

Decalogue, many scholars have accepted the idea that it had a function in the worship of Israel.³⁴

Another influential view has been that of Gerstenberger, who locates the *Sitz im Leben* of the Decalogue among the wise and the extended family rather than the priests and prophets.³⁵ He believes the commandments reflect the everyday life of society. At the most basic level it is the father addressing the son, speaking from experience and with the sacred authority granted to the elders within a clan. These rules for social conduct were in due course incorporated into the law, according to Gerstenberger, and became a pre-requisite for acceptable worship (cf. the entrance liturgies of the sanctuaries). Later a representative sample of the commandments became the centre of worship.³⁶ These insights point to a much wider role for the Decalogue in society than simply in formal worship, and are not incompatible with an earlier date of origin than Gerstenberger assumes. According to the Bible, early Israel was an 'extended family' and Moses may be seen as a father-figure, even though Abraham was the founding father of the nation. Indeed God himself is portrayed as the Father of his people (Exod. 4:22; Deut. 14:1; Hos. 11:1), though admittedly this is relatively rare.

Weinfeld proposes three major stages in Israel's use of the Decalogue:³⁷

- 'At the dawn of Israelite history the Decalogue was promulgated in its original short form as the foundation scroll of the Israelite community, written on two stone tablets ... placed in the Ark of the Covenant';

³⁴ Stamm and Andrew, *Ten Commandments*: 28-30; Raymond F. Collins, 'Ten Commandments' in *The Anchor Bible Dictionary*, ed. David Noel Freedman (New York: Doubleday, 1992; electronic edn 1996); Childs, *Exodus*; Greenberg, 'Decalogue Tradition': 114-16.

³⁵ Erhard S. Gerstenberger, 'Covenant and Commandment', *JBL* 84 (1965): 38-51; *Wesen und Herkunft des »Apodiktischen Rechts«* (Wissenschaftliche Monographien zum Alten und Neuen Testament, 20; Neukirchen-Vluyn: Neukirchener, 1965).

³⁶ A rather different proposal is made by Nielsen, *Ten Commandments*, who suggests that in the early northern kingdom it was felt necessary to formulate fundamental principles as a basis for judgements, and thus the Decalogue came into being. 'The circles ... responsible ... can only be such as were in a position, by reason of their most intimate acquaintance with the ancient tradition of law in Israel, to achieve so masterly a summary of it' (pp. 137-38), and these circles probably included both priests and elders.

³⁷ Moshe Weinfeld, *Deuteronomy 1-11* (AB, 5; New York: Doubleday, 1991): 262-64.

- the Decalogue was read in the sanctuaries at annual ceremonies to renew the covenant, probably at Pentecost (which was connected with the giving of the law);
- in Second Temple times it was read daily together with the Shema (cf. the Nash papyrus and Qumran phylacteries).

Although this proposal cannot be proved beyond doubt, it seems reasonable in the light of the evidence available. Bearing in mind the discussion above, I suggest it be supplemented by the following:

- the Decalogue, or at least the principles it expresses, was assumed by the prophets and had a formative influence on the message they proclaimed;
- the Decalogue may well have played a significant role as guidelines for social conduct within the extended family.

It is an oversimplification to associate Old Testament law exclusively with any one group, whether priests (Wellhausen), prophets (Mowinkel) or wisdom teachers (Gerstenberger). On the contrary, the Decalogue belonged to the whole nation, the people and their leaders.³⁸

1.4 Can We Trace an ‘Original’ Form?

There have been many attempts to reconstruct the ‘original’ form of the Decalogue. Ewald argues that if the additions and explanations found in Exodus and Deuteronomy are removed, we are left with two series of five laws which ‘exhibit perfectly that sharp clear brevity which

³⁸ Cf. Durham, *Exodus: 279-80*. David Noel Freedman, *The Nine Commandments: Uncovering a Hidden Pattern of Crime and Punishment in the Hebrew Bible* (Anchor Bible Reference Library; New York: Doubleday, 2000) interprets the narrative from Exodus to 2 Kings in relation to the Decalogue, arguing that it contains a hidden pattern of commandment violations. He believes it was written for the Israelite community in exile to explain why God had been forced, given the obligations of the covenant, to destroy their nation. Each of the first nine commandments had been broken by Israel, as illustrated in successive books: Exodus (1–2), Leviticus (3), Numbers (4), Deuteronomy (5), Joshua (8), Judges (6), Samuel (7) and Kings (9). The unexpected order of the commandments in Joshua–Samuel follows that common in the days of Jeremiah (theft, murder, adultery; see Jer. 7:9), which is one of several attested in different traditions. The tenth commandment doesn’t fit this pattern, according to Freedman, because it is a supplement to the other nine, presenting the motivation behind every crime (especially the sixth to ninth commandments). It is an ingenious theory, with some interesting insights along the way, but Cyril S. Rodd, *Glimpses of a Strange Land: Studies in Old Testament Ethics* (Old Testament Studies; Edinburgh: T&T Clark, 2001): 82 demolishes it in a paragraph.

