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Retribution in Deuteronomy: Theology and Ethics

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Retribution in Deuteronomy is bound up with the character of God, known in his dealings in history with Israel and other nations. It is applied according to a certain rightness of things, or “justice and righteousness,” rooted in the person of God, so that God’s love and compassion have the final determining word.

In our discussion about the idea of divine retribution, my question is how far there may be a basis for ethical decision-making and practice in Deuteronomy’s thinking about God’s actions in the world against evil. That God opposes evil is a fundamental tenet of Old Testament theology. Even where biblical writers find God’s ways inscrutable, as in Job or Ecclesiastes, or in certain Psalms, their questions are posed on a template of divine justice. Deuteronomy rests firmly on the belief in God’s justice and his readiness to maintain it. In its form of the Decalogue, it reasserts the “jealousy” of God, and his punishment of evil “to the third and fourth generations of those who hate him” (Deut 5:9). The text is important because of the prominence of the Decalogue in Deuteronomy, and the way in which it presides over the ensuing discourses of Moses, in which the obligations of Israel in covenant with YHWH are progressively unfolded.¹ Significantly it conceives evil (*’āwôn*) as at its heart idolatry, the worship of gods other than YHWH. If God acts “retributively” in Deuteronomy, there will be an aspect of “jealousy” about it. The question of justice, therefore, will be inseparable from the person of God. Unlike law codes of the ancient Near East, law and conduct are predicated on the will

¹ Stephen Kaufman and Georg Braulik developed in detail the thesis that the laws of Deuteronomy follow the logic and sequence of the Decalogue; Stephen Kaufman, “The Structure of the Deuteronomic Law,” *Maarav* 1.2 (1978-79) 105-58; Georg Braulik, “Die Abfolge der Gesetze in Deuteronomium 12-26 und der Dekalog,” in N. Lohfink (ed.), *Das Deuteronomium: Entstehung, Gestalt und Botschaft* (BETL, 68; Leuven: Leuven University Press, 1985) 252-72.

and character of the deity. Finally, our text pictures YHWH acting in history to assert his justice. Justice will not merely be the characteristic of a law-code, but the principle of divine action.

Deuteronomy is one of the Old Testament's greatest reflections on the theme of divine justice. It is well known for the rich language of precept deployed by Moses—statutes and ordinances (*ḥuqqîm ûmišpāṭîm*), word (*dābār*), and command (*mišwâ*), and encompassing all, the law, or instruction (*tôrâ*). Combinations of these terms occur at crucial points in the structure of the book (such as 4:1; 5:1; 11:31-32; 12:1; 26:16; 28:1), signalling the strength of the theme. They play an indispensable part too in Deuteronomy's language of exhortation and persuasion, as in Deut 6:4-9. This passage develops the most basic call to faithfulness in Deuteronomy, known as the Shema': "Hear O Israel, the LORD our God, the LORD is one, and you shall love the LORD your God with all your heart, with all your soul and with all your strength" (Deut 6:4-5).² It goes on to require the covenant people to meditate on the commandments, and even to secure them physically to arm and forehead (perhaps intended metaphorically). The prevalence of this theme of obedience to command has led to the book being thought to embody a crude "rewards and punishments" ethic, a kind of baseline from which more sophisticated reflections take their cue. This is a misunderstanding, in my view, as I will try to show.

Behind the manifold commands of Deuteronomy lies a sense of the rightness of things. This is expressed most clearly in the concept of *šĕdāqâ*. The Hebrew term, with its close cognate *šedeq*, is most frequently translated "righteousness" or "justice." The terms connote more than simply rectitude of behaviour, however, but convey something like a right order of things, or even action to maintain it. This is illustrated by Deut 6:24-25, with its parallelistic balance between "good" (*tôb*), understood as a condition of things, and "righteousness" (*šĕdāqâ*). The point may be pressed further. Crucial to Deuteronomy's conception of the rightness of things is the origin of "righteousness"

² Translations of biblical texts are mine unless otherwise stated.

