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The First Congregational Church of Old Lyme

Texts: Psalm 1: 1-3; Exodus 20: 1-21

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"Innovation and Creativity in a World of Laws"

Their delight is in the law of the Lord,

and on his law they meditate day and night.

-Psalm 1

One of the things I enjoy most in my work is gathering on Thursdays to talk about the Bible with a number of folks from this community. We call it a Bible Study, and it is that, but I confess I sort of cringe at the connotation of going to or leading a Bible Study. It sounds stuffy, and humorless - the sort of thing that might happen at a megachurch, but that we Congregationalists look upon with unease. Those of us who gather to read the Bible together on Thursdays tend to be a little impious, and our discussions tend to be loose and freewheeling. The Bible has a reputation as such a heavy and leaden book, but our Thursday conversations suggest the mystery, the surprises, and often the playfulness that can be found in those pages. It's not for everyone, I suppose, but I have a hunch you'd like it if you tried it out.

Lately, we've been working through the book of Exodus, and we just got to the laws, where all the action stops cold. Unlike the Psalmist, I sensed no particular delight among the members of our Bible Study. Here's how Exodus unfolds: the Hebrew people had been enslaved in Egypt. Moses is called to lead them out of captivity. A power struggle occurs between Moses and the Pharaoh. Finally, the Hebrews are freed, and they cross the Red Sea, while Pharaoh's army is drowned. They march into the wilderness, and there at Mt. Sinai, God visits Moses, and gives the law. It's been a great story up until then, but it all grinds to a halt as God and Moses talk and talk and talk.

The endless talk starts with the Ten Commandments, but then the laws keep on coming, chapter after chapter of them. And when Exodus ends, another book of laws begins, Leviticus, and when that ends, there's another set of laws, Numbers, and when that ends, there's still another, Deuteronomy, which repeats a lot of the stuff from the previous three books. It's the part of the Bible that most people studiously avoid. There's tedium in this catalogue of rules, but the laws can also be severe, and exceptionally arcane. Do we really need to know how many cubits the tabernacle of God measures across? (No! And what even is a cubit?) Is it helpful to know what

to do when my ox gores another man's ox? (Um, no!) And aren't the punishments and prohibitions often rather gruesome, and barbaric? (Yes!) One can understand why many people would wish to skip those parts of the Bible.

As if that wasn't enough, it's also the part of the Bible that some very conservative, and I mean *very* conservative Christians would like to reimpose, at least in part, upon our country. This past week I happened to read another of the features *The New York Times* is doing with members of the far right, all of whom, God help us, seem to get excited about one form or another of Christianity. This time it was with an evangelical pastor who is, evidently, dead serious about turning the United States into a theocracy. According to the article, his views are gaining traction, which isn't altogether surprising in this era. He would like to see the Ten Commandments on all the courthouses in the country. He would like Congress to declare Jesus Christ as Lord. He would impose some form of the Mosaic law upon the country. He would criminalize homosexuality. When asked if he would support stoning adulterers, as certain parts of the biblical law seem to require, he was equivocal.

As a minister, let me register my incredulity, and alarm, that these sorts of views are getting a platform at all, and especially in the paper of record for much of the country. But it's also one more reason that even people of faith, to say nothing of those with a more secular outlook, wish to stay away from the books of the Law. Put simply, people often get downright weird when they read this stuff.

Despite all of that, I wish to praise the Books of the Law. I wish to steal them back from the fundamentalists and nationalists and theocrats. Believe it or not (and I hope you won't write me off after I say this) the older I've gotten, the more I've come to appreciate the latter parts of Exodus, and also Leviticus, Numbers and Deuteronomy. Properly understood, those parts of the Bible can challenge the way laws are being interpreted in our current cultural climate. In particular, reading the Books of the Law can offer some guiding principles that allow us to interrogate a legal doctrine that has a chokehold on our courts and on our Constitution - namely, originalism.

