JUSTICE IN DEUTERONOMY 16:18-20: A SINE QUA NON FOR YAHWEH'S COVENANT FULFILLMENT

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Abstract

The derek wamidbar (exodus and desert) experience of the Israelites was monitored by YHWH and guarded by the sinatic torah wa berith (law and covenant). YHWH made laws for his people so that they might know how to relate well with him and with one another in a humane and fair manner. Laws are usually enacted to point out sin, make people avoid sinful habits and practices and mete out punishments for culprits so as to maintain orderliness and protect people's rights in the society. Thus, YHWH wanted justice, the fair treatment of people and a sagacious ruling in all matters, even those which the written laws may not cover verbatim. This paper therefore seeks to examine the concept of justice in Deuteronomy 16:18-20 as a prerequisite to enjoying the benefits YHWH had provided for the Israelites in the land of Canaan. Hermeneutical research approach was adopted, to clearly delineate the concepts of justice in the context of Deut 16:18-20. It was discovered that despite the fact that Judges were appointed inequality, oppression, bribery and corruption still persisted among the Israelites, which YHWH pointed out were factors responsible for their untimely death and poverty. The paper concluded by recommending that credibility should not be compromised in appointing Judges; the judiciary should be sanitized and corrupt members should be heavily sanctioned.

Keywords: Justice, YHWH, Law, Covenant, Fulfillment

Introduction

The popular saying is correct that "where there is no law, there is no sin." In any state or society where there are no laws or restrictions or guide to human conducts anarchy, chaos and insanity naturally characterize such community. Laws are not without purpose; they are made either by God or humans so that people can behave and conduct themselves in orderly and acceptable way that conforms to the norms and legal worldview of the society. Practical examples are Code of Hammurabi and the *Dacalogue*.

Israel, during its formative period, for the first time, became a nation on Mount Sinai during the *exodus* with the *Decalogue* as their constitution and covenant statutory provisions. Besides the *Decalogue* which contains the Ten Commandments which are fundamental Laws, there were other laws given to them to take care of various areas of

life. To enforce such laws Judges were appointed as human vessels to represent the nation and ensure that the purpose of enacting those laws was achieved. Such Judges, being human had the tendency of compromising justice by either being nepotistic, tribalistic, sentimental, bias etc. If they were bribed they could pervert justice. Justice in itself is fairness, correctness, doing the right thing and the exercise of authority in the maintenance of right. YHWII therefore expected these legal officials to be God-fearing, reputable, accountable, meticulous and reasonable in their dealings with the lives of the people. If both the judiciary and the masses keep the statutes and the stipulations of YIIWII; if they maintain justice, righteousness and fairness—devoid of corruption, perversion and subversion of his law, he would in turn be pleased with them and bless them with victory over their enemies, peaceful stay in their new place, long life and abundant prosperity.

Law and Justice

There is a relationship between law and justice. Our knowledge of each of them and their relationship will help in not a small way in dispensing justice, maintaining fairness and ensuring peaceful coexistence among humans.

Law

Generally speaking, a law is a body of rules and regulations meant to guide and regulate the behaviour of people according to their generally acceptable norms and values, aimed at seeking the good of all and maintain social order in the society. There are various forms of laws; there were laws in the antiquities, like the Code of Hammurabi, the Ten Commandment etc. Every people, nation and territory has law: notable are the Roman Law, the Greek Law, the Jewish Law, American Law, British (English) and Nigerian Law, to mention just a few. The term 'law' is used in many senses: we may speak of laws of physics, mathematics, science, or the laws of football...Law may be defined as a rule of human conduct, imposed and enforced among the members of a given state. If a group or society is to continue, some form of social order is necessary. Rules or laws are, therefore, drawn up to ensure that members of the society may live and work together in an orderly and peaceable manner. We may say, then, that two ideas underlie the concept of law: (a) order, in the sense of method or system; and (b) compulsion—i.e. the enforcement of obedience to the rules or laws laid down. There are three things about law: law is a body of rules, law is for the guidance of human conduct, and law is imposed.2

