

**THE ISRAELITE HOUSEHOLD AND THE DECALOGUE:  
THE SOCIAL BACKGROUND AND SIGNIFICANCE  
OF SOME COMMANDMENTS\***

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Decalogue study is still in a state of some confusion, with little apparent consensus in any of the critical disciplines.<sup>1/</sup> Nevertheless, most scholars, whatever their views on authorship, date, original form, history, etc., agree in recognizing the position of unique importance accorded to the Decalogue in Israel's understanding of her relationship with God.

The evidence that it was assigned a unique place of importance by the Old Testament itself, and not just by subsequent Jewish and Christian interpreters, is manifold. The commandments have a special name, the "ten words" . . . (*cf.* also Ex. 31:8; Deut. 4:13; 9:9, etc.). Again, they are repeated in Deuteronomy as providing the foundation for the new promulgation of the covenant. The narrative framework of Exodus, but particularly of Deuteronomy, stressed the finality of the commandments: "These words Yahweh spoke . . . and added no more" (Deut. 5:22). Finally, the reflection of the commandments in the prophets (Hos. 4:1ff; Jer. 7:9ff), and in the Psalms (50 and 81) testify to their influence upon Israel's faith.<sup>2/</sup>

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1. For surveys of the critical literature, see J. J. Stamm and M. E. Andrew, *The Ten Commandments in Recent Research* (London, 1967), and B. S. Childs, *Exodus: A Commentary* (London, 1974).
2. B. S. Childs, *op. cit.*, 397.

The strength of this influence is reflected in the association of the Decalogue with Sinai, which indicates that it was felt to be essential as the revelation of what in practice was required of those who there became God's people.

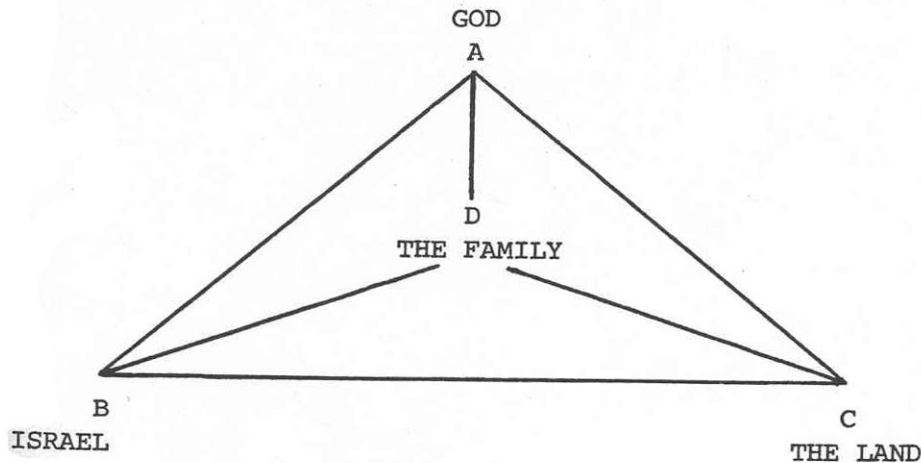
Whatever one thinks about the authorship, the fact that the Decalogue early held a central position in Israelite life remains as the most important result of recent research. . . . It stood in association with the review of the Sinai events as the binding charter expressing the will of the divine Lord of the Covenant./3/

However, having acknowledged this, the paradox emerges that the last six commandments - the 'ethical' ones - are in themselves not at all unique. The moral and legal requirements they express are neither unique to Israel among her contemporary nations, nor unknown among Israel's own ancestors before the promulgation of the law at Sinai, as is well illustrated in Genesis. The question may be asked, therefore, why they were so emphatically linked to Sinai. What significance lies in the explicit listing of these otherwise very general moral obligations at the precise point of the foundation of the nation as the covenant people of Yahweh?

I want to suggest that, for at least some of the social commandments, the answer lies in the nature of the socio-economic grounding of the covenant relationship. The relationship between Israel and Yahweh was not merely a conceptualized, spiritual entity. It was very deeply rooted in the concrete circumstances of Israel's life - social, economic and political. The primary symbol of this was the land, and the primary locus of tangible realization of the privileges and responsibilities of the covenant relationship was the family. My contention is that the fifth (parents), seventh (adultery), eighth (stealing) and tenth (coveting) commandments should be seen, within their specifically Israelite context, as designed to protect, externally and internally, the household-plus-land units upon which the covenant relationship, humanly speaking, rested.

3. J. J. Stamm, *op. cit.*, 39.

Before discussing each of these commandments, we must briefly sketch in an outline of the role of the household and its centrality in Israel's experience of her relationship with Yahweh. This can most conveniently be done with the help of a diagram./4/



The outer triangle represents the three major relationships of Israel's theological self-understanding: the primary relationship between Yahweh and Israel (AB); God as the ultimate owner of the land (AC; cf. e.g. Lev. 25:23); the land as given to Israel as an inheritance (CB; cf. e.g. Deut. 4:21). The family (the **בֵּית־אָב**) was the basic unit of Israelite social and kinship structure (BD)./5/ As such, it was

