THE IMPACT OF THE ANCIENT NEAR EAST LAW, PHILOSOPHY AND RELIGION ON HUMAN RIGHTS

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Summary. Every religious and philosophical theory of ethics tends to determine what is good, and what is evil. Among ancient peoples religious laws governed every aspect of the community's life. Ancient legal and moral codes have a religious quality because religion and government were never separate in the ancient world. In the teaching of the utilitarian, the utility is regarded as the basis of the appropriateness and of the obligation. Thus proceed the formation of the public utility concept. The purpose of this study – to examine the impact of the ancient Near East Law, Philosophy and Religion on human rights. Human rights in the early civilizations of both the East and the West were composites of various philosophies that served a people's social and cultural contexts. The Code of Hammurabi from about 1800 B.C. is often cited by historians for its foundational place in the Western tradition of human rights. In the Hebrew Bible ethics also can be referred to as "human rights," but they are based on a very different foundation than the "human rights" commonly promoted today. Both the Hammurabi Code and the Hebrew Bible are utilitarian in their approach, but in the biblical writings use of both utilitarian and deontological methods are used. In a narrow sense, the Mosaic Code reflects the point of view of the radical relativism school. In a broad sense, some of the Commandments involve protecting people from other people, and in this sense a form of "human rights" is established At the very heart of biblical ethics lie the *fundamental values* that infuse moral conduct and principles. In the Hebrew Bible all morality was legislated. No distinction was made between law and morality, as one could find in a pluralistic society.

Keywords: Utilitarianism, ancient Near East, Law, Ethics, Religion.

INTRODUCTION

Every religious and philosophical theory of ethics tends to determine what is good, and what is evil. It is generally recognized that the good is characterized by the fact that it is desirable. Every group is interested not only in doing good but in seeing to it that it gets credit for doing good. Among ancient peoples religious laws governed every aspect of the community's life. Ancient legal and moral codes have a religious quality because religion and government were never separate in the ancient world. Judaism, Islam, and many of the ancient polytheistic religions place great importance on divine command for their ethics. But do God's command make something right or indicate that it is right and useful?

In the teaching of the utilitarian, the utility is regarded as the basis of the appropriateness and of the obligation. Certain right thing to do is right when its utility is not lower than any other alternative for doing. On the basis of utilitarian idea, one should always act in a way that more people would be able to win more happiness. According to J.S. Mill, the man - the social being, because his aspirations are controlled by society. Thus proceed the formation of the public utility concept.

Commonly assert that utilitarian thought is found in the writings of T. Hobbes (1588-1679), D. Hume (1711-1776), but the history of Utilitarianism can be traced all the way back to the ancient Near East legal Codes. But as a school of thought, Utilitarianism is often credited to British philosopher Jeremy Bentham. William Paley who set out his thoughts on a Christian utilitarianism in his „Moral and Political Philosophy" first published in 1785[1].

In previous article of this series was revealed the essence of utilitarianism and its impact on the human rights system[2].

The purpose of this study – to examine the impact of the ancient Near East Law, Philosophy and Religion on human rights.

The authors of this article declare their neutrality in religion question. The antique sources will be treated as objects of scientific inquiry.

In preparation of this article was used the historical method for the study of the utilitarian theory and of human rights developments. Also were used the critical-analytical and the comparative methods.

DYNAMIC CHARACTER OF THE ANCIENT HUMAN RIGHTS SYSTEM

The current concept of human rights and of it system has been affected by several millennia of religious, philosophical and legal ideas. „ The contemporary concept of Human Rights and of the Freedoms occurred in the influence of the developments of philosophy and two legal doctrines – the innate and positive"[3]. At the foundations of actual human rights system stands the civilizations of ancient Near East. Human rights in the early civilizations of both the East and the West were composites of various philosophies that served a people's social and cultural contexts. Both religious and secular conceptions of civilization determined the laws that dictated early human rights. The primary forerunners of civilization, namely agriculture and the

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[1] Cole G., Theological Utilitarianism and the Eclipse of the Theistic Sanction. Tyndale Bulletin 42.2 (Nov. 1991). P. 240-241.
[2] Pranevičienė B., Utilitarizmo Įtaka Žmogaus Teisių Sistemai // Jurispridencija: Mokslo darbai. Vilnius, 2008. Nr. 4 (106). P. 36-41.
[3] Birmontienė T., Jarašiūnas E. ir kt. Lietuvos Konstitucinė teisė. Vilnius, 2002. P. 275.

