

## **What Does "An Eye for an Eye" Really Mean?**

**Exodus 21:18-32**

By [Dr. J. Ligon Duncan](#)

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If you have your Bibles I'd invite you to turn with me to Exodus chapter 21. We are continuing through our summer long study of the book of the covenant. That is a section of Exodus from chapter 20 to 23, and it is often called a covenant code. It gives us a public application of the moral principles which have been set forth in the Ten Commandments.

In the last weeks in which we have been in this book, we have been away from it for a couple of weeks doing some other studies, but in the last three or four times we have been together in Exodus chapter 20 and 21, looking at these laws for public life in Israel, we have looked at the subjects of worship at the end of Exodus chapter 20, we have looked at the subject of slavery at the beginning of Exodus 21, and we have even looked at the death penalty. In fact, it was interesting when we studied the death penalty, it was the very week protests were being planned for the first state execution of a criminal guilty of a capital crime. Perhaps you read some of the articles pro and con in the newspaper. I trust that our study of God's word here helped you evaluate that from a biblical perspective. We have already looked at the subject of worship and slavery and capital punishment.

Now, we will deal with a set of laws about bodily injuries and due penalty for those bodily injuries. Before we look at this section, I want to say that it is clear from our studies so far in this book of the covenant, that three things are becoming more and more apparent in our study. The first thing is this. God is very concerned about the public behavior of His people. One of the things that this section of God's words makes crystal clear is that God is not satisfied with our simply being personally pious, but He desires us to be publicly moral. In other words, He desires a behavior of righteousness in our conduct in society which is befitting our claims as His people and His constant refrain of constant morality in this section reminds us of that. We can't be personally pious and publicly immoral, as much as people would like to convince you otherwise in our day and time, those two things go together and that is very apparent from this study.

Secondly, however, we learn from this passage that equal justice under the law

is a principle in God's legislation in Israel. That is, the slave is to be treated with the same justice that the free man is to be treated. The poor man is to be treated with the same justice as the rich man and the civic leader. The female is to be treated with the same justice as a male. There is a constant refrain throughout these laws that there is to be equitable justice, that there is to be equal justice for all under the law. Perhaps our own legal tradition owes much to this tradition of Hebrew equity, Hebrew equal justice under the law.

One last thing becomes very apparent as we study these laws. That is, these laws in no way provide a total corpus of civic legislation for a society. There are many well-meaning people, especially in the Reformed community, sometimes called theonomists, or sometimes called Christian re-constructionists who believe it is the Christian's responsibility to enforce these laws in the modern nation state, including the penalties which are attached to them. Now, one of the problems with that particular theory, and there are many problems, not the least of which is that the greatest minds in the history of Christianity disagree with that particular view, including John Calvin who was a trained lawyer and who had the responsibility of setting up a city state which reflected equitable law. Calvin rejected that particular theory. One of the problems with that is, as we study these passages together, it becomes clear that these laws do not give us anything like a total comprehensive corpus of civil legislative. At best, they give us illustrations of principles of how God's moral law ought to be applied in Israel's society. They leave a tremendous void about discretion even for Israel's judges in the administration of justice. They are illustrative, they are descriptive, and they are by no means comprehensive. So, to take these laws and say it is the Christian's responsibility to enforce these laws, and these laws only, in the modern nation state would leave huge areas of right and wrong in public morality untouched. God expects us to use our heads and He expects us to apply principles to specific situations in a modern nation state. That is just one reason why that particular approach is wrong.

My point is, thirdly, that we see from our study of this passage that we don't have anything like a comprehensive set of laws for a nation state. What we have is an illustration here of principles based on the ten words applied to Israel society. Having said those three things by way of introduction, let's look at God's word in Exodus chapter 21 and we will begin in verse 18.

