

## THE PRIORITY OF THE LAWS CONCERNING SLAVES AT THE BEGINNING OF THE MISHPATIM IN THE BOOK OF THE COVENANT-COINCIDENTAL OR PURPOSEFULLY PLACED?

**Rev Dr James Williamson**

*It is a very great honour to be asked to contribute this article in honour of Prof J Stanley McIvor (Professor Emeritus [Old Testament] Union Theological College). I do so not only on behalf of myself but also with the gratitude of the late Rev Principal Richard Greenwood (Edgehill Theological College). We both were highly privileged to have shared in the Edgehill/Union teaching arrangements as colleagues of Professor Stanley McIvor. Stanley McIvor was held in the highest esteem and in the best sense feared and revered by those he taught over many years. His outstanding scholarly ability and deep concern to give the very best to those who had the privilege to sit at his feet is widely acknowledged. He was the master who loved his Lord and always had the interests of his students at heart. Many will testify to this day how he shaped their lives in Ministry and other spheres of Christian service.*

### ABSTRACT

The manumission laws in Exod. 21:2-11 have provoked extensive discussion among scholars. Their placement at the beginning of the *Mishpatim* has evoked vigorous debate as to whether they are awkwardly inserted or purposefully set in the narrative structure of the Book of the Covenant and the wider Sinai periscope. Diachronic and synchronic readings of the text have in the past tended to produce diverse interpretations. Preoccupation with identification and reconstructions of underlying sources and traditions can lead to an overlooking of the 98ulfillm artistry and theological understandings reflected in the final form of the text. The main thrust of this article is to demonstrate that these laws encapsulate in microcosm the wider macrocosm of God's release of the Israelites from Egyptian bondage and the covenant relationship of Yahweh with his people.

## THE MANUMISSION LAWS OF EXODUS 21:2-11

The Manumission laws of Exodus 21:2-11 are a microcosm of a key theme of the Book of the Covenant.<sup>3</sup> This key theme of slavery and freedom has priority not only in the Book of the Covenant but also in the Book of Exodus. The association of the Book of Exodus with regulations concerning slavery appears in the opening words of the Decalogue in Exodus 20:2:

אנכי יהוה אלהיך אשר הוצאתיך מארץ מצרים מבית עדים

Yahweh is identified as the liberating God who freed his people from the oppression of Egypt. It is interesting to note that all the legal collections of the ancient Near East treat the subject of slavery, but largely speaking approach it with ambivalence.<sup>4</sup> The *Misphatim*<sup>5</sup> in the Book of the Covenant commences with ten laws regulating the institution of slavery in contradistinction to other legal collections of the ancient

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<sup>3</sup> Exodus 20:22-23:33, is adjudged by the majority of scholars to be the so-called (ספר הברית), the Book of the Covenant. The consensus view of scholars is that this was the earliest legal collection in the Hebrew Bible; a key area of debate is: To what extent it can be understood as a code of state law enforceable by courts, or whether it represents a religious “ideal” inspiring what ought to be?

<sup>4</sup> N M Sarna, *Exodus*, p.118-119 commenting on the wider legislation of the ancient near East in relation to biblical legal collections, notes: “everywhere the attitude to the slave was marked by ambivalence: He was a human being in close contact with his master and other members of the family; but he was also an item of property to be assessed in terms of monetary value. Biblical legislation, however, is directed toward enhancing the social and legal status of this human chattel (Cf.Exod. 20:10; 21:20 & 26-27, 23:12; Lev.25:39-42; Deut. 5:14; 15:12; 16:11-12, 14; Jer.34:9, 14-17).

<sup>5</sup> B S Jackson, *Wisdom-Laws, A Study of the Mishpatim of Exodus 21:1-2:16*, states “the idea that the Mishpatim were used as instruction to judges, to be applied in particular cases, remains popular and may still represent the dominant opinion.” However, the range of both the noun and the verb are much wider in the Old Testament. *Mishpat* may refer to a specific instruction, or to a generally accepted custom, or to a rightful claim.

near East and one of the best known, namely the Code of Hammurabi, deals with slavery last. The significance of the exodus event<sup>6</sup> and its reverberations throughout the canon of Scripture set it apart as God's act of salvation par excellence in the Old Testament. It helped to mould Israel's self-understanding that they were God's people and this great act of deliverance became the paradigm for all future deliverances. That paradigm is highlighted at the beginning of the *Mishpatim*. It is not awkwardly placed but purposefully ordered as it focuses on the relationship between Israel and Yahweh, underscoring the twofold purpose. On the one hand it sets out how slaves in Israel should be treated and on the other it underpins the relationship between Israel and their God of faithful covenant promise.<sup>7</sup> The concept of being a slave forever is presented rather paradoxically in terms of loving one's master. B Jacob makes an interesting point. He says, "the Christian interpreters (Dillmann, Stack, Holzinger, Baer, Driver, McNeile, Weiss, Heinisch, Jirku) have called these first two statements 'the law of slaves and their rights,' but this is incorrect, for the opening verse declares that there were no Hebrew 'slaves'. A person whose bondage is limited cannot be a slave. These preliminary remarks were intended to prohibit Hebrew slaves. Every Israelite who had been led out of Egyptian slavery possessed the basic right (*mish-pat*) of personal freedom.<sup>8</sup> This paradoxical motif resonates throughout the book of Exodus as a whole. The Israelites have been released from slavery through the defining actions of Yahweh in the exodus, they in turn are invited to reciprocate at Sinai and become slaves in order to serve Yahweh forever out

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<sup>6</sup> The date of the exodus is still a subject for debate among scholars and as yet, has yielded no clear consensus.

<sup>7</sup> T D Alexander, in *From Paradise to the Promised Land: An Introduction to the Main Themes of the Pentateuch*, p. 87, concurs with this view.

