

TALKS 46 & 47 ALIENS & STRUCTURAL LAWS, COVENANT, CLIMAX OF DEUTERONOMY AND LOVE OF ALIEN

1. Justice for the aliens in structural laws

Moving beyond the interpersonal laws that pertain to aliens, we come to laws that perhaps can best be clustered together under the heading of “justice for aliens in structural laws”. The laws we now consider very briefly are *structural provisions* in law for achieving, maintaining or administering justice, namely the cities of refuge and the Israelite calendar. These laws are *structural* rather than *interpersonal* in that they layout *patterns* of behavior that provide structure to life in which individuals participate. One thinks of road systems where cars are to drive on the right-hand side, at least in America: a structural “law” which guides individual driving behavior.

In terms of Mosaic Law, perhaps the covenant also belongs here as a structural matter; but we have given it a separate heading because of its importance. The full discussion of structural laws is reserved for our study of the Law as the Constitution of Israel, where Israel as a whole, and not just aliens, is our focus. Our division of materials here is somewhat arbitrary and obviously there is an overlap between these structural laws and the Constitution. The pie can be cut into different size pieces. Our goal is simply to do our best to serve up the whole pie in due course.

1.1. Justice for aliens in the cities refuge: Num 35:15

We have already briefly encountered the idea of cities of refuge for unintentional killings in the BC (Ex 21:13):

Anyone who strikes a man and kills him shall surely be put to death. ³
 However, if he does not do it intentionally,
 but God lets it happen,
 he is to flee to *a place I will designate*.

This protection for unintentional killing by an Israelite of a fellow Israelite is extended to include the alien in Numbers 35:15:

These six towns will be a place of refuge
 for Israelites, aliens (*ger*) and any other people (*towshab*:H8453) living among them,
 so that anyone who has killed another accidentally can flee there.

Obviously, this is another example of the “one law” principle, but the language “one law” or “same law” is not used here. Cities of refuge are a matter of the administration of justice, and the concern here is that justice be done not only for the Israelite but also for the alien and “any other people living among them”. The RSV and ESV have “for the stranger and for the sojourner among them” and the NRSV has “for the resident or transient alien among them”. The precise meaning of *towshab* is disputed (Baker, 2009, 181, n. 24). He is probably some sort of *transient* alien and thus one step down the social ladder from the *resident* alien (*ger*). Equal protection under the Law, i.e. justice, extends not only to the Israelite and the resident alien, who probably lives “within your gates”, but even to the *transient* alien, perhaps one who moves from village to village doing odd jobs here and there. This law provides for *equality of access to justice for all*. Again, there is no law like this in the ANE law collection. We shall return to the cities of refuge later.

1.2. Calendar and the alien

The next three laws deal with the *calendar* in Israel and thus are structural matters about *time*. These laws pertain to days (Sabbath), months (Festivals) and years (third year tithe) and each one specifically mention the alien. We shall treat these very briefly because we shall return to them under the Law as the Constitution of Israel where we shall discuss their impact on the whole of Israel.

1.2.1. Rest for the alien on the Sabbath: Ex 20:8-10; Deut 5:14; Ex 23:12

I must confess that having read the Ten Commandments for years, it never dawned upon me that the fourth commandment included rest for the alien. Rest for the alien in connection with the Sabbath is repeated in the BC. Here are the relevant texts:

Exodus 20:8-11

Remember the Sabbath (shabbath:H7676) day by keeping it holy. ⁹

Six days you shall labor and do all your work, ¹⁰

but the seventh (shebiy'iy:H7637) day is a Sabbath (shabbath:H7676) to the LORD your God.

On it you shall not do any work,

neither you,

nor your son or daughter,

nor your manservant or maidservant,

nor your animals,

nor the *alien* (ger) within your gates. ¹¹

For in six days the LORD made the heavens and the earth, the sea, and all that is in them,

but he rested on the seventh (shebiy'iy:H7637) day .

