

Transformation of Justice: From Moses to Jesus

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In his book *Justice and the Social Order*, the Protestant theologian Emil Brunner wrote that the scriptural use of the word justice has nothing to do with social justice in the everyday world. To deal with the meaning of justice, therefore, he began with Aristotle, who defined justice as "rendering to every man his due." Brunner dealt with "worldly justice," the justice of the institutions of this world, rather than with the "justice of faith." He believed that "between even-handed justice, which renders to each man his due and heavenly justice, which renders good for evil and forgives the transgressor 70 times seven, there is an ultimate secret affinity," but that these two kinds of justice do not really meet.¹

Brunner was right in seeing a distinction between the two kinds of justice. Contrary to Brunner, however, I maintain that biblical justice has everything to do with justice in this world. I will begin with justice as defined in the Bible, and will then discuss the relationship of that justice to the institutions of this world.

I define biblical justice as that norm of behavior which arises out of the relationship of God and people, and out of the interrelationships of God's people with themselves and others. Micah 6:1-8 uses the two important words, *righteousness* (sedaqah) and *justice* (mishpat). God's "righteous acts" are the divine saving acts for Israel (Mic. 6:4-5). Israel is to respond to these righteous acts by doing justice, loving mercy, and by walking humbly with God (Mic. 6:8; see NIV). Justice in the Bible is not the opposite of mercy, but is parallel to it. Both justice and mercy arise out of the covenant relationship of God and people. The first centers on keeping covenant relations; the second, on reestablishing covenant when it is broken. Both are informed by a humble walk with God whose righteous acts save the people.

The difference Brunner saw between the two kinds of justice—biblical justice and worldly justice—has a long history which goes back to the last half of the second millenium B.C. It was then that Moses broke with Near Eastern empire or "state justice,"

represented so well by Hammurabi's law code. From Moses to Jesus there was a transformation of law and justice, a transformation which is at the base of the church's difficulty to relate to state law. It is my purpose first to set forth some of the main characteristics of this new transformed justice, and then to suggest some ways that this transformation can relate to the untransformed "justice" of state law.

The Transformation of Justice: From Moses to Jesus

1. The First Community of Faith: A Just Community

According to Exodus 18, the community of faith was interested from its earliest beginning with just relationships. Indeed, it saw itself above all as a community of justice.² The goal of Exodus 18 is the establishment of Yahweh's peace, both for external and internal relationships (*shalom*; translated "welfare" in RSV, verse 7 and in verse 23, "peace"). The foundation for this peace is stated in verses 1-12, Yahweh's deliverance from Egypt (Ex. 18:4,8-11). Jethro, the Midianite priest, heard of this deliverance (Ex. 18:8) and rejoiced in it (Ex. 18: 9), blessed God for it (Ex. 18:10) and confessed that God the deliverer is greater than all gods (Ex. 18:11). There follows a covenant meal with the officers of Israel in a worship setting (Ex. 18:12). The basis for Israel's relationships with foreign peoples was to be the foreigner's recognition of God's deliverance.

The second part of this chapter of Exodus deals with community justice. The key is the word "to judge," repeated four times (Ex. 18:13,16,22,23).³ Israel's first organization came about in order to promote community justice. For this purpose Israel was organized into clusters of thousands, hundreds, fifties and tens (Ex. 18:21). Thus, the first "small group" was instituted by Moses for handling disputes! About 2,000 years later Paul tells the Church at Corinth to organize themselves so as to handle their own disputes (1 Cor.

6). When this is done on the basis of Yahweh's deliverance, then all the people "will go to their place in peace" (Ex. 18:23).

2. Law in the Context of Covenant Making

Closely related to justice is the concept of law. While justice is the norm of behavior, law is an expression of that norm: "what a community, with its religion, values, political and economic systems, and experience of living, requires of its members."⁴ In the ancient Near East, including the Bible, some of these requirements were set forth in written law codes or collections.

Israel's first law was given at Sinai (Ex. 19-24). The law begins with anticipating covenant (Ex. 3-6) and ends with making covenant (Ex. 24:3-8). This illustrates the first important principle of biblical law and justice: both are found within the covenant structure of God and people. In the Old Testament, obedience to law was to be a response to God's redemption from Egypt (Ex. 19:4-5). This was a fundamental break from state law, a break which in the New Testament eventuated in law as response to God's act in Christ.