4. This diagram is, in fact, an elaboration, by the inclusion of the family, of a similar diagrammatic presentation of the concept by H. E. von Waldow, 'Israel and Her Land: Some Theological Considerations', in *A Light unto My Path* (J. M. Myers Festschrift), edd. H. N. Bream et al. (Philadelphia, 1974), 493-508.
5. On the terminology of Israelite kinship structure, see R. de Vaux, *Ancient Israel* (London, 1961), 19-23, and for more specialist study, F. I. Andersen, 'Israelite Kinship Terminology and Social Structure', *BTr* 20 (1969), 29-39.

protected by various institutions, such as levirate marriage, the inheritance laws, and the internal operation of family law.<sup>6/</sup> Socially, it had important roles in military and judicial matters also. The family was also the basic unit of Israelite land-tenure (CD). This is witnessed to in the land division texts in Josh. 13-21. The family, therefore, as well as the clan (משפחה) benefited from the inalienability principle and the related institutions of land redemption and jubilee (Lev. 25). These family-plus-land units, the lower triangle BCD, can then also be shown to have been the basic fabric upon which Israel's relationship with God rested. The family, therefore, was of pivotal importance in the 'mediation' of the covenant relationship (AD). The continuity of the relationship was entrusted in large measure to the didactic and catechetical functions of the heads of households,<sup>7/</sup> as well as being 'sacramentally' symbolized in the consecration and redemption of the first-born son.<sup>8/</sup> Thus it can be seen that the social, economic and theological realms were inextricably bound together, all three having the family as their focal point. It can also be seen that forces and developments which threatened the 'lower triangle' would automatically endanger the foundations of the national relationship between Israel and God by undermining its familial roots. The social and economic history of Israel from Solomon is the story of just such a process, and the vehemence of the prophetic protests against it shows how clearly they perceived the inevitable theological consequences.

Now, in view of all these aspects of the importance of the family, the OT, not surprisingly, evinces a deep concern to protect the family externally, from the

6. On the scope of family law, *cf.* A. Phillips, 'Some Aspects of Family Law in Pre-exilic Israel', *VT* 23 (1973) 349-361.
7. This is particularly prominent in Deuteronomy, *cf.* 6:7; 11:19; 32:46f. On family catechesis, *cf.* J. A. Soggin, 'Cultic-aetiological Legends and Catechesis in the Hexateuch', *Old Testament and Oriental Studies* (Rome, 1975), 72-77.
8. *Cf.* especially, Ex. 13:2,12-15.

diminution or total loss of its property and thereby its economic viability and social standing, and *internally*, from the disruption of its domestic authority structure and the flouting of its sexual integrity. Such concern can be widely illustrated from the prophets, as is well known. But it is my belief that it is this background and this concern which will have constituted the major socio-theological significance for Israel of the eighth and tenth commandments ('externally') and of the fifth and seventh ('internally').

*The Eighth and Tenth Commandments*

We began by acknowledging the unique character and importance of the Decalogue within Israel. A recent attempt to account for and define this fact has been made by A. Phillips, in *Ancient Israel's Criminal Law*, /9/ and his work gives us a useful point of departure for our discussion here of the two commandments apparently concerned with property. Phillips argues that the Decalogue was Israel's *criminal law-code*. He defines 'crime' in this context as offences against the whole community, inasmuch as they were offences against the relationship with Yahweh upon which the community was founded and depended. In support of this, Phillips regards it as highly significant that, although penalties are not specified in the Decalogue itself, all offences for which there was a judicial death penalty in OT law were either direct breaches of the commandments or were closely related to them.

Aspects of Phillips' thesis are open to strong criticism (as we shall see), and some feel that his whole attempt to define the Decalogue as criminal law is erroneous./10/ Nevertheless, in my opinion, Phillips

9. A. Phillips, *Ancient Israel's Criminal Law: A New Approach to the Decalogue* (Oxford, 1970).
10. It is criticized in particular by B. S. Jackson, 'Reflections on Biblical Criminal Law', *JJS* 24 (1973), 8-38.

has a valid insight in drawing a distinction between laws prohibiting the kinds of behaviour which would threaten the basic relationship between God and Israel (what he calls 'crimes') and those dealing with lesser offences of a civil nature. He is also right to emphasize that the difference is one of content, not solely of form, and that the criterion of form alone is an unreliable guide./11/

Difficulty arises, however, with Phillips' insistence on making the judicial death penalty the essential defining criterion of his category of criminal law, viz. the Decalogue. For neither the eighth nor the tenth commandment, as traditionally understood in their present form, could carry a death penalty./12/ This produces the dilemma that if one is to maintain that the death penalty was the essential factor in distinguishing 'crimes' against the national relationship with God, then either one must abandon the view of the Decalogue as entirely a summary of 'crime' in that sense (since two of its prohibitions are non-capital), or else one must find a way of reinterpreting the eighth and tenth commandments so as to make them capital offences. Phillips chooses the latter horn of the dilemma, and is fairly criticized for doing so in the *a priori* interests of his theory.

With plenty of scholarly support, Phillips takes the eighth commandment as referring originally to kidnapping,/13/ which was a capital offence (Ex. 21:16). This particular hypothesis is linked with (rather, was partly the result of) an interpretation of the tenth commandment as referring to actual misappropriation and

11. *Criminal Law*, 13.

Various arguments that have been advanced for the existence of a legal death penalty for ordinary theft in Israel have been thoroughly examined and convincingly refuted by B. S. Jackson, *Theft in Early Jewish Law* (Oxford, 1972), 144-154.

