

ON EXAGGERATING CREATION'S ROLE IN BIBLICAL LAW AND ETHICS

Richard Neville
(rneville@laidlaw.ac.nz)

Summary

Recent claims that creation theology is the broad horizon of Old Testament theology carry with them the potential for making easy connections between creation and ethics in biblical law. This potential is beginning to be realised in assertions that creation has an implied presence in Israel's law and that Israel's economic life was carried out within a worldview shaped by creation principles. These kinds of statements make it possible for the reader to discover creation at any point in the law that modern sensibilities would wish it. And yet the evidence presented here suggests that this will lead to the misreading of Israel's law. Care needs to be taken that the marginalisation of creation theology in the twentieth century does not give way to a twenty-first century misrepresentation of creation's role in Israel's faith.

1. Introduction

Walter Brueggemann has documented the fall and rise of creation in Old Testament theology.¹ In his *Theology of the Old Testament* he speaks of the 'enormous shift now taking place in the larger patterning of the Old Testament faith with reference to testimony about a God who creates'.² A key feature of this paradigm shift has been the recognition that creation theology is the broad horizon of biblical

¹ Walter Brueggemann, 'The Loss and Recovery of Creation in Old Testament Theology', *Theology Today* 53 (1996) 177-90; *Theology of the Old Testament* (Minneapolis: Augsburg Fortress, 1997) 159-63.

² Brueggemann, *Theology of the Old Testament*, 159.

theology.³ Terrence Fretheim has added a canonical feature to this ‘reclamation of creation’ by insisting that the placement of Genesis before Exodus be taken seriously. He makes the case for treating Genesis as the canonical horizon for Exodus, and ‘indeed the entire Old Testament’.⁴ ‘Exodus is to be understood in the light of Genesis, and redemption and law in the light of creation.’⁵

This recovery of creation theology and the canonical priority of the creation accounts in Genesis is bearing fruit in discussions of Israelite legal ethics. In his volume on Old Testament theology Bruce Waltke observes, ‘Implicitly, the Pentateuch unites creation and ethics...the creation narratives undergird the Ten Commandments.’⁶ In the third volume of his Old Testament theology John Goldingay provides a sense of how broadly the creation order impacts legal ethics.

Implicitly, a creation theology underlies other commands. Concerning the way parents and children relate, the way human beings treat other human beings who were created in God’s image, the way marriage images God’s faithfulness and the way we respect the property (land, animals, produce) with which God in creation provided humanity. Israel’s life reflects the way God created the world.⁷

Both of these scholars talk in terms of a relationship of *implied* dependence of law on creation. In other words, there are laws that lack any reference to creation, yet are understood to be based on and explainable by means of creation theology. This approach is employed by Gordon Wenham in his study of the laws on homosexuality. The uniqueness of Israel’s attitude towards homosexuality in its ancient Near Eastern context prompted Wenham to ask why Israel had such a

³ H.H. Schmid is credited with coining this terminology (see his ‘Creation, Righteousness, and Salvation. “Creation Theology” as the Broad Horizon of Biblical Theology’, in Bernhard W. Anderson, ed., *Creation in the Old Testament* [Philadelphia: Fortress, 1984] 102-117.), and Brueggemann adopted it as the moniker for the new paradigm. See his reference to ‘our creation-as-horizon model’, in Brueggemann, ‘The Loss and Recovery of Creation’, 189-90.

⁴ Terrence E. Fretheim, ‘The Reclamation of Creation: Redemption and Law in Exodus’, *Interpretation* 45 (1991) 355.

⁵ Fretheim, ‘The Reclamation of Creation’, 354.

⁶ Bruce K. Waltke, *An Old Testament Theology: An Exegetical, Canonical and Thematic Approach* (Grand Rapids, MI: Zondervan, 2007) 205 and 206.

⁷ John Goldingay, *Old Testament Theology. Israel’s Life*, 613; also, ‘The instructions of Leviticus and Deuteronomy build on implications of Genesis’, 624.

view. Wenham finds the answer in the creation accounts of Genesis 1–2.⁸

In his volume on Old Testament ethics Christopher Wright also asserts a connection between creation and Israelite law. From an investigation of the ethical content of the creation narratives in Genesis he identifies four creation principles. These serve as 'a convenient and comprehensive structure' around which to arrange his discussion of Israel's economic laws. Israel's economic life, he observes, with all its associated ethical concerns, was carried out within a worldview shaped by 'creation principles'.⁹

The purpose of this study is not to challenge the new paradigm that makes creation the broad horizon of biblical faith and reads Exodus in the light of Genesis. More modestly, I want to raise questions about how this paradigm shift is exerting itself, and in particular the confidence with which ethical stipulations in the law are explained in terms of the creation accounts. Are we justified in asserting that creation is implied in legal ethics in the manner that Waltke and Goldingay suggest, and that Israel's laws were shaped by principles derived from the creation accounts as Wright would have it?

