ⁵But if the slave declares, “I

כִּי תִקְנֶה עֶבֶד עִבְרִי שֵׁשׁ שָׁנִים יַעֲבֹד²
וּבְשִׁבְעַת יָצֵא לְחֻפְשֵׁי חָנּוּם: ³ אִם-בְּגִפּוֹ
יָבֵא בְּגִפּוֹ יֵצֵא אִם-בְּעַל אִשָּׁה הוּא וַיֵּצֵאָהּ
אִשְׁתּוֹ עִמּוֹ: ⁴ אִם-אֶדְנָיו יִתֶּן-לּוֹ אִשָּׁה
וַיִּלְדֶּה-לּוֹ בָּנִים אֹד בָּנוֹת הָאִשָּׁה וַיִּלְדֶּיָּהּ
תְּהִיָּה לְאֶדְנֶיהָ וְהוּא יֵצֵא בְּגִפּוֹ: ⁵ וְאִם-

LAWS CONCERNING SLAVES (vv. 2–11)
The list of enactments (*mishpatim*) begins with 10 laws regulating the institution of slavery. None of the other law collections from the ancient Near East opens with this topic. The emphasis given to it by the Torah has a clear historical explanation: Having recently experienced liberation from bondage, the Israelites are instructed to be especially sensitive to the condition of the slave. Yet the Torah does not abolish slavery. That was left to later generations.

The Male Slave (vv. 2–6)

2. When you acquire By self-sale, the desperately poor could gain a measure of security. People also could be sold by the courts. The labors of a debtor or a thief could serve to repay a debt or compensate for stolen property.

a Hebrew slave A fellow Israelite (Mekh.).
six years The slavery laws of Lev. 25:40 rule

that this maximum limit on his term of service is shortened should the jubilee year occur in the meantime.

in the seventh year Rabbinic tradition understood this to mean the seventh year from the beginning of his indenture.

free, without payment Emancipation is his by right, and no compensation is due to the master. The law in Deut. 15:12–15 requires that the master make generous provisions for the slave who leaves his service.

3. if he had a wife The master would have been responsible for the maintenance of the slave's wife and children throughout the period of his service.

4. In the ancient Near East it was common practice for a master to mate a slave with a foreign bondswoman solely for the purpose of siring “house-born” slaves. The woman and her offspring remained the property of the master.

CHAPTER 21

2. The legal code begins with the treatment of slaves, even as the Decalogue begins with a reference to Israel's enslavement in Egypt. For many modern readers, the subject raises questions about the morality of the Torah's legislation. How could God countenance slavery? First, we must note that this passage does not refer to the Egyptian model of slavery, a condition of cruel, permanent bondage. It deals with people who find themselves obliged to sell their labor for a fixed time to repay a debt or as a result of bankruptcy. Second, the Torah's overall emphasis on human freedom and dignity, its insistence that humans are called to serve God and not a human master, in time led to a strengthening of the rules protecting the rights of slaves and, ultimately, to a rejection of slavery entirely. The status of a slave in the Torah was better than that of a slave in Egypt, but still fell short of the Torah's vision of innate human dignity. This chapter still con-

siders the slave and his or her family as the master's property and calls for decent treatment. Deuteronomy, seen by most scholars as a later compilation, considers slaves as virtually members of the master's family, to be included in festival celebrations and sent off with gifts at the end of their period of service. This chapter simply states, “when you acquire a Hebrew slave.” The parallel text in Deut. 15:12 begins, “If a fellow Hebrew [literally, “your brother”] . . . is sold to you.” It would seem that the Israelites, newly freed from Egypt, could not imagine a society without slavery (any more than Plato or Aristotle could). But over the course of time, a more humane view of the slave evolved.

3. single The usual translation of the Hebrew here (*b'gapo*) is “unmarried.” The Midrash understands it as “vigorous.” If the slave was strong and able bodied when he entered your service, you were not to work him so hard that he was no longer vigorous when he completed his obligation to you (Mid. Ha-Hefetz).

love my master, and my wife and children: I do not wish to go free,”⁶ his master shall take him before God. He shall be brought to the door or the doorpost, and his master shall pierce his ear with an awl; and he shall then remain his slave for life.

⁷When a man sells his daughter as a slave, she shall not be freed as male slaves are. ⁸If she proves to be displeasing to her master, who designated her for himself, he must let her be redeemed; he shall not have the right to sell her to outsiders, since he broke faith with her. ⁹And if he designated her for his son, he shall deal with her as is the practice with free maidens. ¹⁰If he marries another, he must not withhold from

אָמַר יֹאמֶר הָעֶבֶד אֶהְבֵּתִי אֶת-אֲדֹנָי
 אֶת-אִשְׁתִּי וְאֶת-בְּנָי לֹא אֵצֵא חֲפָזִי :
 6 וְהִגִּישׁוּ אֲדֹנָיו אֶל-הָאֱלֹהִים וְהִגִּישׁוּ אֶל-
 הַדֹּלֶת אוֹ אֶל-הַמְזוּזָה וְרָצַע אֲדֹנָיו אֶת-
 אָזְנוֹ בַּמַּרְצֵעַ וְעִבְדוֹ לְעֹלָם : ס
 7 וְכִי-יִמְכַר אִישׁ אֶת-בִּתּוֹ לְאָמָה לֹא
 תֵצֵא כְּצֵאת הָעֶבְדִּים : 8 אִם-רָעָה בְּעֵינָי
 אֲדֹנֶיהָ אֲשֶׁר-לֹא לוֹ יַעֲדָה וְהִפְדָּה לְעַם
 נְכָרִי לֹא-יִמָּשַׁל לְמִכְרָהּ בְּבַגְדוּ-בָהּ :
 9 וְאִם-לְבָנוֹ יִיעַדְנָהּ כְּמִשְׁפַּט הַבָּנוֹת
 יַעֲשֶׂה-לָּהּ : 10 אִם-אֶחְרֵת יִקַּח-לוֹ שְׂאֵרָה

6. To avoid any possibility of abuse by a master and to safeguard the rights of a slave, the change from temporary to permanent slavery must be carried out according to a procedure fixed by law.

before God This term (*elohim*) appears again in a legal context in 22:7–8. Neither here nor there can it mean “God” literally. This is so in chapter 22, because its accompanying verb is plural. Its use here parallels Mesopotamian court records, which frequently mention a litigant taking “an oath of the gods” while in the presence of, or perhaps by actually holding, figurines of the gods. According to Rabbinic interpretation, *elohim* in this verse means “judges.”

door or the doorpost Of the sanctuary or of the house where, in Mesopotamia, household gods were found.

pierce his ear A sign of permanent slave status.

The Female Slave (vv. 7–11)

7. his daughter as a slave The Hebrew word *amah*, used here for “slave,” indicates a status quite different from that of the male slave. In the ancient world, a father, driven by poverty, might sell his daughter to a wealthy family to ensure her future security. The sale presupposes marriage to the master or his son, with the Torah stipulating that the girl must be treated as a wife.

8. outsiders The Hebrew term *am nokhri* refers to people who are not of the same family.

9. the practice with free maidens The girl is to be raised within the family and given the status of a daughter. As such, she normally would be protected from sexual abuse, and a marriage would be arranged for her.

10. Ancient Mesopotamian laws similarly stipulate that if a man takes a second wife and she becomes his favorite, he must continue to support

5–6. Some slaves would be intimidated by the prospect of freedom (as some Israelites were when they left Egypt). The Torah accommodates their feelings, but marks that as the less desirable alternative. To be fully human, people must take responsibility for their own lives. Those who decide to stay are branded in the ear, because it was the ear that heard God

declare at Sinai, “I have brought you out of the house of bondage” (Rashi). Why a doorpost? “Because a door was opened for him to go free, and he refused to go” (*K’li Yakar*).

for life According to Rabbinic interpretation, however, the new term of service ends at the next jubilee year or at the death of the master, whichever comes first.

HALAKHAH L’MA’ASEH

21:10. he must not withhold . . . her food, her clothing, or her conjugal rights According to Jewish law, both husband and wife have the right to sexual satisfaction within marriage (M Ket. 5:6–7).

this one her food, her clothing, or her conjugal rights. ¹¹If he fails her in these three ways, she shall go free, without payment.

¹²He who fatally strikes a man shall be put to death. ¹³If he did not do it by design, but it came about by an act of God, I will assign you a place to which he can flee.

¹⁴When a man schemes against another and kills him treacherously, you shall take him from My very altar to be put to death.

בְּסוּתָהּ וְעִנְתָּהּ לֹא יִגְרַע: ¹¹ וְאִם־שְׁלֹשׁ־
אֵלֶּה לֹא יַעֲשֶׂה לָּהּ וַיִּצְאָה חֲנֹם אִין
בְּקֶסֶף: ס

¹² מִכָּה אִישׁ וּמַת מוֹת יוּמַת: ¹³ וְאִשֶּׁר
לֹא צָדָה וְהֵאֱלֹהִים אָנָּה לִידּוֹ וְשִׁמְתִי לָּךְ
מָקוֹם אֲשֶׁר יָנוּס שָׁמָּה: ס

¹⁴ וְכִי־יִזְדּ אִישׁ עַל־רֵעֵהוּ לְהִרְגּוֹ בְּעָרְמָה
מֵעַם מִזְבְּחֵי תִקְחֶנּוּ לְמוֹת: ס

his first wife. The Torah extends this protection to the slave girl and here specifies three basic necessities of life to which she is entitled.

her conjugal rights All the ancient translations of the Torah understood the word translated by this phrase (*onah*) as referring to a woman's conjugal rights, an interpretation that is also found in Rabbinic sources. If correct, this would be the only instance in the laws of the ancient Near East that stipulates that a wife is entitled to sexual gratification. Other commentators render *onah* as "dwelling, shelter," and still others as "oil, ointment." In many ancient Near Eastern texts, there are clauses that make provision for a wife's "food, clothing, and ointment."

11. in these three ways Any of the previously mentioned possibilities: marriage to the master, or to his son, or allowing her to be redeemed.

THREE CAPITAL OFFENSES (vv. 12–17)

Homicide (vv. 12–14)

Murder (v. 12): A homicide for which criminal intent has been proven beyond question. The same law appears in Lev. 24:17,21. (Deuteronomy 17:6 and 19:15 state that capital punishment is to be carried out only on the evidence of two witnesses. Numbers 35:30–31 prohibit monetary compensation in lieu of execution. In contrast, other ancient Near Eastern law collections view murder only in terms of economic loss to the fam-

ily or clan.) Although the text does not prescribe the mode of execution, Rabbinic sources specify decapitation.

Asylum (vv. 13–14): Unintentional homicide is treated differently from murder. With the development of the concept that crime should be punished by the community and not by means of personal vengeance, it became imperative to control the ancient and widespread phenomenon of the blood feud. These measures are designed to protect the manslayer and allow established legal procedure to take its course.

13. by design With premeditation.

by an act of God Literally, "and God caused it to happen by His hand." The manslayer was the unwitting agent.

I will assign you The manslayer is to be guaranteed temporary asylum pending judicial disposition of the case. This is the only instance in the presentation of enactments (*mishpatim*) in which the people Israel are addressed directly, thereby emphasizing the Torah's profound concern for the protection of life.

a place The Hebrew word *makom* here probably means "sacred site" (as in 20:21), a sanctuary whose precincts are inviolable. The other biblical sources dealing with this topic specifically mention "cities of refuge."

14. Even the sacred domain of the altar will not provide protection for a willful murderer. Its

12. Transgressions calling for capital punishment not only define legal parameters but indicate a society's core values, those whose violation is seen as striking at the foundations of the society. In verses 12–17, the Torah identifies some of those core values as the infinite worth of a human life, the dignity of the human being,

and the honoring of parents. It distinguishes between murder—the ultimate crime for which the murderer must receive the ultimate punishment—and inadvertent killing, which cannot justify taking the life of the manslayer.

14. The Sages derive from this text the rule that a priest convicted of murder is to be re-

¹⁵He who strikes his father or his mother shall be put to death.

¹⁶He who kidnaps a man—whether he has sold him or is still holding him—shall be put to death.

¹⁷He who insults his father or his mother shall be put to death.

¹⁸When men quarrel and one strikes the other with stone or fist, and he does not die but has to take to his bed—¹⁹if he then gets up and walks outdoors upon his staff, the assailant shall go unpunished, except that he must pay for his idleness and his cure.

sanctuary is extended only to the perpetrators of accidental homicide.

Abuse of Parents (vv. 15,17)

Although separated by the law of the kidnaper, these two verses belong together. Verse 15 concerns violent assault on a parent by a child; verse 17 deals with verbal abuse. The analogous law in the ancient Near Eastern Hammurabi collection orders that the hand of a son who strikes his father be amputated. The mother as victim is not mentioned there.

15. strikes According to the Sages, only the actual infliction of physical injury by an adult son or daughter results in the death penalty.

Kidnaping (v. 16)

16. Unlike other ancient law codes, biblical law never punishes theft by death, except for kidnaping and stealing property that has been dedicated to God (*heirem*).

17. insults “Insult” is too weak a rendering for the Hebrew stem קלל. The kind of behavior understood here includes uttering a curse. The

moved from the Temple even if he is in the midst of his sacred duties.

15. shall be put to death The same verb is used in Lev. 24:15, prohibiting blaspheming against God. This prompted the Midrash to comment, “God holds the honor due to parents as dear as the honor due to God.”

¹⁵וּמַכֵּה אָבִיו וְאִמּוֹ מוֹת יוּמָת׃
¹⁶וְגֵיב אִישׁ וּמְכָרוֹ וְנִמְצָא בְיָדוֹ מוֹת יוּמָת׃ ס

¹⁷וּמִקְלָל אָבִיו וְאִמּוֹ מוֹת יוּמָת׃ ס
¹⁸וְכִי־יִרְיֹבֵן אַנְשִׁים וְהִכָּה־אִישׁ אֶת־רַעְהוֹ בְּאֶבֶן אוֹ בְּאֶגְרֹף וְלֹא יָמוּת וְנָפַל לְמִשְׁכָּב׃¹⁹ אִם־יָקוּם וְהִתְהַלֵּךְ בַּחוּץ עַל־מִשְׁעֲנֵתוֹ וְנִקְהָ הַמַּכֵּה רַק שְׂבִיתוֹ יִתֵּן שְׁנֵי וָרֶפֶא יִרְפָּא׃ ס

horrendous nature of this offense is intensified in a culture that believed a curse possessed potent force and took on a devastating life of its own, especially if uttered in the name of God. The term קלל also means “to treat with contempt,” the direct opposite of כבד, “to honor.”

