



After the Ten Commandments: The Laws of the Covenant Code

Marty Lockshin

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Homicide (Exod 21:12-14)

מִכֶּה אִישׁ וָמֵת מוֹת יוֹמָת.

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

וְאִשֶּׁר לֹא צָדָה וְהֶאֱלֹהִים אָנָּה
לִידּוֹ וְשִׁמְתִי לָךְ מִקּוֹם אֲשֶׁר
יְנוֹס שָׁמָּה.

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.

Verse 13

וְאִשֶּׁר לֹא צָדָה
וְהָאֱלֹהִים אָנָּה לְיָדוֹ
וְשִׁמַּתִּי לָךְ מִקּוֹם אֲשֶׁר
יָנוֹס 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.

Rashi on vs. 13

והאלהים אנה לידו. במה
הכתוב מדבר? בשני בני
אדם, אחד הרג שוגג,
ואחד הרג מזיד, ולא היו
עדים בדבר שיעידו – זה
לא נהרג, וזה לא גלה.

It came about by an act of God;
What is Scripture here referring
to? Two people, one of whom
killed a person with premeditation
and the other killed inadvertently,
and in neither case were there
witnesses to the deed who could
testify about it. Consequently, the
former was not put to death and
the latter was not forced into
banishment to a city of refuge.

Rashi (cont.)

הקב"ה מזמנן לפונדוק
אחד, זה שהרג שוגג עולה
בסלם ונופל על זה שהרג
מזיד והורגו, ועדים מעידין
אותו ומחייבין אותו לגלות.
נמצא זה שהרג שוגג גולה,
וזוה שהרג מזיד נהרג. (ע"פ
מכות י ב)

Now God brings them together at the same inn. The one who killed with premeditation happens to sit beneath a ladder, and the other who killed inadvertently ascends the ladder and falls upon and thus kills the one who killed with premeditation. Witnesses now being present they testify against the one who fell; that one has now been banished to one of the cities of refuge. The result is that the one who killed inadvertently is actually banished, and the one who killed with premeditation actually suffers death.

Shadal on vs.
13

כל מה שאין אדם
עושה בכוונה
ורצון מיוחס לאל
סבת הסבות, כי
מה שהוא
בערכנו מקרה,
בגזרת האל הוא.

Anything that a person does not do purposely and willingly is ascribed to God, the First Cause, for what we think of as an “accident” occurs by God’s decree.

Shadal on hardening Pharaoh's heart (Exod 7:3)

ואפשר ג"כ לפרש כדעת
רמבמ"ן . . . שלא היה בזה
עונש אלהי ונס ממש, אלא כי
פרעה עצמו הקשה את לבו,
אלא שכל המעשים ייוחסו אל
האל בצד מה, כי הוא הסבה
הראשונה.

It is also possible to explain the way Mendelssohn explained. . . . This does not mean that this was a punishment from God or a miraculous intervention by Him. Rather Pharaoh himself hardened his own heart. But all actions are ultimately attributable to God in some way since He is the First Cause.

Shadal on hardening Pharaoh's heart (cont.)

ואני מוסיף כי המעשים
המיוחדים בספרי הקדש אל
האל הם המעשים הזרים
שסבתם בלתי מובנת לנו, וכן
כאן קושי ערפו של פרעה
אחרי ראותו כמה אותות
ומופתים הוא דבר זר
ומתמיה, ע"כ יוחס אל האל

I would add that the specific actions that the Tanakh attributes to God are the strange actions, the ones that appear beyond explanation. Pharaoh's stiff-necked obstinacy after seeing so many miracles is strange and perplexing. Accordingly, the Bible attributes it to God.

Shadal on “I will assign you a place to which he can flee”

מות יומת – ע"י ב"ד ואם יש
לנהרג גואל רשאי לנקום דמו, כי
זה נלמד ממה שאומר מיד ואשר
לא צדה וגו' ושמתי לך מקום
אשר ינוס שמה כלומר שינוס מן
הגואל, שאל"כ למה ינוס?

. . . והנה כוונת התורה להרחיק
גאולת הדם, אך לא אסרה אותה

Will be put to death. By a court, but if the victim has a redeemer (go'el), the latter is permitted to avenge the victim's blood. This can be deduced from what immediately follows: “If it came about by an act of God, I will assign you a place to which he can flee” i.e., he is to flee from the redeemer, for if this were not so, why would he flee?

Now the Torah intended to discourage blood-vengeance, but it did not forbid it.

Shadal's Commentary on Blood Avenger in Numbers

והנה בדורות הראשונים, בטרם יהיו
העמים מסודרים תחת מלך ושרים,
ושופטים ושוטרים, היתה כל משפחה
נוקמת נקמתה ממשפחה אחרת,
והקרוב יותר אל הנהרג היה חייב לנקום
מיתתו;

והתורה העמידה שופטים ושוטרים,
ונטלה הנקמה מיד היחידים, ומסרה
אותה לכל העדה.

In the earliest generations, before nations were organized under kings, nobles, judges and constables, each family would take its vengeance from another family. The closest relative of the person who was killed was obligated to avenge his or her death.