2. The Absence of Any Explicit Connection between Legal Ethics and the Creation Accounts in Genesis 1–2

Israelite law explicitly connects only one law to the creation account. The Sabbath law is based on the observation that God created everything in six days and rested on the seventh (Exod. 20:11; 31:17). This fact, and the absence of even one reference to the creation accounts in any laws dealing with ethical matters, should not be passed over quickly. Appeals to the notion of creation's *implied presence* in the law should not keep us from taking seriously the reality of its *explicit absence*. This is especially so since there are numerous points at which the law might have appealed to creation. Goldingay's list of laws in which creation is implied can serve as a reminder of just how often the law misses the opportunity to cite creation. He mentions laws

⁸ Gordon J. Wenham, 'The Old Testament Attitude to Homosexuality', *ET* 102 (1991) 362-63.

⁹ Christopher J.H. Wright, *Old Testament Ethics for the People of God* (Leicester: Inter-Varsity, 2004) 156.

concerning the way parents and children relate, laws governing the manner in which human beings treat other human beings, laws relating to marriage and laws that deal with respect for the property (land, animals, produce) with which God provided humanity.

The final entry in his list immediately raises questions. In the first instance, it is questionable whether the law is concerned with what God provided for *humanity*. Its interests are confined almost exclusively to what YHWH has provided for Israel, notably deliverance from slavery in Egypt, and deliverance into the productive land of Canaan.

Furthermore, as long ago as 1936 von Rad was struck by the absence of any reference to God as creator in the instructions for bringing a gift of produce when they entered the land (Deut. 26:5ff.). Instead, the Israelites were told to bring their gift accompanied by an acknowledgment that it was the produce of a land YHWH had given Israel (Deut. 26:5ff.).

The worshipper does not give thanks for the fruits which the Creator has provided for him, but simply acknowledges that he is a member of the nation which God brought into the promised land by a historical saving act, thus making him heir to the blessings of this land.¹⁰

In this case the law recognizes the land as a gift from YHWH who delivered them from Egypt, and the produce is also his gift. This law shows no interest in reaching back beyond the exodus to God's creation of the earth/land or the plants that grow on it.

Similarly, laws dealing with homicide make no mention of the fact that God created human beings, much less that he created them in his image. The creational connection is explicit in Genesis 9:6, but Israel's law nowhere cites creation in its homicide laws. Where Genesis 9:6 insists on capital punishment because humans are made in God's image, Israelite law insists on capital punishment because the victim's blood pollutes the land in which YHWH and the Israelites live (Num. 35:33-34). Unlike the law in Genesis 9:6 that is addressed to *humanity* in terms of human creation, the law in Numbers is addressed to *Israel* in terms that are peculiar to Israel. Once again the law shows no interest in reaching back to creation to explain itself.

¹⁰ Gerhard von Rad, 'The Theological Problem of the Old Testament Doctrine of Creation' in von Rad, *The Problem of the Hexateuch and Other Essays* (Edinburgh and London: Oliver & Boyd, 1966) 132.

The laws governing appropriate sexual partners in Leviticus 18 and 20 might well have referred to God's creation of a female partner for Adam (Gen. 2:21-25) and the rejection of the animals as suitable partners (Gen. 2:20). However, the laws on sexuality do not cite creation. Once again the law is concerned with how certain sexual acts defile the people of Israel and the land (Lev. 18:24-30).

This sampling of laws suggests the absence of references to creation in the law is not the result of any lack of opportunities for such references, but is the result of a disposition to explain and motivate laws by some means *other* than creation. And if we were to attempt a description of the worldview that informs the law it would be a worldview dominated, not by the universals of humanity and creation (as Wright suggests), but by the particulars of Israel and her deliverance from Egypt into the land of Canaan. These observations suggest the law is addressed to Israel in terms that are peculiar to Israel, and not in terms that are applicable to all human beings. That is, there is nothing in these laws to suggest they were intended to be understood or obeyed in the light of the creation accounts.

3. Laws that Contradict the Universal Thrust of Creation Ethics

There is the further consideration of laws that contradict the kind of ethical stance that one would expect if those laws were extrapolations of the creation accounts. This is evident, for example, in one of the laws regulating slavery. In Leviticus 25:39-46 the law forbids making an Israelite a slave. This provision appears to be humanitarian and an obvious extrapolation of the fact that humans are created in God's image. Here surely is an ethic reflecting the kind of humane treatment of all human beings that creation in God's image would promote. However, the same law allows for foreigners and aliens to be slaves.¹¹ And the reason Israelites cannot be bought and sold as slaves has nothing to do with their status as humans created in God's image. Instead, the law explains that Israelites are already the Lord's slaves by virtue of the fact that he delivered them from Egypt.¹² Once again it is

¹¹ In Deut. 24:7 only an Israelite who enslaves a *fellow Israelite* is put to death.

