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Introducing Interpretation of Biblical Law

(I) Introduction

First, read Schnittjer, *OT Use of OT*, 17–20, 39–40, and 78–88. The following notes are a supplement to this set of introductions to exegesis in legal instruction in Torah.

(II) Law forms

There are two basic forms of commands: **Apodictic or absolute law**, You shall (not) X; **Casuistic or case law**, If a person does X or if a person is responsible for Y, then the legal consequence is Z. These two basic forms have diversity and flexible shape. The term apodictic means “clear demonstration, established on incontrovertible evidence”¹ which exaggerates the category. In common usage, “apodictic laws” of Torah refer to categorical laws versus case laws which deal with particular situations. Because of the flexibility in framing laws, the student would do well to of apodictic and casuistic as two broad categories.

Apodictic laws of prohibition may be 2nd singular “thou shall not,” 2nd plural “you shall not,” or 3rd person “he shall not,”² and use both אִלֵּם and לֹא prohibitives.³

Casuistic or case laws include a **protasis** which presents the hypothetical features of the case under consideration. The main case normally begins with וְ and subordinate cases, or subcategories, may begin with אִם. The apodosis refers to the legal **consequences** of the case described.⁴ In some case laws the consequences are remedial prescribing punishment (e.g., a fine Exod 21:22) and others establishes rights and responsibilities (e.g., buyer of slave has right to six years of labor and debt slave has right to freedom when term in completed, 21:2–6).⁵

Table 1 provides a summary of some of the disguising literary signals for analyzing the structure of law. These are flexible categories and the variety and specific presentation and context needs to be considered carefully in each case. The purpose of attending to these details in not to place them in a category or figure out what label fits. The importance hinges on recognizing the syntactical subordination of clauses and sub-clauses to think through how given laws function. These syntactical features are intermediate observations for theological interpretation.

¹ Cited in Sonsino 1992, 4:253

² Bright, 186

³ Soncino, 4: 253. Bright presents biblical tendencies for אִלֵּם prohibitions to be stronger than לֹא prohibitions, and that אִלֵּם prohibitions are more often from God and his spokespersons (197). While he seeks to locate אִלֵּם prohibitions more in law and לֹא prohibitions in wisdom (200–2), there are exceptions and the suggested difference in force is not always evident (Soncino 4: 253).

⁴ Patrick, 180

⁵ Ibid., 180–181

Table 1: Syntactic Analysis of Law Forms⁶

case laws

(A) “When/if” form: protasis describing case introduced by כִּי (“when” or “in the case that”). Subordinate cases may be introduced by אִם “if,” או “or,” אִם אָדָּא “but if,” אִם וְהָיָה אִם “and if.”

subgroups: (1) “When he” typically with 3rd person imperfect verbs (singular or plural) (e.g., Exod 21:37); a variation: protasis introduced by כִּי אִישׁ כִּי “when a person” (e.g., Lev 24:17). (2) “When you” typically protasis and apodosis contain 2nd person verbs (singular or plural) (e.g., Deut 24:10). (3) Mixed forms: protasis in 3rd person and apodosis in 2nd person or vice versa (e.g., Deut 22:23–24; Exod 21:2).

(B) Relative form: protasis introduced by subject and אֲשֶׁר “who” or simply אֲשֶׁר.

subgroups: (1) “A person who” אִישׁ אֲשֶׁר, and (2) Mixed forms: a few case where protasis verb in 3rd person imperfect and apodosis 1st or 2nd person perfect (e.g., Lev 17:10; 20:16).

(C) Participle form: protasis introduced by participle and apodosis in 3rd person (e.g., Exod 21:12).

apodictic laws

(A) Direct address.

(1) Positive commands: In 2nd person imperfect (e.g., Exod 20:24); Imperative (e.g., 20:12); Infinitive absolute (e.g., 20:8). (2) Negative commands: אַל plus imperfect (e.g., 20:14) or אַל plus jussive (e.g., Lev 19:29).

