'Military Crimes'
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Concerned with Israel's history and future, the Bible devotes considerable space to war—the most powerful catalyst of change in the lives of nations. The biblical authors often display a consciousness of illicit activities in wartime, anticipating what we would call today "war crimes" or "military crimes." And they also produced the first known examples of written laws of war. While the so-called Code of Hammurabi from Mesopotamia contains stipulations for soldiers, it is concerned with methods of conscription, military discipline, and concerns of soldiers' families—yet not conduct on the battlefield. Ancient cultures from the Aegean and Western Asia, however, do reflect a general sense of what one deemed to be "lawful" conduct for armies. In some places they even moved in the direction of formal law. Setting a precedent for later international law and war conventions, some ancient Greek city-states formed interstate leagues ("amphictyonies") and took oaths that they would not destroy each other's cities (and especially their municipal water sources). Similarly, in the fifth book of Plato's Republic, Socrates argues for the necessity of a law sanctioning Hellenic armies that lay waste to arable land. In the Hebrew Bible, we find an even more deliberate effort to define and depict what actions are permissible and forbidden in wartime.

Military Crimes in Biblical Narratives.

We begin by surveying various biblical narratives, many of which are found in the Pentateuch, that discuss laws and crimes related to war.

Genesis.

Despite many differences, the first chapters of Genesis agree on a fundamental point: the creation of the world and humanity did not involve a battle between gods. In this respect, they differ from myths that portray a deity going to war with other gods and then creating the world after his triumph, as in the Babylonian epic "Enuma elish" and the allusions to similar myths in Isaiah 51:9–10, Habakkuk 3, and Psalms 18, 29, 46, 74, 89, 93 *et passim*.

War and conflict characterize the world "east of Eden." There, violence grows together with the emergence of civilization (see especially the line of Cain portrayed in Gen 4), necessitating a recreation of the earth—this time involving mass-destruction and bloodshed (Gen 6—9). The Flood is the first instance of the deity fighting against peoples of the earth. In later accounts, God uses human armies instead, though it should be noted that military might is sometimes described as a flood in both biblical and ancient Near East traditions. The divine destruction of the earth, while similar to the divine punishment on Israel in the prophets, runs counter to the ethical guidelines set forth later in the Pentateuch (see discussion below).

Genesis sets forth peaceful coexistence as a political model. While the protagonists consistently avoid war with the inhabitants of Canaan, assaults by peoples beyond Canaan's borders warrant military action. In Genesis 14, four kings from the East make war on and subjugate five kings of Canaan during the days of Abraham. When the Canaanite kings rebel, the foreign kings undertake a campaign, seizing many goods and provisions from Sodom and Gomorrah, along with Abraham's brother/nephew Lot. In response, the heroic Abraham rises up, mobilizes all the men of his household, and valiantly pursues the enemy kings, recovering both spoils and the prisoner of war.

While the book's authors condone Abraham's valor, they view other incidents with ambivalence. For instance, the conflict described in Genesis 34 is triggered when a foreign prince, Shechem, rapes Jacob's daughter Dinah. Her brothers convince the members of Shechem's city to be circumcised so that they could be one people. Yet as soon as the circumcisions had been performed, two of the brothers, Simeon and Levi, break their promise and march against Shechem's city, massacring all its men. Later the remaining sons of Jacob plunder the city, taking with them all the wealth and flocks along with the women and children. Jacob decries this devious deed: "You have brought trouble on me by making me odious to the inhabitants of the land, the Canaanites and the Perizzites; my numbers are few, and if they gather themselves against me and attack me, I shall be destroyed, both I and my household" (Gen 34:30). The tale ends with a rhetorical response from Jacob's sons: "Should our sister be treated like a whore?" This late account prepares the reader for the exodus-conquest account and raises questions about the political model of peaceful coexistence that the authors of Genesis advocate elsewhere in the book. What is less clear is how the account views the legitimacy of the brothers' vengeful violence.

Exodus.