<sup>8</sup> B Jacob, *Exodus*, p.610.

of love. The *Mishpatim* not only regulate the laws of slavery, but also justify indirectly God's actions in releasing the Israelites from the harsh bondage of Egypt (cf. Exod. 2:11; 5:14-16). It could also be argued that there is a connection with Exod. 3:21-22; 11:2; 12:35-36; in these passages the Israelites demanded articles of silver, gold and clothing from the Egyptians and as a result were compensated for the way they were exploited by the Egyptians.<sup>9</sup> There is a strong possibility that this is echoed in the Book of the Covenant in relation to a set of laws which focuses on the concept of restitution (cf. Exod. 22:1-15). The debate as to whether עברי (*ivri*) can be understood as an ethnic or sociological designation will be addressed later. What is relevant for the priority of the slave laws at the beginning of the *Mishpatim* is that the author, by describing the slave as עברי uses a term associated with Israel's slavery in Egypt. Exod.21:2 uses the Hebrew root עבר and the Hebrew verb יצא terms which are also related to the wider Exodus theme. The theme of deliverance from slavery is an important emphasis of the first Passover. Moses reminds the people of Yahweh's great act of deliverance when he says, "Remember this day on which you came out (יצא) of Egypt, out of the house of slavery (בית עבדים)" (Exod.13:3). As already noted this motif prefaces the

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<sup>9</sup> The despoiling of the Egyptians has been a subject of keen debate in scholarship. It raises questions like – Was this a temporary borrowing of adornments in the light of sacrifice in the desert – to be returned when they came back? Was it a final parting and offering of gifts to banish ill feeling? Does it reflect a kindlier attitude to the Hebrews from the ordinary Egyptian populace? A whole gamut of views on this complex issue is presented by scholars such as (Hyatt, Cole, Daube, Jacob) ranging from 'aetiological', to explain the source of the materials for the golden calf, to the idea of not being 'borrowed' but 'asked', or the notion of not being sent out 'empty-handed' in 'refutation of the idea of thievery' or the idea of 'farewell gifts being freely given'.

Decalogue and a link between Exod.21:2-6 and the wider theme of liberation from bondage in Exodus finds a further parallel in Deut. 15:12-18.<sup>10</sup> J M Sprinkle comments on this parallel passage in Deuteronomy by suggesting:

Whereas the connection made between this regulation and Israel's historical experience of being servants in Egypt could be an innovation by the writer of Deuteronomy, it is quite plausible that this point, like the reference to six years of servitude and the ceremony of making a person a slave for life, is part of Deuteronomy's interpretation of the Exodus passage itself in which the writer has (correctly) perceived a connection between the placement of the case of the עֶבֶר עֲבָדִי at the beginning of Exod.21:2-23:19 and Israel's experience of servitude in Egypt.<sup>11</sup>

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<sup>10</sup> "If a member of your community whether a Hebrew man or a Hebrew woman is sold to you and works for six years, in the seventh year, you shall set that person free. And when you send a male slave out from you a free person, you shall not send him out empty-handed. Provide liberally out of your flock, your threshing floor and your wine press, thus giving to him some of the bounty with which the Lord your God has blessed you. Remember that you were a slave in the land of Egypt, and the Lord your God redeemed you, for this reason I lay this command on you today. (Deut. 15:12-15).

<sup>11</sup> J M Sprinkle, *The Book of the Covenant*, p.181. G C Chirichigno, *Debt Slavery in Israel and the Ancient Near East*, commenting on the manumission law of Deuteronomy says, "while scholars agree unanimously that the manumission law in Deut. 15:12-18 is based on the manumission law in Exod.21:2-6, nevertheless the former law includes stipulations not found in the latter and vice versa. These additions and omissions have led some scholars to suggest that the law in Deuteronomy is significantly different from that in Exodus. Chirichigno concludes, although the deuteronomist has employed terminology not found in Exod.21:2-6 such as יִמְכַר, אַח, רִיקָם, and so on, these additions reflect the theological intentions of the deuteronomist rather than any attempt to make fundamental changes to the older manumission law in Exod. 21:2-6."

To summarise, the detailed stipulations at the beginning of the *Mishpatim* in Exodus 21 are placed 103 fulfillmen by the author. The “going out” to freedom of the עבד עברי takes up and develops the overall theme of the Book of Exodus. The lesson the Israelites must learn from their own experience of bondage in Egypt is the importance of treating those in bondage more humanely. The liberation of the oppressed Israelites becomes the paradigm for all liberation and sets the agenda for the legislation and moral imperatives which permeate a major section of the Book of the Covenant, namely Exodus 21:1-23:9.

### **A BRIEF SEMANTIC RÉSUMÉ OF WORDS RE SERVITUDE IN THE OLD TESTAMENT**

A cursory look at the vocabulary of servitude in the Old Testament suggests that there are four main words used in the semantic range.<sup>12</sup> The two terms and their cognates which are found in the Book of the Covenant are עבד and אמה. In the ancient Near East the root 'bd is attested in most Semitic languages with the exception of Ethiopic. The primary meaning is slave or worshipper. The most frequent Hebrew word used to designate a slave/servant in the Hebrew Bible/Old Testament is עבד ('ebed). It usually describes “a dynamic relationship between two individuals, which may be “permanent or temporary, and literal or figurative”.<sup>13</sup> The

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<sup>12</sup> NIDOTTE summarises them as follows: 1 אמה (*amâ*), female slave, maidservant. 2 נתין (*natin*), temple servant 3 שפחה (*siphâ*), female slave, maidservant. 4 עבד ('ebed), servant, slave, subject, official, and also found in personal names.

<sup>13</sup> R Schultz, “Servant Slave”, NIDOTTE, Vol. 4 p.1184 develops this by stating “ ‘ebed occurs ca. 800x times in the Hebrew Bible (in all books except Ruth, Song of Solomon and six of the minor Prophets; (the Aramaic form occurs 7x times). This relationship is usually indicated syntactically: more than 440x with a pronominal suffix (“his/your slave”), more than 200x

difficulty with word studies, their cognates, semantic and etymological enquiries is that they are often more speculative than precise and conclusions have to be reached with caution. This is illustrated by attempting to understand the exact nature of the relationship between the noun, 'ebed and the verb of the same root 'bd. Also there is a wide ranging debate about the basic concept which lies behind the 'ebed, allowing it to designate, not only the lowest social status of abject poverty, but also the highest rank of being God's servant. An interesting exercise is to study the various uses and multiple nuances of the nine occurrences of the Hebrew word עֶבֶד in 2 Sam. 9. It is noteworthy that the law of the Jubilees underscores the idea that the Israelites are Yahweh's servants by virtue of the exodus from Egypt. The corollary is that, having been delivered from slavery to Pharaoh, they are now to serve Yahweh.<sup>14</sup>

The other Hebrew word אַמָּה ('amah) which occurs in the Book of the Covenant denotes a female slave or maidservant. The term is used to designate a woman as having a subordinate social status and a subservient role or in a sense which expresses contempt or disapproval<sup>15</sup> N M Sarna addressing the use of the term אַמָּה in Exod.21:21:7-11 argues:

The Hebrew term used here, does not mean a slave girl in the usual sense, since her status is quite

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through a construct relationship ("slave of x") and more than 40x through the possessive use of the preposition *le*."

