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“The Origins of Social Justice in the Ancient Mesopotamian Religious Traditions”

Brian R. Doak

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Note: This paper was solicited from me as an entry in an introductory multi-volume encyclopedia project on social justice in the world's religious traditions. I presented it, polished it up for publication, and then the whole project fell apart for some reason that I never understood a few months after I submitted the piece. Since it will never see the light of day otherwise, I post it here for whomever might find it useful.

(I) Introduction

The existence of written law in the ancient Near East predates the earliest legal codes of other notable ancient civilizations, including those in China and India; thus, through the early Mesopotamians, we are given the first actual historical glimpse of law as idealized and, in some cases, practiced in human civilization. We also receive, via the Mesopotamian legal writings, the earliest recorded answers to the complex questions engaging the greatest philosophers and social thinkers for the past five millennia: Why treat people fairly? Who deserves to be protected in society, and to what extent? What makes someone truly guilty of a crime? By what authority will the state punish offenders? What is justice?

An immediate problem confronting those who wish to study Near Eastern law involves the breadth and ambiguity of the category itself; the “Near East,” broadly speaking, and more narrowly, “Mesopotamia” has been home to dozens of languages/dialects and distinct cultures throughout the last 12,000 or so years of permanent settlement. Even so, most of the field’s leading scholars claim that we can speak of “Near Eastern law” generally, based on what Raymond Westbrook calls a “remarkable continuity in fundamental juridical concepts over the course of three millennia” (2003: 4). Consequently, the law collections from the Near East share a “legal ontology,” the evidence of which is present in some form (be it specific or in ideological framework) in each text. The bulk of our materials come from the Old Babylonian (19th-16th centuries BCE), Neo Babylonian (late 7th century-6th century BCE) and Persian (6th-4th centuries BCE) periods, although materials referencing the quest for social justice are scattered throughout all periods. In fact, many potentially key materials await discovery and/or translation at this present time.

Nonetheless, we currently possess thousands of ancient documents wherein legal materials are preserved and the demands for social justice articulated; formal “law codes” (although the term “code” proves insufficient for a number of reasons) such as the famous stele of Hammurabi (18th century BCE; hereafter LH), comprise only one important source of information. Other evidence comes in the form of royal decrees and edicts, royal instructions, trial records (propagated by scribal schools for academic purposes), lexical texts (“dictionaries,” some devoted to legal terminology), written economic transactions, private letters and of course, mythical literature. Justice (Akkadian *mīšarum* and Sumerian *níg-si-sá*) in Mesopotamia (along with its approximate counterparts, *šāphat* and *sedeqah* in the Hebrew Bible) entails both the alleviation of suffering for the poor, mistreated, and marginalized and the conviction and punishment of the oppressors. Thus, the concept of “social justice” in Mesopotamia can refer

broadly to any aspect of crime or punishment, for anyone who is considered “wronged” in any circumstance. Justice does not only apply to the poor or marginalized, although these groups (often represented by vulnerable individuals such as widows and orphans) are often highlighted as most susceptible to abuse and therefore most in need of protection; even the worst of criminals were offered protection in various circumstances (Westbrook 1995: 158).

(II) Why Act Justly? The Rationale for Social Justice

The search for a comprehensive logic or rationale behind the desire to ensure social justice in the ancient Near East is destined to fall short of the goal. Mesopotamian juridical logic is not “logic” in the Aristotelian sense; abstract concepts such as “equality,” “spirituality,” or even “justice” *per se* are not defined in the ancient literature, nor did the Mesopotamians create comprehensive categories and sub-divisions of these categories to address, at least in theory, an exhaustive range of possible circumstances. These ancient legal materials, like the Mesopotamian divinatory texts, are arranged in list format, sometimes strangely specific and almost always casuistic in nature. Consider, for example, LH 25 (Richardson 2000: 29-134):

If there has been an outbreak of fire in a man’s house and a man who has gone to put it out catches sight of the private possessions of the owner of the house and takes them, that man shall be thrown into that same fire.

