

Deut 19 Crime and Punishment

I recently heard the tragic story of four pastors who were returning from a conference in an airplane, which crashed, and only one of the men survived. In that case, the cause of the accident was apparently pilot error. As the plane approached the runway, it clipped a power line and the plane disintegrated. I'm sure the pilot did not intend to kill anyone, but by his negligence, he lost his own life and two other men died. It's a sad tragedy of human life that we are subject to accidental death.

In the law, there is a category of crime called manslaughter. Manslaughter happens when someone's negligence or neglect unintentionally causes another person's death. A good example of that happened recently when a truck driver made an illegal U-turn and caused the death of three people.

This kind of thing happens frequently in our world, and even in ancient times, laws addressed such things.

God instructed Moses to establish cities of refuge to which the manslayer could flee (cf. Num 35:12f). The chapter we're looking at today gives details for setting up these **cities of refuge**. It also mentions the importance of **maintaining borders**, and it goes on to give standards for **witnesses to a crime**.

What do these three topics/issues have in common? The common theme here is justice. Justice demands that people in each case be either protected or punished. As Israel settles in the PL, they must insure that justice is done for both victims and perpetrators.

As we go through the passage, we'll see that many principles of our own legal system come right from the Bible. Many of the requirements that God sets for Israel are still part of our legal system today. It should be obvious that the basis for law and justice is God's word. God established these principles long ago.

Our lives ought to be marked by justice. We find some timeless principles of justice here that we can apply personally in our own lives.

Notice three justice issues that Moses considers here.

- I. Cities of refuge insure justice for the manslayer (unintentional killer). .1-13
 - A. .1-2 The cities: After Israel conquers the PL, they should select three cities of refuge.
 - 1. Moses had already established three cities of refuge on the eastern side of the Jordan River (Bezer, Ramoth, Golan) (4:41-43).
 - 2. When they get settled in the PL, they were to divide their land into three sections, select three cities, and make roads so that the manslayer might travel to one of these cities easily and quickly.
 - 3. We find guidelines for these cities of refuge in three places in the Pentateuch—Num 35, Deut 4, Deut 19. Plus, Josh 20 lists the names of the three cities chosen in Canaan.

Kedesh served the Galilee region, *Shechem* the central hill country, and *Hebron* the highlands of Judah.¹
 - B. .3end The purpose of these cities—“that the manslayer may flee there.” These cities of refuge were located so that anyone might flee there reasonably quickly.
 - C. .4f The definition of a manslayer/manslaughter:
 - 1. He kills his neighbor unintentionally—he did not hate him in the past; there was no malice aforethought. This was a pure, unintentional accident. Anyone who witnessed the event would agree that it was not intentional or malicious.
 - 2. Example: as when a man is chopping wood and the axe head flies off and hits a fellow-worker so that he dies. That would certainly be an unplanned, unintentional accident. There is no chance that the wood chopper intended to murder the victim.

¹ Eugene H. Merrill, *Deuteronomy*, vol. 4, The New American Commentary (Nashville: Broadman & Holman Publishers, 1994), 276.

D. .6 The danger: the “avenger of blood” might kill the manslayer. (cf. Num 35)

1. The family of the dead man might not understand that this death was an accident. Given the explosiveness of human emotions, the family of the dead man might seek revenge.

If the avenger of blood found the manslayer before he made it to a city of refuge, he might kill him. Apparently, this was legal at that time. They didn’t have a police force; families dealt with these issues directly.

2. The avenger of blood (אָדָם לְדָם) was a person from the family, perhaps the nearest male relative, who was responsible to protect the interests of family members. He would redeem or return to the family something belonging to it.

The “avenger of blood” was responsible to avenge the death of a relative. He rectifies the injustice of the shedding of innocent blood by causing the murder’s blood to be shed. He was an executioner.

3. Setting up the cities of refuge was a means of preventing hasty revenge killings by the avenger of blood. It prevented the shedding of innocent blood.

