

## POVERTY IN THE LAWS OF THE ANCIENT NEAR EAST AND OF THE BIBLE

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**L**IBERATION THEOLOGY and the “option for the poor” may no longer fill the headlines as they did some years ago. Still, no one imagines that there is now less poverty in the world. Biblical scholarship too is far from having completed research on what the Bible says about the rich and the poor.

This study\* will approach the topic from a somewhat unusual perspective: that of Ancient Near Eastern and biblical law. That might seem to be an overly narrow point of view. But the foundation of the Bible is the Torah, and the bones of the Torah are the laws. In every society, it is the laws which give shape to the world. They define what can be expected; they decide between a thousand alternatives of possible worlds, and they create the one world of this specific society. Suppose now that a given set of laws never even mentions the poor. Would the effect of such laws be simply to banish the poor to their hidden caves throughout the world—“out of sight, out of mind”? Or are we to suppose that they actually succeed in creating a world without any poor?

### MESOPOTAMIAN LAWCODES

I will give a brief sketch of the lofty ethic of care for the poor which can be traced all over the Ancient Near East. Reality may often have been cruel; nevertheless, in Egypt, in Mesopotamia, among the Hittites and the Canaanites, the care for the poor probably had a higher profile in ethical consciousness than in our modern societies. The fixed word-pair “widow and orphan” is old. Israel inherited it from its surrounding cultures as a symbolic name for those in need of help.

The upper classes of all these societies were instructed by their wisdom writings to wipe away the tears of the poor. The biographical tomb inscriptions of Egypt give witness to the presence of this attitude throughout three millennia.

I gave bread to the hungry, water to the thirsty, clothing to the naked, and a passage to those who had no ship.<sup>1</sup>

\* The original form of this article was a paper delivered at the 53d General Meeting of the Catholic Biblical Association of America on August 14, 1990 at the University of Notre Dame. I express my thanks to William G. Thompson, Sean E. McEvenue, and Robert J. Daly for assistance in the preparation of the English text.

<sup>1</sup> This attitude is reflected in many inscriptions; see also the *Book of the Dead* 125.

In the Canaanite city, the king's main duty was to go in the morning to the city gate where the citizens settled their legal disputes. There

he helped the widow to obtain her rights, and spoke just judgment for the orphan.<sup>2</sup>

The gods listened to the cry of the poor, especially the sun god. According to the affection people had toward the poor, the gods blessed them or cursed them. The force of this theme is so strong that, after spending some time with this kind of text and then returning to the study of the Bible, it seemed difficult to me to find there anything not already known from other sources. Nearly every motif, even the words, seemed to be part of a common heritage.

Let us focus now on Mesopotamia, from which we have the largest documentation on law and on the practice of law. Furthermore, from the royal inscriptions of ancient Babylonia we know about royal remissions of debts and other legal reforms. Their documents are known as edicts of *mīšarum*. There were no fixed periods for such general releases, as there were later on in Israel. They depended on the free decision of the king. Thus the king was the center of welfare for the land; it was he who took care of the disadvantaged part of the population. Along with his victorious wars against outside enemies and the shrines he had built for the gods, these social and economic actions were a main topic of royal propaganda.

As constituent of royal inscriptions, they also found their way into the prologues and epilogues of the lawcodes. The oldest code known to us is the Code of Ur-Nammu, the founder of the third dynasty of Ur. There we read:

The orphan was not delivered up to the rich man, the widow was not delivered up to the mighty man; the man of one shekel was not delivered up to the man of one mina.<sup>3</sup>

A century later, Lipit-Ishtar, king of Isin, presented himself in the prologue of his lawcode as

the wise shepherd whose name had been pronounced by Nunamnir [=Enlil] (called) to the princship of the land to establish justice in the land, to banish complaints, to turn back enmity and rebellion by the force of arms, (and) to bring well-being to the Sumerians and Akkadians.

<sup>2</sup> Ugarit: CTA 17:V:7-8 (A. Herdner, *Corpus des tablettes en cunéiformes alphabétiques découvertes à Ras Shamra-Ugarit de 1929 à 1939* [Mission de Ras Shamra 10: Paris: Geuthner, 1963] 82.)

<sup>3</sup> *Ancient Near Eastern Texts Relating to the Old Testament* (hereafter cited as *ANET*; ed. J. B. Pritchard; 3d ed.; Princeton, New Jersey: Princeton Univ., 1969) 524.

He then reports, for instance, that,

verily, in those [days] I procured . . . the [fre]edom of the [so]ns and daughters of [Nippur], the [so]ns and daughters of Ur, the sons and daughters of [I]sin, the [so]ns and daughters of [Sum]er (and) Akkad upon whom . . . slaveship . . . had been imposed.<sup>4</sup>

Picking up these reports at the beginning of the Epilogue, he states that

I, Lipit-Ishtar, the son of Enlil, abolished enmity and rebellion; made weeping, lamentations, outcries . . . taboo; caused righteousness and truth to exist; brought well-being to the Sumerians and the Akkadians. . . <sup>5</sup>

In a similar way, Hammurabi, the founder of the first dynasty of Babylon, spreads this kind of self-praise across the prologue and epilogue of his code. According to the prologue, the gods made him king

to make good the flesh of the people, . . . to cause justice to prevail in the land, to destroy the wicked and the evil, that *the strong might not oppress the weak*, to rise like the sun over the black-headed (people), and to light up the land.<sup>6</sup>