every law ought to possess'.³⁹ It was 'undoubtedly' these which were written on the two tables, as follows:

I am Jahveh, thy God, who delivered thee out of Egypt, out of the house of bondage.

I.

- (1.) Thou shalt have no other God before me.
- (2.) Thou shalt not make to thyself any graven image.
- (3.) Thou shalt not idly utter the name of Jahveh thy God.
- (4.) Thou shalt remember the Sabbath day, to keep it holy.
- (5.) Thou shalt honour thy father and thy mother

II.

- (1.) Thou shalt not murder.
- (2.) Thou shalt not commit adultery.
- (3.) Thou shalt not steal.
- (4.) Thou shalt not bear false witness against thy neighbour.
- (5.) Thou shalt not covet thy neighbour's house.

Likewise Charles believes that originally the ten commandments each consisted of one terse clause.⁴⁰ He suggests that the last one was even shorter than in Ewald's proposal, simply 'Thou shalt not covet'. Sellin goes further in his reconstruction, arguing that the two positive commands were originally phrased negatively as prohibitions of work on the sabbath and the cursing of parents.⁴¹ Other scholars have made similar attempts, and produced a variety of hypothetical 'original' decalogues.⁴² Weinfeld actually suggests three different reconstructions in two articles and a commentary, without any cross-reference between the three.⁴³ On the other hand, Kratz rejects the reconstruction of a

³⁹ Ewald, *History*: 159, 163.

⁴⁰ Charles, *Decalogue*: xliv-liv.

⁴¹ Ernst Sellin, *Geschichte des Israelitisch-Jüdischen Volkes*, vol. 1 (Leipzig: Von Quelle & Meyer, 1924): 83-84; followed by Albrecht Alt, 'The Origins of Israelite Law' in *Essays on Old Testament History and Religion* (Oxford: Blackwell, 1966; tr. from German, 1934): 79-132, esp. 118-19.

⁴² Cf. Stamm and Andrew, *Ten Commandments*: 18-22, 58; Nielsen, *Ten Commandments*: 78-118; Henri Cazelles, 'Les Origines du Décalogue', *Eretz-Israel* 9 (1969): 14-19; André Lemaire, 'Le Décalogue: Essai d'Histoire de la Rédaction' in *Mélanges Bibliques et Orientaux en l'Honneur de M. Henri Cazelles*, ed. A. Caquot and M. Delcor (AOAT, 212; Kevelaer: Butzon & Bercker, 1981): 259-95; Harrelson, *Ten Commandments*: 33-34. Karlheinz Rabast, *Das Apodiktische Recht im Deuteronomium und im Heiligkeitsgesetz* (Berlin: Heimatdienstverlag, 1949): 35-38 argues that the Decalogue was originally worded metrically and was in fact a dodecalogue.

⁴³ Moshe Weinfeld, 'The Decalogue: Its Significance, Uniqueness, and Place in Israel's Tradition' in *Religion and Law*, ed. Edwin B. Firmage et al. (Winona Lake, Indiana: Eisenbrauns, 1990; originally conference paper, 1985: 3-47, esp. 12-14; 'The Uniqueness of the Decalogue and Its Place in Jewish Tradition' in *The Ten*

primitive decalogue, considering the form in Exodus to be a composition designed for its literary context, including from the beginning most of those elements often considered to be expansions, though he admits that the theological basis for the sabbath command may be secondary.⁴⁴

There seem to be two issues: was there an earlier ('original') form of the Decalogue and, if so, can it be reconstructed? There was certainly some development in the form of the Decalogue, as is clear from the different versions in Exodus and Deuteronomy. Deuteronomy adds several clauses to the older version in Exodus, and there are a few small differences in expression.⁴⁵ The most significant difference is in the theological basis for the sabbath command, and it could be that here each tradition is adding an explanation to an earlier shorter form. Beyond this we move into the realm of speculation. On the one hand, it may be argued that the Decalogue in Exodus is presented as the direct words of God, and it is unlikely that mere humans would dare to edit these. On the other hand, it seems the author of Deuteronomy did not feel it inappropriate to do this very thing,⁴⁶ and so it could be that there was also a process of editing which led to the form we now read in Exodus. The striking difference in length and style between the first five commandments and the second five suggests that the former have been expanded, in which case there would once have been a shorter,

Commandments in History and Tradition, ed. Ben-Zion Segal and Gershon Levi (Jerusalem: Magnes, 1990; substantially the same as 'The Decalogue', in a different translation from the Hebrew): 1-44, esp. 6-8; *Deuteronomy*: 247-48.