Moses’ intention here seems to be that he wants to limit the damages done after such an accident. If the avenger of blood killed the manslayer, it could easily set up a whole series of vengeance killings. E.g., the Hatfields and the McCoys.

E. .8-10 If all goes well in the PL, they may select another three cities as cities of refuge where the manslayer could go for protection. That would make nine cities potentially. Historically, there is no indication that Israel ever established these three other cities.

F. We find out more about these cities of refuge in Num 35. We read there that...

1. The manslayer could remain protected inside the city of refuge until the death of the high priest.
2. If the avenger of blood found the man *outside* the city of refuge, he could legally kill him (Num 35:27).

3. When the high priest died, the manslayer could go free and return home. The avenger of blood would have no right to kill the man after that.
- G. .11-13 The exception: The cities of refuge were not sanctuaries for murderers.
1. .11 Premeditated murder—he hates his neighbor, lies in wait for him, rises up against him and strikes him down so he dies—that’s a good definition of first degree murder.

Murder is a heinous sin because man is made in the image of God (Gen 1:27; 9:6). Murder is, in a sense, an assault upon God. Further, the shedding of innocent blood pollutes the land (Gen 4:10-11).

Numbers 35:33 So you shall not pollute the land where you are; for blood defiles the land, and no atonement can be made for the land, for the blood that is shed on it, except by the blood of him who shed it.
 2. Even if a murderer fled to a city of refuge, he should find no protection there.
 3. .12 They were to deliver such a person over to the avenger of blood “that he may die.” A murderer deserves no pity; he is worthy of death. He’s to be turned over to the executioner.
 4. .12 But the guilt or innocence of the person would be determined by “the elders of his city.” Vs. 17 mentions the “priests and the judges who serve in those days.” They would determine the guilt or innocence of those involved.

And there must be two or three witnesses for the case to go forward. So there will be a judicial system to evaluate each case and determine who is guilty and who is innocent.
- H. .13a The prohibition—“your eye shall not pity him.”
1. The criminal must get what he deserves. The word “pity” (רַחֵם) means “to spare, to have compassion.”
 2. Our human tendency is to show compassion for criminals. But in cases like premeditated homicide, there is no room for pity or compassion. The prohibition is repeated in vs. 21a—we do not spare murderers from justice.

App: It's a sad reflection on our society that many people today have more compassion for criminals than they do for victims. After almost any crime, we hear people defending the criminals and making excuses for them. That shows how depraved and warped our culture is.

In some cases, the criminal deserves no pity, no compassion, and no protection. Criminals should get exactly what they deserve.

I. .13b The goals/purposes

1. To "put away the guilt of innocent blood from Israel" – this system prevented the shedding of innocent blood.
2. "That it might go well with you." If Israel wants to remain in the PL and prosper there, they must insure that justice is done.

App: The main principle in view here is justice. The innocent person deserves protection—vs. 10. The manslayer is not worthy of death even though he caused the death of an innocent person largely through negligence or neglect. It was an unintentional accident, but it could have been prevented—the wood chopper could have secured the axe head to prevent it from flying off. Had he been careful and observant, he could have prevented this accident. It was, in a certain sense, his fault. But it was not his intent to kill anyone; it was an accident. So justice demands that the manslayer be protected.

Further, the manslayer faces consequences for his behavior, even if it is accidental. He is confined to a city of refuge until the death of the high priest. It's not like being confined in jail, but he is restricted somewhat. He's in danger if he leaves the city of refuge. He faces consequences for his failure.

Moses is trying to prevent the shedding of innocent blood in the PL. The pagans shed lots of innocent blood in Canaan, and God is kicking them out because of that. The shedding of innocent blood defiles the land. The Israelites must avoid the shedding of innocent blood.