BODILY INJURY INFLICTED BY PERSONS

(vv. 18–27)

These laws deal with the compensation for personal injuries caused by physical attack. The basic principle is the question of intent—whether or not the assailant intended to inflict injury.

18. quarrel What begins as an exchange of words abruptly degenerates into a brawl as one person strikes a blow that temporarily incapacitates another. The aggressor must compensate the victim for loss of income, here called “idleness,” and for medical expenses.

19. unpunished Presumably, if the victim dies, then the laws set forth in verses 12–14 become operative. Rabbinic tradition required the assailant to be held in custody until the victim recovered fully.

19. and his cure Hebrew *v'rapo y'rapei*; literally, “he shall certainly cure him.” Even though ultimately God is our healer (Exod. 15:26), it is religiously proper for doctors to cure the sick, because they are thus doing the work of God (BT BK 85a). A religious person is not to say, “If God wants me to be ill, I will be

HALAKHAH L'MA'ASEH

21:19. pay for his idleness and his cure A person who injures another is liable for five types of restitution: for the injury itself, for pain, for medical expenses, for absence from work, and for humiliation and mental anguish (M BK 8:1).

²⁰When a man strikes his slave, male or female, with a rod, and he dies there and then, he must be avenged. ²¹But if he survives a day or two, he is not to be avenged, since he is the other's property.

²²When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according as the woman's hus-

שני ²⁰ וְכִי־יִכֶּה אִישׁ אֶת־עַבְדּוֹ אוֹ אֶת־אִמָּתוֹ בַּשֶּׁבֶט וּמַת תַּחַת יָדוֹ נָקָם יִנָּקֶם: ²¹ אֶךְ אִם־יֹוֹם אוֹ יוֹמִים יַעֲמֹד לֹא יִקָּם כִּי כֶסֶף הוּא: ס

²² וְכִי־יִנְצוּ אַנְשִׁים וְנִגְפוּ אִשָּׁה הָרָה וַיִּצְאוּ יֶלְדֶיהָ וְלֹא יְהִיָּה אֶסּוֹן עֲנוּשׁ יַעֲנֹשׁ כַּאֲשֶׁר יִשִּׁית עָלָיו בְּעַל הָאִשָּׁה וְנָתַן

Injury to a Slave (vv. 20–21)

This law—the protection of slaves from maltreatment by their masters—helps make the system more humane.

20. his slave The final clause of the next verse indicated to the Sages that the slave in question is a foreigner. An Israelite never could be considered the property of another Israelite, because all were equally bound by the Covenant.

a rod The right of a master to discipline his slave is recognized. According to the Sages, however, the instrument must never be one that normally is lethal, and it may not be applied to a part of the body considered to be especially vulnerable.

there and then Because the master unlawfully has used deadly force, homicidal intent is assumed.

he must be avenged The master, criminally liable, faces execution.

21. Should the beaten slave linger more than

a day before succumbing, the intent of the master appears less likely to have been homicidal and more likely to have been disciplinary. He is given the benefit of the doubt, especially because he is losing his financial investment (the price of the slave). This lenient ruling does not apply to anyone other than the master (Mekh.).

Unintended Harm to a Pregnant Woman
(vv. 22–25)

Unlike the earlier instance of a verbal quarrel that was not lawful at the start (vv. 18–19), this quarrel involves physical violence. Because the possibility of indirect damage was foreseeable, the antagonists are liable for injury caused to an innocent bystander, in this case a pregnant woman.

22. fight The Hebrew verb implies the use of physical force.

damage The word translated as “damage” (*ason*) elsewhere always signifies a major calamity;

ill, and if God wants me to recover, God will heal me without medical intervention.” Maimonides, a physician as well as a philosopher, wrote: “If a person eats to cure his hunger, do we say that he has abandoned his trust in God? Just as I thank God for providing me with food to sustain life, I thank God for providing me with that which heals my sickness.” The Talmud teaches that one must not live in a city that has no physician (BT Sanh. 17b).

20. To harm a slave is to inflict harm on a human being, a bearer of God's image. No other ancient society, and few premodern societies, granted slaves this measure of humanity. In most cases, even in the United States in the 19th century, slaves were considered property. The Torah repeatedly insists on the fundamental human dignity of the poor, the slave, and even the criminal.

HALAKHAH L'MA'ASEH

21:22. a miscarriage results Applying this text to all forms of miscarriage, Jewish law requires different forms of mourning for a fetus than for someone born alive. Full mourning rites are not appropriate for a fetal loss; but the CJLS, understanding the emotional and physical pain of a couple experiencing a miscarriage, has ruled that the community should offer them support through prayer and the *mitzvah* of visiting the sick (*bikkur holim*).

but no other damage Because the Torah demands only a monetary payment for the fetus in contrast to “life for life” for the woman, the fetus is not considered to be a full-fledged human being, and abortion is not murder (M Oho. 7:6). It is, however, an injury to the woman; and as such, abortion is generally prohibited. It is allowed only to save the physical or mental health of the mother. Many authorities, including the CJLS, permit abortion to prevent maternal anguish over the prospect of giving birth to a child with severe defects. Abortion is not permitted as a retroactive form of birth control.

band may exact from him, the payment to be based on reckoning. ²³But if other damage ensues, the penalty shall be life for life, ²⁴eye for eye, tooth for tooth, hand for hand, foot for foot, ²⁵burn for burn, wound for wound, bruise for bruise.

בַּפְּלִיּוֹת: 23 וְאִם-אֶסֶן יְהִיָּה וְנִתְּתָה נֶפֶשׁ
 תַּחַת נֶפֶשׁ: 24 עֵין תַּחַת עֵין שֵׁן תַּחַת שֵׁן
 יָד תַּחַת יָד רֶגֶל תַּחַת רֶגֶל: 25 כּוּיָהּ תַּחַת
 כּוּיָהּ פֶּצַע תַּחַת פֶּצַע חִבּוּרָה תַּחַת
 חִבּוּרָה: ח

therefore, the most likely issue here is whether or not death ensues. Rabbinic tradition understands this as referring to the woman. The ancient Greek translation of the Bible, the Septuagint, takes it as damage to the fetus.

based on reckoning The husband makes a claim based on some standard set by the court, perhaps the age of the fetus.

Lex Talionis (vv. 23–25)

23. other damage Presumably the death of the mother, in which case the principle of “life for life” is invoked, not a monetary fine.

The principle of retaliation in kind for bodily injury—talion—was introduced by King Hammurabi of Babylonia (1792–1750 B.C.E.). Before this, monetary compensation was the penalty, because assault and battery were considered private wrongs to be settled between the families of the assailant and the victim. With the growth of urbanization and centralized government, physical violence became an issue of public welfare, and

the state commenced to regulate the payments for various types of injuries. In a revolutionary development, Hammurabi categorized assault and battery as criminal conduct to be prosecuted by the state.

The talion principle (Latin: *lex talionis*) is based on the assumption that the guilty party should suffer precisely the same harm as the victim: Only one life for a life, only one eye for an eye, and so forth. The Babylonian laws, however, allowed physical retaliation and vicarious punishment, which were applied according to the social class of those involved. Although biblical law accepted the principle that assault and battery are public crimes, not simply private wrongs, the context of the surrounding laws makes it clear that the Torah prescribed monetary compensation rather than physical retaliation for bodily injury. It also insisted on equal justice for all citizens regardless of social class (including the slave; see vv. 20,26–27) and outlawed vicarious punishment.

23. penalty shall be life for life Other Near Eastern societies permitted the family of a murderer to accept a monetary settlement from the murderer; the Torah forbids it. “The guilt of a murderer is infinite because the murdered life is invaluable. By contrast, the Torah never requires the death penalty for crimes against property. In biblical law, life and property are incommensurable; taking of life cannot be made up for by any amount of property, nor can any property offense be considered as amounting to the value of a life” (M. Greenberg). From this passage the Sages derived the ruling that a fetus is not a full-fledged human being. The mother’s life has precedence over the life of the fetus (M Oho. 7:6).

24. The passage concerning “an eye for an eye” is one of the best known, and most misunderstood, in the entire Bible. The Sages deduced that “an eye for an eye” does not mean

that one lost an eye for injuring another’s eye (one person’s eye may be more valuable in his work than another’s, and intentional maiming is not the same as accidental injury). Instead, one paid to the injured party the value of that eye in monetary compensation. Ibn Ezra endorses this interpretation: “If we do not trust the Sages’ interpretation, we will be unable to understand the Torah’s demands. Just as we received the written Torah from our ancestors, so did we receive its oral interpretation. The two are inseparable.” Maimonides writes, “There never was any Rabbi, from the time of Moses . . . who ruled, based on ‘an eye for an eye,’ that he who blinds another should himself be blinded.” In all likelihood, “an eye for an eye” is a graphic way of expressing the abstract idea that the punishment should not be too lenient (“a scolding for an eye”) or too harsh (“a life for an eye”) but should fit the crime and the circumstances.

²⁶When a man strikes the eye of his slave, male or female, and destroys it, he shall let him go free on account of his eye. ²⁷If he knocks out the tooth of his slave, male or female, he shall let him go free on account of his tooth.

²⁸When 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. ²⁹If, 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. ³⁰If ransom is laid upon him, he must pay whatever is laid upon him to redeem his life. ³¹So, too, if it gores a minor, male or female, [the owner] shall be dealt with according to the same rule. ³²But if the ox gores a slave, male or female, he shall pay

וְכִי־יִכֶּה אִישׁ אֶת־עֵינַי עַבְדּוֹ אוֹ־אִתּוֹ 26
עֵינַי אֶמְתּוֹ וְשִׁחַתְתָּהּ לְחִפְשֵׁי יִשְׁלַחְנוּ תַחַת
עֵינָו: ס 27 וְאִם־שֵׁן עַבְדּוֹ אוֹ־שֵׁן אֶמְתּוֹ
יִפִּיל לְחִפְשֵׁי יִשְׁלַחְנוּ תַחַת שֵׁנָו: פ
וְכִי־יִגַּח שׁוֹר אֶת־אִישׁ אוֹ אֶת־אִשָּׁה 28
וּמֵת סָקוּל יִסְקַל הַשׁוֹר וְלֹא יֵאָכַל אֶת־
בְּשָׂרוֹ וּבֵעַל הַשׁוֹר נָקִי: 29 וְאִם שׁוֹר נִגַּח
הוּא מִתְמַל שְׁלֹשִׁים וְהוֹעֵד בְּבַעְלָיו וְלֹא
יִשְׁמְרֵנוּ וְהַמֵּית אִישׁ אוֹ אִשָּׁה הַשׁוֹר
יִסְקַל וְגַם־בְּעַלְיו יוּמָת: 30 אִם־כֶּפֶר יוֹשֶׁת
עָלָיו וְנָתַן פְּדִיָן נַפְשׁוֹ כְּכֹל אֲשֶׁר־יוֹשֶׁת
עָלָיו: 31 אוֹ־בֵן יִגַּח אוֹ־בַת יִגַּח כִּמְשֻׁפֵּט
הַזֶּה יַעֲשֶׂה לוֹ: 32 אִם־עַבְד יִגַּח הַשׁוֹר אוֹ

Injury by a Master to His Slave (vv. 26–27)

A master who causes his slave irreparable bodily injury is guilty of aggravated assault. He has robbed his slave of his humanity and dignity; for that the slave gains his or her freedom. This biblical law, like that of verses 20–21, has no parallel in other ancient Near Eastern legislation.

26. his slave This refers to a non-Israelite, according to the Sages, because an Israelite slave is to be treated like all other Israelites when injured by another, even his master.

26–27. eye . . . tooth Or any other of the chief external parts of the body.

THE HOMICIDAL BEAST (vv. 28–32)

This section contains three cases involving the attack of a beast—here, an ox—on human beings. They concern (a) the beast that has no previous record of viciousness, (b) the beast that has such a previous history and whose owner has been so informed, and (c) the beast that gores a slave.

28. the ox shall be stoned The killer ox is not destroyed solely because it is dangerous. This is clear from the fact that it is not destroyed when the victim is another ox and from the prescribed mode of its destruction, which is not ordinary

slaughter but stoning. The ox was to be executed in the presence of the entire community, implying that the killing of a human being is a source of mass pollution and that the death of the ox served as a cleansing atonement.

not to be punished This is in contrast to the next case. Here there is no implicit negligence.

29. This is a case of either incompetence or criminal negligence. Because the owner has been warned that the animal is dangerous, he is culpable if it harms someone. Rabbinic tradition interprets the death penalty mentioned here to mean “death by the hand of Heaven,” not by a human court.

30. ransom Num. 35:31 forbids the acceptance of ransom for the life of one found guilty of murder. This man, however, is not a murderer, strictly speaking, because he did not directly cause the homicide and did not have such intent; the sentence is, therefore, mitigated. Because no fine is stipulated, he must pay whatever is demanded.

whatever is laid upon him Presumably by the victim’s family (cf. v. 22).

32. thirty shekels The evaluation, for purposes of vows, of a woman between the ages of 20 and 60 (Lev. 27:4). On the shekel, see Comment to Gen. 23:9.

HALAKHAH L’MA’ASEH

21:29. though warned This is one of the sources for rabbinic laws on negligence. The Mishnah states: “If I am responsible to care for something, I am the one who makes possible any injury it may do. . . . [Therefore] I must make restitution for that injury” (M BK 1:2).

thirty shekels of silver to the master, and the ox shall be stoned.

