

Parashah Sixty-One

Exodus 22:25–23:33; Isaiah 49:1–6; James 1:26–2:4

notes by Tim Hegg

These are the Ordinances (con't.)

Our last *parashah* began with the notice that “these are ordinances” given by God to Moses, which he in turn was to give to the people of Israel. Whereas the Ten Words were given as a convenient summary or index of the ordinances, in these *parashot* we see the beginnings of their explanations and applications.

The purpose of the ordinances given by God in the Torah are essentially twofold. First, they were given in order to set God’s people apart from those who trust in false gods (Deut 4:5–7). As the ways of God are lived out by His people, they are set apart unto Him, and from the paganism of the nations. Secondly, the ordinances of God are given to His people in order to establish a firm and wise foundation for interpersonal relationships. Lasting relationships at all levels, whether within the primary unit of the family, or in the extended community family, are maintained and enhanced when one is careful to obey the principles given to us by our Master and Creator.

The first ordinance mentioned in our *parashah* relates to lending money to a fellow covenant member, designated as עַמִּי, ‘ami, “My people.” One is not to charge interest when loaning money to someone in need. The word for “interest” is תְּשֻׁכָּה, *neshech*, which literally means “to bite.” The Mishnah refers this to advance interest that is initially “bitten off” or deducted from the amount of the loan (cf. b.*Bava Metzia* 60b). It may also refer to accrued or compounded interest. This prohibition is very practical: if a poor person is in need of a loan, to charge interest only makes his burden heavier, and increases the possibility that he would not be able to repay the loan, putting him in even further poverty. Thus, loaning money without interest flows from a love for one’s neighbor (Lev 19:18). In Deut 23:20–21 it is specifically permitted to charge interest (תַּשִּׁיחַ, *tashich*) to a *nochri* (נֹכְרִי), that is, to a foreigner who is passing through (as distinguished from a גֵר, *ger*, a foreigner who has taken up residence within Israel). This most likely denotes a foreign merchant who seeks a loan to further his business. Since he may leave and thus present a situation where the loan could not be recovered, charging interest allows the lender to recover his original loan amount more quickly. Moreover, since an Israelite who might be doing business in a foreign country, and who seeks a loan from a foreigner would surely be charged interest, this allowance is based upon the principle of reciprocity.

The principles related to taking a neighbor’s cloak, coming as it does within the context of loaning money, should be understood as taking a cloak as a pledge or collateral for a loan (cf. Amos 2:8; Prov 20:16; 27:13; Job 22:6). The cloak (כֶּסֶת, *kesutah*) was a large piece of cloth used not only as a garment, but also as one’s blanket for sleeping. In this case, the poor person has given what might be his only valuable possession, and something he needed for maintaining daily life. The pledge or collateral is given as a symbolic intention to repay the loan. But since the dignity and freedom of the poor is not to be violated, the cloak must be returned before the day is over (sunset). The Almighty Himself has a special care for the poor, and thus He will carefully look after their needs (cf. Deut 24:12–13). God’s own compassion for the poor is to be the pattern followed by the creditor. It is from this principle that even in our own modern jurisprudence, the necessities of life cannot be extracted from a debtor, even in the worst case scenario, i.e., bankruptcy.

This idea that God’s own compassion is to set the standard for one’s actions, as well as the willingness to submit to judges in civil matters, flows easily into the next section of our *parashah*, namely, one’s duties toward God (22:28–31, Heb 22:27–30). V. 28—“You shall not curse God, nor curse a ruler of your people.” Here the Sages understand אֱלֹהִים, *Elohim* as referring to judges who

speak on God's behalf (cf. Ex 21:6; 22:8–9), since the parallel line has “nor curse a ruler of your people.” Paul quotes this verse after realizing that he had spoken against the High Priest (Acts 23:5). Apparently he was unaware that the High Priest was presiding over the council at his trial. Was his eyesight poor enough that he could not see all who were in attendance? Regardless, realizing his error, he submits to the “ruler” on the basis of our Torah text, which teaches that insubordination against God-appointed rulers is equivalent to insubordination against God Himself.