¹² 'In Egypt, Mesopotamia and Greece, the granting of freedom and the restoration of individual rights is interpreted as the return of the individual to God; man ought to be

Israel's peculiar relationship with God as his chosen people, and not the shared experience of humanity at creation, that informs Israel's law. And in this instance the distinction between insider and outsider makes even the 'implied presence' of human creation all but impossible.

The law also prohibits an Israelite from charging a fellow-Israelite interest on a loan, while permitting interest on loans to foreigners (Deut. 23:20). Similarly, in the Sabbatical Year an Israelite is to remit any debt owed to him by a fellow-Israelite, however an Israelite may continue to dun a foreigner (15:3).¹³ Jon Levenson explains this differential as a consequence of membership in the covenant community.

...the prohibition on interest-taking from a fellow Israelite probably derives from the covenant theology and its concept of special solidarity of the covenantal community. Israelites relate to each other as fellow vassals of the same liege lord; they relate to outsiders differently. 'With my friend you shall be friend, and with my enemy you shall be enemy', a Hittite suzerain announced to his vassal. In Israel, covenantal friendship seems to have involved the right to free loans.¹⁴

4. Laws Dealing with the Treatment of Outsiders Show No Sign of Being Inspired by the Creation Theology

A number of laws deal with how Israelites are to treat non-Israelites. They provide an opportunity to gauge the kinds of ethical considerations Israel extended towards those who were not part of the covenant community. Creation theology offers a basis for extending

the servant of his god, rather than of his neighbour. This view corresponds to that expressed in Lev. 25:42...' M. Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* (Jerusalem: Magnes Press, 1995) 16 and see also 79-81 and 231-47. Cf. Matt 6:24.

¹³ Compare the Edict of Ammi-šaduqa in which the release of debt is applied only to Akkadians and Amorites (§6), the 'earliest known local inhabitants' and 'the equivalent of the... "brother" and ... "neighbour" to whom the law of remission applied in Deut. 15:2', Weinfeld, *Social Justice*, 166. The distinction in Deut. is sometimes addressed by suggesting that the loan to a foreigner is a business loan (Weinfeld, *Social Justice*, 166-67). While the Edict of Ammi-šaduqa excludes agreements made for purposes of trading and investment, the exception is applied to Akkadian and Amorite inhabitants, not foreigners (§8). As such it seems better to treat the distinction in Deut. at face value, as a distinction between insiders and outsiders, not kinds of transaction.

¹⁴ Jon Levenson, 'The Universal Horizon of Biblical Particularism' in Mark G. Brett, *Ethnicity and the Bible* (Leiden: E.J. Brill, 1996) 158.

Israel's ethical concerns beyond itself, and so these laws provide another instance for assessing what the law does with that opportunity.

What we find is that non-Israelites who come within the orbit of the law are typically designated in national terms and not as fellow human beings. They are Egyptians, Amalekites, Edomites, Amorites, and Moabites. And their treatment is determined by the particulars of their national history as it is presented in the exodus and wilderness narratives. Egyptians are to be treated well because Israelites were once aliens in the land of Egypt (Deut. 23:7). Amalekites are to be destroyed because they attacked Israel in the wilderness (Deut. 25:17-19).

The prologue to Deuteronomy records the special consideration given to Edom (Deut. 2:4-5), Moab (Deut. 2:9) and Ammon (Deut. 2:19), most likely because of their ancestral connections to Esau (Edom) and Lot (Moab and Ammon), which establish their kinship with Israel.¹⁵ And it is the failure of Ammon and Moab to treat Israel in a manner appropriate to kin that explains why it is later determined that an Ammonite or Moabite cannot enter the congregation of the Lord (Deut. 23:3-4). Once again the meaningful horizon for the treatment of others is much closer and more particular than creation, and even includes kinship ties.

On the other hand resident aliens represent an important group whose national identity does not seem to feature, except to say that they are not Israelites.¹⁶ Ancient law codes express no concern for aliens. Not even Hammurabi's prologue, which boasts so much, makes any claim to provide for this vulnerable group. And the situation is no different in ancient Near Eastern wisdom literature.¹⁷ And yet biblical laws are adamant about the compassionate treatment of aliens. The

¹⁵ Deut. 23:7 makes the rationale explicit, 'You shall not abhor any of the Edomites, for they are your kin' (NRSV).

¹⁶ While aliens are usually non-Israelites (Exod. 12:38; Lev. 25:35) the language can be used of displaced Israelites (Judg. 17:7, 8, 9; 19:1, 16). In the law the contrast is between fellow-Israelite and alien (and foreigner), so the alien will be a non-Israelite unless additional considerations suggest otherwise.

