



After the Ten Commandments: The Laws of the Covenant Code

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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.



Murder or Kill?

Rashbam on murder/kill (Exodus 20)

לא תרצח – כל רציחה, הריגה
בחינם היא בכל מקום: מות יומת
הרוצח (במדבר ל"ה:ט"ז-י"ח),
הרצחת וגם ירשת (מלכים א'
כ"א:י"ט), צדק ילין בה ועתה
מרצחים (ישעיהו א':כ"א). אבל
הריגה ומיתה: יש בחינם כמו:
ויהרגהו (בראשית ד':ח') דקין,
ויש בדן כמו: והרגת את האשה
(ויקרא כ':ט"ז).

The verb ר-צ-ח always – wherever it appears – refers to unjustified homicide. For example, "the murderer (הרוצח) must be put to death," or "Would you murder (הרצחת) and also take possession," or "Where righteousness dwelt – but now murderers (מרצחים)." But the verbs ה-ר-ג and מ-ו-ת sometimes refer to unjustified homicide – e.g. "and he," Cain, "killed him (ויהרגהו)" and sometimes to justifiable homicide – e.g. "you shall kill (והרגת) the woman."

Rashbam (cont.)

ומה שכתוב: אשר ירצח את
רעהו בבלי דעת (דברים
ד'מ"ב), לפי שמדבר בעניין
רוצח במזיד, לכך הוא אומר
ואם רציחה זו בבלי דעת –
פטור.

]"וְזֶה דְבַר הַרְצִיחַ . . . אֲשֶׁר
יִכֶּה אֶת רֵעֵהוּ בְּבִלֵי דַעַת"
(דברים יט) ?

When the verse says (Deut. 4:42)
"one who unwittingly slew (ירצח)
a fellow man," since the greater
context there deals with
premeditated murder, the text
says that if such "murdering"
(רציחה) takes place unwittingly,
then there is no penalty.

Rashbam (cont.)

תשובה למינים והודו לי. ואף על פי שיש
בספריהם: אני אמית ואחיה (דברים
ל"ב:ל"ט) בלשון לטין של לא תרצח, הם
לא דיקדקו.

Vulgate Exodus: Non occides.

Vulgate Deuteronomy: Videte quod
ego sum solus, et non sit alius deus
praeter me: ego **occidam**, et ego
vivere faciam.

<https://www.thetorah.com/article/does-the-torah-differentiate-between-murder-and-killing>

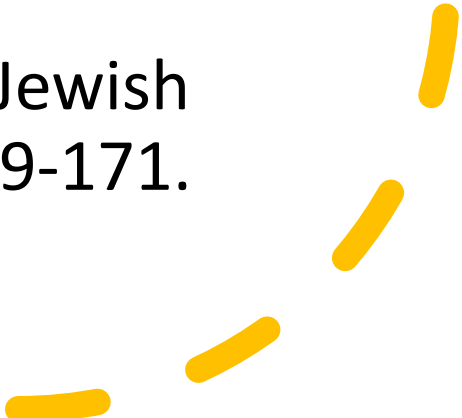
I offered this explanation as an argument against the heretics, and they admitted that I was right. Even though in their Latin books the same verb is used to translate the verb מ-ו-ת in the phrase (Dt. 32:39) "I deal death (אמית) and I give life," and the verb ר-צ-ח in this verse, their translations are inaccurate.

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Gerald
Blidstein

“[Many Jews believe that Judaism is a] realistic, hard-headed system, committed to a law of justice rather than a chaos of love. An obvious line is being drawn between a faith that reads, ‘You shall not murder,’ and one that naively and unrealistically demands, ‘You shall not kill’.”

“Capital Punishment—The Classic Jewish Discussion,” *Judaism* 14 (1965), 159-171.

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Problematic
verse 1 (Num
35:17)

וּמַצָּא אֶת־וְגַאֵל
הַדָּם מִחוּץ לְגְבוּל
עִיר מְקֻלָּטוֹ וְרָצַח
גַּאֵל הַדָּם אֶת
הַרָצֵחַ אֵין לוֹ דָּם

And the blood-
avenger comes upon
him outside the
limits of his city of
refuge, and the
blood-avenger kills
(רצח) the manslayer
(רוצח) there is no
bloodguilt on his
account.

Problematic
verse 2 (Num
35:20)

כָּל מִכָּה נִפְּשׁ לְפִי
עֵדִים יִרְצַח אֶת
הָרֹצֵחַ

Literally:

If anyone kills a
person, the
murderer may
be murdered
only on the
evidence of
witnesses.