warehousing of food, allowed for humans to stay settled and increase in population, leading to advances in civilization as settlements turned into cities. Civilization spread outward from ancient Mesopotamia taking and evolving the components of the Western tradition, including the earliest tenets of human rights. The Code of Hammurabi from about 1800 B.C. is often cited by historians for its foundational place in the Western tradition of human rights. Two hundred eighty-two mostly rational clauses governed Babylonian existence and were rooted in "eye for an eye" justice. Of course, there was great disparity between judgment on nobility and judgment on slaves, but the document attempted to rid society of the violence of primitive tribalism left over from precivilization, "savage" human existence. Among the most famous texts that shaped human behavior in the ancient world was the Hebrew Torah's Ten Commandments, later part of the Christian Old Testament. The specific commandments attempting to discourage anti-social behavior are: Honor your mother and father; You shall not murder; You shall not steal; You shall not bear false witness; You shall not covet anything that belongs to your neighbor. In addition to the Ten Commandments, the Old Testament lent the Proverbs and Ecclesiastes, among other documents, to the history of good behavior and evolving human rights[4].

According to Jack Donnelly, the term „human rights" refers to both the nature of the rights and its source: this is the right of the individual has simply because he is the man[5]. Ideas of natural law were interpreted by T. Hobbes, J. Locke, J.J. Rousseau and other authors. Human rights are brought above the state, they are considered to be intrinsic, inseparable from the individual and for the state is not granted the right to question them. For the protection of natural rights, the legal system is based on a social contract. The classic of political philosophy, D. Locke think the humans are by nature free, equal and independent, therefore, none of them cannot be operated without his consent"[6]. According to his theory, people are individuals worthy of unconditional respect and trust. The state must not give them rights, but to protect those rights, they have themselves as equal and free people. The term "Human Rights" is not literally found in the Hebrew Bible. Humans are committed to uphold and defend human rights, not for any reason but as an imperative of faith, giving value to human rights is deeply spiritual. It is rooted in biblical basic affirmation that human beings are God's creatures. In Genesis 1:27, it appears that the human beings (male and female) are the only ones, from among all the other creatures, whom God created "in His image." This biblico-theological affirmation emphasizes the fact that the

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[4] Ishay, Micheline R., The History of Human Rights: From Ancient Times to the Globalization Era. Berkeley, CA: University of California Press, 2008.
[5] Donnelly J., International Human Rights. Dilemmas in World Politics. University of Denvwer: Westview Press, Oxford, 1993. P. 20.
[6] Lokas Dž., Esė apie pilietinę valdžią. Vilnius: Mintis, 1992. P. 85.

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rights and dignity of persons are not only human but actually divine. Thus, upholding these rights and dignity is deeply spiritual; and trampling upon them is not only criminal but a divine offense. This emphasizes furthermore the recognition of human life and dignity as sacred. Thus, to degrade human life and dignity is not only to degrade the person but degrades the Creator as well.

Traditionally, in order to organize or catalog the human rights, they are divided into three generations of human rights, reflecting the historical development of human rights. It should be noted that certain human rights of attribution of the third generation of human rights is a source of debate and in the legal literature has recently voiced doubts about the systematic organization of human rights. According to dr. S. Vidrinskaitė, because of existing principles of universality, the traditional distinction of the human rights in civil, political, economic, social and cultural, are already incomplete[7].

Throughout history human rights system has evolved and expanded. According to the prof. hab. dr. A. Vaišvila, „Human rights history - first of all is the history of the organized defense of people from government and from private individuals or entities of arbitrariness and aggression. This is a fight for human dignity, for the humanly valuable life, for the opportunity to live in society and to feel safe in it"[8]. Prof. A. Pumputis rightly notes that "very often we are aware of human rights as a perfect system, lack of attention to Move to the right level of enforcement, they appreciate only by law and other normative acts of the wording. Meanwhile, most often completely underestimated the needs of the individual, society and the technological environment, etc."[9]. Thus, concludes that an individual needs are the most appropriate criteria to structure human rights. "The system of needs is the best way for validate the nature of the fundamental human rights"[10]. The last opinion corresponds to the paradigm shift, which took place in the first century. The primitive Christianity not assumed the Mosaic Law in its legal, moral and ethical system. In the primitive Christianity the Mosaic Law (the Ten Commandment included) was summed up in one word - love, where the love is a multidirectional and utilitarian principle. Calculating the remote consequences, it strives to bring the greatest good to the