13. This is a view which, as Jackson points out, goes back to Rabbinic interpreters (*Theft*, 148 n. 5), and in modern times has been advocated by A. Alt, 'Das Verbot des Diebstahls im Dekalog', *Kleine Schriften I*, 333-340.

not merely to mental coveting./14/ But even this view (which he in any case rejects) would be inadequate for Phillips' theory, for it would still leave the tenth commandment as a property offence, and therefore non-capital. So, in the weakest link in his chain of argument, he proposes a crime of 'depriving an elder of his status' through dispossession - the result of which would have been to deprive the elder of his qualifications to exercise judicial authority in the courts. The original verb in the commandment which signified this crime of dispossession was replaced by **הִחַדֵּשׁ**, when the original commandment became obsolete after Jehoshaphat's judicial reforms had allegedly removed the judicial function of local elders.

Apart from the inherent weakness of this last hypothesis, the critical reinterpretation of both commandments which underlies it has recently been examined and found wanting by B. S. Jackson./15/ He demonstrates convincingly that there are no adequate grounds, exegetically, historically, or theologically, for rejecting the traditional sense of the tenth commandment. It thus becomes correspondingly unnecessary to reinterpret the eighth commandment to refer to kidnapping.

What then becomes of the dilemma posed above? If the death penalty is the criterion of offences against the covenant' relationship, then the Decalogue apparently contains prohibitions which do not fit into such a category. But is this understanding of the death (or any) penalty appropriate? Jackson seems closer to the truth:

The proper conclusions to be drawn are rather, in my view, that there was no single punishment (in a human court . . .) for breach of the Decalogue, and that the nature of . . . particularly the tenth (commandment) shows that human justiciability of the Decalogue was not intended./16/

14. This theory was proposed by J. Hermann, 'Das zehnte Gebot', *Sellin-Festschrift*, ed. A. Jirku (Leipzig, 1927), 208-210. A bibliography of the scholarly debate on the subject is provided by B. S. Jackson, 'Liability for Mere Intention in Early Jewish Law', *HUCA* 42 (1971), 197-225 (p. 198).
15. B. S. Jackson, 'Mere Intention'.
16. B. S. Jackson, 'Reflections', 37.

So the special nature of the Decalogue in itself cannot be expounded by equalizing the penalties for breaking especially since the Decalogue itself is not concerned to specify penalties. One must look for some intrinsic coherence, not to secondary judicial penalties. Here again one agrees with Jackson who, in pointing out that legal penalties are in any case no sure guide to social values, comments: 'surely the inclusion of the prohibition of theft alongside that of murder in the Decalogue tells us something of Biblical values'.<sup>17</sup> The question is however; since it does not mean that theft, like murder, was punishable by death, what does it tell us?

The answer can only be that theft and the coveting of one's neighbour's household or land were considered sufficiently serious to be included among specific kinds, of activity which were fundamentally incompatible with personal loyalty to Yahweh and membership of the community of his people. As to why this should have been so, we must look to the vital link between a man's ownership of land and household and his membership of that community and share in its privileges. Since a man's land and property were the tangible symbol of his personal share in the inheritance of Israel, as well as the vital means of economic support for his household (and therefore, too, essential for their share in the membership of the religious community), theft meant at least the diminution of a person's practical enjoyment of the blessings of belonging to the people to whom God had given the land, and at worst, if it involved his whole substance, the loss of his very standing within the community and dire consequences for his family. Theft, therefore, was not solely an attack on property, but indirectly on the fellow-Israelite's person and on the stability and viability of his family. Its prohibition, therefore, did not imply the 'sanctity of property' *per se*, but rather the sanctity of the relationship between the Israelite household and Yahweh. It was this relationship which could be impaired or destroyed in its material aspects by theft, and in such a threat at the domestic level lay an intrinsic potential threat to the national relationship with God.

17. *Ibid.*, 16.

A distinction is necessary at this point between this absolute prohibition on theft in general and the particular regulations in cases of actual theft.<sup>18/</sup> The latter could obviously vary from petty pilfering to man-stealing, and the penalties varied accordingly. But the strength of the absolute prohibition in the Decalogue counteracts the temptation to conclude that, because Israel's case law does not treat theft as capital, the OT attitude to property offences was therefore one of leniency. This is an impression one gets in some studies which compare OT law with other ancient Near Eastern legal corpora.<sup>19/</sup> Against such an impression we need to set Jackson's reminder that the presence of the prohibition of theft in the Decalogue is a measure of the seriousness with which it was regarded in principle. And we also need to take account of the non-legal texts where theft is denounced in far from lenient language, as utterly abhorrent to God and quite incompatible with obedience to his will. As one might expect, it is one of the sins condemned by the prophets (Hos. 4:2; 7:1, Isa. 1:23; Jer. 7:9-10). Ps. 50:16-18 ranks it with adultery as an offence which is irreconcilable with professed loyalty to the covenant. Prov. 30:9 regards it as a profanation of the very name of Yahweh. Lev. 5:20-26 prescribes a guilt offering for a person guilty of various kinds of property offence - in addition to material restitution. Prov. 29:24 speaks of the curse falling on those who withhold witness to a

