

Course Reading

Frymer-Kensky, Tikva Simone. "Anatolia and the Levant: Israel." In *A History of Ancient Near Eastern Law*, edited by Raymond Westbrook, 975-1046 (selection: 999-1007). Leiden; Boston: Brill, 2003.

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3.5 *Judgment*

In the case of petitions to authority, the authority (king or *šar*) heard or read the petition and decided accordingly. In other procedures, the judges investigated the case, but how they did so is not known.

3.5.1 Judges are urged to judge truly (Exod. 23:7–8), but Psalm 82 envisions a court for social justice, in which special consideration is given to the poor, and all the law corpora demand “blind justice” (Exod. 23:3, 6; Lev. 19:15; Deut. 16:19). There is unanimity that one should not allow fees to subvert justice (see 2.11.4 above).

3.5.2 Since judges came from the ruling administrators or the relatively wealthier classes, perverting justice was a form of exploitation of the disadvantaged (*šg*). The remedy is an appeal to the superior: to the *šar*, as in the legal ostraca, or to his superior on up through the king. However, Hosea indicts the higher lords for such abuse (Hos. 5:11), and Ecclesiastes advises that one not be shocked if the abuse continues on up the line (Eccles. 4:1). The ultimate appeal is to God.³⁰

3.5.3 Samuel’s farewell speech highlights abuse by judges: “whose ox or ass have I taken, whom did I oppress and exploit, from whom did I take a price to turn away—tell me, and I will answer.” The people respond that he has not oppressed or exploited them, for he has never taken anything from them (1 Sam. 12:3–4).

3.6 *Execution*

At the end of a criminal trial, the judges delivered the convicted parties over to those responsible for the execution of the sentence. In the case of stoning, the whole community was to participate, with the witness casting the first stone (Deut. 17:7). Stoning took place outside the camp or the town (1 Kings 21:13). In Deuteronomy, the elders would also oversee the flogging of a man who falsely accused his bride of not being a virgin (Deut. 21:18). In other disputes, the judge would take the convicted man down and he would be flogged before him (Deut. 25:2).

³⁰ Westbrook, *Studies* . . . , 9–38.

3.6.1 *Blood Avenger*

The victim’s nearest kin was to kill a murderer. He operated as the community’s representative and incurred no bloodguilt even if he killed the murderer without trial while the latter was on his way to a city of refuge. After trial, the blood avenger would kill a convicted murderer or an accidental homicide who left the city of refuge. In the Deuteronomic system, in which the elders are prominent, the elders would bring the guilty party back from the city of refuge and give him to the blood avenger (Deut. 19:12).

Narratives illustrate some of the rules. Deaths in combat were not to be avenged. Joab’s killing of Absalom in combat invites no retribution, but when Joab killed Abner to avenge Joab’s brother’s death in battle (2 Sam. 3:27, 30) the king punished him for murder (1 Kings 2:5). The blood avenger does not kill the murderer’s family. The narrator cites this rule in the story of King Amaziah killing his father’s assassins but not their sons (2 Kings 14:5–6).

4. PERSONAL STATUS

All Israelites were citizens, and there were no official class distinctions between them. Nevertheless, there were distinctions. The priests and Levites represented hereditary castes, women were legally disadvantaged, and the poor and resident aliens were subjects of particular concern.

4.1 *Israelites*

The Torah considers Israelites members of the congregation, bound to each other and to God by a covenant that establishes their responsibilities to God and each other. The ideal is a social order in which each person lives on his own land. The narratives and the prophets reveal a considerable distinction between rich and poor, and women were addressed primarily as wives and mothers.

Israelites in hard straits could lose their land and become debt slaves. If their kin did not redeem them, they would be released after six years (see 4.5 below). Slaves, whether Israelite or foreign, were obligated to all the responsibilities of Israelites.

4.1.1 The same text in Deuteronomy that promises that God will bless an obedient Israel so that there will be no poor also declares

that there will never cease to be poor people in the land (Deut. 15:4, 11). Concerned about the condition of the poor (Deut. 14:17), Israel has special regulations to provide for their food and proper treatment (Deut. 15:7-10).