(*ṣēdāqâ*) in God. This is made plain in Deut 32:4, a text from the Song of Moses (Deut 32:1-43). Here God is Israel's "rock," whose work (*po'ôlô*) is perfect (*tāmîm*), whose "ways" (*dě'rākāyw*) are "justice" (*mišpāṭ*). In his character he is "a God of faithfulness, without deceit," and finally, the terms "righteous" (*ṣaddîq*) and "upright" (*yāšār*) are applied directly to him.

As the rightness of things has its origin in the person of God, so too the "statutes and laws" of the Torah are 'just' (*ṣaddîqîm*, Deut 4:8). And to complete the picture, the people of Israel themselves are to pursue *ṣedeq* (Deut: 16:20). The exhortation to pursue justice is emphatic and rhetorically powerful, with the repetition of the term *ṣedeq* ("justice, justice you shall pursue"). It is set in the context of the appointment of judges, and therefore pertains especially to their work of judging. Yet it is addressed to all Israel, who have the responsibility together to make justice the hallmark of their life. There is therefore, in the concept of "righteousness," a uniting thread that runs through the person of God, the commands he gives through the prophet Moses, and the intention expressed in Deuteronomy for the formation and life of the people of Israel. This nexus is unique to the Old Testament in the ancient world. And it is necessarily at the centre of our attempt to understand the relationship between "retribution" and ethics in the book.

To the concepts of "justice and righteousness," Deuteronomy adds, in the Song of Moses, the language of "vengeance" and "requit," and thus a sense of due measure.³ The Song of Moses is an extensive and self-contained reflection on the nature of YHWH in relation to his actions in history, both with his covenant people and others. In the underlying "narrative" of the Song, Moses foresees that Israel will forsake its covenant with YHWH, provoking his "jealousy" (v. 21) and severe punishment (vv. 22-27), reminiscent of the "curses" of Deut 28:15-63. In vv. 28-43, the leading idea is

³ The idea of due measure may be taken as an underlying principle of biblical justice. For W. Eichrodt, instances of *talion* in law and narrative expressed "a profound thought, namely that *offence and punishment ought to correspond to one another*" (emphasis original); Walter Eichrodt, *Theology of the Old Testament: Volume Two* (London; SCM, 1967) 426. He insists, however, that this correspondence is not a "natural phenomenon," but rests on the moral purpose of God.

a controversy with the claims of other gods, as in Deutero-Isaiah. This is conducted with poetic irony, as in the play on the metaphor of God as “rock”: “their rock is not like our rock” (v. 31, cf. V. 4), and “Where now are their gods, the rock to which they fled for refuge?” (v. 37).

The train of thought in vv. 34-35 is that, though the oppressor seemed powerful for a while, in fact his days are numbered; there will be a time of “vengeance” against them, when they will receive the due penalty for their wickedness, which is like that of Sodom (vv. 32-33). The key terms “vengeance” and “requital” (*nāqām wěšillēm*) occur in v. 35. The Hebrew Masoretic text has “Vengeance and requital are mine!” in v. 35, but other textual witnesses suggest: “till the day of vengeance and requital,” which fits well with the train of thought in the context.⁴ In “vengeance” there is a sense of receiving what is justly deserved, and in “requital” the idea of “fullness.” Together they convey that such horrors as may fall on the enemy are fully justified and appropriate acts of God. When we combine this with the concepts of justice and righteousness as residing properly in the nature of things, this “vengeance” may be seen as a due righting of wrong, the restoration of a fitting order.⁵

This strain of due recompense for evil, however, is not the full picture in Deuteronomy. To pursue the point, we begin by looking again at the Song of Moses, before considering the book on a wider canvas. I have introduced the “narrative” of the Song briefly above, in order to show how it leads up to YHWH’s purpose to take vengeance on his enemies. But the argument is sinuous and somewhat perplexing. The Song sets out to be a proclamation of the “name” of YHWH, and a celebration of his perfections (vv. 3-4). This immediately leads into the problem posed to his perfect justice by the perverseness of his covenant people. Just as he is faithful, so they are corrupt (v. 5).

⁴ LXX and Samaritan Pentateuch attest *lēyôm nāqām*, “till the day of vengeance,” rather than MT’s *lî nāqām*, “vengeance is mine,” which is followed in Rom 12:19. The former may be favoured, not only by the train of thought here, but by analogy with Hos 9:7 and Isa 34:8. The form *šillēm*, “requital, recompense,” is also odd, being verbal where one would expect a noun such as *šillûm*. See McConville *Deuteronomy*, 449, 458.

