Introduction

Reading the Old Testament as Christian scripture is a perennial challenge for the church. Christian theology has a long tradition of wrestling with the purpose and function of the OT in the church and in society.

This paper seeks to address two problematic tendencies in Old Testament interpretation. On the one hand, some laudable attempts to apply scripture to contemporary issues in the church and society fail to take adequate account of the differences between ancient agrarian and modern market economic systems. Other interpreters take the apparently backward/primitive provisions of the Torah as an excuse to disregard those provisions with which they disagree based on moral or philosophical precommitments.

This statement of these tendencies no doubt oversimplifies; most responsible interpreters take some account of the ancient setting(s) of the Pentateuch. These studies examine the differences, for example, between the concepts of slavery and debt in the OT and in the modern world. Such studies often fail to fully appreciate both the limitations of the economic setting in which the Torah was given and the moral implications of the Torah when understood through an economic lens. Other approaches allow NT revelation simply to supersede OT revelation.

A hermeneutic that distinguishes God’s Old and New Covenant revelation is crucial, but it is not the only valid and constructive interpretive lens for applying OT Law as inspired, trustworthy scripture for us today. A socioeconomic lens is required in order rightly to interpret and apply scripture. The objective is to distinguish between applications of God’s single, consistent moral law in different types of economic and social systems. 

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† In some sense this is a distinctly Reformed perspective on the Law, in contrast to a Lutheran outlook.
This paper seeks to apply some of the observations of the discipline of economics to OT Law. Faithful readers of scripture will find that the tools of economics may enhance our understanding and application of God’s law in contemporary societies, including both developing nations and post-industrial nations such as the United States. Those who take a suspicious stance toward scripture need to be challenged to read scripture on its own terms rather than their own.

First, we will consider a biblical warrant for a comparative-institutional evaluation of certain elements of the Torah. Given the purposes of the Mosaic Law revealed in the OT and NT, what are biblically acceptable criteria by which we may evaluate the Torah as a legal system?

Second, we will look at some specific examples of aspects of the Mosaic Law—or perhaps more precisely, the socioeconomic context in which the Torah was given—that may be found wanting from a comparative-institutional standpoint. We will explore the concessions God made to the hardened hearts of ancient Israel and the concessions to the economic systems of the day.

Third, we will attempt to contextualize the Mosaic Law as a system of law and consider some implications for its interpretation and application. How may twenty-first-century, Western Christians in a global market economy properly and faithfully apply OT scripture in obedience to God?

It must be acknowledged from the outset that the present author considers himself to be, at best, an amateur student of formal economics. However, every effort has been made to draw from those principles on which the discipline of economics is in essential agreement. With few exceptions, the insights here appropriated from the discipline of economics are not fundamentally in dispute.

Purpose and Context of the Law

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2 I would like to express my gratitude to Brian W. Tvenstrup for his helpful feedback on an early draft of this paper, particularly his (professional) economic insights. Any factual or conceptual errors that remain are entirely my responsibility.

Purpose

Reformed theology has traditionally distinguished three aspects of the Mosaic Law, as well as three purposes of the Law. The Law contains civil, ceremonial and moral components. The first purpose of the Law is to reveal sin and point out the need for Christ; this is the convicting or pedagogical function. Second, the Law reveals God’s moral will for his redeemed people and for society. Third, the Law is an application of temporal justice and a restraint upon evil in society. In my own teaching on the Pentateuch, I emphasize a fourth purpose of the Law (though it may merely be an implication of the first and third purposes): the Law allows a holy God to live among an unholy people and to work his redemptive purposes in the world. In these ways the Law reflects God’s gracious, voluntary condescension, apart from which humanity could never know or enjoy him.

Furthermore, scripture teaches that the Mosaic Law as a system is provisional and temporary. Moses himself predicted the advent of a prophet greater than he (Deut 18:15-22), who would bring the full revelation of God’s will; Christians, of course, consider Jesus to be that ultimate revelation of God’s will and character. Jesus highlighted the provisional character of individual laws in his debates with the Pharisees (Matt 19:3-9) and with the Sadducees (Matt 22:23-32). He himself also claimed to be the fulfillment of the OT (Lk 24:25-27; Jn 5:39-40).

Romans 7:1-8:11 demonstrates that Israel could not have kept the Law by sheer willpower, since having the Law accentuated the sin that was present within them. That sin is present in all humanity because of Adam, and Israel’s receipt of and disobedience to the Law recapitulates the sin of Adam. The Law, “weakened by the flesh” (8:3), had no transformative power. But the righteousness of Christ imputed to us (Rom 3:25) gives Christians the forensic standing of Law-keepers (Rom 8:1-4), and the indwelling Holy Spirit enables us to please God in attitude and behavior (Rom 8:3-17), which is the essence of the Law (Matt 22:35-50). Hebrews emphasizes the provisional character of the ceremonial component of the Law (Heb 7-10).

