

**January 28, 2018 - Ex. 21:1 – 22:23 - Statutes**  
**Torah Reading: Exodus 21:1 – 22:23 - Statutes**  
**Psalm 57**  
**Haftarah: Isaiah 56:1-9 + 57:19**

Huge ethical and social issues are dealt with in these chapters. They expand on and clarify the previous Ten Commandments.

**Exodus 21:1** - "Now these are the judgments which thou shalt set before them."

Rashi - The Holy One, blessed is He, said to Moses: Do not think of saying, "I will teach them the chapter or the law [both terms seemingly refer to the Oral Torah] two or three times until they know it well, as it was taught, but I will not trouble myself to enable them to understand the reasons for the matter and its explanation." Therefore, it is said: "you shall set before them," like a table, set [with food] and prepared to eat from. — [From Mechilta, Eruvin 54b]

**Exodus 21:1-11 - Statutes about Slavery**

Slavery in ancient Israel was different from chattel slavery as experienced in the Americas. Talmudic commentary frowned on the whole idea. These statutes impose limitations on slavery as understood in the ancient world, at least in regards to Jewish slaves, who are differentiated from Canaanite slaves either purchased or taken in war.

In fact, from other passages, it seems like slavery for a Hebrew would be practically impossible:

**Leviticus 25:39** - "If a countryman of yours becomes so poor with regard to you that he sells himself to you, you shall not subject him to a slave's service. He shall be with you as a hired man, as if he were a sojourner; he shall serve with you until the year of jubilee."

And even for Canaanites and foreign slaves, it was mitigated, regulated and restricted, but not yet abolished.

For instance, a slave could not be simply killed (**Exodus 21:16**); if a master hit his servant and caused him to lose an eye or a tooth (and by rabbinic reasoning, the tips of any extremity) then the slave was set free.

Treatment was mitigated further for Hebrew slaves

**Leviticus 25:46** - "But in respect to your countrymen, the sons of Israel, you shall not rule with severity over one another."

**Limited time**

**Exodus 21:2** - "If thou buy an Hebrew servant, six years he shall serve: and in the seventh he shall go out free for nothing."

Additionally - **Deuteronomy 15:13-14** - "When you set him free, you shall not send him away empty-handed. You shall furnish him liberally from your flock and from your threshing floor and from your wine vat; you shall give to him as the LORD your God has blessed you."

### **No separation of (Hebrew) families**

**Exodus 21:3** - "If he came in by himself, he shall go out by himself: if he were married, then his wife shall go out with him"

Rashi - the text informs us that whoever purchases a Hebrew slave is [also] responsible for supporting his Hebrew wife and his children. [From Mechilta, Kid. 22a]

**Exodus 21:4** - "If his master have given him a wife, and she have born him sons or daughters; the wife and her children shall be her master's, and he shall go out by himself."

Rashi - From here we deduce that his master has the option to give him [the slave] a Canaanite maidservant [in order] to beget slaves from her. ... for a Hebrew woman she, too, goes free after six [years], and even before six [years], when she develops signs [of puberty], she goes free.

"Breeding" slaves (and thus increasing the master's wealth) is a notorious facet of slaveholding. This was forbidden for Hebrew slaves, who would all be released after six years.

### **Boring of the Ear**

If a slave wanted to stay with his master and not be released after six years (or possibly if he wanted to remain with his Canaanite wife and children who would not be released):

**Exodus 21:6** - "Then his master shall bring him unto the judges; he shall also bring him to the door, or unto the door post; and his master shall bore his ear through with an awl; and he shall serve him for ever."

"he shall serve him for ever" - *olam* - eternal, forever, the vanishing point.

Josephus (Ant. Jud. 4:8, § 20) and the Jewish commentators generally maintain that the law of the jubilee release overruled this enactment. The Jubilee Year not only disrupted slavery, it disrupted all attempts to amass lands and wealth.

The "olam" forever aspect refers to the type - Messiah as the perfect slave of God (see below).

God's attitude toward slavery as a system is indicated in the Talmudic interpretation of the "boring" of the ear of a slave who insisted on remaining after the six years.

