CHAPTER TWELVE

THE PROHIBITION OF JUDICIAL CORRUPTION IN THE DEAD SEA SCROLLS, PHILO, JOSEPHUS AND TALMUDIC LAW

It is an axiom of any legal system which attempts to dispense justice that corruption of any of those involved in the judicial procedure cannot but lead to the perversion of justice. While it stands to reason that any well-ordered society would seek to eliminate corruption of the system of justice in order to guarantee the administration of its laws, this is even more the case in the system of Jewish law which in all its pre-modern manifestations saw itself as divinely mandated. Further, since Jewish law understood itself as maintaining the cosmic balance which was upset by injustice and inequity, we can expect to find that the punishment of judicial corruption would be a major issue.

It is therefore to be expected that biblical law, like its ancient Near Eastern predecessors, outlawed the taking of bribes and the perversion of the judicial process. We will find that this remained a major issue, however, in all the early post-biblical legal corpora of Jewish law, regardless of the fundamentally different provenances, approaches, and datings of these systems. Yet at the same time we will observe trends towards extreme stringency in these matters which may indicate the social and political conditions of the Greco-Roman period.

Our study will begin by sketching the biblical background, and then treat, in turn, the evidence of the Dead Sea Scrolls, discussions of this issue in Philo and Josephus, and the rabbinic evidence.

THE BIBLICAL BACKGROUND

The basic theme of biblical legislation and admonition regarding judicial honesty is in the form of prohibition and condemnation of the taking of bribes by judges.¹ The problem was not limited to ancient Israel.

¹ See the survey of S. Loewenstamm, “瑄,” Encyclopedia Miqra’it VII, cols. 617–619.
In ancient Mesopotamia we find that dishonest judicial practice had to be condemned. In the Akkadian Hymn to the Sun God, Shamash is praised for punishing the judge who takes a bribe (Akkadian ūatu), while the righteous judge is described as one who does not take bribes.\(^2\) In describing Babylonia, Esarhaddon (680–669 B.C.E.) describes bribery (kadrā) among the social injustices of the city. The same is said in a text attributed to Nebuchadnezzar, the author of which takes credit for stopping these practices.\(^3\) Other legal documents and reports indicate that this was a widespread problem in Mesopotamian legal practice.\(^4\) It has been suggested that in some cases the term ūatu can refer to a legal payment for the judge’s services,\(^5\) but this suggestion has been challenged.\(^6\) In ancient Egypt similar ideas are found. Thutmose II advised his viziers not to show partiality for it is an abomination to the god. Favoritism was not to be practiced and both parties were to be treated justly.\(^7\) That the same was the case in biblical Israel is clear from the many references in Scripture, in legal, prophetic, and wisdom contexts. In Exod 18:21 Jethro listed, among the qualifications of the judges whose appointment he recommended to Moses, that they be בצתשנאי "hating unjust gain". Exod 23:6–8, a passage as a whole apparently aimed at members of the judiciary,\(^8\) requires avoidance of a false charge (שקר דבר), so that innocent people do not get executed (cf. Deut 27:25), and prohibits the taking of bribes (שחד). The latter are said to blind the wise and falsify the words of the righteous. Bribery, along with favoritism, is likewise forbidden in Deut 16:19. Deut 10:17–18 in fact praises God, the righteous judge, for not being liable to corruption.

A number of non-legal passages in the Bible relate to judicial corruption. 1 Sam 8:1–3 relates about the sons of Samuel that they took bribes and perverted justice. Numerous prophetic calls for avoidance of bribery testify to the extent of corruption in the judicial system of

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\(^3\) Both Akkadian terms appear there as synonyms.

\(^4\) Loewenstamm, "שחד", col. 619.


\(^6\) Loewenstamm, "שחד", col. 216.
