

THE RELATIONSHIP BETWEEN BIBLICAL NARRATIVE AND BIBLICAL LAW

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The intention of this paper is to show that elements of the legal portions of the Torah were foreshadowed in certain of the patriarchal narratives. This has already been noted by Calum Carmichael.¹ The precise relationship between the patriarchal and the legislative passages is complex and this paper will examine three narratives from Genesis in order to illustrate the possible linkages between the early historical accounts and the later legal pericopes. First, the relationship between Ham's act of depravity toward his father and the later laws on forbidden sexual acts; second, the possibility of Deuteronomic levirate implications in the episode about Lot's separation from Abraham; and third, the nexus between Lot's and Abraham's separation and the later ban upon accepting Moabites and Ammonites into Israel's polity.

THE DEPRAVITY OF HAM

The narrative of the depravity of Ham (Gen. 9:20-27) can be understood more clearly when its linkage with laws in Leviticus 18 is studied. The Torah says: *And Ham the father of Canaan saw the nakedness of his father, and told his two brothers outside* (9:22). It is not clear precisely what the nature of Ham's sin was. An arresting extra-biblical parallel to this episode is found in the Ugaritic epic of Danel and Aqhat, which states that a son has the duty of holding his father's hand while he is in his cups, as he "takes him by the hand when he is drunk, carries him when he is filled with wine." The sin echoes the one that the prophet Habakkuk censures when he says: *Woe to him who gives his fellow drink, who adds venom and makes him drunk, that he may look at his nakedness* (Hab. 2:15). The Midrash suggests that Ham advised his son Canaan to castrate or sodomize Noah (Tanhuma Noah 15; Gen.Rabbah. 26:5,7; Bavli Sanhedrin 70a) in order to prevent Noah from having a fourth son, which may explain why Noah cursed his grandson Canaan, the fourth son of Ham. It is probable that the description of Ham seeing his father's nakedness is not to be taken literally, but describes sexual intimacy between Ham and his father who, in his drunkenness, probably was

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unaware of what was transpiring. In the Holiness Code of Leviticus (18:1-30, 20:11-26), the phrase "seeing another's nakedness" clearly denotes sexual intercourse:

And any man who takes his sister, the daughter of his father or mother, and sees her nakedness, and she sees his nakedness, that is a disgrace, and they shall be cut off before the eyes of their people. He revealed the nakedness of his sister; he must bear his iniquity (20:17).

We shall try to demonstrate that the sin of Ham reflects the sexual liaisons forbidden in the Holiness Code, where they are described as abominations performed by Ham's descendants, the Egyptians and the Canaanites (Gen.10:6). Ham's act of depravity violates two prohibitions stated in the Holiness Code. One of them is: *the nakedness of your father you shall not reveal (18:7)*. (This verse may not be directly applicable to our argument as it may relate only to relations with one's father's wife and not with the father himself.) The other deals explicitly with a homosexual act: *And with a man, you shall not lie in the manner of lying with a woman, it is an abomination (18:22)*.

The portion of the Holiness Code dealing with sexual issues declares: *According to the practice of the land of Egypt where you dwelt you shall not do, and according to the practices of the land of Canaan where I am bringing you shall not do, and you shall not follow their laws (18:3)*. As previously noted, Ham was the ancestor of both Egypt and Canaan, thus strengthening the connection between the two pericopes.

The Torah highlights the fact that Ham is the father of Canaan in order to provide a rationale for the dispossession of the Canaanites by the Israelites. Sexual depravity caused the expulsion of the Canaanites from the land of Canaan just as it threatened to cause the expulsion of the Israelites who dispossessed them. The narrative of the depravity of Ham underscores the Torah's rejection of nations that are characterized by moral-sexual depravity. The Torah favors those who take the moral high-road, as demonstrated by Noah's sons Shem and Japheth, who refuse to participate in the immoral act Ham performs with his father (Gen. 9:23), and their descendants. The Holiness Code is not only a declaration of moral instruction to Israel at a later date, but at least in some degree a corollary of the Ham-Canaan episode in Genesis.

LEVIRATE MARRIAGE

Perhaps the most obvious example of a patriarchal incident presaging a law later expounded in Deuteronomy is that of levirate marriage. It is, of course, the story told in Genesis 38, of Judah, son of the patriarch Jacob, and Tamar, daughter-in-law of Judah. The Bible tells us that *Judah got a wife for Er his first-born; her name was Tamar* (38:6). But Er committed a sin so terrible that *the Lord took his life* (V.7). Thereupon, Judah turned to his second son, Onan: *'Join with your brother's wife and do your duty by her as a brother-in-law* [יבם אתה] *and provide offspring for your brother* [והקם זרע לאחיו]. (V.8)

There are several aspects to Judah's command:

- 1). Onan is a brother to Tamar's husband.
- 2). He is commanded to cohabit with his brother's widow.
- 3). It is a *duty* for him to do so.
- 4). Onan must *provide offspring for his brother*. That is to say, to continue the family line of his dead brother.

At this point, the New Jewish Publication Society translation in a note actually directs the reader to Deuteronomy 25:5. The passage 25:5-6 reads:

When brothers dwell together and one of them dies and leaves no son, the wife of the deceased shall not be married to a stranger, outside the family; her husband's brother shall unite with her: take her as his wife and perform the levir's duty. The first son that she bears shall be accounted to the dead brother, that his name shall not be blotted out in Israel.

