

LITERARY FORMS

Legal forms

i) The view of biblical law changed in the last century with the discovery of ANE codes of law.

Oldest: Sumerian code of Ur Nammu, king of Ur	21st century BCE
Others: Code of Hammurabi, king of Babylon	c.1690 BCE,
Hittite laws from Boghazkoy	14th century BCE

The ANE view of law was one which involved the whole of the created order: the gods created the world and established an order for it that was just; law was given by the gods as a regulation of life within the world according to the divine order and justice. A law code was then not necessarily a full record of the legal practice of the day but rather an exemplar of the order desired and required by the gods. The king was the chief servant of the gods. He was responsible for the administration of divine justice.

Part of prologue to Hammurabi's code reads that Hammurabi was appointed king to:

"promote the welfare of the people ... to cause justice to prevail in the land, to destroy the wicked and the evil that the strong might not oppose the weak" (ANET 164)

This seems to be the Israelite view of law too. R. Clifford, in his commentary *Deuteronomy* (p. 187), says:

"If the Mesopotamian codes were primarily statements of divine justice and royal duty, the Israelite codes are probably to be interpreted in the same way. They defined divine justice for Israel. They do not necessarily record day-to-day legal custom."

This is more so the case in Deuteronomy. Cf. Deut 6:20-25. Note the order of the material in this section.

von Rad *Studies in Deuteronomy*, p 72

"Fulfilling the commandments is thus in no wise the presupposition for salvation; indeed, the proclamation of the commandments takes place contemporaneously with the election, and therefore obedience can in any case only follow upon the divine saving activity."

ii) The Form of Israelite Law

A. Alt, "The Origins of Israelite Law" in *Essays on Old Testament History and Religion*, pp. 103 ff. identified two types of law in Israel.

a) Casuistic law (If such and such then ...)

Exod 21:23-26	Hamm #196-8
If any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe. When a slave owner strikes the eye of a male or female slave, destroying it, the owner shall let the slave go, a free person, to compensate for the eye.	If a nobleman has destroyed the eye of a man of nobility, they shall destroy his eye. If he has broken another nobleman's bone, they shall break his bone. If he has destroyed the eye of a commoner or broken the bone of a commoner, he shall pay one mina of silver. (ANET p. 175)
Deut 24:7	Hamm. #14.
If a man is found stealing one of his brethren from the people of Israel and he treats him like a slave and sells him, that thief shall die, you will purge the evil from your midst.	If a nobleman has stolen the young son of another nobleman, he shall be put to death (ANET p. 166)

Cf. Exod 21:16 Whoever kidnaps a person, whether that person has been sold or is still held in possession, shall be put to death. (cf.)	
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Alt thought this type of law was adopted by Israel when it settled in the land. The situations presupposed in many casuistic laws had to do with agricultural life in a village setting. Biblical casuistic law has many close parallels to ANE law. Note the address generally in the 3rd person, although in the case above in Deuteronomy, the style is modified to suit the style of Deuteronomy, namely that of exhortation and sermon. So the 2nd person clause is added at the end as a justification for the law itself.

b) Apodictic law (Prohibition, prescription, instruction)

Exod 22:28 “You shall not revile God, or curse a leader of your people.”

Deut 14:21 "You shall not eat anything that dies of itself"

Note that in neither law is any punishment stipulated.

Alt said these laws were concerned with fundamental issues and had a religious background, a rhythmic form, were in series, were concerned with religion and morality, and had a cultic origin. He saw no ANE parallels. He argued that the form could go back to the time of Moses.

There have been recent modifications to Alt's proposal (A.D.H. Mayes, *Deuteronomy*, pp. 74-5). Prohibitions have been found elsewhere.

In the edict of Ammisaduqa, King of Babylon in the late 17th century BCE, we read:

#4 "Whoever has given barley or silver to an Akkadian or Amorite as an interest bearing loan and had a document executed - if the king invokes the misharum for the land, his document is void".

#17 "A taverness who has given beer or barley as a loan may not collect any of what she had given as a loan" (*ANET* 526ff)

This investigation of the types of law in ancient Israel points to the fact that at least Israelite law was not a unique thing. Moreover, there is no foundation for the traditional ascription of all law to Moses. Israel borrows both form and content in developing its own law. The distinctive features of Israel's law are to be seen in the worship of YHWH alone, and in the prohibition against symbols for YHWH.

iii) Finally note:

G. Jansen "The Yoke that Gives Rest," *Interpretation* 41/3 (1987)

"The meaning of Israel's law is that it embodies the principle of the exodus: God cares for the oppressed, the insignificant, the powerless. This is signalled by the fact that the word Torah embraces both the provisions of Yahweh's law and the narration of Yahweh's saving acts. Law and story are two modes of one and the same agency: The Torah of Yahweh's life-giving action....Consequently, belief in the story and obedience to the law are two modes of one appropriate covenanted response."

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April, 2008