⁴⁴ Kratz, 'Dekalog'. Cf. Graupner, 'Zehn Gebote'. From a rather different perspective, Kline, 'Ten Commandments' argues that the idea of 'later expansive revisions' is incompatible with the understanding of the Decalogue as a treaty, for 'treaties were not subject to revisionary tampering'. Anthony Phillips, 'The Decalogue – Ancient Israel's Criminal Law', *JJS* 34 (1983): 1-20, in contrast, argues that the examples of Deuteronomic and Priestly reinterpretation of the Decalogue show that the text was not sacrosanct but could be reworked to take account of new circumstances just like other Hebrew law. And Klaus-Dietrich Schunck, 'Das 9. und 10. Gebot – Jüngstes Glied des Dekalogs?', *ZAW* 96 (1984): 104-09 believes that the ninth and tenth commandments were added in the eighth century BC as a response to the socio-economic injustice at that time.

⁴⁵ See my article 'Ten Commandments, Two Tablets: The Shape of the Decalogue', *Themelios* 30.3 (2005): 14-16.

⁴⁶ Cassuto, *Exodus*: 250-51 argues that 'according to the customary literary usage followed both in the Bible and in the other literatures of the ancient East, when someone's utterance is cited and subsequently it is related that someone else referred to it, the statement is not repeated in the *ipsissima verba*, but certain changes and variations are introduced', and so 'when Moses reminds the people of God's words, he does not repeat them exactly.'

simpler form. However this cannot be proved nor can we say exactly what that form was. In any case, there is no reason to assume that the earliest form must have consisted of uniform short sentences, all in the negative, and to rule out the possibility that some of the explanations are ‘original’ and were included from the beginning because they were felt necessary to make the point clear. As Goldman points out, ancient Near Eastern law-codes were not always short and simple in form, but included explanations when required.⁴⁷ Moreover, ‘no one in the climate of opinion in which the Jewish lawgiver lived could have commanded a people to serve only one God, to do so without images, and to afford a slave an equal opportunity with his master for a day’s rest, without a threat or promise, or both, and a good reason to boot’.⁴⁸

So although it is possible that there was an earlier form of the Decalogue, simpler and shorter than either of the forms in the Bible, it cannot be proved with certainty nor is there is any way of establishing its exact wording. In any case, it is the texts of Exodus and Deuteronomy which have become canonical for Israel and the church, and it is in this form that the Decalogue has had an unparalleled influence in world history.

2. Purpose

2.1 *The Audience of the Decalogue*

To whom were the Ten Commandments addressed? There are three main answers to this question.

Firstly, it is suggested that they are intended for *all people everywhere*. Westermann describes the first commandment as an example of a command which applies ‘to everyone and for all time’, unlike more specific commands such as Genesis 12:1.⁴⁹ Similarly Cohen considers the Ten Commandments to be self-evident values to those sensitive to natural justice, a natural rule for human beings created as reflections of God.⁵⁰

⁴⁷ Goldman, *Ten Commandments*: 65.

⁴⁸ See p. 66; cf. Cassuto, *Exodus*: 237.

⁴⁹ Claus Westermann, *Elements of Old Testament Theology* (Atlanta, Georgia: John Knox, 1982; tr. from German, 1978): 21.

⁵⁰ Jeffrey M. Cohen, ‘The Nature of the Decalogue’, *JBQ* 22 (1994): 173-77.