Honoring God and His appointed leaders is now linked to the giving of the first fruits of the crops, herds, and even the first born of one's children (who were redeemed, e.g., Ex 34:20). Our verse indicates that the first fruits are the choicest portion of the crop. The wording is somewhat ambiguous, but Sarna (*JPS Torah Commentary*) translates “your crop, in full bloom, namely, the best part of it.” God, speaking in the first-person, instructs that one is to give the first fruits “to Me.” This was understood to mean that first fruits were given to the priesthood who served “before the Lord.” In the replacement theology of the emerging Christian Church (2nd Century CE), the “bishops” became the “priests,” and it therefore became the requirement to bring first fruits and tithes to the bishops, of whom the archbishop was designated as the “High Priest” (cf. *Apostolic Traditions* 31). But our *parashah* specifically commands that first fruits be “brought into the House of Adonai your God” (23:19), meaning that they were to be given to the priests who served in the Tabernacle and eventually in the Temple.

The subject of giving the first fruits, that is, the best of one's produce and flocks to the Lord, connects with the prohibition of eating the meat of animals killed by predators (i.e., “torn,” טְרֵפָה, *t'reifah*). To do so rendered the person unclean (Lev 17:15). We should note carefully that eating in accordance with God's ordinances is considered an aspect of being “holy people to Me” (22:31). From God's perspective, the whole matter of *kashrut* is one of sanctification unto Him, first and foremost. While there may be clear health benefits in eating a kosher diet, it's primary purpose is to set us apart to God (cf. Lev 11:44-45; Deut 14:21).

Chapter 23 of our *parashah* begins by stressing the need for justice to prevail within the covenant community. Not only does justice require wise and honest judges (specifically detailed in the previous *parashah*), but it likewise requires honest witnesses. 23:1-3 offer five prohibitions: 1) one cannot give unfounded hearsay testimony in judicial proceedings; 2) collusion on the part of a witness with one of the parties for a fraudulent or deceitful purpose is prohibited; 3) no consideration is to be given to the social standing of the litigants; 4) one is not to pervert justice by deferring to the majority view if one is convinced that it is erroneous; 5) even though the Torah regularly enjoins compassion for the poor, one is not to allow their emotions, however noble, to color one's judgment.

The stress upon preserving justice is now extended to one's enemy (23:4–5). The early rabbinic commentary on Exodus (*Mekhilta*) suggests that all the following could be the intended meaning of the term “enemy”: 1) gentile idolater, 2) convert to Judaism who has relapsed into idolatry, 3) a Jewish apostate, and 4) a Jew who exhibits enmity toward a fellow Jew. Clearly, regardless of how we might define “enemy” in this context, the situation envisions life within a common community. It seems highly likely that Yeshua had this text (and those similar to it, e.g., Prov 25:21) in mind when He taught us to love our enemy (Matt 5:43ff). As those who are created in the image of God, we must not allow our hostile and vindictive emotions to overcome our humanity. We are to exhibit the same kind of compassion that the Creator shows for those who are in need, even if they have been hostile toward us in the past. “Doing good to those who hate you” (Lk 6:27) is demonstrated in our *parashah* by helping in the common issues of life, like helping to return an animal that has strayed, or helping to unload a too-heavy burden from an animal. By extension, we might translate these ancient examples for our modern times as returning lost items and helping in

an emergency (like changing a flat tire on the roadside).

Justice (the primary topic of this paragraph) is dependent upon honest judges. The desire of the judges that a criminal not go unpunished is not to override their decision making and thus bring about a miscarriage of justice. The phrase “do not kill the innocent or the righteous, for I will not acquit the guilty” of 23:7 was understood by the Sages to mean that once a person has been declared innocent and “not guilty” (=righteous), he could not be tried again for the same offence. It is upon this understanding of our text that double-jeopardy was outlawed in our own justice system. That is, once a person has been declared guilty and punished for a crime, a second person cannot be so punished for the same crime, even if the original verdict was found to be faulty (cf. *b.San* 33b; cp. 5th Amendment, US Constitution).

