Emotions in Biblical Law

Hebrew Bible Monographs, 36

Series Editors
David J.A. Clines, J. Cheryl Exum, Keith W. Whitelam

Editorial Board
A. Graeme Auld, Marc Brettler,
Francis Landy, Stuart D.E. Weeks

Emotions in Biblical Law

A Cognitive Science Approach

Thomas Kazen

Sheffield Phoenix Press

2011

Copyright © 2011 Sheffield Phoenix Press

Published by Sheffield Phoenix Press
Department of Biblical Studies, University of Sheffield,
45 Victoria Street, Sheffield S3 7QB
UK

www.sheffieldphoenix.com

All rights reserved.
No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording or any information storage or retrieval system, without the publishers' permission in writing.

A CIP catalogue record for this book
is available from the British Library

Typeset by ISB Typesetting
Printed on acid-free paper by Lightning Source UK Ltd, Milton Keynes

ISBN 978-1-907534-29-4 (hardback)

ISSN 1747-9614

(Studia Theologica Holmiensia, 19: ISSN 1401-1557)

CONTENTS

Preface ix
Abbreviations xii

INTRODUCTION

Chapter 1
THE ROLE OF THE BODY IN RELIGION 3

PART I
COGNITIVE FOUNDATIONS

Chapter 2
EVOLUTION, EMOTION AND MORALITY: A BIOLOGICAL PERSPECTIVE 9
    Biblical Studies and Cognitive Sciences 9
    Rationality and Emotion 10
    Morality and Emotion 12
    Morality and Evolution 16

Chapter 3
MORALITY, CONVENTION AND RITUAL: THE ROLE OF CULTURE 20
    Culture and Morality 20
    Culture and Convention 21
    Ritual and Morality 23
    Moral and Ritual Impurity 24
    Metaphorical Language 26
    Comparative Evidence 28

Chapter 4
FOUR 'MORAL' EMOTIONS: DISGUST, EMPATHY, FEAR, AND A SENSE OF JUSTICE 32
    Moral Emotions 32
    Disgust 33
    Empathy 37
    Fear 42
    A Sense of Justice 44
    The Role of Emotions in Legal Texts: A Way Forward 46

PART II
TEXTUAL APPLICATIONS

Chapter 5
PENTATEUCHAL LEGAL COLLECTIONS: AN OVERVIEW 51
- The Problem of Sources 51
- Codes or Collections? 53
- The Covenant Code 56
- Deuteronomic Law 61
- Priestly Law 64
- Summary 70

Chapter 6
DIRT AND DISGUST IN BIBLICAL PURITY LAWS 71
- Introduction 71
- Disgust and Dietary Laws 72
- EXCURSUS: The Structure of Leviticus 11 72
- Disgust and Human Decay 81
- Disgust at Repulsive Behaviour 85
- Dealing with the Objectionable 89
- Conclusions 92

Chapter 7
EMPATHY AND ETHICS IN THE COVENANT CODE, DEUTERONOMY, AND THE HOLINESS CODE 95
- Introduction 95
- Humanitarian Laws in the Covenant Code 96
- EXCURSUS: Ancient Roots in Israelite Customary Law? 98
- Empathy in Deuteronomy 102
- Charity in the Holiness Code 109
- Conclusions 112

Chapter 8
PUNISHMENT AND PRESENCE: FEAR OF FOREIGNERS, GOD AND DEMONS 115
- Introduction 115
- Immigrants and Foreigners in the Covenant Code 116
- Further Constraints in Deuteronomy 118
- Integration and Xenophobia in the Holiness Code 122
- Divine Punishment: Scaring People into Empathy and Obedience 124
- Divinities, Demons and Rites of Purification 129
- Sending Demons Back to Where They Belong 130
- Demonic Threat and Revenge 133
- Conclusions 137

Chapter 9
A Sense of Justice: Acceptance and Atonement in Civil and Sacrificial Law 141
  Introduction 141
  Retribution and Restitution in ANE Legal Collections 142
  Theological and Evolutionary Explanations 146
  Compensation versus Ransom 149
  Removal and Reconciliation 152
  Kipper Effected by Sacrifices 156
  Conclusions 162

Conclusions

Chapter 10
Emotions in Legal Collections: What Can We Learn? 167
  Emotion and Human Behaviour 167
  Emotion as Common Denominator 169
  Conflicting and Interacting Emotions 170
  Emotions and Socio-historical Context 172
  Law and Emotion 174

Bibliography 176
Index of Sources 196
Index of Subjects 203
Index of Authors 208

Note on Transliteration

Transliteration of Hebrew words follows the general-purpose style of the *SBL Handbook of Style* with three exceptions: ח is rendered as *ch*, *'aleph* (') and *'ayin* (') are separated, and *shewa* (when not silent) is represented by ^{e}.

Preface

The present study evolved by mistake, beginning some years ago. My oldest son, Samuel, then in his early teens, began to read widely about learning, mind, primates and culture. At the same time I happened to find one of Frans de Waal's popular books in a Swedish translation at a second hand book market. (It had in fact belonged to a former colleague who apparently didn't appreciate it enough to keep it!) Then there were Lakoff and Johnson's *Philosophy in the Flesh* and Peter Gärdenfors's *Hur homo blev Sapiens* (ET: *How Homo Became Sapiens*). I realized that there was such a thing called cognitive science(s), only to find out a little later that an interest in and use of such methods was a growing trend among a number of scholars of religion, theologians included. Biblical scholars, too? Well, only a very few!

I was already partly prepared for this. My interest in purity, or rather *im*purity, had caused me to look for other explanations than those generally cherished by biblical scholars. The ideas of Mary Douglas, while in a sense ingenious, failed to convince me. There are many structures that can be observed, but do they exist outside the eye of the beholder? And even when they make sense to subsequent onlookers, do they explain the *whys* and the *hows*? I came to think that the body mattered—very much. Perhaps there was a promising path not too often taken: back to biology?

This is not where most exegetes would go even when they take an interest in cognitive science. It is perhaps safer to stay closer to psychology and the social sciences. But evolution is a fascinating process, not least in the inevitable blend of biology and culture in the shaping of human emotions, which is where I found myself. Even apes, birds and dogs can give us clues as to how human beings function, and thus help us interpret texts dealing with human behaviour that results from basic emotional reactions, like disgust, empathy, fear, or a sense of justice.

Why, then, have I chosen these four emotions? This is partly by coincidence, too. Reading Jonathan Klawans, I became more and more dissatisfied with the separation of moral and ritual impurity. (I should say I learned a huge amount from Klawans, too, but that is another story.) The standard way of differentiating between morality and ritual seemed to me both anachronistic and not fully supported by evidence. I looked for a common denominator for various uses of impurity language and ended up with disgust. William Miller's *The Anatomy of Disgust* served as a trigger. I realized that this was an important factor in the evolution of human morality.

It was then my former *Doktorvater*, Kari Syreeni, asked me whether my view of an evolving morality only had negative aspects—like disgust—or whether something more positive, like love, could play a role, too. I answered that regrettably I didn't think so—and then realized that I was of course wrong. Now I became involved in a more general study of emotions, and the whole complex of altruism and pro-social behaviour. I could see various levels of empathy behind different pro-social expressions, and the way that empathy and disgust interact. Since I was already by necessity roaming around in the Pentateuch, due to my interest in purity, I could just as well stay there for a while.

From there the step was short to fear—since fear, somewhat similar to disgust, limits and circumscribes the pro-social behaviour that is triggered by empathy. This became especially evident when looking at attitudes to immigrants and foreigners in the Pentateuchal legal collections.

Finally I turned to a sense of justice, which is a more complex emotion whose status is perhaps open to doubt. Although some think (and rightly so!) that at this point it would have been more logical to deal with anger, the emotional involvement in issues of fairness and balance became a natural complement, not least in view of my long-standing interest in sacrificial rites effecting *kipper* and the tricky issues of purification and atonement. In fact, I believe that an emotional approach can untie some of the complicated knots involved here.

In the end, then, I found myself with a book on the role of emotions in Pentateuchal law. One cannot do such a thing without getting entangled in issues of redaction, provenance and dating. But here I do no more than try to navigate my own boat on that ocean, by those maps that I find most convincing and in accordance with my own observations. I cannot really engage in cartography. I have to remind my readers—and myself—that I am really only a *Neutestamentler*, even if I find it difficult to stick to my own guild.

A caveat or two are necessary at this point. My approach is to a large extent heuristic. First, although I do study the use of certain terms (like *kofer* and *kipper*) and take note of differences in terminology (such as various types of impurity language), this is not a word study. I do not, for example, ask for Hebrew equivalents to the English 'empathy' or 'fear', nor do I attempt to list diverse expressions relating to pro-social behaviour. I rather take as my point of departure a number of phenomena or problematic features that I intuitively associate with certain emotions, and then analyse a number of texts from my chosen perspective to the point where I think a plausible case can be made. Secondly, because of this, the present book should be regarded as merely an outline, suggesting areas for further research. I suggest patterns and perspectives that in most instances would need further corroboration through in-depth studies of the issues involved and closer analyses of specific texts. A fine example of such work is Eve Samara Feinstein's recent dissertation at Harvard, in which she develops and refines some of my earlier suggestions concerning disgust, with regard to purity terminology in general and the notion of sexual pollution in particular.

Some of the material included in Chapters 3, 6 and 7 has been previously published, although in a quite different form; see ‘Dirt and Disgust: Body and Morality in Biblical Purity Laws’, in *Perspectives on Purity and Purification in the Bible* (ed. B.J. Schwartz and D.P. Wright; LHB/OTS, 474; London: T. & T. Clark, 2008), 43-64; and ‘Evolution, Emotion and Exegesis: Disgust and Empathy in Biblical Texts on Moral and Ritual Issues’, in *Linnaeus and Homo Religiosus: Biological Roots of Religious Awareness and Human Identity* (ed. Carl-Reinhold Bråkenhielm; Acta Universitatis Upsaliensis: Uppsala Studies in Faiths and Ideologies, 23; Uppsala: Uppsala Universitet, 2009), 191-218. Certain parts of the discussions on disgust, fear and a sense of justice relating to purity issues were also presented in a briefer form in Chapter 2 of my recent book *Issues of Impurity in Early Judaism* (ConBNT, 45; Winona Lake, IN: Eisenbrauns, 2010).

I am indebted to a number of people, especially to the ‘Finnish cognitive colony’ for frequent encouragement and response, in particular to Risto Uro and István Czachesz for their enthusiasm with my ideas and their continuous feedback. I am also indebted to my employer, the Stockholm School of Theology, for providing enough research time for a scholar to survive a teaching job—which is not the case with every institution—and in particular to Owe Kennerberg for being generous and flexible in granting research leaves. My appreciation also goes to Åke Viberg for fuelling my fascination for the Pentateuch, to Tracy Lemos for generously reading and commenting on parts of the manuscript, and to Katja Claesson, who keeps reminding me that, regardless of the role of the brain, emotions are always experienced ‘from the neck down’. I finally wish to express my gratitude to my family, my emotional home base, Johannes, Samuel, and my partner in life, Birgitta Orrefur, with whom I have been privileged to share affects and affections for thirty years.

The research for this study has been partly financed by the following foundations and stipendiary funds: Helge Ax:son Johnsons stiftelse, Gunvor och Josef Anérs stiftelse, Birgit och Gad Rausings stiftelse, Stiftelsen Lars Hiertas minne, Åke Wibergs stiftelse, as well as travel grants from Kungliga Vitterhetsakademien (Royal Swedish Academy of Letters). The Swedish Research Council has financed English language revision

This book is dedicated to Samuel, for reasons already hinted at, and for constantly challenging me by preferring philosophy, ethics and politics to theology. Our discussions are always most fruitful and stimulating.

Märsta, March 2011

Thomas Kazen

ABREVIATIONS

AB	Anchor Bible
ABD	*Anchor Bible Dictionary*
AfO	*Archiv für Orientforschung*
AnBib	Analecta biblica
AOAT	Alter Orient und Altes Testament
BETL	Bibliotheca ephemeridum theologicarum lovaniensium
BIS	Biblical Interpretation Series
BZAR	Beihefte zur *Zeitschrift für altorientalische und biblische Rechtsgeschichte*
BZAW	Beihefte zur *Zeitschrift für die alttestamentliche Wissenschaft*
CBQ	*Catholic Biblical Quarterly*
ConBNT	Coniectanea biblica, New Testament Series
ConBOT	Coniectanea biblica, Old Testament Series
DJD	Discoveries in the Judaean Desert
DSD	*Dead Sea Discoveries*
EncJud	*Encyclopaedia judaica*
FAT	Forschungen zum Alten Testament
FRLANT	Forschungen zur Religion und Literatur des Alten und Neuen Testaments
HAT	Handbuch zum Alten Testament
HBM	Hebrew Bible Monographs
HUCA	*Hebrew Union College Annual*
JBL	*Journal of Biblical Literature*
JCS	*Journal of Cuneiform Studies*
JPS	Jewish Publication Society
JQR	*Jewish Quarterly Review*
JR	*Journal of Religion*
JSJ	*Journal for the Study of Judaism in the Persian, Hellenistic and Roman Period*
JSNTSup	*Journal for the Study of the New Testament,* Supplement Series
JSOT	*Journal for the Study of the Old Testament*
JSOTSup	*Journal for the Study of the Old Testament,* Supplement Series
JSSR	*Journal for the Scientific Study of Religion*
LHB/OTS	Library of Hebrew Bible/Old Testament Studies
LNTS	Library of New Testament Studies
NTS	*New Testament Studies*
OBO	Orbis biblicus et orientalis
PEQ	*Palestinian Exploration Quarterly*
PNAS	*Proceedings of the National Academy of Sciences of the United States of America*
RB	*Revue biblique*
SAOC	Studies in Ancient Oriental Civilization
SBL	Society of Biblical Literature

SEÅ	*Svensk exegetisk årsbok (Swedish Exegetical Annual)*
SFSHJ	South Florida Studies in the History of Judaism
SJLA	Studies in Judaism in Late Antiquity
STDJ	Studies on the Texts of the Desert of Judah
SUNY	State University of New York
TRE	*Theologische Realenzyklopädie*
TWAT	*Theologisches Wörterbuch zum Alten Testament*
VT	*Vetus Testamentum*
VTSup	*Vetus Testamentum,* Supplements
WMANT	Wissenschaftliche Monographien zum Alten und Neuen Testament
WUNT	Wissenschaftliche Untersuchungen zum Neuen Testament
ZA	*Zeitschrift für Assyriologie*
ZAR	*Zeitschrift für altorientalische und biblische Rechtsgeschichte*
ZAW	*Zeitschrift für die alttestamentliche Wissenschaft*

INTRODUCTION

Chapter 1

The Role of the Body in Religion

> …the image of the Jew (who is always male) pouring over a book is misleading. He appears to be involved in an elevated, spiritual pursuit. But if we could peer over his shoulder and see what the text says, he may in fact be reading about matters as mundane as which hand to use in cleaning himself or as erotic as what positions to use during sexual intercourse.
>
> –Howard Eilberg-Schwartz[1]

Working on the topic of purity laws[2] I became increasingly aware of the prominent role of bodily processes and bodily functions in religion. Religion has never been a matter for the head only; it is not primarily an intellectual exercise. The modern, western focus on texts may camouflage their content.

In *People of the Body*, Howard Eilberg-Schwartz puts his finger on the obvious risks with the romantic popular image of Jews as ‘people of the book’. We must not forget that ‘these books talk at length and in rich detail about matters such as bodily emissions, skin diseases, circumcision, proper positions for sexual intercourse, how to urinate, how to empty one’s bowels, and so forth’.[3]

Rather than tempting us back to murky medieval prejudices about Jews, however, these observations should be extended to other traditions as well. Christian texts deal no less with human bodies, in spite of their purported spiritual character. Of course, a number of dissimilarities become obvious when, for example, the books of the New Testament are compared with the Torah or the Mishnah, but they depend more on differences in genre than in world-view. Early Christians discussed circumcision, and while some of them found it unnecessary for gentiles they nevertheless regarded questions of hairstyle and head-coverings of crucial importance. Food was a hotly debated issue, and while some did not consider Jewish food-laws applicable to non-Jews, questions of what to eat, where to eat it, when, and with whom, did not become obsolete. Although many purity rules and purification rituals were abandoned in the early Christian movement (as they were in Judaism, too, as centuries went by) or never adhered to in the first place by gentile believers, Christians continued to immerse their bodies in water, anoint them with oil and have them sprinkled in various ways. Bodily emissions did not become neutral over night but continued to provoke discussion and dissent.[4] Human sexuality continued to play an important role in various religious rules aiming at bodily purity. Christian purificatory practices are found through the Middle ages and churching rites have survived until recently.[5]

---

[1] Eilberg-Schwartz 1992: 3.

[2] See Kazen 2010a (2002).

[3] Eilberg-Schwartz 1992: 2.

As Christianity in the modern West has become very much a matter of the head,[6] other more or less religious ideas, old and new, have begun to fill the gap, offering wellness, wholeness, cleansing, detox, healing and health. The body is apparently too important to be ignored. Religion without the body does not seem viable.

Today it is a commonplace to talk of Second Temple Judaism as intent on orthopraxy rather than orthodoxy. To some extent, however, this is true of all living religion. On a popular level, religion has to do with practical living, providing rules or guidelines for behaviour. Lofty theologies may be heartily embraced or grudgingly tolerated, but basically, it all boils down to human action and interaction, or what we would call ethics. To be sure, this usually includes cultic action as well and a sharp line between ritual and morality can seldom be expected, as will be argued in more detail below. Evidence from comparative religion, as well as from developmental psychology, suggests that distinctions between morality and ritual are culture-specific and that our definitions easily become anachronistic. Even today, ‘ungodly’ is a synonym of ‘wicked’ in many languages.

Morality is thus an important part of religion and both ritual and morality are to a large extent about bodies, one’s own and those of others. This is the reason why Eilberg-Schwarz’s Torah-studying Jew actually reads about genital discharges, and early Christians read letters about clothing, foodstuffs and marriage relationships. This is the reason why religious people today talk about health issues and (sometimes a bit more vehemently) debate homosexuality. The body is the locus of morality, the arena in which religion is practised, or the means by which moral or ritual action is carried out.

The body is more than an arena for moral and ritual action, however. It has also been conceived of as the seat of morality, the place where human morality is situated. In spite of the modern Western tendency to assign morality to the brain and associate it with the development of human rationality,[7] thus governing the rest of the body without falling prey to the seduction of subjective senses, ancient anthropologies often thought of morality and will as located in the innermost parts of the body itself. In some ways, morality is understood as involving the whole person.

---

[4] This applies especially to menstrual blood. See Schultz 2003. Compare the restrictive attitude of Dionysius (*Dionysius to Basilides,* β’) with the opposite in *Didascalia apostolorum* (Syriac 26.262; *versio Latinae* 62 = 97v). See Kazen 2010a (2002): 133 n. 242. For competing views on bodily discharges during the Middle Ages, see Meens 2000.

[5] Browe 1932; Caspers 2000; Roll 2003; Dresen 2003.

[6] I am aware of the fact that this characterization might represent a European middle-class perspective, and that a number of Christian traditions in other parts of the world, but also in the ‘West’, from high-church to charismatic movements, appeal to the senses rather than to the intellect.

This might perhaps suggest something about the origin of morality. Whether viewed from an evolutionary, an anthropological or a psychological angle, morality—and ritual—can be understood, to a great extent, as originating with, and developing from, bodily reactions. Morality must be granted a basic foothold in the human person as such, a place somehow compatible with recent knowledge about human development. This also means that morality must be intimately associated with questions of human identity. If becoming and remaining human entails the evolution of an 'embodied morality',[8] identity can hardly be envisaged as something disembodied. Within a corporeal perspective on morality, human nature cannot be regarded as mainly a spiritual development. What you do in and with your body determines who you are. The body conceived of as the centre of morality will also be understood as the centre of personality.

I thus confess a broad interest in the role of the body. It can be regarded as the origin, as the seat and as the arena for religion in general, for human identity, and for morality and ritual in particular. In studying these issues I have found some of the fields that come under the umbrella of Cognitive Science to be useful tools. The field of Biblical Studies has long since been accustomed to incorporate insights from other fields for analytical or heuristic purposes. During the past decades the social sciences in particular have provided an important impetus. Dialogue between biblical scholars and the natural sciences has, however, been limited. With a focus on the body, this should change. Evolutionary biology is, together with developmental psychology, very useful for understanding the origins and growth of human identity and human religiosity. Other fields in Religious Studies realized this long ago, and it is time for Biblical Studies to catch up.[9] Cognitive Science is also useful for studies of the role of the body as the origin, seat, or arena of morality and ritual action, as expressed and evidenced in ancient texts.

---

[7] Cf. Kohlberg's influential theory of moral development, focused on justice reasoning. Kohlberg, Levine and Hewer 1983.

[8] For the concept of 'embodied morality', see Looy 2004.

[9] So far, biblical scholars who approach the field of Cognitive Science have mostly taken an interest in those aspects that intersect with the social sciences, with relatively little attention paid to the natural sciences. See for example Luomanen, Pyysiäinen and Uro 2007.

This does not mean that traditional methods of analysis are abandoned, only that they are complemented by new and different insights from psychology and biology, including such fields as primatology and neuroscience.

The present study deals with only a small section of this vast area and could be seen as part of a much larger project. In this book the body is primarily seen as the *origin* of morality and ritual. I have chosen to focus on four bodily emotions—disgust, empathy, fear and a sense of justice—and their role for certain moral and ritual issues that are discussed in ancient Israelite law. The topics range from purity legislation and food laws to attitudes to vulnerable categories in society, including immigrants and foreigners, and concepts of forgiveness and atonement. Several of these issues are associated with long-standing scholarly disputes over theological interpretations, textual interrelationships, or dating, and I hope that my new and somewhat different approach may contribute to continuing dialogues.

In due course I hope to apply a similar approach to some early Christian texts.[10] I also hope to be able to return later to other aspects of the broader question of the role of the body for morality and ritual issues, in particular questions dealing with the body as the seat of morality and as an arena of moral and ritual action.

---

[10] For a first attempt, see Kazen 2011.

PART I

COGNITIVE FOUNDATIONS

Chapter 2

EVOLUTION, EMOTION AND MORALITY: A BIOLOGICAL PERSPECTIVE

> It does seem sensible … to suggest that feelings may have been a necessary grounding for ethical behaviors long before the time humans even began the deliberate construction of intelligent norms of social conduct. Feelings would have entered the picture in prior evolutionary stages of nonhuman species and would have been a factor in the establishment of automated social emotions and of cognitive strategies of cooperativity.
>
> –Antonio Damasio[1]

Biblical Studies and Cognitive Sciences

'What does Silicon Valley have to do with Jerusalem?' Gregory Peterson asks in a book on *Theology and the Cognitive Sciences*, alluding to Tertullian's famous saying: *Quid ergo Athenis et Hierosolymis* ('What has Athens to do with Jerusalem?'). Just as Tertullian questioned the relevance of philosophy for Christian faith, people today might doubt the relevance of cognitive sciences for theology. Peterson answers that within a larger science and religion dialogue, 'cognitive sciences can affect the way we go about *doing* theology'.[2] In the survey that follows he demonstrates how these approaches are relevant in dealing with a number of theological issues regarding the nature of God and the human being.

Recent decades have seen a growing interest in questions concerning the human mind. Today we can identify an array of disciplines that, due to their focus on cognition, can be subsumed under the heading 'cognitive science(s)'. These include, among others, evolutionary biology, primatology, neuroscience, social and developmental psychology, linguistics, certain sociological approaches and artificial intelligence. Their research questions concern issues such as the phylogeny and ontogeny of an inner world and a Theory of Mind. They also deal with the complicated interplay between biology and culture, as well as the role of language and emotions in a functional rationality and the development of a moral capacity.

---

[1] Damasio 2003: 160.

[2] Peterson 2003: 12.

Within the larger context of a dialogue between science and religion, cognitive science has a constructive and creative potential for theological issues. As Peterson points out, cognitive science 'affects both metaphysical and soteriological accounts of human nature', and thus has an influence on all types of theological activity, in as far as theology deals with questions of meaning and purpose within the context of a contemporary world-view.[3] Theology's interest in cognitive science is of fairly recent date, going back no more than two or three decades, but the field is growing.

So far, very few biblical scholars have been engaged. The field of Biblical Studies is well accustomed to a pluralism of methods, and tools from the social sciences have, together with comparative religion, long since been employed in textual interpretation and hermeneutics. It is only natural that, when exegetes begin to interact with the cognitive sciences, they do so mostly from the perspective of a cognitive study of religion, with sociology and anthropology providing the main frames of reference, often leading to a focus on questions of memory, identity and ritual.

My own interest, however, lies particularly in those aspects of cognitive science that are associated with the evolution and development of mind, rationality and morality. What, then, has *evolution* got to do with Jerusalem? How is evolutionary biology relevant for Biblical Studies, except for that debate with creationism concerning the interpretation of Genesis, which often becomes so tedious? The present book has little to do with such discussions. My purpose in this chapter is rather to provide a short overview of how biologically evolved and culturally shaped emotions influence human behaviour. I wish to draw attention to important insights from evolutionary biology, primatology and neuroscience, as well as from developmental psychology, which can be used as heuristic tools for interpreting biblical texts dealing with moral and ritual issues. We will find that these pieces of research from cognitive science are helpful for understanding the role of certain basic emotions, which are apparently at work in the ancient legal texts that we will soon turn to.

Rationality and Emotion

In the modern West, human existence is primarily understood as a cognitive phenomenon and the rational brain is seen as the primary *locus* for human identity and consciousness. Descartes' famous saying: *cogito, ergo sum* (I think, therefore I am) characterizes a whole paradigm, in which mind is seen as separate from matter and rationality is the opposite of emotion. Within such a paradigm, morality, too, must be regarded as the result of a primarily rational activity. Today, however, the Cartesian paradigm is under fire from a number of camps, in favour of a concept of an embodied mind.[4]

---

[3] Peterson 2003: 3-22.

In *Descartes' Error*, Antonio Damasio reverses the Cartesian *dictum*, claiming: 'We are, and then we think'.[5] From an evolutionary perspective, beings existed before mind, and consciousness and thinking developed gradually. Damasio gives evidence from neurobiological research for the importance of bodily sensations and emotions for a functioning rationality. Their influence on the human brain is crucial; a disembodied mind cannot exist, and human consciousness is dependent on constant interaction with the sense-perceptions of the body.

Damasio's neuroscientific research and his examples are frequently quoted in scholarly literature.[6] For our purpose, the most interesting part of his research relates to patients with damage to the prefrontal areas of the brain, who display deficits in secondary emotions, while on the surface rational capacity and primary emotions seem to remain intact.[7] One of Damasio's case studies concerns 'Elliot' whose choices constantly led to detrimental results for himself, in spite of his being able to reason logically and foresee the outcome of various decisions in theory.[8]

> The defect appeared to set in at the late stages of reasoning, close to or at the point at which choice making or response selection must occur. … the defect was accompanied by a reduction in emotional reactivity and feeling. … Elliot's reasoning prevented him from assigning different values to different options, and made his decision-making landscape hopelessly flat.[9]

Another example is the patient whose lack of emotional capacity was shown to be of great help in driving on an icy road (no panicking, just rational behaviour), while it made it virtually impossible for him to decide between two alternative dates, weighing advantages and disadvantages endlessly.[10] These patients were able to reason logically, but when it came to decision-making and action, their reduced emotional capacity seriously impaired their capacity to actually make rational decisions. They were able to figure out all the possible alternative outcomes of various actions, but without emotions they did not know what to choose in the end.

---

4. Lakoff and Johnson 1999: 16-44, 235-66.

5. Damasio 1994: 248.

6. Damasio 1994. Cf. Damasio 1999; 2003. Damasio is often referred to, e.g. Rottschaefer 1998: 162; Peterson 2003: 89-91; Gärdenfors 2005: 87-93.

7. Primary emotions are for example direct responses of fear or anger to sudden stimuli, while secondary emotions are conceived reactions to anticipated or imagined events. See further below. Cf. Damasio 1994: 129-39.

8. Damasio 1994: 44-51, 191-96.

9. Damasio 1994: 50-51.

10. Damasio 1994: 193-94.

The constant interaction between the brain and the organism in its entirety makes it necessary to talk about an embodied mind and a minded body. ‘It does not seem sensible to leave emotions and feelings out of any overall concept of mind’ says Damasio, and ‘mind derives from the entire organism’.[11] This means that bodily emotions are intimately involved in human processes of reasoning and moral judgment.[12] Both identity and morality are ‘relative to our biological state’.[13]

Morality and Emotion

The dichotomy between reason (good) and passions (bad) in Western thought goes back to ancient Greece. To Plato as well as to Aristotle, reason was to be the master who should rule the less reliable passions or emotions. There were, of course, nuances. In Plato’s tripartite view of the human soul, the lowest, appetitive part has little to do with reason, while the middle, spirited part houses cognitive emotions and ‘has more respectable evaluative capacities, but the scope of its interests is rather limited’.[14] There is a tendency to upgrade the value of emotions in Plato’s later works.[15] Aristotle was less reserved than Plato and acknowledged the necessary role of the emotions for a good social life.[16] The most negative view of emotions was held by the Stoics, who regarded emotional movements as intentional and, according to Chrysippus, dependent on the false ideas that external things can be either good or bad and that certain responses are appropriate to the situation.[17] The ideal of *apatheia* was tied to the Stoic understanding of emotions as irrational cognitive activities.[18] But here, too, there were nuances. As Troels Engberg-Pedersen has shown, Marcus Aurelius gave room for a type of enlightened emotion that did not leave out every attachment to the particular, the here-and-now.[19]

In one sense, then, our cultural and philosophical heritage from antiquity does acknowledge a relationship between cognition and emotion, but in general, their relationship is not a harmonious one. Emotions do have their place, with varying degrees of reservation, but it serves reason best to remain detached from human passions. The Western world is the bearer of a basically dichotomous anthropology that is still very influential.

---

[11] Damasio 1994: 158, 225.

[12] Damasio 1994: 245-52; cf. Kekes 1992: 444.

[13] Morrison and Severino 2003: 860.

[14] Knuuttila and Sihvola 1998: 1-19 (3).

[15] Knuuttila and Sihvola 1998: 4.

[16] Knuuttila and Sihvola 1998: 16.

[17] Knuuttila and Sihvola 1998: 13.

[18] Brennan 1998.

[19] Engberg-Pedersen 1998.

The dilemma is clearly seen in moral philosophy. While Immanuel Kant concluded that reason, unlike other organs of the body, has no natural function to preserve the human organism—for this purpose instincts would be more precise—but must rather be understood as intent on producing human morality, David Hume claimed that reason should be subordinate to the passions; it ought to serve and obey the emotions.[20] From an evolutionary point of view, Kant must of course be wrong. Nothing prevents us from explaining the evolution of uniquely human cognitive capacities by their adaptive value. If we, as John Teehan suggests, 'can forgive the rhetorical excess of Hume's statement',[21] it is shown to be quite in accord with an evolutionary paradigm.

> We are emotional beings whose striving for well-being, in a highly complex social environment, is enhanced by the means of reason. Reason does not have its own kind of contentment, if by that is meant a nonemotional one. Reason has no function apart from answering the needs that arise from the rich context of human desires and needs and passions. … From an evolutionary perspective we must see reason and emotion as physiologically related functions of a highly complex organism—evolutionary strategies with the same end.[22]

Teehan points out that one of the problems with Kantian ethics from an evolutionary perspective is that reason and humanity are divorced from human nature. There is, however, no 'rational being as such' outside of our evolutionary history. We cannot limit evolutionary explanations to mere physical existence, leaving out rational or spiritual matters.[23] The fear that naturalistic ethics might lead to egoism and immorality is not warranted by an evolutionist understanding of the human being. Morality results from 'our emotions, our cognitive processes, and the complex relationship between the two'.[24]

The philosophical dichotomy has, however, spilled over into other and newer fields, too. This is clearly seen in the psychology of moral development. In Jean Piaget's classical study *The Moral Judgment of the Child*, the focus is on the rational aspects of cognition: the understanding and learning of moral rules, and their role in making moral judgments.[25] Lawrence Kohlberg builds on Piaget for his influential stage theory of moral reasoning, which has a similar emphasis on rational understanding. Morality is understood to develop from an idea of conventional obligations into a genuine understanding of moral obligations, through objective evaluation of right and wrong in a rational process. Morality is thus seen as a result of cognitive and language-based reasoning, an activity mainly located in the head. 'Role-taking' improves the child's morality by raising *reasoning* above mere egocentricity.[26] Although affective forces are involved in moral decisions, they are themselves amoral. The moral force in personality, which is able to channel affective arousals in a moral direction, is understood as cognitive only.[27]

---

[20] Teehan 2003: 53.

[21] Teehan 2003: 53.

[22] Teehan 2003: 54.

[23] Teehan 2003: 54-55. Teehan points to the similarity between Kant's position and the announcement of Pope John Paul II on the relationship between evolution and religious belief.

[24] Teehan 2003: 58.

[25] Piaget 1948 (1931).

Kohlberg's stage theory became the basis for subsequent research in developmental psychology, which involved a number of adaptations, adjustments and new initiatives. A social interactionist model has been suggested by a number of scholars, with Elliot Turiel as its main proponent. The emphasis is on the role of the social context and social interaction in moral development.[28] But here, too, the main focus is on conscious reflection as the basis for moral judgment.

Others, however, suggest that emotions play a much larger role in moral evaluation than is usually recognized. Jonathan Haidt argues for a 'social intuitionist model', meaning that moral judgments are often triggered instantly, by intuition, and then only subsequently rationalized.[29] Moral reasoning is as much a *result* of moral judgment as a *cause*. In Haidt's experiments, people were confronted with offensive but harmless actions. In spite of this they usually deemed them morally as well as universally wrong. It seemed that affective reactions were better predictors of judgment than possible harmful consequences. Haidt claims that 'for affectively charged events … an intuitionist model may be more plausible than a rationalist model'.[30] Judgment would often be triggered by quick moral intuitions and then followed by a slower rationalizing argument, if necessary. Moral intuition is an instantaneous moral judgment without any conscious weighing of arguments, but with a clearly affective component. The purpose of post-hoc moral reasoning in such cases is primarily to persuade others—or oneself. Haidt relates his findings to other studies that indicate rapid or automatic affective evaluation and moral judgment, or suggest weak links between moral action and moral reasoning, while links with moral emotions seem strong.[31] Although reasoned judgments do occur, intuition is the more common avenue to moral judgment. This does not mean that intuition is uninformed by rational considerations or societal concerns. Although biologically based on human emotional capacity, and thus innate, moral intuitions are shaped by culture during ‘developmentally timed periods of high neural plasticity, as though the brain “expected” certain types of experience to be present at a certain time to guide its final wiring’.[32]

---

[26] Kohlberg 1971; Kohlberg, Levine and Hewer 1983.

[27] Kohlberg 1971: 230-31.

[28] Turiel 1983; 1998; Nucci and Turiel 1978.

[29] Haidt 2001; 2003.

[30] Haidt 2001: 817.

[31] Haidt 2001: 817-24.

One of the studies referred to by Haidt is by Joshua Greene. Together with a number of colleagues, Greene has engaged in experiments involving typical ‘trolley problems’. These are ethical thought experiments, based on a fictional dilemma in which a trolley has run out of control and is going to kill a number of people, unless you move a switch that will lead the trolley onto another track, killing one person only. The initial dilemma has been given numerous variations and shapes. The experiments show marked differences in results depending on whether dilemmas are construed in a personal or a non-personal way, i.e., whether personal lethal action against a victim is involved or not. Responses to personal moral dilemmas involve the activation of similar brain regions as in emotional experiences, rather than the frontal cortical areas normally involved in rational cognitive activities. In contrast, impersonal and non-moral dilemmas cause increased activity in areas associated with working memory.[33]

Jorge Moll and colleagues have done similar experiments in which moral judgments were compared with non-emotional factual judgments and social-emotional conditions respectively. They argue for networks between specific parts of the brain that represent distinct moral emotions. Drawing on a large amount of data from a number of studies and researchers, they suggest a new model for the neural basis of moral cognition, an event–feature–emotion complex framework (EFEC).[34] Using the example of seeing an orphan, the capacity to predict the child’s future (event knowledge) and a correct interpretation of the child’s sad face and voice, or helpless behaviour (social perceptual and functional features) mean little unless they are somehow associated with an experience of sadness or attachment (central motive states, i.e., emotions).[35] According to Moll and colleagues,

---

[32] Haidt 2001: 827.

[33] Greene, *et al.* 2001: 2105-108; Greene and Haidt 2002: 517-23.

[34] Moll, *et al.* 2005. These three components are derived from imaging as well as clinical evidence. According to this model, *structured event knowledge* of various kinds can be located in different parts of the pre-frontal cortex. *Social perceptual* and *functional features* are located in the posterior superior temporal sulcus and the anterior temporal cortex respectively. *Central motive states* are associated with limbic/paralimbic regions and brainstem structures (804-806). The framework makes it possible to predict—and test—a number of relationships between damage to various brain regions and moral behavioural changes (806-807).

[35] Moll, *et al.* 2005: 805-806. Moll *et al.* actually differentiate central motive states from basic emotions, since the latter require a temporal binding between perception and motive states.

> morality would be reduced to a meaningless concept if it were stripped from its motivational and emotional aspects. … Our framework underscores a key role for central motive states in moral behaviour by way of integrated cortical-limbic networks. For example, cortical representations allow you to notice that someone is hurt, whereas central motive states elicit anxiety and attachment, which encourage you to help the suffering person. This integrative perspective contrasts with the commonly held view that 'rational' cognitive mechanisms control or compete with emotional ones.[36]

Nor is it compatible with the view that the cognitive role of the pre-frontal cortex is to suppress emotional responses in abstract moral reasoning.[37]

Taking various types of evidence from the fields of neurobiology as well as developmental psychology into account, we must conclude that human morality is both a rational and an emotional development, innate as well as acquired, and intimately linked to bodily experience.

Morality and Evolution

Seen from an evolutionary perspective, beings existed before mind, and consciousness and thinking developed gradually. Biologically speaking, morality can be understood as originating in certain basic emotions that developed to regulate and protect life as it became more vulnerable when it ascended from the sea to the dry land—'a repertory of built-in survival strategies'.[38]

In the context of individual reproduction and genetic transmission, it is true that Darwin considered morality an evolutionary by-product. He was also not clear about the extent to which later stages in the evolution of morality are genetically dependent—quite naturally, since genes were not fully understood when Darwin first wrote.[39] It is evident, however, that he understood the development of morality as the result of both biological and cultural factors. Although he saw morality as an evolutionary by-product, this did not prevent him from emphasizing the social aspects of human development. Darwin understood morality as a result of love and sympathy, developing from primary emotions of pain and pleasure, but ultimately leading to the golden rule. This development should *not* be seen as based on the principle of selfishness, but rather on social instincts reinforced or modified by community opinions [40]

The idea that an evolutionary understanding of moral development must be based on selfishness is thus not very Darwinian. The Russian scientist

---

[36] Moll, *et al.* 2005: 806.

[37] Moll, *et al.* 2005: 806.

[38] Hurlbut and Kalanithi 2001: 334-37 (335).

[39] Although the idea of a unit carrying inherited characteristics goes back to Gregor Mendel (1861), the identification and naming of the gene did not take place until 1909.

[40] Darwin 1989a (1877; 1st edn 1874): 101-31 (97-127).

Peter Kropotkin laid even more emphasis on social and cooperative aspects of the development of morality. Kropotkin's understanding was based on his research into the survival of species under extreme conditions, in arctic areas, and highlighted the importance of cooperation rather than competition for biological evolution.[41] In his study *Mutual Aid* Kropotkin concluded:

> In the animal world we have seen that the vast majority of species live in societies, and that they find in association the best arms for the struggle for life: understood, of course, in its wide Darwinian sense—not as a struggle for the sheer means of existence, but as a struggle against all natural conditions unfavourable to the species. The animal species in which individual struggle has been reduced to its narrowest limits, and the practice of mutual aid has attained the greatest development are invariably the most numerous, the most prosperous and the most open to further progress. The mutual protection which is obtained in this case, the possibility of attaining old age and of accumulating experience, the higher intellectual development, and the further growth of sociable habits, secure the maintenance of the species, its extension, and its further progressive evolution. The unsociable species, on the contrary, are doomed to decay.[42]

Kropotkin's understanding did not, however, gain the upper hand. Thomas Huxley, often called 'Darwin's bulldog', regarded morality as an exclusively human attribute, derived from culture and contrary to nature and natural selection. He compared humanity to a gardener constantly keeping the weeds out. While Darwin understood morality within an evolutionary framework, one could say that Huxley deprived it of its ultimate evolutionary base.[43] And as the function of genes was more fully understood, Darwin's principle of natural selection, which Herbert Spencer had named 'the survival of the fittest', could be entirely interpreted in 'selfish' terms. With genes as the level of selection, sociobiologists saw the survival and multiplication of genetic material as the governing principle of evolution.[44] Altruistic behaviours were understood as disguised 'selfishness', and morality was seen as a cultural and cognitive development rather than a biological one.[45]

This discourse has been severely criticized for thoroughly confusing metaphorical or analogical language,[46] for exaggerating and misconstruing the genetic level of selection[47] and for disregarding contradictory evidence.[48] In a number of publications over two decades, primatologist Frans de Waal has argued for an ultimately biological basis for morality, which humans share with other animals, especially primates and particularly apes. When his results are applied to our understanding of the human mind, it becomes evident that human morality has a firm evolutionary base and is grounded in our neurobiological constitution, while at the same time being thoroughly shaped and constrained by culture.[49] In the following chapters we will return to some of these questions in more detail, including the distinction and interplay between biology and culture in the formation of human morality.

---

[41] Kropotkin 1972 (1914; 1st edn 1902).

[42] Kropotkin 1972 (1914; 1st edn 1902): 246.

[43] De Waal 2006: 7-12; Changeux, Damasio, Singer and Christen 2005: xi.

[44] Wilson 1975; Dawkins 1989 (1976).

[45] Hence Dawkins (1989: 3); 'We, alone on earth, can rebel against the tyranny of the selfish replicators' (Dawkins 1989: 201). De Waal thinks that Darwin would turn in his grave at such statements (2006: 9).

[46] Rolston 1999: 54-107; cf. Rottschaefer 2000: 264-68.

As humans evolved as a conscious, self-aware, adaptable and social species, the development of emotions was a necessary prerequisite. Our emotional nature is linked to the evolution of humans as morally responsible social beings.[50] We have already mentioned primary and secondary emotions. This distinction is common and refers to the difference between direct responses and conceived reactions. Primary emotions are for example direct responses of fear or anger to sudden stimuli, while secondary emotions are conceived reactions to anticipated or imagined events. While instant feelings of pain, hunger, anger or fear serve to protect the physical organism from damage and death, the same or more sophisticated emotions, but involving anticipation, imagination and planning, make sense in a social context.[51] Secondary emotions are, in a sense, important for survival, too, and when impaired, may cause disastrous consequences, as is clear from Damasio's research. This takes place in a long perspective, however, involving interaction with others; secondary emotions particularly make sense in a social context, involving a markedly cognitive component. This does not mean that secondary emotions are separate from primary emotions, as if the latter were innate while the former were culturally acquired. It is rather that all emotional ‘fields’ or ‘areas’ have both evolutionary (innate, ultimate) and cultural (acquired, proximate) bases—and these are not fully separable, since, as previously mentioned, part of the final ‘wiring’ of the human brain takes place through interaction with social and cultural experience during periods of plasticity in childhood and even adolescence.[52]

---

[47] Sober and Wilson 1998, especially 87-100.

[48] De Waal 2006, note especially his criticism of what he calls 'veneer theory' (7-12).

[49] Cf. de Waal's evidence for 'cultural' shaping of empathic or prosocial behaviour even among other primates, further discussed below (1996: 163-208).

[50] Teehan 2003: 57.

[51] Cf. Damasio 1994: 129-39. The distinction between primary and secondary emotions has been questioned by Griffiths, who regards the general category of 'emotion' as a useless concept in future psychology, arguing for a clear distinction between affect programmes and higher cognitive emotions, eliminating the general concept of emotion altogether (1997: 228-47). There is something in Griffiths's criticism of Damasio's assumption that secondary emotions are acquired while primary emotions are innate, but I am not convinced by his claim that some higher cognitive emotions appear independently of the affect programme phenomena (102-106). In any case, the general concept of 'emotion' is not about to vanish, although alternatives such as 'affect' (cf. 'affective sciences') are found, too.

Although most of what we call morality has to do with social interaction and is based on the human capacity for secondary emotions, this is all dependent on a primary emotional development based on bodily reactions to promising or threatening stimuli, such as pleasure or pain. We have found that an emotional origin of morality is supported by evidence from evolutionary biology, neuroscience and developmental psychology, and that moral development is intimately linked with human relationships.[53] This is crucial when we discuss ancient societies in which there was no exact equivalent to our dichotomy between body and mind and where the lines between the natural and conventional, morality and ritual, were drawn differently.

---

[52] Cf. Preston and de Waal 2002: 1-72; Haidt 2001: 827.

[53] Cf. Morrison and Severino 2003: 855-62.

Chapter 3

Morality, Convention and Ritual: The Role of Culture

> … there was no distinction such as we tend to make between morally right and ritually proper. The god was just as angry with the eating of ritually impure food as with oppressing the widow and the poor.
>
> –W.G. Lambert[1]

Culture and Morality

Although morality is ultimately based in biology, the role of culture in shaping human ethical behaviour should not be downplayed. The proximate roots of morality are found in social interaction, which is contextually or culturally structured but dependent on evolved emotional capabilities. As already mentioned, there is interaction in the other direction, too: not only does biological evolution depend on adaptive value in a particular context, but culture in a more qualified sense actually affects the biological default setting of the developing brain over a period of several years during human childhood and early adolescence.[2]

Jonathan Haidt suggests that cultures modify innate human moral capacities in three distinct ways: by selective loss of intuitions, by immersion in cultural complexes and by peer socialization.[3] The first two of these are of some relevance for our present purpose.

As in the case of language acquisition, humans have capacities that are soon constrained; since the potential of the brain is almost unbounded, limitation and specialization is necessary to create an intelligible and manageable system. From an analysis of the moral discourse of inhabitants of Orissa in India, Richard Shweder and colleagues have suggested that human morality can be classified into three basic clusters or categories. These ‘big three’ domains of morality are ethics of autonomy, community and divinity.[4] An ethics of autonomy is said to relate to concepts such as harm, rights and justice, and aims to protect the individual’s freedom and integrity. Obligations come from being a person. An ethics of community relates to concepts such as duty, hierarchy and interdependence, and aims to protect the roles of a society, in the sense of a corporate entity. Obligations come from being part of a community. An ethics of divinity has to do with the natural and/or sacred order, holiness, sin and impurity, and aims to protect the spiritual aspects of the human person. Dignity is displayed by showing ‘ultimate concerns’.[5]

---

[1] Lambert 1959: 194.

[2] This is evidenced by varying types of research that point to a number of interesting features: the neural system of the mammalian brain seems to be ‘experience expectant’, there are certain sensitive periods in the development of human sensory systems and language, synapse selection occurs during the first years and is particularly active in the prefrontal cortex during late childhood. Crucial moral *biological* development thus seems to take place at a fairly late stage and interacts with cultural influence. For a discussion with references, see Haidt 2001: 827.

[3] Haidt 2001: 828-29.

A given cultural context usually emphasizes one or two of these domains, and this influences the shaping of a child’s morality. Loss of intuition will follow in those areas that are not focused on. In the modern individualistic West, an ethics of autonomy dominates, while in other parts of the world ethics of community and divinity are of crucial importance. Cultural or custom complexes play an important role in the moral socialization of children. They are mainly transmitted not as cognitive beliefs or ideas, but rather by bodies, spaces, objects and behaviours that are structured according to rules of hierarchy, sanctity, purity and the like. By observing, imitating and following customs depending on such structures, children develop and acquire moral intuitions, especially in the ethical domains of community and divinity.[6] This is a social learning that actually affects the default setting of the brain. ‘Even though people in all cultures have more or less the same bodies, they have different embodiments, and therefore they end up with different minds’.[7]

Culture and Convention

Shweder’s three ethical domains are, of course, broad categories with no fixed borders between them. A given moral concept, custom or behaviour can display traits of two or even all three of these categories. The assignment of a value statement to a particular category depends at least in part on the cultural context in which such a statement is being made.

Other types of division are possible, too. In discussions about the development of moral understanding it has been common to distinguish between conventions and genuine moral issues. Piaget, who was mentioned in the previous chapter, found two types of morality in his studies of children's moral understanding: one based on authority, duty and obedience, and another based on co-operation, mutual respect and social interaction.[8] Kohlberg, who built his theory of moral stages on Piaget, suggested that a genuine understanding of the idea of a moral obligation in children develops from a pre-conventional stage based on subjective feelings of the self, through a conventional stage focusing on consensus-based obligations. The idea that obligations are rooted in convention is taken to precede the idea that obligations are rooted in natural law. This is seen as a universal development related to the development of rational reasoning.[9] Turiel, on the other hand, claims that moral understanding is present in children at an early age. Convention and morality are not seen as connected in development, but rather are both understood as universally present and differentiated from each other in early childhood. The idea of moral obligation is related to social experiences with events that have objective or intrinsic implications for justice, rights, harm, welfare and the like, while conventional obligations are related to socially regulated events that lack objective or intrinsic implications for such crucial issues.[10]

---

[4] Shweder, Much, Mahapatra and Park 1997.

[5] Shweder, Much, Mahapatra and Park 1997: 138-39.

[6] Haidt 2001: 827-28.

[7] Haidt 2001: 828.

It seems, however, that morality and convention are not so easily separable. Shweder has pointed out that children develop an idea of conventional obligation in cultures like ours, where the social order is separated ideologically from the natural moral order, for example by morals being reduced to free contracts. This requires a culture where social arrangements are viewed as secondary formations.[11] On the basis of his own cross-cultural research and that of others, Shweder suggests that

> it is not a universal idea that social practices are conventional formations, deriving their authority from a culture-bound consensus. According to the theory a culture's ideology and worldview have a significant bearing on the ontogenesis of moral understandings in the child, and not all cultures have a place in their view of the world for the idea that social practices are conventions.[12]

He goes on to demonstrate this using the case of cultural differences:

> not all cultural worldviews are like our own … and in many parts of the world, including orthodox Hindu India, customary practices (for example, menstrual seclusion, arranged marriage, food taboos, kin avoidance, naming practices) are viewed as part of the natural moral order. Society is

---

[8] Piaget 1948 (1931).

[9] Kohlberg 1971; Kohlberg, Levine and Hewer 1983. For a convenient summary, with a critique, see Shweder, Mahapatra and Miller 1987: 5-25.

[10] Turiel 1983: 33-49, 130-60. Cf. Shweder, Mahapatra and Miller 1987: 2-3, 25-34.

[11] Shweder, Mahapatra and Miller 1987: 3.

[12] Shweder, Mahapatra and Miller 1987: 3.

> not separated conceptually from nature. What is natural or moral has not been narrowed down to the idea of an individual, empowered and free to create relationships at will through contract. Forms of human association are thought to be found (natural law) not founded (conventionism).[13]

The results of Shweder's research, then, include the observation that there is no class of inherently non-moral events, and that many instances of what a modern Westerner would call culture or convention (whether involving social or ritual events) are considered as moral in other contexts. The idea of convention occurs primarily among American (i.e., Western) adults and older children.[14] Examples of contemporary cross-cultural research in the area of developmental psychology should warn us not to distinguish too hastily between convention and ethical issues, or to draw sharp lines between ritual and morality, especially in ancient texts.[15]

Ritual and Morality

The general relationship between ritual and morality in religion has been hotly debated. A dominant functionalist approach, which goes back to William Robertson Smith and Emile Durkheim, has viewed religion as primarily consisting of rituals, which function to sanction the moral norms of society.[16] Religion thus sustains the moral order and rites unite society into a moral community. The divide between ritual and morality seems to be taken for granted.

One of the most influential voices for biblical scholars has been that of Mary Douglas, whose work on Israelite law, Leviticus and purity laws in particular, has had many followers. Douglas finds a unifying structure behind the purity laws—a symbolic system related to the human and the social body. The human body is taken to represent the social body, so that bodily impurity really speaks about social issues.[17] This is a highly symbolic or allegorical reading in which, for example, concerns about boundaries of the body express concerns about social boundaries.

It seems to be a common idea in sociological and anthropological studies that ritual considerations have moral consequences in one way or another. Rodney Stark takes issue with this almost generally accepted truth, drawing attention to the fact that Tylor and Spencer had already argued that only certain types of religions actually have moral implications.[18] Stark argues from cross-cultural data that 'the moral behavior of individuals would be influenced by their religious commitments *only* in societies where the dominant religious organizations give clear and consistent expression to divine moral imperatives'.[19] Evidence rather suggest that rituals do not in themselves effect conformity to the moral order, unless they are accompanied by images of powerful and morally concerned gods that sustain such a moral order.[20]

---

[13] Shweder, Mahapatra and Miller 1987: 3-4.

[14] Shweder, Mahapatra and Miller 1987: 34-35.

[15] The distinction is problematic from an ethical-philosophical perspective, too. Cf. Catherine Wilson's discussion of the 'demarcation problem' in Wilson 2004: 8-16.

[16] Cf. Klawans 2006: 32-38; Stark 2001.

[17] Douglas 1966; Douglas 1978 (1970), see especially Chapter 5: 'The Two Bodies'. For a recent criticism, see Lemos 2009.

While rituals in Israelite religion surely played a role in social organization and hierarchical structures of society, I would hesitate to read them as symbols of the social body or as allegories of a moral system. As Tracy Lemos has pointed out, 'the type of analysis that seeks ever to schematize almost always sees ritual as secondary to belief and the body as secondary to the mind'.[21] Much of the discourse on ritual and morality assumes dichotomies and distinctions that are suspiciously anachronistic and culture-specific.

Rather than asking about the effect of ritual practices on morality and moral behaviour, thus assuming a divide, I wish to ask what those things that we usually categorize as ritual and moral respectively have in common. Rather than speculating about ritual complexes as symbolic or allegorical reflections of social and moral structures, I hope to find evidence for common denominators, underlying cognitive-emotional experiences, that fit with a world-view in which ritual and moral issues—as we see them—at times blend together. For this purpose the ongoing discussion about ritual and moral purity in ancient Judaism is useful.

Moral and Ritual Impurity

The relationship between purity and sin in Judaism has been a bone of contention among scholars.[22] Jacob Neusner once suggested that the notion of sin in the sense of an ethical offence originated with acts that were generally thought to make people 'unfit for the holy community'.[23] If this is true, ritual impurity and moral deficiency have much in common, which is in line with our observations above on the lack of firm borders between various ethical domains and the difficulty in delineating a clear difference between conventional and moral obligations.

The issue of purity and morality is, however, sensitive for a number of reasons. One is the old caricature of Judaism as a ritually obsessed cult as opposed to Christianity as a purportedly more spiritual (and moral) religion. Scholars have often been accused of confusing sin and impurity, or rather of misunderstanding Judaism as confusing these concepts.[24] As a result, some have attempted to drive a wedge between the two, claiming that impurity in Judaism must *not* be understood as a moral category at all, but as without any ethical value.[25] This has proved difficult, however, since the two ideas overlap and at times are intertwined. A number of moral behaviours are described as defiling in biblical texts, especially in the Holiness Code (Lev. 17–26) and in the prophetic literature. Such a usage of purity language for moral matters has usually been understood as metaphorical.

---

[18] Stark 2001: 619.

[19] Stark 2001: 620.

[20] Stark 2001: 634. Cf. the discussion of fear of divine punishment in Chapter 8.

[21] Lemos 2008.

[22] See for instance Neusner 1973; Maccoby 1999; Klawans 2000.

[23] Neusner 1973: 25.

Two early scholars who dealt with purity and sin in Judaism were David Z. Hoffmann and Adolf Büchler. In his commentary on Leviticus, Hoffmann explained defilement caused by sin as standing in opposition to holiness rather than to purity. This type of impurity included the dietary laws and should be regarded as concrete rather than symbolic.[26] Büchler, on the other hand, while taking sin seriously as a defiling force and a source of a ‘religious’, as distinct from a ‘levitical’, impurity, regarded the former as metaphorical.[27] For Büchler, sin in general was considered defiling by ancient Jews.[28]

Jonathan Klawans has argued for moral impurity and ritual impurity as separate but interacting categories, on the one hand merging into a single concept of defilement in the sectarian writings from Qumran, on the other hand becoming completely ‘compartmentalized’ by the *Tannaim*.[29] Klawans has convincingly demonstrated how certain immoral acts were generally regarded as defiling in ancient Judaism, particularly the three grave sins referred to in the Holiness Code (certain sexual sins; idolatry, especially child sacrifice; murder). These are thought to convey impurity to the sinner as well as to the land, although not in the sense of a removable 'contact-contagion'.[30] The idea of defiling sins was then expanded to include a broader category of misdeeds, leading up to what Klawans understands as the merging of moral and ritual impurity found in Qumran.[31]

---

[24] Sanders 1985: 182-85. Cf. Klawans’s critique of Malina, Neyrey, Rhoads and Borg (Klawans 2000: 12, 137, 144-45).

[25] Cf. Sanders 1985: 183-84, who argues that impurity was not sinful in general, except for a few particular acts, or for ignoring purity laws intentionally. Neusner (1994: 57-59) attacks Sanders on this point but seems to speak about the priestly legislation of the Hebrew Bible and Mishnaic Judaism, taking little account of the late Second Temple period. Maccoby (1999: 195, 204-205) goes further, claiming that such differentiation is characteristic for Judaism of *all* periods.

[26] Hoffmann 1905-906: II, 301-308, 340. To Hoffmann, it was rather bodily impurity that should be regarded as symbolic. Cf. the opposition of ‘Wirklichkeit’ and ‘symbolisch’ with the discussion below, especially n. 40. For a comprehensive history of related research, see Klawans 2000: 3-20.

[27] Büchler 1928: 212-69.

[28] See Büchler’s treatment of post-biblical and rabbinic literature, in 1928: 270-74. Cf. the critique of Klawans 2000: 6.

[29] Klawans 2000. See for example the convenient summaries at the end of each chapter, as well as 158-62.

As we would expect from the foregoing discussion, however, it is problematic to distinguish ritual from moral impurity too rigidly. While concepts of what we would call ritual and moral defilement were variously integrated or kept apart in Judaism over time, morality and purity were never conceived as totally separated from one another, especially not in popular belief. When the prophets challenge the people to behave righteously, cultic matters and purity issues are often interwoven.[32] It is not as obvious where to draw the line between the moral and the ritual as a modern Westerner would assume, and we would perhaps do best to use other concepts.[33] Klawans's suggestion, that the Pharisees at the end of the Second Temple period had already 'compartmentalized' immoral acts and bodily defilement to the extent that appears in Tannaitic literature, is not corroborated by evidence. Neither priestly purity legislation nor Tannaitic discussion about purity is void of moral implications.[34]

Metaphorical Language

The problems involved in an attempt to fully separate ritual from moral impurity are clearly indicated by the dietary laws. Klawans (unlike Hoffmann, who assigned them to the category of defiling sins) wishes to place them somehow in-between the two systems, pointing out that the *Mishnah* does not deal with the dietary laws in the *Seder Toharot*.[35] There is a basic problem here. Overlaps are found not only with the dietary laws, but with all three 'systems' of impurity, i.e. clean and unclean animals, contagious bodily impurity, and polluting grave sins. As I have pointed out elsewhere, the dietary laws in Lev. 11 transmute into a discussion about animal carcasses and their defilement by contact, which is a ritual problem, while the prohibition of sex during menstruation is found not only in Lev. 15 but also in the Holiness Code (Lev. 18; 20), where moral aspects are involved.[36] The isolation of the 'leper' and, according to Num. 5, of the *zav* as well, is certainly based on ritual considerations, but would also have been stigmatizing in a moral sense, which fits the observation that these diseases were regarded as punishments and related to moral failings.[37] The *chatta't* sacrifice, translated by the LXX as *hamartia* and often translated as 'sin-offering', was effective for removing ritual impurity as well as moral offence; hence 'purification-offering' has become a preferred translation for many scholars. We will return later to some of these issues: to the dietary laws in Chapter 6 and to the *chatta't* sacrifice in Chapter 9.

---

[30] Lev. 18–20, cf. Num. 35.33-34. Klawans 2000: 26-31. Although the expression 'contact-contagion' is somewhat of a tautology, it serves well to distinguish this particular conception of impurity from others.

[31] Klawans 2000: 43-60, 67-91. See however Himmelfarb 2001: 9-37, who considers the association of sin and impurity in Qumran as primarily evocative rather than *halakhic*. For a recent argument against reading the Qumran texts as conflating ritual and moral impurity, see Ginsburskaja 2009. I have not been able to interact with this work, which came to my attention after the manuscript was finished.

[32] Cf. Ezek. 18.5-9

[33] As for Second Temple Judaism, I have suggested 'inner' and 'outer' as more closely corresponding to contemporary thought. See Kazen 2010a (2002): 219-22.

[34] Klawans 2000: 92-117. The lack of evidence is actually admitted by Klawans himself (150). I have discussed this in more detail elsewhere, see Kazen 2010a (2002): 209-14, 216-18; 2008. Cf. *m. Ker.* 2.3; *m. Neg.* 12.6; *t. Neg.* 6.7; *Sifre* to Num. 5.3; *b. Arak.* 16a; *Lev. Rab.* 17.3; 18.4; *Num. Rab.* 7.1, 10.

[35] Klawans 2000: 31-32.

While there is a moral aspect to the idea of purity in ancient Judaism,[38] talking of moral *versus* ritual purity becomes a problem, as if purity ceases to be a ritual category when applied to moral matters. The problem is further underscored by Klawans's insistence that 'moral purity' is not a metaphor, but should be taken literally.[39] The discussion results from a confusion of ontological categories ('real' and its opposites) with linguistic classifiers ('literal' *versus* 'metaphorical').[40] Hence, impurity language in regard to moral deficiencies is at times understood as metaphorical, but when referring to the three serious defiling sins or their derivatives it is deemed literal. However, I do not see why impurity in Ps. 106.34-41 or Ezek. 36.16-18, 22-25 should be taken more literally than in Isa. 1.15-17; 64.4-5 or Ps. 51.4-5, 9, where, according to Klawans, it is metaphorical.[41]

The distinction often becomes artificial. Although 'metaphorical' generally refers to the use of language in a secondary or transferred sense, while ‘literal’ refers to a primary use, literal expressions can be metaphorized and metaphorical language at times literalized.[42] At a deep level, human language and thought, including our moral imagination, are metaphorical throughout.[43] But even at a superficial level, assuming a conventional understanding of metaphor as secondary language, there are difficulties with Klawans’s distinctions. In the case of ‘impurity’, we would expect the concept to refer primarily to the besmirching of an item by some objectionable material substance, i.e. ‘dirt’. In a sense, *ritual* impurity language is then *secondary*, just like *moral* impurity language. A number of moral and ritual concepts, including purity, may be seen as secondary cultural developments based on, or originating with, primary emotional bodily reactions. In Chapter 5 we will discuss how purity laws and moral rules in the priestly legislation can be interpreted as originally based on negative reactions to threatening stimuli, especially on the emotion of disgust, primarily towards objectionable substances, and secondarily to states associated with such substances or behaviour evoking similar feelings.