Blidstein's conclusion

Obviously I do not speak here of Biblical law, which knows of authorized killings of war, self-defense and execution.” But at the language level, the Torah teaches us that:

[N]o word for the spilling of human blood could bear a less prohibitive denotation than any other. . . . Western thought distinguishes, at a basic and indelible level—at the level of the word—between homicide and murder. Jewish usage does not make this distinction. The verbal integrity of the spilling of human blood is never violated; homicide is not splintered into the justifiable and the criminal.

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.

Stay in the
city of refuge
until.... (Num
35:25)

וְהִצִּילוּ הָעֵדָה אֶת
הָרוֹצֵחַ מִיַּד גֹּאֵל הַדָּם
וְהִשִּׁיבוּ אֹתוֹ הָעֵדָה
אֶל עִיר מְקַלְטוֹ אֲשֶׁר
נָס שָׁמָּה וַיָּשֶׁב בָּהּ עַד
מוֹת הַכֹּהֵן הַגָּדֹל אֲשֶׁר
מָשַׁח אֹתוֹ בְּשֶׁמֶן
הַקֹּדֶשׁ

The assembly shall
protect the manslayer
from the blood-
avenger, and the
assembly shall restore
him to the city of
refuge to which he
fled, and there he shall
remain until the death
of the high priest who
was anointed with the
sacred oil.

Rashi Num 35:26

עד מות הכהן הגדול - שהוא בא
להשרות שכינה בישראל ולהאריך
ימיהם, והרוצח בא לסלק את
השכינה מישראל ומקצר את ימי
החיים. אינו כדאי שיהא לפני כהן
גדול.

דבר אחר לפי שהיה לו לכהן גדול
להתפלל שלא תארע תקלה זו
לישראל בחייו:

UNTIL THE DEATH OF THE HIGH
PRIEST – who serves to cause the
Shekhinah to dwell in Israel and
thereby prolong their days, while a
murderer makes the Shekhinah
depart from Israel and shortens the
days of the living. He is therefore not
worthy to stand anywhere near a
High Priest.

Another explanation: Because the
High Priest should have prayed that
this misfortune might never happen
in Israel in his days

Maimonides Guide 3:40

The chance of returning from exile depends on the death of [the high-priest], the most honoured of men, and the friend of all Israel. By his death, the relative of the slain person becomes reconciled; for it is a natural phenomenon that we find consolation in our misfortune when the same misfortune or a greater one has befallen another person. Amongst us no death causes more grief than that of the high-priest.

Seforno

בהיות מיני השגגות בלתי
שוות, כי מהם קרובות
לאונס ומהן קרובות אל
המזיד, נתן לגלות זמן
בלתי שוה בכל השוגגים. כי
מהם שתהיה שגגתו מעט
קודם מיתת הכהן, ומהן
שימות הרוצח בגלות קודם
שימות הכהן. וזה במשפט
האל יתברך היודע ועד,
שיענוש את השוגג כפי
מדרגת שגגתו,

There are many disparate types of “accidental actions,” some almost unavoidable and others [like negligence] being closer to a volitional act. Accordingly, the Torah gives varying penalties to accidental killers. Some wait only a short time for the high priest to die; others die in exile before the high priest dies. This is the justice of the omniscient God, who can thus punish each accidental killer in a manner conforming to the severity of the killing.

Rashbam on
the death of
the high
priest

עד מות הכהן
הגדול.

לפי פשוטו: כל ימי
השופט הגדול,
דוגמת: אסיריו לא
פתח ביתה (ישע'
יד יז)

Following the plain meaning of Scripture, this means [that the murderer must stay in the "city of refuge"] until the chief judge dies. This is like [the idea of], "[the great king of Babylon] who never released his prisoners to their homes."

Hizzekuni (France, 13th century, expanding on Rashbam)

וישב בה עד מות הכהן הגדל - שלא
יהיו העולם מרננין על הכהן הגדול
כשיראו הרוצח יוצא חוץ לעיר מקלטו
ואומרים ראיתם זה שהרג את הנפש
חנם יוצא ונכנס עם בני אדם ואין
הכהן עושה בו נקמה והדבר מוטל
עליו לעשות כדכתיב (דברים יז יב)
והאיש אשר יעשה בזדון לבלתי
שמוע אל הכהן וגו' אבל הכהן שקם
אחריו אין לרנן עליו ממה שלא
נעשה בימיו.

... until the death of the high priest:
So that people won't speak poorly of
the high priest when they see this
murderer walking freely among
people outside of the city of refuge,
with the high priest not punishing
the murderer. And it is the duty of
the high priest to do something, as it
is written, "Should a man act
presumptuously and disregard the
priest [charged with serving the
LORD your God]." But no one would
speak poorly about a new priest
concerning an offence that took
place before his term.