We sometimes think of laws as being laid down by some authority such as a monarch, dictator, or group of people in whom special power is vested. In Britain we can point to legislation for examples of law laid down by a sovereign body, namely parliament. The legal author John Austin.(1790-1859) asserted that law was a command of a sovereign and that citizens were under a duty to obey that command. Other writers say that men and women in primitive societies formed rules themselves, i.e. that the rules or laws sprang from within the group itself. Only later were such rules laid down by a sovereign authority and imposed on the group or people subject to them. Clearly, unless a law is

enforced it loses its effectiveness as a law and those persons subject to it will regard it as dead. The chief characteristic of law is that it is enforced, such enforcement being today carried out by the State.³

Justice

People desire justice in their personal, social and economic dealings. There is no universal agreement on the meaning of justice, and ideal or perfect justice is difficult to attain in this life. People strive for relative justice, not perfect justice; and good laws assist to that end. It is the business of citizens in a democracy to ensure that wise laws are passed and that they are fairly administered in the courts of law. Justice, most importantly, requires that a judge be impartial and independent of either party to a particular legal dispute.

Adedeji observes that the concept of justice has always been on the lips of men throughout ages. In fact, the noble ideals of justice have pushed people to protest and clamour for liberation, freedom and independence from people who deny them justice. Justice, according to him, can be defined as the quality of being just and impartial; the degree of rightness, legitimacy, equity and fairness in awarding of what is due to people, on personal or collective basis.⁴

He also quotes Aquinas as viewing justice as "the constant and perpetual will to render to everyone what is due to him," and Socrates as seeing it as an internal disposition to do the right thing. The principle of justice is to give each person or group, whether weak or strong, what is his/her due and to demand the contribution of each on the basis of equal consideration. However, what is due is often expressed in a right, which is determined by natural and conventional laws. If a person has a right, to have or do something, others have the duty to respect that claim on the balance of equal protection and reciprocity. Justice is a moral virtue which inclines the will constantly and perpetually to render to others their due in time and place and in a given set of circumstance. Justice can refer to simple reciprocity or proportionality in vengeance as for instance in the Old Testament rule of 'an eye for eye, and a tooth for tooth' which was the first step towards social order and civilization. At the other end of the spectrum, it has been equated with virtue in general in ancient Greece or brotherly love in Christian doctrine.

With respect to the law and justice, which should be devoid of partiality or oppression Baker and Padfield write as it relates to the British law and government that:

All human beings are 'persons' under English law. One of the most important concepts of English law is that all persons within the realm, including aliens, have right and are subject to certain duties. This state of affairs is not universal. Slaves in early Romans and Anglo-Saxon times, for example, had no rights. They were regarded as chattels: a thing to be owned or used or even killed at the will of their master or owner. A slave had, in law, no 'legal personality'. Similarly in early Norman times a criminal could be declared as outlaw: someone outside the law's

protection whom any man could kill with impunity.... In English law legal personality generally attaches to a human being at birth and ends at death.8

Should citizens and non-citizen be treated the same way on the ground of justice and fairness? According to Baker and Padfield:

By a person's nationality we mean their status as a citizen or member of a particular state to which they own allegiance. Apart from stateless persons everyone is the subject of some state to which they owe political and loyalty, for which they may be called upon to fight, pay taxes and support, and from which they may expect protection. These are broad general statements only. For instance, although we may say that all persons must be national subjects of some state or other, we know that due to upheavals of war there are some unfortunate 'stateless' persons who have been disowned by, or expelled from, their country of birth and origin. Nationality is of great importance in the field of public law. Thus British subjects enjoy universal franchise, i.e. the right to vote at local and Parliamentary elections. Aliens in Great Britain have no such right. They are subject to certain restrictions concerning entry into the United Kingdom and employment after entry; furthermore they must register certain particulars with the police. Citizens of the European Union, however, have a right to freedom of movement within the State and are not subject to the same restrictions as other aliens. 9

Apart from these requirements, English law treats aliens in much the same way as ordinary British subjects: for example, they are subject to the same rule of criminal law and the same laws of tort and contract. The case is not too different in Nigeria (we derived most of our laws from British law, being our colonial masters) and in ancient Israel. In Nigeria reside both natives and aliens. The aliens may comprise of the immigrants, expatriates, tourists, refugees etc. The citizens are also of categories; citizens by nativity, by birth, by marriage, by nationalization etc. The bottom line is that, though all humans in Nigeria are (ideally) treated with dignity and respect, being humans—citizen or non-citizen, however, in some cases like enfranchisement and other things strictly meant for the citizens there is obvious discrimination against non-citizens. This is no injustice, because this attitude conforms to the provisions of the laws of the land. In fact, to do otherwise is injustice.