<sup>14</sup> This is clearly articulated as follows: "For they are my servants, whom I brought out of the land of Egypt; they shall not be sold as slaves." (Lev.25:55).

<sup>15</sup> The pejorative sense is expressed in Gen.21:10: 'So she said to Abraham, "Cast out this slave woman with her son; for the son of this slave woman shall not inherit along with my son Isaac.'" The legacy of tension and conflict in the interpretation of this verse has percolated down to the present in the conflicting ways that two of the great monotheistic faiths, Islam and Judaism, see themselves as the 'children of Abraham'.

different from the male slave. The following laws safeguard her rights and protect her from sexual exploitation. In the ancient world a father driven by poverty, might well sell his daughter into a well-to-do family in order to secure her future security. The sale presupposes marriage to the master or his son.<sup>16</sup>

It is important to understand what an author invests in the meaning of a word and what determines his choice of that word. Like other authors, it is reasonable to assume that the biblical authors chose particular words because they carried precisely the meaning that they, the biblical authors wanted to communicate. While etymological enquiry and semantic study of words have their limitations, careful analysis of the way words have evolved over time can help us to see that sometimes their current meaning is only vaguely related to their original meaning.

### **THE PROBLEMS RELATING TO THE MEANING AND “SITZ IM LEBEN” OF THE MANUMISSION LAWS IN EXODUS 21: 2-11**

Scholarly debate in relation to the laws of servitude in Exod.21:2-11 and other relevant passages in Deuteronomy and Leviticus<sup>17</sup> have been influenced by the discovery of references to the *habiru* in the Amarna letters<sup>18</sup> and other extant

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<sup>16</sup> N M Sarna, *Exodus*, p. 120. He further comments that “documents recording legal arrangements of this kind have survived from Nuzi. The Torah stipulates that the girl must be treated as a free woman, and should the designated husband take an additional wife, he is still obliged to support her. A breach of faith gains her freedom and the master receives no compensation for the purchase price”.

<sup>17</sup> Deut.15:12-18 and Lev.25:39-54.

<sup>18</sup> Initially some 300 tablets containing the El Amarna Letters were discovered by an Egyptian woman in 1887 AD/CE. Subsequently a total of 540 clay tablets have been recovered and to date some 378 have been



documents and also the ongoing and far from resolved dating of the sources J, E, D and P. Discussions have oscillated between the various opinions about the precise nature of the relation of the *habiru* to the biblical (עברי) (*ivri*). A Alt, being careful to point out that the Hebrew term tells us little of anyone's legal status or nationality, argued that the relevant passages in Exodus and Deuteronomy referred to Israelites who belonged to a lower social class. J Lewy paying careful attention to the wider canvass of the ancient Near East examined the biblical manumission laws against the background of the Nuzi *habiru* service contracts and suggested the laws related to the releasing of foreign slaves. S Paul engaged in a comparative study of Exod.21:2-6 with the Nuzi service contracts and evoked a strong reaction from I Cardellini who found no clear parallels with such Nuzi service contracts, but accepted Alt's contention that the (עברי) (עבד were a lower social class. Both I Riesener and S A Kaufman concur that the manumission laws relate to a class of landless Israelites. Neither compares the laws with the Nuzi service contracts. However, Riesener argues for the term עברי to be understood as an ethnic designation and concluded that the biblical laws reflected a greater affinity with the manumission laws of Hammurabi, in particular Article 117, where it is stated that "if a citizen sells his wife, his son, his daughter or himself into slavery to pay a debt, then the creditor cannot contract for more than three years' service and must free them at the beginning of the fourth year."<sup>19</sup> In a very recent study just published in

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published. The letters were written by Canaanite and Egyptian scribes in a dialect of Akkadian using cuneiform script.

<sup>19</sup> For further study of the diverse views of scholars on this complex issue see A Alt, *The Origins of Israelite Law*, 93-96; B S Childs, *Exodus*, p. 468; J Lewy, 'Habiru and Hebrews', *HUCA* 14 (1939), 15(1940) and 28 (1957); S M Paul, *The Book of the Covenant*, pp.45-46; I Cardellini, *Die biblischen'Sklaven-Gesetze im Lichte des Keilschriftlichen rechts: Ein*

2009 by D P Wright entitled, *Inventing God's Law*, How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi (Oxford University Press), a more radical view of the composition of the Covenant Code is articulated. He argues it depends directly and primarily upon the Laws of Hammurabi and to a lesser degree on other cuneiform legal collections. His model is one of literary dependence rather than oral traditions. This link, he suggests, came about during the Neo-Assyrian period (around 740-640 BCE) when Mesopotamia exerted dominant cultural and political influence over the divided kingdoms of Israel and Judah. He avers that the author of the Covenant Code “replaced Hammurabi as law composer with Yahweh as law revealer to create an alternative and competitive reality to counter the effects of Assyrian imperialism.”<sup>20</sup> While innovative, scholarly and radical this view represents a model which relies heavily on a concept that in places is speculative and reads the Covenant Code with too direct a dependence on the Laws of Hammurabi. As we have deduced, examination and analysis of the complex nature of the data which surrounds the term עֶבֶר עֲבָדֵי has produced diversity of views among scholars and yielded no clear consensus. The traditional interpretation as reflected in the NRSV translation takes עֲבָדֵי (ivri) to be “gentilic”, thus referring to a Hebrew male slave as opposed to an alien slave. Others favour the view that it refers to an inferior social class comparable to the *habiru* mentioned in Akkadian records and cognates mentioned in Ugaritic and Egyptian documents.

