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INTRODUCTION

The struggle between law and liberty forms one of the major threads of human history and, paradoxically enough in view of the victories the latter is supposed to have won, it is a conflict that is particularly characteristic of our own age. At present, the ideal of personal independence and the vision of the free society are again exercising the minds of men, so much so that in some circles the reality of advances already made has been openly challenged. Hand in hand with this call for individual and social self-determination has gone a denunciation of all that would bind and restrict human freedom. Authoritarianism and regimentation, institutionalism and bureaucracy, law and custom, all have come under criticism and judgment. In other quarters, however, a discernible reaction to such a view has begun to assert itself on the ethical scene, with the result that 'law and order' has become one of the central issues of the day.

Christian thinkers have by no means been exempt from the ideas and tendencies that surround them and, though initially lagging behind the mood of the age, have recently begun to apply themselves to the issues it raises. Thus the New Theology has brought with it a New Morality keenly attuned to the ears of the time, in which such conceptions as law and love, structure and freedom, are often as radically polarised as in much secular literature. At the same time, this challenge to traditional patterns of personal and social behaviour has led other christian thinkers to appeal for the maintenance of those long-standing ethical norms and rules that have formed the basis of christian attitudes and christian morality in the past.

From all this, a study of Jesus' attitude to the Law may well seem far removed. Yet this is hardly the case, for both sides in the current christian debate invoke his example in support of their views. Whether they are contending for the 'new' morality or the 'old', for the relaxation of traditional christian prescriptions or their preservation, the activity of Jesus is presented as the paradigm for the one course or the other. This appeal to Christ is well-founded. In his day, contemporary interpretations

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of the Jewish Law provided the main context within which his teaching was formulated and he was frequently constrained to define his position in relation to them. The gospels contain ample evidence of the struggle that ensued throughout his ministry, ultimately resulting in its termination.

Although many of the specific questions agitating the modern mind differ significantly from those that confronted him in the course of his ministry, a study of Jesus' attitude to the particular moral and legal concerns of his time does supply us with the fundamental principles from which an understanding of contemporary issues can begin. To neglect this material, or to be content with merely superficial interpretations of it, as has frequently been the case on both sides of the dispute, would be a considerable mistake. This examination of Jesus' attitude to the Jewish Law, then, is partly intended as a preliminary contribution to this wider discussion. However, as its title indicates, it is primarily concerned with the specialised investigation of the question that is the province of biblical exegesis, and it is to that aspect of the matter that we must now turn.

The issue of Jesus' attitude to the Jewish Law has, of course, long been a subject of fascination to New Testament scholars. At present their interest shows little sign of abating, though the way in which the evidence is handled, and the perspective from which the matter is approached, has over the years undergone considerable alteration. There have been three distinct stages of the enquiry which, not surprisingly, correspond to the different phases through which the quest for the historical Jesus has passed. In each case, they have been accompanied by a significant revolution in exegetical method.¹

¹ A full survey of the considerable body of material that has grown up around the subject and a detailed account of the course which the debate has taken has yet to be attempted. In the meantime, however, a beginning has recently been made by K. Berger, 'Die Gesetzesauslegung Jesu' (Diss., 1968), pp. 5–83, now summarised in K. Berger, *Die Gesetzesauslegung Jesu. Teil I: Markus und Parallelen* (1972), pp. 3–11, while W. E. Keller, 'The Authority of Jesus as reflected in Mark 2.1–3.6' (Diss., 1968), provides a selective history of interpretation of this aspect of the question. For a good summary of the Jewish discussion up till the beginning of the postwar period, only introduced in the following discussion where it has moved into the centre of the New Testament debate, see J. Jocz, *The Jewish People and Jesus Christ* (1949), pp. 15–42, 286–90. A

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In the century following the rise of historico-critical investigation, concentration on an historical Jesus stripped of supernatural and eschatological characteristics brought with it great interest in his relationship to the Law. It was probably the most discussed aspect of his ministry. Whereas preceding orthodox theology had viewed his teaching as an 'exposition' of Mosaic commands,¹ the new liberal enquiry, while continuing to affirm that no abrogation of the Law had occurred, spoke rather in terms of Jesus' penetrating behind the letter of the Law to its inner moral and spiritual principles.² Later in the century both a distinction between his private and public teaching and his development from a more to a less conservative position were advocated as solutions to the problem raised by the detection of apparent discrepancies in his sayings concerned with the Law.³ Meanwhile, others began to argue that, in isolated sayings at least, an abrogation of the Law was involved.⁴ An attempt was also made to reconcile elements of continuity and

serious Islamic critique has now also been supplied by Isma'il Ragi A. al Fariqui, *Christian Ethics: A Historical and Systematic Analysis of its Dominant Ideas* (1967), pp. 50–136.