“And 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; 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. And if a man strikes his male or female slave with a rod and he dies at his hand, he shall be punished. If, however, he survives a day or two, no vengeance shall be taken; for he is his property. And if men struggle with each other and strike a woman with child so that she has a miscarriage, yet there is no further injury, he shall surely be fined as the woman's husband may demand of him; and he shall pay as the

judges decided. But if there is any further injury, then you shall appoint as a penalty life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise. And 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. And if he knocks out a tooth of his male or female slave, he shall let him go free on account of his tooth. And 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. 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. If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him. Whether it gores a son or a daughter, it shall be done to him according to the same rule. 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.”

Amen. Thus ends the reading of God's holy and inspired word. May he add His blessing to it. Let's pray.

Heavenly Father as we study this, Your word, this obscure passage, perhaps it's not drawn our attention many times in days past. We pray that You would teach us wonderful things from Your law. We pray that You would call us to public righteousness and to a desire to see justice equally done to all people. These things we ask with Your blessing. In Jesus name. Amen.

The society that God wants cares about human life. It cares about the value of human life and you have seen that in the section that we studied in verses 12 to 17 on capital punishment. The whole rationale in Exodus chapter 21:12-17 about capital punishment is that capital punishment reinforces a culture of life not a culture of death. That is not always the argument you hear today. The Pope, for instance, has argued in various encyclicals that a death penalty produces a culture of death. That's not Moses' argument, that's not God's argument. God's argument is that the capital punishment rightly applied by biblical principles actually reinforces a culture of life. That respect for life and that carefulness of life comes through in Exodus 21:12-17. It also comes through in this passage in Exodus 21:18-32 that deals with incidences of bodily injury that are generally less than death. There are a couple of examples of that in verse 22 and then also in verses 28 and following.

### **I. God acknowledges the legitimacy of making a distinction between types of violent acts and their punishment.**

In general this section deals with laws about bodily injuries and the appropriate penalty for those bodily injuries. Things that are less than a loss of life, or less than a crime that deserves capital punishment. Moses shows us this value of life

that God wants us to show in society in four ways here. Let me just introduce them to you and outline the passage. In verses 18 and 19, first, you will see a statement of general divine legal principles regarding serious injury in context without premeditations. A quarrel happens. Men were not planning the quarrel, it just happened, but injury occurs in the quarrel, what should the penalties be? That is what is dealt with in verse 18 and 19.

Then look at verses 20 and 21 and skip over to verse 26 and 27. The things that tied those four verses together are, what you do in the case of serious bodily injury to a slave. In other words, we have laws here given to us regarding manslaughter or serious injury to male and female servants.

Then thirdly, in verses 22 through 25 you will have already recognized as we read the Scripture the *Lex Talionis*, the law of the talon, an eye for an eye, a tooth for a tooth. Most Christians are used to that law from where it is quoted in the Sermon on the Mount by Jesus, but it occurs several times in the books of the laws of Moses. In verses 22 through 25, we see general divine legal principles regarding innocent bystanders, the instances given to a pregnant woman who has a miscarriage because she is wounded in a quarrel between two men.

Then finally, fourthly, in verses 28 through 32, we see general divine legal principles regarding domestic animals. People are responsible even for their domestic animals, to take care and value human life. So, we have some laws regarding that in 28 through 32. First of all in verses 18 and 19, let's remember that Moses has just recorded God's pronouncements on the application of the death penalty in various circumstances in the previous verses from 12 to 17.

Now, he moved to crimes that generally are befitting less dramatic punishments. If you look at verses 18 and 19, the case of bodily injury, but not death; this is not a capital crime. We have already seen God make a distinction between homicide and manslaughter. That is, if you look back to chapter 21:12-17, there is a clear distinction made between, basically, what we would call premeditated murder and manslaughter, that is, a homicide without malice aforethought, as the legal system would say today. If no one attempted to work out a plan to kill a person, and then in the heat of the moment something happens and someone dies, it is manslaughter. That distinction has already been made in verses 12 through 14.

Here in verse 18, we are presented with a situation with a fight that breaks out, again there is no malice aforethought. The heat of the moment occurs. You can tell that by the weapons that are used. What are mentioned? The fist and a stone. No knife is mentioned, no sword is mentioned, no spear is mentioned, no bow is mentioned. Those would be the weapons you would normally kill somebody with if you had premeditated the killing. This, however, is a case where men get in a heated discussion, a quarrel breaks out, a guy grabs a stone hits a man, or takes his fist and hits a man, and serious bodily injury results.