Although the Israelites allowed foreigners to dwell among them, even right from the *exodus* (Ex12:38; 23:2; Nm 11:4), YHWH stipulates laws that must protect non-Israelites and enforces the Israelites to treat them well (Ex 22:21; 23:9), but there are situations or practices in which non-Israelites are not eligible and are therefore disqualified. Some of those cases are; part-taking in the Passover, marriage and entry into the Temple (Ex 12:43-45; Deut 23:2-3). This may be discrimination but it is also justice because such behaviour conforms to the law of the land.

In matters regarding right to live in any part of the country, right to dignity of person and especially right to life, the Israelite law does not discriminate against foreigners (Lev 24:22). YHWH ordered that the lives and dignity of people must be protected and respected respectively, if not he would be angry with the Israelites and disaster would befall them in their new habitation.

Earlier on, when the laws were first given YHWH had warned against injustice and oppression of any kind among the Israelites. This is seen in Exo 23:6-9:

Do not deny justice to your poor people in their lawsuits. Have nothing to do with a false charge and do not put an innocent or honest person to death, for I will not acquit the guilty. Do not accept a bribe, for a bribe blinds those who see and twists the words of the righteous. Do not oppress an alien; you yourself know it feels to be aliens, because you were aliens in Egypt.

Seeing the weight of this matter that pertains to justice, YHWH deemed it fit to reiterate the content of the statutory book, hence he prompted Moses to remind the Israelites who were preparing to enter the Promised Land by re-reading the laws. This is what gave birth to the content of Deuteronomy—a re-reading or reminder of the Law.

Exegesis of Deuteronomy 16:18-20

An exegetical work deals with the careful study of a text, understanding it and being able to interpret it within the context at which the text occurs.

Background

Deuteronomy is a book that contains a farewell speech to the people of Israel. Mosaic authorship of the Pentateuch holds that Moses wrote the "five-books of Moses" and hence Deuteronomy. It holds that since Jesus usually attributed the content of this book to Moses, then it means that he agrees with its Mosaic authorship. Liberal scholars and theologians have, however, assumed that this could have been written by Moses, the first Prophet of Israel nation who died *circa*.1, 400 B. C.¹¹

But some contents of the Pentateuch and Deuteronomy in particular suggest that Moses couldn't have written the book of Deuteronomy; how could the dead write about himself, since 34:5 holds that he died yet the book continues. A reasonable explanation could be that 34:5-12 was a later addition by someone else, perhaps one who also was an eyewitness of the *exodus* or not.

Deuteronomy is called by the Jews the 'five-fifths' of the law,' since it completes the five books of Moses. It is logical both in its place in the canon and in its content. Deuteronomy rehearses the law to the new generation that had come out of the wilderness and was looking towards the conquest of Canaan. The designation 'Deuteronomy' ('second law,' the inexact rendering in Greek of 17:18) should be rendered, 'This is the copy of [or repetition] of the law.' The book therefore does not

contain a second law different from the Sinaitic legislation, but is merely a partial rereading and explanation of the initial laws and rules given. Hence in the *Masorah*, Hebrew tradition, it is coined as *mislmeh torah*, meaning 'repetition [or copy] of the law,' 17:18.¹²

The name "Deuteronomy" comes from the Greek translation (LXX) of Deuteronomy 17:18, which misunderstands the phrase "a copy of this law" as "this second law" (to deuteronomium touto). The title in Hebrew is "These are the words," taken from the opening words of the book. Deuteronomy is not just a mere addition of new material to the already known one, but a representation and inculcation of the requirements of the covenant between YHWH and Israel.

The Greek appellation of the book, to deuteronomion (hence Latin deuteronomium), as well as the Hebrew appellation, mislmeh torah (17:18; Jos. 8:32), means "repeated law" or "second law" and alludes to the fact that Deuteronomy is a (revised) repletion of the large part of the law and history of the Tetrateuch (i.e. Genesis-Numbers, the four books preceding Deuteronomy). Although the words msnh htwrh hz't in Deut could be translated as "a copy of the law" and thus considered as of secondary nature, it is also true that Deuteronomy constitute a second covenant besides the Sinaitic one. ¹³

Although the law was delivered to Moses at Sinai, the people however received them at the plains of Moab and a covenant, besides the one concluded at Sinai was established there. Deuteronomy indeed draws upon previous traditions of the Pentateuch, but was revised according to the principles of the Hezekianic-Josianic reforms. There was therefore an awareness of this book being secondary. A similar categorization of stabilized canonical tradition versus secondary, later-added tradition is found in Mesopotamia (168-183).