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*Beitrag zur Tradition, Überlieferung und Redaktion der alttestamentlichen Rechtstexte*, pp.243-251, 337-344; I Riesener, *Der Stamm עֶבֶר im Alten Testament: Eine Wortuntersuchung unter Berücksichtigung neuerer Sprachwissenschaftlicher Methoden* (BZAW, 149), pp.115-135; S A Kaufman, ‘A Reconstruction of the Social Welfare Systems of Ancient Israel’ *JSOTS* 31, pp.277-286.

<sup>20</sup> D P Wright, *Inventing God's Law*, p.121.

However, as the term עבֵרִי does not occur in Deuteronomy 15 and Leviticus 25 the meaning and *Sitz im Leben* of the laws relating to slavery in the Book of the Covenant in Exod. 21:2-6 have generally been deduced from the various ways in which scholars have understood how these chapters had been influenced by the dating of J, E, D & P sources of the Graf-Wellhausen classical hypothesis<sup>21</sup> A cursory glance at the face of Old Testament studies in the 21 century cannot but fail to alert us to the fact that Pentateuchal criticism is in something of a crisis. Some scholars remain committed to the basic concept of the Documentary Hypothesis, others argue for a substantial modification of its tenets and some argue for fresh paradigms.<sup>22</sup> G C Chirichigno observes that “in the wake of various commentaries and monographs on Deuteronomy, the general scholarly consensus is that the origins of Deuteronomy should be divorced from Josiah’s or Hezekiah’s reform.”<sup>23</sup> D has often been described as the linchpin of the Graf-Wellhausen hypothesis, especially its alleged date at the time of the Josianic reforms. If that date can no longer be viewed as an agreed tenet of source-critical theory, then the classical theory as we know it, is thrown into disarray. For example, if a study of the manumission laws in Leviticus takes the Wellhausenian model, then D must be dated earlier than P and the conclusion arrived at is that the laws in Leviticus either replaced or abrogated the former laws in Exodus and Deuteronomy.

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<sup>21</sup> The main conclusions of Wellhausen’s findings were that D was associated with the reforms of Josiah and therefore later than J and E but earlier than P.

<sup>22</sup> During the last hundred years a variety of studies critical of the Documentary Hypothesis have emerged, among them, some who no longer simply reflect a conservative theological outlook. Some of the most significant are the studies of J Van Seters, R Rendtorff, E Blum and R N Whybray.

<sup>23</sup> G C Chirichigno, *Debt Slavery*, p. 20.

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However, Wenham, Wright and Japhet, all date P prior to D and suggest that Lev. 25:39-54 is prior to Deut: 15:12-18, although their interpretations of the manumission laws vary greatly.<sup>24</sup>

Scholars now fulfill the limitations of source and form critical analyses, which draw from a diachronic methodology. This is not to imply a disinterest in the historical background to the manumission laws of the Pentateuch but simply to acknowledge the impasse and limits of this approach. G C Chirichigno proposes a way which he contends, may help scholarly discussion to move forward beyond the present impasse. He avers: "both analyses suffer from not being prefaced by an adequate discussion of the social and legal background of debt-slavery in Mesopotamia."<sup>25</sup> By broadening the investigation to include the consensus views of Assyriologists and other scholars who fulfill in Near Eastern Studies, Chirichigno attempts to bring a more holistic approach to the problem of debt-slavery in Israel. In the various legal collections of the ancient Near East there were several laws which dealt specifically with the treatment of debt-slaves, particularly in relation to the problems of manumission. Chirichigno argues, correctly, that these laws, royal edicts, loan transactions and stipulations with regard to service impinge on the biblical laws of servitude.<sup>26</sup>

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<sup>24</sup> For further study see: G A Wenham, *Leviticus*, p.12; C J H Wright, 'What Happened Every Seven Years in Israel? Old Testament Sabbatical Institutions for Land, Debt and Slaves, Part 1' *EvQ* 56 pp.193-201; S Japhet, 'The Relationship Between the Legal Corpora in the Pentateuch in the Light of the Manumission Laws' in *Studies in Bible* 1986 (Scripta Hierosolymitana 31), pp.63-69.

<sup>25</sup> G C Chirichigno, *Debt Slavery*, p.27. Chirichigno is challenging scholars to engage in a comprehensive comparative investigation of the social background of the institution of debt-slavery in the ancient Near East.

<sup>26</sup> For further study, see G C Chirichigno, *Debt Slavery*, pp. 99-100. For example commenting on the Nuzi *tidenmutu* loan and *habiru* service

In the ancient world, scholars generally agree that there were two main sources of slavery – foreign slaves captured in war and debt-slaves usually impoverished by their fellow-countrymen.<sup>27</sup> Commenting on the two principal sources of slavery B S Jackson concludes:

The former, in principle (i.e. failing redemption) a permanent status, is sometimes termed “chattel slavery”: like property, the slave might be sold (outright) on the slave market; its “produce” (offspring) belonged to the master (*fructus*); could be disciplined by the master at will (just as ownership of property includes the right to destroy it). Debt-slavery, by contrast, was normally not a permanent status: correspondingly, the master’s rights in respect of disposal, offspring and discipline were limited. All three of these limitations are addressed in the *Mishpatim*.<sup>28</sup>

It could be argued that in describing the circumstances in which servitude has occurred, Exod. 21:2 could be understood as buying a person who is already a Hebrew slave. But *eved ivri* in the Hebrew text is usually regarded by scholars as a prolepsis (“a Hebrew, as/to be a slave”)<sup>29</sup> and the verb קנה (*kanah*) is better understood as meaning to “acquire” rather than in the narrower sense to “buy”.

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contacts, he suggests that “although these loan and service contracts do not appear in any of the legal collections, they have been used by some scholars to help elucidate the meaning of the manumission laws in Exod. 21:2-6 and Deut. 15:12-18.”