Originalism is, essentially, a form of legal fundamentalism, analogous to biblical fundamentalism. These legal and biblical fundamentalisms share a common understanding of reading and interpretation: the strict meaning of a text is locked in the original intent of the document in question. It's an idea captured in a phrase uttered many times by the Supreme Court Justice Antonin Scalia: "The Constitution is not a living document," he would say. "It's dead. Dead, dead, dead." The words have been written, the ideas have been produced, and all that remains is to discern their original intent and to apply that intent to new situations. The doctrine of originalism now pervades not only our legal system, but much of our legislative system as well, preventing an evolutionary view of laws and of society that would allow for change, and importantly, for amendments. Importantly, originalism is the very opposite of how the Bible itself treats the law.

Let me back up just a little, and tell you why I've come to appreciate the legal parts of the Hebrew Bible. I've come to admire, first of all, how the Jewish community understands the book of Exodus and all that follows. For them, the climax of the Exodus story does not arrive when the Hebrew people go free, or when Pharaoh's army is drowned. The climax of the story is in the giving of the Law itself, which is the condition for the ongoing liberation of the people. The Law is understood to be a divine gift, meant to aid and assist in the struggle to remain a free and autonomous people throughout history. It answers the question: how are we going to organize our lives together, into something resembling a society, into something resembling a civilization? We can make light of the particulars - but these books represent the concerted effort of a people to bind themselves into something coherent, a coherence that does not depend upon primitive violence or warring factionalism to maintain it. Indeed, the giving of the law is an effort to reduce violence, and to prevent warring factionalism. Instead, writing, a record of communal norms, holds the society together, and with that comes a long tradition of argument and discussion about how to understand those norms. In the Hebrew tradition, all of this is understood to come from God. That doesn't mean that without God laws and norms dissolve into meaninglessness. Rather, it suggests that the very ability to establish communal norms, the very ability to bind autonomous individuals into something greater than their private concerns, is a God given gift, like air, like friendship, like life itself. It is not good for humans to be alone, we read at the beginning of the Bible. At its best, the Law is a tool for overcoming loneliness, while living in proximity to others.

My second reason for admiring the Books of the Law are found in the flexibility they offer. The Ten Commandments are often viewed as iron clad rules, delivered by God, justifying a cruel and punitive approach to life - if you break them, you must suffer the consequences. When lifted out of the Bible and used in such a way, the Commandments become threatening, and rather ominous. But the original Hebrew suggests a nuance that translations into English cannot capture. To begin, the word translated as "commandment" is "devarim," which is one of the most common words in the Hebrew Bible. It literally means "words," or sometimes "statements." It was only in the third century C.E. that Origen, translating into Greek, applied the word "entole," or commandment to the original Hebrew. That choice became the standard for Latin translators, and then later, for translations into English. But the Hebrew suggests something softer - statements by which to live, words to be guided by.

The Hebrew suggests a further nuance as well. The verb tenses of shall and shall not are rendered in the imperative, which isn't necessarily wrong. But the tense is a little indeterminate, and could also plausibly be rendered in the future tense. And that brings a wholly different meaning to these ten statements, these ten words. What if shall and shall not implied the future, rather than a strict command delivered from on high? For example, what if we understood each of these ten statements as meaning, "a time is coming in which you will not have to kill; a time is to come in which there will be no need to covet what is not yours, or to worship false gods, or to dishonor the ones who brought you into this life, because they will have honored you?" In this

understanding, the Ten Commandments, or better, the Ten Statements, can be read as promises for the kind of life that the coming of the Law allows for. Yes, human beings do sometimes behave badly, but when there exists a basic trust that life's necessities will be taken care of, that basic dignities will be respected, that there is enough to go around, and that no one gets to dominate or mistreat another with impunity, the will toward violence or theft decreases significantly. Read carefully, that's what these chapters are telling us. Imperfect though it is, the Law is the condition for the kind of peace that most of us desire.

