

**Reformation Fellowship Notes • March 26, 2017**  
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**Handout #22**  
**Exodus 21:22 to 22:17**

**I. Introduction**

- A. Last time we just got our feet wet in the laws of Exodus.
  - 1. First 21 verses of chapter 21
  - 2. The first half of the three chapters of laws are *mishpatim*.
    - a) True case law—laws that include a just resolution.
  - 3. Dealing with these issues:
    - a) Slavery
    - b) Murder
    - c) Parental abuse
    - d) Personal injury
- B. Today we will go through the rest of the *mishpatim*.

**II. Exodus 21:22-25 (Pregnant woman is accidentally injured.)**

- A. Collateral damage to wife of one of two fighting men
  - 1. A very specific scenario is envisioned in this command.
    - a) Two men are fighting.
    - b) The pregnant wife of one of the men tries to break up the fight.
    - c) She gets hit by the other man.
  - 2. This scenario shows up in other ANE (Ancient Near East) law codes. (Below is summary of Cassuto's presentation, p. 273-4.)
    - a) Sumerian
      - (1) Two different resolutions depending on whether the woman miscarries:
        - (a) Perpetrator pays a small fine if the woman is just injured.
        - (b) Perpetrator pays a larger fine if the woman miscarries.
    - b) Babylonian (Code of Hammurabi)
      - (1) Two different resolutions depending on whether the woman is a noble or a commoner
        - (a) If the woman is a noble:
          - (i) For a miscarriage, perpetrator pays a fine.
          - (ii) If the woman dies, the perpetrator's daughter is killed.
        - (b) If the woman is a commoner:
          - (i) Perpetrator pays a monetary penalty for miscarriage or death to woman.
    - c) Assyrian
      - (1) Innocent party sometimes caused to suffer.
        - (a) If the woman is a noble:
          - (i) If woman is injured: fine, flogging, and labor

- (ii) No mention of what happens if the woman dies
  - (b) If the woman is a commoner:
    - (i) Whatever the woman suffers is inflicted on the perpetrator's wife.
    - (ii) If the fetus dies, the perpetrator dies (text is not entirely legible).
  - d) Hittite
    - (1) For miscarriage: fine
    - (2) No mention of what happens if the woman dies
- B. In the Old Testament
  - 1. If this results in an induced birth
    - a) It is not clear from the Hebrew whether the fetus dies or lives.
      - (1) Literally "if any mischief happens"
      - (2) Given the parallels in the other countries, this must refer to a miscarriage.
    - b) The perpetrator must pay.
      - (1) Husband offers a suggestion for fair compensation.
      - (2) Judge approves the amount.
  - 2. "Eye for an eye"
    - a) This is a set expression that is ancient and well-known.
      - (1) This principle is part of the Code of Hammurabi.
    - b) It expresses the idea of the need to match the punishment with the crime.
      - (1) Apparently, this was originally applied literally.
      - (2) Only later was it applied abstractly.
    - c) This principle is included here to stress the need for the punishment to be equivalent to the injury caused.
      - (1) In this case, this principle serves to *limit* the amount of restitution.
- C. What innovations and amendments are being introduced by the OT version?
  - 1. No differentiation is to be made on the basis of the social class of the woman; all human beings are equal.
  - 2. The punishment is to be inflicted only on the man who causes the injury but not on any one else; his daughter or his wife is not to be punished for his deed, as the Mesopotamian laws ordained.
  - 3. The penalty of the offender is to be determined according to the Torah principles (Cassuto p. 274-5).
    - a) Most importantly, the punishment must be proportional to the injury done,

### III. Exodus 21:26-27 (Slave is injured.)

- A. Why is this passage here?
  - 1. By association
    - a) Mention of "eye" and "tooth"

- B. Typically, there was no penalty for injuring a slave in ANE.
  - 1. Slaves were considered property.
    - a) It would be like doing damage to one's own house.
- C. In Torah, a slave has value as a person.
  - 1. An injured slave is given freedom if there is permanent damage.
- D. But notice that verse 21 said that if the slave recovered from his injury, the master would suffer no punishment.
  - 1. Because the slave is the "property" of the master.
  - 2. The tension within the law is clear.

#### **IV. Exodus 21:28-32 (Animal kills someone.)**

- A. If someone's ox kills a person (when such behavior was unexpected)
  - 1. The taking of a human being's life is an evil (even if an animal does it).
    - a) Genesis 9:5-6
  - 2. Ox must be executed (stoned).
    - a) Punished by society
    - b) Flesh may not be eaten.
      - (1) Rendered inedible due to the evil act
  - 3. This emphasis on the sanctity of human life was unique in ANE.
  - 4. Owner of ox ought not be punished.
- B. If someone's ox kills a person (when the ox has done it before):
  - 1. Ox must be stoned.
  - 2. Owner must be stoned.
    - a) Code of Hammurabi calls for the death of the owner's child.
    - b) However, judge may establish a ransom that can be paid instead of the death penalty.
  - 3. It does not matter if the victim is a child (boy or girl).
    - a) This was not typical in ANE.
  - 4. It does not matter if the victim is a slave.
    - a) Owner of ox must pay the value of a slave.
      - (1) This is the same amount that other countries required to be paid for the death of a noble.

#### **V. Exodus 21:33-34 (injury to animal due to negligence)**

- A. The case of an uncovered pit is a common scenario in ANE laws.
  - 1. But not with an animal
- B. What if an animal falls into an uncovered pit?
  - 1. Owner of pit must pay for the animal.