The narrative that begins the book of Exodus presents a much different model from that of Genesis. Instead of locating Israel's origins in Canaan, it begins with the nation in Egypt. The king fears the threat posed by Israel's increasing numbers: "[I]n the event of war, [they will] join our enemies and fight against us and escape from the land" (Exod 1:10). The measures the king takes are first oppressive labor (Exod 1:11–14) and later genocide (Exod 1:15–16). It is difficult to say whether the biblical authors would have understood the slaying of male children as

inherently criminal, since several other prominent texts (see below) depict Israel's armies doing the same to some of their own enemies.

As Israel escapes from Egypt, they are not yet a formidable military force. At the first stage in their journey, after the deity vanquishes the Egyptian army, the nation faces an attack by the Amalekites, who they manage to repel. The account concludes with a declaration that Yahweh "will have war with Amalek from generation to generation" (Exod 17:16). Later biblical authors spell out what is criminal about this attack: they "attached you on the way, when you were faint and weary, and struck down all who lagged behind you" (Deut 25:18). A band of refugees is thus an illegitimate target for armies. Not only did they assault this vulnerable population but they also preyed on its weakest, most defenseless members.

Numbers.

The treatment by the Amalekites sets the framework for the first encounters with Israel's other neighbors. After Israel arrives in Kadesh in the south, Moses asks the Edomite king for permission to pass through his territory (Num 20:14–19). His petition underscores that Israel is Edom's own kin and that they had undergone great affliction. They are not on their way to conquer new territories but rather are *returning* to their homeland after years of wandering in foreign lands. In this way the authors portray the behavior of the Edomites as morally criminal: it expunges Israel's actions of any explicit martial character and transforms their petition into what one would call today "safe passage" for refugees. Israel is not conducting a military campaign against a third party. No new territory is being occupied. Instead, a horde of émigrés is en route to their country of origin. Although Israel is Edom's kin, they do not so much as ask for a drop of water from their wells or a handful of grain from their fields. Even so, Edom refuses Israel

passage and threatens to take up arms if they would attempt it. And ultimately they do come out with heavily armed troops, forcing Israel to seek another route.

The scenario repeats itself, with variations, in the encounters with other peoples (Num 21:1–3, 21–35). These texts reflect what biblical authors deemed unacceptable behavior in wartime. They also constitute a kind of "war commemoration" by which the authors negotiate relations with Israel's neighbors and groups within their society. Thus Deuteronomy bans Ammonites and Moabites from membership in "the congregation of Yahweh," and the first reason it gives for this ruling is that "they did not meet you with food and water on your journey out of Egypt" (Deut 23:3–4 [Heb. 4–5]).

Deuteronomy.

Several other laws related to war crimes can be found throughout Deuteronomy. This book, in fact, contains the earliest known written laws of war, and later Western jurists, such as the founder of modern international law Hugo Grotius (1583–1645), have drawn on them either directly or indirectly (using later Jewish and Christian writings) in drawing up international war conventions.

A compendium of battlefield regulations (Deut 20) requires Israel to offer terms of peace to an enemy city. If the city accepts, then its population should be subjected to forced labor. If the city does not surrender, then Israel is to execute all the (adult) males and to take possession of the women and children, along with the livestock and wealth. Other accounts (Num 31 and Judg 21) portray Israelite armies slaying the male members of an enemy population, even young ones, while sparing only virgin girls and women. None of these texts explain the rationale for the different treatment of males and females. Perhaps it is because the males would grow up to be fighters, an understanding that might underlie the Egyptian king's decree (Exod 1:10). Males

were often thought to bear the identity of their people. Thus when engaging in an act of genocide, one could spare virgin women and appropriate them as "neutral vessels" for the purpose of propagating one's own name.