---

[36] For further discussion, see Kazen 2010a (2002): 207-11.

[37] Cf. Num. 12.9-15; 2 Sam. 3.29; 2 Chr 26.16-21. Cf. Kazen 2010a (2002): 217-18.

[38] Cf. Kazen 2010a (2002): 214-22.

[39] Klawans 2000: 32-36.

[40] I have dealt with this problem in Kazen 2010a (2002): 204-207. Cf. Caird 1980: 131. Darian Lockett (2008: 54-55) has suggested that I mistake 'real' for 'historical', but this is not the point. While I can understand that Klawans uses these categories heuristically, and appreciate his attempt to show that 'moral' impurities are not necessarily secondary in relation to 'ritual' impurities and that certain 'moral' impurities have 'real' or perceived effects, this is not what is at stake in the opposition of 'literal' and 'metaphorical'. See further below.

[41] Klawans 2000: 28-31, 35-36. It could be argued that the sexual relationship between David and Bathsheba referred to in Ps. 51 was understood as one of the three grave sins causing 'moral impurity', since she was not yet clean from her menstruation. If so, impurity in this psalm ought to be understood as 'literal' according to Klawans's scheme.

Comparative Evidence

The understanding that a number of aspects of ritual and morality may have a common origin and were not envisaged as separate categories is corroborated by comparative studies of Israelite traditions and those of her neighbours. Numerous Near Eastern and Egyptian examples from various periods give evidence for this. Ezekiel’s description of the upright man seemingly mixes cultic and moral prescriptions:

> A man who is righteous and does law and righteousness, he does not eat on the mountains and does not lift his eyes to the idols of the House of Israel and does not defile his neighbour’s wife and does not have intercourse with a menstruating woman, he does not oppress anyone, he returns his pledge, he does not steal, he gives his bread to the hungry and provides clothes for the naked, he does not charge usury and does not take interest, he keeps his hand from evil, he makes true judgment between man and man, he walks in my decrees and guards my laws in order to be true—such a man is upright.[44]

The contents relate to Pentateuchal legal material, not least from the Holiness Code. Eating on the mountains and having sexual intercourse with one’s wife during her menstrual period are thus seen as issues that are no less ‘moral’ than matters of justice. Compare this with the well-known 125th chapter from the Egyptian *Book of the Dead*.

---

[42] Kittay 1987: 19-20.

[43] Johnson 1993: 32-77; Lakoff and Johnson 1980; Lakoff and Johnson 1999: 45-73, 290-334.

[44] Ezek. 18.5-9a.

> I have not sinned against anyone. I have not mistreated people. I have not done evil instead of righteousness. I know not what is not (proper); I have not done anything bad. I have not at the beginning of each day set tasks [harder than] I had set (previously). My name has not reached the Pilot of the bark. I have not reviled the God. I have not laid violent hands on an orphan. I have not done what the God abominates. I have not slandered a servant to his superior. I have not made (anyone) grieve; I have not made (anyone) weep. I have not killed; I have not turned (anyone) over to a killer. I have not caused anyone's suffering. I have not diminished the food (-offerings) in the temples; I have not debased the offering-cakes of the gods. I have not taken the cakes of the blessed. I have not copulated (illicitly); I have not been unchaste. I have not increased nor diminished the measure, I have not diminished the palm; I have not encroached upon fields. I have not added to the balance weights; I have not tempered with the plumb bob of the balance. I have not taken milk from a child's mouth; I have not driven small cattle from their herbage. I have not snared birds for the gods' harpoon tips; I have not caught fish of their [lagoons]. I have not stopped (the flow of) water in its seasons; I have not built a dam against flowing water. I have not quenched a fire in its time. I have not [failed to observe] the days for haunches of meat. I have not kept cattle away from God's property. I have not blocked the God at his processions. I am pure…[45]

Note how in the formula 'I have not… I have not…', 'ritual' issues, such as cultic transgressions or impurities ('what the God abominates', behaviour with regard to offerings and processions) are included in a list of otherwise 'ethical' transgressions. Other examples are early Mesopotamian texts like the following:

> [NN, son of] NN, whose god is NN, whose goddess is NN,
> [who is…], sick, in danger (of death), distraught, troubled,
> who has eaten what is tab[oo] to his god,
> who has eaten what is taboo to his goddess,
> who said "no" for "yes", who said "yes" for "no",
> who pointed (his) finger (accusingly) [behind the back of] his [fellow-man],
> [who calumniated], spoke what is not allowed to speak,
> …
> He entered his neighbor's house,
> had intercourse with his neighbor's wife,
> shed his neighbor's blood,
> …
> omitted the name of his god in his incense-offering,
> made the purifications, (then) complained and withheld (it)[46]

Discussing morals in ancient Mesopotamia, W.G. Lambert noted that popular morality 'consisted in not transgressing those customs which had come to be considered socially proper, and so morally right’.[47] These included sexual morals and sacrificial rules alike, and magic rituals played an important role. From a modern point of view,

---

[45] Spell 125a, S2-3. Allen and Hauser 1974: 97.

[46] Tablet ii, lines 3-8, 47-49, 75-76, in Reiner 1958: 13-15.

> morals and magic were inextricably confused. There was no distinction, such as we tend to make, between morally right and ritually proper. The god was just as angry with the eating of ritually impure food as with oppressing the widow and orphan. His anger would be appeased no less with the ritual offering than with a reformed life.[48]

At a later period we find, almost contemporary with several Qumran texts, the Egyptian *Papyrus Jumilhac* (2nd century BCE), which lists twenty cardinal offences without attempting to sort them or make any distinction between purity and morality:[49]

> Connaître les interdictions de ce district (ou: nome).
> 1. La bête *ḫztt* de son dieu, c’est-à-dire le loup et le chien *ṯzm*.
> 2. Le cri du chien *iwiw*.
> 3. Son horreur est aussi la femme en période de menstruation.
> 4. L’acte de faire un mensonge.
> 5. Le grognement du porc.
> 6. Le fait d’élever la voix en présence (du dieu).
> 7. Et, également, d’avoir une démarche fière (?) dans le temple.
> 8. Les violents de sa ville.
> 9. L’acte de diminuer la longueur de la corde d’arpentage de ses champs.
> 10. L’acte de fausser l’ouverture de la mesure à grain de ses greniers.
> 11. L’acte de voler le blé de ses champs.
> 12. L’acte de diminuer les offrandes divines / de son temple.
> 13. L’acte d’approcher (avec malveillance) le fils sur le trône de son père, dans sa maison.
> 14. L’acte de crever l’oeil d’un citoyen de sa ville.
> 15. L’acte de témoigner contre ses concitoyens.
> 16. L’acte de porter atteinte aux droits de la ville du dieu en sa présence (?).
> 17. Le violent qui ne respecte pas les frontières de ses champs.
> 18. L’acte de manger de la viande provenant de toute sorte de bêtes sacrifiées.
> 19. Le fait de s’approcher avec des intentions mauvaises de l’oeil *oudjat*.
> 20. L’acte d’éloigner les gens d’une *semdet* pour les placer dans un autre *semdet*.[50]

---

[47] Lambert 1959: 194.

[48] Lambert 1959: 194.

[49] Meyer 1999: 50-51.

[50] *P. Jumilhac* XII, 16-21, in Vandier 1962: 123-24. There is to my knowledge no scholarly English translation available, but I provide my own translation from the French (I am indebted to Dr. Erika Meyer-Dietrich for revising it against the Egyptian original): ‘Know the prohibitions of this district (or: *nome*).| 1. The animal *ḫztt* of his god, that is to say the wolf and the dog *ṯzm*.| 2. The uttering of the dog *iwiw*.| 3. His abomination is also the woman during menstruation.| 4. The act of lying.| 5. The grunting of the pig.| 6. To raise the voice in the presence (of the god).| 7. And, likewise, to have a proud (?)

As pointed out by Robert Meyer, this text, which probably applies to the population at large, not only to priests, ‘classifies all types of offences as *bw.wt nṯr*, i.e. as “abominations of God”, a term otherwise used to designate cultic taboos’.[51] There is no hint at any distinction between purity rules and moral obligations.

While it would be possible to add further evidence, this should suffice to prove the point: a clear dividing line between ritual and moral issues, between purity and morality, is not supported by ancient comparative textual evidence. The conclusion is fully in line with observations from developmental psychology and modern cross-cultural anthropological studies. This is not to deny an understanding of social justice, which at times could be contrasted with cultic concerns, as in the social criticisms of some of the prophets.[52] However, such analyses, in which certain matters of social justice were given priority over at least some cultic practices, did not prevent an understanding of other issues, which we would rather separate into different categories, as offensive to the divine mind as well as to human taste. Certain types of behaviour were considered unacceptable to God and society alike, while others were deemed suitable or necessary. The role played by biologically evolved and culturally shaped emotions is an important part of the explanation.

---

bearing in his temple.| 8. The violents of his town.| 9. The act of diminishing the length of the measuring line for surveying his fields.| 10. The act of falsifying the opening of the measuring of grain at his granaries.| 11. The act of stealing the wheat from his fields.| 12. The act of diminishing the divine offerings / for his temple.| 13. The act of approaching (with malevolence) the son on his father’s throne, at his house.| 14. The act of putting out the eye of a citizen of his city.| 15. The act of testifying against his fellow-citizens.| 16. The act of derogating from the rights of the city of the god in his presence (?).| 17. The violent that does not respect the border of his fields.| 18. The act of eating meat originating from all sorts of sacrificial animals.| 19. The fact of approaching with bad intentions of the *oudjat* eye.| 20. The act of removing the people of a *semdet* in order to situate them in another *semdet*’.

[51] Cf. Meyer 1999: 49-51.

[52] E.g., Isa. 58; Hos. 6.6; Amos 5.21-24.

Chapter 4

FOUR ‘MORAL’ EMOTIONS: DISGUST, EMPATHY, FEAR, AND A SENSE OF JUSTICE

> One of the most underdeveloped areas within the embodied-cognition paradigm is the origin and nature of values.
>
> –Mark Johnson[1]

Moral Emotions

The important role of emotions for human cognition and morality has been described in Chapter 2, but we have not yet properly defined moral emotions. Emotions that are often deemed moral include awe, elevation, guilt, contempt, anger and disgust,[2] but all sorts of emotions can have a bearing on moral issues. Haidt attempts a definition based on Gewirth’s understanding of morality, which specifies the material conditions of a moral issue; his definition of moral emotions thus becomes: ‘*emotions that are linked to the interests or welfare either of society as a whole or at least of persons other than the judge or agent*’.[3]

Based on such a definition, Haidt finds two prototypical components of moral emotions. Emotions that are triggered by disinterested elicitors and emotions that motivate some kind of pro-social action are considered more moral than others. The result is that anger, elevation (being deeply moved), guilt and compassion (or sympathy/empathy) score high, while fear, pride, sadness and happiness score low. Gratitude, contempt, disgust, shame and embarrassment are found in between.[4] It might be objected that the underlying definition of morality, which is focused on action tendencies (not necessarily action but motivation to act) can be questioned, and that another definition of morality would produce a different understanding of moral emotions. Haidt does, however, suggest that the moral status of an emotion is a matter of degree, and that his typology is highly speculative. Many other alternatives are possible and each emotion has several subtypes.[5]

---

[1] Johnson 2006: 53.

[2] Looy 2004: 222-23.

[3] Haidt 2003: 853. Haidt’s italics.

[4] Haidt 2003: 853-54. Certain emotions, or variants on emotions, such as resentment, never appear in Haidt’s scheme.

Emotions can be categorized in 'families'. Contempt, anger and disgust are all *other-condemning* emotions that are sometimes thought of as *immoral*. Anger, however, is often a response to injustice, either towards oneself or towards others, while disgust can be viewed as protecting human integrity, and contempt is often seen as a blend of the other two. Together they might be understood as guardians of the moral order. A second family, of *self-conscious* emotions, consists of shame, embarrassment, guilt and pride. These put constraints on people's individual behaviour in a social context. Shame and embarrassment clearly take various forms in different societies, depending on the degree of separation between moral norms and social conventions, and in some cultures hierarchical structures are heavily involved. Pride is a possible opposite of shame.[6] Feelings of guilt are triggered not only by consciousness of having caused harm or injustice *per se*, but particularly by the threat one's actions have caused to human relationships. These emotions make people conform to the moral order and abide by moral rules. The *other-suffering* family is the third, embracing distress at another's distress (DAAD) and empathy/sympathy.[7] Empathic feelings are triggered by the perception of others' suffering and induce pro-social action or altruistic behaviour. A fourth family consists of *other-praising* emotions, such as gratitude, awe and elevation. In contrast to the previous emotions, these are responses to *good* deeds and have not been subject to much empirical research.[8]

In this chapter, we will discuss four moral emotions: disgust, empathy, fear and a sense of justice. The latter is not explicitly mentioned in Haidt's scheme, but partly corresponds to some aspects of anger (included) and perhaps to some types of envy (not in Haidt's scheme), which are elicited by injustice and unfair treatment.

Disgust

Of the emotions associated with morality, disgust has aroused considerable interest. Disgust is an emotional reaction against that which is experienced as revolting or objectionable and has been understood as originally relating to taste, as suggested by the etymology of the English word.

---

[5] Haidt 2003: 854.

[6] As such it is *self-conscious*, but also 'the ultimate self-praising emotion'; Haidt 2003: 863.

[7] Haidt prefers to talk of compassion, but since I will subsequently use empathy I employ this term here, too. See further below.

[8] Haidt 2003: 855-64.

This is the case in two of the classical discussions of disgust, Darwin's evolutionary account (1872) and a psychological article by Andras Angyal (1941). According to Darwin, disgust refers to

> something revolting, primarily in relation to the sense of taste, as actually perceived or vividly imagined; and secondarily to anything which causes a similar feeling, through the sense of smell, touch and even of eyesight.[9]

Angyal understood disgust as 'a specific reaction towards the waste products of the human and animal body', but claimed that '[c]ontact with the mouth region and particularly the ingestion of disgusting material are the most feared', and emphasized the disgust reaction as 'preventing the oral penetration of disgusting substances'.[10]

A third classic discussion of disgust, a phenomenological study by Aurel Kolnai (1929), gives more emphasis to smell than to taste, as it explains a broader range of disgust reactions. Kolnai also focuses on the cognitive side of disgust and its intentionality, by which he did not mean that disgust was felt on purpose, but that it is directed towards intentional objects and not felt without reference. While fear is focused on the preservation of one's own being and often results in flight, there is ambivalence in disgust, which sometimes involves an amount of attraction. Kolnai associates disgust with death but points out that 'something dead is never disgusting in its *mere non-functioning*'. It is rather putrefaction and decomposition of body products that cause problems. Kolnai also mentions excrement, bodily secretions, certain animals and foods, proximity to the body of other human beings, exaggerated fertility, and disease or deformation. As for moral types of disgust, Kolnai discusses satiety, excessive vitality, lying, falsehood and moral softness.[11]

During the last ten or fifteen years a number of studies on disgust have appeared. In his historical and socio-political study of disgust, William Miller questions a too close linking of disgust to taste. He claims that we are easily misled by the etymology, while disgust in effect is much broader than feeling an unpleasant taste. Miller considers smell and touch to be just as important in the experience of disgust.[12] In a large study on the role of disgust in arts, aesthetics and philosophy, Winfried Menninghaus deals with disgust as dependent on beauty, although not its opposite. He relates disgust to modern aesthetic culture, to cultural theory and psychoanalysis.[13] Susan Miller's recent monograph regards disgust as a 'gatekeeper emotion' that rejects contact in a 'refusal to integrate something into the body or being'.[14] However, it readily 'changes horses from body offenses to behavioral affronts'.[15] Both Kolnai and Miller point out that death as such does not seem to be a primary stimulus of disgust, but that disgust is rather directed towards death in the form of decayed life. It is not the qualities of death but the significance of those qualities that disgust us.[16]

---

[9] Darwin 1989b (1890, 1st edn 1872): 195 (265/6).

[10] Angyal 1941: 395, 402, 411.

[11] Kolnai 2004 (1929).

[12] Miller 1997: 6, 12, 60-79.

[13] Menninghaus 1999.

For our purpose, the empirical-psychological research of Paul Rozin and his colleagues is most interesting. An original association of taste and disgust is an underlying supposition in Rozin's research. This can be argued from facial expressions of disgust, which centre around the mouth and the nose, as well as from the nausea that commonly accompanies this emotion. To Rozin, 'core disgust' is dependent on three components: oral incorporation, offensiveness and contamination potency.[17]

From an evolutionary point of view, disgust developed as a primary reaction to protect an organism from oral incorporation of harmful substances,[18] but inhaling and contacting should be subjected to similar considerations, since taste, smell and touch interact at a very basic level of human emotional capacity. All three cause instant recoil from that which is experienced as objectionable; hence all three should be thought of as involved in 'core disgust' as a primary emotion. As soon as sight and memory are added, however, a secondary aspect emerges and disgust may be triggered by the mere *thought* of a number of situations, with neither taste, nor smell or touch actually being there.[19]

Disgust triggers can be defined as relating to nine different areas: 'food, body products, animals, sexual behaviors, contact with death or corpses, violations of the exterior envelope of the body (including gore and deformity), poor hygiene, interpersonal contamination (contact with unsavory human beings), and certain moral offenses'.[20] Whether all of these areas apply globally, or just to those Western societies from which most of the researchers involved have come, is a matter for discussion. Most people agree, however, that disgust triggers are learned through socialization, and that 'the specific objects, events, and behaviors within these categories that elicit disgust vary across cultural contexts'.[21] As a primitive reaction to bitter taste, it is present in other mammals as well as in newborn children.[22] But apart from this, disgust seems to be a distinctly human trait, intimately linked to cultural evolution and socialization. Rozin and colleagues provide a scheme for the development of disgust from distaste and core disgust, through stages of animal-nature and interpersonal disgust, to a reaction to moral offences.[23] It is still very uncertain, however, to what extent mere distaste provides the (primary) springboard for the development of this emotion.

---

[14] Miller 2004: 59.

[15] Miller 2004: 67.

[16] Miller 2004: 187-88. Cf. Menninghaus's point that disgust is not directed towards the corpse as such, but towards the *rotting* corpse (1999: 7).

[17] Rozin, Haidt and McCauley 2000: 637-53.

[18] Cf. Rozin, Haidt and McCauley 2000: 639-40.

[19] Cf. Miller 1997: 60-88.

[20] Rozin, Haidt and McCauley, 2000: 637.

[21] Looy 2004: 223; cf. Rozin, Haidt and McCauley 2000: 647-48.

Disgust is definitely involved in moral evaluation, to the point that it has often become a metaphor for a sense of what is morally inappropriate, even for issues or experiences that do not elicit the feeling itself.[24] Disgust then becomes a way of phrasing a value judgment. Disgust proper, or 'deep disgust' as John Kekes terms it,[25] is more than a metaphor—it is 'a general and natural feeling' that is 'caused by general features of the human relationship to the rest of the world'.[26] As a socially conditioned emotion, it is at times morally mistaken.[27] Martha Nussbaum has emphasized the risks of utilizing disgust as a normative pointer; for such purposes it is quite useless.[28] At its core, however, it is a bodily reaction, like fear,[29] against that which is understood as being dangerous for human life, regardless of whether triggered as a result of human choice or not.[30] At a more developed stage, disgust is a reaction against that which is understood as threatening to throw society back to a world where basic order and human identity are absent.[31] It causes humans to shun perceived threats associated with dirt, disorder, demons, decay and death.[32] These are insights that will be used in what follows, especially in the analysis of purity language and purificatory rites.

---

[22] Looy 2004: 223.

[23] Rozin, Haidt and McCauley 2000: 644-47; cf. Rozin, Haidt, McCauley and Imada 1997: 65-82.

[24] Cf. Rozin, Haidt and McCauley 2000: 643.

[25] Note that 'deep disgust' should not only be identified as a primary emotion, but also involves disgust felt as a result of reflection or anticipation.

[26] Kekes 1992: 436.

[27] Kekes is quite clear on the fact that disgust's involvement in moral evaluation does not mean that universal moral rules can be based on a universally felt deep disgust, or that disgust can be defended as an appropriate moral reaction (1992: 438, 441).

[28] Nussbaum 2004: 13-15, 72-171.

[29] Cf. Miller 1997: 25-28.

[30] Kekes 1992: 445.

[31] Kekes 1992: 438-43; cf. the idea of disgust as a guardian of the human body against its animal-nature, Rozin, Haidt and McCauley 2000: 644-45; cf. Miller 1997: 40-50.

[32] Kekes 1992: 435; Rozin, Haidt and McCauley 2000: 642.

Empathy

While disgust may play a prominent role as the basis for prohibitions of certain behaviours, other emotions, involving compassionate and considerate behaviour in a social context, must be considered when a broader perspective on human morality is taken into account. Darwin associated the moral sense with the development of sympathy in social animals.[33] In the process of natural selection, 'those communities, which included the greatest number of the most sympathetic members, would flourish best, and rear the greatest number of offspring'.[34]

The term 'empathy' was not yet in use as Darwin wrote—it was coined in English by Titchener from Lipps's German 'Einfühlung' at the beginning of the 20th century.[35] Today, empathy is usually distinguished from sympathy as well as from personal distress. Personal distress may occur independently of empathic reactions, but it may also, like sympathy, result from empathizing. Sympathy is often understood as a feeling of sorrow or concern *for* another person, while personal distress is the opposite: the focus is on one's own distress rather than that of the other, and there is no cognitive evaluation. Empathy is usually taken to refer to the emotional response in itself, experiencing the same or a similar feeling.[36] A clear distinction between empathy and sympathy is not always upheld, however, even among scholars, and I will be using 'empathy' in a broad sense. Definitions of empathy vary considerably; there is no consensus. Martin Hoffman's definition, however, is widely accepted: empathy is considered as 'an affective response more appropriate to someone else's situation than to one's own'.[37]

Crucial questions in psychological discussions of empathy concern the role of cognition in empathy and the role of empathy in prosocial behaviour, and thus its importance for moral development.[38] Some sort of understanding is self-evident in empathy, but opinions differ as to what kind: experiential knowledge, cognitive knowledge, theoretical knowledge, or emotional knowledge? Opinions also differ regarding the object of understanding,[39] as well as on the relationship between empathy and similarity of experience.[40]

---

33. Darwin 1989a (1877, 1st edn 1874): 101-31 [97-127].

34. Darwin 1989a (1877, 1st edn 1874): 111 [106/7].

35. Wispé 1987: 18-24; Håkansson 2003: 1-2.

36. Eisenberg and Strayer 1987: 5-8; Eisenberg 2000: 677-91; de Waal 2006: 26-27. Kerem, Fishman and Josselson (2001: 712) point out that empathy does not necessarily imply sharing exactly the same emotion.

37. Hoffman 1987: 48. Cf. Hoffman 2000: 30. A collection of definitions is found in Eisenberg and Strayer 1987: 3-4.

38. Eisenberg and Strayer 1987: 8-11.

39. See Håkansson 2003: 17-18, for lists of various options and authors.

40. Håkansson 2003: 21-24.

While certain psychologists, notably Lauren Wispé and William Ickes, have emphasized the cognitive, non-emotional character of empathy,[41] the affective component is given much more prominence by some of the most productive scholars of empathy. In addition to Martin Hoffman, whose definition has just been cited, we may mention Nancy Eisenberg, who links empathy as an affective response to an understanding of another person's emotional state, Daniel Batson, who regards empathy as a vicarious emotion, and Mark Davis, whose inclusive approach 'gives equal status to both cognition and emotion, process and outcome, disposition and situation'.[42] All four acknowledge and discuss the importance of empathy for prosocial behaviour, moral development or altruism.[43]

Hoffman discusses five modes of empathic arousal: motor mimicry, classical conditioning, direct association based on one's own experience, mediated association based on one's own experience and information from or about the victim, and finally, role- or perspective-taking. The first three modes are preverbal and the empathy aroused is an involuntary affective response. The fourth and fifth modes are cognitive and dependent on transmission of information. The result is that a close match between the empathizer's and the victim's affect is not necessary, while a certain degree of match, even across cultures, is assured.[44]

From their cross-disciplinary perspective, Stephanie Preston and Frans de Waal list five definitions of empathy that have partial affinities with Hoffman's modes: emotional contagion, sympathy, empathy, cognitive empathy and prosocial behaviours.[45] These should be seen as interacting aspects in an empathic response that takes place within a 'Perception–Action Model', depending on both ultimate and proximate bases. The model embraces a full range of responses, from evolutionary based motor mimicry and the mother-infant bond, to cognitive adoption of the perspective of others and learned helping behaviours, with mirror neurons providing a possible explanation for shared representations of perceptions and actions.[46] De Waal provides evidence from primatological research for empathy in apes, including examples of perception–action requiring some cognitive capacities, which indicate at least a limited Theory of Mind, i.e., an ability to recognize the mental state of others.[47] While apes may to a certain extent figure out what others think and thus have some sort of representation of the inner world of others, Peter Gärdenfors suggests that a human being has an *inner* inner world from which his or her own inner world can be observed. A capacity for a developed cognitive empathy, including perspective-taking and an ensuing moral responsibility, would thus be reserved for humans.[48]

---

[41] Wispé 1986: 314-21; Ickes 1993: 587-610; cf. Ickes 1997.

[42] Eisenberg 2000: 677; Batson and Moran 1999: 909-24; Davis 1994: 221.

[43] Cf. the study by Kerem, Fishman and Josselson 2001 of people's *experiences* of empathy, showing that cognitive as well as affective aspects played a significant role.

[44] Hoffman 2000: 5.

[45] Preston and de Waal 2002: 2-4, Table 2.

[46] Preston and de Waal 2002: 10-11. Mirror neurons were first found in monkeys and are active in performing as well as in observing an action. While they seem to be suited for imitation, this capacity belongs to a late stage in evolution, not present in monkeys and only partially in apes. Mirror neurons probably evolved not for imitation, but for understanding actions performed by others, as well as emotional states. Studies of humans suggest that mirror mechanisms cause the observer to enact the actions of others inside him/herself and share their emotions, thus transforming what others do

Such self-consciousness, an inner world, or a Theory of Mind is certainly dependent on advanced cognitive capacities and requires the development of the self-other distinction.[49] Hoffman discusses the reactive cry of a newborn infant, which need not represent the child's own discomfort at all. After six months this is no longer an automatic response. While children towards the end of their first year still react to others' distress by trying to reduce their own, early in their second year they begin offering help to victims, although still not fully realizing that others' inner states are different from their own. A typical example is the child that brings a crying friend to his or her own mother. Around the age of two, children begin to distinguish between their own inner state and that of others. Hoffman illustrates this with a number of anecdotal observations of children from the age of two actually taking on the victim's role and reflecting on the victim's needs in the current context, thus displaying a cognitive understanding of the self-other distinction.[50] The distinction and developing cognitive refinement necessary for more focused and relevant action soon develops, building on early experience of the same or similar affects as those of the victim. Perspective-taking is dependent on acquiring a perspective in the first place, through emotional development and the capacity to mirror others' affects, including reactive crying and motor mimicry. De Waal's Russian doll model is apt: empathy can be understood as multilayered, consisting of emotional contagion, cognitive empathy and attribution (perspective-taking), where the outer layers (or higher levels) build on and are dependent on the inner (or lower).[51] Prosocial action might

---

and feel into the observer's own experience. Carr, Iacoboni, Dubeau, Mazziotta and Lenzi 2003; Iacoboni and Dapretto 2006; Rizzolatti and Craighero 2004; Rizzolatti and Craighero 2005.

[47] De Waal 2006, see especially Appendix B, 69-73; cf. de Waal 1996; 2005.

[48] Gärdenfors 2000: 83-135.

[49] Cf. Preston and de Waal 2002: 4 (Table 2).

[50] Hoffman 2000: 63-92.

[51] De Waal 2006: 37-42 (Figure 4). For a recent overview of various levels, definitions and perspectives, see Decety and Ickes (eds.) 2009.

then be triggered at any level and would not even or always require the achievement of a particular stage of self-other distinction.[52]

When the role of empathy in prosocial behaviour is discussed, evidence from developmental psychology, primatology and neuroscience seem to coincide: altruism is rooted in nature. Morality has a biological, emotional basis through the development of empathy. Evolutionary biologists of a certain brand object, however. For sociobiologists like E.O. Wilson and Richard Dawkins, survival of the fittest means that humans are genetically 'selfish' and that no truly altruistic behaviour can be based in our biology, but must be enforced from without by personal, cultural or political constraints. This is what de Waal calls 'Veneer Theory', tracing it back to Huxley, whose comparison between humanity and a gardener keeping the weeds out was mentioned in Chapter 1 above.

We have already discussed how the principle of the 'survival of the fittest' came to be misinterpreted as genetic 'selfishness'. In as much as seemingly altruistic behaviours developed, they could be interpreted as subordinate to the overarching aim: as disguised 'selfishness', kin selection or possibly reciprocal altruism, in which pay-off was still present, although delayed. Consequently, both Wilson and Dawkins are, just like Huxley, forced to postulate a morality which goes against natural human propensities, which is 'nicer than is good for our selfish genes',[53] but perhaps necessary: 'Let us try to *teach* generosity and altruism because we are born selfish'.[54]

Holmes Rolston has criticized this discourse for thoroughly confusing metaphorical or analogical language, using 'selfish' inappropriately for non-intentional, biological processes at a genetic level and thereby creating all sorts of links and suggestions as to the nature and character of integrated beings.[55] On a genetic level, any gene must co-operate with others to be functional and survive or replicate. Natural selection favours the best adapted organisms. Even at the level of individual organisms, however, 'selfish' does not appropriately describe the 'self-actualization' that each individual strives for. Individual survival is necessary for co-operation with kin, understood as 'inclusive fitness', but often extended to 'reciprocal altruism'. Rolston objects to this self-actualization being called 'selfish', with moral implications. Rather than 'hang[ing] on to the central model of 'selfishness' and see[ing] all these others as being exploited by the original self… it is just as plausible to see the self as being distributed further into the reciprocating system and to transpose to a communitarian paradigm'.[56]

---

[52] Cf. Preston and de Waal 2002: 4 (Table 2: see 'Prosocial behaviors').

[53] Dawkins, quoted in de Waal 2006: 9

[54] Dawkins 1989 (1976): 3. Dawkins's emphasis.

[55] Rolston 1999: 54-107; cf. Rottschaefer 2000: 264-68.

[56] Rolston 1999: 235.

One particular difficulty with the selfish gene theory concerns the level of selection. Today a number of scholars suggest that we must take into account multiple levels of selection, including the previously rejected idea of group selection. Elliot Sober and David Sloan Wilson have argued extensively for a multilevel selection theory,[57] and others support similar positions.[58] Such views may better explain how altruism evolved.

Humanitarian behaviour thus has a firm evolutionary base and is grounded in our neurobiological constitution. At the same time, it is thoroughly shaped and constrained by culture. Even among apes and monkeys there are signs of 'cultural' shaping of empathic or prosocial behaviour.[59] There is compelling evidence that in the human species empathy plays a crucial role in the development of prosocial behaviour, and in 'altruistic' tendencies. The 'selfishness' at work in natural selection is not of a moral or intentional kind at odds with humanitarian culture and altruistic morality. Evolution has apparently favoured the development of human empathy, which is the prerequisite for an expanding circle of altruistic behaviour. At the core is the self, not in opposition to others, but as the obligatory point of departure for prosocial behaviour and an expanding altruism, since it is necessary for mirroring others' affects, experiencing similar emotions, taking others' perspectives and thus acquiring a capacity for altruism. Such altruism is, as de Waal has pointed out, not all-encompassing and complete, but necessarily a widening circle depending on resources. Any individual must attend to his or her own survival in order to act towards others at all; after this follow obligations to family and clan—a kin altruism close to egoism. The perceived availability of resources governs how far this circle can expand: to the larger group, tribe or nation, to all of humanity, or to all life forms.[60]

While de Waal's conclusion that 'the idea of universal brotherhood is unrealistic' may be questioned—the lack of resources acting as a constraint on universal altruism is primarily a matter of power structures and distribution, as well as a mental attitude—the main point is well taken: human altruistic morality moves in a continuum with self at one end and everyone at the other. Biology and culture, emotion and cognition, experience and deduction work together. Such interaction can at times be traced in ancient legal material, in which empathy comes to the surface.

---

[57] Sober and Wilson 1998; 2000.

[58] Rottschaefer 1998; 2000; Brandon 1999.

[59] Cf. de Waal's discussion on peace-making and community concern, in particular his example of the long term acculturation of rhesus monkeys interacting with stump-tailed macaques in mixed groups, resulting in the more assertive rhesus monkeys learning to practice the peace-making skills of the stump-tails (1996: 163-208).

[60] De Waal 1996: 212-14; 2006: 161-65.

Fear

Fear is one of the primary emotions associated with morality, and manifests itself as a sudden response to direct stimuli.[61] It has several aspects: as a subjective experience it is associated with somatic and autonomic responses and relates to coping behaviour, especially avoidance and escape.[62]

Fear is often treated together with anxiety, but is said to differ from the latter in being ‘post-stimulus’ rather than anticipatory. This distinction is somewhat difficult to uphold in practice, although it seems clear in theory, since reasonable (or even unreasonable) anticipations can function as stimuli and evoke fear. In many of the cases to be discussed, fear actually concerns certain anticipated events and motivates concrete responses aimed at preventing such events. Since human belief systems are based on experience and worldview, upholding a sharp distinction between anxiety and fear might not always be relevant, at least not for our purposes.

Like anger, pain and feelings of hunger, fear has evolved to protect the physical organism from damage and death. Most situations in which fear is experienced can be classified into four broad categories: interpersonal situations, death and injury as well as illness, animals, and ‘agoraphobic fears’.[63] All four types represent situations during the history of evolution in which fear as a protective reaction kept living organisms away from potentially dangerous contexts: hostile strangers or enemies, damaging or lethal actions, predators and poisonous or large animals, and open places, lacking security, with nowhere to seek refuge quickly.

Although human fear is biologically based, it is shaped by evolution in such ways that we fear situations that threatened the survival of our ancestors.[64] This means that on one hand fear evolved because it was functional, while on the other hand it may not always represent the most efficient response to a threatening situation, although, as several scholars have pointed out, it is not the response itself that is the problem, but the fact that it is triggered in the wrong context or has too low a threshold.[65] Since during the course of evolution, fast discovery of threats has had high survival value, fear has evolved as a more or less automatic response to stimuli, which bypasses traditional pathways in the brain, with the result that 'affect precedes inference'.[66] A large amount of research has been performed on how fear is elicited by stimuli outside the subject's awareness.

---

[61] I.e. awe, elevation, fear, guilt, contempt, anger and disgust. Looy 2004: 223; Damasio 1994: 129-39.

[62] Öhman 2000: 574.

[63] Öhman 2000: 575, referring to a study by Arrindell *et al.* 1991. Arrindell and colleagues surveyed 38 studies of self-assessed fears, from 12 different countries, between 1957 and 1990, which suggested a classification into four broad categories (Arrindell *et al*. 1991a). Another study by Arrindell (with other colleagues) confirmed these results in a study of 398 anxiety disorder patients (Arrindell *et al*. 1991b).

[64] Öhman 2000: 575-76.

[65] Öhman 2000: 577.

Fear of outsiders is thus very reasonable from the perspective of evolutionary biology. Xenophobia is found in a number of social species, from insects through birds and rodents, to monkeys and apes.[67] Human children experience fear of strangers from the age of three months.[68] Ethnocentrism can be understood as a 'sentimental structure', the result of cultural elaboration and individual rationalization of basic evolutionary emotions, which has developed because it has some adaptive value.[69] Ethnocentric tendencies must be understood as context-sensitive. The experienced availability of resources, as well as cognitive recognition of the limits of group membership, govern to a significant degree the balance between selfish and altruistic behaviours in a population.[70]

Ethnocentrism and xenophobia may serve to protect the integrity of the group, by reserving resources for the in-group and guarding against foreigners taking advantage of the reciprocal altruism practised within the group while not contributing. Another effect is to block the likewise innate human propensity for empathy, which otherwise would inhibit aggression, thus making it easier to exercise violence against out-groups.[71] Such out-group hostility is mitigated, however, not only by empathy, but also by a contradictory attraction to some aspects or characteristics of outsiders, that has been explained as an adaptive evolutionary trait, necessary for the gene flow and for counteracting inbreeding.[72]

One partial explanation for the development of hostility towards out-groups is disease-avoidance; hostility towards an out-group would have been adaptive since pathogens were avoided. Furthermore, out-group members would not act according to those in-group practices that might have evolved to protect members from local pathogens.[73] Navarrete and Fessler suggest that 'disease-avoidance mechanisms may have given rise to the association between norm violations and feelings of disgust'.[74]

It goes without saying that, while ethnocentrism and xenophobia may have evolved due to adaptive values at some stages and in certain contexts, other circumstances make such behaviour maladaptive.[75] The context sensitive character of these tendencies is clearly discerned in ancient biblical texts.

---

[66] Öhman 2000: 578. See the seminal article of Zajonc 1980, and his defence against criticism, 1984.

[67] McEvoy 2002: 45-46.

[68] Freedman 1961; McEvoy 2002: 46.

[69] McEvoy 2002: 40. The understanding of sentimental structures comes from van der Dennen 1987.

[70] Cf. Dunbar 1987; McEvoy 2002; de Waal 1996: 212-14; de Waal 2006: 161-65.

[71] Bandura 1999; Navarrete and Fessler 2006.

[72] Fishbein 2002.

[73] Faulkner *et al*. 2004; Navarrete and Fessler 2006.

[74] Navarrete and Fessler 2006: 280.

A Sense of Justice

From a cognitive science perspective, the sense of justice is a more complex phenomenon than the three previous ones, involving an interaction between a number of emotions. One is anger, which is often a response to unjustified behaviour or unfair treatment, directed not only towards oneself but also to unrelated others.[76] In the latter case empathy is naturally part of the game, too. Other emotions involved include envy and jealousy, which are not exactly the same thing.[77] And anger or envy are not the only components in indignation against unfair experiences; pride, contempt, shame, embarrassment and guilt are also involved. Since taxonomies of emotions are not only biologically motivated, but also culturally defined,[78] I think it is legitimate in the present context to discuss a sense of justice as a distinct emotional entity, in spite of its complex character.[79]

Building on Aristotle, we may distinguish three types of justice: distributive, commutative and corrective.[80] These labels are convenient for categorizing, but in reality the different types of justice interact. A basic sense of fairness can be traced in non-human species.[81] It has long been observed that primates like chimpanzees can, similarly to human children, have temper tantrums when frustrated or offended,[82] which at times leads to revenge.[83] Anger due to goal blockages often results in negotiation and/or a restoration of balance.[84] Other reactions are displayed when unfairness is experienced as unjust distribution or partiality. A number of experiments with capuchin monkeys, and recently also with chimpanzees, suggest a sense of justice with regard to equal distribution; when these primates were asked to do tasks in pairs, one being rewarded with cucumber and the other with grapes, those receiving the low value reward often refused to accept it after a while, something they would never do under other circumstances.[85] A recent study from 2009 confirms similar reactions in dogs, although dogs seem to lack the capacity of primates to distinguish between high and low value rewards. Not receiving a reward while its companion continues to receive one simply puts the dog off; it stops performing tasks much sooner than when on its own with the experimenter.[86] For our purpose here, however, commutative and corrective aspects of justice are more important, relating as they do to agreements, social contracts, reparation and revenge. A sense of fairness in canids is often connected to their highly ritualized social play, which trains them for functional social interaction.[87]

---

[75] McEvoy 2002: 42-45.

[76] Cf. Krebs 2008: 235. It is interesting to see how anger is discussed by various theorists in different handbooks; while some emphasize its role for a sense of justice, others ignore this and limit their focus to frustration and goal blockage. Compare Lemerise and Dodge 2004 on anger in *Handbook of Emotions* (3rd edn), who focus on hostility, with the chapters on anger and on jealousy and envy respectively (Berkowitz 1999; East and Watts 1999) in *Handbook of Cognition and Emotion*, as well as Haidt's short discussion of anger (Haidt 2003: 856-57) in *Handbook of Affective Sciences*. Cf. Power and Dalgleish 1997: 304-305.

[77] East and Watts 1999.

[78] Haidt 2003: 865.

[79] Cf. Wilson 1993: 55-117, who discusses fairness together with sympathy, self-control and duty as four 'sentiments'.

[80] Krebs 2008: 229. Procedural justice is then understood to override all of these.

[81] Brosnan 2006.

[82] Brosnan 2006: 155; de Waal 2007 (1982): 98-105.

[83] De Waal 1989: 37-69.

[84] De Waal 1996: 173-86; de Waal 2000.

Reconciliatory behaviours observed in non-human species include lip-smacking and intense grooming among primates, soft grunting among baboons, hold-bottom postures among stump-tailed macaques, scrotum fingering among chimpanzees[88] and sexual stimulation among bonobos.[89] Ritual mock bites are used among stump-tails as symbolic punishment, and dominants sometimes take the initiative to 'apologize'.[90] This is also found among canids.[91] Third party mediators are found among chimpanzees,[92] and even among birds, such as corvids, there has been observation of third party enforcement of social norms.[93] It seems that reconciliatory behaviours relate to the need for social cooperation within a kin or a larger social group and reconciliatory strategies are used for relationship repair and to limit the escalation of aggression.[94] Some of these gestures also have a communicative value; they signal non-aggressive future behaviour, thus facilitating mutually advantageous post-conflict interactions.[95]

When human reconciliation rituals are studied cross-culturally, a number of behaviours can be observed, from fixed phrases of apology and physical contact, such as hand shaking or kissing, to appeasement postures, food sharing, payments of restitution and symbolic gifts. The aim is often to restore an equilibrium that has been disturbed by the offences committed.[96] Reconciliation is related to, but not identical with forgiveness. The latter is sometimes understood as an emotional prerequisite, while reconciliation 'is a behavioral coming together that a forgiver and the forgiven may establish with trust. The offended party presupposes that the offender has changed and that a more just relation will ensue.'[97] But since forgiveness is a 'complex neurocognitive process that has multiple components',[98] one might suspect that it is more than just an emotional prerequisite for effecting relationship restoration, and that reconciliation on a social level can and often must occur even without or before a full process of forgiveness has taken place. Reconciliation rituals ensure a minimum level of mutual acceptance, necessary for resumed interaction, whether or not forgiveness has taken place.[99] My focus is, in any case, on gestures of reconciliation as expressions of a sense of justice, and the broader subject of forgiveness will have to await another occasion.[100]

---

[85] Brosnan 2006: 170-79; Brosnan and de Waal 2003; 2004; van Wolkenten, Brosnan and de Waal 2007.

[86] Range, Horn, Viranyi and Huber 2009.

[87] Bekoff 2004.

[88] De Waal 1989: 79.

[89] De Waal 1989: 198-222. Reconciliation was first used to describe post-conflict behaviour of chimpanzees by de Waal and van Roosmalen 1979.

[90] De Waal, 1989: 157, 165.

[91] Bekoff 2004: 501-504.

[92] De Waal 1989: 39-42.

[93] References in Brosnan 2006: 168.

[94] Aureli and Schaffner 2006; Hofer and East 2000.

[95] Aureli and Schaffner 2006: 134-35; Silk 1996; 2000.

From an evolutionary perspective, our sense of justice and associated reparative mechanisms have developed because of their adaptive value. While not always functional at a given time and in a given context, they can be viewed as resulting from processes of *homeostasis*, aiming at 'an equilibrium unique for each society and probably each social relationship'.[101]

The Role of Emotions in Legal Texts: A Way Forward

Other emotions than these four could of course be discussed. For the time being, however, these will have to suffice. In the following we will trace the role of these four emotions in a number of legal texts from the Pentateuch.

After an overview of the various legal collections in the Pentateuch, we will examine and compare the role of disgust in the Purity laws and the Holiness Code. As the rejection induced by disgust is sometimes mitigated by social concerns, we will next turn to empathy and look at its role in the most frequent humanitarian laws that are found in the Covenant Code, Deuteronomic law and the Holiness Code. Some of these humanitarian laws concern immigrants or resident foreigners. This is a topic in which a tension becomes visible between humanitarian concerns, based on empathy, and concerns about group integrity, fed by fear and assisted by disgust. Hence we will discuss the role of fear in a number of aspects, not only as xenophobia, but also fear of divine punishment, in the Covenant Code, Deuteronomic law and the Holiness Code. We will also look at fear of divine holiness and fear of demonic influence in the Purity laws and the Holiness Code, as well as in some other sections preserving ancient popular rites. Again, we will see how other emotions such as empathy and disgust interact with and sometimes counteract an underlying fear. We will also see that in some cases fear alone is not a sufficient explanation, and an aspect of restoring a disturbed equilibrium comes to the fore. This leads us to our last emotion, a sense of justice, which is used to explore possible common traits between rites of ransom and sacrifices effecting atonement.

---

[96] Fry 2000: 334-51. Cf. Miller, who discusses talion and compensation from the perspective of restoring an equilibrium, 'getting even' (2006: 17-30).

[97] Park and Enright 2000: 360.

[98] Newberg, d'Aquili, Newberg and deMarici 2000: 101.

[99] I am not sure, then, that 'laborious distinctions are mostly a tempest in a teapot' (McCullough 2008: 114). For recent discussions of forgiveness in antiquity, see Griswold 2007 and Konstan 2011.

[100] An initial first attempt is found in Kazen 2011.

[101] De Waal and Aureli 2000: 376. Cf. Newberg, d'Aquili, Newberg and deMarici 2000: 91-101.

Finally, the analyses will be related to recent discussions about the interrelationship, dating and social contexts of different legal collections. While such issues cannot be decided by analyses using tools from cognitive science, the resulting observations may at least contribute to the discussion.

PART II

TEXTUAL APPLICATIONS

Chapter 5

Pentateuchal Legal Collections: An Overview

> Each of these groups of laws is presented as divine revelation … each of these divine revelations is purportedly given to the same intermediary, Moses, in the same moment in Israel's exodus experience … however, the shared details of revelation assumed for these texts have not produced matching legal collections, betraying their stereotyped narrative setting as a literary fiction and concurrently prompting multiple questions concerning the origin, purpose, and compositional histories of these laws.
>
> –Jeffrey Stackert[1]

The Problem of Sources

The history of Pentateuchal research can be traced back to the eighteenth century and the beginnings of source criticism, with scholars such as Henning Bernhard Witter, Jean Austruc and Gottfried Eichhorn noting the evidence for different sources in the book of Genesis. Alexander Geddes's 'fragment theory' and Heinrich Ewald's 'supplementary theory' were soon added to this 'older documentary theory'. From this grew the nineteenth century 'new documentary hypothesis', which is justly attributed to Julius Wellhausen, but built on earlier observations by W.M.L. de Wette and Karl Heinrich Graf; de Wette argued that Deuteronomy was the latest material in the Pentateuch, while Graf became convinced that all of the priestly source, not only the legal but also the narrative material, was the latest rather than the earliest of the Pentateuchal sources. The 'new documentary hypothesis' was further developed through much of the twentieth century by scholars like Herrmann Gunkel (taking a History of Religions approach), Gerhard von Rad (taking a more theological approach) and Martin Noth (a literary or Tradition History approach). This history is a field of its own and while a simplified summary does it no justice, I would only be foolish to try to tell this story at any length;

---

[1] Stackert 2007: 2-3.

it has been done before by competent scholars and for our present purpose a short overview focused on the various legal collections is quite sufficient.[2]

The problems involved in the standard view of literary sources in the Pentateuch (indicated by the simple shorthand J, E, D, P) have been discussed since the 1970s, when the documentary hypothesis was challenged by Rolf Rendtorff.[3] Since then it has been intensely debated and today the former consensus views are no longer valid.[4] Eckart Otto has pointed out the somewhat embarrassing fact that the whole idea of sources, at least in Genesis and Exodus, seems to be prompted by the post-canonical idea of Moses as author of the whole Pentateuch, thus solving a problem that does not stem from a synchronic reading of the text itself, which clearly differentiates between narrative time and narrated time, and suggesting a legal hermeneutics with similarities to recent research.[5]

The most coherent and independent of the traditional sources is D, consisting of Deuteronomy and perhaps a few Deuteronomistic passages in other books. D stands apart from the other material in the Pentateuch in a manner that is not comparable to any other supposed source, despite the fact that the extent of a supposed *Ur-Deuteronomium* and the book's extended process of growth are a bone of contention. The question of the precise interrelationship between Deuteronomic law and other collections is also disputed, and we will return to some of these issues below.

As for the other traditional sources, the ground has become slippery. For some scholars, the Elohist has long since been out of the game, and during the last decades many have found themselves doing well without the Yahwist too.[6] There remain a number of non- or pre-priestly early traditions, and a P narrative, a Priestly *Grundschrift*. The former are thought to consist of traditions of origin, patriarchal cycles and an exodus story that, according to different views originally ended either at the deliverance at the sea or

---

2. For overviews, see Thompson 1970; Friedman 1992; Nicholson 1998; Römer 2004; Otto 2007: 103-17.

3. Rendtorff 1990 (1977).

4. Dozeman and Schmid 2006; Van Seters 2004 (1999); 2003; Kratz 2005.

5. Otto 2007: 98-103. Post-canonical would here refer to post-Hebrew Bible, meaning that the idea of pan-Mosaic authorship catches on from the first century BCE and onwards.

6. The Yahwist was most notably challenged by Rolf Rendtorff 1990 (1977), followed by E. Blum 1990. Others have tried to retain the Yahwist while dating him to the exile or later, thus virtually turning him into a Deuteronomist or coming close to making him a Pentateuchal redactor (John Van Seters 1975; H.H. Schmid 1976; Christoph Levin 1993; cf. Römer 2004: 77-79). For recent discussions, see Gertz, Schmid and Witte 2002; Dozeman and Schmid 2006, in particular the overview in the latter volume (Römer 2006). It should be emphasized that both the J and E sources are still defended by a number of scholars from a variety of perspectives; see Kratz 2005: 225-308; Schwartz 2009; Baden 2009.

at Mount Sinai.[7] The Priestly *Grundschrift* combined the two myths of origin—that of the patriarchs with that of the exodus[8]—but never contained a continuous story from Genesis to Numbers. Today it has often shrunk to end at Mount Sinai and the narrative has been variously understood to end in Num. 10[9] or Lev. 9,[10] or to conclude with the glory of Yahweh entering the Tabernacle in Exod. 40.[11] Opinions differ about the extent to which these two strata, priestly and pre-priestly, existed as originally independent and continuous narratives.

The priestly *Grundschrift* is then thought to have been complemented, quite logically, with the two main areas of priestly competence in which all Israelites were supposed to participate. The sacrificial laws and purity laws of Lev. 1–16 are thus seen as part of the same priestly tradition, although many would regard them as supplementary.[12] The so-called Holiness Code that follows (Lev. 17–26) and its relationship to P as well as to D, has been much discussed, in particular the issues of relative dating and whether this material was ever an independent collection. The outlook of this section is definitely priestly too, but at the same time differences between the Holiness Code and the earlier parts of Leviticus are conspicuous. We will return to the relationship between this collection and others below.

Codes or Collections?

The function of Pentateuchal legal material is also much debated.[13] While it was more common in the past to look at the various collections as ‘law codes’ for ancient Israelite society, most scholars today agree that the issue is more complicated. There is little or no evidence that the laws of these collections were used for judicial purposes. When other ancient Near Eastern legal collections are compared with legal records, we find similar relationships. The law as practised usually differs from the legal collections;

---

[7] Nihan and Römer 2004: 85-92. Cf. Campbell and O’Brien 2005, who although they dispense with the traditional sources still argue for two underlying narratives—an Exodus narrative and a Sanctuary narrative.

[8] This does not exclude the possibility that certain links between these two traditions might have been established earlier, as in Deut. 26.5-9, cf. Nihan and Römer 2004: 88.

[9] Levine 1993: 64-65. Cf. Aurelius’s suggestion (1988: 187), based on Noth, that P’s narrative has its climax in the sojourn at Sinai.

[10] Zenger 1997. For Kratz (2005: 110) the second option is Lev. 26 (although he does not advocate it), since he regards the Holiness Code as older than Lev. 1–16).

[11] Pola 1995; Kratz 2005: 100-14. For an overview of the current discussion of P’s ending, see Nihan 2007: 20-68.

[12] Nihan and Römer 2004: 93-104.

[13] For an overview, see Ska 2009: 196-220.

the rules of Hammurabi's law or the Laws of Eshnunna, Ur-Namma, or Lipit-Ishtar are simply not appealed to in actual court cases, as evidenced by the numerous law-practice documents that have been found, and when fines and penalties are compared they differ from those stated in the legal collections.[14] The function of these collections has come to be increasingly understood in terms of ideological statements: either as literary exercises dealing with hypothetical problems,[15] or as a royal apologia, promoting a new ruler.[16]

Such a view does not mean, however, that the contents of these collections were never practised. Some of these rules have been described as based on customary law. A prominent proponent of such a view is Bernard Jackson, who regards the rules of the Covenant Code in particular as based on self-regulating customary law, functioning at local village level in a non-judicial context.[17] Another issue concerns the further development of the role of legal collections, or as Michael LeFebvre puts it: 'How and when did Israel's *descriptive* law writings come to be regarded as *prescriptive* legislation?'[18] The fact that these collections could at first be rewritten and modified, only to become fixed and unchanging at a later stage, to the extent that modification was only possible by halakhic interpretation, requires an explanation. According to LeFebvre, 're-characterization' of the Torah did not really take place until the Hellenistic period, and was due to the influence of Greek legal philosophy and connected with Ptolemaic court reforms.[19] Others have dated this transition to Ezra and the Persian period, allowing for some roots already in the time of Josiah's reform,[20] but the idea of an imperial 'authorization' by the Persians[21] is seriously contested and lacks sufficient support.[22] This change in the function of the Torah was part of a long process, including continuous rewriting, the latest phases of which can be traced in Qumran and New Testament texts, and which found its end point in rabbinic Judaism.[23]

---

[14] Meier 1992: 41; LeFebvre 2006: 8-10. But cf. the revisions in the Hittite laws discussed below, which actually update various fines and juxtapose late and earlier versions (Roth 2003 [1997]: 213-40). Cf. also Westbrook 2009: I, 11-12.

[15] Cf. the laws of the miscarrying woman and the goring ox (Exod. 21.22, 28-32), which are frequent topics in a number of legal collections, but would have been rare or rather unlikely cases in real life; at least there is no evidence for these cases in legal documents. This suggests that some issues were merely theoretical exercises (Malul 1990: 127-29; Finkelstein 1973: 17-20). See LeFebvre 2006: 10-11; Westbrook 2009: I, 7-9.

[16] See Finkelstein 1961; LeFebvre 2006: 11-12; Westbrook 2009: I, 4-7.

[17] Jackson 2002: 12-17; 2006: 387-430.

[18] LeFebvre 2006: 2.

[19] LeFebvre 2006. For a summary of LeFebvre's argument, see 258-67.

[20] Westbrook 2009: II, 302; I, 92-95; Frei 2001; Crüsemann 1996; Fitzpatrick-McKinley 1999.

[21] See Frei and Koch 1984. An accessible version in English is found in Frei 2001. Cf. also Blum 1990: 333-60.

[22] Nihan and Römer 2004: 110. For an overview and evaluating discussion, see Ska 2006: 218-26. See also the various articles in Watts (ed.) 2001.

The point is that the rules contained in the various Pentateuchal 'law codes' only acquired a proper judicial function over time. During their period of formation and revision, these collections were most probably understood, like their cuneiform predecessors, as descriptive of current practices, or of ideal practices promoted by their authors. Although not the *source* of legal practice, they may have *reflected* social customs.[24] Raymond Westbrook suggests that these collections come close to the ancient Near Eastern scientific lists that present hypothetical and real situations in casuistic form and were being used as reference, providing precedents that could be drawn upon for concrete judicial purposes.[25] This means that while some rules come close to actual practice, others are hypothetical illustrations of typical cases, and some would represent a high degree of speculation, aimed at exploring the borders or outer limits of certain legal principles. The rules about the goring ox, and the woman grabbing the genitals of her husband's opponent in a brawl, must be understood as such principled examples rather than windows on social life—they would hardly have constituted two of the most frequent problems in ancient Israelite society.[26]

It is, however, important to differentiate between the purposes for which a legal collection was compiled or written and the various types of use it could be put to subsequently. While there is no reason to doubt that collections were sometimes being employed for scribal exercise, with little regard to the applicability of individual rules, the Hittite Laws display a number of rules that were actually revised or emended in order to correspond to changes in real practice.[27]

The Pentateuchal collections are often named 'codes', i.e., the Covenant Code, the Deuteronomic Code and the Holiness Code. Awareness of the fact that these rules were probably not used for prescriptive purposes until later has caused many interpreters to hesitate over this terminology. LeFebvre clarifies Westbrook's distinction between legislation as an authoritative source and as an academic treatise[28] by listing characteristics of Law codes and Law collections respectively. A code, according to Lefebvre, is regarded as authoritative: the exact wording is binding, and the written norm originates with its publication and overrides previous norms. A law collection, on the other hand, only describes the law but is not absolute: the wording is illustrative rather than binding, and the written norm documents and possibly adds to an already binding norm, but does not replace it.[29] Although these distinctions are not free from criticism, it is nevertheless clear that taking the (lack of) judicial role of the Pentateuchal legal collections into account, the 'code' terminology might be considered misleading. If Lefebvre is right, written law is never identical with actual law as a source of justice during the period in which the Pentateuch is shaped; rather actual law is equated with justice, more in the sense of an abstract concept that the magistrate seeks to discern, partly with the help of written legal collections that may provide examples, guidance and precedence. In spite of this I will retain the common designations 'Covenant Code' and 'Holiness Code' for practical reasons. Due to the circumstances surrounding the growth and development of Deuteronomy, however, rather than speaking of a Deuteronomic Code, I prefer to talk of Deuteronomic law, and of a Deuteronomic core and framework respectively.

---

[23] For a discussion of scripture and authority in the late Second Temple and early tannaitic periods, see Kazen 2012 or 2013, forthcoming.

[24] LeFebvre 2006: 15.

[25] Westbrook 2009: I, 7-20, 21-71, 119-32, referring among others to Kraus 1960 and Bottéro 1992 (see especially 125-37 and 156-84).

[26] Exod. 21.28-32; Deut. 25.11-12; LH xliv 44-68; LE A iv 13-19; LE B iv 17-20; MAL A i 78-87. Compare the later controversies regarding animals and people fallen into pits on sabbaths and needing assistance, attested both in Qumran and rabbinic texts as well as in the synoptic gospels (CD 11.13-14, 16-17; 4Q265 7 i 7-8; *t. Šabb.* 14.3; Mt. 12.11-12; Lk. 14.5). These are likewise to be understood as principled cases, unless we envisage ancient Palestine as a moon landscape filled with frequent stumblers.

[27] §§ 7, 9, 19, 25, 51, 54, 57, 58, 59, 63, 67, 69, 81, 91, 92, 94, 101, 119, 121, 122, 123, 129, 166-67 (Roth 2003 [1997]: 213-40). This amounts to almost 12 % of the laws (23 laws); see Levinson 2008: 31. Cf. Westbrook 2009: I, 9-14.

The Covenant Code

Within the P narrative, the so-called Book of the Covenant or Covenant Code (Exod. 20.22–23.33) is regarded by most scholars as an independent block of ancient material, the core of which is both pre-Deuteronomic and pre-Priestly.[30] Even scholars such as Antony Campbell and Mark O'Brien, who operate with a 'user-base' approach and reject the traditional sources, including P, arguing for two partly parallel narratives—an exodus narrative ending at the deliverance at the sea and a sanctuary narrative going all through the book of Exodus—still regard the section 19.2–24.15 as 'a well-structured capsule' and stress 'the priority of relationship with regard to law, and the narrative context or independence of the capsule', suggesting that this was an independent block of tradition.[31] David Wright suggests that the

---

[28] Westbrook 2009: I, 74.

[29] LeFebvre 2006: 25-28.

[30] Kratz 2005: 144-45.

[31] Campbell and O'Brien 2005: 83-86 (83). While rejecting the *preservation of sources* in the biblical text, Campbell and O'Brien agree that 'once upon a time something

Covenant Code never really lived a life of its own, but was shaped in order to be integrated into a larger Sinai narrative.[32] Bernard Levinson argues for the Covenant Code as originally independent from the Sinai pericope but integrated as a supplement to the Decalogue at a later stage. Following Otto Eissfeldt, Levinson draws attention to the redaction-critical implications of the combination of 'words' and 'ordinances' in Exod. 24.3a, thus integrating the Decalogue (20.1: 'All these words…') and the Covenant Code (21.1: 'These are the ordinances…').[33]

The main body of this legal collection has usually been divided into two principal parts, the casuistic *mishpatim* (21.2–22.16 [17]), dealing with civil and criminal law, and the apodictic laws (22.20 [21]–23.19), which concern humanitarian and cultic issues, joined by a brief participial section between that has been variously assigned.[34] This is surrounded by a framework consisting of the altar law (20.22-26) at the beginning, bridging from the ten commandments to the *mishpatim*, and a section of promises and threats, relating to the conquest of the land and idolatry, at the end (23.20-33). This last part has an unmistakably Deuteronomic or at least a Proto-Deuteronomic flavour.

The division between casuistic and apodictic laws originates with Albrecht Alt who, basing his judgment on form-critical analyses, claimed that the former were inherited from pre-Israelite Canaanite society, while the latter rather had their roots in the nomadic past of the Israelite settlers.[35] Although some of the presuppositions for such a view have been shown to be unreliable,[36] it is nevertheless fairly common to regard the *mishpatim* as the original core of the Covenant Code, and the subsequent apodictic laws

---

like pentateuchal sources probably did exist' and suggest that 'what the present biblical text *does preserve* is many of the traditions, in much of their variety, that once were in these sources' (2005: 9).

[32] Wright 2009: 332-44, 356.

[33] Levinson 1997: 153, n. 17; 2004: 281-83. Levinson dismisses Van Seters's recent attempt (2003) to re-establish a J source including the Covenant Code, although dating it during the exile, thus regarding the Covenant Code as later than Deuteronomic law (Levinson 1997; 2004). Kratz (2005: 138-39) argues similarly, stating: 'in substance it is pre-Priestly and pre-Deuteronomic, and subsequently pre-Deuteronomistic' (144). See further below.

[34] Casuistic laws are phrased conditionally (if … then) and describe hypothetical cases, while apodictic laws are straightforward commands.

[35] Alt 1966: 81-132 (German 1953: 278-332; original article from 1934). Alt entertained the idea that 'the "casuistic" (third person, if-then) legal form reflected a common ancient Near Eastern inheritance that Israel would have acquired in Caanan, during the settlement period' (Levinson 2004: 288).

[36] In particular belief in the dissemination of legal ideas from cuneiform law through Canaanite oral tradition to Israelite society. See Levinson 2004: 288.

as somehow secondary.[37] Eckart Otto somewhat differently associates the two types with early independent collections of laws, the former inter-family (village level) and the latter intra-family. To these he adds a third category of legal statements with a cultic function.[38] In any case, some kind of division facilitates a view according to which the Covenant Code is seen as a profane law that was increasingly theologized.[39]

It is especially in the casuistic laws that scholars have seen clear and close parallels between the Covenant Code and other ancient Near Eastern legal collections. This applies particularly to the Law of Hammurabi, but also to some extent to the Law of Eshnunna. One of the main areas of scholarly dissension is how to explain the apparent relationship between cuneiform law and the Covenant Code. Scholars mostly take either a diffusionist or an evolutionist approach.[40] According to the former, similarities are explained by an ancient world in which legal form and content were probably fairly static, thus facilitating a shared culture and a diffusion of ideas.[41] According to an evolutionist understanding, the redactional growth of the Covenant Code rather reflects a development from primitive stages, with self-regulating rules at family or clan level, to a more complex social situation.[42] This would give more emphasis to local Israelite custom in the Covenant Code.