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5 “The distance between God and the creature is so great, that although reasonable creatures do owe obedience unto Him as their Creator, yet they could never have any fruition of Him as their blessedness and reward, but by some voluntary condescension on God's part, which He hath been pleased to express by way of covenant” (WCF 7:1).
Context

The Mosaic Law is not only provisional but also a product of its historical context. Mosaic commands reflect to a great degree the social, economic and legal systems of the day. Most of the laws recognize and perpetuate those systems, but other laws modify and even overturn aspects of those systems in crucial ways.

The Torah itself invites objective comparison with other systems of law and justice. In Deuteronomy 4:6-8, Israel is told that it will win the respect of other nations through adherence to such a “wise” and “righteous” set of statutes. Barton highlights OT passages that appear to assume some sort of universal law understood by all people apart from the revealed Torah, including Job 31:13-15 (universal standard of fair treatment, even for slaves), Genesis 9 (sanctity of all human life), and Amos 1-2 (atrocities of all war crimes).  

Because of the Law’s historical and cultural context, it contains laws that would not be considered consistent with a so-called “New Covenant” ethic: Canaanite genocide, polygamy, levirate marriage, and certain forms of slavery and corporal punishment. By condemning these practices today, we make unavoidable theological judgments concerning the role and purpose of OT scripture. We apply an individual OT law by considering the whole counsel of God, including the full revelation in Jesus Christ.

Because of the provisional nature of the Law’s application of God’s unchanging will, we also judge laws by their consequences. If God’s will is perfectly good and just, pursuit of what is good and just is a faithful application of his Law. To a certain extent, however, the application of justice and goodness is determined culturally by the mutual expectations of free actors in society. This is the principle behind the so-called Golden Rule, and, Jesus asserts, behind the Law and the Prophets (Matt 7:12). As circumstances and concerns change, new laws and customs are necessary to ensure the application of justice for as many people as possible (this side of Christ’s eschatological reign).

In short, we evaluate the Mosaic Law not only through the lens of the New Covenant in Jesus, but also through a cultural lens. It is my contention that the differences between ancient and modern economic systems must be part of that cultural lens.

Law, Legislation and Custom

The term “law” may be used in several different ways. It would be helpful to step back and define terms.

In this paper the term Mosaic Law, or Torah (“instruction”), will be used to describe the commands contained in the Pentateuch as a whole.\(^7\) Theologically, the divine commands in the Prophets and the Writings function as an extension of the Mosaic Law, so the collective term “OT Law” may be considered alongside of the Mosaic Law for the sake of argument.

Law may be used to signify God’s eternal preceptive moral will, which is revealed in the Old and New Testaments. The term law may also refer to any system of secular rules or customs, or to individual commandments of the Mosaic Law.

Individual laws or rules may further be distinguished as customary or statutory.\(^8\) Customary law is generally recognized and understood, whereas statutory law is imposed by an authority. Consider the differences between three statements:

1) Rape is against the law.
2) Littering is against the law.
3) Purchasing a toilet with a large tank is against the law.

Rape is morally wrong according to God’s law, which has come to be recognized both in statute and in custom. Throwing a wrapper on the ground is not intrinsically morally wrong, but has become customarily and statutorily unlawful. A large flush violates neither God’s law nor most human customs (I would venture to say), but is statutorily unlawful in certain jurisdictions.

The Mosaic Law as statute largely recognized and codified the custom of the day—customary laws that reflected a nomadic/agrarian economic situation.\(^9\) The Mosaic Law also

\(^7\) The use of the traditional term “Mosaic Law” should not be construed as endorsing or denying Mosaic authorship of the Pentateuch.


\(^9\) Moreover, in a largely preliterate culture it was useful for written laws—to which only a few literate people had access—to reflect the cultural norms and understandings to a great degree.
legislated certain commands that reflected both the current economic situation and that particular period in redemptive history. These together in some manner reflect God’s perfect moral law and his desire that his people be holy.

Laws in Changing Economic Systems

The fundamental assumption of economics is that humans reason, act and interact in accordance with their perceived individual self-interest. This statement, of course, demands many qualifications, exceptions and caveats; much of economic study today is an attempt to explain apparent human irrationality. But as a general principle of human motivation, perceived self-interest is certainly fundamental. All human actions—working at a job, painting a portrait, eating a piece of cake, refraining from eating a piece of cake, loving one’s spouse, having an affair, loving YHWH God, serving Allah, etc.—may be perceived as being in the interest of an individual, depending on how that interest is calculated.