4.1.2 During the Sabbatical year, the poor were allowed to gather freely from fields, orchards, and vineyards (Exod. 23:11). Israelites were not to refrain from lending to the poor in anticipation of the Sabbatical year, when debts were remitted (Deut. 15:8-9). During harvest, the edges of the field were to be left for the poor to harvest, as were any dropped produce or fallen fruit (Lev. 19:9). Leviticus 23:22 gives them to the poor and the *ger*; Deuteronomy 24:19 to the *ger*, the fatherless, and the widow. Similarly, one should not beat olive trees a second time or pick over the grapevines a second time, in order to leave the food for the *ger*, the fatherless, and the widow (Deut. 24:20-21). Deuteronomy calls for a tithe each third year, eaten in one's own home town and shared freely with the *ger*, the orphan, the widow, and the Levite (Deut. 14:28-29).

4.1.3 The blind and deaf are also to be awarded consideration and their disadvantages not exploited (Lev. 19:14). The one who misdirects a blind person receives a communal curse in (Deut. 27:18).

4.1.4 One must show deference to the elders (Lev. 19:32) and respect the leaders of the people (Exod. 22:28).

4.2 *Castes: Priests and Levites*

4.2.1 *Priests*

Priests, a hereditary caste, could not drink intoxicants while on duty (Lev. 10:9) and were subject to special purity regulations. They could not marry a prostitute or divorcée (Lev. 21:7), and a priest's daughter who was not chaste was to be burned for degrading her father (Lev. 21:9).

4.2.1.1 Not all members of the priestly clan could be priests, as certain physical disabilities or abnormalities disqualified them. The afflicted could partake of the rations of priests but not offer sacrifices or enter restricted areas of the temple (Lev. 21:16-23).

4.2.1.2 Priests, who did not own territory, were paid with a portion of the sacrifice. Each priest kept gifts given to him (Num. 5:9-10). Yet another source of income was fines: if a wronged party had no kin to whom to pay 120 percent, it was given to the priest. (Num. 5:8).

4.2.1.3 Only male priests could eat gifts given to God (Num. 18:8-10). The narrative of Eli's sons illustrates the early period's protocol: putting a trident into stewing meat, priests ate what came up; the sons of Eli wrongfully asked for meat even before the fat was burned (1 Sam. 2:13-16)

4.2.2 *Levites*

Like priests, Levites had no territorial share and were involved in religious ritual. The Bible presents three different stages of Levites in Israel's social system.

4.2.2.1 The Book of Judges reflects a time when "Levite" was a professional title rather than a hereditary caste. It relates the adventure of a young man from Bethlehem in Judah, a Levite who hired on in Mount Ephraim as "father-priest" to Micah for ten silvers a year, clothing, and food, serving as priest in Micah's chapel (Judg. 17). In the classical system of Leviticus and Numbers, Levites performed the work of the sanctuary and were assigned to the Aaronid priests (Num. 18:21, 23).

4.2.2.2 Levites were supported by tithes (Num. 18:24), and tithed their tithes for the priests (Num. 18:25-28). They were given forty-eight cities with pastureland of two thousand cubits all around (Num. 35:1-5.). They could receive other donations (Num. 18:25-31; Deut. 18:1-4).

4.2.2.3 When Deuteronomy eliminated the local shrines, it called for Israel to take care of the Levites outside Jerusalem who had lost their jobs (Deut. 12:17-19). In order to do so, Deuteronomy assigned the tithe offering on the third year (consumed in the settlements) to Levites as well as *ger*, orphan, and widow (Deut. 14:27-29; 26:12). Deuteronomy also allows Levites to leave their local cities, come to the central sanctuary and share in the offerings there (Deut. 18:6-8). They and the *ger* were to join in the festive meal at the offering of the first fruits (Deut. 26:11).

