

# THE COVENANT CODE: PERSONAL INJURY

## EXODUS 21:15-36

The next two commands to consider are connected to and an amplification of the fifth commandment to honor one's father and mother.

Exodus 21:15, 17 <sup>15</sup>“He who strikes [נָכָה] his father or his mother shall surely be put to death.... <sup>17</sup>“He who curses [קָלַל] his father or his mother shall surely be put to death.

Strike, נָכָה, means to beat, to strike, to wound; it refers to making contact with a blow. It can also refer to slaying or killing someone and that might be included in this command, but that isn't the context here and that would also be covered by the sixth commandment prohibiting murder. The meaning can range from hitting to killing so context is key to understanding the meaning in any given use. In this command, injury is the context, not injury resulting in death. This command deals with a son who physically assaults his father and/or mother by means of what we would call today a battery. Battery is the unlawful touching or application of physical force by one person against another person. Assault is the threat of inflicting physical harm but battery is the carrying out of the threat to touch or do physical harm to another person.

Some theologians want to downplay this command and suggest it only applies to serious bodily harm, but that is not indicated in the meaning of the word. The amount of damage inflicted on the person is not pertinent to the meaning. The verb form is the hiphil which is expressed in the active voice and it refers to the one causing the action. In this case, it refers to the one conducting

the attack on his parents with no regard for the degree of harm done; physically assaulting one's parents was sufficient grounds for the imposition of the death penalty irrespective of the harm inflicted. Some theologians want to make this verb form an indication of severity, but my understanding of its use does not allow that interpretation. We need to remember that in Ancient Near East society, one's elders were respected and esteemed; therefore, to challenge them with physical force, no matter how minor, was an extremely serious offense. For example, the Code of Hammurabi called for the amputation of the hand from a son who used it to strike his parents.

The father is the spiritual head of the home; therefore, attacking one's father is a figurative expression for attacking God and His ordained method of ordering society and the godly family the way He designed them to be. It represents disloyalty to God and to His covenant with the Israelites. Physically assaulting a person who is made in the image of God is an assault on the God in whose image that person was created. This was part of the rationale for prohibiting murder and a physical battery is simply a lesser included component of murder yet stops short of a murder. The gravity of a battery is magnified when the victims are the parents.

In the same way that challenging parental authority by means of a physical assault was prohibited, cursing or dishonoring one's parents was also prohibited and it too was considered worthy of death.

Curse, קלל, means to disdain or to despise; it refers to being in a state of contempt towards, in this case, one's parents and showing them little regard or considering them to be of little value. This appears to be the situation with the prodigal son who wanted his inheritance while his father was still alive which was the same as saying, "I wish you were dead so I can get your money." That certainly falls into the category of disdaining and despising one's father. It must include the act of verbal disrespect and vulgarity, but it is more than that. One who rejected his parents and failed to care for them in their old age cursed his parents whether he actually said he would refuse to care for them or not.

Kidnapping is the subject of the next command. Deuteronomy expands on this command and specifically applies it kidnapping fellow Israelites.

Exodus 21:16 <sup>16</sup>“He who kidnaps [גָּנַב] a man, whether he sells him or he is found in his possession, shall surely be put to death [יָיִמָת מוֹת].

Deuteronomy 24:7<sup>7</sup>“If a man is caught kidnapping any of his countrymen of the sons of Israel, and he deals with him violently or sells him, then that thief [גָּנַב] shall die; so you shall purge the evil from among you.

To kidnap, גָּנַב, means to carry away, to steal, to steal away; in this context it refers to seizing a person for sale or servitude. Its primary meaning refers to stealing, and that is the word used in the eighth commandment prohibiting stealing, but taking a person from where they are to another place they do not want to be by force and against their will is stealing that person. This verse could just as easily be translated “He who steals a man ...” and the King James Version, the American Standard Version, and the Revised Standard Version do in-

interpret it that way. The NET Bible notes indicate the literal rendering to be “a stealer of a man,” hence the idea “anyone stealing a man” is the literal meaning of the verse. Most English translations translate it with the word “kidnap” because in American jurisprudence we don’t think of taking a person against their will as a theft but we think of it as a kidnapping because that’s the way it is defined in the criminal codes established in the United States. In Deuteronomy 24:7, the kidnapper is called a “thief”, גַּנֵּב. Stealing a human being is treating that which God made in His image as something inferior to the status God granted man in the first place. That is an affront to the Creator God and a grievous attack on His character such that the death penalty was deemed appropriate.