In contrast to the covenant context of law, the ancient law codes of the Near East are set within the context of coercive power—the coercive power of kingship. Hammurabi's Babylonian law code, dated to the first half of the second millennium B.C., is sometimes compared in importance to the Justinian code of the Roman Empire (seventh century A.D.). It speaks of Hammurabi as "the king of justice."⁵ Marduk, god of Babylon, was given the "Enlil function," the coercive power function over all humanity; Hammurabi as servant of Marduk has "pacified" the surrounding city states with his army. Then, as servant of his god, Hammurabi gave to his kingdom a code of law which was to function as a teaching instrument to achieve justice. Law codes such as Hammurabi's represented state law.

While state law such as that of Hammurabi may be better than none, Christians should remember that Paul called the Greek-

Roman law courts unjust (1 Cor. 6:1). The bursting penitentiaries and prisons dotting the landscapes of the United States and Canada should alert even the thoughtless that little has changed in regard to state justice today. Contrary to Brunner, "to every man his due" does not define justice for the Christian. Rather, justice is that norm which arises out of Yahweh's saving relationship to God's people, and out of the internal covenant relationships of God's people with each other.

3. Law for Divine-Human Relationships

The Sinai law code begins and ends with laws regulating human relationships to God (Ex. 20:22-26; 23:14-19). Also, religious laws are interspersed throughout the code. In contrast, all laws of the Near Eastern law codes are purely secular. That is, these laws deal only with inter-human concerns. For some, this "secularism" may seem an advantage. For biblical law, however, divine and human relations are so interrelated that justice must deal with both.

The Sinai code begins with the law prohibiting idols (Ex. 20:23). This law compares to the first and second laws of the Ten Commandments, laws dealing with exclusive loyalty to Yahweh. In the Bible there is no such thing as "the sovereignty of law." Only Yahweh, the giver of law, is sovereign. The worship of Yahweh from the heart, as Deuteronomy expresses it, is essential to human justice.

Prohibition of idols struck at the attempt to manipulate divinity through magic, to substitute the national will for that of the divine. The second of the Ten Commandments may be translated, "Thou shalt not put thy God in a box." Yahweh is a ruler, and cannot be controlled by the worshipper. As indicated by this law, Yahweh is revered. The worshipper will attempt to follow the way of Yahweh applying it to human relationships. Jesus has said, love to God and love to neighbor belong together (Matt. 22:37-40). Worship is essential to biblical law and justice.

4. Law and Interhuman Relations

Biblical law deals with worldly, nitty-gritty relationships: slavery (Ex. 21:2-11), assault (Ex. 21:12), murder (Ex. 21:12-14), kidnapping (Ex. 12:16), miscarriage (Ex. 21:22), a goring ox (Ex. 21:28-32), theft of cattle, etc. This part of law is quite secular, and means that reverence for God is not expressed by mere piety, but is directed toward everyday concerns of personal and social ethics.

In contrast to Near Eastern law, biblical law is not property, but person oriented. The Sinai code protects especially the slave (Ex. 21:1-11), the resident alien (Ex. 23:9), disadvantaged women and children (Ex. 22:22), and the poor (Ex. 22:25-27). It is prejudiced in favor of the lower rather than the upper classes. Unlike Near Eastern law, it is egalitarian, giving no special rights to the elite. An example of the "earthy," egalitarian law is found in the New Testament in the book of James.

5. Law and the Motive Clause

Traditionally, it is wrongly assumed that Old Testament law is vindictive, that its justice is characterized by "an eye for an eye, and a tooth for a tooth." However, in Near Eastern law, hundreds of years before Moses, this law of retaliation (*lex talion*) was adjusted by paying money substitutes for the loss of a body member. This law—an eye for eye—eventually came to symbolize equal justice rather than vindictive justice. But this law is found in each of the biblical law codes only one time (Ex. 21:22-25; Lev. 24:19-21; Deut. 19:21). It is not the characteristic of biblical law and justice.

Characteristic of biblical law is the motive/model clause. This is a clause from history, from religion, or from some other sphere, which modifies a law, giving to it a motive or reason, or sometimes modeling it after Yahweh's behavior. About 17 percent of the laws of the Sinai code have motive clauses, while such clauses in the Holiness (Lev. 17-26) and Deuteronomic codes (Deut. 12-28) modify about 50 to 65 percent of the laws.

