

## **'Justice and Right': Biblical Ethics and the Regulation of Capitalism**

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*The Hebrew expression in the Old Testament mishpat u-tsedqa, conventionally translated 'justice and righteousness', has a particular application to the social responsibility of the king. The state, in the person of the king, is seen in the Old Testament as having an obligation to exercise its power on behalf of the most vulnerable. This may be illustrated by the widespread evidence from the ancient Near East of administrative and judicial action undertaken by kings to cancel debts, provide for the release of debt slaves, remit taxes, order the return of distrained property, and so forth. Although the impact of such measures would have been limited, and the tradition is attenuated in later levels of the text, the ideal of the state as the protector of the poor may be applied to the state's relationship with the modern capitalist economy. It demands that the economy should be regulated to protect the most vulnerable against the impoverishment resulting from its transformation by globalized capitalism. The reality, however, especially in the UK and the US, is that the state colludes with capitalism to increase inequality and deepen poverty.*

### **Capitalism Regulated and Unregulated**

It has long been recognized that the constant tendency of industrial capitalism, if unrestrained and unregulated, is to enable the enrichment of the capitalist through the impoverishment of those who provide labour to the enterprise. Marx thought that this would lead to a crisis for capitalism in that workers would be increasingly unable to afford the goods that they themselves had made. This has not happened for a number of reasons, among them being that capitalism has needed to operate restrained by the collective action of the workforce in their unions and regulated in a variety of directions by the power of the state. The capitalist system that outperformed the socialist economy of Eastern Europe between the Second World War and the fall of the Berlin Wall was far from a pure unmixed capitalism. Most advanced countries included an extensive public sector and a welfare system and had pay and conditions regulated by the state; however, they depended heavily on cheap imports produced by impoverished workers in the so-called Third World.

But modern globalized and increasingly unregulated capitalism has increased inequality dramatically both on the national and the global level. Absolute poverty has

not necessarily grown worse (although in some places it has), it is rather that the relationships between people in different economic circumstances, different classes and different countries have become more openly exploitative. It is difficult to be unaware that our pensions *and* our T-shirts are bought at the expense of poorly-paid and poorly-protected workers in other parts of the world; or that our offices are cleaned and our sandwiches sold by an army of underpaid part-time workers, many of them immigrants; and that many of their employers are hugely wealthy.

The question arises: what kind of regulation does this system demand? That depends on what the aims of the regulator are, whether to achieve greater efficiency, to eliminate fraud and corruption, to ease the alleged burden of red tape, or perhaps to encourage investment. The choice of such aims is an ethical choice. One of the mystifications thrown up on this subject is the pretence that such decisions are purely practical, and even unavoidable. Those of us of a certain age may remember TINA, 'there is no alternative' to the neo-liberal reforms introduced in the UK under the Thatcher government; a rhetorical topos (also used more recently) which concealed the fact that policy-makers *were* choosing between alternatives, and doing so according to specific ethical beliefs. Policy choices can and should be assessed ethically.

### **The Old Testament as an Ethical Source**

In this paper I shall describe one of the sources of Christian thought on social ethics, showing that it does have relevance to the issue of policy in a capitalist economy. That source is the Bible, and specifically the Old Testament or Hebrew Bible. I am not assuming that Christian thought is to be derived exclusively from the Bible, nor that everything found in the Bible on this subject is to be accepted. I *am* assuming at least that Christians will want to take much of it seriously, and also hoping that non-Christians will find it of interest and worthy of reflection. There are of course immense differences between the society and economy of ancient Israel and that of modern capitalist countries. In particular nothing like modern capitalism existed: wealth was accumulated for conspicuous consumption and storage, not normally for productive investment.<sup>1</sup> For some, this puts the Bible entirely out of court as a serious source for ethics in the modern world. See for example, Cyril Rodd's *Glimpses of a Strange Land*, whose title sums up his view of Old Testament ethics.<sup>2</sup> However, philosophers as well as theologians go on reading old texts and finding value in them. Consider, for example, Michael Sandel's use of Aristotle in a popular work on justice.<sup>3</sup> How is this possible?

J.W. Rogerson argues that 'while many of the Bible's precepts cannot be applied directly to today's world ... a process of moral discernment and action within them can be recognized.' This process of discernment, he suggests, is the example to be followed by modern readers, rather than the individual commands.<sup>4</sup> For example, Deut. 15:12-18,

<sup>1</sup> For a recent study of the economic structures of ancient Israel, see Roland Boer, *The Sacred Economy of Ancient Israel* (Louisville, KY: Westminster John Knox, 2015).

<sup>2</sup> Cyril S. Rodd, *Glimpses of a Strange Land: Studies in Old Testament Ethics* (Edinburgh: T & T Clark, 2001).

<sup>3</sup> Michael J. Sandel, *Justice: What's the Right Thing to Do?* (London: Allen Lane, 2009), pp. 184-207.

