



LIVING WORD
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Shall be Put to Death

Exodus 20:12-27

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We'll be continuing our study of Exodus this morning as we look at 21:12-27. We move from a passage regulating slavery to a passage about capital punishment. Two hot potatoes in a row! As we look at what the Lord says to the Israelites here, it's important to remember his purpose in giving Israel this law. It's all about loving God and loving each other so that when the nations watched them, they would see the people who lived with the Lord in their midst.

Let's read God's word. Again, this is Exodus 21 and we'll start with verses 12-14.

“Whoever strikes a man so that he dies shall be put to death. But if he did not lie in wait for him, but God let him fall into his hand, then I will appoint for you a place to which he may flee. But if a man willfully attacks another to kill him by cunning, you shall take him from my altar, that he may die.

The law here envisions two difference scenarios that are pretty straightforward. The first is a case of premeditated murder. The penalty for murder with malice aforethought is death. The second scenario is what we would call manslaughter. There's been a killing, but the killing wasn't intentional. Maybe you got into an argument, the other guy threw a punch and you threw one back and knocked him down. All you meant was to defend yourself, but he falls, hits his head, and dies. It's your fault, but it wasn't intentional. You can flee, as it says, to a place the Lord will appoint. More on this in a moment. There's also a third scenario here: a man guilty

of premeditated murder runs to the Lord's altar to seek asylum. Seeking asylum in a temple or on holy ground was a common practise and one the Lord will regulate, but he's also clear here: there is no asylum for the man guilty of murder.

Again, the first and the last parts are pretty easy to understand. But what about the man guilty of manslaughter fleeing to a place the Lord would appoint? We need to understand some cultural background and we need to look at the passage where the Lord appoints these places. As I said last week, their world was very different from ours. They lived in an honour culture and blood feuds were common. Family and clan were everything. Scores were often settled through private justice. If a man was murdered, his closest male relative was obligated and duty-bound to seek revenge. Things could escalate very quickly. You hunt down and kill your brother's murderer, but then his brother takes issue with that and comes for you, and so on, back and forth.

So to curb this sort of thing the Lord gave Israel a number of instructions that expand on what we have here. In Numbers 35 he instructs the Israelites to set aside six cities as “cities of refuge”. They were places where the man guilty of manslaughter could flee. The avenger of blood could not touch him there. It gave the guilty party the chance to have his case adjudicated, and if it was determined that he was not guilty of premeditated murder, he was permitted to stay in the city of refuge where the blood feud couldn't touch him. On the other hand, as we see here, if a murderer seeks asylum—in this case in the tabernacle—but is found to be guilty, he is to be removed and executed.

The other thing we see, also in Numbers 35, is the establishment of due process. You couldn't just hunt a suspect down and lynch him. Numbers 35:30-31 says:

If anyone kills a person, the murderer shall be put to death on the evidence of witnesses. But no person shall be put to death on the testimony of one witness. Moreover, you shall accept no ransom for the life of a murderer, who is guilty of death, but he shall be put to death.

The Lord explains to Israel that capital punishment is a serious thing. It's not to be meted out through blood feuds. There's got to be some kind of due process, where witnesses and evidence are brought before the authorities. And the Lord is clear: You can't put anyone to death based on a single witness; you've got to have multiple witnesses. But we also get a sense here of how serious the Lord is about this. When it came to other crimes, you could pay a ransom—a monetary fine—to avoid the punishment otherwise on the books. But not when it comes to murder. The penalty for murder is death. Period.

Why is that? What's the reason? It's common to hear people opposed to the death penalty explain that it's not a deterrent or that it's more expensive than long-term incarceration. Often the opposition points out the flaws in our justice system that sometimes result in the innocent being convicted or forms of racial injustice. Some Christians argue that the law doesn't apply anymore, and try to put a sort of New Testament spin on the issue. One pastor I know told me that in the New Testament, God is a God of second chances. I think that language is problematic, but if it's true, we also see that God is just as much a God of second chances in the Old Testament—just look at his patience with Israel. It's also common for people to simply argue that one killing doesn't make up for another and that the death penalty is barbaric. But the Lord's never says that the death penalty will be an effective deterrent or that it will be economical. That last objection that says one killing doesn't justify another hits closer to the mark despite being dead wrong. And we can't just wave a New Testament

wand at this and make it go away because the *torah* doesn't apply to us. The death penalty—specifically when it comes to murder—predates Moses and the *torah*. You see, the death penalty is here in the *torah*, because God gave this command to Noah back in Genesis, and this command applies to the entire human race thereafter. The Lord gave this command to Israel, because it was one that was already, so to speak, on the books. Look at Genesis 9:5-6.

