

BRIEF NOTES

The *Pater Familias* as a Landowner in the Context of the Slave Laws of the Pentateuch. A Brief Response to Esias E. Meyer¹

BENJAMIN KILCHÖR (STH BASEL, CH)

ABSTRACT

*In his review essay on my dissertation, Esias E. Meyer dedicates an important part to discussing the slave laws in the Pentateuch. A key role in his critique is played by his understanding of the term *pater familias* as “a man with a woman and children.” This, however, is not how I used the term; rather, a *pater familias* is the head of an extended family with land possession. In this response, I show that landownership is the key to understanding the relationship between the slave laws of the Pentateuch.*

KEYWORDS: *pater familias*, Landownership, slave laws, Pentateuch

A INTRODUCTION

In *OTE* 30 (2017), Esias E. Meyer published a review essay² on my dissertation.³ I feel honoured both by the length and the elaboration of his article. Scholars may of course judge differently about the question whether my book is “obviously intended for a small number of specialists in the field of diachronic analysis of the origin of the Pentateuch,”⁴ or whether it should be “understood as the continuation of a trend in Pentateuch scholarship towards synchrony”⁵ – in

* Submitted: 03/09/2018; peer-reviewed: 30/11/2018; accepted: 19/02/2019. Benjamin Kilchör, “The *Pater Familias* as a Landowner in the Context of the Slave Laws of the Pentateuch. A Brief Response to Esias E. Meyer,” *Old Testament Essays* 32 no. 1 (2019): 256-262. DOI: <https://doi.org/10.17159/2312-3621/2019/v32n1a14>.

¹ This article is published in connection with my status as Research Associate at the Department of Ancient and Modern Languages and Cultures of the University of Pretoria. I am thankful to Phil Botha for improving the English of this paper.

² Esias E. Meyer, “When Synchrony Overtakes Diachrony: Perspectives on the Relationship between the Deuteronomic Code and the Holiness Code,” *OTE* 30/3 (2017): 749–769.

³ Benjamin Kilchör, *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri* (BZAR 21, Wiesbaden: Harrassowitz, 2015).

⁴ Thus Thomas Hieke, review of *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, by Benjamin Kilchör, *RBL* 11/2016.

⁵ Thus Meyer, “Synchrony,” 749.

both cases this is meant as a critique of my approach – yet I do not want to go into this very basic discussion here. Neither do I intend to defend my preference to admit a lack of knowledge with regard to dating issues, instead of basing a whole book on dating speculations.⁶ However, with regard to the relationship between the Slave Laws in the Pentateuch I feel misunderstood, or, maybe, I did not express myself clearly enough and therefore I want to give a brief response on this specific issue. The question at stake is: What is a *pater familias* in the context of my argument?⁷

B PATER FAMILIAS AS “LANDOWNER”

The starting point is the following scheme (following basically a suggestion of Adrian Schenker⁸) cited by Meyer,⁹ where I argue that Exod 21:2–11 and Lev 25:39–46 are complementary:

1. Male slaves

- a. An unmarried male slave is set free after six years (Exod 21:3a).
- b. A slave who is married but childless is freed after six years, with his wife (Exod 21:3b).
- c. A slave who is initially unmarried, but then marries a wife provided by his master, cannot leave after six years with his family, but must choose between freedom and family (Exod 21:4).
- d. A *pater familias* who becomes a slave is no slave, but rather a day labourer who must be freed after 50 years (Jubilee) (Lev 25:39-41).

⁶ See especially Benjamin Sommer, “Dating Pentateuchal Texts and the Perils of Pseudo-Historicism,” in *The Pentateuch: International Perspectives on Current Research*, ed. Thomas B. Dozeman, Konrad Schmid and Baruch J. Schwartz, FAT 28, (Tübingen: Mohr Siebeck, 2011), 85–108; Benjamin Kilchör, “Did H Influence D on an Early or a Late Stage of the Redaction of D?,” *OTE* 29 (2016): 502–512 (here: 510).

⁷ The term *pater familias* originally designated the highest-ranking man in a Roman private household (cf. Hans-Joachim Gehrke, “Die römische Gesellschaft,” in *Das alte Rom. Geschichte und Kultur des Imperium Romanum*, ed. Jochen Martin (Gütersloh: Bertelsmann, 1994), 167–193. It was, as far as I can see, first applied to the Slave Laws in the Pentateuch by Adrian Schenker, “The Biblical Legislation on the Release of Slaves: The Road from Exodus to Leviticus,” *JSOT* 78 (1998): 23–41 (here: 27), who uses it to designate the *head of a family*, who – following a suggestion of Gregory C. Chirigino, *Debt-Slavery in Israel and the Ancient Near East* (JSOTS 141, Sheffield: Sheffield Academic Press, 1993), 328–343 – could not overcome his debts and therefore was sold by force (or sold himself) into slavery.