(B) 3rd person jussive.

(1) Positive commands (e.g., Lev 7:2). (2) Negative commands (e.g., Lev 21:5).

Presenting case law in 2nd versus 3rd person language tends to personalize law and, thus, increase motivation.⁷

Wee uses Numbers 27:8–11 as a sort of textbook kind of example illustrating a main case and subordinate cases.⁸ Table 2 presents an adaptation of the organizational levels of a case law with literary signals noted above in Table 1 spelled out. In Table 2, notice that the series of wcp forms in the subcases continue the sense of impf in the main case.

⁶ Adapted from Sonsino 1992, 4: 253; also see Soncino 1980, chap 1. Although Longacre suggested wcp verbs function in certain way in biblical laws, Muraoka definitively critiques and dismisses the set of suggestions. See Robert Longacre “*Weqatal* Forms in Biblical Hebrew Prose: A Discourse-modular Approach,” in Robert D. Bergen, ed., *Biblical Hebrew and Discourse Linguistics* (Eisenbrauns, 1994), 91–95; Takamitsu Muraoka, “Workshop: Notes on the Use of Hebrew Tenses in Exodus 19–24,” in Ellen van Wolde, ed., *Narrative Syntax and the Hebrew Bible* (Brill, 2002), 246–47.

⁷ See Nelson 2002, Introduction, “Shapes and Structures,” kindle ed.

⁸ Wee 524–25

Table 2: Organization of levels of cases laws with syntactic markers of Numbers 27:8–11

[introductory frame] 27:8 You shall speak to the Israelites, saying,
[protasis, 3rd person, main case] “If (יִּ) a man dies, and has no son,
[apodosis, 2nd person] (יְ) + wcp) then you shall pass his inheritance on to his daughter.
[protasis, 3rd person, subordinate case] 27:9 And if (וְ) he has no daughter,
[apodosis, 2nd person] (יְ) then you shall give his inheritance to his brothers.
[protasis, 3rd person, subordinate case] 27:10 And if (וְ) he has no brothers,
[apodosis, 2nd person] (יְ) then you shall give his inheritance to the brothers of his father.
[protasis, 3rd person, subordinate case] 27:11 And if (וְ) his father has no brothers,
[apodosis, 2nd person] (יְ) then you shall give his inheritance to the nearest relation [lit. flesh] of his clan, and he shall possess it.
[concluding frame] It shall be for the Israelites a statute of judgment, as the Lord commanded Moses.”

Simplified re-presentation of the structure of Number 27:8–11

You shall speak to the Israelites, saying:

- (יִ) If a man dies and has no son,
 - (יְ) + wcp) then you shall pass his inheritance on to his daughter.
- (וְ) and if he has no daughter,
 - (יְ) then you shall give his inheritance to his brothers.
- (וְ) and if he has no brothers,
 - (יְ) then you shall give his inheritance to the brothers of his father.
- (וְ) and if his father has no brothers,
 - (יְ) then you shall give his inheritance to the nearest relation [lit. flesh] of his clan, and he shall possess it.

It shall be for the Israelites a statute of judgment, as the Lord commanded Moses.

Table 3: Compare the structure of Numbers 36:6–9 which qualifies the ruling of 27:8–11

This is the thing which the Lord commands concerning the daughters of Zelophehad, saying, “They may be for a wife to whom it is good in their eyes,

- (וְ) only they may be for a wife to (one from) the clan of the tribe of their father.
 - (יְ) so that inheritance may not be passed around to the Israelites from tribe to tribe,
 - (יִ) for every one of the Israelites shall cleave to the inheritance of the tribe of his ancestors.

- (ו) Now every daughter who possesses an inheritance in any of the tribes of the Israelites to one from the clan of the tribe of her father she will be for a wife,
(למען) in order that the Israelites each may possess the inheritance of his ancestors. [motive clause see below]
- (ו) So inheritance will not be passed around from one tribe to another,
(כי) because each one to his own inheritance shall the tribes of the Israelites cleave.”