A text in close proximity to this compendium of regulations treats a case of Israelite soldiers who desire to take a "beautiful" captive woman (Deut 21:10–14). Curiously the law has nothing to say about her virgin status, although it also doesn't mention her husband. It is instead concerned with the way Israelite men are to treat her. The only permissible relationship between the two is spousal. First the soldier is to bring her into his house. Her head is to be shaved, her nails pared, and her captive's garb discarded. She must have a full month to mourn her father and mother. Only thereafter is the Israelite man allowed to marry her: "you may go in to her and be her husband, and she shall be your wife" (v. 13). That means she is not to be a concubine, sex slave, or even a household servant. The law makes this explicit. If for some reason the man is not satisfied with her, he must let her go away as a free woman and is not permitted to sell her for money. The passage concludes: "You must not treat her as a slave, since you have dishonored her" (v. 14).

Another passage from Deuteronomy's compendium of war (<Deut>20:19–20) relates to the destruction of fruit trees. It may well have originally formed a continuation of rules of battlefield conduct (<Deut>20:10–14), and it breathes the same spirit of restraint that informs those rules as well as the prescriptions for the treatment of female captives just discussed. The law speaks to the situation of a besieging army that may resort to drastic tactics to expedite a city's capitulation. One such tactic was the devastation of fruit trees, a central component of a community's "life support systems." The law stipulates that an army can cut down trees only if

they are not fruit bearing and only if the army *needs* the wood. In other words, the motivation must be utilitarian not punitive.

The Deuteronomic code thereby rules out a common measure of psychological and punitive warfare, practiced from the Aegean to Mesopotamia. Examples of such wanton destruction are depicted throughout the Bible. For instance, Abimelech quells a revolt in Shechem by razing the city and sowing it with salt (Judg 9:45). These ecocidal and urbicidal measures were intended to make both a strategic and symbolic impact. In an act that corresponds to the destruction of water supplies by modern armies, a military coalition headed by Israel stops up the wells of the Moabites (2 Kgs 3; see also Gen 26:15, 18). Direct assaults on agricultural subsistence are depicted at least twice in the book of Judges. Every time the Israelites had finished sowing, the Midianites would come up against them to ravage their produce and livestock (Judg 6:3–5). Similarly, Samson catches three hundred foxes, ties torches to their tails, and sets them free to burn the Philistines' grain, vineyards, and olive groves (Judg 15:4–5). In the book of Kings, Elisha prophesies divine aid for the Israelite coalition in its campaign against Mesha of Moab: "[Yahweh] will also hand over Moab to you. You shall conquer every fortified city and every choice city; every good tree you shall fell, all springs of water you shall stop up, and every good piece of land you shall pain with stones" (2 Kgs 3:18–19; translation JLW). In telling how the coalition forces do just as Elisha prophesies, this text represents one of the clearest biblical witnesses to ecocidal and urbicidal aspects of ancient Israelite warfare.

While these stories may not be historically reliable, they demonstrate that the armies of Israel and its neighbors often targeted the life support systems of their enemies—practices that Deuteronomy proscribes. Yet the authors of Deuteronomy (or of its sources) may also be making an *a fortiori* argument that applies to human life as well. If one may not even harm the fruit trees

of the enemy in order to accelerate a city's surrender, how much more so should one not torture

captives for the same purpose—an equally well-attested method of warfare.

Deuteronomy's compendium of war laws contains a secondary passage that restricts the

more lenient treatment of populations beyond the borders of Canaan:

> Thus you shall treat all the towns that are very far from you, which are not towns
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> of the nations here. But as for the towns of these peoples that the LORD your God
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> is giving you as an inheritance, you must not let anything that breathes remain alive.
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> You shall annihilate them—the Hittites and the Amorites, the Canaanites and the
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> Perizzites, the Hivites and the Jebusites—just as the LORD your God has
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> commanded, so that they may not teach you to do all the abhorrent things that they
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> do for their gods, and you thus sin against the LORD your God (Deut 20:15–18).

Israel is to annihilate completely the seven nations that inhabit Canaan. The later authors who

introduced this paragraph faced a problem. If Israel had spared many of the Canaanites, and if

centuries later these Canaanites were no longer identifiable within the population, then the reader

would have to conclude that Israel intermarried with the Canaanites. Later readers of

Deuteronomy addressed the problem by inserting this addendum that requires Israel to wipe out

all of Canaan's inhabitants and its culture.