Finally, I've come to appreciate this section of the Bible for the way it discloses a progressive understanding of the Law. The Law is given at Sinai, but then it keeps on going, and going, and going, in further chapters, but then also in later books. Indeed, Deuteronomy is a retelling, and a reframing, of what happens in Exodus. There, in chapter 5, we find a second version of the Ten Commandments or Statements, with slightly different nuances that I won't go into here. The community, in other words, continues to improvise and change the law as new circumstances require. If Exodus represents the first attempt at a written law, Leviticus, Numbers, and Deuteronomy represent the process of amendment that must follow upon that initial formulation. The Bible, in other words, does not lock this moment in time. Rather, it presents a continual unfolding of the meaning of the Law, up to and including Jesus, who consistently points out that the Law was made to serve human beings - to assist them in the basic tasks of remaining human. But humans weren't made simply to obey arbitrary rules. Unlike Justice Scalia's understanding of the Constitution, the Law, biblically understood, is a living, breathing, changing set of arguments, evolving over time.

Where does that leave us, in our time and place? First, in a time when the rule of law is actively being flouted by a singular individual, along with others who feel emboldened by that individual, the biblical books of the Law serve as a warning against such behaviors. Yes, there are unjust laws that need to be challenged in the name of human dignity and planetary integrity, much as Jesus himself did, but the law itself is a guard rail against the arbitrary uses of power we have been witnessing. Public protests in the name of the Law, and the rule of law, are thus entirely in the spirit of the Bible. Know that if you plan to be in the streets next Saturday.

Second, the insights of the Bible are a check upon whatever libertarian tendencies we might harbor within ourselves. Libertarianism may work among relatively isolated individuals or groups, but learning to live together, outside of our isolation, requires communal norms, established in laws.

But third and finally, the biblical notion of the Law challenges all notions of originalism. Jill Lepore is an American historian who teaches at Harvard, and she has just published a book on the Constitution called *We the People*. Part of her book is dedicated to tracing the rise of originalism, and how it has come to dominate legal jurisprudence in our country. That dominance has meant that amending the Constitution in order to account for realities the Framers never imagined has become all but impossible. It has also meant that Presidential campaigns are

no longer centered around amendments to the Constitution, as with civil rights, or before that, the rights of women to vote. Instead, they are centered around the appointment of justices with originalist commitments, who have promised to render judgments based on their notions of what the Framers might have intended. The reproductive rights of women have fallen as a result. Gay marriage may soon follow.

As originalism was gaining adherents in the 1980's, Chief Justice Warren Burger asked Congress to propose a Constitution Day, a one time national holiday. They did so. It fell on September 17, 1987, at the precise moment that Robert Bork, an unsuccessful nominee to the Supreme Court, was outlining his own ideas of originalism at his congressional hearings. Thurgood Marshall, the court's first African American justice, registered his protest against any such celebration, and against the idea of originalism, declaring, "I do not believe that the meaning of the Constitution was forever 'fixed' at the Philadelphia Convention. Nor," he continued, "do I find the wisdom, foresight, and sense of justice exhibited by the Framers to be particularly profound." He had a point. The Framers, in their wisdom, recognized but three fifths of Marshall's humanity, and precisely zero fifths of his rights as a human being. His words stand as a prophetic warning to all those who would fix the law at a single moment, without allowing it to expand and grow, as justice requires.

Whether we see it or not, so many of our public disputes turn around questions of literacy - not only what we read, but *how* we read. That's why actually reading the Bible, rather than simply fetishizing it, is so very important right now. It's why I love gathering with those who show up on Thursday mornings to puzzle over old stories, and yes, arcane laws. Doing so allows us to see through the blandishments of power, which is currently using a questionable practice of reading to roll back civil liberties. It allows us to push back against those advocating for theocracy, demonstrating how threadbare their readings of Scripture actually are. But more than anything, reading the Bible allows us to sense some of the best features of our humanity, as expressed in the Law itself: our knack for attending to the needs of others and not only ourselves, our openness to change and growth, our ability to adapt to ever new realities, our way of making room for differing interpretations and arguments. To read these books together is to encounter something like grace, for it is grace that is the hidden mechanism governing all of the law.

Their delight is in the law of the Lord, the Psalmist says. It can be hard to find much delight in those books of the Bible. But read carefully and well, those books preserve a freedom and flexibility that we do well to remember now. Doing so leads to the promise of the Psalmist - that we shall be as trees planted by water. Doing otherwise makes of us a withered people, with withered hearts, gathered around a collection of dead words. I choose otherwise, trusting that there is yet more truth and light to break forth from those ancient words.