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What Happened Every Seven Years
in Israel?

Old Testament Sabbatical Institutions for Land,
Debts and Slaves Part II.

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SLAVE RELEASE LAWS

In Part One, when we were considering the institutions connected with the seventh year, it was proposed to keep the land aspects separate from the question of slave release. In turning now to the latter question we find it as complicated as the other. The major problem, to which this second part attempts to suggest a solution, is the relationship between the legislation of Ex. 21:1-6 and Deut. 15:12-18, on the one hand, with their six-yearly release, and the provisions of Lev. 25:39-43, on the other, which provides for a release in the Jubilee, or fiftieth year.

The commonest approach to these texts has been to assume that there is a straightforward discrepancy between the laws, and to account for it in terms of the different periods from which they come, on the grounds that the later legislator was modifying or repealing the earlier law. Thus, *e.g.*, Driver comments: 'experience had shown that . . . the limit of service fixed by Ex. and Dt. could not be enforced'.¹ The extension to fifty years was mitigated by the exhortation to kindness. 'These laws [*sc.* Ex. and Deut.] were not obeyed . . . It is because of this difficulty that the ideal law of Lv. 25 allows for an extension which may amount to fifty years, but puts the master under the obligation of treating his slave like a wage-earner or a guest.'² It is thus regarded as a compromising reform.

But this view is open to major objections. It seems inconceivable that *any* amelioration of treatment or conditions should have been regarded as adequate compensation for changing a comparatively brief period of servitude into what in most cases would be slavery for life. And if it had proved impossible to enforce the original six-year limit, how could the rather vague injunctions to leniency be enforced if a creditor chose to ignore them? The only beneficiaries of such a 'reform' would be the wealthy creditors. Indeed, Ginzberg regards it as having been designed with precisely their interests in view. The legislator 'hoped that a fifty year

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¹ S. R. Driver: *Deuteronomy* (ICC), 185.

² R. de Vaux: *Ancient Israel* (London, 1961), 83. Cf. also, Z. Falk: *Hebrew Law in Biblical Times* (Jerusalem, 1964), 91; A. Phillips: *Ancient Israel's Criminal Law* (Oxford, 1970), 78; H. Schaeffer: *The Social Legislation of the Primitive Semites* (New Haven, 1915), 92.

period might be sufficiently long to safeguard the private property of the rich and still retain the institution of manumission'.³ It was, in short, a 'compromising' law, to 'placate the rich and obtain their support for the measure as a whole' (p.389). But it is impossible to see how such an attitude, allegedly obtained in the exile period, can be reconciled with the weight of the prophetic indictment of the rich and their economic oppression — an indictment which was believed to have been vindicated by the judgment of the Exile. Jer. 34:17 directly links the doom of the captivity with disobedience of the law of slave release. If it be objected that that is a Deuteronomistic viewpoint, whereas Lev. 25 represents priestly sources, one need only point to the essentially similar conception of the reason for the exile offered by the same priestly sources in Lev. 26:34ff. In other respects the effect of the Exile appears to have been to induce almost fanatical efforts to keep the law (*e.g.*, the increased zeal for Sabbath observance), in the belief that judgment had fallen on the nation for disobedience. It would be quite extraordinary if on this issue a legislator had taken the contradictory view that because people had failed to obey this law in the past, it should be abandoned in practice and replaced by a law which, by allowing virtual lifetime slavery, was the antithesis of what the original law had tried to achieve. For these reasons, then, the 'modification', 'reform' or 'replacement' theories must be rejected.

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The problem is tackled by literary-critical methods by Noth⁴ and recently also by Lemche.⁵ Noth reckons that the section Lev. 25:40b and 41, which 'looks out of place', may be an addition to the original paragraph in the 'mûk series', inserted when that series was combined with the Jubilee provisions. Originally the paragraph vv.39ff. (minus vv.40b & 41) had tacitly assumed the seventh year release laws of Exodus and Deuteronomy. But later, and 'rather mechanically', a reference to the Jubilee has been inserted 'which appears to ignore the older slave laws' and is, in fact, in 'considerable tension' with them. Lemche also reckons with (unidentified) secondary passages in vv.39-54, and proposes to understand the 'Jobel' manumission as originally a *seven-yearly* matter, in accordance with Exodus and Deuteronomy. Later, the redactor of Lev. 25 turned the 'Jobel' into a *seventh* sabbatical year, perhaps owing to 'practical and economic motives' (p.51), and thus the discrepancy arose. Both these theories, however, 'cut the knot' rather than 'unravelling' it, and neither is very convincing. The likelihood of finding a solution along

these lines is rejected by Elliger. With particular reference to Noth, Elliger comments that the discrepancy 'nicht als ein blosses schriftstellerisches Versehen ansehen dürfen'.⁶