Adam Smith demonstrated that rational self-interest, within the proper institutional framework, can be beneficial to society. Institutions include not only legislation (statutory law)

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11 This idea is encapsulated in Smith’s famous use of the term “invisible hand.” What is less known is that, prior to his exposition of this idea in *An Inquiry Into the Nature and Causes of the Wealth of Nations* (1776), Smith’s exploration of moral philosophy led him to conclude that the market compels humans to serve one another out of self-interest: “It is to no purpose, that the proud and unfeeling landlord views his extensive fields, and without a thought for the wants of his brethren, in imagination consumes himself the whole harvest that grows upon them….The capacity of his stomach bears no proportion to the immensity of his desires, and will receive no more than that of the meanest peasant. The rest he is obliged to distribute among those, who prepare, in the nicest manner, that little which he himself makes use of, among those who fit up the palace in which this little is to be consumed, among those who provide and keep in order all the different baubles and trinkets, which are employed in the œconomy of greatness; all of whom thus derive from his luxury and caprice, that share of the necessaries of life, which they would in vain have expected from his humanity or his justice….The rich…consume little more than the poor, and in spite of their natural selfishness and rapacity, though they mean only their own conveniency, though the sole end which they propose from the labours of all the thousands whom they employ, be the gratification of their own vain and insatiable desires, they divide with the poor the produce of all their improvements. They are led by an invisible hand to make nearly the same distribution of the necessaries of life, which would have been made, had the earth been divided into equal portions
but also religious and social conventions (customary law). Assuming perceived self-interest as a basis for all human action, comparative-institutional analysis asks which sorts of institutions compel individuals to act in ways that are desirable for society as a whole.

Institutional change is typically gradual; laws and expectations are not usually imposed overnight. Moreover, changes in human ability through trade and technology bring about institutional change in ways that could not have been conceived of previously.

In terms of fundamental motivation, ancient man was no different from modern man, nor is ancient society different from contemporary society. But changes in technology, trade and cultural understanding have resulted in social institutions that are very different from those surrounding and underlying the OT Law. Those differences are crucial to understanding and applying the Law today.

**Example: Somali Customary Law**

In order to demonstrate the differences between agrarian/nomadic and market-based economic systems, this study will consider not only the Torah and its ANE setting but also the customary legal system(s) currently observed in Somalia. The Somali legal system is a fascinating case study for scholars of law and political economy; since the collapse of the corrupt postcolonial government in 1991, various groups have attempted (sometimes with foreign support)

among all its inhabitants, and thus without intending it, without knowing it, advance the interest of the society, and afford means to the multiplication of the species” (Theory of Moral Sentiments, IV.I.10).

Consider the discussion of the importance of institutions and the speed of institutional change: Bruce Bueno de Mesquita et al., *The Logic of Political Survival* (Cambridge, Mass.: MIT Press, 2003), 129-214, 329-403. On the difficulty and dangers of imposing such institutional change on foreign nations, see William Easterly, *The White Man’s Burden: Why the West’s Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (New York: Penguin Press, 2006).

to establish a central government for Somalia, with no success.\textsuperscript{14} Yet Somali society continues to function with relatively little violence outside the immediate vicinity of the former capitol, Mogadishu—because the ancient customary legal system persists in these rural areas.

Michael van Notten, a Dutch-American legal scholar who married a Somali woman in 1991 and lived in Somalia until his death in 2002, has provided the most detailed study of the basis and practice of Somali customary law in English, published in various articles and finally in \textit{The Law of the Somalis: A Stable Foundation for Economic Development in the Horn of Africa}. Van Notten, a proponent of natural law, individual liberty and free markets, sought to establish the essential morality and humaneness of the Somali system, while also pointing out its shortcomings and injustices. Recognizing the material benefits of the global market economy, he sought out ways to link the Somali system productively and stably with foreign markets.\textsuperscript{15}

A detailed evaluation of the Somali legal system from a Christian perspective could be quite fascinating in its own right but is beyond the scope of this paper. Rather, Somali law provides a valuable point of comparison with ancient Israelite law for several reasons. Most Somalis lead nomadic, pastoral lives, not unlike those of the ancient Israelites. Furthermore, the Somali law, like the Mosaic Torah, consists of traditions combined with case law, mediated not by a full-time central government but by local judges. Finally, the Somali law existed before, during and after the imposition of statutory law by central governments—colonial and postcolonial—and is remarkably largely independent of statutory influence from the West.\textsuperscript{16} Somalis are nearly all Muslim, and though Islamic law is not established, Near Eastern religious sensibilities pervade the culture and customs.\textsuperscript{17} Somali law thus provides something as close to a “natural” economic experiment with the law of ancient Israel as is possible today.