³³When a man opens a pit, or digs a pit and does not cover it, and an ox or an ass falls into it, ³⁴the one responsible for the pit must make restitution; he shall pay the price to the owner, but shall keep the dead animal.

³⁵When a man's ox injures his neighbor's ox and it dies, they shall sell the live ox and divide its price; they shall also divide the dead animal. ³⁶If, however, it is known that the ox was in the habit of goring, and its owner has failed to guard it, he must restore ox for ox, but shall keep the dead animal.

³⁷When a man steals an ox or a sheep, and slaughters it or sells it, he shall pay five oxen for **22** the ox, and four sheep for the sheep.—¹If the thief is seized while tunneling, and he is beaten to death, there is no bloodguilt

אָמַה בְּסֶף | שְׁלֹשִׁים שְׁקָלִים יִתֵּן לְאֲדוֹנָיו
וְהַשּׂוֹר יִסָּקֵל: ס
וְכִי־יִפְתָּח אִישׁ בּוֹר אֹ אוֹ כִּי־יִכְרֶה אִישׁ
בַּר וְלֹא יִכְסֶּנוּ וְנִפְל־שָׁמָּה שׂוֹר אֹ חֲמוֹר:
בְּעַל הַבּוֹר יִשְׁלַם בְּסֶף יָשִׁיב לְבַעְלָיו
וְהַמֵּת יִהְיֶה־לּוֹ: ס
וְכִי־יִגְף שׂוֹר־אִישׁ אֶת־שׂוֹר רֵעֵהוּ וּמָת
וּמָכְרוּ אֶת־הַשּׂוֹר הַחַי וְחָצְוּ אֶת־כֶּסֶפוֹ
וְגַם אֶת־הַמֵּת יִחָצְוּ: ³⁶ אֹ נוֹדַע כִּי שׂוֹר
נִגַּח הוּא מִתְמוֹל שְׁלֹשָׁם וְלֹא יִשְׁמְרֵנוּ
בְּעַלְיוֹ שְׁלָם יִשְׁלַם שׂוֹר תַּחַת הַשּׂוֹר
וְהַמֵּת יִהְיֶה־לּוֹ: ס
כִּי יִגְנַב־אִישׁ שׂוֹר אֹ־שָׂה וּטְבַחוּ אֹ
מָכְרוּ חֲמִשָּׁה בְּקָר יִשְׁלַם תַּחַת הַשּׂוֹר
וְאַרְבַּע־צֹאן תַּחַת הַשָּׂה: ¹ אִם־
כִּבּ בַּמְחִתֶּרֶת יִמָּצֵא הַגָּנָב וְהִכָּה

DAMAGE TO LIVESTOCK (vv. 33–36)

33–34. The presumption is that the pit or cistern was located on public property or that there was unobstructed access to it from public property. For this act of negligence, the offender must make restitution for the value of the animal.

THE LAW OF THEFT (21:37–22:3)

The case of a thief who is surprised in the act of breaking and entering is injected parenthetically into the more general law dealing with theft, interrupting the connection between 21:37 and

22:2b. That is, 21:37 must be understood as followed immediately by 22:2b and 22:3.

37. This verse is numbered 22:1 in some other editions of the Bible.

22:1–2a. The condition “If the sun has risen” shows that the phrase “while tunneling” presupposes a nighttime setting. Because a nighttime burglar is likely to encounter the occupants and must anticipate that they will use force, his nocturnal intrusion carries with it a presumption of homicidal intent. The condition of imminent threat, necessary to satisfy a householder’s claim

37. We are told that stealing an ox incurs greater punishment than stealing a sheep because a sheep is not a beast of burden. Meir states, “Physical labor is precious to the one who created the world” (Mekh.). The ox, a laboring animal, is more valuable. Similarly, a commentary on Rashi adds, “When one steals an ox, the Torah requires the thief to compensate the owner for time lost due to the ox’s absence. This teaches that work is considered as important as money.” Although the probable reason for the discrepancy is the

greater value of the ox and the greater loss to its owner, the Sages of the Midrash offer another reason: A stolen ox can be led away but a stolen sheep must be carried, an unpleasant and humiliating task. This degrading experience lessens the thief’s punishment. The Torah stresses the innate dignity of human beings, even of a robber; all humans are fashioned in God’s image. Postbiblical laws limit the degree to which criminals can be punished, lest their essential humanity be compromised.

HALAKHAH L'MA'ASEH

22:1. no bloodguilt This verse is a source for justifying self-defense under Jewish law (BT Sanh. 72a) and the principle that saving a life takes precedence over most other Jewish laws (BT Yoma 85b). See Lev. 18:5.

in his case. ²If the sun has risen on him, there is bloodguilt in that case.—He must make restitution; if he lacks the means, he shall be sold for his theft. ³But if what he stole—whether ox or ass or sheep—is found alive in his possession, he shall pay double.

⁴When a man lets his livestock loose to graze in another's land, and so allows a field or a vineyard to be grazed bare, he must make restitution for the impairment of that field or vineyard.

⁵When a fire is started and spreads to thorns, so that stacked, standing, or growing grain is consumed, he who started the fire must make restitution.

⁶When a man gives money or goods to another for safekeeping, and they are stolen from

וַמָּת אֵין לוֹ דָּמַיִם: ² אִם-זָרְחָה הַשֶּׁמֶשׁ
עָלָיו דָּמַיִם לוֹ שְׁלָם יִשְׁלַם אִם-אֵין לוֹ
וְנִמְכָּר בַּגְּנוּבָתוֹ: ³ אִם-הִמְצָא תְּמִצָּא בְּיָדוֹ
הַגְּנוּבָה מִשּׁוֹר עַד-חֲמֹר עַד-שֶׁה חַיִּים
שְׁנַיִם יִשְׁלַם: ^ס

שְׁלִישִׁי ⁴ כִּי יִבְעֶר-אִישׁ שָׂדֵה אֲוֶזְרָם וְשִׁלַּח
אֶת-בְּעִירָה בְּעִירוֹ וּבְעֶר בְּשָׂדֵה אַחֵר מֵיטֵב
שָׂדֵהוּ וּמֵיטֵב כְּרָמוֹ יִשְׁלַם: ^ס

⁵ כִּי-תִצָּא אֵשׁ וּמִצָּאָה קִצִּים וְנֶאֱכַל גְּדִישׁ
אוֹ הַקֶּמֶה אוֹ הַשָּׂדֵה שְׁלָם יִשְׁלַם הַמִּבְעֵר
אֶת-הַבְּעֵרָה: ^ס

⁶ כִּי-יִתֵּן אִישׁ אֶל-רֵעֵהוּ בְּסֶף אֲוֶזְלִים
לְשֹׁמֵר וְגָנַב מִבֵּית הָאִישׁ אִם-יִמְצָא הַגְּנוּב

of lawful self-defense, is thus fulfilled. Hence, no bloodguilt is incurred should the intruder be killed.

If the break-in occurred in broad daylight, however, there is no presumption of imminent homicidal intent. The use of deadly force in such an instance, therefore, is deemed to be unwarranted, and bloodguilt would ensue upon its use. This is another example of the biblical scale of values, which gives priority to the protection of life—including even the life of a burglar—over property.

DAMAGE TO CROPS (vv. 4–5)

Two cases are under consideration: the destruction of crops by livestock and by fire. The first case is treated more severely—the cattle owner must compensate for the choice crops of the field because he carelessly, although without malicious intent, allowed his beast to stray into another's field. In the second case, restitution of choice produce is not required because the damage was wholly accidental. These two cases are wedged between laws relating to theft because all are viewed under the broad heading of damage to property.

4. for the impairment The Sages considered it unclear whether the compensation imposed on the owner of the beast is calculated according to the best property of the defendant or of the plaintiff.

5. When a fire is started For legitimate purposes, but winds send the flames into someone else's property.

thorns These would be collected and used as fuel by the poor and for the construction of hedges.

THE LAW OF BAILMENT (vv. 6–14)

Movable Goods (vv. 6–7)

A bailee (guardian) claims that movable goods entrusted to him for safekeeping have been stolen. If the thief is not caught, the bailee must clear himself of suspicion by taking an oath before the proper authorities. As a gratuitous bailee (one not paid for his services), he is not liable for loss or theft that does not result from his own negligence.

6. they are stolen So the bailee claims.

pay double In accordance with the rule of verse 3.

CHAPTER 22

2. If the sun has risen on him Ishmael takes the words figuratively, to mean “if it is clear as day” that the thief is only after your possessions and means no physical harm, he may be stopped but he may not be killed (Mekh.).

6. The Talmud elaborates on this brief discussion (BT BM 3), delineating four categories of bailees (guardians): (a) one who is paid to care for the owner's goods and, therefore, assumes the highest level of responsibility for their well-being; (b) one who agrees to care for the owner's goods as a favor and

the man's house—if the thief is caught, he shall pay double; ⁷if the thief is not caught, the owner of the house shall depose before God that he has not laid hands on the other's property. ⁸In all charges of misappropriation—pertaining to an ox, an ass, a sheep, a garment, or any other loss, whereof one party alleges, “This is it”—the case of both parties shall come before God: he whom God declares guilty shall pay double to the other.

⁹When a man gives to another an ass, an ox, a sheep or any other animal to guard, and it dies or is injured or is carried off, with no witness about, ¹⁰an oath before the LORD shall decide between the two of them that the one has not laid hands on the property of the other; the owner must acquiesce, and no restitution shall be made. ¹¹But if [the animal] was stolen from him, he shall make restitution to its owner. ¹²If it was torn by beasts, he shall bring it as evidence; he need not replace what has been torn by beasts.

¹³When a man borrows [an animal] from an-

7. laid hands on That is, misappropriated. If he made use of the deposit for his own benefit, he has become a paid bailee and thus liable for theft or loss.

property Money and goods.

Wrongful Use of Another's Property (v. 8)

8. This is it The plaintiff claims to identify his property.

whom God declares guilty The word translated as “God” (*elohim*) traditionally is interpreted here as “judges.” Elohim meaning “God” takes a singular verb, and the verb used here is plural (see Comment to 21:6).

shall pay double The livestock or movable property has remained intact in the possession of the guilty party, so the rule of 22:3 applies.

Livestock (vv. 9–12)

Unlike the case of “money or goods,” safeguarding

יְשַׁלֵּם שְׁנַיִם: ⁷ אִם-לֹא יִמְצָא הַגָּנֹב וְנִקְרַב
בְּעַל-הַבַּיִת אֶל-הָאֱלֹהִים אִם-לֹא שָׁלַח
יָדוֹ בְּמִלְאֶכֶת רֵעֵהוּ: ⁸ עַל-כָּל-דְּבַר-פֶּשַׁע
עַל-שׂוֹר עַל-חֲמוֹר עַל-שֶׁה עַל-שִׁלְמָה
עַל-כָּל-אֲבֹדָה אֲשֶׁר יֹאמֵר בֵּי-הוּא זֶה עַד
הָאֱלֹהִים יָבֵא דְבַר-שְׁנֵיהֶם אֲשֶׁר יִרְשִׁיעַן
אֱלֹהִים יְשַׁלֵּם שְׁנַיִם לְרֵעֵהוּ: ⁹ ס
⁹ כִּי-יִתֵּן אִישׁ אֶל-רֵעֵהוּ חֲמוֹר אוֹ-שׂוֹר
אוֹ-שֶׁה וְכָל-בְּהֵמָה לְשֹׁמֵר וּמַת אוֹ-נֹשֶׁבֶר
אוֹ-נֹשֶׁבֶה אֵין רֹאֵה: ¹⁰ שְׁבַעַת יְהוָה
תְּהִיָּה בֵּין שְׁנֵיהֶם אִם-לֹא שָׁלַח יָדוֹ
בְּמִלְאֶכֶת רֵעֵהוּ וְלָקַח בְּעַלְיוֹ וְלֹא יְשַׁלֵּם:
¹¹ וְאִם-גָּנַב יִגְנַב מֵעַמּוֹ יְשַׁלֵּם לְבַעַלְיוֹ:
¹² אִם-טָרַף יִטָּרַף יְבִאֵהוּ עַד הַטְּרִפָּה לֹא
יְשַׁלֵּם: ¹³ פ
¹³ וְכִי-יִשְׁאַל אִישׁ מֵעַם רֵעֵהוּ וְנֹשֶׁבֶר

animals is complicated because they are out in the fields and require a lot of attention and labor. It may be assumed, therefore, that the bailee of livestock is paid for his services. This increases the degree of responsibility that is expected of him.

9. carried off This is a case of cattle rustling, not the same as ordinary theft mentioned in verse 11.

10. between the two of them It is uncertain whether both parties have to swear.

12. he shall bring it as evidence He needs to present at least some part of the torn animal as evidence against the charge of negligence (cf. Gen. 37:32–33).

Borrowing and Hiring (vv. 13–14)

The act of borrowing falls within the category of bailment. Because the use of the object is obtained gratis, entirely for the borrower's benefit, his or

is expected only to provide reasonable care; (c) one who borrows the owner's goods and assumes a fairly high degree of care; and (d)

one who pays for the use of another's goods and, therefore, assumes a relatively low level of responsibility.

other and it dies or is injured, its owner not being with it, he must make restitution. ¹⁴If its owner was with it, no restitution need be made; but if it was hired, he is entitled to the hire.

¹⁵If a man seduces a virgin for whom the bride-price has not been paid, and lies with her, he must make her his wife by payment of a bride-price. ¹⁶If her father refuses to give her to him, he must still weigh out silver in accordance with the bride-price for virgins.

¹⁷You shall not tolerate a sorceress.

her degree of responsibility and liability exceeds that in the previous cases.

13. borrows The verb here (*yish-al*) has no object. The theme of verses 9–12 and the phrase “it dies or is injured” make it certain that an animal, most likely a work animal, is meant.

14. If its owner was with it This provision may assume that the services of the owner were borrowed together with his animal.

he is entitled to the hire The owner who hired out his animal—which then suffered misfortune—is not compensated for the animal but is entitled to receive only the hiring fee.