18. The comprehensive scope of B. S. Jackson's work, *Theft*, makes it unnecessary for us to go into detail on the particular casuistic legislation on theft in the Old Testament.
19. *E.g.*, P. Rêmy, 'Le Vol et le Droit de Propriété: Étude comparative des Codes du Proche-Orient et des Codes d'Israël', *Mélanges de Science Religieuse* 19 (1962), 5-29; M. Greenberg, 'Some Postulates of Biblical Criminal Law', *Yehezkel Kaufmann Jubilee Volume*, ed. M. Baran (Jerusalem, 1960), 5-28; S. Paul, *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law*, SVT 18 (1970). Some criticisms of the assumptions and methods behind these studies - particularly of a too facile drawing of contrasts between biblical and cuneiform laws - are registered by B. S. Jackson in 'Reflections'.

theft, or share in it *post factum*.<sup>20</sup> Undoubtedly, Zech. 5:3f is the most strongly-worded pronouncement of a curse upon the thief.

The range of these texts and the depth of feeling they show against theft are a much more telling commentary on the eighth commandment than is at all possible if its application be limited to the more remote offence of kidnapping. They illustrate the distinction referred to between the Decalogue prohibition and the case laws concerning theft. It is not a matter of two kinds of legislation - criminal and civil (as in Phillips' theory). Rather, the latter are regulations governing evidentiary tests, degrees of punishment, compensation, self-help, etc., from the perspective of human judicial procedure, whereas the former is an expression of the absolute, moral demand on Israel by Yahweh, from whose *divine* perspective theft is an abomination, accursed, a profanation of his name, a mockery of worship, and a denial of the covenant. This kind of language can be used against it because the thief robs his fellow-Israelite not merely of some of his economic property, but of part of what is his as a blessing and gift from God (as a man), and of part of his share in the inheritance of the people of Yahweh (as an Israelite). So although the material aspects of the offence might be treated with comparative leniency, it is this spiritual and theological significance which makes the offence so serious and has dictated its inclusion in the Decalogue.

As regards the tenth commandment, the distinction between the Decalogue prohibition and human judicial procedure is even greater, for no legal penalties existed at all in any human court of the OT period for coveting - or mere evil intention of any sort. This is not to deny that evil intention, including coveting, was regarded as sin. It undoubtedly was, and as such

20. Cf. Lev. 5:1, and, on the question of the curse in judicial practice, H. C. Brichto, *The Problem of 'Curse' in the Hebrew Bible*, JBL Monograph Series, XIII (Philadelphia, 1963), especially pp. 42-44, on these verses.

was liable to divine judgment.<sup>21</sup> The point here is that the tenth commandment prohibits something which could not by its very nature be sanctioned by actual legal penalties. This very fact underlines the importance of this prohibition, since in this respect it is unique among the commandments in its radical, ethical thrust.

The content of the tenth commandment is also significant for our purpose in that it specifies the neighbour's household and (in the Deuteronomic version) his land. It thus prohibits at source the desires that led to land-grabbing 'latifundism'. Now it is probable that some of the methods used by the wealthy to acquire land at the expense of small-holders were not technically illegal - such as foreclosures on mortgages, debt-bondage (which, even if a Jubilee were in operation twice a century, would still have been devastating on many households), even the redemption of land from impoverished kinsmen. Nevertheless, though legal, such methods when ruthlessly pursued became fundamental violations of the moral requirements of the relationship between Yahweh and Israel, and stemmed from ambitions that contradicted the tenth commandment. For that reason it is prophets wilt), in the name of Yahweh, pronounce divine judgment on offences about which human courts were unable, or, through corruption by the offenders themselves, disinclined, to do anything. Mic. 2:2 shows this awareness of what the real sin was that lay behind the external acts of acquisition - covetousness.

There is therefore a certain irony in the fact that although Phillips' chapter on the tenth commandment contains his weakest conjecture in his attempt to 'upgrade' it into a precise criminal law, it nevertheless perceives very clearly the kind of social calamity for a man and his household that was entailed if the commandment were disregarded and he became dispossessed. Job 30, for example, shows clearly how Job's loss of

21. *Cf.* the craving in the wilderness (Num. 11:4-34), the evil in men's hearts as the reason for the Flood (Gen. 6:5), and God's scrutiny of the heart (I Sam. 16:7). On this subject, *cf.* B. S. Jackson, 'Mere Intention'.

property and family utterly destroyed his status in the local judicial assembly, in stark contrast to ch. 29's informative picture of his prominent part in it. So indeed, disregard of the tenth commandment entailed for many a loss of standing and participation in a sphere of social life where the obligations of the relationship with God impinged closely on the practical realities of society - the local administration of justice. It is perhaps also ironic that to interpret it as a precise criminal law actually deprives it of the kind of radical ethical thrust suggested above, yet Phillips then restores this dimension by dint of an alleged 'spiritualizing' of the original law after Jehoshaphat's reform.