This concern with the problem of intermarriage and cultural assimilation is explicit in

another passage:

> [W]hen the LORD your God gives [the nations of Canaan] over to you and you
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> defeat them, then you must utterly destroy them. Make no covenant with them and
>
> show them no mercy. Do not intermarry with them, giving your daughters to their
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> sons or taking their daughters for your sons, for that would turn away your children

from following me, to serve other gods. Then the anger of the LORD would be

kindled against you, and he would destroy you quickly. But this is how you must

deal with them: break down their altars, smash their pillars, hew down their sacred

poles, and burn their idols with fire (Deut 7:2–5).

The expression "utterly destroy" is a verbal form of the Hebrew term ḥērem ("ban"). Most often

this practice functions as a form of severe punishment and retribution (Isa 34:2), which

resembles the practice of the ban elsewhere in the ancient Near East. Other texts link the ban

with special gratitude for divine assistance inasmuch as the victor forgoes any material gain

(Num 21:1–3). Thus Deuteronomy presents the ban differently, ordering Israel to wipe out the

land's inhabitants in order to avoid any cultural or marital contacts with them.

The Deuteronomistic History and Chronicles.

There are many other narrative texts relevant to our survey, including those found in the

Deuteronomistic History and 1–2 Chronicles.

In the book of Samuel, Saul becomes king by saving the inhabitants of Jabesh-gilead when

the Ammonite king besieges the city and threatens to gouge out the right eye of all its men. One

can point to the same or similar measures that conquerors adopted to render a population

ineffective in future battles. Later, Saul fails to follow divine order to annihilate the Amalekites

(1 Sam 15). The book of Samuel also presents an Edomite—a population often vilified elsewhere

for their wartime conduct—slaughtering the inhabitants of Nob, killing both "men and women,

children and infants, oxen, donkeys, and sheep" (1 Sam 22:19). The biblical authors clearly view

this case of annihilation as reprehensible.

The book of Chronicles tells of a war between Israel and Judah in which Israel slays 120,000 Judahite kin and takes captive another 200,000 (clearly exaggerated figures). A prophet of Yahweh goes out to meet the returning armies of Israel and upbraids them: "[Y]ou have killed them in a rage that has reached up to heaven. Now you intend to subjugate the people of Judah and Jerusalem, male and female, as your slaves. . . . Now hear me, and send back the captives whom you have taken from your kindred . . ." (2 Chr 28:9, 11). The account concludes by describing Israel's commendable treatment of these war captives: "[T]hey clothed them, gave them sandals, provided them with food and drink, and anointed them; and carrying all the feeble among them on donkeys, they brought them to their kindred at Jericho . . ." (2 Chr 28:15). This account may be compared to the attention that the book of Kings devotes to the fraternal wars between Israel and Judah (1 Kgs 14:30; 15:16, et passim).

Military Crimes in Prophetic and Poetic Literature.

The prophetic and poetic books differ from the narrative materials addressed thus far. Rather than working our way sequentially through them, we will take here a more thematic approach, discussing several acts of war that are considered at least potentially problematic.

The Betrayal of Alliances.

Many texts protest infidelity among allies and treaty parties. For instance, alliances are presented as sacrosanct in Psalm 7. The psalmist calls destruction upon himself should he betray such an alliance with harm (Ps 7:3–5 [Heb. 4–6]; cf. 55:20 [Heb. 21]). More concretely, Ezekiel's oracle against Egypt condemns the nation for its failure to provide support promised for Judah's leaders (Ezek 29:6–7, 16). Ezekiel 35 and Obadiah 10, 21 accuse Edom of betraying Judah at the time of

the Babylonian conquest. Obadiah draws explicitly on a tradition that links Judah and Edom as brothers. The same tradition appears in Amos 1:11. This text, which is usually dated to the same period, accuses Edom of having "pursued his brother with the sword." In each of these passages, the close relationship between Judah and Edom compound the betrayal. Lamentations also describes Judah being abandoned by her lovers and treated treacherously by her friends (Lam 1:2).