4.3 *Foreigners*³¹

4.3.1 The resident alien of Israel, the *ger*, was subject to the laws of Israel and was not to be abused (Exod. 23:9; Lev. 19:33). The one who subverts the rights of the *ger*, the fatherless, and the widow receives the communal curse in Deut. 27:19. The *ger* was subject to the legal restrictions of Israelites. They were not to curse with God's name on penalty of death (Lev. 24:16); they were subject to the same penalties for homicide, battery, or damage to animals (Lev. 24:18–22).

4.3.2 The *ger* was considered disadvantaged, along with the orphan and widow (Exod. 22:21–22). Their judgment was not to be subverted (Deut. 24:17); they could glean in the fields and vineyards and join in eating first fruits (Deut. 26:11).

4.3.3 Leviticus 25 considers the situation in which the resident *ger* becomes rich enough to have Hebrew debt slaves and calls upon the relatives to redeem the slaves by considering the number of years left until the Jubilee and paying him the wages of a hired hand for that number of years (Lev. 25:47–54).

4.3.4 Unlike the *ger*, the *nokri* (“foreigner”) did not have to observe dietary rules, could buy the carcasses of animals found dead (Deut. 14:21), and pay back debts in the sabbatical year (Deut. 15:3).

4.4 *Gender and Age*

4.4.1 The legal system envisions Israelites as male heads of households, while women are defined in relationship to the household. According to the Pentateuch's grand narrative, this system was instituted by Moses, who addressed only the men of the congregation, saying “do not approach a woman,” when he told Israel to remain sexually chaste in anticipation of the encounter with God (Exod. 19:15). Women were normally attached to a household as wives, daughters and daughter-in-laws, and their status depended both on the household and their position in it. Unattached women such as divorcées and widows would normally be expected to marry again.

³¹ See Van Houten, *The Alien in Israelite Law*.

4.4.2 The narratives show that before the monarchy, women could rise to public authority within the household. On the other hand, there were no controls on heads of household, who could abuse women at will. With the consolidation of the monarchy, women were shut out of the hierarchies of political power, but their husbands and fathers could no longer kill them.³²

4.4.3 Full adulthood was reached at twenty, when one was counted in the census (Num. 1:2–3, 18; 1 Chron. 27:23; 2 Chron. 25:5), went into the army (Num. 1:22) and paid the head tax of one-half shekel (Exod. 30:13–14), and Levites began to work in the sanctuary (1 Chron. 23:24, 27; Num. 4:3 has 30, and Num. 8:24 has 25).³³

4.5 *Slavery*³⁴

4.5.1 *Terminology*

The ordinary term for a male slave, *'ebed*, is qualified as *'ebed 'ibri*, “Hebrew Slave,” with release in the seventh year. Female slaves have two terms, *'amah* and *šiphah*, which most texts use interchangeably. The term *mas*, “tribute,” describes war captives taken for state labor.

4.5.2 *Acquisition*

4.5.2.1 Hebrew slaves are usually acquired as a result of their poverty. Some are debt slaves,³⁵ like the sons of the widow of Zarephath, whose creditor is about to come and acquire them until Elisha creates an unending supply of oil and directs her to pay off the debt. (2 Kings 4:1). The community returned from Babylonian exile was in such dire economic straits that their sons and daughters became slaves (Neh. 5:5). A second mode of acquisition may be purchase, as by buying the thief who is sold into slavery because he cannot make appropriate restitution (Exod. 22:2). Yet a third mode is by birth: should a master give a Hebrew slave a wife, the children remain the master's after the slave goes free.

³² For an examination of this issue, see Frymer-Kensky, *Victors, Victims . . .*

³³ Fleishman (“Age of Legal Maturity . . .”) suggests that there is an intermediate stage, from the age of ten, in which young men had partial maturity, making them responsible for their actions and possibly enabling them to marry before twenty.

³⁴ In general, on slavery see Matthews, “Anthropology of Slavery . . .”