Therefore the LORD blessed the Sabbath (shabbath:H7676) day and made it holy.

Deuteronomy 5:12-15

Observe the Sabbath (shabbath:H7676) day by keeping it holy,

as the LORD your God has commanded you. ¹³

Six days you shall labor and do all your work, ¹⁴

but the seventh (shebiy'iy:H7637) day is a Sabbath (shabbath:H7676) to the LORD your God.

On it you shall not do any work,

neither you,

nor your son or daughter,

nor your manservant or maidservant,

nor your ox, your donkey or any of your animals,

nor the alien (ger) within your gates,

so that your manservant and maidservant may rest,

as you do. ¹⁵

Remember that you were slaves in Egypt and

that the LORD your God brought you out of there with

a mighty hand and

an outstretched arm.

Therefore the LORD your God has commanded you to observe the Sabbath (shabbath:H7676)

day.

Exodus 23:12

Six days do your work,

but on the seventh (shebiy'iy:H7637) day do not work (shabath:H7673),

so that your ox and your donkey may rest (nuwach:H5177) and

the slave born in your household, and

the alien (ger) as well,

may be refreshed (naphash:H5314).

Since we shall return to the Sabbath later and have already looked at it in the TC, here we only note that the alien, along with the manservant, the maidservant and the animals, is included in the rest. This is surely a deliberate move so that those on the margins do not end up working on the Sabbath. They too, maybe they especially, need *rest*. The phrase “the alien within your gates” (besides TC see Deut 14:21; 31:12) probably has the sense of *resident* alien, i.e. he lives within the town and probably is embedded in the extended family.

The grounding of the Sabbath commandment first in the act of creation (Exodus account) and then in the Exodus event (Deuteronomy account) is significant in both cases for the alien. By grounding the Sabbath in creation, it means that the Sabbath is for all humans which would include the alien. Extending the Sabbath protection to the alien is not really an “extension” when viewed from the perspective that Sabbath was part of the creation for all humans. Remember, Israel was keeping the Sabbath before the Law was given, i.e. Israel gathered manna for six days but not on the Sabbath (Ex 16:23-29). Second, in Deuteronomy the Sabbath is grounded in the LORD’s deliverance of Israel from Egypt. The LORD delivered Israel from slavery and from being aliens in Egypt so that

they could be free and native-born citizens in the Promised Land. The LORD does not want to re-create in the Promised Land a society like the society in Egypt where slaves and aliens are oppressed. The Promised Land is not to be New Egypt. As an American I find it strange that part of our country should be called New England given that many of our ancestors, including mine, fled England.

We have studied the slave laws above and concluded that by comparison with the other laws of the ANE, Israel was *moving in the direction of creating a different kind of society*. One could not strike a chattel-slave in the eye or tooth and get away with it. One certainly could not kill a chattel-slave with impunity. And runaway chattel-slaves were not to be returned to their former master. Admittedly Israelite law still had one very minor provision for buying and owning chattel-slaves, but this was not the dominant pattern in the new society. With aliens the matter is much clearer perhaps because there are many more aliens than chattel-slaves in ancient Israel and therefore there are many more laws about aliens than chattel-slaves.¹ Aliens are to be under the same law as the native-born beginning with the fourth commandment about the Sabbath. Israelite, alien and slaves were to rest on the Sabbath. Baker (2009, 287) who speaks of the Sabbath as a “holiday” reminds us that “None of the ancient Near Eastern laws make provisions for holidays” and that “The Sabbath is unique in the ancient Near East” (294). We shall have much more to say about the Sabbath when we come to the Constitution of Israel.