It has not been the intention of these remarks on the eighth and tenth commandments to limit or deny whatever relevance and importance they, with the rest of the Decalogue, may be accorded as general or universal moral requirements in a scheme of biblical ethics. Our question has been only how we are to understand the meaning of these commandments within the Decalogue in the historical context of the uniqueness of Israel and her self-understanding in relationship to Yahweh. Theft and coveting would have been morally wrong in Israel, and would have been acknowledged to be, even had they not been the people of Yahweh. But granted that they did understand themselves to be so, through their historical experiences of redemption and revelation, and granted further that the possession of the land was regarded as the proof of their relationship with God, so that that relationship was vested in the socio-economic structure of land-owning households, then there emerges a dimension to these particular commandments which surely transcends the common human disapproval of stealing and greed. It is this additional dimension, the result of the fusion of Israel's theological self-understanding with her socio-economic circumstances, that this discussion has sought to bring into sharper relief.

### *The Fifth Commandment*

There are two areas of the social significance of this commandment which we may discuss: one is its relevance to the internal judicial authority of the head of the household; the other is the link between filial piety and the economic importance of the family land.

In some matters the Israelite household was virtually a 'law unto itself', in the sense that the head of the household had authority to act judicially without reference to any outside legal authority.<sup>22</sup> Respect for this independence of heads of households in the exercise of their jurisdictional rights can be seen in the degree of inviolability apparently enjoyed by households. Members of a household under the authority of its *paterfamilias* could not simply be seized on suspicion (Deut. 24:10f; Jdg. 6:30f; II Sam. 14:7). Only a fool allows such a thing to happen without preventing it (Job 5:4). It was also fully expected that this internal authority should be exercised (I Sam. 2:22-36; 8:1-5). The procedure for dealing with the rebellious son (Deut. 21:18-21) explicitly presupposes that internal family action has been taken (verses 18ff). It is only because this has failed that the problem has become a matter for public concern and action.

The **בית-אב** therefore, was the primary framework of judicial authority within which the Israelite found himself, and to which he remained subject for a considerable period of his life. In this context, the fifth commandment - 'the first commandment with promise' - takes on a particular significance. The promise attached involves long life on the land - i.e. the permanence, security and enjoyment of the relationship between Yahweh and Israel in the land he had given them. This is made conditional upon the maintenance of respect and obedience of children to their parents - which includes submission to the jurisdictional authority of the *paterfamilias*. The rationale behind this particular association of commandment and promise supports the contention we are making, viz. that the national relationship with God was vested in the family units living on their portions of land, and therefore its continuance depended on the survival and stability of these units. This in turn depended on the maintenance of a healthy authority structure within the family itself.

In this light, the various laws which prescribe the death penalty for any form of open disrespect for parental authority can be seen in a new and more positive perspective. They are not relics of a harsh

22. Cf. A. Phillips, 'Family Law'.

*patria potestas*, nor an arbitrary, authoritarian patriarchy. They are in fact safeguards of the national well-being. For violation of parental authority, rejection of the domestic jurisdiction of the head of the household, was a crime against the stability of the nation inasmuch as it was an attack upon that on which the nation's relationship with God was grounded - the household. It was thus as justly liable to the sanction of capital punishment as the more blatant forms of apostasy or idolatry. The treatment of the rebellious son in Deut. 21:18-21 shows most clearly how seriously this was taken. If the circumstances were sufficiently grave, the stability and well-being of the *household* were to be reckoned of greater importance than the life of one of its members. The national significance of the situation is reflected in the phrase: 'and all Israel shall hear, and fear' (18:21).

In the second place, we now examine the relationship between the fifth commandment and responsibility for family land as an element in filial piety.

In view of the pivotal role of the household in the nexus of theological and socio-economic interrelationships, it is not surprising to find, as we do, that the Israelite landowner and subordinate members of his household should be conscious of a moral and, in some cases, legal, responsibility towards the family as a whole in respect of the family land - a responsibility parallel and related to their primary responsibility to God himself. The words 'as a whole' are deliberate, for a man's responsibility to his family and its property was not limited to his immediate circle of living kin, but extended into the past and the future.

The family was attached to the soil . . . . Laws of primogeniture, succession and inheritance rights, indivisibility and inalienability of real estate, the sacrilegious nature of the crime of moving a landmark all derive from this concept of the family and its real holdings as a unit in any given generation (. . . its horizontal modality) and as a unit extending from its first ancestors to all future progeny (its vertical modality).<sup>23/</sup>

23. H. C. Brichto, 'Kin, Cult, Land and Afterlife - A Biblical Complex', *HUCA* 44 (1973), 1-54 (p. 5).

It is responsibility to this 'unit' in both its 'modalities' that we are here concerned with.

The fifth commandment, with its concern for the stability of families that derives from respect for parents clearly becomes relevant here. But in view of the extended 'vertical modality' of the family unit, the question arises: how far are we to extend the range of the commandment? Is it limited to one's biological progenitors? Or is it possible to see in this commandment the duty of honouring the ancestors of one's whole family line? And if the latter be admitted, is it merely commemorative piety that is entailed, or are the ancestors thought to benefit in some real way by the exercise of it?

These questions are focussed in the Naboth incident.