⁵ For this idea see also Erich Zenger, *A God of Vengeance? Understanding the Psalms of Divine Wrath* (Louisville: Westminster John Knox, 1996), 64.

The dissonance of it is profound, an unnatural “requital” (Hebrew *gml*, v. 6), and calls forth a memory of God’s special love for Israel as part of his ordering of the history and creation (vv. 6-14). But crucially, this frustration of the divine will and love is not entirely put right by the severe punishments that it brings. For the Song goes on to do two things: it puts the judgment on Israel in the context of a history in which he ultimately has compassion on them; and it further incorporates that sequence of events into a global history, in which other nations too come into the purview of the divine judgment.

It is in this connection that the Song becomes perplexing. In the midst of the passage concerning judgment on Israel there is a hint that the proclamation of YHWH’s name does not require, after all, the annihilation of a covenant-breaking people. In v. 26 it seems as if such utter destruction was in some sense called for in the nature of things. Yet this remains a purpose not to be fulfilled in the mind of YHWH, lest Israel’s (and his) enemies should imagine they had got the upper hand over him (v. 27). The proclamation of YHWH’s name places a constraint, as it transpires, on retribution as a matter of perfect requital. The oddity of the sequence continues in v. 28. Here it is not immediately obvious whether the nation that “lacks good counsel” is Israel itself, or the enemy that may falsely imagine it has triumphed over YHWH. By v. 31, it seems to be the enemy (“for their rock is not like our rock”). Yet the discourse is nuanced in such a way as to reflect on the moral similarity between Israel and another nation that makes itself the enemy of God. The prophetic note struck in these verses, though strictly referring to the hubris of the enemy, has the force to address Israel also.

This has the effect of highlighting the unexpectedness of the turn in YHWH’s intention from punishment to reprieve. The vengeance of YHWH on his enemies is at the same time a “judgment” of his own people that has the character of compassion. The verb translated “judge” in v. 36 is *dîn*, meaning fundamentally to act as judge, to weigh right and wrong (as in Psalm 96:10; Isa 3:13-14). In

this case the judgment takes the form of an act of compassion on his people, who are now depicted as exhausted. The idea of judgment as compassion leads some to take “judge” in v. 36 as “vindicate” (RSV). Yet this is no vindication in the sense of acquittal or proving to be in the right. For the “judgment” involves the further exposure of the folly of Israel in placing its trust in agents that appeared to have power but had none (vv. 37-38). The judgment that is compassion also exposes the truth, as part of a demonstration to the nations that YHWH is truly God.

Indeed, according to Deuteronomy, YHWH’s dealings with his people Israel are conceived as a demonstration to the nations. The point is most clearly formulated in Deut 4:6-8, where the nations express wonder at the wisdom and righteousness of the “statutes and ordinances” of Israel, and their closeness to their God. But what exactly is wise and right about this Torah of Israel, and what is demonstrated to the nations about the character of their God?

The answer to this question is entailed in the narrative of Deuteronomy. That narrative is predicated on the fulfilment of the ancient promises to the ancestors (Deut 1:8) in Israel’s deliverance from the house of slavery in Egypt, and their establishment in a good land where they could prosper. In this public liberation from the “iron furnace” (4:20), lies the central testimony to YHWH’s power and resolution to effect his purpose. It is portrayed as a phenomenon without parallel since the dawn of creation (4:32-34). It is on one hand a judgment on Egypt for its enslavement of a people destined for freedom, so that YHWH rightly comes against them with “mighty hand and outstretched arm,” and with “war” and “great terrors” (4:34). Yet it is also accompanied by “signs and wonders,” showing that the God who judges and liberates has power to effect his will in cosmos and history.