The nature of such a pronouncement is not that of a contemplative philosophy of law in the modern sense. Clearly what we have here is a specific example of a judgment, by a judge perhaps, or even the endorsement of a particular act of punishment which has already been done and not a case presented to a legislature. Hammurabi’s laws are not merely a random sampling of rulings selected from any one particular time period, however; in the form we now possess, Hammurabi’s “code” could not have been possible until near the end of his 40 year reign, since in the prologue of the stele the king implies that he controls the city of Ešnunna (P37ff.), which had not occurred until his 38th year (Bottéro 1992: 165). Therefore the answers for “Why be just,” in terms of the ancient Mesopotamian outlook, cannot be found in any abstract ancient treatise on the subject of fairness or social justice. Instead, we are forced to cull amongst the extant cuneiform literature for evidence of the rationale for social justice.

Justice and the Gods, Justice and the King. The Mesopotamians, like all ancient humans (or at least the ones who have left us written records), sought to anchor their most cherished values in the realm of the immutable (Irani 1995: 2). Regarding the question, “Where do justice and the law come from?” ancient Mesopotamians did not rely on what we would call “secular” explanations or justifications based on “natural law” or “human rights,” all of which are innovations of the post-Enlightenment world. Likewise, equating the search for justice with essentially “religious” goals as opposed to other categories (political, economic, etc.) proves inadequate since our modern notions of personal “spirituality” are incompatible with the ancient cultural-religious milieu. Worshipping the deities, for an ancient Mesopotamian, was not an avenue through which one might routinely express his/her personal creativity, relegated to the “secular” sphere of citizenry which is “separate” (to use contemporary political lingo) from the political life of the village or city. Rather, the ideal explanation for “Why be just” is grounded in the divine order; the gods are just, and therefore we will be just (although, on several occasions, the gods appear to act in completely arbitrary manners). External powers are imagined to inspire the drive and the “religious,” the “political,” the “personal,” and the group are all intertwined with one another. In the introduction to her seminal work, *Purity and Danger*, anthropologist

Mary Douglas phrases the issue this way when speaking about beliefs regarding contagion, danger and social order (1966: 3-4):

These danger-beliefs are as much threats which one man uses to coerce another as dangers which he himself fears to incur by his own lapses from righteousness. They are a strong language of mutual exhortation. At this level the laws of nature are dragged in to sanction the moral code: this kind of disease is caused by adultery, that by incest; this meteorological disaster is the effect of political disloyalty, that the effect of impiety. The whole universe is harnessed to men's attempts to force one another into good citizenship.

Our earliest written collection of juridical concepts is the so-called *Code of Ur-Nammu*, inscribed sometime during the last century of the 3rd millennium BCE (see Roth 1995). In the prologue (which is well preserved), Ur-Nammu calls himself a “might warrior” and immediately extols himself for establishing a generous set of offerings (barley, sheep, butter, etc.) as regular offerings in the prominent temple. The divine patron of Ur, the moon god Nanna, is said to have received the kingdom from his parents, An and Enlil, and thus it is passed to Ur-Nammu the human leader. Ur-Nammu boasts a variety of accomplishments, which include regulating riverboat traffic, providing generous set offerings for the deities, standardizing various weights and measures and a variety of other things. Near the beginning of his prologue, Ur-Nammu probably appealed to the god of justice, Utu, for inspiration in the field of social justice: “[by the might] of the god Nanna, my lord, [by the true command of the god Utu(?)], I established [justice in the land (?)]” (Roth 1995: 15).

Indeed, Ur-Nammu makes a series of further claims which relate directly to the treatment of the weak and easily-oppressed:

I did not deliver the orphan to the rich. I did not deliver the widow to the mighty. I did not deliver the man with but one shekel to the man with one mina [i.e. 60 shekels]. I did not deliver the man with but one sheep to the man with one ox.