In the Epilogue, he picks up the single points of this text and reports how he has fulfilled the will of the gods. As for the phrase “that the strong might not oppress the weak,” he does something new in comparison to his predecessors.<sup>7</sup> It seems not enough for him to mention his social reforms; he points to his lawcode as the major means by which he aids the oppressed:

In order that *the strong might not oppress the weak*, that *justice might be dealt the orphan (and) the widow*, in Babylon, the city whose head Anu and Enlil raised aloft, in Esagila, the temple whose foundations stand firm like heaven and earth, I wrote my precious words on my stela, and in the presence of the statue of me, the king of justice, I set (it) up in order to administer the law of the land, to prescribe the ordinances of the land, to give *justice to the oppressed*.<sup>8</sup>

<sup>4</sup> ANET 159.

<sup>5</sup> ANET 161.

<sup>6</sup> ANET 164.

<sup>7</sup> I cannot exclude the possibility that this way of thinking had precedents prior to Hammurabi's Code. It is difficult to be sure, because of the fragmentary conservation of the earlier texts. In any case, Hammurabi's logic seems at least to be implied in the other codes, for what we call prologues or epilogues must have been meant as a kind of hermeneutical key to their respective codes.

<sup>8</sup> ANET 178.

To make the point even more sharply he adds the wonderful scene of the “oppressed man”<sup>9</sup> who, in future times, is invited to come to the temple of Esagila and to “read carefully my inscribed stela,” which will “make the case clear to him,” and he can “set his mind at ease.”<sup>10</sup>

I apologize for having quoted so extensively from texts possibly already well known to you, but it was necessary to prepare for a surprise. Suppose an “oppressed man,” or an orphan or a widow, following Hammurabi’s advice, went to Esagila and read the 282 paragraphs of the lawcode proper. They would not find even a single occurrence of the words “poor” or “oppressed.” Could that put their mind at ease? There is no social legislation in the code of Hammurabi. Nor is such to be found in the laws of Ur-Nammu, nor in the laws of Lipit-Ishtar, nor in any other law collection of Mesopotamia.

To be sure, some few laws in these codes make a distant approach to the topic of the problems of the poor.<sup>11</sup> But they never deal directly with the poor or with their rights in society. The language of the laws proper lacks the semantic field of poverty and oppression.

There is a well-known linguistic difference between prologues and epilogues on the one hand, and the laws proper on the other. It concerns dialect and style. But we should add that there is also a difference in the worlds created by the two segments in the text of the lawcodes. The prologues and the epilogues outline a world in which everything aims at caring for the poor. But the laws proper do not even mention the poor. Now I do not imagine that this is because these laws suppose that poverty no longer exists in the world they regulate. The laws simply pass over poverty in silence—and that in spite of the fact that by their prologues and epilogues, at least in the case of Hammurabi, these very laws are proclaimed as a reason why the oppressed can set their minds at ease.

<sup>9</sup> From the tone of the prologue and epilogue and from the repetitions and parallelisms, it is clear that the “oppressed” mentioned in the text represents all the oppressed, including orphans and widows.

<sup>10</sup> ANET 178.

<sup>11</sup> From the *Code of Eshnunna*: on the right of repurchase of a house sold in financial difficulties (39 A 3). From the *Code of Hammurabi*: on the treatment of a fee when he who holds it is in war captivity or returns from it—somewhat feudal law (27–29); on the death of a person taken as pledge (115–16); on persons who were sold into slavery for debts (117–19); the case of a woman with the *la’bu* disease (148–49); on widows and orphans—more marriage law and law of succession (177). From *Middle Assyrian Laws*: casuistics on widows—more marriage law and law of succession (33–36, 46). From *Neobabylonian Law Fragment* 12–15: a similar prescription. In my references to the Laws of Hammurabi, I follow the list of G. Ries, *Prolog und Epilog in Gesetzen des Altertums* (Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte 76; Munich: Beck, 1983) 71 n. 361, but supplemented by other items as well. Nevertheless, at the most, only 148–49 of the *Code of Hammurabi* actually approach the area of the problems of the poor.

There may be convincing explanations for this fact. The best one, in my view, comes from locating the origin and tradition of the law collections proper in the discussions and teachings of the legal scholars in the E.DUBB.A, the "house of the tablets" (an institution which served simultaneously as elementary school, scribal academy, library, and archives). In that case, their subsequent promulgation through public inscriptions, in which they would also be augmented by prologues and epilogues, would have been a second phase. In a third phase, these henceforth public lawcodes returned to the E.DUBB.A, where they were copied and conserved and, in their turn, influenced the further development of jurisprudence.

But this theory deals only with origin, as do all the other theories which have been proposed.<sup>12</sup> None of them, on the synchronic level of meaning, eliminates the fact that, in the officially published Mesopotamian lawcodes, there are two different worldviews, each opposed to the other, one in the framework, one in the body of the code itself. If such a lawcode were a narrative, the story of the "oppressed man" reading the stela and thereby setting his mind "at ease" could probably be considered as highly ironic. But that kind of irony cannot be supposed in a document of royal self-aggrandizement. We must assume that Hammurabi really meant that the oppressed man could be put at ease by his laws. If he did not succeed in achieving that, that just shows that in the text itself there is a discrepancy which, on a deeper level, witnesses to the mendacity of most ideological contentions.