The narrative continues, however, with the mystery at its heart, namely YHWH’s love of Israel above other nations (4:37-38, cf. 7:6-8). Does this not place a shocking partiality at the heart of

things, that is hard to square with the command to Israel precisely to avoid partiality in their application of justice (16:19)? The question is never answered in these terms. Rather, YHWH's love for Israel is the sure guide to understanding why the narrative unfolds as it does. The clue is in the person of this God. It is this that helps explain the function of the Song of Moses in the book. The Song is conspicuously distinct from everything that precedes it in Deuteronomy, as has widely been observed in scholarship.⁶ Its poetic style lies closer to the prophets than to Deuteronomy's characteristic sonorous rhetoric; and its omission of the book's salient topics of the law given at Horeb and the command to worship at the "place that YHWH will choose" are striking. The effect is to focus intensely on the relationship between YHWH and his people in the *mêlée* of history.⁷ And in fact the Song comes close to some of the most profound prophetic depictions of the love of YHWH for his people. How can it be that YHWH in his commitment to the right ordering of things in the world should make compassion his decisive act, having the last word over punishment? The *locus classicus* on this question is Hos 11:8-9, where due anger is displaced in favour of compassion, as a function of the deepest movement within the heart of YHWH. The Song has resonances of this, with its inexorable concentration on the ways of YHWH, which culminate, without need of rational explanation, in compassion. The God who delivered from the iron furnace out of love remains true to his purpose to love, beyond what may be seen as the exactions of a properly balancing justice.

While it remains unclear in the Song how or whether this purpose might apply eventually to the other nations, we have in Deuteronomy's story of YHWH and Israel a pattern that undermines the idea of retribution as due recompense for wrongs done. In as far as retribution is a function of justice, it cannot be part of an impersonal system of penalties, but depends on the person and nature of YHWH; and this is disclosed in the ways in which he speaks and acts, which as we have seen are

⁶ In terms of source theory, it was typically thought not to belong originally to the source D. Driver, for example, thought it was an independent poem with strong prophetic affinities, and that it might have been inserted into JE after the completion of that work; S. R. Driver, *Deuteronomy* (ICC: Edinburgh: T&T Clark, 1895), 346-47.

⁷ This point is argued at length by Andrew Boon-Hui Lee, "The Narrative Function of the Song of Moses in the Contexts of Deuteronomy and Genesis-Kings," PhD Dissertation, University of Gloucestershire, 2010.

not ultimately explicable in terms that might ordinarily be judged fair. I have placed emphasis on the Song of Moses in pursuing the point. But notwithstanding the differences between the Song and the rest of Deuteronomy, the same basic point emerges from the book as a whole. The dilemma that faces YHWH as he pursues his purpose of establishing a free, Torah-keeping people in a good land, in covenant with himself, is laid bare in Deuteronomy's recapitulation of the apostasy at Horeb (9:4-10:11). Following the accounts of YHWH's encounter with Israel at Horeb (chs. 4-5), the initial exposition of the obligations that lie consequently upon Israel (ch. 6), and the rationale for this in YHWH's declaration of love for them (ch. 7), there is first a warning that enjoyment of the good land will bring dangerous temptations with it (ch. 8), then a devastating picture of the people's already established tendency to apostasy, as encapsulated in the incident of the Golden Calf. This all precedes the long section of laws and commands in chs. 12-26. In the ordinary logic of treaty and covenant, that ancient Near Eastern idiom within which Deuteronomy is so often set, obedience brings rewards and disobedience punishments. Deuteronomy follows thus up to a point, with its extensive list of "curses" for disobedience to the covenant in 28:15-68, but it has effectively undermined it beforehand, in 9:4-10:11. Nor does it allow it the final word, for the "blessings and curses" are not the end of the story; rather, the discourse continues, with its picture of restoration after punishment, and covenant renewal (chs. 29-30). The story exhibits the same resistance to justification as the Song. For "covenant-renewal" has echoes of "New Covenant" in the portrayal of restoration in 30:1-10, which appears to address the problem of Israel's incapacity in YHWH's new purpose to "circumcise their heart" (30:6, contrast 10:16). In Deuteronomy as a whole, "retribution" is not considered apart from YHWH's fundamental purpose to create a people capable of living freely with him in such a way as to share his purpose of establishing "good" on the earth.

Retribution in law and practice

I have tried to show how Deuteronomy tells a story of how God acts with Israel and the nations in effecting justice. In that story we found that God's actions against sin were not a zero-sum game; the formula of blessings and curses, in the parlance of treaty and covenant, might express a certain moral order, but the last word lay, not with the retribution of the curse, but rather with compassion. Do we see something similar in the laws given to Israel and the ways in they were applied?