Ur-Nammu ends the prologue with the optimistic claim that he has “eliminated enmity, violence, and cries for justice. I established justice in the land.” A little over a century after Ur-Nammu, Lipit-Ishtar (c. 1934-1924 BCE) consolidated the political and military resources of southern Mesopotamia and established Isin as an important cultic center (Roth 1995: 23). Lipit-Ishtar, the self-proclaimed “wise shepherd” of the land, claims to receive authority from An and Enlil to “establish justice in the land, to eliminate cries for justice, to eradicate enmity and armed violence.” Kings often took advantage of their early rule to elaborate on ideal visions of complete justice and improvement throughout the land, much like a modern political leader who uses his/her inaugural speech to outline a series of (often unrealistic) goals and ideals for their tenure in office. By conquering and organizing various cities in southern Mesopotamia, Lipit-Ishtar is able to claim that he has “liberated the sons and daughters” of Nippur, Ur, Isin and the entire lands of Sumer and Akkad, “who were subjugated [by the yoke(?)], and I restored order. With a ... decree(?) I made the father support his children, I made the child support his father. I made the father stand by his children, I made the child stand by his father” (Roth 1995). It is hard to know exactly what kind of reform Lipit-Ishtar had in mind, or how such things could be practically enforced. Perhaps he meant to refer to certain decrees elaborated later in the inscription in paragraph 31 (Roth 1995: 32):

If a father, during his lifetime, gives his favored son a gift for which he writes a sealed document, after the father has died the heirs shall divide the (remaining)

paternal estate; they will not contest the share which was allotted, they will not repudiate their father's word.

The epilogue seals the authority of Lipit-Ishtar's decrees with the authority of the "true word of the god Utu."

Ancient Mesopotamian polytheism fostered a view of divinity wherein responsibility for various spheres of human concern was delegated to a variety of divine powers; to neglect worship or reverence for any particular deity would thus constitute a fundamental neglect for the realm of human experience embodied by that deity. A particular deity may stake a claim to rule the divine assembly through promising to establish justice where other deities have failed. For example, the biblical Psalm 82:3-4 describes the West Semitic Israelite deity, YHWH, rising above his competitors and establishing justice (Hebrew *šāpat*). YHWH supplants the other gods, who are considered ineffective and negligent of their divine duties and is then called upon to rise up and "judge the earth." For the ancient Mesopotamians, it was Shamash/UTU who embodied the ideals of social justice. Toward the end of the 2nd millennium BCE, an Akkadian text celebrating Shamash was composed. Elements of this so-called "Hymn to Shamash" highlight the role of the sun-god as sponsor of justice and overseer of human affairs (Bottéro 1992: 209-10):

Shamash, illuminator of the entire heaven, who lightens the darkness....
Your rays grasp everything that is hidden,
and the behavior of humans is revealed by your light!....
Perched on the highest mountains you inspect the world and,
from the midst of heaven, you balance the universe....
You shepherd all living beings;
to the upper and the lower regions you are the only shepherd....

Another revealing passage presents Shamash as the helper of the oppressed and gives, in the words of Carlo Zaccagnini, "an almost complete roll of the recurrent miseries suffered by the lower social strata of the ancient Near East" (1994: 283).

You, Shamash, listen to prayer, supplication and benediction, obeisance, kneeling, ritual murmurs and prostration. The person of low status invokes you from the depth of his mouth. The humble, the weak, the afflicted, the poor, the mother whose son is captive constantly and unceasingly pray to you. He whose family is remote, whose city is distant, the shepherd amid the terror of the steppe prays to you, the herdsman in warfare, the keeper of sheep among enemies.

Shamash makes a good candidate for "deity of social justice" since from his daily orbit he observes the vista of the known universe and its inhabitants, great and small, king and slave, male and female, living and dead. The reliability and predictability of the sun also makes the Shamash an appropriate representative for justice, since the needs of the community are reborn every day and must be met with continual and steadfast responses (Nel 2000: 145). Shamash's divine offspring, Kittum ("Truth") and Misharum ("Equity," "Justice") attest his ability to reproduce the elements of justice and equality in both the divine and human realms.