The Torah said to appoint judges and constables, and thus took vengeance out of the hands of individuals and assigned it to the community.

Shadal on Blood Avenger (cont.)

והנה כשהיתה הרציחה
בזדון, יתכן להשקיט את
הגואל, כי יאמרו לו: הנח
להם לשופטים, הם יחקרו
הדבר, ואם בן מות הוא
ימיתוהו;

Now if the murder was premeditated, the blood avengers' anger could be soothed. One could say to them: "Leave it to the judges. They will investigate and execute the murderer if that is appropriate."

Shadal on Blood Avenger (cont.)

אבל כשהיתה ההריגה
בשגגה, לא היה אפשר
להשקיט את הגואל ולהכריחו
לראות מי שהרג את אביו או
את אחיו נשאר בלא עונש, כי
היה נראה לו ולכל יודעיו
ומכיריו כאילו אינו אוהב את
אביו ואת אחיו, מאחר שאינו
נוקם את נקמתם.

But when the murder was accidental, one couldn't calm the blood avengers down, since they would have to continue seeing those who killed their brother or father [walking around freely and] unpunished. If that happened, it would seem to the blood avengers and to their friends and acquaintances that the blood avengers didn't love their father or brother, since they were not seeking vengeance.

Shadal on Blood Avenger (cont.)

והדעת הזאת לא היה אפשר
לעקור אותה בבת אחת,
וראתה החכמה האלהית שאם
יהיה גואל הדם נענש מיתה
בנקמו את קרובו הנהרג
בשגגה, עדיין לא ימנעו כל
הגואלים ולא רובם מעשות
נקמת קרוביהם, ועל ידי זה
ירבו הנהרגים ללא תועלת,

This approach could not be
uprooted in one fell swoop.
Divine wisdom understood that
[even] if blood avengers were
threatened with capital
punishment for taking vengeance,
all or most of the blood avengers
would still avenge the death of
their murdered relatives. The
result would then be that even
more people would be killed for
no reason.

Shadal on Blood Avenger (cont.)

גם איננו רחוק שבשעה
שיהיה הגואל יוצא
ליהרג, יתקומם העם על
השופטים וירבו קלקלות
באומה,

Furthermore, it's not hard to imagine that when a blood avenger would be taken out to be executed, the masses would rise up in arms against the judges, in a manner that would be very damaging for the nation.

Shadal on Blood Avenger (cont.)

לפיכך מה עשתה התורה?
הניחה זכות לגואל לנקום
מיתת קרובו, אבל קבעה
מקום מקלט לנוס שמה
הרוצח, ולא יוכל הגואל
לבוא שם ולהרגו.

So what did the Torah do? It left the [theoretical] right to avenge in the hands of the relatives of the deceased, but established sanctuary spaces where the perpetrator of the [accidental] homicide could flee, and where the avenger would not be allowed to enter and take vengeance.



Shadal is following
Maimonides' approach

Maimonides on Sacrifices (Guide 3:32)

If you consider the Divine actions—I mean to say the natural actions—the deity’s wily graciousness and wisdom will become clear to you. . . . Similarly, the deity made a wily and gracious arrangement for each individual animal of the class of mammals. When such an animal is born it is extremely tender, and cannot be fed with dry food. Accordingly, breasts that yield milk were prepared for them, and the young can be fed with moist food which corresponds to the condition of the limbs of their bodies, until their limbs gradually and little by little become dry and hard.

Maimonides (cont.)

Many things in our Law are the result of a similar course adopted by the same Supreme Being. For a sudden transition from one opposite to another is impossible. People, according to their nature, are not capable of abandoning suddenly everything to which they were accustomed. . . . At that time, the way of life generally accepted and customary in the whole world and the general mode of worship in which the Israelites were brought up, consisted of sacrificing animals in those temples which contained certain images, to bow down to those images, and to burn incense before them. In those days, the pious ones and the ascetic persons were the persons who were devoted to the service in the temples erected to the stars, as I have explained.

Maimonides (cont.)

God's wisdom and his gracious ruse, as displayed in the whole Creation, was that He did not command us to give up and discontinue all these manners of service; for to obey such a commandment would have been contrary to the nature of people, who generally cleave to that to which they are used; it would in those days have made the same impression as a prophet would make at present if he called us to the service of God and told us, in God's name, that we should not pray to Him, not fast, not seek His help in time of trouble; that our worship should consist solely of meditation without any works at all. For this reason God allowed these kinds of service to continue; He transferred to His service that which had formerly served as a worship of created beings, and of things imaginary and unreal, and commanded us to serve Him in the same manner.

Maimonides (cont.)

. . . I know that you will at first thought reject this idea and find it strange; you will ask me: . . . What was there to prevent God from giving us a law in accordance with God's primary intention, while also giving us the capacity to obey it? . . .

God does not change at all the nature of human beings by means of miracles. . . . Had it been His will that the nature of any human should change because of what He, may He be exalted, wills, sending prophets and giving us the Torah would have been pointless.