

Exodus 21:1 – 36

^{21:1} Now these are the ordinances which you are to set before them: ² If you buy a Hebrew slave [*ebed*], he shall serve for six years; but on the seventh he shall go out as a free man without payment. ³ If he comes alone, he shall go out alone; if he is the husband of a wife, then his wife shall go out with him. ⁴ If his master gives him a wife, and she bears him sons or daughters, the wife and her children shall be of her master, and he shall go out alone. ⁵ But if the slave plainly says, 'I love my master, my wife and my children; I will not go out as a free man,' ⁶ then his master shall bring him to God, then he shall bring him to the door or the doorpost. And his master shall pierce his ear with an awl; and he shall serve him permanently. ⁷ If a man sells his daughter as a female slave [*amah*], she is not to go free as the male slaves do. ⁸ If she is displeasing in the eyes of her master who designated her for himself, then he shall let her be redeemed. He does not have authority to sell her to a foreign people because of his unfairness to her. ⁹ If he designates her for his son, he shall deal with her according to the custom of daughters. ¹⁰ If he takes to himself another woman, he may not reduce her food, her clothing, or her conjugal rights. ¹¹ If he will not do these three things for her, then she shall go out for nothing, without payment of money.

¹² He who strikes a man so that he dies shall surely be put to death. ¹³ But if he did not lie in wait for him, but God let him fall into his hand, then I will appoint you a place to which he may flee. ¹⁴ If, however, a man acts presumptuously toward his neighbor, so as to kill him craftily, you are to take him even from My altar, that he may die. ¹⁵ He who strikes his father or his mother shall surely be put to death. ¹⁶ He who kidnaps a man, whether he sells him or he is found in his possession, shall surely be put to death. ¹⁷ He who curses his father or his mother shall surely be put to death.

¹⁸ If men have a quarrel and one strikes the other with a stone or with his fist, and he does not die but remains in bed, ¹⁹ if he gets up and walks around outside on his staff, then he who struck him shall go unpunished; he shall only pay for his loss of time, and shall take care of him until he is completely healed.

²⁰ If a man strikes his male or female slave with a rod and he dies at his hand, he shall be punished.

²¹ If, however, he survives a day or two, *he shall not die [*from the Samaritan Pentateuch manuscript¹]; for he is his property.

²² If men who are fighting smite a pregnant woman so that there is a miscarriage and yet no further harm follows, the one responsible shall be fined what the woman's husband demands, paying as much as the judges determine. ²³ If any harm follows [to the woman], then you shall give life for life, ²⁴ eye for eye, tooth for tooth, hand for hand, foot for foot, ²⁵ burn for burn, wound for wound, stripe for stripe.

²⁶ If a man strikes the eye of his male or female slave, and destroys it, he shall let him go free on account of his eye.

²⁷ And if he knocks out a tooth of his male or female slave, he shall let him go free on account of his tooth.

²⁸ If an ox gores a man or a woman to death, the ox shall surely be stoned and its flesh shall not be eaten; but the owner of the ox shall go unpunished. ²⁹ If, however, an ox was previously in the habit of goring and its owner has been warned, yet he does not confine it and it kills a man or a woman, the ox shall be stoned and its owner also shall be put to death. ³⁰ If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him. ³¹ Whether it gores a son or a daughter, it shall be done to him according to the same rule. ³² If the ox gores a male or female slave, the owner shall give his or her master thirty shekels of silver, and the ox shall be stoned. ³³ If a man opens a pit, or digs a pit and does not cover it over, and an ox or a donkey falls into it, ³⁴ the owner of the pit shall make restitution; he shall give money to its owner, and the dead animal shall become his. ³⁵ If one man's ox hurts another's so that it dies, then they shall sell the live ox and divide its price equally; and also they shall divide the dead ox. ³⁶ Or if it is known that the ox was previously in the habit of goring, yet its owner has not confined it, he shall surely pay ox for ox, and the dead animal shall become his.

¹ In the Masoretic Hebrew and the Greek Septuagint manuscripts of v.21, a man who beats his servant and commits homicide (as opposed to murder) should not be punished: 'no vengeance shall be taken' (NASB). That poses a moral irregularity and difficulty. Should he not be punished for a homicide? However, the Samaritan Pentateuch variant contains the phrase, 'he shall not die,' instead. Meaning, a punishment short of death is called for, since 'he shall die' for homicide in v.20 is the comparison point. See Rev. Canon Garratt, "On the Samaritan Text of the Pentateuch," *Journal of the Transactions* (London: Harrison & Sons, 1904), p.6; <http://shomron0.tripod.com/articles/garrattpentateuch.pdf>. On the phrase 'he is his property,' see the notes below.

Chiastic Structure of Exodus 21:2 – 36²

- A. Restoration Without Payment: Indentured Servants; Betrothed Daughters (21:2 – 11)
- B. Restrain Future Harm: Protect People from Abusive People (21:12 – 17)
 - C. Injuries from a Physical Fight: Toward Full Healing (21:18 – 19)
 - D. The Full Humanity of the Slave: Cases of Murder vs. Homicide (21:20 – 21)
 - C'. Injuries of Bystanders to a Fight: Compensation (21:22 – 25)
- B'. Restrain Future Harm: Protect Servants from Abusive Masters (21:26 – 27)
- A'. Restoration With Payment: Indirect Injuries; Servants; Compensation (21:28 – 36)

Historical and Cultural Background

- *Slavery in Egypt vs. in Israel*: God had just freed Israel from Egyptian slavery. Appropriately, the law starts with setting slaves/servants free, then addresses injustices Israel experienced in Egypt. God is instructing the people (Israelites and ‘the mixed multitude’ alike; Ex.12:49) not to behave like this:
 - *As if service/slavery has no limit*: ‘Pharaoh said, ‘Who is the LORD that I should obey His voice to let Israel go? I do not know the LORD, and besides, I will not let Israel go’’ (Ex.5:2). Also, Laban tricked the vulnerable Jacob to serve for seven years twice (Gen.29:15 – 30), which twice violated the principle of work ending on the seventh day from Genesis 1:1 – 2:3. *Contrast with God limiting service to six years in Ex.21:2 – 6.*
 - *As if retaliation can also have no limit*: God seems to be reminding people not to act like Moses did, when Moses reacted with vengeance and ‘struck’ and killed the Egyptian (Ex.2:12). *Contrast with God forbidding this in Ex.21:12 – 14.*
 - *As if deception and terror are ever justified*: Pharaoh enslaved Israel by force (Ex.1:11). Also, Laban manipulated Jacob into service for Leah and Rachel (Gen.29:15 – 30), which violated the principle of honesty. *Contrast with God forbidding forced enslavement in Ex.21:16, along with stealing and lying in Ex.20:15 – 16.*
 - *As if beatings and force have no limit*: ‘Moses... looked on their hard labors; and he saw an Egyptian beating a Hebrew, one of his brethren.’ (Ex.2:11). ‘Then the foremen of the sons of Israel came and cried out to Pharaoh... ‘There is no straw given to your servants, yet they keep saying to us, ‘Make bricks!’ And behold, your servants *are being beaten*; but it is the fault of your own people’’ (Ex.5:15 – 16). *Contrast with God limiting beating in Ex.21:18 – 21.*
 - *As if human life is disposable*: ‘Then Pharaoh commanded all his people, saying, ‘Every son who is born you are to cast into the Nile, and every daughter you are to keep alive’’ (Ex.1:22). *Contrast with God protecting the unborn and the mother in Ex.21:22 – 25.*

Serving as a Hebrew ‘ebed’ (translated into English as either ‘servant’ or ‘slave’) in another household was a common way for men and women to pay one’s personal debts or find refuge from hardship. Only self-indenture was possible (debts were personal, not tradable), as slave trading was forbidden, as was selling one’s children (Lev.25:42). Terms of exit were also clear: after six full years (Dt.15:12) or every fixed jubilee year (Lev.25:39 – 55), whichever happened first; bodily harm (Ex.21:27 – 28); or simple escape (Dt.23:15 – 16). The English word ‘slavery’ (or indentured ‘servanthood’ in other translations) reflects the fact that ancient Israel’s primary political and economic institution was the *household*. They did not have apartments or homeless shelters (to house), banks (to lend), corporations (to employ), police (to enforce laws), prisons (to incarcerate), or halfway houses (to rehabilitate); *households* served all those functions. Also, biblical Hebrew had fewer than 9,000 words (vs. modern English with over 1,025,000), so words had more than one meaning, and you *need the context to determine a word’s meaning with more confidence*.³

- ‘A slave could also be freed by running away... This provision is strikingly different from the laws of slavery in the surrounding nations and is explained as due to Israel’s own history of slavery. It would have

² Modified by Mako A. Nagasawa from Bernard S. Jackson, *Wisdom-Laws: A Study of the Mishpatim of Exodus 21:1 – 22:16* (Oxford: Oxford University Press, 2006), p.447.