THE LAW OF SEDUCTION (vv. 15–16)

The Book of the Covenant does not regulate the laws of marriage. Long established by custom among the Israelites, they were transmitted orally over the generations.

A man has seduced an unattached virgin. Ordinarily, her father would receive the bride-price customarily paid by the husband-to-be in compensation for the loss of the daughter’s style and her potential value to the family. But the bride-price was predicated on the woman’s virginity, considered essential to her family’s honor. The deflowering of the girl caused a loss of social status for her whole family so that they could no longer require a good bride-price. Consequently, the seducer had to make good the lost sum, regardless of whether the father permitted him to marry his daughter.

אוֹמֶת בְּעַלְיוֹ אֵין-עִמּוֹ שְׁלֵם יִשְׁלֵם: ¹⁴ אִם-בְּעַלְיוֹ עִמּוֹ לֹא יִשְׁלֵם אִם-שָׂכִיר הוּא בָּא בְּשָׂכָרוֹ: ס

וְכִי-יִפְתָּה אִישׁ בְּתוּלָה אֲשֶׁר לֹא-אֶרְשָׁה וְשָׁכַב עִמָּה מִהֵר יְמַהֲרָנָה לוֹ לְאִשָּׁה: ¹⁶ אִם-מֵאֵן יְמַאֵן אָבִיהָ לְתַתָּהּ לוֹ כֶּסֶף יִשְׁקַל כְּמִהֵר הַבְּתוּלוֹת: ס

מִכְשָׁפָה לֹא תַחֲיֶיהָ: ס

15. seduces By persuasion or deception, but not by coercion. For the law of rape, see Deut. 22:22–29.

bride-price has not been paid Literally, “she was not betrothed.” Biblical marriage comprised two separate stages. First, the girl’s hand was asked in marriage. Once the bride-price was paid, the girl was considered betrothed (*m’orasah*) and had the legal status of a married woman even though she still was entirely under the care and authority of her father. Somewhat later she was escorted to her husband’s home to take up residence there.

16. bride-price for virgins The amount is not specified, no doubt because the existing practice was well known.

CATEGORICAL COMMANDS

(22:17–23:19)

The second section of The Book of the Covenant now begins. It comprises a miscellany of social, ethical, moral and religious stipulations that fall under the rubric of divine commands, *d’varim*. These are formulated in the categorical style (“You shall not . . .”) characteristic of the Decalogue, not in the hypothetical style (“If . . .”) of the preceding laws. Many of these matters are of the sort that do not come within the scope of a court of law. Their enforcement is left to human conscience, to one fully aware that these laws are imposed by a transcendent divine will and are not merely the product of human experience and wisdom.

15. The Torah views seduction as a form of theft, connecting this verse to the preceding verses (v. 6ff.). The Sages refer to the sin of “stealing someone’s opinion” (*g’neivat da-at*) by misleading a person with false information or false impressions.

16. The verb “refuses” is doubled in the

Hebrew (*ma-en y’ma-en*). According to the Talmud, this teaches us that the young woman as well as the father may reject the match. (See Rashi on Gen. 24:57, concerning Rebecca’s prospective marriage to Isaac.)

17. The literal translation, “You shall not let a witch (or a sorceress) live,” was the basis

¹⁸Whoever lies with a beast shall be put to death.

¹⁹Whoever sacrifices to a god other than the LORD alone shall be proscribed.

²⁰You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt.

THE PROHIBITION OF SORCERY (v. 17)

The belief in and practice of magic was universal in the ancient world. Elaborate techniques were developed to activate and manipulate natural and supernatural forces. Biblical religion fought to eliminate such practices.

17. You shall not tolerate a sorceress Literally, “You shall not let a sorceress live.” The same penalty certainly applies to a male practitioner. The feminine specification here probably reflects the historical reality that most of those who practiced this outlawed cult were women. Apparently, sorcery was a body of knowledge preserved in female circles, as certain types of priestly lore were maintained by males.

THE PROHIBITION OF BESTIALITY (v. 18)

18. This particular perversion is also prohibited in Lev. 18:23 and 20:15–16, where it is presented as one of the abominations of the pre-Israelite inhabitants of Canaan. Possibly, the biblical allusions are aimed at otherwise unrecorded official or popular practices.

THE PROHIBITION OF APOSTASY (v. 19)

19. To a god Literally, “to the gods”—of other nations.

proscribed The Hebrew verb חָרַם literally means “shall be devoted to God.” Here it implies total annihilation and includes the destruction of the person and his or her property.

for executing innocent women in 17th-century Salem, Massachusetts, and elsewhere in the Western world. A commentator suggests that we understand the text to mean: “you shall not provide a witch with a livelihood,” i.e., we are to drive her out of the practice of witchcraft without taking her life.

20. The Sages, connecting this verse to the preceding verse, forbid belittling sincere converts by reminding them of their idol-worshipping days. The Talmud points out that the Torah cautions us 36 times about proper be-

פֶּלֶא־שֹׁכֵב עִם־בְּהֵמָה מוֹת יוֹמָת: ט
זָבַח לְאֱלֹהִים יָחָרָם בְּלִתִּי לַיהוָה
לְבַדּוֹ:

וְגֵר לֹא־תוֹנֶה וְלֹא תִלְחָצְנֻוּ כִּי־גֵרִים
הָיִיתֶם בְּאֶרֶץ מִצְרַיִם:

CONCERN FOR THE DISADVANTAGED
OF SOCIETY (vv. 20–26)

The law, which addresses people in the singular and in the plural, recognizes that the individual and society are equally responsible and accountable for the terms of the covenantal relationship between God and the people Israel. Social evil is thus a sin against both humanity and God.

The Stranger (v. 20)

The Hebrew word *ger* (stranger, alien) denotes a foreign-born permanent resident whose status was intermediate between that of the native-born citizen (*ezrah*) and the foreigner temporarily residing outside the community (*nokhri*). Because the *ger* could not fall back on local family and clan ties, he or she could easily fall victim to discrimination and exploitation.

In addition to the numerous biblical prohibitions against the mistreatment of strangers, there are commands to love them, even as God does (cf. Deut. 10:18–19). That includes caring for their basic needs and extending to them the same social services to which disadvantaged Israelites were entitled. Over time, many strangers wishing to become part of the people Israel began to take on themselves the obligations and duties of the covenantal society. Hence, in postbiblical Hebrew the term *ger* (feminine *giyyoret*) came to be synonymous with “proselyte.”

20. wrong . . . oppress The employment

havior toward a stranger (BT BM 59b). Similarly, as the Israelites were asked to recall what it felt like to be aliens in Egypt (even in later times, when these were ancestral memories, not something that actually had happened to them), they are asked in verse 23 to imagine what it would feel like to be a widow or an orphan. We are to treat aliens, widows, orphans, and other marginal members of society as we would want to be treated in similar circumstances. The decency of a society is measured by how it cares for its least powerful members.

²¹You shall not ill-treat any widow or orphan.
²²If you do mistreat them, I will heed their outcry as soon as they cry out to Me,²³ 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.

²⁴If you lend money to My people, to the poor among you, do not act toward them as a creditor; exact no interest from them. ²⁵If you take your neighbor's garment in pledge, you must return it to him before the sun sets; ²⁶it is his only clothing, the sole covering for his skin. In

כָּל-אֶלְמָנָה וְיִתּוֹם לֹא תַעֲנוּן׃ ²² אִם-
 עָנָה תַעֲנֶנּוּ אֹתוֹ כִּי אִם-צָעַק יִצְעַק אֵלַי
 שָׁמַע אֲשַׁמְעֶנּוּ צַעֲקוֹתָיו׃ ²³ וְחָרָה אַפִּי
 וְהָרַגְתִּי אֶתְכֶם בְּחָרֶב וְהָיוּ נְשִׁיכֶם
 אֶלְמָנוֹת וּבְנֵיכֶם יִתְמִים׃ פ
²⁴ אִם-כֶּסֶף | תַּלְוֶה אֶת-עַמִּי אֶת-הָעֲנִי
 עֲמֹךְ לֹא-תִהְיֶה לוֹ כְּנֶשֶׁה לֹא-תִשְׁיִמוּן
 עָלָיו נֶשֶׁךְ׃ ²⁵ אִם-חֶבֶל תַּחְבֵּל שְׁלֵמַת
 רֵעֶךָ עַד-בֹּא הַשָּׁמֶשׁ תְּשִׁיבֵנּוּ לוֹ׃ ²⁶ כִּי
 הוּא כְסוּתָה כְּסוּתוֹ לְבִדָּה הוּא שְׁמֹלְתוֹ

of two verbs here heightens the strictness of the prohibition.

The Widow and the Orphan (vv. 21–23)

21. widow or orphan God watches out for the widow, the orphan, and the stranger because they have no property of their own and there is no one to look after them (cf. Deut. 14:29, 27:19, Ps. 68:6).

23. the sword That is, in warfare. Social injustice leads to social disaster.

The Poor and Loans (vv. 24–26)

These laws, aimed at protecting the poor from exploitation, are the first of several such examples in the Torah that regulate loans and forbid the taking of interest. The others are Lev. 25:35–38 and Deut. 23:20–21, 24:10–13. In all the ancient

Near East, only biblical law imposes an absolute ban on lending with interest to members of one's own society.

24. If you lend No penalties are specified for not lending.

to My people See Deut. 23:20–21, which permits taking interest on loans made to a “foreigner” (*nokhri*).

act . . . as a creditor That is, harass the borrower.

25. garment Hebrew: *salmah* (also *simlah*); a large piece of cloth wrapped around the body. For the poor it also served as a blanket at night and might have been such a person's only possession.

in pledge Although the exaction of interest is prohibited, taking a pledge to secure repayment of a loan is permitted.

24. My people Among human beings, the rich and powerful are embarrassed by their poor relatives. God is not embarrassed to call the poor “My people” (Exod. R. 31:5).

to the poor among you “The poor among your relatives take precedence over other poor; the poor of your town over the poor of other

towns” (Tanḥ.; S.A. YD 251:3). For all of our universalistic commitment, we must take care of our own first. Indeed, by practicing fair treatment on those closest to us (which may be harder than extending fair treatment to those far off), we form a habit that we can then extend to strangers.

HALAKHAH L'MA'ASEH

22:24. exact no interest Cf. also Lev. 25:36; Deut. 23:20. Because most business assumes the acceptability of charging interest, the Sages instituted the *heter iska* (permission to do business), which treats such commercial transactions as partnerships, thereby making both parties subject to both profit and loss and transforming prohibited interest into the permitted form of added capital value (BT BM 104b). In addition, it is a *mitzva* to lend to the poor without interest (Lev. 25:36).

22:25. you must return it to him Based on Exod. 22:20,25–6 (and verses in Lev. 25 and Deut. 15), Jewish law requires care for the poor and homeless.

what else shall he sleep? Therefore, if he cries out to Me, I will pay heed, for I am compassionate.

²⁷You shall not revile God, nor put a curse upon a chieftain among your people.

²⁸You shall not put off the skimming of the first yield of your vats. You shall give Me the first-born among your sons. ²⁹You shall do the same with your cattle and your flocks: seven days it shall remain with its mother; on the eighth day you shall give it to Me.

³⁰You shall be holy people to Me: you must not eat flesh torn by beasts in the field; you shall cast it to the dogs.

לְעָרוּ בַמֶּדֶה יִשְׁכַּב וְהָיָה כִּי-יִצְעַק אֵלַי
וְשָׁמַעְתִּי כִּי-חָנוּן אֲנִי: ס
רביעי *27 אֱלֹהִים לֹא תִקְלַל וְנָשִׂיא בְעַמֶּךָ לֹא
תֹאדָר:

28 מִלֵּאֲתָנְךָ וְדַמְעָךָ לֹא תֹאחַר בְּכוֹר בְּנִיָּךָ
תִּתְּנֶנּוּ-לִי: 29 בְּן-תַעֲשָׂה לְשֹׂרֶךָ לְצֹאֲנָךָ
שִׁבְעַת יָמִים יִהְיֶה עִם-אִמּוֹ בַּיּוֹם הַשְּׁמִינִי
תִּתְּנוּ-לִי:

30 וְאֲנָשִׁי-קָדֹשׁ תִּהְיוּן לִי וּבֶשֶׂר בְּשָׂדֶה
טֶרֶפֶה לֹא תֹאכְלוּ לְפָלֶב תִּשְׁלַכּוּן
אֹתוֹ: ס

23 You must not carry false rumors; you

כג לֹא תִשָּׂא שְׁמַע שׂוֹא אֶל-תַּחַשֵּׁת

v. 27. למערבאי חצי הספר בפסוקים

DUTIES TO GOD (vv. 27–30)

The characterization of God in verse 26 is followed by laws that regulate the proper attitude toward Him.

27. not revile God The judicial issue involved in reviling God is mentioned in Lev. 24:10–23, where the penalty is death by stoning.

chieftain Hebrew: *nasi*; the title given to the chief of a clan or a tribe in the period before the monarchy.

28. you shall give Me the first-born This may be an archaic legal formula from pre-Israelite times, understood among the Israelites to mean that the firstborn had special status in the performance of sacred duties (cf. Num. 8:16–19).

29. You shall do the same That is, dedicate the firstborn animals for sacred purposes.

seven days The dedication of the first fruits of the soil is not to be delayed. For the firstborn of animals, however, there is a minimum waiting period of seven days.

30. holy people This is the ideal that was set forth at Sinai (19:6). In pursuit of holiness, one must—among other things—avoid polluting substances and defiling actions, for these disrupt the relationship with God. Adherence to dietary laws (*kashrut*) as an essential element of holy living is found in Lev. 11:44–45 and Deut. 14:21, where a different motivation is presented.

JUDICIAL INTEGRITY (23:1–3)

1. The first clause addresses the litigants; the witnesses; and by implication, the judge. Giving unsubstantiated hearsay testimony in judicial proceedings is prohibited; such testimony is in-

27. You shall not revile God Akiva understands the words as prohibiting blasphemy against God. Ishmael takes them to refer to judges (as in Exod. 21:6). The rich and powerful are not to curse a judicial system that prevents them from exploiting the poor.