Now to the Bible. One might expect that in the Bible, in contrast to the Ancient Near Eastern laws, there would be no discrepancy between the framework and the laws proper. But the situation is far more complicated than that. Yet even in the oldest biblical lawcode, the poor are no longer excluded from the laws proper.

#### THE COVENANT CODE

It is traditional in modern scholarship to give the name "Covenant Code" to the text of Exodus 20:22—23:33. Moreover, since Wellhausen,<sup>13</sup> there has been a suspicion that certain elements of this text are later additions by Deuteronomistic hands. Unfortunately, part of the laws on the poor belong to this so called "Deuteronomistic redaction" of the Covenant

<sup>12</sup> Various hypotheses are possible, because the discussion on the origin and juridical function of the Mesopotamian lawcodes opened by B. Landsberger ("Die babylonischen Termini für Gesetz und Recht" in *Symbolae ad iura orientis antiqui pertinentes Paulo Koschaker dedicatae*, ed. J. Friedrich et al. [Studia et documenta ad iura orientis antiqui pertinentia 2; Leiden: Brill, 1939] 219–34) continues to this day.

<sup>13</sup> J. Wellhausen, *Die Composition des Hexateuchs und der historischen Bücher des Alten Testaments* (Berlin: de Gruyter, 1964 [reprint of 3d ed., 1878]) 89–90.

Code. Since I plan to compare the laws on the poor in the Covenant Code with the laws on the poor in Deuteronomy, I cannot avoid stating my position on the temporal sequence. I had thought that the whole debate had come to an end with Walter Beyerlin's contribution to the 1965 Hertzberg Festschrift,<sup>14</sup> where he showed, convincingly in my opinion, that there is no evidence for a Deuteronomic reworking. But his arguments were probably too closely associated with the special theories of the Arthur Weiser school on covenant cult in early Israel. Thus it is not surprising that in the most recent German publications on the Covenant Code, by Eckart Otto<sup>15</sup> and Ludger Schwienhorst-Schönberger,<sup>16</sup> the old theory reappears. In North America, a thesis on the postdeuteronomic character of the whole second part of the Covenant Code was proposed as early as 1977 by Gary Alan Chamberlain.<sup>17</sup> That is why I took up the question again in a paper read at the Congress of the International Organization for the Study of the Old Testament in August 1989 at Louvain, in which I arrived at the same conclusions as Beyerlin did. There is no real evidence of a late reworking of the Covenant Code in dependence on the Code of Deuteronomy. There is even strong evidence to the contrary.<sup>18</sup>

To be sure, it has had its stages of literary development. The laws on the poor do not belong to the earliest parts, and, in addition, they themselves seem to be stratified. But the final stage is older than the Code of Deuteronomy, and for our discussion we do not need to go back to previous layers.

The most important novelty for those coming from the study of other Ancient Near Eastern lawcodes is the very presence of provisions concerning the poor. There must have been a conscious decision to introduce them. For, beginning with the very first of them in Exod 22:20, the traditional legal style, mostly casuistic in form, changes into second-person address, which is in part quite paraenetic in character.

<sup>14</sup> W. Beyerlin, "Die Paränese im Bundesbuch und ihre Herkunft," in *Gottes Wort und Gottes Land* (Festschrift for H.-W. Hertzberg; Göttingen: Vandenhoeck, 1965) 9–29.

<sup>15</sup> Cf. esp. E. Otto, *Wandel der Rechtsbegründungen in der Gesellschaftsgeschichte des antiken Israel: Eine Rechtsgeschichte des "Bundesbuches" Ex XX 22–XXIII 13* (Studia Biblica 3; Leiden: Brill, 1988) 4–6.

<sup>16</sup> L. Schwienhorst-Schönberger, *Das Bundesbuch (Ex 20,22–23,33): Studien zu seiner Entstehung und Theologie* (Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft 188; Berlin: de Gruyter, 1990) 288–414.

<sup>17</sup> G. A. Chamberlain, "Exodus 21–23 and Deuteronomy 12–26: A Form-Critical Study (Ph. D. diss., Boston University, 1977).

<sup>18</sup> Cf. N. Lohfink, "Gibt es eine deuteronomische Bearbeitung im Bundesbuch?" to appear in a collection of selected papers from the congress to be edited by Jan Lust in the *Bibliotheca Ephemeridum Theologicarum Lovaniensium* and published by the Leuven Univ. Press.

As for the content of the laws on the poor, some of them, like the prohibition against exacting interest from a poor person (Exod 22:24),<sup>19</sup> the command to restore every evening a mantle taken in pledge (Exod 22:25), or the regulations on the right of the poor people to harvest the fields, the vineyards, and the olive orchards in the fallow year (Exod 23:11), may have been old Israelite common law. Others take up well-known themes of traditional Ancient Near Eastern education and royal ideology: to be just and good to the poor in daily life, in business, and at court. That is especially true of the two regulations in Exod 23:3, 6 about justice to the poor in court.<sup>20</sup> But also the general tone of this whole series of laws is very reminiscent, e.g., of Egyptian wisdom texts and prayers. The Covenant Code must have been composed with a view to administering law in a rural area where there was neither city nor king. Nevertheless, by the same token, its authors must have been very sophisticated people familiar with the many juridical and literary techniques of the Ancient Near Eastern schools. Thus we may even entertain the idea of literary borrowings.