An evolutionist understanding cannot, however, ignore the apparent similarities between the Covenant Code and cuneiform law, but has to somehow account for these. This can perhaps be done by separating form from content. Bernard Jackson regards the drafting technique as something borrowed from cuneiform law, although not the content.[43] He hypothesizes ‘a customary origin for the content of the individual rules, and a scribal, court origin for the literary structure’.[44] The content is thus envisaged as of local origin, a common heritage of the rural areas, reflecting pre-monarchic times when justice was administered by elders at the village gate. Jackson has emphasized the character of the *Mishpatim* as wisdom, or instruction, rather than as legal rules for a court, claiming that they were used for non-judicial justice in local settings.[45]

---

[37] Consequently, several studies deal with the *mishpatim* only, e.g. Paul 1970; Jackson 2006.

[38] Otto 2007: 121-22.

[39] Schwienhorst-Schönberger 1990, especially the summary (415-17); Otto 2007: 123.

[40] Westbrook and Wells 2009: 24; Van Seters 2003: 34-43.

[41] Cf. Westbrook 2009: 317-40.

[42] Otto, e.g. 1994; 2003; 2007: 121-26; Jackson, e.g. 2000: 70-94.

[43] Jackson 1975: 22-24; 2006: 431-78. Cf. Otto 1993. Otto (2007: 122) speaks of scribal education as the framework for the early collections within the Covenant Code; hence they ‘entstammten also einer Frühform der Rechtsgelehrsamkeit und unterscheiden sich damit nicht von entsprechenden Sammlungen, die in keilschriftliche Rechtskorpora wie die Gesetzessammlung aus Eschnunna oder des Hammurapi eingegangen sind, die ebenfalls der Ausbildung für den Rechtsentscheid dienten’. This is contested by Van Seters 2003: 34-35, 43-44.

[44] Jackson 1989: 199.

Otto assumes pre-existing collections that served as resources for legal education, within the framework of general scribal learning during the royal period, in a way similar to the laws of Hammurabi and Eshnunna. These early collections would then have been redacted from a priestly perspective, complemented with social 'privilege laws' and given a theological framework, to which most of the humanitarian laws to be discussed later seem to belong.[46]

Many have thought of the Covenant Code as basically reflecting ancient Israelite law; the individual laws are often understood as rooted in customary law, i.e., as originating from popular oral and local legal tradition that was administered at family or village level and as functioning in a 'self-executing' manner, gaining their authority from being regarded as cultural convention. It is difficult, however, to ascribe any major part of the Covenant Code to Israelite society in particular. The Covenant Code has too many similarities to other ancient Near Eastern legal collections. Such collections seem not to have been created as new legislation, but were literary works incorporating older materials.[47] A significant degree of correspondence between the Covenant Code and Hammurabi's law, both with regard to individual rules as well as to structure, has convincingly been demonstrated by Wright.[48] Similarities in both content and order are so overwhelming that Wright's arguments for some sort of direct dependence seem plausible. Hypotheses of mediating Canaanite codes[49] lack any evidence whatsoever.[50]

When the content and order in the Covenant Code is compared with Hammurabi's law, we find a clear correspondence in the central casuistic laws (Exod. 21.2–22.16, ET 17); fourteen laws follow more or less the same order.[51] However, both style and topics also suggest such influence in the mainly apodictic laws that follow (22.17 [ET 18]–23.19), although these draw mainly on Hammurabi's prologue and epilogue, as Wright demonstrates, which indicates that the Covenant Code is basically a unified composition.[52]

---

[45] Jackson 2006: 387-430, in particular 389-95, 406-11. Jackson actually assumes multiple legal levels within the Covenant Code.

[46] Otto 2007: 122-26.

[47] Jackson 2006: 29-35; 1989: 197-98; Viberg 1992: 15-17.

[48] Wright 2003; 2009; cf. Levinson 2004: 288-97.

[49] E.g., Alt 1966: 81-132 (German 1953: 278-332; original article from 1934).

[50] Van Seters 2003: 8-46; Levinson 2004: 288-89. Although a theory of literary dependence is the most plausible (Levinson 1997: 7-8; Wright 2003; 2009), the context of a predominantly oral culture and the popularity and spread of Hammurabi's law would perhaps make oral dependence based on memorization a possible alternative.

[51] Wright 2003: 14-32, 72-84.

[52] Wright 2009: 51-81.

Some material, however, is not attested in known cuneiform law, but rather, as Wright puts it, ‘identifiable as Israelite custom or … at least consistent with it’.[53] Rules relating to Israelite cultic practices belong to this material, but also most of the ‘humanitarian laws’ to be discussed further below. This is not to claim that the contents are necessarily unique in comparison with cuneiform law in general, but there seems to be some room for a local or customary origin for certain individual laws, especially in the apodictic section of the Covenant Code.[54] It should be noted that most of this belongs to what Otto regards as theological redaction of smaller previous legal collections.[55]

As for the question of dating, most scholars today agree that the Covenant Code does not provide a window into pre-monarchic Israel, even when preexisting legal collections are assumed. The Covenant Code clearly relates both in form and content to cuneiform legal collections, in particular to the Law of Hammurabi, but has replaced the role of the king as guarantor of the law with Yahweh,[56] and given the material a theological redaction, including a clear social and humanitarian framework. Otto points to parallels with prophetic social criticism, and sees a programmatic attempt to deal with a society breaking apart under social tensions. This would suggest an eighth century date.[57] An eighth century dating is also embraced by a number of other scholars, such as Rothenbusch, Crüsemann and Levinson.[58]

Apart from those who still wish to retain an earlier date, the main dissenting voice is John Van Seters, who argues for the Babylonian exile as the most plausible period of origin for the Covenant Code, which he sees as based on Deuteronomy.[59] There is, however, no hard evidence for such a position, as Levinson among others has pointed out, and Van Seters’s suggestion has not been well received.[60]

Wright has argued a strong case from an increased interest in and use of Hammurabi’s law during the period of Neo-Assyrian hegemony. The highest number of extant copies of Hammurabi’s law after the period of its composition comes from this time.[61] Wright suggests a possible window for the Covenant Code’s composition between 740 and 640 BCE, a time during which ‘Israel and Judah had extensive and continuous contacts with Mesopotamia, specifically with the Neo-Assyrian empire';[62] for various reasons this is narrowed down further to 710–640. A date close to the year 700 seems probable, since the Covenant Code is used by an *Ur-Deuteronomium* during the latter part of the seventh century.[63]

---

[53] Wright 2003: 49, cf. 35-42, 47-50.

[54] Wright 2009: 301-302, 348, 352; cf. 173, 183, 191.

[55] Otto 2007: 121-26.

[56] See especially Wright 2009: 346-52.

[57] Otto 2007: 121-26.

[58] See Wright 2009, especially 97-98; cf. Levinson 2004: 288-97.

[59] Van Seters 2003.

[60] Levinson 2004: 293-97.

[61] Wright 2003: 67-71;

Deuteronomic Law

The core of Deuteronomy (parts of Deut. 12–26) is usually taken to be modelled on the Covenant Code, revising and updating it in conformity with current practice.[64] As already mentioned, Van Seters's attempt to reverse this order has met with little approval and must be considered as most unlikely.[65] The context of Deuteronomy is that of cult centralization, something not presupposed in earlier legislation, and even explicitly contradicted by the altar law of Exod. 20.24-26, a fact that is emphasized by Levinson in his criticism.[66] This new historical context necessitates a revision and a re-writing of a number of laws. By retrojecting present concerns into the past, Deuteronomy transforms previous tradition.[67]

Questions of the origin, composition and dating of Deuteronomic law have received no consensus answers. Most scholars have assumed several strata and a long period of development. Reinhard Kratz suggests two possible dates for an *Ur-Deuteronomium*: after the downfall of Samaria, or after the downfall of Judah, considering the latter alternative to be more plausible. This would amount to an early exilic dating of an *Ur-Deuteronomium*, although Kratz seems to think that 'not a great deal depends on this'.[68] The traditional view, however, associates a Deuteronomic core with social and religious changes during Hezekiah and Josiah, culminating in attempts at cult centralization under Josianic rule.[69] Levinson admits that the questioning of 2 Kgs 22–23 as a historical source is understandable; the connection between the discovery of the Torah scroll, covenant renewal and centralization is not based on an earlier source but is the work of the Deuteronomist. He defends the traditional view, however, concluding that the gist of the narrative in 2 Kgs 22–23 'is the work of a pre-exilic editor who sought to legitimate the introduction of a new set of laws and to sanction Josiah's cultic and political initiatives'.[70] Although these laws were further expanded and revised throughout the exile and into the Second Temple period, Levinson dates a Deuteronomic core to the time of Josiah.[71] The idea that a Deuteronomic core should be dated to the late pre-exilic period, i.e., during the latter half of the seventh century BCE, is shared by many scholars.[72]

---

[62] Wright 2009: 91-120 (99).

[63] Wright 2009: 356. Wright and Otto agree that only a few decades separate the redaction of the Covenant Code from Deuteronomy's pre-exilic reform programme. Cf. Otto 1999: 359.

[64] Kratz 2005: 114-33; Levinson 1997; 2004. The theory of two sources behind Deuteronomic law, the Covenant Code and a 'Privilege Law' (e.g. Lohfink) is considered unnecessary by Levinson (1997: 8).

[65] Van Seters 2003; Levinson 2004; Norin 2006; Wright 2009: 22-23.

[66] Levinson 2004: 297-315.

[67] Levinson 1997: 150. This observation concerns not only altar laws and questions of worship, but the consequences of the administration of justice; only cases permitting secular justice may be tried locally, whereas cases requiring cultic justice are prohibited as a result of centralization. This also means that royal justice is not supreme (Levinson 1997: 98-143, especially 124).

[68] Kratz 2005: 132.

[69] Levinson 1997: 21-22, 49-50.

Otto in particular has argued that a pre-exilic Deuteronomy is not only dependent on the Covenant Code, but also relates to and utilizes forms and contents from the Assyrian loyalty oath of Assarhaddon, in a very conscious manner. This narrows the time frame of a pre-exilic core to a period between 672 and 612 BCE.[73] According to Otto, Deuteronomy effects a legal reform by expanding on the Covenant Code, in view of an anti-imperial loyalty oath to Yahweh, and a programme of cult centralization. This is done by reversing the order of some of the legal sections in the Covenant Code, by adding a number of cultic laws, and by framing the Deuteronomic law with loyalty requirements (Deut. 13.2-12) and curses against covenant breaking (Deut. 28.20-44). In addition, the altar law of the Covenant Code is exchanged for Deuteronomy's key law concerning cult centralization. Otto believes that all the social laws of the Covenant Code are reshaped into a grand programme of brotherhood, a kind of intra-Jewish ethics, which he associates with the poverty and debts of much of the rural population subsequent to the Assyrian campaign against Hezekiah in 701 BCE, when only Jerusalem was spared. The devastation of local sanctuaries and the sufferings of people in the countryside were met by cult centralization and an extended family ethics that sought to strengthen both religious identity against outsiders and fellowship within.[74]

The extent of a pre-exilic core is much debated. Scholars agree that parts of Deut. 12–26 provide all or most of the material, but disagree on how much of this is pre-exilic. According to Kratz's detailed stratification the core is fairly meagre, although it was soon supplemented.[75] Otto gives room for a little more material, and his reconstruction is informed by a specific view of the literary structure of a pre-exilic Deuteronomy, including its redaction of the Covenant Code and use of Assyrian loyalty oaths.[76] The overlap is considerable, however, including parts of Deut. 12, 14, 15, 16, 17, 19, 21 and 26. The main difference is that Kratz does not include those sections that, according to Otto, are modelled on Assyrian treaties.

---

[70] Levinson 1997: 10.

[71] Levinson 1997: 9-10.

[72] Wright 2009: 97, 323, 356-57. Otto 2002: 5-19; 2007: 126-36.

[73] Otto 1999: 15-90, 364-78; 2007: 119.

[74] Otto 2007: 126-36.

[75] Kratz 2005: 133. Kratz however prefers a dating soon after the fall of Jerusalem, which amounts to an early exilic date.

Kratz partly depends on distinguishing second person singular from second person plural sections within the core (parts of Deut. 12–26).[77] A similar stratification, but taking the whole of Deuteronomy into account, is made by Minette de Tillesse, who dates the *you*-sg. sections to 711–701 BCE (the Northern kingdom) while the *you*-pl. sections are associated with Judah after 538 BCE.[78] The extent to which detailed stratification based on such shifts may be convincingly argued must, however, be questioned, in view of their haphazard appearance.[79] If the shifts between sg. and pl. are regarded as large enough discrepancies to suggest different sources, one wonders why an editor would not have smoothed them out; if on the other hand a shift between sg. and pl. can be read as a stylistic variation, a single hand could be responsible.[80]

Although most scholars agree that Deuteronomy builds on and reshapes the Covenant Code, opinions differ as to how this is to be understood, i.e., with what intention such reworking has been carried out. While some emphasize the innovative character of Deuteronomic law, and its revisionary hermeneutics,[81] others question the idea that Deuteronomy would have been intended to actually replace or supersede the Covenant Code, stressing rather its interpretative function.[82] For our purpose it is not necessary to enter this debate, especially since differences between various positions are at times on an ideological level rather than affecting our understanding of which material was revised, or how and why this was done.

---

[76] Otto 2002: 5-19; 2007: 127.

[77] Cf. Kratz's stratification with regard to the Covenant Code on similar grounds, Chap. 7, n. 11, below..

[78] Minette de Tilesse 2000: 156-63.

[79] Veijola 2000: 207.

[80] Cf. the evaluation of Timo Veijola (2000: 207) that 'der Gebrauch des Numerus in der Anrede Israels so unregelmäßig wechselt, daß er kein brauchbares Instrumentarium zur Wiederherstellung eines ursprünglichen Textes bietet'. Wright has shown how a similar oscillation between the second person singular and plural in the Covenant Code can be explained without resorting to complicated theories of multiple redactions. See chap. 7, n. 11. Besides the change of number, Kratz uses two other criteria for separating out an *Ur-Deuteronomium*: the relationship to the Covenant Code and the tendency of cult centralization (2005: 117-18). This means, however, that his *Ur-Deuteronomium* only contains a few laws, all parallel to the Covenant Code (Deut. 12.13-28; 14.22-29; 15.19-23; 16.16-20; 17.8-13; 19.1-13, 15-21; 21.1-9; 26.1-16), and often only parts of these sections (2005: 118, 123, 133). The rest is deemed to be supplements. This is not much for a *Fortschreibung* of the Covenant Code, and although cult centralization is an important impetus for this process, it seems problematic to use it as a limiting criterion.

[81] Particularly Levinson 1997; 2008.

[82] Najman 2003: 1-40.

A Deuteronomic core was subsequently expanded in exilic and early postexilic times. Otto points out that neither the Covenant Code, nor a pre-exilic Deuteronomy, claim a status as revealed law; this is achieved only by the Deuteronomic framework. The framework moreover provides exilic Deuteronomy with a new narrative of origin in addition to the previous patriarchal and exodus narratives: the people of Israel originated with a desert covenant. The idea of an exilic redaction of a Deuteronomic core is common. Otto even figures two exilic redactions, one associating Deuteronomic law with a covenant at Mount Horeb and another somewhat later, focusing on the second generation in the land of Moab, updating the covenant for the second exilic generation and partly answering their complaint at having to suffer the sins of their fathers.[83] This interpretation requires advanced mirror-reading, coming close to allegory, but is nevertheless one possible alternative. The focus on the second generation, and hence the 'Moab redaction' could be explained by continued Deuteronomic authorship or as a result of postexilic Pentateuchal redaction, either at a time when Leviticus was formed through integration of the Holiness Code with priestly laws (see further below) or as part of a final redactional stage of the Pentateuch as a whole.

Priestly Law

The priestly laws in Leviticus are usually divided into two or three sections: cultic laws (Lev. 1–16) and the Holiness Code (Lev. 17–26). The cultic laws in turn can be divided into sacrificial laws (Lev. 1–9), followed by purity laws (Lev. 11–15). The remaining material conclude each section: chap. 16 concludes the purity laws in particular, but also the whole section of cultic laws;[84] chap. 27 supplements the Holiness Code in a manner that at the same time concludes the whole book of Leviticus, by bringing in the issue of de-consecration, corresponding to the idea of consecration in the previous cultic section. This chapter, together with chap. 10, which assigns a teaching and interpretative role to the priest, have been understood to come from the pen of the book's final redactor.[85]

In general, the priestly laws have received less attention from scholars than the Covenant Code and Deuteronomic law, with the exception of the Holiness Code, which is unmistakably related in some way to these previously discussed collections, and to which we will return below. Since interest in

---

[83] Otto 2000: 110-55; 2007: 137-46.

[84] Nihan 2007: 95-98.

[85] Nihan 2007: 94; 552-53; 576-607; 617-18.

P mainly focused on the priestly *Grundschrift*, its extent and ending, as already mentioned, the sacrificial and purity laws were mostly understood as secondary elements. This tendency was reinforced by scholars like Noth and Elliger who regarded the P source as narrative only, following Wellhausen, who did not look favourably upon its legal and ritual 'supplements'. The presence of ritual details in narrative sections is even taken to indicate secondary material, which is quite paradoxical in view of the fact that it was such characteristics that once were instrumental in developing the theory of a priestly source in the first place, as Nihan has pointed out.[86]

As a result, many scholars, old and new, have, like Wellhausen, shown little interest in the history and sources of these laws.[87] This neglect of priestly law was possible as long as a continuous P narrative, ending with the conquest of the land, was envisaged. Today, when an increasing number of scholars are accepting a view of Numbers as mainly consisting of narrative non-P traditions and being redacted at one of the latest stages in the formation of the Pentateuch,[88] a P narrative is usually understood to end with the establishment of the tabernacle cult, and Lev. 1–16 must either be taken as the conclusion of such a narrative or as a natural expansion of it.[89]

A negative view of legal material in general might also explain classical attempts to isolate narrative sections in Lev. (8–)9 as part of an original P narrative, into which ritual instructions would then have been interpolated later.[90] However, the opposite seems more probable, that basic sacrificial laws were included in the P narrative with the help of Lev. 8–9.[91] The question of whether an 'original' narrative ended in Exodus or included some of the cultic laws of Leviticus may, however, not be of crucial importance, at least not for our purposes. Although chaps. 1–16 form a coherent unit within the book of Leviticus, their composite nature is obvious and may still be explored.

---

[86] Nihan 2007: 11-12.

[87] Cf. Kratz 2005: 111; Otto 2007. Otto discusses Lev. 1–16 in the section on synchronic reading (61-72), but the priestly laws are almost completely absent from his corresponding historical and source critical discussions. There are of course exceptions to this neglect, e.g., Elliger 1966.

[88] Cf. Achenbach 2003; Nihan and Römer 2004: 104-106; Römer 2008: 22-32.

[89] Nihan has recently argued for a first version of Lev. 1–16 concluding the P narrative, pointing out that the P narrative omits all references to proper sacrificial offerings (Jacob's offering is a libation and the Passover lamb is not a real sacrifice in P), anticipating the inauguration of the sacrificial cult by the narrative strategy in the Flood story (2007: 20-68, especially 57; cf. 608-14). An idea of the Holiness Code as the older core of Leviticus, which is still retained by a number of scholars, sometimes continues to push Lev. 1–16 to the margins of scholarly interest. Cf. Kratz 2005: 111.

[90] This is even reflected in Milgrom 1991a: 543; cf. his view of Lev. 11–15 between Lev. 10 and 16 (62, 1011, 1061). See further Nihan 2007: 14-15.

[91] Nihan 2007: 111-268, 610.

The sacrificial laws (Lev. 1–10) consist of the only systematic description of the Israelite sacrificial cult found in the Hebrew Bible (Lev. 1–7), complemented by narratives and instructions relating to the priesthood (Lev. 8–10). The list of sacrifices (1.1–5.26 [ET 6.7]) includes the holocaust or burnt offering (*'olah*), meal offering (*minchah*), community or peace/well-being offering (*sh^{e}lamim*), sin offering (*chatta't*) and guilt offering (*'asham*), and is followed by complementing instructions (6.1 [ET 6.8]–7.38). Both form and content indicate that the laws governing the first three sacrifices (Lev. 1–3) are earlier than the others.

It is a moot point to what extent these laws relate to the actual cult. It is the narrative framework and the complementing instructions that turn them into divine commands to Moses in the desert (1.1-2a; 4.1-2a; 5.14; 5.20 [ET 6.1]; 6.1ff [ET 6.8ff]). The mere lists have been thought to emanate from memoranda or check lists, reflecting the Jerusalem cult, which have been expanded and further developed.[92] Information concerning the function and/or meaning of the sacrifices is minimal; the focus is on practice and performance. Although it is reasonable to suppose that traces of the pre-exilic cult are present, there are arguments for considering the memoranda that possibly underlie Lev. 1–3 as being shaped during the exile, in the hope of a resumed temple cult in Jerusalem, and integrated into an exilic or early postexilic priestly narrative. Nihan suggests that this integration took place in the early Persian period, during the first decades of the 5th century BCE, when the priestly writer also edited specialist instructions about clean and unclean animals (Lev. 11), and bodily impurity (Lev. 12–15), framing them with accounts of the institution and restitution of the sacrificial cult (Lev. 8–9, 16).[93] Lev. 4–5 and 6–7 would then have been added in stages during the middle of the 5th century, before P's inclusion into the Pentateuch.[94] Such a view of a staged development is reasonable, since chaps. 6–7 presuppose all of the preceding sacrifices and since the section on *chatta't* and *'asham* offerings seems to betray a complicated harmonization of sacrifices for a variety of purposes, which in spite of having an older prehistory are here accommodated into a fixed sacrificial system.[95]

The purity laws (Lev. 11–15) similarly have their roots in pre-existing practices and instructions. The idea that instructions about clean and unclean animals (Lev. 11) were formulated and systematically expanded during the exile, in a context where reliance on local cultural practice did not suffice, is reasonable. The instructions concerning the impurity of childbirth, skin disease (*tsara'at*),[96] the menstruating woman (*niddah*), the pathological genital male (*zav*) and female (*zavah*) discharger (Lev. 12–15) must likewise be based on much older ideas and practices, which had not previously been brought together into anything like a system. This interpretation is supported by the fact that the similar and yet somewhat different idea of corpse impurity is not really considered in Leviticus[97] but only turns up in Numbers. The pre-exilic roots of these ideas of bodily impurity are evidenced by references to impure conditions in the Deuteronomic history as well as in prophetic literature,[98] although our actual knowledge of purity practices before the exile is very limited.[99]

---

[92] Ringgren 1962: 14-16; cf. Nihan 2007: 198-231.

[93] Nihan 2007: 379-94.

[94] Nihan 2007: 160-98, 231-68.

[95] Nihan 2007: 256-68. See further below.

Scholars of the Kaufmann school have a tendency to assign at least a core of the sacrificial and purity laws to the pre-exilic period.[100] Most scholars today, however, think it unlikely that these laws reflect the cult during the time of the monarchy. The priestly laws in Lev. 1–16 are basically shaped in an exilic and postexilic context, although they should be seen as having an older prehistory, not least since both sacrificial traditions and ideas of impurity have ancient roots in most cultures.

The third section of the priestly law, the Holiness Code (Lev. 17–26), has traditionally been considered the oldest core of Leviticus.[101] The designation *Heiligkeitsgesetz* was coined by August Klostermann in the 1870s.[102] Today, however, there is an increasing tendency to regard it as later than the preceding sacrificial and purity laws (Lev. 1–16), and some even consider a Holiness School responsible for redacting much of the Pentateuch.[103]

The relationship between the Holiness Code and Deuteronomy is a key question. For a long time, the Holiness Code was understood in terms of the Covenant Code and an *Ur-Deuteronomium*, as an independent legal collection, from which an original core could be retrieved.[104] As long as such a collection was considered to constitute the beginnings of the book of Leviticus, its core could be understood as earlier than Deuteronomy and in any case earlier than the redaction of D.[105] This could mean an influence by H on D, or perhaps a mutual influence between these 'sources' at certain levels.[106] Similar views of the relationship between H and D are still retained by scholars like Knohl and Milgrom, who, although they regard the Holiness Code as later than P, date both so early during the monarchic period that they come before Deuteronomy.[107]

---

[96] In rabbinic idiom a person with a skin disease ('leper') is called a *metsora'*.

[97] Except for the Holiness Code prohibition regarding the priests, see Lev. 21.1; 22.4.

[98] Judg. 13.4, 7, 14; 1 Sam. 20.26; 2 Sam. 3.29; 2 Sam. 11.4; 2 Kgs 5; 2 Kgs 15.1-7; 2 Kgs 23.10, 13, 14, 16, 20; Ezek. 36.17; Ezek. 43.7-9; Hos. 9.3-4; Amos 7.17; Zech. 13.1; however some of these references are postexilic, or belong to texts subject to exilic or postexilic redaction.

[99] See Kazen 2010b, 1-10.

[100] Notably Knohl 1995: 200-204; Milgrom 1991a: 3-35.

[101] Kratz 2005: 110-11; Levine 2003: 16-17. For overviews, see Grünwaldt 1999: 5-22; Nihan 2004.

[102] Nihan 2007: 3 (referring to Klostermann's *Ezechiel und das Heiligkeitsgesetz*, 1877).

[103] Milgrom 1991a: 3-63; 2000a: 1319-67; 2000b: 2440-46; Knohl 1995: 199-224. Milgrom (1991: 61-63; 2000a: 1322-44; 2000b: 2054-56) assigns the following parts of Leviticus to H: 3.16b-17; 6.12-18aα; 7.22-29a, 38b(?); 9.17b; 11.43-45; 12.8; 14.34-53(?), 54-57(?); 15.31; 16.2bβ, 29-34a; chaps. 17–27. Knohl has minor variations, including a few verses in chap. 23 that are not assigned to H. Both sources are seen as processes, overlapping in time and extending through several centuries.

However, a number of scholars have shown in the last decades that the direction of influence clearly goes from D to H.[108] The Holiness Code shows signs of an awareness of both the Covenant Code and Deuteronomic law. It presupposes Deuteronomic cult centralization and the changes induced by such a development (Lev. 17; 23), suggesting a subsequent date. We should also note the parallel endings: Lev. 26 is in many ways similar to Exod. 23 and Deut. 28, which suggests that the Holiness Code consciously imitates earlier collections. According to Kratz, 'the Holiness Code … reformulates Deuteronomy in the spirit and style of the Priestly writing'.[109]

Many scholars have also seriously questioned the classical idea of the Holiness Code as an originally independent legal collection.[110] If the Holiness Code is not understood to stand at the beginning of the literary development of Leviticus, but at the end, then there is little to indicate a pre-existing legal collection. Today a number of scholars agree that, although Lev. 17–26 is recognizable as a fairly coherent unit, this is not because the Holiness Code was a collection that had a previous life of its own; this collection was most likely created to provide a framework for the sacrificial and purity laws, by complementing them with an update and a revision of the Covenant Code and Deuteronomic law, in order to constitute a larger unit, the book of Leviticus.[111]

---

[104] Nihan 2004: 82-83.

[105] Cf. Reventlow 1961.

[106] See the history of research in Ruwe 1999: 5-35.

[107] See n. 100 above.

[108] In particular Cholewiński 1976. Cf. Grünwaldt 1999; Otto 1994; 1999; Nihan 2004: 82-98.

[109] Kratz 2005: 110.

[110] Elliger 1966; Wagner 1974; Cholewiński 1976 and many others. See Grünwaldt 1999: 13-20.

[111] The original independence of H was first suggested by Graf in 1866, and is still argued by Grünwaldt 1990. The lack of a clear introduction and in particular the many parallels with P, indicating that the author of H presupposed P from the very beginning, constitute strong arguments against such a view. This was first pointed out by Elliger 1959, and many scholars have followed him. See Nihan 2004: 98-105; 2007: 545-59.

The narrative fiction of the Holiness Code being addressed to the congregation at Sinai, which is not a result of integration into a framework but permeates the collection throughout, does not speak for the incorporation of a previously existing collection. The systematic mediation and harmonization in H between legal traditions from D and P suggest that the Holiness Code is later than both and cannot be the work of P. Even the coherent chiastic literary structure of Leviticus can be understood to result from the Holiness Code being modelled on chaps. 1–16 and shaped to parallel them.[112]

The Holiness Code should thus be regarded as later than the sacrificial and purity laws in the first half of Leviticus. Milgrom's dating is, however, far too early, tracing P to the sanctuary in Shiloh and regarding H as pre-exilic (except for a few verses ascribed to a later redactor, H_R).[113] While Knohl allows room for both sources as overlapping and extended processes—H extending beyond the exile—he still implausibly dates the beginning of the Holiness Code too early and too precisely to the reign of Ahaz.[114] Even Levine, who regards the Holiness Code as belonging to the earliest strata of the *Priesterschrift*, dates it during the exile or after the waves of return that follow 538 BCE,[115] and Kratz dates Leviticus, including the Holiness Code, after 515 BCE.[116] Taking the formation of Deuteronomy into account, a postexilic dating is most reasonable and a number of scholars suggest the late 5th century as a plausible date.[117]

By revising and elaborating on earlier collections and portraying the resulting laws as divine speech mediated by Moses at Sinai, the Holiness Code was framed as the apex of the Torah, providing an editorial closure to the Sinaitic revelation, and thereby completing the sacrificial cult. However, by concluding the revelation at Sinai, Lev. 26 in some sense relegates Deuteronomy to a status of secondary interpretation; here God does not speak directly, but Moses expounds the law. The Holiness Code thus becomes a hermeneutical key to a first edition of the Torah. Whether or not Deuteronomy would have been an integral part of that, and to what extent it would have been understood as a mere commentary on the Sinaitic revelation, or rather as divine law for a second generation, are debated issues.[118] The idea of the author(s) of the Holiness Code being responsible for the final redaction of the whole Pentateuch and not just a first version is questionable, however, not least in view of recent research on the book of Numbers, which indicates that what was formerly understood as P texts in Numbers should rather be understood as post-P redaction, and that the book is probably the latest of the Pentateuchal books, being edited during the early 4th century BCE.[119]

---

[112] Luciani 2005, see especially 345-47.

[113] Milgrom 1991a: 34; 2000a: 1345-64.

[114] Knohl 1995: 204-16.

[115] Levine 2003: 15.

[116] Kratz 2005: 326.

[117] Nihan 2004: 105-22; Nihan 2007; Nihan and Römer 2004: 101-104.

[118] Otto 2004; Lohfink 2003; Nihan 2004; 2007: 553-54. Nihan changed his mind on this point between his article on the Holiness Code (2004: 106-107) and his comprehensive study of the composition of Leviticus (2007: 553, n. 614).

Summary

The discussion of the formation of the Pentateuch is by no means settled today, but in spite of contradicting opinions one may be allowed to discern certain contours in the landscape. In the following I will make some working assumptions that are in line with the judgments of a fair number of scholars. I thus take the Covenant Code to represent and address social developments in Judah around 700 BCE, forming the basis for a Deuteronomic core towards the middle of the 7th century, aimed at cult centralization. I think it likely that Deuteronomy was further shaped and developed during the exile, with a final redaction in the early postexilic period, perhaps within the larger process of Pentateuchal redaction. The sacrificial laws and the purity laws could have originated with memory lists during the exile, although individual sacrifices and ideas of impurity must have had earlier roots; yet they cannot too easily be invoked to reconstruct a pre-exilic cult. It is reasonable to assume that these priestly laws were redacted during early Persian times, in anticipation of a resumed Temple cult in Jerusalem, i.e., during the early 5th century BCE, and further sacrificial laws were probably added in stages. The Holiness Code both relates to the priestly laws and adapts and rewrites previous legal collections, i.e., the Covenant Code and in particular Deuteronomy, thus creating the book of Leviticus and a first version of the Torah towards the end of the 5th century. The book of Numbers does not receive its final shape until the 4th century, in which we should also look for the final redaction of the Pentateuch as a whole.

---

[119] Knohl 1995: 71-106; Nihan 2004: 120-22; 2007: 554-55, 570-72; Achenbach 2003.

Chapter 6

DIRT AND DISGUST IN BIBLICAL PURITY LAWS

> … the employment of purity and impurity as value-judgments … obviously results from the fact that impurity was in its origin connected with loathing—reptiles, dead bodies, menses and other excretions, birds of prey that eat dead bodies, eels, octopus, insects and the like. These are primary sources of impurity and the concept was extended to other objects by analogy and pseudosystematic reasoning.
>
> –Jacob Neusner[1]

Introduction

In Chapter 3 I suggested that the common dichotomy between ritual and morality is not only problematic but also anachronistic. Examples from a variety of ancient texts as well as observations from contemporary developmental psychology indicate that definitions of morality and convention or ritual are culture-specific and change with context and through time. Looking closer at purity as an example, we saw that the assumption of a sharp dichotomy in ancient Judaism between ritual impurity and morality as separate categories does not really fit the evidence. Similarly, an understanding of ritual impurity as literal while moral impurity would have been basically metaphorical, seems too artificial; all sorts of contexts in which impurity is involved seem to use purity language in a secondary sense to express emotional aversion

I thus suggested a view of purity laws and moral rules in the priestly legislation as originating with negative reactions to threatening stimuli, especially with the emotion of disgust towards objectionable substances, or to states associated with such substances or behaviour evoking similar feelings. In this chapter I will elaborate on this suggestion and argue for its plausibility by looking at the dietary laws of Lev. 11, the rules regarding impurity as a bodily transferable ‘contact-contagion’ that are primarily found in Lev. 12–15, and the laws on defiling behaviour in Lev. 17–26 (the Holiness Code).

---

[1] Neusner 1973: 11-12.

Disgust and Dietary Laws

As mentioned in Chapter 3, Hoffmann wanted to place the dietary laws of Lev. 11 in the category of moral impurity, while Klawans regards them as falling somewhat between two stools. However, if we avoid a sharp dichotomy between ritual and moral impurity and understand disgust as a common denominator, we will find that these laws are quite consistent.

The prohibitions concern eating and touching the dead bodies of a number of animals. The structure of this chapter is puzzling, but explainable.[2] Following an enumeration of various types of animals (quadrupeds, water animals, birds and insects) that are not to be eaten (vv. 2-23), the text transmutes into a list of animals whose dead bodies transfer impurity to humans touching them, or to clothes, vessels or seed (vv. 24-40). The section concludes, however, with an additional prohibition against eating creeping or 'swarming' animals (vv. 41-45).

Excursus: The Structure of Leviticus 11

The text can be structured as follows:[3]

> *1. Basic instruction: unclean quadrupeds*
>
> **2b**From among all the land animals, these are the creatures that you may eat. **3**Any animal that has divided hoofs and is cloven-footed and chews the cud—such you may eat. **4**But among those that chew the cud or have divided hoofs, you shall not eat the following: the camel, for even though it chews the cud, it does not have divided hoofs; it is unclean (*tame'*) for you. **5**The rock-badger, for even though it chews the cud, it does not have divided hoofs; it is unclean for you. **6**The hare, for even though it chews the cud, it does not have divided hoofs; it is unclean for you. **7**The pig, for even though it has divided hoofs and is cloven-footed, it does not chew the cud; it is unclean for you. **8**Of their flesh you shall not eat, and their carcasses you shall not touch; they are unclean for you.

---

[2] For suggestions regarding the structure of this chapter, see Milgrom 1991a: 691-98; Wright 1987a: 200-205; Meshel 2008: 32-42.

[3] The translation is basically from the NRSV, anglicized version, but with a few changes. I have consistently translated *sherets* with 'swarmer', hence 'water swarmers' (*sherets hammayim*), 'bird swarmers' (*sherets ha'of*), and 'swarmers that swarm on the ground (*sherets hashorets 'al-ha'arets*)'—in the latter case I have used 'ground' for *'erets*. I have consistently translated *sheqets* with 'detestable'. I have also used the simple verb 'detest' when the verb *shiqqets* is found in the Hebrew text. I have retained NRSV's 'living creature' for *nefesh hachayyah* in vv. 10 and 46, but find this emphasis unnecessary in v. 47 where the simple *hachayyah* is being used.

2. Detestable animals

2a. water animals (including water swarmers)
[9]These you may eat, of all that are in the waters. Everything in the waters that has fins and scales, whether in the seas or in the streams—such you may eat. [10]But anything in the seas or the streams that does not have fins and scales, of the water swarmers (*sherets hammayim*) and among all the other living creatures that are in the waters—they are detestable (*sheqets*) to you [11]and detestable they shall remain. Of their flesh you shall not eat, and their carcasses you shall detest (*shiqqets*). [12]Everything in the waters that does not have fins and scales is detestable to you.

2b. birds
[13]These you shall detest among the birds (*ha'of*). They shall not be eaten; they are detestable: the eagle, the vulture, the osprey, [14]the buzzard, the kite of any kind; [15]every raven of any kind; [16]the ostrich, the nighthawk, the seagull, the hawk of any kind; [17]the little owl, the cormorant, the great owl, [18]the water-hen, the desert-owl, the carrion vulture, [19]the stork, the heron of any kind, the hoopoe, and the bat.

2c. bird swarmers
[20]All bird swarmers (*sherets ha'of*) that walk upon all fours are detestable to you. [21]But among the bird swarmers that walk on all fours you may eat those that have jointed legs above their feet, with which to leap on the ground. [22]Of them you may eat: the locust according to its kind, the bald locust according to its kind, the cricket according to its kind, and the grasshopper according to its kind. [23]But all other bird swarmers that have four feet are detestable to you.

3. Contact with dead animals

3a. unclean quadrupeds
[24]By these you shall become unclean (*tame'*); whoever touches the carcass of any of them shall be unclean until the evening, [25]and whoever carries any part of the carcass of any of them shall wash his clothes and be unclean until the evening. [26]Every animal that has divided hoofs but is not cloven-footed or does not chew the cud is unclean for you; everyone who touches one of them shall be unclean. [27]All that walk on their paws, among the animals that walk on all fours, are unclean for you; whoever touches the carcass of any of them shall be unclean until the evening, [28]and the one who carries the carcass shall wash his clothes and be unclean until the evening; they are unclean for you.

3b. ground swarmers
[29]These are unclean for you among the swarmers that swarm on the ground (*sherets hashorets 'al-ha'arets*): the weasel, the mouse, the great lizard according to its kind, [30]the gecko, the land-crocodile, the lizard, the sand-lizard, and the chameleon.

3c. contagion by contact with unclean swarmers
[31]These are unclean for you among all swarmers (*sherets*); whoever touches one of them when they are dead shall be unclean until the evening. [32]And

> anything upon which any of them falls when they are dead shall be unclean, whether an article of wood or cloth or skin or sacking, any article that is used for any purpose; it shall be dipped into water, and shall be unclean until the evening, and then it shall be clean. [33]And if any of them falls into any earthen vessel, all that is in it shall be unclean, and you shall break the vessel. [34]Any food that could be eaten shall be unclean if water from any such vessel comes upon it; and any liquid that could be drunk shall be unclean if it was in any such vessel. [35]Everything on which any part of the carcass falls shall be unclean; whether an oven or stove, it shall be broken in pieces; they are unclean, and shall remain unclean for you. [36]But a spring or a cistern holding water shall be clean, while whatever touches the carcass in it shall be unclean. [37]If any part of their carcass falls upon any seed set aside for sowing, it is clean, [38]but if water is put on the seed and any part of their carcass falls on it, it is unclean for you.
>
> *4. Contact with clean animals that died naturally*
> [39]If an animal of which you may eat dies, anyone who touches its carcass shall be unclean until the evening. [40]Those who eat of its carcass shall wash their clothes and be unclean until the evening; and those who carry the carcass shall wash their clothes and be unclean until the evening.
>
> *5. Ground swarmers are detestable*
> [41]All swarmers that swarm on the ground (*sherets hashorets ‘al-ha’arets*) are detestable; they shall not be eaten. [42]Whatever moves on its belly, and whatever moves on all fours, or whatever has many feet, all the swarmers that swarm on the ground (*sherets hashorets ‘al-ha’arets*), you shall not eat; for they are detestable.
>
> *6. Call to holiness*
> [43]You shall not make yourselves detestable (*shiqqets*) with any swarmer that swarms (*sherets hashorets*); you shall not defile yourselves (*timme’*) with them, and so become unclean (*nitma’*). [44]For I am the LORD your God; sanctify yourselves therefore, and be holy, for I am holy. You shall not defile (*timme’*) yourselves with any swarmer that moves on the ground (*sherets haromes ‘al-ha’arets*). [45]For I am the LORD who brought you up from the land of Egypt, to be your God; you shall be holy, for I am holy.
>
> *7. Summary*
> [46]This is the law pertaining to land animal and bird and every living creature that moves through the waters and every creature that swarms on the ground (*nefesh hashoretset ‘al-ha’arets*), [47]to make a distinction between the unclean (*tame’*) and the clean (*tahor*), and between the creature that may be eaten and the creature[4] that may not be eaten.

At first sight the structure may seem jumbled. There is, however, a logic to this chapter. The basic instruction (1) is found in 11.2-8, where a number of quadrupeds are forbidden as food, and thus called ‘unclean’ (*tame’*). The animals listed are those that people might otherwise have been expected to use as main sources of food, in addition to cattle, sheep and goats, which were regarded as clean.[5] It should be noted that the basic instruction prohibits both eating and contact with the dead bodies of unclean animals.

---

[4] See previous note.

Following this passage, we find three sections (2) dealing with (a) water animals, (b) birds and (c) winged insects respectively (11.9-12, 13-19, 20-23). Here, however, there is no explicit mention of contamination by contact, but only from eating. The various animals are not called unclean (*tame'*), but 'detestable' (*sheqets*).

Only after this is the issue of contamination by contact with dead animals specified and discussed (3) (11.24-38). The animals mentioned are (a) unclean quadrupeds (11.24-28) and (b) eight forbidden 'ground swarmers' (*sherets*), including weasels, rats and lizards (11.29-38). These animals are called 'unclean' (c) and details of contamination, comparable to those found in Lev. 12–15, are spelled out (11.31-38).

This is complemented by a comment (4) applying such purification even after contact with animals allowed for food but which died naturally (11.39-40).

Finally, all 'ground swarmers' are branded as 'detestable' (5) and hence not to be eaten (11.41-42). The chapter is rounded off (6) with a call to holiness (11.43-45) and a subscript or summary (7) that could possibly be divided in two (11.46-47).

Jacob Milgrom suggests a structure based on the use of *tame'* and *sheqets* respectively. 'Unclean' would then refer to the contamination by dead bodies, while 'detestable' would apply to animals prohibited for food. Sections 1, 2, 5 and 7a are assigned to the P_1 stage, 3 and 7b to the P_2 stage, 6 is seen as H redaction while 4 is an interpolation.[6]

Milgrom's basic understanding of a core (1, 2, 5 and 7a) that has been expanded is reasonable, although the status of 5 and 7a may be questioned.[7] A number of problems appear, however, when one attempts to reserve *tame'* for contamination by contact and *sheqets* for food prohibition. First, the basic instruction (1) does *not* refer to the forbidden quadrupeds as 'detestable' (*sheqets*), but uses 'unclean' (*tame'*) for *both* contamination *and* eating, and the focus is clearly on *eating*; the comment on carcasses (v. 8b) appears almost like an after-thought.[8] Secondly, water animals (2) are not only 'detestable' as food, but their *dead bodies* should be 'detested', too (11.11 uses both the noun and the verb based on the root *ŠQṢ*).[9] Thirdly, the call to holiness (6) warns against becoming unclean from 'ground swarmers' but juxtaposes this to a warning against making yourselves (your lives) detestable, and connects to (5), which prohibits eating them because they are ‘detestable’.[10] Fourthly, the conclusion (7) summarizes by presenting the oppositions ‘unclean—clean’ and ‘allowed for food—not allowed for food’, in a typical parallelism.[11]

---

[5] As Baruch Schwartz has pointed out, this basic instruction (1) is needed in order to identify pure *non-domestic* quadrupeds, permitting only those wild quadrupeds that resemble the domestic sacrificeable ones. Schwartz 1996: 32-35.

[6] Milgrom 1991a: 643-98, especially 691-97. For vv. 43-45 as H, see also Knohl 1995: 69; cf. Milgrom 1992. Milgrom subsequently came to regard vv. 39-40 as H, which is disputed by Nihan 2007: 295-96.

[7] Cf. Nihan 2007: 297-98.

[8] Milgrom does acknowledge that, in addition to contamination by contact, *tame'* also implies a prohibition against consumption (Milgrom 1992: 108). The basic instruction (1) is, however, focused on consumption but never employs *sheqets*, while constantly repeating *tame'*.

[9] This is acknowledged by Meshel 2008: 38-39, but he explains the use of *shiqqets* in Lev. 11.11 as 'the common, non-technical sense of the verb *šiqqēs*, attested in Deut. 7.26 and elsewhere, refining its meaning to carry a new legal sense: prohibition against contact which is not linked to ritual impurity' (p. 38). This is not satisfactory.

Such discrepancies can be variously interpreted. Naphtali Meshel has recently argued that the priestly authors construed a complicated taxonomy with theological goals. There are actually four categories implied in the text: prohibited, permitted, impure and pure.[12] Some animals are allowed for food and one may also touch their carcasses. Others are allowed for food but not to be touched when dead. Others again it is prohibited to eat, but not to touch, while the fourth category is prohibited in both respects. This is supposed to demonstrate that the food rules are arbitrary from a human point of view and dependent on the divine command.[13]

While Meshel’s conclusions result from a close reading of the text, I do not find it plausible to interpret such discrepancies in the text as intentionally created by the priestly authors in a process of composition or redaction in order to prove a theological point. If there is a distinction between the two terms *tame’* and *sheqets* with regard to touching and eating, or even between more than two categories, this belongs to the prehistory of the text, and represents nuances that neither the priestly authors, nor the H redactors of vv. 43-45, wished to promote, since they juxtapose the two concepts and treat them as synonyms.[14]

Meshel is right, however, that the parallel list of food rules in Deut. 14.3-21 is crucial

[10] I understand Lev. 11.43 to set the two verbs, *shiqqets* and *timme’* as parallels.

[11] Against Milgrom 1992: 109, who claims that the two clauses in v. 47 are *not* parallel. Cf. Milgrom 1991a: 690-91.

[12] Meshel 2008: 39, 42. This ‘complex classification system’ is seen as ideal rather than normative and Meshel doubts that it ever ‘took root in Israelite society’. I must confess that I have problems even seeing this complex system in the text.

[13] Meshel 2008. Meshel’s interpretation is similar to Milgrom’s in that it reads theological principle into the text, but at the same time it is a reversal of Milgrom’s ‘natural theology’ according to which God reveals his will through nature and his law through creation. On the contrary, Meshel argues for arbitrary commands (p. 41). This is an informative example of the priestly-rabbinic tension between realism and nominalism (cf. Schwartz 1992; Rubenstein 1999; Shemesh 2009), projected into the biblical text.

[14] Both Meshel and Milgrom in fact acknowledge that the H redactor seems unaware of any such distinction. Meshel 2008: 36; Milgrom 1992: 114. Feinstein argues that neither *sheqets* nor *to‘evah* are entirely synonymous with *tame’*, something that becomes clear when the usage of the corresponding verbal forms are compared. The two former ‘refer not to a process (contamination), but to a mental or emotional state (revulsion or loathing), and by extension to behavior that reflects that state’ (2010: 72). These terms, then, ‘do not inherently denote pollution’ (p. 74; cf. p. 78). They are not used, then, to denote different types of pollution, but for rhetorical purposes, to emphasize the element of disgust. Says Feinstein: ‘Ritual pollution … is presumed to be disgusting to people and must therefore be handled in particular ways, but the biblical authors are not, by and large, interested in promoting an attitude of disgust toward ritual pollutants and do not mandate total rejection of them … The description of an entity as disgusting and the demand that people revile it are rhetorically useful only when total rejection of the entity is desired, and when disgust at the entity is reasonably possible but cannot be assumed.’ (p. 78).

for our interpretation and understanding of Lev. 11.[15] The two sets of rules are inevitably closely related, but in Deut. 14 the list is shorter and the material seems more coherent. There is no discussion of impurity by contagion, except for the short statement prohibiting contact with the carcass of an unclean quadruped (Deut. 14.8). The various categories not to be eaten are all called 'unclean' and they are introduced (v. 3) by the injunction not to eat anything 'abominable'. The term used here is not *sheqets* but *to'evah*, a term used in D and H, but never in P, to express bodily disgust and to denounce objectionable practices, i.e. 'abominable' acts, whether we categorize them as ritual or moral.[16]

It is tempting to regard Deut. 14 as an abbreviation of Lev. 11, but the final form of the purity laws (Lev. 11–15) should probably be dated later than Deuteronomy, as we have seen in Chapter 5. If Lev. 11 were the base text for Deut. 14 we would also have to explain why there is nothing in the latter text on edible winged insects or on carcasses of water animals, not to speak of the complete prohibition against eating carcasses and the lack altogether of rules about contamination by contact. The reverse order is, however, even more unlikely, unless we really believe that the priestly authors used a quite simple list to formulate an unclear and less coherent instruction, with subtle pointers to a number of implicit categories, in order to make a theological statement. It is more reasonable to assume a common tradition behind both texts.[17] In doing so, it is fruitful, as Meshel has already suggested, to note what is unique in Lev. 11 as compared to Deut. 14.

Lev. 11 can be read as a basic instruction followed by specifics. First, quadrupeds that could otherwise serve as sources of food are discussed, both with regard to eating them and to contact with their dead bodies (1). This is followed by details of which water animals and birds may not be eaten (2). So far Lev. 11 and Deut. 14 seem to rely on common material. Lev. 11 is more explicit on the water animals, however, singling out 'water swarmers' (*sherets hammayim*) and prohibiting contact with their carcasses. Lev. 11 also has a longer section on flying insects (*sherets ha'of*), which strictly belong to the list of birds (*'of*), hence 'bird swarmers', in which exceptions are made for a number of locusts, in contrast to Deut. 14. These details seem to indicate the particular interests of P, which shape the rest of the chapter, and one may suspect that they did not belong to a common tradition shared by D, but were inserted or developed by the priestly authors.

The following section (3) ties the previous food rules to the purity rules in Lev. 12–15. Unclean quadrupeds are not only prohibited as food, but the carcasses of all such animals transfer a one-day impurity by touch (3a). This is also the case with the carcasses of the eight 'ground swarmers' (*sherets hashorets 'al-ha'arets*), which are listed (3b). Here instructions about the contamination they cause become detailed (3c) and may be read as referring to the contamination by *all three categories* of 'swarmers' now mentioned. To this there is an addition (4): carcasses of *clean* animals contaminate too, both by touch and by eating. This complement is necessary because contamination by carcasses of clean animals is unknown in the basic instruction based on a common tradition. Deuteronomy prohibits the eating of animals (supposedly clean) that have died of themselves, while Lev. 11 seems to suppose that such meat is eaten, although it defiles. For these reasons this section is often understood as a later interpolation, although the fact that in Deut. 14 the food rules end with a prohibition of consuming animals that died of themselves should be acknowledged.[18]

---

[15] Meshel 2008: 33-35.

[16] Preuß 1995. The use of *to'evah* as an expression of disgust is further discussed below.

[17] Nihan 2007: 283-90, including a detailed critique of Milgrom; Meshel 2008: 33. Meshel points out that authors envisage the relationship between the two texts according to their general view of the relationship between P and D, disregarding or explaining away contrary evidence.

The next section (5) prohibits the *eating* of ground swarmers. It might seem unnecessary to say this, since none of them possesses the two characteristics required of land animals (1), and one would have expected an instruction about eating them to have followed right after the other sections on eating (1 and 2). But an important qualification should be noted here: the prohibition concerns *all* ground swarmers, not only the eight that were singled out previously.

As already mentioned, the call to holiness (6) and the summary (7) collapse any distinction between eating and touching, and are often assigned to H or a later redaction.

I would like to propose that the common tradition (1 and 2) has been revised and complemented in ways that are quite logical, and without indicating the complicated intentional structure suggested by Meshel. The basic list prohibits touching the carcasses of unclean animals. The priestly authors have expanded on this prohibition, to outline the mechanisms of contagion, thus creating a bridge between the food laws and the rules concerning 'contact-contagion' in cases of discharges and skin disease (Lev. 12–15). The transfer of focus from eating to touching that effects the integration of food laws and purity rules takes place in the third section (11.24-36). At the same time, the authors have made necessary clarifications and expansions that are warranted by a lack of clarity or detail in the basic list. While it would be tempting to make a more detailed reconstruction of redactional stages such enterprises are uncertain, so I will take a restrictive approach and simply offer an outline that indicates the various processes at work.

One process is the development of the concept of 'swarmers' (*sherets*) into a class of animals. This is one of the most conspicuous differences between Lev. 11 and Deut. 14. In Deuteronomy, *sherets* is only used for winged insects or 'bird swarmers', but in Lev. 11 swarmers become a superordinate category. This is achieved by the expansion of the common tradition. Water animals are named *sherets hammayim* (Lev. 11.10), in what is probably an addition to the common tradition. The list of eight 'ground swarmers' (3b) completes the picture, so that we are presented with three categories of swarmers. The introduction to the instructions concerning their contamination (3c) states that 'these are unclean to you among all swarmers', without mentioning ground swarmers in particular, and could be read as a rule concerning the contaminating power of carcasses of *all* three types belonging to the category of *sherets*.[19]

Another process has to do with clarification. In the first part of the third section (3a) where focus is switched from eating to touching (11.24-36), the categories in vv. 2-8 are used, but there is an important aspect that should not be overlooked. While the initial instruction (1) clearly states that *all* (*kol*) animals that chew the cud and have divided hoofs may be eaten, it does not explicitly say that *all* that do *not* conform to these two criteria are prohibited. This is undoubtedly implied, and the text gives four examples of animals that only fulfil one of the two and thus might cause uncertainty. The text does not, however, explicitly state that the prohibition concerns *all* or *every* animal that conforms to neither or to only one of the two criteria. This lack of precision is redeemed by vv. 24-28

---

[18] Cf. Milgrom 1991a: 681-82, 693-94; Nihan 2007: 295-96.

[19] The section on birds might then seem misplaced (2b), unless we realize that the section on flying insects or 'bird swarmers' (2c) grew out of it.

(section 3a) by the statement that *every* (*kol*) animal that does not conform to both criteria and *all* (*kol*) animals walking on paws are unclean. Although the focus is on contact with their carcasses, I suggest that it is implied that *all* of these animals are also prohibited as food. Just as the phrase ‘it is unclean to you’ in vv. 4-7 is explicated in v. 8 to mean not only ‘not eat’ (*lo’ to’kelu*) but also ‘not touch’ (*lo’ tigga‘u*), the same phrase in vv. 26 and 27 implies that *no* non-conforming animals are allowed as food, although now it is touch that is in focus.

A similar but reversed process can be seen in vv. 41-42 (section 5). The instructions concerning ground swarmers only mention eight examples (3b) and focus on contact with their dead bodies (3c). While they are of course not supposed to be eaten, this has not been explicitly said before; moreover, other ground swarmers than these eight have not been discussed. This begs for a clarification: *all* (*kol*) ground swarmers are unfit for consumption. Note that not until this point are ground swarmers said to be detestable (*sheqets*). Milgrom regards this section rather than the list of eight ground swarmers (3b) as part of the P core,[20] but the list of eight corresponds better to the similar list of birds and the list of exceptions for winged swarmers. The statement that *all* ground swarmers are detestable is clearly a qualification in relation to the previous list of eight (3b), but also gives a motivation by specifically branding them *detestable*, thus making them conform to the other swarmers. The interesting thing, however, is that the prohibited quadrupeds (1) are at no point called detestable in the priestly law, as compared to D, where they are called ‘abominable’ (*to‘evah*). This suggests that the term *sheqets* is chosen not primarily to indicate a prohibition with regard to consumption, but expresses an emotional response to the category of swarmers (*sherets*) in general.[21]

Resorting to modest speculation, I suggest that based on the winged swarmers in an underlying tradition, the list of prohibited animals (1, 2) has been complemented by the creation of a broadened category of *sherets*, including aquatic (2a, v. 10) and earthbound (3b) swarmers as well. The priestly authors have used such a developed list and linked it to the purity laws by discussing the contaminating potential of carcasses of unclean animals (3a, c). At the same time they have clarified that *all* quadrupeds not conforming to the criteria (3a) and *all* ground swarmers (5) should be considered and not just those listed specifically (1, 3b). The status of the latter (all ground swarmers) is further motivated by branding them detestable, like other swarmers. The summary (7) ties these rules firmly to the Purity Laws by using the same formula that concludes each of the subsequent chapters (Lev. 12–15), implying that *tame’* and *sheqets* are used as parallel or complementing concepts. At a stage when the Sacrificial and Purity Laws were being complemented by the Holiness Code to constitute the book of Leviticus, the call to holiness (6) was added, drawing on the *sheqets* terminology to warn the people against making themselves detestable in God’s eyes.[22] The section on the impurity of the carcasses of clean animals (4) presupposes that carrion was sometimes eaten and expressly contradicts Deut. 14.21, where this is prohibited. However, it is in accord with the Holiness Code (Lev. 17.15-

---

[20] Milgrom 1991a: 693, 697.

[21] For birds of prey as an exception, see below.

[22] Perhaps this is also the stage at which the exception (not found in Deuteronomy) for certain types of locusts was inserted. For the use of locusts as food in the ancient Near East, see Kelhoffer 2005: 46-49. Rather than being a relic from the Israelites’ ancient nomadic past, the eating of locusts as delicacies may have become common during the exile; hence the need for an exception. However, this is a speculative suggestion.

16; cf. 22.8).[23] Hence this passage might also originate with H. It is possible that the clarification concerning all ground swarmers belongs to this level as well.

For our present purpose, the most important observation is the terminology revealing an underlying emotional attitude of disgust. As we have noted, the term *sheqets* is almost entirely reserved for swarmers (*sherets*), whether aquatic, winged or earthbound, but *not* used for the unclean quadrupeds. Although Deuteronomy 14 uses the term *to'evah* as a blanket term for all unclean animals, there are no indications that the priestly authors of Leviticus regarded the prohibited quadrupeds as disgusting in themselves. Swarmers were different. While the precise meaning of *sherets* is under discussion, the term probably refers to small, fast-moving and/or fast-breeding beings, often thought to be self-generating from rotting substances. They thus represent a combination of decayed life and exaggerated fertility that has been observed to cause disgust and make humans feel uneasy.[24] It is not entirely clear whether larger water animals without fins and scales, such as molluscs and the slimiest of fish, which also seem to be characterized as *sheqets*, are thought of as included in the category of aquatic swarmers, but that is possible. Birds of prey are the clear exception; they are detestable although not swarmers, but their association with dead bodies and decomposition gives an adequate explanation for their being regarded as disgusting. Most or all of these creatures easily evoke human feelings of revulsion, especially at the thought of eating them, but often at the mere idea of contact. The association of these creatures with decay reminds humans of their mortality and animal nature. This would represent what Rozin and colleagues call animal-nature disgust.[25] Aversion to the dead bodies of such animals is likewise easy to understand. The extension of these prohibitions to dead bodies of clean animals would probably originate with systemic reasoning rather than with emotional disgust, even if a decaying carcass is naturally repulsive. Carcasses of clean animals are nevertheless not called detestable and at times appear to have been used as food.

---

[23] One may speculate that the basic list or common tradition behind Lev. 11 also contained a short restriction against eating carcasses, similar to Deut. 14.21, which the interpolation in Lev. 11.39-40 (section 4) revises and expands. Alternatively, the prohibition is part of Deuteronomy's programme.

[24] Kolnai 2004 (1929): 52-62; Miller 1997: 38-59; Miller 2004: 47-58.

[25] Rozin, Haidt and McCauley 2000: 641-42. Rozin's category of animal-nature disgust has been questioned by Feinstein, who points out that it is not the animals that are most similar to us that trigger our disgust, but rather insects, worms, and creatures that 'may seem to humans to straddle the border between animate and inanimate, and cause us to question, on a primal level, what it means to be an independent animate being (2010: 86-87 [87]).

Natural feelings of disgust can sometimes be neutralized, as when people are accustomed to eat foods that are thought of as repulsive in other cultures. As mentioned in Chapter 4, disgust triggers vary across cultures, since they are partially learned through socialization. None of the categories of swarmers, however, are likely to have been a common source of food in Israel, except for certain locusts, for which concessions are made. It is more difficult to explain the prohibitions of the basic instruction (1) as originating with feelings of disgust. Pigs and camels hardly belong in the same category as mice and lizards and there is little reason for aversive feelings against them; hence they are never called detestable (*sheqets*) in Lev. 11. These large quadrupeds could provide food, were they not prohibited. In Deut. 14, however, the various categories not to be eaten are all introduced (v. 3) by the injunction not to eat anything 'abominable' (*to'evah*). Disgust language is here employed to characterize *all* prohibited animals. This could be interpreted as a secondary use of disgust language for what was on various grounds considered inappropriate behaviour, i.e., a way of phrasing a value judgment, or as a transfer of emotional disgust from more obvious disgust triggers to others that are clearly culture-specific. Deuteronomy's use of *to'evah* for all unclean animals could thus be understood as partly rhetorical, promoting 'disgust by association' for forbidden foods in general. Nevertheless, I think it is likely that feelings of what Kekes calls 'deep disgust'[26] ultimately lie behind a number of food prohibitions included within the concept of impurity, and that physical reactions against certain animals and animal carcasses played a crucial role in the development of dietary rules.

Disgust and Human Decay

When we turn to the three basic types of contagious bodily impurity in the priestly legislation, skin disease, genital discharges and corpse impurity (Lev. 12–15; Num. 19), the emotion of disgust can be traced here, too, although it might not be discernible on the surface of the legal texts. Elsewhere these impurities are often associated with decomposition, rotting and decay.

The disgust felt towards the skin conditions defined as *tsara'at*, traditionally translated as 'leprosy', probably had to do with scaliness,[27] damage and decay of the body envelope, which is one of the basic disgust triggers, according to Rozin and colleagues. This becomes clear in the narrative of Miriam's punishment (Num. 12), where she is likened to a half-decayed, stillborn foetus.

> When the cloud went away from over the tent, Miriam had become leprous, as white as snow. And Aaron turned toward Miriam and saw that she was

---

[26] Kekes 1992: 436.

[27] Cf. Hulse 1975: 96-100; Milgrom 1991a: 774-76, 816-17.

> leprous. Then Aaron said to Moses, ‘Oh my lord, do not punish us for a sin that we have so foolishly committed. Do not let her be like one stillborn, whose flesh is half consumed when it comes out of its mother’s womb.[28]

The skin conditions covered by the word *tsara‘at* were perceived as repulsive, and one would guess that this applied also to the various kinds of moulds on clothes and buildings, described in Lev. 13 and 14.

In the case of a corpse or a grave, the association with decaying matter is obvious. Although corpse impurity was considered as the most serious type of impurity, contaminating persons and vessels for seven days not only by touch, but also by overhang,[29] the biblical regulations (Num. 5.2-3; 19.11-22; 31.19-24) are less detailed than in the case of ‘leprosy’ or discharges. The concept of overhang was greatly expanded in later times.[30] The biblical rules describing how corpse impurity is transmitted (Num. 19.14-16) suggest that corpses were originally thought to ooze out some sort of quasi-physical substance,[31] particularly threatening the sphere of the holy. Priests were only allowed to contract corpse impurity at the death of close relatives, and for high priests there were no such exceptions.