In verse, 19 God stipulates that in this case no capital punishment is to be extracted. If the person gets up and walks around on his staff, then the one who struck him shall go unpunished. That doesn't literally mean be unpunished completely. What it means is he shouldn't be due the death penalty, because he is clearly punished in this passage with the responsibility to pay him what we would call, workman's compensation and health insurance until he is completely well again. He is to nurse that man back to health. That is his punishment, to basically pay reparations, or monetary compensation, until the victim is whole again.

Now, what we learn in this passage is that God acknowledges the legitimacy of making a distinction between different kinds of violent acts and their punishments. He makes it clear that intentions matters, what a person intends to do does matter, and it should be weighed into the administration of justice.

It also makes clear we are our neighbor's keeper. If we cause an injury, even if we didn't originally intend to cause injury, we must pay the consequences in caring for our neighbor. We see that in verses 18 and 19.

## **II. God's demand for our carefulness with human life extends to our treatment of slaves as well.**

Let's look then at verses 20 and 21 and also down to verses 26 and 27, and see a second thing. In this passage we see general divine legal principle regarding manslaughter of, and serious injury to, male and female slaves. Let me say right here, if you can study the whole corpus of ancient near eastern law, you will not find any legislation protecting slaves like this. Slaves didn't have this kind of protection anywhere else in near eastern law. Is that in and of itself not a testimony of the divine inspiration of Holy Scripture? That God alone in His law would have established equal protection under the law for slaves when nobody in the near eastern world for a thousand years around the time of Moses established such a legislation. This legislation wasn't borrowed from anyone else, it came from God's own transcendent law. It's amazing that a slave is viewed as a person in the Law of Moses. He is not chattel, he's not mere property, he's not a thing, he is a person.

Now, we didn't get a chance to look at how uniquely female slaves were treated under the law in our study of Exodus 21:7-11. I will wait come back to that the next time we get to laws on female slaves. It is remarkable here in Exodus 21:7-11, and in even in verses 26 and 27, slaves are treated with tremendous equity. If you look at verses 20 and 21 those verses describe potential capital punishment for masters who commit homicide. It's amazing; masters who commit homicide are potentially put to death under the Law of Moses. You wouldn't have found any law like that in the antebellum south in the United States. It's an

amazing, way ahead of its time kind of law.

Verse 21, gives you the basis for a manslaughter charge. If the slave lingers for a few days, the crime is not the same as if the slave had died under the rod. In verses 26 and 27, serious bodily injury to a slave gives them freedom, instant freedom without further price. That is viewed as the punishment to the master. If you injured your slave that badly, then he or she goes free. Notice how this law is designed to cultivate a culture of life through requiring carefulness of the life of the least and the lowest. We are to have a culture of life because we care. God says here, even for the slaves, even for the least, even for the lowest, their life is to be cared for. It is very clear throughout the law, that God is concerned for the rights and the well being of the very least in society.

We who live in the new covenant era, we who live in the era of the light of the spirit of Jesus Christ, how much more should we be concerned for the well being and the life of and the justice of the least and the lowest in society. God demands our carefulness with human life. That demand extends even to out treatment of slaves, He says through Moses here in Exodus 21.

### **III. The *Lex Talionis* is not a warrant for vengeance in Moses' law but a prescription for equity in punishment.**

A third thing, look at verses 22 through 25. This is the law of the talon, the *Lex Talionis*, an eye for an eye, a tooth for a tooth. Normally when that is quoted in conversation in society, it is quoted as if that law means either, tit for tat, you do something to me I am going to do the same thing back to you, it's a law of vengeance. Or, as in many modern Islamic states where a thief would have his hand severed or there would be an equal physical bodily penalty for particular crimes. Moses does the same kind of thing. You can't say that Moses' law is any different than the modern Islamic law and such; it's the same kind of thing.