³ To see analyses of slavery passages in the Bible, see www.anastasiscenter.org/race-slavery-belief-systems, especially the paper, *Slavery in Christianity, Part 1: Slavery in the Bible, Slavery Today*.

- the effect of turning slavery into a voluntary institution.⁴ The fact that Israel had no domestic police force meant that running away was easy.⁵
- ‘Such servitude was in fact not slavery at all, in the proper sense of the term.’⁶
 - Hebrew indentured servants, like all other Hebrews, were bound to the worship and festival calendar of the Mosaic Law, such that they were released from labor nearly one half of the entire fifty year time period between two jubilee years.⁷
- *Betrothal*: The legislation in Exodus 21:7 – 11 refers to an early form of wedding betrothal for young girls, especially from poor families, *not* a sale of a girl by her parents into slavery.⁸ The daughter became a free woman (the Hebrew word is *amah*, not *ebed*) within the new family, not a servant with servant duties, and not a chattel slave that could be resold (Ex.21:8). Any breach of marriage contract by the betrothed man/family earns the girl her freedom and the man receives no compensation; she left without owing the family any debt (Ex.21:10 – 11).
 - ‘*An Eye for an Eye*’ is a principle in Exodus 21:23 – 25 that Jewish rabbinical commentators interpret as not strictly retributive. It is an outer limit of proportionality for cases of bodily harm, meant to represent proportional financial compensation (*Talmud Bava Kamma* 83b – 84a) or, in some cases, lashes (*Makot* 1:1). They actually reason that because of the possibility that the offender is already blind: One cannot blind an already blind man! So they believe that the ‘eye for an eye’ is meant as proportional compensation: If you blind someone’s eye, *you* become his ‘second eye.’

This restorative justice reading is reinforced by these facts: (1) In Exodus 21:18 – 19 (C), parallel to this example of bodily harm (C’), the offender must care for the injured victim until he is ‘completely healed.’ It is likely that the former interprets the latter. (2) In Exodus 21:22 (C’) and 30 (A’), financial compensation is named again. (3) In Leviticus 19:17 – 18, the law instructs Israelites to ‘not take vengeance’ upon one’s neighbor, such that these commands are mutually interpreting.⁹ (4) God anticipated Israel’s exile from the garden land and loss of political sovereignty (Dt.27 – 28; cf. Ex.20:4 – 6), reenacting Adam and Eve’s exile from Eden (Gen.3:20 – 24); and Israel would not be able to enact capital punishment while being ruled by another nation; so the principle of restoration and compensation was important to establish from the start. Therefore, Jewish law was victim-oriented and restorative, not retributive in nature.

⁴ Raymond Westbrook, editor, *A History of Ancient Near Eastern Law*, 2003, volume 2, page 1006

⁵ This is also confirmed by Israel’s practice of placing six cities of refuge in the land to protect a person who commits accidental manslaughter from vigilante revenge; the person who committed the accident had to flee to one of the six cities (Num.35:9 – 34; Josh.20:1 – 9).

⁶ Goldwin Smith, *Does the Bible Sanction American Slavery?* p.40. Also, slavery in the Old Testament was a contract of labor, without ceding ownership of one’s body. Indentured servants under the Law of Moses held kinship rights, marriage rights, personal legal rights relating to physical protection and protection from breach of contract and right to testify in court, freedom of movement, and access to liberty by paying their debt (either through service, or with money). This meant that they could accumulate wages (note ‘payment’ in 21:2), savings, wealth, and property of their own, something which was not permitted in other slave systems. In those systems, the master owned everything the slave produced, saved, or had. There was absolutely no sex slavery; God’s vision for marriage was retained in all cases and placed limits on indentured servitude.

⁷ Theodore Dwight Weld, *The Bible Against Slavery*, 1837, p.22 – 23. This does not count marriages and other family-specific festivals. Furthermore, there were no large plantations in Israel as with the great Roman latifundia estates or the American South, no quarry mines as with the Athenian slaves in Laurium, and certainly no global competition as with the American South’s trade in sugar and cotton, but only farmland enough to sustain the household. The high value placed on work by Israel (e.g. rabbis in the 1st century all learned a trade), meant that master and servant would have worked together in the fields. Since there were no segregated quarters for indentured servants, masters provided for them at the same level of lifestyle they had.

⁸ Nahum M. Sarna, *Jewish Publication Society Torah Commentary Series: Exodus*, 1991, note on Exodus 21; cf. Ken Campbell (editor), *Marriage and Family in the Biblical World* (Downers’ Grove, IL: InterVarsity Press, 2003), p.55 – 57

⁹ Darren W. Snyder Belousek, *Atonement, Justice, and Peace: The Message of the Cross and the Mission of the Church* (Grand Rapids, MI: Eerdmans, 2012), p.408 says, ‘The Torah’s command to love one’s neighbor is put in parallel with a prohibition against taking vengeance upon one’s neighbor. In fact, the text gives us parallel sets of contrasting parallels. Taking these separate, we see the contrasts: in the first set, hating a neighbor in one’s heart (A) contrasts with reproving one’s neighbor (B); in the second set, taking vengeance upon a neighbor (A’) contrasts with loving one’s neighbor (B’). Taking these together, we see the parallels: hating one’s neighbor (A) is parallel with taking vengeance upon one’s neighbor (A’) – and both are prohibited; likewise, reproving one’s neighbor (B) is parallel with loving one’s neighbor (B’) – and both are commanded... Not retribution but reproof fulfills the righteousness that God wills; not hate but love is the holiness that God desires.’ Belousek argues that God’s justice is not retributive, but restorative and reparative. Leviticus 19:17 – 18 is structured:

(A) ¹⁷ You shall not hate your fellow countryman in your heart;

(B) you may surely reprove your neighbor, but shall not incur sin because of him.

(A’) ¹⁸ You shall not take vengeance, nor bear any grudge against the sons of your people,

(B’) but you shall love your neighbor as yourself; I am the Lord.

Questions

1. Restoration Without Payment Needed (Ex.21:2 – 11)
 - a. The Bondslave of Ex.21:2 – 6
 - i. Read the historical and cultural background note on slavery. In Israel, how would a person become a household servant (Hebrew *ebed*) in someone else's house?
 1. Indebtedness, poverty, or bad circumstances that drove them away from their family land
 2. Perhaps they committed a crime and have to repay it by service, although it is uncertain whether crime-related debt would be forgiven in this way.
 - ii. Why would a person in a servant role choose to stay?
 1. Circumstances out there are too uncertain
 2. Affection for this household
 3. Because of a marriage to someone who is still an *ebed*
 - iii. How would the master 'give a wife' to the slave?
 1. Bernard Jackson suggests that it was because slaves were considered 'breedable' in principle, and even ties the betrothed daughter of 21:7 – 11 into the picture as if she served that purpose.
 2. I disagree. If that were true, then the master would 'own' the wife and children, and then marriage and family, which were permanent relations, would have become subordinate to slavery, which was temporary and limited to 6 years. How would that make sense? Quite to the contrary, this must refer to the master allowing a male slave to get married to a female slave, and the female slave has a different time table of service and release. If the male servant goes free in the seventh year of his service, but his wife does not go free until later, then the option of ear-piercing and becoming a bondservant of the household is there. Children would stay with the mother, and thus remain 'of the master' for her duration of service, but not be indentured servants per se.
 - iv. How does an 'ebed' become a bondslave?
 1. By saying, 'I love my master, my wife and my children; I will not go out as a free man,' (Ex.21:5) presumably in the hearing of witnesses also.
 2. Bernard Jackson calls this a significant speech-act. 'For it is the procedure of transformation of status which entails an oral speech-act.'¹⁰
 - v. Why do you think there is this strange ceremony in v.6?
 1. What happens when you pierce your ear? A little bit of blood comes out.
 2. What would blood on the doorpost remind you of? The blood of the Passover lamb on the doorposts in the Exodus.
 3. In what sense is this like the Exodus?
 - a. It's flipped, in a sense, at first glance. The servant is not going out but coming in and staying (for a while). But he is entering into a new identity of sorts, by entering into a new household.
 - b. Notice that we tend to think of the Exodus as freedom in an absolute sense, but the biblical text understood it to mean freedom to serve God in a new life and a new way. Similarly, the servant is entering into a new *service*, voluntarily.
 - c. So bondslavery was an institution that *reminded* the Israelites of the Passover and Exodus. The Israelites entered into a new service to God, voluntarily, at Passover-Exodus.
 4. Why the ear? It represents listening. The verb 'to hear' (*shama*) is the standard biblical Hebrew word for 'to obey.' Later, Isaiah would foresee the Messiah saying, 'The Lord GOD has opened My ear; and I was not disobedient, nor did I turn back' (Isa.50:5). And then, 'He was pierced through for our transgressions' (Isa.53:5). The piercing represents a voluntary act of becoming a servant, even to the detail of the motivation: he wants to honor the marriage even while she has some service to fulfill. This is a fascinating foreshadowing of Jesus staying a loving and devoted servant for the sake of his bride, the church!! Except Jesus submitted not just his ear for piercing, but his entire body.
 5. Would the slave become a bondslave forever, as the text says in v.6, *permanently*? I suppose it was possible, but Jewish rabbis believed that the jubilee year (Lev.25) set this

¹⁰ Jackson, p.104.

person free. Also, in Dt.15:18, Moses seems to assume that the master will set the bondservant free at some point. So I venture to say that the servant would have served the household until the time of service of the spouse-servant was up, and then both of them would go free. This would make slavery (indentured servitude) subordinate to marriage and family, not the other way around.