Some theologians try to claim the imperfect verb form translated “shall surely be put to death” means “may;” therefore, it is not an imperative to impose the death penalty but instead it is only a moral directive not to engage in the prohibited behavior. Further, they claim the Scripture does not specify the method of death nor the responsible party or parties for carrying it out; therefore, it is not referring to the actual imposition of the death penalty. Death, מוֹת or מוֹתָ, means to die, to be dead, to put to death, to kill, and to slay; it refers to the absence of physical life in a person. This is not ambiguous; it is not referring to a moral directive, it is referring to putting a violator to death and that is how we should understand it.

Kidnapping at that time was for the purpose of either selling a person into slavery or forcing a person into slavery in the service of the kidnapper. We tend

to think of it as an element of sexual assault, child custody disputes, ransom demands, or as an act incidental to other crimes in order to hold a hostage as a bargaining chip for negotiations or for freedom from arrest. That wasn't the issue then; slavery was the issue.

The next command deals with a man who loses his temper in the midst of an argument or a discussion and strikes another man but doesn't kill him. This is not a case of a premeditated assault and battery; it is a case of what we might call mutual combat or a fight occurring in the heat of passion.

Exodus 21:18–19 <sup>18</sup>“If men have a quarrel [רִיב] and one strikes the other with a stone or with *his* fist, and he does not die but remains in bed, <sup>19</sup>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 [שָׂדָה] of time, and shall take care of him until he is completely healed.

This situation refers to a quarrel, רִיב, which means to be in a state of hostility and opposition to another person or group as opposed to lying in wait for an unsuspecting person who has no relationship to or with the assailant. The people involved here have a prior relationship of some sort even if they have just met over some issue occurring in that moment.

This involves a fight with either hands, fists, and feet or some sort of weapon. Concerning weapons of some sort, it isn't restricted to just a stone; that seems to be a representative example of what could be used as a weapon. The point is that a weapon of some sort was used and not that a particular weapon was used. The judge would be expected to use some common sense in these cases. When two men get into such a fight, the one who injures the other must

care for him until he becomes ambulatory and he had to pay him for any income producing time lost. They did not have the concept of excessive punitive damages which has led to gross extremes in our civil judicial system. Loss, *נִשְׁבֵּת*, refers to being in a state of inactivity in which one is not able to do work but not due to laziness or indolence. The injured person must be unable to provide for himself due to the injuries suffered in the fight. This command does not address the issue of who should compensate whom in the case when both of them are injured and can't work.

If the person died as a result of his injuries, then the situation would be handled as a murder or a manslaughter case covered under the sixth commandment and this particular command would no longer apply.

If a person could never recover to the point of being "completely healed," his assailant would have to continue to provide for him. Getting out of bed to the point one can get around with the aid of a staff is not the same thing as being "completely healed;" he would still need to be compensated until he could be made whole. If the injured party is able to get out of bed, that fact precludes any punishment for the man who caused the injury.

The next situation discussed concerns a slave owner striking one of his slaves.

Exodus 21:20–21 <sup>20</sup>"If a man strikes his male or female slave with a rod and he dies at his hand, he shall be punished [נִקְמָה]. <sup>21</sup>"If, however, he survives a day or two, no vengeance [נִקְמָה] shall be taken; for he is his property [נֶפֶשׁ].

The presupposition underlying this command is the concept of corporal punishment for slaves, a practice which was not forbidden. Beating them to death was forbidden and if that happened, the slave owner would have to face justice. Punishment and vengeance translate the same word, נָקָם, which means to seek vengeance or avenge; it refers to paying harm with another harm with a focus on justice and punishment of guilt real or perceived. This represents the concept of *lex talionis*. It only applied if the slave died as a result of the beating. The owner could not be punished for the beating itself because the slave was his property. This also suggests that if the slave lived more than a day or two before he died, the owner who beat him would not be liable for the death.

