

The Law of the Hebrew Slave: Exodus, Leviticus, and Deuteronomy

עבד עברי

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A Classic Example of Source Criticism Applied to Torah Legislation

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Introduction: Biblical Law Collections

When we think of Jewish law, most of us conjure up the image of Rambam's Mishneh Torah or R. Joseph Karo's Shulchan Aruch. These books are organized by topic and treat an area of halacha systematically. The Torah, however, does not work this way.

The Torah does not contain codes, but collections, i.e., incomplete treatments of topics in a loose order. More significantly, the Torah does not have *one* collection, but *multiple* collections. These overlap on a number of laws—sometimes agreeing and sometimes contradicting.

Academic biblical scholarship has argued that these collections were each compiled by different editors/authors, in different times and places in ancient Israelite history. Although all sources draw from Israelite common law—similar to the Ancient Near Eastern common law from which codes like Hammurabi and Eshnuna draw—the editor/author who penned each collection reflects a different historical and geographical perspective and has his own interpretation of what the law should be.

Unlike certain narratives (like Noah or the Israelites by the Sea), the Torah's redactor(s) did not combine these collections into a single document. Instead, each collection remains distinct. Thus, the laws as presented in each collection are easily compared to see the similarities and differences.

In this piece, we will look at several presentations of Hebrew slave laws, exploring where they overlap and where they contradict, to try to understand how each presentation viewed Hebrew slavery.



Part 1

The Six-Year Slave – Exodus vs. Deuteronomy

The עבד (Slave) Law: Exodus

Parashat Mishpatim begins with the slave law:

כִּי תִקְנֶה עֶבֶד עִבְרִי שָׁשׁ שָׁנִים יַעֲבֹד וּבְשִׁבְעַת 20:2 כֹּאֲדָם When you acquire a Hebrew slave, he shall serve six years; in the seventh year he shall go free, without payment.
 אִם בָּגַפּוֹ יָבֵא בְּגַפּוֹ יֵצֵא אִם בְּעַל אִשָּׁה הוּא 20:3 כֹּאֲדָם If he came single, he shall leave single.
 וְיִצְאָה אִשְׁתּוֹ עִמּוֹ: If he had a wife, his wife shall leave with him.
 אִם אֲדָנָיו יָתַן לּוֹ אִשָּׁה וַיֵּלְדֶה לּוֹ בָנִים אִוּ בָּנוֹת 20:4 כֹּאֲדָם If his master gave him a wife, and she has borne him children, the wife and her children shall belong to the master, and he shall leave alone.
 וְאִם אָמַר יֵאמֹר הָעֶבֶד אֶהְבֵּתִי אֶת אֲדֹנָי אֶת 20:5 כֹּאֲדָם But if the slave declares, “I love my master, and my wife and children: I do not wish to go free,” his master shall take him before Elohim. He shall be brought to the door or the doorpost, and his master shall pierce his ear with an awl; and he shall then remain his slave for life.

The law has three main parts:

1. A Hebrew slave serves 6 years, and must be freed after that (v. 2).
2. He leaves without payment – with a wife if he had one before he came, but not with a slave wife or slave children (vv. 2_{bγ}-4).
3. If he volunteers to stay, the master pierces his ear at the doorpost and he becomes a slave for life (5-6).^[1]

This law about male slaves is followed by a second law, also introduced by “when (כִּי),” that concerns females:

The אמה (Slave-Wife) Law

וְכִי יִמְכַר אִישׁ אֶת בִּתּוֹ לְאִמָּה לֹא תִצָּא כְּצֵאת 21:7 כֹּאֲדָם When a man sells his daughter as a slave, she shall not be freed as male slaves are.
 אִם רָעָה בְּעֵינֵי אֲדֹנָיהָ אֲשֶׁר לֹא לּוֹ יַעֲדָה 21:8 כֹּאֲדָם If she proves to be displeasing to her master, who designated her for himself, he must let her be redeemed; he shall not have the right to sell her to outsiders, since he broke faith with her.
 וְאִם לְבָנוֹ יַעֲדָנָה כְּמִשְׁפֵּט הַבָּנוֹת יַעֲשֶׂה לָּהּ: 21:9 כֹּאֲדָם And if he designated her for his son, he shall deal with her as is the practice with free maidens.
 וְאִם שָׁלַח אֲלֶיהָ לֹא יַעֲשֶׂה לָּהּ וְיִצְאָה חֲנָם 21:10 כֹּאֲדָם If he marries another, he must not withhold from this one her food, her clothing, or her shelter.^[2]
 21:11 If he fails her in these three ways, she shall go free, without payment.