What did this motive/model clause do for biblical law? This is illustrated by what the slave law of Exodus 21:2ff. developed into in the later law of Deuteronomy 15:12-18:

"If your brother, a Hebrew man, or a Hebrew woman, is sold to you, he shall serve you six years, and in the seventh year you shall let him go free from you. And when you let him go free from you, you shall not let him go empty-handed: you shall furnish him liberally out of your flock, out of your threshing floor, and out of your wine press; as the Lord your God has blessed you, you shall give to him. You shall remember that you were a slave in the land of Egypt, and the Lord your God redeemed you; therefore I command you this today. But if he says to you, 'I will not go out to you,' because he loves you and your household, since he fares well with you, then you shall take an awl, and thrust it through his ear into the door, and he shall be your bondman for ever. And to your bondwomen you shall do likewise. It shall not seem hard to you, when you let him go free from you; for at half the cost of a hired servant he has served you six years. So the Lord God will bless you in all that you do."

The underlined words show how Deuteronomic law is profoundly liberalized. Now male and female are treated alike. Now released slaves are to go out with property, for there is no freedom without property. The model/motive clause is added: "And you shall remember that you were a slave in the land of Egypt, and Yahweh your God redeemed you; therefore I am commanding you this thing today" (Deut. 15:15). Deuteronomy radicalized the slave law to make it entirely voluntary (Deut. 23:15-16). This did not do away with slavery any more than a modern person's right to own his or her own business has done away with hired labor. It did, however, give the slave a choice in the hard economic realities of ancient existence and forced slave masters to be careful how they treated their slaves.

The Holiness Code says of people who because of poverty came into possession of another: "For they are my slaves, whom I brought forth out of the land of Egypt; they shall not be sold as slaves" (Lev. 25:42).

Commenting on Deuteronomy 15:15, Hans Boecker writes:

Israel's existence as a people freed from slavery demanded a different view of slavery from that current elsewhere. It is particularly clear in the Deuteronomic slave law how law in the Old Testament was interpreted and understood in an increasingly theological way. The awareness that emerged in slave law also impinged on many other areas of life. An essential feature of Deuteronomy is the theologization of older legal prescriptions.⁶

It is obvious that the motive clause provided a model for behavior which propelled law forward, and supplied to law an inner motivation. Law was "written upon the heart." This characteristic of biblical law came to full fruition in such statements of Jesus: "You, therefore, must be perfect, as your heavenly Father is perfect" (Matt. 5:47).

6. The Law and the Prophets

We have seen that Near Eastern law was associated with kingship. When kingship was accepted into Israel, it too had its task in relation to law (see Ps. 72). Jesus, however, correctly characterizes law in the Old Testament by associating it with the prophets: "the law and the prophets" (Matt. 7:12; 22:40). This phrase referred, in the first place, simply to the Old Testament. But more than this, there is a vital relationship between the law and the prophets. The great prophets, by their preaching, enforced especially the first commandment, loyalty to Yahweh and Yahweh's law. Naboth confronted David, Elijah confronted Ahab when these kings had broken the law (2 Sam. 12:1-15; 1 Kings 21). The prophets Amos, Hosea and Ezekiel proclaimed legal collections to their people (Amos 2:6-8; Hos. 4:1-2; Ezek. 18:5-9).

The prophets sometimes mitigated capital punishment. For adultery and murder, Nathan did not pronounce the death sentence upon David, though his crime was taken seriously (2 Sam. 12:13-14). In response to adultery, Hosea redeemed his wife at the express command of Yahweh, "Go again, love your wife loved by another,

an adulteress, just as Yahweh loves Israel, though they turn to other gods...." (Hos. 3:1). Instead of capital punishment as law demands (Lev. 20:10), Hosea was to follow the model clause, the example of Yahweh's love for Israel (Hos. 3:1). Jesus was in this same prophetic tradition when he said to the woman caught in the act of adultery, "Neither do I condemn you, go now and leave your life of sin" (John 8:3-11, NIV).

If "an eye for an eye, and a tooth for a tooth" is the characteristic mood of the law codes, then the acts of Hosea and Jesus contradicted the law. But if their characteristic mood is denoted by the motive clause, then the acts of Hosea and Jesus were in the tradition of the codes. The characteristic purpose of the law was to redeem, not to punish: "I am Yahweh your God who brought you out of the land of Egypt, from the house of bondage" (Ex. 20:2). That tension within law which exists between the *lex talion* (Near Eastern law) and the motive clause is well expressed by the Law Preacher on the Mount.