Property, נֶזֶק, means silver, but figuratively it can mean property or belongings as an extension of the value of silver which is the meaning as it is used here. This word is used 403 times in the Old Testament, but only here is it translated property. In this case, there was no compensation for lost work. The owner would only have to pay himself anyway and the slave presumably continued to receive the food and housing he received before the beating. I also assume that would continue because the owner would be unable to sell a slave who couldn't work, no one would purchase such a slave, and he couldn't murder him to get rid of the burden of paying for a slave who could no longer work because he would pay the price a murderer had to pay and that was death.

The next command deals with an injury to a pregnant woman.

Exodus 21:22 <sup>22</sup>“If men struggle with each other and strike a woman with child so that she gives birth prematurely, yet there is no injury, he shall surely be fined as the woman’s husband may demand of him, and he shall pay as the judges *decide*.”

I have no idea how common this sort of thing was in the Ancient Near East, but the ancient law codes all seemingly discuss this situation. Sumerian law codes provided for a monetary penalty to be paid to the husband for causing a miscarriage by accidentally hurting a pregnant woman and for intentionally striking a pregnant woman. The Code of Hammurabi specified a payment for causing the wife of a lord to miscarry. If she was killed, then the daughter of the offender was to be put to death. If the woman who miscarried was a commoner or a slave, monetary damages were to be paid. Middle Assyrian law provided for a monetary payment, a flogging, and a month’s labor in the king’s service if he caused an upper-class woman to miscarry. There were also provisions protecting lower class women. Hittite law imposed a monetary fine for causing a miscarriage.<sup>1</sup>

This provision seems to envision harm coming to a pregnant woman who somehow gets in the way of a confrontation or who intervenes in one on behalf of a family member and is pushed aside or otherwise physically accosted such that she undergoes a premature birth of the baby. If the child is born in good health, the offender should be required to pay damages to the woman’s husband subject to the approval of the judges concerning the amount requested.

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<sup>1</sup> U. Cassuto, *A Commentary on the Book of Exodus*, trans. Israel Abrahams (Jerusalem: The Magnes Press, The Hebrew University, 1997), 273-274.



If the child was born with an injury or if the woman suffered a physical injury, then the principle of *lex talionis* was applied.

Exodus 21:23–25 <sup>23</sup>“But if there is *any further* injury, then you shall appoint as a *penalty* life for life, <sup>24</sup>eye for eye, tooth for tooth, hand for hand, foot for foot, <sup>25</sup>burn for burn, wound for wound, bruise for bruise.

It was presented in more depth in Leviticus 24:17-22.

Leviticus 24:17–22 <sup>17</sup>“If a man takes the life of any human being, he shall surely be put to death. <sup>18</sup>“The one who takes the life of an animal shall make it good, life for life. <sup>19</sup>“If a man injures his neighbor, just as he has done, so it shall be done to him: <sup>20</sup>fracture for fracture, eye for eye, tooth for tooth; just as he has injured a man, so it shall be inflicted on him. <sup>21</sup>“Thus the one who kills an animal shall make it good, but the one who kills a man shall be put to death. <sup>22</sup>“There shall be one standard for you; it shall be for the stranger as well as the native, for I am the LORD your God.”

The concept of *lex talionis* is terribly misunderstood. Most people think it is strictly a doctrine relating to an act of vengeance, but it is actually a mediating act of justice in order to prevent excessive retaliation relative to the injury suffered by the aggrieved party. As part of the Law, it was designed to curb individual acts of revenge and allow the punishment to be a fair resolution concerning justice for the victim and punishment for the offender. The punishment had to fit the crime, and to this day, we use the phrase, “Let the punishment fit the crime.” It was not to be excessive nor was it to be less than the situation required consistent with the crime and the harm inflicted. It represented a principle and it was not intended to be literally imposed in Israel.