⁸ Schenker, “Biblical Legislation,” 23–41.

⁹ Kilchör, *Mosetora*, 143; Meyer, “Synchrony,” 763f.

2. Female slave (Exod 21:7-11)

Now, Meyer understands here *pater familias* merely as “a man who has a wife and children” and, under this presupposition, critically remarks that the possibility of children could also be included in v. 3b, noting that “this issue does not have to be mentioned, because they do not belong to the master and are simply irrelevant.”¹⁰

Apart from the question whether v.3b may include children or not, I explicitly follow Jean-François Lefebvre¹¹ in rejecting an understanding of the *pater familias* as merely a man with wife and children. Rather, I follow his suggestion that *pater familias* in the context of the slave laws in the Pentateuch should be defined as a landowner, namely as a head of an extended family, which might embrace up to four generations.¹²

The issue behind Lev 25:39–46 is debt slavery. Lev 25:25–55 deals with increasing indebtedness of a *pater familias*, or, I should rather say (to avoid misunderstandings) of a “landowner” (Lev 25 calls him a “brother”). In the first stage the landowner sells his property (Lev 25:25–34), in the second stage he sells his land (Lev 25:35–38), and finally he sells himself to another Israelite (Lev 25:39–46).¹³ On the other hand, Exod 21:3–4 seems not to have in mind landowners: The slaves of vv.3a and 4 were not even married when they were enslaved, and 3b does at least not mention any children.¹⁴ These three sorts of slaves may have been sold by their father (or grandfather), who is the landowner, due to his indebtedness, or they may have been enslaved through force of the debt holder (cf. 2 Kgs 4:1).¹⁵ The point is that when they are released after six years according to Exod 21:2, they can return to their father’s (or grandfather’s) land. However, in the case of Lev 25:39–46 this is not possible, because the land was sold in the preceding stage of indebtedness (Lev 25:35–38). A landowner who has sold his land before selling himself to the debt holder could go nowhere if he would be released after six years; he would just remain indebted, without

¹⁰ Meyer, “Synchrony,” 764.

¹¹ Jean-François Lefebvre, *Le jubilee biblique. Lv 25 – exégèse et théologie* (OBO 194, Göttingen: Vandenhoeck & Ruprecht, 2003), 331–327.

¹² See Kilchör, *Mosetora*, 144f. That landownership is the main point is stated on p. 145: “Lev 25,39–41 behandelt einen Fall der Versklavung, der durch das allgemeine Sklavenfreilassungsgesetz von BB nicht abgedeckt ist, *da die Versklavung mit einem Verlust von Land einhergeht*” [my italics].

¹³ Cf. Chirichigno, *Debt-Slavery*, 354.

¹⁴ The point is not so much that children have been enslaved together with a *pater familias*; rather, they would possibly have been sold or forced into slavery prior to the loss of land and freedom of the landowner himself.

¹⁵ Cf. Christophe Nihan, *From Priestly Torah to the Pentateuch. A Study in the Composition of the Book of Leviticus* (FAT II/25, Tübingen: Mohr Siebeck, 2007), 529 (n. 532).

land and property. Therefore, Lev 25:39–46 does not apply the seventh-year-rule of Exod 21:2 to a landowner who fell into debt slavery; rather, the release is connected with the institution of the jubilee every 50th year, where the land returns to the property of its primal owner, namely the *pater familias*. Only when he receives his land back can he return to his land and start a new life with his extended family.

Since Meyer has taken my *pater familias* merely as man who has a wife and children, without even mentioning the whole issue of landownership, I cannot see that he has in any sense convincingly refuted my argument. Now let us turn to the slave law of Deut 15.

C DEUT 15 AS A CONFLATION OF EXOD 21 AND LEV 25

Here, I have to start with clearing up another misunderstanding. Meyer juxtaposes in opposition two statements of mine:

Nach diesem Überblick über den literarischen Befund ist es auffällig, dass Dtn 15,12.16–17 Parallelen zu Ex 21,2–7 hat, Dtn 15,12.15.18 dagegen Parallelen zu Lev 25,39–42. Nur Dtn 15,12 hat also Übereinstimmungen mit beiden Paralleltexten, während die Übereinstimmungen ansonsten auf die beiden Paralleltexte verteilt sind.¹⁶

And:

Nun dürfte deutlich sein, dass zwischen den drei Texten eine Dreiecksbeziehung besteht. Je zwei haben unter sich Übereinstimmungen, die sie mit dem jeweils dritten Text nicht teilen.¹⁷

Meyer comments:

If every (je) two texts show some overlaps between themselves and the texts that are unique to each, how could Deut 15:12 be the only one that overlaps with both other texts?¹⁸

However, my point in the first quotation is certainly not that Deut 15:12 out of all three laws is the only text that overlaps with the two other texts. Rather, the first quotation emphasizes that *within* Deut 15:12–18, v.12 is the only verse which overlaps with both Exod 21 and Lev 25. This is even visualized right there by the following table:¹⁹

¹⁶ Kilchör, *Mosetora*, 140.