The slave-wife law is also in three parts, but reverses the structure of the male slave law:

1. A man never need free his slave-wife.
2. If he doesn't want her he can let her be redeemed (but he may *not* sell her), or he may marry her to his son, and if he marries someone else he must continue to support her.
3. If he violates her rights, he must free her without any payment.^[3]

The אשה (Woman) in the Slave Law

The slave law references a “woman,” owned by the master, who can be temporarily given to the Hebrew slave for the production of children. Since we know, from the חמא law, that a Hebrew girl

- Loving the master (ברהא)
- The awl (עצרת)
- The ritual of piercing at the door (תלד)
- Lifetime service (מלעל)

Differences between Exodus and Deuteronomy

Despite this overall similarity, many of the details are different even in this overlapping section. In Exodus, he is called a “slave” (דבֵע). In Deuteronomy, he is referred to as “your brother.” In Exodus, in addition to his master, he loves his slave-wife and kids, while in Deuteronomy, the slave loves his master’s house and the situation, which is “good” for him.

Paying the Freed Slave Upon Release

But the difference runs even deeper when comparing the other sections of these laws. According to Exodus, the slave leaves without payment. According to Deuteronomy, the freed man must be furnished with livestock, grain, and wine.

The text goes on to justify this requirement with a number of points: That which you have is a blessing from God; you were once slaves in Egypt and God freed you; he has worked for you like a hired, wage-earning worker does, so he deserves compensation.^[5]

Female Slaves

The conceptualization of the female slaves differs greatly between these two texts.

In Exodus, a daughter of an Israelite male becomes a slave-wife and is never freed unless maltreated. Other woman, presumably non-Israelites or not under the protection of an Israelite male, are slaves for life and used to produce slaves for the next generation.

In Deuteronomy, the Hebrew female slave is equivalent to the male Hebrew slave. She serves for 6 years and is freed on the seventh, and nothing in the text suggests that—in contrast to Exodus—she should marry her master or may serve to breed new slaves for her master.^[6]

The Time of Release

Exodus is clear; the male slave is released after six years of service. Deuteronomy, is less clear, because it places the slave law after the law of the sabbatical (הטימֵש). According to the sabbatical laws, there is a seven-year cycle for debts and loans; every seven years, all debts are cancelled. The cycle is fixed such that the cancellation does not occur six years after the loan but on the sabbatical year.^[7]

Thus, when Deuteronomy claims that the (male or female) slave should be released on the seventh year, it may very well intend for them to be released on the sabbatical year, not after seven years of service.^[8] This is logical in Deuteronomy only, which views the sabbatical year as a return to previous states, similar to the jubilee law in Leviticus 25;^[9] Exodus has no comparable law.

Where the Slave is Marked

According to Exodus, the slave who wants to stay beyond six years is brought “to God (אֱלֹהִים) (הַמִּקְדָּשׁ)” which most likely refers to a local shrine. Exodus never insists on centrality of worship; in fact the end of the previous chapter (20:24) notes in reference to constructing altars “in every place where I cause my name to be mentioned (בְּכָל־הַמְּקוֹם אֲשֶׁר אֶזְכֵּר אֶת־שְׁמִי).” In contrast, the same

ritual, according to Deuteronomy 15:17, is simply performed at the door (בְּדֶלֶת) most likely at the house of the master; הָאֲלֵהִים is lacking.

Explaining the Differences

The two treatments have too much overlap to be coincidence, and most academic scholars see Deuteronomy as taking the core law in Exodus and recasting it in an image more acceptable to the Deuteronomic school. Thus instead of a Hebrew slave that the master must free, we have a Hebrew brother, working for you, that is freed and compensated upon release, presumably so that he will not find himself immediately in straits and enslaved again. This must be done because of God, who blessed the mater and freed the Israelites from Egyptian bondage, a major theme of Deuteronomy.