¹⁷ In his study of the subject Charles Fensham makes no reference to any such provisions for aliens, 'Widow, Orphan and the Poor in Ancient Near Eastern Legal and Wisdom Literature', *JNES* 21 (1962) 129-39. More recently Gowan concludes, 'No similar concern for resident aliens appears in the literature of other ancient Near Eastern cultures, but the "sojourner" (*gēr*) receives a great deal of attention in the Old Testament', Donald E. Gowan, 'Wealth and Poverty in the Old Testament: The Case of the Widow, the Orphan, and the Sojourner', *Interpretation* 41 (1987) 343; and similarly David L. Baker, *Tight Fists or Open Hands? Wealth and Poverty in Old Testament Law* (Grand Rapids, MI: Eerdmans, 2009) 176-78.

rationale in every instance is provided by the alien motive-clause ('you were aliens in Egypt') without recourse to creation.¹⁸

The alien motive-clause is found attached to laws prohibiting the ill-treatment (*yānā*, Exod. 22:21; Lev. 19:33) or oppression (*lāḥaṣ*, Exod. 22:21; 23:9) of aliens, as well as commands to love the alien (*'āhēb*, Lev. 19:34; Deut. 10:19) and treat them in the same manner as the native-born (*'ezrāh*, Lev. 19:34). Laws dealing with cultic matters (Num. 15:14-16), including the provision of atonement (Num. 15:28-29), do not cite the alien clause. This apparent restriction of the alien clause to laws dealing with the compassionate treatment of aliens hints at the logic inherent in the clause. The alien motive clause proceeds on the basis of empathy. Since the Israelites had been aliens in Egypt they could be expected to understand the plight of the alien. This is stated most clearly in Exodus 23:9,

Do not oppress an alien;
you yourselves know how it feels to be aliens,¹⁹
because you were aliens in Egypt. (NIV)

This focus on empathy is also apparent from the fact that the alien clauses make no reference to deliverance from Egypt, and they do not feature in divine self-identifications in the manner that the slave motive-clause does. There are no instances, for example, of self-identifications such as 'I am the Lord who delivered you from being *aliens* in Egypt', which would have suggested a motivation of gratitude to Yahweh. Alien clauses simply observe that Israelites were aliens in Egypt. That alien clauses appeal to a sense of empathy explains why the alien clause only occurs as a motivation for the treatment of aliens, and never other vulnerable or disadvantaged groups (unlike the more versatile slave clause).

The laws governing Israel's treatment of non-Israelites give no indication of being drafted in the light of creation theology. The relevant horizon is explicit. It is the exodus, the wilderness and trans-Jordan conquest narratives, and kinship ties reaching back into the

¹⁸ The tradition of Israel's alien status in Egypt is also found in Gen. 15:13 (cf. 47:4). The patriarchs are also considered aliens in Gen. 17:8; 23:4; 28:4; 35:27; 36:7 and 37:1. And Moses uses the language to describe himself in Exod. 2:22 (cf. 18:3).

¹⁹ The phrase *nepheš haggēr* refers to the alien's *nepheš* as the seat of their emotions and passions, BDB, 660. To know the alien's *nepheš*, then, is to know by experience how an alien feels. In this context the reference is to 'the low morale of someone who is dispirited', HALOT, 713. cf. Gen. 42:21; Isaiah 19:10; 53:11.

patriarchal narratives. The law makes no attempt to establish solidarity with non-Israelites based on creation.²⁰ On the contrary, in some instances at least, privilege is limited to those who have the necessary kinship ties to Israel, rather than reaching out beyond Israel's borders on the basis of a shared humanity.

5. The Exodus as a Source of Legal Ethics

Some of the most distinctive ethical stipulations in Israelite law are explicitly connected to the exodus. We have already noted the concern for the alien in Israelite law, which is without parallel among Israel's neighbours. Israel's slave laws also have distinctive features, and once again the writers have linked these laws with the exodus.

The slave law in Deuteronomy 15 stipulates that Israelites are to treat temporary (non-chattel) slaves generously when they are released from service because the Lord redeemed Israel from slavery in Egypt.

Provide liberally out of your flock, your threshing floor, and your wine press, thus giving to him some of the bounty with which the LORD your God has blessed you. Remember that you were a slave in the land of Egypt, and the LORD your God redeemed you; for this reason I lay this command upon you today. (Deut. 15:14-15 NRSV)

In addition to the explicit connection to the exodus contained in the motive clause itself, there are some noteworthy linguistic echoes linking this slave law to the narrative of the exodus. There is resonance between the generosity encouraged in verse 14, and the jewellery received from the Egyptians when Israel left Egypt.²¹ The word 'empty-handed' used in Deuteronomy 15:13 also occurs in the Lord's assurance to Moses that the people will not leave Egypt empty-handed (Exod. 3:21).²² Baker has also identified two possible allusions in Deuteronomy 15:18 to Pharaoh's refusal to release Israel.

²⁰ Human solidarity is present in Gen. 9:6 in the use of the term *'āh* (fellow human).