- vi. Side note: Did men and women both become *ebedim* / servants? Yes. Even though this example is given in the male tense, it is the inclusive male tense. That is, Hebrew is a gendered language, like Spanish (which has *el* for him, *ella* for her, and *el* for a third person whose gender is unknown). When the biblical writers give an example, they will often use the male tense. We have to determine from the context whether this is the exclusive male tense and pertains to men only, or the inclusive male tense and pertains to women too. In this case, we can be sure it is the inclusive male tense because:
 1. Deuteronomy says about women, ^{15:16} 'It shall come about if he says to you, 'I will not go out from you,' because he loves you and your household, since he fares well with you; ¹⁷ then you shall take an awl and pierce it through his ear into the door, and he shall be your servant forever. *Also you shall do likewise to your maidservant.* ¹⁸ It shall not seem hard to you when you set him free, for he has given you six years with double the service of a hired man; so the LORD your God will bless you in whatever you do.' (Note to leader: Please also read Lev.25:1 – 55 and Dt.15:1 – 18 as background).
 2. Similarly, Moses had just given the Ten Commandments and phrased the tenth commandment in the inclusive male tense. He said, 'Do not covet your neighbor's wife' (Ex.20:17). It certainly does pertain to women, too, as a woman could covet her neighbor's husband! Also, when Moses gave the tenth commandment, he spoke of 'male servant and female servant' (Ex.20:17), which corroborates the picture.
 3. Jeremiah also spoke of male and female servants who were to be set free according to the laws of Exodus 21:2 – 6 (Jer.34:8 – 16).
- vii. STATE: It's artistic and important that the very first elaboration of laws deal with slavery with a stress on freedom. God had said at the beginning of the Ten Commandments, 'Then God spoke all these words, saying, 'I am the LORD your God, who brought you out of the land of Egypt, out of the house of slavery'' (Ex.20:1 – 2). It is significant that the very first topic dealt with in Israel's code of laws concern granting freedom from slavery, including a means of entering a new status and new household through a Passover-reminding action. This is clearly meant to build into Israel a sense of ethical correspondence with God. Because God did this for us, we do this to be like Him.
- b. The Betrothed Daughter in Ex.21:7 – 11.
 - i. The word translated 'slave' here is the Hebrew *amah*. It's NOT the word *ebed*, which is used in 21:2 – 6.
 - ii. This sure sounds suspicious! Like it's about a parent selling a daughter to be a sex slave, or a concubine. But no. 'In the ancient world, a father, driven by poverty, might sell his daughter into a well-to-do family in order to ensure her future security. The sale presupposes marriage to the master or his son. Documents recording legal arrangements of this kind have survived from Nuzi. The Torah stipulates that the girl must be treated as a free woman; should the designated husband take an additional wife, he is still obligated to support her. A breach of faith gains her her freedom, and the master receives no compensation for the purchase price.'¹¹
 - iii. Is this a young woman who was bought as a wife for the male servant in 21:2 – 6? Once again Jackson leaves that question open, but I do not think so. It is either for the master or his son, not the male servant, as specified in the law itself (21:8 – 9). Thus, there was no breeding through slavery.
 - iv. Is this a reflection on the experience of Leah, the less-loved wife of Jacob? Is polygamy assumed, since the law accounts for the possibility that the man may take another wife? That might be possible, legally. Sociologically, a second wife might be sought if the first wife did not bear children.

¹¹ Nahum M. Sama, *Jewish Publication Society Torah Commentary Series: Exodus*, 1991, note on Exodus 21. See also Ken Campbell (editor), *Marriage and Family in the Biblical World* (Downers' Grove, IL: InterVarsity Press, 2003), p.55 – 57.

- v. Is this young woman hired to be a surrogate mother for a primary wife, like Hagar was to Sarah? Jackson leaves open the possibility, but I think not, because it's doubtful that a surrogate mother would have 'conjugal rights' as this law specifies. If Abraham and Sarah believed that Hagar had 'conjugal rights,' it was not to Abraham. Nor did Jacob, Leah, and Rachel seem to believe that about the handmaidens Bilhah and Zilpah. A surrogate mother had basic human rights, surely, but conjugal rights akin to marital rights? It seems not. And even a childless widow did not have 'conjugal rights' per se in relation to her brother-in-law, who was only responsible to impregnate her in a Levirate marriage and raise up children for her and his deceased brother.
 - vi. STATE: The second case that the Sinai Law deals with is the freedom from betrothal or broken marital promise, on behalf of any young woman who was in that situation. She is, explicitly, to be 'redeemed' and not sold to others as a commodity or suppressed without her rights in the household (Ex.21:8). Once again, the correspondence between God's redemption of Israel is placed in the redemption of this young woman.
2. Restrain Future Harm; Protect People from Abusive People (21:12 – 17)
- a. Note: All the situations below are predicated on the nomadic and/or simple rural life of the early Hebrews. They did not have prisons to incarcerate or contain. Under that condition, therefore, protecting the larger community from a threat meant the death penalty. Since modern American readers do have access to prisons and other forms of maintaining boundaries (e.g. ankle-bracelets, monitoring, paroles, etc.), we can take that into account. But in a society without that type of technology or the institutions that would support it, this capital sentence can still be considered part of an overall restorative justice framework.
 - b. In v.12, manslaughter is a capital crime ('He who strikes a man so that he dies shall surely be put to death'). This seems to be a general principle, and then v.13 – 14 are specific cases where motivation is taken into account.
 - i. In v.13, unintentional manslaughter is not a capital crime: ¹³ 'But if he did not lie in wait for him, but God let him fall into his hand, then I will appoint you a place to which he may flee.' This seems to describe a spur of the moment burst of passion (cf. Dt.19:5 – 6).
 - ii. In v.14, premeditated murder is a capital crime: ¹⁴ 'If, however, a man acts presumptuously toward his neighbor, so as to kill him craftily, you are to take him even from My altar, that he may die.' (cf. Dt.19:11 – 12) This seems to have Cain and Abel (Gen.4) in mind.
 - c. Violence towards parents: ¹⁵ 'He who strikes his father or his mother shall surely be put to death.' This is speaking of an adult child, so both deep anger and premeditation are implied. Although we are not sure how Ham dishonored his father Noah, and/or his mother as well, he committed some act of deep disrespect (Gen.9:20 – 29). Since God intended Israelite children to learn about Him from parents (Pr.1:8), striking one's parents is tantamount to stepping outside the covenant and disregarding it.
 - d. Forced enslavement and kidnapping is forbidden, in 21:16. In the Ten Commandments, God commanded Israel not to steal (Ex.20:15) and not to covet what was not theirs (Ex.20:17). As an application of the Commandments, stealing a person – i.e. enslaving them against their will – was one of the first prohibitions listed: 'He who kidnaps (steals) a man, whether he sells him or he is found in his possession, shall surely be put to death' (Ex.21:16). Whereas stealing property required the perpetrator to recompense between two to five times the original amount (Ex.22:1 – 9), stealing a person was punishable by death. One Christian abolitionist said: 'Slavery is the highest possible violation of the eighth commandment. To take from a man his earnings, is theft. But to take the earner is compound, superlative, perpetual theft. It is to be a thief by profession. It is a trade, a life of robbery, that vaults through all the gradations of the climax at a leap—the dread, terrific, giant robbery, that towers among other robberies, a solitary horror, monarch of the realm... Who ever made human beings slaves, or held them as slaves without coveting them?'¹²
 - e. Verbally cursing parents: ¹⁷ 'He who curses his father or his mother shall surely be put to death.'
 - i. This refers to an adult cursing his or her parents.
 - ii. Someone who did this was presumed to be a threat to his or her parents.
 - iii. The Jewish law indicates that the parents needed protection from future harm. Removing the threat is an aspect of restorative justice.
 - f. STATE: Committing these sins is not just immoral; it re-inflicts the pain of Egyptian bondage on an Israelite. They were being killed, forcibly enslaved, and in a sense pressured to renounce their own 'parents' in the faith: Abraham and Sarah; Isaac and Rebekah; Jacob and Leah and Rachel. These cases

¹² Theodore Dwight Weld, *The Bible Against Slavery*, 1837, p.9.

seem to represent the offender disregarding the covenant itself. Since the covenant represents life, disregarding it to this magnitude represents death, and death is the punishment. For someone to commit these sins represents spiritual *reversal*.