In addition, several scholars suggest that Deuteronomy improved the plight of women, and thus is abolishing the law of Exodus 21:7-11, where a father commodifies his daughter, and instead treats the female slave in parity with male one.^[10]

Finally, since Deuteronomy insists on centralization of worship (see esp. ch. 12), it would have been too complicated to bring the slave who wanted to stay to Jerusalem to pierce his ear there, so what in Exodus is a religious ritual, practiced at a temple, become a secular rite.^[11]

Part 2

7th or 50thYear – Exodus/Deuteronomy vs. Leviticus

The third treatment of slavery, in Leviticus 25, is very different than the first two in style and content. The broader context of *Parashat Behar* (Lev 25) describes the institution of the Jubilee, when every 50 years all land returns to the originals owners or their kin. All purchases of land must be made with this fixed date in mind (vv. 15-16). The Leviticus slave law appears in this context, describing what happens when a kinsman who has already sold you his property, and lives under you as a serf, runs out of money:

וְכִי־יָמוּד אֶתִּידָךְ עִמָּךְ וְנִמְכַר לָךְ לֹא תַעֲבֹדוּ אֹתוֹ
If your kinsman under you continues in straits and must give himself over to you, do not subject him to the treatment of a slave. ^{25:39} כה"ל

כְּשֹׁכֵר כְּתוֹשָׁב יִהְיֶה עִמָּךְ עַד שְׁנַת הַיָּבֵל יַעֲבֹד
He shall remain with you as a hired or bound laborer; he shall serve with you only until the jubilee year. ^{25:41} כה"ל
וְיָצָא מֵעִמָּךְ הוּא וּבְנָיו עִמּוֹ וְשִׁבְ אֵל
him shall be free of your authority; he shall go back to his family and return to his ancestral holding. ^{25:41} כה"ל

כִּי־עַבְדֵי הֵם אֲשֶׁר־הוֹצֵאתִי אֹתָם מֵאֶרֶץ מִצְרַיִם
For they are My servants, whom I freed from the land of Egypt; they may not give themselves over into servitude. ^{25:43} כה"ל
לֹא יִמְכְרוּ מִמְּכָרָת עֲבָד: לֹא־תִרְדֶּה בּוֹ בְּפָרֹד
they may not give themselves over into servitude. ^{25:43} כה"ל
וְיִרְאַתָּ מֵאֱלֹהֶיךָ: rule over him ruthlessly; you shall fear your God. ^{25:43} כה"ל

וְעַבְדֵיךָ וְאִמְתֶּךָ אֲשֶׁר יִהְיוּ לָךְ מֵאֵת הַגּוֹיִם אֲשֶׁר
Such male and female slaves as you may have—it is from the nations round about you that you may acquire male and female slaves. ^{25:44} כה"ל
סְבִיבְתֵיכֶם מֵהֵם תִּקְנוּ עֲבָד וְאִמָּה: וְגַם מִבְּנֵי
slaves. ^{25:45} כה"ל
וְיָרְדוּ לְכֶם אֲשֶׁר הוֹלִידוּ בְּאֶרְצְכֶם וְהִזִּיו לְכֶם
resident among you, or from their families that are among you, whom they begot in your land. These shall become your property: ^{25:46} כה"ל
וְהִתְנַחֲלֹתֶם אֹתָם לְבָנֵיכֶם אֲחֵרֵיכֶם לְרִשְׁתָּ
you may keep them as a possession for your children after you, for them to inherit as property for all time. Such you may treat as slaves. But as for your Israelite kinsmen, no one shall rule ruthlessly over the other. ^{25:46} כה"ל
לְעַלְמָם בְּהֵם תַּעֲבֹדוּ וּבְאֵחֵיכֶם בְּנֵי יִשְׂרָאֵל אִישׁ
may keep them as a possession for your children after you, for them to inherit as property for all time. Such you may treat as slaves. But as for your Israelite kinsmen, no one shall rule ruthlessly over the other. ^{25:46} כה"ל

This text emphasizes in a variety of different ways that an Israelite (the word Hebrew is not used) cannot be a slave:

1. You may not treat your kinsman like a slave (v. 39).
2. Your kinsman must be treated like a hired laborer (v. 40).
3. Your kinsman, and his family, returns to his ancestral land on the Jubilee year (v. 41).
4. God freed the Israelites from Egyptian bondage, so they cannot be slaves (v. 42).
5. Do not mistreat them, if you fear God (v. 43).
6. You may have permanent male and female slaves, but they must be non-Israelites (v. 44-46).^[12]

Despite these significant differences, the jubilee year of Leviticus seems functionally similar to the sabbatical year in Deuteronomy, especially if Deuteronomy is understood as mandating that the Hebrew slave be released at the sabbatical (=seventh) year, and not at the beginning of the seventh year of servitude.

7 years versus 50 years

The logic of the 49-year maximum for servitude in Leviticus is explicit. Leviticus describes an institution of a jubilee cycle, where every 50 years, land returns to its original owners. Since the land will be returned, it only makes sense that the owner should be freed to work his land again. Since the jubilee cycle is fixed, this means that different indentured servants will have different amounts of servitude, depending on when in the cycle they are sold into bondage.