1.2.2. Rest for the alien at the Festivals: Ex 23:14, 17; 34:23; Deut 16:16

Besides the weekly rests, there were also the three annual pilgrimage festivals, when all males and almost everyone else in Israel went to the Tabernacle (not the Temple at this stage of the story!) for a week-long celebration (Ex 23:14, 17; 34:23; Deut 16:16; cf Lev 23). We shall not try to spell out any of the details about these celebrations but only note that *aliens* were included in these.² Such inclusion would allow them rest, food, socialization with others and an opportunity to learn about the LORD and to worship. We have already seen that the alien, if his household is circumcised, is allowed but not required to participate in the Passover (Ex 12:48, 49), which is part of the Feast of Unleavened Bread:

An *alien* living among you who wants to celebrate the LORD's Passover must have all the males in his household circumcised;

then he may take part like one born in the land.

No uncircumcised male may eat of it.⁴⁹

The *same law* applies to the native-born and to the *alien* living among you.

For whatever reasons, Exodus 23 and 34 along with Leviticus 23 do not specifically mention the inclusion of the alien in the feasts. Perhaps in light of the inclusion of the alien at Passover in Exodus 12:49 we are simply to assume that they were to be included in the others festivals if they are included in this most foundational of all celebrations. Whatever may be the explanation, when we come to the list of festivals in Deuteronomy 16, beginning with the Feast of Weeks (16:11), the alien is mentioned in a very detailed list similar to the list in the fourth commandment (Deut 16:11):

And rejoice before the LORD your God at the place he will choose as a dwelling for his Name--
you,
your sons and daughters,
your menservants and maidservants,
the Levites in your towns, and
the aliens (ger),
the fatherless and the
widows living among you.

In the next feast, the Feast of Tabernacles, the same list is repeated but this time with the Levite also included (Deut 16:14):

Be joyful at your Feast--
you,
your sons and daughters,
your menservants and maidservants, and
the Levites,
the aliens (ger),
the fatherless and

the widows who live in your towns.

In Deuteronomy 26:11 in connection with bringing to the LORD the firstfruits, the command is:

And you and
the Levites and
the aliens (ger) among you shall rejoice in all the good things
the LORD your God has given to
you and
your household.

Presumably the sons and daughters are not mentioned because they are part of the household, although they are mentioned in the Sabbath day rest. It is not clear what has happened to the fatherless and widow. There are complexities here that we have passed over in silence so as to make the simple point that the aliens (ger) were *explicitly* included in the three annual required feasts, Passover/Feast of Unleavened Bread, the Feast of Weeks and the Feast of Tabernacles. Again, we underscore that such participation meant rest, food (in some cases during a time of possible scarcity) including meat which would not have been part of the regular diet,³ socialization with those outside their normal scope of acquaintances and most importantly access to the worship of the LORD at the Tabernacle. The alien was allowed to participate in the life of Israel at the *center* of Israel's life and source of identity.

1.2.3. Third year tithes for the alien: Deut 14:28-29; 26:12, 13

Tithes is a topic we shall treat under the Law as a Constitution for Israel as it is intended to structure behavior in society concerning the distribution of wealth. We mention briefly the two references to the third year tithe because they include the alien along with the widow, orphan and Levite (Deut 14:27-29; 26:12):

Deut 14:28 At the end of every three years,
bring all the tithes (ma'aser:H4643) of that year's produce and store it in your towns, ²⁹
so that the Levites (who have no allotment or inheritance of their own) and
the aliens (ger),
the fatherless and
the widows who live in your towns
may come and eat and be satisfied, and
so that the LORD your God may bless you
in all the work of your hands.

Deut 26:12 When you have finished setting aside a tenth of all your produce
in the third year, the year of the tithe (ma'aser:H4643),
you shall give it to the Levite,
the *alien* (ger),
the fatherless and
the widow,
so that they may eat in your towns and be satisfied. ¹³

Then say to the LORD your God:

"I have removed from my house the sacred portion and have given it to
the Levite,
the *alien* (ger),
the fatherless and
the widow, according to all you commanded.

I have not turned aside from your commands nor have
I forgotten any of them. ¹⁴

I have not eaten any of the sacred portion while I was in mourning, nor have
I removed any of it while I was unclean, nor have
I offered any of it to the dead.

I have obeyed the LORD my God;

I have done everything you commanded.”