30. You shall be holy people to Me “Be holy in a human way, be holy while dealing with the temptations of normal people. God already has enough angels” (Menaḥem Mendel of Kotzk). The distinguishing mark of the holy

person, unlike the animal, is the ability to control appetite.

CHAPTER 23

1. You must not carry A *midrash* interprets this to prohibit receiving as well as spreading false and damaging rumors. Even to listen to such a rumor is to participate in its circulation and thereby participate in hurting another human being.

false rumors The literal meaning of this

shall not join hands with the guilty to act as a malicious witness: ²You shall neither side with the mighty to do wrong—you shall not give perverse testimony in a dispute so as to pervert it in favor of the mighty —³nor shall you show deference to a poor man in his dispute.

⁴When you encounter your enemy's ox or ass wandering, you must take it back to him.

⁵When you see the ass of your enemy lying

יִדְרֹךְ עִם-רָשָׁע לְהִיטֵעַ עַד חֶמְסִי: ס ²לֹא-
תִהְיֶה אַחֲרֵי-רַבִּים לְרַעַת וְלֹא-תִעֲנֶה
עַל-רֹב לְנֹטֹת אַחֲרֵי רַבִּים לְהִטֹּת: ס ³וְדָל
לֹא תִהְדָּר בְּרִיבוֹ: ס
כִּי תִפְגַּע שׂוֹר אֲיִבְךָ אוֹ חֲמֹרוֹ תֵּעָה ⁴
הַשֶּׁב תִּשְׁיבֵנּוּ לוֹ: ס
כִּי-תִרְאֶה חֲמֹר שֹׁנֵאֵךְ רֹבֵץ תַּחַת ⁵

admissible. The second clause outlaws the collusion of a witness and one of the involved parties for a deceitful purpose.

2. Some have taken this to mean that in the interest of impartial justice, no consideration should be given to the social standing of the litigants. More likely, it expresses a warning not to pervert justice by deferring to the majority view if one is convinced that it is erroneous.

3. This verse forbids showing favor to the poor in a court of law. After so many directives to support and care for the poor, the Torah is concerned lest judges distort the law in a poor person's favor.

HUMANE TREATMENT OF THE ENEMY

(vv. 4–5)

4. This verse enjoins us to help our enemy and teaches that just behavior should not be distorted by either love or hate.

5. This case involves humanitarian considerations and the prevention of cruelty to animals. The latter, an important biblical and Rabbinic principle, is known in Hebrew as “[prevention of] pain to living things,” *tza-ar ba-alei hayyim* (see BT BM 32a–b).

phrase in Hebrew (*sheima shav*) is “worthless utterance.” One *midrash* understands it as referring to the utterance of rote prayers without proper feeling.

3. The Talmud presents the case of a judge who is tempted to say, “The poor claimant has no case, but he needs the money more than the rich defendant does.” He is forbidden to rule in the poor person's favor for that reason. Instead, he is told to find for the rich defendant as the law requires and help the poor out of his own pocket (BT Hül. 134a). The Sages fear that if nonlegal considerations are permitted to distort legal judgments, people

will lose faith in the fairness of the courts, and the poor will suffer more from that loss of faith. “The first requirement to a civilization is Justice, the assurance that a law once made will not be broken in favor of an individual” (S. Freud).

4–5. The Torah commands us neither to love nor to hate our enemy. Generally, the Torah commands behavior, not feelings. Its goal is justice, which is attainable—as opposed to loving everyone, which is an emotion-based attitude that cannot be commanded. We are to avoid malicious acts and treat everyone decently.

HALAKHAH L'MA'ASEH

23:1. rumors Jewish law prohibits three kinds of speech: *sheker* “falsehoods” (Exod. 23:7); *l'shon ha-ra* (literally, evil language, or slander), that is, negative truths about a person communicated to those who have no practical need to know of the person's weakness; and *r'khlut*, “gossip, rumors,” that is, truths about a person that are not defamatory but are communicated to those who have no need to know the information (MT Ethics [*De-ot*] 7:1–3). See Lev. 19:16.

23:2. with the mighty Translating *rabbim* here as “majority,” the Sages of the *Sanhedrin* and of all subsequent courts have determined legal matters by a majority vote of the judges on the court (BT Sanh. 3b).

23:3. nor . . . show deference See Comment on Deut. 1:17.

under its burden and would refrain from raising it, you must nevertheless raise it with him.

⁶You shall not subvert the rights of your needy in their disputes. ⁷Keep far from a false charge; do not bring death on those who are innocent and in the right, for I will not acquit the wrongdoer. ⁸Do not take bribes, for bribes blind the clear-sighted and upset the pleas of those who are in the right.

⁹You shall not oppress a stranger, for you know the feelings of the stranger, having yourselves been strangers in the land of Egypt.

¹⁰Six years you shall sow your land and gather in its yield; ¹¹but in the seventh you shall let it rest and lie fallow. Let the needy among your people eat of it, and what they leave let the wild beasts eat. You shall do the same with your vineyards and your olive groves.

מִשָּׂאוֹ וְחִדְלָתָּ מֵעֲזוֹב לֹא עֲזוֹב תַּעֲזוֹב
עִמּוֹ: ס

חמישי ⁶ לֹא תִטֶּה מִשְׁפַּט אֲבִינֶךָ בְּרִיבוֹ: ⁷ מִדְּבַר־
שָׁקֵר תִּרְחַק וְנָקִי וְצַדִּיק אַל־תִּהְרַג בֵּי
לֹא־אֲצַדִּיק רָשָׁע: ⁸ וְשָׁחַד לֹא תִקַּח בֵּי
הַשָּׁחַד יַעֲזוֹר פְּקָחִים וַיְסַלֵּף דְּבַר־י צַדִּיקִים:
⁹ וְגַר לֹא תִלְחָץ וְאַתֶּם יִדְעֶתֶם אֶת־נַפְשׁ
הַגֵּר כִּי־גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם:
¹⁰ וְשֵׁשׁ שָׁנִים תִּזְרַע אֶת־אֲרָצְךָ וְאַסְפָּתָה
אֶת־תְּבוּאָתָה: ¹¹ וְהִשְׁבִּיעַת תִּשְׁמַטָּנָה
וּנְטַשְׁתָּהּ וְאַכְלוּ אֲבִינֵי עִמְךָ וַיִּתְרֹם
תֹּאכַל חַיַּת הַשָּׂדֶה בְּן־תַּעֲשֶׂה לְכַרְמְךָ
לְזִיתְךָ:

A SERIES OF MISCELLANEOUS LAWS
(vv. 6–9)

6. your needy Those who depend on you for justice.

7. Keep far from a false charge A judge should have nothing to do with a claim he knows to be fraudulent.

do not bring death The final clause affirms that God will punish the guilty, including judges who act wickedly. Note the Hebrew wordplay of “*vzaddik*” and “*yasha*.” The first means both “innocent” and “righteous”; the last means both “guilty” and “wicked.”

8. Corruption of the judicial process by bribery is frequently mentioned in the Bible. It is emphasized that God “shows no favor and takes no bribe.” A person who takes bribes is included in

the list of those who are under a divine curse. A judge who accepts a bribe is subject to the penalty of flogging.

9. The law concerning strangers in 22:20 is directed to the individual Israelite; this law is directed to judges. In verse 8 the perversion of justice resulted from familiarity between litigant and judge; here it issues from estrangement.

THE AGRICULTURAL PRESCRIPTIONS
(vv. 10–13a)

10–11. Concern for the unfortunates of society links these verses with the topic of verses 6–9 and 12–13.

let it rest and lie fallow Note the concern for wildlife as well as for the poor.

7. Only here does the Torah go beyond prohibiting an act and command us to distance ourselves from it. The Sages go to great lengths to explore the ways in which falsehood can infiltrate our thinking.

9. having yourselves been strangers Nathan deduced from this that we must not reproach another with our own faults (Mekh.).

11. The land of Israel is seen as different from other lands. It is a sacred space, the ap-

HALAKHAH L'MA'ASEH

23:5. of your enemy Noting that the parallel provision in Deut. 22:4 speaks of the fallen animal of one's friend, the Sages required that one tend first to the animal of one's enemy so as “to subdue one's evil inclination” (BT BM 32b).

23:7. Keep far from a false charge See *Halakhah l'Ma'aseh* on Exod. 23:1; Lev. 19:36.

¹²Six days you shall do your work, but on the seventh day you shall cease from labor, in order that your ox and your ass may rest, and that your bondman and the stranger may be refreshed.

¹³Be on guard concerning all that I have told you. Make no mention of the names of other gods; they shall not be heard on your lips.

¹⁴Three times a year you shall hold a festival for Me: ¹⁵You shall observe the Feast of Unleavened Bread—eating unleavened bread for seven days as I have commanded you—at the set time in the month of Abib, for in it you went forth from Egypt; and none shall appear before

שֵׁשֶׁת יָמִים תַּעֲשֶׂה מַעֲשֶׂיךָ וּבַיּוֹם
הַשְּׁבִיעִי תִשְׁבֹּת לְמַעַן יָנוּחַ שׂוֹרְךָ וְחֹמְרְךָ
וַיִּנְפֹּשׂ בֶּן־אֲמָתֶךָ וְהַגֵּר:

וּבְכָל אֲשֶׁר־אָמַרְתִּי אֵלֵיכֶם תִּשְׁמְרוּ
וְשֵׁם אֱלֹהִים אֲחֵרִים לֹא תִזְכְּרוּ לֹא
יִשְׁמַע עַל־פִּיךָ:

שְׁלֹשׁ רְגָלִים תַּחֲג לִי בַשָּׁנָה: ¹⁵ אֶת־חַג
הַמִּצּוֹת תִּשְׁמֹר שִׁבְעַת יָמִים תֹּאכַל
מִצֹּת כֶּאֱשֶׁר צִוִּיתְךָ לְמוֹעֵד הַדָּשׁ הָאֲבִיב
כִּי־בּו יֵצְאָתָּ מִמִּצְרַיִם וְלֹא־יֵרָאוּ פָנַי

12. in order that . . . may rest This expands on the motivation expressed in the commandment concerning *Shabbat* in 20:10.

OBLIGATIONS TO GOD (vv. 13b–19)

13. The first clause closes the preceding legislation, which concentrates on human relationships. The second clause opens the final section of the Book of the Covenant, focusing on obligations to God. The prohibition against mentioning the names of pagan gods is relevant because the rest of the section deals with celebrations of the seasonal cycle. The Israelites and their neighbors had seasonal festivals celebrating harvests at the same time of the year. This section thus begins by prohibiting the mention of names of gods, to emphasize that Israel's festivals must be devoted to Israel's God alone. Note the emphatic "festival for Me" in the next verse, meaning "for Me exclusively."

The Religious Calendar (vv. 14–17)

These verses present the three agricultural festivals that form the core of Israel's sacred calendar. *Rosh ha-Shanah*, *Yom Kippur*, and the *Pesah* sacrifice do not appear here because they are not rooted in the life of the soil. Israel's festivals are distinctive in being both celebrations of history and acknowledgments of God's bounty.

Thus, for example, the commemoration of the Exodus is interwoven with agricultural elements. Each festival is called *hag*, a term that indicates that the festival involves an obligatory pilgrimage to a sanctuary. The same meaning endures in the Muslim institution of the *haj*, the religious duty to make a pilgrimage to Mecca. The sequence of festivals listed here conforms to the rule of 12:2 that the religious year begins with the spring.

14. Three times Hebrew: *shalosh r'galim*, synonymous with "*shalosh p'amim*" in verse 17. In postbiblical Hebrew, "*shalosh r'galim*" began to signify the three pilgrimage festivals. The singular of *r'galim* is *regel*, literally "foot"; it became interchangeable with *hag*, "festival," and came to be used for a pilgrimage in general.

for Me Exclusively.

15. Feast of Unleavened Bread That is, the beginning of the barley harvest. *Pesah* day, with the offering of the paschal lamb on the eve of the fourteenth of the month, is not mentioned here because it was not originally celebrated as an agricultural festival.

as I have commanded you In Exod. 12:14–20.

Abib Literally, "barley ear." It was renamed Nisan in postexilic times.

you went forth The agricultural festival is invested with historical significance.

appropriate place for a special people to lead a special way of life. Just as a sacred people deserves a *Shabbat*, so does this consecrated Land. Other

places on earth may tolerate depraved behavior, but the Land of Israel will spew out people who behave immorally within its boundaries.

HALAKHAH L'MA'ASEH

23:12. ox . . . and the stranger may be refreshed One is obligated to make sure that one's family, workers, and animals can also refrain from work on *Shabbat* (see also Exod. 20:10).

Me empty-handed; ¹⁶and the Feast of the Harvest, of the first fruits of your work, of what you sow in the field; and the Feast of Ingathering at the end of the year, when you gather in the results of your work from the field. ¹⁷Three times a year all your males shall appear before the Sovereign, the LORD.

¹⁸You shall not offer the blood of My sacrifice with anything leavened; and the fat of My festal offering shall not be left lying until morning.

¹⁹The choice first fruits of your soil you shall bring to the house of the LORD your God.

You shall not boil a kid in its mother's milk.

²⁰I am sending an angel before you to guard you on the way and to bring you to the place

ריקם: ¹⁶ וְחַג הַקְצִיר בְּפֹרֵי מַעֲשֵׂיךָ אֲשֶׁר תִּזְרַע בְּשָׂדֶה וְחַג הָאָסֹף בְּצִאת הַשָּׂדֶה בְּאֶסְפָּךָ אֶת־מַעֲשֵׂיךָ מִן־הַשָּׂדֶה: ¹⁷ שְׁלֹשׁ פְּעָמִים בַּשָּׁנָה יֵרָאֶה כָּל־זְכוּרְךָ אֶל־פְּנֵי הָאֲדֹנָי יְהוָה:

¹⁸ לֹא־תִזְבַּח עַל־חֲמֹץ דָּם־זֹבְחֵי וְלֹא־יִלִּין חֶלֶב־חַגֵי עַד־בֹּקֶר:

¹⁹ וְרֵאשִׁית בְּפֹרֵי אֲדָמְתְךָ תָּבִיא בֵּית יְהוָה אֱלֹהֶיךָ

לֹא־תִבְשֹׁל גְּדִי בְּחֶלֶב אִמּוֹ: ס

²⁰ הִנֵּה אֲנֹכִי שֹׁלַח מַלְאַךְ לְפָנֶיךָ לְשַׁמְרְךָ בַּדֶּרֶךְ וְלְהַבְיֵאֲךָ אֶל־הַמָּקוֹם אֲשֶׁר

empty-handed Without bringing the appropriate offerings.