Other scholars have suggested harmonizing the texts by the theory that freedom was to be granted after the sixth year of a slave's service unless the Jubilee came first, in which case he was lucky enough to be released earlier. This is favoured by a number of conservative scholars⁷ and is also Elliger's explanation of how the texts would have been understood in the context of the complicated Pentateuch.⁸ But one would have expected such a relationship to be expressed more clearly — at least in the Leviticus text. Such a view makes the texts incomprehensible without the others. But it is a dubious exegesis that requires us, as Ellison puts it, in rejecting this view, 'to treat the Bible as a kind of jig-saw puzzle'.⁹

A discrepancy, however, only exists if it be assumed (as it usually is) that Exodus, Deuteronomy and Leviticus are all concerned with the same thing — a straightforward release of slaves — and that the only major difference is the matter of the length of enslavement. The discrepancy disappears if in fact the two sets of provisions (treating Ex. 21:1-6 and Deut. 15:12-18 as basically the same law) deal with *two distinct sets of circumstances*.

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Mendelsohn proposed that the laws dealt with different phenomena, but the distinction he draws is rather odd.¹⁰ The slave of Exodus and Deuteronomy was the *defaulting* debtor who had actually been seized by his creditor. But the 'subject of the Levitical law is the poor Hebrew who sold himself into perpetual slavery either to a fellow-Hebrew or to a stranger' (p.89). The distinction rested on whether the slavery had been entered by compulsion or voluntarily (though in both cases because of insolvency). But this has the surely impossible implication that a man who voluntarily deprived himself of freedom in order to pay his debts, or just to survive, could have his whole family enslaved for a generation or more, whereas a man who had to be seized by his creditor, *e.g.* for (?deliberate) failure to repay a debt, served a mere six years. Mendelsohn's theory is improbable and ignores other differences between the laws.

A more fruitful approach is to take the word 'Hebrew' in Exodus and

⁶ K. Elliger: *Leviticus* (Tübingen, 1966), 360.

⁷ *E.g.*, C. F. Keil and F. Delitzsch: *Pentateuch*, II, 464f.; O. T. Allis: 'Leviticus', in *New Bible Commentary Revised*, 165; R. A. Cole: *Exodus* (Tyndale OT Commentaries), 165.

⁸ K. Elliger: *loc. cit.*

⁹ H. L. Ellison: 'The Hebrew Slave: A Study in Early Israelite Society', *EQ* 45 (1973), 30-35 (30). *Cf.* also, S. R. Driver: *Deuteronomy*, 185.

¹⁰ I. Mendelsohn: *Slavery in the Ancient Near East* (New York, 1949).

³ E. Ginzberg: 'Studies in the Economics of the Bible', *JQR* ns 22 (1932), 343-408 (349).

⁴ M. Noth: *Leviticus* (London, 1965), 192.

⁵ N. P. Lemche: 'The Manumission of Slaves . . .', *VT* 26 (1976), 49-51.

Deuteronomy as the key to the distinction.¹¹ Thus, the original law in the Book of the Covenant had to do with the 'Hebrew' in the social, not ethnic, sense,¹² *i.e.*, with the *landless* man who survived by selling his services to an Israelite household. Lev. 25:39ff., by contrast, deals with the man who is an *Israelite landholder* but who has been forced by poverty to mortgage it and then to sell his family and himself into the service of a fellow-Israelite. This essential difference between the two sets of provisions becomes clear when a close scrutiny of the three texts reveals the following distinctions.