There is one important element which does not seem to come from outside: the stranger. The laws on the poor start in Exod 22:20 and conclude in Exod 23:12 with the stranger. The stranger, in a certain sense, frames the laws on the poor (sections C'B' in Table 1).

We must observe immediately, however, that within this first frame there is a second frame produced by the correspondence between Exod 22:21 and 23:11. It is marked by the traditional group of *personae miserae*, that is to say, the widow and the orphan. In Exod 22:21, after the law on the stranger, we have a law on widows and orphans. They are mentioned once again in 23:11, in the law of the fallow year, which precedes the law on the sabbath where the stranger occurs the last time. In my opinion, we find here the origin of the series of *personae miserae* which will be typical for the rest of the Old Testament.<sup>21</sup> It is not yet the fixed formula "the stranger, the orphan, the widow," which does not appear before Deuteronomy. But here, in the framework of the laws on the poor in the

<sup>19</sup> There seem to be no Ancient Near Eastern parallels. Cf. R. P. Maloney, "Usury and Restrictions on Interest-Taking in the Ancient Near East," *Catholic Biblical Quarterly* 36 (1974) 1-20.

<sup>20</sup> Cf. the Ugaritic text from *Aqht* quoted above (cf. n. 2). As for education, cf. e.g., the self-praise of the Vizier Rekh-mi-Re in his tomb inscription (N. G. Davies, *The Tomb of Rekh-mi-Rē' at Thebes I* [New York: Metropolitan Museum of Art, 1943; reprinted 1973] 81). J. A. Wilson (*ANET* 213, left column) has unfortunately omitted the passages on the poor.

<sup>21</sup> Cf. T. Krapf, "Traditionsgeschichtliches zum deuteronomischen Fremdling-Waise-Witwe-Gebot," *Vetus Testamentum* 34 (1984) 87-90. Krapf emphasizes that strangers, widows, and orphans are lacking as topics of social criticism in "classical prophecy."

TABLE 1  
*Exodus: The Covenant Code in Its Final Shape*

1. A	20:22–26	Cult: idols and altar
2. B	21:1–11	6 + 1: liberation of slaves
3. C	21:12– 22:19	Civil law collection, mostly He-style
4. C'	22:20–23:9	Collection "gēr", mostly I-Thou-style
5. B'	23:10–12	6 + 1: fallow year and sabbath
6. A'	23:13–19	Cult: feasts and sacrifices
7.	23:20–33	"Epilogue"

Covenant Code, its foundation is laid. One of the questions to which I have no answer is: What may have been the historical and sociological reasons which brought about this striking introduction of the stranger into the formulaic language about the poor? The fashionable guess among scholars at the moment is that the stranger became recognized among the *personae miserae* in connection with the massive migration from the north to the south after the destruction of Samaria. But no one really knows.

One will notice, further, that the structure set up by the motif of the stranger is a bit more complicated than I have already explained.<sup>22</sup> There is another, very obvious correspondence between 22:20 and 23:9. It is the unique example in the Covenant Code of the doubling of a law. Then, a second correspondence links 23:9 to 23:12. Its markers are the word *gēr* and the root *npš*. These correspondences, or inclusions, produce three distinct parts in the second half of the Code (see Table 1). There are the laws framed by the repeated *gēr* law (C'). Then there are two laws where the number seven is important, the laws on fallow year and sabbath (B'). Then come the rest of the laws, which are mainly cultic (A'). This arrangement of laws is chiasmatically symmetrical with that in the first half of the Code (ABC). The Code starts with some cultic laws; the law on the liberation of slaves depends on the seventh year; the collection of laws which then follows clearly comes to an end with the law on the *gēr* in 22:20. Add the epilogue in 23:20–33, and what results is a kind of hebdomadarian structure of the whole. What is important in our context is that this structure is primarily produced by the *gēr* framework in 22:20 and 23:9, 12. Within this framework there are also laws about subjects other than the poor, but because of the framework, all these laws receive a new coloration. Moreover, if we consider the cultic laws as a frame to

<sup>22</sup> For what follows, cf. J. Halbe, *Das Privilegrecht Jahwes Ex 34:10–26: Gestalt und Wesen, Herkunft und Wirken in vordeuteronomischer Zeit* (Forschungen zur Religion des Alten und Neuen Testaments 114; Göttingen: Vandenhoeck, 1975) 418–23; Schwienhorst-Schönberger, *Bundesbuch* 22–37.



the whole code, then the rest of the code in its whole second half claims to be about the poor.

In the Covenant Code, therefore, the theme of the poor is anything but accidental. It is consciously emphasized by structural means. This is in line with the fact that the divine legislator of the Covenant Code comes more to the fore in the laws about the poor than in the other laws. Without going into every detail, we wish to call attention to one particular point: The God who legislates is the God of the Exodus. The framing and repeated prohibition not to oppress the stranger uses the word *lāḥaṣ* which is not traditional in law or wisdom admonition, but is used for the oppression of the Israelites in Egypt in Exod 3:9 and in the historical Creed in Deut 26:7. Furthermore, the same motivation is added to both prohibitions: “for you were strangers in the land of Egypt. . .”