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[7] Vidrinskaitė S., Žmogaus teisių katalogas: Lietuvos Respublikos ir Europos Sąjungos teisinės aktualijos // Jurisprudencija: Vilnius, 2006, Nr. 4 (82). P. 9-10.
[8] Vaišvila A., Mesonis G., Žmogaus teisės ir jų gintis. Vilnius: Lietuvos teisės akademija, 2000. P. 4.
[9] Pumputis A., Paksas A., Vaišvila A. ir kt., Konstitucingumas ir pilietinė visuomenė. Lietuvos Teisės universitetas, 2003. P. 11.
[10] Pumputis A., Paksas A., Vaišvila A. ir kt., Konstitucingumas ir pilietinė visuomenė. Lietuvos Teisės universitetas, 2003. P. 14.

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greatest number of people[11]. The issue is a particularly interesting: utilitarianism has much in common, in practice, with Christian ethics, but little or nothing in common with Christian philosophy. On the other hand, the system of needs in the legal system of the primitive Christianity assumed the vital importance in the new kind relations "supreme authority – citizens" (expressed through images "daily bread, father, son").

THE FOUNDATIONS OF HUMAN RIGHTS SYSTEM: THE CODE OF HAMMURABI AND ITS RELATION TO MOSAIC LAW

In Ancient Near East, that people would normally exist in the community was developed the fundamental rules. Justified itself in everyday life, they become rules. The Codes of conduct have been established to ensure the normal progress of the common people life. Socio-cultural conditions under which the emergence of such rules were the rules of the appearance factor that determines their formation, promoted their further development. Rules of conduct have been merging in codes, which come from similar cultures in a relatively small geographical area, and they have passages which resemble each other[12]. The code has been seen as an early example of a fundamental law regulating a government - i.e., a primitive form of what is now known as a Constitution[13]. We can conclude, that the need to control, regulates, and legislate ethical conduct on the individual, corporate, and government levels has ancient roots. For example, one of the first law codes developed, the Code of Hammurabi, made bribery a crime in Babylon during the eighteenth century BC.

Around 1760 BC, King Hammurabi further developed Babylonian law, by codifying and inscribing it in stone. Because of his codes, Hammurabi was an immensely influential leader. The Code of Hammurabi was one of many sets of laws in the Ancient Near East. Some of these were the Hittie, Ur, and the Mosaics. All these different tribes had their own set of law codes that they followed. Hammurabi created a set of moral codes that was to be copied and used by other civilizations. The Codes of Law were broken into certain categories. These categories are not definitely known, but the majority of historians believe them to be: court proceedings, crimes, slavery, family, labor, personal property, real estate, trade and business, just to name a few. Many think the Code was too strict and the punishments too harsh. Hammurabi just believed that the punishment should fit the crime and that the strong should not dominate the weak. Although utilitarian in its approach, the code of Hammurabi became the basis of almost all codes of law

[11] Cleveland, P., The Failure of Utilitarian Ethics in Political Economy. // The Journal of Private Enterprise, 18, no. 1 (Fall 2002). P. 59-60.
[12] Barton G.A., Archaeology and the Bible. University of Michigan Library, 2009. P. 406.
[13] William David Thomas W. D., What is a Constitution? Gareth Stevens, 2008. P. 8.

found today. Many of today's forms of government have traces of the same principles that Hammurabi used[14]. Specific guidelines for punishment date back to Hammurabi's Code.

Comparison of the Mosaic Law in the Hebrew Bible to other ancient Near Eastern law codes, especially with the Code of Hammurabi, demonstrates many parallels and similarities. In his book Inspiration and Incarnation, Peter Enns comments: "But when you look at the specific laws, the degree of similarity is obvious. . . . biblical laws and ancient Near Eastern law codes cover very similar situations in similar wording: false accusations, stealing, stolen property, kidnapping, treatment of slaves, livestock, land, loans, marriage and divorce, children, and so on. It is no exaggeration to say that anyone familiar with ancient Near Eastern law codes, reading biblical law for the first time, although likely taking note of elements peculiar to the Israelites, would no doubt recognize it as 'another ancient Near Eastern law code.'"