A quite different answer to that of Westermann is given by Phillips, who argues that initially only free adult males were subject to Israelite criminal law, whereas in Deuteronomy women were considered equal members of the covenant community and so liable for breach of the law.⁵¹ Slaves and resident aliens also did not possess legal status, at least in earlier times. Because of this Phillips believes that the Decalogue was originally addressed to *free adult male Israelites*. Crüsemann takes this argument further, claiming that the Decalogue applied only to adult men who were responsible for administering justice and were active in worship, in particular farmers who owned land and citizens who owned slaves.⁵² He believes its main principle was to secure the freedom of the independent farmer and claims that is why only certain laws are included, whereas other central features of Old Testament law and ethics are absent, such as taboo rules (e.g. clean/unclean, blood), cultic matters (e.g. sacrifices, festivals), economic and state matters, and the care for the weak in society. In a similar way, Clines – while admitting that the authors of the Decalogue may have *intended* to address the whole community – argues that in fact the text expresses the class interests of middle-aged, urban, property-owning males in Israelite society.⁵³ Although other groups are mentioned incidentally (women, resident aliens, slaves), they are not addressed directly nor are their interests and responsibilities the primary concern of the commandments.

A third answer to the question of the audience of the Decalogue is that it was addressed to *all Israel*, though scholars differ as to whether it was for Israel as a people or as individuals. Zimmerli concludes his study of the Decalogue by stating that it is ‘addressed first and foremost to Israel as a nation ... not ... the individual’.⁵⁴ Weinfeld disagrees, arguing that it applies to every individual in Israelite society, unlike other laws which depend on certain personal or social conditions.⁵⁵ The Decalogue is formulated in the second-person singular, ‘as if directed personally to each and every member of the

⁵¹ Anthony Phillips, *Ancient Israel's Criminal Law: A New Approach to the Decalogue* (Oxford: Blackwell, 1970).

⁵² Frank Crüsemann, *Bewahrung der Freiheit: Das Thema des Dekalogs in Sozialgeschichtlicher Perspektive* (Kaiser Traktate, 78; Munich: Kaiser, 1983).

⁵³ Clines, ‘Ten Commandments’: 32-37.

⁵⁴ Walther Zimmerli, *Old Testament Theology in Outline* (Edinburgh: T&T Clark, 1978; tr. from German, 2nd edn, 1975): 138.

⁵⁵ Weinfeld, *Deuteronomy*: 249.

community', to avoid the possibility of individuals evading responsibility, which might happen if the command was addressed to a group.⁵⁶

I will consider these views in turn. It may well be true that the principles enshrined in the Decalogue are relevant to all human beings in every culture and age, and many of them are also found in the laws and ethics of other nations. However the context of the Decalogue makes it clear that these particular principles were imparted at a particular time to a particular people, the people of God – Israel. Also, some of them were quite distinctive to Israel, for instance the exclusive worship of YHWH, without images, and the observance of the Sabbath.

The view that Decalogue was addressed primarily to one section of society, namely property-owning male Israelites, has been followed by several recent scholars.⁵⁷ However Crüsemann's claim that 'central features' of Old Testament law are absent from the Decalogue can be counteracted by pointing out that the first two features he mentions (taboo rules and cultic matters) are *not* in fact central in the context of the whole Old Testament, as proclaimed repeatedly by the prophets. Moreover the latter two (economic matters and care for the weak) *are* referred to in the fourth, eighth and tenth commandments. The one religious observance included in the Decalogue is the Sabbath, which could be observed by everyone without expense or travel or special equipment; whereas the pilgrimage festivals are not included, and these may well have been observed predominantly by property-owning male Israelites who had the resources and leisure to spend several weeks away from home journeying to the central sanctuary. Childs points to the simplicity with which the Decalogue is formulated, which indicates it is not addressed to a specific segment of the Israelite population, but rather to 'every man'.⁵⁸ Likewise McConville shows that – at least in the Deuteronomic form – the Decalogue 'does not support a social structure in which a particular class has special rights or

⁵⁶ As pointed out by Philo and Nahmanides; cf. Shalom Albeck, 'The Ten Commandments and the Essence of Religious Faith' in *The Ten Commandments in History and Tradition*, ed. Ben-Zion Segal and Gershon Levi (Publications of the Perry Foundation for Biblical Research; Jerusalem: Magnes, 1990; tr. from Hebrew, 1985): 261-89, esp. 287-88.

⁵⁷ E.g. Houtman, *Exodus*, vol. 3: 13; Rodd, *Glimpses*: 87-88.

