

TALKS 42 & 43 JUSTICE FOR THE MARGINALS, I.E. THE ALIENS, WIDOWS, ORPHANS AND THE POOR EX 22:22-27

1. Marginals

1.1. Definition of term marginals, margins

1.2. Marginals in the BC

1.2.1. Male debt slaves, Ex 21:2-7

1.2.2. Female concubine/wife slaves, Ex 21:7-11

1.2.3. Those vulnerable to striking, Ex 21:12-27

esp aged parents, male and female slaves, pregnant women (fetus)

1.2.4. Those vulnerable to stealing, Ex 22:1-17

1.2.5. The alien, the widow, the orphan and the poor, Ex 22:21-27, 23:6, 9

What the alien, widow and orphan have in common is lack of kinfolk to support them in a society which is based on kin.

We understand the *poor* to be a general term that includes the alien, widow and orphan and others.

To these are added in Deuteronomy (14:29; 26:11, 13) the “Levite” who has kin, but lacks land. The alien, the widow, the orphan and the Levite have in common that they are *dependent* persons. Levites might be marginal economically, but not socially.

1.3. Law given to all, spoken especially to the powerful on behalf of the marginals. Justice for all, especially the marginals

2. Aliens, Ex 21:21, cf 23:9

A law had already been given allowing the alien to eat the Passover, if he and his family were circumcised (Ex 12:48, 49). Also the alien was mentioned in the fourth commandment along with manservants and maidservants (Ex 20:10), but this passage is the first time that the Law proper *focuses* upon the alien.

We must recall again the social background for these laws. Abraham, Isaac and Jacob had been aliens in Canaan (Ex 6:4) and when they move from Canaan to Egypt they continue to be aliens (Deut 26:5 NRSV). Moses named his son “Gershom” saying “I have become an alien in a foreign land” (Ex 2:22).<sup>1</sup> And even forty years after leaving Egypt, Israel in Moab continued to be aliens. The understanding that Israelites were aliens was central to their identity and deeply rooted in their psyche both individually and collectively. With this understanding in mind, we hear the two exhortations to Israel about treatment of aliens in their midst:

22:21 Do not mistreat (yanah:H3238) an alien (ger:H1616) or oppress (lachats:H3905) him,  
for you were aliens (ger:H1616) in Egypt.

23:9 Do not oppress (lachats:H3905) an alien (ger:H1616);  
you yourselves know how it *feels* to be aliens (ger:H1616),  
because you were aliens (ger:H1616) in Egypt.

## 2.1. Literary structure

First, we need to step back and again consider where we are in the *literary structure* of the text (please see chart above). The two “strings” of exhortation (Ex 22:21-31 and Ex 23:9-19) both *begin* with this assertion about not oppressing (lachats:H3905) the alien. We should also recall that the very first social commandment in the BC after the introductory word about mishpatim (Ex 22:1) is a lengthy case study law about how to deal with Hebrew male and female “slaves” (Ex 21:2-11). We presume that the arrangement and structure of the BC, although not always easily discernible, is informative. God put *first* the most marginal in the society of ancient Israel, i.e. the alien. They are truly on the bottom rung of society. They are the marginals. On the next rung up, are the foreign chattel-slaves (Ex 21:20, 26, 27, 32), aliens (Ex 21:22; 23:9), then the male and female Hebrew debt-slaves (Ex 21:2-11), those who have had to borrow money to survive and only have a cloak to give as a pledge (Ex 21:25-27), the widows and orphans (Ex 21:22-24), the manservants and maidservants who are members of a household (Ex 20:10b), the sons and daughters of the household (Ex 20:10a; 21:31; 22:16, 17), the wife (rarely mentioned) and finally male head of the household (“you” of Ex 20:9; 21:2; 22:25, 26, 29, 23:9, 12, 14). Perhaps a diagram helps:

male head of household and wife  
 sons and daughters of head of household  
 manservants and maidservant who live in the household  
 widows and orphans  
 those who borrow money in order to survive  
 those who have sold themselves into debt-slavery or  
 their family members who have been sold into debt-slavery  
 aliens  
 foreign chattel-slaves

The bottom rungs, i.e. from widows down to chattel-slaves, of this socio-economic ladder were would be labeled the poor.

And why should the Law especially focus on the Hebrew slaves and aliens? I presume the answer is twofold: God is especially concerned that justice be done for those at the bottom of the social ladder for they are often defenseless. This is certainly true of the widow and orphan who are named next. As we shall discover later, “defending” (doing justice) for the widow is the concern of God (Is 1:17, 23). If a just society is to be formed and maintained, justice must be done for Hebrew slaves and for aliens. This just society will in turn be a powerful witness to the neighboring nations. We have already considered in detail the just treatment of the Hebrew slave and also the non-Hebrew chattel slave in contrast to the treatment of slaves in the LH, especially the contrasting laws in the LH and Law of Moses about runaway slaves. In the collection of laws about the aliens (see below for the list of laws about aliens), we have an amazing statement about the treatment of the alien, love him! In short, we presume that aliens are put at the head of the two strings because God wishes to form out of Israelites a just society which is both his *goal* which becomes the *means* of witness to his own character so that all of the families of the earth may be blessed.

## 2.2. Yanah and lachats

Second is the matter of *English translations* and *meaning* of yanah (H3238) and lachats (H3905). Yanah, which occurs here for the first time in the Law occurs four other times in the Law and fifteen times elsewhere, mainly in the prophets.<sup>2</sup> The English translations range from the quaint “vex” of the KJV to “wrong” (ASV, RSV, NRSV, ESV, JPS, NAS, NAU, TNK), “mistreat” (GWN, NKJV, NLT) and “molest” (NJB). Lachats first occurs in Exdous 3:9 where there Egyptians “are oppressing” Israel. The occurrences in the Law are the two cited here (Ex 22:21; 23:9). It is also found in historical books, Psalms and some of the prophets.<sup>3</sup> Lachats is uniformly translated “oppress”.