By that motivation the Covenant Code is not only related to God but, beyond that, is embedded in history. The Mesopotamian law collections were given their insertion into history only by their prologues and epilogues. Insertion into history is inherent in the Covenant Code itself by reason of one of its laws concerning the poor.

In the final text of the Pentateuch, the Covenant Code is embedded in the Exodus history in a much more visible way because it is surrounded by the Pentateuchal narrative. In a certain sense, this narrative takes, for all Pentateuchal law collections, the place of the prologues and epilogues of the Mesopotamian lawcodes. Let us take a look at that narrative, for it creates a new problem for us.

#### THE EXODUS STORY

There is no need to enlarge on the Exodus message. I take it just as it stands in the final Pentateuch. There is no doubt at all in the Pentateuch that God's action, by which Israel was created, was essentially the liberation of the suppressed and poor part of the population of an inhuman, oppressive society. What was promised to them was a “land flowing with milk and honey” (Exod 3:8). That is mythic language. What it means becomes clear by the fact that, on their way, these people are given new laws. God's plan for them is to create a just and therefore blessed society, in opposition to all the corrupt societies of the world.<sup>23</sup>

It is one of the merits of liberation theologians to have seen the social and economic dimensions of the Exodus message. But perhaps even they have not sufficiently emphasized the radicalism of the idea that God does not leave the poor in Egypt, but transplants them into another country and starts something really new there.

<sup>23</sup> See N. Lohfink, *The Option for the Poor* (Berkeley: BIBAL [Berkeley Institute of Bible, Archaeology and Law], 1987).

What is crucial for our consideration is a new discrepancy. It is the discrepancy between the fact that the Exodus dynamic tends towards a society without oppression and poverty and the fact that the Covenant Code, given at Mount Sinai as a kind of blueprint for God's projected society, blandly supposes the further existence of poverty in Israel.

In Hammurabi's Code, the frame promised that the laws would give help to the poor; but the laws themselves made no mention of the poor. In the Covenant Code, there is indeed a lot of talk about the poor; but the frame had promised that there would be no more poor.

There are many speculations about what may have been the real intentions behind Deuteronomy. In my view, this intellectual problem, so deeply connected with human hopes and the incredible promises given to Israel at its beginnings, brings us close to the core of Deuteronomy.

#### DEUTERONOMY

Deuteronomy changes the semantic field of poverty. The many words which had been used prior to Deuteronomy when speaking about the poor and had been mixed up without any clear distinction are now first reduced in number, and secondly clearly divided into two groups. Group one has only two nouns: 'ebyôn and 'ânî. These two words continue to be used for the poor. Group two contains the words for stranger, orphan and widow. They now form a fixed series of words which is never used in combination with the first group, i.e., with the words for poor.

Upon examining the contexts in which this second group is used we come across a series of seven laws which form part of a system of 14 (= 2 × 7) laws (see Table 2). This system, which is spread over the whole of

TABLE 2  
*Deuteronomy: Laws with Provisions for Certain Groups*

		Slave	Levite	Stranger	Orphan	Widow
5:14	Sabbath	×		×		
12:7	Sacrifice	(House)				
12	Sacrifice	×	×			
18	Tithe . . .	×	×			
14:26f	Tithe	(House)	×			
29	Tithe		×	×	×	×
15:20	Firstlings	(House)				
16:11	Weeks	×	×	×	×	×
14	Booths	×	×	×	×	×
24:19	Harvest			×	×	×
20	Harvest			×	×	×
21	Harvest			×	×	×
26:11	Tithe	(House)	×	×		
12f	Tithe		×	×	×	×

Deut 12–26 and even includes the sabbath commandment of the decalogue, partly overlaps with the system of laws on centralization. But it cannot be derived from that system, for the overlapping is only partial.

The common element in the system is that there are always provisions for the economic maintenance of, and participation in the full life of, Israel by certain groups of the population. It is always a question of groups, which, by their very definition, do not possess landed property. As one can see from Table 2, the groups are: slaves, levites, strangers, orphans, and widows. According to the difference in situations and needs, not all of these five groups are involved in each of the 14 laws. In connection with sacrifices and tithes, the levites are the center of interest; there is no mention of orphan or widow. In connection with harvesting, the levities are not mentioned, but strangers, widows, and orphans are. But in some of the laws all these groups are involved together, especially in the laws about the two annual harvest pilgrimage feasts.

The traditional understanding reflected in commentaries is that all these laws demonstrate the deep feeling of the Deuteronomic legislation for the poor. The most notable consequences of this interpretation are various historical theories about an impoverished class of landed levites at the time of Josiah of Judah. Must they not have been very poor indeed if it was necessary to insert them into the charitable system for helping the poor strangers, orphans and widows? Even though there seems to be no evidence for that historical supposition, that was the way in which I, too, used to read these texts, until I realized that, in all these laws, the word "poor" never occurs, not even once. I began wondering if it was reasonable, under the social and economical conditions of the time, to class the slaves with the poor. As a rule, they lacked neither food nor drink nor clothing. Freedom and honor is what they lacked. They were not classed among the poor; they were slaves.