What follows will be a comparison between the economic lives of members of agrarian/nomadic societies and members of the modern global market. Examples will be drawn from both Somali and Israelite cultures.

\begin{footnotes}
\item[17] The scope of Islamic law is limited to divorce and inheritance. Other than these matters, “religious dignitaries tend to respect this rather sharp distinction between law and religion” (van Notten, \textit{Law of the Somalis}, 35).
\end{footnotes}
Agrarian/Nomadic Economic Life

The life of the pastoral nomad is sustained primarily from domesticated animals. The animals (the means of production) live off of the land and provide meat, milk, clothing, tools (from bone), etc. Productivity involves the breeding of more animals, which then require greater pastures and more shepherds. Nomads usually live together as clans, traveling from pasture to pasture.¹⁸ Large families and sometimes slaves/indentured servants care for the animals.¹⁹ Nomadic living requires large pasture lands and water sources in order to sustain life. Since division of labor is typically along gender lines—women performing domestic tasks and men working with the animals—clan/family loyalty is very important; the fate of the individual is bound to the fate of the group.²⁰ An individual who leaves the family or is expelled will find it difficult to support himself.

Agriculture represents one step toward specialization and delayed consumption in the expectation of greater future productivity. Agriculture is less portable—a farmer cannot move the fields he has planted—but typically more productive per worker/hour. Depending on the quality of the soil (the means of production), agriculture can be a more productive use of the land than shepherding. Families/clans and slaves/indentured servants are also important in an agricultural economy.

In such societies, family networks are crucial for sustaining life. Violence and other forms of social misconduct that would endanger the clan are discouraged by custom and social ostracism (dissociation from family).²¹ Customary laws governing interactions between individuals within the same clan, as well as laws governing inter-clan relations, are typically enforced by prominent members of the clan, who have much at stake in preserving order.²²

Industrial/Post-Industrial Economic Life

Human beings in close proximity with one another find it difficult to sustain themselves by domesticating animals or farming—but trade, specialization, and the use of human capital

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¹⁸ The size of an independent extended family in Somalia ranges from about 600 to 6,000 people; however, most self-sustaining encampments consist of half-a-dozen households (van Notten, *Law of the Somalis*, 9-10, 19-20).


(knowledge/technology) become more profitable. Rather than making one’s own food, clothes or home, one might specialize in a single good or service and trade that good or service for others.\textsuperscript{23} Specialization increases productivity. As the range of possible trading partners increases, the use of specialization, technology and mass production become even more profitable.\textsuperscript{24}

The Western powers industrialized in the mid-nineteenth century. Due to technological improvements human labor became comparatively less advantageous on farms than in factories. In 1800, approximately 95\% of Americans worked in agriculture. In 1900, the portion of Americans working in agriculture was down to 40\%, and today it is less than three percent.\textsuperscript{25} The increased productivity freed up the remaining labor (the greatest resource\textsuperscript{26}) to do more productive work, first in manufacturing, and primarily in service sectors today.

\textit{Comparison and Evaluation}

The rise of technology, trade and specialization has changed society in innumerable ways. Because the means of production in a post-industrial economy are portable—intellectual capital/education, technology—individuals and family units are no longer tied to land or livestock. This means that families move much more frequently and extended family ties are less important for mere survival.

Second, since men on average have greater physical ability but intellectual ability appears to be evenly distributed to both sexes, women are now more capable of providing for themselves and their families. Individuals with certain physical disabilities and disadvantages may compensate with intellectual production, thereby providing for themselves rather than relying exclusively on family, charity or government.

\begin{footnotes}
\item[23] “The nature of agriculture, indeed, does not admit of so many subdivisions of labour, nor of so complete a separation of one business from another, as manufactures” (Smith, \textit{Wealth of Nations}, I.I).
\item[24] See Adam Smith’s discussion in \textit{Wealth of Nations} I.III, “That the Division of Labour is Limited by the Extent of the Market.”
\item[26] See, for example, the work of Julian Simon, especially \textit{The Ultimate Resource 2} (Princeton: Princeton University Press, 1996). Simon argues that the greatest resource is the human mind looking for ways to combat scarcity by using “natural” resources more efficiently. In scripture the earliest humans fulfill the so-called “cultural mandate” (Gen 1:28) by agriculture (Gen 4:2), division of labor, and industry (Gen 4:20-22).
\end{footnotes}
Third, for moral and practical reasons, slavery—both the chattel slavery of the early American South, and forms of voluntary and involuntary indentured servitude—is not part of modern society.