*Lex talionis* is defined as the principle or law of retaliation that a punishment inflicted should correspond in degree and kind to the offense of the wrongdoer, as an eye for an eye, a tooth for a tooth, [and as] retributive jus-

tice.<sup>2</sup> In actual practice, the exchange of money often replaced the imposition of the physical penalty demanded by the doctrine of *lex talionis*. In Israel, however, that wasn't supposed to happen because justice was supposed to be proportionate to the crime and buying or bribing one's way of it didn't serve the cause of justice. It would serve the cause of justice if and when approved by impartial judges. Some theologians believe it is possible that the implementation of *lex talionis* into the Mosaic Law was designed to remove justice from the realm of the individual and invest it in the collective community where justice was more likely to be fair and impartial. In that time and place, wrongs were often dealt with as private matters between families or clans. Today, people who try to work things out among themselves can introduce all kinds of legal complications into the equation, but that wasn't the situation then. At the time Moses was given this command, the damages requested by the aggrieved husband were subject to the approval of the judges.

By the time of this command, Moses had set up a procedure in which people could approach the judges, who were likely among the leaders of the various Israelite tribes, and have their issues settled in a court like proceeding (Ex. 18:17-27), but the old practices, especially concerning blood feud, were deeply ingrained into society and whether or not they changed, how much they changed, or how long it took to change them is uncertain. The Jews do not practice *lex talionis* today, but the practice is still used in Near East society and it

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<sup>2</sup> <http://www.dictionary.com/browse/lex-talionis> (accessed 29 Nov. 2017).

is part of Islamic Sharia Law, at least in some Muslim nations. The nation of Jordan makes allowances for the concept of familial revenge in its judicial system to this day. Except for murder which we know was subject to kinsman blood revenge, there is no biblical record of any Israelite being blinded or having a tooth knocked out and so on. Instead, they were subject to the justice of the judges and later the courts.

Some theologians suggest the concept of blood revenge was limited to places where any sort of governmental control was absent so that some stability could be maintained in that culture. That's certainly true, but blood revenge was a factor in Israel. Remember, that when a person who left the city of refuge before the death of the High Priest, he was subject to being killed at the hands of the one responsible to the family for enacting the blood revenge (Num. 35:26-28). That must have changed over time in Israel where procedures were put in place to insure fairness and due process because by the time of the Lord, and probably long before that time, even murder was subject to justice in the courtroom (Mt. 5:21).

Matthew 5:21 <sup>21</sup>“You have heard that the ancients were told, ‘YOU SHALL NOT COMMIT MURDER’ and ‘Whoever commits murder shall be liable to the court.’

In the Sermon on the Mount, the Lord mentioned the *lex talionis* doctrine and indicated things would be much different under Kingdom Law and the doctrine would no longer apply.

Matthew 5:38–42 <sup>38</sup>“You have heard that it was said, ‘AN EYE FOR AN EYE, AND A TOOTH FOR A TOOTH.’ <sup>39</sup>“But I say to you, do not resist an evil person; but whoever

slaps you on your right cheek, turn the other to him also. <sup>40</sup>“If anyone wants to sue you and take your shirt, let him have your coat also. <sup>41</sup>“Whoever forces you to go one mile, go with him two. <sup>42</sup>“Give to him who asks of you, and do not turn away from him who wants to borrow from you.

Given the type of society the Messianic Kingdom will be, the opportunities for something like the doctrine of *lex talionis* to even be applicable should be few, but it will not be a problem free Kingdom because it will be populated by people with a sin nature. Dealing with offenses will be much different under the reign of the King. We will have to wait and see how all that actually works out, but no one will be subjected to physical deformity based on the doctrine of *lex talionis*.

Concerning the case of the pregnant woman, some theologians want this command to apply to her ability to bear children in the future after the incident occurred. The *Complete Jewish Bible* relates it both to the death of the unborn child and the mother's ability to bear children in the future. “If people are fighting with one another and happen to hurt a pregnant woman so badly that her unborn child dies, then, even if no other harm follows, he must be fined....” (Ex. 21:22, *Complete Jewish Bible*). Others also consider both possibilities, that is, did the woman suffer harm in terms of her ability to bear children in the future and/or did the child survive the birth on the one hand or, on the other hand, suffer injury, permanent or otherwise? In any case, even if the woman was not injured at all, the assailant was liable for damages. The verse, however, simply seems to suggest the assault resulted in a premature birth with no harm done to

the baby. If either the woman or the baby died, then the principle of life for life was invoked.