¹⁷ Benjamin Kilchör, “Frei aber arm? Soziale Sicherheit als Schlüssel zum Verhältnis der Sklavenfreilassungsgesetze im Pentateuch,” *VT* 62 (2012): 381–397 (here: 385).

¹⁸ Meyer, “Synchrony,” 762.

¹⁹ Kilchör, *Mosetora*, 140.

Exod 21:2(.7)				Exod 21:5	Exod 21:6	
Deut 15:12	Deut 15:13	Deut 15:14	Deut 15:15	Deut 15:16	Deut 15:17	Deut 15:18
Lev 25:39– 41			Lev 25:42			Lev 25:40

What I want to show with this table is that Deut 15:12–18 is not merely intermingling elements from both other texts randomly, but that it alternately follows both texts. When one text alternately follows two other texts, this is in my view the strongest argument for establishing a direction of dependence in a non-reversible way.²⁰ It is, by the way, also the main reason why I determine elsewhere the direction of dependence between Lev 19:13 and Deut 24:14–15 as running from Lev 19 to Deut 24, since I show that Deut 24:10–25:3 alternately follows Exod 22:20–23:9 and Lev 19, using always key words to switch between the two texts.²¹ This argument is not reversible, neither in the case of Exod 21, Lev 25, and Deut 15, nor in the case of Exod 22–23, Lev 19, and Deut 24. Regrettably, Meyer does not even mention this main argument when he discusses the relationship between Lev 19 and Deut 24,²² and with regard to Deut 15:12–18 he obviously misunderstood it.

If we see how Deut 15:12–18 conflates the two other slave laws by following them alternatively, we can ask now about the aim of this conflation. Without going into the details, it is first of all quite clear that Deut 15:12.16–17 takes up the essence of Exod 21:2–11: Basically, both male and female slaves shall be released after six years of slavery, while it is possible for the slave to decide to stay with the owner, a decision which is accompanied by an ear-piercing-ceremony. The conflation of Exod 21:2–11 and Lev 25:39–46 is already indicated in Deut 15:12 by the formulation “your brother, a Hebrew man or a Hebrew woman” (אחיך העברי או העבריה), which picks up the “Hebrew slave” (עבד עברי) from Exod 21:2 and “your brother” (אחיך) from Lev 25:39.²³ Deut 15:15

²⁰ Cf. Kilchör, *Mosetora*, 37f.

²¹ Kilchör, *Mosetora*, 279–282; see also Benjamin Kilchör, “The Direction of Dependence between the Laws of the Pentateuch. The Priority of a Literary Approach,” *ETL* 89 (2013): 1–13 (here: 8–12).

²² Meyer, “Synchrony,” 760f.

²³ Cf. for “brother” in H and D: Georg Braulik, “Weitere Beobachtungen zur Beziehung zwischen dem Heiligkeitsgesetz und Deuteronomium 19–25,” in *Das Deuteronomium und seine Querbeziehungen*, ed. Timo Veijola (SFEG 62, Helsinki/Göttingen: Finnische Exegetische Gesellschaft/Vandenhoeck & Ruprecht, 1996), 23–55 (here: 45–48).

then takes up the “Slavery-in-Egypt-motivation” from Lev 25:42 and, more importantly, Deut 15:18 states that the slave worked like a hired worker (שכיר),²⁴ which refers to Lev 25:40 that the “brother” shall not work as a slave but “like a hired worker” (כשכיר).

Yet to understand the aim of Deut 15:12–18 we have to look at the two verses which have no parallels with either Exod 21 or Lev 25, namely vv.13–14. There it is stated (quoted according to ESV):

And when you let him go free from you, you shall not let him go empty-handed. You shall furnish him liberally out of your flock, out of your threshing floor, and out of your winepress. As the Lord your God has blessed you, you shall give to him.

What is the meaning of this *Sondergut*, if we ask about the aim of the conflation of the two former laws in Deut 15:12–18? Deuteronomy essentially follows Exod 21:2–11, but with a substantial addition: When the slaves mentioned in Exod 21:3–4:11 are released, they shall not go back to the land of their father (or grandfather; namely the landowner) empty-handed but with some rewards for their work. These rewards will help to avoid that the indebtedness of the landowner increases from stage one (Lev 25:25–34) to stage two (Lev 25:35–38) and three (Lev 25:39–46), and the rewards are founded on the idea found in Lev 25:40 that such a slave works like a hired worker and therefore shall not return to the land of his father empty-handed (Deut 15:18).