<sup>4</sup> J.W. Rogerson, *According to the Scriptures: The Use of the Bible in Social, Moral and Political Questions* (Biblical Challenges in the Contemporary World; London: Equinox, 2007), p. 80.

directing slaves to be released after six years, which interpreted literally might be thought of as authorizing the institution of slavery, exemplifies what Rogerson calls a 'structure of grace', that 'allows graciousness and compassion to function in human relationship' and implicitly condemns slavery.<sup>5</sup>

Hans-Georg Gadamer offers his concept of the 'merging of horizons'.<sup>6</sup> The reading and understanding of a work of the past, especially if the reader stands in the same tradition, involves the reader in seeing the world within the horizon of that work, so that its horizon and the reader's perspective merge. The value of this idea is that it enables an understanding of how readers naturally pick up ideas and carry them forward into their own horizon, by grasping what is the same within the two horizons in the midst of the obvious differences. In my own discussions of the issue,<sup>7</sup> I have emphasized the importance of the imagination in this process alongside the intellectual comprehension of the work.<sup>8</sup> Whatever the character and genre of the text being read, it is a work of the imagination, in many cases calling into being an imaginary world infused by the justice of God—for example, in Leviticus 25, an Israel governed by the law of the Jubilee—that challenges the injustice of the world as it exists, and to which the reader's imagination may respond by reflecting on its expression of justice in contrast with injustice in the modern world. It must be understood, and will be evident in the following discussion, that ethical texts in the Old Testament do not describe the society of Israel as it really was, but challenge a reality which in many respects failed to meet their standards. This is as true of legal and wisdom texts as of prophecy. An ideological text that legitimizes the king's rule by praising his alleged justice (Psalm 72) may be read as challenging him to *be* just, and thus, in the merging of horizons, our modern rulers also.<sup>9</sup>

To express my findings in a single sentence: there is a widespread assumption in the Hebrew Bible that the state has an obligation to exercise its power on behalf of the most vulnerable. While the concern of the Bible for the poor is generally recognized, it is perhaps less widely realized that many texts presume the existence of a specific obligation of the state, in the person of the king, to protect the poor from exploitation. The social system reflected in the biblical writings was, like ours, sharply unequal, though our historical information is too limited for us to be able to measure its inequality statistically. It is sufficient to note that many texts of the Hebrew Bible that deal with economic affairs speak of the relationships between rich and poor; or of the duties owed by the addressees of the texts, presumably at least comfortably-off, to the poor and to other vulnerable people, often expressed as 'the widow, the fatherless, and the stranger' (that is, the resident alien).

<sup>5</sup> *Ibid.*, pp. 81-82.

<sup>6</sup> Hans-Georg Gadamer, *Truth and Method*, 2<sup>nd</sup> ed. (London: Sheed and Ward, 1989), pp. 302-305.

<sup>7</sup> Walter J. Houston, *Contending for Justice: Ideologies and Theologies of Social Justice in the Old Testament*, 2<sup>nd</sup> ed. (London and New York: T & T Clark, 2008), pp. 5-17; *Justice – the Biblical Challenge* (London: Equinox, 2010), pp. 4-19.

<sup>8</sup> Houston, *Justice*, pp. 13-14.

<sup>9</sup> Houston, *Contending*, pp. 139-150.

### 'Justice and Righteousness' as a Virtue of God and the Obligation of the King

There is a phrase that appears in many Hebrew Bible texts, especially in the prophets and the Psalms, that is conventionally translated as 'justice (or 'judgment' in older translations) and righteousness', in Hebrew *mishpat u-tsedaq* (or less often in the reverse order); in poetic texts the two elements are often divided between the two halves of the poetic line, e.g. 'Let justice roll down like water, and righteousness like an ever-flowing stream' (Amos 5.24); 'I looked for justice and found bloodshed, for righteousness, and heard a cry' (Isa. 5.7). Rather than indicating two distinct characteristics, it is widely agreed that this phrase expresses a single idea by the use of two words grammatically coordinated. This is often referred to as a hendiadys, but this is an inaccurate use of this technical term.<sup>10</sup>

It has been pointed out that in so-called 'synonymous parallelism', where the two halves of a poetic line correspond to each other as in the Amos and Isaiah texts quoted above, the second half tends to intensify the effect of the first, or to make it more precise, to disambiguate it. This effect may apply to individual words as well as to the half-line as a whole.<sup>11</sup> Now each of the key words *mishpat* and *tsedaqa* have a wide range of meanings. They are by no means synonyms, but their semantic ranges overlap at certain points. *mishpat* may mean rule, judgment, justice, custom, law, legal decision and more. *tsedaqa*'s range of meaning is even wider, covering right order, just conduct, generosity, prosperity, victory, to name a few of its connotations. Pairing *mishpat* with *tsedaqa* makes it clear it is a question of *right* or *just* rule, laws or customs. Since *mishpat* generally precedes *tsedaqa*, it also conversely excludes most of the senses of the latter: the semantic field is narrowed to the sphere of social and political relationships. What applies to the poetic line may also apply to the two words as a single expression. Taken together, they refer to God's just ordering of the world, and in the human realm to just and generous social and political relationships, or what we would call social justice, and the legal, political and religious means by which they may be ensured.<sup>12</sup> One may say that the ethical content of the expression is carried principally by *tsedaqa*. This is conventionally translated as 'righteousness'; but I prefer the rendering 'right' or 'the right', except where it appears to denote a personal characteristic.