In terms of Israel, the doctrine of *lex talionis* was meant to insure proportional justice was served in the covenant community. With the exception of the blood feud, it seems no one was maimed in the name of justice in Israel. In Israel, the doctrine of *lex talionis* seemed to function more as a mandate for judicial procedure to insure justice rather than as a literal form of physical punishment for infractions.

There was an incident early in Israel's history when a pagan king they conquered was maimed and that king attributed his misfortune to cosmic justice, and some theologians want to call this incident an example of *lex talionis*, but it was not.

Judges 1:6–7      <sup>6</sup>But Adoni-bezek fled; and they pursued him and caught him and cut off his thumbs and big toes. <sup>7</sup>Adoni-bezek said, "Seventy kings with their thumbs and their big toes cut off used to gather up scraps under my table; as I have done, so God has repaid me." So they brought him to Jerusalem and he died there.

This situation wasn't about justice; therefore, the concept of *lex talionis* isn't applicable. This was about humiliating a conquered king and insuring he would not be able to regain power and wage war against Israel in the future. Adoni-bezek admitted he performed the same atrocity to kings he conquered so it was justice that he suffered the same injuries, but it wasn't said in the context of *lex talionis*; it was said in the context of conquering and being con-

quered. That's how conquered kings were treated at that time whether they had ever done the same thing to anyone else or not.

One of the problems we face as a product of our way of thinking today is to consider vengeance to be a totally bad thing, but in God's view, vengeance has to do with adherence to law, justice, and righteousness which, when violated, deserves God's justice and even His wrath. When accomplished from God's perspective, vengeance is holy and just but when it issues out of man apart from God's guidelines, it is unrighteous and sinful. God legitimizes vengeance in the form of justice.

Paul, in terms of the church seemed to specifically nullify any notion of the doctrine of *lex talionis* in terms of taking vengeance for a wrong whether simply perceived or quite real.

Romans 12:17, 19 <sup>17</sup>Never pay back [ἀποδίδωμι] evil for evil to anyone. Respect what is right in the sight of all men.... <sup>19</sup>Never take [ἐκδικέω] your own revenge, beloved, but leave room for the wrath of God, for it is written, "VENGEANCE [ἐκδικήσις] IS MINE, I WILL REPAY," says the Lord.

In our mind, vengeance and justice are not exactly the same thing, but they are not necessarily totally distinct one for the other either. Paul is referring here to vengeance more than he is referring to justice, but both concepts are in view. He prohibits taking personal revenge and using evil to enact that revenge. When things are left to the Lord, then they are righteously accomplished. We also have a God ordained judicial structure for the redress of grievances which is the right thing to do as our society is constructed. Pay back, ἀποδίδωμι, means to

recompense positively or negatively depending on what the person deserves. Take revenge, ἐκδικέω, means to take revenge, avenge, or punish; it refers to repaying harm with harm on the assumption that the initial harm was unjustified and that retribution is therefore in order. Vengeance, ἐκδικήσις, means repaying harm for harm on the assumption the initial harm was unjustified and retribution is called for. Ultimately, human beings can never exercise the perfectly just, impartial justice that God can exercise; He is the only righteous One and He will sort things out on behalf of those who belong to Christ.

This isn't just a New Testament concept; the Israelites were specifically told they were not to take vengeance into their own hands but were instead to love their neighbor.

Leviticus 19:18 <sup>18</sup>You shall not take vengeance, nor bear any grudge against the sons of your people, but you shall love your neighbor as yourself; I am the LORD.

One of the reasons the Psalmist gave for the trouble Israel seemed to find herself in was the presence of the avenger among them.

Psalm 44:16 <sup>16</sup>Because of the voice of him who reproaches and reviles, Because of the presence of the enemy and the avenger [אֲנָקִי].