RELATION OF UTALITARIANISM, MORAL DECISION AND LAW IN HEBREW BIBLE

The Hebrew Bible (Old Testament), the sacred writings of the ancient Hebrew people is the best-seller of all times. It was translated into most known languages and its impact on civilization is beyond proportion to its size. It has inspired Christianity and Islam, the other two Western monotheistic religions and other aspects of civilization as well.

The Hebrew Bible (*TaNaKa*) consists of three principal parts: the Law (Torah), the Prophets(*Nabiim*) and other Writings (*Ketubim*), which include Wisdom literature, Psalms etc. The Law (Torah) is composed of the first five books of the Hebrew Bible. It contains numerous laws which make up the Mosaic code. The content of this Code was excerpted and codified as the 613 *Mitzvot* ("commandments"), beginning with "Be fruitful and multiply" (God's command to all life)[15]: 3 commandments in Genesis, 111 in Exodus, 247 in Leviticus, 52 in Numbers and 200 in Deuteronomy. These included 365 prohibitions and 248 positive commandments. It is common to divide the Mosaic Law into three parts as illustrated below, but though this is helpful for analysis and the study of the Mosaic Law and the way it functions, such a division is never stated as such in Scripture. Rather the Mosaic Law was an indivisible unit.

- **Part 1: The Moral Law or the Ten Commandments.** This part of the Law governed the moral life giving guidance to Israel in principles of right and wrong in relation to God and man (Exodus 20:1-17).

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[14] Vinzenz F., Dievo Teisynas ir Gyvenimas. Aidai, 1977. P. 15.

[15] HaCohen, Yisrael Meir, The Concise Book of Mitzvoth: The Commandments which can be Observed Today. (Trans., Charles Wengrov) Feldheim, 1990.

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- **Part 2: The Judgments, or the Social Law.** This part of the Law governed Israel in her secular, social, political, and economic life (Exodus 21:1–23:13).

- **Part 3: The Ordinances or the Ceremonial Law.** This was the religious portion of Law which guided and provided for Israel in her worship and spiritual relationship and fellowship with God. It included the priesthood, tabernacle and sacrifices (Exodus 25:-31: Leviticus).

Just as the Old Testament is not a systematic theology but a mixture of different theological emphases presented in a variety of literary styles, so too, the Old Testament is not a carefully arranged system of ethics, but a mixture of different types of moral reasoning. The Old Testament reflects great diversity in methods of moral reasoning. With the Mosaic Law providing the ethical principles by which Israel ordered its life, it is not surprising that deontology, or an appeal to principles, is strongly emphasized in the Old Testament. In their appeal to the Law as the basis of their prophetic message, the prophets depend heavily on deontology. But there is more to morality in the Old Testament than the simple appeal to principles and commands. The Wisdom Literature contains a measure of utilitarian reasoning. For example, many of the Proverbs contain explicit descriptions of the consequences of certain actions and character traits. The writers of the Proverbs appear to praise wisdom because of the good consequences it produces, which they warn against folly because of the harmful consequences that it produces. To be sure, the Wisdom Literature is ultimately grounded in the Law, and thus ultimately grounded in principles. The Wisdom Literature, then, does not attempt to use utilitarianism as a self-sufficient system for discovering morality, but the appeal to principles is supplemented by appeal to consequences, a use of both utilitarian and deontological methods[16].

Finally, the Old Testament also appeals to natural law. For example, the book of Proverbs defines right and wrong (wisdom and folly) by observations drawn from nature (Prov. 6:6-11; also Ps. 19:1-6) and human relationships (Prov. 24:30-34). Natural law is not strictly limited to observations from nature, however. It refers to universal moral principles that are not specifically derived from special revelation. The oracles to the nations (e.g., see Isa. 13-23; Jer. 46-51; Ezek. 25-32) are good examples of biblical appeal to natural law. Unlike Israel who had the Mosaic Law, those nations lacked the Law and are still condemned for many of the same transgressions as Israel, including injustice, violence, and oppression of the poor. We can conclude, therefore, that these nations were somehow aware of their crimes, otherwise God could not be just in

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[16] Rae S. B., Moral Choices. Grand Rapids, 2000. P. 19-20.

holding them accountable for their crimes. The means by which God made them aware of these moral obligations is natural law. Thus in the Old Testament natural law supplements the ethics provided by special revelation.