Several examples show that 'justice and right' is understood both as a gift of God and as the responsibility of the ruler. It is presented as a characteristic of God and God's governance of the world in, e.g., Ps. 33.5, 'He loves righteousness and justice: the faithful love of YHWH<sup>[13]</sup> fills the earth', or 89.14, 'Right<sup>[14]</sup> and justice are the foundation of your throne'. God's 'justice and right' can be bestowed on human society. 'Give to the king

<sup>10</sup> Walter J. Houston, 'Doing Justice', paper delivered at the Ehrhardt Seminar, University of Manchester, 15 Oct. 2015; see H. W. Fowler, *A Dictionary of Modern English Usage*, 2nd ed., edited by E. Gowers (Oxford: Clarendon Press, 1965), p. 245.

<sup>11</sup> Robert Alter, *The Art of Biblical Poetry* (New York: Basic Books, 1985), pp. 3-26 and passim.

<sup>12</sup> José Porfirio Miranda, *Marx and the Bible: A Critique of the Philosophy of Oppression* (London: SCM Press, 1977), pp. 93, 107, notes 35-38; Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* (Jerusalem: The Magnes Press/Minneapolis: Fortress, 1995 [1985]), pp. 25-44.

<sup>13</sup> Representing the Tetragrammaton, the name of Israel's God, which from an early period was left unpronounced out of reverence, being replaced by a substitute such as *Adonai*, 'Lord', and in most English versions represented by 'the LORD'.

<sup>14</sup> Here *tsedeq* rather than *tsedaqa*; but a difference in meaning is unlikely.

your justice, O God, and your righteousness to the king's son' (Ps. 72.1) is the prayer of the Psalmist. According to 2 Sam. 8.15 'David did justice and right for all his people'. The Queen of Sheba tells Solomon 'Blessed be the Lord your God, who has... made you king to do justice and right' (1 Kgs 10.9). The expression is used in the book of Isaiah more often than in any other book, and on a number of occasions it refers to the expectation of an ideal king of the near or remote future; the quality is not to be found in the present corrupt times (Isa. 1.21; 5.7). The prophecy 'To us a child is born, to us a son is given' includes the words 'There shall be endless peace for the throne of David and his kingdom. He will establish and uphold it in justice and right from this time forth and for evermore. The zeal of the Lord of hosts will achieve this' (Isa. 9.7 [6]). If, as in the texts from Amos and Isaiah 5 that I quoted earlier, there is no reference to the ruler, we can nevertheless assume that it is the ruler who would normally be seen to have the responsibility for supplying what in these cases is found to be lacking, as the societies in view were monarchical—the king is referred to later in Amos (7.9-11), and very often in Isaiah.

### **'Justice and right' as the Protection of the Poor**

But what is the content of 'justice and right'? Jeremiah makes this clear in his incisive criticism of king Jehoiakim's use of forced labour on his private projects. He asserts that his father Josiah in contrast 'did justice and right... he judged the cause of the humble and needy' (Jer. 22.15-16).

Amos and Psalm 72 express the same idea with great clarity. Amos complains that certain Israelites—there can be hardly any doubt that the ruling elite are intended—'have turned justice into poison, and the fruit of right into wormwood' (Amos 6.12). What he means by this can be seen from his accusations of specific wrongdoings. 'They sell the innocent for silver, and the needy for a pair of sandals... they lie down on garments taken in distraint' (2.6, 8); 'you cows of Bashan on the hill of Samaria, who exploit the poor and oppress the needy' (4.1); 'you tax (?) the poor man, and raise a grain levy on him' (5.11); 'they oppress the innocent and take bribes, and turn aside the needy in the gate' (5.12); even the fraudulent selling of grain in 8.5-6, which might be expected to affect everyone, is said to be aimed at 'buying poor people for money, and the needy for a pair of sandals', an echo of 2.6. What is meant by turning justice to poison, and right to wormwood, is the oppression of the poor, economically, legally and possibly through the tax system. The issues are debt, slavery, and violence, issues intimately connected with one another.<sup>15</sup>

In Psalm 72,<sup>16</sup> the king who is prayed for is to 'judge' or 'rule your people with righteousness, and your poor (or humble) with justice' (v. 2). The emphasis on the poor is continued in v. 4: 'May he give judgment for (or 'deliver') the poor of the people, rescue the children of the needy, and crush the exploiter.' Then after a series of rather far-fetched petitions for the long life and far-extended rule of the king, the prayer returns to the theme of the protection of the poor.

<sup>15</sup> David Graeber, *Debt: The First 5,000 Years* (Brooklyn and London: Melville House, 2011).

<sup>16</sup> See Walter J. Houston, 'The King's Preferential Option for the Poor', *Biblical Interpretation* 7 (1999), pp. 341-367.

For he rescues the destitute who cries out, and the poor (or humble), and the one who has no helper, he has compassion on the poor and the needy, and saves the lives of the needy. From oppression and violence he redeems their lives, and precious is their blood in his sight. (Ps. 72.12-14).