The purpose of the book is to remind the Israelites all the contents of the Sinaitic laws and covenant of YIIWII. They were not only to remember, they are also to keep and do them, as their own part and responsibility in the covenant pact so that YIIWII may empower them to be rich (8:18) and inherit the promised land (16:20).¹⁴

Passage in Hebrew (Deut 16:18-20)

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Keywords Study

shoftim

The root for the above is a verb to be *sapat*, which means 'to judge'. It usually occurs in the Qal perfect: he judged, he led he administered justice, he governed, he defended etc. Hence *shoftim* is a noun masculine plural which means arbiters, lawyers, defenders, leaders and judges. But since *shoftim* occurs in the context of law and administration of justice it should be well translated as Judges.¹⁵

washotrim

The above phrase which begins with connecting device and a coordinating conjunction wa serves a very important function in the text. The term shotrim on its own has the root stem shatar is a Qal perfect noun masculine plural, meaning 'officials,' 'officers', 'overseers', 'foremen' etc Owen translates it as "and officers" (1:829) but Brown et al. see it as: official, officer, scribe, secretary, from original meaning as arranger, organizer etc (1009). These could be auxiliary Judges, subordinate to the, shoftim, main Judges or just mere court prosecutors or clerk. In one way or the other they were court administrators and work hand-in-hand with but subordinate to the Judges.

titen- leka

The above expression is a verb phrase and takes the status of Qal imperfect second person masculine singular. Owen has translated it as "you shall appoint" (1:829). It came from the stem nathan, which itself is problematic but has been usually translated as "to give." It is extensively used also as: set, commit, put, lay, fasten, appoint, place, store, attach, etc. Phonetically speaking, this verb is unstable or weak, in the sense of its frequent loss by outright elimination or by assimilation to an adjacent consonant of either or both n's. The three broad areas of meaning of the verb nathan are: "give", "put or set", and "make or constitute". This therefore suggests that only Joshua, the would-be successor of Moses was addressed here since the verb used appears in the second person masculine singular. The noun concern is about officers, officials and Judges-all legal personnel. The verb connected to them is titen- l'ka whose stem is nathan, which has been translated as either give, put, set, appoint etc. That means Moses was telling Joshua that, though not now (because of the Qal imperfect implying "you will"), but when you eventually settle in the land of Canaan, you shall set, appoint, and give etc Judges and officials over each of the tribes. These offices were not to be by democracy but by appointment through the sole authority of Joshua the supreme human leader. 17

weshaph^ethu

The above clause is prefixed with a conjunction wa, and. The dominant expression according to Owen occurs in the Qal perfect third person masculine plural (1:829) ("they," "the people"). The conjunction wa implies that the appointment of judges and other legal officers has responsibilities joined with it. It is not mere title or office but also responsibilities and duties. Furthermore the verb explains their duties: to judge, abdicate, rule in legal matters, to interpret, represent the law and enforce the content of the law on the people and their daily dealings etc.

mishpat-tsedeq

The above that seems to be one word is actually three words: *min*, *shapat* and *tsedeq*. The prefix *min* is a very strong preposition usually used to prefix nouns. Although in the expression it appears as *mi* it is actually *min*. In use with other words the *n* is silent or assimilated and hence contracts. It may be used to mean: "from" or "out of". At times it may indicate time or even comparative tool like "more than", "above", "beyond", "too much for", "too great for."