(i). In the Jubilee text of Lev. 25 the word 'Hebrew' *nowhere* appears. The importance of this is obscured by the common habit of scholars and commentators of speaking of *Hebrews* being released in the Jubilee.¹³ It is also commonly assumed that 'Hebrew' in at least the Deuteronomic passage¹⁴ and, according to some, also in the Book of the Covenant¹⁵ has become synonymous with 'Israelite'. But is this necessarily so? Lemche argues strongly for maintaining the sociological interpretation of 'Hebrew' in Ex. 21:2 (following Alt¹⁶), on the grounds that the laws of the first part of the Book of the Covenant are pre-Israelite and that even when brought into an Israelite context, the 'Hebrew slave' law was still understood to refer to the social class of that name and not simply to ethnic Israelites.¹⁷ The situation need not be different in Deut. 15:12. Weippert argues that 'here the "Hebrew" is described as the "brother" of the person addressed in the legal text and is, therefore, defined as an Israelite' (p.87). But the word *'ahîkâ* is of very wide meaning,¹⁸ and the phrasing of Deut. 15:12a shows rather that it is the 'brother' who is being defined (*i.e.* limited and qualified) as a 'Hebrew', not vice-versa. That is, the phrase *hâ'ibrî 'ô ha'ibrîyyâh* is a specific qualification of the broader term *'ahîkâ* for the purpose of indicating clearly the social status, not the nationality, of the person referred to — *viz.* a 'Hebrew'. If it were merely ethnic

in sense, the phrase would surely be tautologous. Precisely the same can be said of the defining use of *'ibrî* in Jer. 34:9, 14; the slaves are Jews and brothers, but their social status and condition is described by the term 'Hebrew'.

In Lev. 25:39, however, the term *'ahîkâ* is not qualified by any further noun or adjective. It is simply stated that he has 'sunk into poverty' (*kî-yâmûk 'ahîkâ*). That is, the fact that he has *become* poor is given as the explanation of why he should be selling himself into the service of a fellow-Israelite, whereas in Exodus and Deuteronomy no explanation is advanced. It was sufficiently understood in the latter texts that a person described as a 'Hebrew' belonged to a landless class of people who sold themselves or were acquired¹⁹ as a way of life or means of livelihood — not as the result of a sudden reversal of fortune such as is implied by the *mûk* paragraphs.

(ii). In Exodus and Deuteronomy the Hebrew's service as a slave is unqualified. He 'serves as a slave' for six years. By contrast, the impoverished brother is emphatically *not* to be made to serve as a slave (lit. — 'you shall not make him serve the service of a slave', Lev. 25:39b), nor may he be sold as a slave (*cf.* the similar form of words in v.42b: 'he shall not be sold by the selling of a slave'). Rather, he is to dwell like a hired workman or resident labourer under the employment of his creditor. That it is in fact a creditor-debtor relationship is fairly clear from vv.35-37. Such a relationship, however, is not at all specified or presupposed in the 'Hebrew' law.

(iii). Neither Exodus nor Deuteronomy speaks of any right of redemption for the 'Hebrew' slave — understandably, since the redemption of land or persons was a family or clan affair and the 'Hebrew', as defined above, would hardly have had wealthy family connections. In Lev. 25, however, the debt-servitude of the Israelite is brought into close contact with the redemption regulations. They are specified in vv.47ff., where the creditor was an alien, and it is very probable that similar procedure was applicable where the creditor was an Israelite.

(iv). Another difference which concerned the family was that a 'Hebrew' might forfeit his wife and children on release, if he had gained them during his six years. She and they remained the property of his master. In the Jubilee release, however, the phrase '. . . and his children with him' occurs twice (vv.41, 54). The man has land to return to and can

¹¹ This is the approach adopted by H. L. Ellison, *op. cit.*, which I believe can be amplified and substantiated by the arguments set out below.

¹² It is now widely agreed that *'ibrî* is related to the various forms of *'apîru*, and that the latter term described a 'relatively unified entity with much in common linguistically, sociologically and culturally, but an 'international' class of men, a social stratum . . .' M. Weippert: *The Settlement of the Israelite Tribes in Palestine* SBT II, 21, 65. Weippert provides one of the most comprehensive recent accounts of the Hebrew/*'apîru* question.

¹³ *E.g.*, S. R. Driver: *op. cit.*, 185; Z. Falk: *op. cit.*, 91.

¹⁴ G. von Rad: *Deuteronomy*, 107; R. de Vaux: *op. cit.*, 83.

¹⁵ B. S. Childs: *Exodus* (SCM, OTL), 468; J. P. Hyatt: *Exodus* (NCB), 228.

