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The Law of Mosiah

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Chapter 44

The Law of Mosiah

*Mosiah 29:11 "And we will newly
arrange the affairs of this people."*

Important changes occurred in Nephite law and society with the establishment and promulgation of the law of Mosiah in 92 B.C. Interestingly, several details about this significant legal reform are faithfully preserved in the Book of Mormon. This subtle and sometimes technical information embedded in the narrative of the Book of Mormon shows that "the law of Mosiah" (Alma 11:1) was solidly rooted in ancient Near Eastern ideas and legal tradition. Here is a sketch of some salient and noteworthy points:

King Mosiah established specific laws (Alma 1:1). In so doing, he was acting like other ancient lawgivers, such as the famous Babylonian lawgiver Hammurabi or the great Israelite leader Moses. In antiquity, such leaders personally acted to issue laws for the express purpose of establishing "justice and equity" among their people.¹ Likewise, one of Mosiah's main motives was that all would be "equal" (Mosiah 29:38; Alma 1:26), and their judges were praised for filling their judgeships with "justice and equity" (Helaman 3:20, 37).

Although the law of Mosiah allowed the people to select judges, it does not appear that these judges had the power to create law itself. The law that they applied was "given them" by Mosiah (Mosiah 29:39), and the laws under which they acted were remembered several generations later as the "laws of Mosiah" (Helaman 4:22).

Like other ancient lawgivers, who often drew on divine sources in legitimizing their laws, Mosiah gave the laws "which the Lord commanded him to give unto the people" (Helaman 4:22). For example, Moses issued the laws that Jehovah revealed to him, and Hammurabi claimed on his stele that the god Marduk had "called" him "to make justice to appear in the land" and commanded him "to set forth truth and justice" by establishing his laws.

The law of Mosiah primarily made procedural changes and probably did not make radical changes in the substantive rules of the law of Moses. Mosiah instructed the new Nephite

judges to judge "according to the laws . . . given you *by our fathers*" (Mosiah 29:25; italics added), and twenty-two years later the Nephites were still "strict in observing the ordinances of God, according to the law of Moses" (Alma 30:3). In its procedural and administrative enactments, the law of Mosiah can well be compared with the Israelite legal reform of King Jehoshaphat in 2 Chronicles 19:5-11.

Moreover, like other ancients, Mosiah was outspoken against kings who "teareth up the laws of those who have reigned in righteousness before [them]" and who enact their own laws (Mosiah 29:22-23). Ancient legal presumptions in general did not encourage new substantive legislation, and basic rules of law tended to remain rather constant over the centuries.

The law of Mosiah made changes in the judicial system. It abolished the kingship and instituted judges and officers (see Alma 11:1-2; compare Deuteronomy 16:18, which mentions officers). It also established an innovative procedure whereby a judge could be judged by a "higher judge" if he did not judge according to the law (Mosiah 29:28). It further established a procedure for expelling unjust higher judges. If they did not judge righteously (that is, according to the law given by the fathers), a small number of the lower judges could be authorized by the people to judge the higher judges and remove them from office (see Mosiah 29:29).

The law of Mosiah departed most significantly from traditional law by providing that judges would be paid for their services (see Alma 11:1). This is not paralleled in other Near Eastern systems, although the fixing of wages for various other laborers was one of the main subjects of several ancient Near Eastern law codes.

In order to set statutory wages of any kind, it was often necessary for ancient laws to recognize a system of legal exchange equivalents. Thus, the law of Mosiah gave exchange ratios for gold, silver, barley, and all kinds of grain (see Alma 11:7). Prior to the law of Mosiah, Nephite weights and measures had been altered "according to the minds and the circumstances of the people, in every generation" (Alma 11:4), but in the law of Mosiah they were standardized by decree of the king. Much the same thing can be found in the Mesopotamian laws of Eshnunna, which began with a list of thirteen exchange equivalencies (e.g., "1 *kor* barley for 1 shekel silver"). The laws of Eshnunna established

fixed silver values for oil, salt, wool, copper, sesame oil, and lard, as well as prices for the services of harvesters, boatmen, and other workers.²

The law of Mosiah also dealt with other issues. We know that it prohibited slavery in the land of Zarahemla, for Ammon assured his converts that "it is against the law of our brethren, which was established by my father, that there should be any slaves among them" (Alma 27:9). Previously it had been only by royal benevolence that slavery was not allowed in Zarahemla (see Mosiah 2:13).

The law of Mosiah appears to have also contained a provision defining delinquent debtors as thieves (see Alma 11:2), but we cannot be sure, for the case of the delinquent debtor may have been an old law simply used in Alma 11:2 to illustrate how a case was to proceed through the new judicial system.³

The law of Mosiah probably also provided that the governor alone had jurisdiction over capital offenses (see 3 Nephi 6:22), but this regulation may have been introduced a few generations later. Either way, it was not unknown in ancient Near Eastern law for kings to retain jurisdiction over capital cases. Section 48 in the laws of Eshnunna allowed cases of up to one mina in value to be litigated, but "a matter of life [belongs] to the king himself."

Mosiah's judicial reform remained solid for sixty-two years, but then his laws were "altered and trampled under their feet" (Helaman 4:22). The majority of the people chose evil (see Helaman 5:2), Nephi had to deliver the judgment-seat to Cezoram (see Helaman 5:1), and judicial corruption soon ensued (see Helaman 8:4; 3 Nephi 6:23). We are left to wonder in how many ways the laws of Mosiah were altered. The right of the lower judges to remove the higher judges may have been taken away. Exclusive jurisdiction over capital punishment may have been taken at this time by the governor. The judges certainly colluded and began to rule contrary to the laws handed down from the fathers, with the result that the eventual corruption of Mosiah's system of justice became one of the major causes of the collapse of the Nephite republic.

Research into the laws and jurisprudence of the ancient Near East sheds light on the legal provisions and procedures reflected in the Book of Mormon. It is amazing that the writers of the Book of Mormon could weave into their records so many accurate and consistent

details about their legal and political institutions without diverting attention from their main religious purposes. Whoever wrote the Book of Mormon was intimately familiar with the workings of ancient Israelite law and with the Nephite legal system that derived from it.

Based on research by John W. Welch, March 1987.

Footnotes

1. See, e.g., the Prologue and Epilogue to the Code of Hammurabi, in James B. Pritchard, ed., *Ancient Near Eastern Texts Relating to the Old Testament*, 3rd ed. (Princeton: Princeton University Press, 1969), 164-65, 177-80.
2. See Laws of Eshnunna 1-11, in *ibid.*, 161-63; Reuben Yaron, "The Laws of Eshnunna," *Israel Law Review* 5 (1970): 327-36, and *The Laws of Eshnunna* (Jerusalem: Magnes Press, 1988).
3. Regarding the ancient law of theft and robbery in the Book of Mormon, see John W. Welch, "Theft and Robbery in the Book of Mormon and Ancient Near Eastern Law" (Provo: F.A.R.M.S., 1985).