¹ On the earliest discussions of the Church Fathers see now G. Bourgeault, *Décologie et morale chrétienne: Enquête Patristique sur l'utilisation et l'interprétation chrétienne du décalogue de c. 60 à c. 220* (1971). A convenient outline of later Catholic and Protestant attitudes, and of the difficulties inherent in their position, is to be found in H. K. McArthur, *Understanding the Sermon on the Mount* (1961), pp. 26ff. The views of the Puritans are especially treated by E. F. Kevan, *The Grace of Law* (1964). For an attempt at a comprehensive survey see now B. Reike, *Die Zehn Worte in Geschichte und Gegenwart* (1972).

² Among the first to speak in this manner were H. S. Reimarus, *Von dem Zwecke Jesu und seiner Jünger* (1778); D. F. Strauss, *Das Leben Jesu* (1837); A. Ritschl, *Die Entstehung der altkatholischen Kirche* (1850); and F. C. Baur, *Vorlesungen über neutestamentliche Theologie* (1864). Later see especially R. Mackintosh, *Christ and the Jewish Law* (1886) and A. Harnack, 'Hat Jesus das alttestamentliche Gesetz abgeschafft?', *Aus Wissenschaft und Leben*, II, 227–36. The most forceful restatement of the traditional Protestant view during this period came from P. Fairbairn, *The Revelation of Law in Scripture* (1869).

³ The first was suggested by J. Ph. Glock, *Die Gesetzesfrage im Leben Jesu* (1885), and the latter by E. Jacob, *Jesu Stellung zum mosaischen Gesetz* (1892); H. J. Holtzmann, *Lehrbuch der neutestamentlichen Theologie* (1896) and E. Klostermann, *Jesu Stellung zum Alten Testament* (1904).

⁴ So especially A. J. Meinhold, *Jesus und das Alte Testament* (1896) and M. Kähler, *Jesus und das Alte Testament* (1896). Later K. Benz, *Die Stellung*

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discontinuity between Jesus' teaching and the Law through use of the conception of 'fulfilment'.¹ At the end of the period, with the introduction of comparative religious and eschatological ideas into the discussion, a new emphasis on the sovereignty of Jesus over the Law began to make itself felt.²

A new approach to the issue was adopted through the serious application of form-critical criteria to the synoptic texts, for this led to a new interest in the rôle of the earliest christian communities in preserving and transmitting the original message. The first result of this procedure was to offer a different solution to the presence of discrepancies in the records, for these could now be attributed to divergences in outlook among the different churches. The residue of genuine sayings was then variously interpreted. The earlier liberal formulation of the question was again advanced, now usually accompanied by an admission of Jesus' subordination or occasional abrogation of at least the ritual commands.³ Others, in comparison with Pharisaic and Qumran teaching, spoke instead of a 'radicalisation' of the Law which involved an occasional setting aside of its less significant commands.⁴ Some conservative scholars, insisting that the teaching of Jesus did not contradict the intent of the Old Testament demands, nevertheless agreed that it went beyond

Jesu zum alttestamentlichen Gesetz (1914) and J. Hänel, *Der Schriftbegriff Jesu* (1919) went further and claimed that Jesus expressed a consistently hostile attitude towards the Law throughout his ministry.

¹ M. S. Terrey, 'The Old Testament and the Christ', *AJT*, 10 (1906), 233–50 and F. Barth, *Die Hauptprobleme des Lebens Jesu* (1911).

² This was particularly emphasised by E. Schürer, *Das messianische Selbstbewusstsein Jesu Christi* (1903) and A. Schlatter, *Die Theologie des Neuen Testaments* (1909–10). On the other hand G. Kittel, *Jesu und die Rabbinen* (1914²), drew a distinction between the teaching of Jesus, to which his contemporaries offered parallels, and the uniqueness of his person.