The ancient iconography often depicts Shamash holding a pruning saw (*šaššaru*), sitting in judgment as rays of the sun radiate from his shoulders. In one Akkadian period cylinder seal, Shamash sits enthroned before a set of scales, tipping the balance of justice (presumably) in accordance with the petitions of his worshippers, who bring an animal offering before the god (Black 1992: 182-4). The image of the scales also played an important role in ancient Egyptian concepts of justice (*ma'at*); in iconographic scenes accompanying the text of the *Book of the*

Dead the Egyptians often depicted a heart being weighed in the balance against the requirements of *ma'at*, represented by a feather (Morschauser 1995: 106). This idea of the scale, of balance, is itself fundamental to the Mesopotamian understanding social justice. As Westbrook states, “social justice was regarded in the ancient Near East as the preservation of the status quo—as the privileges owed to each citizen as member of a family unit with a certain recognized socioeconomic status. Where those privileges were lost through an act of oppression, certain mechanisms were available to restore the balance” (1995: 161; c.f. Foster 1995: 168).

Early in his prologue, Hammurabi associates himself closely with Shamash. The king claims he will “rise like Shamash over the mass of humanity, illuminating the land,” and that he will “listen obediently to Shamash, who powerfully fixes the foundations of Sippar” (Richardson 2000: 31). Shining-sun imagery is then used of the king again in the epilogue, where Hammurabi declares that he has “made the light shine” for his people, and that his justice will “shine over the land” under the direction of Shamash, and so on. Indeed, the diorite stele upon which Hammurabi’s legal examples are posted displays Hammurabi as the obedient disciple of Shamash, attending the deity who sits powerfully on a throne (Frankfort 1989: 119; Michalowski 1990: 62). Hammurabi does not claim divinity for himself directly, but he is clearly positioned with the attributes of various deities invoked by the inscription. As the primary and authoritative living image of the deities on earth, Near Eastern monarchs presented themselves as the guarantors of divine justice. Mesopotamian kings, with a few notable exceptions, did not proclaim themselves outright as actual divinities, but their role is nonetheless cemented into the fabric of the universe, like the idea of the social order and the deities themselves. Hammurabi claims to have been ordained by Anu and Enlil specifically with the purpose of establishing “justice within the land” and “to stop the mighty exploiting the weak” (Richardson 2000: 30-1). We are reminded of the intimate connection in ancient Mesopotamia between the monarch and the gods—if the gods are perceived as demanding social justice, the king as the gods’ representative on earth must also establish justice.

Much can be said regarding whether or not the deities themselves actually exhibit justice or fairness in their dealings, or whether the king followed suit with sundry abuses and inconsistencies of his own accord. In his important work comparing social justice in the ancient Near East and in ancient Israel, Moshe Weinfeld claims that the Mesopotamians instituted social reforms solely “to win over the hearts of the people,” and held “no genuine concern for improving the lot of the poor among their people” (1995: 10). Weinfeld constantly seeks to draw distinctions between Mesopotamian and Israelite notions of “freedom,” the latter of which he supposes are born out of “purely religious” notions, whereas the Mesopotamians sought to free slaves from their lowly positions only so that they could serve as slaves to the gods and priests in the temples (1995: 11). The inscription of Maništusu (2100s BCE), king of Akkad, claims that Maništusu “freed thirty-eight cities from corvée and from levy, that they might serve on behalf of the temple of the god Shamash alone” and can be cited to illustrate this point (Weinfeld 1995: 16). Although any society which keeps slaves can hardly be viewed as one exhibiting “social justice” at all to our modern ears, we must remember that slavery in the ANE is a relative term, and thus was “used relatively to describe one’s relationship to any hierarchical superior” (Westbrook 1995: 149). A household may own slaves, all citizens are slaves to the king, and all humans are slaves to the deities. Still, outright slavery was common in many periods, as those captured in war or debtors formed the main base of slave labor.

To be sure, the cultural-religious matrix of the ancient Near East precluded the possibility for radical social reform based on ideal principles in most circumstances. Ancient Near Eastern

kings, like their modern political counterparts around the world, sought favor and support through a variety of campaign promises and official decrees. One method involved proclaiming a general *mīšarum*, or “decree of equity” (Westbrook 2003: 407; Greengus 2000). This decree would have involved the freeing of debt-slaves from their current service as a “goodwill” gesture, as well as the forgiveness of debts in general. A similar type of decree called a *šūdūtu* (“decree, edict, proclamation”) can be found in the Nuzi archives (1450-1340 BCE) and also involves “the protection or occasional release of people who, for different reasons, were in a state of servitude” (Zaccagnini 2003: 566). Various other forms of release from debt and/or debt slavery also fall under this category. We would be justified to voice some suspicion regarding the nature and effectiveness of these decrees, or ponder skeptically as to whether or not they produced real social benefits for people. Some scholars have even wondered whether such “social reforms” actually favored wealthy lenders (even if unintentionally) by lowering the price of land and causing high, short-term interest rates (Foster 1995: 167-8).