Avenger, אֲנָקִי, is one who seeks to avenge, to take revenge, to be avenged, or to suffer revenge. It refers to paying harm with another harm with a focus on justice and punishment of guilt real or perceived. The presence of people taking justice into their own hands rather than allowing the judicial system to work as God intended was a blight on Israelite society and God imposed

temporal discipline on the nation because of it. This word is used in the positive sense when used of God, but it is used in the negative sense when applied to man as it is in this Psalm. Once Israel was formed into a nation and placed under the Mosaic Law, the necessity for the avenger was removed and the responsibility for justice was the governmental system's responsibility.

God is called the God of vengeance in the Bible and that is using the concept in a good way.

Psalm 94:1 <sup>1</sup>O LORD, God of vengeance [נִקְמָה], God of vengeance [נִקְמָה], shine forth!

Nahum 1:2 <sup>2</sup>A jealous and avenging [נִקְמָה] God is the LORD; The LORD is avenging [נִקְמָה] and wrathful. The LORD takes vengeance [נִקְמָה] on His adversaries, And He reserves wrath for His enemies.

In the Psalm, vengeance, נִקְמָה, means to punish, to inflict retribution; it is the justified repaying back of a harm. It also means vengeance or revenge and it is to repay harm with more harm implying the first harm was uncalled for. Both of these meanings bear on the meaning of vengeance when it is God who is the avenger rather than man. God doesn't make mistakes and He doesn't impose anything that is unfair or unrighteous as men are prone to do. In Nahum, the Hebrew word translated avenging and vengeance is נִקְמָה meaning to avenge, to pay harm for harm. When used of God, it is positive. He takes vengeance on His adversaries and His enemies and the punishment He inflicts on them is just and deserved.



We have an example set by David, dealing with Saul, and Jeremiah, men who were in distress and being seriously mistreated by others, but who called out to God to enact vengeance on their behalf rather than taking justice into their own hands.

1 Samuel 24:12     12“May the LORD judge between you and me, and may the LORD avenge [נָקַם] me on you; but my hand shall not be against you.

Jeremiah 11:20     20But, O LORD of hosts, who judges righteously, Who tries the feelings and the heart, Let me see Your vengeance [נִקְמָה] on them, For to You have I committed my cause.

Jeremiah 20:12     12Yet, O LORD of hosts, You who test the righteous, Who see the mind and the heart; Let me see Your vengeance [נִקְמָה] on them; For to You I have set forth my cause.

David relied on God to avenge his righteous cause with Saul. When he had the chance to avenge himself, he didn't do it. Jeremiah recognized that it is God who judges righteously because he knows the heart of man; therefore, he relied on God to avenge his righteous cause.

The next two verses indicate that the Israelites, apart from a killing of some sort, did not practice the maiming aspects of *lex talionis* among themselves and some other form of recompense was imposed when necessary. In this case, it was the freedom of the injured slave. Some theologians think the abrogation of *lex talionis* only applied to slaves in this particular circumstance and the Israelites in general were still subject to the maiming provisions of the doctrine. Scripture does not confirm nor does it deny that Israelites were ever actually subject to

the maiming provisions of the *lex talionis*. My personal conviction is they didn't do that kind of thing among themselves.

Exodus 21:26–27 <sup>26</sup>“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. <sup>27</sup>“And if he knocks out a tooth of his male or female slave, he shall let him go free on account of his tooth.

Even though a slave was considered property, the slave owner had to free him if he seriously maimed one of his slaves in this way during the course of administering corporate punishment or even if he was otherwise assaulting him for no reason at all. This applied to female servants as well. This protection afforded bond servants was probably intended to prevent any ruthless, savage beatings by the slave owner. Slaves who were set free absent remuneration were like throwing money away; therefore, the owner had an incentive to refrain from mercilessly beating them.

The *lex talionis* also applied in cases of perjury. The witness who was found to be lying would be subject to the same penalty the accused would have suffered if he was convicted of the false testimony.