The text asserts that the king is entitled to world-wide rule by virtue of his care for and protection of the poor,<sup>17</sup> which is also God's concern, as several Psalms assert (Ps.12.5; 18.27; 35.10; 76.9), and thus clarifies what is meant by the divine justice and righteousness with which he is endowed. It evokes a picture of oppressive and even violent class relationships, which it is the king's duty to suppress, rescuing the poor from oppression by 'crushing' those responsible. The kind of practices that are in view here can be deduced from Amos and other texts: they centre on the abuse of patronage, the abuse of taxes, the subversion of the legal system, and especially the manipulation of credit; as in many other places and periods, landowners and creditors imposed oppressive rates of interest and foreclosed on security to bring poor people with unpayable debts into a dependent relationship with them, as slaves or possibly as sharecroppers.<sup>18</sup> It has been objected that no one would bother to enrich themselves by exploiting the poor, who have no wealth to seize.<sup>19</sup> But even the destitute have labour to make use of, and the *relatively* poor do have some property and are numerous by comparison with the wealthy, and have in fact been the victims of such behaviour throughout history.

This psalm, which was undoubtedly produced in the service of the dynasty, is ideological in the sense that it presents the action the king takes on behalf of the poor, which is likely to have been rather infrequent, as motivated by his care for them rather than by his own interest in suppressing rival centres of power by 'crushing the oppressor'. It also suppresses the contribution of the monarchical system to the impoverishment of the poor. But because every ideology strives to be recognized as universal and incontestable truth, it must incorporate generally current ethical views and worldviews.<sup>20</sup> In this case, it builds on a tradition of venerable antiquity in the ancient Near East.

### **The King as the Promoter of Justice**

The king's self-presentation as promoter of justice and protector of the poor can be traced back to the mid-third millennium BCE in Mesopotamia, or the better part of 2000 years before the composition of this psalm. There is extensive evidence showing that in many ancient states the claim of the monarch to repress exploitation, cancel debts and in general rebalance inequalities was not merely propaganda—though it was that—but was implemented, however inadequately.<sup>21</sup> Weinfeld documents in detail the array of royal

<sup>17</sup> Houston, 'The King's Preferential Option', pp. 347-350.

<sup>18</sup> Graeber, pp. 73-88.

<sup>19</sup> Philippe Guillaume, *Land, Credit and Crisis: Agrarian Finance in the Hebrew Bible* (London: Equinox, 2012).

<sup>20</sup> Houston, 'King's Preferential Option'; *Contending*, pp. 139-150.

<sup>21</sup> Weinfeld, *Social Justice*; Bernard S. Jackson, 'Justice and Righteousness in the Bible: Rule of Law or Royal Paternalism?', *Zeitschrift für altorientalische und biblische Rechtsgeschichte* 4 (1998), pp. 218-

decrees issued by many of the Mesopotamian monarchs, typically announcing the establishment of 'justice' (*misharum*) and/or 'freedom' (*andurarum*).<sup>22</sup> Evidence of these decrees comes especially from the Old Babylonian dynasty (c. 1800-1550 BCE), but according to Weinfeld it extends from the middle of the third to the end of the first millennium BCE. The content of these decrees includes *inter alia* the reunion of families ('To the mother he restored her children, and to the children their mother'; cf. Lev. 25.10, 'Everyone shall return to their holding and to their family'), presumably after family members had been taken into debt bondage;<sup>23</sup> liberation from forced labour, liberation from imprisonment for non-payment of debts and taxes, and even for crimes; protection of widows and orphans from exploitation; remission of arrears of taxes; remission of debts, signified by the breaking of the tablets on which the contracts were written, and with that the release of debtors from debt bondage.<sup>24</sup> It is likely, as Weinfeld suggests, that the remission of debts also involved the return of mortgaged land that had been foreclosed on.<sup>25</sup> That these decrees were actually implemented is shown by the fact that attempts were made in contracts to nullify their effect.<sup>26</sup>

While Weinfeld identifies the royal commitment to justice with these decrees of *misharum* and *andurarum*, Jackson argues that the king's judicial activity is equally important, either in person or through appointed judges.<sup>27</sup> Weinfeld understands 'justice and righteousness' as modifying by decree the harsh effects of positive law applied by the judges, for example the requirement to repay debts in full or accept the forfeiture of persons or land pledged in security. Jackson in contrast and more plausibly argues that judges acted according to custom and generally accepted understandings of justice, possibly influenced by royal decrees, while the so-called law codes both in Mesopotamia and in the Bible embody ideals of justice previously implied in the royal exercise of 'justice and right'. Unlike the decrees, which were infrequent, often issued on a new king's accession, but on only a few subsequent occasions during his reign, the hearing of cases in the courts was a continuous activity.

This royal administrative activity presented itself, by the use of such Akkadian expressions as *kittum u misharum*, 'truth and justice' (corresponding to the Hebrew *mishpat utsedaqa*), as establishing true justice, offering relief to poorer or less powerful members of the community, or to cities or other communities held to deserve privileges,<sup>28</sup> from the demands of creditors or of the tax-collector, reversing the flow of resources and power to the already rich and powerful, and in general giving 'freedom' (*andurarum*) to the citizens. In reality, as Boer points out, debts were cancelled partially and selectively, and the effect was 'to shift labor from one type of dependency to another'; not to free them, but to put them 'back into their previous status'.<sup>29</sup>

262; Dominique Charpin, 'Le "bon pasteur": idéologie et pratique de la justice royale à l'époque paléo-babylonienne', in *Les moyens d'expressions de pouvoir dans les sociétés anciennes*, edited by ARGO (Leuven: Peeters, 1996), pp. 101-114.