So, after some hesitation, I decided to turn everything around. It became clear that what Deuteronomy does in these laws is not to add new groups to the poor, but rather to change the structures of society so as to provide support for those groups which, for very different reasons, are not in a position to live off their own land. If that system worked, these groups could no longer be considered poor. It will never be possible to eliminate the existence of strangers, orphans, and widows. But it is possible, according to Deuteronomy, to create a world in which one can be a stranger, an orphan, or a widow without being poor. That is what Deuteronomy intended. A widow then has the same status as, e.g., a levite—who, according to Deuteronomy, is a very honored person in Israel. Similarly, the slaves, who at that period did not suffer by hunger and thirst but rather under a problem of low status, are brought to the same level of honor as these levites. They fully participate in the joy of

TABLE 3  
*Deuteronomy: Laws regarding the Poor*

		'ebyôn	'ānî
15:1-6	Fallow year: no exaction of debts	1×	
7-11	Loans without interest	5×	1×
12-18	Fallow year: liberation of slaves	—	—
24:10-13	Pledge of a poor person		1×
14-15	Daily pay for a poor day-laborer	1×	2×

the feasts, just like everybody else in Israel. That is the thrust of this system of laws.

A consequence of this Deuteronomic strategy is that the two words for poor occur only in one group of laws. These laws are concerned with a life situation where poverty may rise again and again, even in the best societies of the world: the process of increasing indebtedness of an individual man or woman (see Table 3). Three of these laws are found in Deut 15, and two in Deut 24. Only here in Deuteronomy do we find occurrences of the two words 'ebyôn (7 times) and 'ānî (4 times), in a somewhat sophisticated order. Let me now attempt to spell out the connection between these laws and the process of increasing indebtedness which was always looming for a small farmer in Palestine. A farmer runs into financial difficulties, because of a bad harvest let us say, and needs a loan. Deut 15:7-11 urges his or her neighbor to lend him or her money.<sup>24</sup> To return the loan he or she may have to offer his or her own labor as a day-laborer. Deut 24:14-15 assures daily pay. If the creditor takes a pledge, Deut 24:10-13 imposes an honorable way of handling that. If it comes to the point that he or she would be obliged to enter debt slavery, and it happens to be the fallow year, the lender, according to Deut 15:1-6, is not allowed to exact payment and, according to the most commonly accepted exegesis,<sup>25</sup> the debt is canceled. If he or she became a debt slave in another year, the servitude, according to Deut

<sup>24</sup> The prohibition of Exod 22-24 against taking interest is not mentioned here, but cf. the general law (not limited to loans to the poor) in Deut 24:20-21. It is simply supposed that there will be no question of interest. I suspect that Deuteronomy envisages the period in which the indebted Israelite will be poor as so short that there is no need even to mention the possibility of interest.

<sup>25</sup> For the law as a whole, I follow F. Horst, *Das Privilegrecht Jahwes: Rechtsgeschichtliche Studien zum Deuteronomium* (FRLANT 45; Göttingen: Vandenhoeck, 1930); reprint: idem, *Gottes Recht* (Theologische Bücherei 12; Munich: Kaiser, 1961) 17-154, esp. 56-65. For another line of interpretation, cf. H. M. Weil, "Gage et cautionnement dans la Bible," *Archives d'histoire du droit oriental* 2 (1938) 171-241. For the general view that in the seventh year the debts were cancelled, cf. G. Braulik, *Deuteronomium 1-16,17* (Die neue Echter Bibel; Würzburg: Echter, 1986) 111. In favor of non-cancellation, cf. recently P. C. Craigie, *The Book of Deuteronomy* (New International Commentary on the Old Testament; Grand Rapids: Eerdmans, 1976) 236.

15:12–18, must be terminated in the fallow year, and the master has to give the debtor the means necessary for starting a new economic existence.<sup>26</sup> It may be worth noting that Deuteronomy has introduced sexually inclusive language in contrast with other codes.

In certain sense, the essence of the Mesopotamian royal remission of debts is put, by these laws, into the hands of the single neighbor of a poor person, and it is linked to Israel's ancient holy rhythm of seven years.

These are among the most paraenetic laws in the whole Code. They always address those who are immediately involved. They demand help for the poor even at the risk of one's own considerable financial loss (cf. especially Deut 15:9). Deut 15:2 marks the first time in the laws of Deuteronomy that the word "brother" is used for a fellow Israelite. There are 29 instances of this word in this sense within Deuteronomy 12–26. The first seven of these are found in our three laws of Deut 15:1–18.

Now add the sanction connected with these laws. In both groups, the old Ancient Near Eastern motif of the cry of the poor to the god(s) is introduced: in 15:9 and in 24:15. The connected sanction is that whoever forces the poor to cry will be in the state of *hēt'*, Now, *hēt'* is not just any sin. As Klaus Koch has shown,<sup>27</sup> *hēt'* is a sin which can be expiated only by the death of the sinner. It seems that the Deuteronomists saw the difference between their society and all other societies in the world not only in the justice inherent in their laws but even more in this strong and divinely sanctioned defense against the first beginnings of progressive poverty. For the word used in our two texts for the cry of the poor to God is *qārā'*. These are the only Deuteronomic passages which mention a cry to God. Therefore, only the cry of the poor and God's massive sanction following it can be in view when Moses, in Deut 4:7, comparing Israel's society to the other societies of the world, and even before pointing to the justice of the Torah, asks the rhetorical question: "What great nation is there that has a God so near to it as the Lord our God is to us whenever we call to him (*b<sup>e</sup>kol-qor'ēnū 'ēlāyw*)?"