⁵⁸ Childs, *Exodus*: 399-400.

responsibilities', for this would be against the spirit of Deuteronomy which treats all Israelites as equals (e.g. 15:12-18; 17:14-18).⁵⁹

I believe the third view to be the most credible, that the Decalogue is addressed to the whole people of Israel, both as individuals and as a community. The two are not mutually exclusive, for the actions of individuals affect the community and vice-versa. The worship of one God, without images, and the observance of the Sabbath, would be matters of community policy, but the effectiveness of the policy would be dependent on the co-operation of individuals. Honouring the divine name and one's parents, together with refraining from murder, adultery, stealing, false witness and coveting, would be primarily matters of individual behaviour, but the community would be responsible for ensuring conformity because the effects of misbehaviour would affect the people as a whole. The use of the singular 'thou' is consistent with this, since it is used in the Old Testament to address individual Israelites and also the people as a corporate entity.

2.2 *The Nature of the Decalogue*

Another question concerns the nature of the Decalogue. What role was it intended to play in the life of Israel, as a people and as individuals? There are four main views among scholars.

Gressmann is typical of scholars in the early part of last century when he describes the Decalogue as 'the catechism of the Hebrews in the Mosaic period'.⁶⁰ It was widely understood at that time to be a summary of the essential points of Israelite religion, itemised so that they could be counted on the fingers and easily memorised.⁶¹ According to this view it was intended primarily for teaching, within the community of the people of God.

Phillips believes the Decalogue constituted *ancient Israel's criminal law*, which was enforced by means of capital punishment.⁶² He starts with the premise that the Old Testament concept of covenant was based on the Hittite treaty form, understanding YHWH as suzerain and Israel

⁵⁹ J. Gordon McConville, *Deuteronomy* (Apollos Old Testament Commentary, 5; Leicester: Apollos, 2002): 122; cf. 'Singular Address in the Deuteronomical Law and the Politics of Legal Administration', *JSOT* 97 (2002): 19-36, esp. 31-35.

⁶⁰ Gressmann, *Mose*: 477.

⁶¹ E.g. Gunkel, according to Buber, *Moses*: 130.

⁶² Phillips, *Ancient Israel's Criminal Law*; cf. 'Decalogue'.

as vassal. It follows that breach of the stipulations amounted to apostasy and would lead to divine action. A broken commandment could lead to punishment for both the individual offender and the whole community, and might even result in repudiation of Israel's covenant relationship with God. As a result, if an individual broke a commandment this was treated as an offence against the community, in other words a crime. Following Greenberg⁶³, Phillips argues that crimes in biblical law – unlike other ancient Near Eastern law – concerned injury to God or a person, never property. Further, the penalty was always death, whereas this was not the case for offences against property. The Decalogue as traditionally understood does not fit this exactly, but Phillips makes it fit by reinterpreting the eighth commandment as 'manstealing' (i.e. kidnapping, e.g. Exod. 21:16),⁶⁴ the ninth as 'judicial murder' (i.e. false witness which led to the death penalty, e.g. 1 Kgs 21) and the tenth as 'depriving an elder of his status'⁶⁵.

A third view is that the Decalogue itself is not primarily law, but basic *moral and ethical principles* that deal with issues which remained central to Israel's national life throughout her history.⁶⁶ This fits with the research of Mendenhall, who noted a distinction in ancient Near Eastern law between what he terms 'policy' and 'technique'.⁶⁷ The former was the sense of justice in a community, which was determined and enforced by the deity, accepted by the community as binding and functioned as the source for law. The latter stipulated how community policy was translated into specific actions. So also in the Bible, the Decalogue is understood as a statement of the essentials of Old Testament ethics (= policy) while detailed laws in the Book of the Covenant, Holiness Code and Deuteronomic Laws explain how these

⁶³ Moshe Greenberg, 'Some Postulates of Biblical Criminal Law' in *Yehezkel Kaufmann Jubilee Volume: Studies in Bible and Jewish Religion Dedicated to Yehezkel Kaufmann on the Occasion of His Seventieth Birthday*, ed. Menahem Haran (Jerusalem: Magnes, 1960): 5-28.

⁶⁴ Cf. Albrecht Alt, 'Das Verbot des Diebstahls im Dekalog' in *Kleine Schriften zur Geschichte des Volkes Israel*, vol. 1 (Munich: Beck'sche, 1953, 1949; repr. from unpublished paper, 1949): 333-40.

⁶⁵ For Phillips' complicated and speculative argument which comes to this conclusion, see pp. 149-52.

⁶⁶ Cf. Kenneth C. Bailey, 'The Decalogue as Morality and Ethics', *Theology Today* 20 (1963): 183-95; Childs, *Exodus*; Mark E. Biddle, *Deuteronomy* (Smyth & Helwys Bible Commentary; Macon, Georgia: Smyth & Helwys, 2003).