<sup>22</sup> Weinfeld, *Social Justice*, pp. 75-96.

<sup>23</sup> *Ibid.*, pp. 78-79.

<sup>24</sup> *Ibid.*, p. 90

<sup>25</sup> *Ibid.*, p. 95.

<sup>26</sup> *Ibid.*, p. 78; Jackson, p. 236, n69.

<sup>27</sup> Jackson, pp. 244-247. Cf. Charpin, 'Le "bon pasteur"', pp. 110-113.

<sup>28</sup> Weinfeld, *Social Justice*, pp. 97-132.

<sup>29</sup> Boer, p. 160, quoting the decree of Lipit-Ishtar.

It may be asked what evidence there is that kings of Israel and Judah really stood in this tradition and actually instituted any such measures at all.<sup>30</sup> There is little direct evidence for it. Only one specific example of a liberative decree is given in the Hebrew Bible: the release of debt slaves in Jerusalem instituted by covenant by king Zedekiah during the Babylonian siege in 589-87 BCE (Jer. 34.8-22). This was in unusual circumstances and was said to have been almost immediately reversed. Otherwise, Weinfeld can refer to the fact that David (10<sup>th</sup> century) and Josiah (c. 640-09 BCE) are said to have 'done justice and right',<sup>31</sup> but the reliability of the sources may be questioned. However, it may be argued that self-interest would have inclined kings to cut their rivals for wealth and influence down to size, and that the promulgation of edicts of 'justice and righteousness' would at the same time have enabled them to gain favour with those burdened with debt or otherwise financially embarrassed.<sup>32</sup> Later, when Judah was under foreign rule, we find Nehemiah as governor doing just this, according to his own account in Nehemiah 5, attacking his aristocratic opponents for their rapacity in making loans at interest (presumably high interest) to the peasantry and obliging them to return forfeited security, and thus surely gaining favour with the majority of the population.<sup>33</sup>

But the important thing for us is not whether the ideal of the just king was often or ever realized, or how inextricably it was associated at the time with the royal ideology and propaganda, but the existence and canonization in Scripture of the ideal itself. According to this, the definition of the just society turns out to be, not merely one where the rich do not oppress the poor, but one where exploitative practices are actively suppressed. As I have indicated, the ideal functions as a challenge to state authorities both then and now, wherever the text is taken seriously, to take measures to ensure that this is so.

It must be recognized that there was no question of making any permanent difference to the distribution of power and resources in the community. There was no suggestion that a more equal society, one where there were no rich or poor, would be better. Charpin emphasizes that in Mesopotamia (and it is likely that the same applied in ancient Israel) justice was not connected with anything similar to our idea of 'social progress', but was rather to be found in the past.

Pour les anciens Mésopotamiens, l'idéal de la justice se situe au contraire aux origines: toute injustice est fondamentalement conçue comme un *désordre* ... les mesures royales de *misharum* sont ... des mesures de restauration de l'ordre ancien perturbé. Les règles du jeu n'étaient pas changées, on procédait seulement à une nouvelle donne.<sup>34</sup>

The use of the expression 'a new deal' recalls, whether intentionally or not, its use in the politics of the 20<sup>th</sup> century: appropriately so, since the measures under that name taken by the Roosevelt administration in the USA were, like the *misharum* decrees of the kings of Babylon, intended to restore a degree of social justice and equilibrium without fundamentally altering the social order. But this weakness of the ideal, as we may see it,

<sup>30</sup> See Houston, 'The King's Preferential Option', pp. 352-54; *Contending for Justice*, pp. 143-145.

<sup>31</sup> Weinfeld, *Social Justice*, pp. 45-48, 54-55. See above.

<sup>32</sup> Houston, 'The King's Preferential Option', pp. 354-359; *Contending for Justice*, pp. 145-147.

<sup>33</sup> Norman K. Gottwald, 'The Expropriators and the Expropriated in Nehemiah 5', in *Concepts of Class in Ancient Israel*, edited by Mark R. Sneed (Atlanta: Scholars Press, 1999).

<sup>34</sup> Charpin, 'Le "bon pasteur"', p. 113, emphasis in the original.



enhances its relevance to the question of the regulation of our admittedly unequal economy.

### Transformations of the Tradition

However ineffective this tradition was in practice, its canonization in the Hebrew Bible as a moral ideal has had immense influence, leading to a particular concern for the poor within the Christian moral tradition, which in every period, including that of capitalism, has contributed to the demands made by the Church of political leaders. In the Biblical tradition, however, it undergoes certain transformations in the exilic and Second Temple period, as its implementation depends on the existence of a state authority. In the course of the first millennium the Israelite people saw their independent states invaded and annexed by foreign powers, and they came under the rule of a succession of imperialisms: Assyrian, Babylonian, Persian, Macedonian and Roman. In these conditions, how was this concern for the oppression of the poor to be expressed? To a large extent, those oppressing the poor were precisely the foreign rulers whose power could not be challenged, and in any case no institutions any longer existed to exercise 'justice and right'.