<sup>27</sup> This is underscored by scholars such as A Tosato, *Il Matrimonio Israelitico*; G C Chirichigno, *Debt Slavery*; V H Matthews, “The Anthropology of Slavery in the Covenant Code”; C Houtman, *Das Bundesbuch. Ein Kommentar*.

<sup>28</sup> B S Jackson, *Wisdom Laws*, p.81.

<sup>29</sup> This view is upheld by A Phillips, “The Laws of Slavery: Exodus 21.2-11”, *JSOT* 30.

## **THE FORM AND STRUCTURE OF THE DEBT-SLAVE LAWS IN EXODUS 21:2-11**

Support for the assertion that the *Mishpatim* begin with an extensive sequence of casuistic laws on the topic of debt-slavery can be deduced from the relation between the two paragraphs on servitude. The paragraphs divide into two clear parts, verses 2-6 on a male debt-slave and verses 7-11 on a female, more specifically, a daughter debt-slave. The two sections are almost equal and symmetrical. The rules concerning the *amah* begin in verse 7 and reflect a cross-reference to the preceding rules which refer to the *eved*. Close scrutiny reveals that the laws are formulated in the category of casuistic primary law, in which the *protasis* describes a legal relationship and the *apodosis* prescribes the conditions of the relationship. This in a sense mirrors, in the master debt-slave relationship, the covenantal relationship of Yahweh with his people. Both sets of laws relating to the *eved* and the *amah* as well as being formulated in a similar way also contain corresponding stipulations. Y Zakovitch uncovers in the two slave laws an intricate literary pattern, which he argues is found in narrative and legal sections of the Old Testament and other writings in the ancient Near East. He observes that both sets of laws begin with a general principle, followed by four sub-sections and in each of the fourth sub-sections an unusual circumstance arises which seems out of place in terms of general thrust and logical outcome.<sup>30</sup> The unusual outcome of the two debt-slave laws is as follows: the male slave chooses to stay with his master rather than going free in the seventh year and the female slave goes out without payment when her master fails to live up to his obligations. Each law however

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<sup>30</sup> Y Zakovitch, 'For Three and for Four': *The Pattern for Numerical Sequence Three-Four in the Bible*, pp.450-453.

forms a chiasmic structure in the relationship of verse 5 to verse 7 and verse 2 to verse 11 as follows:

העבדים לא אצא The male slave does not go out free (v.5)

לא הצא כצאה The female slave does not go out free (v.7).

ובשבעה יצא לא אצא The male servant goes out free without payment (v.2) ויצאה חנם The female slave goes out without payment (v.7).

The unusual structure of the two juxtaposed debt-slave laws, reflect an elaborate literary structure which probably indicates the carefully crafted work of a single compiler. The *eved* may be used for breeding purposes but he does not lose his right to seventh-year freedom. He is given the choice – by his own speech-act – to change his status to that of permanent servitude, if he opts to remain in the household of his master. The female slave, on the other hand, loses her right to seventh-year freedom. She has no choice and is afforded no speech-act.<sup>31</sup>

A close reading of the first slave laws in the Book of the Covenant from a synchronic perspective have provoked in recent scholarship a more a careful and extensive examination of the final form of the text. The question as to why they were placed at the head of the legal collection has evoked greater attention both internally and externally. The complementary and resonance between narrative and law in the Old Testament has now gained greater significance. The introductory verse of

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<sup>31</sup> Commenting on this section B S Jackson, *Wisdom Laws*, p.102, states, “it is the respective statuses of dependent men and women as sexual objects which the law here stresses; that status, for a man, does not negate his right to freedom; for a woman, in practice, it does. The man retains a relative autonomy in his sexuality; the woman cannot threaten the rights of her owner in her by retaining a right to freedom – a right which she might anticipate by showing an interest in another man even during the period of her enslavement.”

the *Mishpatim* (Exod.21:1), resonates with Exod.19:7, where Moses relates on Yahweh's instructions, the offer of the Sinai Covenant.<sup>32</sup> The fact that the substance of the code opens with the laws on servitude further resonates with beginning of the Decalogue, which is a timely reminder of their exodus from the house of bondage. This reinforces at the beginning of the *Mishpatim* the significance of freedom in the light of their past history. It is interesting to note that the prophet Jeremiah regarded the rule which set a limit on slavery for the Hebrew to six years not to Sinai, but rather to the exodus itself.<sup>33</sup> In this carefully crafted literary relationship there is a movement from freedom to servitude in Exod. 21:2-6 and from servitude to freedom in Exod. 21:7-11, culminating in the theme of transformation of status, a dominant theme of the exodus deliverance. D P Wright in his 2009 study argues that the Covenant Code's preoccupation with poverty is as ideological as it is ethical. By including the "immigrant" (גר), which he argues takes the place of the "weak person", he avers that the Israelites once had this status in Egypt and as such he sees the poor in the Covenant Code as having a political dimension.<sup>34</sup>

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<sup>32</sup> Both texts use the same Hebrew terminology: "So Moses came, summoned the elders of the people and set before them (וישם לפניהם) all these words that the Lord had commanded him." (Exod. 19:7) "Now these are the *Mishpatim* you shall set before them (חשבים לפניהם)." (Exod.21:1)

<sup>33</sup> "Thus says the Lord, the God of Israel; I made a covenant with your ancestors when I brought them out of the land of Egypt, out of the house of slavery saying, "Every seventh year each of you must set free any Hebrews who have been sold to you and have served six years; you must set them free from your service." (Jer. 34:13-14).

<sup>34</sup> D P Wright, *Inventing God's Law*, pp. 150-151. While he agrees that the implicit message is that Yahweh is the king of Israel who has provided justice for the weak, including the Israelites under foreign domination (their Mesopotamian overlords), he argues from a primary political propagandist motif and to do so situates the Covenant Code in the period of Assyrian rule. He prefers a dating of the Code against the earlier consensus of



While there may be some insights in opting for an ethical and nationalistic explanation for the priority of the debt-slave laws in the Covenant Code, strong moralistic and theological motivations cannot simply be fulfilled.