The Mosaic Law was a bilateral covenant made specifically for Israel alone to govern her life in the promised land. By its very nature, the Mosaic Law was not to be, and could not be, obeyed to the letter by any other people in any other place as a rule of life. In the Old Testament, Israel was special kind of theocracy, in which the law of God was automatically the law of the land. Accordingly, all morality was legislated. No distinction was made between law and morality, as one could find in a pluralistic society. However, in the spirit of the Law it did set forth moral principles which were applicable and used as a standard of right and wrong.

First of all must be noted, that unlike most ancient peoples, who worshiped many gods, ancient Israelites worshiped one universal God. Secondly, originally the Code was designated to function as the Constitution in ancient Israel state, where Constitutional monarchy (or limited monarchy) without a parliamentary system was established. A monarch acted as head of state within the parameters of a Constitution (Hebrew Bible), revealed by God. This political situation not lasted long - 9-8 century BC.

QUESTION OF THE UNIVERSALITY OF HUMAN RIGHTS IN HEBREW BIBLE

The modern world is inconceivable without a human rights based on freedom, equality, justice and universal. According to A.Fagan, „ human rights doctrine is based on the most fundamental philosophical claim that there is a rational, clearly recognizable as morality, order, which is suitable for humanity everywhere and at all times "[17].

It is generally accepted that human rights – the highest value and protection of democratic national and foreign policy priority. „In the current legal doctrine of law prevail the approach that human rights cannot be treated in a narrow nationalistic aspect, they are universal, not only to declare, but also through"[18]. Individuals, according to Jack Donnelly, irrespective of the rights or duties are as citizens, family members, employees or any public or private organizations, or members of the Association shall have the following (human) rights, in other words, from the point of view of Universal Declaration of Human Rights (1948), they have universal rights[19].

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[17] Fagan A., Human Rights. University of Essex, 2006. The internet encyclopedia of philosophy, http://www.iep.utm.edu/h/hum-rts.htm
[18] Birmontienė T., Jarašiūnas E. ir kt. Lietuvos Konstitucinė teisė. Vilnius, 2002. P. 274.
[19] Donnelly J., International Human Rights. Dilemmas in World Politics. University of Denvwer: Westview Press, Oxford, 1993. P. 19.

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However, it should be noted that there is also another point view. Cultural relativism school argues that the same human rights can not be applied to all cultures because of the different levels of development, because what is regulated, often in real life is not implemented. „ Representatives of cultural relativism argue that moral values are more historically or culturally specific than the universal"[20]. What's more, according to J. Donnelly, the so-called "radical relativism representatives deny that human rights is an objective value that is independent of human society and culture"[21]. However, whether such considerations might rebut the the essence human rights as universal and universally recognized? The idea of universality should not be confused with the actual situation prevailing in one or another country, although, of course, we have to admit - the level of human rights in different countries may differ a lot - it depends on various factors[22].

In a narrow sense, the Mosaic Code reflects the point of view of the radical relativism school. On the other hand, a careful reader will note that, for example, in the prohibition to kill, does not define any form of sanctions or rewards. How to understand the legal requirement, if it is broken do not have any negative consequences?[23]. We don't have a "right to life", but it is a sin to kill. In a similar sense, the Eighth Commandment establishes a right to private property. Since one person (or even the government) cannot steal the property of another, the owner of the property is safely protected in his ownership by God's law.

There is a way in which Hebrew Bible can be said to support human rights, but it is a very different conception of rights than that currently promoted in Western countries. This perspective is outlined by T. Robert Ingram in his book "What's Wrong With Human Rights"[24]. As Ingram sees it, the Ten Commandments are the moral foundation for the civil government. Some of the Commandments involve protecting people from other people, and in this sense a form of "human rights" is established. One can understand the purpose of the Ten Commandments: the Laws is only directions, goals to be achieved. They must be so clear that they do not cause doubts about compliance. If they are ignored or otherwise affected the life of the community is becoming impossible. The citizens living under such a system are protected from harm by the stipulations of God's law. As such they have the rights to life, liberty and property. These can be referred to

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[20] Donnelly J., International Human Rights. Dilemmas in World Politics. University of Denvwer: Westview Press, Oxford, 1993. P. 34.
[21] Donnelly J., International Human Rights. Dilemmas in World Politics. University of Denvwer: Westview Press, Oxford, 1993. P. 36.
[22] Pranevičienė B., Utilitarizmo Įtaka Žmogaus Teisių Sistemai // Jurispridencija: Mokslo darbai. Vilnius, 2008. Nr. 4 (106). P. 40.
[23] Vinzenz F., Dievo Teisynas ir Gyvenimas. Aidai, 1977. P. 156.
[24] Robert Ingram in T., What's Wrong With Human Rights. St. Thomas Press, 1978. P. 152.

as "human rights," but they are based on a very different foundation than the "human rights" commonly promoted today.