³ Most comprehensively by B. H. Branscomb, *Jesus and the Law of Moses* (1930) but also by T. W. Manson, 'Jesus, Paul and the Law', *Judaism and Christianity* (ed. E. I. J. Rosenthal, 1938), III, 125–41 and in his subsequent writings; A. Wilder, *Eschatology and Ethics in the Teaching of Jesus* (1950²); and, most recently, R. Schnackenburg, *The Moral Teaching of the New Testament* (ET 1965). Many others could be cited.

⁴ Thus, for example, W. Grundmann, *Jesu der Galiläer und das Judentum* (1940); V. E. Hasler, 'Gesetz und Evangelium in der alten Kirche bis Origenes' (Diss., 1953); R. Bultmann, *Theology of the New Testament* (ET 1952), I, 11 ff.; H. Braun, *Spätjüdisch-Häretischer und frühchristlicher Radikalismus*, I, II (1957); G. Bornkamm, *Jesu of Nazareth* (ET 1960).

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their natural implications and therefore that it contained something quite new.¹ Against these three, a more radical evaluation dropped the Mosaic Law as a starting-point of explanation and instead related Jesus' injunctions to the immediate Will of God against which all the Old Testament commandments were to be tested.² It was further suggested that all positive sayings over the Law were to be regarded as later additions so that his original teaching consisted in an explicit abrogation of the Law.³ The interpretation of the authentic logia over the Law thus covered the whole range of possibilities from conservative acceptance to radical rejection. In the meantime others, frequently refusing to relegate apparently contradictory sayings to variations in *Gemeindeftheologie*, suggested that the so-called inconsistencies resulted from the overlapping of the old age and the new in Jesus' ministry while, in some quarters, the search for a single integrating principle with which to combine the various facets of Christ's teaching on the Law developed, in different ways, the over-arching concept of 'fulfilment'.⁴

During this period closer attention was, of course, given to the different tendencies evident in the synoptic presentations. Matthew was generally regarded as a 'catholic' gospel containing both stricter and laxer attitudes to the Law, though occasionally it was interpreted as possessing either a purely nomistic

¹ So E. Percy, *Die Botschaft Jesu* (1953) and P. Verweij, *Evangelium und neues Gesetz in der ältesten Christenheit bis auf Marcion* (1960).

² Particularly in W. G. Kümmel, 'Jesus und der jüdische Traditions-gedanke', *Heilsgeschehen und Geschichte* (1965), pp. 15–35; H. J. Schoeps, 'Jesus und das jüdische Gesetz', *Aus Frühchristlicher Zeit* (1950), pp. 212–20, and K. Niederwimmer, *Der Begriff die Freiheit im Neuen Testament* (1966).

³ As earlier J. Leipoldt, *Jesu Verhältnis zu Griechen und Juden* (1941) but more importantly by E. Stauffer, 'Neue Wege der Jesusforschung', *Gottes ist der Orient* (1959), pp. 182ff.

⁴ For the former see N. B. Stonehouse, *The Witness of Matthew and Mark to Christ* (1944) and now W. D. Davies, 'Mt. 5. 17, 18', *Christian Origins and Judaism* (1962), pp. 30–66; for the latter H. J. L. Ljungmann, *Das Gesetz Erfüllen: Matth. 5. 17ff. und 3. 15 Untersucht* (1954) and G. F. Knight, *Law and Grace* (1962). It should perhaps be noted that some conservative critics have bypassed the form-critical development of the discussion altogether and continued to explain Jesus' teaching as merely an 'exposition' of the Mosaic commands, e.g. J. Wenham, *Our Lord's View of the Old Testament* (1953); C. F. H. Henry, *Christian Personal Ethics* (1957) and J. Murray, *Principles of Conduct* (1957).

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or emancipated view of the Mosaic legislation.¹ Mark was usually conceived as abrogating both oral tradition and written law, and either as approximating to the position of Peter, or reflecting a Gentile Christianity which formed the presupposition of Pauline theology.² Luke, on the other hand, was not considered to be especially interested in the question, and attempts to document his understanding more closely varied between nomistic and liberal evaluations of his attitude.³

In the most recent phase of synoptic criticism, interest in the communities from which the gospels emerged has largely given way to a study of the theological tendencies of the evangelists themselves. As a result of this investigation it has been suggested that Matthew, while differing from the rabbinic understanding of the Law through the hermeneutical primacy he attaches to the 'love-commandment', nevertheless exhibits distinct Jewish-Christian tendencies in his affirmation of parts of the oral tradition and in his creation of a christian halakhic tradition with which other parts of it have been replaced.⁴ However, calling