On the other hand, the murderer deserved to lose his life. Capital punishment is appropriate in some cases, especially in the case of premeditated murder. Cf. Gen 9:6. He does not deserve pity/compassion; he must not be spared; he deserves death. The murderer is not innocent; he's guilty of a crime that demands the shedding of his blood. That's justice.

So this arrangement with the cities of refuge show that God values innocent human life. Society must *protect* the innocent and *punish* the guilty. Murderers must face capital punishment. We must not shed innocent blood. And we prevent that from happening by punishing criminals appropriately.

Moses then moves on to another legal issue regarding moving border stones.

II. Prohibiting moving landmarks insures justice for the land owner. .14

- A. This might seem like a fairly minor/obscure matter, but the OT mentions this crime and prohibits it several times (Deut. 27:17; Job 24:2; Prov. 22:28; 23:10; Hosea 5:10). It must have been a somewhat common problem.
- B. Once Israel conquered the land, they would divide it up according to the tribes. Each family in the tribe would receive an allotment of land. Once those borders were set, they should not be moved.
- C. What is the crime associated with moving a boundary stone? It amounted to property theft. A boundary stone was a property marker. If you moved it, you would be taking property from your neighbor. You would be enlarging your property at the expense of your neighbor. That would be stealing, and stealing is a sin and a crime.

So again, the issue at hand is justice. We have the right to own property, and it's both immoral and criminal to take something that does not belong to us. We must be honest and truthful when dealing with borders and property issues.

The Bible permits the private ownership of land and other property. Certain political philosophies, such as communism, takes away that right. The Bible is against any philosophy that undermines the private ownership of land.

Quote: The right to hold property was a cornerstone of Israel's inheritance from the Lord. It is still a primary right of free people on the earth, and without it, freedom is greatly limited.²

So we must affirm property rights.

III. Requiring adequate evidence insures justice for the accused. .15-21

- A. Legal justice requires proper evidence. In the OT system, one person making claims about a crime is not enough to convict anyone. A single witness could certainly testify regarding a crime, but the judges could not convict on that one witness alone.

² Earl S. Kalland, "Deuteronomy," in *The Expositor's Bible Commentary: Deuteronomy, Joshua, Judges, Ruth, 1 & 2 Samuel*, ed. Frank E. Gaebelein, vol. 3 (Grand Rapids, MI: Zondervan Publishing House, 1992), 125.

Two or three witnesses are necessary to convict anyone of a crime.

- B. .16 The problem in view here is that someone might be a “false witness.” The Hebrew has “malicious witness” (סֹמֵן עֵד) here. He’s a liar; his witness is fraudulent.

Quote: The witness in this case was not a mere observer. His intent was to do violence to the accused for some gain that [he might receive] thereby.³

- C. .17 Israel would have a court system to judge such cases. “The priests and the judges who serve in those days” would establish this court.

1. Both the accused and the accuser “stand before the Lord.” The accused has the right to face his accuser in a court of law.
2. Standing before the judges amounted to standing before the Lord. The priests and the judges represented God. Their job was to insure that justice was done.
3. The priests and the judges were to evaluate the case and come to a just decision.

.18 They must make a “careful inquiry” into the matter to see if the witnesses are being honest. They hear the testimonies and investigate whether the claims are true or false.

- D. .19 False witnesses should receive the punishment that they intended for the one they witnessed against.

1. If a witness provided false or dishonest evidence, then he would be punished. You could not make a false claim intended to harm someone and then walk away scot free.

I think we call this kind of thing *perjury* today. Giving false statements in a court of law is perjury, and it’s a crime.

2. If the witnesses are found to be false/dishonest, they would receive the punishment they intended for the accused.
3. So the threat of punishment for false witness would be a deterrent to making false claims.

- E. .19end The goals of this system:

³ Eugene H. Merrill, *Deuteronomy*, vol. 4, The New American Commentary (Nashville: Broadman & Holman Publishers, 1994).