> The LORD said to Moses: Speak to the priests, the sons of Aaron, and say to them: No one shall defile himself for a dead person among his relatives, except for his nearest kin: his mother, his father, his son, his daughter, his brother; likewise, for a virgin sister, close to him because she has had no husband, he may defile himself for her. But he shall not defile himself as a husband among his people and so profane himself. … The priest who is exalted above his fellows, on whose head the anointing oil has been poured and who has been consecrated to wear the vestments, shall not dishevel his hair, nor tear his vestments. He shall not go where there is a dead body; he shall not defile himself even for his father or mother.[32]

In the Second Temple period, an extra-biblical first day ablution had developed in order to mitigate somewhat the strength of corpse impurity, so as to make it possible for corpse-impure people to stay within cities.[33]

---

[28] Num. 12.10-13, NRSV.

[29] The idea of ‘overhang’ assumes that while corpse impurity entirely fills an enclosed space (like a ‘tent’ or a room), outside such a space it only operates vertically.

[30] See 11QT^{a} (11Q19) 49.5-19 as well as *m. Ohalot*.

[31] This type of conception might find its origin with the smell experienced from decaying corpses; the possible role of strong odours was pointed out to me by Tracy Lemos. One should also consider the possibility that odours were associated with demonic presence, not least in view of the fact that rules concerning corpse impurity for lay people only appear in Numbers, not in Leviticus, and are plausibly explained by Persian (Zoroastrian) influences, which would have included demonic conceptions. For further discussion and references, see Kazen 2010b, 5-8, and also Chapter 8 below, about the corpse demoness.

[32] Lev. 21.1-4, 10-11, NRSV.

[33] Cf. Num. 5.1-3; 31.19-24 with actual practice, at least during the Second Temple

Some suggest that we should look for the origin of corpse impurity in the war-camp regulations of Num. 31.19-24.[34] Others argue that Num. 31 is a midrash from the latest phase of theocratic redaction (late Persian period), which reflects a proto-chronistic theology.[35] In Num. 31 the slaughtering of enemies as well as touching them incurs a seven-day impurity, including washing of body, clothes and wooden vessels, while metals must go through fire. This represents a situation where warriors and their attire have become literally impure, i.e., filthied, smeared with blood and gore. Regardless of whether the war-camp regulations lie at the bottom of the concept of corpse impurity, or rather expand on such ideas, we can argue for disgust as a crucial factor in this text, too. Whatever the case, the rules are related and as pointed out above it is usually not death itself that is considered disgusting but the decay and decomposition associated with it.[36]

When we consider genital discharges the evidence is clearer. In another study I have discussed the discrepancies in Lev. 12 and 15, arguing among other things for an early view of the discharges themselves as impure, although this view is made less visible in the final form of the text, due to a systemic redaction of the various regulations.[37] Remnants of such thinking can be found in Samaritan *halakhah*, where direct contact with menstrual blood causes a 7-day impurity. Other examples include detailed regulations implying that the flux or blood transmits a stronger impurity than the impurity bearer.[38] Certain texts from Qumran also suggest similar views, as I have tried to show elsewhere.[39] Such considerations explain some of the discrepancies in the biblical legislation. This could imply that blood of a kind associated with decay, as well as gory or unnatural discharges, were experienced as disgusting and form the basis for the purity laws about discharges. The contempt with which dischargers are spoken of, together

---

period, which allowed the corpse-impure within towns. See Milgrom 1978: 512-18; Kazen 2010a (2002): 185-89; cf. Kazen 2010b: 63-111.

[34] Wright 1987a: 171-72.

[35] Achenbach 2003: 615-28.

[36] Feinstein similarly suggests that while the cycle of mortality is to be preferred as an explanation for the sources of ritual pollution rather than mere death, an even better explanation would be that ‘disgusting entities threaten the integrity of the individual human self as such’ (2010: 82-83, [83]).

[37] Kazen 2007; Kazen 2010a (2002): 144-46.

[38] The impurity of the discharges themselves is implied by detailed regulations concerning items underneath the discharger. Fear of contact with menstrual blood could explain why, if someone touches the bed or anything the menstruant has sat upon, their clothes must be laundered (Lev. 15.21-22), but not if the menstruant herself is touched (v. 19). The invisibility of male discharges on the other hand might explain why touching the *zav* means that one’s clothing must be washed (v. 7). For further discussion, see Kazen 2007: 348-71.

[39] Kazen 2010c.

with ‘lepers’ and the disabled, in 2 Sam. 3.29, suggests that the aversion felt against such categories of people was based on primary feelings of disgust towards their bodily conditions.

This line of thought receives further support from the extended use of the term *niddah*. Arguments for the exclusion of menstruants based on the etymology of the word (expulsion, spattering) must be refuted. The etymology has probably more to do with the expulsion of blood from the body.[40] The word *niddah* refers primarily to menstrual bleeding. Reactions against menstrual blood are found almost worldwide,[41] and may be illustrated by Pliny’s superstitious comments regarding its effects, which breathe feelings of revulsion.[42] The primary disgust expressed for menstrual blood, however, becomes paradigmatic. Ezekiel utilizes the primary disgust of his readers for menstrual blood to transfer their emotional indignation to the issue of gentile idolatry.[43]

> Mortal, when the house of Israel lived on their own soil, they defiled it with their ways and their deeds; their conduct in my sight was like the uncleanness of a woman in her menstrual period (*kᵉtum’at hanniddah*).[44]

Other texts from the Persian period (Ezra 9.11; 2 Chron. 29.5; Lam. 1.8, 17; Zech. 13.1) also express aversion to non-Israelites and their practices, using *niddah* as a general term for impurity and immorality. Menstrual terminology is thus used as strong emotional language for expressing value judgments.

Taking all these pieces of evidence into account, it seems likely that physical disgust lies behind a number of rules dealing with impurity as a ‘contact-contagion’. At the root we find emotional reactions against decaying substances that emerge from the human body.

---

[40] Fonrobert 1997: 124, n.11.

[41] Cf. Milgrom 1991a: 763-35. For modern examples, see Buckley and Gottlieb (eds.) 1988.

[42] ‘Contact with it turns new wine sour, crops touched by it become barren, grafts die, seeds in gardens are dried up, the fruit of trees falls off, the bright surface of mirrors in which it is merely reflected is dimmed, the edge of steel and the gleam of ivory are dulled, hives of bees die, even bronze and iron are at once seized by rust, and a horrible smell fills the air; to taste it drives dogs mad and infects their bites with an incurable poison. Moreover, bitumen, a substance generally sticky and viscous, that at a certain season of the year floats on the surface of the lake of Judaea called the Asphalt Pool, adheres to everything touching it, and cannot be drawn asunder except by a thread soaked in the poisonous fluid in question. Even that very tiny creature the ant is said to be sensitive to it, and throws away grains of corn that taste of it and does not touch them again’. Pliny, *Nat.* 7.64-65 (transl. H. Rackham).

[43] Note that Ezekiel usually employs *niddah* in its concrete sense (Ezek. 18.6; 22.10; but not 7.19, where it is used similarly to 36.17).

[44] Ezek. 36.17, NRSV.

Disgust at Repulsive Behaviour

What about the possibility that disgust also lies behind those types of ‘immoral’ behaviour for which purity terminology is used? Here, certain rules of the Holiness Code (Lev. 17–26) give us some clues. These are particularly found in Lev. 18 and 20.

As we have discussed in Chapter 5, many scholars today regard the Holiness Code as later than Lev. 1–16. It probably never existed as an independent collection, but was rather created as a complement in the formation of the book of Leviticus. Some scholars even consider a Holiness School to have redacted much of the Pentateuch, although I doubt that the interests of the final redaction of the Pentateuch can be equated with the interests behind the Holiness Code.[45] Knohl regards both P and H as processes that partly overlap in time and extend through several centuries, claiming that P’s original legislation is devoid of ethical elements, so that sins against the Lord’s commandments (Lev. 4.2; 5.17) only refer to *cultic* matters, and that only with the Holiness School ‘do we find the interpenetration of ethical and cultic considerations’.[46] This is a very difficult claim to support, however, and Milgrom objects, pointing to the use of *‘awon* in an ethical sense (Lev. 5.1, 17; Num. 5.15, 31; 30.16), as well as ethical issues involved in the defilement of the sanctuary and the Day of Atonement ritual.[47] Both agree, however, that H extends the sphere of God’s holiness to the whole land.

To regard the usage of purity terminology for moral matters as a secondary development as compared to a supposed primary usage for ritual matters in P does not hold water. This is especially clear from the way the *chatta’t* sacrifice is applied in P, to remove both impurity and sin (see below). This seeming anomaly is only due to our categorization.

In the Holiness Code, a number of terms are used for repulsive behaviour. This is especially apparent in sexual matters.[48] At the end of the incest laws (Lev. 18.6-18), sexual relations with a woman and her offspring are called shameful (v. 17: *zimmah*). This term is used to characterize the same relationship in Lev. 20.14, although phrased in the opposite direction, i.e., a woman and her mother. It is also used of making one’s daughter a prostitute (Lev. 19.29). The term is found frequently in Ezekiel with a similar meaning, in comparing the faithlessness and idolatry of the people with sexual immorality.[49]

---

[45] Cf. Milgrom 1991a; 2000a: 1319-67; 2000b: 2440-46; Knohl 1995: 199-224.

[46] Knohl 1995: 225-30.

[47] Milgrom 1991a: 44; 2000a: 1335-36, 1397-1400.

[48] For a recent study on sexual pollution in the Hebrew Bible, discussing this terminology in more depth than I do, see Feinstein 2010.

[49] Ezek. 16.27, 58; 22.9, 11; 23.21, 27, 29, 35, 44, 48, 49; 24.13.

Another term carrying a notion of offensiveness is *tevel*, which is used to characterize sexual contacts with animals (Lev. 18.23) and sexual relations between a man and his daughter-in-law (Lev. 20.12).

The most conspicuous term in the Holiness Code for expressing an emotional reaction of disgust against repulsive behaviour is *to'evah* (abomination). This word is found more than one hundred times in the Hebrew Bible, but seems to be absent in P. However, it is used in the Holiness Code, where it clearly expresses a feeling of disgust against same-sex relations between males (Lev. 18.22; 20.13), and functions as a blanket term, summarizing all the incest and sexual rules of Lev. 18, including bans on sex with animals and with women during menstruation (Lev. 18.26, 27, 29, 30).[50]

> Do not defile (*timme'*) yourselves in any of these ways, for by all these practices the nations I am casting out before you have defiled themselves. Thus the land became defiled; and I punished it for its iniquity, and the land vomited out its inhabitants. But you shall keep my statutes and my ordinances and commit none of these abominations (*to'evah*), either the citizens or the alien who resides among you (for the inhabitants of the land, who were before you, committed all of these abominations, and the land became defiled); otherwise the land will vomit you out for defiling it, as it vomited out the nation that was before you. For whoever commits any of these abominations shall be cut off from their people. So keep my charge not to commit any of these abominations that were done before you, and not to defile yourselves by them: I am the LORD your God.[51]

When we turn elsewhere (Deut., 1 and 2 Kgs, Isa., Jer., Ezek.), *to'evah* usually relates to idolatry, and in Proverbs it refers to serious sins in general.[52] Throughout Deuteronomy it is also used of defective sacrifice, invalid offerers, false weights and remarriage with a remarried divorcee, and in 14.3 it is used, as we have seen above, to characterize all categories of unclean food, as an equivalent to P's *sheqets*. Although *to'evah* is used in such diverse contexts, I think it is more than a ritual term that has become metaphorized. It is rather a term for a primary reaction of disgust that is increasingly being used secondarily to characterize unacceptable acts, to such an extent that it sometimes loses its physical and emotional base and becomes a way to express a value judgment only. This is however not its primary function in the

---

[50] Milgrom 2000a: 1345, argues that since *to'evah* in Lev. 18 is used separately only to characterize one prohibition (18.22), while several times summarizing all the prohibitions in the closing exhortation, this points to the incorporation of an older list of sexual prohibitions (18.6-23) into two reworded exhortations (18.1-5, 24-30).

[51] Lev. 18.24-30, NRSV.

[52] The term is also used twice in Genesis (43.32; 46.34) to convey the Egyptian view of Hebrews and shepherds as unclean. In Exod. 8.26 the Egyptians are assumed to regard the sacrifice of the Hebrews as abominable.

Holiness Code, where the term does express immediate emotional disgust at behaviour understood as repulsive and unacceptable.[53]

Such an interpretation is supported by the context in Lev. 18, where all of these abominations are said to make the land unclean (v. 27) and cause it to spit or vomit (*taqi'*) the people out (v. 28). Uncleanness and abominations are expressly paralleled (v. 30) and the metaphor is one of taste and oral incorporation of food, which is a primary disgust trigger. The imagery is repeated in Lev. 20, at the end of the corresponding list of sexual laws.

> You shall keep all my statutes and all my ordinances, and observe them, so that the land to which I bring you to settle in may not vomit you out. You shall not follow the practices of the nation that I am driving out before you. Because they did all these things, I abhorred them. But I have said to you: You shall inherit their land, and I will give it to you to possess, a land flowing with milk and honey. I am the LORD your God; I have separated you from the peoples. You shall therefore make a distinction between the clean animal and the unclean, and between the unclean bird and the clean; you shall not bring abomination on yourselves by animal or by bird or by anything with which the ground teems, which I have set apart for you to hold unclean. You shall be holy to me; for I the LORD am holy, and I have separated you from the other peoples to be mine.[54]

Here, not only the land, but also God, is said to have abhorred the former inhabitants or felt disgust (*quts*, cf. *sheqets* in chap. 11) at their repulsive behaviour (v. 23). This obviously refers to the preceding list of sexual sins, but the conclusion (vv. 24-25) is that the Israelites whom God has separated from other people and to whom he has given the land, must themselves separate between clean and unclean animals. Sexual 'immorality' and the breaking of 'ritual' food taboos are thus combined and jointly seen as repulsive behaviour, causing divine disgust to such an extent that the people would be threatened. The final motivation (20.26) consists of the same phrase as in 11.44: the people should be holy as God is holy. The 'gatekeeper emotion' is thus appealed to not only to protect the human body from impure intrusions, but also to protect the social body from becoming contaminated by what are characterized as foreign practices.

The idea of God feeling disgust is also found in Lev. 26, but the term used here is different (the verb *ga'al*).[55] The context is one of promise and threat associated with the keeping of the Holiness Code. Obedience will cause God never to loathe the people (v. 11), but if the people loathe God's commands (v. 15), God will loathe them (v. 30). If they are exiled, however, although the land will have to be compensated for its sabbaths by lying waste, God will not loathe the people and break the covenant, although they have loathed God's commands (vv. 43, 44). There is nothing about the sexual sins of Lev. 18–20, but the promises and threats rather seem to refer to the laws of worship, sabbaths and land in Lev. 23–25. It is doubtful whether the language used here reflects the *immediate* emotion of disgust that we have found earlier. In any case, it is no longer a question of *the land* loathing the people. The land is not portrayed as actively vomiting the people out, but passively as being laid waste by God (vv. 32-35). While the *topos* of exile is the same as in Lev. 18.25-28 and 20.22-24, the imagery is quite different. Some would assign this section of the Holiness Code to a fairly late stage.[56] While this may not be necessary, Lev. 26 is clearly shaped as a conscious conclusion to the Priestly legislation as a whole, drawing on both the sexual holiness laws (Lev. 18; 20) and the festival laws (Lev. 23–25), and mediating with Deuteronomic perspectives.[57]

---

[53] Cf. Milgrom 2000a: 1569, suggesting a root meaning of darken, contaminate or stain. The variability of the term is emphasized by Humbert, who argues that it cannot be restricted to a particularly type of sacred language. Humbert 1960: 217-37.

[54] Lev. 20.22-26, NRSV.

[55] This verb is not used elsewhere in the Pentateuch, but occurs in Jeremiah and Ezekiel. Cf. Milgrom 2000b: 2301-302. In Lev. 26 (NRSV) it is translated 'abhor' just like *quts* in 20.23.

A different terminology is also used in Deut. 23.15 (ET: 23.14), where the idea is expressed of God feeling disgust at ordinary human defecation, which makes it necessary to cover the excrement with the help of a stick carried in the belt for that very purpose. Although the verb *ta'av* is used in the preceding section dealing with attitudes to Edomites and Egyptians, and the corresponding noun (*to'evah*) is used in the subsequent rule about cultic prostitution, God's revulsion at human excrement is nevertheless not described by *to'evah* but by *'erwat davar*.[58] The reason may be that *to'evah* has almost become a technical term in Deuteronomy, expressing a value judgment of unacceptable ritual and moral behaviours, especially such that are associated with foreign practices. Since there are few ritual or moral connotations to defecation in ancient Judaism, at least not in the legal texts,[59] *to'evah* would not have been the obvious word to use. The immediate argument for the covering of human excrement is to avoid offending the deity's sense of taste, which is an immediate risk because of God's presence in the camp. In this case it is neither a question of value judgment, nor an issue of what is morally appropriate, but a straightforward case of an emotional disgust reaction against the unsavoury character of excrement, which is ascribed to God. Since this is motivated by the necessity to keep the camp holy, the clear implication is that divine holiness does not tolerate human excrement.

---

[56] Following Hoffmann, Milgrom (2000a: 1361; 2000b: 2272-2343) assigns 26.1-2, 33b-35 and 43-44 to H_R, the postexilic final redactor (H itself is considered pre-exilic). These sections talk about the Sabbath and presuppose the exile. However, in view of the use of the verb *ga'al* both within and outside of these passages, the excision of a few verses is no solution, and in any case unnecessary if H is understood as postexilic.

[57] Cf. Nihan 2007: 535-59. For a discussion of Lev. 26 and Deut. 28, see Chapter 8 below.

[58] The same expression is used in Deut. 24.1 for the feeling of revulsion causing a man to divorce his wife.

[59] Cf. 2 Kgs 10.27 and Ezek. 4.12-15 (I am indebted to Tracy Lemos for turning my attention to these texts). While the former text can be interpreted as faeces having a desecrating effect, the passage from Ezekiel indicates a view of human faeces as causing impurity. However, there is no indication of such a view in the Priestly legislation.

We thus have to conclude that not only human, but also divine disgust were live issues in the social contexts reflected in these texts, and that divine holiness was thought of as no more compatible with unsavoury sights than with offensive deeds. We also find that humans were supposed to share the same feelings and promote these attitudes. When feelings of disgust are understood as lying at the base of a number of purity rules as well as moral ideas for which purity language is occasionally used, their interrelationship is more easily understood.

Dealing with the Objectionable

We have suggested that basic morality as well as ideas of impurity originate with bodily reactions and feelings of disgust, and that such an understanding can be traced in a number of legal texts, and inform our reading and interpretation of them. Ideas of morality, as well as of purity, arise from a primary, biological reaction of disgust, leading the individual to shun certain substances, items or conditions, and in a more developed form, certain states, acts or types of behaviour. However, such individual reaction must, in a society, be balanced by social concerns. As we have seen, there are good reasons to believe that human morality has not developed merely out of self-interest, whether on a genetic or a cognitive level, and that issues such as adaptability and cooperation are just as important. In this chapter the focus has been on the role of disgust. Other emotions, such as empathy, fear, and a sense of justice, must be considered in explaining the mitigation of individual reactions by social concerns, and will be dealt with in subsequent chapters.

Because of such social concerns, a number of disgusting things must be accommodated within society, reduced and handled in various ways. As a society is often understood as consisting not only of living individuals but also of spirits and/or deities, rules and laws must accommodate and control that which is objectionable to both.

A number of strategies may be conceived of for dealing with the objectionable: *rejection*, *regulation* and *removal*. Examples of all three can be seen in the texts. The prohibition of unclean animals for food, the expulsion of 'lepers' from settlements, or even of dischargers and the corpse-impure as in the stricter tradition of Num. 5.2-3, all illustrate *rejection* as a strategy. This is also the case with the *karet* penalty and the death penalty, or even the exile of the entire people, resulting from a number of transgressions of the Holiness Code. *Regulation* is exemplified by rules about defilement by contact, defining the ways in which impurity contaminates, so as to make it possible for people to avoid it. Such rules are explicitly spelled out in the case of dead swarmers (Lev. 11.29-38) and people with genital discharges (Lev. 15.2-12, 16-27), but were deduced and developed with regard to other types of impurity as well. The incest laws of the Holiness Code (Lev. 18.6-18; 20.11-12, 14, 17, 19-21) as well as Deuteronomy's toilet law (Deut. 23.12-14) may be included in this category, too. Strategies of *removal* include the scraping or exchange of stones in 'leprous' houses, sometimes even demolishing the house (Lev. 14.34-47) as well as the burning of 'leprous' clothes (Lev. 13.47-59) or the destruction of vessels or ovens that were in contact with dead 'swarmers' (Lev. 11.33, 35). Some examples of removal and rejection might look identical, in particular the expulsion of severe impurity bearers (Num. 5.2-3). However, I consider this primarily an example of rejection, while removal attempts to take away or mitigate the cause of offence, without doing away with the impurity bearer. As examples of removal strategies we should particularly mention purification rituals involving washing, laundering, sacrifices and, in the case of 'lepers' and the corpse-impure, apotropaic rites involving a number of red substances.[60] The same or similar rites and sacrifices are used to remove a number of sins, especially the *chatta't* sacrifice and the Day of Atonement ritual, the latter involving elements reminiscent of the cleansing of the 'leper'.[61]

It has long been observed that the *chatta't* is no mere 'sin-offering', but serves an important function as a purification rite.[62] To claim that it has no role in removing sin is, however, an exaggeration, not least when the result of this rite in the context of inadvertent sins is described as 'he will be forgiven' (*w*^{e}*nislach*), just as its result in the context of impurity is that 'he will be purified' (*w*^{e}*taher*).[63] One possible interpretation of the *chatta't* is that of Alfred

---

[60] For a discussion of similarities between the bird rite (Lev. 14.1-7) and the red cow rite (Num. 19.1-10), see Kazen 2010a (2002): 305-10; Schwartz 2000: 207-22. See further below, Chapter 8.

[61] Similarities between the two goats (Lev. 16.15-22) and the two birds (Lev. 14.1-7) are obvious: slaughtering one, sprinkling its blood seven times, and releasing the other, apparently to carry sin/impurity away from inhabited areas. See further below, Chapters 8 and 9.

[62] See Milgrom 1971: 237-39; Anderson 1992: 879-80. There is no room for an elaborate discussion, but see further below, especially Chapter 9. Cf. also Kazen 2010a (2002): 211-14.

[63] For *w*^{e}*nislach*, see Lev. 4.20, 26, 31, 35; 5.10, 13, 16, 18, 26 (ET 6.7). For *w*^{e}*taher* / *w*^{e}*taharah*, see Lev. 12.7, 8; 14.20, 53. Cf. the abbreviated statement in contexts of impurity, Lev. 14.18, 19, 21, 29, 31; 15.15, 30. Milgrom's interpretation that in contexts where the formula *w*^{e}*kipper*... *w*^{e}*nislach* is being used, the original offence is really

Marx, suggesting that it should be understood as a sacrifice of *separation*.[64] The *chatta't* sacrifice separates the impure and the sinner from their former states. In the context of impurity, it does not purify by itself, but is applied after a period of purification that usually ends with washing and laundering. It is also used for separating priests, Levites and altars (consecration), and even in the opposite direction when a Nazirite ends his period of separation (deconsecration).[65] It can thus be understood as a rite of passage, signifying change of status, time or place. This interpretation is supported by the fact that it also belongs to the cultic calendar, being employed a number of times throughout the year, with neither sin nor impurity as its focus.[66] The *chatta't* sacrifice thus has a separating function, dissociating objects from their former state.[67] As an explanation with regard to P's sacrificial *system*, I find Marx's interpretation of the *chatta't* as a sacrifice of separation more convincing than Milgrom's, according to which the *chatta't* is necessary before every other sacrifice in order to purify the altar or sanctuary.[68] Not least, separation may explain some of the usages of the *chatta't* sacrifice within the P system, which evolved at a late stage.[69] The idea of separation, however, indicates a more concrete underlying understanding of *removal* of that which is considered objectionable, which becomes especially clear in contexts of impurity and transgression. This includes the removal of offence, for which the *'asham* sacrifice also must be considered. To this we will turn in more detail in Chapter 9.

In all strategies, whether we speak of rejection, regulation, or removal, ritual means are employed in one sense or another and social concerns are involved. At one end of the scale, rejection is considered necessary, since that which is experienced as objectionable is thought to be so serious and threatening to the social body that very little room for mitigation is possible. The threat sometimes seems to concern the divine power as well, which might suggest some kind of link between the emotion of disgust and demon

---

forgiven by feeling guilt, while the *chatta't* deals with the defilement of the sanctuary, is somewhat strained. See further below, Chapter 9.

[64] Marx 1989. Marx contrasts his view with more substitutionary interpretations, such as those of Janowski 2000 (1982) and Schenker 1981.

[65] Marx 1989: 33-35. Cf. Gane 2008.

[66] Marx 1989: 35-36.

[67] Marx 1989; cf. Marx 2005: 156-91. According to Marx (1989: 46), the positive correspondent is the burnt offering (*'olah*), which functions as an offering of reintegration. This element is present, however, even when the *chatta't* is offered by itself, through the burning of the fatty parts on the altar.

[68] Milgrom 1991b; Marx 1989; 2005: 178, 184-85.

[69] Cf. many of the examples provided by Marx of calendrical use of the *chatta't* sacrifice, which are likely to be late (Marx 1989: 35-36; cf. Achenbach 2003: 602-11; Wagenaar 2006 (not seen).

belief. At the other end of the scale, removal strategies not only mitigate feelings of disgust and avert demonic threat by getting rid of that which is experienced as objectionable through ritual means, but also function to re-integrate the affected or offending person.

In Chapter 8 below, which deals with fear, I will elaborate on the demonic aspects of biblical purity law and discuss the apotropaic and magical vestiges involved in a number of removal rites. This is concomitant with the observation that various types of objectionable items, states or deeds are thought of not only as offensive but dangerous to individuals, to society, and even to the deity.[70] This sense of offensiveness and danger can be partially explained as based on physical emotions of disgust. The obvious alternative would be Mary Douglas's classic idea of anomaly as the crucial factor behind notions of impurity.[71] While violations of boundaries clearly play an important role, anomaly cannot by itself explain the evolution of the concept of impurity. Nor does it satisfactorily explain the strong links that we have observed between purity and morality. Dirt is to humans more than matter out of place. Danger stems from more than surprise. Fear and disgust in the face of death, decay and animality are important factors, too.

Although conceptions of both purity and morality are context sensitive and certainly develop in dependence on social factors, they most plausibly find their common origin in human primary emotions, notably in the individual emotion of disgust towards objectionable substances. This emotion is secondarily applied to items, states and actions associated with such substances or evoking similar reactions, but it is also mitigated by social concerns. Thus not only rejection, but also regulation and removal become possible ways of dealing with the objectionable, whether understood as impurity or sin. From this perspective, too, we find that a number of biblical legal instructions for all three strategies make sense, not least rituals such as the *chatta't* sacrifice.

Conclusions

In the present chapter I have argued that emotional disgust not only underlies certain ideas of impurity as a 'contact-contagion' and the cultic behaviours associated with such impurity, but can also be detected behind a number of prohibitions, especially concerning the eating of particular animals, certain sexual behaviours and false worship. These are acts that we would usually classify as either ritual or moral, although as I have argued already in part I, such distinctions are problematic and to a large extent anachronistic in relation to the ancient world.

---

[70] I have discussed these apotropaic rites and demonic vestiges in Kazen 2010a (2002): 301-13.

[71] Douglas 2002 (1st edn 1966): 51-71. Douglas later retreated from this position, but it is uncertain whether her new stance is better, since she claims that abhorrence has nothing to do with purity laws, but that it is abominable to harm animals not used for sacrifice. Arguing from divine rationality, justice and compassion as being incompatible with the creation of abominable animals is hardly convincing (xiii-xvi).

The emotion of disgust is a negative reaction to perceived threats and has evolved to protect organisms from harm. It is often associated with three components: oral incorporation, offensiveness and contamination potency. Generally recognized disgust triggers (Rozin) include food, body products, animals, sex, death/corpses, damage to and decay of the body envelope, poor hygiene, interpersonal contamination, and moral offence. All of these triggers can be related to various concepts of impurity.

I have discussed purity laws and some of the rules of behaviour in the book of Leviticus for which purity language is used, or which border on the purity system in various ways. I have also looked at ritual elements or practices used for dealing with impurity and sin alike. Drawing on insights from other disciplines into the origin and development of human morality, and in particular on insights from cognitive science into the emotion of disgust, I have suggested that several details that are often regarded as anomalies in the purity laws and difficult to explain, can be consistently interpreted, and that a number of traits can be traced to a common emotional and evolutionary origin.

Looking at the dietary laws of Lev. 11 we do not have the sort of theological viewpoint suggested by Meshel. Rather than being used to distinguish a particular type of impurity, the term *sheqets* is used as an immediate expression of emotional disgust against certain animals, also including their use for food, in particular to denote the category of swarmers. This emotional reaction against animals understood to threaten the integrity of human life is less accentuated in Deuteronomy, which uses disgust language (*to'evah*) also for cases that would trigger less immediate emotional responses; here we may speak of a rhetorical or prescriptive use, transferring emotional disgust from one context to another.

When impurity is considered as a 'contact-contagion', we have found bodily damage and decay a common denominator for *tsara'at*, discharges and corpse impurity alike. It is not death as such, or even the life cycle in its totality, but rather the decay of the body that is the main cause of disgust and source of impurity. Here Feinstein's emphasis on the threat to the integrity of individual human life is especially apt. The rhetorical use of impurity terminology, especially *niddah*, used to convey a sense of disgust at idolatrous practices in a number of texts outside of the purity laws, is conspicuous. Menstrual terminology provides a strong emotional language for expressing value judgments.

This is close to the use of purity terminology in the Holiness Code. I have suggested that such usage is not a secondary development in contrast to an earlier primary application to ritual matters, but that both usages are more or less secondary, although clearly based on feelings of aversion. A number of sexual behaviours are rejected and branded as abominations (*to'evah*). In the Holiness Code this term expresses feelings of physical disgust towards unaccepted practices. In Deuteronomy, however, it is more of a technical term expressing a value judgment, having lost some of its physical base. This is similar to Lev. 26, where using other terms for loathing does not reflect the same immediate emotion of disgust as earlier chapters.

We have thus found that all three phenomena for which impurity language is used in Leviticus—dietary laws, contagious impurity and certain types of immorality—clearly relate to recognized disgust triggers. All of them share common traits that can be related to the primary emotion of human disgust. Primary disgust at objectionable substances has been applied to all these phenomena alike, often secondarily or in a transferred sense. The emotional component in these expressions of aversion is usually strong, although in some cases disgust vocabulary can lose some of its affective grounding, as when it turns into technical language or becomes primarily the expression of value judgments.

Finally, we observed strategies for the mitigation of feelings of disgust in social and cultic concerns, through rejection, regulation and removal. Food prohibitions, expulsion, *karet* and death penalties and exile are examples of rejection, while rules about impurity by contact, as well as a number of sexual laws, provide examples of regulation. The exchange of stones, burning of clothes and destruction of vessels illustrate a strategy of removal. In this category we should also include purification rituals and sacrifices effecting *kipper*, in particular the *chatta't*, which separates or removes that which is considered objectionable.

Impurities as well as offensive behaviour understood as sin are variously dealt with in order to avert their threat against individuals, the social body and the divine. The gatekeeper function of disgust is thus at work not only to protect human beings as individuals, but at all levels.

Chapter 7

EMPATHY AND ETHICS IN THE COVENANT CODE, DEUTERONOMY, AND THE HOLINESS CODE

> One of the most repeated quips in the sociobiological literature of the past three decades is “Scratch an ‘altruist,’ and watch a ‘hypocrite’ bleed.” … Modern psychology and neuroscience fail to back these bleak views. We’re preprogrammed to reach out. Empathy is an automated response over which we have limited control. We can suppress it, mentally block it, or fail to act on it, but except for a tiny percentage of humans—known as psychopaths—no one is emotionally immune to another’s situation.
>
> –Frans de Waal[1]

Introduction

In the previous chapter we explored disgust as an underlying emotion in order to better understand the relationship between various ideas of impurity: contamination through contact, including cultic behaviours and rites associated with it, food prohibitions, and certain rules concerning sexual behaviours and false worship. This showed the role of emotional disgust not only in conceptions of impurity, but also in concepts of morality.

In the present chapter I wish to pursue this direction further by examining the role of empathy in the development of biblical moral rules. Does empathy primarily serve to mitigate legal issues with social concerns, or does it also play a constructive-creative role in the formation of biblical law or teaching? What signs do we find in legal texts for human experiences of pain, harm or injustice influencing the shape and content of a number of humanitarian rules?

While empathy may be conceived of as lying behind a number of mitigating rules and practices in biblical law, such as more lenient provisions for menstruating women compared to pathological dischargers (Lev. 15),[2] less costly sacrifices for the poor (e.g. Lev. 14.21-22), the waiving of holiness concerns to allow for widowed daughters of priests to be supported by their families (Lev. 22.10-13), or excepting certain available locusts from prohibited foods (Lev. 11.21-22),[3] the role of empathy is nowhere *explicit* in these texts. We may similarly suggest social concerns behind a number of different strategies for the regulation and removal of objectionable things, states and behaviours associated with disgust, in order to avoid the strictest alternative, rejection.[4] In all these cases, however, we would have to infer empathy, as an *implicit* factor giving room for mitigating adaptations within the social and legal system.

---

[1] De Waal 2009: 43.

[2] Kazen 2007: 355-56. Ellens (2003: 29-32) provides a linguistic argument for associating menstruation with illness.

To find *explicit* expressions of empathy behind legal provisions, we have to look at rules dealing with ingroup-outgroup relationships and the treatment of peripheral or exposed categories of people. These are rules that can be understood to appeal to the empathic capacity of the addressees of the legal collections under discussion. As we will see, different texts suggest different types of empathy, and our assumptions about the social context of various collections at times influence how we register and interpret certain empathic rules. We will thus try to distinguish between experiential and cognitive types of empathy, between affective motivations and perspective-taking. We will also take note of how the expanding circle of altruistic behaviour is extended under certain circumstances beyond kin, tribe and nation to include at least moderately integrated foreigners.

In the following, I will explore whether certain cognitive perspectives on empathy can assist our interpretation of some of the humanitarian laws and their interrelationship. In order to do this I will analyse and compare the role of empathy for certain rules in the Covenant Code (Exod. 21–23), in Deuteronomic law and in the Holiness Code (Lev. 17–26). In the subsequent chapter on fear I return to these three legal collections to elaborate further on attitudes to foreigners. As already mentioned, these three codes or collections are interrelated and some of our findings concerning the emotions suggested by these texts will be brought into dialogue with the current discussion about dating, provenance and directions of influence, although this is not the main purpose of the analysis.

Humanitarian Laws in the Covenant Code

As we have already seen in Chapter 5, correspondences between the Covenant Code and Hammurabi's law are conspicuous, especially in the casuistic laws, but as Wright has shown, style and topics suggest that this applies also to the apodictic laws.[5] In the latter case, however, the nature of correspondence is different and there is more material that could make a claim to originate from local custom.[6] Rules relating to Israelite cultic practices belong to this material, but also the humanitarian laws in Exod. 22.20-26 (ET 21-27).

---

[3] Although this should probably be deemed a case of convenience rather than of empathy, since there is little evidence for locusts being a source of nourishment for the poor; they were rather a delicacy enjoyed by the more affluent. Cf. Kelhoffer 2005: 46-49. My own guess is that the exception provided by Lev. 11 was formulated during the Persian period and prompted by an Israelite appreciation of such foods during the exile.

[4] Kazen 2008; see also the previous chapter.

> You shall not wrong or oppress a resident alien, for you were aliens in the land of Egypt. You shall not abuse any widow or orphan. If you do abuse them, when they cry out to me, I will surely heed their cry; my wrath will burn, and I will kill you with the sword, and your wives shall become widows and your children orphans. If you lend money to my people, to the poor among you, you shall not deal with them as a creditor; you shall not exact interest from them. If you take your neighbour's cloak in pawn, you shall restore it before the sun goes down; for it may be your neighbour's only clothing to use as cover; in what else shall that person sleep? And if your neighbour cries out to me, I will listen, for I am compassionate.[7]

This section treats what we today might call under-privileged groups. An immigrant (*ger*) must not be oppressed; widows and orphans may not be maltreated. Money may not be lent for interest to anyone belonging to the people (*'et-'ammi 'et-he'ani 'immak*); a cloak taken as a pledge from a neighbour (*rea'*) must be returned before sundown.

The contents are admittedly not unique; the widow as a standard *topos* is addressed by Hammurabi's justice, too,[8] and the orphan (22.21; ET 22.22) may correspond to the homeless girl (*ekūtu*) in Hammurabi's law (LH xlvii 59-62). Protection of the poor in the context of debts (22.24; ET 22.25) may possibly be implied in the same context (LH xlvii 59-78), but Hammurabi's law does not include the details found in the Covenant Code and in contrast endorses interest, as is clear from LH xiv 18–xv 6 and diverse fragments on the merchant.[9] The regard for foreigners (22.20; ET 22.21) in particular seems to be unique when compared to other ancient Near Eastern legal collections.[10] There is thus some room for a local or customary origin for certain individual laws in this section of the Covenant Code.[11]

---

[5] Wright 2009: 51-81.

[6] Wright 2003: 35-42, 47-50; 2009, 301-302, 348, 352; cf. 173, 183, 191.

[7] NRSV.

[8] Wright 2003: 37, 49-50.

[9] Richardson 2004 (2000): 64-65, 68-71.

[10] Although Wright (2009: 57-58, 379 n.21) points out that the 'weak' (*enšum*) in LH and the immigrant in the Covenant Code are comparable in a general way as powerless and disadvantaged in a socioeconomic sense.

[11] Wright 2009: 301-302, 348, 352; cf. 173, 183, 191. Kratz 2005: 140-44 talks of second person additions to the earliest mishpatim, to which the sections with a social emphasis (22.20–23.9 and 23.10-12) belong. A second-person-singular revision begins a theologization of law that makes it come close to paraenesis. There are also further

Excursus: Ancient Roots in Israelite Customary Law?

The recent finding of an ostracon at Khirbet Qeiyafa may perhaps confirm the possibly ancient and customary origins of the Covenant Code's instructions concerning the underprivileged: the widow, the orphan and the immigrant, or resident alien.[12] The ostracon carries writing in proto-Canaanite, or rather, in the terminology suggested by Misgav, Garfinkel and Ganor, late Canaanite script.[13] It has evoked much interest, principally because it is probably the oldest extant example of Hebrew writing so far, being dated to ca. 1000 BCE. The ostracon has undergone advanced imaging and no effort seems to have been spared in deciphering the faint letters, written with ink.[14]

Most scholars take a restrained approach to the ostracon and its text, avoiding uncertain reconstructions; the suggestions by Gershon Galil have generally been considered too speculative and fanciful. His translation, based on his reconstructed text, runs:

> you shall not do [it], but worship the [Lord].
> Judge the sla[ve] and the wid[ow] / Judge the orph[an]
> [and] the stranger. [Pl]ead for the infant / plead for the po[or and]
> the widow. Rehabilitate [the poor] at the hands of the king.
> Protect the po[or and] the slave / [supp]ort the stranger.[15]

This reads like a manifesto of justice. The excavators have criticized Galil not only for his speculative translation, but also for taking credit for the decipherment, which was initially done by others.[16] Others have, however, followed suit, most notably Émile Puech, whose recent reconstruction and translation is well argued,[17] although his attempts to associate the Khirbet Qeiyafa ostracon with the election of Saul and the unjust judgments of the sons of Samuel are speculative indeed and difficult to prove.[18] One does not have to accept these suggestions, however, in order to consider Puech's reconstruction and translation, which has some affinities with that of Galil, but differs on important points. An English version (Puech's translation is in French) would read something like this:

---

second-person-*plural* additions, which include some of the motivations: 'you (pl.) were immigrants in Egypt'; 'I will kill you (pl.) by the sword so that your (pl.) wives will become widows and your (pl.) sons will become orphans'. I am hesitant, however, at such a detailed stratification of the text. It would suggests editors or revisers with very little ability indeed in adapting their style to the form of a given text when developing or emending it. For a good argumentation with alternative explanations, see Wright 2009: 324-32.

[12] The ostracon is described and discussed by Misgav, Garfinkel and Ganor 2009. Cf. the complementary discussion by Yardeni 2009.

[13] Misgav, Garfinkel and Ganor 2009: 246.

[14] Bearman and Christens-Barry 2009.

[15] For Galil's reconstruction of the Hebrew, see http://newmedia-eng.haifa.ac.il/?p=2043, accessed 101214.

[16] The excavators published an open letter to Galil, see http://qeiyafa.huji.ac.il/galil.asp, accessed 101214.

[17] Puech 2010.

[18] Puech 2010: 179-84.

> Do not oppress, and serve God … the judge robbed/despised him/her and the widow wept, he took power over the immigrant and over the child, he brought them to an end together, the men and officials/their official established a king, he has marked/set aside 60 slaves among the communities/generations…[19]

Although the proposed reconstruction and translation are very uncertain and depend heavily on educated guesses, the Israelite triad of widow, child (orphan) and immigrant found in the Covenant Code is conspicuous—if correct. Although different terminology is used, verbs for oppression or bringing to an end, abuse or robbing, and crying or weeping seem to occur both in the Covenant Code and on the ostracon. Like the Covenant Code injunction, the ostracon begins with an imperative not to oppress members of these vulnerable categories, and it could be part of an edict, as Puech has suggested, with the intent of rectifying abusive practices.

One cannot reasonably build a case on this, but the possibility that the Covenant Code's apodictic humanitarian laws in particular could have ancient roots in Israelite customary law should not be excluded, although the legal collection at large would have been shaped during the eighth century BCE and based on Hammurabi's law.

A closer examination of Exod. 22.20-26 (ET 21-27) reveals an appeal to the empathic capacity of the recipients, or, if some of these rules are taken as reflections of customary law, they suggest an empathic explanation of and motivation for such practices. The prohibition against oppressing immigrants is motivated by the experience of having been foreigners in Egypt (v. 20, ET 21), further explicated in 23.9. In the *narrative world* of the Exodus text in its entirety, an *emotional match*, based on one's own first-hand *experience*, is envisioned. Using Hoffman's scheme with five modes of empathic arousal, discussed in Chapter 5 above, we might speak of *direct association*. The Israelites at Mount Sinai are envisaged as associating their immediately preceding experiences of being oppressed foreigners with those of the immigrants referred to. For the *intended recipients* of the separate Covenant Code, however, a *cognitive* type of empathy, based on human capacity for *perspective-taking*, might seem more appropriate. The (late) eighth century addressees of the text are first expected to empathize with their ancestors in Egypt and then by some kind of analogy extend that empathy to foreigners in their own society. This is not, however, a matter only of *cognitive perspective-taking*. The appeal to a shared inherited experience has the effect of adding an *affective* component to the concern for resident foreigners. From a *historical* point of view, the complicated political situation and tribal demography of ancient Israel at the time of the creation of the Covenant Code would have ensured that a number of people actually had first-hand experience of minority situations and even displacement or exile. We might thus think of the text as suggesting an empathic response based on *mediated association*. The historical addressees of the text are supposed to empathize both because they themselves had to some degree been exposed to out-group experiences, and because of their knowledge of the situation of the immigrants in question. The appeal to Egypt, while superficially on a *cognitive level*, is thus structured as to trigger a *multilayered empathy*.

---

[19] See Puech 2010: 171, for a reconstruction of the Hebrew and a French translation. My English rendering is based on these and on Puech's commentary on pp. 171-77.

The appeal to shared experience is enhanced when the command against oppressing the immigrant returns (23.9): ‘you yourselves have experienced the immigrant’s life/existence’ (*wᵉ’attem yᵉda‘ttem ’et-nefesh hagger*). The difference in phrasing as compared to some parts of Deuteronomy should be noticed; in the Covenant Code there is *no talk of slavery*, but only of having been *foreigners* in Egypt. It is tempting to suggest that these injunctions stem from a period before the exodus narrative was established and originally referred to traditions about Israel’s ancestors having sojourned in Egypt. The association with the exodus would then have resulted from the incorporation of the Covenant Code into the larger exodus narrative.[20] This would mean that the presupposed *emotional match* was not originally dependent on Israelite experience of slavery or exile, but rather on migration, famine, and poverty. The inclusion of the immigrant or resident foreigner in the laws concerning under-privileged groups suggests a social and historical context in which immigrants rarely attained prominence in society. Not that all immigrants were necessarily poor, but the ‘typical’ stranger would be considered such.[21]

The concern for poor immigrants has sometimes been taken to reflect an influx of northern refugees after the fall of Samaria.[22] This is a reasonable possibility, although other types of displacement due to loss of land, war or famine are alternatives. Wright doubts that the Covenant Code has displaced Israelites in mind, and thinks that true foreigners are intended, in view of the reference to Egypt.[23] However, in view of the suggestion that neither exile, nor foreign slavery were referred to in the original context of the Covenant Code, we should seriously consider the idea that the type of empathy demanded from the historical addressees would not have been too far removed from the emotions envisaged for the narrative audience, with whom the actual addressees were supposed to identify. A close *emotional match* becomes more reasonable in a context of displacement, famine and intra-Israelite migration.

---

[20] Cf. the varying suggestions by Wright (2009: 332-44, 356) and Levinson (1997: 153, n. 17; 2004: 281-83) referred to in Chapter 5 above. The concluding section (Exod. 23.20-33), referring to the conquest of the land, is often understood to have been added to the original Covenant Code at some stage (cf. Wright 2009: 499, note 83, with further references), and the reference to Egypt as a motivation for the Feast of the unleavened bread (23.15) is easily explained as an insertion at a stage when the Covenant Code was incorporated into the exodus narrative. Note that Exod. 23.15 contains what could be considered a cross-reference (‘as I commanded you’) back to Exod. 13.6. In that narrative, the Feast of the unleavened bread is joined to Passover (12.43-49) and Egypt is described as the house of slavery (13.3). In Exod. 23.15, however, there is no association with Passover—it is not even mentioned. This suggests an original festal calendar that is older than the combination of the two feasts, and supports the idea of references to Egypt and the exodus being added later. Cf. Dozeman 2009: 550.

[21] Cf. Nihan 2009.

[22] Wright 2009: 301; in the end, however, Wright does not settle on this interpretation. For further references, see p. 476, note 45. This suggestion is even more common for Deuteronomy’s use of *gerim*; see Sparks 1998: 223-67, especially 238-45. Sparks however follows Van Seters in considering the Covenant Code later than Deuteronomy. An

The subsequent command concerning widows and orphans is followed not by an appeal but by a divine threat: if you maltreat them, God will listen and out of anger kill you by the sword, making widows of your wives and orphans of your children (vv. 21-23, ET 22-24). Despite the harshness, the effect is an appeal to the recipients' experience. *Historically*, war, border-conflicts, robbery and loss of family, were part of first-hand *experience*. The threat seeks an *affective response* to the imagined fate of one's own family and, in extension, to the fate of those who are presently struck by such unfortunate circumstances. This is not an appeal to a cognitive understanding or cool reason alone, but again we might suggest an empathic arousal by *mediated association*, which also fits the suggestion of an influx of northern refugees.

The initial prohibition against usury seemingly lacks an appeal to empathy (v. 24, ET 25), but associates personal money-lending for interest with the category of usurers (*nosheh*). This prohibition is, however, intimately associated with the following one, which specifies a way of acquiring some security for a loan: keeping the debtor's cloak (vv. 25-26, ET 26-27). It must not be kept overnight, according to the command, since this is the only covering a poor person might own. The appeal to a *basic form of affective empathy* is apparent here, although not clearly spelled out: the bodily experience of freezing is so common to all human beings that no additional information about the debtor is needed; empathic arousal occurs through *direct association*. In addition, there is an implicit threat: God will listen, because he is merciful (*channun*). God is thus portrayed as capable of both an affective and a cognitive understanding, which challenges the recipients of the command.

---

interpretation of *gerim* as (sometimes) referring to landless Israelites also fits with the slave laws referring to Hebrew debt slaves (Exod. 21.2-11), something that is acknowledged by van Houten 1991: 227, note 11. Bultmann (1992: 213-14) claims that the *ger* is a stranger in the town or village in which he dwells, but not a non-Israelite; he finds no evidence, however, for *gerim* designating northern immigrants after the fall of Samaria.

[23] Wright 2009: 301.

Empathic consideration for other people is further reflected in the subsequent section. Apart from prohibitions against false testimony and bribes (23.1-3, 6-8), helpfulness is commanded even in the case of an enemy's ox or donkey (23.4-5). The seventh year fallow period is motivated by the poor gaining access to the crops (23.10-11).

> For six years you shall sow your land and gather in its yield; but the seventh year you shall let it rest and lie fallow, so that the poor of your people may eat; and what they leave the wild animals may eat. You shall do the same with your vineyard, and with your olive orchard.[24]

The Sabbath day rest, too, is in distinction to the Decalogue explicitly *motivated* by concern for working animals, slaves and immigrants (23.12), not only said to *embrace* these categories.[25]

> Six days you shall do your work, but on the seventh day you shall rest, so that your ox and your donkey may have relief, and your homeborn slave and the resident alien may be refreshed.[26]

These instructions exemplify a number of the aspects of empathic understanding discussed above: empathy as rooted in an *immediate affective response*, based on self and the concern for those of close kin, but extending its sphere to 'outsiders' to an increasing degree—to underprivileged in-group, even to enemies in certain cases, and to out-group, at least such as are partially incorporated in one's own society. *Affective and cognitive elements interact* and appeals are made to a combination of both. The emotional component is never absent and *empathy is triggered on various levels*. We would expect constraints, however, and these will be more visible as we turn to Deuteronomic law.

Empathy in Deuteronomy

Even though a consensus regarding the dating of Deuteronomy is absent, a majority of scholars regard Deuteronomy as partly modelled on the Covenant Code, as we have noted above, and many associate a Deuteronomic core (parts of Deut. 12–26) with social and religious changes during the seventh century BCE. The basic laws of this core were further expanded and revised throughout the exile and probably even into the Second Temple period, as part of the final redaction of the Pentateuch.

The exact content of an 'original' core is contested, however, and some, like Kratz, only ascribe tiny parts of chaps. 12–26 to an original core. If we follow Kratz's criteria (see Chapter 5 above), most of the material relevant to the present discussion on empathy would not belong to the original core.[27] We have seen, however, that these criteria are not unanimously accepted; indeed some can seriously be questioned.[28] It would indeed be strange if an early elaboration and revision of the Covenant Code hardly included the humanitarian rules of the apodictic section at all. To complicate matters, scholars are not always clear about how soon various 'supplements' and additions are thought to have been added. We cannot, however, discuss details of redaction and development in detail, but must focus on expressions of empathy in Deuteronomic law at large.

---

[24] NRSV.

[25] Which is actually closer to the version in Deut. 5.12-15.

[26] NRSV.

Materials from the Covenant Code on widows, orphans and immigrants are first echoed in Deut. 10.17-19, belonging to the paraenetic framework.[29]

> For the LORD your God is God of gods and Lord of lords, the great God, mighty and awesome, who is not partial and takes no bribe, who executes justice for the orphan and the widow, and who loves the strangers, providing them food and clothing. You shall also love the stranger, for you were strangers in the land of Egypt.[30]

The section in question (10.12–11.30) elaborates on the *shema* (6.4-9), referring to divine love as the cause of election. In this context, God is characterized as the god of gods, a terrible hero and the guarantor of justice for the orphan and widow, loving immigrants, giving them food and clothing. Here God is given the role of, and replaces, Hammurabi, who set up his stela 'to provide justice for the homeless girl and widow' (LH xlvii 61-62).[31] God is thus associated with the empathic capacities that are generally ascribed to the king and lawgiver and portrayed as himself fulfilling the requirements of the covenant. This gives further emphasis to the subsequent command: 'and you shall love the immigrant, because you were immigrants in the land of Egypt' (10.19). The motivation referring to Egypt has by now become a standard *topos*,[32] and we may be inclined to read the reference to God's love as an appeal mainly to the historical addressees' empathy in the form of *perspective-taking* The same divine love that has just been proclaimed as the reason for the divine election of Israel, and thus, implicitly, for the redemption from Egypt (10.15), is now directed towards the immigrant and hence the people are challenged likewise to love the immigrant, remembering—cognitively rather than by personal experience—that their own redemption and election depend on that type of love.

---

[27] Kratz 2005: 133.

[28] Veijola 2000: 207; Wright 2009: 324-32.

[29] Kratz 2005: 114-33.

[30] NRSV.

[31] Wright 2003: 37.

[32] The formula *ki-gerim heyitem b^{e}'erets mitsrayim* ('because you were *gerim* in the land of Egypt') is identical in the Covenant Code (Exod. 22.20; 23.9).

Again, this is how the text would read in its final form, as part of the Pentateuch, but in itself this passage does not imply deliverance from slavery. The emphasis is on the election of Israel's ancestors ('fathers'), and only as an afterthought are they identified in v. 22 with the patriarchal narrative of Genesis: 'Your ancestors went down to Egypt seventy persons; and now the LORD your God has made you as numerous as the stars in heaven.' This is definitely part of a late redaction, referring to the genealogy in Gen. 46, which is inserted into the narrative, and to the similarly redactional introduction to the book of Exodus, both mentioning the number seventy (Gen. 46.27; Exod. 1.5). The promise to Abram (Gen. 15.5), that he will have descendents as numerous as the stars, is also in the background.[33]

This suggests that the core of this section, elaborating on the *shema* and building on the Covenant Code, contains early Deuteronomic material, which is dependent neither on the developed patriarchal narratives, nor on a myth of slavery and redemption, but simply on traditions about the 'fathers' for some time being strangers in Egypt. As in the case of the Covenant Code, discussed above, this could be related to intra-Israelite displacement and loss of land, followed by poverty and starvation, which would fit a seventh-century pre-exilic date well.[34] Some of the suggestions already mentioned for the Covenant Code are thus extremely relevant to early strata of Deuteronomy, too, and the empathy expected of the early recipients can be understood to be triggered by *mediated association*, rather than by *cognitive perspective-taking* alone. There is an unmistakably *affective component* in the text's appeal, which counters an expected *group egoism*, and we could speak of a fairly close *emotional match* in this case, too.

An exilic *Sitz im Leben* for this text seems less likely, since an exilic context does not fit with a picture of a limited number of vulnerable immigrants living among the Israelites. A pre-exilic situation is more likely, in which nationalist sentiments, external pressure and the struggle for independence and survival might have acted as constraints, *limiting empathic response* to a narrow in-group, and hence being in need of counteracting empathic reminders. A postexilic context is reasonable for the final form of the text, which ties it to the exodus narrative. Since Egypt will now easily be read as a metonym for Babylon, this move ensures that in spite of the distance, the appeal to the empathy of the recipients will not depend on *cognitive perspective-taking* only, but will actually involve a more *immediate experiential* understanding.

---

[33] For discussions of traditions about Israel's patriarchal ancestors and their development in the Persian period, see Blum 1984; Römer 1990; Albertz 2003 (2001): 246-71. Here I am suggesting that we must not only distinguish between traditions about Israel's 'fathers' and the patriarchal narratives, but also between traditions about being strangers in Egypt and narratives of slavery followed by redemption.

[34] Cf. Sparks 1998: 238-45. Sparks counts four categories in Deuteronomy in addition to land-owning Israelites: unlanded Israelites (*ger* / *'achim*), non-Israelites on the social periphery (*ger*), non-Israelites in geographical proximity (*ger*) and foreigners (*nokri*). The first two are considered inside the community while the two last are outside. The *ger* can thus be an insider or an outsider, an Israelite or a non-Israelite, depending on the context (see especially p. 241). For an overview of various interpretations of the *ger* in Deuteronomy, see Bennett 2002: 38-48.

The three categories, immigrants, orphans and widows, return several times in the main body of Deuteronomic law. In 14.29 and 26.12-13 they are added to the Levites, who as a result of cult centralization risked marginalization.[35] All four are included with family and slaves in the now centralized celebration of the Feast of Weeks (16.11-12) as well as the Feast of Booths (16.14) in Jerusalem.

References to the immigrant, orphan and widow, echoing and developing the Covenant Code, are also found in Deut. 24.17-22. The triad is frequently found in some of the prophets, when the people are being accused of faithlessness towards the covenant (Jer. 7.6; 22.3; Ezek. 22.7 [cf. 22.29]; Zech. 7.10; Mal. 3.5), and has become a standard expression for vulnerable categories in general. The preceding commands (Deut. 24.6, 7, 10-15) similarly develop Covenant Code instructions on usury, kidnapping, and the taking of pledges. A number of instructions in the larger section (Deut. 22–25) relate to and develop parts of the Covenant Code in various ways, such as the injunction to assist other people's animals (Deut. 22.1-4), the extended rules concerning seduction or rape (Deut. 22.23-29), and the sections on disputes and fights (25.1-3, 11-12), which are related to Covenant Code rules about fights and damages, although in Deuteronomy the issue is not manslaughter.

The Deuteronomic elaborations on usury and pledges include the prohibition of certain items as pledges, specifying the manner in which pledges may be taken; they exhibit a concern for the poor, repeating the importance of returning a poor man's clothing before sundown. Similarly, salaries should be paid to day-labourers before sundown.

> No one shall take a mill or an upper millstone in pledge, for that would be taking life in pledge. … When you make your neighbour a loan of any kind, you shall not go into the house to take the pledge. You shall wait outside, while the person to whom you are making the loan brings the pledge out to you. If the person is poor, you shall not sleep in the garment given you as the pledge. You shall give the pledge back by sunset, so that your neighbour may sleep in the cloak and bless you; and it will be to your credit before the LORD your God. You shall not withhold the wages of poor and needy labourers, whether other Israelites or aliens who reside in your land in one of your towns. You shall pay them their wages daily before sunset, because they are poor and their livelihood depends on them; otherwise they might cry to the LORD against you, and you would incur guilt.[36]

---

[35] Kratz 2005: 121.

[36] Deut. 24.6, 10-15, NRSV.

As Bartor has pointed out, the characterization of the labourers as poor would be quite sufficient to drive home the point, but the comment about their survival adds an emotional component to the legislation by revealing the emotional state of the labourers. This has a double effect: it motivates the law and it influences the behaviour of the addressees by mobilizing their empathy.[37] The prohibition against oppressing poor day-labourers applies explicitly to Israelite brothers (*'achim*), as well as to immigrants (*gerim*), and thus exemplifies a type of *altruism* that *extends empathic behaviour* outside tribal or ethnic borders, to include at least a certain category of foreigners.

In vv. 17, 19, 20, 21, immigrants, orphans and widows are understood as objects of charity: they should be allowed the remains of the harvest, of olive trees and vines and they are supposed to receive the third year tithe.

> You shall not deprive a resident alien or an orphan of justice; you shall not take a widow's garment in pledge. Remember that you were a slave in Egypt and the LORD your God redeemed you from there; therefore I command you to do this. When you reap your harvest in your field and forget a sheaf in the field, you shall not go back to get it; it shall be left for the alien, the orphan, and the widow, so that the LORD your God may bless you in all your undertakings. When you beat your olive trees, do not strip what is left; it shall be for the alien, the orphan, and the widow. When you gather the grapes of your vineyard, do not glean what is left; it shall be for the alien, the orphan, and the widow. Remember that you were a slave in the land of Egypt; therefore I am commanding you to do this.[38]

Motivations referring to the Egyptian experience recur, and here they are differently phrased: 'Remember that you were a *slave* in the land of Egypt' (24.18, 22). The same reference to slavery is also found in 16.12, motivating the Feast of Weeks. This motivation may seem strange in view of the fact that slaves and slavery are not a central topic—in chap. 24 they are not even mentioned except in the motivations. The formula is, however, also found in 5.15 and 15.15, together with explicit references to the exodus. This suggests that traditions about Egyptian slavery and the exodus are now presupposed, which may not have been the case with the original Covenant Code, and not even in the elaboration in Deut. 10, as suggested above. In the Deuteronomic Sabbath commandment this reference to slavery in Egypt motivates the purpose of the Sabbath, which includes rest for slaves as well as for masters (5.14). This purpose is not spelled out in the Exodus Decalogue, although found in the Covenant Code (Exod. 23.12), where it probably refers to Hebrew debt slaves. Here it is conspicuously not associated with Israelite experience of slavery in Egypt, in spite of the fact that having been an

---

[37] Bartor 2010: 139-41. Bartor also asks whether the threatening comment at the end implies that in the end the lawgiver does not really trust the efficacy of this strategy.

[38] Deut. 24.17-22, NRSV.

alien in Egypt is mentioned in the close context in the Covenant Code as a motivation for not oppressing resident aliens. In Deut. 15, however, the formula ‘Remember that you were a slave in the land of Egypt’ is used to comment on the release of Hebrew debt slaves. These observations support the idea that Deuteronomy develops motivations for empathy towards strangers against the background of an evolving exodus narrative, and in the light of present experience.

For the narrative audience the repeated references to the similar experience of slavery make sense, but what about the historical addressees of the text? Here we have to ask ourselves whether the injunction to remember slavery in Deut. 24 was added later to a reworking of the Covenant Code, or whether this reference actually belonged to the reworked text of Deuteronomy from the beginning. The initial command not to deprive an immigrant or orphan of justice, and not to withhold a widow’s garment, together with the reference to Egypt (Deut. 24.17-18), can be seen as a summary of the whole Covenant Code section discussed above (Exod. 22.20-26 [ET 21-27]), but also as drawing on the subsequent prohibition, against depriving the poor of justice, which ends with a reference to the people having been immigrants in Egypt (Exod. 23.6-9). Although the law about harvesting and gleaning has no exact correspondence in the Covenant Code, it does relate to the seventh year rule, cited above, which follows on the reference to Egypt (Exod. 23.10-12), and lists the field, the vineyard and the olive trees. Just as these three sources of produce are to be left for the poor during the seventh year, according to the Covenant Code, so their leftovers should be reserved for the immigrant, the orphan and the widow at every harvest, according to Deuteronomy.

The manner in which Deuteronomy has used its source text here suggests that references to Egypt are original. The composite character of the section in question, however, shows that it has been redacted and reworked to such an extent that we cannot be sure that the original motivation in Deut. 24.17-22 mentioned *slavery* in Egypt.[39] There are nevertheless no clear indications to the contrary. In the Covenant Code source texts, references to immigrant experience in Egypt belong specifically to injunctions not to oppress immigrants (Exod. 22.20 [ET 21]; 23.9). In Deut. 24.17-22, references to Egyptian *slavery* are on the contrary employed to motivate considerations for *all three vulnerable groups alike* (widows, orphans and immigrants), which suggests that slavery *as such* is not the prime concern, but that it rather represents oppression and vulnerability in general. We could thus think of the empathy appealed to here not as dependent on a close *emotional match*, but rather of a more *cognitive* and *perspective-taking* type. It is, however, the *experience* and *memory* of slavery that is invoked as a motivation for broader humanitarian concerns. In an exilic context, the emerging foundation myth of liberation from Egyptian slavery could, in view of present hardships, be employed to evoke empathic attitudes to vulnerable social categories in general. Alternatively, in a postexilic context, slavery in Egypt would be read as a cipher for recent experiences of exile. Both contexts are possible, and the objections voiced above against an exilic *Sitz im Leben* for Deut. 17.17-19, because of the mismatch to a picture of a limited number of vulnerable immigrants among the Israelites (see above), are less valid for Deut. 24.17-22, since the focus is not on immigrants as such, but on vulnerable people in general, represented by the triad (immigrant, orphan, widow).[40] However, I nevertheless consider a postexilic context for this text more likely, since it would give more relevance to the references to Egyptian slavery (Babylonian exile) and tie the motivation more closely to the recent experience of the recipients. A pre-exilic *Sitz im Leben* seems unlikely here, because the use of Egyptian *slavery* for motivation could presumably only be triggered by a supposedly recent exodus myth, and the expected degree of *emotional match* must be deemed fairly low.