Let us bring other example. In the modern era, technology and the Internet have prompted new questions of privacy with respect to human rights. Most pointedly, the passage of the USA PATRIOT Act (commonly known as the Patriot Act) in the United States as a result of the 2001 terrorist attacks allows the U.S. government unprecedented access to the private lives of its citizens. While privacy and bodily harm are two extremes of human rights, this act illustrates the breadth of the question of human rights. More importantly, global terrorism itself has spawned governmental reaction such as the Patriot Act to protect national interest as well as to attempt to protect its citizens from fear - one of the most basic tenets of human rights.

The nations of the world may never agree on what rights are truly universal. The moral imperatives of any declaration have been proven unable to supplant local religious and political preferences in how people should be governed or allowed to live. The "spirit of brotherhood" prominently featured in the first article of the Universal Declaration suggests a common purpose and human behavior and safeguard against oppression and fear. But any future progress is dependent upon the willingness of nations to uphold those ideals in an open, transparent, just, and cooperative world community that may not share common philosophical ground but shares literal ground.

DEVELOPMENT OF THE HUMAN RIGHTS SYSTEM AND HEBREW BIBLE ETHICS

It is clear that the technical, medical, physics, chemistry and other sciences gains ahead of a philosophical, ethical development of mankind. In other words, the technical achievements of science may be useful to many, but also can cause such problems, the ethical dilemmas that humankind has not provided and therefore do not know how to solve them. Nevertheless, the trend in many countries rush to take advantage of new opportunities, to legalize them, even if it is not compatible with the moral values of that era

G.F. Kennan, said: "There are no internationally accepted standards of morality, which the United States, the government could rely on if they want to do based on moral principles"[25].

When one considers how often people invoke biblical teachings in matters of morality, it seems that biblical ethics would be an inviting terrain for scholars to explore. Ethicists today consider their area not just the normative task of what people ought to do and why but also the

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[25] Kennan G. F., Morality and Foreign Policy. Princeton: Princeton University Press, 1954. P. 207.

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analytic and descriptive enterprise of how and why people in fact do act. At the outset we must recognize that the Hebrew Bible is neither an ethical treatise nor a handbook of morals. For that matter, it can scarcely be considered a theological work. We can, however, itemize several elements that converge to make up the descriptive task.

Most important are the *moral norms and teachings* in biblical literature. As central as they are, however, they are not theoretical absolutes. They are attached to explicit moral problems such as adultery, war, punishment, parent-child relations, the oppressed or defenseless in society and the use of property. The prophets often make sweeping statements about social justice, but there are always specific injustices they are trying to combat. In other words, the prophets seem to have certain general ethical principles or values in mind, yet they speak mainly in terms of concrete moral norms about specific conduct. It remains an open question whether it is the general values *or* the specific norms that are the universals. By focusing on the moral dilemmas that the biblical generations faced, we can take a first step toward determining how principles and norms function in the moral life.

The ancient people, like many today, would not be prone to distinguish sharply between morality and religion. What is morally right to do is so because God wills it or because it is consistent with the divinely ordained structure of the world. Consequently, it is especially important in biblical ethics to determine the *theological warrants* for morality. This includes the specific appeals made to God's will as well as the general theological beliefs which serve to validate the content of the moral teachings. For example, even though the laws in the Pentateuch probably emerged gradually over the course of centuries as people sought ways to live in community, what does it mean that these laws became viewed as stemming directly from God at one point in the life of Moses? Or again, note that God is normally pictured as the supreme practitioner of the morality which humans must follow - but that, in an interesting twist, Abraham (in Gen. 18:25), Job and others can step forward and remind God to do what is right.

