

Apodictic Vs Casuistic Law

IDB, "Book of Exodus" by G. E. Wright, Vol II, p. 192

Albrecht Alt in his Die Urprunge des israelitischen Rechts (1934) gave the discussion of this question a fresh orientation by distinguishing two legal traditions in Israel, which he termed the "casuistic" and the "apodictic." The first has arisen in judicial decisions, like English common law, which become legal precedents. In formulation the type contains a conditional clause, beginning with "if" (ִּי), which defines the case, and then concludes with the penalty. In form and content it is closely related to the other Near Eastern codes. The apodictic type of law, on the other hand, seems a characteristically Israelite formulation, in which God addresses his people directly (e.g., the Decalogue), and in which no distinction is made between the sacred and the secular. While in the Covenant Code the two types of law are mixed together, such an application of form criticism is able to isolate the forms and to suggest that each has had its separate origin and history, before reaching the present accommodation of one to the other.

IDB, "Covenant" by G. E. Mendenhall, Vol I, p. 720

The so-called "apodictic" form of the Decalogue stipulations ("You shall not . . .") cannot any longer be taken to be proof of a specific Sitz im Leben distinct from the "case law" form ("if . . . , then . . . "; Exod. 21:1-22:15 passim), for both the Hittite treaties and laws, and the "Covenant Code" of Exod. 21-23 include laws of both types.