Returning to our initial question we may safely state our conclusion: Deuteronomy, in opposition to the Mesopotamian laws, is not silent about the poor. But by the same token, in harmony with the Exodus narrative, it sketches out a world where there are no longer any poor.

We may find everything condensed in the juxtaposition of two seem-

<sup>26</sup> In this statute, a word for "poor" is lacking because it deals with a new status, that of a slave. But Deuteronomy, in contrast with the corresponding law of the Covenant Code, also avoids the word "slave."

<sup>27</sup> K. Koch, "*hātā*," in *Theologisches Wörterbuch zum Alten Testament* 2:857–70, esp. 864–65; ET: *Theological Dictionary of the Old Testament* (ed. G. Botterweck and H. Ringgren; Grand Rapids: Eerdmans, 1974– ) 3:309–320, esp. 315–16.

ingly contradictory sentences. In Deut 15:11 we read: "The poor will never cease out of the land." Not "out of Israel," but "out of the land." But poverty, which rises again and again, stimulates all brothers and sisters to react against it and eradicate it immediately. Because of this reaction, which always calls forth divine blessing, and because of the functioning system of provisions for the different groups in Israel, what we read in Deut 15:4 also remains true: "There will be no poor among you."<sup>28</sup>

The problem with this Deuteronomistic view seems to have been that nobody believed in it. Perhaps they didn't even realize what it really meant. For when we turn to the Holiness Code in Leviticus, we find a retrogression.

#### THE HOLINESS CODE

I have no desire to belittle the Holiness Code. It is an impressive new synthesis of a liberated world. In some ways, it even emphasizes the special character of Israel's societal project more strongly than Deuteronomy does. Nevertheless, it seems that its authors considered the Deuteronomistic view to be utopian, and they tried to bring things back to reality. It is not possible to give an exposition of the guiding principles of the Holiness Code at this point; we can only describe them briefly.

First of all, the Deuteronomistic system of provisions for groups without landed property is not maintained in the Holiness Code; indeed it is deliberately omitted. This is obvious if we compare the two codes. There is nothing in the Holiness Code in Leviticus corresponding to the 14 laws in Deuteronomy which we discussed above.

This comparison may, however, be too simple a way to tackle the question. Let us, therefore, at least for argument's sake, consider the thesis of Alfred Cholewiński. According to Cholewiński, the Holiness Code presupposes Deuteronomy and, where it does not add or change, it keeps the Deuteronomistic dispositions in force.<sup>29</sup> Under these principles, there would have been no need to repeat our 14 laws. Thus their absence could not be taken as proof that the Holiness Code abolished them.

But these 14 laws are a system. If one of them is removed, the whole system breaks down. Now, the Holiness Code does remove at least one of them, if not more.

One might consider, for example, Lev 19:10 and 23:22 which correspond to Deut 24:21 and 24:19. The subject matter concerns leaving

<sup>28</sup> N. Lohfink, "Das deuteronomische Gesetz in der Endgestalt—Entwurf einer Gesellschaft ohne marginale Gruppen," *Biblische Notizen* 51 (1990) 25–40.

<sup>29</sup> A. Cholewiński, *Heiligkeitgesetz und Deuteronomium: Eine vergleichende Studie* (Analectica Biblica 66; Rome: Biblical Institute, 1976).

something on the fields and in the vineyards when harvesting. In Deuteronomy what is left is destined for "the stranger, the orphan, and the widow"—as part of the system of provisions for the groups without landed property. In Deuteronomy, because of these provisions, these groups do not belong to the poor. In the Holiness code, on the other hand, what is left in the fields is for "the poor (*'ānî*) and the stranger." This is a rewording. It not only presupposes the normal existence of poor people in Israel but, what is more, by replacing "orphan and widow" with the general word "poor," it also demotes the orphans and widows to the class of poor people.

The high occasions on which, according to Deuteronomy, all the groups of Israel were united in full equality were the feasts of Pentecost and Tabernacles, the two joyful pilgrimage festivals. When the levites, the strangers, the orphans, and the widows celebrated the feast of Tabernacles in the community of an Israelite neighbor family, it was not just a question of eating and drinking, but above all of full participation in Israel's joy. Now the Holiness Code has a whole chapter on the feasts, Leviticus 23. But there is not only no mention at all of a joy common to all groups within Israel, but rather, according to Lev 23:42, it is only "every citizen in Israel" (*kol-hā'ezrāh b<sup>e</sup>yisrā'ēl*) who is admitted to the joyful days in the booths.<sup>30</sup> Now in the priestly writings the *'ezrāh* is, properly speaking, defined by its opposition to the *gēr*;<sup>31</sup> therefore in Lev 23:42, unlike Deut 16:14, the strangers are excluded from the joy of the feast of Tabernacles.

It is also significant that in the Holiness Code the enumeration of groups, which is typical of the Deuteronomic laws of provision, is not only lacking where we expect it but, in addition, is introduced in quite another context. Lev 25:6–7 uses this familiar pattern to explain that, with the Lord's help, there will be enough food for everyone during the whole sabbatical year.