The two terms only occur together in Exodus 22:21. The sense is very clear: what Egyptians did to Israelites as aliens, Israelites must not do to aliens in their midst.

## 2.3. Ger

Third we consider the English translation and meaning of the noun ger which occurs five times in these two short verses (Ex 22:21; 23:9) and occurs 92 times in the Scriptures of Israel. The translations of ger in this context vary in the English translations:

stranger (KJV, RSV, JPS, NAS, NAU, TNK),  
 sojourner (ASV, ESV),  
 resident alien (NRSV),  
 foreigners (GWN, NLT, CJB),  
 alien (NIV).

We shall follow the NIV and use “alien” as a translation of *ger*, although one might also consider the term “immigrant” as a more modern term.

In terms of meaning *ger* is used “always in the sense of a sojourner or alien” (Konkel, #1591, NIDOTTE, 1, 837).<sup>4</sup> Alien means one who is living in a land that is not his own (see more details below).

#### 2.4. Israelites understand themselves to be aliens, issue of identity

Fourth, Israelites at this time in the story understood themselves to be aliens. This was crucial to their *identity*. If we ask what alien means in the BC, Exodus 23:9 clearly states that Israelites themselves were once “aliens in Egypt”. In the time of Joseph the Israelites as aliens had land and were prosperous; but later under a new Pharaoh they were oppressed (Ex 3:9), worked ruthlessly (Ex 1:13) and were treated as slaves (Ex 2:23). As a result their lives were “bitter with hard labor” (Ex 1:14), they suffered (Ex 3:7b) and were miserable (Ex 3:7a). In the midst of this mistreatment and oppression, they groaned and cried out to the LORD who heard their groanings (Ex 2:23, 24; 3:7).

It is not just Israelites in Egypt that understood that they were aliens. The *early fathers* were perceived by others as aliens (Gen 19: 21:23) and also understood themselves to be aliens (read in NRSV Gen 12:10; 17:8; 20:1; 21:34; 26:3; 28:4; 32:4; 37:1). At the death of Sarah, Abraham declares that (Gen 23:4 NIV):

I am an alien (*ger*:H1616) and a stranger (*towshab*:H8453) among you.  
 Sell me some property for a burial site here  
 so I can bury my dead.

From the very beginning of Israel’s roots in Abraham, their self-understanding, their identity, has been one of being aliens because they did not have a land of their own. And they do not stop being aliens until they enter the land of Canaan under the leadership of Joshua. Israel has had six hundred years of being aliens and at the giving of the Law, both at Sinai (Exodus) and forty years later at Moab (Deuteronomy) they are still aliens! Of course, later in the story they will no longer think of themselves as aliens, but rather as native-born. The Law anticipates such a time when others will be aliens and Israelites will be native-born.

#### 2.5. Native-born, aliens and foreigners

Fifth, we need to understand that “alien” in the law refers to those who have for whatever reasons, i.e. economic betterment, political persecution, war, migration to better pasture lands, etc. have left their homeland and have taken up at least *permanent* dwelling in another land but do not own property in that land (Dozeman, 2009, 545). In modern terms they are “resident aliens”, “landed aliens”, refugees or immigrants.<sup>5</sup> Scriptures employ the word *nokriy* (H5237) translated as “foreigner” for those from another country who are *temporarily* dwelling in Israel usually for the purposes of trade. So there is a spectrum:

native-born Israelite (*ezrach*:H249) or  
 brother (*ach*:H251)→  
     to resident alien (*ger*:H1616) or  
     stranger (*towshab*:H8453)<sup>6</sup>→  
                     to foreigner (*nokriy*:H5237).

The Law is especially concerned to provide protection for the *ger* and the *towshab* because they are the vulnerable ones. The foreigner who probably is a traveling merchant will make his profit and return to his own home. Later, we will see that Israelites can charge interest on commercial loans to foreigners but not on private loans to aliens.

#### 2.6. Israelites know how it feels to be an alien

Sixth, the statement “You yourselves know how it *feels* to be an alien,” which is the only difference between Exodus 22:21 and 23:9 where it occurs, is an amazing statement among the laws of Israel because it speaks of

*feelings*, “you know the nephesh (H5315) of the alien”. Nephesh has a wide range of meanings, i.e. soul, self, life, feeling, etc. Many English translations render it “heart of an alien/stranger/sojourner” (KJV, ASV, RSV, NRSV, ESV, ESV). The implication is clear: God is concerned that the Israelites are aware of the feelings of the aliens and not hurt their feelings by mistreating and oppressing them. It is not enough for Israelites to have sympathy for aliens. They must also have empathy for aliens. They must seek to put themselves in the shoes of others who are “beneath” them and understand their *feelings*. The basis of this sort of command is that the LORD himself *feels* for the enslaved Israelites. He heard their *groanings* (Ex 2:24; 6:5) and he was “*moved to pity* (feelings) by their groanings” referring to the groanings of Israelites in the time of the Judges when again they were oppressed by outsiders (Judges 2:18, ESV). In the laws of the ANE there is nothing like this law that one should be concerned for the feelings of the alien. Below, we shall ask in detail about the *protection and treatment of the aliens in other ANE law collections* such as the LH.

### 2.7. Oppressed are not to become the oppressors

Seventh, “do not mistreat an alien or oppress him...” is in form very close to the commandments of the TC, e.g. “you shall not steal.” These commandments are apodictic: they are not case studies (“if..., then...”). We might also ask here--this could have been asked earlier, why these apodictic laws are so often in the *negative*. Why not be positive about matters? Perhaps the answer is that the LORD knows that those who have been abused sometimes become abusers: those who have been oppressed become the oppressors. Strange, but often true. One thinks of the history of Russia and China. Israelites who lived as aliens in Egypt and had been abused at the hands of the Egyptians must *not* abuse aliens living in their midst. The temptation for Israel is not only to return to the golden calves of Egypt, but also to return to the oppressive ways of Egypt. The commandment is stated in the *negative* so as to block Israel from returning to a pattern they had known in Egypt.