Rashi - Now, why was the ear chosen to be bored out? ...

[The two usual ways a person would become a slave were (1) by stealing, and thus sentenced by a judge to slavery to make restitution - **Exodus 22:3**. Or (2) he sold himself into slavery out of poverty.]

Rabban Jochanan ben Zakkai said: The ear that heard on Mount Sinai, "You shall not steal" (Exod. 20:13) and [then] went and stole, shall be bored. And if [the text is referring to] one who sold himself [into servitude, the reason is that] the ear that heard, "For the children of Israel are slaves to Me" (Lev. 25:55) and [then] went and acquired a master for himself, [this ear] shall be bored.

Why were the door and the doorpost singled out from all the fixtures in the house? The Holy One, blessed is He, said: The door and the doorpost were witnesses in Egypt when I passed over the lintel and the two doorposts, and I said, "For the children of Israel are slaves to Me; they are My slaves," but [they are] not slaves to slaves, and [yet] this one went and acquired for himself a master-[his ear] shall be bored before them [for everyone to see]. — [From Kid. 22b]

This "ear-boring" procedure was only allowed for a slave who "loved his master"; and yet becoming a slave itself was seen as a denial of God's Passover freedom from Egyptian slavery, to become God's slave.

### **Messiah as the Perfect Slave/Servant of God**

There is a positive interpretation of the ear-boring procedure if it is seen as a type' to point to the True Servant of God, God's perfect "slave" - Messiah.

**Psalm 40:6** - "Sacrifice and offering thou didst not desire; mine ears hast thou opened: burnt offering and sin offering hast thou not required."

"mine ears hast thou opened" - opened = *karah* - digged, pierced, opened

The same word that is used for "pierced" in the Messianic **Psalm 22:16** - "they pierced my hands and my feet."

For the perfect servant/slave of God, the "piercing" of the ear signified perfect understanding, as God's will was completely opened to him, and which he perfectly fulfilled. But it also involved a willingness to suffer. Christ was "pierced" on the Cross.

It is in this typology that God asks:

**Malachi 1:6** - "'A son honors his father, and a servant his master. Then if I am a father, where is My honor? And if I am a master, where is My respect?' says the LORD of hosts

to you, O priests who despise My name. But you say, 'How have we despised Your name?'"

**Isaiah 42:1** - "Behold my Servant, whom I uphold."

**Zechariah 3:8** - "Behold, I will bring forth my Servant, the Branch."

**Isaiah 52:13** - "Behold, my Servant shall deal prudently, He shall be exalted and extolled, and be very high."

**Isaiah 53:11** - "By His knowledge shall my righteous Servant justify many, for He shall bear their iniquities."

**Philippians 2:7** - Christ "made himself of no reputation, and took upon him the form of a servant, and was made in the likeness of men"

**Luke 22:27** - "I am among you as he that serveth."

**Mark 10:44** - "And whosoever of you will be the chiefest, shall be servant of all."

**Romans 1:1** - "Paul, a servant of Jesus Christ, called to be an apostle, separated unto the gospel of God"

And consider this amazing statement:

**Luke 12:37** - "Blessed are those servants, whom the lord when he cometh shall find watching: verily I say unto you, that he shall gird himself, and make them to sit down to meat, and will come forth and serve them."

Paul's word to masters directed them to treat slaves even better than common hired workmen would experience elsewhere in the ancient world:

**Colossians 4:1** - "Masters, supply your slaves with what is right and fair, since you know that you also have a Master in heaven."

As for the actual institution of human slavery, it was (or should have been) severely eroded by Paul's revolutionary statement that in the church: "There is neither Jew nor Greek, slave nor free, male nor female, for you are all one in Christ Jesus." - (**Galatians 3:28**)

(Of course from our vantage point we wonder why God didn't directly abolish slavery. The United Nations estimates that roughly 27 to 30 million individuals are still currently caught in the slave trade industry).

His plan seems to be that Israel's statutes on slavery would seep into the worldview of the surrounding nations, as indeed they did, along with a view of a common humanity carried forward by Christianity:

**Deuteronomy 4:6** - "Keep therefore and do them; for this is your wisdom and your understanding in the sight of the nations, which shall hear all these statutes, and say, Surely this great nation is a wise and understanding people."