---

[39] For example, sexual laws are much expanded (Deut. 22.13-30), purity laws relating to the war camp as well as to divorce are inserted in various places (Deut. 23.9-14; 24.1-4), a comment about ‘leprosy’ (24.8-9) divides rules concerning pledges, and the laws about levirate marriage seem to intervene between two instructions concerning disputes or fights (Deut. 25.5-10).

As we have seen, Deuteronomy's elaborations of the humanitarian laws from the Covenant Code repeatedly appeal to the empathic capacity of the addressees, and exemplify a kind of *altruism* that is occasionally extended beyond tribal or ethnic borders. Such altruism is, however, subject to severe *constraints* in Deuteronomy, something that can be seen both in the body of Deuteronomic law (Deut. 12–30) and in the framework. Deut. 7.1-3 contains strict rules for interaction with foreigners and the war laws of chap. 20 allow for nothing but total annihilation of neighbouring peoples, with disgust at their idolatry and the risk of apostasy as motivation.[41]

There are interesting nuances, however. While Ammonites, Moabites and people of mixed heritage are never to be included in the congregation (23.4-5 [ET 3-4]), this does not apply to Edomites and Egyptians, whose descendants may be assimilated in the third generation (23.8-9 [ET 7-8]).

> No Ammonite or Moabite shall be admitted to the assembly of the LORD. Even to the tenth generation, none of their descendants shall be admitted to the assembly of the LORD, because they did not meet you with food and water on your journey out of Egypt, and because they hired against you Balaam son of Beor, from Pethor of Mesopotamia, to curse you. … You shall

---

[40] Hence the fact that immigrants still figure among the poor and vulnerable, in contrast to the picture in Deut. 28.43-44 or the Holiness Code (see further below) need not point to a date before the exile, since the triad is becoming a fixed idiom.

[41] For further discussion of these texts, see the next chapter.

> not abhor any of the Edomites, for they are your kin. You shall not abhor any of the Egyptians, because you were an alien residing in their land. The children of the third generation that are born to them may be admitted to the assembly of the LORD.[42]

The motivations for the two exceptions are very different, but still represent two types of empathy: Edomites are brothers; Israelites were once immigrants in Egypt. While leniency towards Edomites appeals to *closer kinship* than in the case of other peoples, nothing of that sort motivates leniency towards Egyptians. As the harsh judgment on Ammonites and Moabites is motivated by their enmity in the narrative of Bileam, we might have expected resentment towards the Egyptians as former oppressors. Instead, the text explicitly commands Israelites not to abhor them either, and we find the oft-repeated reference to the *shared similar experience* of belonging to an ethnic minority or a socially disadvantaged group. As in Deut. 17, neither slavery nor exodus is mentioned, and we cannot assume that a narrative of Egyptian enslavement is being presupposed. Taking de Waal's expanding circle of altruistic behaviour into account, we can perhaps explain the difference, at least in part, from the angle of limited resources and survival, and close neighbours are easily conceived of as a threat in that regard. Apprehensions of kinship or empathic understanding based on *similarity of experience* and close *emotional match* could be seen to bridge such restrictive attitudes. In any case it is clear that empathy can be triggered at various levels.[43]

Charity in the Holiness Code

As has become clear from the discussion above (see Chapter 5), I assume a date for the Holiness Code that is not only subsequent to Deuteronomy, but also later than the rest of Leviticus. In spite of this, Mary Douglas's suggestions of Leviticus as a 'ring composition' may nevertheless be based on some valid observations,[44] especially if the Holiness Code was shaped not as an independent ‘law code’, but as to complement earlier material when forming the book of Leviticus.[45] Developing the idea of a ring composition, Milgrom regards Lev. 19 as the ‘central turning point’ of Leviticus.[46] The focus is on holiness. Here we find instructions concerning harvesting: it should not be carried out too thoroughly since leftovers must be reserved for the poor and the immigrant (Lev. 19.9-10; repeated in 23.22).

---

[42] Deut. 23.4-5, 8-9 (ET 3-4, 7-8), NRSV.

[43] These constraints and exceptions highlight a close interplay between empathy and disgust (cf. Kazen 2008), but also between empathy, fear and justice, that cannot be further explored here. A similar interaction may be traced in the twelve curses in Deut. 27.15-26. Disgust is explicitly said to lie behind the first curse on idolatry. Empathy should be understood (implicitly) behind the fourth curse on he who leads the blind astray, and (explicitly in the context of Deuteronomy) behind the fifth curse on he who thwarts justice for the immigrant, the widow and the poor. The curses on sexual issues are likely to stem from feelings of disgust. The prohibited acts have both moral and ritual aspects, and evoke feelings of justice, fear, empathy and disgust. For the relationship between empathy and justice, and the emotional aspects of (in)justice, see Hoffman 2000: 221-70, cf. de Waal 1996: 133-62.

[44] Douglas 1993: 8-15; 1995: 247-55.

> When you reap the harvest of your land, you shall not reap to the very edges of your field, or gather the gleanings of your harvest. You shall not strip your vineyard bare, or gather the fallen grapes of your vineyard; you shall leave them for the poor and the alien: I am the LORD your God.
>
> When you reap the harvest of your land, you shall not reap to the very edges of your field, or gather the gleanings of your harvest; you shall leave them for the poor and for the alien: I am the LORD your God.[47]

The elements, although not the particular conclusions, are present in the Covenant Code (Exod. 23.10-11) and the explicit commandment is found in Deuteronomic law (Deut. 24.19-22), both of which are cited above. In the Holiness Code it is followed by injunctions not to withhold the wages of a worker overnight (19.13), not to curse a deaf person or to trip a blind person (19.14; cf. Deut. 27.18), to be fair in judgment and not to take revenge (19.15-18). These injunctions are part of a list, including rules on sacrifice, the mating of animals, certain sexual transgressions, first fruit laws, meat with blood, the cutting of hair and beard, prostitution, divination and fair weights and measures. This list is a good example of what we as moderns understand as a blending of ritual and moral issues, which was discussed in Chapter 3 above. Most of these rules are concluded by the statement: ‘I am the Lord’.

The immigrant returns towards the end of this section (19.33-34).

> When an alien resides with you in your land, you shall not oppress the alien. The alien who resides with you shall be to you as the citizen among you; you shall love the alien as yourself, for you were aliens in the land of Egypt: I am the LORD your God.[48]

As we can see, the injunction not to oppress the immigrant goes together with the standard motivation: ‘You were immigrants in Egypt’. Just as in Deuteronomy, the command is to *love* the immigrant; unlike Deuteronomy the command is to love the immigrant ‘as yourself’, something that a little earlier was stated about the neighbour (19.18). The presupposition is that a resident foreigner should be treated just like a native (19.34). This emphasis on *equal treatment* is particular to the Holiness Code and goes together with a repeated claim that various holiness laws are valid for immigrants, and supposed to be followed by them to the same extent as by native Israelites. This claim is insistently frequent (Lev. 17.8, 10, 12, 13, 15; 18.26; 20.2; 22.18; 24.16, 22), carried on in Numbers (Num. 9.14; 15.14-16, 26, 29-30; 19.10; 35.15) and found in the Passover narrative in Exodus, too (Exod. 12.19, 48-49). It is, however, conspicuously absent from Deuteronomy, because in Deuteronomic law, immigrants are not expected to conform to Israelite holiness (Deut. 14.21).[49]

---

[45] Grünwaldt 1999: 13-20. Cf. Elliger 1966; Wagner 1974; Cholewiński 1976 and many others. See further above, Chapter 5.

[46] Milgrom 2003: 28.

[47] NRSV.

[48] NRSV.

These injunctions breathe an *inclusive altruistic* spirit, based not only on a *cognitive* type of *role- or perspective-taking*, but on an *experiential* type of empathy, with a strong *affective* component. Love of self, neighbour and immigrant is seen as part of holiness law to the same extent as ritual and sexual instructions. At the same time, this empathy is restricted to an *integrated out-group*, adapting fully to social and religious norms, becoming increasingly assimilated. There is a sharp difference between a *ger* (immigrant) and *goyim* (the peoples), between those being integrated and the real out-group. Those who do not follow the holiness laws are killed or 'cut out' (*karet*), whether natives or immigrants (Lev. 17.10; 18.29; 20.2; 24.16; cf. Num. 15.30). Behaviour that goes against the Holiness Code is associated with the former inhabitants who were expelled from the land because of their practices (Lev. 18.24-30; 20.22-26; 26.14-39). As in Deuteronomy, empathy is *constrained* by feelings of fear and disgust towards that which is foreign enough to be experienced as threatening. Nevertheless it seems as if the Holiness Code has *further developed* an empathic attitude in comparison with earlier legal collections, not least towards immigrants, and at the same time *integrated both the empathic and the restraining tendencies* found in the Deuteronomic framework into the legal collection itself.

Christophe Nihan has suggested that a change in the legal status of the immigrant in H, as compared to earlier codes (the Covenant Code and Deuteronomic law), goes together with a change in social and economic status.[50] While immigrants are still supposed to be dependent, according to those passages that reflect earlier legal collections,[51] in H they are actually envisaged as capable of becoming rich, lending money and even owning Israelite slaves (Lev. 27.47-54), something only paralleled in Neh. 5.[52] This fits our analysis of the emotions displayed in the Holiness Code and suggests an early postexilic setting, in which Israelite society would contain a larger proportion of non-Israelites than before, some of whom are on equal terms. Experiences of hardships and exile have resulted in an *associative* type of empathy towards resident non-Israelites, based on *experience* and including *affective traits*. Love of immigrants is dependent, however, on this integrated out-group adapting to social and religious norms, becoming increasingly assimilated; they would otherwise put the people at risk. The empathic attitudes to immigrants displayed in the Holiness Code thus supports a setting in the emerging and somewhat limited Jewish Temple state under early Persian rule, in which Israelites were striving for a high degree of Torah faithfulness and *gerim* sometimes had unquestionable positions in society. Non-Israelites seem to have become increasingly accepted, both of necessity and because of Israelite experience of the exile, but only on condition that they adapt to Israelite practice. Otherwise they would constitute a serious threat to Israelite identity, religion, and culture, similar to the surrounding foreign nations, whose power was feared and whose practices were abhorred. To this we will return in the next chapter.

---

[49] The exception in Deuteronomy is found in the farewell speech of Moses (Deut. 31.12; possibly also in 29.11). The Holiness Code, on the other hand, admits of one difference: immigrants may become 'eternal' slaves of Israelites, without the year of release applying (Lev. 25.45).

[50] Nihan 2009. As Nihan points out, other mentions of *gerim* in P occur in sections that are often considered to be H redactions (see below, Chapter 8, note 18).

[51] E.g. Lev. 18.10; 19.33-34; 25.6, 35.

Conclusions

Empathy is a crucial emotion in the manifestation of human prosocial behaviour, i.e., what we would call human morality. As an ‘affective response more appropriate to someone else’s situation than to one’s own’ (Hoffman) it may be divided into a number of stages, from involuntary motor mimicry, classical conditioning and direct association based on one’s own experience, to more cognitive types of empathy such as mediated association and role- or perspective-taking.

The role of empathy in Pentateuchal legal collections is more than just that of mitigating restrictive rules out of social concerns. In this chapter we have looked especially at humanitarian rules relating to vulnerable categories in society. Various strategies can be identified and also correlated with differing social contexts reflected by the texts; pro-social action is triggered at various levels and in the texts that we have analysed there are different stages of empathy at work.

In spite of a number of similarities between the Covenant Code and the Law of Hammurabi, the humanitarian instructions can to some degree be understood to have a customary origin. The empathy expressed towards foreigners is conspicuous and can be understood as a case of direct association in the narrative world of the text. For the intended eighth century BCE historical recipients of the separate Covenant Code, however, we have to assume perspective-taking, although with an added affective component based on experience of minority situations, to the extent that we may rather speak of a mediated association; the appeal to Egypt can be understood to trigger a multilayered empathy. The fact that there is no talk of slavery, only of immigrant experience, suggests that the traditions of the recipients contained stories of migration, not of Egyptian slavery. This increases the possible emotional match, in view of intra-Israelite displacement and migration. Rules concerning security for a loan appeal to the common bodily experience of freezing, arousing empathy through direct association. Empathy is rooted in immediate affective responses based on self and on concern for close kin, but extends to underprivileged and outsiders, as it is triggered on various levels.

---

[52] Nihan 2009.

In Deuteronomy's framework, the command to love the immigrant also lacks references to slavery, suggesting early material, independent of developed patriarchal narratives and myths of redemption from Egypt. Such references could relate to intra-Israelite displacement, loss of land, poverty and starvation, during the seventh century BCE. The empathy expected of early recipients would thus be triggered by mediated association, rather than by cognitive perspective-taking only. In other passages, however, references to Egyptian slavery occur, even when slavery is not in focus, and we may suggest a postexilic context in which Egypt functions as a metonym for Babylon. This would mean that the repeated references to the similar experience of slavery in Egypt not only make sense for the narrative audience, but also for the historical addressees. Slavery as such is not, however, the primary concern; rather the experience of having been slaves in Egypt is intended to motivate consideration for vulnerable categories in general. I thus suggest that empathy is triggered on several levels and is based both on perspective-taking and direct experience. In Deuteronomy we have also found examples of an altruism that at times extends empathic behaviour outside tribal or ethnic borders. Such altruism is, however, constrained by strict rules against interaction with foreigners, including harsh war laws and condemnations of neighbouring peoples. In the case of Edomites and Egyptians this can be mitigated by feelings of close kinship or similar experience; here de Waal's expanding circle of altruistic behaviour may be useful for interpretation.

Finally, the Holiness Code develops material from the Covenant Code and Deuteronomy, adding an emphasis on Israelite holiness, in the context of a limited Temple state under early Persian rule. To the command to love the immigrant is added 'as yourself', in line with an emphasis on equal treatment of immigrants in the Holiness Code. There is an altruistic spirit based on an experiential type of empathy with a strong affective component, but it is restricted to those integrated outsiders who have adapted to social and religious norms. Real foreigners pose a threat to the people and feelings of fear and disgust constrain empathy towards that which is sufficiently foreign. The Holiness Code has further developed the empathic attitude towards immigrants, but has integrated both empathic and restraining tendencies from the Deuteronomic framework. Experiences of hardship and exile have resulted in an associative type of empathy towards resident non-Israelite, who are now frequent and sometimes even rich, as long as they assimilate, and do not threaten Israelite identity and holiness.

We can thus see an interplay between social and political circumstances and expressions of various types of empathy, whether affective, based on direct as well as mediated association, or more cognitive forms of role- or perspective-taking. Signs of multi-layered types of empathy, triggered at various levels, as well as constraints balancing group egoism and altruism, may be related either to factual circumstances or to the evolving process through which the text has been shaped.

The role attributable to experience varies considerably, not least depending on how, when and where traditions are contextualized. The dating and provenance of various legal collections affect how we come to interpret their emotional content; conversely, analyses of emotional reflections and expressions in these texts have a bearing on their contextualization, i.e., questions of provenance and dating, and might supply one voice in the discussion about the interrelation of various Pentateuchal legal collections.

Chapter 8

PUNISHMENT AND PRESENCE: FEAR OF FOREIGNERS, GOD AND DEMONS

> But if you will not obey me, and do not observe all these commandments, if you spurn my statutes, and abhor my ordinances, so that you will not observe all my commandments, and you break my covenant, I in turn will do this to you: I will bring terror on you; consumption and fever that waste the eyes and cause life to pine away. … And as for those of you who survive, I will send faintness into their hearts in the lands of their enemies; the sound of a driven leaf shall put them to flight, and they shall flee as one flees from the sword, and they shall fall though no one pursues.
>
> –Yahweh your God[1]

Introduction

In the course of the previous chapter we have seen that empathy is sometimes restrained not only by disgust but also by fear. This is particularly true with regard to foreigners, who are portrayed as objects of compassion and fear alike. Texts differ, however, due to social and ideological contexts.

In the earlier discussion of four emotions (Chapter 4) it was suggested that fear of outsiders can be explained from an evolutionary perspective as having an adaptive value, since xenophobia is common in a wide range of social species. We also discussed the contextual character of ethnocentrism and the delicate balance between selfish and altruistic traits that is influenced both by the experienced availability of resources and the recognition of the limits of group membership. In-group reciprocal altruism would otherwise be easy to take advantage of. Ethnocentrism and xenophobia are, however, balanced by empathy and attraction to outsiders, which are also explained as adaptive evolutionary traits. Disease-avoidance might provide a partial explanation for out-group hostility, in the avoidance of contact and through local practices. Such mechanisms may perhaps explain some associations between behaviour and disgust, as suggested by Navarrete and Fessler.[2]

---

[1] Lev. 26.14-16, 36, NRSV.

[2] Navarrete and Fessler 2006: 280.

Although disease-avoidance could provide a partial explanation for certain ideas of impurity, it must not be confused with popular hygienic explanations for the purity laws in general. While singular food avoidances and negative attitudes to certain irregular conditions of the body could have developed from collective experience, all attempts to explain dietary laws or purity rules at large from considerations of preventive hygiene have failed.[3] Disease-avoidance might, however, explain certain links between hostile attitudes towards strangers and the association of strangers with disgusting practices.

Immigrants and Foreigners in the Covenant Code

Rules dealing with ingroup-outgroup relationships and the treatment of foreigners often show signs of being shaped by emotional fear. This is sometimes reinforced by emotional disgust, but in other contexts mitigated by empathy. The latter is often the case in the Covenant Code, in which immigrants (*gerim*)[4] are mostly envisaged as a partially integrated out-group, belonging to the poorer segment of society, as we have seen in the previous chapter. Even when there seems to be a principled difference between such immigrants and Israelites, empathy is a more prominent factor in these laws than fear.

A clear difference between Israelites and foreign peoples can be found in the rules for manumission of slaves (Exod. 21.2-11). Israelite female slaves may not be sold to a foreign people (*l*^{e}*‘am nokri*), at least not after having served an Israelite master and (presumably) had sexual relations with him. This does not apply to foreign slaves; the law is said to concern Israelite slaves specifically (21.2). The difference in terminology should be noted.

In other respects, however, immigrants (*gerim*) are embraced by the same empathic treatment as other under-privileged groups (22.20-26 [ET 21-27]), as we have seen in Chapter 7. Immigrants, widows and orphans must not be badly treated, although when it comes to loans it is perhaps implied that money may be lent at interest to foreigners (cf. v. 24 [ET 25]). The rule in vv. 25-26 (ET 26-27), about not taking the cloak of a neighbour (*rea‘*) as a pledge overnight, should be understood to concern the immigrant, too; the *ger* is probably included in the concept of ‘neighbour’.

The exact use of and distinction between various terms for immigrants or foreigners in biblical texts (*ger*, *nokri*, *toshav*, etc) is much contested.[5] Without entering into this discussion in any detail, suffice it to state that while ‘foreigner’ (*nokri*) denotes a non-Israelite, an ‘immigrant’ (*ger*) is not always synonymous with a foreigner, since the vocabulary may at times refer to an unlanded Israelite, i.e., an Israelite who has lost his ancestral land. This mixed use is demonstrated by Sparks, in particular with regard to Deuteronomy,[6] but can also be argued for the Covenant Code. In our case such use of the term means that some instructions concerning immigrants may in fact refer to displaced Israelites, including some from the northern kingdom who had been forced to migrate because of starvation or loss of land, as suggested in the previous chapter. One example is the Covenant Code prohibition against oppressing immigrants, which is motivated by the people’s experience of having themselves been foreigners in Egypt (v. 20, ET 21) and further explicated in 23.9, as has already been discussed. I suggested an emotional match, based on personal first-hand experience, not only in the narrative world of the text, but also for the actual recipients of the Covenant Code, although at first sight a cognitive type of empathy, based on human capacity for perspective-taking, might seem more appropriate. The appeal to a shared inherited experience would, however, have added an affective component that could be explained by socio-political circumstances, and we could also think of *direct* or *mediated association* on the part of the intended recipients, especially if we read the references to Egypt as indicating shared experiences of migration, hunger and poverty, rather than exile and slavery. Some of these experiences can reasonably be associated with the fate of the northern kingdom and intra-Israelite migration, which fits with a pre-exilic date for the Covenant Code, as suggested above.[7]

---

[3] Cf. Houston 1993: 69-70.

[4] For a discussion of the meaning of this term, see Sparks 1998: 239-45; Nihan 2009; and the previous chapter.

[5] In addition to references in the previous note, see van Houten 1991; Bultmann 1992.

This is the case with immigrants (*gerim*) in the sense of displaced Israelites or foreigners that are more or less incorporated in one’s own society. A different attitude with regard to a real out-group becomes visible at the end of the Covenant Code.

> When my angel goes in front of you, and brings you to the Amorites, the Hittites, the Perizzites, the Canaanites, the Hivites and the Jebusites, and I blot them out, you shall not bow down to their gods, or worship them, or follow their practices, but you shall utterly demolish them and break their pillars in pieces. You shall worship the LORD your God, and I will bless your bread and your water; and I will take sickness away from among you. No one shall miscarry or be barren in your land; I will fulfil the number of your days. I will send my terror in front of you, and will throw into confusion all the people against whom you shall come, and I will make all your enemies turn their backs to you. And I will send the pestilence in front of you, which shall drive out the Hivites, the Canaanites, and the Hittites from before you. I will not drive them out from before you in one year, or the land would become desolate and the wild animals would multiply against you. Little by little I

---

6. Sparks 1998: 238-45.
7. See the discussion in previous chapters.

> will drive them out from before you, until you have increased and possess the land. I will set your borders from the Red Sea to the sea of the Philistines, and from the wilderness to the Euphrates; for I will hand over to you the inhabitants of the land, and you shall drive them out before you. You shall make no covenant with them and their gods. They shall not live in your land, or they will make you sin against me, for if you worship their gods, it will surely be a snare to you.[8]

The section 23.20-33 is usually regarded as a somewhat later addition.[9] Here, foreign peoples are named (Amorites, Hittites, Perizzites, Canaanites, Hivites and Jebusites) and understood as threatening enemies that the Lord will wipe out (*hikchad^{e}ttiw*; v. 23). The problem is, as we might expect, their idolatry: the Israelites should not worship or serve their gods, nor copy their life-style; hence they must not enter into any covenant with them, since this would lead the people to sin against the Lord and serve other gods (vv. 24, 32-33). The focus is, however, not on the Israelites engaging in genocide; the text is rather to be understood as a command to break down and shatter the idolatrous monuments of the foreign peoples (v. 24). God will send fear and cause confusion that will drive the enemies away (v. 27), and although he will give them their enemies ‘in their hand’, it is God who will drive them away (v. 31).

While the text contains threats (the angel of the Lord will not forgive disobedience, v. 21; if you serve foreign gods you will be trapped, v. 33) and promises (if you serve the Lord he will bless bread and water, keep diseases away and give you long life, vv. 25-26), it does not *explicitly* appeal to fear in the sense of xenophobia, but rather to fear at the prospect of divine punishment, something that will be discussed further in the next section. The references to diseases as well as blessed bread and water are, however, conspicuous. These may be read as implicit indications of ethnocentric attitudes, reflecting an adaptive safeguarding of insufficient resources, fear of disease, and an avoidance of foreign practices; all these block to some degree the empathy that is extended to immigrants and prevent it from encompassing foreign peoples at large, so allowing aggression. While such mechanisms are partly visible in the Covenant Code, they become more pronounced in other legal collections.

Further Constraints in Deuteronomy

We have already discussed the core of Deuteronomy (parts of Deut. 12–26) and how it is usually taken to be modelled on the Covenant Code, revising, re-writing and updating it in conformity to current practice. We have also referred to the common view that a Deuteronomic core can be dated to the late seventh century, and that it was further expanded and given a surrounding framework throughout the exile and into the Second Temple period, transforming previous tradition by retrojecting present concerns into the past.[10]

---

[8] Exod. 23.23-33, NRSV.

[9] Kratz 2005: 142. See also the previous chapter, note 20.

The introduction to the main body of Deuteronomic law focuses on cult centralization. While the Covenant Code concludes with a warning against foreign peoples and an injunction to destroy and annihilate foreign cults, Deuteronomy utilizes this tradition to enforce the idea of one singular place for worship and sacrifice (Deut. 12.2-27). The Israelites have now become the agents of driving foreign peoples away (*haggoyim 'asher 'attem yod^{e}shim*; 12.2). In spite of this, however, ethnocentric and xenophobic implications are not exploited in the introduction; cult centralization is the prime concern at this point. The framework of Deuteronomy is, however, different. It is focused on the conquest, in which God delivers enemies into the Israelites' hand, while they carry out the actual conquest (Deut. 2.24, 31; 3.2, 18, 20; 7.2, etc.), which is understood as the uprooting and extinction of competing peoples. This is closely associated with the threat of idolatry that these peoples represent, and exhibits emotional fear, at times coupled with disgust, as will become clear below.

Covenant Code material on immigrants or integrated foreigners (*gerim*), together with the other customary under-privileged groups, are elaborated on and return several times both in the framework and in the main body of Deuteronomic law, as we have seen in the previous chapter.[11] In Deut. 10.17-19, a strongly emotionally-charged type of empathy is appealed to, which could inhibit any expected group egoism and counteract xenophobia. In Deut. 24.6, 10-22, the prohibition against oppressing a day-labourer and the poor explicitly applies to brothers and immigrants equally (24.14). This exemplifies a type of altruism, extending empathic behaviour outside tribal or ethnic borders.

However, when it comes to foreign peoples or 'real' out-groups, Deuteronomy exhibits a more severe attitude than the Covenant Code, both in the body of Deuteronomic law (Deut. 12–30) and in the framework. Rules for interaction with foreign peoples are strict (Deut. 7.1-5).

> When the LORD your God brings you into the land that you are about to enter and occupy, and he clears away many nations before you—the Hittites, the Girgashites, the Amorites, the Canaanites, the Perizzites, the Hivites, and the Jebusites, seven nations mightier and more numerous than you—and when the LORD your God gives them over to you and you defeat them, then you must utterly destroy them and show them no mercy. Do not intermarry

---

[10] See above, Chapters 5 and 7.

[11] Deut. 10.17-19; 14.29; 16.11-12, 14; 24.17, 19-21; 26.12. See above, Chapter 7.

> with them, giving your daughters to their sons or taking their daughters for your sons, for that would turn away your children from following me, to serve other gods. Then the anger of the LORD would be kindled against you, and he would destroy you quickly. But this is how you must deal with them: break down their altars, smash their pillars, hew down their sacred poles, and burn their idols with fire.[12]

Covenants, contracts or intermarriage with neighbouring nations are prohibited; these peoples should simply be annihilated (7.2).[13] As already indicated, these instructions are part of a narrative context, preparing the people for conquest, and are associated with the risk of apostasy and a fear of idolatry. In this context, fear of what is foreign is reinforced by disgust, expressed by the word 'abominable' (*to'evah*). Idols are abominated by God and should be abominated by Israelites, lest they be annihilated too (7.25-26).

> The images of their gods you shall burn with fire. Do not covet the silver or the gold that is on them and take it for yourself, because you could be ensnared by it; for it is abhorrent to the LORD your God. Do not bring an abhorrent thing (*to'evah*) into your house, or you will be set apart for destruction like it. You must utterly detest and abhor it, for it is set apart for destruction.[14]

We have already explored the use of the term *to'evah* elsewhere to express bodily disgust and to denounce objectionable practices, i.e. 'abominable' acts, whether we prefer to categorize them as ritual or moral.[15] We have also seen that in Deuteronomy this usually refers to idolatry, but also to defective sacrifice, invalid offerers, false weights, remarriage with a remarried divorcee, and to unclean food, corresponding to the use of *sheqets* for unclean food in P.[16] I have suggested that *to'evah* is a term for a primary physical and emotional reaction of disgust that is being used secondarily for what was understood as repulsive behaviour, often associated with the practices of foreign peoples. Deuteronomic law explicitly states that such abominable practices are reasons for God driving away foreign peoples in favour of Israel (18.12).

In the composite war laws of chap. 20 we find clear tensions between vv. 10-14 and vv. 15-18.

> When you draw near to a town to fight against it, offer it terms of peace. If it accepts your terms of peace and surrenders to you, then all the people in it shall serve you at forced labour. If it does not submit to you peacefully, but makes war against you, then you shall besiege it; and when the LORD your

---

[12] NRSV.

[13] Cf. Deut. 2.23; 3.6; 7.26; 13.15, 17; 20.17.

[14] NRSV.

[15] Cf. Preuß 1995.

[16] Cf. Deut. 7.25-26; 12.31; 14.3; 17.1; 18.9, 12; 20.18; 22.5; 23.8 (ET 23.7; here the verb *ta'av* is used); 23.19 (ET 23.18); 24.4; 25.16; 27.15.

> God gives it into your hand, you shall put all its males to the sword. You may, however, take as your booty the women, the children, livestock, and everything else in the town, all its spoil. You may enjoy the spoil of your enemies, which the LORD your God has given you.
>
> Thus you shall treat all the towns that are very far from you, which are not towns of the nations here. But as for the towns of these peoples that the LORD your God is giving you as an inheritance, you must not let anything that breathes remain alive. You shall annihilate them—the Hittites and the Amorites, the Canaanites and the Perizzites, the Hivites and the Jebusites—just as the LORD your God has commanded, so that they may not teach you to do all the abhorrent things that they do for their gods, and you thus sin against the LORD your God.[17]

While vv. 10-14 allow the taking of spoils, including animals, women and children, vv. 15-18 corrects this immediately by demanding the total annihilation of those neighbouring peoples whose lands the Israelites are supposed to claim. This is motivated by the risk of Israel imitating their foreign 'abominations' (*to'avotam*). The later notice regarding the captive woman contains no such conditions (Deut. 21.10-14). These verses likely belong to different layers, one correcting or complementing the other. Although not explicitly spelled out, a fear of apostasy, reinforced by disgust, can be understood behind these ethnocentric sentiments expressed in Deuteronomy.

This may be inferred in particular from the framework, where fear of foreign peoples is mentioned explicitly in a number of instances (1.21, 29; 3.2, 22; 7.18-19; 20.1, 3, 8; 31.6, 8). All of these examples belong to contexts in which the people are told not to be afraid of their enemies in battle. On one hand, fear is not portrayed as the *cause* of an aggressive type of xenophobia on the part of the Israelites. On the other hand, fear seems to be *utilized* here in a somewhat paradoxical way; although the injunction is *not* to be afraid, the effect of these instructions may be to evoke enough fear of foreign peoples to block empathy and think in terms of ethnic cleansing. Israel is consistently portrayed as risking assimilation, and this is something that the Deuteronomic framework vehemently resists. One of the methods is fear and, interestingly enough, this fear is not only caused by foreign peoples, but is as much associated with the threat of divine punishment, which will receive our attention below.

Fear (sometimes together with disgust) is thus utilized, particularly in the framework, to outline the limits of group membership, and indirectly to restrict empathic tendencies and attraction to out-groups. The purpose, or at least, the effect of this is to protect group integrity, since empathy and attraction might otherwise lead to assimilation. In the central part of Deuteronomy, we also find traces of disease-avoidance and disgust at foreign practices, but this is alongside the evidence for various types of empathic reactions towards immigrants, building on the underlying Covenant Code.

---

[17] NRSV.

Integration and Xenophobia in the Holiness Code

Although the Holiness Code (Lev. 17–26) was previously considered to be the oldest core of Leviticus, there is an increasing tendency today to regard it as later than the preceding sacrificial and purity laws (Lev. 1–16), as we have seen in Chapter 5. Many would even consider a Holiness School (H) responsible for redacting at least Leviticus and possibly other parts of the Pentateuch as well. In any case it is reasonable to regard the Holiness Code as later than (most of) Deuteronomy. While Deuteronomy definitely has access to, and elaborates on some of the laws that serve as sources for the first half of Leviticus, such as the food laws, the Holiness Code shows signs of awareness of both the Covenant Code and Deuteronomy. It presupposes Deuteronomic cult centralization and changes induced by this development (Lev. 17; 23), suggesting a postexilic date.

In Chapter 7 we looked at the instructions in Lev. 19.9-10 (cf. 23.22) concerning harvesting (leftovers should be reserved for the poor and the immigrant) and their relationship to the Covenant Code and Deuteronomy. At the end of the chapter the immigrant returns (19.33-34), together with the standard motivation: ‘You were immigrants in Egypt’. We noted the command to love the immigrant *as yourself* and the emphasis on equal treatment which is particular to the Holiness Code, and which relates to the claim that holiness laws concern resident foreigners, too,[18] unlike in Deuteronomy.

Immigrants are supposed to comply with a number of laws that previously concerned Israelites only (certain food laws and sacrificial laws),[19] and avoid those sins that pollute the land. The key texts (Lev. 18.24-30; Lev. 20.22-30) have already been quoted in Chapter 6, when dealing with disgust, and speak of the defilement of the land that would result from disregarding the holiness laws and committing the abominations of the former inhabitants. This would cause the land to vomit the Israelites out, just as it vomited out those former inhabitants.

We have already mentioned Nihan’s suggestion that a change in the legal status of the immigrant in H corresponds to a change in social and economic status.[20] This is likely, but Nihan also suggests a difference in that *gerim* are never required to follow commands to achieve holiness.[21] This is supposed to relate to God's separation of the Israelites as holy in order for them to own land. Immigrants, says Nihan, could never own land, even if they became rich, which explains why they do not have to achieve holiness. I hesitate at this last conclusion, however, because the sins to be avoided and the motivation (the land will vomit out its inhabitants) for Israelite holiness in Lev. 20 are too similar to the sins and the motivation in Lev. 18, where both Israelites and immigrants are addressed. The requirements for the Israelites and for *gerim* are basically the same in the Holiness Code, except for the requirement to separate between clean and unclean animals, which is justified by the adjacent language of separation and holiness.

---

[18] See above, Chapter 7, and Lev. 17.8, 10, 12, 13, 15; 18.26; 20.2; 22.18; 24.16, 22. The claim is insistently frequent in the Holiness Code, carried on in Numbers (Num. 9.14; 15.14-16, 26, 29-30; 19.10; 35.15) and also found in the Passover narrative in Exodus (Exod. 12.19, 48-49), all considered to be H redactions (Nihan 2009), but conspicuously absent from Deuteronomy (except in the farewell speech of Moses, Deut. 31.12; possibly 29.11 may be interpreted in this way, too).

[19] Laws that P traces from the covenant with Noah.

The sharp difference in the Holiness Code is found between immigrants (*gerim*) and foreign peoples (*goyim*), between integrated outsiders and a 'real' out-group. Those who do not follow the holiness laws, whether natives or immigrants, are killed or 'cut out' (*karet*),[22] because behaviour that goes against the Holiness Code is associated with the former inhabitants who were expelled from the land because of their practices (Lev. 18.24-30; 20.22-26; 26.14-39). These peoples were 'vomited out' because of their 'abominations' (*to'evah*).

The terminology for expressing disgust is similar to that of Deuteronomy, as we have already seen above; *to'evah* is used to characterize a number of unacceptable acts. The forbidden behaviours in Lev. 18 are expressly associated with the practices of the Egyptians and in particular of the Canaanites (v. 3), which made the land unclean (v. 27) and caused it to spit out its inhabitants (v. 28). The imagery although not the terminology (not *to'evah* but *quts*) is repeated in Lev. 20.22.[23]

Just as in Deuteronomy, the role of fear is seldom spelled out explicitly in these texts from the Holiness Code, but here, too, disgust interacts with fear. The intersection of disgust and fear is well known; both emotions are adaptive and have a functional value in protecting an organism against perceived threats. Both are innate but culturally conditioned in similar manners. Perceived threats of bodily harm or of being rejected, i.e., threats to bodily and social integrity, would cause people to avoid unknown others, and to experience fear and/or disgust.[24]

The strong language of disgust that we find in the Holiness Code can be interpreted as partly based on a fear of foreign practices, i.e., a xenophobia.

---

[20] Nihan 2009.

[21] Nihan 2009 (Lev. 19.2, 37; 20.7-8, 22-26; 22.31-33).

[22] Lev. 17.10; 18.29; 20.2; 24.16; cf. Num. 15.30.

[23] Se further above, Chapter 6.

[24] Woody and Teachman 2000.

At the same time, some of these practices do not seem to be unknown, in which case the language of disgust has the function of scaring people into obedience by associating certain behaviours with foreigners.

It seems that the Holiness Code has not just further developed an empathic attitude towards immigrants from the Covenant Code and the Deuteronomic core further, as we saw in the previous chapter. The Holiness Code expects a higher degree of integration and appeals to shared experience and divine concern. At the same time it has integrated the harsh attitudes towards foreign peoples found in the Deuteronomic framework. Disgust at foreign behaviour is extended to a number of practices and utilized to convince Israelites of the need to protect group integrity at all costs, implicitly suggesting xenophobic and ethnocentric propensities. Neither affective, nor cognitive empathy can mitigate divine and human condemnation of foreign behaviours; in this way empathy is efficiently constrained by strong associations of otherness and feelings of revulsion, and thus restricted to complying immigrants, who are expected to follow Israelite norms to a greater extent than previously.

An analysis of the emotions displayed in the Holiness Code thus strengthens the idea of a postexilic context, in which Israelite society contained a larger proportion of non-Israelites than before, some of whom were wealthy. Experiences of hardships and exile have resulted in an attitude to resident non-Israelites that displays an experiential type of empathy with a strong affective component. Love of one’s neighbour and the immigrant is seen as a part of holiness law to the same extent as ritual and sexual instructions. This is dependent, however, on the integrated out-group adapting to social and religious norms, thus becoming increasingly assimilated. Fear is not expressed towards this group as such, but the requirements that immigrants should comply in most respects with Israelite holiness law suggests a fear that they might otherwise pollute both sanctuary and community and put the people at risk. Fear is also expressed of foreign peoples and of foreign practices, as well as of being once more exiled from the land, although such fear is mainly articulated through the use of disgust language.

Divine Punishment: Scaring People into Empathy and Obedience

As already mentioned, fear of the unknown or the other is frequently balanced by attraction in a paradoxical way.[25] While such attraction may be understood as adaptive, having evolved because it counteracts inbreeding, and hence as functional on one level, it can clearly be understood as causing problems for the integrity, cohesion and group identity of a people. The need to control such attraction is displayed by the law about the captive woman (Deut. 21.10-14).

---

[25] See above. This is often explained as an adaptive trait that evolved to prevent inbreeding. Cf. Fishbein 2002.

> When you go out to war against your enemies, and the LORD your God hands them over to you and you take them captive, suppose you see among the captives a beautiful woman whom you desire and want to marry, and so you bring her home to your house: she shall shave her head, pare her nails, discard her captive's garb, and shall remain in your house a full month, mourning for her father and mother; after that you may go in to her and be her husband, and she shall be your wife. But if you are not satisfied with her, you shall let her go free and not sell her for money. You must not treat her as a slave, since you have dishonoured her.[26]

A number of narratives about Israelite men taking foreign women further illustrate the problems involved.[27] While such women could become fully integrated more easily than male immigrants, they were still considered a threat to Israelite religion and faithful obedience to the law, which must somehow be dealt with. Threats of divine punishment are thus utilized to strengthen the impact of various laws. Fear of God is employed both explicitly and implicitly as a deterrent, to enforce obedience. Interestingly enough, this intimidation technique is used to reinforce not only fear of foreigners, but also empathy towards them.

Fear as deterrent characterizes the theophany that concludes the ten commandments (Exod. 20.18-21).

> When all the people witnessed the thunder and lightning, the sound of the trumpet, and the mountain smoking, they were afraid and trembled and stood at a distance, and said to Moses, 'You speak to us, and we will listen; but do not let God speak to us, or we will die'. Moses said to the people, 'Do not be afraid; for God has come only to test you and to put the fear of him upon you so that you do not sin'. Then the people stood at a distance, while Moses drew near to the thick darkness where God was.[28]

In the Covenant Code this can be exemplified particularly in the apodictic laws, although one could argue that the death penalty in general has a deterrent function and relies on fear of a divine command. Similarly, the threat of 'consecration to destruction' for worshiping other gods refers back, at least in the present literary context, to the threat of divine punishment following the first commandment (Exod. 20.5). Fear of God is implicitly suggested in the casuistic laws on keeping others' property (Exod. 22.6-14 [ET 7-15]). A declaratory oath is involved, a self-curse, which relies on divine punishment as the inevitable consequence of false swearing.

---

[26] NRSV.

[27] Moses is criticized for his foreign wife (Num. 12.1); Israelite men are led into idolatry by Moabite women (Num. 25). In the Holiness Code one may note the reverse case in the story of the blasphemer with an Egyptian father (Lev. 24.10-23).

[28] NRSV.

> When someone delivers to another a donkey, ox, sheep, or any other animal for safekeeping, and it dies or is injured or is carried off, without anyone seeing it, an oath before the LORD shall decide between the two of them that the one has not laid hands on the property of the other; the owner shall accept the oath, and no restitution shall be made.[29]

Fear of divine punishment clearly has a deterrent function here, although not explicitly spelled out.[30] The apodictic laws, however, contain more explicit references to fear of divine punishment. According to Exod. 22.21-23 (ET 22-24), discussed in the previous chapter, God's wrath will come upon those who maltreat immigrants, widows and orphans. The talion principle applies, so that disobedience of this humanitarian law will result in a similar fate; the perpetrator will be killed by God. Empathy is thus motivated by fear of divine punishment. This also applies to the following rule, about lending and taking pledges (Exod. 22.24-26 [ET 25-27]). If the poor man's cloak is not returned before nightfall he will call on the compassionate God, who will listen to him. Here the threat is perhaps less explicit than in the previous case, but the juxtaposition of the two laws and the repetition of the statement that God will listen implies the same punishment. One could argue that these threats are in effect an appeal to the recipients' experience of war and loss of family, seeking an affective response to the imagined fate of one's own family and, in extension, to the fate of those who are presently struck by such unfortunate circumstances. In the latter case God's care for the under-privileged is motivated by his being merciful (*channun*). God is thus portrayed as capable of an affective and/or cognitive type of empathy that challenges the recipients of this command. However, such appeals are apparently not considered sufficient, since fear of divine punishment is adduced to effect obedience.

In the concluding supplement to the Covenant Code (Exod. 23.20-33), fear of divine punishment is a more or less explicit motivation for obeying the messenger or angel of the Lord (Exod. 23.20-21).

> I am going to send an angel in front of you, to guard you on the way and to bring you to the place that I have prepared. Be attentive to him and listen to his voice; do not rebel against him, for he will not pardon your transgression; for my name is in him.[31]

As already mentioned above, God will annihilate the six foreign peoples mentioned (Amorites, Hittites, Perizzites, Canaanites, Hivites and Jebusites)

---

29. Exod. 22.9-10 (ET 10-11), NRSV.
30. Westbrook and Wells 2009: 46-47.
31. NRSV.

by sending fear and confusion (Exod. 23.27). While the prohibition against entering into covenants with these peoples is motivated by the risk of idolatry (Exod. 23.32-33), the Israelites are not, however, scared into obedience as in subsequent legal collections. Although this section is (Proto-)Deuteronomic in character, it does not yet display the techniques of deterrence that can be found in Deuteronomy.

Fear of foreign peoples and the threat of idolatry that they represent play a prominent role in Deuteronomy; we have already discussed the list of nations in Deut. 7, which corresponds to that in the conclusion to the Covenant Code, and also to that in the ambiguous war laws in Deut. 20. Sometimes, however, it is God who will cause fear, either among his enemies (Deut. 2.25; cf. 7.23),[32] or among his own people, who will be punished for not obeying. This is not conspicuous in the humanitarian laws that correspond to those in the Covenant Code, where fear of divine punishment is not a major motivation. In Deut. 10.12–11.1, for example, fear of God is ‘fear’ in the sense of religious attachment and service rather than fear of punishment: ‘Yahweh, your god, you shall fear him and serve him and adhere to him and swear in his name’ (Deut. 10.20). Humanitarian behaviour is motivated by empathy and love (10.19), rather than by fear of punishment. This applies to the list of humanitarian laws in Deut. 24.6-22 as well. The motivation for returning the poor man’s cloak before sundown is divine blessing and righteous status (Deut. 24.13). Even the one threat against not paying the day-labourer on the same day (v. 15), is relatively mild: *w^{e}hayah b^{e}ka chet’*, that is, ‘you will incur (the guilt of) sin’.

The Deuteronomic framework, however, expressly utilizes fear of divine punishment to deter Israel from associating with foreign peoples. We have already seen that this fear is often associated with emotional disgust and is used to outline the limits of group adherence, in order to protect group integrity. Fear of divine punishment seems to be part of this strategy, too. God will revenge apostasy (7.10), the Israelites are warned against being caught in the trap of idolatry (7.16, 25): participation in such disgusting activities will result in the Israelites themselves being ‘consecrated to destruction’ and annihilated (7. 26; 8.19-20). Prophets, idolaters and cities that advocate idolatry must be promptly annihilated (Deut. 13).

The use of fear of divine punishment as a deterrent to make people comply with the law is most accentuated in the curses (Deut. 28.15-68).[33] This list is a vehement crescendo leading up to the exile, containing all thinkable and unthinkable atrocities and horrors that could possibly fall upon the people if they did not obey the law. The list, too long to quote, gives numerous examples of fear of death and disease, as well as of animal fear and interpersonal fear. The latter category is mostly focused on war, siege, occupation and captivity by enemies, which means that fear of divine punishment actually reinforces fear of foreigners. In this way, any attraction to the unknown or other is countered by all possible means.

---

[32] Cf. Exod. 23.27.

[33] Parts of the subsequent warnings as well as the Song of Moses have a similar intent (Deut. 29.16-28; 32.15-25).

The Holiness Code's focus on Israelite holiness is motivated by an understanding of Yahweh's holy presence as a potentially life-threatening danger to the people. This is already the case in the sacrificial laws and purity laws (Lev. 10.1-3; 15.31; 16.2), but is spelled out and further developed in the Holiness Code.

The laws in Lev. 17–26 are so frequently interspersed with the comment 'I am Yahweh' that a full list is unnecessary. In a sense, this statement always carries with it an implicit threat: God is holy and requires holiness. Disobedience against the Holiness Code puts not only the perpetrator but also the people at large at severe risk.

Occasionally this is spelled out in full. In Lev. 18.24-30, quoted above in the chapter on disgust, the laws on sexual relationships conclude with an explanation: they cause uncleanness to the land, and this is the reason why the land vomited out its former inhabitants. This is followed by a warning: this could happen to the Israelites as well. Fear of divine punishment thus becomes a motivation for adhering to these 'moral' purity laws. Similarly, the *karet* punishment is prescribed for inappropriate handling of the *sh^{e}lamim* sacrifice (Lev. 19.5-8), for sacrifices to Molech (20.1-6) and for a priest who approaches sacrificial gifts in a state of impurity (22.1-3). But even the frequent repetition of 'I am Yahweh' within the humanitarian laws of Lev. 19 implies a divine threat against those who do not follow these rules, even if this is not explicitly stated.

Just like Deuteronomy, the Holiness Code uses threats of divine punishment as a deterrent measure, to scare people into obedience. This is most obvious in Lev. 26, which is related to Deut. 28, but carries particular traits in the Holiness Code. The passage has already been discussed in Chapter 6 above, in view of the feelings of disgust that are ascribed to God. As in Deut. 28, the warnings of Lev. 26 do not refer to any specific sins, but to disobedience of God's commands in general. As already pointed out, the list of fearful punishments relates especially to the latter part of the Holiness Code, i.e., its laws of worship, sabbaths and land (Lev. 23–25), since those are the issues alluded to, while the sexual sins from the earlier chapters are not. The list of threats in the Holiness Code is not, however, as vehement as that of Deuteronomy and although frightening, it does not repeatedly emphasize fear as the result of these punishments. While Deuteronomy's list ends in exile, The Holiness Code suggests conversion and return, explaining the necessity of the exile through the land's need of restitution, because of the sabbaths that were not kept. Although enemies are mentioned in Lev.

26, their role is downplayed, by God's speaking in the first person; God is envisaged here as the direct agent of most punishing acts and there is no emphasis on foreign peoples as enemies to be feared. The impression is that this has already happened and that a strong reminder should be sufficient for the recipients to fear God enough to keep the holiness laws, which are necessary for continued restoration. Lev. 26 does not really seem to count on people's fear of foreigners to uphold ethnocentrism. The text does threaten with divine punishment, but is not as aggressive as the corresponding passage in Deuteronomy.

Divinities, Demons and Rites of Purification

In discussing the Holiness Code we have noted that divine holiness was considered dangerous, and that this necessitated adherence to particular holiness laws. Just as in the case of fear of punishment, a fear of dangerous holiness can be utilized as deterrent for enforcing legal obedience. There is a difference, however, between this type of fear of the divine and compliance because of threats of divine punishment. Punishment is more like a ruler's display of power to enforce his will, while the dangers associated with divine holiness are immediate and irrational, dependent on the supernatural and uncontrollable nature of divine beings.

This characteristic is something that divine beings share with lesser divinities and demonic powers. Their holiness, impurity or influence is experienced as threatening in similar ways and they are feared not because they have instituted particular rules or laws, but because of their presence or essence, which may threaten human lives and thus needs to be handled appropriately. Fear of demonic powers can thus be seen to lie behind a number of behaviours that the modern mind would classify as ritual. We should, however, again remind ourselves that the ancients, just like a number of present-day non-western cultures, would not have made a clear distinction between moral and ritual actions.[34]

Fear of the supernatural, of divine beings or of demons, was a natural part of life in the ancient world. Such fear carries traits of all four analytical categories previously mentioned in Chapter 4. Death, injury or illness was often ascribed to invisible causes, such as the influence of personal spirits or demons, regardless of whether visible causes were available in addition. *Fears of death and disease* are thus blended with *interpersonal fear*. Fear of demons is also akin to *animal fear*, since demons are envisaged as non-human, or 'post-human' beings, and often take on animal traits. Like some of the real or imagined animals threatening human beings, demons are often associated with *open places*, deserts, waters and foreign areas, which are unsafe and in which it is difficult to seek refuge quickly or to protect oneself.

---

[34] See Chapter 3 above; cf. Kazen 2008.

Vestiges of demon belief and demonic fear can be seen in a number of purification rites, in spite of more or less successful attempts to integrate them within a priestly sacrificial system. Following the lead of Yehezkel Kaufmann, many of these rites can be read as originally intent on exorcising demonic powers, and they 'retained magical features, so deeply rooted as to defy extirpation'.[35] Others, such as Baruch Levine and Jacob Milgrom, have subscribed to this general view, although they all differ as to the extent to which priestly theology managed to refashion or abolish earlier magical and demonic ideas. I will not enter that discussion here, nor the one about evolutionary interpretations of religion in general. Suffice it to point out those purification rites that are particularly suggestive of an underlying fear of demonic activity.

Sending Demons Back to Where They Belong

The most conspicuous rites may be those at the beginning of the purification from skin disease, and after the repair of a 'leprous' house (Lev. 14.1-7, 14 -18, 25-29, 49-53).

> … If the disease is healed in the leprous person, the priest shall command that two living clean birds and cedarwood and crimson yarn and hyssop be brought for the one who is to be cleansed. The priest shall command that one of the birds be slaughtered over fresh water in an earthen vessel. He shall take the living bird with the cedarwood and the crimson yarn and the hyssop, and dip them and the living bird in the blood of the bird that was slaughtered over the fresh water. He shall sprinkle it seven times upon the one who is to be cleansed of the leprous disease; then he shall pronounce him clean, and he shall let the living bird go into the open field. … The priest shall take some of the blood of the guilt offering and put it on the lobe of the right ear of the one to be cleansed, and on the thumb of the right hand, and on the big toe of the right foot. … For the cleansing of the house he shall take two birds, with cedarwood and crimson yarn and hyssop, and shall slaughter one of the birds over fresh water in an earthen vessel, and shall take the cedarwood and the hyssop and the crimson yarn, along with the living bird, and dip them in the blood of the slaughtered bird and the fresh water, and sprinkle the house seven times. Thus he shall cleanse the house with the blood of the bird, and with the fresh water, and with the living bird, and with the cedarwood and hyssop and crimson yarn; and he shall let the living bird go out of the city into the open field …[36]

After inspection, purification begins with a bird rite. At the end of the purification period subsequent to the healing of skin disease, blood and oil from the

---

35. Kaufmann 1960 (1937–1948): 102.

36. Lev. 14.3-7, 14, 49-53, NRSV.

'asham offering are smeared on the right ear, thumb and big toe of the healed person. This smearing has obvious similarities with Zoroastrian practices for chasing away the corpse demoness, as described in *Vendidād*, although the latter rites include the treatment of many more parts of the body.[37]

In the bird rite at the beginning of purification from skin disease, or after the repair of a 'leprous' house, two 'live', probably wild, birds are used,[38] together with cedar wood, red wool and hyssop. One bird is slaughtered over a bowl with water, after which the other is dipped in it, together with the wood, wool and hyssop. The healed person is sprinkled and the live bird is released in the open fields. The rite is generally interpreted as transferring the disease or demonic influence to the live bird, which takes it away, never to return again.[39] In Mesopotamian religion, impurity is often seen as the result of demonic activity and a number of rituals aim at exorcising the demons, sending them back to their origin. These may be the river, the open uninhabited country, or the underworld.[40] Similarly, the Hittites thought of open areas and the underworld, together with mountain areas and foreign lands, as places for disposing of impurities, although evils were generally thought of in more impersonal terms.[41]

The use of red wool in purification or disposal rites is also found in Mesopotamian transfer rituals, for example in a Shurpu ritual, in which the patient is sprinkled, although the wool itself is burnt,[42] in a Malli thread manipulation ritual,[43] and in a number of transfer rites. In a Mesopotamian healing ritual, red wool is tied to the foot of a frog that is explicitly said to return the evil to its steppe. Red wool is also used in an amulet from ancient Uruk[44] and in a Neo-Assyrian goat ritual.[45] The release of birds is mentioned in Mesopotamian and Hittite texts, both as carriers of evil in various rites, and in prayers and incantations.[46] Numerous examples are provided by Wright and Milgrom.[47] Birds occur frequently in Hittite and Hurrian sacrificial rites in association with chthonic deities.[48] Milgrom suggests that birds are chosen in the priestly ritual, not because they are favoured by chthonic deities, but only because they transport the evil away.[49] The use of two birds in Ugaritic texts, as a typical sacrifice for the *ʾInasu-ʾIlima*, the ‘mankind of the gods’ or divinized dead, is conspicuous, however, although in these texts both birds are sacrificed.[50]

---

[37] *Vendidād* 8.40-71.

[38] Milgrom 1991a: 833-34.

[39] Wright 1987a: 77-78. For Namburbi rituals to purify houses, see Maul 1994, 97-100.

[40] Wright 1987a: 248-61.

[41] Wright 1987a: 261-71.

[42] Shurpu i 9-23 (the red wool is mentioned in lines 14 and 21), in Reiner 1958.

[43] Malli i 37-40, in Wright 1987a: 41-42.

[44] Text no. 248, Vs. 4, in von Weiher 1998: 58, 60; cf. Scurlock 2002: 215.

[45] Scurlock 2002: 211-12.

[46] Maul 1994: 90-91, 93; cf. all the 'bird-*namburbis*' (229-69).

[47] Wright 1987a: 80-83; Milgrom 1991a: 834.

[48] For the sacrifice of three birds, see Collins 2002: 227, 228, 230. See also Milgrom 1991a: 834, with a reference to Otten 1961: 130.

The bird rite in Lev. 14 is probably the surviving apotropaic rite that retains the most original traits, since it is not incorporated into the sacrificial system, and is not forced in under the *chattaʾt* umbrella—perhaps because the wild birds crucial to the rite were not sacrificial animals.[51] While the priest has been made to carry out the sprinkling and release, he seems only to supervise the ritual arrangements and the slaughtering. Milgrom suggests that the rite ‘was retained not because Israel’s priests wanted it but probably because the people at large demanded it, practiced it, and would not have tolerated its deletion’.[52]

A similar function to ward off demonic evil is a likely origin for the so-called scapegoat ritual (Lev. 16).

> He shall take the two goats and set them before the LORD at the entrance of the tent of meeting; and Aaron shall cast lots on the two goats, one lot for the LORD and the other lot for Azazel. Aaron shall present the goat on which the lot fell for the LORD, and offer it as a sin offering; but the goat on which the lot fell for Azazel shall be presented alive before the LORD to make atonement over it, that it may be sent away into the wilderness to Azazel. … When he has finished atoning for the holy place and the tent of meeting and the altar, he shall present the live goat. Then Aaron shall lay both his hands on the head of the live goat, and confess over it all the iniquities of the people of Israel, and all their transgressions, all their sins, putting them on the head of the goat, and sending it away into the wilderness by means of someone designated for the task. The goat shall bear on itself all their iniquities to a barren region; and the goat shall be set free in the wilderness.[53]

Scholarly research concerning this ritual is a field of its own, and here I can only engage in a most cursory discussion. The ritual is barely integrated into the sacrificial system but goats are at least sacrificial animals, although the goat for Azazel is not a sacrifice, but rather a vehicle. The identification of Azazel with a desert demon[54] has been questioned; express identification is said to be late and the sending away has even been interpreted as a liberation.[55] In view of the use of animals as vehicles for sending away evil elsewhere in ancient Near Eastern texts, however, this must be deemed very unlikely.[56] The Day of Atonement ritual looks very much like the conflation of two rites, and Milgrom's suggestion that at one stage the cleansing of the sanctuary was accomplished by a pair of goats in a rite closely resembling the bird rite is plausible.[57] Milgrom also suggests that originally this was not a calendrical rite but an emergency rite, as are most similar ancient Near Eastern rituals.[58]

---

[49] Milgrom 1991a: 834.

[50] RS 1.009, line 8; 24.256, line 5-6; 24.249, line 26; 24.250+, line 2, 7-8; 1.003/18.056, line 5-6, 27, 36 (?), 40; 1.001, line 21-22; 19.013, line 7-8. Pardee 2002.

[51] Cf. Milgrom 1991a: 833.

[52] Milgrom 1991a: 838.

[53] Lev. 16.7-10, 20-22, NRSV.

[54] E. g. de Vaux 1964: 86-87; Levine 1974: 79-82; Kaufmann 1960 (1937–1948): 114-15; Milgrom 1991a: 1020-21.

Exorcistic purgation of temples by animal carcasses is known from the ancient Near East; the most well known concerns the Babylonian *Akitu* or New Year's festival. Wright has collected numerous Hittite and Mesopotamian parallel rituals with purification motives.[59] Often an animal or a person is sent away, adorned or accompanied by gifts of appeasement. Evil is thus returned to its origin: the open country or steppe, foreign lands, or the underworld. In a ritual from the *Shurpu* series, impure material is disposed of in the wilderness, where desert deities are active.[60] The association of wilderness or open, uninhabited country with the underworld is common in Mesopotamian texts.[61] Nevertheless, Wright stresses the *differences* between the biblical rite and Hittite or Mesopotamian parallels: the scapegoat is just a transporter, not a substitute, and Azazel is not an angry deity in need of appeasement.[62] This is true, of course, for the priestly adaptation of the rite that is described in Leviticus. As for its *origin*, however, Wright admits that it may have carried just those traits in which the biblical rite now differs from ancient Near Eastern parallels due to priestly alterations.[63]

Demonic Threat and Revenge

The burning of a red heifer to obtain ashes for the purification water (Num. 19) is another apotropaic rite, most probably originating as exorcist magic to ward off a demonic threat.

---

[55] *1 En.* 10.4-5; cf. 11QT^a (11Q19) 26.13. Douglas 2003.

[56] Maul 1994: 90-91.

[57] Milgrom 1991a: 1044.

[58] Also, v. 34 fixes it to once a year, which might suggest that the rite had not previously been confined to a certain time. Milgrom 1991a: 1061. Cf. Wright 1987a: 17-21.

[59] Wright 1987a: 31-74.

[60] Shurpu vii 53-70, in Reiner 1958. Cf. the role of the steppe in the Namburbi texts, Maul 1994: 48, 93, 124, 387.

[61] Milgrom 1991a: 1072.

[62] Wright 1987a: 49-50, 53-54, 72-74.

[63] Wright 1987a: 73-74.

> Tell the Israelites to bring you a red heifer without defect, in which there is no blemish and on which no yoke has been laid. You shall give it to the priest Eleazar, and it shall be taken outside the camp and slaughtered in his presence. The priest Eleazar shall take some of its blood with his finger and sprinkle it seven times towards the front of the tent of meeting. Then the heifer shall be burned in his sight; its skin, its flesh, and its blood, with its dung, shall be burned. The priest shall take cedarwood, hyssop, and crimson material, and throw them into the fire in which the heifer is burning. … Then someone who is clean shall gather up the ashes of the heifer, and deposit them outside the camp in a clean place; and they shall be kept for the congregation of the Israelites for the water for cleansing. It is a purification offering. … Those who touch the dead body of any human being shall be unclean seven days. They shall purify themselves with the water on the third day and on the seventh day, and so be clean …[64]

The rabbinic awareness of, and uneasiness about, the rite's apparent exorcist character is displayed by the oft-quoted saying of Yohanan ben Zakkai in response to a gentile question, in which he explains the red heifer rite by comparing it to exorcism.[65] While Yohanan subsequently gives a theological explanation to his disciples, the tradition is evidence for the fact that the exorcist nature of the rite was generally acknowledged, although not necessarily accepted.

The slaughtering, burning and collecting of ashes are all done by laymen. As in the bird rite, the priest's role is mainly to supervise the event, except for an initial gesture, sprinkling some blood towards the sanctuary, and throwing the cedar wood, red wool and hyssop into the fire. The same ingredients are used as in the bird rite. The rite is incorporated into the sacrificial system to the extent that this is possible without loss of its crucial characteristics; it is explicitly identified as a *chatta't* sacrifice (Num. 19.9, 17), but almost as an afterthought, justifying its purificatory effect. Like a *chatta't*, it purifies the recipients. Unlike the *chatta't*, however, the sprinkling is mainly on people, as in the bird rite. The initial gesture towards the sanctuary seems more like a forced adaptation.[66] The sprinkling of ashes seems to have been carried out by minors, at least towards the end of the Second Temple period, which further attests to its origin outside of the priestly system.[67]

---

[64] Num. 19.2-6, 9, 11-12, NRSV.

[65] *Pesiq. Rab Kah.* 4.7.

[66] Cf. Milgrom 1981.