The LORD forbid that I should give to you the inheritance of my fathers! (I Kgs. 21:3)

Naboth's reply to Ahab epitomizes the sense of responsibility to one's ancestors that shaped an Israelite's use of his land. He was not the sole owner; it belonged to the whole family line. The same rationale underlay the prohibition on removal of landmarks, as the references to 'ancestors' and 'fathers' show (Deut. 19:14; Prov. 22:28). To repeat and amplify our question: was this responsibility to ancestors simply the emotional bond of kinship stretched back metaphorically into the past in order to hallow the practice of inalienable tenure of land? Or were the fathers reckoned to have a continuing real existence in some kind of afterlife, the quality or felicity of which was in some way dependent on the continuance of a living family line on the ancestral land? Under the first alternative, preservation of the patrimonial estate would be the primary end, towards which a sense of loyalty to ancestors was a powerful, but auxiliary, means. Under the second, the welfare of the ancestors would be the primary end, and the preservation of their land a necessary means. Naboth's reply, therefore, could be interpreted, respectively, either as an appeal to filial piety in order to cling on to the threatened portion of land, or, reading his reply with the stress on 'my fathers', as a refusal to part with his land for the sake of their (and later, his own) undiminished felicity.

The second of these views is propounded with detailed and vigorous argument by H. C. Brichto: 'Kin, Cult, Land and Afterlife - a Biblical Complex'.<sup>24</sup> It is too lengthy to summarize, but his conclusion is worth quoting in full:

We believe that the evidence deduced from earliest Israelite sources through texts as late as the exilic prophets testifies overwhelmingly to a belief on the part of biblical Israel in an afterlife, an afterlife in which the dead, though apparently deprived of material substance, retain such personality characteristics as form, memory, consciousness and even knowledge of what happens to their descendants in the land of the living. They remain very much concerned about the fortunes of their descendants, for they are dependent on them, on their continued existence on the family land, on their performance of memorial rites, for a felicitous condition in the after life. Such a belief is not to be confused with "immortality only in their posterity" . . . ; nor with a vague hope that the dead continue as individuals or names in the memory of later generations. Nor is it to carry its train such conceptual baggage as Paradise, Elysian Fields, Resurrection, etc. This belief on the part of biblical Israel is not repudiated, nor are the basic practices attendant to it proscribed by the authoritative spokesmen of normative biblical religion. (pp. 48f)

Now, it is in the course of the arguments that lead Brichto to this conclusion, that he advances his particular interpretation of the fifth commandment. Although rites on behalf of the dead are nowhere explicitly prescribed in the OT they are forbidden only in connection with foreign deities or families (Ex. 34:11-16; Num. 25:1ff; *cf.* Ps. 106:28; Deut. 7:1-4), a fact which Brichto takes to imply that they were at least tolerated in Israelite families. He goes further, however, and suggests that such practical expressions of filial piety to deceased ancestors are in fact implicit in the frequent exhortations to respect for one's parents. And so the controversial suggestion is made that the fifth commandment itself refers primarily 'to

24. See note 23.

the respect to be shown for parents *after their death*' (p. 31, his italics), for it is then, being dependent in their afterlife on their descendants, that they stand in greatest need of protection from disloyalty or impiety. In support of this Brichto points to what he calls 'photographic negatives' of the fifth commandment in which one who fails to show respect to his parents will himself suffer extinction in the afterlife, by privation of proper sepulture (Prov. 20:20; 30:11,17).

In this treatment of the fifth commandment, however, it seems that Brichto has overstated his case - which is a pity, for much in the rest of his article is well said. It seems very unlikely that the commandment could have signified piety to deceased ancestors without much clearer indication. The comment that 'during their lifetime, parents in possession of the land . . . would know how to enforce respect' (p. 31), though true, in no way evacuates the accepted sense of the commandment of its force and validity. More important still is the fact that Brichto's introduction of the fifth commandment into his argument is at variance with his claim earlier in the article that he would be presenting material that belongs only to 'certain areas of belief and practice, deriving from ancient mores and folk-beliefs, to which normative Scriptural religion gives the sanction of passive toleration but withholds positive prescription or assent' (p. 4). But the fifth commandment, with its galaxy of supporting laws and exhortations, stands squarely and prominently in the mainstream of OT 'prescriptive' ethics. This would be quite inexplicable if it were primarily concerned with rites and practices which enjoyed no clear sanction from orthodox Yahwistic religion.

One must reject, therefore, this extension of the fifth commandment to include the veneration of deceased ancestors. Nevertheless, the rest of Brichto's article does make some positive contributions to our purpose.

i) His discussion of the socio-religious 'cloth' on which the fifth commandment is 'woven' usefully highlights the aspects of its social significance we are concerned with here.

Addressed to collective Israel (family, clan, tribe, people), it makes tenancy and tenure of the sacred soil contingent upon proper behaviour towards one's progenitors. Once again the association of parents, posterity and property!  
(p. 30)

Whereas, however, Brichto 'unpacks' the significance of this association primarily in terms of the individual's happiness in the afterlife, our interpretation linked it rather to the concern for the maintenance of the relationship between the people and God, and to the dependence of that relationship upon the stability and security of the household units. That is, we are concerned to bring out the theological significance of the commandment to Israel's historical faith, beyond whatever social background or folk-religious roots and associations it undoubtedly had.