And for your lifeblood I will require a reckoning: from every beast I will require it and from man. From his fellow man I will require a reckoning for the life of man. "Whoever sheds the blood of man, by man shall his blood be shed, for God made man in his own image.

Notice the important thing here: the reason: "for God made man in his own image". God created human beings to be his images. This is temple language. The pagans created temples and then placed images of their gods in those temples. Those images represented their gods and declared that, say, Baal or Asherah, ruled this land. (To attack that idol would have been seen as a direct attack on the God it imaged.) But Genesis shows us the Lord creating his own temple—the garden—and then he creates the man and the woman and places them in his temple as his images. They mediate his rule to the world and act as his stewards. And so to murder another human being is to attack one who bears God's image. That means that it's ultimately an attack on God himself. You can't attack God, but you can destroy the image he placed in his temple. That's why this is so serious. We tend to think of life in little more than biological terms. When our culture struggles to see the difference between the life of an animal and the life of a human being, it's not surprising that we struggle to grasp the significance of human life given in Scripture. But it's here. It won't be silent. Life requires life. In

regard to murder, this penalty is timeless. I'll come back to this at the end.

Let's move on to verses 15-17:

Whoever strikes his father or his mother shall be put to death. Whoever steals a man and sells him, and anyone found in possession of him, shall be put to death. Whoever curses his father or his mother shall be put to death.

We get a sense here of just how important the family was in Israel's world. Unlike the death penalty applied to murderers, which is something established by the Lord long before there was an Israel and which is timeless, the penalties here are unique to the *torah*. While this does not require we do the same, it really ought to give us pause for thought as we live in a world in which contempt for parents is commonplace and in which there is very little regard for the family as the cornerstone of our society. We see the rotten fruit all around us that has grown from our disregard for the family.

So the penalty for physically assaulting father or mother was death, which probably seems extreme to us, but verse 17 takes it further. Cursing Father or Mother meant death as well. It helps to remember that in their culture there was a belief that a curse, especially when spoken in the name of God, had real force to destroy a person. The Hebrew word used here also has the sense of contempt and humiliation. This attitude toward parents is exactly the opposite of the Fifth Commandment: You shall honour your father and mother. Deuteronomy describes this son as being incorrigibly rebellious, despite discipline. Jesus may well have had this sort of son in mind when he told the parable of the Prodigal Son. Again, it may not seem to us to be something worthy of death, but the family was the cornerstone of their society. Undermining the integrity of

the family meant bringing down the whole society. It was taken with the utmost seriousness.

The prohibition against kidnapping—which addressed the problem of the slave trade in their world—is something we talked about last week. It's probably here with these two verses because, the rabbis tell us, both kidnapping and cursing one's parents were punished the same way: by stoning.

Now, back to the subject of fights in verses 18 and 19:

When men quarrel and one strikes the other with a stone or with his fist and the man does not die but takes to his bed, then if the man rises again and walks outdoors with his staff, he who struck him shall be clear; only he shall pay for the loss of his time, and shall have him thoroughly healed.

Two men get into a heated exchange and a brawl ensues. It makes no difference if it's with fists or with a weapon, if one of the men is injured, the man who injured him is required to make restitution: he's to pay for his loss of income and his medical expenses.

But what if it's a slave who is injured? Look at 20-21:

When a man strikes his slave, male or female, with a rod and the slave dies under his hand, he shall be avenged. But if the slave survives a day or two, he is not to be avenged, for the slave is his money.