"You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I say to you..." (Matt. 5:38-41).

The purpose of law was not merely individual but social redemption, aimed at redeeming the entire society. This wider application is suggested by the prophet Micah (Mic. 4:1-4) as he foresees the peoples of the nations one day choosing Yahweh's law to settle disputes, instead of choosing the sword (Mic. 4:3). This law would be based not upon coercion, but voluntary acceptance, teaching which the nations choose to learn (Mic. 4:1). This concept of international law was based not merely on the prophet's idealism. It had its precedent in Israel's intertribal law in the period of the judges when the tribes went up to Shilo to adjudicate their differences. Micah saw that the peace which in the time of the judges had been intertribal would one day be international; it would be based on Yahweh's law.

The prophet also says that the law of Yahweh will give order to economic relations within each nation:

"Every householder will sit under his own vine and under his own fig tree, and none shall make him afraid" (Mic. 4:4).

This oracle places its emphasis not merely on the well-being of the nations, but on every household within each nation.

A point we should not miss is that what Yahweh will achieve for the world in the future is what Israel, by following the law of Yahweh, is to achieve in the present:

"For all the peoples walk everyone in the name of their God. But we walk in the name of our God, forever" (Mic. 4:5).

Judah now was to accept the law of Yahweh instead of the law of the sword for international relations. Judah now was to promote the economic freedom of every household instead of the feudalistic structure of the Caananite city state. Yahweh had liberated Israel from the slavery of Egypt. Each household was to remain free in its relatedness to other households by walking in this way of Yahweh. Redemption rather than punishment was to be Judah's present goal both for the individual and for the total society.

Jesus and the early church began a new stage in this legal transformation ("the law and the prophets") when Jesus' teaching was carried from Israel to the cities and villages of the Mediterranean world. With the advent of Jesus, "to each his due" was no longer to be the measure of justice for this world. Christian missionaries called humanity to a new norm of justice, a new norm which relates human behavior to the model clause of God's act in Christ.

Transformation of Justice: From Church to World

Emil Brunner was right in seeing a difference between biblical justice and the justice of this world. As we have seen, this justice did not rise suddenly with Jesus, but was due to a deliberate transformation of justice which extended from Moses to Jesus.

If Hammurabi's concept of justice were modernized a little, the world today could be quite at home with it. In contrast, however, the justice of the church is not easily related to the institutions of

this world. Justice for the Christian, due to this long transformation from Moses to Jesus, can no longer be defined by Plato's "to every man his due," but by that norm which arises out of Yahweh's relationship with God's people, and by the interhuman relationships which develop from that experience.

This was a revolutionary model as compared to the model of natural law. This liberation model qualified slavery and poverty, gave rights even to the resident foreigner, and had as its goal an egalitarian universal society, with each household free from poverty and oppression.

How do Christians relate this new, transformed, model of justice to the justice systems of this world? The following are some options:

1. Withdrawal Strategy: Strategy of Unfaithfulness

One possible response is withdrawal from worldly structures, a procedure which in some cases may have value. But any strategy of withdrawal from the justice systems of this world must be partial, because Yahweh's justice is aggressive. The objective of this new justice is to take over the entire world.

I cite two texts. The first is Psalms 82, a legal form. In this Psalm the God of Israel calls into court the gods of the nations. God indicts them because of their failure to dispense justice:

"How long will you judge unjustly
and show partiality to the wicked?
Give justice to the weak and the fatherless;
maintain the right of the afflicted and destitute.
Rescue the weak and the needy;
deliver them from the hand of the wicked" (Ps. 82:2-4).

Because these gods of the nations were unjust, God sentenced them to die like the princes through whom they dispensed their justice on the human scene (Ps. 82:6-7). The God of Israel is then called

upon to dispense justice to the earth, for all nations belong to Yahweh (Ps. 82:8).

This Psalm is an expression of more than mere nationalism—"my God is better than your god." Israel's main dispute with the nations, according to this Psalmist, had to do with the matter of justice, the way of Yahweh versus the way of the nations. Since all nations belong to Yahweh, the establishment of God's justice in Israel was the beginning of a process in which this justice would be established in the earth. Israel is God's bridgehead for a just society; the long range objective is "all the earth."

How will this objective be reached, since Yahweh has chosen a militarily weak and insignificant people as a bridgehead? Did Yahweh make a mistake in this choice? Should God have chosen a mighty nation such as Egypt, Assyria or Persia? Our second text, Isaiah 42, speaks to this question.