²¹ The term 'provide' or 'supply' here is *'ānaq*. BDB treat the verb as a denominative 'serve as a necklace' and here in the hiphil, 'thou shalt make a rich necklace for him fr. thy flock, etc., fig. for richly load him', 778. McConville, following Chirichigno, suggests 'There is perhaps a memory of the jewellery that was part of the rich provision of the Israelites by the Egyptians when they released them at last from slavery' *Deuteronomy*, 263.

²² Baker, *Tight Fists or Open Hands?*, 145-46.

First, the verb ‘let go’ here and in verses 12-13 is often used in connection with the exodus (e.g. Exod. 3:20; 4:21, 23; 6:1, 11; etc.). Second, the reference to considering it a hardship to free a slave may allude to the hardening of Pharaoh’s heart which resulted in his refusing to free Israel (Exod. 7:3; 13:15). As mentioned in the preceding law on debt relief (Deut. 15:7), prosperous Israelites are not to be hard-hearted towards poorer members of the community, lest they suffer the same fate as the hard-hearted Pharaoh.²³

Baker notes similar echoes in the slave laws of Exodus 21. The verb ‘go’ (*yāṣā*) is used both for the exodus and the seventh-year release of slaves in Exodus 21:2. Furthermore, ‘the word “Hebrew” (*‘ibrī*) used [in Exod. 21:2] is also associated with the exodus (Exod. 3:18; 5:3; 7:16; 9:1, 13; 10:3).’²⁴

The five slave clauses in Deuteronomy all begin with a call to ‘Remember that you were slaves in Egypt’ (16:9-12; 24:21-22), and three of them also cite Israel’s deliverance (5:15; 15:15; 24:18). The slave clause is used in a more varied manner than the alien clause and suggests a high level of theological reflection.²⁵ The slave clause is used to encourage justice for the alien and fatherless, and discourage oppressive practices towards widows (Deut. 24:17-18). In Deuteronomy 24:21-22 the slave clause is used to encourage landowners to allow the alien, fatherless and widow to glean their vines, and in Deuteronomy 15:12-15 it is used to encourage the release and generous treatment of Israelite slaves. Deuteronomy 16:9-12 also encourages generosity towards a range of disadvantaged individuals. And in Deuteronomy 5:12-15 the clause explains the broad participation of Israelite society in the Sabbath rest, including male and female slaves.

²³ Baker, *Tight Fists or Open Hands?*, 147.

²⁴ Baker, *Tight Fists or Open Hands?*, 140. Shalom Paul has pointed out that the slave laws are given priority of place (Exod. 21:2-11) in the covenant code, and that this is in contrast to Hammurabi’s laws in which laws dealing with slaves are located at the end of the collection, *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law* (VTSup 18; Leiden: Brill, 1970) 52.

²⁵ Deut. 24:17-18 and 20-22 stipulate the just and generous treatment of the *fatherless*, *alien* and *widow*, based on Israel’s experience of deliverance from *slavery*. ‘It would seem that the slave has implicitly become the symbol of all the weaker classes of society, so that God’s merciful treatment of the Hebrew slaves in Egypt becomes the analogy for the Israelite’s treatment of all the weak.’ Donald E. Gowan, ‘Reflections on the Motive Clauses in Old Testament Law’, in Dikran Y. Hadidan (ed), *Intergerini Parietis Septum (Eph. 2:14): Essays Presented to Markus Barth on His Sixty-fifth Birthday* (Pittsburgh: Pickwick Press, 1981) 115. While the slave motive clause can be used in laws dealing with vulnerable individuals that *include* the alien, laws dealing exclusively with the treatment of aliens are only ever motivated by the alien clause.

Biblical laws provide for the vulnerable in ways that, in some points, are without parallel in the ancient Near East. And it is apparent that the text repeatedly grounds this concern in Israel's historical horizon and not in creation. The experience in Egypt and the LORD's deliverance of his people not only motivate laws, but explain how it is that Israelite law collections came to include laws that provide for the compassionate treatment of slaves and aliens.²⁶ These associations are further confirmed by the writers' use of verbal echo to connect the slave laws with the account of Israel's deliverance from slavery in Egypt.

6. The Exodus Is at the Heart of YHWH's Relationship with Israel

Numerous features of Israelite law suggest that legal ethics is informed by the nearer horizon of the exodus rather than creation. That the law should have close ties with its historical context is hardly surprising. However, the absence of any references to creation in legal ethics and the dominating presence of Israel's historical horizon suggest there were particularly forceful reasons for this eclipse of creation.

The dominating presence of the historical horizon in the law can be explained in part by the characterisation of YHWH as Israel's divine monarch.²⁷ In the law Yahweh speaks, not in his role as universal Creator,²⁸ but more particularly as Israel's divine ruler.²⁹ Furthermore,

²⁶ For the view that the concern for aliens came from Israel's experience of the Babylonian exile see H.G.M. Williamson, *He Has Shown You What Is Good: Old Testament Justice Then and Now* (Cambridge: Lutterworth Press, 2012) 87-89.