In practice, the laws and the processes of their administration are naturally concerned to apply justice in actual cases. Judges decide cases that arise between litigants and pass sentences on offenders (25:1-3). Murders are prosecuted and the death sentence applied (19:11-13). In the case of the unsolved murder, a ritual is performed to substitute for the legal process that would otherwise have taken place, in which a heifer is killed, and a prayer is said for the forgiveness of Israel so that the guilt for innocent blood might not be imputed to them (21:1-9). In this way, the felt need for restitution is satisfied here also. Other crimes receive due penalties, sometimes in ways that sit ill with modern ideas of proportion or natural justice, as in the case of the execution of the rebellious son (21:18-21), or for sexual improprieties (22:13-28). If the cultural embeddedness of the laws in such cases is jarring, we note nevertheless the underlying concern, to "purge the evil from your midst," and teach the people to "fear," that is, to maintain conduct befitting their adherence to their God YHWH (21:21; 22:24).

The instances just mentioned show clearly that any account of what constitutes criminal or anti-social behaviour, and of commensurability in terms of punishment or restitution, is bound to reckon with cultural differences in the ways in which these things are conceived. Yet Deuteronomy's laws are instructive for the ways in which they are informed by theological concepts.

Paramount in the administration of law in Israel, as we saw above, is the command to practice “justice” (*šedeq*; Deut 16:20), in accordance with YHWH’s purpose to make this the basis of the life of his chosen people. The laws are manifestly intended to realize this aim. Justice demands standards of integrity and fairness in the ordinary conduct of life, such as business dealings, where one’s measure must be “full” (*šēlēmâ*), and “just” (*wāšedeq*; 25:13-16). Here, significantly, the idea of dishonesty is conveyed by the Hebrew word *’āwel*, or “iniquity,” a strong term that in the Song of Moses expresses the antithesis of God’s own character as faithful, righteous and just (Deut 32:4). To commit “iniquity” in one’s ordinary affairs is a flagrant offence against God, or in deuteronomic terms an “abomination” (*tô’ēbâ*), signifying apostasy itself (7:25-26; 12:29-31; 13:12-15; 18:12; 27:15). The laws have their rationale in the character of YHWH and Israel’s relationship with him.

Indeed, Deuteronomy’s law code, chs. 12-26, is not a simple catalogue of statutes, but thoroughly integrated into the theology of the book. It enshrines a view of God and participates in the aim of the book to produce a people dedicated to establishing “good” on the earth. Fundamental to it is the call to imitate God in his compassion for the oppressed. The first occurrence of this guide to action comes in the discourse of Moses prior to the law code, in a quintessential passage of deuteronomic exhortation, Deut 10:12-22. With an echo of the prophet Micah (10:12, cf. Mic 6:6-8), Moses here reiterates the command to love YHWH with heart and soul (v. 12, cf. 6:5), as a due response to his having set his love on them (10:15, see also 7:6-11, and 8:14). The rhetoric is sharpened by the metaphor of circumcision of the heart (v. 16), a way of characterizing true allegiance to YHWH as going beyond mere obedience to inner transformation. And what that means in practice is fleshed out in terms of love for the sojourner (*gēr*), “because you were sojourners in the land of Egypt” (v. 19). Imitation of YHWH in this respect thus belongs to the book’s basic reflection on Israel’s character as YHWH’s people, and it recurs within the law code in laws pertaining to the treatment, not only of sojourners, but of vulnerable people generally (Deut 15:15; 24:17-22).

Other concepts also apply in the laws, which align in different ways with the basic command to imitate YHWH. The law of talion has its place here, as in the other Old Testament law codes, that is, the principle of due proportion in punishment, expressed in the well-known formula: “life for life, eye for eye, tooth for tooth, hand for hand, foot for foot” (Deut 19:21; cf. Exod 21:22-25). The talionic formula expresses a norm of equivalence between offence and punishment.⁸ The context of its occurrence in Deuteronomy provides a telling commentary on this, as it is appended to a provision for the punishment of false witnesses: the false witness becomes liable to the penalty that would have fallen upon the accused if his testimony had been believed and led to a guilty verdict (19:15-19). It is a case of poetic justice. While talion expresses proportionality in such a case, it is well recognized that the concept operates as a restraint on excessive punishment and on the instinct for revenge. Its common understanding as a recipe for revenge is therefore exactly opposed to its function in the deuteronomic practice of law.