¹ A prime exponent of the 'catholic' nature of the First Gospel was B. H. Streeter, *The Four Gospels* (1936⁶), pp. 500ff., but more recently see G. Hebert, 'The Problem of the Gospel According to Matthew', *SJT*, 14 (1961), 403–13. A nomistic understanding was adopted by E. von Dobschutz, 'Matthäus als Rabbi und Katechet', *ZNW*, 27 (1928), 338–48 and G. D. Kilpatrick, *The Origins of the Gospel According to St. Matthew* (1946). On the other hand B. W. Bacon, *Studies in Matthew* (1930) and B. H. Branscomb, *Jesus and the Law of Moses*, sought for the milieu of the gospel in a Petrine and Hellenistic Christianity respectively.

² For the first see J. C. Fenton, 'Paul and Mark', *Studies in the Gospels*, ed. D. E. Nineham (1955), pp. 89–112; for the second, M. Werner, *Der Einfluss paulinischer Theologie im Markusevangelium* (1923) and H. G. Wood, 'Mark's Gospel and Paulinism', *ET*, 51 (1939–40), 327–33. A 'Pauline' tendency in Mark had earlier been suggested by Holtzmann, Weiss, Harnack and others.

³ Contrast, for example, the judgments of T. E. Blieben, 'The Gospel of Luke and the Gospel of Paul', *JTS*, 45 (1944), 134–40 and B. H. Branscomb, *Jesus and the Law of Moses*. De Wette and Overbeck had previously noted Luke's apparent unconcern with the issue of the Law.

⁴ This interpretation of Matthew has been fully developed by G. Bornkamm, 'End-expectation and Church in Matthew' and especially G. Barth, 'Matthew's Understanding of the Law', both in *Tradition and Interpretation in Matthew* (ET 1963). In addition, attention has been drawn to Matthew's christian halakhic activity particularly by R. Hummel, *Die Auseinandersetzung zwischen Kirche und Judentum im Matthäusevangelium* (1963); W. D.

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upon the results of previous source- and form-critical studies, other commentators have linked the more rigorously conservative legal sayings to a Jewish-Christian element in Matthew's tradition, arguing that these were no longer characteristic of his own Hellenistic-Jewish Christian or Gentile-Christian understanding as his redactional activity demonstrates.¹ Mark is generally viewed as upholding a radical Gentile-Christian approach to the Law, though it has been recently suggested that his abrogation of the Law may have been less comprehensive than that in Matthew, and that in some respects his ethical understanding may be considered a precursor of *Frühkatholizismus*.² Luke, it has been claimed, portrays Jesus as a conservative upholder of the Mosaic legislation who nevertheless, according to the *Gesetzesverständnis* of late Judaism, comparatively neglects the cultic and ceremonial commandments.³ As for the attitude of Jesus himself, little has been attempted from a *redaktionsgeschichtliche* standpoint. Concentration on the creative tendencies of individual evangelists has, in fact, pushed this fundamental question quite into the background.⁴

Recent interest in the question is probably due to the

Davies, *The Setting of the Sermon on the Mount* (1964) following an earlier lead given by E. Schweizer, 'Matth. 5.17-20 - Anmerkungen zum Gesetzesverständnis des Matthäus', *TL*, 77 (1952), 479-84, now in *Neotestamentica* (1963), pp. 399-406.

¹ See G. Strecker, *Der Weg der Gerechtigkeit* (1962); W. Trilling, *Das wahre Israel* (1964); R. Walker, *Die Heilsgeschichte im ersten Evangelium* (1967) and R. Guelich, 'Not to Annul the Law rather to Fulfil the Law and the Prophets' (Diss., 1967). For a contrary view see H. T. Wrege, *Die Überlieferungsgeschichte der Bergpredigt* (1968).

² The usual interpretation is clearly stated in S. Schulz, *Die Stund der Botschaft* (1967), and the two modifications may be found in R. Walker, *Die Heilsgeschichte*, and A. Suhl, *Die Funktion der alttestamentlichen Zitate und Anspielungen im Markusevangelium* (1965). The similarity between Marcan and Pauline themes has been re-asserted by Q. Quesnell, *The Mind of Mark* (1969), p. 226.