### 2.8. Aliens, illegal?

This has been a very long and detailed discussion of aliens, but perhaps that is a good thing given that migration of people both as large and small groups has been a constant in human experience right from the time Adam and Eve who “migrated out” of the Garden of Eden, Cain who fled and those at the temple of Babel who were scattered. Today’s world is full of aliens, whom we often call immigrants or refugees. Until very recently in America we have labeled the flood of immigrants who came into America without permission from the government as *illegal immigrants*. For various reasons, while actually writing this section of the book (March-April, 2013), the label has been changed from *illegal immigrants* to *undocumented immigrants* or *undocumented aliens*. Perhaps it goes without saying that there was no such thing as illegal or undocumented aliens in ancient Israel. They were just aliens. We need to be careful not to read back into the story our own understandings of aliens from our time and place. We shall return to the issue of aliens below when we take up in some detail other texts about aliens found in the rest of the Law, i.e. Leviticus, Numbers, Deuteronomy.

## TALK 43 BEGINS HERE

### 3. Widows and orphans, vss 22-24

If the Hebrew male slaves and especially the female slaves and aliens are the most vulnerable persons residing in Israel, the next most vulnerable are the widows and orphans. Besides being physically vulnerable, widows were also in a weak position in terms of legal status and inheritance. Daughters could inherit land, but apparently not widows. the verb ‘anah’ doubled making this most emphatic. The statement is much more of an ethical exhortation than a specific case study law with a specific penalty. There are many ways for the more powerful to take advantage of the less powerful.

#### 3.1. Texts and terms

<sup>22</sup> Do not take advantage (‘anah:H6031) of a widow (‘almanah:H490) or  
an orphan (yathowm:H3490). <sup>23</sup>

If you do and they cry (tsa’aq:H6817) out to  
me, I will certainly hear their cry (tsa’aqah:H6818).

<sup>24</sup>

My anger (‘aph:H639) will be aroused (‘charah:H2734),  
and I will kill you with the sword;  
your wives will become widows (‘almanah:H490) and  
your children fatherless (yathowm:H3490).

The words 'almanah and yathowm are used here for the first time in the Law.<sup>8</sup> The LORD hears the cry of the abused ('anah:H6031) widow, just as he heard the cry (Ex 2:23-25) of oppressed ('anah:H6031) Israel (Ex1:11,12) and responds with anger, "my anger will be aroused".

### 3.2. God's anger with oppressors of widows and orphans

This is also the first time the word anger (NIV, NAU, NLT, CJB) or wrath (KJV, RSV, NRSV, ESV, GWN, JPS, NAS) is used the Law. 'aph often means nostrils (Gen 2:7 "breathed into his nostrils"), but in some contexts it can also mean anger (Gen 27:45). Such anger is kindled, aroused, inflamed (charah:2734) repeatedly against Israel for idolatry (injustice with God) but only once so far in the story is the LORD's anger kindled against social injustice. That one occasion of anger is God's response to oppressors taking advantage of a widow or orphan.<sup>9</sup> The *gravity* of oppressing a widow or an orphan is indicated by the placing this offense on the same level as idolatry and by the infliction of the same death penalty, "I will kill you...."

Such anger should be read as God's *emotional* involvement in the plight of the oppressed widow and orphan. The anger of God leads him to bring retributive justice against those who oppress the widow and orphan. In fact, he removes ("kill you") the oppressor of widows and orphans just as he removed Pharaoh the oppressor of his vulnerable people (Ex 1-12). Wrath or anger motivates God to bring retributive justice against the oppressor. Love, kindness, mercy motivate God to bring distributive justice on behalf of the oppressed.

This act of removing Pharaoh is considered an act of justice (Ex 6:6, 7). Implicit in this law is that Israel should rescue the defenseless widows and orphans just as the LORD had rescued defenseless Israel when they were in Egypt. Justice is grounded in both the commands of the LORD and also in his mighty acts of justice, i.e. the Exodus. Justice is grounded in the words and deeds of the LORD. The implication is that his people ought to act like God, i.e. be god-like, godly, pious, and "spiritual". To act like God means to be *emotionally* involved in bringing justice to the poor. In some cases this may involve being *angry* and removing an oppressor.

### 3.3. Anger, violence and justice: how does this work?

We are skating on thin ice now and can hear the ice cracking beneath our feet. I have grown up being taught not to be angry or at least not to express it. Furthermore, I have grown up in a country where overthrowing an oppressor is celebrated every July 4th, but such revolutionary acts are not allowed today. Also I have grown up being taught that violence is wrong, at least personal violence against others, unless it is self-defense. "Just" war is part of my cultural heritage, although there have been and still are nagging questions about the justness of some of the wars. What about the use of violence to remove an oppressor so as to put things right? These are all complex issues with many facets. This text along with other brings to the surface a cluster of questions about anger and the use of violence.<sup>10</sup>

As a missionary living first in Asia and later in Africa, I have had students who were pastors ask me about how to advise young men in their churches about joining the opposition and using violence to overthrow dictators. Are these freedom fighters, terrorists or revolutionaries? What biblical advice can be given? We shall eventually come to the issue of *herem*, the destruction of the Canaanites by violence, ordered by the LORD (Deut 7).

### 3.4. Widow for widow, orphan for orphan: *lex talionis* elements

Returning to the text, another aspect of justice of which there is more than a hint is the matter of *lex talionis*. The punishment for abusing the widow is that the abusers' wife will become a widow because the abuser himself is killed with the sword and the abuser's children will become orphans. Widow for widow; orphan for orphan. This is a clear echo of "life for life, eye for eye", the *lex talionis*.

