



After the Ten Commandments: The Laws of the Covenant Code

Marty Lockshin

Torah in Motion, 2022

Homicide (Exod 21:12-14)

מִכֵּה אִישׁ וָמֵת מוֹת יוּמָת.

He who fatally strikes a man shall be put to death.

וְאִשֶּׁר לֹא צָדָה וְהֶאֱלֹהִים אָנָּה
לִידּוֹ וְשִׁמְתִי לָךְ מִקּוֹם אֲשֶׁר
יִבּוֹס שָׂמָּה.

If he did not do it by design, but it came about by an act of God, I will assign you a place to which he can flee.

וְכִי יִזְדֶּ אִישׁ עַל רֵעֵהוּ לְהַרְגוֹ
בְּעָרְמָה מֵעַם מִזְבְּחֵי תִקְוָנוּ
לְמוֹת.

When a man schemes against another and kills him treacherously, you shall take him from My very altar to be put to death.

Ibn Ezra's second commentary on Exodus

אומר לך כלל לפני שאחל לפרש, כי
כל משפט או מצוה כל אחד עומד
בפני עצמו.

ואם יכולנו למצוא טעם למה דבק
זה המשפט אל זה, או זאת המצוה
אל זאת, נדבק בכל יכולתנו.

ואם לא יכולנו, נחשוב כי החסרון
בא מחוסר דעתינו

Before I begin my commentary, I will
formulate a principle: Each law or
mitzvah stands independently.

When we can find a reason why one
law or one *mitzvah* is juxtaposed
with the next one, we will do
whatever we can to explain.

And if we can't find an explanation,
we will assume that it is because of
our insufficient intellects.

Ibn Ezra's earlier commentary on Deut (16:18)

אף על פי שכל מצוה
ומצוה עומדת בפני
עצמה, יש כדמות
דרש להדבק
הפרשיות

Although each *mitzvah* stands independently, there is a kind of *midrash* (possible) about the juxtaposition of texts.

Suggested
further
reading on
this

איילת סידלר:
'אומר לך כלל': כלל ויישומו
בפירושי ראב"ע לסמיכות מצוות

Shnaton: An Annual for Biblical and Ancient
Near Eastern Studies 17 (2007)



Keli Yekar (R. Ephraim of Lunshitz, Prague, 1550-1619)

רבים השתדלו ליתן סדר
לכל המצות שבפרשה זו
וכן מצאתי בתולדות יצחק
ובמהרי"א ולא ישרו
דבריהם בעיני על כן לא
ראיתי להאריך בזכרונם

Many tried to explain the order of the various *mitzvot* in this Torah portion, for example Rabbi Yitschak Karo and Rabbi Isaac Abarbanel (both early 16th century). What they write did not appeal to me, so I won't dwell on their explanations.

Rabbi David
Zvi
Hoffmann

יותר משיש
לכבד את
חירותו האישית
של האדם יש
לכבד את חייו

Even more than
one must
protect the
personal liberty
of other people,
one must
protect their
lives.

Cardinal
Blase J.
Cupich
(Chicago,
May 2022)

[The right to stay alive trumps
the right to have weapons as]
“the Second Amendment did
not come down from Sinai. The
right to bear arms will never be
more important than human
life.”



Rabbenu
Bahya b.
Asher (1235-
1340)
back to
Decalogue

אחר שהשלים דין
עבד עברי שהתחיל
בו כנגד דבור ראשון
שבלוח ראשון
התחיל בדיון
הרציחה כנגד דבור
ראשון שבלוח שני

Having concluded the legislation concerning Jewish slaves, a subject conceptually linked to the first commandment on the first Tablet, the Torah returns to the first commandment on the second Tablet, the law about murder.

Rashbam

back to the Decalogue

לפי שאמר להם כבר לא תרצח
(שמות כ"י"ב) וגם כבד את אביך
(שמות כ"י"א), לפיכך פירש כאן
עונשן.

וגם וגונב איש ומכרו, לפי שאמר
לא תגנוב (שמות כ"י"ב) ופירשוהו
חכמים (בבלי סנהדרין פ"ו.) בגונב
נפש דבר, למד מעניינו שמדבר
בחייבי מיתות בית דין.

Since they were already told "You shall not murder," and also "Honour your father and your mother," now the text explains the penalty involved [if one breaks those laws].

Similarly [one should explain that the verse here] "He who kidnaps a man and sells him," [is written as an elaboration of the verse], "You shall not steal," and the rabbis explained that that verse refers to kidnapping, for one sees from the context that that text is referring to capital crimes.

Ibn Ezra (later commentary) context within chapter 21

מכה – טעם להזכיר זה
אחר זכר העבד והאמה,
כי צריך לפרש משפט
מכה עבדו ואמתו (שמות
כ"א:כ'–כ"א).

וזה "איש" – הוא מישראל.

“Who fatally strikes a man”: The reason this follows the laws dealing with male and female slaves is that Scripture wanted [in the continuation (vss. 20-21)] to explain what happens to someone who “strikes his slave, male or female.”

[In our verse, fatally striking] “a man” is a reference to a [free] Israelite.

Is the slave of the beginning of the chapter the same as the slave in the continuation?

Rashi

מכה איש ומת – כמה כתובים נאמרו
במיתת רוצחים, ומה שבידי לפרש
למה באו כולם, אפרש.

איש ומת – למה נאמר? לפי שנאמר:
ואיש כי יכה כל נפש אדם מות יומת
(ויקרא כ"ד: י"ז), שומעני בהכאה בלא
מיתה? תלמוד לומר: ומכה איש ומת
– אינו חייב אלא בהכאה של מיתה

Many apparently redundant verses were written dealing with murderers; I will explain what I can about why all these verse were written.

איש ומת – Why is this said? Since it is said, (Leviticus 24:17) "One who strikes another person [shall surely be put to death]", I might have inferred that mere smiting without killing is subject to the death penalty. Scripture therefore states here, "who **fatally** strikes."

Rashi (cont.)

ואם נאמר: מכה איש, ולא
נאמר: ואיש כי יכה (ויקרא
כ"ד:י"ז), הייתי אומר: אינו חייב
עד שיכה איש. הכה את האשה
ואת הקטן מניין? תלמוד לומר:
כי יכה כל נפש (ויקרא כ"ד:י"ז)
– אפילו אשה וקטן

On the other hand, if it had stated here, "Whoever fatally strikes a man..." and it had not said there (Lev 24) "One who strikes another person," I might have inferred that murderers are not guilty unless they killed "a man"; how would I know that the rule applies if the victim is a woman or a minor? Therefore, Scripture states "One who strikes another person [shall surely be put to death]," including women and minors.

Compare: the relative
value of different lives in
Ancient Near Eastern
Law Codes

Professor Moshe Greenberg (1960)

The right of pardon in capital cases that Near Eastern law gives to the king is unknown to biblical law. Here would seem to be another indication of the literalness with which the doctrine of the divine authorship of the law was felt in Israel. Only the author of the law has the power to waive it; in Mesopotamia he is the king, in Israel no man.

[In Canada: R. vs. Martin Lockshin.

In 19th century England: “at the pleasure of the queen.”]

[Greenberg cont.] The unexampled severity of biblical law on the subject [of homicide] has been considered primitive, archaic, or a reflex of Bedouin vendetta customs. But precisely the law of homicide cannot be accounted for on any such grounds.