The first of the traditional Servant Songs, Isaiah 42 sets forth the call of the servant. The servant's task is stated in three verses:

"He will bring forth justice to the nations" (Is. 42:1).
"He will faithfully bring forth justice" (Is. 42:3).
"He will establish 'justice in the earth'" (Is. 42:4).

Each time, the word for justice is *mishpat*, the same word as that translated "to do justice" in Micah 6:8. The Song closes by saying that the far-off nations are waiting for Yahweh's law (Torah, v. 4).

Our usual preoccupation with these Songs has been with the Servant's suffering. Indeed the Servant does suffer, as the later Songs, especially Isaiah 53, indicate. But we must begin our study with this first Song to see why the Servant suffers. Why do the nations pull his beard, beat him and finally lead him "like a lamb to the slaughter?" Because he dares to challenge the unjust legal systems of the nations, and to replace them by the justice and law of Israel's God! What God is about in the Bible is not a vocation for playboys and playgirls. God has a bold and daring plan to take over the world with a new system of justice.

The Servant suffers not only because of this vocation to establish God's justice in the nations. The Servant suffers because of daring to enlarge God's bridgehead by a nonviolent method:

"He will not call or lift his voice high, or make himself heard in the open street.
He will not break a bruised reed,
or snuff out a smouldering wick;
he will make justice shine on every race,
never faltering, never breaking down" (Is. 42:2-4, NEB).

Some interpreters think the word "call" at the beginning of this statement refers to calling up the militia, an act which the Servant will not do. This non-violent method is the vocation of a prophet, the proclamation of Word:

"The Lord God has given me
the tongue of those who are taught,
that I may know how to sustain with a word
him that is weary" (Is. 50:4).

This word by which the Servant establishes justice is expressed here for the first time in the Bible in terms of a transformed sword; God "made my mouth like a sharp sword" (Is. 49:2). This figure is used also of the triumph of Jesus in the book of Revelation: "From his mouth issues a sharp sword..." (Rev. 19:15).

To understand this Servant, we must see him as the transformation of the Near Eastern war hero and empire builder. Sennacharib rode forth at the head of his armies to establish Assur's justice over the nations. Hammurabi by means of his armies subjugated the city states of Mesopotamia to establish Marduk's justice. In these very poems of Isaiah 40-45, Yahweh anoints Cyrus, king of Persia, to be God's "bird of prey" to subjugate the nations (Is. 46:11), to build Yahweh's city and to set the exiles free (Is. 45:13). Cyrus however, did not become God's "king of justice" as did Hammurabi in relation to the god Marduk. As Servant of justice, God chose a prophetic personality, one whose mouth was made "like a sharp sword," to win the nations to a new legal order.

We have noted that Jesus' reference to the Old Testament as "the

law and the prophets" had deeper meaning than just the first five books of Moses followed by the prophetic books. As the Hammurabi style of law is associated with kings and the police force, so Yahwistic law is associated with the prophet and the word of God. It is significant that even when Jesus rode into Jerusalem as the Son of David, the crowds still identified him as "the prophet Jesus from Nazareth of Galilee" (Matt. 21:9-11). This prophet Jesus, without honor in his own city, set forth Yahweh's program of justice in the synagogue at Nazareth,

"He has anointed me to preach good news to the poor. He has sent me to proclaim release of the captives and recovering of the sight to the blind, to set at liberty those who are oppressed..." (Luke 4:18).

This proclamation of justice, like the story line of the Servant in Isaiah 40-55, meant for Jesus a ministry of suffering and death. That death, however, was interpreted by his followers as the triumph of Yahweh's justice over the impersonal powers and gods of this world.

We have seen from our two texts that the character of Yahweh's justice is aggressive. In the prophetic servant Jesus, God moved out from the bridgehead of Israel to establish communities of divine justice throughout the world. A strategy of justice which primarily withdraws into isolated communities denies this aggressive character of Yahweh's justice.