The notion of due punishment in the laws is also tempered by a concern for human dignity, as in the restriction placed on corporal punishment (25:1-3). The number of stripes given is to be “in proportion to the offence,” yet must in any case be limited to forty, to avoid humiliating “your brother.” Proportionality, therefore, is not absolute. The legal code of practice is shown here to be subservient to certain non-negotiable factors, in this case human dignity itself, with the added color of the solidarity of Israelites as “brothers,” a powerful ethical factor and engine of motivation, in Deuteronomy (as also in 15:1-18).

The principle of due recompense for offences is mitigated in other ways also. A creditor may legitimately take from a debtor items of value in “pledge,” that is, as a guarantee that the debtor will repay the debt. Yet this right cannot be pressed to the extent that the debtor’s basic human dignity and needs are compromised. The creditor must respect the debtor’s privacy by not forcing an entry

⁸ See above, n. 3.

to his house in order to take the pledged item, but wait outside for it to be brought to him. If it is a garment and the debtor is poor, it must be returned at night, so that he can sleep in it (24:10-13). Here again, there is a setting aside of what might be considered due out of respect for the person. And the action of doing so is seen as an act of “righteousness” (*šědâqqâ*), which therefore can consist precisely in restraint from pressing what is due. Renunciation even shades over into generosity in the law governing debt-release. In this case strict calculation of *quid pro quo* is ruled out in advance. The prospective creditor is not to withhold a loan on the grounds that the year of release is near and he may miss out on full repayment. Rather he is to “open his hand generously” and lend because his brother is in need, regardless of return (15:7-11).

The integrity of individuals is also protected against the exaction of retribution, in the important provision that no-one shall be liable to the death-penalty on behalf of another (Deut 24:16), a protection that was not universal in the ancient Near East,⁹ nor yet today.¹⁰ If someone’s child dies because a builder has built badly, the builder’s child is protected from paying the penalty in a trade-off of exact equivalence. The principle of talion cannot extend to “a child for a child.”

It is clear that due recompense plays an important part in the thinking that informs the laws in Deuteronomy, serving as a restraint on criminal behaviour, and recognizing the reality of a moral order taken to have its origin in the character of God. Yet equally clearly, there are important criteria operating alongside due recompense. The respect for human dignity and the protection of the weak may broadly be said to reflect an underlying tendency to promote human flourishing. This concept explains a variety of laws such as the periodic release of debts and debt-slaves (Deut 15:1-18), the prohibition of sending back an escaped slave to his master (23:15), the veto on interest-taking (at

⁹ Vicarious punishment is allowed in the Code of Hammurabi (CH 116, 210, 230; *ANET*, 170, 175-76), but can also be limited in the ANE, as in the Middle Assyrian Laws, MAL A 2. See G. R. Driver and J. C. Miles, *The Assyrian Laws*, rev. ed. 381.

¹⁰ In the week of writing this, a 10-year-old-girl was reported to have been judicially raped in a village in a country in Asia in restitution for an offence allegedly committed by a member of her family against a member of the litigant’s family (*The Times*, 11 July 2014).

least from Israelites; Deut 23:19-20), and on removing the neighbour's landmark (19:14), a rule which incidentally seems to respect customary property rights.¹¹ In addition might be mentioned the concern to establish intention in the case of manslaughter, which underlies the provision of cities of refuge (19:1-13); the restrictions on the call-up for war, out of compassion, and in pursuit of what makes for life and good (20:5-7); the requirement to respect the captive woman (21:10-14); and the ban on using fruit-bearing trees as instruments of war (20:19-20), as a matter of respect for the natural order itself. In all these, life itself is promoted as the chief good (24:6-7, 14-15, 19-22).