The Treatment of Civilians.

Several texts depict armies slaughtering children and infants, even those not yet born. Such acts are instinctively abhorrent to the modern reader. They apparently were also troublesome for biblical authors. In Amos's sequence of condemnations of foreign nations for war crimes, he condemns the Ammonites for precisely this: "because they have ripped open pregnant women in Gilead in order to enlarge their territory" (Amos 1:13). The prospect of such a fate prompts lamentation and implicit condemnation elsewhere (2 Kgs 8:12; 15:16).

Attacks on these most vulnerable of noncombatants, however, are not universally condemned. Psalm 21:10–12 (Heb. 11–13), for example, calls on the king to pursue his enemy's offspring in particular. Children and offspring represent the future of a people and thus to destroy the youngest generation of a people means to destroy their future. The account in Jeremiah 49:10 makes this clear: Speaking of the Edomites, it declares that "[h]is offspring are destroyed, his kinsfolk and his neighbors; and he is no more." That this slaying of children is an extreme form of military violence is not in doubt. Psalm 137 expresses this deep anguish and unabated rage when it declares to Babylon: "Happy shall they be who take your little ones and dash them against the rock" (v. 9). Isaiah 13:16–18 similarly wishes such destruction on Babylon, naming

the victims as infants, wives, children, and "the fruit of the womb." In this way, it voices the desire for the enemy's total obliteration (compare Isa 14:21–22; Jer 51:22; Nah 3:10).

Even Yahweh resorts to this extreme behavior. He is said to have targeted offspring in his more desperate dealings with Israel. In Jeremiah he laments that "in vain I have struck down your children" in pursuit of repentance (<Jer>2:30). With threats clearly evoking the generative symbolism of the child, Yahweh prevents childbirth in one breath and kills those who have already been born in the next (Hos 9:11–14, 16). Israel is threatened with the future destruction of its reproductive potential even more graphically in subsequent threats on pregnant women, mothers, and children (Hos 10:14; 13:16). Yahweh's destruction of the firstborn of Egypt is poetically recounted in Psalm 105:36. It is difficult to imagine that wanton killing of pregnant women and children constituted a widespread practice in either Israel or Judah, nor among their neighbors. That it could be, and was, used on occasion, however, seems more than likely—perhaps as an attempt of genocide in cases of especially recalcitrant enemies, or perhaps as a technique of psychological warfare.

That all kinds of noncombatants are caught up in the violence of military engagements is widely recognized by the biblical texts. Old men, women, and the young may all suffer the consequences of military violence, whether this involves famine (Lam 2:20), separation from their families (Jer 8:10), rape (Lam 5:11) or other forms of abuse (Lam 5:12–14; Jer 51:22). Though such actions seem to be acknowledged as inevitable consequences of war, some acts prompt complaint, usually in connection to the extremity of the acts involved. Thus Lamentations 5:11–14 protests the sexual abuse of women, while several of Amos's oracles against the nations addresses the treatment of the defeated (Amos 1:6, 9, 13).

In some instances, stronger statements against military violence do appear, as in the condemning of perpetrators for their lack of discrimination. For example: "Egypt shall become a desolation and Edom a desolate wilderness because of the violence done to the people of Judah, in whose land they have shed innocent blood" (Joel 3:19). Although the fall of Jerusalem is often understood as just punishment for Judah's sins, several texts from the period after the city's destruction condemn the Babylonians for failing to show restraint: "I was angry with my people, I profaned my heritage; I gave them into your hand, you showed them no mercy; on the aged you made your yoke exceedingly heavy" (Isa 47:6; compare Lam 2:21; 3:43). Similarly, Jeremiah 51:34–35, 44 describes Nebuchadnezzar's actions *vis-à-vis* Judah as excessive, demanding recompense (compare Hab 1; Ezek 25:15–17). The same theme is often articulated specifically in terms of excessive plundering (Joel 3:4–8; Nah 2:9; 3:1; Hab 2:8). Nahum 3:19 draws attention to Assyria's endless cruelty in order to explain Nineveh's destruction as just punishment. Several nations are condemned for rubbing salt in Judah and Israel's wounds by gloating over their fate (Obad 12—13; Ezek 25:3–4). More abstractly, a long series of nations are depicted in Ezekiel 32:22–32 as suffering in the afterlife as punishment for terrorizing the living.