3. Restoration: Injuries from a Physical Fight; Toward Full Healing (21:18 – 19)
 - a. This seems fairly reasonable, doesn't it? Notice the interesting tidbit about the offender caring for the victim. What do you think of that? It's a restorative justice paradigm. The assumption is that they are neighbors.
 - b. In our day and age, we might make the offender pay for the victim's damages, but then the offender can just go away. Think about George Zimmerman and his participation (at least) in the wrongful death of Trayvon Martin because Zimmerman initiated the contact. Now think about all the other fights that Zimmerman has been in since then, with his fiancé, with others, etc. Did he learn anything?
4. The Full Humanity of the Slave: Cases of Murder and Homicide (21:20 – 21)
 - a. I think the Samaritan Pentateuch reflects the original Hebrew text, or something closer to the original. See the historical note, above. The master is meant to bear consequences for a violation of human dignity.
 - b. Recall how the Egyptian Pharaoh treated the Israelites unjustly (see historical and cultural notes):
 - i. *Lives are easily disposable*
 - ii. *No limits on terror and slavery*
 - iii. *No limits on beatings and force*
 - c. Also, God might even be reminding people not to act like Moses did, when Moses reacted with vengeance and 'struck' the Egyptian (Ex.2:12).
 - d. There is no doubt that a person in slavery/service is still fully human, and will one day be free by God's decree (Ex.21:2 – 6; cf. Lev.25:39 – 43). This is revolutionary.
5. Restoration: Injuries Affecting Bystander to a Fight; Compensation (21:22 – 25)
 - a. This is a complicated situation to translate, and I have written extensively on the moral weight of the fetus and the relevance of this passage (and others) to modern abortion policy. Suffice to say that the Hebrew Masoretic Text treats the fetus as part of the mother's body. So causing a miscarriage is treated as a bodily injury to the mother. My resources are available here: www.anastasiscenter.org/study-action-abortion-policy. They summarize the book: Mako Nagasawa, *Abortion Policy and Christian Social Ethics in the United States* (Eugene, OR: Wipf and Stock Publishers, 2021)
 - b. What about the response from Gandhi that an eye for an eye will make the whole world blind? But notice the context. This seems to apply to both the pregnant woman and the prematurely born baby. What would you do instead, from a legislative standpoint?
 - c. 'An eye for an eye' is an outer limit of proportionality for cases of bodily harm, meant to represent financial compensation (*Talmud Bava Kamma* 83b – 84a) or, in some cases, lashes (*Makot* 1:1). The Jewish rabbinical commentators interpret the 'eye for an eye' as not retributive. They actually reason that because of the possibility that the offender is already blind. One cannot blind an already blind man! So they believe that the 'eye for an eye' is meant as compensation: If you blind someone's eye, you become his second eye. This reading is reinforced by the fact that in 21:18 – 19, the offender must care for the injured victim until he is 'completely healed.' This is restorative justice.
 - d. Why not just give a financial compensation? Actually, that is possible. In Exodus 21:30, Moses writes, 'If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him.' So the victim (presumably) can request financial compensation instead.
 - e. Is this a minimum or maximum requirement? It seems like a maximum, outer limit. It seems to go hand in hand with the victim's right to name a compensation. The victim could name a compensation up to the principle of proportionality. See also 21:30, which I have included above. The context of that verse is if the owner of an ox who gores another to death. The issue there is intentional negligence, which can be interpreted as intentional malice. The ox's owner might be put to death according to 21:29, but the victim's family is given the option to request compensation instead.
6. Restrain Future Harm; Protect Servants from Abusive Masters (21:26 – 27)
 - a. This is an amazing statement. Any scarring or bodily harm that is more than temporary was grounds for cancelling the debt-contract that the servant/slave was trying to work off. The Israelites were also probably thinking about Egypt. Being whipped would scar a person, and would have been considered excessive.

- b. The main idea here is to protect the person from an abusive employer/master by releasing them from the service. This is an aspect of restorative justice. The power imbalance is corrected.
 - c. If retributive justice were in view, then the servant would be able to demand that the master be struck for the equivalent bodily harm. But that is not what Jewish law prescribed.
7. Restoration With Payment Needed: people, male and female servants, animals (21:28 – 36)
- a. When the owner is not and is responsible: knowledge of the ox (21:28 – 29)
 - b. Ransom for redemption of owner (21:30 – 31)
 - c. Additional payment for the death of another person's male or female servant (21:32), presumably in addition to the servant's family of origin. This is not to reduce the worth and value of an indentured person down to 30 shekels. It is only covering that portion of labor due by the servant to the employer/master. The negligent owner of the ox must cover that portion, too.
 - d. Animal injured due to negligence requires restitution (21:33 – 34)
 - e. Animal injured due to negligence with another animal requires restitution (21:35 – 36)
 - f. These laws seem intended to prevent Israelites from reliving the experience of Jacob when he thought he lost his son Joseph forever. He was presented with Joseph's bloodstained coat, and thought that Joseph had been mauled to death and eaten by a wild beast (Gen.37:33). The thirty shekels of silver owed to a master for the lost labor of the *ebed* might be designed to recall the Midianite traders who pulled Joseph out of the pit and sold him to the Ishmaelites for twenty shekels of silver. Such a connection might help the ox's owner to understand the magnitude of a loss.
8. What is the impression that we have of God, from these laws?
- a. God wants to prevent going backwards spiritually.
 - b. God wants to prevent violence, and prevent it from escalating. He preserves the integrity of people's bodies – both in terms of harm and sexuality.
 - c. God wants to redeem His people from cycles of abuse, vulnerability, and violence. God wants to restore relationships to what they should be.
 - d. God aims for healing and restoration. Where possible, offenders are called and commanded to participate in the healing and restoration (or at least support) of those they have injured. So the consequences are both obligation and a gift. It involves the healing and restoration of the offender, too.

Appendix A: The Hebrew Judge and Lawcourt, and the New Testament Doctrine of Justification

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One variation (or perhaps the premise?) of the doctrine of justification in Lutheran and Calvinist traditions is the explanation that God the Father treats the sinner as ‘justified’ based on Jesus having suffered the penalty due that person (‘penal substitution’), and therefore God has no more retributive wrath leftover. Hence, the person is ‘forgiven’ and God the Father regards that person, not only as ‘innocent’ but as ‘righteous’ because He looks at the sinner ‘through the lens’ (as it were) of Christ (‘imputed righteousness’).

The combination of ‘penal substitution,’ ‘forensic justification as removal of guilt,’ and ‘imputed righteousness’ creates puzzling questions pastorally. The problems for pastoral ministry are manifested on the interpersonal and the socio-political dimensions.

Here is an example of the interpersonal: A minister commits some kind of abuse, perhaps one that is not explicitly covered in the character requirements for leadership in 1 Timothy 3 and Titus 1, and defends his retention of his pastoral leadership role on the basis that ‘God’s grace’ makes him ‘innocent.’ He claims that he feels terrible; isn’t that enough? This demonstrates a psychologized view of repentance. In this view, what’s important is that ‘I feel bad.’ The offender objects to requests that he resign by saying, ‘But I *feel* repentant. I don’t have to make restitution, or be held accountable by stepping down.’ Calling for particular restitutive actions, by contrast, are interpreted as calling for ‘works-righteousness.’ The question, of course, is whether the actual relationship, which is external to the offender, is simultaneously important to God?

When discussing social injustice, like racism or sexism in America, some people claim that it is not Christian to be angry or to demand restitution for past wrongs. In their view, the emotion of anger or the demand for restitution discredits a person. In some evangelical circles, speaking as a Christian about our social justice obligations results in this response: ‘We cannot ‘atone’ for our mistakes, because only Jesus did that. So we can’t talk about justice. We can only talk about charity. Justice is what we owe others because of the past, out of a sense that we need to repent and make something right. But my slate is cleared by Jesus. So you have to address me as an innocent new creation in Christ, without creating feelings of guilt in me. When we give to others without triggering that burdensome sense of obligation, that is charity.’ Penal substitution, forensic justification, and imputed righteousness explain a certain degree of *white evangelical fragility*. In effect, calls for ‘justice’ must be transmuted into calls for ‘charity.’ ‘Obligations’ must become ‘opportunities.’ Historical context suddenly evaporates. Not only is it possible for people to claim that they were not personally culpable for past injustice, of course. And not only do many evangelicals believe that Christian social justice is extracurricular already, because the issues are more abstract and distant than, for instance, a husband who abuses his wife. But even when Christian social justice issues are drawn thoughtfully into the orbit of Lutheran-Reformed theology, forensic justification and imputed righteousness are effectively used by white evangelicals to deny the validity of black anger (say) and the demand for restitution for past wrongs.