²⁷ James W. Watts, *Reading Law: The Rhetorical Shaping of the Pentateuch* (Sheffield: Sheffield Academic Press, 1999) 101-102.

²⁸ In Deut. 32:6 God is referred to as 'creator', but the reference is to his creation of the nation of Israel, not creation in the beginning.

²⁹ While the Pentateuch tends to avoid the language of divine kingship, explicit references to the Lord as king occur in Num. 23:21; Exod. 15:18 and Deut. 33:5. Furthermore, 'Yahweh's commandments powerfully assert God's rule over Israel and thereby implicitly characterize their speaker as lord and king', Watts, *Reading Law*, 101. The close analogy between the tabernacle and pharaoh's war tent furthers this characterisation of Yahweh as the warrior-king, M.M. Homan, 'The Divine Warrior in His Tent: A Military Model for Yahweh's Tabernacle' *BR* (2000) 22-26, 28-33, 55. The Israelite cult characterizes YHWH as a just king, Roy Gane, *Cult and Character. Purification Offerings, Day of Atonement, and Theodicy* (Winona Lake: Eisenbrauns, 2005) xix. And Leviticus 25-26 represent a proclamation of equity and liberation by the divine king at the beginning of his rule, Weinfeld, *Social Justice*, 243-244.

YHWH's authority to command Israel is explicitly derived from an exchange of pledges that took place at Sinai.³⁰

Although the biblical narrative derives the authority of the creator over the human race from the order of being (Genesis 1–11), it records performative transactions establishing Yahweh's authority to command Israel. The premier example of this is the act of covenant making on Mount Sinai (in Exod. 19–20, 24, 34).³¹

In the process of making the covenant YHWH promised to take the nation as his treasured possession if they would obey him fully and keep his commandments (Exod. 19:3-6). The people twice affirmed their willingness to do all that the Lord required of them (Exod. 19:7-9; 24:3), and with this exchange of pledges YHWH's authority to command his people was formalised.

But most importantly, Israel's decision to accept YHWH's authority over them was in response to what God had accomplished for his people in the exodus (not at creation).³²

You have seen what I did to the Egyptians, and how I bore you on eagles' wings and brought you to myself. Now therefore, if you obey my voice and keep my covenant, you shall be my treasured possession out of all the peoples. (Exod. 19:4-5a NRSV)

Indeed, YHWH came to be known pre-eminently as the God who delivered Israel from slavery in Egypt.

This integration of the exodus into YHWH's identity is a function of the exodus narrative. In the first instance YHWH revealed his name to Moses at the burning bush and told him that Israel was to know him forever as YHWH.

Thus you shall say to the Israelites, 'The LORD, the God of your ancestors, the God of Abraham, the God of Isaac, and the God of Jacob,

³⁰ Dale Patrick, 'Is the Truth of the First Commandment Known by Reason?' *CBQ* 56 (1994) 430-31.

³¹ *Ibid.*, 431. Also Watts, *Reading Law*, 94

³² The people's consent to Yahweh's authority was 'elicited by a recitation of Yahweh's deeds designed to persuade the people that Yahweh was worthy of their obedience', Patrick, 'Is the Truth of the First Commandment Known by Reason?' 436. 'The exodus from Egypt is a focal point of ancient Israelite religion... Israelite ritual, law, and ethics are often grounded in the precedent and memory of the exodus... the deliverance from Egypt is the main historical warrant for the religious bond between Yahweh and Israel; it is the gracious act of the great lord for his people on which rests the superstructure of Israelite belief and practice', Ronald S. Hendel, 'The Exodus in Biblical Memory', *JBL* 120 (2001) 601-622: 601.

has sent me to you.' This is my name forever, and this is my title for all generations. (Exod. 3:15 NRSV)

YHWH subsequently promised to bring his people out of slavery and then explained *in advance* what we have already observed, that Israel would come to know him as YHWH who delivered them from slavery in Egypt.

Say therefore to the Israelites, '*I am the LORD, and I will free you from the burdens of the Egyptians and deliver you from slavery to them. I will redeem you with an outstretched arm and with mighty acts of judgment. ⁷I will take you as my people, and I will be your God. You shall know that I am the LORD your God, who has freed you from the burdens of the Egyptians.*' (Exod. 6:6-7 cf. 7:3-5 NRSV, emphasis added).

In the narrative that follows the name YHWH appears at every turn.³³ By the time Israel leaves Egypt the narrator has inextricably inserted the exodus into YHWH's identity.

The compilers of the law take no less care in connecting YHWH's name with his commandments. The law is peppered with YHWH's self-identifications. And significantly, both at Sinai and on the Plains of Moab when YHWH gives the Ten Commandments, he prefaces the commandments with an identification of himself as YHWH who delivered Israel from Egypt.