An essential part of ethics is the particular view taken of *moral agency.* What is the nature of humanity according to the biblical tradition? Is it possible for us to know and do the good, and therefore should each person be held fully responsible for all actions and choices? There will likely be quite different answers to these questions in different sections of the Bible. Within the Old Testament, for example, it appears that humans are in a position to know and do the good because of what they have experienced in their past history, but that they too often choose the wrong course nonetheless. Yet this is not because they are evil or because there is some malevolent force loose in the world that subverts people's best intentions. According to the

opening chapters of Genesis, humanity and all the world are created good - but humans repeatedly choose, as they are free to do, a course which yields disruption, alienation and chaos. Yet there is no end to God's attempts to reform them, both as individuals and as a community. This divine/human drama lies at the center of the Bible.

Inevitably, ethics involves the problem of *authority*. How is it that ancient Israel Christianity tried to secure conformity to certain moral practices and avoidance of others? Of course, the above-mentioned issue of theological warrants will loom large at this point, as will the forms of moral discourse employed in engendering and interpreting moral behavior. But one must also consider the roles played by institutions (the cult, the school, the court of law, the state), family and kinship groups and key leaders (including the prophets and the sages). Furthermore, it is very important to consider tradition in this regard; that is, the way in which the heritage from the past functions for each new generation - sometimes being appropriated rather fully, sometimes being rejected or ignored and other times being creatively reinterpreted in the new situation. Values, attitudes and lifestyles can often be instilled in the succeeding generation by subtle means of inculcation and regimentation. The subtle as well as the more obvious techniques of persuasion, coercion and legal controls are part of the functioning of morality.

Finally, at the very heart of biblical ethics lie the *fundamental values* that infuse moral conduct and principles. These are not the first but rather among the last things that the ethicist will be able to determine. Such moral values involve an essential preference given to a particular way of existing in the world. Values are not the same thing as religious beliefs or practices, although they will be related to them. Values are also not mere ideas. They are oriented toward the concrete conditions of life and lie behind our choosing, acting and finding meaning in our situation[26].

CONCLUSIONS

Human rights in the early civilizations of both the East and the West were composites of various philosophies that served a people's social and cultural contexts. The Code of Hammurabi from about 1800 B.C. is often cited by historians for its foundational place in the Western tradition of human rights. There was great disparity between judgment on nobility and judgment on slaves, but the document attempted to rid society of the violence of primitive tribalism left over from precivilization, "savage" human existence. The recognition of the importance of human life is integral to the Hebrew Bible faith system and the first and necessary precondition

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[26] Knight D. A.,. Old Testament Ethics // Christian Century, 100 (January 1982). P. 55-59.

for a belief in human rights. The notion of human rights flows as a natural extension of the Genesis account of the creation of humanity. Every individual person is equivalent to that first human created by God. Thus, each person is of supreme value. The recognition of the importance of human life is integral to the OT faith system and the first and necessary precondition for a belief in human rights.

The code of Hammurabi is utilitarian in its approach, and became the basis of almost all codes of law found today. Just as the Hebrew Bible is not a systematic theology but a mixture of different theological emphases presented in a variety of literary styles, so too, the Hebrew Bible is not a carefully arranged system of ethics, but a mixture of different types of moral reasoning. At his legal system core stands the Mosaic Law, which was an indivisible unit. The Mosaic Law was a bilateral covenant made specifically for Israel alone to govern her life in the Promised Land. No distinction was made between Law and morality. In the biblical writings use of both utilitarian and deontological methods are used.

In a narrow sense, the Mosaic Code reflects the point of view of the radical relativism school. In a broad sense, the Ten Commandments can becomes the moral foundation for the civil government. Some of the Commandments involve protecting people from other people, and in this sense a form of "human rights" is established. The purpose of the Ten Commandments can be understood in this way: the Laws is only directions, goals to be achieved. They must be so clear that they do not cause doubts about compliance. If they are ignored or otherwise affected the life of the community is becoming impossible. The citizens living under such a system are protected from harm by the stipulations of God's law. As such they have the rights to life, liberty and property. These can be referred to as "human rights," but they are based on a very different foundation than the "human rights" commonly promoted today.

In the Hebrew Bible all morality was legislated. No distinction was made between law and morality, as one could find in a pluralistic society. At the very heart of biblical ethics lie the *fundamental values* that infuse moral conduct and principles.