2. The Constantinian Strategy: Strategy of Capitulation

According to Harold J. Berman, former professor of law at Harvard University, modern law began in the 11th and 12th centuries A.D. under the guidance of the church.⁷ It was motivated by the struggle for supremacy between the pope and the emperor, a struggle which resulted in a counterbalancing between secular and religious authorities. This struggle resulted in the codification of canon and civil law, the establishing of both church and civil courts. What both authorities shared in common was "the integration of law

with religion, of order and justice with faith and morals, in an integrated community which transcended both.”⁸

In some ways this solution resembled that of Old Testament law in which laws of worship and of conduct were intermingled. An advantage was that all courts were not under the jurisdiction of the emperor; there were also church courts. Law and “state” were not synonymous. The crucial factor, however, had to do with the motive clause. Was law “written upon the heart” and enforced by preaching and exhortation or was church law enforced upon those who rejected covenant law? Was even baptism backed by violent force, along with laws against theft and murder?

My point is illustrated by the word “pastor.” Today we use the word pastor or shepherd of persons who are servants in our congregations (voluntary, covenant societies). In the ancient Near East “pastor” (“shepherd”) was used in the political sphere almost exclusively for the king. For example, Sennacherib called himself pastor. How is it that congregational servants have inherited a favorite term of Near Eastern kingship, a term used of Sennacherib? This has happened because of the transformation made by the biblical faith community. According to the Bible, early Israel by conviction had no king. When Israel demanded kingship, the prophets insisted that it be different from that of Near East. For example, Ezekiel criticized Israel’s pastors (shepherds) because they fed themselves on the sheep instead of feeding the sheep (Ezek. 34). Ezekiel predicted a new community with a “new heart” and “new spirit,” which would cause Israel to walk in God’s statutes (Ezek. 36:26-27). In the New Testament, Jesus is seen as the transformed king, the “good shepherd,” who gives his life for the sheep; and the faith community is a transformed community of those who “follow him, for they know his voice” (John 1).

In this tradition of transformation, Peter exhorts the elders to “be pastors of God’s flock,” not domineering over them, but remembering the example of the Chief Shepherd (1 Pet. 5:2-4). This tradition of the Bible, begun in the Old Testament community and fulfilled in the New Testament, makes untenable the Constantinian solution to the question of law. That solution is a flight backward toward Hammurabi’s law. In some ways it is worse than his law.

Lutherans of the Reformation period did not reject Constantinianism but heightened the problem by making the law more exclusively the domain of the state. Luther rejected canon law, rejecting the validity of the church’s jurisdiction of law altogether. Luther held a doctrine of two kingdoms but, contrary to Scripture, saw the Christian as a citizen of both. The Christian in private life was to follow the Sermon on the Mount. In public life the Christian must engage in vocations such as those of the soldier and executioner.

Unlike Luther’s contemporary, Machiavelli, Luther’s prince was not to act solely from considerations of power politics, but was to do justice, to use both reason and will to serve God. The pastor was to preach the gospel to the prince, to inspire him to fulfill his calling. The prince became the head of the churches of his principality and determined to what confession his subjects would belong.

Calvinists accepted many teachings of Luther but modified his doctrine of the two kingdoms. For them the church was an institution consisting of politically independent, local congregations, each with its own elected leadership and legal authority. This congregational legal authority was balanced against the civil polity, and like the older Catholic vision, might even dominate it. These congregations had their own law regulating worship, theological doctrine and morals of the civil society, including aspects of social, economic and political life.

Most English Calvinists, the Puritans, did not challenge the authority of the king over the church as Calvin would have done, but tried to reform the Church of England from within. They were great patriots, entering public life as members of Parliament and justices of the peace. Toward the mid-17th century, they took over the leadership of Parliament, believing that God had destined England as an elect nation to incarnate the divine purpose for humanity. Both in England and America they believed in the reformation of the world and emphasized law as a means to that reformation. They believed that the principle use of the moral (natural) and civil law was to teach humanity to walk in the way which God had laid out. This was a way not only for the individual, but also for the corporate body, the family, church and nation.

The left wing of the Reformation, the Anabaptists, should also be understood from the viewpoint of the legal revolution begun in the 11th and 12th centuries. We have noted that this legal revolution was begun by the church, splitting German Christianity into two parts, the church and the secular order. The church was an independent, visible, corporate legal structure. The secular order was divided among various polities.

Like Luther, the Anabaptists emphasized the doctrine of the two kingdoms, but instead of the prince defining the confession of his principality, they defined the congregation as all those and only those who were voluntarily baptized as adults. The order of the congregation was a covenant order which demanded a personal decision of life-long commitment for those who wished to be members. Anabaptists held that the just community of Yahweh cannot be created by coercion.