16. Feast of the Harvest This is better known as “Feast of Weeks,” *Shavuot*.

According to Lev. 23:15–16, it falls on “the day after the seventh week—fifty days” from “the day after the sabbath” of *Pesah* (which is interpreted by the Sages as the first day of *Pesah*).

Feast of Ingathering Also known as *Sukkot*. The name here derives from the harvest and thanksgiving character of the festival—the celebration of the final ingathering of the yield of the fields and orchards and its storage in barns before the onset of the rainy season.

at the end of the year At the close of the agricultural year.

17. all your males The passages in Deuteronomy (16:11,14) that include women and children among those who are to appear “before the LORD” represent a later practice.

Sovereign The word translated as “Sovereign” (*adon*) literally means “master” and often was used as a royal title. It is applied to God as sovereign of the universe to whom all Creation is subordinate and to whom all owe homage.

19. a kid in its mother's milk This rule is stated twice more in the Torah (Exod. 34:26 and Deut. 14:21). In Deuteronomy, the prohibition appears in the context of the dietary laws, but the two sources in Exodus indicate that its origin lies in the overall context of the festivals. Many scholars, medieval and modern, follow the suggestion of Maimonides that this law prohibits a pagan rite, although no such rite is known.

RENEWAL OF THE DIVINE PROMISES

(vv. 20–33)

20. an angel See Comment to 3:2.

place that I have made ready Apparently, a reference to the land of Canaan.

19. a kid in its mother's milk Consistent with its view that eating meat is a compromise (see Gen. 9:3–5), the Torah forbids eating the flesh of the animal together with the milk that was meant to sustain it.

20. I am sending an angel before you That

is, know that your journey is divinely guided. That knowledge will enable you to overcome the hardships of the journey, knowing that you are following a divine purpose in your wanderings. According to one interpretation, the angel (*mal-akh*) will not be a supernatural creature

HALAKHAH L'MA'ASEH

23:19. You shall not boil a kid in its mother's milk Expanding on this verse, Jewish law prohibits preparing, eating, serving, or benefiting from a mixture of meat and dairy together. Separate utensils are used for cooking and serving meat and dairy foods. One rinses the mouth, and some wait one half hour after eating dairy before eating meat; one waits three hours or six hours after eating meat before eating dairy, according to variant regional customs.

that I have made ready. ²¹Pay heed to him and obey him. Do not defy him, for he will not pardon your offenses, since My Name is in him; ²²but if you obey him and do all that I say, I will be an enemy to your enemies and a foe to your foes.

²³When My angel goes before you and brings you to the Amorites, the Hittites, the Perizzites, the Canaanites, the Hivites, and the Jebusites, and I annihilate them, ²⁴you shall not bow down to their gods in worship or follow their practices, but shall tear them down and smash their pillars to bits. ²⁵You shall serve the LORD your God, and He will bless your bread and your water. And I will remove sickness from your midst. ²⁶No woman in your land shall miscarry or be barren. I will let you enjoy the full count of your days.

²⁷I will send forth My terror before you, and

הַכֹּנְתִי: ²¹הַשָּׁמֵר מִפְּנֵי וְשָׁמַע בְּקֹלוֹ אֶל-תִּמְרָר בּוֹ כִּי לֹא יִשָּׂא לְפִשְׁעֵכֶם כִּי שְׁמִי בְּקִרְבּוֹ: ²²כִּי אִם-שָׁמוֹעַ תִּשְׁמָע בְּקֹלוֹ וְעָשִׂיתָ כָּל אֲשֶׁר אֲדַבֵּר וְאִיבֹתַי אֶת-אִיבֵיךָ וְצָרְתִי אֶת-צָרֶיךָ:

²³כִּי-יֵלֶךְ מִלְּאֲכִי לִפְנֵיךָ וְהֵבִיאוֹךָ אֶל-הָאֱמֹרִי וְהַחִתִּי וְהַפְּרִזִּי וְהַכְּנַעֲנִי הַחִוִּי וְהִיבוֹסִי וְהַכְּחַדְתִּינוּ: ²⁴לֹא-תִשְׁתַּחֲוֶה לְאֱלֹהֵיהֶם וְלֹא תַעֲבֹדֵם וְלֹא תַעֲשֶׂה כַּמַּעֲשִׂיהֶם כִּי הָרַסְתָּ תְהַרְסֵם וְשִׁבַּר תִּשְׁבַּר מִצְבֹּתֵיהֶם: ²⁵וְעַבַדְתֶּם אֶת יְהוָה אֱלֹהֵיכֶם וּבִרְךָ אֶת-לֶחְמְךָ וְאֶת-מִימֶיךָ וְהִסְרֹתִי מִחִלָּה מִקְרַבְךָ: ²⁶לֹא תִהְיֶה מִשְׁכָּלָה וְעֵקְרָה בְּאַרְצְךָ אֶת-מִסְפַּר יְמֶיךָ אֲמַלֵּא:

²⁷אֶת-אִימְתִּי אֲשַׁלַּח לִפְנֵיךָ וְהִמַּתִּי אֶת-

שביעי

21. My Name is in him The divine will and power manifests itself through this Heaven-sent messenger (see 14:19).

22. Similar statements are found in a number of peace treaties from the ancient Near East.

24. Worshiping their gods is forbidden, as is adopting their religious practices—even in the service of the God of Israel. All objects used in their worship are to be destroyed.

pillars The Hebrew word *matzevah* (plural *matzevot*) derives from the stem meaning “to stand” (נצב). It refers to a single, upright slab of stone. Believed to be the dwelling of a divinity or spirit, it often was seen as an object of religious worship and, therefore, was considered to be idolatrous by Israelite religion (cf. Gen. 28:18; Exod. 24:4).

27. My terror That is, He will cause the enemy to be struck with terror.

but a human prophet to guide Israel on its path and keep the people from straying (Mekh. of bar Yohai).

25. He will bless The verse can also be read, “and you shall bless.” From this reading the Sages derived the obligation for each of us to offer a blessing over food before eating it (BT Ber. 48b). The Sages go so far as to say that anyone who enjoys the goods of this world without thanking God for them is like a thief.

remove sickness from your midst The “sickness” of dissatisfaction. By following God’s ways, we are cured of the “disease” of envying others who happen to have more material possessions than we do.

26. No woman in your land shall miscarry

Here and in several other passages (e.g., Lev. 26:3ff.), the Torah promises health and prosperity as a reward for living an observant life. Yet, too often we see that health, wealth, and fertility are not the lot of the religiously committed. Because the Torah is here addressing members of the young Israelite nation, so new to freedom and responsibility, it is understandable that the message is couched in the idiom they can understand best, so that matters of right and wrong are explained in terms of reward and punishment, even as one would speak to young children. By the time of the Talmud, however, the Sages would acknowledge, “We cannot account for the sufferings of the righteous” (M Avot 4:15).

I will throw into panic all the people among whom you come, and I will make all your enemies turn tail before you. ²⁸I will send a plague ahead of you, and it shall drive out before you the Hivites, the Canaanites, and the Hittites. ²⁹I will not drive them out before you in a single year, lest the land become desolate and the wild beasts multiply to your hurt. ³⁰I will drive them out before you little by little, until you have increased and possess the land. ³¹I will set your borders from the Sea of Reeds to the Sea of Philistia, and from the wilderness to the Euphrates; for I will deliver the inhabitants of the land into your hands, and you will drive them out before you. ³²You shall make no covenant with them and their gods. ³³They shall not remain in your land, lest they cause you to sin against Me; for you will serve their gods—and it will prove a snare to you.

כָּל-הָעַם אֲשֶׁר תָּבֵא בָהֶם וְנָתַתִּי אֶת-
כָּל-אֵיבֶיךָ אֵלֶיךָ עֶרְףָּ: ²⁸ וְשָׁלַחְתִּי אֶת-
הַצִּרְעָה לְפָנֶיךָ וְגִרְשָׁה אֶת-הַחִוִּי אֶת-
הַכְּנַעֲנִי וְאֶת-הַחִתִּי מִלְּפָנֶיךָ: ²⁹ לֹא
אֶגְרְשֶׁנּוּ מִפְּנֶיךָ בְּשָׁנָה אַחַת פֶּן-תִּהְיֶה
הָאָרֶץ שְׂמֵמָה וְרֵבָה עָלֶיךָ חַיַּת הַשָּׂדֶה:
³⁰ מֵעַט מְעַט אֶגְרְשֶׁנּוּ מִפְּנֶיךָ עַד אֲשֶׁר
תִּפְרָה וְנִחַלְתָּ אֶת-הָאָרֶץ: ³¹ וְשָׂתִי אֶת-
גְּבֻלְךָ מִיַּם-סוּף וְעַד-יָם פְּלִשְׁתִּים
וּמִמִּדְבָּר עַד-הַנָּהָר כִּי אֶתֶּן בְּיַדְכֶם
אֶת יֹשְׁבֵי הָאָרֶץ וְגִרְשָׁתֶמוּ מִפְּנֶיךָ:
³² לֹא-תִכְרַת לָהֶם וְלֵאלֹהֵיהֶם בְּרִית:
³³ לֹא יֵשְׁבוּ בְּאֶרְצְךָ פֶּן-יִחַטִּיאוּ אֶתְךָ לִי
כִּי תַעֲבֹד אֶת-אֱלֹהֵיהֶם כִּי-יִהְיֶה לְךָ
לְמוֹקֵשׁ: פ

24 Then He said to Moses, “Come up to the LORD, with Aaron, Nadab and Abihu, and

כד וְאֶל-מֹשֶׁה אָמַר עֲלֶה אֶל-יְהוָה וְאֶתְּהוּ וְאֶהֱרֹן נָדָב וְאַבִּיהוּא וְשִׁבְעִים

throw into panic The effect of the “terror.”
31. The ideal boundaries of the Land are set forth. At no time in Israelite history, even at the height of the Davidic-Solomonic empire, were these boundaries a reality. They are believed to have their origin in the pre-Israelite Egyptian province of Canaan, which included Palestine and Syria as a single political and geographic entity.
Sea of Reeds Here, undoubtedly, the Gulf of Elat (also known as the Gulf of Aqaba).
Sea of Philistia The Mediterranean Sea.
the wilderness Probably a general term for the desert and the steppes.
32–33. The Covenant demands exclusive recognition of YHVH as the sovereign king to whom is owed uncompromising loyalty. Hence,

a warning against making covenants with the inhabitants is appropriate.
POPULAR ASSENT (24:1–11)
The very first step in the centuries-long process of canonizing the Torah literature (considering it binding as the word of God) is recorded in 19:8: “All that the LORD has spoken we will do!” Then Moses reiterated the commandments orally to the entire people assembled at the foot of Mount Sinai. Having heard the stipulations, they now bind themselves vocally, using the same formula of affirmation as before (24:3).
1. Then He said to Moses This emphasizes that the instruction here pertains only to Moses and not to the assembled Israelites.
Nadab and Abihu Their abrupt introduc-

31. you will drive them out The young nation, still struggling to form its identity as God’s covenanted people, remained too vulnerable to the temptations of paganism.

Later in Israelite and Jewish history, the people will gain much from the nations in whose midst they live—and will teach them much as well.

seventy elders of Israel, and bow low from afar.
²Moses alone shall come near the LORD; but the others shall not come near, nor shall the people come up with him.”

³Moses went and repeated to the people all the commands of the LORD and all the rules; and all the people answered with one voice, saying, “All the things that the LORD has commanded we will do!” ⁴Moses then wrote down all the commands of the LORD.

Early in the morning, he set up an altar at the foot of the mountain, with twelve pillars for the twelve tribes of Israel. ⁵He designated some young men among the Israelites, and they offered burnt offerings and sacrificed bulls as

מִזְקְנֵי יִשְׂרָאֵל וְהִשְׁתַּחֲוִיתֶם מֵרֶחֶק׃
² וַנִּגַּשׁ מֹשֶׁה לְבַדּוֹ אֶל־יְהוָה וְהֵם לֹא יִגָּשׁוּ וְהָעָם לֹא יַעֲלוּ עִמּוֹ׃

³ וַיָּבֵא מֹשֶׁה וַיְסַפֵּר לָעָם אֶת כָּל־דִּבְרֵי יְהוָה וְאֵת כָּל־הַמִּשְׁפָּטִים וַיַּעַן כָּל־הָעָם קוֹל אֶחָד וַיֹּאמְרוּ כָּל־הַדְּבָרִים אֲשֶׁר־דִּבֶּר יְהוָה נַעֲשֶׂה׃ ⁴ וַיִּכְתֹּב מֹשֶׁה אֶת כָּל־דִּבְרֵי יְהוָה

וַיִּשְׁכֵּם בַּבֹּקֶר וַיִּבֶן מִזְבֵּחַ תַּחַת הַהָר וּשְׁתֵּי עָשָׂר מִצְבֵּה לְשָׁנִים עָשָׂר שִׁבְטֵי יִשְׂרָאֵל׃ ⁵ וַיִּשְׁלַח אֶת־יְנֵעֲרֵי בְנֵי יִשְׂרָאֵל וַיַּעֲלוּ עֹלֹת וַיִּזְבְּחוּ זִבְחִים שְׁלָמִים לַיהוָה

tion without any prior description or identification presupposes knowledge of Aaron’s genealogy, given in 6:23.

bow low from afar This idiom is found in ancient Near Eastern letters to royalty, suggesting a conventional courtesy on the part of a vassal who bows repeatedly as he approaches, starting at a distance from the suzerain’s presence.