I am the Lord your God, who brought you out of the land of Egypt, out of the house of slavery. You shall have no other gods before me... (Exod. 20:2-3 and Deut. 5:6-7, NRSV).

Whether the text uses the longer self-identifications as here, or shorter ones ('I am YHWH'), the implication is essentially the same: the name YHWH identifies Israel's law-giver as the One who delivered his people from slavery in Egypt.

Corresponding to YHWH's identity as the God who delivered his people, is the law's repeated identification of Israel as the nation that was delivered from Egypt. A generation that never experienced Egypt could be addressed as those who formerly lived as aliens there (Deut. 10:19; 23:8). Hundreds of years later a father could still explain the Passover celebration to his son with the words, 'It is because of what the LORD did *for me when I came out of Egypt*' (Exod. 13:8 NRSV). And each year when an Israelite brought some of the first fruits of the harvest he would recite the nation's history in the first person (Deut.

³³ In chapters 7–14 the name YHWH occurs over 130 times.

26:5-9). The reminders that Israelites were formerly aliens and slaves functioned as motive clauses, and Harry Nasuti has suggested they also served to maintain the nation's identity as a people delivered from Egypt.³⁴

The significance of all this for our present interests lies in the fact that YHWH's relationship with Israel was shaped by and founded on the exodus,³⁵ and Israel's faithfulness to that relationship was dependent on their retaining the memory of the exodus.³⁶ Creation had no role to play in the establishment of YHWH's relationship with Israel, and no place in the rehearsals that served to retain the memory of their deliverance from Egypt and encourage Israel's fidelity to YHWH. The exodus became embedded in YHWH's identity as the One who addressed Israel in the law, and as the recipients of the law Israel knew itself as the nation that was delivered from slavery in Egypt. Creation does not feature in the law in these ways. Indeed, the universal horizon of creation is unsuited to forming or maintaining a relationship as particular as that which existed between YHWH and his chosen people.

7. Preserving the Integrity of the Exodus Narrative

While Fretheim's expectation that Exodus and the law should be read in the light of Genesis is reasonable, the question of what that reading looks like requires further consideration. Fretheim's application of a

³⁴ 'The command to remember one's previous status is not, or, at the very least, not only, a means of urging compliance with the laws concerning the disadvantaged classes of Israelite society. Rather one's actions towards these classes are a part of preserving the proper memory of who one is', Harry P. Nasuti, 'Identity, Identification, and Imitation: The Narrative Hermeneutics of Biblical Law', *Journal of Law and Religion* 4.1 (1986) 14 cf. 16. Nasuti notes Childs' earlier comments on the cultic passages of Deut. 5:15 and 16:3 to the effect that there is more at stake than a psychological reaction of sympathy for slaves. 'Childs notes that the feasts in question are celebrated with slaves in order to revive the memory of and participate again in the formative event', Nasuti, 14.

³⁵ This is not to deny that it had roots in the Patriarchal promises.

³⁶ For discussions of memory and remembering in the Old Testament see, among others, Edward P. Blair, 'An Appeal to Remember: The Memory Motif in Deuteronomy', *Interpretation* 15 (1961) 41-47; Joseph Blenkinsopp, 'Memory, Tradition and the Construction of the Past in Ancient Israel', *BTB* 27 (1997) 76-82; Marc Zvi Brettler, 'Memory in Ancient Israel' in M. Signer, ed., *Memory and History in Christianity and Judaism* (Notre Dame: University of Notre Dame Press, 2001) 1-17; Hendel, 'The Exodus'; Aelred Cody, "'Little Historical Creed" or "Little Historical Anamnesis"?' *CBQ* 68, (2006) 1-10.

canonical approach risks flattening the text so that Exodus loses some of its integrity as a narrative. Others who see creation as foundational to the law run a similar risk. A key point here is the failure to distinguish the pre-conquest Israel of the narrative from the Israel who later read the narrative in its canonical setting.

By not making this distinction the narrative participants are effectively treated as though they have a copy of Genesis in front of them. Narrative-Israel is seen as interpreting her experiences in the light of the canonical creation accounts even as those experiences happened. While the writers of the Pentateuch might well have composed the text in such a manner, the indications of the text itself suggest they maintained a distinction between what *narrative-Israel* knew in the midst of the events and what *audience-Israel* knows as it reads the canonical account. The point requires more attention than I have given it, but it appears that the writers distinguished what they and their readers know of the canonical creation accounts, from what the narrative participants knew of them.³⁷ Furthermore, while the text does show that the narrative participants were cognisant of creation traditions,³⁸ references to these traditions are limited and isolated, and do not function as part of a thematic development in the manner that creation references do for the audience who is reading Exodus in the light of Genesis. This is evident from the thematic connections that are made from Genesis to Exodus. They feature as part of the composition of these books for the benefit of the readers, but the narrative participants are entirely unaware of such verbal echoes and repeated

³⁷ The writers' ability to distinguish what a narrative participant can know at a given point in the narrative is evident from their portrayal of Moses. Moberly has noted that in Exod. 3 the Lord introduces himself as 'the God of your fathers' since Moses did not know him as YHWH. On the other hand the writers describe Moses' encounter with God as taking place on the 'Mountain of God', a status the mountain had not yet achieved. Moberly writes, 'the writer chooses the phrase because he is writing from within a Yahwistic context where the notion of God's mountain is a well-established concept', *The Old Testament of the Old Testament*, 9, 10-11. This anachronism takes place in the narrative frame and is not part of the dialogue between the Lord and Moses.