[67] *m. Parah* 3.2-4; *Barn.* 8.1; The Qumran sectarians seem to have been opposed to this. The statement that no youth may sprinkle is heavily reconstructed (4Q269 8 ii, 6 and 4Q271 ii, 13); the crucial *na'ar* is missing in both but conjectured! The translation of 4Q277 1 ii, 7 is furthermore debated. It is, however, reasonable to accept Baumgarten's suggestion that *'lwl* is a variant for *'wll*, i.e., child (Baumgarten 1999: 118). In any case it

Yet another rite with apotropaic traits is the breaking of a heifer's neck in the case of an unsolved murder (Deut. 21.1-9).

> If, in the land that the LORD your God is giving you to possess, a body is found lying in open country, and it is not known who struck the person down, then your elders and your judges shall come out to measure the distances to the towns that are near the body. The elders of the town nearest the body shall take a heifer that has never been worked, one that has not pulled in the yoke; the elders of that town shall bring the heifer down to a wadi with running water, which is neither ploughed nor sown, and shall break the heifer's neck there in the wadi. Then the priests, the sons of Levi, shall come forward, for the LORD your God has chosen them to minister to him and to pronounce blessings in the name of the LORD, and by their decision all cases of dispute and assault shall be settled. All the elders of that town nearest the body shall wash their hands over the heifer whose neck was broken in the wadi, and they shall declare: 'Our hands did not shed this blood, nor were we witnesses to it. Absolve, O LORD, your people Israel, whom you redeemed; do not let the guilt of innocent blood remain in the midst of your people Israel'. Then they will be absolved of bloodguilt. So you shall purge the guilt of innocent blood from your midst, because you must do what is right in the sight of the LORD.[68]

The explicit purpose of this rite is to erase the collective bloodguilt that otherwise would apply, since no murderer can be found and the blood of the victim thus cannot be avenged.[69] The rite has been subject to numerous interpretations, many of which are speculative, with little grounding in the text.[70] Its basic character as an elimination ritual, focused on the bloodguilt that adheres to the land, seems nevertheless obvious to me.[71] Interestingly, the rite is said to effect *kipper*, atonement, which may lead to an association with the *chatta't* sacrifice, although the present rite is wholly outside of the priestly sacrificial sphere. The agents of every specified action are the elders (and judges) of the nearest town. The priests pop up in v. 5, like puppets with no active function whatsoever, although in theory they are ascribed the authority to decide in disputes and assaults. In actual fact they seem to do nothing; their purported role is fulfilled by the elders and judges. It is very difficult to avoid the conclusion that their sudden appearance is due to a redactional insertion out of priestly interests, at a late stage in the textual formation, turning the

---

is clear that other Qumran texts consider only priests competent for the task, see 4Q276; 4Q277.

[68] NRSV.

[69] For a recent study on this rite, see Dietrich 2009. Cf. the brief but comprehensive discussion in Tigay 1996: 472-76.

[70] This is one of Dietrich's points in his review of previous research (2009: 29-64).

[71] There are good arguments for interpreting the rite as a re-enactment of the murder, an elimination rite, transferring the impurity of bloodguilt from arable land to a desert place. Cf. Milgrom 1972; Wright 1987b; Tigay 1996.

focus from the ancient rite to the similarly appended prayer for forgiveness (vv. 8 [or 8a], 9).[72]

The focus on bloodguilt and revenge fits with the Deuteronomic law about cities of refuge (Deut. 19.1-13). In cases of inadvertent murder, no danger seems to threaten the perpetrator as long as he stays within a city of refuge. In some unexplained manner, the existence of cities of refuge seems to eliminate bloodguilt (19.10). According to the parallel passage in Num. 35.9-34, the killer may even return without danger after the death of the high priest. A danger does, however, threaten the people, if the murder is not avenged in the case of premeditated murder, or, when the murderer is unknown, unless the heifer rite is carried out. While it is *not explicitly* stated in Deut. 21, collective bloodguilt seems to be associated with some kind of impurity of the land, the *'adamah* on which the corpse has been found. According to Deut. 19.13, misfortune implicitly results from the negligence of blood revenge. And according to Num. 35.33-34, the land (*'erets*) must be neither profaned, nor made impure by the shedding of blood, and the land can only have atonement for shed blood by the blood of the murderer.

> You shall not pollute (*lo' tachanifu*) the land in which you live; for blood pollutes the land, and no expiation can be made (*lo' y^{e}kuppar*) for the land, for the blood that is shed in it, except by the blood of the one who shed it. You shall not defile (*lo' t^{e}tamme'*) the land in which you live, in which I also dwell; for I the LORD dwell among the Israelites.[73]

This is clearly purity language, related to the concept of the holiness of the land which is prominent in the Holiness Code, and associates unavenged bloodguilt and thus the heifer rite with corpse impurity.[74] The contamination of the ground by corpses is, however, conspicuous in Zoroastrian religion, where the corpse is thought of as being entered by the corpse demoness at death, and in certain circumstances subsequent purification of the ground was deemed necessary.[75] Although this applies to corpses in general and not particularly to unavenged murder, Persian burial practices seem to have been intent on protecting the earth from impurity, by the use of either burial towers or stone tombs.[76] Victims of murder that were left on the ground would, however, contaminate the earth with demonic influence.

---

[72] Cf. Milgrom 1972: 478; Tigay 1996: 475; Otto 1999: 265-68. For a different view, see Willis 2001: 149-58.

[73] NRSV.

[74] The relationship between the asylum laws in Exod. 21.12-14, Deut. 19.1-13 and Num. 35.9-34 cannot be discussed here; see Stackert 2007: 31-112. Many scholars agree with Stackert that the passage in Numbers is H's composition or redaction, e.g. Knohl 1995: 179-80; Milgrom 2000a: 1344 (probably); Nihan 2004: 118, n.167. According to Achenbach, however, Num. 35 belongs to a late stage of theocratic redaction with a focus on holiness and presupposes the asylum law in Deuteronomy (2003: 598-600, 638).

[75] Choksy 1989: 11, 16-19. See *Vendidād* 3.14; 5.27-38; 7.1-9; 8.14-19.

Milgrom suggests that 'corpse contamination evoked an obsessive, irrational fear in individuals'.[77] This is corroborated by the fact that Herod had problems in settling Tiberias because it was built over a burial ground. In view of corpse impurity originally being associated with demonic activity this is perhaps not so surprising. The isolation and the cry of the person with a skin disease ('impure, impure'), to protect others from unintended contact, also suggests an underlying fear (Lev. 13.45-46). The obviously apotropaic vestiges of the above-mentioned rites suggest a fear of demonic influence or activity, unless this is warded off by appropriate means; the bird rite and the burning of the red heifer have exorcist traits, and the scapegoat is clearly a transfer rite, too. Rites in cases of corpse impurity or murder are necessary in order to avoid misfortune or death. While in the Holiness Code the punishments for defiling the sanctuary or the land—death, *karet*, or expulsion—always come from God, these rites suggest a wide-spread fear of other lesser powers inhabiting the underworld, wastelands or open places, to which various impurities and evils are returned. The basic emotion of fear in all its aspect can thus be understood as one underlying component of ideas of impurity and rites of purification.

Conclusions

In spite of scoring low in some schemes of moral emotions, fear certainly plays an important role in human behaviour, including those actions that we would usually designate as 'moral'. Although basically a self-interested emotion, fear has a self-conscious side, which sometimes allows it to play a role in motivating adherence to various legal precepts. Fear can in fact be utilized both for reinforcing empathic attitudes and for counteracting them. Fear of that which is unknown or foreign often goes together with disgust and the two emotions interact and blend. Both fear and disgust have an evolutionary adaptive value, protecting the organism against perceived threats of bodily harm or of being rejected, i.e., these emotions respond to threats against bodily or social integrity.

In this chapter I have looked particularly at fear of foreigners, fear of divine punishment and fear of demonic influence. In the Covenant Code, fear of divine punishment actually motivates pro-social action—it reinforces empathic attitudes—and although we may find traces of disease-avoidance, there is no explicit expression of xenophobic fear. In the Holiness Code fear similarly motivates compliance with holiness laws. Although fear functions as a deterrent in both cases, the Holiness Code expresses fear of divine essence rather than of retaliatory action. The danger is constituted by the numinous power of divine holiness, which necessitates a closer integration of non-Israelite immigrants. At the same time, xenophobic attitudes are implicitly expressed, although partly masked behind strong disgust language. People are scared into obedience through the association of unacceptable moral and ritual behaviours with foreigners and with expulsion from the land.

---

[76] Choksy 1989: 17. See for example *Vendidād* 3.8-9, 12-15, 36-39; 6.44-51; 8.4-13.

[77] Milgrom 1991a: 275.

The situation in Deuteronomy is slightly different. In the Deuteronomic core, we find traces of disease-avoidance and disgust at foreign practices, but in particular there is evidence for various types of empathic reactions towards immigrants, building on the underlying Covenant Code. Fear is not, however, appealed to for obedience to particular rules. Although the Israelites are seen as the agents of the driving away of foreign peoples, this is not exploited for ethnocentric or xenophobic purposes to any great extent. In the Deuteronomic framework, however, the primary role of fear seems to be deterrence against foreign peoples and their idolatrous practices. The focus is on idolatry and the threat of divine punishment for disobedience, not against particular commandments, but in general. This comes to a climax in the curses, the function of which is clearly to enforce obedience by scaring the people with every possible threat. Although that which is supposed to be feared is divine punishment, what in effect threaten the Israelites are foreign practices and hence foreign peoples. Fear of God is thus exploited to strengthen ethnocentric attitudes and to evoke xenophobia.

The fear of demonic influence or harm, displayed in some purification rites in the purity laws of Leviticus, as well as in certain apotropaic rites in Numbers and Deuteronomy, is more akin to the fear of divine holiness that we find in the Holiness Code. These are rituals that seem to lie at the intersection of the priestly cult with popular religion. Fear of becoming, and especially of remaining impure is bolstered by divine threats, but under the surface demonic influence is detectable. The rites discussed contain a number of traits that are plausibly associated with demons and their habitats, with parallels available in other ancient Near Eastern texts.

Fear of demonic influence can be understood to involve all four generally acknowledged types: interpersonal fear, fear of death, disease and injury, fear of animals and fear of open places—as demons often take animal form and are often associated with desert places. Fear of divine punishment naturally involves the first two, but fear of foreigners, at least fear of foreign lands (as in exile), might be understood to involve the fourth category in addition, if what we call agoraphobic fear is taken in a broad sense as fear of unknown places, or of locations that lack safety and protection.

We have talked consistently of fear, although fear is sometimes distinguished from anxiety as being post-stimulus rather than anticipatory. The distinction is difficult to uphold, however, since reasonable (or even unreasonable) anticipations function as stimuli. In most of the cases discussed above, fear concerns anticipated events, and motivates their prevention. Since human belief systems are based on experience and worldview, we might question whether it is justified to uphold a sharp distinction between anxiety and fear.

Our observations concerning the role of fear in different Pentateuchal collections and layers may be related to the tricky discussion of the date and provenance of various material. A pre-exilic date for the Covenant Code seems reasonable. Fear of divine punishment is utilized to motivate adherence to humanitarian rules, and the appeal to empathy displays no immediate experience of exile or strong foreign influence. There is no explicit xenophobic fear expressed, and it is unlikely that such a text would be shaped in a context where Israelites are about to be occupied or live among foreigners. Immigrants seem to be a marginal group with regard to number as well as to socio-economic status. The concluding supplement at the end of Exod. 23, however, is different, referring to the annihilation of neighbouring peoples. Although there are Deuteronomistic traits, Deuteronomy's deterrent techniques are largely absent in this section.

In Deuteronomy the difference between the role of fear in core passages and in the framework is evident. While the Israelites are the agents of driving away neighbouring peoples in the core, this is not exploited for ethnocentric or xenophobic purposes. The framework, however, as well as some of the material that is often regarded as supplements,[78] combines 'love' for immigrants with strong xenophobic tendencies. Laws concerning immigrants are developed in a direction that suggests an emotionally charged experiential type of empathy, which would counteract an otherwise strong xenophobic tendency. Immigrants are still, however, understood as dependent and of limited number. This does not fit an exilic context. Fear and disgust are combined against the idolatrous practices of foreigners, and fear of divine punishment for assimilation is expressed to the extreme, especially in the curses of Deut. 28, where the consequences of exile are not only suggested but also described. The need to strengthen group integrity seems acute. This suggests a postexilic, rather than a pre-exilic context. Deuteronomy's growth and development is a long and complex process, and one should perhaps be content with the suggestion that the role of fear and interacting emotions does not preclude a pre-exilic Deuteronomic core, while suggesting a postexilic context for much of the framework.

The Holiness Code presupposes greater integration between Israelites and immigrants, and has further developed empathic attitudes from the Covenant Code and the Deuteronomic core, appealing to shared experiences and divine concern. At the same time, Deuteronomy's harsh attitudes toward foreign peoples and their idolatry are also taken up. An implicit xenophobia is displayed, which no empathy can mitigate. The context, however, is one of divine holiness, which threatens the community unless it conforms to various holiness laws. This also applies to resident immigrants, some of whom have attained a higher status than immigrants previously used to do. There is no explicit fear expressed against this group as such, but there is a fear that they might pollute both community and sanctuary, and thus put the people at risk. A strong fear is displayed that lack of holiness might lead to (a new) exile, although the explicit references are to the expulsion of former inhabitants. All this suggests a postexilic date, more precisely during the early Persian period, at a time when the Second Temple was being established and the people were equated with the Jerusalem temple community. The supplement in Lev. 26 is probably a little later, from a time when this community has become more established. In this chapter fear is employed to scare people into more general obedience and the threats are not nearly as vehement as the Deuteronomic curses on which it depends. God has become the sole agent of the prospective punishments and the text does not really appeal to xenophobic propensities to obtain group cohesion.

---

[78] Kratz 2005: 133.

The apotropaic rites that express fear of demonic activities are difficult to date or contextualize. On one hand they retain archaic traits and are likely to represent popular practices. On the other hand many of them give the impression of being squeezed into an emerging cultic system without fitting too well into the systemic constructions and categories that are attempted. Although the practices and some of the textual material are probably much older, most of these traditions are likely to have received their present shape and place within the Pentateuch at a fairly late stage of redaction, during the Persian period.

Chapter 9

A SENSE OF JUSTICE: ACCEPTANCE AND ATONEMENT IN CIVIL AND SACRIFICIAL LAW

> Justice is a set of expectations about what one deserves and how one ought to be treated. Justice has been served when these expectations have been appropriately met. Our justice cluster comprises several behaviors related to fairness, including a desire for equity and a desire for and capacity to share reciprocally. The cluster also includes various behavioral reactions to injustice, including retribution, indignation, and forgiveness, as well as reactions to justice such as pleasure, gratitude, and trust.
>
> –Marc Bekoff and Jessica Pierce[1]

Introduction

In this chapter I will discuss ritual and moral reconciliation, focusing on the ambiguous term for atonement—*kipper*—the meaning and translation of which has been a bone of contention for at least a century, since Johannes Herrmann and Adolf Büchler.[2] The origin of the root *KPR*, the use of the pi'el verb in contexts of forgiveness as well as in contexts of purification, and the relationship between the verb *kipper* and the noun *kofer*, often translated as *ransom*, are long-standing disputes among scholars of the Hebrew Bible, and sensitive issues due to their entanglement in Christian doctrinal disputes.[3]

I will not attempt to provide a history of research concerning these issues, but will rather begin from the other end. I suggest that emotional aspects of fairness or justice may provide a common denominator for allegedly disparate usages, and that this amounts to a removal of offence by a mitigating token that signifies a wish to restore balance. This is somewhat related to economic compensation, but not identical to substitutionary payment, since this 'atonement' is applied in situations where full compensation or restoration cannot be made, but only symbolic tokens can be offered.

---

[1] Bekoff and Pierce 2009: 113.

[2] Herrmann 1905; Büchler 1928.

[3] See for example Levine 1974: 55-117; Janowski 2000 (1982); Kiuchi 1987: 87-109; Milgrom 1991a: 1079-84; Gilders 2004: 28-29, 72-73, 135-38; Sklar 2005. For a history of research up to 1982, with complements up to 2000, see Janowski 2000 (1982): 20-25, 402-406; for a bibliography up to 1991, see Schwartz 1991: 51-52, note 3.

While disgust, empathy and fear can be thought of as more or less moral emotions, what are we to say about a sense of justice? This is a more complex phenomenon, involving several components, perhaps a blend of, or an interaction between a number of emotions. A basic sense of fairness can be found in non-human species, too, and reconciliatory behaviours in animals are fascinating to study. Cross-cultural studies of human reconciliation rituals are also most interesting. These issues have been discussed in more detail above, in Chapter 4. We have seen that ritualized reconciliatory behaviours often aim at restoring a disturbed equilibrium, making renewed interaction between offender and victim possible. We have also pointed out that our sense of justice, including our propensities for both revenge and reparative mechanisms, have developed because they are adaptive and aid (human) societies in achieving a certain homeostasis. This is the vantage point from which we now approach the biblical text.

Retribution and Restitution in ANE Legal Collections

In the Covenant Code, most of the casuistic laws (Exod. 21.1–22.16 [ET 22.17]) deal with revenge and restitution, except for the introductory section on slavery.

> Whoever strikes a person mortally shall be put to death. If it was not premeditated, but came about by an act of God, then I will appoint for you a place to which the killer may flee. But if someone wilfully attacks and kills another by treachery, you shall take the killer from my altar for execution. Whoever strikes father or mother shall be put to death. Whoever kidnaps a person, whether that person has been sold or is still held in possession, shall be put to death. Whoever curses father or mother shall be put to death.
>
> When individuals quarrel and one strikes the other with a stone or fist so that the injured party, though not dead, is confined to bed, but recovers and walks around outside with the help of a staff, then the assailant shall be free of liability, except to pay for the loss of time, and to arrange for his full recovery.
>
> When a slave-owner strikes a male or female slave with a rod and the slave dies immediately, the owner shall be punished. But if the slave survives a day or two, there is no punishment; for the slave is the owner's property.
>
> When people who are fighting injure a pregnant woman so that there is a miscarriage, and yet no further harm follows, the one responsible shall be fined what the woman's husband demands, paying as much as the judges determine. If any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe.

> When a slave-owner strikes the eye of a male or female slave, destroying it, the owner shall let the slave go, a free person, to compensate for the eye. If the owner knocks out a tooth of a male or female slave, the slave shall be let go, a free person, to compensate for the tooth.
>
> When an ox gores a man or a woman to death, the ox shall be stoned, and its flesh shall not be eaten; but the owner of the ox shall not be liable. If the ox has been accustomed to gore in the past, and its owner has been warned but has not restrained it, and it kills a man or a woman, the ox shall be stoned, and its owner also shall be put to death. If a ransom is imposed on the owner, then the owner shall pay whatever is imposed for the redemption of the victim's life. If it gores a boy or a girl, the owner shall be dealt with according to this same rule. If the ox gores a male or female slave, the owner shall pay to the slave-owner thirty shekels of silver, and the ox shall be stoned.
>
> If someone leaves a pit open, or digs a pit and does not cover it, and an ox or a donkey falls into it, the owner of the pit shall make restitution, giving money to its owner, but keeping the dead animal. If someone's ox hurts the ox of another, so that it dies, then they shall sell the live ox and divide the price of it; and the dead animal they shall also divide. But if it was known that the ox was accustomed to gore in the past, and its owner has not restrained it, the owner shall restore ox for ox, but keep the dead animal.
>
> When someone steals an ox or a sheep, and slaughters it or sells it, the thief shall pay five oxen for an ox, and four sheep for a sheep. If a thief is found breaking in, and is beaten to death, no bloodguilt is incurred; but if it happens after sunrise, bloodguilt is incurred. The thief shall make restitution, but if unable to do so, shall be sold for the theft. When the animal, whether ox or donkey or sheep, is found alive in the thief's possession, the thief shall pay double.[4]
>
> When someone causes a field or vineyard to be grazed over, or lets livestock loose to graze in someone else's field, restitution shall be made from the best in the owner's field or vineyard. When fire breaks out and catches in thorns so that the stacked grain or the standing grain or the field is consumed, the one who started the fire shall make full restitution.
>
> When someone delivers to a neighbour money or goods for safekeeping, and they are stolen from the neighbour's house, then the thief, if caught, shall pay double. If the thief is not caught, the owner of the house shall be brought before God, to determine whether or not the owner had laid hands on the neighbour's goods. In any case of disputed ownership involving ox, donkey, sheep, clothing, or any other loss, of which one party says, 'This is mine', the case of both parties shall come before God; the one whom God condemns shall pay double to the other. When someone delivers to another a donkey, ox, sheep, or any other animal for safekeeping, and it dies or is injured or is

---

[4] The order of the MT is followed although the NRSV actually rearranges this section, i.e., 21.37; 22.1-3 (ET 22.1-4), so as to present the case of burglary last. For an explanation of the structure, considering 22.1-2a and 22.8 as extrapolations, see Marx 1988: 186-87.

> carried off, without anyone seeing it, an oath before the LORD shall decide between the two of them that the one has not laid hands on the property of the other; the owner shall accept the oath, and no restitution shall be made. But if it was stolen, restitution shall be made to its owner. If it was mangled by beasts, let it be brought as evidence; restitution shall not be made for the mangled remains. When someone borrows an animal from another and it is injured or dies, the owner not being present, full restitution shall be made. If the owner was present, there shall be no restitution; if it was hired, only the hiring fee is due.
>
> When a man seduces a virgin who is not engaged to be married, and lies with her, he shall give the bride-price for her and make her his wife. But if her father refuses to give her to him, he shall pay an amount equal to the bride-price for virgins.[5]

Murder is punished with execution, unless it is unintentional, in which case the murderer can seek asylum.[6] Violence against or cursing of parents also result in capital punishment, as does man-theft. In cases of violence between men resulting in injury, the perpetrator must pay for the victim's restoration and expenses until he is healed. Lethal violence against a slave requires vengeance, but not if the slave survives. If someone hurts a pregnant woman and 'her children come out' he shall pay unless harm follows; then he shall give life for life, eye for eye, tooth for tooth, *et cetera*. If someone destroys an eye or a tooth of a slave, the slave shall go free. If an ox gores a man, woman, boy or girl, it shall be stoned but the owner goes free unless the ox's behaviour was well-known and the owner had not taken proper precautions, then capital punishment follows, *except* when he is required to pay a *kofer* as a ransom for his life. If the victim is a slave there is a restitution payment in silver. Restitution in money or kind is also paid if someone neglects to cover a well and an animal falls into it, or if a goring ox kills another one. In cases of animal theft, restitution shall be two- or manifold, depending on the circumstances. A burglar may be killed during night but not in daylight. Restitution also applies in cases of a fire out of control and failure in the safekeeping or rental of others' property or animals. Seduction of a non-engaged girl requires payment of the bride-price, whether the father allows marriage or not.

---

[5] Exod. 21.12–22.16 (ET 22.17), NRSV.

[6] The phrase: 'to a place which I will show you' (Exod. 21.13) is probably a redactionary supplement that betrays Deuteronomistic influence. Cf. Deuteronomy's version of the law of refuge cities (Deut. 4.41-43; 19.1-13). The status of Exod. 21.13-14 has been much discussed and while some regard these verses as secondary on linguistic and literary grounds (e.g. Schwienhorst-Schönberger 1990: 39-42; Jackson 2006: 120-21), others defend their place (Wright 2009: 163-65). A dependence on the altar law (Exod. 20.22-26) seems reasonable for many reasons (Wright 2009: 165; Stackert 2007: 34-38). The phrase about appointing a place seems, however, to be a secondary qualification, implying that in view of cult centralization the altar in v. 14 cannot be *any* altar, but then leaving the mention of that altar somehow unexplained. One may thus conjecture an original mention of the altar as a place of refuge in Exod. 21.13, rather than a reference to the establishment of a place for asylum in the future. The alternative would be to claim a cultic meaning of *maqom* (place) in Exod. 21.13, which Deuteronomy then re-interprets as 'city' (See Stackert 2007: 31-112).

Differences from and similarities to other ancient Near Eastern legal collections are well known.[7] The laws of Ur-Namma (ca. 2100 BCE) likewise prescribe capital punishment for homicide, but stipulate different prices for various body parts: foot, nose, tooth etc, in a fairly developed list of fines.[8]

The laws of Lipit-Ishtar (ca. 1930 BCE) present a system of fines for anything from ox-hire to tree-cutting, and there are cases in which like for like can be transformed into a monetary payment. In the case of a pregnant woman losing her unborn child a monetary payment is prescribed, but if the woman dies the perpetrator shall be killed. In the case of a slave woman the payment is less.[9]

The laws of Eshnunna (ca. 1770 BCE), besides discussing restitution in cases of safe-keeping and negligence, present an even more refined price list for different body parts, and even accidental killing is paid for in silver. In the case of a habitually goring ox, the two owners divide both of the oxen, and if it kills a man there is again a payment in silver, less for a slave than for a free man. The same applies to the owner of a murderous dog. There are, however, rare capital cases, which are decided by the king.[10]

The more well-known laws of Hammurabi (ca. 1750 BCE), however, prescribe capital punishment for a number of offences: false witness, stealing *sancta*, fraudulent business transactions, or as a substitute in cases when a thief cannot pay for restitution. The death penalty also applies to robbery, burglary (without qualifications) and a number of other cases. Abusive behaviour against one's parents results not in death but in the mutilation of various body parts. The talion principle for injury applies for a free person (*awilu*) but when commoners are injured monetary restitution suffices.[11] Unintentional injury or killing can be paid for, implying that intentional murder would result in the death penalty. Here, too, the pregnant woman appears. While the unborn child can be paid for, the death of the woman requires the killing of the perpetrator's daughter. When commoners or slaves are involved, monetary restitution always suffices. The ox known for goring will only cost its owner a compensatory payment in silver, whether it kills a free person or a slave.[12]

---

[7] For easy access to the various legal collections mentioned below, see Roth 2003 (1997).

[8] C iii 52-54, A vii 324-viii 349, B ii 35-iii 4 = laws no. 1, 18-22 in Roth 2003 (1997): 17, 19.

[9] See in particular P rev. iii' 2'-6', iii' 7'-13'; C xiii 12-23; C xv 8-19; D i 12-20; E i 12-18; B xx 9'-26'; L iv 1'-6' = laws no. d-f, 5, 9-10, 34-37 in Roth 2003 (1997): 26-28, 33.

[10] A iii 32-44, iv 13-28; B iii 17-24, iv 1-3, iv 17-20; C 1-11 = laws no. 42-48, 53-58 in Roth 2003 (1997): 65-68.

[11] Compare this to the Covenant Code instructions concerning slaves. A slave-owner who injures a slave's eye or tooth has to let the slave go free to compensate for the injury. The owner of an habitually goring ox that has killed a slave is not required to pay a *kofer*, as is the case when a free person has been killed, but rather a fixed compensation.

According to the Middle Assyrian laws (ca. 1076 BCE), a man who injures a pregnant woman has to pay for the miscarriage, but if it was a boy and the husband had no boy or if the woman dies, he is killed. The monetary restitution is called 'full payment of a life'.[13]

Finally in Hittite laws (1650–1500 and 1500–1180 BCE), apparently revising older versions, all sorts of offences, from unintentional killing, violence, or injuring body parts, to stealing, can be restituted by payment in silver, cattle or slaves, and some corporeal and capital punishments from earlier times are replaced. The death penalty applies to certain sexual offences, but for some a sheep is offered instead.[14] Interestingly, the punishment for outright murder is decided by the relatives of the murdered man and the king has no say; the family may demand death or compensation.[15]

Theological and Evolutionary Explanations

Differences between the Covenant Code and other ancient Near Eastern legal collections have been explained in various ways, as moral, theological, cosmological or contextual. Phillips, following in the footsteps of Finkelstein and Greenberg, suggests a clear division between criminal law, which deals with abuses against God and human beings, and civil law, which concerns property offences only. Restitution by way of payment can never be made for criminal offences; these can be traced back to the Decalogue and always require capital punishment.[16] Phillips sees this as a theological difference between the Israelite law and other ancient Near Eastern laws: 'the criminal law governing murder and adultery in Israel was unique in the ancient Near East'.[17]

---

[12] v 26–viii 48; ix 14-27; xxxix 96–xli 54; xliv 44-68 = laws no. 1-16, 21-22, 192-214, 250-52, in Roth 2003 (1997): 81-85, 120-23, 128.

[13] vii 63-81 = law no. A 50, in Roth 2003 (1997): 173-74.

[14] 1-18, II-XVII, 57-92, 187-200b, in Roth 2003 (1997): 217-20, 226-28, 236-37.

[15] Telepinu edict 49, in Roth 2003 (1997): 237. The so-called Telipinu edict is generally considered to have been added to older material. Here it is explicitly stated that the king will have no say. Originally it seems that these laws did not contain provisions for outright murder; such cases would have been covered by the custom of blood revenge or *kofer*-like payment. While the older laws contain other less clear-cut cases, including some in which the state (king) is involved, this does not include plain murder, where traditional blood revenge or alternative payment seems to have applied.

[16] Phillips 2004 (2002): 2-24, 43. Wright, however, arguing for the dependence of the Covenant Code on Hammurabi's law, sees no theological rationale for the former's modifications of the latter in this respect (Wright 2007: 76). Cf. Wright 2003: 11-87.

Phillips's reading requires a particular interpretation of theft, perjury and covetousness, and has been criticized by a number of scholars, notably by Jackson, who claims that certain property offences were subject to the death penalty, too. While the examples (sacrilege, kidnapping and brigandage) may be disputed, evidence that capital punishment was not always required even for criminal offences such as murder and adultery may be more important. There is dispute concerning the goring ox, in which case a *kofer* is allowed as an option. Phillips claims that this is not an exception, since the *ox* is stoned anyway, but Jackson objects that the stoning is non-judicial,[18] and that this 'is a purely utilitarian measure designed to ensure that it will not kill (a person) again'.[19] In any case, if the ox is considered the 'murderer' it is difficult to understand why the owner's punishment or payment is the main focus, and why a *kofer* is envisaged as an exception only.

The dispute also concerns other non-legal texts (1 Sam. 12.3; 1 Kgs. 20.39; Amos 5.12, Prov. 6.35; 13.8), which can be understood as evidence for the practice of *kofer*, but alternatively may be interpreted negatively in the sense of unacceptable bribes. For Phillips, the unique theology governing Israelite criminal law is based on the Decalogue. For others, it is a creation theology based on Gen. 9.5-6.[20]

Attempts to spell out the uniqueness of Israelite law are of course always subject to suspicion. An alternative is an evolutionary approach, perhaps more common in the past, which tries to place Israelite law within a (global) trajectory in early legal systems, from retaliation to compensation. The studies of Joel Blau and Mayer Sulzberger almost a century ago still exert some influence on scholars.[21] The advantage of an evolutionary approach is that it recognizes that 'the desire to punish a wrongdoer and obtain restitution from him appears deeply rooted in human nature'.[22]

Ideas of linear development, however, from personal revenge through formalized retaliatory norms to monetary compensation, appear to be too simplistic. According to such a view, the talion principle in biblical law, stipulating a one to one correspondence between injury and retaliation, is an important step forward, as compared to unlimited blood-feud, since it sets an upper limit. The next step was then to buy out the victim's retaliatory right with money at the discretion of the victim. Finally talion law and blood money were replaced by fixed penalties, regulated by law. The process is rational, since it avoids escalation of violence and unnecessary loss of resources.

---

[17] Phillips 2004 (2002): 18.

[18] Jackson 2006: 257.

[19] Jackson 2006: 257.

[20] Phillips 2004 (2002): 2-95; Greenberg 1960.

[21] Blau 1916: 336-66; Sulzberger 1914: 127-61; 1915a: 289-344; 1915b: 559-614.

[22] Parisi 2001: 83.

Such a development has recently been argued by Parisi, although his case depends on many unproven assumptions.[23] While the biblical texts he quotes in favour of manifold retaliation may be earlier than the legal material, they are narrative or proverbial; in addition there are only a few, not sufficient to reconstruct a clear-cut chronological development in historical Israel. Other ancient Near Eastern legal collections, from Sumer to the Hittites, dated to the second millennium BCE or even earlier, frequently give options of monetary compensation rather than talion, and payment rather than death.[24] The Sumerian laws of Ur-Namma (2100 BCE) have an elaborated price list for various bodily injuries, while the later laws of Hammurabi operate with the talion principle in such cases, similarly to the Covenant Code.[25]

An increasing recourse to monetary fines may possibly be a corollary to an increase in state power and the growth of state intervention, and could thus depend on the level of centralization.[26] In early Judaism, both Josephus[27] and the Pharisees,[28] followed by the rabbis, seem to have interpreted talion law as allowing for, or even demanding, the alternative of compensatory payment.[29] If this 'development' came comparatively late in Israelite society, it may have resulted from differences in state organization and function, rather than from theological convictions, as Phillips thinks.[30]

---

[23] Parisi 2001.

[24] See above.

[25] This is also the case with the Akkadian laws of Eshnunna, which are contemporary with the laws of Hammurabi. Cf. Jackson 2002: 6. For examples of price lists from other times and cultures, see Miller 2006: 109-29.

[26] Cf. Phillips 2004 (2002): 68-69.

[27] *Ant.* 4.280

[28] *Ant.* 13.294; 20.199.

[29] Daube 1947: 106-10; Parisi 2001; Jackson 2002. This is first argued by Blau 1916: 345. Josephus suggests that talion law applies 'unless indeed the maimed man be willing to accept money; for the law empowers the victim himself to assess the damage that has befallen him and makes this concession, unless he would show himself too severe' (*Ant.* 4.280). Philo, on the other hand, mentions no such exceptions, but finds monetary penalties for bodily injury insufficient (*Spec. Laws* 3.181-82). Josephus also suggests that the Pharisees were less severe than the Sadducees with regard to punishment (*Ant.* 13.294; 20.199); according to *m. Mak.* 1.6 the latter certainly interpreted talion law literally. According to the medieval scholiast's commentary to the *Megillath Ta'anith*, Boethusians believed in a literal interpretation of talion law, but the historical value of this tradition may be doubted. The rabbinic arguments for and against interpreting talion law literally are found in *b. B. Qam.* 83b-86a; cf. *b. Sanh.* 79. The principle of evaluating bodily injuries already underlies the *Mishnah* (*m. B. Qam.* 8.1). For other references, see Crossley 2004: 103. Cf. Miller 2006: 17-57.

With early Jewish interpretation in mind, Jackson has argued that it was always possible to settle issues with monetary compensation rather than with physical retaliation.[31] While this may be an exaggeration, it is reasonable to suggest that compensation often presented a favourable alternative, since it increased the strength and status of the family or clan of the victim, while saving the perpetrator from loss of bodily functions or life. Jackson and others are thus to be believed when they point out, against Phillips, that laws prohibiting *kofer* in case of outright murder (Num. 35.31-32), or the proverb stating that a *kofer* is useless in the case of raging jealousy (Prov. 6.32-35), testify to the fact that monetary compensation was always a live alternative even in cases of murder and adultery.[32] Jackson also claims that the *mishpatim* of the Covenant Code were basically self-administered laws that did not require a developed judicial system, but were supposed to be practised at family and village level, and legitimated by general consent.[33]

Although the latter suggestion is not generally accepted by scholars (see Chapter 5, above), it is reasonable at least to think of these laws as somehow reflecting a popular sense of justice. They seem to aim at limiting the escalation of aggression and at restoring a disturbed equilibrium. The payment of various types of compensation must have been everyday business in ancient society. Rules in that regard evolved culturally and were continuously re-interpreted because of their adaptive value.

Compensation versus Ransom

While monetary compensation came to be applied to all sorts of cases, there are basic distinctions between simple compensatory payment and *kofer* or ransom. In the case of a miscarriage due to fighting (Exod. 21.22), payment of a fine is stipulated (*ʻanosh yeʻanesh*), which is decided by the husband of the woman. It is clear that this case is *not* understood as an injury (*ʼason*) involving a loss of life.[34] When an ox kills a slave (21.32), a payment of silver (*kesef*) is stipulated. Property can always be exchanged for money. This also applies when an animal falls into an uncovered well (21.33-34), but here we find the pi'el *y*^{e}*shallem*, to make restitution, to recompense, or, in view of the root *ŠLM* and the use of the qal verb, maybe even to appease or make peace. The verb occurs again with the habitually goring ox that kills another (21.36) and this time in the construction *shallem y^eshallem*, often translated as ‘full restitution’.[35] In cases of theft, the restitution or ‘appeasement’ is manifold, the ratio depending on type of animal and circumstances (21.37–22.3 [22.1-4]). The verb is also used in cases of burning fields, safekeeping, or rental of property (22.4-15 [5-15]). It is the most common verb in the *mishpatim* for monetary compensation in cases where property can be restored or exchanged for money. In cases of theft, there is an over-compensation[36] that may be explained either as an appeasement in view of the wrongs committed against the owner, or as a deterrent to potential thieves, or as both.

---

[30] Cf. Phillips 2004 (2002): 43-44, 49-73.

[31] Jackson 2002: 21.

[32] Jackson 2006: 133-38, 157-66. Miller similarly states in his general survey of talion and compensation that '[r]evenge always coexisted with a compensation option' (2006: 25).

[33] Jackson 2006: 389-406. This suggests a relatively limited role for the state in judicial matters.

[34] Cf. the continuation: *w*^{e}*ʼim-ʼason yihyeh w*^{e}*natattah nefesh tachat nefesh*.

There are cases when injury or damage cannot be compensated by monetary payment. The talion principle may be understood in such cases as an alternative way of achieving an equilibrium and thus satisfying a sense of justice. While the damage cannot be undone, the offending party is made subject to a similar loss. When a *kofer* is accepted, however, something different is involved. In the case of the habitually goring ox killing a human being, *kofer* is used parallel to *pidyon*. The latter root (*PDH*) is also used for redeeming the first-born in Num. 3.11-15, but here there is no offence or guilt involved.[37] *Kofer* is typically used in contexts when the value of what is at stake—human life—*cannot* be compensated for: the owner of the goring ox (Exod. 21.29-30), census-taking (Exod. 30.11-16), unintentional killing and cities of refuge (Num. 35.30-34). In the last case the point is that no *kofer* should be accepted. Outside of the Pentateuch *kofer* is used for payments in a variety of extraordinary circumstances that do *not* correspond to simple compensation for lost or damaged property.[38] In many of these cases there is also a notion of offence involved.[39]

When issues of compensation from the Covenant Code are reworked in the Holiness Code (Lev. 24.13-23) the differences become clear.

> Anyone who curses God shall bear the sin. One who blasphemes the name of the LORD shall be put to death; the whole congregation shall stone the blasphemer. Aliens as well as citizens, when they blaspheme the Name, shall be put to death. Anyone who kills a human being shall be put to death. Anyone

---

[35] For a discussion of *ŠLM*, see Daube 1947: 133-46.

[36] This is comparable to some other ancient Near Eastern legal collections; cf. SLHF iii 10-15; LH vi 57-69; Hittite Laws 57-59, 63-65, 67-70, in Roth 2003 (1997): 49, 82, 226-27.

[37] Cf. the discussion in Sklar 2005: 61-64, 66-67.

[38] 1 Sam. 12.3; Amos 5.12; Isa. 43.3; Pss. 49.8 (7); Prov. 6.35; 13.8; 21.18; Job 33.24; 36.18.

[39] Cf. Finkelstein 1973: 183 n. 46, who argues that ransom is not to be understood as ‘wergild’, corresponding to the value of the victim.

> who kills an animal shall make restitution for it, life for life. Anyone who maims another shall suffer the same injury in return: fracture for fracture, eye for eye, tooth for tooth; the injury inflicted is the injury to be suffered. One who kills an animal shall make restitution for it; but one who kills a human being shall be put to death.[40]

He who kills a man is punished by death. He who kills an animal has to give compensation (*y^{e}shall^{e}mennah*). In cases of bodily injury the talion principle applies 'fracture for fracture, eye for eye, tooth for tooth'. The cases are clear-cut: property may be restored, bodily injury revenged, and murder requires the death penalty. The narrative context is about cursing Yahweh and by its revision the Holiness Code exchanges this even more serious crime for the Covenant Code's cursing of parents (Exod. 21.17; Lev. 24.10-16). Some serious offences cannot be compensated for either by restitution or talion. The equilibrium cannot be restored. There is no question of *kofer* here, not even a negative statement as in Num. 35.

Although some see the ban on *kofer* in Num. 35 as representing a principle in biblical law, others regard '*kofer* as originally having been quite generally available at the discretion of the kin, but banned at a late stage in the development of biblical literature'.[41] Thus Phillips has to take Exod. 21.30, allowing a *kofer* for the ox owner, as a later insertion,[42] while Jackson argues that the emphasis on paying 'all that is laid upon him' (*kol 'asher yushat 'alaw*) rather suggests that the custom of paying *kofer* in cases of homicide was well known and widely practiced, but needed emphasis in order not to be neglected, due to the extraordinary circumstances. Even in the case of a goring ox it would have to follow practice, being settled at the discretion of the kin.[43] I favour the view that *kofer* was known and practised at an early stage, not least in view of the provisions of other ancient Near Eastern legal collections, and that it was probably more common in pre-institutionary and self-regulating customary law. The priestly redactors seem to have looked at it with suspicion and denied it in favour of the more recent innovation of cities of asylum, partly due to increasing institutional control.[44] As is clear from Chapter 5, I take both the Holiness Code and Numbers as belonging to the late strata of the Pentateuch.

---

[40] Lev. 24.15-21, NRSV.

[41] Jackson 2006: 133.

[42] Phillips 2004 (2002): 60-61.

[43] Jackson 2006: 135.

[44] Cities of asylum possibly come from the time of Josiah's reform, as a result of pre-exilic cult centralization. Before that, local shrines functioned as asylums. The main passage for cities of asylum is Deut. 19.1-13 (cf. 4.41-43), which spells out the conditions for asylum (unintentional killing). Here, nothing is said either positively or negatively about redeeming the perpetrator by a *kofer*, as in Num. 35.31-32.

Kofer is not to be viewed as compensatory payment, however. It is not a way to make full restitution (*shallem y^{e}shallem*), but rather a symbolic token towards the victim or the victim's relatives. A *kofer* depends on the offended party and cannot restore the balance, but only acts as a reconciliatory sign, a mitigating gesture, signalling a change in future behaviour. While the monetary value should not be downplayed, it is not really a matter of compensation, but more a sign of reconciliation, and an implicit assurance of change in attitude, which can be accepted at will by the offended party. When accepted, it removes the offence, and thus restores a *fictional* balance, a mitigated equilibrium. Prov. 6.34-35 suggests, however, that in the case of adultery, it may be that no *kofer* will suffice to mitigate the husband's emotional involvement, his feelings of injustice. A restoration of equilibrium is dependent on the emotional acceptance of the offended party. Otherwise the offence cannot be removed.

Removal and Reconciliation

In priestly theology, as expressed through the sacrificial laws, the pi'el verb *kipper* plays a prominent role in the ritual removal of offence. The meaning and function of *kipper* rites have been discussed by numerous scholars.[45] Today most of them reject earlier attempts to derive *kipper* from the Arabic *kafara*, meaning 'to cover'.[46] Currently, the two most common suggestions are either to refer to the cognate Akkadian *kuppuru*, meaning 'to wipe off, cleanse', or to derive *kipper* from the noun *kofer*.[47] Levine claims two forms of *kipper*, deriving from these two sources.[48] He is followed in this by Gilders and some other scholars.[49] Others, like Sklar, point out the difficulty in trying to keep two distinct meanings of the verb apart.[50]

The problem is occasioned, as already mentioned in Chapter 6, by the use of *kipper* in two contexts that, at least on the surface, seem very different: sin and impurity. The holocaust bull (*'olah*) effects 'atonement' for the offerer (*l^{e}kapper 'alaw*; Lev. 1.4) and in the descriptions in Lev. 4–5 of various animals offered as *chatta't* offerings, the priest is said to 'effect atonement' (*w^{e}kipper*); with one exception this is explicitly said to result in forgiveness (*w^{e}nislach*;

---

[45] See above, note 3.

[46] Cf. Sklar 2005: 44-45, especially note 2; Gilders 2004: 28-29.

[47] Milgrom 1991a: 1079-84; Levine 1974: 56-63. For further discussion of the Akkadian stem *kuppuru*, see Wright 1987a: 291-99. Maul (1994: 80) suggests that the '"Sitz im Leben" von *kuppuru*… ist im Bereich der Kosmetik zu suchen. *kuppuru* ist nichts anderes als ein *peeling*'.

[48] Levine 1974: 67-77.

[49] Gilders 2004: 29.

[50] Sklar 2005: 4-5

Lev. 4.20, 26, 31, 35; 5.10, 13).[51] This is the case with the *’asham* offering in Lev. 5, too. The formula *y^{e}kapper/w^{e}kipper ... w^{e}nislach* keeps recurring (Lev. 5.16, 18, 26 [6.7]). It is also clear from the subsequent instructions to the priests that they are the agents, effecting ‘atonement’ (Lev. 6.30; 7.7). In the purity laws, however, *‘olah* as well as *chatta’t* and *’asham* offerings, and in some cases even *minchah* offerings, are employed by the priest to effect purification; the formula runs: *w^{e}kipper ... w^{e}taher* (Lev. 12.7, 8; 14.20, 53).[52] In the section on the Day of Atonement (Lev. 16), *kipper* is frequently employed to describe the effect of the priest’s activity and once, towards the end (Lev. 16.30) the purpose is explicitly stated as *l^{e}taher*.[53] For this reason, Milgrom has argued that *kipper* never means ‘atone’ but always ‘purge’ or ‘purify’. This results in the strained explanation that the offences forgiven in Lev. 4–5 cannot be the original ones, but the additional sin of indirectly causing defilement to the sanctuary.[54]

The use of the verb elsewhere suggests that such a narrow understanding is hardly viable. In the Holiness Code, an *’asham* offering is prescribed for a ‘minor’ sexual offence, with which the priest brings ‘atonement’ and the man is forgiven (*w^{e}kipper ... w^{e}nislach*; Lev. 19.22). In Numbers, the ambiguous use of *kipper* is continued. In Num. 5.6-10, an undefined case of compensation or restitution is described, in which the offending party also gives a ‘ram of atonement’ to the priest, with which he brings ‘atonement’ (*y^{e}kapper*). The exact nature of the offering is not stated. In the Nazirite law, the Nazirite who has accidentally become corpse-impure must sacrifice an *‘olah* and a *chatta’t* to effect *kipper* (Num. 6.9-11), although this is not normally required for corpse impurity.[55] The consecration of the Levites is accompanied by sacrifices that effect ‘atonement’; the purpose is their purification (*l^{e}taharam*; Num. 8.12, 21). Inadvertent sins require sacrifices, and just as in Lev. 4–5 the priest effects ‘atonement’ and the sinner is forgiven (*w^{e}kipper ... w^{e}nislach*; Num. 15.25, 28). The festal calendar also mentions ‘atonement’ as the purpose of sacrifices on various feast days (Num. 28.22, 30; 29.5).

---

[51] The exception is Lev. 5.6, but here we must assume forgiveness as implied from the context.

[52] The abbreviated statement, without *w^{e}taher*, also occurs in Lev. 14.18, 19, 21, 29, 31; 15.15, 30.

[53] Verses 29-34 are often considered as H redaction. For references and a discussion, see Nihan 2007: 345-50.

[54] The original offences would be taken care of by the feeling of remorse (Milgrom 1991a: 254-56). Milgrom’s explanation depends on his theory of defilement of the sanctuary from afar as well as on the use of prepositions (255-56, 316-18, 991-1000). Both arguments have been challenged, see Maccoby 1999: 165-92. Cf. Kazen 2010a (2002): 211-14.

[55] The subsequent *’asham* for re-entry into the Nazirite state (vv. 11-12) is discussed below. The series of sacrifices for exiting this state (vv. 13-20) cannot be discussed here, however. Neither of these sacrifices is explicitly said to effect *kipper*.

Perhaps the most interesting use of *kipper* in Numbers is found in the narrative of Korah’s rebellion. Aaron stops the plague, and effects ‘atonement’ (*w*^{e}*kapper*) by burning incense, in a way similar to his activity in the Most Holy on the Day of Atonement (Num. 17.11-12 [ET 16.46-47]). Similarly, the zealous Phinehas is said to have effected ‘atonement’ (*way*^{e}*kapper*) by his killing of Zimri and the Midianite Cozbi (Num. 25.11-13). In the first instance the action has an almost apotropaic function; the incense wards off the divine threat. In the second case, killing the couple removes the offence. In Num. 31.48-54, the soldiers give a *qorban* to Yahweh, to ‘effect removal for our lives’ (*l*^{e}*kapper ‘al-nafshotenu*). Here the infinitive construct of *kipper* seems to be more or less synonymous with *kofer*, as in the passage on the census in the Covenant Code (Exod. 30.12-16), where both verb and noun occur (*kofer nafsho … l*^{e}*kapper ‘al-nafshotekem*).[56] In both cases, the function of the gifts is to remove the offence against the divine that a census was apparently considered to be.

Turning to Deuteronomy, *kipper* is used twice: in the rite of breaking the neck of a heifer (Deut. 21.8) and in the Song of Moses (Deut. 32.43). The former, which was discussed in the previous chapter, is an apotropaic rite aimed at removing bloodguilt when the murderer cannot be found. The latter is a difficult poetic text, but God is said to *kipper ’admato* as part of his revenge on his enemies who have shed his sons’ blood. Thus both contexts have to do with retribution and bloodguilt, or rather, with removing the offence that bloodguilt constitutes.

All this fits well with the proposed translation of *kipper* as ‘to effect removal’.[57] Both impurity and sin may be understood as offences that cause an imbalance and disturb the equilibrium. Impurity can be dealt with by various purificatory rites, but this does not remove the offence that has been caused; for this, sacrifices of various kinds are needed. Sins can be handled by restitution or by talionic punishment, but some sins cause offences that are not removed, either because they are inadvertent or negligent and not rectified or compensated for in time, or because they are so serious that they require the death penalty or blood revenge, unless the offence that they have caused can be mitigated by some sacrificial or apotropaic rite. Gilders has suggested that *kipper* functions as a *hypernym*, an umbrella concept, for a number of specific ways of effecting removal, of which the *chatta’t* sacrifice is the most prominent.

---

[56] Gilders argues that this passage is an interpolation by a late redactor (2004: 172-73). Cf. Nihan (2007: 31-33, 609, 614, 619), who regards Exod. 30–31 as part of a late redaction.

[57] Gilders 2004: 28-29.

This would mean that rites and actions that effect removal (*kipper*) actually function as *kofer*. This is how the verb *kipper* is usually employed in non-sacrificial settings outside of the Pentateuch (1 Sam. 3.14 [hitpael]; 2 Sam. 21.1-9; Isa. 47.11; Jer. 18.23; Prov. 16.14).[58] It is not necessary, however, to assume, as does Sklar, that the reason why the *kipper* rite can function as a *kofer* is the use of animal blood. The traditional use of Lev. 17.11 in interpreting the role of blood in sacrificial rites in general has been seriously challenged by Gilders.[59] Moreover, in the purity laws, live animals (Lev. 14.53) and vegetable sacrifices (Lev. 14.18, 29) are also involved in effecting removal, while in the sacrificial laws an offering of flour can under certain circumstances effect removal (*kipper*) even by itself, without any accompanying animal sacrifices (Lev. 5.13). In other texts, incense, blood revenge and gifts of war booty may have this function, too, as we have seen.

It is thus possible to understand the verb *kipper* together with the idea of *kofer*, to describe rites, measures and actions aiming to remove offences and restore the balance, in cases where this is not easily done by straightforward restitution or compensation. These are cases in which it is of utmost importance to restore an equilibrium, since it is required by a fundamental sense of justice. Without such a balance, human or divine revenge is to be expected; the need for the offended party to achieve emotional homeostasis is acknowledged and presupposed. Offences causing such instability to the 'system' are thus seen as threatening for the offender, and must be dealt with—threats due to the imbalance need to be averted—by a *kofer* or by a *kipper* act or rite.

That such an act or rite is not thought to operate by actually *undoing* the offence or providing full *restitution* for the wrongs committed, is clear from the story of Jacob's meeting with Esau (Gen. 32–33). Jacob is portrayed as interpreting Esau's approach with an army of 400 as an act of retaliation, a natural emotional reaction to Jacob's unfair behaviour in stealing his birth right, the divine promise. Since the original offence cannot be reversed, blood revenge remains the obvious option for achieving an equilibrium that could satisfy a sense of justice in such a serious case. While Jacob cannot, or would not, restitute Esau's birth right, he can appeal for a settlement by offering mitigating gifts out of the material blessings that are associated with the divine promise, symbolic tokens of reconciliation that indicate a change of mind, or at least signal an intention of a fair relationship in the future. This could not, of course, restore the factual balance, but might create a fictive equilibrium, at least in the present, on the condition that the tokens were accepted by the offended party. Jacob’s motive in sending flocks of animals as reconciliatory gifts to Esau in advance is portrayed as an attempt to effect removal, to remove the offence: *’akapp*^{e}*rah panaw bamminchah* (Gen. 32.21 [ET 32.20]). Their meeting is reconciliatory regardless of the gifts, however, and Jacob has to persuade Esau to accept them. Both proclaim that they have all they need—there is no equalizing function involved here at the material level—but for the offender acceptance of the mitigating token is crucial for a moral and emotional settlement (33.8-11). Without this no equilibrium will be achieved.

---

[58] The exception may be the Psalms, where *kipper* can be translated more generally as 'forgive'. However, a sense of *kofer* is possible here, too. Cf. Dan. 9.24. In 2 Chron. 30.18 Hezekiah prays for the people that *God* shall effect removal (*kipper*) for them, and in the context this would mean to override the offence that is caused by people not being properly purified. It is thus less of a 'removal' of impurity than a waiving of the conditions. In Ezekiel as well as in 1 Chron. 6.34 (49), *kipper* is used as in the sacrificial laws of Leviticus.

[59] Gilders 2004, especially 158-80.

Kipper *Effected by Sacrifices*

Taking the evidence above into account, we see that removal (*kipper*) is often effected by sacrifices. In cases of impurity, *‘olah* and *chatta’t* sacrifices effect *kipper* for the post-natal bleeding of the *yoledet* (Lev. 12.6-8), for pathological discharges (15.13-15, 28-30), and on the day of atonement (16.3-19, 30), while for a healed skin disease (14.10-31) *‘olah*, *minchah*, *’asham* and *chatta’t* sacrifices are all carried out by the priest to effect removal.[60] In cases of transgression, removal is effected mainly by the *’asham* and *chatta’t* sacrifices, as the examples from Lev. 4 and 5 show. Outside the sacrificial laws, other sacrifices, too, are involved in effecting removal for impurities or transgressions. The festal calendar, mentioned above (Num. 28–29), lists the *‘olah* and the *minchah*, including a drink offering, in addition to the *chatta’t*, for effecting removal. These lists could admittedly be interpreted as if removal were dependent on the *chatta’t* only, and the context is in any case not one of specific transgression. This can hardly be argued, however, for the instructions in Num. 15.22-26, which prescribe the same list of sacrifices for inadvertent transgressions by the whole congregation; here it is likely that it is the whole list of sacrifices that, combined, provide the basis for effecting *kipper*.[61] We have also seen a few examples in cases of transgression where removal is effected by other means than regular sacrifices, such as burning incense or killing the perpetrator. Possibly, *kofer* payment for a census might fall into this category, too.[62]

---

[60] The priest is also said to effect *kipper* through the bird rite for a ‘leprous’ house (14.49-53), but this is somewhat anomalous and may result from this section being a fairly late extension of *tsara‘at* laws; the idea of *kipper* is not present in the application of the bird rite for people with a skin disease, and the bird rite is not fully integrated into the priestly sacrificial system.

[61] This is in distinction to the following passage concerning individual inadvertent sin, which is dealt with by a *chatta’t* sacrifice, in line with Lev. 4.27-31.

[62] Exod. 30.11-16; Num. 31.48-50.

In cases where neither specific impurities nor particular transgressions are at stake, the *'olah* can be considered a *kipper* rite, too, either together with a *chatta't*, as in the consecration of the Levites (Num. 8.12), or alone, as in the introduction to the priestly sacrificial laws (Lev. 1.4). Here no offence is envisaged, except for the unequal relationship between human offerers and the divine power, which is an imbalance by default. The burnt offering enables human-divine interaction by effecting removal, establishing a fictive equilibrium between human beings and God.

The most important sacrifice for effecting removal in the priestly system is clearly the *chatta't*, as it is employed to remove impurities, as well as inadvertent and even certain conscious transgressions. It seems to have been regarded as the removal sacrifice *par excellence*, to the extent that certain other rites effecting *kipper*, of apotropaic character and with ancient roots, were incorporated into the system and labelled *chatta't*, in spite of numerous anomalies.[63] From the perspective of offence, imbalance, a sense of justice and the need for homeostasis, the function of the *chatta't* in effecting *kipper* is quite clear in most of these cases. It can be understood to have an effect similar to a *kofer*, but this time with regard to the deity, who is very much envisaged in human and emotional terms, although there is an evident imbalance in the relationship, in which the human part is always found wanting. In cases of sins of ignorance or negligence, as well as in cases of impurity, there is a perceived offence; humans have transgressed the divine order in ways that cannot be repaired by compensation or restitution. Divine authority and sanctity have been somehow compromised. This also explains the need for *kipper* rites in rituals of consecration. Here, too, the *chatta't* is employed (priests: Lev. 8; Levites: Num. 8; Nazirites: Num. 6).[64] In all of these cases there is an obvious imbalance between divine holiness and the human profane sphere. *Kipper* rites, including *chatta't* sacrifices, are necessary to allow priests and Levites to share in the divine sphere of holiness by becoming permanently sanctified. A *chatta't* is similarly required of Nazirites if they compromise the divine sphere of holiness, which they have been part of, before they can be allowed to re-enter it. While the size and value of the sacrifices involved is sometimes understood to be dependent on the severity of the offence, this is not a consistent pattern; the variation is just as much dependent on the means of the offerer. This clearly indicates that the *chatta't* employed in *kipper* rites was not understood as full restitution or payment for wrongs against the deity, but as a mitigating token of reconciliation, signalling a direction of will and appealing to the offended party, in this case the divine power, for emotional acceptance.

---

[63] This is the case with the scapegoat (Lev. 16) and the red cow (Num. 19), while the cow with the broken neck (Deut. 21) and the bird rite, at least in the case of a 'leprous' house (Lev. 14) are not assimilated to the degree that they are regarded as *chatta't* sacrifices, although considered to effect removal. See the previous chapter for further discussion of some of these rites.

[64] In the case of Levites the *chatta't* is complemented by an *'olah* sacrifice in order to effect removal. In the case of priests the *chatta't* is complemented by an *'olah* and a ram of ordination, and although it is the *chatta't* that is explicitly said to effect *kipper*, in the end it is indicated that this is the result of the whole process (Lev. 8.34). In the case of completing the Nazirites' period of consecration there is a whole series of sacrifices, none of which is explicitly said to effect *kipper*. The *chatta't* for the Nazirites' accidental corpse-contamination, preparing for their re-entry into the Nazirite state is, however, said to effect removal. For an interpretation of the Nazirite's concluding purification as the apex of his *sanctification* or *consecration*, see Gane 2008.

The issue becomes less clear-cut when we turn to the *'asham* sacrifice. The difference between the *chatta't* and the *'asham* has, according to Milgrom, been 'the despair of scholars through the ages'.[65] The various attempts at a solution, suggested by scholars such as Levine, Milgrom and Marx, cannot be rehearsed here.[66] Many have pointed out that the term *'asham* is used not only with the meaning of guilt, but also for retribution, punishment, or penalty.[67] Hence the text of Lev. 5.6-7 actually says: 'he shall bring, as his *'asham* (penalty) to Yahweh for his *chatta't* (sin) that he has sinned, a female from the flock, an ewe or a she-goat, as a *chatta't* (sacrifice), and the priest shall effect *kipper* (removal) on him from his *chatta't* (sin)'. This looks somewhat confusing at first, but the sacrifice in question is definitely a *chatta't*, not an *'asham*. The case in question (Lev. 5.1-13) involves a number of sins of neglect, not clearly inadvertent as in Lev. 4, but still resulting from negligence or carelessness, and relating to the divine sphere (neglect of testimony, contact with impurity, rash oaths).

Negligence is also at work in two of the three subsequent cases, which do require an *'asham* sacrifice: unintentional sinning against any of the holy things of Yahweh (Lev. 5.14-16) and unknowingly doing anything that should not be done according to Yahweh's command (Lev. 5.17-19). Negligence fits the third case less well, however (Lev. 5.20-26 [ET 6.1-7]).

> When any of you sin and commit a trespass against the LORD by deceiving a neighbour in a matter of a deposit or a pledge, or by robbery, or if you have defrauded a neighbour, or have found something lost and lied about it—if you swear falsely regarding any of the various things that one may do and sin thereby—when you have sinned and realize your guilt, and would restore what you took by robbery or by fraud or the deposit that was committed to you, or the lost thing that you found, or anything else about which you have sworn falsely, you shall repay the principal amount and shall add one-fifth to it. You shall pay it to its owner when you realize your guilt. And you shall bring to the priest, as your guilt offering (*'asham*) to the LORD, a ram

---

[65] Milgrom 1976: 1.

[66] Levine 1974: 91-101; Milgrom 1976; Marx 1988.

[67] Milgrom 1976: 3-7.

> without blemish from the flock, or its equivalent, for a guilt offering. The priest shall make atonement (*kipper*) on your behalf before the LORD, and you shall be forgiven for any of the things that one may do and incur guilt thereby.[68]

In this case the question is not one of inadvertence or lack of intention, but rather of acceptance of guilt. There is reason to look for other traits characterizing the *'asham* sacrifice. A number of quite different characteristics are common to this case and the first one, both of which are called *ma'al*: the idea of deception, robbery or withholding property that rightfully belongs to someone else; the request to give restitution or compensation to the owner for that which one owes; the addition of twenty percent to the compensation; and the possibility of converting the *'asham* ram to silver. In the first case, the transgressions are supposed to be unintentional and concern the 'holy things of Yahweh', which in effect amounts to the withholding of various types of fees, gifts, tithes and sacrifices due to the priests and the temple. Negligence in such matters is understood as robbing the deity of what really belongs to him. In the third case, quoted above, we find a list of trespasses against a neighbour's property that finds its closest correspondence in the Covenant Code instructions concerning restitution (Exod. 21.37–22.12 [ET 22.1-13]), quoted and discussed at the beginning of this chapter. This is the only legal passage in which theft is discussed, as Marx has pointed out,[69] although many of the cases in question are listed in a similar passage from the Holiness Code (Lev. 19.11-13).

While the terminologies are not exactly identical,[70] both contexts (the Covenant Code and the sacrificial law) include theft or robbery, deposit or safekeeping, defraud or disputed ownership, and lost property (cf. Exod. 23.4). In most cases included in the Covenant Code, restitution is required, together with a surplus of two to five times the value. This is different from the priestly law, which only prescribes a surplus of twenty percent. The most important difference, however, is that in Leviticus such fraudulent behaviour towards a neighbour is also understood as a violation against Yahweh, and thus requires an *'asham* sacrifice.[71] This is also what unites this case with the first one (Lev. 5.14-16), in which similarly fraudulent behaviour with regard to the rightful property of Yahweh is dealt with in the same way: restitution plus twenty percent to the 'owner' and an *'asham* sacrifice to Yahweh—the 'owner' and Yahweh being the same in this case.

> And that which he has sinned from the holy things, he shall restitute (*y^{e}shallem*) and add a fifth to it, and he shall give it to the priest and the priest

---

[68] Lev. 5.21-24 (ET 6.2-5), NRSV.