2. Moses alone Mount Sinai is divided into three zones, each of which has restricted access. Moses alone reaches the summit; a site partway up is reserved for Aaron and his delegation; the people are confined to the foot of the mountain.

3. commands . . . rules The Hebrew words—*d’varim* and *mishpatim*, respectively—distinguish the two types of laws in the foregoing legal code. The “commands” are those formulated in concise, categorical style (“You shall”), including the Decalogue and the bulk of 22:17–23:19. Their enforcement is left to God. The “rules” or “enactments” contained in 21:1–22:16, are given in conditional style (“If” or “When”) and are to be enforced by the state and the law courts.

4. wrote down This is the document termed “the record of the covenant” (*seifer ha-b’rit*) in

verse 7 (see introduction to chapter 21 and Comment to 24:7). Setting down the terms of the covenant in writing was an essential part of the ratification process of treaties in the ancient Near East. It made the treaty a legal reality.

set up an altar Doubtless in accord with the provisions of 20:21. This altar was not only the site for sacrifices (v. 5) but also was the symbolic locus of the divine Presence, just as the 12 pillars represented the other party to the contract: the 12 tribes.

twelve pillars It is likely that dashing the blood “on the people” described in verse 8 meant sprinkling it over the pillars. In Gen. 31:45–54 an upright pillar served as a silent witness to a treaty between Jacob and Laban.

5. young men The strenuous task of slaughtering bulls and preparing them for the altar could be accomplished only by young men.

they offered The two types of sacrifice are burnt offerings (*olah*) and offerings of well-being (*sh’lamim*). The first was wholly consumed by fire on the altar. The second was shared, certain parts being burnt and the remainder eaten by the worshipers in a sacred meal.

CHAPTER 24

3. All the commands . . . and all the rules All rules of the just society have the same divine origin as the Decalogue (Mekh. of bar Yoḥai). In the 1st century, recitation of the Decalogue was part of the daily prayer service. This was dropped from the service “because of the arguments of sectarians,” perhaps early

Christians, who claimed that only the Ten Commandments were divinely ordained and that the other rules could be ignored because they were of human origin. “No one Jew can fulfill all the commandments of the Torah. Some are directed only to *kohanim* (priests), some to women, some to farmers in the Land of Israel. Only all Jews together can do God’s will completely” (Vilna Gaon).

offerings of well-being to the LORD.⁶ Moses took one part of the blood and put it in basins, and the other part of the blood he dashed against the altar.⁷ Then he took 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!”⁸ Moses took the blood and dashed it on the people and said, “This is the blood of the covenant that the LORD now makes with you concerning all these commands.”

⁹Then Moses and Aaron, Nadab and Abihu, and seventy elders of Israel ascended;¹⁰ and they saw the God of Israel: under His feet there was the likeness of a pavement of sapphire, like the

פָּרִים: ⁶ וַיִּקַּח מֹשֶׁה חֲצֵי הַדָּם וַיִּשֶׂם בְּאֵגָנֹת וְחֲצֵי הַדָּם זָרַק עַל-הַמִּזְבֵּחַ: ⁷ וַיִּקַּח סֵפֶר הַבְּרִית וַיִּקְרָא בְּאָזְנֵי הָעָם וַיֹּאמְרוּ כָּל אֲשֶׁר-דִּבֶּר יְהוָה נַעֲשֶׂה וְנִשְׁמָע: ⁸ וַיִּקַּח מֹשֶׁה אֶת-הַדָּם וַיִּזְרַק עַל-הָעָם וַיֹּאמֶר הִנֵּה דָם-הַבְּרִית אֲשֶׁר כָּרַת יְהוָה עִמָּכֶם עַל כָּל-הַדְּבָרִים הָאֵלֶּה:

⁹ וַיַּעַל מֹשֶׁה וְאַהֲרֹן נָדָב וַאֲבִיהוּא וְשִׁבְעִים מִזְקְנֵי יִשְׂרָאֵל: ¹⁰ וַיִּרְאוּ אֶת אֱלֹהֵי יִשְׂרָאֵל וַתַּחַת רַגְלָיו כִּמְעֵשֶׂה לְבִנְת

6. The blood of the *olah* and the *sh’lamim* always was collected and dashed against the sides of the altar. Here Moses performs this standard ritual with only part of the blood (literally, “half the blood”); he stored the other half in basins for sprinkling on the people later (v. 8). The two halves were for the two parties to the covenant, God and the people Israel. The use of blood in a covenant is not found elsewhere in the Bible. The ordination of Aaron as High Priest (Lev. 8:23) also involved daubing blood of the sacrificial lamb of ordination on parts of his body and on the altar. It is possible that blood in both these ceremonies—covenant and ordination—functions mysteriously to cement the bond between the involved parties. It is also possible that its function was purgation, intended to keep impurity at bay.

basins Hebrew: *aggan* (singular); a large and deep two-handed bowl.

7. record of the covenant Public reading and popular assent were necessary elements of the ratification process. Some ancient Near Eastern treaties required periodic public recital before the vassal and his people, as does the Torah in Deut. 31:10–13.

we will faithfully do Because this is the last act of public participation, the formula of consent in verse 3 is expanded to give it finality.

8. concerning all these commands The essence of the Covenant is obedience to the laws of the Torah.

10. God of Israel The name befits the context of the special relationship now being forged between God and Israel.

7. we will faithfully do The literal meaning of the two words *na-aseh v’nishma* is “we will do and we will obey.” This famous reply represents the Israelites’ faithful acceptance of their role as God’s chosen people. The Sages were impressed by the eagerness with which the Israelites accepted the burdens of being God’s people and following God’s laws. To say “I will do” even before one understands is to say, “I have faith that God will lead me in the proper path.” According to a talmudic legend, the angels were so impressed with this show of faith that they came down from heaven and placed two crowns on the head of each Israelite, one for doing (*na-aseh*) and one for obeying, or seeking to understand (*v’nishma*). The Israelites could have responded, as most would today, “We will seek to understand and, if we are

persuaded, we will agree to do them.” Instead, having met God in Egypt, at the sea, and at Mount Sinai, the Israelites trusted that God’s demands would be reasonable and in their best interest. Just as we accept medicine from our physician on trust, without understanding what it is or how it works, and commit ourselves to marriage, to parenthood, and to a career as acts of faith before we fully understand what they entail, so too the Israelites accepted God’s will. There are many things in life that we cannot appreciate before we have lived them and come to appreciate their value. We must do them first (*na-aseh*) and only afterward realize why (*nishma*).

10. they saw the God of Israel What does this strange passage mean? Could it be that 70 elders “saw” God, while “eating and drink-

very sky for purity. ¹¹Yet He did not raise His hand against the leaders of the Israelites; they beheld God, and they ate and drank.

¹²The LORD said to Moses, “Come up to Me on the mountain and wait there, and I will give you the stone tablets with the teachings and commandments which I have inscribed to instruct them.” ¹³So Moses and his attendant Joshua arose, and Moses ascended the mountain of God. ¹⁴To the elders he had said, “Wait here for us until we return to you. You have Aaron and Hur with you; let anyone who has a legal matter approach them.”

¹⁵When Moses had ascended the mountain,

pavement of sapphire A decorative floor area of covered bricks or tiles. What is meant by the Hebrew word *sappir*, rendered “sapphire,” is not the modern blue gemstone (corundum), which was unknown in the ancient Near East, but the widely used, deep blue lapis lazuli (see also Ezek. 1:26, describing the throne of God).

11. did not raise His hand They survived the experience.

they beheld God Verse 10 has already told us that “they saw the God of Israel.” The repetition here points up the extraordinary nature of the experience.

they ate and drank This describes a formal part of the ceremony, concluding the Covenant.

MOSES RECEIVES THE TABLETS (vv. 12–18)

These verses prepare us for the account of the building of the tabernacle and the episode of the Golden Calf.

12. Come up to Me Either Moses had de-

הַסְפִיר וּבְעֵצָם הַשָּׁמַיִם לְטָהָר: ¹¹ וְאֶל-
אֲצִילָי בְנֵי יִשְׂרָאֵל לֹא שָׁלַח יָדוֹ וַיַּחְזֹו
אֶת-הָאֱלֹהִים וַיֹּאכְלוּ וַיִּשְׁתּוּ: ס

¹² וַיֹּאמֶר יְהוָה אֶל-מֹשֶׁה עֲלֵה אֵלַי הַהָרָה
וְהִי-שָׁם וְאֶתְנָה לְךָ אֶת-לַחַת הָאֲבָן
וְהַתּוֹרָה וְהַמִּצְוָה אֲשֶׁר כָּתַבְתִּי לְהוֹרָתָם:
¹³ וַיָּקָם מֹשֶׁה וַיְהוֹשֻׁעַ מִשְׁרָתוֹ וַיַּעַל מֹשֶׁה
אֶל-הָר הָאֱלֹהִים: ¹⁴ וְאֶל-הַזְּקֵנִים אָמַר
שְׁבוּ-לָנוּ כִּזְה עַד אֲשֶׁר-נָשׁוּב אֵלֵיכֶם
וְהָיָה אֶהְרֶן וְחֹור עִמָּכֶם מִיַּבֵּעַל דְּבָרִים
יִגַּשׂ אֲלֵהֶם:

¹⁵ וַיַּעַל מֹשֶׁה אֶל-הָהָר וַיִּכַּס הָעָנָן אֶת-

scended with the entire delegation and is now instructed to ascend once again, or he is still on the mountain and is directed to ascend to its highest level. The former is favored by verses 13–14, which imply that he has been down among the people. The latter is supported by the parallel account in Deut. 5:28 in which Moses is told, “But you remain here with Me.” Two strands of tradition appear to have been interwoven here in this account.

stone tablets This follows the widespread Near Eastern practice of recording important public documents, particularly treaties, on imperishable materials.

13. mountain of God The site is identified as Mount Sinai in verse 16.

14. for us Even though only Moses is mentioned in verses 13 and 15, the plural used here (*lanu*) indicates that Joshua too had ascended to a certain level.

Hur See Comment to 17:10.

ing”? What happens to people who experience the presence of God in an unusually intense and vivid way? The Talmud chooses not to take the passage literally, understanding it to mean that experiencing God took the place of eating and drinking for these elders, as it did for Moses during his 40 days on the mountain-top. In the presence of God, ordinary physical needs are transcended, and one forgets about the need to eat and drink. In a similar vein, Maimonides maintains that “seeing God” refers to intellectual perception rather than sen-

sory experience. They did not actually see anything; they came to understand the reality of God more clearly (as one might say, “I see”). The references to eating and drinking may be the Torah’s way of suggesting that the encounter with God was more than an intellectual encounter; it engaged all of the senses. Or it may reflect the anti-ascetic side of Judaism: We need not turn our back on the material experience of this world in the quest for God’s presence. God may be found in eating and drinking as readily as in praying.

the cloud covered the mountain. ¹⁶The Presence of the LORD abode on Mount Sinai, and the cloud hid it for six days. On the seventh day He called to Moses from the midst of the cloud. ¹⁷Now the Presence of the LORD appeared in the sight of the Israelites as a consuming fire on the top of the mountain. ¹⁸Moses went inside the cloud and ascended the mountain; and Moses remained on the mountain forty days and forty nights.

16. Presence Hebrew: *kavod*; the glory or majesty of God, a manifest Presence. See Comment to 16:7.

six days. On the seventh day This is an example of a well-known literary convention—the climactic use of numbers. It appears in ancient Near Eastern literature and often in the Bible. An action continues for six consecutive days, and

then a new event will occur on the seventh. Here the six days are probably intended for spiritual preparation.

18. forty days and forty nights Repeated several times in the Bible. The number 40 often is used as a symbolic number, and 40 days expresses a significant period of time, frequently connected with purification and purging of sin.

מפטיר הָהָר׃ ¹⁶ וַיִּשְׁכַּן כְּבוֹד־יְהוָה עַל־הַר סִינַי וַיִּכְסֶהוּ הָעָנָן שֵׁשֶׁת יָמִים וַיִּקְרָא אֶל־מֹשֶׁה בַּיּוֹם הַשְּׁבִיעִי מִתּוֹךְ הָעָנָן׃ ¹⁷ וּמִרְאֵה כְבוֹד יְהוָה כַּאֲשֶׁר אִכְלַת בְּרֹאשׁ הָהָר לְעֵינַי בְּנֵי יִשְׂרָאֵל׃ ¹⁸ וַיָּבֹא מֹשֶׁה בְּתוֹךְ הָעָנָן וַיַּעַל אֶל־הָהָר וַיְהִי מֹשֶׁה בְּהָר אַרְבָּעִים יוֹם וְאַרְבָּעִים לַיְלָה׃ פ

הַפְּטָרָה מִשְׁפָּטִים

HAFTARAH FOR MISHPATIM

JEREMIAH 34:8–22, 33:25–26

The final siege of Jerusalem, begun in 588 B.C.E. by Nebuchadnezzar, king of Babylon, is the historical setting of the *haftarah*. Jeremiah 34 opened with Jeremiah's prophetic word to King Zedekiah of Judah that Jerusalem would fall. The king, prompted perhaps by the national threat, had ordered the release of male and female slaves (vv. 8–9). A practical benefit of this release would have been the addition of manpower for the defense of Jerusalem. Slave owners had initially complied with this edict, but then "forced them into slavery again" (vv. 10–11).

This reversal may have taken place during a respite between sieges, after the Babylonian withdrawal (v. 22), which was due in part to the Babylonian fear of an Egyptian attack on its rear flank. Biblical sources indicate the makings of an alliance between the Egyptians and the Israelites against the Babylonians (Ezek. 17:11–18). The Egyptian support proved ineffective (Ezek. 30:20–21), and Nebuchadnezzar soon returned to the walls of Jerusalem. Jeremiah envisioned this turn of events (Jer. 37:8), and proclaimed it as God's judgment for the people's violation of the decree to free slaves (34:13–22). A final word of hope envisions reconciliation between Israel and God (33:25–26), but only after the "desolation" (34:22).