⁶⁷ Mendenhall, 'Ancient Oriental and Biblical Law': 26.

principles are to be put into practice (= technique). Unlike law collections such as Exodus 34 and Leviticus 19, the Decalogue is brief but complete: 'he added no more' (Deut. 5:22). The commandments reflect the essential nature of God and his relationship to his people, so the Decalogue may be described as 'the essence of the Sinaitic covenant',⁶⁸ 'the quintessence of Old Testament law',⁶⁹ the authoritative summary of God's will as expressed in the laws of Israel.⁷⁰ Philo and Mohammed are examples of those who have understood the Decalogue in this way.⁷¹

A fourth way of looking at the Decalogue is as the *constitution of Israel*.⁷² That it was a key part of the process by which the nation was formed is suggested by the prologue: 'I am the LORD your God, who brought you out of the land of Egypt ...'. It is 'a summary transformation of God's creative ordering of the world into commands for living for the people he has redeemed from slavery in Egypt',⁷³ which lays a foundation for the life of the liberated community, that continues to be the standard for God's people as they live together and order their lives for the common good.⁷⁴

So is the Decalogue the Hebrew catechism, criminal law, ethical essentials or the Israelite constitution?

It is true that the form and content of the Decalogue lend themselves to instruction, and it has often been part of the curriculum for those learning the Jewish and Christian faiths. However this is neither its original purpose nor its essential nature. As Buber points out, it is not instruction for a person who has to demonstrate their readiness for membership of a religious community, which is the usual meaning of

⁶⁸ Kline, 'Ten Commandments'.

⁶⁹ Gordon J. Wenham, 'Law and the Legal System in the Old Testament' in *Law, Morality and the Bible*, ed. Bruce N. Kaye and Gordon J. Wenham (Downers Grove, Illinois: Inter-Varsity, 1978): 24-52, esp. 27.

⁷⁰ Graupner, 'Zehn Gebote': 91-95.

⁷¹ Greenberg, 'Decalogue Tradition': 117; Houtman, *Exodus*, vol. 3: 7-8.

⁷² E.g. Paul Volz, *Mose und Sein Werk* (2nd edn; Tübingen: Mohr, 1932): 25; Buber, *Moses*: 135-36; Houtman, *Exodus*, vol. 3: 7.

⁷³ McConville, *Deuteronomy*: 121.

⁷⁴ Cf. Patrick D. Miller, 'The Place of the Decalogue in the Old Testament and Its Law', *Interpretation* 43 (1989): 229-42; 'The Good Neighbourhood: Identity and Community through the Commandments' in *Character and Scripture: Moral Formation, Community, and Biblical Interpretation*, ed. William P. Brown (Grand Rapids, Michigan: Eerdmans, 2002): 55-72; 'Sufficiency'; "'That It May Go Well with You": The Commandments and the Common Good' in *The Way of the Lord: Essays in Old Testament Theology* (FAT, 39; Tübingen: Mohr Siebeck, 2004): 136-63.

catechism, for this would be formulated as statements (third person) and articles of personal faith (first person).⁷⁵ Rather 'the soul of the Decalogue' is in the word 'thou': nothing is stated or confessed, but commands are given.

There is also some truth in the idea that the Decalogue is ancient Israel's criminal law, for the first seven offences listed are understood in the Old Testament to be crimes against God and society, and when referred to in more detailed law-codes the penalty for these seven is generally death. However it is only by a forced interpretation of the last three commandments that they can be fitted into this mould, and therefore it is doubtful that the Decalogue as a whole is intended as criminal law. In fact it is questionable whether the Decalogue is strictly law at all, as pointed out by Mendenhall.⁷⁶

More helpful is the view of the Decalogue as the essentials of Old Testament ethics. The Pentateuchal laws are many and varied, but the Decalogue can be seen to provide an 'executive summary' of the essential points in maintaining Israel's relationship with God. While all the laws express the divine will, these are the most important ethical principles which are believed to be directly revealed by God and not to be diverged from in any circumstances.

But perhaps most fruitful of all is the understanding of the Decalogue as the Israelite constitution. It begins by stating the basis of Israel's special relationship with YHWH, and continues by listing the primary obligations laid upon her for maintenance of that relationship, including responsibilities toward both God and mankind. While we should not draw too close a parallel with modern constitutions, in its biblical context the Decalogue is certainly foundational for the national life of Israel. Its similarity in form to ancient Near Eastern treaties also points in this direction.