Without its use with *tsedeq*, mishpat in the context of the passage means "from law" or "out of law". But something is missing—the adjective qualifying the law—*tsedeq*. It means upright, just or righteous and fairness. Hence the text would read, "and they shall judge the people from/out of (the) righteous law" or "and they shall judge the people from/out of the law righteously."

lo'-thaten

The status of the above is negative Hiphil imperfect, second person masculine singular. It is a product of the verb *nathah*, which means: extend, stretch out, spread out, pitch, turn, pervert, incline, bend, bow etc. In this context regarding legal matters Moses warned Joshua, all the Israelites and the would-be legal officials not and never to bend, turn or in the most common term pervert justice for any reason. The reason being that that was tendency to pervert justice on several factors ranging from nepotism, bribery and corruption, compassion for the wrong or other human carnality. More so they were from the heathen nations who habitually perpetrated such acts of injustice to favour family members or the rich and high class.¹⁸

mishpat

The law or judgment in the Hebrew is *shapat* while *mishpat* has been translated as justice (Owen 1:829). Literally *mishpat* means from law. This means that *mishpat*, translated as justice means a judgment that is in full agreement with the content of the book of the law—out of the law or from the law—devoid of any influence. That is what justice is! To *thaten mishpat*, pervert justice then means to distort, misrepresent, change, alter or misinterpret the content of the statutory provisions.

lo' hakir panim (aý<yn]P* ryK!t^)

The above occurs in negative Hiphil imperfect second person, masculine plural. This instrument was directly to Joshua as the Chief Judge of the soon-to-be Supreme Court. YHWH continues with the warning lo', "no", "not" or "do not". This apparently shows his disagreement, disdain or dislike with the succeeding vocabularies: thakir and panim. The verb thakir is not mostly translated alone, but it suggests "to do" or "to manifest some character". The other word is panim, it always occurs in plural form, though it is a singular noun. Other singular nouns occurring in plural nature include elohim, shammayyim, mayyim etc. Each of them has its explanation, but for panim, translated as face to have a plural nature may be because the face combines several features of the

body, like the eyes, nose, head, ears, hair, cheeks, jaw etc. The face alone can show who a person is; and a person can also communicate through his face in non-verbal communication. Hence *panim*, the face, represents the personality of a being, which has a strong effect and influence in anything if it is present.

So when Owen and several Bible scholars and translators present *lo' thakir panim* as "do not show partiality," it means partiality may be a compressed way of writing personality, which could be depicted by "face". The Nigerian Pigeon English has it that: "may you no dey look face when you dey judge". That is to say, to be fair and just in dispensing judgment a judge must not look at the face of the parties involved in a matter; in other words, he must not consider their personality—religion, tribe, closeness to him, social class, political party, financial strength etc. To be fair in judgment and dispense justice a judge must be bold, frank, blunt, unbiased, objective and not influenced by anything, except the law as a content of the statutory book.¹⁹

walo' thiqach shochad (Áaýdj^v) jQ^t!w)

The above expression has the status of conjunction, Qal imperfect second person masculine singular. The w^a , a conjunction indicates a further relevant instruction; jQ^t! thiqach is a verb Qal but imperfect since the action is not yet accomplished (futuristic); Moses was still directing this instruction to Joshua alone (second person masculine singular), who would in turn teach the Israelites, especially the legal officers appointed. thiqach has the root laqach, which means: "take, get, fetch" or "lay hold of, seize", "receive", "acquire" "snatch" (Kaiser 1:481) etc. So in the context of the passage YHWH says the judges must not (lo') take, receive, acquire, snatch, (forcefully) collect shochad, bribe.

ki shochad ye 'awwer

The reason why judges must not collect "gifts" is because this *shochad* can y^e 'awwer. This word y^e 'awwer is from the root 'awar, "make blind." To be blind means "not to see"—either the bribe would make the judge not to see the law or not to see the crime perpetrated by the guilty or not to see (well) and mistakenly discharge the guilty and penalize the innocent. For *shochad* y^e 'awwer 'ine h^a camim means that one of the criteria for appointing a judge is that he must be wise, discreet, discerning and very vast in the law. Besides that, even after they have been appointed as judges, they would undergo some special courses and some on-job training. This must have made them very knowledgeable! But Moses warned them that bribe is so subtle and powerful that it can corrupt, darken and blind both the intellect, memory and the conscience of anyone who receives it. ²⁰

wisaleph dib e r tsadiqim (<q!yD]x h yr}b=D] [L@s h yw)

The main verb here is *saleph*, which has been translated to mean distort, twist pervert, ruin. This is a form of crookedness, *seleph*. The basic meaning of the root is "to twist"; the related ideas of distorting or perverting a man's rights or ways make it synonymous with other such Hebrew verbs as: *hapak* "overturn," 'awa "do wrong," "pervert," and