Deuteronomy 19:16–21 <sup>16</sup>“If a malicious witness rises up against a man to accuse him of wrongdoing, <sup>17</sup>then both the men who have the dispute shall stand before the LORD, before the priests and the judges who will be *in office* in those days. <sup>18</sup>“The judges shall investigate thoroughly, and if the witness is a false witness *and* he has accused his brother falsely, <sup>19</sup>then you shall do to him just as he had intended to do to his brother. Thus you shall purge the evil from among you. <sup>20</sup>“The rest will hear and be afraid, and will never again do such an evil thing among you. <sup>21</sup>“Thus you shall not show pity: life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.

The next command concerns domestic livestock that causes injury.

Exodus 21:28–32 <sup>28</sup>“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. <sup>29</sup>“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. <sup>30</sup>“If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him. <sup>31</sup>“Whether it gores a son or a daughter, it shall be done to him according to the same rule. <sup>32</sup>“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.

The primary motive behind this command is a recognition that large animals such as an ox can be aggressive and mean and the owner of an animal is charged with the task of seeing to it that the animal is controlled so people are kept safe. This command also recognizes the worth of a human being over that of an animal. That puts the lie to the claim brought about by means of an evolutionary mindset that animals and humans are equal in nature and right to life. That’s why many years ago the director of PETA, Ingrid Newkirk, said, “A rat is a pig is a dog is a boy.” This situation with animals causing injury was probably not uncommon in ancient society because it was agrarian in nature and there would have been numerous oxen present. Generally speaking, bulls are more prone to aggressive behavior than cows and steers. Whether it was common practice at that time to neuter a male who wasn’t to be used for breeding, I have no information but it seems likely. Presumably, the ox was used as the example because it was large and could be aggressive and dangerous, but the same care would have been required of other animals that could harm some-

one as well. Anyone who owned an animal that caused some harm was going to face the consequences for the animal's actions.

If the owner had no knowledge the ox was dangerous and it killed someone, it was to be put to death which obviously deprived the owner of a valuable asset and he couldn't even eat it and recover some of the value that way. If the owner knew the animal had acted aggressively in the past and did nothing to confine it in order to protect people, both he and the animal were to die. A ransom, or redemption price, could be paid by the owner in lieu of forfeiting his life. That seems to be the prerogative of the victim's family and not the owner of the ox. This Scripture makes no mention that the amount of the ransom demand required the approval of the judges, but that would be consistent with the other commands to require their approval. This shouldn't be thought of as a fine; it was the price of redemption from the death penalty.

The goring of a son or a daughter was treated with the same consideration, but goring a slave required the payment price for a slave and the death of the ox that gored him or her.

The next command deals with an animal that is accidentally killed by the negligence of another person.

Exodus 21:33–34 <sup>33</sup>"If a man opens a pit, or digs a pit and does not cover it over, and an ox or a donkey falls into it, <sup>34</sup>the owner of the pit shall make restitution; he shall give money to its owner, and the dead *animal* shall become his.

Digging a pit of any sort is inherently dangerous to not only farm animals wandering around, but to any person walking in the area. Proper precautions

needed to be taken in order to prevent such an accident and the failure to do so was a prima facie case of negligence. If it happened, the one who dug the pit and left it uncovered was to pay the animal's owner for his loss and remove the animal.

The last command in this section deals with one man's ox killing another man's ox. It is not uncommon for bulls to fight one another when they get the opportunity so this may have been a fairly common occurrence.

Exodus 21:35–36 <sup>35</sup>“If one man's ox hurts another's so that it dies, then they shall sell the live ox and divide its price equally; and also they shall divide the dead ox. <sup>36</sup>“Or *if* it is known that the ox was previously in the habit of goring, yet its owner has not confined it, he shall surely pay ox for ox, and the dead *animal* shall become his.

In this case, the two men would sell the live ox and split the proceeds as well as dividing up the meat of the dead one. There is no culpability assigned to one owner or the other. This is a case of doing what bulls do; they fight each other. However, if one of them knew he had a bull that had shown aggressive behavior in the past, he had to pay the other owner in full for the dead animal and he was to keep the meat.