Many post-exilic texts, however, continue to use the expression in its original sense referring to the royal prerogative, either looking back to the monarchic period, as in Ezek. 45.9 (Ezekiel like other prophets finds 'justice and right' lacking where it should have been found), or looking forward to an eschatological instantiation of just kingship, as in Jer. 23.5 and 33.15, and Isa. 32.1 (perhaps also in Isa. 9.7, depending on one's view of the book's editorial history). Others, as pre-exilic texts already did, use it of a general social ideal, which like royal justice can be seen as a gift of God: Isa. 32.16; 33:5; 56.1; 58.2 (nations, like kings, can and must 'do justice and right'); 59.8-9, 14; Ps. 99.4.

But we also find the expression transferred to describe the justice required of the private individual in a position of power, in a way probably not found in earlier writing, as in Ezekiel 18, verse 5 etc.: 'When a man is just [the gendered language corresponds to the reality of the society] and does justice and right', followed by a list of things such a man does not do, including 'he does not oppress anyone, returns the debtor's pledge and does not exploit, gives his bread to the hungry and clothes the naked, does not lend at interest' (vv. 7-8a).<sup>35</sup> In other words, 'justice and right' is here the behaviour of those who do not engage in the kind of conduct that might have made them the targets of a king's campaign of justice. In context, the three generations of individuals symbolize successive generations of the nation, but there is no reason to suppose that the characterization of individual conduct is not intended realistically, despite its schematic nature. The expression also clearly characterizes individual conduct in some late Psalms (Pss. 36.7; 37.6; 106.3; 119.121), and in the wisdom literature: Prov. 1.3; 2.9; 16.8; 21.3; Job 29.14. Weinfeld connects the individual usage with the absence of 'kings and leaders' during the exile.<sup>36</sup> But the usage continues into much later times, when, if there were still no native kings, there were certainly leaders. The fact is, it is precisely leaders, at least in a general and local sense, to whom these words apply. The addressees of these texts belong

<sup>35</sup> Cf. Houston, *Contending*, pp. 100-105.

<sup>36</sup> Weinfeld, *Social Justice*, p. 221.

to a relatively small class of power holders. Weinfeld and others use the word 'democratization' of this usage;<sup>37</sup> but it implies, rather, a hierarchical conception of moral duty, in which there are some who 'do (or do not do) justice and right' and others, the majority, who benefit from it, or suffer from its absence.

The expression occurs only once (Gen. 18.19) in the Torah, the first five books of the Old Testament and the principal source of Jewish law, which was probably edited in the Persian period. The text appears to concern an individual, but as the individual is Abraham, and the text concerns his responsibility to teach his children and family 'right and justice', it can be seen as expressing the entire nation's responsibility for justice. Some of the provisions of the Torah embody this collective responsibility, as we shall see, yet neither they nor any of the more frequent injunctions to individual responsibility<sup>38</sup> are introduced with this expression. I have recently suggested that the reason why the expression 'justice and right' is mostly avoided in the editing of the Torah is because of its association with the defunct monarchy and hierarchical relationships in general.<sup>39</sup> The Torah presents its ideal Israel as a society of equals, free of hierarchies among adult males, despite the fact of inequality that it presupposes.

### Community Solidarity in the Torah

There are a small number of laws that provide for collective action in favour of the poor or the solidarity of the community. They include the jubilee law in Leviticus 25.8-22, which prohibits the permanent alienation of agricultural land, and the law in Deut. 15.1-3 which ordains the cancellation of debts every seven years. These texts have two key points in common: firstly, they image the national community as a family, by referring to fellow-Israelites, or rather to the male heads of family among them, as 'brothers', thus implying an underlying equality despite existing class division.<sup>40</sup> The laws and the exhortations which follow them up refer to the fellow-Israelite about 15 times as 'your brother'<sup>41</sup> (Lev. 25.25, 30, 35, 39, 46, 47, 48; Deut. 15.2, 3, 7, 9, 11, etc.). The national community is seen in the guise of a family. The bond between its members is personal; the motive for compassionate action is expressed in Deut. 15.7-11 in particular in emotional terms, with the use of what has been called 'somatic' language, referring to parts of the body:<sup>42</sup> 'a wicked thought in your *heart*'; 'lest your *eye* be evil'; 'do not let your *heart* be grudging'; 'open your *hand*.' This response cannot be forced, it arises from a heart that acknowledges its natural and covenantal bond with its neighbour.

Secondly, there is no indication what authority is to be responsible for enforcing the laws; they are addressed to the people as a whole, who are exhorted to put the law into effect. This is also true of the law providing for the tithes of every third year to be stored as a food bank for propertyless and vulnerable residents, 'the Levite... the resident

<sup>37</sup> *Ibid.*, p. 216.

<sup>38</sup> For a detailed survey, see David L. Baker, *Tight Fists or Open Hands? Wealth and Poverty in Old Testament Law* (Grand Rapids, MI/Cambridge, UK: Eerdmans, 2009), pp. 223-304.