We should compare and contrast this death penalty for the abused widow or the abused orphan with the other death penalty statements in the BC where it is presumed that a *human* court will pronounce judgment and arrange for the execution. See death penalty for:

- striking and killing (Ex 21:12),
- attacking father or mother (Ex 21:15), kidnapping (Ex 21:16),
- cursing father or mother (Ex 21:17),
- striking and killing a slave (Ex 21:20, see exegesis on this above),
- killing of a pregnant woman and/or her fetus (Ex 21:23),
- killing a person by a bull that had the habit of goring. The owner of the bull must be put to

death (Ex 21:29), although he might pay a redemption and be spared.  
 practicing sorcery (Ex 22:18),  
 engaging in bestiality (Ex 22:19)  
 and  
 sacrificing to a god other than the LORD (Ex 22:20)

In the case of the abuse of a widow or orphan it is a *divine* court that pronounces and arranges for the execution of the abuser. Therefore, this statement is more in the category of an ethical exhortation to just behavior than a legal prescription for a *human* court giving directions about punishment.

### 3.5. One and the many in judgment

Again, we are here confronted with the reality that the sin of the *one*, the abuser of the widow, when punished, affects the *many*. The one is not punished in isolation. His wife becomes a widow and his children are made orphans. This is not the *generational* effects of sin which we encounter in the third commandment (“punishing the children for the sin of the fathers to the third and fourth generation of those who hate me”, Ex 20:5b) but a *corporate solidarity* effect of sin. (Later in Joshua 7 we shall consider the punishment of Achan which is the classic case of corporate punishment.)

Corporate effects of sin are not just a traditional cultural phenomenon, but also a modern one. A father who divorces his wife to marry another woman (adultery) brings sorrow, sadness and insecurity to his former wife and his children and often to his grandchildren as well. This is how sin works. The consequences of sin are often, if not always, corporate. The radical individualistic view so pervasive in the modern world that my sins only affect myself is just not true. My reckless driving can affect a whole family. My reckless management of investment funds can impoverish many.

### 3.6. Law of Hammurabi

In the Law of Hammurabi<sup>12</sup> the widow is protected, but there is no mention of a religious sanction of the law, i.e. “I will hear their cry” and “my anger will be aroused” and certainly no threat of a death penalty being inflicted upon the one abusing a widow, i.e. “I will kill you...”<sup>13</sup> We shall return to ANE law and the widow, orphan and alien at the end of this section.

## 4. Two laws about treating the poor, vss 25-27

Looking back at the outline containing the two “strings”, we see that instead of three groups, i.e. aliens, widows, orphans and the poor, we probably should only speak of one large group, i.e. the poor, to which aliens, widows and orphans belong (cf Zech 7:10). The next two laws are about the “poor” (‘aniy:H6041).

### 4.1. First law: no interest on loans to the poor, vs 25

#### 4.1.1. Social setting

These two laws deal with two facets of loans made to poor Israelites: do not charge interest on the loan<sup>14</sup> and do not keep overnight a cloak given by the poor as a pledge or security for the loan. If we as moderns are to make sense of this, we again need to imagine our way back into a traditional cultural setting. Loans for moderns are something we get from an impersonal bank or mortgage company so that we can buy a car or a house, start or expand a business or pay for a college education. The Law does know about commercial loans made to foreigners from whom one may make interest, i.e. Deut 23:20:

You may charge a foreigner (nokriy:H5237) interest  
 (nashak:H5391), but not a brother Israelite,

so that the LORD your God may bless you in everything you put your  
 hand to in the land you are entering to possess.

The kind of loan without interest involved one neighbor borrowing from another neighbor who probably also was a kinsperson. The loan was made so that the poor might sustain themselves either by buying food to eat or seed to sow or both.

The garment given as a pledge or security also provides a window into this social world. The only thing of value that the poor person has to offer as security is his outer cloak which by night is his blanket. The fact that it is to be returned every night to this poor person also tells us that the poor person lives fairly close to the one making the loan. No one is going to walk miles each night just to return a cloak. These loans are made in a face-

to-face society among nearby neighbors who are probably kinfolk. Note that apparently one is allowed to take a pledge for even a small loan, although that might not be practical. (More about pledge taking below in Deuteronomy 24:12, 13; cf 24:14, 14.) The social world of this text should be kept in mind when we consider obligations in the modern world about making personal loans to the poor. Now we turn to the key terms in this text.

#### 4.1.2. Three key terms

If you lend money to one of my people among you who is needy  
(aniv:H6041) do not be like a moneylender (nashah:H5383);  
charge him no interest (neshek:H5393).

This is the first use of 'aniv' in the story. The term 'aniv' also occurs in the Law in connection with the law about gleaning (Lev 19:10; 23:22). The bulk of the occurrences of 'aniv' are found in the Psalms, Proverbs and Isaiah. This is not the place to launch into a study of the many terms rendered poor or poverty in the Scriptures of Israel.<sup>15</sup> We shall return to a consideration of the poor later in the story when we seek to understand the *recipients* of justice in a more methodical way.

Most English translations render the word 'aniv' (H6041) as the "poor". NIV has "needy". The meaning is straightforward: these are the "have not's". We are not told why they are poor, but in a traditional society one might become poor for a number of reasons:

too much rain (a flood) or  
a lack of rain (famine),  
a plague of locusts or other insects,  
loss of health and ability to work because of disease or injury and  
even early death leaving behind a widow,  
which might be an accidental death such as the Law speaks of,  
i.e. an ox head accidentally striking and killing a neighbor (Deut 19:4).

Although some might add laziness to the list of causes of poverty, at this stage in the story the only talk of laziness of workers is by Pharaoh (Ex 5:8, 17).

But require them to make the same number of bricks as before;  
don't reduce the quota.  
They are lazy (raphah:H7503);  
that is why they are crying out, 'Let us go and sacrifice to our God.'