Although tithing as a tax is well known in the ANE, there is nothing in the laws or apparently in the practice of the ANE about setting aside a tithe for the alien on the third (and sixth) year, not to mention the widow, the fatherless and the Levite. This is another piece of unique legislation in the Mosaic Law.

There is a huge debate about when the tithing laws in general (Lev 17:30-33; Num 18:21-32; Deut 12:5-19; 14:22-27) along with the third year tithing laws developed, but we simply take the text as it stands in the story, i.e. canonical form.⁴

The tithe of the third year is presumably the regular tithe and not an additional one. Also it is presumed that the third year tithe was to be understood in a seven (sabbatical) year cycle in which the tithe for the alien and others would be set aside the third and sixth year and the seventh year would be a sabbatical in which nothing was directly produced (no planting and harvesting) and therefore nothing was tithed. The usual tithes, first year, second year, etc., were to be taken to “the place he will choose as a dwelling for his Name” and eaten in celebration before the LORD (Deut 14:23, 26). This eating of the tithe before the LORD is amazing. We must return to it later. Altmann (2011, 226) provocatively declares that “The Israelites are to eat their taxes.” In the ANE the tithe/tax would go to the temple and/or the king, not to the ordinary citizen and certainly not to the alien, the poor and the widow.

On the third and sixth years the tithe was to be stored in “your towns”. Because Palestine is a dry climate, the food could last several years so that it was not just in the third and sixth years that it was available to the alien, the widow, the orphan and Levite but probably all six years.

Why is the Levite included with these marginals? The answer seems to be that Levites, like the others mentioned, are *dependent* on others for their substance. They “have no allotment or inheritance of their own” (Deut 14:29). We shall return to this matter later and suggest as a hypothesis to be explored that the LORD deliberately made the Levites *dependent* so that they would stand in stark contrast to the *independent*, wealthy priests of Egypt. Finally, once again we underscore that this provision for the poor, among who are the aliens, widows and orphans, is a matter of obedience to the Law, not an act of charity as benevolence. Tithes are also a matter of justice because they are a matter of obedience to the Law. We shall return to the fascinating and complex issue of tithes and taxes under the just economic structures provided for in the Law as a Constitution for Israel.

2. Covenant and alien

Again, we shall be brief. Exodus 12:49, as noted above, is the first mention of the inclusion of the aliens on the basis of circumcision, “the sign of the *covenant*” (Gen 17:11), so that they may eat the Passover, the foundational meal in Israelite life. Here we consider two facets of the covenant that pertain specifically to the alien: the alien is to enter into the covenant and the alien is to hear the proclamation of the covenant stipulations, i.e. the law. We shall return to the Covenant both at Exodus 24, after we finish the BC, and again in the Law as the Constitution of Israel.

2.1. Alien is to enter into the covenant with the LORD, Deut 29:10-15

Although Deuteronomy has spoken forcefully about justice for the alien in several contexts, this is the first time that inclusion of aliens in the people of God is mentioned in Deuteronomy. This will not be a full discussion of the nature of the covenant that Yahweh made with Israel. We will take that up below when we come to Exodus 24. In a way, we have gotten a bit ahead of the story in that Deuteronomy 29:1 makes it clear that the covenant at Moab, which we are now discussing, comes some forty years after the covenant at Horeb (Sinai, Ex 24). Here is the text (Deut 29:10-15):

All of you are standing today in the presence of the LORD your God-- your leaders and chief men,
 your elders and officials, and
 all the other men of Israel, ¹¹ together with
 your children and
 your wives, and
 the aliens (*ger*) living in your camps who chop your wood and carry your water. ¹²

You are standing here in order to enter into
 a covenant (*beriyth*:H1285) with the LORD your God,
 a covenant the LORD is making with you this day and
 sealing with an oath (*alah*:H423 or a curse)¹³
 to confirm you this day as *his people*, that *he may be your God*
 as he promised you and as he swore to your fathers,
 Abraham, Isaac and Jacob.¹⁴

I am making this covenant, with its oath, not only with you ¹⁵
 who are standing here with us today in the presence of the LORD our God
 but also with those who are not here today.