¹⁶ A. Alt: 'The Origins of Israelite Law', in *Essays in Old Testament History and Religion* (Oxford, 1966), 93-95.

¹⁷ N. P. Lemche: 'The "Hebrew Slave"', *VT* 25 (1975), 129-144.

¹⁸ It could, for example, be 'extended to include the sojourner', *BDB*, 26a.

¹⁹ A. Alt prefers the *yimmûkêr* of Dt. 15:12 as the original text of the law, and gives the Niph'al a reflexive sense. See, *op. cit.*, 93f.

thus maintain the integrity of his family.²⁰ The main purpose of the Jubilee was to restore the family ownership of land and to limit the effects of debt and poverty to roughly a single generation. But such ambitions were irrelevant to legislation for the 'Hebrews' since they had no stake in the kinship-land structure of the nation.

(v). The occasion of release is markedly different in the two provisions. It was simply a domestic affair in the 'Hebrew's' case, taking place in the seventh year of an individual's service. But, as presented in Lev. 25, the Jubilee release was a festival of national scope and importance in a fixed year.

(vi). The effects of the release in the two cases represent a yet more significant difference. The 'Hebrew', on release, becomes a *ḥopšî* (Ex. 21:2b, Deut. 15:12b). The term is undoubtedly related to the class of *ḥupšû* found in Canaanite and Assyrian texts, though the precise sociological meaning of the latter term is still a matter of debate.²¹ It seems to have involved a kind of freedom, but within a low and dependent social class. Mendelsohn describes the *ḥopšîm* as 'legally free, but *without land* or any other means of existence' and therefore obliged to 'hire themselves out as day-labourers or settle on a rich man's land as tenant farmers'.²² Lemche sees two possibilities from the comparative evidence: that the *ḥopšî* 'entered into a private clientage to his former master, or . . . passed into a sort of collective dependency. . . . A *ḥopšî* should be socially ranged somewhere between a slave and a freedman'.²³ For the 'Hebrew', therefore, release after six years' service probably entailed a change of residence and employment rather than any great rise in social status or privilege.

Significantly, the word is totally absent from Lev. 25. There, the key-word is 'return'. The debtor 'goes forth' and 'returns' to his *mišpāhāh* and to his ancestral property. The subject of the Jubilee law, therefore, was a member of an Israelite clan who had a legal title to his family land and could 'return' to full possession of it — a very different case from the landless, dependent 'Hebrew', for whom the idea of a 'return' was irrelevant.

²⁰ The possession of land was a basic factor in being able to retain control over one's family. The Israelite of Lv. 25:35ff. had not *lost* his land technically, and so 'he is only a semi-slave, for he retains control over his family, something denied to the slave'. H. L. Ellison, *op. cit.*, 33f. Neh. 5:5b, however, shows the powerlessness of being in such a situation: 'it is not in our power to help it (sc. the pledging of children into debt-slavery), for other men have our fields and vineyards'.

²¹ See M. Weippert, *op. cit.*, 72 n.63 for a survey of the debate.

²² I. Mendelsohn: 'The Canaanite Term for "Free Proletarian"', *BASOR* 83 (1941), 36-39 (38, my italics).

²³ N. P. Lemche: 'Hebrew Slave', 142.

The term is accordingly quite absent from the Exodus and Deuteronomy texts — as absent as *ḥopšî* is from Leviticus.

Thus, the primary concern of the 'Hebrew' legislation was to prevent the indefinite exploitation of a member of that social class by any one owner, whereas that of the Jubilee was to preserve or restore the integrity, independence and property of Israelite households.

(vii). Even the theological motive, which is present in both laws, is differently expressed. Deut. 15:15 gives as a motive for 'Hebrew' release the memory of Israel's own experience of slavery in Egypt.²⁴ Just over half of the occurrences of the word *'ibri* are in the Egyptian context.²⁵ The argument thus is: 'Because *you* were once a slave ('Hebrew') in Egypt, but are now free because Yahweh redeemed you, you must show like generosity to those who are now slaves ('Hebrews') among you'. Lev. 25:42, however, reads: 'for *they* [sc. the Israelite debtors] are *my* slaves whom I brought out of Egypt . . .' The legislator puts creditor and debtor on the same social and theological footing before God. All Israelites are God's purchased slaves (cf. v.55) and are therefore forbidden to enslave one another.