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ANTIKINIŲ ARTIMŲJŲ RYTŲ ĮSTATYMŲ, FILOSOFIJOS IR RELIGIJOS ĮTAKA ŽMOGAUS TEISIŲ SISTEMAI

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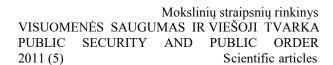Mykolo Romerio universitetas

S a n t r a u k a

Kiekviena religinė ir filosofinė etikos teorija stengiasi nustatyti kas yra gera, o kas yra blogis. Visuotinai pripažįstama, kad gėriui būdinga tai, kad jo trokštama. Senovės tautų religiniai įstatymai reglamentuoja kiekvieną bendruomenės gyvenimo aspektą. Antikiniai teisės ir moralės kodeksai visada turėjo glaudų sąryšį su religija, nes nebuvo griežtos takoskyros tarp religijos ir politikos. Judaizme, Islame, ir daugelyje senovės politeistinių religijų centrinę vietą užėmė Dievo įsakymas. Bet tampa neaišku – Dievo įsakymas teisingu ir naudingu padaro veiksmą ar jo rezultatą?

Utilitarizmo mokyme naudingumas laikomas deramumo ir pareigos pagrindu. Tam tikras poelgis teisingas tada, kai jo naudingumas yra ne mažesnis, negu kurio nors kito alternatyvaus poelgio. Poelgis neteisingas, kai jo naudingumas mažesnis. Naudingumas suprantamas kaip indėlis į gerais laikomų dalykų ir situacijų sąrangą. Anot J.S. Mill, žmogus – sociali būtybė, todėl jo siekius kontroliuoja visuomenė. Šitaip visuomenėje formuojasi naudingumo samprata. Naudingumas yra determinuotas visuomenės pritarimo arba nepritarimo, vadinasi, naudingumas yra socialiai determinuotas.

Antikinėse Rytų ir Vakarų civilizacijose žmogaus teisių sistemą svarstė vairios filosofinės srovės. Iš Istorikų teigimu, Hamurabio kodeksas apie (1800 m. pr m. e.) padėjo parindus dabartinei vakarietiškai žmogaus teisių sistemai. Nors kodekse pastebimas didelis skirtumas bajoro ir vergo atžvilgiu, tačiau šiuo teisynu buvo bandyta atsikratyti primityvaus visuomeninio tribalizmo, likusio iš primityvios visuomeninės santvarkos. Žmogaus gyvybės svarbą pripažinimo ir skelbė hebrajų Biblijos tikėjimo sistema. Tai – pirmoji ir būtina žmogaus teisių sistemos funkcionavimo sąlyga. Hebrajai tikėjo, kad žmogus sukurtas pagal Dievo paveikslą ir panašumą. Taigi, kiekvienas asmuo labai vertingas ir svarbus.

Hamurabio kodeksas pasižymėjo utilitarizmo tendencija, ir tapo beveik visų šiuolaikinių teisės kodeksų pagrindu. Mozės teisynas buvo dvišalė sandora, kuri buvo skirta specialiai Izraeliui tam, kad hebrajai vieninteliai turėtų teisę į pažadėtąją žemę. Hebrajų Biblijoje nėra takoskyros tarp teisės ir moralės. Biblijos raštuose, priklausomai nuo raštų grupės ir rūšies, naudojami deontologinis ir utilitarinis metodai. Siaurąja prasme, Biblijos raštai ir Mozės teisynas atitinka radikalaus reliatyvizmo mokyklos

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tendencijas. Plačiąja prasme, Dešimt Dievo įsakymų, gali būti traktuojami kaip potencialus civilinės valdžios moralės pagrindas. Šių įsakymas pagrindinis tikslas – apsaugoti žmones nuo kitų žmonių, ir tokiu būdu tam tikra prasme nustato „žmogaus teisių" standartą. Specifinė Dešimties Įsakymų forma tikslas leidžia daryti ir kitą išvadą: Įstatymai yra tik kryptis, siektinas tikslas. Jie turi būti tokie aiškūs, kad niekam nekiltų abejonių dėl laikymosi. Jei šie įstatymai ignoruojami arba pažeidinėjami, gyvenimas bendruomenės tampa neįmanomas arba nepakeliamas.

Hebrajų Biblijoje moralė buvo neatsiejama nuo teisės. Joje neliko skirtumo tarp teisės ir moralės, kaip tai pastebima dabartinėje pliuralistinėje visuomenėje. Biblijos etikos dėmesio centre – fundamentalios vertybės, kad dieviško autoriteto nustatyti moralės normos ir principai.

Pagrindinės sąvokos: utilitarizmas, antikiniai Artimieji Rytai, teisė, religija.

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