In distinction to the judges’ desire that criminals be brought to justice, there is also the possibility that judges could be bribed. Since they held in their power the judicial outcome, they were likewise targets for bribery. Since God, as the final Judge, “shows no favor and takes no bribe” (Deut 10:17; 2Chron 19:7), earthly judges who serve in His court, are to follow suit. The Sages extended “bribery” to “verbal bribery,” so that it was prohibited for a litigant to laud the judge with verbal niceties (*b.Ketubbot* 105b).

Likewise, the judge is not to look down upon a stranger (גֵר, *ger*), that is, one who is a foreigner but has most likely taken up residence within the nation of Israel. Whereas before (Ex 22:21[22]) the similar injunction was given to all Israelites, here it is specifically enjoined upon judges. In addition, a motive clause is added: “since you yourselves know the feelings of a stranger.” The judges should consider that they, or their forefathers, felt the tyranny of injustice in Egypt, being treated as foreigners without legal recourse. As such, the judges should have an additional personal motive for seeing that a foreigner be given the same justice as a native born.

The next section of our *parashah* deals with agricultural laws, which naturally coincide with the cycle of the year and thus the festivals. The agricultural laws also connect with the fair and kind treatment of the poor and those within the society that were at a disadvantage (such as orphans, widows, and foreigners).

In the sabbatical year (שְׁמִטָה, *sh’mitah*, from the verb שָׁמַט, “to let drop,” “to release”) or the seventh year in a seven year cycle, it was prohibited to sow or reap crops (the fuller explanation is given Lev 25:1–7, 18–22; Deut 15:1–10), “so that the needy of your people may eat” (Ex 23:10). In the overall scheme of things, the *sh’mitah* was a matter of conservation. Arable land that is continuously cultivated is soon depleted of its nutrients and thus becomes less productive. However, these laws extend to orchards and vineyards as well, so that the annual fruit which appeared during the sabbatical year was considered “ownerless,” meaning it was available to all. Moreover, since grain fields were harvested by hand, a good amount of the grain fell in the fields, and was capable of producing volunteer crops the next year. It seems likely, therefore, that even in the sabbatical year, there was some standing grain in the fields.

The mention of the *sh’mitah* year now is tied to the other appointed times, namely, the weekly Sabbath, and the three pilgrimage festivals (each referred to as חַג, *chag*, “procession,” “round dance,” “festival” and cognate to Arabic *hajj*), all three of which are closely tied to agricultural events. Passover Day, Yom Teruah (Rosh HaShanah), and Yom Kippur are not mentioned since they are not festivals that are rooted in the soil. Pesach and the Feast of Unleavened Bread were viewed as a single festival (e.g., Mk 14:12; Lk 22:7).

The Sabbath is to the weekly cycle what the *sh’mitah* is to the yearly cycle. On it all are given the opportunity of rest, but our verse (23:12) specifically mentions beasts of burden, and the son of a female slave, along with the “stranger” or *ger*. By *qal v’chomer* (an argument comparing the “light” with the “heavy”), it is reasoned that if the most disadvantaged of society are afforded rest

on the Shabbat, then surely this applies to all others. It is interesting that the animals are said to have “rest” (נוּחַ, *nuach*) but the people are said to be “refreshed” (נִפְּשׁוּ, *naphash*). Thus, the rest that comes to mankind is of both a physical and a spiritual nature.

Ex 23:13, which prohibits evoking the names of pagan gods, may seem intrusive, but actually it fits perfectly into the flow of this passage. The pagan world of the Ancient Near East knew many festivals, most of which centered around an invocation of the gods to renew the soil and to invigorate the flocks in order to be fertile. These were accompanied by magical rites aimed at propitiating divine powers and enlisting their aid in bringing produce and offspring in the coming year. Thus, we should understand the prohibition of not “mentioning the name of pagan gods,” or letting them be “heard from your mouth” to be connected with such pagan rituals, which apparently were attractive to Israel throughout her history. This is further emphasized in the next verse (23:14) by the command to celebrate the feasts of Israel “to Me,” that is, to God exclusively. The same emphasis is found in v. 17: “Three times a year all your males shall appear before the Lord GOD.”