However, if you look at the context, it is very clear that when the law, an eye for and eye and a tooth for a tooth is quoted here, it is in the context of monetary compensation. This is not calling for a literal physical 'one for one' retaliation, a guy knocks your tooth out you get to knock his tooth out, a guy injures your arm, so you get to injure his arm. The only thing which specifically corresponds in this list is the first thing on the list, life for life. That principle has already been established in verse 17.

Everything else has to do with monetary compensation and I can prove it to you. Look at verse 20. "If men struggle with each other and strike a woman with a child so that she has a miscarriage, yet there is no further injury, he shall surely be" what? "Fined as the woman's husband may demand of him and he shall pay as the judge decides." It is only then that an eye for and eye and a tooth for a tooth is quoted. What is being said there is that there should be a just and

proportionate fine levied in a serious case of injury to another person. This is the context of remuneration, or monetary reparations.

The *Lex Talionis* not warrant for vengeance in Moses' law, but a prescription for equity in punishment. The punishment should fit the crime. The fine would be proportionate to the crime that is committed in its consequence. This is a call for proportionality in punishment. It is a call for equity and justice in the fines which are levied for a particular crime and its result. There is nothing vengeful about this in its context. It is simply calling for justice to be done in the fine that is levied.. That is a very different way than it is often quoted in secular conversation. It is, by the way, very different from the way it was being applied in Jesus' time and that is why He said, "You have heard, 'an eye for an eye and a tooth for a tooth,' but I say to you turn the other cheek. Jesus is not contradicting Moses, He is contradicting a misinterpretation of it.

Some appeal to verse 22 to show that Moses doesn't believe a *fetus in utero* is a real person because he doesn't demand the death penalty. Now let me say that is an utterly irrelevant interpretation of this passage because the passage is designed to show what is to be done when a woman who is carrying a child is injured. The focus is not upon the miscarriage itself. The focus of the passage is on the other injuries that are done to the woman.

Secondly, abortion was a crime and the taking of a child *in utero* was a crime so horrific in the Hebrew mind that Moses didn't even need to write a law about it. Even in the comparative laws of the pagan nations around Israel, did you know the penalty for abortion was crucifixion? Those were the pagans around Israel. The penalty in the Median laws was crucifixion for abortion. Abortion was a horrendously repugnant crime in those days and times. To argue from this that Moses thinks that abortion is 'ok' is a gross misuse of Scripture. I want to say that in passing because you'll find someone who knows about Exodus 21:22, and they will try to make that particular argument.

#### **IV. Our carefulness for human life extends even to the animals under our charge.**

One last thing, look at verses 28 through 30. Here we see divine principles regarding domestic animals and manslaughter committed by those domestic animals. It shows us our carefulness for human life extends even to the animals under our charge. Remember the lady who was called before the court because her dog killed a child not long ago and she was pleading about that? Interesting, God's law speaks of that very circumstance. In this circumstance, a person who is negligent in the treatment of an animal, a domestic animal, and that domestic animal commits manslaughter, that person is liable to the death penalty under Moses' law. The culpability of the master regarding an animal previously known to be dangerous establishes what? It establishes the doctrine of carefulness. We

need to be careful with human life. We need to be diligent in protecting human life.

What is God doing here? He is cultivating in us a carefulness for human life. That required diligence. As I was thinking of ways that applies to us, one of the ways that comes immediately to mind is in our care and vigilance in putting young people behind the wheel of automobiles. I tell you one of the things that I have nightmares about already, and my children are 2 and 5, are what they might do behind the wheel of a car. You know, not only could they ruin their lives by a moment of carelessness behind the wheel of an automobile, they could ruin the life of another person and another family, by just a moment of carelessness. That is just one way that the law of vigilance and carefulness applies to us today. For those under our charge, we need to be vigilant in making sure they are taking care for human life. Let's go to the Lord in prayer.

Heavenly Father, we thank You for Your law. It is as fresh as the newspaper. It is as wise as the Heavens are high. We thank You for it. We ask, O Lord, as we see it and are convicted by it that You would drive us to the Lord Jesus Christ for grace and also for obedience. In Jesus name. Amen.

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