Like the Magna Carta of Britain⁷⁷ or the Pancasila ('five principles') of Indonesia, the Decalogue determines foundations for perpetuity. Younger nations often appreciate such foundations more than those who have long been free, and the people of Israel were no exception (Ps. 19:7-10; cf. 119). Far from being a dry legal document, or a

⁷⁵ Buber, *Moses*: 20.

⁷⁶ See above; also Georg Fohrer, *History of Israelite Religion* (London: SPCK, 1973; tr. from German, 1968): 84-85.

⁷⁷ Cf. Jan Milic Lochman, *Signposts to Freedom: The Ten Commandments and Christian Ethics* (Minneapolis: Augsburg, 1982; tr. from German, 1979): 18.

burden to bear, the Decalogue is a charter of freedom, to be embraced and celebrated.

The Decalogue states the ground rules for the people of God, covering their relationships with God and with other people. The first five commandments concern religious and family matters which were of great importance for Israel and relate to their distinctiveness as a nation. Interestingly, these obligations do not include circumcision, which was considered so important by the Jews in later days.⁷⁸

The next four commandments are categorical prohibitions, with no punishment prescribed and no definitions given. For example, killing is forbidden but we are not told what action should be taken if someone does kill, nor is the precise meaning of 'kill' defined (does it include murder, manslaughter, execution, war, abortion, euthanasia?). These commandments are not distinctive, but express ethical principles which were widely accepted in the ancient world.

The last commandment concerns thoughts, and is presumably not intended to be enforced by a human judge, but that does not make it any less important than the first nine. Clearly the Decalogue was not intended to satisfy the needs of legislator or court. 'If this is a law code, it isn't written for people to look over their shoulders in case the magistrate sees them, but it is written to make people look up, in case God sees them, or look inside themselves because God is even interested in their thoughts.'⁷⁹

To put it another way, the Decalogue outlines a vision for the life of Israel after their liberation from Egypt. As such it was instrumental in the forming of the nation, and the principles it enshrines continued to be the basis of ethics for the people of God in both Old and New Testaments.

2.3 Motives and Sanctions

Laws are toothless without sanctions, and ethics ineffectual unless people are motivated to follow them. So why should Israel obey the

⁷⁸ Circumcision is the sign of the Abrahamic covenant (Gen. 17:10-27) and is referred to in several early narratives (Gen. 21:4; 34:13-24; Exod. 4:25-26; Josh. 5:1-9), but it is mentioned only briefly in the laws (Exod. 12:44-48; Lev. 12:3) and never elsewhere in the Old Testament except in a figurative sense (esp. concerning 'circumcision of the heart', Lev. 26:41; Deut. 10:16; 30:6) and negatively in reference to non-Israelites who are described as 'uncircumcised' (esp. the Philistines; e.g. Judg. 14:3; Isa. 52:1).

⁷⁹ David Instone-Brewer, in a personal communication.

Decalogue? How was it to be enforced? What were the penalties for infringement?

It is noteworthy that the Decalogue does not stipulate what action is to be taken if people do not obey it, and it is left to the detailed laws to do this. For example, all the stipulations of the Decalogue are referred to and elaborated in the Book of the Covenant and other law-codes, except for the prohibition of coveting which by its very nature is not an offence that can be proven and punished. In these laws punishments are specified for each crime, generally execution in the case of the first seven commandments (Exod. 21:12, 15, 17; 22:20; 31:14-15; Lev. 20:9, 10; 24:16, 21; Deut. 17:2-7; 21:18-21; 22:22).⁸⁰ However there is a differentiation between murder and accidental killing, so that only the former is considered a capital offence (Exod. 21:12-14; Deut. 19:1-13).

In practice it appears that capital punishment was optional for the seventh commandment.⁸¹ This is explicit in ancient Near Eastern law (e.g. CH §129) and implied in Prov. 6:32-35 (which warns a potential adulterer that the offended husband may not be satisfied with compensation). Several other texts suggest lenience on the woman concerned, e.g. Bathsheba is not condemned for adultery with David, while Hosea 2:2 and Jeremiah 3:8 imply divorce rather than death for a woman who commits adultery. In the case of force, only the man would be punished (Deut. 22:25-27).

Theft is a civil offence and not punishable by death (Exod. 22:1-4), in contrast to the Laws of Hammurabi where it is a criminal offence and often results in capital punishment (see CH §6-10, 22). The punishment for false witnesses varies, depending on the nature of the crime for which they have made false accusations (Deut. 19:16-21).