A second demand of this covenant order, shocking to the orders of Reformation society, was the acceptance of Christ's demand to love the enemy, even the enemy of the state (Schleitheim Confession, 1527). In contrast to Luther's prince who was head of the church, Anabaptists believed that Christians could not be magistrates, since magistrates were expected to enforce the law against the principality's internal enemies by police force and to protect the principality against external enemies by force of arms. They insisted that Christians were not to serve as soldiers nor as executioners.⁹

Besides emphasizing the legal autonomy of the congregation (as did also Catholics and Calvinists in their own way), Anabaptists denied and limited the legal sovereignty of the states. Quoting Paul, they noted that the powers are "to do that which is good." These powers were to refrain from persecution and from otherwise interfering with the legal polity of the church. This limitation would ultimately influence the writing of the United States' constitution.¹⁰

The United States' constitution was influenced by another major revolution in law, the Enlightenment and the French Revolution.

3. Enlightenment Strategy: Strategy of Denial

The Enlightenment was the first European system of belief formulated by people who were not Christians. Its religion was deism, a belief in a God as creator in the remote past, but who does not subsequently interfere in this creation. While God was essential to the Enlightenment's belief system, the church was not. Nature operates harmoniously for human benefit and "the laws of nature and nature's God" (Jefferson) are the important guides for human conduct. While the congregation was denied as an independent, visible, corporate legal structure, individualism and nationalism were emphasized. The nation-state was sovereign and public opinion was its ultimate authority. Criminal law was made an instrument of the state. These ideas influenced nearly all Western governments; they undergirded the French Revolution beginning in 1789 and were influential in the American revolution of approximately the same period.

In the conflict occasioned by the German split between church law and the law of secular states discussed above, the secular arm of government won out under this deistic influence. In deism secular government was represented not by the princes as in Lutheranism but by the people; it was nevertheless a democratic totalitarianism. The congregation was not recognized as a legal entity, independent of the state. In terms of the ancient Near Eastern situation, the secular Hammurabi style of law had won out over the Moses-Jesus sovereignty in corporate human affairs, except insofar as the congregations are ready to back their convictions with imprisonment and martyrdom. In terms of the demands of biblical law, the clash between the two public legalities of church and state is not essentially different from what it has always been. But the clash need not come to martyrdom. If there is mutual recognition, there may be interaction, at times cooperation and at times a standoff.

4. Strategies for Faithfulness

A requirement for faithfulness is that congregations recognize above all their own legal autonomy. The law of God in Christ is found only within the structure of covenant. This certainly means that congregations must establish their own structures to reconcile internal disputes. We have noted that the first organized structure of God's people in the book of Exodus was for handling disputes, the smallest group being made up of ten people. Why has this Bible vision become lost? Why does Paul still have to say to us, "How dare one of your members take up a complaint against another in the courts of the unjust..." (1 Cor. 6:1, JB)?

Just decisions do not come without effort in a Christian community. Paul says, "Can it be that there is not a single wise man among you able to give a just decision in a brother-Christian's cause" (1 Cor. 6:5, NEB)? If God's people are to judge the world, and even angels (1 Cor. 6:2-3), it is time to give attention to biblical principles of justice so that we can give just judgments at least in the mundane matters of this life (1 Cor. 6:3). We dare not leave matters of justice to unjust courts, courts which do not accept the gospel as norm for justice. One strategy for recognizing the congregation's legal autonomy, then, is to establish methods for dealing with internal issues of justice and conflict.

A second strategy is to relate to the legal, economic and political structures of this world from the perspective of the congregation. The question for the Christian in economics is not whether a Christian may be rich, but how one may participate so as to promote sister/brotherhood economics. The question is not whether the Christian may participate in the legal or political process, but where and how to participate in that process so that persons can experience something of the transforming power of the gospel.

When we participate in secular structures we do not leave covenant structure behind, but take it with us. When we enter the congregational meeting we should not leave outside those rules and laws by which we do business. We should bring them inside for our own scrutiny before God and for the scrutiny of brothers and

sisters. Associations of Christian medical, legal and business people should help us in this process.

A third strategy for recognizing the congregation's legal autonomy is the devising of alternative structures to the state system, structures more compatible with covenant structure. This is illustrated by prison ministries and by the Victim Offender Reconciliation Program. These structures must themselves submit to the congregation's renewal and critique from the viewpoint of covenant structure, if they are not to become coercive and ethnic.