³⁵ Chirichigno, *Debt Slavery . . .*

4.5.2.2 Foreign slaves could be acquired by war, purchase, or birth. If a besieged city accepts the offer to allow their surrender, the people serve as tribute-labor (Deut. 20:11). Should the city not surrender, men should be killed at capture rather than turned into slaves; women and children can be taken as booty (Deut. 20:12–14).

4.5.2.3 A special case is a woman taken in war for the specific purpose of becoming a wife (see 5.1.1.6 below).

4.5.3 Treatment

4.5.3.1 The welfare laws of Leviticus call for treating an impoverished Israelite who becomes a slave like a hired laborer (Lev. 25:39–40) and not to be ruthless (Lev. 25:43); the Israelite who becomes slave to a *ger* should be given the same consideration (Lev. 25:53).

4.5.3.2 Slaves may not be told to work on the Sabbath (Exod. 20:10; 23:12; Deut. 5:14); they are to be circumcised and participate in the Passover and other festivals.

4.5.3.3 The slave is a man's property, and a man has a right to punish his slave, even severely enough to leave him or her bedridden for a day or two, but if the slave dies, the death will be avenged (Exod. 21:20–21).³⁶ If he destroys the eye or tooth of his slave, male or female, the slave goes free (Exod. 21:26–27).

4.5.3.4 Wife Slaves

The *'amah* in Exodus 21:7–9 and the captive bride in Deuteronomy 21:10–14 have a right to be wives. A man who acquires and then rejects them is considered to have abused or betrayed them, and they go free. The *'amah* goes free if her master, taking another wife, does not provide her with food, clothing, and *'onah* (Exod. 21:10–11). Interpreters beginning with the Septuagint and the Targums understood *'onah* to mean “conjugal rights,” taking *'onah* as the word for

³⁶ Westbrook, *Studies* . . . , 89–109. Westbrook argues that “avenged” implies vicarious punishment, that is, the death of the slave owner's child or its ransom, since the slave can be a minor taken for debt. My own sense is that even here, the owner himself bears the punishment. Either way, the law deals with all slaves, not just foreigners without blood avengers.

“season, time.” Comparison with Near Eastern laws suggests that *'onah* must have been a provision for oil.³⁷

4.5.3.5 If a female slave has not been redeemed or emancipated but has been “designated” (*nehrepet*) to a man, and a man has sexual relations with her, there is a claim (*biggoret*) and he must bring an expiatory ram. Since she was not free, he is not put to death (Lev. 19:20–22). The term “designated” is unclear; it may refer either to being a pledge for a debt or being assigned for marriage. The law also is ambiguous as to who slept with the slave, the owner or another, and may include all circumstances. The point of the law, in any case, is to protect and control the body of a female slave but not as much as betrothed or free women, sleeping with whom is adultery.³⁸

4.5.3.6 If an ox gores a male or female slave, the owner must give thirty shekels of silver, and the ox is stoned (Exod. 21:32).

4.5.4 Termination

4.5.4.1 A Hebrew slave can free himself with money or should be redeemed by his close family. The amount that is required to redeem him depends on the years between the time he was bought and the next Jubilee (and not on the debt for which he may have become a slave): the amount per year is computed on the basis of the hire of laborers. If he has not been redeemed, he goes out at the Jubilee (Lev. 25:47–55).

4.5.4.2 A Hebrew slave is supposed to work only six years and go free (*lahopsšī*) without payment of the amount for which he was enslaved (Exod. 21:2; Deut. 15:12). The six years of service are considered worth twice the amount that a hired man would have cost (Deut. 15:18). Deuteronomy calls upon the owner to give the freed slave animals, grain, oil, or other foods (Deut. 15:13–15).

³⁷ Originally suggested by Paul, *Book of the Covenant* . . . For a full discussion, see Levine, “On Exodus 21,10 . . .” Levine sides with the early interpreters.

³⁸ For different interpretations, see Loewenstamm, “*bqrt thyh* . . .”; Milgrom, “Betrothed Slave-Girl . . .”; Westbrook, *Studies* . . . , 101–9.