Fourth, because of the increased costs associated with gaining specialized knowledge to participate in a service economy, children are an economic burden on their parents for a much longer period than in our agrarian past. Also, since knowledge and experience are cumulative, a worker’s economic output may continue to increase long after his or her physical ability has begun to decline. This change also significantly reduces the financial burden of the elderly on adult children—or at least, it has created the cultural expectation that the elderly will more or less live off of retirement savings rather than direct support from their children.

And finally, with increased productivity come capital, savings and investment—which in turn generate more productivity. Setting aside the issue of the wisdom and morality of specific banking and investment practices, the fundamental principal of saving is: deferred consumption in the present, with the expectation of greater future consumption. By foregoing consumption in the present, investment allocates goods and services to more pressing needs, resulting in greater long-term productivity.

It is hard to dispute that the prosperity of modern, industrialized society is desirable both for the community and the individual. Those who doubt this need only to compare the everyday life of an American in the fifteenth income percentile today with that of a wealthy American in the 1850s, or an ancient Pharaoh. Today’s poor American can reasonably expect to see all her children survive infancy, and to see her own grandchildren. She has access to a car, air travel, air conditioning, penicillin, a refrigerator, contact lenses, a vacuum cleaner, and more than enough calories to sustain life. She enjoys access to a wide variety of food and clothing, Bibles, the internet, secure banking, and many other good and pleasant things. All these may be attributed to advances in technology and the progress from an agrarian economy to an industrial economy and finally to a post-industrial, service-based economy.

Of course, modern humanity also produces nuclear weapons, trans fats, Grand Theft Auto, and HBO’s Real Sex. Fretheim observes, “Progress in civilization is always accompanied by progress in sin and its effects, so that ‘progress’ becomes an ambiguous reality within God’s
world.”27 Technological and economic advance has not perfected human nature. But it has alleviated much human suffering. Those who rightly decry Western consumerism and addiction to amusement sometimes forget that the Western capitalist system has brought much of the world out of a nasty, brutish and short existence.

**Mosaic Laws that are Unnecessary or Counterproductive**

This study is not a comprehensive assessment of the economic features of the Mosaic Law. Jewish, Christian and secular traditions have long debated the purposes of individual laws, their merits, and various applications. In this brief presentation, I will focus on laws that served an agrarian or nomadic economy but would be unworkable, unnecessary or counterproductive in an industrial or postindustrial economy. Where illustrative, comparison will be made to similar Somali laws and their application.

**Debt, Slavery and Indentured Servitude**

All three of the Mosaic law collections (Covenant Code, Holiness Code, Deuteronomic Code) address the issues of slavery, debt and indentured servitude. An individual could sell himself into slavery for a time in order to pay a debt, to make restitution for a crime (Exod 22:3), or simply to survive without property of his own. Male slaves would go free after six years (Exod 21:2ff), or in a universal seventh year (Deut 15), or in the year of Jubilee (Lev 25:39-43). In this regard, most Lawful slavery was voluntary and temporary.

Debts were also canceled in the seventh year (Deut 15; cf Neh 10:31), yet this was not to become incentive to refrain from lending as that year approached (15:9-11). Borrowing, though, was as a last resort, since the borrower is enslaved to the lender (Prov 22:7).28

In the modern economy, the terms *debt*, *slavery* and *servitude* have taken on very different definitions. Nearly every member of a modern economy participates in some form of debt. In a trivial sense, the use of a credit card for cash flow management may be construed as debt. More substantially, many have secured or unsecured debt obligations (e.g., loans used to purchase a home or an education). Conversely, anyone who has a savings account lends to others with


interest, which is discouraged in the Mosaic Law (Exod 22:25; Lev 25:36-37; Deut 23:19-20).\(^\text{29}\)
The incredible growth over the last three hundred years demonstrates that capitalism—a system based on the borrowing and lending of capital—produces great gains for society and for individuals.\(^\text{30}\)

On the other hand, chattel slavery—which is what we understand by the term *slavery*—is almost completely eradicated in the modern economy. It is scarcely necessary to argue that slavery in this sense is morally and socially undesirable; it invites abuses of human dignity and differentiated treatment under the law. Legislated or customary protections for slaves are difficult to enforce, particularly if the slave has limited or no standing in a court of law. The slavery of the ancient world reflected in the Mosaic Law is of a different kind. The Law provides protection for slaves (e.g., manumission for abuse, Exod 21:26-27) that it does not provide for animals. In the ancient world, certain sorts of indentured servitude were the only means for some of maintaining connection to a landowner with access to life-sustaining wealth (Exod 21:5-6). Today, such arrangements are not necessary in a society with greater social mobility and wide access to means of production.