If justice is not merely a calculus based on quantifiable equivalence, what then does it consist in? As we have seen, other criteria apply, and it might even take the form of an abstention from perceived right. In this sense, the laws mirror the narrative. In both, there is in principle a certain order of things which calls for just actions, implying a correspondence between act and consequence. In both, however, we have seen that neither the nexus of act and consequence, nor a strict equivalence between an act and the corresponding reward or punishment, is strictly maintained.¹²

How then do we know what is just? The law code recognizes precisely this issue when it puts in place a system of administration of the laws which demands wisdom and experience in the adjudication of what is just. Uniquely among the biblical laws, it has a substantial section devoted to the administration of justice (Deut 16:18-17:20). This is headed by the passage we have already noticed, calling the appointed judges (on behalf of Israel) to seek justice assiduously. There follow sections concerning witnesses (17:2-7), then a provision for taking hard cases to the court at the central place of worship, consisting of the "Levitical priests" and the "judge who is in office at the

¹¹ The landmark is specified as having been set by "the former ones" (*ri'sōnîm*; 19:14), who are not identified. The validity of the landmark is therefore sanctioned by ancient usage.

¹² Mark Boda also sees that in Deuteronomy the ostensibly just ending of the story of Israel's breach of the covenant should be the curses of Deut 28, yet that the true outcome is determined by God's grace in restoring the covenant; Mark J. Boda, *A Severe Mercy: Sin and Its Remedy in the Old Testament* (Siphrut; Winona Lake; Eisenbrauns, 2009) 112-13. With reference to Genesis 1-11, he shows how God "does not punish humanity as they fully deserve, *mitigating the punishment to preserve humanity*" (119).

time” (17:9). The fact that there are hard cases illustrates the necessity for wisdom and experience, and the need for deliberation. The “book of the law” itself is the basis for such deliberation, as is evident in the law about the king, should one be appointed, who must meditate constantly on it in order to assume properly the royal role (17:18-20).

Deuteronomy therefore works out via its accumulated, meditated, practiced instruction (*tôrâ*) what it means in practice to worship the righteous God; it is a hermeneutic and pedagogy of righteousness. Not only judges must learn justice in practice, it is actually incumbent upon the people as a whole. This is implicit in the very form of the book, with its pervasive rhetoric of persuasion. The key text is Deut 6:4-9, with its formula of inwardly digesting the statutes and ordinances as part of the fabric of daily life. By doing so, the people will be equipped to understand the link between the past that has given them their fundamental identity and the challenge of making right choices. And everywhere the disposition to right action is linked back to what the Israelite knows of God (as in Deut 15:15).

It remains only to ask how far Deuteronomy’s vision of the moral life in Israel can be regarded as paradigmatic for others? The book is somewhat ambivalent on the point. The picture of the ethical life that it displays is portrayed in a key text (Deut 4:6-8) as open to the admiration of other nations, and these remain watchful in the background for the ways in which YHWH deals with Israel (Deut 29:29:20-28 [Hebrew 19-27]). Yet it is not clear that the grace and life promised to Israel is therefore available to the nations to appropriate for themselves. The logic of retribution seems to hold for them without the mitigations we have observed in the narrative of Deuteronomy regarding Israel. (In Deuteronomy 32, for example, there is no obvious turning back to grace and compassion following the divine anger, as there is for Israel.) Reflection on the possibility of divine mercy towards the nations is in fact left to other strands of the Old Testament. Perhaps the authors of Deuteronomy have simply not turned their mind to it. In historical interpretation, nations other than Israel have not

found difficulty in applying to themselves the story of God's dealings with Israel. This has regrettably often brought with it a typology of "Israel" versus the "nations" with baleful consequences in its train.¹³ Yet the generosity of Deuteronomy's approach to justice remains potentially one of the Old Testament's major contributions to ethical thought.¹⁴

Key words

Retribution; justice; judgment; righteousness; law; vengeance; compassion; Deuteronomy.

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¹³ See the account in Philip Jenkins, *Laying Down the Sword: Why We Can't Ignore the Bible's Violent Verses* (New York: HarperOne, 2011) 123-41.

¹⁴ See the perceptive remarks of Marilynne Robinson on this, in her essay "Open Thy Hand Wide: Moses and the Origins of American Liberalism," in her collection *When I Was a Child I Read Books* (London: Virago, 2012) 59-83.