### **EXEGESIS OF EXODUS 21:2-6 (THE MALE HEBREW SLAVE)**

(2) כי תקנה עבד עברי שש שנים יעבד ובשבעת יצא לחפשי חנם

(3) אם־בגפו יבא בגפו יצא אם־בעל אשה הוא ויצאה אשתו עמו

(4) אם־אדניו יתן־לו אשה וילדה־לו בנים או בנות אשה וילדיה  
תהיה לאדניה והוא יצא בגפו

(5) ואם־אמר יאמר העבד אחבתי את־אדני את־אשתי ואת־בני לא  
אצא חפשי

(6)<sup>35</sup> והגישו אדניו אל־האלהים והגישו אל־הדלת או אל המזוזה  
ורצע אדניו את־אזנו ובמרצע ועבדו לעלם

Scholars in general are agreed that the kind of slavery described here is debt-slavery, where a person was financially

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scholarship, relying on his model of connection the Code directly with Hammurabi's text. However innovative this may be the jury is still out on these issues.

<sup>35</sup> Exod. 21:2-6, "When you buy a Hebrew slave, he shall serve six years, but in the seventh he shall go out a free person, without debt. If he comes in single, he shall go out single; if he comes in married, then his wife shall go with him. If his master gives him a wife and she bears him sons or daughters, the wife and children shall be her master's and he shall go out alone. But if the slave declares, "I love my master, my wife and my children; I will not go out a free person," then his master shall bring him before God. He shall be brought to the door or the doorpost; and his master shall pierce his ear with an awl; and he shall serve him for life."

insolvent and would sell either himself or his son to a fellow Israelite for a regulated period of time. However, as has been already noted, the precise identity of the עֶבֶד עִבְרִי has produced widespread debate. Some have drawn support from Nuzi parallels and others opt for similarities that exist between the biblical account and the Code of Hammurabi. A key question arises in relation to whether the method for entering into permanent servitude and the meaning of the declaration of the slave in Exod. 21:5-6 can be understood as unique to biblical legal collections. There is a division of scholarly opinion on this important issue. I Cardellini and N Lohfink argue that the procedure for entering into permanent slavery is unique to biblical law.<sup>36</sup> S Paul, on the other hand, compares the two rituals in Exod. 21: with what he suggests are similar practices found at Nuzi<sup>37</sup> Scholars such as Chirichigno, Lemche and Phillips are not happy with his conclusions and find his arguments unconvincing. The debate has been intensified further in relation to the genuine intentions of the slave. And others point to the harshness of the stipulation in Exod. 21:4 and caution against the fulfillment of the slave's love for his master. The consensus of argument in favour of understanding the slave's declaration in the plain sense has the advantage of obviating the austerity of the stipulation and treating the declaration as a genuine request. This view is upheld by B S Jackson and G Chirichigno.<sup>38</sup> Furthermore, the idea of being a slave forever in terms of loving one's master, encapsulates the wider motif of the Book of Exodus as a whole and mirrors the covenant relationship between Israel and Yahweh. Having made the choice of

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<sup>36</sup> Cf. I Cardellini, "Die biblischen 'Sklaven' –Gesteze," p.248 and N Lohfink, "עֶבֶד", *Th WAT III*, pp. 123-128, *TDOT,V* pp.114-118.

<sup>37</sup> Cf. S Paul, *The Book of the Covenant*, pp. 47-48.

<sup>38</sup> Cf. G C Chirichigno, *Debt Slavery*, pp. 228-229 and B S Jackson, "Some Literary Features of the Mishpatim," pp.235-236.

remaining with his master, he was taken אֶל־הָאֱלֹהִים<sup>39</sup> where his ear was pierced by an awl as a symbol of his renounced freedom. Boring the ear had a symbolic meaning as the ear was the organ of hearing and hearing in Hebrew is commonly used to denote obedience. N Leibowitz, stressing the significance of the overall motif of liberation from slavery in the Book of Exodus, makes an innovative and important point. He notes:

Only by a special ceremony before God can a Hebrew revoke his right to be free and serve a human master for life. Under God's order the Hebrews were to be servants only unto Him (Cf. Exod.4:23; 3:12) where the 'service' of the Egyptian bondage is replaced by the 'service of god' on the mountain.<sup>40</sup>

The Hebrew expression which is used to describe the status of the permanent slave who agrees to serve 'forever' is לעלם ועבדו.<sup>41</sup> This has engendered debate and has raised a number of problems. Does the expression contradict Lev. 25:40? This reads as follows: "they shall remain with you as hired and bound labourers. They shall serve with you until the year of jubilee." Is there any evidence in the Exodus passage that the permanent slave might be marked like a chattel slave and might this suggest a disparaging status? P Craigie observes that that the expression 'slave for ever' is found in Ugaritic literature without any derogatory overtones and G Chirichigno argues that the expression referred to a type of service which legally bound the slave to his master which should not be compared to

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<sup>39</sup> This term has been interpreted variously by scholars as household gods, or 'judges' or God (who is located at the sanctuary).

<sup>40</sup> N Leibowitz, *Studies in Shemot (Exodus):Part II Mishpatim*. P. 290.

<sup>41</sup> The account in Deut. 15:17 also includes the אמה and reads as follows:  
והיה לך עולם ואך לאמתך תעשה-כן

the status of a chattel slave.<sup>42</sup> Permanent slavery is wholly the Hebrew's choice based entirely on the love of his master and family. If these arguments can be sustained, it is not unreasonable to suggest that the status of the permanent slave carried with it deeper theological implications and mirrored in microcosm the unique covenant relationship between Yahweh and his people. The theme of transformation of status is central to the narrative of Israelite slavery in Egypt and the Exodus event and is carried on into the reciprocity of the covenant relationship at Sinai.