Selling yourself into slavery because of poverty would have been done away with in Israel if all had followed the command to "open your hand to the poor."

How can positive and negative interpretations co-exist in tension?

Like kingship - which God discouraged when Israel first desired a king - slavery is used as a picture or parable applicable only to Christ - King of Kings and yet perfect slave to God, the only master who is worthy to submit to. That is why Paul's word to those trapped in slavery is to do all things "as unto the Lord."

Consider also jealousy and wrath, emotions and responses which can be sins in humankind, but are attributes of God. The "fearful" will not enter the kingdom of God, yet fear of God is the beginning of wisdom. Etc.

### **Maidservant/Concubine**

**Exodus 21:7** - "And if a man sell his daughter to be a maidservant, she shall not go out as the menservants do."

A female slave "maidservant" was, as a rule, her master's concubine; she stood consequently to her master in a relation that could not suitably be terminated at the end of six years. So these statutes gave her the status of a wife.

If they were betrothed as a concubine, they were to be entitled to the status of wives during their whole lifetime, even though their husbands contracted further marriages (Exodus 21:10). If, instead of becoming the wife of her purchaser, a woman was made over by him to his son, she was to enjoy all the rights of a daughter (Exodus 21:9). If the purchaser declined to act in either of these two ways, he was compelled to take one of two other courses. Either he must get another Hebrew to discharge his obligation of marriage (Exodus 21:8), or he must return the maid intact to her father, without making any demand for the restitution of the purchase-money (Exodus 21:11). These provisions afforded a considerable protection to the slave-concubine, who might otherwise have been liable to grievous wrong and oppression.

### **Murder**

**Exodus 21:12** - "He that smiteth a man, so that he die, shall be surely put to death."

Earlier in the Noahic laws - **Genesis 9:6** - "Whoever sheds man's blood, By man his blood shall be shed, For in the image of God He made man."

The Mishnah says witnesses who come to testify in capital cases must be warned:

“If your testimony comes from conjecture or hearsay or carelessness, know that the life of a man and that of his descendants after him will be on your hands. For when Cain slew Abel, God said to Cain, “the sound of your brother’s bloods cries out to me from the earth.” Not “blood” but “bloods,” for, by killing Abel, Cain killed his would-be descendants after him as well.” (Mishnah, Sanhedrin, 4.3(37a))

### The Root of the Abortion Debate

**Exodus 21:22** - "If men strive, and hurt a woman with child, so that her fruit depart from her, and yet no mischief follow: he shall be surely punished, according as the woman's husband will lay upon him; and he shall pay as the judges determine. And if any mischief follow, then thou shalt give life for life, Eye for eye, tooth for tooth, hand for hand, foot for foot, Burning for burning, wound for wound, stripe for stripe."

An unborn fetus in Jewish law is not considered a person (Heb. *nefesh*, lit. “soul”) until it has been born. The fetus is regarded as a part of the mother’s body and not a separate being until it begins to egress from the womb during parturition (childbirth). In fact, until forty days after conception, the fertilized egg is considered as “mere fluid.”

See "The Fetus in Jewish Law"

<https://www.myjewishlearning.com/article/the-fetus-in-jewish-law/>

The question is whether the Hebrew word *ason* - “mischief,” which also can be translated as “death,” refers to the fetus or to the mother. There is even a controversy over what the word means.

The Septuagint translators interpreted the word *ason* in one of its rare meanings from an Alexandrian dialect of Hebrew - “form.” It was a meaning rarely attested, and later lost to rabbinic interpreters: “If there be no form [yet in the fetus] he shall be fined.... But if there be form, then thou shalt give life for life.”

This word disappeared from Hebrew lexicons, but survived in its Arabic cognate (*sawaya*), “he made it equal, he became full-grown in body.”

The Septuagint translators understood the meaning of Exodus 21:22–23 to be that a fully developed but still unborn fetus was a person protected by the *lex talionis*, but a fetus which was not fully formed was not a person but was a property properly protected by the *lex pensationis*.