This law is unique. Nothing like it is found anywhere in any of the Ancient Near Eastern law codes we've discovered. As we saw in last week's passage, God's law for Israel is about more than just keeping order in society. It does that, but it does that from the perspective of showing love for God and for each other. Again, their world wasn't our world and a lot

of this will seem very foreign to us. The discipline here is the same sort of discipline that Proverbs speaks of when it warns against withholding discipline from a child: Folly is bound up in the heart of a child, but the *rod* of discipline will drive it from him (Proverbs 22:15). The “rod” was the customary instrument of discipline. The rabbis interpreted it as any implement that wasn’t potentially lethal in normal use and said that it was not to be applied to vulnerable parts of the body. So discipline is assumed, but a master may not injure his slave. The assumption here is that a master wouldn’t do that anyway. He’s made an investment in the slave and it would be foolish to damage that investment or to injure the slave in such a way that the master then had to free him.

That said, if a master did kill his slave “he shall be avenged”. Freeman or slave, it didn’t matter. This was murder and the death penalty would apply. The choice of wording is important. “Avenge” is different from “revenge”. To avenge something has the sense of vindicating justice and setting things right—in this case as much for God, whose image has been destroyed, as the murdered slave.

What about a pregnant woman? Verses 22-23 address this.

Now if two men fight and strike a pregnant woman and her child comes forth not fully formed, he shall be punished with a fine. According as the husband of the woman might impose, he shall pay with judicial assessment. But if fully formed, he shall pay life for life... (NETS)

If you’re following in the ESV you might have noticed my wording was different. The wording in these two verses is difficult. The ESV is based on the Masoretic Hebrew Text, but what I read is an English translation of the Septuagint, the ancient Greek translation of the Old Testament. I’m

thankful for Matt Colvin pointing me to an excellent article on the proper translation of this passage, although I disagree with him on the implications.¹

Two men get into a fight. The language here is different from the situation above, where things begin with words and digress into something physical. This is a fight from the get-go, which means both men are trying to injure each other. In the course of their fight, one of them somehow ends up injuring a pregnant woman. Maybe she’s a bystander. Maybe she gets involved to help her husband. It’s not clear. But she is struck in such a way that she miscarries her child.

The Lord recognizes the personhood of this child. The difference in how the aggressor is punished, however, depends on whether or not the child is “fully formed”. We can get a sense of what this means in Job 10:10, where Job speaks of the Lord forming him in the womb as pouring milk and curdling cheese. I know. Again, their world was not our world and their metaphors are not our metaphors. But the sense is one of taking a formless mass and giving it a recognizable form. I agree with Matt that the purpose here is to distinguish between a point of fetal development where something recognizable as a baby, with head, arms and legs, fingers and toes emerges and an early stage pregnancy—say less than eight weeks—where there may be no discernable child. And this gets to the difference in punishments. A woman—and therefore the men fighting—may not know she’s pregnant at that early stage. The men wouldn’t have known the danger involved in the fight, and so the perpetrator pays a fine. On the other

¹
<https://colvinism.wordpress.com/2019/06/01/on-exodus-2122-23/>
and
http://tmcDaniel.palmerseminary.edu/LXX_EXO_%2021_22-23.pdf

hand, by the time a fetus begins to take form and look like a child, a woman almost certainly knows she’s pregnant and, hence, the men around her know as well. At that point, the men fighting near her or continuing to fight when she enters the fray, should know better and are guilty of straight-up murder if the child is killed.

This says something about the sanctity of unborn human life. The unborn child bears the image of God. And if even unintentionally causing a miscarriage is punishable by death, it really speaks to the issue of abortion, to the *intentional* killing of an unborn child. Again, the Lord himself is clear—and this stands even though we recognise that the *torah* was Israel’s law, not ours—that the unborn child is no less human and that his or her life is just as valuable as any. In the womb or without, we all bear the image of God.

And so the passage concludes that the one who caused the miscarriage shall pay: life for life. Life for life was the beginning of a common formula we see in the law codes of Israel’s neighbours and so it continues:

Life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe. (Exodus 21:24-25)

This is what’s known as the *lex talionis*—the law of retaliation—and as harsh as it sounds, its point was to put a damper on the cycle of violence that was common in things like blood feuds. You took my eye, so I take your head. You killed my brothers, so I’ll kill your whole family. The *lex talionis* ensured that retaliation was proportional. We also see in both Israel and elsewhere, that it wasn’t enforced literally. Compensation was monetary. The rabbis determined the amount of damages based on how much a slave was devalued by the same kind of injury. If the loss of an eye reduced the value of a slave by, say, ten shekels, then ten shekels was

the compensatory payment whenever an eye was damaged in a fight.