CONCLUSION

All these differences between the laws confirm the view that they are concerned with essentially different phenomena: one with the 'class-slavery' of the 'Hebrews', a landless and rootless substratum of society who lived by selling their services to Israelite households; the other with Israelites who entered the service of another out of an increasing burden of poverty and debt but who in theory retained the legal ownership of their land and could 'return' to it.

This latter fact about the Jubilee is an added point in favour of its early origin, for it envisages a situation where every family did have a patrimony to which, if temporary alienation had been forced upon them, they could 'return' in the Jubilee. Such could have been the general situation in the early period of tribal settlements and land allotment, but the economic history of the monarchy period reveals a process of increasing dispossession and the growth of large, non-patrimonial

²⁴ Many scholars believe that the same motive is implicitly present in Exodus, in that the 'Hebrew' release law has been placed at the beginning of the Book of the Covenant. Its humaneness is thus emphasized as an ethical obligation arising out of the redemption from Egypt.

²⁵ To be precise, 17 out of 33 occurrences. For the details, see M. Weippert, *op. cit.*, 84.

estates.²⁶ The concept of a 'return' must soon have become meaningless for large numbers of the new dispossessed and *landless* poor and their descendants. By the same token this explains the absence of historical reference to a Jubilee being practised.

It also explains why Jer. 34 does not invoke the Jubilee provisions, but instead refers to the 'Hebrew' legislation in its Deuteronomic form. This need not imply that the Jubilee law was entirely non-existent at the time (as de Vaux believes²⁷), but rather that the economic conditions it presupposes no longer obtained. The slaves released by Zedekiah were not mortgaged debtors with estates to return to, but dispossessed people working like serfs on land no longer theirs. Freedom for them would mean joining the ranks of the *hopšim* (Jer. 34:9f., 16). Their status in fact corresponded with that of the 'Hebrews' of the early laws and so Jeremiah invokes that legislation as relevant to their situation. They were Judaeans by nationality, but 'Hebrew' in social condition.

It is significant that in Jer. 34 the word *šemiṭṭāh* is *not* used, even though the dependence upon Deut. 15 is extensive. Indeed, Jer. 34:14 begins with identical wording to Deut 15:1, 'At the end of seven years', but then skips over the *šemiṭṭāh* law to the 'Hebrew' release law beginning at Deut 15:12. This makes sense only in the light of the understanding of the *šemiṭṭāh* that we developed in part one, that it involved release of pledged *land* to its true owner in the sabbatical year. Jer. 34, however, is not concerned with release of *land* or the suspension of debts for a year, and probably was not actually related to a regular sabbatical year.²⁸ Rather was it concerned with the permanent release of *persons* from slavery. The fact that it omits reference to the *šemiṭṭāh* confirms, therefore, our view that the *šemiṭṭāh* was primarily concerned with property pledges and should be kept distinct from straightforward slave release.

On the other hand, Jer. 34 uses the word *d'erôr* for the release of persons — a word *not found at all* in Deut. 15, but a technical expression from the

Jubilee milieu (*cf.* Lev. 25:10, Ezek. 46:17).²⁹ The other Jubilee concepts (return, redemption) could clearly not be used because they were no longer applicable and thus irrelevant, but *d'erôr* could be used for the manumission of the slaves' *persons*. Their economic conditions, however, particularly their landlessness, made the 'Hebrew' legislation of Deut. 15 the appropriate law to invoke.

²⁶ *Cf.*, E. Neufeld: 'The Emergence of a Royal-Urban Society in Ancient Israel', *HUCA* 31 (1960), 31-53; and *idem*: 'Socio-Economic Background of *Yōbbel* and *šemiṭṭā*', *Rivista degli Studi Orientali* 33 (1958), 53-124.

²⁷ R. de Vaux: *op. cit.*, 176.

²⁸ As against the view of N. Sarna: 'Zedekiah's Emancipation of Slaves and the Sabbatical Year', *Orient and Occident, AOAT* 22 (1973), 143-149.

²⁹ The absence of *šemiṭṭāh* and the use of *d'erôr* in Je. 34 is noted by M. Kessler: 'The Law of Manumission in Jeremiah 34', *BZ, NF* 15 (1971), 106, but without comment or explanation.