See a discussion here: [http://tmcdaniel.palmerseminary.edu/LXX\\_EXO\\_%2021\\_22-23.pdf](http://tmcdaniel.palmerseminary.edu/LXX_EXO_%2021_22-23.pdf)

Philo, a first-century Jewish philosopher in Alexandria, following the Septuagint translation, adds the distinction of a “fully-formed” fetus:

“And with respect to these matters the following law has been enacted with great beauty

and propriety: 'If while two men are fighting one should strike a woman who is great with child, and her child should come from her before it is completely formed, he shall be mulcted in a fine, according to what the husband of the woman shall impose on him, and he shall pay the fine deservedly. But if the child be fully formed, he shall pay life for life.' For it was not the same thing, to destroy a perfect and an imperfect work . . . ."

One early Greek Pythagorean view was that the soul was infused at the moment of conception. In the time of Aristotle, it was widely believed that the human soul entered the forming body at 40 days (for male embryos) or 90 days (for female embryos), and "quickening" (movement of the fetus in the womb) was an indication of the presence of a soul. The Stoics believed the soul enters at birth.

The Septuagint translators and Philo were, according to some scholars, influenced by the Aristotelian view.

But Josephus, in Antiquities 4:278, continued the traditional Palestinian meaning of the word:

"He that kicks a pregnant woman, if the woman miscarry, shall be fined by the judges for having, by the destruction of the fruit of her womb, diminished the population, and a further sum shall be presented by him to the woman's husband. If she die by the blow, he shall also die, the law claiming sacrifice of life for life."

The passage in Luke describing the meeting of the newly pregnant Mary and the 6-months pregnant Elisabeth, seems to argue for the "quickening" point of acquiring a soul:

**Luke 1:41** - "And it came to pass, that, when Elisabeth heard the salutation of Mary, the babe leaped in her womb; and Elisabeth was filled with the Holy Ghost."  
But note, the babe leaped, but it was Elisabeth who was filled with the Holy Ghost.

Jewish teachings allow, however, that a full-term birth is not necessary for a soul to enter the World to Come. This is because "The soul which thou hast endowed me is pure" - something recited at every morning prayer.

The Didache follows the Septuagint tradition and specifies abortion as a capital crime, as did Tertullian in the second century. But Jerome's 4th century translation kept the traditional Hebrew reading of the Exodus 21:22 passage.

Eventually, the Catholic and Jewish views diverged completely.

See also "Marital Relations, Birth Control and Abortion in Jewish Law," by David M. Feldman

## Premarital Sex

**Exodus 22:16** - "And if a man entice a maid that is not betrothed, and lie with her, he

shall surely endow her to be his wife. If her father utterly refuse to give her unto him, he shall pay money according to the dowry of virgins."

Rashi - "If a man seduces": Heb. יִפְדֶּתָהּ, he speaks to her heart until she yields to him.

This rule is basically about stealing property, not sexual ethics in our modern understanding. A father expected to receive a large sum of money from the man to whom he consented to betroth his virgin daughter; and he required compensation if his daughter's eligibility as a wife was diminished. If the seducer were a person to whom he felt it a degradation to marry his daughter, he might exact from him such a sum as would be likely to induce another to wed her; if he was one whom he could accept as a son-in-law, he might compel him to re-establish his daughter's status by marriage. If the father consented, he was compelled to marry the girl, and he was forbidden to repudiate her afterwards. (See **Deuteronomy 22:29**)

### **Witchcraft**

**Exodus 22:21** - "Thou shalt not suffer a witch to live."

See **Leviticus 20:27** - "A man also or woman that hath a familiar spirit, or that is a wizard, shall surely be put to death: they shall stone them with stones: their blood shall be upon them."

### **Oppression forbidden**

**Exodus 22:21** - "Thou shalt neither vex a stranger, nor oppress him: for ye were strangers in the land of Egypt."

**Exodus 22:22** - "Ye shall not afflict any widow, or fatherless child. If thou afflict them in any wise, and they cry at all unto me, I will surely hear their cry; And my wrath shall wax hot, and I will kill you with the sword; and your wives shall be widows, and your children fatherless."