This is analogous to our interpretation of the eighth commandment above. There is no reason to doubt that respect and piety towards parents and ancestors would have been part of Israel's conventional morality as an ancient people, even had she made no claim to be the people of God, or to have received special instruction for the purpose of maintaining and expressing that status. But since that status and its obligations were believed to exist, and since, as we have seen, the household with its land was crucial to this national concern, then assuredly the fifth commandment is concerned with something more than the personal felicity of parents in their after-life. Its very presence in the Decalogue indicates this decisively.

ii) Brichto has also performed a service in reminding us of the large bulk of practices and beliefs that must have existed in ancient Israel without finding clear mention in the canonical scripture - either in prohibition or prescription. Within this realm, he has drawn attention, to the existence of a strong family cultus in which kinship (past, present and future), land and religion blended into a continuum. We have emphasized here the importance of precisely this socio-economic and religious infrastructure as the basis on which, humanly speaking, the national relationship with Yahweh was grounded. It can now be seen that this represents a major example of the habit of Israelite religion of

taking over established culture patterns or political institutions, and then transforming them into vehicles of her own distinctive theology and ethics. In this case, however, the particular social phenomenon is not utilized simply as an analogical model which can give expression to certain aspects of Israel's relationship with God (like the father-son, or kingship-subject, or vassal treaty models). Rather it is utilized functionally. That is, the kinship-land units, with their existing religious and cultic rationale and practices were infused with a new meaning and given an actual, practical role in Israelite religion. They became the essential link between the theological self-understanding of the nation in its relationship with Yahweh, and the tangible, personal experience of that relationship in everyday life./25/

iii) The result of this adaptation and utilization was to harness the natural energies of filial piety and loyalty to kin and land, and to identify them with loyalty to Yahweh and the preservation of Israel's relationship to him. This is what the fifth commandment achieved. What would have been a natural instinct, reinforced, perhaps, if Brichto is right, by a nexus of concepts and beliefs concerning the survival and felicity of oneself and one's family in the afterlife, was amplified and transformed into a major ethical imperative. This imperative was then grounded not only on the transient question of personal and familial prudence, but on the solid theological consideration of the national interest and, like the rest of the Decalogue, on the historical events of Israel's redemptive faith.

25. The fact that the kin-cult-land complex was utilized in this way would explain why there is little or no apparent condemnation of certain cultic accoutrements of family religion, such as food-offerings to the deceased and the mysterious תרפים. If they served the crucial end of sustaining the strength of the family-land bond and the inner cohesion of the family, then, provided there was no question of the involvement of gods other than Yahweh, no necessity was apparently felt to jettison such practices as incompatible with the aniconic worship of Yahweh alone. As Brichto says: ' the presence of תרפים in Israelite homes need not reflect either idolatry in the literal sense nor ancestor worship in any sense. Veneration is not

Hence, a man's responsibility to his family and its land took on the form of a reflex of his primary responsibility to God himself. To fulfil the first was to go a long way towards fulfilling the second. Significantly, therefore, Naboth's reply to Ahab, to return to our point of departure in this section, incorporates both these dimensions of his obligations.

*YHWH Himself* keep far from me (the thought even)  
to let you have the estate of my ancestors!  
(Brichto's translation, my italics)

His refusal to part with a portion of his ancestral patrimony was as much a duty to God (sanctioned in his mind by a self-curse) as to his fathers. Correspondingly, the crime of Ahab and Jezebel of fraudulently robbing him of the whole of it went far beyond social injustice to Naboth and his family. It actually resulted in the direct involvement of God himself, through prophetic condemnation (I Kgs. 21:17ff) and in retributive punishment on them both - the punishments of extirpation and deprivation of sepulture (I Kgs. 21:21, 23f; II Kgs. 9:30-37; 10: 1-11).

#### *The Seventh Commandment*

Why was adultery a capital offence in Israel? This is question which is either ignored or inadequately met by those who treat adultery as simply a property offence, on the grounds that in Israel the wife was legally the property of the husband. This is a view which can be shown to be erroneous, but it lies beyond the scope of this paper to enter into argument on that subject. Rather, our concern is to seek an understanding of the motive behind the severity of the punishment for adultery.

D. Mace finds the reason for the severity in the importance of legitimate paternity and family continuance:

25 Contd.

worship and iconoplasm is not idolatry any more than iconoclasm is monotheism' (*ibid.*, 47).

The Hebrew horror of adultery, and the ruthlessness of the law in dealing with it, rested squarely upon the immensely important principle that a man must be sure that his children were his own. The whole conception of the family continuity was adamant in allowing no deviation from that principle./26/

Phillips agrees:

. . . through her (*sc.* the wife) . . . his name continued. The purpose of the legislation prohibiting adultery was therefore to protect the husband's name by assuring him that his children would be his own. . . . There is no thought of sexual ethics as such, but of paternity./27/

But is this an adequate reason by itself for the death penalty? Is it, indeed, strictly true? Legitimate paternity does not seem to have been exclusively confined to biological parentage, as is shown by the fact that the offspring of the levirate 'fiction' was reckoned as the heir and son of the non-biological father. Possible confusion of offspring is never explicitly mentioned as a justification of the death penalty in any of the laws prohibiting adultery. There can be no doubt that family continuity was a matter of utmost importance, but it is by no means certain that it was thought to be so threatened by an act of adultery that both parties should deserve death only or mainly on that account. A far greater and more immediate threat to family's continuity was posed by the refusal of the brother of a man who had died childless to perform his levirate duty for the widow. Yet he could be neither compelled to do so nor judicially punished (beyond a public disgrace - Deut. 25: 5-10)-let alone executed.