God might be ‘aware’ of the person’s sin in some sense. But according to penal substitution, God says that He is not ‘angry’ with the person anymore because He already ‘exhausted his retributive justice’ on Jesus. So can a spouse who was cheated on be angry with the adulterer? Or, can victims of systemic sexism or racism be angry about the system and those who comply with it? Is there a place for healthy anger as part of a response to being hurt, as the apostle Paul suggested, ‘Be angry’ (Eph.4:26 – 27)?

Also, according to ‘imputed righteousness,’ God credits the person with the meritorious righteousness of Jesus. If that is the case, then not only does God not hold anything against the offender, He also adds positive credit to his/her account. If you believe this, then what is the basis for calling people to amend past wrongs? How does a sense of obligation to amend past wrongs work? This assertion has made it difficult to understand and integrate the various New Testament passages that speak of believers getting rewarded individually to various degrees based on their varied obedience (Mt.25:14 – 30; Lk.19:11 – 27; Rom.2:6;).

Does the Hebrew covenant, law, role of judges, and community procedures repose on a theory of satisfaction of retributive justice and forensic justification? It does not appear so. In the Hebrew lawcourt, the offender maintains his/her place in the community by apologizing and committing to contributing to the ‘complete healing’ (Ex.21:18 – 19) of the victim for damage done, or compensation for damage, even lost life (Ex.22:1 – 14). That is, in a Hebrew restorative justice framework, an offender is ‘justified’ as still part of the covenant community based on *their apology, and commitment to undo the damage*

caused. In a Latin-Western meritocratic-retributive justice framework, by contrast, an offender might be accepted back into community if s/he suffers enough.

Hebrew judges did not wield 'retributive justice' per se. They did not exhaust their own wrath on the offender. Instead, they represented the covenant community, and the vision of God's creation order embodied by that community, and they determined that the offender is still within that community. Based on the nature of the sin, the judges of the Hebrew lawcourt (Ex.21:22) helped structure how the offender would contribute to the victim's healing.

When the Sinai covenant calls for the death penalty, those sins seem to be understood as a rejection of God, the covenant, and the covenant community. And, since the covenant represents the life God wanted to provide to His creation, based on His original vision of the creation, self-exclusion from the covenant represents death and is expressed by death. This helps to explain why the death penalty was stipulated for sins that would not ordinarily merit it under other systems of jurisprudence, such as cursing one's parents (Ex.21:17), bestiality (Ex.22:19), and breaking the Sabbath (Num.15:32 – 36). The Sinai covenant reposed on an ontological framework of the creation order, not simply a meritocratic-retributive framework. One must bear in mind, moreover, that since God saw that Israel's eventual exile was a certainty based on their participation in fallen human nature (Dt.27 – 30), and political existence under a foreign power would mean the loss of capital punishment, that excommunication would replace capital punishment in Mosaic Israel, as it has in the New Testament church (e.g. 1 Cor.5:1 – 13; Mt.18:15 – 35)

The significance of the ontological, creational framework is explored by Alister E. McGrath in *Iustitia Dei: A History of the Christian Doctrine of Justification*. McGrath aptly points out (for this and other reasons) that 'retributive justice' (Latin *iustitia distributiva*) does not capture the essence of the Hebrew law and the Sinai covenant. McGrath also believes that 'retributive justice' should not serve as the background for Paul's and James' definition of 'justification.' Doing so, in his view, is a category mistake and a linguistic error as we translate Hebrew into Greek and Latin:

'Although there are many instances where *sedaqa* can be regarded as corresponding to the concept of *iustitia distributiva*, which has come to dominate western thinking on the nature of justice (despite the rival claims of *iustitia commutativa*), there remains a significant number which cannot. A particularly significant illustration of this may be found in the Old Testament attitude to the poor, needy and destitute. As we have noted, *sedaqa* refers to the 'right order of affairs' which is violated, at least in part, by the very existence of such unfortunates. God's *sedaqa* is such that God must deliver them from their plight – and it is this aspect of the Hebrew concept of *sedaqa* which has proved so intractable to those who attempted to interpret it solely as *iustitia distributiva*.'¹³

'Righteousness' in Old Testament usage therefore refers, first and foremost, to the relational vision and order God intended as expressed by the covenant community. That vision and order, as the Torah makes clear, includes the relational work that must be done by someone who has been in the wrong, with the full awareness of all parties. By analogy, when I accept my child's apology, I work with that child to undo the damage done, repair relationships, and build the character needed; I most certainly do not pretend that the offense never happened, a sensibility further undergirded by the Psalms, as in the Proverbs, that the Israelites personally develop and grow in the covenant: 'Good and upright is the LORD; therefore He instructs sinners in the way' (Ps.25:8; cf. Pss.25:4 – 22; 27:11; 86:11; etc.).

From the Torah and the Psalms (e.g. Ps.51:10 – 14), I find it much more plausible to define 'justification' as: 'Your apology is accepted, so you are once again a member of the covenant family in good standing, with the obligations thereof to contribute to the healing of relationships and to your own human nature.' A preliminary glance at the New Testament mention of 'justification' supports the definition.

The New Testament deploys the term 'justified' or 'justification' with specific concern about whether the Sinai covenant was ultimately a sufficient basis for that apology. The verdict is: No. In Matthew 12:37, Jesus discusses speech for or against the Holy Spirit. He is concerned in Matthew 11:25 – 12:45 to explain the Father-Son relation. 'Something greater than the temple is here,' says Jesus with regards to himself revealing the Father (Mt.12:6). Jesus is the Spirit-anointed Servant of Isaiah, as shown by his deeds and proclaimed by his words (Mt.12:17 – 21). Mention of the Spirit gives Jesus reason to discuss the casting out of demons and also internal transformation from a bad to a good tree and fruit (Mt.12:22 – 35). The unusually dense mention of 'justice' from Isaiah's prophecy (Mt.12:18, 20) and 'justified' in Jesus' discussion about speech reflecting the heart (Mt.12:37) is noteworthy. Jesus' bringing of 'justice' to the Gentiles is one and the same as the

¹³ Alister E. McGrath, *Iustitia Dei: A History of the Christian Doctrine of Justification* (Cambridge: Cambridge University Press, 1986), p.11

transformation fervently hoped for by Old Testament prophets of the Holy Spirit bringing about Israel's 'circumcision of heart' and return from exile on the other side of the Sinai covenant (e.g. Dt.30:6; Ezk.36 – 37; etc.).

Jesus' parable of the Pharisee and the tax collector in Luke 18:9 – 14 is the only other example of Jesus using the word 'justified.' The parable in Luke is ostensibly simple: Jesus requires humility before God and apology to God. Moreover, Jesus seems to be anticipating an encounter that happens very shortly, and Luke seems to invite us to place the parable in a literary and narrative context. Right after this parable, we have the motif of new birth ('infants' in Luke 18:15 – 17), and then a contrast between the rich man who does not repent and therefore does not experience new birth (Luke 18: 18 – 30) and Zaccheus the wealthiest and most powerful tax collector who does repent in the format of restorative justice, and experiences new birth like a child, since Zaccheus climbed a tree like children climb trees (Luke 19:1 – 10). Zaccheus gives half his wealth to the poor and promises to return four times what he defrauded others. Zaccheus' commitment is at the higher end of what the Jewish Law required thieves to restore; in Exodus 22:1 – 14, thieves had to restore between two to five times what they stole; that was the cost of rebuilding trust. So in the narrative of Luke, Jesus' parable of the Pharisee and the tax collector (Luke 18:9 – 14) prepares us to understand Jesus' encounter with Zaccheus the actual tax collector (Luke 19:1 – 10). Zaccheus represents and brings to life the tax collector of Jesus' parable, who repents, is accepted by Jesus, and works towards restoration because Jesus still holds him accountable for his past actions. Luke as a writer views the Sinai covenant ('the Law' or 'the Law of Moses') positively in many ways, but negatively in the sense that it could not produce the transformation God brought about in and through Jesus (Acts 7:53; 13:39; 15:10).