The Feast of Unleavened Bread (חַג-הַמַּצּוֹת, *chag hamatzot*) occurred at the time of the barley harvest (Abib was the Canaanite name of the month in which the grain ripened) and is commanded in Ex 12:14–20. The requirement of eating only unleavened bread is tied to the exodus event when the hasty departure from Egypt left no time for the dough to raise. But unleavened bread may have also been a reminder that bread in its most desired form (i.e., fully raised) was possible only as God blessed Israel with yet another harvest. Eating unleavened bread may have symbolized how bleak life would be if God did not continually bring nourishment to His chosen nation. The offerings that were brought at the festival served as a reminder that God was the giver of all food (which we regularly acknowledge by the blessing of the *hamotzi*). Thus, none were to appear at the festival “empty handed,” that is, without the appropriate offering.

The Feast of the Harvest (חַג הַקְּצִיר, *chag haqatzir*) is better known as the Feast of Weeks (Shavuot) or Pentecost (the term used by Greek speaking Jews) since it occurs fifty days from “the day after the Sabbath” of Passover. It is also called the “day of the first fruits” (Num 28:26) since the first fruits of the wheat harvest were brought to the priests. From ancient times Shavuot was celebrated as the commemoration of the giving of the Torah (cf. 2Chron 15:10–13 where King Asa called a great assembly of the people in the third month for a national ceremony of covenant renewal; cf. Jubilees 6:17).

The Feast of Ingathering (חַג הַאָּסִיִּף, *chag ha’asiph*) is better known as the Festival of Booths (Tabernacles) or Sukkot. Again, this festival is tied to the exodus event, for when the people of Israel came out of Egypt, they lived in temporary booths or *sukkot* (plural of *sukkah*, “booth”). It was common during the harvest of vegetables and fruit that temporary booths were constructed in the fields for protection and for sleeping. Thus, the final harvest of the year is likewise part of the Sukkot celebration. Decorating the *sukkah* with various fruits and vegetables carries forth this theme. In biblical and rabbinic literature, Sukkot took on such an importance that it was called “the Festival” (חַג, *he-chag*, cf. 1Ki 8:2[3], 65; 12:32; Ezek 45:23; Neh 8:14; 2Chron 5:3; 7:8–9; cp. John 7:2f). The Feast of Ingathering is noted to occur “at the end of the year,” meaning the end of the agricultural year. The parallel phrase in Ex 34:22, “at the turn of the year,” likewise means the transition from one agricultural season to the other.

23:18–19 append some general rules governing the sacrifices that would take place on the aforementioned festivals. Offering the “blood of My sacrifice with leavened bread” pertains particularly to the sacrifices offered at the Feast of Unleavened Bread. The Sages derive from this that the Pesach sacrifice could not be offered until all the leaven of the Land had been disposed of. Thus, the time set for removal of all leaven was noon on the 14th of Nisan, the time when the offering was made in the Temple. But in order to safeguard the prohibition of not offering the sacrifice

while leaven remained, the time was pushed back two hours (m.*Pes* 5:4; t.*Pes* 3:3).

It is also prohibited for “the fat of My feast to remain overnight until morning.” 34:25 reads “nor is the sacrifice of the Feast of the Passover to be left over until morning.” In like manner, the consumption of the Pesach lamb was to be finished during the night hours (the rabbis set midnight as the time after which no meat of the Pesach could be eaten), and any that was left over had to be destroyed by burning.

The third statute relates to bringing the choicest of the wheat harvest at the Feast of Shavuot (the word רֵאִשִׁית, *reishit* obviously means “choicest” here, cf. Num 18:12; Deut 33:21 1Sa 15:21; Ezek 44:30; Amos 6:6).