Pharaoh said,  
Lazy (raphah:H7503) ,  
that's what you are--lazy (raphah:H7503)!  
That is why you keep saying, 'Let us go and sacrifice to the LORD.'

This is the only reference to lazy or laziness in the Scriptures apart from those recorded much later in the Wisdom Literature.<sup>16</sup> Of course there were lazy people in Israel in the time of the early settlement (Joshua, Judges). I have lived in proximity to the poor much of my adult life, first in Asia and then in Africa, and I certainly did not see widespread laziness. Most were up very early and worked long, hard days often in sweltering heat for very low wages.

The term neshek (H5393, noun), which occurs three other times in the law (see below on Lev 25:36f; Deut 23:19),<sup>17</sup> simply means to charge interest on a loan. Neshek has the etymological sense of "bite," and it may be that the interest was "bitten" out of the loan before it was given.<sup>18</sup>

The term nashah (H5383) occurs here for the first time in the story (see Wakely, #5957, NIDOTTE, 3, 175- 182). The translation of nashah is disputed. Some translate it as "moneylender" (NIV, ESV, GWN, NKJB, NLT) or "usurer" (KJV, NJB). Both terms have a negative connotation. "Creditor" (ASV, RSV, NRSV, JPS, NAS, NAU, TNK, CJB) is a more neutral term. Whatever is the correct rendering—and we lean toward "creditor", the lending of money to the poor was actually a good thing. What is spoken against is lending to the poor *at interest*.

#### 4.1.3. Is lending to the poor without interest a matter of charity?

The discussion that follows is admittedly a digression which is prompted by the comments of Propp who I take as representative of the thinking and language of many others. This note could have been inserted earlier or later.

Propp (2006, 261) cites Houtman (2000, 18) and Neufeld (1955, 407) who speak of the poor in Exodus as receiving "charity" and "charitable deeds" via interest free loans. When used as a term for benevolence, charity usually has the idea of something done for the needy that is good but *not required*. The giver is being generous,

i.e. charitable, not just. We shall develop here the line of thought that in the context of the BC, lending to the poor *without interest* is a matter of obedience to the Law and therefore a matter of justice, not charity. Again, we remind ourselves that we are using charity in the modern sense of the word. Oxfam is a charity: it is a benevolent organization. We are not using charity in the sense of love which is its sense in the 1611 A.D. English of the King James Bible in 1 Corinthians 13:1:

Though I speak with the tongues of men and angels and have not charity  
(agape:G26), I am become as sounding brass or a tinkling cymbal.

What can we say then of God being compassionate, “for I am compassionate (chnnuwn:H2587)” (vs 27)? Is this compassion charity (benevolence)? Propp (2006, 262) sees the compassion of God as a model for the lender’s compassion understood as charity (benevolence). There is no doubt that God’s compassion toward the poor serves as a model for the Israelites in their attitude toward the poor, but this does not make the lending itself a matter of charity (benevolence). The compassion of God motivates him to do acts of justice on behalf of the poor.

This brings us to the issue of the difference between charity as benevolence, charity as love and their relation to justice. *Charity as benevolence* means that one does something good to someone else, such as providing hungry people with a hot lunch once a month at a soup kitchen. Such an act is a matter of choice motivated by a feeling of concern for a person. Such an act of charity is not *required*. If we think in terms of making interest free loans as an act of charity, then one may make an interest free loan to person A but not to person B based primarily on feelings of pity for A but not for B. Or perhaps one judges A as worthy of an interest free loan but not B. Whatever may be the reason for doing this act of charity by offering an interest free loan, one is under *no requirement* to make an interest free loan to either person A or B.

*Charity as love* refers to the inner motivation of concern for another. Other labels for this motivation are pity, compassion or mercy. Such love propels a person toward a needy person to assist them. Charity as love, if it is biblical love, does not discriminate between A and B. Charity as love loves *all* of the needy. Charity as love is required in the sense that God sets the example of loving all of the poor and needy. Indeed, Leviticus 19:34 *requires* one to love the alien, i.e. one of the poor. There are, of course, other motivations for assisting the poor. The Pharisees, as we learn much later in the story, did their acts of benevolence, almsgiving, *in order to be seen by men* (Matt 6:1, 5).

How does charity as benevolence and charity as love relate to justice? *Charity as love* propels or motivates a person to do justice to the poor and needy. This issue of love is especially crucial when the person doing justice must cross a difficult boundary line in order to do justice. For example, perhaps one has to enter into a slum area in order to do a particular deed of justice. Perhaps one has to cross over into a different ethnic or economic neighborhood. Love enables the bringer of justice to cross boundary lines enter the slum or a different neighborhood.

Both *charity as benevolence* and *charity as love* sometimes *displace* justice. *Charity as benevolence* often *displaces* justice expressed in the Law that *requires* one to make an interest free loan to a needy person. It makes concern for the poor a matter of choice, not requirement; and it often discriminates as to who will receive charity, i.e. the worthy but not the unworthy. *Charity as love* sometimes *displaces* justice by making love a guideline rather than a motive. Charity as love that *guides* one’s ethical behavior *displaces* justice expressed in the Law as a *guideline*. Love becomes a standard of behavior rather than a motive to behavior.

Justice as expressed in Law and in particular in this law about making interest free loans to a needy brother is a *requirement* that calls for *obedience*. There is *objectivity* to this requirement. The community can see if one is or is not obeying an objective law requiring an interest free loan for a poor neighbor. Indeed, the person making an interest free loan to a neighbor *knows* he is keeping the law. In this sense, he can and should think of himself as righteous, i.e. his conduct is in conformity to the standard of justice. Job is such a person. He knows he is righteous because he keeps the law about the treatment of the poor (Job 29:11-17; 30:13-28; cf 1:1, 8; 2:3; cf Ezek. 18)

Also, this requirement of making interest free loans to the poor is not dependent upon one’s inner disposition for its *validity*. The validity, the truthfulness, of this law rests in the LORD who has spoken this Law.