The situation here is precisely the same; the instructions to the brother-in-law nearly identical. The Hebrew highlights this pattern even more clearly:

Judah to Er: יבם אתה	Deut. 25:5 יבמה יבא עליה
Judah to Er: והקם זרע לאחיו	Deut. 25:6 ולא ימחה שמו

חישראל

Open to speculation is the source of Judah's notion that the arrangement he placed upon his son Er is a duty. Was it already a Semitic practice in his time, that the Lord later codified (unlike a number of practices which were not to be tolerated)? Did a moment of prophecy rest upon Judah, so that his words would actually be echoed long after he died in Egypt? In any case, prescience there was of a Torah law that still, in some form, survives today.

Interestingly, the opening phrase of the passage in Deuteronomy suggests the possibility of yet another levirate issue in Genesis. *When brothers dwell together* (Deut. 25:5) echoes Abraham's comment to Lot, the son of his brother Haran: *'Let there not be strife between me and you . . . because we are brothers'* (Gen. 13:8). However, they could not any longer dwell together because of the strife of their herdsmen, and Lot departed.

It could very well be that Lot was not terribly disturbed that it was Abraham's decision to separate. Sarah, Abraham's wife, was already old and Abraham himself was 10 years older, and they were childless. What would Lot's duty be if Abraham died without offspring? Would Lot be required to be Sarah's levir? Sarah is called by the same term as Tamar: she is כלה [kalah -- daughter-in-law] of Abraham's father Terah (11:31); Tamar is כלה. of Judah (38:11). Even more significant, though Lot was not actually a brother-in-law, he is called אח [ah -- brother] to Abraham, as Onan is called אח to the deceased Er. If the phrase *dwelling together* be interpreted literally, Lot's departure may have precluded a union he did not want.

THE CASE OF MOABITES AND AMMONITES

The names Ammonite and Moabite have a negative connotation in Deuteronomy:

An Ammonite and Moabite may not enter the community of God; even the tenth generation among them may not enter the community of God, ever, on account of the fact that they did not greet you with food and with water on the way on your going out of Egypt, and because he hired against you Balaam the son of Beor from Pethor, Aram of the Two Rivers, to curse you, but the Lord your God refused to heed Balaam and the Lord your God turned the curse into a blessing, because the Lord your God loves you. You shall not seek their peace and their good all your days, ever (23:4-7).

According to rabbinic exegesis, the Deuteronomic law prohibits intermarriage with Ammonites and Moabites. Nehemiah's interpretation of Deuteronomic law foreshadowed the later rabbinic view. Because of the putative prohibition of intermarriage, Nehemiah tried to separate the Ammonite and Moabite women from the Judeans who had married them during and after the Exile in Babylon:

*At that time the Book of Moses was read in the ears of the people and it was found written in it that an Ammonite and Moabite should not enter the congregation of God for ever, because they had not greeted the Israelites with bread and water and he hired Balaam against them to curse them, and God turned the curse into a blessing. And it was, when they heard the instruction they separated the **mixture** from Israel (Neh. 13: 1-3).*

Interestingly, Nehemiah calls the Ammonites and Moabites by the term "mixture" [ערב – *eirev*] which is cognate to "mixed multitude" [ערב רב -- *eirev rav*], the term the Torah uses to describe the non-Israelites who left Egypt along with the Israelites: *And also a mixed multitude, went up with rank and file Israelites. And also an mixed multitude went up with them . . .* (Ex.12:38). While Nehemiah separated the Ammonite and Moabite mixture from the Judeans who returned from the Babylonian Exile, Moses did not separate the mixed multitude from the Israelites who left Egypt. To thicken the plot, soon after Abraham returned from his brief exilic sojourn in Egypt, he separated himself from Lot, the future ancestor of the Moabites and Ammonites. In contrast, Moses simply ignored the mixed multitude when Israel's long Egyptian exile came to an end. Perhaps there is a simple answer. When Abraham dissociated himself from the mixture represented to the Abrahamic-Israelite people by Lot, the ancestor-to-be of the Ammonites and Moabites, his act may be understood as foreshadowing the teachings of Deuteronomy 23:4-7 and Nehemiah 13:1-3. Moses, however, did not separate "his" mixed multitude from the Israelites because the prohibition of Deuteronomy was against a mixture of Ammonites and Moabites. The mixed multitude of the Exodus were Egyptians, about whom Deuteronomy states: *You shall not abhor an Egyptian because you were a stranger in his land. Children born to them may enter the community of God, in the third generation* (23:8-9). The exclusion of Egyptians from the community of Israel was only temporary, for three generations. Presumably within that span of time the Egyptians would have acculturated and integrated themselves into the Israelite polity.

For a final example, we turn to Boaz, who welcomed Ruth the Moabitess into the Judean community even though she belonged to the people shunned by Deuteronomy and to be rejected by Nehemiah. Yet her marriage to Boaz took place and eventually resulted in the birth of David (Ruth 4:22-23). (Ac-

According to rabbinic exegesis, Deuteronomy forbids only male Moabites and Ammonites to intermarry with Israelites. This attempt to harmonize the fact that Ruth was able to marry Boaz is not only improbable on its face but contradicted by the way that Nehemiah commands the Judeans to separate themselves from the Ammonite and Moabite wives [Neh. 13: 23-25].) This is truly a paradoxical event, yet no less paradoxical than the fact that Boaz's ancestor Perez was the child of the Canaanite Tamar and her father-in-law Judah; what was, at first glance, a prohibited union (Lev. 18:15).

These examples of ancient biblical narratives foreshadowing laws in other parts of the Torah demonstrate the integral structure of the Pentateuch, whose narratives reflect the laws and indicate that the protagonists of the Book of Genesis were affected by these laws before their codification many centuries later.

NOTES

1. Calum Carmichael, *The Spirit of Biblical Law* (Athens: The University of Georgia Press, 1996); *Law, Legend and Incest in the Bible: Leviticus 18-20* (Ithaca: Cornell University Press, 1997).

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