[69] Marx 1988: 186.

[70] Cf. Jackson 1972: 1-40, 53-58, 71-80; Milgrom 1976: 86-104.

[71] Marx 1988: 188-89.

> shall effect removal (*y^{e}kapper*) on him with the *'asham* ram, and it shall be forgiven him.

If we regard these two cases as 'typical' for the *'asham* sacrifice, the conclusion is that it is employed in contexts of theft or fraudulent behaviour, whether against Yahweh or against fellow human beings, and requires the restitution (*shallem*) of the robbed or withheld goods or property. The surplus or fine is, however, fixed at twenty percent in contrast to the rules of the Covenant Code. The *'asham* sacrifice, however, although employed in the *context* of restitution, is not itself part of that restitution. Both cases clearly indicate that the *'asham* is not a compensation; in each case there is compensation plus 20 % to the wronged party, whether divine or human, but the *'asham* ram is offered to Yahweh to effect removal (*kipper*) of the offence, symbolically achieving a mitigated equilibrium between the offender and the divine power. Such an interpretation thus suggests that while the *context* of the *chatta't* and the *'asham* sacrifices differ, neither of them is in itself envisaged as compensation, restitution or substitutionary payment.

So far we have left aside the second case in the priestly *'asham* laws (Lev. 5.17-19). This is in fact what Marx suggests we do, since he considers it an extrapolation.[72] It is a common observation that this case is not called a *ma'al* like the other two, but is very similar to the *chatta't* law for commoners (Lev. 4.27-31). The purpose of the two seems identical, the latter is likely to be a development of the former, and as such anomalous within the *'asham* laws.[73] There is no restitution, no additional fine, and the only similarity to the other *'asham* laws is that the sacrificial animal is convertible.

The explicit requirement of an *'asham* sacrifice can be found in three other priestly passages. In the purity laws, it is prescribed together with a *chatta't* for the final eighth day purification ritual of the 'leper' (Lev. 14.10-20). In the Holiness Code an *'asham* is required for effecting removal on a man who had sexual relations with a slave woman designated for another but not yet freed (Lev. 19.20-24). In the Nazirite law in Numbers, an *'asham* is necessary at the re-entry into the Nazirite state after having accidentally contracted corpse impurity during the period of consecration (Num. 6.9-12). The two last cases are fairly easy to fit into the suggested pattern: the slave woman had been designated the property of another man but was 'stolen'; the Nazirites were assigned to Yahweh as his property for a set period of time, but part of that time was lost. The first case, however, is difficult to explain. Although attempts have been made they easily become strained. Marx thinks that some sort of compensation is involved in this case, too.[74]

---

[72] Marx 1988: 185-86.

[73] I will not go into a discussion of the various interpretations here. See Milgrom 1976: 74-83; Levine 1974: 95-100.

[74] Marx 1988: 185; see also note 3.

Milgrom suggests, based on 2 Chron. 26.16-19 (Uzziah’s sin), that ‘lepers’ were considered to have desecrated *sancta*.[75] If this is assumed, the ‘leper’s’ *’asham* would correspond to the first case in Lev. 5.14-16. However, Milgrom’s interpretation of the relationship between the *’asham* sacrifice and *sancta* trespasses rests on some unproven assumptions.[76] Perhaps the best solution is to regard the ‘leper’s’ *’asham* as an anomaly, too. An animal is needed to obtain the blood necessary for the apotropaic rite of smearing the right extremities of the ‘leper’ and since the blood of the *chatta’t* sacrifice is never used for applying to the body of human beings, the *’asham* might have become an option, as Levine has pointed out.[77]

Part of the rationale for the *’asham* sacrifice is probably being spelled out in Num. 5.6-8, which introduces an addition to the priestly *’asham* laws from Leviticus.

> When a man or a woman wrongs another, breaking faith with the LORD, that person incurs guilt and shall confess the sin that has been committed. The person shall make full restitution for the wrong, adding one-fifth to it, and giving it to the one who was wronged. If the injured party has no next of kin to whom restitution may be made for the wrong, the restitution for wrong shall go to the LORD for the priest, in addition to the ram of atonement with which atonement is made for the guilty party.[78]

Here the *’asham* sacrifice as such is not dealt with, but the issue is restitution in a case where there is no next of kin to receive it. However, the text clarifies the distinction between sinning against human beings and trespassing against Yahweh (*ma‘al*); restitution concerns the former while the latter offence is removed by the priest with the help of the sacrificial animal, which apparently refers to the *’asham* sacrifice.

Another reference that does not actually command an *’asham*, but seems to presuppose the sacrificial laws, is the reminder in the Holiness Code to pay a twenty percent fine after eating *sancta* by mistake (Lev. 22.14-16). The passage warns against acquiring guilt by eating that which is holy and it is possible that the expression *‘awon ’ashmah* refers to a sin requiring an *’asham* sacrifice, although it might also refer to the penalty of restitution, i.e., the twenty percent fine.[79]

We thus conclude that the *chatta’t* and the *’asham* in particular are employed to effect *kipper* in the sense of removing offences and restoring the balance between human offerers and the divine power, in a way similar to the function of a *kofer* payment for dealing with imbalances in intra-human relationships. Other sacrifices can sometimes also be used for effecting *kipper*, especially for general purposes. A non-priestly text like 2 Kgs 12.16 suggests that at some early stage both *'asham* and *chatta't* offerings could be provided in silver, and in the laws of Leviticus, these sacrifices are *not always* blood sacrifices, as we have seen. The *'asham* laws of Lev. 5 suggest that the sacrificial animal could be exchanged for money. The mitigating function of the sacrifices effecting *kipper* does not seem to be dependent on sacrificial blood as such, but on the rite's symbolic character, whether we choose to interpret it as a gift, an appeasement posture, or food sharing. It should not be understood as a substitutionary payment, however; like a *kofer* it is applied in situations where full restitution is impossible and a human or divine sense of justice cannot be satisfied except by talionic punishment or blood revenge.

---

[75] Milgrom 1976: 80-82.

[76] Including an understanding of *ma‘al* constituting a category of sacrilege, whether or not the word is being used. Cf. the comments of Marx 1988: 185, note 2.

[77] Levine 1974: 110-12.

[78] NRSV.

[79] See Milgrom 1976: 63-66.

Conclusions

As suggested in Chapter 4, our sense of justice is an emotional capacity with roots in the biological, evolutionary history of the human being, which requires an equilibrium and strives for an emotional homeostasis. Imbalances can lead to anger, which demands negotiations in order to restore balance. Resentment and withdrawal are other reactions, which inhibit the social interaction that is important for group survival. A number of reconciliatory strategies have developed, including ritualized behaviours, in order to facilitate reconciliation. Examples of appeasement postures, food sharing and symbolic gifts to effect reconciliation are found even in the animal world, as are third party mediators and third party enforcement of norms.

Ancient laws of ransom and recompense offer numerous examples of restitution aimed at satisfying a basic sense of justice. In cases where *full restitution is impossible*, especially when bodily injury or homicide are involved, retaliation (an eye for an eye) including blood vengeance has been common; it gives a feeling of justice, in the sense of equal damage, when there can be no restitution. However, the need for social co-operation within a kin or a larger group seems to produce mitigating behaviours and rituals that signal a cessation of hostility and suggest a different balance in future interactions. Such mitigating acts aim to remove the offence and to restore a fictive balance, which is dependent on emotional acceptance by the offended party.

From the material reviewed it is clear that a *kofer* payment may have this function. It cannot provide full restitution, but can nevertheless effect removal of the offence—provided that it is genuinely accepted. This is very similar to the way that the pi'el verb *kipper* is used. In the non-priestly texts we have seen that *kipper* may be used for the removal of various types of offences that are due to injustice in intra-human relationships, that result from human transgression of divine prerogatives, or that are caused by bloodguilt. In the priestly texts, the term *kipper* is mainly used to describe the effect of a number of sacrificial rites, in particular the *chatta't* offering, used for the removal of the offence against the deity caused both by human impurity and by human transgression. The presence of impurities such as genital discharges and skin disease somehow encroaches upon the divine sphere and compromises divine holiness and presence. It is not an issue of upholding fair conditions between equals; the divine power can have absolute claims with regard to human beings. But human impurities—like any human offence, that is, sin—seem to offend the divine sense of justice and cause the deity's indignation in a way comparable to injustice, theft, violent assault and unfair distribution among human beings.

We have seen that the case is also similar for the *'asham* sacrifice, which is employed when theft, fraud and deception among human beings or against the deity are involved. It is a sacrifice of restitution *by its context*, but restitution in the sense of compensation, including a surplus fine, is always paid separately to the owner who has been trespassed against, whether human or divine. The *'asham* sacrifice itself relates, just like the *chatta't*, to the imbalance created by human disregard of divine prerogatives and commandments, which cannot be rectified by any ordinary means of restitution. Hence the *'asham* effects the same type of removal (*kipper*) as the *chatta't* sacrifice, which best corresponds to the mitigating function of a *kofer*, restoring a fictional equilibrium between human beings and the divine power.

All of this presupposes an understanding according to which God is thought to have a sense of justice similar to that of human beings. Such an interpretation makes sense for the consecration of Levites and the re-consecration of Nazirites, too. In both cases we could speak of a fictive balance being established by the divine power accepting the 'unequal' participation of human beings in his holy sphere through the mitigating tokens of *kipper* rites.[80]

God, then, is envisaged as reacting emotionally against 'unfair' disturbances in the hierarchically defined equilibrium that constitutes the human-divine relationship, a relationship in which the human part is always found wanting. In cases of sins of ignorance or negligence as well as in cases of impurity there is a perceived offence; humans have transgressed the divine order in ways that cannot be resolved by compensation or restitution. Divine authority and sanctity have been somehow compromised. The offerings effecting *kipper* are not understood as full restitution or payment for wrongs against the deity, but as ritualized appeasement behaviours, mitigating tokens of reconciliation, appealing to the offended party for emotional acceptance and acknowledgment, thus restoring a fictive balance.

---

[80] Admittedly, in the case of the Nazirites, the *chatta't* (together with an *'olah*) effects removal in the case of accidental corpse impurity, while the *'asham* is associated with the re-entry into the Nazirite state, but is never explicitly said to effect *kipper*. The two are juxtaposed, however, and said to take place the same day.

While evolutionary models for the development of the administration of justice in the ancient Near East should be handled with care, it is reasonable to suggest that *both* the overly detailed systems of fines or monetary payments found in certain ancient Near Eastern legal collections, *and* the prohibitions or restrictive rules for the use of *kofer* solutions in late priestly texts, suggest a certain level of central or state control. Although effecting *kipper* does not by definition require sacrifices, it seems that the priestly authors and redactors of the Pentateuch restricted mitigating rites, intended to remove serious offence, to the newly centralized sacrificial cult, while suppressing popular *kofer* practices that would have been more rooted in customary law, at least in the case of murder.[81] They did not, however, necessarily restrict *kipper* rites to blood sacrifices.

The underlying logic of intra-human reconciliatory strategies and of rituals that were employed to effect the removal of offences in human-divine relationships, is thus basically the same.

---

[81] This does not exclude the possibility that a cultic use of *kipper* rites could also have had a social function, as suggested by Albertz 2001.

CONCLUSIONS

Chapter 10

EMOTIONS IN LEGAL COLLECTIONS: WHAT CAN WE LEARN?

> These things that I command you today shall be on your heart.
>
> –Moses[1]

Emotion and Human Behaviour

In this final chapter I will reflect on the usefulness of the present approach and discuss a few overarching issues. Since each chapter in part II ends with a concluding section that summarizes discussions and results, there is little need to repeat what has already been said. For summaries of results concerning the four specific emotions (disgust, empathy, fear and a sense of justice respectively), the reader is referred to previous chapters.

In the present study we have examined and discussed a number of human behaviours reflected in the various Pentateuchal legal collections. These behaviours may seem very diverse and to have little in common. Purity practices, pro-social action towards vulnerable categories in society, inclusion of strangers, fantasies concerning the obliteration of enemies, avoidance, exclusion and punishment of deviant people, restitution of goods and compensation for property as well as for injury, rites for averting evil and sacrifices for re-establishing homeostasis in human-divine relationships—how can these things be gathered under one umbrella?

But they are all in the Pentateuchal legal collections. To some extent these texts both reflect customary behaviour and prescribe preferable attitudes and actions, from varying perspectives and in differing social contexts—attitudes and actions that may sometimes be in line with, but on other occasions in opposition to common practice. This particular characteristic of Israelite 'law' is one of the features, and preconditions, that make the present study a viable endeavour. These texts are not dry matter-of-fact commands or prohibitions, although lists of rules are also included and integrated. The legal collections are rather, as we have seen, to a large extent *emotional* texts, expressing strong affects, whether explicitly or implicitly. Their emotional character makes them persuasive and thus fulfils a rhetorical purpose, even when hidden under the surface. Appeals to the recipients' emotions may in fact be even more efficient when not spelled out but only triggered by more subtle language.

---

[1] Deut. 6.6.

Human behaviour is governed by emotions that have evolved through millions of years because of their adaptive function. They have facilitated our survival, both as individual beings and as a social species. However, life is complex for an advanced social species such as humanity, and emotions often produce contradictory urges and dysfunctional behaviours. Moreover, evolution is a slow process, by no means keeping up with the rapid changes in the social and cultural circumstances of *Homo sapiens* today. Emotions that once had an adaptive function could well become counter-productive and detrimental to the human race under new circumstances. However, this does not warrant a 'veneer theory', which disregards the *constructive role* that emotions play in human social life. A Huxleyan view of human nature as a garden of weeds in need of being mastered with the help of rational faculties is highly problematic, not least from an evolutionary and Darwinian point of view. Altruism, depending on emotions such as empathy and a sense of justice, is an evolutionary product, too.

The idea of assigning our biologically-based emotions a primary role in human behaviour and interaction is resisted by some. With a slight exaggeration, risking criticism and misunderstanding, one could perhaps speak of an unholy alliance between *particular* brands (this is *not* intended as a blanket criticism!) of feminism, religious conservatism and psychology, which all fear behaviourist or political conclusions, although for very different reasons. Such fears are probably due to the fatal misconception that facts of nature can be interpreted to constitute an imperative. There is, however, no 'ought' to be deduced from the role that evolution and emotion play in human behaviour.

This might seem to bring us back to a Huxleyan 'veneer theory', which gets rid of the 'ought' by regarding our values as dependent solely on cultural and rational development; hence they must be employed to overrule evolved 'natural' behaviours. It is perhaps in this area that social Darwinism and other popular or vulgar forms of unscientific misinterpretation have done most damage, either by disseminating the idea that a decent society needs to combat human nature and human emotions, or by seductively promoting an increasing acceptance of an order in which the priority of wealth and strength is considered natural and inevitable. In fact, the values and cultural development of our species today depend as much on biologically evolved emotions as anything else. If authoritarian, violent, hostile, and cruel inclinations are countered in our societies, it is because their opposites are just as firmly grounded in human nature and the balancing and corrective activities that we find necessary are themselves a result of the evolutionary process. Hence it seems much more intelligent to work *with* human nature instead of against it, if one is interested in durable change—a challenge for politics, economics, religion, and every other field that deals with humanity as a social species.

The study of emotions should thus be regarded as a way to better understand human behaviour. This includes practices that most people today would classify as ritual, partly for good reasons, since they fulfil certain functions that differ in some aspects from other types of behaviour—at least in our modern minds. As we have seen, such distinctions become questionable in other contexts, not least in antiquity, and from an emotional point of view ritual behaviour can be studied and analysed in ways similar to other actions. In all types of human behaviour, emotions play an important role.

Emotion as Common Denominator

As a result we have found that certain attitudes and behaviours that at first sight seem to belong to different realms of human life actually have much in common, with similar emotional reactions providing the common denominator. This becomes exceedingly clear when the role of disgust behind the varied use of purity language is analysed. We have seen that feelings of aversion and revulsion seem to underlie basic ideas of food impurity, the understanding of certain animals as impure or disgusting, and rules concerning contagious impurity and purification. These usages are diverse enough, although modern, western cultures are predisposed to brand them all as ‘ritual’. This is not, however, an adequate category for the common denominator that somehow unites the diverse usage of purity language. The same or similar language is also used to describe some types of non-acceptable behaviours that modern, western cultures would usually classify as belonging to the moral sphere, in particular certain sexual practices, but also worship of ‘false’ gods—which is certainly a ‘cultic’ issue, but not ‘ritual’ in the same sense as ideas of impurity as a contagion or elaborate purification rites. The field of impurity is one area in which we have seen that a neat ritual-moral dichotomy breaks down, and a study of basic human emotions will take us much further. In this case, disgust as a primary emotional reaction against perceived threats to the organism has been shown to provide an overall functional explanation. Conceptions of impurity in priestly legal collections relate to at least one of the three components usually associated with disgust, namely oral incorporation, contamination potency and offensiveness. Generally accepted disgust triggers, based on biological and psychological research, cover all of the cases in which impurity language is used in Pentateuchal legal texts. Elements that are often regarded as anomalies can be understood to fit into the pattern when emotional disgust is employed as an interpretative key.

A feeling of fairness or an emotional sense of justice seems to provide a similar type of overall explanation, on the one hand for issues of revenge, recompense and ransom, which belong to the sphere of civil law, and on the other hand for sacrificial practices which effect removal in cases of impurity as well certain types of trespass or sin. A sense of justice, aimed at upholding homeostasis and restoring balance in disturbed relationships, by offering a mitigating token in situations where full compensation is deemed impossible, provides a common denominator for *kofer* practices as well as for *kipper* rites, in spite of their seemingly diverse character. The much debated linguistic relationship between *kofer* and *kipper* can thus be explained with the help of underlying emotional factors, in a more satisfactory way than the sometimes strained and overly theologized suggestions hitherto offered. The interpretation of the present study builds on human biological and evolutionary history, which is partially shared with other social species, and relates Pentateuchal *kofer* practices and *kipper* rites to more general tendencies towards ritualized reconciliatory behaviours. Observations from certain non-priestly and narrative texts strengthen the arguments based on texts from the Pentateuchal legal collections. The case of restoring balance in human-divine relationships should not be regarded as an anomaly; such relationships are by default asymmetrical and hierarchically defined. In such cases, too, there is a question of a disturbed—although unequal—equilibrium in need of reestablishment through mitigating tokens of reconciliation, through which the human party appeals to the offended divine power for emotional acceptance and the restoration of a fictive balance.

In these two areas, involving disgust and a sense of justice respectively, we have thus found that an approach based on an evolutionary biological and psychological understanding of human emotions contributes to an analysis of Pentateuchal legal texts and can offer solutions to long-standing conundrums and disputed interpretations. A similar role for the emotions of empathy and fear has not been sought here. Although they can be found behind a number of attitudes and behaviours of diverse kinds, they do not provide common denominators for a selection of related practices in the same way as disgust and a sense of justice. Fear, however, does provide a plausible explanation for a number of apotropaic rites intended to avert the danger associated with supernatural powers, demonic influence, or divine retribution. In such cases, all four types of fear—death and disease, interpersonal fear, animal fear and agoraphobic fear—can be traced, as is clear from the various bird, goat and cow rites discussed above.

Conflicting and Interacting Emotions

Empathy and fear become the more prominent when we focus our analysis of Pentateuchal legal texts on the interaction of various emotions. On the one hand we have found that empathy sometimes mitigates restrictive rules out of social concerns. On the other hand, pro-social attitudes and humanitarian laws or instructions are at times severely circumscribed and even contradicted by opposing emotions, such as fear and disgust.

Empathy has typically evolved in social species like primates. Textual analyses in this study have provided concrete examples of how expressions of empathy can be triggered at various levels and have underscored the fact that empathy is often best understood as multi-layered. Although rooted in immediate affective responses based on self and concern for close kin, empathy is often extended to underprivileged groups as well as to outsiders. Examples of similar experience and mediated association, as well as more cognitive types of perspective-taking, are clearly discernible in the texts analysed. At times, empathic tendencies seem to overrule natural reactions of disgust and fear against certain categories of people, or at least to induce a more lenient treatment than normally expected, as in some cases of impure conditions.

Altruism that extends beyond tribal or ethnic borders is, however, severely constrained by xenophobic tendencies, not least in the Deuteronomic war laws and condemnations of foreign peoples. The perceived limitation of resources governing the expanding circle of altruistic behaviour seems to play a role. The tension becomes perhaps even more accentuated in the Holiness Code, in which a strong affective component and a wish to integrate foreigners is paired with utter fear and disgust of those who are really foreign and deviant. Here fear of assimilation and loss of identity becomes clearly visible, and disgust is being employed in order to reinforce such fear and counteract the mitigating power of innate empathic tendencies.

Fear is, in fact, not an entirely negative emotion, but has evolved, just like disgust, to protect the physical organism against danger and potentially lethal threats, both to the individual and to the social body. Fear has thus been adaptive and instrumental for the survival of the human species. Xenophobia and ethnocentrism are part of this and are attitudes that to a certain extent were necessary during the evolution of humankind. Such fear is, however, continuously being balanced by empathy, as just mentioned. Fear of a slightly different type has also, in a somewhat contradictory manner, been shown to *motivate* empathy, i.e., fear of punishment for not conforming to expected pro-social behaviour is sometimes explicitly exploited to coerce people into following commonly accepted humanitarian rules.

There are also cases in which a sense of justice comes into conflict with empathic tendencies, as when talionic punishment is required although ransom could apparently be an option, or when the principled right to safeguard a loan by taking a pledge is restricted in cases of utter poverty, or perhaps in the concessions for poor people when it comes to sacrifices effecting removal.

Emotions and Socio-historical Context

Throughout this study we have attempted to relate a number of emotional expressions found in Pentateuchal legal texts to changing historical circumstances, including social, economic, and religious developments. An analysis of emotions with tools from cognitive science cannot by itself be used as an independent method for redaction-critical reconstructions or the relative dating of various legal collections. While no such claim is being made, it has nevertheless become clear that results based on cognitive approaches can and should be brought into dialogue with more traditional historical and redaction-critical work. A 'psycho-biological' analysis of the Pentateuchal legal collections and the emotions at work within and behind these texts would be much less interesting if carried out in isolation from ordinary redaction-critical Pentateuchal study, or as some kind of ahistorical alternative to a traditional historical-critical approach. On the contrary, we have seen that the ways in which particular emotions are expressed, reflected, or suggested, are related to the various socio-historical contexts to which the different legal collections are thought to belong. Observations resulting from the present approach may thus provide additional arguments, strengthening or weakening current hypotheses concerning the date and provenance of different textual strata. There is, of course and as always, a certain risk of circularity, as a prior understanding of a certain text's socio-historical context may influence one's interpretation of the emotions it reflects and not only vice versa, but this type of problem is inevitable in all historical study and should not inhibit us from allowing communication between a diversity of methods and approaches.

In the present study we have repeatedly returned to the relationship between the three obviously interrelated legal collections, the Covenant Code, Deuteronomic law and the Holiness Code. Our analyses of empathy and fear in particular support the hypothesis of the chronological order in which they have just been mentioned. This judgment is to a large extent based on the way in which underprivileged categories of people, including resident aliens, are discussed. In our analyses, especially of the role played by empathy, we have attempted to differentiate between the narrative world of the text and the proposed historical recipients. This sometimes means that what on the textual surface seem to be straightforward cases of direct association based on similar experience, may appeal to the empathy of historical recipients in a much more multilayered sense. At the same time it is reasonable to expect a sufficient degree of emotional match between narrative and socio-historical context. In the case of the Covenant Code we noted that references to Egypt concern migratory experience rather than slavery, which is also the case in some of Deuteronomy's passages. Expectations of a sufficient emotional match suggest a pre-exilic context, with intra-Israelite displacement in focus for these texts. Other passages in Deuteronomy, however, in which Egypt is clearly associated with slavery and liberation, rather suggest an exilic, or in most cases even more probably, a postexilic context. In the Holiness Code, the inclusive altruistic spirit with a strong affective component is restricted to an integrated and assimilating out-group, while being paired with fear and disgust towards real outsiders. This has been shown to further develop tendencies from Deuteronomy and to fit well into a later socio-historical context, in a limited Jewish Temple state under Persian rule, as argued above. Our analyses are thus brought into dialogue with more traditional discussions of context and redaction by assuming both an interplay between socio-political circumstances and expressions of empathy and altruism at varying levels, involving differing degrees of similarity of experience, and a sufficient degree of emotional match between the textual world and the historical recipients.

In the Covenant Code, fear of divine punishment is used to reinforce the humanitarian rules, but there are no clear indications of xenophobia. From the way in which fear is and is not expressed and utilized, it is not reasonable to suggest an exilic provenance for the main body of the Covenant Code, or even one in which the prospect of foreign occupation looms large; an earlier, pre-exilic date is more probable. The Deuteronomistic supplement in chap. 23 is an exception, although it does not yet employ Deuteronomy's vehement deterrent techniques. The Deuteronomic framework and supplements in particular combine love for immigrants, whose limited number seem to be presupposed, with strong xenophobic tendencies. This does not fit an exilic context either, but the fear and disgust expressed against foreign practices together with the fear of divine punishment and descriptions of exile, which come to a climax in the curses in Deut. 28, rather suggest a postexilic situation. In the Holiness Code, fear of foreigners is mainly a fear of foreign practices that affect the holiness of the people, thus threatening them with a new exile. Again, this strongly supports a postexilic, early Persian context within an emerging Jewish Temple state.

It is perhaps more difficult to relate an analysis of emotions in priestly sacrificial and purity laws to their socio-historical contexts, not least in view of their long and uncertain prehistory. It is nevertheless possible to discern a difference in the use of disgust language, between the purity laws on the one hand and Deuteronomy and part of the Holiness Code on the other. Although this is not a matter of primary and secondary use, since all concepts of impurity dealt with so far involve the use of purity language in a secondary or transferred sense, disgust language sometimes loses its affective grounding. Thus Deuteronomy's branding of unclean quadrupeds as 'abominable', or its rhetorical use of the same terminology for certain idolatrous and immoral practices, is aimed at transferring emotional disgust from one context to another. While some of the issues involved in the Holiness Code are similar, including the particular disgust terminology (‘abominable’, *to‘evah*), the emotional aversion expressed here seems more immediate, except for chap. 26, in which we find a rhetoric somewhat similar to that of Deuteronomy. As already indicated, this has nothing to do with literal or metaphorical use of language, and says little about relative chronology of texts. These differences do, however, relate to differences in the socio-historical contexts to which the texts belong. While purity laws appeal more directly to immediate feelings of aversion, the Holiness Code, especially its later stratum, picks up and develops Deuteronomistic rhetorical usage of disgust terminology for ideological purposes. Once the cult and the ritual practices associated with it were (re-)established, Deuteronomic traditions could be revisited and refracted by an emerging holiness theology.

In the present study, sacrificial laws have been discussed primarily in relation to a sense of justice, and as a means of effecting removal (*kipper*) in cases when the balance between human beings and the divine power has been disturbed. These laws, in their present form, probably belong to the emergence of a centralized sacrificial system, restricting popular rites and local administration of justice in favour of central state and priestly control. In spite of earlier roots, the way in which feelings of justice are regulated suggest that some of these texts are among the latest in the Pentateuchal legal collections. In contrast, the civil laws of the Covenant Code, concerning revenge, compensation and ransom, display a popular sense of justice and prescribe provisions that could be administrated at local level with little central control, which suggests a different and probably earlier social context. Some of the apotropaic rites that have been discussed have similar mitigating functions. These rites are usually anything but well integrated into the sacrificial system, and display archaic traits based on fear and an urge to maintain a balance between human beings and supernatural powers. They must be understood to have early roots, although in their present form most of these apotropaic rites are squeezed into the priestly system at a late stage of redaction, during the Persian period.

Law and Emotion

Emotions are crucial and essential not only for understanding human behaviour, but also for understanding human conceptions of what may be deemed appropriate behaviour. Although the latter are often understood as primarily based on intellectual activity and abstract reasoning, the present study suggests that evolved emotions have usually been more important for deciding the appropriateness of human ‘morality’ and ‘ritual’. If this is true, the contents, opinions and values expressed in Pentateuchal legal collections might not be best explained and analysed with reference to theological convictions, theoretical ideas, or intellectual arguments. This is not a denial of the religious character of these texts. Religion, like everything else, is only partially a matter of the head, as it involves the whole human embodied experience. When this fact of life is fully acknowledged and respected, some interpretative dead ends may be avoided and new avenues for understanding ancient texts may open up.

BIBLIOGRAPHY

Achenbach, Reinhard

2003 *Die Vollendung der Tora: Studien zur Redaktionsgeschichte des Numeribuches im Kontext von Hexateuch und Pentateuch* (Wiesbaden: Harrassowitz).

Albertz, Rainer

2001 'KPR: Kultische Sühne und politische und gesellschaftliche Versöhnung', in *Kult, Konflikt und Versöhnung: Beiträge zur kultischen Sühne in religiösen, sozialen und politischen Auseinandersetzungen des antiken Mittelmeerraumes* (ed. R. Albertz; Veroffentlichungen des AZERKAVO / SFB, 493; Band 2; AOAT, 285: Münster: Ugarit-Verlag) 135-49.

2003 (2001) *Israel in Exile: The History and Literature of the Sixth Century B.C.E.* (Studies in Biblical Literature, 3: Atlanta, GA: Society of Biblical Literature).

Allen, Thomas George, and Elizabeth Blaisdell Hauser

1974 *The Book of the Dead, or, Going Forth Day by Day: Ideas of the Ancient Egyptians Concerning the Hereafter as Expressed in their Own Terms* (SAOC, 37; Chicago: Oriental Institute of the University of Chicago).

Alt, Albrecht

1953 *Kleine Schriften zur Geschichte des Volkes Israels*, I (München: C.H. Beck'sche Verlagsbuchhandlung).

1966 *Essays on Old Testament History and Religion* (Oxford: Basil Blackwell [ET of selected articles from *Kleine Schriften*, I–III]).

Anderson, Gary A.

1992 'Sacrifice and Sacrificial Offerings: Old Testament', in *ABD*, V (ed. D.N. Freedman; New York: Doubleday) 870-86.

Angyal, Andras

1941 'Disgust and Related Aversions', *Journal of Abnormal Psychology* 36: 393-412.

Arrindell, Willem A., Mary J. Pickersgill, Harald Merckelbach, Angélique M. Ardon and Frieda C. Cornet

1991a 'Phobic Dimensions: III. Factor Analytic Approaches to the Study of Common Phobic Fears; An Updated Review of Findings Obtained with Adult Subjects', in *Advances in Behaviour Research and Therapy* 13: 73-130.

Arrindell, Willem A., T.P.S. Oei, L. Evans and J. Van der Ende

1991b 'Agoraphobic, Animal, Death-Injury-Illness and Social Stimuli Clusters as Major Elements in a Four-Dimensional Taxonomy of Self-Rated Fears: First-Order Level Confirmatory Evidence From an Australian Sample of Anxiety Disorder Patients', in *Advances in Behaviour Research and Therapy* 13: 227-49.

Aureli, Filippo, and Colleen Schaffner

2006 'Causes, Consequences and Mechanisms of Reconciliation: The Role of Cooperation', in *Cooperation in Primates and Humans: Mechanisms and Evolution* (ed. P.M. Kappeler; Berlin/Heidelberg: Springer-Verlag) 121-36.

Aureli, Filippo, and Frans B.M. de Waal (eds.)

2000 *Natural Conflict Resolution* (Berkeley/Los Angeles/London: University of California Press).

Aurelius, Erik

1988 *Der Fürbitter Israels: Eine Studie zum Mosebild im Alten Testament* (ConBOT, 27; Stockholm: Almqvist & Wiksell International).

Baden, Joel S.

2009 *J, E, and the Redaction of the Pentateuch* (FAT, 68; Tübingen: Mohr Siebeck).

Bandura, Albert

1999 'Moral Disengagement in the Perpetration of Inhumanities', *Personality and Social Psychology Review* 3: 193-209.

Bartor, Assnat

2010 *Reading Law as Narrative: A Study in the Casuistic Laws of the Pentateuch* (Ancient Israel and Its Literature, 5; Atlanta: Society of Biblical Literature).

Batson, C. Daniel, and T. Moran

1999 'Empathy Induced Altruism in a Prisoner's Dilemma', *European Journal of Social Psychology* 29: 909-24.

Baumgarten, Joseph M.

1999 'D. Tohorot', in *Qumran Cave 4*. XXV. *Halakhic Texts* (ed. Joseph Baumgarten *et al.*; DJD, 35; Oxford: Clarendon Press) 79-122.

Bearman, Greg, and William A. Christens-Barry

2009 'Imaging the Ostracon', in *Khirbet Qeiyafa*. I. *Excavation Report 2007–2008* (ed. Y. Garfinkel and S. Ganor; Jerusalem: Israel Exploration Society / Institute of Archaeology, The Hebrew University of Jerusalem) 261-70.

Bekoff, Marc

2004 'Wild Justice and Fair Play: Cooperation, Forgiveness and Morality in Animals', *Biology and Philosophy* 19: 489-520.

Bekoff, Marc, and Jessica Pierce

2009 *Wild Justice: The Moral Lives of Animals* (Chicago and London: University of Chicago Press).

Bennett, Harold V.

2002 *Injustice Made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel* (Grand Rapids, MI: Eerdmans).

Berkowitz, Leonard

1999 'Anger', in Dalgleish and Power (1999) 411-28.

Blau, Joel

1916 'Lex Talionis', in *Yearbook of the Central Conference of American Rabbis* 26: 336-66.

Blum, Erhard

1984 *Die Komposition der Vätergeschichte* (WMANT, 57; Neukirchen–Vluyn: Neukirchener Verlag).

1990 *Studien zur Komposition des Pentateuch* (BZAW, 189; Berlin: de Gruyter).

Bottéro, Jean
1992 *Mesopotamia: Writing, Reasoning, and the Gods* (Chicago: University of Chicago Press).

Brandon, Robert N.
1999 'The Units of Selection Revisited: The Modules of Selection', *Biology and Philosophy* 14: 167-80.

Brennan, Tad
1998 'The Old Stoic Theory of Emotions', in *The Emotions in Hellenistic Philosophy* (ed. Juha Sihvola and Troels Engberg-Pedersen; The New Synthese Historical Library, 46; Dordrecht/Boston/London: Kluwer Academic Publishers) 21–70.

Brosnan, Sarah F.
2006 ' "Nonhuman Species" Reactions to Inequity and their Implications for Fairness', *Social Justice Research* 19: 153-85.

Brosnan, Sarah F., and Frans B.M. de Waal
2003 'Monkeys Reject Unequal Pay', *Nature* 425: 297-99.
2004 'Fair Refusal by Capuchin Monkeys', *Nature* 428: 140.

Browe, Peter
1932 *Beiträge zur Sexualethik des Mittelalters* (Breslauer Studien zur historischen Theologie, 23; Breslau: Verlag Müller & Seiffert).

Büchler, Adolph
1928 *Studies in Sin and Atonement in the Rabbinic Literature of the First Century* (London: Oxford University Press).

Buckley, Thomas, and Alma Gottlieb (eds.)
1988 *Blood Magic: The Anthropology of Menstruation* (Berkely and Los Angeles, CA: University of California Press).

Bultmann, Christoph
1992 *Der Fremde im antiken Juda: Eine Untersuchung zum sozialen Typenbegriff* 'ger' *und seinem Bedeutungswandel in der alttestamentlichen Gesetzgebung* (Göttingen: Vandenhoeck & Ruprecht).

Caird, George B.
1980 *The Language and Imagery of the Bible* (London: Duckworth).

Campbell, Anthony J., and Mark A. O'Brien
2005 *Rethinking the Pentateuch: Prolegomena to the Theology of Ancient Israel* (Louisville, KY: Westminster John Knox).

Carr, Laurie, Marco Iacoboni, Marie-Charlotte Dubeau, John D. Mazziotta and Gian Luigi Lenzi
2003 'Neural Mechanisms of Empathy in Humans: A Relay from Neural Systems for Imitation to Limbic Areas', *PNAS* 100: 5497-502.

Caspers, Charles
2000 'Leviticus 12, Mary and Wax: Purification and Churching in Late Medieval Christianity', in Poorthuis and Schwartz (2000) 295-309.

Changeux, J.-P., A.R. Damasio, W. Singer, and Y. Christen (eds.)
2005 *Neurobiology of Human Values* (Research and Perspectives in Neuroscience; Berlin: Springer).

Choksy, Jamsheed
1989 *Purity and Pollution in Zoroastrianism: Triumph over Evil* (Austin: University of Texas Press).

Cholewiński, Alfred

1976 *Heiligkeitsgesetz und Deuteronomium: Eine vergleichende Studie* (AnBib, 66; Rome: Biblical Institute Press).

Collins, Billie Jean

2002 ‘Necromancy, Fertility and the Dark Earth: The Use of Ritual Pits in Hittite Cult’, in *Magic and Ritual in the Ancient World* (ed. P. Mirecki and M. Mayer; Leiden: Brill) 224-41.

Crossley, James G.

2004 *The Date of Mark’s Gospel: Insights from the Law in Earliest Christianity* (JSNTSup, 266; London and New York: T. & T. Clark).

Crüsemann, Frank

1996 *The Torah: Theology and Social History of Old Testament Law* (Edinburgh: T. & T. Clark).

Dalgleish, Tim, and Mick J. Power (eds.)

1999 *Handbook of Cognition and Emotion* (Chichester: John Wiley & Sons).

Damasio, Antonio R.

1994 *Descartes’ Error: Emotion, Reason and the Human Brain* (New York: Grosset/Putnam).

1999 *The Feeling of What Happens: Body and Emotion in the Making of Consciousness* (New York: Harcourt Brace).

2003 *Looking for Spinoza: Joy, Sorrow, and the Human Brain* (Orlando: Harcourt).

Darwin, Charles

1989a (1877, 1st edn 1874) *The Descent of Man, and Selection in Relation to Sex*. Part 1 (The Works of Charles Darwin, 21; New York: New York University Press).

1989b (1890, 1st edn 1872) *The Expression of the Emotions in Man and Animals* (The Works of Charles Darwin, 23; New York: New York University Press).

Daube, David

1947 *Studies in Biblical Law* (Cambridge: Cambridge University Press).

Davis, Mark H.

1994 *Empathy: A Social Psychological Approach* (Social Psychology Series; Boulder, CO: Westview).

Dawkins, Richard

1989 (1976) *The Selfish Gene* (Oxford: Oxford University Press, new edn).

De Troyer, Kristin, Judith A. Herbert, Judith Ann Johnson, and Anne-Marie Korte (eds.)

2003 *Wholly Woman, Holy Blood: A Feminist Critique of Purity and Impurity* (Studies in Antiquity and Christianity; Harrisburg, PA: Trinity Press International).

Decety, Jean, and William Ickes (eds.)

2009 *The Social Neuroscience of Empathy* (Cambridge, MA: The MIT Press).

Dennen, Johan M.G. van der

1987 ‘Ethnocentrism and In-group/Out-group Differentiation: A Review and Interpretation of the Literature’, in *The Sociobiology of Ethnocentrism* (ed. V. Reynolds, V. Falger and I. Vine; London: Croom Helm) 1-47.

Dietrich, Jan

2009 *Kollektive Schuld und Haftung: Religions- und rechtgeschichtliche Studien zum Sündenkuhritus des Deuteronomiums und zu verwandten Texten* (Orientalische Religionen in der Antike, 4; Tübingen: Mohr Siebeck).

Douglas, Mary

1978 (1970) *Natural Symbols: Explorations in Cosmology* (Harmondsworth, London: Penguin).

1993 'The Forbidden Animals in Leviticus', *JSOT* 59: 3-23.

1995 'Poetic Structure in Leviticus', in *Pomegranates and Golden Bells: Studies in Biblical, Jewish, and Near Eastern Ritual, Law, and Literature in Honor of Jacob Milgrom* (ed. D.P. Wright, D.N. Freedman and A. Hurvitz; Winona Lake, IN: Eisenbrauns) 239-56.

1999 *Leviticus as Literature* (Oxford: University Press).

2002 (1st edn 1966) *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (London: Routledge, with a New Preface by the Author).

2003 'The Go-away Goat', in *The Book of Leviticus: Composition and Reception* (ed. R. Rendtorff and R.A. Kugler; Leiden: Brill) 121-41.

Dozeman, Thomas B.

2009 *Commentary on Exodus* (The Eerdmans Critical Commentary; Grand Rapids, MI: Eerdmans).

Dozeman, Thomas B., and Konrad Schmid

2006 *A Farewell to the Yahwist? The Composition of the Pentateuch in Recent European Interpretation* (SBL Symposium Series, 34; Atlanta: Society of Biblical Literature).

Dresen, Grietje

2003 'The Better Blood: On Sacrifice and the Churching of New Mothers in the Roman Catholic Tradition', in De Troyer *et al.* (2003) 143-64.

Dunbar, Robin I.M.

1987 'Sociobiological Explanations and the Evolution of Ethnocentrism', in *The Sociobiology of Ethnocentrism* (ed. V. Reynolds, V. Falger and I. Vine; London: Croom Helm) 48-59.

East, Martin P., and Fraser N. Watts

1999 'Jealousy and Envy', in Dalgleish and Power (1999) 569-88.

Eilberg-Schwartz, Howard (ed.)

1992 *People of the Body: Jews and Judaism from an Embodied Perspective* (New York: SUNY).

Eisenberg, Nancy

2000 'Empathy and Sympathy', in Lewis and Haviland-Jones (2000) 677-91.

Eisenberg, Nancy, and Janet Strayer (eds.)

1987 *Empathy and Its Development* (Cambridge Studies in Social and Emotional Development; Cambridge: University Press).

1987 'Critical Issues in the Study of Empathy', in Eisenberg and Strayer (1987) 3-13.

Ellens, Deborah L.

2008 *Women in the Sex Texts of Leviticus and Deuteronomy: A Comparative Conceptual Analysis* (LHB/OTS, 458; New York and London: T. & T. Clark).

Elliger, Karl

1966 *Leviticus* (HAT; Tübingen: Mohr Siebeck).

Engberg-Pedersen, Troels

1998 'Marcus Aurelius on Emotions', in Sihvola and Engberg-Pedersen (1998) 305-37.

Faulkner, Jason, Mark Schaller, Justin H. Park and Lesley A. Duncan

2004 ‘Evolved Disease-Avoidance Mechanisms and Contemporary Xenophobic Attitudes’, *Group Processes and Intergroup Relations* 7: 333-53.

Feinstein, Eve Samara

2010 *Sexual Pollution in the Hebrew Bible* (Diss. Department of Near Eastern Languages and Civilizations, Harvard University).

Finkelstein, Jacob J.

1961 ‘Ammiṣaduqa’s Edict and the Babylonian “Law Codes” ’, *JCS* 15: 91-104.

1973 ‘The Goring Ox: Some Historical Perspectives on Deodands, Forfeitures, Wrongful Death and the Western Notion of Sovereignty’, *Temple Law Quarterly* 46: 169-290.

Fishbein, Harold D.

2002 *Peer Prejudice and Discrimination: The Origins of Prejudice* (Mahwah, NJ: Lawrence Erlbaum Associates; 2nd edn).

Fitzpatrick-McKinley, Anne

1999 *The Transformation of Torah from Scribal Advice to Law* (JSOTSup, 287; Sheffield: Sheffield Academic Press).

Fonrobert, Charlotte E.

1997 ‘The Woman with a Blood Flow (Mark 5.24–34) Revisited: Menstrual Laws and Jewish Culture in Christian Feminist Hermeneutics’, in *Early Christian Interpretation of the Scriptures of Israel: Investigations and Proposals* (ed. C.A. Evans and J.A. Sanders; JSNTSup, 48; Studies in Scripture in Early Judaism and Christianity, 5; Sheffield: JSOT Press) 121-40.

Freedman, Daniel G.

1961 ‘The Infant’s Fear of Strangers and the Flight Response’, *Journal of Child Psychology and Psychiatry* 2: 242-48.

Frei, Peter

2001 ‘Persian Imperial Authorization: A Summary’, in Watts (2001) 5-40.

Frei, Peter, and Klaus Koch

1984 *Reichsidee und Reichsorganisation im Perserreich* (OBO, 55; Freiburg: Universitätsverlag / Göttingen: Vandenhoeck & Ruprecht).

Friedman, Richard E.

1992 ‘Torah (Pentateuch)’, in *ABD,* VI (ed. D.N. Freedman; New York: Doubleday) 605-22.

Fry, Douglas P.

2000 ‘Conflict Managment in Cross-Cultural Perspective’, in Aureli and de Waal (2000) 334-51.

Gane, Roy E.

2008 ‘The Function of the Nazirite’s Concluding Purification Offering’, in Schwartz *et al.* (2008) 9–17.

Gärdenfors, Peter

2000 *Hur Homo blev Sapiens: Om tänkandets evolution* (Nora: Nya Doxa); ET 2003: *How Homo Became Sapiens: On the Evolution of Thinking* (Oxford and New York: Oxford University Press).

2005 *Tankens vindlar: Om språk, minne och berättande* (Nora: Nya Doxa).

Garfinkel, Yosef, and Saar Ganor (eds.)

2009 *Khirbet Qeiyafa*. I. *Excavation Report 2007–2008* (Jerusalem: Israel

Exploration Society / Institute of Archaeology, The Hebrew University of Jerusalem).

Gertz, Jan Christian, Konrad Schmid and Markus Witte (eds.)

2002 *Abschied vom Jahwisten: Die Komposition des Hexateuch in der jüngsten Diskussion* (BZAW, 315; Berlin and New York: Walter de Gruyter).

Gilders, William K.

2004 *Blood Ritual in the Hebrew Bible: Meaning and Power* (Baltimore/London: John Hopkins University Press).

Ginsburskaja, Mila

2009 *The Idea of Sin-Impurity: The Dead Sea Scrolls in the Light of Leviticus* (Diss. Cambridge University).

Greenberg, Moshe

1960 'Some Postulates of Biblical Criminal Law', in *Yehezkel Kaufmann Jubilee Volume: Studies in Bible and Jewish Religion Dedicated to Yehezkel Kaufmann on the Occasion of his Seventieth Birthday* (ed. Menaḥem Haran; Jerusalem: Magnes Press, Hebrew University) 5-28.

Greene, Joshua, and Jonathan Haidt

2002 'How (and Where) Does Moral Judgment Work?', *Trends in Cognitive Sciences* 6: 517-23.

Greene, J.D., R.B. Sommerville, L.E. Nystrom, J.M. Darley and J.D. Cohen

2001 'An fMRI Investigation of Emotional Engagement in Moral Judgment', *Science* 293: 2105-108.

Griffiths, Paul E.

1997 *What Emotions Really Are: The Problem of Psychological Categories* (Chicago and London: University of Chicago Press).

Griswold, Charles L.

2007 *Forgiveness: A Philosophical Exploration* (Cambridge: Cambridge University Press).

Grünwaldt, Klaus

1999 *Das Heiligkeitsgesetz Leviticus 17–26: Ursprüngliche Gestalt, Tradition und Theologie* (BZAW, 271; Berlin and New York: Walter de Gruyter).

Haidt, Jonathan

2001 'The Emotional Dog and Its Rational Tail: A Social Intuitionist Approach to Moral Judgment', *Psychological Review* 108: 814-34.

2003 'The Moral Emotions', in *Handbook of Affective Sciences* (ed. R.J. Davidson, K.R. Scherer and H.H. Goldsmith; Oxford: Oxford University Press) 852-70.

Håkansson, Jakob

2003 *Exploring the Phenomenon of Empathy* (Stockholm: Department of Psychology, Stockholm University).

Herrmann, Johannes

1905 *Die Idee der Sühne im alten Testament: Eine Untersuchung über Gebrauch und Bedeutung des Wortes kipper* (Leipzig: J.C. Hinrich'sche Buchandlung).

Himmelfarb, Martha

2001 'Impurity and Sin in 4QD, 1QS, and 4Q512', *DSD* 8: 9-37.

Hofer, Heribert, and Marion L. East

2000 'Conflict Management in Female-Dominated Spotted Hyenas', in Aureli and de Waal (2000) 232-34.

Hoffman, Martin L.
1987 ‘The Contribution of Empathy to Justice and Moral Judgment’, in Eisenberg and Strayer (1987) 47-80.
2000 *Empathy and Moral Development: Implications for Caring and Justice* (Cambridge: University Press).
Hoffmann, David Z.
1905–1906 *Das Buch Leviticus übersetzt und erklärt* (2 vols.; Berlin: M. Poppelauer).
Houston, Walter
1993 *Purity and Monotheism: Clean and Unclean Animals in Biblical Law* (JSOTSup, 140; Sheffield: JSOT Press).
Houten, Christiana van
1991 *The Alien in Israelite Law* (JSOTSup, 107; Sheffield: JSOT Press).
Hulse, E.V.
1975 ‘The Nature of Biblical “Leprosy” and the Use of Alternative Medical Terms in Modern Translations of the Bible’, *PEQ* 107: 87-105.
Humbert, Paul
1960 ‘Le substantif *to‘ēbā* et le verbe *t‘b* dans l’Ancien Testament’, *ZAW* 72: 217-37.
Hurlbut, William, and Paul Kalanithi
2001 ‘Evolutionary Theory and the Emergence of Moral Nature’, *Journal of Psychology and Theology* 29: 330-39.
Iacoboni, Marco, and Mirella Dapretto
2006 ‘The Mirror Neuron System and the Consequences of Its Dysfunction’, *Nature* 7: 942-50.
Ickes, William
1993 ‘Empathic Accuracy’, *Journal of Personality* 61: 587-610.
1997 (ed.), *Empathic Accuracy* (New York and London: Guildford).
Jackson, Bernard S.
1972 *Theft in Early Jewish Law* (Oxford: Clarendon Press).
1975 *Essays in Jewish and Comparative Legal History* (Leiden: Brill).
1989 ‘Ideas of Law and Legal Administration: A Semiotic Approach’, in *The World of Ancient Israel: Sociological, Anthropological and Political Perspectives* (ed. R.E. Clements; Cambridge: Cambridge University Press) 185-202.
2000 *Studies in the Semiotics of Biblical Law* (JSOTSup, 314; Sheffield: Sheffield Academic Press).
2002 ‘Models in Legal History: The Case of Biblical Law’, *Journal of Law and Religion* 18: 1-30.
2006 *Wisdom-Laws: A Study of the* Mishpatim *of* Exodus *21:1–22:16* (Oxford: Oxford University Press).
Janowski, Bernd
2000 (1982) *Sühne als Heilsgeschehen: Traditions- und religionsgeschichtliche Studien zur priesterschriftlichen Sühnetheologie* (WMANT, 55; Neukirchen–Vluyn: Neukirchener Verlag; 2. Auflage).
Johnson, Mark
1993 *Moral Imagination: Implications of Cognitive Science for Ethics* (Chicago and London: University of Chicago Press).
2006 ‘Mind Incarnate: From Dewey to Damasio’, *Daedalus* 135/3: 46-54.
Kaufmann, Yehezkel
1960 [1937–1948] *The Religion of Israel: From Its Beginnings to the Babylonian*

Exile (translated and abridged by Moshe Greenberg; Chicago: The University of Chicago Press).

Kazen, Thomas

2007 ‘Explaining Discrepancies in the Purity Laws on Discharges’, *RB* 114: 348-71.

2008 ‘Dirt and Disgust: Body and Morality in Biblical Purity Laws’, in Schwartz *et al.* (2008) 43-64.

2010a (2002) *Jesus and Purity* Halakhah*: Was Jesus Indifferent to Impurity?* (ConBNT, 38; Winona Lake, IN: Eisenbrauns, corrected reprint edn; 1st edn Stockholm: Almqvist & Wiksell International).

2010b *Issues of Impurity in Early Judaism* (ConBNT, 45; Winona Lake, IN: Eisenbrauns).

2010c ‘4Q274, Fragment 1 Revisited—or Who Touched Whom? Further Evidence for Ideas of Graded Impurity and Graded Purifications’, *DSD* 17: 53-87.

2011 ‘Moralische Emotionen in der Jesusüberlieferung: Ein psycho-biologischer Beitrag zum Verhältnis von Selbsterhaltung und Nächstenorientierung’, *Evangelische Theologie* 71: 288-306.

2012 or 2013 *Scripture, Interpretation, or Authority? Motives and Arguments in Jesus’ Halakhic Conflicts* (forthcoming).

Kekes, John

1992 ‘Disgust and Moral Taboos’, *Philosophy* 67: 431-46.

Kelhoffer, James A.

2005 *The Diet of John the Baptist: ‘Locusts and Wild Honey’ in Synoptic and Patristic Interpretation* (WUNT, 176; Tübingen: Mohr Siebeck).

Kerem, Efrat, Nurit Fishman and Ruthellen Josselson

2001 ‘The Experience of Empathy in Everyday Relationships: Cognitive and Affective Elements’, *Journal of Social and Personal Relationships* 18: 709-29.

Kittay, Eva Feder

1987 *Metaphor: Its Cognitive Force and Linguistic Structure* (Oxford: Clarendon Press).

Kiuchi, Nobuyoshi

1987 *The Purification Offering in the Priestly Literature: Its Meaning and Function* (JSOTSup, 56; Sheffield: JSOT Press).

Klawans, Jonathan

2000 *Impurity and Sin in Ancient Judaism* (New York: Oxford University Press).

2006 *Purity, Sacrifice, and the Temple: Symbolism and Supersessionism in the Study of Ancient Judaism* (Oxford: University Press).

Knohl, Israel

1995 *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress Press).

Knuuttila, Simo, and Juha Sihvola

1998 ‘How the Philosophical Analysis of Emotions was Introduced’, in Sihvola and Engberg-Pedersen (1998) 1-19.

Kohlberg, Lawrence

1971 ‘From Is to Ought: How to Commit the Naturalistic Fallacy and Get Away with It in the Study of Moral Development’, in *Cognitive Development* *and Epistemology* (ed. Theodore Mischel; New York and London: Academic Press) 151-235.

1981 *The Philosophy of Moral Development: Moral Stages and the Idea of Justice* (San Francisco and London: Harper & Row).

Kohlberg, Lawrence, Charles Levine and Alexandra Hewer

1983 *Moral Stages: A Current Formulation and a Response to Critics* (Contributions to Moral Development, 10; Basel: Karger).

Kolnai, Aurel

2004 (1929) *On Disgust* (edited by Barry Smith and Carolyn Korsmeyer; Chicago/La Salle, IL: Open Court).

Konstan, David

2010 *Before Forgiveness: The Origins of a Moral Idea* (Cambridge: Cambridge University Press).

Kratz, Reinhard G.

2005 (2000) *The Composition of the Narrative Books of the Old Testament* (London and New York: T. & T. Clark).

Kratz, Reinhard G., and Hermann Spieckermann (eds.)

2000 *Liebe und Gebot: Studien zum Deuteronomium* (FS Lothar Perlitt; FRLANT, 190; Göttingen: Vandenhoeck & Ruprecht).

Kraus, F.R.

1960 'Was ist der Codex Hammurabi?', *Genava* 8: 283-96.

Krebs, Dennis L.

2008 'The Evolution of a Sense of Justice', in *Evolutionary Forensic Psychology: Darwinian Foundations of Crime and Law* (ed. J.D. Duntley and T.K. Shackelford; New York: Oxford University Press) 229-45.

Kropotkin, Petr

1972 (1914; 1st edn 1902) *Mutual Aid: A Factor of Evolution* (London: Allen Lane).

Lakoff, George, and Mark Johnson

1980 *Metaphors We Live By* (Chicago: University of Chicago Press).

1999 *Philosophy in the Flesh: The Embodied Mind and Its Challenge to Western Thought* (New York: Basic Books).

Lambert, W.G.

1959 'Morals in Ancient Mesopotamia', *Jaarbericht ex oriente lux* 15: 184–96.

LeFebvre, Michael

2006 *Collections, Codes, and Torah: The Re-characterization of Israel's Written Law* (LHB/OTS, 451; New York and London: T. & T. Clark).

Lemerise, Elizabeth A., and Kenneth A. Dodge

2004 'The Development of Anger and Hostile Interactions', in Lewis and Haviland-Jones (2004) 594-607.

Lemos, Tracy M.

2008 'Where There Is Dirt, Is There System? Revisiting Biblical Purity Constructions' (Paper at the SBL Annual Meeting in Boston, November 2008).

2009 'The Universal and the Particular: Mary Douglas and the Politics of Impurity', *JR* 89: 236-51.

Levin, Christoph

1993 *Der Jahwist* (FRLANT, 157; Göttingen: Vandenhoeck & Ruprecht).

Levine, Baruch A.

1974 *In the Presence of the Lord: A Study of Cult and Some Cultic Terms in Ancient Israel* (SJLA, 5; Leiden: Brill).

1993 *Numbers 1–20: A New Translation with Introduction and Commentary* (AB, 4: Garden City, NY: Doubleday).

2003 'Leviticus: Its Literary History and Location in Biblical Literature', in Rendtorff and Kugler (2003) 11-23.

Levinson, Bernard M.

1997 *Deuteronomy and the Hermeneutics of Legal Innovation* (New York and Oxford: Oxford University Press).

2004 'Is the Covenant Code an Exilic Composition? A Response to John Van Seters', in *In Search of Pre-Exilic Israel* (ed. John Day; JSOTSup, 406; London and New York: T. & T. Clark International) 272-325.

2008 *Legal Revision and Religious Renewal in Ancient Israel* (Cambridge: Cambridge University Press).

Lewis, Michael, and Jeanette M. Haviland-Jones (eds.)

2000 *Handbook of Emotions* (New York: Guildford; 2nd edn).

Lockett, Darian R.

2008 *Purity and Worldview in the Epistle of James* (LNTS, 366; London and New York: T. & T. Clark).

Lohfink, Norbert

2003 'Prolegomena zu einer Rechtshermeneutik des Pentateuch', in *Das Deuteronomium* (ed. G. Braulik; Österreichische biblische Studien, 23; Frankfurt am Main: Peter Lang) 11-55.

Looy, Heather

2004 'Embodied and Embedded Morality: Divinity, Identity, and Disgust', *Zygon* 39: 219-35.

Luciani, Didier

2005 *Sainteté et pardon.* I. *Structure littéraire du Lévitique* (BETL, 185A; Leuven: University Press / Peeters).

Luomanen, Petri, Ilkka Pyysiäinen and Risto Uro

2007 'Introduction: Social and Cognitive Perspectives in the Study of Christian Origins and Early Judaism', in *Explaining Christian Origins and Early Judaism: Contributions from Cognitive and Social Sciences* (ed. P. Luomanen, I. Pyysiäinen and R. Uro; BIS, 89; Leiden/Boston: Brill) 1-33.

Maccoby, Hyam

1999 *Ritual and Morality: The Ritual Purity System and Its Place in Judaism* (Cambridge: Cambridge University Press).

Malul, Meir

1990 *The Comparative Method in Ancient Near Eastern and Biblical Legal Studies* (AOAT; Veröffentlichungen zur Kultur und Geschicte des Alten Orients und des Alten Testaments, 227; Kevelaer: Butzon & Butzon; Neukirchen–Vluyn: Neukirchener Verlag).

Marx, Alfred

1988 'Sacrifice de réparation et rites de levée de sanction', *ZAW* 100: 183-98.

1989 'Sacrifice pour les péchés ou rite de passage? Quelques réflexions sur la fonction du ḥaṭṭā't', *RB* 96: 27-48.

2005 *Les systèmes sacrificiels de l'Ancien Testament: Formes et fonctions du culte sacrificiel à Yhwh* (VTSup, 105; Leiden: Brill).

Maul, Stefan M.

1994 *Zukunftsbewältigung: Eine Untersuchung altorientalischen Denkens anhand der babylonisch-assyrischen Löserituale (Namburbi)* (Baghdader Forschungen, 18; Mainz am Rhein: Verlag Philipp von Zabern).

McCullough, Michael

2008 *Beyond Revenge: The Evolution of the Forgiveness Instinct* (San Francisco, CA: Jossey–Bass).

McEvoy, Chad Joseph

2002 ‘A Consideration of Human Xenophobia and Ethnocentrism from a Sociobiological Perspective’, *Human Rights Review*, April–June 2002: 39-49.

Meens, Rob

2000 ‘ “A Relic of Superstition”: Bodily Impurity and the Church from Gregory the Great to the Twelfth Century Decretists’, in Poorthuis and Schwartz (2000) 281-93.

Meier, Samuel A.

1992 ‘Hammurapi’, in *ABD,* III (ed. D.N. Freedman; New York: Doubleday) 39–42.

Menninghaus, Winfried

1999 *Ekel: Theorie und Geschichte einer starken Empfindung* (Frankfurt am Main: Suhrkampf).

Meshel, Naphtali

2008 ‘Pure, Impure, Permitted, Prohibited: A Study of Classification Systems in P’, in Schwartz and Wright (2008) 32-42.

Meyer, Robert

1999 ‘Magical Ascesis and Moral Purity in Ancient Egypt’, in *Transformations of the Inner Self in Ancient Religions* (ed. J. Assman and G.G. Stroumsa; Studies in the History of Religions, 83; Leiden: Brill) 45-64.

Milgrom, Jacob

1971 ‘Sin-Offering or Purification-Offering?’, *VT* 21: 237-39.

1972 ‘ ‘Eglah ‘Arufah’, in *EncJud,* VI (Jerusalem: Keter Publishing House), cols. 475-77.

1976 *Cult and Conscience: The* Asham *and the Priestly Doctrine of Repentance* (SJLA, 18; Leiden: Brill).

1978 ‘Studies in the Temple Scroll’, *JBL* 97: 501-23.

1981 ‘The Paradox of the Red Cow (Num. xix)’, *VT* 31: 62-72.

1991a *Leviticus, 1–16: A New Translation with Introduction and Commentary* (AB, 3; Garden City, NY: Doubleday).

1991b ‘The Ḥaṭṭāt: A Rite of Passage?’, *RB* 98: 120-24.

1992 ‘First Day Ablutions in Qumran’, in *The Madrid Qumran Congress: Proceedings of the International Congress on the Dead Sea Scrolls: Madrid 18–21 March 1991*, II (ed. J.T. Barrera and L.V. Montaner; Leiden: Brill) 561-70.

2000a *Leviticus 17–22: A New Translation with Introduction and Commentary* (AB, 3a; Garden City, NY: Doubleday).

2000b *Leviticus 23–27: A New Translation with Introduction and Commentary* (AB, 3b; Garden City, NY: Doubleday).

2003 ‘H_{R} in Leviticus and Elsewhere in the Torah’, in Rendtorff and Kugler (2003) 24-40.

Miller, Susan B.

2004 *Disgust: The Gatekeeper Emotion* (Hillsdale, NJ/London: The Analytic Press).

Miller, William I.

1997 *The Anatomy of Disgust* (Cambridge, MA; Harvard University Press).

2006 *Eye for an Eye* (Cambridge: Cambridge University Press).

Minette de Tillesse, Gaëtan

2000 'TU & VOUS dans le Deutéronome', in Kratz and Spieckermann (2000) 156-63.

Misgav, Haggai, Yosef Garfinkel and Saar Ganor

2009 'The Ostracon', in Garfinkel and Ganor (2009) 243-57.

Moll, Jorge, Roland Zahn, Ricardo de Oiveira-Souza, Frank Krueger and Jordan Grafman

2005 'The Neural Basis of Human Moral Cognition', *Nature Reviews. Neuroscience* 6: 799-809.

Morrison, Nancy, and Sally K. Severino

2003 'The Biology of Morality', *Zygon* 38: 855-69.