³⁸ See Exod. 4:11 'The LORD said to him, "Who gave man his mouth? Who makes him deaf or mute? Who gives him sight or makes him blind? Is it not I, the LORD?"' (NIB); Deut. 4:32 'from the day God created man on the earth'. Also see Exod. 19:5 and Deut. 10:14 and the related comments in R. Rendtorff, 'Creation as a Topic of Old Testament Theology' in E. Ulrich et al. eds., *Priests, Prophets and Scribes: Essays on the Formation and Heritage of Second Temple Judaism in Honour of Joseph Blenkinsopp* (Sheffield: JSOT, 1992) 204-212, esp. 210. The creation tradition in the Song of Moses (Exod. 15) is different from that in Genesis.

patterns. For instance, a parade example of creation themes in Exodus comes in the description of Israel's marvellous population growth in Egypt.

But the Israelites were fruitful and prolific; they multiplied and grew exceedingly strong, so that the land was filled with them. (Exod. 1:7 NRSV)

This text contains clear echoes of the language used in Genesis 1:28 and 9:1. However, the writers do not suggest the narrative participants are using this language. Israel is not reflecting on her population growth in the light of the creation narratives. Rather, these are the narrator's words chosen for the benefit of the audience. When the narrative participants speak of Israel's population growth they use language akin to what is found in the patriarchal promises.

Remember Abraham, Isaac, and Israel, your servants, how you swore to them by your own self, saying to them, 'I will multiply your descendants like the stars of heaven, and all this land that I have promised I will give to your descendants, and they shall inherit it forever.' (Exod. 32:13 NRSV cf. Deut. 1:10 and 10:22)³⁹

In this way the writers present Israel as aware of their ancestral traditions, whereas references to creation by narrative participants are few and mostly generic.⁴⁰

8. The Too-Easy Appeal to Creation

Recent claims that creation theology is the broad horizon of Old Testament theology carry with them the potential for making easy connections between creation and legal ethics. This potential is beginning to be realised in assertions that creation has an implied presence in Israel's law and that Israel's economic life was carried out within a worldview shaped by creation principles. These kinds of statements make it possible for the reader to discover creation at any point in the law that modern sensibilities would wish it. And yet the evidence presented here suggests that this will lead to the misreading of Israel's law.

³⁹ In Leviticus the Lord tells Israel he will make them fruitful and multiply them, but this is probably not enough to generate a clear creation link (Lev. 26:9 NRSV).

⁴⁰ The clearest exception is the reference to creation attached to the Sabbath law in Exod. 20:11 and 31:17.

Care needs to be taken that the marginalisation of creation theology in the twentieth century does not give way to a twenty-first century misrepresentation of creation's role in Israel's faith. However attractive it may be to ground the law in creation and thereby give it a universal and inclusive voice,⁴¹ the reality is more exclusive and national. Jon Levenson made this point twenty years ago.

Despite the centrality of ethics to Judaism and despite the very real universalizing aspects of biblical thought, intellectual honesty obliges us to acknowledge that in the Hebrew Bible the ethic of the covenant-community was not thought to reduce to the universal moral law.⁴²

He went on to warn against capitulating to a Kantian theory of ethics 'in which morality entails universalizability'. That is,

if the behaviour cannot be advocated for everyone, it cannot be moral. On Kantian principles, Jewish ethics—a norm for one group only—is a contradiction in terms.⁴³

Pressing Israelite law into a universal mould will distort the biblical picture of Israel's covenant faith, which shows little interest in addressing creation-based laws to humanity, but an overriding concern to provide for Israel's continued faithfulness to their God by embedding the law in a relationship anchored to a historical horizon in which YHWH delivered his chosen people in an act of incomparable might and grace.⁴⁴

⁴¹ Fretheim contends that Israel's laws must be grounded in creation precisely so they can speak to non-Israelites, '... if the law at Sinai only grows out of the redemptive act, there is no grounding for the law for persons other than Israelites', 'The Reclamation of Creation', 363, n. 23.

⁴² Levenson, 'The Universal Horizon of Biblical Particularism', 157.

⁴³ Levenson, 'The Universal Horizon of Biblical Particularism', 157.

⁴⁴ Deut. 4:34.