1. To purify from evil: “put away the evil from among you.” I.e., you would purge that kind of behavior from the nation; get rid of it, get it out of the land. That kind of thing would stop.
2. To deter crime: Others would “hear and fear ... and not commit such evil among you.” It would deter others from doing the same thing.

App: Swift, honest, and impartial punishment of crime *decreases* the number of criminals and *deters* crime. If we as a nation really wanted to do that, we would make sure that criminals are given a fair hearing and those who are guilty face appropriate punishment for what they did.

F. .21 Extend no pity to those who deserve capital punishment.

God had already given these same directions twice: Ex 21:23-25; Lev 24:17-22. So this is a clear command.

.21b You’ve perhaps heard of this law as *lex talionis*—the law of retaliation. This means that the punishment should fit the crime. What the criminal did to others will be done to him.

1. Life for life
2. Eye for eye
3. Tooth for tooth
4. Hand for hand
5. Foot for foot

The criminal should suffer in like manner what his crime produced. If he took innocent life, his life should be taken. If his action caused the loss of an eye, his eye should be taken. Likewise for the tooth, hand, and foot. The criminal should suffer the same result of what he intended for the victim. That might seem rather severe, but I’m sure that it would reduce crime if every criminal faced the law of retribution.

Quote: Heinous crimes called for an equally stern response.⁴

⁴ Eugene H. Merrill, *Deuteronomy*, vol. 4, The New American Commentary (Nashville: Broadman & Holman Publishers, 1994), 280.

In reality, the law of *lex talionis* restricted retribution. The system could punish the criminal *only to the extent* that he harmed the victim. You could not kill someone for hurting your hand or foot. It actually restricted the scope of punishment for the criminal. It ensured justice for the guilty as well as for the victim.

By the way, it appears that a fine could be paid by the guilty person instead of having an eye gouged out or an appendage lopped off (Num 35:31). A “ransom” could be paid for a crime committed—except in the case of murder. A murderer could not escape justice through the payment of a fine. In practical terms, not too many people had their hands or feet cut off as a consequence of crime.

In each of these three instances of crime and punishment—manslaughter, moving a border stone, and false witnesses—the issue at hand is justice. God’s intention is that the innocent are protected and that criminals face suitable punishment.

These legal principles are both biblical and necessary for a just society. We should still value these principles. What are these principles of justice?

- ✓ Innocent human life is valuable and worthy of protection. The shedding of innocent blood is both sinful and criminal.
- ✓ All citizens are under the law; the law pertains to everyone equally. Everyone has access to due process of law.
- ✓ People have the right to own and secure personal property.
- ✓ Everyone should have the opportunity to defend himself in a court of law. You have the right to face your accuser in court.
- ✓ Punishment must fit the crime: *lex talionis*
- ✓ Solid evidence and reliable testimony should be the basis of legal findings, not hearsay or false claims. This is especially true in murder cases.
- ✓ Those found guilty in a court of law should be punished appropriately.
- ✓ Capital punishment is required for premeditated murder.
- ✓ Some people are not worthy of pity. No pity should be given to murderers.
- ✓ Swift justice purges evil from a society and deters criminal behavior.

Accidents happen. Crime happens. A society works best when it’s committed to the rule of law, when the legal system protects the innocent, and when the law punishes

guilty criminals. Israel would prosper in the PL if they followed these principles, and we would find great benefit in following these same principles of justice today.

That true for the nation, and it's also true in our own lives personally. In our own relationships, we should strive to treat people justly. We see a difference between an accident and intentional evil acts. We don't steal other peoples' property. We apply rules equally and without favoritism. We don't act on hearsay or false claims. We try to deter evil behavior. Punishment, when necessary, must fit the crime. People should face the consequences of their actions. Justice should mark our lives and our behavior.

.18 "careful inquiry." Whatever the situation, we follow the example of the OT judges and priests—look carefully into a matter and apply these timeless principles of justice.