Administration of justice is the responsibility of the local community. Two witnesses are required for conviction on criminal charges (Deut. 17:6; 19:15) and the death penalty is most often inflicted by communal stoning (e.g. Lev. 24:14; Deut. 17:5-7), though certain crimes are to be punished by burning (Lev. 20:14; 21:9) or the sword (Deut. 13:15). Phillips argues that the covenant was entered into

⁸⁰ The punishment for making an image is not specified, but it was certainly considered a very serious offence (cf. Exod. 20:5-6; 32:1-35; Deut. 27:15) and probably resulted in capital punishment too. Phillips, *Ancient Israel's Criminal Law* (cf. 'Decalogue'; 'Fresh Look: Part 2') argues that all the ten commandments are capital crimes. This is an overstatement, which he attempts to prove by means of restricted and counter-intuitive interpretations of the last three commandments.

⁸¹ Cf. Wenham, 'Law and the Legal System': 35.

by Israel as a people and also by each individual Israelite, so in the event of breach there was both communal and individual responsibility.⁸² Except for breach of the first commandment, no-one other than the criminal himself was executed by Israel, but divine punishment was not restricted in this way and could fall also on members of the family or the whole community.

Although the Decalogue itself does not contain sanctions, it does give theological motivation for obedience. Israel is reminded of several key theological truths.

Firstly, YHWH is a jealous God who punishes those who reject him, but whose steadfast love to those who love him and keep his commandments is even greater than his wrath. This is stated in the explanation of the second commandment, and implied in the explanation of the third (see also Exod. 34:6-7).

Secondly, the Exodus version of the fourth commandment refers to YHWH as the creator of heaven and earth, and to his rest on the seventh day as the basis for keeping the Sabbath.

Thirdly, the fifth commandment contains a distinctive motive clause, reminding the people of God's gift of the land and promising long life and prosperity to those who keep the commandment.

Lastly, and most important of all, it is significant that the commandments were given by God to the people he had already freed from slavery in Egypt, not as conditions for achieving that freedom. This is stated in the prologue, and referred to again in the Deuteronomic version of the fourth commandment (see also Deut. 6:20-25). Contrary to the popular misconception that Old Testament religion was based on law, unlike the New Testament gospel of grace, obedience to the commandments was intended to be a response to divine grace rather than the means to obtain it. A rabbinic parable illustrates this point:⁸³

A stranger came into a city and said to the inhabitants, 'I will be your king.' The people answered, 'What have you ever done for us, that you should be our king?' So he proceeded to do many things for the benefit of the city and the people. He built a defense wall, he brought in water to the city and he defended them against their enemies. Then he said to them again, 'I will be your king.' And the people immediately agreed. In the same way, God delivered the Israelites from Egyptian slavery, and

⁸² Phillips, *Ancient Israel's Criminal Law*: 32-35.

⁸³ Albeck, 'Ten Commandments': 265-66.

He parted the Red Sea; He gave them manna from heaven, the water and the quail; and He fought for them against Amalek. Then He said to them, 'I will be your king' and the people immediately agreed.

3. Conclusion

The Decalogue is unique in being ascribed to 'the finger of God'. Unlike the Book of the Covenant, Holiness Code and Deuteronomic Laws, for which the role of Moses as mediator is stressed, the Decalogue is presented as the direct words of God. Whatever we may make of this claim, there is good reason to accept the biblical tradition that the Decalogue originated in the time of Moses, and that it was instrumental in the forming of Israel as a nation, indeed as the people of God. It expresses the response that God expects from the people he has brought into being. As the constitution of the people of God, it states essential principles for maintaining a good relationship with God and other members of the community, and gives reasons why it is important to do so. In the words of Childs, 'the Decalogue provides the basis for the covenant with all of Israel', so 'to transgress is not to commit a misdemeanor but to break the very fibre of which the divine-human relation consists'.⁸⁴ Thus it is not human sanctions that are specified, but warnings of punishment and promises of blessing by God.

It remains to be said that the significance of the Decalogue goes far beyond the formative period of Israel's history. The ethical principles it expresses underlie the detailed laws in Exodus, Leviticus and Deuteronomy, and were a source of inspiration for worship, wisdom and prophecy in ancient Israel. Since then they have had an extensive influence on law, religion and ethics in many parts of the world and continue to do so until the present day.⁸⁵

⁸⁴ Childs, *Exodus*: 398.

⁸⁵ For reflections on the relevance of the Decalogue today, see my article 'Written in Stone? The Ten Commandments Then and Now', *Whitefield Briefing* 9.3 (August 2004).