Finally, to repeat, the real crux of the matter is that love is a *motive* and not a *guideline* for behavior. Law is the *guideline*, the standard, for appropriate behavior. To borrow wording from later in the story “if you love me, keep my commandments”. Love is absolutely crucial *as a* motive to do justice. Before a few more comments about the relation of justice to love, we need to place *love* in the larger context of our Bringer of Justice model. (see next page)



Bringer of Justice  
 model: *GOD* |  
 ->**PROMISE**<-**FAITH** (from people)

**Bringer of Justice** (human agent as individual or corporate entity)

<i>AGENT</i>	<i>ENABLEMENT</i>	<i>TASK</i>	<i>RECIPIENTS</i>	<i>RESULTS</i>
servant	mercy and love Power Spirit wisdom wrath/anger	mighty acts of justice proclamation of justice ->just society (means)	poor, needy just society (goal)	shalom: peace and safety witness to the nation

*Agent* (bringer of justice, servant) is *enabled* (motivated) by love, mercy, compassion. (Love “pushes” the Israelite across boundaries to do justice to those on the margins or just beyond the margins. Compassion is a motive.)  
 to do the *task* of justice  
 (in this context the specific task of justice is lending without interest to the poor; such lending to the poor *without interest* is the *standard* of justice, a guideline for righteous *conduct*, see Star of Justice for standard of justice).  
 to the *recipient* who in this case is the poor in need of a loan, with the *result* being the establishment and maintenance of a *just society* which is both the goal of God and  
 The just society is one of *shalom* that entails both prosperity and safety.  
 the means to that goal,  
 i.e. the just society is a witness of the character of the LORD to the nations.

To repeat the main point here, love does not *displace* justice as a *standard*, a guideline, for righteous *conduct*. Love *enables* a person to be obedient (keep) to the standard. In Deuteronomy 24:20 (see below), when a lender returns a garment taken in pledge for an interest free loan this act of returning the garment (and presumably also the act of lending money interest free) is characterized as an act of *righteousness*, not charity as benevolence nor charity as love.<sup>1</sup>

The people of God, especially Israel, will be tempted to displace justice with *charity as benevolence*. Much later in the story (intertestamental era) one of the three key Hebrew terms for justice (*sdq*) is at times translated into Greek (the Bible for Diaspora Jews who could not easily read Hebrew) by the term for almsgiving which is understood as charity. This insight will be absolutely critical in our understanding of Jesus’ critique of the Pharisees who did charity but failed to do justice (Matt 23:23).

The people of God will also be tempted to displace justice with *charity as love* where love is understood as a guideline displacing Law as guideline (standard).

In Israel protection of and concern for the alien, the widow, the orphan and the poor is a matter of obedience to the Law, i.e. justice. Such obedience is indeed motivated by love, love of God and love of neighbor. But love does not displace the Law. It is interesting that Leviticus 19, which we will consider as a whole and in detail later, speaks of love for neighbor (19:18) and love for alien (19:34) but does that in a context where the Ten Commandments are repeated, not displaced.

Some readers of the Bible raised in a particular understanding of the relation of Israel to the church, of Law to grace, of OT to NT—“not under Law, but grace”—may object that all of this talk of obedience to the Law as a matter of justice is salvation by works. But the plain truth of the matter is that there is not one whiff of salvation by keeping the Law in the Scriptures of Israel, especially if one conceives of that salvation being understood as going to heaven (we have talked about that before and will not repeat here that Israelite did not talk in terms of going to heaven). Indeed if we may for one minute fast forward to the Gospels, we can assert

that in the Gospels there is not one whiff of salvation by keeping the Law, i.e. legalism. The Pharisees as described in the Gospels kept the Law *to be seen by men* not to be approved of by God or earn their salvation. They sought status with men, not God. It is not until two decades after the resurrection of Jesus that we encounter Paul speaking against salvation by works, i.e. legalism (Galatians about 50 AD). So we must not read back into the Law a much later development, i. e. legalism. Now, back to the story and reading from within the story.

The application of all of this must wait until we gain the bigger picture of the Law. But the point to be made is that we must not *displace* justice with charity as benevolence. This can be extended with reference to the modern world and assert that we must not displace justice with charity as benevolence or development. Unless charity as benevolence and development are built upon the foundational rock of justice, injustice will sweep away charity and development again and again. Charity as love will motivate Bringers of Justice to first lay the foundation stone of justice before erecting buildings of charity as benevolence and buildings development. Obviously, much more needs to be considered both in terms of the biblical the story of justice and a deep understanding of today's worlds (plural intended).

#### 4.1.4. To whom may one lend at interest?

Is the lending of money without interest limited to the poor or does it also pertaining to transactions with all Israelites, except foreigners? Below we shall see that the Law clearly permits lending at interest to foreigners who are seeking to arrange *commercial* transactions for a profit. What is in focus in this context is the poor, i.e. the alien, the widow and the orphans and similar people. The clear *intent* of the law about lending without interest is to keep the *poor* from sinking further and further into debt.<sup>22</sup> So it *might* be a logical inference to state that loans to Israelites who are not poor but need capital for some project were possible.<sup>23</sup> I say *might* because even this apparently *logical* extension probably is reading back into the text matters that did not arise within ancient Israel in its traditional agricultural setting (see below the bibliography of a few of the recent books on the history of the debate about "usury"). Land was not sold, but allotted (we shall come to that later). One might *lease* additional land, but not buy land. If one lost an ox used for plowing, one borrowed an ox from a neighbor. One did not buy one in the market. Again, we must keep our eyes open as we move through the story and observe what we can about the lending of money. This history of the debates about usury bears witness to the difficulty of answering this question.