The Treatment of Prisoners.

Several texts address appropriate treatment of prisoners of war. Both Amos 1:6, 9 and Joel 3:6–8 apparently condemn the sale of prisoners as slaves, though warfare was no doubt a common source of such labor. This is evident not only in texts such as Nahum 2:7; 3:10; and Lamentations 1:3, 18 but also in passages that depict enslavement in the wake of a military defeat as just punishment for Judah (Jer 25:14; Ezek 34:27). Perhaps the authors were ultimately concerned with humane treatment. The poet in Lamentations 3:34–36 appeals to Yahweh:

"When all the prisoners of the land are crushed under foot, when human rights are perverted in the presence of the Most High, when one's case is subverted—does the Lord not see it?"

The Treatment of the Deceased.

A handful of texts also deal with the treatment of the deceased. Jeremiah warns about the desecration of the bones of Judah's kings, priests, prophets, and general population in the course of Jerusalem's defeat (Jer 8:1–2). This passage, however, does not appear to condemn the practice as such (compare Jer 15:3, which anticipates the consumption of the more recent dead by various carrion beasts, and Jer 36:30, which anticipates the exposure of the king's body to the elements). Stronger voices of protest appear in Psalm 79:2–3, in which the psalmist complains of the fate of Yahweh's people in having been left unburied. Amos 2:1 likewise condemns Moab for desecrating the bones of the king of Edom. Just as children and pregnant women represent the future of a people, the dead represent its past. Leaving the dead unburied, and disinterring those long dead, targets a people's history and identity. Here, too, we might understand these acts as expressions of power over a people's fate and as acts of psychological warfare.

Limitations on Extreme Violence.

Those who failed to demonstrate restraint are often punished with the same crimes they inflict on others. This is evident in Jeremiah 50:29: "Repay her [Babylon] according to her deeds; just as she has done, do to her" (compare Jer 51:6, 24, 56; Lam 3:64–65; Obad 15; Ezekiel 25; Amos 1—2). The Assyrians who beat Zion with a rod will be struck in turn by a whip wielded by Yahweh (Isa 10:24–26). The one who destroys and deals treacherously will in turn be destroyed and treated treacherously (Isa 33:1). As Israel has been taken captive by the nations, so in the future Israel will take the nations captive (Isa 14:2). And as it has been insulted by the nations, so

will those nations now be insulted (Ezek 36:6–7). The plunderers, too, will be plundered (Ezek 39:9–10; Joel 3:4–8; Hab 2:8). A similar logic might also underlie references to Yahweh taking vengeance (Nah 1:2; Jer 50:15, 28; 51:11; Ezek 25:14, 17).

Opposition to Yahweh, his anointed king, or his people more broadly constitute criminal acts that warrant punishment. This is especially evident in the psalms, in which the king's enemies are condemned for apparently little other than resisting his authority (e.g., Ps 18:34–48; 33:10–17; 83). The theme appears elsewhere in the condemnations of the nations who carry out Yahweh's decrees yet fail to acknowledge or fully obey Yahweh's authority (Isa 13:11; 14:3–21; 47:10–11; Jer 50:14, 24, 32; Ezek 25:3–7; 28:2, 24–26; 29:9; 31:10–11; 36:6–7; Zech 14:12–15). Finally, while Yahweh is often engaged in military activities, some texts express Yahweh's desire for the cessation of wars on the earth (Ps 46:8–9; Mic 4:1–3; Isa 2:2–4).

[*See* also Ancient Near Eastern Law; Biblical Law, subentry Hebrew Bible; Deuteronomic Law; Ethics; Greek Law; Injury and Assault; International Law; Law in the Prophets; Laws of Hammurapi; Narrative; and Punishment and Restitution]

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