4.5.4.3 According to the Book of the Covenant, if a man sells his daughter as an *'amah*, she goes out if the master, acquiring another wife, does not provide her with her wifely allotment. But she does not go out as slaves do, after six years (Exod. 21:7). Deuteronomy calls for the parallel release of male or female Hebrew slaves (Deut. 15:12). The difference may be the disappearance of sale-marriage, in which the *'amah* would want a permanent arrangement.³⁹

4.5.4.4 A slave who entered into slavery single leaves single. If he entered as a married man, his wife goes out with him (Exod. 21:3). If the master gave him a wife and she gave birth to sons or daughters, the woman and the children belong to the master and the man goes out alone (Exod. 21:4). At the Jubilee, both a slave and his children go free (Lev. 25:40–42).

If the slave chooses not to go free because of love of his master or his children, he can become his permanent slave (*[wa]ʿabado leʿolam*) by undergoing a public ritual in which he stands before the door or doorposts “before God” (probably a divine symbol) and his master pierces his ears with an awl. (Exod. 21:5–6; Deut. 15:16). Deuteronomy, which restricts ritual to a central sanctuary, simply calls for piercing the ear into the door.

4.5.4.5 Leviticus calls for Hebrew slaves to go out at the Jubilee and return to their own families (Lev. 25:10). At that time, the slave and his children are also freed. The relationship of this release to the seventh year is not clear. It may be that slaves went out in the seventh year of their slavery, but if a Jubilee should arrive in the meantime, it would also release them.

4.5.4.6 Foreign slaves bought from the surrounding nations or from foreigners living in Israel do not go out: they are inherited as property (Lev. 25:44–46).

4.5.4.7 A slave goes free if the owner injures his eye or tooth and probably by extension, any loss of limb (Exod. 21:26–27).

³⁹ For female slaves, see most recently Turnham, “Male and Female Slaves . . .”; Carolyn Pressler, “Wives and Daughters . . .”; and Westbrook, “Female Slave.”

4.5.4.8 A slave could also be freed by running away. According to Deuteronomy, a runaway slave is not to be returned to its master. He should be sheltered if he wishes or allowed to go free, and he must not be taken advantage of (Deut. 23:16–17). This provision is strikingly different from the laws of slavery in the surrounding nations and is explained as due to Israel’s own history as slaves. It would have the effect of turning slavery into a voluntary institution.

5. FAMILY⁴⁰

5.1 *Marriage*

5.1.1 The man “takes” a wife. The father of the man may negotiate the marriage, as with Shechem (Gen. 34). Judah left home and arranged his own marriage; later, he arranged his sons’ marriages (Gen. 38). The girl’s father had the right to give his daughter to whomever he chose.

5.1.1.1 The father of the girl negotiated a bride-price with the groom or groom’s father, with an expected amount the baseline, the *mohar habbetulot*, set at fifty shekels, but with no upper limit. Normally, the bride-price consisted of silver or goods, but it could be services. Othniel acquired Achsah by conquering Kiryath-Sefer (Judg. 1:11–13); David refused Saul’s offer of Merob for his fighting the Philistines (1 Sam. 18:17–19), but accepted Saul’s offer of Michal for a bride-price of a hundred Philistine foreskins (1 Sam. 18:25), giving him one hundred (2 Sam. 3:14 and the Septuagint of 1 Sam. 18:27) or two hundred (1 Sam. 18:27). Jacob worked seven years for Rachel and Leah respectively (Gen. 29:16–28).

5.1.1.2 The payment of the bride-price might be marked by a banquet (Judg. 14); after the payment, the girl is “betrothed.” She owes fidelity and is subject to rules of adultery (Deut. 22:25–26).

5.1.1.3 The actual marriage began when the groom claimed his bride (Gen. 29:21), an occasion that may also have been marked by

⁴⁰ See Frymer-Kensky, “The Family in the Hebrew Bible”; Pressler, *Deuteronomic Family Laws . . .*; Rofé, “Family and Sex Laws . . .”; Westbrook, *Property and the Family . . .*