The final prohibition, “You are not to boil a young goat in the milk of its mother” has been notoriously difficult to interpret. Being grouped as it is with regulations clearly connected to festivals, many ancient interpreters understood it to refer to some kind of pagan ritual, engaged in at the pagan festivals, which Israel was to shun. Thus, Maimonides understood this prohibition as relating to a pagan rite, while other rabbinic commentators (Rashbam, Ibn Ezra, etc.) understand it simply on humanitarian grounds, that it was intrinsically inhumane to use the mother’s milk to boil her kid, parallel to the prohibition of taking the mother bird with her young (Deut 22:6). Philo, in the 1st Cent. CE, held that the prohibition, while extended to “the flesh of lambs or kids or any other young animal,” but the prohibited milk is only that the animal’s mother. In time, the rabbis interpret this verse (and its parallels in Ex 34:26 and Deut 14:21) to prohibit eating any meat with milk, including meat of fowls.

Initially, a line from the Ugaritic literature (*KTU* 1.23) was thought to include a reference to “boiling a kid in milk.” Line 14 of that text entitled “The gods pleasant and beautiful,” was translated: “boil a kid in milk, a lamb in butter.” This appeared to give credence to the idea that our biblical text related to a pagan sacrificial ritual. However, more recently, Ugaritic scholars have reassessed the cuneiform characters, and decided that this original translation has no basis (see Robert Ratner, “A Kid in Milk?”: New Photographs of *KTU* 1.23, line 14”, *HUCA* 1986, pp. 15–46). Though the exact translation remains uncertain, current scholarship almost universally denies that the Ugaritic text can be used to posit a pagan, sacrificial ritual, which would inform our current text.

Given these data, perhaps the best we can do in interpreting this prohibition is to suggest that humanitarian concerns are primary. During festivals when so many animals were slaughtered and sacrificed, there was still to be a recognition that the life of the animal is important to God and must be properly appreciated. More directly, the relationship between mother and offspring is not to be violated.

Our *parashah* ends with a most remarkable description of the Angel of the Lord (23:20–23) and the exhortation to Israel that she should be wholly given over to the worship of God alone, and not give way to any of the pagan practices that surrounded her. The description of the Angel is intriguing, for the attributes of God Himself are ascribed to Him. We may note three commands, and two attributes that undergird His authority.

Commands: **1)** be on guard before Him (הִשָּׁמֵר מִפְּנֵי). The point is that Israel, by the presence of the Angel, is to reckon with the fact that God is in her midst. Eben Ezra writes regarding this phrase: “All which the Angel does is a thing of HaShem. Do not add to it, nor take away from it.” **2)** obey His voice (שָׁמַע קוֹלוֹ). This is the positive aspect, the next command will encompass the negative. The Angel comes with the authority of God Himself. **3)** Do not rebel against Him (אַל-תִּגְדָּר בּוֹ). Disobedience in regard to His instructions will be considered as rebellion against God Himself.

Attributes: (the basis for the commands) **1)** He is completely just: “He will not pardon your transgression,” meaning that He will not overlook sin to sweep it away without consequence. **2)** “Since My Name is in Him” (כִּי שְׁמִי בְּקִרְבּוֹ). This gives the reason why He cannot overlook sin—He is endowed with the same infinite character as HaShem. Yet Is 42:8 teaches us: “I am Adonai, that is My name; I will not give My glory to another, nor My praise to graven images.” How could the very Name (i.e., the exact character of the Almighty) be within the Angel? Here, early in the Torah, we are once again confronted with the mystery of the Godhead. The One God reveals Himself in plurality. He could just as easily have said “I will go with you, etc.” but He does not. Instead, the Angel He sends comes with the fullness of His presence—the Name is within Him.

In the final analysis, then, the ordinances that are given have as their ultimate purpose the preparation of God’s people as His dwelling place. He desires to dwell among His people, and for this reason, He requires that they be sanctified unto Him. He makes His people righteous in order that He might dwell with them.