Still, the kind of cynicism toward the Mesopotamian materials displayed by some commentators (e.g. Weinfeld, as cited above, and Epsztein, below) is not warranted. For example, Weinfeld proceeds to contrast Maništušu’s temple slavery with Lev. 25.25 (“If one of your countrymen becomes poor and sells some of his property, his nearest relative is to come and redeem what his countryman has sold.”) This is certainly a lofty ideal, but we do not have any more evidence that such redemptions were carried out in First Temple Israel than we do for the improved state of the poor during Maništušu’s reign. In fact, the 8th century prophetic condemnations of Hosea, Amos, and Isaiah all seem to assume that such provisions (as in Lev. 25.25) were *not* effectively carried out. And what of the assertion that social justice in Mesopotamia is not done on “purely religious” grounds, as Weinfeld claims for Israel’s laws? By what criteria does one make these distinctions? Léon Epsztein also declares that “justice in Israel more than elsewhere has a basically religious stamp” (1986: 104). Israel’s king is not accorded divinity, Epsztein claims, and the implication is then apparently that the king would be “less-oppressive” and would remain “a chief among equals.” David seems to have judged cases from time to time (2Sam 14), but the fact that we do not yet possess anything like a “law code” from any Israelite monarch, combined with the hoary and convoluted debate about the antiquity of the sources of the Torah make it very problematic to make sweeping historical judgments about the role of Israel’s king vis-à-vis the law.

Perhaps one of the earliest recorded attempts at a “social reform” by a monarch was carried out in the 3rd millennium by Uruinimgina/Urukagina (c. 2300 BCE). The meaning and text of Uruinimgina’s reform has caused ample puzzlement among scholars, but enough can be discerned to affirm that we have here some attempt at programmatic social reversals (translated by Foster 1995: 173-4):

- (1) From the distant days, from the very beginning, boatman would take possession of boat, herdsman would take possession of donkey, shepherd would take possession of sheep...
 - (2) The gods’ cattle plowed the ruler’s onion patch...
 - (7) From the boundary of Ningirsu, as far as the sea there were inspectors. The (servile class called) “subordinate to the king” dug wells at the side of their fields and took possession of blinded people (for labor), they took blinded people for the irrigation ditches which were in the fields.
- These were the practices then...

Uruinimagina then proceeds to tell how things have changed, although it is not always clear why things have changed, or if the changes are for the better or for the general populous. For example, in the supposedly new era, “Boatman was removed from boat, herdsman was removed from donkeys and sheep,” and so forth. “From the border of Ningirsu to the sea no one was inspector” (Foster 1995: 173-4). Although, as Foster suggests, it is possible that Uruinimagina is only trying to strengthen his position over and against the temples, “he is at least a candidate for the category ‘social reformer’” (1995: 169).

On a formal level, the role of precedent seems to be somewhat minimal for the monarch’s establishment of justice and law. We have only two apparent examples of a clear deferral to something like formal precedent, recorded in the fallout of the so-called Temple Sermon of Jeremiah (Jeremiah 26.17) and in the epilogue of Hammurabi’s Laws, where the king himself suggests that his judgments be used as precedent for future rulings (Richardson 2000: 123):

I have written these very special words of mine on this stone;
I have set them together with the image of me, the king of justice....
so that disputes may be settled in the land,
so that decisions may be made in the land,
so that the oppressed may be treated properly....
Let any man oppressed, anyone who has a complaint,
come before this statue of the king of justice
and let him have the message on the stone read aloud,
and let him listen to the treasured words I have written,
and may my stela resolve his complaint....
let this stela explain to him the customs and traditions,
the social problems I encountered
and the decisions I have taken for the community.