#### 4.2. Second law: do not keep a garment given in pledge for the loan overnight, vss 26, 27

The second law is distinct from the first law but linked to the first law in that it discusses the matter of *securing* the loan with a pledge.

If you take your neighbor's cloak as a pledge  
(chabal:H2254), return it to him by sunset,<sup>27</sup>  
because his cloak is the only covering he has for his body.  
What else will he sleep in?

When he cries out to me,  
I will hear, for I am compassionate (channuwn:H2587).

Again, we observe that this is a face-to-face loan, a loan to a neighbor or as Deuteronomy will say "a brother". The context envisages making interest free loans to someone a person *knows*. Paying attention to this social setting *may* prove helpful when much later in the story we here a Bringer of Justice say:

Give to the one who asks you, and do not turn away from the one who wants to borrow from you (Matt 5:42) and

But love your  
enemies, do good to  
them, and  
lend to them without expecting to get anything back.

Then your reward will be great, and you will be sons of the Most High,  
because he is kind to the ungrateful and wicked (Luke 6:35, cf  
34).

That the neighbor has nothing more to give as a pledge (chabal used her for the first time) for the loan than his cloak (outer garment, wrapper) indicates just how *poor* he is. This garment is a cloak by day and a blanket by night. I think of the colorful Maasai red cloaks that are a blanket at night.

"When he cries out to me, I will hear..."clearly echoes Israel's crying out to the LORD when they were "poor" and enslaved:

Ex 2:23

During that long period, the king of Egypt died.  
The Israelites groaned in their slavery and cried out,  
and their cry for help because of their slavery went  
up to God.

Ex 2:24

God heard their groaning and  
he remembered his covenant with Abraham, with Isaac and with Jacob.

As already noted, the widow and the orphan also “cry out to me (LORD)” and he says “I will certainly hear their cry” (Ex 22:23).

It is sometimes said that God is on the side of the poor against the rich. He surely comes to the defense of the poor. We saw that in Egypt. And God is against the rich if they are, as in Pharaoh’s case, are the *oppressive* rich.

But we should not draw from this text or others in the Law that God is against the rich. Rich is obviously a very *relative* term, as I have discovered as a missionary. May I tell you a story? In 1977 as a new missionary in the Philippines, I found myself standing in a long line in the sweltering heat of the midday sun outside the tax office in Quezon City where we lived. I remember looking at my “tax book” and noting how very little money I had made and feeling just a bit sorry for myself as a *poor* missionary. Just then a young Filipino man behind me asked to see my tax book! (Ideas of privacy vary from culture to culture!). I showed him my book. And he exclaimed in Tagalog “How rich you are!” Where you stand is what you see. He saw me as rich. I saw myself as poor.

All of this to say, that the person lending the money to his neighbor was *rich* from the point of view of the poor person; but if he lent the money without interest and did not keep the pledge overnight, he was, as we shall see below, consider a *righteous* person even though he was perceived as being rich by the poor person. If later in the story we read about rich persons who are lending money at interest to the poor, such rich persons will be considered *wicked* or *unrighteous*. God will not be on their side. God will be against them.

Finally, we underscore that channuwn (H2587), compassion, is used here for the first of its thirteen occurrences in the Bible.<sup>24</sup> The only other use in the Law is Ex 34:6, a key text about the character of God in response to Israel’s sin of the golden calves. Only God is described as being compassionate although clearly he is set forth as a model for the Israelite who is “to love the neighbor as yourself. I am the LORD” (Lev 19:18). His compassion does not replace his defending, i.e. doing justice, for the oppressed but rather motivates him to do justice for the oppressed.

Before moving on to the next major section in the BC about maintaining justice with God (Ex 22:28-31), we pause to look at the other occurrences in the Law about treatment of aliens, the widows and orphans and about loans to the poor.

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Usury, history of interpretation.