Likely Paul and James use the term 'justification' with this lexical meaning in mind. Paul declares that the Gentiles are 'justified' – accepted by God and part of the covenant family – because their faith in Christ is a sufficient act of apology-repentance. Circumcision, Sabbath-keeping, and eating kosher are neither the evidence of, nor the grounds for, being 'justified.' James declares that the wealthy are 'justified' – accepted by God and part of the covenant family – if they demonstrate works of love towards the poorer members of the Christian congregation ('no partiality') in accordance with Jesus' teaching ('the royal law' of James 2:8). Although my assertion needs more elaboration elsewhere, Paul and James can both be understood to mean, not that God views us as 'innocent,' but rather that God accepts our apology through our faith in Christ, considered as repentance and pledge of allegiance, and therefore works together with us, by His Spirit, towards restoring the damage I have done to my own human nature and to the fabric of human relationships. This definition of 'justification' has nothing to do with legal fictions, since its foundation is the medical-ontological atonement theology of Athanasius and the early church. For 'justification' cannot possibly mean that the Father exercises a form of self-deception by using Christ as a 'lens' of satisfactory suffering (on the one hand) and/or moral perfection (on the other) through which to 'acquit' us (on the one hand) and/or 'legally accept' us (on the other). Two factors – the Hebraic concept of 'righteousness,' as well as the Father-Son convictions of early Christianity – preclude that possibility.

The Catholic and Orthodox traditions look back to the early church fathers' teaching. For the early Christians, the meaning of the word 'justification' (Greek *dikaïosin*, δικαίωσιν) was derived from the Hebrew concept of 'righteousness' (Hebrew *sedaqa*, Greek *dikaïosyne*, δικαιοσύνη), which occurs most frequently in the Psalms. This made the Psalms a chief locus of study for the early church prior to, or simultaneously with, their study of Paul's letters. Significantly, the prayers of the Psalms repose upon the Torah's framework of restorative justice (Ps.1:2; 119:1 – 8). The church expressed their understanding of restorative justice in two primary ways: (1) ecclesiastical courts, where people in conflict could come before a Christian bishop rather than the secular Roman magistrate; (2) penance. Whether or not one agrees with how penance was expressed and managed through canon law, it is notable that, from early on, church leaders developed practices of penance to assist people in their repentance. In some interpretations, the bishops originally wanted to protect people from taking communion in an unworthy manner and suffering illness or death, as in 1 Corinthians 11:27 – 31.

By comparison, the Protestant Reformers developed their understanding of justification largely from Galatians and Romans, thinking they understood how Paul regarded the Sinai covenant. They privileged Augustine of Hippo among the voices from the early church, especially Augustine's theory of monergism and double predestination, whereas the other fathers held to synergism and responded with concern to Augustine's writings. This explains to some degree why Luther and Calvin found it easy to arrange their concepts of atonement and justification around the notion of divine satisfaction of meritocratic-retributive justice. Arguably, the Lutheran and Calvinist traditions, if not Luther and Calvin themselves, assumed that the Latin legal system of merit and demerit was identical to the Old Testament Hebrew lawcourt. Hence, their doctrine of justification rested upon their concept of a penal substitutionary atonement, which itself reposed on a theory of divine retributive justice which needed satisfaction.

In essence, one major problem is that Protestantism has tended to approach theology via their polemical argument with the legacy of medieval scholastic soteriology which sees good works as either satisfactions or merits, extrinsic to the person. In the 11th and 12th centuries in Western Europe, the resurgence of interest in classical Roman law, including Latin concepts of ‘satisfaction’ and *iustitia distributiva* (what we would call meritocratic-retributive justice because it concerns how rewards are to be justly distributed), forged this context for Catholic, and later Protestant, theologians. However, this theory of good works does not really exist in Greek patristic and Byzantine theology. Wide agreement exists that there is not even a distinction between justification and sanctification in patristic and Byzantine theology.

The Augsburg Lutherans of the 16th century, for example, reveal their self-imposed cultural misplacement in their correspondence with the Greek Ecumenical Patriarch Jeremias II Transos. Tellingly, the Lutherans could not even find theological terms in the vocabulary of Greek patristic theology for the scholastic concepts of satisfaction and merits.¹⁴ Their struggle shows that the concept of ‘satisfaction’ and ‘merit’ did not exist in the early church, which in turn, strongly suggests that neither New nor Old Testament was rooted in a vision of God involving divine retributive justice.

The patristic and Orthodox understanding of the human being is built on an explanation of the image and likeness of God. John of Damascus, considered to have written a summary of the patristic writings before him, explains this distinction between image and likeness in *Exposition of the Orthodox Faith*.¹⁵ We remain in the image of God despite the fall, and thus we retain rationality and free will. The likeness of God, however, is about our *becoming*: We are commanded to become like God through partnership with God, perfecting the virtues of character within ourselves. In this understanding, and in light of our sin, good works are understood to be part of the cultivation of the virtues which restore the likeness of God in the human person. The category and stress are ontological, intrinsic and not extrinsic to the person. Our good works impact our own human nature, as neuroscience is telling us about our brain formation. The Western tradition, by contrast, is dominated by the legal, forensic, juridical view, where our ‘works’ are logged on a theoretical accounting ledger in the mind of God.

Here are several proponents of that view. Charles Stanley, a prolific writer who is senior pastor of First Baptist Church in Atlanta, GA, who has also served two one-year terms as president of the Southern Baptist Convention, writes:

‘The Greek verb tense used in this verse means a once-and-for-all transaction. We have been justified - that is, declared not guilty once and for all. The word justify is not only a theological term, but it is a judicial or legal term as well. As far back as the book of Genesis, the question was asked, “Shall not the Judge of the earth deal justly?” (Gen. 18:25 NASB). If we accept the Lord Jesus Christ who died in our place, we are justified, at peace, spared from the penalty.’¹⁶

The Protestant evangelical campus ministry Cru says in their discipleship materials:

‘Paul is using legal, courtroom, terminology to help explain what God has done for us. Righteousness means a “right-standing” before the judge (God). Justified means for the judge (God) to declare you “just.” The courtroom background is important, because even if someone is guilty, a judge has the ability to declare someone innocent. Here, now, is the big idea. When we think of Christ’s death for our sin, we think only that He has forgiven our sin, but these verses are saying something far greater: God actually credited to us Jesus’ righteousness.’¹⁷

A writer for R.C. Sproul’s Ligonier Ministries, a high federal Calvinist organization, says:

‘Justification is an *act* of God. It does not describe the way that God inwardly renews and changes a person. It is, rather, a legal declaration in which God pardons the sinner of all his sins and accepts and accounts the sinner as righteous in His sight. God declares the sinner righteous at the very moment that the sinner puts his trust in Jesus Christ (Rom. 3:21-26, 5:16; 2 Cor. 5:21).

¹⁴ Dorothea Wendebourg, *Reformation und Orthodoxie: Der ökumenische Briefwechsel zwischen der Leitung der Württembergischen Kirche und Patriarch Jeremias II. von Konstantinopel in den Jahren 1573-1581* (Göttingen: 1985). The whole correspondence is in German: Aussenamt der Evangelischen Kirche in Deutschland (Hrsg), *Wort und Mysterium: Der Briefwechsel über Glaube und Kirche 1573 bis 1581 zwischen den Tübinger Theologen und dem Patriarchen von Konstantinopel* (Witten: 1958)

¹⁵ John of Damascus, *An Exposition of the Orthodox Faith* 4.4

¹⁶ Charles Stanley, *Handbook for Christian Living* (Nashville, TN: Thomas Nelson, 1996), p.196; quoted

<https://www.christianity.com/theology/theological-faq/what-does-justification-by-faith-mean-11527984.html>; last accessed December 30, 2017

¹⁷ Cru, *The Compass Tool for Disciples* (2007); <https://www.cru.org/content/dam/cru/legacy/2012/01/justificationbyfaith.pdf>; last accessed December 30, 2017

‘What is the *basis* of this legal verdict? God justifies the sinner solely on the basis of the obedience and death of His Son, our representative, Jesus Christ. Christ’s perfect obedience and full satisfaction for sin are the only ground upon which God declares the sinner righteous (Rom. 5:18-19; Gal. 3:13; Eph. 1:7; Phil. 2:8). We are not justified by our own works; we are justified solely on the basis of Christ’s work on our behalf. This righteousness is imputed to the sinner. In other words, in justification, God puts the righteousness of His Son onto the sinner’s account. Just as my sins were transferred to, or laid upon, Christ at the cross, so also His righteousness is reckoned to me (2 Cor. 5:21).’¹⁸

The critical and unfortunate misunderstanding here is the assumption that the Western, Latin-based lawcourt operated identically with the Hebrew lawcourt. It does not. In a Western lawcourt, an offender can only rejoin the community after the judge ‘satisfies retributive justice’ through a proportional punishment, at the end of which the offender can be considered innocent in a legal sense. But in the Hebrew lawcourt, an offender rejoins the community based on an apology and commitment to restore the harm done. Acceptance into the community is not based on innocence. The difference between the two can be distilled down to the contrast between meritocratic-retributive justice and restorative justice, which I have sought to demonstrate in this treatment of Exodus 21. Consider, furthermore, Alister E. McGrath’s assertion that the Septuagint translators of the Hebrew word *sedeq* deployed the Greek word *dikaiosyne* by *reorienting* its original Greek meaning, *not maintaining it*.¹⁹ For a much fuller account see Alasdair MacIntyre, *Whose Justice? Which Rationality?*²⁰ Also, Adonis Vidu, in his book *Atonement, Law, and Justice: The Cross in Historical and Cultural Contexts*, explores how the early Christians rejected Greek and Latin notions of meritocratic-retributive justice in favor of biblical, Hebrew restorative justice.²¹ In other words, the early Christians *rejected* precisely what the later medieval and Protestant scholastics *embraced*. And modern evangelicals of the Lutheran-Reformed variety have made *central* to their theological project precisely what the early Christians *rejected* as unworthy of God’s character and nature.