### **EXEGESIS OF EXODUS 21:7-11 (THE FEMALE HEBREW SLAVE)**

(7) וכִּי־יִמְכַר אִישׁ אֶת־בְּתוּלוֹ לְאִמָּה לֹא כִצְאֵת הָעֶבְדִּים

(8) אִם־רָעָה בְּעֵינֵי אֲדֹנֶיהָ אֲשֶׁר (לוֹ Qere) לֹא יֵעָרָה וְהַפְדָּה לִעַם נְכָרִי  
לֹא־יִמְשַׁל לְמַכְרָהּ בְּבַגְדוֹתֶיהָ

(9) וְאִם־לְבָנֵי יִיעָרְנָה כַּמְשַׁפֵּט הַבָּנוֹת יַעֲשֶׂה־לָּהּ

(10) אִם־אֲחֵרֶת יִקְחָלוּ שְׂאֵרָה כְּסוּחָהּ וְעִנְתָּהּ לֹא יִגְרַע

(11)<sup>43</sup> וְאִם־שְׁלֹש־אֲלָהּ לֹא יַעֲשֶׂה לָּהּ וַיִּצְאָה חֲנָם אֵין כֶּסֶף

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<sup>42</sup> Cf. P Craigie, *The Book of Deuteronomy*, p.239 and G Chirichigno, *Debt Slavery*, p.242.

<sup>43</sup> 7. "When a man sells his daughter as a slave, she shall not go out as the male slaves do.

8 If she does not please her master, who designated her for himself, then he shall let her be redeemed; he

shall have no right to sell her to a foreign people, since he has dealt unfairly with her.

9 If he designates her for his son, he shall deal with her as a daughter.

It has already be argued that the conditionally formulated laws concerning the אמה (*amah*) has been carefully juxtaposed with the preceding law of the עבד עברי (*eved ivri*). While some scholars argue from a source critical perspective that the law in vv. 7-11 is older than the law in vv. 2-6, a careful analysis of the literary structure is useful to gain more precise insights of the status of the *amah*. This reinforces the significance of paying careful attention to the intricate structure of the 'received text' from a synchronic perspective. It could be argued forcefully that it seems unlikely a compiler, who carefully juxtaposed these two laws, would bring together two laws representing diverse social attitudes. A thoughtful and attentive reading of the text reveals, that, on the one hand, the marriage of the male debt slave does not affect his release, while, on the other, the *amah* is only set free if her master or husband does not fulfill his side of the marriage agreement. Does this mean that there was one form of debt-slavery applicable to men and another for women? While it must be acknowledged that the law of Exod. 21:7-11 resembles other ancient Near Eastern adoption contracts, the social standing of the *amah* can be better understood by a careful analysis of the stipulations in Exod. 21:7-11. This in turn throws up some interesting problems and has yielded no consensus in scholarship. The interpretation of verse 8 is usually based on the reading of the *Qere* אשר-לו יערה (who has designated her for himself).<sup>44</sup> A Schenker, however, takes the *kethibh* ("he

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10 If he takes another wife to himself, he shall not diminish the food, clothing, or marital rights of his first wife.

11 And if he does not do these three things for her, she shall go out without debt, without payment of money."  
(Exod. 21:7-11).

<sup>44</sup> The rendering of the *Kethibh* is accepted by only a few scholars. R E Clements, *Exodus*, p.131, follows the *Peshitta* and the rendering of the NEB

has not designated her”) as the original reading and understands the *amah* to have entered the master’s household as a domestic slave, but with the later option to be “designated” for a member of the household. This means that the female slave does not become automatically a concubine. A female slave can be taken simply for work and not for sexual purposes.<sup>45</sup> If the master breaks the contract to marry the *amah*, he must allow her to be ransomed by a member of her own family. The text, however, is not explicit as to whom she can be sold. The reason for this is that the expression עַם נְכָרִי has been interpreted in a variety of ways by scholars. Does it mean outside the girl’s nuclear family or outside the master’s nuclear family or outside the covenant community of Israel? The motivation clause, בְּבִגְדוֹ בָּהּ (on account of his dealing treacherously with her), helps to provide an explanation, as to why, the master is not able to sell the girl to anyone, other than a member of her family. The verb בָּגַד (*119ulfil*)<sup>46</sup> is usually translated ‘to act faithlessly, treacherously or perfidiously, and occurs over 43 times in the Old Testament, mostly in the prophetic writings. It is used of God as the object but also where human beings commit acts of treachery against one

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– ‘If her master has not had intercourse with her’. This emends יַעֲרָה to יִדְעָה. C Carmichael, *The Laws of Deuteronomy*, pp.57-59 follows the *Kethibh* arguing that the *Qere* poses contextual problems. G C Chirighigno, *Debt Slavery*, p.248, drawing from scholars like Beer, Driver and Zakovitch opts for the reading אֲשֶׁר-לִי יַעֲרָה and concludes, “following the majority of scholars, it is best to emend לִי to לָא, following the LXX, Vulgate and Targums.” Three different interpretations of the verb יַעֲרָה in the Versions are rendered as follows: ‘betrothal’ (LXX and Vulgate); ‘marriage’ (Peshitta); ‘designation/promise’ (Targums – Onqelos, Pseudo-Jonathan).

<sup>45</sup> The idea is developed fuller by A Schenker in “Affranchissement d’une esclave selon Ex 21, 7-11”, *Biblica* 69.

<sup>46</sup> R Wakely, ‘בָּגַד’, *NIDOTTE*, comments, “attempts to connect the verb to the noun *beqed*, garment/clothing have received considerable support but they are not compelling.”

another.<sup>47</sup> The idea here is one of severing a relationship and breaking of a contract, reinforcing the ending of a covenant bond. This further stresses the significance of the slave laws in relation to the wider motif of Israel's covenantal relationship with God.

Exod. 21:10 posits the case of the master who enters into a polygamous relationship with another wife or concubine. The consequence is that he is obliged to provide his first wife with three basic necessities of life to which she is entitled. The three Hebrew terms to describe this obligation have generated widespread scholarly debate. It is generally agreed that **שָׂרָה** covers food in general, **כְּסוּתָהּ** relates to clothing, but it is the unique word **עֹנָתָהּ** (*onah*) (a hapax legomenon) that has led to much speculation. The LXX, the Peshitta and Targums all understood it to refer to the woman's conjugal rights. Whatever the precise meaning of these three terms, they articulate clearly that the *amah* was not sold into servitude for general use, but only as a wife, if her master or his son was displeased with her. Exod. 21:11, the final verse in the manumission law concerning the *amah*, has also generated debate. It reads as follows: "And if he does not do these three things for her, she shall go out without debt, without payment of money". Some scholars take the view that this verse relates to the three basic necessities<sup>48</sup> of Exod. 21:10. Others,

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<sup>47</sup> S Erlandsson, 'בָּנָד' *Th Wat*, states "the verb expresses the unstable relationship of man to an existing regulation. It is used when the Old Testament writer wants to say that a man does not honour an agreement, or commits adultery, or breaks covenant or some other ordinance by God." S Paul in *Studies in the Book of the Covenant*, notes that *beqed* in legal terminology is a functional equivalent of the Akkadian, *nabalkutu*, 'to break an agreement'

<sup>48</sup> This view is upheld by I Cassuto, J I Durham, M Noth, S Paul and A Phillips.