<sup>39</sup> Houston, 'Justice royal and divine'.

<sup>40</sup> Houston, *Contending*, pp. 182-84.

<sup>41</sup> A usage obscured in inclusive-language translations such as the NRSV.

<sup>42</sup> Jeffries M. Hamilton, *Social Justice and Deuteronomy: The Case of Deuteronomy 15* (Atlanta: Scholars Press, 1992), pp. 31-34.

foreigner, the orphan and the widow' (Deut. 14.28-29). An effort was made to enforce these laws, except perhaps the jubilee; the year of release was recognized, but its provisions were evaded.

What we have here, in my judgment, are versions of older administrative decrees cancelling debts or reversing the alienation of property, which could in monarchic times have been enforced by the royal bureaucracy, but are now cut free from the essential enforcement mechanism. It would seem that the editors of the Torah, after the fall of the monarchy, wished to assert the essential equality and solidarity of full members of the community (meaning in those days male family heads), a tradition probably reaching back to the tribal village of the monarchic and earlier periods, and to recognize the responsibility to protect the poor as a community responsibility. But they were unable because of the loss of independence to make any provision for enforcement. Like the tradition of 'justice and right', these texts constitute a challenge to any society where they are read and regarded as in any sense authoritative. The challenge they present is this: if ancient scribes could imagine institutions whereby the freedom and independence of small farmers and other poor people could be protected from the depredations of creditors, can we, in our more complex society and economy, achieve it in reality? Can we indeed reimagine our own society in Britain as a family of brothers and sisters? Many would suggest that the high level of immigration and the free movement of labour within the EU makes this too difficult. The question is whether, even without that, the cultural and imaginative resources to attain this shift in perception are any longer accessible.

### Charity as Justice?

Subsequently, especially in the period after the composition of most Hebrew biblical literature, the expression 'justice and right' falls out of use, and *tsedaqa*, 'right', on its own comes to mean 'almsgiving' or what we would call 'charity': giving one's bread to the hungry and clothing the naked, as in Ezekiel 18.<sup>43</sup> In those parts of the book of Sirach (Ecclesiasticus) that are preserved in the original Hebrew, *tsedaqa* occurs several times, and on each occasion it is translated in the Greek of the translation in which the whole book is known to us with the word *eleemosune*, 'charity' or a 'work of compassion' (3:14, 30; 7:10; 12:3; 16:14). The context shows in each place that this translation is appropriate. We can assume that in several places where *eleemosune* occurs without any preserved Hebrew counterpart, the Hebrew was *tsedaqa*. This includes for example Sir. 29:8, 'But be patient with a lowly person, and do not keep them waiting for your charity.' The context here is significant: the next line says 'Give a poor person help *for the sake of the commandment.*' The reference to the commandment implies that charity is an obligation; it is not voluntary, even though precisely who is helped and how is a matter of choice.<sup>44</sup> It is thus an expression of justice. In the book of Tobit, which is only preserved in Greek, the

<sup>43</sup> For a study of the theological understanding of charity mostly in post-biblical works, see Gary A. Anderson, *Charity: The Place of the Poor in the Biblical Tradition* (New Haven: Yale University Press, 2013).

<sup>44</sup> Walter J. Houston, 'The Scribe and His Class: Ben Sira on Rich and Poor', in *Writing the Bible: Scribes, Scribalism and Script*, edited by Philip R. Davies and Thomas Römer (Durham: Acumen, 2013), pp. 108-123; see pp. 118-119. Also, cf. Houston, *Contending*, pp. 132-134, and Bradley C. Gregory, *Like an Everlasting Signet Ring: Generosity in the Book of Sirach* (Berlin: de Gruyter, 2010).

word *eleemosune* occurs repeatedly, referring to Tobit's good works, and it is probable that it usually represents *tsedaqa*.

Thus there is no sharp distinction between charity and justice in biblical thought. To give alms is to exercise justice. But it is not all that justice requires. 'Charity' does not in itself make any difference to the class structure of any society, and is even more limited in its impact than the Babylonian *misharum* edicts would have been. The compassionate rich remain rich and the compassionate poor remain poor, as Deut. 15.11 admits: 'the poor shall not cease out of the land'. In ancient class societies, both the exercise of royal power and individual charity are attempts based on hierarchy to right the imbalances arising out of hierarchy, so that their effects were limited.

Yet for unequal access to power and wealth modern capitalist society, especially in the USA and the UK, cannot claim to be superior. The ideas generated by these ancient societies remain relevant, and I would suggest are capable of being concretely expressed in today's world. Indeed, it is not so long, as I suggested at the start of this paper, since ideas like them were taken for granted in most developed democratic countries, and it is doubtful whether more than a relatively small number of influential theorists and political and commercial actors, especially in the US and the UK, have ever truly abandoned these.

### **Keys to Intervention**

Certainly, the presence of these traditions in some of the earliest documents lying at the root of the Jewish and Christian traditions (the ancient horizon), may inspire readers within modern horizons to formulate criteria for state intervention in the economy on at least two fronts.