These examples are the exception and not the rule. Beginning in the Hellenistic period, however, we see an explosion of citations to earlier law, and from this time forward written precedent and abstract legal principles become increasingly important (Westbrook 2003: 19).

Justice and the Village. Another sometimes neglected context of ancient Near Eastern law involves the operation of legal principles at the level of the village. In fact, this local setting provides the most important framework for understanding the Mesopotamian impulse to provide social justice since it is the basic social unit (intermixed with that of the family) wherein the vast majority of individuals lived their lives. The image of the family unit provided the fundamental imagery for all societal relations and obligations, so that the king served as “father” for the greater population and took on the burden of providing justice as the family father ensured right relationships at the most intimate level of social life (Westbrook 1995, 151).

Again, we should be reminded that the orality of law in the ancient Near Eastern social context is paramount—we have little or no evidence that indicates written codes, *in isolation*, held independent legal authority; one leading interpreter suggests the written documents are really nothing more than “protocols of oral transactions” (Westbrook 2003: 19). As such, the practice of justice in Mesopotamia was not bound by bureaucracy as it would be in later time periods. The relationship between “formal law” and practice was fluid and allowed for the kind of flexibility necessary to meet local needs, though in many cases probably at the expense of consistency.

Regarding this connection between law and practice, we have almost no direct reference linking the physical law collections and the practice of individuals or rulers. A notable exception

occurs in an Old Babylonian letter (published only in two dissertations) referencing a *narû* (Akk. for “stela”) upon which the author describes wages for textile workers. After quoting a series of wages for various workers, the author maintains that the “wages for a hired worker are recorded on the stela. In accordance with what they spoke to you, either grain or in silver, do not withhold their wages! And when I come there, I will investigate the matter personally and I will deduct their wages from the work assignment (Roth 1995: 6). Apparently the *narû* carries some amount of weight as a reference tool and could be used in an attempt to cow over the transgressors with official-sounding rhetoric. But in the end, the real emphasis falls on the threat of a *personal investigation* by the author. The strength of an enforcing personality, whether it be a “judge” or the body of local authorities (as was often the case), apparently trumped the effect of official attempts at centralized law. The individual judge (whether king-appointed or simply recognized by his/her community for wisdom) occupied a critical role and had to possess the proper attributes. As Westbrook states (2003: 87),

The qualities of a judge included not only probity, but also a heightened sense of right and justice, and a special regard for the weaker elements of society. Indeed, a greater stress was laid upon these qualities than in modern society, and for good reason. Modern law relies upon the absence of personal interest and adherence to the letter of the law to ensure the objectivity of its judges. Ancient judges, often administrators and wealthy local landowners, were not shielded from personal interest in disputes or from acquaintance with the parties, and could not seek refuge in the strict wording of legal texts. It therefore fell to personal qualities to achieve the same ends.

In other words, the ancient village legal context did not permit the anonymity and “objectivity” associated with our own modern legal systems. Ancient Mesopotamian officials probably were not able to preserve for themselves the kind of distance from other humans which is afforded to politicians today; ancient Mesopotamia did not have cities of millions of people who could be separated by miles of concrete or high-rise buildings.

Prominent community members other than the king served in the local context as the primary sponsors of justice for the poor and oppressed. In the *Aqhat Epic* (Ugarit, 14th century BCE), the patriarchal figure Daniel is observed in his “normal,” “daily” life (apart from making deals with gods/goddess and offering sacrifices) playing the role of judge at the city gate and threshing floor (Parker 1997: 58):

Now Daniel, man of Rapiu,
The hero, man of the Harnemite,
Gets up and sits by the gateway,
Among the chiefs on the threshing floor;
Takes care of the case of the widow,
Defends the need of the orphan. (Col. V.4-8)

Although this depiction is perhaps an overstated attempt to show Daniel as the ideal leader and wise elder, the role of local officials is primary and the ideal male elder is attentive to the needs of those who are unlike himself, i.e. weak and marginalized. This is not to diminish the role of the ancient Near Eastern state or the king in providing legal boundaries and attempting to secure social justice for its citizens. Rather, we must recognize the fundamentally local and personal nature of ensuring justice in the Mesopotamian context. Although some kings are indeed depicted as hearing cases personally, this occurred on a limited scale; many significant decisions

in and around the capital city were rendered by ruler-appointed representatives or local judges, even though, officially, “justice was a royal prerogative” (Bottéro 1992: 165).