The *haftarah* focuses on three "covenants." The first covenant is made between the people and Zedekiah, in the present, for the release of Hebrew slaves. The second is that made between God and Israel at Mount Sinai, in the past, after they were delivered from Egyptian bondage. The third is God's "covenant with day and night" (Jer. 33:25), in token of which He promises never to reject the offspring of Jacob and even promises to restore them in love.

These three covenants comprise Israel's present, past, and future; the second and third evoke Creation, Revelation, and Redemption. Revela-

tion and its consequences stand at the center of the *haftarah* (Jer. 34:8–22), while Creation and Redemption are the two poles of the concluding verses (33:25–26). There the language is that of a unilateral oath, because God acts alone as the sovereign agent in Creation and Redemption. By contrast, because God and Israel are partners in the covenant's Revelation, the passage from Jer. 34 reflects bilateral accountability and judgment. It is full of wordplays that underscore the inherent link between sin and punishment.

Variations on the verb *shuv* bring this dynamic into focus. Jeremiah points out that the slaveholders who properly "turned about" (*va-tashuvu*) and released their slaves have now "turned back" (*va-tashuvu*) and "brought back" (*va-tashivu*) the freed people into slavery again (vv. 15–16), thus violating the covenant (v. 18). As a result, God will "bring . . . back" (*va-hashivotim*) the Babylonian host to besiege and destroy the towns of Judah and all their inhabitants (v. 22).

A prophetic counterpoint reverses this bleak conclusion, for the language of promise precisely echoes the terms of judgment. God swears that His allegiance to Israel will endure as the "laws of heaven and earth"—and that He "will restore" (*ashiv*) the "fortunes" (*sh'vutam*) of the nation, taking them back in love. Throughout the *haftarah*, the term *shuv* serves as a leitmotif of the ongoing relationship between God and Israel in history. For the prophet, the covenant with God has conditions and consequences. Ultimately, however, God's love transcends them both. And just this, in the end, is the healing consolation of the *haftarah*.

RELATION OF THE HAFTARAH TO THE PARASHAH

The *parashah* and the *haftarah* are linked by their citation of rules that deal with the liberation of

Hebrew slaves. The divine concern to limit debt bondage is an expression of the Bible’s overall concern for human dignity rooted in economic freedom. Virtually all the Torah’s rules of slavery, debts, and indenture complicate or frustrate the desire for economic enrichment at the expense of other persons (see Exod. 21:2–6, 23:9–12; Lev. 25; Deut. 15). Toward this end, the rules repeat-

edly invoke the periodic restoration of land and release from debts. These social benefits, which derive from divine authority, depend on social enactment and enforcement. Jeremiah’s rebuke suggests that the people’s disregard for human freedom violates their ancient covenant with God, who “brought them out of . . . the house of bondage” (Jer. 34:13, see also Exod. 20:2).

34 ⁸The word which came to Jeremiah from the LORD after King Zedekiah had made a covenant with all the people in Jerusalem to proclaim a release among them—⁹that everyone should set free his Hebrew slaves, both male and female, and that no one should keep his fellow Judean enslaved.

¹⁰Everyone, officials and people, who had entered into the covenant agreed to set their male and female slaves free and not keep them enslaved any longer; they complied and let them go. ¹¹But afterward they turned about and brought back the men and women they had set free, and forced them into slavery again. ¹²Then it was that the word of the LORD came to Jeremiah from the LORD:

¹³Thus said the LORD, the God of Israel: I made a covenant with your fathers when I brought them out of the land of Egypt, the house of bondage, saying: ¹⁴“In the seventh year each of you must let go any fellow Hebrew who may be sold to you; when he has served you six years, you must set him free.” But your fathers would not obey Me or give ear. ¹⁵Lately you turned about and did what is proper in My sight, and each of you proclaimed a release to his coun-

לז
⁸הַדְבָר אֲשֶׁר-הָיָה אֶל-יִרְמְיָהוּ מֵאֵת יְהוָה אַחֲרֵי כְּרֹת הַמֶּלֶךְ צְדַקְיָהוּ בְּרִית אֶת-כָּל-הָעָם אֲשֶׁר בִּירוּשָׁלַם לְקַרְא לָהֶם דְּרוֹר: ⁹לְשַׁלַּח אִישׁ אִישׁ אֶת-עַבְדּוֹ וְאִישׁ אֶת-שִׁפְחָתוֹ הָעֵבְרִי וְהָעֵבְרִיָּה חֲפְשִׁים לְבַלְתִּי עַבְדֶּכֶם בִּיהוּדֵי אֶחָיו אִישׁ: ¹⁰וַיִּשְׁמְעוּ כָּל-הַשָּׂרִים וְכָל-הָעָם אֲשֶׁר-בָּאוּ בְּבְרִית לְשַׁלַּח אִישׁ אֶת-עַבְדּוֹ וְאִישׁ אֶת-שִׁפְחָתוֹ חֲפְשִׁים לְבַלְתִּי עַבְדֶּכֶם עוֹד וַיִּשְׁמְעוּ וַיִּשְׁלַחוּ: ¹¹וַיִּשׁוּבוּ אַחֲרֵי-כֵן וַיִּשְׁבוּ אֶת-הָעֵבְדִים וְאֶת-הַשִּׁפְחֹת אֲשֶׁר שָׁלְחוּ חֲפְשִׁים וַיִּכְבְּשׂוּם לְעֵבְדִים וְלִשְׁפָחוֹת: ¹²וַיְהִי דְבַר-יְהוָה אֶל-יִרְמְיָהוּ מֵאֵת יְהוָה לֵאמֹר: ¹³כֹּה-אָמַר יְהוָה אֱלֹהֵי יִשְׂרָאֵל אֲנֹכִי כְּרַתִּי בְרִית אֶת-אֲבוֹתֵיכֶם בַּיּוֹם הַזֶּה הוֹצֵאתִי אוֹתָם מֵאֶרֶץ מִצְרַיִם מִבֵּית עַבְדִים לֵאמֹר: ¹⁴מִקֵּץ שִׁבְעַת שָׁנִים תִּשְׁלַחוּ אִישׁ אֶת-אֶחָיו הָעֵבְרִי אֲשֶׁר-יָמַכְר לְךָ וְעַבְדְּךָ שֵׁשׁ שָׁנִים וְשִׁלַּחְתּוּ חֲפְשִׁי מֵעִמְךָ וְלֹא-שָׁמְעוּ אֲבוֹתֵיכֶם אֵלַי וְלֹא הִטּוּ אֶת-אָזְנָם: ¹⁵וַתִּשְׁבוּ אַתֶּם הַיּוֹם וַתַּעֲשׂוּ אֶת-הַיִּשָּׁר בְּעֵינַי לְקַרְא דְּרוֹר אִישׁ לְרַעְיוֹ

Jeremiah 34:8. to proclaim a release This idiom is also found in Lev. 25:10 in connection with the restitution of property and freedom in the jubilee year (see Ezek. 46:17). Zedekiah’s proclamation may thus be part of a sabbatical amnesty.

14. In the seventh year “That is to say, from the beginning of the seventh year” (Abravanel). For this phrase, see Deut. 15:1. Similarly, the legal terms in this verse (“fellow Hebrew,” “who may be sold to you,” “and set him free”) are Deuteronomical formulations (see Deut. 15:12–13,18).

trymen; and you made a covenant accordingly before Me in the House which bears My name. ¹⁶But now you have turned back and have profaned My name; each of you has brought back the men and women whom you had given their freedom, and forced them to be your slaves again.

¹⁷Assuredly, thus said the LORD: You would not obey Me and proclaim a release, each to his kinsman and countryman. Lo! I proclaim your release—declares the LORD—to the sword, to pestilence, and to famine; and I will make you a horror to all the kingdoms of the earth. ¹⁸I will make the men who violated My covenant, who did not fulfill the terms of the covenant which they made before Me, [like] the calf which they cut in two so as to pass between the halves: ¹⁹The officers of Judah and Jerusalem, the officials, the priests, and all the people of the land who passed between the halves of the calf ²⁰shall be handed over to their enemies, to those who seek to kill them. Their carcasses shall become food for the birds of the sky and the beasts of the earth. ²¹I will hand over King Zedekiah of Judah and his officers to their enemies, who seek to kill them—to the army of the king of Babylon which has withdrawn from you. ²²I hereby give the command—declares the LORD—by which I will bring them back against this city. They shall attack it and capture it, and burn it down. I will make the towns of Judah a desolation, without inhabitant.

וּתְכַרְתּוּ בְרִית לְפָנַי בְּבַיִת אֲשֶׁר-נִקְרָא שְׁמִי עָלָיו: ¹⁶ וּתָשׁוּבוּ וּתַחֲלִלוּ אֶת-שְׁמִי וּתָשׁוּבוּ אִישׁ אֶת-עַבְדּוֹ וְאִישׁ אֶת-שִׁפְחָתוֹ אֲשֶׁר-שַׁלַּחְתֶּם חֲפָזִים לְנַפְשָׁם וּתְכַבְּשׁוּ אֹתָם לְהִיּוֹת לָכֶם לְעַבְדִּים וּלְשִׁפְחֹת: ^ס

¹⁷ לְכֹן כֹּה-אָמַר יְהוָה אֱתֶם לֹא-שָׁמַעְתֶּם אֵלַי לְקִרְא דְרוֹר אִישׁ לְאָחִיו וְאִישׁ לְרֵעֵהוּ הִנְנִי קֹרֵא לָכֶם דְרוֹר נְאֻם-יְהוָה אֶל-הַחֹרֵב אֶל-הַדֹּבֵר וְאֶל-הָרָעֵב וְנָתַתִּי אֶתְכֶם לזוּעָה לזוּעָה לְכָל מַמְלָכוֹת הָאָרֶץ: ¹⁸ וְנָתַתִּי אֶת-הָאֲנָשִׁים הָעֹבְרִים אֶת-בְּרִיתִי אֲשֶׁר לֹא-הִקִּימוּ אֶת-דִּבְרֵי הַבְּרִית אֲשֶׁר כָּרְתוּ לְפָנַי הָעֵגֹל אֲשֶׁר כָּרְתוּ לְשָׁנִים וַיַּעֲבְרוּ בֵּין בְּתָרָיו: ¹⁹ שְׂרֵי יְהוּדָה וְשְׂרֵי יְרוּשָׁלַם הַסָּרְסִים וְהַכֹּהֲנִים וְכָל עַם הָאָרֶץ הָעֹבְרִים בֵּין בְּתָרֵי הָעֵגֹל: ²⁰ וְנָתַתִּי אוֹתָם בְּיַד אִיבֵיהֶם וּבְיַד מְבַקְשֵׁי נַפְשָׁם וְהִיתָה נְבִלָתָם לְמֵאֲכָל לְעוֹף הַשָּׁמַיִם וּלְבַהֲמַת הָאָרֶץ: ²¹ וְאֶת-צִדְקִיהוּ מֶלֶךְ-יְהוּדָה וְאֶת-שָׂרָיו אֶתֶן בְּיַד אִיבֵיהֶם וּבְיַד מְבַקְשֵׁי נַפְשָׁם וּבְיַד חֵיל מֶלֶךְ בָּבֶל הָעֹלִים מֵעֲלֵיכֶם: ²² הִנְנִי מְצַוֶּה נְאֻם-יְהוָה וְהַשְׁבַּתִּים אֶל-הָעִיר הַזֹּאת וְנִלְחַמוּ עָלֶיהָ וּלְכַדוּהָ וּשְׂרָפָהּ בָּאֵשׁ וְאֶת-עָרֵי יְהוּדָה אֶתֶן שְׂמָמָה מֵאֵין יָשׁב: ^פ

16. have profaned My name Jeremiah uses the verb for “profane” or “desecrate” (*hillul*) elsewhere with “land” as the object (Jer. 16:18). The verb is also frequently used with the divine name (see Lev. 18:21, 19:12) and in prophetic sources influenced by priestly traditions (cf. Ezek. 20:39, 36:20–23; Mal. 1:12). Here it refers to a desecration of the covenant performed “before Me in the House which bears My name” (v. 15). It may allude to an oath sworn by God’s name. From early rabbinic times, the phrase “*hillul ha-shem*”

has been used to indicate a desecration of God’s name consonant with disgracing the Jewish religion as such (Tosef. Yoma 5:8).

forced them The Hebrew verb used here (*kavash*) is a technical term for economic oppression (see Neh. 5:5). It can also be used to indicate the physical subjugation of land (Gen. 1:28) or of women (Esther 7:8).

18. [like] the calf This translation infers a comparison, much as if *ha-eigel* (the calf) were *ka-eigel* (like the calf). Near Eastern pacts threat-

33 ²⁵Thus said the LORD: As surely as I have established My covenant with day and night—the laws of heaven and earth—²⁶so I will never reject the offspring of Jacob and My servant David; I will never fail to take from his offspring rulers for the descendants of Abraham, Isaac, and Jacob. Indeed, I will restore their fortunes and take them back in love.

ened offenders with becoming “like” the animal whose parts were cut for the ceremony that established the agreement (see 1 Sam. 11:7). Moreover, parties to the agreement would often (actually or symbolically) “pass between” the animal

parts. Various terms in this verse echo God’s covenant with Abram (Gen. 15:9–10).

Jeremiah 33. The concluding consolation skips back to the preceding chapter, to end the prophetic message on a positive note.

לג ²⁵כֹּה אָמַר יְהוָה אֱלֹהֵי בְרִיתִי
 יוֹמָם וּלְיָלַיָּה חֻקֹּת שָׁמַיִם וָאָרֶץ לֹא-
 שָׁמַתִּי: ²⁶גַּם-זֶרַע יַעֲקֹב וְדָוִד עַבְדִּי
 אֶמְאַס מִקַּחַת מִזְרְעוֹ מִשְׁלֵיִם אֶל-זֶרַע
 אַבְרָהָם יִשְׁחַק וַיַּעֲקֹב כִּי-אֲשׁוּב אָשִׁיב
 אֶת-שְׁבוּתָם וְרַחֲמֵתִים: ט