'aqash "do that which is crooked." The verb (only Piel) is employed primarily for contexts dealing with moral or social behaviour. The Torah warns strenuously against taking a bribe (KJV "gift") lest it becloud one's clear thinking and so distort the course of justice (Ex 23:8; Deut 16:19). The dangers of bribery, particularly in matters of litigation, were well known in the ancient world; the code of Hammurabi states such punishments. The verb occurs frequently in pointing out that evil so twists the sinful and foolish man that his way becomes perverted.

tsedeq'

The above word occurs in the noun masculine singular. It is a virtue, an abstract concept which Moses still demands of Joshua in regard to litigation. The context in which the term is used is about justice, but the term employed basically means "righteousness". More to it is the fact that the term occurs twice, following each other. When the same word follows each other it usually suggests imperative, emphasis or a weighty demand. Similar example is Jesus' use of "verily verily I say unto you" which also means "most assuredly" or "certainly" or "truly" (Jn 3:3, 5; 12:24). If John's Gospel presents Jesus as using this term, it then means that people of antiquity often used words in that fashion to imply seriousness, imperative or very important matter. Amplified Bible translates Deut 16:20 as "follow what is altogether just [that is, uncompromisingly righteous]..."; Revised Standard Version translates as "Justice, and only justice, you shall follow..."; Gideon Bible and New Analytical Bible translate it as "That which is altogether just shall thou follow..."; New American Standard Bible has it as "Justice, and only justice, you shall pursue."

lema'an ticheyeh

The expression above is an adjectival clause of reason. It occurs in the Qal imperfect second person masculine singular. The expression qualifies the command to just fairly. The reason why we command you to judge fairly is "so that you may live and inherit the land." So there is a link between obedience to the commandment of YHWH, fairness and justice and living long to enjoy blessings and prosperity (cf. Deut 28).

Kalland, a seasoned Old Testament scholar also sees the content of Deuteronomy 16:18-20 as futuristic. Moses was giving them instruction for their good use when they eventually settle in the land of Canaan. According to him:

This section really belongs with ch. 17. Contemplating the new settlement in Canaan, Moses instructed the people to appoint "judges"... and other "officials... in the towns the Lord would give them. The judges were civil magistrates, and the officials were subordinate leaders who implemented the decisions of the judges. The judges were to "judge the people fairly"; and the people were admonished to follow justice alone, so that they would be able to continue living as a nation in possession of the land. The judges were not to pervert justice or show partiality. Bribes

blind the wise and twist the words of the righteous. The Lord demands pure justice. ²²

Chianeque also observes that Moses had been the head or chief judge of the people all along, from Ex 18, but the time came when he was to die and Joshua and the Israelites must also appoint judges in the same fashion: judges from each tribe and officials to assist the judges, each in their several skill and capacity—difficult cases they may bring to Joshua who would be the Chief Judge in the Supreme Court. The judges were given strict instructions to follow justice and justice alone. This is explained as meaning that their judgments are not to be affected by bribes, friendships or personal biases. ²³

Recommendations

Looking at the rate at which injustice affected ancient Israel and the evil it is causing in Nigeria presently, the following recommendations are therefore made:

The legal system of Nigeria should be restructured in a way that it is directly relevant to our situation. There should be proper separation of power between the Executive, Judiciary and the Legislature to avoid clash of responsibility and authority. The Executive should appoint only Judges that have been tested and can be trusted—people who have the fear of God, patriotic, accountable and humble. Moreover, the appointment of Judges should be based on character and merit, not on religion, ethnic or nepotism. Members of the public must be sensitized and orientated on the concept of justice and fairness which should begin from their family and neighbourhood. Anybody who perpetrates any form of injustice or corruption, stating from the leadership (Executive, Judiciary and the Legislature) should be punished.

Conclusion :

God who created all human beings does not want any one to be treated with contempt, disdain or any form of brutality. He is God of all and not God of one. Therefore he commands justice and fairness in dispensing judgment. If the judges appointed as custodians and interpreters of the law are fair the world will be a safer, better and pleasurable place to live. Though injustice manifested in bribery, corruption, subversion and pervasion may offer temporary prosperity, YHWH promises that upholding justice is a sure key to long life and prosperity.

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