Practically speaking, there is quite a difference between the direct methods of punishment and those who are permitted to carry out a sentence in the ancient Mesopotamian context and today. Whereas modern executions for murder take place with some anonymity (i.e. judges, jurists and executioners are usually not family members of the deceased), the wronged family in ancient Mesopotamia could take up the task of executing the offender directly. Two stark examples from the Middle Assyrian Laws (c. 1076 BCE) should suffice here (Roth 1995):

A10: [If either] a man or a woman enters [another man’s] house and kills [either a man] or a woman, [they shall hand over] the manslayers [to the head of the household]; if he so chooses, he shall kill them....

A16: If a man [should fornicate] with the wife of a man [...by] her invitation, there is no punishment for the man; the man (i.e. husband) shall impose whatever punishment he chooses upon his wife....

The entire “legal framework,” then, is not centralized, but is bound up in village political structure and the prevailing gender hierarchies. Likewise, the ideals of social justice could not have taken on a purely (or even ideally) “religious” intonation since the realities of justice and inequality on the village level must have been confronted in intimate settings among humans who could not easily remain anonymous or distanced from each other. The famous *lex talionis*, or “law of reciprocity,” articulated with the principle of an “eye for an eye,” acutely reflects the local context of law, where both perpetrator and victim were likely acquainted with each other in some way before the crime (in a large majority of cases, this is still true today). The eye for an eye principle plays an important symbolic role, besides acting as a deterrent, by setting the act of injury within the context of personal equality.

LH 196: If a man has destroyed the sight of another similar person, they shall destroy his sight. 197: If he has broken another man’s bone, they shall break one of his bones. (Richardson 2000: 105)

Of course, this equality is tainted, by our modern perspectives, by the fact that the *lex talionis* only applies *between equals*. The next law, LH 198, spells this out clearly: “If he has destroyed the sight of a *muškēnum* [dependent, serf, commoner—as opposed to an *awīlum*] or broken a bone of a *muškēnum*, he shall pay one mana of silver.” The ancient world allowed for little or no “social mobility” (on our modern sense of the phrase) save for exceptional cases; Sargon’s legendary birth narrative provides the needed justification for such a shift, as does king David’s in the Hebrew Bible. Furthermore, ancient Near Eastern law did not *consistently* distinguish social status when meting out social justice, although this is not always the case. An exception occurs in LH, wherein the stele makes a distinction between an *awīlum* (citizen, free person) and a *muškēnum*. Consider LH 202-204 (Richardson 2000):

202. If an *awīlum* has struck the cheek of a man who is more important than he, he shall be struck in the council 60 times with an ox tail.

203. If one *awīlum* has struck the cheek of another such man of similar status [i.e., another *awīlum*], he shall pay one mana of silver.

204. If a *muškēnum* has struck the cheek of another *muškēnum*, he shall pay ten shekels of silver.

Payments for injury (as reflected in LH, the laws of Ur-Nammu or the so-called “Hittite Code”) can be difficult to negotiate—how much, exactly, is an eye or a foot or a hand worth? Monetary payments do not solve all problems. Take for example, LH 21: “If a man has smashed

a way into a house, they shall kill him by hanging him just where he broke in.” This kind of solution is gritty, personal and local. In this situation, there is no room given for multi-year trials or government programs of reform and rehabilitation. Rather, there is a basic assumption that the households and village hierarchy is sufficient to meet the needs of the wronged and provide adequate responses to social problems.