D CONCLUSION

The crucial point that allows reading these three laws together (in their synchronic order) is to understand that Lev 25 deals mainly with land and property and that the slave law in Lev 25:39–46 is concerned about the problem that a *pater familias* who is released from his debt slavery cannot return to his land, because he has lost his land before he lost his freedom. Therefore, such a slave shall be released together with his land in the Jubilee. Deut 15:12–18 integrates this problem by adding to Exod 21:2–11 the request of rewards for the released slave, which will help avoiding an increasing impoverishment of landowners. The shortcoming of Meyer’s definition of *pater familias* (which does not correspond neither to my use of this term than to the use of Adrian Schenker and Jean-François Lefebvre) has the consequence that he discusses my whole chapter on the relationship between the three slave laws completely apart from the issue that I regard as the key for their understanding.

²⁴ For the difficult formulation in Deut 15:18, see Matatiah Tsevat, “The Hebrew Slave according to Deuteronomy 15:12–18: His Lot and the Value of his Work, with special Attention to the Meaning of מִשְׁנָה,” *JBL* 113 (1994): 587–595.

BIBLIOGRAPHY

- Braulik, Georg. “Weitere Beobachtungen zur Beziehung zwischen dem Heiligkeitsgesetz und Deuteronomium 19–25.” Pages 23–55 in *Das Deuteronomium und seine Querbeziehungen*. Edited by Timo Veijola, SFEG 62, Göttingen: Vandenhoeck & Ruprecht, 1996.
- Chirichigno, Gregory C. *Debt-Slavery in Israel and the Ancient Near East*. JSOTS 141, Sheffield: Sheffield Academic Press, 1993.
- Gehrke, Hans-Joachim. “Die römische Gesellschaft.” Pages 167–193 in *Das alte Rom. Geschichte und Kultur des Imperium Romanum*. Edited by Jochen Martin, Gütersloh: Bertelsmann, 1994.
- Hieke, Thomas. Review of *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*, by Benjamin Kilchör, *RBL* 11/2016.
- Kilchör, Benjamin. “Frei aber arm? Soziale Sicherheit als Schlüssel zum Verhältnis der Sklavenfreilassungsgesetze im Pentateuch.” *VT* 62 (2012): 381–397.
- . “The Direction of Dependence between the Laws of the Pentateuch. The Priority of a Literary Approach.” *ETL* 89 (2013): 1–13.
- . *Mosetora und Jahwetora: Das Verhältnis von Deuteronomium 12–26 zu Exodus, Levitikus und Numeri*. BZAR 21, Wiesbaden: Harrassowitz, 2015. <https://doi.org/10.2307/j.ctvc2rmx0>.
- . “Did H Influence D on an Early or a Late Stage of the Redaction of D?” *OTE* 29 (2016): 502–512.
- Lefebvre, Jean-François. *Le jubilee biblique. Lv 25 – exégèse et théologie*. OBO 194, Göttingen: Vandenhoeck & Ruprecht, 2003.
- Meyer, Esias E. “When Synchrony Overtakes Diachrony: Perspectives on the Relationship between the Deuteronomic Code and the Holiness Code.” *OTE* 30 (2017): 749–769. <https://doi.org/10.17159/2312-3621/2017/v30n3a12>.
- Nihan, Christophe. *From Priestly Torah to the Pentateuch: A Study in the Composition of the Book of Leviticus*. FAT II/25, Tübingen: Mohr Siebeck, 2007. <https://doi.org/10.1628/978-3-16-151123-3>.
- Schenker, Adrian. “The Biblical Legislation on the Release of Slaves: The Road from Exodus to Leviticus,” *JSOT* 78 (1998): 23–41. <https://doi.org/10.1177/030908929802307802>.
- Sommer, Benjamin. “Dating Pentateuchal Texts and the Perils of Pseudo-Historism.” Pages 85–108 in *The Pentateuch: International Perspectives on Current Research*. Edited by Thomas B. Dozeman et al., FAT 78, Tübingen: Mohr Siebeck, 2011.
- Tsevat, Matatiah. “The Hebrew Slave according to Deuteronomy 15:12–18: His Lot and the Value of his Work, with special Attention to the Meaning of מַשְׁגָּה.” *JBL* 113 (1994): 587–595

Benjamin Kilchör, Assistant Professor of Old Testament at Staatsunabhängige Theologische Hochschule Basel, Switzerland & Research Associate of the Department of Ancient and Modern Languages and Cultures, University of Pretoria, South Africa. Email: benjamin.kilchoer@sthbasel.ch. ORCID: <https://orcid.org/0000-0002-7212-7145>