³ This is the view of H. Conzelmann, *The Theology of St. Luke* (ET 1960). An even stricter interpretation of Luke's attitude has recently been advanced by H. J. Jervell, 'The Law in Luke-Acts', *HTR*, 64 (1971), 21-36.

⁴ We have, in recent studies of the Fourth Gospel, almost the reverse process taking place. Since the renewed interest in the historical basis of the material also affects those passages in which the question of law comes into focus, the time has certainly come for a reconsideration of John in this connection.

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emphasis laid upon Jesus' view of the Law in the literature of the so-called 'New Morality'. Despite constant reference to the subject, however, it nowhere contains a detailed analysis of the relevant biblical material. Assuming a polarity between law and love, Jesus' teaching and behaviour is depicted as always being grounded in the latter, circumstances themselves suggesting the content or application which love should have in any particular situation. A radical negation of the Law, indeed of any law, is therefore implied.¹ In two instances, however, subtler exegetical caveats have entered into and qualified this estimate. It has been suggested that Jesus' non-prescriptive love ethic could issue in obedience to the Law in circumstances where love demanded it and that, even where it did not have this consequence, fulfilment not abrogation of the Law's requirements is involved.² However, all such treatments are sketchy and selective in character, frequently presuming upon earlier examinations of Jesus' attitude which, in the light of recent gospel criticism, are now in need of considerable revision.

Indeed, even prior to the serious employment of *redaktions-geschichtliche* methods and the emergence of the New Morality, little attention of a comprehensive nature was paid to Jesus' attitude to the Law, and more than four decades have passed since the last full-scale treatment of the subject appeared.³ In

¹ Cf. D. Rhymes, *No New Morality* (1964); J. Fletcher, *Situation Ethics: The New Morality* (1966); H. A. Williams, 'Theology and Self-Awareness', *Soundings: Essays Concerning Christian Understanding* (Cambridge, 1966), pp. 67–102; W. Pittenger, *Love is the Clue* (1967). See further, H. Cox, *The Situation Ethics Debate* (1968).

² So respectively, O. S. Barr, *The Christian New Morality: A Biblical Study of Situation Ethics* (1969) and J. A. T. Robinson, *Christian Morals Today* (1964) now reprinted in *Christian Freedom in a Permissive Society* (1969).

³ I refer, of course, to B. H. Branscomb, *Jesus and the Law of Moses* (1930). Unfortunately, only part of the comprehensive dissertation of B. Lanwer, 'Jesu Stellung zum Gesetz' (1933), is accessible, while the detailed treatment of H. Ljungmann, *Das Gesetz Erfüllen* (1954), only deals with a portion of the synoptic evidence. The only other sizeable contribution to this quest is that of K. Berger, *Die Gesetzesauslegung Jesu* (1972), which, as its title suggests, does not deal with all the passages that are relevant to an investigation of Jesus' attitude to the Law but only with those in which he is represented as making some direct comment on it. Some clarification of the relationship of this study to Berger's work may at this point be helpful. His original dissertation first came to my attention in the final stages of

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view of the exegetical and hermeneutical advances that have been made since that time, therefore, a new investigation is long overdue. Furthermore, in the same period it is not too much to say that a revolution has occurred in the understanding of the Law in the Old Testament, one that has important implications for New Testament enquiry. In addition, the comparative materials yielded by the finds at Qumran, whose relevance for the question of Law in the New Testament has already received considerable attention, also need to be integrated into the overall study of the problem.

We commence, then, at the foundation point of our discussion, the granting of the Law itself at the beginning of Israel's history. From there we will seek to trace through the various interpretations that were placed upon it in the Old Testament, inter-testamental and later Jewish writings. Only so do we construct a sufficiently clear and detailed background against which the teaching of Jesus, and that of the communities and evangelists who preserved and interpreted it, can be properly understood.

preparation of the thesis on which this study is based. Unfortunately the 1968 Rotaprint version of Berger's dissertation had been quite severely condensed, indeed a number of his major conclusions had to be omitted, and it was only possible to use his material with great care. The first half of his full text, which was published in 1972, only came into my hands after the revised version of my thesis had been accepted for publication. For this reason, and in view of its incomplete character – his section on the historical Jesus, for example, has not yet appeared – I was again forced to refer to it sparingly. Taking into account the independent character of our work on this question, some of the similarities in our approach as well as the considerable differences in our conclusions are all the more interesting.

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PART ONE
LAW IN THE OLD TESTAMENT
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