Liberal, moral protections for debtors were more crucial in an economy that utilized slavery and indentured servitude. In a global market economy, legislation that would limit debt and liberally protect debtors (for example, the cancelation of all debts every fifty years) would also limit the formation, mobility and accessibility of capital.\(^\text{31}\)

In short, we see through the economic lens that slavery in the OT is quite different from slavery in the modern sense. We also see that certain provisions in the Mosaic Law, applied indiscriminately outside their economic context, could limit capital formation and prosperity in a market economic context.

\(^{29}\) This negative attitude towards interest is not unique to the Torah; it was predominant in ancient Greece, medieval Christian Europe, and Islamic thought from the seventh century even to the present; cf. Caplan, *Myth of the Rational Voter*, 32-33.


Social and Family Welfare Systems

Since there was no government-sponsored welfare system in the Mosaic era, extended families and clans were obligated to care for their weaker members. This included preservation of property within the family via levirate marriage (Deut 25:5-10) and limits on the marriage of female heirs (Num 27:1-11, 36:1-13), since a married woman joined her husband’s family. Foreigners and the needy, who had no connection to those with rightful land claims, could sustain themselves by gleaning after reapers, who were forbidden from gathering a second time through the fields (Lev 19:9-10). Slaves who had no access to property could permanently enslave themselves to a master who was then obligated to provide for them (Exod 21:5-6, Deut 15:16-17).

In a post-industrial economy, scarcity and access to means of production are far less of a concern. The increase in overall prosperity and availability of sustenance, combined with a variety of “job ladders” up which most can climb, have made extended family ties less crucial to the survival of the poor.

Family-based welfare systems may be not only unnecessary but also counterproductive. Some economists have demonstrated that clan-based welfare institutions/expectations may hinder savings (and consequent well-being) for individuals and families. Recent studies of the phenomenon known as “microfinance” have demonstrated that the expectation of aid (even non-essential aid) from extended family members results in disincentive to save. This evidence

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32 The Somalis practice something akin to levirate marriage. A widow must marry into her husband’s family to maintain her means of support (“household money”). Conversely, a widower is often offered the opportunity to marry his wife’s sister, but it is not required (van Notten, Law of the Somalis, 60-61).

33 When a Somali man dies, his sons and unmarried daughters inherit equally, but married women may not inherit from their parents; “the law requires this in order to keep the assets of the various clans separate” (van Notten, Law of the Somalis, 60).

34 In Somali society, a foreigner may not own land and has no legal standing except by attaching himself to a Somali host (van Notten, Law of the Somalis, 50-51).

35 Karol Boudreaux and Tyler Cowen (“The Micromagic of Microcredit,” Wilson Quarterly, Winter 2008: 27-31) observe that poor individuals in developing nations often borrow in order to “save”: “In poor communities, money is often an ineffective medium for savings….Banks may be a daylong bus ride away or may be plagued…by fraud. A cash hoard kept at home can be lost, stolen, taken by the taxman, damaged by floods, or even eaten by rats. It creates other kinds of problems as well. Needy friends and relatives knock on the door and ask for aid. In small
indicates that families are desperate to “save” via borrowing even though returns are negative, because microcredit enables them to protect their meager “rainy-day” savings from mooching cousins. The clan-based welfare system prevents the accumulation of capital that would lift the whole society gradually out of poverty.\(^\text{36}\)

**Paternity, Inheritance and Land**

Since land was the means of production, and males typically enjoyed a comparative advantage in making the land produce, laws concerning inheritance and paternity were crucial to the maintenance of family/clan loyalty and cohesion. The Mosaic laws were concerned with preserving the balance of tribal land ownership (Lev 25, 27; Num 27:1-11, 36:1-13).

The sexual ethics of the Law, while certainly reflecting to a certain degree God’s ideal for marriage as revealed in all of scripture, were nevertheless designed also to preserve premarital virginity among women and unambiguous paternity of children from productive unions (Deut 22:13-29).\(^\text{37}\) Sons were the primary means of social insurance for the elderly; men worked the land to provide for their parents and families. The identity of a child’s mother is never uncertain, of course, but inheritance was paternal. Uncertain paternity among brothers would endanger

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\(^\text{36}\) Van Notten observes this exact phenomenon in Somali society: “As soon as they have concluded a profitable deal, Somalis are expected to share their profit with their extended family. From what is left, family members in financial need will claim an additional share. If there is still money left after that, community projects such as the construction of a mosque or a school will claim a share. If after that there is still something left and its owner wants to lend to someone, he is not permitted to charge interest….Usually social pressure will be enough to dispossess someone of his money….But if that fails, sometimes parasites in the family will go to court over his refusal to honour their requests and will manage to get something” (103-104); see also his discussion on p. 125.