In all its efforts to participate in the justice process, the church needs to "talk it up." The church is a community which shares and remembers. The More With Less books are examples of the exchange of ideas and experiences which point the church in the right direction.¹¹ Dial 911, the story of how Reba Place Fellowship dealt with crime in Chicago, is the sort of material out of which precedent is established.¹² These only touch the surface of the wealth of Christian experience which ought to be shared between our congregations.

Creation and Redemption

To understand the relationship of church and world, we need to understand the relationship of creation to redemption. God relates to humanity through creation. The biblical doctrine of creation was not arrived at by acceptance of the physical and social structures of this world and by fitting the gospel within them. That results in the surrender of the gospel. The key to "that which was in the beginning" is "that which is presently becoming," the gospel itself, the prism through which all worldly structures are examined (John 1; Gen. 1). Not only the church but also the world is included in God's promise, in God's covenant of providential care (Gen. 8:20-22; 9:1-17). The Jesus of the gospels is elevated to a place of rule over "every authority and power and dominion...not only in this age but also in that which is to come" (Eph. 1:21-22). To understand the biblical doctrine of creation we must begin with the gospel.

God also relates to humanity through redemption, a special relationship by which blessing may come to the world through Abraham's people: "And in you all families of the earth shall bless themselves" (Gen. 12:1-3). God's concern is not merely for providential care, but by special grace to lead humanity into a personal relation of God and people. The purpose of the church is to mediate personal blessing to the earth's families.

I began this address with Emil Brunner's statement that if we start from the Scriptural use of the word "justice," we are speaking of something which has nothing to do with social justice. What Brunner did not seem to understand is that biblical justice speaks to the world's problem of justice, and it speaks so radically (to "the root" of the matter) that it changes the definition of justice. Worldly justice is defined as "to everyone his due," and is centered on the state. Biblical or covenant justice is defined "to each according to the norm of Yahweh's relation to God's people, and the relationship of these people to each other in the light of that norm," and is centered in the congregation.

The road from worldly justice to biblical justice is the long way of the transforming biblical story which we have tried to trace. If we find the connection from biblical justice back to state "justice" difficult to make, let us rejoice in the transforming power of the story which created the chasm in the first place. And let us have faith that the same transforming power is at work today in us, through us, beyond us and in spite of us. By this transforming power, we can draw secular law into tension with the gospel.

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Footnotes

1. Emil Brunner, *Justice and the Social Order*, trans. by Mary Hottinger (New York, London: Harper and Brothers, 1945), p.13.
2. The events of Exodus 18 are evidently placed here, before Sinai, to sum up two parts of the book of Exodus, deliverance from Egypt and justice associated with Sinai. See Deuteronomy 1 where events are associated with Israel's leaving Sinai.
3. Shaphat, translated by RSV, "to judge" and "decide."
4. Dale Patrick, *Old Testament Law* (Atlanta: John Knox Press, 1985), p. 6.
5. James B. Pritchard, *Ancient Near Eastern Texts* (Princeton, N.J.: Princeton University Press, 3rd ed., 1969), p. 178.
6. Jochen Boecker, *Law and the Administration of Justice in the Old Testament and the Ancient Near East*, trans. by Jerry Moiser (1980), pp. 15-19, 183.
7. Harold J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Mass; London, England: Harvard University Press, 1983). I am indebted to Berman for the following analysis of law in the Middle Ages, Reformation and Enlightenment, except for the Anabaptists.
8. William J. Hawke, "The History of Law During the Protestant Reformation," in *The Bible and Law*, edited by Willard Swartley (Occasional Paper No. 3, Associated Mennonite Biblical Seminaries, 1982), p. 98.
9. For an analysis of Anabaptism in relation to the Reformers, see John Howard Yoder, "The Hermeneutics of Peoplehood: A Protestant Perspective," *The Priestly Kingdom* (Notre Dame, Indiana: University of Notre Dame Press, 1984), pp. 15-45. For an original Anabaptist statement on law, see Hans Schnell ca. 1575, translated by Elizabeth Bender and Leonard Gross, edited by Leonard Gross (unpublished copy).

10. For part of the story of this influence, see W.R. Estep, "Baptists: Exponents of Religious Liberty," paper read at Jurisprudential Working Meeting, Pheasant Run, Ill., April 8-9, 1984.
11. Doris Janzen Longacre, compiler, More-With-Less Cookbook (Scottsdale, Pa.: Herald Press, 1976).
12. Dave Jackson, Dial 911: Peaceful Christians and Urban Violence (Scottsdale, Pa.: Herald Press, 1981).

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