Finally, the last two verses of our passage follow this naturally. Look at verses 26-27:

When a man strikes the eye of his slave, male or female, and destroys it, he shall let the slave go free because of his eye. If he knocks out the tooth of his slave, male or female, he shall let the slave go free because of his tooth.

Intentionally injure your slave, and you're required to set him free. Like the laws above, this is without any other Ancient Near Eastern equivalent. In Israel, the Lord declared that the slave's life had just as much value as that of a freeman. Slavery was a given in their world, something that wasn't just going to cease to exist because they were the Lord's people. But given that, the relationship between master and slave was to be like every other relationship amongst God's people and characterized by love that mirrored the Lord's love, mercy, and grace towards them.

Now, what do we do with this as Christians? I think the basic implications here are pretty clear. Murder is wrong. Treating each other with violence is wrong. Dishonouring our parents is wrong. So far as this goes, it's just an expansion of both the law given to Noah and the Decalogue.

I think that what's most likely to grate on modern people—aside from the humanity of the unborn, which we've already covered—is the death penalty. And this part, at least when it comes to the punishment for murder, applies to us as much as it applied to Israel. This was a law established by God at the time of Noah. It was incorporated into Israel's law, but it is a law given to the whole human race. As Christians who recognise the authority of God's word, the issue of the justness of the death penalty as punishment for murder simply shouldn't be an issue. Should

we impose the death penalty for other crimes? There are a *lot* of capital crimes in the *torah*—not just murder and dishonouring parents. There are certainly good arguments for some of those cases—rape, I think, for instance. Israel's law may be instructive in some of those cases, even if it isn't binding on us. But I'm not convinced that as a society we have the sense to implement the death penalty beyond its application to murderers. In fact, I think we have good reason to be sympathetic with calls for a moratorium on the death penalty—not because it's wrong, but because we live in a society that lacks the godliness and wisdom to recognise the value of human life. We slaughter our children in Canada, between 50,000 and 100,000 a year, before they're born. Many people are more concerned about the lives of animals than they are the lives of human beings. In my country, we see an epidemic of systemic injustice by which those of the “wrong” race have a significantly higher chance of facing the death penalty than others, even when convicted of the same crime. We also see an epidemic of prosecutorial misconduct with the result that many who are innocent end up on death row. I think a moratorium on the death penalty is justified, not because the death penalty is wrong, but because we lack the wisdom to value human life in the first place and because our justice system is too corrupt to apply it fairly.

But we dare not stray into that ground where the death penalty itself is declared unjust or barbaric. Brothers and Sisters, when we do that we forsake the gospel. What did St. Paul write in his letter to the Romans? “The wages of sin is death.” The Lord created us to live in his presence, where he gives us life. We sinned and were cast out of the garden. Cut off from his presence, we die. And in Israel we see that the whole sacrificial system was established on this principle that the wages of sin is death. Blood was required to atone for sins.

An animal had to die in your place. And all of this pointed to Jesus, to his death, to the cross. Death as the wages of sin is what makes sense of Jesus' death. He died the death that Israel deserved. On the cross he became the atonement for sins. When we come to him in faith, Israel's Messiah crucified and risen, we become a part of that people redeemed at the cross. I cannot say this strongly enough: If we go along with our foolish and godless culture and declare the death penalty to be unjust, we blaspheme God and declare the death of Jesus on the cross to be of no benefit.

Brothers and Sisters, we come to his Table this morning to share in the meal Jesus gave to us. This the meal in which, as he blessed the bread and wine and shared them with his friends, he declared himself to be the paschal lamb who would die for the sins of his people. It's at this Table, as we eat the meal that Jesus has given us, that we share in, that we participate in and receive the benefits of his death and resurrection. Think on that this morning. The wages of sin is death, but Jesus as died for the sake of his people, by his blood we are washed white as snow. By his blood we are set free. And by his resurrection we share in the life of the age to come.

Let us pray: Gracious Father, we thank you this morning for your Son and for the sacrifice he made for us at the cross. He died that we might live. In him we see the value of life. In him we see your great love for us. Keep Jesus and his cross ever before us that we might always remember your love and always love you in return. I also pray that you would remind us that you love our neighbours as much as you love us and that we would seek to love them as you do. Through Jesus we pray. Amen.