(III) Conclusions: Wisdom and the Vision of Social Justice

Despite the confident words of ancient monarchs, justice was never easy and never guaranteed for anyone. Alongside the proclamations of ancient Mesopotamian kings stands another body of literature that sometimes presents the need for social justice and the reality of achieving justice through a very different lens, namely, wisdom literature. Whereas the biblical Proverbists are generally optimistic about the inherent justice in the world, the reality of attaining justice is often questioned in the Near Eastern wisdom materials, even while their authors usually extol the value of ensuring justice for the weak. Take, for example, the debate between a master and a slave in the enigmatic *Dialogue of Pessimism*. This short work, written in Akkadian cuneiform sometime after the 12th century BCE, seems to meditate, playfully, on the futility of human effort and achievement. Take, for example, this paradoxically humorous conversation between a master and a slave regarding revolutionary ventures (translation from Bottéro 1992: 254-5):

Slave, listen to me!—Here I am, master, here I am!
 —I want to lead a revolution!—So lead, master, lead!
 If you do not lead a revolution, where will [your clo]thes come from?
 And who will enable you to fill your b[elly]?
 —O well, slave, I do not want to lead a revolution!
 —[Do not lead, master, do not lead a revolution!]
 The man who leads a revolution is either killed, or flayed,
 Or has his eyes put out, or is arrested and thrown in jail!

Here, the slave goads his master on to rebellion; the slave’s remarks concerning why a revolution is needed are instructive. “If you do not lead a revolution, where will your clothes come from? And who will enable you to fill your belly?” The implication here is perhaps that one cannot expect to be clothed and fed properly short of a formal revolution, when clothing for the naked and food for the destitute must be taken by force (although one would presume here that the master can secure his own clothing and food, while the slave represents one who cannot!). Utopias are not in need of insurgencies. But when the fickle master changes his mind, the slave accurately points out the high cost of resistance in an authoritarian state. Apparently, from the author’s historical point of view, the ideals of peace and justice were discarded routinely, and no amount of insurrection or force could change the situation. Thus the master moves on to a new idea:

Slave, listen to me!—Here I am, master, here I am!
 —I want to perform a public benefit for my country!
 [one variant states: “I want to distribute free food rations to my country”]
 —So do it master, do it!
 The man who performs a public benefit for his country,
 His actions are “exposed” to the “circle” of Marduk [i.e. Marduk will reward this individual]
 —O well, slave, I do not want to perform a public benefit for my country!

—Do not perform, master, do not perform!
 Go up the ancient tells and walk about,
 See the mixed skulls of plebeians and nobles:
 Which is the malefactor, and which is the benefactor? (Bottéro 1992: 256)

In this exchange, the master again travels a journey from optimism to pessimism, from action to inaction, which culminates again in the amusing confirmation of the master's wishes by the slave. The joy of ensuring social justice, through public benefits or free giveaways, is negated by the slave's mockery of human justice; the bones of the rich and the poor are indiscernible in the dust. There is a certain element of humor in all of this, to be sure. But the line between the silly and the serious is sometimes razor thin, as it is for the author of the *Dialogue*.

The fact that line 76 of the *Dialogue* ("Go up the ancient tells and walk about") also serves as an inclusio for the well-known *Epic of Gilgamesh*, mentioned prominently at the beginning and end of Gilgamesh's famous journey, is both ironic and poignant in its application to the quest for social justice. As king Gilgamesh's journey for immortality takes him from extreme ambition to an acceptance of his limited role as a human, so too our author of the *Dialogue* moves us through the extremes of human ideals but does not settle for trite answers. If anything, the master in the *Dialogue* becomes paralyzed to the point of inactivity, and in the end of the poem, to the point of contemplating suicide. As Bottéro points out, the author of the *Dialogue* emphasizes the difference between gods and humans, and "stresses continuously the limits of human intelligence...we never have the last word, including that regarding the pure meaning of the world, of our activities, and of our existence. *Others* know it, higher than us, and that should suffice to keep us tranquil" (Bottéro 1992: 267). Similarly, the reader of *Gilgamesh* is compelled to see the mysteries and even caprice of divinity, and for better or for worse, the citizens of Uruk must look to strong-men like Gilgamesh to ensure fair treatment, though they may not receive it. Although the deities' role in ensuring social justice is emphasized in some monumental inscriptions, even the greatest mythical materials of the ancient Mesopotamian traditions point the reader toward the mundane and yet vital contexts of the family, city and village as the foci of judgment and fair social treatment.

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