Najman, Hindy

2003 *Seconding Sinai: The Development of Mosaic Discourse in Second Temple Judaism* (JSJSup, 77; Leiden: Brill).

Navarrete, Carlos David, and Daniel M.T. Fessler

2006 'Disease Avoidance and Ethnocentrism: The Effects of Disease Vulnerability and Disgust Sensitivity on Intergroup Attitudes', *Evolution and Human Behavior* 27: 270-82.

Neusner, Jacob

1973 *The Idea of Purity in Ancient Judaism* (SJLA, 1; Leiden: Brill).

1994 *Purity in Rabbinic Judaism: A Systematic Account: The Sources, Media, Effects, and Removal of Uncleanness* (SFSHJ, 95; Atlanta, GA: Scholars Press).

Newberg, A.B., E.G. d'Aquili, S.K. Newberg and V. deMarici

2000 'The Neuropsychological Correlates of Forgiveness', in *Forgiveness: Theory, Research, and Practice* (ed. M.E. McCullough, K.I. Pargament and C.E. Thoresen; New York: Guilford) 91-110.

Nicholson, Ernest

1998 *The Pentateuch in the Twentieth Century: The Legacy of Julius Wellhausen* (Oxford: Clarendon Press).

Nihan, Christophe

2004 'The Holiness Code between D and P: Some Comments on the Function and Significance of Leviticus 17–26 in the Composition of the Torah', in Otto and Achenbach (2004) 81-122.

2007 *From Priestly Torah to Pentateuch: A Study of the Composition of the Book of Leviticus* (FAT, 2/25; Tübingen: Mohr Siebeck).

2009 'Foreigners, Resident Aliens and Natives in the Holiness Code: Semantic and Legal Issues', Paper at the SBL International Meeting in Rome, July 2009.

Nihan, Christophe, and Thomas C. Römer

2004 'Le débat actuel sur la formation du Pentateuque', in Römer, Macchi, and Nihan (2004) 85-113.

Norin, Stig
2006 ‘John Van Seters, *A Law Book of* [sic] *the Diaspora: Revision in the Study of the Covenant Code*’, *SEÅ* 71: 237-39.

Nucci, Larry P., and Elliot Turiel
1978 ‘Social Interactions and the Development of Social Concepts in Preschool Children’, *Child Development* 49: 400-407.

Nussbaum, Martha
2004 *Hiding from Humanity: Disgust, Shame, and the Law* (Princeton: University Press).

Öhman, Arne
2000 ‘Fear and Anxiety: Evolutionary, Cognitive, and Clinical Perspectives’, in Lewis and Haviland-Jones (2000) 573-93.

Otten, H.
1961 ‘Eine Beschwörung der Unterirdischen aus Boğazköy’, *ZA* 54: 114-57 [not seen].

Otto, Eckart
1994 *Theologische Ethik des Alten Testaments* (Theologische Wissenschaft: Sammelwerk für Studium und Beruf, 3/2; Stuttgart, Berlin, Köln: Verlag W. Kohlhammer).
1999 *Das Deuteronomium: Politische Theologie und Rechtsreform in Juda und Assyrien* (BZAW, 284; Berlin, New York: Walter de Gruyter).
2000 *Das Deuteronomium im Pentateuch und Hexateuch: Studien zur Literaturgeschichte von Pentateuch und Hexateuch im Lichte des Deuteronomiumrahmens* (FAT, 30; Tübingen: Mohr Siebeck).
2002 *Gottes Recht als Menschenrecht: Rechts- und literaturhistorische Studien zum Deuteronomium* (BZAR, 2; Wiesbaden: Harrassowitz).
2003 ‘Semiotik des biblischen Rechts’, *ZAR* 9: 220-37.
2004 ‘The Pentateuch in Synchronical and Diachronical Perspectives: Protorabbinic Scribal Erudition Mediating between Deuteronomy and the Priestly Code’, in Otto and Achenbach (2004) 14-35.
2007 *Das Gesetz Mose* (Darmstadt: Wissenschaftliche Buchgesellschaft).

Otto, Eckart, and Reinhard Achenbach (eds.)
2004 *Das Deuteronomium zwischen Pentateuch und Deuteronomistischen Geschichtswerk* (FRLANT, 206; Göttingen: Vandenhoeck & Ruprecht).

Pardee, Dennis
2002 *Ritual and Cult at Ugarit* (Writings from the Ancient World, 10; Atlanta: Society of Biblical Literature).

Parisi, F.
2001 ‘The Genesis of Liability in Ancient Law’, *American Law and Economics Review* 3: 82-124.

Park, Seung-Ryong, and Robert D. Enright
2000 ‘Forgiveness across Cultures’, in Aureli and de Waal (2000) 359-61.

Paul, Shalom M.
1970 *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law* (VTSup, 18; Leiden: Brill).

Peterson, Gregory R.
2003 *Minding God: Theology and the Cognitive Sciences* (Theology and the Sciences; Minneapolis: Fortress Press).

Phillips, Anthony
2004 (2002) *Essays on Biblical Law* (London/New York: T. & T. Clark; JSOTSup, 344; Sheffield: Sheffield Academic Press).

Piaget, Jean
1948 (1931) *The Moral Judgment of the Child* (Glencoe, IL: Free Press).

Pola, Thomas
1995 *Die ursprüngliche Priesterschrift: Beobachtungen zur Literarkritik und Traditionsgeschichte von P^g* (WMANT, 70; Neukirchen–Vluyn: Neukirchener Verlag).

Poorthuis, Marcel J.H.M., and Joshua B. Schwartz (eds.)
2000 *Purity and Holiness: The Heritage of Leviticus* (Jewish and Christian Perspective Series, 2; Leiden: Brill).

Power, Mick and Tim Dalgleish
1997 *Cognition and Emotion: From Order to Disorder* (Hove, East Sussex: Psychology Press).

Preston, Stephanie D., and Frans B.M. de Waal
2002 ‘Empathy: Its Ultimate and Proximate Bases’, *Behavioural and Brain Sciences* 25: 1-72.

Preuß, H.D.
1995 ‘תּוֹעֵבָה *tô‘eḇāh*’, in *TWAT,* VIII (ed. H.-J. Fabry and H. Ringgren; Stuttgart, Berlin, Köln: Verlag W. Kohlhammer) 580-92.

Puech, Emile
2010 ‘L’ostracon de Khirbet Qeyafa et les débuts de la royauté en Israël’, *RB* 117: 162-84.

Range, Friederike, Lisa Horn, Zsófia Viranyi and Ludwig Huber
2009 ‘The Absence of Reward Induces Inequity Aversion in Dogs’, *PNAS* 106: 340-45.

Reiner, Erica
1958 *Šurpu: A Collection of Sumerian and Akkadian Incantations* (AfO, 11; Graz: Im Selbstverlage des Herausgebers).

Rendtorff, Rolf
1990 (1977) *The Problem of the Process of Transmission in the Pentateuch* (JSOTSup, 89; Sheffield: JSOT Press).

Rendtorff, Rolf, and Robert A. Kugler (eds.)
2003 *The Book of Leviticus: Composition and Reception* (VTSup, 93; Leiden: Brill).

Reventlow, Henning Graf
1961 *Das Heiligkeitsgesetz formgeschichtlich untersucht* (WMANT, 6; Neukirchen: Neukirchener Verlag).

Richardson, M.E.J.
2004 (2000) *Hammurabi’s Laws: Text, Translation and Glossary* (London and New York: T. & T. Clark; Sheffield: Sheffield Academic Press).

Ringgren, Helmer
1962 *Sacrifice in the Bible* (United Society for Christian Literature; World Christian Books, 2/42; London: Lutterworth Press).

Rizzolatti, Giacomo, and Laila Craighero
2004 ‘The Mirror-Neuron System’, *Annual Review of Neuroscience* 27: 169-92.

Rizzolatti, Giacomo, and Laila Craighero
2005 ‘Mirror Neuron: A Neurological Approach to Empathy’, in Changeux *et al.* (2005) 107-23.

Roll, Susan K.

2003 ‘The Old Rite of the Churching of Women after Childbirth’, in De Troyer *et al.* (2003) 117-41.

Rolston III, Holmes

1999 *Genes, Genesis and God: Values and their Origins in Natural and Human History* (The Gifford Lectures, University of Edinburgh, 1997–1998; Cambridge: University Press).

Römer, Thomas C.

1990 *Israels Väter: Untersuchungen zur Väterthematik im Deuteronomium und in der deuteronomistischen Tradition* (OBO, 99; Freiburg: Universitätsverlag / Göttingen: Vandenhoeck & Ruprecht).

2004 ‘La formation du Pentateuque: histoire de la recherche’, in Römer, Macchi, and Nihan (2004) 67-84.

2006 ‘The Elusive Yahwist: A Short History of Research’, in Dozeman and Schmid (2006) 9-27.

2008 ‘De la périphérie au centre: les livres du Lévitique et des Nombres dans le débat actuel sur le Pentateuque’, in *The Books of Leviticus and Numbers* (ed. T. Römer; Bibliotheca ephemeridum theologicarum lovaniensium, 215; Leuven: Uitgeverij Peeters) 3-34.

Römer, Thomas C., J.-D. Macchi and Christophe Nihan (eds.)

2004 *Introduction à l’Ancien Testament* (Le monde de la Bible, 49; Genève: Labor & Fides).

Roth, Martha T.

2003 (1997) *Law Collections from Mesopotamia and Asia Minor* (SBL Writings from the Ancient World, 6; Atlanta, GA: Scholars Press; 2nd edn).

Rottschaefer, William A.

1998 *The Biology and Psychology of Moral Agency* (Cambridge: Cambridge University Press).

2000 ‘Naturalizing Ethics: The Biology and Psychology of Moral Agency’, *Zygon* 35: 253-86.

Rozin, Paul, Jonathan Haidt and Clark McCauley

2000 ‘Disgust’, in Lewis and Haviland-Jones (2000) 637-53.

Rozin, Paul, Jonathan Haidt, Clark McCauley and Sumio Imada

1997 ‘Disgust: Preadaptation and the Cultural Evolution of a Food-Based Emotion’, in *Food Preferences and Taste: Continuity and Change* (ed. H. Macbeth; Providence, RI: Berghahn) 65-82.

Rubenstein, Jeffrey L.

1999 ‘Nominalism and Realism in Qumranic and Rabbinic Law: A Reassessment’, *DSD* 6: 157-83.

Ruwe, Andreas

1999 *‘Heiligkeitsgesetz’ und ‘Priesterschrift’. Literaturgeschichtliche und rechtssystematische Untersuchungen zu Leviticus 17,1–26,2* (FAT, 26; Tübingen: Mohr Siebeck).

Sanders, E.P.

1985 *Jesus and Judaism* (London: SCM Press).

Schenker, Adrian

2003 ‘What Connects the Incest Prohibitions with the Other Prohibitions Listed in Leviticus 18 and 20?’, in Rendtorff and Kugler (2003) 162-85.

Schmid, H.H.
1976 *Der sogenannte Jahwist: Beobachtungen und Fragen zur Pentateuchforschung* (Zürich: TVZ, 1976).
Schultz, Jennifer
2003 'Doctors, Philosophers, and Christian Fathers on Menstrual Blood', in De Troyer *et al.* (2003) 97-116.
Schwartz, Baruch J.
1991 'The Prohibitions Concerning the "Eating" of Blood in Leviticus 17', in *Priesthood and Cult in Ancient Israel* (ed. G.A. Anderson and S.M. Olyan; JSOTSup, 125; Sheffield: JSOT Press) 107-14.
1996 ' "Profane" Slaughter and the Integrity of the Priestly Code', *HUCA* 67: 15-42.
2009 'Introduction: The Strata of the Priestly Writings and the Revised Relative Dating of P and H', in *The Strata of the Priestly Writings: Contemporary Debate and Future Directions* (ed. S. Shectman and J.S. Baden; Zürich: Theologischer Verlag) 1-12.
Schwartz, Baruch J., David P. Wright, Jeffrey Stackert and Naphtali S. Meshel (eds.)
2008 *Perspectives on Purity and Purification in the Bible* (LHB/OTS, 474; New York: T. & T. Clark).
Schwartz, Joshua
2000 'On Birds, Rabbis and Skin Disease', in Poorthuis and Schwartz (2000) 207-22.
Schwartz, Daniel R.
1992 'Law and Truth: On Qumran-Sadducean and Rabbinic Views of Law', in *The Dead Sea Scrolls: Forty Years of Research* (ed. D. Dimant and U. Rappaport; STDJ, 10; Leiden: Brill) 229-40.
Schwienhorst-Schönberger, Ludger
1990 *Das Bundesbuch (Ex 20,22–23,33): Studien zu seiner Entstehung und Theologie* (Berlin, New York: Walter de Gruyter).
Scurlock, JoAnn
2002 'Translating Transfers in Ancient Mesopotamia', in *Magic and Ritual in the Ancient World* (ed. P. Mirecki and M. Mayer; Religions in the Graeco-Roman World, 141; Leiden: Brill) 209-23.
Shemesh, Aharon
2009 *Halakhah in the Making: The Development of Jewish Law from Qumran to the Rabbis* (Berkely and Los Angeles, CA: University of California Press).
Shweder, Richard A., Manamohan Mahapatra and Joan G. Miller
1987 'Culture and Moral Development', in *The Emergence of Morality in Young Children* (ed. J. Kagan and S. Lamb; Chicago and London: University of Chicago Press) 1-83.
Shweder, Richard A., Nancy C. Much, Manomohan Mahapatra and Lawrence Park
1997 'The "Big Three" of Morality (Autonomy, Community, Divinity) and the "Big Three" Explanations of Suffering', in *Morality and Health* (ed. A. Brandt and P. Rozin; New York and London: Routledge) 119-69.
Sihvola, Juha, and Troels Engberg-Pedersen (eds.)
1998 *The Emotions in Hellenistic Philosophy* (The New Synthese Historical Library, 46; Dordrecht/Boston/London: Kluwer Academic Publishers).

Silk, Joan B.

1996 ‘Why Do Primates Reconcile?’, *Evolutionary Anthropology* 5: 39-42.

2000 ‘The Function of Peaceful Post-Conflict Interactions: An Alternative View’, in Aureli and de Waal (2000) 179-81.

Ska, Jean-Louise

2006 *Introduction to Reading the Pentateuch* (Winona Lake, IN: Eisenbrauns).

2009 *The Exegesis of the Pentateuch: Exegetical Studies and Basic Questions* (FAT, 66; Tübingen: Mohr Siebeck [French article 2001]).

Sklar, Jay

2005 *Sin, Impurity, Sacrifice, Atonement: The Priestly Conceptions* (HBM, 2; Sheffield: Sheffield Phoenix Press).

Sober, Elliott, and David Sloan Wilson

1998 *Unto Others: The Evolution and Psychology of Unselfish Behaviour* (Cambridge, MA and London: Harvard University Press).

2000 ‘Summary of *Unto Others: The Evolution and Psychology of Unselfish Behavior*’, in *Evolutionary Origins of Morality: Cross-Disciplinary Perspectives* (ed. A. Brandt and P. Rozin; Thorverton, Devon and Bowling Green, OH: Imprint Academics) 185-206.

Sparks, Kenton L.

1998 *Ethnicity and Identity in Ancient Israel: Prolegomena to the Study of Ethnic Sentiments and their Expression in the Hebrew Bible* (Winona Lake, IN: Eisenbrauns).

Stackert, Jeffrey

2007 *Rewriting the Torah: Literary Revision in Deuteronomy and the Holiness Legislation* (FAT, 52; Tübingen: Mohr Siebeck).

Stark, Rodney

2001 ‘Gods, Rituals, and the Moral Order’, *JSSR* 40: 619-36.

Sulzberger, Mayer

1914 ‘The Ancient Hebrew Law of Homicide: I’, *JQR* 5: 127-61.

1915a ‘The Ancient Hebrew Law of Homicide: II–III’, *JQR* 5: 289-344.

1915b ‘The Ancient Hebrew Law of Homicide: IV’, *JQR* 5: 559-614.

Teehan, John

2003 ‘Kantian Ethics: After Darwin’, *Zygon* 38: 49-60.

Thompson, R.J.

1970 *Moses and the Law in a Century of Criticism since Graf* (VTSup, 19; Leiden: Brill).

Tigay, Jeffrey H.

1996 *Deuteronomy* (The JPS Torah Commentary; Philadelphia and Jerusalem: The Jewish Publication Society).

Turiel, Elliot

1983 *The Development of Social Knowledge: Morality and Convention* (Cambridge: University Press).

1998 ‘The Development of Morality’, in *Handbook of Child Psychology*. III. *Social, Emotional, and Personality Development* (ed. W. Damon and N. Eisenberg; New York: John Wiley & Sons; 5th edn) 863-932.

Van Seters, John

1975 *Abraham in History and Tradition* (New Haven and London: Yale University Press).

2003 *A Law Book for the Diaspora: Revision in the Study of the Covenant Code* (Oxford and New York: Oxford University Press).

2004 (1999) *The Pentateuch: A Social-Science Commentary* (London and New York: T. & T. Clark International).

Vandier, Jacques

1962 *Le papyrus Jumilhac* (Centre National de la recherche scientifique).

Vaux, Roland de

1964 *Les sacrifices de l'Ancien Testament* (Les cahiers de la Revue Biblique, 1; Paris: Gabalda).

Veijola, Timo

2000 'Bundestheologie in Dtn 10,12–11,30', in Kratz and Spieckermann (2000) 206-21.

Viberg, Åke

1992 *Symbols of Law: A Contextual Analysis of Legal Symbolic Acts in the Old Testament* (ConBOT, 34; Stockholm: Almqvist & Wiksell International).

Waal, Frans B.M. de

1989 *Peacemaking among Primates* (Cambridge, MA and London: Harvard University Press).

1996 *Good Natured: The Origins of Right and Wrong in Humans and Other Animals* (Cambridge, MA and London: Harvard University Press).

2000 'The First Kiss: Foundations of Conflict Resolution Research in Animals', in Aureli and de Waal (2000) 15-33.

2006 *Primates and Philosophers: How Morality Evolved* (The University Center for Human Values Series; Princeton and Oxford: Princeton University Press).

2007 (1982) *Chimpanzee Politics: Power and Sex among Apes* (Baltimore: John Hopkins University Press; 25th anniversary edn).

Waal, Frans B.M. de, and A. van Roosmalen

1979 'Reconciliation and Consolation among Chimpanzees', *Behavioral Ecology and Sociobiology* 5: 55-66.

Waal, Frans B.M. de, and Filippo Aureli

2000 'Shared Principles and Unanswered Questions', in Aureli and de Waal (2000) 375-79.

Wagenaar, Jan A.

2006 *Origin and Transformation of the Ancient Israelite Festival Calendar* (BZAR, 6; Wiesbaden: Harrasowitz [not seen]).

Wagner, V.

1974 'Zur Existenz der sogenannten "Heiligkeitsgesetzes"', *ZAW* 86: 307-16.

Watts, James W. (ed.)

2001 *Persia and Torah: The Theory of Imperial Authorization of the Pentateuch* (SBL Symposium series, 17; Atlanta: Society of Biblical Literature).

Weiher, Egbert von

1998 *Uruk: Spätbabylonische Texte aus dem Planquadrat U 18*. V. *Ausgrabungen in Uruk-Warka* (Endberichte, 13; Mainz am Rhein: Verlag Philipp von Zabern).

Westbrook, Raymond

2009 *Law from the Tigris to the Tiber: The Writings of Raymond Westbrook* (2 vols.; ed. B. Wells and F.R. Magdalene; Winona Lake, IN: Eisenbrauns).

Westbrook, Raymond, and Bruce Wells

2009 *Everyday Law in Biblical Israel: An Introduction* (Louisville, KY: Westminster John Knox Press).

Willis, Timothy M.

2001 *The Elders of the City: A Study of the Elders-Laws in Deuteronomy* (SBL Monograph Series, 55; Atlanta, GA: Society of Biblical Literature).

Wilson, Edward O.

1975 *Sociobiology: The New Synthesis* (Cambridge, MA and London: The Belknap Press of Harvard University Press).

Wilson, Catherine

2004 *Moral Animals: Ideals and Constraints in Moral Theory* (Oxford and New York: Oxford University Press.

Wilson, James Q.

1993 *The Moral Sense* (New York: Free Press).

Wispé, Lauren

1986 'The Distinction between Sympathy and Empathy: To Call Forth a Concept, a Word Is Needed', *Journal of Personality and Social Psychology* 50: 314-21.

1987 'History of the Concept of Empathy', in Eisenberg and Strayer (1987) 17-37.

Wolkenten, Megan van , Sarah F. Brosnan, and Frans B.M. de Waal

2007 'Inequity Responses of Monkeys Modified by Effort', *PNAS* 104: 18854-59.

Woody, Sheila R., and Bethany A. Teachman

2000 'Intersection of Disgust and Fear: Normative and Pathological Views', *Clinical Psychology: Science and Practice* 7: 291-311.

Wright, David P.

1987a *The Disposal of Impurity: Elimination Rites in the Bible and in Hittite and Mesopotamian Literature* (SBL Dissertation Series, 101; Atlanta, GA: Scholars Press).

1987b 'Deuteronomy 21:1–9 as a Rite of Elimination', *CBQ* 49: 387-403.

2003 'The Laws of Hammurabi as a Source for the Covenant Collection (Exodus 20:23–23:19)', *Maarav* 10: 11-87.

2007 'Homicide, Talion, Vengeace, and Psycho-Economic Satisfaction in the Covenant Code', in *Religion and Violence: The Biblical Heritage: Proceedings of a Conference Held at Wellesley College and Boston University, February 19–20, 2006* (ed. D.A. Bernat and J. Klawans; Recent Research in Biblical Studies, 2; Sheffield: Sheffield Phoenix Press) 57-78.

2009 *Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi* (Oxford: Oxford University Press).

Yardeni, Ada

2009 'Further Observations on the Ostracon', in Garfinkel and Ganor (2009) 259-60.

Zajonc, Robert B.

1980 'Feeling and Thinking: Preferences Need No Inferences', *American Psychologist* 35: 151-75.

1984 'On the Primacy of Affect', *American Psychologist* 39: 117-23.

Zenger, Erich

1997 'Priesterschrift', in *TRE*, XXVII (ed. G. Müller *et al.*; Berlin and New York: Walter de Gruyter) 435-46.

Indexes

Index of Sources

Hebrew Bible

Genesis
9.5-6 147
15.5 104
32-33 155
32.21 156
33.8-11 156
43.32 86
46 104
46.27 104
46.34 86

Exodus
1.5 104
8.26 86
12.19 111, 122
12.43-49 100
12.48-49 111, 122
13.3, 6 100
19.2–24.15 56
20.1 57
20.5 125
20.18-21 125
20.22-26 57, 144
20.22–23.33 56
20.24-26 61
21-23 96
21.1 57
21.1–22.16 142
21.2 116
21.2-11 101, 116
21.2–22.16 57, 59
21.12-14 136
21.12–22.16 144
21.13, 14 144
21.17 151
21.22 54, 149
21.28-32 54, 55
21.29-30 150
21.30 151
21.32, 33-34 149
21.36 150
21.37 143
21.37–22.3 150
21.37–22.12 159
22.1-2 143
22.1-3 143
22.4-15 150
22.6-14 125
22.8 143
22.9-10 126
22.17–23.19 59
22.20 97, 99, 103, 107, 117
22.20-26 97, 99, 107, 116
22.20–23.9 97
22.20–23.19 57
22.21 97
22.21-23 101, 126
22.24 97, 101, 116
22.24-26 126
22.25-26 101, 116
23 68, 139, 173
23.1-3 102
23.4 159
23.4-5, 6-8 102
23.6-9 107
23.9 99, 100, 103, 107, 117
23.10-11 102, 110
23.10-12 97, 107
23.12 102, 106
23.15 100
23.20-21 126
23.20-33 57, 100, 118, 126
23.21, 23, 24, 25-26 118
23.23-33 118
23.27 118, 127
23.31, 33 118
23.32-33 118, 127
24.3 57
30.11-16 150, 156
30.12-16 154
30-31 154
40 53

Leviticus
1–3 66
1–7 66
1–9 64
1–10 66
1–16 53, 64, 65, 67, 68, 85, 122
1.1-2 66
1.1–5.26 66
1.4 152, 157
3.16-17 67
4 158
4-5 66, 152, 153, 156

4.1-2 66
4.2 85
4.20, 26, 31, 35 90, 153
4.27-31 156, 160
5.1 85
5.1-13 158
5.6 153
5.6-7 158
5.10, 13 90, 153, 155
5.14-16 158, 159, 161
5.15 66
5.16, 18, 26 90, 153
5.17 85
5.17-19 158, 160
5.20 66
5.20-26 158
5.21-24 159
6–7 66
6.1ff 66
6.1–7.38 66
6.12-18 67
6.30 153
7.7 153
7.22-29, 38 67
8 157
8.34 157
8–9 65, 66
8–10 66
9 53, 65
9.17 67
10 64, 65
10.1-3 128
11 27, 66, 71-74, 77, 78, 80, 81, 87, 93
11–15 64, 65, 66, 77
11.2-8 74, 78
11.2-23 72
11.4-7 79
11.8 75, 79
11.9-12 75
11.10 72, 78, 79
11.11, 13-19, 20-23 75
11.21-22 96
11.24-28 75, 78
11.24-36 78
11.24-38 75
11.24-40 72
11.26, 27 79
11.29-38 75, 90
11.31-38 75
11.33, 35 90
11.39-40 75, 80
11.41-42 75, 79
11.43 76
11.43-45 67, 75, 76
11.44 87
11.46 72
11.46-47 75
11.47 72, 76
12 83
12–15 66, 67, 71, 75, 78, 79, 81
12.6-8 156
12.7 90, 153
12.8 67, 77, 90, 153
13 82
13.45-46 137
13.47-59 90
14 82, 132, 157
14.1-7 90, 130
14.3-7 130
14.10-20 160
14.10-31 156
14.14-18 130
14.18 90, 153, 155
14.19-21 90, 153
14.21-22 95
14.25-29 130
14.29 90, 153, 155
14.31 90, 153
14.34-47 90
14.34-53 67
14.49-53 130, 156
14.53 90, 153, 155
14.54-57 67
15 27, 83, 95
15.2-12 90
15.7 83
15.13-15 156
15.15 90, 153
15.16-27 90
15.19, 21-22 83
15.28-30 156
15.30 90, 153
15.31 67, 128
16 64, 65, 66, 132, 153, 157
16.2 67, 128
16.3-19 156
16.7-10 132
16.15-22 90
16.20-22 132
16.29-34 67, 153
16.30 153, 156
17 68, 122
17–26 25, 53, 64, 67, 68, 71, 85, 96, 122, 128
17–27 67
17.8, 10, 12, 13, 15 111, 122
17.10 123
17.11 155
17.15-16 79
18 27, 85, 86, 87, 88, 123
18–20 88
18.1-5 86
18.3 123
18.6-18 85, 90
18.10 111
18.17 85
18.22, 23 86
18.24-30 86, 111, 122, 123, 128
18.25-28 88
18.26 86, 111, 122
18.27 86, 87, 123
18.28 87, 123

Leviticus (cont.)
18.29 86, 111, 123
18.30 86, 30
19 110, 128
19.2 123
19.5-8 128
19.9-10 110, 122
19.11-13 159
19.13, 14, 15-18 110
19.20-24 160
19.22 153
19.29 85
19.33-34 110, 111, 122
19.34 111
19.37 123
20 27, 85, 87, 88, 123
20.1-6 128
20.2 111, 122, 123
20.7-8 123
20.11-12 90
20.12 86
20.13 86
20.14 85, 90
20.17, 19-21 90
20.22 123
20.22-24 88
20.22-26 87, 111, 123
20.22-30 122
20.23, 24-25, 26 87
21.1 67
21.1-4 82
21.10-11 82
22.1-3 128
22.4 67
22.8 80
22.10-13 96
22.14-16 161
22.18 111, 122
22.31-33 123
23 67, 68, 122
23–25 88, 128
23.22 110, 122
24.10-16 151
24.10-23 125
24.13-23 150
24.15-21 151
24.16 111, 122, 123
24.22 111, 122
25.6, 35, 45 111
26 53, 67, 68, 87, 88, 94, 128, 129, 140, 174
26.1-2 88
26.11 88
26.14-16, 36 115
26.14-39 111, 123
26.15, 30 88
26.32-35, 43, 44 88
27 64
27.47-54 112

Numbers
3.11-15 150
5 27
5.1-3 82
5.2-3 82, 89, 90
5.6-8 161
5.6-10 153
5.15, 31 85
6 157
6.9-11 153
6.9-12 160
6.11-12 153
6.13-20 153
8 157
8.12 153, 157
8.21 153
9.14 111, 122
10 53
12 81
12.1 125
12.9-15 27
12.10-13 82
15.14-16, 26, 29-30 111, 122
15.22-26 156
15.25, 28 153
15.30 123
17.11-12 154
19 81, 157
19.1-10 90
19.2-6 134
19.9 134
19.10 111, 122
19.11-12 134
19.11-22 82
19.14-16 82
19.17 134
25 125
25.11-13 154
28–29 156
28.22, 30 154
29.5 154
30.16 85
31 83
31.19-24 82, 83
31.48-50 156
31.48-54 154
35 136, 151
35.9-34 136
35.15 111, 122
35.30-34 150
35.31-32 149, 151
35.33-34 136

Deuteronomy
1.21, 29 121
2.23 120
2.24, 31 119
2.25 127
3.2 119, 121
3.6 120
3.18, 20 119
3.22 121
4.41-43 144, 151
5.12-15 102
5.14, 15 106
6.4-9 103
6.6 167
7 127
7.1-3 108
7.1-5 119
7.2 119, 120
7.10, 16 127
7.18-19 121
7.23, 25 127
7.25-26 120

7.26 75, 120, 127
8.19-20 127
10.12–11.1 127
10.12–11.30 103
10.15 103
10.17-19 103, 119
10.19 103, 127
10.20 127
10.22 104
12 63
12–26 61, 62, 63, 102, 118
12–30 108, 119
12.2 119
12.2-27 119
12.13-28 63
12.31 120
13 127
13.2-12 62
14 63, 77, 78, 80, 81
14.3 77, 81, 86, 120
14.3-21 76
14.8 77
14.21 79, 80, 111
14.22-29 63
14.29 105, 119
15 63, 107
15.15 106
15.19-23 63
16 63
16.11-12 105, 119
16.12 106
16.14 105, 119
16.16-20 63
17 63, 109
17.1 120
17.8-13 63
17.17-19 108
18.9, 12 120
19 63
19.1-13 63, 136, 144, 151
19.10, 13 136
19.15-21 63
20 108, 127
20.1, 3, 8 121
20.10-14, 15-18 120, 121
20.18 120
21 63, 136, 157
21.1-9 63, 135
21.5 135
21.8 154
21.8, 9 136
21.10-14 121, 125
22–25 105
22.1-4 105
22.5 120
22.13-30 107
22.23-29 105
23.4-5 108, 109
23.8 120
23.8-9 108, 109
23.9-14 107
23.12-14 90
23.15 88
23.19 120
24 106, 107
24.1 88
24.1-4 107
24.4 120
24.6 105, 119
24.6-22 127
24.7 105
24.8-9 107
24.10-15 105
24.10-22 119
24.13 127
24.14 119
24.15 127
24.17 107, 119
24.17-22 105, 106, 107, 108
24.18 107
24.19-21 119
24.19-22 110
25.1-3 105
25.5-10 107
25.11-12 55, 105
25.16 120
26 63
26.1-16 63
26.5-9 53
26.12 105, 119
26.13 105
27.15 120
27.15-26 109
27.18 110
28 68, 88, 128, 139, 173
28.15-68 127
28.20-44 62
28.43-44 108
29.11 111, 122
29.16-28 127
31.6, 8 121
31.12 111, 122
32.43 154
32.15-25 127
35.9-34 136

Judges
13.4, 7, 14 67

1 Samuel
3.14 155
12.3 147, 150
20.26 67

2 Samuel
3.29 27, 67, 84
11.4 67
21.1-9 155

1 Kings
20.39 147

2 Kings
5 67
10.27 88
12.16 162
15.1-7 67
22–23 61, 62
23.10, 13-14, 16, 20 67

1 Chronicles
6.34 155

2 Chronicles
26.16-19 161
26.16-21 27
29.5 84
30.18 155

Ezra
9.11 84

Nehemiah
5 112

Job
33.24 150
36.18 150

Psalms
49.8 150
51.4-5 27
106.34-41 27

Proverbs
6.32-35 149
6.34-35 152
6.35 147, 150
13.8 147, 150
16.14 155

21.18 150

Isaiah
1.15-17 27
43.3 150
47.11 155
58 31
64.4-5 27

Jeremiah
7.6 105
18.23 155
22.3 105

Lamentations
1.8, 17 84

Ezekiel
4.12-15 88
7.19 84
16.27, 58 85
18.5-9 28
18.6 84
22.7 105
22.9, 11 85
22.10 84
22.29 105

23.21 27, 29, 35, 44, 48, 49, 85
24.13 85
36.16-18 27
36.17 67, 84
36.22-25 27
43.7-9 67

Daniel
9.24 155

Hosea
6.6 31
9.3-4 67

Amos
5.12 147, 150
5.21-24 31
7.17 67

Zechariah
7.10 105
13.1 67, 84

Malachi
3.5 105

Apocrypha and Pseudepigrapha

1 Enoch
10.4-5 133

Other Jewish Works

Dead Sea Scrolls
Damascus Document (CD)
11.13-14 55
11.16-17 55

4Q265
7 i 7-8 55

4Q269
8 ii, 6 134

4Q271
ii, 13 134

4Q276
135

4Q277 135
1 ii, 7 134

11QT^{a} (11Q19)
26.13 133
49.5-19 82

Josephus
Ant.
4.280 148
13.294 148
20.199 148

Philo
Spec. leg.
3.181-82 148

Rabbinic Texts
M. B. Qam.
8.1 148

M. Ker
2.3 26

M. Mak.
1.6 148

M. Neg.
12.6 26

M. Oha.
82

M. Parah
3.2-4 134

T. Neg
6.7 26

T. Šabb.
14.3 55

B. Arak
16a 26

B. B. Qam.
83b-86a 148

B. Sanh.
79 148

Sifre
Num 5.3 26

Lev. Rab.
17.3 26
18.4 26

Megillath Ta'anith
148

Num. Rab.
7.1, 10 26

Pesiq. Rab Kah.
4.7 134

EARLY CHRISTIAN TEXTS

NEW TESTAMENT
Matthew
12.11-12 55

Luke
14.5 55

OTHER CHRISTIAN TEXTS
Barnabas
8.1 134

Dionysius,
Letter to Basilides, β'
4

Didascalia apostolorum
Syriac 26.262/Latin
62 (97v) 4

GREEK AND LATIN TEXTS

Pliny the Elder, *Nat.*
7.64-65 84

OTHER ANCIENT REFERENCES

ANE LAWS
(Roth 2003 [1997])
Hittite Laws
1-18 146
7, 9, 19, 25, 51, 54, 57
55
57-59 150
57-92 146
59, 63 55
63-65 150
67 55
67-70 150
69, 81 55
91-92 55
94, 101, 119 55
121-23 55
129 55
166-67 55
187-200b 146
II–XVII 146

Telepinu Edict 49 146
Laws of Eshnunna (LE)
A iii 32-44 145
A iv 13-19 55
A iv 13-28 145
B iii 17-24 145
B iv 1-3 145
B iv 17-20 55, 145
C 1-11 145

Laws of Hammurabi
(LH)
v 26–viii 48 146
vi 57-69 150
ix 14-27 146
xiv 18–xv 6 97
xxxix 96–xli 54 146
xliv 44-68 55, 146
xlvii 59-62 97
xlvii 59-78 97
xlvii 61-62 103

Laws of Lipit-Ishtar (LL)
B xx 9'-26' 145
C xiii 12-23 145
C xv 8-19 145
D i 12-20 145
E i 12-18 145
L iv 1'-6' 145
P rev. iii' 2'-6' 145
P rev. iii' 7-13' 145

Laws of Ur-Namma (LU)
C iii 52-54 145
A vii 324–viii 349 145
B ii 35–iii 4 145

Middle Assyrian Laws
(MAL)
A i 78-87 55
vii 63-81 146

Sumerian Laws Handbook of Forms (SLHF)
iii 10-15 150

Other ANE Texts
Khirbet Qeiyafa Ostracon 98, 99

Malli (Wright 1987a)
i 37-40 131

Šurpu (Reiner 1958)
i 9-23 131
ii 3-8, 47-49, 75-76 29
vii 53-70 133

Ugaritic Texts
(Pardee 2002)
RS 1.009, line 8 132
RS 24.256, lines 5-6 132
RS 24.249, line 26 132
RS 24.250,+, lines 2, 7-8 132
RS 1.003/18.056, lines 5-6, 27, 36, 40 132
RS 1.001, lines 21-22 132
RS 19.013, lines 7-8 132

Uruk (von Weiher 1998)
no. 248 131

Egyptian Texts
Egyptian Book of the Dead (Allen and Hauser 1974)
125a, S2-3 29

Papyrus Jumilhac (Vandier 1962)
XII, 16-21 30

Persian Texts
Vendidād
3.8-9, 12-15, 36-39 137
3.14 136
5.27-38 136
6.44-51 137
7.1-9 136
8.4-13 137
8.14-19 136
8.40-71 131

Index of Subjects

adaptive, maladaptive 13, 18, 20, 40, 43, 44, 46, 89, 115, 118, 123, 124, 137, 142, 149, 168, 171
addressees, recipients 96, 99-101, 103-108, 113, 117, 126, 129, 168, 172, 173
altruism x, 17, 33, 38, 40, 41, 43, 95, 96, 106, 108, 109, 111, 113-15, 119, 168, 171, 173
anger x, 11, 18, 30, 32, 33, 36, 42, 44, 101, 120, 162
apotropaic rites 90, 92, 132, 133, 135, 137, 138, 140, 154, 157, 161, 170, 174
atonement x, 6, 47, 85, 90, 132, 133, 135, 136, 141, 142, 152-54, 161
Azazel 132, 133
bird-rite(s) 90, 130-34, 137, 156, 157, 170
birds of prey 71, 79, 80
blood 4, 29, 83, 84, 90, 110, 130, 134-36, 148, 154, 155, 161, 162, 164
blood-feud, blood revenge 136, 146, 147, 154, 155, 162
bloodguilt 135, 136, 143, 154, 163
body ix, 3-6, 11-13, 13, 19, 21, 23-28, 34-36, 71, 72, 75, 77, 79-84, 87, 91, 93, 94, 108, 116, 131, 134, 135, 145, 146, 161, 171
  and religion 3-6
  and morality 5-6
  and purity 3-4
brain xi, 5, 10-12, 15, 19-21, 43
breaking of heifer's neck 135-36
capital punishment 144-47
carcass 27, 72-81, 133
cognitive science ix, 5, 9-10, 44, 47, 93, 172
compensation 46, 88, 142, 143, 145-55, 157, 159, 161, 163, 167, 170, 174
contact, contagion 26, 27, 35, 46, 71, 73-75, 77-81, 83, 84, 86, 90, 92-95, 115, 137, 157, 158, 169
contempt 32, 33, 42, 44, 83
convention, conventional 13, 19, 20-31, 33, 59, 71
corpse 35, 82, 93, 136
corpse demoness 82, 131, 136
corpse impurity 67, 81, 82, 83, 89, 90, 93, 136, 137, 153, 157, 160, 163
cult centralization 61-63, 68, 70, 105, 119, 122, 144, 151, 164, 174
culture ix, 4, 9, 10, 12, 15-19, 20-31, 33-36, 38, 40, 41, 43-45, 58, 59, 66, 67, 71, 81, 112, 123, 129, 142, 148, 149, 168, 169
curse 62, 108-110, 126, 127, 138-140, 142, 150, 173
custom 21, 22, 29, 55, 58, 60, 97, 146, 151, 167
customary law 54, 58-60, 97-99, 112, 151, 164
damage 11, 15, 18, 42, 81, 93, 105, 148, 150, 162, 168
Decalogue 57, 102, 106, 146, 147
decay 17, 35, 36, 80, 81-84, 92, 93
demon 36, 47, 82, 91, 92, 115, 129-31, 133, 136-38, 140, 170
demonic vestige 92, 130, 137
Deuteronomy 51, 52, 56, 60, 61-64, 67-70, 77-81, 86, 88, 90, 93, 94, 100, 102-109, 110, 111, 113, 117, 118-22, 123, 127-29, 136, 138, 139, 144, 154, 172-74
discharge, emission 3, 4, 67, 78, 81-83, 89, 90, 93, 95, 156, 163
disease-avoidance 43, 115, 116, 121, 137, 138

disgust ix-xi, 6, 28, 32-36, 37, 42, 43, 46, 47, 71-94, 95, 96, 108, 109, 111, 114-16, 119-124, 127, 128, 137-39, 142, 167, 169-71, 173, 174
  and empathy 89, 95, 96, 108, 109, 111, 114
  and fear 89, 92, 115, 116, 119-21, 123, 124, 127, 137-39, 171, 173, 174
  animal-nature 36, 80
  triggers 35, 36, 80, 81, 87, 93, 94, 169
distress 33, 37, 39
egoism 13, 41, 104, 114, 119
Egypt 28, 30, 74, 86, 88, 97-101, 103-10, 113, 117, 122, 123, 172, 173
emotional match 38, 99-101, 104, 108, 109, 113, 117, 172, 173
emotions
  and human behaviour 167-69
  and morality 12-16
  and rationality 10-12
  and socio-historical context 172-74
  as common denominator 169-70
  conflicting 170-71
  interacting 170-71
  moral 32-47
  primary (and secondary) 11, 16, 18, 19, 28, 35, 36, 42, 92, 94, 169
empathy 37-41, 95-114
  association 38, 99-101, 104, 112-14, 117, 171, 172
  cognitive 38, 39, 96, 99, 111, 112, 117, 124, 126, 171
  conditioning 38, 112
  definition of 37
  emotional contagion 38, 39
  experiential 96, 105, 111, 124, 139
  modes of 38
  motor mimicry 38, 39, 112
  multilayered 39, 100, 113, 172
  role-/perspective-taking 14, 38, 39, 96, 99, 104, 105, 108, 111-14, 117, 171
equal, unequal 45, 111-13, 119, 122, 156, 157, 162, 163, 170
evolution ix, 5, 9-19, 20, 34-36, 38, 40-43, 46, 58, 93, 115, 137, 162, 168, 170, 171
  and morality 16-19
excrement 34, 88, 89
exile, exilic 52, 57, 60-62, 64, 66, 67, 68, 70, 79, 88, 90, 94, 96, 100-102, 104, 108, 112, 114, 117, 119, 124, 127, 128, 138-40, 173
exodus 51-53, 56, 64, 100, 105-109
Exodus 52, 56, 65, 99, 104, 106, 111, 122
exorcism 130, 131, 133, 134, 137
fear 42-44, 115-40
  and empathy 109, 111, 112, 114-16, 118, 119, 121, 124-27, 139, 140, 170, 171
  animal 42, 92, 128, 129, 138, 170
  ethnocentrism 43-44, 115, 118, 119, 121, 124, 129, 138, 139, 171
  interpersonal 42, 128, 129, 138, 170
  of death and disease 118, 128, 129, 138, 170
  of demons 129-37
  of open places 42, , 129, 137, 138, 170
  types of 42, 129, 138, 170
  xenophobia 43-44, 47, 115, 118, 119, 121-24, 137-40, 171, 173
food laws, dietary rules 3, 6, 20, 22, 25-27, 30, 71, 72-81, 86, 87, 89, 93-96, 116, 120, 122, 169
foreigner, stranger, alien x, 6, 42, 43, 47, 86, 96-101, 102-13, 116-24, 125, 128, 129, 137-39, 150, 167, 171-73
forgive, forgiveness 6, 46, 90, 91, 118, 136, 141, 152, 153, 155, 159, 160
ger, *gerim* 97, 100, 101, 103, 104, 106, 111, 112, 116, 117, 119, 123
goring ox 54, 55, 143-47, 150, 151
holiness 21, 25, 47, 74, 75, 78, 79, 85, 88, 89, 95, 110, 111, 113, 114, 123, 128, 129, 136, 138, 140, 157, 158, 163, 173
homeostasis 46, 142, 155, 157, 162, 167, 170

human nature 5, 10, 13, 147, 168, 169
humanitarian laws 47, 59, 60, 96-102, 108, 126-28, 171
immigrant x, 6, 47, 97-114, 116-19, 122-26, 138-40, 173
impurity ix, x, 21, 24-28, 66, 67, 70, 71-94, 95, 116, 128, 129, 131, 135-37, 152-58, 160, 163, 169, 170, 173
injury 42, 129, 138, 144, 145, 147-51, 162, 167
integrity 21, 33, 43, 83, 93, 121-23, 127, 137, 139
jealousy 44, 149
justice, injustice 5, 21, 22, 28, 31, 33, 44, 45, 56, 58, 59, 61, 92, 95, 97, 98, 103, 106, 107, 109, 141, 163, 164, 174
justice/fairness, sense of ix, x, xi, 6, 33, 44-46, 47, 89, 109, 141-64, 167, 168, 170, 171, 174
  and anger 44, 162
  and homeostasis, balance 46, 141, 152, 154-57, 161-64
  and reconciliation 45-46, 141, 142, 152-56
karet 90, 94, 111, 123, 128, 137
Khirbet Qeiyafa ostracon 98-99
kipper x, 90, 94, 135, 141, 152-64, 170, 174
kofer x, 141, 144-47, 149-52, 154-57, 162-64, 170
law codes, legal collections 53-56
  as royal apologia 54
  authorization of 54
  Covenant Code 47, 54-64, 68, 70, 95-108, 110-13, 116-22, 124-27, 137-39, 142, 145, 146, 148-51, 154, 159, 160, 172-74
    and empathy 96-102
    and fear 116-118
    apodictic laws 57, 59, 60, 97, 99, 103, 125, 126
    Mishpatim, casuistic laws 55, 57-59, 96, 97, 125, 142, 149, 150
  Deuteronomic law 47, 52, 55, 56, 61-64, 68, 96, 102-111, 118-22, 136, 172
    and empathy 102-109
    and fear 118-122
    core 56, 57, 61-64, 68, 70, 102, 103, 118, 119, 124, 138, 139
    framework 56, 64, 103, 108, 111, 113, 114, 119, 121, 124, 127, 138, 139, 173
    loyalty oath 62, 63
  Holiness Code 25, 27, 28, 46, 47, 53, 55, 56, 64, 65, 67-71, 79, 85-88, 90, 93-96, 108-14, 122-125, 128, 129, 136-139, 150, 151, 153, 159-61, 171-74
    and disgust 85-89
    and empathy 109-12
    and fear 122-24
  Priestly law 64-70, 79, 159
    sacrificial laws 30, 53, 64-70, 79, 122, 128, 152, 155-57, 159, 161, 173, 174
    purity laws 3, 23, 25, 28, 46, 47, 53, 65-70, 71-94, 107, 116, 122, 128, 138, 153, 155, 160, 173, 174
  revisions of 54, 55, 61, 63, 68, 97, 103
legal practice 54, 55, 60, 61, 66, 67, 82, 95, 97, 99, 112, 115, 118, 140, 147, 151, 164, 167, 170, 174
‘leprosy’, skin disease 3, 27, 67, 78, 81, 82, 84, 89, 90, 107, 130, 131, 137, 156, 160, 161, 163
Leviticus 23, 25, 53, 64, 65, 67-70, 78-80, 82, 85, 93, 94, 109, 110, 122, 133, 138, 155, 159, 161, 162
locust 73, 77, 79, 81, 95, 96
menstruation 27, 28, 30, 67, 86, 95
metaphor 17, 25-28, 36, 40, 71, 86, 87, 174
miscarriage 54, 117, 142, 146, 149
mitigation 43, 46, 82, 89-92, 94-96, 112, 113, 116, 124, 140, 141, 152, 154-56, 158, 160, 162-64, 170, 171, 174

monkey, ape ix, 18, 38, 39, 41, 43, 45
moral stages 22
morality
  and culture 20-23
  and emotion 12-16
  and evolution 16-19
  and impurity 24-31
  and ritual 23-24
mould 82
murder 26, 135-37, 144-47, 149, 151, 154, 164
narrative world 99, 113, 117, 172
Nazirite 91, 153, 158, 160, 163
neuroscience 6, 9-11, 16, 18, 19, 40, 41, 46, 95
niddah 67, 84, 93
northern refugees 100, 101
Numbers 53, 65, 67, 70, 82, 111, 122, 136, 138, 151, 153, 154, 160
obligation 13, 14, 21, 22, 24, 31
offence 24, 27, 30, 31, 36, 46, 90, 91, 93, 141, 145-57, 150-58, 160-64
orphan 15, 29, 30, 97-99, 101, 103, 105-109, 116, 126
pain 16, 18, 19, 42, 95
Pentateuch, sources 51-53
  E 52
  D 52, 53, 68, 69, 77, 79
  H 67-69, 75-78, 80, 84, 85, 88, 111, 122, 153,
  J 52, 57
  P 52, 53, 56, 65, 68-70, 75, 77, 79, 85, 86, 91, 111, 120, 122, 145
Persian 54, 66, 70, 82-84, 96, 104, 112, 113, 136, 140, 173, 174
Pharisees 26, 148
pledge 28, 97, 105-107, 116, 126, 158, 171
postexilic 64, 66-68, 70, 88, 105, 108, 112, 113, 122, 124, 139, 140, 173
pre-exilic 61-64, 66-68, 70, 88, 104, 108, 117, 139, 151, 173
priest 31, 64, 66, 67, 82, 91, 95, 128, 130, 132, 134-36, 152, 153, 156-59, 161
primate, primatology ix, 6, 9, 10, 18, 39, 40, 44, 45, 171
pro-social x, 32, 33, 112, 137, 167, 171
psychology ix, 4-6, 9, 10, 13, 14, 16, 18, 19, 23, 31, 34, 35, 37, 38, 40, 71, 95, 168-70
punishment 24, 27, 45, 47, 81, 115, 118, 121, 124-29, 137-40, 142, 144-48, 154, 158, 162, 167, 171, 173
purification x, 3, 4, 27, 29, 36, 75, 90, 91, 94, 129-31, 133, 134, 136-38, 141, 153, 154, 157, 160, 169
quadrupeds 72-75, 77, 79-81, 173
Qumran 25, 26, 30, 55, 83, 134, 135
ransom 47, 141, 143, 144, 149, 150, 162, 170, 171, 174
rational, irrational, rationale, rationality 5, 9-16, 22, 43, 92, 129, 137, 146, 161, 168
reconciliation 45, 46, 141, 142, 152, 155, 156, 158, 162, 164, 170
red cow/heifer 90, 133, 134, 137, 157
redaction x, 57, 58, 60, 61, 63, 64, 67-70, 75, 76, 78, 83, 85, 102-104, 111, 122, 135, 136, 140, 144, 153, 154, 172-74
rejection 46, 76, 89-92, 94, 96
removal 89-92, 94, 96, 141, 152, 154-58, 160, 162-64, 170, 171, 174
restitution 46, 66, 126, 128, 142-64, 167
restoration 44, 46, 47, 97, 129, 141-44, 149-52, 155, 156, 158, 161-64, 170
revenge 44, 45, 110, 127, 133, 136, 142, 146, 147, 151, 154, 155, 162, 170, 174
Russian doll 39
sacrifice x, 26, 27, 30, 31, 47, 53, 64-70, 75, 79, 85, 86, 90-92, 94, 95, 110, 119, 120, 122, 128, 130-32, 134, 135, 152-64, 167, 170, 174
  'asham 66, 91, 131, 153, 156, 158-63
  chatta't 27, 66, 85, 90-92, 94, 132, 134, 135, 152-54, 156-58, 160-63
  minchah 66, 153, 156
  'olah 66, 156, 157, 163
  sh^{e}lamim 66, 128
scapegoat 132, 133, 137, 157

sefish, selfishness 16, 17, 40, 41, 43, 115
selection 11, 17, 18, 20, 37, 40, 41, 170
sheqets 72, 73, 75-77, 79-81, 86, 87, 93, 120
sherets (swarmers) 72-75, 77-80
Shurpu 131, 133
slave, slavery 98-102, 104-109, 111-13, 116, 117, 125, 142-46, 149, 160, 172, 173
social interaction 14, 19, 20, 22, 45, 162
sociobiology 17, 40, 95
talion 46, 126, 145, 147-51, 154, 162, 171
Tannaim, tannaitic 25, 26, 55
theft 143, 144, 147, 150, 159, 160, 163
to'evah 76, 77, 79-81, 86, 88, 93, 94, 120, 123, 174
usury 28, 101, 105
veneer theory 18, 40, 168
vessel 72, 74, 82, 83, 90, 94, 130
victim 15, 38, 39, 135, 137, 142-44, 148-50, 152
widow 20, 30, 95, 97-99, 101, 103, 105-109, 116, 126
zav, *zavah* 27, 67, 83

INDEX OF AUTHORS

Achenbach, R. 65, 70, 83, 91, 136
Albertz, R 104, 164
Allen, T.G. 29
Alt, A. 57, 59
Anderson, G.A. 90
Angyal, A. 34
Ardon, A.M., 42
Arrindell, W.A. 42
Aureli, F. 45, 46
Aurelius, E. 53

Baden, J.S. 52
Bandura, A. 43
Bartor, A. 106
Batson, C.D. 38
Baumgarten, J.M. 134
Bearman, G. 98
Bekoff, M. 45, 141
Bennett, H.V. 104
Berkowitz, L. 44
Blau, J. 147, 148
Blum, E. 52, 54, 104
Bottéro, J 55
Brandon, R.N. 41
Brennan, T. 12
Brosnan, S.F. 44, 45
Browe, P. 4
Büchler, A. 25, 141
Buckley, T. 84
Bultmann, C. 101, 116

Caird, G.B. 27
Campbell, A.J. 53, 56
Carr, L. 39
Caspers, C. 4
Changeux, J.-P. 17
Choksy, J. 136, 137
Cholewińsky, A. 68, 110
Christen, Y. 17
Christens-Barry 98
Collins, B.J. 131
Cornet, F.C. 42
Craighero, L. 39
Crossley, J.G. 148
Crüsemann, F. 54, 60
Czachesz, I. xi

d'Aquili, S.K. 46
Dalgleish, T. 44
Damasio, A.R. 9, 11, 12, 18, 42
Dapretto, M. 39
Darwin, C. 16, 17, 34, 37
Daube, D. 148, 150
Davis, M.H. 38
Dawkins, R. 17, 40
Decety, J. 39
deMarici, V. 46
Dennen, J.M.G. van der 43
Dietrich, J. 135
Dodge, K.A. 44
Douglas, M. ix, 23, 92, 109, 133
Dozeman, T.B. 52, 100
Dresen, G. 4
Dubeau, M.-C. 39
Dunbar, R.I.M. 43

East, M.L. 45
East, M.P. 44
Eilberg-Schwartz, H. 3, 4
Eisenberg, N. 37, 38
Ellens, D.L. 95
Elliger, K. 65, 68, 110
Engberg-Pederson, T. 12
Evans, L. 42

Faulkner. J.
Feinstein, E.S. x, 76, 80, 83, 85, 93
Fessler, D.M.T. 43, 115

Finkelstein, J.J. 54, 146, 150
Fishbein, H.D. 43, 124
Fishman, N. 37, 38
Fitzpatrick-McKinley, A. 54
Fonrobert, C.E. 84
Freedman, D.G. 43
Frei, P. 54
Friedman, R.E. 52
Fry, D.P. 46

Gane, R.E. 91, 157
Ganor, S. 98
Gärdenfors, P. ix, 11, 39
Garfinkel, Y. 98
Garfinkel, Y. 98
Gertz, J.C. 52
Gilders, W.K. 141, 152, 154, 155
Ginsburskaja, M. 26
Gottlieb, A. 84
Greenberg, M. 146, 147
Greene, J.D. 15
Griffiths, P.E. 18
Griswold, C.L. 46
Grünwaldt, K. 67, 68, 110

Haidt, J. 14, 15, 19, 20, 31, 32, 33, 35, 36, 44, 80
Håkansson, J. 37
Hauser, E.B. 29
Herrmann, J. 141
Hewer, A. 5, 14, 22
Himmelfarb, M. 26
Hofer, H. 45
Hoffman, M.L. 37, 38, 39, 99, 109, 112
Hoffmann, D.Z. 25, 26, 72, 88
Horn, L. 45
Houston, W. 116
Houten, C. van 101, 116
Huber, L. 45
Hulse, E.V. 81
Humbert, P. 87
Hurlbut, W. 16

Iacoboni, M. 39
Ickes, W. 38, 39
Imada, S. 36

Jackson, B.S. 54, 58, 59, 144, 147, 148, 149, 151, 159
Janowski, B. 91, 141
Johnson, M. ix, 11, 28, 32
Josselson, R. 37, 38

Kalanithi, P. 16
Kaufmann, Y. 67, 130, 132
Kazen, T. 3, 4, 26, 27, 46, 55, 67, 82, 83, 90, 95, 96, 109, 129, 153
Kekes, J. 12, 36, 81
Kelhoffer, J.A. 79, 96
Kerem, E. 37, 38
Kittay, E.F. 28
Kiuchi, N. 141
Klawans, J. ix, 23, 24, 25, 26, 27, 28, 72
Knohl, I. 67, 68, 69, 70, 75, 85, 136
Knuuttila, S. 12
Koch, K. 54
Kohlberg, L. 5, 13, 14, 22
Kolnai, A. 34, 35, 80
Konstan, D. 46
Kratz, R.G. 52, 53, 56, 57, 61, 62, 63, 65, 67, 68, 69, 97, 102, 103, 105, 118, 139
Kraus, F.R. 55
Krebs, D.L. 44
Kropotkin, P. 17

Lakoff, G. ix, 11, 28
Lambert, W.G. 20, 29, 30,
LeFebvre, M. 54, 55, 56
Lemerise, E.A. 44
Lemos, T.M. xi, 23, 24, 82, 88
Lenzi, G.L. 39
Levin, C. 52
Levine, B.A. 53, 67, 69, 130, 132, 141, 152, 158, 160, 161
Levine, C. 5, 14, 22
Levinson, B.M. 55, 57, 59, 60, 61, 62, 63, 100
Lockett, D.R. 27
Lohfink, N. 61, 69
Looy, H. 5, 32, 35, 36, 42
Luciani, D. 69
Luomanen, P. 5

Maccoby, H. 24, 25, 153
Mahapatra, M. 21, 22, 23

Malul, M. 54
Marx, A. 91, 143, 158, 159, 160, 161
Maul, S.M. 131, 133, 152
Mazziotta, J.D. 39
McCauley, C. 35, 36, 80,
McCullough, M. 46
McEvoy, C.J. 43, 44
Meens, R. 4
Meier, S.A. 54
Menninghaus, W. 34, 35
Merckelbach, H. 42
Meshel, N. 72, 75, 76, 77, 78, 93
Meyer, R. 30, 31
Milgrom, J. 65, 67, 68, 69, 72, 76, 77, 78, 79, 81, 83, 84, 85, 86, 87, 88, 90, 91, 110, 130, 131, 132, 133, 134, 135, 136, 137, 141, 152, 153, 158, 159, 160, 161
Miller, J.G. 22, 23
Miller, S.B. 34, 35
Miller, W.I. ix, 34, 35, 36, 46, 80, 148, 149
Minette de Tilesse, G. 63
Misgav, H. 98
Moll, J. 15, 16
Moran, M. 38
Morrison, N. 12, 19
Much, N.C. 21

Najman, H. 63
Navarrete, C.D. 43, 115
Neusner, J. 24, 25, 71
Newberg, A.B. 46
Newberg, S.K. 46
Nicholson, E. 52
Nihan, C. 53, 54, 64, 65, 66, 67, 68, 69, 70, 75, 77, 78, 88, 100, 111, 112, 116, 122, 123, 136, 153, 154
Norin, S. 61
Nucci, L.P. 14
Nussbaum, M. 36

O’Brien, M.A. 53, 56
Oei, T.P.S., 42
Öhman, A. 42, 43
Otten, H. 131
Otto, E. 52, 57, 58, 59, 60, 61, 62, 63, 64, 65, 68, 69, 136

Pardee, D. 132
Parisi, F. 147, 148
Park, L. 21
Park, S.-R. 46
Paul, S.M. 58
Peterson, G.R. 9, 10, 11
Phillips, A. 146, 147, 148, 149, 151
Piaget, J. 13, 21, 22
Pickersgill, M.J. 42
Pierce, J. 141
Pola, T. 53
Power, M.J. 44
Preston, S.D. 19, 38, 39, 40
Preuß, H.D. 77, 120
Puech, E. 98, 99
Pyysiäinen, I. 5

Range, F. 45
Reiner, E. 29, 131, 133
Rendtorff, R. 52
Richardson, M.E.J. 97
Ringgren, H. 66
Rizzolatti, G. 39
Roll, S.K. 4
Rolston, H. 17, 40
Römer, T.C. 52, 53, 54, 65, 69, 104
Roosmalen, A. van 45
Roth, M.T. 54, 55, 145, 146, 150
Rottschaefer, W.A. 11, 17, 40, 41
Rozin, P. 35, 36, 80, 81, 93
Rubeinstein, J.L. 76
Ruwe, A. 68

Sanders, E.P. 25
Schaffner, C. 45
Schenker, A. 91
Schmid, H.H. 52
Schmid, K. 52
Schultz, J. 4
Schwartz, B.J. xi, 52, 75, 141
Schwartz, D. 76
Schwartz, J. 90
Schwienhorst-Schönberger, L. 58, 144
Scurlock, J. 131
Severino, S.K. 12, 19
Shemesh, A. 76
Shweder, R.A. 21, 22, 23
Sihvola, J. 12

Silk, J.B. 45
Singer, W. 17
Ska, J.-L. 53, 54
Sklar, J. 141, 150, 152, 155
Sober, E. 18, 41
Sparks, K.L. 100, 104, 116, 117
Stackert, J. 51, 136, 144
Stark, R. 23, 24
Strayer, J. 37
Sulzberger, M. 147

Teachman, B.A. 123
Teehan, J. 13, 18
Thompson, R.J. 52
Tigay, J.H. 135, 136
Turiel, E. 14, 22

Uro, R. xi, 5

Van der Ende, J. 42
Van Seters, J. 52, 57, 58, 59, 60, 61, 100
Vandier, J. 30
Vaux, R. de 132
Veijola, T. 63, 103
Viberg, Å. xi, 59
Viranyi, Z. 45

Waal, F.B.M. de ix, 17, 18, 19, 37, 38, 39, 40, 41, 43, 44, 45, 46, 95, 109, 113,
Wagenaar, J.A. 91
Wagner, V. 68, 110
Watts, F.N. 44
Watts, J.W. 54
Weiher, E. von 131
Wells, B. 58, 126
Westbrook, R. 54, 55, 56, 58, 126
Willis, T.M. 136
Wilson, C. 23
Wilson, D.S. 18, 41
Wilson, E.O. 17, 40
Wilson, J.Q. 44
Wispé, L. 37, 38
Witte, M. 52
Wolkenten, M. van 45
Woody, S.R. 123
Wright, D.P. xi, 56, 57, 59, 60, 61, 62, 63, 72, 83, 97, 98, 100, 101, 103, 131, 133, 135, 144, 146, 152

Yardeni, A. 98

Zajonc, R.B. 43
Zenger, E. 53