Van Notten observes similar conventions among the Somalis: “A man must never be in the same hut with a nubile girl. Obviously this last rule aims at protecting young women against the advances of passionate men, but an unmarried woman who has failed to find a husband can find it useful. She can force a man to marry her simply by going inside his house. His only way out of such a situation is to marry her or pay her family the bride price” (*Law of the Somalis*, 29).
inheritances and family loyalties.\textsuperscript{38} The test for adultery in Numbers 5:11-31 solves this problem by easing the concerns of the suspicious husband (and his family), leaving the truth in God’s hands.\textsuperscript{39}

Laws concerning paternity and land inheritance are not directly applicable to modern society. Land is no longer the means of production to be protected within a family, and inheritances are usually liquid in the form of cash, stock, property, etc.

Virginity is still prized today to a certain degree, but for cultural and moral reasons rather than economic ones. Requiring a young woman to marry her rapist (Deut 22:28-29), a horrible punishment for an innocent victim, would serve no social function, neither preserving inheritance nor deterring the crime of rape.\textsuperscript{40} Through the economic lens, we see that the Mosaic Law provided for the protection for women and for the ongoing welfare of society.

**Summary**

The Mosaic Law contains objectively good and moral laws for nomadic and agrarian economic societies. But these economies were less developed (and less desirable) than industrialized economies based on division of labor, trade, capital and superior technology.

Though slavery may once have been necessary, it is no longer practiced. Liberal protections for debtors may be counterproductive in a market system.

Family-based social safety nets are less important now, and actually may hold the family back because of freeloading.

The protection of unambiguous paternity and female virginity are no longer economically relevant, since land is no longer the means of production, and since daughters and sons are generally capable of adding equal economic value to families.

\textsuperscript{38} The Law is careful to protect the equal rights of a son of an unfavored wife: Deut 21:15-17. Compare the negative consequences of breaking this law: Jdg 11:2ff.

\textsuperscript{39} Dennis T. Olson, *Numbers* (Interpretation Commentary Series; Louisville: John Knox, 1996), 36-37. By contrast, the exile shifted Israel’s socioeconomic concerns away from inheritance, which is protected by a patrilineal principle, to ethnic and cultural identity, which is protected by the matrilineal principle; see Benjamin D. Giffone, “‘Your Mama Was a Hittite’: Torah Exegesis and the Matrilineal Principal in the Ezrahite Reforms” (Eastern regional meeting of the Evangelical Theological Society, March 26, 2010).

\textsuperscript{40} Somali law concerning rape is very similar to that of Deuteronomy 22 (van Notten, *Law of the Somalis*, 57).
The Mosaic Law considered purely as a legal system is inadequate to address all the concerns of a modern economy—and that was never its purpose.

Conclusions

The argument to this point has been as follows:

- From economics, we see that division of labor and trade within a market system is vastly more productive than an agrarian or pastoral economy.
- The market economic system based on private property and trade, though not perfect, is desirable in principle and in practice, and reflects fundamental biblical principles.
- Certain provisions of OT Law do not appear to accord with a market economic system, since they were given to an ancient agrarian people. Some laws, if imposed on a post-industrial economy, would actually be a detriment to society.
- The OT Law, according to the NT, was not intended to be a complete revelation of God’s perfect will for his redeemed people; nor was the Law a comprehensive legal document designed to address every human circumstance.
- Through the economic lens, we may discern God’s true purpose behind an individual law and thus his good and perfect will for the church and society.

Value of the Economic Lens

The broad goal of this paper is to demonstrate that biblical interpretation and theological formulation would benefit from the tools and insights of the social science of economics. Economics—the study of human choices and tradeoffs—is an important consideration in the question of the ongoing role of the OT in the church and society.

The economic lens can be a powerful apologetic tool, as well. Economics can help explain, for example, slavery and patriarchy in scripture, and enable us to take the next step in applying scripture faithfully in contemporary society.

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41 In recent decades, economics as a discipline has made inroads into many other fields; see George J. Stigler, “Economics—the Imperial Science?” *Scandinavian Journal of Economics* 86 (1984): 301-313.
Avenues for Further Study

This paper proposes an interpretive lens in the hope that much more reflection and consideration will be given to scripture through that lens—I have tried to start a conversation rather than to make a pronouncement. Two areas in particular might be of interest for further study: criminal law, and sexual ethics.