Leviticus, Exodus and Deuteronomy

As we saw above, the law in Deuteronomy is likely a revision of the law in Exodus. Leviticus is totally different than Exodus, and the two share very little in common. Although in many basic areas the law in Leviticus differs from Deuteronomy as well, the two share certain elements.

First, both avoid using the term עֶבֶד for the servant, preferring to refer to the man as אֲחִיךָ (your kinsman.)

Second, both make reference to the fact that Hebrews/Israelites cannot be slaves because God took them out of bondage in Egypt, so they are God's slaves.

Third, both refer to him as akin to the hired worker. Thus, although Leviticus has not rewritten the Deuteronomy law in the same way that Deuteronomy has rewritten the Exodus law, it looks like the slave law in Deuteronomy has had some influence on Leviticus.^[13]

Conclusion

Ancient Near Eastern legal collections, whether the biblical Covenant Collection in Exodus or the Middle Assyrian Laws, are not systemic or comprehensive, and little evidence suggests that these collections were used in the law courts. "Common law" as opposed to "legislation" dominated the legal system of the Levant in this period. The biblical collections are separate entities, reflecting the overall emphasis or project of their editors—just like the Laws of Eshnunna (ca. 1930 B.C.E.) and Hammurabi (ca. 1750 B.C.E.) do.

In contrast to the Deuteronomic law collection and the Holiness Collection (Lev 17-23), the Covenant Collection does not have a clear origin or ideology (most say it was an independent text incorporated by E—or J—into his own work with little editorial tampering), the other two collections have clear fingerprints. The Deuteronomic Collection forms the core of the Deuteronomy (D) and reflects this school's way of thinking, incorporating such ideas as the prominence of the exodus and the importance of the underclasses, the text in Leviticus is part of the Holiness Collection (H), and reflects the Priestly philosophy of the Holiness school.

Although the three slave laws may not represent exactly the same cases, the differences between them are indicative of different laws, from different times and places, reflecting different ideas of slavery. Exodus is the harshest version, and Deuteronomy, with its humanitarian view, ameliorates somewhat the fate of the Israelite slave. This tendency is continued in Leviticus, which more or less abolishes slavery, turning slaves into bondsmen, but extending their period of servitude. In addition, Deuteronomy and Leviticus each develop slightly different social-calendrical institutions, the *shemittah* or *yovel*, which help improve the lot of slaves and debtors.

Although there are cases in the Torah where differences between the law collections could be due to different emphases or simple lacuna,^[14] this does not appear to be the case with the slave law.^[15] The differences between the presentations of the slave laws in the different collections offer strong justification for some form of source criticism. The laws contradict in significant ways, such as whether the slave should be paid upon release and when the slave must be released. This latter, fundamental difference suggests that these different laws reflect different norms from different times and places. It is even possible to see in this case how the later laws were, to varying extent, influenced by earlier ones which they revised.

Most tellingly, the laws dealing with slavery have not been brought together in the Torah in a single place, and presented as cases and sub-cases, as we might expect in a single-authored text. Instead, they are presented in three different places, and present laws based on different conceptions of slavery. Similar differences between the Covenant Collection, the Deuteronomic Law Collection, and the Holiness Collection abound.

The basic premise of source criticism, that the different collections come from different authors in different times and places, remains a critical tool for understanding these texts and the one book that incorporates them all.

Read an alternative approach by Dr. Aaron Koller [The Law of the Hebrew Slave: Reading the Law Collections as Complementary](#)



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[1] If we put aside part 2 for a moment, we can see that part 1 and part 3 work together. The basic law is that a Hebrew slave must be freed after six years of service, but he can volunteer for permanent servitude if he so wishes. Part 2 is a two-part gloss on part one. Here is the overall structure:

- A master must free his slave after 6 years of labor.
 - The master need not pay the slave when he frees him.
 - Whether he leaves with his wife/kids or alone depends on whether they were his when he was free or whether they were slaves of the master "leant" to him for a short time.
 - If the slave wishes to remain a slave, the master pierces his ear and he stays for life.

[2] The meaning of the term הנוע is debated. Traditionally it has been translated as "conjugal rights." Etymologically, many feel that "shelter" is the better translation, relating it to the term ונוע. Still others prefer the term "oils" based on a comparison with ANE texts, which list these three (food, clothing, and oils) as a set of things a man provides his wife.

[3] As it was in the slave law, the second part appears to be a gloss, whereas parts 1 and 3 make up the basic law: A man need never free his slave-wife unless he violates her rights, in which case he must free her and lose his investment. The gloss presents the man with his options if he finds that he does not want her.