(III) Learning to work with case law forms: a model for student exercises

The following is a suggested layout and associated steps to help students consciously think through formal elements of biblical law and how these relate to function. The point is not to create layouts. Studying formal syntax and discourse elements of law is only an intermediate step of interpretation.

[1] Show subordination in English translation with verbs parsed, using indentation and noting syntactical markers as applicable (indentation is flexible esp. for subordinate cases).

Protasis left margin (in parentheses: introductory particles, see Tables 1, 2; note: 2nd or 3rd person)

Subordinate cases indent 0.5 and/or 1 inch (in parentheses: introductory particles as applicable, see Tables 1, 2)

Apodosis indent 1.5 inches (in parentheses: 1st, 2nd, or 3rd person)

Motive clause indent 2 inches (in parentheses: introductory particles, if applicable, see Table 7)

[2] Summarize function of formal discourse elements: command versus prohibition; 2nd versus 3rd person; exhortation versus admonition motive clause (see Tables 1, 2, 3, and 4).

[3] Compare parallel law(s) in Pentateuch (see *OTUOT*, 82–84, and commentaries).

Table 4: An example from Deut 22:6, 7 (with motive clause)

- (כי, 2nd person) If a bird's nest happens to be before you in the road
in any tree (יש) or upon the ground
young ones (יש) or eggs
(ו) and the mother sitting upon the young ones or upon the eggs
(2nd person) you shall not take the mother upon the sons
(2nd person) you shall surely let the mother go
(למען) in order that it may go well for you
(ו) and that you may prolong (your) days

[4] See Table 4. The case law Deut 22:6, 7, prohibition and command combination, limits what a person may take from the wild, and protects maternal animals. The case is presented in 2nd person making it personal along with an exhortation insinuating the Lord will hold the individual to account in this case which, typically, would fall outside the reach of the courts.

[5] There is no parallel biblical law (see *OTUOT*, 83), though the prohibitions against boiling young goats in their mother's milk (Exod 23:19; Deut 14:21) and slaughtering an animal and its young on the same day (see Lev 22:28; cf. 22:27) provide similar limitations and protections for animals. The motive clause may allude in reverse order to the motive clause for honoring parents in the Decalogue (5:16).⁹ On the analogy of Paul's use of the prohibition against muzzling oxen while they labor, as mandating responsibilities of congregants for those who minister to them (Deut 25:4; 1 Cor 9:9; 1 Tim 5:18), this law likewise may be extrapolated further than protecting maternal animals.

For further reading

Albrecht Alt, "The Origins of Israelite Law," in *Essays on Old Testament History and Religion*, trans. R. A. Wilson (Garden City, NY: Doubleday, 1968), 101–171.

John Bright, "The Apodictic Prohibition: Some Observations," *Journal of Biblical Literature* 92 (1973): 185–204

Dale Patrick, "Casuistic Laws Governing Primary Rights and Responsibilities," *Journal of Biblical Literature* 92 (1973): 180–184.

Rifat Sonsino, "Forms of Biblical Law," *Anchor Bible Dictionary* (New York: Doubleday, 1992), 4: 252–254.

_____. *Motive Clauses in Hebrew Law*. SBL Dissertation Series 45 (Chico, CA: Scholars Press, 1980).

Jeffrey H. Tigay, *The JPS Torah Commentary: Deuteronomy* (Philadelphia: Jewish Publication Society, 1996).

Wee, John Zhu-En. "Hebrew Syntax in the Organization of Laws and its Adaptation in the Septuagint." *Biblica* 85 (2004): 523–544.

⁹ See Tigay 1996. Nelson refers to this case as "proverbially callous," that is, exterminating mothers and their children as in total warfare where the phrase is also used, Gen 32:12; Hos 10:14 (see OTL).