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## Notes

- <sup>1</sup> As the NIV footnote says "Gershom sounds like the Hebrew for *an alien there*". Note the Ger in Gershom.
- <sup>2</sup> Exod. 22:21; Lev. 19:33; 25:14, 17; Deut. 23:16; Ps. 74:8; 123:4; Isa. 49:26; Jer. 22:3; 25:38; 46:16; 50:16; Ezek. 18:7, 12, 16; 22:7, 29; 45:8; 46:18; Zeph. 3:1.
- <sup>3</sup> Num. 22:25; Jdg. 1:34; 2:18; 4:3; 6:9; 10:12; 1 Sam. 10:18; 2 Ki. 6:32; 13:4, 22; Ps. 56:1; 106:42; Isa. 19:20; Jer. 30:20; Amos 6:14.
- <sup>4</sup> Knauth, "Alien, Foreign Resident", DOTP, 26-33 provides a comprehensive article on those who are non-Israelites, i.e. aliens, foreigners, sojourners, etc. Knauth's bibliography should now be updated with the very important collection of essays edited by Achenbach, Albertz and Wöhrle (2011). See also the detailed bibliography of Baker (2009, 178, n. 12). At the more popular level see also R (Rodas) (2008), Hoffmeier (2009) and Myers and Colwell (2012). R (Rodas) also writes the article "Aliens, Immigration and Refugees", in DSE, 53-58.
- <sup>5</sup> On this see Baker's (2009, 182) helpful discussion where he entertains the idea of using "ethnic minorities" but stays with "resident aliens", as we do.
- <sup>6</sup> As Baker (2009, 181) shows the resident alien (ger) is probably more assimilated into Israel than the stranger (towshab) given that the ger may eat the Passover (Ex 12:48) but not the towshab (Ex 12:45).
- <sup>7</sup> See also Dozeman (2009, 545).
- <sup>8</sup> 'almanah (H490) is used earlier in the narrative at Gen 38:11. This is the very first use in the Bible of yathowm (H3490).
- <sup>9</sup> "Anger kindled" is the combination of 'aph (noun) and charah (H2734, verb). These occur together 56 times. Here are the references for the Pentateuch: Gen. 30:2; 39:19; 44:18; Exod. 4:14; 22:24; 32:10f, 19, 22; Num. 11:1, 10, 33; 12:9; 22:22, 27; 24:10; 25:3; 32:10, 13; Deut. 6:15; 7:4; 11:17; 29:27; 31:17. The first occurrence of the LORD's anger being kindled refers to his anger with Moses upon his refusal of the LORD's call (Ex 4:14). The next occurrence is Ex 22:24 which we are discussing here. Ex 32, 10, 11 refers to anger of the LORD being kindled because of the Golden Calves. Moses' anger is also kindled by this event (Ex 32:19; cf 32:22). In Numbers the anger of the LORD is kindled against grumbling (Num 11:1, 10, 33), idolatrous (Num 25:3), unbelieving (Num 32:10, 13) Israelites (Num 11:1, 10, 33) and also against Balaam (Num 22:22; cf 22:27; 24:10). In Deuteronomy the anger of the LORD is kindled because they worship other gods (6:15; 7:4; 11:17; 29:27; 31:17). What is striking is that almost all of the occurrences of the anger of the LORD being kindled refer either to the unbelief of Moses (only once) or the unbelief (idolatry, grumbling) of Israel.
- <sup>10</sup> We have already noted that in this particular case it is God who does the killing of the oppressor. There is not provision for the community or the authorities in the community of executing judgment. Indeed, the whole issue of the *administration* of justice is not spelled out in the law, only some of the penalties. One possible exception to this statement is Leviticus 6:1-7 which does seem to spell out certain steps to be taken such as face-to-face restitution and the offering of a guilt-offering to the LORD. We shall return to the matter of the administration of justice later.
- <sup>11</sup> I have been surprised that none of the commentaries or secondary literature available to me on this passage discusses the mention of death penalty for abuse of widows.
- <sup>12</sup> LH 150, 171, 172, 176, Roth, 1997, 109, 114f; see the refers to widows in Epilogue col. 47, 59-78; cf Prologue col. 1, 27-49.
- <sup>13</sup> See Baker (2009, 190f) for other laws and for references to widows in hymns and other literature.

<sup>14</sup> On loan see Baker (2009, 252-266) to whom I am again indebted. More recently see On loan see Baker (2009, 252-266) to whom I am again indebted. More recently see Varšo (2008), Feldman (2010), Biddle (2011) and Bretherton (2011). The whole issue of *Interpretation* in which Biddle's article is found is devoted to usury.

<sup>15</sup> For the Hebrew word *ânî* see Wegner, #6700, NIDOTTE, 3, 449-452. There are many Hebrew terms that are used in varied ways to speak of the broad concept of the poor and poverty. It is beyond the scope of this study to do more than gives a few basic references. Domeris (2007, 14-19) provides a helpful summary with references to NIDOTTE to which he contributes the article on '*ebyôn*' (#36, NIDOTTE, 1, 228-232). In the NIDOTTE see also the articles on *dal* (#1924), *mahsôr* (#4728), *miwken* (#5014), *rwš* (#8133) and '*anawîm*' (#6705). The reference numbers are to articles in the NIDOTTE and not to Strong's numbers. For conversion to Strong's numbers see NIDOTTE, 5, 797ff.

<sup>16</sup> Prov. 10:4; 12:24, 27; 19:15; 26:15; Eccl. 10:18.

<sup>17</sup> See also Ps. 15:5; Prov. 28:8; Ezek. 18:8, 13, 17; 22:12 In Ezek. the righteous person does not charge interest on loans. Hence, not taking interest on loans is viewed as a matter of justice and righteousness, not charity. It was doing what was right, not what was kind.

<sup>18</sup> In general etymological derived meanings rather than meanings derived from usage are not reliable.

<sup>19</sup> On the two terms see the detailed comments by Baker (2009, 260f) who concludes that *neshek* refers to monetary loans and *tarbiyth* refers to loans of food. See also Hamilton (2011, 412) on the use of the two terms. Also see Buch (2005).

<sup>20</sup> Baker (2009, 265, 62) gives a lengthy list of those who have investigated the history of usury or interest. To these now add Jones (2004), Gamoran (2008), Varšo (2008), Muller (2010), Hawkes (2010), Leemans, Matz and Verstraeten (2011) and Feldman (2010).

<sup>21</sup> That lending without interest is a matter of just and right behavior is confirmed much latter in Ezekiel's detailed description of the "righteous" person:

(He) does not oppress anyone,  
*but restores to the debtor his pledge,*  
 commits no robbery,  
 gives his bread to the hungry  
 and covers the naked with a  
 garment, <sup>8</sup>  
*does not lend at interest* or take any profit,  
 withholds his hand from injustice,  
 executes true justice between man and man, <sup>9</sup>  
 walks in my statutes, and  
 keeps my rules by acting  
 faithfully—he is righteous  
 (*tsaddiyq:H6662*);  
 he shall surely live, declares the Lord GOD.

This has been quoted in the ESV rather than the NIV which mistranslated "take any profit" as "take excessive interest". We shall take up this translation matter when we get to Ezek. 18.

<sup>22</sup> Stuart (2006, 518) argues that the restriction apply to all Israelites, but Enns (2000, 452, n. 22) thinks that interest on loans was allowed to those who could afford it. The BC is silent on the matter of lending at interest to the non-poor.

<sup>23</sup> See Stuart (2006, 518) who thinks that all loans at *interest* to fellow Israelites are prohibited.

<sup>24</sup> Exod. 22:27; 34:6; 2 Chr. 30:9; Neh. 9:17, 31; Ps. 86:15; 103:8; 111:4; 112:4; 116:5; 145:8; Joel 2:13; Jon. 4:2.