Thus the Deuteronomic system of provisions for all groups of the population seems to be abolished. Then what about the strong Deuteronomic resistance to the first traces of progressive poverty? It is replaced in Leviticus 25 by a recurrent fifty-year period of waiting for the return of a balanced economic and social situation reminiscent of the Mesopotamian social reforms.<sup>32</sup> The liberation of slaves, for instance, shall take place every fiftieth year, instead of every seventh. With the short life

<sup>30</sup> On the joy of Tabernacles, see Lev 23:40.

<sup>31</sup> Cf. K. Elliger, *Leviticus* (Handbuch zum Alten Testament 1, 4; Tübingen: Mohr, 1966) 323 n. 40. In the body of his text, Elliger says: "Der *gēr* fehlt schwerlich zufällig." One could object that, according to Lev 19:34, the stranger is like the *'ezrāh*, but usually if both are meant both are mentioned. Rather, Lev 19:33–34—a curious synthesis of Exod 22:20, Deut 10:19, and Lev 19:18—indicates the distance between the citizen and the stranger, and only then tries to bridge it.

expectancy of that time, most Israelite victims of poverty would never see a year of jubilee. They would never see the end of their debt slavery or have the chance of a new start. The Deuteronomic thrust has lost its urgency.

I do not deny that, even in Leviticus 25, there are some features in favor of the poor which are even clearer and stronger than in Deuteronomy. E.g., in the year of the jubilee, not only the persons but also the lands have to return to the original owner clans. And whereas in Deuteronomy 15, by the absence of the word "slave," it may have been insinuated that an Israelite debt slave should not be treated like a real slave, in Lev 25:40 that is made explicit. Yet when reading, in Lev 25:35–8, the admonition to give financial help to an impoverished brother,<sup>33</sup> I can detect no sense that the poverty of this brother is considered a situation of merely transitory character. When all is said and done, the world of the Holiness Code seems to accept it as normal that, in the long span between two jubilees, there will be a certain number of poor Israelites.

The authors of the Holiness Code probably did not realize that they were falling short of the central message of Exodus theology. They were only trying to be a little more realistic than the authors of Deuteronomy, whom they probably viewed as too utopian. The curious thing is that nowadays it is precisely the jubilee law of the Holiness Code which exegetes and historians generally consider to be an absolutely utopian project, never materialized in history. But if they had adequately understood the Deuteronomic view, they would surely have considered it even more utopian.

#### CONCLUSION

I do not wish to dwell on questions of historical feasibility. What God promises to his chosen ones is always miraculous. The Bible is categorical on that point. What must trouble an exegete is the theological question: Which view is definitive? Which view represents the word of God?

The conviction of our scholarly ancestors was that earlier stages of a tradition are preferable to later ones—the earlier the better. But the Covenant Code itself is merely transitional, and Hammurabi's Code is still earlier. Recent redaction criticism admires the latest stages. But who can assure us that the Holiness Code's returning to a less utopian realism is what God wills? Can anyone imagine that God sees any connection between the biblical option for the poor and what our Church does when celebrating a so-called jubilee year?

<sup>32</sup> Cf. the word *d'rôr*, which is to be linked with the Akkadian *anduraru*. The big difference is in the fixed periodicity.

<sup>33</sup> The Holiness Code's special word for "becoming poor," *mwk*, is to be found in 25:25, 35, 39, 47.



And from the viewpoint of canonical criticism, all these different worldviews are in the canon. Which of them, on the level of Pentateuch as canon, is to be seen as having the semantic lead? The Holiness Code comes first; is it, therefore, the hermeneutic key for the decipherment of what follows? Deuteronomy is Moses' last word: is it, therefore, God's last word? The Decalogue is God's decisive word, and the laws of Deuteronomy are presented as a commentary on the Decalogue; could that be decisive? All the laws are embedded in the Pentateuchal narrative. The thrust of this narrative, at least for me, corresponds more to Deuteronomy than to the Holiness Code. Could this be the key? For the Prophets and Writings—to take the whole Old Testament canon into consideration—the existence of poor people in Israel is very often simply taken for granted. On the other hand, the Book of Isaiah announces a messianic gospel for the poor. Should we conclude that Deuteronomy's societal project is meant to come true in the Messianic age?

We Christians are convinced that Jesus is the Messiah. What then about the New Testament? Jesus proclaimed Isaiah's gospel to the poor. His miraculous meals with his disciples and the crowds of people who followed him are presented as an eschatological fulfillment of the vision of Israel's festive meals which we find in Deuteronomy. The Acts of the Apostles present the early community of Jerusalem as fulfilling what is written in Deuteronomy: there were no poor among them (Acts 4:34), and there was a system of daily distribution to the widows (Acts 6).

But do we really believe that? The fact that there is so much poverty in the world is challenging to us; but we consider it inevitable. Are there at least some Christians who think that in Christian communities it is not necessary to admit the *permanent* presence of the poor? At least some who think that the existence of Christians as a society without any poor people could operate as a sign by which poverty could eventually be removed from the world? Why does the average Christian think like the Holiness Code (considering the deuteronomistic view of a society without any poor as utopian), or like the Covenant Code (which offers help and justice for the poor, whereas the framing Exodus narrative promises that there will be no poor at all), or even like the Code of Hammurabi (promising help to the poor without fulfilling the promise)? Are biblical scholars not at least partially responsible for this situation? With all our research why have we not yet succeeded in deciphering clearly the real message of the Bible in matters of wealth and poverty?