

A BIBLICAL JUSTIFICATION OF EXEMPTION LAWS

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If you have ever seen a cartoon of the skinny little guy who is broke and wearing only a barrel, you might have wondered why his creditors left him the barrel. The answer is that the laws of every state make at least some property exempt from seizure by an individual's creditors. But what about the Christian's duty to keep promises? Should Christians support a law that permits people to keep some property without being required to use it to pay their just debts?

Modern legal scholars typically justify exemption laws on utilitarian grounds. Without some exempt property, they argue, the social fabric of the community would be threatened. Equally likely, exemption laws express a healthy dose of self-interest for those with assets. We particularly see this in states that were settled by debtors fleeing their creditors (like Florida and Texas with their unlimited homestead exemptions) that have more generous exemptions than states that were historical centers commercial lending. Another concern is that creditors not leave the debtor with so little property that the debtor and the debtor's family will become a charge on the community. Exemption laws are often directed toward making certain that every debtor retains enough basic property to have a chance to get out of the hole and make a fresh start; after all, job applicants can't go to an interview nude!

But what does the Bible have to say about exemptions? Assuming that God's Word addresses this issue, how are we to understand it today, both inside and outside the church?

Several provisions from the twenty-fourth chapter of the first restatement of God's Law for his covenant people of Israel (i.e. Deuteronomy) address the question of exemptions:

"No one shall take a handmill or an upper millstone in pledge, for he would be taking a life in pledge" (Deut. 24:6).¹

"When you make your neighbor a loan of any sort, you shall not enter his house to take his pledge. You shall remain outside, and the man to whom you make the loan shall bring the pledge out to you. And if he is a poor man, you shall not sleep with his pledge. When the sun goes down you shall surely return the pledge to him, that he may sleep in his cloak and bless you; and it will be righteousness for you before the Lord your God" (Deut. 24:10-13).

¹ All quotations from the Bible are taken from *The New American Standard Bible*, (La Habra, California: The Lockman Foundation 1977) unless otherwise noted.

“You shall not pervert the justice due an alien or an orphan, nor take a widow’s garment in pledge” (Deut. 24:17).

God’s Word for Israel made clear that certain kinds of voluntary grants of property as possessory security (i.e., pledges) were forbidden.² From this it follows from the lesser to the greater that an unpaid creditor would not be able to seize these assets involuntarily to liquidate them for payment of a claim.

What are the grounds for these commandments? It appears that a pledge cannot involve anything necessary to a person’s work or living because this would endanger the debtor’s life. Interestingly, the law goes on to provide a safeguard for the borrower’s dignity by providing that neither a widow’s garment could be taken in pledge nor could a creditor enter the borrower’s home to choose the pledged item. “Even a poor man’s home has a sanctity which a creditor cannot challenge.”³

But what about enforcement? Are these provisions of the Law only aspirations, or were they judicially enforceable? Judicial enforcement is more consistent with the duty of the first of ancient Israel’s constitutional officers, the judge (Deut 16:18-17:7). Even more to the point is Job’s description of his exercise of the judicial office where he notes that he “delivered the poor who cried out,” stating, “I caused the widow’s heart to sing for joy ... [and] I was a father to the poor” (Job 29:12-16). The specifics of Job’s justification for a proper exercise of the judicial office closely correspond to several of the examples of God’s righteous judgments in Deuteronomy 24.

But there’s more. The prophet Ezekiel identifies the failure to restore a pledge after payment has been made as theft worthy of capital punishment:

“Then he may have a violent son who sheds blood, and who does any of these things to a brother (though he himself did not do any of these things), that is, he even eats at the mountain shrines, and defiles his neighbor’s wife, oppresses the poor and needy, commits robbery, **does not restore a pledge**, but lifts up his eyes to the idols, and commits abomination, he lends money on interest and takes increase; will he live? He will not live! He has committed all these abominations, **he will surely be put to death**; his blood will be on his own head” (Ezek. 18:10-13, emphasis added).

While the broad context of Ezekiel’s condemnation in Ezekiel 1-18 is judgment upon Judah, and upon Jerusalem in particular,⁴ the implication is that failing to

² Such grants would correspond to the Bankruptcy Code’s definition of a security interest. See Bankruptcy Code §101(51)

³ R. Rushdoony, *The Institutes of Biblical Law*, 480 (1973).

⁴ See Amos 2:8a for a similar prophetic condemnation of the northern kingdom of Israel.

restore a pledge had always been a breach of God's Law subject to judicially compelled restitution or even punishment.⁵

How are we to understand these protections afforded Israel's poor in connection with certain items of property today? A few thoughts: First, Paul indicates that he regards the money he collected from the gentile churches for the Jerusalem Jewish Christians not merely as producing human gratitude but also as proof of obedience to the gospel of Christ. (2 Co 9:12ff.) Concern for the interests of the poor, evidenced in the Mosaic Law (cf. Deut 24:13b), is therefore directly applicable to the members of God's new covenant community.

Second, if the Deuteronomic provisions were grounded in the protection of life and property as Deuteronomy and Ezekiel suggest, then it follows that they are judicially cognizable interests today. Modern states should not seek to legislate virtue, but they should protect life and property.

⁵ See *also* Is 10:1-2 where Isaiah prophesies judgment upon Israel for the failure of its judges to enforce the Law.