The Mosaic Law uses restitution and retribution, rather than imprisonment, to punish crime. The penal system of most modern Western democracies does not utilize corporal punishment and limits capital punishment to only the most heinous crimes. Vern Poythress offers a critique of the modern prison system and its failure to deter crime or rehabilitate criminals.42 Yet in the modern world a compensatory system would be problematic for certain crimes. The rise of technology has increased the magnitude and scope of potential impositions of negative externalities—it is now much easier to commit crimes for which no restitution can be made.

The economic lens has much to offer a theology of sexuality, particularly in light of recent critiques of traditional biblical sexual ethics.43 Come critics of the church’s historic teaching make valid points about the OT’s apparent lack of interest in condemning or preventing premarital sex. Any treatment of sex in an agrarian culture would need to account for the economic consequences of marriage, polygamy, premarital sex, and extramarital sex. Since the biblical laws concerning premarital sex appear to be restorative rather than punitive (fix the problem by getting married), they should not be construed as open sexual license.

Caution

There are several reasons for caution when applying the economic interpretive rubric I have outlined above.

The first possible pitfall would be considering the OT Law strictly in materialist terms. Certainly many of the Mosaic laws have nothing to do with economics, nor is enhanced production in a prosperous society the primary goal of the Law.44 The redemptive-historical

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44 Nevertheless, prosperity is often presented as a reward for following the Law; the only provision of the Decalogue that entails a specific consequence is the fifth: “Honor your father and your mother, as the LORD your
context of the OT is primary for me, and the OT cannot be applied faithfully in the church and contemporary society apart from such consideration. Economics emerges as one helpful tool in discerning “what the text really meant,” and subsequently, “what the text means for us today.” I have certainly borrowed from some Marxist readings, but mine is far from a strictly materialist approach.

A second pitfall for some would be the romanticization of “ancient agrarian family religion.” I am not trying to romanticize some kernel of ancient religion in a Wellhausenian modern quest for universal religious truths. If anything, my reading of the OT wilts any romance surrounding an agrarian way of life! Everyday human life has changed in two-and-a-half millennia, but human nature has not changed—nor has the true God of scripture.

A third danger is the tendency to discount as historically particular any elements of the Law that are unpalatable or inconvenient. For example, a case could be made purely on economic grounds that, since preservation of the nuclear family is no longer necessary for human survival (a husband to work the fields and a wife to bear children), any sort of permanent sexual arrangement between consenting parties is equally morally acceptable. It would be a misapplication of the present thesis to argue that, since underpopulation or inheritance is no longer a social concern, any sort of sexual ethic is fair game, since this would ignore the clear moral teaching of the Torah, as well as the NT’s teaching on sexuality and the image of God (e.g., Matt 19:3-9; 1 Cor 6:18-20).

Thus far I have been working with the assumption that a free-market system based private property and free trade is biblically defensible. Certainly Christians disagree on this point, and this paper has taken up that debate only briefly. Yet Christians who favor more economic regulation and/or government command of the economy would also do well to apply the observations of economics when interpreting OT scripture, so as to strengthen their critiques of the market system.

God commanded you, that your days may be long, and that it may go well with you in the land that the LORD your God is giving you” (Deut 5:16).

Erhard Gerstenberger (Theologies in the Old Testament, John Bowden, trans. Minneapolis: Fortress Press, 2002) argues that the theological ideas of Israel were not revealed from God but rather reflect the economic needs of Israel at various points: “Throughout the whole of the Old Testament period we have to reckon with a close clan community. As a manageable group focused on acquiring food together, and thus a group which indubitably shared all that it found and acquired, it clearly also developed specifically theological ideas centered on its own ongoing existence and the health, happiness and procreation of its members” (20).

Those who apply prophetic critiques of the Israelite aristocracy to Wall Street bankers must also consider the prophetic messages in their economic context.47

A final word of caution: those who enjoy the prosperity of a market system—Christian and non-Christian alike—risk losing touch with the “earthiness” of scripture and its portrayal of human creaturely existence. A subsistence farmer reads Genesis 3 and understands deeply the cursedness of the ground—he lives at the mercy of the ground, the sun and the rain.48 Cain thumbed his nose at God’s punishment: he was cursed to live in wandering forever, but then settled down in a city which he named “Wandering” (Nod; Gen 4:16). In a sense, we in the prosperous West have “overcome” elements of the curse of the Fall, living so far from the ground and its uncertainties and failing to fully appreciate the fragility of everyday life. It is consistent with the cultural mandate to try to make God’s creation work for us and improve upon it—as long as we understand ourselves as reflecting and continuing his creative work in the world, for his glory.