[4] Rabbinic exegesis assumes the former possibility. See, for instance, Rashi's gloss on the verse, quoting the Mechilta:

מכאן שהרשות ביד רבו למסור לו שפחה כנענית להוליד ממנה עבדים. או אינו אלא בישראלית, תלמוד לומר האשה וילדיה תהיה לאדוניה, הא אינו מדבר אלא בכנענית, שהרי העבריה אף היא יוצאה בשש, ואפילו לפני שש אם הביאה סימנין יוצאה, שנאמר (דברים טו יב) אחיך העברי או העבריה, מלמד, שאף העבריה יוצאה בשש:

[5] Structurally speaking, this last point (v. 18) looks like a supplement, since it repeats much of vv. 14-15, adding the point about his being like a (double) hired laborer.

[6] One matter that remains unclear is whether the earliest text of Deuteronomy actually discussed the female slave. Both of the phrases that reference women are awkward and seem out of place; especially the second one. Moreover, the rest of the law only discusses the slave law in the masculine form. Both clauses could be removed without trouble and the text would read smoothly—in fact, more smoothly. Thus, it may be that the references to female slaves being like male slaves was added later, to make clear that Deuteronomy was discounting the law in Exodus about the slave-wife.

[7] This is why some loans are high risk due to their proximity to the sabbatical year, a problem addressed explicitly in the text (vv. 9-10).

[8] The rabbis are themselves ambivalent about whether this refers to the seventh year from the sale or the sabbatical year, though they end up going with the first option. See *Midrash Tannaim* (ad loc.)

ובשנה השביעית למכירה אתה אומר שביעית למכירה או שביעית לשמטה ת"ל שש שנים היו אומר וז דבע הנקתשכ רכ יעיבשב יתחנו הששל ימלוע יתארבש משכ אוה רורב שודקה רמא לאומש 'שביעית למכירה (אמר ר עברי שש שנים יעבד ובשנה השביעית תשלחנו חפשי):

There is a minority opinion among the rabbis, however, that reads Deuteronomy (and Exodus!) as referring to the sabbatical year. See R. Joseph Bechor Shor on Exod 21:2, who says that the reason a slave is freed on the seventh year is because on that year there is no planting or harvesting anyway—referring to the seven-year cycle in Leviticus and *not* the sabbatical cycle of Deuteronomy—thus there is nothing for the slave to do.

שאינו חורש וזורע וקוצר ובוצר אינו צריך עבודה כל כך. –ובשביעית

[9] The main difference is that the sabbatical year cycle is every seven years, whereas the jubilee cycle is every fifty. Leviticus also has a seven year cycle built in (Lev 25:3-7), but it is not called שְׁמִטָּה and it has nothing to do with money but with letting the land lie fallow. Another important difference is that the sabbatical cycle of Deuteronomy is about cancelling debts, whereas the jubilee cycle of Leviticus is about returning land. Both aim to avoid creating a permanent Hebrew/Israelite slave or debtor class.

[10] Deuteronomy never brings up the possibility of the Hebrew servant procreating with a non-Israelite slave woman, so we do not know what Deuteronomy would say about this practice. Nevertheless, I imagine that this would not be an option for the Deuteronomist, since it implies a slave status for the Hebrew and opens up the possibility for a permanent Hebrew slave class.

[11] This type of transformation typifies Deuteronomy, which for example allows meat to be eaten non-sacrificially outside of a temple [see 12:11-28], what in rabbinic literature is called שְׁחִיטָה; contrast Exodus 20:24, which only envisions eating meat that was sacrificed at a [local] sanctuary.

[12] This last law seems like a later gloss. Note the *Wiederaufnahme* at the end of v. 46 which returns the reader to the end of v. 43.

[13] This third similarity may be evidence of the reverse, that Leviticus had some influence on Deuteronomy, since Deut 15:18 appears to be a later gloss, as pointed out in a previous note.

[14] For example, the Covenant Collection discusses a virgin who is seduced (Exod 22:15-16), whereas the Deuteronomic Collection discusses a virgin who is raped (Deut 22:28-29). This could very well be a case of different codes picking different cases. The fact that both laws could, in theory, exist side by side in one collection is demonstrated by the fact that the Middle Assyrian Laws (55-56) have both. For more on this, see Eve Feinstein's TABS essay, "[The Rape of the Unbetrothed Virgin in Torah and Assyrian Law.](#)"

[15] See, however, Aaron Koller's TABS essay, [The Law of the Hebrew Slave: Torah Law Collections Not Codes](#) which makes just that argument.