- a) But the owner of the pit gets the carcass.
- b) Effective penalty is the difference between the value of the live animal and the value of the dead animal.

#### **VI. Exodus 21:35-36 (injury to animal by an animal)**

- A. What if one man's ox kills another man's ox?
  - 1. If the ox has never done this before:
    - a) Split the value of both the live and dead ox between them.
      - (1) This is the same as in ANE laws.
  - 2. If the ox has done this before:
    - a) Owner of the living ox gives it to the other man.
    - b) Man gets the carcass of the dead ox.

#### **VII. Exodus 22:1-4 (theft by break in)**

- A. If a thief steals a sheep and sells it, he must pay five-fold.
- B. If a thief steals a sheep or ox, and it's still in his possession, he must pay two-fold.
- C. If the nighttime thief is killed by the owner:
  - 1. Killed at night, having been caught in the act:
    - a) The owner is not held guilty of murder.
  - 2. But if the owner kills him at a later time in daylight, the owner is guilty of murder.
    - a) No longer a threat to the life of the owner (no longer self-defense)
- D. Thief must make restitution for his crime.
  - 1. If he can't pay, he must sell himself into slavery.
- E. Code of Hammurabi is much more harsh.
  - 1. In Code of Hammurabi, if the thief cannot pay restitution, he is put to death (§8).
  - 2. In Code of Hammurabi, if the thief breaks in to kill, he is to be put to death (§21).

#### **VIII. Exodus 22:5-6 (crop damage due to negligence)**

- A. One man's animals destroy another man's crops:
  - 1. Negligent man must pay restitution to other man.
    - a) Taken from the best of the negligent man's crops
- B. If someone sets a fire that causes damage to the crops of another, he must pay restitution.

#### **IX. Exodus 22:7-9 (theft of entrusted valuables)**

- A. When someone gives possessions to another for safe keeping:
  - 1. If the thief is caught:

- a) Thief pays double.
  - b) No penalty to the one keeping the goods.
2. If the thief is not caught:
- a) The one who kept the goods must prove he did not steal them.
    - (1) Appears before judges
    - (2) If it is determined that he stole the goods, he pays double.
      - (a) The same penalty as for theft

#### **X. Exodus 22:10-13 (injury or loss of entrusted animals)**

- A. If something happens to animals that are in the keeping of another:
- 1. Dies, is hurt, is driven away:
    - a) Keeper must take an oath that he did not steal the animal.
      - (1) No restitution
    - b) If keeper does not take an oath:
      - (1) Restitution
  - 2. If animal is torn to pieces:
    - a) Keeper must present evidence to prove that this happened.
      - (1) No restitution

#### **XI. Exodus 22:14-15 (injury or loss of borrowed animals or tools)**

- A. If a man borrows something, and it dies or is injured
- 1. Borrower must pay restitution.
- B. If the owner is present when the death or damage happens:
- 1. Borrower does not have to pay restitution.
  - 2. Because the owner received a rent payment.

#### **XII. Exodus 22:16-17 (premarital, consensual sex)**

- A. No laws regulating marriage
- 1. Presumably regulated by long established custom
  - 2. We just have one adjustment to established custom.
    - a) This issue was not addressed in other ANE law codes.
- B. The dowry (*mohar*)
- 1. When a man married a woman, he had to pay the father of the bride the *mohar*
    - a) Compensation for the loss of the daughter
  - 2. In order to be qualified to require a *mohar*, the daughter had to be a virgin.
    - a) No payment was to be expected if the daughter was not a virgin.
- C. If a man had sex with an unengaged woman:
- 1. He had to pay the *mohar* to the father.

- a) If the woman were subsequently to marry, the man would not have to pay the *mohar*.
- 2. He could marry the woman.
  - a) Only if the father consented.

### XIII. Conclusion

- A. Not the rules for an ideal society; tweaks to the existing customary law
  - 1. Some important adjustments
    - a) Every human life is sacred before God.
      - (1) Value of life does not depend on social position.
        - (a) This transcends distinctions based on social status.
        - (b) This transcends distinctions based on sex.
        - (c) This transcends distinctions based on age.
      - (2) This is a sharp difference with surrounding cultures.
        - (a) ANE tended to devalue the lives of some people.
      - (3) Our society is still trying to work out what this means.
        - (a) We tend to grant life infinite value.
        - (b) We tend to think all life is sacred.
    - b) Lighter punishments for some crimes
      - (1) In Code of Hammurabi, thieves were put to death.
    - c) Crimes against God are very serious matters.
      - (1) First four of ten commandments have to do with this.
      - (2) Dishonoring parents merits death.
        - (a) Harsher than in other cultures.
    - d) Punishment for a crime should fall on perpetrator alone.
      - (1) Movement away from a family- or tribe-based society
      - (2) Our society is tending to view society as a whole responsible for the crimes of individuals.
  - 2. It is not a comprehensive law code.
  - 3. Order of presentation is not sacrosanct.
- B. Rather than giving the Israelites the laws for an ideal society, God gave them an assignment.
  - 1. They are encouraged to work out what God wants over time.
    - a) God did not want slavery to be a part of human society.
      - (1) But rather than get rid of it, he gave laws that nudged them in the direction of getting rid of it.
    - b) I think the same could be said of polygamy.
  - 2. This has important implications for us.
    - a) We need to be deeply engaged in figuring out God's worldview.
      - (1) Only then can we determine what God wants us to do.
    - b) God is in no hurry to bring about perfection.
      - (1) The benefit that comes from us wrestling with our flaws and imperfections is far too valuable to short circuit the process.