For Israel this is an amazing word that the LORD wants to be “your God” and that Israel should be “his people”. We have already seen that the goal of God’s work on earth as expressed in Exodus 6:7 is that “I will take you as my own people, and I will be your God.” This covenant that the LORD is making with Israel at Moab is a continuation of the covenant he made with Abraham and his descendants (Gen 12:2, 3) and ultimately goes back to the Garden of Eden where God walked with Adam and Eve. He was their God: they were his people. God’s goal in the creation was a “naked” couple, right with each other, with God and with the environment, in short, a just society (taking “naked” as open, right, just). The goal of the covenant with Abraham was to make of him a “great nation”, which the storyline of Genesis explains as Abraham believing God which was the “right thing to do” (15:6), walking before God as “blameless” (17:1), teaching his children the way of the LORD, i.e. justice and righteousness (Gen 18:19) so that he and his seed might become a just society and by being a just society they would be a blessing to the families of the earth by showing to them the character of the LORD manifest in the social arrangements of his people which stood within the ANE as a contrast society.

This blessing to all of the families of the earth finds a partial fulfillment in the amazing inclusion of the aliens within the covenant. We do not need to wait for some far distant event to see the beginning of the fulfillment of the promise of Genesis 12:2, 3.

The list of those standing in the presence of the LORD starts with the most honorable i.e. leaders, chief men, elders and officials and ends with the least honorable, the aliens. There is a ranking based on honor, not necessarily wealth, which reflects the sort of ranking one finds in most traditional societies. This is not the place to discuss the honor ranking systems of traditional societies except to say that as one aged, generally speaking, one moved to the top of the honor system. In this sense, the traditional ranking based on age had an egalitarian facet to it. This included women because women, with very few exceptions, were married and “embedded” in their male, whose honor they shared. Of course one needed to live a long time in order to experience that honor! But *all* could, at least in principle, become old and therefore honored; if one did not behave dishonorably along the way to old age.⁵ It is a huge step of imagination for most of us to enter into that world.

The expression “the aliens living in your *camps*” reflects the reality that they have yet to cross the Jordan and enter the Promised land. They are still living in varied camps (Deut 2:14, 15; 23:9-14) where they do the lowliest of work, i.e. chopping wood and drawing water. Along with the great privilege of being “his people” and Yahweh being “their God”, the aliens are also under an oath or more likely a curse⁶ if they return to their gods.

2.2. Alien to hear Covenant stipulations, the standard of justice for all: Deut 31:10-12

Following on from the alien’s inclusion in the covenant is the alien’s obligation to hear and to obey the covenant stipulations, which we take to be the whole of Deuteronomy. Deuteronomy records Moses’ command about the hearing of the Law (31:10-12):

Then Moses commanded them:

"At the end of every seven years,

in the year for canceling debts,

during the Feast of Tabernacles,¹¹

when *all Israel* comes to appear before the LORD your God at the place he will choose, you shall read this law before them in their hearing.¹²

Assemble the people--men, women and children, and the *aliens* living in your towns--so they can listen and

learn to fear the LORD your God and

follow carefully all the words of this law.

The alien is to listen, learn and follow all the words of this law just like everyone else when “all Israel” (vs 11) gathers every seventh year (cf. Deut 15). Apparently the alien is part of “all Israel,” and they must have a sufficient understanding of the Hebrew language so as to listen and learn. We have already discovered that the alien is punished for blasphemy, a breaking of the law (Lev 24:22; Num 15:29). We also know that the alien was subject to laws about blood (Lev 17:10-14),⁷ about washing his clothes and his body if he eats “anything found dead or torn by wild animals” (Lev 17:15), about prohibiting the offering of his children to Molech (Lev 20:2) and about uncleanness resulting from gathering up the “ashes of the heifer” (Num 19:10).