First, kings were supposed to intervene to defend the poor from exploitation. Whatever other aims state intervention may have, it cannot claim the authority of the biblical tradition unless it places the defence of the poor and other vulnerable groups – the disabled, the asylum seeker – at the top of the list. In modern conditions, that would include setting a minimum wage, and making it a living wage, controlling working people's rights and conditions, and taking action on an international level to ensure that employers can find no workers anywhere without similar protections; furthermore, on the side of consumption, enabling adequate housing to be available at reasonable cost to even the poorest.

Secondly, the community of Israel is understood as a family, bound together by the bonds of feeling. But all such bonds are dissolved in the advance of capitalism. *The Communist Manifesto* asserted in 1848: 'The bourgeoisie ... has left remaining no other nexus between man and man than naked self-interest, than callous "cash payment".' This was perhaps only half true when it was written. In the past 30 years it has become more and more true. One of the functions of the state, I would suggest, is to maintain and strengthen such bonds, and thus to prevent capitalism from wreaking the extreme of depersonalization, in part by social security systems that recognize and support the personality and dignity of all. But this is, as I have suggested above, a cultural even more than an economic issue.

## The Present Situation

At the present time, so far from fulfilling these functions, states that have the resources to correct extreme inequality, but are unable to see the relationships between their citizens in any but the terms of the cash nexus, are engaged in dismantling protections and hollowing out welfare states, aided and abetted by international bodies such as the IMF and the EU. The EU is at an advanced stage of discussion with the US on the Transatlantic Trade and Investment Partnership.<sup>45</sup> These discussions are being conducted in the utmost secrecy. Yet, if ratified, the treaty would include a provision (so-called Investor-State Dispute Settlement) enabling companies to take legal action in secret against any social or environmental protections in a country where they are investing that they perceive to put them at a disadvantage.<sup>46</sup> This and other provisions already public at this stage would result in the levelling down of such protections to the lowest level offered by any party to the treaty.

In the UK today the screwing down of social security, the severe cuts in the funding of social services, especially through cuts to the support of local government, and the failure to control housing costs, are removing support for the personality and dignity of the poor, especially the disabled and learning-impaired,<sup>47</sup> and asylum seekers.<sup>48</sup> That anyone here should have to rely on food banks to survive is a sign that what according to the Bible is the test of a just society is no longer being applied. People resort to food banks very often because their welfare benefits have been suspended for (often trivial and unintentional) failures to fulfil conditions, which strongly suggests a lack of respect, or even contempt, for the dignity of the poor (even perhaps the only temporarily poor).<sup>49</sup>

In an article otherwise quite relaxed about disparities of wealth, the columnist Simon Jenkins says,

There are many causes of Lombard Street being rich and Benefits Street poor. But the widening of the gap must in part be caused by the actions or inactions of the state ... There will always be rich and poor, but the actions of the state should not be what makes the rich obscenely rich and the poor obscenely poor.<sup>50</sup>

<sup>45</sup> Wikipedia, 'Transatlantic Trade and Investment Partnership', available online at [https://en.wikipedia.org/wiki/Transatlantic\\_Trade\\_and\\_Investment\\_Partnership](https://en.wikipedia.org/wiki/Transatlantic_Trade_and_Investment_Partnership) (accessed 2015-10-21).

<sup>46</sup> Owen Jones, 'The TTIP deal hands British sovereignty to multinationals', *The Guardian*, 14 Sept. (2014), available online at <http://www.theguardian.com/commentisfree/2014/sep/14/ttip-deal-british-sovereignty-ukip-treaty> (accessed 2015-12-13).

<sup>47</sup> Kate Belgrave, 'Work capability assessments: the fightback', *New Statesman*, 29 July (2012), available online at <http://www.newstatesman.com/blogs/staggers/2012/07/work-capability-assessments-fightback> (accessed 2015-12-13).

<sup>48</sup> Fleur S. Houston, *You Shall Love the Stranger as Yourself: The Bible, Refugees and Asylum* (London and New York: Routledge, 2015), pp. 58-64.

<sup>49</sup> Patrick Butler, 'Benefit sanctions leave clients hungry for months', *The Guardian*, 2 March (2015), available online at <http://www.theguardian.com/society/patrick-butler-cuts-blog/2015/mar/02/food-banks-benefit-sanctions-leave-clients-hungry-for-months> (accessed 2015-12-13).

<sup>50</sup> Simon Jenkins, 'Budget 2014: George Osborne, it's not your job to look after the very rich', *The Guardian*, 19 March (2014), available online at <http://www.theguardian.com/commentisfree/2014/mar/18/osborne-wealth-gap-governments-conspire-obscene> (accessed 2015-12-13).

He is right. The modern state, immensely more powerful and with far more resources than ancient kingdoms, is in a good position to reverse the impoverishing and demeaning effects of modern capitalism, but is utterly failing to do so. The alternative, of course, is that the impoverished and demeaned do it for themselves. This was of course Marx's solution. But it may have also been what Occupy Wall Street was about. And it may indeed be that only such self-help measures can effect the cultural change that is demanded alongside the economic, restoring the sense of solidarity in society and enabling the poor to look the rich in the eye.

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