121 fulfill me more closely the literary structure of Exod. 21: 8-10, argue that the previous three secondary cases of casuistic law relate to verse 11.<sup>49</sup> A careful synchronic reading of the text leads to the conclusion that the second view is the more persuasive. Commenting on what is described as a major exception in the manumission laws of the Book of the Covenant, which has no counterpart in the Laws of Hammurabi, G I Emmerson in her study of women in ancient Israel, concludes:

No provision is made for the release of a female slave after six years along with her male counterpart, for as an אִמָּה she was her master's concubine and continued as part of the larger family. It should not however be assumed that this was due to the inferior status of the female slave, or the fact that she, in particular was regarded as her master's personal property but rather as H W Wolff comments – "the man and wife relationship is thought of primarily as a lasting one, even with a slave".<sup>50</sup>

An interesting exercise is to compare Exod.21:2 with Deut. 15:12 as the account in Deuteronomy includes both the male and female slave.<sup>51</sup> How, then, did Deuteronomy deal with the *amah*? In Deut. 15:17 the procedure of piercing the ear-lob with an awl in order to create the status of a permanent slave is followed by the phrase – "You shall do the same with regard to your female slave (*amah*).” Scholars like Fishbane and

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<sup>49</sup> This view is endorsed by I Mendelson, Y Zakovitch and G Chirichigno.

<sup>50</sup> Cf. G I Emmerson, 'Women in Ancient Israel', in "*The World of Ancient Israel*" and H W Wolff, *Anthropology of the Old Testament*.

<sup>51</sup> "If a member of the your community, whether a Hebrew man or a Hebrew woman (*ivriyah*) is sold to you and works for six years, in the seventh year you shall set that person free." Deut. 15:12.



Levinson argue for the fulfillment of earlier biblical texts in the biblical period itself by employing the disciplines of “intertextuality” and “inner biblical exegesis”. But other scholars like Cassuto, Falk, Chirichigno, Sprinkle and Westbrook aver that there is evidence that debt-slavery terminable after six years did apply to women as well as men. The status of the *amah* according to Mendelsohn and Cardellini was a distinct form of dependence, designed to create a permanent sexual relationship. Scholars now agree that there is documentary evidence from the ancient Near East that women were taken as debt-slaves for general rather than sexual services more often than men. In the biblical account, Jeremiah refers to the *deror* (דֶּרוֹר) under King Zedekiah which involved the setting free of both male and female slaves, the latter being referred to by the term *shifhah* rather than *amah*. Did the term *shifhah* indicate the existence of a social institution of debt-slavery for women, distinct from the *amah* or as scholars like Lemche, Westbrook, Houtman and Chavel argue that it might reflect the possibility of editorial textual activity in or after the time of Nehemiah in an attempt to abolish Hebrew debt-slavery completely? It seems reasonable to argue that Exod. 21:4 cannot apply to such a female debt-slave as the term used is *ishah*, who does not go out in the seventh year with the *eved*. As B S Jackson points out “a male debt-slave may be used for sexual services – effectively, to breed permanent slaves for his master – without interference with his status but a woman debt-slave cannot be used for sexual services unless her status is changed.”<sup>52</sup> The relationship between the female slave and the master is by no means a loveless one and indicates the right of slave to justice as unambiguous. In one of the most fascinating books of the

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<sup>52</sup> B S Jackson, *Wisdom Laws*, p. 89. He further adds that sexual activity alters the status of the woman debt-slave, but not that of the male.

Old Testament, the book of Job, this motif is underscored.<sup>53</sup> The priority of the slave laws at the beginning of the *Mishpatim* not only reflect the wider themes of Exodus but set clear parameters for the theme of slavery and freedom in the Bible as a whole.

## CONCLUSION

One of the main contentions of this article is that the manumission laws of Exod.21:2-11 encapsulate in microcosm the wider macrocosm of God's release of the Israelites from Egyptian bondage and the covenant relationship of Yahweh with his people. While acknowledging the important contribution of diachronic study with particular reference to the "*Sitz im Leben*" of the manumission laws and source-critical analysis in an attempt to unravel the complexities that surround them, my suggestion is that a careful study of the form and structure of the debt slave laws from a literary and synchronic perspective, yields valuable insights into their *raison d'être*. The juxtaposition of the male and female debt laws betrays an intricate literary structure which greatly enhances an exegetical study of the text. Placed at the beginning of the *Mishpatim*, it is reasonable to suggest that they are not awkwardly inserted but purposefully set in the narrative structure. A deeper motif lies behind these laws that of God's covenant relationship with his people. The *eved* who commits himself to the master for life out of love is symbolic of Israel's relationship to Yahweh

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<sup>53</sup> "If I have rejected the cause of my male or female slaves, when they brought a complaint against me: what then shall I do when God rises up? When he makes inquiry what shall I answer him? Did not he who made me in the womb make them? And did not one fashion us in the womb?" Job 31:13-15.

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and the obligations of the master towards the *amah* is equally symbolic of Yahweh's commitment to Israel. At the heart of this is Yahweh's faithfulness. He acted freely in his initiative to rescue his people from servitude, motivated by compassion and the desire for justice. This radical concept of slavery to freedom and then back to loving servitude is a rich biblical concept which reaches its fulfillment in Christian discipleship. The One who takes the towel and washes the disciples' feet, teaches us that the value of true greatness is to 'be the servant of all'. The celebrated hymn writer George Matheson sets the challenge for us when he writes; "Make me a captive, Lord, and then I shall be free."

Rev Dr James Williamson