Mace offers two further reasons for the severity of the punishment for adultery in Israel: that it was a crime against society as a whole,/28/ and that in some way it

26. D. R. Mace, *Hebrew Marriage: A Sociological Study* (London, 1953) 242.

27. *Criminal Law*, 117.

28. *Op. cit.*, 244.

was also a crime against Yahweh./<sup>29</sup>/ Phillips goes further still. Notwithstanding the view he expresses elsewhere that wives were legally their husband's property, he argues that,

it is too simple a view of the law of adultery to regard the wife as merely part of her husband's property, for, in distinction from a daughter, by virtue of her marriage, she became an extension of the husband himself (Gen. 2:24).<sup>130</sup>/

This is a view which is necessary, of course, to Phillips' interpretation of the Decalogue as Israel's criminal (= capital) law. The seventh commandment cannot be merely a property offence, for if it were it would be neither capital nor, *ex hypothesi*, part of the Decalogue. Thus he continues:

The act of adultery was a crime which involved the person of a fellow member of the covenant community, and not a tort on his property. . . .  
But as adultery was a crime, it was regarded as a repudiation of Yahweh . . . and, therefore, like other crimes, threatened the covenant relationship (*loc. cit.*)

Neither Mace nor Phillips, however, seem to me to have uncovered the fundamental basis of the severity of the OT attitude to adultery. Indeed, there is a suspicion of circularity about Phillips' argument as quoted above. For he appears to be saying that adultery was a sin against, or repudiation of, Yahweh, because it was a 'crime', whereas the burden of his thesis is to show that certain acts were 'crimes' because they constituted repudiations of Yahweh. That is, he seems to be using as, part of his argument a definition which he is seeking to prove. This is not to say that he is not *right* to describe adultery as a 'crime' in his defined sense, but simply to say that I do not think he has established it on firm grounds. As regards Mace, it is insufficient to say that adultery was condemned because it was an offence against society *and* against God, when in fact there is a

29. Citing Gen. 20:2-7; 39:7-9; II Sam. 12:13f.

30. *Loc. cit.*

causal connection between these two respects which lies behind them both. It is a connection which rests upon that which we have sought to emphasize hitherto, namely, the socio-theological importance of the family.

Adultery was a crime against God inasmuch as it was a crime against the relationship between God and his people, Israel; and it was a crime against that relationship inasmuch as it was an attack upon the social basis on which it rested. We have argued that any attack on the stability of the household unit was a potential threat to the nation's relationship with God. This applied *externally*, if the *economic viability* of the household was threatened by theft, debt, eviction, etc.; hence the significance of the eighth and tenth commandments and related prophetic protests. And it applied *internally*, if there was disruption of the *domestic authority* within the family - hence the importance of the fifth commandment and related injunctions. It can now be seen that the seventh commandment also comes into this category and is based on the same principle, since adultery strikes at the very heart of the stability of the household by shattering the *sexual integrity* of the marriage.

From the general perspective of biblical sexual ethics, adultery is an act of immorality condemned on the basis of the biblical concept of marriage. But from the particular, historical perspective of Israel's relationship with Yahweh and the central importance of the household to it, adultery acquired an additional dimension of gravity which transcended private sexual morality,<sup>31/</sup> and raised it to the level of national concern. This explains why it is so frequently singled

31. It did not, however, 'neutralize' the moral aspect. When Phillips says that 'There is no thought of sexual ethics as such . . .', he seems to ignore that even in the case of non-adulterous sexual assault (Lev. 19:20ff) the offender was required to offer sacrifice as well as to make restitution. The sacrifice was presumably for the moral guilt of his action. Likewise, Hos. 4:14 militates against the common view that *only women* could be guilty of marital infidelity. Morally, if not legally, male promiscuity is condemned.

out by the prophets for condemnation,<sup>/32/</sup> and why it is included in the Decalogue; condemned in the prophets and prohibited in the law because both they and it were concerned above all to preserve the relationship between Israel and Yahweh, which they saw to be threatened at its familial roots by the crime of adultery. So then, while Mace and Phillips and others of like mind are quite right in asserting that adultery was an offence against society, against God, and against the covenant relationship, I believe it is this socio-theological dimension of the importance of the household that reveals more clearly and rationally why they are right.

It is interesting that the polemic against adultery that one finds in the early chapters of Proverbs supports our interpretation here, in that it draws attention to the social and economic effects Of succumbing to the seduction of the זרה ונכריה. A man who gets entangled with such a woman is likely to end up ruining his own family and substance. In so doing, he will cut himself off from the privilege of sharing in the land with the rest of God's people, and worst of all, he risks, through neglect of his family, the complete extinction of extirpation.<sup>/33/</sup> In short, he 'has no sense'; he 'destroys his own life'. (See Prov. 2:12-22;. 5:9f, 15-17; 6:26, 33, 35.) The sage relates the domestic aspect. of adultery to the wider concern of the whole community and its enjoyment of God's gift of the land. The fact that he does so indicates strongly that here too, as in other areas of the OT, the household was seen to be the primary locus for the individual of the obligations and privileges of the national relationship with God, and the basis on which his membership of the community rested.

32. *E.g.* Hos. 4:2; Jer. 7:9; 23:10; Ezek. 18:6,11,15; 22:11; 33:26.
33. On the horror of extirpation and all that it involved, cf. H. C. Brichto, 'Kin, Cult, Land'.