To properly define the New Testament doctrine of justification, we must study the Hebrew judge and lawcourt as required background, as scholars recognize. Exodus 21, in particular, has implications for how ‘justification’ should be understood in the Psalms and in the apostle Paul.

¹⁸ Guy Waters, *What Are Justification and Sanctification?*, Ligonier Ministries: The Teaching Fellowship of R.C. Sproul (May 29, 2015); <https://www.ligonier.org/blog/what-are-justification-and-sanctification/>; last accessed December 30, 2017

¹⁹ Alister E. McGrath, *Iustitia Dei: A History of the Christian Doctrine of Justification* (Cambridge: Cambridge University Press, 1986), ch.1

²⁰ Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, IN: University of Notre Dame Press, 1988), chs.3 – 11

²¹ Adonis Vidu, *Atonement, Law, and Justice: The Cross in Historical and Cultural Contexts* (Grand Rapids, MI: Baker Publishing, 2014), ch.1

Appendix B: English translation and Greek Septuagint of Exodus 21:1 – 36

^{21:1} Now these are the ordinances which you are to set before them: ² If you buy a Hebrew slave [*ebed*], he shall serve for six years; but on the seventh he shall go out as a free man without payment. ³ If he comes alone, he shall go out alone; if he is the husband of a wife, then his wife shall go out with him. ⁴ If his master gives him a wife, and she bears him sons or daughters, the wife and her children shall belong to her master, and he shall go out alone. ⁵ But if the slave plainly says, ‘I love my master, my wife and my children; I will not go out as a free man,’ ⁶ then his master shall bring him to God, then he shall bring him to the door or the doorpost. And his master shall pierce his ear with an awl; and he shall serve him permanently. ⁷ If a man sells his daughter as a female slave [*amah*], she is not to go free as the male slaves do. ⁸ If she is displeasing in the eyes of her master who designated her for himself, then he shall let her be redeemed. He does not have authority to sell her to a foreign people because of his unfairness to her. ⁹ If he designates her for his son, he shall deal with her according to the custom of daughters. ¹⁰ If he takes to himself another woman, he may not reduce her food, her clothing, or her conjugal rights. ¹¹ If he will not do these three things for her, then she shall go out for nothing, without payment of money.

^{21:1} καὶ ταῦτα τὰ δικαιώματα, ἃ παραθήσει ἐνώπιον αὐτῶν. ² ἐὰν κτήσῃ παῖδα Ἑβραῖον, ἐξ ἑτῆ δουλεύσει σοι· τῷ δὲ ἐβδόμῳ ἔτει ἀπελεύσεται ἐλεύθερος δωρεάν. ³ ἐὰν αὐτὸς μόνος εἰσέλθῃ, καὶ μόνος ἐξελεύσεται· ἐὰν δὲ γυνὴ συνεισέλθῃ μετ’ αὐτοῦ, ἐξελεύσεται καὶ ἡ γυνὴ αὐτοῦ. ⁴ καὶ ἐὰν δὲ ὁ κύριος δῶ αὐτῷ γυναῖκα, καὶ τέκῃ αὐτῷ υἱὸς ἢ θυγατέρα, ἡ γυνὴ καὶ τὰ παιδιά ἔσται τῷ κυρίῳ αὐτοῦ, αὐτὸς δὲ μόνος ἐξελεύσεται. ⁵ ἐὰν δὲ ἀποκριθῆς εἶπῃ ὁ παῖς, ἡγάπησα τὸν κύριόν μου καὶ τὴν γυναῖκα καὶ τὰ παιδιά, οὐκ ἀποτρέχω ἐλεύθερος· ⁶ προσάξει αὐτὸν ὁ κύριος αὐτοῦ πρὸς τὸ κριτήριον τοῦ Θεοῦ καὶ τότε προσάξει αὐτὸν ἐπὶ τὴν θύραν ἐπὶ τὸν σταθμόν, καὶ τρυπήσει ὁ κύριος αὐτοῦ τὸ οὖς τῷ ὀπητίῳ, καὶ δουλεύσει αὐτῷ εἰς τὸν αἰῶνα. ⁷ ἐὰν δὲ τις ἀποδῶται τὴν ἑαυτοῦ θυγατέρα οἰκέτιν, οὐκ ἀπελεύσεται, ὥσπερ ἀποτρέχουσιν αἱ δοῦλαι. ⁸ ἐὰν μὴ εὐαρεστήσῃ τῷ κυρίῳ αὐτῆς ἢν αὐτῷ καθωμολογήσατο, ἀπολυτρώσει αὐτήν· ἔθνη δὲ ἀλλοτρίῳ οὐ κύριός ἐστι πωλεῖν αὐτήν, ὅτι ἠθέτησεν ἐν αὐτῇ. ⁹ ἐὰν δὲ τῷ υἱῷ καθωμολογήσῃται αὐτήν, κατὰ τὸ δικαίωμα τῶν θυγατέρων ποιήσει αὐτῇ. ¹⁰ ἐὰν δὲ ἄλλην λάβῃ ἑαυτῷ, τὰ δέοντα καὶ τὸν ἱματισμὸν καὶ τὴν ὀμιλίαν αὐτῆς οὐκ ἀποστερήσει. ¹¹ ἐὰν δὲ τὰ τρία ταῦτα μὴ ποιήσῃ αὐτῇ, ἐξελεύσεται δωρεάν ἄνευ ἀργυρίου.

¹² He who strikes a man so that he dies shall surely be put to death. ¹³ But if he did not lie in wait for him, but God let him fall into his hand, then I will appoint you a place to which he may flee. ¹⁴ If, however, a man acts presumptuously toward his neighbor, so as to kill him craftily, you are to take him even from My altar, that he may die. ¹⁵ He who strikes his father or his mother shall surely be put to death. ¹⁶ He who kidnaps a man, whether he sells him or he is found in his possession, shall surely be put to death. ¹⁷ He who curses his father or his mother shall surely be put to death.

¹² Ἐὰν δὲ πατάξῃ τις τινα, καὶ ἀποθάνῃ, θανάτῳ θανατούσθω· ¹³ ὁ δὲ οὐχ ἐκόν, ἀλλ’ ὁ Θεὸς παρέδωκεν εἰς τὰς χεῖρας αὐτοῦ, δώσω σοι τόπον, οὗ φεύξεται ἐκεῖ ὁ φονεύσας. ¹⁴ ἐὰν δὲ ἐπιθῆται τῷ πλησίον ἀποκτεῖναι αὐτὸν δόλῳ καὶ καταφύγῃ, ἀπὸ τοῦ θυσιαστηρίου μου λήψῃ αὐτὸν θανατῶσαι. ¹⁵ ὃς τύπτει πατέρα αὐτοῦ ἢ μητέρα αὐτοῦ, θανάτῳ θανατούσθω. ¹⁶ ὁ κακολογῶν πατέρα αὐτοῦ ἢ μητέρα αὐτοῦ τελευτήσῃ θανάτῳ. ¹⁷ ὃς ἐὰν κλέψῃ τις τινα τῶν υἰῶν Ἰσραὴλ καὶ καταδυναστεύσας αὐτὸν ἀποδῶται, καὶ εὐρεθῇ ἐν αὐτῷ, θανάτῳ τελευτάτω.

¹⁸ If men have a quarrel and one strikes the other with a stone or with his fist, and he does not die but remains in bed, ¹⁹ if he gets up and walks around outside on his staff, then he who struck him shall go unpunished; he shall only pay for his loss of time, and shall take care of him until he is completely healed. ¹⁸ ἐὰν δὲ λοιδορῶνται δύο ἄνδρες καὶ πατάξῃ τις τὸν πλησίον λίθῳ ἢ πυγμῇ, καὶ μὴ ἀποθάνῃ, κατακλιθῇ δὲ ἐπὶ τὴν κοίτην, ¹⁹ ἐὰν ἐξαναστᾶς ὁ ἄνθρωπος περιπατήσῃ ἔξω ἐπὶ ῥάβδῳ, ἀθῶος ἔσται ὁ πατάξας· πλήν τῆς ἀργίας αὐτοῦ ἀποτίσει καὶ τὰ ἰατρῆα.

²⁰ If a man strikes his male or female slave with a rod and he dies at his hand, he shall be punished.

²¹ If, however, he survives a day or two, *he shall not die [*Samaritan Pentateuch manuscript²²]; for he is his property.

²² In the Masoretic Hebrew and the Greek Septuagint manuscripts of v.21, a man who beats his servant and commits homicide (as opposed to murder) should not be punished: ‘no vengeance shall be taken’ (NASB). That poses a moral irregularity and difficulty. Should he not be punished for a homicide? However, the Samaritan Pentateuch variant contains the phrase, ‘he shall not die,’ instead. Meaning, a punishment short of death is called for, since ‘he shall die’ for homicide in v.20 is the comparison point. See Rev. Canon Garratt, “On the Samaritan Text of the Pentateuch,” *Journal of the Transactions* (London: Harrison & Sons, 1904), p.6; <http://shomron0.tripod.com/articles/garrattpentateuch.pdf>. On the phrase ‘he is his property,’ see the notes below.

²⁰ ἐὰν δὲ τις πατάξῃ τὸν παῖδα αὐτοῦ ἢ τὴν παιδίσκην αὐτοῦ ἐν ῥάβδῳ καὶ ἀποθάνῃ ὑπὸ τὰς χεῖρας αὐτοῦ, δίκη ἐκδικηθήσεται. ²¹ ἐὰν δὲ διαβιώσῃ ἡμέραν μίαν ἢ δύο, οὐκ ἐκδικηθήσεται· τὸ γὰρ ἀργύριον αὐτοῦ ἐστίν.

²² If men struggle with each other and strike a woman with child so that she gives birth prematurely, yet there is no injury, he shall surely be fined as the woman's husband may demand of him, and he shall pay as the judges decide. ²³ But if there is any further injury, then you shall appoint as a penalty life for life, ²⁴ eye for eye, tooth for tooth, hand for hand, foot for foot, ²⁵ burn for burn, wound for wound, bruise for bruise. ²² ἐὰν δὲ μάχωνται δύο ἄνδρες καὶ πατάξωσι γυναῖκα ἐν γαστρὶ ἔχουσαν καὶ ἐξέλθῃ τὸ παιδίον αὐτῆς μὴ ἐξεικονισμένον, ἐπιζήμιον ζημιωθήσεται· καθότι ἂν ἐπιβάλῃ ὁ ἀνὴρ τῆς γυναίκος, δώσει μετὰ ἀξιώματος· ²³ ἐὰν δὲ ἐξεικονισμένον ᾖ, δώσει ψυχὴν ἀντὶ ψυχῆς, ²⁴ ὀφθαλμὸν ἀντὶ ὀφθαλμοῦ, ὀδόντα ἀντὶ ὀδόντος, χεῖρα ἀντὶ χειρός, πόδα ἀντὶ ποδός, ²⁵ κατάκαυμα ἀντὶ κατακαύματος, τραῦμα ἀντὶ τραύματος, μώλωπα ἀντὶ μώλωπος.

²⁶ If a man strikes the eye of his male or female slave, and destroys it, he shall let him go free on account of his eye.

²⁷ And if he knocks out a tooth of his male or female slave, he shall let him go free on account of his tooth.

²⁶ ἐὰν δὲ τις πατάξῃ τὸν ὀφθαλμὸν τοῦ οἰκέτου αὐτοῦ ἢ τὸν ὀφθαλμὸν τῆς θεραπαίνης αὐτοῦ, καὶ ἐκτυφλώσῃ, ἐλευθέρους ἐξαποστελεῖ αὐτοὺς ἀντὶ τοῦ ὀφθαλμοῦ αὐτῶν. ²⁷ ἐὰν δὲ τὸν ὀδόντα τοῦ οἰκέτου ἢ τὸν ὀδόντα τῆς θεραπαίνης αὐτοῦ ἐκκόψῃ, ἐλευθέρους ἐξαποστελεῖ αὐτοὺς ἀντὶ τοῦ ὀδόντος αὐτῶν.

²⁸ If an ox gores a man or a woman to death, the ox shall surely be stoned and its flesh shall not be eaten; but the owner of the ox shall go unpunished. ²⁹ If, however, an ox was previously in the habit of goring and its owner has been warned, yet he does not confine it and it kills a man or a woman, the ox shall be stoned and its owner also shall be put to death. ³⁰ If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him. ³¹ Whether it gores a son or a daughter, it shall be done to him according to the same rule. ³² If the ox gores a male or female slave, the owner shall give his or her master thirty shekels of silver, and the ox shall be stoned. ³³ If a man opens a pit, or digs a pit and does not cover it over, and an ox or a donkey falls into it, ³⁴ the owner of the pit shall make restitution; he shall give money to its owner, and the dead animal shall become his. ³⁵ If one man's ox hurts another's so that it dies, then they shall sell the live ox and divide its price equally; and also they shall divide the dead ox. ³⁶ Or if it is known that the ox was previously in the habit of goring, yet its owner has not confined it, he shall surely pay ox for ox, and the dead animal shall become his.

²⁸ Ἐὰν δὲ κερατίσῃ ταῦρος ἄνδρα ἢ γυναῖκα καὶ ἀποθάνῃ, λίθους λιθοβοληθήσεται ὁ ταῦρος, καὶ οὐ βρωθήσεται τὰ κρέα αὐτοῦ· ὁ δὲ κύριος τοῦ ταύρου ἀθῶος ἔσται. ²⁹ ἐὰν δὲ ὁ ταῦρος κερατιστὴς ᾖ πρὸ τῆς χθῆς καὶ πρὸ τῆς τρίτης, καὶ διαμαρτύρωνται τῷ κυρίῳ αὐτοῦ, καὶ μὴ ἀφανίσῃ αὐτόν, ἀνέλη δὲ ἄνδρα ἢ γυναῖκα, ὁ ταῦρος λιθοβοληθήσεται καὶ ὁ κύριος αὐτοῦ προσάποθανεῖται. ³⁰ ἐὰν δὲ λύτρα ἐπιβληθῇ αὐτῷ, δώσει λύτρα τῆς ψυχῆς αὐτοῦ ὅσα ἐὰν ἐπιβάλωσιν αὐτῷ. ³¹ ἐὰν δὲ υἱὸν ἢ θυγατέρα κερατίσῃ, κατὰ τὸ δίκαιωμα τοῦτο ποιήσωσιν αὐτῷ. ³² ἐὰν δὲ παῖδα κερατίσῃ ὁ ταῦρος ἢ παιδίσκην, ἀργυρίου τριάκοντα δίδραγμα δώσει τῷ κυρίῳ αὐτῶν, καὶ ὁ ταῦρος λιθοβοληθήσεται. ³³ ἐὰν δὲ τις ἀνοίξῃ λάκκον ἢ λατομήσῃ λάκκον καὶ μὴ καλύψῃ αὐτόν, καὶ ἐμπέσῃ ἐκεῖ μὸσχος ἢ ὄνος, ³⁴ ὁ κύριος τοῦ λάκκου ἀποτίσει· ἀργύριον δώσει τῷ κυρίῳ αὐτῶν, τὸ δὲ τετελευτηκὸς αὐτῷ ἔσται. ³⁵ ἐὰν δὲ κερατίσῃ τινὸς ταῦρος τὸν ταῦρον τοῦ πλησίον καὶ τελευτήσῃ, ἀποδώσονται τὸν ταῦρον τὸν ζῶντα καὶ διελοῦνται τὸ ἀργύριον αὐτοῦ, καὶ τὸν ταῦρον τὸν τεθνηκότα διελοῦνται. ³⁶ ἐὰν δὲ γνωρίζηται ὁ ταῦρος ὅτι κερατιστὴς ἔστι πρὸ τῆς χθῆς καὶ πρὸ τῆς τρίτης ἡμέρας, καὶ διαμεμαρτυρημένοι ὡσι τῷ κυρίῳ αὐτοῦ, καὶ μὴ ἀφανίσῃ αὐτόν, ἀποτίσει ταῦρον ἀντὶ ταύρου, ὁ δὲ τετελευτηκὸς αὐτῷ ἔσται.